



**City of Lake Elmo Planning Commission
Meeting**

**City Council Chambers – 3800 Laverne
Avenue North**

**Minutes of Regular Meeting of
November 14, 2022**

CALL TO ORDER: Commission Chair Risner called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Risner, Steil, Rehkamp, Vrieze

COMMISSIONERS ABSENT: Mueller

STAFF PRESENT: Planning Director Molly Just, City Planner Ben Hetzel

Pledge of Allegiance at 7:00 PM

Approve Agenda:

M/S/P: Vrieze / Steil: made a motion to approve the agenda. **Vote: 4-0, motion carried unanimously.** (Mueller absent)

Approve Minutes:

M/S/P: Vrieze / Steil made a motion to approve the 9-26-2022 and 10-24-22 meeting minutes. **Vote: 4-0, motion carried unanimously.** (Mueller absent)

Public Hearing:

a.)8265 Hidden Bay Trail N Variance Request. David Kranz (Applicant) on behalf of Vonda Brown (Owner) recently submitted a variance application to install a replacement sewage treatment system within 75 feet of a delineated wetland boundary located at 8265 Hidden Bay Trail N, parcel 09.029.21.31.0025 (Subject Property). The replacement sewage treatment system is required to complete a sale of the property.

City Planner Hetzel gave presentation and answered questions.

Applicant David Kranz (2401 34th Ave S Minneapolis) spoke regarding the need for the updated septic system.

REVIEW AND ANALYSIS/DRAFT FINDINGS:

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 105.12.320 set forth by the MN Stat. 462.357 subd.6 before the City may grant an exception or modification to city code requirements. These criteria are listed below, along with comments from Staff about the applicability of these criteria to the applicant's request.

- 1) Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

FINDINGS:

Strict enforcement of the code would create an inability to properly dispose of domestic wastewater. The existing topography and well location leave a limited amount of area for a replacement sewage treatment system. The proposed system area is the only practical location. Granting a variance would allow the applicant to use the property in a reasonable manner as there is no public sewer service available at this location.

- 2) **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

FINDINGS:

The property owners are not responsible for the challenging topography and existing well location. The system cannot be shifted further north due to 30 percent slopes or further east due to an existing drainage way. Areas north of the home have limited space and are within the required setback from the existing private well. The system designer has indicated there are no other viable locations.

- 3) **Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

FINDINGS:

The proposed sewage treatment system would not alter the essential character of the neighborhood. The proposed mound system would be located in the rear yard in an area with mature trees providing screening. Upon installation, the applicant will be required to establish vegetative cover prevent erosion and make the mound system more inconspicuous. Surrounding residential properties also have private sewage treatment systems due to public sewer service not being available to the area.

- 4) **Adjacent Properties and Traffic.** The proposed variance will not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

FINDINGS:

The proposed request will have no effect on the supply of light and air to adjacent properties or increase congestion in the public streets. Property values should not be diminished from the request. Adjacent residential properties in the area are to be served by similar private or community wastewater treatment systems. It is in the best interest of the adjacent properties for the subject property to have a replacement sewage treatment system installed to avoid sewage smells in the event of a full failure of the existing sewage treatment system.

Public hearing opened at 7:12 PM.

Email from Hilary & Justin Fox (8311 Windbreak Trail N) stating they have no objection to this variance.

John Brenengen (8260 Deer Pond Trail, N) questioned the location of the mound, and who does the review of the mound system. His questions were answered by the applicant.

Public hearing closed at 7:15 PM

M/S/P: Steil / Rehkamp moved to recommend approval of a variance to install a sewage treatment system within 75 feet of a delineated wetland boundary at 8265 Hidden Bay Trail N. **Vote: 4-0, motion carried unanimously.** (Steil stated that this is the only viable place for the septic system and the due diligence has been done regarding design and protection of the lake, Rehkamp, Vrieze, Risner agree.)

Public Hearing:

b.)8243 Demontreville Trail N Conditional Use Permit Request. The Jesuit Retreat House recently submitted a conditional use permit application to amend an existing conditional use permit to allow the construction of a 10 person guest house at 8243 Demontreville Trail N (PID 0402921340004) with a building footprint of 5,555 square feet. Each guest room will have a full bathroom and the guest house is proposed directly northeast of the existing main building. The existing main building houses a dining room, kitchen, chapel, offices and meeting space. The applicant has indicated that the long term goal is to complete the proposed guest house and renovate existing guest homes to decrease the number of guest rooms and increase the number of toilets. As per the applicant, the additional guest house will not increase the capacity of the site long term. Some rooms in existing guest houses will be eliminated, then accounted for in the new guest house.

City Planner Hetzel gave presentation and answered questions.

RECOMMENDED CONDITIONAL USE FINDINGS

Conditional use means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls only upon a finding that all of the following provisions are met. Staff recommends 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 not endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the City. The existing use has been onsite for over 70 years. An additional guest house is consistent with the continued use.***
2. The use or development conforms to the City of Lake Elmo Comprehensive Plan. ***The site is already zoned in conformance with the comprehensive plan.***
3. The use or development is compatible with the existing neighborhood. ***The proposed use is compatible with the existing neighborhood. Surrounding parcels are owned by the Jesuit Retreat House or used for similar religious purposes.***
4. The proposed use meets all specific development standards for such use listed in the Zoning Code. ***The use meets all the specific development standards for a religious institution set forth in LEC 105.12.970(b)(2).***
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 Article XIX (Shoreland Management) and Title 100 (Flood Plain Management). ***The proposed use is within a Shoreland Management District and meets all the specific standards in Article XIX.***
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 design of the proposed structure is intended to match the appearance and character of the existing nearby main building.***
7. The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring structures. ***The use is not hazardous and will not create a nuisance.***
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 served adequately by essential public facilities and services such as streets, police and fire protection, drainage structures, and refuse disposal. The proposed structure will be served by a private well and sewer system.***
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 excessive additional requirements at a public 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 proposed structure is for an existing established use that will not produce excessive traffic, noise, fumes, glare, or odors.***
11. Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares. ***The proposed structure will not create traffic congestion or interfere with traffic on surrounding public thoroughfares. The main access point onto Demontreville Trail N is approximately 0.3 miles away along a private driveway. The long driveway reduces the chances for traffic congestion on public thoroughfares.***
12. The proposed use will not result in the destruction, loss, or damage of a natural or scenic feature of major importance. ***The use will not result in the destruction, loss, or damage of a natural or scenic feature of major importance.***

Public hearing opened at 7:28 PM.

No comments from the public.

Public hearing closed at 7:29 PM

M/S/P: Steil / Vrieze moved to recommend to approval of the request from the Jesuit Retreat House to amend a conditional use permit to allow the construction of a 10 person guest house at 8243 Demontreville Trail N with recommended conditions of approval **Vote: 4-0, motion carried unanimously.** (Steil has concerns regarding water usage, but states that this is a good thing for the community. Vrieze stated that this does sound like a good addition for their facility, Rehkamp, Risner agree.)

Public Hearing:

c.) Zoning Text Amendment - PUD Amenities. A zoning text amendment to amend the site amenities and standards for density increases in Article XVII Planned Unit Development (PUD) Regulations.

City Planner Hetzel gave presentation and answered questions.

Director Just answered questions posed by Planning Commissioners.

PROPOSED CHANGES

Staff has removed certain amenities from Table 16-2 that were not viewed as worthy of bonus density and have added amenities that are considered a benefit. Added amenities include the implementation of stormwater reuse systems for irrigation for individual residential lots and the incorporation of renewable energy sources. In addition, modifications were made to some existing amenities to provide more appropriate and concise expectations. The proposed amendments of Section 105.12.1160 are depicted using strike-thru (deletion) and underline (addition).

Public hearing opened at 7:51 PM.

No comments from the public.

Public hearing closed at 7:52 PM

M/S/P: Vrieze / Risner moved to recommend adoption of the proposed amendments to Table 16-2: Site Amenities of Section 105.12.1160 **Vote: 4-0, motion carried unanimously.** (Vrieze stated that the clarity of this change will help the city staff receive more concrete information for future projects. Risner would like to see a range given for higher

usage of electric energy, stated that this make better sense. Steil agrees. Rehkamp wondered if some of the past required amenities would possible be added at the time of any new projects.)

Public Hearing:

d.) Final Planned Unit Development Plan (PUD) – 9450 Hudson Boulevard. A mixed use project which includes an apartment building and daycare facility.

