



City of Duluth
Planning Division

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City of Duluth
Planning Commission
Minutes of September 13, 2011
City Council Chambers, City Hall

- I. Call to Order: Vice President Guggenbuehl Called a Meeting of the City Planning Commission on September 13, 2011, for 5:00 p.m. Tuesday, September 13, 2011, in the Council Chambers.
- II. Roll Call: Henry Banks, Terry Guggenbuehl, Heather Rand, David Sarvela, Luke Sydow and John Vigen

Excused: Drew Digby, Frank Holappa

Staff: Kyle Deming, John Kelley, Alison Lutterman, Cindy Petkac, Steven Robertson, and Edna Ulrich

III. Public Hearings

- A. FN 11-105 – Zoning Map Amendment from R-1 (Residential-Traditional) to MU-N (Mixed Use Neighborhood) at 1303/1315 West Arrowhead Road by Joseph Kleiman. **JK**

Staff: Kelley stated that the Comprehensive Master Plan for this area identifies this as Urban-Residential. The applicant wanted to go from R1 to MUN but staff supports rezoning the properties from R1 to R2 which is consistent with the land use map. Applicant would like to see the potential for other uses on this site. Some of the adjacent sites currently have rental homes in this area. Based on our findings staff recommends to rezoning from Residential-Traditional to Residential Urban.

Applicant: Joe Kleiman. He spoke with John Kelley on several occasions regarding the rezoning for mixed use but supports the R2 Designation. Mr. Kleiman would like to have potential for an apartment or two and some office space.

Public: Jim Gagne-1235 W Arrowhead Road. He is concerned that the rezoning would devalue his property.

There was a Motion by Vigen and second by Sarvela to open discussion. Vigen stated that office use would be permitted in the R2 and with a special use permit. Would this then entail some of the new landscape standards? Petkac stated that it would depend on what they are doing. We are talking about the use. Lutterman added that if this is a change of use they would need to apply for a certificate of occupancy. They then can take a closer look at what is applicable. Rand stated that most of us agreed that there is a change of use and it seems reasonable. She is supportive of staff's recommendation. Vigen added that they are talking about current land use and that it is also not the best way to change this to an R2.

MOTION/Second: Rand/Banks to **Recommend Approval** of Rezoning from R-1 (Residential-Traditional) to MU-N (Mixed Use-Neighborhood) at 1303/1315 West Arrowhead Road by Joseph Kleiman. **Vote:** Unanimous (6-0)

B. FN 11-106 – Zoning Map Amendment from MU-B (Mixed Use-Business) to I-G (Industrial-General) at 306 South Central Ave by D.M.A. & Associates. **SR**

Staff: Staff recommends approval of rezoning from MU-B to IG and that the other western MU-B lot remains as MU-B. They believe that this area will grow as more of a warehouse site. Sarvela stated that it looks like it will be more of an industrial site and Robertson added that it has been in use for a while. In R1 it would be a non-conforming use.

Applicant: Bill Burns, Legal Council for the Applicant. Burns stated that this is a by-product of the UDC. They had a permit which was about to expire and found a way for this existing use. They stated that they did not necessarily agree with the report. Burns added that this is a valid existing use.

Public: Jeanne Konieczny-116 S. 58th Ave W. There was a West Duluth plan that was done and had definitive lines that were drawn to define residential from the industrial area. One side of the alley was R1 and the other side was the Industrial Park. There were meetings that were held and they put in their input. They feel that this is a change of the rules again. They ask that any further information regarding this be sent to the Irving Community Club. They do not want to change this to industrial.

Bret Ostberg: South 56th Ave W. They don't want to see any commercial properties here. They had at one time been told that they would not have any industrial properties. They do not want it changed to industrial and that they feel they do not have control of what goes in there.

Chris Ridgewell – Executive Director of the Irving Neighborhood. She is concerned about the Irving Neighborhood. They are opposing this as a neighborhood plan.

Andrew Williams: 312 S. 56th Ave W. He has lived here for 5 or 6 years in the neighborhood. He is concerned about noise and the future use. He is also concerned about the traffic level if it expands. He is opposed to this.

Motion by Sarvela and Second by Rand to continue the discussion. She believes that this is a major transportation corridor. She thinks it is important that changes are occurring. The request is suggesting that this be an R2 and she is supporting staff's recommendation. Vigen had asked if the prior permit had an expiration date and Burns stated that they are not in agreement with Staff. Lutterman added that our records show that the Special Use Permit had an expiration date. We have a disagreement of the effectiveness of that expiration date. Because this expired they are not authorized and not Grandfathered in.

MOTION/Second: Sarvela/Rand to **Recommend Approval** of Rezoning of parcel 010-0130-00190 from MU-B (Mixed Use-Business) to I-G (Industrial-General) at 306 South Central Avenue by D.M.A. & Associates.

C. FN 11-110 – Special Use Permit for a Junk and Salvage Service in an I-G (Industrial-General) at 306 South Central Avenue by D.M.A. & Associates. **SR**

Staff: Robertson stated that this is the only parcel that will be for the Special Use Permit. The MPCA has a permit and he stated that it was for .3 acres. In talking with the MPCA, he mentioned that the applicant had put some money into this site for improvements. There are some noise problems and they have now installed new fencing. They are recommending an interim Use Permit based upon the previous licensing and because of with previous licensing they

may be able to review the site in the future. Sydow stated that this doesn't have the appropriate screening. Sydow asked about set-back plan which is pretty rectangular. Robertson stated that this was from their 2000 permit. For this site they have no plans in the future. There are no significant issues with this.

Applicant: Bill Burns gave us a brief history of what has occurred in the past few months. Diane is looking at the Special Use Permit should be continuing. This is subject to any other permits they may need. When they filed the application they had 2 to 3 meetings to license this facility as a processing facility. The code provides for no separation of materials can occur other than a covered area. There is no one on the staff that thinks it needs to be covered. Gary Moline called him and he and Diane had a conversation. Moline has signed off on this and they have no objections. They can't draft a SUP appropriately that concerns this property. They did not ask for the Permit but he stated that they can have a Special Use Permit.

Banks asked what the nuisances are here and what are the hours of operation for this facility? Burns stated it is 8-5 Monday thru Friday and 8-2 on Saturday. Guggenbuehl asked about processing after hours and Burns stated maybe an hour afterwards.

Burns states that there are some concerns and efforts have been made to deal with this. If not, they would be sited and their permit taken away.

MOTION/Second: Sydow/Rand to **Recommend Approval** of Interim Use Permit for a Junk and Salvage Service in an I-G (Industrial-General) at 306 South Central Avenue by D.M.A. & Associates **with the following conditions:** 1. The Interim Use Permit is effective only on the parcel that has historically been the approved location of Demo-Licious, 010-1300-001900. 2. The Interim Use Permit will expire on December 31, 1014, unless renewed 3. The Interim Use Permit is contingent upon the parcel being rezoned I-G. 4. The project be limited to, constructed, and maintained according to the site plan titled "Site Survey for MNA & Associates dated August 22, 2011, for parcel 010-1300-00190. This is contingent upon receipt of MPCA License.
VOTE: (5-1) Banks

D. FN 11-113 – Quick Plat of Duluth Technology Park by Involta, LLC. **SR**

Staff: This is a quick plat. Robertson showed the parcels and wetlands in this area. The current plat is 3 parcels in a public right of way. The applicants would like to have this as one large parcel and relocate the right of way. Staff recommends approval as submitted with the condition that the project be limited to, constructed, and maintained according to the documents drawn titled "rearrangement of Duluth Technology Park" by Salo Engineering, Inc. received August 26, 2011.

Applicant: Lisa Bodine, Involta. They are investing 10.5 million dollars for a Data Center. The Applicant stated that staff has covered this very well.

MOTION/Second: Vigen/Sydow to **Approve** the Quick Plat of Duluth Technology Park by Involta, LLC **with the following Condition:** 1. That the project be limited to, constructed, and maintained according to the documents drawn titled "Rearrangement of Duluth Technology Park" by SALO Engineering, Inc. received August 26, 2011.
VOTE: Unanimous (6-0)

- E. FN 11-107 – Vacate a Public Utility Easement at 700 Garfield Avenue by Marge Bray and Doug Green of Goodwill Industries. **SR**

Staff: Robertson stated that this application was the original vacation of Birch Avenue. When they approved the vacation for file 10-012, they maintained a large utility easement. The applicant is wishing to build a loading dock in the area that is reserved by the easement. They had a discussion with Engineering they are on board with this. Staff recommends approval with the condition of recording this with the County for 90 days and to work with the city to the city's satisfaction.

Applicant: Douglas Green, Architect. He added that they had approval for the vacation of Birch Street. The Goodwill Company is in need of a loading dock extension. In the process of determining a second loading dock there was a utility in the way. They have been working with engineering with relocating this. They need to change the use of this and to receive an Interim Use Permit to put in an addition to the existing business.

MOTION/Second: Vigen/Sydow to **Recommend Approval with the following condition:** A plat showing the vacation is to be recorded with the office of the county recorder within 90 days after the utility main being relocated to the City Engineer's satisfaction. **Vote:** Unanimous (6-0)

- F. FN 11-108 – Special Use Permit for Junk and Salvage Services in an I-G (Industrial-General) at 700 Garfield Avenue by Marge Bray and Doug Green, Goodwill Industries. **SR**

Staff: This application is of the same type that you were looking at. At our site visit there was no noise that comes outside of this. This SUP is involving the Vacation. The applicant can work with engineering to have this vacated. This is for general business operations. They are generally impressed with this and with the 3 conditions.

Applicant: Douglas Green, Architect stated that they had approval to vacate Birch Street about a year ago. Goodwill is in need of a loading dock extension. Right now they only have a loading dock for the second floor. There was a utility in the way and in discussion with the city of Duluth to do the relocation of the utility. Because of budgeting restraints, the City agreed to move the portion of the utility easement because of the construction and get a SUP to put in an addition to the existing business.

Motion/Second: Vigen/Rand to **Approve** the Special Use Permit for Junk and Salvage Services in an I-G (Industrial-General) at 700 Garfield Avenue by Marge Bray and Doug Green, Goodwill Industries **with the following conditions:** 1. The project be limited to , constructed, and maintained according to the site plan titled "Goodwill Building Special Use Permit for Loading Dock Addition" dated August 22, 2011. 2. The loading dock addition is contingent upon the utility easement and utility main being relocated to the City Engineer's satisfaction. 3. Any other alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50. **VOTE:** Unanimous (6-0)

- G. FN 11-100 – Special Use Permit for Telecommunications Facility (70' Monopole) in an RR-1 (Residential-Rural) by AT&T. **SR**

The issue is a Special Use Permit in an RR1 zone. The applicants have modified the monopole back to 70 feet. Staff has worked with them on the relocation of this facility. This was to direct them first to public land and then to other land. The city administrator chose to pass this on which there may be RF health issues. These are local government issues and we have no rights on FCC regulations.

Rand stated that the Applicant wanted a 75 foot monopole and was put back to 70 feet. Robertson stated that this generally is not done but the applicant could still have accomplished this with 70' which would not change and they agreed to this to help with the impact.

Applicant: Steve Stahl from AT&T Wireless. They have been looking at this site for over two years. They originally applied for a 100' tower. They now conceded to put the antennae inside the tower which is much less conspicuous. They asked if they could go back to 70'. They provided the city with extensive research. This is very complex and few sites that will work. The recommendation requirements are in favor with this. Then it has come to light that ATT and property owners to propose to move back the tower to 65 Feet east. The applicant gave a map that the new proposed location would be. It would be 15' north and 65' east.

Vigen asked what color the cell towers are. They are agreeable to make the towers less intrusive. Darker colors tend to blend in more than the lighter colors. Applicant stated that they would be happy to paint whatever color they would want.

Public: John Bowman. Bowman owns the property by the Cell phone Tower. People drive by and they do not look and see this tower. He currently has a great view and they should put it on their site or move it further south. He would prefer that the tower not be there at all. He doesn't believe that they can take this away from him. The city has an ordinance that the city will put a cell tower on the city property first. If the city doesn't want it then why would he want it?

Vigen made a motion – second by Sarvela to continue the conversation. In the original application he would make a motion that file 11-100 be approved but that the location be that as presented. Robertson stated initially in their long range plan they wanted maximum flexibility. The City was not interested in having it on City property. Vigen stated by moving the tower it was not in as a good position that they wanted. Initially the city wanted to keep this open.

MOTION/Second: Vigen/Sarvela to **Approve** the Special Use Permit for Telecommunication Facility (70' Monopole) in an RR-1 (Residential-Rural by ATT **with the following conditions:** 1. That the project be constructed and maintained according to the documents titled "MPLSMN5419 NSB-LTE-RAWLAND STEALTH Monopole" dated 8/19/11, prepared by Black & Veatch. Sheets included: T-1, C-1 to C-15, E-1 to E-7, G-1 to G-5, GN-1 to GN-6. Monopole to be approved at 70' instead of 75' requested. 2. Applicant submit a structural analysis and a geotechnical report to be reviewed and approved by the City prior to issuance of building permit. 3. Applicant submit a removal bond prior to issuance of building permit. 4. Applicant submit proof of general liability insurance prior to issuance of building permit. 5. That the applicant secure all permits required by Federal, State, County or city laws and regulations (including, but not limited to, building permits). 6. Any other alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

VOTE: (5-1) Banks

H. FN 11-101 – Variance to Reduce Front Yard Setback from 60’ to 34’ in an RR-1 (Residential-Rural) at 4020 West Arrowhead Road by John and Linda Booker. **KD**

Staff: Deming stated that they want to reduce the front yard setback from 60’ to 34’ in an RR-1. When the house was built it had been in compliance. Staff feels that the variance criteria have been met and the applicant’s proposal will not allow them to build any closer to the road than the existing house. They don’t have the opportunity to expand to the rear of the house as they have a septic system there. Staff states the variance won’t compromise the future land use of the area or the essential character of the neighborhood.

MOTION/Second: Sarvela/Sydow to **Approve** the Variance to Reduce Front Yard Setback from 60’ to 34’ in an RR-1 (Residential-Rural) at 4020 West Arrowhead Road.
VOTE: Unanimous (6-0)

- IV. Consideration of Minutes – August 9, 2011. Motion/Second Vigen/Banks to approve the August 9, 2011, Minutes - Unanimous
- V. Communications
- VI. Old Business
- VII. Reports of Officers and Committees
 - A. Duluth Historic Preservation Commission
 - B. Education Subcommittee

They lost a volunteer for the education subcommittee.
- VIII. New Business
 - A. Review of tax forfeited land sale list dated August 25, 2011, submitted by St. Louis County Land Department.
- IX. Other Business
- X. Adjournment – Meeting was adjourned at 6:57 PM.

Respectfully,



Cindy Petkac, AICP
Planning Manager