



**City of Lake Elmo
Planning Commission Meeting
Minutes of March 27, 2017**

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

COMMISSIONERS PRESENT: Larson, Dorschner, Emerson, Williams, Lundquist and Hartley

COMMISSIONERS ABSENT: Fields, Kreimer and Dodson

STAFF PRESENT: Planning Director Wensman and City Administrator Handt

Approve Agenda:

The agenda was accepted as presented.

Approve Minutes: March 13, 2017

M/S/P: Lundquist/Dorschner, move to approve the March 13, 2017 minutes as amended, ***Vote: 6-0, motion carried unanimously.***

Public Hearing – Zoning Map Amendment – General Business to Village Mixed Use

Wensman started his presentation regarding the rezoning of properties from GB to VMX. Since 2013, there have only been 3 properties rezoned to VMX based on applications received by the City. In 2016, the Planning Commission discussed rezoning all of the properties to VMX, but tabled it for the following reasons 1) densities within this area are guided too high 2) VMX standards are less restrictive 3) form based code should be created 4) updated population and development projections for area needed. The rationale for the rezoning is to bring the subject properties' land use consistent with the Comprehensive Plan. Without the rezoning at this time, many improvements to these properties would require owners to rezone to VMX and obtain variances.

Wensman went through the differences between GB and VMX such as lot width, lot area and impervious surface maximum. There are 83 parcels currently zoned general business. There are some parcels that are guided RS that are guided for VMX and there are a number of parcels zoned RS being used for business, not single family homes. The residential properties being used for business were not noticed, but should be included in this rezoning. Re-publication of the public hearing to include these properties would be needed. The properties that are guided for VMX, but currently used as single family

residences, staff is not recommending rezoning at this time. Staff feels that single family residences should be an allowed use in the VMX. If that is the case, those existing single family homes could be rezoned to VMX as it would have no impact on them. New and existing homes should be treated the same.

Hartley is wondering why there is long list of condition uses as part of the VMX district. Wensman stated it is the choice of the City Council to decide what is permitted and conditional. Some uses are conditional to allow greater scrutiny of those uses. In the Village, the lots and structures are very close to each other, so there could be uses that should have greater scrutiny with conditions put in place to mitigate unforeseen situations. Hartley thinks the veterinary services should be more specific to small animals, not large animal services.

Wensman stated that if there are specific changes to the code, that code be discussed through the public hearing for the zoning. Williams is wondering if the City Council responded to the June Planning Commission request for updated population projections for the Village area. Wensman stated that they did not specifically respond. They have now launched into the Comprehensive Plan process and it will be addressed through the process. Williams is asking if there were 2 houses fairly far apart on existing lots, could they then subdivide and build another house. Wensman thinks there are greater requirements for single family homes, but he will look at it. Williams asked about the status of the form based code. Wensman stated that with the Comprehensive Plan update, the priority for form based code was lowered. Emerson asked how many single family homes would be affected if they change them to VMX. Wensman thought maybe around 30 properties. Williams asked what the downside would be of those properties being legal non-conforming. Wensman stated if the home burned down, they could only rebuild on the footprint and would not be able to expand without a variance. Williams is wondering about making single family homes conditional uses. Wensman stated that might be a good solution.

Public Hearing opened at 7:32 pm

Sue Dunn, 11018 Upper 33rd Street, she would like the Commission to really think about what things should be conditional uses. She is concerned about surface water and impervious surface. She thinks the VMX could possibly add an additional 10,000 people in the Village Area. She is concerned about the existing businesses. She thinks single family homes are important to the Village Area. She thinks it is important to know what the projections are for 2040 and how close we are to meeting those projections. There is also a huge section to the East that is considered part of the Village area.

There were no written comments

M/S/P: Dorschner/Williams, move to continue the public hearing for the Zoning Map Amendment Discussion to rezone properties to VMX – Village Mixed Use to the next

possible meeting in order to properly notice the public hearing to include the additional properties in the Zoning Map Amendment, Vote: **6-0, motion carried unanimously.**

Public Hearing – Comprehensive Plan Amendment to add 2 properties to RSF Sewered

Wensman started his presentation regarding adding 2 properties to the Olson Lake Trail sewer area and re-guiding them to Rural Single Family sewer. This would add 4497 & 4473 Olson Lake Trail to the MUSA. The feedback from the Met Council is that it would just be an administrative review and would be similar to what was done in the Village to add additional properties. This does not require any jurisdictional review as we have a joint powers agreement with Oakdale. We have not received any comments from the public notice sent out and advertised.

