

**Town of Duluth
Planning Commission
Meeting Minutes
January 23, 2025**

The meeting was called to order at 6:35 pm by Chair Angela Wilson.

In attendance: Angela Wilson, Pam West, Justin Osadjan, Dave Meyer, Tony Mancuso, Nate Nesgoda, and Ken Peterson.

Absent: No one.

Also attending: Liz Strohmayr, Planning Director; ArMand Nelson, Town Board liaison to the Planning Commission; Beth Mullan, Secretary; and Laura Herzog, incoming secretary.

The agenda was approved as presented.

New Business

Grumdahl Clearing

There were approximately 60 people in the audience. As of the meeting, the Town had received approximately 110 signatures on a form letter stating opposition to the clearcutting on the Grumdahl property and asking for accountability and reclamation, many with additional notes. The Town had also received approximately a dozen detailed letters of complaint.

Angela read the communication agreement and Commission members introduced themselves.

Liz said that there have been many complaints about the clearcutting that occurred on the Grumdahl business property at the corner of Highway 61 and McQuade Road. There have also been complaints regarding lighting, signage and debris stored outside. She acknowledged that Planning was aware of the events on the site and has been in communication with the Grumdahls on the subject. The Commission and Town Board have also been kept up to date on the communications and actions that have been taken.

Angela said that some time early this winter the property was clearcut, including along the watercourse on the property. This clearcutting allowed other issues on the property to be more evident, including unpermitted storage containers and excessive lighting. The Planning Commission has been notified and copied on two letters to the Grumdahls. They are also aware of the letters and concerns from the neighbors. None of the current Commission members were on the Commission when the conditional use permit was originally granted. There was a full public hearing and a number of community members voiced their concerns at that time. The Grumdahls acknowledged these concerns and worked to alleviate them. All 12 of the criteria for a conditional use were met and the permit was granted. Moving forward, the Commission has two options, work with the Grumdahls to bring them into compliance or revoke the permit. There may be other alternatives that have not yet been broached.

Liz said she wrote an initial letter to the Grumdahls on December 10, 2024 and followed up with a second letter a couple of weeks ago. Since the second letter, some of the lighting concerns have been corrected. Their CUP requires that the use be screened from neighboring residential properties. Since the screening was removed as a part of the clearcutting, it will need to be replanted with trees that are a minimum of 4 ft tall. The watercourse on the east end of the property is a public watercourse and must also be replanted. The DNR has since said that it

may be a mapping error and might not be a public watercourse. But they don't anticipate updating the map in the near future, so they will continue to consider it a public watercourse. The trees to be replaced along the watercourse do not have to be 4 ft tall. The Lake Superior Shoreland Overlay (LSSLO), which encompasses the area from the lake to the expressway, provides additional protection for vegetation. Under the LSSLO, clearcutting is not allowed unless in cooperation with the DNR, which did not happen in this case. In addition, removal of over 25% of the vegetation requires a vegetation management plan and Liz has given them until the end of February to submit that. The deadline for completion of the revegetation is September 30, 2025.

There are a number of storage containers on the property. St Louis County considers storage containers accessory structures, so permits are required for them. The Grumdahls will be required to submit after-the-fact permit applications for the structures and pay four times the fee for each. There was also a second sign and only one sign is allowed. That has been rectified.

Justin asked why the lot was clearcut to begin with.

Liz said when she talked to the Grumdahls, they said they were removing dead and dying trees. A tree had fallen on a storage building and damaged it. She didn't know why the rest was cut.

Les Grumdahl agreed with Liz's summarization. They had dead balsam which were a fire hazard, and over-mature poplar trees that they needed to clear out. They like the woods and the trees and have planned all along to replant.

Tony said that it looks very different following the clearcutting. It is emotionally hard to see it cleared. He understands neighbors' concerns.

Members of the public were invited to sign in and make statements.

Rich Sill spoke. He has lived in the community for 47 years. It was clear to him on driving by that the property had been dramatically altered. Clearcutting can be pretty ugly at times. He got copies of the minutes and the decision document from the hearing for the original CUP. He said if he were going by this area in years past he would wonder if it was progress towards a new family moving in with kids, etc. But these days there are new issues we didn't have to deal with then and regulations and guidelines to address those issues. He is not a big fan of guidelines but sees where there is sometimes a need for them. If we are all to live together in this fast changing and more crowded world, we need to think as a community. Rules are needed but rules are not always enough. Trust is needed as well to be a community. When he read the minutes from the original hearing for the conditional use he was impressed with the due diligence of the Planning Commission, but you can only do so much. He understands that people left that meeting with very different feelings and expectations. Communication and trust are important to him and he was especially interested in the element of trust at the meeting. Many concerns were expressed at the time. The most frequent concerns were over the removal of trees and alteration of the landscape. In their application the Grumdahls stated that "the position of our retail office has a large buffer and we will disturb less than 1 acre." Clearcutting was specifically mentioned as a concern by citizens in the community participation report. Once again, the Grumdahls said that they would be disturbing less than 1 acre. The Commission added a condition to the permit that a vegetation buffer be maintained between the business and neighbors. The community and the Commission trusted the Grumdahls at their word.

Dave Neuenfeldt spoke next. He owns the property adjacent to the Grumdahl property. He said that Rich covered a lot of what he was going to say. He also got a copy of the minutes from the 2018 hearing and saw that the Grumdahls stated in their application that the facility would disturb less than 1 acre and would have a large buffer

from the neighboring properties. They said that there would be minimum impact from noise or lighting and that there would be no lighting after business hours. Instead, the lights are on 24 hours a day. They said there would be a minimum increase in traffic and there are 10 to 15 vehicles a day. They said that trailers would be stored indoors and there are currently 7 to 8 trailers outside. It is clear that they have not adhered to the commitments they made in 2018. The wooded buffer has been compromised right up to his property line. They could have left a buffer. The only trees that remain between him and the business are those on his property. The business has not met the conditions specified in their permit, particularly those related to stormwater and wetlands. The stream that runs through the property is usually wet. There are numerous storage containers and trailers and two dumpsters. There are also 30 or so pallets as well as pieces of metal in the ditch. There was a second sign but that has been taken down. There is a 4x 8 sheet of plywood with a small dirt mound behind it that is a shooting range pointing towards his property. This was not in the CUP. He urged the Commission to reconsider whether the conditions that this use was allowed under are being met. The promises they made at the time have clearly been disregarded. He didn't understand why the Commission allowed the use to begin with. Some of the zone district names have changed since 2018, but the area has always been a part of the LSSLO which is more restrictive than the zoning district that existed at the time. It should not have been allowed. There were a lot of people who were opposed to it then and clearly there are even more now. The second driveway was originally allowed so they could disturb less land, but now they have a turnaround and he doesn't think they need it anymore. He asked that the Commission require that the driveway be removed. He would like to see the Commission do the right thing and revoke the permit or make them come into compliance. He would like to have trees planted 200 ft deep from his property line.

Mary Shaw spoke. She lives on McQuade Road. She asked if what others have said encompasses everything in the permit or if there is more.

Liz said that she would back up a bit and review. A CUP was required for a commercial use in the zone district the Grumdahl property is in. A conditional use allows for a use that might not typically be considered for a zone district. The Planning Commission makes their decision with community input in mind. The permit was granted and the following four conditions were imposed:

- 1) Hours of operation will be limited to from 7 AM to 9 PM Monday through Saturday.
- 2) All external lighting will be downlit and be on only during hours of operation unless otherwise required by code.
- 3) Any lighting on signs will be on only during hours of operation.
- 4) To the maximum extent possible a natural vegetation buffer from the neighbors and road will be maintained but will still allow the business to be seen.

Liz said that the minutes from the meeting provide context for the decision and conditions. Although she was a Commission member at the time, she was not present at the meeting that night.

They are in violation of some of the conditions. These violations are being addressed and some have been corrected. As to revocation of the permit, she said that decision lies with the Planning Commission and it would be up to them whether they wanted to move forward with that. However, if the permit were revoked, the property would revert to underlying zoning, which is residential, and would no longer be subject to the conditions currently imposed by the permit. She addressed all of the violations in a letter to the Grumdahls and outlined how they could be rectified. In the LSSLO removal of more than 25% of the vegetation is not allowed without a permit. But removing dead and dying trees is allowed. We are a Firewise community and support reduction of fire hazard

through removal of dead trees. A permit is not required for that, but it is supposed to be done through selective cutting. She understands the emotional impact of clearcutting. They do plan on replanting.

Regarding the trailers that are parked outside, she said there was evident spirit and intent expressed in the meeting as seen in the minutes. But no conditions were imposed requiring that trailers be stored inside. Adding conditions would require a new conditional use hearing, possibly through revocation of the permit and reapplication.

The complaints the Town has received since December are the first complaints regarding the business that Liz was aware of.

Angela added that although the Commission has the authority to revoke the CUP, due process must be followed and a public hearing would be required before any official action could be taken. The Commission is taking the violations seriously and wants to hear from those who have been impacted.

Liz Miller spoke. She lives on Greenwood Road and has lived in the Township since 1994. She is concerned about the impact of the clearcutting on the watershed below. She has seen extreme weather events in the area and knows what can happen. The first couple of years she lived here there was an event that stripped the soil and caused major erosion. The big flood caused a neighbor's house to shift off its foundation and tore the deck off another neighbor's home. What will be the impact of this clearcutting in the next severe weather event? Her understanding was that there was a lot of opposition when the permit was applied for in 2018— several dozen letters and a petition. At what point does the Commission consider community input? 50 letters? 100 letters? Looking to future, how do we prevent this from happening again? This is not the only violation in her neighborhood.

Angela spoke regarding the opposition expressed at the original hearing. There is no set tipping point – it is a decision that has to be weighed by the Commission. There have been folks who were in support and in opposition to applications. Some of those were granted and some denied. The Commission is term limited. Her and Pam's terms are up in March so there will be an opportunity to serve on the Commission for anyone who might be interested. In addition, folks should feel free to reach out to the Town Board, Liz, or staff if they see something that is not in compliance or of concern. And talk to your neighbors if feasible.

Pam said that the Commission does look at the aggregate input from the community. Again, there is no set number. The decision has a lot to do with the information the Commission has been given by the applicant and Commission members lean toward trusting that the folks applying are going to do what they say. Each decision is weighed against the Ordinance and the Comprehensive Land Use Plan. She appreciates everyone who is here to express concerns or support. She reiterated Angela's invitation to serve on the Commission or Town Board. No special qualifications are needed, only that you are someone who cares about the community that is the Township.

Liz clarified the process for evaluating how the permit was approved to begin with. All conditional use applications must meet standard criteria established in MN Statutes. The Planning Commission's job is to determine whether the application meets each of those criteria. In the case of the Grumdahls' application, the Commission felt that it did meet the criteria. MN Statutes require that everyone within a one-quarter mile be notified. Sometimes that notification area is extended if the Commission has reason to think that the proposed use may impact a broader area. We live in a unique area. Our Township is a part of St Louis County which is the largest county east of the Mississippi River. The Town originally adopted its own ordinance because residents in the Township felt that the County's zoning did not adequately address the characteristics unique to our Township. The Ordinance reflects the values of the Township as determined by our Comprehensive Land Use Plan (CLUP). There was a large working group of Township residents for the most recent revision of the CLUP. Throughout the

process the community was invited to participate and share what was important to them. The CLUP documents the vision of the community and the Ordinance provides a way to help achieve that vision.

John Magdsick spoke. He and his wife have lived on Old North Shore Drive for 15 years. It was clear to him that several regulations were broken, either knowingly or unknowingly. The clearcutting that was done instead of selective cutting is the major problem. It has happened and now we have to figure out a reasonable solution to the problem. Trees will take several years to grow and become effective screening. One possibility would be for the Planning Commission to require privacy fences – maybe 12 ft tall -- between the Grumdahl property and neighboring properties. The original plan was to disturb only one acre of land. Perhaps that acre could be screened with fencing as well. That would relieve some of the problems that people have expressed while the trees grow. It may have been an unfortunate and honest mistake, but it is a huge problem. He believes there should be some teeth to the Town's response so that people realize they have to pay attention to their permits. The fence and trees would be an expense but he thinks it is reasonable given the degree of the violations.

Janna Dreher spoke. She lives on McQuade Road. She asked if the area is still considered residential except for the conditional use. She was worried that the clearcutting indicated an intention to further develop the property.

Angela said the Grumdahls would have to speak to what they have planned for the site, but any addition to the building would require a permit and any expansion of the use would require another conditional use application.

Sue Berggren spoke. She remembers when the Town initiated its own zoning. It was very divisive at the time. The Town was unhappy with the St Louis County Planning Commission and felt that its needs were not being met, specifically regarding industrial vs rural zoning. It took a long time. When she saw that the Grumdahl property had been clearcut she was concerned that they intended to put in more buildings or a mini mall. It was clearly not for landscaping purposes. What are their intentions and what are we going to do as a Township? There have been other violations. On the French River a resident, not knowing any better, cut down the white pines along the river. They were not aware that cutting near the river was not allowed. They were required to replant with 4 ft trees and those trees are growing now. The same requirement should be applied to this parcel. She also understands the thinking behind requiring fencing. It should all be at the expense of the owner. She asked if the whole area that was cut was dead and dying trees.

Liz said that she was told they were also removing the aging popple and that a tree fell on one of their buildings, damaging it. They plan to replant but she recognizes that replanting doesn't replace the trees that were there that were healthy.

Sue asked if the whole 11 acres of aging popple was likely to damage property. She asked if they could get help from the DNR. And plant not just trees but also rapid-growing brush. And how can we avoid this in the future?

Liz said that its difficult to say how to prevent this in future. Education is key, but it's impossible to cover everything. There is a Welcome to Duluth Township brochure that is being updated to reflect the current Ordinance and that will be more widely available. She anticipates putting articles in the newsletter. But she is often just acting on an inquiry from a neighbor. When folks reach out to her, she always addresses their concerns and investigates when merited.

Nate said that he's been on the Commission for almost two years. He has been a part of difficult decisions in that time, including a decision to deny a variance resulting in someone having to tear down illegal structures. There have been times the Commission has chosen to trust people only to have that trust broken. He cares about his neighbors and the lake. We need to be able to trust each other.

An audience member called a point of order. Too much time was being spent going over things that had already been discussed because one person was late to the meeting.

Geoffrey Tolley spoke. He lives in Lake County but has friends in Duluth Township. He is involved in a very similar situation. A neighbor has a conditional use permit which they have violated. The Lake County ordinance says that if a conditional use permit is in violation of conditions, the Planning Commission shall revoke the permit. Lake County decided not to act on it and Geoff and other neighbors are suing the County to have the use revoked. He looked up the Town of Duluth's ordinance and it contains similar language: "Where such a use does not continue in conformity with the conditions of the original approval, the permit shall be terminated..." He recommended that the Planning Commission obtain legal advice before exercising its discretion.

Ryan Grumdahl spoke. He said when the original CUP was granted the area was zoned SMU-6, which allowed for mixed uses and was not entirely residential. In mixed use zoning you can have a business. He recalls that this zone encompassed a thin area from the expressway to the railroad tracks. To have a commercial use in this zone district you had to apply for a conditional use permit and meet standards including having double the required minimum lot size. Their property exceeded that by 10-fold. Because of how close to Lake Superior the proposed use was, the required notification area was about one square mile. There were 20 or 30 letters that came in opposed to the conditional use. But he talked to hundreds of people for the application and made multiple attempts to reach those he didn't talk to and 70 to 80 percent of the response was positive. There was overwhelming support at the time. He understands that people are upset over the harvesting of the trees. A lot of that forest was aged and dead or dying and presented a fire danger. The aspen was at the end of its natural life. They had trees come down on their buildings. Trees came down across Old North Shore Road after every windstorm. He didn't think they needed to check in with the Town to take out dead trees. They hired the most reputable forester in the area – Hull Forestry. The logger said that 75% percent or more of the forest was dead, dying, rotten or at the end of its life span. The State has been taking down aspen trees along the expressway. They took down a 30 acre area of aspen near Knife River. Saplings on the property will be 6 to 8 feet tall within a year. Their plan has been to plant thousands of quality trees that will look good. Same with the buffer. These plantings will make it better than it was before the timber harvest. They have no plans to expand or do anything else on the parcel. He believes it will look a lot nicer when it's done and people will be happy with it.

John Magdsick said that regardless of intent, the conditions of the permit were not followed, including several aspects that were agreed on in writing. If 25% of the trees were still good, why did they remove them?

Kevin Bovee spoke. He suggested that the Township hold a meeting to develop a planting plan for the site and invite neighboring residents. The Grumdahls said they plan to plant thousands of trees and that quantity indicates to him that they will be bare root trees. He has a lot of experience in reforestation in the Knife River watershed and the aspen will grow and quickly choke out any small trees they plant. He suggested involving a professional forester.

There was no one else signed up to speak.

Angela thanked all for coming and sharing their thoughts. Additional comments can be submitted through the clerk's office.

A ten minute break was taken.

When the meeting resumed Angela said that she would like to revisit the Grumdahl situation once they submit their revegetation plan.

Justin felt that in the meantime, Liz's continuing work with them was appropriate.

Nate said that their lights have continued to be on late at night.

Angela said that clarification was needed as to which lights are in dispute. Did Liz talk about lights on the back of the building?

Liz said that when she went down one night most of the lights were off. In her discussions with them they said they had been keeping some lights on for security reasons, but then the trees came down and the lights became more evident. The Commission could be very black and white and say that all of the lights must be off when the business is not open or determine a certain number that can be on.

Tony said that code indicates that every man door for a business has to have a light. But it doesn't have to be much. He said he testified in favor of the application in 2018 because his property abuts the Grumdahl property and he thought their proposal was the least impactful of the things that had been previously proposed for the property.

Angela said that we told folks we were moving onto other business, so in fairness we should not further discuss the Grumdahl matter. Everyone wants to hear what Tony has to say. We can resume the discussion at the next meeting.

Ken made a motion to table the discussion until the next Planning meeting at which time we will have the vegetation plan and can have further discussion and input. Nate seconded. The motion passed unanimously.

Ordinance Updates

Liz said that she and Beth have been keeping a list of things in the Ordinance that need attention. She, Beth and Laura got together to go through the list and will provide it to the Commission when it's ready. With spring coming soon there may be an uptick in public hearings and since there is a lot going on right now, it might be a good idea to schedule a couple additional meetings specifically to consider updates to the Ordinance.

Angela said that it also makes sense to do it before she and Pam are off the Commission in April.

Liz said that fences in the Ordinance are currently considered structures but don't require a permit. The only height restriction they fall under is that for structures, which is 35 ft. Would it make sense to establish a height restriction specific to fences? Her research indicated that 12 ft was a common height limit. But it could be different.

Dave said that fence height is limited by wind and other environmental factors.

Tony referenced the fence on the shore on the Dais property. How tall is that fence?

Liz said that she thought it was 8 to 10 ft tall.

Justin said that a deer fence needs to be 12 ft tall but is usually wire fencing. It seemed to him that fence height would depend on density and location. Down on the lake people would be more likely to care about the height of a neighbor's fence.

Angela agreed. On Greenwood Road a 12 ft fence could easily block someone's view.

Tony said that he built the screening fence around the auto yard next door to him and it's 14 ft tall.

Nate thought there should be a setback requirement.

Liz said that she currently just advises folks to make sure a fence is entirely on their property. Does the Commission agree that a fence under 12 ft tall should be a permitted use not requiring a permit and a fence over 12 ft tall should require a variance?

Angela said that she thought that before the Commission made any decisions on Ordinance changes, it should be clear on the agenda what aspects of the Ordinance we're looking at.

Liz said that these are just discussions. We will hold a public hearing with notification when we have a proposal to present.

It was decided to hold meetings dedicated to looking at the Ordinance on Feb 11 at 5:30 and March 20 at 5:30 .

Old Business. None.

The December 4, 2024 minutes were approved with the following changes: "hocky" should be "hockey" and the references to "limited industrial" should be "light industrial."

Directors Report

Liz said that she got a report from a property owner yesterday that the neighboring property – 50 acres between the expressway and the lake – was being clearcut. She visited the property in question and talked to the owner. She learned that he had a NRCS grant for spruce budworm remediation. He sent Liz a copy of the grant and she was able to correlate it to GIS mapping showing standing dead spruce. She determined that he was not removing more than 25% of the vegetation and was not ripping the roots out, so there was no land disturbance. He had piles to burn and chip and she inspected those piles and confirmed that they consisted of at least 90% dead spruce.

Angela asked if, when Liz encounters a situation like this, she is able to get back to the person with the initial concern and explain the situation.

Liz said yes. In this case she called the neighbor who had notified her. The neighbor understood once it was explained. In general, she follows up with the person who submitted the concern. It also allows for folks to challenge her decision, whether it's the landowner or the concerned party.

Ken said that the whole Township has a spruce budworm issue. It's going to continue coming up.

Angela suggested an article in a future newsletter providing information about available grants, and general rules regarding cutting vegetation.

Justin agreed, wondering how many people know about restrictions on cutting near streams.

Liz said that streams are on the zoning map. It wasn't questionable where the stream was on the Grumdahl property. When she gets a request for a property that has a waterway on it, she checks with the DNR and asks for them to give us an overlay to make sure we aren't missing anything. Both our zoning map and the DNR's current map show it as a public water course.

Liz said that she has articles in mind for the newsletter but just has not had time. Beth is planning to send the Welcome to Duluth Township pamphlet to new landowners periodically.

Nate agreed. There are a lot of people who don't know you need a permit for a lot of things.

Concerns From the Audience

None. The meeting adjourned at 8:57.