



STAFF REPORT

DATE: 4/02/2019

CONSENT

TO: City Council
FROM: Ken Roberts, Planning Director
AGENDA ITEM: **Time Extension - Lake Elmo Inn Parking Lot Conditional Use Permit**
REVIEWED BY: Sarah Sonsalla, City Attorney

INTRODUCTION:

The City has received a request from Lake Elmo Inn, Inc. for a time extension for its conditional use permit (CUP). The City Council approved a CUP for a parking facility as a principal use for the property located at 3504 Lake Elmo Avenue North on February 20, 2018. (Please see Lake Elmo Inn's attached letter).

ISSUE BEFORE THE CITY COUNCIL:

Should the City Council grant a time extension for the CUP for the start of the construction of a new parking lot for the Lake Elmo Inn?

BACKGROUND:

Existing Land Use: Vacant Lot

Existing Zoning: VMX – Village Mixed Use

Surrounding Use/Zoning: Single family homes to the North (VMX – Village Mixed Use) and West (RS – Rural Single Family); Commercial (VMX – Village Mixed Use) to the South and West.

Comprehensive Plan: VMX – Village Mixed Use

History: The site has long been a vacant lot and is currently being used for parking for the Lake Elmo Inn restaurant. There is no parking lot currently at the site, however.

Deadline for Action: Application Complete – 2-1-2019
Extension Letter Sent – 3-26-2019
60 Day Deadline – 4-1-2019

Applicable Regulations: §154.500 VMX – Village Center District
§ 154.106 – Conditional Use Permits
§ 154.210 – Off-street Parking

The City Council approved the CUP for a parking facility as a principal use on the property located at 3504 Lake Elmo Avenue North on February 20, 2018. Section 154.106 (K) of the City Code states “If substantial construction has not taken place within 12 months of the date on which the conditional use permit was granted, the permit is void except that, on application, the Council after receiving recommendation from the Planning Commission, may extend the permit for such additional period as it deems appropriate.” In this case, the Applicant has not yet started construction of the approved parking lot and it has requested City Council approval of a time extension for the CUP.

The Planning Commission reviewed this request for a time extension on March 11, 2019. The Planning Commission recommended approval of the request, subject to the conditions listed in the staff report.

2018 PROPOSAL DETAILS/ANALYSIS:

Purpose for Parking Facility. Lake Elmo Inn has expressed the need for more parking for its restaurant. The applicant stated Washington County Old Village of Lake Elmo: Street and Utility Improvement Project (Phase 2) had brought about some on-street parking challenges. The Applicant has also stated that the Lake Elmo Inn has been using the subject property located at 3504 Lake Elmo Avenue North, which is not paved for a parking lot, for a number of years now for parking. This is not allowed per City ordinance, however, as the City’s off-street parking requirements mandate that in all residential, commercial and mixed use districts, all areas intended to be utilized for parking space for five or more vehicles and associated driveways shall be paved with a durable surface including, but not limited to, hot asphalt, bituminous, or concrete. In addition to parking on the subject property, the Inn has also used parking within the right-of-way for valet parking.

Current Available Parking for the Lake Elmo Inn. The City’s off-street parking requirements mandate that a standard restaurant provide at least one space per 3 customer seats or each 100 square feet of interior space. The Lake Elmo Inn is currently served with approximately 9 parking spaces on the parcel on which the restaurant is located. Additionally, the Inn appears to utilize a parcel to the north for some parking, which appears to provide approximately 12 spaces. The Inn also works with a property owner to the east who provides shared parking. Parking standards for a standard restaurant require one space per 100 square feet or one space per three customers. The Inn’s site plan indicates 2609 square feet, and so the parking that would be required if the site plan for the restaurant were being reviewed today would be 26 spaces.





Conditional Use Permit Required for Parking Facility in VMX District. The property is located within the VMX zoning district, and a conditional use permit for a parking facility in the VMX District is required.

Parking Lot Design.

- *Access.* The applicant is proposing access off of 34th Street North via a driveway.
- *Number.* The applicant is proposing a total of 54 spaces for the parking lot.
- *Proposed Paving in the Right-of-Way.* These 54 spaces, however, include proposed pavement in the right-of-way. This is not allowed. All improvements must be contained within the site. This will result in at least 11 spaces from the proposed plan needing to be removed.
- *Size.* The drawing that the applicant has provided is not scalable, and therefore Staff does not know if the proposed size of the stalls is adequate. The stalls will need to be at least 9 feet in width, 8'6" in depth, and aisles will need to be at least 22 feet wide in order to allow two-way access.
- *Accessibility Parking.* At least one accessible parking space will be required if the site has 1 to 25 parking spaces, and 26 to 50 parking spaces will require an additional accessible parking space. At least one of the accessible parking spaces must be van-accessible.
- *Required Setback from Residential Properties.* The City's requirements mandate that off-street parking containing more than four parking spaces shall be located a minimum of twenty (20) feet from the boundary of any adjacent lot zoned or used for residential purposes. The property to the north is used for residential purposes, and the property to the west is zoned for residential purposes, and therefore the parking lot must be setback 20 feet from these properties.
- *Marking of Parking Spaces.* The proposed site plan shows that parking spaces will be marked. Marking of spaces with painted lines at least four inches in width is a requirement for parking lots with five or more spaces.
- *Curbing.* The City's off-street parking facilities require that open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than five (5) feet from the side property line or a barrier of normal bumper height not less than three (3) feet from the side property line.
- *Landscaping.* The applicant has not submitted a landscaping plan for the parking lot. The parking lot application will need to include a landscape plan that includes the following:
 - *Interior Parking Lot Landscaping.* At least 5% of the interior area of parking lots with more than 30 spaces is to be devoted to landscaping planning areas in islands or corner beds. Because the proposed number of spaces is over 30, this will be a requirement. Additionally, at least one tree per ten spaces or fraction thereof must be provided.
 - *Perimeter Parking Lot Landscaping.* A landscaped frontage strip at least five feet wide needs to be provided between parking areas and public streets, sidewalks or paths and include screening consisting of either a masonry wall, fence, berm, or hedge or combination that forms a screen 3.5-4 feet in height. Additionally, screening 4-6 feet in height along the north and west sides of the parcel (sides abutting residential properties) shall be provided along with at least one deciduous or coniferous tree every forty feet (this

will require at least 4 along the northern property line and at least two along the western property line).

Engineering Review. The Applicant has not submitted construction plans for the parking lot. The Applicant will be required to submit a parking lot permit application approved by the City Engineer.

Valley Branch Watershed District. Because the proposed increase of impervious surface on the site will be more than 6,000 square feet, the Applicant will be required to obtain a Valley Branch Watershed District permit.

2018 Planning Commission Review. The Planning Commission held a public hearing and considered the request for a parking facility for the property located at 3504 Lake Elmo Avenue North on February 12, 2018. One comment from the public was received before the meeting expressing desire that the property be used for a public parking facility rather than solely for the restaurant and that it be paved. One neighbor had concern about lighting. Another resident expressed excitement about the parking lot, reiterating the need for additional parking for the restaurant.

In 2018, the Planning Commission discussed the following in regards to the proposed parking facility:

- **Lighting.** There was discussion about parking lot lighting timers to prevent light pollution on adjacent residential properties during hours that the restaurant is closed.
- **Landscaping.** As mentioned in this report, the Planning Commission had concern that the screening requirements along the public street would inhibit visibility and pose safety risks. They recommended amending the condition by removing the requirement that such landscaping be installed.

The parking lot must adhere to all screening and landscaping requirements as outlined in the Staff Report to the Planning Commission dated 2/12/2018 except for the requirement that landscape screening be required along Lake Elmo Avenue and 34th Street North.

- **Crosswalk at Intersection of 34th Street North and Lake Elmo Avenue.** The Commission also made comment on the removal of the crosswalk across Lake Elmo Avenue at the intersection of 34th Street North and Lake Elmo Avenue. The Commission sees a need for that crosswalk to be replaced, as they have seen some safety issues with its removal. This has no bearing on the subject request, but the Planning Commission would like this communicated to Council and to the County.

2018 Findings. Resolution 2018-018 approving the conditional use permit has the following findings:

1. The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city. **The proposed use will pave an area that has already been used as parking for a significant period of time, bringing the property in to compliance with City Code.**
2. The use or development conforms to the City of Lake Elmo Comprehensive Plan. **The area is guided for VMX – Village Mixed Use in the Land Use Guide of the Comprehensive Plan. Parking facility is a conditional use in this district.**
3. The use or development is compatible with the existing neighborhood. **A parking facility will alleviate parking needs for the Lake Elmo Inn.**
4. The proposed use meets all specific development standards for such use listed in Article 7 of this Chapter. **There are no specific development standards for a parking facility in Article 7.**
5. If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Chapter 150, §150.250 through 150.257

(Shoreland Regulations) and Chapter 152 (Flood Plain Management). **The property is located outside the 0.2% annual chance floodplain and is not within the shoreland area.**

6. The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area. **The property is already used for parking. Paving a parking lot will not drastically change the existing or intended character of the general vicinity or alter the essential character.**
7. The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring structures. **The proposed parking lot will potentially slightly increase the number of cars that are able to park on the property than had been parking there previously when the parking area was not paved, but paving the parking lot will bring the property in to compliance with City standards.**
8. The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use. **The proposed use will be adequately served by the aforementioned, provided a parking lot application is submitted and approved, meeting City standards.**
9. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. **The proposed use will not create additional requirements or cost.**
10. The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors. **The use will not involve anything that would be detrimental.**
11. Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares. **The use will create little more traffic congestion than already exists at the site.**
12. The proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance. **N/A**

2018 Conditions of Approval. Resolution 2018-018 approving the conditional use permit has the following conditions:

1. The Applicant shall submit and have approved a parking lot permit meeting all zoning, engineering, and other applicable requirements.
2. The parking lot must adhere to all screening and landscaping requirements as outlined in the Staff Report to the Planning Commission dated 2/12/2018 except for the requirement that landscape screening be required along Lake Elmo Avenue and 34th Street North.
3. The applicant must obtain a permit from the Valley Branch Watershed District prior to the issuance of a permit for construction, provide a copy of the permit to the City, and adhere to all conditions of approval.
4. Lighting will need to comply with Section 150.035: Lighting, Glare Control, and Exterior Lighting Standards of the City Code.
5. The parking lot shall not extend beyond property lines.
6. The applicant shall not barricade public right-of-way for the use of valet parking or any other purposes without issuance of a right-of-way obstruction permit by the City.

2019 Time Extension Request. As I noted above, the Applicant has not yet started construction of the approved parking lot and is asking the City for a time extension to start construction of the approved parking facility. Staff does not have any major concerns with the time extension request. It is in the best interest

of the City and the nearby property owners, however, to not have the CUP approval go on indefinitely with no action or progress toward implementation. As neighbors, City Code standards and businesses in the area change, the standards and expectations for an approved CUP may change as well.

Based on the Applicant's request and the construction season, staff and the Planning Commission are recommending that the City Council extend the time limit in the conditional use permit for substantial construction of the parking lot until October 1, 2019. If the Applicant does not start construction of the parking lot by then, it will need to request another time extension and make a case to the City as to why the City should further extend the time period. If no substantial construction on the parking lot has occurred by October 1, 2019, the City Council could by resolution make the determination that the CUP is void and no longer valid.

Findings. Staff and the Planning Commission recommend that the Council make the following findings:

1. That the procedures for obtaining a time extension for a Conditional Use Permit are found in the Lake Elmo Zoning Ordinance, Section 154.106.
2. That all submission requirements of said Section 154.106 have been met by the Applicant.

Conditions of Approval. Staff and the Planning Commission recommend the following conditions of approval:

1. The Applicant shall submit and have approved a parking lot permit meeting all zoning, engineering, and other applicable requirements.
2. The parking lot must adhere to all screening and landscaping requirements as outlined in the Staff Report to the Planning Commission dated 2/12/2018 except for the requirement that landscape screening be required along Lake Elmo Avenue and 34th Street North.
3. The Applicant must obtain a permit from the Valley Branch Watershed District prior to the issuance of a permit for construction, provide a copy of the permit to the City, and adhere to all conditions of approval.
4. Lighting will need to comply with Section 150.035: Lighting, Glare Control, and Exterior Lighting Standards of the City Code.
5. The parking lot shall not extend beyond property lines.
6. The Applicant shall not barricade public right-of-way for the use of valet parking or any other purposes without issuance of a right-of-way obstruction permit by the City.
7. The Applicant must start substantial construction of the approved parking facility no later than October 1, 2019 unless the City Council grants another time extension for the conditional use permit. If the applicant has not started substantial construction of the parking facility by October 1, 2019, and a time extension is not applied for, the CUP will be declared void by the City Council.
8. All other terms and conditions of Resolution No. 2018-018 shall remain in effect and unchanged.

FISCAL IMPACT:

Staff does not foresee any fiscal impact.

OPTIONS:

The City Council may:

- Adopt Resolution 2019-023 approving the requested Conditional Use Permit time extension with recommended conditions.

- Amend the recommended conditions of approval and adopt Resolution 2019-023 approving the requested Conditional Use Permit time extension with conditions as amended.
- Direct Staff to prepare a Resolution denying the time extension request for the Conditional Use Permit.

RECOMMENDATION:

Staff and the Planning Commission are recommending approval of the request from the Lake Elmo Inn for a time extension to start construction of the city-approved parking facility no later than October 1, 2019 on the property located at 3504 Lake Elmo Avenue North.

“Move to adopt Resolution 2019 – 023 approving the request of the Lake Elmo Inn for a time extension to its conditional use permit to start substantial construction of a City-approved parking facility on the property located at 3504 Lake Elmo Avenue North no later than October 1, 2019.”

ATTACHMENTS:

- Application Letter
- City Maps
- Resolution 2019 –023 approving the conditional use permit with the time extension

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

RESOLUTION 2019-023

***A RESOLUTION APPROVING THE REQUEST OF THE LAKE ELMO INN FOR A TIME
EXTENSION TO ITS CONDITIONAL USE PERMIT TO START SUBSTANTIAL
CONSTRUCTION OF A CITY-APPROVED PARKING FACILITY ON THE PROPERTY
LOCATED AT 3504 LAKE ELMO AVENUE NORTH NO LATER THAN OCTOBER 1, 2019***

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Lake Elmo Inn, Inc., PO Box 182, Lake Elmo, MN 55042, (the “Applicant”) submitted an application in 2018 to the City of Lake Elmo (the “City”) for a conditional use permit to allow a parking facility at the property located at 3504 Lake Elmo Avenue North (the “Property”); and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on the proposed conditional use permit on February 12, 2018; and

WHEREAS, the Lake Elmo Planning Commission submitted its report dated February 20, 2018 to the City Council and recommended approval of the conditional use permit; and

WHEREAS, the City Council approved the conditional use permit for the parking facility at its February 20, 2018 meeting by adopting Resolution No. 2018-018 (the “CUP Resolution”); and

WHEREAS, the CUP Resolution and Section 154.106 (K) of the City Code required the Applicant to begin substantial construction of the parking facility no later than February 20, 2019 (12 months from the date the conditional use permit was approved by the City Council); and

WHEREAS, the Applicant has not yet commenced construction of the parking facility on the Property; and

WHEREAS, Section 154.106 (K) of the City Code states that “upon application, the Council after receiving recommendation from the Planning Commission, may extend the permit for such additional period as it deems appropriate”; and

WHEREAS, on February 1, 2019, the Applicant submitted an application requesting City Council approval of a time extension to begin substantial construction of the approved parking facility on the Property; and

WHEREAS, the Lake Elmo Planning Commission reviewed the Applicant’s time extension request on March 11, 2019 and recommended approval, subject to conditions; and

WHEREAS, the City notified the Applicant in writing of its decision to extend the deadline for review of the Applicant's time extension application for an additional 60 days pursuant to Minnesota Statutes Section 15.99, subdivision 3 (f) on March 26, 2019; and

WHEREAS, the City Council considered the Applicant's time extension request on April 2, 2019; and

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

FINDINGS

- 1) That the procedures for obtaining a time extension for a Conditional Use Permit are found in the Lake Elmo Zoning Ordinance, Section 154.106.
- 2) That all the submission requirements of said Section 154.106 have been met by the Applicant.

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicant's request for a time extension to start substantial construction of a City-approved parking facility on the Property to October 1, 2019 is granted and the Applicant's conditional use permit is hereby amended accordingly, subject to the following conditions:

- 1) The Applicant shall submit and have approved a parking lot permit meeting all zoning, engineering, and other applicable requirements.
- 2) The parking lot must adhere to all screening and landscaping requirements as outlined in the Staff Report to the Planning Commission dated 2/12/2018 except for the requirement that landscape screening be required along Lake Elmo Avenue and 34th Street North.
- 3) The Applicant must obtain a permit from the Valley Branch Watershed District prior to the issuance of a permit for construction, provide a copy of the permit to the City, and adhere to all conditions of approval.
- 4) Lighting will need to comply with Section 150.035: Lighting, Glare Control, and Exterior Lighting Standards of the City Code.
- 5) The parking lot shall not extend beyond property lines.
- 6) The Applicant shall not barricade public right-of-way for the use of valet parking or any other purposes without issuance of a right-of-way obstruction permit by the City.
- 7) The Applicant must start substantial construction of the approved parking facility no later than October 1, 2019 unless the City Council grants another time extension for the conditional use

permit. If the Applicant has not started substantial construction of the parking facility by October 1, 2019 and a time extension is not applied for, the CUP will be declared void by the City Council.

- 8) All other terms and conditions of Resolution No. 2018-018 shall remain in effect and unchanged.

Passed and duly adopted this 2nd day of April, 2019 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk



January 31, 2019

2-1-19

Lake Elmo City Hall
3880 Laverne Ave. N
Lake Elmo, MN 55042

To The City of Lake Elmo;

My name is John Schiltz, the owner of The Lake Elmo Inn and The Lake Elmo Inn Event Center. Last year I applied for a permit with the City of Lake Elmo to build a parking lot on the North West corner of Lake Elmo Avenue and 34th Street. The permit was approved by the City Council to construct a parking lot on that property. After the approval process, it became evident that my company was not in a financial position to build the lot, partly due to the expenses of the city sewer project. The Watershed districts requirements, lighting, street appeal and additional costs also came into play with our financial situation. Last year was not a good year due to a combination of all of these other factors and we just could not pull it off. The permit approval is for one year and that will be expiring on the 20th of February. It is very obvious that I am not going to make the February 20th 2019 deadline.

I have talked through my concerns with one of our city councilman, asking him if there was a way the city could be involved in providing parking to the city businesses. I believe this is a much larger issue than not enough parking for the Lake Elmo Inn, but there is not enough parking for all of our Lake Elmo businesses. I asked his opinion about the city buying this piece of property and putting in a public parking lot for everyone to use. We discussed many options and he seemed interested, but at the end of our conversation it was left up in the air.

I am requesting a time extension of at least one year, if that is possible, so I can explore possible parking resolutions. These resolutions may or may not include city involvement. I would like to continue to work toward a solution that is best for everyone involved.

Please let me know what you decide. Thank you for your consideration.

A handwritten signature in cursive script that reads "John Schiltz".

John Schiltz
Owner and Chef
Lake Elmo Inn and
Lake Elmo Inn Event Center



Property Viewer



