

**Town of Duluth
Planning Commission
Meeting Minutes
June 25, 2015**

The meeting was called to order at 7:00 by Chair, Paul Voge.

Present: Paul Voge, Jo Thompson, Brigid Pajunen, Jerry Hauge, and Larry Zanko

Absent: John Schifsky and Wayne Dahlberg

Also present: Sue Lawson, Planning Director; Don Sitter, Town Board Supervisor and liaison to the Commission, and Mary Anne Daniel and Travis Stolp, Town Board Supervisors

The agenda was approved as presented.

Public Hearing: Stormwater, Erosion and Sediment Control Ordinance and Zoning Ordinance Update

Sue started by going through the process for approval of Ordinance and Zoning Ordinance amendments. The Planning Commission makes a recommendation to the Town Board and the Board reviews the proposed ordinance or changes and decides whether or not to approve them. The Town Board is the only entity that can enact or amend ordinances. Although the Commission has 30 days to make its recommendation to the Board following the public hearing, Sue said she would like to get the Commission's recommendation to them before their next meeting.

Sue introduced the Stormwater, Erosion, and Sediment Control Ordinance. The purpose of this Ordinance is to protect health, safety and general welfare, property and the environment by establishing regulations for erosion and sediment control related to land disturbing activities as required by federal and state law. The Town must enact stormwater management regulations to meet those requirements and to comply with the Town's MS4 permit.

Land disturbing activity is defined as any removal of vegetation, excavating, grading, clearing, filling, stockpiling, hauling, or other earth change related to or associated with construction or reconstruction, which may result in movement of soil particles of earth. If an area greater than one acre is disturbed, it requires a MPCA permit and a post-construction stormwater plan. This is expensive and time intensive for both the permittee and the Town. If the disturbance is less than one acre, it is covered by a land disturbance permit issued and monitored by the Town. Activities that are exempt from the ordinance are nurseries, home gardening, and agricultural operations confined to private property; forest management activities; any emergency activity that is immediately necessary for the protection of life, property, or natural resources; road maintenance on gravel surfaced roads and driveways; Federal, State and County projects where the Town does not have regulatory authority; and small utilities working in the right-of-way of Town roads.

Article I and II of the ordinance are purpose and definitions.

Article III is for land disturbances greater than or equal to one acre. For this level of disturbance a NPDES/SDS Construction Stormwater Permit is required and is issued by the MPCA. The MPCA currently charges \$450 for this permit. A Land Use Permit will not be issued by the Town without this permit. A LDP is also required by the Town and is \$150. Construction site inspections are the responsibility of the permittee. The Planning Director or designee performs construction site compliance inspections. There are enforcement actions in the ordinance for non-compliance. The permit also requires a NPDES/SDS post-construction stormwater management plan. Overall, for new development there can be no net increase from pre-project conditions.

Article IV is for land disturbance of less than one acre in the Shoreland Overlay Zone District. For land disturbances in the Lake Superior Shoreland Overlay, excavations exceeding 1,000 sq ft or 100 cu yd, or fill exceeding 1,000 cu yd, or 50 cu yd within the structure setback area, are required to have a LDP.

Don asked if it was supposed to be a 1,000 cu yd. Sue said it was in the Ordinance that way.

For land disturbances in the Shoreland Overlay Zone for streams, any alteration of the natural topography involving more than 50 cu yd of material, excavated or fill, and any land disturbance greater than or equal to 5,000 sq ft and less than one acre require a LDP.

For Article V, activities disturbing less than 5,000 sq ft are not required to have a LDP unless there are extenuating circumstances. Sue said it would be a good idea to define “extenuating circumstances.” Activities disturbing more than 5,000 sq ft but less than one acre require a LDP from the Town.

Larry said that in Article V Section B 100 cu ft is a cutoff. He said that was not very much and asked if it should be 100 cu yd.

Public Testimony

There was no one from the public present.

The Commission decided that extenuating circumstances in Article V Section A should be defined as erosive soils, steep slopes, and proximity to public waters.

Larry asked if a contractor working in the Township would be obligated to know the Stormwater Ordinance and get a permit if one were required.

Sue said that it is up to the land owner to obtain the permits. Most of the contractors are aware of the regulations. An applicant has to own the land to get a land use permit, but sometimes the contractor will apply for the permit with the land owner’s signature.

The Commission said that because the Stormwater Ordinance is a stand-alone ordinance, it is important to include the appeal process saying that decisions of the Planning Director or designee can be appealed to the Commission. It was decided to extract the appeal process from the Zoning Ordinance and include it in the Stormwater Ordinance.

