

City of Duluth  
Planning Commission  
May 12, 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, May 12, 2015, in City Hall Council Chambers.

Roll Call

Attending: Marc Beeman, Drew Digby, Terry Guggenbuehl, Janet Kennedy, Tim Meyer (arrived late during agenda item E), Garner Moffat, Mike Schraepfer, Luke Sydow and Zandra Zwiebel (left early after agenda item F)

Absent: N/A

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

II. Unfinished Business

- A. Presentation of Zenith Award for Comprehensive Plan Implementation – Chair Zwiebel presents Carla Blumberg with the Zenith Award and commends her exemplary achievement.

- B. PL 15-037 Vacation of Street Right of Way for West 2<sup>nd</sup> Street between 39<sup>th</sup> and 40<sup>th</sup> Avenue by RMN, LLLP (Tabled from April 14, 2015, Planning Commission meeting)

**Staff:** Steven Robertson introduces the revised staff report. The applicant has submitted a revised request asking for a vacation of 2<sup>nd</sup> Street, but leaving 25 feet. This would be sufficiently wide to still allow for the public to use as an alley (it would probably retain the name of West 2<sup>nd</sup> Street, however). The applicant would also issue a quit claim deed to help "straighten" the driving surface. Staff recommends approval with the conditions listed in the revised staff report. Terry Guggenbuehl asks if the change in status has any difference to the setbacks. Per Robertson, yes as the property line would change and give the property owner more room, but it's minimal.

**Applicant:** Roy Christiansen addresses the commission. He is the attorney for the applicant. In attendance is Doug Nelson of St. Germain's. They have practical solutions and think it will be agreeable to the applicant and the public.

**Public:** Drew Digby asks if they can open up discussion for public comment due to their petition. The commissions suspended their rules and allow for public comment. Kenny Conito - 216 N. 38<sup>th</sup> Ave. W. – addresses the commission. He and his neighbors use the alley and would like to continue to do so.

**Commissioners:** Digby clarifies it's not a city street. Per Robertson it's an approved Right of Way. The city does plow it.

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

**VOTE: (8-0)**

III. Public Hearings

- A. Presentation on Final Recommendations for the Lincoln Park Small Area Plan.

**Staff:** John Judd and John Kelley present the final recommendations for the Lincoln park Small Area Plan (SAP). Complete documents of both the SAP and the Health Impact Assessment (HIA) are being assembled along with the draft recommendations.

The handout includes the culmination of both documents; including data, information, and input analyzed during the planning process. Moffat clarified all city park land will be zoned P-1. Kelley states yes. Moffat wants to set the stage for future development. He discusses economic development and lists the goals. Judd discusses transportation and lists the goals. Other topics include pedestrian traffic, bikeways, transit and housing. Moffat thanks the commissioners and audience for their patience and notes project's large scope.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** Luke Sydow asks about the bike ways and enforcement to eliminate parkers from blocking the pathways. Digby asks if they are voting on this tonight. Judd states yes.

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

**VOTE: (8-0)**

- B. Presentation on Recommendations for Spirit Mountain Plan, by Staff from Parks and Recreation Department.

**Staff:** Jim Shoberg of the Parks Department addresses the commission and asks if there are any questions. Keith Hamre reiterates the commissioners are voting on the approval of the addition to the master plan to include the new Nordic ski center. Sydow asks about the green section. Per Shoberg, it's privately owned and they are working together with the homeowners.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (8-0)**

- C. PL 15-075 Concurrent Use of Streets Permit for Spirit Mountain Recreation Area Authority Water Line in Public Right of Way

**Staff:** Steven Robertson introduces the applicant's request to locate a 36 inch water line for the Spirit Mountain Area Recreation Authority within the public right of way of an unimproved alley. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Brandy Ream, Executive Director of Spirit Mountain addresses the commission. It is a reversible pipe, so at the end of the season it will be pumped back into the river. Moffat asks if it is treated before it runs back into the river. The applicant states it's just for the ski area and not the parking lots.

