



City of Duluth
Planning Division

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City of Duluth
Planning Commission
Minutes of November 9, 2010
City Council Chambers, City Hall

I. Call to Order: President Rand called the meeting of the Planning Commission to order at 5 p.m., Tuesday, November 9, 2010.

II. Roll Call:

Members Present: Mike Akervik, Mindy Appold, Henry Banks, Drew Digby, Terry Guggenbuehl, Frank Holappa, Heather Rand, David Sarvela, and John Vigen.

Members Absent: Rebecca Covington

Staff Present: Kyle Deming, Jodi Jabas, Alison Lutterman, Cindy Petkac, Steven Robertson, and Edna Ulrich

III. Public Hearings

A. **FN 10101** – Rezone from R-4 to Medical Center (MC) property at the northwest corner of 10th Avenue East and Second Street by St. Luke’s Hospital. **KD**

STAFF: Deming stated that this is a re-zoning petition for the property at the northwest corner of 10th Ave E and E 2nd Street. This petition is to change from an R4 Apartment Residential to Medical Center. This is at the same site as last month’s petition that was approved. The map indicates that it is the Medical District and uses are consistent with the Land Use Map. MC Districts will convert to MU-I. They are consistent with the land use and Comprehensive Plan. Staff recommends approval.

Digby asked if there are there any buffer or step-down requirements in the UDC. Deming stated that any use will need to be approved by the Planning Commission and there are landscape buffering requirements.

APPLICANT: Ronald P. Franzen, St. Lukes. Franzen stated his appreciation of the Planning Commission’s continued support of St. Luke’s. They are ensuring that they are complying with the requirements for this area.

MOTION/Second: Vigen/Holappa to **Recommend Approval** for to Rezone from R-4 to Medical Center (MC) property at the northwest corner of 10th Avenue East and Second Street by St. Lukes Hospital. **Vote:** Unanimous 9-0

B. **FN 10106** – Zoning Special Use Permit to amend the SUP to substitute a 24 unit apartment building at the G1 location and add additional parking at Boulder Dr. by Summit Management LLC.

STAFF: Robertson presented the amending of a zoning special use permit. The property encompasses several areas. Robertson went over the areas on the map that were already approved. The plans are to: construct a new rain garden, remove existing constructed wetland replacement that has not performed as anticipated and replace it with parking, increase the unit size of an approved residential structure G-1. from 18 to 24 units, move location of refuse container, construct a new parking lot instead of two 6-unit residential structures, and increase the footprint, but not the unit count, of approved structure H-1.

The landscape plan shows what trees will be added. They have conditional recommendations regarding the structure and parking lot, which the Secretary of the Planning Commission has final approval on their appearance. Staff recommends approval.

Appold asked if this is the final landscape plan, and Robertson agreed. Appold sees no indication of the Rain Garden details and it seems like it is quite insufficient. Robertson stated that the map shows just the additional landscaping being added and that the approved landscaping plan for the Special Use Permit still apply. Appold will talk with the applicant to get more clarification.

APPLICANT: Mark Lambert, Summit Development. This is the 3rd formal modification and the 4th informal modification. There have been multiple phases to this plan. What you see now is the best final guess on how it will look when it is completed. This is an update of all the other approvals that have been throughout the years. The UDC has made many changes, one that states that any wetlands that are impacted need to be replaced on site. They tried to recreate the wetlands on site but were unable to, and instead will buy credits to replace the wetlands elsewhere.

MOTION/Second: Vigen/Banks to **Recommend Approval** for a Zoning Special Use Permit to amend the SUP to substitute a 24 unit apartment building at the G1 location and add additional parking at Boulder Drive by Summit Management LLC

Vote: Unanimous 9-0

C. **FN 10108** – Vacation of a utility easement in Block 69, Oneota Division behind the ICO gas station at 4532 Grand Avenue by Valmeir Company. **KD**

STAFF: Deming presented the vacation of a utility easement where we had previously had a vacation of an alley. Since that time there were further developments of the site. They need to vacate a section of the utility easement that was reserved. The easement does contain several utilities including a 16” water line, a storm sewer drainage pipe, phone line and electric power line. These will need to be relocated. The electric and phone cables only serve the ICO. The water and storm sewers still need to be accommodated. Deming presented a drawing of the relocation. The City Engineers office and the developer would be doing the relocation. Staff recommends approval.

MOTION/Second: Akervik/Holappa to **Recommend Approval** of the Vacation of a utility easement in Block 69, Oneota Division behind the ICO gas station at 4532 Grand Avenue by Valmeir Company.

Vote: Unanimous 9-0

- IV. Consideration of minutes – October 12, 2010. MOTION/Second Sarvela/Guggenbuehl to Approve minutes with corrections.
- V. Communications: Ronald Franzen, Vice President of St. Luke’s Hospital, sent letters to the Planning Commissioners thanking them for their continued support and that their guidance and feedback are very important.

