

City of Duluth Planning Commission

**March 12, 2024 – City Hall Council Chambers
Meeting Minutes**

Call to Order

President Margie Nelson called to order the meeting of the city of Duluth planning commission at 5:03 p.m. on Tuesday, March 12, 2024 in the Duluth city hall council chambers.

Roll Call

Attendance:

Members Present: Jason Crawford, Gary Eckenberg, Brian Hammond, Jason Hollinday, Margie Nelson, Danielle Rhodes, Michael Schraepfer, and Andrea Wedul (arrived late at 5:14 p.m.)

Members Absent: N/A

Staff Present: Adam Fulton, Ryan Pervenanze, Jean Coleman, Jenn Moses, Kyle Deming, John Kelley, Chris Lee, Jason Mozol, and Hannah Figgins

Approval of Planning Commission Minutes

Planning Commission Meeting – February 13, 2024

MOTION/Second: Crawford/Eckenberg approved

VOTE: (7-0)

Public Comment on Items Not on Agenda

No Comments.

(PL 24-011 Removed from the consent agenda due to a clerical error. The UDC requires publication of a zoning notice for three weeks preceding a commission meeting. The city did not meet the requirements for public notice for the March meeting. Staff recommend the hearing be held, and commissioners give official recommendation in April.

PL 23-208 was removed from the consent agenda to be voted on separately as a public hearing.)

Consent Agenda

PL 23-203 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility at 5300 Oneida Street by MasTec Network Solutions

PL 23-204 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility at 1220 N Arlington Avenue by MasTec Network Solutions

PL 23-205 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility at 5804 Tioga Street by MasTec Network Solutions

PL 23-206 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility

- at 3140 Restormel Street by MasTec Network Solutions
- PL 23-207 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility at 5004 Glendale Street by MasTec Network Solutions
- ~~PL 23-208 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility at 2904 Parkwood Lane by MasTec Network Solutions~~
- PL 23-209 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility at 2841 Piedmont Avenue E and E 3rd Street by MasTec Network Solutions
- PL 23-210 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility at Northwest Corner of N 10th Avenue E and E 3rd Street by MasTec Network Solutions
- PL 23-212 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility at 1219 W Michigan Street by MasTec Network Solutions
- PL 23-213 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility at 212 N 40th Avenue W by MasTec Network Solutions
- PL 24-012 Concurrent Use Permit to Replace Concrete Stoop at 1301 London Road by Armory Arts and Music Center
- PL 23-219 Interim Use Permit for a Renewal Vacation Dwelling Unit at 1108 W 8th Street by Hooshang Mehralian
- PL 24-015 Interim Use Permit for Renewal Vacation Dwelling Unit at 119 St Paul Avenue by Beth Gauper
- PL 24-018 Variance to Reduce Shoreland Setback from 150' to 75' at 7210 Fremont Street by Lake Superior Zoo

Staff: Deputy Director Adam Fulton addressed the commission with an explanation for the multiple concurrent use permits. The private entity, MasTec Network Solutions, has to secure these permits in order to install private equipment in the public right-of-way. This specific use is not covered by any existing agreement with the city and the entity, but using the right-of-way for a private use is common. Each pole (11) will have a relatively small piece of equipment installed, and the company will maintain insurance and liability for those structures.

Commissioners: Danielle Rhodes asked staff to confirm what the radial lines on the maps for the small wireless telecommunications concurrent use permits were meant to denote, and whether the public notices for the facilities are compliant with UDC code. Brian Hammond asked staff whether the technology would be placed on new poles.

Staff: Staff member Chris Lee responded to the commissioners that the lines are a reference to the potential area of construction, and he confirmed the signage is compliant with the code. and the telecommunications facilities will be installed on new poles where applicable (one will be on top of a stop light).

Public: PL 23-208: John Kalenowski – 2827 Parkwood Lane: Opposed to the concurrent use permit due to the incorrect address listed on the notice. He asked whether this use fits the definition of “public utility”, and suggests the cellular companies install equipment on property they own that they then have to pay taxes on.

