

City of Duluth
Planning Commission
November 15, 2016 Meeting Minutes
Room 303 - Duluth City Hall

I. Call to Order

President Zandra Zwiebel called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, November 15, 2016, in room 303 of Duluth city hall.

Roll Call

Attending: Terry Guggenbuehl, Janet Kennedy, Tim Meyer, Garner Moffat, Mike Schraepfer, Luke Sydow, Heather Wright Wendel and Zandra Zwiebel

Absent: Marc Beeman

Staff Present: Keith Hamre, Jenn Moses, John Kelley, Chris Lee, Kate Van Daele and Cindy Stafford

II. Public Hearings

Note that PL 16-124 (Bluestone Rezoning) has been withdrawn by the applicant, and PL 16-105 (Kayak Bay Rezoning) has been delayed until the Dec 13 PC Meeting.

- A. PL 16-127 UDC Map Amendment to Rezone from Rural Residential 1 (RR-1) to Traditional Neighborhood (R-1) and Residential Urban (R-2) and for the Harbor Bay Development Between Arrowhead Road and Marble Street by Duluth Gospel Tabernacle Church and Brad Johnson

Staff: Jenn Moses introduces the applicant's proposal to rezone this property from Rural-Residential (RR-1) to Residential Traditional (R-1) and Residential Urban (R-2). Staff recommends approval for the reasons listed in the staff report. Chair Zwiebel asked when the Arrowhead study was completed. Moses states April of 2016. Garner Moffat asks if plans were considered for new roads. Per Moses, there is no current application which specifies roads at this point. As this is a rezoning application, road plans would come at the time of a subdivision application.

Applicant: Brad Johnson addresses the commission. They are rezoning the property and will return to the commission for the site plan possibly in January or February. They will also be addressing wetland mitigation.

Public: Linda Ross Sellner, 402 Arrowhead Rd., addresses the commission. She is trying to protect the land. She doesn't think existing businesses should extend their footprint. She notes much of this land is undeveloped green space. This urban sprawl is an abomination to the comp plan and the citizens of Duluth. She is against the rezoning. Dennis Jensen, 4219 W. Arrowhead Rd., addresses the commission. Duluth lacks affordable single-family housing. He thinks this will increase the traffic on Arrowhead Rd. It will impact the wetlands. He is concerned with the sewer system on nearby Marble Street. He is against the rezoning. Greg Follmer, 230 E. Superior St. represents a resident in the area. He notes 19 acres closer to the corner which is ready to go. He likes the development, but thinks they should start closer to the corner versus a residential neighborhood.

Commissioners: Chair Zwiebel asks Moses to summarize the rezoning. Moses said the planning department started a land use study last fall. Based on feedback some

development requests were received: daycare, coffee shop. On the flip side protection of the wetlands was a concern. They want to focus the density along Arrowhead Rd. and keep lower density and preservation areas further away from Arrowhead. Moses states there were two public meetings during the land use study and a planning commission meeting. Heather Wendel asks about the public utilities and private developer. Moses notes they would have to evaluate when a plan comes along. Terry Guggenbuehl confirms there are already utilities there and just the roads would be added. Moffat is concerned about the preservation areas. He thinks they doing an ok job protecting the creek areas and is favor of the zoning changes because there are already utilities in place. He is concerned about the city infrastructure. He isn't concerned with the zoning, but looks forward to looking at the site plan. Guggenbuehl agrees with Moffat. Chair Zwiebel states the wetland plan will need to be looked at in the future. Janet Kennedy confirms this decision will be forwarded to the city council.

MOTION/Second: Moffat/Meyer recommend approval as per staff's recommendations.

VOTE: (7-1, Kennedy Opposed)

(Commissioners Michael Schraepfer and Moffat recuse themselves for the following agenda item.)

- B. PL 16-084 Interim Use Permit for One Vacation Dwelling Unit at 1421 East Superior Street by Michael Schraepfer

Staff: John Kelley introduces the applicant's proposal to use apartment #3 of a three-unit building as a vacation rental property. Staff recommends approval with the conditions listed in the staff report.

Applicant: Nick Adam represents the applicant. He states it's already a licensed rental property and there are five off-site parking spaces on the property.

Public: Susan Velner, 1425 E. Superior St., addresses the commission. She owns the property next door and is concerned about parking, but notes they have off-street parking. She asks about the overflowing garbage cans and notes trash is spread out. Chair Zwiebel notes the applicant will address the issue.

Commissioners: Chair Zwiebel asks about the additional photos they received. Kelley states there is a photo of the rear of the property to demonstrate adequate parking and buffering.

MOTION/Second: Meyer/Guggenbuehl recommend approval as per staff's recommendations.

VOTE: (6-0, Schraepfer and Moffat Abstained)

(Commissioners Schraepfer and Moffat re-enter the meeting.)

- C. PL 16-107 Interim Use Permit for One Vacation Dwelling Unit at 350 Mygatt Avenue by Julianna and Sri Muthu

Staff: Chris Lee introduces the applicants' proposal to use her house as a vacation rental property. The dwelling unit has two bedrooms, which would allow for a maximum of five people. Staff recommends approval with the conditions listed in the staff report.

Applicant: N/A

Public: Tom Moberg, 351 Mygatt Ave., addresses the commission. He lives across the street. He notes the porch light. How are they vetting their customers? They are already

renting out the property. He notes the letters from other neighbors who are against the vacation dwelling. He is a 22-year resident and notes there is a rental property two doors down. There are parking concerns on weekends and he feels another rental unit will further exasperate the parking on Mygatt Avenue. He asks the commissioners if they would like a rental property to be located across from them. He is concerned about the cliental and the future value of his home. He is against the vacation dwelling unit. Mary Deward, 337 Mygatt Ave., addresses the commission. She notes this has already been a rental and she hopes the applicant will abide by the rules.

Commissioners: Guggenbuehl notes the regulations. It provides better control for the city to manage and regulate these properties. He lives among rentals and considers them his neighbors. There is not distinction between renters and homeowners. As a vacation dwelling it provides better control. Chair Zwiebel notes turning off the porch light at night is not something they have control over. Lee states they do have a managing agent. The neighbors will be able to contact the managing agent. Chair Zwiebel notes the vetting of the customers and if neighbors have concerns they can contact the owner or managing agent. Kennedy agrees with Guggenbuehl the vacation rental status gives them extra monitoring control and it will go before city council. Chair Zwiebel notes there are significant concerned neighbors. Schraepfer states traditional rental is allowed for anyone in the city. 60 vacation rentals are allowed, and it's not a lot. He feels if there are neighborhoods that have strong opposition they can be selective of where they go. Standard rental is for one week at a time. Vacation rental is two days. Director Keith Hamre notes there has been a change rental licenses 29 days or longer. Chair Zwiebel asks where the city stands now on the number of vacation rentals. The city is at approximately 36. Kennedy asks where are they clustered. Director Hamre states about two-thirds are on park point. Visitors want to be by canal park. Director Hamre notes this neighborhood location will probably serve visiting students or family. Guggenbuehl notes the flexibility to homeowners. On the other hand, vacant properties can become rundown and effect property values.

MOTION/Second: Guggenbuehl/Sydow recommend approval as per staff's recommendations.

VOTE: (8-0)

D. PL 16-122 Vacation of Utility Easement at 1000 Minnesota Avenue by Lakehead Hotel Partners

Staff: Jenn Moses introduces the applicant's proposal to vacate an unused utility easement, as well as a 15' stretch of right of way originally dedicated in 1948 that is undeveloped. The request is in association with a proposed 84 room hotel to be located at this address. Staff recommends approval with the condition listed in the staff report. Staff received correspondence about a private water line in the area that connects to the neighboring hotel. They will need to move the private line which can be an added condition.

Applicant: N/A

Public: Terry Anderson, manager of property behind the property, addresses the commission. There is a 6" water main that goes through the property. It's the only easement to the back property which is a boat slip serving 100 boats. This utility is providing service and doesn't feel vacation of utility easements should be allowed. He isn't against the project but needs different utility easements. He urges the commissioners to delay their decision. Paul Vogel, LHB land surveyor, addresses the

commission. He identified the utility easement with documents produced this afternoon when contractors digging in the area identified the private water connection. The line bisects the utility easement but most of it falls outside the utility easement. There was a 30' corridor created in 1947 of which 15 feet was on this property. The private water connection was not known by the city or property owner. He feels the owner will agree to move the private line. Tim Meyer asks why does his client wants the vacation easement. Director Hamre states a permit can't be issued unless the easement is resolved.

Commissioners: Moffat asks about the water line. Moses doesn't know when it was put in and it didn't show up in the mapping. The adjacent property is owned by Globe Duluth Enterprises. Moses notes the water connection can be rerouted over to their property. Moffat asks how do they justify who moves the waterline. Director Hamre states it will be up to the property owners. They can consider a condition for it to be moved. They won't get involved on who will pay for it. Meyer asks how can the building be built in the easement. Director Hamre states it wasn't discovered until the 11th hour that this piece wasn't vacated. Meyer notes an option would be for the building to be moved. Director Hamre states the Plan Review has already been approved. Moses says a variance would have to allow for building to be moved closer to the water. The owner says they are willing to work together with their neighbor. Meyer asks if it is an option to maintain the easement, but reduce the width. Director Hamre explains the the line goes through the property, so reducing the width isn't an option. Guggenbuehl believes placing a condition would grant the vacation of the utility easement and not cause a delay. Moffat doesn't think they should hold it up. Director Hamre states they can't receive a building permit until they resolve it, and there is no benefit to table this.

MOTION/Second: Guggenbuehl/Moffat recommend approval as per staff's recommendations with the added condition that the private waterline be relocated and an easement be obtained.

VOTE: (5-3, Meyer, Kennedy, and Sydow opposed)

- E. PL 16-130 Special Use Permit for Preschool in a Traditional Neighborhood (R-1) District by Educational Frontiers d.b.a. Summit School at 1600 North 8th Avenue East

Staff: Jenn Moses introduces the applicant's proposal for a special use permit for existing Kenwood preschool to increase the number of children from 73 children to 111 children. They will not be changing the building in any way. Staff recommends approval with the conditions listed in the staff report. They received some comments, one was in support and three had concerns. Wendel notes some of the comments referred to the playground and can staff explain. Moses states there were grant monies in the past allowed for playgrounds. One of the grants specified a timeframe that it needed to be open to the public. This timeframe has already been met.

Applicant: Shannon Hoffman of Summit School addresses the commission. She has been the Executive Director for 5 months. She wants to address the neighbors' concerns. One of the concerns she heard was, if you have more kids, will traffic increase and parking decrease. She states they have enough parking on-site. Drop off and pick up times are staggered. The allowance of 30 more children doesn't mean it will happen immediately. It just gives them more flexibility. The increase in children doesn't necessarily mean individual families and notes the additional count could be siblings. Parking in the winter they can open up the play area to allow access to the infant room.

The traffic flow will be staggered. She isn't anticipating a large increase in vehicles. She comments on the playground. They received two grants. One was received 23 years ago. It had a three-year limit on it to be open to the public. Some repairs were made in 2003 with a grant for \$2,500. This grant had no stipulations for it to be a community playground. Her concerns for public use is she doesn't know who would be liable if someone gets hurt. They will meet or exceed all requirements and will be good neighbors. She is willing to work with the community to make it public with help from an attorney.

Public: Sean MacManus, 1533 N. 9th Ave E., addresses the commission. He is concerned about the traffic. In the winter months Plum Street becomes a two-track. It's crowded as it is and they don't need more traffic. He states this is a residential area.

Sherri Jackson, 1518 N. 8th Ave. E., addresses the commission. He has traffic concerns. People don't stop on Martha. He notes there were kids who were destructive to their property. School programs take up their street parking. Janet Mae, 1532 N 7th Ave. E., addresses the commission. She has safety concerns. She is a mother of four, ranging in age from 4-17 years old. She is an 18-year resident. Traffic is rough at best for safety. It's not a school zone. There are no speed limit restrictions. During programs or pick-up times there is no stop sign at 7th and Plum Street. They are zooming two blocks down and exceeding 25 mph. There are no sidewalks or curbs. Children walking in the area are not protected. If they add more students, they need to address traffic concerns.

Carol Herman, N. 47th Ave. E., addresses the commission. There is no buffer to the neighborhoods. If it were a rental property, there would be a buffer needed. She would like to see an agreement to see playground accessible to neighborhood kids.

Commissioners: Meyer compliments Summit School on their expansion. He feels it's important to support, but feels they should be a good neighbor. Safety concerns should be addressed. He asks staff if they can suggest the neighbors' recommendations to engineering to reduce speed the speed limit. Moses spoke with Cari Pedersen of Engineering. The speed limit is 30 mph zone now. She isn't sure about the criteria to lower it. The increased number of traffic at her best guess would increase would mean 15-20 additional cars. Moffat notes the school isn't directly responsible for speeders. It is a traffic enforcement issue. He is generally supportive but wants to see the school work with their neighbors. Hoffman states the school will make it their priority as a good neighbor to inform parents of the neighbors' speeding concerns. Kennedy asks about the special use permit and the zoning. Director Hamre zoning for a school would be institutional. Director Hamre notes the distinction is more for large campuses. The preschool designation is the reason that a special use permit is needed. Chair Zwiebel says there is significant traffic going up 8th Avenue. She suggests the neighbors contact community police officers. Officers are more than willing to address their concerns. Informing parents is a great place to start. Chair Zwiebel states the daycare is important. The school is a huge asset to the community. Recommendation for a school zone.

