

CITY OF DULUTH

Community Resources Department

Planning Division

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City of Duluth
Planning Commission
Minutes of Tuesday, August 11, 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, August 11, 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, Katelyn Blazevic, Drew Digby, Frank Holappa, Joan Morrison, Heather Rand, David Sarvela, John Vigen

Members Absent Excused: Mindy Granley

Members Absent: Jim Stebe

Staff Present: Kyle Deming, John Judd, Alison Lutterman, Cherie Merritt, Jenn Moses, Cindy Petkac

III. Public Hearings

A. FN09069 - A Preliminary Plat for Maple Grove Acre Tracts by Dan Maddy, Fryberger, Buchanan on behalf of James Koehler (JJ)

Staff: John Judd said the matter under discussion is a rearrangement of the plat tract, that a C-5 Plan Review was before the Planning Commission at an earlier date. He said pedestrian easements were addressed in the C-5 review.

Discussion: Barrett asked if the parcels had been contained within the C-5 review at the time it was before the Planning Commission, would it have made a difference. Lutterman said without having the plan in front of her she couldn't answer but would assume not as it has been brought forward. John Judd verified that.

Applicant: Dan Maddy, Hanft Fride Law Firm, representing the developer of the area said although a C-5 approval was accomplished at an earlier date; the present request is a "cleaner" avenue to handle the parcels.

Discussion: Vigen said that during the earlier discussion of the C-5 Plan review a question had come up regarding access to the site. It appears there is the possibility of traffic congestion and impact to the house behind the Inn if all traffic accesses out to Sundby Road. Dan Maddy said the entrance was moved to within approximately 100 feet away from the intersection of Myrtle and Central Entrance and it was designed under the premise of it being a shared access. At this time, three points of access will occur, a shared access from Central

Entrance, with each of Lots 1 and 2 having access from Sundby Road. Holappa asked if the access issue with MNDOT has been resolved with the hotel owner. Maddy said MNDOT is allowing the access for the Inn only, off of Central Entrance, with no access from Myrtle Street or access to the two smaller lots from Central Entrance.

MOTION/Second: Vigen/Barrett - to approve FN09069 a Preliminary Plat for Maple Grove Acre Tracts. Unanimous (11/0)

B. FN09073 - Concurrent Use Permit for Skywalk to connect Technology Village with Wieland Building, 11 and 16 East Superior Street, by A & L Properties (CP)

Staff: Cindy Petkac said the request is to construct a Skywalk from the third floor level of the Wieland Block buildings to the second floor of the Tech Village building over East Superior Street. The applicant presented before the Historic Preservation Commission, even though the affected properties do not have local landmark status and, as such, do not require HPC approval. The HPC did find the design acceptable because of the clear story see through design. Petkac said she recommends the Planning Commission recommend approval to City Council.

Discussion: Morrison asked if A&L will be responsible for maintenance. Petkac said the owner will take responsibility for maintenance and will also offer public access. Digby asked about hours. Lutterman said the owner has the right to have the Skywalk open/closed at their convenience. There is no public easement. Sarvela asked about a previous Skywalk proposal in which the requirement was set having signs on the Skywalk Bridge. Lutterman said the Skywalk would be subject to the City Sign Code and there is a banner regulation in the City of Duluth. Any permanent signage would have to comply with the Sign Code. Vigen said the circumstances of the language concerned a Skywalk bridge going across Lake Avenue and 1st Street. The topic was specific to a clear site view seeing down to the Lake and any activity out there. Barrett said there are several Skywalks of the same look, with the current Skywalk not matching and will it be detrimental to the downtown area in the future. Petkac said the current standards do not have authority over Skywalks. Appold asked if there are restrictions about the height. Petkac said that City Engineering reviewed the proposal and did not have issues with the height, which is 15'-6'.

Applicant: Rich Noble, A&L Properties - Noble said he wanted to highlight details. He said they are excited about the Weiland building and the other two renovated buildings. The privately funded Skywalk will be open whenever the buildings are open, which right now coincides with 9:00 p.m. at night. There will be no signage; they want no site view blockages. There will be little or no issues with Superior Street as they will try to do as much construction during the evening hours as possible, so as to not affect traffic flow.

