

**Town of Duluth
Planning Commission
Meeting Minutes
May 22, 2015**

The meeting was called to order at 7:00 by Vice Chair, Jo Thompson.

Present: Jo Thompson, Brigid Pajunen, Wayne Dahlberg, Jerry Hauge, and Larry Zanko

Absent: Paul Voge and John Schifsky

Also present: Sue Lawson, Planning Director; Don Sitter, Town Board liaison to the Commission

The agenda was approved as presented.

The minutes were approved with the following clarifications:

- Following the sentence that begins “Sue said if it is an interim use...” add this sentence: “The interim use is issued to the family for family members as long as they use it for a family member.”
- “The cabins on the site are currently for sale for removal.” Delete “for removal.”
- Change “...it is the best option for getting information out to residents.” to “one of the best options for getting information out to residents.”

Director’s Report

Sue said that she had an inquiry about a land use permit from the individual on Bergquist whose house burned down recently. He is going to rebuild in exactly the same spot with the same footprint. Sue asked what the Commission thought was appropriate in an instance like this. It was agreed that he should complete a land use permit application, but that the fee would be waived. Sue said that there would be no additional need for inspection on her part. It was agreed that these types of decisions could be made on a case by case basis.

Sue said that she met with James Gittemeir and talked about a general schedule for trails planning. A steering committee will meet on June 29. There will be approximately one meeting per month. The Board is looking for members of the community to be on the committee. Sue asked if anyone from the Commission would volunteer to be on the committee. Paul and Wayne were interested. Sue said that if more Commission members are interested, to be sure to let her know so the meetings can be posted.

Sue said the decision making process will be consensus-based similar to the process for the Zoning Ordinance. If the Steering Committee cannot make a decision on a particular item, it will be referred to the Planning Commission for a decision. If the Commission cannot make the decision, it will be referred to the Town Board. The Town Board will make the final decision and have final approval for the trails plan. To the extent possible, the Board will honor recommendations brought forward from the Steering Committee and Planning Commission.

A survey will go out in the Township newsletter and will also be available at the open house. The survey will close one week after the public meeting.

New Business

Sue said that because the Stormwater, Erosion, and Sediment Control Ordinance will be a separate ordinance from the Zoning Ordinance, there is language added to the Zoning Ordinance in places referring to the new Stormwater Ordinance. There are also some things that are removed from the Zoning Ordinance that are now covered by the Stormwater Ordinance. Because the Stormwater Ordinance is still considered a land use ordinance, it will go through the same approval process as the Zoning Ordinance. The Town attorney still needs to look at a couple of things in the Stormwater Ordinance; his comments are pending. The Commission has 30 days to make a recommendation to the Board regarding the new ordinance and the proposed changes to the Zoning Ordinance. She hopes that the Commission can finalize the drafts following the public hearing in order to get them to the Board by the next Board meeting.

The Commission reviewed the final draft of the Zoning Ordinance changes.

The insertion of “on leased land in FAM 1 and 2” to the definition of **Dwelling, Seasonal** is because it is referenced that way in the Performance Standards later in the Ordinance.

Jo suggested adding “from a public road” to the definition of **Setback when not accessed by a public road** immediately after “direction from which the parcel is approached.” It was agreed to add this.

It was agreed to delete “one (1) year” from the sentence “Be able to attenuate... runoff from a one (1) inch one (1) year twenty-four (24) hour storm event for twenty-four hours.”

The new language for **Conditions for Enlargement** is to clarify what is in the Ordinance now. There had been some confusion regarding the existing wording during planning for the Town Hall addition.

Table 5.3 is amended to reflect the new language the Commission (especially Jo) developed for a conditional use for a larger accessory structure

Under **Performance Standards**, Sue asked that the Commission consider the design review process for new construction in commercial districts. A recent design review resulted in the Commission reconsidering how useful the required process was.

Wayne said that the original intent of the design review was to have some influence over design elements of development along the North Shore -- to say that the Town cares about how the shore is developed and to please build with regard to that.

Sue said that one of the downsides to having people come in for commercial review is that they are usually on a tight schedule. Another option might be to not have the review and instead, compile the design elements that reflect the North Shore and attach them to any permit granted for commercial development along the shore. This would essentially be the same as the current process but without the time involvement. Another option would be to make the review a process that comes before the Commission for approval.

Wayne said that unless the Commission is prepared to write a “design ordinance,” there would be no basis for decisions.

Don asked if an applicant came to the Commission with a design and it was approved by the Commission, if they were to have a design change, they would have to come back for approval of that change? And how many of these reviews has the Commission actually done?

Sue said that there have only been one or two, the Lighthouse Restaurant and the recent review of an addition in the McQuade/Lismore commercial district.

Don McTavish noted that the way the Commission is thinking about this is as something imposed on the developer – something that the Town is pushing on them – but another way to think about it is as a way that the Commission can remain informed about what is going on.

The Commission agreed to deleting the design review from the Ordinance and creating a handout of guidelines for developers. It was agreed to do this for shoreland commercial districts.

The corrections to the conditional/interim use process clarify the process and move the decision about whether the application will be heard as a conditional or interim use to the public hearing.

For the new **Article XIII Section 21**, Jo had proposed wording for setback language. It was agreed to add these as 5 and 6 under Requirements.

Sue said that for cases where parcels are combined to allow for larger accessory structures, Tim recommended that the Town keep track of the conditional use as opposed to filing the combined parcels with the County. The CU would be recorded on just one of the parcels.

Sue said that she put together the changes for performance standards for livestock because, as it is currently written, chickens are not allowed on parcels under 2 acres without a conditional use permit. In addition, some of the language was not clear or was outdated.

There was a discussion about the number of chickens that should be allowed per acre. It was decided that on parcels less than 2 acres there could be 5 chickens per acre and no roosters. This would be in addition to allowing 1 animal unit per acre limited to dogs and cats. It was decided that there would be no fees or permits required for chickens.

It was agreed to add that commercial feedlots are not permitted. It was agreed to delete requirement D.8: If the landowner is operating any type of business involving animals, a home based business or conditional use permit is required.

Jo made a motion that all of the proposed changes to the Ordinance as discussed and amended tonight be moved forward to be heard at the public hearing. Larry seconded. The motion passed 3 to 1. In favor: Jo, Larry and Jerry. Against: Wayne.

Sue presented the proposed revision of the Fee Schedule. She figured new fees based on 11% inflation since the fees were last increased in 2009. There are new fees related to land disturbance for the new stormwater rules: \$50 for site disturbance greater than 5,000 sq ft and less than 1 acre and \$150 for site disturbance greater than 1 acre. There are also new fees for fill permits. Currently, fees are based on the square feet of the structure. Sue proposed that instead, fees be based on the square feet of disturbance. It was agreed that this better reflected the effort needed to monitor permits.

Planned unit developments require a stormwater management plan and the fee for the Land Disturbance Permit (LDP) will probably be \$150.

Subdivision plats require an MPCA permit, which the Town is required to oversee, so \$150 for an LDP should be added to the fee for a Subdivision Final Plat.

Sue said that even if there is less than 5000 sq ft of disturbance, the Town can require stormwater control measures, depending on the situation.

It was decided to add a of \$50 annual fee for low-frequency short-term rentals.

Jo made a motion that the Fee Schedule, as presented, plus the addition of a fee for low-frequency STRs and the addition of an LDP fee for Subdivision – Final Plat be approved for moving forward to the public hearing. Brigid seconded. The motion was approved unanimously.

Sue presented the Stormwater, Erosion, and Sediment Control Ordinance. Any land disturbance greater than or equal to 1 acre requires an MPCA permit. One of the difficulties in determining what is required for sites with activities disturbing less than 1 acre is that in a rural area like ours, there could be construction that disturbed up to 5000 sq ft but be in an area where the stormwater is retained by natural features and doesn't go anywhere. To address this, Sue phrased Article V Section B to say "Land disturbance... greater than or equal to 5000 sq ft and less than 1 acre... that **may** cause run-off into public waters of the State shall obtain a LDP."

She said that the process will be that the LUP application will ask how much area will be disturbed and if it is over 5000 sq ft they will need an LDP and fill out Best Management Practices for preventing run-off. There will be times when, after a site visit, the Planning Director will determine that no land disturbance permit and/or best management practice run-off control is needed. It is very site-specific.

Jo suggested that for Article V Section A following "...must comply with the requirements in B.5 and 6," put in parentheses that B 1 through 15 are recommended. She also suggested inserting "post-construction" into Article III Section A.3: A **post-construction** stormwater management plan..." These additions were agreed to.

Sue said that the Tim is reviewing the enforcement part of the Ordinance. We will be sending it out for review to contractors that work in the Township in the draft form.

Jerry made a motion to approve the Stormwater, Erosion, and Sediment Control Ordinance, with changes as discussed tonight and pending legal approval, for moving forward to the public hearing. Jo seconded. The motion was approved unanimously.

Old Business

None

Concerns from the Audience

None

The meeting adjourned at 9:45.