

City of Duluth Planning Commission

July 13, 2021
Meeting Minutes

Due to the COVID-19 emergency, many planning commission members participated through video conference from home. The meeting was held as a Special Meeting pursuant to Minnesota Statute 13D.021 in response to the Covid-19 emergency. Public comment was taken at planning@duluthmn.gov prior to and during the meeting, and via verbal comment through public attendance in the WebEx video conference during the meeting.

Call to Order

President Margie Nelson called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, July 13th, 2021.

Roll Call

Attendance: (* Via WebEx video conferencing – all votes conducted via roll call)

Members Present: Gary Eckenberg*, Jason Hollinday*, Margie Nelson*, Michael Schraepfer*, Sarah Wisdorf*, Andrea Wedul*, and Zandra Zwiebel*

Members Absent: Jason Crawford and Eddie Ratnam

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

Public Comment on Items Not on Agenda

No speakers.

Approval of Planning Commission Minutes -

Planning Commission Meeting – June 8, 2021

MOTION/Second: Zwiebel/Wisdorf approved

VOTE: (7-0)

Consent Agenda

(Item PL21-092 was removed from the Consent Agenda and voted on separately.)

PL 21-065 Variance for House Addition at 3901 W 8th Street by John Martin and Emily Edison

PL 21-075 Concurrent Use Permit for Small Cellular Facility at 1801 E 2nd Street by SAC
Wireless/AT&T

PL 21-076 Concurrent Use Permit for Small Cellular Facility at 631 E 5th Street by SAC
Wireless/AT&T

PL 21-077 Interim Use Permit for a Vacation Rental in a Form District at 325 Lake Avenue South,
Unit 1209 by Alex & Kate Fagundes

PL 21-103 Interim Use Permit for a Vacation Rental in a Form District at 325 Lake Avenue South,

- Unit 1302 by Jason & Betsy Norman
PL 21-083 Concurrent Use Permit for Landscaping at 2102 Minnesota Avenue by North Shore LS LLC
PL 21-085 Planning Review for the Round Up Bar & Grill at 415 East 4th Street by Michael Ronning
PL 21-086 Variance from Shoreland Setbacks at 224 W St Andrews Street by Ann Gumpfer & Mark Harvey
PL 21-087 Interim Use Permit for a Vacation Rental in a Form District at 5324 E Superior Street Unit 1 by Sarah Maxim
PL 21-088 Interim Use Permit for a Vacation Rental in a Form District at 5324 E Superior Street Unit 2 by Sarah Maxim
PL 21-090 Concurrent Use Permit for Encroachment of the Existing Building at 5324 E Superior Street by Sarah Maxim
PL 21-098 Minor Subdivision at N Hawthorne Road by Julie Ann Kubat
PL 21-101 Special Use Permit for Solar Installation at 3512 Riley Road by Minnesota Power

Public: No speakers.

MOTION/Second: Eckenberg/Wisdorf approved consent agenda items as per staff recommendations

VOTE: (7-0)

PL 21-092 Minor Subdivision at 4924 Pitt Street by St. Michaels Church

MOTION/Second: Eckenberg/Zwiebel approved consent agenda item as per staff recommendations

VOTE: (5-0, Schraepfer and Wisdorf Abstained)

Public Hearings

PL21-082 Minor Subdivision at 2400 E Superior Street by Duluth Women's Club

Staff: Chris Lee introduced the applicant's proposal for a minor subdivision to divide one platted lot into two lots. The current parcel is approximately 47,388 square feet and the division will create two lots. Parcel A will be approximately 33,369 square feet and Parcel B will be approximately 14,019 square feet. Staff recommends approval with the conditions listed in the staff report. Commissioner Gary Eckenberg asked if the parcels would have frontage to both Branch and Superior Streets. Lee noted Lot A will have frontage on both. Lot B will just have frontage on Superior Street. Commissioner Zandra Zwiebel asked why this item wasn't on the consent agenda. Deputy Director Adam Fulton noted this property has status as a designated local landmark, and is significantly different than the other subdivision. Commissioner Sarah Wisdorf noted the Heritage Preservation Commission (HPC) discussed this item at their meeting yesterday. They reviewed the preservation plan, but the preservation plan did not include the grounds.

Applicant: Ellie Dryer of the Duluth Woman's Club addressed the commission. The Club is not using the land, and it is a good site for someone else.

Public: No speakers.

Commissioners: Wisdorf noted the HPC understood the preservation plan didn't include the grounds, but the HPC would have like to see the entire property remain intact. Zwiebel stated the events held at the Women's Club are wonderful, and she understands the club wanting to sell the land for financial reasons. She is in support.

MOTION/Second: Eckenberg/Zwiebel approved as per staff recommendations

VOTE: (7-0)

PL 21-093 Special Use Permit for a High School at 4230 St. Johns Avenue by St. Johns Church

Staff: John Kelley introduced the applicant's proposal to operate a high school, grades 9 through 12, at the existing St. John's Campus located in the Woodland neighborhood. The special use permit is needed to operate the high school in the R-1 zoning district. A middle school is already operating in this location, with 107 students. No building expansions or additions are necessary for the proposed high school. A 30% reduction in the minimum parking space requirements has been applied as there is a DTA bus stop within ¼ miles of the property. The reduced minimum spaces required is 69 and the maximum spaces allowed would be 147. There are 58 existing parking spaces and with the proposed 24 new parking spaces, the total provided would be 82 spaces. Neighbor comments were received and relayed concern about increased traffic, and the desire to see a second access point. Staff recommends approval with the conditions listed in the staff report. Chair Nelson asked if there was consideration about a second access point. Kelley stated he wasn't aware of any discussion about a second access point, and deferred to the applicant. Commissioner Wisdorf noted you can exit off onto Woodland Avenue, but you can't enter from Woodland Avenue. Kelley affirmed.

Applicant: Bob Lisi addressed the commission. He noted there are arrows to direct bus flow and parent drop-off points. It flows in a single direction because it is narrow. Commissioner Eckenberg asked if the high school would begin operation this year. Lisi stated their intention is to add 9th grade by the Fall of 2022.

Public: Weiguo Xie addressed the commission. He is concerned that the parking lot increase will increase the noise and traffic in the surrounding area. He asked when the parking lot will be used. Kelley stated the lot will be used during school hours and perhaps on weekends for church functions. Lisi noted the site has multiple uses. Parking expansion will benefit both the church and the neighborhood because it will take away street parking.

Commissioners: Andrea Wedul asked about the parking and screening requirements and if it triggers the 25 rule. Kelley noted the addition of new parking is independent of current parking, and does not trigger the 25 rule. Wedul struggles with this, and thinks there should be buffering. She would like to see a friendly amendment to add screening. Zwiebel stated she thinks a fence line is more obtrusive, and there is no need for fencing. Wedul would like to see shrubs utilized as additional buffering. Wisdorf is familiar with the area and notes the existing trees act as a buffer now. Zwiebel noted they should remain consistent to code.

MOTION/Second: Wisdorf/Zwiebel approved as per staff recommendations

VOTE: (7-0)

PL 21-094 UDC Map Amendment from R-1 to F-2 at 4731 Gladstone Street by Lakeside Lodge #281

Staff: John Kelley introduced the applicant's proposal to rezone the property from the current zoning of Residential-Traditional (R-1) to Low-Rise Neighborhood Mix (F-2). There are no proposed changes to the property at this time, and it is consistent with the objectives of the Comprehensive Plan. Staff recommends approval.

Applicant: Gary Hage addressed the commission. There were no questions.

Public: No speakers.

MOTION/Second: Zwiebel/Wedul recommended approval as per staff recommendations

VOTE: (7-0)

PL 21-095 Special Use Permit for a 32-Dwelling Cottage Home Park at the Northwest Corner of Glen Place and West Michigan Street by Aaron Schweiger

Staff: Kyle Deming introduced the applicant's proposal for a special use permit for a cottage home park on four acres containing 32 units, 44 parking spaces on a private driveway, and a community room. The easterly 300 feet of the property is within the shoreland for Buckingham Creek (a cold water stream), which will require a shoreland permit as part of their land disturbing permits. All buildings on the site are compliant with the required 150-foot setback from the stream. The site is crossed by the Superior Hiking Trail and the applicant and the Superior Hiking Trail Association are discussing the rerouting of the trail. Staff recommends the applicant convey to the City a pedestrian easement for the relocated trail before the building permit for the first dwelling unit is issued. The plan is consistent with the Comprehensive Plan's future land use. This is a steep lot, and the addition of tiny homes is easier to add to the steep lot. The proposed layout is shared with the commissioners. There will be a new driveway with parking. There will also be a sidewalk for connectivity. The housing units will be 400-600 square feet. Amenities will include a fire pit, and a community and picnic area. Utility easements will be needed for City water and sanitary sewer mains that will extend into the site. They are still working on finalizing a stormwater plan. One citizen comment was received and shared with the commissioners prior to the meeting. Staff recommends approval with the conditions listed in the staff report. Eckenberg noted the four different housing designs. Will there be eight of each design? Deming deferred to the applicant. Wedul asked about the picnic area. Deming noted a pavilion building would not be allowed in the setback area, but an open patio area is being proposed.

Applicant: Aaron Schweiger addressed the commission. The building designs would be intermingled, so it doesn't appear to be a cookie-cutter design, but more of a mixed neighborhood. Eckenberg asked if each design count would be equal. Schweiger affirmed. He is excited for the project, and thinks it is a wonderful addition to the neighborhood. This plan will also provide Duluth with affordable housing. Zwiebel asked about the Superior Hiking Trail (SHT). Schweiger noted they are working with the SHT association to ensure the trail remains on the property. A natural walking trail will remain, and sees it as a wonderful asset. Wedul asked about the picnic area and impervious surface run-off. Schweiger defers to Adam Zwak. Zwak noted the plan is to leave as many trees as possible for a natural buffer, and not to encroach on Buckingham Creek. Wisdorf asked about the SHT easement. Schweiger stated there is a public easement, but it doesn't match. They will vacate the existing easement and dedicate a new path.

Public: Colleen Christiansen addressed the commission. She represents the neighbors living above the proposed complex. She noted this is park land, which was dedicated in 1977. They are concerned about noise and parking. Where are the cars going to funnel in and out of the site? She doesn't feel this is the right location for this development. She is opposed. Jim Shoberg, of the City of Duluth Property, Parks, and Libraries, addressed the commission. He noted the SHT and they currently have two options, which will be shared in the future.

Commissioners: Eckenberg asked about parking. Schweiger noted it is about a 1 to 1 ratio and there is a DTA credit for being near a bus stop. Eckenberg asked about the 1977 park land dedication. Deming stated the point of rocks was replatted in 70's and dedicated some land to park area, but not the park land, which is outside the development area. Wedul asked about the community picnic area. Deming noted it will need a shoreland permit and erosion control permit will be required prior to issuing building permits.

MOTION/Second: Wedul/Zwiebel approved as per staff recommendations

VOTE: (7-0)PL 21-096 Minor subdivision at Glen Place and West Michigan Street by Aaron Schweiger

Staff: Kyle Deming introduced the applicant's proposal for a minor subdivision to separate an existing parking lot from a larger parcel to be developed into a Cottage Home Park (see related file number PL 21-095). The existing parking lot is not compliant with the UDC as in the R-2 zone district, parking lots must either be stand-alone use approved with a special use permit, or they must be an accessory use located on the same lot as the principle use. This parking lot does not have a special use permit, so staff recommends that before the current owner completes the transfer of the property to the owner of Glen Place Apartments, they obtain a special use permit. Staff recommends approval with the conditions listed in the staff report.

Applicant: Aaron Schweiger addressed the commission. Their intent is to create a separate parcel for the parking lot. They would re-surface it and add landscaping. It would look better than it does now.

Public: Colleen Christiansen is concerned about parking. Where are all of these cars going to go? She doesn't want to walk through a parking lot. She noted a document dated May of 1977. The space was dedicated for use of all surrounding properties and vehicles were prohibited. The land was given to the neighbors by Breowni. Deputy Director Fulton noted legal can evaluate and address prior to issuing permits.

Commissioners: Wisdorf asked if they should consider tabling this item. Deming stated the park land was dedicated in an area along Michigan Street and not the area proposed for the minor subdivision. Eckenberg supports tabling, but would like clarification on the point of rocks park. Is it a city park? Schweiger shares a park plat screen shot. The park was given to the City by a private party. The yellow area is a second parcel with a clean title and has no encumbrances or restrictions on it.

MOTION/Second: Eckenberg/Zwiebel tabled for more information/proof of clean title

VOTE: (5-2, Nelson and Wisdorf Opposed)PL 21-097 Preliminary Plat at former Central High School, 730 E Central Entrance by ISD 709

Staff: Steven Robertson introduced the applicant's proposal for the approval of a preliminary plat in support of construction of new facilities in support of ISD 709 operations and administration, and in support of redevelopment of the remainder of the property. The proposed sidewalk needs to be extended from the intersection going west to allow pedestrian access to the proposed facilities building, transportation building, and district services center. A wetland delineation is required to show the boundaries of existing wetlands within the side. Utility easement will be needed as well as easements for a recreational trail on the eastern edge of the site. The planning commission will see this item again for the final plat approval. Staff recommends approval with the conditions listed in the staff report.

Applicant: Trent Prigge of Northland Consulting Engineers addressed the commission. This is a 3-phase approach. They are now on the 2nd phase to obtain preliminary plat approval. The entire site will get a new stormwater system and there will likely be a storm water pond in the new Right of Way. They appreciate the need to keep the recreational trail on the property, and it will be noted on the final plat.

Public: Jim Shoberg, city of Duluth PPL department, addressed the commission and noted the parks master plan. They appreciate the cooperation of ISD 709 and note the importance of the Traverse and Lake Superior Hiking Trails. Deputy Director Fulton noted there may be changes made prior to the final plat.

MOTION/Second: Zwiebel/Wedul approved as per staff recommendations

VOTE: (7-0)

PL 21-099 Preliminary Plat to Subdivide 20 Acres into 5 lots between Arrowhead Road and Marble Street – 660 Feet West of Arlington Avenue (Duluth Heights)

Staff: Kyle Deming introduced the applicant's proposal to subdivide 20 acres into 4 lots and 1 outlot with one new street and completing streets that were parts of adjacent plats. Arrowhead Road is a County roadway. The County traffic engineer requests that the turn lane configuration on Stanford Avenue at West Arrowhead Road include dedicated outbound right-turn and left-turn lanes, and a single inbound lane. Additional connectivity will be provided via a 20-foot-wide pedestrian and utility easement from the end of Herzog Court extending southeast to the east property line and continuing south to Marble Street. To provide additional space for an enhanced pedestrian/bike facility the applicant has provided a 10-foot-wide trail easement along the south side of Arrowhead Road. The nearest regular route transit service is approximately 2,000 feet east of the site. The applicant has submitted a tree inventory report. Staff recommends that prior to tree removal, the land use supervisor approve the tree replacement plan. Staff recommends approval with the conditions listed in the staff report.

Applicant: Troy Johnson addressed the commission and welcomed questions. He noted it was great working with City staff towards providing a great housing development.

Public: Paul Newberg addressed the commission. He represents the neighbors in the area. He feels this poses a serious safety concern from Stanford going through to Marble Streets. Traffic would be pushed all up and down. The houses on West Marble are concerned with traffic and noted kids playing in the neighborhood. He doesn't feel there is a reason why Stanford should go through to West Marble. Ann Newberg addressed the commission. She is concerned about the removal of trees, and the safety to kids in the neighborhood. She understands the need for development, but doesn't want to see Stanford Avenue go through to West Marble.

Commissioners: Eckenberg asked why they are proposing to connect to Marble. Deming stated the developer intends to develop Stanford only to Herzog Court. There is a traffic study under way, but needs to be finalized prior to the final plat. He deferred to the applicant. Troy Johnson noted the road will be completed in phases. They would like to keep traffic out of residential neighborhoods. More information will be provided on the final plat. Per Deming the traffic study will be completed between now and the final plat. Eckenberg would like to see public input included in the traffic study. The applicant noted there will be a third party engineering firm performing the traffic study. Wedul would also like to see public input included in the traffic study.

MOTION/Second: Wedul/Zwiebel approved as per staff recommendations

VOTE: (7-0)

(A 4-minute recess was given. The meeting will resume at 7:40 p.m.)

Other Business

PL 21-104 Citizen Petition for an Environmental Assessment Worksheet (EAW) for the Proposed Vassar Street Housing Development at Vassar Street

Staff: Deputy Director Fulton gave an overview and provided background information. According to section 2 of the City Code, the planning commission is the responsible governmental unit (RGU) for the city of Duluth, and is responsible for providing oversight and evaluating environmental review pursuant to Minnesota Statutes and Rules. Environmental

review usually involves a project, but there is no project proposed in this location at this time. An environmental review can either be mandatory or discretionary. One way to trigger a discretionary review is via a petition. The Minnesota Environmental Quality Board (EQB) notified the city that a complete citizen petition had been submitted requesting environmental review of an approximately 30-unit housing proposal. However, no project application has been received by the city at this time. The site is proposed for rezoning between the current terminus of Vassar Street toward Amity Creek. The planning commission is tasked with evaluating whether the merits of the citizen petition warrant a discretionary EAW based on the information currently available. If the planning commission determines an EAW is warranted, specific reasons must be stated. If the planning determines an EAW is not warranted, petitioners can refile a petition with EQB if a project is proposed in the future.

Commissioners: Eckenberg asked if the planning commission's decision can be overturned. Deputy Director Fulton stated that it is his understanding that an appeal does not go to the city council, but goes to the state appellate court. City Planner Steven Robertson stated this is not a public hearing, but asked if President Nelson would like to open it up for public comment. Chair Nelson agreed to open the item up for public comment, but noted limited speaking time guidelines. Robertson noted staff received two emails with public comment that were shared with the commissioners prior to their meeting. Last month's rezoning goes to the city council for the first reading next Monday. An EAW helps the city anticipate future effects. It could be noise, or traffic, and is not necessarily all environmental. The threshold where an EAW is mandated is 250 single-family homes. Typically EAWs are performed on larger projects. Wedul has never seen an EAW that would be completed before a project is proposed for site. Has one ever been completed prior to having more information about a development project? Deputy Director Fulton is not aware of one, but notes that the EAW is a flexible tool. It is closely tied to other environmental review processes, such as an Alternative Urban Area Review (AUAR). He noted that he recalled that the city of Hutchinson completed an AUAR for the whole city several years ago to evaluate how zoning would impact development city wide. Robertson noted an EAW was proposed on the School District's Red plan in 2008, but the proposal to complete an EAW was denied. Wedul states that she is struggling to require an EAW without a project being proposed.

Public: Tracy Hanson addressed the commission, and thanked commissioners for hearing their concerns. What is the harm of an EAW? She is concerned about watershed. The creek was listed in 2014 for turbidity issues. Clean water is important. She is concerned with new roads on a steep incline having to be salted, as well lawn fertilizer finding its way into the creek. Jen Marksteiner addressed the commission. She appreciates the opportunity to voice her opinion and feels an EAW is needed. Adam Marksteiner addressed the commission. They have lived there since 2009. The area provides habitat to lots of animals. Going through an EAW now sets a good precedent for future development. He would like there to be an informed decision before development, and not just a guess. It is hard to mitigate damage in the future. Any doubt should allow the EAW to take place. Kevin Erickson addressed the commission. He is in favor of an EAW and noted development would require lots of fill be brought in. The neighbors will experience dust, airborne pollutants, and noise. Christine Post addressed the commission. She is a resident of the neighborhood. They live on Amity Creek and noted it is 1 of 14 impaired trout streams. This development would make an already difficult situation worse. They need to protect their water now. It is important now, but even more so in the future.

Commissioners: Zwiebel doesn't feel this petition is appropriate at this time. She agrees that the developer should give consideration to an EAW under their own merit. She appreciated the articulate speakers, but changing the zoning is only being proposed at this time. The resolution language was discussed and modified. Wedul noted it is important to reiterate a reasonable

expectation to enjoy the property. If there was an actual project before the Commission at this time, the consideration for an EAW would be different. This EAW petition proposal puts the cart before the horse. Wisdorf concurs. Zwiebel would like the developer to work with the community and have more opportunity for communication.

MOTION/Second: Zwiebel/Eckenberg, adopting findings and determining that an EAW is not required or necessary based on the petition.

VOTE: (7-0)

Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton thanked the commissioners for their service, and gave an update on upcoming items. Shipping containers are an ongoing issue. He invited city councilor Zach Filipovich to talk about vacation rental updates. Filipovich noted the proposed resolution created by himself, Randorf, Tomanek and Kennedy. Schraepfer asked him to share what the changes are. Filipovich gave a broad overview, which included the creation of a new over-the-counter annual permit for short-term vacation dwelling unit not to exceed 21 days per year. They would like to increase the cap for no more than 10 new vacation dwelling units per year with an ultimate cap of 120 units. They are proposing an increase in permit fees, which would be deposited into a city housing trust fund. Deputy Director Fulton noted the Vassar Street rezoning goes to city council for the first reading on Monday. MN DOT continues their Central Entrance study. The DTA introduced a better bus blue-print. In person city meetings are starting next month. Meetings will still be streamed on Web-ex. Eckenberg asked if city hall has a masking mandate. Per Deputy Director Fulton masks are not required in city hall. Social distancing is encouraged, but not required.

Heritage Preservation Commission – Vice-President Wisdorf noted the HPC met yesterday. They are reviewing the draft of the downtown design guideline standards. The planning commission could see it at their October meeting.

Joint Airport Zoning Board – Commissioner Eckenberg gave an overview there is a public meeting scheduled for July 21st and 6 p.m. to discuss their custom ordinance.

Duluth Midway Joint Powers Zoning Board – No updates.

Adjournment

Meeting adjourned at 8:52 p.m.

Respectfully,

DocuSigned by:
Adam Fulton
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Adam Fulton – Deputy Director
Planning & Economic Development