

**City of Lake Elmo
Planning Commission Meeting
Minutes of November 27, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Van Zandt, Deziel, Ptacek, Roth, Lyzenga, Schneider, McGinnis, Armstrong, and Commissioner Fliflet. COUNCIL PRESENT: Mayor Johnston and Councilmember Johnson. STAFF PRESENT: Finance Director Bouthilet, Assistant Planner Matzek and Recording Secretary Anez.

Pledge of Allegiance

Agenda

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

Minutes

M/S/P, Roth/Fliflet to accept the Minutes of November 6, 2006 as presented. Vote: 8:0:1, Abstain: Ptacek-Absence.

M/S/P, Ptacek/Roth to accept the Minutes of October 30, 2006 as presented. Vote: 9:0.

Public Hearing: Variances on Bennett Avenue for Neil and Elizabeth Miller

The Assistant Planner introduced the application for the variances for The Miller's property on unimproved Bennett Avenue. She explained the past vacations of two roads and the unimproved dedicated roads that remain. The road frontage requirements in the R-1 Zoning District are 125 feet, and the applicants only have sixty feet on the unimproved Bennett Avenue.

The Assistant Planner reported that the Fire Chief said he would prefer 14 feet in width and height for safety vehicle access. He also said he has concerns with the curves and corners in the proposed driveway as well.

Assistant Planner Matzek said that the driveway would be created on a neighboring parcel then crossing the city's right-of-way. An agreement would have to be drafted to protect the city from liability for the crossing of the right of way. She pointed out that shared driveways also sometimes present problems for maintenance issues.

The Assistant Planner said the address files for two neighbors had drainage reports and a history of flooding on those parcels is well documented. Valley Branch Watershed District added requirements for lowest floor elevation as well as the requirement that a watershed district permit would be necessary for any work at or below 932.5 feet in elevation.

The Assistant Planner pointed out that the northern parcel was assessed as a Recreational Lot when the roadway was improved in the past.

The Assistant Planner recommended denial of the application for variances due to the safety concerns and the impact on adjacent properties based upon flooding history. She said that if the Planning Commission recommends approval, an easement agreement for the driveway would be a requirement of approval.

Neil and Elizabeth Miller

Mr. Miller asked if the Assistant Planner had visited the site. He said that no homes are served by those two roads. The driveway on the Severin property goes straight out to 50th Street. Mrs. Miller said they could meet the 14 feet requirement for fire access and for emergency vehicles to turn around. They would be willing to meet the fire chief to create that. Mr. Miller said shouldn't the previous owner have been required to combine the two parcels in the past. He said that the parcels combined would meet the city's 60% rule. He said that the City Engineer is wrong, that Argyle Street and Bennett Avenue are not being used. Snow plowing would not be performed by the city, and there would be no reason for it because they are not improved roads. Mrs. Miller asked why it would be a health, safety, and welfare issue. She said that the existing driveway has been there for seventy-five years. She asked why not vacate the streets there. She said they would be able to meet city requirements as a piece of cake. Mr. Miller said the bank thought it was buildable with the access easement from 8012 50th Street North or they would not have loaned them the money. He said the land is worthless if it can't be built upon.

The Assistant Planner said she was unable to see the lot from the road because it was not staked and the parcel is landlocked. The planner explained it would not meet the 60% rule because that section of the code addresses a parcel of record in October of 1979 that is 60% of the lot size standard. These parcels were not combined and have not been a parcel of record since 1979.

Commissioner Ptacek asked whether the applicants purchased both lots. They said they did purchase two property identification numbers. Commissioner Ptacek said it is incumbent upon the owner to consolidate. He said it is unclear precisely where they want to place the driveway. The applicant presented an aerial that Commissioner Ptacek said verified the engineer and chief's concerns about angles and access for the driveway.

Commissioner Deziel asked if there is a maintenance agreement with the owner of the underlying land for the ingress/egress easement. The applicants said they could do that if that is a city requirement.

Commissioner Van Zandt asked if they met with staff prior to purchasing this land. They replied that they met with the administrator and city planner one year ago. At that time, they said that the concern was for lot size and not so much the access.

Chairman Helwig asked the width and height of the existing driveway. They did not know the answer. He asked if The Severins would be willing to improve their driveway to that extent. The applicants said they would.

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

Kevin Clemens 7920 Hill Trail North

Mr. Clemmons said he lives west of and adjacent to the wetland that abuts the subject property. That property is upslope from the wetland. He said he is worried about the wetland; there is a fragile ecosystem in that small pond. If the runoff would cause it to flood it could be damaged beyond repair. 1.5 acres as a minimum lot size is also a quality of life issue and neighbors in the area would like that standard to remain.

Carl Abrahamson, Resident

Mr. Abrahamson said he has lived there 42 years and knows why they left those two roads open. The roads could be used in the future by the city. All the roads in the neighborhood are 30 feet

wide. Owners take care of plowing in there. He did express concern for the fire department access. He said if that portion of Bennett Avenue adjacent to the subject parcel was not vacated it could be buildable. He recommends approval with the conditions including widening the driveways.

Commissioner Pelletier read two letters, one from Michael and Maura Severin of 8012 50th Street North (attached) and the other from Allen R. Siedle of 7951 Hill Trail Court (attached).

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:43 P.M.

Commissioner Deziel said a city 201 System was built into unimproved Argyle Street and the fence around it runs nearly down the middle so he assumed that meant Argyle Street was not going to be improved.

Commissioner Fliflet asked when the land was purchased. The Millers said they bought the land in July of 2006.

Assistant Planner Matzek said that the report from Valley Branch Watershed District came too late for the staff report. As a consequence she would add Findings for flooding of neighboring properties.

Commissioner Ptacek said that adding the remainder of Bennett Avenue would still not meet lot size or road frontage requirements. Even if the parcel is rezoned to NC in the future, it would not meet road frontage requirements. He said that he is uncomfortable with anything other than denial for lot size until NC comes in the future.

The Chairman asked the applicants if they would like to table to a date uncertain in the future.

Mr. Severin, 8012 50th Street North

Mr. Severin said he knows why those roads weren't vacated when the remainder of the roads near there were. He said because that lot still had access. He said it is not landlocked because it has an easement.

Assistant Planner Matzek said she would have to find out the legal impact of vacating those additional streets. She said there are still problems for road frontage, wetland concerns, and emergency access.

Commissioner Fliflet asked if the applicants would table in order to prepare and present plans for the easement, agreements, driveway and accessibility, and other concerns presented tonight.

The Commission asked staff whether or not this is a protected wetland, how much of the parcel is buildable with the setback from the 100 year flood elevation for the wetland and with the septic system. They would also like more information for safety vehicles and a permanent driveway maintenance agreement.

M/S/P, Roth/Van Zandt to direct staff to evaluate a permanent maintenance agreement, environmental impact, and wetland setbacks and bring it back with the additional information requested to the next meeting and to look at the legal ramifications of street vacation for Bennett Avenue because the City may anticipate soon receiving a petition to vacate. Vote: 9:0.

Commission Roth said he has difficulty with the existing lot size.

Commissioner Armstrong said the city should not be creating new lots with easements for access. He said there are serious environmental concerns for the septic system on this parcel in a neighborhood with a history of bad soils and failing septic systems. There are 201 systems in this area.

M/S/P, Roth/Deziel to table the Miller application for variances until the December 11, 2006 Meeting where the requested information will be provided by the applicants. Vote: 9:0.

Public Hearing:

**Preliminary Plat of EAGLE POINT BUSINESS PARK 7TH ADDITION
and also Section 520 Site Plan Review for Phase 3 Office Center**

The Assistant Planner said the proposal before the Planning Commission is a replat of one outlot within Eagle Point Business Park 5th Addition into two parcels and one outlot. A site plan has also been provided for a 2-story, 40,000 square feet office building on one of the lots. The applicants do not have a tenant for the building at this time. The street will be located between the two newly platted lots from Hudson Boulevard northerly to Eagle Point Boulevard. Sewer and water will be available to this site. She said that the City Engineer said the city does not maintain the pond so no easement is suggested for it. No exterior lighting plan was submitted yet. The Landscape Plan was reviewed by the City Forester and it meets minimum requirements.

Dale Glowa, United Land, LLC

Mr. Glowa said this site plan is a duplication of the phase II building which is now 80% leased, and it will be constructed of the same material but this will be a two-story version. There will be another phase in the future. The private drive is created by an access agreement among all the property owners. It is like a shopping center with drive aisles but built to city specifications but maintained by the owners.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 8:05 P.M.

Nobody came forward to speak.

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

M/S/P, Ptacek/Roth to recommend approval of the preliminary plat and PUD development stage plan of EAGLE POINT BUSINESS PARK 7TH ADDITION, and to recommend approval of the Section 520 Site Plan for the 40,000 square feet, two-story office building known as Eagle Point Office Center Phase III on Lot 2, Block 1 of Eagle Point Business Park 7th Addition as depicted on plans within the planning packet and as recommended by the Assistant City Planner with the following conditions:

1. Compliance with the recommendations of the City Engineer.
2. Compliance with the recommendations of the Watershed District, as found to be reasonable and practical by the City Engineer.
3. Only parking depicted by the Site Plan located specifically on Lot 2, Block 1, Eagle Point Business Park 7th Addition is hereby approved.
4. Submission of a complete exterior lighting photometric plan demonstrating compliance

- with the City exterior lighting standards prior to issuance of a building permit.
5. Submission of a Letter of Credit equal to 100% of the site landscape improvements guaranteeing survival of those improvements for two growing seasons, as prescribed by Section 520 of the City Code.
 6. Payment of Park Dedication Fees-in-Lieu \$12,133.61 (5.062 X \$2,397) prior to City release of the Final Plat for recording. The Development Agreement is now structured to collect a pro rata portion of those fees with each building permit issued within the business park..

Vote: 9:0.

PUBLIC HEARING: Amend Zoning Districts and Zoning Map

The Assistant Planner displayed proposed Zoning Districts. She said that R-1 and R-2 will be deleted and NC will replace them. HB and CB will be deleted. OP is not a free-standing zoning district. PF includes the former P. R-4 will be deleted because we do not expect any freestanding high density except through PUD. NC is a new classification, R-2 is for Carriage Station only and that will become NC. NC will not be for any new neighborhoods. It is only to preserve existing neighborhoods. A new term, 'adjacency averaging,' was explained.

The Assistant Planner said that FSD will be the area south of 10th Street used as a holding area for sewer. That district will be 1 unit per 20 acres. She explained that SRD3.5 might be changed slightly to something like SRD3.0. FSD will eventually be rezoned to the SRD3.X when sewer becomes available. That 3.5 designation represents density per acre and that density might change if more units are developed in the Village Area instead of below 10th Street. The Assistant Planner said that VR is designed to regulate new development and redevelopment within the Village Area.

Commissioner Schneider asked about existing LB parcels on Hudson Boulevard. Assistant Planner Matzek said she will look find out. He thought they should be zoned LB on the map because action was taken not long ago to create that zoning.

Commissioner Deziel also thought it was an error. He said that Lake Jane has a few that are zoned AG on this map that should probably be NC. Highway 6 at 13 also has a few there that should be NC but it is difficult to tell on small maps.

Commissioner Armstrong said there are three parcels for LB along interchanges of I-94 that are privately owned parcels. They should be FSD with the rest of the property owners. To be consistent with the MOU those parcels should be FSD as well.

Assistant Planner Matzek said Planner Dillerud once told her they would remain LB but she will have to research why.

Chairman Helwig said that Meyer's Pineridge shows as AG and it was rezoned to RR to allow OP.

Commissioner Armstrong said his preference would be to have an OP Zoning District.

Commissioner Fliflet said we should require that RE is not dotted yellow and white because there is no contrast. It needs to be a readable, usable map.

Commissioner Pelletier said that OP should be cohesive. Some are AG and some are RR. They should be made to be all the same.

Commissioner Armstrong said there are Conditional Use Permits controlling those properties.

Chairman Helwig said Park Meadows should be RE.

Mayor Johnston said it was changed to meet the housing count requirements.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 8:27 P.M.

Susan Dunn, 11018 Upper 33rd Street North

Mrs. Dunn said she has concerns for the big red area in the Village, the density, and that she wants to be sure everyone is aware that surface water is a serious concern in the area. She knows it will be costly to take care of that issue.

Gaylen Springborn, 8989 55th Street

Mr. Springborn said his property consists of two parcels he would like to have zoned AG. He also owns Outlot B in Foxfire. He would like all of his parcels to be AG because that is the use for those parcels.

The Assistant Planner pointed out to the commission that there was a problem with the legal requirements of public notification because certain zoning districts must be individually notified to affected owners. That has not been done. We must now table the public hearing.

The Planning Commission asked if they could recommend this as a rough draft to the City Council. The Chairman said we will not close this public hearing at this time because the public was not properly notified and this will allow them the opportunity to testify after they have been properly notified. He said the Public Hearing will be continued to a future date.

Commissioner Armstrong said we have Met Council deadlines. He would prefer not to extend again. He would like to know if the Met Council needs something else on these maps. Minor issues are NC and other rezoning. He wants to know specifically what will Met Council need from us by the deadline.

The Assistant Planner will find out for the December 11 meeting.

Commissioner Armstrong suggested we pass just FSD and Village Area to Met Council and worry about the rest later. Just send them the map and the text for the areas to have sewer in the future.

Assistant Planner Matzek said the Zoning Districts must also be submitted.

Commissioner Armstrong suggested the Commission and Council hold off and submit later for NC. He said the commissioners haven't even seen that language yet. The City has a 9 month requirement to conform. These zones conform to the Comprehensive Plan. We have only looked at NC once. He would like to take a better look at it and said he thinks it might take two or three meetings to complete that review.

M/S/P, Ptacek/Lyzenga to direct staff to specifically look at sending the draft map and draft zoning districts to the City Council so they may begin their work on it simultaneous with the Planning Commission. Vote: 9:0.

M/S/P, Ptacek/Armstrong, to direct staff to come back by Dec. 11 with exact requirements for Met Council submittal and confirm that what Met Council really wants to see is where the sewer is going. Vote: 8:1, Nay – Fliflet.

M/S/F, Deziel/Roth to continue this Public Hearing until January 8, 2007, and provide notice to affected property owners. All text should be brought to the Commission by December 11. Commissioner Ptacek thinks we need more time than that just on NC alone. Vote: 1:6:2- Aye: Deziel. Nay: Armstrong, Lyzenga, Ptacek, Roth, Fliflet Schneider. Abstain: Pelletier, Helwig.

Mayor Johnston said the goal is unrealistic. Met Council needs more than a few days to review what the city has worked on for many months.

M/S/P, Deziel/Ptacek to rezone Gaylen Springborn's properties as AG. Vote: 8:1 Nay: Roth- doesn't know what they are zoned right now.

Staff will return with the existing zoning(s) for Gaylen Springborn's parcels.

Acting Administrator Bouthilet said we might be able to use the *Gazette* for public notice if it is an unavoidable emergency. He will check with the City Attorney.

M/S/P, Armstrong/Roth to table the Public Hearing for the Zoning Map and Zoning Districts to December 11th with the expectation of tabling again to January 8, 2007. Vote: 9:0.

City Council Updates

The Assistant Planner said that the Bergmann minor subdivision was denied because of the 60 day rule because we did not notice a variance for minimum lot size.

Final plats of Sanctuary and Farms were approved.

Chairman Helwig said this will be his last meeting until February 15. A leave of absence was granted by the City Council. He thanked the Planning Commission for working with him.

The Chairman adjourned the meeting at 9:28 p.m.

Respectfully submitted,



Kimberly Anez
Recording Secretary

