

**Town of Duluth
Planning Commission
Meeting Minutes
January 26, 2017**

The meeting was called to order at 7:02 pm by Chair Paul Voge.

Present: Paul Voge, Jo Thompson, John Schifsky, Jerry Hauge, Larry Zanko and Liz Strohmayer.

Absent: Wayne Dahlberg.

Also present: Sue Lawson, Planning Director and Clint Little, DNR.

The agenda was approved as presented.

The November meeting minutes were approved with one spelling correction.

Old Business

Rezoning of the Old Clover Valley High School Property

Sue said that she forwarded the letter the Commission approved at the November meeting that recommended rezoning the old CVHS site from LIU-3 to FAM-3 to the Town Board. The Board agreed with the conclusions and recommendation, but wondered if it would be a good idea to wait to rezone the property until the tear down and site revegetation was complete. According to the Ordinance, the Commission has 30 days following the public hearing to submit a report with its recommendation to the Board. The Board can then choose to adopt the amendment, but the Ordinance does not indicate a time for that. So the Commission can go forward with the public hearing and the Town can then choose when to act on its recommendation.

It was agreed that the regular Commission meeting on February 23rd would work for having the public hearing. Sue said that most of the supervisors indicated they were available then, also.

For a zoning map amendment, the Ordinance requires notification of all neighboring property owners within at least 350 ft. The Commission decided the notification area should be a ½ mile radius of the site.

The Greenhouse on Clover Valley Road

Sue read from an email from Mike Mageau regarding his current plan for moving the greenhouse:

We are currently exploring two options – both are viable at this point. The first is a simple leasing arrangement with a friend that has 100 acres of land out in Normanna Township. This is primarily our backup plan. The second is a leasing arrangement with the new owner of the Lake Superior Garden Center on Jean Duluth Road in Rice Lake Township. We should have a

definitive answer by your February meeting. Either way we plan to remove the greenhouse in May.

Sue said that she has also received emails regarding issues that neighbors continue to have with the greenhouse operation.

Cindy Hale spoke. She said that she and other neighbors are fine waiting until May for the structure to be moved. The issue is the operation. The operation is no longer hydroponic, so noise is not an issue. But the lighting issue has not been resolved. And infrastructure has been added: a heater, rainwater tanks, and outside cinderblock compost bins. This makes the neighbors nervous. Cindy said the lights are on when they get up in the morning and when they go to bed at night. All they have ever asked is for the operators to come and talk to them to try to resolve the issues. Emails result in hostile responses, so they have quit trying to communicate with them. They have never done anything to appease the neighbors. She asked what can be done. They have never paid any permit fees or fines. There have been no consequences for their bad behavior.

Larry asked if the lights are on all night.

Cindy said no, but it is not always consistent. On the previous night they noticed the lights on at 8 pm and then off at 9:45. When they get up at 5:30 the lights are on.

Paul suggested sending an email reiterating the original conditions.

Liz asked how the greenhouse operators were doing on the condition set in September that they check in before every meeting regarding their progress.

Sue said that they didn't report one month and since then, she sends an email each month reminding them.

Paul said that at one time the Commission had talked about imposing a penalty for having the structure there for that period of time. Mike kept saying they would be moving it. The Commission never specified that he couldn't add on to it.

Liz said she would just like to have them respect the original conditions.

Cindy pointed out that Mike is not the owner of the property. Shouldn't the Commission be talking with Linda Klindt, the owner of the property? Linda does not live on the property.

Sue said that yes, the owner is responsible for the property. One option would be to write a letter to the operators and to the land owner indicating that they are not holding up their end of the agreement and saying they may incur expenses or fines. She would need to talk to the Town's lawyer about what penalties could be imposed.

Paul asked if the Town has had any interaction with the owner regarding the greenhouse.

Sue said that she was here for the first meeting. She also has email correspondence with her on the matter.

The agreement was that there would not be growing lights on outside the hours of 6 am to 6 pm. Some Commission members felt like there needed to be consequences for noncompliance. The Commission has been working with them, but they are not making a good faith effort.

It was decided to monitor the lights for a week. At the end of the week, if they are found to not be in compliance, Sue will send a letter to the property owner and to Mike Mageau giving them one week to comply.

SMU-8 Review

Clint was present to provide mapping details. John presented what he and Wayne has gone over. The map is broken into blocks. The lot sizes within blocks are fairly consistent. They outlined contiguous areas where the lot sizes are consistent.

Sue showed a map of the area showing blocks and lots. The Commission compared the map to a handout with median and average lot widths for each block. Clint showed a map of parcels related to lots. Everyone tried to get an idea of what changing lot width requirements might look like and how might the development density change what subdivision opportunities each parameter could potentially open up. How much would changing the minimum lot width to 80 ft affect the potential density? How much of an increase of density would be acceptable?

John said that another consideration is that many of the roads shown on the plat map were never actually developed. In addition, there are many drainages that go through the area that make some larger lots less likely to be further developed. The lots that are larger because of these drainages can throw the average lot width off.

Clint showed where the drainages are in the plat, highlighting areas with 15% or more slope.

Jerry asked, if the goal is to make the zoning look more like what actually exists in the area, what would be the goal for new lot dimensions. If 80% of the lots in the zone district met dimension requirements, would that be an acceptable goal? He said that there would still be some variance applications, but far fewer. It would lessen the chance for subdivision.

Sue suggested that everyone look at the Ordinance article on nonconformities. And it would be a good idea to generally take a look at the Ordinance because a change in one part of the Ordinance can affect other parts.

It was decided that Sue, Clint, John and Beth would meet to look at the data before the next Commission meeting.

New Business

Short-Term Rentals

Sue said that she talked with some residents who were thinking about putting a short-term rental above their garage. In addition, they have extra rooms in their house and might want to rent those too. If they applied for a conditional/interim use, would the permit be specifically per structure?

Paul said that the Ordinance doesn't allow two dwelling units on a property unless the second is a subordinate dwelling. And then it allows it for the purpose of housing family, not as a rental, and only with a conditional use permit.

Jo pointed out that the Wildwood Road STR is a separate dwelling unit.

Sue said that the Wildwood Road STR was an art studio that was converted to a STR.

Liz asked what the difference was between a studio and a garage. What is the definition of a short-term rental? She knows of another place where the owners originally built a structure above the garage for a family member but didn't end up using it as such and now rent it out.

Paul said that is not allowed in the Ordinance. It essentially doubles the density.

Sue read the definition of a short-term rental from the Ordinance: A rental of a single family dwelling for less than or equal to thirty days at a frequency greater than four times per calendar year.

Sue said that someone can have two single family dwellings on a single parcel if the parcel could be divided in such a way that both dwellings would meet all of the dimensional requirements for the zone district. So does that mean it would be allowable if you have a parcel that could be divided?

Paul said that in that instance it would not be increasing the allowable density for the zone.

Jo pointed out Article VII Section 2B. Sue read it: Two residential structures may be allowed on one parcel if each structure meets the minimum lot area, width, and dimensional requirements of the zone district and for a proper and legal subdivision.

Paul said the idea was that if you subdivided you would not be creating a nonconformity. You would have to meet setbacks, too. So if the parcel is big enough, someone could do that.

Sue said that the definition for short-term rental refers specifically to a single family dwelling. So folks who have enough property that they could create another single family dwelling could potentially do that and rent it.

Liz asked how this interpretation would apply if someone owned 80 acres and wanted to put in 10 cabins.

Sue said that they would have to apply for a permit for a short-term rental for each cabin. And they would have to go through a subdivision process to build them to begin with.

Sue said according to the Ordinance, a short-term rental has to occur in a single family dwelling. If a property owner can divide their property in such a way that they could legally have a second single family dwelling, then could they have a short-term rental in that second single family dwelling?