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (8-0)**

**(NOTE: AGENDA ITEMS D1 AND D2 WERE PRESENTED AND VOTED ON TOGETHER)**

- D1. PL 15-045 UDC Map Amendment to Rezone from Residential-Planned (R-P) to Residential-Traditional (R-1) at Coffee Creek by Hamilton Taylor Homes

**Staff:** Jenn Reed Moses introduces the applicant's request to rezone Blocks 9, 10, 11 and part of Block 7 (all owned by Menards, with Hamilton Taylor Homes as the buyer of the properties) from R-P to R-1. Staff recommends approval.

**Applicant:** Present, but did not speak.

**Public:** N/A

**Commissioners:** Moffat asks if Vista View Lane and the cul de sac are public or private rights of way. Moses states they are public rights of way. Moffat asks about the possibility of a through street to lessen the burden on taxpayers for maintenance and allow for better access for emergency vehicles. Moses states there are significant slopes in the area. The rezoning can't include a condition and must stand on its own.

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

**VOTE: (8-0)**

- D2. PL 15-072 UDC Map Amendment to Rezone from Residential-Planned (R-P) to Residential-Traditional (R-1) at Coffee Creek by the City of Duluth

**Staff:** Jenn Reed Moses introduces the city's proposal to rezone Block 7, Coffee Creek Subdivision, from R-P to R-1.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (8-0)**

- E. PL 15-060 UDC Map Amendment to Rezone from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N), at 1501 Kenwood Avenue, 15 West Cleveland Street, and 1428 Arrowhead Road by Kenwood Village LLC

**Staff:** Jenn Reed Moses introduces the applicant's request to rezone the above three properties from R-1 to MU-N. Staff recommends approval.

**Applicant:** Rick McKelvey of United Properties addresses the commission. He states this site is a prime location for thoughtful development. Steve Manhart, a traffic engineer for Westwood Engineering, is in attendance and can answer technical questions. The neighborhood meeting was well-attended. The comments were mainly positive. The majority of concerns were in regards to increased traffic. McKelvey states traffic flow is as important to them as it is to the surrounding neighborhood. There are three points they are focused on in regards to traffic: 1) conduct study of traffic signal at Kenwood and Arrowhead, possibly lessening duration of signal to create a better flow; 2) dedicating ten feet of their property for future widening of Kenwood Avenue; 3) if a future signal at Kenwood and Cleveland is installed, they will pay for 50% of the cost. (Commissioner Tim Meyer enters the meeting). Chair Zwiebel asks about blasting concerns. There is soil, but no rock.

**Public:** Rich Machlin – 48 W. Cleveland Street – He attended the public meeting. He has lived in the neighborhood for 20 years and feels it will be aimed towards students. More thought should be given. Nolen Ginnevert – 20 W. Cleveland Street – the large

building will change the dynamic of the neighborhood. He and his wife have lived there less than a year. They have street traffic and safety concerns. His wife wrote the commissioners a letter, which was included in their handouts.

**Commissioners:** N/A

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

**VOTE: (9-0)**

Hamre states more discussion about traffic will follow. Guggenubehl asks what the timeline is on the traffic study. Hamre states it's currently in the works.

- F. PL 15-064 UDC Map Amendment to Rezone from Rural-Residential 1 (RR-1) to Mixed Use-Business (MU-B) at the 4600 Block of Rice Lake Road by JLH Properties of Duluth LLC

**Staff:** Kyle Deming introduces the applicant's proposal to rezone 160 acres from RR-1 to MU-B in preparation for likely subdivision into 2.5-5 acre lots for commercial and light industrial development. Staff recommends approval.

**Applicant:** Present, but did not speak.

**Public:** Ken Zwak – 351 Thurber Road – addresses the commission. He bought their home in a residential neighborhood figuring it would stay that way. He feels the community is losing families to development. If it's rezoned what kinds of businesses would be allowed? He questions the toxicity of the land and will it be disturbed? Chair Zwiebel asks Mr. Zwak to show his property on the overhead map. Linda Ross Sellner - 402 Arrowhead Road – addresses the commission. She opposes development and is concerned with the creek. She feels the city needs to preserve its wetlands.

