



## MAYOR AND COUNCIL COMMUNICATION

DATE: 12/20/2016

**REGULAR**

ITEM #: 21

**AGENDA ITEM:** Zoning Map Amendment – Diedrich Property

**SUBMITTED BY:** Stephen Wensman, Planning Director

**THROUGH:** Kristina Handt, City Administrator

**REVIEWED BY:** Emily Becker, City Planner

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### **BACKGROUND:**

The City has received a request for a Zoning Map Amendment related to the Diedrich Property Preliminary Plat. The property received approval for a Comprehensive Plan Amendment to re-guide the property to Urban Medium Density in 2013, and Preliminary Plat approval was granted for development in 2015. The property has not yet been appropriately rezoned, however, and the applicant is requesting to rezone the property in a manner consistent with the Comprehensive Plan and Preliminary Plat approval. The applicant previously asked for two Preliminary Plat extensions, and so the applicant has until December of 2017 to either file for Final Plat or ask for an additional extension.

### **ISSUE BEFORE COUNCIL:**

The Council is respectfully requested to consider the request for a Zoning Map Amendment for the property known as Diedrich Property Preliminary Plat to Urban Medium Density Residential zoning.

### **PROPOSAL DETAILS/ANALYSIS:**

**Re-Zoning Process.** In a typical subdivision process, applicants will usually request a rezoning action along with a Preliminary Plat application. It is unclear to current Staff why this was not done, however. The Preliminary Plat staff report stated that the rezoning would occur prior to Final Plat, and its review was based on Medium Density Residential zoning. According to the applicant, because the property is not correctly zoned to accommodate the Preliminary Plat density, it has been difficult to attract and retain potential developers for the project.

**Density.** The approved Preliminary Plat is consistent with the medium density land use category, which is at 4-7.49 units/acre, as the proposed density is very close to 4 units per acre. The Preliminary Plat shows a net density of 3.71 acres, but it should be kept in mind that right-of-way will increase and the number of lots will decrease from 48 to 46, as the site plan was reconfigured due to Staff concerns over how the City will maintain its sewer and water infrastructure with private roads. It is expected that with the additional right-of-way, the density will be closer to four units per acre.

**Lot Size/Width.** All of the lots in the approved Preliminary Plat meet the City's minimum area requirement of 4,000 square feet per single-family attached unit in the MDR zoning district. The proposed subdivision lots averaged 8,782 square feet in size, with the smallest proposed lot at 5,527 square feet. The minimum lot width proposed is 40 feet, which exceeds the minimum requirements for the MDR district of 25 feet. The townhouses will need to meet all required setbacks for the MDR district.

**Preliminary Plat Status.** The deadline to file for Final Plat for the property will expire December 1, 2016. It was granted a 12-month extension on December 15, 2015. The applicant applied for and was granted an additional 12-month extension to allow for additional time to prepare for financing and other planning activities. If approved, the applicant will need to file for Final Plat or request an additional extension by December 1, 2017.

**Outlot D of Hunters Crossing.** The approved Preliminary Plat included Outlot D of Hunters Crossing. Therefore, this outlot should also be rezoned. CalAtlantic Group, Inc. has provided a letter stating it has no objection to the re-zoning of this outlot.

### **FISCAL IMPACT:**

The applicant has stated that it has been difficult to attract and retain potential developers for the project due to it not being properly zoned for the density the Preliminary Plat requires. Rezoning the property will potentially aid the progress of the property's development. The development would have the following financial impacts on the City:

- **5th Street.** The City will require that the applicant enter into a developer's agreement with the City to specify the financial responsibilities for various aspects of the subdivision and related public improvements. It is expected that the project will include the construction of the northern half of the segment of 5th Street to the east of Lake Elmo.
- **Municipal services and property taxes.** The developer is expected to pay the Water Availability Charge for the entire development at the time a final plat (\$138,000 per unit) and Sewer Accessibility Charge (\$138,000) similar to other developments that are connecting to the Municipal services. In addition, at the time of building permit issuance, water and sewer connection charges will be collected in the amount of \$2,000/unit (\$92,000). When fully developed, the property taxes will produce roughly  $(\$350,000 \times 46) \div 1000 = \$32,200$  in increased revenue per year.

