

**Town of Duluth
Planning Commission
Meeting Minutes
7/24/08**

Meeting was called to order shortly after 7:00 p.m.

Planning and Zoning Commission Chair Dave Chura introduced Beth Mullan as new secretary

Members present: Dave Miller, Dave Chura, Yvonne Rutford, Seth Levanen

Members absent: Bill Lannon, Janet Green, Michael Kahl

Also Present: Director Sue Lawson, Assistant Director John Kessler

Jan Green and Michael Kahl had previously indicated that they would not be able to attend this meeting.

Agenda for the evening was reviewed and approved.

The June 26, 2008 Planning and Zoning Meeting Minutes were approved: 1st motion Dave Miller, 2nd Yvonne Rutford

Dave Chura walked through the process for the two Public Hearings to be heard this evening. He invited audience members interested in testifying during the public testimony portion of the hearings to sign up.

At this time Chair Dave Chura read the "Communication Agreement for Public Meetings" in its entirety

Public Hearing for Worden Short Term Rental CUP request

Director Sue Lawson reviewed the 12 criteria for granting a CUP from the Zoning Ordinance and also the language pertaining to short-term rentals from the Ordinance. These are the criteria on which the Planning Commission will base its decision.

The Zone District is SMU-8. Sue reviewed the description for SMU-8 and the Dimensional Requirements for this Land Use District.

Dimensional Requirements are:

Minimum lot size 1.0 acre

Minimum lot width 200 feet

Maximum lot coverage not to exceed 25%

Minimum lot set backs are 20 feet for the primary structure, and

Minimum road set back is 68 feet from the centerline

Sue asked Ms. Worden for the lot dimensions. Ms. Worden replied that it is 100 x 300.

The road setback is close. The lot is 100 feet short of required lot width.

She put a map on the screen showing the property in question and the neighborhood involved. On the Plat map, it is lot 207. The lot is a non-conforming lot.

Ms. Worden then presented her Community Participation Report.

There were 42 people she was required to contact. She contacted them by phone and left messages when necessary. She only got one call back from these messages. Of the people she spoke to, no one had a problem with the plan. One person stated that he did not like rentals of any type.

She uses VRBO, a website specializing in privately owned vacation properties to advertise her property. There are 28 listings for vacation rental properties in Duluth on this website. Prospective renters contact her through the website. She talks to them and explains the nature of the rental and the fact that it is in a neighborhood of privately owned homes. The renter sends a deposit, Ms. Worden sends them a letter with confirmation and terms, they sign it

and return it to her and, after being paid in full, Ms. Worden gives them the lock box number to access the rental. She has never had any problem with her renters.

Dave Chura asked Ms Worden to address each of the 12 criteria from the Zoning Ordinance that had to be met to grant the CUP.

Ms Worden believes that her business would fit in just fine with the surrounding neighborhood and businesses. She said that she interprets the ordinance as trying to attract tourists. She believes that private vacation rentals are the wave of the future because of the number of small resorts that are closing. She believes that she meets the requirements for sewer and trash removal and access. She believes that they meet all 12 of the criteria.

Questions from the Commission:

Dave Miller: How long are the rental periods?

Rental is one or two weeks in the summer, but in the fall people want weekends. Ms Worden is hoping to rent it for 3 day weekends in the winter, but has not had any interest yet.

Dave Miller: What is the summer season?

June 20th has been the start date for the last three summers and the one week rentals have ended at the end of August. Three day rentals would probably be for September and October. There would probably be few if any rentals of the property throughout the rest of the year.

Yvonne Rutford: What are the terms for management of the property? Is your daughter contracted to provide management?

Her Daughter, who is 21 and a college student, is primarily responsible for managing the property. When her daughter is not available, she uses Squeaky Clean out of Knife River to do mowing, cleaning, repair work, etc.

Yvonne Rutford: What if there are problems day or night? Who is the contact person?

At her other property she uses the person next door – he may be willing to be the local contact for this one also, but she has not asked him yet. She didn't realize she needed to have that lined up yet.

Yvonne Rutford: Please explain the codes on the neighbor contact list.

The already called people are people she had called previously on her last rental.

Yvonne Rutford: Did you not contact them the second time?

Yes, and they didn't have any concerns on this one either.

Yvonne Rutford: Why are they listed as already called?

Ms. Worden explained that the codes on the summary sheet were her personal shorthand. The M indicates a detailed message was left, N indicates people she talked to who had no concerns; D indicates people who do not like rentals.

Yvonne Rutford: What were their specific concerns and were they contacted specifically about this plan?

She already knew they didn't like rentals; she contacted 2 of the 3. The first one had had problems with student renters and did not like rentals in general, the second was concerned with property values and people being around, and the third she left a message for but they did not call back (Earl Surine). She knew from the previous meeting that they were not in favor of the rental. The W indicates one person who wrote a letter stating she did not mind the rental plan.

Dave Miller: What would happen if your daughter were to move?

She has 2 daughters in Duluth who are in school and not planning on leaving. She could also use the maintenance service.

Dave Chura indicated that the Web site calendar for the rental property showed more dates blocked out than the number of rentals Ms. Worden had indicated for 2008. She responded that these periods were blocked off for their personal use and for use by family and friends.

Seth Levanen: How will trash be controlled?

Garbage has not been an issue. Ms Worden stated she was at the rental property 23 times last year. She has not found anything in the yard. The web site tends to attract good renters.

Seth Levanen asked for clarification of the already called checkmark – what was the response?

Ms. Worden: Called and no problem.

Seth Levanen: On the neighbor contact list, the W with the Boulder Dam Rd address – is that someone who lives there?

Ms. Worden: Yes, they wrote the letter.

Dave Miller: How many bedrooms?

Ms Worden: 3

PUBLIC TESTIMONY

Chas. Sundberg: He has lived there for 23 years. It is a quiet neighborhood. He is opposed to short-term rentals. He does not want to see the neighborhood change.

William (Skip) Cooke: He has property adjacent to and across the road from the potential rental property. He has lived on Greenwood road for nearly 30 years. He loves the area and likes the people in Duluth Township. He feels secure and safe in the area because he knows his neighbors and they as a community know what is going on. He is not opposed to rentals, but questions the benefit of short-term rentals. Motels do not fit into the fabric of the neighborhood and benefit only the absentee owners. He believes that short-term rentals reduce the security of the neighborhood and reduce property values.

Dave Wright: He lives on Greenwood Rd. He asks if this change would benefit or harm the neighborhood? He believes it would result in lower property values, more disruptions in the neighborhood, and more police calls, leading to more costs. It would result in a negative change to the character of the neighborhood. He sees no benefit to the residents of Duluth Township for short-term rentals.

Kathy Cooke: She read a letter from a neighbor, Mark Kallio, who could not attend the meeting. He has lived on Greenwood Rd since 2005. He related his experiences from his former residence in the Minneapolis area. He lived in a neighborhood with a strong sense of community and with the fewest 911 calls in the city. The neighborhood changed as properties were sold and became investment properties instead of privately owned properties. He has twice picked up garbage at the rental property and believes that the trash will attract bears. He believes that the neighborhood should remain residential. She left a copy of the letter and 3 pictures taken by Mr Kallio with the Commission.

Steve Cherne: He lives at 5198 Greenwood Rd. and was a Duluth police officer for 23 years. He does not mind long-term rentals because he believes people who are long-term renters have a share in the community. In his former neighborhood near UMD, five of the seven houses on that block became rentals. There were many problems related to the short-term renters and he finally moved out of his home. There is already 1 short-term rental on the block – granting a second would be a slippery slope towards turning the neighborhood into a transitional neighborhood. Conditional Use is for a special use not generally suitable for the neighborhood. What short-term rentals will the Commission refuse if they grant this one? He provided the Commission with a copy of his letter.

Bill Mittlefehldt: Mr Mittlefehldt believes that rights in the neighborhood are threatened by allowing short-term rentals. Granting this CUP would set a precedent. Long-term residents like the current character of the neighborhood. He also believes that the Community Participation Report is fraudulent because the Mittlefehldts were not contacted. He does not think that 2 rentals can be managed from a distance. He is in favor of long-term rentals but not short-term rentals – short-term rentals devalue neighborhood properties. He believes the property owners have demonstrated disrespect for existing neighbors, disobedience of ordinances and have not complied with conditions set on the first rental property.

Pamela Mittlefehldt: She lives at 5227 Greenwood Rd. She wanted to address compliance and enforcement issues. The property owners must demonstrate respect for the ordinances and for the expectations of the Township and the Planning Commission. The Township must have the resources to respond to any extra demands created by a short-term rental. Because the property owners live in Richfield, responsibility for monitoring the property falls to locals. She cited problems from the Worden's first rental property. Dave Chura interrupted to emphasize that this hearing is pertinent to the current request only, not permits or requests from the past. Ms Mittlefehldt continued, citing Worden's installation of floodlights which were directed towards Mittlefehldts' property. She believes that the owners will not respect the neighborhood, ordinances or the Commission. Can the Commission respond if there is a problem? She believes that the Planning and Zoning Commission is already overstretched. She is opposed to short-term rentals. In addition, the lot is nonconforming and the use does not fit with the neighborhood.

John Bowen: He lives at 5409 Greenwood Rd. They rented the property originally in 1969 and then purchased it. They also rented the property out for a period of time. He is not opposed to the rental at all.

Carol Surine: She has lived at 5227 Greenwood Rd since 1998. She believes that the Community Participation Report submitted by Wordens is not accurate. For instance, Mark Kallio has an unpublished number -- how did they contact him? One resident listed as a renter is not a renter – he is an owner. She knows of one person (May Huricha(?)) who lives there and is not on the list and was not contacted. Carol called some of the people from the list herself and found that they were not called. In addition, a couple of other neighbors said that they did not get calls from the Wordens regarding the rental.

Brad Ferguson: The R after his name on the Community Participation Report could have come from the R in the name of his trust and may not mean renter.

Dave Chura: Asked for a motion to close public hearing portion.
Yvonne Rutford moved, Seth Levanon second and motion passes.

Planning Commission Discussion

Dave Miller asked if all other rental properties in the area are long-term rentals except for the one short-term rental that was recently revoked. Answer is not available.

Yvonne Rutford reviewed the Comprehensive Plan for the Township, emphasizing the community vision which stresses the rural character of the Township and also stated that tourism was not intended to be a dominant economic force. There is an emphasis on respect for the rights of property owners and of citizens and neighbors and to limit nuisance-behavior. The narrow width of the lot would increase potential exposure of immediate neighbors to nuisance behavior. She felt that neighbors had spoken overwhelmingly against the short-term rental.

There was a brief discussion between the Commission and Tim Strom, Attorney for the Township, regarding whether or not the number of previous short-term rentals at the property could be interpreted as grandfathering the property as a short-term rental. Tim felt that using the grandfather clause would be questionable. Lawyer for Wordens, John Mueller, pointed out that Wordens have not rented in 2008 to comply with Township Ordinances and may have effectively broken the pattern that might qualify for grandfathering. Tim Strom said that there have been cases where there were far more established uses that were denied grandfathering.

Commission members agreed that the property use as short-term rental was not compatible with existing neighborhood, that there is a conflict with the Comprehensive Plan, and they were concerned about short-term rentals and maintaining the residential character of the neighborhood.

Seth Levanon moved to deny the CUP based on information currently available. Yvonne Rutford seconded the motion and it carried unanimously.

Public Hearing for Schousboe Short Term Rental CUP request

Dave Chura reviewed the process for the CUP request.

Sue Lawson reminded the audience of the criteria she read for the Worden hearing, but did not read it again.

The property in question is in Land Use District SMU-6.

Dimensional Requirements are:

Minimum lot size 2.0 acres

Minimum lot width 200 feet

Maximum lot coverage not to exceed 25%

Minimum lot set backs are 35 feet for the primary structure, and

Minimum road set back is 110 feet from the centerline

She also reviewed the description for SMU-6.

The map submitted by Ms. Schousboe shows that the property meets the setback requirements from the road. The property is adjacent to Dodges Log Lodges. The minimum lot size is 2 acres and the Schousboe property is ½ acre, so it is a non-conforming lot but the width meets the requirement. Most of the surrounding neighborhood is concentrated along the lake shore.