PL 23-203: Ryan Offersen – 5302 Oneida St: He addressed the commission with the understanding that the item will include digging two large holes, of about 3x4 for “fiber” and for “power”. He asked what the purpose of the holes were.

Staff: Fulton responded that staff can clarify the location of the small-cell with the applicant. This technology is designed to be less intrusive than traditional cell towers. Small cell is regulated by state law, and the concurrent use permit process was developed in response to the state-level actions. If staff are asked to look further into the concurrent use permit process, then more time would be necessary.

Staff member Chris Lee addressed the commission in response to the concern about the holes associated with the small-cell infrastructure. He said part of the infrastructure improvements will include fiber and power in the ground, with covers, near the poles.

Commissioner Wedul asked staff whether Duluth benefits in any way by allowing the private company to use public infrastructure.

Staff member Lee responded that fees are collected from these uses, but not directly by the Planning Department.

MOTION/Second: Eckenberg/Rhodes approved the consent agenda without PL 23-208

VOTE: (7-0)

Public Hearings

PL 23-208 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility at 2904 Parkwood Lane by MasTec Network Solutions

Staff: Deputy Director Fulton addressed the commission and said that the speaker noted what appears to be a technical error, and it is not atypical for minor details to be addressed between planning commission and council. If the commission were to make the recommendation of approval, staff would follow up with the applicant to clarify the address.

Commissioners: Brian Hammond pointed out that the address on the notice is just across the street from the pole's location, which seems like a clerical error. The second concern raised by the speaker is the condition of the telephone pole, which the applicant plans to replace before installing any new equipment.

MOTION/Second: Hammond/Crawford approve with condition the address is confirmed

VOTE: (7-0)

PL 24-014 Planning Review in the MU-C District for Credit Union at 3 W Central Entrance by Superior Choice Credit Union

Staff: John Kelley addressed the commission with a review of the staff report for the proposed project to build a roughly 2000 sq. ft building on a currently vacant lot, which requires approval by the planning commission. The parking lot size is below the threshold that would require tree-islands, however the applicant is providing street frontage shrubs and trees. The building design standards aren't applicable due to the small size of the building. A light plan is required to be permitted, which the planning staff will review. Staff is recommending approval of the plan with conditions outlined in the staff report.

Commissioners: Wedul asked staff whether any comments were received regarding access from the alley.

Eckenberg asked if there was any discussion about a right-turn-only exit from the ally onto Arlington Ave.

Rhodes also noted the lack of sidewalk along Arlington Ave.

Staff: Kelley responded that no public comments were received regarding the ally access, and there was not discussion about a right-turn-only exit onto Arlington Ave.

Fulton noted there is a full sidewalk on the other side of Arlington Ave. This segment of road is due for further study, but at this time there is only the one sidewalk.

Commissioners: Hammond asked staff if the accessibility of the current plan is best practice. Staff member John Kelley confirmed the current plans would require someone with accessibility needs to take an indirect and non-continuous route from the public sidewalk to the entrance of the building.

Applicant: Russ Shram, with HTG Architects: We can connect the sidewalk on W Central Entrance to the parking lot via an additional sidewalk that would lead to one direct crossing of the parking lot to the entrance, with direct access to a curb cut near the main entrance.

Public: No speakers.

MOTION/Second: Hammond/Wedul recommended approval as per staff recommendation with condition to include a direct, accessible route from Central Entrance sidewalk to the main entrance

VOTE: (7-0)

PL 23-127 Draft AUAR (Alternative Urban Areawide Review) for the Central High School Redevelopment Project (hearing only, no decision to be made)

Staff: Kyle Deming addressed commissioners and said the Draft AUAR is in the 30-day comment period ending March 21. Notice of the document's availability has been published in the Duluth News Tribune and on the Environmental Quality Board (EQB) Monitor web page. State rules also require an in-person public hearing; a notice for this hearing has been published in the Duluth News Tribune, as well as the City's webpage. The full document is available in the public library as well as on the City's webpage. Any substantive comments received will be responded to by staff and the consultant firm, and thus brought to the April 9th Planning Commission meeting. Any recommended changes to the Draft AUAR can be addressed at that time. The Final AUAR will be published on the EQB Monitor web page and there will then be another approval of the Final AUAR estimated to be at the May 14th Planning Commission meeting after a 10-day objection period.

Substantive Comments include those that address accuracy and completeness of information, those that identify impacts that may warrant further investigation, and potential mitigation measures that would prevent significant environmental impacts. Staff recommend a public hearing at this time, following the standard hearing rules.

Commissioners: No questions.

Public: David Schimpf – 1125 Brainerd Ave: The speaker addressed the commission saying he has no known personal financial interest in this proposed project. The Scenario B project has outlined a major potential collision hazard for migrating birds. This project will put tall windows and lights on a hilltop in a major migration pathway. The Central High site is in the line of a migration path. Observations of condensed passages are professionally recorded at Thompson Hill, Enger Park, and Hawk Ridge. A lot of migration happens at night. Spring and fall migrations in Duluth are famous; people drive from as far away as Iowa to attempt to see the migratory birds. This project demands the fullest possible mitigation measures, due to the location. His written comments will include the mitigation measures that should be taken, as recommended by the U.S Fish and Wildlife Service, American Bird Conservancy, and the Cornell Lab of Ornithology should be consulted for technical mitigation measures.

Eric Enberg – 5425 Morris Thomas Rd, Hermantown: He addressed the commission saying he is opposed and neutral with regard to this project. He has practiced family medicine for 13 years at the Denfeld Medical Clinic, and is active in local climate politics. He recognizes the negative impact of this project on migratory birds. This project would increase available housing in Duluth by 4%, which is a positive. However, the published plan indicates it would increase greenhouse gas emissions in Duluth, as it is currently planned, by 4%. The plan uses a very "rosy" assumption regarding the potential of fugitive emissions that would be produced by the project, and in reality, will produce far more CO2 equivalent emissions than the 4%. He said that if you use methane in a small apartment, you are placing the residents under significant respiratory distress. This could increase the risk of asthma, and is responsible for at least a fifth of asthma

cases. He treats children who are losing their battle with asthma and it is a desperate struggle to help them overcome it. We need to get methane out of our residences, especially because we don't have to be using it or other natural gasses. The plan's regard for greenhouse gasses was dismissive. 78% of Duluth's total emissions come from buildings. We need to concentrate on buildings and how we heat them. The plan for mitigation strategies was vague and non-committal. This Commission needs to hold the developer's feet to the fire. We need to use several different methods of renewable energy, including boreholes, EV charging stations, and solar panels. I hope the commission will take a look at that. He thanked the commissioners.

Staff: Adam Fulton noted that oral and written comments are appreciated and will be taken in to consideration. This plan has been on the agenda for several months with the intent of obtaining the maximum amount of public comment, and to advertise the project broadly. He encourages the commissioners to continue to advertise the ability to provide comment on the plans.

Other Business

PL 24-025 Conformance to Comprehensive Plan for TIF District for Welsh Place, North of Wadena Street Between 52nd and 53rd Avenues W, by Duluth Economic Development Authority

Staff: Fulton addressed the commission regarding conformity of a TIF plan. The purpose of bringing new TIF plans before the Planning Commission is to look at whether the creation of this TIF district does or does not conform to the intent of the comprehensive plan.

Senior Housing Planner, Tom Church, addressed the commissioners with the proposed new TIF district. He corrected a typo on the agenda – the housing TIF district will be administered by the Duluth HRA, not Duluth Economic Development Authority. This is currently zoned R-P, calling for highest density residential development. The parcels are subject to the Ramsey Village Neighborhood Regulating Plan adopted in 2003, amended last March by Planning Commission, and by Council in April 2023, to allow for "Type 3 Residential" buildings, which are three-stories with commercial use on the ground floor. This development will not have commercial use. It is staff recommendation that this does conform to the comprehensive plan.

Commissioners: Eckenberg asked staff which document is the "comprehensive plan".

Senior Housing Planner Tom Church responded that the Imagine Duluth 2035 document is the Comprehensive Plan.

Adam Fulton said this document does not wholly replace the 2006 Comprehensive Plan, but does update it substantially. In this context, it is important to consider the Plan's identified land uses as well as the different housing goals and policies. The site in question today has long been planned to include housing development, and ranks highly with the goals in the Plan. He added that the current number of active TIF districts in Duluth is around 15.

President Nelson requested a brown bag session on TIF districts.

Commissioner Rhodes asked staff whether there is any requirement that the developer follow-through with construction in a TIF District.

Deputy Director Fulton responded that it is a really good and important question, however that is not within the purview of the Planning Commission. The Duluth HRA and development entity will establish a development agreement between themselves.

Tom Church added that the development agreement will be between Duluth HRA and Center City Housing. The project is currently fully financed with \$14 million from the MN Housing Finance Agency and the TIF district would allow for needed gap-funding so construction may begin this fall.

Discussion ensued.

Fulton added that the Ramsey Village plan is one of the older plans, and contains many distinct parameters for design elements of buildings and things of that nature. He confirmed Planning staff have been tracking this project, and when the developer applies for a building permit, it will be reviewed in detail for compliance with the Ramsey plan at that time.

MOTION/Second: Crawford/Wedul approve per staff recommendation

Vote (7-0)

PL 24-011 UDC Map Amendment from R-1 to R-P for Residential Uses North of Bald Eagle Circle by Newhaven, LLC

Staff: John Kelley addressed the commissioners and introduced the proposed project to rezone approximately four acres in Lakeside, north of the Hawk Ridge Estates subdivision. The map provided to commissioners (in Staff Report packet) shows the properties are currently zoned R-1 today. Future land-use for the site is residential and open-space.

There is a 66 ft. wide access and drainage easement between two existing homes that is being considered for accessing the proposed development. Part of the rezoning process is to ensure the rezoning conforms to the code and land-use plan, and ensure there will not be impacts to adjacent properties. Rezoning to R-P does offer more flexibility for design and development for residential projects. It provides for a variety of housing types, unique amenities, and possible benefits to the city and surrounding area. The process is two-fold, the first being the meeting tonight, followed by a planning review process to be approved by the land-use supervisor. See staff report by John Kelley for further details.

The City has received in excess of 100 comments to date. There will be another public notice in advance of the April public hearing. Staff is recommending approval of rezoning, given the consistency with the comprehensive plan and land-use plan.

Commissioners: Andrea Wedul asked staff if a separate action is needed to dissolve the current three separate parcels. Also, because of the presence of a visual overlay district from Skyline, has there been consideration to require additional setbacks?

Staff member John Kelley responded that, yes, it would require a re-platting of parcels. And, the skyline district was acknowledged in the staff report; any activity on site would have to adhere to any overlay districts.

Commissioner Rhodes asked whether an R-2 zone district would have been better for the area to allow for more individual home ownership.

Kelley responded that R-2 was not considered, because R-P allows for the preservation of some of the undeveloped space.

Deputy Director Fulton added that rezoning to R-2 would be inconsistent with the comprehensive plan due to the far greater density, and taller buildings that would be allowed by that zone district type. Staff recommends an R-P district, Residential Planned, because it allows the Planning Commission to determine three criteria – use, height, and density. What is depicted in the packet is the applicant’s proposal. Homestead status is not typically regulated by zoning. This would be a good question for the applicant.

Commissioner Gary Eckenberg asked why staff recommend rezoning when the comprehensive plan says the future plans should be traditional neighborhood.

Staff member Kelley responded that R-P allows for cottage housing, and a number of uses other than residential, such as communal amenities. In terms of density, R-P limits the number per acre. R-1 zone district would exceed recommended density.

Discussion ensued about density and ADUs.

Commissioner Brian Hammond added that the proposed density is quite a bit denser than the surrounding neighborhood, which is presumably why we have such good attendance tonight. He asked if the neighborhood was consulted when deciding the proposed density.

Deputy Director Fulton responded that the purpose of the planning commission is to recommend the use, height and density of the proposed area. This recommendation can be different than what is proposed by the applicant.

Commissioner Wedul asked if there is a proposed density.

