



**CITY OF LAKE ELMO**  
**3800 LAVERNE AVE**  
**LAKE ELMO, MN 55042**

Phone: (651) 777-5510

Fax: 777-9615

[www.LakeElmo.Org](http://www.LakeElmo.Org)

**Lake Elmo Planning Commission**  
**MEETING NOTICE**  
**Monday, October 24, 2005, 7:00 p.m.**

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Council Chambers  
Lake Elmo City Hall

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**AGENDA**

1. Pledge of Allegiance
2. Agenda
3. Minutes of October 12, 2005
4. PUBLIC HEARING: Variance to Shoreland – McAllister – 8883 Jane Road
5. PUBLIC HEARING: Building Moving Permit - Hardy
6. PUBLIC HEARING: Zoning Text Amendment – AG and RR – Delete OP as Conditional Use
7. Home Occupations
8. City Council Update
9. Adjourn

**City of Lake Elmo  
Planning Commission Meeting  
Minutes of October 24, 2005**

Vice Chairman Sedro called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Ptacek, Lyzenga, Fliflet, Deziel, Armstrong, Roth, Schneider, and Pelletier. STAFF PRESENT: Administrator Rafferty, Planner Dillerud, and Recording Secretary Schaffel.

**AGENDA**

M/S/P, Ptacek/Sedro, to accept the Agenda as presented. VOTE: 9:0.

**MINUTES OF OCTOBER 12, 2005**

M/S/P, Roth/Armstrong, to accept the Minutes of October 12, 2005. VOTE: 7:0:2 Abstain: Sedro, Pelletier-Absence.

**PUBLIC HEARING:**

**VARIANCE TO SHORELAND ~ McALLISTER ~ 8883 JANE ROAD**

The Planner explained the variance application for a home on Lake Jane. He reported that the applicant proposes rebuilding and expanding a deck and constructing a screen porch; and, that two previous Shoreland setback variances were approved for this property. The Planner questioned whether reasonable use of the property is precluded if the variance is not approved – particularly the screened porch.

Staff recommended Findings were as follows:

1. The property can be put to reasonable use without the granting of the variance requested. The subject residence has been enlarged within the OHW setback on two prior occasions after OHW setback variances were approved by the City. One of those variances involved a significant enlargement of the deck. Further deck enlargement and the addition of a screened porch as proposed by the applicant extends beyond the context of “reasonable use.”
2. The variance requested does results from circumstances unique to properties where principal structures were constructed prior to adoption of Shoreland Regulations; and, the circumstances of the variance were not solely created by the applicant in that context.
3. Granting of the variance will not change the essential character of the neighborhood.

The Planner stated that Staff recommends denial even though DNR has no problem as long as the deck remains behind the building line and there is no further encroachment toward the lake.

**Mr. McAllister, Applicant**

He said the existing deck has substantial rot, deck stiles are too far apart and his two small children can fall through. He said they have five children and the family cannot fit on the deck altogether without being on top of each other. He said he had spoken with John Hanson who said he will advise him shortly on lake tactics for mitigation, and how to make the plan more appealing. Mr. McAllister would like the Commission to table his application until he can make some of those recommended changes.

THE CHAIR OPENED THE PUBLIC HEARING AT 7:17 P.M.

Mr. McAllister said the deck is rather narrow and difficult to make room for all the family along with any neighborhood children.

THE CHAIR CLOSED THE PUBLIC HEARING AT 7:20 P.M.

Commissioner Ptacek said usually the reason for denying variances is additional encroachment to the lake.

Commissioner Deziel said his concern is that this initial request is for a deck and porch, and soon

someone will want an enclosed porch then a deck again on the same house. He said the applicant has more options than others have because of the depth of the lot. He said his main concern is the space toward the lake side being enclosed.

Mr. McAllister said his understanding was as long as they did not move closer to the lake than the existing deck's closest point, that it might be approved.

Commissioner Deziel said the applicant might not need a variance if they were not going closer to the lake. You do not need a variance to make a reasonable use of the property when the lot is large enough to build the deck elsewhere.

Mr. McAllister said the side of the house and the other side of the home faces the woods.

The Planner explained that the entire home is within the shoreland setback. Even if the screen porch is built on the other side of the house, there would just be less encroachment to the Shoreland setback.. He said that to reconstruct the existing deck requires no variance but to add something new is a different issue.

M/S/P, Ptacek/Deziel, to table the variance application for McAllister at the applicant's request. VOTE: 9:0.

The Planner said the applicant can return with this application when he is ready with new plans for no additional fees.

#### **PUBLIC HEARING:**

#### **BUILDING MOVING PERMIT~Hardy~92XX 31<sup>st</sup> Street**

The Planner explained the code requirements for moving a building into or within the city and that the applicant proposes to move a house and garage from across the street.

He reported that a grading plan has been submitted along with a site plan and septic design; and that, generally, the proposal appears to meet Code. He noted that applicant proposes a shared driveway. He suggested that shared driveways are avoided because they don't always work well between sharing neighbors in the long run..

The Planner said he received a phone call regarding concerns for that house on that lot.

The Planner reported that Staff recommends approval.

Commissioner Sedro asked what the City can do if the exterior finishing is not done within one year of issuance of a permit as specified in the Code.

The Planner said the applicant will be asked to post a bond or Letter of Credit to secure all improvements. He said that is the City's recourse should the improvements not be done within the time constraints.

Commissioner Schneider asked if there is an easement for the driveway. The Planner said the City has not received one, and there is already a driveway on that neighboring lot.

#### **Linda Hardy**

Ms. Hardy said they requested the shared driveway because they did not want to have to cut down more trees. She said the mover feels he can move the house in without cutting down the large evergreen and some cottonwoods. An easement description is drafted but not recorded.

THE CHAIR THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:37 P.M.

THE CHAIR THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:38 P.M.

M/S/P, Ptacek/Deziel to approve the application by David and Linda Hardy to move a house and garage to the non-conforming parcel across the street based on a Finding that the house and a garage are compatible with the neighborhood; and, upon the condition that the driveway access easement on the lot to the east be eliminated, and the driveway is reconfigured wholly on the subject parcel. VOTE: 9:0.

**PUBLIC HEARING:**

**ZONING TEXT AMENDMENT~AD and RR – Delete OP as a Conditional Use**

The Planner said that now as the City is awaiting the Comp Plan concurrence by the Met Council and the City Council is looking at the Village Area Plan, it might be prudent to dispense with OP projects for at least a few months. He noted that a sizable inventory of OP platted lots has been approved this year, and that should carry the market for nearly two years. He stated that Staff recommends retaining the OP section of the Code but making that section of the Code non-operative for several months by repeal of the AG/RR Conditional Use Permit provisions. He noted that he fully expected those provisions to be included again in some form some time during 2007 when the Comprehensive Plan is finally official and the Village Area Plan is adopted.

Commissioners asked if the plats in progress will have to wait.

The Planner said that those with approved Preliminary Plats and CUPs approved are grandfathered.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:44 P.M.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:45 P.M.

Commissioner Armstrong said that when OP was originally drafted, every open area was reguided with an OP designation. Initial projects were a learning experience for the City. The Code was modified to slow projects down a little bit and to offer another reasonable use of the property. He said it might not be bad to go back to OP Zoning again because the AG, RR, and OP kind of muddled those waters. He asked if the City can just do a moratorium on OP projects.

The Planner said usually moratoriums are area specific and that approach would be City-wide. This method might be cleaner.

Commissioner Armstrong said he has no problem giving the City and Council more time but not sure this is the most effective method for attaining our goal.

The Planner said landowners still have reasonable use of the land when density is still 1 per 10 in RR and 1 per 40 in AG.

M/S/P, Armstrong/Schneider, to repeal the CUP provisions of the OP Code for AG and RR zones until further notice.

Commissioner Sedro asked how this will affect DEER GLEN. The Planner said it will affect the OP portion of DEER GLEN however they still plan to build the church first. He expected that the OP portion would not be ready for review until Spring of 2007.

Commissioner Fliflet said she supports the amendment but not for in-progress or on-hold projects. She said the church and OP affect each other. VOTE: 9:0.

Commissioner Armstrong said he supports the goal but offered an alternative method.

