

City of Duluth Planning Commission

**December 14, 2021
Meeting Minutes**

Due to the COVID-19 emergency, many planning commission members participated through video conference from home. The meeting was held as a Special Meeting pursuant to Minnesota Statute 13D.021 in response to the Covid-19 emergency. Public comment was taken at planning@duluthmn.gov prior to and during the meeting, and via verbal comment through public attendance in the WebEx video conference during the meeting.

Call to Order

President Margie Nelson called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, December 14th, 2021.

Roll Call

Attendance: (* Via WebEx video conferencing – all votes conducted via roll call)

Members Present: Jason Crawford*, Gary Eckenberg* (entered meeting after approval of the minutes), Jason Hollinday*, Margie Nelson*, Michael Schraepfer*, Andrea Wedul*, Sarah Wisdorf* (left meeting during item PL 21-187), and Zandra Zwiebel*

Member Absent: Eddie Ranum

Staff Present: Adam Fulton*, Robert Asleson*, John Kelley*, Chris Lee*, Kyle Deming*, and Cindy Stafford*

Approval of Planning Commission Minutes -

Planning Commission Meeting – November 9, 2021

MOTION/Second: Schraepfer/Hollinday approved

VOTE: (7-0)

Public Comment on Items Not on Agenda

Betty Greene had to leave the meeting early and asked if she could speak on item PL21-187, which is on the agenda. Chair Nelson granted her request. Greene stated if the planning commission approves the item, she urged them to make sure the applicant adheres to the conditions. (Referring to trees and buffering.)

Consent Agenda

PL 21-170 Variance from Shoreland Setbacks for a Retaining Wall at 4840 London Road by Jim and Becky Bradshaw

PL 21-183 Variance from Lot Size for a Property Split at 1218 E 4th Street by Maxim & Father, LLC

Commissioners: Zandra Zwiebel referred to item PL 21-183. She verified the larger lot will have the home on it, and the other lot will have access to the road. Deputy Director Adam Fulton stated as per the Comprehensive Plan, they do not want to tear down a dwelling that can be preserved. Planner Chris Lee explained they are creating a 25% and 75% parcel allotment, in order to provide legal frontage. Zwiebel appreciates the conservation of the home. Gary Eckenberg asked if the alley home can now be sold. Lee can't speak to legal issues, but the boundary line adjustment can give the option in the future to sell the home. Eckenberg asked if the alley house is a rental home. Lee affirmed and stated the homes are not owner-occupied. Andrea Wedul stated subdividing will provide the ability to have an accessory dwelling. Is there potential for an additional accessory dwelling unit on the smaller lot? Per Lee, there is not enough room on the smaller parcel.

Public: No speakers.

MOTION/Second: Zwiebel/Hollinday approved consent agenda items as per staff recommendations

VOTE: (8-0)

Public Hearings

Deputy Director Fulton noted the planning commission is now the body approving Interim Use Permits for vacation dwellings. Commissioner Zwiebel verified this is the reason the following item it is not on the consent agenda, because it is the first one. Deputy Director Fulton affirmed.

PL 21-185 Interim Use Permit for a Vacation Dwelling Unit in a Form District at 1101 E 4th Street by 1101 Duluth, LLC

Staff: John Kelley introduced the applicant's proposal to use the approximately 2,000 square foot, 3 bedroom single family dwelling as a vacation dwelling unit. The permit would allow 7 occupants. Vacation dwelling units located in the F-6 Form District are exempt from minimum night stays and parking, and there is no cap on the number of permits issued. Staff recommends approval with the conditions listed in the staff report.

Applicant: Scott Filipovich present, and welcomed questions. There were none.

Public: No Speakers.

MOTION/Second: Wedul/Zwiebel approved as per staff recommendations

VOTE: (8-0)

(Commissioner Sarah Wisdorf left during the next agenda item before the vote.)

