



**City of Lake Elmo
Planning Commission Meeting
Minutes of August 15, 2018**

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

COMMISSIONERS PRESENT: Emerson, Dodson, Dorschner, Weeks, Kreimer, Lundquist & Hartley

COMMISSIONERS ABSENT: Johnson & Pearce

STAFF PRESENT: City Planner Prchal

Approve Agenda:

M/S/P: Hartley/Lundquist, move to approve the agenda as presented, ***Vote: 7-0, motion carried unanimously.***

Approve Minutes: July 23, 2018

M/S/P: Lundquist/Emerson, move to approve the July 23, 2018 Minutes as presented, ***Vote: 7-0, motion carried unanimously.***

Public Hearing – Final Plat and Planned Unit Development and Conditional Use Permit

Prchal started his presentation regarding a request by Shamsi, LLC for approval of Final Plat and PUD plans and a conditional use permit for the operation of a daycare facility to be called growing explorers. This daycare facility would be located on the 1.54 acre outlot A of Boulder Ponds 1st addition.

This application is consistent with the preliminary plat. Parkland dedication required is \$6,930. At preliminary plat, this lot was presented as commercial. Prchal went through the recommended findings for the PUD portion of this application. One finding of interest is that the parking lot and building do not meet the required setbacks. This is part of a PUD, so flexibility is allowed if the City chooses to do so.

Prchal went through the conditions of approval for the PUD aspect. Most of the conditions are the standard ones that are required for all developments.

Prchal went through the Conditional Use Permit aspect of the application. A day care is a conditional use in the commercial zoning district. This facility would anticipate

opening in the spring of 2019. This facility would serve approximately 180 children with 30 employees. The building would be 13,000 square feet with a 10,000 square foot play area. The hours of operation would be Monday through Friday 6:30 am to 6:30 pm.

In regards to the site design, the applicant is proposing one way in and two ways out, which would mean two curb cuts off of Jade Trail. There will be a berm on the south side of the property, and a recommended condition of approval is that the play area be fenced. For the lighting design, a condition of approval is that a photometric plan be submitted and approved.

Prchal went through the Parking lot screening standards. The application meets most of the standards with the exception of a few trees and screening on the northern side of the development. The development will need to conform to the Lake Elmo Design and Guideline standards.

The building official indicated that two additional fire hydrants will be needed within the interior of the parking lot within the center islands. The City would require a 30 foot watermain easement over the watermains and hydrants.

Lundquist stated that the playground is not shown on the site plan. Dodson stated that could be brought up to the applicant.

Prchal went through the conditions of approval for the Conditional Use Permit. These include conditions pertaining to signs, landscaping, stormwater management, fire hydrants, etc.

Kreimer is wondering about the setback and screening requirements for the playgrounds. Prchal stated that there are not any requirements that he is aware of. Prchal stated that the screening is a condition of approval. Dodson asked if there are any design standards for the fencing of a commercial property. Prchal stated that it would need to meet the general fence standards.

Hamad Shamsi, Owner Growing Explorers, feels this is a great spot to put a high quality daycare center with the growth in Lake Elmo. Regarding the playground area, this would be divided by age groups and would go along the Western and Southern border of the property. The fencing would be four foot rubberized fencing around the playground. Kreimer asked if all employees would be there at the same time. Shamsi stated that at full capacity, 30 employees would be required to service the children. Kreimer is wondering if 56 parking spots is enough to serve the employees and to accommodate pick up and drop off. Shamsi stated that they are approximately 10 parking spaces above what the code would require. Dorschner asked why they are not able to meet the setbacks. Shamsi stated that they moved everything to the East as much as possible to give the children as much play space as possible. Dodson asked about the setback to the North. Shamsi stated that there is a large step up to the lot to

the North and he is not sure what purpose a six foot fence would serve there as that property looks down onto this one. Dodson is wondering why it wasn't shifted 3 feet to the south because then there would not be a setback issue. Shamsi stated that where the natural berm is right now as well as the drain in the south east corner, is where things started and went up from there.

Engineer for Shamsi stated that the drainage ditch that runs along the West site cannot be drained into. All the water needed to be diverted around the building to the pond that they had where the drain is. Dodson stated that it would appear that the building and parking lot is located where it is for technical reasons.

Hartley asked what the property to the West is. Weeks stated that there is a City owned easement and then Park Dental.

Dodson asked the applicant why he would be hesitant to change the fence height to six feet. Shamsi stated that cost is a factor. When you are talking about infants, toddlers and preschoolers, a four foot rubberized fence is standard for daycares. A six foot fence would not necessarily deter people from jumping over the fence. There will be security measures to prevent issues. Weeks asked if Growing Explorers is private or a franchise. Shamsi stated it is private, family owned and operated.

Public Hearing opened at 7:37 pm

No one spoke and there was no written correspondence

Public Hearing closed at 7:37 pm

Lundquist is concerned about the four foot high fence as the daycare is in a very visible location. With her background in law enforcement, she is concerned about the danger of predators. Lundquist feels that if this was in a residential area, the four foot fence would be sufficient. Dorschner stated that for him to vote for that, he would need some data supporting that a higher fence gives more protection. Shamsi stated that they do plan to plant spruce trees on the southern border to provide more screening and a sound barrier.

Dodson wanted to discuss the screening on the North side and if the code requires it along the whole northern border. Prchal stated that is correct. Dodson agrees with the applicant that with elevations that different, a screening fence would not be useful. Hartley is wondering if there is something depicting those elevations. Shamsi pointed to the site survey in the packet that goes from 994 feet to 1000 feet within approximately 20 feet distance. Weeks is wondering if the screening has to be a fence or if it could be vegetative. Weeks feels that if it is part of the code, it can't be completely changed without changing the code or getting a variance. Prchal pointed out that with a PUD, there is flexibility. Hartley stated that having a large number of children outside playing

is noisy and having the screening as indicated will give some noise reduction to the residential use to the North. Kreimer feels that with the grade change, a fence will not help. Kreimer would rather require the vegetative screening. Emerson and Weeks agrees that planting of spruce trees is a better choice. Hartley stated that maybe something like a boxwood hedge might be effective.

M/S/F: Weeks/Dodson, move to amend condition of approval #3 to add “consists of either masonry wall, fence or landscape material that provides a screen at least 6 feet in height and is at least 90% opaque on a year round basis”, **Vote: 2-5, motion fails.**

M/S/P: Lundquist/Emerson, move that the screening requirement of a wall or fence between the uses at the North end of the property not be required because of the elevations, **Vote: 4-3, motion carried, with Weeks, Hartley and Kreimer voting no.**

Dorschner is concerned that the elevations might not always be the same if the property to the north changes the grading. Emerson stated that he thinks the elevations keep going up and would not see that happening.

Kreimer is wondering if since the Fire Chief could not review this plan, if we should have a neighboring City review the plan. Prchal stated that the Building Official is qualified to review this site. Shamsi stated that 2 additional fire hydrants is overkill when there are fire hydrants close by. Weeks asked if the building has fire sprinklers. Shamsi stated that it is not required for a one story building such as this that has exits from each classroom, but they are still examining that as an option. Weeks stated that the placement of the fire hydrants would be with the capability of our equipment and our staff. Weeks stated that one across the road may not be sufficient based on our apparatus and staff.

M/S/F: Kreimer/Lundquist, move to add condition of approval #7 that PUD must be reviewed by neighboring fire department staff and applicant must meet all requirements noted by fire department, **Vote: 0-7, motion fails.**

Prchal stated that he is not entirely sure that another City would do this. Emerson stated that he doesn't think you could get another jurisdiction to do this. Hartley is wondering if there is someone else on the Fire Department that would be knowledgeable enough to make the determination. Weeks stated that the Building Official has a fire department background.

M/S/P: Kreimer/Dorschner, move to recommend approval of the Growing Explorers Final Plat and PUD Plans with recommended findings and conditions of approval as drafter by staff, **Vote: 7-0, motion carried unanimously.**

M/S/P: Kreimer/Dorschner, move to recommend approval of a Conditional Use Permit for a day care facility to be called Growing Explorers Learning Center, **Vote: 7-0, motion carried unanimously.**

Business Item – Drone Ordinance

Prchal started his presentation regarding a possible drone ordinance. Drones are defined as an unmanned aircraft which is operated without the possibility of direct human intervention from within or on the aircraft. Being that drones are still relatively new, many municipalities do not have code related to them. There are 3 categories of uses. Commercial, which received payment for their services. Government operators flown for schools or law enforcement. Model aircraft operators are flown for recreation.

Staff is inclined to make information available on the City website. Links could be provided to the FAA and other sites with UAS related information. It might be more appropriate to send people to the appropriate information through the website.

Weeks doesn't see drones as a problem and feels other agencies cover them. Dorschner feels that they can be an invasion of privacy. Hartley stated that there are current nuisance and peeping Tom ordinances that should cover it. Weeks believes that there are laws against using drones for spying on your neighbors. Prchal suggested maybe adding something to the nuisance ordinance.

M/S/P: Kreimer/Lundquist, move to recommend that staff gather and provide information about drones for the City Website which will direct users for proper drone operation, **Vote: 7-0, motion carried unanimously.**

Dodson suggested that as part of that research, add which parks are 5 miles from the airport. Dorschner would also like to add what the privacy laws are.

City Council Updates – August 7, 2018

1. Legacy at Northstar 1st Addition Final Plat – no action
2. Legacy at Northstar Developer Agreement – no action
3. Home Occupation Ordinance - passed
4. Tree Preservation Ordinance – will be brought to a workshop

Staff Updates

5. Upcoming Meetings
 - a. August 27, 2018
 - b. September 10, 2018

Meeting adjourned at 8:40 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant