

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

I. Call to Order: President Akervik called the meeting of the Planning Commission to order at 5:00 p.m., **Tuesday, July 14, 2009**, 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, Mindy Appold, Henry Banks, Joan Barrett, Drew Digby, Mindy Granley, Frank Holappa, Joan Morrison, Heather Rand, Jim Stebe, John Vigen

Members Absent Excused: Katelyn Blazevec (Kuor), David Sarvela

Staff Present: Kyle Deming, Terri Fitzgibbons, John Judd, Alison Lutterman, Cindy Petkac

Commissioner Rand made a motion to move File Number 09064 to the last item under III. Public Hearings, which was seconded by Commissioner Barrett.

III. Public Hearings (staff reports of matters are on file in the Planning & Development Department)

A. **FN09058** - Alley vacation at 907 West Gary Street by Harold and Jane Glowacki (JJ)

Staff: Judd stated the vacation of this alley would accommodate the connection of a water line to a main for the adjacent owners. The Engineering Office encouraged the owners to apply for a vacation. Staff recommends approval.

Discussion: Rand asked about Minnesota Power's request to retain a utility easement for the entire length of the alley. Judd stated the Engineering Office did not need the easement, but Minnesota Power requests a private utility easement due to overhead power lines in another portion of the alley.

MOTION/Second: Barrett/Rand to Recommend Approval of Alley vacation at 907 West Gary Street by Harold and Jane Glowacki	Vote: Unanmous (11-0)
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B. **FN09065** - A Special Use Permit request for Low Density Development at 9320 Grand Avenue (Westwood Heights) by Steve Kuepers, Kuepers Architects & Builders (Matt Bolf, SEH) (CP)

Staff: Petkac stated the development is located off of Grand Avenue just north of Morgan Park on a 20-acre site. Ten buildings are proposed with eight units per building on a private road with the southern 8.5 acres remaining undeveloped. The plan meets all requirements for off-street parking spaces, open

space, R-1 zoning, and density requirements. In 2005, 45 single family homes were approved for this site by the Planning Commission and City Council. This alternate proposal allows for even more green space.

Applicant - Matt Bolf, SEH Engineering: Bolf stated since 2005, the developer re-examined ways to reduce impacts and be more in compliance with the land use. A portion of the land is to be held in conservation. The road will be private which will allow it to be more narrow thereby reducing impervious surface area.

Discussion: Granley asked how close the homes will be to the trout stream. Bolf stated the stream is approximately 100 feet away from the nearest unit. Digby asked if there will be bicycle paths or sidewalks. Bolf stated a sidewalk or trail will be built on the south side of the road and tie into the Munger Trail. Petkac stated there is also a transit stop on Grand Avenue near this site. Appold asked about the grade changes in the open space. Bolf stated most of this is wetland, and the only grading during construction will be for building the units. Vigen asked if it is the same owner/developer as 2005, and Bolf stated Charlie Bell was hired by Kuepers at that time but Kuepers still owns the land. Vigen asked if the conservation will have stipulations, and Bolf stated it will be held in perpetuity to be not developed. Vigen stated there is a stand of pines in this area which was an issue in 2005. Stebe asked about the total cost of the project including street and buildings. Bolf stated it will be greater than one-half million dollars. Stebe asked if it will be built in phases, and Bolf stated it will be built all at once. Vigen asked about street width, and Bolf stated the Design Review Committee and Fire Department both reviewed the width. A 20-foot width is the minimum standard and curbs will be bumped out for fire hydrants. Akervik asked about if the road will be no parking, and Bolf confirmed this, stating each unit will have a garage. Vigen asked about guest parking, and Bolf stated the parking requirements have been met and the developer feels non-garage parking will be adequate for guests. Appold asked about the walkway in green space, and Bolf stated this is proposed to be a wood-chip trail for access to the creek. Appold stated she would like this to have a minimum impact on the existing trees if a trail is put in. Granley asked about water runoff, and Bolf stated there will be ditches or swails with some ponding at the southeast end of the site. Bolf stated this development will be owned and maintained by the developer, not the City. Bolf did not have soil data but feels the area for stormwater will be adequate. Rand asked if the street will be posted no parking on both sides, and Bolf stated it is a private road so it would be up to the developer. Rand assumed therefore it will not be signed which then mean guests will be parking on the street. Akervik asked how much additional permitting is required, and Petkac stated there are no shoreland impacts so no additional permits will be required as wetland credits were purchased in 2005. Akervik mentioned a berm proposed in 2005 between the development and Grand Avenue. Bolf stated this portion of the land will not be developed so no berm is needed. Bolf stated there are no additional permits required at this time except for the stormwater construction permit.

Digby is not completely satisfied with parking and safety issues on the narrow street. Vigen stated he appreciates private money building such a project, but access issues brought up by the City is of concern. The road is narrow and long (1,200 feet) with a dead-end and no protection from parking. Morrison stated school buses are also a concern on a narrow street with parking. Rand stated issues of concern were adequately addressed for her except parking. She suggested tabling the matter to allow staff to work with the developer on a solution. Vigen suggested a turnaround would also be beneficial.

