

**CITY OF ELYSIAN
PLANNING AND ZONING COMMISSION
REGULAR MEETING
SEPTEMBER 3, 2024**

The Elysian Planning and Zoning Commission met in regular session Tuesday, September 3, 2024 at City Hall at 6:00 pm.

Present were: Chairperson Tom McBroom, Sr.; Commissioners Dan Engebretson, Paul Hunter, and Doug Stanke; Zoning Administrator Lorri Kopischke. Absent: None.

On motion by McBroom, seconded by Engebretson, all voting in favor, to approve the agenda of the September 3, 2024 meeting as presented.

On motion by McBroom, seconded by Hunter, all voting in favor, to approve the minutes of the June 4, 2024 Regular Meeting as presented.

On motion by Engebretson, seconded by Stanke, all voting in favor, to close the Regular Meeting and open the Public Hearing at 6:01 pm.

Richard Shaw has requested a zoning amendment for 213 East Main Street (PID# 16.440.0960). The property is located at the intersection of Main Street East and Third Street SE.

The property is zoned C-1 Central Business Commercial. Shaw owns and lives in a home on the property. The house was built in the year 1910 (per Le Sueur County). There are concrete slabs on the property that indicate a barn and a garage were once located on the site. The property is being used as a residence which is not an allowed use in the C-1 Zoning District. Therefore, the house is a non-conforming use.

According to the City of Elysian Zoning Ordinance all non-conforming structures and uses shall not be expanded, but may be continued, including repairs and maintenance. The residential use is allowed to continue but cannot be expanded.

Shaw has now requested to build a garage on the property. That request was denied due to the zoning of the property.

Shaw is requesting that the property be rezoned from C-1 Central Business Commercial to R-1 General Residential District.

City Attorney Jason Moran has submitted a memo with guidance on options to address the rezoning request. The City Attorney recommends approval of the rezone from commercial to residential. This makes good sense as the property to the north and south are residential and the land going east all the way to Highway 60 is zoned residential. The property has a residential structure located on it and has, for a very long time, been used as residential. Moran also provided the opinion that rezoning this property to residential would not constitute spot zoning.

Richard Shaw, owner of the property of 213 East Main Street, stated that he would like to build a garage as he is worried about the safety and security of the property. There is also the potential for another four cars parking on the street with the new townhomes being built across from his property. There has been vandalism to their property and bikes and cars that are stored

outside. They have a rider lawnmower, car, truck, trailblazer, camper, and bikes that they would like to have stored in a building. They have spent over \$30,000 to update the property and would like to continue to make improvements.

Public Comments:

Chris Short, 205 East Main Street, stated he supports the request. The property is residential and will always be used as residential. They deserve to feel safe and to protect their assets.

There were no further public comments.

Written Comments:

“September 3, 2024

Pat Nusbaum, 104 Park Avenue NE, Elysian, MN 56028

To: Elysian Planning Commission and City Council

Due to being unable to attend the hearing tonight, I write you this letter.

I have known Mr. Shaw for a number of years, and Chris Short all of his life. This is not to disparage either one of them as persons.

I do not know the exact date, but I am thinking around 2010, a hearing was held to consider the possibility of rezoning the Commercial area located between Second Street NE and Third Street NE to Residential. It was decided since there were basically houses on the North side of the street, it was approved to be rezoned to Residential. The South side of the street was to remain Commercially Zoned. A Commercial Zone that already has four businesses in that block.

Of course, it is entirely, up to the Commission and the Council, but before you decide, please consider the Main Street Business District and the few options left for a person or developer to start a new business. Elysian’s Main Street is quite vibrant with various unique shops, restaurants, and several other businesses, and we need to have that continue.

With very little left for opportunities for new businesses to be started along Main Street, please take into consideration the intent of this letter.

Thanking you, Pat Nusbaum”

There were no further written comments.

On motion by Engebretson, seconded by Hunter, all voting in favor, to close the Public Hearing and open the Regular Meeting at 6:15 pm.

Engebretson stated he was on the Planning and Zoning Commission when the north side of the 200 Main Street East was rezoned from C-1 Commercial to R-1 Residential. The long-range plan at that time was to leave the south side of Main Street zoned Commercial to allow for future expansion. The Shaw property does butt up to residential property and is zoned residential the rest of the way to Hwy 60.

Hunter noted that this issue is tough as the City tries to balance and to conserve the limited amount of commercial property that it has. There is a limited area where commercial properties can expand.

Engebretson asked the Commissioners if they felt there would be commercial growth on Main Street, if it would be more on Hwy 60, or if it would be both.

