

# City of Duluth Planning Commission

**August 20th, 2024 – Lakeside Conference Room (Room 430) at Duluth City Hall  
Meeting Minutes**

## **Call to Order**

President Gary Eckenberg called to order the meeting of the city of Duluth Planning Commission at 5:05 p.m. on Tuesday, August 20th, 2024, in the Lakeside Conference Room (Room 430) at Duluth City Hall.

## **Roll Call**

### **Attendance:**

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

Members Absent: Jason Hollinday and Margie Nelson

Staff Present: Chad Ronchetti, Thomas Church, Amanda Mangan, Kyle Deming, Jason Mozol, Ariana Dahlen, Natalie Lavenstein, and Sam Smith

## **Approval of Planning Commission Minutes**

Planning Commission Meeting – July 9th, 2024 –

**MOTION/Second:** Sarvela/Adatte approved

**VOTE: (6-0)**

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

Colleen Christenson asked staff and the commissioners about agenda item PLVAC-2407-0002. She received a neighbor letter that stated that it would be on the August agenda, but staff indicated that it was delayed and pushed back to the September agenda. No other public comments.

(Items PLVAR-2407-0003 and PL24-027 were removed from the consent agenda to be voted on separately.)

## **Consent Agenda**

PLIUP-2406-0002 Interim Use Permit for VDU at 20 Sutphin Street by Kevin Pietrusa

PLIUP-2407-0004 Interim Use Permit for VDU at 301 S Lake Avenue by Alex Fagundes

PLSUB-2405-0001 Minor Subdivision at 4913 Airport Rd by Mark Papko and Matthew Stewart

PLSUP-2407-0002 Special Use Permit for Fill in the Floodplain at Lot D

PLVAR-2407-0002 Variance from Parking Standards at 4402 Airpark Boulevard by Local 11

Plumbers and Steamfitters

~~PLVAR-2407-0003 Shoreland Variance from Coldwater Structure Setbacks at Lot 2 of Block 2 of Skyline Estates by Crawford Excavating LLC D~~

PL24-046 Special Use Permit for Wireless Facilities at 25 N 78th Ave E by Fullerton US

PLVAC-2405-0001 Street and Easement Vacation at 4913 Airport Rd by Mark Papko and Matthew Stewart

PLVAC-2407-0003 Vacation of Utility Easement at Wadena Street and 52nd Avenue West by Center City Housing Corporation

~~PL24-027 Special Use Permit for a Cemetery at 3730 Martin Road by Apostolic Lutheran Church of Woodland Park~~

**Commissioners:** Commissioner Wedul asked a question regarding agenda item PLSUP-2407-0002. She wanted to know if this is something that the Planning Commission regulates or if there are other entities that control and regulate this type of project. She said she did not want the item pulled from the consent agenda if the Planning Commission's role in this project was within their scope of practice. Commissioner Hammond added that this is a type of project that has many other regulatory agencies weighing in, and the Planning Commission's role is simply to address the planning and zoning aspect, which is within their purview.

**Staff:** Jason Mozol responded to Wedul's question. He said there is a section in the UDC for flood plain regulations, and that section states that any area that has fill over 1000 cubic yards that is placed in a floodplain requires a special use permit. Mozol encouraged the commissioners to ask the applicant questions about project details as well.

**Public:** No speakers.

**MOTION/Second:** Wedul/Sarvela approved the consent agenda

**VOTE: (6-0)**

**Crawford arrived at 5:28 p.m.**

## **Public Hearings**

PLVAR-2407-0003 Shoreland Variance from Coldwater Structure Setbacks at Lot 2 of Block 2 of Skyline Estates by Crawford Excavating LLC D

**Staff:** Jason Mozol addressed the commission. This is a requested shoreland variance to locate a single-family home and a garage in the shoreland setback from Kingsbury Creek. Mozol presented a map that illustrates some the challenges with this project. The challenges with developing on this property include the shoreland setback, wetlands primarily along the creek itself but also some smaller ones by the crest of the site, shallow soils, bedrock near the site, and a handful of trees that are not allowed to be removed per the city's tree preservation requirements. The city forester had also previously commented on the trees on this site. There are several Maple trees and yellow birch trees on the eastern part of the property that are generally in good health and expected to live a longer lifespan. The trees in a different area, which are primary aspens and ash trees, are showing signs of decay and therefore not expected to live as long.

