

APPROVED

LAKE ELMO PLANNING COMMISSION MINUTES

NOVEMBER 14, 1988

Chairman DeLapp called the Planning Commission meeting to order at 7:30 p.m. in the City Council chambers. Present: DeLapp, Bucheck, Enes, Haacke, Hunt, Johnston, Kunde, Stevens, Williams (arrived 8:00 p.m.), and City Administrator Morrison. Absent: Johnson

1. Agenda

Add: Comprehensive Plan, Update on Northwestern Bell Building and Proposed Ordinance Amendment for Public Utility Buildings, Clarification on Planner

M/S/P Stevens/Hunt - to approve the November 14, 1988 Planning Commission agenda as amended. (Motion carried 8-0).

2. Minutes: October 24, 1988

M/S/P Haacke/Enes - to approve the October 24, 1988 Planning Commission Minutes as amended. (Motion carried 6-0-2<Abstain: Hunt, Johnston>).

3. PUBLIC HEARING: Rezoning from Rural Residential to Public Facility Apostolic Bible Church

Chairman DeLapp opened up the public hearing at 7:38 p.m. in the City Council chambers.

The Apostolic Bible Church is requesting a rezoning from Rural Residential (RR) to Public Facility (PF) for the purpose of allowing a church to be constructed on a parcel of land approximately 39 acres in size, legally described as follows: the SE 1/4 of the SE 1/4 of Section 28, Township 29, Range 21. (~~1/8~~^{1/4} mile east of Inwood Avenue on 10th St. N.)

Mr. Jim Roos introduced their Architect, Dennis Batty; James Moberg, Administrator, Pastor Robert Sabin of the Apostolic Bible Church, who were in attendance to answer questions the Commission raised when they reviewed the Concept Plan at their September 12th meeting.

Roos explained that Apostolic Bible Church has need for an independent church facility because they have outgrown the sanctuary in Oakdale which they shared with Apostolic Bible Institute. They ^{said they} purchased the site in Lake Elmo because it was close to their existing facility, can be easily reached by I-94 and Wash. Cty. highways and the aesthetic setting was a most appropriate location for a church. Roos emphasized this would be a church site. There will not be dormitories or similar housing facilities. They only foresee a small gymnasium, Roos clarified as an activity center or Fellowship Hall, to supplement the education facilities. The surrounding area on the site will continue to be used for agricultural purposes. They felt the church would be compatible with the low density the City wants to see.

Bill Batty, Architect, stated the building will be a low profile structure, area lighting will be timed and held to a minimum, signage will

comply with the City's ordinance. Earthen berms, trees and a pond have been discussed as landscaping items. Traffic counts were received: East of Inwood 3200 cars a day compared to West of Inwood (going to 694) 6500-6600 cars a day. The County looks at a two-lane road, such as this, as a maximum vehicle per day road of 10,000 vehicles per day before they go to a wider roadway. Their plan is soon to upgrade that part of 10th St. West of Inwood, but plans are not near to upgrade the road East of Inwood because of the lower vehicle counts.

Roos has tried to contact all the surrounding property owners to discuss the proposed church facility. Mr. Roos had talked to Dale Properties and Mr. Eichenberger. Statements were given to the Commission by Mr. Roos which were signed by Lillian L. Henderson & Peter, David & Robin Linder of 275 West Wheelock Pkwy, David & Luisa Wortman of 8996 10th St. N., Donald Olenchak & E. Clausen of 9032 10th St. N., Dayton Dev. Co of Mpls, which stated they have reviewed the proposed church facilities with representatives of the Apostolic Bible Church and have no objections to the proposed use.

Tom Armstrong, 8291 15th St. N., pointed out this was not in the Comprehensive Plan. The Plan calls for Rural Residential in this area so this application would require a change in the Comp. Plan. Armstrong felt this was not a proper use in an RR zone. RR zoning anticipates 1 house per 10 acres as the density and this particular use is not compatible with that. This type of use would be better further down County Rd. 13 close to I-94.

Tom felt to rezone the entire parcel to Public Facility, opens the door wide, and would allow dormitories. 301.040 of the Code, Section 26 defines the Church, Page 301-5, states a building, together with its accessory buildings and uses where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship. The way the ordinance is read, if educational facilities are built, or dormitories, this would fall under the definition of a church. Under Public Facilities 301.070E.11 Allowed uses and structures are churches. Accessory uses are listed as uses and structures which are clearly incidental and subordinate to the allowed uses and structures. Religion is the allowed use here, subordinate to religion would be educational, dormitory or similar facilities they have presently in Oakdale.

A procedural mistake was pointed out with the scheduling of the rezoning for the City Council meeting on 11/15/88. The ordinance states the action may not be acted upon by the Council until they have received the recommendation of the PZ in writing. Tom felt this matter is being rushed through, and it was illegal for the Council to act or consider this application.

If the PZ decides to rezone, Tom suggested they consider rezoning the absolute minimum essential for the Church and not give them 40 acres in which they can do what they please on the rest of the 40 acres, as long as it falls under the broad definitions of the zoning ordinance.

Armstrong urged the PZ for these reasons not to allow the rezoning and

urged the applicants to look for some real estate which is more compatible with this use. He added that a precedent had been set for turning down a church in a residential area about 10 years ago when residents petitioned against a proposed Baptist Church in a residential area. The Council turned down the application because it was not a proper use.

Henderson

Lillian Linder, 9255 15th St. N., stated a church belongs in a community because this brings the community together. She would be happy with a church as a neighbor. She had lived in a residential area with a church in the City of St. Paul.

Jerry & Gina Seipel, 8890 10th St. N., who live on a one acre lot, would rather have houses near him and not a church with dormitories. His back window would be looking onto the parking lot and foresees a potential problem with high school children.

Mr. Roos responded the church would be 400' away from the Seipel residence, and they plan an additional berming of trees. They would be willing to submit a site plan to the commission for their review and stipulate what they would like to see in it.

Marge Williams brought up her concern on elevation because it looked as if the church and parking lot was on the highest part of the site and how this would affect the Seipels. Roos responded the highest part of the site is closer to 10th Street.

Rob Enes favored more lights, but lower to the ground and lower wattages. It may be more expensive, but he felt they were less offensive.

Councilman Dick Johnson considered approval of the 26,000 sq.ft. building, which included the educational/activity center as spotzoning and this would change the Comprehensive Plan. He suggested they only consider rezoning the land that the church is on and amend the code to allow a CUP which will allow the city to have more control.

Chairman DeLapp closed the public hearing at 8:50 p.m.

Marge Williams liked the idea of PF rezoning with a CUP, but suggested this be tabled for two weeks in order to address concerns such as how the topography affects the current landowners, the Seipels. Will they be looking directly at or up at the blacktop parking lot. Also, by approving the church, and with past approval of Linder Greenhouse, are we closing ourselves off for any Rural Residential development in terms of housing. How will the lighting, church, parking lot affect the desirability for housing in this area.

Ed Stevens was doubtful of approving this application because he would like to see this area develop as Rural Residential and felt the City should do everything to promote this and not see the City reduce the desirability of this area for Rural Residential development. He did not think the Apostolic Church would be conducive to this area.

Ann Bucheck considered this RR zoning and did not feel a church is compatible in this area. She also had a concern on lighting affecting the neighbors and questioned if the size of the parking lot was sized for 150

cars and will this be expanded as the congregation is increased. Ann had contacted the County, which stated the only property that would be tax exempt would be the property the church and parking lot is on, but the rest of the land should be taxed. Ann suggested tabling this application for two weeks before a decision is made by the PZ and then their recommendation will be passed onto the Council because she believed the City Attorney suggested they wait two weeks before they make a decision. (Amended 11/28)

Chairman DeLapp stated churches are allowed in General Business and Public Facility zoning. We cannot have a CUP for this application because there is not a provision in our code. DeLapp referred to Afton's reasons why we have the zoning ordinance and what it is premised on. ~~Steve voiced his concern it does not presage the rezoning of it to make it compatible so that somebody will come in with a higher dense use.~~ (Amended 11/28)

Dean Johnston felt the PZ should take the action of recommending to Council that they not make a decision, Tuesday, on this application because there are other concerns that need to be discussed. Dean did not find the arguments about the incompatibility of a church in a rural area at all compelling. He could not think of a better place for a church. We have put these people in a difficult situation because our ordinance requires that in order for them to have a church, that the land be rezoned. Consequently, they are here following our procedure. If you accept the argument that a church in a residential area is not compatible with the existing use, then you can restrict it to General Business areas.

Rob Enes felt the PZ was making an unfair observation; quotes have been made showing expensive homes can be built on the freeway, Cty Rd. 18 and 494. He does not buy any of the arguments ~~that this will dwarf any kind of housing that will go in that area.~~

Barb Haacke agreed with Rob that homes are built anywhere, but our main concern is to look at how the people are affected that live there now.

M/S/P Williams/Enes - to table a decision on the application for rezoning by the Apostolic Bible Church until discussion can be continued at the November 28th, Planning Commission meeting. (Motion carried 9-0).

3. Building Standards - Rob Enes

Rob Enes had drafted a "Building Standards Form" which will be given to builders or new homeowners. This form includes guidelines, from the Lake Elmo Code, on house placement, setbacks, accessory structure, outdoor lighting, building heights, placement of drainfield, thorough listing of inspections, etc. He will review this form with the Building Official and bring it back to the Commission.

4. Planning Commission Appointments

At the end of 1988, the terms of Marjorie Williams, Al Kunde and Rob Enes will expire. At the first meeting in January, if the Council follows as practiced, Dean Johnston should be appointed to serve-out the term of Lee Hunt which will expire at the end of 1989.

Marge, Al and Rob were asked to indicate whether or not they desire reappointment in January so that the City can solicit applications for appointment to the Commission in the next newsletter.

5. Northwestern Bell Building Proposal

Councilman Dick Johnson explained he will not be able to attend the November 15, Council meeting because of a scheduled business trip. The only reason he would come back for the meeting would have been to take up the issue again on the NWB facility on the Apostolic Church property. During the discussion with our Administrator, he had come to the conclusion that the action that was taken, although mishandled from the standpoint of not taking into account the need for the PZ to take more time to review it, would have come to the same conclusion.

Johnson explained that he felt this NWB facility would be a benefit to the residents of Lake Elmo in improving their telephone service. The issue that the PZ raised with regard to neighboring homeowners, Johnson was given to understand that the homeowners did approve the facility. The concern he had was the PZ did not reach any kind of decision on the facility. Before that part of the discussion came out, a motion by Councilman Moe was made to call the question; the vote was forced. Since that time he has reconsidered the action because it was on a lease arrangement which is not a good way to give out a building permit. As they were building on church property, he questioned if there would not be any taxes paid by the telephone company. Morrison had checked with the County Assessor and learned, historically, utilities are taxed on the basis of gross earnings and do not pay real estate taxes. They may pay real estate taxes in 1990 if proposed tax structure changes are implemented. The assessor stated an improvement such as this on church property would be taxed under such a law.

Johnson further stated, in conversations with Mayor Christ and Councilwoman Armstrong, he felt Arlyn would not be in favor of changing his vote. On a positive side, being that it is U.S. West and NWB, we should not be too concerned about having to go after junk cars in the yard.

Johnson apologized to the Commission for not taking into account the PZ concerns which were evident in the minutes and should have recognized the discussion wasn't over on the part of the PZ and tabled any action. Johnson pointed out there was no representative from the commission that spoke out at the meeting. Unless there is other evidence that this should be brought back onto the table, the Council's motion will not be changed.

Tom Armstrong expressed Councilwoman's Armstrong concern that there was nothing in the code that would allow the Council to approve this building. Therefore, the entire issue is moot, the motion is illegal, and nothing is approved. It has to be a zoning change, therefore, there is legally no approval of anything. Tom added, that no one was against the facility, but there was no way to approve it by our code.

Lee Hunt voiced his concern that, if indeed Mr. Armstrong had a valid point, that it was an illegal motion, is the City open to legal action

later on. If it needs to be done right, let's do it right because we do not know future conditions.

Chairman DeLapp stated that Moe's motion to call the question was never voted on--it takes two-thirds vote to have a question called. The land is a lease so it doesn't apply to the zoning in terms of the owners. Planning Commission members were not present at the Council meeting because they were surprised to see it on the agenda. They had thought this issue would be coming back to the Commission with some of their questions answered. As far as improving our telephone service, they made it clear it was not for us, but for "large development that was coming in and it may be 4 or 5 years before we get this large development in".

6. Proposed Zoning Code Amendment; Remote Terminal Buildings and Other Like Facilities:

At the November 1st meeting, the Council directed the attorney and staff to review the existing code to provide for this type of public service building.

Administrator Morrison had contacted several communities, (Stillwater, Maplewood, Woodbury and Eagan,) and found these communities viewed this type of facility as a residential public service and which is necessarily a part of their basic community needs. Councilman Johnson suggested addressing impervious surface, landscaping and architectural design. After Council input, this ordinance will then be reviewed by the Planning Commission.

Ann Bucheck suggested contacting more rural communities that are similar to Lake Elmo such as West Lakeland, Grant Township, Mahtomedi, Afton and asked how they provide for this type of public service building. Ann would like to see a public hearing held so the surrounding adjacent property owners could be notified.

7. Comprehensive Plan

Marge Williams reported she had received Ed Stevens' comments on the Comp Plan and has not as yet incorporated them. We do not have the maps and suggested contracting with Washington County to get the maps done. Lee Hunt will review with Marge the status of the maps. The Transportation Facility section was approved. Wording needs to be updated on the 201 Project. Mayor Elect Dunn made her plea for the Commission to complete the Comp Plan by the end of the year. Marge will meet with Sue Dunn to review the status of the Plan.

Marge can continue to work on the Comprehensive Plan, but will not be seeking another term on the Planning Commission.

December 26th Planning Commission meeting:

The Planning Commission cancelled the December 26th meeting because of the Christmas holidays. A work meeting will be held for any member that is interested.

M/S/P Enes/Stevens - to adjourn the Planning Commission meeting at 11:30p.m. (Motion carried 9-0).

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

NOVEMBER 14, 1988

7:30 P.M. Meeting Convenes

1. Minutes - October 24, 1988
2. Public Hearing Rezoning from Rural Residential to Public Facility - Apostolic Bible Church
3. Building Standards - Rob Enes
4. Planning Commission Appointments
5. Other
6. Adjourn