

**City of Lake Elmo
Planning Commission Meeting
Minutes of January 23, 2006**

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

Agenda

M/S/P, VOTE: 9:0.

Eliminate 8-Home Occupations, replace with 8-Met Council Communication. 7B-Proposed Joint Community Playfield with Oakdale.

Welcome New Commissioner

The Planner related the City Council actions relative to the Planning Commission's composition. Laurie McGinnis was appointed 2nd Alternate Member and granted a Leave of Absence until she gets her Master Degree in June. Bob Van Zandt is now 1st Alternate Member and Julie Fliflet is now a Full Voting Member.

Election of Officers

Commissioners Ptacek and Armstrong nominated Commissioner Helwig for Chairman.

Commissioner Roth nominated Commissioner Armstrong for Chairman, and Commissioner Armstrong did not accept the nomination.

M/S/P, Ptacek/Armstrong to nominate Bob Helwig as Chairman. VOTE: 8:0:1 Abstain: Helwig~Modesty.

M/S/P, Helwig/Armstrong to nominate Commissioner Ptacek as Vice Chairman. VOTE: 8:0:1 Abstain: Ptacek~Modesty.

M/S/P, Roth/Ptacek to nominate Commissioner Pelletier as Secretary. VOTE: 8:0:1 Abstain: Pelletier~Modesty.

Commissioner Ptacek thanked Commissioner Sedro for her work and time served on the Planning Commission.

Minutes of January 9, 2006

M/S/P, Deziel/Lyzenga to accept the Minutes of January 9, 2006 as presented. VOTE: 6:0:3 Abstain: Armstrong, Ptacek, and Schneider~Absence.

Variance: 4473 Olson Lake Trail (Continued)

M/S/P, Deziel/Schneider to take from the table The Flanagan Variance. VOTE: 9:0.

Planner Dillerud explained that the applicant after tabling his application and waiving the 60 day review period, has revised his plans for the home remodel and expansion in order to reduce the horizontal encroachment into the Ordinary High Water Mark. The site is located on Lake

DeMontreville. The applicant proposes to remove the two decks and convert the sunroom into a covered deck. He has also removed the encroachment into the sideyard setback area.

Chairman Helwig said the two decks were the primary problem last time and asked if the applicant still requires a variance. The Planner said most of the home today is within the shoreland setback, and any work performed to the structure would require a variance and that the addition that squares off the building creates further encroachment.

Commissioner Schneider asked if the concrete patio is there today. The applicant said yes.

Patrick Flanagan, Applicant

Mr. Flanagan said they took off the decks and the sunroom will be converted to an open air covered deck. He said the area where the sunroom meets the house still has to be protected from the elements to prevent further deterioration.

Commissioner Roth asked about 6X8 opening by the area where the patio was previously planned. The applicant said there will be no deck there, just doors to the outside.

Commissioner Pelletier said she is concerned about the size of the home of the neighbors. The Planner said the conversion to the open air porch eliminates about 350 square feet of living area.

M/S/P, Deziel/Van Zandt to recommend approval of the variance application for a remodel and addition to a house at 4473 Olson Lake Trail based on the findings that the lot was platted before current zoning and the shoreland overlay district were established, the proposal is deemed to be reasonable, and it will not alter the character of the neighborhood in any negative fashion, pursuant to the condition that plans are modified to reflect the open air porch. VOTE: 8:0:1 Abstain: Ptacek~Absent from last meeting.

Zoning Code Text Amendment: Vineyard Wedding Business as AG Use

The Planner explained there is an existing vineyard just north of Carriage Station on 55th Street. The Zoning District is AG. Uses conditional and permitted on AG lands today generally relate to the existing use. The Commission was asked if this proposed use would be in the best interest of the City, and if so, should staff publish a public hearing notice for a Zoning Text Amendment.

Commissioner Ptacek asked about consumption of alcohol and liquor licensing questions. Not knowing the answer, he would suggest it as a Conditional Use.

Commissioner Schneider asked about parking when there might be 300 or more guests on ten acres.

Commissioner Deziel asked if this would be more like a garage sale or a permanent store. Perhaps if the plan is for this use on an occasional basis then liquor licensing could be handled on an occasional basis as well. He asked about advertising and whether the applicants would be trying to attract more business.

Commissioner Armstrong mentioned a snowmobiling event request by Green Acres but the noise factor put the kibosh on it. Issues of concern for him are the noise factor (such as a band), parking, permanent or tent structures only, whether we would allow a permanent building, sufficient toilet facilities would be necessary. He said perhaps these events could be limited to summertime. Liquor licensing and frequency of events are other concerns. He said it would

probably fit in with the natural setting in the AG Zone but we have to address these other factors. We have CUP s in the AG zone such as greenhouses, kennels, and stables. We would want conditions established in advance for wedding receptions so everyone knows what to expect.

M/S/P, Armstrong/Ptacek to direct staff to come back with a draft ordinance in the next few weeks.

The Planner said he will investigate how this use is regulated in Stillwater. He agreed with Commissioner Armstrong about it needing to be a Conditional Use.

VOTE: 9:0.

Drive-up/Drive-through Facilities for Table Service Restaurants in the GB Zone

The Planner introduced the request for a minor site plan modification for a drive-up window at Gorman's Restaurant. The City Code says restaurants with table service are all that are permitted in the GB Zone. Council agreed that clause was designed to preclude fast food restaurants in the City. The Council sustained the administrative decision to deny Mr. Gorman's request but directed that the Planning Commission review the Code to determine if it could be modified to allow a drive-up window without violating the original ordinance intent. The Planner believes it can. Oakdale's ordinance distinguishes fast food from classic restaurants. Order boards differentiate them partly because of lights and attendant noise.

Commissioner Van Zandt said Applebee's and Chili's car side to go is a successful model because you would not want to order food and then wait for it. The order must be placed in advance. He said this presents convenience for young parents and elderly people. He thinks there is a need for it in the City as long as it is controlled.

The Planner said Oak Park Heights addresses bank drive-up facilities very well. They must have room for stacking of automobiles on-site. There is room at Gorman's but there would not be room at the Lake Elmo Inn or Twin Points.

Mr. Gorman said he wants a limited menu board of coffees and ice cream cones. He would face it to the south with a 70 db squawk box. Commissioner Armstrong said that makes it more difficult for the Planning Commission to accommodate the request.

Commissioner Armstrong said an intercom and menu board would prohibit it. Commissioner Pelletier is against any kind of intercom, menu board, or drive-up window. She suggested car side to go. Chairman Helwig agreed. Commissioner Lyzenga asked about a walk-up window instead.

A Straw Poll was conducted to see which commissioners would be in favor of a menu board/intercom system. 0: menu board/intercom system. Another Straw Poll was conducted for car side to go versus a drive-up window. 5: drive up window without menu or intercom. 9: car side to go. A Straw Poll was taken to determine if the Planning Commission would like to take up this matter. All 9 commissioners agreed.

M/S/P, Ptacek/Deziel to direct staff to draft an ordinance allowing window service without a menu board and without an intercom system allowing this type of use of a restaurant in the GB Zone. VOTE: 7:2 Nay - Lyzenga/Pelletier, Lyzenga expressed concern about getting cars to the window in an orderly fashion. Pelletier is worried about a negative precedent. PASSED.

The Planner said the City Council wants to see this back in February so he will try to draft something to bring back soon.

Proposed Joint Community Playfield with Oakdale

The Planner said the City Council has requested a recommendation for a joint playfield with Oakdale in Lake Elmo at northeast corner of Ideal and Stillwater Boulevard.