It was decided that because St Louis County has 1000 cu yd of fill as a cut-off, it should be left as is in Article IV of the Town’s Stormwater Ordinance. It was decided that in Article V, 100 cu ft should be 100 cu yd.

It was decided that Article VI Section 4.B.2.a, b, and c of the Zoning Ordinance should be added to the Stormwater Ordinance under Article IV Section B.2.

Jo made a motion to accept, and recommend to the Board, the Stormwater, Erosion, and Sediment Control Ordinance with the changes discussed tonight. Jerry seconded. Larry made a motion to amend the motion to add an article on enforcement which Sue and Tim Strom will put together. Jo seconded. The amendment to the motion passed unanimously. The motion passed unanimously.

For the proposed Zoning Ordinance changes, Sue said that when the changes are approved, Zoning Ordinance Number 4 will be repealed and the new Ordinance, with the approved changes, will be Zoning Ordinance Number

5. She reviewed the proposed changes to the Zoning Ordinance. In Article II some definitions have been added and some existing definitions clarified.

In Article III the stormwater requirements were removed from the Zoning Ordinance. These requirements are now proposed to be included in the new Stormwater, Erosion and Sediment Control Ordinance.

In Article IV there are clarifications on non-conformities and conditions for enlargement.

In Article V the Use Matrix Table was changed to make Accessory Structures larger than 2000 SF in SMU 6 a conditional use instead of not permitted.

In Article VI the stormwater requirements were removed to be included in the new Stormwater, Erosion and Sediment Control Ordinance.

In Article VIII changes include clarification of animal units allowed and requirements for keeping animals on less than two acres. Also added is that commercial feedlots are not permitted. Also in Article VIII the language requiring Planning Commission review of projects in commercial areas was removed.

In Article IX the conditional use/interim use process was clarified.

Jo asked if there were any changes related to St Louis County's adoption of their new Zoning Ordinance. Sue said that she didn't see anything that would change our Ordinance. Regarding the old Town dump site, there is no record of it, so there is no need to add restrictions to activities around the site.

Paul said that when he looked at the County's changes, everything in our Ordinance was still either the same as the County's or more restrictive.

Larry moved to recommend the Zoning Ordinance changes to the Board as presented. Jerry seconded. The motion was approved unanimously.

Jo made a motion that the Stormwater Ordinance with the changes discussed tonight and the Zoning Ordinance amendments be forwarded to the Board together because they are interdependent. Larry seconded. The motion was approved unanimously.

Sue presented the proposed changes to the fee structure. All of the fees are increased by 11% to allow for inflation since they were last reviewed in 2009. In addition, fees are set for Land Disturbance Permits, depending on the size of the area disturbed, and a yearly fee of \$50 is set for low-frequency short-term rentals.

Jerry made a motion to recommend to the Board to withdraw the current fee schedule from Zoning Ordinance Number 4 and insert the revised fee schedule as presented into the new Zoning Ordinance. Jo seconded. The motion passed unanimously.

The public hearing was closed.

The May 22 minutes were approved with one change from Jo, to add "or equal to" to the sentence "Any land disturbance greater than *or equal to* 1 acre requires an MPCA permit."

Director's Report

Sue said that the Trails Committee is up and running. There will be a meeting of the steering committee on Monday June 29th. James Gittemeir will be there. It will be an organizational meeting. James sent Sue a draft

survey; Sue is waiting for Don McTavish's input. Sheri Camper will represent the school on the steering committee. Wendy Gustofson from the Town Board, and Wayne and Paul are also on it. There will be an open house on July 16. The survey will be available there, too.

Regarding the Kivi Ranta (Stone Beach) development, the owners are working on marketing and branding. They hope to have a good lead on sales before they actually start on it. They are also talking with the DNSSD about hook up charges for the sewer. The likely date, at this point, for a public hearing is August.

Copies of the new brochure are now available.

New Business

There is a request for a variance for a property at the top of Bergquist Road. The owner wants a variance for the front yard set back from 75 ft to 25 ft. He is in a hurry because he sold his house and his daughter needs health care around the clock, so staying elsewhere is not practical. He needs to put a mobile home on the site while he builds and wants to move forward as soon as he can.

The Commission agreed that they could hear the variance request on Thursday July 9 at 5:30 before the Town Board meeting.

Concerns from the Audience

None.

The meeting adjourned at 9:25.