

APPROVED

LAKE ELMO PLANNING COMMISSION MINUTES

JULY 13, 1987

Chairman DeLapp called the Planning Commission meeting to order at 7:35 p.m. in the City Council Chambers. Present: DeLapp, Williams, Buccheck, Raleigh, Enes, Stevens, Hunt, City Attorney Knaak and City Administrator Overby. Absent: Reuther, Simpson, Haacke, Johnson.

1. Agenda

Add: 3A. Tartan Meadows 3rd Addition, 3B. Packard Park

M/S/P Williams/Hunt - to approve the July 13, 1987 Planning Commission agenda as amended. (Motion carried 7-0).

2. Minutes: June 22, 1987

M/S/P Williams/Enes - to table the June 22, 1987 Planning Commission minutes until the July 27th Planning Commission meeting. (Motion carried 7-0).

3. Upcoming Requests

July 27, 1987

PUBLIC HEARING: Comprehensive Plan Amendment to update City's Functional Road Classification for local and collector streets.

Preliminary Plat-Packard Park 2nd Addition:
Packard Park will be on this agenda because the grading information was just received.

August 10, 1987

PUBLIC HEARING: Amendments to General Business Zoning District to allow restaurant-related commercial/wholesale/manufacturing uses; Ed Gorman

3A. Preliminary Plat, Tartan Meadows 3rd Addition

The Planning Commission tabled approval of the preliminary plat on June 22, 1987 until revised grading plan and drainage computations have been submitted to the City for staff review.

The required information was submitted to the City Engineer the middle of last week, but he was not finished with his review as of the Thursday June 9th mailing deadline so this item was not placed on the meeting agenda at that time.

The City Engineer has completed his review of the grading plan and drainage computations as noted in a letter to you dated 7-13-87. City Engineer Bohrer recommended that the Planning Commission act to recommend that the City Council approve the preliminary plat. The

Planning Commission did not receive a copy of the revised plat or grading plans.

Willard Morton explained that he was in a hurry for approval of his preliminary plat because he has an opportunity to buy 40-50 large Evergreen trees about 30 ft. in height. He would like to progress the project to the point where he can bring in the whole landscaping concept. This is the additional motivation other than avoiding any delays because of the rise of mortgage rates.

Marge Williams stated one of the reasons she was in favor of recommending approval of the preliminary plat was because of all the developers that have come in Mr. Morton has tried to comply with our Comprehensive Plan. She recommended an amendment to state that Lots 1,2,3 of Block 1 should not be allowed to have a building permit for one year until appropriate perk testing will take place.

Lee Hunt was in favor of this proposal, but brought up the City Engineer Bohrer's recommendation of the grade of 11th Street cul-de-sac and 12th Street cul-de-sac should be lowered slightly so that the house building pads are higher than the street and drain to the street. Willard Morton responded that Carl Peterson has been in contact with Larry Bohrer and they would conform to whatever the City Engineer's wants.

M/S/P Williams/Raleigh - to recommend that the City Council approve the preliminary plat for Tartan Meadows 3rd Addition as per the City Engineer's recommendations dated 6-19-87 regarding the the buildability of lots 1-3, Block 1 will not have building permits for one year and until they are able to be determined for drainfield purposes when the fill settles and percolation tests can be run and the grade of the 11th Street cul-de-sac and 12th Street cul-de-sac should be lowered slightly so that the house building pads are higher than the street and drain to the street. The grading plan should also indicate that areas of fill on Lots 1-3, Block 1 proposed for drainfields should not be compacted. (Motion carried 7-0).

3B. Rezoning Inquiry at 4th Street and Ideal Avenue

The MN Dept. of Transportation is in the process of recoveying (selling off) property along the old I-94 Northern Route. They want to know if the City would either grant a lot size variance or approve the rezoning of a 5.6 acre parcel of land located south of 4th Street and east of Ideal Avenue. This will be brought up informally to get the Planning Commission's reaction to the MnDOT request.

Commissionmember Ann Bucheck felt if the City would be interested in a fire station there, it should be discussed with the Fire Department.

