

**Town of Duluth  
Planning Commission  
Meeting Minutes  
3/22/12**

The meeting was called to order (following ice cream and cake in honor of departing Commission members) at 7:10 by Chair Dave Chura.

Roll call:

**Present:** Dave Chura, Jan Green, Jo Thompson, John Schifsky, Brigid Pajunen, Paul Voge and Wayne Dahlberg

**Absent:** No one

Also present: Sue Lawson, Planning Director

The agenda was approved after deleting “Comments on Proposed Zoning Ordinances” under Chair’s Report. This was a typo.

The minutes from the February 23, 2012 Planning & Zoning meeting were approved without change.

The minutes from the March 1 Public Hearing on the proposed Ordinance changes were approved with the following change: In the 4th paragraph, add “STR” in parentheses after “short-term rental.”

**Planning Director Report**

Sue started by thanking Dave and Jan for all of their work over the years on the Commission. Dave has also served as chair for the past four years. Sue said that Jan has been active with Planning and Zoning since 1976 when she worked on the first comprehensive land use plan.

Jan said that John Powers also helped a lot on that and she wants to give him credit. She said that her daughter is now a town supervisor in the village of Manchester, Maine, so she was apparently not deterred by what Jan went through.

Sue handed out the list of comments on the draft Ordinance that she compiled for the Board (see attached). Regarding short-term rentals (STRs), Sue said she talked to a Lakewood Township supervisor about the STR lawsuit they are involved in and it is not a direct corollary to what our Town is deciding on regarding STRs. We are still waiting for the Board to make that decision.

Dave said that his feeling on STRs is that an STR is essentially a motel – there is no real difference and they should be subjected to the same rules and regulations as motels. So if it doesn’t make sense to have a motel in a certain location, then it doesn’t make sense to have an STR there either.

Wayne asked how bed and breakfast (B&B) establishments fit in.

Dave said that B&Bs are occupied by the owner. And in a motel there is a manager on-site. STRs are a free for all.

Paul said that we need to keep in mind that vacation rental legislation is still making its way through the legislature. If it passes, it would require us to allow STRs. We would be able to put conditions

on them, but we would not be able to prohibit them. They would be regulated by the Minnesota Department of Health.

Sue said that per the Board's recommendation, the section in the Ordinance on the Board of Adjustment will remain as it was before the Commission changed it. Then there are essentially three more decisions for the Board to make on the Ordinance changes: STRs, nonconforming lot language, and dealing with Ordinance violations. They are going to consult with Tim Strom on the last two. There are questions on nonconforming lots regarding the role of the North Shore Management Board (NSMB) and how its authority fits in with the new legislation.

Jan said that the NSMB produced the plan for the North Shore and the intention was that it be adopted by all the units of government in the joint powers agreement, but she doesn't know if that actually happened. She said that joint powers agreements are scary – people should look at the statute that creates joint powers agreements.

Wayne said that he was on the Technical Advisory Board for NSMB and one of his observations was that the NSMB is not doing a good job of getting out to new people coming into local government and explaining who they are and what they do and how they dovetail into local government.

Sue said that they have really been cut back in funding. She is a proponent of regional planning along the North Shore, but it doesn't seem to be happening. ARDC (Arrowhead Regional Planning Division), which staffs the NSMB, is really down to barebones staffing.

John said that he would be interested in having someone from the NSMB come and talk to the Commission so that we could better understand their role is.

Paul asked if our CLUP has to fit with theirs or do they even have to mesh?

Sue said that they are supposed to match.

Sue said that John Abrams was at the last Town Board speaking about his experience with rezoning. He felt that he had been misinformed and not treated fairly. He said that the Commission did not make the right decision regarding rezoning vs. another avenue. She doesn't know where he will go with that.

There has been one application so far this year for a land use permit.

Wayne said that on Bergquist Road he noticed that a shelter was put up on property owned by Darryl Bruckelmyer. Does he have a permit for that?

No one knew for sure, but with an address or property identification number, it could be tracked down.

### **Chair Report**

Dave said that the Commission needs to rank their work priorities for the coming year. He said it would be good to get input from the new members so it might be better to set priorities at the next meeting or perhaps the following one. He said that he will forward what he has so far from everyone.

## **Old Business**

Next on the agenda was updating the Comprehensive Land Use Plan (CLUP).

Sue said that as the Commission goes through the CLUP, she wants them to focus on those things that we, as a Township, can do. When she and Jo met with Clint Little they realized that there are a lot of things that can be looked at and analyzed. But we need to keep in mind that we are looking at Duluth Township's CLUP and what we can do that relates to that, not what other entities could or should be doing. There needs to be a practical application to the work that we do as we go through this process.

John presented his findings on Duluth/North Shore Sanitary District (DNSSD) along the North Shore. He said that one of the early concerns was that once the sewer line went in, the Town would experience runaway development. But that did not happen. Now there is some concern that the high monthly fees and the high hook up charge for the sewer may be deterring growth. MaryAnn Sironen said that the senior housing initiative was stalled because of sewer fees. If the sewer is a deterrent to development, should the Commission be concerned or somehow proactive regarding that?

Sue said that despite various talk about promoting or discouraging development in the area, the Town cannot control that. The shore area is zoned for 1 or 2 acre lots and people are satisfied that that size lot is appropriate down there. So if someone has a 2 acre lot, they can develop it.

Wayne said that you have to have significantly more land to have an on-site system. So the sewer line makes the smaller lots buildable. Before the sewer line, even though the lots were big enough to build on, they couldn't get a septic permit because they didn't have enough land to construct one.

Sue said that now, if you are on the shore, you have to hook up to the sewer. If the capacity to treat the sewage is there, and someone has decided that growth cannot exceed a certain rate and will not give a property owner sewer access, it is essentially a hostile taking of the development rights of that property.

Jan said that WLSSD (Western Lake Superior Sanitary District) has a plan and it is based on their capacity for treatment. They are the controlling entity, not the Town or DNSSD. The new sewer line gets it from here to Lakeside. But the limiting capacity is the infrastructure in Duluth. The pipes that take it there don't have sufficient capacity for both stormwater and wastewater. You have to look at their plan.

Paul said that we have to adopt the State's regulations on non-conforming lots. Platted lots smaller than 1 acre, that are legal non-conforming lots, are buildable if they can meet the setbacks and connect to the sewer.

Jan said that in addition to not having control over the rate of development, we do not have control over the boundary of the sewer district. They opened up a large parcel of land and we are stuck with that boundary. She thinks that because there are much larger parcels of land in SMU-6 away from the shore, that area is mis-zoned. Other sewer districts might have charged a parcel based on its capacity for development, but DNSSD didn't do it that way.

Wayne said that the District will get its money as those parcels are developed. Every homeowner will have an initial charge plus their monthly fee.

John said that his conclusion, based on his reading of the CLUP, is there is not much to do regarding DNSSD.

Paul said we need to pay attention to the CLUP versus the Ordinance. We don't really have a lot of ability to modify the CLUP because it is comprised of subjective goals identified by the citizens of the Township, not by the Planning Commission. It is not the Commission's role to change the CLUP. The people of the Township have said, this is how we want the Town to be. Our charge is to create the rules, the Ordinance, to realize the goals of the CLUP.

Sue pointed out that Township citizens also got together to create the zone districts and the Ordinance.

Dave said that it is within the Commission's authority to make recommendations for changes to the CLUP.

Jo suggested that we not consider what we are doing as an update, but more of a review. And then we can make recommendations to the Board from that. Dave agreed.

Sue said that this is an analysis of where we are. The Commission can say that we have looked at it and we think the CLUP is serving us well or we can say that it needs this or that.

Jo asked if the DNSSD was continuing to limit new sewer hookups to 2% per year as they said they would in 2001.

John said that they were but that they have never come close to 2%.

Jo said that if we have an economic boom and people start building again and hookup requests exceed 2% we would have a problem.

Sue said that the hookups are on a first come first served basis and the City of Duluth or Lakewood Township could get the allotted hookups first. We should be able to be assured that we will be guaranteed some.

Jan said the sewer district was pushed through as a Lake Superior pollution issue. It is not pro growth or con growth. We don't have authority, it is all overridden by DNSSD and WLSSD. We can question whether or not the density and hookup requirements are reasonable for the future of Duluth Township, but people need to be cognizant that there are other entities that control what is going on, especially WLSSD.

Sue said that we should get a clear understanding of what the 2% growth rate means and then look at what the Town does and can control in terms of land use.

Brigid reported on infrastructure for the CLUP review. She said that there are four areas and, in general, it seems like the CLUP is still appropriate. There are no major issues in the Township at this time and she does not see anything to prompt us to any action.

Sue said that she recently got a compilation and there are 11.7 miles of Town roads in the Township. There have been a number of improvements made on them over the past few years.

Dave asked if it would it make sense to pave some of the roads. He said that he does hear complaints from people on gravel roads regarding dust, potholes, etc.

Brigid said that Township roads are what we have the most control over and are also the most controversial. It would be useful to look at comparative costs of maintenance versus paving. She said that the one thing that is very clear in the CLUP is that gravel roads are an important part of the Town's character: "The community's many gravel roads have been retained as they maintain the community's rural character and ambiance."

Dave said that perhaps that should be looked at.

Sue said that most of the Town roads are dead ends. The Town often gets calls regarding County roads in the Township. She said it would be helpful to have goals and visions for roads in the Township in the CLUP so that they are in place in the event the County ever wants to do something with roads in the Town that is not compatible with the Town's vision.

Sue said that regarding the system of connected trails in the vision for the Town, when Homestead Road was paved it was brought up to the Board that it would be a good time to put in a trail along Homestead, but it hit resistance because of landowners on Homestead.

Jo said that with climate change and more intense storms, the roads will be a bigger and bigger challenge. We need to consider how to handle these bigger events through things like check dams, soil, etc.

Brigid said that she would like to have a conversation on transportation. Perhaps survey residents on mass transit and if they want Town roads paved. If the Town does want paved roads, for example, then we need to put in ideas for how to preserve and improve the natural resources and aesthetics of the surrounding areas.

Brigid said that high speed internet should remain a priority for the Township. The goal is to access to the internet that is as good as urban areas. This is very important because it creates tiers of opportunity. We are headed in the right direction on this.

For alternative energy Brigid said that there is only one sentence in the CLUP: "Promote the use of alternative energy sources for the benefit of the Township residents." We are on track on this goal. We have made some efforts to update Ordinance language, but she has not seen a great need since she has been on the Commission. So the question is, do we need to do more to encourage alternative energy?

Sue said that the Commission decided recently that the language in the Ordinance was adequate for dealing with home wind generators.

Dave and Wayne met briefly to look at the commercial industrial portion of the CLUP. Wayne said that he thought the Commission needed to take a closer look at the definition of strip malls. The CLUP vision for the Town excludes strip malls, but we should consider including a definition for strip malls so that it doesn't exclude other types of development we might want to encourage.

Wayne said that he and Sue have discussed whether or not there should be a side yard setback for commercial development.

Dave said that there is enough language in the CLUP that even if you struck out the phrase “strip mall” it would adequately discourage that kind of development.

John said the CLUP refers to a general store/coffee shop on Highway 61 and we don’t have that yet.

Sue said that Cooley looked at that at one time and the cost was prohibitive to bring in a gas station.

Wayne said that when Cooley was looking at it, there was no interest from Holiday or other major gas companies. So are we realistically going to have something that is more convenient for us?

John asked if we could remove this sentence then.

Dave asked what it means when the CLUP says new commercial development is locally owned. What would be wrong with Service Maids, for instance?

Wayne said that he thought the intention was to encourage local people to create businesses. But what is local – someone from Duluth? It seems like that would be okay, but no big box stores.

Brigid said that what you want to define is what kind of citizen you expect any local business to be, no matter where they are from.

Sue said that she thought the Commission should look the “snapshot in time” of commercial services available and the amount of commercial area available for development. Is there room for additional commercial development and is it being built? Can someone come in and do commercial if they want to and will commercial opportunities be adequate for the next 10 years?

Dave said that just because the plan was good when it was written in 2002 doesn’t mean it’s good now. He said we may want to update that the Corner Cupboard is not the Corner Cupboard any more.

Jan said that she and Jo didn’t have a chance to meet. But she wanted to point out that on page 10 of the CLUP it states that “Special natural areas have become recognized and protected by the Township.” She said that we have not made any progress on this vision. We have not convinced the County that they should put the tax forfeited Sucker River land into conservation status. This area is 189 acres or so and is heavily used for recreation year around. But it is still on the County’s long term plan for disposal.

Wayne asked if there was any opportunity for the town to purchase it.

Jan said that the Town would have to pay fair-market value, paying for its development potential. Because it is tax forfeit land, it could be sold to another entity of government.

The other thing in the CLUP is trails and open space. We do have some motorized and non-motorized trails but we don’t have a trail system connecting to the Lake Superior Hiking Trail.

Regarding the Congdon Trust land, Jan said that we should be collaborating and communicating with the City more. The City of Duluth now also owns the mouth of the Little Sucker River. This is the result of the trade that was made with Odyssey for Stony Point land. So this area is now a part of the whole issue of the City of Duluth’s North Shore corridor ownership and how that should be managed.

Paul said at one point he thought there was a discussion about promoting conservation easements.

Jan said that in Minnesota, assessors don't treat conservation easements as having much impact on land value, so there is not the reduction in taxes that you might expect.

Jo said that there is funding available in the Coastal Program for acquiring land.

Dave said that he would like to see something in the vision regarding technology and transparency of government. Maybe televising or using Skype to broadcast Town Board and Planning and Zoning meetings? It would be a good way to make people in the Township more aware.

Sue said that this is covered some in the part about people participating in government and community.

### **Concerns From the Audience**

None

The meeting adjourned at 9:10.