



STAFF REPORT

DATE: 5/9/23

DISCUSSION

TO: City Council Workshop
FROM: Sarah Sonsalla, City Attorney
REVIEWED BY: Kristina Handt, City Administrator
Dustin Kalis, Fire Chief
Sophia Jensen, City Planner

AGENDA ITEM: Cimarron Manufactured Home Park – Review

BACKGROUND: The City has been receiving a number of complaints from residents who live in the Cimarron Manufactured Home Community. These complaints include: park management not allowing parking on the streets, electrical service issues, park management not keeping up the streets by repairing them or plowing the snow, the golf course is not operating, park management is raising rents, water main breaks, overgrown grass on walking paths, painting on curbs is faded or missing, trees and bushes are overgrown, the playground is in need of repairs, the pool is often closed during the summer, there are street lights that are out, and the sidewalk is buckling.

ISSUE BEFORE COUNCIL: What types of complaints does the City have the authority to address and does the City Council want to address any of these issues? Attached is a memorandum that outlines how various complaints may be addressed and what the City's authority is with respect to addressing these complaints.

FISCAL IMPACT: This is dependent on if the City wishes to address any of these issues, as some of these issues may have significant fiscal impact (i.e. nuisance abatement, implementing a rental housing license ordinance) but others may not have as much of an impact.

OPTIONS: The options are laid out in attached the memorandum.

ATTACHMENTS:

Attorney Memo
Cimarron Special Use Permit
Cimarron Variance

Kennedy

&

Graven

CHARTERED

Fifth Street Towers, Suite 700
150 South Fifth Street
Minneapolis, MN 55402

(612) 337-9300 telephone
(612) 337-9310 fax
<http://www.kennedy-graven.com>

MEMORANDUM

TO: Mayor Cadenhead and Members of the City Council

FROM: Sarah Sonsalla, City Attorney

DATE: May 9, 2023

RE: Review of Cimarron Issues

Introduction

It is my understanding that the City has been receiving a number of complaints from residents who live in the Cimarron Manufactured Home Community. These complaints include: park management not allowing parking on the streets, electrical service issues, park management not keeping up the streets by repairing them or plowing the snow, the golf course is not operating, park management is raising rents, water main breaks, overgrown grass on walking paths, painting on curbs is faded or missing, trees and bushes are overgrown, the playground is in need of repairs, the pool is often closed during the summer, there are street lights that are out, and the sidewalk is buckling.

The Cimarron Manufactured Home Community consists of seven tax parcels that are all owed by MHC Cimarron LLC based out of Chicago, Illinois. The parcels are as follows:

3602921210001 MHC Cimarron LLC
3602921120001 MHC Cimarron LLC
36092921210001 MCH Cimarron LLC
3602921130001 MHC Cimarron LLC
3602921240001 MHC Cimarron LLC
3602921230001 MHC Cimarron LLC
3602921230002 MHC Cimarron LLC

Cimarron Infrastructure

With the exception of Lake Elmo Avenue, which runs along the western boundary of Cimarron, and CSAH 10 along the northern boundary, all of the roads, sidewalks, trails, wastewater treatment system, wells, and electrical systems are private and owned by MHC Cimarron. The residents of Cimarron either own their manufactured home and pay rent to MHC Cimarron for the lot or rent both the home and the lot. The Cimarron Manufactured Home Community also has a number of private amenities for use by the residents including a pool, golf course, and a playground. As the owner of the property, MHC Cimarron is responsible for maintaining and repairing all of the private infrastructure and amenities.

Because all of the infrastructure and amenities within the Cimarron Manufactured Home Community are privately owned, the City does not have any authority to make any repairs or improvements to them. The City also does not have the authority to regulate parking on the streets, (beyond enforcement of the special use permit which just requires there to be on-street parking), or the removal of snow from the streets or sidewalks.

State Regulation and Licensing

Manufactured home parks are regulated by the State. A manufactured home park owner must have a license from the Minnesota Department of Health. This license must be conspicuously displayed in the office of the manufactured home park. A park owner or manager must apply for this license and the Department of Health must inspect the manufactured home park and grant a license if all requirements are met. The Department of Health has adopted rules governing manufactured home parks (Minnesota Rules Chapter 4630). These rules include regulations on water supply, plumbing, sewage disposal, handling of garbage and refuse, insect and rodent harborage and infestation control, and street lighting. The Department of Health has the authority to enforce these rules and related statutes. The City does not have any authority to enforce these rules and statutes.

Residents of a manufactured home park may form a “resident association” which is organized for the purpose of resolving matters relating to living conditions in the manufactured home park. The resident association may request that the Minnesota Department of Health conduct an inspection for code violations. The inspector must notify the resident association in writing of any code violations and provide the park owner with a reasonable period of time to correct the violations. If the violations are not corrected, a tenant or the resident association may bring an action in district court. The court will hear the matter within seven to 14 days after the action has been filed. If a violation has not been remedied, the court may issue an order requiring corrective action including a judgment against the owner for reasonable attorneys’ fees not to exceed \$500.

Enforcement by the City through the Abatement of Public Nuisances

The City does have the authority under its Code and state law to abate “public nuisances.” “Public nuisances” are defined by Section 9.28.030 of the City Code. Public nuisances are anything that is injurious to the public health, indecent or offensive to the senses, or that obstructs the free use and comfortable use of life or property. In evaluating how it will respond to nuisances, the City must first decide whether something is a public or private nuisance. Public nuisances must affect a considerable number of people; they must violate public rights and produce a

common or general injury, or they must injure or annoy the portion of the public that comes into contact with them. Because they harm the general public, they can be addressed through City action. A private nuisance, on the other hand, produces damages or injuries to only one person or a select group of people. As such, the prevention or abatement of a private nuisance is generally the responsibility of the individual(s) injured and not the City.

In this case, because a number of the issues are related to infrastructure that is private (i.e., crumbling streets and sidewalks, altering drainage), the City does not have any authority to abate these types of nuisances as it would have if these facilities were public. Nuisances that the City might have the authority to abate would be nuisances such as those related to violations of the City's noise regulations, failure to control or eradicate all noxious weeds on the property and diseased trees, abandoned and junk vehicles, fires, smoke, and fumes, animals, hazardous buildings, the dumping of hazardous waste or garbage, accumulations of junk, refuse, and debris, as in most situations, are all considered to be "public nuisances." Therefore, to the extent that any of these conditions exist with respect to the Cimarron Manufactured Home Community, the City would have the authority under its Code to abate them as a public nuisance. The City does not have the authority to abate any private nuisances. The responsibility for prevention or abatement of private nuisances is the responsibility of those harmed and is not a proper ground for City actions. Private nuisances caused by the park owner affecting park residents would need to be abated by the park residents in a private civil action against the park owner.

Enforcement by the City through its Manufactured Home Park Ordinance

The City has imposed minimum standards for manufactured home parks which are set forth in Section 105.08-VIII of the City Code. The Code requires a permit from the City for manufactured home parks. It is my understanding that MHC Cimarron LLC has a valid permit from the City for the Cimarron Manufactured Home Community (see below discussion regarding the special use permit). The Code also imposes certain design standards for manufactured home parks (landscaping, size of internal streets, lighting system, etc.). Because the Cimarron Manufactured Home Community existed prior to the adoption of these design standards by the City, it is considered a legal nonconforming use and is not subject to these standards.

This Section of the City Code does impose some additional requirements on both new and existing manufactured home parks related to floodplain management (Section 105.08.370) and storm shelters (Section 105.08.380). It is my understanding that the Cimarron Manufactured Home Community is not located in a floodplain district, so Section 105.08.370 does not apply. With respect to storm shelters, the Fire Chief has confirmed Cimarron Manufactured Home Community is in compliance with Section 105.08.380. The Fire Department inspects the storm shelter on the property annually. The City Code also requires that the park owner distribute some severe weather awareness materials and conduct severe weather drills on an annual basis.