**Request for Waiving of Fees.** The applicant has also requested that the fees associated with the Zoning Map Amendment be waived due to approval of the Comprehensive Plan Amendment for the property to Urban Medium Density. Generally, a property would be re-zoned simultaneously with Preliminary Plat approval, but, for a reason unbeknownst to current Staff, this did not happen, and the developer, as previously mentioned, has had difficulty attracting and retaining potential developers due to the zoning inconsistency with the approved Preliminary Plat. The costs associated with a Zoning Map Amendment include a \$1245.00 application fee and a \$2500.00 escrow. The applicant has submitted checks for these two amounts, both of which have been held in escrow until a decision has been determined by Council.

During a discussion regarding this land use application during a Staff meeting, Staff wanted to note that in 2013, the City vacated easements for which it paid the property owners of the subject property (PID# # 36.029.21.32.0002) \$16,141.75 for Public Utility Easement and Agreement as well as a Temporary Construction Easement and Agreement. These property owners were originally to pay back the amount considered for the easements, but ultimately the Council moved to ratify a 50% Reimbursement Agreement to Vacate the Permanent Public Utility Easement in December of 2014 at a total of \$8070.86 for past access considerations and future development potential including the land owner construction of 5<sup>th</sup> Street.

Staff also would like to note that while rezoning is usually done simultaneously with Preliminary Plat, Staff has found that in the past, the City has initiated Zoning Map Amendment requests in conjunction with specific

development proposals. Specifically, in 2014, perfecting amendments to the Zoning Map were initiated and approved by the City to rezone the following properties: 11210 50<sup>th</sup> St N; 5 parcels west of Lake Elmo Ave and north of 43<sup>rd</sup> Street; 3 parcels west of Lake Elmo Avenue and south of 43<sup>rd</sup> Street; parcel immediately north of Village Preserve and east of Lake Elmo Avenue; 3280, 3150, and 3000 Klondike Avenue; 11580 & 11520 30<sup>th</sup> Street North; 3040, 3080 and 3075 Lisbon Avenue North; Hammes Estates; NW quadrant of I-94 and Keats Avenue; Hunters Crossing; and Air Lake Development. These applicants were not required to pay the land use application fees associated with these Zoning Map Amendments. In 2015, similar Zoning Map perfecting amendments were adopted that rezoned Village Preserve, Village Park Preserve, and Easton Village from Rural Development Transitional to Limited Density Residential.

#### **PLANNING COMMISSION/PUBLIC HEARING:**

A public hearing was held on the proposed Zoning Map Amendment at the December 12, 2016 Planning Commission meeting. The meeting minutes are attached to this report. No one from the public spoke at the meeting. The Commission recommended approval with an affirmative vote of 7 to 0.

#### **OPTIONS:**

The Council may:

- Approve the Zoning Map Amendment request
- Deny the Zoning Map Amendment request

#### **RECOMMENDATION:**

Staff and the Planning Commission respectfully recommend that the Council approve the request made by Gerhard Rieder for a Zoning Map Amendment for the property referred to as Diedrich Property Preliminary Plat with the following motion:

***“Move to approve Ordinance 08-159 approving a Zoning Map Amendment for the property known as Diedrich Property Preliminary Plat, PID# 36.029.21.32.0002 from Rural Development Transitional to Urban Medium Density Residential and PID# 36.029.21.32.0034 from Urban Limited Density Residential to Urban Medium Density Residential.”***

If the Council approves the request by the applicant to waive the application fee associated with the Zoning Map Amendment, the Council may do so by the following motion:

***“Move to approve waiving the application fee for the Zoning Map Amendment request by Gary Rieder for the rezoning of the property known as Diedrich Property Preliminary Plat.”***

If the Council does not approve the request to waive the associated fee, the Council need not take further action.

#### **ATTACHMENTS:**

1. Ordinance 08-159 Approving Zoning Map Amendment
2. Zoning Map Amendment application
3. Current and Prosed Zoning Exhibit
4. Comprehensive Plan – Planned Land Use Map
5. Approved Preliminary Plat
6. Resolution Approving Comprehensive Plan Amendment
7. Planning Commission Meeting Minutes 12/12/16

CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA

ORDINANCE NO. 08-159

AN ORDINANCE TO AMEND THE LAKE ELMO CITY CODE  
BY AMENDING THE OFFICIAL ZONING DISTRICT MAP  
OF THE CITY OF LAKE ELMO

The City Council of the City of Lake Elmo ordains that Lake Elmo City Code, Section 154.032 Zoning District Map, of the Municipal Code, shall be amended by adding Ordinance No. 08-159, as follows:

**Section 1: Zoning Map Amendment.** The following property is hereby rezoned from RT - Rural Development Transitional to MDR - Urban Low Density Residential:

PT NW1/4-SW1/4 THE N 474.06FT SUBJ TO R/W OF LAKE ELMO AVE N (AKA AS CO HWY #17) CHG W/S TO #1 Section 36 Township 029 Range 021

**Section 2: Zoning Map Amendment.** The following property is hereby rezoned from LDR - Urban Low Density Residential to MDR - Medium Density Residential:

Lot D Subdivision Cd 2886 Subdivision Name HUNTERS CROSSING 1ST ADDITION

**Section 3:** The City Council of the City of Lake Elmo also hereby ordains that the Zoning Administrator shall make the applicable changes to the official zoning map of the City of Lake Elmo.

**Section 4: Effective Date.** This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

This Ordinance No. 08-159 was adopted on this 20<sup>th</sup> day of December, 2016, by a vote of \_\_\_\_ Ayes and \_\_\_\_ Nays.

\_\_\_\_\_  
Mike Pearson, Mayor

ATTEST:

\_\_\_\_\_  
Julie Johnson, City Clerk

Date Received: 10/31/16  
Received By: [Signature]  
Permit #: \_\_\_\_\_



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

\$1245 fee \$2500 exow submitted

## 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: Gerhard Rieder  
Address: 7401 Wyndham Way  
Phone # 651-587-0829  
Email Address: \_\_\_\_\_

Fee Owner: Gerhard Rieder  
Address: 7401 Wyndham Way  
Phone # 651-587-0829  
Email Address: riedergary@comcast.net

Property Location (Address and Complete (long) Legal Description: See attached preliminary plat included

- To comply with Comp plan zoning as medium density

Detailed Reason for Request: Ask that fee be waived due to  
land guidance was approved amended on City Council meeting  
guiding land on comp plan to medium density

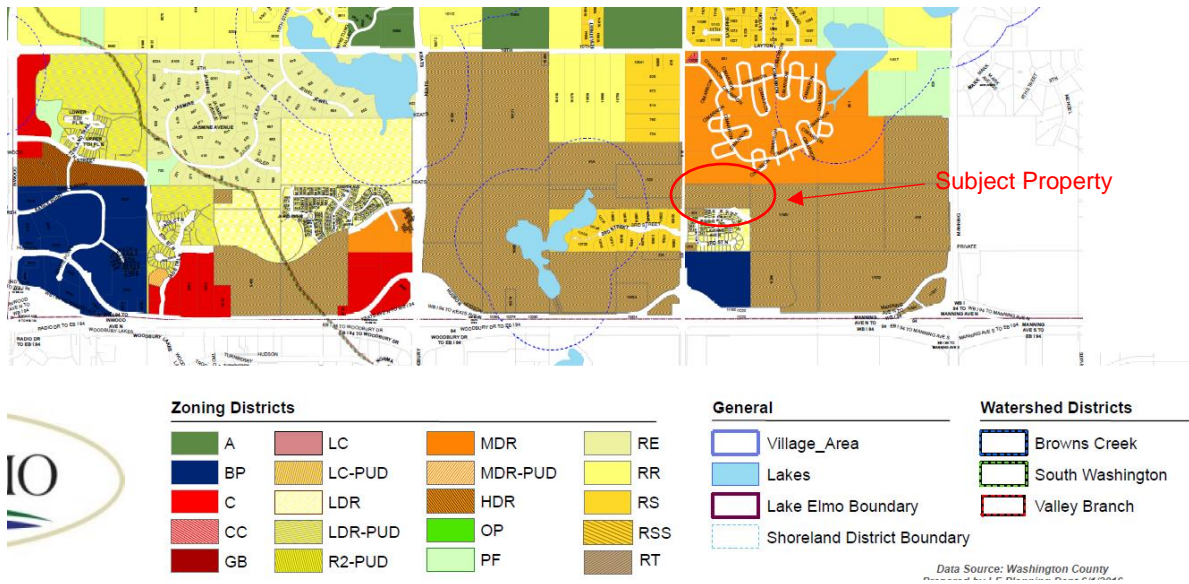
\*Variance Requests: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the applicant must demonstrate practical difficulties before a variance can be granted. The practical difficulties related to this application are as follows:

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.

