



City of Duluth
Planning Division

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City of Duluth
Planning Commission
Minutes of Tuesday, July 13, 2010
City Council Chambers

I. **Call to Order:** President Rand called the meeting of the Planning Commission to order at 5:00 p.m., Tuesday, July 13, 2010, in the City Council Chambers and explained the public hearing procedure to the audience.

II. Roll Call

Members Present: Mike Akervik, Mindy Appold, Henry Banks, Katelyn Blazevic, Rebecca Covington (5:15), Drew Digby, Terry Guggenbuehl, Frank Holappa, Heather Rand, David Sarvela, John Vigen

Members Absent: Jim Stebe

Staff Present: Christina Berglund, Kyle Deming, John Judd, Alison Lutterman, Cindy Petkac, Edna Ulrich

Motion made to move New Business to the front.

MOTION/Second: Vigen/Akervik to move New Business to the front of the agenda.

Vote 10-0-1 (Covington)

VIII. New Business

Steve Hanke from the City Attorney's office presented information on the proposed ordinance by Councilor Gardner pertaining to adult bookstores and adult entertainment establishments. The ordinance would require a license for adult establishments and would change the distance required between an adult bookstore/establishment and a church, school, park, residential area or other adult bookstore/establishment from the existing requirement of 600 feet to 2000 feet.

Hanke explained that because the ordinance has an impact on zoning, the Planning Commission is being asked to make a recommendation to the City Council. After some discussion, Commissioners determined that they would like more information from Councilor Gardner as to the purpose and intent of the ordinance change and how it relates to the UDC.

MOTION/Second: Akervik/Sarvela to Table the Ordinance amending Chapter 5, Article IV, of the Duluth City Code, 1959, as amended, pertaining to Adult Bookstores and Adult Entertainment Establishments.

Vote: 10-1 (Vigen Opposed)

III. Public Hearings

- A. [FN 10041](#)- Concurrent Use Permit for the private use of an existing tunnel under the public Right-of-Way of W. 2nd Street. **JJ**

Staff: Judd stated that the applicant has executed a mutual Right-of-Way agreement between the old county jail and the St. Louis County Courthouse. This tunnel existed many years without any documentation. It does run under a city street so we will need a concurrent use permit. Staff recommends approval.

Discussion: Akervik asked who owns the tunnel and Judd stated that the County is responsible for it and under a mutual right-of-way agreement they both can use the tunnel.

Applicant: Brad Carlson – 620 S 9th St. There were no questions for the applicant.

MOTION/Second: Vigen/Akervik to **Recommend Approval** for a Concurrent Use Permit for the private use of an existing Tunnel under the public Right-of -Way of W. 2nd St.

Vote: Unanimous 11-0

- B. [FN 10060](#) – Rezone from R-1-B and R-2 to C-5 (Planned Commercial) the rear half of properties at 323-335 East Central Entrance by Agenter/Larson. **KD**

Staff: Deming had received one letter from a neighbor since publication of the report and provided it the commission this evening. This area was reviewed when the Central Entrance Small Area Plan was conducted in 2009 and found to be appropriate for Secondary Business District use. The uses permitted in the proposed C-5 District are consistent with the small area plan and Comprehensive Future Land Use Plan. Staff recommends that the rezone be approved by the City Council.

Applicant: Mr. Agenter clarified which businesses he owns in this area.

Discussion: Holappa had questions on the boundary of the properties to which Deming clarified. Digby had an issue with the Kenwood and Arrowhead area and wanted to know if the land behind this property could be paved for another commercial use and what the buffering requirements are. Deming stated that C-5 allows a site plan review to address these concerns.

Public Input: Laura Lott – 313 N Blackman Avenue. Their residential properties have trees and beautiful yards. They are opposed to having more commercial properties here.

Gordon Grant –owner of the Duluth Central Entrance Dairy Queen resident of Myrtle Street. He is in support of rezoning. He understands neighbors not liking the commercial properties surrounding the area, but this is according to the Comprehensive Land Use Plan.

Nicolas – 310 N Blackman Avenue. He cannot see any good coming out of this. This is a quiet and quaint area.

Lawrence Caven – 304 N Blackman. He is also opposed to the rezoning.

Vigen is not opposed to rezoning, his concern is the timing of it if it is before the UDC is in place. He is concerned about the provision in the current zoning code (that is not in the UDC) that allows a commercial building to encroach 50' into a less restrictive district and a parking lot to encroach 300'. Deming stated that site plan review would be needed before the sites could be redeveloped, which would give the commission the opportunity to deny the site plan if they were not satisfied.

MOTION/Second: Akervik/Blazevik to **Recommend Approval** for rezoning from R-1-b and R-2 to C-5 (Planned Commercial) the rear half of properties at 323-335 East Central Entrance

Vote: Unanimous 11-0

- C. **FN 10061**– Vacate a portion of Chestnut Street, Elm Street, and alleys adjacent and the dedication of a replacement alley by ISD 709 for the access road to Western Middle School. **KD**

Staff: Deming presented the staff report. Part of the proposal is also to dedicate a replacement alley that would connect Vernon Street to the remaining alley in order to not create a dead end. Deming recommends approval by the City Council. This has been reviewed by the Engineering Office and approved.

Applicant: Kerry Leider - Property Manager of the Duluth Public Schools. This site was best for the Western Middle School as it is a large parcel of land. The access could have been provided through City streets, but neighbors had a significant concern on having the least impact to the neighborhood. They have completed the acquisition of the homes that were needed before they could proceed.

Public Input:Francis Lemke – 3325 Vernon St. He lives across the street from the dedicated new alley. He believes that this is a crazy idea to have the school put on the mountain site. He is concerned about the kids hiking and climbing on the hillside.

Roger Goode – 3209 Chestnut. He has lived for over 30 years in the same home. He has been against the school because of the lack of communication with the School District.

Discussion: There was a question if Chestnut Street will be a dead end. The applicant stated that it will not be a dead end, but will connect to Atlantic Ave. They have not impacted any of the other existing streets.

Rand asked about students not following sidewalks and the applicant stated that they are thinking of fencing around certain areas as well as having additional sidewalks

connecting to the school site. They will continue watching this to see if any additional sidewalks should be added as well.

Paul Nisius - 3330 Restormel St. He wanted to know about the traffic flow. The applicant stated that an analysis was done and the report stated that a signal light was not warranted. There will be a secondary entry road on Wellington Street, which will be a restricted exit and entry point (lockable gate). In addition, there will be sidewalks going through neighborhoods. They will be connected to sidewalks that are already there and they will plow the sidewalks.

Carol Gibbs – 409 Atlantic. She drives up on her yard to park and is concerned about having a curb to drive over. The applicant stated that there is a request to have sidewalk and curb cuts.

MOTION/Second: Akervik/Holappa to **Recommend Approval** to vacating a portion of Chestnut Street, Elm Street, and alleys adjacent and the dedication of a replacement alley by ISD 709 for the access road to Western Middle School.

Vote: 10-0-1 (Blazevik Abstained)

- D. **FN 10051-** Water Resources Management Ordinance, Variance of the setback requirement for natural environmental waters (Merritt Creek) at 817 N 39th Ave W. by Dennis & Kathleen Walkowiak. **JJ**

Staff: Judd stated the variance is for a Setback for a Garage. The creek is about 75 ft from the vacation for the garage. Looking at the official map it would be about 125 ft. There is about a 40 foot drop off to the creek. Given these factors and that this is within 125 ft, he recommends to approve the Garage.

MOTION/Second: Appold/Sarvela to **Approve** a Water Resources Management Ordinance, Variance of the setback requirement for natural environmental waters (Merritt Creek) at 817 N 39th Ave West.

Vote: 11-0 Unanimous

- E. **FN 10054 –** Medical Center Plan Review of the demolition of the Johnson’s Mortuary building on the lower side of the 500 block of East Third Street and construction of a parking lot by SMDC. **KD**

Staff: This is in the Medical Center District and a parking lot is a permitted use. They will use lighting that will not infringe on the neighborhood and they will provide pedestrian access through the parking lot. SMDC stated that this is parking for employees. They are proposing curbing except for around the alley. No signage is proposed and they will need to meet all storm water regulations. Staff recommends approval.

Discussion: Holappa is concerned about the lack of curbing along the alleys which has a 6 to 7 foot drop. Deming stated that the commission can require a curb or keep it without.

Applicant: Harvey Anderson - Vice President of Facilities for SMDC. Vigen asked if the storm water runoff would meet the new requirements for the UDC or be compliant with today's Code requirements. Applicant stated they will meet what is required.

Discussion: Banks asked if they would they allow the church to use the parking lot as well. There has been a long standing agreement to share the middle section of the lot. Digby asked if there were any longer term plans that would change in having more parking lots. The applicant stated that there is already a parking lot and they are just adding to it.

Appold had concerns on not having curbing on the parking area. The applicant stated that they met last week with the church to put in a rain garden which would filter the water runoff along with a plan to manage the water flow. They are working with City Engineering on this.

The Applicant explained that most surface lots are for employees and the parking ramps are for patients, primarily. They plow snow in winter and have it salted and sanded. Some parking places are removed from service when snow is plowed. Digby asked if there would be more parking required in the new UDC. Lutterman explained that if they would be expanding their facilities it would require additional parking.

MOTION/Second: Guggenbuehl/Covington to **Approve** the Medical Center Plan for the demolition of the Johnson's Mortuary building on the lower side of the 500 block of East Third Street and construction of a parking lot by SMDC.

Vote: 11-0 Unanimous

- F. **FN 10055** – Medical Center Plan Review of the demolition of the Nurse Wares building at 419 East Fourth Street by SMDC. **KD**

Staff: SMDC owns the buildings and finds them to be in too poor of condition to reuse and desires to tear them down and replace with grass. They propose to fence the properties to keep people out. Staff recommends approval. Vigen hopes that the landscaping that is done will have a mix of vegetation.

MOTION/Second: Vigen/Blazevic to **Approve** the Medical Center Plan for the demolition of the Nurse Wares building at 419 East Fourth Street by SMDC.

Vote: 11-0 Unanimous

- G. **FN 10064** – Rezone lands within the City of Duluth to conform to the new zone districts in the Unified Development Chapter. **CP**

Staff: Petkac stated that this ordinance is contingent upon the UDC being adopted. Petkac went over the current zoning districts and explained what new zone districts they will convert to in the UDC. Petkac stated that following the adoption of the UDC, staff will lead a rezoning process to rezone areas of the City where current zoning is inconsistent with the Comprehensive Land Use Plan – Future Land Use Map. She stated that this will

be a public process led by John Judd. All rezoning requests will be presented to the Planning Commission, which will provide for a public hearing, before being presented and voted on by the City Council.

MOTION/Second: Appold/Vigen to **Recommend Approval** to Rezone lands within the City of Duluth to conform to the new zone districts in the Unified Development Chapter. Vote: 11-0 Unanimous

IV. Consideration of minutes – June 8, 2010 and June 22, 2010

MOTION/Second: Vigen/Akervik to **Recommend Approval** of the June 8, 2010 and the June 22, 2010 minutes. Vote: 11-0 Unanimous

V. Communications

VI. Old Business

VII. Reports of Officers and Committees

- A. Downtown Waterfront Mixed Use District
- B. Zoning Advisory Committee

IX. Other Business

Petkac stated that staff put forward an amendment to the UDC to have the HPC continue to make recommendations directly to City Council, rather than to the Planning Commission as was proposed. This change is based on feedback the City received from the State Historic Preservation Office.

Blazevic stated that Councilman Hartman has received the information regarding changes to the HPC and is working with them.

Finally, Petkac encouraged Commissioners to attend the Council meeting on Monday and speak to the adoption of the UDC.

X. Adjournment. Motion: Akervik/Appold to adjourn. President Rand adjourned the Meeting at 7:27.

Respectfully,

Cindy Petkac, AICP
Land Use Supervisor

CP:eu