

# City of Duluth Planning Commission

**August 24, 2021  
Special 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, August 24th, 2021.

## **Roll Call**

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

Members Present: Gary Eckenberg\*, Jason Hollinday\*, Margie Nelson\*, Michael Schraepfer\*, Sarah Wisdorf\*, Andrea Wedul\*, and Zandra Zwiebel\*

Members Absent: Jason Crawford and Eddie Ranum

Staff Present: Adam Fulton\*, Robert Asleson\*, and Steven Robertson\*

## **Old Business**

PL 21-110 Planning Review for Parking Lot and Site Improvements at 339 E Central Entrance by Brad Rixmann, RFP LLC

**Staff:** Adam Fulton gave an overview of both PL 21-110 & PL 21-111. During the Public hearing at the August 10<sup>th</sup>, an adjacent property owner addressed the planning commission with two concerns; the access over vacated Upham Road and the concern of their private utilities located under Upham Road. The applicant intends to work with the adjacent owner for use of the private easement over the vacated right of way. The applicant indicated that they only know of Pawn America's utilities in the area, and are unaware of any other private utilities located there. City Engineering has confirmed there are public utilities in the right of way for Central Entrance. Staff removed the recommendation of the easement for private access across vacated Upham Road from the staff report and is no longer part of staff recommendation. Staff received correspondence from Mike Casey (which was shared with commissioners via email). Staff should have listed in their staff report the correlation between this project and the Central Entrance planning study and the concerns of the Duluth Superior MIC. Staff has worked with the applicant to reserve space in the future for a possible sidewalk or trail. Staff recommends approval.

**Applicant:** Brad Rixmann of RFP, LLC, and Jeff Goetzman of TKDA are both in attendance, and can answer questions.

**Public:** The public hearing was held last meeting, but can be opened back up and the discretion of President Nelson and the commissioners. President Nelson opened the public

hearing. Mike Casey – addressed the commission. He thanked the commissioners for opening the public hearing. He has been involved in the Central Entrance planning study. He is extremely disappointed to see the lack of planning on this proposal. He hopes areas are maintained to improve the safety of the community, and not just for parking for businesses.

**Commissioners:** Andrea Wedul asked about the extension from Duluth Motor Sports East over to Blackman. Do they have the flexibility not to extend that drive? Deputy Director Fulton affirmed. It does not affect the material impacts of what is being proposed.

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

**VOTE: (7-0)**

PL 21-111 Vacation of a Portion of Upham Road at 339 E Central Entrance by Brad Rixmann RFP LLC

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

**VOTE: (7-0)**

### **Public Hearings**

Deputy Director Fulton noted item PL 21-115 will be withdrawn until 9-14-2021.

PL 21-113 Concurrent Use of Streets Permit for a New Skywalk Over 4<sup>th</sup> Avenue E at 502 E 2<sup>nd</sup> Street by Essentia Health East

**Staff:** Steven Robertson introduced the applicant's proposal for a concurrent use permit to construct a skywalk (pedestrian walkway) over the public right of way, as part of the proposed parking ramp. The parking ramp will ultimately be owned and operated by the City of Duluth. This item was initially on the August 10, 2021, planning commission agenda. Staff recommends approval with the conditions listed in the staff report. Staff received a comment from a citizen (shared with the commissioners via email.) expressing concern about the parking ramp layout. Wedul asked about the snow chute. It appears that half is dumping into alley and half is going on their property. Has engineering approved this design? Robertson noted this will be discussed as part of P 21-115 at their next meeting. It is still being finalized.

**Applicant:** N/A

**Public:** No speakers.

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

**VOTE: (7-0)**

PL 21-114 Concurrent Use of Streets Permit for a New Parking Structure Over the E 1<sup>st</sup> Street Alley at 502 E 2<sup>nd</sup> Street by Essentia Health East

**Staff:** Steven Robertson introduced the applicant's proposal for a concurrent use permit to construct a private structure over the public right of way, as part of the proposed parking ramp. The parking ramp will ultimately be owned and operated by the City of Duluth. This items was initially on the August 10, 2021 planning commission agenda. Staff recommends approval with the conditions listed in the staff report. Zandy Zwiebel asked about the public easement. Is it only level four? Robertson said it starts at four, but also includes five and six.