Commissionmember Williams felt it was perfectly appropriate to see whether the City needs the site, but she did not feel the City should be pressured into doing anything on that particular property until we do come up with something solid.

Commissionmember Raleigh asked if it would be appropriate to ask for a letter of evaluation from the Fire Chief or Parks Commission for their opinion of the site.

M/S/P Stevens/Williams - to have the City Administrator check with MnDOT to hold off any disposition for a month until the Planning Commission can find out what the uses for this project might be and give a report to them on whatever uses might be made of this land and report back to them on August 10th so they can make a decision. (Motion carried 7-0).

4. PUBLIC HEARING: (continued from 6-22-87):
Comprehensive Plan Amendment for a Mixed Use Planned Unit Development at Co. Rd. 19 & I-94; Federal Land Company

The public hearing on this request was opened on June 22, 1987 and continued over to this meeting in order to allow adjacent landowners a chance to comment on the matter. Notices of the 6-22-87 public hearing were not sent prior to that meeting, but now have been sent in regard to the continuation of the public hearing discussion at this meeting.

M/S/P Hunt/Raleigh - to remove from the table the Public Hearing (continued from 6-22-87) for Comprehensive Plan Amendemnt to allow a Mixed Use PUD at Co. 19 & I-94; Federal Land Company. (Motion carried 7-0).

There was no one in the audience to speak for or against the proposal.

Charles Bartholdi, attorney on behalf of the Federal Land Co., indicated that an application was originally made on this matter in 1980. It was tabled at that time pending alignment of County Road 19. Once the alignment of County Road 19 was resolved, they did come back in and a public hearing was held on 6-22-87. Mr. Bartholdi felt that they did discuss their reasons quite thoroughly last time and had nothing further to add. Therefore, he requested that the Planning Commission proceed with approving their request for an amendment to the Comprehensive Plan.

Chairman DeLapp closed the public hearing at 8:12 p.m.

Commission member Ed Stevens read a draft motion for denial. Stevens also commended the City Administrator for a very detailed staff review.

Commission member Ann Bucheck stated that at this point they would have to be changing the zoning of this property and because of the 11 findings found to be in conflict with the comprehensive plan, she does not feel it is proper because it would be changing a large part of what is stated in the plan.

Commission member Lee Hunt added that to amend our comprehensive plan at this point, something that has been worked on and revised over the last five years which at no time we have claimed any other use for that land or never a promise for any other use for the land. He saw

no compelling reason for change and felt the comprehensive plan should stand as it is. The applicants knew what they had, and the comprehensive plan existed since 1979 as its potential use.

Chairman DeLapp suggested as a 12th Finding what City Administrator Whittaker stated in the approved minutes of November 24, 1980 "the only conditions under which the City should consider amending a Comprehensive Plan is when they are changing conditions from when the Comp Plan was approved". The Commission felt adding this item would needlessly complicate things even though they agreed with the philosophy.

M/S/P Stevens/Williams - The City Administrator has prepared a 7 1/2 page review of this application dated June 22, 1987 and the many areas in which this application conflicts with the provisions and stated aims of the Comprehensive Plan. We agree with that study and expressly adopt its factual findings as the findings of this Commission. We do not recommend that the City Council amend the 1986 Comprehensive Plan to allow a PUD Land Use proposed at the Federal Land Company site. (Motion carried 7-0).

M/S/P Hunt/Buckheck - to recommend to the City Council denial of the General Concept Plan for the Federal Land Company PUD on the Federal Land Company site based on our Comprehensive Plan and the 11 Items of Findings by the City Administrator found in the staff review of June 22, 1987 and accept these findings as the findings of the Commission. (Motion carried 7-0).

The Planning Commission minutes will be approved before the Federal Land Application goes before the City Council which will be on August 4th, 1987.

5. Site and Building Plan Review, Proposed Zoning Ordinance Amendment - Bakery & Administrative Center Additions to White Hat Restaurant; Ed Gorman

Ed Gorman, the applicant, was not present for the meeting. The proposed additions were discussed by the Planning Commission on June 22-87. Action on the Site & Building Plan Review was tabled until a legal opinion was received from the City Attorney in regard to how the proposed additions and commercial/manufacturing uses comply with the existing City zoning ordinance.

