

**Town of Duluth
Planning Commission
Meeting Minutes
August 27, 2015**

The meeting was called to order at 7:05 by Chair, Paul Voge.

Present: Paul Voge, John Schifsky, Brigid Pajunen, Jerry Hauge, and Larry Zanko
Absent: Wayne Dahlberg, Jo Thompson

Also present: Sue Lawson, Planning Director; Don Sitter, Town Board Supervisor and liaison to the Commission

The agenda was approved without changes.

KIVIRANTA Planned Unit Development Public Hearing

Everyone introduced themselves. Representing Kiviranta were property owners Rondi Erickson and Sandy Lewis, Greg Schendel, architect David Salmela, and landscape architect Travis van Liere.

Sue explained the public hearing process. She outlined the requirements for the Preliminary Plan for a planned unit development (PUD) and the process for the Final Plan for a PUD if the project were to move forward. After a description of the proposed project, the Commission will hear the variance requests. If the variances are approved, the conditional use / PUD application will be heard.

Sue read the description of the proposed use from the conditional use application.

- The property consists of two parcels.
- Parcel One is approximately 8.75 acres and contains approximately 3 acres that were previously developed, first as a resort, then as a restaurant with parking lots. The remaining acres of this parcel are undeveloped woodland.
- Parcel Two is approximately 24 acres and contains all undeveloped woodland.
- The proposal is to create an architecturally designed single family residential PUD on Parcel One.
- The PUD will utilize the currently developed 3 acres and place the remaining land of Parcel One and of Parcel Two into conservation with trails for hiking, snowshoeing and cross country skiing.
- The PUD consists of eight new single family condo units along with a series of accessory structures.
- The existing restaurant building will be redesigned to remove a portion of the second level of the building and add a series of one story accessory spaces adjacent to the north side of the structure. It will house two condo units and six condo units will be built directly north of the building.
- The buildings are oriented in a north / south direction on the site and will step up incrementally with the grade going up the hill.
- The development will work to use the infrastructure that is already in place on site. Existing utilities will be retained and upgraded for the new development.
- The roads and access to the property will be maintained and enhanced.
- Existing vegetation will be preserved, maintained and enhanced with the new design.
- The project will work to incorporate Best Management Practices for the stormwater management and design. The goal is to capture a majority of the run-off from the development in a series of infiltration areas located directly east and west of the site. These infiltration areas will drain towards Lake Superior to a new underground storage system (to be positioned underneath the new roadway). Water collected here will be repurposed to irrigate the new landscaping.

Information required by the Ordinance for a conditional use for a PUD include the Preliminary Concept Plan, a Resource Analysis, responses from relevant agencies, and a Community Participation Report.

Sue read the Resource Analysis from the application:

- Parcel One is approximately 9 acres containing approximately 3 acres previously developed as a resort, then as a restaurant with parking lots. The remaining acres of this parcel are undeveloped woodland. Parcel Two is approximately 24 acres and contains all undeveloped woodland.
- The new Planned Unit Development will utilize the currently developed approximately 3 acres and place the remaining land of Parcel One and of Parcel Two into conservation with trails for hiking, snowshoeing and cross country skiing.
- The topography of the land is gentle hills rising in elevation from the lake.
- To our knowledge there are no wetlands, although there are seasonally wet areas during the spring thaw.
- Palmer Creek enters the property near the northwest corner of Parcel Two and flows mostly southeast until it enters Lake Superior. Palmer Creek has been designated a trout stream by the DNR.
- Property owners have observed that the creek does not flow during dry seasons. The land does not contain any floodways or floodplains. The land is all in the same watershed.
- Woodlands on the parcels are second growth and predominantly birch, poplar, alder, ash, spruce, balsam and pine.
- Soils on the parcels are loam and clay.
- Deer and bear use the area for transit, but to the best of our knowledge, the land is not a significant wildlife habitat.
- The land does not contain any farm or pastureland. To the best of our knowledge, it does not contain any historical/cultural features, geologic formations or scenic viewsheds.

Sue showed a vicinity map for the project. The long parcel, Parcel One, with the restaurant building is 8.75 acres. Parcel Two is 24.19 acres and will be a part of the development. The total for the PUD is 32.94 acres. Parcel Three is not included in the project but will be the site for the caretaker residence. She showed a larger scale map of the proposed development.

