

**Town of Duluth
Planning Commission
Meeting Minutes
May 28, 2020**

The meeting was called to order at 6:30 pm by Chair, Liz Strohmayer. The meeting was held via Zoom due to continuing COVID-19 distancing protocols.

In attendance: Liz Strohmayer, Jerry Hauge, Larry Zanko, Pam West, Angela Wilson and Blane Tetreault.

Absent: Dave Edblom

Also attending: Sue Lawson, Planning Director and Mike Kahl, Town Board liaison to the Planning Commission.

Sue introduced new Commission member, Blane Tetreault.

The agenda was approved as presented.

The minutes were approved as presented.

Sue said that a hearing is scheduled for the June Commission meeting for a conditional use for Liz Marinos to have horses in SMU-6. Sue showed a map of the parcel and vicinity. Liz built a pole barn last year and is now building a house on the site. She brought two horses onto the site not realizing that horses are not allowed without a conditional use in that zone district. The minimum notification area for a CUP is one-quarter mile.

The Commission agreed that one-quarter mile would be adequate notification area.

Sue said that in 2017 the Commission worked on defining different types of greenhouses and where they would be allowed and under what conditions. The discussion was triggered by a large unpermitted greenhouse on Clover Valley Drive that was about 60 ft by 60 ft and was growing produce for wholesale in Duluth. The Commission defined three types of greenhouses at the time and where and how they would be permitted. When this proposed language went to the Town Board for approval, the Board felt that the definitions didn't adequately allow for "mom and pop" greenhouses that, say, just sell seedlings in the spring, a couple of which already existed in the Township. They tabled the approval and were going to fine tune the definitions to address their concerns, but that didn't end up happening.

Following is the language recommended to the Board by the Commission in 2017:

Add the following definitions to Article II:

Industrial / Commercial Greenhouses: ICOGH

A structure with roof and sides made largely of glass or other transparent or translucent materials that, in order to function as intended, requires non-passive systems which may include, but are not limited to, mechanical systems, artificial lighting, plumbing, and ventilation. A business whose principal activity is the growing and selling of plants at a commercial level.

Farmstead Greenhouses

A structure with roof and sides made largely of glass or other transparent or translucent materials and in which the temperature and humidity can be regulated for the cultivation of delicate or out of season plants. It is primarily used to extend the growing season of plants or ornamental crops for use on the farm or for off-farm sales.

Residential Greenhouses RGH

A structure with roof and sides made largely of glass or other transparent or translucent materials and in which temperature and humidity can be regulated for the cultivation of delicate or out of season plants. Is used primarily for the production of plants or ornamental crops for use by residents and not for sale to the public.

Add to Article V:

Land Use	FAM-1	FAM-2	FAM-3	MUNS-4	SMU-6	SMU-6A	SMU-8	SCO-8A	SCO-8B	COM-3	LIU-3A	Streams part of the Shoreland Overlay Area (SLO)
Industrial / Commercial Greenhouses:	Ø	Ø	Ø	Ø	Ø	Ø	Ø	PS	Ø	PS	PS	
Farmstead Greenhouses	PS	PS	PS	PS	PS	PS	Ø	PS	PS	PS	PS	
Residential Greenhouses	p	p	p	p	p	p	p	p	p	p	p	

Add to the end of Article VIII Performance Standards:

Section 20. Greenhouses

1. Lighting
 - All lighting, interior and exterior, shall be fully shielded and downward projected.
 - Interior lighting utilized for growing of plants shall not be operated between one hour after sunset and one hour before sunrise (times determined by the USNO).
2. Wastewater Treatment
 - All waste water treatment must be approved by St. Louis County through their permitting process.
3. Hazardous Waste, Chemical Use and Disposal
 - All solid and hazardous waste shall be stored and disposed of in accordance with County, State and Federal regulations.
4. Notification to Fire Department
 - The Fire Depart must be made aware of any hazardous, toxic, or flammable materials kept on the property.

Sue noted that there is some overlap between definitions. Both industrial/commercial and farmstead greenhouses allow the sale of plants or crops under the existing definitions. The farmstead greenhouse was meant to encompass greenhouses like Ernie’s Acres or Maly’s. There needs to be a clearer difference between the two. She suggested that an industrial/commercial greenhouse could be considered a business whose principal activity is the growing and selling of plants at a wholesale and/or retail level.

Liz said that lights and noise were the biggest issue with the greenhouse on Clover Valley Drive. One of the main differences between commercial and farmstead greenhouses is lighting, but residential growers use lights, too.

Sue said that as it is written, residential greenhouses are permitted everywhere without performance standards. Perhaps there should be performance standards for residential greenhouses, also. The biggest limiting factor for greenhouses in this area is light.

Blane said that it didn't seem likely to him that someone would have a commercial greenhouse if they couldn't have extended lighting periods. That would be a limiting factor. Are industrial greenhouses something the Town wants?

Sue said that there have been mixed opinions on that. The Township is a part of the larger area of the City of Duluth and other Townships, so not every possible use needs to be provided for within the Township. She also felt that, in terms of sustainability, it might not make sense to have an industrial/commercial greenhouse in the Township when there is brownfield in the City of Duluth with sewer and water that would be better situated for distribution. Is it better to locate something like a commercial greenhouse closer to the community that is going to consume its product or does it matter?

Liz said that when considering the values and goals that were recently developed for the Comprehensive Land Use Plan, it seemed to her that the Town wants to support local and small businesses and that residential and farmstead greenhouses are more closely aligned with those goals and values. The consensus was that the Town doesn't want commercial and industrial uses scattered through the Township. This is not to say that there couldn't be a commercial greenhouse in the Town, but you wouldn't want something that could end up being a nuisance in its neighborhood. The majority of the Township is residential and farming.

Sue said that the Board didn't think the definitions clearly allowed for a greenhouse like Maly's. The Board's sentiment was similar to what Liz just described. They wanted people to be able to have farmstead greenhouses and sell plants and produce, as long as they didn't create light pollution. One possibility would be to increase the number of hours lights could be used. Another is to require that lights be downward projected and shielded. The greenhouse on Clover Valley Drive had side walls that were at least 12 ft tall and the lights were hung from the peak of the ceiling.

Larry said the Clover Valley Road greenhouse was a huge light pollution issue. In the proposed language, lighting would be allowed from one hour before sunrise to one hour after sunset. He felt like that would be too limiting for wintertime. He thought lights could be allowed until 8 pm and not be problematic.

Liz said that another thing to consider is the size of the greenhouse. A 10 by 10 greenhouse is not going to have the same impact on its neighbors as a hoop house that's 20 ft tall and lit from the peak. The Commission could consider a size requirement for something that is farmstead or larger. It's pretty rare to see something on a residential level that is that big.

Blane asked if there was a way to measure lighting. X amount of light \times distance from the structure could be allowed. So, it would not be a matter of where the light was mounted, but how much light is coming out.

Sue said that you could limit times of lighting by months, like starting in November the time you could have lights would be shorter. Spring would probably be more critical. On March 28th, the sun rises at 7 and sets at 7 in Minneapolis.

Angela said that under the current language that would mean that you could have lights from 6 AM to 8 PM on March 28. On February 2, sunrise is 7:32 and sunset is 5:11, which would allow lights from 6:32 AM to 6:11 PM.

Liz thought that for most purposes, the hour before sunrise and after sunset would work.

Blane said that if sunset is at 9:30, he wouldn't want lights going until 10:30. He said that it's not necessarily the number of hours, it's more the time the lights are on. For most people, 4 AM wouldn't be an issue but 9 PM would be. In general, he thought 7 AM to 11 PM would be the times when people are awake and would not want light pollution. A set time would give growers x number of hours. Maybe 4 AM to 8 PM?

Others thought 5 or 6 AM would be better.

Pam said that she tries to consider what activities light pollution would interfere with. 8 PM and 5 AM seem reasonable. And again, with a larger property, it would be less intrusive. But she still prefers the hour before sunrise, and after sunset language and thinks it would be easier.

