

**City of Lake Elmo
Planning Commission Meeting
Minutes of May 23, 2011**

Chairman Van Zandt called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Bidon, Fliflet (7:02), Hall, Haggard, Obermueller, Van Zandt, Williams, and Ziertman. Absent: Pelletier. STAFF PRESENT: Planning Director Klatt, Planner Matzek and Planning Intern Johnson.

Agenda

M/S/P, Williams/Hall, move to approve as presented. Vote: 7:0.

Minutes – *None.*

Public Hearing – *Bremer Bank PUD Amendment*

Planning Director Klatt introduced a PUD Amendment application to allow a parking lot expansion of 155 parking stalls. He asked the Commission to discuss the item, to open the public hearing and to continue it to the next meeting. He said the City Engineer has requested revisions to the Storm Water Management Plan, therefore Staff is recommending tabling the application pending submission and review of the revised documents.

Fliflet arrived 7:02 p.m.

Commissioner Hall asked what the expected future land use of the property to the north was.

Planning Director Klatt said north of this site is part of the planned future sewered development. The current Future Land Use Plan designates this land as future residential development at an average of 3 and a half units per acre.

Commissioner Williams asked if the slopes would require a retaining wall for the expansion to the north.

Planning Director Klatt said the City Engineer will review that.

Chairman Van Zandt asked if runoff caused by the additional impervious area would be handled by the existing ponding.

Planning Director Klatt said the City Engineer will be reviewing that as well. He said the original ponding design encompassed this future expansion, but the City's ordinance has changed since then.

Commissioner Williams asked if the City's regulations address a two level parking structure as opposed to a ground level expansion.

Planning Director Klatt said it did not, to his knowledge.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:31 P.M.

M/S/P, Williams/Ziertman, move to table the public hearing to the June 13, 2011 meeting. Vote: 8:0.

Public Hearing – Amendment to Fence Ordinance

Planner Matzek introduced amendments to the fence ordinance to allow solid fences to be constructed on the rear or side of a through lot that abuts a road with a classification of principal arterial, A minor arterial or B minor arterial. She said the solid fence, as written, would not be allowed in the side yard when it does not abut a street or is the side yard of a corner lot – only a through lot. She said additional amendments put into place the need for an Easement Encroachment Agreement when a fence is proposed within an easement and a screening fence no longer needed to be enclosed. Staff is recommending the approval of the amendments to the ordinance, but to remove the language regarding the side yard and only allowing solid fences in yards designated as rear yards.

Commissioner Fliflet said a variance is an option for residents interested in adding a solid fence in a location not outright allowed.

Commissioner Hall asked if the City has requirements to keep obstructions from the view of traffic at street intersections.

Planner Matzek said there are not specific distances listed, but it is a nuisance to obstruct those views and she would rely on the City Engineer to determine that distance based on the speed of traffic.

Commissioner Haggard expressed concern regarding the view of traffic also leaving private driveways when they are not adjacent or a part of a street intersection.

Commissioner Williams said variances are expensive and to ask residents to pay for that without knowing if they will be able to put in their fence is asking too much. He suggested adding an exception for special cases involving side yards. He suggested changing the definition of double front lot to include front and side.

Commissioner Ziertman asked if a solid fence were allowed if it would meet the setback requirement for a structure.

Planning Director Klatt said screening fences are required when there is something being stored outside that is not allowed to be stored outside. He said there is also a provision in the code that allows a solid fence, if it is entirely enclosed at the same size as an accessory building allowed on the property. He said staff is suggesting a change to that portion of the ordinance as well.

Planner Matzek said she received an email from a resident interested in the fence ordinance. Her concern was that the ordinance does not allow fences to be within the Ordinary High Waterline setback and she thought it should be allowed.

Chairman Van Zandt said lakeside property owners' property rights are frequently violated.

Commissioner Haggard asked if variance fees can be waived or reduced for fence applications.

Planner Matzek said that would be a legal question and she would ask the City Attorney.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 8:06 P.M.

