

City of Lake Elmo

3800 Laverne Avenue North
Lake Elmo, Minnesota 55042

(651) 777-5510 Fax: (651) 777-9615
www.LakeElmo.Org

NOTICE OF SPECIAL MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
WEDNESDAY, September 6, 2006, at 6:30 p.m.

AGENDA

Pledge of Allegiance

1. Agenda Approval
2. Minutes
 - a. August 14, 2006
 - b. August 28, 2006
3. Zoning Ordinance
4. City Council Update
5. Adjourn

**City of Lake Elmo
Planning Commission Meeting
Minutes of August 14, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: McGinnis, Van Zandt, Deziel, Ptacek, Fliflet, Armstrong, Lyzenga, Pelletier (7:03 p.m.). STAFF PRESENT: Planner Dillerud, Assistant Planner Matzek, and Recording Secretary Anez.

Agenda

M/S/P Ptacek/Deziel, to accept the Agenda as presented. 8:0.

Minutes

M/S/P Ptacek/Van Zandt, to accept the Minutes of July 10, 2006. 6:0:2, Abstain: McGinnis/Armstrong-Absent

M/S/P Ptacek/Armstrong, to accept the Minutes of July 24, 2006. 5:0:3, Abstain: McGinnis/Fliflet/Van Zandt-Absent.

M/S/P Ptacek/Deziel, to accept the Minutes of July 31, 2006. 7:02, Abstain: McGinnis/Van Zandt-Absent.

PUBLIC HEARING: Septic Variance for 8320 Hidden Bay Trail

The Planner explained the applicant's septic system is failing and when the system was installed in 1981, the drainfield was installed very close to the property line. The system designer suggests utilizing the area adjoining the existing drainfield due to the layout of the lot and the location of the current system. That brings the new system trenches within three feet of the property line and three feet of the garage slab. The neighbor adjacent to the proposed setback encroachment has no objection according to a letter submitted.

Staff recommended approval based on the following Findings:

1. The property can not be put to reasonable use without the granting of the variance requested. The property can not be put to any continued residential use without a properly functioning septic system. As a platted parcel with an existing home, residential use is a reasonable use of the property.
2. The variance requested does result from circumstances unique to this property related to the location of the existing septic system in 1980. There is no alternative location feasible for the system reconstruction and enlargement required to render the system fully functional.
3. Granting of the variance will not change the essential character of the neighborhood since all proposed improvements will be below grade.

The Planner said the previous system was designed for three bedrooms, and the new system is designed for four bedrooms. There are currently four bedrooms in the home.

Diane Swanson, Applicant

In response to questions about alternative sites for the septic system, the applicant said that the lot slope is not easy to see on the drawings. The garage is at the road level. They are downhill from the neighbor so it decreases the likelihood of anything draining onto the neighbor's

property. They became concerned about the septic system over time; the home was built in 1950's. The designer was recommended because he is noted for his ability to work on difficult properties. They want to make it environmentally friendly.

Richard Dana, JET Construction, General Contractor

Mr. Dana advised the Commission that the septic designer said that proposed drainfield location was the only suitable location on the parcel. He informed the Commission that the grade is very steep from the street side to the lake side of the parcel which eliminates much of the site as a potential drainfield site. Variances would be required on the west side of the property if the system was placed there as well, and that adjacent owner's home is even closer to the property line than the one on the east.

Several commissioners noted that the survey map indicates trees and bituminous walkway where trenches are proposed to be dug.

Mrs. Swanson said that the major trees will remain, and observed that the entire parcel was heavily wooded. Some tree removal would be necessary wherever the drainfield would be constructed. She also noted that the neighbor's well on the west side is very close to the property line.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:38 P.M.

Nobody came forward to speak.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:39 p.m.

M/S/P Armstrong/Fliflet, To recommend approval of variances for septic drainfield setbacks at 8320 Hidden Bay Trail based on Findings and recommendations of the City Planner and plans staff dated August 9, 2006, based on the facts that the applicant is bringing the system up to Code, it is away from the lake and somewhat farther from the neighbor than the existing drainfield. 7:2, Nay-Deziel and Ptacek.

PUBLIC HEARING: Conditional Use Permit for Veterinary Clinic at 11051 Stillwater Boulevard

The Planner explained that the site is the former Harty Insurance Building on Highway 5. The applicants own Cedar Pet Clinic on Lake Elmo Avenue and have a 1997 Conditional Use Permit for that site. They now propose to relocate the clinic to this site.

The Planning Staff Report suggests proof of parking and only a portion of the parking be constructed.

Dr. John Baillie, Owner/Operator of Cedar Pet Clinic

Dr. Baillie said his business is growing and they need more space. The new location downtown is what attracts them to the site. They have had no complaints and they are good neighbors. His clinic is 40 feet from nearest home now. Much of his practice is not dogs. They have been in Lake Elmo since 1997. They are willing to work with the proof of parking, and they find the recommendations of the Planner to be reasonable.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:53 P.M.

Harold Arndt, 11079 Stillwater Boulevard

Mr. Arndt said he lives next door to the Harty Building. He and his sister have been there 51 years. He stated that the clinic would devalue their property. He is worried about barking dogs, and kennels mean that animals would be barking day and night.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:55 P.M.

The Planner said there will be no outside kennels or runs as a condition of this permit.

The applicant said he would give the neighbor his home telephone number should there ever be a problem, he could phone any time day or night. Indoor kennels would be located toward the restaurant and away from Mr. Arndt's home.

M/S/P Ptacek/Van Zandt, to recommend granting a Conditional Use Permit for Veterinary Services and the Section 520 Site Plan for site modifications to Dr. John Baillie and Gary Harty at 11051 Stillwater Blvd. based on Findings and recommendation of the Planning Staff Report and plans staff dated August 9, 2006 and with six Conditions in the staff report. 9:0.

Zoning Ordinance

Planner Dillerud stated, after speaking with the city attorney, staff will not be allowed to handle any variances administratively, no matter how minor, due to Lake Elmo being a statutory city.