The Administrator explained the history of the donation request from 3M for a park for the City of Oakdale. 3M offered them land in Lake Elmo. After discussions and meetings, it has matured to a possibility of joint ownership of the land and in terms of capitalization, maintenance, and government and field scheduling. Staff held out for joint governance and joint input on design. Eventually our population will be close to theirs but meanwhile we are only 30% of their size. So there might have to be consideration of proportionate terms in the meantime until we grow.

The City Council asked if this is something we want to attempt, and do we want to take the next step to create a development agreement. The Parks Commission unanimously recommended doing that.

The Planner explained the City's need for ballfields today and into the future. He said the Park Plan is 15 years old. Oakdale is about where we will be at 2030 for population. They have a significant community playfield but it is not enough for their needs. An Old Village community playfield would still be needed in the future. He said it makes sense from a Planning standpoint.

Commissioner Deziel asked about new zoning with RAD2 on the parcel north of Highway 5. He said it would be the nearest Lake Elmo development to this. Commissioner Ptacek agreed with Commissioner Deziel and the Planner. He also said there are not enough dates and times and fields available in Lake Elmo and Oakdale.

Commissioner Armstrong would want this park for ages 18 and under and daylight facilities only, no lights on this field. He said it is probably better to create a park here near the railroad without displacing homes and REC units, and it would be a good partnership with Oakdale for the future.

The Planner clarified the proposal is for youth only.

Chairman Helwig used to be on the Parks Commission in Oakdale and he said the Oakdale Athletic Association and the Parks Commission there are two distinct entities. The Athletic Association does all the scheduling and they will get lights if they want them.

Commissioner Schneider said the City is sacrificing 26 acres for no houses and no taxes. We should get more than 50% use of this park.

The Administrator said the Cities are insured by the League of MN Cities so liability is not a problem.

M/S/P, Ptacek/Deziel to recommend taking the next step to continue the discussions. VOTE: 9:0.

Met Council Communication

The Planner said a letter was received by courier today from Chairman Bell saying the materials submitted on January 6, 2006 still do not put us in the complete category, and he's getting tired of it. We have until February 1, 2006, to get our Comprehensive Plan complete or he will ask the board to begin litigation against us.

The City Council will conduct an Emergency Meeting on January 24, 2006 at 6:00 p.m. to address this issue.

The Planner said that tree major issues remaining are the Village Master Plan detail, the Affordable Housing component with quantities of about 40 acres guided for 5-6 units per acre, and the conditions to the extension for submission the City received in July. The Metropolitan Council is insisting we include the remedial measures in our Comprehensive Plan as text.

City Council Updates

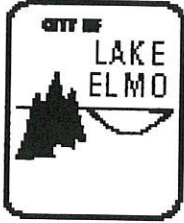
The Planner said the Council upheld two administrative determinations and dealt with a sewer issue.

Adjourned at 8:38 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kimberly Schaffel".

Kimberly Schaffel
Recording Secretary



City of Lake Elmo

3800 Laverne Avenue North
Lake Elmo, Minnesota 55042

(651) 777-5510 Fax: (651) 777-9615
www.LakeElmo.Org

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will hold its regular meeting on
Monday, January 23, 2006, at 7:00 p.m.

AGENDA

1. Welcome New Commissioner
2. Election of Officers
3. Agenda Approval
4. Minutes
 - a. January 9, 2006
5. Continue: Variance ~ 4473 Olson Lake Trail
6. Zoning Code Text Amendment – (Carol Palmquist)
Vineyard Wedding Business as AG Use
7. Council Direction - Planning Commission Review
Drive up/through facilities for table service restaurants in the GB zone
8. Home Occupations
9. City Council Update
10. Adjourn

The public is invited to attend.

**City of Lake Elmo
Planning Commission Meeting
Minutes of January 9, 2006**

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

Agenda

M/S/P, Sedro/Roth, To accept the Agenda as presented. VOTE: 8:0.

Minutes

Commissioner Fliflet said she made the motion on page 3 regarding off roads trails to on road trails in the Minutes of December 12, 2005 and it was seconded by Commissioner Roth. M/S/P, Sedro/Van Zandt, To accept the Minutes of December 12, 2005 as amended. VOTE: 8:0.

M/S/P, Sedro/Van Zandt, To accept the Minutes of December 19, 2005 as presented. VOTE: 7:0:1, Abstain: Fliflet-Absence.

Public Hearing: Variance ~ 4473 Olson Lake Trail

The Planner explained the applicant wishes to remodel and substantially add to the existing home. A portion of the home is within the 100 feet setback from the lake. The existing garage is not within the OHW setback, however, the addition to the garage would be. A shoreland variance was approved in the past for a septic system a distance of 65 feet from the OHW of the lake. He said the applicant proposes a second story where a walkout now exists, to enclose the area between the house and garage, and to add a sunroom, a deck, and a cantilevered 4 foot deck on the second story of the house. He noted that if not for the proposed expansion behind the garage, there could be a place for the deck that did not further encroach into the OHW.

The Planner reported that Valley Branch Watershed District requested guttering to divert water away from the lake. The DNR only commented on the proposed deck and objects to the additional encroachment into the OHW setback as a result of the deck.

The Planner noted that the septic system design is for a four-bedroom home and five bedrooms are on the plan, however the downstairs room is eliminating a closet so the home could be considered four bedrooms.

Commissioner Deziel asked if there were ordinances regulating a size of the house other than setbacks and lot size. The Planner said yes, 6,000 square feet footprint is the maximum size of a house in the Shoreland.

Patrick and Ann Flanagan, the applicants introduced their son, daughter, and adjoining neighbors.

Scott Wesch of Westcott Construction, Contractor

Mr. Wesch said the existing garage is a two-story. There is living space beneath the patio. The home was built in 1962, when flat roofs were the norm. It was manufactured by Durock, a panelized, modular construction. Durock is a precast, autoclaved cellular concrete or Swedish

gas concrete panel. These are lightweight panels. The home has a basic foundation, the footings, concrete block, and then Durock within the concrete blocks, wall panels of Durock, the main floor is also made of concrete panels of Durock, upstairs walls, and the exterior roof system are Durock, and interior walls are made of Durock, some of which are supporting walls. Inside there is no interior wall or wall cavity, there is plaster directly over the Durock. At some point they paneled over some of the Durock. There is no insulation, no wall cavities, floor cavities, or attic spaces. Those are also places for plumbing, electricity, HVAC, and ductwork. It is all paneled, and it is energy inefficient. There is a great deal of decay and structural rods are revealing themselves. They do not know if the house is going to fall down. There is no data to make a determination of structural integrity. It is impossible to know if it would be safe to relocate a window, cut into a wall where HVAC could be placed, or determine if a doorway could be moved. Therefore, they recommend removing the structure down to the basement.

Mr. Wesch said the original drawings for the home reveal the house was not built to the specifications of those plans. The basement foundation, walkout wall to the lake, and main floor can be preserved. The nature of the construction offers little opportunity to work within the existing footprint or existing walls. The entire home is a hardship for The Flanagan's.

Patrick Flanagan, Applicant

Mr. Flanagan presented his calculations for the size of the house. He said there is an increase of 17%, on the main level 18%, and going up one floor results in 56% increase over all in the volume of this house. He did not know he was being challenged vertically for encroachment. He did not know he could not go to a second floor. Without going to a second floor, he would not be able to go forward with this plan; it would be cost prohibitive. They have lived here twenty years, and want to retire here. They left one bedroom on the main floor in case they cannot get upstairs in the future. The only way to get back the money he is investing is to increase the size. There are three two-story walkouts in his neighborhood, including the mayor's house. There are two-story walkouts on a lot of neighbor's parcels. Another costly factor is the need to have a road side face and a lake side face. There will be more trees lost for the septic system. He is asking for the vertical variance tonight.

He said that his house is situated between houses, one built in 1969 and one built in 1993 when setbacks were changed. It makes it look like he is standing out there (toward the lake) all by himself.

