

City of Duluth  
Planning Commission  
September 10, 2019 Meeting Minutes  
Council Chambers - Duluth City Hall

Call to Order

President Janet Kennedy called to order the meeting of the city planning commission at 5:01 p.m. on Tuesday, September 10, 2019, in city hall council chambers.

Roll Call

Attending: Jason Crawford, Gary Eckenberg, Janet Kennedy, Tim Meyer, Margie Nelson, Michael Schraepfer, Andrea Wedul, Sarah Wisdorf, and Zandra Zwiebel

Absent: N/A

Staff Present: Adam Fulton, Robert Asleson, Steven Robertson, Kyle Deming, John Kelley, Chris Lee, Kaleb Montgomery, and Cindy Stafford

Approval of Planning Commission Minutes

August 13, 2019

**MOTION/Second:** Nelson/Zwiebel approve the minutes

**VOTE: (9-0)**

Consent Agenda

1. PL 19-020 Concurrent Use Permit for Private Utility Work Under the Right of Way of Fourth Avenue East and East First Street, Related to the New Hospital Facility at 502 East Second Street by Essentia Health
2. PL 19-022 (Amendment to Previously Approved) Concurrent Use Permit for Private Utility Work Under the Right of Way of Fifth Avenue East, Related to the New Hospital Facility at 502 East Second Street by Essentia Health
3. PL 19-113 Concurrent Use Permit at 5401 E Superior Street by Spirit of the Lake Community School
4. PL 19-117 Interim Use Permit for Vacation Rental in the F-8 "Downtown Mix" District at 30 N 1<sup>st</sup> Avenue W, Jason Taly and Rachel Watson
5. PL 19-125 Interim Use Permit at 1004 Lake Avenue S by Steve Peters – Petra Properties, LLC  
**Staff:** N/A  
**Applicant:** N/A  
**Public:** No Speakers  
**Commissioners:** Zandra Zwiebel questions the snow removal for item PL 19-113. Interim Director Fulton notes the parking spaces have already been in existence. Need to make sure the alley is appropriately plowed. It is an operational concern. Zwiebel notes the citizen comment received regarding PL 19-125. They are opposed to the interim use permit.  
**MOTION/Second:** Meyer/Wisdorf recommend approval of the consent agenda items as per staff's recommendations.

**VOTE: (9-0)**

## Public Hearings

6. PL 19-122 UDC Map Amendment to Rezone from Residential-Traditional (R-1) to Planned Residential (R-P) Property at the North of Marble Street, between North Robin Avenue and Stanford Avenue, by Lotus Realty
- Staff:** Kyle Deming introduces the applicant's proposal to rezone a 9.8 acre property from Residential-Traditional (R-1) to Residential-Planned (R-P) to facilitate development of 25 single detached and twin home dwellings on a private street with 3.5 acres of open space. A neighborhood open house meeting was held on August 28, 2019. Comments were summarized and included in the staff report. A citizen comment was also received which was distributed to the commissioners prior to the meeting. Staff recommends approval based on the findings summarized in the staff report. Andrea Wedul asks about wetland tax credits. Deming notes the project is mostly on a non-wetland area, but it will be further addressed during permitting. Wedul asks about the distance between the two access drives on the private road. Deming states it is a sufficient distance apart as per Engineering. Wedul asks about screening. Deming replies the housing types are still single family and two family, so there is no requirement for screening.
- Applicant:** Brad Johnson of Lotus Realty addresses the commission. They have been working on this project for 3-4 years. Their objective is to provide a compact housing development for empty nesters.
- Public:** Anene Jensen, 2023 N. Robin Ave., addresses the commission. She lives in the area and notes the bad, bumpy condition of Marble Street. She is concerned about increased traffic and the sewer system. The infrastructure is already poor, and this could create more problems, including water line breaks. She isn't opposed to change, but hopes the city can address her concerns. Dennis Jenson (Father-in-law of Anene), 4219 W. Arrowhead Rd., addresses the commission, and states he lives down the road from the project. He is concerned that this is pocket zoning. Will it be a commercial development, or a housing development? The utilities in the area are substandard. Flooding is an issue. He is opposed to the rezoning. Mary Lundeen, 144 W. Marble St., addresses the commission. She is concerned about traffic and is opposed. She is concerned about infrastructure and utilities. Eric Gulland, 154 W. Marble St., addresses the commission. He is opposed. He thinks they may have already destroyed the wetlands. Where does this development stop? With 27 houses, where is everyone going to park? He understands there is a housing shortage, but doesn't approve of this development.
- Commissioners:** Tim Meyer asks Heidi Bringman of LHB about the proximity of wetlands, flooding, utility quality concerns and traffic concerns. Has LHB addressed these issues? Bringman addresses the commission. They addressed the wetland issue and determined there was one acre of wetland disturbance. The site has 15 acres of wetland areas on the site. There is a small amount of wetlands that will require more delineation, which will be addressed at the permitting stage. The development is anchored on the left hand side to preserve the wetlands. Meyer asks about utility concerns. Bringman notes this is a land use change. The components of the design have not been finalized yet. Regarding stormwater issues, they have looked at the preliminary grading. The grading will slope away from Marble Street. The new stormwater system will be draining to the north and to the west. She doesn't know if more traffic will deteriorate the roads. City engineering will need to address the long-term infrastructure in this area. They will be adding curb and gutters to direct stormwater into the correct areas. Zwiebel asks if there were traffic studies done. Bringman notes there was one on

Arrowhead, but not this area specifically. All units will have a garage and will have a shared driveway, which will accommodate 1-2 cars. There will be a visitor parking area. The road will be approximately 28' wide. There may be room for parallel parking off the private road. Zwiebel notes they should prioritize the area in order to improve infrastructure. There will only be two access points onto Marble Street. Meyer asks about traffic studies and utilities with Engineering. Deming notes the roads would be sufficient to handle the traffic as per the city's traffic engineer. Meyer asks about quality of existing water lines. Deming states that per Eric Shaffer of Engineering, there were no utility capacity issues. Gary Eckenberg asks if this is a home association. Bringman affirms. Eckenberg asks if this would this be a shared assessment to approve Marble Street. Bringman is not certain. Interim Director Fulton notes they would follow the city's assessment rules, and thinks the association would be included. Eckenberg asks how many rooms the new homes will have. Bringman states mostly two-bedrooms. Johnson addresses the commission and notes each unit has a four-car capacity, which is comprise of a two-car garage and two spots in the driveway. Johnson thinks this is the last piece of their rezoning needs. Wedul is concerned they are creating an orphaned area. This parcel will prevent access to the north. Will this be land-locked? Deming notes all parcels have access. Bringman states they are leaving a strip of land, which is steep and has a wetland. Interim Director notes the planning commission will be recommending their decision to the city council, and this is not a final decision.

**MOTION/Second:** Eckenberg/Crawford recommend approval as per staff's recommendations.

**VOTE: (9-0)**

7. PL 19-112 UDC Map Amendment to Rezone From Rural Residential 1 (RR-1) to Mixed Use Commercial (MU-C) property at 4250 Haines Road by IGO Properties LLC  
**Staff:** Steven Robertson introduces the applicant's proposal to rezone the property from the current zoning of Rural Residential 1 (RR-1) to Mixed Use Commercial (MU-C). Staff recommends approval based on the findings listed in the staff report.

**Applicant:** Amanda Mangan of Johnson, Killen, and Seiler, PA addresses the commission. She invites questions. Eckenberg asks what the intended use is. Mangan notes they are seeking more marketability as a commercial property.

**Public:** No speakers.

**Commissioners:** N/A

**MOTION/Second:** Zwiebel/Nelson recommend approval as per staff's recommendations.

**VOTE: (9-0)**

8. PL 19-116 Mixed Use Waterfront (MU-W) Planning Review for a Storage Structure at 800 W Railroad Street by Sandy Hoff

**Staff:** John Kelley introduces the applicant's proposal to construct a new 1,800 square foot storage garage and a sport court on the grounds of the Pier B Resort. Staff recommends approval with the conditions listed in the staff report. Wedul asks is this is a pre-fab building. Per Kelley, the materials used will be consistent with the Hotel building.

**Applicant:** Mike Polzin, facility manager of Pier B who represents the owner, addresses the commission. The building will be for seasonal storage. It will not be inhabited. The finish of the building will match the siding of the existing décor of Pier B. Wedul notes the dumpsters on the East side are not screened. Kelley notes the applicant has screened three-sides of the dumpster and will be adding a gate to the front of the

enclosure. Kennedy asks about the new sports complex. Will it be open to the public? Polzin notes Pier B is a resort, and they want to offer more activities to guests. Eckenberg asks about the stormwater plan. Kelley states any stormwater permits will be reviewed by engineering. Interim Director Fulton notes a stormwater plan is required prior to the issuance of a building permit.

**Public:** No speakers.

**Commissioners:** N/A

**MOTION/Second:** Nelson/Wisdorf approved as per staff's recommendations.

**VOTE: (9-0)**

9. ~~PL 19-128 Special Use Permit for a Hotel at 8721 W Skyline Parkway by Skyline Parkway Properties LLC~~

Item #9 PL 19-128 has been withdrawn, and may be brought back at a future date.

10. PL 19-119 Variance from Front Yard Parking, 420 N 15<sup>th</sup> Ave. E., Mark Jilek

**Staff:** Chris Lee introduces the applicant's proposal for a variance from the residential parking standards to locate a parking stall between the façade of the house and the street. Staff recommends approval with the conditions listed in the staff report. Wedul asks if the applicant is the homeowner, or a tenant. Per Lee, the property is under a different ownership name. It could be a county error. Wedul asks if this parking situation is just an inconvenience. There seems to be ample parking on the street. Per Lee, this is a highly concentrated rental area, and it is difficult to park in the winter. The practical difficulty is the topography of the lot. Eckenberg states he needs to understand the demonstrated hardship. Why can't they park on the street? He is struggling to find the hardship. Per Interim Director Fulton, there is not hardship needed and has been replaced with the working practical difficulty. Margie Nelson asks if there is a requirement for the surface material used. Per Lee, asphalt or concrete which are dust-free surfaces.

**Applicant:** Mark Jilek addresses the commission. Parking is extremely difficult. Rentals and the hockey rink visitors occupy street parking until late in the night. It is not just an issue of convenience. He has no other place to park within two blocks. Eckenberg asks about the ownership. Does Jilek pay taxes under ownership status? Jilek states yes, and has done so for 35 years. Houses on either side of him are also using their front yard for parking. Eckenberg asks about the front yard parking ordinance. Per Robertson, it has been citywide since the 80s. Interim Director Fulton notes particularly on the avenues, front parking is a challenge. Sarah Wisdorf notes front yard parking especially becomes an issue when it's enforced, which has increased in the last three years. Michael Schraepfer thinks there may be a process of 40% of the lot in relation to tenth avenue east. Interim Director Fulton notes this may be specific to a different area. Chair Kennedy brings up safety concerns. Would the sidewalk be marked for a parking spot? Per Lee, the driveway would cross the sidewalk. Meyer notes the city ordinance prohibiting front yard parking. He thinks maybe the city should relook at the policy for the entire neighborhood, rather than on a case-by-case basis.

**Public:** Rhonda Jilek, (the applicant's wife) addresses the commission. She is concerned her husband has to walk two blocks after work. Eckenberg asks if her neighbors are rental properties. She affirms one is.

**Commissioners:** Schraepfer agrees with Eckenberg that it may be a bigger issue. He feels this may be a cascading effect. Wisdorf agrees, but on the flipside she doesn't think the applicant needs to suffer in the meantime. Wisdorf is in support of the

variance. Eckenberg doesn't support the variance. There is a reason for the ordinance. Zwiebel notes she has a garage and driveway. This ordinance comes into play in the Arrowhead and Woodland areas. She feels this situation is different because of the lot and notes there is a practical difficulty. Schraepfer agrees with Zwiebel. He doesn't feel this applicant should need to wait for a bigger neighborhood ordinance change. Nelson notes this is the process we have right now. Eckenberg states he will advertise to all alley owners, "come to the planning commission and ask for a variance." Interim Director Fulton says staff hears loud and clear the need for further consideration. Staff will have further dialog on this specific issue. Wedul this is a slippery slope. It will set a precedent. Wisdorf this location has no off-street parking, as opposed to conditions on Arrowhead Road. Chair Kennedy feels the decision needs to be made at the council level. Meyer feels the issue needs to be addressed, and a uniform policy be created. Wedul asks if they table for a larger process/policy change. Zwiebel states every variance request is it's own unique situation which challenges the code. This is why this should be seen as an individual situation.

**MOTION/Second:** Eckenberg/Wedul motion to deny.

**VOTE: (3-6, Wisdorf, Schraepfer, Nelson, Kennedy, Zwiebel and Crawford Opposed) - Motion Fails**

**MOTION/Second:** Nelson/Wisdorf motion to approve

**VOTE: (6-3, Wedul, Eckenberg and Meyer Opposed)**

11. UDC (Unified Development Chapter) Text Amendments
  - PL 19-107 Tiny Houses and Small Lot Development
  - PL 19-108 Tree Preservation, Craft Brewing and Distilleries, Temporary Structures and Shipping Containers

**Staff:** Steven Robertson introduces the city's recommended changes to the UDC related to tiny homes and accessory dwelling units, shipping containers and temporary structures, tree preservation, and craft brewing and distilleries. The proposed draft ordinances are based on comments received from the public and members of the planning commission and are subject to further minor change based on the final comments or recommendations received at tonight's planning commission meeting. Zwiebel asked about the changes to setbacks as they relate to tiny homes. Per Robertson, the change applies to all structures in the zone districts referenced. Kennedy asks about the tree commission and if they had input on the proposed changes. Staff responded that they had input from the natural resources commission, specifically the city forester.

**Applicant:** N/A

**Public:** Drew Digby, 127 E. 8<sup>th</sup> St., addresses the commission. He appreciates the city considering these amendments, but thinks the accessory dwelling unit language could be changed further. He encourages thought on parking space requirement for accessory dwellings, and believes it should be removed. He encourages minimal setbacks. Zwiebel notes the clause for #2 that states no variances granted, which would not allow variances for off-street parking. Interim Director Fulton is in agreement to strike 50-20.5.D.2.

**Commissioners:** Schraepfer asks why does there have to be a set size. Robertson notes it is incredibly common to have caps or limits on size of accessory dwelling units. Robertson a wide lot could split. A deep lot would have more difficulty.

**MOTION/Second:** 19-107 Nelson/Wisdorf recommend approval as per staff's recommendations with the correction of a typo and deletion of 50-20.5.D.2, to allow for variances for ADUs.

**VOTE: (9-0)**

**MOTION/Second:** PL 19-108 Zwiebel/Meyer recommend approval as per staff's recommendations.

**VOTE: (8-1, Schraepfer Opposed)**

#### Communications

- Manager's Report – Interim Director Fulton gives an overview. There will be a Master Plan 9/17/19 meeting at the airport to discuss airport economic development. Essentia will have more items going to the city council. They are moving into their construction phase. Essentia invites the planning commission to a groundbreaking event. The Mayor's housing task force kicked off. They are charged with the looking at the big picture of housing and financing. Staff is working on Core Investment Areas. Application for 1509 99<sup>th</sup> Ave W. There is a requirement to pull their permit by 9/30. Should this fail, the enforcement need is high.
- PL 19-072 Spirit Lake Sediment Remediation EAW – Fulton says the EAW is delayed by 30 days. This will come before the Planning Commission in October.

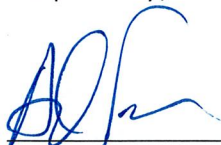
#### Reports of Officers and Committees

- Heritage Preservation Commission Representative – Wisdorf gives an overview. Pastoret Terrace litigation still ongoing. Possible update in October. Artifacts study ongoing. Lincoln Park Improvements – still waiting on a SHPO response. Hopeful work will proceed and be completed in 2020. UMD professor has undergrads researching local historic sites. Possible nomination includes the Park Point lighthouse, and street art possibilities are being identified.
- Joint Airport Zoning Board – Nelson gives an overview. New zoning ordinance waiting on MNDOT before it goes forward.
- Midway-Duluth Joint Planning & Zoning Commission – Chair Kennedy notes their conversation about Midway annex and how it continues to move forward. Comprehensive plan discussion slated for November.

#### Adjournment

Meeting adjourned at 7:53 p.m.

Respectfully,



Adam Fulton – Interim Director  
Planning and Economic Development