Ms Schousboe then presented her Community Participation Report. She had 20 people to contact. She has owned the property for 6 years. She wants a CUP for short-term rental use because of financial problems. She has had long-term renters, but is currently unable to secure long-term renters because the rent and utilities are too high for most people. She cannot afford to rent it for less. The owners of Dodges Log Lodges (Dale and Kathy Krueger) are willing to be the local contact and are willing to allow Schousboes to use their website to advertise the property. Dodges' owners are currently selling shares of the property and want to wait on this before final agreement. First contact would be Schousboes. There is also a renter upstairs on the property who is aware of what is going on. The neighbors on other side are willing to watch and she can also enlist her handyman and cleaning woman. She hopes to live at the property eventually. Her husband is a physician and carries a pager so he is always available. She plans to screen renters: no children or pets, a limit of 6 people, and minimum age of 25. She would like to employ Dodges eventually. The home was a business in the past, a tea house. It was rented short-term by the previous owner.

She received 3 written responses from her community report, 2 of which supported her plan, and one that related writer's (Joan Ayd) negative experiences with renters. Ms Schousboe responded to Ms Ayd, addressing her concerns and Ms Ayd responded with an email approving the rental of the property provided renters are not unruly outside.

Ms Schoesboe said there is a large area between house and the Ayds that is left to grow wild. She would have a signed rental agreement. There would be someone on site, designated quiet time, and limits on parking. She has had the well fracked by Ojard and a new pump installed. She will also ask that renters limit water use. She will provide contact numbers, first to herself, then to Dale Krueger next door and then to handyman or police. She will have rules posted in the house. She has installed animal proof garbage cans.

The rental unit has 2 bedrooms and 1 bath.

Dave Miller asked if Dodges rents short-term?

Ms Schoesboe: Yes. It is always quiet. They have returning clients.

Dave Chura asked if Dodges is commercial and Sue Lawson replied that it is.

Seth Levanon asked for clarification of where the property was in relation to the empty lot.

Dave Chura invited testimony from the public. Bill Allen had signed up to testify, but declined.

Dave Chura: Asked for a motion to close the public hearing portion. Dave Miller moved, Yvonne Rutford seconded and the motion passed.

Commission Discussion

Dave Miller and Yvonne Rutford felt that the use seemed compatible with the existing neighborhood. Dave Miller noted that the owner hopes to be a permanent resident there eventually. Yvonne pointed out that the lot is only ½ acre and is non-conforming. Dave Chura asked if most of the lots in that area are non-conforming and Sue Lawson said that they were. Yvonne Rutford felt that the lot width of 200 feet helped offset non-conforming lot size.

Dave Chura said that the lot is larger than many of the lots in the area and has a greater degree of privacy than many. He made a motion to approve the CUP based on the following conditions:

- The CUP is limited to two years from the date of granting or until the property is sold, whichever comes first.
- No more than one rental is permitted within a seven consecutive day period and the rental period shall be for no less than 2 nights.
- Off street parking shall be provided.
- All vehicles must be parked in the driveway of the residence and clear of all grassy areas.
- The owners will establish a local contact person that is available to respond to any problems that may arise related to the rental of the property.
- Upon issuance of the permit, all property owners within 400 feet of the property shall be provided with the name, address and phone number of the owner and local contact person who is available 24 hours a day, seven days a week to respond to complaints regarding the operation or occupancy of the short term rental unit.
- The property shall be posted with a sign placed near the driveway/window of the property of the short-term rental and in a manner that is visible and not obscured. The sign must be no larger than 16" x 10" and no smaller than 8.5" x 11". The sign must contain the name and 24/7 emergency contact phone number of the local contact person and the property owner.
- Campfires will be allowed only in a fire pit. The renters will be informed by the owners or their local contact person of any burning bans.
- No dogs will be left outside unattended.
- Quiet hours from 10:00 PM until 7:00 AM will be posted and adhered to. Noise or other disturbance outside the short-term rental unit during this time is prohibited. This includes, but is not limited to, back yards, decks, portals, porches, balconies and patios.
- Check-in for renters will be completed prior to 10:00 PM.
- The total number of adults that may occupy the short-term rental at one time is no more than 6. For the purpose of this paragraph, an adult is a person 18 years or older.
- The owner shall provide the Planning Director with proof of ownership (deed or latest property tax record) of short-term rental unit and proof of property insurance that identifies the dwelling as a rental unit.
- Upon confirming a reservation, a guest handbook shall be provided to guests that includes, but is not limited to, the following (a copy of the handbook shall also be located in a prominent location inside the rental dwelling):
 - The name, address and phone number of the owner and local contact person who is available 24 hours a day, seven days per week to respond to issues that may arise regarding the operation or occupancy of the short-term rental unit.
 - A reminder to renters that the property is located in a residential area and the need to be respectful of neighboring residents and property.
 - Quiet time hours.
 - Prohibition of unattended dogs
 - Campfire restrictions
- Conditions will be completed and in place before the property is rented and no later than 09/15/08. The owner shall send a letter or email to the Planning Director confirming all the conditions have been met by this date.
- As per the Town of Duluth Zoning Ordinance, Article IX, Section 6 (G): "On-going review. Conditional uses with conditions will be reviewed periodically by the Planning Commission. Where such a use does