Director Just gave presentation and answered questions.

DRAFT FINDINGS

Staff is recommending that the Planning Commission recommend approval of the Final PUD Plan for 9450 Hudson Boulevard based on the following findings.

- 1) That the Final PUD Plans are generally consistent with the Preliminary PUD Plans as approved by the City of Lake Elmo on August 16, 2022 by resolution 2022-079.
- 2) That the Final PUD Plans are generally consistent with the intent of the 2040 Lake Elmo Comprehensive Plan and the 2040 Land Use Map for this area.
- 3) That the Final PUD Plans are consistent with the general intent of the Mixed Use Commercial zoning district with PUD modifications.
- 4) That the Final PUD Plans are generally consistent with the City’s Zoning Code except for parking placement for the daycare center and the maximum allowed density.
- 5) That the Final PUD Plans are generally consistent with the Lake Elmo Design Guidelines and Standards Manual.
- 6) That the Final PUD Plans must be revised to be consistent with the City’s engineering standards and as noted in the City Engineer’s memorandum.
- 7) That the Final PUD Plans must be revised to be consistent with the City’s landscape plan and tree replacement standards pursuant to the Landscape Architects memo.
- 8) That the Final PUD Plans are generally consistent with the City’s fire department standards.
- 9) That the Final PUD Plans meet the minimum requirements for a PUD including minimum lot area, open space and street layout.
- 10) That the Final PUD Plans meet one or more of the required PUD objectives identified in Article 18 including providing: Planned unit developments should not be allowed simply for the purpose of increasing overall density or allowing development that otherwise could not be approved.
 - a. Innovation in land development techniques that may be more suitable for a given parcel than conventional approaches.
 - b. Promotion of integrated land uses, allowing for a mixture of residential, commercial, and public facilities.
 - c. Provision of more adequate, usable, and suitably located open space, recreational amenities, natural resource protection and other public facilities than would otherwise be provided under conventional land development techniques.
 - d. Accommodation of housing of all types with convenient access to employment opportunities and/or commercial facilities; and especially to create additional opportunities for senior and affordable housing.
 - e. Preservation and enhancement of important environmental features through careful and sensitive placement of buildings and facilities.
 - f. Preservation of historic buildings, structures or landscape features.
 - g. Coordination of architectural styles and building forms to achieve greater compatibility within the development and surrounding land uses.
 - h. Creation of more efficient provision of public utilities and services, lessened demand on transportation, and the promotion of energy resource conservation.
 - i. Allowing the development to operate in concert with a redevelopment plan in certain areas of the City and to ensure the redevelopment goals and objectives will be achieved.
 - j. Higher standards of site and building design than would otherwise be provided under conventional land development technique.

- 11) That the Final PUD Plans include amenities that are worthy of amenity points to increase the overall housing density in the development from a max of 15 units per acre to 15.57 units per acre. The qualifying amenity is the provision of interior and exterior plaza amenities and that the indoor amenities exceed the 1,000 sqf. requirement. This amenity qualifies for 5 points (5%) of bonus density or 8 units. See Article 18, Table 16-

Recommended Conditions of Approval. Staff recommends the Planning Commission recommend City Council approval of the Final PUD for 9450 Hudson Boulevard with the following conditions:

1. That publication of the PUD ordinance shall be required before filing of the approved final plat.
2. That the Final PUD plans would be for the parcel with the PID 34.029.21.34.0012.
3. No construction may begin until the applicant has received City Engineer approval for the Final Construction Plans; the applicant has obtained from the City all applicable permits, easements and permissions needed for the project; and a preconstruction meeting has been held by the City's engineering department.
4. That prior to the City releasing the Final Plat for recording the plans shall be revised to address the comments in the City Engineer's memo dated October 20, 2022 and any carryover comments from the preliminary plans.
5. That prior to the City releasing the Final Plat for recording the plans shall be revised to address the comments in the Landscape Architect's memo dated October 24, 2022.
6. That the applicant's Storm Water Management Plan shall meet both City and South Washington Watershed District requirements.
10. All storm water facilities internal to the site shall be privately owned and maintained. A storm water maintenance and easement agreement in a form acceptable to the City shall be executed and recorded with the final plat.
11. That the PUD overlay zoning allow for the following:
 - A. Parking located between the daycare building and the street (Julia Avenue);
 - B. Residential density at 15.57 units per acre.
12. That the development shall incorporate stormwater reuse for irrigation as approved by the City Engineer.
13. If necessary, the applicant shall provide the City with a copy of written permission for any off-site grading work and storm sewer discharges to adjacent properties before starting any site work.
14. Before the installation or construction of any subdivision identification signs or neighborhood markers within the development, the developer shall submit sign plans to the City for review and obtain a sign permit from the City.
15. Before the execution and recording of a final plat for the development, the developers shall enter into a Developer's Agreement with the City. Such an Agreement must be approved by the City Attorney and by the City Council. The Agreement shall delineate who is responsible for the design, construction and payment for the required improvements with financial guarantees therefore.

Public hearing opened at 8:01 PM.

No comments from the public.

Public hearing closed at 8:02 PM

M/S/P: Rehkamp / Steil moved to recommend approval of the Final PUD Plan for 9450 Hudson Boulevard based on the findings of fact and conditions outlined in the staff report. **Vote: 4-0, motion carried unanimously.**

Regular Business

a.) Ratify Recommendations. Ratify recommendations made by less than four Planning Commission members.

Director Just gave explanation and answered questions.

PROPOSAL DETAILS/ANALYSIS:

Appointed commissions rely on volunteer participation and so it is not advisable to require a specific minimum number of seated members to equal a quorum. A quorum is a majority of seated members. Planning Staff has drafted code amendments that remove this minimum number for a quorum. The amendments are on the November 15th City Council agenda as a consent item.

There have been six votes taken at Planning Commission meetings with less than four members present. Planning Staff have drafted resolutions for each of these items for the Planning Commission to act on. Approval of the motions will ratify the votes taken while less than four members were present. If there are not four seated members present at this meeting this agenda item will carry over to the next meeting with four seated members.

M/S/P: Steil / Rehkamp moved to approve Resolution 2022-1 ratifying the Planning Commission recommendation to approve with conditions a Conditional Use Permit to allow the commercial vehicle repair use in Suites 215-220 at 11160 Hudson Boulevard **Vote: 4-0, motion carried unanimously.**

M/S/P: Risner / Rehkamp moved to approve Resolution 2022-2 ratifying the Planning Commission recommendation to approve with conditions a Conditional Use Permit to allow the automotive maintenance and repair use in Suites 140-145 at 11160 Hudson Boulevard **Vote: 4-0, motion carried unanimously.**

M/S/P: Rehkamp / Risner moved to approve Resolution 2022-3 ratifying the Planning Commission recommendation to deny a Conditional Use Permit to allow the motor freight and warehouse use in Suite 345 at 11160 Hudson Boulevard **Vote: 4-0, motion carried unanimously**

M/S/P: Vrieze / Rehkamp moved to Motion to approve Resolution 2022-4 ratifying the Planning Commission recommendation to approve Zoning Text Amendments to incorporate a 40 foot setback south of 10th Street **Vote: 3-1, motion carried (Risner, Rehkamp, Steil – Aye, Vrieze – Nay).**

M/S/P: Steil / Risner moved to approve Resolution 2022-5 ratifying the Planning Commission recommendation to approve with conditions a Preliminary Plat & PUD, Comprehensive Plan Amendment and Zoning Map Amendment for United Properties on PID 33.029.21.44.0009 **Vote: 4-0, motion carried unanimously.**

M/S/P: Risner / Steil moved to approve Resolution 2022-6 ratifying the Planning Commission recommendation to approve the 2023-2027 Capital Improvement Plan **Vote: 4-0, motion carried unanimously.**

Communications/Updates - City Council Updates

- a) United Properties – Amira Lake Elmo - Approved Preliminary Plat & PUD, Comprehensive Plan Map & Zoning Map Amendment
- b) 9450 Hudson Boulevard – Approved Final Plat
- c) Northpoint Development – Not proceeding with Cyphers Logistics Park on Former 3M Property (south side of 34th St.)

Upcoming Meetings

- a. November 28th, 2022
- b. December 12th, 2022

Meeting adjourned at 8:20 PM.

Respectfully submitted,

Diane Wendt
Permit Technician