**Applicant:** N/A

**Public:** No speakers.

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

**VOTE: (7-0)**

PL 21-115 Planning Review for a 800-Stall Parking Structure at 502 E 2<sup>nd</sup> Street by Essentia Health East

**No Action – Withdrawn until 9/14/2021**

PL 21-127 UDC Text Amendments Related to Enforcement and Zoning Permit Revocation

**Staff:** Steven Robertson introduced the UDC amendments related to revocation of special use permits, interim use permits, and variances. The amended language provides an additional enforcement tool for the Land Use Supervisor and staff to more easily, speedily, and efficiently enforce the zoning code and ensure that conditions attached to planning commission approval have been implemented. Deputy Director Fulton noted they have also worked with Life Safety. They want to make sure their tools are correct and legally defensible. Michael Schraepfer asked if this includes a time frame element. Robertson stated not in this particular language, but he gave staff's normal routine is they usually give the applicant three to six months to correct something, and then it's a verbal warning usually a phone call or an email, and then it becomes a written warning. It takes a long time, a year is not atypical. Planning's goal is to seek compliance. Schraepfer asked if a time frame should be added to the UDC. Robertson reluctant to place every situation in the same time frame, and would like the freedom to view items on a case to case basis. Gary Eckenberg asked if this language would help the commission in the Cody Street compliance. Deputy Director Fulton noted this amendment isn't related to any specific item, but seek to fix the deficiency in the code from a legal standpoint. Revocation of a special use permit is a tool that can now be considered. Zwiebel asked about extensive clutter. Deputy Director noted it depends on the property's use. Storage of items outside is complicated. Automotive uses could start out as a body repair shop, and becomes more of a junk/salvage facility. That's an area where staff has to be very clear as to how they are making determinations. The International Property Maintenance Code is referred to in the UDC, but is more likely to be handled by the city's Life Safety Office. Schraepfer noted he doesn't agree with the revocation of use without any required notice. Deputy Director noted they may have miscommunicated, and there is a 14 day notice, and then there is an appeal process. There is ample opportunity for it to be challenged. Notice should be provided to the owner, the applicant, and the tenant of the property.

**Public:** No speakers.

**Commissioners:** Schraepfer reiterated he didn't think it was fair to give a 14 day revocation of someone's livelihood, without some sort of documented notification beforehand. To trust the city has the individual's best interest at heart is vague. Robertson noted there is a section in the code where it gives specific notice that the applicant is not in compliance. This would happen before the revocation process begins. Schraepfer appreciates the clarification.

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

**VOTE: (7-0)**

PL 21-135 UDC Text Amendments for Mixed Use-Institutional (MU-I), Residential-Planned (R-P), an Mixed Use-Planned (MU-P) Districts

**Staff:** Director Deputy Fulton gave an overview. The proposed changes to the UDC text for the referenced districts are based on updates discussed over the past several months with the

commission, and based on previous work plan items for UDC updates, and the policy direction of the Imagine Duluth 2035 Comprehensive Plan. If recommended for approval by the planning commission, the proposed changes will be brought before the city council for consideration in September. Staff recommends that the planning commission conduct a public hearing on the proposed UDC changes, and make a recommendation of approval for those changes to the city council. Wedul asked about the change of the minimum lot size in the R-P. Was there a rationale for dropping it to one acre? Deputy Director noted they would like to have urban redevelopment and conserve land on the outskirts of the city. It provides for more options in the core of the city. Zwiebel asked about the MU-I – a plan “may” be required. Deputy Director stated currently it is just an option. There may be situations where they want to see a district plan.

**Applicant:** N/A

**Public:** No speakers.

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

**VOTE: (7-0)**

### **Other Business**

#### PL 21-133 Tax Increment Financing Comprehensive Plan Compliance for the Greysolon Plaza Project at East Superior Street and 3<sup>rd</sup> Avenue E

**Staff:** Theresa Bajda gave an overview. In order to facilitate redevelopment and preservation of the Greysolon Plaza affordable apartments located at the corner of East Superior Street and 3<sup>rd</sup> Avenue East, the city needs to approve adoption of the Greysolon Plaza Tax Increment Financing Plan. Staff recommends a motion to adopt the findings that the Tax Increment Financing Plan for Greysolon Apartments conforms to the general plans for the redevelopment of the city via resolution. The role of the planning commission is to make sure the proposed development and its uses are consistent with the Comprehensive Plan and Unified Development Code (UDC). The 150-unit Greysolon Plana Apartments will be reinvested in to preserve the one-bedroom units for senior 62+ earning 50% or less of the area median income, with support from Section B Project Based Vouchers. The project includes upgrades to existing units, elevators, common areas; including the installation of the WiFi system throughout. This project implements the comp plan principles listed in the staff report.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** Commissioner Eckenberg noted the limitation of seniors 62 and over. Because it’s a HUD property, are they allowed to restrict candidate due to age? Bajda isn’t aware of any changes. It is currently senior housing, and will continue to be senior housing. Deputy Director Fulton noted this is a conversion of a former hotel property, the developer is not seeking to displace anyone, but would like to see investment in the property. He will look into the different HUD programs and get back to the commissioners regarding senior housing. Commissioner Schraepfer noted it is a HUD loan, but not HUD owned.

