



City of Duluth  
Planning Division

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City of Duluth  
Planning Commission  
Minutes of Tuesday, June 8, 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, June 8, 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, Rebecca Covington, Drew Digby, Frank Holappa, Heather Rand, David Sarvela, Jim Stebe, John Vigen,

Members Absent Excused: Terry Guggenbuehl, Katelyn Blazeveck

Members Absent: Jim Stebe

Staff Present: Kyle Deming, Alison Lutterman, Jennifer Moses, Cindy Petkac, Edna Ulrich

**III. Public Hearings**

A. FN 10043 - Request for Rezoning from R-2 (Two Family Residential) and M-1 (Manufacturing) to R-4 (Apartment Residential) 12 lots located south of 10<sup>th</sup> Street between Lake and Minnesota Avenues by Joel & Joy Johnson, Lakehead Boat Basin and Marine Service Inc. KD

Staff: Deming presented the staff report. The subject site is zoned R-2 and M-1 and the Comprehensive Plan Future Land Use Map shows the site as "Traditional Neighborhood," which allows a very limited amount of commercial uses, such as corner stores. The petitioned R-4 zoning would allow much more intensive uses including hotels, commercial rooming houses, apartments, nursing homes, and private clubs. Rezoning to R4 would not be consistent with the Comprehensive Plan. Comments have been submitted by about 24 households that were not in favor of rezoning. Staff recommends that the Commission recommend to Council to deny the rezoning request.

Applicant: Bill Burns said that, while it is true that the only way to build the facility would be to intrude into this residential neighborhood, it is anything but a traditional neighborhood. They wish to downzone half of the property to R-4, which is another residential category. They are doing further traffic reviews and people here will be customers of the convenience store proposed for inside the hotel. There should not be a significant increase in traffic.

Discussion: Holappa asked about the number of hotel rooms and the height of the building. Burns stated it would have 53 rooms and be approximately 43' in height. Banks asked about the South Pier Hotel and how it compares to this. Burns stated that it has about 37-40 rooms and he didn't know the traffic numbers, but doesn't think it is significant.

Public Input: Jan Karon - 1112 S Lake Ave. Jan had a fabricated image of Park Point from Lake Superior made to show what it would look like should this be built. She urges to deny the rezoning.

Warren Howe 1112 S Lake Ave. He does not want to see the zoning changed. They chose this place as it is a residential neighborhood. This seems to be in violation of what the Comp Plan was created for.

Andrew Slade - 1026 S Lake Ave. He is personally affected by this. This sets a really bad precedent. They may change many other R-2's to R-4's. Losing the M-1 zoning would hurt businesses opportunities.

Sally Rauschenfels - 1026 S Lake Ave. This is a neighborhood. Hotels do not create neighborhoods. This will bring in much more traffic, noise and lights from the parking lots to the neighborhood.

Jan Cohen - 1602 Minnesota Ave. She is affirming what the people before her have stated. The City should be protecting this area.

Jim Waldo - 1902 St Louis Ave. He has already sent a letter to Council members and is worried about the traffic - has a traffic study been done?

Joel Anderson - 1027 S Lake Ave. He lives next door to this property and thinks this is a much too big of a project for this neighborhood. He is not necessarily against rezoning - but not this large of a property.

Craig Olson - Building Trades Union rep. Spoke about the development and the jobs that this will create. We need development to put people to work and to grow.

Discussion Bill Burns stated that this is about a small intrusion into this neighborhood. They had presented this development to the Park Point Community Club, whose input was sought.

Akervik – The list of permitted uses allowed in M-1 is quite long, including manufacturing and commercial uses. What can they do with the R-2? Short term occupancy is not allowed in an R-2 district. Some of the allowable uses in R-2 zoning would be single family dwelling and town house dwelling. They can have a day care facility or a bed and breakfast Inn by special use permit.

Joel Johnson-Owner: Showed design of hotel and explained the areas within the hotel.

Lutterman: Stated that they cannot condition a rezone for a particular use or site proposal. There is no site plan review for a hotel in an R-4 district. They are limited to whatever restrictions might be placed on the site according to Chapter 51.

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| MOTION/Second: Digby/Sarvela to Recommend Denial of the Rezoning Request from R2 (Two Family Residential) and M1 (Manufacturing) to R-4 (Apartment Residential) 12 lots located south of 10 <sup>th</sup> Street between Lake and Minnesota Avenues by Joel & Joy Johnson, Lakehead Boat Basin and Marine Service Inc. <span style="float: right;">Vote: Unanimous 9-0</span> |
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- B. FN 10047 - Request for a Special Use Permit for an off-site parking lot for 84 vehicles at the southeast corner of 40<sup>th</sup> Avenue East and Luverne Street by ISD #709. KD

Staff: Deming presented a petition from neighbors in this area with concerns for limited parking on Luverne Street and the added traffic from the driveway entrance. Parking is normally required to be on the same site as the primary use of the site, but that this is a Special Use Permit specifically allowing schools to locate off-site parking under certain circumstances. The proposal includes providing access to the Lakewalk. They have applied the appropriate setback and have a 33% canopy of trees for buffer. Staff recommends approval, with conditions. This matter goes to City Council with Commission recommendation.

Discussion: Sarvella wanted to know how they calculated for the vegetation screening – and if there is a standard size. The special use permit does not provide for this but they can attach a condition on the trees to be planted here. On the Luverne Street side - the property line has a 15 ft setback. Vigen wondered where the snow removal storage area was. Deming stated that it is not included in this site plan. Akervik said everything shaded in blue is school site and it looks like there is a garage on the property line. There is an additional lot that is owned by school district on the east.

Applicant: Earl Thedens, Representing ISD 709. School intention is to remove the home and garage from this property. Regarding vegetation and snow storage – there are no standards to comply with but they will go by the school standards of 6’ trees. Snow storage is a concern. Their intension is to push snow from north to south. They will have handicapped parking spaces here and it will be connected to the Lakewalk.

Discussion: Sarvela: How can pedestrians get from the parking lot to the school? No direct connection to the public sidewalk. Vigen: Handicapped parking is at the farthest distance from the pedestrian crossing. Applicant stated that it has 25 handicapped spaces by the door of the school. These handicap parking spots are required by code and will serve the Lakewalk. Digby asked if there were any restrictions for people to use this parking lot. Applicant states that there are no restrictions. Sarvela: Sidewalks around the parking lot – would they need to walk through the driveway to get to rest of the parking lot? Deming stated they can recommend a condition that the sidewalk is of sufficient width.

Holappa – Is this basically staff parking? Thedens, Yes – during the school day. The students need permits to park at school. Vigen asked where students park that don't have a permit? Applicant: The school district recommends that neighbors request the City establish a permit parking zone around the school. The school district can't go to the City to request this. Lutterman: The City does have authority to control parking on public streets. The City can control parking during certain times.

Public Input: Janelle Labowski - 4022 Luverne St – They have concerns about traffic flow – their house is right next to the lot. They are worried about people gathering in the parking lot. They are opposed to the entrance coming in from Luverne St.

Discussion Digby: Are there restrictions she would like to see? They had signed a petition with the other neighbors not to have the entrance from Luverne St. Akervik: Can there be any restrictions at night in the lot? The school district can limit the time vehicles can be in the parking lot. Banks asked about lighting in the evening. Thedens responded that street lighting would be sufficient.

**MOTION/Second:** Vigen/Akervik to **Recommend Approval** of the Request for a special Use Permit for an off-site parking lot for 84 vehicles at the southeast corner of 40<sup>th</sup> Ave East and Luverne Street by ISD #709 **with the following additional Conditions:** recommends approval with the following conditions: 1. Decorative fencing along East side (east of landscaping) 2. Sign stating 'No Parking' after 10 pm or at end of special events 3. Sidewalk from the corner to the parking lot and 4. Public be given access to parking after school..