M/S/P, Armstrong/Ptacek, to request the City Council look into a development moratorium for OP eligible parcels or a change in density rather than rescind this section of the Code, and he suggests that the City Council direct staff to review those alternatives. VOTE: 9:0.

## HOME OCCUPATIONS

The Planner said the Planning Commission reviewed Home Occupations in two workshops and he thought the Commission was looking at a two-tier structure for regulating home occupations. He looked at Code in three neighboring communities and copies were provided from Maplewood, Shoreview, and Oakdale. The Planner advised that would be an administrative burden to go into permits for each and every home occupation. He said he has some suggestions, and then perhaps the Commission would desire another Workshop that could be facilitated by Julie Bunn.

Commissioner Ptacek said that permitting and license enforcement without staff would be difficult. He said the standard could be if you can't see evidence of the home occupation from the road and everything else fits setbacks and Code requirements no City regulation should be necessary. He said we should not be concerned with the number of Party Lite Candles or Avon Perfume being stocked in a person's house. He said vehicles should be hidden away as well. He said there should be traffic standards to eliminate semi trailers and certain gross vehicle weight deliveries without sufficient notification. He suggested we incorporate some of the ideas from some other cities, narrow it down and finish the chart that was begun in the other two workshops.

Commissioner Sedro said we should be guided by health, safety, and general welfare, and impact to the neighborhood.

Commissioner Deziel said we could require a license for only so much traffic or visibility. 90% of businesses we don't even know are going on right now.

Commissioner Fliflet said that traffic is almost impossible to regulate. However the impact of semi trucks could be an imposition.

Commissioner Schneider agreed. He said we should look at signage, parking, and visible things. He said the City should not get in the middle between two neighbors.

Commissioner Fliflet said it would not be fair to measure business activity by neighborhood density.

Commissioner Armstrong noted that the ordinance from Shoreview is similar to Lake Elmo's philosophy. There are no specific uses and controls are external only.

Commissioner Schneider asked how you can regulate the amount of space used for a home occupation.

Commissioner Fliflet agreed it was inappropriate for the City to do that.

Commissioner Roth said if a resident is warehousing, eventually it will impact the neighbors.

The Commission reviewed Shoreview's definition. Nobody objected to it.

Commissioners Armstrong and Roth suggested that AG activities should not be regulated by this Code.

Everyone agreed with A. No signs. B. No outdoor display or storage.

They were concerned some items were subjective such as: C. Adverse effect on adjacent properties. D. No more than six delivery trips. E. Adequate parking and street parking.

Commissioner Ptacek said there should be no employees or retail customers.

Commissioner Deziel asked if they would differentiate between clients and customers like a person doing taxes.

The Commission agreed the home occupation must be clearly accessory to the principal use of the

structure. They think that employment becomes a time for licensing criteria.

Commissioner Lyzenga said it just should not be observed. It cannot be adequately measured. There should be no spotlight, no line of people, no money exchanged in the driveway. It should always maintain the appearance of a residential neighborhood and other than that is nobody's business.

The Commission discussed concerns about externalities like deliveries, vans, trucks, etc.

Commissioner Sedro suggested removing Item I. She said on site business vehicles are not appropriate in a residential driveway.

The Commissioners were unsure how to deal with hours of operation.

M/S/P, Ptacek/Schneider, to direct staff to incorporate discussion ideas and acceptable portions of the Shoreview Municipal Code pertaining to home occupations, and draft an ordinance in table form to bring back to the next Planning Commission Meeting. VOTE: 9:0.

#### **CITY COUNCIL UPDATE**

The Planner said the City Council approved the development stage plan, cup, and preliminary plat for SANCTUARY. They approved the CUP for Country Air Golf, the CUP for Oakdale Gun Club, and the Variance for a garage for Fazzone.

The Planner said the 2008 System Statement he received is generally compliant with the current draft of the Comprehensive Plan draft. He said there is one map in the System Statement that creates a problem and the City has sixty days to respond. He said he is still working on amendments to technical content in the Comp Plan. He reported that the City Council is having a Comp Plan Workshop on November 7. There will also be a Parks Trails Workshop on November 3 at 6:00 p.m.

The meeting adjourned at 8:40 p.m.

Respectfully submitted,

Kimberly Schaffel  
Recording Secretary