



City of Duluth  
Planning Division

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City of Duluth  
Planning Commission  
Minutes of Tuesday, December 14, 2010  
City Council Chambers, City Hall

I. Call to Order: President Rand has called a meeting of the City Planning Commission for 5 p.m., Tuesday, December 14, 2010, in the City Council Chambers

II. Roll Call:

Members Present: Mike Akervik, Mindy Appold, Henry Banks, Rebecca Covington, Drew Digby, Terry Gugenbuehl, Heather Rand, David Sarvela and John Vigen.

Members Excused: Frank Holappa

Staff Present: Christina Berglund, Kyle Deming, Alison Lutterman, Cindy Petkac, Steven Robertson and Edna Ulrich

III. Public Hearings

A. **FN 10109** – Vacate parts of 45<sup>th</sup> Ave. W at Grand Ave., by J&S Partnership and Grand Ave Development. **NB**

Staff: Berglund presented the application for a vacation. The applicant is requesting to vacate a portion of 45<sup>th</sup> Avenue West, South of Grand Avenue. This is to make room for expanding the adjacent development. Berglund pointed out that there are several utilities located in the alley and the City will retain the utility easement. Staff finds this area useless for vehicle and pedestrian uses. Staff recommends that 45<sup>th</sup> Avenue West be vacated as shown.

Applicant: Ron Johnson – J&S partnership. No questions at this time.

**MOTION/Second:** Akervik/Appold to **Recommend Approval** to vacate parts of 45<sup>th</sup> Ave. W at Grand Ave., by J&S Partnership and Grand Ave Development. **Vote:** Unanimous 9-0

B. **FN 10111** – Vacate alley between East 1<sup>st</sup> St and East 2<sup>nd</sup> St, and North 10<sup>th</sup> Ave East and North 11<sup>th</sup> Ave East, by St. Luke's Hospital **SR**

Staff: Robertson stated that he has a concern with action tonight and will give a brief summary and then take action to table it for one month. The applicant intends to own all of the property but currently only owns a portion of it and is asking for that portion to be vacated. There is still more discussion needed as

Engineering has some concerns that had not yet been addressed. The standards for vacating an alley is uselessness. The applicant plans to submit new plans and new structures. Rand asked if the applicant was okay with tabling this item, and Robertson stated that the applicant was.

**MOTION/Second:** Guggenbuehl/Sarvela to **Table pending resolution of issues with City Engineering Division** for the vacation of the alley between East 1<sup>st</sup> St. and East 2<sup>nd</sup> St., and North 10<sup>th</sup> Ave. East and North 11<sup>th</sup> Ave East, by St. Luke's Hospital.

**Vote:** Unanimous (9-0)

C. **FN 10113** – MU-I plan review for oxygen and electrical facilities at the northwest corner of 10<sup>th</sup> Ave. E. and 2<sup>nd</sup> St, by St. Luke's Hospital. **KD**

Staff: Deming presented St. Luke's Hospital proposal to construct oxygen storage tanks, electric power transformers and a 17 stall parking lot. Deming pointed out the revised drawings with a cover memo provided to Commissioners at the beginning of this meeting. The applicant does not have a district plan so they are applying for the review of the site individually. Review criteria shows that they are complying with all aspects of Chapter 50. The Comprehensive Plan's recommendation of a medical district is consistent with the proposed use of the site.

Deming went over the revised drawings and the cover memo. Staff recommends approval with the following conditions: 1. That the project be limited to, constructed, and maintained according to the documents submitted by DSGW Architects; 2. That the land use supervisors approves adjustment of 2<sup>nd</sup> Street frontage landscaping; 3. Building official approves the variation in the screening height for tanks; 4. Building official approves the sign permit; 5. Engineering and Building official approves the storm water permit and erosion controls; and 6. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Appold asked how often the tanks need to be filled and Deming stated it was once a month to fill the tank as it is big enough to hold this.

Applicant: Ron Franzen – St. Luke's Hospital. Franzen presented a map of the area and explained the plans and where they will be going in the future. The hospital needs further growth for the future.

Public: Rebecca Lewis - Partner GSW Architects. Digby asked to refresh them on what the Sec. 50-26.1B2 reference is. Deming explained that it was ground-mounted mechanical equipment which must be screened from view. Sec. 50-26.4D grants that the building official may approve an alternative screening plan. Lewis stated that the height of the tanks are slightly over 26 feet and the other one 15 feet tall. Lewis stated that the fence is slightly over 10' and the one by the enclosure is 6.6 feet high. The building official has authority to approve modifications. Petkac explained that the purpose is to screen from the normal sight lines and that the enclosures are sufficient.

