

City of Duluth Planning Commission

**October 10, 2023 – City Hall Council Chambers
Meeting Minutes**

Call to Order

President Margie Nelson called to order the meeting of the city of Duluth planning commission at 5:00 p.m. on Tuesday, October 10th, 2023 in the Duluth city hall council chambers.

Roll Call

Attendance:

Members Present: Jason Crawford, Gary Eckenberg, Brian Hammond, Margie Nelson, Danielle Rhodes, Michael Schraepfer, and Andrea Wedul (arrived after the approval of minutes)
Member Absent: Jason Hollinday

Staff Present: Adam Fulton, Jean Coleman, Jenn Moses, Kyle Deming, John Kelley, Chris Lee, and Cindy Stafford

Approval of Planning Commission Minutes -

Planning Commission Meeting – September 12, 2023

MOTION/Second: Crawford/Hammond approved

VOTE: (6-0)

Public Comment on Items Not on Agenda

None

Consent Agenda

(Item PL 23-161 was removed from the consent agenda and voted on separately.)

PL 23-139 Variance to shoreland setback requirements at 11xx N 27th Avenue W by Shaun and Sara Floerke

PL 23-149 Interim Use Permit for a new vacation dwelling unit at 5830 London Road by Meredith Anderson

PL 23-151 Vacation of a portion of 67th Avenue W adjacent to 6630 Grand Avenue by James Williams

PL 23-152 Variance to side yard setback at 803 N 57th Avenue W by Jesse Merrill

PL 23-156 Interim use permit for a new vacation dwelling unit at 4218 Lombard Street by Jeremy and Carolyn Dick

PL 23-159 Interim use permit for a new vacation dwelling unit at 5808 London Road Unit 1 by 5808 London Road LLC

PL 23-165 Interim use permit for the renewal of a temporary parking lot at 830 E 1st Street by St. Luke's Hospital

PL 23-168 Interim use permit for a temporary parking lot at 4600 Stebner Road by Cirrus Design

Commissioners: Danielle Rhodes asked for clarification regarding interim use permits for vacation rentals. Senior planner Jenn Moses explained the process and described how the waiting list drawing was held. She emphasized that it was truly random, and did not favor an applicant or area over another.

Public: No speakers.

MOTION/Second: Crawford/Rhodes approved the consent agenda items as per staff recommendation

VOTE: (7-0)

(Commissioner Michael Schraepfer recused himself from the following item.)

PL 23-161 Interim use permit for a new vacation dwelling unit at 4712 Glenwood Street by Chelsea and Kyle Anderson

Public: No speakers.

MOTION/Second: Crawford/Wedul approved as per staff recommendation

VOTE: (6-0, Schraepfer Abstained)

Public Hearings

PL 23-153 Special Use Permit for a day care at 1533 W Arrowhead Road by Building Blocks Learning Center

Staff: John Kelley introduced the applicant's request for a special use permit for a daycare facility for 82 children in the lower level of the Vineyard Christian Fellowship Church, and a new outdoor playground. The applicant is proposing to use a 3,000 square foot area of an existing gravel parking lot located on the west central portion of the property for a temporary fenced playground. Staff recommends approval with the conditions listed in the staff report.

Commissioners: Brian Hammond asked about the limitations placed on operating hours. He doesn't think the hours of operation needs to be dictated by the city. Kelley noted the hours were set by the applicant.

Applicant: Jody Keppers (architect representing the applicant) addressed the commission. He noted there will be no exterior changes other than the playground. He welcomed questions. They aren't opposed to extending the hours. Commissioner Hammond reiterated he would like the day care to set their own hours and not have the hours listed as a condition.

Public: No speakers

Commissioners: Gary Eckenberg agrees about not dictating hours, and would support striking the condition.

MOTION/Second: Wedul/Rhodes approved as per staff recommendation with added condition they have the option to extend operation hours to 9 p.m.

VOTE: (6-1, Hamond Opposed)

PL 23-166 Planning Review for a restaurant with drive-through at 1600 Miller Trunk Highway by HR Green, Inc.

Staff: Chris Lee introduced the applicant's proposal for a planning review for a free-standing restaurant development of a former bank building. The project will consist of a 6,110 square foot restaurant with a two-lane drive through and related parking and landscaping. The proposed rapid-service restaurant will be 6,110 square feet with indoor seating and drive through system for service. The drive through will contain two separate canopies, one for the ordering system, and one for the pick-up window. The site plan shows 41 parking spaces with

other parking available in the mall parking lot. The plan also shows a pedestrian connection from the mall entrance to the site through the parking lot with a separate sidewalk between parking rows. Another connection on the northeast side of the proposed restaurant will connect to the existing sidewalk near Highway 53. Staff recommends approval with the conditions listed in the staff report.

Commissioners: Andrea Wedul asked about the lighting. Lee noted the lighting will be solidified at building permit state, but will be cut-off and downcast.

Applicant: Joe Vavrina of HR Green, Inc. addressed the commission. He welcomed questions. Commissioner Hammond asked about the access roads. Lee noted they are maintained by the mall, and the restaurant will be leasing from the mall.

Public: No speakers.

MOTION/Second: Crawford/Schraepfer approved as per staff recommendation

VOTE: (7-0)

PL 23-133 Variance from front yard setback for an accessory structure at 2221 Norton Road by Troy Hendrickson

Staff: Jenn Moses introduced the applicant's proposal for a variance to reduce the front yard setback from the required 60' setback to 40' to construct a 2,520 square foot accessory structure adjacent to Norton Road in the RR-1, Rural Residential zone district. Staff had no recommendation for this item but summarized the findings in favor of approving and in favor of denying in the staff report.

Commissioners: Eckenberg asked about the proposed location, and noted it is in the same location as the building that was demolished. Moses noted it would be easier to build on given the flat location close to the road. There are wetlands located in other locations. Wedul asked if they could slide the location back. She noted the applicant can't create his own reason for a variance and wondered what the practical difficulty would be. Eckenberg noted it is rare for staff not to make a recommendation and asked for the reasoning behind it. Moses stated staff had conflicting thoughts. The applicant proposed the design this way, but it would not impact the neighborhood. Staff wanted the planning commission to weigh-in. Commissioner Rhodes asked if access from the road was needed to the structure, and if it was going to be used for business purposes.

Applicant: Troy Hendrickson addressed the commission. He stated the structure will not be used for business. He noted the need and reasoning to place the structure on the proposed demo site, and noted is already stress tested. There are water shed concerns in other places.

Public: No speakers.

MOTION/Second: Rhodes/Wedul denied stating there are adequate areas for other placement

VOTE: (2-5, Crawford, Eckenberg, Hammond, Nelson, and Schraepfer Opposed) – Motion Failed

Staff: City attorney, Jean Coleman gave a recap of the state statutes regarding practical difficulty and the condition may not be created by the land owner.

Commissioners: Wedul noted she is stuck on finding a practical difficulty.

MOTION/Second: Eckenberg/Crawford approved

VOTE: (4-3, Nelson, Rhodes and Wedul Opposed)

PL 23-164 Variance to UDC 50-21.3 to allow an accessory structure between a street and a primary building at 2221 Norton Road by Troy Hendrickson

Staff: Jenn Moses introduced the applicant's proposal for a variance to allow placement of a 42' x 60' accessory structure in the area between the front of the home and Norton Road in the RR-1, Rural Residential zone district. (Item discussed in conjunction with previous item.)

Public: No Speakers.

MOTION/Second: Eckenberg/Schraepfer approved

VOTE: (4-3, Nelson, Rhodes and Wedul Opposed)

PL 23-157 UDC Map Amendment from Residential-Traditional (R-1) to Mixed Use Neighborhood (MU-N) at 4831 Grand Avenue by Our Saviors Lutheran Church

Staff: Jenn Moses introduced the applicant's proposal for a UDC map amendment (rezoning) to change the zoning of four parcels adjacent to 4831 Grand Avenue from Residential-Traditional (R-1) to Mixed Use – Neighborhood (MU-N). This proposal is consistent with the comprehensive plan. Staff recommends approval of three of the parcels, but recommends parcel 010-3610-10050 not be included due to the potential for adverse material impacts.

Commissioners: Rhodes asked if screening will be required. Per Moses, there is no site plan yet. Hammond asked what is being protected by leaving the one parcel out of the rezoning. Per Moses, the separate parcel does not include the church building and has historically been used as parking for the church. As a separate parcel, this property could easily be sold or transferred, and it is directly adjacent to a neighboring residential property.

Applicant: Kane Tewes of Architecture Advantage addressed the commission. The applicant is agreeable to keeping the one parcel as R-1 zoning.

Commissioners: Eckenberg noted future use of housing people in the basement. There was other discussion regarding future use. Moses stated there is not an official proposal yet.

Public: Monica – manager of Faith Haven Apartments addressed the commission. She is concerned about the future plan, but understand this item is just for zoning.

MOTION/Second: Hammond/Eckenberg recommended approval as per staff recommendation

VOTE: (7-0)

PL 23-129 UDC Map Amendment from Mixed Use – Business (MU-B) North of Sherburne Avenue and East of 64th Avenue W by the City of Duluth

Staff: Jenn Moses introduced the applicant's proposal for a UDC map amendment (rezoning) to change the zoning of one-half block from Mixed Use – Business (MU-B) to Mixed Use – Neighborhood (MU-N). The proposed rezoning was initiated by One Roof Community Housing who owns an adjacent parcel. They plan to use the rezoned parcel to build a single-family home. Staff recommends approval and lists the reasons in the staff report.

Public: Debbie Freedman of One Roof addressed the commission. They are the applicant and are in support of the rezoning, so they can build a single-family home. Steve Soderlund – Sherburne St - addressed the commission. He lives across the street and is wondering how one roof acquired the property. He thought the neighboring properties would be offered a chance to purchase it. He is opposed to their proposal. Dennis Howard – 314 S 64th Ave W – addressed the commission. He also wanted to acquire the land. He doesn't want to see his neighborhood deteriorate. He is opposed.

Applicant: Debbie Freedman of One Roof noted they acquired the land by working with the city off of their vacant property list. It is not their vision to convert this into multi-family housing.

MOTION/Second: Wedul/Hammond recommended approval as per staff recommendation

VOTE: (7-0)

PL 23-170 UDC Text Amendments for sections: 50-31, related to exterior lighting standard; 50-19.8 related to accessory uses in MU-B and I-G districts; 50-41, related to definitions for elevator penthouses and stair penthouses, and accessory childcare and accessory retail or service uses; 50-14.5 and 50-14.6 related to minimum depth of rear yard

Staff: Kyle Deming introduced the city's proposal for a UDC Text Amendment for accessory day care, accessory retail/showroom, equipment penthouse and roof access stairway, and alley lighting. Deputy Director Fulton noted it would be okay to pass part of these amendments, so it can move forward. There is no need to keep all as a group.

Commissioners: Wedul asked if clarification should be made for occupied space in stairway access. Rhodes asked about the outdoor exercise clause. Discussion about the new uses after May 1, 2019 and commissioners wanted to change to make current.

Public: No speakers.

MOTION/Second: Rhodes/Wedul recommended approval as per staff recommendation with the omission of fenced outdoor exercise area language with the added condition of all new uses after October 10, 2023, and the removal of the penthouse language section

VOTE: (7-0)

PL 23-003 UDC Text Amendments to off-street parking requirements by the City of Duluth

Staff: Jenn Moses gave an overview. She discussed the staff report memo and the changes that have undergone further evaluation. Staff recommends approval of these changes. An ordinance with these changes will then go to the city council, and will required two readings before passage.

Commissioners: Rhodes referred to UDC 50-20.1 regarding new construction and parking. She would like the plan to come to the planning commission as reviewable. She would like to see a check and balance of some sort. Discussion followed on bike parking, EV's, rental licensing parking.

Public: Pete of Devonshire Street asked about the Northern Lights Express.

Staff: Fulton noted the goal to coordinate with St. Louis County

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

VOTE: (6-1, Eckenberg Opposed)

Other

PL 23-174 Conformance to the Comprehensive Plan for tax increment financing on 1st Street for Development District No. 17

Staff: Deputy Director Adam Fulton introduced the city's proposal. In order to facilitate development of two new vertical multifamily projects along the First Street corridor between Lake Avenue and Third Avenue, the city needs to create a new tax increment financing (TIF) redevelopment district. The role of the planning commission is to make sure the proposed development and its uses are consistent with the Comprehensive Plan, the UDC. The project will consist of the redevelopment of the First Street corridor with a new multifamily building that includes no fewer than 130 new housing units. The project will also include enhanced streetscapes and pedestrian corridors to maximize participation in the Superior Street commercial corridor.

MOTION/Second: Wedul/Hammond TIF is in conformity with the Comp Plan

VOTE: (7-0)

PL 23-178 UDC Analysis – Vacation Dwelling Units in RR-1 near MU-C

Staff: Kyle Deming gave an overview of his memo dated October 2, 2023. Is it a good land use practice to exempt vacation dwelling units (VDUs) in those portions of Rural Residential (RR-1) districts in close proximity to Mixed Use Commercial (MU-C) districts from the cap on VDU permits? A recommendation was proposed to make no change to the VDU cap because:

- i. The change doesn't serve an overwhelming need in the community (only 7 residences and one business would be affected), and
- ii. Expanding the exemption to the cap will increase the likelihood of getting more requests to be exempted from the cap.

If a change to the cap is desired, the commission was asked to consider the following conditions:

- i. Limit exemption to parcels within 300 feet of an existing MU-C district.
- ii. Before issuing the VDU interim use permit, require inspection and certification that the septic system is functioning property.
- iii. Require periodic septic system inspection.
- iv. Require notices be posted within the VDU regarding proper usage of the septic system

Public: Ben Fye – Osage Ave – addressed the commission. He is directly affected and noted the hotel should not be allowed next an RR-1 zone. This is going to diminish his home value.

Commissioners: Eckenberg noted this situation was created by city council. He would to see the pc remove this item from the agenda. There was no second. He also motioned to table the item. There was no second. Hammond suggested passing on the memo with no recommendation. Rhodes first agreed to second, but then withdrew her motion. President Nelson agreed to second the motion for a vote.

MOTION/Second: Hammond/Nelson forward Memo to city council with no recommendations

VOTE: (3-4, Crawford, Eckenberg, Schraepfer and Wedul Opposed) – Did not Pass

MOTION/Second: Schraepfer/Crawford Send memo back to staff to re-evaluate

VOTE: (4-3, Eckenberg, Hammond and Nelson Opposed)

Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview.

Heritage Preservation Commission – Gary Eckenberg noted they have not met since June.

Joint Airport Zoning Board – No updates.

Duluth Midway Joint Powers Zoning Board – No updates.

Adjournment

Meeting adjourned at 9:18 p.m.

Respectfully,

Adam Fulton – Deputy Director
Planning & Economic Development