



City of Lake Elmo

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3800 Laverne Avenue North / Lake Elmo, Minnesota 55042

The Lake Elmo Planning Commission will meet

MONDAY, SEPTEMBER 24, 2001 at 6:00 p.m.

in the Council Chambers of City Hall, 3800 Laverne Avenue North, Lake Elmo, Minnesota.

AGENDA

Sept
24

1. Agenda
2. Minutes – September 10, 2001
3. **PUBLIC HEARING:** Variances – *continued from September 10, 2001*
Kiesling
9359 Jane Road N.
4. **PUBLIC HEARING:** Variances
Hegna/Rude
3250 Kraft Circle
5. **PUBLIC HEARING:** Amend Conditional Use Permit
Country Air Golf Facility
Ray & Jane Salus
404 Lake Elmo Avenue
6. **PUBLIC HEARING:** Zoning Text Amendment
Add “Therapeutic Massage” to General Business
7. **Zoning Text Amendment:** Re-Visit “Fitness Center” addition to General Business
8. **Pre-application Review:** RECO, Inc.
Northeast Quadrant of
Lake Elmo Avenue/Hudson Boulevard
9. Other
10. Adjourn



MINUTES APPROVED: OCTOBER 10, 2001
LAKE ELMO PLANNING COMMISSION MINUTES

September 24, 2001

Chairman Armstrong called the meeting to order at 6 p.m. in the Council chambers. PRESENT: Helwig, Berg, Deziel, Brass, Armstrong, Taylor, Ptaceck (arrived at 6:20 p.m.)

1. AGENDA

M/S/P Armstrong/Brass – to approve the September 24 Planning Commission agenda, as amended (Motion passed 6-0.)

2. MINUTES: September 10, 2001

M/S/P Berg/Brass – to approve the September 10, 2001 Planning Commission minutes, as amended. (Motion passed 5-0-1 Helwig Abstained)

3. PUBLIC HEARING: Amateur Radio Antenna Tower Permit:
Bob Helwig

Bob Helwig excused himself as a Planning Commission member and sat in the audience for this agenda item.

The City Planner advised that Bob Helwig, 8247 27th Street N., had made application for an amateur radio tower antenna permit in an after-the-fact context pursuant to the terms of the new Ordinance 9784 that addresses amateur radio towers and antennas. It was noted that this is not a zoning action. Mr. Helwig had provided a petition signed by 81 individual indicating their support for approval of this permit.

Administrator Kueffner had drafted a memo for the commission asking the Planning Commission to specify why it feels the City should not condone the applicant installing, for the second time, a tower on his property, knowing full well they were not permitted by our City Code.

Mr. Helwig provided the Commission the history of the installation of his Rohn antenna towers and provided two pictures relevant to the tower, showing guy wires and existing power lines. Helwig stated that the tip of the antenna is 108' from the ground and the tower has been inspected and insured by American Family Insurance and is on his homeowner's policy.

Mr. Helwig indicated he did not willingly bypass any City ordinance by not getting a permit, as he believed that a permit was not required under Section 300.12. Subd. 2A. which states as follows: Antennas shall not be located on structure in excess of sixty-five feet in height unless the structures are existing water towers and the antennas are only an accessory use on the water towers

Paul, an antenna tower owner from White Bear Lake, stated he has put up and taken down towers. He was familiar with the Rohn tower, which Mr. Helwig had installed according to the requirements. He said the tower would not fall in one piece unless guy wires are cut. The base and guy wires are standard.

Chairman Armstrong asked if there is a group that could come out and certify the tower is installed correctly. In response to the question presented, Paul stated the assembly was done per instructions.

Chairman Armstrong opened up the public hearing at 6:35 p..

John Yarusso, 8282 27th St. N., read a prewritten statement. He said he bought his lot in 1989 knowing full well there was a radio tower. He told the Commission that Bob Helwig's application should be approved because it is a back-up form of communication in times of disaster, which is an asset to the community. He said the tower location is immediately adjacent to high voltage powerlines, making the tower much less noticeable; and that the tower has existed for at least 12 years, and should be grandfathered in.

Larry Man, stated Mr. Helwig has been upfront with neighbors on his plans. He has no problem with aesthetics. He observed that Bob enjoys this hobby, so the City should let the man do it.

Jim Revard noted that the tower is not more discerning than the powerlines we live under today.

Robert Mear, 8341 27th St., neighbor, stated that he had no problem or objections as indicated in a letter.

Chairman Armstrong acknowledge a letter from Dennis Siegler, 8244 27th St. N., in opposition of the amateur radio tower based on the visual impact.

Chairman Armstrong acknowledge a petition of 81 names in favor of the installation of the tower.

Chairman Armstrong closed the public hearing at 6:40 p.m.

