

City of Duluth
Planning Commission
November 14, 2017 Meeting Minutes
Council Chambers - Duluth City Hall

1. Call to Order

President Terry Guggenbuehl called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, November 14, 2017, in city hall council chambers.

Roll Call

Attending: Terry Guggenbuehl, Janet Kennedy (left after agenda item C), Garner Moffat, Margie Nelson, Michael Schraepfer, and Zandra Zwiebel

Absent: Tim Meyer, Luke Sydow and Heather Wright Wendel

Staff Present: Keith Hamre, Robert Asleson, Steven Robertson, Jenn Moses, Chris Lee, Emilie Voight, and Cindy Stafford

2. Approval of Planning Commission Minutes – October 10, 2017

MOTION/Second: Moffat/Zwiebel approved the minutes

VOTE: (6-0)

3. Unfinished Business

~~PL 17-149 Mixed Use Waterfront (MU-W) Planning Review for a New Accessory Structure at 1033 Minnesota Avenue by Globe Duluth Enterprises and Terry Anderson (Withdrawn by Applicant)~~

4. Public Hearings

A. PL 17-085 Optional Public Hearing for the Kayak Bay Village Environmental Assessment Worksheet

Staff: Steven Robertson gives an overview and timeline of the EAW process. Responses to any of the comments received tonight (other than clarification) are not necessary; the intent of tonight's optional public hearing is to give citizens another chance to share comments with the Planning commission. Response to the comments will be provided the commissioners at the next regular planning commission meeting (December 12, 2017), at which time the commissioners will need to make a decision based on the information received if the project has the potential for significant environmental impacts, if an Environmental Impact Statement (EIS) is needed.

Applicant: N/A

Public: Linda Ross Sellner, 402 Arrowhead Rd., addresses the commission. She will submit written comments. She knocked on doors in the Riverside neighborhood, and the consensus was the neighbors didn't want a Bluestone type development. There were lots of people who were unaware of the project. She urges the commissioners to think about the environment and not just the benefits to job growth and economic development. The public comment period will remain open until 11/29/17. Director Keith Hamre urges commissioners to send comments in writing to staff.

Commissioners: Chair Guggenbuehl notes the letter to the DNR – plant – botanical survey, and asks about pale sedge (page 18 – 2nd to the last paragraph).

MOTION/Second: N/A

B. PL 17-170 Final Plat for Morgan Park Estates

Staff: Jenn Moses introduces the applicant's proposal to subdivide the property into nine parcels in preparation for future apartment buildings on the site of the former Morgan Park School. The applicant is planning on 12-unit buildings for a total of 96 units. Staff has received a revised site plan which includes a utility and drainage easement, a revised green space plan and a revised plat drawing which shows the requested easement along Falcon Street. The applicant held a public meeting on October 3, 2017. The input from the meeting changed the building design, which is reflected in the revised plan. Staff recommends approval with the conditions listed in the staff report.

Applicant: Chris Slater of Premier Development addresses the commission. He shares a poster board of how the new building will look, which is more of a prairie look with a lower roof design. They wanted to make a nice looking building for the neighbors. The project has about 50% green space.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Zwiebel/Nelson approved as per staff's recommendations.

VOTE: (6-0)

C. PL 17-167 Concurrent Use Permit for Private Obstruction (6 Stall Parking Lot) in the Public Right of Way at 1001 East 9th Street by DIV Ventures, LLC and John Westlund

Staff: Jenn Moses introduces the applicant's proposal to add six parking spaces located in the right of way of N 10th Avenue East. The area is currently paved and used for parking. There is a revised exhibit and now with the revisions and comments received from engineering, the revised staff recommends approval of three parking spaces with the conditions listed in the staff report, altering removing the clause for snow removal.

Applicant: John Westlund of DIV Ventures, LLC addresses the commission. The police decided to enforce the parking in right of ways or front yard parking. He questions if anyone else on 10th Street applied for a concurrent use permit. Director Hamre states there have been three or four inquiries, but there have been no other official applications yet. Westlund states this is a commercial property and parking is a concern for his tenants. This area has been used for parking since the building was built. He doesn't appreciate the burden which he now has to deal with. He is disappointed that he has had to pay \$1,800 in fees so far. Zandra Zwiebel asks who uses the spots – public or tenants. Westlund states both and is a first come first serve system.

Public: Karen Arthur, P.O. Box 161154, Duluth, addresses the commission. She is a tenant in the building and is in support of the concurrent use permit. She feels there is adequate space in the furthest spot for her small car. She hopes they keep five spaces with the last two spaces being listed as compact parking. Shannon May, 4527 Pitt St., addresses the commission. She is the homeopathic doctor who sees patients. The building has only one step which is helpful to patients with disabilities. She is concerned about the lack of parking in the area. She reads a letter from a tenant and a customer who is pregnant and is also in favor of the concurrent use permit. Robin Glindinning 15711 S. Bergemen Rd., Gordon, WI, addresses the commission. She has a bad ankle and notes access to the building to visit Dr. May in the winter is almost impossible. She would like to see the parking remain as is, and is in favor of the concurrent use permit. Therese Bower, 125 N. 9th Avenue E., addresses the commission. She is a massage therapist in the building. Some of her clients have difficulty with mobility. Her car fits and she would like to see the spots remain as is. Dorcee Harrison, 518 N. 22nd Ave. W.,

addresses the commission. She is a patient of Dr. May and direct access is important to her. She hopes this is resolved for the sake of the patients.

Commissioners: Zwiebel asks staff if a hardship situation is needed. Director Hamre states the code standards must be met, such as meeting UDC requirements for parking spaces. Michael Schraepfer states the challenge is the standards weren't enforced and now they are 14.1 versus 15 feet. Moses affirms 15 feet is standard for compact cars, 17 feet for standard cars. Schraepfer comments it seems like there is enough space when the cars pull over the stairway space. Zwiebel asks legal counsel for input. Bob Asleson states the interpretation is less flexible in a concurrent use permit. Zwiebel asks if staff looked into diagonal parking. Per Moses, diagonal parking actually requires more space. Garner Moffat asks if the applicant has talked to the neighbors across the street. Could they rent space? Westlund states there is a new owner who hasn't shown any interest in their parking situation. Westlund notes they are talking about 9/10ths of a foot. He feels there is wiggle room and urges the acceptance of the extra two spots for the tenants themselves. Schraepfer asks if there have been any complaints. Moses states no. (Moses and Director Hamre consult.) Director Hamre states in regards to front yard parking, the UDC has an asterisk to allow for a reduction by a foot and a half when the obstruction is not covered by a tree or a required pedestrian walkway. Schraepfer appreciates the newly found regulation. Chair Guggenbuehl was opposed at first and thinks using it for parking sets a bad precedent. Chair Guggenbuehl would support three spaces, but not five. Margie Nelson asks about the snow removal clause. Moses states if commissioners recommend five spaces, all original staff recommendations including snow removal would apply. Moffat would like to see green space added.

MOTION/Second: Zwiebel/Schraepfer recommend approval for five spaces as per staff's recommendations with added condition that signage be installed at the two compact spaces indicating that they are for compact cars only and that no overhang is allowed onto the public sidewalk, and greenspace be added to the non-parking area near the intersection.

VOTE: (5-1, Guggenbuehl opposed)

(Janet Kennedy left the meeting after agenda item C.)

- D. PL 17-169 Vacation of Unimproved Alley Between West 24th Street and Pineview Avenue by Lindsay Dean at 2223 West 24th Street

Staff: John Kelley introduces the applicant's proposal to vacate an undeveloped platted alley between Pineview Avenue and the unimproved portion of Nanticoke Street, in the Coffin Warner and Jones Addition to Duluth. A utility easement for Minnesota Power would be retained over the entire alley. Staff recommends approval with the condition listed in the staff report.

Applicant: N/A

Public: No speakers.

