



City of Duluth
Planning Division

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City of Duluth
Planning Commission
August 14, 2012 Meeting Minutes
City Council Chambers, Duluth City Hall

Call to Order

Attending: Henry Banks, Marc Beeman, Drew Digby, Terry Guggenbuehl, Patricia Mullins, Heather Rand, and Zandra Zweibel

Excused: David Sarvela and Luke Sydow

Public Hearings

- A. PL 12-117 Comprehensive Future Land Use Map Amendment from Low-Density Neighborhood to General Industrial at 1200 Becks Road, by The City of Duluth

Staff: John Kelley stated that this is to amend the comprehensive future Land use map from Low-Density Neighborhood to General Industrial. Kelley stated that the City Council had already established that a landfill in this location is a reasonable use. The adjacent property has been used in the late 60s and 70s and there was landfill activity at this site as well. The base zoning district designation of R-1 was applied to this area based on the City's Comprehensive Plan Future Land Use map. However, based on the historic use of the site and past as well as recent approvals by the City Council supporting the ongoing use of the site as a landfill, the designation of the western half of the site as Low-Density Neighborhood appears to be an oversight. Based on the findings in staff's report, staff is recommending approval that this be approved by the city council from low density neighborhood to General Industrial.

MOTION/Second: Zwiebel/Guggenbuehl to **Approve** the Comprehensive Future Land Use Map Amendment from Low-Density Neighborhood to General Industrial at 1200 Becks Road, by the City of Duluth. Based on the above findings staff recommends that the Planning Commission recommend approval to the City Council of the amendment of the Comprehensive Land Use Plan-Future Land use Map changing from Low-Density Neighborhood to General Industrial the property shown on the attached map and described in Exhibit A, for the following reasons: The General Industrial category is the designation which is more in keeping with 2000 and 2001 City Council actions which allowed for the continuation and expansion of this solid waste disposal and processing facility on and into the balance of owners property. This proposal has been reviewed by the Land Use Supervisor who has concurred with the staff Recommendation.

VOTE: 7-0

B PL 12-102 UDC Map Amendments

Staff: John Kelley stated that this proposal is to rezone portions of the Miller Hill area. The proposed rezoning sites have been broken down into sub-areas 1 through 4. Kelley explained each sub-area and its current and proposed zoning districts. Kelley stated that the City of Duluth adopted the Central Entrance-Miller Hill Small Area Plan and the next step is to have the proper zoning districts established to be consistent with the Comprehensive Land Use Plan. Kelley stated that there were two public meetings regarding the proposed rezonings. Kelley added that staff had proposed that an area west of Yosemite Avenue and north of Maple Grove Road be rezoned from MU-C to MU-N. However, based on public comment received at the public meetings, staff is recommending that this area remain as MU-C.

Digby stated that there is a small strip of land. Keith Hamre added that there is a parcel there and about half of this is for preservation. Hamre stated that the preservation overlay district will require setbacks from streams.

Larry Kramer is here to voice the opposition to rezoning the land east of Joshua. He is concerned with commercial development, property values and neighborhood character. Mr. Kramer stated that a petition has been signed against the rezoning.

Sharon Mosiniak. She stated that she lives in the neighborhood by sub-area 3. Mosiniak stated that she visited many homes to get signatures on a petition against the rezoning. She presented staff with a petition against the rezoning and showed on a map the area where residents live that signed the petition.

Earl Richards. Mr. Richards is the owner of property east of Joshua Avenue and has lived in the area for 18 years. He has tried to develop his property and also has tried to sell it for development. Mr. Richards stated that the Planning Commission has spent a lot of time studying this area. Mr. Richards stated that it is the market that decides what should be on this site.

Zwiebel asked about the location pertaining to the petition and Kelley went over the area which was sub area 3 and east of Joshua Avenue and south of Maple Grove Road. Kelley stated that the MU-N zoning permits residential and commercial uses.

Mullins asked what the property being discussed is zoned. Kelley stated that it is residential.

Guggenbuel stated that there must have been several public meetings and neighborhood participation with the Central Entrance-Miller Hill Small Area Plan. Kelley stated that the future land use map was changed when the small area plan was adopted. Digby asked if this is mixed use neighborhood or is it transitional space.

The Commissioner's discussed a previous application for rezoning on a property in sub-area 3 and whether a plan review would be required in the MU-N district for proposed development.

MOTION/Second: Rand/Banks to Recommend **Approval** the UDC Map Amendment for the following reasons: 1) this proposal; is consistent with eh Comprehensive Land Use Plan. 2) Rezoning to MU-C and MU-N will allow a mix of uses that are reasonably related to the existing land uses in the area and will result in a final product that provides a greater level of public benefit than would be required under the existing Residential zone districts. 3) The proposed MU-C and MU-N zone districts are consistent with the future land use categories of "Large-scale commercial" and "Neighborhood Mixed Use ". 4) Material adverse impacts On nearby properties are not anticipated.

VOTE: 6-1 (Guggenbuehl Aqainst)

C. PL 12-108 UDC Map Amendment, Several Higher Ed. Sites, by the City of Duluth

Staff: Jenn Reed Moses stated that this rezoning proposal includes three sites in the Kenwood area. All are currently zoned R-1. The first area is south of MacFarlane Road, between Howard Gnesen and Blackman. The future land use is Rural Residential, Preservation, and Low-Density Residential. The City's original proposal was to rezone the western portion to RR-1 and the eastern portion to RR-2. However, at the public meeting the property owners and neighbors expressed concerns over some of the uses allowed in RR-1. Based on this, the proposal before you now is to rezone this entire area to RR-2, which has a minimum lot size of 2 acres. The second area is at the northeast corner of Kenwood Avenue and Toledo Street. A chiropractic clinic currently exists on the site, but as a clinic is not an allowed use in R-1, the city proposes rezoning it to MU-N, which is consistent with the comprehensive plan designation of Neighborhood Mixed Use. The third area is across St. Marie Street from the UMD campus and was indicated in the Higher Education Small Area Plan as being an area for student-oriented development. Many people think this is already a part of campus, and it is well buffered from neighborhoods to the north and east by the required stream setback. Mullins asked whether it was possible to separate the proposals based on concerns from residents about the first area. Hamre said that Planning Commission could choose to separate. Moses iterated the concerns shared about that area, which include: concerns about a potential church use (which is a special use in R-1), and losing investment potential if properties cannot be subdivided. Motion by Guggenbuehl to support the staff recommendation, adding that all three make sense in these areas.

MOTION/Second: Guggenbuehl/Rand to Recommend **Approval** of the UDC Map Amendment, Several Higher Ed. Sites by the City of Duluth as follows: A. An area lying north of Arrowhead Road between Blackman Avenue and Howard Gnesen Road, from R-1 to RR-2. B. Northeast of the intersection of Kenwood Avenue and Toledo Street (1320 Kenwood Avenue), from R-1 to MU-N C. North of St. Marie Street and east of Oakland Circle, from R-1 to R-2.

VOTE: 6-1 (Mullins Against)

- D. PL 12-118 UDC Map Amendment from Residential-Traditional (R-1) to Parks and Open Space (P-1) and Industrial-General (I-G), at Park Point (Minnesota Point), by the City of Duluth

Staff: John Kelley stated that at this time the proposed rezoning requires further review in regards to land use and the airport. Kelley went over the zoning and future land use for the area. Digby stated that according to the agenda I-G zoning is part of the proposal. Robertson stated that the agenda was incorrect. Digby asked Kelley to verify the ability for the lake side. If there are rights, those rights would have an agreement. LaCoursiere stated that we would like to review what might come forward. Digby added that this can be sorted out. Banks was looking at this and that the decision was made for them. Hamre did not want to mislead the public and that is why they had requested to table this meeting. Hamre stated there is also tax forfeit land to look at as well. We wanted to have a public meeting to see what we want to re-class for this.

Bob Oullette – Duluth Boat Club - They support the concept of this and they are having programs from this site and wouldn't interfere. Zwiebel stated that the Planning Commission is still gathering information – Mullins. Banks opposed

No Action; continued to September 11, 2012 Planning Commission meeting.

- E. PL 12-119 UDC Map Amendment from Industrial-Waterfront (I-W) to Mixed Use-Waterfront (MU-W) at 1127 Minnesota Avenue, by Ray Robbins

No Action; continued to September 11, 2012 Planning Commission meeting.

- F. PL 12-103 Interim Use Permit for a Parking Structure and College Use at 201 East Clover Street by BlueStone Commons LLC

Staff: Robertson stated that the acting Land Use Supervisor approved the Regulating Plan for this development earlier in the year. The applicant is seeking an interim use permit, per the Regulating Plan. The applicant has asked for 35 years or a College or University Use and 50 years for a Parking Structure Use. Staff recommends approval with conditions.

Mullins asked the reason behind needing an Interim Use Permit for a parking lot and structure. Robertson stated that an Interim Use Permit is required by the Regulating Plan and that the requested time frames seemed reasonable. Digby asked about the existing structure – formally a school; would that require a separate permit if the applicant wanted to expand the footprint or add another story to the structure? Hamre stated they would need to an amendment to the Interim Use Permit. Digby asked how the internal renovation of this building would be handled? Hamre stated that internal remodeling projects of the existing structure are ok and don't need additional zoning approvals.

Mark Lambert stated that he is excited what they have before the Planning Commission tonight. There is such excitement for this space. Because of the cost, the applicant would prefer not to build the parking structure, but it would be built only if there was a proven need for additional parking in the future.

MOTION/Second: Beeman/Guggenbuehl to **Approve** the Interim Use Permit for a Parking Structure and College Use at 201 East Clover Street by BlueStone Commons LLC. Staff recommends that the Planning Commission recommend approval to the City Council of an Interim Use Permit for University or College and Parking Structure, with the following conditions: 1. The Interim Use Permit for University or Collage use will be valid a maximum of 35 years (December 2047) and parking structure use will be valid a maximum of 50 years (December 2062). 2. The University or college Use is limited to within the existing structure of the Woodland Middle School. The Parking Structure Use is limited to the area adjacent to the school and East 8th Street. 3. The University or College Use and Parking Structure must comply with the requirements of the approved Regulating Plan and other UDC design standards, as appropriate.

Vote: 7-0

G. PL 12-107 Special Use Permit (SUP) for a Rooming House in a Residential-Urban (R-2) at 1902 East Third Street by Great Lakes Sober Living

Robertson stated that the area is zoned R-2, and the future land use map indicates Urban Residential. Current screen on the site is significant. The applicant has provided sufficient parking for a rooming house use. Robertson stated that staff determined that this was a rooming house as opposed to a residential care facility based on the minimal level of care that would be provided. Staff recommends approval with conditions.

Brian Annis stated that in his application he included a description of his project. Some of the advantages which provides resources for the community for those coming out in the sober living option. There is a need for that. This will put less of a strain and burden for the treatment in Duluth. This will be alcohol and drug free.

There is a curfew and that is a condition to being here. They had adding 2 more parking spots to get to 5 spots. Off street parking with maximum and they will have on site people. 40% have vehicles. Hopefully would be working to get their automobile.

Zwiebel asked if this was an historic property. Robertson stated that it is not recognized by the local HPC nor it is on the National Registry of Historic Places.

LaCoursier stated that this project is a rooming house and would be a SUP and reasonable conditions can be attached with the SUP.

Scott lives here and his driveway faces their driveway. He is closest to this. This has been a problem and it is still a rental. His house is from a single neighborhood. Our property would be worth less with this here. There are 11 men. The SUP - he would like stipulations. When the property is sold the SPU is voided at that time. The city has to address the issues. What

protections are not impacted? Is there insurance? We should be able to apply for rental licenses.

1822 E 3rd Street since 77-78 they had seen a lot of family homes go by the wayside. To have another 11 people to stick in here would be hard. We as neighbors try to help out and it hasn't worked when told them 6-8 – they all drive cars.

Michelle – we looked and understand that this is a rental area and not returning to see more of these in their neighborhood and make contact to determine on crimes in the area.

H Russel 1901 3rd street. They recently moved back to Duluth in November. They realized that they were rental properties. Once you approve the house, the usage is all too easy to become imbedded. He stated that 11 people would have 11 cars.

Kimberly Adams – Parking is always a problem. Now it's a race home to have a place to park. Eleven cars is a lot for that building. They are now selling homes as rentals and the neighborhood is going to pot. Are they felons?

Banks – to rebuttal. The applicant did talk to the neighbors and did his best to do that. His initial count is that there are 7 beds right now. They are committed to their sobriety. The total maximum would be 11.

Zwiebel requested information about the experience and background of the applicant, and whether this use would provide treatment services. Guggenbuehl asked if they are homeless and where does he get his clients? He gets clients with relationships with teen challenge. Homeless covers rent and utilities and they need to succeed to have a full time job. The applicant has the room there - there are 6 habitable bedrooms and an office upstairs.

Digby asked what conditions can they put on a Special Use Permit? How does this affect rooming houses? Where does a rooming house fall into this and is there a way to have parking limitations? Robertson stated that there is clear guidance on parking spaces in the UDC for rooming houses.

LaCoursier stated that this is in fact a SUP permit and staff has the minimum requirements that are met and licensing would be a question within the city. Hamre stated that the rental bedrooms which are for a SUP – you can consider minimal parking spaces and it would require 1 less than legal with 5. Zwiebel asked about screening in a residential zone.

MOTION/Second: To Banks/Zwiebel to **Approve** the Special Use Permit (SUP) for a Rooming House in a Residential-Urban (R-2) at 1902 East Third Street by Great Lakes Sober Living with the following conditions: 1. The rooming house is limited to up to 11 residents at any one time; 2. The rooming house be used solely for sober living; 3. This Special Use Permit shall expire with any change of ownership; 4. Applicant demonstrate that the building meets any and all building code or other city regulations before opening as a rooming house, 5. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

VOTE: 5-2 (Digby, Beeman against)

H. PL 12-094 Variance for Rear Yard Setback in a Residential-Traditional (R-1) at 218 East 4th St by John Almquist

No Action; continued to September 11, 2012 Planning Commission meeting.

I. PL 12-109 Variance from Shoreland Setback at 1308 North 54th Avenue East by Wendell Hewes.

Staff: Jenn Reed Moses stated that they are proposing to have an addition. They have access on Kingston Street. The existing house is 40 X 40. The addition would be 26 X 26. This would be 85' from the stream. Staff finds that this is a reasonable use. The setback required from 54th Avenue E is 25 feet; one of the recommended conditions is that they are meeting those setback requirements. Any variance needs to have mitigation. The applicant's mitigation plan includes routing drainage away from house and stream and planting additional trees and shrubs. It is not clear whether this area would accommodate all runoff from the proposed addition, so staff recommends a condition that the planting and infiltration area be designed to accommodate all additional runoff.

MOTION/Second: Beeman/Mullins to **Approve** the Variance with the following conditions: 1. The project be limited to, constructed, and maintained according to the site plan received July 5, 2012. 2. The stream setback of 85' and front property lines (along 54th Avenue E) be surveyed and staked until all construction is completed. 3. All drainage from addition be routed to infiltration area shown on mitigation plan, and shrubs and trees shall be designed and planted to function as an infiltration area, with no additional runoff being distributed to streams or adjacent properties or right of way. 4. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Vote: 7-0

J. PL 12-121 Variance from Front Yard Setback in a Residential-Traditional (R-1) at 165 Chester Way, by Mary St. Michael.

No Action; continued to September 11, 2012 Planning Commission meeting.

K. PL 12-080 Vacation of Easement (Street) for Halsey and Niagara by the Regents of the University of Minnesota

Staff: Jenn Reed Moses Reed Moses stated that the next three all relate to street vacation and all are in the UMD area. PL 12-080 includes Bayview Avenue and Halsey Street. These are unimproved rights of way. Utility easements are proposed along Bayview Avenue where needed. An existing sewer line along Halsey Street is no longer needed; UMD will work with the City to terminate that line.

Erik Larson, UMD stated that all three vacations are clean-up items surrounded by University property. In this area, they may do maintenance on some trails around Bagley Nature Area.

MOTION/Second: Mullins/Zwiebel to Recommend **Approval** to the City Council for the petition to vacate the right of way with the following conditions: 1. A utility easement be recorded, as shown in the attached map. 2. Applicant work with the City Engineering office to abandon existing sewer line along Halsey Street. 3. Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

VOTE: 7-0

M. PL 12-081 Vacation of Easement (Street) for Niagara Street by the Regents of the University of Minnesota.

Staff: Jenn Reed Moses stated that this is the map to vacate Niagara Street East of Junction Avenue. Portions further east have previously been vacated, so no dead end streets will be created. Like the previous application, they are proposing utility easements.

MOTION/Second: Zwiebel/Beeman to Recommend **Approval** of the Vacation of Easement (Street) for Niagara Street by the Regents of the University of Minnesota with the following conditions: 1. A utility easement be recorded, as shown in the attached map. 2. Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

VOTE: 7-0

N. PL 12-082 Vacation of Easement (Street) for Clover Street by the Regents of the University of Minnesota

Staff: This roadway serves campus traffic and is surrounded by University property. UMD would like to make repairs to this roadway. A utility easement is proposed as shown on the map. Beeman asked what is going on Chester Park School? This is owned by UMD and used as offices and classrooms. UMD intends to continue this use.

MOTION/Second: Beeman/Rand to Recommend **Approval** of the Vacation of Easement (Street) for Clover Street by the Regents of the University of Minnesota with the following conditions: 1) A utility easement be recorded, as shown in the attached map. 2) Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

VOTE: 7-0

O. PL 12-110 Special Use Permit (SUP) to Alter Existing Communications Tower at 4402 Rice Lake Road by AT&T.

Staff: Robertson stated that this item, and PL 12-111, PL 12-112, and PL 12-113 are all from the same applicant. He gave the Planning Commission a brief background on recent history of the City's rules on cell towers. If new equipment is needed they need to have it amended. The first site is Arrowhead. The applicant is proposing the antenna he will add 3 antennas and an equipment bay.

MOTION/Second staff **Recommends Approval** that the Planning Commission Approve the Special Use Permit, with the following conditions: 1. That the project be maintained according to the documents titles "MNL05084 Proctor South", dated June 27, 2012. 2. That the applicant secure all necessary permits required by Federal, State, County of City laws and regulations. 3. That the applicant shall submit proof of removal bond and show "no loss of coverage" by December 31, 2012. 4. That the applicant comply with items identified in "CMS Application Review" for 126 S Boundary (2 Foxtail Ave) dated 7/24/12.

VOTE: 7-0

P. PL 12-111 Special Use Permit (SUP) to Alter Existing Communications Tower at 126 South Boundary by AT&T. **SR**

Staff: Robertson stated that the applicant wants to add additional equipment to the site, but not change the height of the existing tower.

MOTION/Second: Mullins/Beeman to **Approve** the Special Use Permit, with the following conditions: 1. That the project be maintained according to the documents titled "MNL05444 Maple Grove Relo" dated June 27, 2012. 2. That the applicant secure all necessary permits required by Federal, State, County or City laws and regulations. 3. That the applicant shall submit proof of removal bond and show "no loss of coverage" by December 31, 2012. 4. That the applicant comply with items identified in "CMS Application Review" for 2520 Maple Grove Road dated 7/24/12.

VOTE: 7-0

- Q. PL 12-112 Special Use Permit (SUP) to Alter Existing Communications Tower at 2520 Maple Grove Road by AT&T. **SR**

Staff: Robertson stated that the applicant wants to add additional equipment to the site, but not change the height of the existing tower.

MOTION/Second: Rand/Zwiebel to **Approve** the Special Use Permit, with the following conditions: 1. That the project be maintained according to the documents titled "MNL05170 61 Junction" dated July 3, 2012 with the following conditions: 1. That the Project be maintained according to the documents titled "MNL05170 61 Junction", dated July 3, 2012. 2. That the applicant secure all necessary permits required by Federal, State, County or City laws and regulations. 3. That the applicant shall submit proof of removal bond and show "no loss of coverage" by December 31, 2012. 4. That the applicant comply with items identified in "CMS Application Review" for 29 North 78th Ave East dated 7/24/12.

VOTE: 7-0

- R. PL 12-113 Special Use Permit (SUP) to Alter Existing Communications Tower at 25 North 78th Avenue East by AT&T.

Staff: Robertson stated that the applicant wants to add additional equipment to the site, but not change the height of the existing tower.

MOTION/Second: Guggenbuehl/Mullins to **Approve** the Special Use Permit (SUP) to Alter Existing Communication Tower at 25 North 78th Avenue East by AT&T with the following Conditions: 1. That the project be maintained according to the documents titled "MNL05170 61 Junction", dated July 3, 2012. 2. That the applicant secure all necessary permits required by Federal, State County or City laws and regulations. 3. That the applicant shall submit proof of removal bond and show "no loss of coverage" by December 31, 2012. 4. That the applicant comply with items identified in "CMS Application Review" for 29 North 78th Ave East dated 7/24/12

VOTE: 7-0

New Business

- A. PL 12-123 Planning Commission Action. Sell 2,379 Square Feet of Parkland Along Congdon Park Drive to Adjacent Property Owner, James and Mary Ann Monge, at 3131 East First Street.

Staff: State statute provides a process to sell park property. The planning commission can recommend approval of this proposal with a 3/4th vote. Robertson stated that the former property owner submitted a hand-drawn site plan when they went to build their garage. The site plan was in error, and the garage was constructed on the City's park property. This went to the Park Commission last week and they recommended approval.

MOTION/Second: Mullins/Beeman to **Approve** the Sale of the Park Land to James and Mary Ann Monge.

VOTE: 7-0

Other Business

Keith Hamre gave a brief updated on the Council appeal of PL 12-083 Shoreland Variance-Park Point Properties

Respectfully,



Keith Hamre, Director of Planning and Construction Services