Enforcement by the City through the Special Use Permit

The Cimarron Manufactured Home Community was originally approved by the Town of East Oakdale (the predecessor to the City of Lake Elmo) back in 1967 through the issuance of a

special use permit (a special use permit is now known as a conditional use permit). The special use permit was issued to “establish, maintain, and operate a trailer coach park.” The special use permit included the plans for the private drainage system, sanitary sewer system, and water system. It states that “all roadways and walkways within the development are private requiring no maintenance from the Township.” The special use permit contained a number of conditions which included “conformance to the requirements of Section 9 of [Township] Ordinance No. 32.” It is unknown what the contents of Township Ordinance No. 32 included, however some of the requirements of Township Ordinance No. 32 are discussed in the variances that were granted by the Township for the park in 1967.

Since special use permits run with the land and assuming that the special use permit has never been revoked, the Cimarron Manufactured Home Community is still subject to its conditions. As stated above, the conditions are not specified in the special use permit, although the special use permit does reference the variances that were granted as part of the approval of the park as one of the conditions, so arguably, the conditions in the variance are also conditions of the special use permit. These conditions include the following:

1. Minimum lot sizes for the trailers.
2. Setback requirements for the trailers.
3. A “green strip” requirement – a “green strip will be placed at the rear of each trailer lot in order that there not be less than 50 feet between the rear of the trailer and the rear of another trailer.”
4. The developer was to construct roadways within the park having a driving surface of 30 feet in width which is 10 feet wider than the minimum roadway provided for in the Township’s ordinance. The variance stated that “by widening the roadways, guests will be allowed to park on one side of the residential streets.” This condition was granted in lieu of requiring the developer to maintain a parking lot for guests of occupants to the extent of one space for every five lots.
5. Parking facilities for each trailer lot must constitute a widened extension of the driveway over which a carport roof, containing private storage space for each trailer lot occupant, shall extend from trailer to trailer, thus adding to the appearance and livability of the mobile home park facilities.

To the extent that the Cimarron Manufactured Home Community is in violation of any of these conditions of the special use permit, the City could potentially take action to revoke the special use permit. However, if the City revokes the special use permit, the park would no longer be allowed and the trailers would need to be removed, which might not be a good result for the residents.

Other Options

The residents of the Cimarron Manufactured Home Community may want to explore a cooperative conversion of the park. The national leader in facilitating cooperative conversion of manufactured homes is ROC (Resident-Owned Communities) USA. In a resident-owned community (ROC), manufactured homeowners form a non-profit business called a cooperative. Each household is a member of the cooperative, which owns the land and manages the business

that is the community. Members continue to own their own homes individually and an equal share of the land beneath the entire neighborhood. There are many benefits to living in a ROC, including: control of monthly lot rent, community repairs and improvements; lifetime security against unfair eviction; liability protection (members are not personally liable for association loans); and a strong sense of community. Every resident has a say in the way an ROC is run, and major decisions are made by democratic vote. Members elect a board of directors which appoints committees to carry out various tasks and manage the day-to-day operations of the organization. If the residents are interested in starting a cooperative, there is a non-profit organization that can assist them. It is called Northcountry Cooperative Foundation (www.northcountryfoundation.org).

The residents may also want to consider contacting All Parks Alliance for Change (www.allparksallianceforchange.com). It is a statewide organization for Minnesota's manufactured home park residents. It provides a voice for manufactured home owners to express their needs and concerns in their parks. All Parks Alliance for Change works to improve the quality of life in park neighborhoods, to protect the rights of park residents, to advance public policy change that supports safe, affordable, dignified, and stable park communities, and to preserve manufactured home parks.

Another option would be for the City to adopt a rental housing licensing ordinance. The ordinance would need to be drafted so that it applies to all types of rental housing in the City (not just manufactured home parks). This would be another enforcement tool that the City could use in order to ensure that the conditions in the manufactured home park are livable. If the City Council would like to adopt these types of regulations, it should carefully consider that this would require additional staff and City resources. The additional staff and resources will be needed in order to inspect the rental housing properties and issue reports, citations, etc. In addition, with the exception of the Cimarron Manufactured Home Community, it does not appear that there are widespread problems with other rental housing in the City.

ZONING FORM

The Town of East Oakdale, Minnesota

TO: Board of Supervisors
The Town of East Oakdale, Minnesota
Care of: William R. Park, Clerk
2450 Birch Bark Lane
St. Paul 9, Minnesota

Case No. _____

Fee Paid _____

Date Filed _____

Application for a Permit to Establish, Maintain and Operate a Trailer
Coach Park Pursuant to Ordinance No. 32 of the Town of East Oakdale.

