

City of Duluth  
Planning Commission  
August 12, 2014 Meeting Minutes  
City Council Chambers - Duluth City Hall

I. Call to Order

President David Sarvela called to order the meeting of the City planning commission at 5:00 pm on Tuesday, August 12, 2014, in City Hall Council Chambers.

Roll Call

Attending: Marc Beeman, Drew Digby, Terry Guggenbuehl, Garner Moffat, Tim Meyer, David Sarvela, Luke Sydow and Zandra Zwiebel

Absent: Patricia Mullins (Excused)

Staff Present: Jenn Reed Moses, John Judd, Kyle Deming, John Kelley, Nate LaCoursiere, Chuck Froseth and Cindy Stafford

II. Unfinished Business

A. PL 14-069 Interim Use Permit for Vacation Dwelling Unit at 815 Lake Avenue South by Mary Dubois

**Staff:** Jenn Moses reviewed the applicant's request. This item was tabled to allow the applicant time to have a survey completed to verify driveway width and distance from the neighbor's property. Staff recommends approval.

**Applicant:** Mary Dubois addresses the commission and welcomes questions.

**Public:** N/A (Public hearing was held on July 8, 2014)

**Commissioners:** Zandra Zwiebel comments on the driveway and asks the applicant if she has spoken with her neighbors. She has, and understands it is difficult to see a neighborhood change. Luke Sydow asks about parking off of Minnesota Avenue and whether she has given any thought to have parking located there instead of in the back yard. Zwiebel questioned commissioners if they want to include additional criteria to establish the nine foot driveway. The applicant states there is a flower garden now, but can be easily removed to accommodate the driveway requirement. Zwiebel notes the shared driveway and proposes the option of a working agreement with the neighbor. If it can't be obtained she asked about possibility of requiring the addition of asphalt. Garner Moffat feels there is adequate space.

**MOTION/Second:** Digby/Beeman recommend approval as per staff's recommendation with the addition of a privacy fence on the deck.

**VOTE: (8-0)**

III. Public Hearings

A. PL 14-089 Change Future Land Use From Business Park to Rural Residential Between Kruger Road and Airpark Road by City of Duluth

**Staff:** John Judd introduced the city's request to amend the comprehensive land use plan-future land use map for a portion of the Duluth Airpark from Business to Rural Residential. Staff recommends approval.

**Applicant:** N/A

**Public:** Jeff Borling - 820 Ridgewood Rd. (works for the Port Authority) addressed the commission and asked if the port authority land could be excluded. Judd, yes the port authority's lots will be excluded and not rezoned.

**Commissioners:** N/A

**MOTION/Second:** Moffat/Guggenbuehl recommends approval as per staff's recommendation.

**VOTE: (8-0)**

**MOTION/Second:** Digby/Sydow to consider agenda items B. and D. together.

**VOTE: (8-0)**

- B. PL 14-088 Vacation of Easement at 1408 Maple Grove Road by PLB Miller Hill, LLC  
**Staff:** Kyle Deming reviewed request to vacate a 10 foot wide sewer easement with no utilities installed in it and has a building built on top of part of the easement. Staff recommends approval without conditions.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Zwiebel/Guggenbuehl recommends approval as per staff's recommendation.

**VOTE: (8-0)**

- D. PL 14-082 Quick Plat at 1408 Maple Grove Road by PLB Miller Hill, LLC  
**Staff:** Deming reviewed request to subdivide 3.9 acres into one 2.1 acre parcel containing the apartment building and parking lot and one 1.8 acre parcel for future development. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Meyer/Digby approved as per staff's recommendation.

**VOTE: (8-0)**

- C. PL 14-092 Vacation of Street Easement at 9830 Grand Avenue by Paul Koski  
**Staff:** Deming introduced the applicant's request to vacate the remaining portion of 99<sup>th</sup> Avenue West adjacent to the Granite Works property to provide more flexibility in their use of the site. Staff recommends approval without conditions.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Zwiebel/Guggenbuehl recommends approval as per staff's recommendation.

**VOTE: (8-0)**

- E. PL 14-083 Quick Plat at 1205 N 47<sup>th</sup> Avenue E by Ray and Charlotte Antiel  
**Staff:** Deming reviewed request to subdivide 14,000 sq. ft. parcel with two individual one-family dwellings into a 10,000 square foot parcel and a 4,000 square foot parcel each containing a one-family dwelling in order to be able to sell one of the homes and retain the other. Staff recommends approval with conditions listed in the staff report.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (8-0)**

- F. PL 14-094 Quick Plat at 2333 Lochaire Avenue by Dennis and Judy Moran  
**Staff:** Deming reviewed the request to rearrange six acres of property split among six parcels into three (two acre) parcels, one parcel to contain an existing home. Staff recommends approval with conditions listed in the staff report.

**Applicant:** N/A

**Public:** N/A

**Commissioners:** Zwiebel asked for clarification that the owner owns all of the property. Deming, yes. Moffat asks why Lot 9 is separated. Deming, technically they are connected by a 10 foot wide strip. Digby asks for a refresher on the legal requirement as it pertains to shape of the lots. Deming notes this property is not a flag lot, so it is not prohibited.

**MOTION/Second:** Guggenbuehl/Meyer approved as per staff's recommendation.

**VOTE: (7-1, Moffat opposed)**

President Sarvela notes the City Planning Commission's By-laws time limits which allows for 15 minutes in favor of and 15 minutes opposed with a cap of 5 minutes per speaker. Due to high turnout, they will allow for more time on the topic, but will limit each individual speaker to 3 minutes which will give time for each person to speak. He requests speakers not repeat topics already discussed. Digby requested President Sarvela to enforce the time limits if speakers become repetitive and also requests the cap on the overall topic (per original bylaw rule) be upheld.

**MOTION/Second:** Zwiebel/Guggenbuehl to consider agenda items G. and I. together.

**VOTE: (8-0)**

- G. PL 14-101 Quick Plat at Mississippi and Lyons Street by Green Capital LLC  
**Staff:** John Kelley reviewed the request to combine five parcels into two parcels. Staff recommends approval based on the conditions listed in the staff report. Sydow asks about the addition of the second lot and why they are separating the lots. Kelley defers to the applicant. Tim Meyer comments on the higher density and questions why staff would recommend approval. Kelley notes that PL 14-099 to construct townhomes on the proposed minor subdivision does meet the density requirements of the current UDC with the issuance of a special use permit. Kelley states 12 citizen comments were received. Sydow has questions about site restrictions, lot separation and the number of bedrooms. Kelley defers to applicant.  
**Applicant:** Jason Ross of Green Capital, LLC - 1031 W. 4<sup>th</sup> St - addresses the commission and noting the bedroom count for each unit will be three or four. He appreciates the turnout and explains they will be following the rules and regulations of the UDC. They want to be a good neighbor and these will be high-end units. It will be built below grade from Mississippi Avenue with 16 parking spots for 6 units and privacy fence. Sydow asks about the new property line. Eventually they would

like to use the lot for a new development possibly a home. The developer is proposing to add a stormwater feature on parcel A which will be located underground. The site plan for 14-099 currently shows a stormwater pond on parcel B. Sydow questions why the parking is extended over both lots and yet the applicant is proposing to split the lots. Kelley states that if the applicant is proposing to use both lots for the townhome development then it will be treated as one development site. Kelley defers to Froseth, Land Use Supervisor, for clarification on one development site. President Sarvela asks the applicant to take notes on the audience's concerns and then he can re-address them later in the meeting. Zwiebel wondered about tree preservation and what the site restriction is. Ross explains in order to develop the lot the trees would restrict site development.

**Public:** Corey Oseland – 1123 Missouri Ave - the grade is steep and he doesn't feel the neighborhood could absorb the extra density. He doesn't feel the proposed development fits the geography of the neighborhood. Al Makynen – 1233 Mississippi Ave. – concerned about public safety and notes the difficulty of winter traffic. He stated buses, plows and cars have trouble with icy roads. Frank Wanner- 1135 Mississippi Ave. - they want to encourage young families with children and not renters. He feels the project is fundamentally altering the tapestry of the neighborhood. Katie Krikorian - 1313 Missouri Ave. – small family oriented neighborhood and is against the project. Timothy Roufs – 1006 Mississippi Ave. – he is concerned with safety and feels increasing the density will worsen the traffic, storm water, and the safety. He is opposed to the development. Gerry Stephens - 1007 Brainerd Ave. – her concerns have already been discussed. Bruce Guildseth – 206 Lyons St. – is opposed to the project and has density and safety concerns. David Raimo - 1040 Missouri Ave. – calls attention to his house on the topographical map. He owns a single-family home and owns lots on both Missouri and Mississippi. He is opposed to the project. Zwiebel asks if his property is for sale. Yes. Joseph Martin – 1146 Mississippi Ave. - the homes in the neighborhood are well kept and pay property taxes. He is opposed to someone else making money at the other homeowners' expense and encourages the commissioners to preserve the integrity of the community. He opposes the project. Dave Fredrickson - 1328 Mississippi Ave. - feels the multiple-use housing will degrade the property. Northeast corner has a home with residents which have special needs. Changing the contours will affect stormwater and there is no room for parking in the winter. Susan Morgan - 1100 Missouri Ave. – opposes the project. Holly Brown – 1206 Mississippi Ave. – opposes the development. She feels the integrity of her single family neighborhood would be lost, will lower her property value and will be a detriment to wild life. Madeline Brown – 1206 Mississippi Ave. – her topics of concern have been addressed. William Krossner - 1045 Brainerd Ave. - he abuts the development and mentions NIMBY (Not in my back yard) issues. Regardless of NIMBY he considers this is a poor project due to lack of urban planning and it is not fiscally responsible. He voices environmental concerns and notes the steep grade and water run-off. He does not feel the stormwater retention will be adequate. He is opposed. Therese Campbell - 1111 Mississippi Ave. - she loves the neighborhood and agrees with previous comments. Dave Anderson - 1055 Brainerd Ave. – is opposed to the project. Ann Meyers - 1109 Brainerd Ave. – is concerned with the extra density as it pertains to her children's safety. Jim Starr - 1145 Mississippi Ave.– engineer's concerns. Notes the UDC four criteria calling attention to the number four which is the development should not create material adverse impacts on nearby properties without mitigation. He does not feel mitigation is possible. He is opposed to project. Kathy Hanten - 133 Chester Way – currently is using her home as a vacation rental

property. She is concerned with parking. Jullianne Raimo - 1040 Missouri Ave. - property is for sale. She has a special needs son and notes the traffic difficulties in the winter. She is concerned her property value will decrease. Jim Jerosz - 1413 Mississippi Ave. - he doesn't agree with high-density student housing going into a family neighborhood and that net tax revenue will eventually decrease. He notes winter driving hazards and does not feel there is room for additional cars and is concerned about emergency vehicles access. Jeff Johnson - 1321 Mississippi Ave. - he opposes the project. Kevin Hoene - 1110 Mississippi Ave. - notes wildlife/birds in area that could be adversely affected. He is opposed. John Martin - 1033 Mississippi Ave. - moved from West Skyline and moved to the area because he wanted a safe place to raise his kids. He opposes the project. Anthony Roufs - 225 Chambersburg Dr. - has concerns about the safety of extra density. Wants to keep green space and refers to the Outdoor magazine article on Duluth. Strongly opposes. Kathleen Roufs - 1006 Mississippi Ave. - eco-density - people are moving out of the area. Questions staff if only the applicant has the right to appeal. Kelly, anyone with standing has the right to appeal. Roufs stated they are not opposed to development, but are opposed to this particular project. Kathleen Anderson - 1055 Brainerd Ave. - she had to buy an SUV to negotiate the neighborhood roads in the winter and new residents will also have difficulty. She is opposed. Liz Johnson - 1103 Missouri Ave. - appreciates the diversity of the neighborhood, but does not support this project. Steve Rowley - 1100 Missouri Ave. - he feels Lyons is a dangerous street and noting a bus accident in February 2012. Helen Gildseth - 206 Lyons St. - commented the bus route was changed due to unsafe roads. George Lane - 4902 Kingston St. - questions high end versus student housing. He opposes the project. Ellen Marsden - 1112 Missouri Ave. - introducing rental property would adversely affect the neighborhood.

**Commissioners:** Moffat has mixed feelings stating he was renter at one time. He comments on the city housing shortage and development is a good thing if done properly. Moffat is concerned about the five parcels becoming two parcels and doesn't know what the other parcel will be used for. Meyer thanks the neighbors for attending and thanks the applicant for wanting to make an investment in Duluth. He questions why UDC included higher density housing in single-family neighborhood? Meyer is opposed to the higher density development and that a change in policy would be needed to disallow it. He opposes the project.

Applicant is called back: Jason Ross appreciates all the feedback. He commented the Chester Way development and due to restrictions, they did the best they could with parking spaces. Ross is aware this is a mature neighborhood and understands change isn't fun. These will be high-end rentals for Duluth. The stormwater factors will comply. Regarding nature and wildlife concerns, this is a residential area and is conforming to the UDC. He urges commissioners to approve.

Digby appreciates the neighbor turnout. He opposes the view that a single family home is better than a renter. Digby feels diversity adds to the strength of a neighborhood. Duluth needs new housing of a variety of types. He asks Kelley to address stormwater issues and questions the difference between a townhome versus a multi-family unit. Kelley, 2500 square feet per townhome, and the number of bedrooms is not defined. The applicant would need to submit drawings to our engineering department and they would need to meet stormwater regulations. Zwiebel opposes PL 14-101, and notes the parking lot extends onto the second property. She feels UDC is working because a special Use permit is needed for this

type of project. The commissioners have the right to deny the application if it is determined that adverse fiscal or environmental effects will be placed on the community. She does not support this particular development based on comments that have been made. The fiscal effects are speculative, but seem reasonable. Zwiebel comments that environmental effects also refer to safety and the extra traffic would be unsafe for the area. Guggenbuehl agrees with Moffat and Digby's views and notes there is a high need for housing. He disagrees with Zwiebel about safety concerns as there could be walkers to UMD who would not be using the streets for auto traffic. Moffat notes the size of scale isn't much larger than a single-family home as it is not a large scale apartment complex. It is close to what it is designed for. President Sarvela asks if a duplex could be added to each parcel. Kelley, it is a permitted use in R-1. Sydow is concerned with five lots being divided into two. He commented that without the shared parking lot only nine parking spaces would be feasible not 14 spaces and asked for revisions before a decision can be made.

**MOTION/Second:** Moffat/Sydow Table for more information regarding the relationship between the two parcels including the paved portion from one parcel onto the other and how stormwater collection will be handled all on the larger portion if it is split into two, and additional information is requested on the topography of the proposed grading.

**VOTE: (7-1, Meyer opposed)**

- I. PL 14-099 Special Use Permit for Townhouses at Mississippi and Lyons Street by Green Capital LLC

**Staff:** Kelley reviewed the applicants' request to construct a new 2-story structure for a 6-unit townhouse. Access to the site will be gained from Lyons Street via a private driveway adjacent to the Brainerd Avenue Alley. Townhouse dwellings are a special use in the R-1 zone district. Staff recommends approval subject to the conditions listed in the staff report. (See notes listed under item G as they were discussed together.)

**Applicant:** Jason Ross of Green Capital, LLC present.

**Public:** See above item G.

**Commissioners:** See above item G.

**MOTION/Second:** Moffat/Sydow table for more information regarding the relationship between the two parcels including the paved portion from one parcel onto the other and how stormwater collection will be handled all on the larger portion if it is split into two, and additional information is requested on the proposed grading.

**VOTE: (7-1, Meyer opposed)**

- H. PL 14-085 Quick Plat at Mall Drive by Duluth Hill, LLC

**Staff:** Jenn Moses introduces the applicants' request to divide Parcel A of Registered Land Survey No. 87 into two parcels. Staff recommends approval subject to the conditions listed in the staff report. Zwiebel asked if Texas Roadhouse would retain parcel 2 for parking. Moses responded that it will continue to be used for parking for Texas Roadhouse, and any potential future developments would need to come back to Planning Commission for review.

**Applicant:** John Koehler – addresses the commission and asks if there are any questions.

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (8-0)**

- J. PL 14-086 MU-C Planning Review for New Hotel at Mall Drive by JPK TR Duluth HIS, LLC

**Staff:** Moses reviewed request for a 4-story, 91-room Hampton Inn and Suites with 100 parking stalls. Staff recommends approval with conditions listed in the staff report. Guggenbuehl questioned about signs on Mall Drive. Moses said that one sign per frontage will be allowed but a sign permit will need to be applied for.

**Applicant:** John Koehler – addresses the commission and states they will be applying for a pylon sign along Mall Drive on their property and entertains questions. Sydow asks if there is a construction easement with Texas Roadhouse for the parking islands and asks about landscaping. Koehler commented that no written document exists, but it will be in the purchase agreement. Koehler stated no detailed landscaping has been added to the parking islands, but thinks there will be some. Sydow questions if there is enough room for a sign and questions the orientation of parking islands on the Northeast Corner. The applicant wants to maintain enough parking spots for the restaurant and the hotel. The city requested a clear clean flow of traffic versus row parking. Sydow questions the east side grading is off of their new parcel. The applicant states it's the same owner, so it will be easy to do.

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Zwiebel/Meyer approved as per staff's recommendation with the condition that landscaping be added to the new parking islands to the north of the property.

**VOTE: (8-0)**

- K. PL 14-096 MU-C Planning Review for Burger King and Caribou Coffee at 2120 London Road by London Acquisitions

**Staff:** Moses reviews the request for a 2,558 square foot Caribou Coffee shop and a 2,860 square foot Burger King with 47 parking spaces (maximum is 41, so they will revise their plan). Both establishments will have drive-thrus. Staff recommends approval with the conditions listed in the staff report including the addition of a sidewalk to connect each building to London Road. They are required to provide street frontage landscaping along 15 feet of London Road and 10 feet along 21<sup>st</sup> and 22<sup>nd</sup> Avenues East. Their landscaping plan shows it will meet the minimum tree canopy coverage and they will need to make sure the proposed tree species meets the canopy coverage. For example the burr oak dimension as shown on plan does not conform to UDC standards. Staff recommends approval with the seven conditions listed in the staff report. Digby asked if engineering addressed traffic safety concerns. Moses states the access points are from London Road and 22<sup>nd</sup> Ave E, which removes one vehicle access point and there were no noted safety concerns from engineering. Digby suggests moving the driveway five feet to make it safer and to discourage illegal left turns.

**Applicant:** Dan Maddy – the owner’s representative addresses the commission and introduces the designer of the project, David Chmielewski who entertains questions regarding this development. Digby asks about the entrance and if it will be an illegal left turn. He proposes making it a condition to coordinate a plan with engineering to make it a safe turn. Sydow questions the pedestrian connections and he would like to see proper screening for the drive-thrus. He notes the view from 21<sup>st</sup> Avenue East and doesn’t want visitors’ first impression of Duluth to be looking at a line of cars in the drive-thrus and would like to see some landscaping shift to that area. Chmielewski agrees; they have met the minimum requirements and are proposing to develop more elaborate landscaping once the final plan is in place. They are proposing pedestrian access from London Road using sidewalks across the islands. Sidewalks between the two sites are more challenging. He commented paint striping for a pedestrian walkway would help. Sydow asks what the time frame is. The applicant is in negotiations with Caribou Coffee and this is a time sensitive development.

**Public:** Ann Lacosse signed up, but was not present. She was listed as in favor.

**Commissioners:** Moffat would like to see parking reduced to maximum and agrees with extra screening and landscaping. Sarvela notes the high-traffic/visibility area and this project needs to be done right. Zwiebel thanks the applicant for redoing the existing site. Digby refers to Sydow for a landscaping condition.

**MOTION/Second:** Digby/Beeman approved as per staff’s recommendation with additional conditions that traffic flow be reviewed by city engineering to avoid illegal left turns into parking lots, screening of cars in drive thru be provided on the 21<sup>st</sup> Avenue side, and an identifiable pedestrian access between the sites be visible to car traffic.

**VOTE: (8-0)**

- L. PL 14-084 MU-C Planning Review for Grocery Store at 4426 Grand Avenue by Whole Foods Co-op

**Staff:** Moses introduces the applicants’ request for a 14,000 square foot grocery store with 60 parking spaces. Their landscaping plan exceeds UDC requirements. Staff recommends approval with the conditions listed in the staff report. Digby questions property shape versus the site – is there additional property that is not included on the site plan? Moses explained that the current owner has several lots with one parcel ID number; Co-op will not be buying all the land.

**Applicant:** Sharon Murphy, who represents the applicant, addresses the commission and welcomes questions. Sydow commends the application.

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Guggenbuehl/Sydow approved as per staff’s recommendation.

**VOTE: (8-0)**

- M. PL 14-087 Variance from Corner Side Yard Setback at 1540 Minnesota Avenue by Alan and Cheryl Dartanyan

**Staff:** Jenn Moses introduces the applicants’ request for a 4’ x 7.5’ deck on the front of the house that would be 3’ from the side lot line, instead of the 15’ required corner side yard setback. Proposed deck would not be any closer to the side lot line than existing house. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Alan Dartanyan addresses the commission and welcomes questions.

**Public:** N/A

**Commissioners:** N/A

**MOTION/Second:** Beeman/Zwiebel approved as per staff's recommendation.

**VOTE: (8-0)**

N. PL 14-093 Shoreland Variance at 4896 Arnold Road by Kathleen Howard

**Staff:** Jenn Moses introduces the applicant's request for a variance to build a 336 square foot addition to an existing 576 square foot home. Addition would be 78 feet from Amity Creek, a coldwater stream, which has a 150' setback. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Kathleen Howard addresses the commission and welcomes questions.

**Public:** N/A

**Commissioners:** Guggenbuehl notes the exceptional mitigation plan.

**MOTION/Second:** Zwiebel/Guggenbuehl approved as per staff's recommendation.

**VOTE: (7-0, Meyer absent)**

IV. Other Business

N/A

V. Communications

A. Managers' Report – Froseth asks if there are any questions. Digby notes the park point small area plan. The street end issue is a crucial city-wide concern. He would like the city to move forward. Froseth notes many different aspects are involved.

B. Consideration of Minutes – July 8, 2014

**MOTION/Second:** Guggenbuehl/Moffat recommend approval with two small changes.

**VOTE: (8-0)**

C. Reports of Officers and Committees

Heritage Preservation Commission Representative – N/A.

D. Adjournment

Meeting adjourned at 8:55 p.m.

Respectfully,



Charles Froseth, Land Use Supervisor