

Lake Elmo Planning Commission Meeting  
November 14, 1983

The meeting was called to order by Chairperson Prince at 7:35 p.m. in the City Hall.

Commissioners present: Michels, Lundquist, Lyall, Graves, Peterson, Gifford, Moe (arrived at 7:50 p.m.) Absent: Nazarian, (out of town on business), Dreher.

1. Minutes: M/S/P Michels/Graves - To approve the minutes of the October 24, 1983 Planning Commission Meeting. (7 ayes)

2. Public Hearing for David Nelson rezoning application for R-1 from RR for part of SE 1/4 of SE 1/2 of Section 26.

Pursuant to public notice, this Public Hearing was opened at 7:45 p.m. in the City Hall.

Mr. Nelson expressed his concern that the Oakdale Gun Club was protected; that they were given more of a right to exist than the surrounding landowners. He stated that he felt everyone should have the right to the highest potential of their land.

Nelson presented a soil plan and proposed site plan.

Al Borsheim, 10104 Mendel Road, Stillwater (Gun Club Member) stated that from the Gun Club's point of view, the points raised previously; soils, access, and cul-de-sac, are still concerns of the Gun Club. He asked Mr. Nelson what his proposal was to prevent the proposed homes from the impact of the Gun Club.

Nelson responded that the proposed cul-de-sac does not exceed the maximum allowable length. He further stated that the noise problem is not the problem of the landowners, it is something the Gun Club should be concerned with.

Borsheim stated that the Gun Club has done many hours and many dollars worth of excavating, berming, and landscaping, plus they bought the 22 acres from Mr. Hageman as a buffer. The Gun Club bought the 22 acres to serve as a buffer and to curtail any development along the east corridor. Borsheim further stated that they consider this to be spot rezoning because the proposed site to be rezoned which is now RR is surrounded by Agriculture, and that the R1 zoning probably fits in with the surrounding R1 zoning, but the other R1 areas have not yet developed.

Nelson stated that all of the surrounding R1 land will be developed some day and the west boundary to development will be the Oakdale Gun Club.

Fred Waterous, 2835 Aquila, Minneapolis (Gun Club President) stated that the Gun Club has been at its present site since 1965, when all of the surrounding property was zoned Agriculture. He questioned whether or not a ten acre plot with four homes would fit into the area as well as the Gun Club has.

Jerome Marah, 1681 Fremont Ave., St. Paul (Gun Club Building and Grounds Coordinator) questioned a potential drainage problem. (Prince stated that drainage agreements would have to be worked out between the developer and City Engineer. That the developer would have to follow the ordinances as the rest of the people that subdivide do.)

Klaers stated that we do not have comments as yet from the City Engineer regarding soil conditions; that these comments would be made once the plat is filed.

Closed Public Hearing at 8:05 p.m.

Prince stated her concerns that we are making a nuisance of the Gun Club by allowing this application to go thru.

Gifford stated that in the past there had been quite a few complaints from the residents of Lake Elmo on the noise from the Gun Club, and asked if all of these problems were resolved.

Marah stated that the Gun Club has spent in excess of \$125,000 in the last three years moving dirt, increasing the reposed angle of the hills, etc., to resolve these problems. He further stated that the Gun Club had an outside consulting evaluation firm check the noise level, and the Gun Club has cut the decibelic rate of noise on the range by 7 points.

Waterous stated that to his knowledge, the Gun Club has not received a complaint for the entire past year.

Klaers stated that the City had received a letter from the Gun Club referring to the steps taken by the Gun Club to eliminate the ricochet problem that they had. He further stated that the City has not received any recent complaints on the Gun Club.

Prince asked Nelson if he found the noise offensive when he was on his land.

Nelson stated the prime weekends in the summer and just before deer hunting season has been offensive and feels the Gun Club should do something to eliminate this problem, not just for him, but also for the surrounding homes and proposed homes.

Lyall stated that he felt the Gun Club has acted in good faith, in particular with the purchase of the 22 acres, and didn't know where it would end for the Gun Club in protecting themselves. He further stated that he felt Mr. Nelson's proposed use is compatible with the area. However, if this rezoning is granted, that a very definite written notice is given to anyone purchasing these lots so they are aware of a possible nuisance, and that this notice should be put in the form of a covenant.

Klaers stated that the City Attorney responded to the same question when the application was before the City Council previously, and his feelings were that it was difficult to draft covenants until a preliminary plat is submitted, but it can be done.

Graves expressed his concerns with someone getting onto the Gun Club property while it was in use, and asked if there was some way that this could be controlled, such as a fence.

Marah stated there will be a fence on the Gun Club's land when they know where the established lines are. The Gun Club has surveyors in the club that are working on this right now, and the new fence will be more secure than what was there originally. In response to Graves' question on potential insurance problems for the Gun Club, Waterous stated that there was no real concern with the Gun Club over the insurance, that the Club had specialists go over the range in detail.

Graves stated that apparently then, Mr. Nelson's land could be developed without any significant hardship to the Gun Club from an insurance point of view, and the likelihood of accidents.

Borsheim stated that the critical thing is careful operation of the Gun Club and discipline of the Gun Club members.

Consensus of the Planning Commission was to have the City Attorney check into the possibility of a covenant and how enforceable a nuisance type covenant would be.

M/S/P Michels/Lyall Motion to recommend approval of RR to R1 zoning with the stipulation of a covenant stating the existance of the Gun Club and the potential nuisance of the noise.

(6 ayes 1 nay <Prince> 1 abstain <Lundquist>)

Prince stated that she would like a second opinion from City Attorney before this goes to the City Council.

3. Public Hearing for Zoning Ordinance Shoreland District change in Setbacks from public streets.

Pursuant to public notice, this Public Hearing was opened at 9:50 p.m. in the City Hall. Nobody was present to speak in favor or opposition to the proposed zoning ordinance and the Public Hearing was closed.

M/S/P Michels/Moe - To bring the shoreland district setback requirement (from 20 feet) to conformance with the rest of the City Code (to 30 feet) (8 ayes)

4. Simple Lot Subdivision application for William Stouvenel at the western part of lot 1, block 1 of Brookman Addition (the NE corner of Highway 5 and Laverne Avenue.)

Mr. Stouvenel stated that, if granted the subdivision, his intentions were to construct a separate building, similar, but not identical to the existing building.

Lyall asked Mr. Stouvenel if he had considered constructing a new building on the same lot and connecting them with a passageway of some sort so the buildings would be considered one unit.

Mr. Stouvenel responded that if his request was denied, he would give that option more serious consideration.

Prince stated that for the Council to approve a variance, there has to be some indication of hardship; that the plight of the landowner must be due to physical conditions unique to the land, structure, or building involved.

Consensus of the Commission was that the City Council would have difficulty in finding this hardship.

Graves stated that by extending the building, the problem of a very difficult 3/4 of an acre to maintain, would not be solved.

Michels stated that if the existing structure was expanded to its maximum potential, there would be as much land covered as would be if it was on one or two lots.

Gifford stated she felt that the site looked like there should be another building there.

Discussion of the drainage ordinance, and the feasibility of having a second drainfield on the site.

Michels stated that the potential is there for problems and he would have trouble voting in favor of this application.

Gifford stated that if the application is approved, we are opening the doors for others, and the question is, should we allow this to happen? Is the 1-1/2 acre requirement an arbitrary figure or do we conform to the ordinance with no deviation?

Lyall stated that when a variance is granted to an ordinance, a precedent is being set. He doesn't see a hardship here, particularly with the possibility of an adjacent building being attached by a canopy.

Michels reiterated his objections and concurred with Lyall. He further stated that the City has created problems by approving different variances; that if 1-1/2 acres is unmanageable as a commercial or general business site, maybe that should have been brought up when the site was platted a couple of years ago, or maybe it should be brought up now, but stated he could not go along with this application.

Peterson agreed that perhaps the site could handle the two drainfields, but, maybe we shouldn't grant a variance every time one is asked for, especially when there is no hardship.

Stouvenel stated that the hardship was maintenance of the lot; that it was not only very costly, but very time-consuming. He further added that to tear up the blacktop, (in order to add on to the existing building) would cause a financial hardship.

M/S Moe/Graves - To recommend approval of the simple lot subdivision, contingent on the lot being able to support two drainfields. (4 ayes, 4 nays <Lyall, Michels, Peterson, Lundquist>)

5. Other:

1. Annual Planning Institute:

Prince presented information regarding the Annual Planning Institute to be held on the St. Paul University of Minnesota campus on Friday, December 9th from 8:30 a.m. to 4:30 p.m. at the cost of \$25.00 per person.

Consensus of the Commission was to have City Administrator ask City Council for funds to attend this seminar. (All interested Commissioners are to contact Prince.)

2. Planning Commission Appointments:

Peterson advised the Commission that he would not seek reappointment when his term expired at the end of this year.

Klaers to provide the Commission with the status of the Commission appointments; ie: When individual appointments will expire, etc.

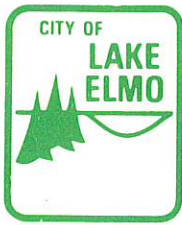
The meeting adjourned at 10:10 p.m.

AGENDA

PLANNING COMMISSION

November 14, 1983

- 7:30 p.m. Meeting Convenes
1. Minutes: October 24, 1983.
- 7:45 p.m.
2. Public Hearing for David Nelson  
Rezoning application for R-1 from RR for  
part of SE 1/4 of SE 1/2 of Section 26.
- 8:15 p.m.
3. Public Hearing for Zoning Ordinance  
Shoreland District change in Setbacks  
from public streets.
- 8:30 p.m.
4. Simple Lot Subdivision application for  
William Stouvenel at the western part  
of lot 1, block 1 of Brookman Addition  
(the NE corner of HI 5 and Laverne Ave.)



# City of Lake Elmo

777-5510

3880 Laverne Avenue North / Lake Elmo, Minnesota 55042

November 9, 1983

To: Planning Commission Members

From: Pat Klaers, City Administrator

Re: November 14, 1983 Planning Commission Meeting

Minutes: At the October 24th meeting, the backlog of minutes that needed approval from three previous meetings were all approved. Attached are the minutes from this last meeting on October 24th for your review.

Nelson Rezoning Application:

The Planning Commission may recall that on 2/22/83 they held a Public Hearing on the Nelson/Hageman rezoning request. The Planning Commission recommended denial of this rezoning application on a 4-2-1 vote. Subsequently, the City Council voted for denial of this rezoning request on 3/15/83 on a 4-1 vote after preliminary discussion at the 3/1/83 Council meeting. The Planning Commission may want to review these minutes as this is the same Nelson that is making this rezoning request. Nelson owns the eastern part of the land that was previously denied rezoning. Larry Whittaker's letter dated 3/24/83, explaining the Council's action, is attached.

Notice of this rezoning application and the date and time of this hearing has been sent to the adjacent property owners and published in the official City newspaper. If the Gun Club, property owner to the west of this request, has any comments on this application they should be attending this meeting.

This is a new rezoning application, from RR to R1, not an appeal of the previous rezoning denial. However, some of the reasons for the previous denial may still be applicable. Everyone should review the zoning map, the comp. plan, and the existing land use in the area. Note that with the exception of the agriculture zone directly east of the Nelson property, R1 zones exist to the south and east of Co. Road 17, and the mobile home park is not far to the southeast. Additionally, the land west of the Nelson property may now serve as a buffer from the Gun Club operation.

This request for rezoning is directly related to a future plat. Maybe the rezoning should be considered concurrently with a plat and as a condition of the plat. If the Planning Commission desires to consider this rezoning as part of a plat request, then the Planning Commission should close the Public Hearing and call another with consideration of the plat.

If the rezoning is approved, an amendment to the comp. plan would be required. When a plat is applied for, the City Engineer may have some continued reservations relating to the soil conditions. However, considering zoning alone, the staff generally does not have any problem with this rezoning request and recommends approval.

This item is on the 11/15/83 City Council agenda. Therefore, the recommendation from the Planning Commission will be verbally indicated to the Council at its Tuesday meeting.

Zoning Ordinance Shoreland District Setback Changes: A conflict was noticed in the zoning ordinance last month when the Council reviewed a shoreland permit request. The shoreland district listed a 20 foot setback requirement for structures from public streets, but the rest of the zoning ordinance required a 30 foot setback from the front in all zones. The purpose of this zoning page change is to make the shoreland district consistent with the rest of the City Code. The change to 30 feet is underlined under #4 on the attached page 307-3. The staff recommends approval for basic administrative reasons.

Again, this item is on the 11/15/83 City Council agenda, so the recommendation from the Planning Commission will be verbally indicated to the Council at its Tuesday meeting.

Stouvenel Simple Lot Subdivision: The City Engineer has the attached material and his report is attached. His main concerns are with drainage and the septic system.

This Simple Lot Subdivision also requires a zoning variance for lot size. At the 11/15/83 Council meeting, the City will be calling for a Public Hearing on this request for the 12/6/83 Council meeting. For this 12/6/83 public hearing, the City will need additional material from Mr. Stouvenel relating to drainfields and reasons for requesting a variance. The design of the drainage system and the limits of the pond in Brookman Addition also have to be considered at this public hearing.

I believe that the Council will be looking for a recommendation from the Planning Commission on the subdivision request at its 12/6/83 meeting.

Only the Council reviews variance requests, but, I am not sure the Planning Commission can separate and consider the lot subdivision without considering the variance. The staff will certainly recommend denial of the variance request as common sense indicates that the City should not be making two nonconforming lots out of one conforming lot in a recently approved plat, especially when the applicant owns adjacent lands to the north. On the other hand, if both of the desired new lots were the required 1-1/2 acre, the staff would recommend approval of the simple lot subdivision. As the variance and subdivision requests are difficult to separate, the staff is also recommending denial of the simple lot subdivision request based on insufficient lot size.

Mr. Stouvenel will be attending this Planning Commission meeting to address any concerns of the Planning Commission.



Other Notes:

1. Attached is the most recent City Newsletter dated 11/8/83 for your reference.
2. The 11/1/83 City Council Minutes are attached.
3. Attached is an article from the 11/2/83 St. Paul Dispatch relating to County Road Projects in Lake Elmo that you may find interesting.
4. City Hall will be closed on Friday, November 11th, and Thursday and Friday, November 24th and 25th, in observance of Veteran's Day and Thanksgiving Day.
5. The next Planning Commission meeting is scheduled for 11/28/83. Therefore, I would like to extend my wishes for a good and happy Thanksgiving Day and weekend to all the Planning Commission members.

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Nelson Rezoning Application: City Engineer, Larry Bohrer, is reviewing the attached material, plus additional material just received today, relating to this request; ie: concept plan, soil tests, etc. The report from the City Engineer will be sent to all the Planning Commission members as soon as possible; either in this packet, if received in City Hall before the mailing, or in a separate mailing by the City Engineer, or handed out at the Commission meeting.

The Planning Commission may recall that on 2/22/83 they held a Public Hearing on the Nelson/Hageman rezoning request. The Planning Commission recommended denial of this rezoning application on a 4-2-1 vote. Subsequently, the City Council voted for denial of this rezoning request on 3/15/83 on a 4-1 vote after preliminary discussion at the 3/1/83 Council meeting. The Planning Commission may want to review these minutes as this is the same Nelson that is making this rezoning request. Nelson owns the eastern part of the land that was previously denied rezoning. Larry Whittaker's letter dated 3/24/83, explaining the Council's action, is attached.

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This is a new rezoning application, from RR to R1, not an appeal of the previous rezoning denial. However, some of the reasons for the previous denial may still be applicable. This current request is for a smaller area of land to be rezoned for the eventual development of five to six single family lots. Everyone should review the zoning map, the comp. plan, and the existing land use in the area. Note that with the exception of the agriculture zone directly east of the Nelson property, R1 zones exist to the south and east of Co. Road 17, and the mobile home park is not far to the southeast. Additionally, the land west of the Nelson property may now serve as a buffer from the Gun Club operation.

The City Engineer may have some continued reservations relating to the soil conditions and the Gun Club may have some concerns, but without this input, the staff generally does not have any problem with this rezoning request and recommends approval.

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