Commissioners: N/A

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

VOTE: (5-0)

- E. PL 17-174 MU-C Planning Review for Bank at 1820 Maple Grove Road by HTG Architects
Staff: Emilie Voight introduces the applicant's proposal for a 2,985 square foot commercial building with an additional 700 square foot drive-up canopy and associated site improvements including parking, lighting, and landscaping. The proposed building will house a financial institution. The 1.03-acre site is located in the Duluth Heights neighborhood, along the Highway 53/Miller Trunk Highway corridor. Staff recommends approval with the conditions listed in the staff report.

Applicant: Russ Schramm of HTG Architects addresses the commission. He asks if there are any questions. There were none.

Public: Linda Ross Sellner, 402 Arrowhead Rd., addresses the commission. She is concerned about impervious surfaces and run-off to Miller Creek. The applicant shows the 150' offset. All of their impervious surfaces are beyond that. Also stormwater treatment will occur. Moffat asks about the lower preservation area buffer. Can it be maintained as denser vegetation? The applicant confirms the area below the retaining wall will remain natural. Moses states currently the site has no stormwater treatment, so this plan will actually improve it.

Commissioners: Moffat asks why the landscaping escrow percentage is 95% upon installation and only 5% after a year. Moses states is based on other projects and has been discussed by staff. Moffat thinks the percentage is too low and would urge a change in the future. Director Hamre notes they are following the state's protocol which requires 5% retainage for one year.

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

VOTE: (5-0)

- F. PL 17-168 Special Use Permit for Pre-K School at 2802 East Fourth Street

Staff: Chris Lee introduces the applicant's proposal to operate a pre-kindergarten program for up to 40 students at the Stella Maris Academy. The Stella Maris Academy is located in the Holy Rosary School. Staff recommends approval with the conditions listed in the staff report.

Applicant: N/A

Public: No speakers.

Commissioners:

MOTION/Second: Zwiebel/Nelson approved as per staff's recommendations.

VOTE: (5-0)

- G. PL 17-171 Special Use Permit for Daycare, PL 17-172 Variance from Off-Street Parking Standards (Provide 4 Parking Spaces instead of 14 Required), and PL 17-173 Concurrent Use Permit for Obstruction in the Public Right of Way (Fence) at 4801 Cooke Street by Aunty's Child Care and April Witzke

Staff: Chris Lee introduces the applicant's proposal to operate a daycare program for up to 65 students in the structure that was a former church. Staff recommends approval with the conditions listed in the staff report. Zwiebel asks how many kids will be assigned to each staff member. The applicant answered 8.

Applicant: April Witzke of Aunty's Daycare addresses the commission. She has a location in West Duluth. She has no doubt they will be a good fit for the neighborhood. Zwiebel asks about parking. The applicant states there is parking in the back and on the street. It's also on a bus line, and they have places to store bikes.

Public: No speakers, but there were 14 letters in support and one letter against due to parking.

Commissioners: Zwiebel feels there is a need for child care.

MOTION/Second: PL 17-171 Moffat/Zwiebel approved as per staff's recommendations.

VOTE: (5-0)

MOTION/Second: PL 17-172 Nelson/Schraepfer approved with the practical difficulty being the size and shape of the lot.

VOTE: (5-0)

MOTION/Second: PL 17-173 Scraepfer/Moffat recommend approval as per staff's recommendations.

VOTE: (5-0)

- H. PL 17-175 Concurrent Use Permit for Obstruction in the Public Right of Way (Marquee Sign) for a Theater at 317 Central Avenue by Paladin Properties LLC

Staff: Steven Robertson introduces the applicant's proposal to reinstall a marquee on a former movie theater in the size and scale of the original marquee as part of a restoration process. It would be approximately 35 feet in width by 12 feet in depth, which would extend at a height of approximately 10 feet above the sidewalk. The property is located in the Spirit Valley business district. The applicant is also requesting the marquee sign be designated as a "classic sign". Staff recommends approval with the conditions listed in the staff report. Moffat is concerned with the 2nd half of condition 4, which states no other use, other than a theater may use the marquee sign. Robertson this is not a normal condition, but because it's a classic sign it goes along with the theater. Director Hamre states it's prudent that it is removed if the theater goes away. Moffat asks what if a book store goes in. He doesn't know what the benefit is to the community to remove the sign. Robertson states it ties back to a classic sign designation. Chair Guggenbuehl notes this topic could be addressed in the next comprehensive plan update. Moffat and Chair Guggenbuehl would like to see the continuation of the sign regardless if it's a theater or not.

Applicant: Robert Boone of Paladin Properties addresses the commission. He has theater experience. He addresses the marquee issue. He would like to see the marquee remain in place, but he is not concerned about it now.

Public: Charlie Studahar, 4014 W. 1st St. addresses the commission. He is in support of and thinks the marquee should remain as part of the character if it changes to another business (i.e. book store) years down the road.

Commissioners: N/A

MOTION/Second: Zwiebel/Schraepfer recommend approval as per staff's recommendations.

VOTE: (5-0)

- I. PL 17-151, 152, 153 Concurrent Use Permit for Private Obstruction (Small Cell Antenna) in the Public Right of Way at Approximately 4405 West 4th Street, 2400 London Road, and 3863 East Superior Street by Cellular Inc. Network Corporation d/b/a Verizon

Staff: Steven Robertson introduces the applicant's proposal to install small wireless facilities on existing distribution poles that are owned and operated by Minnesota Power within the dedicated public right of way. The three proposed locations are located in the platted right of way near 4405 W. 4th St. (DUL Denfeld), 2400 London Road (DUL Red Tide), and 3860 E. Superior St. Staff recommends approval with the conditions listed in the staff report. Moffat asks if they can modify the design to address the visual impact.

Robertson states they can't require stealth poles. Chair Guggenbuehl notes these are replacement poles, and asks if the height is changing. Robertson states no.

Applicant: Jaymes Littlejohn of Verizon Wireless addresses the commission. He has been representing the company since 1988. They can remove some of the non-used boxes on the polls.

Public: No speakers.

Commissioners: Moffat would like to require stealth poles in the future. Director Hamre states they can look into it.

MOTION/Second: Nelson/Schraepfer recommend approval as per staff's recommendations.

VOTE: (5-0)

- J. PL 17-161 UDC Map Amendment to Rezone from Industrial-General (I-G) to Mixed Use Waterfront (MU-W) for Properties Near Spirit Cove Marina at the End of Spring Street by the City of Duluth

Staff: Steven Robertson introduces the city's proposal to rezone properties in Riverside near the general area of Spirit Cove Marina, at the end of Spring Street, from Industrial-General (I-G) to Mixed Use-Waterfront (MU-W), in conformance with the Comprehensive Plan's Future Land Use Map. Staff recommends approval of the rezoning.

Applicant: N/A

Public: Charlie Studahar of 4014 W. 1st St., owner of Spirit Lake Marina addresses the commission. He is in support of the rezoning, and notes an increase in recreational boating, canoeing and kayaking.

Commissioners: N/A

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

VOTE: (5-0)

- K. PL 17-162 UDC Map Amendment to Rezone from Industrial Waterfront (I-W) to Residential-Traditional (R-1), Rural-Conservation (R-C), and Park and Open Space (P-1) for areas near Pulaski Street and Indian Point Campground by the City of Duluth

Staff: Steven Robertson introduces the city's proposal to rezone properties in the general area of the Indian Point Campground, and areas between South 63rd and 73rd Avenues West, and Milford and Freemont Streets, from Industrial Waterfront (I-W) and Residential-Traditional (R-1), to Parks and Open Space (P-1) and Rural-Conservation (R-C), in conformance with the Comprehensive Plan's Future Land Use Map. Staff recommends approval of the rezoning.

Applicant: N/A

Public: Ryner Nelson 1024 S. 22nd, addresses the commission. He is currently zoned industrial waterfront and wants to know how the rezoning will affect him. Robertson states it will make his residential property conforming.

