

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

MARCH 25, 1985

7:00 p.m.

Meeting Convenes

1. Minutes: 3-11-85
2. Work Plan
3. Other

LAKE ELMO PLANNING COMMISSION MINUTES

MARCH 11, 1985

APPROVED

Chairman Nazarian called the meeting to order at 7:05 p.m. in the council chambers. Present: Graves, Kuettner, Lundquist, Prince, Schiltz, Administrator Klaers. Absent: Lyall, Moe

1. Minutes

M/S/P Prince/Graves - To approve the minutes of the February 25, 1985 Planning Commission meeting as presented. (Motion carried 4-0-2 <Kuettner, Schiltz>)

M/S/P Graves/Kuettner - To approve the minutes of the February 28, 1985 Planning Commission minutes as amended. (Motion carried 5-0-1 <Schiltz>)

2. Update on Appointments

The City Administrator advised the Planning Commission that the City Council did not adopt an ordinance amending the "Composition" section of the Planning Commission and Parks Commission section of the City Code. Therefore, Bob Dreher and Howard Michels are no longer members of the Commission, and Carol Kuettner is now a full voting member. There is still three vacancies on the Planning Commission.

Graves asked the City Administrator if there was any explanation as to why the City Council apparently made a 180 degree switch in its position regarding this code amendment. It was his impression that the Council was willing to entertain the idea of modifying the City Code (as recommended by the Planning Commission) such that the time requirements and average years on the Commission would not be a method of removal of the members that expressed an interest in remaining on the Commission.

The Administrator stated that when the Council requested the Commission to evaluate that section of the City Code, there was no consensus on the Council as to whether or not they would go along with such a change.

Prince stated she would like to go on record as objecting to what the City Council has done. This action leaves a hole in the Planning Commission. The Commission has some new members and some members with some fine experience have been tossed off, and objects to how this was handled. She further stated she objected to the way Vicki Gifford's request for a leave of absence was handled, and her vacancy has not yet been filled.

Nazarian stated the Commission no longer has the continuity of knowledge, background and experience that it had before this action was taken by the City Council. He feels that more could have been done from an objective standpoint in looking at this code amendment on the part of the City Council.

As Bob Dreher was the Planning Commission's secretary, the following action was taken.

Nancy Prince nominated Chuck Graves as secretary to the Planning Commission.

Chuck Graves nominated Scotty Lyall as secretary to the Planning Commission.

A vote was taken and the outcome was five votes for Chuck Graves and one vote for Scotty Lyall.

### 3. Green Acres CUP Amendment

Nazarian noted the following new correspondence received on this application: A letter to Howard and Gaylan Springborn from the Minnesota Soil and Water Conservation Districts; an itemized work plan from the Springborn's; a letter from Gary and Lois Watne dated February 21, 1985; a letter from Bob Evans, Chief of Police, Pleasant Hill, Iowa Police Department dated March 11, 1985; a letter from Lani Frick dated February 1, 1985; a letter from Thomas Huebsch dated February 6, 1985; a letter from Jewel and Gary Melin dated February 13, 1985; comments from Bob Lockyear (Washington County Planner) obtained in a discussion with Bill Lundquist; a report prepared by Pennfield Inc. on behalf of the residents in the area of the proposed water slide; and an unsigned letter to the Planning Commission referencing the appraisal prepared by Pennfield, Inc.; a letter from Chris Chow, Tom Simpson, Tom Kernan, and Tom Stark to the Planning Commission and City Council; a letter from Aqua World dated March 11, 1985. All of this information is on file at city hall for public review.

The Administrator pointed out that the Pennfield study indicates that four water slides would be constructed, and the application is for one water slide with the possible addition of a second slide; and also this study did not address what would happen to the surrounding property if the recreational activities were removed from the area and the land used for AG purposes, (such as a pig farm).

Craig Smith, president and manufacturer of Aqua World products (the manufacturer of the proposed water slide) made a presentation to the Commission on the water slides that he has constructed in several areas in the Country. He feels that a water slide is a family orientated activity, and the Commission should look at the benefit of such an activity to the entire community rather than just the local neighborhood. The slides are available in any color that the buyer chooses. Construction time for a slide is anywhere from thirty to sixty days, and the Springborn investment to get the water slide itself constructed would be in the area of \$70,000 to \$100,000. Also, the plans for this water slide will have to go to the City and also to the State. The State will size all of the filtration units, septic units, water, etc. The average water use for a water slide is 1000 gallons per day.

Kuettner asked the members of the audience opposing this slide, if there was anything that the Springborn's could do to make this activity acceptable to them. (There was no response).

Richard Bergmann, 5833 Lake Elmo Avenue stated if the Springborn's

could tone the project down, it could be acceptable. He further suggested that all the residents work with Mr. Springborn to make this project acceptable to the area residents.

Colleen Meyer who lives on Keats Avenue approves of the water slide if the Springborn's would take the necessary steps to provide soundproofing and toning the slide down, and does not feel that the slide would be detrimental to the surrounding area.

The Administrator pointed out that Springborn's original CUP was issued quite a few years ago when the residential neighborhood was not existing to the degree that it is today. The CUP for commercial recreation of a rural nature was issued when the area was much more rural. He further pointed out that the proposed water slide is on the smaller hill, which is somewhat more screened from the majority of the residents.

Eloise Evanson, adjacent property owner asked if this proposed slide would be right in her view - and wanted to know how high it would be.

Craig Smith stated that the slide could be tailored and blended in to fit the hillside. The maximum height of the slide would be fifteen feet above ground level.

Michael Lynn, representing Aqua World pointed out regarding the appraisal done by Pennfield, that different appraisers will bring in different appraisals. As far as the environmental impact, he was contacted by the Minnesota Department of Natural Resources. The DNR has looked over the petition submitted by the homeowners objecting to the slide, and the DNR has decided to not act on it. They do not see any grounds for it, nor do they feel there is any ecological hazard in the slide.

Joe Salisbury, 8720 DeMontreville Trail supports the water slide as he feels the children in the area need that kind of recreation. If we had one nearby, we would not have to send the revenue over to Wisconsin. He further stated that as neighbors they should find out about the need that the Springborn's have for this activity. It does not appear that they are profiteering from their business - their life style does not indicate they are in this business to make an excessive profit. We are all aware of the plight that the farm community is going thru at this time, and whatever creative types of businesses that these farmers can come up with to survive is worth the consideration of the neighbors. He personally would prefer to see a water slide than a pig or turkey farm, which the Springborn's may have to use as an alternative.

The Commission discussed the report from Pennfield, and Prince pointed out that she found the report inconclusive as no actual appraisals were done on any of the homes in the area, and the comments are of a general nature.

Tom Simpson asked about the long term plans of the Springborn's. Also, if the slide was allowed, and the property owners came back at a later time and proved that the slide devalued the surrounding property, would the City make Mr. Springborn remove this slide?

Gary Watne, who lives on DeMontreville Trail stated that he has tried to sell his house and after the potential buyers see the tube slide, they won't even make an offer. However, he bought the house five years ago and the tube slide was already there.

Nazarian asked the Springborn's if they would like more time to review the new information that was submitted. The Springborn's stated they would not like to delay this decision any longer.

The Commission discussed the letter from the City Planner in which he states that the proposed water slide is not consistent with our working definition of commercial recreation of a rural nature.

Prince stated she has no objection to a water slide, and for providing the children of Lake Elmo with a place to play, but this kind of a recreational use is commercial and belongs in a commercial zone.

Graves concurs with Prince, and if the slide could be located elsewhere - in a non-residential area, he would not object to the proposal. Also, it is not a rural type of recreation.

Lundquist feels the Commission should consider what kind of conditions it would put in the CUP expansion, if it was to approve it. Such as sound barriers, limiting the time span of the CUP, prohibiting the Springborn's from further subdivisions, limiting Springborn's to one water slide, sunset clause, etc.

Folz pointed out that, on the most part, the slide could be moved. Also, there would be no dramatic changes to the landscape of the property.

Kuettner stated she does not feel that the water slide would be an area for the young people to party, and the land values and traffic problems are judgemental. She concurs with Lundquist's suggestion to condition the the CUP expansion, if granted.

Graves (speaking on behalf of Scotty Lyall) stated Lyall is strongly opposed to this development.

Graves further stated that he does not believe that conditions placed upon this CUP would be binding over a long term. Another City Council could come in and change or even eliminate all of the conditions that were placed on this CUP.

Nazarian agreed that you cannot legislate future actions of a City. You cannot make a contract that is going to be binding on future City Councils - it is not legal.

Mr. Springborn suggested that the Commission come out and actually walk the hill on which the water slide would be located. When the City Planner walked the area, he indicated to Mr. Springborn that he was surprised at the exact location.

Prince feels this is more of a planning issue than where the slide would be located on the hill.

Schiltz feels that the tube slide is no more commercial recreation of

a rural nature that the water slide would be. Neither the tube slide or the water slide are permanent fixtures - they could both be moved.

The Administrator stated that the staff is recommending denial of this application based on the fact that this application would be moving away from what the staff considers commercial recreation of a rural nature. Bringing in 40,000 people to the area would equate to 350 to 400 per day, and that type of volume is going to bring dollars signs into some peoples minds thinking there are off-shoots to tubing that could be beneficial economically. It is more appropriate that this type of activity take place in an area that is zoned General Business or Commercial. Also, we are talking about an addition to the natural environment - we are talking about putting something onto the hill. That is getting away from using the natural landscape as recreation. The area has changed from a very open area to a residential district (of substantial investment) and that changing conditions leads the staff to recommending denial.

M/S/P Kuettnner/Graves - To recommend to the City Council denying the application by Howard and Gaylen Springborn for an expansion of their existing CUP to allow for a water slide, based on the City Planner's memo of 3-1-85. (Motion carried 4-1-1 <Lundquist> <Prince>)

Kuettnner stated that if the City expanded the CUP, it would legally have no way to put conditions on it. The Commission should work on the existing Comp Plan because since the original CUP was granted, the area is going more residential and we have to make the decision that that is what direction we want that area to go in.

#### 4. 1985 Planning Commission Work Plan

M/S/P Graves/Prince - To recommend to the City Council adopting the Planning Commission's 1985 Work Plan. (Motion carried 6-0)

#### 5. Discussion on Recent Planning Seminars

Carol Kuettnner gave a brief summation of the planning seminar which she recently attended, and distributed information obtained at this seminar which dealt with the importance of periodic reviewing the Comprehensive Plan.

Fred Nazarian also gave a brief summation of the rezoning workshop that he recently attended, and provided information to be distributed at the next Planning Commission meeting.

#### 6. March 25, 1985 Planning Commission Meeting

The Administrator advised the Commission that he would be out of town for this meeting, and since there are no agenda items for this meeting suggested that the it be cancelled.

Kuettnner feels there should be a meeting as the Commission does not have enough time to discuss its Work Plan during regular meetings. There are things that can be discussed that would not need the Administrator's input.

Consensus of the Commission is to hold the meeting and those that can attend will do so.

7. Other

A. Schiltz - Conflict of Interest definition

Schiltz asked how the City Council defines "conflict of interest". He would also like to know why all of the Planning Commission members were rejected from the Office Space Committee. Also, there were two Planning Commission members who were a little more vocal about the issue of sewer than other members, and they are no longer on the Commission. He questioned whether there is some correlation between the fact that they were vocal about sewer and the fact that they are no longer on the Commission.

B. Lundquist - Resignation

Lundquist stated that if the City Council stuck by the rule about limiting years of membership, he previously stated that he would resign and he still intends to do so. However, due to the fact that the Commission could have a problem getting a quorum, he will postpone that resignation for now.

M/S/P Schiltz/Graves - To adjourn the meeting (10:30 p.m.) (Motion carried 6-0)

To: Planning Commission Members

From: Patrick D. Klaers, City Administrator

Re: March 11, 1985 Planning Commission Agenda Memo

1. Minutes

Attached for your review and consideration are the draft Planning Commission minutes from the 2-25-85 Planning Commission meeting, and 2-28-85 special meeting.

2. Update on Appointments

At the last City Council meeting, the Council discussed a possible code amendment which would delete the restrictions on Planning Commission members being reappointed when the average years of service is high. The City Council discussed this possible code amendment and finally decided to not change either the Parks or Planning Commission Composition sections. This means that the code will stand as it has existed for the past few years. The result of this code amendment being rejected by the City Council means that Bob Dreher and Howard Michels are not reappointed to the Planning Commission. This is unfortunate to lose these two valuable individuals who have extensive experience on the Commission, but the City Council by not changing the code has determined that a turnover in the personnel on the commissions is good for the overall benefit of the City. This means that Carol Kuettner is now a full voting member, and that there are three vacancies on the Planning Commission (one full member and two alternates). The City has one application for the Planning Commission on file, and this individual will be interviewed by the City Council at its 3-19-85 meeting. All Planning Commission members should feel free to encourage interested residents to apply for these vacancies on the Planning Commission. The result of this action by the City Council will require the Planning Commission to elect a new Recording Secretary. The main duty of this Planning Commission Secretary is to sign plats. This individual would also chair Planning Commission meetings when the chair and vice chair are absent.

3. Green Acres CUP Amendment - Application by Howard Springborn for the addition of a water slide.

Attached for your information is the application; 1984 and 1985 resolutions authorizing this CUP; a report from the City Planner, Rob Chelseth, dated 3-1-85; three additional letters from area residents that were not previously distributed; and some comments written by Bill Lundquist from a conversation he had with Washington County Planner, Bob Lockyear.

The Commission should carefully review the past Planning Commission minutes when this CUP amendment was discussed. There are some very interesting and valid comments from both the Planning Commission's discussions and from the residents.

At this 3-11-85 meeting, the Planning Commission should not accept any statement from the applicant or the residents that are repeat information from material that has been previously offered and submitted. There may be some new information that individuals desire to offer, and this certainly can be accepted by the Commission. This

new information may include a second petition (to the Environmental Quality Board), appraisals of area residential units (please note some comments in the Planning Commission minutes that if this area reverted back to a pig farm, the value of the areas residential units may also decrease substantially), a more detailed site map, etc.

I encourage all of the Planning Commission members to visit this site to get a better feel for the application. Everyone should be aware that this proposed water slide is planned to be located on the small hill in the northwestern area of this CUP land, and not on the big hill which is farther to the south and east, and which directly faces the residential units in Fox Fire and Green Acres.

Regarding the comments from the last meeting as to if a CUP is attached to the land, or is attached to the owner of the land, the City tries to phase out these Conditional Use Permits when the owner sells his land, but I believe legally (and I have not checked this out with the City Attorney) it is generally believed that a CUP is attached to the land. Everyone is aware that a CUP is a zoning technique and as such, would probably remain with the land. It is because of this reason that Councils are very leery about giving out CUP's and very leery about CUP's expanding in their use.

Regarding the attached material, you should note that in both resolutions they discuss "Commercial Recreation of a Rural Nature"; however, this phrase is not defined in the Comp Plan or in the city code. The material from the City Planner, Rob Chelseth offers a working definition of this "Commercial Recreation of a Rural Nature". Rob's report is very good, and without coming out and specifically recommending denial, I believe that his report is leaning in that direction.

Regarding the Frick letter, I must comment that the city staff is too experienced to use the word "never" when discussing issues with residents or applicants. The comments that Bill Lundquist has offered from a discussion with Washington County Planner, Bob Lockyear are also very valid. Some of these comments are almost identical to what Rob has offered.

I sincerely hope that a recommendation from the Planning Commission can be made at this meeting, but this recommendation may directly depend on what type of new information is offered. If the Planning Commission has concerns or doubts or additional questions, they most certainly should feel free to table this application one more time.

I don't want to get too speculative, but I have a strong feeling that this application will face an even tougher battle getting a favorable decision from the City Council, regardless of the recommendation that comes from the Planning Commission. The staff's position on this application is that the Planning Commission should recommend denial of the expansion of the existing CUP. This recommendation for denial is based on a working definition of "Commercial Recreation of a Rural Nature". This area has changed substantially since the first CUP was issued in terms of more residential development in the area. The investment for a water slide and the physical changing of the landscaping are two additional reasons why approval of this application would be moving this commercial recreation away from a rural nature, and away from an interim land use.

4. 1985 Planning Commission Work Plan

Attached for your information is a composite of the discussion on the Work Plan for 1985. I believe that this plan should be finalized at this meeting and presented to the City Council for its approval shortly thereafter. I believe that many of the issues on the Work Plan are very valid, and some of them deserve our attention almost immediately. This comment is specifically referring to accessory structure issues. You should note that there are some items relating to accessory structures that have surfaced from our discussions on code amendments about accessory structures, and that further work needs to be done with this issue.

5. Discussion on Recent Planning Commission Seminars

We have not had an opportunity to further discuss the material that Carol Kuettner distributed from when she attended a recent Planning seminar. Additionally, Scotty Lyall and Fred Nazarian attended a seminar on Zoning on March 7, 1985. The Commission should feel free to discuss both of these seminars if they so desire.

6. March 25, 1985 Planning Commission Meeting

To date, there are no agenda items scheduled for this meeting. I would like to have this meeting cancelled because of that fact, and because I will be out of town on Thursday and Friday March 21st and 22nd. With a City Council meeting on the 19th and a Parks Commission meeting on the 18th, it would be very difficult to get an agenda out to the Planning Commission prior to that meeting. There are no pressing issues, and I see no reason why this meeting cannot be cancelled.

7. Other

Once again, this is an opportunity for any Planning Commission member to raise an issue they feel is relevant and needs discussion.

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OTHER INFORMATION

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1. Attached for your information is the most recent City Newsletter dated 2-26-85. This newsletter edition highlights articles on the irrigation system at the landfill, and the maintenance foreman position opening.

2. The staff held an informational meeting with all the landowners near I-94 along with the Planning Commission Chair and Vice Chair to discuss the highway corridor overlay district and proposed comp plan amendments. This meeting was well attended by landowners. The proposal was discussed in detail and fairly well received by the property owners. They understand that this is somewhat of a compromise which allows the property owners to retain their future commercial designation along I-94 in the Comprehensive Plan and yet allows the City more control over the intensity and type of development along the corridor.

In early April, we will be moving forward to the public hearing stage before the City Council and Planning Commission for both the zoning code proposal of a highway corridor overlay district and the related comprehensive plan amendments.

3. In the past two weeks, the City has experienced some municipal water problems. We experienced a watermain freeze along Lake Elmo Avenue and this main freeze also led to the discovery of a water service line problem where the curb stop was bent which limited the flow of water to one homeowner. We also experienced a watermain and service line freeze at the Abercrombie residence. Both of these problems have been taken care of; but, involved a great deal of extra time by the City crew and also extra expense for outside assistance. These two waterline problems took up most of the City's work crew time for about three or four days.

These watermain freezes were not unique to Lake Elmo; other communities experienced similar problems. These problems were caused first by the very deep frost and limited snow cover this winter season and because Lake Elmo (like many other communities) has some very shallow watermains and service lines. It would be nice to correct these problems but this would be a major expenditure and work item. At this time, it appears best to just work around this type of problem every other year or so and absorb the cost through water fund reserves.

4. Attached for your information is a page from the 1985 Legislative Bulletin dated 2-15-85. This article relates to plumbing inspectors and proposed requirements on building officials. Jim McNamara, an officer in the local Building Officials organization, testified at the sub-committee level on behalf of the City and the Organization. Currently, this bill is on hold and Jim may again be requested to testify on the negative effect that passing such a bill would have on all cities and on Lake Elmo specifically.

5. The City received a somewhat unique request the other day. This request inquired about any city ordinance, rules or regulations that relate to the keeping and raising of game birds. An individual who lives in a single family residential area would like to raise approximately 18 birds of the pheasant or quail variety which would be kept in small cages on their property. The City has no specific regulations which prohibit this type of activity nor is it controlled with a CUP or any other mechanism. There is very limited reference to the raising of birds in our City Code. The DNR and Department of Health are involved in regulating this type of activity.

6. Update on recent City Council Action:

A. Approved the David Nelson Estates final plat at its 2-19-85 meeting. This was recommended for approval by the Planning Commission, and we will shortly be entering into a developer's agreement with Mr. Nelson and signing his plat.

B. Approved four city code amendments as recommended by the Planning Commission. Rejected two code amendments and tabled a decision on accessory structure code amendment proposal.

The four code amendments that were approved are the Fire Department membership notification clause; the street access; the cluster

development standards; and the minimum district requirements in the AG and RR zones. The accessory structure issue will be discussed at the next Council meeting on 3-19-85, and the Parks and Planning Commission Membership proposals were rejected by the Council.

C. After a brief fifteen minute interview with Mr. Gregory Tavanier from the lawfirm of Caswell and Tavanier, appointed Mr. Tavanier as the City of Lake Elmo's attorney for criminal/prosecutions issues. Mr. Tavanier was the low bidder out of eight proposals that were submitted. The Council will interview four applicants for the civil legal contract with the City prior to its 3-19-85 meeting.

D. Appointed nine citizens to the Office Space Committee. These nine members are as follows: Don Durand, Ed Neilsen, Gary Horning, Mark Rivard, Dennis Geiger, Jewel Melin, Randy Zauner, Marcie Eichen and Richard Coopersmith. The individuals that were not appointed to the Committee but which applied are: Carol Kuettner, Bruce Kuettner, Fred Nazarian, Sandy Nazarian and John Schiltz with Willard Griffin withdrawing his application.

E. A motion to submit a petition to VBWD for the pumping of Sunfish Lake onto City park property. The purpose of this petition is to eliminate the high water on Sunfish Lake, and to reduce the threat of a lawsuit from the Sunfish Lake property owners. The petition is to include a statement that indicates it is understood that this project will cost approximately \$35,000 annually, and that if the petition is rejected and the City must pay the preliminary expenses, these expenses are anticipated to be in the neighborhood of \$5000 or less.

F. Heard a presentation from the Washington County Highway Department on the proposed improvements on CR 15 and CR 13B. These improvements on CR 15 are planned to take place in 1986 or 1987, while the improvement on CR 13B is planned to take place in 1985.

G. Authorized the City Engineer to submit a letter to VBWD regarding the 509 Plan. The City has a number of concerns about this project which have been discussed at the last two City Council meetings. The City Engineer recommended that a number of these issues be brought to the attention of VBWD. A copy of this letter will be on file in the city office for any Planning Commission member that wishes to have additional information on this very important project.

H. Approved the Slawson large lot subdivision as recommended by the Planning Commission.

I. Tabled consideration of the Clapp/Thommsen concept plan and rezoning application.

J. Approved a road frontage variance for Joe Kaiser on his landlocked parcel near 31st Street (south of the railroad tracks). This variance called for the construction of a 22 foot private road onto his property, and providing easements to the City in case a future public street needs to be constructed.

K. Approved the Animal Inn CUP amendment application for the construction of a dog training building.