

Planning Commission

NOTICE OF MEETING

MONDAY, November 25, 2002 at 7:00 p.m.

Council Chambers - City Hall
3800 Laverne Ave. North
Lake Elmo, Minnesota 55042

11/25

AGENDA

1. Agenda
2. Welcome Thomas Meldahl as 2nd Alternate, Planning Commissioner
3. Minutes of October 28, 2002
4. PUBLIC HEARING – Variance for Sign: Hilpisch/Pechan
5. Adjourn



City of Lake Elmo

651/777-5510

3800 Laverne Avenue North / Lake Elmo, MN 55042
City of Lake Elmo
Washington County, Minnesota

NOTICE OF PUBLIC HEARING

The Lake Elmo Planning Commission will hear testimony at a Public Hearing on Monday, November 25, 2002 at 7:00 p.m. in the Council Chambers of City Hall, 3800 Laverne Avenue North, Lake Elmo, Minnesota to consider a request by John Hilpisch, D.C. and Walter Pechan for a Variance from Section 535.07, Subd.3.B.2 Permitted Signs By Zoning District of the Municipal Code. The applicant proposes to erect a freestanding sign ten feet from the front property line where fifteen feet is required. The property is located at 8603 34th Street North, Lake Elmo, Minnesota and is generally described as:

PID No. 16.029.21.42.0002

All persons who wish to be heard regarding this Variance request will be given an opportunity at the Public Hearing. Written comments will be accepted up until the time of the Public Hearing.

Charles E. Dillerud
City Planner

Published in the Friday, November 15, 2002 Stillwater *Gazette*.

**CITY OF LAKE ELMO
PLANNING COMMISSION MEETING
MINUTES OF OCTOBER 28, 2002**

Chairman Armstrong called the Planning Commission Meeting to order at 7:00 p.m. COMMISSIONERS PRESENT: Armstrong, Helwig, Bunn, Deziel, Pelletier, Ptacek, Sedro, and Sessing. STAFF PRESENT: Charles Dillerud, City Planner.

AGENDA

M/S, Sessing/Sedro, To accept the agenda as presented. VOTE: 8:0 PASSED.

WELCOME NEW PLANNING COMMISSIONER

Jennifer Pelletier was welcomed as the new 1st Alternate Planning Commissioner.

MINUTES OF OCTOBER 17, 2002

The Chairman pointed out to the Commission that a memorandum was received from the Finance Director asking for changes in the minutes. The Commissioners were given a copy. The City Planner received the memorandum late this afternoon. The City Planner explained that the procedure for the preparation of minutes is that the Recording Secretary drafts them, and he proofreads and amends or trims them. The Finance Director thinks some of those things should have been left in. She reviewed the videotape from the meeting of October 17, 2002, and drafted this memo that outlines very specific changes she would like to be made to the minutes. The City Planner explained that minutes are meant to be representative, and perhaps this was too much to read and review. He suggested the Commission could table the minutes or attach the memo to the minutes.

Commissioner Bunn asked for page 7 to reflect that she asked the City Planner for a summary of Mr. Hugunin's comments or to provide copies of the letter to the commissioners. On page 8, she reminded the Commission of stronger language regarding the PowerPoint presentation. The City Planner explained he removed those remarks for that reason. On page 3 she said that line 3 should read, "...Push it in farther without cutting a larger swath into the hill in order to accommodate a sideways garage."

Commissioner Deziel said that on the bottom of page 7, the question was his but the answer belonged to the City Planner.

Chairman Armstrong reminded the Commission that minutes are meant to be a summary. He said there are audiotapes and videotapes available for anyone who wants to get very specific. He said the Commission was getting awfully particular on these minutes, and they are getting bogged down.

M/S Armstrong/Deziel, To accept the Minutes of October 17, 2002 as amended, attach the memorandum from the Finance Director to the end of the minutes, and let the Council decide. VOTE: 8:0 PASSED.

**ZONING AMENDMENT: GENERAL BUSINESS TO LIMITED BUSINESS;
GENERAL BUSINESS TO AGRICULTURE**

PUBLIC HEARING

Staff Report, City Planner, Charles Dillerud

The City Council had asked for a review of the zoning along the I-94 corridor back in June. The Planning Commission has looked at this issue a couple of times. State Statute governs how regulatory devices, such as zoning should be done.

He summarized the past history. The City Zoning Map has not been changed over many years since the 1990 Plan was developed. The Metropolitan Land Use Planning Act says that zoning ordinances must be consistent with the approved Comprehensive Plan within 9 months of adoption of the Plan.

This hearing was originally scheduled for the last meeting but it was pulled from the agenda when we discovered that the surrounding parcel owners' list did not include the parcels in question. The RECO Plat was originally included. Since the Preliminary Plat has been approved, they cannot be rezoned for one year. They were removed from this action.

The Planner was contacted by most of the property owners. He sent copies of the uses in General Business and Limited Business to most of them at their requests. These businesses could continue business as they exist. If they wanted to expand use or expand their buildings, those become variance issues.

Value is not an issue the City should involve itself in. Up-zoning and down-zoning artificially change the value of the land in most cases.

There are two State Statutes that provide legal basis for these zoning amendments.

He distributed a copy of a letter he received at 4:00 p.m. from an attorney representing one of the owners.

Commissioner Deziel

Did the City Attorney offer a legal opinion? He feels that this is legal limbo.

