



**City of Lake Elmo  
Planning Commission Meeting  
Minutes of August 12, 2019**

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

**COMMISSIONERS PRESENT:** Cadenhead, Hartley, Holtz, Steil and Weeks

**COMMISSIONERS ABSENT:** Risner

**STAFF PRESENT:** Planning Director Roberts, Chief Malmquist

**Approve Agenda:**

M/S/P: Hartley/Holtz move to modify the agenda to allow Union Park to be reviewed before the Subdivision public hearing, **Vote: 5-0, motion carried unanimously.**

**Approve Minutes:**

M/S/P: Hartley/Steil, move to approve the July 22, 2019 minutes as presented, **Vote: 5-0, motion carried unanimously.**

**Public Hearings**

Carmelite Hermitage (8249 Demontreville Trail)

Roberts reported that Rev. John Burns of the Carmelite Hermitage has applied for a variance from the City Code requirement about direct access for a place of worship to add a chapel to the Carmelite's site located at 8249 Demontreville Trail.

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.109 before the City may grant an exception or modification to city code requirements.

- 1) Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a

variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

**FINDINGS:** The addition of a chapel to Carmelites site has been planned since at least 1991 when the City first approved a Master Plan for their site. The Carmelites have been using the easement to Demontreville Trail for access to the site since that time. Adding another driveway or access to the Carmelites property would be a practical difficulty as the only public street their property has frontage on is Hidden Bay Trail to south. A new driveway would be about 1,500 feet in length, would require extensive tree removal and grading and would be an access onto a local street – not a collector or arterial street as the City Code requires for places of worship. The use of the existing driveway for access to Demontreville Trail for the addition of a chapel to site is a reasonable use of the property and the existing access.

**2) Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

**FINDINGS:** According to the applicant, the existing lot layout with the access easement to Demontreville Trail has been in place since 1904. This is a unique situation with circumstances not created by the landowner or the current land users – the Carmelite Monks.

**3) Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

**FINDINGS:** The proposed variance will allow the Carmelites to use the existing driveway (that currently provides access to their site) for access for the proposed chapel. By using the existing driveway that has been in place for many years, the Carmelites will not be altering the essential character of the locality (or area) in which their property is located.

Conversely, adding another driveway to their site that would have access onto a local, neighborhood street would change the character of that locality and area of the City.

**4) Adjacent Properties and Traffic.** The proposed variance will not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

**FINDINGS.** The proposed variance to allow the use of the existing driveway and easement for access for the proposed chapel will not impair an adequate supply of light and air to properties adjacent to the subject property, increase congestion of public streets or substantially diminish or impair property values within the neighborhood. Conversely, as I noted above, if the applicant added another driveway to access the streets to the south of their site that would increase the congestion on the local public streets near their property.

Weeks opened the Public Hearing.

John Burns discussed a few of the issues that exist between the two properties that share the driveway access onto Demontreville Trail. He mentioned that they have the support of approximately 50 percent of the neighboring properties and feels they have a good history with the neighbors and with Lake Elmo. He reiterated there will not be the establishment of a Catholic Parrish on the site, nor will it be developed with residences, the chapel is not being created to increase traffic.

Father Patrick McCorkle from the Jesuit Retreat stated that this is not merely a squabble between two property owners. He feels the increase traffic will ruin the atmosphere and purpose of the Retreat Hall as a quiet place away from the noise of every day life. He also believes that the variance is at odds with the surrounding residential area.

Bryan Huntington attorney for the Jesuits stated that the applicant could not prove that the circumstances were not created by the land owner. He also disputed which easement agreement between the property owners was the most accurate and valid.

Garry VanCleavey attorney for Jesuit Retreat House stated that the Carmalite nuns fundraised for the chapel that will hold 44 people due to interest in having morning and evening mass services for the public. VanCleavey stated that multiple services in a day would be an expansion on the use of the property. He also stated that this is a use variance which is illegal in the state of Minnesota.

Eric Lipman, 8249 Deer Pond Ct N stated that the driveway easement existed prior to the Jesuit Retreat House being present and does have direct access through that easement. He also stated that the Jesuits suggested that 50 people a week attend the Retreat House, which is a more intense use of the road than the Carmalites are proposing.

