

**Town of Duluth
Planning Commission
Meeting Minutes
February 22, 2018**

The meeting was called to order at 7:00 pm by Chair Jo Thompson.

Present: Jo Thompson, John Schifsky, Wayne Dahlberg, Jerry Hauge, Larry Zanko, and Dave Edblom.

Absent: Liz Strohmayer.

Also present: Sue Lawson, Planning Director and Rolf Carlson, Town Board liaison to the Planning Commission.

The agenda was approved as presented.

The minutes were approved with an insertion from Sue regarding the process for redoing the CLUP.

Les & Ryan Grumdahl Conditional Use Hearing

Sue introduced the hearing. She read the Town's communication agreement and outlined the process for the hearing. Les and Ryan Grumdahl own a siding and window business. It is currently located on London Road. They live in the Township and would like to move the business to the Township. Their proposal is to locate the business on the property at the northeast corner of Old North Shore Road and McQuade Road. She read the description of the proposal from their application:

The business will be a retail window and siding business with offices, showroom and storage. The positioning of our retail -office-storage building has a large buffer surrounding it on all sides. We propose to disturb less than 1 acre of land. Our sign will be located on the Northwest corner of the parcel near the proposed entrance. Traffic will be routed in a manner for easy one way flowage by utilizing both entrances. Our proposed use of this business will not have any outside impact which would create noise or dust pollution. Any activity to support our business will be on site and inside our facility. Exterior lighting will be concentrated at the building and parking areas. Any lighting will be aimed in a downward fashion and will be turned off after normal business hours. In addition, our business activity is limited to normal business hours between 7:00am -5:30pm, Monday thru Friday.

Sue showed the vicinity and site map. The property is in zone district SMU-6. She read the definition of SMU-6 from the Ordinance: "Shoreland Mixed Use – This district is intended to provide residential and mixed uses consistent with the recreational and natural attributes of Lake Superior, on a suburban-scale lot size." The proposal meets all of the site requirements for a commercial use in SMU-6.

She summarized the answers the Grumdahls provided to the questions regarding the proposed business from the CUP application. The hours of operation would be 8 to 5. Expected visitors to the site per day would be 12 employees, 2 users and 1 other, such as delivery. Expected traffic would be employees coming and going and one delivery per week, with 10-15 vehicles coming to the site per day. There would be 17 parking spaces. There would be one sign, under 50 sq ft, located on the NW corner of the property. Any lighting on the sign would be directed from the top of the sign downward onto the sign. The activities at the site would not generate dust, smoke, smells, pollution, etc. Noise would not be heard on adjacent properties. The proposed structure is 54 by 100 ft with a front area of 38 by 24 ft for a total of 6312 sq ft. The height of the building will be 30 ft at its highest. Occasionally trailers will be parked outside. These are usually 14 ft enclosed trailers. There will be 3

dumpsters located outside. No wetlands will be affected. Wastewater will be handled by municipal system. The water supply will be a well. The waste from the site will be household waste, handled by garbage service; demolition waste, handled by dumpster service; and recycling, to be taken off site to approved recyclers.

Wayne asked why they had 17 parking spots in their plan if there were only 12 employees.

Les said that additional parking spaces were to accommodate customers, contractors, sales representatives, etc.

John said that he often sees their trailers parked on London Road. Will there be enough room onsite for those trailers? Is there any possibility that they will be on road?

Ryan said that they anticipate storing the trailers inside the building. They would not be parked on the road.

Larry asked when exterior lights would be on.

Ryan said that for the most part they would only be on during business hours. There might be times in the winter that the lights would be needed for unloading. There is also code that requires a light over the door. They will use infrared lights in the parking lot for security. So the site will not be lit at night.

John said that he would want to see fixtures that prevent uplighting and only cast the necessary cone of light.

Sue summarized the community participation report submitted by the Grumdahls. The Commission determined that the notification area would be a one-quarter mile radius of the property. Property owners in the notification area received letters from the Town describing the project and informing them that Les or Ryan would be contacting them. There were approximately 50 property owners in the notification area. She summarized the responses. Concerns elicited included night time lighting, property values, increased traffic, stormwater runoff, driveway location on McQuade Road, and clearcutting the parcel. The Grumdahls responded that lights would be off after normal business hours and off on weekends, that the project would not negatively affect property values, that increase in traffic would be minimal and would be diverted right back onto Highway 61, that they are 575 ft from a seasonal stream and 450 ft from the Talmadge River, that the driveway on McQuade would not be across from any other driveway, and that they would be disturbing less than one acre out of 11.95 acres.

Ryan said that he contacted people he knew by phone. He went house to house for those he didn't reach by phone. He spoke to a lot of people. He brought a map showing the proposed plan and asked if they had received the letter from Planning and Zoning. Most had no objection and many were happy to have the business in the neighborhood. There were some concerns regarding lighting because of the McQuade harbor experience. Regarding the concern about increased traffic on Old North Shore Road, he said that during normal business hours traffic would be limited to the end of Old North Shore Road and would exit on McQuade Road. There were a few neighboring property owners that he didn't get ahold of; they were either out of the area or did not respond. Only three owners out of 50 were not contacted. He talked to others outside the one-quarter mile area and did not encounter anyone who was not in favor of the proposal.

Public Testimony

Sue noted that part of the written comments was a petition. She read the petition:

Statement of opposition. To the Duluth Township Board and Planning and Zoning Administrator. We, the undersigned owners and/or residents of property located within one mile of the land parcel 315-0010-02460, with the legal description of... hereby state that we are opposed to use any part of this land parcel besides for that of residential purposes, and hereby protest in advance to any suggested or proposed conditional use permits or rezoning of the land.

