

Village of Elm Grove Legislative Committee
Minutes

DRAFT

Call to Order

The meeting was called to order by the Chair at 5:32PM.

Roll Call:

Trustee Domaszek (Chair)
President Palmer
Trustee Haas
Committee Member Jodie
Committee Member Book (Absent)
David De Angelis, Village Manager
Hector De La Mora, Village Attorney
Thomas Harrigan, Zoning Administrator
Michelle Luedtke, Village Clerk/Deputy Treasurer

Review and act on meeting minutes dated 10/13/2020.

MOTION BY COMMITTEE MEMBER JODIE, SECOND BY PRESIDENT PALMER, TO ACCEPT THE MEETING MINUTES AS PRESENTED.

ALL WERE IN FAVOR. MOTION CARRIED.

Review and possible recommendations on Chapter 134 Electrical Standards.

Chair Domaszek referred to the packet documentation and asked Zoning Administrator Harrigan to summarize.

Zoning Administrator Harrigan explained the process and indicated what is approved tonight will go to the Village Board for approval and then back to the State.

Trustee Haas asked about low voltage wiring in lines 49 and 50.

Manager De Angelis indicated this is part of the new State code.

Trustee Haas added he thinks the Village will need to inform the resident about this change.

President Palmer indicated this isn't ideal for the homeowner, but it is what the State is requiring.

MOTION BY TRUSTEE HAAS, SECOND BY PRESIDENT PALMER, TO APPROVE RECOMMENDATIONS ON CHAPTER 134 – ELECTRICAL STANDARDS.

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ALL WERE IN FAVOR. MOTION CARRIED. ITEM GOES TO VILLAGE BOARD FOR FINAL APPROVAL.

Review and act on amendments to §335-30 Planned Development Overlay District.

Chair Domaszek referred to the packet material and went through the versions.

Trustee Haas took the May version and added technical corrections. He took three related concepts sprinkled throughout and put them back together. He took what the staff proposed and made it more readable. He did not make changes he felt were necessary. He does have concerns. We took a lot of things out that should be there. He would like to know why we are doing this.

President Palmer added that they were asked as a group to get a more streamlined draft comparable to all other communities we looked at. The ordinance we have in place was created in order to facilitate the Watermark and save the St. Mary's old church. This worked for that triangular property. We have all kinds of detail in the existing that most people are not able to figure it out. The goal of rewriting it is to make it more clear and maximize the Village Board authority as it pertains to projects.

Chair Domaszek indicated his only concern was the minimum lot requirement. He would like to be able to look at any size lot. This would show them only major/larger projects. He would be interested in seeing the smaller projects that have just as big of an impact.

Trustee Haas indicated he would like to re-add the calculations for density from the old code. He believes there should be some sort of a limitation. He would also like to see architectural design components.

President Palmer suggested the 6.10 draft could reinsert a maximum density, but does not believe it is necessary.

Trustee Haas indicated a residential maximum for a PUD would be 22 units per acre. Trustee Haas asked that they go to page 3 of the existing ordinance in section F, clean it up, and put it back in the new version. He does not believe the equation is difficult for the resident.

President Palmer said we can still have the same effect with these two main points: 1.) Include a maximum for each acre of the PUD. 2.) The new draft is

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written so there are no underlying rights. All PUD items are negotiable and the Village Board can alter or reject.

President Palmer continued stating this does not give any innate rights to a developer. This would simplify the code as it is written now.

Trustee Haas would like sections F(1), (2), and (3). He believes we need more guidance for what you are entitled to and when you are entitled to it.

Chair Domaszek agrees with Neil on this to take out the entitlement. He would like enhanced density placed in 3 A-D. He would put all of it in page 4, section E, of the 6.10 draft. Line 127.

Trustee Haas believes the concept of enhance standard does not make any sense without the first portion of the ordinance.

President Palmer clarified everything is negotiable and we will never give you anything above 22 per acre.

Trustee Haas would like us to use a better word than “enhanced”.

Chair Domaszek indicated anything with a PUD needs to meet all of these enhanced provisions. If they are not enhanced provisions, they can be simply called provisions.

