

City of Duluth  
Planning Commission  
**Minutes of Tuesday, February 16, 2010**  
City Council Chambers

**I. Call to Order:** President Akervik called the meeting of the Planning Commission to order at 5:05 p.m., **Tuesday, February 16, 2010**, in the third floor Council Chambers of Duluth City Hall and explained the public hearing procedure to the audience.

**II. Roll Call:**

Members Present: Mike Akervik, Henry Banks, Joan Barrett, Katelyn Blazevic, Drew Digby, Frank Holappa, Joan Morrison (*left at 6:38*), Heather Rand

Members Absent Excused: Mindy Appold, Jim Stebe, John Vigen, David Sarvela

Staff Present: Jen Bergum, Kyle Deming, John Judd, Alison Lutterman, Emily Ojanen, Cindy Petkac

**III. Public Hearings** (staff reports of matters are on file in the Planning office)

A. **FN 09110** - Bayfront District Small Area Plan. (JJ)

**Staff:** John Judd reported on the Bayfront District Small Area Plan with a power-point presentation. This covered a background and purpose of the plan, the planning process, draft recommendations and the next steps in the public process. The Comprehensive Plan Future Land Use Map would be amended to show the DEDA and LaFarge sites as Commercial Waterfront (CW). The rezoning will include a set of standards such as: dimensional, development, design and natural resource standards. He also touched on transportation and public access to the area.

**Discussion:** Barrett asked if there were studies done on what other cities have done with cruise ships. Judd said there had been some research specific to cruise ships done but her would need to be additional. Morrison was concerned how this will be controlled so things aren't going to take over the area such as hotels, strip malls, etc. Heidi Timm-Bijold of Duluth Economic Development Authority (DEDA) said right now this plan is identifying allowable uses for this area that are economically feasible when specific project are proposed DEDA will have the opportunity to insure "mixed-use" development. Digby asked if public storage units would be allowed here and Judd said they would not be an allowable use. Digby asked about connectivity to other places in the area, especially regarding h site's proximity to the rail lines. Judd the plan encourages the development and increased access to the area for all modes especially with the preparation of the St. Louis County Union Depot Station Study and the Duluth Transit Authority's Multi-modal Transportation Center Plan.

**Public Input:** Max Tauber spoke in support of this plan but thinks it is too small of an area that is should be extended to the West and to the other side of slip D. Akervik thinks this is a great opportunity to do something great in this area especially since we have more control over the potential environmental issues. Morrison suggested that the Palucci family should have input on this development.

- B. **FN 10007** - Receive public comments on the Environmental Assessment Worksheet for Western Middle School by ISD 709. Record of Decision to be considered on March 9, 2010. (JJ/KD)

**Staff:** Deming reported that the Environmental Assessment Worksheet (EAW) for Western Middle School has been prepared and is out for the 30-day comment period. Planning Commission doesn't need to take action at this meeting, but will need to make a determination about the need for an EIS at next month's meeting. Planning will collect all comments and provide them to the commissioners for the Record of Decision.

**Discussion:** Banks asked if a civil rights review applied to this EAW and Lutterman answered that the topic areas are defined by state regulations. The EAW is for environmental impacts not socio-economic ones. Barrett was concerned about children traveling from the west end of town and about blasting.

**Applicant: Matt Ryan from LHB:** They would like to build at the North Wheeler site because, of the ten sites, North Wheeler was top on the list. It is very close to the population density of the western part of the city. Transportation needs were less here than the other sites because so many children can walk to the site. This site fits in the Comprehensive Plan and it is buildable despite the rock and wetlands present. A school on this site will be a very distinct, visually prominent building. Akervik asked how many students would be able to walk. Ryan said about 145. Ryan also addressed Barretts question on blasting saying they will do more research on the blasting zone and will work with the school district. Akervik inquired about air quality from the trains and ore transfer facility. Ryan said the school will be higher than railroad tracks which will help. He also said the school district hired a consultant to do research on air quality. Holappa was concerned about students who live west of 40<sup>th</sup> Avenue West for access through the Northwoods property. Ryan said there are access ideas for those students. Digby said the school district had several meetings on connections from different areas to Western Middle School but he didn't think there were any set plans.

