



City of Duluth
Planning Division

411 West First Street • Room 208 • Duluth, Minnesota 55802-1197
218-730-5580 • Fax: 218-730-5904 • www.duluthmn.gov

An Equal Opportunity Employer

City of Duluth
Planning Commission
Minutes of June 14, 2011
City Council Chambers, City Hall

- I. President Digby has called a meeting of the City Planning Commission for 5 p.m., Tuesday, June 14, 2011, in the City Council Chambers.

Note: A Special Planning Commission meeting will be held at 5:00 pm, Tuesday, June 21, in the City Council Chambers to discuss the UDC Six Month Update. All Commissioners are invited to attend.

- II. Roll Call

Members Present: Henry Banks, Drew Digby, Rebecca Covington, Terry Guggenbuehl, Frank Holappa, Heather Rand, David Sarvela, Luke Sydow and John Vigen

Staff Present: Kyle Deming, John Judd, John Kelley, Alison Lutterman, Jenn Reed Moses, Cindy Petkac, Steven Robertson, Nancy Spooner-Mueller and Edna Ulrich

- III. Public Hearings

- A. **FN 11-064** - Comprehensive Plan Map Amendment at the Rockridge Elementary School from Institutional to Traditional Neighborhood by the City of Duluth. **JK**

Staff: Kelley stated that this is to amend the Comprehensive Land Use plan to change from Institutional to a Traditional neighborhood. A community meeting was held to gather feedback from the community and based on staffs findings, staff is recommending approval to change to Traditional neighborhood. Motion for discussion by Rand/Holappa. Vigen asked if this would be zoned R1, would it prohibit this land from being subdivided in the future. Petkac stated it would not. Kelley added that there are a number of uses for this area. Digby asked if the school building would be able to be turned into apartments and Kelley stated that there are many uses in R1 but it would single family not be apartments.

MOTION/Second: Rand/Holappa to **Recommend Approval** for the Comprehensive Plan Map Amendment at the Rockridge Elementary School from Institutional to Traditional Neighborhood by the City of Duluth.

Vote: Unanimous (9-0)

- B. **FN 11-062** – Zoning Map Amendment from MU-N, Mixed Use-Neighborhood to Form Districts F-3, Mid-Rise Community Mix, F-5, Mid-Rise Community Shopping and Office and F-9, Canal Park Lakefront, in Canal Park. **JJ**

Staff: Judd explained that this is our ongoing effort to implement the City's Comprehensive Land Use Plan by using the city new zoning codes developed with the UDC. During the UDC process, form based codes for certain areas of the city were developed. The reason for the form based code zoning of the area is to guarantee's the unique character of the area and it's built environment. Form based zoning provides high level of mixed use for objectively protects its

character. We do send out letters to property owners but in an effort to contact business owners/operators we took these recommendations to the neighborhood at a Canal Park Business Association meeting. We recommend 3 different form based zones for Canal Park. As a result of meeting and talking with the business/property owners we modified our initial recommendations. The largest change is zone F5 just follows the Railroad Street and doesn't go up to the interstate. The very southern tip of the F5 district is recommended to include parcel that Little Angie's and the extended DeWitt-Seitz Building occupy. This will be the recommendation to the commission for the rezoning. We are also recommending a change to the UDC to allow parking structures in the F5 zone.

Applicant: Andy Borg, 525 Lake Ave S. They met with the planning department and had a very good meeting. Basically they are concerned about a parking ramp structure – the UDC requires them to have retail on the first floor. This would make it go higher and additional costs. He was shocked to see different versions of "no parking or you will be towed" signs as he walked through the area. One company said it tows about five to seven cars a week and another stated that they tow 25-30 cars. He would like to stress the importance of this area and include some type of terminology to address the parking problems they have.

Public: Tony Boen, 615 W Skyline Pkwy. They met with the Planning Department at the Business Association meeting which was good for their membership. They are pretty maxed on parking in this area. They would like to see the retail component for parking structures be taken out. Retail space would be required 30' deep and parking spaces are 20' deep. He understands why they have a build-to zone. They are excited to see something implemented here.

Public: Robert Berquist, 525 Lake Ave S. The general comments have to do with the parking. The City's proposal is very comprehensive. But he thinks what falls a bit short with the parking aspect. He stated that it would perpetuate a problem that has slowly been growing. As things grow it attracts more cars that need parking. In Canal Park you don't have to consider parking unless it is a residence, a hotel or a motel. You are saying businesses, restaurants and shops generate parking but not parking under the requirements.

Motion for discussion by Guggenbuehl/Sarvela. Rand asked about there being no exterior insulation system and Judd stated that the fear was that they would use materials which would not be appropriate with the neighborhood. Rand stated that Canal Park is different than downtown. There is also the issue of parking. She would like staff to address what would be the remedy for an applicant should there be a parking ramp in the future if we should we adopt this Form based format. Would there be an appeal process be for a parking ramp in the future? Petkac stated that the retail requirement is the 30' depth. If the commission is looking at changing this, we are currently looking at making changes in the UDC which could be discussed at that time. The requirement for the 30' foot depth is the best practice recommended for retail companies. We are trying to provide a more walkable environment. There are no parking requirements other than for residential motel/hotel uses. We are not requiring parking as this is our entertainment area for the city. Rand would like to make these revisions and to be involved in that process. She would like to see more way finding signs in the area as well.

Vigen stated that you do not come to Duluth and not go to Canal Park. He is it is difficult for the speakers here this evening that were involved in this process 30 years ago. From all three speakers tonight, parking is critical. He is a little reluctant to jump into rezoning. Petkac said that Vigen mentioned pending projects, we do know that there is a property owner who has been working on plans in Canal Park and may be caught between the old and new code. The project may move forward with their plans that were currently drawn as the new code won't go into effect until the construction season is over this year.

Judd stated that using the GIS system to look at Canal Park we went over the Canal park area and identified where the parking areas are. There is about 14 acres for surface parking. There are about 1800 parking slots at the Deck Arena. Sometimes it might be difficult and we understand the concerns of the property owners and businesses with the parking issues. Vigen asked if we have 28% parking, how many spaces are public parking. Judd stated that some of the parking is restricted and several areas have 'do not park' signs in their lots. There is mixture of public and private lots as well as on street parking. The last study parking study was done in 2000. Petkac added that we want to focus on the types of districts in this area. Digby stated that this is one of the most walk-able districts in the city. Holappa stated the fact that with this form based you have to have parking required for retail as well.

MOTION/Second: Guggenbuehl/Sarvela to **Recommend Approval** for the Zoning Map Amendment from MU-N, Mixed Use-Neighborhood to Form Districts F-3, Mid-Rise Community Mix, F-5, Mid-Rise Community Shopping and Office and F-9, Canal Park Lakefront, in Canal Park. **Vote:** (8-1) Holappa

- C. **FN 11-057** – Variance from Natural Resources Overlay Shoreland Stream Setback (Coldwater Stream) in R-1, Residential-Traditional, from 200 to 125 feet at Lot 1, Block 5, of Hawk's Ridge subdivision by Fabian and Ann Krafthefer. **NS**

Staff: Spooner-Muehler stated that this is for a variance to the cold water stream set back. The regulation requires a 200 foot setback from the creek, and the applicants would like it to be reduced to 125 feet. One of the things that was required were that the homes be built in the area with an envelope which was put in place to protect the natural area of Hawk Ridge Estates. They purchased the property with the understanding that the lot was buildable and with the change, we recommend to grant the variance to 125 feet.

Applicant: Fabian and Ann Krafthefer, Hawk Ridge Estates. They bought the lot in 2009. When they bought the lot it was a neighborhood with college students and multiple family dwellings. The DNR made the recommendation of the set back and Hawk Ridge has followed the spirit of the law. There are 38 lots in Hawk Ridge and they would ask the commission to consider that those lots be grandfathered in.

Public: Rick Ball, HRA 222 E 2nd St. The Duluth Housing Authority was involved in Hawk Ridge Estates. They worked long and hard and tried to come up with a plan. They created three different storm water drainage areas. The issue is that the intermittent stream has been designated a coldwater stream in the UDC. They would like to waive this on a blanket basis for all the properties that are affected by this so people can prevent the experience for getting variances which is both costly and time consuming. As you make recommendations to the City Council, they are encouraged to seek the minimum set back.

MOTION:Second: Vigen/Rand to **Approve** the variance from Natural Resources Overlay Shoreland Stream Setback (Coldwater Creek) in R-1, Residential-Traditional, to 125 feet at Lot 1, Block 5, of Hawk's Ridge subdivision by Favian and Ann Krafthefer. **Vote:** Unanimous (9-0)

- D. **FN 11-058** – Variance to reduce the rear yard setback from 25 to 0 in MU-N, Mixed Use-Neighborhood, at 300 Canal Park Drive by 300 Canal Park LLC. **KD**

Staff: Deming stated that this is to reduce the rear yard setback to 0 in MU-N. The applicants are requesting consideration given to the possibilities to the difficulties on this site and the communication they received by the Hampton Inn immediately to the south and some thoughts

on their concerns. Staff Recommends approval for this variance. Staff also finds that this is unique to this narrow lot and granting a variance will not create unreasonable negative externalities to the neighboring properties or the general public.

Applicant: Doug Zaun, Wagner Zaun Architects. This is a narrow site. Currently the owner is in the process of preparing the site. The proposal is to develop a new restaurant/brewery in this area. They are asking for the reduction of the set back which is consistent with the area and to optimize lake views. As part of the development they also propose to develop a strong board walk to connect to the Lake Walk. Banks asked how much parking there would be and the applicant proposed about 11 spots. Digby asked if there would be windows and the applicant stated that the windows would be towards the lake and to the city.

Public: Ron Anderson, 1220 N 43rd Ave E. He is one of the owners of Hampton Inn. There is no side yard setback required. They think that there may be some noise problems and Hampton has a 100% sleep guarantee policy against loud noises. With decreasing the set back to 0 it still does not give any more views of the lake. The property would be 25 feet away. They will be willing to see some kind of compromise in the setback.

Motion for discussion by Guggenbuehl/Sarvela. Holappa asked why there is no side yard setback and is there a setback on other properties. Petkac stated that the side yard setback for form districts is 0 feet. Holappa said that things have been developed with different setbacks and different lots which makes it hard to find the standard. Sarvela asked who owns the land on the lake side of the property. Deming stated that there is some dispute on this portion of the land. The Canal Park Lodge may be up to the property line.

MOTION/Second: Guggenbuehl/Sarvela to **Approve** the Variance to reduce the rear yard setback to 0 in MU-N, Mixed Use-Neighborhood, at 300 Canal Park Drive by 300 Canal Park LLC.
VOTE: Unanimous (9-0)

E. **FN 11-055** – Concurrent Use of Streets Permit for private parking at the corner of 23rd Avenue East and South Street by Odyssey Development. **SR**

Staff: Robertson referenced the UDC as it pertains to the Concurrent Use of Streets. The applicant wishes to build a new building for a contractor shop and yard. The map shows the structure to be demolished and the area to be built on. Applicant wishes to have parking in the street right of way. It would be head on parking for the public. This would be additional parking than what they now have. Staff recommended approval with one condition that the applicant enters in to a contract to maintain the parking and holds the city harmless. The adjoining property owners are okay with this as well. Applicant will also have 12 feet for utility easement. Staff recommends approval.

Applicant: Greg Schendel, Odyssey Development. They feel that even though that there is a need for additional parking spots it benefits our staff and neighbors. They think that getting people in off street parking is safer.

MOTION/Second: Holappa/Sarvela to **Recommend Approval** of the Concurrent Use of Streets Permit for private parking at the corner of 23rd Avenue East and South Street by Odyssey Development **with the following condition:** That the applicant enter into a maintenance contract with the City, per City Engineer standards.
VOTE: Unanimous (9-0)

F. FN 11-060 – Concurrent Use of Streets Permit for a Bus Shelter at the Northeast Corner of Grand and 58th Avenue west by Duluth Transit Authority. **NS**

Staff: Spooner-Muehler stated that this is a request for a concurrent use permit. They are requesting moving the bus stop zone. If this proposal is approved the current location would no longer exist. They have met their criteria for a concurrent use permit. Staff recommends approval for this proposal. Banks asked if this is done, crossing the street now becomes more difficult. He asks the applicant why they want to move it across the street. He also asked if they consulted with Transit users. Spooner-Muehler stated there were some safety and maintenance problems at that particular spot.

Applicant: Dennis Jensen. They are responding from a request of residents in an apartment building. There were complaints about the shelter; people were using this to hang out and as a toilet. He spoke to property owner of 58th Ave W and Grand which is behind the proposed shelter. People have also leave multiple shopping carts in the shelter. The DTA's long range plan would eventually have a terminal here. Digby asked about transit users. They posted a notice and received eight calls. There was no one speaking in favor of the move.

Public: Kerry Donars, 224 W 6th Street. He is a huge proponent of public transportation. He asked Jensen if there are any other problems like this and Jensen stated no. The way that it is here now, there are always shopping carts at each shelter. It is a difficult crossing and there would be a safety concern. He is not opposed to shelters but wants the shopping cart problem addressed.

Digby asked if there were problems before this. Jensen stated that they did not have any problems with this. Vigen stated that there are people who need the bus route which is important to them. Sydow asked if there was any consideration for a far side stop. They did look at that but it was not as an option. There are complaints from residents that people are going into the shelters to relieve themselves.

Banks stated that this is something that should not happen. Crossing the street becomes difficult. How will they address these concerns by just moving the shelter another block away and they contact transit users? Sydow added that they would only be moving the problem elsewhere. He would like to have more thought put into this.

<p>MOTION/Second: Banks/Sydow to Recommend Denial for the Concurrent Use of Streets Permit for a Bus Shelter at the Northeast Corner of Grand and 58th Avenue west by Duluth Transit Authority. Vote: Unanimous (9-0)</p>

G. FN 11-063 - Quick Plat for Terry Hendrickson at 3831 Norton Road. **NSM**

Staff: Spooner-Muehler stated that this is a request for a quick plat. The applicant is proposing to divide a 20 acre parcel into two parcels of 5 and 15 acres. This complies with the code and there is one condition that the project be constructed and maintained with the date of May 6, 2011.

Applicant: Terry Hendrickson. There was an incorrect name on the plat.

MOTION/Second: Rand/Guggenbuehl to **Approve** the Quit Plat for Terry Hendrickson at 3831 Norton Road **with the following conditions:** 1. The proposed Quick Plat is consistent with all provisions of MSA 462.358 and 505 or 508, as applicable; 2. Each resulting lot or parcel meets all of the dimensional requirements for the zone district in which the property is located; 3. Each resulting lot or parcel has access to a public street; With the condition that the project be limited to, constructed, and maintained according to the documents drawn by SALO Engineering, Inc dated May 6, 2011.

VOTE: Unanimous (8-0)

- H. **FN 11-056** – Public Right of Way Vacation, Portions of Canal Park Drive & Lake Place Drive at 210 Lake Place Dr by the City of Duluth. **NSM**

Staff: Spooner-Muehler stated that this is to vacate a public right of way. The city wants to clean up the area and maintain a utility easement on the property. Staff recommends approval.

MOTION/Second: Holappa/Rand to **Recommend Approval** for the Public Right of Way Vacation, Portions of Canal Park Drive & Lake Place Drive at 210 Lake Place Dr by the City of Duluth.

VOTE: Unanimous (8-0)

- I. **FN 11-048** – Public Right of Way Vacation (Alley) at 1417 and 1419 West Arrowhead Road by St. Benedict Church. **SR**

Staff: Robertson stated that this is a sister application to the one that we had a short while ago for Semper Development. The application was held up for a month as the sign notice was not there as required by the UDC. The alley currently dead-ends, and the access to Arrowhead is actually a private drive way owned by the applicant. There is one change in the staff report; the City needs to retain a utility easement for Minnesota Power.

Applicant: Pete Kagel, St Benedict Church. They own the property (Subject). They will lose about 15 parking spots but this it will not.

MOTION/Second: Sarvela/Guggenbuehl to **Recommend Approval** for Public Right of Way Vacation, Alley at 1417 and 1419 West Arrowhead Road by St. Benedict Church.

VOTE: Unanimous (8-0)

- J. **FN 11-030**- Special Use Permit for modification of an existing Telecommunication Facility in MU-C, Mixed Use-Commercial at 130 West Superior Street by Verizon Wireless. **SR**

Staff: Robertson stated that the recommendation is that the project be maintained to the plan submitted, secure all necessary permits, submit proof of removal bond and install required RF safety signage and submit a post RF field test. Holappa asked if the applicant is aware of the conditions.

Applicant: Jay Little John. We could address all three at the same time. One site has the RF field test that was mentioned. Regulated RF is strictly with the FCC. They do not have objection to the bond that they have a \$75,000 fee and would need to have \$25,000 for removal bond. We are not regulating RF but simply asking for proof that it is compliant.

MOTION/Second: Holappa/Guggenbuehl to **Approve** of the Special Use Permit for modification of an existing Telecommunication Facility in MU-C, Mixed Use-Commercial, at 130 West Superior Street by Verizon Wireless **with the following conditions:** 1. That the project be maintained according to the documents titled "Verizon Wireless DULC Canal Park PCS" dated 2/04/11 2. That the applicant secure all necessary permits required by Federal, State, County or City laws and regulations. 3. That the applicant shall submit proof of removal bond prior to receiving a building permit. 4. That the applicant install required RF safety signage, and submit a post construction RF field test. **VOTE:** Unanimous (8-0)

- K. FN 11-037 - Special Use Permit for modification of an existing Telecommunication Facility in RR -1, Residential-Rural 1, at 4402 Rice Lake Road by Verizon Wireless.

The only citizen comments we had were asked by citizens and no adverse comments. The recommendation is that the project be maintained by the plans submitted, that the applicant secure all necessary permits required by Federal, State, County or City laws and regulations. That the applicant shall submit proof of the removal of the bond prior to receiving a building permit.

MOTION/Second: Holappa/Guggenbuehl to **Approve** the Special Use Permit for modification of an existing Telecommunication Facility in RR-1, Residential-Rural 1, at 4402 Rice Lake Road by Verizon Wireless **with the following conditions:** 1. That the project be maintained according to the documents titled "Verizon Wireless" drawn by TMW, dated 7/07/06 2. That the applicant secure all necessary permits required by Federal, State, County or City laws and regulations. 3. That the applicant shall submit proof of removal bond prior to receiving a building permit. **VOTE:** Unanimous (8-0)

- L. FN 11-038 – R1 Special Use Permit for Modification of an Existing Telecommunication Facility in R-1, Residential-Traditional, at 416 W 10th St by Verizon Wireless.

Staff: This is a modification of the Cell Tower facility.

MOTION/Second: Holappa/Guggenbuehl to **Approve** the Special Use Permit for Modification of an Existing Telecommunication Facility in MU-C, Mixed Use-Commercial at 416 W 10th St by Verizon Wireless **with the following conditions:** 1. That the project be maintained according to the documents titled "Verizon Wireless" drawn by CDB, revision 1 5/15/09. 2. That the applicant secures all necessary permits required by Federal, State, County or City laws and regulations 3. That the applicant make corrections as identified by the structural analysis prior to receiving a building permit 4. That the applicant shall submit proof of removal bond prior to receiving a building permit 5. That the applicant provide plans that have been signed by a professional, as required, prior to receiving a building permit. **VOTE:** Unanimous (8-0)

- IV. Consideration of minutes – May 10, 2011. Motion/Second: Guggenbuehl/Holappa to approve the minutes as presented.
- V. Communications

A. Open Meeting Law Education Memorandum

Lutterman referenced the memo she provided commissioners the open meeting law. If anyone has any questions, they may contact her.

Robertson provided commissioners with a packet of information on proposed amendments to the UDC which will be discussed at the special planning commission meeting on June 21.

VI. Old Business

VII. Reports of Officers and Committees

A. Duluth Historic Preservation Commission

Digby reported that the City received a grant from the State Historic Preservation Office for the East End Survey III.

B. Education Subcommittee

Petkac reminded commissioners of the upcoming brown bag on June 17 on the proposed revisions to the UDC.

VIII. New Business

A. FN 11-050 – Appeal to Planning Commission of Land Use Supervisor Decision of 50-14.5 Residential-Traditional R-1 (Side Yard Setbacks) at 3917 Lake Avenue South.

Robertson stated the applicant is appealing staff's calculation of the side yard setback. The applicant stated that he wants to add onto his house. Lutterman stated that the applicant needs to apply for a variance.

Applicant stated that his house met the side yard setback in the old zoning code. Robertson confirmed that the house was conforming under the old code, but the standard in the UDC is the larger of 6 ft or the average of the adjacent developed lots facing the same street.

<p>MOTION/Second: Vigen/Sydow to Deny the Appeal of Land Use Supervisor Decision of 50-14.5 Residential-Traditional R-1 (Side Yard Setbacks) at 3917 Lake Avenue South.</p> <p style="text-align: right;">VOTE: Unanimous (8-0)</p>
--

B. Update on the Higher Education Small Area Plan. **JM**

Moses provided an overview of the Higher Education Small Area Plan, via a powerpoint presentation. She stated that this is the third small area plan being initiated by the Planning office. Moses stated that the purpose of the plan is to balance the needs of this significant industry in Duluth with the needs of surrounding neighborhoods. Moses expects the plan to be completed and presented to the planning commission by the end of the year.

IX. Other Business

X. Adjournment

Respectfully,

A handwritten signature in black ink, appearing to read 'C. Petkac', written over a horizontal line.

Cindy Petkac, AICP
Planning Manager
CP:eu