One challenge Mozol encountered when reviewing this application mainly pertained to two sections of the zoning code that are at odds with each other, which are the shoreland setback regulations and the tree preservation requirements. Mozol Staff explained that the shoreland ordinances exist to protect the water quality and ecosystems of the creek, but they limit where

the applicant can build on the site. The tree preservation requirements along with the shoreland setbacks make it even more difficult to build on the eastern part of the site. Presented with these specific challenges, the applicants are choosing to pursue a variance from the shoreland setback to build on their land. For the tree preservation requirements, the applicants are also generally expected to work around the trees that they are required to preserve, and then they would be required to replace any trees that would be impacted by this project with a tree preservation plan. The staff recommendation tries to reflect the balance of this site, including all its challenges. Staff recommends approval of the variance request with the following conditions: Reduce the structure setback from 150 ft to 100 ft, all areas within 100 ft of the creek must remain naturally vegetated, the applicant may submit a new site plan that locates structures at least 100' from the creek for approval by the Land Use Supervisor, and 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 action; however, no such administration approval shall constitute a variance from the provisions of Chapter 50. Mozol added that the DNR did submit a late opposition for this application, and it was emailed to the commissioners to review.

**Commissioners:** Commissioner Rhodes asked staff for clarification on the map regarding the 60 ft and 80 ft markers.

**Staff:** Mozol answered Commissioner Rhode's question stating that the 60ft and 80 ft markers are utility and drainage easements, and the measurements listed are how far away those easements are from the creek. The applicant is wanting to go further than 100 ft, but staff is recommending that they are limited to the 100 ft mark.

**Commissioners:** Rhodes responded that variances cannot be given to someone just because the challenges presented make it expensive for them to build. She believed that most of the difficulties presented by the applicant are related to costs. She asked if there was something 'impossible' about this project that would require the variance.

Commissioner Wedul asked what the practical difficulties are that staff sees about this project. She suggests that if the applicant were to build on another part of the site, they would be in compliance with the zoning code. However, they are choosing to build elsewhere on the property that would require a variance instead. Wedul noted that the setback encroachment that is being proposed is significant, and she's wondering how taking the marked trees away is better than those leaving trees on the property just because they may not live as long as other trees. The quality of the trees is not a practical limitation, and the shade provided by trees is crucial to the health of the creek. Is there anything other than a rain garden that will be included in the applicant's plan to help offset the tree removal impacts?

**Staff:** Mozol explained that there are several complicating factors, primarily the trees on the property. The bedrock throughout the site also poses challenges for the applicant. Part of the staff recommendation was to expand the naturally vegetative buffer. The requirement is 50 ft, but the recommendation was to expand it to 100 ft. This project is multifaceted in terms of practical difficulty, and he encouraged commissioners to ask the applicants' representative for more details.

**Commissioners:** Commissioner Hammond provided pushback on condition number 2 in the staff reported. The property owner created this lot, and now the owner is saying that the lot is unbuildable without a variance. Hammond also noted that the applicant stated that the land will be impacted modestly. He believed this to be false and it would have almost a maximum impact as they are proposing to put a house and garage on the site.

Hammond made a third point regarding the topographical map. It was noted in the staff report that 100% of the impacted water would flow to the rain garden and away from the site, but he

said this is incorrect. He said 100% from the garage, driveway, and the house would go straight into the creek.

Commissioner Wedul asked staff if there was a reason for having a septic tank on this property as opposed to city sewer. She wondered if the applicant were to build on a different part of site if they would join city sewer.

**Staff:** Mozol responded to the commissioners and said the applicant's intent was to divert most of the rainwater to the rain garden. Mozol believes the septic system piece was determined during the platting portion of the project. The site is in a rural-residential area and it's typical to have septic systems there. It was noted that there was no city sewer in this subdivision. Mozol also wanted to highlight that proposed layout is not in line with staff recommendation so a new layout would have to be produced.

**Commissioners:** President Eckenberg expressed confusion as to why this item description says it's a variance for parking standards and not a variance for shoreland standards. He asked staff to please make that change for the record. Eckenberg asked if the applicant has agreed to the setback being reduced from 150 ft to 100 ft, as this is one of the conditions they must meet for the variance to be approved.

**Applicant:** David Bolf, 3306 Troy Brett Trail – David Bolf addressed the commission. He is with Northland Consulting Engineers. He came to represent his client and applicant for this project, Cindy Crawford. Ms. Crawford prepared a letter for the commissioners, and Bolf read on her behalf. She thanked the commission for taking the time to consider her application. She and her husband are unable to attend the Planning Commission meeting due to scheduling conflicts. She stated that she and her husband have done everything the city has asked of them in creating the new plat. She feels they have worked to have the least impact on the lots they've been building on. The drainage and utility easements had already been placed on the plat per the recommendation of the Planning department. They are asking now to place their home just outside of that easement.

Crawford said in her letter that she and Clark Christenson walked the project site together, and he believes their plan is the best building location to have the least impact on the property. She noted that the planning department stated that she has 0.78 acres of buildable space on their property. If she and her husband utilize that space, they would have to take down almost 50 trees, a majority of which are Sugar Maples and Yellow Birches. This would go against tree preservation. Crawford believes there is not enough room for everything they want to build without taking out the trees. They want to save those trees, which is part of their reasoning for requesting a variance.

Crawford asked the commission members to agree with the City of Duluth regarding the 100 ft vegetation setback from the creek. The creek in question runs in the spring when there are heavier rains, but right now the creek is barely flowing. She also stated in her letter that the land to the north of them has homes that are within 40 ft to 60 ft of the creek, but they are asking to be further away from the creek than their neighbors. Ideally, Crawford and her husband would like to use the utility easement as their setback line, but if not is not feasible, they hope the planning commissioners will consider the staff recommendation setback of 100 ft. instead.

Bolf finished the letter and went on to add his own comments and answer some questions previously asked by commissioners. He referred to the Summary of Code Requirements section of the staff report to discuss points a, b, and c, and how the applicants are adhering to these points. Bolf believes the landowners would be using the land in a reasonable manner, and they need relief from normal regulations due to unique circumstances such as special trees, easements, bedrock, etc. Granting a variance will not alter the area. This is a 4.88-acre site,

however, with the current restrictions, there is only 1.02 acres of buildable area. He also talked about the history of this property, and how it was platted and zoned. The minimum lot size for this zoning district is 5 acres. Bolf stated that yes, the owners created the problem they are now facing, but the land needed to be platted the way that it was at the time.

He pointed to the map and showed that the elevation of the creek is below where the applicants have proposed to build their house. Bolf continued about other feasible and not feasible building site scenarios for this site on the map regarding the house, garage, driveway, and rain garden placement.

**Commissioners:** Commissioner Wedul asked Bolf if the applicant had explored the possibility of building the house in the upper part of the site shown on the map. She believes that are is another space where the applicant could build and still follow the zoning regulations. Wedul was curious to know why the applicant wouldn't want to also build closer to the road instead of building a long road into an area that is not compliant with city codes. She asked if there were an area that would follow code, and it's over an acre even with current setbacks, which is more than many residential lots within city limits, why wouldn't the applicant want to build there and protect the creek?

**Applicant:** David Bolf addressed commissioner Wedul's question and said that her suggestion has not been explored by the applicant. The main reason for requesting the variance is that the applicants really want to save the mature trees. The tree preservation and shoreland setback regulations are conflicting in some ways, and the city forester thought that building in the proposed area with the variance was the best option, so that's why they are pursuing the variance request.

**Commissioners:** Commissioner Wedul noted the wetlands depicted on the map and asked Bolf what the required wetland setbacks are, and if those would be impacted as well by this project. She also wanted to know if a comprehensive survey done on this lot for the trees.

**Applicant:** Bolf responded that there was no intent to impact the wetlands on this lot or any other lots. They believe it's possible for them build around the wetlands as to not disturb them, but he does not know specific details about wetland setbacks. A comprehensive survey was done, and they performed an individual tree count. They did not depict on the map where the insignificant (small) trees were.

**Staff:** Kyle Deming clarified that there is nothing in the code that require any sort of setback for wetlands.

**Public:** No speakers.

**Motion/second:** Rhodes/Wedul motions against staff recommendation to deny the variance request on the grounds that the application does not meet variance criteria B and D in the Summary of Code Requirements in the staff report

Discussion ensued among the commissioners regarding the variance criteria in the staff report and the different ways the application fails to meet each variance criteria. Hammond disagrees with staff findings 1, 2 and 4 in the Review and Discussion Items section of the staff report. He believes there is enough buildable land available on this property, the circumstances were created by the landowner, and the applicant would not be using the land in a reasonable manner that is not permitted by the code because there is enough buildable land for a home.

Commissioner Wedul stated that the applicants' request is not in alignment with requirements B and D in the Summary of Code Requirements in the staff report. She agrees with Hammond that the landowner caused the circumstances, and their request is not compliant with the UDC.

**Vote: (4-3)**

**Adatte, Crawford, and Eckenberg Opposed**

PL24-027 Special Use Permit for a Cemetery at 3730 Martin Road by Apostolic Lutheran Church of Woodland Park

**Staff:** Jason Mozol addressed the commission. The applicant currently has a church on the property and is looking to expand for a roughly 4-acre cemetery space with 500 burial plots and parking lot. Mozol presented a map of the project site. Several code sections apply to this property, and there are not any use specific standards for cemeteries. There is a parking maximum of 500 stalls on the property based on the existing use. The expansion would bring the total number of stalls to 459, which is below the maximum. The parking lots associated with the project are required to have interior landscaping areas and tree canopy coverage. Additionally, the applicant has indicated that the necessary street frontage landscaping along Martin Road will be provided.

In a future phase of the project, a garage is proposed along the west side of the property to house equipment storage for the cemetery. Staff suggests a condition of approval be that at the time of construction of the garage, any adjacent gravel, pavement, or cleared space that may be used for outdoor storage must be screened by a fence meeting the definition of a dense urban screen from neighboring residential properties.

This property is required to meet the tree preservation requirements as well. The trees that are removed during the expansion will be replaced primarily either adjacent to the parking lots or in the buffer areas along the edge of the property, and there are some trees currently in the cemetery that will qualify for tree preservation regulations.

The property will have some exterior lighting. All exterior lighting must meet standards for downcast lighting, output, and color temperature. The applicant must submit drawings for exterior mounted fixtures that demonstrate compliance with Sec. 50-31 for approval by the Land Use Supervisor prior to issuance of a building permit.

Wetlands are present on this property, and some of them will be impacted when the road and parking lot are put into place. A replacement plan is required for the wetland impacts. Staff received a comment from the city engineering department stating that stormwater management will need to be provide for this site.

There were a number of comments from the public regarding concerns for stormwater impacts, potential chemical leeching from the embalming process associated with the burials. It was proposed that the burials would be in concrete vaults to help mitigate the leeching impacts. Mozol reached out to the Minnesota Pollution Control Agency (MPCA) for information on regulations regarding burials and learned that burials must not be within 50 ft of any wells. There are adjacent properties to the cemetery, and the owners of those properties indicated that their wells are about 200 ft. away from the site. Properties across the road also have at least 50 ft between their wells and the cemetery. Other comments were received from neighbors with concerns about screening and visual impacts, but some of those concerns will be mitigated with the required landscaping along the property lines.

There are several conditions for this application to be approved, with the primary conditions being the landscaping plan, the tree preservation plan, and the lighting requirements. There has also been a lot of work done between the applicant and the Technical Evaluation Panel that oversees the replacement plan process for wetland impacts, and they are close to having a replacement plan done. Mozol added that a wetland replacement plan must be approved prior to applying for a building permit, and that no additional wetlands may be impacted on this property in the future. Staff recommends approval of the special use permit with conditions, and Mozol encouraged commissioners to ask the applicant questions about the project as well.

**Commissioners:** Commissioner Rhodes asked staff about map accuracy. she saw a wooded swamp on the Land Explorer and wetlands represented in a different spot on the map submitted with the application. The difference is modest, but she would like to know if the map provided in the application is more accurate than the map on St. Louis County Land Explorer. She also asked staff if there are any remedies available if a neighbor's well were to ever be contaminated from the embalming fluids in the burial plots.

Commissioner Wedul was also concerned with the potential contamination from embalming fluids, and asked staff if there are any sort of liners required to

**Staff:** Mozol responded that the maps staff are utilizing for this project are delineation focused while the Land Explorer is based off computer data that extrapolates where the wetlands are. Part of the property was delineated for this project, but when the church was created in 2016 the entire property was delineated. Mozol also answered that he was not aware of remedies for wells contaminated by embalming fluids. In his research, Mozol said the only regulation he got from the MPCA was that burials must be 50 ft from wells. His other research on cemetery impacts to ground water and wetlands was inconclusive.

**Applicant:** Ray Sundberg and Tyler Stewart, 3730 Martin Rd – Sundberg and Stewart addressed the commission. Sundberg is the sexton for the cemetery at their congregation. Stewart is on the committee that's been tasked with determining how the church can have an onsite burial experience for its members. Their sister church in Duluth has a cemetery similar to the one that they are hoping for. Their sister church shares the same congregation, but they outgrew that facility, so they moved and constructed a new church in 2019.

They clarified that they are looking to have the ability to have 1000 burial spaces rather than 500, which is in the staff report but there may have been a typo somewhere else. They exhaustively looked at the entire property so the project would have the least impact on the land, and the location on the application map is the best for creating the cemetery.

Sundberg and Stewart addressed the concerns with leeching and stated that if the state had more concerns about this, then there would be more stringent guidelines and regulations. They are following the current regulations and will continue to plan this project carefully with the goal of having the smallest possible impact on the land. Sundberg referenced the map to show where stormwater runoff will be directed on the property.

They also took traffic concerns into consideration when creating and choosing a place on the property for the cemetery expansion, as they want to minimize traffic congestion caused by the on-site funeral services. Having a burial and the service following the burial on site lessens traffic congestion because people will not have to leave the church to go to the service destination all at once. There will be a footpath for people to use on the property to connect the church and the gravesite services.

Stewart pointed to the map where the grading will take place and where the wetlands are. This will be a multi-year project, and he reiterated that their plan addresses all the stormwater concerns for this property, as well as other future impacts and projects that may take place on this site.

**Commissioners:** Commissioner Adatte asked the applicants how serious the potential leeching impacts from cemeteries to adjacent properties can be.

President Eckenberg asked a clarifying question regarding the correct number of burial plots and parking spaces addressed in the application, as there may have been a typo somewhere in the staff report. He also asked how many years this cemetery will be in operation with the proposed 1000 burial plots. Eckenberg noted that full-body burials take up more space than cremation burial plots and wondered if the applicant had taken that into consideration when designing this expansion plan.

**Applicant:** Stewart responded that he was not sure about the leaching impacts, and said they weren't aware of the 50 ft requirement until Mozol informed them. They would have to do more research on leaching.

Responding to Eckerberg's questions, they said they are currently at 311 occupied burial plots. With the rate of burial, or rate of mortality, the cemetery could be in operation for upwards of 60 years or more. They are taking cremation into consideration.

**Commissioners:** Commissioner Sarvela asked the applicants if the parking lot impacts the wetlands on the site. He also asked for clarification on the wetland replacement plan and what that entails. Commissioner Wedul also expressed concerns for wetland impacts, especially without there being a grading plan attached to the project.

**Applicant:** The applicants confirmed that yes, the proposed parking lot will impact the wetlands. They are working to reduce the impact as much as they can by moving the parking around to different areas on the site plan, and they have explored several different spots. They have a wetland credit agreement with the wetland bank if the project is approved.

They received a comment sharing Wedul's wetland concern from the city engineering department as well. The applicants agree that there may be more wetland impact than they initially expected, so they will investigate more detailed grading to help minimize those impacts.

**Commissioners:** Commissioner Rhodes asked if there is room to put parking behind the building towards Vermillion instead of impacting wetlands?

**Applicant:** Stewart answered that that area Rhodes asked about is all wetlands as well, which would not be the best option for the parking lot location.

**Public:** Dan Kraft, 3747 Martin Road – Dan addressed the commission in opposition to the project. He is a civil engineer, and previously submitted comments to staff for this project. His main concern is visual impacts, as he had just moved into his house and doesn't want to look at a cemetery every time he walks out the door. Kraft explains that he is not necessarily opposed, but he would like to have a buffer or some sort of visual barrier, so he doesn't have to look at it. He also referenced the State wetland inventory map, which he said has a different interpretation of wetlands, and suggested the cemetery be put in a different spot. Kraft also expressed concern of the flow of stormwater and was worried that the stormwater paths would go directly to his property from under the road, but the cemetery visibility aspect is his biggest concern. He added that lighting is a factor of his visual concerns, and wondered if the lights could be motion activated, or at least dimmed or turned off at night, especially if the new trees are going to be smaller and fewer than the trees that are currently on the property.

**Commissioners:** Eckenberg asked staff what the visual buffer plan was for Martin Road and the neighbors near the project site.

**Staff:** Mozol answered the code requires a minimum of a 15 ft naturally vegetated buffer between institutional uses and residential uses. Additionally, along the street frontage there is a requirement of 1 tree every 35 ft, and 3 shrubs for every 25 ft.

**Public:** Mike Berg, 424 E 9<sup>th</sup> St – Mr. Berg addressed the commission. He owns land on Vermillion Road and Elk Street and is mainly concerned about groundwater contamination from the cemetery. He explained that there is no other alternative to get water up into the area surrounding the project site. He spoke with the city back in 2019 and he said they told him that it would cost around \$800 thousand to get city water up to his property, and he assumes that price is likely higher today. He is worried about how the chemicals could impact the water supply from his well, and he is concerned that property value would go down because of that. Berg also questions the 50 ft regulation and wonders if that's enough distance between a cemetery and a well, and is concerned about how the chemicals in the cemetery will impact the land over the course of the next 60 years.



**Commission:** Commissioner Rhodes asked for clarification from applicant. She wanted to know if the tree coverage shown in on Google Street View will go away, and she asked if liners or vaults will be used in the burial plots.

Commissioner Wedul pointed out a potential non-compliance in the application regarding the tree and shrub count requirements with the proposed vegetative buffer. She suggested adding more shrubs to the buffer to meet or even exceed the required amount. Wedul also asked if the applicants are aiming keep the character of the land by preserving as many trees as possible, or if they are going to clear-cut everything outside of the tree preservation plan.

**Applicant:** They responded that yes, the tree coverage will go away, but new trees will be planted in their place. Vaults will be utilized for burials. They also stated that they have no problem adding trees and shrubs to aid in the buffer, and they are willing to discuss this further with neighbors. The applicants' plan is to adhere to the tree preservation plan and remove trees where the necessary grading will take place. The grading will help direct stormwater to the retention ponds. They want to save everything that they can from the grading.

**Motion/ second:** Crawford/Wedul approve as per staff recommendation with conditions:

- 1. The project be limited, constructed, and maintained consistent with plans submitted and included in the staff report.**
- 2. A compliant landscaping plan is submitted to the Land Use Supervisor and approved prior to applying for a building permit.**
- 3. Fencing meeting the definition of a dense urban screen is constructed to the west of any outdoor storage space adjacent to the proposed garage.**
- 4. A complaint tree preservation plan is submitted for Land Use Supervisor and City Forester approval prior to applying for a building permit.**
- 5. Compliant drawings for exterior lighting fixtures are approved by the Land Use Supervisor prior to receiving a building permit.**
- 6. A wetland replacement plan is approved prior to applying for a building permit.**
- 7. No additional wetlands may be impacted on this property.**
- 8. 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: (6-1)  
Hammond opposed**

PLSUB-2406-0003 Preliminary Plat of Tract B in Harbor Highlands by One Roof Community Housing

**Staff:** Kyle Deming addressed the commission on behalf of the planner assigned to this project, Chris Lee, who was absent. The property is located inside the vacant land area of the west edge of the Harbor Highlands neighborhood. The proposed subdivision is 3.3 acres, and the proposal is to create 23 single family lots with 2 out-lots for utilities. Lot size for these lots range from 4,156 sq ft to almost 10,000 sq ft. Kyle presented a map to show proposed new parcel lines. There are utilities already located in the streets for the homes to connect with. There are also a couple utility lines running through the site that will connect to the former Central High school site, and they will also be used for the Incline Village project. Deming noted that there was one comment received for this project and it was from himself. He proposed an amendment to the plat that would allow for the extension of Lake Avenue in the future, as this would be the best way for the two neighborhoods to connect. Staff

recommends approval of the preliminary plat with the condition to reserve space for the future extension of Lake Avenue.

**Commissioners:** Commissioner Wedul asked staff if it would be better to table this item so staff can replat the site. Commissioner Hammond asked staff if the extension of Lake Avenue is approved, would the city have to purchase that land from One Roof.

**Staff:** This is the preliminary plat, and this is a two-step process. The proposed condition to this plan is an adjustment that should be made now, before the final plat. It's also not a significant enough change that would require major reconsideration of the plan.

The platting process requires the plat owner to provide space for whatever public use is needed. In this case, it will be platted a public road.

**Commissioners:** Commissioner Wedul asked is this project has a regulating plan attached to it, or if she's thinking of a different plan. She wants to make sure that everything complies. Commissioner Rhodes pointed out that parcel ID is incorrect in the application and should be corrected.

**Staff:** Deming confirmed that yes, this plan is subject to the regulating plan. He referenced point number 2 in the staff report., which talks about character of area. Deming assured the commissioners that the correct parcel ID will be reflected in the application.

**Commissioners:** Commissioner Wedul asked the applicant how the thresholds to lot costs determined, and what makes this project a 1 Roof project.

**Applicant:** Debbie Friedman, 3520 E 4<sup>th</sup> Street – Ms. Friedman addressed the commission and explained that it was always part of the Harbor Highlands master plan to have some sort of home ownership in a part of the development. She went over the history of the past 10 years of the site and described the series of events that brought the project to where it is today, and talked about the different agencies that played a role throughout the timeline. Originally, HRA was the agency leading this project, but they worked with HUD who ultimately determined that the HRA would be able to transfer the land to One Roof, which is how they got the funding. In the plan, there are 15 land trust homes that will be permanently affordable, and 5 homes will be workforce housing at market rate. Each homeowner will own their specific lot, there will be a long-term lease with One Roof to lease the land. If the homeowner ever decides to sell, the land returns to One Roof so they can continue to sell to those who meet the necessary One Roof income requirements.

**Commissioners:** Commissioner Adatte asked the applicant if the road going up to the old Central High School necessary. Commissioner Rhodes suggested to the applicant that they make the lots smaller to accommodate the road, while not having to sacrifice one of their lots to do so.

**Applicant:** Friedman was not aware of the road extension proposal, though she knew there were discussions about it. She supports the idea of connecting the 2 neighborhoods but would like to see more drawings and information on how that would work. The Engineering department figured out how to implement the road, and One Roof will lose one lot as a result of the road extension, but she feels that it's good provide connection between the 2 neighborhoods. Friedman acknowledged Rhode's comment by responding that the lots are shallow and not that big, and the explored this option because the HRA wanted to see higher density. However, it was ultimately not the best option for them to make the lots smaller than they already are.

**Commissioners:** President Eckenberg asked a clarifying question of the applicant regarding the number of lots. The proposed plan has 23 lots, and losing one with the road extension brings them down to 22, so he wanted to know where the 15 and 5 numbers are coming from.

This is Harbor Highlands first opportunity to have single family housing, and he is excited to see this project coming to head.

**Applicant:** Friedman explained that One Roof has received funding for 20 of the lots. They possibly need more funding from the city to make it happen. One Roof usually offers duplexes, triplexes, and multifamily homes, but people want single family homes too.

**Public:** No speakers.

**Motion/second:** Wedul/Sarvela approve as per staff recommendation with conditions:

1. **Prior to undertaking any site work, the following conditions shall be met:**
  - a. **The development agreement and final plat shall be recorded.**
  - b. **All necessary permits shall be obtained.**
  - c. **Erosion control measures shall be installed and inspected by appropriate city officials.**
2. **Erosion control measures shall be installed and inspected by appropriate city officials.**
3. **Land be set aside for the extension of Lake Avenue as a public roadway**

**Vote: (6-0)**

**Crawford abstained as he is on the One Roof Finance Committee**

PLUMA-2406-0001 UDC Map Amendment from MU-N and MU-I to F-6 Portions of the Area Along E 4th Street Between N 4th Avenue E and N 6th Avenue E

**Staff:** Kyle Deming addressed the commission on behalf of the planner assigned to this project, Jenn Moses, who was absent. The land is located adjacent to Essentia, or the original St. Mary's hospital. Deming presented a map of the site and explained that the yellow portion is the proposed area for the rezoning. The land is currently made up of a combination of MU-I and MU-N districts. In 2009-2010, the City of Duluth engaged in updates to Chapter 50 of the City of Duluth Legislative Code; these updates included new zone districts and development standards and is known as the Unified Development Chapter (UDC). During this process, as part of implementing the 2006 Comprehensive Land Use Plan, the 4th Street corridor was identified as an important mixed-use corridor where building form influences the character of the adjacent neighborhoods, and where form-based zoning would implement the goals for walkability, transit connection, and neighborhood commercial nodes. The F-6 zone district was developed as the appropriate zone district for the 4th Street corridor.

Essentia Health has now indicated that property it owns on these three half-blocks will not be needed for future campus development. Staff has evaluated the mix of existing uses and the existing building form and determined that F-6 zoning allows all existing uses to continue and, as Essentia properties may redevelop, requires future buildings to meet the existing building form, with buildings placed close to the sidewalk.

There has been a lot of notice given to property owners in the area via sending out neighbor letters, posting a legal notice in the Duluth News Tribune, and posting the zoning notice signs in the area. Essentia staff also went door to door to talk with property owners about the zoning change, and no one spoke against it throughout that process. Staff recommends that the Planning Commission recommends approval to City Council on the grounds that the proposal is consistent with the Comprehensive Land Use Plan, it's consistent with the future land use category of "Neighborhood Mixed Use," as well as the character of the corridor, and material adverse impacts on nearby properties are not anticipated.

**Commissioners:** Commissioner Wedul noticed that on the proposed map amendment, part of the plan entails splitting off the parking lot from one of the buildings up the hill on 6<sup>th</sup> Avenue

East. She asked why the plan did not include that building and parking lot in the F-6 to keep the lot area together. Wedul also asked what the screening requirements are for this project.

**Staff:** Deming responded that the pattern is to rezone from the street to the alley, and to not go beyond that. When the building was redeveloped by Essentia, they oriented the parking lot towards that building to use it for campus-wide parking, so it made sense for them at the time. Deming also explained that screening is not as big of a deal in form districts. A good interface between the building and the public sidewalk is the approach here, and screening requirements are more generally intense when there is commercial use next to residential.

**Commissioners:** Commissioner Rhodes referenced the permitted use table in the UDC and found that nursing homes are no longer a permitted use with the proposed rezoning. She wonders if the applicant is aware that they would lose the ability for a nursing home there. Rhodes asked if that could be made clearer in the comments section for when this amendment goes before the city council in case there is concern with this change.

Commissioner Sarvela asked what the reason is for this amendment to be proposed now.

**Staff:** Deming replied that he was not privy to the conversation surrounding that specific change that would result from the rezoning, but he would be happy to make her comments more well-known.

Deming explained that this is happening now so that when a project comes in for this area, the city won't have to rush through a rezoning process.

**Public:** There was one public comment from someone in the audience to make a correction regarding the streets saying East and not West as they should.

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

**Vote: (7-0)**

## **Other Business**

### PLOR-2406-0001 Conformance with Comprehensive Plan for TIF at Sofidel America, 100 N Central Avenue

**Staff:** Chad Ronchetti addressed the commission. Sofidel is the company that recently purchased the paper mill in West Duluth, and he and his team of economic developers have been working with Sofidel on their financing. Sofidel anticipates that there will be an increase of 160 plus new jobs, and an investment of over \$180 million, but Ronchetti believes it will be closer to \$250 million. They have also been working with the state on other funding options, and they will also implement the proposed TIF district over the course of 9 years.

This item is an action of conformance to the comprehensive plan. The future land use designation of the development site is General Industrial (G-I). According to the Imagine Duluth 2035 Comprehensive Plan, G-I areas are intended for the manufacturing, processing, and other activities that may have off-site impacts and are generally isolated or buffered from other uses. Sites should have direct access to major regional transportation. The proposed development meets the intent of this future land use. Ronchetti encouraged any questions to be directed to himself or Sofidel representatives in the audience.

**Commissioners:** Commissioners asked if this project has been brought to them previously in June. They also wondered if this item was on the July planning commission agenda as an item under the "other business" section.

**Staff:** Ronchetti explained that the project back in June was for Sofidel's height variance request. The TIF plan was not attached at the July meeting so there was no discussion or vote on it at that time. Staff realized that the TIF plan for Sofidel was not attached to this agenda, and legal counsel recommended the commissioners review the TIF plan prior to adopting the

resolution. Discussion ensued about how to go about properly voting for this item, and it was determined that a special meeting for this commission should be held the following week with proper notice given.

**Motion/second:** Rhodes/Hammond motion to table until the next planning commission meeting

**Vote: (7-0)**

PLOR-2407-0002 Conformance with Comprehensive Plan for TIF at Braeview, 404 E 5th St

**Staff:** Thomas Church addressed the commission. He explained that the TIF plan attached to this project was also not attached. Staff recommends to table this item until the next special meeting. The proposed development is Braeview senior apartment complex, and it will involve the construction of 72 new affordable senior housing units with a daycare facility on the ground floor with capacity for 100 infants and children. The development will also include community gathering space and onsite senior services. The property is zoned R-2. According to the Unified Development Chapter, the R-2 district "is established to accommodate multi-family apartments and townhouses, in an urban setting." The district "is intended primarily for locations closer to commercial and mixed-use activity centers, and may serve as a transition between lower density residential areas and more intense commercial and mixed-use neighborhoods." R-2 is an appropriate zone designation for the TN (Traditional Neighborhood) future land use category on East 5th Street. It allows apartments as proposed by this project. Staff recommends that this item be approved at the next special meeting.

**Commissioners:** Commissioner Rhodes asked if the city will be impacted by the F-6 district and wondered if that were aware and okay with that.

**Staff:** Church responded to Rhodes that they are okay with it.

**Motion/second:** Wedul/Sarvela motion to table until the next planning commission meeting

**Vote: (7-0)**

PLEAW-2408-0001 Acceptance of Complete Environmental Assessment Worksheet (EAW) Document for Sofidel America

**Staff:** Erin Sequora addressed the commission. She is a consultant from Stantec and gave a presentation on the EAW process. The responsible governmental unit for this EAW is the City of Duluth, the proposer is Sofidel American Corporation, Braun Intertec prepared the EAW on behalf of Sofidel, and Stantec assisted the city and city staff with the review of the EAW.

The responsibilities of the City of Duluth in this process include ordering environmental review, reviewing the environmental document, verifying accuracy, deeming the submittal complete, distributing the environmental document, and adopting the Record of Decision.

Sequora explained the EAW step by step from start to finish, beginning with the drafting of the EAW submittal, and ending with the publication of the notice of decision in the EQB Monitor.

The existing Sofidel facility manufactures parent rolls of tissue paper from recycled and virgin pulp materials, trucked to the site. Sofidel is proposing an expansion of the existing facility to allow for conversion of parent tissue to final products.

This EAW was triggered by Minnesota rules, 4410.4300, Subpart 14.B for construction of a new or expansion of an existing industrial, commercial, or institutional facility, other than a warehousing or light industrial facility, equal to or more than 400,000 sq. ft. As part of the EAW, some of the additional supporting studies include a wetland delineation, threatened and endangered species reviews, greenhouse gas (GHG) analysis, air emissions calculations, Phase I Environmental Site Assessment (ESA) and additional investigations pertaining to site contamination, and Phase Ia desktop archaeological assessment.

Some of the anticipated project impacts include wetland impacts, vegetation/tree removal, site contamination, visual impacts, and air emissions. There is also a list of federal, state, and local permits and approvals that are anticipated to be required of this project.

The planning commission is being asked today for acceptance of the complete EAW and approval of EAW distribution. She explained the steps that would follow the planning commission's approval at tonight's meeting. The file size of this presentation was too large to be part of the packet, so it was posted on the city's website.

**Commissioners:** Commissioner Wedul asked Sequora if there was any requirement to engage local tribes for the EAW.

**Staff:** Sequora said yes, the EQB has a required list of agencies that need to be notified per state regulations. EQB recommends that tribes are also notified.

**Motion/second:** Wedul/Adatte approve as per staff recommendation

**Vote: (7-0)**

### **Communications**

Land Use Supervisor (LUS) Report – Kyle Deming explained that there have been several changes with staffing within the Planning department. Ryan Pervenanze accepted another position and is no longer with the city of Duluth, and Jenn Moses will be filling in as the interim manager. Chad Ronchetti also accepted a position elsewhere and will be leaving the city of Duluth at the end of August, which means there will be a search for a new director of planning.

Heritage Preservation Commission Report – No report

Joint Airport Zoning Board – No report

Duluth Midway Joint Powers Zoning Board – No report

Commissioners asked about the number changes of the agenda items. Deming explained that the City of Duluth recently switched over to a new permitting software, and projects are tracked and numbered differently now. This new system is designed to have permit types and subtypes, which adds extra characters to the project numbers. The old number formatting will be phased out as new projects come through.

### **Adjournment**

Meeting adjourned at 7:44 p.m.

Respectfully,

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Jenn Moses, Manager  
Planning & Economic Development