

City of Duluth
Planning Commission
February 14, 2017 Meeting Minutes
Council Chambers - 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, February 14, 2017, in city hall council chambers.

Roll Call

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

Absent: Marc Beeman and Mike Schraepfer

Staff Present: Keith Hamre, Steven Robertson, John Kelley, Kate Van Daele and Cindy Stafford

II. Approval of Planning Commission Minutes – January 10, 2017

MOTION/Second: Meyer/Kennedy approve the minutes with one change.

VOTE: (7-0)

III. Public Hearings

- A. PL 17-005 UDC Map Amendment to Rezone from Residential-Urban (R-2) to Mixed Use Planned (MU-P) at 3727 West Arrowhead Road by Eastridge Community Church

Staff: Steven Robertson introduces the applicant's proposal to rezone this property to Mixed-Use Planned (MU-P). The rezoning allows for more flexibility for development than traditional zone districts. The applicant's concept plan is proposing that development of parcel B include a restaurant, and parcel C include a grocery store (small) and a restaurant. Staff recommends that the proposed concept plan be amended to the following: 1) exclude grocery store from the list of approved uses, and limit any restaurant to 5,000 square feet or less with no drive-thru; 2) A pedestrian easement be dedicated to the public over development parcel A; and, 3) Up to two small (less than 200 square feet) structure be allowed to be located in development parcel A with the approval of the Land Use Supervisor. Staff recommends approval to the city council of the rezoning to Mixed Use – Planned (MU-P) based on the findings stated in the staff report. Heather Wright Wendel asks about parcel C. Per Robertson, it's a single-family home.

Applicant: The applicants address the commission and will answer any questions. They are not opposed to omitting the grocery store in the list of approved uses. Terry Guggenbuehl asks if they are in agreement with the public easement proposed by staff. The applicant affirms.

Public: Linda Ross Sellner, 402 Arrowhead Rd., addresses the commission. She reiterates back in August the planning commission approved a zoning change from RR-1 to R-2. She is flabbergasted now at the proposed change to MU-P. She feels this the city is going hog wild with development in residential areas, and is robbing citizens of natural resources. Residents of Arrowhead road are being taken advantage of. She is strongly against the rezoning.

Commissioners: Chair Zwiebel asks about the wetland space. Robertson states the city tries to balance between preservation and letting the owner utilize their land. This rezoning would allow for a fitness center which might interest members in their church. Garner Moffat notes there is a setback in place for the creek. Robertson states there is room to build without a variance. Wright Wendel notes parcel C and an effort to minimize parking. Develop to minimize impervious surfaces. Per Robertson the applicant has gone beyond what is required for stormwater. Tim Meyer is not opposed to the proposed uses. Moffat asks if they will use the existing road for access. Robertson, states the driveway is controlled by the county. Moffat notes the importance of maintaining creek quality. This falls into density swaps. He likes the concept of increasing preservation area and allowing increase in density in a different spot. This is a good principle to support. Luke Sydow asks about the rear access to the property. Is the applicant willing to allow public easement access? The applicant states yes.

MOTION/Second: Meyer/Moffat recommend approval as per staff's recommendations with one additional condition to (friendly amendment accepted) allow easement access to the back of the property.

VOTE: (7-0)

- B. PL 16-151 Vacation of Platted Street Right of Way at 4801 Peabody Street by James Benning

Staff: Director Keith Hamre introduces the applicant's proposal for the city to vacate the entire width of 48th Ave. East in Lakeside, maintaining a pedestrian and utility easement over the western 56'. No portion of the alley behind the property will be vacated. The street has never been developed to city street standards. It contains a driveway shared by the two adjacent property owners, both of which have signed the petition in support of this vacation. Staff recommends approval based on the findings and with one standard condition listed in the staff report.

Applicant: James Benning addresses the commission and asks if there are any questions. He owns the shed, but did not build the shed and is willing to remove it.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Guggenbuehl/Sydow recommend approval as per staff's recommendations with the added condition that the shed be removed from the alley right of way.

