

City of Duluth
Planning Commission
October 8, 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 5:00 p.m. on Tuesday, October 8, 2019, in city hall council chambers.

Roll Call

Attending: Jason Crawford, Gary Eckenberg, Janet Kennedy, Michael Schraepfer, Sarah Wisdorf, and Zandra Zwiebel

Absent: Tim Meyer, Margie Nelson, and Andrea Wedul

Staff Present: Adam Fulton, Robert Asleson, John Kelley, Kyle Deming, and Cindy Stafford

Approval of Planning Commission Minutes

September 10, 2019

MOTION/Second: Wisdorf/Crawford approved the minutes with minor change

VOTE: (6-0)

Consent Agenda

1. **PL 19-129** Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 3330 Minnesota Avenue by Pat and Bill Burns
2. **PL 19-133** Minor Subdivision for a Lot Split at 3625 London Road by TJS Construction, LLC
3. **PL 19-134** Variance for an Addition at 101 Eden Lane by Ken Peterson (BBC)/Patricia Dwyer
4. **PL 19-136** Vacation of a Utility and Drainage Easement at Outlot G, Coffee Creek Boulevard by Wildamere Capital Management
Staff: N/A
Applicant: N/A
Public: No speakers.
Commissioners: Zandy Zwiebel notes item PL 19-134. The neighbor living at 105 Eden Lane had voiced an interest in speaking, but wasn't in attendance.
MOTION/Second: Wisdorf/Zwiebel recommended approval of the consent agenda items as per staff's recommendations.

VOTE: (6-0)

Public Hearings

(Audio amplification for audience stopped working. 10 minute recess to try to fix audio amplification. Recording devices still working.)

(5:26 p.m. Interim Director Adam Fulton notes the amplification system is not working. The meeting will continue as scheduled. He asked commissioners and staff to speak loudly. He invited the public to move closer to the front of the room to hear better. Chair Kennedy asked the audience to raise their hand if they are unable to hear, and the content will be repeated.)

5. **PL 19-128** Special Use Permit (SUP) for a Hotel Use at 8721 W Skyline Parkway by Skyline Parkway Properties LLC
Recommended Motion: Approve with Conditions
Staff: Kyle Deming introduced the applicant's proposal to create a "hotel" through the addition of four small, detached hotel units to a property currently used as a vacation rental. Once constructed, the existing vacation rental will be included in the new hotel and will no longer be operated as a vacation dwelling unit. The UDC definition of "hotel" allows detached units to function as a hotel, and requires a special use permit in the MU-N district. Staff recommends approval with the conditions listed in the staff report. Sarah Wisdorf asks if the units have running water and sewer. Per Deming there is a separate building for toilets and showers. Wisdorf asked about the septic system.
Applicant: Jake Kieper of CF Design, Ltd. addressed the commission. He explained the property is served by municipal water connection, but has a septic system that is sized for a large office building, and is capable of handling the proposed use. Wisdorf would like confirmation that the septic is sized appropriately. Per Interim Director Fulton, the septic size will be addressed when the building permit is issued. Zwiebel confirmed there will be 24-hour staffing provided for these units. Kieper affirmed, and gave an overview of the project. The small sleeping units are for solo travelers, couples, and visitors seeking recreation in the area. The cabins are designed to blend into the surroundings, and offer a unique experience for travelers. Zwiebel confirmed the existing unit is the house. Kieper affirmed, and stated it will be the fifth unit of the hotel. The garage will be used as the registration area.
Public: Gerald Sjoberg, 9001 W. Skyline Pkwy, addressed the commission. He lives adjacent to the hotel and has concerns. The property is zoned mixed-use neighborhood. He noted this includes small-scale retail to provide goods and services to the surrounding neighbors. The proposed project does not offer this to the neighborhood. Granting the SUP does nothing to support the neighborhood. He is opposed.
Commissioners: Zwiebel clarified there is no zoning change. Deming affirmed a hotel needs a SUP in the MU-N zone. Zwiebel noted the low density neighborhood future land use shown for the Thompson Hill area. Interim Director Fulton stated the area was part of the comp plan update. The property is zoned MU-N and there is currently no plan by the City to rezone the property to conform with the Comprehensive Plan future land use map. Interim Director Fulton noted there the hotel use will be legally non-conforming if the zoning changes to comply with the Comprehensive Plan. Zwiebel likes the idea of having other alternatives to big box hotels. She likes the new idea and concept. She is in support. Wisdorf asked why it can't remain a short term rental vacation unit. Interim Director Fulton stated this wouldn't be a vacation rental, because there are multiple structures on the property, and there are no vacation rental permits available due to the cap of 60. Gary Eckenberg is concerned it's zoned MU-N, but future land map calls for a future rezoning to low intensity residential. Interim Director Fulton states the comp plan would not recommend MU-N zoning in the future. Eckenberg doesn't like approving a special use permit for something now that will be a non-conforming use when the zoning changes. He is opposed.
MOTION/Second: Zwiebel/Crawford approved as per staff's recommendations.

