

City of Duluth
Planning Commission
Minutes of Tuesday, May 12, 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, May 12, 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, Katelyn Kuor, Joan Morrison, Heather Rand, David Sarvela, Jim Stebe, John Vigen

Staff Present: Terri Fitzgibbons, Chuck Froseth, Alison Lutterman, Cindy Petkac

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

A. **FN09016** - Vacation of utility easement at 3860 East Superior Street by Brian Ronstrom (CP)

Staff: Petkac stated Ronstrom proposes the vacation of an easement which runs along the south of his property line. The land is wooded. Staff recommends approval.

Applicant - Brian Ronstrom: Ronstrom stated there is a steep ravine in this area and it is not accessible and therefore useless. He uses this easement for landscaping.

Discussion: Granley asked if the vacation will enable Ronstrom to build a garage. Ronstrom stated this would make it possible to build a garage there, but he stated he is not requesting the easement to build any structures at this time.

MOTION/Second: Vigen/Banks to Recommend Approval of vacation of utility easement at 3860 East Superior Street by Brian Ronstrom	Vote: Unanimous (13-0)
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B. **FN09021** - Vacation of St. Louis Avenue, 11th Street and an easement on Park Point by BDP Architects for Globe Duluth Enterprises, Inc. (CF)

Staff: Froseth stated this land was vacated in 1984 when Harbor Cove anticipated improving their property. The matter was approved by the Planning Commission but somehow never made it to the City Council. One citizen wrote expressing concern about property access. Froseth stated public access is available at 8th, 11th, and 13th Streets. Staff recommends approval.

Discussion: Granley asked if there were any concerns about the vacation in regard to water, such as the public trust doctrine. Froseth stated we should recommend the developer investigate this. Rand stated a vacation examines the uselessness of the land.

MOTION/Second: Rand/Morrison to **Recommend Approval** of vacation of St. Louis Avenue, 11th Street and an easement on Park Point by BDP Architects for Globe Duluth Enterprises, Inc. Vote: Unanimous (13-0)

- C. **FN09040** - Concurrent Use Permit for 1533 West Arrowhead Road for Vineyard Christian Fellowship by SEH, Inc. (CP)

Staff: Petkac stated the church requests this permit to place landscaping and signage in the right-of-way. The sign would be 8 to 10 feet from the curb and 8 to 10 feet from the driveway access to the church. A utility line previously thought to be public is actually private, so as a result of this, staff recommends approval.

Applicant - Scott Sannes, SEH: Sannes stated the utility easement is a private forced main installed by the church. The sign would be in excess of 15 feet from this as required by the City Engineer.

Discussion: Barrett asked if repairs were required on this line would be paid for by the church, and Sannes stated yes. Vigen asked if Sannes' firm will be making the sign. Sannes stated he is the project manager, but the sign will be installed by volunteers at the church. Vigen asked about ground spotlights since downcast lighting is preferred for new development. Sannes stated the design is using a simple spotlight pointed at the rock, and he doesn't expect a lot of additional "wash" from the light. He would not be opposed to considering downcast lighting, depending on how it works with the design. Morrison asked about the single ingress/egress for the church and if an additional lane will be added in the future. Sannes stated the sign has a simple, fixed base and would be easy to move if an additional lane is added. Rand asked for clarification on the easement. Voigt stated she initially believed the line was a storm sewer, but later learned it is a private forced sanitary sewer line.

MOTION/Second: Barrett/Sarvela to **Recommend Approval** of Concurrent Use Permit for 1533 West Arrowhead Road for Vineyard Christian Fellowship by SEH, Inc. Vote: Unanimous (13-0)

- D. **FN09019** - Vacation of 48th Avenue East from Colorado Street south to alley by Jeff Madill, 4802 Colorado Street (CF)

Staff: Froseth stated the proposal is to vacate 48th Avenue East so the owner may build a garage. There are storm sewer and gas lines on this street, so Engineering and owner agreed to a 10 foot easement as well as public access.

Discussion: Appold asked about the easement for pedestrian use. Froseth stated there is an informal trail through this area, and he felt 5 feet on each side of the area would be adequate.

Applicant - Jeff Madill: Madill stated he has no preference where the pedestrian easement is located but knows the utilities are not centered on the easement. He only needs seven feet of the vacation to build his garage.

Discussion: Lutterman stated the City must retain utility easements for the sewer and gas lines. She needs clarification of exactly what is being retained and its width, stating obviously the land is not useless if there are existing utilities. Vigen concurred. Madill stated the 15 foot easement is supposed to be 10 feet, and he just needs the 7 feet on the easterly edge. Voigt stated she assumes this amount was reduced because gas mains are shallower. Froseth stated the City would retain a 51 foot right-of-way in the middle, Madill would obtain 8 feet on the east side, and 7 feet on the east side would go to the adjoining property owner.

MOTION/Second: Vigen/Appold to **Recommend Approval** of vacation of 48th Avenue East from Colorado Street south to alley by Jeff Madill, 4802 Colorado Street, subject to westerly 7 feet and easterly 8 feet of the 66 foot right-of-way and subject to retaining a utility easement

Vote: Unanimous (13-0)

- E. **FN09033** - Special Use Permit for 1630 Rice Lake Road by City of Duluth, Maintenance Operations (CP)

Staff: Petkac stated this request is from the City Maintenance Operations for temporary storage of various aggregates. This storage is currently at Kenwood and Hovland Avenues and would be moved to this site. The Comprehensive Plan designates this land as institutional, and the land is City-owned. There is natural screening from Rice Lake Road, and across the road are apartment facilities of Boulder Ridge. Comments were received from the owner Mark Lambert who is concerned about the uses requested in this permit. Another issue is deed restrictions on City-owned land. One parcel is tax forfeited and stipulates it can only be used by the Police Department for the shooting range. Staff recommends Lot 1 Block 45 be removed due to this restriction. Staff recommends the permit be approved.

Applicant - Barb Kolodge: Kolodge stated the current location on Kenwood Avenue is too small, making it difficult for trucks to turn around, and is bordered by a City recreational trail which is a safety concern. Kolodge stated she looked at being more efficient and provider a better service. The Rice Lake Road site is the only site closer to equipment storage and would save money in fuel and labor costs. The site was previously a dump site and has been filled, which limits the uses, and it had also been used by the police for dog training. No more than 500 tons of aggregate would be stored there at any given time. Kolodge stated Lambert requests a number of conditions be placed on this permit, and Kolodge does not support these conditions, such as limited hours, no vehicle storage, and only certain material storage. Kolodge believes it will be difficult to see piles of gravel from the Boulder Ridge site due to trees.

Discussion: Banks asked about other sites that were considered. Kolodge stated there are no other feasible sites owned by the City this close to the maintenance building. Vigen stated clearly the Chester Park site does not work and proposed a site on Rice Lake Road 1 to 1 ½ miles north of the proposed site. Vigen stated the middle to high end residential development surrounding this area is inconsistent with the proposed use of this site.

Digby asked what zoning would be required if it were not a City of Duluth operation. Petkac stated this land is zoned R-1-c. If it were a private company with the same use the land would need to be zoned manufacturing. Petkac stated we still need to provide City services regardless of residential growth. Petkac also stated the change in elevation makes it difficult to screen from the residential area of Boulder and Summit Ridge.

Morrison asked about the volume of truck traffic from this sort of use. Kolodge stated last year there were 10 days in the summer when gravel was delivered to the site. Each day, 1 to 14 loads were hauled away. Kolodge stated gravel and limestone is bid every year, and bidders charge delivery cost based on location. Morrison stated Lowell School generates a lot of traffic and wondered how that would work with the truck traffic. Morrison asked if the area would be lit, and Kolodge stated it will not be as it's not necessary for this type of use at nighttime. Rand stated this is not an ideal site, but considers how to best mitigate this and asked about the noise. Kolodge stated it would be no more than what is already traveling on Rice Lake Road. Kolodge stated they do not use the site every day. Rand asked if noises from the loading and unloading will travel across to Boulder Ridge. Kolodge stated the main noise would be the backup alarm. Due to the elevation, screening by use of berms would not work.

Appold asked how high these piles would be, and Kolodge estimated 15 feet. Appold asked if there would be gates to this site, and Kolodge stated there would be and they would be locked when City staff is not present. Appold asked about ingress/egress to the site. Kolodge stated they could use the same road for both. Appold asked what the restrictions would be for what is stored at the site, and Kolodge stated they do not have need for a lot of gravel. The site may be used for storage of broken up blacktop or concrete until there is enough to bring to recycling.

Vigen stated there are only two ways to get to this site and trucks would usually be hauling the gravel to the eastern part of the city. Kolodge stated usually the driver would travel south on Rice Lake Road.

Rand asked where the site is for the western part of the city, and Kolodge stated there is a site on 40th Avenue West and the Lund maintenance center where both sites have yard space.

Akervik asked about the size of the site, and Kolodge stated the current and proposed sites are similar in size, but the Rice Lake Road site has room for trucks to load and unload. The current site only has space for the piles and little space to maneuver trucks. There is just one way in and out of the current site.

Public Input: - Mark Lambert, Summit Ridge: Lambert stated all of the units facing the proposed site are screened with decks. He considered using this site for a soccer field or other use but was not able to due to the contamination. Lambert stated the site is very visible from his development with very little screening. Lambert is also concerned about noise and the permanency of this use. Lambert is against this type of use in residential zoning. If the permit is approved, he proposes the following conditions be imposed: limit hours of operation; no storage of equipment or contaminated or odiferous materials; the storage area be limited; the area be screened with trees; compliance with stormwater regulations; and the permit be valid for three years.

Discussion: Rand stated if anyone other than the City proposed this, she believes the Commission would be against it due to the zoning. Digby stated he can't support this industrial use in a residential neighborhood. Granley proposed giving the City a permit for two years with conditions. Appold felt the location of the piles in conjunction with more screening could improve the view from the road and

Boulder Ridge. Vigen stated mixed uses in this area is a concern, and traffic was a big issue during the development of Boulder Ridge. Vigen asked if residents of Bristolwood were notified. Vigen would like more information on why other sites wouldn't work and proposed tabling this matter.

Morrison agrees Rice Lake Road is heavily traveled including Boulder Ridge and Lowell School. She is against a one-year permit as it becomes entrenched after such a time. Morrison agrees if this site is used, restrictions would be necessary, but feels another site is more ideal which may not require such conditions. Petkac stated notice was sent to owners within 350 feet including residents on Howtz Street and Chinook Drive.

MOTION/Second: Vigen/Appold to **Table** Special Use Permit for 1630 Rice Lake Road by City of Duluth, Maintenance Operations Vote: Unanimous (13-0)

- F. **FN09037** - Water Resource Management Ordinance Permit for the Lakewalk at Water Street from 23rd to 25th Avenues East by City of Duluth, Engineering Division (CF)

Commissioner Sarvela abstained from this matter

Staff: Froseth stated this request falls under the shoreland code for the Lakewalk in front of Lakewalk Townhomes. The Planning Commission is required to hear this matter due to the amount of cubic yards of dirt which will be moved. The proposed trail is temporary and Froseth's concern would be potential erosion. The Minnesota Pollution Control Agency (MPCA) and Department of Natural Resources (DNR) are regulatory agencies which must also approve the proposal to ensure this land is protected. Froseth recommends staff approval and the ability to approve minor changes.

Applicant - Cindy Voigt, City Engineer: Voigt stated the MPCA is extremely concerned that erosion be kept away from the lake, so erosion stabilization has been included in this plan. The minimum amount of land will be impacted to cut through a 6-foot wide trail. Construction is tentatively set to begin May 30.

Discussion: Barrett asked about the fill, and Voigt stated it will be limestone. Appold asked about the base, and Voigt stated a 10 to 14 inch base is proposed, but she is unsure as there is no funding for paving the trail at this time. Voigt's request is for 12 inches.

Public Input - Alison Clarke, 226 Ridgewood Road: Clark stated a standard trail width will not fit through this site. She supports the project.

Discussion: Granley stated there is a letter from the Environmental Advisory Council (EAC) recommending approval, indicating best management practices be employed.

MOTION/Second: Granley/Barrett to **Approve** Water Resource Management Ordinance Permit for the Lakewalk at Water Street from 23rd to 25th Avenues East by City of Duluth, Engineering Division Vote: 12-0-1 (Sarvela abstained)

- G. **FN09038** - Registered Land Survey for Mall Drive at Miller Hill by Shoberg, RLK Inc., for John Johannson (CF)

Staff: Froseth stated state law requires the Planning Commission approve a registered land survey, which is a way to simplify complex legal descriptions. Staff recommends approval.

MOTION/Second: Barrett/Appold to **Recommend Approval** for Registered Land Survey for Mall Drive at Miller Hill by Shoberg, RLK Inc., for John Johannson **Vote: Unanimous (13-0)**

- H. **FN09036** - Zoning Text Amendment to allow for Sports Courts and Tennis Courts as a Special Use Permit by Bill Burns, Hanft Fride, for Charles Skinner (CF)

Staff: Froseth stated this proposal is to amend the zoning code to provide for private tennis and sport courts which are not adjoining an owner's property. Issues include lighting, screening, and distance from adjoining property owners.

Discussion: Banks asked if hardship applies to this amendment, and Froseth stated it does not. Barrett asked if there are houses around this piece of land. Lutterman stated this is not an application for a specific tennis or sport court; but rather this is a zoning text amendment for the client to apply for such at a specific location and the Commission would then be able to examine a site map and additional details. This matter examines whether courts on land not contiguous to a home should be allowed via special use permit. Vigen asked if this matter were denied if it could be appealed to the City Council, and Lutterman affirmed it could. Morrison asked what a sports court is defined as, and Lutterman stated this could be basketball, handball, or other sports, and the size would not be defined within the code.

Applicant - Bill Burns, Hanft Fride: Burns stated he does not anticipate opposition to his client's proposed permit request, but noted this amendment is necessary due to the inflexibility of the current zoning code.

Discussion: Vigen is concerned about this use depending on the site. Petkac stated our consultant is working on uses for the new code, so as we amend the existing code we must consider how we will incorporate the change into the new code. Lutterman stated approval of specific proposals would be similar to any other special use permit application. Vigen asked if distance from the owner's home to the sport court could be regulated. Lutterman stated it is difficult to predict proposed requests so a special use permit would allow for individual evaluation of each request.

MOTION/Second: Rand/Morrison to **Recommend Approval** of Zoning Text Amendment to allow for Sports Courts and Tennis Courts as a Special Use Permit by Bill Burns, Hanft Fride, for Charles Skinner **Vote: Unanimous (13-0)**

- I. **FN09024** – Zoning Text Amendments by Independent School District (ISD) 709 (CP)

Commissioner Kuot abstained from this matter.

Staff: Petkac stated as part of implementing the long range facilities plan, the School District submitted text amendments affecting Section 44-23 (signs), Section 50-21 (height of school buildings), Section 50-30 (front yard parking), Section 50-35 (special use permit), and Section 50-55 (building set backs in residential districts). Petkac stated staff does not support the proposed language for Section 50-30 nor 50-55.1e to change the side of rear setback because both of these already have variance procedures in place. Staff supports amendments for Sections 44-23 and 50-35. Staff does not support a text amendment for Section 50-21 but rather proposes that a maximum height greater than what is permitted be granted by means of a variance.

Discussion: Vigen asked about Section 50-35(gg) and the definition of adjacent properties as he feels 15 feet is an inadequate distance. Vigen proposed a 20 to 30 feet requirement to screen for vision, debris, and noise aspects of parking lot activities when next to a home. Vigen also proposed the height of four feet is not adequate. If lighting is proposed, hours of operation should be controlled. Lutterman stated Section 50-32 would be a special use permit, in which additional conditions can be applied.

Applicant - Kerry Leider, ISD 709: Leider stated these amendments were presented as the needs for parking have changed over time. This request is an attempt to address such issues within the code. Leider stated a school built in a residential zone may have parking if it is contiguous with the primary use. Leider requests parking be allowed by way of a special use permit, meaning the Planning Commission would have an opportunity to review each request and apply any warranted conditions.

Discussion: Vigen stated if we approve as written, it wouldn't include his proposed changes. Petkac stated setbacks and parking spaces were measured out which is how she arrived at 15 feet. Petkac stated she can come back with more analysis. Lutterman stated rather than specific numbers, staff could modify language and provide a sense of minimum standard but leave the City the ability to increase the standards when appropriate in specific locations. Vigen feels applicants would conform with only the minimum threshold. Akervik stated there are several school projects this language could affect.

Digby proposed another condition that the School District present a plan to limit automobile trips to and from schools to encourage alternate transportation. Akervik stated he is aware the School District is exploring Safe Routes to School.

Stebe stated each scenario would be addressed individually and so he does not feel the language needs to be that specific. Stebe feels there are probably existing schools in violation of the proposed amendments. Lutterman stated there are schools with parking lots developed prior to our zoning code and therefore are unregulated. Lutterman stated this amendment addresses the issue of the off-site parking lot.

Sarvela asked if setback distance and berm height could be regulated. Lutterman stated language could be modified to more expressly allow the City to increase standards on a case-by-case basis. Sarvela supports language that would not be too restrictive and could impose more strict regulations by way of special use permit.

Barrett made a motion to table this matter.

Granley suggested adding that in the case of adjacent properties it be left to the discretion of the Planning Commission on case-by-case basis. She supports amending the language for height from 4 feet to 8 feet.

Granley made a motion to approve with amendments listed by staff and adding to Section 50-35(gg) that the elevation standard be increased from 4 to 8 feet and that screening for adjacent properties be left to the discretion of the Planning Commission or staff as part of special use permit. Lutterman proposed language, "The special use permit shall be granted provided that the following minimum standards and conditions are met and further provided that these minimum standards may be subject to increase as part of the approval process."

Digby stated until recently schools have had a policy against biking and feels the School District needs to take alternative transportation seriously.

MOTION/Second: Granley/Rand to **Recommend Approval** of Zoning Text Amendments by Independent School District (ISD) 709 **with language modifications** "The special use permit shall be granted provided that the following minimum standards and conditions are met and further provided that these minimum standards may be subject to increase as part of the approval process."
Vote: 12-0-1 (Kuor abstained)

- J. **FN09025** - Vacation of part of Elinor Street and N. Central Alley for Laura MacArthur School from Independent School District 709 (CF)

Staff: Froseth stated there is a proposal to build a new school which would require the vacation of an alley and part of Elinor Street for access to play facilities without crossing the public street. Froseth stated in regard to uselessness, the City proposes reserving this proposed land to vacate with an easement for utilities as there are a number of utilities located here. If a new school were built a gas line would be abandoned, but public utility easements will be required. Froseth recommends the entire width of the proposed vacation be designated for pedestrian use.

Applicant - Kerry Leider, ISD 709: Leider stated the neighborhood clearly wants the school site to remain in its current location, and in order to do this additional property must be acquired. The vacation of Central Avenue was initially considered but deemed to be infeasible. The vacation of Elinor Street in conjunction with other acquired property will be adequate for their purposes and would also be an asset to the neighborhood. Maintenance of the utility right-of-way would be feasible as this would be a green corridor maintained for pedestrian passage. Leider stated when the existing school is demolished additional green space will be added.

Public Input - Kris Ridgewell, SVCNDA: Ridgewell stated this is a great project for the neighborhood of West Duluth and as a member on the Parks Commission she proposed a program which combines parks and schools. Ridgewell stated a number of public forums have been held, and the school would gain a number of community resources such as restrooms, a youth center, and media resources. Safe Routes to School will be implemented to improve connectivity between the community and school.

Anita Fraundorf, 4824 West Fifth Street: Fraundorf works at Laura MacArthur and supports the vacation as it addresses safety concerns and will be good for the community.

MOTION/Second: Morrison/Sarvela to **Recommend Approval** of Vacation of part of Elinor Street and N. Central Alley for Laura MacArthur School from Independent School District 709
Vote: Unanimous (13-0)

K. **FN09027** - Vacation of Ensign Street from Chambersburg Avenue to Church Place from Independent School District 709 (CF)

Staff: Froseth stated staff recommends this matter be tabled due to concerns raised by the Fire Marshall. The vacation request is for the area of Piedmont School, and the Fire Marshall's concern is access for emergency vehicles to the nursing home which is nearby.

Discussion: Barrett feels Meridien Apartments is also a concern due to the difference in grade as there are also a number of emergency service calls to these apartments. Morrison stated she recalls the streets in this area are in poor condition. Froseth stated street improvement has also been an issue.

Applicant - Kerry Leider, ISD 709: Leider stated the vacation of this street is as essential to the use of this site as a school as Elinor Street is for Laura MacArthur; however, he defers to the recommendation of staff to table the matter in order to work towards an acceptable solution which addresses the concerns expressed.

Public Input - Scott Kuiti, 2818-28 Piedmont Avenue: Kuiti has concerns about the vacation as he feels the school district has been misleading about land ownership in this area, specifically representing that they own land actually owned by Kuiti. Kuiti is also concerned about emergency response time at Viewcrest Nursing Home and Meridien Apartments. Kuiti stated if Ensign Street were vacated traffic would be rerouted and cut through the Piedmont Plaza parking lot, thereby creating a safety hazard. Kuiti stated his land is zoned C-1, but the staff report indicates it is R-1 and R-3. Kuiti is against making Leonard Street an emergency response route due to the steep grade and limited visibility. Kuiti requests this request be denied and also feels he has not been adequately notified of the school district's plans. He suggests a traffic study.

Pennie Turcott - 2351 Hoover Street: Turcott expressed concerns of traffic on Hoover Street turning onto Ensign due to the elevation. This area is congested, and emergency services use Ensign Street often. Turcott proposed extending Pershing Street to the nursing home.

MOTION/Second: Sarvela/Morrison to Table the Vacation of Ensign Street from Chambersburg Avenue to Church Place from Independent School District 709	Vote: Unanimous (13-0)
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L. **FN09030** - Environmental Assessment Worksheet public hearing 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 Kuor abstained from this matter

Staff: Petkac reviewed the procedure for an Environmental Assessment Worksheet (EAW). The public comment period for this EAW ends May 20, 2009.

Applicant - Kerry Leider, ISD 709: Leider stated this EAW is very important to the School District, and the environmental impact of the long-range facilities plan has been taken into account. Leider acknowledged the conversion of the Ordean site from a middle school to a high school is of high importance and the school district has hired a number of agencies and organizations to help them determine the environmental impact. The School District believes their plans have adequately mitigated environmental issues. Site suitability, traffic safety, water quality, surface water runoff, lighting, and a nesting pair of eagles are issues the School District has considered; and the site plan has been modified to lessen environmental impact. The site is desirable as it is in the neighborhood and allows a number

of students to walk to school. Traffic safety concerns were expressed and as a result of SEH's traffic study suggestions were integrated into the traffic plan, such as more than one entrance at the site. Parking in the lot and across the street will be adequate yet encourage other forms of transportation. School hours have been adjusted to minimize rush hour congestion. There will be no impact to the wetlands, and the shoreland impact will be minimized by way of underground sources which treat water prior to entering the creek. The building design will reduce water use by 19%. Lighting design will be focused to reduce lightshed. The School District feels they have adequately addressed concerns about eagles on the site to minimize the effect of construction on them. During certain times of year construction will be prohibited within a 660-foot radius from the nesting eagles.

Public Input - Jerome Kwako, 3830 East Superior Street: Kwako is against the School District's plan and urged commissioners to thoroughly examine the reports. Kwako is having a hard time accessing reports and data.

Dave Kreager, 4114 Superior Street: Kreager walks in the neighborhood, which has several young families, and is concerned the influx of high school students will result in traffic hazards.

Dale Pagenkopf, 304 North 40th Avenue East: Pagenkopf is concerned about traffic, parking, and truck deliveries on 40th Avenue East. This area will be incredibly busy and harm the neighborhood. He feels the students deserve better.

