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, Commissioner Rich Sve, John Bathke, Mabel Tarlton (alternate)

Members Absent: Simbre Fosness, 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-18-025 was an initial interim use application filed by David Hendren which if approved would allow a vacation rental home on property described as: NW ¼ of NW ¼ exc. N 330 ft & exc. WLY 360 ft in Section 10 Township 52, Range 11, zoned R-3/Residential, 5-acre minimum, Unorganized Territory 2.

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

The application was represented by David Hendren. He explained he built a 2-story building which he will be marketing towards couples. There is a driveway with room for 1 or 2 vehicles. It is primitive, with no running water. There will be an outhouse and drinking water will be available, but no plumbing inside.

Sve asked about disposal of graywater from washing. Hendren said water would need to be carried in and collected in a bucket and dispersed on the ground, like camping; there will not be a sink.

Sve asked about construction materials under the building. Hendren explained that is material for building a deck which he plans to finish in the next few weeks.

Sve asked if the structure would be heated. Hendren explained there is baseboard electric heat, ceiling fans, and it is well insulated.

McCarthy asked if the property has access to trails for ATV’s and snowmobiles. Hendren stated there is no access and he doesn’t want that activity as he wants minimal disruption to his family.

Motion by Hoops supported by Bathke to recommend one (1) year approval to the County Board with the following findings and conditions:

Findings:
1. Safe access exists from Stanley Road and adequate parking is available.
2. Impervious surface requirements will be met.
3. The lot has established vegetation.
4. The activity will not impact public waters or wetlands.
5. Water is carry-in only, a pit privy exists, and gray water will be dispersed on the ground.
6. Quiet hours will be a condition of approval, external lighting will be spotlighting, not floodlights, and directed downward.
7. The rental is setback from adjoining properties.
8. The proposed use is consistent with the Comprehensive Plan and allowable under the Ordinance.

Conditions:
1. Quiet hours from 10 PM to 7 AM.
2. No discharge of firearms or fireworks.
3. All ATV’s/snowmobiles must be trailered while on the property.
4. All outdoor fires must be limited to use at a designated fire ring.
5. Occupancy limited to 4 guests.
6. Must finish the deck before renting.
7. A portable toilet may be used with an operating permit until the outhouse is finished.

Motion passed by unanimous vote. (PCR-18-039)

Motion by Sve supported by Weinzierl to approve the minutes, as submitted, from the October 15, 2018 meeting. Motion passed by unanimous vote.
Other Business:

McCarthy gave a report on a real estate agent workshop that she attended with Maxwell. They were invited to speak and be available to answer questions. She stated there was concern over not being able to do vacation rental homes for homes connected to a holding tank. This is a main concern for homes in the Stewart River Sanitary Subordinate District, where holding tanks are allowed. McCarthy encouraged agents to call the office when they have questions.

Maxwell added that she would like to see more educational workshops added for contractors and real estate agents to improve communication and understanding of zoning districts and the County Ordinances. She stated this is especially important with the vacation rental home minimum requirements.

The second hearing, I-18-026 was a renewal interim use application filed by Jim Malowitz/MERS LLC which if approved, would allow a vacation rental home on property described as: Unit A-4 Condo No 3 National Forest Lodge Lake Homes along with ¼ interest in Common Elements in Section 28, Township 60, Range 9, zoned R-R/Residential-Recreational, one-acre minimum, Stony River Township.

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

Jim Malowitz represented the application.

Skala asked if there have been any problems. Malowitz stated the only problem was finding a plumber willing to travel to install the water meter. He explained that the average water use has been 174 gallons/day, which is for all 4 units in the building.

Malowitz stated renting is highest during the fall for grouse hunting season and again in early winter for snowshoeing and skiing.

Skala asked if there was a close by property manager. Malowitz stated the manager is Barb Cooper who lives a few miles away.

Motion by Bathke supported by Weinzierl to recommend five (5) year approval to the County Board with the 2017 initial approval 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 Highway 1, National Forest Lodge Road, and off-street parking exists.
4. The lot meets current stormwater standards.
5. Rental activities should have no impact on site conditions.
6. Utilities and infrastructure have been established and the septic system has passed a compliance inspection within the last three (3) years.
7. 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.

Conditions:
1. Quiet hours from 10:00pm – 8:00am.
2. All recreational vehicles must be on a trailer/truck bed and cannot touch property grounds.
3. No discharge of firearms or fireworks on the property.
4. Bonfires must be in a designated pit and used in a safe manner.

Motion passed by unanimous vote. (PCR-18-040).