Angela said that a time certain is good when considering enforcement. A lot of operations are automated so it would be easier to have a set time.

Larry agreed that a time certain is a lot clearer. It would also cover the period of time people might want to start plants early.

It was agreed that allowing lights from 6 AM to 8 PM would work and to keep the language requiring that lights be fully shielded and downward projected.

Sue said that in the current plan, industrial and farmstead greenhouses have the same performance standards. The only difference between them is where they are allowed. Industrial greenhouses are only allowed in COM-3, SCO-8A and LIU-3. SCO-8A was originally included because it is already a commercial area and it is close to markets. SCO-8B was not included because, although it is commercial, it's the area with Tom's Logging Camp and is less populated than the McQuade Harbor area. It was agreed that the zone districts as originally set for industrial/commercial greenhouses were still okay.

Liz thought that informing the fire department about chemicals on site should apply exclusively to industrial/commercial greenhouses. The Commission agreed that that made sense.

Blane asked if we should consider what happens if the state legalizes marijuana. He was concerned about things like security cameras, added police traffic and demand for public services.

Liz said that if it's legal within the state we should allow it. It's a plant and growing it doesn't necessarily mean that it would attract a negative element.

Sue said that if you can only have lights between 6 and 8 it might not be that profitable and economics might take care of it. The Commission's task is to look at land use and not at what crops are grown in a greenhouse. Land use is about the suitability of having a greenhouse. If other concerns arose, they would best be addressed by other ordinances.

Angela said that language could be included that anything grown in a greenhouse be in accordance with state and federal laws.

Liz said that the question is, if marijuana and growing marijuana is legalized in Minnesota, does the Town want to allow it.

Jerry said that we don't regulate other crops. If its legal, its fine.

Angela said that she thought performance standards should be in place for residential greenhouses.

The Commission agreed.

Liz noted that the definition for industrial/commercial greenhouses allows for mechanical systems like lighting and plumbing, but it's not clear as it's written that those elements are allowed for farmstead greenhouses.

Liz said that the part of the definition that describes use of and/or sales of the plants from the two types of greenhouses is what differentiates the two. Industrial/commercial greenhouses grow plants to sell at a commercial or wholesale level and farmstead greenhouses grow plants for use on the farm or for off-farm sale. Should language about passive systems vs mechanical systems, etc., be added to further differentiate the two?

Angela said that the main factor that defines industrial/commercial is that it is a business with the principal purpose of growing and selling at a commercial level.

It was agreed to add "light" to the definition of farmstead greenhouse: "temperature, humidity and light can be regulated" and to add "wholesale" to the definition of industrial/commercial greenhouse: "A business whose principal activity is the growing and selling of plants at a wholesale or commercial level." It was also agreed that the performance standards would apply to residential greenhouses, except for the one requiring notification to the fire department of hazardous, toxic, or flammable materials kept on the property, which would only apply to industrial/commercial greenhouses.

Sue said that these defined uses will be added to the Ordinance in the next amendment. In the meantime, they can be used to address any inquiries or issues regarding greenhouses in the Township.

Liz noted that the new greenhouse use definitions are in keeping with both the current comp plan and the upcoming proposed comp plan.

Liz made a motion to approve the changes as detailed above for greenhouses. Blane seconded. The motion passed unanimously.

Director's Report

Sue said that she will be submitting an application for a STAR Grant for updating the Ordinance. If we get it, the start date would be either October 1 or January 1, depending on the grant. For this period the Commission will hold two meetings per month, on the third and fourth Thursdays of each month. The third Thursday meeting will focus on the Ordinance and the fourth Thursday meeting will be the regular Commission meeting.

Sue said that another enforcement letter has been sent to the unpermitted short-term rental on West Knife River Road. They are advertising again so the Town's attorney sent a letter giving them until June 2 to respond.

Sue said that there will be a public hearing at the June Commission meeting. We will follow the Governor's orders as they are at the time of the meeting.

Concerns from the Audience

None.

The meeting adjourned at 8:02.