

The Ordean ordeal

Will the city wake up to its power to stop the Red Plan?

Michael Kooi

Zenith City Weekly

Despite the intense opposition of some constituents to the school district's long-range facilities ("Red") plan, the Duluth City Council has struck a critical, but largely impotent, pose throughout the process.

Councilor Todd Fedora has advised those who contact him with concerns about the Red Plan to "keep the pressure on the school board."

On June 19, Councilor Garry Krause introduced a resolution to put those elements of the Red Plan requiring city approval to a non-binding public vote. His proposal failed 6-2.

Councilor Jeff Anderson responded to a constituent's criticism of his vote on the resolution with an email saying, "I am a Duluth City Councilor - NOT a *[sic]* ISD 709 School Board Member...I detest this plan and the harm it will have on our neighborhoods in the core of our city, BUT the City Council cannot stop this plan."

There's just one problem: When it comes to the Ordean site, that's not necessarily true.

The site design released to the public on January 12 will require a host of ordinances, variances, and other permissions that only City Hall can provide in order to turn the middle school into a high school, according to Keith Hamre, the city's Community Development Manager.

Given the project's cramped footprint and delicate environmental features, some of these items could make or break the viability of the site.

First and foremost, the city Planning Department

will have to approve the site's traffic plan. The department will use a traffic study, commissioned by the district and conducted by Short Elliott Hendrickson (a St. Paul consulting firm with offices in Duluth) to assess the impact on area traffic.

"We need to know what the change from junior high kids, who can't drive, to high school kids, who can, is going to do to traffic in the area," says Hamre.

The current design provides two access points — one on Superior Street (which would shoulder the bulk of the student traffic) and one on Fortieth Avenue East (which will accommodate deliveries).

The Planning Department can issue the traffic approval without going to the City Council. However, if the Planning Department is concerned about the impact on traffic, it can order the school district back to the drawing board.

If revised designs call for changing traffic patterns on city streets, closing roads, or spending city money, such actions must be approved by the City Council.

In addition, the city's Water Resource Management Ordinance stipulates that buildings must be 300 feet from Fortieth Avenue Creek, which flows through the Ordean site. Zones in which 30 percent of the surface area is rendered impervious (by roofs, asphalt, etc.) must be 150 feet from the creek.

"There are a lot of environmental issues on the site," says Hamre. "There are shoreland issues [and] there are wetlands issues we need to consider."

For this reason, the city may ask the school dis-

Continued on next page

Ordean Ordeal

Continued from front page

trict to complete an environmental assessment worksheet (EAW) before beginning construction on the site.

According to Hamre, the size and scope of the site places it within a gray area of state requirements: It's not large enough to require an EAW, but it's not small enough to fall into the "exempt" category – leaving the matter to the city's discretion.

The city can ask the school district to complete an environmental assessment worksheet before implementing the Ordean plan.

"We will look at any grading that [the district] plan[s] to do at the site," Hamre says. "As long as they stay far enough away from the shoreland zone, we probably won't ask for one."

But that may not be good enough for City Councilor Todd Fedora. "I think it's imperative that they do an environmental assessment," he says.

In addition to the potential water impacts, Fedora expressed concern over the impact that site construction would have on bald eagles nesting near the school.

U.S. Department of Fish and Wildlife guidelines prohibit any unpermitted building construction activities within 660 feet of bald eagle nests from late January through July of each year. Violation of these guidelines could incur hundreds of thousands of dollars in fines and lead to prison time for offenders. Much of the Ordean site falls within this radius.

The Water Resource Management Ordinance also limits the height of buildings at the site to 30 feet – five less than the height of the proposed building addition. To get the needed variances, the school district will have to prove to the City Planning Board that it faces a hardship not of its own making.

For the Ordean portion of the Red Plan to proceed, the City Council will also have to modify the City Zoning Ordinance to allow off-site parking.

In an effort to address resident concerns, the district has slashed the number of proposed parking spots from over 600 to under 300. Most of these lie within the current site footprint.

The plan calls for 77 parking spaces in a lot east of Fortieth Avenue – directly across from the site, but, technically, not on it. Not only is such use prohibited, but no provision exists within the current ordinance for granting a permit or exemption.

If the City Council refuses to permit the use of a

proposed lot on the east side of Fortieth Avenue, it is not clear where the district would find space for additional parking spots on-site without cutting into areas designated for educational purposes.

Hamre says the city Planning Department is reviewing options for modifying the ordinance, but is probably a year away from putting any recommendation before the City Council.

Even in cases where the Planning Department has sufficient authority to grant a variance, residents have the right to appeal to the Council before any action is taken by a city department.

"We are certainly going to take a look at each of these issues," says Tom Kasper, a Lakeside resident and spokesperson for Ordean Neighbors, a citizen group organized to resist this portion of Red Plan. Approximately 60 to 80 people have been coming to their meetings.

The group claimed a recent victory when the School Board tabled its use of eminent domain and scaled back the site design, almost to within the current middle school's property boundaries.

"We'll continue to talk to city councilors, county commissioners, and the mayor," Kasper says.

Despite the potentially significant nature of some of these obstacles, the school district remains confident that none of them will derail its final plan for the Ordean site.

"I am not aware of anything that would prevent the project from going forward," says Kerry Leider, the district's Property and Risk Manager.

However, as a result of forgoing the property acquisitions that would have expanded the site, the district will have to resubmit its plan for Ordean to the Minnesota Department of Education (MDE).

MDE's concerns about the site's relatively small size prompted the planned property acquisition in the first place. In reverting back to the smaller site, the district will have to convince MDE that it has addressed the department's concerns without following its advice.

As the extent of the city's role becomes clear, some city councilors have begun to examine their involvement in greater detail. Councilor Jim Stauber has called for a Committee of the Whole meeting to discuss the issues likely to come before the city with regards to the Red Plan.

This meeting will take place January 26 at 5 p.m. in City Hall. Superintendent Keith Dixon is expected to attend as well as Tom Kasper of Ordean Neighbors. The meeting is open to the public.

Discuss this article on [DuluthSolutions.com!](http://DuluthSolutions.com)