



# MAYOR & COUNCIL COMMUNICATION

**DATE: December 3, 2013**  
**REGULAR**  
**ITEM #10**

**AGENDA ITEM:** Comprehensive Plan and Zoning Map Amendment – 10689 60<sup>th</sup> Street North

**SUBMITTED BY:** Nick M. Johnson, City Planner

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Planning Commission  
Kyle Klatt, Community Development Director  
Jack Griffin, City Engineer  
Tod Sherman, MnDOT

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item .....Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECCOMENDER:** The Planning Commission unanimously recommends denying the request to amend the City’s Comprehensive Plan and Zoning Map for a property located at 10689 60<sup>th</sup> Street North. In recommending to deny the request, the Planning Commission made three findings of fact related to the denial of the application.

**FISCAL IMPACT:** None – All costs incurred to the City through the review of the application are reimbursed by Land Use Application fees.

**SUMMARY AND ACTION REQUESTED:** The City Council is asked to consider a request to amend the City’s Comprehensive Plan and Zoning Map to change the zoning of a property at 10689 60<sup>th</sup> Street North from Rural Residential to Commercial. The purpose of the request is to bring the property’s zoning into conformance with the existing use of the property, as the applicants currently use the site as a base of operations for three landscaping businesses. In reviewing the request, staff determined that the proposed amendment is not consistent with the intent of the Comprehensive Plan. In addition, the rezoning would represent a Spot Zoning

action in the judgment of staff. Finally, based upon the fact that the site is accessed via a direct driveway onto eastbound TH 36, staff does not find that adequate access is provided in order to serve a commercial site. The Planning Commission reviewed these findings and affirmed them with a unanimous recommendation to deny the applicant's request.

*The Planning Commission is recommending that the City Council deny the request to amend the City's Comprehensive Plan and Zoning Map through the following motion:*

***“Move to adopt Resolution 2013-104, denying the Comprehensive Plan and Zoning Map Amendment request at 10689 60<sup>th</sup> Street North.”***

**LEGISLATIVE HISTORY/PLANNING COMMISSION REPORT:** The City adopted the current version of the Comprehensive Plan in April of 2013 (Resolution #2013-025). The amendment to the Comprehensive Plan included a new Land Use Plan, designating three areas of the city for planning purposes; 1) the I-94 Corridor Planning Area, 2) the Village Planning Area, and 3) the Rural Planning Area. By designating three planning areas of the community in the Land Use Plan (Chapter III of the Comprehensive Plan), the intent was to plan for future growth and development in the I-94 Corridor and Village Planning Areas, while maintaining rural character in the Rural Planning Area. As part of this planning effort, the subject parcel (10689 60<sup>th</sup> Street N.) is located in the Rural Planning Area. The land use guidance for this parcel under the Comprehensive Plan is Rural Area Development (RAD). In addition, under the City's Zoning Map, the policy tool used to implement the Comprehensive Plan, the zoning for the subject parcel is Rural Residential. The Comprehensive Plan and the Zoning Map are the key policy documents as they pertain to the legislative history of this request.

Regarding the Planning Commission review of the request, it should be noted that a Public Hearing was held on November 25, 2013. During the Public Hearing, the Planning Commission received the following testimony:

- Mr. Keith Bergmann, 5833 Lake Elmo Ave. N., stated that he does not support the request to change the zoning at 10689 60<sup>th</sup> Street North to Commercial. While he stated that he does support more commercial zoning in Lake Elmo overall, particularly along TH-36, he does not support this request because he feels it is consistent with a spot zoning action. In addition, Mr. Bergmann noted that he owns the property next to the subject property. He stated that the applicants have not taken good care of the property and dumped debris on his property in the past. He does not support the applicant's request to rezone the property to Commercial.

After testimony was gathered, the Planning Commission discussed the application briefly and made a motion to recommend denial of the Comp Plan and Zoning Map Amendment request. The Planning Commission affirmed the three findings in the Staff Report, with the exception of modifying the third finding slightly. The findings of fact by the Planning Commission include the following:

1. That the proposed Comprehensive Plan Amendment is not consistent with the intent and purpose of the City's Land Use Plan, which encourages growth and development in the I-

94 Corridor and Village Planning Areas while maintaining rural character in the Rural Planning Area.

2. That rezoning the property to Commercial would represent a Spot Zoning action due to inconsistency with the City's Comprehensive Plan and incompatible surrounding land uses.
3. That direct driveway access onto TH 36 represents a hazard to public safety and poor access management, and is not consistent with the State, County and City planning efforts for the corridor to date.

### **BACKGROUND INFORMATION (SWOT):**

**Strengths:** Denying the request to amend the City's Comprehensive Plan demonstrates the City's commitment to its Land Use Plan and vision for the community. When alternative access can be provided to the sites along TH-36, the City can revisit the long-term planning for the TH-36 Corridor. Maintaining the rural zoning for this area also relieves the City from the burden of a possible Spot Zoning action

**Weaknesses:** N/A

**Opportunities:** N/A

**Threats:** If the City proceeds with the rezoning of the subject property to Commercial, the City may be vulnerable in terms of completing a Spot Zoning action. The subject property is not planned for Commercial use in the City's Comprehensive Plan, and all surrounding lands are zoned in a manner that is consistent with the Rural Planning Area.

### **RECOMMENDATION:**

*Based on the aforementioned, the Planning Commission is unanimously recommending that the City Council deny the request to amend the City's Comprehensive Plan and Zoning Map through the following motion:*

***“Move to adopt Resolution 2013-104, denying the Comprehensive Plan and Zoning Map Amendment request at 10689 60<sup>th</sup> Street North.”***

### **ATTACHMENTS:**

1. Resolution 2013-104
2. Staff Report, 11-25-13
3. Land Use Application
4. Location Map
5. Site Aerial

6. Future Land Use Map (Map 3-3 from Comprehensive Plan)
7. Proposed Comprehensive Plan Amendment: RAD to C
8. Urban and Rural Areas (Map 3-1 from Comprehensive Plan)
9. Lake Elmo Zoning Map
10. Code Enforcement Letter/Agreement
11. City Engineer Review Letter
12. MnDOT Review Letter
13. “Understanding Spot Zoning”, Daniel Shapiro, Esq.