



City of Duluth
Planning Division

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City of Duluth
Planning Commission
Minutes of Tuesday, August 10, 2010
City Council Chambers, City Hall

I. Call to Order: President Rand called the meeting of the Planning Commission to order at 5:00 p.m., Tuesday, August 10, 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 (*left at 6:45*), Rebecca Covington, 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, Edna Ulrich

III. Public Hearings

A. ***FN 10081*** – Water Resource Management Ordinance (WRMO) Shoreland Special Use Permit for fill located at 330 S 88th Ave W. **NB**

Staff: Berglund presented the request for a Shoreland Special Use Permit. The applicant is proposing to fill a 1600 square foot area in the back yard with 175 cubic yards of fill. There are no wetland impacts. The property is located within the Shoreland area of the St. Louis River. Staff recommends approving the Special Use Permit for the project. We have received one comment from a neighbor in opposition.

Public Input: Peter Stasiuk – 320 S 88th Ave W. Stasiuk is upset about the rubbish that the applicant has on his property. He likes his neighbor but is worried that he will bring in more garbage onto the property. He would like someone to look at the site.

Discussion: Rand thanked Mr. Stasiuk and stated that this commission is not in charge of the garbage problem but of the issue at hand. Digby asked about having a requirement of inspection by City staff to ensure that all waste standards are being met. Lutterman explained that the applicant would be incorrect if he thought he could fill the area with demolition debris. She will inform Building Safety and Engineering regarding the solid waste property complaint, and will inform the solid waste Compliance

Officer to inspect the property. It would be a reasonable request from the commission to have the proper permit and have it certified that it was done in the proper way.

MOTION/Second: Vigen/Sarvela move to **Approve** a WRMO Shoreland Special Use Permit for fill located at 330S 88th Ave W. **with the following conditions:** That the applicant have the proper permit and have it certified that the correct fill was used.

Vote 10-1 (Appold)

B. **FN 10070** – WRMO - Shoreland Special Use Permit for placement of fill in the shoreland of Merritt Creek by Praxair Distribution Inc. in the 3700 block of W. Michigan St. **KD**

Staff: Deming stated that there are two actions related to the same project. This project is to close out a lime storage facility from which most of the lime has been removed. The proposal is to reshape the ground as the lime is completely removed, cap it and provide the appropriate soil for vegetation to grow in. The applicant is complying by only removing the vegetation that they need to grade the land. Staff recommends approval.

Applicant: John Jamnick – RLK Inc; Vigen asked if this will be open for redevelopment in the future once everything is completed and if the fill used would be of a standard to accommodate some redevelopment. The applicant stated that he thinks it would.

MOTION/Second: Holappa/Vigen to **Approve** the WRMO Shoreland Special Use Permit for placement of fill in the shoreland of Merritt Creek by Praxair Distribution Inc. in the 3700 block of W. Michigan St.

Vote: Unanimous 11-0

C. **FN 10071** – WRMO - Floodplain Special Use Permit for fill and grading in the floodway of Merritt Creek by Praxair Distribution Inc. in the 3700 block of W Michigan St. **KD**

Staff: Deming noted that this is at the same site and situation of file 10070 and pointed out the area of the floodway. Applicant's engineer has certified that the final grade for the site does not cause water to back up further or obstruct the flow of the flood water. The grading plan states that the final grading and landscaping won't obstruct the flow of flood water.

MOTION/Second: Holappa/Vigen to **Approve** the WRMO Special Use Permit for fill and grading in the floodway of Merritt Creek by Praxair Distribution Inc in the 3700 block of W Michigan St.

Vote: Unanimous 11-0

D. **FN 10073** – WRMO - Shoreland Special Use Permit for the City of Duluth Police Department for the construction of new Police Headquarters at 2501 Rice Lake Rd. **JJ**

Staff: Judd stated that this is a dual application. The Special Use Permit is for type 3 wetlands and a variance for types 2, 6 and 7. This is in the area of the Chris Jenson home. The land has been used for many years for both public and private use. This is consistent with the comprehensive plan and the location has the space needed to better serve the community. This does encroach onto the wetlands as specified in the report. The applicant has been approved and has purchased Type 4 wetland credits to

compensate for the half acre that can be purchased. This is subject to the approval from the City Engineers Office.

MOTION/Second: Vigen/Sarvela to **Approve** the WRMO Shoreland Special Use Permit for the City of Duluth Police Department for the construction of new Police Headquarters at 2501 Rice Lake Rd. **with the following Condition:** Receipt of approval for the plan from the City of Duluth Engineering Office. Vote: Unanimous 11-0

E. **FN 10074** – Zoning Special Use Permit for the City of Duluth Police Department for the construction of new Police Headquarters at 2501 Rice Lake Rd. **JJ**

Staff: Judd explained that this is at the same site and the Special Use Permit and Variance is to allow a municipal service within a residential neighborhood. The future land use plan calls for this to be institutional and recommends that this use be allowed on this site. Staff recommends approval.

Applicants: Robin Roeser, Deputy Chief of Police and Dan Shaw, LHB.

Discussion: Vigen and the applicants discussed the lighting of the parking lot as well as the height of the new building, which will be no taller than the existing St. Louis County Building. There will be 104 parking spots for staff as well as three smaller lots for visitors and staff.

MOTION/Second: Vigen/Appold to **Recommend Approval** for a Zoning special Use Permit for the City of Duluth Police Department for the construction of new Police Headquarters at 2501 Rice Lake Rd. Vote: Unanimous 11-0

F. **FN 10072** – WRMO - Floodplain Special Use Permit for replacement of a legal, non-conforming shed with a garage in the floodway of the Saint Louis River by Brian Smith at 12901 Water St. **KD**

Blazevik recused herself from the discussion.

Staff: Deming stated that the applicant is proposing the removal of an existing non-conforming 10' by 20' shed and replace it with a 36' x 26' garage. This structure existed prior to 1980 (when the WRMO went into effect) and if changes are to be made it needs to be brought before the commission. The applicant has also provided documentation of the existence of the shed. They designed the structure to meet the flood proofing requirements of WRMO. The structure is not planned for human habitation. The flood proofing shows the design of the garage and includes the placement of vents at slab elevation to allow the water to move thru the building. It will also be anchored to the ground so it doesn't float away. The applicant will remove any dangerous materials in case of flooding. Staff recommends approval of the floodway Special Use Permit according to the designs and modifications.

Applicant: Elden Lindamood. Holappa asked about the elevation of garage and if there was a reason why they do not add more fill. The applicant stated that it was recommended to keep it at the current elevation to have the flood water go through the building rather than build the structure up.

Public Input: Tom Copiskey – 13009 W 2nd St. He lives four blocks away and is in a Flood Fringe zone. He had more stringent requirements to go through when he was building on the flood fringe. Deming responded and explained that there are different standards for the Flood Fringe and Floodway.

Katelyn Blasevic 102 131st Ave W. She is a resident on this street and is familiar with Copiskey's situation. She questioned why Copiskey had more strict regulations for his property than the applicant has. Lindamood explained that the Flood Fringe requires that, should there be a flood, the waters will not reach the building. The Floodway requires that if there is a flood, the building would not raise the level of the flood but have the water go through the building rather than around it. Therefore the more stringent regulations are not needed.

Digby asked about the compliance of the flood proofing requirement. Lutterman stated that this is regulated by the State building code as well. Vigen asked if we are sure that we have all the requirements that need to be met before they build. Deming stated that they will need to get a building permit and that it meets the requirements of the code.

MOTION/Second: Digby/Banks to **Approve** the WRMO Floodplain Special Use Permit for replacement of a legal, non-conforming shed with a garage in the floodway of the Saint Louis River by Brian Smith at 12901 Water St.

Vote: 6/4/1 Akervik, Appold, Sarvela, Vigen (Blazevic abstained)

G. **FN 10078** – Special Use Permit for a one-chair beauty salon in a residential zone by Scott and Christine Schafer at 2915 Nighthawk Lane. **KD**

Staff: Deming presented the Special Use Permit for a beauty salon in a residential zone. They propose a one chair beauty solon to be located in their garage. This does not use more than ¼ of the first floor area of the home. They provided a copy of the business license and professional license and neighbors within 200 feet had been notified. The entrance of the solon will be on the side of the garage. This will not compromise the character of the neighborhood. The applicants shall remain living on the premises. Staff Recommends to City Council to approve this application. Scott and Christine Schafer are in attendance.

Discussion: Banks asked about the two licenses and which license they are using or are they using both. Vigen responded that one is the salon license for the person and the other one is for the solon itself.

MOTION/Second: Vigen/Blazevik to **Recommend Approval** for the Special Use Permit for a one-chair beauty salon in a residential zone by Scott and Christine Schafer at 2915 Nighthawk Lane.

Vote: Unanimous 11-0

- IV. **Consideration of minutes** – July 13, 2010. Motion/Second by Akervik/ Appold.
Vote: Unanimous 10-0 (Blazevic absent)
- V. **Communications**
- VI. **Old Business**

- A. Ordinance 10-034-O. An Ordinance amending Chapter 5, Article IV, of the Duluth City Code, 1959, as amended, Pertaining to Adult Bookstores and Adult Entertainment Establishments.

MOTION/Second: Vigen/Appold to **Remove** Ordinance 10-034-O from the table.

Vote: Unanimous 10-0

President Rand stated that a majority of commissioners were able to attend the Brown Bag meeting as well as Councilor Gardner, Steve Hanke, Alison Lutterman and Gordon Ramsay, Chief of Police. This ordinance will establish where these establishments can be located.

MOTION/Second: Vigen/Appold to **Recommend Approval** of Ordinance 10-034-O amending Chapter 5, Article IV, of the Duluth City Code, 1959, as amended, pertaining to Adult Bookstores and Adult Entertainment Establishments.

Vote: Unanimous 10-0

VII. Reports of Officers and Committees

- A. Downtown Waterfront Mixed Use District. Vigen gave an update on the meeting. They approved the Carnival Thrills building for new sign facades and the Lake Avenue Café for putting a new deck onto the north wall of the building.
- B. Zoning Advisory Committee. Rand stated that the City councilors had chosen not to take action last month but will take it up again after the recess.

VIII. New Business

- A. **FN 10083** – Review of the reclassification and possible sale of 6 parcels of tax forfeited land at the southeast corner of 11th Street and 8th Avenue East (near Grant School) by the Saint Louis County Board. **KD**

Staff: Deming stated that the parcels make up 7/8th of an acre. One of the parcels was put in conservation status decades ago and two-thirds of site is Preservation in the Comprehensive Plan Future Land Use Map. The remaining one-third of the parcels are listed as Traditional Neighborhood. Deming recommends that the reclassification be approved.

MOTION/Second: Holappa/Digby to **Recommend Approval** of the reclassification and possible sale of 6 parcels of tax forfeited land at the southeast corner of 11th St and 8th Avenue East (near Grant School) by the Saint Louis County.

Vote: 9-0-1 (Vigen abstained)

- B. Proposed amendment to By-law 6.2 relating to the nominating committee.

Vigen requested the change from 'The President may create' to 'The president shall create' as relates to the nominating committee. The nominating committee has an opportunity to speak with the commissioners and find out what their interests are and if they are interested in serving in an office.

Lutterman stated that this would require a 30 Day Bylaw change and would be eligible to vote at our September meeting by 2/3 of membership. Absentee's can vote by proxy.

IX. Other Business

Akervik had a question on the concurrent use permits for Little Angies. They had tables and chairs on the sidewalk and wondered how far they can go with it. After a discussion on how businesses were encroaching onto the sidewalks, Judd stated that we will go from a perpetual use permit to annual permitting and that will give us a better enforcement arm to deal with this issue.

X. Adjournment. Motion: Digby/Vigen to adjourn. President Rand adjourned the meeting at 7:08 p.m.

Respectfully,



Cindy Petkac, AICP
Land Use Supervisor

CP:eu