Commissioners: N/A

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

VOTE: (5-0)

- L. PL 17-163 UDC Map Amendment to Rezone from Residential-Traditional (R-1) to Airport (AP) and Rural-Conservation (R-C) for Sky Harbor Airport and Area at and Beyond Minnesota Point Pine Forest by the City of Duluth

Staff: Steven Robertson introduces the city's proposal to rezone properties in the general area of the Sky Harbor Airport and the end of Minnesota Point from Residential-

Traditional (R-1) to Airport (AP) and Rural-Conservation (R-C), in conformance with the Comprehensive Plan's Future Land Use Map. Staff recommends approval of the rezoning.

Moffat asks about airport usage on park point. Reinvesting in the airport and environmental concerns for airplanes. Director Hamre refers to the monthly report from SEH. The airport authority determined they need to maintain the airport, and will restrict its usage to small planes or float planes. Moffat states by moving forward with improvements, he feels they may be extending the problem out into the future. Chair Guggenbuehl notes they are making it consistent with the comp plan update. Moffat disagrees and feels it's more important to keep zoning as is for now. He feels more community process is needed. Nelson feels at the moment AP zoning is appropriate.

Applicant: N/A

Public: No speakers.

Commissioners: N/A

MOTION/Second: Zwiebel/Nelson recommend approval as per staff's recommendations.

VOTE: (4-1, Moffat Opposed)

- M. PL 17-164 UDC Map Amendment to Rezone from Industrial-General (I-G) and Mixed Use-Neighborhood (MU-N) to Mixed-Use Business Park (MU-B), and From Mixed-Use Business Park (MU-B) to Industrial-General (I-G), at the Oneota Business Park Near South 40th Avenue West and West Michigan Street by the City of Duluth

Staff: Steven Robertson introduces the city's proposal to rezone properties in the general area of the Oneota Business Park, near the 40th Avenue West and I-35 interchange, from Mixed Use Neighborhood (MU-N) and Industrial-General (I-G), to Mixed Use-Business (MU-B), in conformance with the Comprehensive Plan's Future Land Use Map. Staff recommends approval of the rezoning.

Moffat asks about the Lincoln Park small area plan. Director Hamre stated that the Small Area Plan did not address this area.

Applicant: N/A

Public: No speakers.

Commissioners: N/A

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

VOTE: (5-0)

- N. PL 17-165 UDC Map Amendment to Rezone from Urban-Residential (R-2) to Mixed Use-Institutional (MU-I) and Rural-Conservation (R-C) for UMD Main Campus at 1049 University Drive, by the City of Duluth

Staff: Steven Robertson introduces the city's proposal to rezone properties in the general area of the UMD Main Campus, between West College Street and West Arrowhead Road, and Woodland Avenue and Brainerd Avenue, from Urban Residential (R-2) to Mixed Use – Institutional (MU-I), and Rural Conservation (R-C), in conformance with the Comprehensive Plan's Future Land Use map. Staff recommends approval of the rezoning.

Applicant: N/A

Public: No speakers.

Commissioners:

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

VOTE: (5-0)

6. Communications

A. Manager's Report

➤ Discussion on Filling Station in MU-N Zone districts. Director Hamre states research is still in progress and he would like to have a brown bag discussion on it. They are not ready to discuss how many non-conformities this would create. New language will be proposed to the UDC after the brown bag session.

➤ PL 17-179 Comprehensive Plan Conformance, TIF District for Ramsey Village

MOTION/SECOND: Zwiebel/Moffat recommend approval.

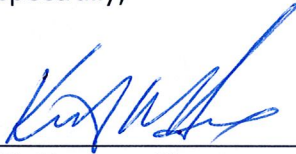
B. Reports of Officers and Committees

Heritage Preservation Commission Representative chair Guggenbuehl states there wasn't a quorum at their last meeting.

C. Election of New Planning Commission President and Vice-President. Chair Guggenbuehl would like to step down. Election results are: President Schraepfer and Vice-President Kennedy.

D. Meeting adjourned at 7:47 p.m.

Respectfully,



Keith Hamre - Director
Community Planning and Construction Services