

**Town of Duluth  
Planning Commission  
Meeting Minutes  
3/24/11**

The meeting was called to order by Chair Dave Chura at 7:05.

Roll call:

**Present:** Dave Chura, Jan Green, Bill Lannon, Brigid Pajunen, Barb Crow

**Absent:** Mike Kahl

Also present: Sue Lawson, Planning Director and Dave Mount, Town Board Supervisor.

The agenda for the evening was approved.

The January 27 minutes were approved as written.

While some audio/visual equipment issues were being worked out, Dave Chura updated the Commission on the status of appointing new members. He said that there are five applicants for 3 positions. Interviews will be on March 31<sup>st</sup> starting at 6 pm. Although it wasn't clear if all 5 applicants were available to be interviewed that night. If they are, it will likely be decided that night.

Jan observed that during the recent storm on the 22<sup>nd</sup> and 23<sup>rd</sup> there was a lot of surfing activity on Stony Point. She counted about a dozen cars both days and didn't see any commercial activity. She often sees about the same number of vehicles when fishing is good. It seemed to her that whether it was fishing or surfing or birdwatching, it is manageable with what is currently there.

### **Planning Director Report**

Sue said that they will discuss replacing John Kessler at the Town Board April 7<sup>th</sup> Program of Work meeting. John has continued in his role answering questions on permits and getting paperwork done. Sue is doing the site visits.

We have had one permit so far this year.

**Chair Report** – Nothing outside of what's on the agenda

**New Business** – none

### **Short-Term Rental Discussion**

Dave Chura asked if we should start by defining STRs in terms of whether they should be considered a home-based business or a commercial venture. It is his belief that they are essentially motels.

Jan noted that the two approved CUPs for STRs in the Township were originally set to expire in be two years. But that has not been the case. Don't we have the authority to put a time limit on them?

Dave Chura said that it was his understanding that we could not put a time limit on a conditional use.

Sue said that there are legal debates on either side of the issue. It is not clear.

Dave Mount said that the MAT attorney's opinion is that you cannot set a time limit on conditional uses. He read from a white paper on interim use permits from the MAT website:

*State statutes say that a CUP remains in effect so long as the owner is meeting the conditions of the permit and it remains a conforming use. In other words, a CUP can last indefinitely if the property owner abides by the conditions of the permit. Any municipality, including a county, which puts an expiration date on a CUP will lose a legal challenge to that provision.*

Sue said that we need to determine what zoning districts, if any, are appropriate for short-term rentals (STR). And then, if it is determined to be a use we want to continue in the Township, we will determine conditions for the use.

To help determine if and where in the Township STRs should be allowed, Sue said that she would like to frame the issue from three different perspectives: the homeowner's perspective, the user's perspective and the community's perspective.

So, from a homeowner's perspective, why would you want to use your home for a short-term rental and how would you think about it?

- Financial – use home for some income to help with payments
- Investment -- buying something that will gain equity
- Business -- not necessarily planning on living in the home, but using it as a business venture
- Home may be inherited and real estate market is weak, preventing sale of home
- May want to rent home while you are on extended leave from area
- Purchase for a place for a kid in college to live during school year and rent it out in the summer
- Philosophical reasons – do it because you have a right to do it.

From a user's perspective:

- Motels may be full in the area.
- Privacy-- more private to rent a home than stay in a motel or in a resort
- Remote location
- Aesthetics and ambience
- More than a motel – kitchen, living area, etc
- Vacation – lake, farm, city experience
- More suitable for a group.
- Usually booked in advance
- May be available where motels are not

Business owners in the community may have different perspectives than residents in the community.

Sue said that an ordinance is a community's agreement about how its members are going to live together on the land. Can conflict between the different perspectives be mitigated by conditions or geography or both?

Barb asked if we could restrict STRs by density. The City of Duluth did that and it didn't seem to go that well.

Sue said that in her research she found that some communities use overlays to indicate where STRs are allowed and some use overlays to indicate where they are not allowed. Some, especially on the East coast allow them only in multifamily areas.

With the idea of limiting STRs by zoning district, Sue went through the Township's zone districts. FAM-1 and FAM-2 are mostly public land so would not be likely areas for STRs.

The definition for FAM-3 is: *This district is intended to recognize and promote the development of the Township's forestry and agricultural industry, to maintain and promote the rural character of the Township, and to prevent urban and suburban encroachment on the area. A low level of development is important in areas where this district is used since the uses encouraged in this district would be less compatible in a more urban setting.*

MUNS-4 is an area of denser development with a minimum lot size for building of 4.5 acres.

The definition of MUNS-6A is: *This district is intended for the limited expansion of certain waterfront commercial activities on the shores of Lake Superior where nodes of residential and commercial uses currently coexist. Existing residential lifestyles and property values will be protected when considering the limited expansion of commercial activities.* From this, it seems that MUNS-6A might be an appropriate area for STRs.

SMU-6 includes Greenwood Road where the lot sizes are typically 1 acre or less. Because of its denser population, it does not seem as though this area would meet most of the criteria people came up with for STRs. Even though the minimum lot size for building in SMU-6 is 2 acres, most of the lots are much smaller and are grandfathered in.

Dave Mount said that when the Board was looking at firearms in the area below the expressway, many people owned larger tracts of land in that area and were anxious to preserve options for their land, so despite the general denser nature of the area, it does not apply uniformly to the whole district.

Barb suggested that a requirement for STRs could be that the property must be at least 2 acres and that required setbacks be the same as commercial setbacks, regardless of what zone district the property is in. She read the setbacks for Commercial from the Ordinance: *All structures on commercially zoned property must be set back a minimum of twenty (20) feet unless they abut a district other than commercial, in which case they must be set back a minimum of fifty (50) feet from side lot lines and one-hundred (100) feet from rear lot lines.*

Jan said that in Bar Harbor, Maine they look at STRs in terms of ownership – if the property is homesteaded, it can be used for STR for a minimal fee. Non-homesteaded properties are given less leeway and STRs are not allowed at all in a condominium, regardless of homestead status. The idea is that if you are committed to your community and want to live there, you have a long term interest in the community.

There was some discussion about limiting STRs by not allowing them within a certain distance of each other, similar to what the City of Duluth did for rentals, but that approach did not seem very doable and, based on the City's experience, not that likely to be successful.

Bill said we need tools to control behavior. People don't always think clearly or in the same terms as the surrounding community. He said that in Duluth, if an individual was acting inappropriately that person got a warning. If it happened again, they got a 2<sup>nd</sup> warning. The next time the individual was asked to leave. Bill said that this approach was somewhat successful and resulted in demographically shifting criminal activities. He said that there should be big fines. In Duluth police teamed with owners of buildings to get rid of problem tenants. Big fines would also help pay for enforcement.

Dave Mount said that one of the problems with repeat offences at STRs is that it's the owner who is the common thread, not the renter.

Sue said that the owners should be the ones who would be fined.

Dave Chura asked if STRs shouldn't be on an even playing field with commercial enterprises like motels and resorts. He said that another option is to license them.

Dave Mount said that the MAT has some information on the licensing authority of towns. There is a list of things, none of which is very similar to this, but the list is not exhaustive. He has a question into them but they haven't gotten back to him yet. He said that the MN Dept of Health requires licensing for rentals that are less than 7 days. The definition for STRs in the Ordinance is a rental of less than 30 days. He said the Dept of Health does not license rentals that are from 7 to 30 days in duration. It is unclear where a rental that is exactly 7 days falls in these requirements.

Barb asked if the Township can require that STRs be licensed through the MN Dept of Health regardless of how many days they are renting.

Dave said that he has not asked that question, but suspects the answer is no.

Dave Chura noted that the Dept of Health does require licensing for lodging establishments that rent for more than 7 days and have 5 or more beds.

Bill said that he would like to see STRs continued in the Township but with more regulation.

The Commission then looked at putting together a list of conditions to apply to all STRs. They started by looking at conditions that have been imposed on current STRs in the Township. These are listed below.

**Schousboe conditions (July 24, 2008)**

1. The CUP is limited to two years from the date of granting or until the property is sold, whichever comes first.
2. 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.
3. Off street parking shall be provided.
4. All vehicles must be parked in the driveway of the residence and clear of all grassy areas.

5. 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.
6. 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.
7. 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.
8. 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.
9. No dogs will be left outside unattended.
10. 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.
11. Check-in for renters will be completed prior to 10:00 PM.
12. 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.
13. 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.
14. 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):
  - a. 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.
  - b. A reminder to renters that the property is located in a residential area and the need to be respectful of neighboring residents and property.
  - c. Quiet time hours.
  - d. Prohibition of unattended dogs
  - e. Campfire restrictions
15. Conditions will be completed and in place before the property is rented and no later than October 15, 2008. The owner shall send a letter or email to the Planning Director confirming all the conditions have been met by this date.
16. 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."

**Original Worden Conditions (5429 Greenwood Rd 2/14/08)**

1. The Conditional Use Permit is limited to 2 (two) years from the date of granting or until the property is sold, whichever comes first.
2. 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.
3. A visual barrier will be established and maintained on the west side of the property to block light, sound and provide a more definitive property line. The visual barrier will take into account the elevation differences between the rental property and the property directly to the west and increase the height accordingly.
4. The fire pit will be relocated to the northeast side of the lot. A fire ring will be constructed and campfires will be allowed only in the fire pit. The renters will be informed by the owners or their agent of any burning bans.
5. No dogs will be left outside unattended.
6. Quiet hours from 10:00 PM until 7:00 AM will be posted and adhered to.

7. Check-in for renters will be completed prior to 10:00 PM.
8. The total number of occupants at one time is limited to six (6) which corresponds to two persons per bedroom.
9. Rental of the property will be for no less than seven days.
10. Conditions 1-9 will all be completed and in place, with the exception of Condition 3, by May 31<sup>st</sup>, 2008. Condition 3, a visual barrier, will be completed and in place by July 30, 2008.
11. 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.”

**Additional Worden Conditions (02/17/11)**

- 1. Licensing and permits.** The owners shall obtain any and all licenses, permits, or other governmental approvals required by any governmental agency, board, department, or other governmental entity with jurisdiction, and keep the same in full force throughout the duration of this conditional use permit. This may include, but is not limited to, a Minnesota Department of Health license for offering sleeping accommodations to the public for periods of less than seven days (MN Statutes Chapter 157), and a permit to charge sales or other applicable taxes from the Department of Revenue. Copies of these licenses/permits/approvals shall be provided to the Township Planning Director each calendar year, no less than 30 days in advance of any rental of the property. Failure to provide the documentation described above during a calendar year shall be evidence that the short-term rental use was discontinued during that calendar year.
- 2. Rental Records.** A log shall be kept of the renter, date of arrival, date of departure, and number of guests for all rentals. A copy of the log shall be provided to Planning Director twice annually, covering the periods from May 1 to October 31<sup>st</sup>, and from November 1 to April 30. This copy shall be provided no later than 30 days following these periods. Redaction of personally identifying information is allowed, though it must be provided to the Planning Director if necessary to investigate compliance with terms of this permit or the Zoning Ordinance.
- 3. Property Oversight and Complaint Response.** Thirty days prior to rental of the property in any calendar year, the property owner shall provide to the Township Planning Director the name and phone number of a contact person with the capability and authority to address complaints or concerns regarding the property. This phone number shall also be provided to all other property owners within 500 feet of the lot boundary. For complaints such as noise or other conditions which require immediate remedy, this contact person or their designate must be able to respond to the site within one hour of a complaint being registered at any time the property is rented. If someone other than the owner shall be responsible for such response, then the owner shall provide to the Town a signed statement by that party indicating their willingness to respond as specified in this paragraph, and this statement must be received by the town thirty days prior to the rental of the property and any time there is a change in this third party. Failure to provide contact information and consent outlined in this paragraph during a calendar year shall be evidence that the short-term rental use was discontinued during that calendar year.
- 4. Contact/Complaint Log.** The owner or a designate shall maintain a log of all complaints or concerns received when the property is not occupied by the owner. At a minimum, this log shall include the time and date contact was made, the person or persons making the contact, the nature of the concern or complaint, the name of the person making any required follow-up or corrective action, the nature of those actions, and the time and date they were taken. Copies of this log shall be provided to the Township Planning Director twice annually, covering the periods from May 1 to October 31<sup>st</sup>, and from November 1 to April 30. These copies shall be provided no later than 30 days following these periods.
- 5. Prompt Response to Complaints.** Owner or owner’s designate must respond to complaints regarding compliance with the terms of this permit within an appropriate time frame. The Town recognizes that social norms may make immediate response to some

complaints inappropriate. For example, a complaint regarding excess occupants received in the middle of the night would be more appropriately responded to in the morning. In contrast, complaints regarding active nuisances, such as excessive noise, warrant immediate attention to limit disturbance to adjoining properties.

6. **On-site Contact with Renters.** Within 24 hours of the initiation of a rental, the owners or their designate must meet in person with one or more of the renters. Communication with the renters shall include making the renter's aware that the rental is in a residential neighborhood, and explaining the relevant conditions of the rental that insure compliance with CUP conditions. If the renters are not at the property when the owner or designate attempts to meet with the renters, a written message conveying the information above and identifying the person making the contact shall satisfy this requirement. Owner or designate shall maintain a log of these personal contacts, including the name of the person initiating the contact and the time and date of the contact. Copies of this log shall be provided to the Township Planning Director twice annually, covering the periods from May 1 to October 31st, and from November 1 to April 30. These copies shall be provided no later than 30 days following these periods.

7. **Permit Requirements Reflected in Rental Contract.** Rental agreements between the owner/designate and renters shall include clear delineation of renter actions required or prohibited by the terms of this conditional use permit. This requirement includes making clear that failure to comply with occupancy limits shall be grounds for immediate termination of the rental.

8. **Overnight Occupancy Requirements.** Other conditions of this permit require that overnight occupancy of the property shall not exceed 6 persons. For purposes of determining compliance, overnight occupancy shall be defined as the number of persons present on the property between the hours of 10 PM and 7 AM, and shall not exceed the 6-person limit.

9. **Rental Frequency.** Per previous decision by the Town, rentals are limited to once per week. In this context, once per week means that a subsequent rental shall not begin until at least 7 days after the initiation of the prior rental.

10. To the extent that any of these additional conditions conflict with the original conditions, these additional conditions shall apply.

It was decided to retain all of the original Worden conditions, replacing Condition #6 with #10 from the Schousboe conditions.

There was a discussion about determining the overnight occupancy for a rental. For the Wordens it was based on the number of bedrooms. Are there legal standards for a bedroom? Often an additional 2 occupants are allowed for the living room. Occupancy could be based on the number of square feet per person. In the Worden's conditions, overnight is described as the number of people present on the property between 10 pm and 7 am.

Barb found a definition for a bedroom that indicated it must be at least 70 sq ft with no dimension less than 7 ft.

Jan said that when you get your septic permit, a bedroom is required to have a door.

Sue thought we should use the FHA standards for what constitutes a bedroom.

It was decided that occupancy would be 2 persons per bedroom, bedroom as defined by FHA, plus 1 person for the living room.

Dogs and cats are okay, but cannot be left unattended.

Jan asked about requiring proof of ownership for the property.

Sue, going over the Schousboe conditions, said to strike #1, strike # 2, using #9 instead from the Worden additional conditions for wording on rental frequency, retain #3, and strike #5 and #6, which are covered already.

Condition #7, posting a sign with contact information that can be seen from outside the rental, was deemed to be important so that if someone in the neighborhood saw something going on, they would know who to contact.

The Ordinance dictates parking requirements for tourist accommodations to be one space for each room or unit. Jan said that for the Wordens, this would mean 3 parking spaces. We would need to define what a parking place is. One of the biggest issues with rentals around UMD is renters parking on grass. We don't want to have someone turn their grassy area into a paved area to meet the parking space needs.

Barb suggested replacing Schousboe Condition #8 with the following language:

Outside fires will only be allowed in one designated fire pit. The pit will be located in an area free from overhanging branches and will be less than 3 feet in diameter. The owner will provide the renters with tools to extinguish the fire (i.e. hose, shovel, rake). The owner will be responsible for ensuring that the renters never leave the fire unattended and extinguish it at the end of the evening. The owner will also be responsible for informing renters when there is a burning ban.

Dave Chura said it would be a good idea to put this in the guest handbook as well.

Barb suggesting striking the last two sentences from #10 pertaining to quiet hours.

Conditions #11 and #12 (with #8 from Worden additional conditions) and #14 are to be retained.

There was a brief discussion of when to review the permit for an STR. After multiple complaints? It was decided to leave the wording as it was, which left it open.

Barb suggested adding language prohibiting temporary sleeping facilities such as recreational camping vehicles, tents etc.