Public Input:

Pete Weidman, 3345 Riley Rd. Duluth (In Favor) - people are moving building to building throughout these areas, having discussions as they go. He sees it as a way for Duluth to grow and something positive for the kind of inclement weather that can happen in Duluth. People find it an attraction when visiting or doing business in Duluth.

MOTION/Second: Morrison/Rand - to recommend approval of FN09073, Concurrent Use Permit for Skywalk to connect 11 and 16 East Superior Street. Unanimous.

C. FN09074 - C-5 Review for Stauber Properties at 2541 Maple Grove Road (JJ)

Staff: John Judd said that the property is being affected by MNDOT, St. Louis County and City

street plans. Change to the Stauber Brothers site will increase the safety and screening although the Haines Rd side drops to 0' setback and a 5' setback along the Maple Grove side. They will be adding a more than the normal amount of landscaping and screening, along with a modular block wall facing the ROW. The main egress and access point will be moved. They are reducing their parking by one space, which still meets the parking amount requirement. MN DOT and the St. Louis County are in support of this.

Discussion: Appold asked the height of the retaining wall. Matt Bolf, SEH, said about 3 feet. Appold asked if there is any way to do a curb cut to allow pedestrians to access adjacent sidewalks. Bolf said there is a sidewalk but they are locked into what is already in place.

Applicant: Robin Merritt, Hanft Fride Law Firm, was present at the meeting, representing the interests of the Stauber Brothers store.

Discussion: Barrett asked where the snow will be put with the corner being tight. Merritt said Stauber Brothers are working with MNDOT for an easement across the road to a vacant lot. Akervik asked if the plan is acceptable to Stauber Brothers. Merritt said it is the best that can be done on the site given the needs of the widened ROW. James Stauber came forward. He said right-turn-in and right-turn-out, ingress/egress from Haines is a concern but they realize it is the best they can do. Bolf said, in response to Akervik's question concerning adequacy and safety, that virtually all the ingress/egress to businesses along Maple Grove Road have been changed significantly. Vigen said currently when west bound on the private one-way drive going past TJ MAXX (in the Burning Tree property) he can turn left into Stauber Brothers but to leave he could only turn right onto Haines. Bolf said approval has occurred to allow that drive to become a two-way lane.

Discussion: Akervik said, looking at the exit, he understands the concern of the Stauber Brothers. Bolf said he doesn't have a graphic of Haines Road but the left turn out will now be allowed.

MOTION/Second: Rand/Barrett - to approve FN09074, C-5 Review, at 2541 Maple Grove Road. Unanimous

D. *FN09088* - Central Entrance - Miller Hill Mall Small Area Plan (KD)

Staff: Kyle Deming presented the Miller Hill Mall Small Area Plan to the Planning Commission and asked for a recommendation to City Council, who would consider adoption of the plan on September 14. Deming said this small area plan builds on goals and strategies of the Comprehensive Plan. It was chosen to be studied first because of the affect of the reconfiguring of Miller Trunk Highway. The plan document is available on the Planning Division web page.

A plan committee was formed with 14 members representing all aspects of the study area as well as MN-DOT, MIC, and Soil and Water Conservation District. Two public meetings were held with good attendance.

MXD Development Strategists was hired to do a market analysis for the study, an important step to assure that land use recommendations are grounded in market realities. They noted the corridor lacks cohesiveness and suggested we focus on: infill, densification, and redevelopment. They also recommended that "place-making" efforts be made, including returning the Central Entrance corridor to its function as the "main street" for Duluth Heights, and encouraging the development of a suburban town center in the Miller Hill area.

Background study was done on demographics, land use, transportation, and the environment. Recommendations were formatted to implement each of the six plan goals. Deming explained each recommendation to the commission.

