

**Town of Duluth
Planning Commission
Meeting Minutes
8/23/12**

The meeting was called to order at 7:10 p.m. by Chair Paul Voge.

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

Absent: Don Sitter

Also present: Planning Director, Sue Lawson; Barb Crow, representative to the Commission from the Town Board; and Dave Mount, Town Board Supervisor

The agenda was approved as presented.

Paul opened the public hearing on the proposed Ordinance revisions.

Sue introduced the hearing. The purpose of the hearing is to take public comment on proposed changes to the Town Ordinance concerning subdivision and adding small firearms manufacturing to the Ordinance as a use. St. Louis County revised their subdivision ordinance and the Town's Ordinance needs to reflect this revision. Sue said that our Ordinance needs to be either the same as or at least as restrictive as the County's is. For small firearms manufacturing, the Commission decided on the type of use that this would be, where it would be allowed, and performance standards that would be required. The Commission will make a recommendation to the Town Board on these changes after the public hearing.

The first part of the hearing was to address the proposed subdivision changes. Sue said that she incorporated the changes decided on at the last meeting into Article III of the Ordinance (see attached). There are limited ways to subdivide land (see attached). You can do an equal subdivision of a standard rectilinear piece of land or you can divide a piece of land by metes and bounds. For dividing by metes and bounds, you have to have a registered survey. Both of these require approval by the Town's Planning Director. You can subdivide by platted subdivision which requires approval of both the Town and the County and requires a public hearing. The County's new ordinance, Subdivision Ordinance 60, provides for "minor subdivision" and this is the part we need to incorporate into our Ordinance. The main requirements for a minor subdivision are:

A quarter-quarter section or government lot along a public road may be subdivided into lots no less than 2.5 acres and 200 feet of lot width or meet zoning ordinance requirements, whichever is more restrictive.

A quarter-quarter section or government lot not along a public road, but with legally demonstrated access to a public road, may be subdivided into two lots no less than 2.5 acres and 200 feet of lot width (including the remnant property) and meet zoning ordinance requirements.

A minor subdivision shall not include dedications of new roads.

In the County's Ordinance, minor subdivisions can be approved without a public process, such as a public hearing, as is required for platted subdivisions. The County Planning Director approves minor subdivisions after all officials and agencies who have asked to review it have submitted their reports. Officials and agencies have 30 days to submit that report.

Sue said that in talking to Scott Smith from St Louis County Planning and Community Development, it was not entirely clear how the Town would be incorporated into the process under the County's new Ordinance. The assumption is that the Town Planning Director would work closely with the County. The Town has final approval of platted subdivisions and the process includes a public hearing and preliminary plat approval as well as final plat approval. We can make the process for minor subdivision more restrictive if we want. One important question is, do people want subdivisions to be approved in the Township without a public process?

Paul asked how someone would subdivide if they had a parcel smaller than 2.5 acres, say if someone has 3 acres in a zone district that allows 1 acre lots.

Sue said that they would have to go to a platted subdivision. The smallest lot you can have for minor subdivision is 2.5 acres.

Paul said that it seems as though the County is bypassing the public process to make it more efficient. It also seems as though it would be a burden for the Planning Director.

Sue said that the main consideration is whether or not it fits with the Town. The Town has traditionally been very transparent.

Wayne said that since minor subdivisions cannot include dedications of new roads, some of his concerns about it are relieved.

Sue said that to her, dedication means a public road. So she reads it that a private road could go in.

Wayne said then that a private road run by an association could have a number of parcels off of it. He said that changes things. We have 30 – 40 acre parcels below the Expressway that could be developed into numerous building lots. He would not want to do that without a public process.

Sue thought that the wording prevented the back of the lot from being subdivided as extensively as the front part of the lot.

Paul said that he reads it that a 40 acre parcel along a public road could be subdivided into up to 6 lots, depending on zoning. There could be 2 back lots that would have to have access. A private easement would have to be created for access to the back lots.

John said that given what Sue said about transparency in the Town, that it might be good to make it a public process.

Sue said that subdivision is the fastest way a neighborhood can be changed.

Dave Mount said that one way to do it would be to decide whether or not it went to a public hearing process based on the number of lots created. So you could stipulate that say up to 4 lots would be okay without a public process.

Paul said that the Town could do something similar to what they do for commercial development where the applicant comes before the Commission and has a dialog. It would not be a public hearing.

Dave asked what a legitimate reason would be for the Commission, as a result of input from the public, to deny a subdivision application. It's not like a variance.

Sue agreed, and that even if it didn't go to a public process, you can't make a decision without criteria. Why would she say one individual could do it but another couldn't? The appeal process would be to the Commission and then to the Town Board.

Sue said that there is much more detail in conservation design subdivisions and according to the Comprehensive Land Use Plan, this type of subdivision would be preferable in the Township.

Paul read from the County's Ordinance: "Lot layouts shall be compatible with the existing layout of adjoining properties..." He said that this is a subjective decision. He thought we should hold public hearings.

Sue said that we do community participation reports (CPR) because we value the opinions of the community. The idea behind CPRs is to get some communications going between neighbors and address concerns before the public hearing process. She is not sure what the value of the minor subdivisions is. What benefit is it to the citizen and what benefit is it to the Town? The County wants it because it is more expedient. In the past, landowners could divide and sell off one lot a year. With the minor subdivision Ordinance, you at least look at the whole thing at once.

She said that personally, she thinks that when you are getting to this kind of scale it is probably better to have a public hearing and have the Commission decide than to have one individual making the decision. The Commission could also decide against minor subdivisions in the Town and allow subdividing only by the other allowed means.

Brigid thought that if the Commission decided to make it a public hearing process that it made sense to just make it a platted process and not have minor subdivisions.

Dave Mount said that most lots are going to be 40 acres or so and, according to the County's Ordinance, will fall under simple subdivision. You have to have a quarter-

quarter section for simple subdivision, so basically if you have anything less than 40 acres or a government lot, you would have to do a platted subdivision.

Sue thought that anything that is described in rectilinear language, e.g. N ½ of SE ¼, etc. is dividable by simple division. She said that it doesn't make sense that if you have a 20 acre lot you can't split it in half.

Dave said that the new County Ordinance doesn't say fractions of quarter-quarters, it says "a quarter-quarter section or non-shoreland government lot."

Jo said it would also depend on how the County defines government lots. There was some discussion with no final consensus on how a government lots were defined.

It was agreed that the wording of the County's Ordinance Section 4.2.E did not seem to make sense. Where does this leave us? Sue said that the Commission needs to make a recommendation to the Board on this tonight.

Brigid said that she felt she could not make a decision because she doesn't know what the County considers a lot. She said that she is in favor of not adopting minor subdivision for the Town. She doesn't know that our Township has the same mindset as the County in wanting to make subdivision simple and without a public process.

Dave said that he felt that everyone agrees in concept, but is just unsure of definitions. You cannot resolve something if the language is vague.

Dave said that there are two things that would put you in the minor subdivision category instead of simple subdivision – you are either making small lots or making lots of lots.

Barb said that in the first two you can make up to 4 lots. If the minor subdivision language restricted division to a maximum of 4 lots it would be same as this – would this be sufficient for transparency?

Dave said that in that scenario, the worst case would be 4 lots – three 2.5 acre lots and one 32.5 acre lot. Would this trigger the Commission's concerns? The first category of land division only gives you big lots.

Wayne said that Homestead Drive consists of a couple dozen lots and was organically created. He has no idea how those lots were created within the rules.

Paul thought it was maybe because they were on a private road.

Wayne said that he signed off on a couple of permits there and they included legal descriptions of the lots, but he could never find the plat.

Paul said that you can create parcels of land that are not legal if you are not caught. The County Recorder's office doesn't check parcels against zoning ordinances.

There was a discussion over the wording in the County's subdivision ordinance. Can you only subdivide a 40 acre parcel, and not a 20 acre parcel in half? It seems as though you can only subdivide if you own a 40 acre lot. Even the minor subdivision seems to require a 40 acre lot. The Commission felt that they needed clarification.

Sue said that Scott Smith has volunteered to come and talk to the Town. She thought that they should try to get him for the next Commission meeting. She suggested the Commission close the minor subdivision hearing and bring it up with Scott at the next meeting.

Dave asked how the planned unit developments (PUD) in our Ordinance differ from conservation plats in the County's Ordinance. His understanding was that one of the characteristics of PUDs is that individual homesites don't have to meet the minimum lot size for the zone district, but over all the acreage does.

Sue said that PUDs are mixed use and allow you to do many more flexible things than straight subdivision.

Paul said that either PUDs or conservation plats are designed to preserve open space. Under the new County Ordinance, they are the same thing. But if someone came in and wanted to know which to apply for, how would they know? What guideline are we going to have developers follow?

Jo asked who, in conservation design, owns the greenspace.

Paul said that typically it is a common interest community and is owned by the homeowner association, in other words, by the people as a whole.

Sue said that in our Ordinance, a density increase bonus may be granted for a PUD at the discretion of the Commission, not to exceed 50% of the base residential density. There is no allowance for a density increase bonus in the shoreland zone districts.

Dave said that for simplicity's sake, we could just leave our PUD process in place, run it past Scott Smith and put it in the Ordinance that the applicant must also meet the County's requirements for conservation plats.

Paul said that the County's Ordinance requires a yield plan for a conservation plat, and includes road layout and design so apparently access can be created in the process.

Brigid suggested that she and Paul compare our Ordinance's PUD language with the County Ordinance's conservation plat language in more detail and bring a recommendation to the Commission at the next meeting when the public hearing is continued.

Paul asked if there were any comments on the Subdivision Ordinance from the public. There were none. The public comment portion of the hearing was closed and the matter was tabled until the next Commission meeting on September 27.

Sue said that until this came up the Zoning Ordinance revisions were ready to get final approval from the Board. Should we leave this and just get the Ordinance done for now or wait for this matter to be decided?

Dave said that the process will be to delete Ordinance Number 3 and replace it with the revised Ordinance, Ordinance Number 4. His thinking was that the Board was not going to want to do the final read through and approval in September. He suggested that the Commission assemble the final Ordinance 4 and indicate where additional changes will come. Then after the September Commission meeting, put in the subdivision portion as a redline inclusion and get it to the Board. Then the Board can look at the whole thing in October. He said that the Board could issue moratoria to cover changes that we wouldn't want to handle under the old Ordinance.

Sue opened the small firearms manufacturing portion of the hearing. In Article V Section 4.E of the Ordinance it says that the "appropriate land use classification for uses not specifically mentioned in this Ordinance will be determined by the Town of Duluth Planning Commission." So when this proposed use came up at a previous meeting, the Commission decided on the type of use that this would be, where it would be allowed, and performance standards that would be required. Language to be added to the Ordinance includes the definition in Article II, insertion into Table 5.3 and performance standards in Article VIII Section 17 (see attached).

Sue said that the only comment on this matter that she got was from Don Sitter suggesting that the use be required to comply with all State and Federal regulations. The Commission determined that the use would only be allowed in LIU-3A and that the minimum lot size would be 40 acres. So essentially there are only 2 areas in the Town where you could do this -- the old Clover Valley School and the BOMARC site.

Paul asked for comments from the public. There were none.

Jo made a motion to accept the proposed changes to the Ordinance regarding small firearms manufacturing as a use as written. Paul seconded. There was no discussion and the motion passed unanimously.

The public hearing was closed.

The minutes from the July 26 meeting were approved as written.

Planning Director Report

Sue said that permits have picked up in the last few weeks. There have been applications for decks, garages, and a new house. There are no pending variance or conditional use permit applications.

Barb reported that there were no responses for the Commission vacancy from the email that was sent out. There will be a notice in the next newsletter.

Old Business

Regarding the Comprehensive Land Use Plan update work, Sue said that she hasn't talked to Clint Little yet. She doesn't think that there will be enough time at the September meeting, so she will probably ask him if he can come to the October meeting.

Paul said that he would still like to get a compilation of what has changed in the Township since 2000.

Concerns from the Audience

None.

The meeting adjourned at 9:25.