



## City of Lake Elmo

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### NOTICE OF MEETING

The City of Lake Elmo  
Planning Commission will conduct a meeting on  
**Monday, August 27, 2007, at 7:00 p.m.**

#### AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
  - a. July 23, 2007
4. Public Hearings:
  - a. ZONING CODE TEXT AMENDMENT: Review of an ordinance to permit pool covers as an acceptable safety alternative to fencing.
  - b. VARIANCE: Application from Paul Mencke for lakeshore and side yard setback variances to allow construction of a second story addition on a legally nonconforming home at 8838 Lake Jane Trail – R1 zoning –.PID 09-029-21-41-0015.
5. Business Items:
  - a. ZONING CODE TEXT AMENDMENT: Initial review of information on LCD Billboard signs and options for regulating this new technology.
6. Informational Items:
  - a. City Council Verbal Updates
    - i. August 21 – Site disposal options from the PCA
    - ii. August 21 – Sexually Oriented Businesses Ordinance approved
    - iii. August 21 – New website
7. Adjourn

**City of Lake Elmo  
Planning Commission Meeting  
Minutes of August 27, 2007**

Chairman Ptacek called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Ptacek, McGinnis, Van Zandt, Lyzenga, Pelletier, Roth, Fliflet, Helwig, and Deziel (7:16). STAFF PRESENT: Senior Planner Gozola and Planner Matzek.

**Pledge of Allegiance**

**Agenda**

M/S/P, Helwig/Van Zandt to accept the agenda as presented. Vote: 8:0.

**Minutes**

M/S/P, Helwig/Lyzenga approve the minutes of July 23, 2007 as presented. Commissioners Roth, Fliflet, and Ptacek abstained.

**PUBLIC HEARING: Zoning Code Text Amendment; Pool Barriers**

Senior Planner Gozola stated that fences are a typical requirement, but are not required by the State. Cities individually set safety standards. He said the current code requires a fence with specific requirements. He stated it is common in other similar sized communities to require fences, a few communities that leave it up to the citizens, and still other cities offer ASTM Certified Pool Covers as an option. They also may include alarms or pumps. Senior Planner Gozola said if pool covers are approved as an option, he would recommend requiring ASTM approved material with an automatic cover and a pump to remove water accumulated on top of the cover. He said there is not an easy answer as neither a fence nor a pool cover is fool proof.

Commissioner Deziel asked Senior Planner Gozola if he found verification that no one had died with a pool cover as provided in earlier literature.

Senior Planner Gozola said that he had not found statistics one way or the other.

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

*Mark Wallace, 5791 Highlands Trl*

Mr. Wallace said that he has an existing pool with a cover. He was originally told by the insurance company that the pool cover was not acceptable, but after looking into it, said they would accept it. Mr. Wallace stated that many other cities allow covers so other insurance companies allow it as well.

*Jean Fleming, 8047 22<sup>nd</sup> Ct. N*

Ms. Fleming said that while she does not own a pool, there are unsafe pools in her neighborhood. She stated that children's safety is the most important aspect. She researched many agencies and found that sixty-nine percent of children who drowned were not expected to be in the water at that time. She said that the second leading cause

of children's death is pool drownings. Ms. Fleming said the American Academy of Pediatrics states that a fence should be installed around a pool. She said she spoke with zoning people at the Minnesota State Fair who said they would not recommend allowing pool covers.

*John Ames, 9799 51<sup>st</sup> Street*

Mr. Ames said he is considering building a pool. He said he thinks it is appropriate that codes change as technology changes. He said that people need to pay attention around pools. Children can be inside a fence and a parent can go inside the house and leave a child exposed to the water. He stated that a pool cover is a complete barrier while a fence is not. An ordinance can not mandate responsible parents.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:27 P.M.

Commissioner Fliflet said neither fences nor pool covers are perfect barriers, both have drawbacks. She suggested changing the ordinance to require the fence to be separate from the house. She stated that pool covers did not exist when the current ordinance was drafted. She said she favored pool covers if she had to choose, but suggested considering requiring both a pool cover and a fence for safety. She would support an either/or ordinance.

Commissioner Van Zandt said the ordinance should be written to protect the neighbors and non-family members.

Commissioner Helwig suggested looking at requiring a pool to be entirely fenced off from the house. He said he would like to see both a cover and a fence required, but that it might be a burden to the homeowner. He suggested that a fence be a priority with the option of a pool cover.

M/S/F, Fliflet/Deziel, motion to be a forefront in safety and require both fencing and a pool cover for in-ground pools. Vote: 4:5.

M/S/F, Roth/Deziel, motion to accept the ordinance as presented by staff with an either/or option with two text changes: to include all in-ground pools and to eliminate the term "gate" and use "point of entry" to reference all points of entry which shall be self-closing. Vote: 3:6.

M/S/F, Fliflet/Van Zandt, motion to support the ordinance as presented by staff with an either/or option, but adding a requirement that all points of entry shall be equipped with gates. If a fence is chosen as the barrier and the pool is not fenced off entirely from house, then the pool will also be required to have a pool cover. Vote: 3:6.

M/S/P, Ptacek/Deziel, motion that the code be amended from the existing language to include "in ground pools," to require fences around four sides of a pool, and that any entrance point shall be provided with a self-closing latch. This would include no option for pool covers to replace fences. Vote: 5:4.



Dissenting votes:

Commissioner Helwig stated he would like to recognize the pool cover as an option that is available to the owner.

Commissioner Fliflet said she fully supports the either/or option for pool covers.

Commissioner Fliflet left the meeting.

**PUBLIC HEARING: Mencke Variances, 8838 Lake Jane Trail**

Senior Planner Gozola said two variances were being applied for: a 29 foot variance from the required 100 foot lakeshore setback and a 0.1 foot variance from the required 10 foot side yard setback. The applicant is seeking to build a second story to part of his non-conforming home and will not be changing the footprint. He went through the three variance criteria in code and his recommendation of approval.

*Paul Mencke, applicant*

Mr. Mencke said the lake level is maintained by a weir. He said when he was planning the project, he was not aware he would need a variance.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 8:16 P.M.

No one spoke.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 8:16 P.M.

M/S/P, Helwig/Roth to recommend approval of variances. Vote: 8:0

**Zoning Code Text Amendment – LCD Billboard Signs**

Senior Planner Gozola said a moratorium was placed on LCD billboard signs as concern was expressed about the conversion of existing signs to LCD signs. After further review of the existing sign code, it may not be allowed with the existing language. Two of the three existing signs may not be large enough in size to be converted anyway. He said that this was intended to be an information item with no recommendation needed.

Commissioner Helwig said the three legal non-conforming billboards are located on I-94 near the drive in theater, on the South side of Highway 5 across from Schiltgen's farm, and on Highway 36 for Sunnyside Farms.

**Council Updates**

Senior Planner Gozola said site disposal options for the contaminated water from the Hagberg site was discussed at the August 21<sup>st</sup> City Council meeting. The PCA will present to the Planning Commission at a future meeting. He said that the City Council approved the Sexually Oriented Businesses Ordinance at that meeting. He said that the Council is also moving forward with the new website.

Commission Lyzenga was concerned about a link between the official city website and an unofficial website with a similar name.

M/S/P, Lyzenga/Ptacek to terminate any links between the two websites. Vote 8:0.

Adjourned at 8:29 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kelli Matzek".

Kelli Matzek  
Planner