On motion by McBroom, seconded by Hunter, all voting in favor, to recommend approval of the rezone application from Richard Shaw for 213 East Main Street (PID# 16.440.0960) to rezone

the property from C-1 Central Business Commercial to R-1 General Residential based on the following findings of fact:

1. The property has been used as a residential property for many years, even prior to the adoption of the zoning ordinance.
2. The property is surrounded by residential properties and the residential zoning continues east all the way to State Highway 60.

This recommendation will be considered by the City Council at their meeting on September 9, 2024.

On motion by McBroom, seconded by Stanke, all voting in favor, to close the Regular Meeting and open the Public Hearing at 6:26 pm.

Christopher T. Short has requested a zoning amendment for 205 East Main Street (PID# 16.440.0970). The property is located near the intersection of Main Street East and Second Street SE. The property is zoned C-1 Central Business Commercial.

Short owns a house on the property that was built in the year 1885 (per Le Sueur County). The property is being used as a residence which is not an allowed use in the C-1 Zoning District. The properties to the north of the property are zoned R-1 General Residential. The properties to the east and west are zoned C-1 Central Business Commercial.

Miller-Short owned the property and was operating a business next door and living in the house (both buildings were located on the same property). Miller-Short split the lot and sold the business property and applied for an Interim Use Permit to continue to live in the house which was still zoned as a commercial property. The Interim Use Permit is set to expire when the property is sold. The property would then revert to a commercial use.

The Shorts have not been able to sell the property with the commercial zoning designation. They have had offers on the property but for use as a residential property. The layout of the house would make it difficult to convert to a commercial use.

The Shorts are requesting that the property be rezoned from C-1 Central Business Commercial to R-1 General Residential District. This will allow them to facilitate the sale of the property.

City Attorney Jason Moran has submitted a memo with guidance on options to address the rezoning request. The City Attorney recommends approval of the rezone from commercial to residential. This makes good sense as the property to the north is residential and the Short property has a residential structure located on it and has, for a very long time, been used as a residential property. With regard to spot zoning, this rezone would not constitute spot zoning.

Engbretson stated that there have been several businesses located in this house on the property over the years. He questioned if the City should purchase the property, tear down the house, and sell it as a commercial property.

Christopher T Short, 205 East Main Street, stated that he had put a lot of money into renovations of the house. The furnace, air conditioner, roof, appliances, and this week the floor, are all new. The stucco was covered with brick on the outside of the house. This house is not ADA compliant and there is no way to make it into a business. This is a small affordable residence for a new family. The home is very livable. If it does not get rezoned, it is a dead property.

Short stated he grew up in Elysian and invests heavily in this town. Residential zoning is the only possible outcome for this property. If the zoning is not changed, the building will have to be torn down.

Hunter asked if there was any interest from the Minnesota State Historical Preservation Office (SHPO). Short stated that there has not been any interest, and he did not believe the house would be the quality they would be looking for.

Public Comments: None.

Written Comments:

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I do not know the exact date, but I am thinking around 2010, a hearing was held to consider the possibility of rezoning the Commercial area located between Second Street NE and Third Street NE to Residential. It was decided since there were basically houses on the North side of the street, it was approved to be rezoned to Residential. The South side of the street was to remain Commercially Zoned. A Commercial Zone that already has four businesses in that block.

Of course, it is entirely, up to the Commission and the Council, but before you decide, please consider the Main Street Business District and the few options left for a person or developer to start a new business. Elysian’s Main Street is quite vibrant with various unique shops, restaurants, and several other businesses, and we need to have that continue.

With very little left for opportunities for new businesses to be started along Main Street, please take into consideration the intent of this letter.

Thanking you, Pat Nusbaum”

There were no further written comments.

On motion by McBroom, seconded by Stanke, all voting in favor, to close the Public Hearing and open the Regular Meeting at 6:53 pm.

On motion by McBroom, seconded by Hunter, all voting in favor, to recommend approval of the rezone application from Christopher Short for 205 East Main Street (PID# 16.440.0970) to rezone the property from C-1 Central Business Commercial to R-1 General Residential due to the following findings of fact:

1. The property is in very close proximity to residential property with the property to the north being zoned residential.
2. The property has been used as a residential property for many years, even prior to the adoption of the zoning ordinance.

This recommendation will be considered by the City Council at their meeting on September 9, 2024.

On motion by McBroom, seconded by Stanke, all voting in favor, to close the Regular Meeting and open the Public Hearing at 6:55 pm.

Louis and Mary Schaar are requesting a variance to build a home on a substandard non-conforming lot in the shoreland zone of Lake Elysian with a 43.6% lot coverage at 111 North Shore Drive (PID# 16.440.0860).