VOTE: (3-3, Eckenberg, Kennedy and Schraepfer Opposed) - Motion Fails

Interim Director Fulton noted the applicant could bring this item to the city council for their consideration. He reiterated that the applicant has a 10-day window to file an appeal to the City Council.

6. **PL 19-139** UDC Map Amendment for an MU-P district on South Street by Launch Properties

Recommended Motion: Approve

Staff: Interim Director Fulton introduced the applicant's proposal to rezone from Mixed Use Commercial (MU-C) to Mixed Use-Planned (MU-P) to build approximately 98 units of multi-family housing. Staff recommends approval of the rezoning to MU-P and the waiver of MU-P requirements for total height and minimum site size. The building would be 66' high on South Street and 44' high on the upper side of the street. Fulton stated that the applicant is requesting waiver from the minimum size in the MU-P district of 2 acres, as the site is smaller than 2 acres, and the maximum modification in height limitations in the MU-P district. The regulating plan will be brought forward after this process, and then the next step would be a building permit. Zwiebel asked if the planning commission would ever see the details of the plan. Interim Director Fulton, noted it is done administratively, and the regulating plan must follow the ordinance. He stated that it would be something that could be brought before the Planning Commission as an informational item. The applicant is still proposing the same building as in its previous application.

Applicant: Scott Moe of Launch Properties addressed the commission and asked if there were any questions. Eckenberg asked how this rezoning concept become an option. Moe noted the interpretation of the code is a legal cat and mouse game and this application was recommended by his legal counsel. If the land was flat, they wouldn't need the variance. He doesn't feel the view will affect the dental office at the increased height versus what's allowed. He feels it is common sense, that hiring workers, increased housing and increased tax revenue outweigh the lost view.

Public: Robert LaCrosse, owner 2200 London Rd, addressed the commission. They are opposed to the MU-P rezoning. This zoning is for multiple buildings built around playgrounds and sidewalks. The proposed development is nothing like this. There are 17 criteria needed for MU-P rezoning. This proposed development meets none. He noted a two acre lot is the minimum size allowed in an MU-P. This proposed development is only one acre. He isn't opposed to development, but noted what is built should be within the law. He asked the commissioners to enforce the law. Eckenberg asked for clarification on 65' height that Endi didn't have. Interim Director Fulton noted Endi was able to build because they owned the land up to London Road. John Kolar, owner of the property being acquired by Launch Properties, addressed the commission. He noted the increased taxes they had to pay when the house was razed. The city will benefit enormously from this project. He supports the rezoning and urged the commissioners to support it, too.

Commissioners: Michael Schraepfer confirmed the height would be less going from the side. He asked if more is allowed in an MU-P. Interim Director Fulton noted MU-P is flexible, but more would need to be approved the planning commission. Zwiebel noted the apartments would be small compact units and could have murphy beds. She noted this is somewhat unique. Schraepfer provided detail regarding murphy beds. Jason Crawford asked about the elevation diagram. Interim Director Fulton stated the orange line on the diagram is the mid-point, and designates what would be allowed by right in the current zoning district for MU-C. Crawford asked about the waiver from the required

minimum two acre lot size to allow for only one acre. Interim Director Fulton noted the two acre lot minimum is targeted for more of a greenfield cluster-type development, and not an urban setting where redevelopment is happening. The 2018 comp plan directs development to urban sites, so it is likely the minimum lot size will be modified in the future. Schraepfer stated that the planned development is straight forward. The alternative would be to make the developer meet the code. If they give concessions to one developer, they should give concessions to everyone. Wisdorf noted they have made concession in the past. Scott Moe noted they are not seeking public assistance. They want an economical viable project. The dental office is going to lose their view anyway. The concession do not apply to everyone. This is a unique situation. Eckenberg confirmed there is a change in the entrance from South Street to 22nd Avenue East. Schraepfer noted the developer is making concessions. Wisdorf asked if the commissioners want to add a connectivity requirement to the motion. Interim Director Fulton stated it could be added, and that there are already sidewalks around the site. Zwiebel asked if they could see a final plan before they break ground. Fulton noted it could be a condition to see the regulating plan. Moe states there are no changes, and there will be sidewalk connectivity. Chair Kennedy notes LaCrosse's criteria comments and asks staff to comment. Interim Director Fulton lists verbiage from UDC 50-15.7. He states that on balance the development was creative and staff found sufficient justification that the project meets the modification "C" clause.

MOTION/Second: Schraepfer/Wisdorf recommend approval as per staff's recommendations, which includes the waiver of MU-P requirements for total height and minimum site size.

VOTE: (6-0)

7. **PL 19-138** UDC Map Amendment to Rezone From Rural-Conservation (R-C) to Park and Open Space (P-1) and Rural Residential 1 (RR-1) property at 3509, 3512, and 3566 Riley Road by the City of Duluth

Staff: Interim Director Adam Fulton introduced the city's proposal. Staff received two citizen comments which were shared with the commissioners prior to the meeting. Staff recommends approval of the proposed rezoning to P-1 and RR-1.

Applicant: N/A

Public: No speakers.

Commissioners: N/A

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

VOTE: (6-0)

Communications

- Manager's Report – Interim Director Fulton gives an overview. He shares a memo from Steven Robertson which lists three issues identified as potential suggestions for vacation rentals. Should the 60 cap limit be modified? Should duplexes be given extra flexibility? Should a third permit be created for intermittent vacation rentals to rent out no more than 14 days per calendar year? Wisdorf is in support, but wants to receive city council approval. Zwiebel asked if a percentage of housing stock would be considered. Interim Director Fulton noted it's a possibility. There will be a future brown bag meeting.
- Interim Director Fulton shared the ordinance which amends the Urban Forest Commission to Natural Resources commission. He gave an overview and noted the natural areas program which will be overseen by this new commission to make sure

lands are being used appropriately. Chair Kennedy asked if this new commission can overturn the planning commission. Interim Director Fulton stated that this commission will not be responsible for reviewing development proposals. Golf RFPs will be issued this week.

- Pastoret Terrace found favor with city for demo with 30-day stay.
- Spirit Lake Sediment EAW– Deming indicated responses to comments and a draft record of decision will be presented at the November planning commission meeting.

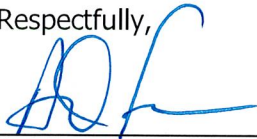
Reports of Officers and Committees

- Heritage Preservation Commission Representative – Wisdorf gave an overview. The Lincoln Park Memorandum of Agreement is being finalized with SPHO.
- Joint Airport Zoning Board – No update.
- Midway-Duluth Joint Planning & Zoning Commission – No update. Meeting in November.

Adjournment

Meeting adjourned at 7:01 p.m.

Respectfully,



Adam Fulton – Interim Director
Planning and Economic Development