

**Town of Duluth
Planning Commission
Meeting Minutes
January 27, 2022**

The meeting was called to order at 6:30 by acting Chair, Blane Tetreault.

In attendance: Blane Tetreault, Justin Osadjan, and Dave Meyer.

Absent: Dave Edblom, Pam West, and Angela Wilson.

Also attending: Sue Lawson, Planning Director and Liz Strohmayer, Planning Assistant.

The agenda was approved as presented.

The December 16, 2021 minutes were approved as presented.

Sue said that she and Beth met with the Matt Bauman and Patti Fowler from the DNR, and Jenny Bourbonais from St Louis County in December. Our Ordinance has to be consistent with the County ordinance as well as at least as restrictive as the County ordinance. But comparing the two ordinances is not straightforward because we have different categories when considering land use than the County does. North Shore Management Board has authority over the Lake Superior Shoreland.

Both Matt and Jennifer submitted comments and Sue integrated those that were pertinent into our proposed Ordinance language. She will present those suggested changes and the Commission can choose to accept a change as is, modify it before accepting it, or reject it. It was decided to make one motion incorporating all of the Commission's decisions at the end instead of after each edit.

The definition for Shoreland Streams Overlay did not seem clear to Matt as we had originally written it. Following is the rewritten definition.

Shoreland Overlay Area - Streams Shoreland Overlay (SSLO) – An area located along streams designated as Public Waters in this Ordinance and Zoning Map. The SSLO is 300 feet on both sides of the stream or river measured from the Ordinary High Water Level or, the landward extent of a flood plain designated by the Federal Emergency Management Agency (FEMA), whichever is greater. The setback for structures is within the SSLO on both sides of the stream and measured from the OHWL or the landward extent of a flood plain designated by the Federal Emergency Management Agency (FEMA), whichever is greater.

Sue also created a new graphic to replace Figure 4. The Commission agreed that both the definition and graphic were clearer.

For the Land Use Matrix, it was suggested that columns for LSSLO and SSLO be added to the right of the zone district columns with notations as to whether and under what circumstances each use would be allowed in the respective overlay. Sue and Liz developed a key for the overlays:

A - Use is allowed. All setbacks in Article V, Table 5.2 must be met as well as the requirements in Article VI, Section 4, and all other applicable requirements of this Ordinance.

B - Use is not allowed.

C - If not defined as part of the Conditions detailed in Article IX for that particular use, must be established as part of the Conditional Use Hearing. The Commission may impose more strict conditions than listed in the current conditions in Article IX.

D - Use is allowed and must meet setbacks along the shoreline of Lake Superior as defined in Article V Table 5.2, Lake Superior Shoreland Overlay and in Article VI Sections 2 and 3, and all other applicable requirements of this Ordinance.

E - Use is not allowed south of the North Shore Scenic Drive (St. Louis County CSAH 61) but is allowed in the remainder of the LSSLO and must meet all other applicable requirements of this Ordinance.

PS - Use is allowed and must meet performance standards established in Article VIII associated with each use. All setbacks in Article V, Table 5.2 must be met as well as the requirements in Article VI, Section 4, and all other applicable requirements of this Ordinance.

They went through all of the uses and applied one of the new codes to each use. The definition for overlays states specifically that overlay district standards are cumulative to base zoning district standards. So, if a use requires performance standards in its zone district, the requirement for performance standards does not need to be spelled out when the use is indicated as allowed in the overlay.

It was decided that the “B” symbol for “not allowed” should be changed to the “Ø” symbol to be consistent with other parts of the table.

Sue and Liz reviewed all of the uses and the overlay designations for them.

For Article VIII Section 29, Water Oriented Structures, Sue said that the County does not allow saunas within the structure setbacks in shoreland areas, so she changed our Ordinance language to reflect that. It was agreed that fish cleaning houses and gazebos should be designated as “D” in overlay sections of the matrix. The word “building” was changed to “structure” throughout the section.

For Article III Section 1.E, Flood Plain Requirements, Matt suggested expanding the language to be more specific about what is required for LUPs in flood plains. The Town can defer regulatory authority over flood plain areas to St Louis County, but the Town will have to coordinate with the County on LUP applications in flood plains. Flood plains are not yet mapped. There are likely to be flood plain areas along rivers and streams, as well as the lake shore. The proposed language:

E. Flood Plain Requirements 1. No land use permit shall be issued that is not in compliance with county floodplain regulations. Where the 100-year flood elevation has not been determined with a detailed study, Minnesota Rule 6120.3300 shall be utilized to approximate the flood elevation. Development that occurs within a regulatory floodplain, as identified on the official FEMA Flood Insurance Rate Maps, shall be subject to a separate permit from the county to ensure all floodplain standards are met. Lowest floors in shoreland districts must meet the standards in Section 3.D.2.

For Article III Section 3, Steep Slopes, the sentence “Additionally, within the SSLO district, no such structures shall be allowed in the bluff impact zone.” was added and the site suitability section was moved to its own section.

There were some minor language clarifications in Article VI regarding removal of vegetation in SSLO and LSSLO areas.

For Article VIII, a section was added, Mineral Exploration and Evaluation. The County has this section and the accompanying standards in their ordinance.

In Article X, the following paragraph was added to Section 1.E to meet DNR requirements.

All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner’s designated representative and postmarked within ten days of final action. When a

variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

The County considers Recreational Camping Parks planned unit developments, so Sue added them to Tables 12.1 and 12.2. in Article XII, Planned Unit Developments.

Liz said that when she was looking at this, she was struck by the fact that the Commission had decided on a minimum of 10 acres for a recreational camping park vs a minimum of 40 acres for one isolated camping site. She said we established 40 acres as the minimum lot size so that the use would be very sparse. But if we are requiring 40 acres for an isolated camping site, it seemed odd to her to allow a whole campground on just 10 acres.

Dave said that although he was not present the night the Commission discussed it, he felt that 40 acres is huge for an isolated camping site and was prohibitive. In his experience, most campers are very appreciative and respectful. He thought the minimum lot sizes for the uses should be switched.

Justin said that members of the community have expressed opposition to short-term rentals and it was felt that isolated camping sites, a use that allows someone to camp on your property for pay, is similar to short-term rentals. Both uses have the potential to be disruptive to values in the community. So the goal was to try to find a balance between those who might want a glampsite and the community that fears encroachment on their rural life style.

Liz said that short-term rentals have exploded in number in recent years and now many communities are trying too late to get the use under control. Glamping could be similarly on the verge of exploding in popularity. If the Town were to allow glampsites on 10 acre lots now, it would be hard later to increase the minimum lot size. It's a lot easier to reduce the required lot size at a later point if it proves to be something people want.

Sue noted that although most folks that come up here to camp care about the land, the BWCAW has recently doubled the number of rangers overseeing the area and has reduced the number of permits because of abuse of the area.

Dave said that it is different because the landowner has the opportunity to vet their renters.

Justin said that a recreational camping park would have an attendant on-site. In addition, he thought it might be better to compress a use like that.

Blane said that he agreed with Dave that isolated camping sites should not require such large lots.

Sue said that someone wanting an isolated camping site on less than 40 acres could apply for a variance.

It was agreed to leave it as proposed and to see how it goes.

Language regarding the SSLO area was clarified in Article XII Section 2.O.7.

For Driveways, Article III Section 8, St Louis County includes language in their ordinance that property line setbacks for driveways can be reduced if all affected parties agree. Should this be included in our Ordinance?

Sue said this could allow room for agreements between affected parties on a case by case basis.

Dave said that if an agreement can't be arrived at between property owners, the decision often gets made by someone else for them through arbitration or court. It made sense to him to have the option.

Everyone agreed to add the language.

Sue said that the County requires a land use permit for a ground mounted solar array with a foot print over 150 sq ft.

Everyone agreed that this stricter standard was not in the spirit of encouraging alternative energy, but since the County required it, we had to also.

For Article XIII Section 28, the County's ordinance has language allowing as many stairways and landings in a shoreland area "as needed," requiring an average of 10 ft between such structures. Is this something to add to our Ordinance? The Commission agreed not to add this.

For Article VIII Section 7, St Louis County has more on restrictions on changeable electronic variable message signs than we do. The Township currently has one of these signs at the Clearwater Grill. Sue said that she did receive a complaint about that sign at one time and it was resolved. The Commission questioned whether such signs fit the character of the Township and decided not to allow them at all.

For Article IX Section 11.C, Home-Based Business, the County requires "approval from the appropriate road authority to be obtained to address public safety and any increased traffic from proposed home business." Because the County has this and it is stricter than our language, we need to have it also.

The County also has this sentence: "The home business shall not be a rural industry, salvage facility, or other use that is industrial in character." The Commission agreed to add that to our conditions for home-based businesses.

The County does not use the term "gravel pit," but instead uses "extractive uses" and has the following definition: "Use operations involving excavation, removal, storage, or processing of borrow or aggregate material, such as but not limited to borrow pits and gravel pits." The Commission agreed to use the same terminology and definition.

The County also has extensive conditions for extractive uses. The Commission decided to leave our Ordinance as it is because it refers to the County anyway: "At a minimum, all of the requirements and conditions listed in St Louis County Zoning Ordinance Number 46, Amended March 23, 1998, Article VI, Section 25, or subsequent revision, shall be met. The Planning Commission may require additional conditions."

Sue clarified the lot width definition to take out references to septic systems since the Township doesn't have control over the placement of them anyway.

She also clarified the distinction between commercial and residential PUDs by taking the sentence, "Residential structures where an agent is employed to promote rental of units in a manner similar to a resort shall be considered a commercial planned unit development." from the residential PUD definition and adding it to the commercial PUD definition.

For the definition of wetlands, she added language to refer to the Minnesota Wetland Conservation Act and MN Rule 8420.

She clarified language for Article III Section F.1.b:

A St. Louis County Sewage Treatment System number is required for any proposed structure that has human habitation. In the DNSSD a number is required for any construction of any structure. ~~that will or a Duluth North Shore Sanitary District (DNSSD) number.~~ Any construction occurring in the DNSSD district requires approval from the District regarding the proposed location of construction of structure.

In addition, Sue recommended removing the definition for and references to privies from the Ordinance because all septic systems are under St Louis County's purview.

Blane moved to approve the proposed changes to the Zoning Ordinance as discussed and agreed to by the Commission. Justin seconded and the motion passed unanimously.

Sue presented the Report to the Town Board that will accompany the Recommended Ordinance.

Blane said that he thought it was a comprehensive chronicle of the Commission's journey.

Justin moved to approve the Report to the Town Board as presented by Sue. Blane seconded and the motion passed unanimously.

Directors Report

Sue said that there is a hearing for a conditional use for a short-term rental scheduled for the February Commission meeting. The home is located at 5395 North Shore Drive just north of Ryan Road. The Commission agreed to a one-quarter mile notification area for the hearing.

Sue said that the Town Board's budget meeting is February 3. She is proposing a similar budget to last year.

The second Tuesday in March is the annual meeting. There is also an election that day for the two upcoming vacancies on the Town Board.

Old Business

None.

Concerns from the Audience

None.

The meeting adjourned at 8:39.