

**City of Lake Elmo
Planning Commission Meeting
Minutes of August 28, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.
COMMISSIONERS PRESENT: Roth, Schneider, Armstrong, Van Zandt, Lyzenga, Pelletier, Ptacek, Fliflet, Deziel (7:02 p.m.), and McGinnis (7:05 p.m.). STAFF PRESENT: Planner Dillerud, Assistant Planner Matzek, and Recording Secretary Anez.

Pledge of Allegiance

Agenda

M/S/P Armstrong/Van Zandt, to accept the Agenda as presented. Vote: 9:0.

Minutes

Minutes for August 14, 2006 were postponed.

PUBLIC HEARING: Variance for 2nd Accessory Building at 11459 60th Street North

The Planner explained that the application is to add an old barn on adjacent lands that used to be part of this homestead years ago. There is an existing house and pole building on the homestead parcel to which the old barn would be added. Adding the land with the barn cannot be done without the variance to allow a second accessory structure. Granting the variance would eliminate one non-conformity, an accessory structure (the old barn) on a parcel without a primary structure. The Planner recommended that if the Commission recommends approval, that the approval be conditioned upon a lot line adjustment or minor subdivision action to place the old barn on the homestead parcel.

Richard and Eileen Bergmann, Applicants

Mr. Bergmann said the barn is currently used for cattle and hay. Water and electricity serve the barn from the house. The previous owner told him that the barn was placed outside the home parcel in case someone wanted to convert the barn to a home.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:15 PM.

Nobody came forward to speak.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:16 PM.

Commissioners asked if future Highway 36 upgrades would impact this parcel. The Planner said that there will be an adjustment for the driveway access to the homestead, moving the access to the homestead parcel west to serve this parcel and the adjoining parcel to the west.

M/S/P Deziel/Van Zandt, to recommend approval of the variance for a second accessory building at 11459 60th Street North based on the Findings and recommendations of the City Planner and subject to the condition that there be a lot line adjustment or minor subdivision approved as determined by the City Attorney. Vote: 9:0.

Zoning Ordinance

The Planner said there are several areas of Code not yet addressed and he asked the Commission how they wished to address them.

Home Occupations – The Commission chose to include the Code amendments they have recently recommended to City Council.

Adult Entertainment/Uses – Staff will bring back recent information from the League of MN Cities regarding the need to include zoning ordinance regulations for this use. The use may be simply prohibited under certain conditions prescribed by the 2006 Legislature. Those provisions may still be challenged as unconstitutional.

Outdoor Lighting – The Commission will address it as part of their Annual Work Plan. Include the existing Code language in the new Zoning Ordinance draft.

Signs - The Commission will address it as part of their Annual Work Plan. Include the existing Code language in the new Zoning Ordinance draft.

M/S/P Deziel/Roth, to incorporate Home Occupations as recently recommended to the City Council; to include Signs and Lighting as they exist in the current Code, and await more information on Adult Uses. Vote: 9:0.

Commissioner Armstrong- Page C1 of clean copy, Exceptions under A at the bottom. There was a longer list of uses. Ag Uses, except those uses that require a CUP.

Page C14, Back, Purpose, in the middle of the page, allowing non-conforming uses.

M/S/P Armstrong/Roth to strike the last two sentences beginning, "...it is necessary and consistent on Page C14, and on Page C15 in the middle, C 1A, non-conformity is "discounted" should say "discontinued". Vote: 9:0.

The Commissioners said in D2A, no home should be allowed without a Certificate of Occupancy.

B 1st paragraph, Continuity of Streets, remove "systems" and, leaving "standards employed by the City".

M/S/F Armstrong/Fliflet, to strike Item C under Grading and Drainage because it is superfluous. Vote: 2:7.

M/S/P Armstrong/Deziel, to strike Item D under Grading and Drainage because it is superfluous. Vote: 8:1, Nay-Ptacek.

After further discussion, the Commissioners decided that the drafting approach being taken with the new Zoning Ordinance needs to change. The Planning Commission would like to use the existing Code as a drafting basis, with staff pointing out deficiencies and offering proposals for new language. The standard should be using what is now in the Zoning Ordinance with suggestions for how it may be improved, and should be reformatted. The Commission expressed its desire to maintain current rights, possibly expand them, and seldom restrict them further. .

The Commission also discussed using different model ordinances - something other than Plymouth and Oak Park Heights. Northfield was suggested. It was suggested an ordinance that would reflect a rural contemporary city should be located.

The Planner said that organization is the number one problem with the existing Lake Elmo Zoning Ordinance and the number two problem is outdated standards that were written in response to particular circumstances that are many times long forgotten..

City Council Update

The Planner said that at the August 15 meeting, the City Council approved a variance for a drainfield setback encroachment ; CUP and site plan for a veterinary clinic; and shoreland variance and final plat for C & C North America with the condition that their exterior surfacing comply with the City Code. The Commission also adopted an interpretation regarding the allowable size of Accessory Buildings in non-conforming AG as recommended by the Commission and directed staff to process a text amendment to make that interpretation clear in the ordinance.

Having no further business before them, the Chairman adjourned the meeting at 8:37 p.m.

Respectfully submitted,



Kimberly Anez
Recording Secretary



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NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, August 28, 2006, at 7:00 p.m.

AGENDA

1. Agenda Approval
2. Minutes POSTPONED
3. PUBLIC HEARING
Variance~Second Accessory Building: 11459 60th Street North
4. Zoning Ordinance
5. City Council Update
6. Adjourn

**City of Lake Elmo
Planning Commission Meeting
Minutes of August 14, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: McGinnis, Van Zandt, Deziel, Ptacek, Fliflet, Armstrong, Lyzenga, Pelletier (7:03 p.m.). STAFF PRESENT: Planner Dillerud, Assistant Planner Matzek, and Recording Secretary Anez.

Agenda

M/S/P Ptacek/Deziel, to accept the Agenda as presented. 8:0.

Minutes

M/S/P Ptacek/Van Zandt, to accept the Minutes of July 10, 2006. 6:0:2, Abstain: McGinnis/Armstrong-Absent

M/S/P Ptacek/Armstrong, to accept the Minutes of July 24, 2006. 5:0:3, Abstain: McGinnis/Fliflet/Van Zandt-Absent.

M/S/P Ptacek/Deziel, to accept the Minutes of July 31, 2006. 7:02, Abstain: McGinnis/Van Zandt-Absent.

PUBLIC HEARING: Septic Variance for 8320 Hidden Bay Trail

The Planner explained the applicant's septic system is failing and when the system was installed in 1981, the drainfield was installed very close to the property line. The system designer suggests utilizing the area adjoining the existing drainfield due to the layout of the lot and the location of the current system. That brings the new system trenches within three feet of the property line and three feet of the garage slab. The neighbor adjacent to the proposed setback encroachment has no objection according to a letter submitted.

Staff recommended approval based on the following Findings:

1. The property can not be put to reasonable use without the granting of the variance requested. The property can not be put to any continued residential use without a properly functioning septic system. As a platted parcel with an existing home, residential use is a reasonable use of the property.
2. The variance requested does result from circumstances unique to this property related to the location of the existing septic system in 1980. There is no alternative location feasible for the system reconstruction and enlargement required to render the system fully functional.
3. Granting of the variance will not change the essential character of the neighborhood since all proposed improvements will be below grade.

The Planner said the previous system was designed for three bedrooms, and the new system is designed for four bedrooms. There are currently four bedrooms in the home.

Diane Swanson, Applicant

In response to questions about alternative sites for the septic system, the applicant said that the lot slope is not easy to see on the drawings. The garage is at the road level. They are downhill

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from the neighbor so it decreases the likelihood of anything draining onto the neighbor's property. They became concerned about the septic system over time; the home was built in 1950's. The designer was recommended because he is noted for his ability to work on difficult properties. They want to make it environmentally friendly.

Richard Dana, JET Construction, General Contractor

Mr. Dana advised the Commission that the septic designer said that proposed drain field location was the only suitable location on the parcel. He informed the Commission that the grade is very steep from the street side to the lake side of the parcel which eliminates much of the site as a potential drain field site. Variances would be required on the west side of the property if the system was placed there as well, and that adjacent owner's home is even closer to the property line than the one on the east.

Several commissioners noted that the survey map indicates trees and bituminous walkway where trenches are proposed to be dug.

Mrs. Swanson said that the major trees will remain, and observed that the entire parcel was heavily wooded. Some tree removal would be necessary wherever the drain field would be constructed. She also noted that the neighbor's well on the west side is very close to the property line.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:38 P.M.

Nobody came forward to speak.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:39 p.m.

M/S/P Armstrong/Fliflet, To recommend approval of variances for septic drainfield setbacks at 8320 Hidden Bay Trail based on Findings and recommendations of the City Planner and plans staff dated August 9, 2006, based on the facts that the applicant is bringing the system up to Code, it is away from the lake and somewhat farther from the neighbor than the existing drainfield. 7:2, Nay-Deziel and Ptacek.

PUBLIC HEARING: Conditional Use Permit for Veterinary Clinic at 11051 Stillwater Boulevard

The Planner explained that the site is the former Harty Insurance Building on Highway 5. The applicants own Cedar Pet Clinic on Lake Elmo Avenue and have a 1997 Conditional Use Permit for that site. They now propose to relocate the clinic to this site.

The Planning Staff Report suggests proof of parking and only a portion of the parking be constructed.

Dr. John Baillie, Owner/Operator of Cedar Pet Clinic

Dr. Baillie said his business is growing and they need more space. The new location downtown is what attracts them to the site. They have had no complaints, and they are good neighbors. His clinic is 40 feet from nearest home now. Much of his practice is not dogs. They have been in Lake Elmo since 1997. They are willing to work with the proof of parking, and they find the recommendations of the Planner to be reasonable.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:53 P.M.

Harold Arndt, 11079 Stillwater Boulevard

Mr. Arndt said he lives next door to the Harty Building. He and his sister have been there 51 years. He stated that the clinic would devalue their property. He is worried about barking dogs, and kennels mean that animals would be barking day and night.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:55 P.M.

The Planner said there will be no outside kennels or runs as a condition of this permit.

The applicant said he would give the neighbor his home telephone number should there ever be a problem, he could phone any time day or night. Indoor kennels would be located toward the restaurant and away from Mr. Arndt's home.

M/S/P Ptacek/Van Zandt, to recommend granting a Conditional Use Permit for Veterinary Services and the Section 520 Site Plan for site modifications to Dr. John Baillie and Gary Harty at 11051 Stillwater Blvd. based on Findings and recommendation of the Planning Staff Report and plans staff dated August 9, 2006 and with six Conditions in the staff report. 9:0.

Zoning Ordinance

Planner Dillerud stated, after speaking with the city attorney, staff will not be allowed to handle any variances administratively, no matter how minor, due to Lake Elmo being a statutory city.

The City Planner advised the Commission that the Lighting Ordinance text provided at this time is largely lifted out of the City's existing ordinance. The Planner thinks there are some internal inconsistencies

Commissioner Pelletier reminded the Commission that the Lighting Ordinance is part of the Planning Commission Work Plan for 2006. That subject could be set aside for now and handled separately or tackled now as part of the new zoning ordinance preparation.

It was the consensus of the Commission to continue to include the exterior lighting standards in the new zoning ordinance but to address the content of those standards as a separate topic from the general review of new zoning ordinance content.

Assistant Planner Matzek said she will be deleting the concept of "Minor Variances" from the draft zoning ordinance based on a recent verbal opinion of the City Attorney that Statutory Cities cannot delegate zoning variances of any degree to administrative staff. She will print all sections addressed so far in clean versions for the commission at the next meeting.

The Assistant Planner described Site Plan Review is one of the 'orphan' regulatory processes that would be moved from the Building Code Chapter of the City Code to the new zoning ordinance. The proposed draft zoning ordinance addresses Site Plans as "Minor" (to be reviewed and approved administratively) and "Major" to be reviewed and approved by Commission/Council. The City Planner stated that his discussions with the City Attorney appear to support the minor/major approach to Site Plans. He also noted that this regulatory strategy provides a measure of efficiency for both the staff and the Commission/Council as well as a more expedient review timeline for the applicants.

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The Assistant Planner noted that the proposed text says surrounding property owners 200 feet from the subject property will be notified. She advised the Commission that no such notification is now required for Site Plan reviews by the current City Code. She asked the Commission whether such notification should be added as in the draft; and, if so, should the distance of notification be 200 feet or some other number.

The City Planner observed that Site Plans are only applicable for commercial and multi-family uses and do not require public hearings. He advised that Site Plans often are coupled with variances or other applications that do require a public hearing, for which notice is required in any case. He suggested that notice may not be necessary for simple Site Plans since there is virtually nothing discretionary in the review process anyway.

M/S/P Armstrong/Helwig, to delete notice provisions for Site Plans from the ordinance draft.. 9:0.

The Assistant Planner directed the Commission's attention to the draft ordinance language that requires a majority vote of the Council to approve Site Plans. She asked whether it would be more appropriate for this provision to be a majority vote of Council Members present. She suggested that, otherwise, the voting provision as drafted amounted to a "super majority" requirement when other than a full Council compliment is present – not usual practice with Site Plan approvals.

Councilmember Johnson recommended a majority of councilmembers present is generally sufficient for passage of a Site Plan.

M/S/P Armstrong/Deziel, to strike 154.174.B.9 in its entirety, eliminating the requirement of approval of Site plans by a majority vote of the entire City Council. 9:0.

Commissioners questioned the applicability of using Plymouth and Oak Park Heights codes as templates in writing the Zoning Code – particularly since Plymouth is a Charter City operating under somewhat different governing rules than Lake Elmo.

Commissioner Armstrong explained that at this point of the ordinance drafting the Commission is mostly dealing with regulatory process and structure in accordance with state statutes applicable to all cities. Therefore there is no need to be concerned with what template is used.

The City Planner added that the primary determinant as to the template ordinances to be used was how contemporary the ordinances were as to drafting date.

M/S/P Armstrong/Deziel, to replace 154.171 (A) "with the exception of nurseries, greenhouses, landscape gardening and tree farms." with the text "with the exception of those uses requiring a conditional use permit." 9:0

As suggested by Commissioner Armstrong it was the consensus of the Commission to amend 154.211.D.1 to replace "No" with "A," replace "shall" with "may," replace "except in conformity with the regulations of this Chapter" with "provided a building permit has been applied for within 180 days of when the property is damaged Restoration shall conform to paragraphs 2 and 3 below." To ensure conformity with very recent amendments to the State zoning enabling statute.

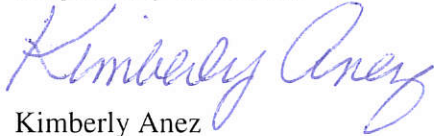
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City Council Update

The Planner said the Site Plan and Shoreland Variance for C & C North America removed from the August 2 Council agenda in order to allow the applicant more time for modification and approval by DNR of the landscaping plan to mitigate grading in the OHW setback.

Adjourned at 9:07 p.m.

Respectfully submitted,



Kimberly Anez
Recording Secretary