



**City of Lake Elmo
Planning Commission Meeting
Minutes of June 12, 2017**

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

COMMISSIONERS PRESENT: Dorschner (arrived at 8:00), Kreimer, Dodson, Emerson, and Hartley

COMMISSIONERS ABSENT: Williams, Larson & Lundquist

STAFF PRESENT: Planning Director Wensman & City Planner Becker

Approve Agenda:

M/S/P: Hartley/Dodson, move to approve the agenda as presented, ***Vote: 4-0, motion carried unanimously.***

Approve Minutes: May 22, 2017

M/S/P: Hartley/Emerson, move to approve the May 22, 2017 minutes as presented, ***Vote: 4-0, motion carried unanimously.***

Public Hearing – PUD Preliminary & Final Plat & Plans – Lakewood Crossing

Becker started her presentation regarding a PUD Preliminary and Final Plat to subdivide a 3.82 acre parcel into 3 commercial lots in a Planned Unit Development. Staff has identified 2 PUD objectives that are met, allowing this to be a PUD project. There are a number of items requested for PUD flexibility. These include flexibility for types of allowed uses, minimum lot width, impervious surface, parking lot setbacks, signage, etc.

There are a number of uses that are conditional uses that the applicant would like to be permitted uses. The applicant feels that conditions can be addressed through the PUD process. There are a number of Lake Elmo Design Guidelines and Standards that are not met. These include building orientation, landscaping, sidewalks, streetscape lighting, and parking.

There are some engineering comments including a request for a phasing plan for construction plans, a right turn lane, drainage & utility easements, MN Dot drainage permit, and the second access eliminated. There are 20 conditions of approval and 11 findings of fact.

Dodson asked about the traffic issue and flow with the Kwik Trip. Becker stated that one suggestion was to put a stop sign in to regulate the flow. It is addressed in condition #20. Kreimer asked if the island in the drive lane should be removed. Becker stated that the Building Official and Fire Chief brought that up as a concern, but they have no suggestions about it.

There was a discussion about medical facilities and if it should be made an allowed use for this site. Hartley is not in favor of using the broader definition of medical facilities for this site.

Dodson is wondering if there would be a problem if the driving lanes by the drive through be one-way.

Hartley asked if the outdoor dining area has been identified. Becker pointed out where that would be in 2 areas. Hartley is wondering if there is any fencing or any other type of delineation. Becker stated that it is in the design manual but not the zoning code.

Bruce Miller, MFC Properties, stated that there was a firm hired to do a drive through analysis. As a result of that analysis, one of the drive throughs has been eliminated. They are trying to work something out with the Ebertz family for a second access, but the Ebertz family is not sure what they are going to do with their property, so they are reluctant to commit to anything. The City has directed that the sewer and water needs to be extended to the Ebertz property. Miller stated that will probably be done with a later phase and they will be working with the Ebertz family on that. Miller has reviewed the 20 conditions of approval and is confident that they can meet all of the conditions when they bring in the final plans for building permits and final plat. Miller stated as far as the medical facilities, they are talking only about clinics and he would be comfortable if the condition was changed to state that.

Kreimer asked about the City of Lake Elmo theming. Miller stated that he has looked at the theming and they plan to have ornamental trash receptacles, benches, decorative lighting and wrought iron fencing. They plan to work with staff to fine tune that.

Public Hearing opened at 7:50 pm

No one spoke and there was no written correspondence.

Public Hearing closed at 7:50 pm

M/S/P: Dodson/Hartley, move to add a finding #12 that a benefit to the City is the developer running sewer & water to the western edge of the property in accordance to PUD benefits, **Vote: 4-0, motion carried unanimously.**

M/S/P: Kreimer/Hartley, move to add condition #21 that permitted medical facilities shall be limited to non-urgent facilities such as clinics, eye doctors and dental clinics, **Vote: 4-0, motion carried unanimously.**

M/S/P: Kreimer/Dodson, move to add condition #22 that the applicant shall provide site amenities such as benches, trash receptacles, decorative lighting and that the signage will follow the theming, **Vote: 5-0, motion carried unanimously.**

M/S/P: Hartley/Kreimer, move to add condition #23 that fencing is required around all outdoor dining areas, **Vote: 5-0, motion carried unanimously.**

M/S/P: Kreimer/Hartley, move to amend condition #9 to read “the applicant shall amend the proposed Landscape Plan to comply with City standards and obtain approval by the City and include addition of landscaping along freeway frontage”, **Vote: 3-2, motion carried.**

Dodson is fine with the larger signs on the building and the ground sign as long as they follow the Lake Elmo theming.

M/S/P: Kreimer/Dodson, move to recommend approval of Lakewood Crossing 2nd addition Preliminary and Final Plat and PUD Plans with the 23 conditions of approval as drafted by staff and amended findings of fact listed in the staff report, **Vote: 5-0, motion carried unanimously.**

Public Hearing – Shoreland Variance

Becker started her presentation regarding the variance request for 9359 Jane Road from expansion of a non-conforming structure that does not meet setback requirements from the OHWL or impervious surface requirements. Becker went through the past variance requests and DNR permit violations. The applicant is proposing a home addition that will replace an existing deck previously allowed by variance. The proposed addition is 45.4 feet from OHWL where 100 is required. This puts it in a shoreland impact zone.

The city received MNDNR review on 6/9/17 with recommended denial based on the impervious surface increase and that the addition is in the shoreland impact Zone. They have stated that if the variance is granted, mitigation conditions are recommended. Staff would recommend adding a condition of approval that the applicant direct rain gutter discharge to a rain garden designed by a professional engineer or landscape architect and installed under their direction.

Becker went through the recommended findings of practical difficulties, unique circumstances, character of locality and adjacent properties and traffic. There are 2 staff recommended conditions of approval 1) the applicant secure any required permits and plan approvals from the City and other applicable jurisdictions 2) the applicant shall

direct rain gutter discharges into a rain garden designed by a professional engineer or landscape architect and installed under their direction.

Dorschner asked if the homeowner is going to put another deck on. Becker stated that they are not proposing that and if they did, it would require a variance.

Hartley asked about the practical difficulties. Becker stated that the lot was platted before shoreland standards. Because of the shape of the lot, there is not a lot of space for a home. The lot is much longer than it is wide. The footprint is not expanded by much.

Scott Drommerhausen, 9359 Jane Road N, stated he has been working with Stephen & Emily for a little over a year. There are currently gutters on all sides of the home. There are no plans for an additional deck.

Dodson is wondering if there is enough land there for the rain garden and another drainfield if it should fail. Drommerhausen thinks there is an area that is more than adequate for the rain garden.

Public Hearing opened at 8:31 pm

No one spoke and there was no written correspondence

Public Hearing closed at 8:31 pm

Hartley thinks they need to address the restoration of shoreland vegetation which was part of the DNR recommendation. This lot has almost double the impervious that is normally allowed. He would like to see restoration of 75% of the shore line. Mr. Drommerhausen described what the current shore line is like. There is a small beach area about 20 feet and then there are some rocks.

M/S/F: Hartley/Kreimer, move to recommend putting natural vegetation in for approximately 75% of the shoreland, **Vote: 1-4, motion fails.**

Dodson is concerned about making the homeowner do something that is more of a good practice than the Lake Association is already addressing.

M/S/P: Dodson/Dorschner, move to add that the location of the backup drainfield area be identified, no trees or vegetation be planted that could potentially interfere with a future drainfield, and that it not interfere with the infiltration basin, **Vote: 5-0, motion carried unanimously.**

M/S/P: Dorschner/Dodson, move to add to condition #2 that the raingarden or remediation plan address the additional runoff of the whole addition, **Vote: 5-0, motion carried unanimously.**

M/S/P: Dodson/Dorschner, move to recommend approval of the request for shoreland variances to allow expansion of a non-conforming structure that does not meet setback requirements from the Ordinary High Water Level and maximum impervious surface standards, subject to conditions of approval as recommended by staff and amended by Planning Commission, **Vote: 5-0, motion carried unanimously.**

Public Hearing – Fence Ordinance

Becker started her presentation regarding 154.205 fencing regulations. The City's Zoning Code prohibits solid wall fences over four feet in height on lots under ½ acre in size. This is being brought up again as there was a solid wall fence that was erroneously permitted on a lot under half acre in size. There is another neighbor that wants a similar solid wall fence to enclose a swimming pool. From a planning perspective, when lot size decreases, so does privacy. Staff is also recommending clarifying language that when a fence is installed on the property line that the stakes be visible for inspection. This will make it easier for staff to determine if the fence was installed in the appropriate location. Staff is also suggesting adding language that when a fence is in a front or side corner yard, that any required setback from a public right-of-way be added. This would be for public safety.

Public Hearing opened at 8:53 pm

No one spoke and there was no written correspondence

Public Hearing closed at 8:53 pm

Kreimer is in favor of the amendments to location for maintenance, but feels they have looked at this ordinance closely over the years and is not in favor of the other changes.

Emerson and Dorschner are in favor of the privacy fences on smaller lots. Dorschner thinks that allowing a portion to be solid wall and having a step down makes the fence look awkward.

M/S/P: Kreimer/Hartley, move to accept the changes to section #5 location as provided by staff, **Vote: 5-0, motion carried unanimously.**

M/S/F: Kreimer/Hartley, move to accept the changes to the fencing ordinance as described in section 5, but not the changes in the other sections, **Vote: 2-3, motion failed.**

M/S/P: Dorschner/Dodson, move to recommend adoption of amendments to Section E of the Fencing Regulations of the City's Zoning Code as presented by staff, **Vote: 3-2, motion carried.**

Business Item – Hidden Meadows 2nd Addition Final Plat - OP

Wensman started his presentation regarding final plat approval of Hidden Meadows 2nd addition for a 26 unit single family residential OP development located off of Keats Ave and Hwy 36. Wensman went through the history of this site and when the approvals and extensions happened. Wensman pointed out that because it has been longer than one year since this has been platted, the City can enforce the current regulations and standards including the Engineering design standards.

Wensman went through what is included in Hidden Meadows 2nd addition. It is a little confusing because a part of the current outlot B is part of the residential development area, which also includes the original farm home as a lot. The OP development area is 68.05 acres. The density is .41 du/buildable acres. There is currently 51% of buildable open space. The required buffers go all the way to the back of the house in most instances. The developer has come forward with a plan that has a reduction of the buffers in exchange for screening or some other buffer. The Ziertmans on the west side do not object to the reduced buffer provided that a berm is provided in conjunction with the coniferous screening. The Bergmanns have not commented on the buffer, but have asked for a street stub connection to their property to the East.

Another issue is the Cul-de-sac length. The City's standard for cul-de-sac length for subdivisions with lots 2.5 acres or less in size is 1000 feet. The cul-de-sac length for 59th Street was 2,000 feet long for access to Rockpoint church, and is now being extended to 4,000 feet long. The cul-de-sac length for 57th Place N is nearly 1,000 feet long. Right of ways are typically 60 foot wide to accommodate for trails, utilities, etc. This project has a 50 foot right of way which includes a 24 foot wide street, surmountable curbs, street trees, trail and sanitary sewer. With this being a 24 foot wide street, parking will be restricted to one side of the street.

The City Engineer is starting a Highway 36 frontage road study to coincide with MNDot's long range plans to limit access to State Highway 36. A future frontage road may need to go through outlot A and connect to 59th Street. There are a number of engineering deviations associated with this plat. There is encroachment into wetlands, wetland buffers and other water bodies. The storm ponds do not meet City Design standards. There are retaining walls in the right of way and right of way does not match the typical City design.

The community septic on Outlot B was installed by Rockpoint Church and has excess capacity to accommodate 17 new homes. Lot 1 block 1 was not proposed to be connected to the community septic, but staff recommends that it should be.

The landscape plan needs some updating to include water and sanitary sewer connection, 88 trees, changing the mix of buffer trees in buffer to evergreens, Bergmann screening, berm along west property line with the proposed trees along Ziertman property in lieu of reduced buffer.

There are no off-site street connections. The Bergmann's are requesting a street stub. The Slomkowski property is landlocked except for a private driveway easement. There are street lights in the plan shown at intersections and cul-de-sacs. The draft findings basically touch on the deviations from the current standards. Staff would like the Planning Commission to specifically address the reduced buffers and the open space that not less than 60% be in contiguous parcels of not less than 10 acres.

Dodson asked about lots 9 & 10 that have a pond and wetland that goes through the property. Dodson stated that it doesn't look like they can get to the back of their property. Wensman stated that is correct. Dodson asked if that meets City Standards and if it isn't can we ask for that to be changed. Wensman stated that it doesn't meet current standards. The pond is already there and the site is already graded and it would be a hardship for the developer if modification is required, the development might not happen.

Dodson asked about the wastewater facility and if an analysis of the upgrade has been done. Wensman stated that the City has not reviewed any design and that is why it is a condition of approval.

Kreimer asked about providing access to Bergmann's and to the property to the South. Wensman stated that Bergmanns have asked for access, but the property to the South has not.

Dorschner asked what the legal responsibility of the City is after 10 years. He feels a lot of things have changed over time. Wensman stated that the City is under no obligation because of the length of time that has passed.

Emerson stated that the cul-de-sac should extend to the Bergmanns and they can probably still get the same amount of lots. If Bergmanns are looking to have the road extended, they probably plan to develop and would not be concerned with the reduced buffer. He also feels that it would be wise to get an easement or something to the south.

Mark Guenther, RM Investments, stated that they have been trying to work through the issues for the last year and he thinks that they have gotten there. Guenther stated that when they went for an extension, they were asked to keep the plat as designed and preliminary platted. Guenther stated that they are requesting that Lot 1 Block 1 not be part of the community drainfield. The ownership will be retained by the Rockpoint

Church and the future of those parcels are unknown. Guenther talked about the community system and what would need to be done to add the 7 additional homes. The dump site has been cleaned up. He is asking for the language of condition 10 be changed from 26 lots to 25 to remove Lot 1 Block 1. Guenther stated that the plan is consistent with Preliminary Plat. The buffer areas are difficult because they wouldn't even be able to construct a deck or a porch on these houses. The site has already been graded and through the watershed. The quantity of the discharge of the water cannot increase. On the West side, there are some low areas where the water discharges to. They are not changing where the water is leaving the property, but they are controlling the rate that will be discharged. Guenther explained the grade changes and landscaping along the property lines. As far as berming, Guenther stated that they can take a look at that, but with the low area, it might be hard, but if they are generating some dirt, they will attempt to do that. Guenther has concerns about providing access to the Bergmann parcel because it would affect the watershed and they would probably lose a lot.

Dorschner asked if the roads were graded already. Guenther stated that they are subgraded. There would just be a few adjustments to be made and vegetation that would need to be removed. Dorschner is concerned about the ponding on Lots 8, 9 & 10. Emerson is wondering if this was originally a wetland or if it was graded that way. Guenther stated that he does not know if it was existing or if it was created. Dodson asked when the grading that is there was done. Guenther stated it was done at Preliminary Plat 11 years ago.

Dodson asked about the CIC agreement that will be set up with the Church. Guenther stated that there will be 2 HOA agreements. One will be just for the area of Single family homes set up to maintain the outlots and the other will be for the septic system. Guenther stated that the split Church/Homes would be about a 60/40 split for usage.

Dorschner has a lot of concerns about this plat and is wondering if there might be other options for this site. Guenther stated that there are not a lot of other options for this site without losing a lot of the natural features and filling in a wetland.

Joan Ziertman, 5761 Keats Ave, overall is in favor of the development. A condition of approval of the church was to develop a 68 acre OP residential development. The preliminary plat had the buffer setback at the 200 feet. Reducing the buffer was never discussed at the public hearings and Ziertman feels that the developer should have talked to the neighbors before assuming that they could reduce the buffers. It will require a 4/5 vote of the City Council. The preliminary plat landscape plan already showed a double tree line, so the City and neighbors are not getting anything in return for the reduction. Ziertman stated that they farm their property and have animals and landscaping alone is no guarantee for buffering. Trees can die and not be replaced, or homeowners can remove them. Ziertman stated that the U of M landscaping berming standards state that berms provide noise, wind and screening for 2 incompatible uses which farming against residential is. Ziertman requested that condition #7 be changed

to have a berm constructed to U of M standards and setback from the property line for proper drainage. Ziertman showed pictures of the common property line to demonstrate that it is a flat area.

Dodson stated that he is generally opposed to this development. However, should it go forward, he has some conditions he would like to propose.

M/S/P: Dodson/Dorschner, move to amend condition #10 to add that funds for this system will be placed into escrow and the declarant of the CIC will demonstrate a bank account statement with a capital reserve required for operation of the wastewater system is either 1/3 the cost or an amount based on an equipment failure model provided by the vendor operating the wastewater system, whichever is more, **Vote: 5-0, motion carried unanimously.**

M/S/P: Dodson/Kreimer, move to strike condition #20 per recommendation of the Planning Director, **Vote: 5-0, motion carried unanimously.**

M/S/P: Dodson/Dorschner, move to add condition #20 that the declarant of the CIC will demonstrate transfer of all permits and titles for the wastewater facility to the common interest community, **Vote: 5-0, motion carried unanimously.**

M/S/P: Dorschner/Dodson, move to remove condition #5, **Vote: 5-0, motion carried unanimously.**

Dodson is concerned about how the CIC will work if the Church has 60% of the capacity, how the voting and decisions will be made surrounding that system. He is more reassured that it is only pumping grey water as it should have less technical difficulties.

M/S/P: Dorschner/Dodson, move to amend condition #7 to include a berm built to U of M standards behind lot 1, 2 & 3, behind the Ziertman property, **Vote: 5-0, motion carried unanimously.**

Dodson would rather see a loop for roads rather than the 2 cul-de-sacs. Emerson stated that the problem is it is already graded and there is a wetland there. Dorschner asked about the width of the roads. Wensman stated that if the roads are wider, the right of way would need to be wider and the plat would not work. Hartley is wondering if the northern cul-de-sac could just be straightened and brought over to the Bergmann property. Emerson stated that the road would have to go to the north into the church property, so there would need to be an agreement with the church and no lots would be lost.

M/S/F: Dodson/Dorschner, move to recommend denial of Hidden Meadows 2nd addition due to the number of exceptions in the staff report to normal standards, the land use

should be rural residential and the number of homes is too small for the community septic system, the potential land trust, buffer and road issues , **Vote: 2-3, motion failed.**

Hartley is wondering if it would make sense to put a provision to keep the 20 acres to the north open for a potential frontage road. Dorschner is concerned about the HOA partnering with the Church to maintain the Wastewater system. What would happen if the church goes bankrupt? Guenther stated that this HOA will be set up correctly financially. The system was designed and built to accommodate the church and the homes. If the homes are not added, it would be detrimental to the Church.

M/S/P: Dorschner/Emerson, move to add a condition that the developer work with the Church to obtain an easement to extend the cul-de-sac, 57th Place N, North of Lot 11, **Vote: 5-0, motion carried unanimously.**

Guenther stated that in speaking with the Church representatives, they would not be opposed to platting a road easement, but they would not want to build the road at this time.

M/S/P: Kreimer/Hartley, move to recommend approval of Hidden Meadows 2nd addition with 21 conditions of approval as amended based on the findings in the staff report, **Vote: 4-1, motion carried.**

Business Item – Southwind Final Plat

Wensman started his presentation regarding a final plat request from Southwind Builders for a 46 single family attached dwelling development on approximately 15 acres. This development is to the North of Hunter’s Crossing and 5th Street North. This development will have only the one phase. The final plat is consistent with the preliminary plat, however, the trail from the cul-de-sac bulb to 5th Street has been removed. The homes will be sprinklered. There were a number of engineering comments including infiltration basin comments, stormwater management, ROW, etc.

There is a retaining wall that is right on the North property line and easement and the stormsewer is close to the back lot line of the homes. There is not an adequate area for maintenance of the stormsewer pipe, so the engineer is recommending that it be owned and maintained by the HOA.

Wensman went through the 6 findings and 15 conditions of approval.

Dodson asked about the infiltration pond on outlot A and how the overflow would work. It seems like with the topography it would go to the street culvert.

Larry Alm, Southwind Builders, does not have a presentation, but is willing to answer questions from the Commission.

Kreimer asked Alm why the trail connection was eliminated at the bulb at the end of the cul-de-sac. Alm stated that he feels there is not room for it and it would not go anywhere as there is no sidewalk on that side. Kreimer stated that there is a trail on that side. Kreimer asked about the house designs. The developer showed the house designs on the overhead. They will all have lower levels with walkouts.

Dodson asked about the 100 year overflow in the basin on outlot A. He is wondering if that can go West instead of North. Alm stated that it already runs east/west.

Emerson asked about what kind of screening there is next to the commercial property to the East. Alm stated that the elevation of their property is higher and there are mature trees there.

M/S/P: Kreimer/Dorschner, move to add condition #16 that a bituminous trail or sidewalk be constructed from the end of the bulb of the cul-de-sac to the trail on 5th street, **Vote: 4-1, motion carried.**

Dodson stated that he is mildly opposed just because it may impact the parking in the cul-de-sac. Emerson stated that it is kind of nice to have a circle for walking. Wensman stated that currently the City does not allow parking in cul-de-sacs.

M/S/P: Kreimer/Hartley, move to strike condition #14 as it is not needed, **Vote: 5-0, motion carried unanimously.**

Dorschner is wondering how they will build the retaining wall right on the property line. Emerson asked what the height of the wall is. Wensman stated that it is 4 feet tall. The developer stated that as the grading is done, the wall will go in. It will all be done from their side. Dodson is happy that the cul-de-sacs are public rather than private as they were previously.

M/S/P: Kreimer/Dorschner, move to add condition #16 to revise the landscape plan to have additional trees for buffering behind lots 26-29 to the extent possible, **Vote: 5-0, motion carried unanimously.**

Emerson stated that there is a drainage swale there that makes it very difficult to add trees.

M/S/P: Dodson/Kreimer, move to recommend approval of the Southwind Final Plat with the 16 conditions of approval, **Vote: 5-0, motion carried unanimously.**

City Council Updates – June 6, 2017 Meeting

- i) Hammes 1st Addition Drainage and Utility Easement Vacation - passed
- ii) Easton Village 2nd Development Agreement - passed

- iii) Inwood 5th Developers Agreement – passed, but will come back for an amendment at the next meeting
- iv) Royal Golf Course Preliminary Plat & PUD Plans - passed
- v) Wildflower PUD Amendment - passed
- vi) Parcel A – Schiltgen Property Concept PUD - passed

Staff Updates

1. Upcoming Meetings
 - a. June 26, 2017
 - b. July 10, 2017
2. MAC CEP Report

Commission Concerns

Kreimer asked about the Cimarron bankruptcy. Wensman stated that the hedge fund that owns Cimarron is in bankruptcy in a 2 other states, so it is difficult to get answers from them.

Meeting adjourned at 11:50 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant