

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-034-O

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE SALE OF THE SOUTHERLY 10 FEET OF LOTS 31-34, NEW YORK PIER, ONEOTA, TO ZENITH INVESTMENT AND MANAGEMENT CORPORATION FOR \$2,000.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1.

(a) As per Section 2-176(a), of the Duluth City Code, 1959, as amended (the Code), the manager of the city's physical planning division has reviewed this proposed conveyance for conformity with the city's comprehensive land use plan and determined that the conveyance is not in conflict with the plan;

(b) As per Section 2-176(b) of the Code, the city assessor has provided a written estimate of the fair market value of the subject property, which estimate is between \$1,750 - \$3,500;

(c) The property described in Section 2 below is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale pursuant to Article XXXIII of Chapter 2 of the Code;

(d) The city council finds that the subject property is undeveloped pursuant to Section 2-178 of the Code because it consists of an approximately 10-foot wide strip of land bounded on the north by property owned by Zenith Investment and Management Corporation, on the east and west by other private property owners, and on the south by the main line of the Burlington Northern Santa Fe Railroad.

Section 2. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to Zenith Investment and Management Corporation for the amount of \$2,000 to be deposited into Fund No. 110-700-1420-4640 (General, Transfers and Other Functions, Capital Programs, Sale of Land) and further to execute all documents necessary with regard to said conveyance:

All those parts of Lots 31 through 34, inclusive, lying southeasterly

of a line parallel with and distant 630 feet southeasterly from the southeasterly line of Oneota Street, New York Pier, ONEOTA, according to the recorded plat thereof.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

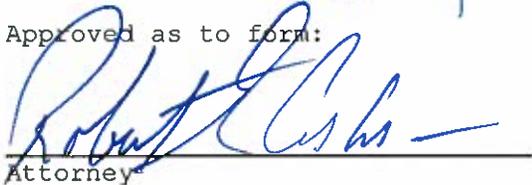
Approved:

  
Department Director

Approved for presentation to council:

  
Chief Administrative Officer

Approved as to form:

  
Attorney

Approved:

  
Auditor

PLNG/ATTY NL:dma 05/17/2012

STATEMENT OF PURPOSE: The purpose of this ordinance is to authorize the direct sale and conveyance of the southerly 10 feet of Lots 31 through 34, New York Pier, ONEOTA, to Zenith Investment and Management Corporation ("Zenith Investment") for \$2,000.

In 1977, Oneida Realty conveyed a piece of waterfront property between 41<sup>st</sup> and 42<sup>nd</sup> Avenues West to the City. The reason for the conveyance is not apparent from the record, but may have had something to do with the adjacent Erie Pier property, which has been and continues to be used as a harbor dredge material disposal area. In addition to the New York Pier itself, and for reasons unclear, the conveyance included the southeasterly 10 feet (approximately) of Lots 31-34, New York Pier, isolated from the rest of the property by the BNSF railroad right-of-way.

Recently, under the misapprehension that they owned all of Lots 31-34, Zenith Investment, the owner of other property in the area, including the remainder of Lots 31-34, commenced a torrens registration action seeking to register title to their property, including the City's 10-foot strip. Because of the City's ownership of the 10-foot strip, the City was required to be named as a defendant in the action.

Following commencement of the torrens registration action, counsel for the City reviewed the interest in the subject property and met with counsel for Zenith Investment to explore potential methods for resolution of the pending action.

It was apparent from review by attorney, planning, and business development staff that this 10-foot strip of land is undevelopable due to its size and location, as the 10-foot strip is bounded on the north by property owned by Zenith Investment, on the east and west by other private property owners, and on the south by the main line of the Burlington Northern Sante Fe Railroad. Based on these facts, the Administration determined that the best resolution was to convey the property in question to Zenith for its fair market value.

Counsel for Zenith Investment subsequently indicated that the company would agree to purchase the 10-foot strip in return for a quit claim deed to the property and a commitment from the City that it would not further oppose Zenith Investment's efforts to register title to the lots in question. The recommended sale price is within the range of fair market value established by the City Assessor's Office.

Tax base impact statement: No significant tax impact until such time as any improvements or other structures are added to the property.

## Dawn Anderson - New York Pier Matter: Final Property Sale Ordinance w/ REA revisions

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**From:** Nathan LaCoursiere  
**To:** Dawn Anderson  
**Date:** 5/17/2012 8:58 AM  
**Subject:** New York Pier Matter: Final Property Sale Ordinance w/ REA revisions  
**CC:** Robert E. Asleson  
**Attachments:** Final New York Pier Ordinance with Asleson Revisions.docx

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Dawn:

Would you please put the attached into final form for filing with the Clerk's Office by the end of the week. Please incorporate Bob's suggested revisions.

When the ordinance is in final form, please forward me a PDF copy, as I will need to send it to Huck Andresen for comment.

When we file the ordinance, please inform the clerk's office that four brief attachments will follow next Monday: (1) a deed; (2) a letter from Keith Hamre as acting Planning Director (Keith is out of the office until next Monday); (3) a letter from the city assessor; and (4) a one-page map depicting the subject property. Since Keith is out of the office, Bob and I felt we should wait to file all attachments together to avoid confusion/extra work for the clerk's office.

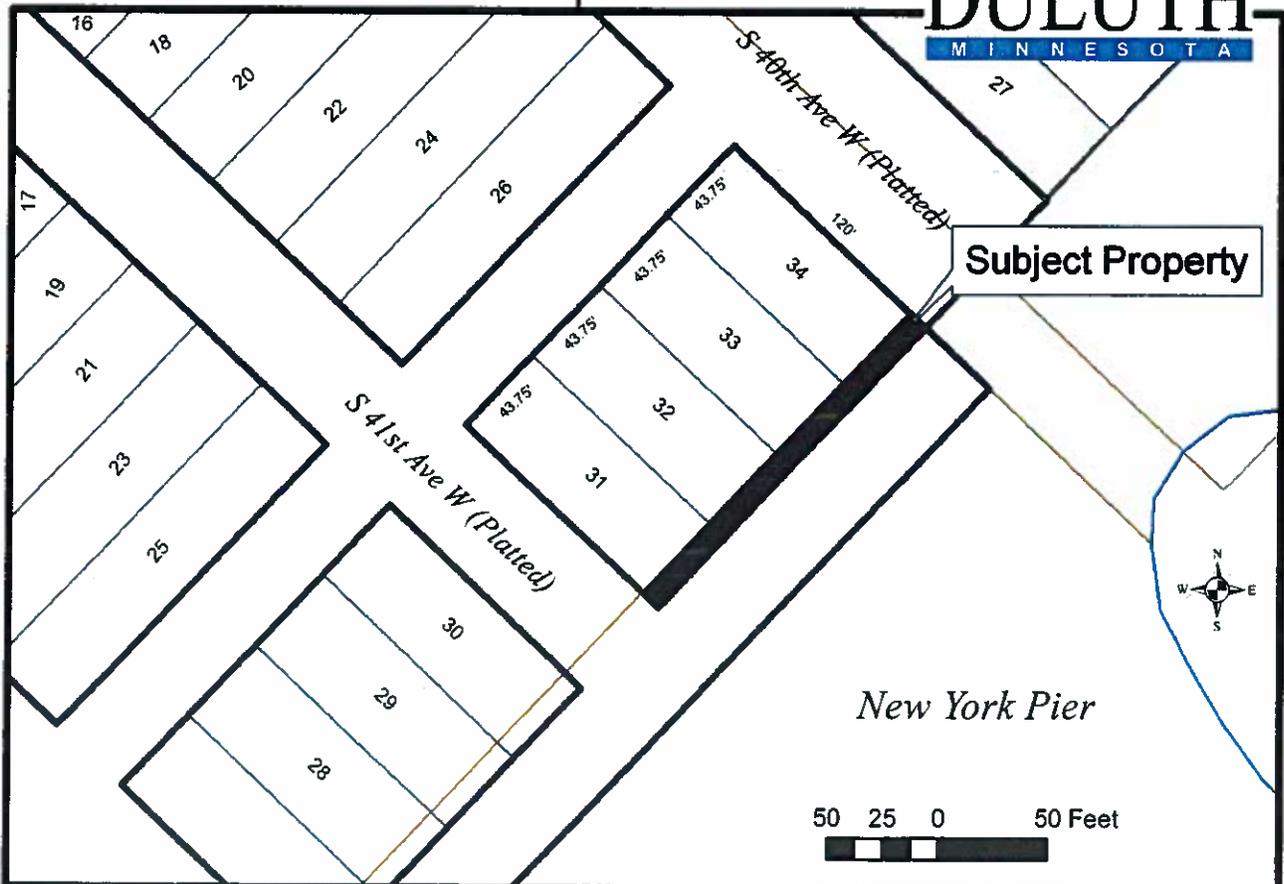
Thank you for your help.

Sincerely,

Nate

Nathan N. LaCoursiere  
Assistant City Attorney  
Office of the City Attorney  
410 City Hall  
411 West First Street  
Duluth, MN 55802-1198  
Phone (218) 730-5490  
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City of Duluth  
Planning Division

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May 21, 2012

RE: Land Conveyance, New York Pier

Dear City Councilors,

City planning staff have reviewed the proposed conveyance of the southerly 10-foot strip of Lots 31 - 34, New York Pier, ONEOTA, for conformity with the City's comprehensive plan.

The subject property is zoned Industrial-General (I-G). Planning staff have determined that there are no compelling city zoning, infrastructure, or access needs that would be impaired by a sale of the subject 10-foot-strip, and that the proposed conveyance is not in conflict with the city's comprehensive plan.

Planning staff have not been presented with any plans for future development of the subject property, but note that any future development will necessarily be assessed by city staff for compliance with all use restrictions applicable to the Industrial-General district and our Unified Development Chapter in general.

Let me know if you have any questions.

Respectfully,

Keith Hamre  
Director of Planning and Construction Services



City of Duluth  
Department of Finance - City Assessor

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May 21, 2012

Mr. Robert Asleson

RE: Plat 010-3630-00255

Property Description: 10 Ft Strip of land on the southerly end of lots 27, 28, 29, 30 Oneota New York Pier and 10 Ft Strip of land on the southerly end of lots 31, 32, 33, 34, Oneota New York Pier.

Owner of Record: City of Duluth

Dear Mr. Asleson:

In accordance with your request, the undersigned appraiser has formed an opinion of the fair market value of the parcel(s) identified above. Market value is defined by the Appraisal Institute as “the most probable price as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under duress.” *The Appraisal of Real Estate, Eleventh Edition, 1996, Appraisal Institute, Chicago, Illinois, pg. 22.*

An Opinion of Value Is Not an Appraisal

This report was composed solely to meet the City Assessor’s specific obligation described in the Legislative Code of the City of Duluth, Chapter 2, Article XXXIII regarding the alienation of real property owned by the city:

Sec. 2-176 (b). The city assessor shall furnish a written opinion and the basis for it, of the fair market value of the property at the time of the designation.

**It should be clearly understood that an appraisal has not been conducted. This report does not constitute an appraisal report nor should it in any way be construed or represented as such.**

The opinion of value offered in this report is based on the undersigned appraiser (1) employing his or her experiences with analyzing sales of real estate within and around the subject neighborhood as a routine part of contributing to the mass appraisal of taxable and exempt properties in Duluth for property tax purposes and (2) conducting a brief confirmation and analysis of the subject attributes and those of other real estate parcels which have sold and are considered comparable to the subject to confirm or amend his or her experiential judgement of value. Neither a highest and best use analysis was performed nor were all three approaches to value employed and reconciled.

Findings



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Utilities: None apparent -- City water, sewer and gas  
Zoning: I-W and I-G – 3,500 +/- Sq. Ft.  
Current Use: Vacant land--water front near 40<sup>th</sup> and 41<sup>st</sup> Ave West, Duluth

It is this appraiser's opinion that the fair market value of the parcel(s) identified above is:  
**\$1,750 to \$5,250**

Data

There are very limited land sales in the area for vacant land. There are sales of land in the Garfield Avenue area suggesting values of \$2.00 to \$3.50 per square foot but nothing in the last 12 months. The location at Garfield would be superior to this location where they are looking at adding a strip of land 10 ft. by 175 ft to an existing parcel of land. Those 2 strips of land have limited access and per our GIS mapping, adjoining wetland areas. Therefore, the value would be less than anything located on Garfield Avenue.

Conclusion

In my opinion, the fair market value of the subject property is **\$1,750 to \$3,500**. This opinion is intended solely and specifically to meet the City Assessor's obligation under the Legislative Code of the City of Duluth, Chapter 2, Article XXXIII regarding the alienation of real property owned by the city. This report is not to be used, construed, or represented as an appraisal or even a summary of an appraisal.

Respectfully submitted,

Terry Johnson, CMA  
Commercial Appraiser

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**QUIT CLAIM DEED**  
**Corporation to Corporation**

DEED TAX DUE: \$ \_\_\_\_\_

Date: May \_\_\_\_\_, 2012

**FOR VALUABLE CONSIDERATION, City of Duluth, a municipal corporation under the laws of the State of Minnesota, Grantor, hereby conveys and quit claims to Zenith Investment and Management Corporation, a Minnesota corporation, Grantee, real property located in St. Louis County, Minnesota, described as follows:**

All those parts of Lots 31 through 34, inclusive, lying southeasterly of a line parallel with and distant six hundred thirty (630) feet southeasterly from the southeasterly line of Oneota Street, New York Pier, ONEOTA, according to the recorded plat thereof.

SUBJECT to easements, restrictions and reservations of record.

Seller certifies that Seller does not know of any wells on said premises.

City of Duluth,  
a municipal corporation under the laws  
of the State of Minnesota

By \_\_\_\_\_

Its: \_\_\_\_\_

