



City of Duluth
Planning Division

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City of Duluth
Planning Commission
July 10, 2012 Meeting Minutes
City Council Chambers, Duluth City Hall

- I. Call to Order: Henry Banks, Marc Beeman, Drew Digby, Terry Guggenbuehl, Heather Rand, David Sarvela, Luke Sydow and Zandra Zweibel

Excused: Patricia Mullins

- II. Public Hearings

Discussion on the Following Items to Start at 5:00 pm

- A. PL 12-104 UDC Map Amendment to rezone property located at 1 Lake Place Drive, from Mixed Use-Neighborhood (MU-N) to Industrial-General (I-G), by The City of Duluth **JJ**

John Judd stated at this is the rezoning of the existing Steam Plant site. When the UDC took effect the area had been zoned Mixed Use Neighborhood (MU-N) instead of the more appropriate Industrial (I-G) General. Rezoning to I-G is the zone is most reasonably related to the existing land uses in the area and as a result will provide a greater level flexibility to the operations of the Steam Utility while increasing the public benefit more than would be allowed under the current MU-N zone district. Digby asked if they rezone can they build apartments at this site – Judd stated no. Rand moved for approval with the reasons cited in the staff report.

MOTION/Second: Rand/Sarvela to **Approve** the UDC Map Amendment to rezone property located at 1 Lake Place Drive, from Mixed Use-Neighborhood (MU-N) to Industrial-General (I-G), by the City of Duluth. **Vote:** 8-0 (Unanimous)

- B. PL 12-105 UDC Map Amendment to rezone four (4) parcels located on the southwest corner of East Michigan Street and East Superior Street, from Mixed Use- Commercial (MU-C) to Form District 8 Downtown Mix (F-8), by The City of Duluth **JK**

John Kelley stated that this is to rezone four parcels to Form District 8 Downtown Mix (F-8). They were proposed for rezoning and were included in the form based district rezoning that was approved by the City Council on May 14, 2012. However there was an error in the legal description and the parcels were left out of the form based district. Therefore the rezoning is to incorporate these parcels. Staff recommends approval of the rezoning based on the reasons noted in the staff report.

Robert Ward. He owns property at 320 W Superior Street and would like the existing use to be grandfathered in. Kelley stated that the uses will continue.

MOTION/Second: Guggenbuehl/Beeman to **Approve** the UDC Map Amendment to Rezone four (4) parcels located on the southwest corner of East Michigan Street and East Superior Street, from Mixed Use-Commercial (MU-C) to form District 8 Downtown Mix (F-8), by the City of Duluth. **VOTE:** Unanimous (8-0)

C. PL 12-099 Vacation of Easement (Utility) at 323 Plum Street by George Meneely **JRM**

Jenn Moses put up a map of the property at 323 Plum Street. There are currently two easements. One runs in across the rear of the property and the other runs north and south through a portion of the garage. There are currently no utilities on the north-south easement, which is the one proposed for vacation. No comments were submitted.

MOTION/Second: Rand/Beeman to **Approve** the Vacation of the Easement at 323 Plum Street with the following Condition: The vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process. **VOTE:** Unanimous (8-0)

D. PL 12-092 Plan Review for New Parking Structure in Mixed Use-Institutional (MU-I) at 401 East Second Street by Essentia Health **SR**

This is a plan review for a parking structure in an area zoned Mixed Use-Institutional. There is a map of the area and the applicant would like to build a larger facility and demolish the current one. Per UDC, they need to meet all of the standards. Staff have some concern with the exit for the structure, both with vehicles stacking up and with potential pedestrian conflict. There are two conditions. They met with the applicant and our concerns have mostly been resolved. Digby asked if there was a way for more visibility and walkability. Banks asked what is wrong with the current structure.

Applicant stated that the existing structure was built in 1973. Through water infiltration they had high maintenance costs. Digby was asking about the walkability of the campus. They looked at to improve the functionality of it. Digby is concerned about having a giant structure in that corridor. Beeman added that this has two way traffic for a more recent parking structure. You need about a 14 width driving lane for this to function properly, they have about 18' to 19' feet. The existing parking structure will be torn down and replaced with a new one.

MOTION/Second: Beeman/Banks to **Approve** the Plan Review for a New Parking Structure in Mixed Use-Institutional (MU-I) at 401 East Second Street By Essentia Health **with the following Conditions:** 1. The project be limited to, constructed, and maintained according to documents drawn by LHB, dated 5/29/12.
2. Any alteration 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 the provisions of Chapter 50. **VOTE:** 7-1 (Digby)

Discussion on These Following Items Will Not Start Until After: 5:30 pm

E. PL 12-098 Special Use Permit for Residential Care Facility in Residential-Traditional (R-1) at 2211 Greysolon Road by Center City Housing Corporation **SR**

Robertson stated that they have received some correspondence from several people. The planning commission can approve, approve with conditions or deny. **Digby and Sarvella recused themselves and left the room.** The Special Use Permit is in a R1 zone. The applicant wants to have a Resident Care facility. During review staff found sufficient parking spaces. This a large site, and existing screening is sufficient. We believe that this is an appropriate use in R1.

Representing the application is Mark Pilon with Hanft Fride, as well as Gary Olson and Doug Zahn. The applicant is Center City Housing. As mentioned by City Staff, they will provide some buffering of the fencing and some shrubbery. They did not have an updated site plan.

Ms. Beverly Goldfine - 2306 Superior Street. This is the most beautiful land. The house must be 100 years old. She likes the Marty Man Program but she doesn't believe it belongs on this property. We would welcome a multiple use. She is opposed to this.

Cheryl Husby – 2202 Jefferson Street. She lived across the street and is in a turn of the century house herself. She offered up the Pringle Mansion and thought it was appropriate – she does not. They all see that they are in love with the property and the cultural resource as a local landmark. This is one of the poorest streets in the city. What would the qualifications be for staff – would the grounds be lit? What about the loss in taxes. I think this is the wrong thing at the wrong time.

Megdalena Wallhoff – 3501 E 1st Street. She is a potential buyer. She had received a pamphlet on this. Why not rezone it first then open it up. If they want to use this house for a care facility it will be a loss for us all.

Earl Hamilton - 2323 Greysolon Road. He wants to deny this. It is in the middle of the neighborhood and not a good fit with this. In his business he had an opportunity to speak to these facilities. These were away from people and outside of the residential neighborhoods. They urge you to not go with this. Once this special permit was signed there wouldn't be anything they can do.

Nancy stated that this was their home and they don't want a facility like this. Her biggest thing is transparency.

Jill is speaking for the SUP permit. She lives is on 2121 Jefferson Street. It is 2 houses away from the Prindle Mansion. She was the one who wouldn't want more development. She lived next to the property and thinks this is would be a good fit. She knows the individual and the program and she trusts them. They want to keep the integrity of this property. They have resources for this to not to go into disrepair.

Kathy Damen This is right against their property. To us it is relatively close to the property. They would be good neighbors. There are ways of making a contribution and they are for this to be in the neighborhood.

Hamre stated that there are two items and as you consider this you would make landscaping a condition. Banks stated that this piece of land is a treasure. He knows of the work and they had done excellent job. They had received a letter in support of this project and that means a lot to them. This is the appropriate place for people who are in need and he is in support of this.

Sydow stated that what needs to have a commercial kitchen. Doug Zahn stated they are currently determining the efficiencies that require upgrades and repairs. The kitchen would require some upgrades. They are doing their reviews and to determine how that meshes with this. They are still in midstream. Sydow stated if there are any upgrades to the stairs? They do want to use the upper stairs. They haven't taken the next step to figure this out.

Beeman asked in remodeling and changing the use of the house, what portion stays with the home? Will the Historic people want it on their register? The Applicant stated that their plan is to update the kitchen. The upper level (2nd) would also remain as is. On the 3rd level they may be getting more beds in here.

LaCousiere said that they would maintain the building and codes that apply. A special use permit notes that this is a permitted use in this zone district. If there were a license this would be a permitted

request. This is permitted as a special use in this zone district. Commission is aware for the special use permit one of the conditions there would be a requirement for federal ADA requirements with respect to approve or approve with conditions. This would be a special use permit.

Rand was wondering if there is traffic and it was this to warrant concern. This it is not to warrant a study. The site had 21 parking spots. If the commission approves this there were some comments with traffic flow. Rand stated that they had change of use of a property – she is concerned about the historical property. If the applicant does not want this they can run a study.

Zwiebel asked how this is used? Is there someone in the neighborhood and how would this limit this? In the past it was a music school.

Sydow asked if he is willing to designate this as a historic place. Will he accept no additional buildings, impervious surface and any new additional buildings? LaCoursier stated that if this is consistent with the plan, as far as the standards go, the commission can approve or approve with conditions or deny it if they wish to impose them. Reasonableness is the standard.

Banks to approve this based on staff's recommendations. They would like consideration of the gate to the rear entrance. Sydow had questions about this – are you willing to have this historical and would they accept no additional buildings? They they still needs to be met. Applicant is to apply and succeed as a local designation for future use of the property but any future use for structures would need to conform without UDC. Guggenbuehl stated that we had an interim use to allow to 2, 3, and 5 to approve the special use permit. Applicant stated that the residents may not have their own cars. LaCoursier wanted to clarify that the request is for additional conditions being made.

Hamre stated that if there are any modifications of this they would need to bring it back to them and it needs to be in compliance. But a condition of a historic property adds another piece of which to add that layer. An historical survey would be a good thing to have done. Zwiebel stated that the attempt succeeded. LaCoursier cannot guarantee having a local designation and he is not sure to impose an ultimate guarantee. Direct out commission if this is a permitted use in this zone district. In remodeling – when you are done with the house the Historic people want it on their register. Rand was interested in daily traffic patterns. In terms of impervious surface, they agreed with what was said.

LaCoursier stated that they can deny the application he would note that the standards the conditions to approve or approve with conditions to suggest for reasonableness.

MOTION/Second: Zwiebel/Guggenbuhl to **Approve** the Variance from the shoreland Setback at 3129 Minnesota Avenue by Park Point Properties, LLC.

VOTE: (1-7) Banks, Beeman, Digby, Guggenguehl, Rand, Sarvela, and Sydow.

MOTION/Second: Rand/Sydow to **Deny** the Variance from the Shoreland Setback at 3129 Minnesota Avenue by Park Point Properties, LLC.

VOTE: 7-1 Zwiebel

MOTION/Second: Banks/Zwiebel to **Approve** the Special Use Permit **subject to the following conditions:** 1. The Special Use Permit is conditioned upon the residential care facility satisfying and maintaining all applicable government licensing standards and building and fire code requirements for facilities of this type. 2. Any 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50. 3. Complete a historic resources surevey. 4. That there are no additional buildings. 5. No signage. 6. No new impervious surfaces.

VOTE: 5-1 (Sydow) Sarvela and Digby Abstained

- F. PL 12-106 Special Use Permit Primary Use Parking Lot at 5519 Ramsey Street by West Duluth Parking Group LLC **SR**

Robertson stated that the proposed project meets the landscaping standards. Recommend approval with the conditions in the staff report.

MOTION/Second: Banks/Sydow to **Approve** the Special Use Permit **subject to the following conditions:** 1. The project to be limited to, constructed, and maintained in accordance to the document submitted by Northland Consulting Engineers received June 25, 2012. 2. Any alterations to the approved plan that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

VOTE: 8-0 Unanimous

- G. PL 12-096 Special Use Permit for Church in Residential-Traditional (R-1) at 4925 Pitt Street by St. Michael's Church **JRM**

Jenn Reed Moses stated that this is for a Special Use Permit to add an elevator and 620 sq. ft. vestibule to the existing church. A religious assembly is a special use in R-1. As seen on the site plan, applicant proposes moving the sidewalk out to the curb, which interferes with pedestrian travel and poses snow storage problems. Staff recommends the existing city sidewalk and boulevard remain in place. Addition will not trigger any additional parking requirements or water quality requirements. No additional landscaping is required. Exterior lighting must meet all UDC standards. The entrance would be from the side. The building elevations show a sloped roof which could pose some problems. We did not receive any other comments. Digby stated that the slope was a concern. Attorney has requested that the city be named an additional insured from falls from any ice or snow. Digby asked if there would be a boulevard.

MOTION/Second: Recommends Approval of the special use permit, **subject to the following conditions:** 1. The project be limited to, constructed, and maintained according to the revised Site Plan dated 7/10/12. 2. Sidewalk width be amended to 8' and meet all ADA requirements. 3. Project receive a variance from the front yard setback. 4. All exterior lighting must comply with all UDC lighting standards, and must be demonstrated by submittal of a lighting plan at the time of building permit application. 5) Prior to construction, applicant complete an agreement with City Engineering related to maintenance and snow removal on the sidewalk. 6) Any 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50. **VOTE:** 6-2 (Digby, Banks)

H. PL 12-097 Variance from Setbacks in Residential-Traditional (R-1) at 4925 Pitt Street by St. Michael's Church **JRM**

Moses stated that this is a Variance for St. Michael's Church to allow a new vestibule 0' from the front property line. The current code requires a 25' setback, but if rezoned to F-2 in the future, the requirement is 5'. A church is a reasonable use in the R-1 and F-2 districts. Other buildings along Pitt Street to not approach a 0' setback, and staff feels placing a building directly on the property line will leave pedestrians feeling crowded, will leave no room for snow storage or landscaping, and could lead to snow and ice on adjacent sidewalk. Staff recommends a setback of 5'.

Jerry Kimball – St. Michael's Parish. They are thankful to our neighbors that they did not object. Three of the conditions could prevent them from doing this project. They could kill the project. The boulevard and sidewalk remains where they are and there is an insurance issue. There is question of runoff with the sloped roof. This is how trees have not been given a vast amount of green space. There is a tremendous open space. If you have a decent way of maintaining the sidewalk, it would just not a problem – Look to Little Angies or Caribou. The sidewalks have no storage and they do it.

Churches have changed in time. The whole purpose here was to get the people after church. What is being proposed is creating a plaza and to have a straight shot into the church. That is why they want to go to the property line. They want to be subtle and discreet. Having the space for caskets and getting in and out the building.

MOTION/Second: To Rand/Sarvela to **Approve** the Variance from Setbacks in Residential-Traditional (R-1) at 4925 Pitt Street by St. Michael's Church **with the following Conditions:** 1) A special use permit be approved for a religious assembly in the R-1 district. 2) The setback is 0' from the front property line. 3) That the property line be surveyed, and remain staked, until construction is complete in conformance with the conditions of the variance. 4) Any 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

VOTE: 5-3 (Banks, Digby, Sydow)

I. PL 12-095 Variance from the Shoreland Setback at 2505 Providence Road by Dan Romans **JRM**

Moses stated that this is for a shoreland variance to build an addition that would be 125' from coldwater stream. This replaces their existing deck. Moses showed existing site map, plan for improvements, drainage maps, and stormwater mitigation maps. Existing property has a single-family house with attached garage, which is a reasonable use for a property in an R-1 district. This variance would not alter the essential character of the area, and the addition would not be any closer to the stream than the current deck. Most of the applicant's property is within the shoreland overlay and proposed mitigation includes an underground infiltration dry well and infiltration pond in the yard. The house on the neighboring property lies in between the proposed addition and the stream. No comments were received.

MOTION/Second: Guggenbuehl/Beeman to **Approve** the Variance from the Shoreland Set back at 2505 Providence Road by Dan Romans with the following conditions: 1. The project be limited to, constructed, and maintained according to the Site Plan and Mitigation Plan received June 4, 2012. 2. Any 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50. **VOTE:** 8-0 Unanimous

Jenn Reed Moses stated that this is a variance from the sideyard setback to build an addition 4' from the undeveloped right of way of Swan Lake Road. Addition would replace existing covered porch that extends into the right of way. This property previously received a variance to the shoreland setback. The property shape results in a sharp angle between the front of the lot and the side lot line, making it difficult to build an addition on the south side of the house. The shoreland setbacks make the property owner unable to add on to the north. Granting the variance will not alter the essential character of the area. No comments were received.

