

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 8, 1986

- 7:30 p.m. Meeting Convenes
1. Agenda
 2. Minutes: August 25, 1986
 3. Zoning Ordinance Revisions
 - A. Draft Amendment to the Agricultural District to allow "alternative uses".
- 8:30 p.m. B. Consider allowing horses on 5 acres in the Rural Residential zone, or on 5 acres in the R-1 zone, or make no changes at all.
- 8:45 p.m. C. Draft amendment to the Shoreland Ordinance for exemption to minimum lot size on previously platted lots.
- 9:00 p.m. D. Rezoning - Discuss what areas of the City should be rezoned to make the zoning map conform to the new future land use map.
- E. Other
4. Adjourn

APPROVED

LAKE ELMO PLANNING COMMISSION MINUTES

SEPTEMBER 8, 1986

Chairman Graves called the Planning Commission meeting to order at 7:30 p.m. in the City Council chambers. Present: Graves, Haacke, Moe (arrived 7:40 p.m.), Novak, Reuther, Raleigh (arrived 7:35 p.m.), Williams, DeLapp, City Attorney Knaak and City Administrator Overby. Absent: Bucheck

1. Agenda

Add 3. Change Tartan Park from Agricultural to Public Facilities on proposed Future Land Use Map.

M/S/P Reuther/Novak - to approve the September 8, 1986 Planning Commission agenda as presented. (Motion carried 6-0).

2. Minutes: August 25, 1986

M/S/P Reuther/Graves- to approve the August 25, 1986 Planning Commission minutes as amended. (Motion carried 7-0).

3. Change Tartan Park from Agricultural to Public Facilities on proposed Future Land Use Map

Novak explained that approximately two months ago, the Planning Commission talked about rezoning Tartan Park to Agricultural land. Novak added that a councilman had a problem with this rezoning and that it could be shown as Public Facilities without any ramifications. There is an inconsistency, because in the center of the City we have the VFW park that is privately owned but used by the public. Haacke stressed that we should be consistent.

Ron Reuther stated that the reason the Commission rezoned Tartan Park to Agricultural was that there was a concern about people coming in and taking a look at the map and assuming that they could go onto Tartan Park. It is not a public facility; you do have to be a 3-M Club member.

M/S/P Novak/Reuther - the Future Land Use Map that has been adopted be modified to change Tartan Park from Agricultural to Public Facility. (Motion carried 8-0).

4. Zoning Ordinance Revisions

A. Draft Amendment to the Agricultural District to allow "alternative uses".

Commissionmember Novak stated that he did not care for any of the drafts for "alternative Ag uses" written by City Attorney Knaak and Tom Armstrong because he feels they are not restrictive enough. He added that Armstrong's draft ~~goes into much more~~ is more detailed than needed. Novak feels that we need to provide alternate Ag uses, but suggests proceeding very cautiously with this.

Amended 9-22-86

Chairman Graves asked City Attorney Knaak what was his impression of the ordinance that Tom Armstrong has drawn up in regard to contract arrangements. City Attorney Knaak responded that Mr. Armstrong went on the premise that you are going to want to allow some kind of use. Right now as Knaak reads the code, a current practice is going on, on a modest level apparently in some of these agricultural areas that at least arguably isn't allowed. Being a previous existing use that is grandfathered in, is the argument and a valid argument, but we are getting onto some shaky ground. In his proposal, he looked at what conditional uses were allowed for agricultural land and added a condition under certain specified circumstances which would permit the City in each case to go through the annual review of these for a conditional use permit. Knaak feels it is quite restrictive.

Knaak felt that Armstrong had an interesting concept, which is basically to try a PUD kind of development contract agreement on an agricultural unit basis. Knaak added that you see a lot of cities withdrawing from the PUD concept because it causes problems. On a case by case basis what tends to happen is unless you are more restrictive, somebody is going to come in and where Industrial use is permitted, state they have an industrial use that is nice and clean with no pollution. This will force you to be in a position to sit down and listen to all of these proposals. For the purpose of the actual use of things such as rental on existing farm buildings, it would give you a great degree of control. He is worried about what else will be going with it. You would have to decide whether the CUP option is enough.

Graves referred to the phrase that "these contract uses may include commercial and industrial uses". By eliminating industrial, this would make the problem smaller.

Novak asked Knaak if he would say that Armstrong's proposal is a PUD concept. Knaak, replied that it was basically. Where it is intriguing is using it for something outside of industrial. Usually a PUD kind of zoning is in transitional areas. Here the danger is that you don't have these kinds of needs, and you are dealing with a large percentage of the City. You may be opening up the City to an argument later on engaging in spotzoning and calling it contract permitted uses, which would not be allowed.

Novak does not like the lack of itemization in Armstrong's concept. What this does is delegates the decision making to the Commission and the Council and this will change every two years. It is inconsistent, for example, with our commercial business ordinances where we itemize all the uses. Also, if you look at the beginning of the agricultural ordinance it itemizes permitted uses and structures, permitted uses by CUP, and uses permitted by contract in Ag Preserve zones. This is where we get into whatever one may dream up or however it might be interpreted. It is not just in Ag Preserve zone, but it is Agricultural areas which would include Ag Preserve and other Agricultural.

Don Moe stated that he does agree with the concept, but we should list what we consider to be agricultural uses. All he sees in this draft is a "shoo-in" for certain individuals within this community which he is not in favor of.

Haacke was not sold on the idea of a contract versus a conditional use permit. Novak did not know what the difference would be between a contract and a CUP. Unless they are significant, he would like to see one contract, whether it was called a contract, or we have a CUP in existence already. City Administrator Overby replied that the only difference is that the rights allowed under the CUP continue with the land. If the ownership changes, those rights are still there unless the City withdraws the permit. Under the contract any time the ownership changes, you would have to negotiate with the new owner.

Graves brought up that the only thing he would like to see allowed in Ag is agricultural oriented uses, such as pick your own strawberries or Christmas trees.

Knaak suggested that the Commission briefly decide what, if anything, they want to allow in Ag and then they can be restrictive.

Williams stated a concern about being too restrictive on businesses in Agricultural areas so that people are forced to sell off land and therefore will be coming in and demanding rezoning in order to develop it. Uses permitted by contract would allow them to use their land in such a way that they would not be selling off in large parcels. This seems to be contradictory.

Steve Raleigh felt that the CUP should include the whole farm. You are not going to CUP off 1 1/2 acres with this one building on it. You are creating a large parcel that has a CUP on it, but you are restricting the activity to 3% of the area of that CUP. The idea being you cannot create an alternative use and then sell off parcels anywhere near it. In order to subdivide the property you have to void the CUP. City Attorney Knaak felt this was a good idea.

Novak stated that Armstrong's second draft has more content than ~~what we want to preserve~~ and felt it would be easier to carry Knaak's proposal into Armstrong's draft. (Amended 9-22-86)

Graves felt there was an agreement between the commission members to eliminate the contract, but to retain our measure of control through the CUP itself.

City Administrator Overby suggested that in order to expedite the discussion, the major objective should be to see what should be included, and leave it up to the City Attorney to draft the final language.

Add under Permitted Uses and Structures-Agriculture:

8. Seasonal open sales lots for agricultural and horticultural products produced on the premises.
9. Pick-your-own or cut-your-own type sales operations for products grown on the premises.
10. Joint ownership of property or ownership by association or through rental, for the purpose providing private gardens or forest plots to its members or lessee.

Uses Permitted by Conditional Use Permit

It was suggested by Don Moe and Ron Reuther to eliminate Mining under the alternative uses permitted by Conditional Use Permit in Ag Zone. The Commission was in favor of this, but asked if they would restrict Mining as of the adoption of the ordinance, how would this affect Hammes Mining. Knaak stated it would be a non-conforming use under a newly active code. If there is a sale, that sale operates as an end of that nonconforming use and after that point they would not be allowed to use it for mining purposes.

Commission member Novak suggested adding: Item (6) Alternative Uses. In addition to the uses listed, there are additional uses that would have the following performance criteria pertaining to them which will be specified in the second paragraph.

(a) The City Council may, at its discretion, allow nontraditional agricultural uses and nonagricultural uses in agricultural preservation zones by contract between the landowner and the City. The purpose of the contract shall be to allow the landowner to obtain a reasonable return from the agricultural land and still maintain the open spaces and preservation of agricultural land use.

(b) These contract uses may include commercial uses as permitted by Minnesota Statute 473H.17 and other uses meeting the following requirements; rental storage space. There was discussion on whether it should be limited to inside existing farm buildings or with proper screening some outside storage should be acceptable if you put a limit on it in a CUP.

(c) The following requirements shall be applicable for all alternative uses in agricultural preservation zones:

(ii) A Nonagricultural business use shall not occupy an area greater than three percent of the contiguous land area owned by the landowner, and in no event shall it actually occupy an area larger than six (6) acres.

Councilman Mike Mazzara asked how many farmers in Lake Elmo own 200 plus acres? Graves added that it should be defined as to how small a parcel of land can alternative uses be permitted on.

Marge Williams found farm equipment service and repair on Afton's

Chairman Graves asked the City Administrator if he could add the controlling criteria under Item 6 Alternative Uses. Industrial uses and all words pertaining to Ag Preserve will be dropped, add a minimum of 40 acres and wording that you have to live on the land as an additional requirement and add 1 1/2 per forty. City Attorney Knaak will draft the alternative Ag use amendment.

B. Zoning Ordinance Revision - Consider allowing horses on 5 acres in the RR zone or on 5 acres in the R-1 area, or make no changes at all.

This question came before the City Council recently, when a resident in the Lake Jane area asked the City to grant a variance to allow horses on their property. The applicant, Ron Colosimo, wanted to have 4 horses on their 5 acres of property which was located in an R-1 zoning district.

Novak objected to allowing horses in an R-1 area. However, he would be in favor of a rezoning to R-R. Mr. Colosimo's acreage is currently R-1, but the adjacent Springborn property is unplatted and the proposed Future Land Use Map shows it going into RR.

Graves does not like the concept of permitting horses in R-1 zoning and would support rezoning to RR. R-R zoning requires 10 acres, therefore, a variance would have to be created. He would hate to see the Commission downzone just five acres. Maybe Mr. Colosimo could purchase another five acres from Mr. Springborn and then downzone those ten acres to RR.

Novak felt that permitting horses on five acres are compatible with R-1 zoning if done properly, but what would happen in the future and would this start a precedent.

Haacke would not want to see horses as a permitted use in an R-1 zoning, but would not have a problem with rezoning to R-R.

Mr. Colosimo felt that they should be allowed to have horses now since they had them prior to the 1979 code. City Administrator Overby stated this cannot be interpreted as being grandfathered in because you have interrupted the non-conforming use and now the question of having horses on that land is prohibited by the 1979 ordinances.

Reuther, Williams, Haacke, Raleigh would not be in favor of possible "spotzoning" in the City.

Novak mentioned that right now the Commission has adopted a Future Land Use map that shows Colosimo's acreage as well as Springborn's acreage going into R-R. If this map is adopted by the Council, then this would not be considered spotzoning.

Colosimo would like a letter stating that he cannot have horses in an R-1 zoning. Administrator Overby will take this discussion to the City Council and then contact Mr. Colosimo by letter informing

c. Draft Amendment to the Shoreland Ordinance for exemption to minimum lot size on previously platted lots.

Recently, the City Council was presented with the need to grant a variance for lot size for a parcel located in an R-1 zone and also within the Shoreland District, in order to allow the property owner to build a house.

The problem which developed in this specific case points out a discrepancy in the Shoreland District ordinance which needs to be changed. On page 307-3, under Minimum Lot and Setback Requirements, Item C states: "Platted lots existing upon the effective date of this Ordinance shall be exempt from said lot width requirement."

This amendment would solve the problem which arises when the R-1 zoning would allow a new house on a previously platted lot which is smaller than the minimum lot size, but the Shoreland Ordinance currently would prevent the new construction - without a variance.

M/S/P Moe/Haacke - to amend Item C to read Platted lots existing upon the effective date of this Ordinance shall be exempt from said lot width and lot size requirement. (Motion carried 7-1
Williams: She saw problems with platted lots and shoreland permits because of the problems we had with the Smith/Northrup rezoning and we are stuck with very dangerously small lots with water problems without adding property somewhere.)

D. Rezoning - Discuss what areas of the City should be rezoned to make the zoning map conform to the new Future Land Use Map.

Chairman Graves felt that the Future Land Use Map is a goal or a model for what we would like the zoning of the City to look like at some future date and questioned to what extent do we need to make it conform.

Novak answered if we don't make it consistent, then because all the work we have done, this is where we put "teeth" into what we have been working on for the last five months. The Future Land Use Map that has been adopted unanimously does meet all of the needs in gross excess through the year 2000 so there is no reason to not make the two consistent from the zoning standpoint.

Graves replied there is one reason that could exist. That is, if a landowner can demonstrate that we should not change the current zoning on his property for whatever reason.

Marge Williams felt this was a way of showing the courage of our convictions and feels this is a good defensive plan.

M/S/P DeLapp/Graves - to proceed with the changing of current zoning to match the Future Land Use Map while retaining a

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sensitivity to property owners to what they currently have zoned
if they have a valid declared reason during the public hearings.
(Motion carried 8-0).

M/S/P DeLapp/Graves - to amend the motion to upzone to current use
of R-1 zoning of Peltier's (Packard Park) and East of Teal Pass
Estates and change the purple (R-R) to blue (Ag) in the NW quarter
of Section 32. (Motion passed 8-0).

22 (Amended 9-22-86)

M/S/P Moe/Reuther - to adjourn the Planning Commission meeting at
10:20 p.m. (Motion carried 8-0).