

City of Duluth
Planning Commission
September 8, 2015 Meeting Minutes
Council Chambers - Duluth City Hall

I. Call to Order

Commissioner Terry Guggenbuehl called to order the meeting of the city planning commission at 5:08 p.m. on Tuesday, September 8, 2015, in city hall council chambers.

Roll Call

Attending: Terry Guggenbuehl, Janet Kennedy, Tim Meyer, Garner Moffat (Arrived during item B) Heather Rand, Mike Schraepfer, Luke Sydow and Zandra Zwiebel (Arrived during item A.)

Absent: Marc Beeman

Staff Present: Keith Hamre, Steven Robertson, Jenn Moses, Nate LaCoursiere and Cindy Stafford

II. Public Hearings

- A. PL 15-129 UDC Map Amendment to Rezone 4258 Haines Road from RR-1 (Rural Residential) to MU-C (Mixed Use-Commercial) by Haines Road LLC and Richard Mertz

Staff: Jenn Moses introduces the applicant's proposal to rezone a portion of the property from Rural Residential 1 (RR-1) to Mixed Use- Commercial (MU-C). Staff recommends approval based on the reasons listed in the staff report.

Applicant: Present and will address any questions.

Public: Randy Budisalovich – 2115 Sundby Rd. – addresses the commission. His land abuts the proposed rezoning. The area went through massive rezoning in the 80's. His property is non-conforming use. He feels he was caught in an unfair situation and was told they don't perform spot zoning. He is opposed and doesn't feel it protects the wetlands and should remain residential.

Commissioners: Heather Rand asks staff for clarification pertaining to wetland delineation. Steven Robertson states the applicant will avoid the wetlands or comply with the delineation.

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

VOTE: (7-0)

- B. PL 15-124 UDC Map Amendment to Rezone 1243 88th Avenue West (Morgan Park School) from R-1 (Residential-Traditional) to MU-N (Mixed Use-Neighborhood) by SDH&M LLC and Aaron Schweiger

Staff: Jenn Moses introduces the applicant's proposal to rezone the site of the former Morgan Park School from Residential-Traditional (R-1) to a) Residential-Urban (R-2) on the western half, and b) Mixed Use-Neighborhood (MU-N) on the eastern half. Staff recommends approval based on the reasons listed in the staff report.

Applicant: Aaron Schweiger addresses the commission. The planned development involves 132 units and some light commercial. The project is ongoing and he will continue to work with city staff as well as with the neighbors. He feels the development will be appropriate for the neighborhood.

Public: Sue Majewski – 43 year resident – addresses the commission. After she received more information from the developer, she is in favor of the rezoning. Bill Majewski – chair of Morgan Park Community Club – addresses the commission. He refers to their community club meeting and the attendance at their last meeting was standing room only. He is in favor. George Ruetschi – 1424 98th Ave. W. – addresses the commission. He is opposed. He doesn't feel the developer has adequately shared his proposal. The community doesn't need more renters, and doesn't feel the project is a good fit. Bruce Snyder – 1316 93rd Ave W. – lived in house since he was 12 years old. He doesn't feel the developer has a decent plan and wants the area to remain single-family dwellings or green space. He is opposed. Lloyd Ethier - 1433 89th Ave. W. – 40 year resident – attended the community club meeting on 9/1/15. They were told Duluth has a need for housing, but doesn't feel this is accurate. He opposes tax increment financing and is opposed to this rezoning. Jay Fosle – city councilor addresses the commission. He received hundreds of emails. Although this decision only addresses the zoning, not the project, he feels the project has been disclosed and can't be ignored. He asks the commissioners to deny the rezoning.

Commissioners: Janet Kennedy was at the neighborhood meeting. She saw a handful of people in opposition and lots of people who just didn't comment. Tim Meyer reiterates they are just considering the rezoning at this point. Mixed Use-Neighborhood would not require a plan review. Can we request a plan review as a condition? Director Keith Hamre states no. He notes a motion to table is an option if commissioners have unanswered questions. Terry Guggenbuehl states he doesn't have questions, since he just sees plans for the rezoning. This is the issue before them. He feels the rezoning is consistent with the comprehensive plan. Garner Moffat agrees with Guggenbuehl and feels the permitted uses complement the location. Any special uses seeking permit would come before them. Rand asks staff to clarify the future land use designation of General Mixed Use. She feels it would encourage walkable neighborhoods and with this proposed zoning is even less intense than the future land use designation. Moses agrees. This proposed zoning doesn't accept manufacturing. Rand states they need to focus on the zoning. She is sensitive to neighbors' concerns, but feels there is time to look at it when there is an actual development proposed. Kennedy supports Rand's comments and notes the voting is just for the rezoning. She would like to see good communication at the neighborhood meetings. Chair Zandra Zwiebel states they are required to follow a comprehensive plan. Moses states in 2011 there were two public meetings which brain-stormed ideas.

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

VOTE: (7-0, Sydow Abstained)

Director Keith Hamre introduces the following UDC text amendments and gives a brief overview of the eight amendments in four separate areas. It was decided that all of the following amendments will be voted on together with the friendly amendments for each and a tabling of item D.

- C. PL 15-133 UDC Text Amendment of Section 50-19.8 Permitted Use Table, 50-20.3 Commercial Use Specific Standards, 50-20.4 Manufacturing, and 50-40 Definitions, to Allow for Craft Manufacturing and Urban Agriculture

Staff: Chickens, rabbits and bees are currently licensed on an individual basis and are handled under animal control, and addressed under a different section of the city code. Large animals are just listed under agriculture general. Guggenbuehl asks about craft manufacturing and if more districts will be added. Per Director Hamre, these are the two districts coming forward so far. The city will test these out first. Moffat suggests adding manufacturing craft brewery and distillery under the mixed use business category.

Applicant: N/A

Public: N/A

Commissioners: N/A

MOTION/Second: Meyer/Guggenbuehl recommend approval as per staff's recommendations with the friendly amendment to add manufacturing craft brewery and distillery under the mixed use business category.

VOTE: (8-0)

- D. PL 15-134 UDC Text Amendment of Section 50-14.5 Residential-Traditional, 50-20.1 Residential Use Specific Standards, and 50-40 Definitions, for Contextual Design Standards for Townhomes and Duplexes in R-1 Zones

Staff: Director Hamre asks if there are questions for staff. Luke Sydow asks if architects and design professionals were consulted. Director Hamre states no, as they were more focused on the density components.

Applicant: N/A

Public: N/A

Commissioners: N/A

MOTION/Second: Guggenbuehl/Moffat tabled for input from developers and architects.

VOTE: (8-0)

- E. PL 15-135 UDC Text Amendment of Section 50-20.3 Commercial Use Specific Standards, for Drive-Throughs for Banks, Restaurants and Retail Stores, and Primary Use Parking Lots in the MU-N District

Staff: Director Hamre asks if there are questions for staff. Chair Zwiebel refers to Section Q- 4 - b. "excluding any residential use or structure on the same property or within the same development." Would Bluestone be exempt from this ruling? Per Director Hamre, it would be looked at separately. Robertson this is more to protect single family homes in the neighborhood. R-P and MU-P already have additional scrutiny, per their individual regulating plans. Moffat comments on parking lots and wants them to be safe and doesn't want view blockage. He asks about item O – 1- b. – and suggests changing the verbiage to take out front, rear and side property lines to say all lot lines which are adjacent to residential structures.

Applicant: N/A

Public: N/A

Commissioners: N/A

MOTION/Second: Meyer/Guggenbuehl recommend approval as per staff's recommendations with the friendly amendment to add a language change in item O – Parking Lot or parking structure (primary use) – omit front, rear and side property lot lines to state lot lines adjacent to residential structures.

VOTE: (8-0)

- F. PL 15-146 UDC Text Amendment of Section 50-37.12 Temporary and Sidewalk Use Permits, and 50-37.13 Zoning Permits, for Sidewalk Cafes

Staff: Director Hamre asks if there are questions for staff. Guggenbuehl concerned about other areas and not just downtown Superior Street. He mentions Lakeside. Guggenbuehl confirms a café owner could apply for a variance.

Applicant: N/A

Public: N/A

Commissioners: N/A

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

VOTE: (8-0)

- G. PL 15-104 Concurrent Use Permit for Canopy at 400 East Third Street by Essentia Health

Staff: Jenn Moses introduces the applicant's proposal to use a 10' x 43' area in the right of way of East Second Street for a canopy over the entrance to the new Essentia parking ramp. Staff recommends approval with the conditions listed in the staff report.

Applicant: Present, but did not speak.

Public: No speakers.

Commissioners: N/A

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

VOTE: (8-0)

- H. PL 15-084 Concurrent Use Permit for Parking Lot Drive Aisle in Street Right of Way for Elizabeth Street by Village Development Center, LLC

Staff: Jenn Moses introduces the applicant's proposal to use the right of way of Elizabeth Street for a private drive aisle and sidewalk servicing the adjacent Bluestone Flats building (under construction). Staff recommends approval with the conditions listed in the staff report.

Applicant: Mark Lambert addresses the commission and notes they have worked closely on this project with city engineering and he feels it will be helpful for the neighborhood.

Public: No speakers.

Commissioners: Sydow has a comment on parking lot screening and shading. He doesn't feel it meets the requirements. Moses states this is a concurrent use permit. Landscaping and connectivity would be covered under the mixed use development plan. Sydow doesn't feel it was represented. Kennedy asks if a sidewalk can be added as a condition. The applicant agrees.

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

VOTE: (7-1, Sydow opposed)

(5 Minute Recess is taken)

- I. PL 15-115 Minor Subdivision at the 3800 Block of Minnesota Avenue by Helen Harrison

Staff: Steven Robertson introduces the applicant's proposal to combine 5 previously platted parcels into 2 parcels. Staff recommends approval with the conditions listed in the staff report.

Applicant: Representative for Helen Harrison will address questions.

Public: No speakers.

Commissioners: N/A

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

VOTE: (8-0)

- J. PL 15-131 Minor Subdivision/RLS at 211 East Superior Street by Sherman Associates
Staff: Steven Robertson introduces the applicant's proposal to combine several previously platted parcels into 2 parcels. Staff suggests having the public meeting and then tabling until a final RLS is provided.

Applicant: N/A

Public: No speakers.

Commissioners: N/A

MOTION/Second: Sydow/Rand Table until a final RLS (registered land survey) is provided as per staff's recommendation.

VOTE: (8-0)

- K. PL 15-125 Special Use Permit to Amend Existing Water Resources Management Ordinance (WRMO) Variance FN 07089 (to Allow Impervious Surface Coverage to Exceed 30%, Allow Structures Within 75 Foot Setback, and Roads and Parking Areas Within 50 feet Setback; and Special Use Permit FN 07155 (To Allow Recreational Vehicle Park and Marina for 45 RV Parking Areas and 108 Boat Slips), at 1002 S Spring Street by Bill Stauduhar

Staff: Steven Robertson introduces the applicant's proposal for an amendment to a previously approved Special Use Permit (FN07155) and Variance (FN07089) for a Marina and Recreational Vehicle park. The amendment is to: 1) change the layout of parking spaces, and 2) increase the amount of allowed impervious surface (regulated under the old pre-UDC Water Resources Management Ordinance). Staff recommends approval with the conditions listed in the staff report. He notes the importance of landscape buffer which is mentioned in condition 2. Director Hamre states the stormwater management plan improves the water quality, and according to Tom Johnson in the city engineering department, the plan as presented meets the current requirements. Sydow asks if the applicant owns the property to Penton. Robertson the applicant only owns what is in yellow. How does the property have access? Is there an easement? Per Robertson, there is an access easement.

Applicant: Charles Stauduhar addresses the commission. He gives an overview. Economy is in an uptick and he is looking forward to commissioner support. They would be decreasing the impervious surface from 85% to 46%, and notes this is a great improvement to the property.

Public: Robert Fierek - 321 Harbor Point Circle – addresses the commission. He has long and deep roots in the community. He owns 13 adjacent acres. He opposes the special use permit. He feels it is a working man's marina and it's not appropriate for a RV park. He asks commissioners to deny it, or at the very least table it. Kennedy asks the speaker what the current use of his property is. He's been waiting since 2008 for something to happen. He wanted to build senior citizen housing, but was advised against it, based on what the marina does. He would like to see a good development, but nothing has happened.

Commissioners: Moffat asks staff if there is an organization that looks at activity in the industrial waterfront. Robertson didn't think this area was included in HTAC (Harbor Technical Assistant Committee). Chair Zwiebel how were the neighbors notified. Robertson states the standard procedure was followed and letters were mailed out to neighbors within 350 feet of the property. Kennedy asks applicant if there would be a size limit to the RV's. The applicant states they are focused on transient campers ranging in size from pop-up campers to 40 feet large RV's. They want to improve the site. Sydow asks about the easement through neighbor's property. An unapproved easement was in place years ago. Kennedy comments she would like to see the property owners work together on complementing projects. Guggenbuehl is concerned with RV's and gas engines with potential gas leakage. He thinks it's an improvement overall and will be in support.

MOTION/Second: Guggenbuehl/Moffat approved as per staff's recommendations focusing on staff condition #2 which states the landscape buffer will be reinstalled.

VOTE: (8-0)

- L. PL 15-123 MU-I Planning Review for a Mixed Use Development at 624 East 1st Street by 624 Block LLC and Joe Kleiman

Staff: Steven Robertson introduces the applicant's proposal to redevelop existing structure at 624 East First Street. The project will have at least two phases. The first phase will be to add an additional story to the structure, and add four apartments. Second phase, at a later date, will be to reuse the rest of the building for medical, office, retail, or any other use that is allowed in the MU-I district, once a future tenant is located into the building. Due to concerns with construction during the cold seasons, the applicant wants to proceed as soon as possible with construction of the second floor and the first phase. Staff recommends approval with the conditions listed in the staff report. Kennedy asks about uses in MU-I. Per Robertson, uses are mostly medical, but not entirely.

Applicant: Joe Kleiman addresses the commission. He wants to add heat as soon as possible to get the project going. He asks if there are any questions. Sydow asks about access to the alley. Is it needed? Kleiman refers to snow removal and doesn't currently have the answer. Guggenbuel notes the re-use of the first floor. Would the applicant agree to come back to the commission for plan review approval? The applicant states yes. Chair Zwiebel asks if phase 2 will require a separate application. Per Robertson, it will be up to the land use supervisor, sometimes there is an amendment to the application, but mostly it is a separate application with an additional fee.

Public: Mark Brandy – JAS Duluth – 103 N. 7th Ave. E. - (Had to leave, but his letter was shared by staff). He is an apartment manager. He supports the applicant and notes existing blight in the neighborhood.

Commissioners: Moffat happy about general principal and adaptive reuse and multi-use. He has concerns about parking and landscaping but is overall in favor.

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

VOTE: (8-0)

- M. PL 15-126 MU-W Planning Review for a New Hotel at 1000 Minnesota Avenue by Island Inn and Suites, LLC

Staff: Jenn Moses introduces the applicant's proposal for a MU-W Planning Review for a new 70-unit hotel with a 900 square foot convenience store. She shares the updated drawings which shows larger windows and updated landscaping. The lighting plan was revised to make sure it meets UDC requirements. Staff recommends approval with the conditions listed in the staff report updated as follows: 1) landscape plan received 9/8/15; photometric plan dated 9/1/15; 2)no changes; 3) add "or alternative landscaping plan to be approved by land use supervisor"; 4) omit photometric clause which is now included in condition 1 above; 5) no changes.

Applicant: Craig Hanson of St Cloud who is an attorney for the developer addresses the commission. They hope to redevelop the area and improve the environment by increasing tourism and the tax base. He asks if there are any questions.

Public: No speakers.

Commissioners: Michael Schraepfer asks about the traffic patterns for the convenience store. Their architect addresses the commission. The store was a request from neighbors. There will be more foot and bike traffic than car traffic. The front desk would be handling the store as well as checking in guests. Meyer comments on the hotel design. He is disappointed that there isn't more of a blending effect with the surrounding park point neighborhood.

MOTION/Second: Guggenbuehl/Sydow approved as per staff's recommendations with the updated recommendations.

VOTE: (7-1, Meyer Opposed)

- N. PL 15-127 Variance for New Hotel within the 50 foot Shoreland Setback at 1000 Minnesota Avenue by Island Inn and Suites, LLC

Staff: Jenn Moses introduces the applicant's proposal to request a variance to the impervious setback from 50 feet to 0 feet, to allow pavement for a hotel parking lot and drive aisle. Staff recommends approval with the conditions listed in the staff report.

Applicant: N/A

Public: N/A

Commissioners: Moffat notes the possibility of a green roof feature. Moses states the specific design won't be included until later when they apply for a building permit. Guggenbuehl would like to see amenities to help cool the water before it reaches the lake. Sydow asks applicant about parking on the backside of the property. The applicant states it is used as RV trailer parking in the summer and boat storage in winter. A small amount of parking will still be included. The applicant is looking into the option of doing a green roof, but money is a factor. Architect talks about ponding and the catch basins. Capacity will be 1700 sq feet versus 17 sq feet previously. He states city engineering confirms it's above and beyond the minimum stormwater requirements. Guggenbuehl notes Sydow's parking concerns. Could the building be moved? Moses notes the requirement for no more than 50% in the front. Also, if parking along water is moved, the applicant would still need a variance for the drive aisle. Meyer notes the grading and drainage plan. Engineering/Tom Johnson is in support. Guggenbuehl would like to see added conditions for roof design.

MOTION/Second: Sydow/Schraepfer approved as per staff's recommendations with the friendly amendment that the applicant install at minimum a 25% vegetative roof.

VOTE: (8-0)

- O. PL 15-118 Variance for Detached Garage within the 150 foot Shoreland Setback at 118 S 56th Avenue West Kenneth Rish

Staff: Steven Robertson introduces the applicant's proposal to build an 18' x 24' garage in the rear of his lot, on the site of a former garage. Garage would be approximately 120' from the stream (Keene Creek) instead of the required 150'. Staff recommends approval with the conditions listed in the staff report.

Applicant: Kenneth Rish addresses the commission. Moffat asks if the surface will be paved to the garage. Applicant states no.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Guggenbuehl/Kennedy approved as per staff's recommendations.

VOTE: (8-0)

III. Other Business

- Tax Forfeit Review Committee – Director Keith Hamre gives an overview. There are two current planning commission members serving: Sydow and Chair Zwiebel. The request from the county is to change to conservation status to non-conservation status in order for appraisal on property and to be put up for public auction. Keith gives an update of the properties in question. The county board will be acting on 9/26/15, so there is need to go through them tonight. The commissioners would like to see a special meeting of tax forfeit committee instead of discussing tonight. Agreed on by all. The tax forfeit committee meeting is scheduled for 9/22/15 at 4:00 p.m.

IV. Communications

A. Managers' Report

-Future Brown Bag Meeting, 3rd Wed of the month to be pushed to October.

-Special Meeting, Tuesday September 22, 2015 City Council Chambers at 5 PM. Review Riverside Small Area Plan and To Hear Comments from Hartley Park EAW (Public Comment Period Ends September 30)

B. Consideration of Minutes - August 11, 2015

MOTION/Second: Guggenbuehl/Rand approve the minutes.

VOTE: (8-0)

C. Reports of Officers and Committees

-Heritage Preservation Commission Representative – Guggenbuehl states the HPC met on 8/25/15. There was discussion about the Clayton Jackson McGhie memorial and the unfortunate misuse of the space. A preservation plan is needed in order to obtain police involvement. Kennedy asks if the western train has it been discussed. Guggenbuehl states not yet.

D. Meeting adjourned at 8:49 p.m.

Respectfully,



Keith Hamre, Director of Planning and Construction Services