

LAKE ELMO PLANNING COMMISSION MINUTES

JULY 23, 1984

Chairwoman Prince called the meeting to order at 7:30 p.m. in the City Council chambers. Present: Dreher, Gifford, Graves, Kuettnner, Lundquist (arrived 7:35), Michels, Moe (arrived 7:40), Nazarian, Schiltz (arrived 7:40).

1. Minutes: July 9, 1984

M/S/P Graves/Gifford - To approve the July 9, 1984 Planning Commission minutes as presented. (Motion carried 4-0-3 <Dreher, Michels, Prince>).

Graves questioned whether or not the policy has changed in associating individuals with statements made. It was the consensus of the Commission that in reviewing the minutes that would prefer to know who said what in the discussions.

2. Application by John Durand for a simple lot subdivision and road frontage zoning variance for a parcel of land near Lake Elmo Avenue and 30th Street intersection.

The Commission will only make a recommendation on the simple lot subdivision, but can make comments on the zoning variance.

The Administrator asked Mr. Durand, regarding his letter to the Planning Commission, what he meant by a 12 foot variance out to 30th Street.

Mr. Durand responded that that would be the width of the driveway. He is looking for a variance from the code required 125 road frontage so as to use the 33 foot strip as access to his lot.

The Administrator asked Mr. Durand that if the application was denied (for the simple lot subdivision) would he proceed with his plans and build one home.

Mr. Durand responded that he has not thought too much about that. He stated he wants the lot split so as to adjoin his property (2945 Lake Elmo Avenue) that abuts this parcel of land. Mr. Durand further stated that this parcel in question along with the three lots in RSL 67 were at one time all one parcel of land.

Michels asked Mr. Durand if he knew about the road frontage requirements when this parcel was divided.

Mr. Durand stated he has owned the land since 1958, and he was given the 33 foot easement at that time with the intent of that easement being the access to the back parcel of land.

Dreher asked if there was any talk for future platting of the parcel that is owned by Donald Durand, (south of Richard Durand's property) and getting some roads back there. Dreher further stated that it is difficult to grant a variance if there is not some proof of a hardship.

Mr. Durand stated that he is paying \$800 dollars per year taxes on this piece of property.

Jon Durand pointed out that a variance was granted to Steindorf for the same type of application (Mr. Steindorf lacked the required road frontage, but had a 30 foot easement to 30th Street, and was allowed to put a house on his property).

The Administrator stated that in reviewing the Steindorf file, there was an opinion from the City Attorney (Mr. Raleigh) which indicated that it would not be proper to deny Mr. Steindorf use of his land for a residential unit. However, there was no obligation to allow him to subdivide or to build more than one house on his lot. The Council, consequently, determined that it was proper to allow only one unit. Mr. Steindorf had almost the identical easement to get to his property (30 feet) from 30th Street.

Jon Durand stated that the request is not to build two houses. It is to put the land that adjoins Richard Durand's property at 2945 Lake Elmo Avenue with a portion of the lot they want to split, and to build one house on the remaining parcel.

Prince stated that if the split was allowed, there would still be two separate parcels of record on what is now parcel 0130.

Prince stated that the Commission does not object to Mr. Durand using the land or having a house on the land based on a frontage variance being granted for the easement out to 30th Street, but to split the lot into two pieces and grant permission to build two houses back there is something we have not allowed anyone else to do without adequate road frontage.

Michels questioned why 33 feet was allowed for this access. Apparently, in the past it was an appropriate width for a road.

Mike Mazzara, 11259 30th Street, stated that the Commission has discussed this property in the past. The talk was to build a road somewhere off of Lake Elmo Avenue and he feels that this would be the most appropriate way to approach this undeveloped land. He further stated that the south side of 30th Street drains right into the area where Mr. Durand proposes to put his driveway.

Mr. Durand stated that the driveway would be built up to the level of the others in the area, and there is still going to be about 11 feet on either side of the driveway.

The Administrator stated that if we got to that point in this application process, those questions would be addressed when Mr. Durand applies for a shoreland permit to build a house. The City Engineer would review drainage concerns and construction issues relating to the driveway.

In response to Mr. Durand's question as to what kind of road had been talked about and where would it go, Prince replied that there has been discussion on the fact that somewhere along Lake Elmo Avenue there should be a road off of Lake Elmo Avenue heading east (there is no road anywhere along there) to take care of quite a number of parcels of land back there that people may be interested in splitting.

The Administrator advised the Commission that he received a call from

Mrs. McCoy (2915 Lake Elmo Avenue) in which she indicated that she had no concerns or problems with Mr. Durand's proposal as long as it was a private road. But, she would have objections with a public street cutting thru the property in question and then connecting to Lake Elmo Avenue thru the Donald Durand property.

Michels again stated that he assumes that at one time the City had 33 foot roads and that is why the easement is 33 feet. He stated that he has a problem changing to 60 foot road requirements when we have somebody who was apparently allowed to landlock themselves with a 33 foot easement.

Mr. Durand asked on what grounds this denial was being made. He stated that he has been paying taxes on this property since 1958. The residents here tonight opposing this application (Mr. Mazzara and Mr. Taylor) have taken advantage of the easement and used this property for their yards.

Kuettner stated that according to our ordinance, you cannot subdivide this parcel of land. She pointed out that when Mr. Durand purchased the property, he owned the entire parcel which includes the lots in RLS 67, and he chose to landlock the property. She is not saying he cannot use the property, only that the land cannot be subdivided.

Prince stated that if Mr. Durand wanted to adjoin parcel A with half the parcel proposed to be split, there would probably be no problem. However, the application before the Commission is for a simple lot division which cannot be granted under the present city code. Right now all that is needed is a variance for the road frontage; and if Mr. Durand proceeds with that concept, Prince suggested that he build his house on the eastern half of the section so that if Mr. Durand proceeds to join the western half with his property he can possible split it if and when a road ever comes thru.

Graves questioned Prince's suggestion that the Durand's take the 3.38 acre parcel of land and divide it in half to the extent that there would be one parcel of land at 1.69 acres and then making one piece of property out of the 1.69 acres and the existing parcel A. They would still end up with two parcels of land. If ten years down the road, Mr. Durand decides that he does want to build on this 1.69 acres, would he be permitted to subdivide this parcel of land? It would not be possible because to divide it would make each lot less than 1-1/2 acres.

Michels asked Mr. Durand if when he bought the parcel of land did he also buy the 33 foot easement.

Mr. Durand stated that as far as he knows the easement was registered to the village and that the City owns the 33 foot easement.

Michels stated he cannot understand how anybody ever okayed the splitting of this property which landlocked the parcel in the back.

The Administrator stated he had the City Attorney look at the plat map and it was his opinion that it is one continuous piece of land and the easement was owned by Mr. Durand.

Prince suggested that the Commission proceed with the assumption that Mr. Durand owns the easement.

M/S/P Kuettnner/Nazaria - To recommend to the City Council denial of the application from Richard Durand for a simple lot subdivision. (Motion carried 6-0-3 <Dreher, Moe, Schiltz>).

Schiltz stated he can not understand how the Commission could make a motion or vote on something if they do not know exactly what the 33 foot easement is. There must have been a reason for the 33 foot easement, and not knowing the answers, how can we say one way or another? If the easement is owned by the City for a street, maybe it was made a long time ago, and if this is the case, Mr. Durand has every right to split the lot.

Prince stated that there is no reason to assume that the City owns the easement.

Dreher concurs with Schiltz in that he could not make a fair vote without knowing who owns the 33 foot easement.

Gifford stated that it seem strange that having all the frontage on Lake Elmo Avenue (before Mr. Durand split off the three lots) why anyone bothered with this 33 foot easement.

Prince suggested to Mr. Durand that he clarify the ownership of the easement so it will be clear to the City Council.

Lundquist asked if there would be any point in expressing an opinion to the City Council that if the parcel was divided and the westerly portion was attached to Lot A, that the Planning Commission would not have objections.

Graves stated there would be no advantage to do that. Mr. Durand would be in better shape if he just retained the entire 3.38 acres and see if a road comes in later and then subdivide.

3. General Discussion of 1984 Planning Commission Work Plan.

Prince asked when the Commission wanted to discuss the I-94 corridor.

The Administrator stated if the Commission does not wish to discuss this topic, he would have the Comp. Plan reprinted. He further stated that Larry Whittaker's suggestions on how to control growth along the I-94 corridor; using sewer as our main controlling factor and labeling them future commercial is valid and that is essentially what is in the code right now.

Michels stated he would like to let it sit until we have a new City Council and see what they think.

Prince suggested for the next meeting that all the Commission members look at their Comp. Plan and read back thru all the material they have received (map, information from the City Planner, Larry Whittaker's information, etc.) so the Commission can review once again whether or not they want to make any changes.

The Administrator pointed out that the Comp. Plan has been approved by the Met Council. However, the Met Council did suggest some changes or alterations (Mn/DOT aviation rules, solar access, moderate-cost housing and surface water management) and the City has not responded to these requests.

Regarding "mother-in-law" apartments, it was the consensus of the Commission to address the issue if and when the situation arises.

Michels pointed out that it would be difficult to enforce any regulations put on these apartments. We will only be able to enforce it with the person that tries to follow the rules.

Kuettner pointed out that someone in her neighborhood is renting out their entire house (there are two sets of renters) and this is a single family zone.

Michels suggested that the Commission discuss the concept that was brought up regarding the broodmare farm.

Dreher stated he had the St. Croix County (Wisconsin) ordinance on sewage treatment. He would like to continue reviewing the "bed" type sewage drainfield systems.

Dreher suggested continuing discussions on the Section 32 sewer assessments.

Dreher further stated that he has a ten acre piece of property and his plans are to put up market rate housing for the elderly. This is community living (under one roof); so with his ten acres he should be able to put up a 120 to 130 unit building if the site is rezoned.

The meeting was adjourned at 9:00 p.m.

The Planning Commission is an advisory body to the City Council. One of the Commission's functions is to hold public hearings and make recommendations to the City Council. The City Council makes all final decisions on these matters.

Lake Elmo Ordinances require that certain documents and information be included in applications. The Planning Commission may postpone consideration of an application that is incomplete and may for other reasons postpone final action on an application.

For each item, the Commission will receive reports prepared by the City Staff, open the hearing to the public, and discuss and act on the application. If you are aware of information that hasn't been discussed, please fill out a "Request to Appear Before the Planning Commission" slip; or, if you came late, raise your hand to be recognized. Comments that are pertinent are appreciated.

AGENDA

LAKE ELMO PLANNING COMMISSION

JULY 23, 1984

7:30 p.m.

Meeting Convenes

1. Minutes: July 9, 1984
2. Application by John Durand for a simple lot subdivision and road frontage zoning variance for a parcel of land near Lake Elmo Avenue and 30th Street intersection.
3. General discussion of 1984 Planning Commission Work Plan.
4. Other

July 19, 1984

To: Planning Commission Members

From: Pat Klaers, City Administrator

Subject: Agenda Memo for 7-23-84 Planning Commission meeting

1. Attached for your consideration are the minutes from the July 9, 1984 Planning Commission meeting.
2. Application by Jon Durand for a simple lot subdivision and a zoning road frontage variance on a site that is near the intersection of Lake Elmo Avenue and 30th Street.

Attached for your information is the application form, a brief letter from Richard Durand, a land survey of the site, a section from the plat map showing this area, a section from the zoning code indicating the requirements for lot width on a public street, and a map showing some sites that can be used to help base a Planning Commission decision on this application. A report from the City Engineer, Larry Bohrer, will be distributed at the Planning Commission table.

As the letter from Richard Durand indicates, he owns this parcel of land and desires to sell it to his son to construct a home. The site has 3.38 acres and except for a 33 foot easement going to 30th Street, this parcel is landlocked. The letter indicates that the easement was granted in 1940 when the land was purchased. The survey indicates that this is a parcel of record prior to 1966.

This application requires a variance and, therefore, will have a public hearing before the City Council on August 7, 1984. The main issue before the Planning Commission is the simple lot subdivision, but once again, it is difficult to consider this subdivision without reviewing the need for the variance. The staff anticipates that Mr. Durand will attend this Planning Commission meeting to help explain the situation and what he desires to do with his land.

One statement in the letter from Mr. Durrand is somewhat unclear and that is the phrase which states a "12 foot variance out to 30th Street". The applicant may be referring to the public road requirement rather than the lot width requirement for road frontage. The City Code requires each lot in the R1 zone to be 1-1/2 acre. The City Code also requires a lot width on a public street of 125 feet. The staff believes that the variance requested is for this lot width requirement.

Questions about the location of this 33 foot easement relates to the existing telephone pole and large evergreen in this area.

There is some past history which should help the Planning Commission make a decision on this application. Directly east of this property,

Mr. Steindorf received a similar road frontage variance in 1979 to have access to his parcel of land that was also essentially landlocked except for a 30 foot easement onto 30th Street. In 1979, the City Council approved the road frontage variance, but denied any type of lot split. The Council declared that only one residential unit would be allowed on this site, but that the 30 foot easement to 30th Street was adequate for access onto this site. This is the most similar application to the Durand application that could be located in the City files. Two other cases come to mind in reviewing this application. One is the Payne request in 1977. This request for a subdivision was denied by the City Council until a public street was built in the area. By doing so, the Council determined that the land could not be subdivided until adequate frontage for each lot was achieved. Additionally, Mr. Klatke applied to subdivide his land in 1981 and use a private road as its access to both lots. The application for lot split was also denied as the Council determined that two homes should not be served by one private road. The suggestion for a 24 foot public road by the City Council was not accepted by the applicant.

In review of the application and the history for similar applications in Lake Elmo, the staff is recommending denial of the simple lot subdivision; but we are also recommending approval of the road frontage variance. This means that the staff feels that the site is appropriate for only one building and that access should be obtained from the 33 foot easement off of 30th Street. This recommendation for denial is based on past history and the fact that no more than one residential site should be served by one private driveway. Mr. Durand clearly has a right to build on this site as indicated by the City Attorney's opinion from the Steindorf application; but he likewise does not have any right to subdivide this parcel into two separate building sites.

3. Discussion of the 1984 Planning Commission Work Plan.

I have once again copied the 1984 Work Plan for the Planning Commission. Also attached are my comments from the June 9th, 1984 Informational Memo to the Planning Commission. This memo briefly summarized each item in the Work Plan. There was a very brief discussion on this Work Plan at the end of the July 9, 1984 Planning Commission meeting.

In review of the minutes from this July 9, 1984 meeting, two comments should be made. These are (1) if the Planning Commission desires additional information on mother-in-law type apartments, please give me that direction; and (2) I am in the process of obtaining some facts and figures on the cost of sewerage for the old village area. These figures will be presented to the Planning Commission when available. The rest of the discussion at the end of the July 9, 1984 meeting was of a general nature and did not relate directly to the Work Plan.

This Work Plan is again copied simply for your information. I am certainly not pushing any discussion of any one of the items on the Work Plan; but I am ready to respond to any requests that the Planning Commission gives to the staff. If the Planning Commission desires to discuss any of these items, please feel free at the end of the meeting as time allows.

4. Other.

The staff is in the process of preparing the 1985 City Budget. If there are any requests from the Planning Commission such as for conference and travel expenses, please bring this to my attention at the end of the meeting. Additionally, there may be other Planning Commission budget items that I am not aware of that should be brought to my attention. Currently, the only expenses in the Planning budget are for staff and consultant time. The budget will get some explanation in the 1985 budget narrative and the categories may expand for a more accurate reflection of what is and should be spent in the planning area.

OTHER INFORMATION

1. Attached for your information is the most recent City Newsletter dated July 10, 1984. This Newsletter highlights articles on lake levels and the City switching to self-reading water meter cards.
2. Wish to acknowledge that the boating restrictions for Lakes DeMontreville and Olson have been removed. A Resolution adopted by the City Council called for no boating on Olson and DeMontreville when the lakes are above the elevation of 930. The lakes are now below this level, and the County has been informed to no longer enforce this boating restriction. Additionally, the City Council has adjusted this level to restrict boating only when the lake is above 930.25. This action was taken at the July 17, 1984 City Council meeting. In the future, an ordinance will be added to the City Code making this a permanent restriction. This ordinance will, of course, require a public hearing.
3. City Council action from July 3, and July 17, 1984:
 - (A) Approved the Springborn lot split and land swap application on a 4-1 vote. This technically did require a variance, but the City Attorney indicated that a variance was appropriate because of the unique conditions surrounding this approved concept plan from 1978. The Council felt that the advantage of reshaping the lots in phase 2 outweighed the disadvantage of allowing two lots to come into the City below the 1.5 acre requirement.
 - (B) Denied the Isaacson application for a zoning lot size and lot width variance for a further simple lot subdivision. This was an unanimous decision by the Council and would seem to make the simple lot subdivision a dead issue.
 - (C) Approved the transfer to self-reading water meter cards rather

than the quarterly physical inspection of the water meters by Marcie Eichens. The staff is working on the administrative elements of this transfer and this will again require an ordinance change which has a public hearing. We hope to start implementing this self-reading water meter card system by the last quarter of 1984.

(D) Unanimously approved the Bergmann CUP expansion. The staff determined that the best way to handle this application was to consider it an expansion of an existing CUP. The Council reviewed my report on the Planning Commission discussion on this application and after additional input from the applicant, voted to approve the application.

(E) Approved the application by Northwestern Bell for zoning variances in order to construct an equipment building. The location of this new building will be approximately 400 feet west of Lake Elmo Avenue directly north of the railroad tracks and south of Upper 33rd Street. Without approval of these zoning variances, this site would have essentially been declared unbuildable. Lake Elmo Hardwood was the previous owner of this site. The site is only 20' x 60' and Northwestern Bell plans to construct a 17' x 17' building on the western portion of this site.

(F) Authorized the 201 Information Meeting to be held in City Hall on Saturday, July 28th from 10:00 a.m. until 4:00 p.m. The individuals in the 201 Program from the Tri-Lakes area and the Jamley area will be invited to come into City Hall and discuss the current status of the 201 Program. The Engineer will be present to answer 201 questions with all of the individuals that come into City Hall, and the City Engineer will send out notices to the residents. There are approximately 45 residents in the 201 Program in these areas. A second Informational Meeting for the residents in the 201 Program that live in the old village area will be held a few weeks following this July 28, 1984 meeting.

4. Attached is a letter from the Met. Council indicating the Comp. Plan changes have been approved. We will be reprinting the Comp. Plan later in the year. Additionally, the surface water management is done by VBWD; it is difficult to offer moderate cost housing with no sewer and 1-1/2 acre lots; everyone should be able to have solar access on 1-1/2 acre lots; and Larry Whittaker already indicated our concerns and displeasure about the aviation rules.