

City of Duluth Planning Commission – Special Meeting

September 28, 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 special meeting of the city planning commission at 5:00 p.m. on Tuesday, September 28th, 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*, and Zandra Zwiebel*

Members Absent: Jason Crawford, Eddie Ranum, Andrea Wedul

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

Public Comment on Items Not on Agenda

No speakers.

Public Hearings

(Presentation combined the next two related items.)

PL 21-145 Variance from Cluster Requirements at xxx Skyline Drive by Cynthia Crawford

Staff: Deputy Direct Adam Fulton introduced the applicant's proposal for a variance to provide an exemption from the clustering requirements of UDC Section 50-33.5 in the RR-1 zoning district and the preliminary plat. This is a 67 acre parcel with no utilities. It is zoned RR-1 which requires a 5 acre minimum. The applicant is proposing 13 houses with a single access driveway. The developer is avoiding bedrock and wetlands, and has provided the most feasible layout. There will be two septic systems on each lot. For the preliminary plat the development agreement must be recorded. Commissioner Gary Eckenberg noted this was plotted for 72 units in 2006. What was the configuration then? Per Deputy Director Fulton these were proposed as single family 4,000 square foot sites, but the sites were rocky and the utilities were too expensive. Currently lot 10 will be reduced and lot 9 increased to allow for a driveway. This will avoid wetlands as required by law. Commissioner Zandra Zwiebel noted the 4.8k square foot building pads. Once lots are sold, will the driveways be constructed at that time? Deputy Director Fulton deferred to the applicant. Fulton noted a site plan will be required prior to

permitting. Zwiebel asked what the hardship is. Deputy Director Fulton noted the practical difficulty is the septic on two locations for each site, minimizing wetland impacts, the location bedrock and the steep slope of the lots. Because of these constraints, he said it is not possible to cluster development on one portion of the site under the existing RR-1 zoning.

Applicant: David Bohlf on Northland Consulting Engineers addressed the commission. He noted that the lots will each have a house, a driveway, two septic and a well all within the five acre lot. Each homeowner will have control of where the home will be located within the setbacks. He noted the question about 70 lots in 2006. That project had public utilities proposed to allow for that density. Then the market tanked and the project did not move forward. They are seeking a variance to minimize the impact to trees and wetlands. Commissioner Zwiebel asked why would it be 1,000 more feet if clustered? Bohlf noted because of the big interior loop needed. The cluster would be south of lot 11. It seems counter-intuitive, but by clustering you are actually disturbing more wetlands.

Public: No speakers.

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

VOTE: (6-0)

PL 21-144 Preliminary Plat at xxx Skyline Drive by Cynthia Crawford

Staff: (See above)

Applicant: (See above)

Public: Mike Casey of Smithville addressed the commission. He feels roads should serve a public purpose. This proposed road goes nowhere and just enters private properties. The city has trouble maintaining existing roads. Why does this city allow this? The development should maintain the road and not be asked to maintain it by the citizens of Duluth.

Commissioners: Zwiebel asked if the city builds roads, wouldn't the private residents be assessed? Deputy Director Fulton noted the increased sales tax dedicated to roads which began in 2017. The city is not assessing private parties. The curbs and gutters on the street will be constructed to modern city standards. If rebuilt, then the property owners could be assessed.

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

VOTE: (6-0)

PL 21-136 UDC Text Amendments for Vacation Dwelling Units

Staff: Deputy Director Fulton thanked the commissioners for their efforts and dedication.

Senior planner Steven Robertson gave an overview and proceeded with a power point presentation. He noted the 2018 waiting list for an interim use permit for a vacation dwelling unit (VDU) is now down to seven. Approximately one third of the existing VDU's are on Park Point. There are six main proposed changes:

- a. Approval of interim use permits will now be granted by the planning commission.
- b. New vacation dwelling unit homes may not exceed rental of four bedrooms.
- c. A dense urban screen or fence will be required.
- d. An increase of the current cap of 60 will be 10 percent per year of new units created, or 10, whichever is less, but not to exceed 120 units total.
- e. Retaining exemption to the cap in form districts.
- f. Creation of a new, over the counter, annual permit, called "limited". This will be for short term rentals which will allow owners to rent their owner-occupied homestead properties for no more than 21 days per year.

Changes that are not approved at this time, but discussed in the past, include:

1. Limiting the number of vacation dwelling units that any individual or organization may have.
2. Increasing the cap immediately to 120.
3. Changing the period of the permit from six years to three years.
4. Minimum distance or setbacks between existing VDU's.

Staff recommends that the planning commission hold a public hearing, discuss the proposed modifications to the UDC and provide further modifications as appropriate, and recommend approval of the UDC updates to the city council. Commissioner Eckenberg asked about renewals. Robertson stated the normal term of a VDU is six years, and then the applicant can re-apply. Accessory Home Share and Limited permits are for three years. Eckenberg questioned why these wouldn't also be six years. Per Robertson, the Life Safety office operates on a three-year rotation on rental licenses, and these would coincide with them. When the applicant re-applies, they must meet current standards, zoning, or fire, or building code. Eckenberg noted items 13 and 14 under Accessory vacation dwelling units seem redundant. Robertson noted legal counsel also pointed that out too and they will be condensed. Eckenberg asked about accessory home share permits. There is no minimum of two days listed. Robertson affirmed and stated it's standards are less rigorous than vacation dwelling units. The owner is generally supposed to be on site, and wouldn't be allowed to go to work for eight hours, etc.

Zwiebel asked if the VDU permit goes with the property once it is sold. Per Robertson, no. The permit does not add value to the home for the next owner. Zwiebel commented on a large house with eight bedrooms; could they receive two VDU permits for a single home to increase the room count? Robertson stated only one VDU per dwelling is allowed. Zwiebel asked if there was any incentive for someone to release their VDU back into the pool, if it is not being used. Robertson stated not at this time. He also noted eight of the current active VDU's have five or more bedrooms, which is roughly ten percent.

Commissioner Michael Schraepfer noted accessory home share permits. The owner can't go to work while the home is being rented? This seems absurd. They shouldn't be house-bound. Deputy Director Fulton noted the intent is not for the owner to be home 100 percent of the time. Robertson noted there should be one owner on or about the premises at all times. Schraepfer thinks this may need a revision. He also noted the new fence rule is vague. He noted it shouldn't be necessary in a commercial area. Are they required in a form district? Robertson stated Schraepfer has good comments.

Schraepfer asked about the VDU lottery three years ago. Should the pool of interested applicants be updated? Robertson noted in the future he presumes there will be a large time frame for interested people to apply for the waiting list and then they can establish a new list. Deputy Director Fulton noted the planning commission can recommend to the city council what they want. Some permits might convert to the "limited" variety. The eligible to apply list will be updated after approved by the city council. Eckenberg noted the possibility of VDU's switching to Limited. He doesn't think this will be a big draw with the limitation of only allowing 21 days of rental per year. Where does the 21 number come from? Deputy Director Fulton noted the city council rationalized seven – 3-day weekends or three full weeks. Homestead status creates murky waters if it is more than 21 days. Zwiebel agrees with Schraepfer that an accessory home share applicant should be allowed to leave for work as long as they come home as the existing resident.

Public: Mike Casey addressed the commission. He noted the new fence rule is a fence for the neighbor, too. He feels the city council is seeking to fix a problem that doesn't exist. He thinks they should get rid of erroneous rules. If a fence is needed, add it. Doug KMan of Lake Superior Area Realtors addressed the commission. He suggests there be a VDU cap relative to the housing stock. It may be beneficial to evaluate the number of residents. How many are homesteaded as a percentage to sustainable growth. He appreciates the planning commission's discussion.

Commissioners: Zwiebel referred to several years back when Terry Guggenbuehl was a planning commissioner. At that time they proposed the limit be 1/100th of a percent of the total housing stock. Zwiebel likes that idea. Eckenberg asked about home share permits. What districts are they allowed in? Per Robertson, they are allowed in all residential districts, MU-N districts and form districts.

MOTION/Second: Schraepfer/Eckenberg recommended approval with added condition that a fence only be required between residential uses if the neighbor desires it.

(Amendments follow before original motion was voted on.)

VOTE: (6-0)

MOTION/ Eckenberg asked for a motion for all permit types be three years. (There was no second.)

MOTION/Second: Eckenberg/Schraepfer recommended approval to strike items 6 – residency under Accessory Home Share (UDC 50-20.5G) (Language is vague regarding when the owner needs to be present.)

VOTE: (6-0)

MOTION/Second: Zwiebel/Eckenberg recommended approval to raise cap limit to 1/100th % of available housing stock (currently 120) (Vacation dwelling Units UDC 50-20.3U)

VOTE: (2-4, Eckenberg, Hollinday, Nelson and Wisdorf Opposed) – Motion Fails


Commissioner Sarah Wisdorf asked by raising the cap would it eliminate the acceleration clause? Zwiebel state yes, but if the housing stock grows, the cap would grow. It could shift annually. Schraepfer appreciates the proposed amendment, but he doesn't think the city council has any interest in this.

MOTION/ Wisdorf asked for a motion to increase the cap with an acceleration clause. (There was no second.)

Adjournment

Meeting adjourned at 6:50 p.m.

Respectfully,

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Adam Fulton – Deputy Director
Planning & Economic Development