

City of Duluth  
Planning Commission  
November 13, 2018 Meeting Minutes  
Room 303 - Duluth City Hall

Call to Order

Vice-President Janet Kennedy called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, November 13, 2018, in city hall room 303.

Roll Call

Attending: Jason Crawford, Gary Eckenberg, Janet Kennedy, Tim Meyer, Margie Nelson, Luke Sydow, Sarah Wisdorf, and Zandra Zwiebel

Absent: Mike Schraepfer

Staff Present: Adam Fulton, Robert Asleson, Jenn Moses, John Kelley, Kyle Deming, and Cindy Stafford

Approval of Planning Commission Minutes – October 9, 2018

**MOTION/Second:** Sydow/Nelson approve the minutes with one change

**VOTE: (8-0)**

Unfinished Items

(Sydow Recused himself from the following agenda item)

1. PL 18-122 MU-W Planning Review for 15 Room Expansion at the Existing Hotel at 1033 Minnesota Avenue by Park Point Marina Inn and Suites, LLC (Tabled from October 9, 2018, Meeting for More Information)

**Staff:** Jenn Moses introduces the applicant's proposal for a 3-story, 6,100 square foot, 15-room addition to the southeast side of the existing hotel. Staff has revised the report and proposed conditions since the tabling of the item at the October 9, 2018 planning commission. There is more information listed about the 200-foot rule, and how the land-use supervisor came to his decision. Staff recommendations now include additional timeframes that are extended beyond what was initially recommended. The parking condition still applies. Staff recommends approval with the revised conditions listed in the staff report.

**MOTION/Second:** Meyer/Crawford approved as per revised staff recommendations.

**NO VOTE**

**MOTION/Second:** Nelson/Zwiebel remove from Table

**VOTE: (7-0, Sydow Abstained)**

**MOTION/Second:** Nelson/Zwiebel bring back to allow for public hearing

**VOTE: (7-0, Sydow Abstained)**

**Applicant:** Jeremy Hurd represents Park Point Marina Inn and Suites, LLC, addresses the commission. They ask to strike items (conditions) 1, 2 and 4 from the staff report. They would like the same allowance as the other hotel in the area. The UDC does not allow for conditions which are arbitrary. The amended UDC went into effect after the application. Tim Meyer asks if legal wants to comment. Robert Asleson asks if there are any specific questions. Meyer asks about the building timeframe. Do they have a legal footing to stand

on which refers to 180 days? Asleson states there is discretion for the planning commission to apply a timeframe. Hurd comments that the discretion allowed is to bring it back into compliance with the UDC section 50-37. He states this is not what is happening here.

**Public:** Deborah Medlin, questions the staff interpretation of the 200-foot rule. She doesn't think it should exclude existing buildings.

**Commissioners:** Meyer asks staff about the 2016 staff rule. Moses states the code refers to new buildings instead of situations where the view is already blocked. Staff went with the interpretation from the dictionary when referring to topography.

**MOTION/Second:** Meyer/Zwiebel approved as per staff's recommendations.

**VOTE: (4-3, Kennedy, Nelson and Wisdorf Opposed – Sydow Abstained)**

Consent Agenda and hearing

**Items that are perceived to be non-controversial or routine will be placed on the consent agenda. There will be no staff presentations on these items; the Planning Commission will be acting upon the staff recommendation and conditions written in the staff reports. There will not be an individual public hearing on each of these items unless the applicant or a member of the public wishes to speak to the matter. Instead there will be one public hearing for all the items on the consent agenda, and they will be addressed by the Planning Commission with one vote.**

2. PL 18-134 Concurrent Use Permit for Private Obstruction (Small Cell Antenna) on a MN Power Pole in the Public Right of Way at 4518 Trinity Road by CommNet Cellular Inc d/b/a Verizon Wireless
3. PL 18-135 Concurrent Use Permit for Private Obstruction (Small Cell Antenna) on a City Pole in the Public Right of Way at 1740 Maple Grove Road by CommNet Cellular Inc d/b/a Verizon Wireless