The petition was mailed to residents anonymously by a concerned community member and copies of the petition were signed by 52 individuals and returned to the Town Hall prior to tonight's hearing. She said she did not know how many copies of the petition were sent out. She read the letter that accompanied the petition:

Dear Community Members, the Duluth Township has given notice of a requested Conditional Use Permit for the property located at the NE corner of the McQuade Road and the Old North Shore Road, to be developed into a retail window and siding business with offices, showroom and storage. The proposed business would have entryways/exit ways on both the McQuade Road and the Old North Shore Road. Residents with a quarter mile were provided with official notice of requested Conditional Use Permit, but the Township allows the right for comment in support or opposition to all community members.

Many of us who live in this community do so because of its residential nature, and we are opposed to property that could be, and is intended, for residential use purposes be permitted use for an industrial business.

We as community members are concerned about the precedence a Conditional Use Permit would set for further business development in our community, the environmental impact it would have in regards to wildlife and water quality (property located on tributary of the Talmadge River), the damage to rural aesthetics and scenery with signs, building, and equipment, the safety concerns of increased traffic on rural roadways, the safety concerns of pedestrians that often use these roadways and children at bus stops (the proposed property variance is at a bus stop), the light and sound pollution, the threat to current home values, and the inability of the land to be used for residential purposes in the future.

In 2008, a similarly sized concrete business applied for a conditional use permit on the same piece of property. Through mailed petitions and in person opposition, the permit was denied and the property has remained residential. We need to remind the Duluth Township of the community's opinion.

If you are in favor of our community remaining residential in nature, we are asking that you would please express your opposition to the Conditional Use Permit for business on this property by: Mailing the attached Statement of Opposition to the Duluth Township in the enclosed pre-addressed stamped envelope by February 22, 2018; emailing the Planning and Zoning Secretary at...and attending the public hearing on this matter at...Thank you for helping protect our community. Sincerely, Concerned Community Members.

Beth read the written comments that had been received prior to the hearing from the following individuals:

Lake Dziengel
Ben Hatfield
Amanda Flowers
Alex Keller
Brock Petrie
James Tuttle
Katrina Wollet
Shelby Huchthausen.

Copies of these comments and the petition are attached.

James Tuttle spoke. He said that his email spoke for him.

Ron Benson said that he lives within one-quarter mile of the site. He moved there because there is no commercial development. He likes the residential and woodsy neighborhood as it is. He also fears that allowing this would open the floodgates to further development.

Bob Engleson spoke. He said that he doesn't live down there, but he does find it to be an appropriate use of the property.

Tony Mancuso said that he grew up in Cromwell and now lives at 5170 McQuade Road below the railroad tracks. He said that he agrees with everyone's concerns. He values the quiet and the dark skies and moved to the area for that. He believes that the proposed project will have minimal impact on traffic and light if it is done correctly. His lot is adjacent to the lot. He plans to monitor the situation closely. This process is paramount for getting people's input. He said that he works in construction and has been responsible for dozens of projects. He has also implemented dark sky projects. With new LED lights, he can design such that the light does not spread at all. If done correctly, there will be no light pollution. He is willing to volunteer his services to help with lighting design. He lived with light pollution on Park Point for 18 years and does not want it again. Regarding traffic, he said, traffic will be fed from the expressway almost directly onto the property. It is not a Walmart warehouse. It is locally owned with limited hours. He feels that it would be an innocuous and low-impact presence. The business will provide jobs and will contribute to the tax base. Other potential businesses would be much more impactful given the proximity of the Talmadge River. He would also like to see a stormwater garden off of the parking area to capture runoff and mitigate erosion and sedimentation. If the buildings are located correctly they would serve as deflectors of traffic noise from the expressway. He does planning at work and looks forward. This land is for sale. Someone is going to purchase it. It is an unknown what others may want to do. With this proposal, we have a local owner and know what we are getting. We could end up with a corporation with offices in another state with very little regard for local residents. Something will be developed on this property. This proposal will lock up this property and will prevent other possibly more detrimental projects

Adam Hendrickson said that he is a lifelong resident of the Township. He has been on the Planning Commission and has been on steering committees regarding planning in the Township. He is also a former employee of the Grumdahls. He said that he believes traffic will be light and there will not be light pollution. It is a good location for the proposal and he fully supports it.

Mark Fitzgibbons said that he lives very close to the site. He is worried about increased traffic. There is already a lot of traffic and this will definitely increase it. He is also concerned about his property value. When a commercial business moves into a residential area, it always impacts taxes. If it is allowed, what next? Might it expand? Other developments? Will it set a precedent?

Nancy ** spoke. She is for the project. She lives on the Lismore Road and it is not very residential up there. The whole community is changing. She is in favor.

There was a question about the petition. How are the signatures verified? Are they Township residents?

Jo said that there is no precedence for something like this petition. Everyone's opinion is important. She said that the Commission does not necessarily consider numbers as the sole means for making decisions, but the numbers may be taken into consideration. It is also impossible to know the overall percentage for returned petitions.

Sue said that the petitioners appeared to be within a mile of the property. It is good to hear from the surrounding community. The Commission weighs them all.

Public testimony was closed.

Les said that they have been looking for a place to relocate to for several years. Most of the residents they talked to were happy enough about the proposed business and did not have concerns. The reason they want to be in the Township is that it feels like home. He has been here 40 years. Ryan grew up here. The property has been for sale for 14 years. Because of the traffic noise from the expressway, it is not ideal for residential use. He thinks that is why it hasn't sold. Like Tony said, you will know what you have with their project. He said that the community participation part of the application was a great effort but it is a good process.

Sue said that the Ordinance gives the Planning Commission authority to determine a land use classification if it is not already in the Ordinance. In this case, the Commission added commercial use as a use and determined where it would be permitted and with what requirements. The proposed project meets all of those requirements for a commercial use.

Sue read the criteria for deciding a conditional use and the applicant's responses to those criteria:

1. The proposed use is consistent with the Comprehensive Plan and within the spirit and intent of this Ordinance.

Applicant states: Our proposed use of this parcel is consistent with the comprehensive plan, as use does not require any upgrades or improvements to the existing infrastructure, i.e., roads, sewer, power, etc.

Also the positioning of our retail-office-storage building has a large buffer surrounding it on all sides. We propose to disturb less than 1 acre of land. Our sign will be located on the Northwest corner of the parcel near the proposed entrance.

Traffic will be routed in a manner for easy one way flowage by utilizing both entrances. To explain further, our trucks and trailers as well as delivery trucks will not need to back up out of one entrance. This will insure smooth traffic flow. Our building location will be situated on the higher side of the property which gently slopes North to South, thus averting any impasse for natural flowage.

Also, the building and parking area is located over 600 ft. from a seasonal stream located on the far Eastern edge of the property.

The impact of our business will be a positive one as this parcel has remained undeveloped for decades as a residential site. Also, we currently serve many households in the Township with our products and services.

In closing we feel our proposed use fits the intent and purpose of the zoning ordinance because it is an appropriate use of this parcel as it lies next to a major highway corridor.

2. The use is compatible with the existing neighborhood.

Applicant states: The location of this parcel lies next to an existing major highway corridor HWY 61 which has an impact of noise, light, traffic etc. Also, McQuade Road between HWY 61 and the scenic highway services an existing array of businesses both inside and outside the township. By locating our entrance near the HWY 61 corridor we will have minimal impact on the use of these existing roadways. Also, our location of the building will allow for a 100 ft. plus, buffer from McQuade Road and Old North Shore Road. Existing vegetation will remain in these areas therefore preserving the natural character of the property.

Our proposed use of this business will not have any outside impact which would create noise or dust pollution. Any activity to support our business will be on site and inside our facility. Exterior lighting will be concentrated at the building and parking areas. Any lighting will be aimed in a downward fashion. In

addition our business activity is limited to normal business hours between 7:00am -5:30pm, Monday thru Friday.

3. The use will not impede the normal and orderly development and improvement in the surrounding area of uses permitted by right in the zone district.

Applicant states: No, all business activities will be conducted on site along with parking. We will not impede the traffic flow of the areas as vehicles will be able to pass thru the property by utilizing both entrances and exits.

Also, emergency vehicles will have unimpeded access to the property.

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

Applicant states: Yes, parcel lies near a major corridor of HWY 61 Expressway and McQuade area. Our activities will have minimal impact.

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

Applicant states: Yes, our use complies with the wetland requirements. We will abide by the proper setbacks and will apply for a Land Disturbance Permit before construction. There will be no net loss of wetlands for this project.

6. The total amount of impervious surfaces will not exceed that allowed in the zoning district where the conditional/interim use would occur.

Applicant states: No, the maximum amount of impervious surface area is 25%, We will have less than 10% of the area.

7. The topography, vegetation and soil conditions are adequate to accommodate the proposed use.

Applicant states: Yes, parcel is generally level in slope and drains to existing ditches.

8. The proposed use will not impact public waters during or after construction or impact wetlands without appropriate mitigation measures.

Applicant states: We will not impact public water or wetlands during construction or during our use of the property. Total sq. footage disturbed is 36,183 square feet or 0.83 acre. We will do a required Land Disturbance Permit for this project. We will follow Best Land Management practices to mitigate storm water runoff during construction and after project is completed.

9. Adequate utilities (water supply, wastewater treatment), access, drainage, stormwater retention, and supporting facilities have been provided or are being provided backed by appropriate financial assurance.

Applicant states: DNSSD line abuts property. Electrical power very accessible.

10. The proposed use will not create potential health and safety, environmental, lighting, noise, signing, or visual problems.

Applicant states: No. Vegetative buffer to exist between building/parking and roadways.

11. The location of the site is appropriate with respect to existing or future access roads.

Applicant states: Yes. Our traffic flow will be uncongested as we will use two entrances / exits

12. The demand for public services, such as police and fire protection, solid waste disposal, schools, road maintenance, sewer and water facilities, which would be affected by the proposed use, and the adequacy of existing services to meet the increased demand can be met.

Applicant states: Drive through entrance and exit allowing fire, police, etc. to have easy access to property.

Ryan said that throughout the process of applying for the conditional use they listened to everyone's concerns. They live in this area and want to have a positive impact on the area and neighborhood. They hope that they have demonstrated this and have addressed concerns. They will increase the tax base and provide jobs in the Township. Regarding the petition, Ryan said that they are not an industrial use, but are very light commercial. He doesn't think the business will have a negative impact on the community.

Dave said that he understands having two driveways to ease access, but he has some concern about the Old North Shore Road entrance. He would think that single cars could go in and out at McQuade Road and he would like to encourage this.

Jo noted that concerns for property values come up with almost every project.

Ryan said that if a large-scale business was there with traffic, lights and noise, there would be potential for negatively affecting property values. He does not feel like there will be an impact from this project. It's basically a large garage with an office attached. It will look like a nice home. No materials or vehicles will be stored outside. There are already places like this in the Township. In his opinion it will be positive for property values.

John asked if they were to want to expand, would they have to come back for that?

Sue said they would.

John asked if there was enough room on Old North Shore Road for a long trailer to make the swing to get back on McQuade.

Ryan said that it is possible that in winter plow banks would make it harder. He assumes the road is 35 to 40 ft wide and, with the driveway, they will be able to make a tight turn if they swing wide – just like onto a residential driveway. They will angle the driveway and it will be wide enough to manage the turns.

Les said that access to Old North Shore Road is important. If they didn't have that access deliveries would have to back in or back out and stop traffic on McQuade.

Wayne said they could create a loop within the property.

Ryan said that would create a very large area of disturbance. They want to keep the area of disturbance as small as possible.

Larry asked about incorporating a rain garden.

Ryan said that there is already a natural low area. They would like to use that, with French drains, to create a rain garden. It would be positive for the driveway, too.

Jo asked about the bus stop that was mentioned in the comments. It stops right on Highway 61. People wait for their kids there.

Mark Fitzgibbons said that the bus stops where the bridge is. There is no bus stop sign. It is a bus from Duluth.

John asked if the seasonal stream at the east end of the property drains directly into the Talmadge River, which is a trout stream.

Ryan said that it drains directly into Lake Superior. It originates west of them on Flynn Road where it dead ends. There used to be a tree farm there and there is a pond there. The stream flows out of the pond and down to the lake. He said their business has no pollution other than sand and salt on vehicles like anywhere else in Duluth.

Wayne said that according to the site plan there is 425 ft between the building and that drainage.

Larry made a motion to approve the conditional use application. Wayne seconded.

Larry made a motion to split the motion. Wayne seconded.
The motion passed unanimously.

Wayne made a motion that the proposed use is consistent with the Comprehensive Land Use Plan and within the spirit and intent of the Ordinance because on page 16 of the CLUP Number 4 says "to provide opportunities for limited commercial growth within existing or in newly designated commercial areas." From page 11 of the CLUP it says "New commercial developments are locally based or compatible with local commercial needs. Some are mixed use developments. All these developments are designed to be well integrated into and compatible with the design character and the natural landscape of each commercial district." He said those two support what the proposal is about. Jerry seconded.

Jo said she struggled because of the residential nature of the area. But the zoning is SMU- 6 which is residential and mixed use. It borders SMU-8 which is also mixed use. The conditional use process addresses an individual proposal on the basis of its compatibility with the neighborhood.

Larry said that he felt the project fits with the overall intent of the Ordinance and the CLUP. He read from the Community Vision in the CLUP: "Throughout the Township open spaces, residential and commercial uses are combined into well-designed developments or in some cases mixed use developments."

The motion passed unanimously.

Jo made a motion that the use is compatible with the existing neighborhood for reasons stated previously. They have taken into consideration all those things that would make it not compatible. John seconded.

John said that what is of the most concern to him is that this is clearly a residential area. Neighbors are concerned about it affecting residential quality. He said that if they limit cutting and maintain the wooded area, it becomes more acceptable to him. The building should be shielded. The overall aesthetic is of concern to him, not the traffic because it is so close to the freeway.

Wayne said that he grew up just north of the property on McQuade Road. The area from McQuade up the shore to the lumber yard has been a commercial hub since the 1940s or 1950s. It's a good place for this business.

The motion passed unanimously.

Jerry made a motion that the use will not impede the normal and orderly development and improvement in the surrounding area of uses permitted by right in the zone. They are developing on over twice the required lot size and have adequate buffer around them. John seconded.

The motion passed unanimously.

Larry made a motion that the use is consistent with the desirable pattern of development for the area because of the intent and spirit of the CLUP. Wayne seconded.

Wayne said he believes it is consistent because it is a longstanding commercial area and this is a natural extension of that commercial area.

The motion passed unanimously.

Jo moved that the proposed use complies with the wetlands requirements in Article III, Section 6 of the Ordinance in that the construction area is not on wetlands and the land disturbance permit will limit runoff. A post-construction stormwater plan will also be required to address any runoff concerns.

Wayne said that there are some wetlands in the drainage swale, but they are on the right-of-way property of the highway.

Dave asked why a post construction stormwater plan would be necessary.

Jo said that it's a substantial area. It would not have to be professional stormwater plan.

Sue said that the Ordinance addresses post-construction stormwater control. The development must "be able to attenuate/retain/detain runoff from a one inch one year 24 hour storm event for 24 hours." The proximity of the Talmadge River is a factor also. It was also a concern expressed by the community.

Dave said that his question was whether or not it's required. Would they be requiring a post-construction stormwater plan if it were a residence that was being proposed instead of a business?

Sue said that it's the size of the area of disturbance that makes it a concern, not whether it is a business or residence.

Les pointed out that there is 130 to 200 ft of buffer on the SE corner of the property.

Ryan said that there will also be gutters to direct water away from sensitive areas. They can put that in the land disturbance plan.

Jo said that the land disturbance permit applies during construction. Post construction stormwater management covers after construction and demonstrates what will be done to remove sediment and how water flow will be directed.

Jo revised her motion to say that the proposed use complies with the wetlands requirements in Article III, Section 6 of the Ordinance in that the construction area is not on wetlands.

Jerry seconded.

The motion passed unanimously.

Jerry made a motion that the total amount of impervious surfaces will not exceed that allowed in the zoning district where the use will occur. Larry seconded. The motion passed unanimously.

John made a motion that the topography, vegetation and soil conditions are adequate to accommodate the proposed use because the parcel is generally level and the lot is heavily vegetated. Dave seconded.

The motion passed unanimously.

Jo made a motion that the proposed use will not impact public waters during or after construction or impact wetlands without appropriate mitigation measures if they follow their land disturbance permit requirements and follow best management practices to mitigate stormwater runoff during construction and after the project is completed. Larry seconded.

The motion passed unanimously.

John made a motion that there are adequate utilities in that they will drill a well and will hook up to DNNSD and there is electrical power available. He assumes that there are adequate financial assurances. Jerry seconded.

The motion passed unanimously.

Larry made a motion that the proposed use will not create potential health and safety, environmental, lighting, noise, signing or visual problems. There is a substantial buffer around the site and, based on the plan put forward, there will not be lighting, noise, signing or visual problems. Dave seconded.

The motion passed unanimously.

Dave made a motion that the location of the site is appropriate with respect to existing or future access roads. They have ingress and egress and are close to the expressway so it is low impact. Larry seconded.

The motion passed unanimously.

John made a motion that public services will be adequate even if there is an increased demand. Wayne seconded.

The motion passed unanimously.

All 12 criteria passed in support of the main motion.

Jo made a motion that there be a post-construction stormwater plan. John seconded.

Sue said that the Commission should consider what level of plan would be appropriate and whether the plan be done by a professional.

Wayne said that he has been involved with various projects and with professional stormwater management. He made an amendment to the motion that because of the rainwater events that have to be encompassed, the stormwater plan be developed by a professional. John seconded.

Dave asked if the Commission would demand the same thing if the project were a residential use. If it were a home that was being built, the neighbors would not be invited to comment on the project and stormwater wouldn't necessarily emerge as an item of heightened concern.

Sue said that it would depend on the circumstances of the site. The petition that circulated cited it as a concern. The Ordinance stipulates that "the Town of Duluth has identified the following minimum standards for

stormwater management plan when required for meeting the provisions of this Ordinance or as requested by the Planning Director.”

John said that item 4 of that section says that “for commercial or industrial development, the plan should identify how the first half inch of runoff will be treated to remove grease and oil.” So, it is clear that there is a distinction being made between commercial/industrial and other uses.

The amendment to the motion passed unanimously. The main motion passed unanimously.

John said that the Grumdahls have assured that all outside lighting will be downlighting. Does it need to be a condition? Jo said that they said they won’t have lights after dark. Les said that code requires lights over doors.

Tony said that all man doors have to have a certain amount of light within a certain number of square feet so that the exit is clear and the fire department can find it easily. There are LEDs that are specific to this task.

Wayne thought that if they followed the guidelines in the Ordinance, a condition wasn’t necessary.

Larry asked if it was enough that it was stated in the application.

Jo noted that the Ordinance allows operation from 7 am to 9 pm. There were concerns about after dark lighting. The application states that their hours of operation will be until 5:30 pm. A condition could be set limiting hours of operation.

Les said that they stated their hours of operation would be between 7 am and 5:30 pm. If he were to decide to stay until 10:00 some nights, he feels it shouldn’t be a big deal.

Wayne said being there late is not an issue. Hours of operation are more when the business is open and operating.

Sue said that they need to consider if there might be times they want the showroom open later.

Wayne made a motion that their hours of operation be limited to from 7 am to 9 pm, 7 days a week.

Dave seconded.

Jo made a motion to amend the motion that the hours of operation be 7 to 9 Monday through Friday and 7 to 5 pm on Saturday.

Sue said that there is a difference between a business being open to customers and work going on at the business. She said that there was considerable concern from neighboring residents about this business being there. A conditional use is something that doesn’t normally occur in an area. When the Grumdahls talked to neighbors, they said their hours of operation would be Monday through Friday.

Jo’s motion to amend the motion died.

Dave made a motion to amend the motion that the hours of operation be Monday thru Saturday. Wayne seconded.

The amendment to the motion passed unanimously and the main motion passed unanimously.

John made a motion that all lighting be downlit and be on only during hours of operation except as required by code. Jerry seconded.

Sue said that the Ordinance already states all lighting be downlit and shielded.

Jo made a motion to amend the motion that the lighting referred to is external lighting.

The amendment to the motion passed unanimously and the main motion passed unanimously.

Larry made a motion that signage lighting be on only during hours of operation. Jo seconded.

Wayne did not think that a sign with light would be a big deal.

The motion passed 5 to 1 with Wayne opposing.

Jo said that she thinks it is important that they maintain a vegetation buffer as described in their application. Vegetation is dynamic.

Sue said it is a balance between a buffer that screens the business from the neighbors and yet provides some visibility for the business. The site map shows a 130 ft buffer on the west side.

Wayne noted that a lot of the trees are in the ROW.

Jo made a motion that a natural vegetation buffer from the neighbors and road be maintained to the maximum extent possible while allowing the business to be seen. John seconded.

The motion passed unanimously.

Sue said that there were concerns regarding traffic on Old North Shore Road. One option would be to put signage on the property regarding the exit onto Old North Shore Road. They could also gate that driveway.

Wayne said that if they created a backup area on site they would not need a driveway onto Old North Shore Road. It would be a minor modification to the site.

Ryan said that if there were any number of work trucks there it would be impossible to back a semi up.

Dave said that reducing traffic on Old North Shore Road would be good as it is used recreationally.

Larry asked how often they anticipated semis.

Ryan said once per week.

Jerry said that the road dead ends to the east. It didn't seem like an issue to him.

John made a motion that the use be designated as a conditional use because the circumstances and the plans are such that an interim use would not be practical. Larry seconded. It was decided the motion was not specific enough and John withdrew it.

Jo made a motion that the permit be a conditional use for a window and siding business as applied for because there is not a time certain date or event that the use will terminate, potential health and safety concerns have been addressed by conditions, and there is not a known change in zoning in the near future. Larry seconded.

Wayne asked if it terminates and they wish to sell it, what can they sell it as?

Jo said it is not zoned commercial so it couldn't be called a commercial operation. It is a conditional use for a siding and window business as stipulated by this conditional use. If someone buys the property and wanted a different business, they would have to apply for a new conditional use permit.

Wayne said that it was decided to make commercial use a conditional use in the zone district so that each use would be heard on a case by case basis.

The motion passed unanimously.

Conditions

- 1) Hours of operation will be limited to from 7 to 9 Monday through Saturday.
- 2) All external lighting will be downlit and be on only during hours of operation unless otherwise required by code.
- 3) Any lighting on signs will be on only during hours of operation.
- 4) To the maximum extent possible a natural vegetation buffer from the neighbors and road will be maintained but will still allow the business to be seen.
- 5) A post-construction stormwater plan, developed by a professional, will be required.

The main motion to approve the request as a conditional use for a window and siding operation as applied for, encompassing the split motions and conditions above, passed unanimously.

Sue said that there were two more hearings coming up. Sharon DeLeo has an interim use permit for a short-term rental that expires shortly. She would like to extend this and would also like to change it to a conditional use. However, the Ordinance has changed in the meantime. So she will check with the Town's attorney to see if that is even a possibility. When the Seerings' STR extension hearing was held, the Commission decided to use the same area of impact and to charge a fee just to cover the cost of the hearing. Is this what the Commission would like to do again? It was agreed that they would.

The next one is for a conditional/interim use for a bed and breakfast for a property just east of the Homestead Road, Dan and Sylvia Ring. It was decided the area of impact for that would be one-quarter mile.

The conditional use hearing for Tom DeSutter's bed and breakfast is scheduled for the March meeting. It was agreed to hear Sharon DeLeo's request at the same meeting and the Ring's bed and breakfast conditional use request April 26.

Bob Engelson was present. He had submitted a permit application last fall to tear down and replace a non-conforming garage on his property. He tore the garage down. Since then, he learned that a non-conforming structure can be enlarged by 25%. Can he still do that even though he tore down the original structure? Would he need to reapply? He doesn't want to move it because it is where the garage has always been and it's the spot that makes sense. The slab is still there. He could move it a little further back but would then need a variance. If he replaced the building that was there, he could then put a 25% enlargement on it. It would just require two steps.

Jo made a motion that according to Article IV, Section 3.B of the Ordinance, he can replace the nonconforming structure and, in addition, according to Section 3.A he can enlarge that structure up to 25%. Jerry seconded.

The motion passed 5 to 1 with Dave abstaining.

The findings of fact were approved for the Grumdahl commercial use conditional use.

The meeting adjourned at 11:40.

Comments Grumdahl CUP 2/22/2018

1. Dziengel
2. Hatfield
3. Johnson
4. Keller
5. Petrie
6. Tuttle
7. Wollet
8. Huchthausen
9. Petition



Beth <bmullan.duluth@gmail.com>

Fwd: Duluth Township:Conditional use: Les Grumdahl

Duluth Township <townclerk@lakenet.com>

Wed, Feb 21, 2018 at 9:13 AM

To: Sue Lawson <suelawson@lakeconnections.net>, Beth Mullan <bmullan.duluth@gmail.com>

----- Original Message -----

Subject:Duluth Township:Conditional use: Les Grumdahl**Date:**Wed, 21 Feb 2018 13:12:06 +0000**From:**Lake Dziengel <lakedz@d.umn.edu>**Reply-To:**lakedz@d.umn.edu**To:**TownClerk@LakeNet.com

From: Lake Dziengel <lakedz@d.umn.edu>

Subject: Conditional use: Les Grumdahl

Message Body:

I do not support the approval for a business permit on McQuade Rd and Old North Shore Road. The infrastructure of that intersection cannot support more industrial-type traffic or an additional egress. There is already a lot of traffic to McQuade Boat Harbor, and detoured traffic when Scenic is under construction (the last 2 summers). Residents also rely on access to Hwy 61 during winter. Additionally, the proposal of up to one acre of lighting would produce much light pollution. Thank you for your time.

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This e-mail was sent from a contact form on Duluth Township in Northern Minnesota
(<http://www.duluthtownship.org>)



Beth <bmullan.duluth@gmail.com>

Conditional Use Permit - McQuade Road

Ben Hatfield <Bmh210@aol.com>
To: bmullan.duluth@gmail.com

Mon, Feb 19, 2018 at 1:52 PM

02/19/2018

Duluth Township Planning and Zoning,

I am writing in regards to the notification I received about a conditional use permit request for a business at [5210 McQuade Road](#). I will be out of town for work on February 22, 2018, and therefore will not be able to attend the public hearing. As a neighbor within ¼ mile of that property, I would like to express my strong opposition to the requested land use, and ask the township take my views into consideration.

1) I live in the Duluth Township because of the rural residential nature of this area. A business of this nature, within a ¼ mile of home would be devastating to my family. Signs, increased traffic, equipment, trucks hauling supplies, etc., would completely destroy the nature and dynamic of the neighborhood and make it a much less safe place to live. This is a strong residential neighborhood.

2) A business in that location would immediately reduce the value of my property, as well as everybody else surrounding it. There is no way around this. No matter what steps are put in place, all property values will be reduced. If this permit were granted, I would hope to be able to put my home up for sale prior to the start of their construction, which is not at all what I would like to do.

3) This land has sat vacant for many years, but it was not up until last summer that a real estate agency has put any effort into selling the property. I have had several prospective buyers question me as a neighbor about the area since then. There is no doubt that this property will in short time be used for 1-3 residential homes if allowed time. If a business is allowed to build here at this point, it will never be available for residential use again. Please allow this neighborhood to remain residential. I myself would buy the property to prevent it from becoming anything other than residential.

4) This business does not serve our community. If you were to audit their business, I would wager that less than 1 percent of their business serves Duluth Township Residents directly. By nature, a business like this has to serve urban areas to succeed. In my opinion, the Duluth Township does not want to start housing businesses that serve the Duluth and Two Harbors communities simply because we are highly visible from the freeway between them. Allowing this conditional use sets poor precedence to what our community really is. If business is allowed into clearly residential neighborhoods like this, they should be a direct service to our residents, such as a grocer.

5) The residents of this community have already objected to the property in question being used for anything other than residential purposes. I remember that a similar business requested a conditional use permit in 2008. I was at the town hall meetings and there was widespread and passionate objection at that time. I signed a petition against it at that time. I have already been approached to sign another petition about this property again, so it is clear that community members are still in opposition.

6) The building of business on this property would have negative environmental and aesthetic impact. The entire proposed building site drains directly into the Talmadge River, and the land currently is habitat to many animals, including a large population of white tail deer and timber wolves. The dead end part of the Old North Shore Road is also a current recreational area for many community members. Adults and children use this road for walking, skiing, bicycling, jogging, walking pets, etc., every single day. A business exit would once again completely ruin the dynamic of the neighborhood.

In conclusion, I ask that you please allow our neighborhood to remain completely residential in nature and deny this conditional use permit.

Sincerely,

Benjamin Hatfield

2261 Old North Shore Road

Duluth, MN 55804

(218) 461-2903



Beth <bmullan.duluth@gmail.com>

Controversy over NE corner of the McQuade Rd and the Old North Shore Rd

Amanda Johnson <mamaloon3@gmail.com>

Sat, Feb 17, 2018 at 4:41 PM

To: bmullan.duluth@gmail.com

Dear Zoning Secretary,

I received a letter in the mail from "Concerned Community Members" about the possible Conditional Use Permit for a retail window and siding business at the NE corner of the McQuade Rd and the Old North Shore Rd. The letter wants me to express my concern as well. My concern is not exactly the same as theirs...

I can see the argument for not wanting an industrial business located there if the window and siding company qualifies as such, but I do NOT agree that no business should go there at all ever. For example, I would love a bakery within walking or biking distance. That would be so much fun. Locally owned restaurants, gift shops, farmer's markets etc are great. Walmart, etc., not so great.

I feel that each business possibility should be taken on its own merits. The "Concerned Community Members" that wrote the letter are hoping that I will protest against ANY business going in that spot or any other nearby spot. I do not fully agree. There are businesses that can add to our quality of life here on the North Shore and others that will not.

Thank you!!!

Amanda Flowers
9416 Congdon Blvd
Duluth, MN 55804
[218-464-0375](tel:218-464-0375)
[218-464-7611](tel:218-464-7611)

5351 McQuade Road
Duluth, MN 55804
15 Feb 18

Duluth Planning and Zoning Board
Duluth Township
6092 Homestead Road
Duluth, MN 55804

It has come to our attention that a Conditional Use Permit is being considered for property at the NE corner of McQuade Road and Old North Shore Road; While we are Lakewood Township residents, we live on McQuade Road within a mile of the subject property and feel that our property and community would be negatively impacted by development of a retail business at the subject site. The area in question is definitely residential on both Lakewood Township and Duluth Township sides of McQuade and should remain so.



Alex Keller



Beth <bmullan.duluth@gmail.com>

Opposing the North Shore Drive conditional use permit

Brock Petrie <brockpetrie@gmail.com>

Fri, Feb 16, 2018 at 8:32 PM

To: bmullan.duluth@gmail.com

Hi there,

I'm writing to express my extreme opposition to the Conditional Use Permit that's been requested for the NE corner of McQuade Road and Old North Shore Road.

My soon-to-be wife and I moved out of Minneapolis and into the French River neighborhood two years ago because it is small, slow and quiet. (In fact, I first lived at 5281 nearly 8 years ago when I rented it, and I always hoped to move back.) The location was perfect for us, especially for my partner who struggles with anxiety. I'd strongly ask you to please consider our opinion, and all of our like-minded neighbors' voices too, and help us keep our residential neighborhood just that - residential.

Sincerely,
Brock Petrie



Beth <bmullan.duluth@gmail.com>

Fwd: Duluth Township:Opposition to requested Conditional Use Permit on NE corner of McQuade and Old North Shore Rd

Duluth Township <townclerk@lakenet.com>

Fri, Feb 16, 2018 at 8:58 AM

To: Sue Lawson <suelawson@lakeconnections.net>, Beth Mullan <bmullan.duluth@gmail.com>

----- Original Message -----

Subject:Duluth Township:Opposition to requested Conditional Use Permit on NE corner of McQuade and Old North Shore Rd

Date:Fri, 16 Feb 2018 12:41:35 +0000

From:James Tuttle <Tuts2313@yahoo.com>

Reply-To:Tuts2313@yahoo.com

To:TownClerk@LakeNet.com

From: James Tuttle <Tuts2313@yahoo.com>

Subject: Opposition to requested Conditional Use Permit on NE corner of McQuade and Old North Shore Rd

Message Body:

I understand that a request has been made for a Conditional Use Permit for the property located at the NE corner of McQuade Road and the Old North Shore Road to be developed into a retail window and siding business. I am writing to express my opposition to this request.

I moved to this location for it's quiet residential atmosphere. I would like this neighborhood to remain residential.

I plan to attend the public hearing on February 22, 2018.

Sincerely,
Jamès Tuttle
2315 Old North Shore Rd
Duluth, MN 55804

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This e-mail was sent from a contact form on Duluth Township in Northern Minnesota (<http://www.duluthtownship.org>)



Beth <bmullan.duluth@gmail.com>

Opposition to Conditional Use Permit

Katrina Wollet <katrina@somewhere.agency>

Fri, Feb 16, 2018 at 8:36 PM

To: bmullan.duluth@gmail.com

Hello,

My partner Brock Petrie and I own a house at [5281 North Shore Drive](#), and I'm writing to express our strong opposition of the Conditional Use Permit that would grant permission for an industrial business (at the NE corner of McQuade Road & Old North Shore Road) in our residential neighborhood.

Having lived in many places both in the US and abroad, the French River neighborhood has always been my dreamy little escape, the quiet community you only read about in books. I'd ask you to please help keep our community residential — and not open for business.

Many of us live outside of the town of Duluth for the quiet and stillness that this community offers. Please don't change that.

Best,
Katrina Wollet

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Katrina Wollet
Partner, Content & Communications Strategist
w: [somewhere.agency](#)
t: [@katrinawollet](#)
c: (608) 692-2016

To The Duluth Township Board and Planning and Zoning Administrator

We, the undersigned owners and/or residents, of property located within one mile of the land parcel 315-0010-02460, with the legal description of:

That part of the SW 1/4 of the NW 1/4 Lying N of RY RT of Way, E of Mc Quade Road, W of Relocated Mc Quade Road, and S of New State Hwy No. 61 EX for HWY, and that Part of the SW 1/4 of the NW 1/4 Lying North of RY RT of Way East Mc Quade Road S of New Hwy No. 61 and E of Relocated Mc Quade Road EX For Hwy of Section 19 of Township 51, Range 19.

Hereby state that we are in support of issuing a conditional use permit to Les Grumdal Siding Co. Great use of the property!

Print Name (clearly): Tim Huchthausen Date: 2-16-18

Address: 2417 Old North Shore Rd. Duluth, MN 55804

Signature: [Handwritten signature]

Print Name (clearly): Shelby Huchthausen Date: 2-16-18

Address: 2417 Old North Shore Rd Duluth, MN 55804

Signature: [Handwritten signature]

Statement of Opposition

To The Duluth Township Board and Planning and Zoning Administrator

We, the undersigned owners and/or residents, of property located within one mile of the land parcel 315-0010-02460, with the legal description of:

That part of the SW ¼ of the NW ¼ Lying N of RY RT of Way, E of Mc Quade Road, W of Relocated Mc Quade Road, and S of New State Hwy No. 61 EX for HWY, and that Part of the SW ¼ of the NW ¼ Lying North of RY RT of Way East Mc Quade Road S of New Hwy No. 61 and E of Relocated Mc Quade Road EX For Hwy of Section 19 of Township 51, Range 19.

Hereby state that we are opposed to use of any part of this land parcel besides for that of residential purposes, and hereby protest in advance to any suggested or proposed conditional use permits or rezoning of the land.

Signers (Received through 2/22/2018)

- | | | | |
|-----------------------|---------------------|-------------------------|---------------------|
| 1. Jane Thimke | 5198 Greenwood Rd | 27. Dean Mindestrom | 5279 North Shore Dr |
| 2. Ivy Wood | 5177 Greenwood Rd | 28. Jean Roi | 5283 N Shore Dr |
| 3. Sean Kemke | 5177 Greenwood Rd | 29. Thomas Roi | 5283 N Shore Dr |
| 4. Tom Niesen | 5520 McQuade Rd | 30. Anthony Lotti | 2223 Old N Shore Rd |
| 5. Carolyn Niesen | 5520 McQuade Rd | 31. Paul Weisinger | 5631 McQuade Rd |
| 6. Nadine Roberts | 5330 Greenwood Rd | 32. Jeff Steinsberger | 9019 E Superior St |
| 7. Greg Beck | 2267 Reimer Rd | 33. Nicole Steinsberger | 9019 E Superior St |
| 8. Grant Anderson | 9007 E Superior St | 34. James Suchan | 9436 Congdon Blvd |
| 9. Britt Johnson | 9007 E Superior St | 35. Patricia Suchan | 9436 Congdon Blvd |
| 10. Bruce Lotti | 2223 Old N Shore Rd | 36. Suzan Johnson | 2315 Highway 61 |
| 11. Lloyd Geis | 5130 McQuade Rd | 37. Mark Johnson | 2315 Highway 61 |
| 12. Donna Geis | 5130 McQuade Rd | 38. David Hamilton | 9413 Congdon Blvd |
| 13. Kalen Johnson | 5280 Greenwood Rd | 39. Mark Fitzgibbons | 2309 Old N Shore Rd |
| 14. Karen Johnson | 5280 Greenwood Rd | 40. Erin Fitzgibbons | 2309 Old N Shore Rd |
| 15. Monte Hoffman | 5392 McQuade Rd | 41. Ron Benson | 5164 McQuade Rd |
| 16. Nancy Hoffman | 5392 McQuade Rd | 42. Miles Benson | 5164 McQuade Rd |
| 17. Randall Coombes | 5712 McQuade Rd | 43. Chloe Benson | 5164 McQuade Rd |
| 18. Jennifer Coombes | 5712 McQuade Rd | 44. Otto Neuenfeldt | 2275 Old N Shore Rd |
| 19. Alex Keller | 5351 McQuade Rd | 45. Katrina Wollet | 5281 North Shore Dr |
| 20. Lynda Keller | 5351 McQuade Rd | 46. Brock Petrie | 5281 North Shore Dr |
| 21. Marianne Bovee | 5171 L Peterson Rd | 47. Joshua Bielinski | 5406 Greenwood Rd |
| 22. Kevin Bovee | 5171 L Peterson Rd | 48. Kari Bielinski | 5406 Greenwood Rd |
| 23. Mary Lou Sabroski | 9502 Congdon Blvd | 49. Julee Hitz | 5191 North Shore Dr |
| 24. James Tuttle | 2315 Old N Shore Rd | 50. Paul Hitz | 5191 North Shore Dr |
| 25. Thomas Ultican | 5224 Greenwood Rd | 51. Robert Shaw | 5249 McQuade Rd |
| 26. Mary Ultican | 5224 Greenwood Rd | 52. Mary Shaw | 5249 McQuade Rd |