

City of Duluth Planning Commission

**April 11, 2023 – City Hall Council Chambers
Meeting Minutes**

Call to Order

President Margie Nelson called to order the meeting of the city of Duluth planning commission at 5:00 p.m. on Tuesday, April 11th, 2023 in the Duluth city hall council chambers.

Roll Call

Attendance:

Members Present: Jason Crawford, Gary Eckenberg, Jason Hollinday, Samuel Lobby, Margie Nelson, Danielle Rhodes, Michael Schraepfer, and Andrea Wedul

Members Absent: N/A

Staff Present: Ryan Pervenanze, Jean Coleman, Chris Lee, Kyle Deming, and Cindy Stafford

Approval of Planning Commission Minutes -

Planning Commission Meetings – March 9th (Annual), and March 14th (Regular), 2023

MOTION/Second: Rhodes/Lobby approved

VOTE: (8-0)

Public Comment on Items Not on Agenda

No speakers.

(Item PL 23-031 was removed from the consent agenda and placed under public hearings.)

Consent Agenda

PL 23-041 Minor Subdivision at 2232 Hoover Street by Bluemoon Properties, LLC

PL 23-043 Interim Use Permit for a Vacation Dwelling Unit in a Form District at 4721 E Superior Street by Spruce Living

PL 23-030 Interim Use Permit for Renewal of a Vacation Dwelling Unit at 1802 Minnesota Avenue by William W. Weller

PL 23-042 Interim Use Permit for Renewal of a Vacation Dwelling Unit at 2314 Hoover Street by Matt Anderson

PL 23-045 Interim Use Permit for Renewal of a Vacation Dwelling Unit at 829 S Lake Avenue by Nikki Olson

PL 23-048 Interim Use Permit for Renewal of a Vacation Dwelling Unit at 1137 N 6th Avenue E by Jacob Shaw

PL 23-051 Vacation of a Drainage and Utility Easement in the Kayak Bay Plat near Grand Avenue and Bessemer Street by River West Vacation Homes, LLC

PL 23-052 Vacation of a Drainage and Utility Easement in the Kayak Bay Plat near Grand Avenue and Bessemer Street by River West Vacation Homes, LLC

Commissioners: PL 23-030 - Commissioner Danielle Rhodes asked about the condition on the removal of the fire pit. Chris Lee affirmed the applicant had decided to remove the fire pit.

Public: No speakers.

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

VOTE: (8-0)

Public Hearings

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

PL 23-031 Interim Use Permit for Renewal of a Vacation Dwelling Unit at 1421 E Superior Street by Endion Land Company

Staff: There was no presentation on this item, but staff was available to answer any questions. There were none

Applicant: N/A

Public: No speakers.

MOTION/Second: Crawford/Wedul approved as per staff recommendations

VOTE: (7-0, Schraepfer Abstained)

PL 23-039 Preliminary Plat at Becks Road and 108th Avenue West by Connor Bambenek

Staff: Chris Lee introduced the applicant's proposal to create a new plat for 12.85 acres of currently vacant and unplatted land. Platting this parcel will establish two buildable lots. Lot 1 will contain 5 acres and Lot 2 will contain 7.85 acres. A single-family home is proposed for Lot 2. Lot 1 of the proposed plat will have 722 feet of frontage on Beck's Road and 259 feet of frontage on 108th Avenue West. Lot 2 will have approximately 479 feet of frontage on 108th Avenue West. This meets the requirement in the RR-1 zone district of 250 feet of frontage. There is an existing sewer easement at the northwest corner of Lot 1. Staff recommends approval with the conditions listed in the staff report.

Applicant: N/A

Public: No speakers.

MOTION/Second: Holliday/Lobby recommended approval as per staff recommendations

VOTE: (8-0)

New Business

PL 23-053 Citizen Petition for Environmental Assessment Worksheet (EAW) for Kinseth Hotel Project on Sundby Road

Staff: Manager Ryan Pervenanze gave an overview. The planning commission shall serve as the responsible governmental unit and conduct or oversee environmental reviews pursuant to Minnesota States Chapter 116D and the applicable state regulations. The planning commission is tasked with reviewing the petition and the proposed Findings of Fact, and determine if an

EAW is required. It is the recommendation of city staff that an EAW is not needed and the petition should be denied.

Commissioners: Commissioner Gary Eckenberg noted the resolution in their packet about denying the petition. Was there a resolution created to accept the petition? Pervenance stated no. Michael Schraepfer asked staff to comment on cost. Manager Pervenance stated an EAW can range between \$25,000 to \$50,000, and estimated the timeline to be approximately seven months. Eckenberg asked if the EAW is a minimal review.

Applicant: Adam Zwak of Northland Consulting (representing the applicant) addressed the commission. He noted an EAW is intensive, and adds to the cost of the project. He noted the addition of a stormwater pond, which will help with sediment removal upstream. The underground system will have an extra filtration system. Commissioner Andrea Wedul noted hydrology and doesn't want to "dewater" this. Wedul noted an EAW will help them better understand the development, and hopes that the developer would be on board. Zwak can't speak for the developer, but noted the cost factor.

Commissioners: Wedul asked if the project is still going through a wetland delineation. Per Lee, the project has gone through the full review. Wedul asked if there were boring reports. Zwak said soil borings were taken.

Public: Becca Mulenberg – 1649 W Page St – addressed the commission. She referred to a boundary line adjustment in where there was a parcel that was not delineated. She urges the commissioners to require an EAW. Her allotted time was up, and she was asked to conclude. Jill Crawford-Nichols – 1505 W Morgan St – addressed the commission. She listed many reasons why an EAW is needed; including, Miller Creek is an impaired water way. She noted the city is acting as a defense team for the developer. Her allotted time was up, and she was asked to conclude. Dave Zentner – 2116 Columbus Ave – addressed the commission. He has experience with watershed issues, and was the chair for the Miller Creek task force for several years. They continue to lose natural functioning systems. An EAW should be a mandatory requirement for every project in an impaired watershed. It is not. In the absence of a required EAW, the planning commission should recommend an EAW be done regardless of the statute book. The EAW is a minimal ask.

Commissioners: Schraepfer asked city staff if they could give the public more time to finish their comments.

Staff: Coleman noted the meeting protocol can be changed by the chair and the planning commission.

MOTION/Second: Schraepfer/Wedul add additional six minutes to each side for comments - for a total of 15 minutes per side.

VOTE: (8-0)

Public: Jill Crawford-Nichols – 1505 W Morgan St – re-addressed the commission and noted the floating marsh marigold, which is a state-listed endangered plant species. She says the city's data stating the species isn't present is out of date and excludes an entire parcel. She finds it disconcerting that only one resolution was provided to the commissioners to deny the petition for the EAW. She asks the planning commissioners to be leaders and to require and EAW. Becca Mulenberg – 1649 W Page St – re-addressed the commission. She noted the commission only had a resolution to deny the EAW, and urges them to require an EAW.

Applicant: Zwak – re-addressed the commission. There has been a wetland delineation of the entire area and there are no wetland impacts. The Army Corp has approved. The building will be 340' from the creek.

Staff: Coleman gave an overview of the city of Duluth findings. The city determines that there is not the potential for significant environmental effects reasonably expected to occur from the Project, and that there is not sufficient basis to require the preparation of an EAW.

Commissioners: Jason Crawford asked about the parcel that was left out of the delineation and referred to by Ms. Mulenberg. Planner Chris Lee stated the delineation included the whole development area and no parcel was left out of the delineation. Commissioner Rhodes asked why was there confusion on this parcel. It was noted that the delineation author failed to include the text "010-2710-04575" in Section 1.1 of the report, which got repeated when they filled out the city's application cover sheet for the city's approval of the wetland delineation. Commissioner Wedul asked if the developer would need to fund the EAW. Per Coleman per Minnesota Rules Chapter 4410, it allowed the RGU to request the applicant funds the EAW. The difference between in EAW and EIS (Environmental Impact Statement) is the EAW is a base level analysis. If significant environmental impacts are discovered during the EAW then an EIS would be required. The EAW is not meant to approve or deny a project. Crawford noted a large portion of the EAW fee comes from professional services and not just the application fee. Schraepfer notes from a development side that as stewards to our city for a big project, a \$50k fee might be warranted. Wedul noted nobody wants to spend more money, but we can't put back things we take away. Commissioner Samuel Lobby noted the importance of water quality. The developer may have done everything by the book, but maybe not extra. He feels the need to listen to the experts. Commissioner Eckenberg noted he is torn, and on the bubble. He is not a scientific expert, but he is a citizen advocate. This project is close to an impaired water way. He will be voting in favor of an EAW. Lobby values the community participation and feels the residents are being heard. Wedul agrees with Lobby's comments and is ready to make a motion. President Nelson echoes Eckenberg's comment about being on the bubble. She is struggling with this decision personally. Crawford asked if an EAW is completed, and nothing is found, what is next. Planner Kyle Deming noted if an EAW is completed, Planning Commission will hold a public hearing and, at the end of the 30-day comment period, the Planning Commission will need to decide if an EIS is required. If an EIS is not required, the project can proceed through normal permitting processes.

MOTION/Second: Wedul/Rhodes approve petition to require an EAW due to hydrology and flood plain impacts

VOTE: (6-2, Crawford and Nelson Opposed)

Tabled Item

PL 23-003 UDC Text Amendments to Off-Street Parking Requirements by the City of Duluth
Manager Pervenanze noted this item will remain tabled.

Communications

Land Use Supervisor (LUS) Report – Manager Ryan Pervenanze gave an overview. He noted a round-a-bout on West Superior Street and the on-going St. Lukes project.

Heritage Preservation Commission – Gary Eckenberg noted there was no meeting in April.

Joint Airport Zoning Board – Gary Eckenberg noted no update.

Duluth Midway Joint Powers Zoning Board – Manage Pervenanze noted they are in the process of scheduling a meeting.

Adjournment

Meeting adjourned at 6:31 p.m.

Respectfully,

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