Paul Gelbmann, 5034 Isle Avenue N asked if there is currently a mass that is open to the public at the convent, how often it meets, and how many people could the space hold? It was answered that there is a currently a daily mass open to the public that could hold up to 60 people in the space used.

Terry Quinn, 9220 Jane Rd N, stated that his family donated the gate system as you enter the site. He stated that he is disappointed in the squabble between the properties and is opposite to the spirit the donation was made. He said that he lives in the area, has been to the site, and believes that the variance should be granted.

Hartley said he was not convinced a variance is needed but understands that it is needed to provide clarity to allow the new chapel of the property. He also believes that the suggestion to move the driveway from the existing access point would be a less desirable outcome for everyone.

Weeks closed the Public Hearing.

Weeks agreed with Hartley and added that the request from the Jesuits for silence is not currently met by any of the adjacent parcels nor is it feasible to ask. Weeks added that it appears this property meets the requirements of a variance and added that the Jesuits with their 3000 visitors annually have a significant impact on their neighboring properties.

Holtz said that the proposed chapel holding 44 people is more similar to a classroom than a church with a capacity of 900 people. He believes the need is not self-inflicted by the property owners; the access easement existed prior to the code changes. He explained how it meets the requirements.

M/S/P: Steil /Hartley, move to approve the request from Rev. John Burns of the Carmelite Hermitage for a variance from the City's requirement for direct access to a major collector or arterial street for a place of worship for the property located at 8249 Demontreville Trail, **Vote: 5-0, motion carried unanimously.**

M/S/P: Hartley /Cadenhead, move to approve the conditional use permit for the Carmelite Hermitage including the proposed chapel for the property located at 8249 Demontreville Road with recommended findings and conditions of approval as drafted by Staff. **Vote: 5-0, motion carried unanimously.**

#### **Recess from 8:14 – 8:20 pm**

#### Kwik Trip Fuel Station/Convenience Store (Inwood Avenue N. and 5<sup>th</sup> Street North)

Roberts explained that RPS Legacy Desoto is proposing a minor subdivision of Outlot O of the Inwood Addition into three separate parcels. The proposed minor subdivision would allow for Kwik Trip to purchase the 2.27 acre property and construct a new fuel station/convenience store on the southeast corner of Inwood Avenue North and 5<sup>th</sup> Street North. The applicant also is requesting that the City vacate the existing easements on and around Outlot O as part of this plat approval. City staff is recommending as a condition of approval that the plat or subdivision show a 10-foot-wide drainage and utility easement along the entire perimeter of the plat and property.

RPS Legacy Desoto Properties and Kwik Trip, Inc. are requesting a conditional use permit (CUP) for the construction of a Kwik Trip convenience store/fuel station with a car wash. The City Code requires approval of a Conditional Use Permit for this request in the Commercial zoning district.

Roberts mentioned that the applicant will need to pay the City a parkland dedication fee in the amount of \$10,215, the design of the western driveway access onto 5<sup>th</sup> Street must be revised to accommodate only right turns and the width of the eastern driveway

may need to be modified to 40 feet to allow for one inbound lane and two outbound lanes.

The Planning Commission had discussion regarding traffic movement, easement, setbacks, lot lines, and driveways.

Dean George on behalf of Kwik Trip answered that the lot lines will be left to the developer.

Alan Stocker, 8680 Upper 7<sup>th</sup> St N, talked about the proposal for being open 24 hours, sound and light concerns, signage concerns, and a request for increased landscape buffering, such as evergreens. He mentioned the current traffic situation and concerns about additional vehicles.

Larry Boyle 8699 Lower 8<sup>th</sup> Pl N, reiterated the desire for an evergreen buffer and concerns about getting out on to 5<sup>th</sup> St.

Additional questions regarding traffic safety from the Planning Commission, including right turn lanes, traffic signals, Washington County's review, etc. Weeks mentioned that businesses pay higher taxes than residential properties and need to be seen to be able to thrive, so limiting signage and visibility can have negative effects.

