

EXHIBIT D
City of Duluth
Planning Commission

September 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, September 14th, 2021.

Roll Call

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

Members Present: Jason Crawford*, Gary Eckenberg*, Jason Hollinday*, Margie Nelson*, Eddie Ranum*, Michael Schraepfer* (entered after approval of minutes), Sarah Wisdorf* (entered after approval of minutes), and Zandra Zwiebel*

Members Absent: Andrea Wedul

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

Public Comment on Items Not on Agenda

No speakers.

Approval of Planning Commission Minutes -

Planning Commission Meeting – August 10, 2021

MOTION/Second: Eckenberg/Hollinday approved

VOTE: (6-0)

Planning Commission Meeting – August 24, 2021 – Special Meeting

MOTION/Second: Eckenberg/Zwiebel approved

VOTE: (6-0)

Commissioner Gary Eckenberg requested that the interim use permit items be withdrawn from the consent agenda. Renewals may be appropriate for consent, but new applications deserve more scrutiny.

(Items PL21-125 and PL21-146 were pulled from the consent agenda items and moved to the public hearing portion.)

Consent Agenda

- PL 21-106 Concurrent Use Permit for Small Cell Wireless at 1 N 6th Avenue by SAC Wireless/AT&T
- PL 21-140 Concurrent Use of Streets Permit for a Small Cell Wireless Facility on an Existing Utility Pole at 830 North 11th Avenue East by SAC Wireless
- PL 21-141 Concurrent Use of Streets Permit for a Small Cell Wireless Facility on an Existing Utility Pole at 2401 London Road by SAC Wireless
- PL 21-142 Concurrent Use of Streets Permit for a Small Cell Wireless Facility on an Existing Utility Pole at 1439 North 8th Avenue East by SAC Wireless
- PL 21-143 Vacation of East 7th Street Between 20th Avenue E and 21st Avenue E
- PL 21-147 Concurrent Use Permit for Underground Fiber-Optic Lines in the Right of Way of 5th and 6th Avenues East and East 5th Street by Essentia Health East
- PL 21-148 Vacation of Alley Between 50th and 51st Avenues W by the City of Duluth

Public: No speakers.

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

VOTE: (8-0)

Public Hearings

PL 21-125 Interim Use Permit for a Vacation Dwelling Unit at 216 W 6th Street by Danielle Thralow

Staff: Chris Lee gave an overview. Staff received one public comment with concerns about parking. Staff recommends approval with the conditions listed in the staff report. Commissioner Eckenberg asked if the applicant lives at the property. Lee stated the applicant is the owner, but is unsure about her living situation. Eckenberg noted the managing agent is listed as the owner. Would she be within 25 miles? Lee deferred to the applicant. Deputy Director Adam Fulton noted the applicant is allowed to modify her managing agent.

Applicant: Danielle Thralow addressed the commission. If she is not in town, she will make sure she has another managing agent lined up within 25 miles.

Public: Sarah Lawrence addressed the commission and noted the applicant is a good neighbor, but she is concerned with the number of vacation rentals allowed. She doesn't want rental corporations saturating her neighborhood. She likes having her actual neighbors present. Julia Williams addressed the commission. She is concerned about the density of vacation rentals in residential neighborhoods and is concerned that the neighborhood will be turned into a commercial enterprise, and move away from families. She is concerned about the future of their neighborhood.

Applicant: Thralow bought her home in 1998 and loves Duluth. She wants to keep this house, but she travels a lot, and would like to see it used.

Commissioners: Eckenberg noted the city council is addressing certain vacation rental issues, but hasn't addressed the minimum distance between each other. There is a special planning commission meeting on 9/28, which is open to the public. If residents are concerned about density he invites them to comment at the public hearing. Michael Schraepfer attended all of the city council meetings, and the council did discuss density in districts, but decided not to act upon, because it was fairly evenly dispersed. The reality is only 60 are allowed, with a proposed increase to 70. The issue has been hashed over so many times. There has been past dialog from the city council about density, but it has not been an issue.

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

VOTE: (8-0)

PL 21-146 Interim Use Permit for a Vacation Dwelling at 1033 S Lake Avenue by Shannon Gardner

Staff: Jenn Moses gave an overview. This is a duplex, and the applicant would like to rent out the entire unit. The applicant is proposing two off street parking spaces. There are two managing agents who are both on site. Staff recommends approval with the standard conditions listed in the staff report. Eckenberg noted the city council is proposing a change in ordinance regarding screening. The applicant's plan shows a fence around the fire pit. Moses noted it could be a condition to have in place before renting.

Applicant: Shannon Gardner addressed the commission. They do have a fence in place along with a secondary fence with ivy. They live across the street and keep a watchful eye on the property. Eckenberg asked about screening to the north and south of the property. Does the applicant see a need for it? Gardner noted the empty lot across the street, along with lots of vegetation in the area. She doesn't feel there is a need for additional screening.

Public: No Comments

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

VOTE: (8-0)

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

PL 21-071 Vacation of 19th Avenue W Between Michigan Street and Lower Michigan Street by Bent Paddle Brewing

Staff: Jenn Moses introduced the applicant's proposal to vacate the existing right of way of 19th Avenue West for vehicular use, while preserving a pedestrian and utility easement. Due to covid the applicant received a temporary use permit for outdoor dining. MNDot replaced utilities underneath. The applicant wants to vacate the area for an ongoing open space within the Lincoln Park District. The cross city trail runs along lower Michigan Avenue, which is an important connection. The city sent a letter to MNDot stating the city is in support. Traffic will be rerouted to Michigan Ave for the next two years. Staff recommends approval with the conditions listed in the staff report; including the city and Bent Paddle complete a development agreement regarding temporary and long-term design, construction obligations, private and public use, and long-term maintenance and operational responsibility for the space. Zwiebel questioned the map in the staff report. Moses stated this is platted so this is 1/2 of one block. The black and white sketch shows the plat, but they are only vacating a portion of that.

Applicant: Karen Tonnis addressed the commission and appreciates the city's help. There are multiple reasons for the street vacation. They are excited to add more green space, and it is an improvement for safety reason. They purchased a 20-bike station, which will be a great addition to the cross city trail. They are excited to support local arts and music and extend outdoor green space. Zwiebel asked about the ground surface. Along with sod, there will be a gravel area along with tables. The gravel will allow easy access for MNDot to access anything underneath. There will be nothing permanent due to the utilities living below. Moses noted the purpose for the gravel was for fire truck access. The final design will be approved in the development agreement.

Public: Mike Casey addressed the commission. He appreciates the proposed 20-stall bike parking. He thanked Bent Paddle, and noted he is a cross city trail advocate.

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

VOTE: (7-0, Crawford Abstained)

PL 21-115 Planning Review for an 800-Stall Parking Structure at 502 E 2nd Street by Essentia Health East

Staff: Steven Robertson introduced the applicant's proposal for a plan review approval to construct a new approximately 800-space parking ramp within the Regional Exchange District as a third-party contractor-agent for the City of Duluth, pursuant to the terms of the Parking Ramp Development Agreement dated March 30, 2020. According to the applicant, it will be a 6-story, 290,000 square feet multi-model parking structure and will provide parking for cars, motorcycles, and bicycles and include provisions for electric vehicle charging stations (conduit only, not actual charging stations). It will be connected to Essentia Health's new inpatient medical tower by way of a pedestrian walkway above 4th avenue east, and the city of Duluth skywalk system, this parking structure will be owned and operated by the city of Duluth, and is intended to serve patients and visitors to Essentia Health as well as other developing businesses in the west medical district of the city. Staff recommends approval with the conditions listed in the staff report, noting that staff recommend that any future change to the exterior facade or similar elements come back to the Planning Commission for a new public hearing and a new review. Zwiebel asked at what point will city ownership take place. Robertson stated that likely when the certificate of occupancy is issued. Zwiebel asked if at a future point could solar panels and EV charges be added. Robertson affirmed that in the future that could happen, if the city receives grant funding or allocates tax dollars. Zwiebel noted the many overhead utility lines. Will they be buried underground? Robertson is unsure.

Applicant: Evan Aljoe of LHB addressed the commission. They have been working on the project for over a year. Their intent is to have the power lines buried underground as there is plenty of room in the alley to have them go underneath. The infrastructure is in place to add conduit for 16 future potential EV stations along with future heated bike storage and future potential solar panels. This is a great use to consolidate parking and will have a 50-year estimated life.

Public: Mark Baker addressed the commission. He noted the legislature allocated money for the ramp not to exceed 36 million. He google searched the cost of parking ramps and at \$75 a square foot should be 21 million. He noted the elimination of the heated bike storage and ev stations. Was the legislature so far off in allocating funds that they couldn't include those project in the initial bid? He is confused about the cost. Aljoe noted construction costs, the cost of land acquisition, along with utility and bedrock issues. Their budget was established in 2018 with an average escalation of costs during covid reaching 16%. He noted Baker's figure of \$75 a square foot may have been for construction costs only. They are closer to \$90-\$100 per square foot. Steep hillside construction is a challenge.

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

VOTE: (8-0)

PL 21-150 Final Plat for Sam Herzog's Arrowhead Acres Between Arrowhead and Marble Street, West of Arlington Avenue by Unique Opportunities, LLC

Staff: Kyle Deming introduced the applicant's proposal to subdivide 20 acres into 4 lots and 1 outlot with one new street and completing streets that were parts of adjacent plats. The 20 acre tract of land was previously a farm with a dwelling and has never been subdivided. The plat shows a subdivision with four building lots, an outlot for storm water treatment and wetland preservation, land dedicated along the north, south, and west perimeter to complete previously dedicated streets as well as a new interior street called Eischen Court. Staff recommends approval with the conditions listed in the staff report which include the applicant must meet the city's requirements related to pedestrian and utility easements extending southeast from Eischen Court. There is a tree replacement plan in place. Staff received public

comment regarding a Stanford Avenue connection. The road will not be connected, but there will be a pedestrian connection.

Applicant: Samuel Herzog addressed the commission. He has no intention for Stanford Road to go through, and is happy to answer any questions. Zwiebel stated she appreciates the sidewalk connectivity for pedestrians.

Public: Paul Newberg addressed the commission. He isn't sure what the pedestrian connectivity will look like, but he is happy the road isn't going through.

Commissioners: Zwiebel noted the sidewalks on the map. Deming affirmed a sidewalk will be in place on Stanford from Eischen to Marble Street. Deputy Director Fulton noted the pedestrian connectivity will be used for children to go to neighboring houses, etc, and/or a quicker way to get the store, etc. President Nelson asked if the platted road will remain open space. Deming affirmed that whatever is not needed for pedestrian or utilities. Additional tree clearing may be needed for utilities or grading, but no buildings are allowed.

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

VOTE: (8-0)

Old Business

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

Staff: Kyle Deming gave an update. The applicant is still looking at options, and this item will remain tabled. The applicant will extend the 120 day deadline. Eckenberg asked if a clear title has been clarified. Deming noted the open space language on lot 4 is not a dedication to the public. Per Bob Asleson, it is not a dedication to the public and is not a park. Zwiebel asked if the applicant did not extend the 120 day timeline would it be automatically approved. Deming affirmed, but noted an extension will be made.

Public: Colleen Christensen addressed the commission. Plat 4 is to be used for open space. The court house refused to print a copy for her. She was working with an Abstract Company, and can bring it in for the city to review.

Staff: Deputy Director Fulton asked city attorney Asleson if he had immediate comment. Asleson noted the language in the plat did not constitute use of occupants in the plat. It is private and not a public restriction.

Item to Remain on the Table for more Plat Research

New Business

PL 21-139 Review List of Proposed Reclassification of Tax Forfeit Parcels

Staff: Steven Robertson gave an overview. The sub-committee met today. In attendance were Commissioners Andrea Wedul and Gary Eckenberg - two out of the four members. They had no concerns other than a utility easement was needed for a utility stormwater.

MOTION/Second: Eckenberg/Zwiebel with recommendation by the tax forfeit subcommittee, the planning commission did not contest the reclassification of the tax forfeited parcels.

VOTE: (8-0)

PL 21-152 Resolution of Intent to Sell a portion of Lester Park Golf Course

Staff: Deputy Director Fulton gave an overview and noted the planning commission's role is to fulfill a statutory requirement. Jason Hale, senior housing developer, shares a slide presentation with the commissioners providing some background information. Currently the resolution for the planning commission to consider proposes the sale of approximately 37 acres, or 14% of the

site, for mixed use, mixed-income development. The total area is 13 acres less than previously discussed and leaves the remainder of the property and its use open for future evaluation. The sale of park property must be approved by the planning commission. Zwiebel asked if the reason is because Duluth is a charter city. Deputy Director Fulton noted in 1955 a law specific to Duluth was made. Asleson noted park property dedicated to the public is special. Legislation didn't want to alienate park property. Legislation sought to simplify the process.

Public: Tim Allen, a long time golfer and lakeside resident addressed the commission. He noted they are just discussing the land that abuts the clinic and the driving range. The Lake – 9 portion is not originally part of the park system. There are benefits to having a golf course and he hopes a driving range is still included.

Commissioners: Jason Crawford is on the golf sub-committee. This is a great piece of property to sell off, and he is in support.

MOTION/Second: Crawford/Holliday recommended approval as per staff recommendations.

VOTE: (7-1, Ranum Opposed)

Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. He took a poll on who could make a 9/28 special planning commission meeting. There were five at least. The special meeting will comprise of the Sugar Loaf Plat and the UDC Vacation rental amendment. There will be a public meeting on 9/23, which will allow the public to voice their opinion. Deputy Director Fulton noted senior transportation Kris Liljeblad retired and the city is advertising the position. Bluestone is open for leasing. The planning office is working on Broad Band connections. Commissioner Holliday stated he is happy to consult as needed. Zwiebel asked about the Rebuild Duluth program. Theresa Bajda gave an overview. There were two properties from Round 1 who broke ground. Three extensions will go before DEDA for 2022 constructions. She will provide a written update to share with commissioners tomorrow.

Heritage Preservation Commission – Vice-President Wisdorf gave an overview. They continued to discuss downtown design guidelines. There will be a public meeting in October. The HPC determined the remodeling of Upham Road townhomes did not affect historical aspects.

Joint Airport Zoning Board – Commissioner Eckenberg noted the ordinance was presented, and they are still in a 90-day waiting period.

Duluth Midway Joint Powers Zoning Board – No updates.

Adjournment

Meeting adjourned at 7:37 p.m.

Respectfully,

Adam Fulton – Deputy Director
Planning & Economic Development