

# City of Duluth Planning Commission

February 13, 2024 – City Hall Council Chambers  
Meeting Minutes

## **Call to Order**

Vice-President Jason Hollinday called to order the meeting of the city of Duluth planning commission at 5:02 p.m. on Tuesday, February 13, 2024 in the Duluth city hall council chambers.

## **Roll Call**

### **Attendance:**

Members Present: Jason Crawford, Gary Eckenberg, Brian Hammond, Jason Hollinday, Danielle Rhodes, Michael Schraepfer, and Andrea Wedul  
Member Absent: Margie Nelson

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

PL 23-127 Central High School Redevelopment Project - Draft Alternative Urban Areawide Review (AUAR) document review for distribution

**MOTION/Second:** Rhodes/Wedul approved adding this item to the agenda

**VOTE: (7-0)**

## **Approval of Planning Commission Minutes**

Planning Commission Meeting – January 9, 2024 – Changes were previously requested by Danielle Rhodes and were shared with the commission by Deputy Director Adam Fulton. Danielle Rhodes emailed Deputy Director Adam Fulton two changes regarding item PL 23-181. Fulton confirmed the changes are received.

Gary Eckenberg requested confirmation the minutes correctly reflect the motion to ask staff to bring a report to the following Planning Commission meeting regarding viewsheds. Fulton confirmed the minutes are correct.

**MOTION/Second:** Rhodes/Hammond approved

**VOTE: (7-0)**

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

No Comments.

(Items PL 23-203, PL 23-204, PL 23-205, PL 23-206, PL 23-207, PL 23-208, PL 23-209, PL 23-210, PL 23-212, and PL 23-213 were removed from the consent agenda to allow adequate time for public notice.)

## **Consent Agenda**

- PL 23-214 Interim Use Permit for New Vacation Dwelling Unit at 1325 Missouri Avenue by Peter and Kelly Mattson
- ~~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 3<sup>rd</sup> Street by MasTec Network Solutions~~
- ~~PL 23-210 Concurrent Use Permit for Co-Location of Small Wireless Telecommunications Facility at Northwest Corner of N 10<sup>th</sup> Avenue E and E 3<sup>rd</sup> 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 40<sup>th</sup> Avenue W by MasTec Network Solutions~~
- PL 23-222 Interim Use Permit for New Vacation Dwelling Unit at 4609 Cambridge Street by Christensen Investment L.T.D.
- PL 24-001 Variance from Shoreland Setbacks at 9502 Congdon Boulevard by Matt and Peggy Van Hoomissen
- PL 24-002 Variance from Front Yard Setback at 9502 Congdon Boulevard by Matt and Peggy Van Hoomissen

**Commissioners:** PL-23-222 – Gary Eckenberg asked for clarification of the available off-street parking.

**Staff:** John Kelley responded that the requirement for the unit is three spaces, one per bedroom. The applicant is exceeding the requirement, claiming there are six off-street spaces.

**Applicant:** Nick Christenson responded to the question saying there is a two-car parking garage, and two parking spots directly in front of the garage. The driveway is also

**Public:** PL 23-214 – David Joyce - 1330 Missouri Ave. – also speaking on behalf of neighbor Dan and Karen Morgan at 1332 Missouri Ave. – expressed concern for allowing a VDU because the avenue is a dead end and only 11 ft wide. Adding a rental property here would increase difficulty getting by if there are cars parked on the road. Snow plows don't regularly plow their road, so the residents have had to snow-blow the street for years. He said he wishes to keep the neighborhood a neighborhood, which is threatened by the introduction of this vacation rental.

**Commissioners:** Danielle Rhodes mentioned the platform for submitting road concerns on the city's webpage, to access the correct department to address the issue.

**MOTION/Second:** Wedul/Rhodes approved the consent agenda items as per staff recommendation with the removal of the consent agenda items as struck-through.

**VOTE: (7-0)**

## **Public Hearings**

### **PL 24-006 MU-I Planning Review for New Helipad on Building A at 1012 E 2<sup>nd</sup> Street by St. Luke's Hospital**

**Staff:** Jenn Moses introduced the proposal for Building A on the St. Luke's campus to relocate the helipad to the top of the floors that are currently being added. The aerial photo provided shows the current helipad located on top of the parking garage, and the new proposed location. They will be leaving the roof of the parking ramp empty, and the new helipad location will be higher up and further away from the residential area of the neighborhood. The overall roof will not increase in height, but the helipad will be six feet in height. The only exterior lighting required will be those required by FAA Regulations. Staff recommends approval with the added conditions that the applicant follows the design and building heights submitted in the plan, and any minor modifications can be approved by the Land Use Supervisor.

**Applicant:** Mike Boeselager, St. Luke's Vice President –He addressed the commissioners and agreed the summary of the plan was accurate. He added that St. Luke's has been sending a quarterly newsletter to the nearby neighbors, and recently a letter describing the relocation of the helipad with an invitation for comment. The only comment received so far was from a resident at 12<sup>th</sup> Ave E and 2<sup>nd</sup> St expressing their support for the project. The new location raises the helipad by four stories and moves it 60 ft. to the south. He welcomed any questions.

**Public:** No speakers.

**Commissioners:** No questions. Andrea Wedul mentioned her appreciation for engaging the neighborhood.

**Applicant:**

**MOTION/Second:** Crawford/Wedul recommended approval as per staff recommendation

**VOTE: (7-0)**

### **PL 24-005 UDC Text Amendment Related to Vacation Dwelling Units in the RR-1 and RR-2 Districts by City of Duluth**

**Staff:** Jason Mozol introduced the continued conversation regarding a cap on VDUs. Last summer and fall, Planning Commission reviewed a study conducted by staff that explored a number of VDU exemption options. Planning Commission recommended no changes to the UDC to City Council at that time. City Council was in favor of further exploration of an exemption for units in zone districts RR-1 and RR-2 that are within 300 ft of MUC district, citing the few units that would be affected. The proposed amendments in Article 3 of the UDC adds a line to include that exemption. Planning Commission may recommend approval of the amendments to Article 3 or denial of changes to City Council.

**Commissioners:** Gary Eckenberg asked what the expectation of the commission is tonight. Staff member Jason Mozol responded that commissioners are being asked to make a recommendation to City Council to either approve or deny the proposed amendments to the UDC. Gary Eckenberg asked why the original staff report that recommended no change to the UDC was omitted from the report. Deputy Director Adam Fulton responded saying the report before the commissioners tonight is in response to the request by City Council to further study the amendments to the UDC. Fulton reiterated that the original report did recommend no change to the UDC. Fulton explained that the City Council subsequently approved a resolution requesting the Planning Commission to hold a public hearing on specific code language and transmit a recommendation to the Council on that specific code language. City code requires that amendments to the UDC proceed through Planning Commission, which is then required to hold a public hearing. The proposed code change was published in the newspaper for general

community consideration, and a few speakers signed up to speak tonight. In accordance with City Code, staff is requesting a Planning Commission action on this, which will be transmitted to City Council.

Gary Eckenberg asked for confirmation that the specific code language that is in question is as follows: "Permits for Accessory Vacation Dwelling Units in RR-1 and RR-2 districts within 300 feet of an MUC district are exempt from the maximum number of permits that may be issued." Staff member Jason Mozol confirmed this is correct.

Danielle Rhodes asked whether the changes to VDU regulations will make it easier to obtain a VDU permit throughout the city in general. Deputy Fulton responded that planning staff extensively researched VDU ordinances with Planning Commission and City Council in 2021, leading to a number of modifications to the ordinance. The City continues to evaluate ways to regulate what remains a relatively new land-use. The bulk of this ordinance was adopted in 2013 and 2016, and Planning Staff continue to receive proposed modifications to this language, and staff continue to consider how the use is regulated, and balance the multi-faceted pressures that come with it.

**Public:** Troy Fralich: 1745 W Page St. - corner of W Page St. and Sundby Rd. – addressed the commission. He moved to the neighborhood when there were only three occupied units in the tract. If he had known there would be commercial development across the street, he would not have chosen to move there, and believes the development will detract from his property value. He feels the proposed UDC amendment will help the nearby landowners maintain some property value, because the continued development of this area is ruining the neighborhood. There are four homeowners that would be affected by the amendment on Osage Ave, one of whom had been there for 32 years, but can't make it to these meetings. He expressed feeling as though the Commission does not listen to the public.

