The Lake County Planning Commission sat in session at 6:00 p.m. on this date and conducted hearings & other business.

**Members Present:** Chair Joe Skala, Mike Hoops, Mabel Tarlton, James Weinzierl, Jim Linscheid Commission Rich Sve, John Bathke

**Members Absent:** Simbre Fosness

**Zoning Staff Present:** Christine McCarthy (Environmental Services Director), Neva Maxwell (Environmental Services Professional), Jill Paron (Environmental Services Specialist).

Joe Skala called the meeting to order at 6:00 P.M.

The first hearing, I-18-012, was a (renewal) interim use application filed by Sharon Ropes which if approved, would allow a vacation rental home on property described as: Cragsmere Outlot 6,7,8 of Govt Lot 2 and NW ¼ of NW ¼ in Section 15, Township 52, Range 11, 11.39-acres, zoned R-C/Resort-Commercial, two-acre minimum, Unorganized Territory #2.

Skala introduced the application. Christine McCarthy summarized the staff report. There was no correspondence.

Ms. Ropes represented the application. She stated her family decided to use the cabin last summer, so she has only been renting since May 2018. She has had 4 renters who all gave her 5-star reviews. She has completed all the requirements and has included a guest log for her visitors to leave comments about their stay.

McCarthy stated at the initial approval hearing a maximum guest occupancy was not set. She requests the maximum be 6 based on septic size. She also stated she doesn't think 4 renters is enough to determine compliance and a 5-year renewal. Maxwell added that the zoning district is Resort-Commercial.

Ropes explained she marks the area at the edge of her lawn as the property boundary, but the property includes a large forested area beyond this.

Motion by Hoops supported by Bathke to recommend that the County Board approve the (renewal) interim use application for five (5) years, to determine compliance, with the following findings and conditions:

1. Quiet hours from 10:00pm – 7:00am.
2. No discharge of firearms or fireworks on property.
3. All ATV’s and snowmobiles must be trailered while on the property.
4. All outdoor fires must be limited to a designated fire ring.
5. Maximum occupancy of six (6).
6. Property boundaries must be clearly marked.

Motion passed by unanimous vote (PCR-18-020)

The second hearing, I-18-013 was a (renewal) interim use application, filed by Brenda Swanson which if approved, would allow for the operation of a vacation rental on property described as: SW ¼ of SW ¼ except that part lying S and W of centerline of CSAH No. 9, 39.40 acres, Section 4, Township 52, Range 11, zoned R-3/ Residential, 2.5-acre minimum, Unorganized Territory #2.

Skala introduced the application. McCarthy summarized the staff report. There was no correspondence.

Ms. Swanson represented the application. She stated rentals are going well. She had rentals every night from June through August last year and about 70% booked the rest of the time.
Maxwell explained that this IUP is the first one under the ordinance change which allows rentals of additional dwellings.

Swanson stated she wasn’t aware of a restriction on snowmobiles or ATV’s. They have snowmobiles and trails on their property that connect to public trails on County land behind their property. They had one renter use these trails. They trailered every day and went on one ride with her son on their property. She does not want ATV’s on her property.

McCarthy explained this condition has been added due to some renters going on private land to access trails. The Planning Commission members discussed the snowmobile condition as it relates to her situation. They decided that snowmobiles could be allowed since her property has trails that connect directly to public trails, and they have two 40-acre parcels with public land adjacent to that.

Swanson added that this program helps keep visitors in the area. She and her family are able to get to know their renters and direct them to local businesses.

Motion by Bathke supported by Weinzierl to recommend that the County Board approve the (renewal) interim use application for five (5) years with the following findings and conditions:

Findings:
1. A MN Department of Health license must be obtained and maintained.
2. Minimum vacation home rental requirements must be met (Section 6.16 of Lake County’s Land Use Ordinance).
3. Safe access from Stanley Road and off-street parking exists.
4. The lot meets current stormwater standards.
5. The lot is wooded with natural vegetation. Rental activities should have no impact to site conditions.
6. There is no evidence of impacts to the Knife River or wetlands at this location; all the development of the lot is on high ground and set back from the river.
7. Utilities and infrastructure are established.
8. Vegetation screens adjacent lots. Lighting and environmental issues are not significant concerns.
9. Vacation rentals have not proven to be harmful use throughout the county. Normal rental activities should not diminish values or restrict nearby lot owner activities.
10. Additional Dwelling rentals have been recently allowed to be permitted through the interim use process.

Conditions:
1. Quiet hours from 10:00pm – 7:00am.
2. All ATV’s must be on a trailer/truck bed and cannot touch property grounds.
3. Snowmobiles are allowed to access public trail directly from your property.
4. No discharge of firearms or fireworks on the property.
5. Campfires must be in a designated pit and used in a safe manner.
6. Occupancy limited to 2 guests maximum

Motion passed by unanimous vote, with Sve abstaining due to his late arrival (PCR-18-021).

Motion by Tarlton supported by Hoops to approve the minutes as submitted from the May 21, 2018 meeting. Motion passed by unanimous vote.

The third hearing, I-18-014, was an interim use application filed by North Harbor Services LLC/Ethan Casady which if approved, would allow a gravel pit to include screening, pit run, and borrow operation on the property described as That part of the NW ¼ of the SW ¼ & NE ¼ of SW ¼ as desc. in doc. A000189220, Section 11, Township 53, Range 11, 36.9 acres, zoned R-1/Residential, ten-acre minimum, Unorganized Territory 2.

Skala introduced the application. McCarthy summarized the staff report. There was no correspondence.

Maxwell reviewed the findings and conditions from the initial permit in 2014 when it was owned and operated by Dan Zeimet. She stated the only change is that instead of closing after operating the 4 acres, Casady plans to continue operations, 4-acres at a time.

Sve asked for clarification on need for a new IUP since the previous IUP had not expired. Maxwell
stated this application is needed due to change in ownership; an IUP is no longer valid when property is sold.

Mr. Casady represented his application. Dan Zeimet, former owner of the gravel pit, was also present. Casady stated the operation is not changing from the operation under Zeimet. He is harvesting the gravel and sand for in-house use by his company, North Harbor Services.

Maxwell stated her report called attention to a trout stream tributary crossing; Zeimet informed her earlier that this was already addressed.

Weinzierl asked what the borrow operation includes. Casady explained it is trucking material in and out of the pit.

Maxwell explained that the operation is already as close as it is going to be to the stream. She asked Casady if the pond would be getting deeper. She expressed concern over the pond’s proximity to the stream and not wanting the wall of the pond to breach into the stream. Casady explained his plans are to continue to move away from the area by the pond and stream and not have additional disturbance in that area.

Zeimet explained the operation is 75 feet from the elevated stream. In the 1970’s the owners dug right up to the stream and created the pond which is 12 feet deep. There is no more gravel beneath the pond so there won’t be additional digging there.

Sve asked how close the operations would get to the created wetland. Zeimet explained the created wetland is 10.49-acres with a 27-acre buffer. There is also an existing wetland between the created wetland and the gravel pit. They know exactly where the boundary is so they will not encroach on the wetland. The property boundary of the gravel pit goes up to the edge of the buffer.

Sve asked about the MPCA permits. Casady explained the existing permits are transferred to him from Zeimet and requires training provided by Zeimet.

Sve asked about the waste clay on site and the culverts over the stream crossing. Casady explained the waste clay had been taken care of. Zeimet explained the culverts were replaced with larger culverts. The stream crossing is used as access to the created wetland. He noted that the culverts held over the weekend’s heavy rains (5 inches).

Motion by Linscheid supported by Bathke to recommend that the County Board approve the interim use application with the following findings and conditions:

Findings:
1. Safe access already exists from Peterson Road.
2. Minnesota Pollution Control Agency Permits address hydrology and impervious surface requirements and are being transferred from previous owner.
3. The site is an existing gravel pit; this is a change in ownership.
4. The trout stream tributary has been addressed as and there will be ongoing monitoring of the created wetland.
5. The bond is ready for approval; $2,500/acre in operation. If this is not sufficient, an amount will be set by the County Attorney.
6. This has been an active pit with no complaints.
7. This use will not be detrimental to neighboring property as it is surrounded by public land; the closest private owner is the previous owner of this gravel pit.

Conditions
1. Submit proof of bond in amount of $2500/acre in operation to Planning and Zoning.
2. Submit copy of stormwater permit.
3. Hours of operation from 7:00 am – 7:00 pm; Monday through Saturday.
4. Continued dust control and invasive species control.
5. Reclamation to be done when more acreage is put into operation.
6. No more than four (4) acres in operation at a time.

