

City of Duluth
Planning Commission
May 12, 2020 Meeting Minutes
Council Chambers - Duluth City Hall

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, May 12th, 2020, in the council chambers in Duluth city hall.

Roll Call

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

Members Present: Jason Crawford*, Gary Eckenberg*, Tim Meyer*, Margie Nelson*, Michael Schraepfer*, Andrea Wedul*, Sarah Wisdorf*, and Zandra Zwiebel*

Members Absent: N/A

Staff Present: Adam Fulton*, Robert Asleson*, Kyle Deming*, and Chris Lee*

Public Comment – No speakers.

PL 20-045 – item 5 - Deputy Director Adam Fulton noted there were five pieces of correspondence received by staff, shared with the commissioners via email. Concerns were regarding street safety.

Gary Eckenberg would like to remove items 5 and 7 and place under public hearings.

Andrea Wedul would like to remove item 6 and place under public hearings.

Consent Agenda

1. PL 20-044 Minor Subdivision at 3006 Parkwood Drive by William J Stauber
2. PL 20-037 Minor Subdivision at 3926 Trinity Road by Shane Stolp
3. PL 20-040 Concurrent Use Permit for Snow Melt System in the Driveways of St. Luke's Buiding A Ambulance Garage at 1012 E 2nd Street
4. PL 20-042 Concurrent Use Permit for Existing Parking Structure at Superior Street and Lake Avenue by the City of Duluth

Staff: N/A

Applicant: N/A

Commissioners: N/A

Public: No speakers.

MOTION/Second: Ziebel/Wisdorf recommended approval of the consent agenda items as per staff's recommendations.

VOTE: (8-0)

Public Hearings

5. PL 20-025 Variance from Shoreland Setback for Two-Family House at 310 N 63rd Avenue West by DEDA

Staff: No report was given.

Applicant: N/A

Commissioners: Eckenberg noted page 27 in the staff report regarding the comprehensive plan and principles and future land use. Should this remain open space? Deputy Director Adam Fulton stated back in 2006 a buffer was created around streams without planning for the existing housing stock. This development would be consistent. Planner Theresa Bajda noted future land use was zoned as open space, but would include the rest of the homes on the street. Eckenberg visited the site, and could not find other duplexes within a two-block radius. He is surprised a duplex is being considered. He also noted it would be an absentee landlord situation. Deputy Director Fulton state the lot was for sale by the County previously, and the proposed two-family home is allowed in the zoning district. Rebuild Duluth purchased it to create new housing at an affordable cost. The variance is in line with other houses in the neighborhood. Eckenberg does not feel it is a good fit and is opposed. Sarah Wisdorf is in support. She was part of the Mayor's housing task force, and affordable housing is a problem. She doesn't feel a duplex is high density and meets the zoning requirements. Andrea Wedul clarified they are just looking at the variance from the shoreland setback. Deputy Director Fulton affirmed. Wedul stated the location is sandwiched in between two other houses that are already grand-fathered in. Mike Schraepfer noted they passed the allowance for a duplex on a 25 foot lot. He feels a lot more of these will be coming forward. The policy has already been set. Zandy Zwiebel feels this will be a great fit to the neighborhood. Eckenberg asked if there was a model for design of the duplex to look at. Bajda stated the applicant's design is not ready for public view due to copyright issues. Eckenberg asked about DEDA's Rebuild Duluth process. Was there no consideration between home ownership versus a landlord situation? Bajda stated that wasn't part of the selection process. She noted the duplex has a small footprint of 1,026 square feet.

Public: No speakers.

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

VOTE: (7-1, Eckenberg Opposed)

6. PL 20-043 Vacation of Lake Avenue Between Superior Street and Michigan Street by the City of Duluth

Staff: No report was given.

Applicant: N/A

Commissioners: Wedul noted there was a letter submitted by Gittermeyer. She would like to discuss what the long term implications are since this is a major corridor. Deputy Director Fulton noted this item is a technical correction. This existed pre-construction of the freeway. When they built the original plaza they did not vacate. Now with a new agreement with Minnesota Power, long term to public access to the plaza is needed.

They are retaining the appropriate easement. Wedul asked other than the storm line, are there other easements that need to be maintained? Deputy Director noted that other easements will be maintained. Underneath the plaza there is parking, and other the parking area are other utilities, including steam mains. It is a complex location, and has been scrutinized by the city attorneys' office. The long term implications have been addressed.

Public: No speakers.

MOTION/Second: Eckenberg/Meyer recommended approval as per staff's recommendations.

VOTE: (8-0)

7. PL 20-045 Special Use Permit for Expanded Child Care at 4801 Cooke Street by April Westman

Staff: No report was given.

Applicant: (see below)

Commissioners: Eckenberg asked about page 39 they are under a special use permit allowing 65 students, now they want to increase to 100 students. But he notes that 70 students won't be much of a change. Is it 70 or 100? Deputy Director Fulton deferred to the Applicant for licensing specifics. April Westman explained the increase is due to classroom size. It allows her to maximize her capacity, and states it is a licensing issue but that she is not increasing enrollment. Deputy Director Fulton noted it is a licensed day care and they reviewed the proposed changes. Planner Kaleb Montgomery affirms. Eckenberg noted the four letters of opposition and one in support. He encourages her to have a neighborhood meeting to explain to her neighbors the situation. This will build a better relationship. Westman stated she does have a good relationship with her neighbors, but they were under the wrong impression that this would create more traffic when in fact it will decrease by a parking spot. Zwiebel asked the applicant to explain the reduced parking spot. Westman stated it has to do with licensing. Her licensing capacity has to be relative to every classroom. The original teacher who was occupying that parking space can now go home. Wedul stated it's not the parking space the neighbors were concerned about, but the dropping off and picking up of students and the traffic involved. Agreeing with Eckenberg, Wedul would like to see the applicant have better communication with her neighbors. Westman agrees and states this special use permit request has no effect on the drop-off/pick-up routine.

Public: Janice Tamble, 4731 Cooke Street, addressed the commission. She disagrees with what the applicant stated and said traffic is an issue. They access other people driveways as a personal turn-a-round. The avenue has cars parked along both sides. There is an increase in traffic and the a.m. and p.m. She appreciates the need for daycare; however, she feels this is an intrusion. They are not a parking lot. She is opposed. Shelly Cook, 4732 Pitt Street, addressed the commission. This used to be a quiet neighborhood. She doesn't feel the first special use permit should have been approved and is opposed. There are no sidewalks on the street. There were mistakes made along the way and she doesn't think an addition to enrollment is warranted. Westman stated they will not be adding any additional students, and provided the neighbors with her cell phone to call her if they have concerns.

Commissioners: Eckenberg asked about the parking situation. There are four spaces, and 1 ADA space. Are those spaces for the 11 employees? Westman stated they do have the right to park on the street, because there is a severe need for childcare. They have 4-6 staff that park on the street. What she is asking for does not increase the number of students. Eckenberg asked if the drop-off is on Cooke Street. Westman

affirms. Zwiebel refers to the staff report which states 70 versus 65 students. She asks the applicant to verify there will be no increase in enrollment. Westman stated they are at full capacity at 65, and it wouldn't be financially feasible to add a student which would require additional staff. Eckenberg asked if the staff report could be changed to reflect only 65 students. Per Westman, for licensing purposes it needs to state 70. Deputy Director Fulton noted they are dealing with many layers of bureaucracy which includes fire code of 100 occupants. He is confident that they are moving forward correctly. Meyer state he lives in the neighborhood and noted the need for childcare. Anything they can do to help is warranted. Zwiebel appreciates the applicant's efforts. Eckenberg is confused by the numbers. If he approves, some sort of state regulation will be click in and yet no more students will be added. He feels it is flawed, but will vote in support.
MOTION/Second: Meyer/Zwiebel approved as per staff's recommendations.

VOTE: (8-0)

8. PL 20-039 Concurrent Use Permit for Fireplace Wall and Pavilion in the Right of Way of Lake Avenue at 3322 Minnesota Avenue by Mary DuBois
Staff: Chris Lee introduced the applicant's proposal to construct a pavilion on an existing concrete and stone foundation located directly adjacent to the property. The concurrent use area will be 14 feet x 21 feet. Staff recommends approval subject to the conditions listed in the staff report.
Applicant: Mary DuBois (see below)
Public: No speakers.
Commissioners: Zwiebel has concerns. She noted the applicant is not the owner and does not pay taxes on it. Is this correct? Per Lee, the applicant owns a portion of it, and the rest is in the right of way. He defers to the applicant regarding taxes. Mary DuBois clarified when she bought the property there was an old building there. She removed it for safety reasons, but the chimney remains and this is what she is hoping to save. Zwiebel is sensitive to private use of public property. She appreciates her efforts to save the fireplace. Per Deputy Director Fulton, it has been their policy in the past to recommend denial for applications to vacate rights of way on Park Point, but staff is able to recommend approval of a concurrent use permit. Eckenberg asked the applicant if it was her understanding that the portion of the building she took down was part of her property. DuBois thought so, but the property had not been surveyed. It seemed so because her fence goes through Lake Avenue and around where the structure was. She then had it surveyed. Eckenberg noted she now has full knowledge that it isn't her property. DuBois had work done to support the fireplace before she knew it wasn't hers. Wedul confirmed the CUP will be instead of a vacation and will support further degradation of what is currently there. City attorney Robert Asleson stated this is in the Lake Avenue unexercised easement. In this case it is the property is divided along both sides. The foundation and chimney would be located on the property of the applicant subject to the city's right to exercise easement to put a street in there. This is the reason the applicant is seeking a concurrent use permit. A CUP standard condition is the applicant agrees to remove the structure within six months if the city needs it for roadway purposes.
MOTION/Second: Wisdorf/Crawford recommended approval as per staff's recommendations.

VOTE: (7-1, Zwiebel Opposed)

Wedul recused herself from agenda item PL 20-029, because she was directly involved with the design.

9. PL 20-029 Special Use Permit for Placement of Fill in a Floodplain as Part of the Spirit Lake Sediment Remediation Project at the Former U.S. Steel Site by the U.S. EPA

Staff: Kyle Deming introduced the applicant's proposal for a Special Use Permit for placement of fill in the St. Louis River and Unnamed Creek (a.k.a. U.S. Steel Creek) floodplain. This is part of the Spirit Lake Sediment Remediation Project at the former U.S. Steel site by the U.S. Environmental Protection Agency, Great Lakes National Program Office (U.S. EPA – GLNPO). 44 acres of floodplain will be impacted by fill largely for construction of two confined disposal facilities (CDFs). Additional impacts are due to redirecting a culvert past on of the CDFs, re-meandering Unnamed Creek, and installing a weir in Unnamed Creek to control discharge into the shallow sheltered bay habitat that connects to Spirit Lake outside a newly created shoal. The staff report contains detailed information. Additional permits will be needed including shoreland permits and a historic construction/demolition permit for bridge construction on the Lake Superior and Mississippi Railroad. Staff recommended approval with the conditions listed in the staff report.

Applicant: Present, but did not speak.

Public: No speakers.

Commissioners: N/A

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

VOTE: (7-0, Wedul Abstained)

Wisdorf recused herself from agenda item PL 20-028.

10. PL 20-028 Special Use Permit for a Cottage Village at 1710 Carver Avenue and 231 W St Marie Street by Campus North LLC

Staff: John Kelley introduced the applicant's proposal for a Special Use Permit for a cottage home park containing nine dwelling units consisting of one and two bedroom homes and ranging in size from approximately 400 to 600 square feet, located in an R-1, Residential Traditional zone district. Staff recommends approval with the conditions listed in the staff report. Eckenberg asked if the units are privately owned. Kelley stated there is one owner, and the units will be rented out. Zwiebel asked if these would be similar to trailer park homes. Will the construction be more permanent? Kelley noted they will be on foundations. Deputy Director Fulton noted this is the first cottage home development. The development meets the requirements of the recently adopted ordinance, including shared open space and front porches.

Applicant: Mike Peller of Campus North LLC addressed the commission. The units are like the house you live in now, only smaller. Regarding density, the development will have 15 bedrooms on site between the nine units. Surface parking will be hidden from views of the roads. There will be proper trash enclosure screening. Eckenberg asked if there will be snow storage space. Peller stated there will be three possibilities for snow storage areas. Eckenberg is concerned with the rental property aspect. Can it be verified that only two people will be in two bedrooms, etc. Pellar doubted there would be cohabitation in one room. Wedul noted the landscaping. She is concerned about red pines being designated as the street tree. She would like to see more of a deciduous

tree. Pine creates a barrier. Pellar stated he is open to swapping the tree choice. Deputy Director Fulton stated Kelley will work with the applicant to revise plans.

Public: City councilor Gary Anderson addressed the planning commission. He thanked the commissioners for their important service. This development is in his district, and he has been contacted by his constituents. He stated the project looks like it will be a good development.

Commissioners: Eckenberg asked why Wisdorf abstained from the vote. He noted stating a reason for abstaining is required as set forth in their by-laws. Deputy Director Fulton noted Wisdorf works with the developer, and therefore recused herself. Zwiebel is impressed with the proposed development. Meyer noted as the only architect on the planning commission, he is concerned about the proximity of the units to each other. He noted fire code and building code issues. With this density he feels this is more along the line of a trailer park. The developer made an effort to blend, but he doesn't feel it fits the fabric of the neighborhood and is opposed. Eckenberg noted this project is reminiscent of the Gary New Duluth project. This is not in the spirit of tiny houses. Density at the expense of revitalization of the neighborhood. He is opposed. Wedul stated this project is a huge leap forward to what exists now. It is a perfect example of where this would be appropriate, on an organized corner with flexible quality student housing. Meyer stated the issue isn't size, but spacing between units. These should be single buildings or condos. Chair Nelson noted that these will likely be occupied by college students. She requests that the property manager will keep a close eye on tenant issues.

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

VOTE: (5-2, Eckenberg and Meyer Opposed, Wisdorf Abstained)

11. PL 20-026 Variance from Corner Side Yard Setbacks for Two-Family House at 301 S. 58th Avenue West by DEDA

Staff: Theresa Bajda introduced the applicant's proposal for a variance to reduce the corner side yard setback from 15' to 5'8" to allow future construction of a housing structure on the currently vacant lot. She noted other homes in the area have similar setbacks to the proposed house. Staff received two public comments, which were shared with the planning commission, including a petition. Staff recommends approval with the conditions listed in the staff report. Eckenberg asked about the petition they received with names redacted. Deputy Director Fulton noted names are indeed part of the public comment. Eckenberg asked about the site history. DEDA owns the property now. The house was condemned in 2009 due to life safety non-compliance and demolished. St. Louis County acquired the land and placed it on the market for sale. DEDA acquired the property through proper channels over the counter.

Applicant: DEDA

Public: Taimi Ranta (owner of property next door) addressed the commission. She didn't know the property was for sale, and would have been interested in purchasing. She feels this property is not big enough for a 2-family house. She has also submitted correspondence to the commissioners. She is opposed. Eckenberg asked Ranta if this neighboring property is her current residence. Ranta stated she plans to move there in the near future but couldn't due to covid-19. Eckenberg asks her to confirm whether the adjacent house is currently vacant. Ranta affirms.

Commissioners: Schraepfer noted he is in the property business. The county is not good at advertising property which is for sale. Sometimes signs go up just weeks before it goes to auction. There should be a standard procedure to offer property for sale to the neighbors first. It's a challenge to know if it is for sale. He says that county needs to improve their methods. Wedul echoes what Schraepfer stated. She doesn't feel the proposal is consistent with the neighborhood, and doesn't feel it is the best location. Deputy Director Fulton noted this is consistent with other corner lot setbacks in the neighborhood. He noted the property was available on the open market when purchased by DEDA for the Rebuild Duluth program. Schraepfer noted the city planning department is better at sending out notification letters than the county is. Chair Nelson agrees with Schraepfer about notification letters.

MOTION/Second: Eckenberg/Zwiebel motion to deny – more discussion follows. Wisdorf asks if they can table the item and revisit it at a future meeting. She supports the Rebuild Duluth Program, but feels more discussion is needed. Deputy Director Fulton noted tabling is an option. Zwiebel noted the county needs to be more pro-active. She would support a tabling motion, and also supports the Rebuild Duluth program. Wedul supports tabling for facilitating discussion for all property owners and the new owner. Deputy Director Fulton noted DEDA entered into the purchase agreement with the developer. He stated that a duplex is a permitted use in R-1 zoning. He doesn't know if DEDA will negotiate with neighboring property owners. Schraepfer reiterated the county should offer the property to the neighbors first as standard procedure. Deputy Director Fulton noted DEDA already acquired the property over the counter, and has already paid for it in support of the Rebuild Duluth program. St. Louis County is no longer involved. Eckenberg asked for a point of order to table. City attorney Robert Asleson stated there is a motion on the floor now, so it can be tabled.

MOTION/Second: Wisdorf/Wedul Table the motion to deny for more discussion between the applicant and neighbors

VOTE: (8-0)

Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton noted they are working on a Kenwood Area enforcement issue. City Hall is still closed. He thanked the planning commissioners. He noted the reuse of vacant churches and this is a topic they will be thinking about in the future.

Adjournment

Meeting adjourned at 7:40 p.m.

Respectfully,

Adam Fulton – Deputy Director
Planning and Economic Development