Dorschner asked what the Oakdale capacity would be for hooking up the rest of the properties around Olson Lake on that road. Wensman stated that they are not in the MUSA so there has been no talk about Oakdale picking them up. Wensman stated that they do not know, because there is no plan for it and the property owners are not requesting it. Handt stated that the Engineers did reach out to neighboring properties to see if they wanted to be included, and these were the only 2 properties interested in being included.

Williams is wondering if there is a Zoning Text that is actually rural single family sewer. Wensman stated that the City does not have that specific zoning, but it is probably something that could be created. Wensman stated that there really is no problem leaving them as Rural Single Family zoning, but the change to the land use designation was something the City Council was interested in to distinguish those properties within the MUSA. Met Council was only concerned with land use designation in the Comprehensive Plan allowing for sewer connection.

Emerson is wondering if they would move the MUSA line without the property owners asking for it. Wensman stated that the City has not required properties to be sewer unless the property owner has petitioned for it and signed a waiver.

Public Hearing opened at 7:44 pm

No one spoke and there were no written comments

Public Hearing closed at 7:45 pm

M/S/P: Dorschner/Lundquist, move to recommend approval of the amendment to the City's Wastewater Facilities Plan by adding PID #'s 090292132001 & 080292140059 to the Olson Lake Trail MUSA, **Vote: 6-0, motion carried unanimously.**

Hartley stated that they are adding these properties because they specifically requested it. Looking at the map, there are potentially 4-5 properties that would seem to fit the same characteristics of the other properties and why they requested it. Why is the City not adding those properties? Williams stated it is because they did not request it and according to Handt, they actively declined by not responding. Wensman stated that there was one additional parcel that was thinking about it, but after further discussion with the Engineer, they declined. Dorschner is wondering if we have the means through the MUSA to require connection. Wensman stated that with the joint powers with Oakdale, we have the means to connect these properties. Dorschner is concerned that properties along the lake are still on old septic systems and what that means for the future. Hartley stated that he is concerned because the City does not have a very good mechanism to catch when drainfield fail and so we end up with even one house affecting the Lake. Handt stated that most septic problems are caught when the properties are sold or a building permit is issued. Williams stated that the same logic for the additional properties could be applied to the whole Tri-Lakes area. If the MUSA was opened up to the whole Tri-Lakes area, there would be numerous people speaking against it. Wensman stated that there are a number of 201 septic systems in this area that have been created to deal with some of the failing septic systems.

M/S/P: Lundquist/Dorschner, move to recommend approval of a Comprehensive Plan Amendment re-guiding PID #'s 090292132001 & 080292140059 to Rural Single Family Sewered on the City's Land Use Plan, **Vote: 6-0, motion carried unanimously.**

Dorschner wanted to confirm that there was no Rural Single Family Sewered zoning. Handt stated that there was not, but this is just guiding it as such in the Comprehensive Plan. Hartley wanted to reinforce his concern from the standpoint of the Comprehensive Plan, they do not have the potential pollution issues under control for all of these properties that have individual septic systems and the inspection of them comes well after the fact that they have failed. Williams doesn't disagree, but doesn't feel that it will change anytime soon as he has heard the same discussion for 40 years.

Business Item –Preliminary Plat and PUD Plans - Royal Golf

Wensman started his presentation by stating that the Planning Commission approved the rezoning to GCC on 3/13/17 and tabled the approval for the Preliminary Plan and Preliminary PUD Plans. At the last meeting, the developer was proposing some changes to the NW neighborhood. They have withdrawn those changes at this time. The Planning Commission requested addition information on forest management, but the developer is no longer interested in doing that. The developer has indicated he will comply with the tree replacement requirements, but there is still dispute as to whether the project is a mixed use. Since 3/13, the VBWD has raised concerns regarding some of the infiltration basins. The developer is working through those issues and is confident there are adequate solutions that will not impact the plat. Staff has slightly modified

the condition pertaining to VBWD approval. Staff added a missing condition that the green corridor in the NW neighborhood be a minimum of 100' wide outside of the lot area. Right now there is one area that is shown at 84' with one of the lot lines.