Ben Fye: 1504 Osage Avenue – addressed the commission. I'm here because City Council voted 8-1 to send this issue back to Planning Commission with support for the four of us on Osage Avenue. Planning Commission previously supported residents on Osage Ave, and requested city Staff to allow an exemption from VDU cap for the four residents on Osage Ave. He believes the proposed amendment would only impact seven households in the city, four of which are on Osage Ave. He bought a Rural Residential (RR-1) parcel, and said it's the city's job to ensure zoning is correct, and they failed, because of the Mixed-use Commercial (MUC) zone across the street from RR-1. He feels there has been a power struggle between City Council and Planning Commission and it's unfair for these four residents to be caught in the middle. He asked for the Planning Commission's support.

Jill Crawford Nichols: 1505 W Morgan St – This decision doesn't support the future of Duluth. This resolution is in response to the past, when the wrong decision was made in 2009 to re-zone Sundby Rd. If you're a real estate investor, and an entire street just received VDU permits, you would reach out to those homeowners to purchase all of them, and split them in to smaller lots with smaller houses to increase the number of VDUs. Duluth has a heavy bias toward development, so it's not hard to believe that the city would allow this. This proposed amendment doesn't include sufficient research, data, or case studies. The city has not done their job maintaining the zones as they should be maintained, nor documenting the process that brought this decision, and the input they received conversations if they occurred. She urges commissioners not to approve the amendment.

Joyce Alworth: A neighbor of the Osage residents – addressed the commissioners. She feels sad and powerless in trying to help her neighbors who have had to watch a hotel built in front of their homes. There was no meaningful neighborhood involvement. There has been a division created in the neighborhood, and the neighborhood has been changing. Everyone loves living there, and now these four houses in particular are going to lose value, while the rest of the homes a street away are opposed to any continued commercialization of the neighborhood. She expressed her heartbreak, and wished City Council cared about their neighborhood and had included them in the conversation in the first place. She urged the commissioners to find another solution to the issue besides allowing more rental homes.

**Staff:** Deputy Director Adam Fulton then read in the record an email from City Councilor Arik Forsman:

Dear Honorable members of the Planning Commission: I typically try to keep an arm's length from the Commission in order to let you do your job, but today I think it's important I provide my perspective. Over the past 1+ years, as the Sundby Rd hotel proposal made its way through Planning Commission and Council we've had multiple groups of neighbors weigh in on how to move forward. One group of neighbors has been consistent with their ask in allowing an exemption to the cap for VDUs in recognition of their unique challenges of a rural residential neighborhood zoned directly next to a commercial district. In December, City Council voted 8-1 to continue considering this option, and ask Planning Commission to hold a public hearing on the topic due to the limited number of properties in Duluth that would be affected. It is my belief that this proposal is consistent with the comprehensive land use plan, is reasonably related to the needs of the community, can be considered good zoning practice given the history of this neighborhood, and will not create a material adverse impact on nearby properties. I hope Planning commission will consider this change in light of a large slate of VDU changes that City Staff have said will likely be considered later this year. I appreciate your service and welcome any questions.

Adam Fulton noted that the reference to upcoming proposed VDU changes will be coming at the next Planning Commission meeting, and it would be appropriate if the Commission wished to table this item in order to consider this action in tandem with other possible changes to the Ordinance.

**Commissioners:**

Brian Hammond asked staff to clarify that it's the Commission's job to hold a public hearing and make a recommendation, which then goes to Council for final vote, correct?

Fulton: Correct

Brian Hammond and Gary Eckenberg asked staff if the additional changes referenced in Councilor Forsman's email are direct changes to the VDU ordinance.

Deputy Director Fulton responded that the items for the next Commission meeting are related to the VDU ordinance but also other short term lodging. The broad swath of what staff will be bringing to the Commission is in relation to the definition of "hotel"; there has been confusion in the past about difference between VDUs and hotels. Some proposals have begun to blur the lines between what it means to be a VDU versus a hotel. The intent is to potentially consider a new category of land use called "boutique hotels" or "boutique lodging" with specific regulations. The hotel industry is changing, and it is adopting more characteristics of VDUs, such as contactless check-in and entry. There is a need to establish the difference, and staff is currently working on this definition. You can expect to hear more at the March meeting.

Eckenberg: It doesn't appear that any changes to the VDU ordinance that were referenced in the Councilor's email would have much influence on this decision then.

Fulton: The regulation of VDUs is still an emerging topic and area of regulation. This proposal is for an exemption of that cap for a specific zoning district in a specific circumstance related to adjacency of commercial activity.

Eckenberg: In previous months meetings, we were given a map of the properties in the City that would be affected by this change to the VDU cap. We were told eight addresses could be affected, so why have we only focused on four addresses?

Fulton: That study and report was transmitted to the City Council, and staff did not conduct further scrutiny in advance of tonight's meeting of the maps that might relate to this specific proposal. Staff could look in to that and report specific numbers. This proposed resolution applies to any property zoned RR-1 or RR-2 within 300 ft of an MU-C district.

Eckenberg: According to this map the impact is on more than four houses. If any of the other property owners want to know about their opportunity for a VDU, they should know.

Hammond: What year was Sundby Rd rezoned?

Fulton: It is my recollection that the parcel was rezoned in 2009, following the Planning Commission processes, and City Council voted to approve that rezoning.

Wedul: What happens if there is a proposal for rezoning? Do they automatically forfeit a VDU permit upon rezoning?

Fulton: The process for obtaining a VDU necessitates the issuance of an interim use permit which proceeds through the Planning Commission. This proposed exemption would allow only specific properties to apply, but does not mean there is a guarantee the VDU would be approved. An approved interim use permit does not constitute a rezoning of the property. It would remain zoned RR.

Wedul: The character of the neighborhood probably won't change if it is still zoned RR-1 or RR-2, and is required to maintain the same zone character. To clarify, this proposal would not change the characteristics of an RR zone district.

Fulton: What would change is there would be an opportunity to apply for a VDU permit, but I can't say how that might affect the character of the neighborhood. That's why it is an interim use permit, and undergoes scrutiny by the Planning Commission and a public hearing.

Eckenberg: This would benefit only 7 homes and 1 business. This resolution has returned to Planning Commission with the same staff recommendation that there should be no change in the VDU permit cap. The Planning Commission is appointed by the City Council based on whether they have anything of value to add. The Planning Commission doesn't have any power to struggle for with the City Council, as suggested by Mr. Fye. City Council will vote for something, even if Planning Commission doesn't recommend it. I stand by staff recommendation and therefore can't support this resolution.

Schraepfer: I notice there is no official staff recommendation provided tonight, so are we instead voting for or against the memorandum?

Fulton: Correct, we are not providing a specific staff recommendation tonight, although the memo does reference the staff report. This memorandum is based on a request from City Council, and the Commission would typically vote on the proposed language if it is not tabled.

Schraepfer: My thoughts mirror Eckenberg's in that the City Council appoints the Commissioners and the Council calls the shots. It seems this issue began in 2009 and no one on the commission was here then. If you look on a map and see a property is next to a commercial district, and you purchase the home, there is responsibility on the homebuyer. It is unfortunate the zoning occurred this way, but it is not unfortunate that the city is growing. It does feel like

an error that RR is next to MU-C. Across our city we typically have buffer zones, or Form districts, that allow VDUs in between residential and commercial districts. The neighborhood in question is not a Form district and doesn't meet the definition of one at all. Councilor Forsman mentioned the idea of keeping to this idea of allowing buffer zones, and the Council has found that this is an amicable way to amend the error in zoning made a long time ago.

Wedul: We understand you feel there's been an injustice, which is why I will support this. We believe this will give the neighbors options, which is the best we can do at this time. The Commission will continue to listen.

**MOTION/Second:** Wedul/Crawford motion to approve the memorandum. Motion fails.

**VOTE: (3-4) Eckenberg, Hammond, Hollinday, and Rhodes deny**

Coleman: There was a motion on the table, the motion failed, so the item is still open as an item.

**MOTION/Second:** Eckenberg/Hammond motion to deny the memorandum.

**VOTE: (4-3) Crawford, Schraepfer, and Wedul deny**

### **Other Business**

#### PL 23-224 Historic Resource Designation at 2401 W 6<sup>th</sup> Street by Belanger 1916 LLC

**Staff:** Deputy Director Adam Fulton said he made an error in reading the ordinance, originally relaying that this item was to be a public hearing at the most recent Historic Preservation Commission meeting. The item was not to be a public hearing but was to be acknowledged by the HPC as being received. John Kelley, staff member on this item, also noted the mailing sent to some surrounding neighbors was sent in error. The Planning Commission is to acknowledge the receipt of the application for the historic designation and comments are to be recorded and taken to the HPC meeting in March where a public hearing will occur, and the HPC will bring their vote to the City Council. Fulton added that staff are looking for comments on the application which can be given during the meeting tonight or can be sent via email before it goes to the HPC. It's a neat building at 2401 W 6<sup>th</sup> St, and the historic designation will allow for a reuse of the building which has been vacant for a number of years.

**Commissioners:** Danielle Rhodes asked staff what the benefit to the owner is. Staff member John Kelley responded that the historic designation would allow for different uses than what is allowed in the residential district, specifically a historic commercial use. The applicant has no intent to demolish and rebuild or add significantly to it. Brian Hammond asked what uses are available with the designation that aren't available now. Kelley responded there is an opportunity for an adaptive reuse, and Adam Fulton added that the district is R-1 and current allowed uses are restrictive to single family purposes; adaptive reuse of historic structures allows for their preservation and the ability to use the building in a more consistent way with the historical use. Andrea Wedul asked whether this would be considered spot-zoning. Fulton responded that it would be consistent with the historic preservation adaptive reuse ordinance. Danielle Rhodes asked staff to clarify whether the owner of the property would still have to go through the same process as any other business and obtain a special use permit. Deputy Director Adam Fulton explained that the historic preservation plan has to include the proposed use of the structure which undergoes additional public scrutiny. St. Peter's Church is a recent example. An adaptive reuse permit allowed the structure to be preserved and converted to an art school. Gary Eckenberg mentioned that the structure was built in 1916 and housed an operating grocery store from maybe 1924 to 1944, with three apartments above it. After the owner of the store passed, another family purchased the building and continued to run the

store until about 15 plus years ago. Since then the building has been vacant. The gap in usage how now meant the building can't be used as a grocery store due to the zone district. The historic designation would allow for a different use in the current zone. I've lived half a block away since 1977, and this building has been blighted for at least 15 years, and people from my neighborhood will be asking for this building to be torn down. I think there's a better way. Danielle Rhodes continued that if the building is given the adaptive reuse then it would be allowed to do anything allowed in an MU-N zone, including arts, child care, retail, bed and breakfast, etc. Almost anything other than health care or agricultural use. Fulton addressed the commission saying that is partially correct – the owner would need an approved preservation plan, and apply for an interim use permit which requires a hearing with the HPC and a community hearing in advance to solicit comments from the public. Brian Hammond added his concern is historic designations can prevent a blighted structure from being torn down to allow new development. Fulton responded that the historic designation would require a demolition permit through the Planning Commission. Holliday asked if a historic designation opens up funding opportunities. John Kelley replied that he is unfamiliar with funding opportunities but the applicant is aware of funding that could be available with the historic designation. Fulton clarified that staff recommend receiving this report. Danielle Rhodes requested a presentation from the applicant at a future meeting.

PL 23-181 Interim Use Permit for a Vacation Dwelling Unit at 608 ½ W 4<sup>th</sup> Street Unit 1 by Justin and Alyssa Voegele

**Staff:** Deputy Director Adam Fulton reviewed staff findings that the records do not clearly indicate the presence of permitted front-yard parking. Staff maintain the initial recommendation not to approve the interim use permit for a VDU.

**Commissioners:** Danielle Rhodes asked staff if any new evidence was uncovered. Fulton responded that no new evidence has been identified by staff research or the applicant. We don't know what the departmental processes were in 1977, which were different than they are today. The applicant is present and interested in addressing the commission. Staff recommends an action by the Commission this evening to conform to the requirements of Minnesota Statute 15.99.

**Applicant:** Justin Voegele addressed the commission as the owner of 608 W 4<sup>th</sup> St. He reiterated that staff has recommended denial of the interim use permit due to the use of front-yard parking. He maintains that there are permits from 1977 for the parking structure, and additional units. He is under the impression that variances were much easier to obtain then than they are today. He has not been able to find proof of whether this type of parking was allowed in 1977, but he operates under the assumption that the City did their jobs correctly in 1977, and therefore the only rational conclusion is that the use for parking was permitted. He urged the Commission to approve the permit because he believes this to be a unique case, that would not apply to many other properties in the City. Danielle Rhodes asked the applicant whether any new evidence has been identified. Voegele responded that Adam Fulton sent him applicable zoning code, but no other evidence was found.

Danielle Rhodes asked staff if there is a potential upcoming ordinance change to front yard parking, and if that happens, will the applicant be able to re-apply for the interim use permit. Fulton responded that the waiting list for applying for a VDU is very long, and the UDC does not allow applicants to apply for the same permit twice in one year. These two issues would have to be taken up with the City Attorney's office. There has been dialogue about front yard parking in the community, but there are not any conclusive updates on potential changes. Front yard parking has been prohibited by the code for a significant period of time, yet has happened

periodically. In this case, front-yard parking would be inconsistent with the neighborhood. The incline railway that was located on 7th Ave W is in an area that looks significantly different today than it did 100 years ago. The street is steep and parking is constructed where feasible, but the zoning code adopted in 1976 prohibited front-yard parking, and the permit in question is from 1977, when front-yard parking was prohibited.

Rhodes asked whether it is possible to deny an application with the exception that they can reapply if the front-yard parking rules were to change. Attorney Jean Coleman responded that the Commission cannot pass an action that is effectively an amendment to the zoning code without following the proper procedures. Attaching language to an application to apply under special conditions would not be following the processes for amending the zoning code. Wedul asked staff if there is an opportunity to retroactively apply for a variance for the existing structure. There is no way to access rear-yard parking without driving down the hill, so she would consider that to be practical difficulty. Adam Fulton responded that before the Commission today is the application for the interim use permit.

Hammond noted that his opinion is that the parking was allowed at the time the structure was built. Crawford added that he notices cars parked in front yards and grassy side yards all along Arrowhead Rd, and he is inclined to approve this permit because the front yard is already paved. Rhodes added that the application from 1977 did include approval stamps next to the parking structure.

Wedul asked for clarification that the parking was included in the original permit. Hammond replied that the permit did include the word "parking" on the permit. Wedul iterated that the action allowing the variance for the front-yard parking is missing from the records. Eckenberg summarized that before them is an application for an interim use permit for a VDU, that staff recommends denying because the property does not meet the off-street parking requirements. Planning Commission can't change city code to allow front-yard parking in relation to this interim use permit. All front yard parking in the city should be fined. The code clearly says we cannot permit front yard parking, and doing so would be a violation of the code. Hammond agrees that permitting front-yard parking would defy the code, however based on the facts presented, he believes the parking was permitted in 1977 and therefore does meet code requirements. Rhodes added that it seems the original applicant of the parking structure was not at fault, rather the city at the time did not follow the proper procedures. Eckenberg responded that the use that was approved at that time was for a different use than what is being applied for today. Schraepfer noted that the structure appears to be parking that was approved 50 years ago. Rhodes added that the lot is difficult, it doesn't seem feasible for other parking to be constructed. Hammond added that the absence of evidence of the variance for the parking does not mean the variance was not issued. This could have been by the books, because we have no evidence one way or the other. Eckenberg reiterated that whether or not the variance was approved doesn't matter because the use being applied for now is not the use that was applied for in 1977. Rhodes asked if a person in a residential building had a variance for front-yard parking and applied for an interim-use permit, would the variance for parking still be in effect. Schraepfer noted the waste of paved space if parking is not to be allowed there. That makes the structure not good for any use.

**Applicant:** Voegele said it is an accessory structure, meaning non-conforming use.

**MOTION/Second:** Hammond/Rhodes motion to approve the interim use permit due to the presented facts indicating the applicant has met the requirements and has provided required parking.

**VOTE: (5-2) Eckenberg and Wedul opposed**

PL 23-127 Central High School Redevelopment Project - Draft Alternative Urban Areawide Review (AUAR) document review for distribution

**Staff:** Kyle Deming addressed the Commission with the next step in the Central High School redevelopment project. The Commission was provided the draft AUAR for their review and approval for distribution to the EQB monitoring page and EQB distribution list and via news release and legal notice. The draft AUAR would then be brought to public hearing at the next Planning Commission meeting. Staff would then bring responses to those comments and questions at the April PC meeting. Tonight we ask the Commission to approve this document for public distribution.

**Commissioners:** Andrea Wedul asked staff whether there is any scenario where an EAW would have to follow an AUAR? Staff member Deming replied that the AUAR takes the place of the EAW. Wedul also asked if there is legal means to hold the developers accountable to the plan, specifically the claims that water infiltration will be feasible on the site with green infrastructure. Deming responded that this document is a draft, and whether a site will be capable of water infiltration will be dealt with at the permitting stage. Wedul asked whether the build out of the school district bus parking area should be included in the full plan. Deming said the bus area is outside the boundary of the AUAR, but you can go outside the boundary of the AUAR study in considering potential impacts to the site, and there are lots of opportunities for agencies and general public to comment on the study.

**MOTION/Second:** Rhodes/Wedul approved a motion to approve the draft AUAR for distribution for public comment.

**VOTE: (7-0)**

### **Communications**

Land Use Supervisor (LUS) Report – Deputy Director Adam Fulton provided the Commissioners with a map of the gravel pit along Becks Rd in Midway Township. The site is currently being reviewed by staff in regards to the comments they have received in relation to the gravel pit, and will discuss with the Midway Township Board at their meeting on February 29<sup>th</sup> at 6pm. He and Director Chad Ronchetti will both be present to discuss this with the public. Staff are working to validate the operation of the mine is in accordance with the initial approval in 1978. This will likely come before the Planning Commission for dialogue, with representatives of the ownership of the site in attendance.

Andrea Wedul asked staff whether the site was initially a part of Midway Township. Fulton responded that it was initially, but was annexed in to the City of Duluth in 2013. Fulton also updated the Commissioners that the Annual Meeting is scheduled for the 27<sup>th</sup> of March in addition to the monthly Commission meeting. This meeting will be open to the public and held at Hartley.

Eckenberg mentioned that there was discussion at the recent HPC meeting about having another joint meeting with Planning Commission this year as was done last year.

Fulton said to anticipate other code amendments in March, possible issues related to VDUs, setbacks, and building height.

Kyle Deming is working on West Duluth Core Investment Areas, beginning to host community meetings in West Duluth. It is really exciting to have these plans under way, although there is not a timeframe for the start of plan implementation. If Commissioners have an interest in these meetings, they are welcome and should ask Kyle or Adam for more details.

Viewsheds have been discussed amongst staff; given staff capacity, they request this is discussed at the annual meeting for purposes of building this topic and working this in to future workplans.

Zenith Awards – Please bring your nominations to Staff, projects that qualify are anything that began in the last year.

Eckenberg asked how the Planning Commission can pass a motion to request Staff create a report about the viewshed issue and report at the following meeting. Why didn't the item make it on to the agenda for this meeting. Fulton responded that the Agenda is set by the Secretary of the Commission and confirmed by the President. As we look to build things in, we consult with other members in the department. This issue requires Staff capacity that is not currently available. Eckenberg added that the President of the Commission is not the ultimate decision maker and should communicate more with the other Commissioners. The other Commissioners would have liked to be informed on this issue. Rhodes suggested the public comments received should be in the public record.

Historic Preservation Commission Report – Commissioner Eckenberg informed the Commission of the discussion with MnDOT of the London Rd and 26<sup>th</sup> Ave E roundabout, and the proposed roundabout on 60<sup>th</sup> Ave E has been tabled for now.

Joint Airport Zoning Board – Commissioner Eckenberg reported the organization has not met

Duluth Midway Joint Powers Zoning Board – Deputy Director Fulton reported no updates

### **Adjournment**

Meeting adjourned at 7:08 p.m.

Respectfully,

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Adam Fulton – Deputy Director  
Planning & Economic Development