MOTION/Second: Rand/Sydow to **Approve** the Variance from the Sideyard Setback in Residential-Traditional (R-1) at 1019 North Basswood Ave by Michael Taylor with the following Conditions: 1. The project be limited to, constructed, and maintained according to the site plan receive June 7, 2012. 2. The existing structures (covered porch and shed) be removed from the right of way by July 10, 2013. 3. The property line at issue in this request be surveyed and staked until all conditions of the variance are met. 4. Concrete patio will need to be removed at the property owner's expense if and when this right of way is developed. 5. Any 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50. **VOTE:** 8-0 Unanimous

III. Consideration of Minutes – June 12, 2012. Guggenbuehl/Zwiebel to Approve.

- IV. Communications
- V. Old Business

Discussion on These Following Items Will Not Start Until After: 6:00 pm

- A. PL 12-083 Variance from Shoreland Setback at 3129 Minnesota Avenue by Park Point Properties, LLC (Public Hearing was held on June 12, 2012, for this item). **JRM**

Moses referred the commissioners to the memo that was in their staff packets. Page A.2 shows an approval under our old code to use the average adjacent properties to calculate setbacks. Under the UDC, this rule is no longer available. Moses showed a map of buildable area on the property. The arched lines are the 150 setback. This results in about 1400 square feet of buildable area.

There were additional items that were submitted by the applicant. Moses showed what was revised, the 26 X 42 building and a 44' setback from the rear of the building. There was a discussion on where the high level point is. They want to stipulate that it is from the ordinary high water level.

Tom Reistad - Applicant stated that this was tabled to get input from the neighbors. They went to the Park Point Community Club. Some said they don't want any variance issues and would like to see a plan. They want to discuss what was happening for the site and it was a reasonable compromise. They reduced their overall footprint – 870 feet. They increased to the west set back to 44 feet. On the south side building they are reduced by 36%. Additionally they tried to get a 15 feet side yard setback. We want to have the front of the building 20 feet from the property line to get into garages safely.

Sydow stated that there was a garage in an illustration of the plan and asked how the buildings will be situated on the property. Applicant replied that the garage doors face the street. The other side is facing the lake.

Deb Kellner - Applicant When they attended the park point community meeting they sought a compromise. They are proposing this and they are against a 0 lot line. There are public safety issues. They reduced the structure size by 34%.

Paul Kellner - Applicant – In designing this project, they are looking at potential impacts to the watershed. The variance request requires a mitigation plan and actually improves runoff. This is an allowable use. The parking was considered by the city staff who supported a front yard setback of 20 feet.

Debra McLaughlin. There is a letter signed by the neighbors, including some that were not able to be here tonight. They are concerned about 3129 and uphold the 50 setback requirement. Most of the drawings don't show the setback. They stated that one of the things the footprint would have 3 stories. Do not look at this as was initially proposed. This is water on 3 sides. One of the things is the idea this is a slippery slope and could lead to future setback variances on park point.

Ted Buck. He lives a couple of doors down from the property. If something is marketed you can put your duplex there. That is what the developers want to build. They are encroaching on their view shed.

Kurt Ball - 2229 Avenue. The hardship clause stated that the planning commission may give strict requirements to the property owner. If relief is not appropriate in the neighborhood they may require a smaller size. He would like to have them see the structure. You need to get down to the point and look at it.

Zwiebel took the adjusted size of the setbacks currently recommended by staff. Guggenbuehl stated that the structure be approved by the city engineer and that any minor modification can be up to the land use supervisor. She doesn't think the hardship exists. The developers came to the planning staff with the approved layout. Moses stated that they said there was a previous variance for this and assumed that it did not have one previous. This was approved. What changed was a mitigation plan. They knew they had them with the proper mitigation plan for that structure. We have to work with what the rules are now.

MOTION/SECOND: Zwiebel/Guggenbueh to **Approve** the Variance from the Shoreland Setback at 3129 Minnesota Avenue by Park Point Properties, LLC

Vote: (1-7) Banks, Beeman, Digby, Guggenbuehl, Rand, Sarvela, and Sydow

MOTION/SECOND: Rand/Sydow to **Deny** the Variance from the Shoreland Setback at 3129 Minnesota Avenue by Park Point Properties, LLC

Vote: (7-1) Zwiebel

VI. Reports of Officers and Committees

VII. New Business

VIII. Other Business

A. Reminder: Brown Bag Meeting, Friday, July 20th, 12:00 to 1:00 Pm. Discuss Plans for New DTA Site.

B. Other

IX. Adjournment

Respectfully,



Keith Hamre, Planning and Construction Services