Other Business (continued):

Sve gave a report on proposing a moratorium on Tiny homes. He has met with the County Administrator, County Attorney, and MN Department of Health. The statute that MDH follows hasn't caught up with tiny homes, either. When there are a certain number of tiny homes in a campground, MDH will inspect them as part of the campground, but they do not go inside the homes. MDH is okay with Lake County dealing with the issue of tiny homes. There was also a meeting with Lisa Hanson, Health and Human Services Director, Michelle Backes-Fogelberg, Public Health Supervisor, John Weidner, Environmental Health Specialist, who does the inspections, and the County Administrator. The
decision made was to put a moratorium on tiny homes as it relates to vacation rental. This would include yurts and container homes. The goal would be to decide on minimum standards for these structures and how to license them for rental. Sve stated there seems to be consensus on finding room in the Ordinance for these structures. The Board has not taken action on this yet. Sve asked for input from the Planning Commission. He stated the Board would look to Health and Human Services and Environmental Services for help drafting a resolution for a moratorium. Sve believes this is the best course of action as it will take around 2 years for the State to take action.

There was discussion as to how tiny homes on a trailer are designated. Sve stated they can be pulled into a campground, if there are 5 or more MDH licenses the campground. McCarthy explained Lake County Land Use Ordinance considers a tiny home a structure if the wheels are removed and it is connected to water and septic. However, Lake County Health Ordinance considers it a Recreational Vehicle as long as it remains on a chassis.

Bathke asked how mobile homes on a chassis are designated. Sve explained these have an inspection stamp for meeting the requirements of a manufactured home. Sve explained the issue with tiny homes is that they are often built by individuals and it is unknown as to whether they meet building code requirements.

The third hearing, I-18-028 was a renewal interim use application filed by Sara & Boris Zuk which if approved would allow a vacation rental home on property described as: Unit A-3 Condo No 3 National Forest Lodge Lakehomes along with ¼ interest in Common Elements in Section 28, Township 60, Range 9, zoned R-R/Residential-Recreational, one-acre minimum, Stony River Township.

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

The application was represented by the applicants’ agent, Jim Malowitz. The Zuk’s rental unit is in the same building. Malowitz stated the Zuk’s did not have any problems or requests. As this rental is identical to the Malowitz rental with the same property manager, there was no discussion.

Motion by Weinzierl supported by Tarlton to recommend five (5) year approval to the County Board with the 2017 initial approval 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 Highway 1, National Forest Lodge Road, and off-street parking exists.
4. The lot meets current stormwater standards.
5. Rental activities should have no impact on site conditions.
6. Utilities and infrastructure have been established and the septic system has passed a compliance inspection within the last three (3) years.
7. 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.

Conditions:
1. Quiet hour from 10:00pm – 8:00am.
2. All recreational vehicles must be on a trailer/truck bed and cannot touch property grounds.
3. No discharge of firearms or fireworks on the property.
4. Bonfires must be in a designated pit and used in a safe manner

Motion passed by unanimous vote. (PCR-18-041)

Other Business (moratorium continued):

Bathke stated he would like to see clarification on mobile homes as part of the moratorium, as they are on a chassis.

Skala stated he would like to see a way to allow tiny home rentals. McCarthy agreed with this; the concern being whether or not they meet safety requirements. Hoops stated the safety concerns include air space and egress; liability may fall on the agency that licenses the rental. He stated the moratorium shows that the County is looking for solutions.
There was general discussion on options for allowing tiny homes.

The fourth hearing, I-18-029 was an after-the-fact initial interim use application filed by Jessica Flotterud which if approved would allow a vacation rental home on property described as: S ½ of SW ¼ of NE ¼ in Section 35, Township 55, Range 10, zoned R-1/Residential, ten-acre minimum, Silver Creek Township.

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

The application was represented by Brian Flotterud. He stated he and his wife, Jessica, purchased the property about a year and a half ago. They rent it when they aren’t using it to subsidize the cost of the property.

McCarthy asked when they ceased renting. Flotterud stated the day they received the letter notifying them of the need for an interim use permit they blocked the reservation calendar and cancelled 3 reservations.

Maxwell stated the septic system is a 2-bedroom, 300 gallons/day. She noted they are advertising for 8 guests. McCarthy stated she recommends a 4-guest maximum. Sve explained that occupancy for rental is based on the septic system capacity.

Sve asked about the advertisement for hunting on the property. He noted that the surrounding property is mainly public land. He stated an exception to the condition for no discharge of firearms could be discussed. There was general discussion about allowing hunting as part of the IUP approval. Flotterud stated the adjoining private land appears to be hunting properties. Hunters are not their main target for rentals.

Flotterud asked if the limit of 4 guests includes children. McCarthy stated it is 4 people total. Tarlton stated this limit is to protect the owners from having the septic system damaged from overuse and back-ups. Maxwell offered to send them information on septic maintenance.

Maxwell asked about property management. Flotterud stated their property managers are about 3 or 4 miles away, they also take care of garbage disposal. He stated they have smart technology to monitor the home.