Commissioner Deziel stated the new ordinance was adopted and published August 29, 2001. The original ordinance was not read properly by the building official and there was no permitting process before.

M/S/P Armstrong/Brass 5-0-1: Abstain: Taylor - to recommend to the City Council approval of an amateur radio antenna tower permit for Bob Helwig, 8247 27th Street N., based on the following findings:

1. That Mr. & Mrs. Bob Helwig have FCC Amateur Radio Licenses.
2. That the tower is minimum size and dimensions to overcome high wire obstacles.
3. That the tower is a professionally designed Rohn manufactured tower. The applicant has provided numerous drawings and engineering specs for assembly of tower.
4. That it is recommended the City obtain an annual letter from Bob Helwig or a knowledgeable party stating the tower is in good working order, that the Helwigs are still using the tower, has homeowners insurance, and the City has no liability with this tower.
5. That the distance is adequate with a fall down tower radius a minimum of 110' tip from adjoining property.

4. PUBLIC HEARING: Variances (continued from September 10, 2001) Joe Kiesling, 9359 Jane Road N.

The City received a letter from Joe Kiesling's Attorney requesting this item be tabled until the October 10th Planning Commission meeting.

M/S/P Armstrong/Brass - to accept Joe Kiesling's request for his variance request item be tabled to October 10, 2001 Planning Commission meeting. (Motion passed 6-0) Bob Helwig not in attendance for vote.

5. PUBLIC HEARING: Variances Hegna/Rude 3250 Kraft Circle

Planner Dillerud presented the history of the rearrangement of Lake Elmo Park. He reported that since the division of Lot 7, all but one of the 8 parcels now owned by the City were sold to individuals and homes were constructed on each of those 7 parcels. The one remaining parcel has

remained a separate tax parcel of approximately 12,000 sq.ft. owned by the Rudes. The sum area of the Rude's 4 separate and contiguous tax parcels is approximately 33,780 sq.ft. and does not meet the 60% Lot of Record rule in R-1 zoning.

Planning Commissioner Deziel brought up the Anthony Carlone variance in terms of the findings. Planner Dillerud responded the applications are not parallel.

Mr. Rude presented a verbal presentation of reasons why he thought his variance request should be approved. He stated the 201 program could be a backup, but did not get a copy of the 201 policy.

Dillerud responded he could not find any policy stating the 201 program can only be used for failing systems as Tom Prew and Mike Bouthilet have attested. If there were a lack of policy for joining the 201 Program, then the Council would have to set policy.

Chairman Armstrong opened up the public hearing at 7:21 p.m.
No one spoke for or against the variance request.
Chairman Armstrong closed the public hearing at 7:22 p.m.

Planning Commissioner Deziel stated no one had applied in 10 years for a 201 permit. If there are 35 vacant parcels in the City, he doesn't see this as a bad thing. He does have a problem with class distinction with our civil servants not being able to find affordable housing in Washington County. A wastewater treatment system, as in Fields of St. Croix, could be installed, which would make these small lots developable at an affordable price.

Commissioner Berg indicated the Old Village does need its own standards and would like to see this as a front burner issue. This is a legislature function. Currently, the R-1 zoning district requires 1 ½ acre minimum, which does not work in the Old Village.

Chairman Armstrong added they needed to identify what lot size would be appropriate. The major concern is wastewater in the Old Village. Density was too much and that is why the City needed the 201 program.

M/S/P Ptacek/Brass – to draft a resolution to deny zoning variances requested by Hegna/Rude based on seven findings stated in the City Planner's staff report. (Motion passed 6-1:Abstain Dreziel: The City could install a common wastewater treatment for the Old Village.)

6. PUBLIC HEARING: Amend Conditional Use Permit

Country Air Golf Facility, Ray & Jane Salus 404 Lake Elmo Avenue

Planner Dillerud reported that a Conditional Use Permit was approved for a "Golf Driving Range" on this 24-acre site in 1990. That CUP was amended in 1993 (Resolution No. 93-19) to include a "three hole golf practice facility". Work on the golf practice facility was initiated, but never completed or placed in service. The 1993 CUP amendment approved the use of the northeast quarter of the site (approximately 8 acres) for 3 regulation length golf holes. The present application for amendment proposes to substitute 18 "pitch and putt" holes on the same area of the site.

Ray Salus explained the reason for the "pitch and putt" is to enjoy natural beauty while playing golf, provide a fun and safe place for family. All income levels can afford this. Trees will be planted, and there will be no grading except for the holes. Holding ponds will look like a park.

Chairman Armstrong opened up the public hearing at 7:55 p.m.

No one spoke for or against the amendment.

Chairman Armstrong closed the public hearing at 7:56 p.m.

M/S/P Armstrong/Deziel - to recommend an amendment of the CUP for a Golf Driving Range approved by Resolution 93-19, with the substitution of 18 pitch and putt holes on the same area of the site as the previously approved three hole golf practice facility. (Motion passed 7-0).

7. PUBLIC HEARING: Zoning Text Amendment Add "Therapeutic Massage" to General Business

Planner Dillerud reported the Staff noticed a Public Hearing to consider amendment of the text of the General (GB) zoning district to add the use "Massage Therapy". This consideration and Commission direction regarding the Hearing was the result of inquiries received by staff as to the legal zoning status of this use. In response to an inquiry for a prospective new massage practitioner, staff determined that no forms of massage are

specifically allowed in any commercial zoning district either as a "Permitted" or as a "Conditional" use. Even though there is some type of massage practice already existing in the Old Village commercial area, he reported that City staff has no information as to how and when that business originated.

Staff proposed the following definition of Massage Therapy (Therapeutic)

"The process by which a practitioner applies massage therapy techniques, and may apply adjunctive therapies, with the intention of positively affecting the health and well being of the client. The rubbing, stroking, kneading tapping positioning, causing movement, and applying touch and pressure to the body. Adjunctive therapies may include (1.) Application of heat, cold, water, mild abrasives, heliotherapy, topical preparations not classified as prescription drugs; (2.) the use of mechanical devices and tools which mimic or enhance manual actions; and (3.) instructed self-care and management. Massage therapy shall not include techniques traditionally practiced by chiropractors."

Chairman Armstrong opened up the public hearing at 8:10 p.m.

No one spoke for or against the text amendment.

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

M/S/P Armstrong/Deziel - to recommend to the Council to add "massage therapy" as a Conditional use in GB zoning district, with the definition provided by planner be the definition for that use. (Motion passed 6-0-1 Abstain:Brass).

8. **Zoning Text Amendment: ReVisit "Fitness Studio" addition to General Business**

Planner Dillerud reported the Council wanted the Planning Commission to rethink a tighter definition of a Fitness Studio to preclude a mega-facility such as a Lifetime Fitness. The Council was not comfortable that the CUP process was sufficient means for that preclusion.

Chairman Armstrong suggested limiting the maximum square footage (5,000 sq.ft.), which Planner Dillerud stated could be added to the definition.

The Commission had a problem with the word "passive". This would allow a treadmill and stairstepper, but not free weights.

M/S/P Armstrong/Taylor – to recommend to the City Council allowing as a Conditional Use in the General Business District a Fitness Studio provided at a maximum floor area for such uses be 5,000 square feet and to DELETE the word “passive”. (Motion passed 7-0).

The Commission amended the agenda to bring this item upfront because there were applicants in attendance.

9. Pre-application Review: RECO, INC. Northeast Quadrant of Lake Elmo Avenue/Hudson Blvd

Tim Freeman, Folz, Freeman, and Dupre, representing RECO, Inc., presented a pre-application for seven buildings in a GB zone connected to a private wastewater treatment facility. He stated that the applicant would not anticipate any variances and may have outlots and replat later. There are no specific buyers for lots at this time.

Chairman Armstrong thanked the applicants for the pre-application review.

10. Other

City Planner Dillerud asked the Commission to act as initiator for an amendment to the zoning text for “or equivalent” in BP, LB, and GB performance standards.

Chairman Armstrong stated that he would favor eliminating “or equivalent” and set a public hearing to eliminate this word and set standards at a later date. Planner Dillerud stated the intent is to publish amendments to the performance standards paragraph in the three zones to give latitude to make adjustments as we see fit.

M/S/P Armstrong/Taylor - to direct staff to initiate a public hearing for amending performance standard paragraph in the three zoning districts. (Motion passed 6-1:Deziel).

The Planner reported that the Council has asked to amend 300.06 to modify the method of variances for hearing and bring recommendation to Council. The Administrator has pointed out there are other areas that would need to be adjusted as well per the City attorney.

Chairman Armstrong asked how many of the variances have been appealed to the Council, taking up both the Council's and the Planning Commission's time.

Commissioner Ptaceck explained he didn't want to give up the forum, because as a commission, rather than being political, we tend to be more objective and simply interpret the code. The number of variances in the code points out problems with the code, which should be looked at to change. The real power is the Council. The Planning Commission are volunteers, and I would like fellow commissioners to keep their political views and aspirations in check during our meetings.

M/S/P Armstrong/Brass - to the recommend city code amendment that variance applications be heard by the Council instead of the Planning Commission, because they are the ones elected by the voters. (Motion passed 6-1:Deziel stated the Planning Commission should be more of a planning body, but variances are becoming more reactive.)

The Commission adjourn the meeting at 8:45 p.m.

Respectfully submitted by Sharon Lumby, Deputy Clerk