He handed out a diagram indicating the line between neighbors showing him sticking out. However, he said a second line drawn across the four houses northwest that were built around when his was built show that he is behind the setback line. He asked if it is fair to judge him against houses built after the setback was increased in the City Code or if it is fairer to judge him against houses built before the OHW setback was created.

He said that there is one window air conditioner in the house, and it is difficult for a family member with allergies.

Mr. Flanagan said his Landscape Plan is to redirect water, put in some plantings, but nothing specific. He said that his garage is not on a slab on the ground. This garage has to be heated to protect it in the future. The reference to the three car garage is not accurate, he has to heat that area. You could get a car in but not out again due to the grade.

When asked about the color for the structure, Mr. Flanagan said the bottom level walkout area

would be stone, then the siding above will be a light neutral color, in earthtones.

Commissioner Sedro asked if a structure be a cause for hardship.

The Planner said a hardship can be based on unique physical characteristics of the property. The commission could include or exclude construction as they see fit.

Commissioner Van Zandt said it sounds like this house is somewhat doomed. He asked the prediction if they don't do something.

Mr. Flanagan said besides all the water damage every time it rains. He has had the chimney re-tuck-pointed, the chimney rebuilt, the roof repaired, latex fill coating, and nothing has stopped the water at all. They want to attack the problem before a car goes through the floor of the garage. You can pull on some of the concrete and the rebar is seen to be rusting behind it.

Scott Wesch

Ceiling panels are over the garage and patio area. He said he cannot get good advice about these panels anymore. He said they may get good information if they could find an engineer who worked for Durock. He said they do not fully understand the structural integrity of the home. Also, the elevations preclude moving further up the hill because they would have to dig too far into the hill.

Commissioner Lyzenga asked what would happen if once they began that you find you cannot salvage any of it.

The contractor said the existing concrete perimeter block is there, and they will maintain the main floor. The ceiling for that main floor will stay because it has never been exposed to the weather.

Commissioner Lyzenga asked if they are comfortable with putting this kind of weight on a lightweight material. Mr. Wesch said there is an I beam with steel in there. There are structural issues also on the walls facing the lake. He said there is never a plan for finding out something is terribly wrong once they tear down to the foundation.

Commissioner Lyzenga said she thinks it would be best to tear the house down and start over.

Commissioner Deziel asked if the applicants could move the decks to the side or somewhere else so there is no additional encroachment to the lake.

Mr. Flanagan said the deck plan is for the patio door off the kitchen. He said he walked the lakeshore and there are some homes that have 100% of their lakeside as decking some encroaching way into the OHW. He thought his request was modest by comparison. He said he could adjust the one off the kitchen but is unsure what to do about the one upstairs. He is more concerned with the vertical concerns.

Commissioner Deziel said he is more concerned with horizontal encroachment. He asked the applicant if he would be willing to remove both decks from his application.

Mr. Flanagan said he needed time to consider that question.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 8:02 P.M.

John Holm, neighbor northwest

Mr. Holm said he looks at the aesthetics around the shoreline, and there are a lot of three-story houses on the lake. Some of the houses that are there are like hotels. His and Flanagan's house, because of the topography, seem farther off the water. He said he and his wife support the proposal, and they are adjoining neighbors.

Michelle Hills, neighbor south

Ms. Hill said they built their home in 1994 after setbacks had changed. At that time of new construction, they were told to build a larger two-story home. They asked the lot owner to approve a walkout rambler instead. Next door on their other side is the Olson House, a two-story house. They think the Flanagan's proposal would only be an improvement to the neighborhood.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 8:06 P.M.

Commissioner Fliflet said the applicants made a strong case for hardship due to the structure. The issue for her is the request to build a home significantly bigger. She sees no problem with the two-story look with a lot of trees on the lot. She does not think it will stick out like a sore thumb. She thinks it will be much more attractive and will increase neighboring property value. The decks are a sticking point for her.

