

**Town of Duluth  
Planning Commission  
Meeting Minutes  
7/26/12**

The meeting was called to order at 7:05 p.m.

Present: Jo Thompson, John Schifsky, Wayne Dahlberg and Brigid Pajunen

Absent: Paul Voge and Don Sitter

Also present: Planning Director, Sue Lawson

The agenda was approved. The approval of the June minutes was postponed until a Commission member who was arriving late could provide a quorum.

**Planning Director Report**

Sue said that the Town Board met on July 18 to decide on short-term rentals (STRs). It was a long meeting. They looked at rentals as three types: long-term rentals, low-frequency short-term rentals, and high-frequency short-term rentals. A motion was made and approved that:

...we have language in the Ordinance defining low-frequency short-term rentals (LFSTR), high-frequency short-term rentals (HFSTR) and long-term rentals (LTR) as follows:

LFSTR is a rental of a single family dwelling for less than or equal to 30 days that does not occur more than 4 times per calendar year.

HFSTR is a rental of a single family dwelling for less than or equal to 30 days at a frequency greater than 4 times per calendar year.

LTR is the rental of a single family dwelling for greater than 30 days. The single family dwelling cannot be occupied by the owner of the dwelling during the rental period.

The Board also decided to establish performance standards for LFSTRs and HFSTRs. The performance standards the Board decided on are as follow (from the July 18, 2012 STR minutes, see attached):

1. All short-term rentals require a minimum lot size of 2 acres.
2. The side and rear setbacks shall be 50 feet unless the adjacent property is zoned commercial, FAM or LIU, then the setbacks shall be as required for the applicant's land use district. All SENSO and SLO setbacks apply regardless of adjacent property zoning.
3. Licensing and permits. The owners shall obtain any and all licenses, permits, or other governmental approvals required by any governmental agency, board, department, or other governmental entity with jurisdiction.
4. Property Oversight and Complaint Response. Thirty days prior to rental of the property in any calendar year and anytime the contact information changes, the property owner shall provide to the Township Planning Director the name and phone number of a contact person with the capability and authority to address complaints or concerns regarding the property. This phone number shall also be provided to all other property owners within 500 feet of the

lot boundary. The contact person must be available 24/7 during rental periods, and able to be at the property within 30 minutes.

5. Rental Frequency. LFSTR frequency is limited to once during any 30 day period. Once during any 30 day period means that a subsequent rental cannot begin less than 30 days of the initiation to the prior rental is limited to once every 30 day period. The allowable rental frequency for HFSTRs will be established as part of the conditional use permit.

6. Rental Records. A log shall be kept of the renter, date of arrival, date of departure, and number of guests for all rentals. A copy of the log shall be provided to Planning Director upon request.

7. Parking. Off street parking shall be provided.

8. Temporary Sleeping Facilities. No temporary sleeping facilities may be used on the property during rentals (i.e. recreational camping vehicles, tents, etc. . .)

9. LFSTRs require a Land Use permit (LUP). HFSTRs require a Conditional Use Permit.

In addition the Board set the costs for permits at \$100 for a low-frequency STR and \$350 for a high-frequency STR.

Jo asked if the Commission has to go with what the Board decided. Do we need to have another public hearing since it is different from what the Commission came up with?

Sue said that the Board took the Commission's recommendations and was free to consider and modify them. It is not necessary to have another public hearing.

John asked about enforcement of the new STR regulations.

Sue said that enforcement would be the same as it has been in the past. If she sees something, or someone reports something blatant, she will go look into it.

John asked what the Commission's role will be regarding rentals.

Sue said that for low-frequency STRs, it will be a permit, similar to a land use permit. There will be no hearing. For high-frequency STRs a conditional use permit will be required and it will come before the Commission. She said that there will be new categories to add to Table 5.3 of the Ordinance and performance standards to be added to Article VIII. Those are already written.

Regarding the County's new subdivision ordinance, Sue said that she had a long conversation with Scott Smith, Planning Director for the County. Our Ordinance has to be as restrictive as or more so than the County's. Because we have to comply with the County's new ordinance, it may as well be incorporated into our Ordinance. She said that the Town's attorney said that the Town has to have a public hearing on this change to the Ordinance even though we really can't do anything about comments. We will just have to explain that we have to do this.

Sue said that with this new County Ordinance there are basically three ways you can divide land: 1) by minor subdivision, 2) by platted subdivision (conservation design is included in this category), and 3) by subdivision of government lots either by fractions or by metes and bounds.

There are different requirements for each type of subdivision. There is also planned unit development.

Sue said that for minor subdivision, the lots can be as small as 2.5 acres. There is no public process for minor subdivision; it is at the discretion of the County Planning Director. Plats go through the public hearing process. Division of government lots by fractional subdivision requires only a map, legal description, and evidence of ownership. An area divided by metes and bounds requires a survey.

John asked what the lot line adjustments are for.

Sue said that they have discovered 5000 overlaps since they started using GIS. She said that she is not sure the Town will want to deal with lot line adjustments. Property line disputes must be dealt with civilly or through the County.

Sue said that if someone subdivides a piece of property in the Township and wants to build on it, we have to require the same maps and documents the County requires. The LUP application will not be considered complete until we have the completed application, the ISTS or DNSD number, the fee, and the documents as required by the County. The time clock will not start until all of these pieces are in place.

Jo asked if the applicant will be responsible for getting all the documents together.

Sue said that if you buy a piece of land that has been subdivided it has been recorded. We can ask for all of the County documents – the electronic map, the proof of ownership, etc.

Jo asked if you bought a piece of property to build on, wouldn't it already be subdivided?

Wayne said that up until now, you could split your property once every year. If you have a conventional fraction, you don't need a survey to do that.

John asked if a minor subdivision is proposed in an area where our Ordinance says a lot has to be more than 2.5 acres, do we supersede the County? Sue said that we do.

Sue showed how the language would fit into our Ordinance (see attached). We may also want to insert definitions in Article II.

Sue said that minor subdivision at the 2.5 acre lot size will, because of our zone district lot size requirements, occur only along the shore. She said that she assumes that the County will send minor subdivision requests to the Town for review. No hearings are necessary. Would we want to be involved further?

Wayne said that when he was Planning Director someone was looking at subdividing on Alseth and that would have fallen under this new minor subdivision ordinance if it had existed then. He thought it was good the Town had been involved at that time because of the number of lots involved and the wetlands and parcel access issues. So we as a Town need to decide if we want to be involved below the Expressway or not. Because of the small parcels, he thinks it is probably a good idea for the Town to be involved.

Sue said the County would be looking at the same things.

John agreed with Wayne. He suggested that the Planning Director could look at minor subdivision applications and decide whether or not the Commission should look at them.

Sue said that she will check with Scott to see if minor subdivisions will come to the Town for final approval.

Wayne said that, on the other hand, if it comes to us and we bog it down, we defeat the whole purpose of the County's new ordinance. But if we don't review minor subdivisions we are basically saying that below the Expressway we have no involvement.

Sue said that we could insert that the Town has approval authority over minor subdivisions and the Town Planning Director will review them in conjunction with the County Planning Director. She will still get clarification from Scott on the process. She said that by State Statute Chapter 505.09, the Town has approval over preliminary plats.

John asked if that includes minor subdivisions.

Sue said she will find out.

Paul emailed some comments to Sue (see attached). He was concerned that there could be some confusion between the County's Conservation Subdivision Plat provisions and the Planned Unit Development (PUD) provisions in our Ordinance. Sue said that a PUD is different from a subdivision. A PUD has flexibility that you cannot get with subdivision. It can be a mixed use development and has to do with dwellings and residences and businesses. As it stands now, the Town would be responsible for approving PUDs; they don't go through the County.

Paul also asked if the Commission thought we should require a community participation process for approving preliminary plats of minor subdivisions.

Wayne said that there are large properties below the Expressway that could be subdivided into large developments. It seemed to him that we should have some language that allows for a public hearing. He is concerned about 30 acre parcels being broken into 2.5 acre lots, not a 5 acre lot turning into two lots.

Sue suggested the Commission consider how the community would feel if the Town allowed minor subdivisions of 2.5 acres just by approval of the Planning Director. She said that in this Township we have always been very transparent. How would people feel if there was no public process if a large subdivision were put in? Although she thought roads and infrastructure could be a limiting factor.

John asked if we could say that we reserve the right to have a public hearing.

Sue said that we cannot be arbitrary and capricious-- under what cases would we have a public hearing? Stony Point, for instance, had erosion control issues for which they needed a variance. So that called for a public hearing. .

Sue said minor subdivisions cannot include dedications of new roads and must meet all technical standards of State Statutes Chapter 505. But it does appear as though minor subdivisions can be done inland also, as long as the lot to be subdivided is on a public road. If a lot is not along a public road but has legal access, it can only be divided into two lots.

John said that he thought the history of transparency in the Township that Sue talked about is important. But what can we do about it?

Sue said that we could require a public hearing for minor subdivisions.

Jo said that local unit of government approval may apply under Chapter 509 of the Statutes.

Sue said that if you were to do a minor subdivision on 40 acres it could give you 6 parcels. A platted subdivision could give you 8 parcels. She said that the way it used to be, if you owned a 40 acre parcel, you could split out one parcel per year with no one's approval.

John thought it was important to figure out if the plat approval process as detailed in Chapter 509.09 also means minor subdivisions.

It was decided to leave it for now and have Sue get additional information on the process.

Sue continued, saying that there will be a public hearing at the August meeting on the new subdivision language and on incorporating small firearms manufacturing into the Ordinance. She presented the proposed changes to the Ordinance for incorporating small firearms manufacturing.

The Commission agreed that it encompassed what they had agreed upon at the last meeting.

Sue said there are some things for which we will want to have an actual written permit, with performance standards included. This is a bookkeeping detail. For instance, low-frequency STRs will have a written permit.

Wayne said that if an issue comes up of neighbor against neighbor, it is good to have the paperwork to fall back on.

Sue said the Board decided on a fee of \$100 dollars for low-frequency STRs and \$350 for high-frequency STRs, so we need to add this to the fee structure and put it in as a part of the Ordinance. If you take in more than \$5,000 dollars in fees, the fees have to be a part of the Ordinance. She does not know if we need to have another public hearing to change the fee structure.

Jo asked about the Namebini property where they are renting another place on their property by the night. It is a short-term rental advertised as a guest house.

Jo made a motion to adopt the changes to the Ordinance regarding minor subdivision that Sue put together and to add definitions to Article II. The motion was approved unanimously.

Because there was not a quorum at the start of the meeting, approval of the minutes had been moved down the agenda. At this point Brigid moved to approve the June 28 minutes as written and the minutes were approved unanimously.

Sue said that the Commission can continue to look at how they want to deal with the subdivision language. It can be brought up after public testimony at the public hearing in August. She will check with the Town's attorney on some of the questions that came up tonight.

The meeting adjourned at 9:20.