

**Town of Duluth
Planning Commission
Minutes
Public Hearing for Proposed Ordinance # 6 and Zoning Map
December 2, 2021**

The meeting was called to order at 6:30 by Chair Liz Strohmayer.

In attendance: Liz Strohmayer, Dave Edblom, Angela Wilson, Pam West, Justin Osadjan, Blane Tetreault and Dave Meyer.

Absent: No one.

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

Public Hearing for Town of Duluth Proposed Ordinance Number 6 and Zoning Map

Sue opened the presentation with an explanation of the relationship between the Comprehensive Land Use Plan and zoning and an introduction of the Zoning Ordinance and the Zoning Map. She showed the proposed changes to the Zoning Map: Zone district name changes and the two new zoning districts, SSUR-1 and SSUR-2. She outlined the changes that were made to the Draft Zoning Ordinance in response to comments.

Comments regarding the Streams Shoreland Overlay indicated that it was too stringent. The Commission decided to leave the wording as is in the Draft Ordinance. Sue said that an analysis showed that the overlay was 9,917 sq ft and comprised 9.8% of the Township. It has been in existence for 17 years and there have no issues with the overlay. The requirements for the SSLO are minimal and it is supported by the CLUP.

Comments concerning high-frequency short-term rentals were to

- Put a temporary moratorium on any new short-term rentals until more planning has been done to address need, volume, zoning, etc.;
- Put them in specific zones (require access to the sewer?);
- Restrict the numbers of them in the Township;
- Require a short-term rental to be a primary residence so there is owner oversight;
- Increase the Planning and Zoning oversight to actively monitor and ensure compliance.

The Commission's response was to add additional requirements:

- Short-term rentals will be allowed only in principal single-family residential dwellings that are occupied by the owner as a primary residence for at least 9 months of the year.
- STRs will be granted only as an interim use. They will not be granted as a conditional use which could be transferred if the parcel were sold.
- The allowable rental frequency will be no more than 60 days per year with the year commencing on the date the interim use for the rental starts.

Comments concerning driveways were

- Do we need to get into the business of permitting driveways?
- If we are regulating driveways, why are we requiring a 10% slope or less? Is that realistic given our topography? Does the Fire Department need such a shallow slope?

The Commission chose to retain the wording in the Draft Ordinance.

A comment was received regarding the evolving nature of farming and agriculture in the Township. The commentor proposed a category called market farming and said that there is a need for such a use that recognizes changes in farms and farming and that products from these farms can be different from traditional agriculture.

The Commission agreed and developed the following definition and standards.

Market Farm: A farm existing to produce and sell agricultural products to the local region which may include some or all of the following seasonal activities: on farm and/or off-farm sales of agricultural and related value-add products, onsite agricultural related events, food sales, and pick or cut your own operations.

Allowed with performance standards in zone districts FL-1, FL-2, FFL-1, RR-1, and SSUR-1.

Performance Standards

A. Minimum Lot Size. A market farm must be a minimum of 9 acres.

B. Hours. Market farms may be open to the public during seasonal hours and may have employees as necessary for support of the operation.

C. Festivals. Festivals are allowed up to four times per year for three consecutive days each.

D. Retail Sales. Retail sales and value-added sales, including agricultural, horticultural, cottage foods, and silvicultural products are allowed. Retail sale products must be produced on the farm or be 50% locally sourced.

E. Parking. All customers must be able to park on the farm property.

G. Signage. There may be one sign posted at the end of the driveway on the landowner's property. The sign shall not exceed 18 sq ft. The sign shall not be illuminated.

H. Regulations. All applicable federal, state, and local health regulations must be adhered to.

I. Land Use Permit. A land use permit is required. There will be no charge for the land use permit.

J. Sanitary Facilities. Onsite sanitary facilities sufficient to meet needs must be provided during open hours of operation.

A comment was made that the last sentence of the Farm Stand definition should be changed from "No commercially processed or commercially packaged foodstuffs shall be sold at a farm stand." to "No commercially processed or commercially packaged foodstuffs shall be sold at a farm stand *unless those products are produced on the farmstead.*" The reasoning was that farm products might be prepared in a commercial manner, for instance in a commercial kitchen, and could hence be prohibited from sale at the farm's stand. The Commission agreed and added the change.

In response to comments regarding farm animals, the Commission replaced the term "horses" with "equid," added an example of using animal units, and added the RR-1 zone district to the following

standard: “FFL-1, FL-1, FL-2 and RR-1 Zone Districts. The keeping of livestock and related farming activities should be considered preeminent over non-agricultural uses in these districts.”

Sue enumerated proposed changes from Ordinance Number 5 that were not commented on, including the following:

Uses that were changed from Conditional Use to Permitted with Performance Standards: Stairways and lifts, saunas, fish cleaning houses, gazebos and screen houses. Boat docks and boat houses are not permitted.

Added land uses and performance standards: shooting ranges (not allowed), day care facilities, isolated camping sites, and farm stands.

Clarification of Recreational Camping Park.

Addition of utility-scale wind energy conversion systems and solar energy systems to conditional uses and performance standards for residential-scale wind energy conversion systems and solar energy systems.

Addition of performance standards for electronic variable message signs.

Clarification of definitions for various types dwelling.

Public Testimony

Judy Hubbartt asked how to see what is in the Town’s Ordinance that is different from St Louis County’s Ordinance. She felt that it was too much oversight to be under both Ordinances. Judy said that she did not understand why one needed permission from the Town to use their land. They have lived here a long time and were already happy with the Township. It is an agricultural township, not the north woods. She thought there were already too many restrictions and regulations on people’s properties. When the Town goes above and beyond the restrictions St Louis County already has, you lose your freedom. Judy was concerned about who would enforce all the rules. She acknowledged the work and thought and effort that has gone into the proposed Ordinance, but she feels that there is too much micromanaging. There are a lot of things in it that she doesn’t think we need. She would like to know if it goes unnecessarily above and beyond St Louis County’s Ordinance. She said that all of us appreciate where we live. She does not know anyone who is abusing their land. Judy said that she does not want the Township to end up being a place where you can’t do anything with your land. It is only a small number of people who are not good neighbors.

Ron Hubbartt would like to see what has been changed between the existing Ordinance and the Proposed Ordinance. Ron said that he appreciates the service to the community. Keep up the good work.

Cole (last name not known) said that he lives in the City of Duluth. He can see that the Commission has really thought about what has gone into the Ordinance. He lives in an area where he can’t do anything and it is a different perspective.

Collette Scheall asked why some of the animal units were changed to be twice as restrictive as the previous Ordinance. She felt the animal unit limits were too restrictive and was concerned that the Township would continue to limit them further in subsequent Ordinance revisions. She would like them to remain as they are in the current Ordinance. She asked why a permit would be required for a farm stand. If someone is registered with the State, it doesn't seem that they should have to register with the Town as well. It is too much monitoring.

Mary Ann Sironen said that all of the Town is not timber and agriculture. She lives on the shore and some of what is in the Ordinance serves to protect their lifestyle on the shore, as well. The Town basically has three zones, the shore, agricultural land, and forest land. She said that she feels well represented by the Town.

Sue said that she had gotten preliminary comments from the DNR. They control shoreland regulations and she has been working with them to be sure that we are meeting their standards on streams. The North Shore Management Board deals with Lake Superior shoreland. The DNR's preliminary comments indicate that we may not be as restrictive as the DNR. Sue said that she will talk with them about this.

Sue read a written comment from Beth Mullan.

I am a long-time resident of the Township. I am writing regarding the proposed use of "isolated camping sites." I believe that such a use is very similar to high-frequency short-term rentals and should not be allowed in the Township at the potential density of one every twenty acres. Short-term rentals can be disruptive to the surrounding neighborhood and community. I believe that "isolated camping sites" have the potential to be similarly disruptive. I am also concerned about the ability of the Town to control such a use. Such campsites are likely to be isolated and, as such, not easy to oversee.

Primary concerns I have regarding this use are the potential for disruptive behavior, fires, trespassing, traffic, increased impervious surface area, wastewater disposal and access for emergency services.

I believe that allowing "isolated camping sites" as currently proposed would not be protective of the integrity and character of the community. The use, if not further limited, is not compatible with the tenets of the Comprehensive Land Use Plan concerning ruralness and commercial uses in the Township. The Comprehensive Plan states that commercial uses in the Township should be compatible with the existing neighborhoods. Allowing camping sites for compensation throughout the Township is not compatible with protecting existing neighborhoods.

End of Public Testimony

Commission Responses

General: Blane said that the Comprehensive Land Use Plan is how the Planning Commission makes its decisions and the CLUP values the same things commentors have said they value. If there were no rules in place and a few bad actors were to do whatever they wanted on their land, we could lose the Township we have and value.

Pam noted that the Township is not the same as it was 30 years ago. It has become much more populous and the Town needs to work to adapt to the changes that come with increased population.

Sue said that this version of the Ordinance has basically been in place since 2002, except for amendments for new uses such as short-term rentals, and it has remained very much the same. The shoreland standards have been the same since that time.

Angela asked Judy if she had specific examples of overreach in the Ordinance. She said the Commission goes back and forth on what is reasonable. She believes everyone is coming from the same place, wanting the right balance between individual rights and governance. If the general feeling is that the Town is too regulatory, she understands that, too, but specifics would help.

Animal Units: Dave Edblom said that regarding animal limits, the Township has a topography issue where everything drains to Lake Superior. It has very unforgiving soils. In developing the new standards, the Commission asked Township residents what they felt was a reasonable carrying capacity for land in the Township.

Enforcement: Sue said that enforcement is based on the idea that Township residents helped create the CLUP and have generally agreed that this is how we are going to live together. The Ordinance is based on the CLUP and the Town trusts the people in the Township to comply. The Town addresses egregious violations. If we have concerns, we investigate.

Farm Stands: Liz said that farm stands are a sort of home-based business. Having permits for them gives the Town a chance to let people know what the rules are for having a farm stand. She said that the State does not register farm stands.

Angela said that State law requires that parking be off the road. There are certain requirements for selling certain things and the Commission felt that it was important that people know the rules.

The meeting adjourned at 8:11.