

LAKE ELMO PLANNING COMMISSION MINUTES

APPROVED

SEPTEMBER 24, 1984

The meeting was called to order by Chairwoman Prince at 7:30 p.m. in the Council Chambers. Present: Dreher (arrived 7:35), Gifford, Graves, Kuettner, Lundquist, Moe (arrived 7:45), Nazarian, Administrator Klaers.

1. Minutes: August 27, 1984

M/S/P Graves/Gifford - To approve the minutes of the August 27, 1984 Planning Commission meeting subject to spelling and grammatical corrections. (Motion carried 5-0-1 <Nazarian>).

M/S/P Graves/Nazarian - To approve the minutes of the September 10, 1984 Planning Commission meeting as presented. (Motion carried 7-0).

2. David Nelson - Continuation of Public Hearing for the Preliminary Plat Approval for Nelson Estates.

The Chairwoman reopened the public hearing at 7:37 p.m. in the Council chambers.

Mr. Nelson stated that he now has 75 feet of road frontage on North 10th Street; Lots 1 and 5 are now 1-1/2 acres; and the cul-de-sac has been redesigned to come down 4 feet so it is the same height as the existing road. He further stated that because Lot 1 has at least one acre of land exclusive of drainage easements and is suitable for drainfield purposes except that the drainage easement severs the northerly 80 feet from the rest of the lot, he may ask for a variance from the one acre rule; and may ask for a variance to leave the existing garage on Lot 5.

The Commission discussed Mr. Nelson proposal to keep the existing garage on Lot 5. Mr. Nelson stated he would like to keep it as it is an asset to the property and sees no reason to destroy something that has value. The size of the garage is 60' x 40'.

The Administrator stated that the Engineer has just received the drainage calculations and has not had time to do the computations, so he could not update the Commission on the drainage requirements.

Mr. Nelson stated that his Engineer feels that with more grass there will be less run-off.

Dreher asked if there has been any thought of connecting roads with the adjacent property owner should the adjacent property every be developed.

Nelson stated that he has approached that property owner with a proposal to develop that property along with his own, but the property owner is not interested in developing her property at this time.

The public hearing was closed at 7:57 p.m.

M/S/P Gifford/Graves - To recommend to the City Council approval of the Nelson Estates Preliminary Plat contingent upon the applicant meeting the conditions set forth by the City Engineer and/or VBWD concerning drainage, and the granting of variances by the City Council. (Motion carried 8-0).

3. Gene Peltier - Public Hearing - Large Lot Subdivision and Rezoning for 13 acres from RR to Industrial.

Pursuant to published notice, this public hearing was opened at 8:05 p.m. in the Council chambers.

Mr. Peltier introduced the proposed developers of the warehouse/truck terminal/office complex - James Kelley and Bill Turcotte.

Mr. Peltier explained his intention is to rezone 1/4 of a mile back from the I-94 corridor; approximately 13 acres in Sections 34 and 35, between County Roads 17 and 19.

Mr. Kelly presented a site plan, and in response to a question from the Commission as to where he would locate the building, he stated that it would be located wherever the City Engineer tells them it has to be (somewhere on the 8 acre piece). They are also purchasing 5 acres (behind the Rockin L) for use at a later date. Mr. Kelly further stated that there has been some confusion on the required setback requirements. He was told first that there was a 35 foot setback (on the west side of the property which could conceivably be waived), and on the east side of the property, since it will be commercial anyway, there would be no setback requirement. The second time he talked with the City Engineer he was told that there is a required 100 foot setback from the residential property lines.

Prince asked Mr. Kelley if he had asked for a copy of the City Code so he knows what he is going to be working with.

Mr. Kelly responded that he has spoke with the City Engineer on the phone and offered to come to his office and have him clarify his definition of the requirements relative to setbacks, drainage ponding and septic drainfields. The Engineer declined stating he could not help them draw their plans.

Discussion followed on the proposed location of the building. The proposed site of the building would not allow for a 100 foot sideyard setback. To place the building where it could meet the 100 foot sideyard setback would not be feasible as there would be a great deal of land that would be unused.

