



**City of Lake Elmo Planning Commission
Meeting
City Council Chambers – 3800 Laverne
Avenue North
Minutes of Regular Meeting of
November 28, 2022**

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

COMMISSIONERS PRESENT: Mueller, Steil, Rehkamp, Vrieze

COMMISSIONERS ABSENT: Risner

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

Pledge of Allegiance at 7:00 PM

Approve Agenda:

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

Approve Minutes:

M/S/P: Rehkamp / Vrieze made a motion to approve the 11-14-22 meeting minutes. **Vote: 4-0, motion carried unanimously.** (Risner absent)

Public Hearing:

a) Upper 33rd Street N Conditional Use Permit Request. A conditional use permit request to construct a four unit townhome building on PIDs 13.029.21.32.0052 and 13.029.21.32.0051.

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.***
2. The use or development conforms to the City of Lake Elmo Comprehensive Plan. ***The site is already zoned in conformance with the intent of the Old Village District of the Village Planning Area and the Village Mixed Use zoning district.***
3. The use or development is compatible with the existing neighborhood. ***The proposed use is compatible with the existing single family residential in the neighborhood. The design of the proposed structure is consistent with the surrounding area in terms of building height, building materials, colors, and variations of pitched roofs.***

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 single family attached dwellings set forth in LEC 05.12.820(a)(3).***
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 not within a Shoreland Management District or a Floodplain Management zone.***
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 designed to be compatible with the height, colors, and building materials of the surrounding area.***
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.***
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 residential use will not produce excessive noise, fumes, glare, or odors. The addition of four dwelling units should not create excessive traffic along 33rd Street N especially with the restriction of on street parking. Any future expansion of 33rd Street N to the west will further improve traffic circulation.***
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. Four additional residential units should not create congestion. The rear facing garages and singular access creates for a safer vehicle access onto Upper 33rd Street N by eliminating the need to back out into a public street.***
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.***

RECOMMENDED CONDITIONS OF APPROVAL:

1. The applicant must obtain all other necessary City, State, and other governing body permits and approvals prior to the commencement of any construction activity onsite.
2. All recommendations in the City Engineer's memorandum dated 11/15/22 shall be met prior to any construction activity.
3. All recommendations provided by the City's Landscape Architect shall be met prior to any construction activity.
4. All conditions in the Fire Chief's memorandum dated 11/8/22 must be met prior to any construction activity.
5. The applicant shall provide the City with recorded documents from Washington County which effectuate the required lot consolidation prior to any construction activity.
6. The applicant must receive an approved address from Washington County prior to any construction activity.

7. The applicant shall provide one additional off-street parking space for visitor parking as per Lake Elmo City Code.
8. An encroachment agreement is required for fencing located in the required drainage and utility easements prior to any construction activity. A fence permit is also required regardless of the location of the fencing.
9. If the applicant has not taken action toward starting the townhouse structure or if substantial construction has not taken place within 12 months of the City's approval of the conditional use permit, the CUP approval shall become void. The applicant may request City Council approval of a time extension to start or implement the conditional use permit.

PUBLIC COMMENT:

A public hearing notice was sent to surrounding property owners on November 16, 2022 and published in the Stillwater Gazette on November 18, 2022. Staff has received three public comments, City Planner Hetzel read responses from:

Urban Coffee – 349 Lake Elmo Ave N – emailed their full support of this CUP.

Jill Martin – 11002 Upper 33rd St N – provided comment to staff in opposition of the CUP.

Response from Susan Dunn - 11018 Upper 33rd Street N – was not read aloud, as she was in the audience

Applicant Henry Elgersma, with Upper 33rd LLC, spoke in regards to this project and answered questions.

Public hearing opened at 7:20 PM.

JoAnne Lawen – 11051 34th St N – is in opposition of the CUP due to community design and the existing density of the community.

Elizabeth Everson – 11075 34th St N – posed the question regarding why the garages were in the back and who was going to be managing the property, is there a maximum capacity per unit and would pets be allowed

Ann Bucheck – 2301 Legion Ave N – is in opposition of the CUP due to this building not conforming to the Comprehensive Plan in many aspects.

Susan Dunn – 11018 Upper 33rd St N – is in opposition of the CUP due to parking, safety, water, impervious surface area, snow removal, building size

Public hearing closed at 7:33 PM

M/S/P: Vrieze / Mueller moved to recommend approval of a conditional use permit to allow the construction of a four unit townhome building at the properties described as Lots 10 and 11, Block 2, Subdivision of Lake Elmo Park
Vote: 4-0, motion carried unanimously. Vrieze stated that he is in support of this project as long as the applicant abides by the conditions of approval provided by city staff, but does state that the parking spaces do need to be addressed before final approval has been given. Mueller does have concerns regarding the parking and driveway location but does think this is an appropriate building for this location and is in support of this project. Rehkamp is concerned that this property will be sold to someone that will not manage and maintain it properly, the applicant did a nice job of presenting a good plan that will help screen neighbors from the railroad noise. Steil is also in favor of this project, as it does meet the city code, and the parking is in the back.

Public Hearing:

b) Final PUD Plan and Final Plat – Royal Golf Club at Lake Elmo 5th Addition. U.S. Home, LLC (Lennar) for approval of a Final PUD Plan and Final Plat for 43 lots for single-family homes. There would be 46 lots remaining to be final platted.

Director Just gave presentation and answered questions.

RECOMMENDED FINDINGS:

1. That all the requirements of City Code Sections 153.07 and 154.759 related to Final Plat and Final PUD Plans have been met by the Applicant.
2. That the Royal Golf Club at Lake Elmo 3rd Addition Final Plat and PUD Plans are generally consistent with Preliminary Plat and PUD Plans approved by the City of Lake Elmo on June 6, 2017.
3. That the Royal Golf Club at Lake Elmo 3rd Addition Final Plat and PUD Plans are consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
4. That the Royal Golf Club at Lake Elmo 3rd Addition Final Plat and PUD Plans generally comply with the City’s GCC - Golf Course Community zoning districts as modified by the PUD regulations.
5. That the Royal Golf Club at Lake Elmo 3rd Addition Final Plat PUD Plans comply with the City’s subdivision ordinance.
6. That the Royal Golf Club at Lake Elmo 3rd Addition Final Plat and PUD Plans comply with the City’s Planned Unit Development Regulations.
7. That the Royal Golf Club at Lake Elmo 3rd Addition Final Plat and PUD Plans comply with the City’s Engineering Standards, except where noted in the review memorandum from the City Engineer dated November 19, 2018 and modified by PUD regulations.
8. That the Royal Golf Club at Lake Elmo 3rd Addition Final Plat and PUD Plans generally comply with other City zoning ordinances, shoreland, and erosion and sediment control, except as noted in this staff report and review memorandum from the City Engineer dated November 19, 2018.
9. That the Royal Golf Club at Lake Elmo 3rd Addition Final Plat and PUD Plans generally comply with the City’s landscaping and tree preservation ordinances, providing some flexibility to the Applicant to allow for woodland management and pollinator friendly native seeding in lieu of some required tree replacement in order to avoid possible detriment caused by over planting.
10. That the Royal Golf Club at Lake Elmo 3rd Addition Final Plat and PUD Plans achieve multiple identified objectives for planned developments within Lake Elmo.
11. That the proposed Final Plat and PUD Plans are for the 3rd Addition of 67 single family residential units of a 291-unit total residential golf course community Planned Unit Development on 103.7 acres of land (of 231 acres total) located on the former 3M Tartan Park properties.
12. That the Final Plat and PUD Plans will be located on property legally described on the attached Exhibit “A”.
13. That there has been significant public testimony that 20th Street is already dangerous without the additional traffic and that the City and developer need to explore ways to make the road safer.
14. That the proposed PUD will allow a more flexible, creative, and efficient approach to the use of the land, and will specifically relate to existing zoning district standards in the following manner (with exceptions as noted):

a. Setbacks:

i. Royal Golf Club at Lake Elmo Setbacks

15.	16. 100 Ft. Wide Lots	17. 80-90 Ft. Wide Lots	18. 55-65 Ft. Wide Lots
19. Front	20. 30 ft.	21. 30 ft.	22. 20 ft. for side loaded garages, or 25’

23. Side	24. 10 ft.	25. 10 ft.	26. 10ft. house/5ft. garage or 7.5 ft./7.5 ft.
27. Corner Side	28. 15 ft.	29. 15 ft.	30. 15 ft.
31. Rear	32. 30 ft.	33. 30 ft.	34. 20 ft.

- a. Maximum Impervious Coverage: The maximum impervious coverage for 55-65' wide lots shall be 50%. All other lots shall have a maximum impervious coverage of 40%.
- b. Lot Sizes: The minimum lot size for Villa lots (55-65' wide) in the development shall be 6,600 sq. ft.
- c. Attached Garages: That attached garages shall not exceed 1,300 sq. ft. in area at the ground floor level except by conditional use permit. The width of the visible garage door area when closed shall not exceed 60% of the principal building façade (including garage) fronting on the primary street.
- d. Subdivision Identification Signs: The Royal Golf Club at Lake Elmo residential subdivision shall be allowed up to a maximum of 4 subdivision identification signs, including the identification sign for the golf course entrance, not to exceed 24 sq. feet in sign area each, located no closer than 10 feet to any public right-of-way. In addition, neighborhood identification markers (pillars) shall be permitted to be no larger than 2 ft. x 2 ft. to identify the development logo and the name of the neighborhood. Additional subdivision signs should be considered for a subdivision of this size.
 - i. *Staff Note:* If the developer requests a change to this, a variance should be requested.
- e. All other requirements for the City's GCC – Golf Course Community zoning district will apply, including the allowed uses and other site and development standards.
- f. That the proposed street names within the development are generally consistent with the City's Street Naming Policy as amended April 17, 2018.
- g. The developer has not yet constructed an HOA-owned and maintained play structure as required by the original condition of approval of the 2nd Addition Final Plat.

