



City of Duluth
Planning Division

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July 5, 2011

Planning Commission Member
City Planning Commission
Duluth, MN 55802

Dear Commissioner:

- I. President Digby has called a meeting of the City Planning Commission for 5 p.m., Tuesday, July 12, 2011, in the City Council Chambers.
- II. Roll Call: Henry Banks, Rebecca Covington, Drew Digby, Terry Guggenbuehl, Frank Holappa, Heather Rand, Luke Sydow and John Vigen

Members Excused: David Sarvela

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

III. Public Hearings

- A. FN 11-082 – Comprehensive Plan Map Amendment at Lincoln Park School at 2424 West 5th Street from Institutional to Neighborhood Mixed Use by the City of Duluth. **JK**

Staff: Kelley presented the proposal to amend the Comprehensive Future Land Use Map for the Lincoln Park School site. The rezoning is from Institutional to Neighborhood Mixed Use. The Community Development Division had a public community meeting on May 24, 2011, to get input on these changes. Staff recommends the change from Institutional to Neighborhood Mixed Use. Digby asked Chuck Froseth if he had any additional comments and Froseth stated that there have been many meetings and that this is not a surprise to them. The school is closed but the boys and girls club will stay open until the property is closed.

MOTION/Second: Rand/Covington to **Recommend Approval** for the Comprehensive Plan Map Amendment at Lincoln Park School at 2424 W 5th Street from Institutional to Neighborhood Mixed Use by the city of Duluth. **Vote:** Unanimous (8-0)

- B. FN 11-066 – Comprehensive Plan Map Amendment at Kenwood School at 1750 Kenwood Avenue from Traditional Neighborhood and Recreation to Traditional Neighborhood by the City of Duluth. **JK**

Staff: Kelly stated that this proposal is to amend the Comprehensive Plan Map Amendment from Traditional Neighborhood Recreation to Traditional Neighborhood. A public meeting was held on June 22, 2011 to explain the changes and discuss the options for future use. Based on public comments received at the public meeting and the review of the area completed by planning staff, the findings are to change the Comprehensive Future Land Use Map from Traditional Neighborhood and Recreation to Traditional Neighborhood. Motion/Second Rand/Vigen to continue the discussion. Vigen wanted to know if we move to traditional family what the permitted uses would be. Petkac stated that the zoning is R1 and that they have some options to look at. Traditional Neighborhoods makes sense for this area. Sydow asked Kelley where the

recreation designation came from and Kelley stated it may have come from the Parks and Recreation plan but it is no longer there. Petkac reiterated that this is not a rezoning but a change to the comprehensive plan. Vigen moved to table this as he would like to see what comes out with the small area plan.

MOTION/Second: Vigen/Holappa to **Table** the Comprehensive Plan Map Amendment at 1750 Kenwood Avenue from Traditional Neighborhood and Recreation to Traditional Neighborhood by the City of Duluth. **VOTE:** (5-3) Banks, Guggenbuehl, Rand

- C. FN 11-068 – Zoning Map Amendment from MU-N (Mixed Use-Neighborhood) and MU-B (Mixed Use-Business Park) to F-5 (Form District: Mid Rise Community Shopping and Office) at West Superior Street in Lincoln Park by the City of Duluth. **JJ**

Staff: Judd stated that this is to bring the UDC into line with our Comprehensive Land Use Plan. Judd presented maps for the Piedmont/Garfield area and the areas that will be changed using the form based districts. The idea is to have cohesive walk-able neighborhoods with living and working areas. When we talk about the form based we are talking about the exterior looks of the buildings as well as the uses they have.

MOTION/Second: Guggenbuehl/Rand to **Recommend Approval** for the Zoning Map Amendment from MU-N (Mixed Use Neighborhood) and MU-B (Mixed Use-Business Park) to F-5 (Form District: Mid Rise Community Shopping and Office) at West Superior Street in Lincoln Park by the City of Duluth. **Vote:** Unanimous (8-0)

- D. FN 11-075 – Special Use Permit for a Building Material Sales in a MU-C (Mixed Use-Commercial) at 1731 Maple Grove Road, by Scott Hoversten-Mellem. **NS**

Staff: Spooner-Muehler stated that this request for a Special Use Permit in the MUC zone. The applicant would like to relocate his granite and countertop business in this location. It was relocated due to the limited access when the road construction was going on in this area. Staff approves the request.