Motion passed by unanimous vote (PCR-18-022)

The fourth hearing, I-18-015 was a (renewal) interim use application filed by Monika Bauerlein
which if approved, would allow a vacation rental home on property described as: E ½ of E ½ of SE ¼ of SW ¼ Lying S of the Baptism River in Section 1, Township 57, Range 8, 6.0-acres, zoned R-2/Residential, five-acre minimum, Beaver Bay Township.

Skala introduced the application. McCarthy summarized the staff report. There was no correspondence. She explained the occupancy maximum had not been set on the initial application; she recommends a maximum of 4 based on the septic size. McCarthy also stated Bauerlein was given a courtesy notice in December that her IUP would expire in March. The application for renewal was just submitted recently. She also had been renting without a Health Department license. McCarthy emphasized the importance of respecting the process and requirements. She recommended a 1-year renewal to see if she will comply. McCarthy also stated the notice of renewal we send is a courtesy, it is not something Planning and Zoning is required to do.

Elaine Loeffler is Monika Bauerlein’s agent and represented the application. Skala asked if it had been rented over the winter. She stated it had. She stated she was not aware the permit had expired.

Bathke asked if the Health Department license had been obtained. Paron explained she first received her license recently and that the license is good for a calendar year. It would need renewal in January.

Maxwell asked Loeffler if there was a Land Use Application for Change of Use submitted. Loeffler was not aware of the need for any other permits. Maxwell explained there wasn’t record of the Change of Use being submitted and that is a one-time requirement for Vacation Rentals. Maxwell explained the post hearing memo sent to Bauerlein in 2017 states the conditions on her permit, which includes the Change of Use.

There was general discussion about the renewal process and the best course of action when requirements are not met. Tarlton expressed that limited staffing makes it difficult for every detail to be followed up on. McCarthy explained she can send out an enforcement letter; she first tries to get property owners to comply with the ordinance. She also stated if an IUP expires a letter will be sent including the notice that they cannot rent. There was discussion over whether denial or limited renewal was best for this particular case.

Loeffler explained repairs had to be made to the house before they could get the Health Department license and the septic had to be inspected. She said it sounded like they are only missing the Land Use permit. McCarthy stated it is the owner’s responsibility to make sure the renewal is completed, not the agent’s.

Skala asked if the septic system is compliant. Maxwell explained it an at-grade system that had a recommendation to improve drainage at the tank.

Maxwell explained that the post hearing memo informs the applicant that they cannot rent until the all conditions of approval have been met. She stated she sent a memo to Bauerlein March 1, 2018 informing her that she was renting in violation as she did not have the necessary Health Department license. She stated she paid an after-the-fact fee on this application.

Loeffler addressed the issue on the staff report regarding a fire by the river. She explained that was made by people doing construction work on the property and it has been cleaned up.

A motion was made by Bathke seconded by Hoops to recommend that the County Board approve the (renewal) interim use application for one (1) year with the following findings and conditions:

**Findings:**

1. A MN Department of Health license has been obtained and must be maintained.
2. Minimum vacation home rental requirements have not been met (Section 6.16 of Lake County’s Land Use Ordinance).
3. Safe access from Hwy. 1 and off-street parking exists.
4. The lot meets current stormwater standards.
5. The lot is wooded with natural vegetation. Rental activities should have no impact to site conditions.
6. The structure meets setback requirements from the Baptism River and there will be no
impacts to public waters or wetlands on this lot.
7. The lot has adequate acreage. Rental activities should have no impact to site conditions.
8. The septic system passed a compliance inspection on 5/30/17 for 2 bedrooms.
9. Vegetation screens adjacent lots. Lighting and environmental issues are not significant concerns. Designated fire pit has been provided.
10. Vacation rentals have not proven to be harmful use throughout the county. Normal rental activities should not diminish values or restrict nearby lot owner activities.
11. The proposed use is allowable under approved county guidelines and recreational use of rural property is a Lake County tradition.

Conditions:
1. Submit Lake County Change of Land Use application and $50.00 fee. This was to be completed after your initial renewal, before renting, and was never submitted.
2. Submit proof of requirements on this application:
   a. Submit a copy of your guest log per the minimum vacation rental home requirements (you may black out names and addresses, license plate numbers; we want to see that you are meeting this requirement). Section 6.16:D
   b. Submit your monthly flow meter readings. Sec. 6.16:B
   c. Submit proof rental rules and regulations are posted inside the rental unit.
   d. Submit proof emergency contact name and phone number are available to renters.
3. Proof that the conditions set by the Planning Commission on June 18, 2018 have been met.
4. Minimum vacation home rental requirements must be met. (Section 6.16 of Lake County’s Land Use Ordinance.
5. Quiet hours from 10:00pm – 7:00am.
6. No discharge of firearms or fireworks on the property.
7. ATV’s and snowmobiles may be untrailed
   only to access trail on Correll Road.
8. All fires must be in a designated pit and used in a safe manner.
10. Property boundaries must be marked.
11. You must communicate all Planning and Zoning correspondence you receive regarding this rental to your property manager/agent.