MOTION/Second: Sydow/Meyer approved as per staff's recommendations with three added conditions: 1) school pursue a school zone designation; 2) school educates parents of speed limits; and 3) recreational easement for community to allow access without holding them liable.

VOTE: (8-0)

(The following two agenda items were combined for presentation purposes.)

- F. PL 16-125 Mixed Use Commercial (MU-C) Planning Commission Planning Review for Grocery Store at 1740 Mall Drive by Aldi, Inc.

Staff: Jenn Moses introduces the applicant's proposal for a 19,000 + sq. ft. Aldi grocery store, on a site that would be redeveloped from its existing use as a parking lot. The existing parking lot is underused; the grocery store would bring the site into compliance with UDC requirements and improve the general character of this area. Site would include 75 parking spaces and stormwater treatment. An alternative building design for the frontage along Mountain Shadow Drive has been approved. Staff recommends approval with the conditions listed in the staff report.

Applicant: Ryan Anderson of Aldi's addresses the commission. They have been working on this project for two years. He asks if there are any questions. There were none.

Public: N/A

Commissioners: Chair Zwiebel asks if there is a retainer for shrubs. Moses notes it's a financial security that landscaping requirements will be upheld. Moffat feels this is a definite improvement to the large parking lot. He is interested in stormwater management. Moses doesn't have a number, but the stormwater engineer states it is an improvement over current conditions. Anderson states they will reduce flow rate, run off and temperature of stormwater run-off. The proposed system triples the catch basins and will filter through an under drain. Guggenbuehl asks about snow removal. Will they be taking it off site, or placing it in catch basins? Anderson states most likely they will use an off-site location to preserve their parking spaces.

MOTION/Second: Sydow/Wendel approved as per staff's recommendations with added condition that financial security be obtained for landscaping requirements.

VOTE: (8-0)

- G. PL 16-126 Variance from Front Yard Parking Requirements in a Mixed Use Commercial (MU-C) District at 1740 Mall Drive by Aldi, Inc.

Staff: Jenn Moses introduces the applicant's proposal for a variance to allow 79% of the proposed Aldi parking in the front yard, which is more than the 50% allowed by the UDC (front yard is determined by the narrowest lot dimension that abuts a public street, which in this case is along Mall Drive). This request is in association with construction of a new 19,000 square foot Aldi grocery store, located near the Village Mall area in the Miller Hill neighborhood. Staff recommends approval with the conditions listed in the staff report.

Applicant: N/A

Public: N/A

Commissioners: (See previous comments/items were combined.)

MOTION/Second: Sydow/Wendel approved as per staff's recommendations.

VOTE: (8-0)

- H. PL 16-123 Variance from Minimum Build-To-Zone Requirements in F-6 Form District at Corner of East 4th Street and North 2nd Avenue East by Ramona and Kenneth Knutson

Staff: Chris Lee introduces the applicants' proposal for a variance from the required build-to zone in an F-6 district. The code requires a structure be built within 5'-20' of the

street frontage. The applicant is proposing to build 14' from the side lot lines and 32' from the front lot lines. The Cottage Commercial building on a corner lot is required to occupy the front corner of the lot and a build-to zone on the front of the parcel. Staff recommends approval with the conditions listed in the staff report.

Applicant: Ken Knutson states he is available for questions. There are none.

Public: N/A

Commissioners: Sydow notes the hardship is the topography. Moffat feels it's out of character for development for that area. Director Hamre points out the properties to the east. The form district block by block matches the character. There is considerable slope.

MOTION/Second: Sydow/Meyer approved as per staff's recommendations.

VOTE: (7-1, Moffat Opposed)

- I. PL16-128 Variance from Traditional Neighborhood (R-1) District Side Yard Setback to Build a Detached Accessory Structure (Garage) at 1130 North 47th Avenue East by Daniel Christenson

Staff: Chris Lee introduces the applicant's proposal for a variance from the side yard setbacks to rebuild a 26' x 24' garage that would be 5' from the lot line instead of the 20' required for a corner lot in an R-1 district. Staff recommends approval with the conditions listed in the staff report.

Applicant: N/A

Public: Warren Skinner, 1122 Jay Street, addresses the commission. He was curious to where the garage would be located. Lee states it's going on the existing slab. Director Hamre when torn down they need to meet current setbacks.

Commissioners: Moffat feels it is reasonable request. He asks if the owner would agree to not mowing the area next to the garage to maintain water run-off. He notes it will help with the stormwater management to allow for extra vegetation. Guggenbuehl notes landscaping/hostas were included on page 6 of the staff report. Guggenbuehl states it isn't a stream setback. Moffat as a preservation area, he is concerned and feels a condition is needed.

MOTION/Second: Moffat/Sydow approved as per staff's recommendations with added condition that land to the north and east of the garage be unmowed to allow for additional water treatment.

VOTE: (8-0)

- J. PL 16-129 Variance from Front Yard Parking Requirements to Have Two Off Street Parking Spaces in the Right of Way at 3221 Minnesota Avenue by SJK Real Estate

Staff: Kate Van Daele introduces the applicant's request for a variance to allow two off-street parking spaces in the front yard. If granted, the applicant will apply for a multi-tenant rental license. Currently there is only one off-street parking space on the lot. Staff changes their staff report recommendation and now recommends tabling for more information. (A concurrent use permit will may be required.)

Applicant: Kent Peterson addresses the commission. Parking pad is 10 x 18 feet. They are proposing to widen it by 8 feet. Neighbors can contact him directly if they have concerns.

Public: Public comments - tabled.

Commissioners: Van Daele apologizes to the public for wasting their time.

MOTION/Second: Meyer/Sydow tabled for more information as per staff's recommendations.

VOTE: (n/a)

- K. PL 16-131 Variance from Traditional Neighborhood (R-1) District Front and Side Yard Setback Requirements at 2519 Minnesota Avenue to Build an Attached Garage by William Long and Janice Truel

Staff: Kate Van Daele introduces the applicants' request for a variance of 17.1 feet from the required 25-foot front yard setback to construct a new garage. The applicant's previous non-conforming two-car detached garage (Shoreland setbacks) was destroyed by fire in 2016. The replacement is proposed to be a 24' x 22' garage addition to their existing home. The garage would be located 7.9' from the front property line, where the minimum front yard setback is 25 feet. There is not request for a shoreland setback variance, because the applicant has relocated the new garage away from the water's edge. They considered four site plans. Staff recommends approval with the conditions listed in the staff report. Sydow is there an easement for the power line? Van Daele states its' in the right of way.

Applicant: Bill Burns addresses the commission, and asks if there are any questions. The applicants thank staff and the commissioners for their time. Sydow notes the site plan backing into the street. Burns notes the turning radius is tough from the side. Van Daele is a current resident of the area and there isn't a sidewalk on that side. The other site plans were out of character.

Public: N/A

Commissioners: N/A

MOTION/Second: Guggenbuehl/Moffat approved as per staff's recommendations.

VOTE: (8-0)

III. Communications

A. Manager's Report – N/A

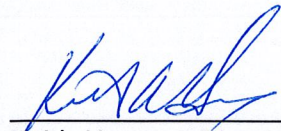
-Update of Spirit Mountain Master Plan – John Kelley gives an overview. Proposed Nordic center, additional trails and potential public and private development. They will be meeting periodically with stakeholders and city staff. Proposing a public meeting in December to summarize Ecosigns findings. The planning commission is welcomed to attend. There are two base levels and new development may include a potential hotel. Commissioner Sydow notes the EAW process and concerns about erosion. Kelley states the EAW is being considered in the master plan. The plan has morphed into a year round facility with bike trails. Sydow notes erosion, storm water and gravel parking. Have these issues been addressed? The description is vague. He doesn't want to see an atv park. Kelley states these are great questions. A number of considerations are being discussed. Moffat investment to benefit ratio. Larger community considerations. Meyer all infrastructure. Will the city finance or private developers? Director Hamre states this is part of the purpose of the study. Staff is bringing it to the commissioners tonight, so they are aware of what is happening, since they are part of plan approval process. Kelley will let the commissioners know when the upcoming meeting is.

- B. Consideration of Minutes – October 11, 2016
MOTION/Second: Meyer/Kennedy approve the minutes.

VOTE: (8-0)

- C. Reports of Officers and Committees
-Heritage Preservation Commission Representative – Guggenbuehl states there was no meeting last month.
- D. Meeting adjourned at 8:32 p.m.

Respectfully,



Keith Hamre - Director
Planning and Construction Services