

## City of Duluth Planning Commission

October 12, 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](mailto: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, October 12th, 2021.

### **Roll Call**

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

Members Present: Jason Crawford\*, Gary Eckenberg\*, Margie Nelson\*, Michael Schraepfer\* (entered after approval of minutes), Andrea Wedul\*, Sarah Wisdorf\*, and Zandra Zwiebel\*

Members Absent: Jason Holliday, and Eddie Ranum

Staff Present: Adam Fulton\*, Robert Asleson\*, Jenn Moses\*, Kyle Deming\*, Chris Lee\*, and Cindy Stafford\*

### **Approval of Planning Commission Minutes** -

Planning Commission Meeting – September 14, 2021  
Planning Commission Meeting – September 28, 2021 – Special Meeting

**MOTION/Second:** Zwiebel/Wisdorf approved

**VOTE: (6-0)**

### **Public Comment on Items Not on Agenda**

No speakers.

### **Presentation**

Duluth Citizens' Climate Action Plan - Lora Wedge of Ecolibrium 3 gave an overview. She discussed the need, the plan and the process. There were four areas of key findings in: food and agriculture, transportation, buildings, and energy production. Actions and community initiatives were discussed. Wedge welcomed feedback. Commissioner Gary Eckenberg requested a hard copy of her presentation. Deputy Director Adam Fulton will forward to the commissioners.

(Item PL21-165 was pulled from the consent agenda items and moved to the public hearing portion.)

### **Consent Agenda**

PL 21-105 Variance for a Deck at 107 E 9<sup>th</sup> Street

PL 21-151 Concurrent Use Permit for a Stairway at 107 E 9<sup>th</sup> Street by Scott Holm

PL 21-155 Concurrent Use Permit for a shed, fence and erosion improvements in the Right of Way at 802 Lake Ave South by Thomas and Bridget Reistad

PL 21-158 Vacation of a Utility Easement near Decker Road and Anderson Road by Lon Hovland

PL 21-164 Vacation of a Utility Easement at 1 Viewcrest Avenue by the City of Duluth

**Commissioners:** Andrea Wedul asked about PL 21-155. Should the wall be included in the application? Planner Chris Lee said it could be added. Wedul asked if there will be continued access. Lee affirmed.

**Public:** No speakers.

**MOTION/Second:** Zwiebel/Wedul approved consent agenda items as per staff recommendations

**VOTE: (7-0)**

### **Public Hearings**

PL 21-165 Variance from Height Requirements for a 16-Unit Building at 22xx Water Street by Sanford Hoff

**Staff:** Jenn Moses gave an overview. The applicant is requesting a variance from UDC Section 50-14.6 for an additional 10' in height for a 4-story, 16-unit multi-family dwelling. This property is zoned R-2, and approximately ¼ of the rear lot area is occupied by utility and access easements, as well as the shoreland setback from Lake Superior. This leaves limited building area for development. The applicant asserts that other multi-family buildings within the vicinity have wider lakefront frontage which allows them to spread out more. This is a compact area, and the applicant is proposing a building height of 55'. Underground parking is not an option due to entry off of Water Street and shallow bedrock. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Alex Bushey of the Breakers and Ryan Arola of Arola Architecture address the commission and welcome questions. Commissioner Zandra Zwiebel asked why they need four stories versus three stories. Bushey stated it is the design proposed. Commissioner Wedul appreciates the design, but has a question on programming on the lower level. Bushey stated the lower floors are designed for parking. On the lower floor to the east is a community room. Wedul noted the high ceiling height of 12 ½'. She asked the applicant if they considered minimizing the ceiling height to 8' to keep consistent with adjoining buildings and to reduce their overall building height. Bushey stated it is not their proposed project.

**Public:** Mike Casey – 415 88<sup>th</sup> Ave W – addressed the commission, and shared with other attendees the hand raise function directions in the meeting's Web-Ex format. Alison Clarke – 226 Ridgewood Rd – addressed the commission. She noted the easement for extending the lakewalk and the city's potential program. Carol Burns of Water Street addressed the commission. She is concerned about the scope of the project. Parking on Water Street is already a challenge. Having 16 additional housing units will further complicate parking. She is also concerned about the safety of lakewalk users during construction.

**Applicant:** Ryan Arola stated they are providing two parking spots per unit, and will have visitor parking in front on their property.

**Commissioners:** Zwiebel would like to make a motion to not approve. The applicant could reduce their ceiling height and/or the number of floors. Wedul agrees and is going to second. Based on her calculations, they could take the ceiling height down to 8' and eliminate wasted space. Deputy Director Fulton noted denial would result in a year waiting period. Wedul retracts her second. Zwiebel still wants to deny, and doesn't feel this is enough of a practical difficulty. Zwiebel makes a motion to deny. There is not second, motion dies. Wedul suggested a motion to table for design modifications, including a fair ceiling height. Zwiebel noted once an item is tabled, there is no more discussion. Wedul withdraws her table motion for more discussion. Commissioner Michael Schraepfer noted an 8' ceiling height may be too low, but is in agreement with a motion to table. Commissioner Gary Eckenberg noted the 45' allowed building height. Is there a significant reason to adhere to it? Deputy Director Fulton stated 45' may be an unusual height, depending on current building methods. The difficult part of the site is that it is close to the lake. He noted the topography is now flat as the site is a grassy field. You see the lake because it is a mowed field. He noted that even a 10' high structure would impact the viewshed on Water Street. The applicant's proposal won't affect the view from higher up. Zwiebel noted the view from 21<sup>st</sup> Avenue East, and feels it will indeed impede the view. Deputy Director Fulton noted it will change the view, but it won't prevent the ability of people driving down 21<sup>st</sup> to see the lake. Schraepfer noted building in the city is challenging, and it is worthwhile to be flexible to make projects work. Zwiebel believes this project will impact everyone's viewshed, and is opposed.

**MOTION/Second:** Eckenberg/Crawford approved as per staff recommendations.

**VOTE: (5-2, Wedul and Zwiebel Opposed)**

PL 21-156 Subdivision Plat for Western Woods near Decker & Anderson by Lon Hovland

**Staff:** Kyle Deming introduced the applicants' proposal for the approval of the preliminary plat of Rearrangement of Park of Western Woods Division to provide for re-platting of 16 lots on 8.31 acres into 14 lots on a shortened street in an R-1 District. The proposal includes construction of a new public street and utilities. Also, there is an amendment to the application for the addition of Lot 8, Block 1, Western Woods Division to the area to be re-platted. The site will be connected to City water from an unbuilt street right of way off of Anderson Road at the northeast corner of the site. Municipal sanitary sewer pipes were installed earlier in 2021. Each of the 14 lots will have access to a new 1,900' long public street (Westwood Circle) connected to Decker Road and will end in a cul de sac. Final street design details will be determined by the City Engineer, but plans include a 28' wide street with curb and gutter and a sidewalk on one side. To comply with site connectivity requirements, staff recommends a pedestrian easement be added connecting the cul de sac to Anderson Road. A complete wetland delineation is on file, and there is sufficient space for development without impacting the wetlands. Two storm water detention basins are planned for the east side of Westwood Circle. A tree inventory is required before a final plat is approved. Staff recommends approval with the conditions listed in the staff report including the developer enters into a development agreement. Commissioner Zwiebel notes the driveway location on Lot 14. Is there a guarantee that the driveway actually be constructed on the utility easement? Deming noted platting is to facilitate organized development, so the location of the driveway could be an added condition. Deputy Director Fulton affirms. Wedul noted an isolated wetland near the north property boundary. Does it affect storm water treatment or mitigation? Deming stated the size of the storm water basins need to be calculated by the developer's civil engineer. The isolated wetland is not likely to affect the developability of the lots. Wedul is comfortable the storm water calculations will be within the scope of the existing layout. Zwiebel appreciates Wedul's comment about the isolated wetland noting that this is a dry year and the size of the wetland may be under-represented.

Deming noted a wetland also considers soil type and not necessarily only standing water and that the wetland delineation is from 2016.

**Applicant:** The applicant does not appear to be present.

**Public:** Mike Casey noted this is a cul de sac to nowhere. Why is the city not connecting this to Anderson Rd? He feels connectivity requires the street to go through, and not just a cul du sac. This development only has access out to Decker Road. They are moving away from two sidewalks to only one. He encourages affordable housing, but these lots seem to be bigger than the surrounding area lots. He would like to see more density. He doesn't like the tax implications of the City adding another road.

**Commissioners:** Wedul appreciates Casey's comments about walkability. Street vacations prohibit access, and will keep any eye out in the future.

**MOTION/Second:** Wedul/Wisdof approved as per staff recommendations (Further discussion followed with the motion being voted on later.)

Zwiebel would like to add a friendly amendment to require the driveway on Lot 14 be located on the utility easement to reduce wetland impacts. Wedul is hesitant to make it an amendment. An official motion was made for more discussion.

**MOTION/Second:** Zwiebel/Wedul amend original motion to include an added condition that the driveway on Lot 14 be constructed over the utility easement. (Further discussion followed.)

Zwiebel noted that the part of the lot where the dwelling could go is on the east side of the lot, which requires going over the wetland. It makes sense the developer would put the driveway in the same location as the utility easement, but a condition would ensure it. This would lessen the wetland impact. Wedul asked if there was a proposed pedestrian easement. Per Deming, the utility easement is for a sanitary sewer pipe. When the pipe enters the plat to the east, the lot is privately owned and so a pedestrian easement cannot be extended there. There is a separate potential pedestrian connection to the east via the proposed pedestrian easement from the cul du sac. The driveway access was the original motion along the utility easement.

**MOTION/Second:** Zwiebel/Wedul amend original motion to include an added condition that the driveway be constructed over the utility easement on the southwest side of the property

**VOTE: (7-0)**

**Commissioners:** Eckenberg noted the 1960's plat with roads that connect to the north and east. The proposed re-plat has a cul de sac. Has connecting to public roads fallen out of favor? Are curves more appealing than right angles? Deming noted the ability to connect to the adjacent area is limited by the Sackette Division that did not connect Denim Dr. to Wildwood St. and development of a home on Anderson Rd. where the other 33 feet of street should have gone to connect to Anderson Rd. Zwiebel appreciates the elimination of cul de sacs, but sees the need for one in this situation. Wedul clarified the previous plat included dog-legged roads, which are dangerous and hard to turn around on. Zwiebel appreciates the proposed sidewalk connectivity.

**MOTION/Second:** Wedul/Wisdof approved as per staff recommendations

**VOTE: (7-0)**

PL 21-157 Variance from Shoreland Setbacks for a Garage at Hartley Nature Center, 3001 Woodland Avenue by the City of Duluth

**Staff:** Kyle Deming introduced the applicants' proposal to construct a 30' x 40' stewardship garage for storage related to Hartley Nature Center. A variance is requested to reduce the Cold Water stream setback from 150' to 129.1'. Four sites on the property were considered and this selected site was deemed the least impactful. The site map and site plan in the staff report

show that the property is severely impacted by the presence of streams, wetlands and slopes. The garage could not be located to the south or west of the existing nature center building due to the presence of Tischer Creek and the re-routed tributary. The garage is needed for additional space to store items and equipment related to the management of the park. This includes vehicles, a canoe trailer, a snow blower, and other equipment. Hartley Nature Center has experienced vandalism and theft of equipment due to the remote location and lack of secure storage. The practical difficulty is due to the location of Tischer Creek and its tributary, wetlands, and steep slopes. Staff recommends approval with the conditions listed in the staff report. Commissioner Wedul asked about the wetlands analysis. Per Deming the wetland replacement plan was approved. Commissioner Zwiebel lives in the area and asked about the DNAP. Deming shared the DNAP map and confirmed the proposed location for the garage is located outside the DNAP area. Zwiebel asked about adding a condition for a rain garden be included for mitigation. Deming noted item 6 in the staff report that address rainwater garden. The applicant stated they will direct rainwater from the portion of the roof within 150 feet of the tributary into an infiltration basin at the southwest corner of the garage. The basin will contain riprap at the terminus of the rain leader, which will discharge to a vegetated swale that flows east to the proposed storm water treatment system being constructed for the Hartley Nature Center expansion. Additionally, the area behind the garage will be left natural, and any areas impacted during construction will be planted in a native seed mix and allowed to return to a natural state. Wedul asked about screening of the trash enclosure. Per Deming they will screen the trash enclosure, but defers to the applicant for more details.

**Applicant:** Jim Shoberg addressed the commission. He affirmed screening will be added by planting conifer trees.

**Public:** No speakers.

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

**VOTE: (7-0)**

PL 21-163 MU-C Planning Review for a New Dental Office at 17 W. Central Entrance by Joe Kleiman

**Staff:** Chris Lee introduced the applicant's proposal for a 2,700 sq. ft. new constructed medical office/dental office structure, with associated parking, landscaping, lighting, and connectivity located on a formerly developed site. This building was formerly a Pizza Hut, and was demolished in 2017. The applicant will use the existing foundation. There are no wetlands present on the site. The entire site is currently an impervious surface from the previous development. Storm water treatment will need to be approved prior to permitting. The site plan shows a new sidewalk connecting from the building to the Central Entrance sidewalks. The applicant has indicated that he will review the condition of the sidewalk on Central Entrance and make repairs as warranted. The applicant will provide eight parking spaces, which is one more than the seven that are required. The landscaping plan complies, and includes 36% canopy coverage at maturity for trees. Shrubs will be added to the Central Entrance frontage. The trash enclosures and HVAC equipment will be screened. Signage will be permitted separately and the exterior lighting will be minimal with downcast lighting. The applicant owns property to the east, and could include a shared driveway in the future. Staff received three comments. The MIC expressed concern about pedestrian access and the busy intersection. WSB Engineering is concerned with access onto Central Entrance and the curb cut location near a busy intersection. MnDOT asked the applicant to consider the master plan to avoid multiple access points. Staff recommends approval with the conditions listed in the staff report. Commissioner Eckenberg asked about the three comments the city received. Why didn't the staff address their concerns? Deputy Director Fulton noted there is no full alley to be used as an alternative access.

Commissioner Wedul asked about the landscaping plan – why is staff accepting a 2” caliper? She also noted the tree species proposed (Sugar Maple) may struggle with road salt present. Per Lee, the tree caliper size should be 2 ½” as per UDC standards. Lee defers to the applicant regarding the tree species chosen.

**Applicant:** Joe Kleiman addressed the commission. He purchased the property in 1995 from Highland Bakery. He bought the surrounding properties and sold the former laundromat to UPS, and sold the previous UPS building to Vita Pizza. He has 250’ of frontage on Central Entrance and of the three access points, he is proposing to reduce it to just one. He has had conversations with MnDot. A 16’ wide back alley is a nonsensical route to enter a business. He is amenable to planting a more suitable tree variety for the area.

**Public:** No speakers.

**Commissioners:** Zwiebel often uses Arlington Avenue and thinks it is wise to reduce the three curb-cut openings into just one. Eckenberg is in support of the single curb-cut and feels assured MnDOT will approve.

**MOTION/Second:** Crawford/Wisdorf recommended approval as per staff recommendations

**VOTE: (7-0)**

PL 21-162 MU-C Planning Review for a Building Expansion at 1902 Miller Trunk Highway by Target Corporation

**Staff:** Kyle Deming introduced the applicant’s proposal for a 16,448 sq. ft. store expansion and reconfiguration of the parking lot north of the building into a 24-stall customer pickup area with related landscaping and storm water improvements. The applicant’s plan shows multiple improvements to the existing storm water infrastructure that discharges to City storm water pipes and Miller Creek. Impervious surface will decrease and additional storm water treatment elements will be incorporated that reduce the amount of sediment, oils, and trash entering the storm water system. The existing temporary shipping containers will be removed from the site as this building expansion will accommodate the need for storage. Staff recommends approval with the conditions listed in the staff report. Commissioner Wedul noted it is nice to see innovative storm water plans. Regarding the landscaping plan, she would like to make sure the Autumn Red Maple trees are in compliance with the 2.5” minimum caliper requirements. Deming will ensure.

**Applicant:** Michele Caron a civil engineer from Sambatek, Inc. addressed the commission and welcomed questions. Wedul thanked the applicant for attending and noted some proposed trees are not deemed hearty enough. Caron is amenable to tuning the vegetation accordingly. John Dietrich of the Target Corporation addressed the commission. He appreciates Wedul’s level of detail, and agreed to meet the 2.5” minimum tree caliper, and welcomes alternative tree suggestions.

**Public:** No Comments

**MOTION/Second:** Zwiebel/Eckenberg recommended approval as per staff recommendations

**VOTE: (7-0)**

**Old Business**

PL 21-096 Minor Subdivision at Glen Place and W Michigan Street by Aaron Schweiger

Item to Remain on the Table through the end of November for more Plat Research

## **Communications**

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. He thanked the commissioners for their service. The vacation rental ordinance will have its second reading at the 10/25 city council meeting. The planning department is considering a new drawing to gather interested vacation rental housing candidates possibly in November. He noted the Housing Trust Fund and the American Recover Plan funding. The Kayak Bay road will be completed this year. He will forward the commissioner a link to participate in an internet Broad Band survey. He also noted the Central Entrance study and appreciates MnDOT's work. The condemnation of the Duluth Armory has been lifted.

Heritage Preservation Commission – Vice-President Wisdorf gave an overview. The HPCF met on 10/11/2021 and continued their discussion on downtown design guidelines.

Joint Airport Zoning Board – Commissioner Eckenberg noted they met on 10/6/2021, and approved the zoning ordinance. The next step is to have Rice Lake, Hermantown and the City of Duluth include it in their comprehensive plans when next adopted. This will also be added as an addition to the UDC. Per Deputy Director Fulton, he and Kyle Deming will be meeting with the city attorney tomorrow. It is tremendous to have an agreement.

Duluth Midway Joint Powers Zoning Board – No updates.

## **Adjournment**

Meeting adjourned at 7:28 p.m.

Respectfully,

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