Motion by Hoops supported by Bathke to recommend one (1) year approval to the County Board with the following findings and conditions:

**Findings:**
1. Safe access exists from Hwy 3.
2. Impervious surface requirements will be met.
3. There is adequate vegetation on the lot.
4. The proposed use will not impact surface waters or wetlands.
5. Utilities are in place with a compliant septic system.
6. Adjoining properties are public land, with one adjoining private owner to the South.
7. Proposed use will not impact the value or enjoyment of neighboring properties.
8. The proposed use is consistent with the Comprehensive Plan and Vacation Rental Homes are allowable under the Land Use Ordinance.

**Conditions:**
1. Quiet hours from 10 PM to 7 AM
2. No discharge of fireworks
3. All outdoor fires must be limited to a designated fire ring
4. Occupancy limited to 4 guests maximum.

Motion passed by unanimous vote. (PCR-18-042)

The fifth hearing, I-18-030 was a renewal interim use application filed by Loren Johnston & Joanne Johnston which if approved would allow a vacation rental home on property described as: Lots 20, 21, 22 & 23 Block 16, Townsite of Knife River in Section 31, Township 52, Range 11, zoned R-4/Residential, 10,000 sq. ft. minimum, Unorganized Territory 2.

Skala introduced the application. McCarthy summarized the staff report. There was one comment submitted in favor of the application.

The application was represented by Loren Johnston and Joanne Johnston. Joanne Johnston stated she completed the permit requirements in May. Rentals slowed down in September.

Sve asked if the debris around the garage has been removed as required in the initial approval. Ms. Johnston stated it has.
Motion by Hoops supported by Weinzierl to recommend five (5) year approval to the County Board with the 2017 initial approval 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 Church Road and off-street parking exists.
4. The lot meets current stormwater standards.
5. Rental activities should have no impact on site conditions.
6. Utilities and infrastructure are established with a private well and sewer connected to the Knife River Larsmont Sanitary District.
7. 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, the property has operated as a long-term rental in the past without complaints.

Conditions:
1. Maximum occupancy of six (6) guests.
2. Quiet hours from 10:00pm – 7:00am.
3. Recreational vehicles must be on a trailer/truck bed and cannot touch property grounds.
4. No discharge of firearms or fireworks on the property.
5. Bonfires must be in a designated pit and used in a safe manner.

Motion passed by unanimous vote. (PCR-18-043)

The application was represented by Eric and Kayla Elefson. Ms. Elefson explained they would like a 4-unit resort with 2 bedrooms in the house and 2 yurts being rented. They have a small-scale farm and will advertise as a “farm-stay” where people come to learn about a working farm. They plan to only rent 2 units at a time to keep it manageable.

Sve asked if they would have livestock. Ms. Elefson said they may have chickens for their own use; their main crop is garlic with a garden for personal use. Sve asked how many acres are being farmed. Mr. Elefson stated less than an acre.

There was general discussion about the yurts. Mr. Elefson explained there would be no running water. The yurts would have composting toilets and a pit privy would be available. Washing water could be collected in a bucket and disposed of in the septic system. He has already spoken to John Weidner (Health and Human Services) about the yurts. Parking would be available near the steel building with carts being used to take gear to the yurt.

There was general discussion regarding the septic system and how many guests they could accommodate.

Bathke asked if they would need a lodging license. There was discussion about differences in the Land Use Ordinance and the Lodging Ordinance language regarding resorts and licensing. It was decided that there would need to be discussion with John Weidner, who does the inspections, to determine if the lodging license is required for a 4-unit resort, as the Lodging Ordinance defines a resort as 5 units or more.

There was general discussion regarding possible expansion of the resort. Maxwell explained that a resort may expand by no more than 2000 square ft every 3 years administratively, until they meet the density limit for the acreage. Skala suggested a condition could limit expansion.

Skala opened the hearing to public comments.
Robert Skogen expressed concerns over the potential increased development of the resort as well as concern of increased traffic on a dead-end road that is used by pedestrians, bikers, and horseback riders. He also stated that Town Road intersects Hwy 3 near a dangerous curve and would be more dangerous for those unfamiliar with the road. He stated he found on the internet that over 400 seasonal cabins are in Silver Creek Township and those could be available as rentals and new rentals aren’t needed. He was also concerned that a resort would change the assessment value of neighboring properties and could hurt his ability to sell his own property.

McCarthy stated this is an allowable use and any significant expansion would require a new Conditional Use Permit.

Alison Oftedahl asked why a resort doesn’t need to meet the same density requirements as residential dwellings of 1/10 acres in the Residential-1 District. She asked if the permit would be for the number of people allowed or the number of units with multiple people in each unit.

McCarthy explained a condition could state the maximum number of people.