Vote: 7-1-1 (Banks Opposed/Appold Abstained)

C. FN 10050 - Zoning Code Text Amendment regarding Wireless Telecommunication Facilities by the City of Duluth. CP

Staff: Cindy Petkac stated that this ordinance would replace Section 50-35 (ff). It is based on a model ordinance developed by the Center for Municipal Solutions which has been adopted by hundreds of communities across the country. An important change in the

text amendment is that wireless telecommunication towers will be limited to a height of 75 ft. within the migratory bird flight path, an area two miles inland of the Lake Superior/St Louis River shorelines. There is also a prioritization list for the location of new towers. The special use permit provisions will apply to any new, co-located or modification of a wireless telecommunication facility regardless of height. Our current SUP provisions only apply to towers and poles over 50 feet in height. CMS will provide technical review of applications and the justification for need and height and the cost of the review will be covered by the applicant through an escrow account. Staff recommends that the Zoning Code be amended and replaced with this amendment.

Discussion: Digby thinks that it is great to have this provision written out. There is a requirement that the applicant puts money in an escrow account to cover costs. Vigen didn't see any difference for towers in residential areas - may have 40' of Antenna which may be an intrusion. Lutterman stated Section 8C applied to all wireless towers having to blend in with the character of the area. They may also make a case as to why they need a certain height on the tower.

Public Input: Kelly Bodenheimer - Riverside Tower. Shows appreciation of the hard work the staff has done on this ordinance. City staff will protect our views, natural resources and character.

Discussion Akervik spoke regarding areas that have towers - we need to be cognizant that this may impact residential areas as well.

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| MOTION/Second: Vigen/Appold to Recommend Approval of the Zoning Code Text Amendment for Special Use Permits, Section 50-35 (ff), be amended and replaced with Wireless Telecommunication Facilities. |
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IV. Consideration of Minutes -

May 11, 2010 - Motion/Second Akervik/ Appold. Unanimous

May 19, 2010 - Motion/Second Vigen/ Appold (noted that Vigen had not intended to Vote no.)  
Unanimous

V. Communications

VI. Old Business

VII. Reports of Officers and Committees

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

VIII. New Business

- A. FN 10040 – Review of 11 parcels Reclassified to Non-Conservation by the Saint Louis County Board (April 19, 2010 list) KD

Tax Forfeit Lands Subcommittee didn't meet prior to Planning Commission to review the parcels because of lack of a quorum by committee members. Deming went over list of parcels and staff recommendations.

**MOTION/Second:** Vigen/Appold to Recommend Approval of the staff's recommendations on the Review of 11 parcels Reclassified to Non-Conservation by the Saint Louis County Board (April 19, 2010 list)

- B. FN 10049 – Review of 24 parcels that were forfeited in 2009 because of non-payment of property taxes and classified Non-Conservation by the Saint Louis County Board (May 13, 2010 list). KD

Deming went over list of parcels and staff recommendations.

**MOTION/Second:** Appold/Vigen to Recommend Approval of the staff's recommendations on the Review of 24 Parcels that were forfeited by the Saint Louis County Board (May 13, 2010 list)

Vote: Unanimous (9-0)

- C. FN 10056 – Request by Saint Louis County Land Department for review of the proposed Reclassification to Non-Conservation of 71 tax forfeited parcels (70 acres) in preparation for sale to ISD 709 for the Western Middle School. KD

Deming went over list of parcels and staff recommendations.

**MOTION/Second:** Akervik/Digby to Recommend Approval of the proposed Reclassification to Non-Conservation of 71 tax forfeited parcels (70 acres) in preparation for sale to IDS 709 for the Western Middle School.

Vote: Recommend Approval (8-0-1) (Vigen Abstained)

## IX. Other Business

Jennifer Moses presented the UDC informational piece. They have worked on this for 2 years and have summarized all that has been done during this time. They had gotten about 250 comments. There is a summary table showing the difference between the initial draft and the final draft. Digby asked when the final draft comes out – Mid June. Vigen – Will there still be an opportunity to see if they can make any suggestions? He thinks that it should have been brought to the Planning Commission for their input. Petkac stated that they received substantial comments from many people. Lutterman suggests if they read through the

document and see something that is incorrect – they can recommend a change and track these recommendations. Hollappa asked where can they get information on this – Moses stated that they can get a draft on the web site.

- X. Adjournment: Motion/Second by Appold/ Akervik to adjourn. President Rand adjourned the meeting at 7:43 p.m.

Respectfully,

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Cindy Petkac, AICP  
Land Use Supervisor

CP:eu