Morrison agrees with tabling the matter. Appold would also like to know the location of the proposed stormwater pond.

MOTION/Second: Vigen/Rand to Table a Special Use Permit request for Low Density Development at 9320 Grand Avenue (Westwood Heights) by Steve Kuepers, Kuepers Architects & Builders (Matt Bolf, SEH) Vote: 11-0

- C. **FN09066** - A Water Resource Management Ordinance Shoreland Special Use Permit request to fill for reconstruction of north entrance road at 1200 Kenwood Avenue by Tom Brekke for College of St. Scholastica (Greg Stoewer, LHB) (JJ)

Staff: Judd stated this proposal is a modification to make the entrance safer. The plan does not disturb any wetlands or increase the impervious surface. Staff recommends approval.

Applicant - Greg Stoewer, LHB: Stoewer stated this project has been put off for a long time, and the bridge is not part of this project. It is to mill and overlay the road west of the creek because one side has a downward slope. Granley asked about apaved ditch, and Stoewer stated it is unsafe and the width will be reduced which will reduce erosion and impervious surface. There will be a curb on both sides.

MOTION/Second: Rand/Granley to Approve a Water Resource Management Ordinance Shoreland Special Use Permit request to fill for reconstruction of north entrance road at 1200 Kenwood Avenue by Tom Brekke for College of St. Scholastica (Greg Stoewer, LHB) Vote: Unanimous (11-0)

- D. **FN09064** - Review of the Annual list of 40 parcels of tax-forfeited land by the St. Louis County Land Department. (KD)

Staff: Appold stated the 40 parcels were reviewed at the tax forfeit subcommittee meeting, and the subcommittee agreed with the staff recommendation.

Discussion: Barrett asked about access for Parcel #10. Deming stated the property owner has frontage on Arrowhead Road. The lots have no direct access but are considered to have access since the owner is the same.

Vigen asked about Parcel #20 which has been suggested for conservation due to a stormwater pipe. Deming stated the Engineering Division wants this parcel to be placed in conservation in order to obtain an easement for stormwater. Vigen asked if the City can collect a use fee since the parcel is being used to park trucks. Deming stated he is unsure the protocol for such a practice.

MOTION/Second: Appold/Morrison to Recommend Approval of the Annual list of 40 parcels of tax-forfeited land by the St. Louis County Land Department Vote: Unanimous (11-0)

IV. Consideration of Minutes

June 9, 2009. Motion by Morrison/Appold - approved unanimously with one minor change.

V. Communications

Barrett stated there was an Environmental Advisory Council (EAC) meeting last week and there was not a quorum. Barrett believes this is due to no staff person assigned to the EAC.

Morrison stated the Downtown Waterfront Mixed Use District (DWMX) met and received an application from Club Saratoga for a new sign. The sign company was asked to modify the sign and come back with changes.

VI. Old Business

- A. **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

President Akervik stated this item will remain tabled at the applicant's request.

- B. **FN09030 - Decision on the Environmental Assessment Worksheet for the conversion of Ordean Middle School to the new Eastern High School, 301 North 40th Avenue East, by Independent School District (ISD) 709 (CP)**

Commissioner Appold will abstain from this matter.

Discussion: Akervik stated there is no recommendation from staff. Barrett has concerns about accessible parking. Leider stated accessible parking is regulated by code and ADA regulations. Accessible parking is located near the front entrance of the school. Lutterman stated this issue does not come within the scope of an EAW. Banks asked about the cultural and historic aspect of the bald eagle as it relates to the Native American community as well as traffic patterns of a high school.

Applicant - Kerry Leider, Independent School District: Leider stated the school has had conversations with members from the Native American community, and the school has been working with the Fish and Wildlife Service to adhere to guidelines. Leider stated experts were consulted regarding traffic patterns.

Mike Netzel, Krech Ojard & Associates: Netzel stated the amount of traffic on-site as a high school and the hours of operation are the two key issues. As a high school there is more traffic that comes and stays all day. Netzel does not feel there is a greater volume of traffic. The peak hour start time for the high school will be one hour later and so traffic will be less.

Discussion: Morrison asked how many parking permits East High School issued versus on-street parking by students. Leider does not have that information, but knows this data was a factor of their study. Morrison asked if employee parking is included in the 349 proposed spaces. Leider stated this is more than double than the existing parking available at East High School. Leider stated parking was reduced to encourage staff and students to seek alternative

transportation. Morrison asked about off-site student parking, and Leider stated they are considering additional property for parking and will have a lottery for parking passes.

Vigen asked if the school approached Holy Rosary and East High School for use of their lots. Leider stated the school district does not have an agreement with Holy Rosary and it was not considered in the number of spaces required. Vigen asked Netzel about the traffic study, and Netzel stated they first met with City Engineering staff and identified eight critical areas for consideration. SEH examined all eight intersections and determined five had no significant issues. Areas of primary concern were at 36th Avenue East, 40th Avenue East and Superior Street, and 40th Avenue East and London Road. It was identified the issue was due to peak morning rush hour times, not school rush hour. New ingress/egress has been proposed at the school site. Vigen asked if the London Road corridor was part of the analysis. Netzel stated it was not considered but was studied by the Minnesota Department of Transportation. Stebe asked about the bus turnaround, and Netzel stated the bus turnaround is part of the plan and is a critical component to moving traffic on and off the site.

Morrison stated employees will be arriving during peak rush hours. Morrison asked if the teen parent and STC programs will be housed at the new eastern high school. Leider stated locational programming is included in the 1,600 estimated count of students. The school district is still determining the location of various programs.

Granley is pleased with the information provided regarding stormwater treatment on this site. Granley stated the pre-permit review with the MPCA is also positive. Granley stated she received an email and is concerned about the eagle nest. Petkac stated Commissioners have all information provided during the public comment period and asks Commissioners to not consider any information submitted after the public comment period ended on May 20.

Morrison asked about public school stadium and the proposed field at the Ordean site. Leider stated with two high schools in Duluth equity was found to be important to the community which is the reason for the additional stadium. Stebe asked if the field proposed at Eastern High School will have seating. Leider stated there will be some seating.

Rand stated she is pleased with the amount of public comment and made the motion that based on the Environmental Assessment Worksheet and related documentation that's been presented for the Independent School District's Eastern High School and prepared in compliance with the procedures of the Minnesota Environmental Policy Act and Minnesota Rules 4410.1000 to 4410.1700 and that this record demonstrates that implementation of this project does not have the potential for significant environmental impacts, therefore the Duluth City Planning Commission makes a negative declaration and does not require the preparation of an Environmental Impact Statement for this project. This motion was seconded by Banks.

Akervik stated an EIS shall be ordered for projects with the potential for significant environmental effects. Akervik believes any project that has come before the Planning Commission has addressed potential impacts. He believes there are enough agencies in place

(local, state, federal) within the permitting process that it will be policed accordingly. Morrison will not vote for the EIS but is concerned about the traffic and spillover in the neighborhood as well as inadequate parking.

Vigen feels a lot of issues brought forth are valid, and he is unsure which agencies will address those concerns such as lighting and sound in conjunction with outdoor events. Leider stated the school addresses these matters because people want schools in their neighborhoods.

Barrett cannot see that an EIS would garner any additional information than what's been provided by the City and the school. Digby appreciated comments from the public and felt the school went into great detail in their responses. He feels transportation issues need to be addressed to encourage bicycling and walking. Digby supports a two high school system and feels there is an environmental impact but that the efforts to mitigate them are adequate.

Akervik is concerned with the neighborhood impacts and not just environmental concerns, but feels future issues will be adequately addressed.

MOTION/Second: Rand/Banks to issue Negative Declaration on the Environmental Assessment Worksheet for the conversion of Ordean Middle School to the new Eastern High School, 301 North 40th Avenue East, by Independent School District (ISD) 709
Vote: 10-0-1 (Appold Abstained)

Commissioner Granley left the meeting at 6:49 p.m.

VII. Reports of Officers and Committees

- A. Zoning Advisory Committee to Implement the Comprehensive Plan: Rand stated five area meetings were conducted to survey citizens. The Committee's meeting schedule will increase in the fall, and in the meantime good work is being done.
- B. Central Entrance/Miller Hill Small Area Plan: Barrett stated on July 21 a public meeting will be held regarding the Central Entrance/Miller Hill Corridor Plan at 5 p.m. at the Duluth Heights Community Center. A committee meeting is tomorrow evening.

VIII. New Business

IX. Other Business

- A. Consideration of Appointment of Commissioner Kuor as Planning Commission representative to the Heritage Preservation Committee

Discussion: Rand stated the Planning Commission has direct representation on various committees, and the Planning Commission bylaws indicate this appointment must be considered. After two years on this committee, Rand is pleased to pass this on to Kuor. Akervik asked if it must be approved by the City Council, and it was determined it did not.

MOTION/Second: Rand/ Appold to Approve Appointment of Commissioner Kuor as Planning Commission representative to the Heritage Preservation Committee

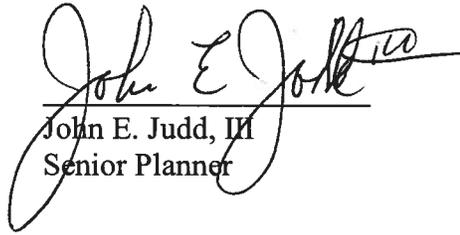
Vote: Unanimous (10-0)

- X. **Adjournment.** Motion Appold/Vigen to adjourn. President Akervik adjourned the meeting at 6:52 p.m.

Respectfully,



Cindy Petkac
Land Use Supervisor



John E. Judd, III
Senior Planner

CP:JJ:tf