**Commissioners:** Guggenbuehl asks about the future land use map. The UDC rezoning should coincide with a future land use. There is an area of pink in a sea of green. What is the rationale? Deming referred back to the 2006 Comprehensive Plan. Hamre states the mixed use was probably added there due to the adjacency to Rice Lake Road. And there were question marks regarding the commercial district on east side of Rice Lake Road currently Snowflake ski center and Arrowhead Tennis Center and the future site for Edison Charter High School. The development pattern was unclear, so general mixed use was chosen. Moffat has concerns and sees significant wetlands running through the entire site.

**MOTION/Second:** Moffat /Beeman table until next month's meeting for more information about the reason for designating General Mixed Use on the Comprehensive Plan Future Land Use Map and a request to see a map of the wetlands on the site. (The commissioners temporarily suspend the rules of the tabling motion to allow the applicant to speak. Matt Bolf of SEH and Scott Kyrola of Northland Constructors address the commission. Yes there are wetlands on the site, but it is a large site and can be developed without disturbing the wetlands.)

**VOTE: (9-0)**

(Chair Zwiebel leaves the meeting and vice-chair Moffat resumes the meeting and takes control.)

- G. PL 15-065 UDC Map Amendment to Rezone from Residential-Rural 1 (RR-1) to Residential-Rural 2 (RR-2) 3705 North 87th Avenue West by Jarel and Sarah Finout

**Staff:** Kyle Deming introduces the applicant's proposal to rezone 10 acres from RR-1 to RR-2 to meet lot frontage requirements for the three existing lots with widths of 163', 163', and 325'. Staff recommends approval.

**Applicant:** Jerel Finout - 3907 N 87<sup>th</sup> Avenue West - addresses the commission.

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (8-0)**

**(NOTE: NEXT FOUR AGENDA ITEMS: H, I, J & K WERE PRESENTED AND VOTED ON TOGETHER)**

- H. PL 14-184 Concurrent Use of Streets Permit for Obstruction (Bus Shelter) in the Public Right of Way of North Second Avenue East at 201 East Superior Street by Norshor Theater, LLC

**Staff:** Jenn Reed Moses introduces the applicant's proposal to continue use of the former bus shelter (now used for storage). The bus shelter did not previously have a concurrent use permit. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (7-1, Beeman opposed)**

- I. PL 14-185 Concurrent Use of Streets Permit for Obstruction (Underground Vaults) in the Public Right of Way of East Superior Street and North Second Avenue East at 201 East Superior Street by Norshor Theater, LLC

**Staff:** Jenn Reed Moses introduces the applicant's proposal to continue the use of underground vaults, currently used for storage, under East Superior Street and North 2<sup>nd</sup> Avenue East. The vaults did not previously have a concurrent use permit. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (7-1, Beeman opposed)**

- J. PL 14-186 Concurrent Use of Streets Permit for Obstruction (Structure) in the Public Right of Way of East Superior Alley at 201 East Superior Street by Norshor Theater, LLC

**Staff:** Jenn Reed Moses introduces the applicant's proposal to continue use of the existing Temple Opera/NorShor Theatre buildings, which protrude into the rear alley approximately .4 feet and into Superior Street a distance ranging from .3 feet to 1.1 feet. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (7-1, Beeman opposed)**

- K. PL 14-187 Concurrent Use of Streets Permit for Obstruction (Marquee) in the Public Right of Way of East Superior Street at 201 East Superior Street by Norshor Theater, LLC

**Staff:** Jenn Reed Moses introduces the applicant's proposal to restore the existing marquee which extends approximately 11 feet into the right of way of East Superior Street at a height of 12 feet above the sidewalk. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Guggenbuehl/Digby recommend approval as per staff's recommendations and with the added condition approval is obtained by the Heritage Preservation Commission (HPC).

