

City of Duluth  
Planning Commission  
October 14, 2014 Meeting Minutes  
City Council Chambers - Duluth City Hall

I. Call to Order

President David Sarvela called to order the meeting of the City planning commission at 5:00 pm on Tuesday, October 14, 2014, in City Hall Council Chambers.

Roll Call

Attending: Marc Beeman, Terry Guggenbuehl, Garner Moffat, Tim Meyer, David Sarvela, Luke Sydow and Zandra Zwiebel

Absent Excused: Drew Digby and Patricia Mullins

Staff Present: Keith Hamre, Chuck Froseth, Nate LaCoursiere, Steven Robertson, and Cindy Stafford

II. Unfinished Business

- A. PL 14-121 Special Use Permit for New 75 Foot Tall Monopole Cell Tower at 1805 East Skyline Parkway (Chester Creek Park) by Sprint PCS (Public Hearing Held on Sep 9, 2014)

**MOTION/Second:** Beeman/Meyer - 10 minute recess to review additional comments received from public.

**VOTE: (6-0, Sydow abstained)**

(10 minutes pass)

**MOTION/Second:** Zwiebel/Beeman – bring item PL 14-121 back to the table.

**VOTE: (5-1, Moffat opposed, Sydow abstained)**

**Staff:** Keith Hamre summarizes the information included in the memo dated October 6, 2014. The Parks and Recreation Commission has voted to support the proposed cell tower at the former ski jump site. Chester Park is currently zoned R-1, which allows for a wireless communications tower with a special use permit in accordance with the 2010 UDC. Previously some members of the Planning Commission were concerned about an inconsistency with the comprehensive plan future land use map which is designated the land as recreation. There are utilities in the park for operation of the ski lift. Hamre noted the cell tower is also a utility. The Commission was also concerned with sighting criteria. Hamre notes item (ii) with the location being on an existing structure. City staff considers this a replacement facility, since it is replacing the legally permitted facility which was displaced with the removal of the ski jump. The other areas considered by Sprint include the Tropicana apartments on Kenwood, the University apartments on College Street and a location on East Skyline Parkway. The existing structures in these areas were substantially below the height requirement needed by Sprint. Pictures of the former ski jump and cell tower show the ski jump structure had a much bigger foot print than the proposed monopole will have. The applicant has agreed to screening and a landscaping plan. The proposed tower will be a monopine, which will blend in and resemble a pine tree. Staff recommends approval of the Special Use Permit with the conditions listed in the staff report and memo.

**Applicant:** No new information to present.

**Public:** Public hearing held previously on September 9, 2014.



**Commissioners:** Zandra Zwiebel asks staff to reiterate what the monetary value of pole will be for the city and when will the pole be city owned. Hamre states the lease is for a \$45,000 annual fee, which was previously \$10,000. He notes the requirement for the special use permits includes a bond for the removal of the tower at the end of its useful life. Chair David Sarvela asks if no action is taken tonight, when the decision deadline. Per Hamre the 120 day deadline is December 10, 2014. Zwiebel asks if other providers would be allowed the possibility of using the tower. Hamre states yes, co-location allows for new providers to use existing space on towers. Zwiebel asks who will oversee the vegetation plan. City maintenance staff will monitor installation. The telecommunication city consultant will verify this next year. Also, structural and electrical permits will be required. Tim Meyer notes permitting should be in place before a lease is signed. He could support this special use permit if he could change this policy in the future. Meyer is happy to see improved service, but personally doesn't feel it should be in parks. Hamre mentions a potential meeting of the whole in November where the chair of the Parks and Recreation Commission will be invited to discuss with the Planning Commission the process for and communication of getting future recommendations from the Park and Recreation Commission. Discussion to include classification of city parks. Some parks are more urban, for example, Wheeler Field. Chair Sarvela notes the funding from tower rental should be directed towards Chester Park improvements. Hamre another resolution can be added for city council to take under consideration. Terry Guggenbuehl feels the commission should table or deny. He does not feel a cell tower can be considered associated recreation activities and according to the sighting criteria, he does not think sufficient alternatives were considered. Meyer agrees with Guggenbuehl and is leaning towards tabling until a more thorough study is done. Garner Moffat does not feel they have a practical reason to deny. He noted placing the pole where the ski jump used to be would involve minimal site damage. Visually there are other real pines scattered amongst the trees. The monopine will blend in. Guggenbuehl notes trails in proximity to the proposed tower. Hamre stresses the Parks and Recreation Commission's role and their recommendation noting the Planning Commissioners need to use UDC in evaluating their decision. Guggenbuehl reflected on the UDC and does not agree that the siting process was followed. Chair Sarvela asked if additional utilities or roads to the tower would be needed. Hamre, no, they are already in place. Chair Sarvela questioned staff if tabled again, what would the ramifications be? Hamre feels a tabling would not be beneficial at this point since all concerns have been addressed and the Parks and Recreation Commission has given their recommendation.