Sue summarized impervious surface coverage for the project:

Existing Impervious Surfacing

Structures	7,973 sf
Paving	35,363 sf
Walls	166 sf
Misc.	584 sf

Total existing impervious surface is 44,086 sf and 11.5% coverage of the lot.

Proposed Impervious Surfacing

Structures	13,979 sf
Paved Roads	22,441 sf
New Paving	9,766 sf
New Walls	1,518 sf
New Stairs	42 sf

Total proposed impervious surface is 61,725 sf and 16.2% coverage of the lot. The maximum impervious surface allowed in this zone district is 25%.

The proposed development is in zone district MUNS-4. The minimum applicable setbacks for MUNS-4 are:

Road: 110 ft

Furthest side yard: 35 ft (principal structure), 25 ft (accessory structure)

Nearest side yard: 35 ft (principal structure), 25 ft (accessory structure)

Rear yard: 45 ft (principal structure), 25 ft (accessory structure)

Trout Stream: 200 ft

The side and rear yard setbacks are met by existing and proposed structures. The existing restaurant building is 58 ft 3 in from the road centerline and 96 ft from the trout stream. The closest proposed garage would be 66 ft 10 in from the trout stream. The closest proposed unit would be 72 ft 8 in from the trout stream.

Rondi Erickson and Sandy Lewis, owners of the property, and members of the Lewis Group, LLC, said that their hope is to do something positive for the community with this project. They had the Nokomis Restaurant for seven years and loved working there. Their hope is to reside in one of the Kiviranta units. The condos will be single owner units. They approached David Salmela for the project because they appreciated his sensibilities for the North Shore area.

David Salmela spoke about the design of the project. He said that he understands the history of the site as a motel/resort, and then restaurant. One of the goals of the client was to make something that continues the usefulness of the site. His design process began by building on what is already there in order keep land disturbance to a minimum. This early decision made the variances necessary. The next decision was to strive to provide the best living experience. He wanted all units to have equal visual access. It was pragmatic to create 2 units out of the restaurant building and then to create a line of six units behind that building in a line directly north-south. All units will have a view to the east and will get the morning light. This will be achieved in cooperation with the neighboring property owner, Mr. Pearson. There will be decks on the west side that will be out of the way of the east winds. All units will have an equal view corridor to the lake. The units are designed to be sustainable and well insulated and will be built using minimal maintenance materials. He created garages on opposite side of the access drive. The garages are broken into smaller units instead of a larger scale garage unit. He feels the project will be harmonious with the North Shore in its visibility from the lake and highway.

Travis van Liere addressed the site design. He said that there is an existing garage that is very close to the trout stream that they will remove. They will enhance and maintain the access road for the development. This road is also the access road for two neighbors to the north. The second story of the restaurant building will be removed. He showed photos of the motel that used to be on the site and then current pictures of the site and the Nokomis building. He said that there will be an outdoor pavilion on shared space on a hill on the site that was created at one time from construction of the parking lot. The garages will serve as a buffer between the development and the access road. The treeline between the site and the neighbor to the east is mostly conifers. They plan on taking out dead and diseased trees, preserving as many as possible to maintain privacy while allowing a view to filter through. They also plan on putting in a line of trees between the development and the road for screening and privacy. Their plan is to keep lawns and maintained landscaping to a minimum, limiting it to near the units and then have more of a natural prairie style landscape beyond that. They hope to use the trout stream as a landscape feature and plan on enhancing it through cooperation with the DNR. It is currently overgrown and has a lot of debris in it. The stormwater collection system will divert runoff from the site to an underground infiltration system. Some of the paved areas drain directly to the creek and they have been talking with the DNR about mitigating these. Their goal is 100% on-site retainment of stormwater.

Sue read the variance requests from the application:

1. Request for variance for non-conforming structure from required setbacks.

2. Request for variance to enlarge non-conforming structure (existing footprint of former restaurant building) beyond 25% allowable size of original ground floor area of the structure.
3. Request for variance for proposed new structures from 200' required setback from designated trout stream.

She said that the first two variances will be heard together. The third one will be heard first. She explained the variance process.

Sue presented the variance from the application. She showed a layout of the proposed development that shows the 200 ft setback line from the trout stream. In all, eleven garages plus five units would lie within the 200 ft setback. She read the reasoning provided in the application for each of the necessary criteria:

- 1) Is the proposal in harmony with the general purposes and intent of the Ordinance and consistent with the Comprehensive Plan?

