

City of Duluth
Planning Commission
Minutes of Tuesday, April 14, 2009
City Council Chambers

I. **Call to Order:** President Akervik called the meeting of the City Planning Commission of Tuesday, April 14, 2009 to order at 5:00 p.m.

II. Roll Call:

Members Present: Mike Akervik, Mindy Appold, Henry Banks, Joan Barrett, Drew Digby, Mindy Granley, Joan Morrison, Jim Stebe, John Vigen (9)

Members Absent Excused: Ruth Ann Eaton, Heather Rand, Roger Wedin , David Sarvela

Staff Present: Chuck Froseth, Alison Lutterman, Cherie Merritt, Cindy Petkac

III. Public Hearings

A. **FN09005** - Registered Land Survey for Harbor Highlands Traditional Neighborhood Development by Hanft Fride Law Firm, Dan Maddy, for the Housing and Redevelopment Authority (CF)

Staff: This is a request for a Registered Land Survey (RLS), which allows the property owner to use shorter and more concise legal descriptions for the land. Froseth reported a comment from Minnesota Power concerning a power line on the north side of Harbor Highlands and this has been corrected. Staff recommends approval.

Discussion: Appold asked the purpose of wanting to rearrange the property. Froseth said it shortens the legal descriptions for each parcel within the RLS.

Applicant: Dan Maddy, Fryberger, Buchanan Law Firm, present to represent the Housing and Redevelopment Authority. Maddy said the Authority will continue to own the land with the parcels matching each development phases. Maddy said a RLS is considered the most orderly way to reduce long and complex legal descriptions. Minnesota Power requested an underground easement for utilities already in place as well as the southern part of the registered survey and this will be honored.

<p>MOTION/Second: Barrett/Morrison - to approve FN09005, a Registered Land Survey for Harbor Highlands Traditional Neighborhood Development . Unanimous</p>
--

B. **FN09029** - C-5 Plan Review for Culver's Restaurant located at the northwest corner of Mall Drive and Trinity Road by Brian Bocht for Blue Fjord LLC (CF)

Staff: Froseth said the matter in front of the Commission is for the development of a restaurant at the Northwest corner of Trinity Road and Mall Drive. Froseth recommends tabling the matter as the site plan needs work, but would like to hear comments from Commissioners and the public. Mr. Bocht, engineering for the project and Mr. Froseth will meet the week of April 20th to discuss details further.

Public Input:

Harry Munger, 2921 N 22nd Ave West, Piedmont resident (Opposed) - Munger said he has been active in that area in planning since 1976 or before. His opinion is that City Council is more about keeping taxes than business concerns. Munger said this particular is a good example of the necessity of site review. Although he is not against building a restaurant the fact that the area was specifically zoned/rezoned for certain use's should be honored. Against piece-mealing of parcels in the Mall area.

Discussion: Vigen commented that in one area of the supporting information it says no left turns to be recommended but in the Mall plan there is a right and a left turn. It appears every square inch of the site is occupied by some portion of the project and asked where will the snow be stored. Vigen added the two car stacking at the drive through doesn't seem to have enough space, he also noted a difference concerning dumpsters between drawings B12 and B9 and parking spots in front of front of the dumpsters should be eliminated, is there is a problem with vehicle stacking space to accommodate the traffic flow in and out of the site, the 20 foot sign set back does not meet code requirements and site plan shows number of handicapped spaces is 3, what is required by code ?

Granley had concerns regarding stormwater. She wonders about the proprietary device and questions where the water will go since MN DOT won't allow turn off.

Barrett said she noted water chambers on plan but couldn't see how the water got to the chambers. She also noted landscaping of trees and islands but, wondered how will water get to those landscaped islands. Barrett also inquired where the snow will be put during the Winter months.

MOTION/SECOND: Vigen/Barrett - to Table FN09029, C-5 Plan Review for Culver's Restaurant, located at the northwest corner of Mall Drive and Trinity Road to May.
Unanimous

- C. **FN09028** - Water Resource Management Ordinance Shoreland Special Use Permit for Aspenwood, 500 - 600 Block of Selfridge Drive by Bowman Properties (CP)

Staff : Petkac said the purpose of the request is to excavate fill greater than 50 cubic yards for a new parking area. Staff recommends approval of the special use permit. LHB representative is present to answer questions.

Public Input:

Heidi Brickman, Landscape Architect with LHB, Duluth MN (In favor) - Brickman said she is working on the project at Aspenwood and was present for questions of the Commissioners.

MOTION/SECOND: Vigen/Banks - to approve as presented FN09028, a Water Resource Management Ordinance Shoreland Special Use Permit for Aspenwood. Unanimous

- D. **FN09001** - Rezoning request from R-1-b to C-1 for 2900 Piedmont Avenue by Duluth Lakewalk Offices Phase II, Mark Pilon (CP)

Staff: Petkac reported that the building is vacant at this time. A previous special use permit to allow for a professional clinic expired in 2001. An office space is desired, which is not allowed in the current zoning or with a special use permit. That is why the applicant is applying for a rezoning. A majority of the area is designated as neighborhood mixed use on the Comprehensive Plan - Future Land Use Map. The new Unified Development Code annotated outline proposes a new zone district for neighborhood mixed use which would be a combination of R-4 and C-1. Therefore, staff recommends that the Planning Commission recommend to Council approval of the request.

Discussion:

Appold asked about the zoning at Ensign on a section south of the property across the street. Petkac responded that the zoning is R-1-B. Barrett said the air photo was taken in 2007 but since that time there has been a major remodel. She has heard that ISD 709 is requesting that the street be partially closed.

Applicant: Bill Burns, Hanft Fride, representing applicant (current owner) - Duluth Lakewalk Offices is purchasing the property as part of a transaction of the new health group on London Road. The parties involved thought it was already zoned correctly for their use. It was not known there had been a special use permit that expired. Fortunately the land use plan will see it as business oriented for that specific area.

Discussion: Vigen said the adjoining neighbor wrote a letter regarding a buffer between them and the business - fencing or other. Assuming it gets rezoned how does protection for the abutting residential owner fit into the request. Petkac said that the email was referencing issues should be resolved around enforcement issues. Vigen said Appold asked about Ensign/Piedmont corner. Petkac said they most likely have a Special Use Permit but the City is not initiating any rezonings until the new code is completed. Barrett said that if that triangle has a Special Use Permit, the three residential homes will be surrounded by commercial buildings. Petkac said that part of the purpose of the new code is to develop development standards to minimize potential negative impacts between commercial and residential properties located in mixed use districts.

Public Input:

Mary Johnson, Piedmont Dental Associates, 2816 Piedmont Avenue (Neutral) - Johnson commented the nursing home expansion wouldn't seem to be a concern, that expansion went more toward Decker Road and didn't have any influence on Superior Health. The school

proposal is anticipating closing Ensign at the other end, at Chambersburg Road. Piedmont Dental Associates are in support of the rezone and have also requested change.

MOTION/SECOND: Vigen/ Barrett -to approve FN09001, a Rezoning request from R-1-b to C-1 for 2900 Piedmont Avenue .	Unanimous
---	-----------

- E. **FN09007** - Water Resource Management Ordinance Shoreland Variance for 2530 London Road, Lake Aire Bottle Shop, by John Goldfine (CP)

Staff: Petkac said there was a WRMO Special Use Permit issued in 1981 for the whole area, including the Lake Aire Bottle Shop and Perkins which allowed 94% impervious surface. The owner of the Lake Aire Bottle Shop is proposing to build a cooler for additional storage needed to meet the distributors minimum purchase requirements. With site improvements and the addition of pervious pavers at the entrance to the store, there would be a net decrease in the amount of impervious surface area rom 63% to 60%. Therefore, staff recommends approval, with the condition that the new exterior match the current building exterior.

Discussion: Appold asked whether, with pervious pavers, there will be piping underneath or day lighting.

Applicant: Melissa Graftaas, Architecture Advantage, on behalf of John Goldfine, said there are existing drainage channels along the freeway so the runoff will be day lighted to that area. Appold asked if the addition would be the same color as the existing building. Graftaas said yes.

MOTION/SECOND: Morrison/Barrett - to approve FN09007, a Water Resource Management Ordinance Shoreland Variance, with the condition added by staff.	Unanimous
---	-----------

- IV. Consideration of minutes - March 10 and March 16, 2009 - Morrison/ Appold - to accepted. Accepted

Barrett said in the past all comments for approval in the future were listed as the Planning Director. Who is on it now. Cindy Petkac said all areas where Planning Director was stated were changed to Land Use Supervisor.

- V. Communications

- VI. Old Business

- VII. Reports of Officers and Committees

Morrison - DWMX-D - A couple of matters. The bicycle rental business in Canal Park is looking for another site and the Committee asked them to look at alternative locations. A replacement sign was also tabled as it needs further details.

- VIII. New Business

IX. Other Business

Discussion of members re sitting on boards/commissions/committees:

President Akervik - are two members adequate or are 3 needed for the Tax Forfeit Committee?
Lutterman - 10.1 Bylaw requires three. Granley said the group has found that having three helps break a tie.

Appold will take Wedin's place on the Tax Forfeit Committee

Board of Zoning Appeals - Vigen asked, as he was updated last night, how long will his commission last for that? Lutterman said that is an annual Mayoral appointment, with approve by the Council. Lutterman will look into.

EAC - per Lutterman verbiage will be acted upon by Council as a 2nd reading at the April 27th meeting.

HPC - Rand would like to step down to focus on UDC group. The appointment is by the Planning Commission. Lutterman will double-check that.

Barrett - how do we communicate to City Council better the PC's role? President Akervik said Commissioners can be present at a Council meeting to address questions.

Petkac said there will a session by Gov't Training Svcs of MN, a video conference on June 4th concerning the role of a Planning Commission member - the time it is piped to Duluth is 3-5:00 p.m. The City will cover the cost (\$30). An email will be sent to the Planning Commission. Petkac will be attending a session for new Commissioners at the APA conference in May. Barrett asked if City Council members could be invited. Froseth said there will be a Brown Bag discussion on a Friday, May 15th. There will also be a Brown Bag on June 12th regarding the subject of sustainability.

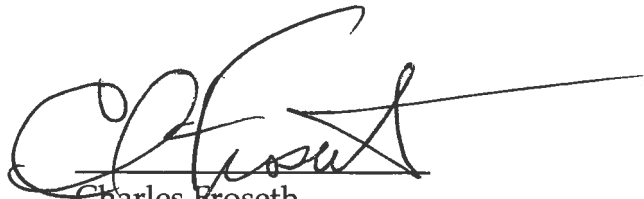
Vigen send an email for the EPS program site would be a good resource for commissioners, they have many interesting programs.

X. Adjournment: Appold/Barrett - Motion to adjourn. President Akervik adjourned the meeting at 5:59 p.m.

Respectfully,



Cindy Petkac
Land Use Supervisor



Charles Froseth
Senior Planner

CP:CF:cm