The City Planner advised the Commission that the Lighting Ordinance text provided at this time is largely lifted out of the City's existing ordinance. The Planner thinks there are some internal inconsistencies

Commissioner Pelletier reminded the Commission that the Lighting Ordinance is part of the Planning Commission Work Plan for 2006. That subject could be set aside for now and handled separately or tackled now as part of the new zoning ordinance preparation.

It was the consensus of the Commission to continue to include the exterior lighting standards in the new zoning ordinance but to address the content of those standards as a separate topic from the general review of new zoning ordinance content.

Assistant Planner Matzek said she will be deleting the concept of "Minor Variances" from the draft zoning ordinance based on a recent verbal opinion of the City Attorney that Statutory Cities can not delegate zoning variances of any degree to administrative staff.. She will print all sections addressed so far in clean versions for the commission at the next meeting.

The Assistant Planner described Site Plan Review is one of the "orphan" regulatory processes that would be moved from the Building Code Chapter of the City Code to the new zoning ordinance. The proposed draft zoning ordinance addresses Site Plans as "Minor" (to be reviewed and approved administratively) and "Major" to be reviewed and approved by Commission/Council. The City Planner stated that his discussions with the City Attorney appear to support the minor/major approach to Site Plans. He also noted that this regulatory strategy provides a measure of efficiency for both the staff and the Commission/Council as well as a more expedient review time line for the applicants.

The Assistant Planner noted that the proposed text says surrounding property owners 200 feet from the subject property will be notified. She advised the Commission that no such notification is now required for Site Plan reviews by the current City Code. She asked the Commission whether such notification should be added as in the draft; and, if so, should the distance of notification be 200 feet or some other number.

The City Planner observed that Site Plans are only applicable for commercial and multi-family uses and do not require public hearings. He advised that Site Plans often are coupled with variances or other applications that do require a public hearing, for which notice is required in any case. He suggested that notice may not be necessary for simple Site Plans since there is virtually nothing discretionary in the review process anyway.

M/S/P Armstrong/Helwig, to delete notice provisions for Site Plans from the ordinance draft.. 9:0.

The Assistant Planner directed the Commission's attention to the draft ordinance language that requires a majority vote of the Council to approve Site Plans. She asked whether it would be more appropriate for this provision to be a majority vote of Council Members present. She suggested that, otherwise, the voting provision as drafted amounted to a "super majority" requirement when other than a full Council compliment is present – not usual practice with Site Plan approvals.

Councilmember Johnson recommended a majority of councilmembers present is generally sufficient for passage of a Site Plan.

M/S/P Armstrong/Deziel, to strike 154.174.B.9 in its entirety, eliminating the requirement of approval of Site plans by a majority vote of the entire City Council. 9:0.

Commissioners questioned the applicability of using Plymouth and Oak Park Heights codes as templates in writing the Zoning Code – particularly since Plymouth is a Charter City operating under somewhat different governing rules than Lake Elmo.

Commissioner Armstrong explained that at this point of the ordinance drafting the Commission is mostly dealing with regulatory process and structure in accordance with state statutes applicable to all cities. Therefore there is no need to be concerned with what template is used.

The City Planner added that the primary determinant as to the template ordinances to be used was how contemporary the ordinances were as to drafting date.

M/S/P Armstrong/Deziel, to replace 154.171 (A) "with the exception of nurseries, greenhouses, landscape gardening and tree farms." with the text "with the exception of those uses requiring a conditional use permit." 9:0

As suggested by Commissioner Armstrong it was the consensus of the Commission to amend 154.211.D.1 to replace "No" with "A"; replace "shall" with "may"; replace "except in conformity with the regulations of this Chapter" with "provided a building permit has been applied for within 180 days of when the property is damaged Restoration shall conform to paragraphs 2 and 3 below" to ensure conformity with very recent amendments to State zoning enabling statute.

City Council Update

The Planner said the Site Plan and Shoreland Variance for C & C North America removed from the August 2 Council agenda in order to allow the applicant more time for modification and approval by DNR of the landscaping plan to mitigate grading in the OHW setback.

Adjourned at 9:07 p.m.

Respectfully submitted,

Kimberly Anez
Recording Secretary

**City of Lake Elmo
Planning Commission Meeting
Minutes of August 28, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Roth, Schneider, Armstrong, Van Zandt, Lyzenga, Pelletier, Ptacek, Fliflet, Deziel (7:02 p.m.), and McGinnis (7:05 p.m.). STAFF PRESENT: Planner Dillerud, Assistant Planner Matzek, and Recording Secretary Anez.

Pledge of Allegiance

Agenda

M/S/P Armstrong/Van Zandt, to accept the Agenda as presented. Vote: 9:0.

Minutes

Minutes for August 14, 2006 were postponed.

PUBLIC HEARING: Variance for 2nd Accessory Building at 11459 60th Street North

The Planner explained that the application is to add an old barn on adjacent lands that used to be part of this homestead years ago. There is an existing house and pole building on the homestead parcel to which the old barn would be added.. Adding the land with the barn cannot be done without the variance to allow a second accessory structure. Granting the variance would eliminate one non-conformity, an accessory structure (the old barn) on a parcel without a primary structure. The Planner recommended that, if the Commission recommends approval, that the approval be conditioned upon a lot line adjustment or minor subdivision action to place the old barn on the homestead parcel.

Richard and Eileen Bergmann, Applicants

Mr. Bergmann said the barn is currently used for cattle and hay. Water and electricity serve the barn from the house. The previous owner told him that the barn was placed outside the home parcel in case someone wanted to convert the barn to a home.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:15 PM.

Nobody came forward to speak.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:16 PM.

Commissioners asked if future Highway 36 upgrades would impact this parcel. The Planner said that there will be an adjustment for the driveway access to the homestead, moving the access to the homestead parcel west to serve this parcel and the adjoining parcel to the west.

M/S/P Deziel/Van Zandt, to recommend approval of the variance for a second accessory building at 11459 60th Street North based on the Findings and recommendations of the City Planner and subject to the condition that there be a lot line adjustment or minor subdivision approved as determined by the City Attorney. Vote: 9:0.