12. All of these listed requirements and proof thereof must be submitted to Lake County Planning and Zoning prior to the June 26th 2:00 p.m. County Board action meeting to receive recommendation for approval; if they are not met, the recommendation will be for denial.

Motion passed by unanimous vote (PCR-18-023)

Other Business:

McCarthy discussed tiny homes and considerations that may need to be considered regarding ordinances and the Comprehensive Plan. She explained that the MN Department of Health Delegation Agreement with Lake County Health does not include recreational vehicles. Lake County ordinance does not allow renting of recreational vehicles. According to Lake County ordinance, if the tiny home is placed on the ground it becomes a structure. However, the Department of Health still considers it an RV because it is on a chassis, and will not license it. She explained that there are other unique situations, such as using a platform tent as a rental, where Lake County ordinance and Health Department requirements don’t agree. McCarthy stated the need to review this area of the ordinance as these types of situations are likely to become more frequent.

McCarthy explained another short-term rental issue that was brought to her attention by the Department of Health. The owner of the short-term rental owns a resort with a Conditional Use Permit across the lake. The owner was told he needs an Interim Use Permit for the short-term rental and he needs a new Conditional Use Permit because he sold part of the resort. The owner thought he could operate the short-term rental under his existing Conditional Use, even though the properties are non-adjacent.
Tarlton asked if that was allowed, then how far apart could properties be and still be under one Conditional Use?

McCarthy explained the owner does not want to apply for a separate permit. She was bringing it before the Planning Commission before making a determination on it. She explained that a Conditional Use Permit would become void if the use stops for 12 months, or if the activity changed, or as in this case, if part of the property is sold.

Maxwell explained that using a CUP for non-contiguous lots could also be a loophole for renting on non-conforming lots.

McCarthy explained she consulted other planning and zoning departments in the state and they were in agreement that this situation called for separate permits. The Planning Commission was in agreement. McCarthy asked Commissioner Sve to bring the issue before the County Board.

The next order of business McCarthy brought forward was the jurisdiction of the Castle Danger Sanitary District. Hoops explained the subordinate district was created so that Castle Danger could have its own planning and zoning. At this time, Castle Danger and Lake County have very similar ordinances. Castle Danger still have to consult with Lake County for wetland delineations and when they have questions about certain issues. They are also now needing to deal with interim use for vacation rentals. Castle Danger Sanitary District is now considering vacating their planning and zoning ordinance and only keeping control of the Sanitary District, much like Knife River/Larsmont Sanitary District. They will be holding an informal meeting to discuss the issue. If it is received positively, a formal hearing will be held to vacate the subordinate planning and zoning ordinance.

The last order of business McCarthy brought before the Planning Commission was the Comprehensive Plan. She explained it is time for an update and she has been looking at what other counties have and has spoken to the IRRRB about it as well. She stated she was impressed with Cook County’s Comprehensive Plan which is a combination of individual plans such as Land Use, Transportation, Energy, Housing, Trails, Water, etc. She explained Statute doesn’t say what has to be included in the plan, it just states the county must have a Comprehensive Plan. She explained the benefit of this type of plan is that instead of having to update the entire Comprehensive Plan at once, the individual plans can be looked at one at a time on a rotating schedule every few years.

Maxwell stated there is a long list of items to address for Land Use. She explained there have been many changes since 2005 as far as what people want to do, such as tiny homes and keeping livestock.

Tarlton expressed support for this type of plan as certain parts of the Comprehensive Plan are more active and see more changes.

McCarthy stated another advantage to individual plans would be that each plan has different stakeholders that need to be involved in the process. She also stated that the IRRRB doesn’t provide funding for Comprehensive Plans, but they do for Economic Development Plans.

Motion by Sve supported by Bathke to adjourn the meeting. Motion passed by unanimous vote.

Respectfully Submitted,

Christine McCarthy
Environmental Services Director