**Public Input: Steven Ellis, 3112 Lyman Street:** said we should be able to educate kids without destroying this land. He thinks putting a school there would take away the educational experience for the kids. There's pollution and ore dust that floats up the hill and that area acts as a filter. He also said this will be a hard area for the kids to get to safely.

**Linda Ross Selner, 402 Arrowhead Road:** was concerned that this site was selected over remodeling Central High School. She thinks traffic should not have an impact on school access. She is worried about wastewater management, water runoff, blasting, and wetlands and is suspicious of the GIS maps because they don't have the right kind of shading. She is also concerned about the train noise. She wants more consideration in the evaluation of finding a site.

**Ron Brochue, 709 Maple Bend Drive:** is concerned about displacing flora, fauna and wetlands and thinks there are a lot better sites.

- C. **FN 10008** - A Water Resource Management Ordinance Shoreland Variance request to allow 85% impervious surface at 300 Canal Park Drive by Ted Kavajecz. (KD)

**Staff:** Deming reported the landowner wanted to redevelop this site to allow 85% impervious surface rather than the required 30% maximum. The site is currently at 91% impervious so there would actually be a reduction in impervious surface and there is a hardship due to the small narrow aspects of the site. Staff is recommending approval.

**Discussion:** Barrett asked questions on the letter from Ronald Anderson. Deming answered the standard for impervious surface is 30% and all Canal Park businesses that applied to have more were all given individual consideration for variances. Morrison was concerned about handicapped parking. Lutterman said if they do not provide parking they do not have to provide handicapped parking. Holappa wanted to make sure that what the owner was proposing fit into this space.

**Applicant:** Rocky Kavajecz would like to improve the site. They are putting in geothermal heat and solar panels. They would like to create a connection between Canal Park Drive and the Lakewalk for access to the site. Barrett asked why the loading area would be pervious whereas the walkway would be impervious. There was no real reason as to why this was but Kavajecz said they are willing to work with the City.

*Rand seconded making the point that the percentage of impervious surface would change as well.*

<p><b>MOTION/Second:</b> Holappa/Rand to <b>Approve</b> the WRMO variance with limitation that they make the walkway pervious at 300 Canal Park Drive by Ted Kavajecz.</p> <p style="text-align: right;">Vote: Unanimous 8-0</p>
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- D. **FN 10009** - Review of Registered Land Survey (RLS) #92 at 1600 Miller Trunk Highway by Simon Property Group. (KD)

**Staff:** Deming reported on the need to review this Registered Land Survey (RLS). Staff recommends approval.

**Discussion:** Digby asked if there was anything in the very small print that we really need to know? Deming said it is all legal descriptions of the parcels being redescribed by the RLS.

<p><b>MOTION/Second:</b> Barrett/Morrison to <b>Approve</b> Registered Land Survey (RLS) #92 at 1600 Miller Trunk Highway by Simon Property Group.</p> <p style="text-align: right;">Vote: Unanimous 8-0</p>
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- E. **FN 10010** - A Concurrent Use Permit for retractable awnings and benches in the right of way at 101-107 East Superior Street by Don Garofalo. (KD)

**Staff:** Deming reported the applicant would like to put out retractable awnings, benches & light fixtures. He explained the requirements and guidelines for the public-private combined use. Staff is recommending approval.

**Discussion:** Barrett was concerned of the height of the awnings. Deming said they will need to meet requirements of the code.

**Applicant:** Sheryl Fosdick said the lowest point of the awnings will be 7.2 feet and will be level. Banks asked if the intent of the benches was to encourage neighboring businesses to add benches as well. Fosdick said yes, they will be heavy and moveable but not anchored. Lutterman requested that

the business be required to render the city harmless for damages due to things such as but not limited to snow clearing. Akervik asked about the lights that were already put there asking if that is something that needs to come before the City Council before it is done. Petkac said Planning is looking at using a different approval process in the next module of the Unified Development Code (UDC) because we want to encourage this type of activity not make it extremely hard. Digby would like to see a process that is not so lengthy.

