

## **City of Duluth Planning Commission**

**March 11<sup>th</sup>, 2025 – City Hall Council Chambers  
Meeting Minutes**

### **Call to Order**

President Gary Eckenberg called to order the meeting of the city of Duluth Planning Commission at 5:00 p.m. on Tuesday, March 11<sup>th</sup>, 2025, in the Duluth city hall council chambers.

### **Roll Call**

#### **Attendance:**

Members Present: Chris Adatte, Jason Crawford, Gary Eckenberg, Brian Hammond, Jason Hollinday, Margie Nelson, Danielle Rhodes, Dave Sarvela, and Andrea Wedul

Members Absent: None

Staff Present: Nick Anderson, Amanda Mangan, Chris Lee, Jason Mozol, Jenn Moses, Ariana Dahlen, Natalie Lavenstein, Christian Huelsman, and Sam Smith

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

Planning Commission Meeting – February 11<sup>th</sup>, 2025 –

**MOTION/Second:** Nelson/Rhodes approved

**VOTE: (7-0)**

Planning Commission Meeting – March 3<sup>rd</sup>, 2025 –

**MOTION/Second:** Hollinday/Sarvela approved

**VOTE: (7-0)**

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

No comments.

### **Consent Agenda**

PLVAC-2407-0002 Vacation of Right of Way near 1206 W 1st St by Jason Vincent

**MOTION/Second:** Crawford/Sarvela remove this item from the consent agenda to be voted on separately

**VOTE: 8-0  
(Adatte arrived at 5:05pm)**

PLIUP-2502-0002 Interim Use Permit for a Vacation Dwelling Unit at 1003 S Lake Ave by Island Twin Homes LLC  
PLSUB-2501-0002 Minor Subdivision at Parcel Number 010-3890-01010 Near Anderson Rd and Fountain Gate Dr by Dirt Inc  
PLSUP-2501-0015 Special Use Permit for a Water Pumping Station at 408 N 34th Avenue E by Lakehead Contractors Inc  
PLVAC-2502-0001 Vacation of Right of Way at Mission Creek Cemetery (W 4th St and 133rd Ave W) by City of Duluth  
~~PLVAC-2407-0002 Vacation of Right of Way near 1206 W 1st St by Jason Vincent~~  
PLVAR-2502-0003 Variance from Shoreland Setbacks at the Lakewalk by City of Duluth

**Public:** No speakers.

**MOTION/Second:** Crawford/Sarvela approve the consent agenda items as per staff recommendations

**VOTE: (8-0)**

### **Public Hearings**

PLSUB-2407-0002 Vacation of Right of Way near 1206 W 1st St by Jason Vincent

**Public:** Coleen Christensen, 1300 W 1<sup>st</sup> St – Ms. Christensen addressed the commissioners. She was confused as to why this item was on this agenda because it was previously on the August 2024 agenda. She tried to connect with staff after the August meeting but was unable to do so. She's wondering why she received another letter.

**Staff:** Jason Mozol explained that the applicants delayed their application for several months and decided to move forward with their project more recently. Staff sent out another public notice since it had been a while since the previous neighbor letters were sent out back in August.

**Public:** Christensen clarified that she is not opposed to this vacation project, as she believes the land is useless. She stated that there are people camping above her house on city land, and she's concerned about those people being able to look into her home. She asked staff why the entire block was not vacated.

**Staff:** Jenn Moses informed Ms. Christensen that if she's wanting to vacate that part of the block, she can submit a vacation application. She is welcome reach out to planning staff to help her begin the application process.

**Motion/second:** Sarvela/Rhodes approve as per staff recommendation

**Vote: (8-0)**

PLIUP-2411-0018 Interim Use Permit for a Vacation Dwelling Unit at 608 W 4th St by Justin Voegele

**Staff:** Chris Lee addressed the commissioners. The applicant's property is located at 608 West 4th Street, and it was on the eligibility list for available Vacation Dwelling Unit ("VDU") permits. This 3,245 sq ft home was built in 1890, and it is zoned R-2, Urban Residential. The home is a 4-unit multifamily dwelling. This application is for unit 3, which is located on the first floor of a four-unit multifamily dwelling. Units 1 and 4 have been issued interim use permits for vacation

dwelling units. The proposed VDU contains 1 bedroom, which would allow for a maximum of 3 guests for a minimum rental period of two nights.

Staff recommends denial because the applicant failed to demonstrate compliance with the parking standards in Section 50-20.3.V.3, which require operators of one-bedroom VDUs to provide at least one legally authorized off-street parking space. Specifically, the application included a parking space located in the property's front yard in violation of the parking restrictions in UDC Section 50-24.4 for residentially zoned property.

Previously, Staff recommended approval of the IUP application for unit 4, as the parking requirements for that unit were met. Staff recommended denial for the IUP application for unit 1 in this building as front yard parking is not permitted, but the planning commission voted to approve that application.

