



City of Lake Elmo

777-5510

3800 Laverne Avenue North / Lake Elmo, Minnesota 55042

The Lake Elmo Planning Commission will meet at 6:00 p.m., Monday, May 24, 1999, in the Council Chambers of City Hall, 3800 Laverne Avenue North.

Please note – 6:00 p.m. early meeting time. The Planning Commission will pursue continued discussion of the Comprehensive Plan from 6:00 p.m. – 7:00 p.m.

Planning Commissioners are reminded to bring their Municipal Codebooks AND Comprehensive Plan to ALL MEETINGS.

AGENDA

1. Agenda
2. Minutes – May 10, 1999
3. **PUBLIC HEARING**
Rezone 39.2 Acres of land from AG (Agricultural) to RED (Rural Estates)
Korhel property – generally located at 5440 Keats Avenue North
4. **MINOR SUBDIVISION**
Korhel property – 5440 Keats Avenue North
5. Northeast Annexed Area – Metropolitan Council Update
6. Other
7. Adjourn

May 24 1999

NOTICE: All Planning Commissioners are invited to attend an OPEN SPACE WORKSHOP, at 5:00 p.m., Thursday, June 3, 1999 in the Council Chambers of City Hall. **LUNCH will be provided.**

Please contact Cynthia Young, 651-777-5510, ext. 14 OR e-mail: Lecynyoung@aol.com if you plan to attend this workshop.

~~WRAN~~ *Approved*

**Lake Elmo
Planning Commission**

**Meeting Minutes
Monday, May 24, 1999**

*(The Planning Commission met at 6:00 p.m. to continue discussion
of the Comprehensive Plan)*

Chairman Armstrong called the meeting to order at 7:00 p.m. in the Council Chambers of City Hall, 3800 Laverne Avenue North, Lake Elmo, Minnesota. Present: Commissioners Brass, Gerard, Helwig, Herber, Lipman, Ptacek, Sedro and Sessing. Absent: Commissioners Berg and Mandel. Also present: City Planner Dillerud.

1. Agenda

**M/S/P Helwig/Lipman – to approve the agenda, as presented.
(Motion Passed 9-0).**

2. Minutes

**M/S/P Lipman/Helwig – to approve the Minutes from the May 1, 1999 meeting
(Motion Passed 7-0-2). Abstain: Brass, Ptacek.**

3. PUBLIC HEARING

**Rezone 39.2 acres of land from AG (Agricultural) to RED (Rural Estates)
Korhel property – generally located at 5540 Keats Avenue North**

Planner Dillerud said there are no existing files reflecting any City actions regarding this parcel. He said the site is a "nominal" 40 acres, now vacant except for a farmstead grouping of a single family home and 5 accessory structures. He said the site borders on the East by Keats Avenue; on the South by Arabian Hills; on the West by Judith Mary Manor and on the North by Rolling Hills Estates. He said the rezoning action, initiated by the City, and is a housekeeping issue to insure compliance with State Statute regarding consistency of zoning with Land Use Planning. He said he recommends a motion to recommend adoption of an ordinance rezoning the site as legally described from AG (Agricultural) to RE (Rural Residential), consistent with the Comprehensive Plan.

Commissioner Lipman asked if the City suffered any penalty for not conforming to the statute. Planner Dillerud said there was no penalty for not accomplishing compliance between the Land Use Plan and Zoning Map.

**Chairman Armstrong opened and closed the comment Portion of the Public Hearing at 7:07 p.m.
NO COMMENTS**

**M/S/P Lipman/Gerard – to recommend adoption of Ordinance No. 9744 – an ordinance amending
Section 300.07 "Zoning District Map" of the 1998 Lake Elmo Municipal Code to rezone the
property at 5540 Keats Avenue North (39.2 acres of land), from AG (Agricultural) to RED (Rural
Estates) Zoning District.**

(Motion Passed 9-0).

4. MINOR SUBDIVISION 5440 Keats Avenue North; Korhel parcel.

Planner Dillerud said the applicant proposes a Minor Subdivision of this nominal 40-acre parcel into the resulting of 5.01 acres and 34.69 acres of land. He said the existing homestead and 3 accessory structures would remain on the resulting 34.69-acre parcel and 3 accessory structures plus a silo base would become a part of the 5.01-acre parcel. He said he recommends a motion recommending approval of the request.

Commissioner Helwig expressed his concern regarding the existing cistern.

M/S/P Armstrong/Helwig – to recommend approval of Resolution No. 99- __ granting a Minor Subdivision to Stephen T. Korhel III for the property located at 5540 Keats Avenue North subject to the following conditions:

- 1. Rezoning of the existing parcel from AG to RED.**
- 2. Definition of a separate parcel, 7 feet in width, across the frontage of both parcels A & B, and deeding of that separate parcel to the City of Lake Elmo.**
- 3. Preparation by the applicant of a covenant, to be approved by the City Attorney and recorded concurrent with the Minor Subdivision, providing for the removal of all accessory structures on Parcel A (5.01 acres) within one year of the City Council approval of the Minor Subdivision, if no Certificate of Occupancy has been issued for a principal structure (a home) on Parcel A.**
- 4. Payment of Park Dedication Fee in the amount of \$750.00.**
- 5. The City Building Official shall certify that the existing cistern on Parcel A is removed or otherwise properly eliminated as a hazard prior to City endorsement of Minor Subdivision documentation.**

(Motion Passed 9-0).

6. Northeast Annexed Area – Metropolitan Council Update

Planner Dillerud presented a letter he sent to Guy Peterson-Sector Representative, Metropolitan Council. (attached).

Chairman Armstrong adjourned the meeting at 7:30 p.m.

Respectfully submitted, Cynthia Young-Planning Secretary

May 19, 1999

Guy Peterson
Sector Representative
Metropolitan Council
230 East Fifth Street
St. Paul, MN 55101 - 1634

Dear Guy:

RE: Comprehensive Plan Amendment/Sanitary Sewer Extension
Oak Park Heights - Kern Center

Thank you for a copy of the May 18, 1999 letter to Mr. Melena, signed by Don Bluhm. We have drafted a letter to the Pollution Control Agency requesting suspension of the Kern Center Sanitary Sewer Extension Permit (#CK.35282, issued August 26, 1998) pending resolution of the issues regarding amendments to the MUSA and Oak Park Heights' CSP that should have been resolved prior to permit issuance. A copy of that letter is enclosed.

The tone of Mr. Bluhm's letter appears to be that the Metropolitan Council approval of Oak Park Heights' Amended CSP and MUSA extension is a foregone conclusion. The letter sounds like it is just a matter of Oak Park Heights submitting the information requested by Dick Thompson's June 26, 1998 letter regarding the Kern Center Comprehensive Plan amendment. Apparently that conclusion is reached by Metropolitan Council staff before even seeing what is to be submitted. Might there not be a possibility that whatever Oak Park Heights submits (and it doesn't sound like it much matters what they submit at this point) could be found to be inconsistent with the Regional Blueprint and or the Regional CSP?

Based on the foregoing we are disappointed that the Metropolitan Council staff does not itself find it appropriate to advise the PCA to suspend the Sanitary Sewer Extension Permit for Kern Center pending review of whatever Oak Park Heights submits in support of their applications for CSP amendment and Comprehensive Plan Amendment for Kern Center. To assume that there will be no inconsistency found in those submissions, thereby essentially allowing the sewer extension project to continue, establishes an unfortunate precedent that seriously undermines the entire regional review process.

For example, Dick Thompson's June 26, 1998 letter to Oak Park Heights references the Oak Park Heights Kern Center Plan waste water flow forecast of "... 45,000 gallons/day in the year 2010 with 'Total Buildout'...". The issue with the Metropolitan Council staff appears to have been the time-sequencing of the flow increase, and what portion of the total Oak Park Heights wastewater flow increase this will represent over that time period.

I have a copy of the Permit issued by PCA in August, 1998 for the Kern Center Sanitary Sewer Extension. The Permit Application (prepared by Joe Anderlik as consultant to Oak Park Heights) proposes an estimated flow increase of **123,000 gallons/day "Project"**, and **174,000 gallons/day "Ultimate"**. It seems to me that such a difference (45,000 to 173,000) is truly significant.

Since Oak Park Heights has not provided Lake Elmo with the appendices to the Proposed Citywide Comprehensive Plan Amendment (which was to include the amended CSP), we have no way of knowing whether 45,000 gallons/day or 174,000 gallons/day flow is consistent with any CSP or Land Use Plan – nor does the Metropolitan Council staff. If, however, the Kern Center Sanitary Sewer Project construction is not suspended by someone now, it really will not make much difference, will it? The infrastructure investment will have been made, and the claimed damages by Oak Park Heights if Metro Council denies hookups will likely bury the hookup denial strategy. This sure does sound like a recipe for *fait accompli*!

Aside from CSP issues, we believe there is a very real Regional Blueprint consistency issue related to the Kern Center sewer extension, particularly at those higher waste water flow amounts the Permit forecasts (and we assume the facilities to be installed are designed for). We have been lead to believe from the proposed Oak Park Heights Citywide Comprehensive Plan, and other sources that the sewer pipes, force main pumps and other conveyance infrastructure of the Kern Center project are designed to also accommodate waste water flows from the Lake Elmo Northeast Annexed Area. Perhaps that could explain the multifold increase in projected flows from June, 1998 to August, 1998. What else could?

If that design assumption is incorporated into the Kern Center Sanitary Sewer Extension, as we suspect, the potential negative impact on Lake Elmo and the Regional Blueprint could be significant. First, the Regional Blueprint. As we have repeatedly demonstrated to the Metropolitan Council staff with our Northeast Annexed Area Comprehensive Plan Amendment Applications, a significant portion of that area of Lake Elmo is designated Permanent Rural by the Regional Blueprint. If, as we suspect, the Kern Center Sewer is oversized with the idea of ultimately serving Lake Elmo's Northeast Annexed Area, it is virtually certain that areas now designated Permanent Rural by the Blueprint are included in those service plans. Has a Regional Blueprint Amendment also been approved by Oak Park Heights and/or the Metropolitan Council staff? If not, the Kern Center Sewer Project, by its apparent sizing, is in conflict with not only the Regional CSP, but the Regional Blueprint.

Now to the concerns of Lake Elmo. As I am certain you know, Carriage Homes has purchased some land in the Lake Elmo Northeast Annexed Area. They have presented a petition to Oak Park Heights to concurrently detach that land (much of which is Permanent Rural) from Lake Elmo and annex it to Oak Park Heights. To their credit, the Oak Park Heights City Council has, to date, refused to adopt a resolution endorsing the petition. The concern of Lake Elmo is the (in our opinion) illegal extension of sewer to the Kern Center, particularly oversized to serve portions of the Lake Elmo Annexed Area, will result in another *fait accompli* – the sewer is there so the detachment/annexation must be accomplished to make use of it.

Based on the foregoing, the City of Lake Elmo specifically requests the following of the Metropolitan Council:

1. Immediate communication to the Pollution Control Agency requesting suspension of the Kern Center Permit until CSP, Comprehensive Plan and Regional Blueprint consistency can be ascertained.
2. A Metropolitan Council determination as to what portion of the 173,000 gallons/day "Ultimate" wastewater flow from the Kern Center Project is projected from uses within Oak Park Heights and what portion is projected for users in areas now in corporate Lake Elmo (including Permanent Rural areas). Note that a portion of the Kern Center is already (and quite recently) developed with intentionally low flow uses, reflecting the private septic systems serving the area now. Typical per acre commercial flow forecasts can not reasonably be used in those cases.
3. Provide Lake Elmo assurance that Metropolitan Council decisions regarding CSP's, MUSA extensions, and Comprehensive Plan Amendments where common municipal boundaries are involved, and municipalities appear to disagree, are considered by the Metropolitan Council Board.

The preparation of this letter and the issues presented herein were discussed in detail at the regular meeting of the Lake Elmo City Council on May 18, 1999, and Lake Elmo Staff was specifically directed to proceed expediently, and with all resources available.

Sincerely yours,
City of Lake Elmo

Charles E. Dillerud
City Planner

Cc: Mayor Hunt and City Council
Jerry Filla, City Attorney
Mark Huginin, Metropolitan Council 12th District Representative
Donald K. Perwien, P.E., Minnesota PCA
Chair and Board, Baytown Township
Tom Melena, City Administrator, Oak Park Heights
State Representative Peg Larsen
State Senator Gary Ladig
Washington County Board of Commissioners