



City of Duluth  
Planning Division

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City of Duluth  
Planning Commission  
June 10, 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, June 10, 2014, in City Hall Council Chambers.

Roll Call

Attending: Marc Beeman, Drew Digby (exited meeting at 7:52 p.m. after vote for PL14-053), Terry Guggenbuehl, Garner Moffat, Patricia Mullins, David Sarvela, and Luke Sydow (exited meeting at 6:37 p.m. after item D)

Absent: Tim Meyer (Excused) and Zandra Zwiebel (Excused)

Staff Present: Jenn Reed Moses, Steven Robertson, Nate LaCoursiere, Chuck Froseth and Cindy Stafford

Motion is made to move item B of "IV. Other Business" forward in the agenda.

**MOTION/Second:** Digby/Moffat move item forward in the agenda.

**VOTE: (7-0)**

B. Update on Rear Façade for Multi Modal Center

**Staff:** Jenn Moses introduces the applicant to the commissioners.

**Applicant:** Aaron Kelley of LHB addresses the commission. He shares the design and notes the newly added LED lights with concealed fixtures which will wash down over the metal meshing. The mesh will illuminate during the day and create a visual block of the inside traffic. At night the light will wash down and also hide the view. A white sunshade has been added to top of the building. He accepts questions and comments from the commissioners.

**Public:** N/A

**Commissioners:** Luke Sydow feels the new design is a huge improvement. He confirms metal mesh does not mean chain link. He asks Kelley if the lights are recessed. Per Kelley, they hope to hide the fixture, so it's just the light washing down. Garner Moffat feels it is a tremendous improvement. Drew Digby feels it is an improvement, but notes it's a heavily subsidized, glorified parking lot. He doesn't feel the building is a true multi-modal center. He is offended by the bicyclist depicted on the picture. Digby asks staff if the design standards meet the UDC and when the final design vote will be. Per Moses, yes, it does meet the UDC standards and the design is an improvement. She notes the commissioners can vote on the design tonight, so the project can move forward. Moffat agrees it is not a true multi-modal center, but feels it is an improvement.

**MOTION/Second:** Guggenbuehl/Sydow approved design of rear façade of multi-modal center.

**VOTE: (6-1, Digby opposed)**



II. Unfinished Business

- A. PL 14-035 Variance from Front Yard and Side Yard Setback Requirements at 3635 Lake Ave South by Robert and Carole Lent (Public Hearing was Held at the May 13, 2014 Meeting)

**Staff:** Jenn Moses introduces the applicants' request for a 500 square foot addition to their home. The applicants have supplied more information documenting the structural characteristics of their house. City Legal Counsel, Nate LaCoursiere states he did not find any pertaining case law on the topic as it pertains to aging in place. He notes it does not come into play as far as being a practical difficulty in accordance with Minnesota state law. Patricia Mullins asks staff if they have changed their decision based on the newly supplied information from the applicants. Per Moses, according to the UDC criteria and Minnesota state statute the two reasons why they are still recommending denial are 1) the applicant cannot create their own difficulty and 2) a variance should be lot-related and not structure-related. Staff recommends denial. Mullins asks if it could meet the intent of the law as it pertains to snow removal, safety and aesthetics. Per Moses, the intent of zoning requirement at the base level is: air, light to neighboring properties, visibility to the street and aesthetics. She welcomes comments from legal counsel or the land use supervisor in regards to the intent of setbacks. Charles Froseth, land use supervisor, affirms the intent at the base level and notes the lack of practical difficulty because there are ways to expand the home without violating the setback requirements. Mullins notes it would be more aesthetically pleasing. It would help with air, light and visibility. Froseth states the challenge of proving aesthetic appeal can be a personal preference, and the commissioners' decision must be based on hardship of the site. Moffat notes the applicant can move a little bit towards the side. He thinks they can continue the roofline.

**Applicant:** Robert Lent addresses the commission. They feel based on the structural system as confirmed by their architect no other option is feasible.

**Public:** N/A

**Commissioners:** Digby is sympathetic to the request, but doesn't feel it meets the variance setback requirements. Mullins notes variances are granted on a case by case basis, and feels the intent of law in regards to aesthetic appeal is valid. She notes the aerial view of the property and feels the expansion shouldn't have to cram into the garage area.

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

**VOTE: (6-1, Mullins opposed)**

III. Public Hearings

- A. PL 14-055 Interim Use Permit for Vacation Dwelling Unit at 1026 North 10<sup>th</sup> Avenue East by Eve Graves

**Staff:** Moses introduces the applicant's request to use her single-family house as a vacation dwelling unit. A vacation dwelling unit allows rentals for 3 to 21 days. They will have a managing agent near the site. Staff recommends approval subject to the conditions listed in the staff report.

**Applicant:** Eve Graves addresses the commission. She has lived in the house for ten years and would like to rent it out. She has done a lot of work on the house and respects her neighbors. She will screen the renters and is hoping to rent it out to sports enthusiasts: bikers, hikers, etc.

**Public:** Nellie Morris – 1014 N. 10<sup>th</sup> Avenue East - addresses the commission. She doesn't feel the home has been kept up and she is concerned with the parking situation. Marilyn House – 1030 N. 10<sup>th</sup> Ave. E. – concerned if it will affect her taxes and she



doesn't like the idea of strangers visiting the neighborhood. She would prefer they sell the home. Gerrie LaPlante - 1013 N. 10th Ave. E. – concerned about the short term of the rentals. She states parking is limited and is concerned about the noise level. She notes the managing agent would not be on site. She feels screening online is difficult and may not be effective. Nancy Nelson – 1001 N. 10<sup>th</sup> Ave. E. – she is not opposed as long as the regulations are followed. She stated the six year term is too long and would like to see a trial period of about a year. Sam Black – 1017 10<sup>th</sup> Ave. E. – lives across the street from site. They watch each other's house when they are out town. He is in support of the vacation dwelling. Keith Morris – 1014 N. 10<sup>th</sup> Ave. E. – addresses the commission and asks if the zoning needs to be changed. President Sarvela, responded no.

**Commissioners:** President Sarvela asks staff about enforcement. Moses states the police would need to be called. Zoning enforcement issues would need to be addressed by Kyle Deming – city zoning coordinator. Mullins notes she lives next to a vacation rental and it's a positive experience.

**MOTION/Second:** Digby/Moffat recommend approval as per staff's recommendation.

**VOTE: (7-0)**

B. PL 14-063 Rezoning from MU-B to MU-P for Former Central High School Site by ISD 709

**Staff:** Moses introduces applicant's request to rezone the former Central High School site from Residential-Urban (R-2) and Mixed-Use Business (MU-B) to Mixed-Use Planned (MU-P). A neighborhood meeting was held on May 7<sup>th</sup>. Comments included traffic and access concerns. Moses notes traffic concerns will be looked at as part of their regulatory plan, which will be completed after the rezoning. In terms of a concept plan, staff confirms they have options and flexibility in designing. Staff is looking at their ability to move traffic on and off the site. Staff recommends approval based on the three reasons listed in the staff report. Digby asks staff if the concept plan will be brought before them at a future meeting or will they be approving it in accordance with the rezoning. Per Moses, the concept plan goes in conjunction with the zoning. Their vote tonight would be whether or not to move forward with the rezoning which includes the concept plan. Assuming city council approves it, anything proposed in the future regulatory plan has to match what is in the concept plan. Digby notes the concerns at Bluestone and wants to make clear for the record the page noting "parcel allocation" in the staff report is the concept plan. Moses notes the concept plan is comprised of the parcel allocation, the table, the list of mixed uses, and the statement of public benefits, as well as the map, which are all listed in the staff report. President Sarvela asks staff if the commissioners will see and vote on the regulatory plan. Per Moses, according to the UDC, the passage of the regulatory plan does not require approval by the planning commission; but according to policy, it is the planning division's intent to communicate with the neighbors and the public, and the regulatory plan will be brought before the commissioners for their comments.

**Applicant:** Kerry Leider, property manager for Duluth Public Schools, addresses the commission. He also has architects with him from Cunningham Group who can answer specific questions. The intent is to sell the property as individual parcels. The rezoning will provide an invitation to developers. President Sarvela asks how the parcels will be split up. Leider notes it will be based on street development location, so no specific details yet. Moffat questions the new road and if there are other street options/configuration options to lessen the roadway and notes plowing concerns. Leider notes the elevation challenges and defers to his design team. The design is based on the view shed as well as adding interesting neighborhood effects. The design team architect addresses the commission. He notes the road slope is 10% so their calculations



for switchbacks are 5% or less which is important in regards to accessibility issues. It creates a hill scape where the roofs are visible from down below. Moffat is concerned about the windy portion of the road in regards to maintenance and emergency vehicle access noting the grid system on top of the design is more efficient. Leider states the curvy road allows for access to residents and not necessarily a shortcut for traffic to Central Entrance. The architect notes extending the grid design would result in the same amount of linear footage.

**Public:** Gary Kolojeski – 218 S. Blackman Avenue - addresses the commission. He was originally impressed, but feels the plan is deceptive and notes the added traffic on South Blackman Avenue. He is concerned about the density of the property and future building heights up to 72 feet. He notes a rezoning shouldn't occur without having a set plan in place. He opposes the rezoning.

**Commissioners:** Sydow is in favor of the land use change, but is taken back by not having the regulating plan in place. Moffat is in support of some density on the site, but will be voting against it because he is not comfortable with the street layout. Digby feels this is a great plan, but agrees with Sydow's comments and would like to see a change in the UDC to require a regulatory plan process be brought before the commission. He puts staff on notice for a UDC amendment change. President Sarvela also finds it frustrating not to require the planning commission to review and approve the regulatory plan. He also would like to see a UDC amendment. Mullins agrees with a future UDC amendment. She is upset the building couldn't be reused.

**MOTION/Second:** Guggenbuehl/Digby recommend approval as per staff's recommendation.

**VOTE: (5-2, Beeman and Moffat opposed)**

- C. PL 14-029 Rezoning from Form District 3 (Mid-Rise Community Shopping) and Form District 4 (Mid-Rise Community Mix) to MU-C (Mixed Use-Commercial) for Spirit Valley Mall by Kent Oliver

**Staff:** Robertson introduces the applicant's request for a rezoning of 215 North Central Avenue (Spirit Valley Mall) from F-3 and F-4 to MU-C. According to the applicant "retail uses across the country are now subject to dynamic change following the recession and with the growth of online shopping. The Center needs absolute flexibility in gaining tenants and therefore, believes it is appropriate that it be classified as MU-C". Staff recommends approval. The planning division will change the future land use designation of areas along Grand Avenue from Central Business Secondary to a new designation specifically for form districts.

**Applicant:** Attorney Bill Burns, and Kent Oliver (general partner of the owning entity), address the commission. They feel the rezoning will revive the community. Burns appreciates the openness and efforts of staff. Oliver notes the difficulties of financing with different zoning designations. He also appreciates staff's support. President Sarvela asks when the Mall was built. Per Oliver, it was built in two pieces; the mall was built in 1984 and Kmart was built in 1991.

**Public:** Tom Radio, attorney who represents Kmart addresses the commission. Kmart is in full support of the rezoning.

**Commissioners:** President Sarvela is familiar with the site and does feel the rezoning is appropriate.

**MOTION/Second:** Moffat/Mullins recommend approval as per staff's recommendation.

**VOTE: (7-0)**



- D. PL 14-062 Quick Plat at 4433 Airpark Boulevard by Duluth Seaway Port Authority  
**Staff:** Jenn Moses introduces the applicant's request to combine six parcels into four. Staff recommends the quick plat, subject to the conditions listed in the staff report.  
**Applicant:** Present and will answer any questions.  
**Public:** N/A  
**Commissioners:** N/A  
**MOTION/Second:** Mullins/Beeman approved as per staff's recommendation.