The applicant for this agenda item has provided information regarding previous reports and the past planning commission decision to support their proposal. There were various building permits that were approved for decks and retaining walls; however, these reports did not specifically address the parking issue. The UDC has continuously prohibited front yard parking since 1958. In 1977, the construction permit of the retaining wall authorized 1 or more parking stalls in the front yard, but that decision was not supported by law. Past errors of city officials do not legally justify an approval of new or continued uses that will violate the zoning code. Staff is recommending denial of this application. If planning commission decides to approve, the parking would still be considered prohibited and could be liable for front yard parking tickets from the city's parking services office as well as zoning code violation fees from the planning department.

**Commissioners:** Commissioner Crawford asked staff if the parking issue be different if this were a long-term rental license application.

**Staff:** Lee stated that it would still be front parking, which is prohibited in a residential zone regardless of if the structure is a one-family, two-family, or multi-family dwelling. He knows that there are parking requirements for long-term rentals, but he cannot say if there would be an approval or denial, as the planning department does not issue long-term rental licenses.

**Commissioners:** Commissioner Rhodes clarified that rental license owners have the option to pay some sort of fee so that they would not need to have parking. She also noted that when planning commission went through this process before, the applicant supplied images showing approved building plans and it appeared that they had done things correctly, but maybe the city had done something incorrectly when the permits were authorized, which was the reasoning for planning commission approval. She referenced a case from 2002 in St. Louis Park, and asked staff for clarification on what the case was about.

**Staff:** Nick Anderson, Assistant City Attorney, gave a brief overview of the case. It involved the construction of 2-story garage that was erroneously approved for a certain height that was in violation of the zoning requirements for St. Louis Park. There was a lawsuit challenging this by a nearby property owner that brought to light that the previous approval was not authorized. There was a variance that was approved for the garage that exceeded the height allowed by the code, and there was no specific authorization for that variance even though it was granted.

**Commissioners:** President Eckenberg referenced the minutes from the February 2024 planning commission meeting. Planning commission voted to approve PL23-181, an interim use permit for unit 1 at 608 W 4<sup>th</sup> St at that meeting. However, it was noted in the minutes that the planning commission cannot change city code to allow front yard parking in relation to the interim use permit. Even though the permit was approved, the applicants were still in violation of city code when it came to parking requirements.

**Staff:** Lee concurred that the approval was for the interim use permit, but it was not to allow the front yard parking.

**Commissioners:** Commissioner Wedul asked staff if she would be subject to receiving a parking ticket if she were to rent this proposed vacation dwelling unit.

**Staff:** Jenn Moses stated that the Parking Services Office has a list of properties that have approved variances for front yard parking, so when they are out doing enforcement, they know who not to ticket. Moses also explained how the zoning enforcement process would play into these scenarios.

**Applicant:** Justin Voegle addressed the commission and distributed a packet to each commission member. He and his wife, Alyssa, bought the property in 2020. In 1977, 604 W 4th St underwent a large construction project to recreate the space, and to make better use of the property. The project included a large addition to the house, extensive decks, a multitude of retaining walls, and parking spaces situated between the building and the street. These parking spaces were permitted by the city of Duluth 48 years ago. In February 2024, the planning commission approved an IUP for unit #1 at this property, which included discussions of the parking spaces. The packet Voegle provided as an assembly of documents from Construction Services & Inspections along with Chris Lee's staff report. He went over the contents of each page within the packet. He hopes the planning commission will approve his IUP application tonight.

**Commissioners:** Commissioner Wedul asked if the two driveways on this property are permitted. Commissioner Rhodes asked if a variance would be a good option for this applicant's situation, so as to not have this issue be brought up again in 6 years when the permit would be up for renewal.

**Staff:** Chris Lee responded that the planning department does not issue driveway permits, as the city engineering department does this. Planning generally discourages 2 driveways due to the potential creation of a horseshoe shaped driveways that could lead to front yard parking. In this case, planning staff did not see the two driveways as an issue.

Staff can grant variance for front yard parking and has granted a handful of these types of variances in the past. There are specific criteria for a front yard parking variance, and those criteria are outlined in the UDC. If the applicant can meet those criteria, they could have a case that would potentially be granted a variance. Lee noted that this property may not meet the criteria because there is on-street parking available. The applicant is welcome to meet with staff to discuss further.

Jenn Moses informed everyone that staff can approve a variance for parking in situations where the location of the structure on the lot does not permit access to the side or rear yard, and there is no alley or street parking providing any access to the side of rear yard, and there is no permitted overnight parking on any street within 150 ft of the property. These rules were created to recognize that there are a few instances in Duluth where people have no options for parking on their property or on the street.

**Commissioners:** Jason Crawford asked staff if the geographical landscape of the property posed practical difficulties for parking for the applicant, and he wondered what other parking options they had for this property. Commissioner Rhodes asked about the approvals of the other two applications for different units on this property.

**Staff:** Moses reiterated that this property does have parking, it's on the street. Long-term rentals and short-term rentals are different uses and have different rules and requirements. IUPs for VDUs were designed to recognize that certain properties would be determined that there weren't going to be negative impacts on the surrounding neighbors. The want is to have people who utilize VDUs to park on properties where parking is legally allowed, not on the street. VDUs

require off-street parking. There is not another way for this applicant to comply with the parking requirement.

Chris Lee clarified that the applications for unit 1 and unit 4 of this property were both approved by the planning commission.

**Applicant:** Voegelé asked staff about the handful of parking variances that were issued in the past and asked how old the oldest variance dated.

**Staff:** Lee responded that the list of approved parking variances were issued by the Board of Zoning Appeals. There are not dates tied to these variances, but it's evident that they predate 2010, meaning they were pre-UDC. The earliest may have been 1994.

**Commissioners:** Wedul asked staff if there is a way to access the comments on the older 1977 files. President Eckenberg asked about the timeline for action regarding this application.

**Staff:** Lee stated that it appears they were approving something else. Even though the signature applies to the parking, the parking was not called out as being part of the plan set. As noted in the staff report, there is deadline for action, which is April 30<sup>th</sup>, 2025. This deadline includes any appeals if the applicant does not agree with the planning commissioners' decision.

**Commissioners:** Discussion ensued amongst the commissioners regarding the previous applications for this property and how to treat this application given the evidence presented.

**Public:** No speakers.

**Motion/second:** Hammond/Wedul deny as per staff recommendation on the grounds that:

1. **The off-street parking space proposed by the applicant is prohibited under UDC 50-24.4, so the application does not satisfy the off-street parking requirement to operate a vacation dwelling unit under 50-20.3.V.3.**

**Vote: (5-4)**

**(Adatte, Crawford, Nelson, and Rhodes opposed)**

#### PLSUB-2502-0003 Minor Subdivision at 2125 Abbotsford Ave by Christopher Michael

**Staff:** Natalie Lavenstein addressed the commissioners. She noted that there is a correction to be made – the applicant's last name is Davies. She presented a map and survey of the subject property. The applicant is requesting a Minor Subdivision to divide a parcel into 2 parcels. Staff recommends approval with four conditions listed in the staff report. The subject property consists of three structures. Proposed parcel A contains one existing residential structure and one accessory structure. The proposed parcel B contains one existing residential structure. Both residential structures were built in 1914. The underlying plat is "Glen Avon 3rd Division of Duluth." The property had various uses including a dormitory, group home, and renewal center.

The applicant intends to use wants to use the residential structure on parcel A as a long-term rental and the larger structure on proposed parcel B as their single family home. The proposed subdivision, if approved, would create a nonconforming building due to the accessory structure in the front yard of proposed Parcel A. This structure will need to be removed to avoid creating a greater nonconformity. Proposed Parcel A does not have its own water or sewer utilities; sewer utilities will need to be provided per City Engineering guidelines. There is a comment from the City Engineer in the staff report.

**Commissioners:** Wedul asked the applicant to clarify their name for the record.

**Applicant:** The applicant addressed the commissioners and confirmed that Christopher Michael Davies is his name. He and his wife purchased this in February. Their goal is to restore the

home and parcel off the carriage home to be used as a long-term rental. They would like to rent to students that he can mentor, as he is a physician. Davies intends to be fully compliant.

**Commissioners:** Rhodes asked the applicant what their motivation is to have the long-term rental on a separate parcel, since long-term rentals do not need to have their own parcel.

**Applicant:** Davies responded that they want to own both parcels for the foreseeable future, but they want the option to sell them separately down the road. Currently, they each have their own address.

**Public:** No speakers.

**Motion/second:** Nelson/Hollinday approve as per staff recommendation with the following conditions:

1. **Prior to recording the deeds, applicant must provide evidence that the accessory structure located on proposed Parcel A was removed or relocated.**
2. **Prior to recording the deeds, proposed Parcel A and Proposed parcel B must have separate sewer utilities up to the main per the City Chief Utility Engineer.**
3. **Appropriate deeds to accomplish the land subdivision must be recorded with St. Louis County within 180 days. Prior to recording the deeds that result from these adjustments, the applicant must provide deeds for each parcel to the Planning Division to certify compliance with the local zoning code.**
4. **Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.**

**Vote: (9-0)**

### **Other Business**

No other business.

### **Communications**

Land Use Supervisor (LUS) Report – Jenn moses addressed the commissioners She reminded commissioners of the upcoming special meeting on March 27<sup>th</sup>. Planning staff received 30 applications for the regular April meeting, so it was decided that it would be best to split them up into two separate meetings. Folks can expect to see a press release go out later this week. Moses also stated that staff will be looking at planning commissioner applications soon, and they are still Looking for candidates. If anyone is interested, they can apply via the Clerks webpage on the city of Duluth website. Until the two vacancies are filled, quorum will need to be a majority of current serving members, which is 4 commissioners.

Heritage Preservation Commission Report – No report.


Duluth Midway Joint Powers Zoning Board – No report.

## **Adjournment**

Meeting adjourned at 6:12 p.m.

Respectfully,

Signed by:

  
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Jenn Moses, Manager  
Planning & Economic Development