Dave Chura asked if there were other things in the Ordinance that apply to motels that we should look at applying to STRs as well. For instance, he thought we should require a smoke detector in every room.

Sue thought that State regulations covered that.

Brigid said that if we required something like that, but were not actually inspecting for it regularly, it could come back as a liability for the Township.

Dave Mount read from the State Fire Marshal site: *Every dwelling and dwelling unit must be provided with a smoke detector that meets the requirements of the Minnesota State Fire Code.* It also says that local government can have stricter requirements.

Jan asked if we would require carbon monoxide detectors also.

Barb said we should require proof of renter's insurance. Dave Chura agreed, saying that the insurance companies may not even know that these homes are being rented out.

Barb asked that if STRs were licensed through the State would the State, as a part of the licensing process, check septic systems to be sure that they are adequate and in working order?

Jan said to be sure to retain the language in the 2007 Ordinance amendment regarding septic, trash removal, access for emergency vehicles and parking.

Sue suggested that we require a performance bond to insure that they meet the standards and if they don't meet them, they forfeit that money.

Dave Chura said there are three routes we can take now – recommend to the Town Board that STRs be left as they are, recommend banning them altogether, or recommend continuing them with the addition of the measures we have discussed tonight.

The meeting with the Town Board to discuss STRs will be on April 27<sup>th</sup> at 5:30 before the P&Z meeting. There will be summary of what has been discussed tonight available before the meeting.

Dave Chura asked if the Wordens have complied yet with any of the additional conditions from 2/17/11. He thought that needed to be done at least 30 days in advance of any rental.

Sue said that nothing has been done yet.

Dave Mount said that the Town has received a complaint that there was a rental at the property. They have had friends stay at the property in the past. There has not been anything submitted yet and no one has looked into this.

Dave Chura said we need to review staff responsibilities.

Sue said that both she and John work for the Town Board, so the Commission may not have a say in it. Mary Ann Sironen is currently working on staff position descriptions.

Dave said that he would like to see the job descriptions, too, even if the Commission has no say in the matter.

There was no current budget available to review at this time, due to the annual meeting and elections.

Next on the agenda is to elect a new Chair and Vice Chair for 2011.

Jan asked if it is required that we reorganize after the Annual Meeting.

Beth read from the Ordinance: *The Planning Commission shall elect a chairperson and vice-chairperson from among its regular members at the beginning of the calendar year. Each calendar year shall be presumed to run from the date of the first required meeting of the Town Board in a given year to said meeting date in the next following calendar year.*

Barb proposed that Dave Chura continue to be chairperson until he leaves in August or December. The Commission could elect a chair elect and that person could take over when Dave leaves.

Dave Chura asked if they should wait until the new members are on in April.

Jan moved to table the discussion until we have a full complement of members. The motion was seconded by Barb and passed unanimously.

Dave Mount said that brings up a larger issue – for as long as he has been around, the cycle has been from April to March. But the Ordinance says it should be by the calendar year. He thinks they should either change the Ordinance or change their practices.

Jan said to do whatever makes sense.

### **Concerns from the audience**

John Abrahams spoke. He said he just got a chance to review the minutes from February. He said he appreciated Bill's comments at that meeting about trying to help people understand the Ordinance. He said that he has come to a better understanding of how the Commission works and what he would need to do if he were to reapply for rezoning.

He said that he wanted to point out that the Township information booklet says on page 5 that the Township welcomes commercial development.

Dave Mount said that John came to the Town Board meeting in February to discuss his previous application. John was concerned that people didn't understand the proposal and that he didn't have a chance to respond to comments and concerns after they were made at the hearing. When an application for rezoning is denied, the application can be made again after a year, and that is coming up.

Sue asked if we could do something like we did when Dean Hammermeister came in and discussed what he hoped to do on his property.

Jan said that that was different. We have already made a decision in this case. You don't keep revisiting your decisions unless something has changed dramatically. The decision had nothing to do with John. We have the CLUP and the Ordinance and we have to make our decisions accordingly.

John said that he heard that Sue had said that she would appreciate him coming in to talk to the Commission. What could he do differently?

It was asked if there would be any change to his application if he were to apply again.

John said the process is what is important to him.

Sue said that she felt that there was a misunderstanding about the process for a rezoning hearing.

Dave Chura outlined the hearing procedure – first the Planning Director explains the process and the criteria for the decision. Then the applicant presents his request and takes questions from the Commission. Comment from the public follows this. After this the public portion of the hearing

is closed and the Commission discusses the application and comes up with findings of facts, taking into consideration what the Ordinance and Comprehensive Land Use Plan (CLUP) state. The Commission then decides whether the applicant has or has not met the criteria for the request. The process is the same for a hearing for a CUP or variance.

John said that it was not clear to him why his application was denied. He said that he has had 3 attorneys and Wayne Dahlberg look at the CLUP and his request. They all thought that his request was well with the CLUP.

Jan said that it is not just about the CLUP. The CLUP defines the vision for the Township and the Ordinance is developed to uphold the spirit of the CLUP.

John said that according to the criteria for granting a zoning map amendment that Sue prepared, the request needed to meet two criteria: 1) that the change was consistent with the CLUP and 2) that a clear public need or benefit be shown. He said that Jan opened the meeting by talking about recent surfing on Stony Point and how it was a manageable use. That shows that there is a public need and would be a benefit to the public. People have been surfing there for 20 years.

Dave Chura said that he was not sure exactly what John was asking. It would be a new hearing and there are new people coming on the Commission. It is impossible to say how they would interpret the CLUP and Ordinance. The process would be exactly the same.

Sue noted that when he brought the property, he knew its zone district.

John said he had conversations with various individuals, including Sue and Wayne Dahlberg, that led him to believe it was an appropriate use for the land.

Dave Mount said that it was decided by the Commission that the use John was proposing was waterfront commercial and, under the Ordinance, that use is not allowed in that zone. That is why rezoning is required instead of a conditional use permit.

Dave Chura said that no one except the Commission can make a decision to rezone and, until the time of an actual hearing, which we have had on this matter, it is impossible to say how it will be decided. John has a choice now to reapply, recognizing that the makeup of the Commission will have changed since the first hearing. If he does want to reapply, he could talk with individual Commission members about their philosophies regarding the CLUP and Ordinance before he reapplies and perhaps get a better indication of whether or not he wants to move forward.

John said that he tried to do that last time -- he had a discussion with Wayne when he was on the Commission.

Dave Chura said that Wayne has not been on the Commission in many years. He was the Planning Director and only Commission members vote.

Bill said that when he took this job, he felt like a lot of people had worked hard to establish the Ordinance and it represents how the Township wants to move forward. It is his job to interpret and uphold it. He doesn't believe they should set a precedent for changing the Ordinance at any whim. It is a significant thing to change the Ordinance. So whether he thinks John's idea is good or not, he has to adhere to the Ordinance.

Dave Mount said that a decision to rezone a piece of land isn't a decision to just allow the proposed use on it – once rezoned, anything allowable in that zone district could be done on that property.

Bill said that property that is zoned commercial sells for a much higher price than nearby similar property that is not zoned commercial.

John asked if the Commission would please explain what mixed use is then if only residential use is going to be allowed.

Dave Mount said that on pages 53-55 of the Ordinance there is list of things that are allowed under mixed use zoning, and although many uses are allowed, waterfront commercial is not.

Brigid said that his rezoning request did not have community support. In addition, the lake access he was planning to use was not his.

John said that that land was donated to the City to provide access to the lake. Mayor Ness thought it was a good use.

Sue said that the criteria for a zoning map amendment are on pg 94 of the Ordinance. In the past, the Commission has been advised that when an application has been submitted, the applicant cannot talk with Commission members about it. Before the application has been submitted, though, it is okay to talk with individual members.

John asked Jan if she didn't say that this was an example of spot zoning. He said that that was not what Dave Mount said to him in an email. Dave clarified that what he said was that whether or not the request constituted "spot zoning" was not a factor in the Town Board's decision to deny the request, and the accuracy of the term was therefore moot.

Jan said that she used the phrase spot zoning as short-hand for rezoning one particular parcel for the benefit of the parcel owner.

Dave Chura said that we have explained the process. We have discussed the possibility of talking with individual members of the Planning Commission about their philosophies regarding mixed use, the CLUP, waterfront commercial use, etc. That is really all we can do right now. It doesn't matter what different people told him in the past.

The meeting was adjourned shortly after 10:00.