The Chairman took a Straw Poll on the two-story aspect of the home, and all agreed that was okay. He then took a Straw Poll on the encroachment into the OHW, and only one agreed the deck would be okay.

The Applicant requested tabling the application.

Commissioner Deziel asked for additional landscaping plans. He said the septic should be sized for five bedrooms if you are going to construct five bedrooms. Darker colors are better. He said that going up vertically is more energy efficient and creates a smaller footprint.

Commissioner Sedro said she is against any new impervious surface within the OHW setback even if it is no closer to the lake, such as for the garage area.

The Planner said one of the best options might be to move the deck where that sun room is now proposed..

M/S/P, Deziel/Sedro, To table with consent of the applicant. VOTE: 8:0.

Commissioner Sedro said her objection would be based upon the requirement of the state variance statute- that the variance granted is to be the least variance possible. Since the scope of the proposed finished size of the home is so large and possibly threatening to change the character of the neighborhood, the City should be that much more careful in granting the least possible variance with respect to new impervious surface within the high water mark.

City Council Update

The Planner reported that the Council approved an Amendment to the Comprehensive Plan for the Trail Guide Plan with a list of 14 adjustments to be sent back to the Parks Commission. They approved modification to the 2030 Comprehensive Plan to accommodate the text covering the

APPROVED: 1/23/06

Village Area Plan and the Metropolitan Council Resolution 2005-20 . The Resolution will be placed into the Appendix, but the conditions are addressed within Chapter III of eh Plan. He reported that the City Council adopted the Plan modifications unanimously; and, Chapter III was restructured and submitted to the Met Council on Friday.

The Planner said that on December 30, the City presented its objections to the 2008 Metropolitan Council Systems Statement to the Met Council Land Use Advisory Committee. He noted the Met Council attorney suggested that the City's objections were a matter process rather than content. He reported that the Committee will report its findings in 30 days and the Metropolitan Council Board will make a final decision within 30 days thereafter.

The Planner said the City was served a lawsuit by seven plaintiffs who own property along I-94 Corridor. That complaint asks for three things. Ask the court to roll back the clock to the last list of modifications (pre MOU) so sewer gets to that area of the city first. Then, if the City does not modify its Plan as the plaintiffs demand, the Met Council be mandated by the court to draft a Plan that complies with the plaintiffs demands and make the City adopt and comply with that Plan. The plaintiffs also ask the court to find that the City has created a procedural "taking" of their property by the Comp Plan Staging Plan and demands damages.

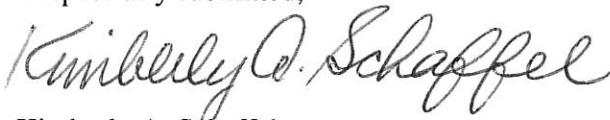
The Planner said that the City is by the League of Minnesota Cities for this type of litigation and will defend the case for the City.

The Planner submitted a letter from an applicant for the commissioners to review for the next meeting agenda.

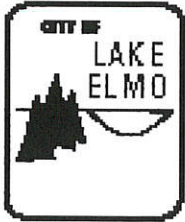
It was reported that at the Council Workshop January 10, the City Council will conduct interviews for Planning Commission; and that The Election of Officers for the Planning Commission will take place at the next Planning Commission Meeting.

Adjourned at 8:35 p.m.

Respectfully submitted,



Kimberly A. Schaffel
Planning Secretary



City of Lake Elmo

3800 Laverne Avenue North
Lake Elmo, Minnesota 55042

(651) 777-5510 Fax: (651) 777-9615
www.lakeelmo.org

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will hold a Special Meeting on
Monday, January 9, 2006, at 7:00 p.m.

AGENDA

1. Agenda Approval
2. Minutes
 - a. December 12, 2005
 - b. December 19, 2005
3. Public Hearing: Variance ~ 4473 Olson Lake Trail
4. City Council Update
5. Adjourn

The public is invited to attend.

Note: Election of Officers will take place on January 23, 2006.