Blazevic is concerned about when lights will be on and brightness of them. Fosdick said the lights will be on during the business hours and smaller lights will be on low wattage over the doorways after hours.

**MOTION/Second:** Barrett/Rand to **Recommend Approval** the Concurrent Use Permit for retractable awnings and benches in the right of way at 101-107 East Superior Street by Don Garofalo *with the language that Lutterman suggested about rendering the city harmless.*  
Vote: Unanimous 7-0

- F. **FN 10013** - Request to Rezone from R-1-C (One-Family Residential) to R-2 (Two-Family Residential) 0.9 acres between Minnesota Ave. and St. Louis Ave. south of 16<sup>th</sup> Street by Park Point Properties. (KD)

**Staff:** Deming reported staff recommends approval as the proposed R-2 zoning is consistent with the Comprehensive Plan.

**Discussion:** Barrett asked how many units there would be allowed. Deming said four single family homes and three duplexes. That includes garages and parking as well.

**Public Input:** Jan Cohen, 1602 Minnesota Avenue: is concerned the applicant will be given variances. Lutterman said the City cannot condition a rezoning. The rules will apply and in order to obtain a variance, one must have hardship. Digby asked if allowable uses will change under this zoning. Petkac said no.

**MOTION/Second:** Akervik/Holappa to **Recommend Approval** of the Request to Rezone from R-1-C (One-Family Residential) to R-2 (Two-Family Residential) 0.9 acres between Minnesota Ave. and St. Louis Ave. south of 16<sup>th</sup> Street by Park Point Properties. Vote: Unanimous 7-0

IV. Consideration of Minutes: January 12, 2010. Motion/Second by Akervik/Rand  
Vote: Unanimous 7-0

Mel Heinrich, 2962 Devonshire Street: Proposed Central High School be used as a new city hall. Akervik said we will bring the idea to the city council.

#### V. Communications

- A. Digby reported on Complete Streets. They are working hard and trying to make them fit with the Comprehensive Plan and make them more friendly to everyone.
- B. Barrett reported on the EAC which didn't meet and that the chair had resigned. They did not have a quorum and there is no need for them to meet until they do.

VI. Old Business

- A. **FN 10002** - Special Use Permit for the replacement of a wooden wireless communications tower with a 60' monopole and equipment shelter at 3456 Haines Road by Pinnacle Towers Acquisition LLC for AT&T. (KD)

**Staff:** Deming reported this project was previously tabled and the applicant has reworked their site plan to include a fence to screen the ground equipment. Staff recommends approval.

**Applicant:** Jeff Barnett from Crown Castle was present to answer questions. Akervik asked if this was located in the same spot or if they were able to work with the County to relocate the tower further from the road to provide vegetative screening. Barnett reported that the County Land Department asserted that the site was exempt from zoning because it is on tax forfeited land that is in the title of the State of Minnesota. Lutterman said the County was wrong and zoning laws must be followed.

**MOTION/Second:** Barrett/Blazevic to **Recommend Approval** of a Special Use Permit for the replacement of a wooden wireless communications tower with a 60' monopole and equipment shelter at 3456 Haines Road by Pinnacle Towers Acquisition LLC for AT&T.

Vote: Unanimous 7-0

VII. Reports of Officers and Committees

- A. Zoning Advisory Committee Rand reported there is a fourth module in April try to come to the next meeting and go online and take a look at the work done thus far.

VIII. New Business

- A. Bylaw Amendment to change the annual meeting date from February to May.

Lutterman stated that at least nine commissioners must be present to vote on this. Therefore, a vote was not possible with the seven members remaining and that they will need to try again at the regular meeting on March 9, 2010.

IX. Other Business

- X. Adjournment. Motion: Akervik/Barrett to adjourn. President Akervik adjourned the meeting at 7:18p.m.

Respectfully,



Cindy Petkac  
Land Use Supervisor

CP:jb