Zoning Ordinance

The Planner said there are several areas of Code not yet addressed and he asked the Commission how they wished to address them.

Home Occupations – The Commission chose to include the Code amendments they have recently recommended to City Council.

Adult Entertainment/Uses – Staff will bring back recent information from the League of MN Cities regarding the need to include zoning ordinance regulations for this use. The use may be simply prohibited under certain conditions prescribed by the 2006 Legislature. Those provisions may still be challenged as unconstitutional.

Outdoor Lighting – The Commission will address it as part of their Annual Work Plan. Include the existing Code language in the new Zoning Ordinance draft.

Signs - The Commission will address it as part of their Annual Work Plan. Include the existing Code language in the new Zoning Ordinance draft.

M/S/P Deziel/Roth, to incorporate Home Occupations as recently recommended to the City Council; to include Signs and Lighting as they exist in the current Code, and await more information on Adult Uses. Vote: 9:0.

Commissioner Armstrong- Page C1 of clean copy, Exceptions under A at the bottom. There was a longer list of uses. Ag Uses, except those uses that require a CUP.

Page C14, Back, Purpose, in the middle of the page, allowing non-conforming uses.

M/S/P Armstrong/Roth to strike the last two sentences beginning, "...it is necessary and consistent on Page C14, and on Page C15 in the middle, C 1A, non-conformity is "discounted" should say "discontinued". Vote: 9:0.

The Commissioners said in D2A, no home should be allowed without a Certificate of Occupancy.

B 1st paragraph, Continuity of Streets, remove "systems" and, leaving "standards employed by the City".

M/S/F Armstrong/Fliflet, to strike Item C under Grading and Drainage because it is superfluous. Vote: 2:7.

M/S/P Armstrong/Deziel, to strike Item D under Grading and Drainage because it is superfluous. Vote: 8:1, Nay-Ptacek.

After further discussion, the Commissioners decided that the drafting approach being taken with the new Zoning Ordinance needs to change. The Planning Commission would like to use the existing Code as a drafting basis, with staff pointing out deficiencies and offering proposals for new language. The standard should be using what is now in the Zoning Ordinance with suggestions for how it may be improved, and should be reformatted. The Commission expressed its desire to maintain current rights, possibly expand them, and seldom restrict them further.

The Commission also discussed using different model ordinances - something other than Plymouth and Oak Park Heights. Northfield was suggested. It was suggested an ordinance that would reflect a rural contemporary city should be located.

The Planner said that organization is the number one problem with the existing Lake Elmo Zoning Ordinance and the number two problem is outdated standards that were written in response to particular circumstances that are many times long forgotten..

City Council Update

The Planner said that at the August 15 meeting, the City Council approved a variance for a drainfield setback encroachment ; CUP and site plan for a veterinary clinic; and shoreland variance and final plat for C & C North America with the condition that their exterior surfacing comply with the City Code. The Commission also adopted an interpretation regarding the allowable size of Accessory Buildings in non-conforming AG as recommended by the Commission and directed staff to process a text amendment to make that interpretation clear in the ordinance.

Having no further business before them, the Chairman adjourned the meeting at 8:37 p.m.

Respectfully submitted,

Kimberly Anez
Recording Secretary

**City of Lake Elmo
Special Planning Commission Meeting
Minutes of July 31, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 6:32 p.m. COMMISSIONERS PRESENT: Lyzenga, Armstrong, Schneider, Fliflet, Deziel, Ptacek. STAFF PRESENT: Planner Dillerud, Administrator Rafferty, Assistant Planner Matzek, and Recording Secretary Anez. COUNCIL MEMBERS PRESENT: Mayor Dean Johnston.

The Agenda includes only the Zoning Ordinance.

Zoning Ordinance

The Planner answered questions from the last meeting, and said that with regard to the term "Fee Title," the City Attorney said it is common practice to use that phrasing in zoning ordinances. The code repeatedly makes reference to the Zoning Administrator, and the Planner said he believes that is the City Administrator in Lake Elmo. It is common for the administrator to delegate the authority of the Zoning Administrator to the City Planner or a similar position where such a professional is on staff.

Commissioner Schneider asked if we need to be as specific to say which edition of the dictionary is used for definitions.

The City Planner said that it was important to specify in that manner to enable courts and others to understand the foundation for the terms utilized in the ordinance. There are often small but important changes in dictionaries from edition to edition.

Commissioner Armstrong said that Interim Use could be an end run around restrictions. Cage Fighting is an example. Other events like Huff-n-Puff or Seasonal Farm Sales could be classified as Interim Uses.

Commissioner Ptacek said that Outdoor Social Events took a few meetings but the commission did what they felt was best for the city.

M/S/P, Armstrong/Schneider Section 154.080 through 154.084 to delete Interim Uses entirely. Vote: 7:0.

M/S/P, Ptacek/Armstrong to keep refining and defining Administrative Permits in areas that in staff's opinion would streamline processes that could fall within that section. Vote: 6:1. Nay-Schneider, would like to know/vote for who is doing the administrating.

M/S/P, Armstrong/Deziel to put the Minor Variance section in the 'Maybe File' and revisit it when we get to the Neighborhood Conservation Zoning District. Vote: 7:0.

M/S/P, Ptacek/Fliflet to notify at a distance of 350 feet for a Major Variance and adjust fees accordingly. Vote: 7:0.

Commissioners Schneider and Fliflet suggested moving Board of Adjustments forward from page 17 to the beginning of the section, before the first time it mentions Board.

Neighborhood Conservation Zoning District (NC)

The Planner explained that on smaller lots, the code should address appearances, surface water runoff (impervious), and wastewater solutions. He asked the commission's preference for an lot area averaging system for each neighborhood, or whether to abandon that strategy and go to performance with at least the three noted criteria. In the case of shoreland lots, the DNR Commissioner has the right to approve alternative standards in accordance with MN Rule 7080.

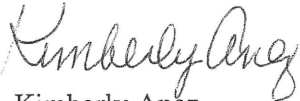
Mayor Johnston said that when the 50th Street Reconstruction was done there were about 15 lots that were unbuildable; he clarified that some percentage could become buildable within this scenario.

The Planner said that in the City's current code allowable percentage of impervious surface varies from the OP standard of 10%, to the Shoreland standard of 15% or 6,000 square feet, the R-1 standard of 25%, and the BP standard of 75%.

M/S/P, Armstrong/Ptacek to direct staff to pursue performance standards in the NC District and to provide guidance for what those standards should be, including Floor Are Ratios, impervious surfaces, and septic systems. Vote: 7:0.

Adjourn at 8:03 p.m.

Respectfully submitted,



Kimberly Anez
Recording Secretary

**City of Lake Elmo
Planning Commission Meeting
Minutes of July 24, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:05 p.m. after a quorum was present. COMMISSIONERS PRESENT: Ptacek, Lyzenga, Pelletier (7:03 p.m.), Roth (7:04 p.m.), and Armstrong (7:05), Deziel (7:06 p.m.). STAFF PRESENT: Planner Dillerud, Administrator Rafferty, Assistant Planner Matzek, and Recording Secretary Anez.

Agenda

M/S/P, Ptacek/Lyzenga to approve the Agenda as presented. Vote: 6:0.

The July 10, 2006 Minutes were postponed.

**PUBLIC HEARING: C & C North America, Variance
(And a Section 520 Site Plan for C & C North America)**

The Planner said the public notice is for a Public Hearing for a variance. He said that the Site Plan does not require a public hearing but the application is coincidental so it will be reviewed simultaneously. The parcel is triangular on Hudson, I-94, and a Tributary Stream. Concurrent with the application is a Section 520 Site Plan. The site is currently an Outlot of Eagle Point Business Park, an approved PUD.

Structure setback variances are from roads and a tributary stream. Parking and driveway setbacks must also comply except the Council may waive those setbacks. Approximately 50 feet of the building is within the setback of the Tributary Stream. The Tributary Stream meanders close to the westerly boundary of the parcel. The location of the parking spaces on the west side of the parcel also fall within the stream setback. Impervious surface coverage is higher than is usually allowed but provisions were made for it in the Eagle Point Business Park PUD approval in 1999.

The Planner said that the DNR, applicant, and United Properties met earlier in the day to discuss the DNR's issues with the Tributary Stream Shoreland variances. He reported to the Commission that a mitigation plan has been agreed to by all parties, and based on that plan DNR will retract its objection to the variances. The planner also reported that the site is proposed to be "over parked" by 17 spaces. He noted that the plan shows 15 parking spaces within the OHW setback of the stream which could be proof of parking thereby eliminating that variance.

Scott Wiestling, Finn Daniels Architects

Mr. Wiestling said the applicants will eliminate 15 parking spaces and replace with proof of parking; bring landscape island calculations into compliance; and, will comply with other issues raised in the Staff Report and concurred in at the meeting with DNR..

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:26 P.M.

Nobody was present in the audience.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:27 P.M.

M/S/P, Ptacek/Roth to recommend approval of a zoning variance to permit structure encroachment into the OHW setback of a Tributary Stream on Outlot C, Eagle Point Business Park per plans staff dated July 19, 2006 based on the following Findings:

1. The property cannot be put to reasonable use without the granting of the variance requested.
2. The variance requested results from a circumstance unique to this property. The brief sharp meander of the tributary stream - which otherwise flows generally straight - adjacent to a portion of the site places an unreasonable burden on the design of the site and placement of structures.
3. Granting of the variance will not change the essential character of the neighborhood.

Vote: 7:0.

M/S/P, Ptacek/Roth to recommend that the City Council not waive or modify the Tributary Stream parking and drive setback standard of 100 feet depicted on plans staff-dated July 19, 2006, and require the 15 parking spaces on said plan along the west site boundary not be constructed but become "proof of parking." Vote: 7:0.

M/S/P, Ptacek/Roth Section to approve the Section 520 Site Plan for Outlot C, Eagle Point Business Park per plans staff-dated July 19, 2006, subject to the following conditions:

1. Compliance with the recommendations of the City Engineer and City Attorney – specifically regarding surface water drainage.
2. Compliance with recommendations of the South Washington Watershed District that are found to be reasonable and practical by the City Engineer.
3. City Council approval of the variance for structure setback to the OHW.
4. Conversion of the 15 off-street parking spaces at the west site periphery to "proof of parking" to possibly be constructed at some future time - only with the specific approval of the City and the DNR.
5. Compliance with the parking landscape island requirements as prescribed by Section 300.13 Subdivision 6B of the City Code.
6. All exterior lighting fixtures (including any "wall paks") shall be of a full cut-off design. The applicant shall submit manufacturer cut sheets for all exterior light fixtures for City Staff confirmation of compliance prior to issuance of any Building Permit.
7. Compliance with the landscape plan surety requirements of Section 520, Subdivision 1C of the City Code.
8. Provide a landscape plan for stream bank restoration acceptable to the DNR.

Vote: 7:0.

Zoning Ordinance

Assistant Planner Matzek distributed draft zoning text. The draft combines existing ordinances with Plymouth and Oak Park Heights.

Assistant Planner Matzek said that Page 8 says pre-application is not required. She said the City Attorney agreed it may be a good idea but suggested the pre-application meeting should either be made mandatory or removed as it is just a suggestion in this text.

Commissioner Armstrong said he strongly recommended keeping the wording the way it is for pre-application. Consensus of the commission is to leave it the way it is.

The Planner said that Land Annexed to the City FRD, is a Plymouth term, it would automatically become AG.

Fee owner signing an application. Assistant Planner Matzek said a contractor can come in with an application but we want to have the fee owner's signature. Assistant Planner Matzek will check with the City Attorney.

Page 13 Two-thirds vote. Commissioner Armstrong said this is state statute. In event council expands, two-thirds of full City Council will always work. That was agreed to by consensus.

The Planner said this proposed code text will be left the way it is and staff will continue to add to it until we get to the districts, and orphans will be added as we go along. By September the entire proposed zoning code revision should be complete.

Commissioner Armstrong asked if the commission will we be able to see an outline of how a specific zone will be laid out. He asked if there would be a cookbook of uses per zone or a more generalized method. The Commission will need to decide quantitative standards by district.

The Planner suggested the commission could come up with a neighborhood designation within the NC land use areas because each neighborhood is different. The existing platted lots are often non-conforming. To be sure the City was dealing with wastewater properly, lots were sized appropriately in the past zoning ordinance.

It was suggested that perhaps we could create a sliding scale of impervious, septic and number of bedrooms, setbacks, etc. The City has been approached with tear down situations and those owners are unable rebuild without a variance.

The Planning Commission will meet for a special meeting on Monday, July 31, 2006.

City Council Update

The Planner said the Event Center was approved enthusiastically. Apostolic Bible Church was tabled at the applicant's request. The Council tabled Home Occupations on recommendation of City Attorney due to ongoing litigation. Park Meadows didn't plat on time and approval expired so Council reissued final plat approval. They reconsidered the park and ride. They tabled accessory buildings in AG zone because they thought it might have something to do with the ongoing litigation.

Having no further business before them, the Planning Commission adjourned at 8:19 p.m.

Respectfully submitted,



Kimberly Anez
Recording Secretary

**City of Lake Elmo
Planning Commission Meeting
Minutes of July 10, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Van Zandt, Deziel, Ptacek, Lyzenga, and Pelletier (7:05 p.m.). STAFF PRESENT: Planner Dillerud, Administrator Rafferty, Assistant Planner Matzek, and Recording Secretary Anez. ALSO PRESENT: Mayor Johnston.

Agenda

M/S/P, Ptacek/Van Zandt To approve the Agenda as presented. Vote: 5:0.

Minutes of June 26, 2006

M/S/P, Lyzenga/Deziel To approve the Minutes of June 26, 2006 Vote: 4:0:1 Abstain: Ptacek-Absent.

PUBLIC HEARING: Variance - Lake Elmo Inn Event Center

Site Plan: Lake Elmo Inn Event Center

The Planner explained the addition proposed to the existing building is approximately 1800 square feet but there are significant changes proposed to the site itself. Covered walkways are proposed up to the rights of way of both Highway 5 and Layton Avenue. That design concept of bringing the buildings to the street is an important component of the New Urbanism the city is embracing in the Village Area Plan.

The Planner said the dedicated alley should be considered a public street for the purposes of this application according to an opinion of the City Attorney. The impervious coverage on the lot is already approximately 76%, and there is a surface water problem in the neighborhood. Landscaped areas and islands have been introduced in the plan although there is also additional parking proposed. The added islands and added paving are close to a push as to surface water. A French Drain is proposed for the west side of the site to

John Schiltz, Applicant and Owner of the Lake Elmo Inn Event Center

Mr. Schiltz said owning an event center been a dream for a long time. He hopes that the work he has done in Lake Elmo over the last 22 years convinces the commission of his commitment and dedication. He is trying to sell this site to brides. It has to be modified inside and out. He will make the site look very nice. He hopes to create the same for his neighbors at this site that his neighbors enjoy near the Inn. He said he realizes that problems regarding this site were created in the past by a previous owner, and he plans to mend those fences however he can.

Mark Putman, Owner/Operator, Putman Landscape Design

Mr. Putman explained that he was a consultant for the Lynsky office building that presented a traditional neighborhood design now called New Urbanism. They tried to reintroduce those principals on that site.

Mr. Putman said he began working on the Village Area Plan one year ago, with designs where an entire site is covered by building, parking, plaza, and a few trees. When John Schiltz approached him he looked at this site through those eyes. If Highway 5 is to eventually become a Main Street, the general goal is to bring something of the building to the main street. What will cause people to want to have weddings here? That is one part of the mission for the exterior. They are attempting to create an event equivalent of the Lake Elmo Inn.

Mr. Putman says that in his designs he attempts to use alleys and carriage ways as much as possible. They believe it to be a traffic calming device. They do not intend cars to be hanging out into the alley. They will alter the angle to allow the largest pickup to park there.

The Planner said they will need 5 or 6 feet of fence or the equivalent down the south line and some portion of the west line to comply with Section 1345 of the City Code.

Mr. Putman said they would prefer some combination of living screening/fencing. Mr. Putman said that with regard to stormwater storage, Todd Erickson, P.E. of FFE has conveyed his letters of recommendation to the City Engineer. He said that Todd feels confident the concept of French Drains will work to mitigate some of the water issues.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:48 P.M.

Nobody came forward.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:49 P.M.

Mr. Putman said the walkway element would provide a place for a classy sign and they would intend to use the design logo on the plans as a concept for signage.

M/S/P, Deziel/Van Zandt To recommend for approval the variances and site plan based on recommendations of staff with understanding conditions and a third condition to preclude angle parking from encroaching onto the public alley right of way. Vote: 6:0.

Introduction of Kelli Matzek, the new Lake Elmo Assistant Planner

The Planner said Kelli Matzek comes from the City of Minnetrista where she was Assistant Planner. She received her Undergraduate Degree from Gustavus Adolphus and her Masters from the University of Minnesota. She has interned many other places. Her spouse works in the GIS Department at Washington County, Minnesota. She will take a larger role with the Planning Commission over time.

The Commissioners welcomed Kelli Matzek.

PUBLIC HEARING: Comprehensive Plan Amendment and Rezoning for the Apostolic Church Site

The Planner said the City Council initiated this petition to reclassify and rezone this 13 acre portion of a parcel on the north side of 10th Street from PF to RAD (Comp Plan) ; and PF to RR (zoning). He reported that no church construction has taken place over 17 years, nor has there been any indication from the owner that church construction is contemplated in the near future..

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 8:18 P.M.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 8:19 P.M.

M/S/P, Ptacek/Deziel To recommend amending the Comprehensive Plan to reclassify the site owned by Apostolic Church from PF to RAD. Vote: 6:0.

M/S/P, Ptacek/Van Zandt To recommend the Apostolic Bible Church site to be rezoned from PF to RR on the condition that the Comprehensive Plan amendment to reclassify the site to RAD is approved. Vote: 6:0.

Lake Elmo Zoning Ordinance – Orphan Project

The Planner said the first portion of the Zoning Ordinance to address will be the orphans. These are areas of Code that should be considered for incorporation into the Zoning Ordinance. The Assistant Planner will present the orphans and the commission can discuss which they wish to incorporate into the Zoning Ordinance. A handout was distributed listing the orphans in the Code.

The Assistant Planner said she began with Oak Park Heights and Plymouth Zoning Codes. Tables of Content were compared and she identified those items not in our Zoning Code. American Legal Publishing was searched for those items in place in Lake Elmo but not within our Zoning Code. Definitions could be helpful to have its own definitions. Site Plan Review are in both OPH and Plymouth. Power Point Presentation. Oak Park Heights and Plymouth were very similar.

The Planner suggested the Commission select items to be rolled into our Zoning Code. Separate appeal sections or variance procedures can be rolled into one section.

Chairman Helwig suggested adding hours of operation and noise.

M/S/P, Ptacek/Pelletier To recommend moving forward with adding all of the following portions of the existing recodified *Lake Elmo Municipal Code* along with hours of operation and noise into the new Zoning Ordinance because developers and others trying to use the Zoning Code will find it easier to have all of these items in a single place.

- Fees - 153 (Subdivision) and 151 (Building Reg.)
- Certificates of Occupancy – 153 (Subdivision)
- Swimming Pool Fences – 151 (Bldg. Reg.)
- Mining – Ch. 90 (Mining)
- Design Guidelines – 151.142 (Bldg. Reg.)
- Definitions - 11.01 (General Code Provisions)
- Site and Building Plan Review - 151.070 (Building Reg.)
- Platting – 153.06 (Subdivision Reg.)
- Grading and drainage – 151.017 (Building Reg.)
- Traffic sight visibility triangle – 96.03 (Nuisances)
- Glare, Odors, Noise, Dust, Smoke – 96.03 (Nuisances)
- Exterior Storage – 150.001 (General Provisions)
- Screening – 150.020 (General Provisions)
- Landscaping – 150.070 - 150.075 (General Provisions)
- Parking Regulations (Ch. 72)
- Moving Buildings Into City - 151.019 (Building Reg.)
- Home Occupations - Existing definition for “Home Occupation” – draft ordinance in progress.
- Sign Regulations -151.115 thru 151.124 (Building Reg.)
- Keeping of Animals - 95.70 (Animals)

APPROVED: 08/14/06

- Wireless Telecommunication Tower Permit: 150.110 – 150.126 (General Provisions)
- Amateur Radio Tower Antenna 150.155 – 150.160 (General Provisions)
- Public Property/R-O-W Right-of-Way Management Permits (Chapter 94)
- Excavation and Grading Permits - 151.017 (Building Reg.)
- Manufactured Home Park – 151 (Building Reg.)
- Swimming pools
- Lighting

Vote: 6:0.

Zoning Ordinance – Neighborhood Conservation

The Planner presented a handout presenting a concept for Neighborhood Conservation and how shoreland should be addressed. This Code could be designed so we could request a commissioner of the DNR to accept an alternate approach to shoreland. He asked the commissioners to review the handout and be ready to discuss it at the next meeting.

Zoning Ordinance Extra Meeting Schedule

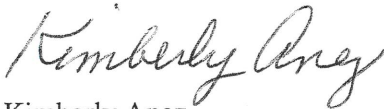
The Commissioners accepted the additional meeting schedule, and all the extra meetings will begin at 6:30 p.m.

City Council Update

The Planner said the Council approved the Final Plat of HOA 2ND ADDITION and Development Agreement and HIDDEN MEADOWS 2ND ADDITION and Development Agreement.

The meeting adjourned at 8:39 p.m.

Respectfully submitted,



Kimberly Anez
Recording Secretary

MEMO

(August 31, 2006 for the Meeting of September 6, 2006)

To: Lake Elmo Planning Commission

From: Kelli Matzek, Assistant Planner

Subject: Zoning Code Rewrite

This week I have 7 pages of code for your review. We will be discussing a portion of the following topic:

- General Building and Performance Standards

The regular text is the existing Lake Elmo Code. The bold text identifies from where the existing Lake Elmo code was pulled. I reformatted this information to fit with the proposed formatting, but changed only spelling or grammatical errors. In italics are my suggestions for changes as well as proposed text wording. This format is different than what has been previously presented. The proposed language I have pulled from other city codes (Oak Park Heights and Plymouth primarily).

The next meeting will be held on **Monday, September 11th at 7:00 p.m.**

ZONING CODE (cont.)

General Building and Performance Standards

154.220	Purpose
154.221	Dwelling Unit Restriction
154.222	Lot Provisions
154.223	Grading and Drainage
154.224	Traffic Sight Visibility
154.225	Storing of Personal Property in Residential Zoning
154.226	Exterior Storage in Non-Residential Districts
154.227	Exterior Storage in All Districts
154.228	Unlicensed Passenger Vehicles and Trucks
154.229	Sewage Disposal
154.230	Bulk Storage (Liquid)
154.231	Radiation and Electrical Emission
154.232	Common Open Space and Amenities
154.2&&	RESERVED - Lighting, Glare Control, and Exterior Lighting Standards

GENERAL BUILDING AND PERFORMANCE STANDARDS

154.220 PURPOSE. (Taken from 300.13 Design and Performance Standards – Restrictions on Nuisance and Hazardous Activities. Subd. 1 Minimum Standards – Purposes.)

All uses, buildings, and structures permitted pursuant to this section shall conform to the performance and design standards set forth in this section; the standards are determined to be the minimum standards necessary to comply with the intent and purposes of this Code as set forth in this section.

- This purpose section does not actually define the purpose of the section. I would suggest the following text which does: "The purpose of this section of the Zoning Ordinance is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community."*

154.221 DWELLING UNIT RESTRICTION. (Taken from 300.13 Design and Performance Standards – Restrictions on Nuisance and Hazardous Activities. Subd. 2 The Principal Building.)

(A) There shall be no more than one principal building on any one (1) parcel of land.

(B) No cellar, garage, recreational vehicle or trailer, basement with unfinished exterior structure above, or accessory building shall be used at anytime as a dwelling unit.

(C) All principal buildings hereafter erected on unplatted land shall be so placed as to avoid obstruction of future street or utility extensions and shall be so placed as to permit reasonably anticipated future subdivisions and land use.

(D) All principal buildings shall meet or exceed the minimum standard of the Minnesota State Building Code, the Minnesota State Uniform Fire Code, the Minnesota Department of Health, the Minnesota Pollution Control Agency, and the City's on-site sewage treatment ordinance.

(E) Dwelling Units in Commercial and Industrial Districts. Dwelling units for watchman and family shall be considered as an accessory use and shall conform to all applicable regulations for the district in which located, except as modified in this subsection: **(Taken from 300.13 Design and Performance Standards – Restrictions on Nuisance and Hazardous Activities, Subd. 12 Dwelling Units in Commercial and Industrial Districts)**

(1) A dwelling unit in the commercial district located in a commercial structure shall not occupy the front half of the ground floor or basement.

(2) A dwelling unit in a commercial or industrial building shall not contain more than one (1) bedroom unless the building is part of a planned unit development.

(3) No detached dwelling unit shall be permitted in the commercial or industrial districts, except as part of a planned unit development.

(4) A dwelling unit which is a part of the principal building shall be provided with two (2) exits; one (1) shall be a direct outside exit.

(5) All buildings shall conform to the building code and applicable fire codes.

- *For part B:*

- *I would suggest adding "home without a Certificate of Occupancy, garage, tent, play house, recreational camping vehicle or similar structures..." to the list.*
- *I would add "Basements and cellars may be used as living quarters or rooms as a portion of the principal residential dwelling." This allows them to be finished and used in conjunction with usage of the rest of the home.*
- *Then change "shall be used at anytime as a dwelling unit" to "shall at any time be used as living quarters, temporarily or permanently, except as may be approved in emergency cases by the Zoning Administrator"*
 - *A dwelling unit includes a kitchen, bathroom, etc. while living quarters may be just a room in which someone sleeps.*

- *With the new wording, emergency cases may occur in which the Zoning Administrator would be able to approve the temporary use administratively.*
- *So the proposed replacement for B would be: "No cellar, basement with unfinished exterior structure above, home without a Certificate of Occupancy, garage, tent, play house, accessory building, recreational camping vehicle or trailer, or similar structure shall at any time be used as living quarters, temporarily or permanently, except as may be approved in emergency cases by the Zoning Administrator as an administrative permit."*
- *I would suggest adding as a separate letter (F?): "Tents, play houses or similar structures may be used for play or recreational purposes."*
- *Part C may be more adequately covered under the next section: "Platted and Unplatted Property." I would suggest deleting it from this section and moving it.*
- *I would suggest adding as a separate letter: "Energy conservation designs in housing, including earth sheltered residential dwellings, are not prohibited by this provision of the Ordinance, provided that a conditional use permit is approved by the City Council and the structure complies with standards imposed by the State and the Minnesota State Building Code."*
- *Part E may also fit under Accessory Uses – a portion of the code we have not yet gotten to.*

154.222 LOT PROVISIONS. (Taken from Sec. 300.09 – Additions and Exceptions to Minimum Area, Height, and Other Requirements. Subd. 2, 3, 4, 5)

(A) Contiguous Parcels. If, in a group of two or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel does not meet the full width or area requirements of this section, the individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination will equal one or more parcels of land each meeting the full lot width and area requirements of this section.

- *I would suggest replacing item (A) above with the following two portions.*
 - *"When a development is proposed which is to be located on two (2) or more lots, and such lots are required to meet the minimum district area and frontage requirement and/or are required to accommodate the use, the lots shall be combined in accordance with the City's Subdivision Ordinance, prior to the issuing of a building permit."*
 - *"Except as may be allowed pursuant to Section ###, when two (2) or more lots are located in the same zoning district, one (1) or more of which lack adequate area or dimensions to qualify for use under the current ordinance requirements and are contiguous and held in one ownership, they shall be combined for use in order to meet the lot requirements by subdividing the property in accordance with the Subdivision Ordinance."*

(B) Subdivision of Lots. Any lot or parcel of land subdivided by any means after the effective date of this section for purposes of erecting a structure, must be approved as required by the subdivision ordinance.

(C) All lots having frontage on a lake or stream shall be subject to the provisions of the Shoreland Management Ordinance as well as the regulations provided by this chapter. All lots on unclassified bodies of water in the shoreland management ordinance shall meet the minimum setback requirements for a General Development Lake, except as provided in the Shoreland Management Section.

(D) Lots in the Flood Plain. All lots in a designated flood plain shall be subject to the Flood Plain Ordinance as well as the regulations provided by this chapter.

(E) Reduction of Required Yard or Lot Size Prohibited. No yard or lot shall be reduced in area or dimension so as to make it less than the minimum required by this section, and if the existing yard or lot is less than the minimum required, it shall not be further reduced. No required yard or lot currently used for a building or dwelling group shall be used to satisfy minimum lot area requirements for any other building.

(F) Sloping On Erodible Building Sites. On sites with slopes of greater than twenty-five percent (25%) or on easily erodible soils as defined on the community soils maps and compiled by the County Soils Conservation Agent, no structure shall be constructed.

(G) Minimum Area Requirements for Lots Without Public Sanitary Sewer.

(1) In areas without public sanitary sewer, but where public sanitary sewer is proposed in the City's capital improvement program, single and two family homes shall demonstrate suitable soil conditions for adequate on-site sewage treatment area.

(2) In areas without public sanitary sewer where public sanitary sewer is not proposed in the City Capital Improvement Program or Comprehensive Plan, single and two family homes shall demonstrate suitable soil conditions for a minimum on-site sewage treatment area of one (1) acre per dwelling unit.

(3) A building permit shall not be issued for a lot which either does not meet the minimum acres of acceptable soils for on-site sewage treatment; or does not have enough acceptable soils within the lot or under legal contract to construct at least two (2) complete septic/drainfield treatment systems.

(H) Lot Width on a Public Street. All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel on a dedicated and approved public roadway to the width derived from applying the lot width requirement in each zoning district.

- It may be appropriate to add the following as separate letters under this section:
 - “All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the City and be in conformity with existing streets, adopted plans, and according to the standards employed by the City.” This would be instead of having it in the “Dwelling Unit Restriction” section. This is broader than specifically restricting just the primary dwelling from locating in an inappropriate location.
 - “Any person desiring to improve property shall submit to the Building Official a registered survey and site plan of said premises and information on the location and dimension of existing and proposed buildings, location of easements within the property, encroachments, and any other information which may be necessary to evaluate conformance with City ordinances.”
 - “Substandard lots of record shall be governed by Section ## of this Ordinance.”
 - “On a through lot, both street lines shall be front lot lines for applying the yard and parking setback regulations of this Ordinance. In addition, no home on a through lot or corner lot in any residential zone shall maintain direct access to any arterial street designated as such by the Comprehensive Plan.”
 - “In the case of properties which abut street easements, applicable setbacks shall be determined by the Zoning Administrator and related to roadway classification as identified in the Lake Elmo Comprehensive Plan.”
 - “Outlots are deemed unbuildable and no building permit shall be issued for such properties, except that permits for fences may be issued.”
 - “Except as otherwise allowed by property subdivision, each lot shall have frontage and access directly onto an abutting, improved and City-accepted public street. An existing lot of record (vacant or for redevelopment) that does not have frontage and access directly onto an abutting, improved and City accepted public street shall require approval of a conditional use permit prior to issuance of any building permits.”
 - “No division of a parcel shall be made which leaves remaining any lot with frontage or area below the requirements stated in this Ordinance.”

154.223 GRADING AND DRAINAGE.

- I was unable to find language regarding grading and drainage within the existing code. The process for obtaining Excavation and Grading Permits are covered within Chapter 5 – Building, but should stay in that location. The following is proposed new code language for the Zoning Code:

(A) No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of minerals on adjacent properties which is inconsistent with the grading and erosion control plan provisions of Section ## of the City Code. Such runoff shall be properly channeled into a storm drain, water course,

ponding area, or other public facilities subject to the review and approval of the City Engineer.

(B) In the case of all residential subdivisions, multiple family, public, institutional, and business developments, the grading and drainage plans shall be submitted to the City Engineer for review and the final drainage plan shall be subject to the City Engineer's written approval. In the case of such uses, no modification in grade and drainage flow through fill, erection of retaining walls or other such actions shall be allowed until such plans have been reviewed and received written approval from the City Engineer or a permit is obtained if needed.

(C) Except for written authorization of the City Engineer, the top of the foundation and garage floor of all structures shall be a minimum of eighteen (18) inches above the top of the curb of the abutting street upon which the property fronts and the driveway shall have a slope of not more than ten (10) percent.

154.224 **TRAFFIC SIGHT VISIBILITY (Taken from 300.13 Design and Performance Standards – Restrictions on Nuisance and Hazardous Activities. Subd. 8 Traffic Control. and 96.03 Public Nuisances Affecting Peace and Safety)**

(A) The traffic generated by any use shall be controlled so as to prevent:

- (1) Congestion of the public streets,
- (2) Traffic hazards, and
- (3) Excessive traffic through residential areas, particularly truck traffic.

Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business and industrial areas shall in all cases be forward moving with no backing into street.

- *I would suggest getting rid of part A as it does not regulate anything.*

(B) On any corner lot, nothing shall be placed or allowed to grow in a manner that impedes vision between a height of two and one-half (2 ½) and ten (10) feet above the center line grades of the intersecting streets within fifteen (15) feet of the intersecting street right-of-way lines. This restriction shall also apply to the planting of crops and to yard grades that result in elevations that impede vision within fifteen (15) feet of any intersecting street right-of-way lines.

- *For Part B: I would suggest the following text replace (B): "Except for a governmental agency for the purpose of screening, no wall, fence, structure, tree, shrub, vegetation or other obstruction shall be placed on or extend into any yard or right-of-way area so as to pose a danger to traffic by obscuring the view of approaching vehicular traffic or pedestrians from any street or driveway. Visibility from any street or driveway shall be unobstructed between the height of three (3) feet and six (6) feet, measured at the intersection of the projected curb line of two (2) intersecting streets or drives, thence thirty (30) feet along one curb line, thence diagonally to a point thirty (30) feet from the point of beginning along the other curb line (see attached drawing). The exception to this requirement*

shall be where there is a tree, planting or landscape arrangement within such area that will not create a total obstruction wider than three (3) feet. These requirements shall not apply to conditions that legally exist prior to the effective date of this Ordinance unless the Zoning Administrator determines that such conditions are determined to constitute a safety hazard."

- The existing code specifies that it applies to a corner lot; the proposed text leaves it more general. This may be helpful for lots where there is some question, such as lots adjacent to alleys.
- The existing code measures the triangle sides 15 feet long. The proposed code would increase this to 30 feet. The existing code prohibits obstruction from two and a half feet to ten feet within the triangle. The proposed text is from three to six feet off the ground.
- The existing code identifies the triangle as being measured from the intersection of the right-of-way lines; the proposed text measures it from where the projected curb lines meet. This may reach approximately the same location on the lot.

(C) *Obstruction of view of traffic.* All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached;

- Part C could be eliminated if the proposed text in B were substituted as it would be repetitive.
- I would suggest adding a diagram such as the following to help further explain the triangle:

