

City of Duluth
Planning Commission
May 9, 2017 Meeting Minutes
Council Chambers - Duluth City Hall

I. Call to Order

President Terry Guggenbuehl called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, May 9, 2017, in city hall council chambers.

Roll Call

Attending: Terry Guggenbuehl, Janet Kennedy, Tim Meyer, Garner Moffat, Margie Nelson, Michael Schraepfer, Luke Sydow, and Zandra Zwiebel (left during agenda item III. C)

Absent: Heather Wright Wendel

Staff Present: Keith Hamre, Nate LaCoursiere, John Kelley, Kyle Deming, Chris Lee, Kate Van Daele, and Cindy Stafford

II. Approval of Planning Commission Minutes - April 11, 2017

MOTION/Second: Zwiebel/Meyer approve the minutes.

VOTE: (8-0)

III. Unfinished Business

- A. PL 17-036 Rear Yard Setback Variance Request for Addition to Single Family Home at 3421 East 1st Street by James Mohn and Heather Munster

Staff: John Kelley introduces the applicants' proposal. At the April planning commission meeting, the commissioners tabled the item and requested the applicant consider alternative designs for the screen porch and deck that could meet the required rear yard setback. The screen porch has been reduced by two feet in length and would be encroaching into the rear yard setback by four feet rather than the originally proposed six feet. The deck as proposed is no longer encroaching into the rear yard setback. A third option was also provided showing the screen porch and deck in compliance with the rear yard setback. Staff finds the standard for the variance has not been met and therefore recommends denial because there aren't determined practical difficulties or hardships caused by adhering to the normal setbacks for the property. Zandra Zwiebel asks the age of the home. The applicant responded 1925.

Applicant: Cheryl Fosdick of CF Design Ltd. addresses the commission on behalf of the applicants. Their original plan included 54 square feet into the setback, this was reduced to 37 feet and then further reduced to a 6" overhang. She shares diagrams with the planning commission of their new plan. There are elevation concerns and she requests the planning commission approve her 37 feet variance, which would be architecturally correct. The porch would be invisible from anyone except the homeowners in the back of the building. The addition belongs on the west side of the building. Zwiebel asks if there are any residents concerned. Fosdick states not to her knowledge.

Public: N/A - Public hearing held last month.

Commissioners: Margie Nelson, as a new commissioner, asks if this is something the commission normally approves. Chair Guggenbuehl states they try to evaluate each item as an individual, unique situation. Garner Moffat states he will be voting against. He doesn't feel the site is unique nor the age of the home is a factor, and thinks the deck

can be built within the guidelines. Zwiebel confirms if denied by city council they would have to wait one year. Director Keith Hamre notes staff can approve up to one foot administratively. Tim Meyer thinks the steep grade change should be considered.

MOTION/Second: Zwiebel/Meyer approved with the 37 feet variance due to the unique conditions of the site including the age of the property, the placement of the home on the property and the elevation change behind the home.

VOTE: (4-4, Nelson, Guggenbuehl, Sydow and Moffat Opposed) – Motion Failed

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

VOTE: (5-3, Meyer, Kennedy, and Zwiebel Opposed)

- B. PL 17-047 UDC Map Amendment to Rezone Properties from Residential-Traditional (R-1) to Mixed Use Neighborhood (MU-N) for Properties Generally Described as Between North Boundary Avenue to the West, Park Place to the North (Except the Northernmost 150 Feet), and Terminal Avenue to the East, by Lotus Realty LLC

Staff: Chris Lee introduces the applicant's proposal which was tabled at the April 11, planning commission. Staff recommends approval based on the findings listed in the staff report. Zwiebel asks about the tabled item and confirms they continued the public hearing.

Applicant: Brad Johnson of Lotus Realty addresses the commission. They met with 50-100 residents. It's a long process. He gives an overview. They are not presenting a site plan at this time, and reiterates they are just seeking the rezoning. Moffat asks about the home at 9228 Park Place. Johnson feels they can adequately buffer the site. Moffat is concerned because he feels the whole chunk should be rezoned at once. Director Hamre shares a map from DEDA/Heather Rand. They can only rezone what they control. Guggenbuehl notes if the public is here to speak against a gas station it will be before the planning commission again. This item is strictly for the rezoning.

Public: Wade LaBlanc - 130 S. Boundary Ave. – addresses the commission. He has concerns and questions who the land owner is. The land sale is void because the money wasn't received by 3/31/17. Duluth has an obligation to Proctor. DEDA has to help citizens of Duluth. They have been paying property taxes for 20 years. If the applicant is not the landowner, he can't request the rezoning. He is opposed. Chair Guggenbuehl asks if the property was posted. Lee confirms the sign was posted 2 weeks prior to the first public hearing and remained up. Janet Kennedy questions who the landowner is. Director Hamre states DEDA received the payment in accordance with the development agreement. They need to own or have a purchase agreement. They have a right to request the rezoning. Raymond Payne - 9231 Park Place – addresses the commission. The whole area is a water shed. FEMA maps are outdated from 1986. Changes have happened since then. The culvert is not working. The gravel road still has potholes. He is opposed. Ken Sorvari – 9231 Park Place – addresses the commission. He was at the county office today, and the property does not list Lotus Realty as the owner. Zenith Terrace is the only owner on record. He is opposed to the rezoning. Shane Stokke – 3708 Midway Rd. – He states the check for the property was cashed on 4/17/17 from DEDA, but they received in on 3/31/17? He feels this is spot zoning, and it devalues their entire property. He is opposed. Mike Ives – 973 NE 4th St., Grand

Rapids – addresses the commission. He is the managing partner at Zenith Terrace. He notes there are 500 families there and there is no grocery outlet in Proctor. There is great need for a store like Kwik Trip. He feels it's a great fit. Zenith Terrace favors the rezoning. Corey Stebner - 5 Redwood Dr. – addresses the commission. He is the property manager for Zenith Terrace. He explains they supply affordable manufactured housing for 1,200 people including younger families and elders. He notes the grocery desert. He is in favor of the rezoning. Dave Goldberg – Pike Lake – addresses the commission. He is the owner of Zenith Terrace. He sees Kwik Trip as mainly a grocery store. He sympathizes with the competition, but states it's part of business. Shanette Juszczak - 9228 Park Place – addresses the commission and asks them to put themselves in her shoes. They have purchased all of the land around them. She doesn't want a gas station in her back yard. Her country like setting will forever change. Moffat refers to the letter from the DEDA Executive Director, did DEDA ever offer to buy their property? Juszczak states no.

Commissioners: Moffat asks staff about permitted uses for MU-N zoning. He confirms a Special Use Permit will be required. Meyer asks the applicant if he could summarize the public meeting which took place at Blackwoods. Johnson stated about 80 people attended, and was an open house. He spoke with Juszczak about buffering. This will be brought to task with a site plan. Zwiebel reiterates they are looking at the rezoning. MU-N is the right fit. What goes in there is not a decision to make at this time. Chair Guggenbuehl asks staff about the Boundary Ave land use study. Lee shares some comments from the attendees who were supportive. Moffat looking at the permitted uses. MU-N is a good transition fit for this site. Also designated in the comprehensive plan process. Special Uses will need to be addressed at a future meeting. The permitted uses complement the neighborhood. He is frustrated with the way DEDA processed this and wished it would have included the adjacent property owners, but it's a step in the right direction. Nelson agrees with Moffat.

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

VOTE: (8-0)

(Zwiebel left during the next agenda item 6:30 p.m.)

- C. PL 17-046 Vacation of Right of Way Near Boundary Avenue, by Lotus Realty LLC
Staff: Chris Lee introduces the applicant's proposal to vacate undeveloped streets and alleys. (This item was also tabled from the April 11, 2017 meeting). Staff recommends approval based on the findings listed in the staff report. Kennedy asks about the letter from the Department of Army dated 3/9/17. Lee letter was received as a comment, noting wetlands will need to be addressed. Director Hamre explained the applicant discussed their potential development plans. The letter is preemptive since the Special Use Permit will require wetland plans. Kennedy asks if the letter should be included in this item. Director Hamre states it is labeled as such, but is reiterates it's preemptive at this point. Kennedy thinks it may have made a difference on the prior item. Director Hamre notes wetlands will need to be addressed in the future. Moffat agrees that it is not relevant at this point.

Applicant: Brad Johnson of Lotus Realty addresses the commission. He notes Kennedy's comment and states the wetland proposal will come later as part of the plat. Zwiebel if they vacate these roads. Open to development of something else. Moffat only discussing if the city has future need for these streets.

Public: LaBlanc – 130 S. Boundary Ave. – addresses the commission. He doesn't agree with the land sale and thinks DEDA depositing the check 18 days later seems suspect. They need more residential housing, and not a grocery store. Free market enterprise except when they need special circumstances from the city to make it happen. He is opposed. Sorvari – 9231 Park Pl. – addresses the commission and shares the meeting at Blackwoods help by the applicant was not conducive to speakers. He is disappointed in the entire process. Ives – 973 NE 4th St., Grand Rapids - addresses the commission and states the streets need to be vacated just on paper. No matter what is done there those streets need to be vacated. He is in favor. Goldberg – Pike Lake – addresses the commission. He is in favor of vacating the streets. Paula Witzman - 21st Ave. W. – addresses the commission. She was at today's meeting for another item, but wanted to comment on this item. She has friends who live in Zenith Terrace who didn't know about this meeting, but feels they are in favor.

Commissioners: Luke Sydow asks staff if they are looking to vacate along the Southerly line of Park Place down to block 4/lot 4. He thinks this might be limiting the city's needs for the future. Director Hamre states they don't do partial vacations. They have discussed with engineering and determined the city will never need these undeveloped streets and alleys. Moffat is comfortable with the vacation. He doesn't think the city would ever need this land and the city is faced with maintaining the infrastructure they already have. Sydow states they don't know what is going to be proposed, and doesn't want to tie their hands. Tim Meyer asks staff if they need to act on this vacation tonight. Director Hamre states they can table it, but they will need this step before they approve a plat. Meyer suggests tabling the item to see the plat. Moffat does not wish to withdraw his motion. The design will not affect his decision on the vacation. It's a win for the city to vacate it. The applicant will be paying for what they need to put in. Chair Guggenbuehl agrees. This was platted 100 years ago and feels comfortable with the vacation. Kennedy states she is not in support and likes the idea of tabling it.

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

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

IV. Public Hearings

- A. PL 17-061 Preliminary Plat (Harbor Light) on the south side of Arrowhead Rd. ¼ mile west of Arlington Ave. by Pentecostal Assembly of God/Duluth Gospel Tabernacle

Staff: Kyle Deming introduces the applicant's proposal to re-plat 39.2 acres of vacant forested land in the Kensington Place Addition into four lots ranging from 3.3 acres to 20 acres in a new plat called "Harbor Light" for "development of a new church and mixed-use of the property." Staff recommends approval with the conditions listed in the staff report.

Applicant: Paul Vogel of LHB, Inc. on behalf of the applicant addresses the commission, and welcomes questions. He doesn't feel all of staff's conditions are warranted and feels connectivity should be made when appropriate.

Public: Rick Johnston - 7045 Saginaw Rd. – addresses the commission. His wife's family owns the property east of the site. He is concerned with the impervious surface. The plan looks reasonable at this stage, but he doesn't want his wife's family's property to be inundated with runoff from Harbor Light. He is concerned about construction equipment going up Marble Street and further damaging the road, and is concerned

about the process itself relying on zoning notice signs and mailing to owners within 350 feet of the subject property is not enough. He would appreciate emailing people who attended the northwest corner study meetings.

Rolf Fure, Hermantown, pastor of the church, addresses the commission. They want to be good neighbors, and are willing to work with the City. Paths are a good idea allowing more people to see the church.

Eric Gulland - 154 W. Marble St. - addresses the commission. He is concerned with more traffic on Marble Street. Wants to see trails on Lot 1.

Commissioners: Chair Guggenbuehl questions the trails. Wouldn't sidewalks be preferred? Deming states because the distance is great and streets may not be extended right away, a multi-use paved trail would be more useful.

Moffat asks staff if they are voting on everything at this point including the items on page 24 of the staff report. He has questions about the roadway and how it will effect surrounding road traffic. Deming they are voting on the entire preliminary plat. It will still come back as a final plat. Director Hamre states a traffic impact study will be conducted regarding Arrowhead Road and Marble Street.

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

VOTE: (7-0)

- B. PL 17-068 UDC Map Amendment to Rezone Ramsey Street Between North 53rd Avenue West and North 54th Avenue West in the Ramsey Village TND to allow for Building Type VII Buildings (8 Unit Residential) by Talle and Associates Inc.

Staff: Kate Van Daele introduces the applicant's proposal to amend an approved regulating plan to change building types for several parcels. Any amendment to the Regulating Plan that involves changes to land use, density, or height is required to follow the rezoning process and receive approval from city council. Staff recommends approval based on the findings listed in the staff report. Moffat states the staff reports lists findings. Are there conditions? Van Daele states no.

Applicant: Ken Talle of Talle & Associates addresses the commission. This is the fifth stage. They feel the new design will make the neighborhood more interesting from a design concept.

Public: No speakers.

Commissioners: Chair Guggenbuel feels this is standard. Sydow likes to see higher density on corners and makes a motion.

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

VOTE: (7-0)

- C. PL 17-059 Vacation of Public Right of Way of Atlantic Avenue, North of Wellington Street, by John Caruth

Staff: John Kelley introduces the applicant's proposal to vacate an unimproved portion of Atlantic Avenue in the Lincoln Park neighborhood and maintain a pedestrian and utility easement over the entire length of the portion to be vacated. Staff recommends approval with the condition listed in the staff report.

Applicant: Roger Gustafson on behalf John Caruth Sr. addresses the commission. They already have an easement written up for the neighbors. Kennedy asks about the

letter they received. Kelley states it's the neighbor across the street who won't be effected.

Public: Tim Larson - 3113 Wellington St. - addresses the commission. He parks behind his home. As long as there is an easement, he does not oppose. Jody Slick - 1215 22nd Ave. E., Superior, WI - addresses the commission. They are the property owners of the non tax-forfeited property to the north. She shares Atlantic Avenue would not be allowed to go through just for that block. It's not buildable and therefore will not affect future development. They are in support of the vacation.

Commissioners: Kennedy is concerned that the residents at 725 Atlantic Avenue might be confused as to what is happening. Director Hamre states Atlantic Avenue will still be a road. It will not be vacated. Kennedy asks if the resident is aware of this. Director Hamre states staff will send them an email tomorrow. Moffat has walked the site and notes the challenging elevation. This vacation makes sense. Sydow asks if there should be an added condition for a neighbor easement. Moffat is unsure, and thinks it could be up to the applicant to allow neighbors to drive through his yard. Sydow questions if a drainage easement might be needed. Moffat due to elevation, and the water's path, he doesn't think so.

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

VOTE: (6-1, Kennedy Opposed)

- D. PL 17-022 Minor Subdivision at 82nd and 83rd Avenue West and Coleman Street

Staff: John Kelley introduces the applicant's proposal to approve a proposed Registered Land Survey (minor subdivision). According to the applicant, the RLS is intended to properly split an existing lot into three and is required by the County Examiner of Titles for the recent sale transaction of the property. Staff recommends approval with the conditions listed in the staff report.

Applicant: N/A

Public: No speakers.

Commissioners: N/A

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

VOTE: (7-0)

- E. PL 17-064 Interim Use Permit for Private Club in an R-2 district at 2623 West 2nd Street by Joseph Durbin and Duluth Makers' Space

Staff: Chris Lee introduces the applicant's proposal to operate a private club, Duluth MakerSpace, in a structure located in a residential zone district. Considered an interim use permit versus special use permit based on the parking situation and wants to see how it impacts the neighborhood. Staff recommends approval with the conditions listed in the staff report.

Applicant: Joseph Durbin addresses the commission. Chair Guggenbuehl asks about the noise level. Durbin states he doesn't anticipate any. They will have a Sunday evening meeting which will be done by 8:00 p.m.

Public: Erick Perala - 2615 W. 2nd St. - lives in the house next door. He feels this is a great use, and is in support. This building was previously just used for graffiti.

Commissioners: Moffat has toured their other facilities, and feels they have been great neighbors. Sydow looking at parking quantities for the square footage. He is a fan

of adaptive re-use, but wants to make sure there is adequate parking. Lee yes, this is why they kept it at an interim use permit versus special use for its temporary nature. Moffat doesn't think parking will be a concern, since it will see sporadic use.

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

VOTE: (7-0)

- F. PL 17-060 Concurrent Use Permit for a Detached Garage in the Public Right of Way of North 58th Avenue East by Kathleen Brunelle

Staff: Kate Van Daele introduces the applicant's proposal for a concurrent use permit for encroachment of their detached garage into the 58th Ave. East right-of-way. This application was a condition of the owners previously approved variance to build an addition onto their legally non-conforming home. Staff recommends approval with the conditions listed in the staff report.

Applicant: Not present.

Public: No Speakers.

Commissioners: N/A

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

VOTE: (7-0)

- G. PL 17-062 Special Use Permit for Preschool at Kenwood Lutheran Church at 2720 Myers Avenue by Spirit of the Lake Community School

Staff: Kate Van Daele introduces the applicant's proposal to lease space in the lower level of their church to Spirit of the Lake Community School to use as a preschool. Preschools in an R-1 District require a special use permit. Staff recommends approval with the conditions listed in the staff report.

Applicant: Joy Michalicek, church board president, addresses the commission. The church sent out their own neighbor letters informing them about the church's proposal. The neighbors are aware.

Public: No speakers.

Commissioners: Moffat asks about ADA compliance in regards to the restroom facilities. Van Daele states it's already accessible. Nelson states it's a registered voting facility, so it would be compliant.

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

VOTE: (7-0)

- H. PL 17-066 Variance to rear yard setback at 3026 Minnesota Avenue by the City of Duluth

Staff: Kate Van Daele introduces the city's proposal to reduce the rear yard setback by six inches from the required 25 feet which would allow for a restroom addition to the existing recreation center. Staff recommends approval subject to the conditions listed in the staff report.

Applicant: Rob Heard of the city addresses the commission and asks if there are any questions. Moffat clarifies its just 6 inches. Heard concurs.

Public: No speakers.

Commissioners: Chair Guggenbuehl states if this is only 6", couldn't this have been handled administratively? Yes, but the city wanted to go through the whole proper

process. Moffat thinks it's close to the lot line, but there is a street easement. The city owns the land on the other side of the easement. If the street was vacated, it would be a large setback. Director Hamre refers to the map on page 10 of the staff report and reaffirms its only 6 inches.

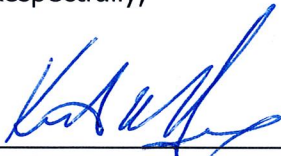
MOTION/Second: Moffat/Meyer approved as per staff's recommendations.

VOTE: (7-0)

V. Communications

- A. Manager's Report –Director Hamre states the city received a citizen petition for the Kayak Bay Development. The housing units exceed 375 units, so an Environmental Assessment Worksheet (EAW) is required. The commissioners can expect this later in the year. The Vision committee will be meeting on 5/17/17. The front yard parking change will go to council on 5/22/17.
- B. Reports of Officers and Committees
Heritage Preservation Commission Representative – Terry Guggenbuehl gives an update. There is a proposal to apply a smaller perimeter around the zoo, and a redo of Fairmont Park is in the plan. He shares the new design with the commissioners.
- C. Meeting adjourned at 8:14 p.m.

Respectfully,



Keith Hamre - Director
Planning and Construction Services