not continue in conformity with the conditions of the original approval, the permit shall be terminated and such non-compliance shall constitute a violation of the Ordinance.”

Dave Miller seconded the motion and the motion carried with Seth Levanon opposing.

Planning Director Report

Presented by Director Sue Lawson. The budget for the Planning and Zoning Commission is pretty much on track except for legal budget. Board of Adjustment will hear the Odyssey Appeal on August 12. There is a variance request coming up on property adjacent to Bluebird Landing. The attorney for this request indicated that his client would be willing to pay necessary costs to expedite the hearing. It was agreed by the Commission that they did not want to set this precedent and that all should be afforded the same level of public service by the Commission regardless of money.

There is an appeal on the Worden revocation which was hand delivered tonight, which will be passed on to the Board of Adjustment.

There was some discussion regarding the timeline and deadline for appeals. Revocation appeals may be different. 60 days starts when the application is complete. They have 30 days to make an appeal. Application is complete when Commission gets the Community Participation Report. Does the time start from the receipt of the written and approved decision? Can the time frame be extended? Tim Strom would be consulted on this issue.

Master site plan is being worked on by Center For Changing Landscapes. They should have two alternatives available for the Steering Committee to review in mid to late August.

Stony Point appeal meeting is on August 12 at 7:00 pm.

Chair Report

Presented by Dave Chura.

Mr Chura expressed desire to explore the possibility of declaring a moratorium on short-term rentals while the Commission reviews the existing ordinance. He would like to put together a working group to look at the issue and possibly poll the Township. It was decided to discuss it with Tim Strom and then forward the issue to the Town Board.

He would like a copy of the town ordinances by the next Commission meeting.

There is a workshop on LandView on July 31, 2008 at the Cloquet Forestry Center.

Dave Mount reported that the North Shore Management Board is developing a GIS type tool for north shore management purposes.

Dave Chura and Sue Lawson will put together an update for the Township Newsletter summarizing the first half year's activities of the Planning Department and Commission. He would also like to draft a sample Community Participation Report so applicants would have a better idea of what it should be. Yvonne volunteered to develop the sample Community Participation Report.

John Kessler reported that people are building without permits. It was decided to look at raising penalties and getting better signage coming into the Township. The Commission can raise fees any time. The Town Board must approve fees. It was decided to research fees later in the fall.

New Business

Dave Mount reported that Bob Ryan came to the North Shore Management Board and asked the NSMB to clarify erodible surfaces classification language in the North Shore Management Plan. NSMB referred it to its technical committee.

He also reported that the Pine Park Road has mostly resolved the land ownership issues. The Town Board is comfortable with this level of completion. But it's up to the Planning Director to allow them to go forward in regard to the Zoning Ordinance requirements. The Planning Director will send a letter encouraging them to finish it up, but indicating that the agreement they have will suffice for the purposes of meeting the Ordinance requirement that they have access to their property prior to a permit being issued to them.

Concerns from the Audience

John Bowen cautioned that the Commission must readdress the short-term rental issue. The Township does not have the resources to administer and enforce it as it is now. There was further discussion on short-term rentals and a possible moratorium.

Dave Chura moved to adjourn the meeting. Dave Miller seconded. Motion passed. Meeting was adjourned at approximately 9:45 PM.

Next meeting: August 28, 2008