

## Special Meeting

August 5, 2004

Posted Notice: The Town Board of Supervisors will hold a Special Meeting August 5, 2004, 7:00 p.m. at the Duluth Town Hall 6092 Homestead Road Duluth, MN 55804; to make their Final Decision on the Duluth Township Draft Zoning Ordinance.

Town Board Chair Corlis West called the meeting to order at 7:00 p.m.

Board members present: Jeff Cook, George Sundstrom, Corlis West, Stephen Dahl

Board members absent: Bruce Aho

Tonight's meeting is to make a decision on the draft ordinance, as presented to the Town Board by the Planning Commission. Response from the public, Planning Commission members and Zoning Administrator on the proposed changes will be accepted.

Corlis requested additional copies of the "Recommended changes based on Public Testimony for the proposed Town of Duluth Zoning Ordinance", be made available for the audience. George made a motion that no new amendments be brought up after 9:30 this evening, in the event we are not complete, we recess the procedure to be reconvened at a later date; Stephen seconded. Motion passed. George made a motion to have all motions repeated by the clerk; Stephen seconded. Motion passed. At this time members of the Planning Commission presented to the Town Board of Supervisors, changes that were made based on public testimony following the July 13, 2004 public hearing.

### Zoning Map:

- *FAM-1/FAM-3 T12, R12 Section 4, Johnson Property.*
  - *Reason: the intention of the Steering Committee was to eliminate as much as possible the privately owned peripheral lands in the FAM-1 and FAM-2 areas, as they are predominately publicly owned lands with large lot sizes. The Johnson property was inadvertently included in the FAM-1 zone.*

Stephen made a motion that the entire of the Rodney Johnson property at 1771 Dammon Road, be changed to FAM-3; Jeff seconded. George amended the motion to include 80 acres, W ½ of the NE ¼ of Sec 4, Twp 52, Rng 12; Jeff seconded the amendment. Amendment to the motion passed. Motion passed.

- *LIU Area – Mace Road*
  - *Reason: The intention of designating LIU areas in the Township was directed by the Comprehensive Plan whereby those LIU's currently active and in existence would remain as an LIU. The Mace Road LIU was not designated on the DRAFT Zoning Ordinance. Subsequently, Bruce Lindberg, owner of the Mace Road LIU, informed the Planning Commission that his LIU was still operational and should be included as an LIU in the Proposed Ordinance. And, the Berggren's dispute the inclusion of the Mace Road LIU and the "Tank Farm" LIU in the Proposed Ordinance citing a Supreme Court decision made in the '80's. The Planning Commission recommends that the Town Attorney review all applicable legal documents and testimony and advise the Town Board as to the appropriate action regarding LIU's.*

George made a motion to table this issue until our Attorney has a chance to review all documents, the entire LIU; Corlis seconded. Motion passed.

- *SMU-6/SMU-8 at McQuade Road*
  - *Reason: Under the current ordinance, those parcels below the railroad tracks were 1 acre in size.*

Jeff made a motion to accept that change from SMU-6 to SMU-8 just below the North Shore Railroad on the McQuade road on the eastern side; George seconded. Motion passed.

#### Shoreland Overlay

- *Based on testimony, include the following additions to Article 6, Section IV.B, Page 56:*
  - *3.) Structures are permitted in the Shoreland Overlay area as long as setbacks are met. Reasonable clearing is permitted for construction and for protecting structures from wildfires.*
  - *4.) Reasonable clearing for trails is permitted*
  - *5.) The removal of natural vegetation (i.e. trees, shrubs, and plants) is limited to 25% of trees (greater than 2 inches in diameter at breast height), shrubs and plants. Note: This means that no more than 25% of the trees may be removed between the principal structure and the water body within the impact zone. Removal of trees, shrubs and plants shall be accomplished through human means (i.e. hands, axe, saw etc.)*

George made a motion the Shoreland Overlay recommendations 3,4 and5 as presented by the Planning Commission; Stephen seconded. Motion passed.

#### Sensitive Overlay Area (SENSO)

- *No changes are recommended. It is strongly recommended that the compromise reached by the Steering Committee be maintained.*

Corlis made a motion to table the Sensitive Overlay (SENSO) for another date; George seconded. Motion passed.

#### Lighting

- *Based on testimony the following change is recommended*
  - *Article 8, Section 8D, Shielding, Page 65, insert "minimal" and should read as follows: All new outdoor light fixtures shall be fully shielded or constructed so that minimal light rays . . .*

Jeff made a motion to accept the recommendation of the Planning Commission as presented in Article 8, Section 8D, shielding, Page 65; Stephen seconded. Motion passed.

#### Signs

- *Article 8, Section 7, D7, Page 64:*
  - *Change to the following: "Home Based Businesses and Bed & Breakfast businesses shall be limited to one, non-illuminated on-site sign not to exceed 20 square feet. Home occupations shall be limited to one, non-illuminated on-site sign not to exceed 6 square feet.*

George made a motion to approve as presented by the Planning Commission; Stephen seconded. Motion passed.

Community Participation Plan

- *Based on testimony, the following changes are recommended*
  - *Article 9, Section 2B, 2, Page 72, Information required:*
    - *Drop a,b,c,d,e and insert the following*
      - *How these affected or otherwise interested will be provided an opportunity to discuss the applicants' proposal with the applicant and express any concerns issues, or problems they may have with the proposal.*
        - *Article 9, Section 2C, Page 72, Community Participation Report:*
          - *Delete items 1,2,3, and 4.*

George made a motion to table this request of Community Participation at this time; Jeff seconded. Motion passed.

Article 13, Section 3A, Page 99, Method of Appointments:

- *Replace item 1 with the following: "The Planning Commission shall advertise Commission vacancies and interview the candidates in conjunction with Town Board of supervisors. The Town Board shall select and appoint members.*

Jeff made a motion to accept the change by the Planning Commission; Stephen seconded.

Yea – Stephen, Jeff and Corlis No – George. Motion passed

Article 4, Section 3A Conditions of enlargement, Page 41

- *Add the following as item 3 (it was inadvertently left off proposed Ordinance): "The ground floor area is not enlarged by more than 25% of the original structure."*

Corlis made a motion that we accept the Planning Commission recommendation on Article 4, Section 3A; Stephen seconded. Motion passed.

Technical and Editorial Changes:

*1. Definitions:*

- a. Bed and Breakfast, Page 19 add cap on bedrooms: should read as "from 4 to 6".*

George made a motion that we accept the motion to read "from 4 to 6" as proposed by the Planning Commission; Jeff seconded. Motion passed.

- b. Add definition for easement, Page 21 as follows: "Easement: A non-possessing interest held by one person, group or government in land of another person whereby the first person, group or government is accorded partial use of such land for specific purposes. Easements fall into three broad classifications: surface easements, subsurface easements, and overhead easements."*

Corlis made a motion to accept the recommendation to adding Easement as described by the Planning Commission; Stephen seconded. Motion passed.

*c. Remodel, Item b, Page 27: Remove "two (2) feet" from definition.*

~~Jeff made a motion to take the Planning Commission recommendation except to get rid of increased living space; George seconded. Jeff and George withdrew the motion and the second. Jeff made a motion to accept the Planning Commission, under Technical and Editorial definitions, of remodel part B on page 27, shall read, replacement of siding, windows, doors, soffit, fascia, roofing, (i.e. if roofing replacement does not increase height by more than two (2) feet, and ornamentation. Remove increase living space; George seconded. Motion passed.~~

*2. Article 4, Section 4, Item E, Setback requirements, Page 43: Add the following: "A sewage treatment permit must be obtained before a variance may be considered."*

The following is E. Setback Requirements as printed from "Town of Duluth Zoning Ordinance July 2004"

(Construction on non-conforming lots must meet the following setback conditions:

1. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a substandard lot.
2. In evaluating the variance, the Planning Commission shall consider sewage treatment and water supply capabilities or constraints of the lots and shall deny the variance if adequate facilities cannot be provided. )

Corlis made a motion to table item #1, Jeff seconded. Motion passed. George would like to address item #2 at the same time item #1 is reviewed.

*3. Article 5, Section 3, Table 5.1, Dimensional Standards, Page 47: Footnote 1 should read as follows "Not to exceed 25%."*

George made a motion to adopt the "not to exceed the 25%" as recommended by the Planning Commission; Stephen seconded. Motion passed.

*4. Article 8, Performance Standards, Section 6, Add the following as new item f: "f. FAM Zone Districts – The keeping of livestock and related farming activities should be considered preeminent over non-agricultural uses in the FAM districts".*

George made a motion to accept the Planning Commission recommendation to add section f, to article 8, section 6 to read FAM Zone Districts – The keeping of farm . . .; Stephen seconded. Motion passed.

*5. Article 9, Section 14L, Permit renewal, Page 81: Strike "renewed" and replace with "reviewed".*

~~George made a motion to approve Number 5 as proposed by the Planning Commission; Jeff seconded. George and Jeff withdrew the motion and the second. George would like to make a motion accepting Article 9, Section 14, Letter L; language in the current Zone Ordinance which is: "A conditional use permit~~

shall remain in effect for so long as the conditions agreed upon are observed. However, whenever it is deemed advisable, a time limitation or review requirement may be placed as a condition on any permit. Jeff seconded. Motion passed.

6. Article 10, Section 2D, Citations: Strike "Planning Commission or Town Police" and replace with "the Town of Duluth".

Jeff made a motion to accept the zoning board recommendation; Stephen seconded. Motion passed.

7. Article 5, Section 4, Table 5.3: Page 50 change to the following:

Land Use	FAM-1	FAM-2	FAM-3	MUNS-4	SMU-6	SMU-6A	SMU-8	SCO-A	SCO-B	COM-3	LIU-3A	Part of the Shoreland Overlay Area
Accessory Structure greater than 2000 Sq Ft	P	P	P	PS	Ø	Ø	Ø	Ø	Ø	PS	P	PS
Accessory Structure between 1000 & 2000 Sq Ft	P	P	PS	PS	PS	PS	PS	PS	PS	PS	P	PS
Commercial, Waterfront & Accessory Structure	Ø	Ø	Ø	Ø	Ø	C	Ø	C	C	Ø	Ø	Ø
Water Oriented Accessory Structure	Ø	Ø	Ø	Ø	C	C	C	Ø	Ø	Ø	Ø	PS

George made a motion to adopt the matrix for accessory structures greater than 2000 feet, accessory structures between 1000 and 2000 square feet, Commercial Waterfront and accessory structures, and water oriented accessory structures, as proposed by the Planning Commission; Stephen seconded. George would change under the last part of Water Orientated Accessory Structures should change to C/PS if this is all right with the Second on the Motion; Stephen did not object. Motion passed.

This meeting has been recessed for the evening. George would like to make a motion to reconvene this meeting Tuesday August 17, 2004 7:00 p.m. Notices to be posted; Stephen seconded. Motion passed.

By Ann K. Cox  
Clerk, Duluth Township