



City of Duluth  
Planning Division

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City of Duluth  
Planning Commission  
Minutes of August 9, 2011  
City Council Chambers, City Hall

I. President Digby has called a meeting of the City Planning Commission for 5 p.m., Tuesday, August 9, 2011, in the City Council Chambers.

II. Roll Call

Members Present: Henry Banks, Drew Digby, Rebecca Covington, Terry Guggenbuehl, Frank Holappa, David Sarvela, Luke Sydow and John Vigen.

Members Excused: Heather Rand

IV. Old Business

**MOTION/Second:** Vigen/Holappa to **Move** Old Business off the Table.

**Vote:** Unanimous (8-0)

FN 11-066 - Comprehensive Plan Map Amendment at Kenwood School at 1750 Kenwood Avenue from Traditional Neighborhood and Recreation to Traditional Neighborhood by the City of Duluth (tabled from last month).

Staff: Digby asked for a motion to move FN 11-066 from the table – Motion by Vigen/Holappa. Digby asked about a Residential-Planned (R-P) which is a residential zone district. This provides more flexibility in how a development could be laid out on the site. This would come before the Planning Commission and the Council could approve it with a specific plan in place. Holappa asked if there could be a request for R-P and provide a plan of what the property would look like. In the permitted use table you will find all the options in the R-P district.

Applicant: Kerry Leider. He is the property manager of the Kenwood school site. The response from the district was that they would like to see the west side of the property classified as Mixed Use and the east side as residential. He thinks that this designation is more to what the school district would like to see for the property. This site has a high use potential. The school district hopes that the council considers this input.

Vigen stated that the reason he tabled the matter was that he thought the Kenwood area is in need of housing for college students or seniors. If you look at the Kenwood area, 50% of occupancy is for college students in the area. There is a building here that could be re-used.

**MOTION/Second:** Sydow/Guggenbuehl to **Recommend Approval** for the Comprehensive Plan Map Amendment at Kenwood School at 1750 Kenwood Avenue from Traditional Neighborhood and Recreation to Traditional Neighborhood by the City of Duluth (Tabled from last month). **VOTE:** 7-1 (Vigen)

III. Public Hearings

- A. FN 11-090 - Zoning Map Amendment from MU-N (Mixed Use-Neighborhood) to MU-C (Mixed Use-Commercial) at 1230 Commonwealth Avenue by Shelton Properties LLC. **JK**

Staff: Kelly stated that the applicant has applied to change from MU-N to MU-C. This would provide for more commercial options. Based on these findings, staff recommends to the Planning Commission approval from Mixed Use-Neighborhood to Mixed Use-Commercial.

Applicant: Jim Shelton. Banks stated that the neighbor had asked for a privacy fence. Shelton said that she mentioned it. He stated that they would have a restaurant and some seating in the inside but mostly would be outside seating.

Public: Lind Nephew. She is here for Royal Alby. She owns the property behind the building. It is her concern and she is adamant about having the fence due to the traffic going through this area.

Vigen asked if the new landscape requirements are the same. Deming stated that the improvements would not apply. Vigen asked if we can make this a requirement of the rezoning. Petkac stated that they could not. This is Mixed Use- Neighborhood and Mixed Use- Commercial. This is consistent with the comprehensive plan. What is the difference from MU-C and MU-N? The big difference is the drive thru which is not permitted in mixed use neighborhoods.

Sarvela stated that this is like having two big events on this one property. Holappa asked what the assessed value of the property is. The applicant said he believed about \$170,000 and that this is not a drive in but a pass through. Could he consider landscaping? The applicant will look into this.

**MOTION/Second:** Sydow/Guggenbuehl to **Recommend Approval** for the Zoning Map Amendment from NU-N (Mixed Use-Neighborhood) to MU-C (Mixed Use-Commercial) at Commonwealth Avenue by Shelton Properties LLC. **VOTE:** (6-2) Vigen, Banks

- B. FN 11-095 – Public Right of Way Vacation, Alley On Block 28, of Gary First Addition, by Greg Privette. **NS**

Staff: The comprehensive plan supports strong neighborhoods. This vacation would not be a detriment to that principle. There is one part of this alley that is improved and a part that is not improved and is being used for storage for the residents. Staff states that the City maintains a utility easement here as well. Staff recommends approval to the city council. Sydow asked why they want to do with this and is concerned that the property to the left of this and the neighbor does not want them to use this alley. Petkac stated that this is an unimproved alley.

**MOTION/Second:** Guggenbuehl/Sarvela to **Recommend Approval** for the Public Right of Way Vacation, Alley on Block 28, of Gary first Addition by Greg Privette **with one Condition** that the proposed vacated portion will be rededicated as utility easements, preserving the intent of access to city infrastructure by the City of Duluth.

**VOTE:** Unanimous (8-0)

- C. FN 11-092 - Plan Review for Demolition of Existing Structure and Construction of Parking Lot in a MU-I (Mixed Use Institutional) at 501 E 2<sup>nd</sup> Street by Essentia Health. **NS**

This is a plan review for the construction of a parking lot in a MU-I. The comprehensive plan calls for re-use of residential lands and supporting areas. The proposed use is for a parking lot. This area has a concentration of medical uses. They looked at landscaping and lighting. They also have a preservation plan with 2 trees. Staff recommends approval with the UDC Landscape plan and that the applicant provides staff an approved lighting plan.

The applicant stated that the lighting plan does meet the lighting standards.

**MOTION/Second:** Holappa/Vigen to **Approve** the Plan Review for Demolition of Existing Structure and Construction of Parking Lot in a MU-I (Mixed Use-Institutional) at 501 E 2<sup>nd</sup> Street by Essentia Health **with the following conditions:** 1. That the Applicant provide a revised lighting plan that complies with 50-31.3. 2. City forester approve removal of special trees. 3. Project to be limited to, constructed and maintained in accordance with documents submitted and staff approved corrections for lighting plan and tree removal.

**VOTE:** Unanimous (8-0)

- D. FN 11-087 – Concurrent Use of Streets Permit in a MU-N (Mixed Use-Neighborhood) at 525 Lake Ave South by Grandma’s Sports Bar & Grill. **NS**

Staff: Spooner-Muehler stated that the Grandmas Sports Garden and Grill would like to install a canopy and awning. In looking at our criteria we are asking the commission to look at this with the plan that the city council will approve or deny. The proposed use states that 1. The proposed use will not harm or inconvenience the health, safety and general welfare of the city 2. This point is not applicable as there are no skywalks and 3. No portion of a public easement proposed for use is being physically used or occupied by the public. Staff recommends Approval of this request.

Applicant: Ron Anderson. They could see that the east side of the building is in bad shape. At the same time they wanted to put in a some marquee which they think will fit in very well.

**MOTION/Second:** Sydow/Holappa to **Recommends Approval** for the Concurrent Use of Streets Permit in a MU-N (Mixed Use-Neighborhood) at 525 Lake Ave South by Grandma’s Sports Bar & Grill.

**VOTE:** Unanimous (8-0)

E. FN 11-098 - Variance to reduce the required Corner Side Yard Setback from 20' to 2'3" in an R-1 (Residential-Traditional) for construction of a 26' x 32' detached garage at 102 - 131<sup>st</sup> Avenue West by Rory Blazevic. **KD**

Staff: Deming stated that there are two communications and a hand-written letter from a neighbor provided to commissioners tonight. The map shows where the garage is located. The applicant's garage is about 2'-6" from the 131<sup>st</sup> Ave. W. right of way line. Deming stated there is adequate space on the site in the existing yard area to the rear of the current garage and that the shed/fish house seen in the pictures could be moved, if necessary, to accommodate the new garage meeting setbacks. Staff recommends denial because there is space on the lot where a garage could be built.

Applicant: Rory Blazevic. The reason that they cannot build this elsewhere is that they need to have a building that can accommodate his large truck and another vehicle. They have had this situated so that they can orient the doors to the north away from the street to be able to create a turn around on the lot and not have to back onto the street. It is understood that they have more property here but the structure is too large to fit. They also have a drainage area from their property and they are in a flood fringe area which may flood. Their family has lived in the area for a hundred years and it has not flooded on their property. Blazevic showed pictures of the property and the existing driveway and garages. The applicant went over the areas on their properties and the difficulties of this situation.

Public: Carol Thompson -13010 W 2<sup>nd</sup> Street. Her property adjoins their property. She stated that the property is in a flood fringe but they have not had any overflows from river. The second point is the placement of the garage. If they are required to build elsewhere, it would flood her area.

Tom Copiskey. 13009 W 2<sup>nd</sup> Street. He lives across from Carol. He agrees that they should get the garage built. He is in favor of this.

Jerome Blazevic – 306 98<sup>th</sup> Ave W. He looked at this property and has been living in the flood plain. He stated that there is no problem with this. He says that he has no problem with what they are doing. There are no real problems on doing this. He would like them to consider what he wants. The neighbors are all for this as well.

Ryan Blazevic – 719 131<sup>st</sup> Ave W. He is Rory's brother. They have spent a lot of time in looking at this property. Rory is working to design this so as not to go into the neighbor's yards. He would like them to look seriously at their plans.

Vigen stated that he was looking at the map and rights of way. We have a 20-24' improved road and a right of way 80' wide. The flood programs here are difficult to work with. People spend a lot of time and resources to have a garage. Sarvela asked what the existing setback is; it's 2'-3". The new garage could be built here without impacting the floodway or fill in any ditches. Guggenbuehl is not convinced that the hardship is there. Digby asked about a definition of the garage and Deming stated that it would be an accessory building. Deming stated that 24' X 24' is a typical two-car garage. Vigen added that with today's vehicles they have two to three car garages.

**MOTION/Second:** Vigen/Banks to **Approve** the variance to reduce the required Corner Side Yard Setback from 20' to 2'-3" in an R-1 (Residential-Traditional) for construction of a 26' X 32' detached garage at 102-131<sup>st</sup> Avenue West by Rory Blazevic. Commissioners found that the 80' wide street right of way is wider than the normal 66' ROW and adding a 20' setback creates an extraordinary distance from the street. Also, much of the lot is lowland creating a lack of effective buildable area for the garage.

**VOTE:** (6-2) Guggenbuehl, Sydow

F. FN 11-102 - Variance to Exceed the 500 Square Foot Accessory Structure Size Limit in the NR-O (Natural Resources Overlay District) Flood Fringe at 102 131<sup>st</sup> Avenue West by Rory Blazevic. **NS**

Staff: The applicant wishes is to exceed the 500 square foot accessory structure size limit in the flood fringe with a proposed 832 Square foot (26' by 32') garage. Section 50-37.9.B, states that the Planning Commission may grant a different variance if it better meets the criteria of subsection C. Applicant would like to replace this structure with a new and larger structure. The applicant does not want to reduce the structure size to comply with the 500 square foot maximum size while not having to elevate that structure. Engineering stated that anything larger than 500 square feet the applicant would have to follow all UDC/State/FEMA requirements such as an engineering study to show there is no impact. Staff believes that the variance has not met the criteria in subsection C and, therefore recommends denial as the applicant has alternatives without undo hardship.

Vigen asked if the 500 square foot is a requirement of both FEMA and the DNR. Spooner-Muehler stated that this language came from FEMA and DN.

Applicant: Rory Blazevic. Blazevic gave the dimensions of the garage which needs to house two vehicles. They tried to make this work. Is this under our jurisdiction or is it a DNR requirement? Engineering did weigh in on this to follow the DNR and Engineering requirements.

Lutterman stated that the code allows a property owner to avoid elevating an accessory structure to the required flood protection elevation if it is less than 500 square feet. He wants an 840 square foot garage and the ordinance says that the garage needs to be elevated. This body does not have the authority to overrule these standards.

Blazevic stated that their structure needs to be waterproofed. The only thing they need is to park their vehicles. Any items stored inside would be above that elevation.

Public: Jerome Blazevic – 306-98<sup>th</sup> Ave W. He can flood proof this and this should meet the requirements. They have never had any building washed away and it has been flood proofed.

Tom Copiskey – 13009 W. 2<sup>nd</sup> Street. stated that they had not had any floods at all. He knows that just by the fact of living there. They need the garage for this.

Rory Blazevic stated that he spoke with a geologist regarding this. There was a house that was built and did not meet any of the setbacks. He only wants to park his vehicles. Vigen stated that there are questions about if the applicant finds an alternative, could he make an application for that. Lutterman stated that it would be for them to decide. Digby stated that the building is limited to a maximum of 500 sq ft without meeting the elevation requirement.

<p><b>MOTION/Second:</b> Vigen/Guggenbuehl to <b>Deny</b> the Variance to Exceed the 500 Square Foot Accessory Structure Size Limit in the NR-O (Natural Resources Overlay District) Flood Fringe at 102 131<sup>st</sup> Avenue West by Rory Blazevic. <b>VOTE:</b> Unanimous (8-0)</p>
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G. ~~FN 11-093 – Variance to reduce the Front Yard Setback from 10' to 5' in an R-1 (Residential-Traditional) for the construction of a 26' x 26' attached garage at 1212 Denny Drive by Toni Flagmark-Foster & Jeff Foster. **KD**~~

Staff: Deming stated that the proposal is a variance to allow an attached garage to be constructed at 5 feet to the right of way line. The average of the adjoining property's front yards is 10 feet. The applicant provided their concerns of the downward slope of their driveway to their existing garage. Staff offered that if they reduced the size of the garage that the garage could accommodate two vehicles if they created bump outs to the side and rear of the garage for storage. Staff finds that there is an alternative design that would meet setbacks and, therefore, recommends denial.

Applicant: Tony Fladmark-Foster and Jeff Foster. They have had a number of issues with the slope that they have on their property. The neighbors are okay with what they would like to do to their property. The actual size of the garage is 24' X 26'. You need a 4 wheel drive vehicle here with the slope. This is the best way to fit in the garage.

**MOTION/Second:** Holappa/Vigen to **Approve** the Variance to reduce the Front Yard Setback from 10' to 5' in an R-1 (Residential-Traditional) for the construction of a 26' X 26' attached garage at 1212 Denny Drive by Toni Fladmark-Foster & Jeff Foster due to the extreme topographic issues on the site.

**VOTE: Unanimous 8-0)**

H. FN 11-091 – Variances to reduce the Rear Yard Setback from 40' to 30' and to Side Yard Setback from 40' to 22' in an R-1 (Residential-Traditional) zone for construction of classrooms at the northeast corner of Raleigh St and 60<sup>th</sup> Ave. W. by Raleigh Edison Charter School. **KD**

Staff: Deming stated to the commissioners that there is an email on their desk that relates to this project. The side and rear yard setbacks for schools are 40', greater than normal. The applicant is proposing a side yard setback of 22 feet and rear yard setback of 30 feet. Their only other alternative would be to buy more property or not do the project. Staff finds that the standards for variance have been met and recommends approval. Staff points out that additional landscaping could be required on in the side yard if commissioners felt it was necessary.

Applicant: Bill Scalzo, Scalzo Architects. They are in agreement with these principles. They appreciate the concerns from the neighbors and from this neighborhood. Digby asked what the potential is for parking and additional noise in this neighborhood. Paul Goosen, Tischer Creek Building Co., owner of the school building spoke for school administration and noted that the school administration receives 2 to 4 complaints in a calendar year. The new classrooms would allow them to reconfigure space in the existing building and would result in the addition of about 2 to 3 cars.

Public: Genny Hinnenkamp, 118 S 60<sup>th</sup> Ave W. She has lived here for 62 years. They were worried about being able to safely exit the alley because school employees currently park up to the edge of the alley inhibiting visibility and all of the street parking taken up by school employees. These are the biggest issues that they have. They want to be sure that they have enough space to get in and out of the alley and they need space for this. There are several people that use the alley in the neighborhood. There are a lot of elderly people here and they need to make sure that the neighbors and can get out of their houses and garages.

~~Banks was wondering if she had talked to the applicant. This might be how to appropriately work with this.~~ Sarvela asked about on street parking and Deming stated that parking is not required for the new classrooms and that there is a school parking lot located on the adjacent property.

**MOTION/Second:** Vigen/Guggenbuehl to **Approve** the Variance to reduce the Rear Yard Setback from 40' to 30' and the Side Yard Setback from 40' to 22' in an R-1 (Residential-Traditional zone for construction of classrooms at the northeast corner of Raleigh Street and 60<sup>th</sup> Ave W by Raleigh Edison Charter School. **VOTE:** 6-2 (Banks Digby)

- I. FN 11-097 – Variance to allow construction of a 20' x 24' detached garage that covers 64% of the Required Rear Yard Area (maximum allowed is 30%) in an R-1 (Residential-Traditional) at 915 E 5<sup>th</sup> Street by Richard Ness. **KD**

Staff: Deming stated that 20' X 24' garage was damaged by a fire from another neighbor's house. Staff finds that there is a need for garages in our climate. They cannot construct this without exceeding the rear yard area maximum. The variance standards have been met and staff recommends approval.

**MOTION/Second:** Variance to **Allow** construction of a 20' X 24' Detached garage that covers 64% of the Required Rear Yard Area (maximum allowed is 30%) in an R-1 (Residential-Traditional) at 915 E 5<sup>th</sup> Street by Richard Ness. **VOTE:** Unanimous (8-0)

- VII. Reports of Officers and Committees  
A. Duluth Historic Preservation Commission  
B. Education Subcommittee

VIII. New Business

IX. Other Business

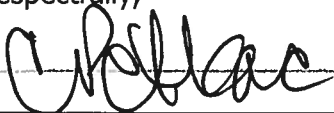
Mileage would not be given for out of town commissioners.

The Planning Manager can set the order of the Agenda. Vigen asked if it is changed to accommodate staff. Petkac stated that there are notifications sent to the applicants to attend a public hearing as well as mailings to the public within a certain area. In the past when we had a tabled matter we may have had only one planner at the end of a meeting.

This is Rebecca Covington's last meeting as she will be moving to the Twin Cities shortly.

- X. Adjournment. Meeting was adjourned at 7:14 p.m. by Commissioners Holappa and Sydow.

Respectfully,



Cindy Petkac, AICP  
Planning Manager  
CP:eu