VOTE: (7-0)

- C. PL 16-149 Interim Use Permit for One Vacation Dwelling Unit at 2314 Hoover Street by Matt Anderson

Staff: Kate Van Daele introduces the applicants' proposal to modify a long-term rental to a vacation dwelling unit. A vacation dwelling unit allows for periods of occupancy of 2 to 29 days. The dwelling unit has two bedrooms which allows for a maximum of five people. One parking space is required for this unit and is located in the applicants' single-stall garage. One additional parking space is located on the driveway of the home. Screening is in place. Staff recommends approval with the conditions listed in the staff report with the added standard condition about not allowing the burning of garbage. Guggenbuehl clarifies there is a maximum of five people. Janet Kennedy asks about the buffer between the neighbor at 2322 Hoover St. Van Daele states there is a fence there, but the applicant can confirm.

Applicant: Matt Anderson addresses the commission. Kennedy asks about the fence. The fence does not go the length of the entire property, but faces their neighbor's garage of which there are no windows. The applicant has a 2nd story window which wouldn't benefit from a fence buffer.

Public: No speakers.

Commissioners: Guggenbuehl asks what the count is for vacation rentals. Director Hamre states they have granted 43, and five are in the process. They will probably hit their cap of 60 before June. Kennedy notes aerial maps, and would like to see other vacation rentals in the area. Director Hamre states density is not a standard of measure they can base rulings on from an attorney perspective.

MOTION/Second: Guggenbuehl/Wright Wendel recommend approval as per staff's recommendations with added standard condition that the burning of garbage be prohibited.

VOTE: (7-0)

- D. PL 17-004 Interim Use Permit (IUP) for One Vacation Dwelling Unit at 1035 Berwick Court by Don and Patricia Washington

Staff: John Kelley introduces the applicants' proposal for an interim use permit for a vacation dwelling. The proposed vacation dwelling unit has three bedrooms, which allows for a maximum of seven guests. There are four parking spaces on the property (two in the garage and two on the driveway). Staff recommends approval with the conditions listed in the staff report.

Applicant: Melissa Sazama (the applicants' daughter and the managing agent) addresses the commission. Guggenbuehl asks if the home is currently being rented. Sazama states no. It's a summer home for owners who currently live in Houston.

Public: Julie Teske, 1815 Berwick Cir., addresses the commission. She is a 40-year resident. There is one road in, and one road out. Traveling in the winter is tricky. She is concerned with traffic flow as well as the devaluation of her property. She is opposed to the IUP. Jim Gherna, 1015 Berwick Ct., addresses the commission. There are 13 homes from the Valhalla Drive entrance. He feels the rental would increase traffic. All his neighbors are against the rental for various reasons. Why doesn't the city protect people in R-1 zones? He feels the staff report is inaccurate and misrepresents the scale. He is opposed to the IUP. Robert Swanfeld, 1810 Berwick Ct., addresses the commission. They can't know their neighbors with a transient population. They don't want party houses. He is opposed to the IUP. John Teske, 1815 Berwick Cir., addresses the commission. They are part of a small neighborhood, and he is concerned about traffic flow. There is only one way in and one way out. He is concerned about crime, or an emergency situation. He is also concerned about parking. He is opposed to the IUP. Kyle Smith, 1002 Berwick Ct., addresses the commission. He is the first house, so he sees all of the current traffic, and is concerned about increased traffic. He has small kids and is concerned renters will be unaware and feels they will be unconnected with the neighborhood. Patricia Francisco, 1818 Valhalla Dr., addresses the commission. She feels this is a hotel in a residential area. She wants to protect her neighborhood and keep it residential. She is appalled, and opposed to the IUP. Patrick Francisco, 1818 Valhalla Dr., addresses the commission. University housing is an issue and they don't need these renters in their area. He is opposed to the IUP. Jay Henningsgard, 1802 Valhalla Dr., addresses the commission. They all go by his house. There is no reason to put a hotel at the top of a circle. Neighbors are long-term residents. He is opposed. Greg

Tesdahl, 1024 Berwick Ct., addresses the commission. He shares photos he took. There is no room to go around campers. He says there is no buffer between the house and neighbor's houses. Let's leave this to the hotel/motel industry. He is opposed to the IUP.

Commissioners: Kennedy notes the neighbor's concerns about how they were notified and maybe it wasn't enough. The sign was posted on the property which is at the end of the cul-de-sac. Director Hamre states the UDC requires the posting of sign and that neighbors within 350 feet be notified by mail. There is also a legal ad in the paper. Sometimes more than one sign is required. Kelley states that one sign is required but that on a corner lot 2 signs are required. Kennedy asks about the sign in this situation. Kelley states that the sign has to be located on the applicant's property the City does not display signs in the public right of way. Kennedy asks about the notification of neighbors. Kelley states that the applicant must notify people within 100 feet of the property for the use and when there is a change in management of the property by the applicant. Kennedy asks if the city would normally see the letter. Kelley states no, mostly it's a verbal discussion with the neighbor. He's not aware if the applicants' spoke with the neighbors. Guggenbuehl states rentals are allowed in an R-1 district. If you own a single-family home, you are awarded the right to obtain an IUP through legal options and opportunities. He notes they are starting to near their maximum and maybe they can be more selective on what they approve. Moffat states renters aren't bad people. He notes it's a change for their neighborhood, but the city is stronger when mixed developments occur (not all rental and not all residential). The city is working to adapt to the economy. Illegal rentals do occur and this is a way to monitor and control it. He feels short stays is a better scenario. A regular rental would not allow the control the IUP has. It could be used by parents visiting students. He doesn't see evidence of a negative effect on the property value. He feels it would increase property value. IUP set for six years or until property sells. Not a permanent change. They have mechanisms in place with the police department. The city does monitor this and the permits can be revoked. If neighbors feel it's being abused, they have a say. Moffat states the city doesn't have a right to deny. Kennedy states there is some burden or due diligence of the person who owns the property. The area is unique and she doesn't think she can support this. Meyer agrees with Moffat that the IUP has controls in place. Meyer sees this as an evolution with the rules, and notes maybe there should be consideration of neighbor opposition. He has a hard time supporting this with so many people in opposition. Kennedy thinks other mitigation things can be done and she would like to see a clearer example of the buffering. Meyer would like to see neighbor input as a point of consideration. Chair Zwiebel notes if there are three police calls against the property, the IUP can be revoked. She notes there is a limited number of IUP's allowed, and feels the residents should have a say. Guggenbuehl appreciates the neighbor's opinion, and will probably vote against. Moffat notes the applicant has met all of the conditions and cautions commissioners to have a solid reason to deny. Guggenbuehl states the access to and from the cul-de-sac is unique. Kennedy is not sure if the 100-foot notice was provided by the owner. Kelley states the 100-foot notice is more of a managing agent concern. Normally they just get a verbal. Chair Zwiebel asks the applicants' representative if the owners spoke to the neighbors. Sazama states yes, to her knowledge. Uproar ensues from neighbors in disagreement to which Chair Zwiebel uses her gavel to quiet the council chambers. Moffat debunks the extra traffic concern. If there was a family living there, the traffic would be the same and would not create an extra burden. He feels there is adequate turn around space. Kelley confirms it goes to

the city council. Wright Wendel appreciates the neighbors' feedback, but agrees with Moffat. This is an asset to Duluth because it offers a variety of options to visitors. She mentions there being a kitchen for dietary needs. Personally, they enhance her travel experiences. Change is difficult, but there could be something positive coming from this. The IUP gives the neighbors power to monitor renter behavior. She is leaning towards allowing it. Chair Zwiebel understands the neighbors' concerns, but doesn't feel the Arrowhead Road partying scene can be compared. Guggenbuehl notes the city could reach their quota of 60 by June. They have the option of being more selective by asking if this is the right fit for the neighborhood.

Opposition opposed due to limited numbers of IUP's left for vacation dwelling units is not a standard. Moffat wants the planning commissioners to be more specific. Kennedy feels there will be negative impacts to the surrounding area.

MOTION/Second: Moffat/Wright Wendel recommend approval as per staff's recommendations with the added standard condition that the burning of garbage be prohibited.

VOTE: (3-4, Kennedy, Zwiebel, Guggenbuehl, Meyer Opposed) – Did Not Pass

- E. PL 17-003 Variance from Traditional-Neighborhood (R-1) Corner Side Yard Setback at 1024 N 19th Avenue East by Jill Doerfler

Staff: John Kelley introduces the applicant's proposal for a variance from the side yard setback to build a 24' x 28' attached garage and a 10' x 15' entry and closet that would be 7' – 4" from the side lot line instead of the 15' required for a corner lot in an R-1 zoning district. Although the lot is 40 feet wide, the corner lot setback requirements present a practical difficulty to constructing a garage. Staff has received one email in support of the variance. Staff recommends approval with the conditions listed in the staff report.

Applicant: Jill Doerfler addresses the commission, and asks if there are any questions.

Public: Jodi Grebinoski, 1011 N. 19th Ave. E., addresses the commission. She appreciates the improvements, and is in favor of the variance.

Commissioners: Sydow clarifies the existing garage, parking pad and the curb-cut will be removed. Kelley notes the removal of the curb cut wasn't listed in the staff report, but can be an added condition. Guggenbuehl questions item 8 in the staff report which talks about the character of the neighborhood. This is the only one accessing from street, and he feels there is adequate room to access it from the alley. He is having trouble seeing the practical difficulties of the lot.

MOTION/Second: Meyer/Kennedy approved as per staff's recommendations with the added condition the curb-cut will be removed.

VOTE: (6-1, Guggenbuehl Opposed)

- F. PL 16-140 Variance From Coldwater River Shoreland Structure Setback at 1028 West 4th Street by Jason Dryke

Staff: Kate Van Daele introduces the applicant's proposal for a variance from shoreland regulations of building within 150' of a coldwater stream. The applicant would like to construct a two-level deck on the south side of his home. The entire parcel is located entirely within the shoreland regulations. The house was built in 1922 and platted well before shoreland regulations were put in place in 1960. The proposed deck will not alter the essential character of the neighborhood, as neighboring house to the north also has

a deck. Staff recommends approval with the conditions in the staff report which include a natural vegetative buffer be maintained between the deck and the parking area, or a rain garden that would reduce impacts into Buckingham Creek. Sydow asks if this is a rental. Van Daele states no. Sydow asks about the five parking spaces. Van Deale thought it might look like an apartment building, but it's because of the oddly shaped alley and parking area.

Applicant: Jason Dryke addresses the commission. The pervious surface is being increased as it will eliminate the concrete stoop. He is open to plantings which retain water. He understands the importance of protecting of the creek.

Public: No speakers.

Commissioners: Sydow notes the area off the deck and suggests 15 feet to the wall, remain vegetative with grass. Sydow feels it could be listed as 50% coverage.

Guggenbuehl real issue is the protection of cold water creeks. The Impervious surface of the deck is so small, but sees the need for protection before the first wall. He feels 50% of it is excessive and can't approve the motion as stated. Sydow by using a percentage, it gives the owner flexibility. Guggenbuehl agrees. Director Hamre states the intent is there. The applicant will submit a revised plan.

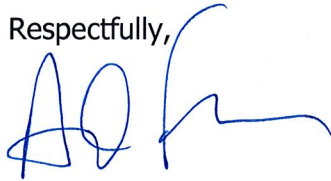
MOTION/Second: Moffat/Sydow approved as per staff's recommendations with additional landscaping for stormwater management.

VOTE: (7-0)

IV. Communications

- A. Manager's Report – Director Hamre gives an overview of Manager Adam Fulton's report. Director Hamre will notify the commissioners of the comp plan focus groups dates and times. The vision committee is meeting tomorrow night. The pc should see something in March, so they can make a recommendation to the city council.
- B. Reports of Officers and Committees
Heritage Preservation Commission Representative – Guggenbuehl gives an overview. They approved a work plan for 2017.
- C. Annual Meeting will be on February 28, 2017, at Grandma's Sports Garden, 5:00 p.m.
- D. Meeting adjourned at 7:21 p.m.

Respectfully,



Adam Fulton - Manager
Community Planning