PL 21-187 Planning Review in the Higher Education Overlay for Arrowhead Center at Arrowhead Road east of Kenwood Avenue by Shamrock Management, LLC

Staff: Deputy Director Adam Fulton stated he appreciates all parties working on the property including the neighbors. The level of involvement from the community is valued. John Kelley gave an overview. The applicant proposes to construct a 12,000 square foot commercial/office structure in the Higher Education Overlay (HE-O) district with associated parking, landscaping, lighting, and connectivity located to the north and east of the Kenwood Shopping Center, adjacent to Arrowhead Road. The lot has yet to be fully configured. It is currently zoned MU-N, but is in a Higher Education Overlay, which has a set of additional development standards. The Land Use Supervisor can make the determination that do to site conditions or existing buildings

an alternative site design can be considered. The site plan includes development standards for the proposed alternative site design. The proposed walkway will cross the parking area to the building. There will be pedestrian lighting along the walkway. A stormwater narrative has been provided. There is a proposed drive-through on the east side of the building. A restaurant is a possible use in the building. For screening the applicant is proposing trees and shrubs behind the drive-through lane. The minimum number of required parking spaces is 47, and the maximum number is 70. The site plan shows 59 parking spaces along the north, west and south side of the building. Staff received public comments, which were provided to the planning commission. Staff recommends approval with the conditions listed in the staff report. Deputy Director Adam Fulton reiterated the public comments received including an email from Pete and Kelly Matson who are concerned about the applicant not meeting the tree requirements, and from Caty Kakorian who lives next door and is concerned about the increased light pollution, and the height of the building. Commissioner Wedul asked about stormwater. Per Kelley, the applicant has submitted a stormware narrative, but not a detailed plan yet. Wedul asked if there is not enough room for a stormwater system, would the item come back to the planning commission. Per Deputy Director Fulton, this is a tricky site with lots of bedrock. He suggests posing the stormwater question to the architect. Wedul noted the proposed 3" caliper trees and will defer to the applicant. Commissioner Zwiebel asked where the second drive lane on Arrowhead Road ends. She is concerned about traffic issues. Is a middle turn lane being proposed? She noted this is an incredibly congested area. Planner Kelley stated two new curb cuts, and driveway permits will be issued by engineering. The second turn lane ends around the same area as the curb cuts. Zwiebel asked if the drive through will be a single lane. Kelley affirmed. Commissioner Eckenberg referred to the May 17th, 2021, letter to Mr. O'Brien regarding tree replacement. What is the process to reaching a conclusion? Deputy Director Fulton noted the Kenwood shopping mall was developed pre-UDC. Covenants were filed regarding landscaping. The covenants have now expired. It is not a straight forward enforcement issue. There is lack of clarity on what was a dead versus a thriving tree. A large berm with red pines on top were added for screening. Eckenberg noted the installation of trees no later than 8/30/2021, has that happened? Deputy Director Fulton stated, no. The nursery stock/inventory was not available, which was validated by the city forrester. Wedul echoes Eckenberg's comments on tree replacement. She isn't convinced that the trees planted are living and cared for. Deputy Director Fulton deferred to the applicant, but noted some trees were replaced. In this proposal, condition #2 requires a financial security be in place for 100% of the landscaping value for at least one year, before a building permit is issued.

Applicant: Bill Scalzo of Scalzo Architects, Ltd., addressed the commission. This proposal will fit with the character of the existing shopping center. Engineering had no issue with egress to the building. The stormwater is proposed on the west side of the site, and underground. He noted one red pine was lost and replaced. Attorney Bill Burns addressed the commission. He is involved with the O'Brien shopping center. The mall has been substantially upgraded. He understands there has been a lot of neighborhood discussion. They moved trees that were largely dead or dying. The covenants expired some time ago. This is a positive investment in the community. This is a small center and is somewhat removed from the main shopping center. Commissioner Eckenberg asked Scalzo about the entry points off of Arrowhead Road. Is this a county road or a city road? Scalzo presumes it is a city street. Wedul asked about the trees, and has had no trouble sourcing trees. She does not feel comfortable with that excuse. She asked if they intent to plant 3" caliper trees. Scalzo, affirmed, as per landscaper designs. He presumes the landscaper now has an inventory source. Wedul asked about stormwater. Will it be sub-surface? Scalzo affirmed. He noted the depth of bedrock is concentrated at the east