Staff is recommending the same conditions with some corrections and additions. A correction to #15, correcting the Lots and Block it pertained to. Condition #20 pertains to the woodland management. It doesn't hurt to keep that condition if the developer changes his mind, but it is up to the Planning Commission how to handle that. Condition #24 was reworded to make it clearer. #35 was added to capture the 100' green corridor. #36, #37 & #38 are the 3 conditions added by the Planning Commission regarding the sidewalk along the South side of 20th street and that there would be no street lights except at street intersections to meet the dark sky ordinance and to work with adjacent property owners to come up with screening that gets incorporated into the landscape plans. The recommended findings are the same with the addition of #9 that a significant amount of public testimony regarding that 20th street is already dangerous without the additional traffic and the developer needs to explore ways to make the road safer. Staff is recommending approval with 38 conditions of approval and the 9 findings identified.

Dorschner asked what the dispute is around mixed use. Wensman stated that the tree preservation plan has a provision that requires mitigation as well as landscape requirements for residential development. For commercial and mixed use developments there is an exception that all trees with the exception of ornamental trees may be counted towards tree replacement requirements. The developer is saying that this site is mixed use with the golf course being the commercial piece. They are arguing that it the case so that all of the replacement trees will count towards their landscaping requirements. Staff is saying that the golf course is the principle use; open space. It was a public facility in the past and it had an accessory commercial use, which is not the primary use. They will be creating a separate parcel for the more commercial site, and possibly that could be exempted, but exempting the whole golf course is not consistent with past practice and the City attorney does not support the mixed use interpretation. Wensman stated the difference would be a large cost to the developer in tree replacement or a significant loss of trees for the City. Staffs solution for this was the idea of forest management to better serve the development. The developer likes the tree preservation better because it is more quantifiable vs the forest management which is kind of a gray area.

Rick Packer, Royal Golf, stated that the attorneys were discussing the mixed use concept and they had hoped that they could come to a compromise. They did not feel that the forest management was a compromise, but an exchange for the tree preservation requirement. The Royal Golf attorney opinion is that this development is mixed use. There is economic incentive that the City has provided to commercial development. There is currently no definition of mixed use in the City code. In the absence of a definition, those terms are supposed to be given their plan and ordinary meaning. The

Royal Golf Community has 4 different types of uses on the property. There is residential, business services, food service and outdoor recreation. They feel that the golf course is clearly a commercial use. This is a wooded site vs a cornfield, so the number is really large. There are 8500 trees on this site, with about 3000 trees being removed. They are allowed to remove roughly 2500 trees or 30%. They are removing about 35% or 418 trees more than what is allowed. Based on the City code without the mixed use exemption, they would need to plant 3024 trees or 10 trees per lot. Packer states it would cost them \$1.5 million dollars for trees alone. They had proposed 900 trees or 3 trees per lot. Packer stated that staff rejected that as there was no way for them to inspect them. They are planting 214 trees that are ornamental which do not count either. They feel that they legally qualify for a mixed use and should get the exemption. They were looking for some compromise that they did not get.

Royal Golf is proposing to construct a wide shoulder between Street E and Lake Elmo Ave vs a trail on 20th Street that has no shoulders. There is a significant grade change where the trail would need to go and a loss of trees. They would argue that it would be better served with adding a shoulder to the road that is wide enough to walk and bike on. Packer talked about the alternate Villa design and would like that to move forward to the City Council. There is one driveway that is in the sanitary sewer easement which is a concern to the city engineer. They can enter something into documents recorded against the property. Packer stated that this plan has one less unit than proposed with plat, but is essentially the same grading plan.

Lundquist asked why the proposed sidewalk on 20th only goes just past the clubhouse. Packer stated that there are places that are very steep and would be very disruptive to that area. Williams asked why the City would not accept the sidewalk within the ROW. Wensman stated that MSA standards would require the sidewalk to be located on the outer edge of the ROW.

