

City of Duluth
Planning Commission
March 8, 2016 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, March 8, 2016, in city hall council chambers.

Roll Call

Attending: Marc Beeman, Terry Guggenbuehl, Janet Kennedy, Tim Meyer, Garner Moffat, Mike Schraepfer, Luke Sydow, and Zandra Zwiebel

Absent: N/A

Staff Present: Keith Hamre, Nate LaCoursiere, Jenn Reed Moses, John Kelley and Cindy Stafford

II. Public Hearings

- A. PL 16-010 Vacation and Rededication of Pedestrian Easement for Rockridge School at 4849 Ivanhoe Street by Duluth School District ISD 709

Staff: Jenn Reed Moses introduces the applicant's proposal to vacate a pedestrian easement over Lots 1-5, Lakeside Gardens, to enable the buyer of the property to build a single-family home. A pedestrian easement will be rededicated over a portion of vacated Norwood Street. Staff recommends approval with the condition listed in the staff report.

Applicant: N/A

Public: Brian Medred – 4906 Glendale St. – addresses the commission. He feels since it is zoned R-P this can't go forward. It doesn't have enough public space and there has been no approved plan. He isn't against a single family dwelling, but it needs to be rezoned first. Cathy Beeman – potential property owner – addresses the commission. They are waiting to sign a purchase agreement until the issues are resolved. She said Kerry Leider is supposed to be in attendance, but hasn't made it yet.

(Commissioners discuss if they can delay until later in the meeting until Leider arrives. They will leave the public comment period open.)

MOTION/Second: Zwiebel/Meyer place this agenda item on hold to be continued later in the meeting.

VOTE: (8-0)

(The following occurred after agenda item B.)

Applicant: Kerry Leider – property manager of Duluth public schools - addresses the commission. He has had many conversations with neighbors who are in support. He understands there is a strong neighborhood voice with concerns of a through street, which will not be an issue now. The future buyer is interested in building a single-family residence. The buyer is aware of the zoning and will work with the planning department to develop in accordance with the R-P Zoning. The vacation will allow for clear connection to the single family dwelling and will eliminate a through street. Director Keith Hamre clarifies for commissioners that the density is consistent with R-P zoning. The neighborhood will still have a public easement to Hawk's Ridge. Chair Zwiebel asks about the previous speakers concerns about R-P zoning. Per Director Hamre, lots 5 thru 1 will need a regulating plan. City staff will meet with the neighborhood.

Public (Continued): Ann Eid - 1419 Waverly Ave – addresses the commission. She worked at Rockridge School and notes the topography of the land. She is concerned about the need for access for the fire department.

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

VOTE: (8-0)

B. PL 16-012 Higher Education Overlay Planning Review for a New Multi-Family Structure at 208, 212, and 214 Norton Street by Mike Peller and Waverly Properties

Staff: Jenn Reed Moses introduces the applicant's proposal to remove three single-family structures and construct a new 14-unit, three-story multi-family building. Per the Engineering Department, a storm water sewer extension will be needed. This will be the applicant's responsibility. A packet of neighbor's comments were distributed to the commissioners prior to the meeting and are now part of the record. Staff recommends approval based on the four conditions listed in the staff report. Chair Zwiebel verifies this applies for a one-year starting time period. Tim Meyer asks if engineering has looked at the neighbors' comments regarding traffic, parking and snow removal. Per Moses, yes, city engineering has reviewed in regards to traffic and storm water issues.

Applicant: Mike Peller – 108 W. Arrowhead Rd. – addresses the commission and asks if there are any questions. He has been managing rental properties since 1992. They own 35 houses and have approximately 140 tenants. They are onsite all the time and keep their properties well-maintained. He could get favorable references from the life safety office. Janet Kennedy asks for clarification. Per Peller, the life safety office oversees rental properties. Chair Zwiebel addresses some of the public comments including calls to the police and if the neighbors have contact with him. Per Peller, no police tickets have been issued and the neighbors call him often. Meyer asks if there have been any informational meetings with the residents of Norton Street. Peller states no. Terry Guggenbuehl is familiar with Norton Street and has gone for walks there. He doesn't recall the snow ever being removed from the front sidewalks of those three properties. He also has seen litter and furniture strewn about. Peller notes he doesn't recall furniture in the front of these properties, but states some of the responsibility falls on the tenants. Once it's an apartment building, the management company will take care of it. Chair Zwiebel is also concerned about the current condition. Peller doesn't want the future of the property be contingent on a current tenant. Chair Zwiebel states it does ultimately fall on the owner. Peller states it's different when managed by the company versus the tenant. Meyer states it could be a positive addition to the neighborhood, but regarding density he wants to make sure there is dialog and input from the neighbors. Chair Zwiebel talks about bunk beds in rooms and will there be one person per bedroom. Director Hamre states these are rental licensing issues.

Public: Julia Baker – 220 Norton St – addresses the commission. She is concerned about traffic and safety and feels with the addition of 34 bed, an additional 19 parking spots isn't enough. She feels traffic is going to be a nightmare. Donald Scott - 5205 Aspen Drive, Aurora, MN – addresses the commission. He has a rental on St. Marie Street and he feels this location is a very bad place for an apartment building. It's much too congested. Eric Gulland – owns the house next to 204 Norton – addresses the commission. He doesn't think the current tenants property upkeep should be focused on. But he is concerned about the drainage.

Commissioners: Chair Zwiebel asks about the drainage. Per Moses, there are preliminary sketches which show improvements in the right of way. With this plan it should actually be better than it is now, due to the new storm water plan. Meyer makes a motion and notes this a controlled development. Guggenbuehl is concerned about

traffic and pedestrian traffic all along Norton Street. People don't remove snow from their sidewalks and people are walking in the streets. He doesn't have a problem with the scale, but in regards to the higher education overlay, he feels they need to have a better grasp on issues including snow removal before a new development may compound the problem. He is apprehensive to approve it. Mike Schraepfer suggests they add a condition which requests the developer have a dialog with the neighborhood. Kennedy asks why a meeting hasn't already taken place. Director Hamre states a meeting is not a requirement, but it is suggested. Chair Zwiebel notes there are concerns in the neighborhood and she likes the idea of open communication.

MOTION/Second: Meyer/Beeman approved as per staff's recommendations with the added condition that the developer hold a neighborhood meeting and report back to the planning department the results of the meeting.

VOTE: (8-0)

(Agenda item A is revisited – see above)

C. PL 16-016 UDC Text Amendment Amending 50-20.3 and 50-20.5 Related to Standards for Vacation Dwelling Unit and Home Share

Staff: John Kelley introduces the UCD text amendments amending 50-20.3 and 50-20.5 related to standards for vacation dwelling units and home share. A 200 foot rule has been added to the vacation dwelling unit section which states a vacation dwelling may not be located on a lot that is within 200 feet of a lot on which another vacation dwelling rental is located. Another change is under the three strike rule for vacation dwelling the fine imposed will be \$650 (which is the same as the application fee) not \$200. A section added to the vacation dwelling section will be the availability of an appeals process in regards to the three strike rule. Chair Zwiebel asks if there are questions for staff. Garner Moffat asks about the 200 foot rule and will seniority issues pertain. Kelley states not at this time. If a permit were to lapse the applicant would need to reapply. He shows a map of what the 200 foot rule would look like. Kelly brings up a map of park point. There are a number of vacation rentals that are within 200 feet of each other. Schraepfer clarifies the way the rule is now, many are within 200 feet of each other, so they would not be allowed to renew. Kelley states correct, there are approximately 70 percent which would not comply. Chair Zwiebel notes many are not licensed now. Kelley confirms enforcement is ongoing. Kennedy asks if there are rules in place on who will be allowed renewal. Kelley states they could add some sort of a grandfathering clause, but nothing is decided yet. Director Hamre states at their committee of the whole meeting three of the city councilors wanted to see a density control provision factored in. Staff ran some different scenarios including allowing two per block, but anything proposed would be problematic. Park Point in particular is unique because it's considered a vacation destination. City council wanted to see some form of density control, so Director Hamre would like to hear what the planning commission recommends.

Applicant: N/A

Public: Eve Graves – 1026 N. 10th Ave. E. – addresses the commission. She is concerned about the 200 foot rule and the grandfathering in. She jumped through hoops and paid a lot of money and she wants the unlicensed ones to be shut down. Danny Frank – 130 Charlotte Pl. – thanks the commissioners and Kelley for being proactive. He asks for clarification between home share versus an accessory building. They have two separate units in one home. He asks about the dense urban screen. They have a double lot and feels a wood fence or shrub wall would go against the aesthetics of the neighborhood. He feel the 200 foot rules, would just be a superfluous boundary. They have a long term rental license. Will they still be able to have home and/or

accessory dwelling license. He is looking for clarifying language. Kelley states since he has a stand-alone unit it would be considered a vacation dwelling. Screening requirements are in the UDC to buffer residential from commercial properties and is not something new. Kelly states you can have a vacation rental as well as a long term rental license.

Bill Burns – 3332 Minnesota Ave – addresses the commission. He and his wife have been in the rental business for 11 years and have never had a complaint. His neighbor also has license. He doesn't agree with the 200 foot rule. He doesn't like a policy which will pit neighbor against neighbor.

Troy Rogers – 2536 Jefferson St. – addresses the commission. He was unaware of the permit moratorium when he listed his attic for rental on AirBNB. He has some experience and would like to answer any questions the commissioners have about home share. He thanks staff and is in support of the home share regulations with a few suggested amendments. He wants to lower the fee to a \$50 annual fee. He also recommends having a window where it kicks in, similar to the IRS rules. This would not criminalize people for renting there house once a year during grandmas marathon. He notes some people who list on Air BNB are unaware of the regulations. He suggests changing the wording stating the homeowner should be there at all times. Maybe the wording should state the homeowner should be generally on the premises. Schraepfer asks for clarification on the IRS window rule. Rogers states it's a 14 days rule where if rental period is less than that, it's not considered a business. He notes it's a threshold and it makes sense to him have the rule to be in accordance with the federal standard. Rachel Scharfenberg - 6029 London Rd. – addresses the commission. She is in favor of Home Share and is interested in listing her property on AirBNB. She is passionate about Duluth and agrees with previous speaker who doesn't want to see AirBNB users be penalized.

Dan Matthes -1020 W. Arrowhead – addresses the commission. He has gone through some (vacation rental) steps including obtaining a tax permit and has scheduled a fire inspection. He asks what the health inspection portion is. He also doesn't want the AirBNB rules to be too stringent and questions if a homeowner has to be there at all times. Sometimes he may want to go to his cabin. Kelley states the health and safety inspections are performed by the life safety office.

Barbara Montee – landlord – appreciates the attention staff has given to this issue. She suggests talking to the life safety office and the city councilors on what they've learned from the past, and how the 300-foot rental rule didn't work. She appreciates the density concern, but doesn't agree with 200-foot vacation dwelling rule.

Commissioners: Guggenbuehl doesn't think the 200-foot rule makes sense.

Concentration doesn't seem like a problem. A desirable spot like park point is where people want to go on vacation. Moffat seconds that. Shraepfer states trying to disperse density doesn't work with real estate in any kind of use. He also doesn't agree with 200-foot rule. Meyer would like to see 200-foot rule taken out. He feels density concerns can be addressed by using vegetative screening and privacy walls. Chair Zwiebel asks if they can they deny based on neighbors thinking there are too many. Director Hamre states it gets to be a challenge due to legal concerns. There needs to be a finding in why it didn't meet the special use permit requirements. If not clear, it can end up in litigation. Meyer even with changes it may not be perfect, but there are positive changes. Tourism is important and we should take control of it and make sure changes are positive ones.

Chair Zwiebel states the 200-foot rule will create animosity amongst neighbors.

Schraepfer feels home shares have not been an issue. There doesn't have to be \$200 fee or renewal fee. Per Director Hamre, the fees are set by the city council. They looked at the enforcement costs of the 3-strike rule. They documented how much time it took

to administer, enforce and issue the permit to develop the fee structure. The fee agreed on was actually lower than realized costs, so they felt it was a justifiable fee. Enforcement alone is costly. Guggenbuehl stated there were a number of good comments from the public including vacation rental property owners should be current on their taxes. Also, dates of occupancy should be included in guest records of both vacation rentals and home share. Chair Zwiebel verifies screening is already established in UDC. Kelley states yes, and the planting of trees and shrubs with alternatives which could be approved by land use supervisor. Shraepfer notes the financials: \$200 for home share and \$650 for vacation rental special use permit fee. Do the fees offset costs? Director Hamre states \$650 for the interim use permit covers, public hearing and the administrative portion, but does not cover enforcement costs. The one-time fee is good for six years for the special use permit which is less than home share. Shraepfer clarifies enforcement will be funded through the general fund, and staff does the enforcement. Chair Hamre states during the moratorium period letters were sent out. A stricter enforcement policy was requested, and thus the 3-strike rule was developed. The 3rd strike fine would be equal to the fee itself thus \$650. Guggenbuehl asks if home share owners pay a tax. Yes, they pay a hotel, motel tax and lodging tax. Nate LaCousiere refers to previous speaker's comments regarding a safe harbor clause, which states if you fall below a threshold (xx amount of days) you would not need to get a permit. If commissioners feel this is an important aspect, they can include in their discussion. Per Kelley, staff is not recommending because they need to go through the process. Chair Zwiebel is in support of a safe harbor provision of possibly 7 days. Per Kelley the safe harbor is more of an IRS tax rule. Luke Sydow would like to add wording to #6 in vacation dwelling to note the site plan must include landscaping existing and proposed. Also, he would like to specify "consecutive days" under the guest occupancy period.

Vacation Rentals

MOTION/Second: Sydow /Moffat add the word "consecutive" to the minimum rental period of two "consecutive" nights, and add verbiage that the site plan include existing and proposed landscaping.

VOTE: (8-0)

MOTION/Second: Guggenbuehl /Meyer eliminate the 200 foot rule.

VOTE: (8-0)

MOTION/Second: Guggenbuehl/Sydow vacation rental owners must be current on their property taxes.

VOTE: (8-0)

MOTION/Second: Guggenbuehl/Sydow dates of occupancy must be included in their guest record. (Both vacation rentals and home share)

VOTE: (8-0)

Home Share

MOTION/Second: Guggenbuehl/Beeman change wording to state one permanent resident must be "generally on premise" at all times that the property is rented.

VOTE: (8-0)

(Include dates of occupancy in home share as well as vacation dwellings)

MOTION/Second: Moffat/Schraepfer recommend approval (to the city council) as amended.

VOTE: (8-0)

III. Other Business

A. Update on Arrowhead Road Future Land Use Change – Director Hamre gives an overview. There was a public meeting in February. Topics of interest include if churches can add a gym, allowance for apartments and senior or assisted living buildings in the area, and some small scale retail. There will be a second public meeting in April and staff will have something to forward to the planning commission at their April or May meeting.

B. Update on Tax Forfeit Committee Meeting and Tax Forfeit Parcels (List from January 29, 2016) – Chair Zwiebel states 16 parcels were reviewed. One was recommended for non-sale due to storm water issues, and another parcel needed more consideration for the Lake Superior Hiking Trail. The remainder of the properties are within developed neighborhoods and can be put up for sale.

MOTION/Second: Moffat/Meyer agree with recommendations of the tax forfeit review committee.

VOTE: (8-0)

IV. Communications

A. Manager's Report – Director Hamre gives an overview. March 15th is the annual meeting. There will be two presentations, along with the annual election of officers and zenith awards.

B. Consideration of Minutes – February 9, 2016

MOTION/Second: Meyer/Beeman approve the minutes with one change

VOTE: (8-0)

C. Reports of Officers and Committees

Heritage Preservation Commission Representative – Guggenbuehl gives an overview. They are looking at nomination two city parks for local landmark designation: Lincoln Park and Congdon/Tisher Creek. Legacy grants will be applied for.

D. Annual meeting Tuesday, March 15, 2016 at 5:30 p.m., Iron Mug (Morgan Park.)
Meeting adjourned at 7:22 p.m.

Respectfully,



Keith Hamre - Director
Community Planning and Construction Services