

**City of Lake Elmo  
Planning Commission Meeting  
Minutes of December 12, 2011**

Chairman Van Zandt called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Bidon, Fliflet, Hall, Haggard, Obermueller, Van Zandt and Ziertman. Absent: Pelletier and Williams. STAFF PRESENT: Planning Director Klatt and Planner Johnson.

M/S/P, Hall/Ziertman, move to approve the agenda, vote: 7-0

**Minutes-** *None.*

**Public Hearing-** *Comprehensive Plan Amendement and Zoning Text Amendement 5577 Lake Elmo Ave.*

Planning Director Klatt describes the applicant's request, highlighted by a change of the future land use designation from RAD to NC. In addition, a zoning change from RR to R1 is necessary. Planning Director Klatt then presented the background of the property and the minor subdivision process. One important note about the history: the 10-acre minimum for Rural Residential properties was not established until 1979. He also noted that at the time of the subdivision in 1978, the City received an easement on the Southern portion of the property for the purpose of emergency vehicle access. In addition, Planning Director Klatt presented detailed maps highlighting the property, noting where the existing home is located, as well as where the neighboring homes are located. The reason that the applicant's property was irregularly shaped at the time of the subdivision was to aggregate the necessary amount of land (5-acres) to complete a subdivision.

Commissioner Fliflet asked from which property was the Weber property subdivided?

Planning Director Klatt explained that the property was split from the Bergmann property.

Commissioner Hall asked about whether the two in lots inside the Weber property were subdivided at the same time?

Planning Director Klatt noted that the Bergmanns are in attendance and can explain how the subdivision occurred.

Planning Director Klatt went on to explain the applicant's reason for the Zoning Map Amendment. The minor subdivision would result in two lots of sizes of 2.27 and 2.84 acres respectively. He noted that the Northern portion of the property was evaluated to see if there was suitable soil and room for a septic system, and that there was suitable space and soil.

Planning director Klatt went on to explain the Rural Agricultural Density (RAD) designation in the Lake Elmo Comprehensive Plan. Most of the Northeast portion of the city is guided for this future land use. He then described the zoning of the property. Planning Director Klatt noted that an OP Development requires 40 acres, and that most of the residential parcels that were not in an OP development were larger acre plots. Klatt then described the language of the Comprehensive Plan. He noted that within the RAD zone, there is a maximum density of .40 dwelling units per acre. Klatt then explained the Neighborhood Conservation (NC) designation. In terms of the zoning information, Planning Director Klatt explained the specific characteristics of the Rural Residential (RR) District and R1 District. He noted that there is a minimum of 10 acres of land within the Rural Residential District. This is intended to preserve the rural character of the community. Klatt also noted that the Comp Plan does not allow splitting of lots less than 10 acres within the RAD District.

Regarding the Staff recommendation, Planning Director Klatt explained that it is not efficient to serve lots of less than 5 acres that are not part of planned developments. In addition, this subdivision would most likely require additional access to Lake Elmo Ave. in the form of a driveway, which should be discouraged. Planning Director Klatt explained that approving this request would potentially create a spot zoning situation, which would create a negative precedent. Finally, the City Engineer does not support this request.

Planning Director ended his presentation by explaining that the Staff recommendation for this amendment is for denial. He also outlined some alternative actions for the Planning Commission. These alternatives include tabling the request, approving the request, direct the applicant to seek an alternative request, such as a variance, or direct staff to consider a broader Comprehensive Plan and zoning map amendment.

Commissioner Hall inquired as to how the subdivision would have occurred in 1980.

Planning Director Klatt explained that the minimum lot size under this zoning designation in 1980 would have been 10 acres.

Commissioner Fliflet noted that this action would not have been allowed in 1980.

Commissioner Hall questioned the rationale for the original subdivision of the property considering the odd shape of the lot.

Planning Director Klatt explained that the standard at this time was 5 acres. As long as they fulfilled this requirement, then the subdivision was allowed.

Commissioner Fliflet asked about the abutting property to the North of the Weber property.

Planning Director Klatt explained that no one would be able to build on the lots that are vacant because the lots are smaller than the minimum lot size.

The applicant, Steven Weber, explained that there has been frustration about lot in that a large portion of it is unusable due to the configuration. Mr. Weber then explained that he took ownership of the property after his father passed away. In addition, he noted that all of the surrounding parcels are smaller than the proposed new parcels would be.

James Delaplain, Mr. Weber's Lawyer, stated that this instance would not be considered a case of spot zoning because the new parcels would be consistent with the surrounding parcels. Also, he addressed the concern regarding putting additional access to Lake Elmo Ave. with an additional driveway. He noted that the property owner would be ok with creating access to the northern portion of the property with a driveway through the southern portion of the property. Finally, he noted that the density of the two parcels would be consistent with the RAD future land use designation.

Commissioner Hall inquired as to why a zoning amendment was pursued as opposed a variance?

Mr. Weber noted that Planning Director Klatt instructed him that a zoning amendment would be more feasible at the time due to the State statute limiting the issuing of variances.

Planning Director Klatt explained that a variance may be more feasible now, but it would still be difficult considering the all of the issues connected to the property regarding the access points and other concerns.

#### CHAIRMAN VAN ZANDT OPENED THE PUBLIC HEARING AT 7:43

Eileen Bergmann, 5500 Lake Elmo Ave., explained the history of the properties in the area. She then explained the history behind the subdivision of the property which Steven Weber's father bought. Ms. Bergmann explained that there are many 10 acre parcels still undeveloped along Lake Elmo Ave. If you allowed Mr. Weber to subdivide this parcel, then other parcels could also subdivide, moving the corridor towards higher density.

Douglas Dahlblom, 5749 Lake Elmo Ave., noted that he agrees with Ms. Bergmann. He is concerned that if a subdivision occurs on this property, then other properties will follow.

Brad Thiel, 5597 Lake Elmo Ave., stated that he does not have any personal objections to subdividing the property.

Planning Director Klatt noted that Eileen Bergmann sent a letter to the Planning Commission, which is entered into the record.

#### CHAIRMAN VAN ZANDT CLOSED THE PUBLIC HEARING AT 7:52

Commissioner Fliflet asked about what lot standards existed before the 5 acre minimum.

Planning Director Klatt noted that some lots were subdivided at the size of 1 and 2.5 acres according to the regulations established within the township regulations. This occurred before the regulations came into place for a minimum of 5 acres.

Commissioner Obermueller asked about the lawyer's use of spot zoning.

Planning Director Klatt stated that he doesn't believe that his interpretation is correct. He noted that a zoning amendment would not be appropriate unless the Planning Commission desired to make a broader change to the Comprehensive Plan regarding these types of lots.

Chairman Van Zandt asked whether this amendment could set a precedent for other lots like this on Lake Elmo Ave.

Planning Director Klatt felt that this case was unique, but the decision should look at the broader picture.

Commissioner Ziertman noted that there are other lots that are smaller than 5 acres on Keats Ave.

Planning Director Klatt noted that this request begs the question of how does the City want to address these types of lots. Is this type of lot consistent with the Comp Plan in terms of preserving rural character. Planning Director Klatt also noted the other communities contain diversified rural areas, or holding areas that are administered by the Metropolitan Council. In this case, the Met Council also sets minimum standards for lot size. Finally, Planning Director Klatt also wanted to know how issues of access should be addressed in the future.

Commissioner Fliflet noted that no property rights are being taken, and that she felt that the zoning should not be changed. The property owner (Mr. Weber's father) knew the zoning at the time of purchase. In addition, she noted that Lake Elmo Ave. is busier today than 30 years ago.

Commissioner Ziertman stated that the Comprehensive Plan does not allow this type of subdivision and she does not see any need to approve this request.

M/S/P, Fliflet/Ziertman, recommend denial of the request to change the zoning of the property at 5577 Lake Elmo Ave. N. from RR to R1, and furthermore deny the request to amend the City's future land use designation of this property. Vote passes 6:1 (Commissioner Hall votes no).

Commissioner Hall agrees that this would be a case of spot zoning. However, he also believes that this site should not have been subdivided in this manner previously and does not think that this request would set a precedent. Hall feels that this simply could be a case of enlarging the cluster of nonconforming lots from 5 to 6.

**Business Item – *Planning Commissioner Terms***

Chairman Van Zandt wanted to know how Commissioners Fliflet and Williams should apply for further appointment if they desire.

Planning Director Klatt noted that they should alert the City Clerk of their intention to seek additional appointment.

Chairman Van Zandt asked for further clarification regarding his term.

Planning Director Klatt explained that he understood that Chairman Van Zandt was granted a two year term. Therefore, Chairman Van Zandt has another year on his term.

Chairman Van Zandt asked Planning Director Klatt to explore the history of his term. He also asked the rest of the Commissioners to contemplate their terms. Finally, he wanted to reiterate that he thought his term was over this January.

Commissioner Fliflet felt that new officers should be elected in February. With this methodology, it would be easier to make the transition with the new Commissioners. She felt that this would be a better process.

Planning Director Klatt agreed with this comment, and stated that the Planning Commission is typically insulated from this process due to the existence of alternates.

**Updates- City Council**

The Planning Director informed the Commission that the City Council approved the CUP Amendment and Variance request by Christ Lutheran Church.

**Commission Updates- *None***

**Staff Updates- *Addition to Planning Staff***

Planning Director Klatt explained that Nick Johnson has been serving as Interim City Planner to support the City Staff until the full-time position is filled.

In addition, Ben Gozola has been hired as a consultant to lead the South of 10<sup>th</sup> St. Work Group.

Finally, Planning Director Klatt added that there will not be another Planning Commission meeting in December, and that the Commission will reconvene in January.

**Adjournment**

The meeting was adjourned at 8:19 p.m.

Respectfully submitted,

Nick Johnson  
Planner