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, James Weinzierl, Jim Linscheid Commission Rich Sve, John Bathke, Simbre Fosness, Mabel Tarlton (alternate)

**Members Absent:** None

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

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

The first hearing, I-18-017 was a renewal interim use application filed by **Sarah and Marc Julien**, which if approved would allow a vacation rental home on property described as: Lot 6, Block 1 in the White Pine Ridge Plat in Section 14, Township 55, Range 8, zoned R-4/Residential, two-acre minimum, Beaver Bay Township.

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

Marc Julien represented the application. Hoops asked how many rentals they have had. Julien stated they have had 49 rentals over the course of the year. He stated the road owners have paid to have some maintenance done on the road.

McCarthy asked about the meter readings from the flow meter for the septic. Julien stated the last reading was a total of 11,000 gallons since installation. He stated he wasn’t sure of the accuracy, it seemed high compared to his other cabin.

McCarthy explained that his system is a Class 2, which is designed for lower water usage. She explained it was permitted as a Class 1 for 2 bedrooms, after installation a designer said it would qualify as a 3-bedroom Class 2 system. The design is for a 300 gallon/day flow. McCarthy stated her concern was whether it was being overused.

Maxwell explained it was permitted as a Class 1 for 2 bedrooms, after installation a designer said it would qualify as a 3-bedroom Class 2 system. The design is for a 300 gallon/day flow.

Hoops recommended the Juliens have the meter calibrated to make sure it is reading accurately.

Motion by Hoops supported by Weinzierl to recommend approval to the County Board with the following findings and conditions:

**Findings:**
1. Adequate off-street parking for 2 vehicles exists.
2. The property meets impervious requirements.
3. The property is well vegetated.
4. There will be no impact to public waters or wetlands from the proposed activity.
5. Utilities and infrastructure are established and will be monitored by the owners.
6. Vacation rentals have not proven to be a harmful use throughout the county.
7. Normal rental activities should not diminish the values or restrict other lot owner activities.
8. Vacation rentals are permitted through Sec 6.16 of the Lake County Land Use Ordinance.

**Conditions:**
1. Submit flow meter readings as stated during the hearing.
2. Maximum occupancy six (6) guests.
3. Quiet hours from 10 P.M. to 7 A.M.
4. All ATV’s and snowmobiles must be trailered while on the property.
5. No fireworks.
6. No discharge of firearms on the property.
7. Fires must be in a designated pit and used in a safe manner

Motion passed by unanimous vote. *(PCR-18-029)*

Motion by Sve supported by Hoops to approve the minutes with corrections from the July 16, 2018 meeting. Motion passed by unanimous vote.
The second hearing, I-18-018 was an initial interim use application filed by Paula and Emily Ford which if approved, would allow a vacation rental home on property described as: Lots 1-7 Block 20 Townsite of Knife River in Section 31, Township 52, Range 11, zoned R-4/Residential, two-acre minimum, Unorganized Territory #2

Skala introduced the application. McCarthy summarized the staff report. There were 2 comments in opposition.

Paula Ford represented the application. She stated the comments regarding the piles of brush are part of an ongoing clean-up on the property. She will be finishing the project over the Labor Day weekend. Maxwell stated the piles of brush looked like a project in progress, so it wasn’t addressed in the staff report.

Linscheid asked who the property manager would be. Ford stated she has her property manager’s license and her daughter Emily would be the local contact. She will be the manager and Emily will be working for her. She also has a neighbor that can be called if there are concerns.

Linscheid stated that a short-coming of the short-term rental is the lack of an onsite manager. He stated the expectation is that there will be no complaints from neighboring properties. Ford explained she has spoken to her neighbors about her plans. She will be screening renters and using AirBnB.

Linscheid asked what the minimum lot requirements are in Knife River as this lot is 0.46 acres. Maxwell stated the minimum is 10,000 square feet for non-riparian lot.

Skala asked who is responsible for garbage removal. Ford stated Emily will be removing garbage and cleaning. Linscheid asked about keeping garbage secure. Ford stated the instructions are to leave it in the house.

Emily Ford explained that she lives in Duluth, about a 15-minute drive. She will be cleaning the day of departure or the day after. She has done similar work and is familiar with what needs to be done. Linscheid expressed concern over the distance for Emily as the local contact.

Maxwell explained the distance can become an issue in winter if someone gets locked out. She said it can be helpful to be there to greet guests when they first arrive.

Sve asked what the occupancy limit would be. Ford stated she has 2 beds and a couch, but doesn’t want people sleeping on the couch. She was considering 6, 4 might be a better number.

Sve stated since they are connected to the Knife River Sanitary District and considering size of the bedrooms, 4 guests would be appropriate.

Sve stated, in general, a rental should not be noticeable to neighbors.

Skala asked for public comments.

Candice Fuhr, neighbor, said she has seen a positive transformation as the Fords have worked on the house and she supports the rental.

Motion by Tarlton supported by Hoops to recommend approval to the County Board with the following findings and conditions:

**Findings:**
1. Safe access exists from Church Road and there is appropriate parking space available.
2. The property meets impervious surface requirements.
3. The property is well vegetated.
4. There will be no impacts to public waters or wetlands from the proposed activity.
5. The property is connected to the Knife River/Larsmont Sanitary District and the KRLSD has provided written approval for this IUP.
6. Vacation Rental activity has not proved to be harmful on neighboring properties of conditions are met.
7. Vacation rentals have not proven to be harmful to neighboring properties.
8. Vacation rentals are permitted through section 6.16 of the Lake County Land Use Ordinance.

**Conditions:**
1. Cut brush must be removed from property before renting.
2. Maximum occupancy of four (4).
3. Quiet hours from 10 P.M. to 7 A.M.
4. No discharge of firearms and fireworks.
5. All ATV’s and snowmobiles must be trailered while on the property.
6. All outdoor fires must be limited to use at a designated fire ring.

Motion passed by unanimous vote. (PCR-18-030).

The third hearing, P-18-001, was a preliminary plat application filed by Superior Views LLC/Jeff Lindgren which if approved, would allow 7 lots, named Vista Ridge, on property described as: NW 1/4 of SW 1/4 and SW 1/4 of SE 1/4 in Section 27, Township 53, Range 11, 80-acres, zoned R-1/Residential, 10-acre minimum, Unorganized Territory 2.

Skala reconvened the hearing from July 16, 2018. McCarthy distributed new preliminary plat maps with changes made by Jeff Lindgren showing septic sites for the changes in lots recommended at the July 16, 2018 hearing.

Lindgren represented the application. He stated he made changes to the preliminary plat based on recommendations made at the July 16th hearing. He explained septic sites were identified for Outlot B and the new Lot 7.

McCarthy explained [looking at the revised preliminary plat map] that Lot 6 was removed from the southeast corner of the plat [on the hill] and replaced with home owners' association Outlot C. The area that was previously proposed as an area for storage units for Lots 2, 3, 4, and 5 is now part of the new Lot 7. [Lots 1-5 have been reduced in acreage to create a new Lot 7 and move Lot 6. The previous Lot 7 has been renamed Lot 6; the previous Lot 6 is now Outlot C]. The storage units are now proposed on Outlot B.

Skala asked whether the Planning Commission was recommending building sites. McCarthy stated the building sites on the map are conceptual, but a half-acre building site must be available on each lot.

Skala stated he understood the chapel on Outlot B was just a suggestion, but he would like to see it removed. He asked if all the lots had approved septic sites and met the acreage requirements. McCarthy stated the open space requirements for the plat have been met. Skala asked what the smallest lot size is. McCarthy responded the smallest lot is 3.1 acres and the average lot size is 6.79 acres.

McCarthy reviewed concerns expressed at the previous hearing. One was fire safety and emergency vehicle access. Nothing changed on the new map. She stated it would be very difficult to achieve the 10% maximum slope requested. However, the cul-de-sac exceeds the minimum requirements. McCarthy stated lighting concerns were discussed as well as ridgeline concerns. The stormwater pollution prevention plan was discussed. She explained that the plan could be proposed before going to final plat. The County Administrator [at the prior hearing] also stated the road should be “irrevocably dedicated to the public, but not a public road.”

Sve stated the County Board does not want to take over the road or put County maintenance dollars into it. Lighting is also a concern due to the height of the hill. He stated the need for the HOA to work with Planning and Zoning regarding lighting. Sve also asked about Lindgren about the covenants. Lindgren stated those would be submitted with the final plat.

Sve stated he has heard and a comment was made at the previous hearing regarding explosions being heard coming from the hill. He stated that the covenants should address this as noise from fireworks on the top of the hill will reverberate through the valley. He restated the concern over lighting and the road, and the need to address those in the covenants.

Motion by Sve to remove the item from the table, supported by Bathke. Motion passed by unanimous vote.

Motion by Sve to open the hearing to public comments, supported by Hoops. Motion passed by unanimous vote.

Skala opened the hearing to public comments.

Kathleen Zellers asked for the setback requirements for structures from property lines. Maxwell responded 25 feet from the side and rear lot lines. Zellers asked if that applied to fences. Maxwell stated fences under 6 feet in height can be placed on the property line with the nicer side facing the neighbor.

Zellers also asked if the plat required a review by
the Environmental Protection Agency. McCarthy responded that the EPA is a federal agency and asked about Zellers’ specific concerns. Zellers expressed concern with runoff in the Little Knife River. McCarthy stated this would be addressed in the Stormwater Pollution Prevention Plan which is required by the State when construction takes place. Maxwell also added that the Land Use Ordinance limits impervious surface coverage to 15% of a lot in the R-1 zoning district. She explained the ordinance also has requirements for runoff control which will be needed due to the elevation changes on these lots.

Bill Johnson expressed concerns with runoff off from Lot 7. McCarthy explained that that is addressed in the Stormwater Pollution Prevention Plan. Johnson asked where silt fencing would be placed. McCarthy stated that wouldn’t be known until construction plans are submitted. She also stated site visits are made to assure that the plan is followed. Maxwell explained that the stormwater plan has redundancies to ensure runoff is controlled.

Zellers asked if a building or septic system would be allowed on Outlot C. Lindgren explained that the homeowners’ association would have to make that decision. It would be a community building.

Skala asked if building could be placed on an outlot. McCarthy explained that Outlot A is reserved as the required 25% open space. Skala expressed concern over allowing building on the outlots. Maxwell explained the 25% open space requirement excludes lots, parking area, and developed areas. McCarthy explained that any buildings on outlots would still need to be permitted and follow all the zoning requirements. She explained if any of the buildings include plumbing the septic permit requirements also have to be met.

Bathke stated he believed this plan is better for the ecology of the area because of the open space requirement. He is not opposed to allowing storage units on the outlots.

Sve stated the Subdivision Ordinance language for outlots is a gray area as it doesn’t mention construction. McCarthy stated building have been allowed on outlots in other plats. Maxwell stated a residence cannot be put on an outlot.

Sve read Section 9 of the Subdivision Ordinance, “Deviation from Standards”, which allows leeway in granting exceptions when they are consistent with the Land Use Ordinance and Comprehensive Plan.

McCarthy gave an example where leeway has already been granted by allowing lots in this plat to have steep slopes.

Zellers asked if the river was included in the open space calculation. Maxwell stated that open space is meant to include the high value natural resources within the subdivision. She stated this includes the river and wetlands.

Sue Turnquist asked about the proposed community building, in the plat proposal, which includes a kitchen and guest bedrooms. She said this sounds like a dwelling. She stated that the plat is only large enough for seven lots, and this sounds like another dwelling. Skala stated this is part of his concern with buildings on the outlots. He stated the lots are big enough for homes and storage buildings. Lindgren stated the intent is for short-term guests. Maxwell stated the ordinance definition a dwelling is straightforward as is the density of dwellings allowed when someone wants to add a dwelling. She explained a dwelling is defined as having sleeping quarters. She does not recommend deviating from that requirement. She thinks a gazebo or something similar would be appropriate. Tarlton expressed her agreement with this. She thought sleeping quarters would then require a property manager and could lead to liability issues.

Weinzierl asked if all the homeowners would have to agree on the buildings for the outlots and share the expense. Lindgren stated it would be a shared expense. Lindgren also explained that the buildings he included for the outlots are only ideas to show the possible options.

Jim Turnquist stated his concerns for the neighbors from noise coming from the top of the hill.

Zellers requested the Planning Commission listen to the concerns of the neighbors.

Skala called for a motion.

Maxwell asked the Planning Commission about restrictions on the character of the homes and the concern for the view of the ridgeline.
Skala stated they want non-reflective roofs. Bathke stated colors should be earth-tones.

Maxwell suggested restrictions for colors, setbacks, and height of homes due to the unique topographic character of the area.

Bathke asked Lindgren to address these issues. Lindgren stated he is already meeting the requirements of the Ordinance.

Skala suggested not allowing septic systems on the outlots.

Bill Johnson asked if the property lines will be marked so people who buy the lots will know the boundaries. Skala suggested Mr. Johnson post his property with no trespassing signs.

Zellers asked who to contact if there are problems. Maxwell stated that site visits are made during the construction period. After that, they can handle problems just like they would with any other neighbors – they can talk to their neighbors, or for more serious matters, they can call the sheriff.

Sve asked McCarthy for a reminder of their options. She stated the options are to approve, approve with modifications, or disapprove.

Bathke asked if this was a recommendation to the County Board. Skala stated it is.

Motion by Bathke supported by Weinzierl to recommend the County Board approve the preliminary plat application with the following conditions:

**Conditions:**
1. No sleeping quarters in the outlot.
2. Homes must have non-reflective roofs and earth-toned colors on home and roof.
3. The road is to be irrevocably dedicated to the public, but not a public road.

Motion passed by unanimous vote (PCR-18-024)

**Other Business:**

A. Vacation Rentals
   1. Tiny Homes

Christine McCarthy brought forward discussion regarding the rental of tiny homes. She has met with the County Attorney and Human Services Director and would like to propose to the County Board for a moratorium on rental of tiny homes.

Skala asked if a tiny home is on a trailer or if it is set-up permanently.

McCarthy explained the Health Department with the delegation agreement with the State considers anything on a chassis a recreational vehicle. The local Health Department does not have the delegation to do an inspection.

McCarthy explained the problem is with the way the County defines a structure and the definition by the Health Department. She stated she either needs something in writing from the Health Department saying a license isn’t needed, or the delegation agreement might need to change.

McCarthy explained an application was brought to the department for a Change of Land Use for a tiny home vacation rental. Because of the plat it is located in, an Interim Use permit wasn’t required. However, they didn’t submit a Health Department license, which is required. There is also the question as to whether or not this type of structure would meet the requirements for egress. She explained the definition of a tiny home and the code requirements are part of the difficulty. McCarthy said she has received another call from someone wanting to do something similar and she sees this as gaining in popularity. The moratorium would allow time.

Linscheid expressed concern with the issue due to the growing popularity of tiny homes and wanting to rent them.

McCarthy said she needs to be able to state a reason for not accepting an application. She requested Planning Commission support to ask the County Board for a moratorium on vacation rental of tiny homes.

Bathke asked if a tiny home is on the ground is it considered a structure. McCarthy stated it is according to the County Ordinance, but the Health Department still considers it a RV because it is still on a chassis. Also, the Ordinance does not allow the rental of RV’s. She explained there isn’t a problem with someone having a tiny home on their property, it is only a problem when applying for vacation rental.
Sve asked what the County Attorney’s opinion is on the matter. McCarthy stated he recommends not waiting too long to make a decision. Sve asked if the County Attorney could speak to the Planning Commission. Sve requested to place it on the agenda.

2. Larsmont Cottages
McCarthy explained a realtor has asked about Interim Use Permits for vacation rental at Larsmont Cottages (Larsmont). McCarthy explained Larsmont was created before Conditional Uses were issued for Common Interest Communities. She explained that Larsmont is no longer used just as fractional ownership; many units are rented out as vacation rental.

Sve asked who owns the unit. McCarthy stated in this instance, there is a seller with full ownership. They own the unit, not the land under it. She thinks they need a Conditional Use Permit to rent in a CIC, not an Interim Use. The potential buyer asked her to put something in writing as to what was needed to rent the unit. McCarthy stated she couldn’t put anything in writing at the time. She has spoken with the CEO of Larsmont and recommends the Homeowners’ Association apply for a Conditional Use Permit and define what is allowed.

Bathke asked if it is a resort. McCarthy stated it is a Common Interest Community. McCarthy explained at this time there are no parameters for vacation rental within a CIC. She knows that people are advertising on AirBnB, and it is also happening at Superior Shores. She thinks it should be addressed so that she can be clear as to how these rentals should be permitted. She stated it will be easier to have one Conditional Use for a CIC; it will be easier for owners, for the homeowners’ association, and the Planning and Zoning Department to have it defined in one CUP. She spoke with Lake County Health Department and was told the issue with an Interim Use is that the unit is what is licensed, but the renters would also be using the pool and other common areas. She said her concerns is with the lodging license and who it is issued to.

Skala asked if this was the original intent when Larsmont was created. McCarthy explained the original proposal was for fractional ownership, not rental. Paron explained the CIC declarations state that Larsmont will act as the property managers.

Sve stated this was not what the original intent was when vacation rentals were added to the ordinance; It was for individual residences. McCarthy stated she recommends the Homeowners’ Association apply for a CUP that defines rentals at Larsmont. McCarthy does not want to have individual IUP’s for every unit at Larsmont.

McCarthy stated she has received a Government Data Request from an attorney for all the permits issued to Larsmont. She sees that this is going to be a legal issue.

Tarlton suggested that Larsmont be given a choice to be compliant with the original approval for the CIC or obtain a Conditional Use.

Bathke expressed concern over the potential legal issues if this isn’t addressed, especially when units are being sold.

McCarthy stated the issue is that when the CIC was approved, Larsmont didn’t apply for a Conditional Use Permit for rentals. Allowing and defining rental of units was not part of the CIC approval.

B. Resort Commercial District
McCarthy asked the Planning Commission for clarification regarding the intent as it is written:
Section 18.02 Permitted Uses: Lodging Establishments with 4 or less units (2 acres per unit).

/and/
Section 18.03 Interim Uses: Vacation Rental Homes.

McCarthy asked whether 18.02 C was intended to remain after Interim Use was added to the ordinance.

There was general discussion concerning the Ordinance language for defining lodging establishments.

Maxwell stated one concern is the increase in people scouting for properties to do vacation rentals with the least amount of expense and regulation. She explained our current IUP process for vacation rentals is meant to keep an even playing field, especially when the owners don’t live here. That is different from a resort where the owners live on site.
The Planning Commission was in agreement that
the ordinance sees a lodging establishment such as
a resort or Bed and Breakfast as having an onsite
property manager and a vacation rental does not.

Sve stated to double check that interpretation with
the County Attorney.

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

Respectfully Submitted,

Christine McCarthy
Environmental Services Director