

City of Duluth
Planning Commission
March 14, 2017 Meeting Minutes
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 p.m. on Tuesday, March 14, 2017, in city hall council chambers.

Roll Call

Attending: Terry Guggenbuehl, Janet Kennedy, Garner Moffat, Michael Schraepfer, Luke Sydow, and Zandra Zwiebel

Absent: Tim Meyer and Heather Wright Wendel

Staff Present: Adam Fulton, Nate LaCoursiere, Steven Robertson, John Kelley, Chris Lee, Kyle Deming and Cindy Stafford

II. Approval of Planning Commission Minutes:

February 14, 2017 (Regular Meeting)

MOTION/Second: Zwiebel/Sydow approve the minutes with one change.

VOTE: (6-0)

February 28, 2017 (Annual Meeting)

MOTION/Second: Kennedy/Zwiebel approve the minutes with one change.

VOTE: (6-0)

III. Unfinished Business

PL 17-004 Interim Use Permit for One Vacation Dwelling Unit at 1035 Berwick Court by Don and Patricia Washington

Staff: Chris Lee shares new pictures taken of the site. He reiterates staff is still in support of the applicants' proposal for the use of their single-family home with three legal bedrooms as a vacation rental property. Zandra Zwiebel asks for clarification that there will be a maximum of seven renters, a maximum of four parking spaces, and any utility vehicle would need to be parked in the driveway. Lee affirms. Chair Guggenbuehl states the public hearing was held last month, and is now closed. The item was sent back to the planning commission by the city council. President of the city council, Joel Sipress addresses the commission and explains the council received a request by members of the planning commission that they would like to see it back. Sipress has confirmed with neighbors that a vacation rental is an allowed use in an R-1 district. The neighbors have privacy concerns. There is a provision that where there are privacy concerns, a dense urban screen can be requested. He offers the option to add it as a condition. City attorney, Nate LaCoursiere states a dense urban screen is a discretionary option and not mandatory.

Applicant: N/A

Public: N/A

Commissioners: Chair Guggenbuehl reiterates the application met all conditions, but noted last time he felt the planning commission could be more selective due to the 60-limit cap. He opposes the 60 limit cap, but should have directed his comments to the city council and not to the applicant. Zwiebel states she went against prior precedence

due to limited numbers. The criteria of "neighbors don't want it" was not a criteria she has used in the past. She regrets her vote from last time, and would like the opportunity to change it.

MOTION/Second: Zwiebel/Moffat reconsider the motion.

VOTE: (6-0)

Zwiebel suggest the possibility of the neighborhood being given access to look online to see who the renters are at any given time. Garner Moffat thinks this would might be a burden to the managing agent. He suggests adding a "children at play" sign to alert renters. Janet Kennedy asks about the discretionary buffer. How does she make her decision? Is the buffer something they need to discuss today? Zwiebel states they can add the condition now. Kennedy visited the neighborhood today and doesn't feel there is a privacy issue with the direct neighbor. She wants to make sure their decision is fair. Chair Guggenbuehl states it's a case by case situation. They have approved others with less buffer in the past. The above neighbors might be impacted more than the direct neighbor. Luke Sydow states it's more of a site design aspect. He states the nearest neighbor is 70 feet away. The only opacity issue might be in the winter (lack of foliage) when people are inside anyway. He feels the current screening is adequate. Moffat agrees.

MOTION/Second: Zwiebel/(No Second) recommend approval as per staff's recommendations with the addition of a privacy fence.

Michael Schraepfer states this application has more screening than others. He feels they are getting too subjective. Zwiebel reiterates it's a discretionary issue to be looked at on a case by case basis.

MOTION/Second: Sydow/Moffat recommend approval as per staff's recommendations.

VOTE: (6-0)

IV. Public Hearings

Note that PL 17-026 Variance for a Side Yard Setback at 1701 Minnesota Avenue will be on the April 11, 2017 Planning Commission agenda

- A. PL 17-020 Interim Use Permit for One Vacation Dwelling Unit at 1822 Melrose Avenue by Benjamin Wheeler

Staff: John Kelley introduces the applicant's proposal to use his single family home with three bedrooms as a vacation rental property. Staff recommends approval subject to the conditions listed in the staff report.

Applicant: Benjamin Wheeler present, but did not speak.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Moffat/Zwiebel recommend approval as per staff's recommendations.

VOTE: (6-0)

- B. PL 17-018 Future Land Use Map Amendment for Boundary Avenue

Staff: Chris Lee introduces the city's proposal to amend the Comprehensive Land Use Map from Low Density Neighborhood to Neighborhood Mixed Use and Neighborhood

Commercial to Traditional Neighborhood. Staff recommends approval. Moffat asks how the existing housing in the neighborhood matches the current zoning code and how it will complement the new zoning. Lee states the surrounding neighbors are in Proctor and has a mix of commercial and residential. Adding commercial to this area will be complimentary. Manager Adam Fulton states currently this is an underserved area for commercial and adding commercial opportunities will add to the walkability of the surrounding neighborhood to the east.

Applicant: N/A

Public: No speakers.

Commissioners: N/A

MOTION/Second: Sydow/Zwiebel recommend approval as per staff's recommendations.

VOTE: (6-0)

- C. PL 17-014 Minor Subdivision at 2907 N 52nd Ave East by Greg and Kelly Yetter

Staff: Kyle Deming introduces the applicants' proposal for a minor subdivision which would split their existing lot into two. The existing lot has a home developed on the south half and the intention is to construct another dwelling in a new lot on the north half of the existing lot. Based on their findings, staff recommends approval with the conditions listed in the staff report. Zwiebel notes $\frac{3}{4}$ of property is in the shoreland setback. Will there be room to build? Deming states the shading on the map is the shoreland area which is 300 feet. The stream setback itself is 150 feet. There will be no variance needed for the driveway. Sydow asks if engineering is made aware when they apply for the permit. Deming affirms. Sydow wants to make sure stormwater issues are addressed. Moffat asked about rain gardens in the past. Chair Guggenbuehl didn't think it was included in the minor subdivision stage. Zwiebel asks if they are not allowed to add setback criteria to a minor subdivision. Fulton states it's highly unusual. But these conversations are noted and should a variance be brought forward at a future date they could look at the minutes to know the commissions' intent.

Applicant: Greg Yetter present, but did not speak.

Public: N/A

Commissioners: N/A

MOTION/Second: Moffat/Sydow approved as per staff's recommendations.

VOTE: (6-0)

- D. PL 17-028 Preliminary Plat for Kayak Bay Development South of the Intersection of Grand Avenue and Warwick Street by Spirit Valley Land Company LLC and Brad Johnson

Staff: Steven Robertson introduces the applicant's proposal for a preliminary plat to subdivide the property in preparation for a future mixed use development (Kayak Bay Village). More conversations will be needed before the project moves forward. The developer is trying to develop near the ski area and the water, but maintain open space. Based on the findings in the staff report, staff recommends approval. Chair Guggenbuehl notes it's important to distinguish between the preliminary and final plat.

Applicant: Brad Johnson of Spirit Valley Land Company addresses the commission. He has more plats which will be moving forward in the process. It will create new revenue for the city and new places for people to shop. He agrees many conversations are going

on (DNR, city, Burlington Northern). He hopes to have the final plat in a couple of months.

Public: No speakers.

Commissioners: Moffat thankful to staff for their detailed comments. He notes #5 in the staff report regarding street consistency. Zwiebel asks if there will be sufficient time to be reviewed by environmental groups. Robertson affirms. Sydow asks about the spirit mountain village center listed in the staff report. Will that be part of this application? Robertson states no. It shown for connectivity purposes only.

MOTION/Second: Moffat/Zwiebel approved as per staff's recommendations.

VOTE: (6-0)

- E. PL 17-013 Concurrent Use Permit for an Obstruction in the Platted Public Right of Way of 21 Street South at 2040 Minnesota Avenue by John J Howard

Staff: Steven Robertson introduces the applicant's proposal for a concurrent use permit to allow a private obstruction (steps and a portion of a 3-season porch) to remain in the public right of way. Staff recommends approval with the conditions listed in the staff report. Moffat asks if it would be more appropriate to look at a 21st street south street vacation. Robertson states since the small area plan for park point, they are not granting vacation requests on park point. property. Sydow they don't know what is going to happen in the future as far as access points go. Zwiebel asks if we give them a concurrent use permit and then take it back, will they have to remove their structures? Robertson affirms. Zwiebel asks about property taxes. Robertson public right of way, so there is no tax value. For unimproved right of ways the policy has been you control your half and the neighbors control theirs. An access easement agreement is needed with the neighbors.

Applicant: John Howard addresses the commission. He is aware that if the city needs the right of way back, he will comply.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Zwiebel/Sydow recommend approval as per staff's recommendations.