Paron read the resort density requirements from the Land Use Ordinance, Section 26.07: G.3.

Joe Preston asked how much discretion can be used in screening guests.

McCarthy stated they have to be careful of discrimination laws. She explained they are advertising as a farm-stay.

Preston stated he was concerned guests using the yurts would use the minimum maintenance road to park and unload.

Ms. Elefson explained check-in would be at the house and parking would be in the driveway near the garage.

Skala asked how they would advertise. Mr. Elefson stated they would use AirBnB which allows them to communicate with guests before arrival.

Maxwell asked if the Elefsons would be on-site whenever they have guests. Mr. Elefson said they would. Maxwell also stated one requirement for vacation rentals is keeping a guest log. She asked the Planning Commission to consider that as a condition for approval.

Ray Welsh expressed concerns over expansion.

Skala stated conditions of approval could limit expansion. Sve added that the application is for 4-units and expansion would require going through the conditional use process.

Mr. Wittlief asked if zoning would change to commercial if the application is approved.

Skala stated Elefsons would be assessed according to their use. Hoops explained that how properties are assessed is determined by the Assessor and the rules for assessments. McCarthy explained the zoning district doesn’t change.

Hoops addressed Mr. Preston’s concern over the minimum maintenance road. He explained the [Silver Creek] Township could post it as no parking. He also stated that if the property behind the Elefson’s sells that road may need to be improved, which is something the he has been aware of for many years.

Mr. Skogen stated his concerns over potential increased outside lighting at the Elefson’s.

Robert Blettner expressed concern over noise and additional traffic on Town Road.

Skala stated that Town Road is a public road.

Maxwell asked Elefsons what type of lighting they would be installing. Mr. Elefson stated it would be low-level solar lighting.

Ms. Elefson addressed the traffic concerns. She stated they expected guests coming and going would add about 4 extra trips on the road on days they have guests.

Mr. Elefson stated they don’t want lights to disturb neighbors and they won’t be doing any vegetation removal.

Ms. Elefson explained the purpose of the farm-stay is to help support their small farm economically.

Mr. Wittlief asked how the rules will be enforced.
McCarthy stated he could call the [Planning and Zoning] office with complaints or, if necessary, the sheriff.

Blettner and Anne Moen expressed concerns over access to the Encampment River and potential impacts to the river. Mr. Elefson stated only a small area is cleared to the river which was done by the power company. He also stated they are not advertising for fishing on the river.

There was general discussion about possible conditions of approval to address concerns of neighbors.

Maxwell asked if Elefsons planned on signage. Mr. Elefson stated it would be something to identify their driveway as the correct one, possibly something on the mailbox. They do not plan to have a “farm-stay” or large sign.

Maxwell recommended they add more vegetation between the yurts and the minimum maintenance road as a buffer.

Motion by Hoops supported by Tarlton to approve the application with the following findings and conditions:

Findings:
1. Safe access exists from Town Road and onsite parking is in place.
2. The lot meets current stormwater standards.
3. The site is wooded with natural vegetation and has gentle slopes.
4. Construction of yurts should not cause impacts to the tributary or wetlands; the river crossing is already in place.
5. The property has a compliant 3-bedroom, 300 GPD, Class 2 (low flow) septic; owners are aware of need to limit water usage; yurts will use composting toilets or pit privy, and well is in place.
6. The proposed use should not create health, safety, environmental, lighting, noise, signing, or visual problems. Quiet hours shall be established and external lighting will be directed downward.
7. If properly managed, and with imposed conditions, this use should not be detrimental to the neighborhood.
8. The proposed use is allowable under approved county guidelines.

Conditions:
1. Property boundaries shall be posted.
2. Signage and education for resort guests to not use the Encampment River.
3. Maximum occupancy of 6 guests, with no more than 4 guests in the house.
4. ATV’s and snowmobiles must be trailered while on the property.
5. No discharge of firearms or fireworks on the property.
6. A guest log must be maintained and made available to Planning and Zoning upon request [see MN State Statute 327.10]
7. Outside lighting must be directed downward.
8. Quiet hours 10 PM to 8 AM.
9. A flow meter must be installed on the septic system and monthly readings recorded and made available to Planning and Zoning upon request.
10. Outside fires must be limited to use in a designated fire ring.
11. Expansion beyond 4-units will require a new Conditional Use Permit [Ordinance #12, Article 26, Section 26.07 G.5. shall not be used to expand this resort].
12. Rules must be posted for guests.
13. Limit of 3 resort guest vehicles on premises at one time.
14. Planning and Zoning will coordinate Lodging License requirements with Health and Human Services administratively.

Motion passed 5-1, with Sve voting opposed. (PCR-18-044)

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

Respectfully Submitted,

Christine McCarthy
Environmental Services Director