Appold remarked that over the last 8 to 9 months they have been working on the master plan for the Parks and Recreation Department. The final draft for comment will be shown at the Washington Center from 6 to 8 pm. The draft is also on the City website. Commissioners are welcome to attend.

VI. Old Business

A. Proposed By-Law Amendments

Lutterman stated that these Bylaws were presented at the October meeting. She explained that they were created in part to deal with the reduction of the size of the Planning Commission. Some bylaws had information contained in the Charter or Ordinances that don’t need to be in the bylaws. The following By-Laws were approved:

MOTION/Second: Akervik/Appold to **Approve** that By-law 4.1 relating to the number of Commission members be amended to read as follows: Establishment. The membership of the Commission, manner of selection, qualifications for membership, removal and payment of Commission expenses are provided for in Ordinance 1809 as amended by Ordinance 9985, Section 50-36.2 of the Duluth Legislative Code and Sec. 27 of the city charter.

Vote: Unanimous 9-0

MOTION/Second: Digby/Guggenbuehl to **Approve** that By-law 4.2 relating to the terms of commission members and By-law 4.3 related to removal of commission members and By-law 4.5 related to expenses be eliminated. Resolved Further that By-law 4.4 relating to absenteeism be renumbered By-law 4.2.

Vote: Unanimous 9-0

MOTION/Second: Holappa/Sarvela to **Approve** that By-law 9.2 relating to the quorum of the commission be amended to read as follows: Quorum. A majority of the currently serving membership of the Commission shall constitute a quorum for meeting purposes. A majority vote of the members present shall be required to transact business or make binding decisions in behalf of the Commission.

Vote: Unanimous 9-0

MOTION/Second: Sarvela/Holappa to **Approve** that By-law 9.7 relating to non-agenda matters be amended to read as follows: Non-Agenda Matters: No binding or final action may be taken on any matter not on the written agenda distributed to the Commission prior to the date of the meeting except by unanimous vote of a quorum of the membership.

Vote: Unanimous 9-0

MOTION/Second: Guggenbuehl/Appold to **Approve** that By-law 12.1 relating to the amendment procedure be amended to read as follows:

12.1 Amendment Procedure.

(a) Amendments considered at the annual meeting. These bylaws may be amended at the annual meeting by a majority vote of the membership in attendance. A copy of the proposed amendment shall be distributed to the commission members with the meeting notice.

(b) Interim Amendment Procedure. Amendments to these bylaws which are considered at a meeting other than the annual meeting shall be known as interim amendments. No interim amendment shall be considered unless each commissioner receives at least thirty (30) days written notice of the motion to amend, including the date, time and place of the meeting at which such motion shall be considered, and a written copy of the proposed amendment. Interim amendments require two-thirds vote of the entire membership of the Commission currently serving for passage; and in such instance only, Commission members will be allowed to vote by written proxy.

Vote: Unanimous 9-0

VII. Reports of Officers and Committees

- A. Downtown Waterfront Mixed Use District Meeting. Vigen stated that they had a meeting last evening on the west half of the new windows which have been approved and will meet next week for a discussion on the east half. Effective November 19th, they will no longer have the DWMX.
- B. Historic Preservation Commission. Digby attended the HPC meeting and stated that it was great doing it during the day. There was some confusion about some on their processes and procedures. He is confident that they will work a lot better due to Petkac making staff available for the meetings.

VIII. New Business

Vigen brought up the sidewalk seating variance at the Duluth Seitz Building. There had been an agreement to move the gate over so that the general public would not be impeded. This had not been done. Petkac stated that this is a zoning enforcement which goes to Cindy Hall in Building Safety.

Lutterman added that this is a concurrent use permit and the City Council can cancel this permit. Petkac will write a letter and copy Commissioner Vigen.

Vigen stated that there will be a Web Seminar on zoning ordinances and it would be good to get an overview of what is ahead. The cost is \$95. Petkac added that we have money in the budget for Planning Commission training and to contact her if interested.

IX. Other Business

Digby has been concerned about rental zoning issues and would like it to be the next brown bag. Petkac stated that Keith Hamre is heading up some of the public outreach meetings and may be able to schedule this in early December.

Rand reminded everyone about the Brown bag this Friday for UDC training and of the UDC Celebration on November 17, 4:30 to 7:00 pm at Clyde Park.

President Rand asked Lutterman to explain the Lawsuit that had been in the newspaper recently. Lutterman stated that a group of citizens filed a legal issue regarding the Western Middle School site contending that: 1. There is a possibility that a rare plant species may be located in the construction zone; 2. There may be wetland impacts on pristine watersheds; and 3. Regards the impact on wildlife corridors. The Court heard arguments on October 26 in front of Judge Harris who will make a decision.

X. Adjournment. President Rand adjourned the meeting at 5:52 pm.

Respectfully,



Cindy Petkac, AICP
Land Use Supervisor

CP:eu