**VOTE: (6-0, Digby abstained)**

- E. PL 14-060 MU-I Plan Review for Backup Generator at 2<sup>nd</sup> St and 10<sup>th</sup> Ave E by St. Luke's Hospital  
**Staff:** Moses introduces the applicant's request to construct a building on the corner of 10<sup>th</sup> Avenue East and 2<sup>nd</sup> Street that would house generators for the hospital campus. Building would be approximately 35' x 100'. Lot currently is used as a temporary parking lot. The new building will remove about 18-19 parking spaces. Staff recommends approval subject to the conditions listed in the staff report.  
**Applicant:** Bill Scalzo of Scalzo Architects and Pat Earley of St. Luke's Hospital address the commission. The intent of building is to provide a centralized emergency power system for the entire campus. Guggenbuehl asks where the building is located in conjunction with the temporary parking. Per Scalzo the building will take out about 50 feet of the first portion of the temporary parking lot.  
**Public:** Jerry Henneck – 4264 Fayre Rd.- addresses the commission. He has concerns and notes it wasn't in the master plan. The generator building is listed as an accessory building to the primary parking lot. He questions when the building will be considered the primary use. He questions if the generators will be tested. How loud will they be? How much fuel will be stored on site? He notes the proximity of the oxygen tanks. Stormwater controls will not be addressed until the parking lot is fully developed. He feels there should be a plan now. President Sarvela asks if there is a way to supply the answers to Henneck. Per Moses, the hospital did answer some of his questions in a written document. She gave the speaker her copy.  
**Commissioners:** N/A  
**MOTION/Second:** Guggenbuehl/Beeman approved as per staff's recommendation.

**VOTE: (6-0, Sydow left meeting at 6:37 p.m.)**

- F. PL 14-058 Vacation of Unimproved Right of Way Lynn Avenue by Seaway Port Authority  
**Staff:** Moses introduces the applicant's request to vacate unimproved Lynn Avenue from the Federal Harbor line to a point halfway between Cox Avenue and Garfield Avenue. Minnesota Power has requested the city retain a utility easement over the southwesterly 700 feet of the northwesterly half of Lynn Avenue. Staff recommends approval of the vacation, with the condition that a right of way easement be retained along existing Helberg Drive.  
**Applicant:** Addresses the commission and asks if there are any questions.  
**Public:** N/A  
**Commissioners:** N/A  
**MOTION/Second:** Mullins/Moffat recommend approval as per staff's recommendation.

**VOTE: (6-0)**



- G. PL 14-051 Vacation of Unimproved Right of Way at 516 S 69<sup>th</sup> Ave W by Norman Opack  
**Staff:** Steven Robertson introduces the applicant's request for a vacation of an unimproved street and alley easements adjacent to existing residential property. Staff recommends approval based on the findings listed in the staff report without conditions.  
**Applicant:** Addresses the commission and asks if there are any questions.  
**Public:** N/A  
**Commissioners:** N/A  
**MOTION/Second:** Moffat/Beeman recommend approval as per staff's recommendation.

**VOTE: (6-0)**

- H. PL 14-056 Concurrent Use Permit for Former Lincoln Park School at 2424 W 5<sup>th</sup> Street by Sherman and Associates  
**Staff:** Robertson introduces the applicant's request for a concurrent use permit to allow a structure (the former Lincoln School) to lawfully be in the public right of way. Staff recommends approval with the three conditions listed in the staff report.  
**Applicant:** Jody Anderson of DSGW Architects addresses the commission on behalf of Sherman Associates and asks if there are any questions.  
**Public:** N/A  
**Commissioners:** N/A  
**MOTION/Second:** Moffat/Mullins recommend approval as per staff's recommendation.

**VOTE: (6-0)**

- I. PL 14-059 Special Use Permit for New Bank at 17 Calvary Road by North Shore Bank  
**Staff:** Robertson introduces the applicant's request to demolish the existing bank and construct a new bank on the same general footprint. A bank is a special use in the MU-N district. Staff recommends approval subject to the conditions listed in the staff report.  
**Applicant:** Mike Kraft, Architect addresses the commission and asks if there are any questions.  
**Public:** N/A  
**Commissioners:** N/A  
**MOTION/Second:** Guggenbuehl/Moffat approved as per staff's recommendation.

**VOTE: (6-0)**

- J. PL 14-061 MU-W Plan Review for New Hotel at 800 Railroad Street by Pier B Holdings, LLC  
**Staff:** Robertson introduces the applicant's request for a MU-W Planning Review for a new hotel. According to the applicant, the development will include a 140 room hotel with an event center, restaurant, and pool. Development also includes a new boardwalk and bridge across Slip 2, decks, special event areas, parking, utility upgrades and improvements, boat launch, transient marina, storm water, and site demolition of excess foundations and structures. Staff recommends approval with the conditions listed in the staff report.  
**Applicant:** Chad Scott of AMI Consulting Engineers addresses the commission and notes he has been working with city staff and other agencies. President Sarvela asks how close it would be to the shipping lanes. He notes approximately 80 feet off the dock. Guggenbuehl refers to the map and questions the tent by the loading dock. Per Scott, it's an existing foundation and the future plan is for special events and will include a temporary tent.  
**Public:** N/A



**Commissioners:** N/A

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

**VOTE: (6-0)**

- K. PL 14-067 Variance from Front Yard Parking Requirement at 800 Railroad Street by Pier B Holdings, LLC

**Staff:** Robertson introduces the applicants' request for a variance from the requirement that no more than 50% of the parking be located in the front yard. This is a companion item to PL14-061, MU-W Planning Review for a hotel. Staff recommends approval with the conditions listed in the staff report. President Sarvela asks about the site's landscape requirement and if the trees shown on the plan are accurate. Per Robertson, the applicant has not picked out a species of tree but believes the drawing is accurate.

**Applicant:** Chad Scott gives a brief overview and asks if there are any questions.

**Public:** N/A

**Commissioners:** Guggenbuehl questions if an update amending the UDC would be helpful in the future. Robertson thinks the topic could be revisited at a future meeting

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

**VOTE: (6-0)**

- L. PL 14-064 MU-C Plan Review for Filling Station at Arlington Ave and Central Entrance by Kwik Trip

**Staff:** Robertson introduces the applicant's request for a MU-C planning review for a 5,800 square foot filling station in a MU-C zone district. Per Robertson, the city council passed the rezoning last night. Staff recommends approval with the conditions listed in the staff report. Digby asks about comments from MnDOT and the County on the need for future turn lanes. He is interested in city engineers' non-comment about traffic flow. Per Robertson, MnDOT and County asked the applicant to move back their building for any future road adjustments. Digby asks about loading trucks and will defer his question for the applicant.

**Applicant:** Scott Tigen, CFO for Kwik Trip addresses the commission. He notes the store will be replacing two closed businesses with increased taxes for the city. He addresses Digby's question and states most merchandise is delivered by Kwik Trip trucks and their semi will enter via W. Central Entrance and exit onto South Arlington. President Sarvela asks about the screening between the building and alleyway on the west side. There will be landscaping and a six-foot privacy fence.

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (6-0)**

- M. PL 14-065 Variance from Front Yard Parking Requirement at Arlington Avenue and Central Entrance for Kwik Trip

**Staff:** Robertson introduces the applicant's request for a variance from the requirement that no more than 50% of the parking be located in the front yard. This is a companion item to PL14-064, MU-C Planning Review for a filling station. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Asks commission if they have any other questions.

**Public:** N/A

**Commissioners:** Digby noted the variance meets the intent of the code. President Sarvela agrees.



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

**VOTE: (6-0)**

- N. PL 14-042 Variance from Front Yard Setback Requirements at 30 East 9<sup>th</sup> Street by Jason Lindelof

**Staff:** Jenn Moses introduces the applicant's request for a variance to make improvements to the existing house which is two feet from the property line and thus needs a variance from the front yard setback of 25 feet. The building footprint will not be increased. Staff recommends approval based on the conditions listed in the staff report. Digby asks if there was another variance in the neighborhood caused by fire. Robertson doesn't think so.

**Applicant:** Present and asks if there are any questions.

**Public:** N/A

**Commissioners:** N/A

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

**VOTE: (6-0)**

IV. Other Business

- A. Presentation: Update on Sky Harbor Airport. Brian Mattson, Sky Harbor Airport staff, addresses the commission. Kasi Nowicki, aviation planner/project manager from SEH gives a project introduction and a power point presentation. Allyz Kramer, senior biologist from SEH addresses the commission and refers to the upcoming EAW. They are not requesting a decision from the commission. But would like to update the commission on the environmental review. The Airport Authority is reviewing the EAW document. They will be determining if a federal EIS is needed. Nowicki notes alternative models. The preliminary preferred alternative is the 2,600 foot long runway with a 5 degree rotation into Superior Bay. Kramer shares an alternative matrix which notes the impacts of the project development. Mitigation efforts will be implemented. Guggenbuehl notes the 1,800 trips for fill and asked if the materials can be hydraulically moved. Per Kramer, details will be included in the final design. They are looking at using dredging materials. Robertson notes the current dredging taking place. No new buildings in Zone A. Scott Sannes of SEH addresses the commission. Comprehensive zoning overlay has been delayed. Moffat asks how the airport authority is involved and inquired about funding. Response is 10% of funding will come from the Airport Authority and 90% will be from the FAA. Per LaCoursiere they are independently operated. Per Froseth, this airport provides service to float planes and customs can be cleared from air and boat.

- B. Update on Rear Façade for Multi Modal Center (Was moved forward in the agenda.)

- C. PL 14-053 Historic Designation at 6008 London Road by UMD

**Staff:** Chuck Froseth introduces the applicant's request and notes staff feels it does comply with the comprehensive plan and the zoning.

**Applicant:** Douglas Aretz addresses the commission noting they held a neighborhood meeting and received positive feedback. He feels there is tremendous support from the neighborhood and the University itself. Guggenbuehl asks if the historic designation will effect signage. The applicant states they haven't gotten to the design stage yet, but will work with the planning commission.

**Public:** Public hearing not required, but opened up and win no one commenting.



**Commissioners:** Mullins notes the role of the HPC and a possible sunset clause. They are working out the details. President Sarvela asks about the interior of the building. Per applicant, the inside needs some work

**MOTION/Second:** Digby/Moffat recommend approval of the designation as per staff's recommendation.

**VOTE: (6-0)**

D. Information on PL 14-047 Steelton Hill Double Track EAW (Determination at a Later PC Meeting). Justin Trush a field engineer from CN railroad addresses the commission and gives a brief overview of the project. John Puls of Golder Associates addresses the commission and the contents of the EAW. They look forward to the decision at the July meeting. He asks if there are any questions. President Sarvela asks if there will be a parallel set of tracks. Per applicant, yes. The plan is to keep the bridge over the Munger Trail.

V. Communications

A. Managers' Report – Chuck Froseth gives a brief overview. The tax forfeit committee will need to meet soon. He noted an upcoming discussion on variances may be needed.

B. Consideration of Minutes

April 30, 2014

**MOTION/Second:** Beeman/Guggenbuehl recommends approval.

**VOTE: (5-0, Digby left meeting at 7:52 p.m.)**

May 13, 2014

**MOTION/Second:** Guggenbuehl/Mullins recommends approval.

**VOTE: (5-0)**

C. Reports of Officers and Committees

Superior Street Redesign Committee – Report needs to be passed on to the city council. Guggenbuehl notes the four foot reaction/buffer zone from lane of traffic to the curb. Moffat would like to emphasize the reaction zone.

Superior Street redesign subcommittee minutes indicate that extra emphasis be placed on the elimination of the four foot reaction zone to allow for wider pedestrian sidewalks.

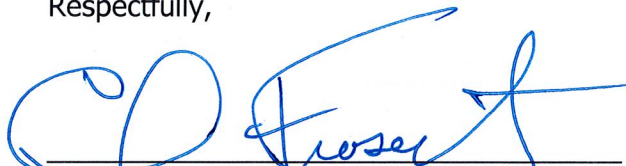
**MOTION/Second:** Moffat/Guggenbuehl recommends approval.

**VOTE: (5-0)**

D. Adjournment

Meeting adjourned at 8:12 p.m.

Respectfully,



Charles Froseth, Land Use Supervisor