

**Town of Duluth  
Planning Commission  
Meeting Minutes  
May 26, 2016**

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

Present: Paul Voge, Jo Thompson, Wayne Dahlberg, Jerry Hauge, John Schifsky, and Larry Zanko

Absent: No one.

Also present: Sue Lawson, Planning Director; and Dave Edblom, Town Board Supervisor and liaison to the Commission

The agenda was approved with the addition of a discussion of the LIU-3A site on Ryan Road precipitated by the presence of individuals associated with or interested in the property being present and wanting input from the Commission.

Paul Voge arrived and assumed chairing of the meeting.

The individuals who were present with an interest in the LIU-3A property on Ryan Road introduced themselves. They were Josh Hendrickson, owner of Dryco, Dan Mindestrom, a co-owner of the Ryan Road property, Ken Mandelin, also a co-owner of the Ryan Road property, and Kay McGivern, realtor.

Sue provided some background. The LIU-3A zone district is intended for light industrial use. Sue had talked with Josh in the previous week. He owns the Dryco cleaning business and operates it out of his home on Deerview Trail with an interim use permit. He is looking to relocate and inquired about the 5816 Ryan Road property which is zoned LIU-3A. Sue said that she told him she was not sure that his business fit the description for LIU-3A.

Josh said that his interim use permit expires in October and he would like to relocate before then. He would like to stay local and there is not a lot of suitable property available. He said that his business involves cleaning homes or businesses that have been damaged by fire, flooding, or other event. He needs a place to store equipment and vehicles. His plan for the site would be to put a building, around 6000 sq ft, on the property. Part of it would be used for the Dryco business and the remaining space would be rented out. One of the prospective renters is in manufacturing. It is a 10.97 acre parcel. He distributed copies of a letter he wrote to the Commission (see attached).

Wayne asked Dan what they had used the property for.

Dan said that they fabricated steel items -- tanks, metalwork, septic tanks, etc. They delivered the items they made. There was a small office on-site for paperwork. Their business had there for 40 years up until about 7 years ago.

Larry asked if the issue of whether the Dryco business would be allowed in the LIU-3A zone district was one of definition.

Sue read the definition of LIU-3A from the Ordinance.

This district is designed to accommodate those industrial and manufacturing uses that foster orderly economic growth, without adversely affecting the residential character of the surrounding area, by imposing performance

standards to minimize conflict between dissimilar uses and by prohibiting uses that may contribute to environmental deterioration.

She reviewed the allowed uses for LIU-3A from Article V, Table 5.3 of the Ordinance. The uses that are closest to what Dryco does are rural industry and general warehousing, both of which are permitted with performance standards. The definition of rural industry, from the Ordinance, is “Small industrial uses in low development density areas.” The definition of commercial is “The principal use of land or buildings is for the sale, lease, rental, or trade of products, goods, and services.” Neither definition is especially helpful.

Dan said that the tax statement for the property says that it is commercial. Sue said that the County’s definition of commercial is different from the Town’s definition and it makes it confusing.

Josh said that although his business is not manufacturing, he would be renting part of the building to a small manufacturing company that is already operating in another LIU-3A district in the Town.

Wayne said that even though Josh’s business might be considered commercial, everything they do is off-site. He thinks of “commercial” as somewhere where people come in and purchase a product and where there is a lot of traffic. This business is quite different. He thought it was worth discussing to see if there was a way to make it work. Although Josh’s business might not be a specifically permitted use in LIU-3A, perhaps the definition of LIU-3A could be broadened, or it could be rezoned, or perhaps it could be allowed through a conditional use permit. He said that the site has been an eyesore in recent years and it would be good to work with these folks to get it back in order.

Larry noted that small firearms manufacturing is allowed in the Ordinance with Performance Standards.

Sue looked at the performance standards for rural industry. Performance standards are listed in Article VIII but then Article VIII says that you also have to meet the standards listed in Article IX, Conditional Uses. These standards include hours of operation, noise, sewage, support of nearby landowners, etc.

John thought that the definition for rural industry was broad enough that it could include what Dryco does.

Paul said that according to the Ordinance, a community participation report would be required. It is as though the performance standards requirements are mixed up with the conditional use requirements.

Sue asked if it could be considered mixed use, commercial? She asked if there will be any direct sales of products from the site. Josh said no.

Wayne said that the Commission could do something similar to what they did for small arms manufacturing.

Jo said that the Ordinance should not have to be so specific.

Sue suggested calling it mixed industrial use with a broad description including warehousing and light manufacturing. There are four LIU-3A areas in the Township that this might affect.

Jo said that the site is already zoned LIU-3A. It has been used, historically, as a manufacturing site. Josh’s business fits the definition of LIU-3A. It is a service-type industry. His equipment would be warehoused there and he would go to the customer’s site to deliver the service. Were there complaints about the business that was previously at the site? The performance standards for LIU-3A fit this type of business.

Paul said that if the business was considered rural industry it would have to meet the performance standards which include the conditions on page 69 of the Ordinance. To him, it seems like these standards would involve a public hearing as a part of the permitting process. Are there performance standards for warehousing?

Sue said that the warehousing and rural industry uses are listed in the land use matrix as allowed in LIU-3A with performance standards. But then under the performance standards for LIU-3A, the Ordinance says that LIU uses must meet the requirements described in Article IX, Conditional Uses. This creates a catch-22. It seems to her that the intent of the Ordinance was for these uses to be allowed with performance standards, and not require a conditional use permit. It doesn't necessarily make sense to require a conditional use permit for a light industrial use in an area zoned for light industrial use.

Wayne said that he felt the nature of the business fit the zone.

Jo made a motion that the proposal, as Josh presented it for his Dryco business and a light manufacturing business, fits the definition of LIU-3A under warehousing and light manufacturing and should be permitted, subject to the Performance Standards listed in Section 17, Article VIII and Section 15 of Article XI.

John seconded.

Sue read the performance standards. They include criteria for loading areas, parking, access, environmental standards, hours of operation, lighting, and screening and buffering. Regarding screening, the neighbor that shares the driveway is shielded by woods. There are some homes to the east but they are a ways back. So these performance standards are met by the proposal. But then Section 17.B indicates that the requirements in Article IX Section 15 must be met. These criteria can be met except for the lot width, which is supposed to be a minimum of 600 ft, and then the question of the requirement for support of nearby landowners. The intent of the Ordinance appears to be that warehousing and rural industry be permitted with performance standards, not a conditional use permit.

Wayne said that the lot is a lot of record, so the lot width is not an issue.

Jo made an amendment to the motion to include all of the performance standards described in Article VIII Section 17 and Article XI, Section 15 except for 15.A. Hours of Operation and 15.J. Lot Width, because it is a lot of record, and 15.E., Support of Nearby Land Owners because it is not a conditional use situation.

The complete motion: Jo made a motion that the proposal, as Josh presented it for his Dryco business and a light manufacturing business, fits the definition of LIU-3A under warehousing and light manufacturing and should be permitted, subject to the Performance Standards listed in Article VIII Section 17 and Article XI, Section 15 except for 15.A. Hours of Operation and 15.J. Lot Width, because it is a lot of record, and 15.E., Support of Nearby Land Owners because it is not a conditional use situation.

John seconded the modified motion.

Paul said that the original use was pre-zoning and it is zoned for light industrial, so someone buying the property should not have to get a new permit for light industrial use. It does seem as though the intent of the Ordinance was for these types of uses to be allowed in LIU-3A as permitted with performance standards.

Sue said that it was originally zoned for light industrial because of the use that was already occurring there. There is a long history behind the small LIU-3A zone districts. The Town was taken to court over these zone districts and the matter ended up in the Minnesota Supreme Court.

Jo agreed with Paul. If the property is sold, and it is zoned for light industrial, the new owner should not have to go through the process of having it approved for light industrial use.

The motion was approved unanimously. The decision document was written and approved.

The April minutes were approved with minor changes.

### **Director's Report**

Sue said that work on the rain garden for stormwater control for the Town Hall would be on Saturday June 11. Sue, Dave Edblom, Jo and Wayne developed the plan. There will be a couple of swales and rock put in. Dave is bringing his equipment and Wayne is having the materials brought in. The work will all be done by volunteers, so all are welcome. The hope is that if the Town doesn't have to spend money on the construction, money will be available to put in vegetation.

Jo and Val Brady held an open house on stormwater at Saturday morning recycling on the previous Saturday. They were able to talk to a lot of Township residents about stormwater. The MS4 stormwater report is due at the end of June. Val has started working on it and Sue and Jo will help.

Sue reviewed the Trails Plan with James Gittemeir. It is much clearer with the editorial changes. He will send her a revised copy before the next Board meeting.

Sue said that Kiviranta was having an open house on Thursday June 2nd and Commission members were invited.

The St Louis County ATV ordinance passed. The Town can control Town roads if they choose to. The Town Board voted unanimously to voice the Town's opposition to the ordinance.

Dave said that if the Town decided not to allow ATVs on Town roads it would be up to the Town police to ticket offending ATV riders.

Sue said that Val Brady made a presentation to the Board outlining what is left to be done to be in compliance with the stormwater rules.

### **New Business**

There are two permit applications from the Greenwood Road area. One is someone whose garage is over the property line. He is having it surveyed. The other will be a variance hearing at the June meeting. It's on McQuade Road in a commercial zone. He thought the setback for accessory structures was 10 ft, but in the commercial zone it is 20 ft. He wants to place his garage 10 ft from the property line.

Sue described some of the issues of nonconforming lots in the Greenwood Road SMU-8 area. Well over half of the lots in that area are nonconforming because they do not meet minimum lot size or minimum lot width. One of the decision criteria for a variance is that "The plight of the property owner is due to circumstances unique to the property and not created by the property owner." If 75% of the lots are nonconforming then it is not unique to any single property. It would be good to have a conversation about this. What data would the Commission like to see to facilitate that conversation?

Paul thought number of parcels and average parcel size. He would like to see how many of the lots are legal lots of record that are yet to be developed.

Jerry said that one big lot would throw the average off. He would like to see a list of the sizes of each lot. Paul said that existing structures and setbacks for them would be good, too.

Sue said that she would talk to Clint Little to see what he could do.

Sue asked who on the Commission would be willing to look at performance standards for rural industry in the Ordinance and possibly update it.

Jo volunteered.

**Concerns from the Audience**

None.

The meeting adjourned at 9:10.