

City of Duluth
Planning Commission
April 14, 2015 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 5:02 pm on Tuesday, April 14, 2015, in City Hall Council Chambers.

Roll Call

Attending: Marc Beeman (left after item C), Drew Digby, Terry Guggenbuehl, Tim Meyer (arrived during item D), Garner Moffat, Patricia Mullins, David Sarvela, Luke Sydow and Zandra Zwiebel

Absent: N/A

Staff Present: Keith Hamre, Chuck Froseth, Nate LaCoursiere, Steven Robertson, John Kelley, Jenn Moses and Cindy Stafford

II. Public Information Items

- A. Presentation of Zenith Awards for Comprehensive Plan Implementation – Director Keith Hamre addresses the commission and distributes awards to Steve Goman, City Engineering Division and James Gittemeier, Duluth-Superior Metropolitan Interstate Council (MIC).
- B. Recognition of Outgoing Planning Commission Members – Hamre thanks commissioners Patricia Mullins and David Sarvela for their service.

III. Public Hearings

- A. PL 15-052 Change to the Comprehensive Plan's Future Land Use Map, from Traditional Neighborhood to Neighborhood Mixed Use, For Property West of Kenwood Avenue Between West Toledo Street and West Arrowhead Road, by the City of Duluth
Staff: Steven Robertson introduces the city's proposal to amend the Comprehensive Land Use Plan-Future Land Use Map from Traditional Neighborhood to Neighborhood Mixed Use. Based on the findings listed in the staff report, staff recommends approval. Terry Guggenbuehl notes the parcels on West Cleveland asks what is the staff's logic for these parcels. Robertson responded there is a natural break with a platted alley. Garner Moffat asks if traffic was considered. Robertson, yes but he believes the increase in traffic will be minimal with just the future land use change. Staff noted that much of this traffic is thru-traffic, and not related specifically to local traffic generators.
Applicant: N/A
Public: Judy Watczak - 14 W. Cleveland St. – addresses the commission. She feels the value of her home will be reduced. Chair Zwiebel explains it's the future land use which could be 20 years from now. Drew Digby asks staff if there is a proposed rezoning in the works. Hamre states there is a developer looking at the site and there will be a press conference on April 22 with a neighborhood meeting being held the next day. Moffat lists the permitted uses in MU-N zone district for the speaker. Joel Sipress - 2023 E 4th St. – addresses the commission and notes the neighborhood meeting information is April 22, 2015 from 5-7 p.m. at the Tavern on the Hill.
Commissioners: Guggenbuehl is concerned with the traffic including the number of curb cuts. He would like to see a safe pedestrian crossing on Kenwood. Digby thinks the intersection is an ancient design and should be improved with designated turn lanes.

MOTION/Second: Digby/Mullins recommends approval as per staff's recommendations.

VOTE: (8-0)

- B. PL 15-039 UDC Map Amendment to Rezone to Park and Open Space (P-1) Cobb, Downer, Janette Pollay, Morningside, and Pleasant View Parks, by the City of Duluth
Staff: John Kelley introduces the proposal to rezone park property including Cobb Park, Downer Park, Janette Pollay Park, Pleasant View Park located in the northeastern portion of the city from current zoning districts of Residential-Traditional (R-1) and Rural Residential 1 (RR-1) to Park and Open Space (P-1). Based on the findings listed in the staff report, staff recommends approval.

Applicant: N/A

Public: N/A

Commissioners: N/A

MOTION/Second: Moffat/Mullins recommends approval as per staff's recommendations.

VOTE: (8-0)

(Commissioner Beeman left during item C)

- C. PL 15-042 UDC Map Amendment to Rezone from Residential-Traditional (R-1) to Mixed Use-Commercial (MU-C), 213 North Arlington Avenue, by Joseph Kleiman
Staff: Jenn Reed Moses introduces the request to rezone property from R-1 to MU-C. Any development would require a plan review. Staff recommends approval based on the findings listed in the staff report.

Applicant: Joe Kleiman addresses the commission. He has a future plan to redevelop, but is not in an immediate rush. He has discussed his proposal with the neighbors.

Public: Brian Daugherty - 13 W. Myrtle St. – addresses the commission. There are only two homeowners on West Myrtle Street agree and he believes that the Arlington property makes sense to rezone. They want to protect their residential character and home value. He shares pictures with the commissioners and explains it is a private and ideal setting. He and his neighbor want to keep the dialog open. He suggests a fence and trees for a buffering option between the commercial and residential zones. Marcus Thompson – 11 W. Myrtle St. – addresses the commission. His home is his biggest investment. He is concerned with maintaining property value and safety.

Commissioners: Patricia Mullins asks staff if an egress is needed on Myrtle Street. Moses responded stating that no, but they haven't seen a development proposal. Digby notes the Central Entrance Small Area Plan. He asks about the status of the alley. Moses, it is a right of way. Digby notes buffering issues and what might be available. In general he is in support, but wants to make sure they are doing this right. Guggenbuehl is in full support and feels this is an appropriate time to rezone.

MOTION/Second: Guggenbuehl/Sarvela recommends approval as per staff's recommendations.

VOTE: (7-0)

(Commissioner Meyer arrived during Item D)

D. PL 14-152 MU-I Planning Review for Essentia Health for a Backup Generator Structure at 503 East Third Street (Amendment to the Approved Plans from November 2014 PC Mtg)
Staff: Moses introduces the applicant's request. A generator building in this location was approved by planning commission at its November, 2014 meeting. Based on results of the sound modeling, Essentia would like to alter the approved project in order to meet MPCA sound guidelines. Alterations include a building height of 36' (previously approved at 25'4"), exhaust stack height of 47'4" (previously 43'4"), and intake louvers located at the south face of the building instead of the north face. Staff recommends approval with the conditions listed in the staff report.

Applicant: Nathan Potratz (LHB Architect) addresses the commission and asks if there are any questions. Moffat doesn't think the height differential will be a factor, but he would like the large brick wall to be more aesthetically pleasing. The applicant is open to this and notes the planned landscaping.

Public: N/A

Commissioners: Moffat asks the applicant if faux windows would be agreeable as a conditional approval. Digby suggests a condition which would allow the applicant to work out the details with the land use supervisor.

MOTION/Second: Moffat/Guggenbuehl approved as per staff's recommendations with the condition that the applicant work with the land use supervisor to break up the brick wall façade with either: faux windows, art, or landscaping.

VOTE: (7-0, Meyer abstained)

E. PL 15-038 MU-I Planning Review for a New Structure (Solarium and 3 Season Patio) at 400 East Third Street by Essentia Health

Staff: Moses introduces the proposal to construct an enclosed solarium and three-season patio area for Essential Health Duluth Children's Hospital on the eighth floor of St. Mary's Medical Center. The area is currently used as an outdoor patio. Staff recommends approval with the two conditions listed in the staff report.

Applicant: Nathan Potratz addresses the commission and asks if there are any questions. Luke Sydow asks if a patio will be on top of this structure. Applicant states no.

Public: N/A

Commissioners: N/A

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

VOTE: (8-0)

F. PL 15-035 Vacation of Street Right of Way for West 8th Street (Between 38th and 39th Avenue) and 38th Avenue (Between West 7th and West 8th Street) by St. Louis County, Land and Minerals Department

Staff: Robertson introduces the request to vacate portions of unimproved West 8th Street and 38th Avenue North. This street right of way is adjacent to tax forfeit property, and the applicant would like to be able to assemble a larger development parcel for sale in the future. Staff recommends approval with the condition that a 20 foot utility easement be maintained in the North 38th Avenue West right of way. Sydow asks about the parcel owned by Northwood's Children's Home. Per Robertson, the lot may be prior to the railroad and is not a factor as they do not exercise ownership. Tim Meyer clarifies the ownership of a vacated parcel goes to the state. Robertson noted in the event the tax forfeit land is sold, the proceeds are allocated by each taxing jurisdiction.

Applicant: Present, but did not speak.