M/S/P: Holtz/Hartley, move to approve the Minor Subdivision request to split Outlot O of Inwood Addition into three lots, subject to the conditions of approval as listed in the staff report. **Vote: 5-0, motion carried unanimously.**

M/S/P: Holtz/Hartley, move to approve the Conditional Use Permit for the proposed Kwik Trip fuel station/convenience store and car wash to be located on the southeast corner of Inwood Avenue and 5<sup>th</sup> Street North, subject to the conditions of approval as drafted by Staff and based on the findings of fact listed in the Staff Report. **Vote: 5-0, motion carried unanimously.**

## **New Business**

Union Park First Addition Easement Vacations and Final Plat (5<sup>th</sup> Street N. and Julia Ave.)  
Pulte Homes of Minnesota is requesting approval of easement vacations and the Final Plat to create lots for 62 townhomes located on 7.92 acres. This proposed final plat is the first phase of a 240 townhouse residential development. Roberts reported that the project was previously called Bentley Village, it received prior approval in March for up to 242 townhomes on the site. They are now seeking Final Plat which is consistent with the approved preliminary plat. They were originally proposing a pool and now are proposing a dog park.

The proposed final plat shows the division of the property into separate lots, one that will be sold for the Spring apartment development, and the others will be used for different phases of this development and a ponding area, it also includes the street right-of-way for 5<sup>th</sup> Street North, for future Julia Avenue.

The applicant is requesting the City vacate two existing drainage and utility easements that were placed on the property when Savona was developed. The developer cannot record a new final plat with the existing easements in place. These easements are both just south of 5<sup>th</sup> Street and will not be needed as the developer will be constructing new utilities and will be dedicating new easements with the final plat.

Savona Park is located just over 500 feet from the northern edge of the proposed development and meets the Neighborhood Park search area requirement. The developer is proposing and staff recommends that fees in lieu of land be paid in order to satisfy the park dedication requirements. The developer will be required to 10% of the purchase price of the land as park dedication.

Weeks opened the Public Hearing.  
Weeks closed the Public Hearing.

Hartley asked about the dead end roads shown on the plan. Roberts explained that there will need to be temporary cul-de-sacs constructed.

Paul Hoyer, Pulte Homes, 7500 Flying Cloud, Suite 670 Eden Prairie, MN 55344. He explained there will be a pond included in this phase and one included in the next phase. He explained the plan is one phase per year for development. He also explained Pulte issues a property disclosure statement to homeowners that include things like the watering ban so that they are informed at the time of purchasing.

M/S/P: Hartley/Cadenhead, move to approve the vacation of the two drainage and utility easements on site of the Union Park final plat as shown on the drainage and utility easement vacation exhibits dated 1-03-2019 and 1-17-2019. **Vote: 5-0, motion carried unanimously.**

M/S/P: Cadenhead/Steil, move to approve the Union Park First Addition Final Plat with recommended findings and conditions of approval. **Vote: 5-0, motion carried unanimously.**

## **Public Hearing**

### Subdivision Ordinance Update

Roberts explained the changes to the ordinance language.

Hartley asked if the language should be changed about the Parks Commission reviewing the Final Plat. Discussion followed

M/S/P: Hartley/Steil, move to approve the Subdivision Ordinance with the changes discussed, **Vote: 5-0, motion carried unanimously.**

### **City Council Updates – July 16, 2019**

Roberts reported that the Accessory Building size and Parking and Screening ordinances had been approved by City Council. The council approved the size ordinance and removed the language requiring a durable surface for trailers.

### **Staff Updates**

1. Upcoming Planning Commission Meetings
  - a. September 9, 2019 – Another senior housing facility is being proposed in the Eagle Point Office Park. The applicant believes there is not a market for offices in the current market and that proximity to services is a good fit for the 100 unit development.
  - b. August 26, 2019 – there are two potential variances.
  - c. Met Council is still missing one item for the Comprehensive Plan review that the City has submitted twice, then the application is complete and review will begin.

Meeting adjourned at 9:35 pm

Respectfully submitted,

Tanya Nuss  
Permit Technician