Staff member Kelley responded that the proposal before commissioners is what the applicant has proposed, in two different scenarios.

Commissioner Eckenberg requested the minutes from the public meetings, prior to the April hearing. John Kelley confirmed the minutes will be sent to the commissioners.

Commissioner Crawford asked if there are examples of this proposed density elsewhere in the city.

Deputy Director Fulton responded that yes, there are others such as Ramsey Village, East Ridge Estates, Rock Ridge, and Bluestone. These often have regulating plans, and HOAs for governance of the plans.

Applicant: Nick Ericson – Mukilteo, Washington, PO Box 98275: He addressed the commission and introduced himself as the applicant. He has been taking public input at every step of the process and altering the draft plans accordingly. His lived experience has demonstrated the benefits of increasing density at the initial design stage, rather than attempting to in-fill greater density later, which is why he is considering a density of 4-8 units per acre. Many key policies and guiding principles were considered in the creation of this draft proposal. He is cautious in hiring designers officially until the re-zoning is approved by City Council, which is why there aren't professional, detailed designs yet.

He addressed concerns about the Skyline overlay district: he had it surveyed in 2015, and the hill there is 71.4 ft. tall, so a 45 ft. building would not impede the view. He also had the trees surveyed, although he is not required to have a preservation plan. The western side of the plan is very similar to single family houses. The homes, to make them look smaller, would be built on top and set back behind the garages, with planters on the garage roof. The other side of the small neighborhood is for cottages, inspired by Conover Cottage neighborhoods in Redmond, WA, which look like R-1 zone. He intends to sell the homes to individuals consistent with prices currently in Hawk Ridge Estates. These properties will be very desirable and he wants them to blend in to the surrounding neighborhood. He would like more public input for the gravity sewer system.

Commissioners: Brian Hammond asked about the proposed access road, and why it is so close to the existing house in Hawk Ridge Estates.

The Applicant, Ericson, responded that the easement was established prior to construction of the house. He applied for a 66ft easement from Planning Commission several years ago, and said at that time they approved it. And the house, according to a survey, is 6 ft. from the easement.

Deputy Director Fulton added that staff have not researched the details of the easement, nor the property at 301 Bald Eagle Circle, although it would appear the easement precedes that houses construction.

Hammond asked the applicant to explain his thinking behind the proposed density of 8 units per acre, when the surrounding neighborhood is roughly 4 units per acre.

Ericson responded that while R-P suggests 10 units per acre, he is proposing about 7.5 units per acre, which would allow for ADUs to be added in the future if the owner chose to do so.

Commissioner Eckenberg asked the applicant what the "civic" buildings on the map are for?

The applicant, Ericson, responded that those buildings are communal amenities for owners of the cottages. He'd also like to include a small open field for outdoor activities and communal storage.

Commissioner Eckenberg asked why the plan proposes a 45 ft height limit, to which the applicant responded that it is for the inclusion of solar power on the buildings which requires a certain pitch, as well as the desire to build the homes on top of the garages for spatial and aesthetic reasons.

Nick Ericson noted that he would like the density to be 4-8 units per acre.

Public: Jim Mitchell – 1801 Minnesota Ave: He addressed the commissioners in opposition to the proposal. He supports the comments made in the letter submitted by Matt and Karen Hanka (see staff report). He is concerned about the proposed height of the buildings, as someone who uses Skyline and Hawk Ridge hiking trail. He also thinks the proposed density is too dense, and thinks it should match the surrounding neighborhood density. He thanked the commissioners.

Mark Yellich – 3024 Bald Eagle Trail: He addressed the commission as a volunteer on the board for the Hawks Ridge Home Owners Association. The board supports maintaining the R-1 zoning. Rezoning to R-P expands the height and density criteria which raises concerns of Amity creek and Skyline Parkway. A 45 ft height limit could create an eyesore from Skyline Drive, and concentrated density would contribute to erosion and compromise the Amity Creek watershed. These are public amenities that are cherished. He pointed out that the dense neighborhood would be more than a mile from the nearest transit line. The board doesn't want the current cul-de-sac to become a roundabout with increased foot traffic from the new neighborhood. He asked commission to put limits on the height and density, and the board would be glad to assist in defining those limitations.

John Gessel – 3030 Bald Eagle Trail: He addressed the commission in opposition to the proposed rezoning. He also provided written comments. The UDC has many priorities to be considered in advance of a re-zoning – benefits to the public, preservation, a whole litany of other components. He said the neighbors don't know what is being proposed. The notice for the public meeting in November showed five units and one public building, which is nothing like the 33-unit plan we see today. No one commented on that first plan because no one knew what it was they were commenting on. Any recommendation the commission makes has to be made with a full plan in mind. Protect Skyline, Amity Creek, and the park land enjoyed by all of Duluth. He believes the plan is not compatible with the city code, and urged commissioners to consider the permanent changes that could occur in response to their recommendation.

Jose Gonzales – 4123 Robinson St: He addressed the commission as the owner of a lot five blocks from the proposed project. He urged commissioners to consider the factors set forth in UDC in regards to re-zoning and determining land use. He said the report does not reflect that the project is at the end of a cul-de-sac, which increases the use from five to 35 potential cars. He said given what we've heard tonight, commissioners have further shown it is not consistent with the comprehensive plan. Number 8 encourages a mix of housing types for the purpose of mixed-income housing; the homes in this plan are going to be in the same price range as the surrounding homes. The proposal is not in compliance with easements that established Hawks Ridge, nor does it say who will maintain the communal amenities. He thanked commissioners.

Mike Larentz – 5122 Idlewild St: He addressed the commission saying his home is more than 350 ft from the proposal site because he learned about the proposal just last week. He is an associate professor at Iowa State, and he brings students to Duluth for the bird migrations. He chose to rent an apartment for ten years to allow his family to live here. His students are always impressed with Duluth and the forethought of leaving so much open space. He believes this development will destroy the reason he moved to the neighborhood, and it will be visible from

every vista point in the area. Amity Creek is already endangered by development. The impact the plan will have on the beauty of the area, and the ability for other residents to enjoy it are beyond detrimental, and will have negative ecological impacts. He urged commissioners to limit the development, and thanked them for their time.

Staff: Deputy Director Adam Fulton added there will be more opportunity for public testimony, either written or at the April Planning Commission public hearing. He thanked the applicant and all members of the public for providing testimony.

MOTION/Second: Wedul/Hollinday motion to table

VOTE: (7-0)

Communications

Land Use Supervisor (LUS) Report – West Superior Street Public Meeting is this Thursday at Clyde Iron Works. The public Annual meeting of Planning Commission is scheduled for 27th of March at Hartley Nature Center. Commissioner interest in a TIF brownbag is noted. Staff intend to bring code amendments before you in April, that include amendments to setbacks and lot area in zone districts R-1, R-2, and MU-N. Another April meeting topic will likely be related to uses, in particular “boutique lodging,” and performance standards related to boutique lodging, filling station regulations, and VDUs. The VDU items are procedural. Lastly, further conversation about the higher-ed overlay in the context of parking changes in 2023.

Historic Preservation Commission Report – The commission met yesterday. The HPC voted to recommend the designation of 2403 W 6th St., a former corner store, as a local landmark. DEDA will meet on March 27th, to purchase the property from the current owner. The property has been difficult for 15 plus years, and ownership by DEDA is likely the best hope the building has for a positive future. HPC was given a presentation on the city’s Hartley Park Green Infrastructure project: introducing a wetland-based filtration system for the urban watershed of Tischer Creek for a better water quality and preservation. Buckingham Creek was discussed as an important trout creek in the city. The property presented last month. DEDA plans to purchase the property from the current owner.

Joint Airport Zoning Board – No meetings.

Duluth Midway Joint Powers Zoning Board – No updates.

Adam Fulton made a final note of President Nelson’s last meeting as President of the Planning Commission, and thanked her for her service. She will continue to serve as a Commissioner.

Adjournment

Meeting adjourned at 7:41 p.m.

Respectfully,

DocuSigned by:


Ryan Pervenanze, Manager

Planning & Economic Development