President Palmer cited “we expect all proposed developments to be under the highest quality...” from page 3 of the ordinance, period. He is ok with a minimum – but no one is going to go for the minimum. Residential aspects will have a maximum 22 units per acre allowed. Period. Even if they only come in with 12, we will hold them to high standards. Period. The other aspects is to be able to mix uses, change setbacks, side yards, etc. The question the public has is typically about density and parking. That is where we would like to have veto rights. Everything is negotiable.

Trustee Haas reaffirmed in order to have a PUD, no matter the density, the builder would have to have high quality.

President Palmer confirmed.

Trustee Haas said we do not hold people to this.

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President Palmer stated that people ask how you measure enhanced quality. It is a complete word salad of meaningless nothing. With this, under a PUD, we wouldn't give you a minimum, but we will hold you to build to the highest quality, material, and value to make it clear. This gives important clarification to the building board. Don't have a calculation we never use.

Trustee Haas brought up Elm Grove Heights on Bluemound.

President Palmer indicated this handled differently with unique specifications. We have very little development in Elm Grove. We want to make it clear from day 1, we want it to be the highest quality they can make it.

Chair Domaszek believes anything with a PUD should be made with the highest quality.

President Palmer indicated if they want to keep it in the ordinance, they can. Instead of saying enhanced density, take all of the points and say we expect this from any project.

Trustee Haas would like "residential density". He would like line 127 eliminated entirely. Paragraph 2 becomes 1. Keep 3 and make it "density". Play with the language of each of these sub paragraphs because it uses the term enhanced density.

President Palmer would like to see a draft with these changes next time. These are all of the things we are going to consider on each of these meeting groups; building board, plan commission, or/and Village Board.

Chair Domaszek asked for the word version so he can combine the ideas together.

Trustee Haas asked about 4(f) – what do they want to do with that. The concept was if you have a mixed use, how do you calculate the residential density? If the first floor is commercial, you would reduce the number or residential.

President Palmer repeated that everything is completely negotiable. Each projects stands on its own and the Board can make the final determination on the unique properties.

Chair Domaszek asked for a general statement about if it is mixed use, the density would be reduced.

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Trustee Haas is concerned with it all being “negotiable” without a basis. What is the criteria for saying no, you are not entitled to the maximum density. If you want to take into account the commercial mixed use, it should be in 3d. If there is a mixed use, it will affect the density. This gives us the ammunition to tell a developer no - it becomes non-negotiable.

President Palmer repeated that there is no right and every decision is at the discretion of the Board. He doesn’t have an issue with strong language regarding density and what is allowed. To say the amount of residential density is capped at 22 per acre, but it may be significantly lowered based on the amount of commercial development on shared acreage.

Trustee Haas indicated we should remove section 4 and include language in section 3.

President Palmer asked about “PUDD”. It was clarified the word “overlay” was removed and this was a Development District – with a double D. President Palmer went on to page 5, line 148 – to spell out what MMSD is for those who do not know. We should also include any successor agency. Line 185, 3(b) – remove “the” for school capacity.

Chair Domaszek asked about the old PUD notice requirements, but he believes any time there is a meeting, we should give notice to the neighbors.

Attorney De La Mora indicated the notices given are typically set forth by the zoning laws. In this community, anyone who comes to any meeting with zoning gets to talk. That is not the way it is done in most communities. This can be difficult to manage.

Zoning Administrator Harrigan was unsure if the 300 foot rule typically set forth for zoning would apply to this.

President Palmer stated we already give notice of the meeting and would not need to mail the items to those surrounding a project. He would hate for someone not to get a notice and for this to become an issue for the project. He is in favor of the notices for the hearings, but not for everything else.

Trustee Haas indicated this would be a lot of notices. Instead, we could do it at the filing of the petition. They could then monitor the website themselves. They can also sign up for the “notify me” for meeting notices. Chair Domaszek agreed.

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Attorney De La Mora added that when we give a project within 300 feet, others outside of those areas may also have concern and not be notified. We could include a requirement regarding the item being posted online.

President Palmer added we can include an ordinance for the requirement to post online and offered suggestions on the name of the notice page.

Trustee Haas doesn't have a problem with it, but we will have to have better management of our website. We have old documents on there.

President Palmer indicated people still look at that list for historical purposes.

