



**City of Lake Elmo
Planning Commission Meeting
Minutes of January 22, 2018**

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

COMMISSIONERS PRESENT: Kreimer (joined at 8:06) Pearce, Weeks, Lundquist, Johnson, & Hartley

COMMISSIONERS ABSENT: Dodson, Dorschner, & Emerson

STAFF PRESENT: City Planner Prchal & Planning Director Becker

Election of Officers:

M/S/P: Lundquist/Johnson, move to postpone election of officers until the end of the meeting, ***Vote: 5-0, motion carried unanimously.***

Approve Agenda:

The agenda was accepted as amended.

Approve Minutes: December 11, 2017

M/S/P: Lundquist/Hartley, move to postpone the minute of December 11, 2017 to the end of the meeting when there will be enough people, ***Vote: 5-0, motion carried unanimously.***

Public Hearing – Final Planned Unit Development (PUD) Plans and Conditional Use Permit

Ben started his presentation regarding the application for both Final Planned Unit Development and a Conditional Use permit application from Central Design Group LLC for a Fairfield Inn Hotel. The location of the property is Lot 1 Block 1, HOA 2nd Addition of the Eagle Point Business Park at 8574 Eagle Point Circle. This proposal is for a a 90 room hotel on 2.496 acres (2 acre minimum in Eagle Point).

There are standards as part of the PUD that was done when the Eagle Point Business Park PUD was approved. The plans have been reviewed by the Planning Staff, City Engineer, Fire Chief and Building Official. They have also been sent to the DNR.

The building meets the setback, but there is some encroachment into an easement that needs to be addressed. There are 95 parking spaces with 4 handicap accessible spots, which meets the parking requirement. Part of this development is in the Shoreland and that is where the DNR comment comes in. Staff believes the project meets the architectural guidelines for the Eagle Point Business Park.

The DNR is recommending that the site not have more than 25 percent impervious and that they could use pervious pavers. However, this is just a recommendation. The City Engineer has verified that the stormwater pond is more than adequate to handle the runoff. This project is exceeding the allowed impervious amount allowed within a sewer property within the shoreland by 19.6%

Lundquist asked about the lack of greenspace around the building. It goes right from building to parking lot. Hartley stated that with the number of parking spaces required and the easement, it would be very difficult to add more greenspace. Lundquist thought that possibly the parking lot could be reconfigured.

Lundquist feels that when there is a deviation from the impervious surface standard, it should be stated why it was allowed. Prchal stated that it should be allowed because the original Eagle Point Business Park plans were developed without the DNR approval. Only a portion of the property is in the shoreland, and the rear stormwater pond was established to handle all of the runoff for this lot. Becker stated that when this property was platted, it was prior to the current shoreland ordinance. The shoreland ordinance in existence at the time was silent on impervious surface in sewer areas.

Hartley wanted to draw attention to item 2 on the fire chief's memo. The structure is a 4 story building with limited access to the back of it. Hartley would like to see the items in the letter itemized in the conditions because they are big issues that need to be done.

Public Hearing opened at 7:49 pm

No one spoke and there were no written documents.

Public Hearing closed at 7:50 pm

M/S/P: Hartley/Lundquist, move to add items 1 through 4 from the fire chief's memo as sub items under conditions of approval for final planned unit development item 3, specifically location of the fire hydrants and access to the rear of the building, **Vote: 5-0, motion carried unanimously.**

M/S/P: Hartley/Lundquist, move to recommend approval of the request by Central Design Group, LLC for approval of Final Planned Unit Development plans associated with a 90 unit hotel to be located on Lot 1, Block 1, HOA 2nd Addition, subject to the

conditions of approval as recommended by staff and amended by Planning Commission, ***Vote: 5-0, motion carried unanimously.***

Johnson is concerned that if they are adding access to the back, that is increasing the amount of impervious. Weeks does not feel that the widening of the hard surface for better access would have much impact on the amount of impervious surface.

M/S/P: Weeks/Hartley, move to recommend approval of the request by Central Design Group, LLC for approval of a Conditional Use Permit associated with a 90 unit hotel to be located on Lot 1, Block 1, HOA 2nd Addition, subject to the approval of Final Planned Unit Development Plans, ***Vote: 5-0, motion carried unanimously.***

Public Hearing – Zoning Text Amendment – Bed & Breakfast as Accessory Use

Becker started her presentation regarding Airbnb's , defined as Bed & Breakfasts in the zoning code. This item was previously discussed at the July 11, 2017 workshop, and staff was asked to explore this item. At the August 14, 2017 meeting, the Planning Commission considered where Airbnb's and other types of bed & breakfasts should be allowed and in what zoning districts. Currently, Bed & Breakfasts are allowed in a number of residential districts as a Conditional Use and not allowed in a number of other residential districts such as RS and RE. At the August 14, 2017 meeting, the Planning Commission recommended that Bed & Breakfasts be allowed permitted use in the residential zones it is currently allowed and that they be allowed as a conditional use in the residential zones they are currently not allowed in.

Becker stated that there are currently standards in the code for Bed & Breakfasts. There were not any recommendation for changes at the last meeting. Becker went over those standards which include maximum number of rooms at 5, a required guest register, stay limited to 7 days, and liability insurance required.

Commissioner Dodson sent an email regarding this which stated that he feels the Airbnb should be an allowed use in all zoning districts. Dodson does not feel that the stay should be limited to 7 days and feels that should be removed. Dodson feels that the requirement that it be located in a single family detached dwelling should be removed because it would exclude townhomes. Dodson also feels that the guest register requirement should be removed.

Public Hearing opened at 8:02 pm

No one spoke and there were no written comments

Public Hearing closed at 8:03 pm

Johnson tends to agree with a lot of the items in Dodson's email. He doesn't feel that there will be a huge demand for Airbnb's in Lake Elmo than other communities that might have that have larger attractions. Johnson feels that Airbnb's are quite different from a Bed & Breakfast and does not function the same. Johnson does not feel the need to regulate unless there is an issue.

Weeks agrees and googled Lake Elmo Bed & Breakfast and none came up. Weeks believes that there are a few people in Lake Elmo operating Airbnb's and there have not been any complaints. Weeks feels that they should be permitted and will be self-regulating.

Hartley is wondering how you would separate Airbnb from a Bed & Breakfast if they are grouped together in the code.

Lundquist is wondering if the City needs to do anything to protect itself from somebody listing a property that is vacant on Airbnb that turns into a party house. It happened in a western suburb.

Hartley asked if we require a permit for a Bed & Breakfast. Becker stated that currently the City requires a conditional use permit. Hartley is in favor of keeping the conditional use permit requirement as it is at least a minimal requirement that the City can use for enforcement. Becker stated that the recommendation from the Planning Commission in August was to make Bed & Breakfast a permitted use in existing zones, which would eliminate the permit requirement.

Weeks stated that if the City requires a permit, she would worry that the City might have to start doing inspections and that kind of thing.

Kreimer asked how surrounding communities handle this. Becker stated that typically it is done under a licensing process.

Hartley stated that in Stillwater it seems that one of the big issues is in regards to parking. A lot of times the type of houses turned into Bed & Breakfasts do not usually have adequate space to double or triple the parking.

Lundquist asked if this is a business where they are making money, should they be paying a permit fee and taxes for that business.

Kreimer asked if there was a way to make this a permitted use, but that there needed to be some sort of low cost permit. Becker stated that it could be written into the ordinance and could be less expensive and less invasive. Kreimer stated that it would give the City a chance to revoke it and they would need to show that they can provide enough parking, etc.

M/S/P: Lundquist/Hartley, move to set up a licensing system that is \$100 for every two years for Bed & Breakfasts and require one parking stall for every rental unit, **Vote: 4-0, motion carried, with Weeks abstaining.**

Pearce asked if there is an HOA, those rules would also come into play. Weeks stated that HOA agreements are private agreements that are enforced by the neighborhood.

M/S/P: Kreimer/Lundquist, move to change Bed & Breakfast from Conditional Use to Permitted Use in RT, AG and RR, **Vote: 6-0, motion carried unanimously.**

Kreimer feels that there could be more issues in RE and RS with parking on the smaller lots. Kreimer feels that the maximum number of guest rooms at 5 is too high of a number and is wondering if they could be different for different zones. Johnson thinks that the CUP process might be too complex and prefers a licensing process better. Kreimer would rather have it be conditional because there are more complex things that could come up in those zones. Weeks is in favor or not changing the code in those districts and not allowing it in any fashion.

M/S/P: Kreimer/Lundquist, move to not include Bed and Breakfast as a permitted or Conditional Use in RS or RE and leave it as is, **Vote: 5-0-1, motion carried with Pearce abstaining.**

M/S/F: Hartley/Lundquist, move to allow Bed & Breakfast as a Conditional Use in GCC, LDR, MDR and HDR, **Vote: 3-3, motion failed.**

Johnson and Weeks were not in favor of the CUP process. Weeks feels that people just won't come in and apply for the CUP.

M/S/P: Johnson/Lundquist, move to allow Bed & Breakfast as a permitted use in GCC, LDR, MDR and HDR with the licensing requirement, **Vote: 5-1, motion passed with Kreimer voting no.**

M/S/P: Johnson/Pearce, move to allow Bed & Breakfast as a permitted use in V-LDR and VMX with the licensing requirement, **Vote: 5-1, motion passed with Kreimer voting no.**

M/S/P: Johnson/Hartley, move to allow Bed & Breakfast as a permitted use in with the Commercial zoning district with the licensing requirement, **Vote: 4-2, motion passed with Kreimer and Lundquist voting no.**

Kreimer asked if staff was only proposing it be a conditional use for the Commercial district. Becker stated that is correct because any sort of residential use is only allowed in the commercial zone.

Business Item – Zoning Test Amendment – Wind Generator

Prchal started his presentation regarding the wind generator ordinance by going through what has changed since the last meeting. The wind generators now can be a principle use in addition to an accessory use. Prchal went through what the application process is. Johnson is wondering if this ordinance is too restrictive. The Planning Commission had some discussion regarding this.

M/S/P: Hartley/Johnson, move to strike the requirement under setbacks that in the rural district these systems be required to be mounted to the rear portion of the building, **Vote: 6-0, motion passed unanimously.**

Hartley thinks that under general standards, the design does not need to preclude prototypes. Weeks thinks that should be in there as a deterrent to someone building their own and there would be safety standards.

M/S/P: Hartley/Johnson, move to strike "utility scale" from General Standards Design 3 (a), **Vote: 4-2, motion passed with Lundquist and Weeks voting no.**

M/S/P: Hartley/Johnson, move to strike "grounded" and simply state that all wind generators shall be protected against lightning strikes, **Vote: 6-0, motion passed unanimously.**

Kreimer is wondering if something can be added to the maintenance section to be more specific about what it should look like, so that the owner would either need to fix it or it would be decommissioned. Prchal stated that there would be a letter of credit for this reason.

M/S/P: Kreimer/Hartley, move to remove from 4b, A letter of credit shall be submitted to the City equal to the removal cost of system and remove from 4b a letter of credit submitted to the City equal to the value of the restoration costs and add in a new section 1f a letter of credit for the removal and restoration costs shall be submitted to the City, **Vote: 6-0, motion passed unanimously.**

Pearce is wondering how expensive it will be for someone to submit that letter of credit to the City and is wondering if a bond would be better. Becker stated that usually the City requires letter of credit, but that would be more of an administrative question. Hartley stated that usually the City is dealing with developers that are done within a couple of years. This might be 15-20 years and would be a burden. Kreimer is wondering if the letter of credit was intended to be submitted at the time of decommissioning which would be a much shorter time. The Planning Commission is looking for clarification between letter of credit and bond.

Kreimer still does not feel that there is anything strong enough in the ordinance to ensure there would be adequate maintenance and not be a rusty pole sitting there. Becker stated that they could add “subject to penalty ordinance”.

M/S/P: Kreimer/Lundquist, move to add “subject to penalties under 10.99” after the word necessary under maintenance 3b subsection, **Vote: 6-0, motion passed.**

Public Hearing closed at 9:55 pm (Left open from previous meeting)

M/S/P: Hartley/Johnson, move to recommend approval of the wind generator ordinance by adding additional standards and language as amended, with clarification regarding bond vs. letter of credit and if it should be at time of application or at decommissioning, **Vote: 6-0, motion passed unanimously.**

Approve Minutes: December 11, 2017

Kreimer would like “15 feet” added to the last paragraph of page 7.

M/S/P: Lundquist/Johnson, move to approve the minutes of December 11, 2017 as amended, **Vote: 4-0, motion carried with Pearce and Weeks abstaining as they were not there.**

Election of Officers:

Kreimer stated that it would be nice to have someone else learn the ropes.

M/S/P: Kreimer/Lundquist, move to nominate Dean Dodson as Chairperson of the Planning Commission, **Vote: 6-0, motion carried unanimously.**

M/S/P: Lundquist/Weeks, move to nominate Tom Kreimer as Vice Chairperson of the Planning Commission, **Vote: 6-0, motion carried unanimously.**

M/S/P: Kreimer/Pearce, move to nominate Stuart Johnson as Secretary of the Planning Commission, **Vote: 6-0, motion carried unanimously.**

City Council Updates – December 19, 2017 Meeting

- i) CPA, ZTA and ZMA for Closed Landfill – passed
- ii) Sign Ordinance Revisions – tabled
- iii) Easton Village 3rd Addition Developers Agreement – passed

City Council Updates – January 2, 2018 Meeting

- i) Sign Ordinance revisions - passed

City Council Updates – January 16, 2018 Meeting

- i) Wyndham Village Subdivision Sketch Plan and CPA – tabled
- ii) Legacy at North Star Preliminary Plat and PUD Plans – tabled
- iii) Interim Ordinance for CPA Moratorium - passed

Staff Updates

1. Upcoming Meetings
 - a. February 12, 2018
 - b. February 26, 2018
2. MAC CEP Report
3. Comprehensive Plan Update

Commission Concerns

M/S/P: Lundquist/Johnson, move to ask the City Council to publically acknowledge Todd Williams for all of his years on the Planning Commission as well as his work on the Comprehensive Plan, ***Vote: 6-0, motion carried unanimously.***

Meeting adjourned at 10:05 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant