

City of Duluth
Planning Commission
December 8, 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, December 8, 2015, in city hall council chambers.

Roll Call

Attending: Marc Beeman (arrived at the end of item B), Terry Guggenbuehl, Janet Kennedy, Tim Meyer, Garner Moffat (arrived during item C), Luke Sydow and Zandra Zwiebel

Absent: Mike Schraepfer

Staff Present: Keith Hamre, Steven Robertson, John Kelley, Nate LaCoursiere and Cindy Stafford

II. Public Hearings

- A. PL 15-171 UDC Map Amendment to Rezone Upper Side of London Rd. (S. 23rd Ave. E. to S. 25th Ave. E.) from R-1 (Residential-Traditional) to MU-N (Mixed Use-Neighborhood), and the lower side, (S. 22nd Ave. E. to S. 26th Ave. E.) from MU-N (Mixed Use-Neighborhood), and MU-B to MU-C (Mixed Use Business and Commercial) by the city of Duluth

Staff: John Kelley introduces the city's proposal to rezone the area from South 22nd Ave. E. to South 27th Ave. E. between London Road and I-35 from Mixed Use Neighborhood (MU-N) and Mixed Use-Business Park (MU-B) to Mixed Use – Commercial (MU-C). Also the area from South 23rd Ave. E. to South 25th Ave. E. between London Road and the rear property line of the parcels facing London Road from Traditional Neighborhood (R-1) to Mixed Use Neighborhood (MU-N). Staff recommends approval for the reasons listed in the staff report.

Applicant: N/A

Public: Michael Tegethoff - 2421 London Rd – addresses the commission. He is in favor of the rezoning. He had a difficult time with his rezoning and welcomes the change.

Commissioners: Luke Sydow verifies prior to businesses going in, will landscaping buffers be required Per Director Keith Hamre landscaping buffering between commercial and residential will be enforced as the properties are redeveloped.

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

VOTE: (5-0)

- B. PL 15-172 UDC Map Amendment to Rezone The Remaining Property on Park Point Zoned I-W (Industrial-Waterfront) To MU-W (Mixed Use-Waterfront), by the city of Duluth

Staff: John Kelley introduces the city's proposal to rezone the U.S. Corps of Engineer and U.S. Coast Guard property along Minnesota Avenue and St. Louis Avenue, and the U.S. Army Reserve facility property at the end of 15th Street South and St. Louis Avenue

from the current zoning district of Industrial-Waterfront (I-W) to Mixed Use-Waterfront (MU-W). Staff recommends approval for the reasons listed in the staff report.

Applicant: N/A

Public: N/A

Commissioners: N/A

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

VOTE: (5-0)

Commissioners Beeman and Moffat arrive.

- C. PL 15-176 Minor Subdivision (Split 1 Parcel into 2 Parcels) at 1600 Vermilion Road by Agata Bednarz

Staff: Steven Robertson introduces the applicant's proposal to split one existing platted lot into two parcels. Staff recommends approval subject to the conditions listed in the staff report.

Applicant: N/A

Public: N/A

Commissioners: Janet Kennedy asks for clarification. Per Robertson, the owner currently lives on parcel A. In the future they would like to build a new home on parcel B.

MOTION/Second: Sydow/Beeman approved as per staff's recommendations.

VOTE: (7-0)

- D. PL 15-177 Minor Subdivision (Combine 16 Parcels into 14 Parcels) For Jay Street Development at 40th Avenue East, by One Roof Housing and the City of Duluth

Staff: Steven Robertson introduces the applicants' proposal to combine 16 previously platted lots into 10 parcels (9 parcels for development and 1 parcel for green space). This project is related to a second application, PL 15-178 Vacation of Platted Right of Way. Staff recommends approval based on the conditions listed in the staff report.

Applicant: Julie Hillman of One Roof Housing present, but did not speak.

Public: Betty Greene – 4015 Dodge St. – addresses commission. She has questions and concerns. Stormwater run-off has been a problem on Dodge and 40th and she doesn't want the new driveways entering onto their street. She wished the development would have been more creative. She also asks if there will be an alley. Warren Skinner - 4709 Jay Street – addresses the commission. He agrees with the previous speaker and states she had valid points about run-off. Also this road is a major access way to enter the high school, which creates a tremendous traffic situation. Judy Seliga-Punyko - 40th and Dodge addresses the commission. She has traffic concerns. This is a major thoroughfare. Bill Punyko – 1125 N. 40th Ave. E. – addresses the commission. He is ambivalent about the issue. He feels traffic and water flow are issues. There can be 2-3 feet of ice that needs to be plowed. Are they still moving Jay Street? He would like to see a layout of the proposed development. He will miss the darkness and the deer. Sharon Dawson– 4010 Gladstone St – addresses the commission. Traffic is a huge issue. She wonders who will want to build on a toxic site. She doesn't understand adding affordable housing at this spot.

Commissioners: Tim Meyer asks about the environmental aspects and what was buried there. Director Hamre, this is a DEDA clean-up redevelopment site. The site

previously was a gas distributor and the land was found to have ten times the allowed amount of lead paint. There was no other chemical or environmental clean-up needed. They are hauling the soil away now. The cost of redoing Jay Street is approximately \$800,000. The green space lots 9-13 will go through a stormwater drainage plan. They will have three homes which will be sold at reduced rate. The rest will be sold at market price. Marc Beeman asks why they don't just sell lots to individuals. Director Hamre states they are turning the site over to a developer. Site costs for stormwater still need to be assessed. Workforce housing is a challenge to build something new and keep it affordable. Per Director Hamre they do have the final floor plans now and will be sharing it with the neighbors. Robertson states the new homes will have garages. Chair Zandra Zwiebel asks about traffic and it is being used as a cut through to the school. Director Hamre states the police are looking at the parking situation as well as traffic circulation. Chair Zwiebel asks about the alley and will there be access. Per Robertson, it's the next agenda item. Chair Zwiebel asks about the trees. Julie Hillman of One Roof addresses the commission. Bay West is doing environmental work. Their priority was to save as many trees as possible. There was contaminated soil around the trees and couldn't all be saved. The budget will include landscaping funding to replace trees they had to take down. Meyer hard time supporting the development knowing other improvements are needed in the neighborhood. Garner Moffat is excited about the project and more affordable housing is needed. The price tag still too high, but they are trying. He notes on previous plans there was a proposed cul-de-sac. He is glad it is no longer in the proposal. Terry Guggenbuehl is in support. Kennedy thanks public for their input. She feels it will be good for the neighborhood.

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

VOTE: (6-1, Beeman Opposed)

- E. PL 15-178 Vacation of Platted Right of Way for Unimproved Alley Between 40 and 41st Avenue East and Jay and Dodge Street, by One Roof Housing and the City of Duluth

Staff: Steven Robertson introduces the applicants' proposal to vacate approximately 400 feet of the platted right of way for the unimproved alley between 40th and 41st Avenue East and Jay and Dodge Street. Staff recommends approval without conditions.

Applicant: Julie Hillman is present and available for questions.

Public: Betty Green - 4015 Dodge Street – addresses the commission. She would appreciate an alley. She thinks there are other contaminants involved. Bill Punyko – 1125 N. 40th Ave. E. – addresses the commission. He isn't against the proposal, but wants to make sure it's done right. Sharon Dawson -4010 Gladstone St. – addresses the commission. The environmental statement regarding the testing of the area the way she interpreted it was it wasn't just lead and paint, but also included asbestos.

Commissioners: Kennedy thanks the public for their comments. Sydow asks why are they vacating all of the easement. Per Robertson, they require an entire block. Will the open space be designated as park land? Robertson states no. It will be privately owned by the development.

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

VOTE: (6-1, Beeman Opposed)

Sydow left chambers for the next agenda item. He is abstaining.

- F. PL 15-165 Variance from MU-W Development Standard (New Structures Can Not Be Wider Than 200 Feet) at 1003 Minnesota Avenue, by Park Point Marina Inn and Suites

Staff: Steven Robertson introduces the applicant's proposal for a variance from the requirement that a structure in the MU-W, in certain situations, be no longer than 200 feet. The applicant would like to expand the existing structure by an additional approximately 100 feet. Staff recommends denial for the reasons listed in the staff report including no practical difficulty or special circumstances on the property have been demonstrated.

Applicant: Bill Burns (attorney), representing owners including Terry Anderson addresses the commission. Language of the ordinance deals only from the view from the street. They show slides to put the view in context. There is no view of the water. He wants to address what the variance standards are and how they are met. The environmental concern prohibits them from adding on elsewhere. They have a substantial property right and there is soil contamination on the north side of the property. He feels this pollution is a practical difficulty. They have a substantial property right and the property is developable under the code. Due to the maintenance building and the soil contamination exercising the practical enjoyment of the property requires this expansion be allowed. They welcome questions. Based on the new environmental report, Chair Zwiebel notes they should strike item 2 from the staff report as reasons to deny. Burns states the determination of whether the requirements for a variance have been met, are subjective. The right to the property trumps an inapplicable standard. There is no view blockage. Chair Zwiebel refers to the consultants' environmental map. There is a black dotted line. Per Anderson it shows it was excavated lower under the rooms to allow for crawl spaces. It's included to show test levels at different elevations. Guggenbuehl asks about the site contamination. Did it exist when the current hotel was built, and were there additional costs? Anderson states yes. Guggenbuehl said it didn't prohibit them from building the hotel. Anderson states when they began construction, the contamination was not known. By sheer luck the contamination on the site is much greater to the north and not to the south where the hotel is located. Chair Zwiebel notes the mpca environmental report and no substances were classified as volatile. Benzene is volatile, but is not the same form as the benzene (pireen) which is listed in the report. Chair Zwiebel asks the applicant when he purchased the property. Anderson states around 1995. Chair Zwiebel asks if they did a phase 1, and phase 2 investigation at that time. Applicant states no. Robertson notes the mpca report. Staff doesn't fully understand to what degree the soil creates a practical difficulty. Per Chair Zwiebel if they were to excavate it would need to be cleaned up, but cost isn't considered a practical difficulty.

Public: Andrew Slade - 1026 South Lake Avenue - addresses the commission. He walks his dog past this spot once or twice a week. He appreciates seeing the view of sailboats and grain elevators. He feels the breeze off the shore. He disagrees that there is nothing to protect. He encourages the commission to deny. Jeff Stuermer - 931 South Lake Avenue - addresses the commission. He doesn't feel they have met the criteria for a variance and feels this is a slippery slope. He thinks other hotels would also like to make their hotels bigger. He encourages denial. He notes off-street parking. The parking area is lost. Debra Medlin - 1106 Minnesota Avenue - addresses the commission. She lives across the street. The code is written to protect the neighborhood. She doesn't think they need 100 additional rooms. It will adversely affect their neighborhood. Gary Glass - 1140 Minnesota Avenue - addresses the commission. He wants to enjoy the

environment. He thinks the aerial photo is outdated. Vicky McNabney - 1123 Minnesota Avenue addresses the commission. She thinks there is a view and walks her dogs there every day. She has lived there since 2003, but notices an increase in noise pollution, and excess traffic. She is concerned about the elimination of natural habitat. She no longer sees monarch butterflies. She states 7th and 12th streets can accrue large pools of water and has drainage difficulties. The infrastructure needs to be improved first, and notes they need to be good stewards of the land. She wants her grandchildren to enjoy it, too. She feels the focus should be on the residents who are vested in the neighborhood. Nancy Olson - 1140 Minnesota Avenue – addresses the commission. She has lived there for 36 years. The view and the vista are what they enjoy. Burns states there will be no request for a variance for parking.

Commissioners: Meyer thanks Anderson and Burns for their presentation. He personally thinks it's a good addition to the waterfront. Contaminated soils are not a practical difficulty. The 200 foot requirement is a concern. He asks staff if this is a black and white requirement, or is it a judgement for planning staff, or a legal issue. Robertson states the 200 foot rule in the MU-W district has been in place since 2010. No interpretation regarding to public view. Director Hamre states it's not just a view of the water, but the waterfront. The variance request is up to the planning commission. A fifty foot gap would be needed between the buildings if a variance is not approved. Guggenbuehl states the planning commission gets a number of variance requests. For the six years he's been on the commission, he feels if they approve this variance, they are really setting themselves up as precedent setting. He thinks there is ample room on this parcel for other areas for expansion. Chair Zwiebel concurs. The view is much more than just seeing the water. Moffat wants to see development on the property, but doesn't think this is the way to do it. Nate LaCoursiere clarifies the motion. Robertson states the other two items in the staff report as reasons for denial. Moffat is comfortable with his motion. Kennedy agrees with items 1 and 3 in the staff report as reasons for denial.

MOTION/Second: Moffat/Guggenbuehl denied as per staff's recommendations due to a lack of a practical difficulty.

VOTE: (5-1, Meyer Opposed - Sydow abstained)

III. Other Business

- PL 15-175 Planning Commission Comments on Historic Nomination of St. Peter's Church at 810 West Third Street

Staff: Steven Robertson introduces the applicant's request for local landmark historic designation. The building meets four out of seven criteria for designation whereas only one must be met to be eligible. The initial application was received on 11/6/15. The public hearing was held on 11/24/15 at the Heritage Preservation Commission (HPC) meeting. After the planning commission makes their comments the HPC will address at their next meeting on 12/22/15 and formally recommend designation to the city council, who will then make the final decision. Guggenbuehl rep from HPC is strongly in favor of the designation. Meyer also served on the HPC and thinks it's great for Duluth.

Applicant: N/A

Public: N/A

Commissioners: N/A

MOTION/Second: Moffat/Kennedy vote to support the designation of the Church as a Local Landmark.

VOTE: (7-0)

IV. Communications

A. Manager's Report – Hamre discusses his report. He highlighted the small area plan rezonings. They are close to completion as well as the park rezonings. He mentions the St. Louis River Corridor, and the vacation rental moratorium. They hired a new manager for planning and community development. His name is Adam Fulton and he will be joining staff on 12/16/15. For right now he will be the manager of community development and then step into the role of land use supervisor. Future Brown Bag Meeting will be upcoming in January. There was discussion about mailing commissioner's packets. Would commissioners accept an electronic packet? Chair Zwiebel likes turning pages at meeting. Guggenbuehl finds electronic version frustrating. Sydow also likes it printed.

B. Consideration of Minutes - November 10, 2015

MOTION/Second: Sydow/Meyer approve the minutes.

VOTE: (7-0)

C. Reports of Officers and Committees

-Heritage Preservation Commission Representative – Guggenbuehl gives an overview and states they are focusing on the St. Peters church historic designation nomination. Moffat notes they still want a property survey in Lincoln Park and are looking at other funding sources. Director Hamre notes the CLG applications are due in March. Guggenbuehl states they have a meeting at the end of December. Director Hamre states the sooner the discussion is presented, the more complete the application can be.

D. Meeting adjourned at 6:56 p.m.

Respectfully,



Keith Hamre
Director of Planning and Construction Services