Trustee Haas thinks the list will be long including residential items. We can take off items which are not current. Another issue Trustee Haas has is the allowed uses include on the original ordinance (section C) which are not on the new version.

President Palmer gave an example of how this could be important.

Attorney De La Mora clarified the reason for zoning. Furthermore, he indicated issues may include spot zoning. People might be more apt to request a PUD instead of a zoning change.

President Palmer indicated he would like to keep the whole section C from the original and put it in somewhere in the new version. Trustee Haas agreed.

Attorney De La Mora gave an example of a residential lot getting an application for mixed use.

Manager De Angelis clarified the term PUD vs PDO.

Attorney De La Mora clarified that a PUD is still considered an overlay. You may grant a development rights, but if a developer sits on it and doesn't go anywhere, you have a mechanism with the overlay to make it go away. You have rights with the underlying base. We should not allow anyone to think we are creating a new district.

President Palmer would like this up at the top.

Attorney De La Mora brought up the question on what is the highest quality. He would like the applicant to indicate the highest quality in their application.

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President Palmer suggested not using the word “highest” but “high”. You are never going to win that argument of what highest is.

Trustee Haas stated the term highest quality is not abstract. We know where to look for the comparisons within the Village.

President Palmer added “to meet or exceed the highest quality in the Village”.

Manager De Angelis added commercial is commercial, and residential is of the highest quality stock. Furthermore, the commercial would not include residential.

President Palmer said we would not indicate that commercial is of any less quality.

Trustee Haas moved to line 5-7 of 6.10 – he would like to know what we are putting in there for the items we are going to quantify. Are we going to set dimensions?

Chair Domaszek believes this is unlimited with a PUD how it is written. This needs to be clarified and well understood. He will take items from the existing ordinance and drop it into the new ordinance.

Attorney De La Mora indicated this will give the Village more leverage; specifically if the developer does not continue with the project.

Trustee Haas wants something to include that this is compatible with the adjacent neighborhoods.

Manager De Angelis indicated this starts on line 12.

Trustee Haas wants the criteria listed.

Chair Domaszek reiterated line 181. He looked through the document and indicated it could be worded better in the next version. He would like something added under C1 for this.

President Palmer indicated the two memos for tomorrow’s meeting has bullet points that exist that we can use here as well.

Trustee Haas would like those documents on the next meeting for reference. Another concern he has is the minimum acreage.

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Chair Domaszek and President Palmer confirmed they don't want the minimum acreage. Trustee Domaszek indicated most of the lots would not be able to make the minimum for a PUD.

Trustee Haas does not believe a PUD should be used on things that may not be as special.

President Palmer clarified we want to make this more flexible, clear, and understandable – that would give the board authority over all projects.

Trustee Haas talked about razed sites.

Attorney De La Mora added that as you think about this, think about the increase in application you will receive in the residential areas. People like himself would look to the PUD to avoid applying for variances, setbacks, etc. Technically, if we don't restrict that, we will expend a great deal of time turning people away and creating a criteria. If you invest \$300k for a lot, you will apply for one.

President Palmer stated this would not pass the conceptual meeting. No project would be approved no matter if they met the criteria if this new ordinance allows us to say no to anything.

Manager De Angelis added if we put that this does not apply to single family residential property that would get rid of this issue.

President Palmer wants it clarified that the applicant has no vested rights at any point in this process at the top of the ordinance.

MOTION BY PRESIDENT PALMER, SECOND BY CHAIR DOMASZEK, TO HAVE STAFF COMPILE THE RECOMMENDED CHANGES, GET RID OF THE 5/27/2020 VERSION, AND BRING BACK A CLEAN VERSION TO THE NEXT LEGISLATIVE MEETING.

ALL WERE IN FAVOR. MOTION CARRIED.

Other Business – President Palmer would like to know where we are with the rest of the zoning code changes. Manager De Angelis indicated B-1 and B-2 are in draft. No other changes to the conditional use have been noted.

Adjournment

There was no further business.

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MOTION BY PRESIDENT PALMER, SECOND BY TRUSTEE HAAS, TO ADJOURN THE MEETING.

ALL WERE IN FAVOR. MOTION CARRIED. MEETING ADJOURNED AT 7:12PM.

Minutes transcribed by: Michelle Luedtke

Minutes Approved on: