



3800 Laverne Avenue North
Lake Elmo, MN 55042

(651) 747-3900
www.lakeelmo.org

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, November 25, 2013 at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Introduction of New Planning Commissioner – Sara Yocum, 2nd Alternate
3. Approve Agenda
4. Approve Minutes
 - a. November 13, 2013
5. Public Hearings -
 - a. **CONDITIONAL USE PERMIT AND PUD AMENDMENT – 33.029.21.42.0013.** The Planning Commission will hold a public hearing to consider an application from Northeast Metro 916 Intermediate School District for a Conditional Use Permit and Amendment to the Eagle Point Business Park Planned Unit Development (PUD) to allow for a school on a parcel in the Eagle Point Business Park (PID: 33.029.21.42.0013).
 - b. **COMPREHENSIVE PLAN AMENDMENT AND ZONING MAP AMENDMENT – 10689 60TH STREET.** The Planning Commission will hold a public hearing on an application from Mr. Brian Meyers, Mr. John Putzier and Mr. Joe Skaar for a Comprehensive Plan Amendment and Zoning Map Amendment for a property at 10689 60th Street N. to rezone the property from Rural Residential to Commercial.
6. Updates
 - a. City Council Updates:
 - i. Design Guidelines and Standards Manual – Approved at the 11/19/13 City Council meeting.
 - ii. Design Review Ordinance – Approved at the 11/19/13 City Council meeting.
 - b. Staff Updates
 - i. Upcoming Meetings:
 - December 9, 2013
 - December 23, 2013 - CANCELED
 - January 13, 2013 (tentative)

c. Commission Concerns

7. Adjourn



**City of Lake Elmo
Planning Commission Meeting
Minutes of November 13, 2013**

Chairman Williams called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Williams, Haggard, Lundgren, Dorschner, Dodson and Larson;

COMMISSIONERS ABSENT: Kreimer and Morreale; and

STAFF PRESENT: Planning Director Klatt.

Approve Agenda:

The Planning Commission added a Public Comment item to allow a resident to speak on a zoning topic after the minutes are approved.

Approve Minutes: October 28, 2013

M/S/P: Dodson/Lundgren, move to accept the minutes of October 28, 2013 as presented, **Vote: 5-0, Motion Carried**, with Williams not voting.

Public Hearings - None

Public Comment: Mr. Robert Cusick, 5470 Highlands Trail, addressed the Planning Commission. He would like to see a change to the exterior storage provision of the Zoning Code to protect the property values and views of properties. Chairman Williams and Klatt informed Mr. Cusick that Outdoor Storage is on the Planning Commission work plan for 2014.

Business Item: *Rural Area Development Discussion Cont.*

Klatt stated that the Commission is specifically being asked to further review the RAD-ALT land use category and to conduct an analysis of the potential to expand the use of Residential Estates zoning in the future. Klatt stated that how we deal with development in these rural areas can have a profound effect on how the City ultimately looks.

Dorschner would like to address the RAD-Alt category sooner rather than later. He thinks the City should wait to discuss the other rural area considerations until there is more information.

Dodson would also like to see more data regarding development and sewer options for higher development. He is concerned about smaller OP developments regarding the shared septic systems and the cost associated with them. There needs to be enough people to draw interest to be involved with the HOA to ensure that the system is operating properly. Dodson stated that he would like to see no OP have less than 40 units.

Williams does not believe we need RAD-ALT because the Met Council forecasts will be reduced. He does feel that Rural Estates fills a niche in the rural areas.

Dodson would like to see some information or analysis regarding the cost of City services per lot based upon lot size or zoning.

Williams is wondering what the problem would be with putting a moratorium on the RAD-ALT properties. Klatt stated that staff is not in favor of a moratorium. While we are still in negotiations with the Met Council, Klatt does not think it shows good faith and might be taken the wrong way while we still have an MOU. Klatt stated that a moratorium and eliminating RAD-ALT through a comp plan amendment basically accomplishes the same thing.

M/S/P: Williams/Dodson, move to recommend a moratorium of the RAD-ALT land use parcels for 9 months, **Vote: 6-0, motion carried unanimously.** The reasons for the moratorium is that the City anticipates lower growth projections and the permitted density of this category is much denser than other non-sewered areas.

Klatt continued his presentation and asked for other feedback from the Planning Commission regarding lot size and possibly expanding rural zoning districts in new sites of the Rural Planning Area.

Haggard feels that we should discuss this after we receive the final Met Council forecast.

Dodson asked how this would impact staff. Klatt said that this would need to be put on the work plan and depends on the scope of what they want to look at.

Williams gave some background about rural character and RAD. He prefers to leave AG & RR until we get a better feel for what rural character means and what we want.

Larson stated that the model out there right now is OP with prairie grass as the farming goes away.

Dorschner feels that RE is more rural when there is more space between homes vs. OP where the homes are clustered.

Dodson would like to see some modeling for agricultural activities. He also was wondering about possibly changing 3 parcels along TH-5 and Ideal Ave.

Note: Haggard had to leave the meeting.

Business Item: *Driveway Ordinance Update*

Klatt began his discussion of the driveway ordinance by stating that staff is proposing to amend the driveway provisions to incorporate best practices and improve the efficiency in processing driveway permits. There was input from the engineering, building, public works and fire department to produce the proposed changes. This ordinance is not in the zoning code, so no formal action is required from the Planning Commission. However, driveways are related to land use, so staff is seeking input from the Planning Commission.

Williams doesn't see a problem with having more than one curb cut. He notes that in some cases, multiple curb cuts may actually be safer than having to back out to a busy street.

Dodson asked about drainage and impervious surface. Klatt stated that each district has its own impervious standards.

Dorschner asked about shared driveways. Klatt stated that staff is not in favor of those as they can create issues related to maintenance and emergency access.

Updates and Concerns

Council Updates

1. Diedrich-Reider Comprehensive Plan Amendment approved contingent upon Met Council approval at the November 6, 2013 City Council meeting.
2. Village Mixed Use Zoning District – Approved with the removal of the demolition review at the November 6, 2013 City Council meeting.
3. Design Standards Manual and design guidelines ordinance amendments – postponed until workshop review on November 12, 2013.

Staff Updates

1. Upcoming Meetings
 - a. November 25, 2013
 - b. December 9, 2013
 - c. December 23, 2013 – Cancelled

Commission Concerns – None

Meeting adjourned at 9:12pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant



PLANNING COMMISSION
DATE: 11/25/13
AGENDA ITEM: 5A – PUBLIC HEARING
CASE # 2013-40

ITEM: United Properties/Northeast Metro ISD 916 PUD Amendment and Conditional Use Permit for New School Facility

SUBMITTED BY: Kyle Klatt, Community Development Director

REVIEWED BY: Nick Johnson, City Planner
Jack Griffin, City Engineer
Mike Bouthilet, Public Works Director
Jim Sachs, Public Works/Water
Greg Malmquist, Fire Chief

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to consider a request from BWBR Architects on behalf of United Properties and Northeast Metro 916 Intermediate School District to amend the Planned Unit Development for the Eagle Point Business Park to allow a public school as a conditional use within the park. In addition, the applicant is formally requesting a Conditional Use Permit to allow the construction of a new public school serving disabled students in grades kindergarten through eighth grade. The applicant is seeking approval of the proposed use at this time and will be submitting detailed site development plans along with its platting request at a future date. Staff is recommending that the Planning Commission recommend approval of both requests.

GENERAL INFORMATION

Applicant: BWBR Architects, 380 St. Peter Street, St. Paul, MN (Steve Erickson – Architect)

Northeast Metro 916 Independent School District, 2540 County Road F East, White Bear Lake, MN

Property Owners: United Properties, 3600 American Boulevard, Suite 750, Minneapolis, MN (Melissa Duce – Owner/Agent)

Location: Outlot A of Eagle Point Business Park 7th Addition (Section 33). PID Number 33.029.21.42.0013

Request: Planned Unit Development Amendment; Conditional Use Permit

Existing Land Use: Vacant parcel within Eagle Point Business Park; agricultural fields

Existing Zoning: BP – Business Park

Surrounding Land Use: Business Park Offices, High Point Medical, vacant parcels

Surrounding Zoning: BP – Business Park

Comprehensive Plan: Business Park

Proposed Zoning: No Change

History: The preliminary development plans for the Eagle Point Business Park were approved in 1999 by the City of Lake Elmo. The 7th Addition was platted in 2006 which allowed for the development of two lots near the intersection of Eagle Point Boulevard and Inwood Avenue and also created the outlot under consideration

Deadline for Action: Application Complete – 11/12/13
60 Day Deadline – 1/12/14
Extension Letter Mailed – No
120 Day Deadline – 3/12/14

Applicable Regulations: 154.051 – BP Business Park Zoning District
154.800 – Planned Unit Development (PUD) Regulations
154.106 – Conditional Use Permits

REQUEST DETAILS

The City of Lake Elmo has received a request from BWBR Architects, acting on behalf of Northeast Metro 916 Intermediate School District and United Properties (the land owner) to take the initial steps that are necessary to facilitate the construction of a new 75,000 to 90,000 square foot school building on Outlot A of Eagle Point Business Park. This application includes the following components:

- A request to amend the Eagle Point Business Park development standards to add “public schools” to the list of uses and activities allowed as a conditional use permit.
- A request for a conditional use permit to authorize the proposed use and to approve the school facility plans for the site.

Should the City decide to approve these items, the applicant would then need to submit a final development plan for the site in addition to a final plat that will remove the outlot designation from this parcel. No building activity can take place until this second step is taken.

At this time, the applicant is seeking approval of a general site development plan that does not have as much detail as will be needed for the final development stage. The review conducted by Staff therefore has focused on the general plan that has been submitted, and in particular, whether or not the proposed use of this site is consistent with the City’s zoning regulations and the development plans and standards for the Eagle Point Business Park.

A more detailed description of the proposed use has been provided by the applicant and is included as an attachment to this report. The school would serve disabled students, primarily children with autism and emotional behavioral disorders, in grades kindergarten through eighth grade. Because of the population that it would be serving, the overall site impacts in terms of traffic, parking, and loading/unloading will be less than would be expected at a different type of school facility. The site plan incorporates a rather large amount of open play areas around the facility, and the building would be set back a significant distance from both Eagle Point Boulevard (which surrounds the applicant’s parcel on three sides) and a natural drainage-way on the western portion of the site. The plan submitted is very similar to a facility that the applicant is presently building in the City of Blaine.

The proposed Planned Unit Development (PUD) amendment has been requested because the PUD that was approved for the Eagle Point Business Park does not include public schools in the list of

uses allowed within the Park. In order to facilitate the Commission's review of this request, and to better document the Eagle Point Business Park PUD development standards in the future, Staff has proposed to reformat these requirements as part of the City's review. There are no other changes being recommended to the list of development standards other than those needed to make public and private schools a conditional use. Please note that the City has recently updated the BP – Business Park Zoning District as part of the ongoing zoning ordinance update project. In cases where there is any conflict between the City's BP zoning regulations and the previously approved development standards for the business park, the more restrictive requirements will apply.

BACKGROUND

The Eagle Point Business Park was initially conceived as part of the City's 1992 Comprehensive Plan update in 1992, and the official Business Park zoning for this area was adopted in 1997. Over the next three years, United Properties submitted applications for a general concept plan for a business park, a general development stage plan, and a final plat and final plans for what is now called the Eagle Point Business Park. Overall, the business park occupies approximately 120 acres in the extreme southwestern portion of Lake Elmo both north and south of Hudson Boulevard. Since approving the overall plans for the park, the City has been reviewing final development plans for each of the buildings/phases that have been constructed since then.

The parcel on which the proposed school will be located was included as part of a final plat for the Eagle Point 7th Addition. This final plat created two buildable lots close to the entrance into the business park from Inwood Avenue in addition to an outlot (Outlot A) that was planned for development in the future. Because an outlot, by definition, is considered unbuildable, the applicant will need to submit a final plat as part of any future final development plans prepared for the site. Consistent with the other buildings within the Eagle Point Business Park, the applicant will need to submit final development plans as part of a future review by the City. The final plans will include much more detailed information concerning storm water management, erosion and sediment control, building design, landscaping, and other aspects of the development.

Outlot A of Eagle Point 7th Addition is the largest of the unplatted parcels within the business park at 19 acres, and is essentially in the middle of the park surrounded by Eagle Point Boulevard on three sides. There is a natural drainage way that flows through the western portion of the property, and the applicant is proposing to incorporate some of the required storm water improvements into this area. A portion of the required storm water improvements for the business park have been constructed as part of previous improvements; however, each new project that comes forward will need to be reviewed for consistency with the overall business park plans and the City's recently amended storm water and erosion control regulations.

PLANNING AND ZONING ISSUES

Eagle Point Business Park is one of two PUD's that have been approved by the City, and at present, there are still six lots that have yet to be developed within the park. The proposed PUD amendment would add public and private schools to the list of uses allowed as a conditional use permit, but would not make any changes to the other uses and activities permitted within the park. No other portion of the development standards would be amended as part of the request. As noted in the previous section, the final plans for the school project will need to conform to all of the PUD development standards in addition to the City's BP – Business Park zoning district regulations. Staff

will provide a much more detailed review of the development proposal for consistency with these requirements at the time a final development plan is submitted.

