



**City of Lake Elmo
Planning Commission Meeting
Minutes of March 11, 2013**

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

COMMISSIONERS PRESENT: Obermueller, Larson, Kreimer, Reeves, Morreale, Haggard and Williams;

COMMISSIONERS ABSENT: Hall and Fliflet; and

STAFF PRESENT: Planning Director Klatt and City Planner Johnson

Approve Agenda:

The Planning Commission accepted the agenda as presented.

Approve Minutes - None

Public Hearing: *Zoning Text Amendment – Tree Preservation Ordinance*

Johnson presented an overview of a proposed ordinance that would regulate the preservation of trees and wooded areas within the community in instances of subdivision or other development activities. He explained the purpose of the ordinance and reviewed the new provisions with the Planning Commission. In instances of heavily wooded parcels, the proposed ordinance would require developers to inventory the significant trees on a development site and maintain a preservation ratio, preserving a certain amount of significant trees.

Larson asked who would be preparing and reviewing these applications. Johnson noted that the applicants would need to prepare the plan through a certified forester or landscape architect. Staff would review the Tree Preservation Plan along with Preliminary Plats, grading permits and other actions.

Reeves asked if an applicant would have to submit a tree inventory if the parcel did not include 40% woodland coverage. In addition, he asked what major components from other tree preservation ordinances were carried forward in the proposed ordinance. Johnson noted that aspects of mitigation and replacement were carried forward, in addition to process. He indicated that other communities have significant replacement programs. Finally, Reeves asked if other communities required a full tree inventory. Johnson indicated that other communities do require tree inventories.

Obermueller asked how consistent the various tree preservation ordinances around Metro. Johnson noted that the ordinances of other communities vary quite a bit. Obermueller also asked how the City would verify the Tree Preservation Plan. Johnson noted that the applicant

would submit the plan through a certified forester, and that Staff would have the option to make a necessary field verification.

Kreimer wanted to clarify that if a parcel did not have 40% woodland coverage, than no preservation would be required. In addition, Kreimer asked if any tree preservation ordinances apply to individual lots with single family homes and individual property owners. Johnson confirmed Kreimer first point, and indicated that some preservation ordinances protect trees that are classified as specimen trees, which are very large and valued trees.

Haggard asked if trees removed for a parking lot would be included as part of the maintenance of the preservation ratio. In other words, Haggard asked if the parking lot part of the building envelope. Johnson noted that he believed that the parking lot is not part of the envelope.

Williams asked for clarification concerning whether the trees that are preserved are just in the areas that qualify as woodland coverage, or if the preservation ratio applies to the whole lot. Johnson replied that the replacement requirements would apply to all of the significant trees on the site as a whole, as opposed to just the trees in the area considered woodland coverage.

Williams asked about the section, *Irreparable Damage*, indicating that the requirements of replacement are not adequately spelled out. In addition, Williams noted that there is no reference to a performance bond to ensure completion. Johnson noted that as part of a preliminary plat, the City has a financial security from the applicant. The City can hold or use this security to mitigate any necessary work related to trees. In reference to the irreparable damage section, Reeves asked if the applicant is responsible to pay for the tree replacement. Johnson confirmed that the applicant is responsible for the costs.

Reeves asked a clarifying question about whether the preservation ratio applies to the entire site or just the woodland coverage area. Johnson noted that the preservation ratio applies to all the significant trees on the entire site. To clarify the issue, Johnson suggested removing the wording "Percent of Tree Protection Zone".

The Public Hearing was opened at 7:39pm.

No one spoke.

The Public Hearing was closed at 7:39pm.

Williams noted that some significant changes may be needed to the ordinance, and he would not be opposed to postponing consideration of the ordinance.

Obermueller commented on her experiences managing trees on her property and expressed concern about an ordinance that encourages preservation of trees with a short life span. She suggested adding a definition for specimen trees, and identify trees that the community values.

Reeves stated that he supports efforts to develop a tree preservation plan, but noted his concern regarding a tree inventory. He suggested a less onerous system that would still provide protection while not overburdening developers and landowners. Haggard asked if other communities require tree inventories. Johnson noted that it is generally a standard for

communities to require an inventory, with the key differentiator being the size of trees that must be surveyed.

Haggard stated her support for requiring a preservation plan, but did not want to see standard that were too onerous. She suggested more of an emphasis on larger trees and more significant specimens. Johnson discussed the Woodbury code concerning tree preservation. He indicated that some communities place more of an emphasis on preservation versus replacement plantings.

There was a general discussion concerning the relationship between the proposed tree preservation and protection ordinance and landscaping requirements.

Williams pointed out the difference between common and hardwood trees how they were similar to fast growing and slow growing trees. He also suggested that the community may want to identify its high value and low value trees.

Williams recommended additional corrections to the text.

Larson asked about diseased, dead or dying trees and how these would be addressed. He questioned how these types of trees would be identified. Reeves noted that in the proposed ordinance, diseased or dying trees do not need to be inventoried.

Obermueller suggested that the Commission review an aerial image of certain sites with significant woodland coverage. Johnson provided an example of a site immediately north of City Hall as a parcel with significant woodland coverage.

There was a general discussion concerning the most appropriate method to encourage tree preservation, and how to best calculate the replacement requirements for trees that are removed from a site.

Williams stated that the Planning Commission is seeking additional information and clarity concerning the ordinance. Reeves suggested obtaining benchmarks from other communities to help determine the direction Lake Elmo should take. Also, he noted that it is difficult to understand what the percentage preservation ratio should be in order to balance the ability to develop with the preservation of significant trees.

Larson stated that there may be additional issues that need to be addressed when dealing with different types of topography.

M/S/P: Reeves/Williams, move to postpone consideration on the ordinance until further information is provided, **Vote: 7-0, Motion Carried.**

The Planning Commission is seeking clarification and additional information on the following:

- Dr. Widin's opinion on classifications of tree species
- Tree inventory
- Trees in the building envelope
- Removal and replacement of large specimen trees
- Performance bond

In addition, the Planning Commission requested to see Woodbury's tree preservation ordinance, as well as a less restrictive ordinance for the sake of comparison.

Public Hearing: Zoning Text Amendment – Rural Zoning District Updates

Klatt stated the purpose behind the proposed update to the rural zoning districts. He highlighted the zoning districts that are part of the update aimed at the rural districts. More specifically, Klatt noted that the R-1, R-2, R-3 and R-4 are proposed to change to RS- Rural Single Family. In addition, Klatt noted that the City currently has 18 holding districts. Staff is recommending that these 18 districts get replaced by one Rural Development Transitional District (RT), which would act as the holding district for areas guided for future sewer development.

Moving forward, Klatt explained all of the major revisions that are included in the proposed Rural Districts update. These include purpose statements for all of the rural zoning districts. In addition, Klatt noted that Staff has incorporated all of the use classifications that were previously developed as part of the urban district updates. This way, the Zoning Ordinance stays consistent throughout the entire chapter. He explained that the use classifications permitted in the rural districts has remained the same as the previous rural districts.

Next, Klatt discussed the bulk and dimensional requirements of the rural districts. These standards have also remained the same, with the one exception that the rear-yard setback for accessory buildings has been reduced to 10 feet. This action was intended to maintain consistency with another section of the existing Code. In addition, setbacks for accessory structures were added for the RE district. Finally, Klatt explained that Staff is recommending to remove the clustering provisions that are allowed in the Agriculture zoning district. Staff is not aware of any developments that have occurred using the clustering provision.

Regarding septic, Klatt explained that the current ordinance requires a minimum of 1.5 acres for rural single family lots that are served by septic systems. Due to the fact that Washington County regulates the use of septic systems, it makes sense to move the City standards closer to the county. The RE district requires 20,000 square feet for septic, so Staff thinks this is a good standard.

Finally, Staff is recommending a height of 22 feet, unless otherwise specified, for accessory structures. Klatt noted that Staff is recommending approval of the proposed ordinance with two additions related to accessory structures.

Haggard asked Staff to explain which areas of the community are currently zoned as rural districts. Klatt demonstrated the location of the rural land uses with the Lake Elmo Zoning Map. In addition, Klatt highlighted the great variety of sizes of lots with the R-1 zoning district due to platting irregularities before zoning was in place.

Reeves asked about the OP zoning. Klatt explained that the early OP developments were zoned with the OP zoning designation. However, later OP neighborhoods were developed with the RR or A zoning with the OP acting as a Conditional Use. Moving forward, the City may want to make all the OP neighborhoods consistent.

Haggard asked about the R-2 zoning of Carriage Station. Johnson explained that Carriage Station was developed as a planned development, or PUD. Therefore, the R-2 standards do not govern the land use, as they are determined by the rules of the PUD development agreement.

Obermueller asked if the property owners of parcels zoned R-1 should be notified that the name of the zoning district for their property is changing. Klatt explained that the change is in name only, and that the standards remain the same as R-1. Reeves commented that the City should communicate the changes in zoning district via the website and newsletter. Transparency to all the residents is essential.

Haggard asked about the use restricted recreation. Klatt explained that this use includes amusement parks, target ranges, and other recreational uses that have more potential for nuisance. He noted that this is a conditional use only in the Agricultural district. Haggard noted that any application for such a use would require a public hearing. Klatt confirmed that it would require a public hearing.

Haggard asked Staff if they would provide an example where the 10' rear-yard setback in the RR district could negatively impact neighbors. Klatt explained instances when this issue has occurred. He noted that Staff is looking for direction on the rear-yard setback for accessory buildings in the RR district.

Larson asked about the ownership aspect of land that is zoned Public Facility. Klatt noted that whether the land is private (Tartan Park) or public (Lake Elmo Regional Park Reserve), the zoning is the same.

Kreimer asked about the difference between the minimum lot size of 2.5 acres in RE, whereas the purpose statement says the average should be 3.33 acres. Johnson noted that 2.5 acres is the minimum lot size, whereas 3.33 should be the average lot size when these neighborhoods are platted.

Obermueller asked about the accessory uses that are allowed in the R-1 district. Klatt noted that all of the accessory uses that were allowed before in R-1 would be allowed in the RS district.

Kreimer asked about private kennels. Johnson noted that the purpose of restricting private kennels is to set a threshold for the number of dogs that can live at a residence. If the number of dogs increases over a certain number, it can become a nuisance. Klatt added that a private kennel is different from a commercial kennel in that the activity is not intended for profit.

Haggard asked if the standards for accessory buildings in the rural districts remain the same. Klatt confirmed that the standards are in fact the same.

Williams noted that the use classifications are not on the online version of the Code.

Williams asked about the provision of preparing rural district areas for public utilities. Klatt noted that this provision requires that when future subdivisions come forward, they must be laid out in a manner so that future transportation or utility extensions are possible. In addition,

Williams asked about the use classification of Agricultural Services and Agricultural Support. Klatt read the definitions of these use classifications

Public Hearing opened at 9:25pm

No one spoke

Public Hearing closed at 9:25pm.

Williams asked if the Commission was comfortable with the dimensional requirements within Table 9-2. Reeves noted that he would support moving the rear-yard setback for accessory structure in RR to 40'. In addition, the Commission engaged in a discussion about interior side-yard setbacks. Regarding the rear-yard setback for accessory structures in the RR district, there was consensus that the setback should be 40'.

Obermueller asked about the RT district. Williams noted that a single family home would be allowed in the RT district before sewer was available under similar rules as the RR district. The Planning Commission engaged in a discussion about the use of the RT district.

Williams noted that the section referring to lots that are not served by urban services should not be planned for utilities as a whole, but just water service.

M/S/P: Reeves/Kreimer, move to approve the zoning text amendment to the rural zoning districts as amended: **Vote: 6-1, Motion Carried**, with Obermueller voting no.

Obermueller added that residents should be well informed about any zoning changes that may occur on their property. Williams suggested that the website and newsletter is the best vehicle for this notice. Johnson noted that before physical changes to a property's zoning can occur, the zoning map will have to be amended. When the changes are proposed to the zoning map, this may be the appropriate opportunity to notify all property owners about the change in zoning.

City Council Updates

The City Council authorized the Comprehensive Plan Amendment – Village Land Use Plan for distribution to adjacent jurisdictions and the Metropolitan Council for review at the meeting on 3/5/13.

The City Council approved the zoning text amendment pertaining to the minimum lot widths and side-yard setbacks in the urban residential districts.

Staff Updates

The Staff indicated that with all of the additional zoning text amendments proposed for the upcoming months, it would be helpful to host a Planning Commission workshop as opposed to a regular meeting at the next regularly scheduled meeting. The Planning Commission acquiesced the request.

Commission Concerns

Williams noted that he felt that the Planning Commission was not properly prepared for the zoning text amendment pertaining to the proposed Tree Preservation Ordinance.

Meeting adjourned at 10:02pm

Respectfully submitted,

Nick Johnson
Planner