The undersigned does hereby petition the Board of Supervisors of the Town of East Oakdale, Minnesota, for the issuance of a permit to establish, maintain and operate a trailer coach park on the land hereinafter described.

Name and Address of Applicant: - Pentom, Inc.
8053 Bloomington Freeway
Minneapolis, Minnesota
Phone: 888-9561

Name and Address of Fee Owners:- Joseph Friedrich and Ila Friedrich,
husband and wife,
RFD, Lake Elmo, Minnesota

Raymond E. Friedrich and Elvera
Friedrich, husband and wife,
RFD, Lake Elmo, Minnesota

Legal Description of Land to be Used for a Trailer Coach Park:

See the attached Exhibit A, which is hereby made a part hereof.

Location of Land: A part of the Southeast quadrant bounded by County Road 70 on the North and Lake Elmo Road (CSAH 17) on the West.

Complete plan of the Trailer Coach Park in conformity with Section 8 of the above referenced Ordinance:

See the attached Exhibit B, which is hereby made a part hereof.

Preliminary Plans and Specifications of all Buildings, Improvements and Facilities Constructed or to be Constructed within the Trailer Coach Park Lands:

See the attached Exhibit C, which is hereby made a part hereof.

Date: 5-25-67

Respectfully submitted

PEMTOM, INC.

By Bruce A. Thomas Its President
By J. D. Flax Its Secretary

LEGAL DESCRIPTION

Mobile Home Site:

The West 10 Rods of the NW 1/4 of the NE 1/4; all that part of the N 1/2 of the NW 1/4, Section 36, Township 29, Range 21, except the West 700 feet of the North 630 feet thereof; all that part of the South 1/2 of the NW 1/4 and the SW 1/4 of the NE 1/4, all in Section 36, Township 29, Range 21, lying Northerly of the proposed Interstate Highway No. 94, County of Washington, State of Minnesota

EXHIBIT A

Exhibit B: East Oakdale Mobile Home Park

Drainage: Ultimate drainage of the site will be thru the natural drainage course to Horseshoe Lake. The development itself will be properly graded and will contain two ponding areas not only for esthetic reasons, but also for partial storage of the storm water runoff. The drainage system will consist of concrete storm sewers, manholes, curb inlets, and other appurtenances necessary to provide for complete drainage of the site, according to approved plans and specifications by the Town Engineer.

Sanitary Sewer and Water Systems: The site will be served by a central sanitary sewer and water system approved by the Minnesota Health Department and the Town Engineer. The sewage system will provide for an on-site sewage treatment plant with an approved method of effluent disposal, and a collection system of pipes serving each lot. The water system will consist of a deep well of adequate depth and capacity, pumping facilities, distribution system to serve each lot, hydrants, valves, and other appurtenances necessary to provide for a complete central water system.

Lot Size, Setbacks, and Density: The site will consist of approximately 170 acres, in which 505 mobile home lots will be developed for an overall density of approximately three per acre.

Land to be used for parks and recreation will exceed the 10 per cent requirement. The lots will vary in size from a minimum of 45' x 100' to 60' x 100', all of which will back onto an open space which will be developed as either parks, parkways, or golf course. Mobile homes will be at least 20 feet apart, be 20 feet from the front lot line, and be 10 feet from the rear property line. No trailers will be located closer than 125 feet from the edge of the traveled part of a public road and no closer than 30 feet to a public road right of way. All lot corners will be staked to designate lot lines.

Roads and Walkways: All roadways within the development will be private, requiring no maintenance from the township. The width of the roadways will be as follows:

Main entrance: 41 feet, back of curb to back of curb

Ring Road and secondary entrances: 36 feet, back of curb to back of curb

Residential roads: 32 feet, back of curb to back of curb

All roadways will consist of S512 concrete curb and gutter, 2 inches of MHD 2341 bituminous pavement, 4 inches of class 5 gravel base and 4 inches of sand sub-base.

Walkways will be constructed throughout the parks, parkways and adjacent to the curb on one side of the Ring Road. Walkways will be hard surfaced and be four feet wide.

Guest parking to be provided for on residential streets on one side only. Residential streets are 10 feet wider than required to accomodate guest parking.

Electrical, Gas, and TV Services: All electrical and gas service mains will be buried, including a TV cable to each lot. Electrical service will be at least 50 amps to each lot.

Lot Improvements: Each mobile home lot will have, including previously listed improvements, the following:

1. Bituminous paved parking area for two cars.
2. Concrete patio.
3. Outdoor enclosed storage with canopy according to approved plans.
4. Landscaping, varying on each lot but in accordance with the approved overall landscaping plan for the development.

Community Facilities: Provided within the development will be the following community facilities:

1. Utility buildings having washer and dryer facilities.
2. Tot lots conveniently located near the utility buildings.
3. Park and parkways within and along the perimeter of the development will be landscaped according to approved plans, with security lighting and walkways throughout.
4. Nine hole, 2345 yard, golf course along the north and west perimeter of the development.
5. Community center to include recreational rooms, mobile home park office, swimming pool, tennis court, and putting green all according to approved plans.

Special Conditions or Restrictions as Imposed:

- 1 - Submission of final plans and specifications in substantial compliance with said preliminary plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the Trailer Coach Park;
- 2 - Execution of Development Agreement between the Town of East Oakdale and Pemtom, Inc. providing for:
 - a. A development performance bond in amounts and with sureties satisfactory to the Town Board; and
 - b. Provision for a limitation of .24 school-age children per mobile home.
- 3 - Conformance to the requirements of Section 8 of Ordinance No. 32, subject to granted variances thereto.
4. The permit shall outline and detail operational requirements necessary to fulfill the intent of Ord. #2 and Ord. #32 so there will be no misunderstanding. Such permit must be reapplied for and renegotiated sixty days prior to expiration of any current permit in effect. (Permits are issued Approved - Denied for one year and run concurrent with Minnesota Dept. By the Planning Commission of the of Health's Mobile Home Permit.) Town of East Oakdale on _____, 1967.

Approved - ~~Denied~~
By the Board of Supervisors of the
Town of East Oakdale on June 29, 1967.


/s/Robert R. Watson
Chairman Town Board
East Oakdale

ATTEST: /s/ William R. Park
Clerk, Town of East Oakdale

STATE OF MINNESOTA)
COUNTY OF WASHINGTON) ss
TOWN OF EAST OAKDALE)

I, The undersigned, being the duly qualified and acting Clerk of the Town of East Oakdale, Minnesota, DO HEREBY CERTIFY that I have carefully compared the attached and foregoing extract zoning form, find that the same is a full, true, and complete transcript therefrom.

WITNESS my hand as such Clerk and the corporate seal of the Town this 11th day of July, 1967.


Town Clerk, William R. Park

ZONING FORM

The Town of East Oakdale, Minnesota

TO: Board of Supervisors
The Town of East Oakdale, Minnesota
Care of: William R. Park, Clerk
2450 Birch Bark Lane
St. Paul 9, Minnesota

Case No. _____
Fee Paid _____
Date Filed _____

Application for a Variance of Ordinance No. 32 of the
Town of East Oakdale, Minnesota

The undersigned, because of the practical difficulties and unnecessary hardships that would exist if the strict letter of the above referenced ordinance were carried out and because of the particular characteristics of the land and the improvements to be erected thereon, does hereby petition the Board of Supervisors of the Town of East Oakdale, Minnesota, for the issuance of a variance of Section 8(b), 8(c), 8(o) and Section 21 of the above described Ordinance No. 32.

Name and Address of Applicant: - Pemtom, Inc.
8053 Bloomington Freeway
Minneapolis, Minnesota
Phone: 888-9561

Name and Address of Fee Owners:- Joseph Friedrich and Ila Friedrich,
husband and wife,
RFD, Lake Elmo, Minnesota

Raymond E. Friedrich and Elvera
Friedrich, husband and wife,
RFD, Lake Elmo, Minnesota

Legal Description of Land Affected by said Variances:

See the attached Exhibit A, which is hereby made a part hereof.

Request for first variance:

- 1 - Section 8(b) provides "trailer lots shall be provided consisting of a minimum of 6,000 square feet each and shall be at least 60 feet wide, which size allows for a maximum length trailer or mobile home of 55 feet. * * *"
- 2 - Applicant proposes that trailer lots shall contain a minimum of 4,500 square feet each and shall be at least 45 feet wide to allow for mobile homes 70 feet in length. *Expanded lot size average -*
- 3 - The requested variance allows for better land use and over-all planning of the mobile home park site by diverting a larger percentage of the total land area for recreational and open space use. The requested variance is in keeping with the spirit and intent of the Ordinance in that the density requirements are well within those provided for by the Ordinance. *But*

Request for second variance:

- 1 - Section 8(c) of Ordinance No. 32 provides "trailer shall be placed upon trailer lots so that there shall be at least a 20 foot clearance between trailers and 20 feet between the front of the trailer and the front lot line and 25 feet between the rear of the trailer and the rear lot line.
- 2 - Applicant proposes that trailers be placed upon trailer lots so that there shall be at least a 20 foot clearance between trailers and 20 feet between the front of the trailer and the front lot line

- and 10 feet between the rear of the trailer and the rear lot line.
- 3 - The Applicant agrees that a green strip will be placed at the rear of each trailer lot in order that there not be less than 50 feet between the rear of one trailer and the rear of another trailer. Once again, this requested variance is in keeping with the spirit and intent of the Ordinance in maintaining the prescribed space between trailers. This variance allows for better land use in over-all planning of the mobile home park site.

Request for third variance:

- 1 - Section 8(o) of Ordinance No. 32 provides "Each trailer park shall maintain a paved parking lot for guests of occupants to the extent of one space for every five lots".
- 2 - Applicant proposes that Section 8(o) of Ordinance No. 32 be deleted in its entirety.
- 3 - Applicant shall construct roadways within the park having a driving surface of 30 feet in width, which is 10 feet wider than the minimum roadway provided for in Section 8(e) of Ordinance No. 32. By widening the roadways, guests will be allowed to park on one side of residential streets. Once again, this requested variance is in keeping with the spirit and intent of the ordinance by providing for adequate guest parking and contributing to a better land use and over-all plan of the mobile home park.

Request for fourth variance:

- 1 - Section 21 of Ordinance No. 32 provides "Automobiles or other vehicles must be parked no closer than 5 feet from any side lot line."
- 2 - Applicant proposes that Section 21 of Ordinance No. 32 be deleted in its entirety.
- 3 - As depicted on Applicant's plans attached to its Application for a Permit to Establish, Maintain and Operate a Trailer Coach Park Pursuant to Ordinance No. 32 of the Town of East Oakdale of even date herewith and filed with the Clerk of the Town of East Oakdale, Minnesota, trailer lot lines constitute the center line of drive-ways servicing two trailer lots. Parking facilities for each trailer lot shall, in effect, constitute a widened extension of the driveway over which a carport roof, containing private storage space for each trailer lot occupant, shall extend from trailer to trailer, thus adding to the appearance and livability of the mobile home park facilities.

Dated: 5-25-67

Respectfully submitted

PEMTOM, INC.

By Bruce A. Brown
Its President

By J. D. Flan
Its Secretary

(Applicant)

Approved - Denied
By the Planning Commission of the
Town of East Oakdale on _____, 1967.

~~Approved~~ - Denied
By the Board of Supervisors of the
Town of East Oakdale on June 29, 1967.

Attested:
William R. Park Chairman Town Board
Clerk Town of East Oakdale
Robert R. Watson
East Oakdale

Town of East Oakdale
Office of the Clerk
WILLIAM R. PARK
2450 Birch Bark Lane
ST. PAUL, MINN. 55109

LEGAL DESCRIPTION

Mobile Home Site:

.The West 10 Rods of the NW 1/4 of the NE 1/4; all that part of the N 1/2 of the NW 1/4, Section 36, Township 29, Range 21, except the West 700 feet of the North 630 feet thereof; all that part of the South 1/2 of the NW 1/4 and the SW 1/4 of the NE 1/4, all in Section 36, Township 29, Range 21, lying Northerly of the proposed Interstate Highway No. 94, County of Washington, State of Minnesota

EXHIBIT A