

Memorandum

DATE: 5-10-16
TO: Lake Elmo City Council
FROM: Stephen Wensman, City Planner
SUBJECT: OP Ordinance Update –Initial Draft for Discussion

PURPOSE

To update the City's OP development codes to eliminate on-going issues (i.e. allowed density, required buffers, lot design, etc) and to ensure these developments are meeting the City's expectations.

APPROACH SUMMARY

The City's recent experiences with the Legends of Lake Elmo Open Space development kicked off a great deal of discussion at both the City Council and Planning Commission level as to whether the existing regulations are still accomplishing the City's stated goals. This in turn prompted the City Council to direct staff to begin an update process which is now underway with this initial draft.

While the language before the Council focuses solely on the OP update, please note that a number of additional changes will also be needed given the state of the City's current ordinances:

1. Definitions may need to be updated;
2. The OP regulations should be relocated from Chapter 150 to the more appropriate Chapter 154; and
3. Some Articles in Chapter 154 are numbered while others are not. In order to place this new language in 154, all Articles will need to be given a number, and all Article references throughout zoning will need to be updated accordingly.

With regards to how the OP ordinances should be updated, the City requested that Sambatek put together an initial draft to begin the discussion. Specific issues to address included but were not limited to:

- Continue placing a focus on proper septic site locations to determine future lot locations, but maintain the current set of options (individual and communal options);
- Give more options as to what could be done on Open Space land;
- Add criteria for what buffers will be required;
- Limit accessory structure height to 22'
- Maintain 40 acre minimum before OP can be used;

- Consider referencing new landscaping regulations;
- Consider updates to hardcover regulations;
- Change all references to an HOA to a CIC;
- Provide for a slight increase in density by right (many have received waivers for up to 20 units per 40 acres);
- Maintain open space requirements;
- Maintain 4/5 waiver voting requirement by Council;
- Update street requirements per direction of the City Engineer;
- Consider updating the process if necessary (i.e. transitioning to an overlay district rather than a CUP)
- Remove redundancy found throughout the current regulations.

The draft that is now before the Council attempts to address the goals above, but will certainly need adjusting based on the feedback we receive. Having already been through the Planning Commission in April, the current draft has already been updated to address some of their main concerns while still tackling the above list. At some points in this draft, Sambatek is suggesting shifts in policy (i.e. minimum lot sizes) that have not been specifically requested, but are absolutely worth discussion at this early stage. Please give each provision and the process as a whole your best consideration, and come to the meeting prepared with comments as to what you like, what you don't like, and/or other ideas that should be considered or studied moving forward.

The current plan is to utilize Council's direction to craft a final draft that will go before the Planning Commission one more time prior to a public hearing being scheduled.

DRAFT ORDINANCE SUMMARY

Open space developments in Lake Elmo have always focused on tailoring development requirements to a specific piece of property to ensure the end result was best for the property in question, best for surrounding lands, and best for the City as a whole to maintain its rural character. Based on this premise, the major transition in policy being proposed is to discontinue using CUPs to approve these developments, and instead treat OP as specialized Planned Unit Developments.

The resulting draft ordinance is broken down into the following sections:

154.650 Purpose

This section simply states what the City is trying to accomplish when it reviews and approves "open space planned unit developments."

154.651 Intent

This section outlines specific things the City wants to accomplish with open space planned unit developments including allowing for a variety of housing types in the rural areas of the city, allowing for increased density, reducing infrastructure costs, protecting open space, and creating distinct but interconnected rural neighborhoods.

154.652 Definitions

This section references 11.01 as the City's location for applicable definitions.

154.653 Initiation of Proceedings

This section simply outlines how a landowner can begin the open space PUD process.

154.654 Reflection on the Official Zoning Map

This is our first reference to the fact that OP regulations for each development will now be incorporated into an overlay district. Accordingly, issued not addressed by the OP ordinance will be handled by the underlying zoning regulations, so the City will not need to worry about missing details during the approval process.

154.655 Prerequisites for Open Space PUDs

Must be zoned Agricultural, Rural Residential, or Rural Estates

Must have a minimum of 40 acres

Land must be under single ownership or have legally sufficient documentation if under multiple party control

154.656 Uses Within Open Space PUDs

Here we maintained existing language. The only transition proposed is to allow the overlay district regulations to amend specific use provisions that may otherwise be in code. For example, if wayside stands are limited to one per lot, the overlay district regulations may specifically identify an area within preserved open space where up to three wayside stands may be erected at any point in time. The use has not changes, but the specific rules governing the use may be amended if deemed appropriate as part of the PUD approval.

154.657 Open Space PUD Design Standards

This section will require ample examination as it completely reorganizes the City's existing regulations that impact lot design. As presented, the language is intended to ensure the City's goals are met, and updates the lot development process to more closely follow the process pioneered by Randall Arendt in his book Rural by Design.

