



**City of Lake Elmo
Planning Commission Meeting
Minutes of October 10, 2018**

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

COMMISSIONERS PRESENT: Dodson, Dorschner, Weeks, and Emerson

COMMISSIONERS ABSENT: Kreimer, Lundquist, Pearce, Hartley and Johnson

STAFF PRESENT: City Planner Prchal

Approve Agenda:

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

Approve Minutes: September 10, 2018

M/S/P: Dorschner/Dodson, move to approve the September 10, 2018 Minutes as presented, ***Vote: 4-0, motion carried unanimously.***

Public Hearing – Easement Vacation Request Zawadski Homes

Prchal started his presentation regarding an easement vacation request to vacate a drainage and utility easement between 9829 and 9843 Whistling Valley Road in Whistling Valley 2nd addition to allow combination of the two lots. There is a sanitary sewer line that runs across the front of the two lots that will need to be kept in mind when building on the lot.

Emerson asked why the remaining part of the easement was retained. Prchal stated that maybe the applicant could address that. Dodson asked if the two lots were being combined, why that wasn't included as a motion. Prchal stated the lot combination would be done administratively. Dodson asked if this development is on community septic and if they have looked at the potential down side of having fewer homes on the system. Prchal stated that the president of the HOA stated that the HOA assessments are based on the number of lots, so this would change the division of that.

Jay Johnson, Zawadski Homes, stated that the vacation should be for the entire length of the lot and that must have been a surveyor error.

Public Hearing opened at 7:11 pm

Paul Torgerson, President of Whistling Valley HOA, there are some issues created when you take a grid of lots and change the configuration without planning for the potential impact. The HOA board has not met to discuss this. They recently became aware of this situation. Torgerson would request that the HOA have the opportunity to work with the City and the homeowner to work out those issues and how those should be handled. There is a total of 43 lots in the neighborhood. There are already a number of circumstances where homeowners own the adjacent lot and the vacant lots are billed differently.

Steve Zawadski, Zawadski Homes, they had anticipated this question a little bit. The client they are working with is open to talking about what would make sense.

Public Hearing closed at 7:17 pm

Dorschner doesn't have a problem with the easement vacation and lot combination. Dodson's concern that is with the approval, the HOA loses any leverage to negotiate terms. Weeks stated that she doesn't believe that at all. The City does not have anything to do with HOA business. Weeks feels that is a risk of a homeowner buying in a development that has an HOA to read and understand all of the HOA rules. Dorschner stated that he feels this can be resolved by just adding a recommended condition of approval that the applicant shall provide evidence that they have settled the combined lot dues assessment with the HOA.

Weeks doesn't think a condition of approval such as that is enforceable. Weeks thinks that the assessment of two vacant lots is as much as the assessment for an occupied lot.

Paul Torgerson stated that it isn't just the septic system, it is all of the costs of the common areas. The HOA structure provides for 43 lots and it would become 42 lots. The declarations provide for 43 lots and the City is intervening and changing the specs for what the HOA is doing. Torgerson is not saying that is inappropriate, but they need a step in there to change it. Torgerson's suggestion would be to put in the condition suggested by Commissioner Dorschner to protect the HOA.

M/S/P: Dorschner/Dodson, move to add a condition of approval that the applicant shall provide evidence that they have settled the issue of the discrepancy of the combined lot assessment of HOA dues for going from one lot to two lots, **Vote: 4-0, motion carried unanimously.**

Weeks is still not sure how the City would enforce this. The HOA could change how they do the assessments. For instance it could be based on square footage of homes or lots or something like that.

Dorschner stated that this is still going to the City Council and the City Attorney can advise on how enforceable this is. Dorschner stated that his concern is with the other people in the HOA who purchased lots based on the HOA bylaws and that should not change based on the decisions of the City.

Weeks stated that she will vote for this amendment based on the fact that this will probably be resolved by the time it gets to the City Council and if it isn't, they can be advised by the City Attorney if the condition is enforceable.

M/S/P: Dorschner/Dodson, move to recommend approval of the vacation of easements described as the east 5 feet of Lot 2, all in Block 1 Whistling Valley 2nd Addition, Washington County which lies north of the following described "Line A" and south of "Line B" as described on the survey, as approved by the City Engineer, being recorded, with the additional condition of approval, **Vote: 4-0, motion carried unanimously.**

Emerson is wondering if this will include vacating all of the easement. Prchal stated that he will work with the applicant to make sure that is corrected. It could be that the legal is correct and the graphic is wrong. Prchal will get that corrected when it goes to City Council.

Business Item – Planned Unit Development Ordinance

Prchal started his presentation regarding the Planned Unit Development Ordinance. The City Council has requested that the Planning Commission take another look in regards to why affordable housing would warrant 10 amenity points.

M/S/F: Dorschner/Weeks, move to send back to the City Council for a vote, **Vote: 1-3, motion fails.**

Dorschner feels that they have already spent enough time on this discussion. If the City Council doesn't like the suggestion of 10 amenity points, they can change it. Dorschner stated that the Comprehensive Plan is already out there. Dorschner did not feel the City Council gave a reason for sending it back.

Emerson is wondering if there was any reason why it was 10 points vs 5 points. Prchal stated that there was not a whole lot of discussion about it. Prchal stated that the Commission felt that 10 points was reasonable because it is encouraged by the Comprehensive Plan.

Weeks is wondering if Prchal has any other experience with what other Cities do with PUD ordinances and how they award amenity points. Prchal stated that Lake Elmo would not be unique to give incentives for amenities. Weeks thinks that the point system seems confusing, but understands the idea of giving incentives.

Emerson stated that the amenity points and how they are rewarded is pretty vague and open to interpretation. Weeks stated that is why she feels the amenity points are confusing.

Weeks stated that in the PUD ordinance, the City Council has the discretion to not allow a PUD on any given property. Dodson stated that he feels the amenity point system makes it a little more flexible. Dodson feels that the amenity points of 10 for affordable housing would be the upper limit of the points that would be awarded.

Emerson doesn't believe that the city will get a developer to come into this town with a proposal that includes affordable housing because of the cost of the land, lots, sewer, etc. Emerson asked if a PUD is allowed in Medium and High Density because the only place he sees affordable housing going in would be for an apartment building. Prchal stated that the parcel needs to be at least 5 acres and needs to meet certain criteria.

Weeks read the Comprehensive Plan and didn't think 10 points was too much of an incentive to give. Weeks feels there is a need to balance the housing types that would be affordable for younger and older people.

Dorschner stated that all of the points that have been discussed are the reasons why the Planning Commission chose 10 amenity points in the first place. Dorschner does not see the value in continuing the discussion. Dorschner is wondering why the amenity points are not a range like some of the other categories. Depending on what type of affordable housing, different points could be awarded.

Dodson thinks the language on page 5 which states that some amenities may be awarded a range of amenity points needs to be clarified. Dodson wants to know if a category states a specific number, is it up to that number or is just that number. Dodson feels that all categories should be zero to the maximum, with the City having discretion. Prchal stated that this would give the City more flexibility and he doesn't see that as being a bad thing.

The Planning Commission would like to change the title in table 16 to say "points range" and for each amenity put a range from minimum to the maximum.

Dorschner is wondering if the amenities are standard for most communities or if these are unique to us. Dorschner stated that Lake Elmo is in a high radon area and he would like to see radon mitigation systems or vapor intrusion system installed in new homes in Lake Elmo. If amenity points were awarded, it would provide a safer house and it is cheaper for the homeowner to have it installed when the home is built. Dorschner would like to see a radon mitigation system or vapor intrusion system to be installed to be compliant with state standards added to the amenity table.

M/S/P: Dorschner/Dodson, move to add amenity points for the installation of active soil vapor intrusion systems (radon) into residential properties with a range of 1-5 amenity points, ***Vote: 4-0, motion carried unanimously.***

City Council Updates – September 18, 2018

1. Environmental Performance Standards Tree Preservation – passed
2. Boulder Ponds 4th Addition – passed
3. Boulder Ponds 4th Addition Developer Agreement – passed
4. River Valley Christian Church CUP Amendment – Passed

City Council Updates – October 2, 2018

1. No Parking Ordinance Update -

Staff Updates

2. Upcoming Meetings
 - a. October 22, 2018
 - b. November 14, 2018 (Wed)

Meeting adjourned at 8:13 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant