

**Town of Duluth
Planning Commission
Meeting Minutes
5/26/11**

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

Roll call:

Present: Dave Chura, Jan Green, Bill Lannon, Brigid Pajunen, Paul Voge, Jo Thompson and John Schifsky

Absent: No one

Also present: Sue Lawson, Planning Director and Barb Crow, Town Board Representative to the Commission

The proposed agenda for the evening meeting was approved without change.

The minutes from the April 28 meeting were approved with the following changes:

- 1) On page 4 change "It has been 10 years and a lot has changed" to "a lot could have changed" and
- 2) On page 6 change "...we should have 15 days to review the application" to "Sue should have 15 days to review the application."

Dave introduced Darren Jablonsky, Planning, Research, and GIS Manager for St. Louis County. Darren was at the meeting to introduce the County's GIS system and the new public interface.

Darren said that St Louis County has used GIS for almost 30 years. It has become a core function for the County. Everything is spatial – where it is, what it is and what its attributes are. Once you have this spatial information together, as you do in GIS, you can analyze and visualize it. In addition, there are numerous more immediate uses for the information available through GIS. Darren used the example of a lost hunter that rescue workers were able to talk out of the woods recently, using his cell phone and the GPS information from the phone. Not only was the hunter able to get out of the woods, but because of the technology, it was not necessary to mobilize a search and rescue unit, saving money. GIS is also used by law enforcement for criminal cases and for monitoring, such as monitoring sexual predators with ankle bracelets.

Auditors use the County GIS system extensively for land and tax record management. For valuation, all dimensions for a home are calculated by the program and available in the system before the assessor even visits the property. Public lands in the County are managed using GIS, including logging and forest management, which are facilitated through the system.

The database is updated daily and has millions of records, including valuations for every piece of property in the County. It is connected to all of the resources in the County, bringing those resources together on one interface, although there is some lag time for actually getting the parcels drawn.

GIS is now available as desktop software. But it is expensive, so a need still exists for an interface to get the data out to those who don't have access to the software. That is the purpose of the portal. It provides for multiple searches in multiple ways in different formats and the ability to map the results. For instance, when you have a variance request, you can select the parcel, buffer it for the notification area, and the system pulls up the names, addresses, etc.

Jan asked if the system is cross-linked with the Recorder's data. Can someone from outside the County access that?

Darren said that the Recorder's documents have their own number and are not necessarily tied to the Parcel Identification Number for the property or the name of the property owner, so it would not be straightforward. The public portion of the website is limited in scope.

Jo asked about demographic data.

Darren said that the 2010 data is slowly coming out.

Sue said that you can get census data by census blocks, which are relatively small.

Jan asked if there is overlap between the County and the City of Duluth.

Darren said that the City and County work well together. The County is the biggest land owner in the City of Duluth. Duluth has direct access to the County's data. There is some duplication of data sets, but they are trying to get that worked out. There are other agencies also with direct access – Douglas County and Superior. Others will be connected soon. These entities can then edit their own data on the County's service. ARDC and WLLSD are connected.

Jan noted that some of the aerial data sets are not the County's -- how up-to-date are they?

Darren said they use whatever is out there. They have about 20 datasets of imagery. The County purchases aerials also, especially infrared for forestry. The County has access to all of the DNR photosets. He said that the DNR acts as a conduit for the County on behalf of the State.

There were a number of questions about getting Township data onto the system.

Darren said that the software is \$40,000, so it is not a cheap thing to do. They will not be taking people's data and putting it on the system. You can develop your own data on their server, but you would need the software to do that. It comes down to what avenue you want to take. So many agencies and people want data from the County that it is much more practical to have them use the web portal. You can go on your own and get your own license, which involves a lot of time and cost and headache, or go with what the County offers and lose some flexibility.

Jan asked about getting good map data for the small parcels on the shore as well as old plats for them.

Darren said that old plats are problematic because of the problems of fitting old surveys to the real world. In land record systems they don't use parcel identification numbers – that is a tax breakout. They use the cadastral system which is based on metes-and-bounds.

Jan asked about correcting mistakes.

Darren said that we can let them know about mistakes. He said the County will not open its secure ports to a wide number of people. They will have a lot available for free, such as LUPs, septic information, assessor photos and footprints. There will be a lot of data available.

Paul asked, in general, what data would the Town have that the County wouldn't already have?

Sue said one example would be new LUPs. Beth creates a map of those every year using LandView.

It was pointed out that the parcel information for that project has not been updated in 5 or 6 years.

Jan asked if it would be possible to look at land use change, like from 2002 to present.

Darren said that they have assessor files back to 2001 or 2002 so that should work. Everything they have is time-stamped.

Sue said that the Township got their data through the Coastal Program when they last revised planning documents. The important thing is to establish what your analysis is going to be based on when you do your CLUP and then get the data that you need for that analysis. She said that we also have digital records of LUPs back to about 2001.

Darren said that the portal is actually about 30 applications tied into one application. Inside the portal, the user will see a page with dropdown menus. One of the applications that will be available is called Maps on Demand. He anticipates that this will be very useful. It takes existing services (like Google maps) and creates maps on the fly. You can have a map spewed out within seconds – the user defines scale, section, half section, and data desired.

Jan said that on the generated map some people's homes are on their driveways, etc.

Darren said that the imagery can be off by quite a bit. But also, the reality is that they are finding a lot of people have built on other people's property. In addition, there are about 5,000 gaps in the data – property that doesn't have parcel numbers and that nobody owns. Survey control is the cornerstone of the whole system and there is an ongoing effort to clean it up and make it tighter.

Everyone thanked Darren for coming and making the presentation.

Planning Director Report

Sue said that we have had three or four new Land Use Permit applications submitted lately. She continues to work with the Wordens on their conditions. They have not yet gotten a license from the State, which is one of the conditions. They claim they don't need one. In their information packet for renters they state that they rent the unit for 7 days but only charge the renter for what they actually use. This seems to be an effort to get around the licensing requirements.

Barb is working with Mary Ann Sironen to write up job descriptions. They will have job descriptions for all planning staff.

Chair Report

Dave said that he still has not received budget information from Ann. Barb said that she would look into it.

On the Township website it says that we meet at 7:30. We will get that changed.

Bills that were in the House and the Senate regarding short-term rentals have died in the midst of the budget standoff.

Paul said that the County is revising its subdivision ordinance. They are taking comments until the end of July. There are some things in it, such as boundary line adjustments, that may be of some interest to Township residents. Will we need to make any changes to our Ordinance to reflect these changes? Does the Town want to submit comments?

John said that he lives on the edge of the Pine Park Subdivision and they are resurveying there. He has no idea what the implications are for him. Everyone north and east of him will likely be affected.

Sue said we want to make sure that we continue to have approval of preliminary plats.

Sue read from the draft ordinance:

A minor boundary adjustment provides for the alteration of property lines on unplatted parcels and plats, where no additional parcels for development are created and agreement exists among all parties involved.

Paul said that if our subdivision requirements are stricter than the County's it won't change anything. But if the County's become stricter than ours, then we will have to follow their requirements. He doesn't think the proposed ordinance changes the Planned Unit Development requirements the Town has. In addition, there are changes to what can be subdivided without going through the platting process. There will likely be comments on that.

Next on the agenda, Dave said that we need to look at the new variance language before we have another hearing.

Sue went over the document Tim Strom put together (see attached). He started with a history of the changes. The second page has the previous requirements for granting a variance and the new requirements. She said that it will be necessary to define "reasonable" in each case that comes before the Commission and she does not know how we will do that. Economic considerations still do not constitute a reason for a variance.

Jan said that no ordinance can encompass every use that anyone can possibly dream up.

Sue said that we have wording in the Ordinance to allow for uses not already covered in the Ordinance: "The appropriate land use classification for uses not specifically mentioned in this Ordinance will be determined by the Town of Duluth Planning Commission."

Jan said that since we use both the terms "practical difficulty" and "undue hardship" in our Ordinance, we need to change the Ordinance to reflect the new language.

John asked what exactly is meant by the wording that refers to conditions: "must be directly related to and must bear a rough proportionality to the impact created by the variance."

Sue said that for instance, the Bieraugels were able to meet only one setback on their lot. They originally came before the Commission for a variance for extensive shoreline revetment and plans for a very large house on the lot. Proportionality was applied when the Township eventually gave

them a variance allowing a smaller home without the revetment. She thought proportionality was a clue as to what might be considered reasonable.

Dave said that we would need to modify page 90 of the Ordinance to incorporate this new language.

Brigid asked what the overall impact is. What could people bring to the Commission that would not be considered reasonable?

Paul said that all of the requirements need to be met to grant a variance. He suggested that we should have a checklist of the 7 items at every variance hearing.

Dave said that when someone applies, a part of the application could be that the applicant explain how they are going to meet those criteria.

Brigid asked how many variance requests we typically get.

Sue said that most of our variances come from the shore because nearly all of the lots there are nonconforming.

Jan said that this is a hardship that is created by the landowner when he buys the lot, so an applicant already cannot meet item number 4 -- just by the act of buying the lot.

John asked if, when a piece of property that is not buildable is sold, is the seller responsible for informing the buyer?

Paul said that a standard purchase agreement states that the buyer knows the applicable zoning. It is usually considered the buyer's responsibility.

John asked what happens in the case of a landowner who, due to circumstances unique to the property, did not know that it was non-conforming when he bought it. Why can't he get a variance?

Barb said that the Township cannot be responsible for the buyer's irresponsibility.

Dave said that findings of fact will continue to be important.

Sue said that the court will ask how they decided what was reasonable and proportional. She said that we could also ask Tim to come and go over the new language with us.

Dave said that the top two work priorities for the year for the Commission were 1) to update and redo the Zoning Ordinance, and 2) to update application forms. Other priorities were GIS mapping of parceling, evaluating zone district SMU-8, updating the CLUP, and looking at space issues in the Town Hall again.

Sue said that in order to change the Ordinance, you have to have a public hearing on the proposed changes. In addition to broader changes, we have compiled a lot of small changes and edits. After the public hearing, the Board decides which of the proposed changes to adopt.

It was decided that Beth would update the Ordinance with the two recent amendments and distribute it.

Dave asked whose budget Ordinance work would come out of.

Barb said that she would find out at the next Board meeting.

Jan said that the Town Board has to decide the short-term rental issue before the Ordinance can be updated.

Dave asked about interim use permits.

Jan said that she continues to not be sure about using interim use permits. She said that they have not been tested by the courts and that no one is using them. She does not want the Township to be a test case. But she will develop language for the Ordinance if the Commission wants to move forward with them.

Dave said that besides that, the wind generation language is the only language left to work on.

Jan said she thought that the original request that started the Commission looking at wind generation was already within the confines of the Ordinance.

Dave said that we could agree to not focus on that for now. He thought it would be good to try to have everything done so that a hearing on the changes could be held in September. That would leave June, July and August to work on it.

Sue said that she would like to focus on Community Participation Report requirements. She wants to expand this requirement to re-zoning requests. She said that the zoning map also needs to be redone. In addition, she thought we should consider making the Ordinance a linked document for the electronic version.

Jo pointed out that if we wait until the August meeting to finalize proposed changes in anticipation of a September hearing, we will miss the newsletter deadline.

Don McTavish said that if it will definitely be decided at the Commission meeting on the 25th, he could save space for the hearing announcement in the newsletter.

Barb said that she will send changes that she identified while she was on the Commission to Paul.

John said that he would do the final edit on the document.

It was agreed that there was no need to publish the revised Ordinance. We can have it available electronically and charge a fee to print it on demand.

Dave said that Sue will work on revising the application forms.

Sue said that she was not sure we will have the data yet to revise the Comprehensive Land Use Plan.

Jan said that regarding the review of zone district SMU-8, it would be useful to have a GIS map with plats and houses so we could see how many houses are on two lots.

Sue said that they did it for the Sanitary District. Clint Little should be able to put that together for us.

Paul said that you can also see it on the County's Google Earth tool.

Sue said that what we want to know is how many small nonconforming lots are down there.

Barb asked if any of the lots are not built on yet.

Bill said that there is one near him that is part of the old Wonderland area. The County sold this parcel and it's nonconforming.

Jan said that we could change the zoning for that area.

Jan asked Sue if anything has happened with Odyssey and their land trade with the City of Duluth.

Sue said her last conversation with them was a while back. It is moving slowly.

Jan said that they need to complete that land transfer. She doesn't know how they will be able to record it without having the land.

The meeting adjourned at 9:25.