**VOTE: (7-1, Beeman opposed)**

**(NOTE: AGENDA ITEMS L & M WERE PRESENTED AND VOTED ON TOGETHER)**

- L. PL 15-068 Vacation of Street Right of Way Between Elm and Lynn Avenues and Garfield and Cox Avenues by Duluth Seaway Port Authority

**Staff:** Steven Robertson introduces the applicant's proposal to vacate an unimproved street right of way. The unimproved right of way is approximately 16 feet wide and 620 feet long. According to the applicant's written statement, "we are requesting a vacation of the alley ROW that runs through the center of our property to make the site contiguous and to streamline the soil remediation project for our engineers and contractors who will be working on the site". Staff recommends approval.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (8-0)**

- M. PL 15-069 Vacation of Street Right of Way Of Sixth, Seventh, Eighth, Ninth, and Tenth Street Between Spruce Avenue and Elm Avenue at Rice's Point by Duluth Seaway Port Authority

**Staff:** Steven Robertson introduces the applicant's proposal to vacate an unimproved street right of way (former Elm Avenue). The unimproved right of way is approximately 75 feet wide and 1,750 feet long. According to the applicant's written statement, "the port authority owns all of this land which includes the 100+ acre Clure Public Marine Terminal and the 28 acre dock property known as Dock C & D. Some of the ROWS across the Clure have been vacated in the past, but others have not... we consider it "good housekeeping" to vacate the unneeded ROWs prior to construction." Staff recommends approval.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (8-0)**

**---5 Minute Recess---**

- N. PL 15-050 Special Use Permit to Construct an Eight Unit Townhome in an R-1 District at the Southeast Corner of Mississippi Avenue and Lyons Street by Green Capital LLC

**Staff:** Steven Robertson introduces the applicant's proposal to construct an 8-unit townhome development in an R-1 zone district. There will be 2 two-bedroom units, 5 three-unit bedroom units, and 1 four-unit bedroom units, for a total of 23 bedrooms. Staff recommends tabling the SUP for one month to allow the applicant to address engineering concerns. If the planning commission wishes to approve the SUP, staff recommends the conditions listed in the staff report.

**Applicant:** Jason Ross of Green Capital, LLC, addresses the commission. They have made revisions and have addressed topography and parking issues. They have reduced their bedroom count. He feels this project is a positive development and will take care of the housing needs. Guggenbuehl asks if they table, can engineering concerns can be resolved in a month. Applicant states yes. Meyer asks if he has had conversations with the neighborhood. Yes, and the neighbors are concerned with the density of the project, but the applicant states he has reduced the bedroom count and has provided ample parking. Meyer states as an architect, he doesn't feel the design blends in with the neighborhood. He would like to see more support from the neighborhood. The applicant states that scale wise they reduced the building by one-story and decreased the porch sizes. Sydow notes the porches in front, but there are no connections to Mississippi Avenue. He is also concerned with the 8 foot wall in back of the property and asks if there are means to soften it. Architect Greg Strom states they would like to maximize the wall at 6 feet with plantings to soften it. Ross notes the front of building is below grade, which will minimize the profile.

**NOTE: Public comment period will be extended if the item is tabled.**

**Public:** Joel Sipress – city councilor for Kenwood neighborhood addresses the commission. He thanks the applicant for their discussion with the neighbors, but feels the commissioners should deny the proposal. The neighborhood is comprised of single-family dwellings in a rustic setting. He feels the density of the proposed project would alter the characteristic of the neighborhood. Allen Makynen - 1233 Mississippi Avenue - addresses the commission. He opposes the special use permit and feels the project is a random pattern of development with an adverse impact. Jay Stoffel - 1101 Brainerd Avenue – addresses the commission. His property will be facing the wall. He opposes the special use permit. He is concerned with extra traffic and notes the winter challenges Lyons Street brings. Person from public introduces a signed petition to be placed into public record in opposition of the project.