Mr. Gorman proposed that the zoning ordinance be amended to allow a bakery use in the General Business zoning district without the requirement of a Conditional Use Permit. Changing the zoning ordinance for this example raises the question of what type or scale of bakery operation would be suitable as an independent business or as part of an existing restaurant business.

Another question raised by the proposed zoning ordinance amendment refers back to an earlier discussion by the Planning Commission as to which industrial zoning district uses (including bakeries as a manufacturing use) should be put in the General Business zoning district and also whether these transferred uses should be limited by a Conditional Use Permit Process.

In City Attorney Knaak's letter dated July 9, 1987 to the City Administrator, Knaak stated that if the purpose of the Gorman bakery will be the sale of the manufactured goods, in this case bakery items, the bakery would require a Conditional Use Permit to operate under the City Code. If Mr. Gorman's intention is simply to utilize the baked goods in the addition as part of the preparation of food for the menu for the White Hat Restaurant and, therefore, a a merely incidental part of the overall restaurant business currently being operated, he would not interpret that operation to come within "manufacturing" under the code. If any of the items baked in the bakery on the premises are offered separately to the public for sale, a Conditional Use Permit must be required by the City.

Knaak further stated that the Conditional Use Permit process allows the City to review the nature of the business use and to ascertain whether Code provisions and any other conditions provided for in the Conditional Use Permit are being complied with. That degree of control could not be exercised with the same degree of flexibility if this form of manufacturing were simply permitted as a General Business use. It would be difficult to refuse future rezoning or zoning code amendment requests for other manufacturing purposes when an exception like this is allowed for no other reason than, apparently, a desire on the part of a landowner not to be inconvenienced. Knaak did not recommend amending the Code to accomplish this purpose.

Mr. Gorman had stated previously that if he had to have a Conditional Use Permit this would be putting him under a hardship because he cannot afford this addition and would have to borrow money. This would be depriving him of this because a lending institution would not allow him to borrow money if he operated under a CUP.

Marge Williams felt they had to look at the requested rezoning if it fit in that area. If it was rezoned and the "baking" business was sold, it could become something a lot less desirable and the City would not be aware of it. A CUP allows most control with the least amount of problems for the City and would give use of his land with acknowledging to the City what he is doing with it and how much he is developing it. Change of the nature of the business would affect the number of hours of operation, large trucks coming in and the affect on the septic system and on the homes behind the bakery.

M/No Second Raleigh - Based on the City Attorney's opinion on the City's zoning ordinance on this issue referencing paragraph #5 of his letter dated July 9, 1987, the Planning Commission^{we} recommends to the City Council no amendment to the zoning code be considered at this time and the Planning Commission consider Mr. Gorman's application under the current zoning code unless there is express direction from the City Council to do otherwise.

Marge Williams suggested that Ed Gorman specify how he wants the code amended in order for the staff to write the public hearing notice.

Councilman Richard Johnson explained that in the telephone poll he was asked if General Business should be changed to include a bakery

operation which the definition he had was a "small town" retail bakery operation that makes what it sells. If the definition is a manufacturing operation then that would be different.

City Attorney Knaak stated that if you are going to make amendments to permit this activity in General Business, then the more specific you are when you do it the better off you are. Once the decision is made that this is not going to be a Conditional Use permit activity, we are going to carve out an exception to CUP for manufacturing. The problem is you cannot treat later rezoning requests differently. It is the City Attorney's understanding that the Planning Commission always keeps an open mind on issues which come before them and never pre-determines the matter before its recommendation.

Ann Bucheck explained that Mr. Gorman had made a statement that he did not see what was wrong with him selling his bake goods to other stores if other people wanted to buy them because the Lake Elmo Inn at this time is making pies, cakes and chili and giving it to a store in Lake Elmo so they can resell it. Knaak responded that as the code states, the Lake Elmo Inn would need a CUP. If there is a complaint, it is the responsibility of the staff to uphold the ordinance of the City and to see the code is enforced.

Marge Williams commented that it is not the Planning Commission's area to be concerned about whether or not he gets a loan for his business or if our zoning would affect their loans. She would favor tabling further discussion until the public hearing is heard.

M/S/P Williams/Bucheck - to table action on the Site and Building Plan Review until the required information has been submitted and until the zoning ordinance amendment request has been resolved. (Motion carried 7-0).

6. Update on Metro Council Strategic Planning

This subject was discussed at the June 8th meeting. It was agreed that Commission members would note their own areas of interest, prioritize the issue areas, and add new issue areas if needed.

M/S/P Stevens/Williams - to postpone discussion until the July 27th Planning Commission meeting. (Motion carried 7-0).

7. U.S. Supreme Court Land Use Decision

On June 10, 1987 the U.S. Supreme Court handed down a decision which could have a significant effect upon the ability of local government units to regulate land use. The Court ruled that property owners are entitled to compensation for the monetary damages caused during the time period under which governmental regulations deprive them of reasonable use of their land.

City Attorney Knaak commented that the old rules still apply, only more so. He suggested the Commission be cautious in downzoning situations to preclude any and all uses. Overly restrictive kinds of plans or ordinances may also require compensation. He felt that the

law in Minnesota already has been, to a large extent, like this. It eliminated the blanket exclusion on compensation. It does not hurt a short-term moratorium. There is no question that this limits the city's authority and leaves the law unclear. It will renew the enthusiasm of developers to argue constitutional questions.

8. Stillwater Area Economic Development Corporation Report:
Star Cities Commission Proposal

Rob Enes, Lake Elmo's representative on the SAEDC, handed out information with a list of people who make up this organization. A corporation was formed to promote development in nine communities without LULU's (local unwanted land usages). Within the framework there are subcommittees and Enes is on the Marketing Committee. Rob's role is to monitor what is included in the Star Cities information and try to mesh together "pro and anti-development" philosophies.

The Planning Commission agreed that they did not want to see Lake Elmo as a Star City because of our Comprehensive Plan and want to stay rural in atmosphere. The timeline to a model ordinance and funding request would be at least two months. Marge Williams felt that Lake Elmo should not be involved because the association would mean we agree with their concept. Rob stated the City Council would not support involvement and he felt we should keep a City representative on the Board. Ed Stevens suggested a non-development committee be formed with Afton, Lake Elmo, West Lakeland and Grant Township.

It was suggested that as a private citizen one should write a letter addressing the concern on how our tax dollars are being used and the use of County staff time.

Lee Hunt felt that there was information missing at this time and it was too early to make a decision, but he does not support a Star City proposal without hearing more about it. He would not recommend at all to the City Council that we participate in it, but merely continue to monitor what is going on.

The Commission would like a Developer's Corporation representative make their pitch to them before the Planning Commission makes a recommendation to the City Council.

M/S/P Bucheck/Hunt - to commend Rob Enes for all his hard work and for the good job in standing up for Lake Elmo's concept. (Motion carried 7-0).

M/S/P Bucheck/Hunt - to adjourn the Planning Commission meeting at 10:45 p.m. (Motion carried 7-0).

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 13, 1987

7:30 p.m.

MEETING CONVENES

1. Agenda
2. Minutes: June 22, 1987 (to be mailed out)
NOTE: clarify the June 8th amendments.
3. Upcoming Requests
4. PUBLIC HEARING: (continued from 6-22-87):
Comprehensive Plan Amendment for a Mixed Use
Planned Unit Development at Co. Rd. 19 & I-94;
Federal Land Company
5. Site and Building Plan Review, Proposed Zoning
Ordinance Amendment - Bakery & Administrative
Center Additions to White Hat Restaurant;
Ed Gorman
6. Update on Metro Council Strategic Planning
7. U.S. Supreme Court Land Use Decision
8. Stillwater Area Economic Development Corporation
Report: Star Cities Commission Proposal
9. Other Business
10. Adjourn