

City of Duluth  
Planning Commission  
July 9, 2019 Meeting Minutes  
Council Chambers - Duluth City Hall

Call to Order

President Janet Kennedy called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, July 9, 2019, in city hall council chambers.

Roll Call

Attending: Jason Crawford, Gary Eckenberg, Janet Kennedy, Margie Nelson, Michael Schraepfer, Andrea Wedul, Sarah Wisdorf, and Zandra Zwiebel (left after item 12)

Absent: Tim Meyer

Staff Present: Keith Hamre, Adam Fulton, Robert Asleson, Steven Robertson, Kyle Deming, John Kelley, Chris Lee, and Cindy Stafford

Approval of Planning Commission Minutes

June 11, 2019, Regular Meeting

**MOTION/Second:** Zwiebel/Wisdorf approve the minutes

**VOTE: (8-0)**

Consent Agenda

1. PL 19-075 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 13402 W. 3<sup>rd</sup> St. by Matthew Evingson
2. PL 19-080 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 611 W. Skyline Parkway by Connie and Lee Hoffman
3. PL 19-083 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 10 Industrial Avenue by Riverside Retreat
4. PL 19-089 Minor Subdivision at 425 East Superior Street by Essentia Health and MnDOT

**Staff:** Steven Robertson gives an overview. A utility easement condition is included in the minor subdivision. Chair Kennedy asks if there are changes to the vacation renewals. Robertson and Lee state the site plans and the applications are the same. There have been no police calls. Andrea Wedul asks about item PL 19-075 and the trailer on site. She would like clarification that it will remain unoccupied. Lee affirms, it is strictly there for parking purposes.

**Applicant:** N/A

**Public:** Susan Walty, 230 W. Superior St. Ste. 800, attorney representing Essentia addresses the commission. She questions when the easement conditions need to be met for item PL 19-089. Robertson states before or at the same time the deeds are recorded. Walty states the engineers are working on it. Robertson notes there are many moving parts.

**Commissioners:** Chair Kennedy would like item # PL 19-089 pulled from the consent agenda. Sarah Wisdorf suggests keeping it on the agenda and having staff clarify Chair Kennedy's questions. Chair Kennedy agrees and asks staff to clarify the subdivision. Robertson shares a map of the area and notes there needs to be a utility easement. Essentia has no problem agreeing to the utility easement, but they would like the item

to move through. Wedul asks what is the risk if this isn't recorded at the time of sale. In reality Walty states there is no risk. The subdivision needs to go through, they may need extra time to record the easement. Robertson states staff is fine with this. Deputy Director Fulton reiterates there are many moving parts and building permits are needed. **MOTION/Second:** Zwiebel/Crawford recommend approval of the consent agenda items as per staff's recommendations.

**VOTE: (8-0)**

#### Old Business

5. PL 19-074 Redevelopment of the Board of Trade Building TIF Conformity with Comp Plan

**Staff:** Deputy Director Adam Fulton gives an overview.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** Zwiebel appreciates the additional information staff included

**MOTION/Second:** Eckenberg/Nelson TIF is in conformity with the Comp Plan

**VOTE: (8-0)**

#### Public Hearings

6. PL 19-073 MU-C Planning Review for new multi-family development at 2215 South Street by Launch Properties

**Staff:** Chris Lee introduces the applicant's proposal to construct a multi-family dwelling that will be four stories in height; however, because of the topography, to six floors high, depending on grade. The structure will contain 98 units along with other amenities. The ground floor will provide space for operations (leasing, maintenance, and other functions) of the building with parking provided on the interior of the second level. Staff recommends approval with the conditions listed in the staff report. Zwiebel asks if 125% escrow retainer is now standard. Lee confirms. Wedul asks if there will be overhead utilities. There are existing overhead utilities which will be used.

**Applicant:** Scott Moe, Senior Vice-President of Launch properties addresses the commission. Brian Wurdeman of Kimley-Horn and John Erickson of DSGW address the commission. Wedul asks if the possibility of moving the overhead utilities underground. Per Wurdeman they are working with Minnesota Power on the utility location. Zandra Zwiebel asks about the building height. Per, Erickson due to bedrock they want to keep as low as possible. This configuration minimizes bedrock blasting.

**Public:** Mark Zmudy, 2219 South Street, he has lived there for five years. He wants to ensure the project is done in an environmentally friendly way. They had a lot of styrofoam debris from the Endion project. He lives in a 2-bedroom apartment, which has off-street parking and a fire ring in the back yard. He notes his current affordable rent, and would like to see additional affordable housing. He would like to live there until May, and is extremely sad to see this area go. It is the last original stretches over London Rood overlooking the lake. David Ross, Duluth Area Chamber of Commerce representing the board, addresses the commission. He notes this would bring 98 housing units. This is a privately funded project. He is in support. Brian Liberty, 2230 London Rd., addresses the commission. He is against it with conditions. He is concerned about traffic flow and possible accidents that occur along 22<sup>nd</sup> Ave E. and Wendy's. He notes the trees between the buildings. During construction of Endi heavy trucks were bringing in heavy materials which created some damage on South Street.

**Commissioners:** Michael Schraepfer asks the applicant about the square footage of the units. Moe notes 690 square feet is well-designed and are the first to go in other communities. They are efficient and popular. They are along the rear of the building, and won't have a lake view, but will enjoy the amenities. Pricing will be competitive. Micro units will be around 500 square feet. Gary Eckenberg asks what type of bed is in a micro unit. Per Moe, the micro units have murphy beds. All units will include laundry facilities. This is a high-quality project that Duluth will be proud of. Wedul asks about the building height. Why should they grant the variance? Moe states they are limited to the contour of the land. He notes they are not seeking public money. He notes the dental clinic will lose their view, but it's a dental office, not a hotel or restaurant. The height is needed for economic factors. Crawford asks about the deterioration of the road. Deputy Director Fulton notes there may be impacts to the road, but engineering will work with the developers to minimize the impact. Chair Kennedy confirms there was a traffic study. Lee affirms. There will be some increase in traffic during peak hours. Wedul notes the traffic study was for both London Road and 22<sup>nd</sup> Avenue East. Deputy Director Fulton notes the road has been reconstructed post Endi. 23<sup>rd</sup> Avenue East may need additional work, but it is not adjacent to the construction site, and city engineering will be involved in the evaluation of the road condition.

**MOTION/Second:** Eckenberg/Zwiebel approved as per staff's recommendations.

**VOTE: (8-0)**

7. PL 19-065 Concurrent Use Permit for Parking in the Public Right of Way of South Street by Launch Properties at 2215 South Street

**Staff:** Chris Lee introduces the applicant's proposal for a concurrent use permit to construct 19 parking stalls for a multi-family development over the public right of way for South Street. Staff recommends approval with the conditions listed in the staff report. Wedul asks if this area is reflected in the project's landscape requirements. Per Lee, landscaping in the right of way is tricky. Some landscaping is located close to the right of way. Underneath utilities need to be protected.

**Applicant:** Scott Moe, Senior Vice-President of Launch properties addresses the commission. This will be overflow parking for visitors during certain times including holidays.

**Public:** Brian Liberty asks the applicant about the parking stalls. Do they expect renters to be parking on the street and avenues? Moe states the intent of the parking stalls is to remove the need for renters and visitors to park on the street.

**Commissioners:** Margie Nelson asks in the memorandum of understanding from engineering needs to be included. Deputy Director Fulton notes it will be added before it goes to the city council.

**MOTION/Second:** Zwiebel/Wisdorf recommend approval as per staff's recommendations.

**VOTE: (8-0)**

8. PL 19-090 Variance from Multi-Family Structure Height Limits with 500' of Residential Zone Districts for Launch Properties

**Staff:** Chris Lee introduces the applicant's proposal for a variance from the height requirements in the MU-C district for a multi-family apartment building. The MU-C district allows heights of 75 feet, except within 500 feet of R-1 and R-2 districts, where the height restriction is 45 feet. The proposed building is 253 feet from an R-2 district and 250 feet from an R-1 district. The proposed structure is 66 feet in height, though

the overall height varies due to topography. The practical difficulty includes the steep slope of the hillside, the shallowness of the bedrock, and the location of the freeway. Staff recommends approval with the conditions listed in the staff report. There was a neighbor letter received opposing the variance from Robert and Ann LaCosse (owners of the Lake Dental Building at 2200 Ave. South and London Road), which was shared with the commissioners. Eckenberg asks if Endi needed the same height variance. Per Lee the Endi building was different. It did not require a height variance. Deputy Director Fulton notes the 34 feet difference between London Road and South Street. The height is taken from the front. Endi was based on London Rd. Zwiebel affirms the main entrance of this building will be on South Street.

**Applicant:** Scott Moe, Senior Vice-President of Launch properties addresses the commission. He knows the dental office's view will be blocked. Their view will be blocked regardless. Their building isn't any higher than Endi. From a practical standpoint there are just semantics involved. He urges commissioners to be practical. Wedul asks if there is a reason the building needs to be this high.

**Public:** Robert LaCosse of dental building and office building addresses the commission. He opposes the variance. They moved their business for the view. They will now be looking at a brick wall. He thinks it will dramatically reduce their property value. He doesn't believe there is a proven hardship. He urges commissioners to oppose. Eckenberg asks Dr. LaCosse, how it will effect his business. LaCosse states the view is not worthless. People come to their building because of the view and other tenants are involved. Eckenberg asks if he has tried to protect that view. 2 properties between them. It was his understanding that his view would not be effected. Shraepfer asks if his view would go away completely if they built within standards. LaCosse states no. Ann LaCosse, 2200 London Rd., addresses the commission. She is part owner of the building. This dental office means everything to them. They have been in the community for 30 years. This is a significant business to them and they have two tenants. DSGW designed their own building and made sure they built to restrictions. She feels they can build this building according to restrictions. If you grant this, you are opening the possibility that everyone can build higher. Endi stayed within the law. This variance would be setting an incorrect precedence. Moe notes there is lot of emotion involved. If he was in their shoes he would feel the same way. It is a fact that if they go without the variance they will still block their view. 21 more feet will not take away their sky. That is an emotional response. They need the extra level for financial reasons. Chair Kennedy wants this to be a welcoming environment and would like people to be respectful of one another.

**Commissioners:** Schraepfer notes it isn't fair to small business owners. He appreciates looking at the lake while having dental work done. He owns property with views which have been obstructed. Wedul doesn't feel economics are part of a practical hardship. Wisdorf struggles with the financial aspect. She is concerned about setting a precedent. Eckenberg made a motion, but more discussion continues. Eckenberg lots of discussion about views. He thinks the dental owner did not try to purchase the land that was for sale, and therefore was not proactive in protecting his view. Shraepfer is not opposed to the housing development, but they should acquire a lot on London Road, which is available. He doesn't feel it's fair to effect the LaCosse's property value. Zwiebel would like staff to weigh in. She feels this is a slippery slope. Deputy Director Fulton notes there are three factors noted in the staff report which state practical difficulty. Lee goes over them again. Fulton notes if they didn't have parking, the building could be built lower. The code is in conflict with itself. He feels this project matches the character of the neighborhood. It is an imperfect situation which calls for a variance, which is allowed. Nelson is torn between the need for housing and this variance. Per Deputy

Director Fulton, if one floor is taken out, the applicant would not proceed. Schraepfer doesn't think they would be having this conversation if Endi wasn't already built. He would like to see an agreement between parties. Chair Kennedy notes their work on the comprehensive plan. She is torn, and would like to hear more discussion. Wisdorf doesn't feel 45' is warranted. She notes it's a slippery slope, and doesn't want to set an unrealistic precedent. Wedul would like to know how low this can go and still satisfy all parties. Eckenberg has a process question. If the vote is a tie, or it fails. Does the developer have the opportunity to bring it to the city council. Per city attorney Robert Asleson, a tie is a fail, and it is allowed to be brought before the city council. Jason Crawford asks the applicant if lowering the building would be possible. Per Erickson, lowering it would require additional rock removal. Losing the top floor of housing wouldn't make the project feasible. Zwiebel asks about the exterior of the building. Per Erickson it will be masonry, and will have windows.

**MOTION/Second:** Eckenberg/Crawford approved as per staff's recommendations.

**VOTE: (7-1, Wedul Opposed)**

Chair Kennedy asked staff what the recourse is for the opposition. Per Deputy Director Fulton, the opposing party has ten days to appeal the planning commission's decision, which would then be heard by the city council.

9. PL 19-081 Special Use Permit for Middle/High School at 2430 W. 3<sup>rd</sup> Street by Holy Family Church

**Staff:** John Kelley introduces the applicant's proposal to operate an educational center for home-schooled middle school/high school grade students in the basement of the existing Holy Family Church located in the Lincoln Park neighborhood. The special use permit is needed to operate the middle/high school in the MU-N Zoning District. Staff recommends approval with the conditions listed in the staff report. Zwiebel notes the lack of installing of the landscaping and that there won't be an escrow required. Per Deputy Director Fulton staff judgement is called upon. The commission can make a condition.

**Applicant:** Mary Mullen, director, Mater Dei Apostolate New Education Center addresses the commission. Zwiebel asks the applicant if a set aside escrow would be feasible. Deputy Director Fulton notes this is an educational facility and not a commercial project. Eckenberg asks about the school. Mullen states they are a hybrid educational program for home-schooled students. They anticipate 10 students will start in the fall. There is no catholic high school currently offered in Duluth. Students will come from all over Duluth, and this is a good central location.

**Public:** No speakers.

**Commissioners:** N/A

**MOTION/Second:** Nelson/Wisdorf approved as per staff's recommendations.

**VOTE: (8-0)**

10. PL 19-076 Special Use Permit at 2302 W. 3<sup>rd</sup> St. for a Restaurant (under 5,000 square feet) by Bob Bagley

**Staff:** John Kelley introduces the applicant's proposal to operate a restaurant (less than 5,000 square feet) in an MU-N district. A restaurant in an MU-N district requires a Special Use Permit. Staff recommends approval with the conditions listed in the staff



report. Zwiebel refers to the letter they received from a neighbor about parking. Per Deputy Director Fulton using church overflow parking is welcomed. This is a viable addition, which can be used by residents. Zwiebel asks if the church has any historic significance. Kelley is not aware of a historic designation. Wedul asks about hours of operation, and will it be appropriate for the neighborhood. Kelley defers to the applicant.

**Applicant:** Bob Bagley, addresses the commission. Wedul asks about hours of operation. Bagley notes it would be similar to Pickwick or Blackwoods. The hours would be between late morning into the evening, but it is not set in stone yet.

**Public:** Mike Casey of Smithville addresses the commission. He is a bike advocate. As a pedestrian advocate, his is concerned about snow removal of sidewalks. He likes to see reuse of buildings and shared parking.

**Commissioners:** Zwiebel thinks this could be quite a positive destination. Chair Kennedy is concerned about the neighbors and wants to make sure the impact of the community is positive. This is a church which is being reused, but could this have been new housing? Kennedy questions how will the impact the neighbors. This is a low income area. She doesn't know what the restaurants prices will be, but she notes the need for equity and fairness. Wedul would like to see the exploration of alternative landscaping plan to ensure efficient snow removal.

**MOTION/Second:** Zwiebel/Nelson approved as per staff's recommendations.

**VOTE: (8-0)**

11. PL 19-077 Special Use Permit at 2302 W. 3d St. for Urban Agriculture by Bob Bagley  
**Staff:** John Kelley introduces the applicant's proposal to operate a 5,000 square foot indoor urban agriculture facility in the basement of a former church in an MU-N district. Urban Agriculture in an MU-N district requires a Special Use Permit. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Bob Bagley addresses the commission and welcomes questions. Wisdorf asks what they are going to grow. Bagley states leafy vegetables and herbs, and at some point they hope to expand to indoor trees: lime, lemon and fig. Wisdorf asks about Community outreach, for example, gardening classes. Bagley would like to hire local labor. He grew up in the area. Zwiebel asks if they will be growing just for their business. Bagley states at this time, but they are open to the idea.

**Public:** No speakers.

**Commissioners:** N/A

**MOTION/Second:** Zwiebel/Wedul approved as per staff's recommendations.

**VOTE: (8-0)**

12. PL 19-079 Interim Use Permit for a Vacation Dwelling Unit (New) at 702 S. Lake Avenue by Jeff Huotari

**Staff:** Steven Robertson introduces the applicant's proposal to use a dwelling unit with three bedrooms as a vacation rental property. A vacation dwelling unit allows for periods of occupancy of 2 to 29 days, with a minimum of 2 nights. Staff recommends approval with the conditions listed in the staff report, including the removal of the shed and the fence which is located on city park property (created by previous owner) before rented or by 9/1/19 whichever occurs first. Nelson asks staff about the noise ordinance which is included at the end of the staff report. Per Robertson, it's for reference, this document should be available to all vacation dwelling's. Chair Kennedy asks about the rule against burning garbage. Per Robertson, it's still a municipal rule, but not included in the staff

report. Wisdorf would like a clarification on the 60 limit number. This is new application. Staff notes this was drawn from the original drawing they had. Eckenberg asks about traffic flow in and out of the property. Per Robertson, they don't usually support tandem parking, but this is for individual use parking, and the occupants will know each other.

**Applicant:** Jeff Huotari addresses the commission. He is from Michigan, but will hire a local property management firm to oversee the property in case of emergencies.

**Public:** No speakers.

**Commissioners:** N/A

**MOTION/Second:** Wisdorf/Nelson recommend approval as per staff's recommendations.

**VOTE: (8-0)**

(Commissioner Zwiebel left before the next agenda item.)

13. PL 19-085 Variance to Allow Expansion of a Legal Non-Conforming Structure at 3158 Vernon Street by Gary Fick and Juanita Puglisi (Mitchell)

**Staff:** Kyle Deming introduces the applicant's proposal for a variance to construct roof eaves extending 12 inches from the wall of their house with the ends of the eaves 9.6 inches from the east property line and 18 inches from the west property line. Staff recommends approval with the conditions listed in the staff report. Nelson clarifies the neighbors are in support. Deming affirms.

**Applicant:** Present, but did not speak.

**Public:** No speakers.

**Commissioners:** N/A

**MOTION/Second:** Wisdorf/Crawford approved as per staff's recommendations.

**VOTE: (7-0)**

Wedul recused herself for the next agenda item due to a conflict of interest.

#### Other Business

14. PL 19-072 Review for Completeness for Spirit Lake Sediment Remediation Project Environmental Assessment Worksheet (EAW)

**Staff:** Kyle Deming gives an overview. 226 acres will be effected. This is proposed in conjunction with the DNR and the MPCA. The planning commission will vote on if an EIS is needed at their September meeting. Tonight the commission is tasked with determining if the EAW is complete and ready for distribution. Chair Kennedy asks about the finished project. Deming affirms the train track will be put back, and this is a different area than Mud lake. The public hearing for the EAW will be next month. Per Deputy Director Fulton, this item before the planning commission determines the readiness of document, and not the content of the document.

**Public:** (Public Hearing next month, but audience is invited to comment). Mike Casey notes the track will not be removed, but there will be two crossings, and it will effect the railroad's run time during this process. He is happy US Steel is doing this and notes this is the super fund site. Fulton comments, they will check with PCA why the name changed.

**MOTION/Second:** Nelson/Schraepfer the EAW is complete and ready for distribution.

**VOTE: (6-0, Wedul abstained)**

## Communications

### Manager's Report

-June 25, 2019, Public Information Meeting on Proposed UDC Text Changes  
-Brown Bag Lunch Meeting, Wednesday, July 17, 12:00 pm, 4<sup>th</sup> Floor Large Admin Conference Center to discuss handout on tiny houses. LMSR was heard by city council for 1<sup>st</sup> reading. There will be an open house for the Capstone Development on July 16<sup>th</sup>. The commissioners are invited to attend. The First Street open house which is the 2<sup>nd</sup> meeting will be on 7/25/19.

### Reports of Officers and Committees

-Heritage Preservation Commission Representative – Commissioner Wisdorf gives an update. Lincoln park improvements are underway and the pavilion has been historically designated. Pastoret Terrace – They are waiting on a mitigation plan, and there is pending litigation.

## Adjournment

Meeting adjourned at 8:40 p.m.

Respectfully,

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Adam Fulton – Deputy Director  
Planning and Economic Development