



City of Duluth  
Planning Division

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City of Duluth  
Planning Commission  
Minutes of January 10, 2012  
City Council Chambers

- I. President Digby has called a meeting of the City Planning Commission for 5 p.m., Tuesday, January 10, 2012, in the City Council Chambers.
- II. Roll Call: Henry Banks, Drew Digby, Terry Guggenbuehl, Frank Holappa, David Sarvela, Luke Sydow, John Vigen and Zandra Zwiebel.  
  
Excused: Heather Rand
- III. Old Business

**MOTION/Second:** Vigen/Sarvela to bring PL 11-126 **Off the Table**. **Vote:** 7-1 (Digby)

PL 11-126 – Vacate Public Right of Way at Wren Avenue between Terrace Street and Swan Lake Road by William and Susan Gatewood. **JK**

Staff stated this is an unimproved portion of the right of way. Staff had met with the applicant following the December Planning Commission meeting. The applicant is asking for a partial vacation of Wren Avenue. As indicated in the memo, staff's recommendation is to deny the vacation of the right of way.

Applicant: Michael Lien, Attorney for applicant. Gatewood inherited this property and is attempting to sell it. They only want to vacate a portion of Wren Avenue to sell the property. Vigen stated that when the application was brought to them that it would be the southernly part of Wren Avenue. When they came back they had found that the only place would be up by the home. If you want to build a garage it would be difficult. We need to approve the vacation as it protects their home access.

**MOTION/Second:** Vigen/Holappa to **Recommend Approval** for a partial vacation of the Public Right of Way at Wren Avenue between Terrace Street and Swan Lake Road by William and Susan Gatewood.

**VOTE:** 7-1 (Digby)

- IV. Public Hearings
  - A. PL 11-141 - Comprehensive Plan Map Amendment at Central High School at 800 E. Central Entrance from Institutional to Business Park, Neighborhood Commercial, Recreation, Preservation, and Transportation and Utilities by the City of Duluth. **SR**

**Staff:** Robertson stated that the elevation and topography of the site, reinforcing the fact that the site is picturesque and a strong asset. The City held a public meeting on November 16th and another on December 14th. Holappa asked why are we doing this at this point as this would inhibit the possibility of the resale of the property. Robertson stated that the future land use for the site is Institutional, and future rezoning and land uses must align with the designation in the comprehensive land use plan, unless it is changed.

Petkac added that there are two things going on. The Comprehensive Plan is the long range vision and they are looking at what the appropriate future land uses are. Another high school going into this space is not a possibility. Lutterman added that when the zoning follows the Comprehensive Plan there are occasions that the two conflict. We need to see what would be the best use of this property so it doesn't have uses in conflict. Holappa stated that this has a dramatic effect and that the school district may lose some potential value of the site. Robertson stated that they had additional discussions and it could be successfully re-developed without compromising the site. Vigen added that the area that is addressed is quite developable.

**Applicant: Kerry Leider.** Leider stated that the School Board Resolution approved opposing the Comprehensive Plan Amendment. He introduced their acting Superintendent and Chair person Anne Watson. The Central High school site is in a position of having a great asset. They stated that the map randomly divides the property which severely reduces the value of this site. The value of the property is not the sole use. They had an expert opinion that this is the type of use that developers would look at. The Planning Commission needs to resolve some of the issues for the best interest of the community. Your tabling this will help it to happen. We appreciate the process and persons concerned with this property feel that they should have a different level of conversation. They ask to table this.

**Public: Codie Leseman - 1019 E 5th Street.** As a graduate from UMD Urban Studies program he was excited about the mixed use development. In order to have a mixed use development it would need to have housing and neighborhood businesses close by. He stated that you cannot have neighborhood businesses without a neighborhood. If industry or retail comes in they may have a well planned mixed use development.

Vigen asked what this would be is Mixed Use Business Park. This is the only one that does not have residential. Robertson stated that under the MU-N, every type of residential living is a permitted use.

**Pat Kolojeski - 218 S. Blackman Avenue.** She is adjacent from the School property. They are highly affected with their decision. Why do we need a public street going up there?

**K. Lewis - 120 W 5th Street:** Does this business plan have a restaurant? As one who misses the Buena Vista she would hope that there would be picnic areas, hiking and biking. You need to know that building on the top of the hill can cause erosion down the hill.

Vigen stated he was at the meeting in November and had taken a part in the discussions on this. The district had public hearings and when he saw the first draft it had great potential for developments which would be very suitable for that site. He brought this up to the Commission. Vigen asked Kerry Leider if they could have done any kind of re-use of this site? He asked if they would have the ability to have some mixed use residential in this area. Leider stated that it may spur others to look at the land with this designated Park and Preservation. Thirty-four acres of green space seems to be set aside as a buffer. This is the tool that allows the development. Vigen stated that they may come up with different uses for the property and provide insight and value. They are now here to try to solve this and may take another look at the Rockridge property as well. Petkac has been working with the school district all along and determining what the future land use will be. It is our job to be looking at the site and have the school maximize what is best for their community and for the city. This is a tremendous opportunity to have partners. Sydow asked if this was to be delayed for a month or two, would it make a difference? Petkac stated that her recommendation would be to move this process forward tonight.

Vigen added that the land has great opportunity but there may not be a lot of value in the building and the land perspective has a lot of opportunity. Is there a way to tweak this site and not compromise the trail system? Zwiebel asked why there is 43% of primarily green space, Robertson stated that the land is primarily poor elevation but plays a healthy buffer between the adjacent developments. Banks asked about the resolution of the school board and was that unanimous? Vigen stated that it was a unanimous decision. Digby added that we need to respect that they are concerned about overdeveloping this spot. The dedication of a significant amount of green space will come out of this.

**MOTION/Second:** Holappa/Guggenbuehl to **TABLE** the Comprehensive Plan Map Amendment at Central High School at 800 E. Central Entrance from Institutional to Business Park, Neighborhood Commercial, Recreation, Preservation, and Transportation and Utilities by the City of Duluth.

**Vote:** 5-3 (Banks, Digby, Guggenbuehl)

- B. PL 11-136 - UDC Zoning Map Amendment to Rezone from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N) at 1400 Woodland Avenue by St. Luke's Hospital. **JK**

**Staff:** Kelley stated that this is an application for the rezoning of 1400 Woodland Avenue from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N) and the proposal is to allow the existing medical clinic to expand. The property has been utilized by the Clinic which is a permitted use. In 2010 the Comprehensive Plan was amended for Neighborhood mixed Use with the remainder of the site Urban Residential. Staff Recommends approval from Urban Residential to Mixed Use (MU-N).

**Applicant:** Ron Franzen. Mount Royal Clinic is an older clinic. They are looking at expanding this to bring it up to their standards and providing more services to patients. Franzen stated that they have primarily patient care. Digby asked if the proposed building expansion would change the parking. Staff stated that there may be opportunity for more parking once the applicant applies for a plan review.

**Public:** Mark Lambert. Village Center LLC will be submitting redevelopment plans for the Woodland School Site. The applicant has a great site here.

**Chris Magney:** 1401 Woodland Avenue. He is in opposition of this proposal. The intersection here is a very busy road. Magney stated that they need to talk about the impacts in the area that this may cause. He is in opposition to this.

**MOTION/Second:** Holappa/Guggenbuehl to **Recommend Approval** for a UDC Zoning Map Amendment to Rezone from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N) at 1400 Woodland Avenue by St. Luke's Hospital.

**VOTE:** Unanimous (8-0)

- C. PL 11-137 - Concurrent Use Permit for Propane Container on Public Right of Way at 202 E. Superior St. by Daniel Neff. **JK**

**Staff:** This is for an application for a concurrent use permit for a propane container on the public right of way on Michigan Street. The proposal is to have two propane tanks stored in a metal enclosure and extend out approximately 2 feet into the right of way. This will leave approximately 5 feet of pedestrian walkway to get around the enclosure. The City Fire Marshall and Engineering office have reviewed the applicant's plans. Staff recommends approval with conditions.

**Applicant:** Daniel Neff. Mr. Neff saw this as a great opportunity to have his glass art gallery as well as providing studio space for others which will be a great asset to Duluth. The applicant uses a different

type of glass and requires propane to process that glass. The applicant believes the metal enclosure is above and beyond the protection which far exceeds the safety concerns. Vigen asked if the tanks are going to be placed inside a lockable metal cabinet and could not be accessed. The applicant stated that it is in a tamper proof enclosure.

**Public:** Kristi Stokes - greater downtown Council. They have been very supportive and they have seen him grow as an artist and this is a perfect fit. She strongly encourages the planning commissions support.

**MOTION/Second:** Sydow/Guggenbuehl to **Recommend Approval** of the Concurrent Use Permit for Propane Container on Public right of Way at 202 E. Superior Street by Daniel Neff **with the following Conditions:** 1. The applicant provides liability insurance meeting the following minimum amounts of insurance from insurance companies authorized to do business in the state of Minnesota: a) Public liability with limits not less than \$3,000,000 on the release of a hazardous substance and single limits of \$1,500,000 for any number of claims arising from a single occurrence. b. The City of Duluth shall be named as the Insured. 2. The applicant agrees to provide certificates showing that applicant is carrying the above described insurance in the specified amounts to the City of Duluth prior to the issuance of a building permit. 3. The project be limited to, constructed, and maintained according to the documents drawn by LHB Corporation dated December 27, 2011. **Vote:** Unanimous (8-0)

- D. PL 11-123 - Variance to Reduce the Corner-Side Yard Setback from 15' to 5'-6" to Allow Construction of a Deck at the Rear of 1339 Minnesota Ave. by Glenn and Nancy Anderson. **KD**

**Staff:** Deming stated that the reason for the variance is to allow construction of a 12' 14' deck on the rear of the house extending from the corner of the house. The applicant has exceptional difficulties in needing to meet the side yard setback due to lack of space between the corner of the house and the exterior basement stairs. It is a reasonable use wanting to add an open deck to a 780 SF house.

**Applicant:** Glenn Anderson. This is on a very narrow lot on Park Point. They couldn't use their back yard. They have enjoyed working with the city staff. Guggenbuehl asked in granting a variance, is that specific for the deck only - which it would be. Lutterman stated that because of the expansion of the deck the variance is for the deck itself.

**MOTION/Second:** Guggenbuehl/Sarvela to **Approve** the variance to reduce the corner-side yard setback from 15' to 5'-6" to allow construction of a deck at the rear of 1339 Minnesota Avenue by Glenn and Nancy Anderson. **Vote:** Unanimous (8-0)

- E. PL 11-135 - Variance to Increase Scoreboard Advertising from 10 s.f. to 242 s.f. at the Marshall School Football Field at 1215 Rice Lake Road. **KD**

**Staff:** Deming stated that this is a variance that relates to signs. The 10 square foot limitation on scoreboard advertising signs comes from the old code and has been brought forward into the UDC. The 10 SF limitation does present a practical difficulty in viewing the sign from the stands, but that staff isn't sure the proposed 242 SF is reasonable. He looked at other signs allowed in R1 districts and the largest is 32 SF allowed for a school sign. Staff finds that the sign is located in a "bowl" and is not visible from surrounding properties and, therefore, granting the variance won't likely alter the essential character of the area. Staff recommends denial of the variance because the proposed 242 SF sign far exceeds that allowed elsewhere in R-1 districts and is, therefore, not reasonable. Staff offers an alternative recommendation should the Commission find the use reasonable.

**Applicant:** Tony Lockhart – Marshall School. They would like to request that they will be replacing a scoreboard that will work for their fans and their team. They confirmed with the Ordinance and the code requirement that sponsorship will not be visible to fans. This is consistent with the Comprehensive Plan. They believe that the sponsorship is in fact reasonable. They feel that it is reasonable that it goes along with other Scoreboards in other football fields. They urge the commission to approve the staff's alternate recommendation and allow the sponsorship on the scoreboard. Vigen asked about the scoreboard. This is in place and the sign will not be illuminated and currently no lights on the field. Deming stated that this is mixed use institution future land use in the Comp Plan.

**MOTION/Second:** Vigen/Zwiebel to **Approve** the variance to increase scoreboard advertising from 10 s.f. to 242 s.f. at the Marshall School football field at 1215 Rice Lake Road. **VOTE:** Unanimous (8-0)

- F. PL 11-138 - Variance to Reduce the Shoreland Setback from 150 feet to 76 feet at 1118 N. 27th Ave. W. by Shaun Floerke. **SR**

**Staff:** Robertson stated that this is for a shoreland variance. One of the main tenants of the Comprehensive Plan and UDC are preservation and protection of our natural resources and setbacks from creeks. This home was put up in 2002 while our WRMO Ordinance was still in effect, although the tributary was not regulated by WRMO. With the new UDC in effect as of Nov 2010, it now has shoreland setbacks which hadn't in the past. The applicant is now proposing to expand his structure which is already impervious surface. The applicant is working with Community Action Duluth's Stream Corps to plant some trees in the area to reduce erosion and improve stormwater quality. Staff recommends approval with the variance as shown in the site plan.

**Applicant:** Shaun Floerke. This is a rebuilt from a fire on October 15th. They are trying to get more living space.

**MOTION/Second:** Guggenbuehl/Sydow for a Variance to Reduce the Shoreland Setback from 150 Feet to 76 feet at 1118 N. 27th Avenue W. by Shaun Floerke. **VOTE:** Unanimous (8-0)

- I. Consideration of minutes – December 13, 2011, Approved by Digby/Second by Sydow.

- II. Communications

PL 11-134 - Zoning Map Amendment of the Downtown from Mixed Use-Commercial (MU-C) to Form Districts, Mid-Rise Community Shopping/Office (F-5), Downtown Shopping (F-7), and Downtown Mix (F-8). Boundaries of the area are from approximately Mesaba Avenue to North 3rd Avenue East and from Michigan Street to the alley above 2nd Street by City of Duluth. No action.

- III. Reports of Officers and Committees

A. Duluth Historic Preservation Commission. President Digby stated we will be moving forward with The East End Survey in a couple of months.


- IV. New Business

A. Update on Sign Code Rewrite. Robertson stated that a consultant will be coming in and do interviews with stakeholders and staff. We would like to have a brown bag in February or March.

- V. Other Business

VI. Adjournment

Respectfully,



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Keith Hamre, Interim Planning Manager