

City of Duluth
Planning Commission
August 11, 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 5:00 p.m. on Tuesday, August 11, 2015, in city hall council chambers.

Roll Call

Attending: Terry Guggenbuehl, Janet Kennedy, Garner Moffat, Heather Rand, Mike Schraepfer, Luke Sydow and Zandra Zwiebel

Absent: Marc Beeman and Tim Meyer

Staff Present: Keith Hamre, Steven Robertson, John Kelley, Jenn Moses, Kyle Deming and Cindy Stafford

II. Public Hearings

(Note: Items A and C were reversed in the agenda to accommodate the needs of applicant C.)

- A. PL 15-112 UDC Map Amendment to Rezone Arlington Athletic Complex, Cascade Park, Duluth Heights Community Recreation Center, Enger Park, Hill Top Park, Jollystone Park, Lilliput Park, and Strickland Park from RR-1, R-1, R-2, and F-6 to P-1 (Parks and Open Space) by the City of Duluth

Staff: John Kelley introduced the city's proposal to rezone park property including Arlington Athletic Complex, Cascade Heights Community Recreation Center, Enger Park, Hill Top Park, Jollystone Park, Liliput Park, and Strickland Park located in the central portion of the city from the current zoning districts of Residential- Traditional (R-1), Residential-Urban (R-2), Rural-Residential 1 (RR-1) and Form District 6 (F-6) Mid-Rise Neighborhood Shopping to Park and Open Space (P-1). Garner Moffat asks if the golf courses will be included. Director Keith Hamre states there will be a new contract with Lester and Enger and the rezoning will be coming up at a later time. Terry Guggenbuehl asks about Central Park and the Rose Garden. Kelley states they will be bringing forward more park rezoning's in the future including the rose garden. Hamre states one of the challenges is there is no clear legal description for lake walk yet. They are working their way from east to west for park rezonings with clear legal descriptions.

Applicant: N/A

Public: Jim Gould – 730 W. 5th St. – addresses the commission. He lives across from Jellystone Park and asks why they are changing the zoning. Kelley answers to protect and preserve the park property.

Commissioners: N/A

MOTION/Second: Guggenbuehl/Rand recommend approval as per staff's recommendations.

VOTE: (7-0)

- B. PL 15-105 UDC Map Amendment to Rezone 2421 London Road from R-1 to MU-N by Marsha Beck and Michael Tegethoff

Staff: Jenn Reed Moses introduces the applicant's proposal to rezone from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N). Staff recommends approval for the reasons listed in the staff report.

Applicant: Michael Tegethoff present and addresses questions. Janet Kennedy asks what type of business will this be. Tegethoff states office spaces for a mental health care facility. Kennedy asks about parking. The applicant states they will be adding parking in back. Chair Zwiebel asks what the hours will be. The applicant states not past 6:00 p.m. and occasionally on Saturdays.

Public: Angel and Andrew Saur – 2414 Jefferson St. – address the commission. They are opposed to the rezoning and don't want to see housing options for young professionals eliminated. They feel it will negatively affect their property values and would prefer a residential neighbor. Mr. Saur asks if it can be reverted back to residential. Merrienne Deutsch – 2415 London Rd. – opposes it, but at the very least would like to see it tabled for more of their neighbors to voice their opinions. Rodney Phelps - 2431 London Rd. - opposes the proposal. He feels the business will split their neighborhood. Joel Sipress – city councilor for the area – not for or opposed but has some concerns. He reminds commissioners they are not approving a particular business, but are voting on a zoning change and should consider the impact of all potential uses. This will take a single-family home out of the market. He is interested in hearing the planning commission's discussion. The applicant readdresses the commission to answer some of the public's concerns. The garage will be coming down to add parking. They would be willing to add a privacy fence. Traffic concerns are created by Dunn Brothers. It could be resold as a private home. Chair Zwiebel notes zoning requires businesses to have parking. Kennedy asks if there will be inhabitants sleeping there at night. The applicant states no. There will be four people there during the day (two staff and two clients). Luke Sydow asks about parking and if there is a way to allow this in a residential district. Director Hamre states MU-N allows residential uses, but from a building code standpoint this is considered a change of use to a medical care facility which will require ADA and parking compliance. The applicant could come back and ask for a variance for the parking requirements, but that would be after the zoning has changed. Moffat asks if this could be a special use in an R-1 district. Moses states no. Kennedy asks who is currently living there. The applicant states it's vacant.

Commissioners: Guggenbuehl feels there is a consistency issue between zoning and the land use plan. He would like to see a larger area rezoned and not just a small portion. Director Hamre states their schedule on rezoning and they are focusing on parks first. They will be looking at neighborhood districts including a larger number of parcels in the Endion area, but the timeline might extend past next year. Heather Rand notes this is a major transportation corridor and notes this is where you want mixed use properties. She encourages privacy screening. She isn't focusing on what current business hours are. It's irrelevant because it could change. Moffat agrees. He notes when they look at a comp plan update they should consider inventory on commercial space versus housing. Guggenbuehl addresses Sipress' concerns about residential aspects and sees this as a gain for the residential side. Chair Zwiebel notes mixed use neighborhood and the benefits of having walkable communities. Kennedy feels there is Duluth already has ample office space. Mike Schraepfer concurs. He sees plenty of signs for office spaces.

MOTION/Second: Rand/Guggenbuehl recommend approval as per staff's recommendations.

VOTE: (5-2, Kennedy and Sydow opposed)

- C. PL 15-102 Interim Use Permit for a Vacation Dwelling Unit at 728 South Lake Avenue by Douglas and Kathleen Baker

Staff: Steven Robertson notes all three applications for interim use permits for vacation rentals (for tonight's meeting) came in before the moratorium was established and therefore are valid. He introduces these applicants' proposal to use their home as a vacation rental property. A vacation dwelling unit allows rentals for 3 to 21 days, with a minimum of two nights, with the exception of a minimum of five nights from June 15 to September 15 for properties zoned RR-1, RR-2, R-1, and R-P. Staff recommends approval subject to the conditions listed in the staff report with the added condition that no fire pits be allowed at this park point address. Chair Zwiebel verified if past park point properties can have fire pits. Per Director Hamre if it wasn't a condition originally, it can be added when they come back for renewal. He notes the one year moratorium started as of July 17th. Guggenbuehl asks how many vacation rental permits have been issued and how many complaints have been made. Robertson states staff's first job is enforcement. There are about 26 permits and 60 are listed (advertised on websites). Kyle Deming is compiling a list and will be sending out letters later this week to the folks who don't have licenses.

Applicant: Present, but did not speak.

Public: N/A

Commissioners: Guggenbuehl isn't comfortable with limited the time constraints as far as duration is concerned. Sydow is comfortable because of the limited buffer among the neighborhood. Schraepfer asks if neighboring properties are vacation rentals. Per Robertson, there is a vacation rental located about 2 blocks away. Rand notes her previous time on the planning commission when they were just beginning to license these. She thought of it as an optimistic experiment and has changed her outlook. She looks forward to the reevaluation process. She will not be supporting this, but looks forward to future discussion. Guggenbuehl states if it was illegal or non-conforming it would be easier for him to deny. This is far more favorable to approve and therefore have more control.

MOTION/Second: Moffat/Sydow recommend approval with added condition of no fire pits as per staff's recommendation, but limiting the duration to a two-year period (normally six years).

VOTE: (6-1, Rand opposed)

- D. PL 15-103 Interim Use Permit for a Vacation Dwelling Unit at 416 South 88th Avenue West by Lawrence Telega

Staff: Steven Robertson introduces the applicant's proposal to use his home as a vacation rental property. A vacation dwelling unit allows rentals for 3 to 21 days, with a minimum of two nights, with the exception of a minimum of five nights from June 15 to September 15 for properties zoned RR-1, RR-2, R-1, and R-P. Staff noted that the applicant had a large lot and that there was not a need for additional buffering to reduce potential land use conflicts. Staff recommends approval subject to the conditions listed in the staff report.

Applicant: Present, but did not speak.

Public: N/A

Commissioners: Rand will not be in support.

MOTION/Second: Moffat/Kennedy recommend approval as per staff's recommendation, but limiting the duration to a two-year period (normally six years).

VOTE: (6-1, Rand opposed)

- E. PL 15-111 Interim Use Permit for Two Vacation Dwelling Units at 718 N 7th Avenue East by Teresa McNelly and Bob McCleary

Staff: Steven Robertson introduces the applicants' proposal to use their existing 4-plex apartment as a two-unit vacation rental property. A vacation dwelling unit allows rentals for 3 to 21 days, with a minimum of two nights, with the exception of a minimum of five nights from June 15 to September 15 for properties zoned RR-1, RR-2, R-1, and R-P. Staff recommends approval subject to the conditions listed in the staff report.

Applicant: Teresa McNelly addresses the commission. She states there is a large mountain ash tree that serves as a nice buffer. She noted that she lives next to this property.

Public: N/A

Commissioners: Rand sees this as a traditional neighborhood and this takes the neighbor out of neighborhood and will not be in support. Sydow is also opposed because it is a rental property and feels the community needs more residents and less vacationers.

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

VOTE: MOTION FAILED (3-4, Sydow, Rand, Kennedy and Schraepfer opposed)

- F. PL 15-101 Variance to Side Yard Setback for Deck at 2114 N 51st Avenue East by David and Jessica Steinhoff

Staff: Jenn Reed Moses introduces the applicants' proposal to build a deck and stairs that would be 1.67' from the side property line instead of the required 6' setback. Staff recommends denial for the reasons listed in the staff report.

Applicant: Jessica Steinhoff and David Steinhoff address the commission. They have no other way to get out of their house to utilize their back yard and ask commissioners to approve.

Public: N/A

Commissioners: Chair Zwiebel asks about an easement. Per Moses, this is a platted alley, which requires a variance. Chair Zwiebel asks about abandoning the alley. Staff looked at this consideration, but notes the alley extends for several blocks on each side. Sydow asks if they could build a deck with a concurrent use permit. Per Moses, a concurrent use permit applies for someone wanting to build in the right of way, perhaps a stand-alone deck. A variance is required to build in the required 6' setback.

MOTION/Second: Moffat/Sydow denied as per staff's recommendations.

VOTE: (7-0)

- G. PL 15-106 Variance from Minimum Lot Area Requirements for a Bed and Breakfast at 1615 East Superior Street, by Jeremy and Trish Paggen

Staff: Jenn Reed Moses introduces the applicants' proposal to use this property as a bed and breakfast with a lot size of .26 acres, smaller than the .6 acres required by the

UDC. Note that property is the A. Charles Weiss house, formerly used as a Bed and Breakfast. Staff recommends approval with no conditions.

Applicant: Present and addresses questions. Rand asks if this will be owner occupied. The applicant states yes. They will have more control of their renters being physically present.

Public: N/A

Commissioners: Rand notes the variance and asks if they are allowed to attach a condition. She would like to see a condition added that the applicant must live on site. Per Director Hamre, it can't be a condition based on it's not listed in the UDC requirements for a bed and breakfast.

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

VOTE: (6-1, Rand Opposed)

- H. PL 15-108 Variance to Skyline Parkway Requirements at 7240 West Skyline Parkway by James and Theresa Taraldsen

Staff: Jenn Reed Moses introduces the applicants' proposal to add a second garage to the property, which would be 28' x 24' and would be 25' from the property line instead of the 50' required by the Skyline Parkway Overlay District. Staff recommends denial based on the reasons listed in the staff report.

Applicant: Jim Taraldsen addresses the commission. He notes his proposal will require minimal site disturbance and won't require major fill changes. There is no view disturbance. Theresa Taraldsen notes abandoned houses and junk which would be blocked from their view. Chair Zwiebel asks what they intend to use the garage for. The applicant states it will be used for parking their car and boat as well as for additional storage.

Public: N/A

Commissioners: Guggenbuehl doesn't feel a unique hardship has been established. Rand concurs.

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

VOTE: (7-0)

III. Other Business

- A. PL 15-117 Planning Commission Review of Development Plan to determine if project is in conformance with the Comprehensive Plan, for Kenwood Village at the southwest corner of Kenwood Avenue and Arrowhead Road. Director Hamre gives an overview. Moffat doesn't feel it's consistent with the comprehensive plan. He thinks a project of this large scale should support mixed income affordable housing. Director Hamre states income level requirements aren't a function of land use or the comprehensive plan. It is not controlled through zoning, but financing. He states Moffat's comments about mixed income developments are noted and will carry-forward as the TIF plan goes to the city council. Guggenbuehl asks if taxes captured in the TIF district can be used for traffic improvements. Director Hamre states eligible activities for TIF money include: site prep, utilities and transportation improvement. Moffat has income level concerns. He notes the financial aspects are a factor in how it fits in with the principles of the comprehensive plan. Per Hamre, there is nothing currently in the comp plan which represents this. They can look at updating the comp plan to include this in the future, which would require policy discussions with the Duluth Economic Development Authority and the

Housing Redevelopment Authority. Currently the planning commission's role is to confirm the tax increment financing plan is in conformance with the future land use map
MOTION/Second: Guggenbuehl/Rand development plan is in conformance with the comp plan.

VOTE: (6-1, Moffat Opposed)

- B. -EAW (Environmental Assessment Worksheet) Presentation on Knowlton Creek by DNR Staff – Martha Minchak addresses the commission and summarizes the project. The creek is a tributary to the St. Louis River. It is adjacent to spirit mountain recreation area. They are proposing the restoration and enhancement of 6,500 linear feet of Knowlton Creek which is an urban trout stream using natural channel design techniques. Construction is expected to begin in October of this year and be completed in December of 2016. This is a one million dollar project funded by three grants. Chair Zwiebel asks about the runoff from Spirit Mountain. How will the runoff be directed into the piping? Per Minchak it will be collected in settling ponds at the base of the ski hill. Their project design is in coordination with Spirit Mountain, and the Grand Avenue bridge replacement project. Their engineers are working in conjunction with city engineers and MN DOT engineers. Sydow notes it's a trout stream, and asks when the majority of the work will take place. Minchak states the majority be performed over the winter period. Sydow asks if crossing trails will remain the same. Per applicant yes, and they have future plans to improve the culverts on the Munger Trail and the Western Waterfront Trail. Robertson asks about the Cloquet pumping station and if it's still causing backflow surges during power outages. Per applicant it's been taken care of. Chair Zwiebel adds WLSSD has back-up generators. She thanks Minchak for her EAW presentation.
- C. -PL 15-090 Discussion on Preliminary EAW Draft Documents for Hartley Park- Kyle Deming addresses the commission and gives an overview. Whether an EIS is necessary will be determined at a future meeting. Guggenbuehl comments about the trees and road construction mentioned on the bottom of page 18. Deming notes this may be determined by the logging company. He will see if they can add additional details.
MOTION/Second: Guggenbuehl/Rand EAW is efficient with the added clarification of road construction in regards to the removal of trees and the rehab of the road afterward.

VOTE: (6-0, Sydow Abstained)

- D. -Discussion on Potential Amendments to the Zoning Code (Chapter 50 of the City Code) Related to: Craft Manufacturing; Contextual Design Standards for Townhomes and Duplexes in R-1 Zones; Urban Agriculture; and Development in Form Districts – Director Hamre gives an overview. Regarding townhome contextual design (which was discussed in a recent brown bag meeting) they want to give commissioners extra tools by matching the density of the surrounding area. Kennedy asks if it changes the appearance of the building. Per Hamre, this focuses on density and not the architectural design. Sydow asks if they are working on adding design to the equation and notes he may allow extra density based on the design. Hamre states staff focused on the density aspect and it may take more time to incorporate design into the mix. This is the first step of a two-step process of looking at townhomes. Director Hamre discusses the memo on craft artisan/microbrewery-distillery. They are looking at two form districts which are F-5 (Lincoln Park) and F-7 (Old Downtown). Regulations will focus on the size,

as well as retail aspects along with transportation (limiting semis, etc.). Moffat notes the disparity in unit measurement between brewery and barrels versus distillery and gallons. Would it be helpful if they were uniform? Director Hamre states they were mirroring the state licensing requirements, but he agrees to note it in parenthesis for easier comparison. Guggenbuehl notes the definitions of Artisan Production Shop and Artisan Shop. He thinks the layout can be cleaner, since Artisan Shop is listed twice in the document. Moffat notes the Lincoln Park master plan and wants to incorporate the existing brewery into the new zoning. Per Director Hamre in a Mixed-Use Business zoning district the brewery would be permitted as a special use for light manufacturing. He will ask John Judd and John Kelley to confirm. Director Hamre notes Urban Agriculture. They will be looking at the licensing side in the R-1 district. Hooved animals would require larger lots. He notes another topic, which involves developments recently approved. Need to consider extended hours for coffee shop drive-throughs in Mixed-Use Neighborhoods. Some coffee shops would like to open earlier and would like consideration to modify the rules if additional mitigation is included and there is sufficient buffering from the adjacent properties. Specific language coming next month.

IV. Communications

- A. Managers' Report – Director Hamre gives an overview. The city council reversed the planning commission's decision on the townhouse development at Mississippi and Lyons, but affirmed their decision to uphold the land use supervisor's decision regarding the Park Point Marina Hotel. There are no future brown bag meetings scheduled at this time.

- B. Consideration of Minutes July 14, 2015

MOTION/Second: Guggenbuehl/Kennedy approve the minutes.

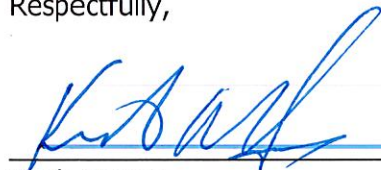
VOTE: (7-0)

- C. Reports of Officers and Committees

-Heritage Preservation Commission Representative – Guggenbuehl looked at the marquee of the north shore theater and approved.

- D. Meeting adjourned at 7:25 p.m.

Respectfully,



Keith Hamre
Director of Planning and Construction Services