Public: N/A

Commissioners: Sydow asks if there could be any ramifications and does the Northwood Children's Home formally need to waive their rights to their parcel. Robertson is unaware of any ramifications. Charles Froseth notes the county approached Northwood's Children's Home and there are no ramifications. Applicant confirmed from the audience.

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

VOTE: (8-0)

- G. PL 15-037 Vacation of Street Right of Way for West 2nd Street between 39th and 40th Avenue by RMN, LLP

Staff: Robertson introduces the application to vacate West 2nd Street (platted as Traverse Street) between 39th and 40th Avenues West. A utility easement would be retained over the entire vacated portion of the street. The street is currently developed but primarily serves adjacent properties, all owned by RMN; street right of way does not continue to the west. RMN's plan is to utilize the vacated street for parking areas for its employees and customers. Staff received public feedback stating it is used for access by neighboring residents. If the planning commission recommends approval, staff recommends that the utility easement be retained. If the planning commission recommends denial, staff recommends the city require the applicant to seek a concurrent use permit from the city council (for private parking in the public right of way).

Applicant: Roy Christiansen, attorney representing applicant, addresses the commission. He notes the applicant is St. Germain's Glass which employs 25 people. They have been using the building for 30 years and RMN owns all of the land off of 2nd Street. He shows a diagram which showing several portions of the building are constructed within the street right of way. Any public use is likely driving through RMN's private property. Due to safety concerns this is not a public thoroughfare. This vacation will match up with reality of what currently exists. It makes good safety and common sense. He added that Miner's Inc. is in support of the vacation. Guggenbuehl asks about the staff's alternative for a different easement. His client considered it and respectfully declined. It's a bad spot for public travel. There are no curb cuts or stop signs. Chair Zwiebel asks about the city's role. The applicant states they do their own plowing. Meyer asks why not apply for a concurrent use permit? The applicant is concerned for safety reasons and having speeding traffic accessing the alley. Sarvela asks if Miner's is using this property for access. Christiansen, if in the future there are street projects, Miners would have a back-up access in the form of a private easement. Moffat appreciates the back up access plan and feels they will need to resurface 39th Avenue West. He asks staff if there could be a condition attached to this vacation. Hamre responded that no conditions can be included. Meyer, is an infill addition a possibility? Christiansen, the cost of moving city utilities would be expensive. The main purpose for the vacation is parking and safer access for trucks carrying products in and out of the business. Sarvela asks what how will they limit traffic. Per applicant they are proposing large clear signage at both ends.

Public: Ken Conito - 216 N. 38th Ave W. – opposes the vacation. He and his neighbor's use it as an access out to 40th Avenue West. The truck traffic disturbs them. They currently have angled parking which he feels is illegal. This is their home and they live there year round. He lists other parking options for their employees. Joe Kleiman

addresses the commission. He is part owner of Jo-Ed property with adjoining land. He is not opposed, but doesn't feel a need for it to be there. Janet Kennedy – lives in West Duluth addresses the commission. She is concerned about safety vehicle access. Robertson, the fire marshal had no concerns with this vacation.

Commissioners: Chair Zwiebel states they can't make this conditional. Hamre states they can recommend denial or table to ask applicant to change to a partial vacation. Guggenbuehl asks if the alternative easement is addressed, could the city put stop signs up, or be in charge of plowing. Would the city take ownership to maintain it? Robertson, the city has not verified this with engineering. Half of all intersections are uncontrolled (unsigned). Digby asks staff what the benefit is for tabling this issue. Moffat isn't strongly for it or against it, but brings up some interesting issues about parking. Per Sarvela a concurrent use permit would allow parking in the right of way as well as clean up the property line issues. Guggenbuehl notes the concurrent use permit would clear up liabilities issues. Robertson, insurance is usually part of the concurrent use permit. Nate LaCoursiere states a \$1.5 million policy for liability insurance is standard.

MOTION/Second: Meyer/Sarvela recommends denial.

VOTE: (2-6, Digby, Guggenbuehl, Moffat, Mullins, Sydow and Zwiebel opposed)

MOTION/Second: Digby/Guggenbuehl Table.

VOTE: (6-2, Meyer and Sarvela opposed)

- H. PL 15-044 Vacation of Pedestrian Easement and Dedication of New Pedestrian Easement at 1231 West Michigan Street, by Augusta Homes

Staff: Robertson introduces the proposal to vacate an existing 500 foot-wide pedestrian easement in order to make room for a future structure on the applicant's property. The applicant will dedicate a new 20-foot wide pedestrian easement on a different location on the site for continued trail use. Staff recommends approval based on the findings listed in the staff report.

Applicant: Aaron Schweiger addresses the commission. Sydow asks about the trail. He doesn't like the rigidity of the easement. The applicant wants to utilize the trail and allow public use. The applicant states there can be continued signage designating the trail. Meyer states the layout based on the topography and notes the change in elevation. Robertson, the topography was walkable during site visit and they didn't want to come through the parking lot. Robertson states Parks and Rec and the Association agreed on this location.

Public: Jon Anderson - 514 101st Ave W – he is neutral on the vacation. His concern is later on and will the easement change. Robertson, if there is a change the neighbors would be notified as standard procedure.

Commissioners: Sydow isn't opposed to the business, but he is against vacating the existing easement.

MOTION/Second: Guggenbuehl/Digby recommends approval as per staff's recommendations.

VOTE: (6-2, Meyer and Sydow opposed)

- I. PL 15-048 Vacation of Utility Easement On Lots 2 and 3, Block 2, of Airport Division of Duluth (South of Airport Road, and Between Stebner Road and Vandenberg Drive), by City of Duluth

Staff: Robertson introduces the applicant's request to vacate a utility easement south of Airport Road, over Lots 2 and 3, Block 2, Airport Division (20 feet wide by 225 feet

long). Existing utilities will be rerouted in the future to accommodate a potential new structure on the site. Staff recommends approval based on the findings listed in the staff report without conditions.

Applicant: N/A

Public: N/A

Commissioners: Meyer asked what the original easement is for. Per Robertson for the sewer line.

MOTION/Second: Guggenbuehl/Sarvela recommends approval as per staff's recommendations.

VOTE: (8-0)

- J. PL 15-049 Vacation of Street Right of Way for 20th Avenue East, East of Heritage Park and Between 4th Street and Woodland Avenue, by City of Duluth

Staff: Robertson introduces the city's request to vacate a portion of 20th Avenue East between 4th Street and Woodland Avenue (66 feet wide by 108 feet long). When the intersection of Woodland Avenue and 4th street is improved, a portion of Heritage Park will be impacted. Vacating 20th Avenue East improves the safety of the area and allows for an improvement to the park property, as ½ of the newly vacation 20th Avenue East will be added to the park property. Staff recommends approval based on the findings listed in the staff report without conditions.

Applicant: N/A

Public: Mark Anderson – 430 Woodland Ave. – addresses the commission. He is a resident and feels the need to have more perpendicular intersections. He does not feel it's a safety issue for drivers. 20th Avenue East is used for on street parking. Where are they going to go to park? Private sewer line would need to be an easement. He doesn't feel it's an appropriate use and feels it will decrease connectivity and opposes the vacation. Joel Sipress – 2023 E. 4th St. – city councilor lives on the alleyway – he feels it would solve a problem. The intersection where they all come together is a blind intersection. The stop sign is often ignored. He and his alleyway neighbors feel they have had near misses with accidents and feels it's a safety issue. He supports the vacation. Corey Binsfield – landlord - 1930 E. 4th St. – opposed with mixed feelings. He would like to see the park expanded, but is having trouble with the bigger picture of taking away five parking spots on the street and feels parking is a concern. Louis Bang – represents the owners of 1911 E. 4th - Alley off of Woodland – his mom and dad have owned the property since 1972. They have seen many accidents and notes many people blow through the stop sign. He notes horn honking is a daily occurrence. He opposes the vacation and asks for denial. Rick Petruso – is opposed to the vacation because they will lose a lot of on street parking. He has lived there 17 years and has never witnessed an accident. Linda Ross Sellner – 402 W. Arrowhead Rd – addresses the commission. She notes public space should be protected with no adverse impact to the park. Her concern is the loss of the trees: 8 cedars, 1 pine tree and 2 silver maples. How is taking down the trees making the park a better place? She recommends more information is needed.

Commissioners: Sydow asks if there are parking spaces off the alley. Ryan Crestman of the county addresses the commission. No parking spaces are being removed from 4th Street. A few spots off of 20th Avenue East will be removed. This is a dangerous intersection due to the skew of the streets. The pedestrian island is an improvement. Guggenbuehl any consideration to shifting traffic down 20th Avenue East. The applicant states they did look at other options. Applicant states they will be adding trees. Mullins asks where the parkers losing their spots would go. Crestman noted they are only losing

three legal parking spots. Some current parking is being done illegally. Chair Zweibel states the vacation would be for areas not currently being used. Robertson yes, it's used; it improves safety and doesn't add in a meaningful way to the traffic circulation system. Meyer is concerned with the loss of parking. Robertson states they are in support because it makes the park larger. Joint effort identified this as future park space. Sydow is a bump-out for parking possible? Crestman stated that adding parking means losing boulevard and losing trees. He wants to clarify the parking spots lost would only be 2-3 legal parking spots. Digby understands the parking concern, but he feels the need to keep the trees. Mullins likes the idea of the plan, but doesn't know about the practicality of people who need to park. Sarvela lives in the area and sees both sides of the issue. He feels the park outweighs the con of losing on street parking spots. Moffat feels parking is a private property issue and the land swap will gain more valuable park space and a safer intersection.

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

VOTE: (6-2, Meyer and Mullins opposed)

- K. PL 15-055 Preliminary Plat at 9300 Grand Avenue by Grand Avenue Estates of Duluth LLP

Staff: Robertson introduced the proposal to subdivide the property to prepare for future development of this site, per prior approved plans. Staff recommends approval based on eight conditions: 1) The applicants attend a pre-app meeting for the final plat with engineering to clarify stormwater and utility needs; 2) The applicant will give the city, trail easement over the sewer easement on the eastern portion of the property; 3) The applicant will give 17' as a dedicated public right of way for Hulett Avenue; 4) Grant easement over the trail if necessary; 5) Document approval of the wetland delineation and wetland credits; 6) Outlots A & B will be open space; 7) Document tree preservation plan is approved; 8) Engineering confirm with MN DOT location of the final access. Moffat clarifies the private streets will not be maintained (including plowing) by the city. Per Robertson, correct. The developer is aware. Sarvela states since it will be built in accordance with city standards; will it be approved by city staff? Robertson, sewer and water will be approved by the city. He is concerned with fire truck access. Per Robertson, the final plat must meet city standards.

Applicant: Dan Hinzman of SEH represents the applicant. They have been looking at the wetland credits and may need to purchase credits. Digby asks about the conditions as listed in the packet and also asked how many more times will this come before the planning commission before it is final. Robertson notes once more in about two months. The documentation of the wetland analysis will need to be sufficient.

Public: N/A

Commissioners: N/A

MOTION/Second: Moffat/Meyer approved as per staff's recommendations and the wetland credits will be resolved before the final plat is brought forth.

VOTE: (8-0)

- L. PL 15-046 Special Use Permit for Solid Waste Disposal Facility (Amend Existing SUP to Adjust Facility Boundaries) at 1100 West Gary Street by Vonco V, LLC

Staff: Robertson introduces the proposal to amend the existing special use permit to allow for a change to the approved facilities boundaries. Staff recommends approval subject to the conditions listed in the staff report.

Applicant: Ian Vagle of Vonco addresses the commission. He asks if there are any questions.

Public: N/A

Commissioners: N/A

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

VOTE: (8-0)

(Sydow recused himself)

- M. PL 15-053 Concurrent Use Permit for Canopy Structure in Right of Way at 506 West Michigan Street by Area Culture Center Corp

Staff: Robertson introduces the request to create a walkway canopy to cover the sidewalk in the public right of way of South 5th Avenue West, between the I-35 ramp and the depot. The canopy would provide some limited protection from the elements and help to direct pedestrian traffic to the rear of the structure. Staff recommends approval with the conditions listed in the staff report. Meyer asked if this requires a building permit. Robertson states yes. Guggenbuehl questioned the city is okay with anchoring the canopy to the sidewalk. Digby thinks this is unsafe in the winter and the canopy will help.

Applicant: Chris Matthews addresses the commission. He doesn't think wind is a factor.

Public:

Commissioners:

MOTION/Second: Moffat/Guggenbuehl recommend approval as per staff's recommendations with added condition that it's approved by the HPC. Applicant will provide insurance up to the city's liability requirements.

VOTE: (7-0, Sydow recused himself)

- N. PL 15-030 Appeal of Land Use Supervisor Decision (200 Foot Limit in MU-W) at 1003 Minnesota Avenue

Staff: Charles Froseth (Land Use Supervisor) reviewed the appeal by Terry Anderson, Park Point Marina, of the Land Use Supervisor's interpretation regarding the expansion of an existing hotel. Mr. Anderson seeks to construct an addition to the hotel that does not include a 50 foot separation from the current hotel.

Applicant: Terry Anderson - 5366 Nelson Rd – Saginaw – addresses the commission. He is looking towards the future noting the portion of the building is blocked by topography. He feels it doesn't apply to the 200 foot measurement of the UDC.

Public: Not a public hearing.

Commissioners: Meyer asks what the purpose is of the 50 foot separation. Froseth, the view of the harbor or lake by the public. Moffat asks legal counsel to weigh in. LaCoursiere notes the decision is made based on what is presented. The planning commission is now asked to determine if the Land Use Supervisor read the code correctly. The applicant states no variance is needed. The role is to make the conclusions based on the information at hand. Digby states based on the information in front of him, the goal is not to block the view. Meyer asks Froseth is there a scenario which allows the applicant to add to his hotel. Froseth, the city wants to encourage growth, but they don't know if he can meet the 50 foot setback without a variance. Without an application in hand, it's hard to determine if a variance is required. Moffat feels the Supervisor made the right interpretation and feels a variance is needed.

MOTION/Second: Digby/Sarvela affirmed the decision of the land use supervisor based on findings of fact in the February 9, 2015 letter.

VOTE: (6-0, Sydow recused himself, Meyer abstained)

Sydow re-entered meeting

IV. Other Business

- A. Bylaw Update (Approve Changes Suggested at the Annual Meeting)

MOTION/Second: Guggenbuehl/Sarvala Motion to approve bylaws

VOTE: (8-0)

V. Communications

Managers' Report

-Future Brown Bag Meetings – next month discussion on variances. June – tax forfeit land and July – comp plan and UDC update.

- A. Consideration of Minutes:

Annual Meeting March 4, 2015

MOTION/Second: Guggenbuehl/Meyer approve the March annual meeting minutes.

VOTE: (8-0)

Regular Meeting March 10, 2015

MOTION/Second: Guggenbuehl/Mullins approve the March minutes.

VOTE: (8-0)

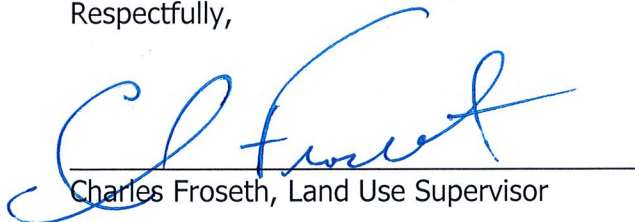
- B. Reports of Officers and Committees

-Heritage Preservation Commission Representative – Guggenbuehl CLG grant for Lincoln Park was submitted.

Sarvela thanks staff and commissioners. He encourages new commissioners to ask questions.

- C. Meeting adjourned at 8:51 p.m.

Respectfully,



Charles Froseth, Land Use Supervisor