end, and will not be an issue. Burns noted the current mall tenants are supportive of the new mall, and are happy for the additional investment to bring in more shoppers, and will be an upgrade. Wedul asked if a traffic study has been done. This is a congested area, and noted the ingress/egress with no turn lane. She affirmed the additional lane on Arrowhead ends before entry. Scalzo stated there will be no additional impact to Arrowhead Road. Engineering has not requested a traffic study. Deputy Director Fulton noted there was a traffic study performed for Kenwood Village, across the street. He noted engineering has not raised concerns requiring a traffic study. Zwiebel asked how can there be no concerns. She feels it needs to be addressed.

Public: Hilary Hunt addressed the commission. She lives across the street from the Super One driveway. She noted between 7:30 and 9:30 a.m. it is almost impossible to turn left or right onto the road. She supports development overall, but she is concerned about increased traffic, both for driving and walking. She requests a traffic study. Peter Mattson addressed the commission. He lives behind where they cleared the trees. When they removed the trees, it was pretty dramatic. There were a lot of living trees removed. The buffer zone is gone. He is pro-business, but not at the expense of the livability of the neighborhood. Katie Krikori addressed the commission. She appreciates the commissioners' concern on stormwater and traffic. She is also concerned about the noise level now that the trees are removed. Also, the blowing around of trash is a concern. Tom Witt addressed the commission and echoes concerns about traffic without a designated turn lane.

Applicant: Bill Burns noted the good questions and concerns raised. There is a process to be followed. The applicant has been cooperative with the city. He will financially bond/secure the trees for future health. Their lead time for materials can be great. He would like the planning commission to approve tonight, so they can work with their contractor to get things going. He feels ambushed by traffic issue. He doesn't want the project delayed.

Commissioners: Zwiebel appreciated the owner's comment about difficulty in crossing the street. Could a cross walk be added? Deputy Director Fulton is not sure if this is a county or a city street, but having a crosswalk mid-way from the traffic light would not be feasible. Pedestrians can cross at the street lights to the west of the development. Wedul asked if the county has been contacted to allow for comment. Kelly stated a notice is sent out with the application. He said they can circle back and ask city and county engineers again. Wedul noted buffering in the residential neighborhood is a concern. Has additional east side buffering been discussed? Per Kelly, additional screening was added in the landscape plan. There was also a privacy fence discussed. Wedul would like to add as a condition a double row of trees. Chair Nelson asked if they could/should make the privacy fence a requirement. Kelley stated a fence is an option. Wedul noted the egress onto Arrowhead Road. The parking lot doesn't have an edge. (Could it be internal circulation from the existing mall?) Per Kelley, this was mentioned in their pre-application meeting, but the applicant chose to move forward with the site design.

MOTION/Second: Wedul/Zwiebel motion to Table for more information on traffic issues

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

Old Business

PL 21-096 Minor Subdivision at Glen Place and W Michigan Street by Aaron Schweiger

Item to Remain on the Table through the end of November for more Plat Research

Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. He asked commissioners if they would accept an electronic staff packet. Commissioners Eckenberg and Zwiebel appreciate a paper copy. The Central Entrance Planning Study is wrapping up with their discussion with MNDOT.

Heritage Preservation Commission – No update.

Joint Airport Zoning Board – Commissioner Eckenberg noted they have not met since the last pc meeting. They are waiting for a resolution from the city. Kyle Deming and Steve Robertson are working with attorney Steve Hanke on updating the UDC. They should have a draft document to share with the planning commission next month.

Duluth Midway Joint Powers Zoning Board – No update.

Adjournment

Meeting adjourned at 6:41 p.m.

Respectfully,

Adam Fulton – Deputy Director
Planning & Economic Development