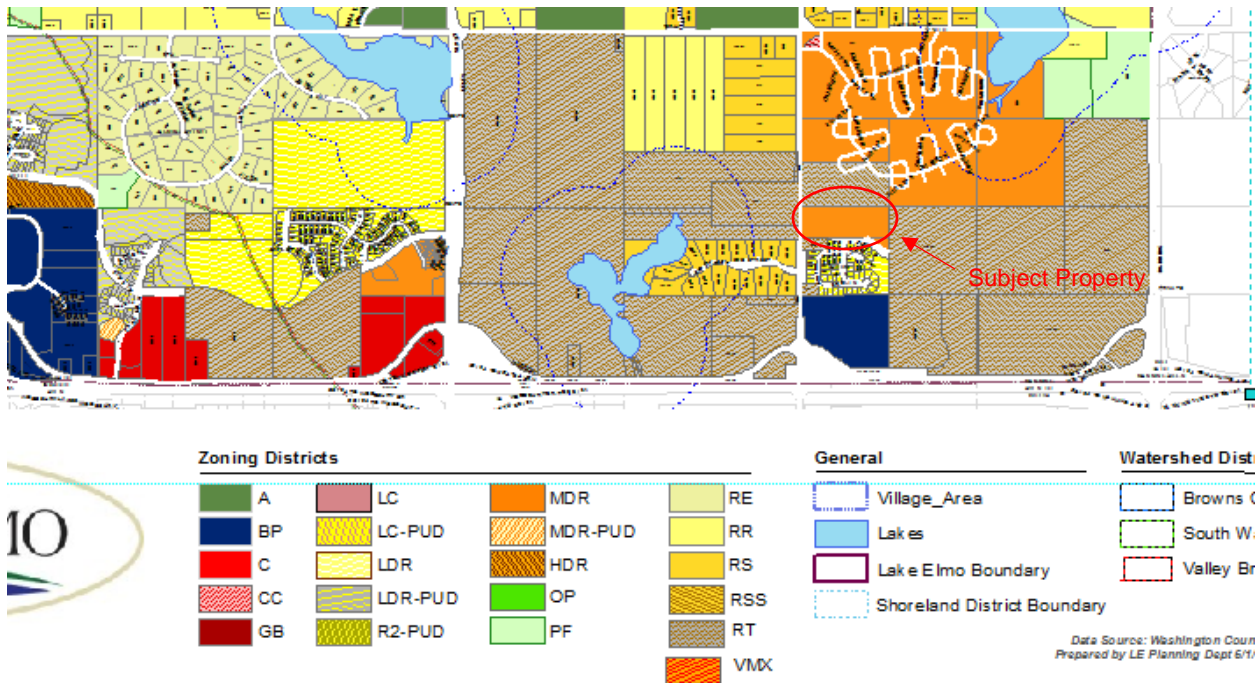
Signature of applicant: [Signature] Date: 10/31/16

Signature of fee owner: [Signature] Date: 10/31/16

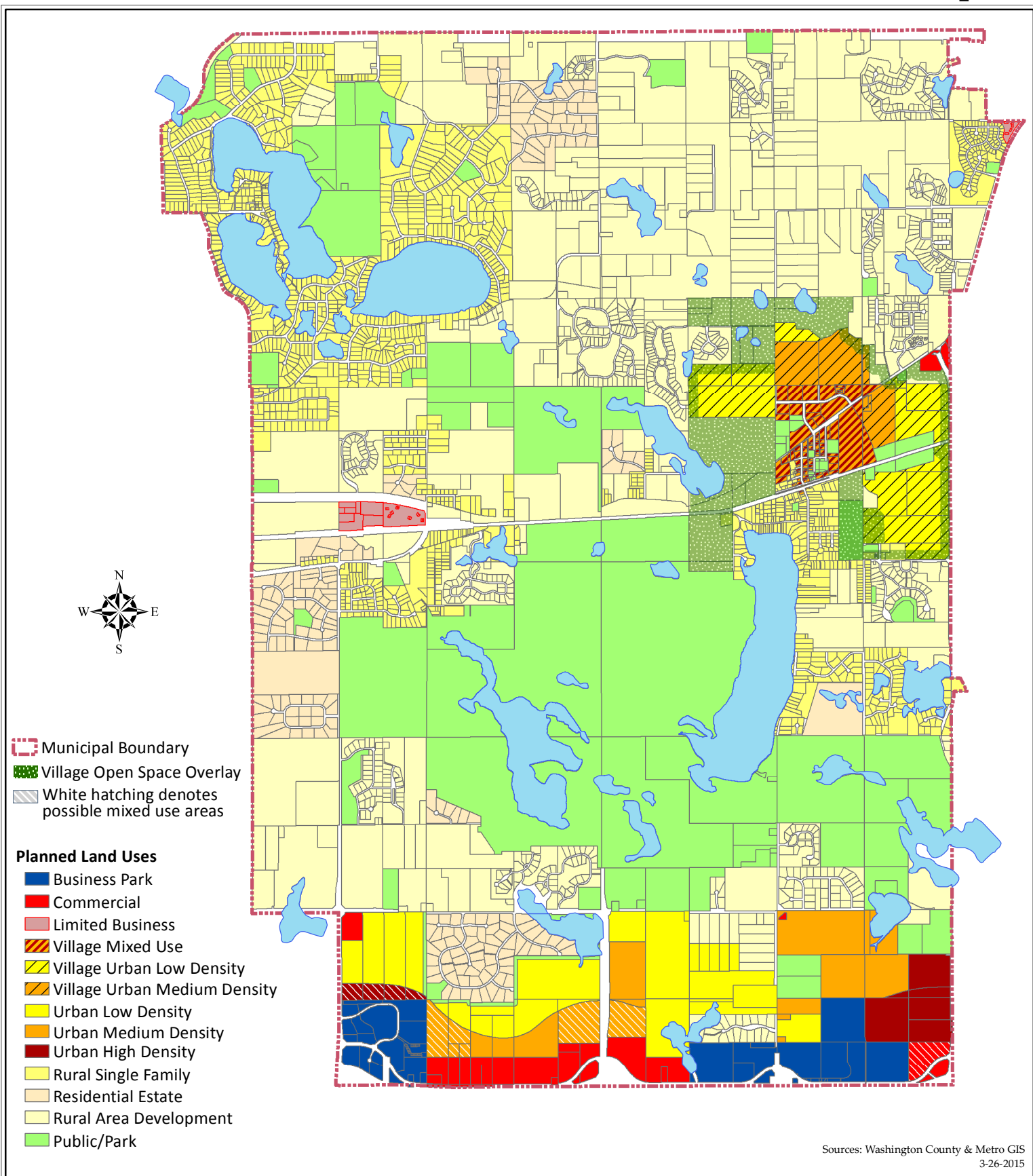
## Current Zoning



## Proposed Zoning





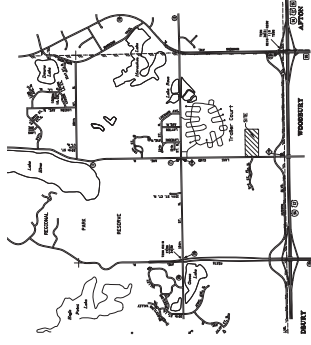


## Planned Land Use

Lake Elmo Comprehensive Plan 2030



# DIEDRICH PROPERTY PRELIMINARY PLAT LAKE ELMO, MINNESOTA



LOCATION MAP



- SHEET INDEX**
1. COVER SHEET
  2. LEGEND SHEET
  3. EXISTING CONDITIONS
  4. PRELIMINARY PLAT
  5. PRELIMINARY SITE PLAN
  - 6-7. PRELIMINARY UTILITY PLAN
  8. PRELIMINARY GRADING PLAN
  9. EROSION CONTROL PLAN
  10. PRELIMINARY SEEDING PLAN
  11. PRELIMINARY STREET PROFILES
  - 12-14. DETAILS

- L1. LANDSCAPE PLAN**  
**T1. TREE PRESERVATION PLAN**

BENCH MARK  
MN/DOT 82282 AG  
ELEV=943.87 (1983 datum)

DIEDRICH PROPERTY  
LAKE ELMO, MINNESOTA

1 OF 14

**PIONEER engineering**  
CITY OF MINNESOTA  
COUNTY OF HENRY  
LAKE ELMO, MINNESOTA  
LAKE ELMO AVENUE NORTH  
LAKE ELMO, MINNESOTA 55046  
Tel: 651-681-9114  
Fax: 651-681-9488  
www.pioneereng.com

Revised: 11/08/2011  
Drawn: J. K. J. J. J.  
Checked: J. K. J. J. J.  
Date: 11/08/2011

COVER SHEET

LENNAR  
16805 15TH AVENUE N, SUITE 600  
PLYMOUTH, MINNESOTA 55446

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**CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA**

**RESOLUTION NO. 2013-96**

*RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF LAKE ELMO  
COMPREHENSIVE PLAN*

**WHEREAS**, the City of Lake Elmo has established a Comprehensive Plan that provides a compilation of background data, policy statements, standards, and maps, which help to guide the future physical, social, and economic development of the City; and

**WHEREAS**, Tammy Diedrich and Gary Redier, 7401 Wyndham Way, Woodbury, MN, (“Applicant”) has submitted an application to the City of Lake Elmo (“City”) to amend the Lake Elmo Comprehensive Plan, a copy of which is on file in the City Planning Department; and

**WHEREAS**, the request to amend the Comprehensive Plan was submitted along with a preliminary sketch plan for a proposed single-family attached/detached residential townhome subdivision; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on October 28, 2013 to consider the request to amend the Comprehensive Plan; and

**WHEREAS**, on October 28, 2013 the Lake Elmo Planning Commission adopted a motion to recommend that the City Council approve the request to amend the Comprehensive Plan; and

**WHEREAS**, the City Council reviewed the recommendation of the Planning Commission and the proposed amendment to the Comprehensive Plan at a meeting on November 6, 2013; and.

**NOW, THEREFORE**, based upon the testimony elicited and information received, the City Council makes the following:

**FINDINGS**

- 1) That the Applicant has submitted a request to amend the Comprehensive Plan in accordance with the procedures as established by the Lake Elmo Planning Department and Lake Elmo Planning Commission.
- 2) That the request to is to amend the Future Land Use Map (Map 3-3 in Chapter III – *Land Use Plan*) in the Lake Elmo Comprehensive Plan, and to specifically change the future land use designation a parcel of land located east of Lake Elmo Avenue and approximately ½ mile south of 10<sup>th</sup> Street North (CSAH 10) (PID 36.029.21.32.0002) from HDR – High Density Residential to MDR – Medium Density Residential.

- 3) That the Comprehensive Plan Amendment will apply to property legally described in the attached Exhibit "A".
- 4) That the proposed area impacted by the proposed amendment is relatively small and will not have a significant impact on the City's ability to achieve its 2030 household and population forecasts.
- 5) That current market conditions are not favorable for multi-family housing, yet it is in the City's interests to accommodate market-driven development at present in order to provide a reasonable return on recent major infrastructure improvements.
- 6) That the City is continuing to work towards potential reductions to the 2030 growth targets specified in the Met Council MOU that will likely reduce the amount of areas in the community that are guided for high density housing.

**NOW, THEREFORE, BE IT RESOLVED**, that based on the foregoing, the Lake Elmo City Council hereby approves the Applicant's request to amend the Lake Elmo Comprehensive Plan, subject to and contingent upon the following:

- 1) Submission of the Comprehensive Plan Amendment to the Metropolitan Council and the receipt of formal notification from the Metropolitan Council that its review has been completed and approved. Acknowledgement of these comments and final adoption of the Comprehensive Plan Amendment will require formal action by the City Council.

Passed and duly adopted this 6<sup>th</sup> day of November 2013 by the City Council of the City of Lake Elmo, Minnesota.

  
Mike Pearson, Mayor

ATTEST:

  
Adam Bell, City Clerk

**EXHIBIT A**Legal Description (PID 36.029.21.32.0002)

The north 474.06 feet of the Northwest Quarter of the Southwest Quarter of Section 36, Township 29 North, Range 21 West, according to the United States Government Survey thereof and situated in Washington County, Minnesota.