

## City of Duluth Planning Commission

December 08, 2020  
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](mailto: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 8th, 2020.

### **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\* (arrived after the vote on the minutes), Andrea Wedul\*, Sarah Wisdorf\*, and Zandra Zweibel\*

Member Absent: Eddie Ratnam

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

**Public Comment on Items Not on Agenda** - No speakers.

### **Approval of Planning Commission Minutes**

Planning Commission Meeting – November 10, 2020

**MOTION/Second:** Wisdorf/Zwiebel approved with minor change

**VOTE: (7-0)**

### **Consent Agenda**

Items PL 20-175 and PL 20-166 were removed from the consent agenda and placed under the Public Hearing portion of the agenda.

### **Public Hearings**

**PL 20-175** Concurrent Use Permit for HVAC Equipment above the alley at 301-07 W 1<sup>st</sup> St.

**Staff:** John Kelley available for questions.

**Applicant:** David Dubin present and available for questions.

**Public:** No speakers.

**Commissioners:** Gary Eckenberg asked if the air conditioning units will be mounted above vehicle height. Deputy Director Adam Fulton noted they will be mounted higher than vehicle level, and will not interfere with vehicular traffic.

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

**VOTE: (8-0)**

**PL 20-166** Interim Use Permit (IUP) for Vacation Dwelling Unit at 621 W 5<sup>th</sup> Street by Benjamin Klismith

**Staff:** John Kelley introduced the applicant's proposal for use of an 8 bedroom single-family unit as a vacation dwelling unit. The permit will allow for 17 occupants. The screening will include a 6-foot tall chain link fence with vines on it during the summer months and existing vegetation along the property line of the adjacent property. The home is currently under renovation. Staff recommends approval with the conditions listed in the staff report. Eckenberg referred to the county records of a two-room bedroom. Now they wish to convert it to eight? Kelley affirmed. Andrea Wedul commented on all the neighbors' comments they received, and asked if it will be a vacation dwelling or a hotel. Kelley stated an interim use permit for a vacation dwelling was applied for. It is a non owner-occupied dwelling with eight bedrooms. Deputy Director Fulton noted a critical distinction between the IUP and a hotel. A hotel is required to have a front desk. A hotel would not be allowed in this district. Eckenberg asked about the neighbor notification letters that were sent out. There was a typo in the staff report. The letters went out on November 23<sup>rd</sup> and not September 8<sup>th</sup>. Tim Meyer asked about the definition of a vacation dwelling. What is the maximum number of occupants allowed? Per Kelley, the Unified Development Code (UDC) doesn't have a maximum cap on the rooms at this time. Meyer thinks they may need to address this in the future. He thinks it goes beyond size and scale of what should be allowed. Deputy Director Fulton noted another distinction of an IUP versus a hotel. An IUP welcomes one family or party at a time. Wedul asked about the parking situation. Kelley noted there was parking in the garage and a large parking area in the rear yard area. R-1 zoning allows for a single-family, eight-bedroom home. Deputy Director Fulton noted there are all different sizes of homes in Duluth. The building code may require sprinklers if there are more than four bedrooms. Wedul asked where the north property line is. Does the deck cross this line? Kelley noted decks can encroach into setbacks, and it may be an existing deck. Michael Schraepfer noted for context reasons, the city already has two IUP's this large, including one on Hawthorne Road. This is not unusual. Zandra Zwiebel noted her personal experience in Santa Cruz with her family. It is a large family gathering and feels it could be a successful situation allowing these residences in Duluth. She understands the neighbors' concerns, but doesn't feel this will be used for a party hour by college students.

**Applicant:** Ben Klismith addressed the commission and noted they have put a lot of work into the house so far. The house will need to be ADA accessible. The living room will be made into two bedrooms. The will be hardwood floors throughout the home, and it will not be a party house, but a family gathering house. Eckenberg asked about the property manager. Klismith noted Justen Janssen is only three miles away, and is available in case a

rapid response is needed. Klismith wants to be closely involved, but understands why a local manager is needed.

**Public:** Chair Nelson noted a lot of comments were received. Heather Rand stated that she is a Duluth resident, living at 530 N 5<sup>th</sup> Avenue West, addressed the commission. She lives a block away and is concerned about vacation rental in general. She has had a bad experience with a rental house before, and noted the situation of strangers becoming part of your living environment. She feels it is different in a commercial district. She asks the commissioners to look at the bigger picture and not to convert residential neighborhoods into this type of situation. Eckenberg asked her about the illegal vacation rental in 2016. Why was it illegal? Rand stated there was no sign, and they didn't have any off-street parking. Rand stated it was an intrusion into their privacy. They can't screen property on the slope on the hillside. Eckenberg asked if it was just one party. Rand affirmed – five people and one party. Families are great, but they'll be out on their decks, grilling and playing games. There is a difference between neighbors and strangers. Lisa and John Kappaman, 625 W 5<sup>th</sup> Street addressed the commission. They are only nine feet away. They appreciate the maintenance work being done on the building, but they are not comfortable with the scale of the vacation rental. She noted the ADA driveway is very close to them. They have had two accidents in their own driveway during slippery conditions. They have a wonderful neighborhood with neighbors helping neighbors. They don't want to see that change. Chana Stocke, 523 W 6<sup>th</sup> Street, addressed the commission. She is opposed to the vacation rental. She thanked the commissioners and noted that she also sent an email. This is a small residential neighborhood and this proposal feels like a commercial venture. The hillside views are not secret. They have total strangers coming into their yard to take pictures of the lake and lift bridge. She is worried that other commercial companies will pick other houses on the hillside for the same purpose. She doesn't want it to become Hillside Row. Noise travels easily on the hillside. She asked the commissioners if they would like a 17 person "hotel" next to them. She isn't against vacation rentals, but is opposed to outside commercial developers moving in. David Ross, 526 W 6<sup>th</sup> Street, addressed the commission. He and his wife Katie also submitted a written comment. He is concerned about parking. There are no curbs or sidewalks, and the home is located on a rock ledge. Water freezes where the entrance is going to be. He envisions 17 unexpecting people trying to shoe-horn vehicles into a rubiks cube formation. He hopes the commissioners take the neighbors' considerations over an outside developer who is set to profit. City councilor Roz Randorf noted the UDC code is a road map. This rental will change the character of this R-1 neighborhood. Maybe the code needs to be changed to consider long-range neighborhoods. This is her district, and a boutique hotel will change things. Sue Bowman addressed the commission. She lives across the street to the east. She is also concerned about parking. Water freezes and ice forms and cascades down. There is no drainage, and often creates a skating rink in the winter. Neighbors know to only access using 8<sup>th</sup> Avenue West because 5<sup>th</sup> Avenue is too steep and treacherous. Unknowing traffic often gets stuck trying to use 5<sup>th</sup> Avenue West. The driveway is at the bottom of a hill, and she thinks renters will get stuck. She is also concerned about noise, and is very opposed.

**Commissioners:** Zwiebel noted in the past, she listened to the neighbors' concerns regarding the IUP at 1201 Woodridge Circle. She said there were maybe three times as many more neighbors in the same situation. At the time she voted against the IUP, and she has regretted that vote. She understands the neighbors' comments, but notes the entire front of the property is rock, so it is not like they will be hovering over another

home. The applicant is in compliance with the rules, and she is in support of this IUP. Wedul appreciates Zwiebel's comments, but asked if they should consider additional buffering. She thinks they should look into possibly updating the UDC in the future, but in this case the applicant has met all provisions. Tim Meyer stated this is his eighth year on the planning commission. Every once in a while a case comes up that tests the code. He feels this goes beyond the intent of a vacation rental. This kind of density would start to compete with B&B's and hotels in the area. When a majority of neighbors object, he does listen. He has a hard time supporting. Schraepfer stated this is his sixth year of the planning commission. There is still a cap of 60 IUP's allowed in Duluth city limits. There should be no fear of more coming into the market. He noted bringing the home into ADA compliance is very expensive. It is one home, and not a hotel. He has seen groups with 17 people. Wedul noted there is a change to recreational tourism and this is a great opportunity for Duluth. 17 people also gives her pause, but there is no violation here or in code, so she will be voting in support. Eckenberg visited the site and noted the steepness. He recalled his own challenge of getting up his daughter's driveway. He can only imagine eight vehicles going up and down this driveway in the winter. He is concerned about the parking and will be voting against it. Wedul asked if it would be warranted to table this item for more discussion due to a mix-up with neighbor notification. Deputy Director Fulton stated that notifications were sent out properly. Jason Crawford feels there is no need to table, and they have a clear understanding about how the neighbors feel.

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

**VOTE: (6-2, Meyer and Eckenberg Opposed)**

This item can be brought to the city council for their meeting in January.

**PL 20-158** Variance to Side Yard Setback for Garage with living space at 204 W 6<sup>th</sup> Street by Roger Reinert

**Staff:** Kyle Deming introduces applicant's proposal to construct a 22' by 22' addition to the northeast corner of the dwelling. The addition will consist of a garage with one level of living space above. A variance is needed to reduce the corner side yard setback (North Second Avenue West) to three feet. The topography on the property drops about 30' northwest to southeast, with a steep drop down from W. 6<sup>th</sup> St. Other locations on the property would not be feasible due to the topography and an old building foundation to the west. Staff recommends approval with the conditions listed in the staff report. Deming would like to add one more condition. Minnesota Power mentioned they are concerned about the proposed building addition's proximity to an overhead electric wire running along 2<sup>nd</sup> Ave. W., and wants to make sure the design takes into account required distances to the electrical wire. Wedul noted the Minnesota Power setbacks. Would it be unbuildable? Deming stated it is buildable, and they just need to take their concerns into account.

**Applicant:** Roger Reinert addressed the commission. Their goal has been to add a garage. They purchased the home last summer. Building is challenging due to the steep slope. Their intent is to match the garage to the existing foundation. They are trying to be a good neighbor, and will not infringe on anybody's view.

**Public:** No speakers.

**MOTION/Second:** Eckenberg/Meyer approved as per staff recommendations.

**VOTE: (8-0)**

**PL 20-152** UDC Map Amendment to Rezone from Mixed Use Business Park (MU-B) to Residential-Urban (R-2) for Properties Between 1725 and 1827 W 1<sup>st</sup> Street, Located on the Northwest Side of the Block of West 1<sup>st</sup> Street Between Piedmont Avenue and 19<sup>th</sup> Avenue West by the City of Duluth

**Staff:** Steven Robertson introduced the city's proposal to rezone the property. Both map and text changes require ordinances and city council action. The neighbor letters were sent on November 23<sup>rd</sup>. Both rezoning s are city actions. This action was initiated by city staff because in the past year they have had two pre-application meetings with people wanting to expand their homes, but in MU-B, you can't as the single family homes are considered by legal non-conforming uses. By changing the zoning to R-2 they would now be allowed to expand. Zwiebel asked if the body shop would be able to expand. Robertson noted they could expand into the neighboring lot if they purchase it. The city feels the best fit for the neighborhood is residential use.

**Applicant:** N/A

**Public:** No speakers.

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

**VOTE: (8-0)**

Commissioner Wedul recused herself from the next agenda item due to a financial conflict.

**PL 20-178** UDC Map Amendment to Rezone from Mixed Use Neighborhood (MU-N) to Form District 5 (F-5) at 215 N First Avenue E, the North Half of the Site of the Historic Old Central High School by the city of Duluth

**Staff:** Deputy Director Fulton noted there has been discussion on this site over the years. The school is collaborating with a developer. The site is currently split zoned, and needs to be appropriately, therefore, a form district is being proposed consistent with the comprehensive plan. Steven Robertson noted future development may include multi-family housing. Not having multiple zoning districts will make financing easier. The rezoning is being done on behalf of the city. The two adjacent parking lots are not part of the rezoning, even though they related to the school property and provide off-street parking. This property is designated as a local historic landmark, and developers must present their plan to the Heritage Preservation Commission in the future. Staff recommends approval.

**Applicant:** N/A

**Public:** No speakers.

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

**VOTE: (7-0-1, Wedul Abstained)**

**PL 20-179** UDC Text Changes Related to Connectivity/Circulation and Platting/Developments

**Staff:** Steven Robertson noted the three changes being proposed. Two of the changes the commission has seen before, which is the circulation of new developments. There needs to be at least one sidewalk, or multi-use trail. City engineers will approve street names and suffixes. The new change involves drive-thru's (restaurants, but also banks) in the MU-N district. They would like to allow an extra hour of usage/service until 11 p.m. at night if they are at least 250' from any residential structure. This is because demand for

drive-thrus continues to be significant, with many owners citing Covid-19 as an issue increasing their utility.

**Applicant:** N/A

**Public:** No speakers.

**Commissioners:** Zwiebel noted connectivity and sidewalks, and discussed the context of sidewalks with surrounding locations. Robertson said sidewalks on both sides of the streets would be appropriate if adjacent neighborhoods also had sidewalks on both sides of the street, or if a previous small area plan or transportation study outlined future sidewalk placement. Wedul clarified this puts the need for more coordination and better communication with the city engineering. Robertson affirmed. Robertson noted there is great coordination between engineering and the land use supervisor.

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

**VOTE: (8-0)**

### **Communications**

Land Use Supervisor (LUS) Report – Deputy Director Fulton thanked the commissioners for their service and for dealing with the difficult item. They will revisit vacation rentals, including the possibility of increasing the cap at a future brown bag. They will also bring back the discussion on sober houses. There are no actions for January as of yet. Their annual meeting will be in February and will most likely be held virtually. Staff will continue their dialog with the developer of the Enger golf course site. There are transportation meetings coming up, along with meetings with parks and the county on land swap properties for conservation. Fulton will email with those dates. An email will be sent to the commissioners outlining the meeting dates. An administrative citation has been issued to the property on Cody Street.

Heritage Preservation Commission – Commissioner Wisdorf gave an overview. They will have a special meeting next Monday to go over zoning changes related to iconic buildings.

Joint Airport Zoning Board – No report.

Duluth Midway Joint Powers Zoning Board – No report.

### **Adjournment**

Meeting adjourned at 7:26 p.m.

Respectfully,

DocuSigned by:  
*Adam W. Fulton*  
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Adam Fulton – Deputy Director  
Planning and Economic Development