Paul said that it seemed to him that the property owner would have to show how the parcel could be legally subdivided.

Jo asked about the rooms in their home the individuals were proposing to rent.

Sue said that anyone can rent out a room long-term without getting a permit. A low-frequency short-term rental requires a land use permit. It depends on how often they rent the room. It would also be possible to do it as a bed and breakfast.

Moving on, Sue said that the construction bids for the Kiviranta project were high and they decided not to move forward with construction for the time being. She said that Rondi Erickson called and asked if they could amend the Planned Unit Development. The Ordinance does not address amending a PUD. What does the Commission think?

Paul said that St Louis County doesn't specify an allowance for amending a PUD. In the County Ordinance, every type of PUD requires a conditional use permit, so that indicates to him that a PUD is essentially a form of a conditional use. So if you can amend a conditional use permit, then it seems that you could amend a PUD. The question would be how much of a change would be allowable under the original PUD.

Paul said that it seemed to him that if was a substantial change, they would need to start over again.

Sue said that this meant the Commission would need to know what changes to the PUD they had in mind to determine what steps would be required to proceed.

Director's Report

Sue said that the Town's annual budget meeting was one hour before the Planning Commission meeting tonight, so she drafted a budget for the meeting. If the Commission has anything they would like to change, she could bring it up to the Board at their February meeting. She said a tricky part of the budget planning is anticipating revenue for a year. For instance, this year the Planning Department revenues were about \$2,000 over what was budgeted. There were four variance hearings and one CUP hearing. But the last few years were substantially less than that. Revenue has been gradually increasing. So she estimated \$10,500 in revenue for 2018. Otherwise, the 2018 budget is pretty similar to the one for this year. The Board accepted the proposed budget.

The Commission agreed that the budget Sue presented was fine.

Sue then spoke about what happened at the November Planning Commission meeting. At that meeting, a number of Township residents who were concerned about a driveway access and construction, and possibly hazardous waste, were present and wanted to talk to the Commission about the problem. Unfortunately, their side of the discussion got loud and was not entirely polite. The discussion went on

at length. So the question is, when something like that happens, what can we, the Commission, other audience members, planning staff, do? The Communication Agreement allows us to tell people that they cannot behave in that way. So that's one approach. Another approach if a discussion is heated and is hard to interrupt, is for someone on the Commission to call for a recess.

Larry said that he liked the idea of reading the Communication Agreement and making it understood right up front.

John said that what happened at the November meeting caught him off guard and he would not have considered the need to read the Communication Agreement ahead of time.

Sue said that it is common at public meetings for things to escalate once one person gets agitated. It is as though it sets the standard for others. According to the Communication Agreement, we are all responsible for the agreement and holding others accountable to it. The Town has always provided opportunities for people to talk and there is no intention to not continue that tradition. But when people are not courteous and things escalate, it is good to have tools to interrupt the cycle.

Jo agreed that it caught everyone off guard and that the Commission does want to hear what people have to say. She thought stopping the conversation by calling for a recess would be best.

Sue said that in another instance recently, there was a public hearing before the Commission and one of the neighbors who was against the proposal started arguing directly with the applicant. It is important to point out that during a public hearing everyone needs to address the Commission only.

Sue showed a short video that was created in response to the fear that was being felt by some minorities following the 2016 campaign and election. She noted that it has become more common lately in our society to be less respectful and more forceful. So we as a community need to be very vigilant in keeping our community safe and respectful and making people feel safe and comfortable speaking up. It is important to listen and acknowledge so that individuals don't feel the need to be louder to be heard. When people are angry and don't trust one another, when people don't feel safe and heard, it becomes very difficult to trust in your community, your state, your government.

Concerns from the Audience

None.

Paul and Larry said they will not be able to attend the February meeting.

The meeting adjourned at 9:25.