**Commissioners:** Guggenbuehl asks if staff could itemize the concerns of staff. Robertson notes they are asking the applicant for additional parking and landscaping. Digby clarifies the project meets the minimum requirements for an R-1 district. 25,000 sq feet which is roughly 6-7 single family lots. Robertson states yes it meets the requirements. Digby notes if it fits into an R-1 district then it isn't a random pattern of development and it does meet the UDC requirements.

**MOTION/Second:** Digby/Beeman table and extend the public comment period.

**VOTE: (8-0)**

- O. PL15-070 Special Use Permit for to Expand a Religious Assembly in an R-1 District at 13104 West Sixth Street by the Fond du Lac Community Church

**Staff:** Steven Robertson introduces the applicant's proposal to construct a minor addition to the existing church. According to the applicant's written statement, "the low-key informal character of the existing church blends easily with the surrounding residential uses. The proposed addition is in keeping with the style of the existing church and in conformance with current UDC building setback requirements". Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Warren Korkala - 102 St. Louis River Road – Proctor – is overseeing the project. He wants to make it safer and invites questions.

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Guggenbuehl/Meyer approve as per staff's recommendations.

**VOTE: (8-0)**

- P. PL 15-059 Interim Use Permit for a Vacation Dwelling Unit at 940 South Lake Avenue by Phyllis A Sherman

**Staff:** Steven Robertson briefly describes interim use permits; they are different from special use permits in the fact it will go before the city council, are approved via a resolution, and have an expiration/sunset ate. He introduces the applicant's request to use her home as a vacation rental property. A vacation dwelling unit allows rentals for 3 to 21 days, with a minimum of 2 nights, with the exception of a minimum of 5 nights from June 15 to September 15 for properties zoned RR-1, RR-2, R-1 and R-P. The applicant has a duplex and she will live in one unit and rent out the other unit. She is providing an additional off street parking space for future visitors. Staff recommends approval with the conditions listed in the staff report along with the added condition the applicant supply guests with posted quiet hours after 10 p.m. and before 8 a.m. which is standard with park point properties. Sydow would like to see a concurrent use permit applied for the fence that is in the public right of way . Robertson suggests making it a condition.

**Applicant:** Phyllis Sherman addresses the commission. She stated that the fence predated her owning the property, but would agree to the concurrent use permit condition for the fence, or she would remove it.

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Guggenbuehl/Sydow recommend approval as per staff's recommendations including the posting quiet hours and a concurrent use permit be applied for and received within 12 months for the fence, or the fence be removed.

**VOTE: (8-0)**

- Q. PL 15-063 Interim Use Permit for a Vacation Dwelling Unit at 127 Chester Parkway by Beth Grobe Magomolla and Grobe Family Supplemental Needs Trust

**Staff:** Steven Robertson introduces the applicant's request to use her home as a vacation rental property. A vacation dwelling unit allows rentals for 3 to 21 days, with a minimum of 2 nights, with the exception of a minimum of 5 nights from June 15 to September 15 for properties zoned RR-1, RR-2, R-1 and R-P. Staff notes that while the lot is oddly shaped and has significant elevation changes near the rear, it is still a large lot. Staff also noted that the platted alley is narrow, 10 feet, with 7 foot utility



easements on both sides of the alley. Staff recommends approval with the conditions listed in the staff report. Digby clarifies that at least one parking space is required. Robertson states there is sufficient room on site for one or two off-street parking space which meets requirements.

**Applicant:** Beth Magomolla – 1311 Woodland Avenue – addresses the commission. It would be a wonderful use of the property and would like to share it with others who will enjoy it. This will not be a party house and she will closely monitor it. Sydow lives one block up and doesn't feel there is room for 2 off-street parking spots. Sydow asks if her neighbors had parking/impervious surface concerns. Per applicant, they didn't mention it to her.

**Public:** Sharla Gardner, city councilor for the neighborhood addresses the commission. She is concerned that the house is in a poor state of repair. Per Robertson, the fire department conducted a inspections and has asked for changes and will do a reinspection. Tony Dierkins - 118 Chester Parkway – addresses the commission. He states there are 22 houses within 350 feet of the property. He notes parking and street condition issues and opposes the vacation dwelling. The neighbors have been upgrading their exteriors and he doesn't feel a vacation rental will fit. Leon Rohrbaugh - 121 Chester Parkway – lives across the alley. He feels the home is in disrepair. The windows are broken. He doesn't feel it will improve if it becomes a rental property. His children bedrooms face the property. He opposes the vacation dwelling. Britt Rorhbaugh addresses the commission. She is a landlord and knows idyllic tenants aren't always the case. She feels the house is stunning, but would be misused as a rental. Roger Swanson – 122 Chester Parkway – opposes the rental. The applicant states they continue to work on the property and the exterior work is next. As equity becomes available the projects will be completed. They have a security system now and feel this is a good project. There is room for parking and she wants it to be a positive impact on the neighborhood. She added that she had an open house and invited neighbors to view the interior of the home and see the improvements they have made. She shared pictures of the interior with the commission.

**Commissioners:** Guggenbuehl vacation rentals are a method of the city regulating and having control over neighbor's concerns. Sydow doesn't feel the parking is adequate. Mike Schraepfer clarifies the rules are the same for a rental dwelling and a vacation rental dwelling which is a parking space with 9' x 17' dimensions. Per Robertson, yes, it is the same, and only one space is required. Digby is concerned by the state of the house and feels they must turn it down. Hamre states the interim use permit will go before city council. Meyer asks who establishes the permit criteria. Robertson states the exterior of the home or garage may look "crummy", but exterior appearance isn't a criteria for fire/rental inspection.

**MOTION/Second:** Beeman /Meyer table until additional information is provided for adequate parking.

**VOTE: (7-1, Digby opposes)**

City councilors Gardner and Sipress feel the need to revisit policy. Hamre notes there will be discussions with Life Safety to compare/contrast the difference between regular rental inspections and vacation dwellings.

- R. PL 15-066 Interim Use Permit for a Vacation Dwelling Unit at 2525 East First Street by Daniel Neby

**Staff:** Steven Robertson introduces the applicant's request to use his home as a vacation rental property. A vacation dwelling unit allows rentals for 3 to 21 days, with a

minimum of 2 nights, with the exception of a minimum of 5 nights from June 15 to September 15 for properties zoned RR-1, RR-2, R-1 and R-P. Staff noted that the applicant owns two parcels, one with the home and an adjacent undeveloped parcel. Staff also added that there is sufficient off-street parking spaces in the garage and in the driveway in front of the home. Staff recommends approval with the conditions listed in the staff report. Digby asks if conditions placed on by the fire department or health department inspections. Per Robertson, it passed all inspections without conditions.

**Applicant:** Dan Neby – 1904 Hutchinson – he is a landlord and feels this home is top of the line. He asks if there are any questions.

**Public:** Ken Aparicio – 2309 E. 1<sup>st</sup> Street – addresses the commission. He owns a bed and breakfast. According to the rules of his special use permit he has to be a resident of the property. He opposes the project. Cameron Fryer – 2508 E. 1<sup>st</sup> Street – addresses the commission. He opposes the interim use permit and asks the neighbors in attendance who are also in opposition stand. He feels it's a random pattern of development in an R-1 neighborhood. He distributes walking tour booklets to commissioners and notes the neighbor being a noteworthy architectural gem. He doesn't feel short term – commercial – rentals fits in the neighborhood and will detract business from hotels and beds and breakfasts. Nicole Bakken – 2505 E. 1<sup>st</sup> Street - lives adjacent to the property. Her primary concern is the safety of their young kids. Their play set is located on the western side, and no fence or natural divider is present. Additional car traffic is worrisome, as well as pets, etc. Mary Zimmermann – 2531 E. 1<sup>st</sup> Street – lives to the east of the property. They were drawn to neighborhood by the old world charm and they are a close knit community. They have an outdoor garden area. Their neighbor's deck closely borders this area. She opposes the interim use permit. Joel Sipress – city councilor is neither for or opposed, but wants to make a couple of comments. He concurs that the applicant's deck looks directly onto their neighbors side garden. The city needs to revisit their regulations regarding vacation rentals. He wishes to propose a moratorium at the next city council meeting. He asks for this item to be tabled.

**Commissioners:** Meyer asks staff if public input is considered in the ordinance. Per Robertson, public input should be considered, but the neighbors' blessing or opposition of a potential project isn't a criteria in the zoning code. Meyer feels their input should be considered and listened too. Guggenbuehl asks if the city has been keeping track of police cars/noise concerns for other vacation dwellings. Per Robertson, he is not knowledgeable at the moment of past nuisance calls for these type of licenses, but he believes one on park point may have been an issue, but other than that, nothing was noteworthy. Digby is uncomfortable with this; potential historic resources in the neighborhood are a concern as well as the existing structure setbacks on this particular property. He is in favor of tabling until a further review of whole interim use permitting system is addressed. Sydow appreciates the specifics of the individual comments versus generalities of not in my backyard.

**MOTION/Second:** Guggenbuehl/Beeman recommend approval as per staff's recommendations with added condition that a one year term be applied, and screening or a fence be placed in front of the deck facing the east property.

**VOTE: (5-3, Sydow, Digby, Meyer opposed)**

- S. PL 15-047 Variance from Coldwater Structure Setbacks at 1025 West Third Street by Scott Shovein

**Staff:** Steven Robertson introduces the applicant's proposal to construct a one-stall garage (14' x 20') attached to the existing home. The attached garage would be within the shoreland setback of Buckingham Creek, a coldwater river. The applicant would like to construct the garage addition approximately 23 feet from the ordinary highwater watermark of a coldwater river, instead of the minimum 150 feet required. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Present, but did not speak.

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Guggenbuehl/Meyer approve as per staff's recommendations.

**VOTE: (8-0)**

- T. PL 15-062 Variance to Reconstruct a Non-Conforming Structure at 1316 99<sup>th</sup> Avenue West by Shane Bollinger

**Staff:** Steven Robertson introduces the applicant's proposal to reconstruct a non-conforming structure that was damaged by fire. The property was damaged more than 60% of its assessed value and requires a variance. Staff recommends approval with the conditions listed in the staff report. Digby states all buildings would be non-conforming on that block, Robertson yes.

**Applicant:** Shane Bollinger addresses the commission. He asks if there are any questions. Sydow asks if his front fence is in the right of way. The applicant has removed the fence. The applicant's partner, Tanya, addresses the commission. They have three kids and have been without a home for a year. She expresses her daughter's sentiment to thank the city for helping them get their new home.

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Meyer/Sydow approve as per staff's recommendations.

**VOTE: (8-0)**

- U. PL 15-067 Variance from Corner Side and Front Yard Setback at 506 West Fifth Street by James Olson

**Staff:** Steven Robertson introduces the applicant's proposal to construct a 28 foot by 32 foot detached accessory structure in the front and corner side yard setbacks (a 3-stall garage), the garage will be 8 feet into the front yard (25 required) and 15 feet into the corner side yard (20 feet required). Staff recommends denial due to the findings in the staff report including the applicant has not demonstrated practical difficulty.

Guggenbuehl asks what the depth is of the buildable area. Robertson states 20 feet.

**Applicant:** Jim Olson addresses the commission and feels his property does have a practical difficulty. Everyone else has a house is built on the property line. He wants to conform with his neighbors and wants his home and garage be in alignment. He notes the topography of the lot and feels needing 641 yards of fill is a practical difficulty. Digby sees a practical difficulty of building it on 5<sup>th</sup> Street, but he wants to respect the corner setback due to safety/visibility concerns. The applicant is in agreement with building it closer to the house to provide a safer setback from 5<sup>th</sup> Avenue.

**Public:** Sharla Gardner, city councilor, is in favor of the variance.

**Commissioners:** Janet Kennedy asks why staff recommended the other placement on the property. Robertson doesn't feel the applicant has a practical difficulty and can still get reasonable use of the property and build a garage without a variance. Moffat

discusses the grading of the neighborhood and it's quite challenging. He is torn on the issue, but notes there are site challenges. Guggenbuehl agrees with Digby about the setback from 5<sup>th</sup> Avenue West, but feels the proposed garage is too large. Sydow suggest tabling for the approval of a smaller garage. Digby notes the corner setback is 20 feet. Hamre states the commissioners can't determine the size of the garage, as it really isn't relevant, just variance application and relief from the specific setbacks.

**MOTION/Second:** Meyer/Digby approve with the practical difficulty being the site topography, this motion is in opposition of staff's recommendations.

**VOTE: (4-3 Beeman, Sydow and Guggenbuehl opposed, Kennedy abstained)**

- V. PL 15-058 Preliminary Plat for Atlas Industrial Park, at 2300 Commonwealth Avenue, By Duluth Economic Development Authority

**Staff:** Steven Robertson introduces the applicant's proposal to subdivide the property to prepare for future industrial development. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Present, but did not speak.

**Public:** N/A

**Commissioners:** Moffat doesn't feel the need for dead-end street ways without there being a practical difficulty or topography concern. He notes it creates challenges to tax payers to maintain the infrastructure. Digby asks staff about the utility easement and if eventually a road will be added. Hamre states out lot A is a soils remediation area and no road crossing is permitted at this point. A traffic study could become a roadway easement. The Port Authority is developing the land behind this area which is the old U.S. Steel site. Depending on the growth of the project and employee count they may want another exit. The state will determine the road connections.

**MOTION/Second:** Digby/Guggenbuehl approve as per staff's recommendations.

**VOTE: (7-1, Moffat opposed)**

IV. Other Business

- A. PL 15-074 Point of Rocks Housing Project at the 1200 Block of West Michigan Street (Tax Increment Financing) Planning Commission Review of Development Plan to Determine if Project is in Conformance with the Comprehensive Plan – Charles Froseth gives an overview. Staff recommends the planning commission agree that the proposed development conforms to and implements the Comprehensive Plan principles and the Unified Development Code and will pass a resolution as such dated May 12, 2015. Moffat asks about mixed income housing. Per Hamre, yes, it will be proportionate.

**MOTION/Second:** Guggenbuehl/Meyer project is in conformance

**VOTE: (7-0-1, Sydow abstained)**

- B. Review Recommendations of the Tax Forfeit Subcommittee, Related to Potential Sale of 117 Tax Forfeit Parcels (Subcommittee to Meet the Same Day of the Planning Commission, but at 4 pm, with recommendations from Engineering, Parks and Rec, and Planning Depts).

**MOTION/Second:** Guggenbuehl/Beeman approve recommendation of the tax forfeit subcommittee

**VOTE: (8-0)**

V. Communications

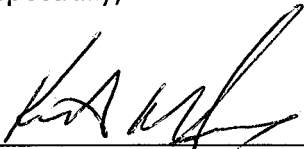
- A. Managers' Report – Chuck Froseth gives an overview. Lots of EAW
- B. Consideration of Minutes - April 14, 2015

**MOTION/Second:** Guggenbuehl/Meyer approve the minutes.

**VOTE: (8-0)**

- C. Reports of Officers and Committees (Heritage Preservation Commission Representative)  
– next month.
- D. Misc Correspondence (FEMA Map Update, Letter from B. Daugherty about Rezoning)
  - Digby thanks the other commissioners. His last meeting is tonight.
- E. Meeting adjourned at 10:11 p.m.

Respectfully,



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Keith Hamre, Planning and Construction Services Director