Digby had questions regarding the screening of the equipment. Lewis stated that they were challenged to soften the impact which they had accomplished with their plan. You will see on the construction the controls that would help to dissipate the impact of the Oxygen tanks which is 5 ft from the retaining wall.

Appold asked if the tanks are leased from the supplier and does the hospital have any control on the color of the tanks. Lewis stated that it is the only color. Lewis understands that it was by law that white is the only color it can be. Appold is concerned about an oxygen tank in this area.

Pat Earley - St. Luke's Hospital. Earley stated that oxygen helps things burn and it is not an explosive. Appold asked if this can be vandalized and is it secured from vandals and Earley replied that they are responsible for their security. There are no issues with this code-wise or security-wise.

Vigen asked about the setback. The tank sits about 10 feet from the property line. There is a 50 foot setback from buildings for the oxygen tank. This leaves an effective 40 foot side yard set-back for the neighboring property owner. If redeveloped they would have to move their tank as the adjoining property would be too close. Vigen asked whether this would have any affect on the abutting property owner. Lutterman stated that she didn't know how the building code would affect development on the adjacent property as a result of the 50 setback from the oxygen tank.

Lewis explained that there is no preclusion from building non-combustible construction within 50 feet. Vigen stated it then imposes a requirement on that property which they do not presently have. Lutterman stated that the zoning code does not impose this as it would be with the building code. Earley added that the National Fire Protection Association has a code for placing these kind of facilities. The code is very clear on allowing them to be placed at 5 feet from the property line.

Akervik questioned if there was such a thing as a horizontal tank that could contain the same volume. He is also looking at the Utility Enclosure 2 and Enclosure 1. Could there be horizontal tanks? Earley stated that he had never seen one. St. Luke's is not interested in cutting new trails with the Oxygen tanks. Earley added that they are providing standard industry recommendations and it is hard to re-create something that has always been the standard. Earley explained the time lines they have in replacing existing equipment and working through the physical location of the tanks. The developer is hoping to provide for plan reviews for their building and they need to provide space for new physicians and are trying to accelerate this to have the tanks moved in by April. Guggenbuehl asked about the rust on the tanks and how often are they painted. Earley responded that normally they do not paint the tanks but they do replace rusty tanks. Sarvela wanted to know why they chose is this spot. Earley stated that they have many issues as they are looking at this as a Campus development. There have been only a couple of options for where to put in their utility plant.

Franzen stated that they had informed all the owners in the surrounding area. Vigen asked if they can have a special meeting to address some of these issues.

Rand asked staff if we would be able to arrange a special meeting. Vigen stated that they could get this done within 2 weeks.

Earley stated that St. Luke's is responsible for the tank and the safety of the tank. At this point they need to have the tank located at this location. St. Luke's would be responsible if anything went wrong next door.

Lewis received an answer regarding the mounting of tanks horizontally. It can be done but it does require about 3 times the space of a vertical tank. She also asked about the color of the tank and it is critical that the oxygen keeps cool and that is why the tanks are white which reflects the sun and maintains stability.

**MOTION/Second:** Vigen/Akervik to **Table pending clarification from Building Official/Fire Marshal and possible tank repositioning**  
**Vote:** 5-4 (Banks, Digby, Guggenbuehl, Rand opposed)

- IV. Consideration of minutes – November 9<sup>th</sup>, 2010. MOTION/Second Akervik/Sarvela to approve the minutes. Unanimous.
- V. Communications
- VI. Old Business
- VII. Reports of Officers and Committees
  - A. Downtown Waterfront Mixed Use District. Vigen stated that they met on the Skywalk and it has been redesigned. This was their last meeting and there will no longer be a DWMX committee.
  - B. Duluth Historic Preservation Commission. Digby reported that the commission continues to work on its policies and procedures. They are working with the State to get an inventory of historic properties. They are also concerned about the diocese closing the church on observation Hill and what will be done with it in the long run.
- VIII. New Business
- IX. Other Business
- X. Adjournment

Respectfully,



Cindy Petkac, AICP  
Land Use Supervisor  
CP:eu