Michele Benson, 4021 Gilliat Street: Benson stated she is concerned about the impact on the neighborhood itself. She feels the lack of parking and increased traffic will eventually result in the need to expand the school. She believes the full development of the site has not yet been disclosed. Benson is concerned about single family properties becoming rentals due to this plan.

James C. Balogh, 211 Mygatt Avenue: Balogh is a soil scientist and has worked on other EAWs over the past 23 years. He feels this EAW has a shocking amount of poor data, especially in regard to runoff, erosion, and water quality. Balogh estimated an increase in runoff of 23% per year and stated the amount proposed in the EAW is not realistic.

Karen Heisick, 2723 East First Street: Heisick stated this development should require an environmental impact statement. Heisick stated homeowners may be displaced, and the project will have a negative impact on the neighborhood. The use is an enormous change for such a small site, and she stated activities at the school will occur at all hours, not just from 9 a.m. to 3 p.m.

Trina Legarde, 158 West Linden Street: Legarde stated this project will have a negative impact on the bald eagles nesting at this site. Legarde feels the School District has misrepresented facts regarding its contact with the U.S. Fish & Wildlife Service. Legarde is concerned about increased traffic and the height of the new building which will have a great impact on the eagles.

Bob Reichert, 3626 East Superior Street: Reichert believes the EAW is seriously deficient and incomplete and the Planning Commission must require an EIS for this reason. He is concerned there is an inadequate number of parking spaces and the EAW does not address this issue. The traffic study recommended an afternoon pick-up zone, which is not included in the EAW. Underground retention tanks for stormwater are expensive and may not be feasible.

Warner Wirta, Duluth American Indian Community: Wirta is concerned that construction will drive away the eagles. Wirta feels the protective radius won't prevent the eagles from being disturbed. The eagle is protected by the federal government with severe penalties for violation.

Brian Ronstrom, 3860 East Superior Street: Ronstrom stated the EAW is lacking in many areas, one of which is a retaining wall and public school stadium within 50 feet of the creek. None of this is addressed in the EAW, and Ronstrom feels an EIS should be done.

Tom Kasper, 3725 Greysolon Road: Kasper stated commissioners have the power to decide the value of his home and his neighbors' homes. A large amount of soil is proposed to be removed from the site, 113,000 cubic yards, which is an enormous environmental impact in addition to the truck traffic hauling the soil away. By the time of construction the eagle pair will have had babies, and an enormous excavation will be left exposed for up to nine months.

Lynette Swanberg, 4020 Gilliat Street: Swanberg is concerned about water runoff and that she may need a sump pump due to construction at this site. She is concerned about the increase of traffic volume and access at the alley onto 40th Avenue East. Swanberg suggested parking passes by lottery and no parking in residential areas.

- IV. Consideration of minutes - April 14, 2009. Motion by Morrison/Appold - approved unanimously.
- V. Communications: Barrett asked if she has been appointed to the Environmental Advisory Council (EAC) as the Planning Commission representative, and Lutterman advised there must be a publication. Barrett stated the EAC has been having quorum issues.
- VI. Old Business
- VII. Reports of Officers and Committees
- A. Zoning Advisory Committee to Implement the Comprehensive Plan: Rand stated an upcoming meeting in June will be open to the public for public input for form-based code standards. The process is slated to be completed over the next year.
- B. Education Committee: Petkac stated there is a Brown Bag this Friday regarding the recent APA conference and an opportunity to learn about national trends in the planning field.
- C. Barrett stated the Miller Hill/Central Entrance Committee has been meeting and it is moving forward.
- VIII. New Business - Appold welcomed new planning commissioners Kuor and Holappa.
- Akervik asked Rand about the Heritage Preservation Committee (HPC), and Rand stated the HPC meets monthly and is looking for a Planning Commission representative. Any interested commissioners should contact staff or President Akervik.
- IX. Other Business
- X. Adjournment. President Akervik adjourned the meeting at 9:54 p.m.

Respectfully,



Cindy Petkac
Land Use Supervisor
CP:CF:tf



Charles Froseth
Senior Planner