**Staff:** Steven Roberston gives an overview

**Public:** No speakers.

**MOTION/Second:** Zwiebel/Wisdorf approve staff's recommendations for consent agenda items.

**VOTE: (8-0)**

Public Hearings

4. PL 18-068A UDC Map Amendment to Rezone **Area C and Area D, South of Arrowhead Road** Near Kenwood Avenue from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N) by the City of Duluth

**Staff:** John Kelley introduces the city's proposal to rezone properties in the general area of West Arrowhead Road, Kenwood Avenue, Maryland Street and Warren Avenue from Residential-Traditional (R-1) to Urban Residential (R-2) and Urban Residential (R-2) to Mixed Use-Neighborhood (MU-N), and areas south of West Arrowhead Road and west of Kenwood Avenue from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N). The areas proposed for rezoning each have unique characteristics related to existing land use and current zoning in proximity to the Kenwood Neighborhood commercial node. Based on these characteristics Areas A & B (located north of West Arrowhead Road) and Areas C & D (located south of West Arrowhead Road), all depicted on the map shall be considered under separate review and recommend action. Staff recommends approval. Zandy Zwiebel

asks about where the Carlson property is. Kelley states it is above Maryland Street. Zwiebel noted the public meeting suggested increasing the area in section D. Kelley stated they did not expand the rezoning.

**Applicant:** N/A

**Public:** Katie Krikorian, 1313 Missouri Ave., addresses the commission. She lives in area C. She is concerned about increased development. She would like a buffer established. There is R-1 zoning to the east and potential development could change that. She would like to see buffers put in place to protect the neighbors already living there. Dave Holappa, 1303 W. Arrowhead Rd., addresses the commission. He doesn't think area D is big enough. Brad Johnson who owns property in Area D and close to area C addresses the commission. The traffic in the area is a reason people leave and go to Hermantown. He feels the more development there is, the less they need to drive to other areas. He is in support of the rezoning of area D.

**Commissioners:** Zwiebel asks about the consideration of buffers. Kelley states when a development is proposed, buffers are required. The strongest buffering would be fencing. Rezoning doesn't require buffering. Gary Eckenberg asks about item D. Is expansion to the west feasible? Kelley states this area was considered but not included. Per Kelley, a strip type development could potentially fit. Future rezoning could go further west.

**MOTION/Second:** Zwiebel/Wisdorf recommend approval as per staff's recommendations.

**VOTE: (8-0)**

5. PL 18-068B UDC Map Amendment to **Rezone Area A and Area B, North of Arrowhead Road** Near Kenwood Avenue from Residential-Traditional (R-1) and Residential-Urban (R-2) to Residential-Urban (R-2) Mixed Use-Neighborhood (MU-N) by the City of Duluth

**Staff:** John Kelley introduces the proposal. Area A has increased. Manager Adam Fulton adds there is additional flexibility allowed in an R-2 district. Buffers could be expanded. There is not a proposal for a planned development, but it would be an option in R-2. Margie Nelson asks for clarification on permitted use in R-1 versus R-2. Kelley states R-1 is more residential. R-2 allows for multiple-dwelling units as well as office use. R-2 permits higher density. Zwiebel asks where the Carlson property is. Kelley refers to the map.

**Applicant:** N/A

**Public:** Tom Bowman addresses the commission. He is opposed to the rezoning. He notes the expansion of Area A. R-2 is a significant change. You can put in a retail space, a restaurant, a cemetery even. Currently R-1 housing and a functional neighborhood. He feels this rezoning is an overreach. Dave Thoreson addresses the commission. He lived in area A for 20 years. He bought in this area because it was residential. He struggles with supporting the rezoning. When is enough, enough? Traffic is a concern. He thinks the rezoning is either because someone is in the wings waiting, or it is an invitation to invite developers. He doesn't want to have to sell his single-family home. He is opposed. Dave Hollapa, 1303 W. Arrowhead Rd. (area B), wants to talk about future planning. He doesn't want to see anyone have to move. Area B is not large enough to accommodate developments and buffering. Eric Buche, Woodrich Circle, talks about return on investment. Along with financial, there is also emotional investment to consider. With added development, it no longer makes the area a residential neighborhood. There are unknowns, and the people who live in the area care about their neighbors. He urges the commissioners to vote no. Anne Thoreson, 1620 Warren Ave., addresses the commission. She notes there are 4-5 faces in each house. She is opposed the rezoning. Cathy Croke, 1012 Woodrich Circle,

addresses the commission. She has lived there since 1979. It is a close neighborhood. She feels rezoning would not consider the family aspect of the neighborhood and is against the rezoning. Jim Ganye, 1235 W. Arrowhead Rd., addresses the commission. He has lived in the area since 1990. He can't reverse out of his driveway as it is now. He is opposed to the rezoning.

**Commissioners:** Chair Kennedy notes they have heard the public's comments. Zwiebel expressed the desire to have the commission consider the rezoning of Area B separate from Area A.

**MOTION/Second:** Zwiebel/Wisdorf to divide the question. Upon being questioned, Attorney Asleson opined that the motion was out of order in that there was no motion on the floor to which the motion to divide the question could apply. Motion was ruled out of order.

**MOTION/Second:** Zwiebel/Wisdorf to rezone Area B and Area A as proposed.

**MOTION/Second:** Wisdorf/Zwiebel to divide the question to consider proposed rezoning of Area B and Area A separately.

**VOTE: (8-0)**

**MOTION/Second:** Zwiebel/Wisdorf recommend approval of the rezoning of Area B as per staff's recommendation.

**VOTE: (8-0)**

**Commissioners:** (Discussion on Area A) Eckenberg asks how much more does Kenwood need to be expanded? Nelson lived in the neighborhood for five years. She is not in support of changing this to R-2. Zwiebel understands the concerns of the community. The city wants to be pro-active to development of the area. Nobody is pushing the rezoning at this time. She feels the community is getting very involved. If the city had a residential plan in place it might be different. She is opposed to the rezoning. Meyer notes the difficulty in establishing neighborhoods. He doesn't want to disrupt a functioning neighborhood. He feels the pressure to increase commercial zones and the need to increase density, but doesn't know if this is the right place. He can't support the rezoning

**MOTION/Second:** Zwiebel/Wisdorf recommend approval of the rezoning of Area A as per staff's recommendation.

**VOTE: (1 -7) - MOTION FAILS (Crawford Yea)**

(Five Minute Recess taken at 6:20)

6. PL 18-125 Variance from Shoreland Setback at 3429 Minnesota Avenue by Duluth Rowing Club

**Staff:** John Kelley introduces the applicant's proposal for a variance to place an 8' x 20' storage container on an engineered concrete slab approximately four feet from the Ordinary High Water level (OHWL) instead of the required 50 feet. Based on the review of the site, staff finds that the standard for a variance has not been met, and recommends the planning commission deny the variance because there are no practical difficulties resulting from adherence to the required setbacks for the property. There are locations on the site outside of the 50' setback that could accommodate the container as a trailer with the wheels and hitch or as a storage container/shed on a foundation. The need for the variance is caused

by the Applicant's desired location for the storage container and is not caused by the shape of the lot, its topography, or other features unique to the site.

**Applicant:** Tom Raushenfels of Duluth Rowing Club addresses the commission. He notes the correct address is 3911 Minnesota Ave. By placing the storage container where they are proposing would keep it hidden from view. It would be in same place as the torn down shed. Anywhere else would hinder movement and change the flow of traffic during regattas. It would be the less intrusive place to put it. Luke Sydow asks why it can't be located in the building. Raushenfels states it is due to insurance rules. Manager Fulton states railroad shipping containers are a concern. This would be a permanent structure by putting in on a permanent foundation. Sydow asks about the definition of how it is attached. Manager Fulton states if it is attached to a footing of some sort, it is not temporary. Sarah Wisdorf asks if they can place it behind the building on dirt. Raushenfels states if it is under 180 days. Wisdorf asks why not construct a regular building versus the shipping container. Raushenfels notes the security of the shipping container. Meyer asks the applicant what their practical difficulty is. Raushenfels states it is more handy. Meyer again asks what the difficulty is. Raushenfels replies the difficulty is the movement of their eight shells (boats). To maneuver around a shed would be a hardship. Zwiebel asks what size building they need for the storage of fuel. Raushenfels states an 8 x 15' building is needed. Meyer asks if they explored options for fuel storage only. Raushenfels states this was the safest and most secure option. Kennedy asked about the old shed. Greg Peterson (board for Rowing Club) states initially the shed was still there. The new container matches, and is more secure. They decided to take the old shed down. They want to be good neighbors. Zwiebel asks about their mitigation plan. Peterson states they will use wrap to prevent erosion.

**Public:** No speakers.

**Commissioners:** Chair Kennedy asks about the old shed. Before it was removed, was it already in the setback? Manager Fulton states the old shed was likely an illegal use, or approved under a different zoning framework. Meyer sees the practical difficulty being the gas cannot be stored in the building. He suggests tabling to allow for fuel storage only. Nelson is in favor of tabling for a better plan. She would be in support of a smaller structure. Sydow is concerned about the next request to store gas in a shipping container. He is concerned about setting a precedent.

**MOTION/Second:** Zwiebel/Wisdorf denied as per staff's recommendations. (No Vote)

**MOTION/Second:** Eckenberg/Meyer Tabled

**VOTE: (8-0, tabled)**

7. PL 18-136 Preliminary Plat of "Hawthorne Division" to Form Three Lots from a Combination of Previously Platted and Unplatted Land at the Northwest Corner of Hawthorne Road and East Fourth Street by Julie Ann Kubat

**Staff:** Kyle Deming introduces the applicant's proposal to create three conforming lots in the R-1 district ranging in size from .61 acres to 1.97 acres from a combination of currently platted and unplatted land. The proposal will create two new building sites, which will be developed in the future. Staff recommends approval. Nelson asks if all of the lots will be conforming. Deming affirms.

**Applicant:** Julie Ann Kubat addresses the commission. They purchased the property with hopes to subdivide the land for family. Initially they were hoping to do boundary line adjustment, but had to do a full plat because some of the property has never been platted. They have no plans to build at this time, but want to move forward with estate planning.

**Public:** Xiu Lin, who lives on Lakeview Avenue, addresses the commission. He is concerned with safety. With two additional driveways on Hawthorne Rd. he is worried about the traffic and the close proximity to Ordean School. He is also concerned about loss of green space. Amanda Sutton, 434 Lakeview Ave., addresses the commission. They have been in their home for less than six months. She is asking if they would be notified if new buildings go up. Per Manager Fulton, no notice would likely be provided since a single family house is a permitted use. Andy Hayden, 402 Lakeview Ave., addresses the commission. He asked if the slopes and fill easement along the alley could be extended to the area behind his house to keep as a natural buffer. The natural environment on the site has value as there is a wildlife corridor through this area.

**Commissioners:** Sydow asks staff about setback requirements. Deming explains.

**MOTION/Second:** Nelson/Wisdorf approve as per staff's recommendations.

**VOTE: (8-0)**

Communications

- A. Manager's Report – Adam Fulton gives an overview. He notes the neighborhood meeting for the medical district plan. An EAW is anticipated to be brought to the planning commission in January. Imagine Canal Park report will be shared to the Canal Park Business Group next month. Twin Ports Interchange is under way. Planning staff has moved in city hall, and is now located in room 110. The new CAO will be starting next Monday.
- B. Reports of Officers and Committees
  - Heritage Preservation Commission – Zwiebel gives an update. They approved the building permit for a back-up generator at city hall, which is a local designated landmark. Also new consideration for Lincoln Park pavilion.
- C. Meeting adjourned at 7:24 p.m.

Respectfully,

---

Adam Fulton - Manager  
Community Planning