Discussion: Holappa asked about transportation and land use. Deming said that MN-DOT was a member of the study committee and reviewed the recommendations formulated. MN-DOT was not in favor of a few of the transportation recommendations, but, this is a land use plan and we need to present recommendations that accomplish our land use goals. Holappa asked about recommending the plan to the City Council when the Commissioners themselves have questions such as the transportation question. Petkac said that the Planning Commission recommends land uses, not streets configurations. We will focus on implementing the land use recommendations. The Metropolitan Interstate Council, who is responsible for research and transportation planning in the local area, will start a study soon and will use our land use and transportation recommendations as a starting point. At the completion of that study, the MIC will make transportation recommendations. Morrison said she appreciated all the work that went into the Plan. She also had concerns about roadways. She said in reviewing the plan she liked the concept of returning Central Entrance to the function as Duluth Height's main street. She asked if there are projections of more rapid population growth for Duluth. Deming said Duluth is projected to grow at an annual rate of less than 1% and the Plan is based on a very modest growth pattern. Holappa asked Deming to reiterate changing the recommendation for the land on both sides of Sundby Road to Central Business Secondary future land use. Holappa asked how it relates to C-5. Petkac said the change is to the future land use map recommendation. C-5 is a zoning district and we're in the process of writing a new Zoning Code. Digby asked if the Planning Commission's vote had the effect of amending the Comprehensive Plan Future Land Use Map. Petkac said yes. She also said a Council Committee of the Whole presentation will be held before the September 14th City Council meeting. Vigen said he is of the opinion the plan is long overdue and is cognizant of more intersections being needed with 24,000 plus autos going up and down Central Entrance. Taken as a recommendation, tying it together with the Comprehensive Plan and the UDC forthcoming shortly, it will evolve over time. Petkac thanked Kyle for his work on the plan and thanked Jenn for jumping in to use publishing software to format the plan as presented during her first week of work. Morrison said that the word "recommendation" is still giving her hesitation, wondering if it is the concept the commissioners are recommending, that they are generally in favor of. Petkac said by recommending the small area plan to Council would be amending the Comprehensive Plan Future Land Use Map also. Akervik asked for clarification of the time line for approval.

MOTION/Second: Holappa to Table to September 8th meeting. Morrison asked if a Brown Bag is desired to hear more about the plan. Lutterman said there is no Second and reminded the Commission this is a Public Hearing. Motion died.

Public Input: Gordon Grant (In Favor) - Grant said he was on a committee with Commissioner Barrett as resident and small business owner. The committee believes the plan is good for Duluth. MN-DOT was involved throughout the process and the calming of traffic is something that is needed with the safety of pedestrians and traffic taken into consideration. The committee would hope for the area to become a second "downtown." Although the plan is not perfect, and there will be items that will come before the Commission.

Discussion: Rand has been tracking the process she is prepared to vote "yes" but understands hesitation on the part of others. Rand is a member of the Metropolitan Interstate Council which pays attention to recently completed local plans when considering transportation recommendations and funding. Digby said he cannot be at the September Planning Commission meeting and would like to express his support now for the plan, that this is a land use plan, which has strong elements to improve development along the corridor without

developing more traffic.

MOTION/Second: Rand/Barrett - to approve the Central Entrance - Miller Hill Mall Small Area Plan and recommend adoption to City Council.
Passed 10/1 (Holappa)

IV. Consideration of minutes - July 14, 2009: To Accept - Vigen/Morrison. Unanimous

V. Communications

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 (JJ) (Tabled at April 14, 2009, Planning Commission meeting - remained on table at applicant's request)

Vigen/Barrett - to remove FN09029 from Table. Unanimous to bring to Table.

Staff: John Judd said after further meetings with Bryan Bocht, (the applicant's representative) the Commissioners will see a much improved site plan. The applicant acquired additional property, which allowed a better lay out for the development. Landscaping and snow removal, as well as parking, were issues but now are within accepted parameters. There is now a second entrance off of Mall Drive, more parking, and additional sidewalk that goes around the site to Trinity Road, deletion of the pole sign and modification to the monument sign and signage on the building, results in the requirements of Chapter 44 being met. The Environmental Advisory Committee (EAC) submitted an email, answered by the City Engineer regarding storm water control on the site. An approved storm water plan is a requirement for a permit to be issues through the City Engineering Division. Recommend approval.

Discussion: Barrett that it wasn't clear to the EAC that the site had expanded and the building was moved. How can the plan be approved with storm water areas not on the site. Kyle Mehum, Blue Fjord LLC, owner of the Culver's, came forward. Mehum said that Culver's does own both properties (2.1 acres). Mehum agrees the development will be better with the current changes. Vigen said since owner owns land to the east for the storm water, will there be a later request for split to redevelop the easterly portion. Mehum said the site work on that portion was unbelievable in the cost and would think anyone coming forth would hesitate to expend because of the cost. Judd noted that any development would have to come back for C-5 review as would any changes to the current requirements. He has plans to stay in the community for a long time and he wants the site to be aesthetically appealing. Appold asked about landscaping a slope on site. Bocht said peg and sod and/or vegetation to hold will be used on the slope. Appold said it will be a steep slope for mowing. Bocht said they will most likely have a landscape architect come in to research what is best. Akervik asked if the footprint (size) of the building is the same, which the owner confirmed. Sarvela asked about the sidewalk. Bocht said it comes 100 feet up Mall Drive and will wrap around.

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

- 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) (Tabled at July 14, 2009 Planning Commission meeting)

MOTION: Vigen/Barrett - to remove from Table. Unanimous to bring to Table.

Staff: Petkac said changes were requested, with concerns expressed at the previous month's meeting being addressed. A new site plan shows the location of the storm water retention pond. Fire Department presented a letter concerning fire equipment. The open space area is reduced in the new site plan, from 8.5 acres to 8 acres.

Applicant: Matt Bolf, Engineer and Mark Cross, authorized agent for Kuepers Architects/Builders, owner. Because of the location of the site, they revisited the entrance from Grand Avenue and chose that area for parking. Matt Bolf met with Gary Minck of City Engineering. Water will be treated in one area, with a second treatment in another area. Concerns of Fire because of lack of two accesses has been waived by the Fire Marshal because the building is fully sprinkled. Ladder trucks should not be needed in case of emergency. Pump trucks should be sufficient and could turn around.

Discussion: Vigen said the site does not seem laid out well for a normal neighborhood such as where an owner may have a large Lund boat or travel trailer.

Public Input: Debbie Isabelle-Nelson (representing Community Club) - (Neutral) – Isabelle-Nelson said that at no time has the community been contacted other than in 2005 when it was first presented. The original plan allowed for single family, including senior single level. Low Density doesn't seem to fit within the parameters of the site. There is concern with street lighting, off street parking and only one entrance. Riverside has a tremendous issue with only one entrance to the neighborhood. Citizens are very concerned about the emergency vehicle situation. Original development called for less total number of residents, while the current proposal shows a significant increase. She thanked Commissioner Vigen for responding to their emails after the matter was tabled.

Discussion: Banks queried the fact that no comments were received. Petkac said that notification went to 17 property owners within a 350' area. As a note, State Statute 15.99 deadline is imminent. Akervik asked what the 350' radius is. Petkac said it is from the perimeter of the development. Lutterman said if the applicant will waive 15.99 deadlines it'll have to be in writing.

Cross said the original developer is no longer involved and apologized to the concerned citizens. A market research was done, single family homes are in abundance all over the country and people seem to be leaning toward community type living. Topography had to be taken into consideration. There is an entrance at Grand Avenue, with the area south not being easily accessible, but they would be open to meeting with neighborhoods.

APPOLD departed at 7:14 p.m.

Public Input: Ms. Pauly, resident of Morgan Park (Neutral). Pauly asked what type of rental would it be as to income level and she didn't note a playground for children. Cross said it is market rate rental, with no subsidized rental involved.

Discussion: Digby can't see approving at this point, would recommend they meet with neighborhoods. Banks expressed concern with statements regarding subsidized rental versus market rate rental as that is irrelevant to the Planning Commission as the current matter stands before them. Vigen said he has a concern that planned developments throughout Duluth have more details that make them more viable and safe than what he is seeing in the plan under discussion although he is not opposed to development in town as it is needed. Neighborhood areas are aware of what works for their area. If the developer is open to signing for the 599

extension he would like to see it tabled. Akervik asked if the owner is willing to do further research, there is the concern of extra parking a distance from home furthest up. Cross said they would meet with community members to address their concerns and obtain input. Would like to have input regarding parking needed, from the Commission.

Lutterman said with the Action deadline of September 30th. the extension, which must be in writing, would have to happen before adjournment of the meeting of August 11, 2009. If it is in writing it can be tabled. If not in writing, they have to provide closure tonight.

MOTION/Second: Vigen/Barrett to Table and bring back to Table at end of the meeting.

Lutterman (after the 15.99 Extension was put into writing and signed by the applicant) brought the matter back to the Commissioners, stating that the 15.99 timelines are waived by the applicant.

MOTION/Second: Vigen/Morrison to bring off the Table – Unanimous.

Cross asked about the number of parking stalls required. Vigen's concern is that the parking needs to be distributed throughout the development, addressing the livability as a neighborhood. Cross apologized for lack of in-depth community involvement and other details; they were expecting to get more information from the previous developer. Barrett apologized for any thought of the applicants getting the run around, such is not the case. Commissioner Blazevic said there is often reserved parking for tenants at developments, with open parking for others. Cross said they haven't gotten to those details yet. Counting space in front of the garage door is not allowed in Duluth so they will look at the open areas between buildings for parking. Bolf said in his ten years in Duluth this is the first time they have brought forward the suggestion of a 20 foot road. It isn't ideal but MPCA is looking at any run off issues. The developer is looking at balancing and compromising what best works for the project, area and the City. Akervik said parking on one side may be an option. Cross and Bolf said they would look at that. Vigen said what Commissioners are offering at this point are ideas.

Motion/Second: Vigen/Barrett asked to re-Table. It will be brought back to the September meeting. Unanimous.

VII. Reports of Officers and Committees

- A. Downtown Waterfront Mixed Use District (DWMX-D) - met on August 4th - DECC colors approved. Subway exterior paint color approved. Businesses seem to be encroaching too much onto sidewalks, especially the outside eateries.
- B. **Zoning Advisory Committee (ZAC)** - met last week of July, 15 member committee, reviewing the first of four modules. September 17th at the Depot will be a presentation for the public. It should be completed within this next year.

VIII. New Business

- A. **W-1 Waterfront District Use Determination - 1003 Minnesota Avenue.**

Commissioner Holappa recused himself from the proceedings.

Staff: Cindy Petkac said that the owner of Harbor Cove Marina, Minnesota Avenue, would like to construct a hotel to serve the Marina users and is of the thought it is best served in that location.

Discussion: Barrett said several years ago it was put forth to the public that City sewer was maxed out. In light of that event, how would a hotel fit within that scope. Petkac said the City

permitting process will address any issues of sewer and other City utilities. Morrison said that Commissioner Appold, before she had to depart the meeting earlier, was looking at the boat entries. The property owner replied that the development has been there since the early 1970's, the boat entries exist at this point in time. Vigen said he is of the thought it would be a nice use in that area.

MOTION/Second: Vigen/Rand – As regards W-1 Waterfront District Use Determination - 1003 Minnesota Avenue, the Planning Commissions finds that the proposed use is advantageously used in this location according to code. Passed: 10/1/0(Holappa abstained)

Discussion: Barrett asked if the Park Point community has been made aware of the development plans. The property owner said they will now go forward with plans since it has been a pronounced an allowable use. He added that this is the first small step, that it will take 1 to 2 years before it all comes to fruition. Barrett said she would like to see something in place for local boat access. Petkac said for clarification, Planning Commissions role was for the use determination only. There is not a plan review in a W-1 district. It will only come back before the Planning Commission if a WRMO or Special Use is required. The Planning Commission action is a recommendation to the Building Safety Division as to permitted use.

Holappa rejoined the proceedings

IX. Other Business

Barrett offered congratulations to Blazevic on getting married.

Rand asked about City Council action regarding member numbers. Councilor Stauber said to the press that there had been an issue of attendance yet in her time with the Commissioner she hasn't seen that as an on-going issue for the Planning Commission. Akervik attended the meeting, he is of the thought some of it may have developed because of lack of members due to expiration of terms. Attendance issues in Bylaws were originally produced at the time of two meetings per month. City Council did pass the resolution put forth by Councilor Stauber.

Barrett asked if Bylaws will need to be changed. Lutterman said Bylaws can be changed. What was passed by Council It was an Ordinance change, a stand alone ordinance that wasn't codified into the code. Is it the intent of the UDC to codify the development of the Planning Commission.

Grant, Dairy Queen Owner, was the at the City Council meeting. His understanding was that Councilor Stauber wanted to see Commissioners from within Council Districts. It was explained that there may not be someone available from that district. Akervik said when seats are going to expire the information has to get out to people.

X. Adjournment: Vigen/Akervik - 8:00 p.m.

Respectfully,



Cindy Petkac
Land Use Supervisor

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