



**City of Lake Elmo  
Planning Commission Meeting  
Minutes of July 25, 2016**

Chairman Kreimer called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

**COMMISSIONERS PRESENT:** Dunn, Larson, Griffin, Fields, Dodson, Kreimer, Lundquist and Williams.

**COMMISSIONERS ABSENT:** Haggard

**STAFF PRESENT:** Planning Director Wensman

**Approve Agenda:**

M/S/P: Dodson/Griffin, move to approve the agenda as amended, **Vote: 7-0, motion carried.**

**Approve Minutes:** June 27, 2016

M/S/P: Williams/Griffin, move to approve the June 27, 2016 minutes as amended, **Vote: 7-0, motion carried.**

**Public Hearing – Zoning Map Amendment/PUD Amendment OP4 Boulder Ponds**

Wensman started his presentation regarding the Boulder Ponds PUD amendment which is processed as a rezoning. They would like to rezone outlots B & C from Commercial PUD and MDR-PUD to HDR-PUD. Wensman went through some of the history of the site and explained what the developer is trying to do. Wensman provided draft findings as follows 1) The rezoning/PUD amendment is consistent with the Comprehensive Plan designation for the subject property 2) The proposed land use, Senior Housing is a conditional use in both the Commercial and HDR zoning districts, so the underlying land use will remain unchanged 3) The proposed HDR/PUD zoning is appropriate for the proposed senior housing density. 4) The proposed PUD/Amendment is consistent with the Boulder Ponds PUD Concept Plan and Preliminary PUD Plans.

Wensman stated that in order to develop the site as senior living, the area would need final plat/final PUD plan approval, outlot B & C would need to be combined into a single lot and a conditional use permit approval is required for congregate housing.

Dodson is wondering why the CUP application is not with this. Wensman stated that they are trying to market the property, but there is no plan. Dodson is wondering if

they rezone the property, what would stop them from putting in a different type of High density housing. Wensman stated that there would be no guarantee that a different plan wouldn't come forward.

Fields asked if the senior housing is the motivation for rezoning this property, why wouldn't we wait until there is a plan for a CUP for the senior housing. Fields feels that making the change could have the City end up with something that is unintended.

Larson is wondering if there could be a condition attached to this request stating that it is for Senior Housing. Wensman stated that he does not believe there can be conditions on a rezoning.

Deb Ridgeway, Excelsior Group, stated that they do not have a buyer yet for the property. She feels it is necessary to clean up the zoning for the marketing of the property. She said that they need a larger lot in order to market this as smaller lots are not desirable. They are currently marketing the site as a senior housing project.

Williams asked about the combined parcels and how many units they need to make it viable. Deb Ridgeway stated that they feel they need 100 units for it to be a viable senior housing project. Williams stated that it is only approximately 4 acres and at 15 units/acre maximum, that still only gives them approximately 60 units. Ridgeway stated that based on it being a PUD and looking at the entire site, they would be allowed 210 units. They would be platting 98 units at this time with a difference of 112 units.

Wensman does not agree with Ridgeway's calculations. The underlying zoning is the tool to enforce the comprehensive plan. There are bonuses allowed, however, once the zoning is set for a parcel, that is how it needs to be developed. The LDR could have been developed more dense, and just because it wasn't, doesn't mean that it can be shifted to another area. The PUD is not an open door for density.

Williams wanted to confirm the allowed density for this site for HDR zoning. Wensman stated that it would be 64 units for this project or 76 units if they achieve the 20% bonus. He asked Ridgeway if that is the case, would they still want to proceed with the rezoning request. Ridgeway confirmed that they would.

Dunn asked what qualified for a 20% bonus. Wensman stated that there is the base zoning and then with a PUD there are highlights that qualify for bonuses. Dunn stated that it is very hard to keep track of these issues if the developer keeps changing things as they go along. Wensman stated that the deviations are spelled out at the time of preliminary plat.

Fields thinks that rezoning this now without a project opens the door for market rate multi-family rental housing.

Public hearing opened at 7:38 pm

No one spoke and there was no written correspondence.

Public hearing closed at 7:38 pm

M/S/P: Willimans/Dodson, move to add finding number 5 that there is disagreement between the applicant and staff as to how many units would be allowed with the new zoning, **Vote: 7-0, motion carried unanimously.**

M/S/P: Fields/Williams, move to add finding number 6 that to change the zoning to HDR would allow the site to be marketed as a market rate multi-family housing site, **Vote: 7-0, motion carried unanimously.**

M/S/P: Williams/, move to add finding number 7 that unit counts for the congregate care as found in the senior housing in the Old Village area, should also be applied City wide. There was no second and this was added to the approval motion.

Ridgeway wanted to clarify that the preliminary plat was approved to have a 64 unit senior facility, but the zoning was not put into place correctly. They would just like to expand the acreage so that they can market this better. The existing residents know that this is intended to be a senior living project.

Ben Schmidt, Excelsior Group, their understanding based on the original PUD is that they could do a 64 unit senior facility on the 2.4 acres, but they would not be able to do it under the MDR zoning. This needs to change to HDR to get to what was approved with the PUD. Based on the original density of the 2.4 acre parcel, by adding the additional acreage, 100 units is easy to get to. He agrees with using the same language that was used in the Old Village.

M/S/P: Williams/Dodson, move to recommend approval of the rezoning/PUD Amendment for Outlots B and C, Boulder Ponds, rezoning from Commercial/PUD and MDR/PUD, respectively, to HDR/PUD based on the findings in the staff report and the additional findings voted on and further recommend that the counts that apply to senior housing in the Old Village, be applied to this site, **Vote: 7-0, motion carried unanimously.**

Williams stated that the City needs more HDR in the City as we have virtually none right now. He feels this is an appropriate place for HDR. Kreimer also agrees that this was always shown as a multi-family building.

### **Public Hearing – Zoning Text Amendment Open Space Development**

Wensman started his presentation regarding the Open Space ordinance. He went through the recommendations that the Planning Commission had. There was also recommendations from the City Council. This version takes into consideration the Comments of the City Council. This ordinance is currently not in the Zoning Code, and this will move it back to the zoning Code.

Wensman went through the specifics of the changes in this version. This version articulates what the City is looking for in these PUD's. One significant change is eliminating the super majority vote for deviations to allow more flexibility. The Comprehensive Plan is very clear that the density is 18/40 acres. The Buffer language was updated, septic sites need to be identified first, roadway standards were eliminated in favor of City Standards, lot sizes were left at 1 acre and ½ acre, building area was clarified and open space configuration can be reduced on a case by case basis. The City attorney added language regarding failing septic systems so that the City does not incur costs for failure. Individual septic systems must be on the individual lots and are not allowed in outlots. There will no longer be a public hearing at the concept phase. Now there will be a public hearing at the final plat to memorialize the agreement via ordinance so that it is a lot cleaner and easier to track. Wensman also stated that the City Engineer did not put a number on the number of homes that would be needed to support a community septic.

Williams would like the 154.650 purpose to be modified to say "wildlife corridor" or "natural corridor" instead of just corridor.

Williams is concerned about the number of homes necessary to support a community drainfield. Dodson feels that the critical language is that the City be able to do the work and bill back the affected residents, rather than relying on the HOA to do the work and collect. Williams pointed out some grammar issues on page 8 item 4 and Dunn would like the (as much as possible) removed. Leaves too much room for interpretation. Would also like to change "strive to" to "shall".

Williams is wondering about on page 9 (6) v., the association owned stormwater management facilities. He thought that the engineer is insisting that the City own these in other subdivisions. Wensman said that he will discuss with contract planner and City Engineer. Williams is wondering why the code is silent regarding signage and doesn't just refer to the City sign code. Wensman stated that city sign code would apply and would not need to be put in this section.

The Planning Commission is not comfortable with page 11 1 (b) 2, the City holding the conservation easements and would like them to be held by an outside agency.

Williams is wondering if there is a list of purposes that the open space can be set aside for. He thinks that it is not clear enough what the purposes should be. Wensman stated that it does talk about agriculture and natural habitat, but it does not say that those are

the only 2 things it can be used for. Kreimer is wondering if language could be added if the land trust doesn't accept the land, the City may consider it. Williams stated that he believes the MN land trust typically wants open space that is 10 acres and this could be problematic with the reduction to 20 acres. Dunn feels that there seems to be unintended consequences for coming down to a 20 acre minimum.

Williams is wondering if there should be a setback for trails when there is a wetland. Wensman stated that VBWD reviews the plans when a wetland is present and the review process protects that. Williams thinks that 154.660 (3) for deviations, there should be the word "and" after a & b so that all 3 criteria need to be met to get the deviations.

Williams thinks that on page 18 (3) is left over from the commercial PUD and should be taken out. Williams suggested some other changes that were clean up items that applied more to commercial PUD's.

Public hearing opened at 9:25 pm

No one spoke and there was no written correspondence

Public hearing closed at 9:25 pm

M/S/P: Williams/Griffin, move to postpone consideration of the OP Ordinance until staff can return a cleaned up copy for consideration, ***Vote: 7-0, motion carried unanimously.***

### **Public Hearing – Zoning Text Amendment to opt out of requirements for Temporary Health Care Dwellings**

Wensman started his presentation by giving an overview of the Temporary Health Care Dwelling legislation. Staff drafted an ordinance to opt out of the state statute. The Building Official had a number of concerns such as septic systems, anchoring, water access, insulation, etc. Staff drafted an ordinance to opt out of the state statute based on the recommendation of the Planning Commission.

Public hearing opened at 9:30 pm

No one spoke and there was no written correspondence

Public hearing closed at 9:30 pm

M/S/P: Dunn/Williams, move to recommend approval of the ordinance to opt out of the requirements of Minnesota Statutes Section 462.3593 , ***Vote: 7-0, motion carried unanimously.***

Dodson is concerned that if the state felt strongly enough to enact this, should we be willing to provide a mechanism for people to provide for loved ones.

Larson feels that this legislation does not seem to fit in our community. Wensman stated that this is really to care for an aging population which is a valid concern, but is not sure that this is the best solution. This has been talked about in many different states. Wensman knows of at least a dozen cities around us that have opted out and only 1 that he knows of that have opted in.

### **Business Item – Ordinance amendment for the keeping of pigeons**

Wensman gave a brief update on the pigeon ordinance. This item was talked about a while back and he has incorporated the suggestions of the Planning Commission from previous discussions. This is not an item that is in the zoning code, so a public hearing would not be required. This item will move forward to the City Council at a future date.

### **City Council Updates – July 5, 2016 Meeting**

- i) Vacation of watermain easement for Auto Owners – passed.
- ii) Amend Fence regulations in regards to encroachment agreements – passed.
- iii) Hunting Ordinance – Tabled.
- iv) CPA for Rural Single Family in regards to sanitary sewer – passed.
- v) Moratorium extension – passed.
- vi) Neighborhood park in Savona neighborhood – request for Park Commission to review.

### **City Council Updates – July 19, 2016 Meeting**

- i) Hunting Ordinance – Input given to Planning Director to bring back to future meeting.

### **Staff Updates**

- 1. Upcoming Meetings
  - a. August 8, 2016
  - b. August 22, 2016

### ***Commission Concerns***

Dunn is wondering if there is any way to get a feel for what the costs will be to the City for these additional developments that come forward. Be it for police, fire, lighting, etc.

Dunn also mentioned that Baytown and West Lakeland are really concerned about Lake Elmo not taking a stand against the airport expansion. She would like it to be taken to the City Council for a resolution.

M/S/P: Dunn/Larson, move to bring a request to the City Council to support Baytown and West Lakeland in their opposition to the airport expansion , **Vote: 6-1, motion carried.**

Williams stated that the current design has no impact on the Neal ave and 30<sup>th</sup> Street intersection. Larson stated that the last set of meetings that they had come to an agreement with Baytown. Kreimer stated that he just doesn't feel that he has enough information to vote on this issue.

Fields was wondering if there was any update on the land purchased by Prairie Island and put into trust. Wensman stated that he can check with Kristina.

Dunn is wondering when discussions will start regarding lowering the forecast population numbers. Wensman stated that he has not gotten further direction from the City Council.

Meeting adjourned at 9:57 pm

Respectfully submitted,

Joan Ziertman  
Planning Program Assistant