

City of Duluth Planning Commission

July 21st, 2025 – City Hall, Room 330
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 Monday, July 21st, 2025, in room 330 at city hall.

Roll Call

Attendance:

Members Present: Nik Bayuk, Gary Eckenberg, Brian Hammond, Danielle Rhodes, Dave Sarvela, Kate Van Daele, and Andrea Wedul

Members Absent: Chris Adatte and Jason Crawford

Staff Present: Amanda Mangan, Ariana Dahlen, Natalie Lavenstein, Jenn Moses, and Sam Smith

Public Comment

Linda Althoff, 120 E 7th St – Althoff is in support of the project (PLVAR-2502-0004). She believes that progress starts with one property and can spread to others, which could help create pockets of accessible housing. Althoff also believes each case should be considered on its own merit, and the appellant's proposal seems practical. She urged the commissioners to approve.

Appeals

PLASD-2574-0001 Appeal of Land Use Supervisor Decision

Commissioners: President Eckenberg presented commissioners with the question on appeal: Did the Land Use Supervisor err in the decision that the Appellant's proposed garage location is not consistent with UDC Section 50-21.3? President Eckenberg gave instructions to staff and the appellants about the appeal hearing process.

Appellant: Attorney Ellison addressed the commissioners on behalf of the appellants, Pamela and Dennis Matson. She stated that they have a letter of support from Linda Althoff, one of the applicant's neighbors, for submission in addition to other appeal materials.

Ellison stated that façade should be defined as the front of the house, but the UDC does not define façade. Planner Natalie Lavenstein's appeal findings state that façade means all sides of the house, And Attorney Ellison conceded that Appellants withdraw this argument. Ellison believes that a ridiculous result is created for the appellants with the way the UDC is currently written. The appellants own lots 30 and 32. Their home sits on lot 30, and the proposed garage is also on lot 30. If they were to sell lot 32, the garage would become conforming per the zoning code.

She stated that if someone owned lots 24, 26, 28, 30 and 32, it would be considered one parcel, and therefore it would be considered a corner lot. With this language, 5 lots in from the corner would not be able to build a garage. This could be understandable if there was reason behind why the language is written as is. If appellants were to build a garage attached to the house, it would be conforming. Ellison said if the garage were attached to the house or not attached, it would still be visible from the corner.

The appellants, Pamela and Dennis Matson, addressed the commissioners. They bought the subject property to live on for their retirement years. The house did not come with a garage, but at the time of purchase, they thought they would have enough room if they wanted to build one. The Matsons love the neighbors and the area they live in, but they have been faced with some obstacles.

They stated that they are hoping the planning commission can interpret the zoning code differently than the Land Use Supervisor (LUS) so they can have their proposed garage, which would make it easier for them to get to their home than from the alley, as the property is quite steep. The Matson's stated that they could have the garage located in other places on the property, but their proposal is what works best for their situation.

Staff: Natalie Lavenstein addressed the commissioners. On June 3, 2025, the City's Land Use Supervisor (LUS) determined that appellant's proposed garage location is not consistent with Duluth City Code (UDC Sec 50-21.3) because the proposed location is "between a street and any façade of a primary building facing that street." Because of these findings, a variance was determined to be necessary for this project. The appellant is challenging the LUS decision, and requests the Land Use Supervisor's determination be reversed because it misinterprets the applicable provisions of the UDC.

In the appeal request, dated June 12, 2025, and received by the Planning Commission on June 13, 2025, Appellant framed the "Action Being Appealed" as a denial of a variance to build an accessory structure. The Planning Commission is responsible for reviewing and deciding variance applications, and the Land Use Supervisor did not deny Appellant a variance. Appellant's counsel has clarified that the Appellant is challenging the above-described Land Use Supervisor decision.

Lavenstein read through the points in the staff findings section of the appeal memo. While the single word, façade, is not defined in the UDC, the word façade is mentioned 251 times throughout the UDC. In these instances, façade is generally referred to as either the outermost/innermost building material or a specific side of a building i.e. front, lake side, etc. This, however, is a moot point as UDC Sec 50-21.3 clearly states that an accessory structure may not be located between a street and any façade of a primary building facing that street. The subject property is a corner lot. According to UDC Sec 50-41.12, a corner lot is defined as, "a lot abutting upon two or more streets at their intersection." Since the word any is used in UDC Sec 50-21.3, it is clear that the garage may not be located between the front façade and 7th St nor the corner side facade and 2nd Ave E. See graphic below for a visual explanation of areas between building facades and neighboring streets.

The Land Use Supervisor, Planning Staff, and Planning Commission have been consistent in its interpretation and application of UDC Sec 50-21.3. Regardless of Planning Commission's decisions on the three examples listed in the memo, a variance was determined necessary as the proposed location for the accessory structures were between any façade of the primary building facing a street. Examples A and C were requests to construct an accessory structure in the corner front yard area between the existing corner side facade and the street. Example B was a request to construct a garage in the front yard area between the existing front facade and the street.

In conclusion, the Land Use Supervisor maintains that UDC Sec 50-21.3 does not allow the proposed garage at 126 E 7th St to be located between the corner side facade and 2nd Ave E.

Commissioners: Wedul asked staff for clarification on planning commissioners' role with this appeal. Rhodes asked if the appellants could apply for a variance for this project.

Staff: Lavenstein stated that commissioners are not looking at a variance application, but rather whether the LUS interpretation of the UDC is correct. The appellants have submitted a separate variance application for their project as well.

Commissioners: Van Daele asked staff what years the examples given in staff's findings are from and asked why there is no definition for facade in the UDC. She also asked if the appellants would still need a variance if they chose to consolidate their two lots.

Staff: Lavenstein clarified that the appellants currently own one parcel that consists of two lots, 30 and 32. If they were to sell lot 32, they could put the accessory structure in their proposed location without a variance.

Jenn Moses added that there are many words in the UDC that are not defined. Staff go by the common understanding for those words. Front facade, side facade, rear facade, and any facade are all referenced in the UDC. Staff have worked with the appellants to find other places for their proposed garage. They could have it attached to the house, have it back by the alley, or they could demonstrate that they have practical difficulty for a variance.

Commissioners: Bayuk asked what would happen if the planning commission were to adopt the appellants' findings.

Staff: Moses answered that adopting the findings for one item may or may not change how staff make determinations going forward. Staff should be consistent in how code language is applied. Moses stated that it could have implications, but staff would need to review and discuss it with city attorneys.

Commissioners: Rhodes asked staff if the code doesn't allow accessory structures between the facade facing street and the street for aesthetic reasons.

Eckenberg asked if the garage would be considered attached if there was a breezeway that connected it to the house.

Staff: Moses responded that tonight staff are focused on what the rule in the code states, not why the rule was created. Whether or not a breezeway would make it so the house and proposed garage are attached depends on what the building code says.

Commissioners: Hammond asked the appellant if the proposed garage is not attached to the house for practical reasons. He also feels that the rules are ridiculous as they are written, and he asked if that could mean anything legally.

Appellant: Ellison stated that a breezeway was not an option that the appellants wanted to go with. The appellants also have a variance application submitted, but planning staff has stated the written staff report recommends denial. Ellison understands that staff's role is to apply the code consistently, and adopting the appellants' findings tonight would not be consistent, but she said it would be the right thing to do. She claimed that the UDC is written to create an unfair and ridiculous situation with corner lots. The appellants feel that the UDC could be interpreted in a different way, which is why they made the appeal.

Commissioners: Hammond responded that even though staff may recommend denial, the planning commission may not agree with planning staff.

Eckenberg asked if there would be no need for a variance if lot 32 was owned by another party. He wondered if the appellants could sell the lot, build a garage and then buy the property back.

Staff: Moses responded that it could be theoretically possible, without exact site plans and setbacks it is difficult to give a definitive answer.

Commissioners: Wedul stated that the role of the planning commissioners is to interpret what the UDC is saying. She added that with this appeal, it is not their focus to interpret what could be done. The question they are supposed to answer is whether the LUS interpretation is correct.

Hammond stated that if the legal description of the property were to be pulled up, it would say that there are two lots. Discussion ensued amongst the commissioners regarding how the term 'lot' should be defined and interpreted.

Appellant: Ellison stated that she is not sure if her clients' property can be divided and sold off at this time.

Staff: Moses responded that if the appellants want to separate the lots in their parcel, that the county would ask them to apply for a subdivision with the city of Duluth. Their property does not currently exist as two lots. If their property were to exist as two separate pieces of land tonight, staff's findings would be different.

Commissioners: Commissioners discussed how the current state of the property should be interpreted in terms of the number of lots vs. parcels. Hammond stated that there is nothing that says these lots cannot be separated and sold.

Rhodes stated that the 'lot' definition in the UDC switches from using the 'lot' to using the word 'parcel' halfway through the definition. She also stated that commissioners talk about parcels with other planning applications that come before them.

Van Daele asked the appellants why it was important to have the garage be an accessory structure instead of attached to the house.

Appellant: The Matsons stated that if they were to attach the garage to their house the way that staff suggested that they would need big footings, they would disturb the basement, and it would be too much effort. They like the idea of having a roof to connect the proposed garage and their home, but they do not want the garage and house to share a wall. The Matson's stated that the county asked if they wanted to consolidate the two lots, and they did. This means that there used to be two separate lots, but they combined them into one parcel.

Commissioners: Hammond's interpretation is that this property is two lots, therefore it is not a corner lot. He finds that lot 30 and lot 32 cannot be combined per the UDC and putting a garage on lot 30 meets UDC requirements.

MOTION/second: Hammond motions to Deny the Land Use Supervisor Interpretation.

(Motion failed to receive a second)

Commissioners: Rhodes asked if planning commissioners could make motion that agrees with appellant's findings without defining why she agrees. She asked if a motion could be made that would include the definition of façade, but she would want it to state that a façade would require a certain amount of distance from the street. Rhodes maintained that all sides of a house could be a façade, but the distance of the façade from the street changes her interpretation of what the UDC says.

Staff: Attorney Mangan advised commissioners to make findings that the entire body agrees on that also supports the legal conclusion. The question being asked of commissioners is whether the LUS made an error when interpreting the UDC.

If commissioners choose to deny, they should state their findings. She also advised that commissioners state an actual number in their findings if they were to include that the definition of façade requires a certain distance from the street.

MOTION/second: Wedul motions to Approve the Land Use Supervisor decision interpretation.

(Motion failed to receive a second)

Commissioners: Hammond believes that there is a general feeling amongst the commissioners that this is a reasonable use of property. The problem is that they are bound by the words of the ordinance. He is not trying to redefine the code, but he believes that the subject property is two lots.

Rhodes stated that there are many lots and parcels in Duluth that cannot be developed and cannot be sold. She added that in her job field, they are not using plat maps, they are using a more modern system with parcels. The legal description is outdated.

Wedul stated that the subject property exists as one parcel, and it contains two lots. Tonight, commissioners are looking at one parcel with one tax ID, and therefore one lot per the UDC. The subject property could be reconfigured if the appellants choose to do so.

MOTION/second: Hammond/Bayuk Deny Land Use Supervisor Interpretation on the grounds that:

- 1. Lots 30 and 32 can be legally separated.**
- 2. Lots 30 and 32 have enough frontage for R-2 to be separated.**
- 3. The subject property does not meet UDC definition of one lot, therefore the LUS errored, and the proposed garage is not inconsistent with UDC Section 50-21 for an accessory structure.**

VOTE: (4-3)
(Sarvela, Van Daele, and Wedul opposed)

Adjournment

Meeting adjourned at 6:08 p.m.
Respectfully,

Jenn Moses, Manager
Planning & Economic Development