It was clarified by Mr. Kelley that he proposes to buy a total of 13 acres, but at this point will only be using 8 acres and buying the additional 5 acres as a cushion, should they ever desire to expand. The 5 acres that they are buying which will not be used right away, will be landlocked and would not be salable to anyone without access thru the area where the truck terminal is located.

Mr. Kelly suggested that the only reasonable course of action at this

time would be that if this rezoning is recommended for approval, it is approved with the understanding that either the 100 foot setback is waived as the adjacent land is not intended to remain residential, or the City Council give a variance for construction.

Graves feels that is a reasonable request because the intent is to have the entire area commercial.

The Administrator stated that Mr. Peltier has indicated that until such time as an application would be submitted for the rezoning of the rest of the land, he would sign a statement saying if it is developed into residential he (Mr. Peltier) would provide the 100 foot setback as a buffer zone.

Kuettner stated that we should make it very clear that residential use would be a very inappropriate use of this land. We should go on record as saying don't even talk about building houses there.

Mr. Peltier stated if it was required that he sign an agreement to give Mr. Kelley the 100 foot setback on the western edge of the property, he would do so.

The Administrator stated that there actually is very little required when applying for a rezoning, but the Planning Commission can require any other special information that they desire, and they wanted to see a concept plan.

Graves suggested that if a motion is made to approve this application, it is made with the stipulation that this land will revert back to its present zoning if for some reason the present proposal does not go thru.

Bruce Folz stated that cannot be done. Rezoning is relative to the land and you have to address the land. They could change their proposal tomorrow and if it fits the Comp Plan land use and the zoning land use, you have to address that issue.

The Administrator stated he discussed this with the City Attorney and he stated that it is a reasonable condition to set.

Folz stated the purpose of zoning and the reason you have categories in the zoning districts is to identify land uses that are compatible with other land uses. It is unreasonable to make someone commit to a certain definite commitment for a zoning issue because plans can be altered. If the development plan doesn't fit the drainage patterns etc., that is something else, but in a zoning issue you are dealing with land use.

The Administrator stated that the Commission is aware that should this business fail somewhere down the line, a change could be made to any use that is permitted in the zone. On the other hand, the Planning Commission and City Council have never rezoned anything unless they had a clear concept of what was planned for the land.

Mr. Kelley stated that the biggest question right now with his negotiations with Mr. Peltier is on the rezoning of this land. He is in the preliminary stages of executing a sales agreement. He expects

it to happen, but cannot sit and guarantee that he will successfully get thru everything and construct a building.

Folz suggested Mr. Peltier rezone the easterly 100 feet of the adjacent property to Commercial which would eliminate potential residential development and would also eliminate the need for a variance for the 100 foot sideyard setback.

There was a brief discussion on the proposed large lot subdivision and from what parcels Mr. Peltier devised the 13 acre site.

Gifford stated she would like to go on record as suggesting to Mr. Peltier that if he intends to eventually go commercial or industrial all the way back to his property line, she feels it would a good faith move to find another spot for the house that is now there. She feels the house does not blend and looks like spot zoning.

Mr. Peltier stated that house took an entire year to complete and there is no way that he would move it.

There were no citizens or adjacent property owners present to offer comments for or against this proposal.

The public hearing was closed at 8:40 p.m.

Kuettner/Graves - To recommended approval to the City Council for a large lot subdivision and a rezoning from RR to Industrial for Gene Peltier in Sections 34 and 35 between County Roads 17 and 19. (Motion carried 7-1 <Lundquist>).

The Administrator stated that everyone should be aware that this is one process and the site plan review and building plan review is a different process.

Kuettner would like it to go on record that since the entire strip is planned for commercial development, the Planning Commission questions the need for a 100 foot setback next to the land that is now zoned Residential.

Gifford asked if we go back 1/4 of a mile rather than 1/8 of a mile for commercial development, will the Met Council want to review our proposal?

Klaers stated that they wouldn't because it does not have Metropolitan significance.

4. Leonard Hanson - Public Hearing - Rezoning of approximately 8 acres from AG to GB.

Pursuant to published notice, this public hearing was opened at 8:45 p.m. in the Council chambers.

Mr. Hanson stated his reason for wanting to rezone this property is because he would like to put up a building so he can take on a Ford tractor dealership. This building would house a service department for this dealership and would also include a showroom in the downstairs area.. Mr. Hanson provided several brochures on different

buildings that he is looking at for this expansion. The size of the proposed building would be about 40'x60'. His proposal is to expand this building in the future by adding a showroom on to the front of the building. Mr. Hanson further stated that he will continue to live at this site and will continue to keep his llamas.

Mr. Hanson stated that he had about 8.9 acres of land, but the highway took approximately 1 acre and is approximately 7.9 acres left, and he does have access onto the frontage road.

Gifford stated her main concern from a planning standpoint is that the Planning Commission just recommended approval of Mr. Peltier's request for rezoning to Industrial and now we have this request to rezone this 7.9 acres to General Business. We have no idea what is going to happen to the east (Mr. Peltier's remaining 22 acres), or what is going to happen to the west. Do we foresee a mess? There has to be some sort of continuity here and this proposal just does not seem to flow.

Prince stated that we should keep in mind that the Commission has talked about the fact that we need to do something about the small businessman in Lake Elmo that is trying to establish a rural type business. It seems that this is what the Hanson's are trying to do. We have to do some good planning on our part, and yet we should try to assist them to keep their business underway and expand if they wish to.

Gifford agrees with Prince. However, from a long range planning point, which this would be, we cannot look at it this way. Gifford quoted a statistic which showed that 95% of all small businesses in the United States do not make it to ten years. Are we going to have the type of zoning where it is Industrial Park - then a little corner for General Business - then Commercial - then what?

Prince stated that some the problem might be with our zoning code; of having to go thru the code and pick out what fits under this category and what fits under that category.

The Administrator stated that from a planning perspective, the two proposals we have in front of us this evening might not be the best way to do it (Industrial adjacent to General Business); but it has been acknowledged by this Commission that this area is going to go into some type of Commercial or mixed Commercial/Industrial type of use.

Graves stated that most of the businesses that will be located along this corridor will be Highway Business or General Business rather than Industrial. Industrial will probably be the exception (hopefully).

Prince stated that Section 32 has planned for our Industrial growth, and that is where it should be on the most part.

Mr. Hanson stated that he lives in the existing house and there are also two apartments that are occupied. They have 10 llamas on the property and sell the wool.

Kuettner stated that she feels the proposal is appropriate for the area.

Prince feels the proposal is more appropriate than what the area is zoned now (AG).

Graves stated his concern if for anyone that would move adjacent to this business with another type of business and finds animals objectionable and not consistent with the current zoning requirements.

Gifford stated she did not think it is right to have animals in the General Business zone.

The Commission discussed the Code which states that no domestic animals, livestock or kennels shall be placed on any site of less than ten acres.

The Administrator stated the City aware of that requirement when they grandfathered them in a few years ago. If the Planning Commission recommends approval of this rezoning, the Council may have to approve a variance to allow the Hanson's to keep animals at this site.

Gifford does not want to go on record as opposing animals, but is looking at this proposal as a long range plan. The animals may not be acceptable to other businesses that could possibly go in next door.

Mr. Hanson stated he was reluctant to expand his CUP because if the area around him did develop, and his business did not fit in with this development, he could conceivably lose his CUP which in turn could cause him to lose his investment.

Moe suggested that the Hanson's classify their business as a Pet Store as Mrs. Hanson does raise the llamas not only for the sale of their wool, but also sells them as pets and Pet Stores are allowed in the General Business zone.

Nazarian suggested that the application be tabled to give Mr. and Mrs. Hanson an opportunity to investigate the possibility of expanding their CUP.

Kuettner stated that she has the impression that the Council would like to get away from the CUP's. They do not want to grant any new ones, and this proposal would be a way out of one that now exists.

There were no property owners present at this public hearing expressing concerns for or against this proposal.

The public hearing was closed at 9:25 p.m.

M/S/ Graves/Moe - To recommend to the City Council approval of the application from Leonard Hanson for rezoning his approximate 8 acres from AG to GB. (Motion failed 4-4 <Lundquist, Dreher, Nazarian, Gifford>)

Gifford is not in favor of this rezoning because of her uncertainty

in the compatibility of the Industrial and General zones, and in not knowing what is going to be to the east or west of this parcel.

Moe feels that the proposed use fits the land, and favors the rezoning.

Prince feels that I-94 is going to be a mixed-use area and this proposal fits into that category.

Nazarian feels that the animals in the General Business would not be proper, and does not feel that it would work as a Pet Shop.

Kuettner feels that we have to look at the land, and if it is an appropriate use for the land, the animals have nothing to do with it. If we approve this land for General Business, it is the Council's decision as to whether or not they are allowed to keep the animals. The question before us is whether General Business fits in at this location, and she feels that it does.

Dreher has concerns going from Industrial to General Business and then we have RR next to that. He does not feel that General Business is quite what we need at this location.

Lundquist stated he is not ready to decide what kind of business we should permit on I-94. Once an application goes thru, you have made the decision.

Bruce Folz stated there are two issues to be addressed. One is the visual effect of what you see when you drive down there. The visual effect is based on your performance standards. If you drive down a highway, in most cases you cannot tell within 10% of what the land use is in that land. You see the building, and it depends on how it is landscaped, so for the general part, the observer is not going to know, if it is properly landscaped and properly done as far as the building, what the land use is. The second issue is the land use which was discussed tonight. If that zoning ordinance in Industrial uses has a use that is objectionable to a General Business use, you have two choices. You either accept it and live with it, and so do the investors, or you get it out of there. He suggested that the Planning Commission spend a lot of time looking at the uses that will be allowed there because once it is rezoned, you now tell that investor or owner that he can use all of the things that are within that zoning district. He further suggested that the City take another look at the uses that are allowed in each zone and if they are not appropriate, they should be changed.

Gifford asked that the Council also consider that on the east side of CR17, Suburban Bus is General Business.

Prince stated that should the City try to establish performance standards, what else should we have besides the things that we already have (landscaping standards, engineering standards, setback requirements) and who can help us set these standards.

The Administrator stated that the City Planner could assist with establishing these standards.

5. Other

1. Update on Dickhausen/Loescher application.

Kuettner advised the Commission that the City Council tabled the application until proof was furnished that each proposed parcel could adequately support a second drainfield, should the first system fail. There was no decision made on the question of each parcel having its separate well, but the applicant will get estimates for a second well, should it become a requirement.

2. Traffic concerns on Highway 5 and Lake Elmo Avenue (County Road 17).

Graves expressed concern over the dangerous condition at the above mentioned intersections. He asked for direction in getting a traffic light put up at this location.

Prince stated that in the past, a school speed limit sign has been requested and Mn/DOT has denied the request (with no explanation for the denial). Also, the City has asked about the possibility of a traffic light, and the reply has been that the traffic does not warrant it.

Graves stated that the intersection is within our City boundaries and we should have some jurisdiction over it.

Prince stated that her concern is with the school. All other schools have school speed limit signs when children are present, and there has never been one placed at this location.

The consensus of the Commission is to request the City Council to proceed with whatever action is necessary to inform the County and Mn/Dot of the City's concern over the dangerous situation that exists on the section of Highway 5 thru town, including the school and the Lake Elmo Avenue intersections. To look at the amount and speed of traffic, and the possibility of putting a school speed limit sign up and/or traffic signal light on the corner.

Kuettner stated that she has seen the counting being done on Highway 5, but the traffic should also be counted on County Road 17.

3. October 8th Planning Commission Meeting.

The Administrator advised the Commission that the October 8th meeting is on Columbus Day, however we will still hold a meeting if there are items for the agenda.

4. Bruce Folz on Steve Howell's Shoreland Permit.

Mr. Folz gave a brief summary of Mr. Howell's request for a shoreland permit and variance request in Eden Park 2nd Addition that will be before the City Council on October 2, 1984. He was under the impression that this application had to be reviewed by the Planning Commission. The Planning Commission does not review shoreland permits.

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

SEPTEMBER 24, 1984

- 7:30 P.M. Meeting Convenes
1. Minutes: August 27 and September 10, 1984
 2. David Nelson - Continuation of Public Hearing Preliminary Plat Review - Nelson Estates
- 8:00 P.M. 3. Gene Peltier - Public Hearing - Large Lot Subdivision and Rezoning for 13 acres from RR to Industrial Park
- 8:30 P.M. 4. Leonard Hanson - Public Hearing - Rezoning of of approximately 8 acres from AG to GB