Recommended Conditions of Approval. Staff recommends the following conditions of approval:

1. That there shall be no encroachments to drainage and utility easements on residential lots other than those reviewed and approved by the City Engineer and upon execution of an easement encroachment agreement.
2. Prior to the execution of Final Plat, the Developer shall enter into a Developer's Agreement acceptable to the City Attorney and approved by the City Council that delineates who is responsible for the design, construction, and payment of the required improvements with financial guarantees therefore.
3. The Royal Golf Club at Lake Elmo 3rd Addition shall be incorporated into the Common Interest Agreement concerning management of the common areas and establish a homeowner's association (HOA) which shall be submitted in final form to the Planning Director before any building permit may be issued for any structure in any phase of the development. Said agreement shall comply with Minnesota Statutes 515B-103 and specifically the provisions concerning the transfer of control to the future property owners. The HOA documents shall include required maintenance of wetland buffers.
4. That the HOA documents include architectural requirements that require four-sided architecture and garages facing the public rights-of-way to have windows and/or other architectural features.
5. The applicant shall enter into a landscape license and maintenance agreement with the City that clarifies the individuals or entities responsible for landscaping.

6. The developer shall provide evidence of an HOA owned and maintained children's play structure or other similar improvement has been constructed within Outlot D of the 2nd Addition before the release of building permits for the 3rd Addition.
7. That a fee in lieu of park land dedication be paid to the City based upon an appraisal by an appraiser to be chosen by the City and paid for by the developer.
8. That the developer pay a parkland dedication fee equal to \$500 per 2.5 caliper inch required in lieu of some required tree preservation replacement tree requirements, totaling **\$111,552.00** in lieu of planting the required number of trees required. This fee was calculated as follows: \$500.00 multiplied by 969 2.5-caliper inch tree not planted within the entire subdivision, divided by 291 single family lots within the entire subdivision, multiplied by 67 single family lots within the 3rd Addition.
9. All changes and modifications to the plans requested by the City Engineer in the Engineer's review memo dated November 19, 2018 shall be incorporated into the Final Plat and PUD Plans. The Applicant should note the requirements for VBWD permits for temporary storm water management.
10. The Final Plat and PUD Plans approval is conditioned upon the applicant meeting all City standards and design requirements unless specifically addressed otherwise in this resolution.
11. Prior to the City issuing building permits, all wetland buffers shall be delineated and identified via staking or signage that is acceptable to the City.
12. Prior to the construction of any subdivision identification signs or neighborhood markers within the development, the developer shall submit sign plans for review and obtain a sign permit from the Planning Department. Any amendments to the finding regarding signs indicated in this Resolution shall be subject to a PUD amendment or variance.
13. That the Final Plat include street names as approved by Council.
14. The developer shall follow all of the rules and regulations spelled out in the Wetland Conservation Act and shall acquire the needed permits from the appropriate watershed districts prior to the commencement of any grading or development activity on the site.
15. That the Royal Golf Club development will not have street lights except at street intersections and cul-de-sacs.
16. That the developer make a \$1,000,000 donation to the City Parks fund when construction of the 3rd Addition prohibits use of the former Tartan Park ballfields, including construction materials storage and before the city releases the 3rd Addition final plat for recording.
17. The location and spacing of the trees that overlap the buildings and on edge of driveway when shown at mature diameter is adjusted and resubmitted on a revised landscape plan, per the Landscape Review memo, dated November 8, 2018.
18. The developer shall pave the unfinished trail in the 2nd Addition as soon as favorable conditions are available in the spring of 2019. The City may choose to not release building permits for the 3rd Addition in the spring of 2019 if the developer has not completed the required trail paving in a timely manner.

Applicant Paul Tabone spoke regarding this project and was available for questions.

Public hearing opened at 7:50 PM.

No public comments

Public hearing closed at 7:51 PM

M/S/P: Mueller / Rehkamp moved to recommend approval of the Royal Golf Club at Lake Elmo 5th Addition Final Plat and PUD Plans based on the findings off act and conditions outlined in the Staff Report. **Vote: 4-0, motion carried unanimously.** Mueller had no comments, Rehkamp had concerns about the loss of tree coverage but believes the staff have addressed that issue, Vrieze agrees, Steil concurs with all previous comments

Regular Business

None

Communications/Updates - City Council Updates

None

Upcoming Meetings

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

Meeting adjourned at 7:55 PM.

Respectfully submitted,

Diane Wendt
Permit Technician