

City of Duluth Planning Commission

**May 11, 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

Vice-President Sarah Wisdorf called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, May 11th, 2021.

Roll Call

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

Members Present: Jason Crawford*, Gary Eckenberg*, Jason Hollinday*, Michael Schaeffer*, Sarah Wisdorf*, and Zandra Zwiebel*

Members Absent: Margie Nelson, Eddie Ratnam, and Andrea Wedul

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

Welcome to New Planning Commissioner Jason Hollinday

Introductions were made.

Public Comment on Items Not on Agenda

No speakers.

Approval of Planning Commission Minutes -

Planning Commission Meeting – April 13, 2021

MOTION/Second: Schaeffer/Crawford approved

VOTE: (6-0)

Consent Agenda

PL 21-039 Concurrent Use Permit for Underground Utilities near Bayview Avenue and Gold Street by Regents of the University of Minnesota

PL 21-044 Minor Subdivision to create Four Lots at Swan Lake Place and Arrowhead Road by Jesse Stokke

PL 21-046 Special Use Permit for a Residential Care Facility at 2010 E 7th Street

PL 21-058 Special Use Permit for a Tattoo Parlor at 217 N 59th Avenue West by Black Label Tattoo

Staff: N/A

Public: No speakers.

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

VOTE: (6-0)

Public Hearings

PL 21-038 Interim Use Permit for a Vacation Dwelling Unit at 318 N 17 ½ Avenue West by Scott Scheirbeck

Staff: Chris Lee introduced the applicant's proposal to use a three-bedroom home as a vacation dwelling. 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 within the 60-limit cap. Staff recommends approval subject to the conditions listed in the staff report.

Applicant: Scott Scheirbeck addressed the commission and noted the home is in a good location, and is well screened. Zandra Zwiebel noted the aerial photo in the staff report showing the neighbor's cluttered yard. Scheirbeck noted the vegetation helps block view. Gary Eckenberg asked if the applicant lived in the house. Scheirbeck noted he plans to live in the home, but rent it out for a few weekends in the summer. Eckenberg asked how close was the property manager. Scheirbeck stated approximately five miles away. Eckenberg asked if the neighbor had concerns. Scheirbeck stated no.

Public: No speakers.

Commissioners: Eckenberg noted the neighbor was cited for debris. Can the commissioners get an update on the citation situation? Deputy Director Fulton asked Lee to check into the matter. (Later during the manager update, it was noted there was a solid waste enforcement in 2002. More recently a letter noting rental expiration was sent.)

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

VOTE: (6-0)

PL 21-047 Special Use Permit for a Restaurant at Jigsaw Development at the Southwest Corner of Anderson Road and Central Entrance by Ed Baksh

Staff: Kyle Deming introduced the applicant's proposal for a 2,287 square foot restaurant with a drive-through and 24 parking spaces located in the Jigsaw Division, which is an MU-N zoned district. The applicant is the leaseholder. The proposed restaurant is the first building to be built in the Jigsaw Division. Staff recommends Launch Properties (the developer) clarify storm water facilities to be developed as well as a complete pedestrian pathway from Anderson Road to the restaurant. The applicant was proposing a drive through window that has two lanes for ordering. The applicant will need to modify the site plan to comply with UDC requirements limiting to a single drive through lane and speaker box. Staff recommends the applicant reduce parking to 22 spaces, which is the maximum allowed. Also, the applicant must submit a landscaping plan that shows the calculation of the required 30% tree canopy coverage. The HVAC mechanical unit and trash area will need to be screened, and will be verified for compliance at the time of the building permit issuance. A master sign plan will need to be approved by the planning commission before the building and free-standing sign permits can be issued. There were no comments received. Staff recommends approval with the conditions listed in the staff report. Eckenberg asked if two more restaurants could go next to the applicant's area. Deming stated he can't speak to the developer's layout, which is subject to change. Zwiebel noted the future car wash area. Could more parking spaces be allotted to the restaurant? Deming noted they will consider it when the car wash materializes. Zwiebel asked why only one drive through is allowed. Deming noted it is in the rules of the UDC pertaining to MU-N districts. It reduces the

intensity of the drive-thru area close to residential area, which minimizes the impact to surrounding residential uses. This rule also applies to banks.

Applicant: Jacob Cook addressed the commission. There will be a bypass lane around the drive through lane. He also noted the HVAC units will be in top of the building, and will be screened. Zwiebel is in support of a bypass lane. Lawrence of Popeye's (applicant) addressed the commission. They are requesting a dual order point drive-through, which then merges into one pick-up window. This method helps reduce stacking and speeds up service. 80% of their current business is drive-through service. It concerns him to have only one lane. Eckenberg asked if the applicant is unwilling to reduce lanes from two to one. The applicant stated they are not unwilling, but it would not be good for business and prefers the two lane method as proposed. Zwiebel agrees with restaurant owner. Is the planning commission allowed to remove that criteria? Deming noted the city council adopted the ordinance, which establishes the guidelines. If the planning commission deviates, there should be a strong reason to do so, and defers to the city attorney. City Attorney Robert Asleson noted it is beyond the power of the planning commission to override code provisions. A recommendation would need to be made to the city council to adjust the UDC. Deputy Director Fulton noted MU-N standards are more neighborhood focused. This is a transitional area between a commercial district, and the neighborhood. Applicant Richard Gerdemen noted having double lanes is safer, and ensures vehicles don't back up.

Public: No speakers.

Commissioners: Eckenberg is frustrated that when they looked at the development in October of 2018, he didn't envision a car-wash or a Popeyes. How many more fast food restaurants does Duluth need? He was hoping for so much more. Zwiebel would like to support a dual drive-through, but if not an option, can support as is. Vice President Wisdorf verified this needs to be a city council decision. Asleson affirmed. They would need to change the code, or if rezoned could be another alternative. Wisdorf is excited to see a new chain enter the area, and is in support

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

VOTE: (6-0)

(Zwiebel noted the applicants could talk to the planning department about a possible rezoning, which would allow a dual drive-through lane.)

PL 21-053 Variance for a Deck in the Rear Yard Setback at 3034 Bald Eagle Circle by Nick Patterson

Staff: Chris Lee introduced the applicant's proposal for a variance to add a deck to the rear of the home. The deck will encroach no more than 15 feet into the rear yard, reducing the rear yard setback from 25 feet to 10 feet. Staff received three letters from the public, which were all in support of the variance. Staff recommended approval with the conditions listed in the staff report. Zwiebel noted the proximity to Amity Park. She noted the possibility of adding a stipulation, which stated no mowing done past the boundary. It is important to keep the park boundaries noted, and to not encroach upon it.

Applicant: Nick Patterson addressed the commission. He stated he is not interested in creating more mowing for himself and the commissioners don't need to worry about park boundary encroachment.

Public: No speakers.

MOTION/Second: Eckenberg/Hollinday approved as per staff recommendations.

VOTE: (6-0)

Other

PL21-052 Tax Increment Financing (TIF) – Comprehensive Plan Compliance for Zenith Old Historic Central High School at 200-298 N 1st Avenue East for Approximately 125 Housing Units

Staff: Theresa Bajda provided a project overview and explained the role of the Planning Commission to confirm proposed developments are consistent with the Comprehensive Plan and Unified Development Code (UDC). Stated the project implements the Comprehensive Plan principles as listed in the staff report. Staff believe that the proposed development conforms to and implements the Comprehensive Plan, and asks the Planning Commission to review, discuss and make a determination. The determination will be brought to the Duluth Economic Development Authority (DEDA) and then to the City Council for final approval of TIF assistance.

Commissioners: Eckenberg noted the 125 units and questioned what the unit breakdown would be. Bajda provided a chart which lists sizes ranging from studio to a two-bedroom suite. Zwiebel noted 10% of occupancy will be comprised of individuals with a mean/average income of 60% or less than the average and questioned what area this was referring to. Deputy Director Fulton confirmed the average is based on the City of Duluth's mean income. Zwiebel is wholeheartedly in support and questioned where surface parking would be placed? Deputy Director Fulton confirmed the surface lots would be on the east and west sides of the building. Zwiebel asked about handicap accessibility. Bajda noted the access on the first floor by the loading dock with a ramp as well as elevators to meet ADA requirements. Eckenberg asked about required parking spaces. Per Deputy Director Fulton there is no parking required in a form district, but the developer is adding 150 parking stalls.

MOTION/Second: Zwiebel/Schraepfer TIF is in conformity with the Comprehensive Plan

VOTE: (6-0)

Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. He congratulated Vice-President Wisdorf on conducting her first full meeting. There will be two more TIF proposals and the next planning commission meeting: Brewery Creek, and the St. Louis County Jail site. Lumber prices are high, but projects are moving forward. UDC text changes regarding personal use services was passed by the city council. There will be an upcoming brown bag meeting regarding the central high school site. There is a complicated rezoning coming up in June. The school district is proposing a supplement administrative building and bus garage. Vacation rentals changes are progressing, and he appreciates the city council's clear direction.

Heritage Preservation Commission – Vice-President Wisdorf gave an overview. They met yesterday and looked at the plans for the jail renovation. Staff is working on contracting out for design guidelines for downtown. This will be a joint venture between the HPC and the PC. Zwiebel asked about the city hall mechanical screening the Old Main University, which were noted at the planning commission's last meeting as areas of interest. Per Wisdorf, bushes were planted around the mechanical equipment at city hall, which is in compliance. They will look more into the Old Main item at their June meeting.

Joint Airport Zoning Board – Commissioner Eckenberg did not attend, but will give an update next month.

Duluth Midway Joint Powers Zoning Board – No updates.

Other – Deputy Director Fulton gave an update on the ongoing Cody Street item. Fines have been issued, and they are at the maximum threshold of fines. There has been no success with the owner's compliance.

Deputy Director Fulton thanked new commissioner Hollinday for attending his first meeting.

Vice-President Wisdorf asked when the commission will be meeting in person. Deputy Director noted they are awaiting guidance, and to please let him know if anyone has concerns.

Adjournment

Meeting adjourned at 6:46 p.m.

Respectfully,

Adam Fulton – Deputy Director
Planning & Economic Development