**MOTION/Second:** Zwiebel/Moffat approved as per staff's recommendation.

**VOTE: (4-2-1, Guggenbuehl and Meyer opposed, Sydow abstained)**

**MOTION/Second:** Zwiebel/Beeman recommend to city council for the profits from the Chester Park cell tower go into the General parks fund.

**VOTE: (4-1-2, Moffat opposed; Meyer and Sydow abstained)**

III. Public Hearings

- A. PL 14-124 Rezone from Industrial-Waterfront (I-W) to Residential-Traditional (R-1) properties on the north side of St. Louis Avenue, between 13<sup>th</sup> Street South and 15<sup>th</sup> Street South, by the City of Duluth

**Staff:** Chuck Froseth discusses the city's proposal to rezone land on Park Point from Industrial-Waterfront (I-W) to Residential-Traditional (R-1) specifically those lots on the east side of St. Louis Avenue, between 13<sup>th</sup> Street South and 15<sup>th</sup> Street South. Staff



recommends approval. Meyer questioned staff if the city has plans to provide access to these lots via St. Louis Avenue. Froseth, the long term plan is for improved streets.

**Applicant:** N/A

**Public:** John Pegg – 1335 Minnesota Avenue. He reported the neighborhood enjoys the land and values their green space. Park Point is already overdeveloped and he is opposed to the rezoning urging the Commission to table the request. Ken Kollodge – 1409 Minnesota Avenue. He noted the lots are in conservation status and cannot be built on. He and his neighbors want to keep the lots as green space. He questions who the rezoning is for? Jed Frank – 1437 Minnesota Avenue – Requests they do not move ahead with the rezoning. Kathy Kollodge – 1409 Minnesota Avenue agrees with previous speakers that there is confusion over the issue, in particular the county process to sell the land.

**Commissioners:** Moffat comments that the current permitted uses for Industrial-Waterfront includes a mini-storage facility, filling station, parking lot, contractor shop, and industrial research lab facilities and the list goes on. He agrees that R-1 is a good choice. Zwiebel asks staff to clear up the confusion about the tax forfeited properties. Hamre notes the county originally had one large and one small parcel. The individual lots weren't noted on previous maps. Residents requested the large parcel be broken into the underlying platted lots. The comprehensive plan had the land use of traditional neighborhood. The small area plan did not change the land use designation. Conservation status means it can't be sold or built upon. When the county wants to sell land they must make sure the land it is selling conforms to the comprehensive plan. Tax forfeit land on Park Point, by State Statute, has to be approved for sale by City Council. The Planning Commission's role is to make sure there is conformity with comprehensive plan, as well as the small area plan.

The Commissioners will see at their November meeting a rezoning request for the recreation area to the west of this site. Zwiebel clarifies how the land will be sold. Hamre reported tax forfeited land cannot be sold to property owners directly until it, as it requires public auction. The neighbors are concerned someone will build behind them. There is currently adequate capacity for water and sewer Zwiebel clarifies lease payments have been made by St. Louis County.

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

**VOTE: (7-0)**

**MOTION/Second:** Zwiebel/Guggenbuehl move item H forward in the agenda

**VOTE: (7-0)**

- H. PL 14-117 UDC Text Amendments for 50-18 Related to Stormwater Controls, Section 50-24 Related to Required Off-Street Parking Spaces, and Section 50-37 Related to Concurrent Use Permits

**Staff:** Steven Robertson introduces the UDC Text Amendments. Tom Johnson, City Engineering, reviewed the reasons for the changes. Froseth questioned what about new development costs. Johnson says costs would be site-specific. There are soil challenges. Luke Sydow asks about trout streams and Johnson responded that within one mile of trout stream heat monitored is required; trout stream designation is a DNR issue. Staff recommends approval.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Sydow/Zwiebel recommend approval as per staff's recommendation.

**VOTE: (7-0)**

- B. PL 14-146 Vacation of Utility Easement Between Michigan Street and Glen Place Drive, at 1115 West Michigan Street by Aaron Schweiger

**Staff:** Steven Robertson introduces the request for a vacation of an inactive utility easement. Staff recommends approval.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Guggenbuehl/Moffat recommend approval as per staff's recommendation.

**VOTE: (7-0)**

- C. PL 14-140 Minor Subdivision at 4014 Trinity Road by Jon Kalkbrenner

**Staff:** Steven Robertson introduces the request to combine three parcels into two. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** N/A

**Public:** N/A

**Commissioners:**

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

**VOTE: (7-0)**

- D. PL 14-147 Minor Subdivision at 3800 Greysolon Road by Dan Maddy

**Staff:** Steven Robertson introduces the request to combine ten parcels into two. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Daniel Maddy, representative for the owners, addresses the Commissioners and asked if there are any questions. Meyer questioned what the applicant is proposing for the site. Maddy reported they like to build an additional home. Moffat asks why do the boundaries zig-zag. Robertson reported this is due to the flag lot limitations and it permits the applicant to use the existing driveway.

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Zwiebel/Sydow approved as per staff's recommendation.

**VOTE: (7-0)**

- E. PL 14-142 Minor Subdivision at 600 West Superior Street by Dan Maddy

**Staff:** Steven Robertson introduced the request to combine nine parcels into three. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Dan Maddy asked if there are any questions. Sydow questioned if replatting with new property lines will go through the building? Maddy answers no, it will be along the side of the building.

**Public:** N/A

**Commissioners:**

**MOTION/Second:** Guggenbuehl/Beeman approved as per staff's recommendation.



- F. PL 14-138 Variance Shoreland Setbacks at 3717 94<sup>th</sup> Avenue West by Casey Lombardi  
**Staff:** Steven Robertson introduces the request for a variance to build a 1,200 square foot detached accessory garage. The garage would be approximately 125 feet from Stewart Creek, a coldwater stream, which has 150' structure setback. Staff recommends approval with the conditions listed in the staff report. Guggenbuehl asked staff about recommendation for a building addition. Robertson reported this statement is an error and was not meant to be included in the report. Guggenbuehl questioned if the applicant would agree to rain gardens for mitigation with the applicant stating yes.  
**Applicant:** Case Lombardi addresses the Commission. He would like to build to the dimensions of 30' x 30'.  
**Public:** N/A  
**Commissioners:** Moffat is opposed because the garage will be as big as the house. They have an existing garage built into the house. He is concerned about the size ratios with Sydow agreeing to a smaller garage.  
**MOTION/Second:** Guggenbuehl/Meyer approved as per staff's recommendation with a correction to remove the statement made about a house addition.

**VOTE: (6-1, Moffat opposed)**

- G. PL 14-154 Medicinal Cannabis Moratorium  
**Staff:** Hamre introduces the ordinance with the Commissioners. This is an interim ordinance pursuant to Minn. Stat. 462.355, subd. 4, imposing a moratorium on medical cannabis manufacturing and distribution facilities pending completion of a planning study weighing the need for any amendment to official controls. Staff recommends approval of the ordinance. The state is currently collecting applications for licenses for manufacturing and distribution facilities throughout the state. The city has questions and needs more study on issues including allowable distance from churches and schools. The moratorium is for six months which will allow time for the study. Moffat asked if they will differentiate between manufacturing in comparison to distribution. Hamre states yes. They will receive feedback from the state on the requirements for each function. Sydow questioned if there has there been any indication from the state when the city will receive feedback. Hamre states yes. The state will be responding soon in November or December. Sydow mentions tax revenue issues and could six months be too long to allow these facilities? Would the city be missing the boat? Hamre does not believe so noting this is just the first round and there are other components to look at including licensing. Chair Sarvela notes the ordinance lists 12 months. Hamre, the state allows up to 12 months, but they hope to be completed in six months or sooner.  
**Applicant:** N/A  
**Public:** N/A  
**Commissioners:** Guggenbuehl came to the meeting thinking he would vote against it, because it didn't seem economically friendly, but has now changed his mind. Moffat agrees with the six month window and does not want to miss the boat on this opportunity. Meyer asked staff how the city will determine where these facilities will go. Will it be based on the state's requirements? Hamre stated a state license is required first, and one of the requirements of the state license is making sure the applicant is compliant with local zoning and local codes. This activity is not listed in the UDC, so there is no answer yet. The city wants to make sure this situation is handled correctly without a knee-jerk reaction. He notes the community could refuse a facility, but will most likely be looking at the state for guidance. Meyer noted liquor free zones in Duluth



and asked who will ultimately make the decision for these facilities. Hamre stated City Council will make the final decision. There will need to be UDC changes stating where the facilities will be allowed and under what standards. There could be special use permits in certain designated zones. Chair Sarvela asked if these decisions regarding designated areas will go to Planning Commission or straight to council. Hamre answers the planning commission will recommend first with City Council making the final decision.

**MOTION/Second:** Guggenbuehl/Moffat recommend ordinance as per staff's recommendation.

**VOTE: (7-0)**

(Item H was move up in the agenda.)

- I. PL 14-127 Environmental Assessment Worksheet for Slip 2 Capping and Shallowing (Between Pier B and Bayfront Festival Park in the Duluth-Superior Harbor); Optional Public Hearing. Public Comment Period from September 1 to October 1. Decision at October 14, 2014, Regular Planning Commission Meeting

**Staff:** Froseth discusses the memo dated October 6, 2014. The Commissioners will need to determine if an EIS is needed. Very few comments were received.

**Applicant:** Brian Murdoch of AMI Consulting Engineers prepared the EAW. The reason an EAW was required is they changed over an acre of the contour of public water.

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Moffat/Zwiebel an Environmental Impact Statement (EIS) is not needed.

**VOTE: (7-0)**

IV. Other Business

- A. Long Range Transportation Plan & Potential Impact on Future Land Use in Duluth - a presentation will be coming next month.
- B. PL 14-099 Special Use Permit for Townhouses at Mississippi and Lyons Street by Green Capital LLC (Public Hearing Held on August 12, 2014); Item Will Be Discussed at the Monday, November 10, 2014, Planning Commission Meeting
- C. PL 14-101 Quick Plat at Mississippi and Lyons Street by Green Capital LLC (Public Hearing Held on August 12, 2014); Item Will Be Discussed at the Monday, November 10, 2014, Planning Commission Meeting
- D. PL 13-134 Heritage Preservation Commission Designation of St. Peter's Church at 824 West Third Street as City of Duluth Local Historic Landmark  
**Staff:** Froseth asked the Planning Commission to consider potential impacts and if the nomination conforms to the comprehensive plan and to the UDC. Meyer notes the Diocese who is the owner is not in agreement with the site being nominated. Guggenbuehl asked staff if the historic designation goes with the property or with the building. Froseth states the designation goes with the parcel which the church sits on. Moffat thinks this is an opportunity for the community to override the owner's wishes. Moffat encourages the HPC to move forward and believes it is worthy of designation. Zwiebel verifies the Commission's role. Froseth noted the Planning Commissioners recommendation will go to the HPC which will then onto city council. Sydow asks if the owner was notified that the topic was before the Planning Commission tonight. Froseth

states no, not for tonight's recommendation. The property owner was notified for the HPC's special meeting. Froseth reiterates this is not a public meeting. Chair Sarvela would like comments from the owner be presented and considered in future recommendations. LaCoursiere states from a planning perspective the Planning Commission's recommendation should be based on the potential effects on the surrounding neighborhood including economics, environment and other planning considerations.

**Motion/Second:** Moffat/Zwiebel recommends the designation as per code and as it conforms to the surrounding neighborhood.

**VOTE: (7-0)**

V. Communications

A. Managers' Report – Froseth gives a brief overview. He notes the planners' conference was a huge success. All city planners were involved and did a great job. He notes the next conference will be in Bemidji and invites the Commissioners to attend an upcoming seminar on November 3, 2014, (10 a.m. – 12:00 p.m.) titled, "Navigating our Competitive Future – an Urban Land Institute Workshop".

B. Consideration of Minutes – September 9, 2014

**MOTION/Second:** Guggenbuehl/Moffat recommend approval.

**VOTE: (7-0)**

Consideration of Minutes – September 23, 2014

**MOTION/Second:** Moffat/Guggenbuehl recommend approval.

**VOTE: (7-0)**

C. Reports of Officers and Committees

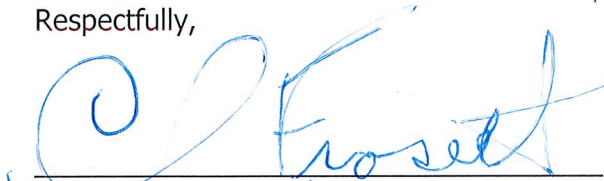
Heritage Preservation Commission Representative – N/A

D. Note, November Regular Planning Commission Meeting Moved to Monday, November 10<sup>th</sup> at 5:00 PM in Room 303 Due To The Veterans' Day Holiday

E. Adjournment

Meeting adjourned at 7:14 p.m.

Respectfully,



Charles Froseth, Land Use Supervisor