Rob Konop, 12418 Marquess Way N

Mr. Konop said his neighbors have a solid fence adjacent to Highway 5. He said that variances are expensive and the fence ordinance is currently more restrictive than any other city. He said he needs a solid six foot fence in the side yards as well because neighbors can look into his back yard and could take his kids.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 8:09 P.M.

Commissioner Fliflet said she supports a strict fence ordinance, but does not like the idea of having mismatching fences in the back yard and side yards. She said to fix the problem for that person who spoke, it still wouldn't accomplish what is being sought because you could see in the side yard from Highway 5.

Commissioner Bidon asked if there were regulations for landscaping or berms.

Planner Matzek said there are not regulations for landscaping, but berms may be regulated if they affect drainage.

Chairman Van Zandt said it amazes him that people buy homes in the airport approach path and then complain about the noise from the airplanes. He said the homes were cheaper to start with because of the airport and noise.

Commissioner Ziertman noted that when commercial uses abut residential property that the commercial property is required to screen that area by either a fence or landscaping.

Commissioner Fliflet asked why the city would care if the person's yard was a side yard instead of a rear yard if they felt the need to have a screening fence on a busy roadway.

Commissioner Obermueller suggested certain architecturally appealing fences could be allowed to be up to 72 inches.

M/S/P, Williams/Hall, moved to amend 154.120 C 1 to say "lots with frontage along improved public streets at both the rear yard and front yard or at both the front yard and a side yard may apply the standards of subdivision B above for fences paralleling rear or side yards" and to change "fences on double front lots" to "fences on through lots."

Commissioner Williams said the definition for “through lot” says all roads abutting a street should be considered the front yard, but that is not what is wanted in this case.

Planning Director Klatt said the fence ordinance makes that as an exception where it is considered differently.

Vote: 8:0.

M/S, Williams/Ziertman, move to recommend approval of revised fence ordinance as amended.

Commissioner Fliflet said she is not in favor of it as it does not seem to solve the problem.

Planning Director Klatt said it could be allowed as a conditional use permit which would require an individual review.

Commission Haggard suggested having a lower variance fee for fences.

M/S, Williams/Hall, move to postpone consideration of the previous motion and direct staff to return at a future date with proposed language which will satisfy the commission’s concern.

M/S, Hall/Williams, to amend the motion to include the reasons for postponing are to ensure staff has clearly understood the commission’s intent and motions and can come back with alternate language and additional information for the commission.

Vote on amendment failed 2:6. Against: Ziertman, Fliflet, Van Zandt, Obermueller, Bidon and Haggard.

Vote on motion to postpone consideration failed 3:5. Against: Ziertman, Fliflet, Van Zandt, Bidon and Haggard.

M/S/F, Obermueller/Ziertman, move to amend the original motion to not allow fences in a side yard on a corner lot, but instead to ask the City Council to consider a sliding fee for a fence variance. Vote: 3:5. Against: Williams, Hall, Van Zandt, Bidon and Haggard.

Original motion made by Commissioner Williams on ordinance: Vote: 4:3. Obermueller abstained as she was unclear with what was being voted on. Against: Fliflet, Ziertman and Bidon.

The Commission tabled the next two items: Vision Statement and Goals for the South of 10th Street Area; Form Based Code Discussion

City Council Items

Planning Director Klatt said the septic variance at 8242 Hidden Bay Trail was approved, but the City Council had a question about the removal of a second driveway, which was a

condition of a variance from years ago. He said the variance legislation has changed, making it easier for cities to grant variances again as it is now worded as “practical difficulties.” He said Washington County will be holding an open house on June 8th to receive input on potential trails along Inwood Avenue North and 10th Street as well as a western entrance to the Lake Elmo Regional Park Reserve.

Chairman Van Zandt said this Commission has, in the past, agreed to use a loose version of Robert’s Rules.

Adjournment:

The meeting was adjourned 9:27 p.m.

Respectfully submitted,

Kelli Matzek
Planner