Larson asked what the status of the tree replacement is. Wensman stated that there is the landscape requirement and the street tree requirement. The City is going the more lenient interpretation, requiring landscaping based on the disturbed area calculation. Street trees will go in with the road when the improvement goes in. In terms of the development trees with 4 trees going in with the home, as long as the City has escrow to ensure the trees go in, the timing isn't as important. There is a difference between the developer and the City of approximately 1000 trees. That difference hinges on the Mixed Use issue as the City and developer have failed to come to a compromise. Williams asked if they are opposed to any forest management in exchange for relief of the tree replacement. Packer stated that there is no compromise if it is dollar for dollar exchange they would not be interested. Williams stated that he is willing to relax the tree replacement provisions from 1000 to 500 in return for a program of buckthorn removal for 3 years after construction has started. Hartley thinks that it is problematic as it is not just the individual home owners. Dorschner stated that buckthorn is very difficult to manage and is good screening. Hartley feels that the City is better off having

new trees vs a management plan based on the possible tree diseases. Emerson feels that the uses out there are mixed use and that is what they need to decide. Williams feels that they need to go with the City Attorney's opinion on that issue, but also feels that there should be some relaxation of the number of trees with buckthorn removal.

M/S/P: Williams/Lundquist, move to add an additional condition that the tree replacement requirement based on residential use be relaxed by 50% in return for the developer controlling buckthorn by cutting stems and treating the remaining stumps by either physical pulling or by herbicide application for a period of three years beyond the date for which construction begins for the adjacent phase, **Vote: 4-2, motion carried with Hartley and Dorschner voting no.**

Wensman stated that this motion would replace condition #20 in the packet. Dorschner asked how many trees this would leave them to replace. Half would be around 500. Dorschner feels there would be more value in trees vs. the forest management. He feels the real issue is the mixed use interpretation vs. residential, but feels they need to go with the attorney's opinion. Jim Felton talked about what they did for the wildlife corridor and what was required by the VBWD. His estimate of cost for what they have done is about 50K.

Dorschner inquired about developer talking to property owners on the East side regarding screening.

Williams doesn't believe there are any West Lakeland properties that they need to be concerned about in regards to screening. Packer stated that they have an agreement with the Homestead development. Williams feels that the City should allow the golf carts on the streets for the GCC. Wensman stated that a separate ordinance would be required that is not part of the zoning code. They could recommend that staff bring one forward. Hartley stated that personally he is not in favor of the golf carts because they are often driven irresponsibly and rules are not followed. Emerson doesn't have a problem with golf carts and maybe an age limit could be put on it. Dorschner was in Arizona and many of the communities there have them. Larson stated that the golf carts would have destinations such as the clubhouse, restaurant, etc. Schroeder stated that they have looked at many ordinances in different cities and they address such things as age, speed, hours of operation, lights, etc.

M/S/P: Williams/Dorschner, move to propose an additional finding #10 that the Planning Commission determines that it would be desirable to allow golf carts on the public streets within a golf course community, **Vote: 5-1, motion carried, with Hartley voting no.**

Williams asked if the Fire Chief commented on the street names. Wensman stated that the Fire Chief does not like the new street naming policy, and is going to be taking the

whole street naming policy back to the public safety committee. This street naming complies with the current ordinance.

In regards to the street lights, the City Engineer stated that there is no requirement to have street lights in a development.

Packer is wondering if they have addressed the Villa area. Handt stated that as of Friday, the developer was pulling that section, but tonight included it in the presentation. Wensman stated that one clear problem based on their limited review is the driveway with a storm pipe underneath it which will need to change.

M/S/P: Williams/Dorschner, move to recommend condition #39 that staff reviews and approves the new plans presented tonight regarding the Villas and that the developer complies with all of the staff recommendations, **Vote: 6-0, motion carried unanimously.**

M/S/P: Lundquist/Larson, move to recommend approval of the Preliminary Plat and Preliminary Planned Unit Development Plans for the Royal Golf Club at Lake Elmo with the 39 conditions based on the 10 findings identified in the staff report and amended by the Planning Commission, **Vote: 6-0, motion carried unanimously.**

Business Item – Zoning Text Amendment – Village Low Density Residential Zoning

Wensman started his presentation regarding the Village Low Density Residential Zoning. Since the last meeting, there were density ranges added, the impervious calculation was added to 35%, struck the maximum setback standard, allows free standing multi-family dwellings as a CUP to match the comprehensive plan, and clarified the setbacks for other residential uses. There was a desire at the last meeting to have a build to line incorporated into the VMX and the staff thinks that they have addressed that by the prevailing setback of the street to have consistency. If it is a new street, it can be decided at that time. Wensman went through some of the other standards.

Williams asked about the garage standards and why that need to be called out specifically. Wensman thinks that it for existing homes that might want to build an additional garage. There was some information regarding tiny houses and if the City wants to alter its minimum home size. Wensman thinks more research needs to be done regarding this for the next meeting. Another consideration is would we want to have different standards for the urban vs rural areas. There was discussion if the Planning Commission thinks the VMDR zoning should just use the standards for LDR and have that reference made in the Comprehensive Plan.

Hartley is wondering how the City determines in the VMX what is a permitted use and what requires a condition use permit. Wensman stated that there is not a straight

criteria that determines if it is permitted vs a CUP. Typically the City makes uses conditional if it is perceived that the type of use could potentially create issues so the city wants to put conditions on the use. Williams stated that if there were recommendations of uses that should be permitted, the Commission could take up that discussion in the future.

Business Item – Zoning Text Amendment – Solar Ordinance

Wensman started his presentation regarding the solar ordinance. Some of the reasons for a solar ordinance are to protect neighbors from glare, that it meets imperious surface, area and size requirements and that there is a decommissioning plan. There is also a solar farm definition, which is not currently outlined in the Zoning Code as allowed permitted or condition primary use. Where should they be allowed as a primary use if anywhere? Some of the standards are that it must comply with accessory structure setback, height, lot coverage, etc. Should solar energy systems be exempt from certain standards in certain areas? Hartley is wondering if the City wants to add to the ordinance that an HOA can't prohibit the use of solar panels. Wensman stated that would be unusual, but the City could put that restriction on. Currently solar farms are not allowed as the primary use anywhere, should they be? Staff is looking for any other additional standards that the Commission would like to include.

Hartley thinks a large commercial installation is very different than a residential one. He also feels that in residential, if it is limited to the rooftop, that is different issue than if it takes up a whole back yard. Williams suggested a slightly different definition of solar farm from "wholesale sales" to "offsite customers". Williams wants "off-grid systems" defined in the interconnection agreement section. Williams would like to eliminate "using a reflector to enhance solar production" from the reflectors section. Hartley stated that the commercial operations are probably the only ones to use reflectors. Williams is also confused about "screening to the North side of the solar array". He thinks they need to look at that. Hartley suggested just striking the word north.

Williams thinks that it needs to be stated that solar panels are considered impervious for calculations. Emerson doesn't feel that the whole thing should be considered impervious. Williams feels that especially in commercial operations, you have compaction of the soils and it is no longer like a vacant field. There are also access roads and maintenance to consider. Wensman stated that it is creating a concentrated flow and runoff. Williams feels that it is easier for the City to manage and not inconsistent with the codes of other Cities if it is considered impervious. Hartley stated that maybe the total area could be calculated and 50% is considered impervious.

Williams would like to add a provision that HOA's and CIC's are not allowed to prohibit solar systems. He is wondering if they should add solar systems as an incentive in the PUD bonus table. Williams asked if these systems would require a city building permit. Wensman stated that they would because of the footings. Hartley stated that screening

and such would need to be reviewed by the City. Wensman stated that it might not be a building permit, but a zoning compliance review. Williams stated that there is a reference to building code in the code requirements section and it should say all rooftop or building integrated systems. Williams would like to add the words “and/or screened” to item #7 Visibility to be consistent with other rooftop structures. For storm water management, Williams would like to add “Watershed Districts requirements”.

City Council Updates – March 21, 2017 Meeting

- i) Wildflower 2nd Developer Agreement - passed
- ii) Lakewood Crossing 2nd Addition Concept Plan PUD - passed
- iii) Noise Ordinance – on hold

Staff Updates

- 1. Upcoming Meetings
 - a. April 10, 2017
 - b. April 24, 2017
- 2. MAC CEP Report

Commission Concerns

Hartley would like to reinforce the idea that the meetings not be too long and that the Commission get out at a reasonable hour. If the meeting gets too long, they are not at their best.

Dorschner wants to finalize the rural single family sewer. Wensman stated that the ordinance states that the rural single family should be predominately individual septic, but does not require it to be so. If they are designated in the comprehensive plan by the MUSA, it is allowed. Dorschner feels there should be different standard for when you are sewer and when you aren't. Wensman will look at it more detail and report back. Williams is concerned that there has been nothing done as a City regarding form based code. He recognizes that it takes a long time, but it just keeps being pushed down the road. Wensman stated that through the Comp Plan amendment process, the vision will be reaffirmed.

Meeting adjourned at 10:45 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant