

APPROVED

LAKE ELMO PLANNING COMMISSION MINUTES

~~MARCH 13, 1987~~  
APRIL 13, 1987

Chairman DeLapp called the Planning Commission meeting to order at 7:30 p.m. in the City Council chambers. Present: DeLapp, Bucheck, Williams, Johnson, Raleigh, Hunt, Haacke, Simpson, Stevens, Enes (arrived 8:05 p.m.). Absent: Reuther.

1. Agenda

M/S/P Raleigh/Stevens - to approve the Planning Commission agenda as presented. (Motion carried 8-0).

2. Minutes: March 23, 1987

Planning Commission member Haacke commented she wasn't here for the meeting, but was dismayed to see the Industrial category amendment opened up again after so many hours were spent working on it.

M/S/P Stevens/Johnson - to approve the March 23, 1987 Planning Commission minutes as presented. (Motion carried 7-0-1<Abstain: Haacke>).

3. Upcoming Requests

April 27, 1987

- a. Public Hearing: Preliminary Plat for Phase II, Springborn Green Acres PUD.
- b. Public Hearing: Rezoning of Agricultural Zoned Building and Land to General Business Zoning with a CUP; or Request for Alternative Use CUP.  
Howard Gelb, (old Lehman Mushroom Co. building).

4. Public Hearing: Amendment to Eliminate Planned Unit Development Zoning

Chairman DeLapp opened up the Public Hearing at 7:45 p.m. in the City Council chambers.

The City of Lake Elmo adopted an amended 1986 Comprehensive Plan on an interim basis on November 18, 1986. This amended plan has been reviewed by the Metropolitan Council planning staff and will be considered for approval by the Council on April 23, 1987.

The amended Comprehensive Plan was revised in such form as to eliminate any reference to Planned Unit Development zoning for residential/commercial developments. The rationale given for eliminating PUD from the Comprehensive Plan was that PUD zoning encourages higher density developments and also provides a mechanism to permit flexibility of site design and architecture by waiving provisions of the Lake Elmo ordinance including uses, setbacks,

heights and similar regulations. The Planning Commission and City Council, in revising the Lake Elmo Comprehensive Plan, agreed that PUD zoning is not compatible or consistent with Lake Elmo's goals, policies or future land use plan.

As a result of the Comprehensive Plan amendment, it is necessary to amend the 1979 Municipal Code of Lake Elmo and eliminate Section 301.080 Planned Unit Development, in order to make the zoning ordinance consistent with the Comprehensive Plan.

City Administrator Overby recommended the following Findings of Fact:

1. The amended 1986 Comprehensive Plan of the City of Lake Elmo has eliminated all reference to and provision for Planned Unit Development land use or zoning.
2. Planned Unit Development land uses and zoning have been determined to be inconsistent with the Comprehensive Plan, as amended and adopted by the City Council on November 18, 1986.
3. The existing PUD ordinance (Section 301.080) is inconsistent with the amended 1986 Comprehensive Plan and should be eliminated entirely by zoning ordinance amendment.

City Council member Don Moe asked why does the Planning Commission feel a need to eliminate something that has been in the code for the last ten years. Moe considered the Planning Commission a "Postponing and Eliminating Committee" and was very displeased with their actions. He asked where do they get their direction from because it isn't from he who is on the City Council, and he felt some direction should be given to them from the City Council. Moe does not want to see the elimination of the Planned Unit Development zoning because it gives the City the flexibility and the Developer's Agreements have to be lived up to. If at any point in time they don't, they can be shut down.

Planning Commission member Lee Hunt asked Moe why he feels he is a better representative of the feelings of the people as referred to in his comments "I am on the Council" and "You should be taking your direction from me." Why should the Planning Commission take your (Moe) direction and not from the general population from Lake Elmo. Moe responded, "why don't you ask the people here, how many of them are in favor of eliminating the PUD?"

Hugh Madson felt a PUD is a tool that is used by City government to make sure that the plan is followed to the "nth" degree and to work with the developer. By eliminating the PUD, you are giving up something that a planning organization would want to have to help develop the future of the City. If you are doing this to tell the community that you don't want any development, you could do it in other ways. Madson felt we have been hiding behind the MUSA Line and the Metropolitan Council. The PUD is a necessary tool for this community and we would be giving up some of our own rules if we gave

up the PUD.

Marge Williams responded that Woodbury does not have a PUD in its rural areas (non-sewered areas), Afton, Denmark Township and Grant Township do not have the PUD. The Washington County Planning Commission has discussed eliminating PUDs throughout the County in the non-sewered areas.

Williams added, when the code was originally written, they simply copied codes through the planner at the time. The PUD was not understood at the time, there was no great discussion about it, it was something just thrown in. Other communities who had a longer planning process than Lake Elmo had discussed PUDs and decided it was not appropriate. When you have a PUD, you have a need for increase capacity of fire and police protection and face increased pressure on city inspectors to do the inspections or increase the staff. For example in Eagan, by agreement the developer takes charge of all of his own inspections. Lake Elmo, Afton and Woodbury do not want to give up any direct contact with what is going on in the community which happens under a PUD. The development can create a mini-City. Woodbury gave up the PUD in the non-sewered areas because they felt this would be a premature expansion requiring sewers in areas that they did not want to sewer, require premature development that increased police and fire protection and increases demands on the city staff which they did not want to pay for.

Chairman DeLapp asked at what point would a developer not be able to do what they wanted to do at all by eliminating the PUD.

Councilman Graves had a concern that eliminating a PUD would be eliminating a planning tool that could be used in certain circumstances. For example, the proposed golf course with 80 houses which was a mixed plan. It would be much more difficult without a PUD to analyze it as a plan in its entirety. This would make it unduly difficult for the developer to get the plan in place.

City Administrator Overby responded this control can be had through a developer's agreement or a CUP permit process which exists in several zoning districts. The fact is where you want a multi-purpose project it should be reviewed in one overall step or piecemeal. The other part is what type of developments do you get by having the PUD option, which is a rezoning decision first of all.

Councilman Graves felt that the PUD or developers agreement would state the rate of development so we do not have to increase city staff. The developer doesn't come in and dictate to us, the City sets the rules. The City does not have to absorb the cost.

Klete Tauer introduced himself as living in Lake Elmo for four years and owns 40 acres off Keats Avenue. He came to the meeting to learn and did not like hearing the attitude that Lake Elmo is against progress. Progress could be defined as open-mindedness or flexibility. He had no plans for a developer to come in, but would like to have the ability for his children to be able to build a house. Words from the Planning Commission such as "absolute control" scare

him and asked if this is the purpose of a Planning Commission or a City Council. He rents 20 acres to Springborn and feels this is not a good use of the land. The farm situation is a tough one and we are not going to have farmers here anymore.

After listening to several people about the need to keep the PUD, Ed Stevens asked what are the people who want PUDs afraid of that they can't do if PUD is eliminated. Kelly Brookman responded that people were afraid of the Planning Commission because they have turned down everything and did not treat people fair.

Councilman Graves gave the example of a golf course and housing development and felt it would be more tedious and take alot more City staff time to work a plan into the ordinances as they exist now if we didn't have a PUD that would allow you to be creative about things that you otherwise could not do. Again, the control rests with the Planning Commission and ends with the City Council. Also, we frequently look at PUD's as tools being used by Oakdale and other high density communities and bring in large tract homes. This does not mean we have to use a PUD in the same way at all, but use it as it would fit our community.

Marge Williams agreed with this, but her concern is if the PUD is on the books it would be misued. Marge felt the example of a golf course and housing development could be done without a PUD and would take the same amount of staff time. Another concern she has is the kind of pressure for development you get with the PUDs. Afton wanted to develop their community in a more residential way and wanted to have more control so that is why they eliminated the PUD.

Howard Michaels pointed out the reason Springborn used a PUD was because there was some land zoned Ag and some 1.5 acre lots. In order to make it a unit of equalized lot size they combined them and made them 1.5 acre lots or larger. This was a positive use of a PUD. Otherwise, you would have lots less than one acre and 5 acre lots. Michaels added that he would encourage more thought be given to what people can do that have 40 acres of land because farming is not a viable alternative.

Marge Williams responded that individual landowners have the option to do some creative things with their land and come to the city with their proposals. Since she has been on the Planning Commission she had heard particular landowners complain alot, but they have never come in with any kind of concept plan for their own land.

Mike Mazzara stated that the City hasn't seen any plans come in for 300 homes. He suggested the Planning Commission and City Council use the PUD as a tool and to work with it the way it was intended to. The PUD could be used the way we want Lake Elmo to develop, not the way it is used in Oakdale or Woodbury.

Chairman DeLapp closed the public hearing at 8:35 p.m.

Tom Simpson felt we need to take a more pro-active stance in getting the types of development we want rather than waiting for people to

come in and turn them down. If we don't try to get the type of town we would like to have built, then it will be by default with whatever is leftover after all the other land is taken. For this reason, he feels PUD is one tool and nothing is stated that we have to approve it.

Barb Haacke saw no reason to get rid of the PUD. After listening to the input from the public hearing, it seems that no one wants to eliminate the PUD. Barb felt a PUD is a valuable planning tool. We have a lot of control and are not inviting development.

Ed Stevens felt that, obviously, only the people that have a very specific interest at hand come to a public hearing. The ones that are vitally concerned are those who have land and would like to develop it and fear eliminating the PUD will slow it down to some extent. Progress to him means the rural atmosphere of Lake Elmo is preserved as much as possible. Ed gave his mathematical formula; Progress is directly proportional to the difference in price which the landowner obtains between the amount of money he paid for the land when he bought it and the amount of money he gets when he sells. He felt we should have at heart the interest of the people who move here to live, not to make money off of the land.

Steve Raleigh explained when working on the Comprehensive Plan, discussions took place to consider the idea of a PUD. PUD zoning encourages higher density development and also provides a mechanism to permit flexibility of site design and architecture. By waiving provisions of the Lake Elmo ordinances, he viewed the PUD as a way to skirt or sidestep other ordinances. Steve pointed out that the City Attorney had advised them that the use of a PUD definitely sets city government at a disadvantage legally. He felt that the contract would eliminate continuous or future scrutiny by the City staff of any project. It would essentially lock the project in without any idea of what is out there.

Dave Johnson did not see the PUD suggesting that the City have large quantities of homes or multiple uses. It does have an advantage for the developer to go to the bank and state he has the permission of the community for this development in this manner which allows him to finance over a period of time. He doesn't see any value in eliminating a PUD because it is simply a tool that can be used by the City.

Marge Williams sees the PUD having mixed uses and doesn't like the idea of spotty business. Also a PUD degrades the kind of development that she would like to see in Lake Elmo. Under a PUD much is forced upon the City. Marge did see a demand for an intermediate type zoning between 1.5 acres to 10 acres.

Ann Bucheck felt a PUD would be useful in Section 32 and 33 and would not be in favor of eliminating it in these Sections. City Administrator Overby stated we can have this option in certain areas, it has to be done in an overlay district process.

Lee Hunt stated he came to Lake Elmo because of large lots, the value of homes and the low taxes. He sees a PUD as sending the message that

we want development to come in, but the way Lake Elmo wants.

M/S/F Johnson/Williams - to recommend to the City Council to take action to amend the 1979 Municipal Code of Lake Elmo to eliminate Section 301.080 (Planned Unit Development) in its entirety, based on the Findings of Fact approved by the Planning Commission. (Motion failed 3-3-3<Opposed: Simpson, Haacke, Johnson; Abstain: Bucheck, Stevens, Hunt>)

Ann Bucheck abstained because she had a concern on eliminating PUD in Section 32 & 33 and does not want to eliminate the PUD in its entirety.

Ed Stevens abstained because he felt it was premature to vote on it. It was forcing the issue before they have to come to a decision without opening discussion of leaving a PUD for Section 32 & 33. It does not consider talking to people in Oakdale or other areas to get more information.

Lee Hunt abstained because he felt the motion was made too soon because there was not enough information that they had enough time to think about and look at. He also felt it was a ploy meant to try to make some people look bad and try to pull some people out in the form of railroading. They were trying to pull something out and force them to make a decision right now based on partial information.

5. Relocation of an Accessory Structure at 4515 Birchbark Trail N.;  
Scotty Lyall

Scotty Lyall has proposed to replace an 8' x 12' existing shed on his property with a 14' x 22' storage building. Due to access problems, the building was moved in across the ice on Lake Jane this Winter. Now a building permit is needed to allow him to move the building into the proposed permanent site location.

The City Council will review the Planning Commission recommendation as part of their review in a public hearing on May 5, 1987 in regard to a request for a variance to the 100 foot setback from the Ordinary High Water Mark required by the Shoreland District Ordinance.

The consensus of the Planning Commission was the proposed replacement storage building was a definite improvement to the area and the following motion was made.

M/S/P Simpson/Hunt - to recommend to the City Council approval of the relocation of the proposed replacement storage structure at 4515 Birchbark Trail by Scotty Lyall because it is compatible with other development in the area. (Motion carried 9-0).

6. 1987 Work Plan

City Ordinances require that the Planning Commission submit its Annual Work Plan to the City Council by May 1st each year. City Administrator Overby provided a copy of the 1986 Planning Commission work plan and draft of additions to 1987 work plan.

City Administrator Overby suggested that the following items have top priority in the 1987 Planning Commission Work Plan.

1. Finish the Comprehensive Plan amendment/update process.
2. Review/comment/recommend to the City Council.
3. Ordinance amendment for the "one percent rule"
4. Shoreland Management regulations.

After some discussion the following 1987 Planning Commission Work Plan and candidate additions were formed. (See Appendix A).

M/S/P Haacke/Enes - to accept the 1987 Planning Commission Work Plan and recommend this draft work plan to the City Council. (Motion carried 9-0).

M/S/P Enes/Hunt - to adjourn the planning commission meeting at 10:40 p.m. (Motion carried 9-0).

## 1987 PLANNING COMMISSION WORK PLAN

1. Review, comment and make recommendations to the City Council on zoning and subdivision applications.
2. Complete the revision of the Comprehensive Plan.
3. Adopt an ordinance to incorporate the "one percent rule" for drainage and ponding requirements.
4. Consider local response to State of MN proposed revisions to Shoreland Management regulations.
5. Large Lot Subdivision (look at Afton regulations)
6. Regional Park  
(potential landfill site & bike access from City)
7. Restrictions (stronger) for accessory structures in the R1 Zone - the size and number of parcels of less than five acres. Definition of garage and storage accessory structures. Size and number of accessory structures in RR zone on parcels of twenty acres more .  
(Check amended ordinances).
8. Conditions or possible restrictions on residential subdivisions where large accessory structures exist.
9. Meet with the County and adjacent community planners to discuss common issues.
10. Index for Code Book
11. Future Road Plan
12. Watershed 509 Plan and compatibility with local code.
13. Soil loss limits - study model ordinances  
- Afton ordinance
14. Retention of wildlife habitat and wetland areas--  
adequacy of wetland overlay district.
15. Study the need for a Historic Building/Architectural Design Overlay District in the Old Village Area  
--consider Afton model.
16. Adopt an ordinance to incorporate a Pipeline Safety Zone in City's subdivision and platting regulations.
17. Adopt an ordinance to incorporate the "one percent rule" for drainage and ponding requirements.
17. Sign/billboard ordinance

18. Discuss possible zoning forms in the MUSA
19. Review aesthetics of road design.
20. Review sideyard setbacks relative to lot size.
21. Reword maximum allowable lot density and square footage for commercial and residential areas.

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

APRIL 13, 1987

- 7:30 p.m. MEETING CONVENES
1. Agenda
  2. Minutes: March 23, 1987
  3. Upcoming Requests
- 7:45 p.m.
4. PUBLIC HEARING: Amendment to Eliminate Planned Unit Development Zoning
  5. Relocation of an Accessory Structure at 4515 Birchbark Trail N.; Scotty Lyall
  6. 1987 Work Plan
  7. Adjourn