Applicant: Scott Hoversten-Mellem stated that he is the property and business owner and is looking for the approval of the Special Use Permit. Sydow asked if he would have outside storage and the applicant stated he would not.

MOTION/Second: Rand/Guggenbuehl to **Approve** the Special Use Permit for a Building Material Sales in a MU-C (Mixed Use-Commercial) at 1731 Maple Grove Road, by Scott Hoversten-Mellem **with the following condition:** That the project be limited to, constructed, and maintained according to the site plan submitted by the applicant and dated July 1, 2011. **Vote:** 7-0 (Holappa abstained)

- E. FN 11-084 – Special Use Permit for a Data Center in a MU-N (Mixed Use-Neighborhood) at 421 North 6th Avenue East, by SMDC Health System and Bick Group. **NS**

Staff: Spooner-Mueller stated that this is a request to put in a data server in a MUN zone. They found that they did not have a special use for a data center. Petkac added that there should be an approval coming from the City Council to amend this and it will be contingent on that. Staff is recommending approval with conditions and that any alterations of the plans may be approved by the Land Use Supervisor.

Guggenbuehl questioned the outdoor equipment and Spooner-Muehler stated that it is for cooling and a generator for loss of power. Vigen asked about the standards and it states that it is to be determined by the Land Use Supervisor. Petkac explained that it is to be determined based on the needs of this data center.

Banks asked about the servers and how many in the facility and is it sound proof? Applicant stated that the servers are in racks and the general public would not know that there is anything in this facility. Holappa added that they would only be using a 4th of the space in the data center and the applicant said that 3/4ths of the space here hasn't been determined yet. Petkac added that this use is a special use in this zone district.

MOTION/Second: Rand/Sydow to **Approve** the Special Use Permit **with the following conditions:** 1. City Council approval of the addition of "Data Center" as a Special Use in a MU-N (Mixed Use Neighborhood) Zone in the UDC update. Data Center will be defined as: An establishment primarily involved in the compiling, storage, conversion or analysis and maintenance of documents, records, and other types of information in digital form. 2. The project be limited to, constructed, and maintained according to the documents drawn by James A. Lighty Architect dated June 14, 2011. 3. Outdoor equipment screening will be provided similar to the Envisor Screening System/Cityscapes included with application. 4. Any other alterations to the approved plans that do not alter major elements of the plan that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50. **Vote:** Unanimous 8-0

- F. FN 11-078 – Variance for Rear Yard Setback from 25 feet to 0 feet in a MU-N (Mixed Use-Neighborhood) at 602 E 4th St by Curtis Family Limited Partnership. **KD**

Staff: Deming stated that this is a rear yard setback variance from a 25 foot to 0 foot for a convenience store. The gas station was built in 1961 and the Whole Foods Coop in 1951. The Whole Foods Coop also has a 0 foot rear yard setback. The applicant's property slopes downward approximately 9 feet along 6th Ave. E. Deming explained some of the special circumstances at this site as well as the improvements that they are making to ensure the public's safety. Staff Recommends the commission deny this request.

Applicant: Jack Curtis: He would like to raze and rebuild this filling station and are trying to relieve some of the traffic congestion. They will cut back to 4 fueling points and 2 driveways and will back them away from the intersection. They feel they are making this safer for the public. The property is 100% impervious and they will be adding some green space. By restructuring the gas islands it gives it a better traffic flow. The site is very challenging and the area has some security challenges that they are trying to keep it secure by having everything in the front of the building. They are also willing to put some greenery in this area as well

Rand recommended approval of the rear yard setback variance due to the improvements of the site with the conditions 1 and 2 – Banks second. Vigen stated that this station goes back to the 1940's and it has always been a problem. He thinks that they have a well designed plan and is in support of this.

MOTION/Second: Rand/Banks to **Approve** the Rear Yard Setback Variance **with the following conditions:** 1. Filling station/convenience store developments of today are typically larger than the current site configuration and the 25' rear yard setback presents an exceptional practical difficulty in redeveloping this site with this use because it would require construction of a smaller store than would be feasible. 2. Special circumstances applying to the site include the need to locate the store at the rear lot line is related to traffic engineering best practices of locating the curb cuts onto surrounding streets as far as possible from the street intersection. Additionally, the proposed redevelopment includes consolidation of four curb cuts into two, which reduces traffic congestion and vehicle/pedestrian conflicts, significant improvements to the public safety, health and welfare. **Vote:** Unanimous (8-0)

- G. FN 11-085 – Variance for Side Yard Setback from 62 feet to 25 feet in a R-1 (Residential-Traditional) at Lot 4, Block 1, of Brisolwood First Addition Subdivision by Chris Ribich. **KD**

Staff: Deming stated that the reduction from a 62 to 25 foot setback came from the UDC’s method of calculating. These lots were platted in 2005 and met the minimum area and set back requirements. The Comprehensive Plan recommends “low density neighborhood” for this area which allows for 3 to 4 acres of land which is more dense than the proposed development of this lot. Staff recommends approval with the staff recommendations in the report. Vigen asked that by granting the variance would it be reducing the setback back to what it was before the UDC? Deming stated that this exceeds that 6’ side yard setback in the old code.

Applicant: Chris Ribich. A 62 ft setback would have made this hard to rebuild.

MOTION/Second: Holappa/Sydow to **Approve** the Variance for a Side Yard Setback from 62 feet to 25 feet in an R-1 (Residential-Traditional) at Lot 4, Block 1, of Brisolwood First Addition Subdivision by Chris Ribich. **VOTE: Unanimous (8-0)**

- H. FN 11-067 – Public Right of Way Vacation of 25th Avenue West Between Michigan and Superior Street, by Gerald Spehar of Roling Distributing. **NS**

Staff: Spooner-Muehler has a request to vacate a right of way. The applicant needs the extra space to build an expansion which will be built next to the vacated right of way. One of the ways we look at this is to look at its uselessness. Staff recommends approval for the vacation of the street. One condition is that the proposed vacation shall be rededicated and maintained by the City of the Duluth and keeping the utility easements.

Applicant: Gerry Spehar - 24th Ave W. They feel that with the UDC they have to do extensive landscaping. To take a look at the vacated street they would like to vacate that property and improve it to be more asthetically pleasing. Sydow asked if this was seen by engineering and Spooner-Muehler said they were. They will be maintaining this for utility easements.

MOTION/Second: Holappa/Vigen to **Recommend Approval** for the Public Right of Way Vacation of 25th Avenue West Between Michigan and Superior Street, by Gerald Spehar of Roling Distributing **with the following condition:** The proposed vacated portion will be rededicated as utility easements, preserving the intent of access to city infrastructure by the City of Duluth. **VOTE: Unanimous (8-0)**

- I. FN 11-079 – Public Right of Way Vacation of 10th Street South between Minnesota Avenue and St. Louis Avenue, by Lakehead Boat Basin Inc. **NS**

We have two items for this area. This is just for the vacation of a right of way. The applicant is wishing to vacate a portion of 10th street. The right of way is currently used by the owner. Public works does not see a need for utility easements at this time. Staff recommends approval. The vacation is appropriate in that the road meets the uselessness test to pursue the vacation.

Applicant: Bill Burns: Burns stated that they don’t have any comments. The things that they wanted to do on the site will be best with the road vacated. Sydow asked if they were saying that they don’t need the road vacated? Burns stated that what they want to do at this site it would be better done with the road gone.

Digby stated that this public right of way is already fenced off – is this appropriate? Lutterman explained that the property owner can fence off a paper right of way. The property owner reserves the right to use the land until the trustee chooses to open the right of way. The trustee can have the landowner remove it. Lutterman

added that they can reserve an easement for a pedestrian easement but she would recommend they should note the size of that easement. Burns stated that this property is not conducive to a pedestrian easement but not impossible.

Burns added that because this is a marina and in the bay, they need to comply with Homeland Security requests.

<p>MOTION/Second: Rand/Guggenbuehl to Recommend Approval for the Public Right of Way Vacation of 10th Street South between Minnesota Avenue and St. Louis Avenue, by Lakehead Boat Basin Inc. VOTE: Unanimous (8-0)</p>

- J. FN 11-080 – Planning Review in a MU-W (Mixed Use-Waterfront) at 1000 Minnesota Avenue by Lakehead Boat Basin Inc. **NS**

Staff: This request is to approve the development of a limited service hotel. This includes a community store for 90 guest rooms, reception and office area, breakfast area, pool and small convenience store for the use of Park Point and other citizens, guests and marina patrons. The property was rezoned last year to MU-W which allows for a hotel in this area. The applicant has met the parking requirements and they have shown that the sustainability appears to be met. Staff Recommends approval with conditions.

Digby asked if this has to be a mixed use building and Spooner-Mueller stated it is required. Petkac said the mixed use is the yacht club, hotel and convenience store which is also open to the public. Banks asked if the convenience store would have a separate entrance, and there would be. The required parking would be for 80 sites and they will also look across the street for additional parking but this would not be a part of the required parking.

Bill Burns introduced their team that is here today. Burns stated that the original plan was rezoning a small part of residential property which was rejected for non compliance with the UDC. They then looked at another site but could not utilize it and now have moved to this property. This is in full compliance with the UDC and the code. They are asking for a plan review. Staff agrees this project is now compliant.

Sydow has concerns about the pedestrian connections from across Minnesota Avenue into the city. There are no specific crosswalk requirements for granting access. They were told that they could not have a pedestrian walkway. Banks asked if the convenience shop has an outside entrance and the applicant stated that it did and there are dedicated parking spaces by the gift shop. The applicant showed where RV parking will be on the site. They have a fence and there is a gate which is open almost all the time. They may have a guard in the future. Digby asked if there will be a fence up and the applicant stated that it will be up and it will have shrubbery along the fence. Sydow asked if the fence will be there all the time and they said it will.

Public: Greg Wegler – 726 Ridgewood Road. He works for Kraus Anderson. This industry has been lagging and he is in support of this project.

Craig Olson – 8072 Swan Lake Road. They need private development. Kraus Anderson is a local firm. They need private development and they are here in support of this project.

Warren Howe - 1112 S Lake Ave. He appreciates the time and effort of the City of Duluth staff. The new Comprehensive Plan requires new processes and intense review of the Comprehensive Plan. He is concerned about the hotel which is complicated with these changes. They are not opposed to a hotel. They are concerned about the impact of this hotel.

Bob Feiro - 905 S Lake Ave. This involves two safety concerns. There is a half block sidewalk on 10th Street and they are concerned about tall building fire protection. The bridge is a problem as well. They are concerned about not having a ladder long enough to reach to the height of the hotel. They have a 35 foot ladder. Parking clarification – they have identified 85 parking spots. There are 30 spots not accounted for.

Phyllis Sherman – 938 S Lake Ave. Canal Park has many amenities. The hotel does not have the access to the beach. She has already had many people going through their yard and the 12th street access is already overflowing. They have to pick up the garbage after the people are gone. They request that City Planning look at these issues.

Jan Karon – 1112 S Minnesota Ave. There are traffic problems which must be dealt with on park point. Average traffic is not a problem and it does not take into consideration the Lift Bridge. According to MNDot statistically that traffic is not a problem. They do not take into account the increased traffic. Take your time to consider these issues to address the needs of the Property owners, Residents, and visitors. They need to plan for the increased traffic flow.

Jan Cohen – 1602 Minnesota Ave. She is in support of what those ahead of her had said. They are concerned about the quality of life. Park Point is looked at as the parks jewel. City maintenance is inadequate. They want this to be a win-win situation. Take a look at what conditions or restrictions need to be proposed now.

Councilor Gardner – Duluth City Council. We are entering uncharted area with a Hotel being built with 90 rooms. This is a substantial hotel and local people will be hired. We need to do some very careful planning. There are 37 hotels in the area. She thinks that it would be a good idea to meet with the citizens and offer her services to the community and the developers.

Kevin Kelleher - 939 S Lake Ave. He likes living here. He has some concerns about the hotel. He would like to have the impact of the RV Park lessened. He accepts that there is going to be a 9 story hotel. He is looking forward for them to be a better neighbor. He has conditions of approval 1. No lighted signs. 2. Parking lots 3. Have low lights. 4. No traffic or stop lights should be added here and 5. Consider a moratorium for future development.

President Digby gave options for the direction that they may like to go with this project. Petkac added that a colored rendering of the hotel is not a requirement of the plan review.

Guggenbuehl liked some of the conditions of Kelleher. He thinks that maybe we should have the neighbors talk about those issues. Banks added that we are building a hotel in their neighborhood and we should have an opportunity to have the developers sit down with the neighbors and voice their concerns. Banks would like to be a part of this.

Councilor Gardner stated that there was supposed to be an expansion of the fire hall which has not happened yet and that it should be addressed. Rand added that there have been more hotels going up in this area and that this should be with the City Council for them to make recommendations. She would like to see Councilor Gardner work with the residents. Rand wanted to verify that we are not able to dedicate or allocate funds and Lutterman stated that was correct. Rand said that they are very sympathetic to these issues.

Vigen added that the community comments were valid. We are seeing a lot of large houses on the point. This brings more traffic but it also is a job generator and an income generator. There are a lot of tourists coming to this area and some people are opening their houses as B&B's. He thinks a small area plan will be helpful.

Digby asked if we are allowed to have lighted signs? The applicant stated that the UDC is pretty clear regarding the lighting standards. They owner and developer wants to limit the amount of lighting. Also, the people in their boat slips and the RV park do not want a lot of lighting. Petkac added that you cannot have floodlights from 10 pm to 6 am on the building.

Banks would like to add a condition that the developer meets with the neighbors. Lutterman stated there isn't any requirement for a developer to meet with the residents. Banks wants to see that this will happen.

Vigen/Holappa to Recommend approval for the plans as submitted on June 1, 2011 by SRA Architects. Sydow would like add a friendly amendment to allow a pedestrian corridor from the east parking lot to the hotel.

MOTION/Second: Vigen/Holappa to **Recommend Approval as Amended** of the Planning Review in a MU-W (mixed Use-Waterfront) at 1000 Minnesota Avenue by Lakehead Boat Basin Inc. **with the following conditions:** 1. The request for the vacation of 10th Street (FN 11-079) be approved by the City Council 2. The project be limited to, constructed, and maintained according to the documents drawn by SRA Architects Inc. dated June 1, 2011. 3. Engineering and Building Official approvals of the sign permit, storm water permit and erosion controls pursuant to Sec. 50-37.13 4. Any other alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from provisions of Chapter 50 5. Provide construction documentation supporting sustainability points of 4.75. 5. To allow a pedestrian corridor from the east parking lot to the hotel subject to the Land Use Supervisors approval. **Vote:** (7-1) Digby

IV. Consideration of minutes – June 14, 2011 and June 21, 2011. Motion/Second Holappa/Guggenbuehl to approve the minutes as written.

V. Communications

VI. Old Business

VII. Reports of Officers and Committees

A. Duluth Historic Preservation Commission

Digby stated we have funding from the State for an East End Study and will be signing a contract for the East End Survey. Also the Art Institute Lincoln Park Building's working out a window replacement to restore two windows.

B. Education Subcommittee

There will be a brown bag on how much the 2010 census numbers might make us think about future land use and how much family structures have changed. There are interesting numbers when you look at the census with the housing report regarding apartments versus homes.

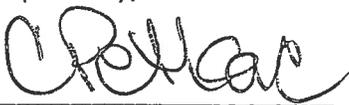
IX. Other Business

Petkac stated that Councilor Gardner has set up a meeting with the Business Developer to meet with the neighbors at 10:00 a.m. at the Marina.

Digby said that he went by the Bus Stop and that the Council granted to move it. The DTA agreed that it wasn't a permanent solution and that there could be a better solution to be found.

X. Adjournment. The meeting was adjourned at 7:49.

Respectfully,



Cindy Petkac, AICP
Planning Manager
CP:eu