



MAYOR & COUNCIL COMMUNICATION

DATE: 7/20/2010

WORKSHOP

ITEM #: 9

ACTION *Resolution 2010-036A
or 2010-036B*

AGENDA ITEM: Consider Resolution 2010-036 Regarding OP Open Space Preservation Concept Plan & Planned Unit Development General Concept Plan relating to the Lake Elmo Farm School and Senior Living Project, located at 9434 Stillwater Boulevard North (PIDs: 15-029-21-31-0001 & 15-029-21-31-0003)

SUBMITTED BY: Lake Elmo Planning Commission
Kyle Klatt, Planning Director

THROUGH: Bruce Messelt, City Administrator

REVIEWED BY: Mayor and City Council (July 13th, 2010 Workshop)
Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is asked to consider Resolution 2010-036 regarding the Applicant's request for approval of an Open Space Preservation (OP) Development Concept Plan and Planned Unit Development (PUD) General Concept Plan, relating to a proposal to establish a 40-unit senior living multi-family building, 10 townhouse units (plus an existing single residential unit), and a farm-themed preschool on property located at 9434 Stillwater Boulevard North.

The City Council has previously approved a Comprehensive Plan Amendment related to the proposed development, in addition to a revision to the Zoning Ordinance to create a new OP-2 Overlay District, which will support the uses and densities proposed within the concept plans. On July 13th, 2010, the City Council discussed these items at its Workshop and directed City staff to work with the Applicant to modify the PUD to ensure eight key issues were adequately addressed. While the full Staff report for this item is attached to this summary and the Planning Commission report is included herein, these eight key issues are highlighted specifically below for Council consideration.

Council action to either approve or deny the proposed development is required at tonight's meeting, at State Statute requires action within 120 days of acceptance of a completed application. This statutory deadline is July 22nd, 2010. The Applicant may extend this deadline at his/her discretion. The necessary motion is as follows:

***SUGGESTED
MOTION TO
APPROVE:*** ***"Move to Approve Resolution No. 2010-036A granting approval of a Planned Unit Development and Open Space Preservation Development Concept Plan for the proposed Lake Elmo "Farm School and Senior Living" development, as delineated herein [and amended at tonight's meeting]."***

or

**SUGGESTED
MOTION TO
DENY:**

“Move to Approve Resolution No. 2010-036B denying approval of a Planned Unit Development and Open Space Preservation Development Concept Plan for the proposed Lake Elmo “Farm School and Senior Living” development, as well as rescinding previous contingent approval of a related Comprehensive Plan Amendment and related Zoning Text Amendments, pursuant to the finding of facts denoted therein [and as amended at tonight’s meeting] .”

BACKGROUND INFORMATION: At the July 13th direction of the City Council, City and the request of the Applicant, City staff has prepared for tonight’s presentation and discussion a draft resolution for either approval (2010-036A) or denial (2010-036B) for the proposed development, in accordance with compliance with the 120-day rule. Previous Council action has been to approve the proposed Comprehensive Plan Amendment and Zoning Text Amendment. Forwarded for tonight’s consideration is the approval of the development’s proposed PUD and OP Concept Plan.

In their totality, these four actions would allow the establishment of a 40-unit senior living multi-family building, 10 townhouse units (plus an existing single residential unit), and a farm-themed preschool on a 30.9 acre parcel at 9434 Stillwater Boulevard North. The recommendation of the Planning Commission was to approve the proposed PUD and OP Concept Plan, with several specific comments and criteria.

The Open Space Preservation and Planned Unit Development concept plans are the final two elements of this larger request that has been previously considered by the City Council. The next step in the development process would be Applicant submission and City approval of a preliminary plat, ensuring full compliance with the above four previous actions. As noted in the attached Staff report, the City Council is asked to bring the submitted site plans previously distributed to the City Council meeting. Additional copies of these materials are available upon request.

PLANNING COMMISSION REPORT: The Planning Commission completed its review of the concept plans at its meeting conducted on June 14, 2010. This meeting also included a public hearing on this matter, at which time a resident of the neighborhood to the east of the project site submitted a petition opposed to any future access connection to Jamaca Court North. This petition is attached for consideration by the City Council.

The Planning Commission reviewed the concept plans and offered several revisions to the conditions as drafted by Staff. During the course of its review, the Commission identified several issues and/or questions that will need to be further evaluated as the project moves forward. These concerns included the following:

- There was a question raised whether or not the proposed drainfield site would comply with the City’s minimum setback requirements. Staff has further researched this issue in response to the Commission’s inquiry and found that the City’s requirements for Alternative Septic Systems include the following statement: “All components of a wetland treatment system within a new residential or commercial development, including stilling tanks, pump stations, and treatment cells, shall be located a minimum of 100 feet from any property line, and 200 feet from any existing or proposed home”. The proposed drainfield does not appear to meet this requirement and therefore would either need to be moved or approved as part of a variance request.

- The Commission debated whether or not the proposed new barn structure should be included in the areas devoted to open space. Staff noted that the City has allowed structures, and in at least one case a new building, to be located within open space/conservation areas. The Commission, by a 5:3 vote, recommended that the barn be included as part of the open space calculations.
- The Commission was generally supportive of the proposed setback, height, and other exceptions that would be needed for the project to move forward, but did express some concern that the location of the animal buildings might need additional review.
- The Commission asked to further discuss the concept of density transfers and how such a program might impact the Applicant in the future.
- The Commission discussed the amount of contiguous farm land being preserved within the development site, and questioned whether or not there was enough room available for agricultural activity on the site.

Since the Planning Commission meeting, Staff has also received some additional feedback from Commissioners on the following issues:

- The accounting for the farm school as part of the overall density calculations for the site. The recently adopted OP-2 Ordinance maintains an upper limit on the overall density within a project area, but does not address how this should be handled when different uses (and in particular non-residential uses) are mixed together as part of a Planned Unit Development. The Council should consider the overall intensity of the development, taking into account both residential and non-residential activities, as part of the PUD review process.
- The amount of land, and location of this land, that is available for animals, and whether or not there is sufficient space to meet the City and MPCA requirements concerning the availability of grazing space. Staff will be requesting that the Applicant provide a plan as part of any future submissions to the City that clearly illustrates where grazing will be taking place on the site, which buildings will house animals, and how these areas will co-exist with the other activities on the site.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission has recommended that the City Council **approve** the request from the Applicant for an Open Space Preservation (OP) Development Concept Plan and Planned Unit Development (PUD) General Concept Plan related to a plan for a 40-unit senior living multi-family building, 10 townhouse units (plus an existing single residential unit), and a farm-themed preschool on property located at 9434 Stillwater Boulevard North, provided the following conditions are met:

- 1) The Applicant shall provide the City with a statement of acknowledgement and consent from the holder of the power line easement that runs along the northern portion of the development site granting permission for the placement of a community septic system and trails within this easement. As an alternative, the Applicant may provide an agreement that permits certain encroachments into the easement. The homeowner's association must be made aware of any issues as part of its articles of incorporation that could require future maintenance or repairs (or other actions that could have financial implications) to the drainfield area because of its location within said easement.

- 2) The application shall submit a storm water and erosion and sediment control plan as part of the preliminary plan submissions that complies with the City's recently adopted Storm Water and Erosion and Sediment Control Ordinance.
- 3) All storm water facilities and access required as part of the Storm Water Management Plan for the site that the City Engineer recommends be maintained by the City shall be platted as outlots and deeded to the City. The size and location of the outlots shall be sufficient to provide an adequate level of buffering from adjacent properties to the satisfaction of the City Engineer. The pond areas shall be counted as part of the required open space for the project.
- 4) In order to meet requirements for fire protection and adequate water service levels for the proposed buildings, the utility plans shall provide for an adequately sized connection back to an existing City water main. The plans for this connection will be subject to review and approval by the City Engineer. The developer shall be responsible for all costs associated with providing a minimum water service size of eight inches to an existing main of a larger size. The final plans and financing, including any potential oversizing above eight inches requested by the City, shall be included as part of a developer's agreement for the project.
- 5) The developer shall provide an alternative access for emergency vehicles to the proposed development, to be devised and developed in conjunction with the City Planner and City Engineer. The developer shall also provide an easement for a future road connection to the property immediately to the north of the project site.
- 6) The developer shall be responsible for the installation of all improvements to Stillwater Boulevard North (State Highway 5) required by MnDOT and specified in a letter to the City of Lake Elmo dated April 19, 2010. These improvements shall be included as part of the construction plans submitted as part of a developer's agreement for the project.
- 7) The interior City Streets shall meet all concerns provided by the City of Oakdale Fire Chief, acting on behalf of the City's emergency services personnel, in a letter to the City dated April 14, 2010.
- 8) The preliminary plans shall incorporate appropriate Buffers, Setbacks and Building Heights, as determined by the Planning Commission and City staff, taking into consideration the necessity of a secondary vehicular access, the proposed massing of development structures, and the impact of such on adjoining properties, including, but not limited to, the following specific issues:
 - a. Front yard setbacks to the proposed roads within the development area.
 - b. Buffering between the proposed development and open space preservation areas and neighboring properties.
 - c. Setbacks from the proposed animal buildings and neighboring parcels.
- 9) Any buildings required as part of the community septic system shall be screened from view from adjacent properties.
- 10) The keeping of animals associated with the agricultural activities on the site shall comply with all applicable City and Minnesota Pollution Control Agency requirements for the keeping of domestic farm animals.
- 11) The open space preservation areas shall be reviewed for potential inclusion as part of a conservation easement protected by the Minnesota Land Trust.
- 12) The preliminary plans shall incorporate the calculation of proposed development density calculations NOT utilizing right-of-way area dedicated for State Highway 5.

- 13) The Planned Unit Development (PUD) and/or Development Agreement shall include specific definitions for Senior Housing and Farm School and incorporate provisions for any future changes regarding such uses to be reviewed and acted upon by the City Council as amendments to the PUD.
- 14) The Planned Unit Development (PUD) and/or Development Agreement shall include specific development phases and/or expectations for timely onset of development and construction activity, beginning no later than 1 (one) year following final City approval of said development, and provision for any future changes regarding such to be reviewed and acted upon by the City Council and to include any future requirement(s) for participation in a program designed by the City to transfer density or development rights in accordance with the Comprehensive Plan, Zoning and related ordinances, and development programs in effect at that time.

CITY COUNCIL WORKSHOP: On July 13th, 2010, the City Council reviewed the following topics and directed that the following additions be made and/or issues be addressed by City staff in subsequent consultation with the Applicant. On Thursday, July 15th, City staff met with the Applicant and reached preliminary consensus in addressing the topics raised by the City Council. These are delineated in greater detail below:

- **Drainfield Setback:** The Planning Commission's recommended PUD Condition #1 includes demonstration of either written consent or an encroachment agreement from the power line utility easement holder. In addition:
 - The Applicant agrees to maximize the drainfield setback from any neighboring property lines and the City agrees to allow placement of such drainfield closer than 200 feet from the proposed internal development structures;
 - The Applicant will provide appropriate fencing around the drainfield site and landscaping along abutting property lines; and
 - These changes will be shown in their totality on the preliminary and final plat.
- **Setbacks, Buffering, and Height:** The Planning Commission's recommended PUD Condition #8 includes specific criteria regarding Setbacks and Buffering. In addition:
 - The Applicant agrees to provide drawings depicting the height of the proposed three-story structure in relation to the surrounding properties (or provide some other demonstration of the final building height) in support of the requested 3-story, 48ft average roof height;
 - The Applicant will maximize setbacks from property lines as much as possible, especially focusing upon the area west/southwest of the proposed townhouses and along the eastern property line. In particular:
 1. The Applicant will realign the townhomes to maximize this western buffer setback and to allow for sooner termination of the rear driveway;
 2. The Applicant will realign the larger residential structure to maximize the southwest buffer setback and to better allow for the proposed trail/roadway;
 3. The Applicant will also realign the school and farm-related structures to maximize the eastern buffer setbacks;
 - The Applicant will augment the vegetative buffering along all neighboring property lines;

- The City will agree to allow through the PUD greater flexibility and variation for interior setbacks to facilitate the above exterior buffer setback maximizations; and
 - These changes will be shown in their totality on the preliminary and final plat.
- **Rural Density Transfers:** The Planning Commission's recommended PUD Condition #14 addresses participation in future rural density transfer programs, should development not initiate within one year. The Applicant agrees to this criteria and its inclusion in the PUD.
- **Open Space Determinations:** The Planning Commission's recommended PUD Condition #11 addresses open space preservation. In addition:
 - The Applicant and the City agree that the new barn structure, the existing farm buildings, and constructed storm water facilities will be allowed within the open space/conservation land. However, the school structures will not be included in calculation of the Open Space Determination;
 - The percentage of Open Space will be recalculated accordingly and the development will be determined to either comply with the City's requirements or adjust their concept plan accordingly; and
 - These changes will be included in the PUD and shown on the preliminary and final plat.
- **Agricultural Uses:** The Planning Commission's recommended PUD Condition #13 addresses requirements for definitions for Senior Housing and Farm School. In addition:
 - The Applicant agrees to consider the existing agricultural buildings and new barn structure as part of the defined Farm School structures;
 - The Applicant will provide an accurate description of the proposed agricultural activities that will take place on the site;
 - The maximum barn size will be limited to 3,000 square feet, consistent with the maximum size allowed in a Rural Residential zoning district; and
 - These changes will be included in the PUD and shown on the preliminary and final plat.
- **Animal Areas:** The Planning Commission's recommended PUD Condition #10 addresses required compliance with City and State regulations regarding the keeping of animals.
 - The Applicant agrees to fully comply with all City and State (MPCA) requirements related to the keeping of farm animals;
 - The Applicant will demonstrate the ability to provide adequate grazing areas (and suitable access to these areas) on the site plans; and
 - The City and Applicant understand that this, along with the buffer setback requirements, will likely require a significant redesign of School and Farm-related buildings in accordance with the City Council's directions.
- **Density Calculations:** The Planning Commission's recommended PUD Condition #12 specifies the calculation of density without utilizing right-of-way area dedicated for State Highway 5. In addition:
 - The Applicant agrees that the area surrounding the school, school accessory buildings, and new barn structure shall not be included in the residential density calculations for the site (currently estimated at approximately 1 to 1½ acres);

- The Applicant and the City agree, however, that certain reconfiguration of proposed School and Farm facilities to accommodate road and buffer setback requirements, as well as grazing and agricultural considerations, may increase the subject area;
- Further, the Applicant intends to pursue preservation and restoration of the smaller historic farm structures, thereby seeking a density bonus for such;
- Therefore, City staff and the Applicant are of a preliminary consensus that the density calculation should reflect a reduction of 2 units for the School and Farm structures, resulting in a density calculation of 48 units (plus the existing 1 residential unit); and
- This calculation will be reflected in the PUD.
- **Farm School Operation:** The Planning Commission's recommended PUD Condition #13 relating to definitions of Farm School and Senior Housing. In addition:
 - The Applicant will provide specific documentation concerning the size and location of the Farm School structure, as well as the operation of the school; and
 - The Applicant will document for the City the state licensing requirements for preschools, the student capacity of the proposed facility, and the qualifications for instructors within the school (including in the areas of animal husbandry, agriculture, horticulture and floriculture; and
 - These changes will be reflected in the PUD.
- **Secondary Access:** The Planning Commission's recommended PUD Condition #5 regarding secondary emergency access only. However, the City Council, in its approval of the Comprehensive Plan Amendment, gave far greater importance to full secondary access for residents and patrons of the development. As such;
 - The City and the Applicant concur that secondary public safety access is a high priority that must be addressed either via a roadway or a limited accessway;
 - The City and the Applicant concur that secondary vehicular access for residents and patrons (or perhaps other additional safety measures yet to be fully determined and/or agreed upon) is an equally high priority;
 - The City and the Applicant concur that the long-term construction of a full public service road along the northern property line is more beneficial for both parties, that dedication (now or in the future) of a road easement for such is a requirement of the PUD; and
 - The City and the Applicant concur that existing residential properties to the west of the subject property are not in favor of extension of a public roadway, even if for an interim period until a future roadway to the north is constructed.
 - Therefore, City staff and the Applicant concur that the construction of an private, ungated driveway and limited access signage regarding such from Jamica Court eastward is a reasonable alternative to a public roadway which will still provide the necessary secondary public safety, residential and patron access; and
 - The Applicant agrees to construct and maintain such according to City standards and specifications, including connection to the public roadways located within the development and full winter maintenance and access; and

- City staff and the Applicant concur that such private roadway may or may not remain ungated and/or accessible to vehicular traffic, at the Applicant's discretion, once a future public roadway is constructed.
- These changes will be included in the PUD and shown on the preliminary and final plat.

City staff will present these in greater detail at Tuesday's City Council Meeting. In addition, the Applicant has indicated a desire to respond, in writing to these topics and may or may not provide additional information for Council consideration.

In particular, should the City Council elect to still require a full-service secondary public roadway from Jamica Court, the PUD should be amended to include the intentions of the City to *either* require an additional, third public access in the future *or* to facilitate vacation of this interim public roadway and dedication of an alternative by the Applicant of a easement for a new public roadway to the north.

RECOMMENDATION: Based upon the above background information, attached staff report, and detailed recitation of Council's July 13th directions, it is recommended that the City Council consider Resolution 2010-036 regarding the Applicant's request for approval of an Open Space Preservation (OP) Development Concept Plan and Planned Unit Development (PUD) General Concept Plan.

Council action to either approve or deny the proposed development is required at tonight's meeting, at State Statute requires action within 120 days of acceptance of a completed application. This statutory deadline is July 22nd, 2010. The necessary motion is as follows [please note the bracketed language in the below two draft motions, should amendments be made during tonight's discussion]:

***SUGGESTED
MOTION TO
APPROVE:***

"Move to Approve Resolution No. 2010-036A granting approval of a Planned Unit Development and Open Space Preservation Development Concept Plan for the proposed Lake Elmo "Farm School and Senior Living" development, as delineated herein [and amended at tonight's meeting]."

or

***SUGGESTED
MOTION TO
DENY:***

"Move to Approve Resolution No. 2010-036B denying approval of a Planned Unit Development and Open Space Preservation Development Concept Plan for the proposed Lake Elmo "Farm School and Senior Living" development, as well as rescinding previous contingent approval of a related Comprehensive Plan Amendment and related Zoning Text Amendments, pursuant to the finding of facts denoted therein [and as amended at tonight's meeting] ."

Alternatively, the City Council may request that the Applicant extend, in writing, the statutory deadline for consideration of this application. The Applicant may also unilaterally extend this deadline at its own discretion. Staff will have prepared a draft extension agreement, should this possibility be further considered by the Council and/or Applicant on Tuesday.

ATTACHMENTS:

1. Staff Report – (OP/PUD Concept Plan Review)
2. Ordinance No. 08-025 (Establishing an OP-2 Overlay District)

3. Staff Notes from 6/9/10 Public Information Meeting
4. Additional Material from Applicant from 7/15/2010
5. Material to be delivered on 7/19/2010
 - Draft Resolution 2010-036A
 - Draft Resolution 2010-036B
 - Additional Material from Applicant

Please Bring Materials Submitted from an Earlier Meeting (5/4/10):

- Staff Report
- Concept Plan Narrative & Zoning Text Amendment
- Farm School and Senior Living Concept Plans
- Development Application Form
- Response to Incompletion Letter
- Review Comments:
 - Minnesota Department of Transportation
 - Valley Branch Watershed District
 - Oakdale Fire Department (Public Safety)
 - City Engineer
- Future Land Use Map (Applicant's Site and RAD2 Areas)
- Aerial Image of Site

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item.....City Administrator
- Report/PresentationMr. Klatt, Planning Director
- Questions from Council to Staff..... Mayor Facilitates
- Applicant Input/Discussion, if Appropriate Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Council Discussion.....Mayor & City Council
- Council Action/Direction Mayor Facilitates