

City of Duluth  
Planning Division

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City of Duluth  
Planning Commission  
June 11, 2013 Meeting Minutes  
City 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 pm on Tuesday, June 11, 2013, in the City Council Chambers.

II. Roll Call

Attending: Marc Beeman, Drew Digby, Terry Guggenbuehl, Tim Meyer, Garner Moffat, Patricia Mullins, David Sarvela, Luke Sydow and Zandra Zwiebel  
Staff Present: Charles Froseth, John Judd, Steven Robertson, Kyle Deming and Cindy Stafford

III. Old Business (tabled until July's meeting)

A. PL 13-067 UDC Zoning Map Amendment to Rezone from Residential-Planned (R-P) to Mixed Use-Planned (MU-P) at 201 Clover Street (Woodland Middle School and Bluestone Commons) by the City of Duluth

IV. Public Hearings

A. PL 13-079 UDC Zoning Map Amendment to Rezone Wade Stadium from Mixed Use Business (MU-B) and Wheeler Field from Residential-Traditional (R-1) to Parks and Open Spaces (P-1) by the City of Duluth

**Staff:** John Judd introduces the UDC Zoning Map Amendment. Staff recommends the rezoning as it conforms to the future land use map designation established by the 2006 Comprehensive Plan.

**Applicant:** N/A

**Public:** No speakers.

**Commissioners:** N/A

**MOTION/Second:** Moffat/Mullins recommends approval as per staff recommendation.

**VOTE: (9-0)**

B. PL 13-077 UDC Zoning Map Amendment to Rezone from Rural Residential 1 (RR-1) to Mixed Use-Institutional (MU-I) at 4000 West 9<sup>th</sup> Street by Northwood Children's Services

**Staff:** Steven Robertson gives a brief overview. Based on the findings listed in the staff report, staff recommends approval to rezone to MU-I. Drew Digby asks what can actually be allowed in the future if this is rezoned to MU-I. Robertson stated that MU-I does allow for more uses than RR-1 and allows for taller structures, but added that this site has been used by Northwood's for over 100 years, and the rezoning conforms to the future land use plan. Digby asked about the process for reviewing future development. Robertson stated that unless there was an approved district plan, every new structure or addition would need to go through the MU-I



Plan Review process, which would include a public hearing in front of the Planning Commission.

**Applicant:** Northwood Children's Services, Richard Waleat (President/CEO) addresses the commission and notes they are celebrating their 130<sup>th</sup> anniversary. They are a private non-profit organization. Zandra Zwiebel asks about the land preservation designation for some of the lots at the edge of the Campus. Waleat stated that they have no plans to develop those parcels, and their future plans only include one more building located in the center of the campus. Waleat added that because of the topography and area, they are screened from most of the adjacent properties.

**Public:** No speakers.

**Commissioners:** Digby is concerned about mixed use designations. He is worried about opening the door to other impacts. Tim Meyer asks if a new building is proposed will it come back to the Planning Commission. Per Robertson, any structure would require a MU-I Plan Review unless there is an approved district plan. Digby wants to follow the UDC as close as possible and stated that he would like additional information on the uses and impacts of developing the campus. Robertson notes that this property is a medical and instructional facility and feels MU-I is the best fit; it is currently a non-conforming use under the RR-1 designation. Luke Sydow asks the applicant if there is a long term plan in the works. They don't anticipate growth in their residential treatment plan for the next 10 years other than the one new building they want to build.

**MOTION/Second:** Meyer/Beeman table until next month until applicant brings additional information on the rezoning request.

**VOTE: (9-0)**

Kyle Deming introduces to the Planning Commission the hand-out he had distributed at the beginning of the meeting, which lists information on vacation rentals on Park Point and information on Police calls to 1520 Minnesota Ave.

- C. [PL 13-075](#) Interim Use Permit for a Vacation Dwelling Unit at 1520 Minnesota Avenue by William Michels

**Staff:** Kyle Deming introduces the applicant's request for two vacation dwelling units; Unit A consisting of three bedrooms and Unit B consisting of two bedrooms. Staff recommends the approval of just one dwelling unit based on the conditions listed in the staff report. This would allow both buildings to be rented by the same group. Digby asks about the shared driveway and if they need permission from the neighbor. Per Deming and the applicant there is no official sharing of the driveway. They each have their own access. Chair Terry Guggenbuehl asks if the interim use permit is not granted are they not allowed to rent it out. Per Deming, it would either need to be owner occupied or rented out per regular rental licensing rules. Zwiebel asks what the consequences are if an interim use permit is not granted. Per Deming, we can institute enforcement actions. Meyer asks if a fine could be imposed. Per Deming, yes a fine could be imposed.

**Applicant:** William Michels addresses the Commission and notes they are currently operating as a rental property. He has a regular rental permit which allows one week or more rental stays. He will answer any questions.

**Public:** Jane Poole, daughter of homeowner resides behind the home and to the north. She opposes the second dwelling, because it allows for too many people.



She also notes that the managing agent information was not provided to them. Per Deming they will meet this condition, if it is approved by the City Council.

**Commissioners:** Sydow asks why there are two buildings on one lot. He asks about the fire pit and if it's legal. Per Deming, he spoke with the Fire Marshal and she noted there are rules for height and width of recreational fires. David Sarvela asks what rights and avenues the neighbors have for enforcing the rules. Per Deming, the Police can certainly be called. Notification to the owner would be given. Patricia Mullins asks about the interim use requirements and notes there was punitive language stated. Deming shares the nuisance language with the Commission. Zwiebel asks about the length of the interim use permits and notes the language in #5 in the staff report. Per Deming it's six years, and would be void if the property is sold.

**MOTION/Second:** Mullins/Meyer recommend approval as per staff's recommendation. Sydow is concerned about the parking situation and wonders about the definition. Digby asked about their current rental license and requests consideration of an additional condition about not having both a regular and vacation rental license. Per Deming, regular rental licensing is an entirely separate ordinance and is not sure of an answer to Digby's question. Sarvela asks if guest books are required. Per Deming, yes, rental and vehicle license plates can be tracked. Per Chair Guggenbuehl, he feels this permit allows more control.

**VOTE: (8-1, Sydow opposed)**

- D. [PL 13-076](#) Interim Use Permit for a Vacation Dwelling Unit at 2931 Lake Avenue South by Jennifer Beckey

**Staff:** Kyle Deming notes this is tabled until next month, because the applicant didn't meet the notification requirements.

- E. [PL 13-055](#) Variance from Vacation Dwelling Unit Parking Requirements at 702 North 7<sup>th</sup> Avenue East by Charles Sill and Linda Simmons

**Staff:** Steven Robertson introduces the applicant's request for a variance. Staff recommends denial of the variance due to the need for a variance is not due to a unique condition of the property, the vacation dwelling rules clearly and specifically illustrate the need for off-street parking, and the relief is not necessary for the preservation and enjoyment of a substantial property right.

**Applicant:** Charles Sill addresses the Commission and notes that he has spoken to the neighbor who was opposed. The variance request was clarified with the neighbor and the neighbor now is in support of the variance. He notes the parking issues and feels there is no benefit to adding the additional parking. They would have to remove trees and additional green space. He feels it takes away his property right.

**Public:** Joanna Hopkins lives at 711 E. 7<sup>th</sup> St. which is adjacent to the property. She doesn't feel the off-street parking is needed and is in support of the variance.

**Commissioners:** Garner Moffat asks about the curb cut. Per Robertson, parking is a major issue in the Hillside and recommends denial for consistency reasons and lack of a hardship. Mullins suggests approving the variance and feels that there is indeed a hardship.

**MOTION/Second:** Mullins/Digby approve the variance noting the hardship is due to elevation to the site and preserving the green space and vegetation.

**VOTE: (9-0)**



- F. [PL 13-056](#) Interim Use Permit for a Vacation Dwelling Unit at 702 North 7<sup>th</sup> Avenue East by Charles Sill and Linda Simmons  
**Staff:** Kyle Deming introduces the applicants' request. He notes that the requirements are conditional on the approval of the parking variance being granted. Staff described the characteristics of the neighborhood as being more like R-2 and that the rental duration should be like R-2. Staff recommends approval based on the conditions listed in the staff report.

**Applicant:** Charles Sill and Linda Simmons

**Public:** No speakers.

**Commissioners:** N/A

**MOTION/Second:** Digby/Zwiebel recommend approval as per staff's recommendation.

**VOTE: (9-0)**

Due to health reasons, Chair Guggenbuehl asks Vice-Chair Sarvela to take over the control of the meeting. Vice-Chair Sarvela assumes control, while Chair Guggenbuehl takes a place in Sarvela's chair

- G. [PL 13-078](#) Vacate a Portion of Weber Avenue by Billman Construction  
**Staff:** Steven Robertson presents the applicant's request to vacate a portion of Weber Avenue. Robertson noted that the criteria for vacations are pretty clear cut in the UDC. If the Planning Commission can foresee a public need or benefit for retaining the right of way, they can recommend denial, but staff felt that was little likelihood of future need of this right of way. Robertson added that typically vacations are for whole-block sections, but this vacation request is for only half of a block. Staff noted that the City and MN Power are requesting that utility easements be maintained, per the exhibit. Staff recommends approval of the vacation.  
**Applicant:** Greg Billman of Billman Construction addresses the Commission. He notes they constructed Buffalo Street and they also created a storm water management system for the entire area. Meyer asks the applicant to address the opposing letter from the neighbors Mr. and Mrs. Rud. Billman stated that this was the first time that he heard of people complaining about his development, and if they had just asked him, he would have worked to address their complaints. He noted the storm system design and pointed out that it meets City Engineering specifications. Meyer notes that development is encouraged if done properly, but he is very concerned with the opposing neighbors' letters. Meyer added that he supports infill development, but when he sees complaint letters like the one in the packet, he starts to get reservations about this vacation request. It was noted that there was a second letter (email) that was sent the day before the Planning Commission complaining about stormwater concerns from this development. Per Billman, they did not do any work on Toledo Street. Sarvela notes the location that Buffalo is directly above Toledo Street.  
**Public:** Joyce Blodgett resides at 132 W. Toledo Street one block up. She is concerned about where Chester Creek runs. She feels Billman's destroyed the wetland area to install their drainage system. She feels that during the construction dirty water was running into the creek. They were blasting with an expired permit. She feels that due to construction, vegetation has been destroyed. She takes pride in their green space and is concerned with future development. She stated that if



this right of way is developed, it will make the water run off issues worse, and the City will lose green space that might benefit in the public in the future.

**Commissioners:** Meyer asks staff if they can add conditions to the vacation. Can they address the concerns of the neighborhood prior to granting the vacation? Per Robertson who asked City Attorney Nate Lacoursiere, the Commission cannot place conditions on a vacation, other than reserving a portion for utility easements. You either vacate it because you do not foresee any public use in the future (road, trail, etc.), or you don't vacate because you think that there may be a use in the future. Per Billman, he never heard these complaints before; he is willing to remedy the neighbors' concerns. Meyer will support the vacation only if the neighbor's concerns are addressed, otherwise he thinks it is bad planning. Digby is in support of delaying their decision until further information is gathered.

**MOTION/Second:** Moffat/Guggenbuehl recommend approval based on staff's recommendation. Meyer is concerned to grant the vacation and feels he needs to know the work is being done the right way.

**VOTE: (7-2, Digby & Meyer opposed)**

- H. [PL 13-071](#) Variance from Shoreland Setback at 2033 Woodhaven Lane by John Allen and Rebecca Teasley

**Staff:** Steven Robertson introduces applicant's request for a variance to build a deck. Staff recommends approval with conditions listed in the staff report.

**Applicant:** John Allen addresses the Commission and asks if there are any questions.

**Public:** No speakers.

**Commissioners:** N/A

**MOTION/Second:** Beeman/Meyer approve the variance as per staff's recommendations.

**VOTE: (8-0, Guggenbuehl absent from vote)**

- I. [PL 13-073](#) Variance from Corner Side Yard Setback at 140 West Kent Road by Richard Colburn

**Staff:** Steven Robertson introduces applicant's request for a variance. Staff recommends approval. Digby notes if buildings built prior to the building code is enough of a valid reason. Per Robertson, there is more validation needed.

**Applicant:** Richard Colburn addresses the Commission and asks if there are any questions.

**Public:** No speakers.

**Commissioners:** Vice-Chair Sarvela notes that if a motion is proposed the hardship should be listed.

**MOTION/Second:** Moffat/Guggenbuehl approve as per staff's recommendation noting the hardship is the site limitations.

**VOTE: (9-0)**

- J. [PL 13-074](#) Variance from Front Yard Setback at 1972 Hartley Road by Paul and Carol Anderson

**Staff:** Steven Robertson introduces the applicant's request for a variance for a front yard setback to add an entry/bathroom addition. Staff recommends approval.

**Applicant:** Paul Anderson addresses the Commission.

**Public:** No speakers.

**Commissioners:** N/A

**MOTION/Second:** Guggenbuehl/Mullins approve as per staff's recommendation noting the hardship as a significant limitation to the site.

**VOTE: (9-0)**

V. Consideration of minutes (May 14 and June 6)

**MOTION/Second:** Beeman/Moffat

**VOTE: (9-0)**

VI. Communications

VII. Old Business

VIII. Reports of Officers and Committees

IX. New Business

Status of upcoming planning projects handout.

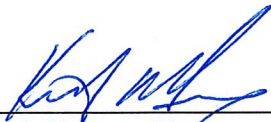
X. Other Business

Assign Membership to Committees: tax forfeit and education. Sarvela and Mullins volunteered for the tax forfeit committee. In 2011 the Committee met three times. In 2012 they didn't meet at all. Zwiebel is interested in volunteering for the tax forfeit committee. Zwiebel asks for clarification on when brown bags are held. Robertson, the request should come from the Planning Commission. Moffat volunteered for the Education Committee. Froseth talks about webinars and will include the Commissioners.

XI. Adjournment

Meeting adjourned at 7:35 p.m.

Respectfully,



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Keith Hamre, Director – Planning and Construction Services