The current guidance on lot design is unorganized, difficult to follow, and has no connection to how developers actually approach the creation of a development plan. What we've tried to accomplish in this section is to maintain the existing regulations (updated as requested and/or as necessary), but to

structure them in a logical order that will result in the end results desired by the City. The process would be as follows:

Step 1: Soil Analysis Completed. All soils identified and ranked as either highly suitable, moderately suitable, or poorly suitable for septic facilities.

Step 2: Septic Design Identified. Based on the soils data, the areas for communal septic drain fields must be identified. If individual sites are proposed, the applicant at this step must be able to show adequate soils exist throughout the site for such a proposal.

Step 3: Identification of Required Buffers. Currently this is way too much of an afterthought. This new process will REQUIRE that buffers be thought about before anything is designed. Existing requirements are still listed in the draft language, but we are recommending two changes. First, if a neighboring OP development has specialized setbacks, the required buffer in the proposed development is to be equivalent to that established setback. Second, Council has full authority to reduce or eliminate buffers based on topography, vegetation, proposed improvements, etc.

Step 4: Identification of Building Pads. With areas designated for septic identified and required buffers shown, the developer is to then identify proposed home locations. Locations must minimize needed grading, minimize tree loss, protect historic sites, etc. If individual septic sites are proposed, each home site should also ID the general area for septic. If communal drain fields are proposed, each home site should identify the communal drain field to be used.

Step 5: Placement of Streets. With building pads and septic areas now located, right-of-way for proposed roadways can now be identified. Again, road placement must minimize changes to the natural topography, limit tree removal, etc.

Step 6: Lot Creation. As a second to last step, the developer will then draw proposed lot lines showing total lot area and total available buildable area per lot given setbacks, septic areas, etc.

Step 7: Open Space and Parkland Adjustments. With lots now identified, the remaining open space and possible park land dedication must be adjusted to meet minimum requirements. If lots need to be reduced in size or eliminated, that's simply what must occur. Parkland and open space minimum requirements are proposed to remain consistent with existing standards.

While some may argue that placing open space at the end of the development process makes little sense given that is the focus of these developments, staff would argue otherwise. Current code requires that proper soils and good septic sites be the driver of developments, but that simply isn't occurring. By forcing the above process to be used, the City will ensure the best septic sites DO become the focus of how a development is organized; and by dictating that building pads and roads must achieve general development goals (i.e. minimize grading, avoid vegetation, etc); the resulting open space WILL be the areas the City wishes to preserve. Furthermore, the City can demand that a developer preserves the best open space all it wants, but that will never change the fact that

developers will ALWAYS be more focused on the quality and value of lots they are creating, and the resulting open space will simply be an afterthought.

154.658 Open Space PUD Development Standards

Here we maintain the city's existing regulations relating to open space (must be placed in a conservation easement, must be maintained for its intended purpose, etc), septic systems, building standards, landscaping standards, impervious surface standards, and trail standards. In other words, 154.657 includes all of the regulations that dictate how the development is laid out, while Section 154.658 tells the applicant how the development must be constructed and improved.

154.659 Buffer Setbacks in OP Developments

This will likely need to be relocated, but is included here as a place-holder for now.

154.660 Open Space PUD Review Criteria

Lists the questions the City will ask when reviewing these types of developments.

154.661 Open Space PUD Review Procedure

This lengthy section outlines the process to be used to review open space PUDs from beginning to end. For initial discussion purposes, we are proposing a five (5) step, very transparent process:

- 1) **Sketch Plan Review** – initial review by the City, and determination by Council as to what modifications may be pursued in the future.
- 2) **Preliminary Plan Review** – traditional preliminary plat & development plan review process. The term “preliminary” is sometimes misconstrued by the public, so we’re offering up “concept” as an alternate term for consideration.
- 3) **Final Plan Review** – traditional final plat/plan reviews with the additional need for a public hearing to approve the final PUD overlay district ordinance that will govern the development.

Each of these steps outlines the information that must be submitted for a complete application, and outlines the process to be used by the City during the review.

154.662 Open Space PUD Amendments

This section will deal with how the City will process amendments to both open space PUDs and existing OP developments.

154.663 PUD Cancellation

This section will outline the process for cancelling a previous PUD approval.

154.664 Administration

This section includes some final rules and regulations deemed important by staff.

Note: **Language in RED** within the draft ordinance indicates language that must be added, amended, or still needs to be addressed.

PLANNING COMMISSION REVIEW

In preparation for the meeting on the 10th, we strongly encourage you to read through this draft and prepare questions for discussion ahead of time. Nothing is finalized, and feedback from the Commission and Council in the coming weeks will dictate the final ordinance to be assembled by staff.

Thank you!