City Planner

There is no legal limbo. This is a housekeeping issue that should have been done in 1990.

Commissioner Bunn

There is a misprint in the staff report on line three. The General and Limited Business uses were reversed. She clarified that one of the six parcels is east of Lake Elmo Avenue, and is guided RAD.

City Planner

That is correct. That one may be rezoned to Agriculture or Rural Residential.

The Chair opened the Public Hearing at 7:22 p.m.

Christopher Dolan

He is speaking on behalf of the owners of J & W Boat and Motor, 9200 Hudson. They are strongly opposed to rezoning. They have owned the property since 1998*(see below) and it was classified General Business when they purchased the land, and the price reflected that. There are almost 100 different uses allowable under GB; rezoning to LB would allow about 4 different permitted uses. He objected to the use of the word "artificial" in relation to their property values. The value is real, and they are looking to sell it. Their real estate broker said the proposed rezoning would cut the value by at least half. Why does the city want to promote a Limited Business District with such a restrictive use along I-94 anyway? He said Met Council has taken issue with city's Comp Plan deficiencies such as the failure to expand the MUSA line, increasing minimum densities, and create districts to balance residential and industrial uses. If they are successful it may force the city to amend the Comp Plan to incorporate those factors. Will we be in the same situation in one or two years? Wait until that is resolved to discuss rezoning.

Scott Sayer

He is a new partner on the undeveloped parcel east of the outdoor theater. He completely agrees with Chris Dolan's statement. It does not make sense that a corridor on I-94 would have such limited uses when anywhere else you go has General Business. A change now would significantly affect his investment. He thinks the city should have General Business Zoning for its tax base. Limited Business might be for the middle of the city but not for the I-94 corridor. His parcel would not be grandfathered in, and he feels discriminated against. He strongly recommends taking no action now, at least waiting until the Met Council has determined where the city is or is not in compliance. Please, take a hard look at it before changing this zoning.

Bob Egan

He represents the owners of Lamperts. It is strange to change uses on the I-94 corridor. His other concern is that the shape of his property is long and narrow; a prospective buyer will look at the 20,000 square feet building, and say, "We'll give \$1.50 for it, and you can keep the back three-quarters because nobody is going to want it either." That value is not artificial. It is real to us. We would take a hit (financially) if we chose to move.

Chuck Goss

He is the owner of Crossroads Collision. He strongly opposes this zoning change. He has been there since 1981, and the building was there since 1985. He had his attorney draft a letter that was received by the Planning Commission.

Jack Dolan

They bought that property in 1988. He opposes the rezoning, and Christopher Dolan stated their position.

The Chair closed the Public Hearing at 7:38 p.m.

Chairman Armstrong

There might need to be changes to the Conditional Uses for Limited Business. It might be best to retain Limited Business Zoning along I-94 and amend the zone to accommodate present uses. The law says there is no vested interest in zoning.

Commissioner Bunn

With respect to Comprehensive Plan zoning, are owners generally notified of changes?

City Planner

No.

Sabrina Dolan

She feels an attitude (by the city) that we should approach this in a sophisticated way. Many of these owners bought their properties prior to the 1990 Comp Plan. When prices were negotiated the GB Zoning was a factor. These are small business owners without deep pockets. Our family's life savings are (invested) in this. When you take away these uses you are taking away our earning (power). She objected to the use of the word, "artificial" in relation to their property values.

Commissioner Bunn

The citizens and elected officials came up with a vision for Lake Elmo and for the I-94 corridor, prior to 1990. Some may disagree with those visions; they may be different from what most people's would be for the area along the highway but this was a public process, and the conclusion is why we are here. That area was to be zoned Limited Business in order to protect the area around that highway corridor, and to protect the village businesses from impact. We have those Comprehensive Plans. The Planning Commission's role is to support that vision. She challenged the City Council to make all the zoning changes in order to conform to the Comprehensive Plan. In the future it should be done in a timely basis.

City Planner

We have rezoned for consistency but all those were up-zones.

Wyn John

At the time of the formation of the 1990 Comp Plan there were working meetings and two public hearings to come up with this vision for the city. They hoped to attract high quality office buildings along I-94.

Chairman Armstrong

As a community we have to decide and plan for the City. These decisions are made with citizen input.

Commissioner Ptacek

Paralleling what Commissioners Bunn and Armstrong said, he feels the Commission must honor decisions made years ago while allowing existing uses to remain.

Commissioner Sedro

If one of these buildings burned down, could it be rebuilt? Can they expand?

City Planner

They can rebuild but expansion requires a Conditional Use amendment.

M/S, PTACEK/SESSING, Move forward with Limited Business Zoning as proposed on the condition that these six existing uses are added as Conditional Uses in the Limited Business District, and the existing businesses receive Limited Business Conditional Use Permits that will preserve their status as confirming uses.

Commissioner Bunn

She noted that some of the current uses are allowable in the Limited Business District.

VOTE: 7:1 (Deziel) PASSED.

Chairman Armstrong

He noted that this action will come before the City Council on November 6, 2002. He said he hoped some of these people will come in to work together with the Commission in the near future on the uses for the Limited Business Zone.

ADJOURN THE PLANNING COMMISSION AT 8:00 P.M.

Respectfully submitted,



Kimberly Schaffel
Recording Secretary