**MOTION/Second:** Eckenberg/Hollinday TIF is in conformity with the Comprehensive Plan

**VOTE: (7-0)**

PL 21-136 UDC Text Amendment for Vacation Dwelling Units

**Staff:** Deputy Director Fulton noted the resolution attached on page 133 of the staff packet. He welcomed city councilor Zack Filipovic and added him as a panelist. There are complexities involved with this topic. Steven Robertson gave an overview. He clarified that this is not a public hearing, but just a discussion at this point. He noted the many inquiries the planning department gets on this matter, and that it is a hot topic. The interim use permits will now be approved by the planning commission. The number of bedrooms will be limited. There will be stronger screening rules, and the cap limit will increase with an annual accelerator of 10% up from 60 to 100. Deputy Director Fulton will clarify with the council when the increase is slated to begin. Robertson stated a new application will list the proximity to neighboring structures and a dense urban screen or fence is required to be in place during the permit period between the permitted property and neighboring properties. Robertson highlighted 50-20.3V Vacation dwellings limited. Only eligible applicants will be allowed to apply. This includes property owners that reside in their owner-occupied homestead property may apply for a temporary vacation dwelling unit in their owner-occupied homestead properties. This is geared toward homeowners that would like to rent out their homes for a limited period in order to obtain additional income. This is not for corporations who own multiple properties. Language was also changed in regards to accessory home shares. In September when the topic is brought back to the planning commission staff will have a clear copy of what the rules are. Having the planning commission approved the interim use permits will be a big change. Cottage home parks language will also be changed to add more connectivity. Robertson suggested an informational meeting for citizens hosted by staff.

**Applicant:** N/a

**Public:** N/A

**Commissioners:** Wedul noted Robertson's overview was helpful. She had questions on the process, term and lottery system, and also a technical question regarding RV's, and that an RV could have 3-4 bedrooms in it. How does that effect the limited number of bedrooms in regarding to accessory dwelling units? Robertson noted the RV discussion was a staff discussion for vehicles parked out on the street. It won't add to the bedroom calculation. Wedul suggest maybe staff should note that RVs should be parked only, and not occupied. Robertson agreed. Regarding the lottery system. He noted there are approximately eight people on the waiting list from 2018. Wedul suggested a press release would be helpful for future information. Commissioner Eckenberg noted vacation dwellings – limited – and the maximum of 21 nights. Is this language new? Robertson stated it is brand new tool, and allows homeowners to rent their entire house without being present. Eckenberg asked about current home accessory rules. Is there a limit? Robertson stated there is no limit, and not super popular, since the owners don't want to be on the property while their guests are there. Commissioner Zwiebel noted the limited maximum of 21 nights. She mentioned snowbirds. She would like to see the time period extended from 21 to 90. Robertson noted the city council concern might be determining what period is too long to haven an over the counter permit without neighbors being notified, etc. Commissioner Wedul asked about the squatting law. Is there an eviction process after so many days? She is try to understand the limit of 21 days. Deputy Director Fulton noted the time frame for a guest to stay is from two to seven days, with a maximum occupancy of 3 weeks/21 days for the year. This was council's decision to minimize the impact on the neighbors. Planning commission could make an alternate recommendation if they wish. Commissioner Eckenberg noted the language of no less than two nights. Why? Deputy Director Fulton stated it eliminates people from coming and going for just one night. Chair Nelson noted the availability of a hotel room for one night. Eckenberg noted the high price tag for one night in a hotel during a busy event. Councilor Filipovich thanked the commissioners for their discussion. He compared the limited Vacation Dwelling to a part time versus full time vacation dwelling. The two day

minimum is the current language and allows visitors to get a feel for the area. Commissioner Wedul noted there are certain requirements in place for long term rentals. In regards to protecting visitors, how are the short term buildings evaluated? Robertson noted there is a life safety inspection as well as a hotel/motel license inspection. Deputy Director Fulton noted they have to conform to building code standards. They are also evaluated by customers. Life Safety inspections continue to be a priority.

**MOTION/Second:** N/A – Discussion only

### **Communications**

Land Use Supervisor (LUS) Report – Deputy Director Fulton noted there is an unusual item coming up on the planning commission’s September agenda regarding the sale of land. Theresa Bajda will be preparing the staff memo. After review, please reach out to Deputy Director Fulton if there are any questions. Also, regarding comp plan density, he asked if there is an openness for discussion. Chair Nelson agreed to having a conversation to explore different options. Deputy Director Fulton asked for volunteers to be on the committee to discuss density in housing. President Nelson, Vice-President Wisdorf, along with commissioners Schraepfer, Wedul and Zwiebel volunteered. Deputy Director Fulton will also reach out to the absent planning commissioners. Commissioner Wisdorf asked about the Kenwood Super One. Deputy Director Fulton stated they may be issuing a permit for rock crushing, but neighbors will be notified first. No other update. Wisdorf asked about any Vassar Street updates. Deputy Director Fulton noted it has been to numerous council meetings, and the planning commissions’ decision was upheld. The applicant has an extended review period of 120 days which extends into November.

### **Adjournment**

Meeting adjourned at 6:53 p.m.

Respectfully,

DocuSigned by:  
*Adam Fulton*  
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Adam Fulton – Deputy Director  
Planning & Economic Development