



PLANNING COMMISSION
DATE: 2/23/15
AGENDA ITEM: 4B – PUBLIC HEARING
CASE # 2015-07

ITEM: Zoning Text Amendment – Liquor Store Use in Convenience Commercial Zoning District

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Community Development Director
Adam Bell, City Clerk

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to hold a public hearing on a request to amend the City's Zoning Code to allow liquor stores as a permitted use within the Convenience Commercial zoning district. Staff is recommending that the Planning Commission recommend approval of the requested Zoning Text Amendment.

GENERAL INFORMATION

Applicant: Keith P. Carlson, CHO Investments, 1626 Hunter Hill Road, Hudson, WI 54016

Property Owners: CHO Investments, 9630 Walleye Road NW, Brandon MN 56315

Location: N/A – Request would allow for liquor stores as a permitted use in the Convenience Commercial zoning district city-wide (currently two locations in Lake Elmo have Convenience Commercial zoning designation)

Request: Keith P. Carlson and CHO Investments are requesting to amend the City's Zoning Code to change liquor stores as a permitted use in the Convenience Commercial (CC) zoning district.

Existing Land Use: N/A

Existing Zoning: N/A

Surrounding Land Use: N/A

Surrounding Zoning: N/A

Comprehensive Plan: N/A

Proposed Zoning: N/A

History: The Commercial zoning districts were updated in 2012 as part of a broader effort to update the City's Zoning Code in advance of sewered growth in Lake Elmo. As part of this Zoning Code update, the current commercial zoning districts were added, and permitted, conditional and interim uses identified. At that time, liquor stores were not included as a permitted use in the Convenience Commercial zoning district.

Applicable Regulations: Article XII – Commercial Districts (§154.551)

REQUEST DETAILS

Keith Carlson and CHO Investments have applied for a zoning text amendment to amend the City’s Zoning Code to allow liquor stores as a permitted use in the Convenience Commercial (CC) zoning district. The Planning Commission is asked to hold a public hearing on the request, as all changes to the City’s Zoning Code require a public hearing. The applicants currently own one of the two sites in Lake Elmo that is zoned Convenience Commercial (see Attachment #4).

BACKGROUND

Keith Carlson and CHO Investments currently own and manage the commercial property at 11025 10th Street North (southeast corner of Lake Elmo Ave. and 10th St.). To supplement the current neighborhood convenience store use of the site, the owner and tenant have proposed to open a liquor store. The applicants applied for a liquor license in January of 2015. Upon review of the liquor license in the context of the City’s Zoning Code, it was found that liquor stores are currently not permitted in the Convenience Commercial zoning district. When the applicants submitted the liquor license for this property, they were not aware of the current restriction on liquor stores in the CC district. In fact, when operated by a previous business owner, the neighborhood convenience store previously had a 3.2% liquor license, which is now no longer valid. After the review of the liquor license was completed, the property owner was notified that a zoning text amendment would be required to operate a liquor store on a parcel with the CC zoning designation.

The subject property is one of two sites in Lake Elmo zoned Convenience Commercial. The two sites are located at 11025 10th Street North and 4201 Manning Avenue North. Both of these sites include a gasoline station and neighborhood convenience store. Attachment #4 includes a map that identifies the location of the two parcels with the CC zoning designation. In addition, the City’s Official Zoning Map is also attached (Attachment #3). After further consulting City staff, the applicants have submitted a zoning text amendment to allow liquor stores as a permitted use in the CC zoning district based on the current restriction as identified in the Zoning Code.

STAFF REVIEW COMMENTS:

In order to review whether or not liquor stores are an appropriate use in the Convenience Commercial (CC) zoning district, staff reviewed the purpose statement for the district in Article XII – Commercial Districts of the City’s Zoning Code. The purpose statement for the CC zoning district reads the following:

The CC District is established to provide for smaller scale commercial development and attractive neighborhood shopping centers that are compatible with surrounding residential and business park development, ideally located at the intersection of two or more collector streets or at the intersection of an arterial and collector street. Convenience goods and services are those which are purchased frequently, i.e., at least weekly; for which comparison buying is not required; and which can be sustained in a limited trade area. Such uses include convenience markets, personal services and repair shops. A limited number of other uses, including but not limited to restaurants, gas stations, medical centers, religious institutions, transit-related park-and-ride lots, and facilities with drive-up windows, are also allowed.

In the context of this purpose statement, staff finds that liquor stores are in fact consistent with the purpose and intent of the CC zoning district. The reasons or findings for this determination are the following:

1. Liquor Stores are consistent with and are typically found within smaller scale commercial developments.
2. Liquor Stores include the sale of goods that are purchased frequently and can be sustained within a limited trade area.
3. The existing parcels zoned Convenience Commercial are located at the intersections of arterial roadways, thereby allowing adequate access to the site and being in conformance with the purpose or intent of the zoning district.

It should be noted that from a planning perspective liquor stores do not present greater impacts to neighboring properties than other general retail uses or forms of retail trade. They all generate similar amounts of traffic and have similar considerations with regards to land use compatibility. The purpose of the Convenience Commercial district is to allow for smaller scale commercial activities, including general retail sales, that will have limited impacts to nearby residential land uses. In the judgment of staff, a liquor store qualifies as a land use that is a limited commercial use in nature. It should be noted that other retail uses that do have larger amounts of traffic and other associated impacts, such as garden centers, building supplies sales, warehouse club sales, grocery stores, supermarkets, and other larger scale uses, are also not permitted in the CC district. When comparing liquor stores to these other larger retail uses that are not consistent with the intent of the CC district, it is clear to staff that the level of traffic and activity of a neighborhood liquor store is far less than that of the other aforementioned uses. For that reason, liquor stores would be an acceptable use that is consistent with the intent of the CC district in the judgment of staff.

In addition to the analysis about whether or not liquor stores as a use are appropriate for the Convenience Commercial district, it should be noted that the proposed action does not remove or replace the procedural requirements necessary for the applicants to procure a liquor license from the City. In order to receive a liquor license, a public hearing must be held by the City Council. The Council has wide discretion in approving or denying the license issuance. As part of the review for a proposed liquor license, the City has the Washington County Sherriff's Office conduct a thorough background check and provide review comments on an annual basis. Following the law enforcement review and subsequent approval by the City, the application is then submitted to the Minnesota Department of Safety for final review. All liquor licenses must be renewed on an annual basis and can be suspended or revoked for any infractions or violations at any time. The reason these procedural steps are highlighted is to note that the proposed action this evening relates solely to whether or not liquor stores should be a permitted use within the CC zoning district, not as to the merits of the applicants' request for a liquor license. To summarize, the requested action would amend the City's Zoning Code to allow the liquor store use in the CC zoning district, as opposed to making a recommendation on an application for a liquor license in a specific location for a specific applicant.

RECCOMENDATION:

Staff is recommending that the Planning Commission recommend approval of the requested zoning text amendment to allow liquor stores as a permitted use in the Convenience Commercial zoning district. The recommended motion is as follows:

“Move to recommend approval of the requested Zoning Text Amendment to change liquor stores to a permitted use in the Convenience Commercial Zoning District based on the findings of fact listed in the Staff Report.”

ATTACHMENTS:

- 1. Land Use Application and Supporting Narrative
- 2. Proposed Zoning Text Amendment
- 3. City’s Official Zoning Map
- 4. Location Map of Parcels Zoned CC

ORDER OF BUSINESS:

- Introduction.....Community Development Director
- Report by Staff..... City Planner
- Questions from the Commission..... Chair & Commission Members
- Open the Public HearingChair
- Close the Public Hearing.....Chair
- Discussion by the Commission Chair & Commission Members
- Action by the Commission..... Chair & Commission Members

Date Received: 2/11/15
Received By: [Signature]
Permit #: _____



651-747-3900
3800 Laverne Avenue North
Lake Elmo, MN 55042

LAND USE APPLICATION

- Comprehensive Plan Zoning District Amend Zoning Text Amend Variance*(see below) Zoning Appeal
- Conditional Use Permit (C.U.P.) Flood Plain C.U.P. Interim Use Permit (I.U.P.) Excavating/Grading
- Lot Line Adjustment Minor Subdivision Residential Subdivision Sketch/Concept Plan
- PUD Concept Plan PUD Preliminary Plan PUD Final Plan

Applicant: Keith P. Carlson / CHO investment
Address: 1626 Hunter Hill Rd Hudson WI 54016
Phone #: 612-819-1837
Email Address: RAM12-S@hotmail.com

Fee Owner: CHO investments
Address: 9630 Walleye Rd NW Brandon MN
Phone #: 612-819-1837
Email Address: _____

Property Location (Address and Complete (long) Legal Description): See attached
11029 10th St N Lake Elmo MN 55042

Detailed Reason for Request: See attached

*Variance Requests: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the applicant must demonstrate practical difficulties before a variance can be granted. The practical difficulties related to this application are as follows:

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: [Signature] Date: 2-11-15

Signature of fee owner: [Signature] Date: 2-11-15

Property Location and legal description

Address: 11029 10th St. N., Lake Elmo, MN 55042

Parcel PID: 36.029.21.22.0001

Section: Under article XII section 154.550 of the Lake Elmo zoning code, the property is coded as CC Convenience Commercial District. The City zoning code states, "The CC District is established to provide for smaller scale commercial development and attractive neighborhood shopping centers that are compatible with surrounding residential and business park development, ideally located at the intersection of two or more collector streets or at the intersection of an arterial and collector street. Convenience goods and services are those which are purchased frequently, i.e., at least weekly; for which comparison buying is not required; and which can be sustained in a limited trade area. Such uses include convenience markets, personal services and repair shops. A limited number of other uses, including but not limited to restaurants, gas stations, medical centers, religious institutions, transit related park-and-ride lots, and facilities with drive-up windows, are also allowed." This zoning text does not currently allow for liquor sales.

Detailed Reason for Request

We are requesting to amend the zoning text to allow the sale of liquor in the CC Convenience Commercial District zoning of Lake Elmo. Our goal is to obtain a liquor license and provide the residents of Lake Elmo with a liquor store on 11029 10th St. N., Lake Elmo, MN 55042.

Reasoning: Since 2012, the existing tenants of the gas station/store within the building have heard complains from neighboring residents regarding the lack of liquor store within the area. There are no liquor stores within a 3 mile radius and many residents do not have vehicles to drive the distance. They have had to find rides to neighboring cities such as Woodbury, Oakdale, or Hudson (Wisconsin) for their needs. Those who do have a source of transportation are also taking their money to these neighboring cities. Many housing units are scheduled to be built near the property in the near future. The sales tax from these future tenants can go to the city of Lake Elmo rather than neighboring cities. Amending the zoning text will only affect one other very small parcel within Lake Elmo. I have owned the building since 1982 and would like to develop the location to create value. Adding a liquor store in the location will create 4-5 job openings for our neighborhood.

Our commitment: We commit to contributing a safe liquor store business to Lake Elmo. We will employ a top of the line security system including cameras, motion sensors, and an alarm. We will also be installing metal bars along the windows and door to deter any potential break in. Any persons under the age of 21 will not be permitted to enter the establishment and Identification will be required for every sale.

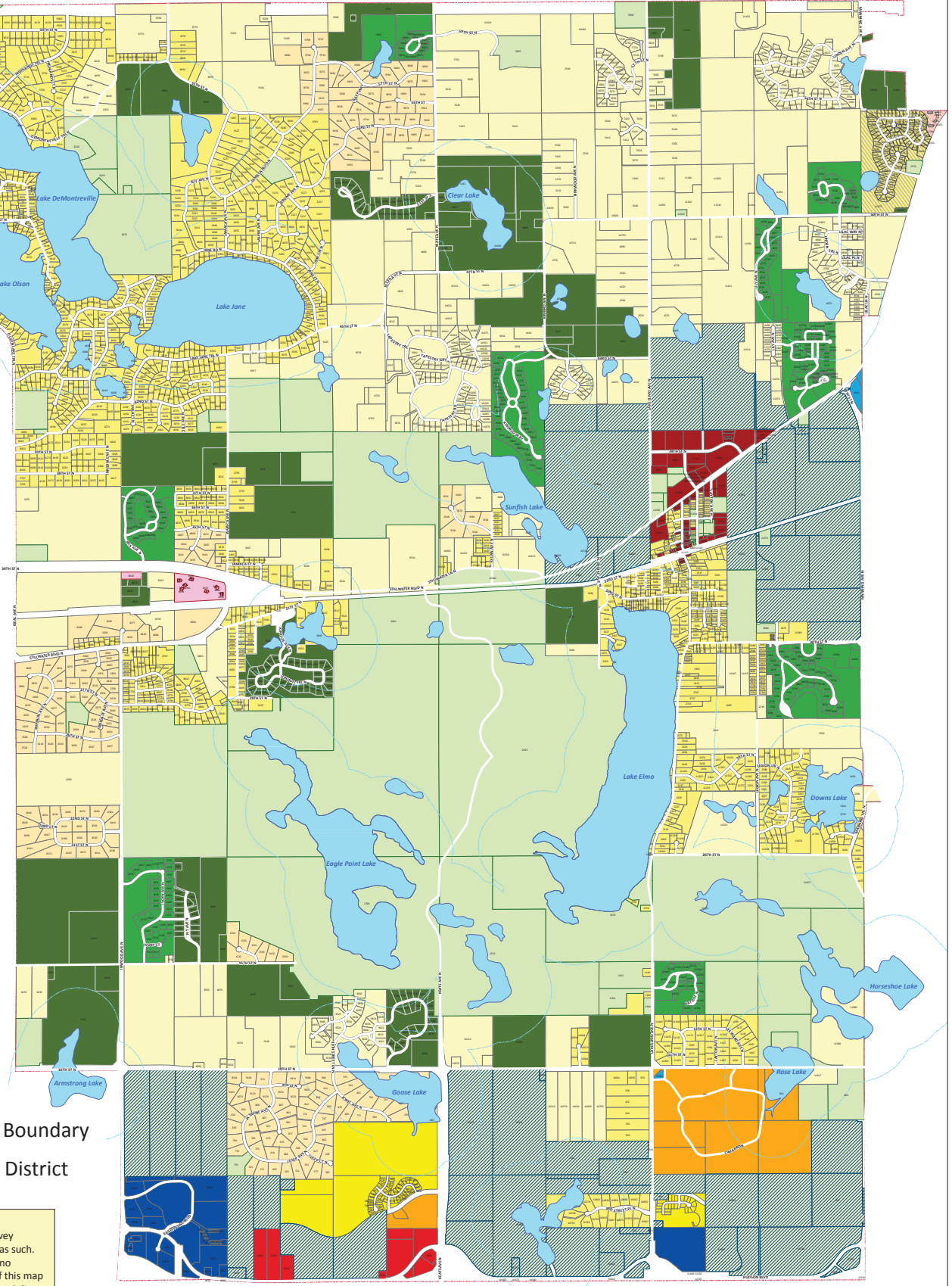


ZONING DISTRICTS

- A
- BP
- C
- CC
- GB
- LC
- LC-PUD
- LDR
- MDR
- OP
- PF
- R2-PUD
- RE
- RR
- RS
- RT

- Municipal Boundary
- Shoreland District

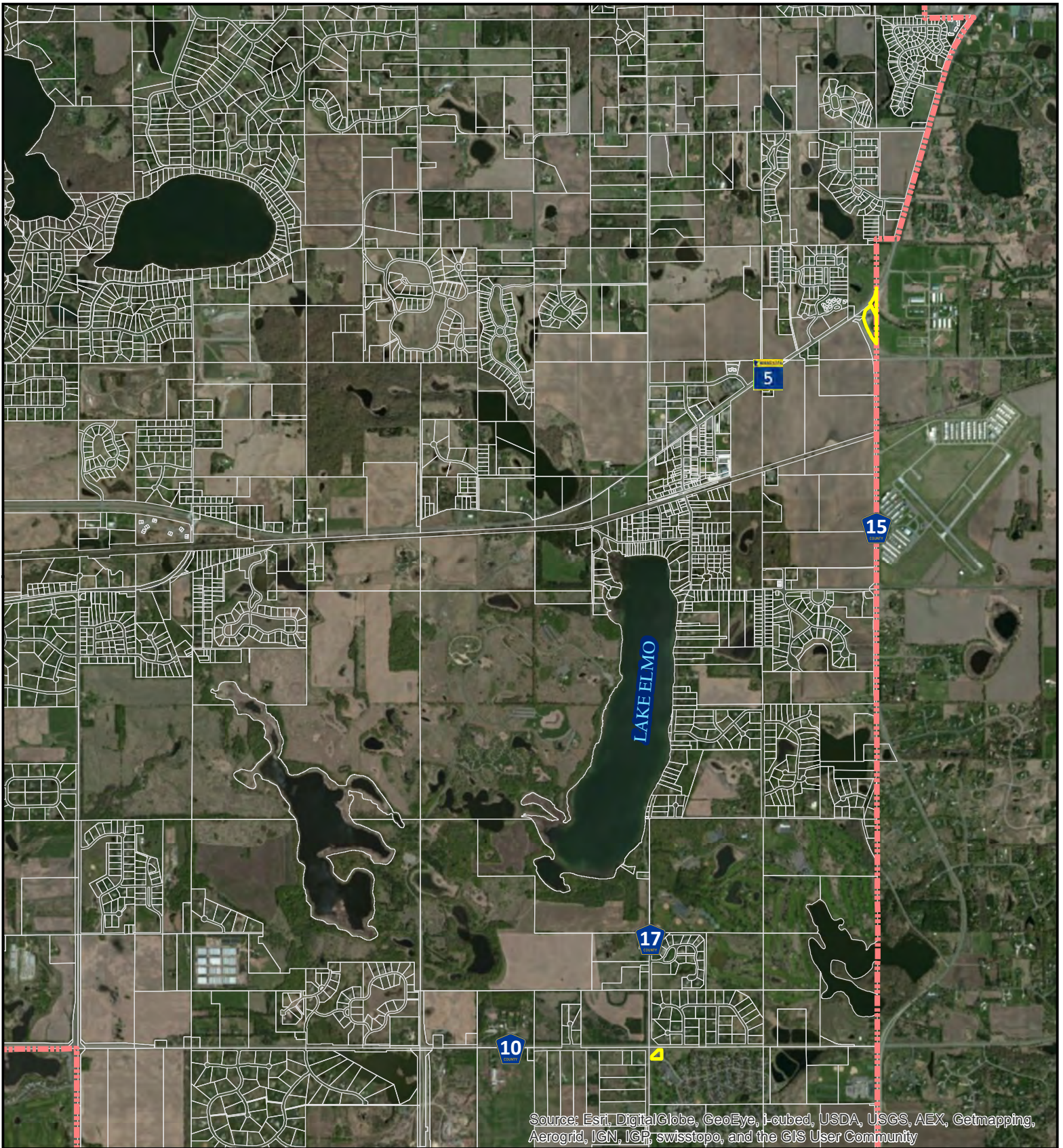
Data Disclaimer:
 This map is not a boundary survey and is not intended to be used as such. The City of Lake Elmo assumes no liability for the completeness of this map or responsibility for any associated direct, indirect, or consequential damages that may result from its use or misuse.



Sources: Washington County & Metro GIS
 1-9-2015

Official Zoning Map






Location Map: Parcels with CC Zoning



Data Source: Washington County, MN
2-18-2015

 Parcels in Lake Elmo with CC zoning