VOTE: (6-0)

- F. PL 17-012 Variance to Construct a Garage in the Corner Side Yard Setback at 2040 Minnesota Avenue by John J Howard

Staff: Steven Robertson introduces the applicant's proposal for a variance to reduce the side yard setback on the street side of a corner lot from 20 feet to 8 feet, to allow construction of a detached garage (22' x 34', 748 total square feet). Staff recommends approval with the conditions listed in the staff report.

Applicant: John Howard present, but did not speak.

Public: No speakers.

Commissioners: Moffat has concerns about the garage size. He feels 34' width is too large. Robertson reducing the width wouldn't minimize the setback requirements.

MOTION/Second: Zwiebel/Schraepfer approved as per staff's recommendations.

VOTE: (5-1, Moffat Opposed)

- G. PL 17-016 Interim Use Permit for One Vacation Dwelling Unit at 2321 West 9th Street by Aaron Peters

Staff: Chris Lee introduces the applicant's proposal to use his single-family home with three bedrooms as a vacation rental property. Staff recommends approval with the conditions listed in the staff report. Sydow asks if the applicant lives within the city, so they don't need an agent. Lee affirms.

Applicant: Aaron Peters addresses the commission. He lives about six blocks away. The neighbor wanted the shrubs removed for ease of mowing.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Moffat/Zwiebel recommend approval as per staff's recommendations.

VOTE: (6-0)

- H. PL 17-024 Interim Use Permit for One Vacation Dwelling Unit at 3840 Lake Avenue South by Charles Jacobs

Staff: Chris Lee introduces the applicant's proposal for use of his single-family dwelling with three bedrooms as a vacation rental property. Staff received one comment today in support of the Interim Use Permit. Staff recommends approval with the conditions listed in the staff report. Zwiebel asks if the camper needs to be on a paved area. Lee says it need to be off-street. Chair Guggenbuehl asks about the additional conditions for park point vacation rentals. Per Fulton, yes the standard conditions will be added before it goes to council.

Applicant: Charles Jacobs addresses the commission. In the past park point residents could make improvements in the right of ways. The driveway was keeping in the spirit of this. This used to be his parents' house. He lives nearby, and wants to keep his neighbors happy.

Public: No speakers.

Commissioners: Zwiebel reminds staff about the standard condition that the burning of garbage is not allowed.

MOTION/Second: Zwiebel/Moffat recommend approval as per staff's recommendations with the added standard conditions that park point beach access points be observed and that the burning of garbage is prohibited.

VOTE: (6-0)

- I. PL 17-019 Interim Use Permit for One Vacation Dwelling Unit at 1621 East Superior Street by Brian and Crystal Jordan

Staff: Kyle Deming introduces the applicants' proposal for two vacation dwelling units consisting of one, two-bedroom unit and one, one-bedroom unit in an existing four-family dwelling. These units currently have a vacation dwelling unit interim use permit and the applicant is proposing to purchase the property and continue to operate them as vacation rentals. Staff recommends approval with the conditions listed in the staff report.

Applicant: Brian and Crystal Jordan' son addresses the commission. He is the managing agent and would like to purchase the property from his parents. Nothing will change except the ownership.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Moffat/Zwiebel recommend approval as per staff's recommendations with added standard condition that the burning of garbage is prohibited.

VOTE: (6-0)

- J. PL 17-021 Interim Use Permit for One Vacation Dwelling Unit at 9506 Congdon Boulevard by Allan Winters

Staff: Kate Van Daele introduces the applicant's proposal to use his home as a vacation dwelling unit. Staff recommends approval with the conditions listed in the staff report.

Applicant: Allan Winters present, but did not speak.

Public: James and Patricia Suchan address the commission. They live two doors down. They have made improvements to their property and are opposed to the vacation rental. 95% of their neighbors are single family dwellings and he would like to see it stay that way. He is concerned with noise, traffic, off-street parking and an increase in recreational vehicles. Patricia states they retired there for peace and quiet. They are opposed. Bob Kuettel - 9440 Congdon Blvd. - addresses the commission. He is concerned that this land is land locked. Vacationers will want to cross neighbors' property to throw rocks in lake, have bonfires and parties on the beach. Mary Lou Sibroski - 9502 Congdon Blvd. - addresses the commission. She has owned her home since 1984. She has had to call the police regarding bonfires on the beach. She is opposed. Al Winters (applicant) addresses the commission and would like the opportunity to address his neighbors' concerns. He would like to sit down with the neighbors and eliminate their fears. He will not put his home, safety or the neighbor's safety at risk. There will be no trespassing to the shore line. Chair Guggenbuehl asks where the closest water access is located. Winters states the McQuade access, which is about three blocks down. He assures the public he will be a good neighbor.

Commissioners: Chair Guggenbuehl reiterates there are strict enforcement guidelines in regards to vacation rentals. Moffat echoes that comment. The city uses these as a temporary usage. He notes beach access concerns, but states public access is only three blocks away.

MOTION/Second: Schraepfer/Sydow recommend approval as per staff's recommendations with added conditions that beach access rules be given to renters and a sign no beach access sign be added to the property line.

VOTE: (6-0)

- K. PL 17-023 Interim Use Permit for One Vacation Dwelling Unit at 110 22nd Street South by Steve and Heather Pitschka

Staff: Kyle Deming introduces the applicants' proposal to use their single-family home with two bedrooms as a vacation dwelling unit. Staff recommends approval with the conditions listed in the staff report. Moffat asks about rental history. Deming states this was a long term rental. Schraepfer asks if there are other vacation rentals in the area. Deming does not know off-hand.

Applicant: Steve and Heather Pitschka address the commission. They are amenable to privacy screening on the deck. They would like to keep the garage for off street parking. They have other vacation rentals and clearly explain quiet hours, beach access points. Trying to make their community a better place. They enjoy refurbishing homes and welcoming visitors to Duluth. Sydow asks about the concurrent use permit and if they will remove the ramp. Pitschka states they plan on getting rid of the ramp.

Public: Dennis Remer – 2201 Lake Ave. – addresses the commission. He owns both neighboring properties. The garage is small and only allows for small cars. He is concerned about off-street parking. There are problems with off-street parking. Moffat asks what he recommends for parking. Vacation rentals can have multiple cars. Moffat states a buyer could have two teenage kids which would also have multiple cars. Zwiebel mentions the deck on the side, and the addition of a privacy fence. Remer states the deck is only 4' away from his property, and he feels an entire fence would be more of a nuisance. Pitschka states the fence proposal will be on the deck only, and will not block his neighbor from painting. Dave Havic - 2202 MN Ave. - addresses the commission. He has rented the neighboring house from Remer for eight years. He thinks it's already been used as a vacation rental. Installing off-street parking would require excavation which could compromise his garage wall. He is concerned with parking issues.

Commissioners: Schraepfer asks if the garage dimension (9' x 17') has been verified. Deming states it hasn't been verified, but it could be. Moffat refers to google maps and it would need to be a very small car to park in driveway and garage. He doesn't think it would be less of a problem if it was owner occupied. Zwiebel suggests there could be no parking signs on the neighbor's side. Zwiebel asks the applicant if there is enough room to park a car in the garage. Heather Pitschka states yes and noted a full-sized ford Taurus used to fit. Deming states the applicants have applied for a concurrent use permit. If it goes through they can eliminate the condition to add an off street parking space. Moffat a lot of vehicles might not fit, but same if owner occupied.

MOTION/Second: Sydow/Zwiebel recommend approval as per staff's recommendations with added conditions that a concurrent use permit be obtained to allow for non-conforming garage and an off-street paved parking spot be created along with the standard conditions that park point access points be observed and that the burning of garbage is prohibited.

VOTE: (5-1, Moffat Opposed)

- L. PL 17-011 Variance to Expand a Non-Conforming Structure at 5805 Oneida Street by Kathleen Brunelle

Staff: Kyle Deming introduces the applicant's proposal for a 20' x 26' addition to the front of an existing home that is nonconforming due to its location entirely within the rear yard setback. Staff recommends approval based on the conditions listed in the staff report.

Applicant: Kathleen Brunelle addresses the commission. She has lived there since 2005 and her family is growing and so they are in need of the addition.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Zwiebel/Sydow approved as per staff's recommendations.

VOTE: (6-0)

V. Communications

- A. Manager's Report –Adam Fulton notes there will be a brown bag in March. He notes the Spirit Mountain Master Plan update, the Western Ports Area Neighborhoods Plan (WPAN), and gives a Comp Plan update. The mayor's state of the city speech will be on Monday, March 20th, and the commissioners are encouraged to attend

B. Reports of Officers and Committees
Heritage Preservation Commission Representative – Guggenbuehl gives a handout to the commissioners.

C. Meeting adjourned at 7:33 p.m.

Respectfully,



Keith Hamre - Director
Planning and Construction Services