The variance is in keeping with the spirit or intent of the Ordinance by allowing existing non-conforming lots and structures to maintain their current standards as they currently existed prior to the establishment of the Ordinance. The proposed variances are maintaining, replacing and enhancing what is currently there and will be keeping the property in good standards with the health, safety and welfare of the community.

- 2) Practical Difficulties, Essential Character. "Practical difficulties," as used in connection with the granting of a variance, means that a. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; b. The plight of the property owner is due to circumstances unique to the property not created by the property owner.

The designated trout stream directly west of the proposed project site was recently designated by the DNR. The existing structure, utilities and infrastructure for the property were in existence prior to this designation. The new development seeks to utilize and incorporate these amenities into the proposed new design for the project. The owners seek to coordinate with the DNR in the future to enhance the existing conditions for the designated trout stream.

Is proposed variance a use that is allowed under the Zoning Ordinance?

Yes. The variances requested for the proposed new residential Planned Unit Development are allowed / acceptable uses under the Zoning Ordinance.

Sue said that for the first criteria, the Commission could consider the Comprehensive Plan Vision, and the Comprehensive Plan / Land Use Policies for the North Shore Corridor. Regarding practical difficulties, she suggested considering what the purpose is for the stream setback; how the proposed stormwater management plan addresses this purpose; and whether it is done in a reasonable manner.

Greg Schendel said that each of the requirements for a variance was addressed in the application. The practical difficulty results from their desire to use the existing structure. It is unique to the site.

Sue asked how they planned to address increased impervious surface area.

Travis said that the planned stormwater system is for the increased impervious surface area and is designed to handle rain events on-site. The site will retain runoff better than it currently does.

Brigid asked where the increase in impervious surface area comes from. It appears that there will be less asphalt than there is now.

Travis said that the increase will be from the buildings.

Larry said that the drawings showed that there would be a two foot drop per unit. So each unit would aid in retarding the flow of runoff compared to how it is now.

John asked what happened at the site during the 2012 flood.

Rondi said the water came rapidly down the parking lot and kept on going. It did not overwhelm the restaurant area. It came through the parking lot and you could not even see the two rain gardens in the parking lot.

Travis said that the stormwater system is engineered to accommodate 90% of storms we get. During catastrophic events, overflow goes to the creek. The system is designed to handle a 1 inch per hour rain event, which is the MPCA requirement.

John asked if they would need a permit to divert overflow into Palmer Creek.

Travis said that he assumes there will be something they will need to do because of its status as a designated trout stream. He said the DNR asked if overflow could be diverted directly to the lake instead of the creek, but that would not be possible without boring below the Scenic Highway.

Greg said that stormwater currently goes directly into the creek.

Brigid noted that the proposed development is at the end of the creek. She asked what the highest elevation is on the 24 acres above the development. Where does the creek fill from?

Greg said that he assumes that the majority of that acreage drains into the creek. He said part of the overall design plan was to retain greenspace, especially the acreage above the development. The best way to do that is to use existing infrastructure to the extent possible.

Travis said that another option they have used on other projects is to reuse the water that is collected, using it on-site.

John said that he walked the site three days ago and there was not much water in the stream. He asked what the DNR has had to say.

Sue said that the Preliminary Concept Plan was sent to the DNR Central Office, the DNR office in Two Harbors and to the DNR at the French River Hatchery. None responded. She said that Rondi and her group have had several conversations with the DNR.

Al Anderson, a former DNR fisheries employee, said that there have been a couple of studies on Palmer Creek. He said the most recent one measured temperatures from July to December for three years. Hourly temperatures were taken 1/10 mile up the creek in 2010, 2011, and 2012. At no time during this study did temperatures reach lethal levels. Temperatures were in range for growth for trout 99% of the time. The study showed that even when it was very dry, the water remained cool enough to maintain trout. Trout were trapped that were of an age that showed they survived the winter. He said the stream should have been designated as a trout stream a long time ago. It's not an angling stream; it is more of a nursery stream for anadromous fish.

Paul asked what the typical runoff volume was currently for the stream and what it was expected to be with the stormwater plan in place.

Travis said that there was a detailed description of that, including cfs, in the variance application.

Sue said that the draft Preliminary Plan was sent to relevant agencies. The only agency that responded was the St Louis County Planning Department. At this time they had no comment because no subdivision platting was taking place. Agencies were given 30 days to respond and were informed that a lack of response within that time would be taken as no comment.

Rondi said that their intent is to designate each living unit as a separate tax parcel. The rest of the land will be land in common ownership.

Public Testimony

Don Sitter noted that the paved surfaces are very close to the trout stream. He asked if they had considered not paving.

Travis said that they talked with the DNR about putting a curb along the pavement to keep stormwater out of the creek and diverting it instead into the stormwater system.

Don said that because this area is clay, the containment system will fill up. He asked if the exit pipe could be located as close as possible to the highway to put the stormwater into the creek at the lowest point possible and minimize impact to it.

Travis said that this was something they would try to do.

David said that the curb could be a design element that defined the entrance as well as diverting stormwater.

Brigid asked what material was to be used to construct the short walls.

David said they would be dry-laid stone.

Don asked about pervious paving.

Travis said that their plan is to use pervious paving for the driveways. They counted the driveway as impervious surface, so the impervious surface total is actually a bit high.

David said that they would use a pervious block called Turfstone on the lake side. It is a concrete product that has holes for grass to grow up through.

Linda Ross Sellner spoke. She lives in Duluth and said that the North Shore belongs to everyone. She was educated as a land use planner and serves on the Duluth Public Utilities Commission. She said that this development will take almost six more acres of native greenspace that keeps the trout stream a trout stream. She believes that there is no way it can maintain sufficiently cool temperatures with this development. The developers are asking for more than half of the required setback for a trout stream. Everything from the development will end up in the stream. She said the project's proximity to the road is visual pollution. She looked at the topography of the site. With impending climate change and increased precipitation events, the creek will run right into the building. The only thing protecting the creek topographically is the knob, which they are building right up to. To approve this would be to grandfather in something that is already beyond the code. The developers say

they will enhance the creek. She does not believe that is possible. They will strip six acres of native vegetation and create more impervious surface. It is critical that we protect the lake.

Public testimony closed.

John asked if there was anything relevant in the Comprehensive Land Use Plan regarding such development.

Sue read from the 2021 Community Vision for housing on page 11 of the CLUP:

There are a few new, clustered housing developments that provide single family and mixed (senior and other) town home opportunities. They are well designed and conserve open spaces, natural amenities and farm vistas.

Paul noted that zoning is an outgrowth of the Comprehensive Plan. He asked about hooking up to the sewer.

Greg said in meetings they have had with WLSDD the preliminary conclusion is that the existing sewer connection is adequate. It was originally set up for 18 motel units plus the restaurant.

John said that it looks as though the current impervious surface on the lot is as great as, if not greater than what they are proposing.

Brigid said that it goes from 11 to 16 %, but it does not include the fact that the driveways will be perviously paved. She asked Al if he could speak to the project from a biologist's point of view.

Al said that development that has been there and has been there over the years probably degraded Palmer Creek at first. It is a small stream and there is a lot of fallen timber and debris on it. It's possible that could stop the passage of fish. He did like the idea of pushing water from runoff overflow further down the stream to protect temperatures in the stream. Personally, he said, he does not see a lot of direct impact. The Lewis Group is very willing to work to protect the stream, such that even though impervious surface would increase, runoff containment on site will help maintain temperatures. It will also keep a lot of sediment out. The proposed stormwater system is probably better for the trout than current conditions.

Brigid asked if there are things that can be done to improve a stream that has been degraded.

Al said yes, especially because the watershed for this stream is small, probably under a square mile.

Sue read from the variance application. In the Stormwater Narrative it says that for a 100 year storm event with existing conditions the discharge rate would be 16.5 cfs. The maximum allowable is 14.9 cfs. With the proposed stormwater management system in place it would be projected to be 11.9 cfs. Across all of the possible rainfall event examples, the projected discharge rate is reduced.

Larry said that if the acreage devoted to greenspace were to continue in perpetuity, that acreage would not be developed. If it were in other ownership and not in conservation status, the potential for it to be built up to its capacity would exist, which would have a much greater impact on the watershed.

Rondi said that the undeveloped portion of the 8.75 acres plus the 24 acres of the second parcel would be put into preserved status. When the Kiviranta Association is made up of the owners, it is possible they could vote to do something different. She said that their goal was to find the strongest way possible to preserve that land as greenspace.

Sue read from page 82 of the Ordinance regarding final plan approval:

Before final approval of the Open Space Plan can be granted, the applicant shall have received approval from the Planning Director that the following documents demonstrate that adequate provisions have been developed, which preserve and maintain in perpetuity all open spaces and common facilities.

Don Sitter said that if the containment system collects sediment, it will need maintenance to remove this sediment. What is the plan for maintenance?

Sue said that maintenance and inspection schedules are included in the application.

Al said that he owns the property directly to the west and part of the stream crosses the corner of his lot. Having that land in greenspace will help maintain the health of the stream. The stream is intermittent. The biggest factor in maintaining flow is maintaining the wetlands above the stream. Beavers tend to warm up streams more even than man. Popple has died out so the beaver population in that area is decreasing.

John moved to approve the variance for setback from a Designated Trout Stream. The proposal is in harmony with the general purposes and intent of the Ordinance and consistent with the Comprehensive Plan. The proposed variance will maintain, replace and enhance what is currently there and will keep the property in good standards with the health, safety and welfare of the community.

The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance. The plight of the property owner is due to circumstances unique to the property not created by the property owner, because it is reasonable to use the existing infrastructure to develop the site. If the variance is granted it will not alter the essential character of the locality because it was previously an 18 unit motel, then a restaurant, and the proposed project will be in keeping with that history.

Brigid seconded.

John made an amendment to the motion stipulating that a condition be imposed that a curb be constructed on the west side of the paved entry/shared access road capable of diverting runoff from a 1 inch rainfall event from the stream into the stormwater containment system.

Larry seconded.

Brigid said that she does not like to impose these kinds of details on a project of this scope. She believes that they have amply demonstrated their concern and intent to proceed in the best manner possible.

Larry suggested that they could just pitch the road slightly.

Travis said that they plan on pitching it. But there is a portion that would drain into the stream and they do plan to put a curb in and divert that water to the stormwater system.

Brigid said that if the Commission made this a condition, if, for some reason it turned out to be not a good idea, they would still be obligated to do it.

Jerry agreed with Brigid. He noted that the DNR didn't respond with any suggestions.

The vote was unanimous to not approve the amendment to the motion.

The motion in favor of the variance passed unanimously.

Sue presented the next variance for an addition to a non-conforming structure greater than 25% of the existing structure. She showed a map of the site and a plan for the proposed additions to the original restaurant building. The same criteria must be met for this variance as she outlined for the first variance. Sue read the response from the application regarding practical difficulties:

The existing property's structure is non-conforming to the current existing code and was in existence prior to the development of these codes. It would require significant deviation from existing conditions to bring it in to standing with current code regulations.

It will not alter the existing character of the neighborhood as a majority of the adjacent properties are also non-conforming due to the smaller parcel sizes.

This project strives to redevelop a previously developed parcel of land that was under-utilized rather than developing on a new greenfield (untouched / natural) site nearby. It repurposes an existing structure and existing infrastructure already existing on site.

Greg described the project. The addition will be on the back of the existing structure. The scale of the structure will actually be reduced substantially with the removal of the second story from the original building. There will be two garages and a community storage space for the facility. All of it is being put on the north side of the structure and will not make it any closer to the road.

John asked if the concrete pad directly north of the existing structure will be removed.

Rondi said that it would be. It was used as a pad for dumpsters for the restaurant.

Public Testimony

None.

Larry made a motion that both the variance to enlarge the non-conforming structure beyond 25% and the variance for the road setback for a non-conforming structure be approved because:

The proposal is in harmony with the general purposes and intent of the Ordinance and is consistent with the Comprehensive Plan because the variances allow existing non-conforming lots and structures to maintain their current standards as they existed prior to the establishment of the Ordinance. The proposed variances are maintaining, replacing and enhancing what is currently there and will be keeping the property in good standards with the health, safety and welfare of the community.

The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance. The plight of the property owner is due to circumstances unique to the property not created by the property owner because the existing property's structure is non-conforming to the current existing code and was in existence prior to the development of these codes. It would require significant deviation from existing conditions to bring it into standing with current code regulations. The variance will not alter the existing character of the neighborhood because a majority of the adjacent properties are also non-conforming due to the smaller parcel sizes. This project strives to redevelop a previously developed parcel of land that was under-utilized rather than developing on a new greenfield (untouched/natural) site nearby. It repurposes an existing structure and existing infrastructure already on site.

The variances are uses that are allowed under the Zoning Ordinance.

John Schifsky seconded.

The motion passed unanimously.

Sue introduced the Conditional Use application for approval of the Preliminary Concept Plan. It is a year-round residential use that replaces an existing commercial use. There is parking on-site for residents.

She summarized the answers to the questions from the conditional use application. Septic will be DNSSD. Stormwater has been discussed. They have an application for a water supply and distribution system. The heights and sizes of the proposed structures vary. All are under the 35 ft height limit. She asked if there would be signage.

Travis said only minimal road signage would be used as required for the highway. There will not be a Kiviranta sign.

She asked about activities that might generate dust, smoke, etc.

Travis said that there would be chimneys and fire pits, so there could be some smoke.

Sue said that on the application it was stated regarding noise that, because it is residential, it will be limited primarily to cars coming and going and normal residential noise.

Rondi said they are considering having hours controlling outdoor noise. It would be in the Association agreement.

Sue said that on the application it was stated that there will be no outdoor storage areas or work areas. Waste collection will be by local waste management company.

Dave Pearson asked about lighting.

Sue said that the Ordinance requires downlighting.

Greg and David said that they planned on a minimum of lighting. Just enough for safety and possibly some landscape level lighting.

Sue said that an open house was held at the Town Hall on August 10 for the Community Participation Report. It was well attended. She went through the concerns and comments from the Community Participation Report:

Will these homes be owned or leased/rental?

These will be single family owners. We are looking into how to limit or prohibit rental by owners.

What will be the controls of the Association on: 1) Walls & fences; 2) Parking and storage of excess vehicles; 3) Keeping the 30 acres in conservation; and 4) Use of the 30 acres for hunting.
5) Are the fireplaces gas or wood, and how will you control fireplaces for smoke?

We are in the process of developing Association documents. 1) We seek to preserve the exterior character of the spaces as they are designed and will prohibit changes to the exteriors such as higher walls or fences. 2) Vehicle, boat and other storage will be confined to homes and garages or offsite. 3) We will continue to explore best methods for assuring conservation of the 30 acres. 4) We will initially prohibit hunting on the 30 acres, but the Association will be able to change this and other rules when they take over management of the Common Interest Community. 5) Like all outdoor wood fires, smoke conditions

will vary with wind conditions. We have to presume common sense on the part of owners not to annoy their neighbors with smoke, loud music, noise or other behavior.

Is there adequate water? Is there a plan with the DNSSD?

The project has two wells that produce adequately. We are working with the DNSSD to assure proper management of sewage.

Is anyone living on the property to the SW of the planned project?

Lewis Group has purchased that property. It is not part of this project. David Hovde, the proposed caretaker for Kiviranta is living in that home.

Will the surface chosen for the terraces be permeable or impermeable, and will it withstand heavy rains without flooding?

The plan is to pave the terraces with stone from the LTV Mine on the North Shore. The degree of permeability has been included in the stormwater management plan.

Are you in compliance with setbacks on the NE side of the development? Are you in compliance with the zoning?

Yes, the 6 new buildings are well inside the 35 ft setback, and the accessory building added to the existing building is within the 25 ft setback for accessory buildings. Yes, this area is zoned for this type of development.

Will you work with the DNR and Trout Unlimited to enhance the trout stream?

We will be pleased to explore how we might work with them to enhance the trout stream.

Why are you removing the second story of the restaurant, and why are the garages small single car and not one longer line?

The second story is being removed to enhance the view for units behind, and also to return the building to a more classic form. The garages are a collection of smaller buildings instead of one larger building because of the aesthetic and sense of scale.

Sue then read the criteria for granting a conditional use and the answers from the application.

1. Is the proposed use consistent with the Comprehensive Plan and within the spirit and intent of the Zoning Ordinance?

This proposed residential Planned Unit Development is consistent with the Comprehensive Plan and the spirit of the Zoning Ordinance. The PUD (8 single family condo units) is considered an allowable use within the Zoning Ordinance and similar to existing adjacent neighboring uses. This property also strives to redevelop a previously developed parcel of land that was under-utilized rather than developing on a new greenfield (untouched / natural) site nearby. The development will strive to have the architecture of the buildings match the local vernacular. Buildings will be sited to minimize impact from the road and adjacent properties. Materials used for the development will meet local standards and ordinance requirements.

2. Is the use compatible with the existing neighborhood?

This proposed residential Planned Unit Development is compatible with the existing neighborhood. The adjacent neighboring properties consist primarily of mixed use residential and commercial. The proposed 8 single family condo units are similar in scale and size to other adjacent buildings in the area.

3. Will the proposed use impede the normal and orderly development and improvement in the surrounding area of uses permitted by right in the zone district?

This proposed residential Planned Unit Development will not impede the normal and orderly development and improvement in the surrounding areas of uses permitted by right in the zone district. A new residential PUD is considered an acceptable Conditional Use and will blend in with the adjacent property uses. It will also help to improve property values adjacent to the development as the existing parcel is under-utilized.

4. Is the location and character of the proposed use considered to be consistent with a desirable pattern of development for the area?

This proposed residential Planned Unit Development is consistent with the desirable pattern of development for the area. The development will strive to have the architecture of the buildings match the local vernacular. The new buildings will be positioned on site to maximize views of the lake while minimizing the impact of development along North Shore Drive.

5. Does the proposed use comply with the wetlands requirements in Article III, Section 6 of this Ordinance?

The proposed residential Planned Unit Development complies with the wetland requirements of this Ordinance. To the best of our knowledge, no wetlands exist on or adjacent to the proposed development areas of the property.

6. Does the total amount of impervious surfaces exceed that allowed in the zoning district where the conditional/interim use would occur?

The proposed total amount of impervious surface would be significantly less than the allowable 25% max total for this zoning district.

7. Are the topography, vegetation and soil conditions adequate to accommodate the proposed use?

Topography, vegetation and soil conditions are adequate to accommodate the proposed residential Planned Unit Development. The development strives to utilize and redevelop an existing portion of property that had been previously developed and was under-utilized. This area has the least impact on these natural features.

8. Will the proposed use not impact public waters during or after construction or impact wetlands without appropriate mitigation measures? (Will there need to be construction and post construction stormwater plans?)

The proposed residential Planned Unit Development shall not impact public waters and / or wetlands during or after construction. Best Management Practices will be utilized for the stormwater management and design. Preliminary stormwater plans have been developed as part of this submittal application and will be utilized throughout the project development.

9. Are there adequate utilities (water supply, wastewater treatment), access, drainage, stormwater retention, and supporting facilities provided or are being provided backed by appropriate financial assurance?

The proposed residential Planned Unit Development will seek to utilize the existing utilities on site. Drainage and stormwater retention have been incorporated into our proposed stormwater management plans for the project.

10. Will the proposed use create potential health and safety, environmental, lighting, noise, signing, or visual problems?

The proposed residential Planned Unit Development will not create any potential health or safety issues. Lighting and signage will be minimal. We do not anticipate any noise or visual problems with the proposed development.

11. Is the location of the site appropriate with respect to existing or future access roads?

The proposed site location for this development utilizes an existing parcel of the property that was previously developed with direct access to Lake Shore Drive. We do not anticipate the need for any additional future roads for access.

12. Would the demand for public services, such as police and fire protection, solid waste disposal, schools, road maintenance, sewer and water facilities be affected by the proposed use? Are existing services adequate to meet the increased demand?

The proposed residential Planned Unit Development will not increase or affect the demand for public services. The development utilizes an existing parcel of the property that was previously developed with direct access to Lake Shore Drive limiting the needs for public services to have to extend into the site any further. The planned 8 units are consistent with adjacent land uses nearby and seek to utilize existing infrastructure already on site.

Greg said that he thought this project was a perfect example of why planned unit developments are included as a part of the Ordinance. PUDs allow the use of a large site, concentrating the development to a smaller area, in this case, an area that has already been developed, thereby maintaining as much greenspace as possible.

Paul asked if there would be fireplaces and sprinklers in the units.

David said that there would be freestanding stoves with glass doors, and that they would meet all federal requirements. He said there may be sprinklers, but they were still working out the details.

Brigid asked what the primary heat source would be.

David said that it would be in-floor, probably propane or electric.

Rondi said that going with electric would keep options open for alternative energy technologies.

Dave Pearson asked about the access road to the other properties behind the proposed development.

Rondi said that the access road would remain the same. She has talked to the landowners up there.

Public Testimony

Don Sitter said the he thought it was an exciting plan and would be good for the community. His only concern is the tree line between their property and the Pearson property. It is denser than he thought it was. It seems like a lot of trees would need to be thinned and he would prefer to not see so many trees taken out to get views.

David said that they would like to maintain trees as they are in other areas along the lake shore as a part of the view. They will probably engage a tree expert. The first step would be to take out dead trees. Then they would trim branches.

Don asked about the conifers. It is hard to trim them and not end up with odd shapes.

David said that they have used that effect before, creating odd shapes, then trimming others similarly and creating more of an artistic statement. The trimming and thinning will be done in full cooperation with the neighbor, Mr. Pearson.

Dave Pearson said that he sees it as an opportunity to enhance the tree line.

Brigid moved that the conditional use and the preliminary concept plan for the planned unit development be approved and that the requirements for a conditional use from Article IX Section 7.B of the Zoning Ordinance are met, using the language the applicants provided as reasoning as follows:

1. The proposed eight unit residential Planned Unit Development is consistent with the Comprehensive Plan and the spirit of the Zoning Ordinance because it is considered an allowable use within the Zoning Ordinance and is similar to existing adjacent neighboring uses. The project also strives to redevelop a previously developed parcel of land that was under-utilized rather than developing on a new untouched, natural site nearby. The development will strive to have the architecture of the buildings match the local vernacular. Buildings will be sited to minimize impact from the road and adjacent properties. Materials used for the development will meet local standards and ordinance requirements.
2. The proposed residential Planned Unit Development is compatible with the existing neighborhood because the adjacent neighboring properties consist primarily of mixed use residential and commercial; and the proposed eight single family condo units are similar in scale and size to other adjacent buildings in the area.
3. The proposed residential Planned Unit Development will not impede the normal and orderly development and improvement in the surrounding areas of uses permitted by right in the zone district. A new residential PUD is considered an acceptable Conditional Use and will blend in with the adjacent property uses. It will also help to improve property values adjacent to the development as the existing parcel is under-utilized.
4. The proposed residential Planned Unit Development is consistent with the desirable pattern of development for the area. The development will strive to have the architecture of the buildings match the local vernacular. The new buildings will be positioned on site to maximize views of the lake while minimizing the impact of development along North Shore Drive.
5. The proposed residential Planned Unit Development complies with the wetland requirements of the Ordinance. To the best of our knowledge, no wetlands exist on or adjacent to the proposed development areas of the property.
6. The proposed total amount of impervious surface would be significantly less than the allowable 25% max total for this zoning district.

7. Topography, vegetation and soil conditions are adequate to accommodate the proposed residential Planned Unit Development. The development strives to utilize and redevelop an existing portion of property that had been previously developed and was under-utilized. This area has the least impact on these natural features.
8. The proposed residential Planned Unit Development will not impact public waters and/or wetlands during or after construction. Best Management Practices will be utilized for the storm water management and design. Preliminary stormwater plans have been developed as part of this submitted application and will be utilized throughout the project development.
9. There are adequate utilities, access, drainage, stormwater retention, and supporting facilities provided, or are being provided, backed by appropriate financial assurance. The proposed residential Planned Unit Development will seek to utilize the existing utilities on site. Drainage and stormwater retention have been incorporated into our proposed stormwater management plans for the project.
10. The proposed residential Planned Unit Development will not create any potential health or safety issues. Lighting and signage will be minimal. We do not anticipate any noise or visual problems with the proposed development.
11. The proposed development utilizes an existing parcel of the property that was previously developed with direct access to Lake Shore Drive. We do not anticipate the need for any additional future roads for access.
12. The proposed residential Planned Unit Development will not increase or affect the demand for public services. The development utilizes an existing parcel of the property that was previously developed with direct access to Lake Shore Drive limiting the needs for public services to have to extend into the site any further. The planned 8 units are consistent with adjacent land uses nearby and seek to utilize existing infrastructure already on site.

John seconded.

The motion was approved unanimously.

Close of Public Hearing

The July 23 minutes were minutes approved with minor wording changes from Sue.

Director's Report

Sue said that there will be a trails meeting on Sept 17. The Township survey analysis has completed. There will be an open house for the draft trail plan on Thursday Oct 15.

Paul said that the surveys showed that 77% of respondents were in favor of trails and wanted trails. The primary interest was for trails along the main routes in the Township. They are now trying to get an idea of what the existing right-of-ways are. Most respondents preferred that trails be separate from the roads. They plan to prioritize the trails. It would be good to work in conjunction with existing road projects. There is work coming up on Ryan Road, so that would make sense as a priority. They continue to work on funding. It is necessary to have an adequate number of kids within a two mile radius of the school for Trails to School funding.

Sue said that she has been working on the Stormwater Ordinance enforcement language. It will likely go to the Board for approval in October. They will set the effectuation date, but her hope is to publicize it through the newsletter and website before the effectuation. John has volunteered to write an article for the newsletter.

There have not been many land use applications over the past month.

Concerns from the Audience

None.

Sue said that she will keep the Commission apprised of progress on the Kiviranta PUD project.

The meeting was adjourned at 11:10.