The property is 210 feet deep by 50 feet wide or 10,500 square feet. The Shoreland Ordinance requires 20,000 square feet lot area for a buildable lot.

The proposal will meet the side yard setback requirements of 8 feet. The Schaars would like to place the home on the lot within the 75-foot setback from the OHW mark. They would like to line up the front of their house with the adjoining properties. This would result in an approximate 35-foot setback of the house with the deck located between the house and the lake. There is a private gravel drive that runs through the property.

The lot coverage is as follows:

House/garage:	2,210 square feet
Deck:	340 square feet
Driveway:	1,410 square feet
Road:	<u>620 square feet</u>
Total:	4,580 square feet or 43.6% lot coverage

The Schaars have submitted the following with regard to the Practical Difficulties requirement of granting a variance:

Reasonableness: Variance needed to build home on substandard lot.

Uniqueness: Have ability to align with neighboring waterfront homes.

Essential Character: Variance will not alter the essential character of the locality.

Public Comments: Bob and Catherine Burgess, owners of the property at 113 North Shore Drive, stated their concerns as follows:

1. Side Yard Setbacks must be 8 feet as required by Elysian City Code (as staked they are only 6 feet).
2. Deck. To preserve their existing view, that the proposed 10 foot deck not extend beyond the existing upper deck on the cabin to the west (109 North Shore Drive).
3. That the height of the property be single level to preserve the roof line.
4. Any changes needed to the 113 North Shore Drive property with regard to utilities, etc., require advance notification.

Written Comments:

Todd Piepho, Area Hydrologist, Minnesota Department of Natural Resources commented on the variance request as follows:

“This is a tough one to recommend anything other than denial. This proposal is going to require a variance for nearly everything in your shoreland ordinance for a new build:

1. The lot size is substandard and does not meet minimum size requirements.
2. The impervious surface coverage will exceed the 25% allowed by nearly double at 43%.
3. The 75' setback from the OHWL will not be met and the proposal is essentially half of what would be required. I understand adjoining properties are set at this distance (35'), however they are already built, a new build should adhere to current regulations.

When the board decides on this one please send through the outcome, it would be hard to justify that this proposal is in harmony with your local ordinance and consistent with the current comp plan, at least in my opinion. If alternatives are possible – moving back the home to meet the OHWL setback, which seems possible, limiting size of structure to get closer to the 25% impervious limit, they should be looked at in order to approve this request”.

There were no further written comments.

Engebretson asked if this was a one-story home. Schaar stated it is one level on the street side with a walkout on the lakeside. The living space is 1,328 square feet and the garage is 24’ by 36’. Engebretson suggested this be a 2-level home to reduce the footprint. He expressed concern with the runoff that would come off a 2,000 square foot roof.

Engebretson noted the 14 foot drop off to the lake and asked if the home could be moved back 10 feet and terraced to the lake. This would prevent a lot of the runoff from going into the lake. Bryan Suemnick (on behalf of Schaar) stated the runoff could be controlled with the installation of gutters and running the water to the north of the property with landscaping.

Hunter stated that the 43% impervious surface coverage is problematic. He asked if there was a way to cut back on that coverage. Schaar suggested the driveway could be constructed with river rock similar to what is used in septic drain fields. This would be a pervious surface and would reduce the impervious coverage from 43.6% to 3,170 square feet or 30%.

Engebretson asked which trees were going to be removed. Suemnick stated that there are two trees, one is dead and one has structural cracks. Any dying, diseased or dangerous trees or shrubs will be removed. They will keep the lakeshore intact as much as possible and rip rap will be installed as needed.

Engebretson was concerned with the deck extending the edge of the lot that the water would go down right over the edge into the lake. Suemnick stated this will be controlled with a gutter system.

Bob Burgess, 113 North Shore Drive, stated that water being diverted to the north would be an issue. The private gravel road is soft. He has had to cut deeper gutters into that road to get the water to drain across the road. He does not want this issue exacerbated with the runoff being diverted north to the private road.

Suemnick stated the runoff issues will be solved with grading and landscaping. The runoff will be collected in a sediment area before it runs into the lake.

On motion by McBroom, seconded by Stanke, all voting in favor, to close the Public Hearing and open the Regular Meeting at 7:28 pm.

On motion by McBroom, seconded by Hunter, all voting in favor, to recommend City Council approval of the request of Louis and Mary Schaar for a variance to build a home on a substandard non-conforming lot in the shoreland zone on Lake Elysian at 111 North Shore Drive based on the following findings of fact:

1. The variance is in harmony with the purposes and intent of the ordinance.
2. The variance is consistent with the comprehensive plan.
3. Practical Difficulties:
 - a. Reasonableness: The property owner does propose to use the property in a reasonable manner. The lot is substandard, The owner did work with the Planning and Zoning Commission to reduce the impervious surface requested from 43% to

- 30% by providing a pervious driveway, the house will be moved back on the lot from the proposed 35 feet setback to a 45 foot setback, and runoff will be addressed with a gutter system and grading.
- b. Uniqueness: There are unique circumstances to the property not created by the landowner as the lot is substandard at one half the size required by the shoreland ordinance. The lot was platted many years ago and cannot be changed.
 - c. Essential Character: The variance will maintain the essential character of the locality because the home will be a walkout, will have a rustic look, and will be setback similar to the home on the adjoining lots.
4. And with the requirement the driveway be constructed of pervious materials and the home be moved back an additional ten feet from the OHWL.

This recommendation will be considered by the City Council at their meeting on September 9, 2024.

On motion by McBroom, seconded by Engebretson, all voting in favor, to close the Regular Meeting and open the Public Hearing at 7:36 pm.

Leo Brown, owner of the property of 117 Willow Point Drive, is requesting a Conditional Use Permit to operate a Bed and Breakfast in his home. The property is zoned R-1 Shoreland Residential. The proposed use would be allowed under §156.119 Bed and Breakfast Establishments of the City Code of Ordinance.

The conditions to operate a Bed and Breakfast include:

Capacity: One-half of the sleeping units contained in the building may be rented, but in no case shall the number of rental units exceed four. Brown has six guest room spaces in the home. That would allow three rooms to be rented per night.

Parking: Off-street parking must be provided. Two parking spaces for the owners of the B&B and one space for each guest room. Brown would be required to provide five parking spaces plus spaces for any campers, boats, trailers. Brown has provided a diagram of the available parking spaces. He states that he has fourteen parking spaces available.

Brown has made an application to Le Sueur County Community Health for their portion of the licensing to operate a Bed and Breakfast facility. Their plan review shows approval.

The City of Elysian Bed and Breakfast Conditional Use Permit is a yearly license that is issued to the owner and is non-transferable. This Conditional Use Permit is totally separate from a short or long term rental license and does not have the same requirements.

Leo Brown, owner of 117 Willow Point Drive, stated he has talked with the owners on both sides of his property and also owners of six of the ten surrounding properties. All have been positive and supportive. They like that the owner will be present and will provide the extra personal touch.

Brown stated there are no changes proposed to the property. There is parking for three vehicles in the driveway and there is a 20x10 gravel area across the private drive that will accommodate eleven more vehicles.

Engebretson commented that the Bed and Breakfast use was generally less intrusive than a Short-Term Rental use. It is generally couples, the owners of the property are home, and it is more like having an overnight guest. This would provide needed accommodations for Elysian

and would fill a niche for the community with a place to stay the night for people coming down to use the bike trail, etc.

Representative for Mark Miller, owner of property at 116 Willow Point Drive, noted that there is always a concern when you bring in renters but there is less chance of problems with the owner onsite. Parking is an issue. He noted that Brown has quite a large family and asked what would happen if the family was there as well.

Brown stated that the family will have the first opportunity to use the property. The rooms will not be rented if the family is coming. Brown stated he is still working out issues such as age restrictions. There will be no pets allowed.

Miller Representative stated that there has to be quiet time rules of at least 10:00 pm.

On motion by McBroom, seconded by Hunter, all voting in favor, to close the Public Hearing and open the Regular Meeting at 8:05 pm.

McBroom stated concern of access for emergency vehicles.

Miller Representative expressed concern of the speed traveled on that road and more cars parked in the area.

On motion by McBroom, seconded by Engebretson, all voting in favor, to recommend approval of the conditional use permit request of Leo Brown to use the property at 117 Willow Point Drive as a Bed and Breakfast Establishment as the proposed use is within the spirit of the City's Zoning ordinance, it is beneficial to the City's tax base, the use makes good use of the land in issue, the proposed use does comply with the City's existing Zoning Ordinance, and is in the best interest and general welfare of the City of Elysian, and subject to the following conditions:

1. That there be no on-street parking and that there is 24/7 access available for fire and rescue vehicles.
2. That quiet times are established and posted in a conspicuous place.

This recommendation will be considered by the City Council at their meeting on September 9, 2024.

The Commissioners discussed proposed THC Ordinances. They will be studied and discussed at the October meeting.

There was no further business to come before the Commission.

On motion by McBroom, seconded by Hunter, all voting in favor, the meeting adjourned at 8:27 pm.

Attest:

Tom McBroom, Sr., Chairperson

Lorri Kopischke, Zoning Administrator