

City of Duluth Planning Commission

**April 13, 2021
Meeting Minutes**

Due to the COVID-19 emergency, 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, April 13th, 2021.

Roll Call

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

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

Members Absent: Eddie Ratnam

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

Approval of Planning Commission Minutes -

Planning Commission Meeting – March 9, 2021

MOTION/Second: Zwiebel/Schraepfer approved

VOTE: (7-0)

Item PL 21-017 was removed from the consent agenda and placed under public hearings.

Consent Agenda

PL 20-195 Vacation of a Portion of 32nd Avenue W at 3204 Carlton Street by William Maney

PL 21-017 Concurrent Use Permit for Existing Building at 7 N 19th Ave W by Newcastle 8, LLC

PL 21-019 Vacation of an Alley at 930 Swan Lake Road by Alvin Berg

PL 21-022 Concurrent Use Permit for Utilities in the Right of Way of 4th Avenue E and East 2nd Street by Essential Health East

PL 21-024 Variance from Setbacks for Additional Story at 1239 Missouri Avenue by RBI Group

PL 21-025 Minor Subdivision at 1239 Missouri Avenue by RBI Group

PL 21-026 Concurrent Use of Streets Permit for Underground Heating at 2727 E 5th Street by Ray E Ruoho, Beatrice D Ruoho, Clinton Ruoho, and Mats Hansen

Staff: N/A

Public: No speakers.

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

VOTE: (7-0)

Public Hearings

(Commissioners Schraepfer and Wisdorf recused themselves from the following item due to a conflict of interest.)

PL 21-017 Concurrent Use Permit for Existing Building at 7 N 19th Ave W by Newcastle 8, LLC

Staff: N/A

Applicant: N/A

Public: No speakers

Commissioners: N/A

MOTION/Second: Eckenberg/Crawford recommended approval as per staff recommendations

VOTE: (5-0, Schraepfer and Wisdorf Abstained)

PL 21-010 Interim Use Permit for a Vacation Rental at 3027 Minnesota Avenue by Steven Sola

Staff: Chris Lee introduced the applicant's proposal to use a three-bedroom home as a vacation dwelling unit. Up to seven people will be allowed to stay in the home. The applicant was on the waitlist for available IUPs for vacation rentals, which is included in the 60 limit cap. The applicant is proposing two off-street parking spaces located in the driveway. There will be a space for a camper or trailer, but must remain unoccupied during the guests' stay. One citizen comment was received regarding parking and trash. In response, staff has included a condition that the applicant shall provide on-site trash service and that guests may not park in the Lafayette Square parking lot overnight. Staff recommends approval with the conditions listed in the staff report. Gary Eckenberg asked if this home was non-owner occupied, and asked about rules related to accessibility standards. Lee affirmed it is a short-term rental. Deputy Director Fulton noted state accessibility standards are important and will be discussed further in the future with commissioners and construction services. There are only a handful of cities enforcing the Department of Labor and Industry rule at this time. ADA issues will be the topic of a future brown bag meeting. Eckenberg reiterated it is not in the planning commission's purview tonight to hold the IUP's accountable. Deputy Director Fulton affirmed. Eckenberg stated ADA consideration may be a requirement to interim use permits in the future. Zandra Zwiebel thanked Eckenberg for his comment, as this is also a concern of hers. She noted the condition for trash removal, and thought this could be a standard requirement for all vacation rentals.

Applicant: Steven Sola addressed the commission and welcomed questions. He lives nearby at 3033 Minnesota Avenue. The detached garage is not part of the vacation rental parking. Zwiebel questioned why he has a different managing agent, when Sola lives so close. Sola stated his girlfriend is managing the property. Sola was born and raised in this house, and it has been in his family for a long time. Andrea Wedul noted the citizen comment they received about parking concerns. Sola stated he is not renting out the garage, but there is plenty room for four cars on the black-topped primary parking area in the driveway.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Wisdorf/Zwiebel recommended approval as per staff recommendations

VOTE: (7-0)

PL 21-020 Interim Use Permit for a Vacation Rental at 120 E Superior Street by Lillecorps One LLC

Staff: John Kelley introduced the applicant's proposal for new interim use permit for a vacation dwelling unit. The permit would allow for a four-bedroom condo with a maximum of nine occupants in the F-7 form district. Vacation dwelling units located in form districts are exempt from minimum night stays and parking requirements. There is no cap on the number of permits issued in form districts. Although parking is not a requirement, the applicant is providing two leased parking spaces in the parking ramp adjacent to the casino. Staff recommends approval with the standard conditions listed in the staff report. Eckenberg asked about a possible sprinkler requirement if the area exceeds 4,500 square feet. Deputy Director Fulton noted the table they previously received is for commissioner use only, and at this time should not be referenced in planning commission decision considerations.

Applicant: Wade Lillegard addressed the commission. His daughter-in-law is the managing agent. They are leasing two parking spots in the ramp.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Zwiebel/Crawford recommended approval as per staff recommendations

VOTE: (7-0)

PL 21-021 Interim Use Permit for a Vacation Rental at 942 89th Avenue W by Ann VanRyswyk

Staff: Chris Lee introduced the applicant's proposal to use a one-bedroom apartment as a vacation dwelling unit. Up to two people will be allowed to stay in the home. The applicant is the owner of the property, and was on the waitlist for available IUPs for vacation rentals, which is part of the 60-limit cap. The applicant will provide one off-street parking space in the driveway. Justin Wimmer is listed as the property managing agent. Staff received one written comment in support, and one verbal comment in support. Staff recommends approval with the standard conditions listed in the staff report. Wedul asked if the owner is the applicant. Lee affirmed. Zwiebel noted the planning commission should consider a permanent clause that trash service is required, but doesn't feel it needs to be added as a condition for this particular unit. Michael Schraepfer asked about the size of the building and if there is a size requirement. Per Lee there is no building size limit that he is aware of. This is a single unit with a larger unit, and not the entire building. Deputy Director Fulton added that units with nine or more units would need to have a staffed front desk area, which doesn't apply to this item.

Applicant: Ann VanRyswyk present, but her audio feature was not functioning.

Public: No speakers.

Commissioners: No questions for the applicant.

MOTION/Second: Wedul/Eckenberg recommended approval as per staff recommendations

VOTE: (7-0)

PL 21-029 Interim Use Permit for a Vacation Rental at 1407 Morningside Avenue by Rebecca Orn

Staff: Chris Lee introduced the applicant's proposal to use a two-bedroom home as a vacation dwelling unit. Up to five people will be allowed to stay in the home. The applicant was on the waitlist for available IUPs for vacation rentals, which is included in the 60 limit cap. The application will provide two off-street parking spaces in the driveway. There is a privacy fence for screening. Staff received one positive citizen comment, and one comment with a concern of increased traffic in the boulevard. Staff recommends approval with the standard conditions listed in the staff report.

Applicant: Rebecca Orn addressed the commission. They have no access to Morningside Avenue. The driveway is located off the alley, but it is a shared driveway. Wedul asked if the alley is maintained by the city. Orn affirmed.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Crawford/Wisdorf recommended approval as per staff recommendations

VOTE: (7-0)

(Commissioners Schraepfer and Wisdorf recused themselves from the following item due to a conflict of interest.)

PL 21-028 Interim Use Permit for a Vacation Rental at 4931 E Superior Street by Endion Land Co., LLC

Staff: Kyle Deming introduced the applicant's proposal to use a three-bedroom home as a vacation unit dwelling. The maximum occupant level is seven. The address is located in the F-2 form district. Vacation dwelling units located in form districts are exempt from minimum night stays and parking requirements. There is no cap on the number of permits issued in form districts. Parking isn't an issue at this location due to the proximity of a park. The applicant will provide additional landscaping as a buffer. Staff recommends approval with the conditions listed in the staff report. Eckenberg commented on Deming's upgraded audio system, which sounds great. Eckenberg asked about home access. Per Deming, access is from Pitt Street even though it is located on Superior Street. The most convenient parking is also available on Pitt Street.

Applicant: Managing agent Mike Schraepfer was in attendance, but there were no questions.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Zwiebel/Wedul recommended approval as per staff recommendations

VOTE: (5-0, Schraepfer and Wisdorf Abstained)

(Commissioner Eckenberg recused himself from the following item due to a conflict of interest.)

PL 21-023 Variance for Building Height at 601 E 4th Street by Brewery Creek LLLP

Staff: Kyle Deming introduced the applicant's proposal to construct a 209' by 69', 52-unit 5-story apartment building at the northeast corner of 6th Avenue East and East 4th Street. A variance is requested to exceed the 55 foot maximum building height by 5 feet – 1 inch to a height of 60 feet – 1 inch. After staff sent the staff report to commissioners, the project's structural engineer determined the floor trusses need to be increased in size, so the building height will be 6" taller than originally thought. The new height will be 60' 7" instead of 60' 1", which should be included in a commissioner motion, if for approval. The applicant's property is severely impacted by the slope dropping 22 feet. In addition to the slope, there is the presence of Brewery Creek, in a subterranean tunnel running along the east property boundary. Both the slope and the presence of the buried creek are special circumstances that present a practical difficulty. The variance if granted would not alter the essential character of the area since Village Place Apartments and Essentia Health St. Mary's Medical Center are taller. The building height will have a limited effect on access to light and air for the rowhouse to the east due to the 30 foot setback from the east property line. Additionally, the building is 85' south of the Village Place Apartment providing sufficient access to light and air. No comments from citizens, City staff or any other entity were received. Staff recommends approval with the conditions listed in the staff report and with a forthcoming motion by the Planning Commission to increase the height by 6" to allow for additional truss size requirements. Deputy Director Fulton noted this is a low-income tax credit project. The City is invested in blight removal. The commission will see this again for tax increment financing (TIF) to ensure it is in conformance with the comprehensive plan.

Applicant: Jeff Corey of One Roof Community Housing and Emily Timm of LHB Architects address the commission, and thank staff for their efforts. Timm noted there are many constraints to the site, but think they have proposed a beautiful building that is considerate to the neighbors. Questions are welcomed. There were none.

Public: No speakers.

Commissioners: Wedul is excited by the project and appreciates the applicant's and staff efforts regarding compliance to the UDC. Zwiebel noted after 25 years of waiting she is happy to make a motion of approval.

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

VOTE: (6-0, Eckenberg Abstained)

PL 21-042 UDC Text Amendments for Changes in the R-2 District by the City of Duluth

Staff: Steven Robertson introduced the city's proposal to change the UDC as listed in the staff report. Planning staff are recommending that the permitted use table be amended to also allow "Personal Service and Repair, Small" (less than 10,000 square feet) and "Grocery Store, Small" (less than 15,000 square feet) as special uses in the R-2 district.

Applicant: N/A

Public: No speakers.

Commissioners: Eckenberg asked what a symbol (S₂) on the permitted use table meant. Robertson stated there are qualifiers which may require additional standards for the higher education overlay. Eckenberg noted personal service and repair. This has nothing to do with vehicles? Robertson affirmed, and noted this retail is related to one's body.

MOTION/Second: Zwiebel/Eckenberg recommended approval as per staff recommendations

VOTE: (7-0)

PL 21-041 UDC Text Amendments for Historic Preservation by the City of Duluth

Staff: Steven Robertson introduced the city's proposal to change the UDC as listed in the staff report. This item is somewhat of a house-cleaning change. To reduce ambiguity, staff recommended an amendment to the applicable UDC section to clarify that the intent of local historic preservation efforts and the work of the Heritage Preservation Commission (HPC) is on locally designated landmarks and districts. This item was shared with the HPC at their meeting yesterday. Their input and comment was received and they would like the planning commission to hold off on this item until more research is done. Deputy Director Fulton noted they should hold the public hearing, and that this item is a technical issue only to protect the city from potential future litigation.

Applicant: N/A

Public: No speakers.

Commissioners: Planning Commissioner Sarah Wisdorf (also on the HPC) explained the HPC thought their voices would be diminished, but they now realize that is not the case. They would like to hold off on presenting this item to the city council until the HPC meets again to confirm.

MOTION/Second: Zwiebel/Crawford recommended approval as per staff recommendations with added condition that the HPC will review before going to the city council.

VOTE: (7-0)

Other

Deputy Director Fulton thanked the commissioners who attended the tax forfeit subcommittee meeting. The subcommittee reviewed St. Louis County's proposal to reclassify (five parcels) tax forfeited land to non-conservation land.

MOTION/Second: Eckenberg/Wedul With recommendation by the tax forfeit subcommittee, the planning commission did not contest the reclassification of the five tax forfeited parcels

VOTE: (7-0)

Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. The planning commission hopes to have a new member soon to fill the vacancy from Tim Meyer. On 4/26/2021 the city council will have a 3rd meeting of the whole to discuss vacation rentals. Hopefully there will be some form of resolution to evaluate the next steps for modification. A robust recommendation would be greatly appreciated. He noted ADA requirements and described them as an actively changing issue. The Department of Labor and Industry have updates coming. There are building code implications, which construction services continue to track. There is a Duluth Old Central meeting tomorrow. For TIF funding the planning commission will determine conformity with the comp plan at its May or June meeting. MnDOT is conducting a central entrance study. The city is coordinating with the school district regarding the top of the hill site. The school district and city are looking forward to progress.

Heritage Preservation Commission – Commissioner Wisdorf gave an overview. They are starting to discuss historic design guidelines. Deputy Director Fulton noted UMD's Old Main building, which is in disrepair. Would it be worth sharing with the HPC? Wisdorf will share the information with the HPC for their consideration. They approved the historic demo permit for 319-333 E. Superior Street. Zwiebel asked about the mechanical equipment installed outside of city hall. The applicant was supposed to provide screening. Wisdorf will share with the HPC.

Joint Airport Zoning Board – Commissioner Eckenberg gave an overview. He was provided with a JAZB overview, which was very helpful. They are working on a new zoning ordinance. They are working to secure language with Hermantown and Rice Lake (at either side of a runway) to provide a higher degree of protection for vulnerable populations. MNDot has 90 days to respond. Steve Hanke is also involved. Their next meeting is 5/6/2021.

Duluth Midway Joint Powers Zoning Board – Deputy Director Fulton noted there will be a summer annual meeting. The last member on the board from the planning commission was Janet Kennedy. Are there any volunteers? Zwiebel noted she was also on the board while she was president of the planning commission, and thought it was the role of the president. Deputy Director Fulton asked if Chair Nelson would be interested. She agreed.

Adjournment

Meeting adjourned at 7:04 p.m.

Respectfully,

Adam Fulton – Deputy Director
Planning and Economic Development