

**MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY PLANNING COMMISSION HELD IN-PERSON AT THE ST. LOUIS COUNTY GOVERNMENT SERVICES CENTER, LIZ PREBICH ROOM, VIRGINIA, MN ON THURSDAY, OCTOBER 13, 2022.**

9:01 AM – 12:25 PM

Planning Commission members in attendance: Tom Coombe  
Steve Filipovich  
Dan Manick  
Pat McKenzie  
Commissioner Keith Nelson  
Roger Skraba, Chair  
Ray Svatos  
Diana Werschay

Planning Commission members absent: Dave Pollock

**Decision/Minutes for the following public hearing matters are attached:**

**NEW BUSINESS:**

- A. RS3 LLC, Ron Peterson, a conditional use permit for a general purpose borrow pit as an Extractive Use - Class II.
- B. KK & PI, LLC, a conditional use permit for a commercial rental dwelling as a Commercial, Retail, and Service Establishments Use - Class II.
- C. Stacy Gerrety, a conditional use permit for a Short Term Rental as a Residential Use - Class II.
- D. Luke Panek, a conditional use permit for a Short Term Rental as a Residential Use - Class II.
- E. Chris Kucera, a conditional use permit for a resort expansion as a Commercial, Retail and Service Establishments – Class I.

**OTHER BUSINESS:**

**Motion by Svatos/McKenzie** to approve the minutes of the September 15, 2022 meeting.

**In Favor:** Coombe, Filipovich, McKenzie, Nelson, Skraba, Svatos, Werschay - 7

**Opposed:** None – 0

**Abstained:** Manick - 1

**Motion carried 7-0-1**

*Jenny Bourbonais*, Acting Secretary, announced this is Jared Ecklund's final day of presentations as he has promoted up into a position with the Environmental Services Department. She introduced *Ada Tse* as the newest St. Louis County Planner who will present cases in November.

*Jenny Bourbonais* stated that the November caseload is large and may be split between two meeting dates on the regularly scheduled meeting on Thursday, November 10, 2022, and possibly

on Tuesday, November 15, 2022. This caseload includes four conditional use permits, the short term rental ordinance amendment and tentatively up to eight variances. If some cases are postponed or pulled from the agenda, the meeting would be all in one day on November 10, 2022.

Commission members also discussed short term rental compliance and how to enforce.

Technical difficulties with the WebEx server made virtual attendance unavailable. Outreach to those who staff anticipated would be attending virtually was made and other options were made available to provide input and testimony.

### **NEW BUSINESS:**

#### **RS3 LLC – Ron Peterson**

The first hearing item is for RS3 LLC, Ron Peterson, a conditional use permit for a general purpose borrow pit as an Extractive Use - Class II. The property is located in S13, T50N, R17W (Brevator). *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is proposing a conditional use permit for a general purpose borrow pit as an Extractive Use-Class II.
- B. The proposed operation will include crushing, washing, screening, recycling of asphalt and portable hot mix.
- C. It is estimated that approximately 5,000 cubic yards of material will be removed each year.
- D. The standard hours of operation are proposed from 7:00 a.m. until 7:00 p.m., Monday through Saturday.
- E. It is estimated that trucks leaving the pit will be variable with the possibility of up to 20 per day.
- F. A wetland delineation has been completed and the wetlands have been identified on the parcel. There are no anticipated wetland impacts for the proposed project.
- G. The southern portion of the property contains an area zoned Residential (RES)-3 due to the location of a trout stream. Extractive use activities are not allowed within the RES zone district.

*Mark Lindhorst* reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
  1. Zoning Ordinance 62, Article V, Section 5.6 A., indicates general purpose borrow pits are an allowed use with a conditional use permit.
  2. The St. Louis County Comprehensive Land Use Plan under Objective LU-4.5 states that the development of new general purpose borrow pits should be directed to areas designated as Forest and Agriculture (FA) on the Future Land Use Map. The property is within the FA concept area.
- B. Neighborhood Compatibility:
  1. There are eight residential properties located within one-quarter mile of the proposed pit location and an additional 11 within one-quarter mile of the haul road.
  2. The closest residence to the pit is approximately 880 feet to the west and three residential properties are within 400 feet of the proposed haul road. The proposed entrance will be located directly across from a residential property.

3. Proposed uses for the borrow pit may impact existing residential development with increased noise and truck activity.

C. Orderly Development:

1. This is a rural area with high density residential development.
2. The applicant applied for and was approved a general purpose borrow pit for a portion of the adjacent parcel to the south.

D. Desired Pattern of Development:

1. The established pattern of development is residential which is not typical of areas zoned Forest and Agriculture Management (FAM). St. Louis County Zoning Ordinance 62, Article V, Section 5.4 states that FAM districts are typically used in area with land development at very low densities and often there is considerable corporate or public ownership. A low level of development is important in this district, since uses encouraged in this district would be less compatible in a more urban setting.
2. The property is within the Forest and Agriculture concept area which is intended primarily for forest and agriculture uses and not intended for future rural or urban development. The existing pattern of development is more consistent with the Residential zone district.

E. Other Factor:

1. The proposed use is requesting crushing and portable hot mix which can have an impact on residential uses due to noise and air quality.

*Mark Lindhorst* noted four items of correspondence from Brevator Township not in opposition and from Cheri J. Espe, Doug Espe, and Sue Aune not in support of the request. These items were provided to the Planning Commission prior to the hearing. Additionally, testimony was received via email from Elise, Andrew, Phin, and Cherry Ames not in support.

### **STAFF RECOMMENDATION**

In the event that the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit for a general purpose borrow pit as an Extractive Use-Class II, the following conditions shall apply:

Condition Precedent:

1. Applicant shall obtain access approval from the appropriate road authority.

Conditions Concurrent:

1. All minimum extractive use standards shall be followed.
2. No borrow pit activity is allowed within the Residential (RES) zone district.
3. The applicant shall adhere to all local, county, state and federal regulations.
4. The Wetland Conservation Act shall be followed.

*Ron Peterson*, 1311 Kenneth Drive, Cloquet, the applicant, stated there are six easements off of the private easement off Maple Grove Road. When Potlatch made this road, the material was used from his borrow pit. They spent a large amount of money on this road and on the easements. This

was all Potlatch land previously. They do have an access road that his father logged in the 1950s and 1960s and he and his brothers logged in the 1970s and 1980s. The road exists but cannot be used as a haul road.

Five members of the audience spoke in opposition.

*Jerry Lester*, 7088 Maple Grove Road, stated he is concerned about this borrow pit development because they moved to this area to get away from traffic and noise. His family loves the outdoors and they moved to this area for that reason. They go on field trips and teach kids about wildlife and nature. They used to live on Highway 2 which was across the street from an active pit. Traffic is becoming heavier than ever with the truck traffic coming from different pits. The haul road is a single vehicle lane that is not blacktopped and is constantly being repaired. The road can be very steep with deep culverts, terrain, and hills where one might not know a vehicle is coming. It is difficult to see oncoming traffic. Truck traffic would not be able to pass by any oncoming traffic. Who will maintain this road now? There would also be dust and dirt being kicked up by the vehicles. He is also concerned about property values going down because of higher truck traffic. In moving to this location, he had expectations of light traffic, quiet, and safety.

*Kevin Fredericks*, 7094 Maple Grove Road, stated business owners may have rights, but so do property owners. His property is located across Maple Grove Road where the easement road ends. This is really an old sand bottom forest service road that is single lane with grass growing down the center. While he could see the road being widened, commercial dump trucks should not be run on this type of road. Widening the road would not solve the problem for property owners in the area. Maple Grove Road has become substantially busier with increased traffic at increased speeds and there is poor maintenance. There is a blind hill where several accidents have occurred in both summer and winter. It is dangerous for any dump truck to pull out here without flashing lights or a stop sign. Any crusher or blacktop plant or smoke would blow at their properties with a northerly wind and create poor air quality. There are people with heart problems and cancer that walk this road since it has been hard surfaced. He is also concerned that this area is in a wetland.

*Gerry Aune*, 7099 Maple Grove Road, stated that he is a retiree. His septic system is located 50 feet from the haul road. His house is located 120 feet from the haul road. He helps to maintain the road, even if it is not a very good road. The road is only wide enough for one vehicle. To expand the haul road would require permission from landowners which he will not give. Emergency services may not be able to reach their residences because they may not get to them in time.

*Matthew Downs*, 7101 Maple Grove Road, stated Potlatch did not build this road. In 2003, his niece and her husband purchased land from Potlatch and built the road. After reading the deed, both 40 acre parcels have a 33 foot wide easement. The neighboring property owner refused a 66 foot wide easement. Permission needs to be given by these landowners to widen the road. The trout stream crosses this easement through a culvert. While Potlatch did have this land before, Potlatch is gone now. In the 12 years he has lived at this property, loggers have been there five times. He has met logging trucks countless times and had to back up to his property to let them through. There are safety concerns here. He plows the road and mows the edge far enough to see the grass and tree line to not go off the road. He asked if there is a Potlatch road that goes from the applicant's property to Highway 33.

*Raymond Saeland*, 7296 Maple Grove Road, asked why there is no access to Highway 33 instead of using this easement.

*Ron Peterson* stated he does not own property to Highway 33.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Filipovich* asked about the adjacent borrow pit that was approved in January 2022 and if there would be an issue with the size going beyond 40 acres. *Mark Lindhorst* stated it would not be. The one borrow pit is 15 acres in size and the other would be 14 acres in size. Commission member *Filipovich* stated that the application indicated that the lot is 40 acres. *Mark Lindhorst* stated the usable area is limited because of wetlands.
- B. Commission member *Svatos* asked if the adjacent borrow pit is currently in use. *Mark Lindhorst* stated the conditional use permit was issued for the adjacent borrow pit. *Ron Peterson* stated that the driveway is in for the adjacent borrow pit and the area has been logged off and cleared.
- C. Commission member *Skraba* asked why the haul road cannot cross the creek to get to this property. *Jenny Bourbonais*, Acting Secretary, stated that there is a designated trout stream which is where the Residential (RES)-3 zone district is located. Any extractive use, including a haul road, is not allowed per Zoning Ordinance 62. There could be no variance as use variances are not allowed. If something were to change and this would be allowed, there would be another process to follow for that. Another conditional use application would be needed to change the location of the haul road. Commission member *Coombe* asked if there was an existing road across the creek. *Jenny Bourbonais* stated even if there is an existing road in that location, a haul road would not be allowed. To allow this use, the applicant would need to initiate rezoning as well as get permission from the Minnesota Department of Natural Resources (MN DNR) in order to cross the trout stream.
- D. Commission member *Werschay* asked if the haul road is privately owned with an easement. *Ron Peterson* stated it is. The easement road splits two 40 acre parcels.
- E. Commission member *Svatos* asked who maintains this road. *Ron Peterson* stated that Matt Downs and Jerry Aune do as they live on the easement and use the road more than anyone else. There are other seasonal properties along the easement.
- F. Commission member *Manick* asked what the borrow material will be utilized for. *Ron Peterson* stated that he was approached by four companies to take the material from both pits. There is a large road project at Highway 192 and Highway 2 that these pits could potentially provide material for but bids would need to be accepted.
- G. Commission member *Manick* asked if 20 trucks will be hauling once every day or 20 trucks coming and going throughout the day. *Ron Peterson* stated that is not known. Commission member *Manick* stated there is a concern because there could be a hundred loads per day. There could be additional traffic concerns.
- H. Commission member *Skraba* stated the depth of excavation is 40 feet, approximately 5,000 cubic yards per year and the water table is at 54 feet. The size of these projects would mean the pits would be depleted in a short amount of time. *Ron Peterson* stated he wants the

material gone. He wants to design the land the way he wants to design it for future use beyond a gravel pit.

- I. Commission member *Coombe* asked how wide the haul road. *Ron Peterson* stated the easement is 33 feet wide through the first 40 acre parcel and 66 feet wide through the second parcel. The road is about 20 feet wide. *Matthew Downs* added that the road is narrow enough that it is a single lane road where vehicles meet and would have difficulty moving around one another. *Ron Peterson* stated they could widen the road to meet the 33 foot easement. He has no problem putting money into this road.
- J. Commissioner *Nelson* asked how long the easement has been in effect. *Ron Peterson* stated it has been about 20 years and was bought from Potlatch.
- K. Commissioner *Nelson* asked if this haul road is an acquired easement or a cartway. *Mark Lindhorst* stated the applicant provided a legal document that states this is an easement.
- L. Commission member *Filipovich* asked when the easement was put into effect. *Matthew Downs* stated about 2004. While the easement is given from Potlatch, Potlatch did not build the road. The deed has not changed from the original deed and was always 33 feet wide.
- M. Commission member *McKenzie* asked how many people use the road daily. *Matthew Downs* stated that a number of people use this road daily, from his many family members traveling to people recreating. There have been instances where drivers need to back away to let traffic by. There are also people who walk that must back off to let traffic by. There may be a few areas when the ground is very dry where two cars can barely pass each other. This can occur more than once a day, especially on weekends. Commission member *McKenzie* asked if this road were improved or widened, would that change things? *Matthew Downs* stated that depends on if permission is given.
- N. Commission member *Skraba* asked about the conservation fund and if those lands are accessed using this road. *Matthew Downs* stated they are. This is part of the easement and why there could not be a gate blocking access to those lands. Commission member *Skraba* added that Potlatch gave the land to the conservation fund.
- O. Commission member *Skraba* asked about easement issues. *Ron Peterson* added that he provided easement information to staff.
- P. Commission member *McKenzie* asked if Public Works approved this entrance and if someone had looked at this haul road for this new request. *Mark Lindhorst* stated that this was an approved access that can be used for the intended use of a haul road. Commission member *Skraba* asked if there is a safety issue, could there be any additional signage saying trucks are hauling? *Mark Lindhorst* stated that would be up to Public Works to determine signage on roads.
- Q. Commissioner *Nelson* stated Potlatch land exists all over St. Louis County. When Potlatch pulled out of the county and sold land, they did not sell land with regard to what they were leaving behind. Land was sold split by an easement. Potlatch retained the land under the road. Federal funds were involved in the acquisition of land Potlatch donated to the conservation fund. There are civil issues here the Planning Commission should not get involved in. This type of situation could be seen as access across what is now private property.
- R. Commission member *Skraba* added that one correspondent brought up the portable hot mix plant. This is not a permanent plant but one that will be utilized for a project and then it would be done.

- S. Commission member *Skraba* stated it is up to the applicant to remove the dirt and the applicant will need to figure out how to get a haul truck through this property. Commission member *Coombe* stated if the easement is not as clear as the applicant states it is, there may be a problem. Commission member *Werschay* stated she understands the neighbor's concerns but the applicant has a right to make money, too.
- T. Commissioner *Nelson* asked if approval could be contingent upon legal access being established. The burden should be on the applicant to make sure that there is legal access. If there is no objection to a borrow pit, the applicant should prove that they can legally get into this property to remove material. If the road is widened to 33 feet, there would be enough space for two vehicles to safely move. His concern is for a batch plant. That might not be the best location for a batch plant. There is another borrow pit that could be better used for a batch plant.
- U. Commission member *Manick* stated that there are five criteria for approval. While the extractive use may meet these criteria, the haul road does not.
- V. *Jenny Bourbonais* stated the Planning Commission has three options: to approve the application, to deny the application, or to deny the application without prejudice in order to get additional information from the applicant. There would be no time frame required unless the Planning Commission provides one.

## **MOTION**

**Motion by McKenzie/Filipovich** to approve a conditional use permit to allow a general purpose borrow pit as an Extractive Use-Class II to include crushing, washing, screening, recycling of asphalt and portable hot mix, based on the following staff facts and findings:

- A. Plans and Official Controls:
  - 1. Zoning Ordinance 62, Article V, Section 5.6 A., indicates general purpose borrow pits are an allowed use with a conditional use permit in a Forest and Agricultural Management (FAM) zone district.
  - 2. The St. Louis County Comprehensive Land Use Plan under Objective LU-4.5 states that the development of new general purpose borrow pits should be directed to areas designated as Forest and Agriculture (FA) on the Future Land Use Map. The property is within the FA concept area.
  - 3. The use conforms to the land use plan.
- B. Neighborhood Compatibility:
  - 1. The use is compatible with the existing neighborhood as the extractive use should not directly affect any neighbor.
  - 2. The use is not compatible with the existing neighborhood because the haul road could affect the neighborhood. ~~While something could happen, it may be unlikely anything will happen.~~
- C. Orderly Development:
  - 1. This is a rural area.
  - 2. The use will not impede the normal and orderly development and improvement of the surrounding area while operating within the conditions on an approved conditional use permit.

D. Desired Pattern of Development:

1. The borrow pit is an appropriate use in a FAM district. Development density in the immediate area is likely increasing.
2. The location and character of the proposed use is considered consistent with a desirable pattern of development.

E. Other Factors:

1. While correspondence in opposition was received, Brevator Township did not oppose this permit. Brevator Township did oppose the conditional use permit that was issued in January 2022. The Town Board has not spoken on this matter except for this one item of correspondence.
2. An extractive use is an allowed use in this FAM zone district.
3. The haul road has been discussed. While there are concerns about the haul road, Public Works has stated that the access point is acceptable. Maple Grove Road is also a road maintained by the county. If the intersection of the haul road and Maple Grove Road is safe, he would agree with Public Works.

The following conditions shall apply:

Condition Precedent:

1. Applicant shall obtain access approval from the appropriate road authority.

Conditions Concurrent:

1. All minimum extractive use standards shall be followed.
2. No borrow pit activity is allowed within the Residential (RES) zone district.
3. The applicant shall adhere to all local, county, state and federal regulations.
4. The Wetland Conservation Act shall be followed.

**DISCUSSION ON MOTION**

- A. Commissioner *Nelson* requested a condition that given the length of the easement road and the standard hours of operation being requested, it should be reasonable to say that the haul road should adhere to the hours of operation.
- B. Commissioner *Nelson* requested a condition that any upgrades to the haul road to make it safer or to provide more reasonable access for this use shall be the responsibility of the applicant. He wants to make sure that the applicant is responsible.
- C. Commissioner *Nelson* requested a condition that the applicant shall provide dust control on the haul road for at least the last half-mile.
- D. Commission members *McKenzie* and *Filipovich* agreed with the three additional conditions.
- E. Commission member *Coombe* referenced a city of Eveleth borrow pit owner cleaning up the main road after receiving complaints. He suggested a condition that haul road entrance to Maple Grove Road shall be cleaned at the end of every shift. This would let the applicant be a good neighbor. *Jenny Bourbonais* stated that while this condition may be added, it would be very difficult to enforce. Commissioner *Nelson* added that applicant has no rights to do any maintenance to a county road. However, the county will keep track of this and work out an agreement with the applicant. This condition was not added.



- F. Commissioner *Nelson* added that Maple Grove Road is not a good road and is on the list of roads to see improvement.

## **DECISION**

The above motion was approved with the following conditions:

Condition Precedent:

1. Applicant shall obtain access approval from the appropriate road authority.

Conditions Concurrent:

1. All minimum extractive use standards shall be followed.
2. No borrow pit activity is allowed within the Residential (RES) zone district.
3. The applicant shall adhere to all local, county, state and federal regulations.
4. The Wetland Conservation Act shall be followed.
5. Use of the full length of the haul road for gravel trucking activity shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday.
6. Any upgrades to the haul road to make it safer or to provide more reasonable access for this use shall be the responsibility of the applicant.
7. Dust control measures shall be implemented, as necessary, along the full length of the haul road.

**In Favor:** Coombe, Filipovich, McKenzie, Nelson, Skraba, Svatos, Werschay - 7

**Opposed:** Manick - 1

**Motion carries 7-1**

## **KK & PI, LLC**

The second hearing item is for KK & PI, LLC, a conditional use permit for a commercial rental dwelling as a Commercial, Retail, and Service Establishments Use - Class II. The property is located in S17, T63N, R12W (Morse). Planning Commission members acknowledged they know Kelly Klun as she used to serve on the Planning Commission. *Jared Ecklund*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting approval to operate a commercial rental dwelling unit that is similar in nature to a short-term rental but would be primarily used as a rental with little to no personal or private use of the property.
- B. The applicant is planning to have the property available to be rented 365 days per year.
- C. The property would only be used for private use or would sit unused if it is not rented at any given time.
- D. Since this is primarily a rental, the use is considered a Commercial, Retail, and Service Establishments Use-Class II.
- E. Although this proposed use may be similar in nature to a short-term rental, it is more similar to a bed and breakfast or a hotel/motel, which are also commercial uses.
- F. Development on the property includes a dwelling and a garage.

*Jared Ecklund* reviewed staff facts and findings as follows:

- A. Plans and Official Controls:

1. St. Louis County Zoning Ordinance 62, Section 6.32, states that if a property is used primarily for rental purposes, then it shall be deemed a Commercial Use-Class II and subject to ordinance requirements regarding commercial use.
  2. The transient nature and frequency of the rental at the site may be more similar to a bed and breakfast or a hotel/motel use than a residential use.
    - a. These uses are commercial uses.
  3. Zoning Ordinance 62, Article V, Section 5.6, states that a Commercial, Retail and Service Establishments Use-Class II is an allowed use in this zone district with a Conditional Use Permit.
  4. Objective ED-2.1 of the St. Louis County Comprehensive Land Use Plan is to recognize and ensure regulatory fairness across a thriving lodging industry that includes hotels, bed and breakfasts, and vacation rentals.
- B. Neighborhood Compatibility:
1. The development in this area tends to be lower than other parts of Burntside Lake.
  2. The zone district in this area is a Shoreland Multiple Use (SMU)-7 zone district.
    - a. There are only three properties located within the SMU zone district in this area.
  3. Much of the surrounding area is zoned residential.
    - a. Short term rental uses would be allowed in the residential zone district, but similar commercial uses would not be allowed in the surrounding areas zoned residential.
  4. This is located in one of the relatively few areas around Burntside Lake where a commercial rental dwelling type use would be allowed.
- C. Orderly Development:
1. The proposed use requires a conditional use permit but would be similar in nature to other short-term rental uses.
    - a. The main difference compared to many short-term rentals would be the frequency of rental.
    - b. There are only a couple other properties in this area where a commercial rental dwelling would be allowed, but there would be opportunity for noncommercial short-term rentals in the surrounding area.
- D. Desired Pattern of Development:
1. The existing pattern of development includes primarily residential uses.
    - a. There is a mix of seasonal and year-round residential uses in the area.
  2. Because this area is zoned Shoreland Multiple Use, a variety of futures uses would be allowed and encouraged where appropriate in the area.
    - a. This area is small, but the uses could include other commercial uses, residential uses, commercial planned developments/resorts, etc.
- E. Other Factors:
1. The property has recently been licensed by the MN Department of Health with a Hotel/Motel license.
    - a. The applicant is in the process of renewing that license.
  2. The application indicates that there are two bedrooms on the site and the requested occupancy is five people.

- b. The occupancy of a short-term rental is typically limited to two people per each bedroom that a septic system is designed for.
- c. The septic system on the property appears to have been designed for three bedrooms, so the requested occupancy may not be a concern. The On-Site Wastewater Division will set the official maximum occupancy through the record review process.
- 3. Although this is technically not a short-term rental, some of the short-term rental standards and conditions, including the occupancy standards, may be appropriate.

*Jared Ecklund* noted no items of correspondence.

### **STAFF RECOMMENDATION**

If the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit for a commercial rental dwelling as a Commercial, Retail and Service Establishments Use-Class II, the following conditions shall apply:

- 1. The permittee/owner/operator shall post within the rental unit the rules and regulations and emergency contact information for police, fire, hospital, septic tank pumper, and permittee/owner/operator.
- 2. The permittee/owner/operator shall provide the St. Louis County Planning and Community Development Director with current contact information for person(s) responsible for property management.
- 3. The permittee/owner/operator shall provide a visual demarcation of the property lines.
- 4. All local, state and federal requirements shall be followed for taxing, licensing, permitting and other applicable requirements.
- 5. General liability insurance covering the property, including its use as a commercial rental dwelling, shall be maintained and St. Louis County shall be listed as an Additional Party of Interest; a copy of the insurance policy shall be provided to and on file with the County.
- 6. It shall be the permittee/owner/operator's responsibility to secure necessary concurrent permits, including, but not limited to, Minnesota Department of Health Lodging License.
- 7. A Minnesota tax identification number and other applicable identification numbers must be provided to the St. Louis County Planning and Community Development Director prior to issuance of permit.
- 8. Disposal of solid waste must comply with St. Louis County Solid Waste Ordinance 45, or its successor or replacement.
- 9. The site shall provide on-site parking sufficient to accommodate the occupants of the rental dwelling unit.
- 10. No person shall, for the purpose of camping, lodging, or residing therein, leave or park a vehicle or motor vehicle on or within the limits of any road or on any road right-of-way.
- 11. All other local, county, state and federal regulations shall be met.

*Kelly Klun*, 1 East Chapman Street, Ely, the applicant, stated they have renewed their MN Department of Health (MDH) license. They have upgraded their well and septic system as suggested by the MDH. This property was part of the old Moats resort.

No audience members spoke.

## **DECISION**

**Motion by Manick/McKenzie** to approve a conditional use permit for a commercial rental dwelling as a Commercial, Retail and Service Establishments Use-Class II, based on the following staff facts and findings:

### **A. Plans and Official Controls:**

1. St. Louis County Zoning Ordinance 62, Section 6.32, states that if a property is used primarily for rental purposes, then it shall be deemed a Commercial Use-Class II and subject to ordinance requirements regarding commercial use.
2. The transient nature and frequency of the rental at the site may be more similar to a bed and breakfast or a hotel/motel use than a residential use.
  - a. These uses are commercial uses.
3. Zoning Ordinance 62, Article V, Section 5.6, states that a Commercial, Retail and Service Establishments Use-Class II is an allowed use in this zone district with a Conditional Use Permit.
4. Objective ED-2.1 of the St. Louis County Comprehensive Land Use Plan is to recognize and ensure regulatory fairness across a thriving lodging industry that includes hotels, bed and breakfasts, and vacation rentals.
5. The use conforms to the land use plan.

### **B. Neighborhood Compatibility:**

1. The development in this area tends to be lower than other parts of Burntside Lake.
2. The zone district in this area is a Shoreland Multiple Use (SMU)-7 zone district.
  - a. There are only three properties located within the SMU zone district in this area.
3. Much of the surrounding area is zoned residential.
  - a. Short term rental uses would be allowed in the residential zone district, but similar commercial uses would not be allowed in the surrounding areas zoned residential.
4. This is located in one of the relatively few areas around Burntside Lake where a commercial rental dwelling type use would be allowed.
5. The use is compatible with the existing neighborhood.

### **C. Orderly Development:**

1. The proposed use requires a conditional use permit but would be similar in nature to other short-term rental uses.
  - a. The main difference compared to many short-term rentals would be the frequency of rental.
  - b. There are only a couple other properties in this area where a commercial rental dwelling would be allowed, but there would be opportunity for noncommercial short-term rentals in the surrounding area.
2. The use will not impede the normal and orderly development and improvement of the surrounding area.

### **D. Desired Pattern of Development:**

1. The existing pattern of development includes primarily residential uses.
  - a. There is a mix of seasonal and year-round residential uses in the area.
2. Because this area is zoned Shoreland Multiple Use, a variety of futures uses would be allowed and encouraged where appropriate in the area.

- a. This area is small, but the uses could include other commercial uses, residential uses, commercial planned developments/resorts, etc.
3. The location and character of the proposed use is considered consistent with a desirable pattern of development.

E. Other Factors:

1. The property has recently been licensed by the MN Department of Health with a Hotel/Motel license.
  - a. The applicant is in the process of renewing that license.
2. The application indicates that there are two bedrooms on the site and the requested occupancy is five people.
  - a. The occupancy of a short-term rental is typically limited to two people per each bedroom that a septic system is designed for.
  - b. The septic system on the property appears to have been designed for three bedrooms, so the requested occupancy may not be a concern. The On-Site Wastewater Division will set the official maximum occupancy through the record review process.
3. Although this is technically not a short-term rental, some of the short-term rental standards and conditions, including the occupancy standards, may be appropriate.

The following conditions shall apply:

1. The permittee/owner/operator shall post within the rental unit the rules and regulations and emergency contact information for police, fire, hospital, septic tank pumper, and permittee/owner/operator.
2. The permittee/owner/operator shall provide the St. Louis County Planning and Community Development Director with current contact information for person(s) responsible for property management.
3. The permittee/owner/operator shall provide a visual demarcation of the property lines.
4. All local, state and federal requirements shall be followed for taxing, licensing, permitting and other applicable requirements.
5. General liability insurance covering the property, including its use as a commercial rental dwelling, shall be maintained and St. Louis County shall be listed as an Additional Party of Interest; a copy of the insurance policy shall be provided to and on file with the County.
6. It shall be the permittee/owner/operator's responsibility to secure necessary concurrent permits, including, but not limited to, Minnesota Department of Health Lodging License.
7. A Minnesota tax identification number and other applicable identification numbers must be provided to the St. Louis County Planning and Community Development Director prior to issuance of permit.
8. Disposal of solid waste must comply with St. Louis County Solid Waste Ordinance 45, or its successor or replacement.
9. The site shall provide on-site parking sufficient to accommodate the occupants of the rental dwelling unit.
10. No person shall, for the purpose of camping, lodging, or residing therein, leave or park a vehicle or motor vehicle on or within the limits of any road or on any road right-of-way.
11. All other local, county, state and federal regulations shall be met.

**In Favor:** Coombe, Filipovich, Manick, McKenzie, Nelson, Skraba, Svatos, Werschay - 8  
**Opposed:** None - 0

**Motion carries 8-0**

**Stacy Gerrety**

The third hearing item is for Stacy Gerrety, a conditional use permit for a Short Term Rental as a Residential Use - Class II. The property is located in S9, T62N, R16W (Greenwood). *George Knutson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to use the property as a short term rental. This proposal requires a conditional use permit due to the lot being zoned Residential (RES) and not meeting zoning minimum requirements.
- B. Zoning minimum requirements for the subject parcel require 1 acre and 200 feet of lot width and the subject parcel has approximately 1.36 acres and 82.5 feet in lot width.
- C. The proposed intended days for rental are 42 which does not constitute a commercial use.
- D. The parcel contains a dwelling, accessory dwelling, accessory structure, and a holding tank.
- E. The neighboring property has access to an easement on the applicant's property which is why the parking area is shown over that property line.

*George Knutson* reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
  1. St. Louis County Zoning Ordinance 62 Article VI, Section 6.32, states that a Residential Use – Class II requires a performance standard permit or a conditional use permit within the Residential (RES) zone district.
    - a. Additional standards are required for properties located in residentially zoned areas. If the standards cannot be met, a conditional use permit is required.
    - b. In this case, the subject parcel does not meet the additional standard that states the use must be located on a parcel that meets current minimum zoning requirements.
  2. St. Louis County Zoning Ordinance Article III, Section 3.2, states minimum lot dimensions for each zone district.
    - a. The subject parcel is zoned Residential (RES)-8 which requires a minimum of 1 acre and 200 feet in width.
    - b. The subject parcel has approximately 1.36 acres and 82.5 feet of lot width.
  3. Objective ED-2.1 of the St. Louis County Comprehensive Land Use Plan is to recognize and ensure regulatory fairness across a thriving lodging industry that includes hotels, bed and breakfasts, and vacation rentals.
- B. Neighborhood Compatibility:
  1. The existing neighborhood near the subject parcel consists of mainly residential uses.
  2. The subject parcel is zoned RES.
    - a. A short term rental is an allowed use in a residential zone district provided all standards are met or a conditional use permit is granted.
- C. Orderly Development:
  1. A majority of the parcels in the immediate lakeside area are zoned residential.

- a. Due to the underlying zoning, future development is expected to consist of primarily residential use, which may include other short term rentals.
2. A short term rental use can benefit the County with supplying additional lodging options for tourists/residents, as well as contributing to the County lodging tax base.

D. Desired Pattern of Development:

1. The underlying zoning of residential limits certain uses and is intended for areas in the county with extensive residential development or potential for extensive residential development.
2. Development patterns in the subject area are expected to be primarily residential.
  - a. Proposed short term rentals are also expected to be part of development patterns.
3. The conditional use permit process allows other landowners in the area to provide feedback on the proposed short term rental.
4. The proposed intended rental days of 42 does not constitute a commercial use.

E. Other Factors:

1. St. Louis County On-Site Wastewater did not pass record review of the septic system. A compliance inspection will be required to determine maximum occupancy of the system.
2. The subject parcel is a lot of record for permitting purposes.

*George Knutson* noted two items of correspondence from Robert and Maryann Eliason in opposition and Catherine Farley with concerns about the request. These items were provided to the Planning Commission prior to the hearing.

### **STAFF RECOMMENDATION**

If the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit to allow Short Term Rental as a Residential Use – Class II on property that does not meet the minimum zoning requirements, the following conditions shall apply:

1. All other short term rental standards shall be met.
2. St. Louis County On-Site Wastewater SSTS standards shall be followed.
3. All other local, state, and federal standards shall be met.
4. Permitted short term rental use shall not be transferrable upon a change in ownership of the subject property.

*Stacy Gerrety*, 11872 Isanti Street NE, Blaine, the applicant, stated they have rented and would like to continue renting this property. This is a dwelling that gets rented out to help the cost to maintain two properties. This will be a limited use. Eventually, they will live on this property and choose not to rent it out. She has a good relationship with her neighbors. They are careful about who they rent out to. They started renting in 2018 before St. Louis County adopted the short term rental ordinance standards. Typical renters are extended families. They only rent the property out May through August. After that time, they pull the docks out for winter. When someone applies to rent their property, there is no instant booking. They put a 24 hour hold to determine if the renters will be a good fit for the property as well as ask questions about what they are coming up here for, how many vehicles, how many trailers for fishing, etc. They have a parking area for these rentals

and they try to be conscientious if there are too many vehicles by having them moved to another location. If their closest neighbors had concerns, they would have provided comments.

There is no septic system connected to the accessory dwelling. The accessory dwelling is a vintage set-up that includes a table with chairs and storage for any lake gear. People can use this structure, but it does not mean they will sleep in there.

Addressing the concerns about snowmobilers, renters are advised to go to another area that has better access for snowmobilers.

No audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Svatos* asked about the structure on top of the slope. *George Knutson* stated that is the dwelling. There is an accessory dwelling closer to the lake that is a grandfathered in nonconforming structure.
- B. Commission member *Svatos* asked if there are any issues with structures too close to the property line. *George Knutson* stated there was no issue with the current development related to the short term rental use of the property.
- C. Commissioner *Nelson* asked if the accessory dwelling is connected to the septic system. The septic record review failed because there is no current septic certificate of compliance. This structure can be included with the short term rental if the septic system is brought into compliance.
- D. Commission member *Skraba* asked about the number of bedrooms requested. *George Knutson* stated the On-Site Wastewater division will determine the maximum occupancy when they issue a current certificate of compliance. The use would be approved, not the maximum number of occupants.
- E. Commission member *Manick* asked if the parking area will extend into the open lot next door. *Stacy Gerrety* stated they share a parking area with their neighbors to the west. The neighbors have a seasonal cabin built in the 1940s that is closer to the lake. There have never been any issues with the property line.
- F. Commission member *McKenzie* noted that the applicant's process for renting is an ideal process for any short term rental.

## **DECISION**

**Motion by Svatos/Manick** to approve a conditional use permit to allow Short Term Rental as a Residential Use – Class II on property that does not meet the minimum zoning requirements, based on the following staff facts and findings:

- A. Plans and Official Controls:
  - 1. St. Louis County Zoning Ordinance 62 Article VI, Section 6.32, states that a Residential Use – Class II requires a performance standard permit or a conditional use permit within the Residential (RES) zone district.
    - a. Additional standards are required for properties located in residentially zoned areas. If the standards cannot be met, a conditional use permit is required.
    - b. In this case, the subject parcel does not meet the additional standard that states the use must be located on a parcel that meets current minimum zoning requirements.



2. St. Louis County Zoning Ordinance Article III, Section 3.2, states minimum lot dimensions for each zone district.
  - a. The subject parcel is zoned Residential (RES)-8 which requires a minimum of 1 acre and 200 feet in width.
  - b. The subject parcel has approximately 1.36 acres and 82.5 feet of lot width.
3. Objective ED-2.1 of the St. Louis County Comprehensive Land Use Plan is to recognize and ensure regulatory fairness across a thriving lodging industry that includes hotels, bed and breakfasts, and vacation rentals.
4. The use conforms to the land use plan.

**B. Neighborhood Compatibility:**

1. The existing neighborhood near the subject parcel consists of mainly residential uses.
2. The subject parcel is zoned RES.
  - a. A short term rental is an allowed use in a residential zone district provided all standards are met or a conditional use permit is granted.
3. The use is compatible with the existing neighborhood.

**C. Orderly Development:**

1. A majority of the parcels in the immediate lakeside area are zoned residential.
  - a. Due to the underlying zoning, future development is expected to consist of primarily residential use, which may include other short term rentals.
2. A short term rental use can benefit the County with supplying additional lodging options for tourists/residents, as well as contributing to the County lodging tax base.
3. The use will not impede the normal and orderly development and improvement of the surrounding area.

**D. Desired Pattern of Development:**

1. The underlying zoning of residential limits certain uses and is intended for areas in the county with extensive residential development or potential for extensive residential development.
2. Development patterns in the subject area are expected to be primarily residential.
  - a. Proposed short term rentals are also expected to be part of development patterns.
3. The conditional use permit process allows other landowners in the area to provide feedback on the proposed short term rental.
4. The proposed intended rental days of 42 does not constitute a commercial use.
5. The location and character of the proposed use is considered consistent with a desirable pattern of development.

The following conditions shall apply:

1. All other short term rental standards shall be met.
2. St. Louis County On-Site Wastewater SSTS standards shall be followed.
3. All other local, state, and federal standards shall be met.
4. Permitted short term rental use shall not be transferrable upon a change in ownership of the subject property.

**In Favor:** Coombe, Filipovich, Manick, McKenzie, Nelson, Skraba, Svatos, Werschay - 8

**Opposed:** None - 0

**Motion carries 8-0**

**Luke Panek**

The fourth hearing item is for Luke Panek, a conditional use permit for a Short Term Rental as a Residential Use - Class II. The property is located in S3, T61N, R16W (Vermilion Lake). *Donald Rigney*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is proposing to use the property as a short term rental.
- B. This proposal requires a conditional use permit due to the lot being zoned Residential (RES) and not meeting zoning minimum requirements.
- C. Zoning minimum requirements for the subject parcel require one acre and 150 feet of lot width and the subject parcel has approximately 0.58 acres and 165 feet in lot width.
- D. The proposed intended days for rental are 100, which does not constitute a commercial use.
- E. The parcel contains a dwelling, septic system, well, and shed.

*Donald Rigney* reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
  1. St. Louis County Zoning Ordinance 62 Article VI, Section 6.32 states that a Residential Use – Class II requires a performance standard permit or a conditional use permit within the Residential (RES) zone district.
    - a. Additional standards are required for properties located in residentially zoned areas. If the standards cannot be met, a conditional use permit is required.
    - b. In this case, the subject parcel does not meet the additional standard that states the use must be located on a parcel that meets current minimum zoning requirements.
  2. St. Louis County Zoning Ordinance 62, Article III, Section 3.2, states minimum lot dimensions for each zone district.
    - a. The subject parcel is zoned Residential (RES)-9 which requires a minimum of one acre and 150 feet in width.
    - b. The subject parcel has approximately 0.58 acres and 165 feet of lot width.
  3. Objective ED-2.1 of the St. Louis County Comprehensive Land Use Plan is to recognize and ensure regulatory fairness across a thriving lodging industry that includes hotels, bed and breakfasts, and vacation rentals.
- B. Neighborhood Compatibility:
  1. The existing neighborhood near the subject parcel consists of mainly residential uses.
  2. The subject parcel is zoned RES.
    - a. A short term rental is an allowed use in a residential zone district provided all standards are met or a conditional use permit is granted.
- C. Orderly Development:
  1. A majority of the parcels in the immediate area are zoned residential.
    - a. Due to the underlying zoning, future development is expected to consist of primarily residential use, which may include other short term rentals.
  2. A short term rental use can benefit the County with supplying additional lodging options for tourists/residents, as well as contributing to the County lodging tax base.

D. Desired Pattern of Development:

1. The underlying zoning of residential limits certain uses and is intended for areas in the county with extensive residential development or potential for extensive residential development.
2. Development patterns in the subject area are expected to be primarily residential.
  - a. Proposed short term rentals are also expected to be part of development patterns.
3. The conditional use permit process allows other landowners in the area to provide feedback on the proposed short term rental.
4. The proposed intended rental days of 100 does not constitute a commercial use.

E. Other Factors:

1. The subject parcel is a lot of record for permitting purposes.
2. St. Louis County On-Site Wastewater passed a record review of the septic system and determined a maximum occupancy of eight.

*Donald Rigney* noted four items of correspondence from Ciaran Mannion with concerns, Jim Laine Sr. with concerns, Kris and Glen Moren not in support, and Ron Skrbec with concerns about the request. These items were provided to the Planning Commission prior to the hearing. Additionally, testimony was received via email from Ciaran Mannion, and Kris and Glen Moren with concerns about the request.

**STAFF RECOMMENDATION**

If the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit to allow Short Term Rental as a Residential Use – Class II on property that does not meet the minimum zoning requirements, the following conditions shall apply:

1. All other short term rental standards shall be met.
2. St. Louis County On-Site Wastewater SSTS standards shall be followed.
3. All other local, state, and federal standards shall be met.
4. Permitted short term rental use shall not be transferrable upon a change in ownership of the subject property.

*Luke Panek*, 154 153rd Street, Star Prairie, WI, the applicant, stated this property is their second rental property. The success with the neighborhood is critical for it to be a win for everyone. These rentals help support local businesses as well. They acknowledge there will be additional traffic when the cabin is being used by people. If there are problems with any of their renters, they will not be rented to. He also uses this property as his family loves to fish on Lake Vermilion. He added they intend to keep the number of days rented under 100 days.

One member of the audience spoke in opposition.

*Leo Skrbec*, 9457 St. Odilia Beach Road cabin owner, stated St. Odilia Beach Road is a private road and they pay \$175 per year to maintain this road. There are 42 property owners in this road association. About 20 years ago, his neighbors were in an accident with a four-wheeler and hit a tree. The road association was sued, the insurance companies had to pay, and the road association's insurance company refused to pay because it was a private road. Over a number of years, the road

association tried to turn over the road to the county. His objection is that it is not known what sort of renters will be there and how they will be with the neighbors. People can do what they want with their property. The administrator of the road association, Axel Ahlstrand, spent \$10,000 on maintenance this year. All but three people on this road are part of this road association. They normally get these property owners involved once the property sells or changes hands.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Filipovich* asked how close the next short term rental is to this property. *Donald Rigney* stated that there are other rental properties in this area that still need to be brought into compliance on St. Odilia Beach Road. No applications have been received and no permits have been issued.
- B. Commissioner *Nelson* asked if the applicant should participate at a greater level at the road association. *Luke Panek* stated it would be reasonable.
- C. Commission member *Coombe* asked if there is rider carried on the applicant's insurance. *Luke Panek* stated there is. Commission member *Coombe* asked if this covers renters both on and off the property. *Luke Panek* stated only on the property. If their renters are off the property, they would be under their own insurance. Commission member *Coombe* asked if the applicant belongs to the road association. *Luke Panek* stated he is, and he pays dues.
- D. Commission member *Skraba* asked if the applicant goes over 100 days of rental if another permit would be involved. *Jenny Bourbonais*, Acting Secretary, stated that if the number of days rented goes above 50 percent of the days in a year, that would require a different permit.
- E. Commissioner *Nelson* stated that the road association is contentious. This is a commercial use and should require twice the normal participation in this road association. This is an effort to make the situation fair. Commission member *Skraba* added that the Planning Commission does not recognize road associations. Commission member *Coombe* asked how to enforce this. Commissioner *Nelson* added that there are 600 miles of road association roads throughout St. Louis County. *Jenny Bourbonais* stated it is not certain a condition could be added to regulate this. However, this is now part of the discussion and is part of the record.
- F. Commission member *Manick* commented on the density of these short term rentals as they come in. This property is 0.58 acres where one acre is required. Commissioner *Nelson* stated that going forward, any lot of record should be exempt from this discussion.

## DECISION

**Motion by McKenzie/Svatos** to approve a conditional use permit to allow Short Term Rental as a Residential Use – Class II on property that does not meet the minimum zoning requirements, based on the following staff facts and findings:

- A. Plans and Official Controls:
  - 1. St. Louis County Zoning Ordinance 62, Article VI, Section 6.32 states that a Residential Use – Class II requires a performance standard permit or a conditional use permit within the Residential (RES) zone district.
    - a. Additional standards are required for properties located in residentially zoned areas. If the standards cannot be met, a conditional use permit is required.

- b. In this case, the subject parcel does not meet the additional standard that states the use must be located on a parcel that meets current minimum zoning requirements.
  - 2. St. Louis County Zoning Ordinance 62, Article III, Section 3.2, states minimum lot dimensions for each zone district.
    - a. The subject parcel is zoned Residential (RES)-9 which requires a minimum of one acre and 150 feet in width.
    - b. The subject parcel has approximately 0.94 acre and 100 feet of lot width.
  - 3. Objective ED-2.1 of the St. Louis County Comprehensive Land Use Plan is to recognize and ensure regulatory fairness across a thriving lodging industry that includes hotels, bed and breakfasts, and vacation rentals.
  - 4. The St. Louis County Comprehensive Land Use Plan calls for additional lodging opportunities for tourists but also calls for regulating the short term rental industry because of overcrowding, wastewater, etc.
  - 5. The use conforms to the land use plan.
- B. Neighborhood Compatibility:
- 1. The use is compatible with the existing neighborhood if the short term rental is properly operated and standards are met. The proposal is in a residential neighborhood.
- C. Orderly Development:
- 1. The area is likely to remain residential in the future.
  - 2. The use will not impede the normal and orderly development and improvement of the surrounding area.
- D. Desired Pattern of Development:
- 1. Short term rentals are not necessarily a desirable pattern of development but an increase in lodging opportunity can be seen as desirable.
  - 2. The location and character of the proposed use is and is not considered consistent with a desirable pattern of development.
- E. Other Factors:
- 1. There was a number of correspondence with two clearly in opposition and others were seeking information or were making comments on their past experience with past renters.
  - 2. St. Louis County On-Site Wastewater passed a record review of the septic system and determined a maximum occupancy of eight.

The following conditions shall apply:

- 1. All other short term rental standards shall be met.
- 2. St. Louis County On-Site Wastewater SSTS standards shall be followed.
- 3. All other local, state, and federal standards shall be met.
- 4. Permitted short term rental use shall not be transferrable upon a change in ownership of the subject property.

**In Favor:** Coombe, Filipovich, Manick, McKenzie, Nelson, Skraba, Svatos, Werschay - 8

**Opposed:** None - 0

**Motion carries 8-0**

**Chris Kucera**

The fifth hearing item is for Chris Kucera, a conditional use permit for a resort expansion as a Commercial, Retail and Service Establishments – Class I. The property is located in S5, T68N, R19W (Unorganized 68-19). *Donald Rigney*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is proposing to expand the resort to include a bakery/coffee shop.
- B. The property has been historically used as a resort.
- C. The bakery/coffee shop will operate from 6:00 a.m. until 5:00 p.m. seven days per week.
- D. There will be five parking spaces available for customers.
- E. There is currently a storage building, sauna, improved fire pit area, and small sandy beach area on the riparian parcel of the resort.
- F. The non-riparian parcel consists of multiple cabins, an RV campground, bathroom and laundry facilities for the resort, and two septic systems.

*Donald Rigney* reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
  - 1. St. Louis County Zoning Ordinance 62, Article V, Section 5.6 C., indicates a bakery/coffee shop is an allowed use with a conditional use permit within a Shoreland Multiple Use (SMU) zone district.
  - 2. Although this property is not located in the Lakeshore Development Area of the St. Louis County Comprehensive Land Use Plan, the plan describes the lodging industry as foundational to county tourism.
  - 3. Goal LU-7 of the St. Louis County Comprehensive Land Use Plan is to provide sufficient opportunities for commercial development to serve local and regional markets throughout the county.
  - 4. Objective LU-7.2 of the St. Louis County Comprehensive Land Use Plan is to develop opportunities for neighborhood commercial sites that are compatible in scale and operation with surrounding residential development.
- B. Neighborhood Compatibility:
  - 1. This is a highly developed area around the Ash River.
  - 2. The area consists of resorts, commercial businesses, seasonal and nonseasonal residential uses.
  - 3. The proposal may have the potential to impact the neighborhood with a potential increase in both car and boat up traffic. The proposal includes five parking spaces for customers.
- C. Orderly Development:
  - 1. Since this area is already highly developed, development density is not anticipated to increase significantly in the near future.
  - 2. The property, as well as the surrounding area, is zoned Shoreland Multiple Use. This zone district allows for a wide range of uses.

D. Desired Pattern of Development:

1. The desired pattern of development would be a mix of residential, commercial, and planned development uses.
2. A bakery/coffee shop would allow for additional revenue to be generated from tourism in the area.

E. Other Factor:

1. There is currently no septic system on the riparian parcel for the wastewater generated by the proposed commercial use.

*Donald Rigney* noted one item of correspondence from Arne and Gina Wuorinen with questions about the request. This item was provided to the Planning Commission prior to the hearing.

**STAFF RECOMMENDATION**

If the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit to allow a resort expansion to include a bakery/coffee shop as a Commercial, Retail and Service Establishments – Class I, the following conditions shall apply:

Conditions Precedent:

1. The applicant shall obtain access approval from the appropriate road authority.
2. St. Louis County On-Site Wastewater SSTS standards shall be followed.

Conditions Concurrent:

1. Lighting shall be directed in accordance with dark sky standards.
2. There shall be no on-street/road parking.
3. The applicant shall comply with all local, county, state, and federal regulations.

*Chris Kucera*, 10351 Ash River Trail, Ash Riviera Resort, Orr, the applicant, stated he is on the board for the Ash River sanitary district. They are not developing in any area marked as a potential septic site. They will use a holding tank for now until the municipal system is in place. Otherwise, they will go under the road to tie in with their existing septic system across the road. They are utilizing an existing cabin from their other property for this bakery. They have moved structures before and intend to raise it up.

Their plan is expansion because the past three years have been hard with Covid in 2020 and 2021 and the spring floods in 2022. They will put in a foundation for the new structure and are working with the MN Department of Natural Resources to raise the existing structures. His sister bakes and having a bakery could help increase their revenue. They are a family-owned business and they are just trying to make an honest living. They applied for the small business loans and did not get any.

*Jennifer Hoffman*, 10351 Ash River Trail, Ash Riviera Resort, Orr, the applicant, stated this bakery will be seasonal, open May 1 until October 1. She is also a full-time teacher and this will help set her up for retirement.

No audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *McKenzie* asked if staff saw the pictometry images of the spring 2022 flooding and asked what the floodplain standards are. *Donald Rigney* stated that a majority of this parcel is within the floodplain. The structure would need to be one foot above the base flood elevation (BFE).
- B. Commissioner *Nelson* stated that engineering has been done in this area to put a municipal sewer in as part of the Voyageur's National Park Clean Water Board.
- C. Commission member *McKenzie* asked if the applicant is aware of the correspondence. *Chris Kucera* stated that the correspondence was concerning a dock issue. They have worked with the US Army Corps of Engineers on these docks. There was nothing impeding the neighbor. He is redoing the entire boardwalk. He wants his clients to have access to the docks. One of the docks is 6.5 to 7 feet from the property boundary but is over the water.

## DECISION

**Motion by Manick/Nelson** to approve a conditional use permit to allow a resort expansion to include a bakery/coffee shop as a Commercial, Retail and Service Establishments – Class I, based on the following staff facts and findings:

- A. Plans and Official Controls:
  - 1. St. Louis County Zoning Ordinance 62, Article V, Section 5.6C, indicates a bakery/coffee shop is an allowed use with a conditional use permit within a Shoreland Multiple Use (SMU) zone district.
  - 2. Although this property is not located in the Lakeshore Development Area of the St. Louis County Comprehensive Land Use Plan, the plan describes the lodging industry as foundational to county tourism.
  - 3. Goal LU-7 of the St. Louis County Comprehensive Land Use Plan is to provide sufficient opportunities for commercial development to serve local and regional markets throughout the county.
  - 4. Objective LU-7.2 of the St. Louis County Comprehensive Land Use Plan is to develop opportunities for neighborhood commercial sites that are compatible in scale and operation with surrounding residential development.
  - 5. The use conforms to the land use plan.
- B. Neighborhood Compatibility:
  - 1. This is a highly developed area around the Ash River.
  - 2. The area consists of resorts, commercial businesses, seasonal and nonseasonal residential uses.
  - 3. The proposal may have the potential to impact the neighborhood with a potential increase in both car and boat up traffic. The proposal includes five parking spaces for customers.
  - 4. The use is compatible with the existing neighborhood if the use is maintained properly and conditions are followed.
- C. Orderly Development:
  - 1. Since this area is already highly developed, development density is not anticipated to increase significantly in the near future.
  - 2. The property, as well as the surrounding area, is zoned Shoreland Multiple Use. This zone district allows for a wide range of uses.



3. The use will not impede the normal and orderly development and improvement of the surrounding area.

D. Desired Pattern of Development:

1. The desired pattern of development would be a mix of residential, commercial, and planned development uses.
2. A bakery/coffee shop would allow for additional revenue to be generated from tourism in the area.
3. The location and character of the proposed use is considered consistent with a desirable pattern of development.

E. Other Factor:

1. The applicant has answered the question regarding no septic on this property.

The following conditions shall apply:

Conditions Precedent:

1. The applicant shall obtain access approval from the appropriate road authority.
2. St. Louis County On-Site Wastewater SSTS standards shall be followed.

Conditions Concurrent:

1. Lighting shall be directed in accordance with dark sky standards.
2. There shall be no on-street/road parking.
3. The applicant shall comply with all local, county, state, and federal regulations.

**In Favor:** Coombe, Filipovich, Manick, McKenzie, Nelson, Skraba, Svatos, Werschay - 8

**Opposed:** None - 0

**Motion carries 8-0**

**Motion to adjourn by Svatos. The meeting was adjourned at 12:25 PM.**