Should the Planning Commission and City Council agree to amend the PUD for the Business Park to allow public schools, the applicant will be able to proceed with the second part of the request concerning a conditional use permit (CUP). The application for a CUP includes an existing conditions survey, general site plan, proposed building layout, and preliminary architectural drawings depicting proposed building elevations. Without more detailed plans, which will be required at the time a final development stage plan is submitted to the City, it will not be possible for staff to conduct a complete assessment concerning compliance with all of the business park and zoning district requirements for the site. Upon the initial staff review, however it appears that the proposed plans will conform to all applicable requirements. Specifically, Staff would like to note the following:

- **Building Setbacks.** The building is located centrally on the lot and will comply with the required setbacks.
- **Building Height.** The proposed building is a one-story structure and will fall well under the maximum height of 60 feet.
- **Other Dimensional Standards.** The proposed building and site will conform to the minimum lot area, frontage, and building size requirements for the business park.
- **Storm Water and Erosion Control.** The applicant will need to submit detailed storm water and erosion control plans with the final development plans. These plans will need to conform to City of Lake Elmo and South Washington Watershed District (SWWD) requirements. As noted in the attached review letter from SWWD, a watershed district permit will be required. The applicant is strongly encouraged to meet with SWWD to review the district requirements prior to preparing this plan.
- **Architectural Design.** The proposed building will be subject to the City's recently adopted Design Guidelines and Standards Manual in addition to the architectural design guidelines for the Eagle Point Business Park.
- **Park Land Dedication.** The City established an overall fee in lieu of land dedication for the business park at the time of general concept plan approval and in conjunction with the final plat for the initial construction phase within the park. It appears that a portion of this fee is being paid with each building permit that is issued within the Eagle Point Business Park, and that this fee is proportional to the area being platted/developed. Staff will be researching the past fees within the business park to determine the appropriate amount that must be paid for Outlot A of the 7th Addition. Additionally, the City has adopted a new dedication requirement in the Subdivision Ordinance, this new fee schedule may be the appropriate mechanism to use to determine the applicant's dedication requirement.
- **Trails.** The original public improvement project for Eagle Point included the construction of a trail that runs near the western boundary of the applicant's site on the adjacent parcels. The City should consider the integration of this trail into the applicant's development plans. In addition, the City may want to consider a potential trail connection to the north of this site in order to provide access to the planned community trail system along the 5th Street corridor.
- **Access.** The proposed access points to Eagle Point Boulevard will comply with the City's access spacing requirements. The City will be working with the applicant as final plans are

developed to determine whether or not these access points would provide safer ingress and egress to the site in another location.

- **Parking.** Because none of the students will be driving themselves to the facility, the overall demand for parking for the building will be much less than other sites within the business park. The site plan depicts 121 total parking stalls for the site, which is consistent with the City parking requirements for schools based on the anticipated staffing levels.
- **Lighting.** A specific lighting plan has been not been submitted and should be included with the final development plans.
- **Signs.** The applicant has not provided a signage plan, which will need to conform to the sign plan for the Eagle Point Business Park PUD.

Because the project site is located within the middle of an established business park, previous issues concerning utility extensions, road alignments, overall site grading, wetlands, and other concerns have been addressed as part of the overall planning for the Eagle Point Business Park. To date, the City has approved permits for 11 larger developments in the park, including an office park condominium project, hotel and restaurant complex, business school, and other general office buildings. The park continues to offer the only sewer development opportunities in the community right now, and will remain as such until the Section 32 public improvement project (Lennar development and surrounding area) is complete.

REVIEW AND ANALYSIS

Staff is recommending that the Planning Commission recommend approval of the request to amend the Eagle Point PUD development standards in order to allow public and private schools as a conditional use permit within the park. The inclusion of schools on this list should not have a detrimental impact on the business park since the overall appearance and operation of the site will not be much different than offices and other commercial uses that are currently allowed. One concern that Staff has noted with the proposed school is that, as a public entity, the school district will not be required to pay property taxes. Since the site would have otherwise housed a non-exempt business, Staff is recommending that the applicant enter into a services agreement with the City to address any potential gap between the cost of public services required to serve the facility (including police, fire, and utilities) and the lack of associated revenue to support these services.

The proposed revision to the PUD standards is attached as a separate document. The Planning Commission is being asked to recommend approval of the use change in addition to the new formatting for these standards.

Staff is further recommending that the Planning Commission recommend approval of the Conditional Use Permit to allow the proposed school use on the property. The proposed use will be subject to the recently revised required findings for conditional uses, which include the following:

- 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.
- 2) The use or development conforms to the City of Lake Elmo Comprehensive Plan.
- 3) The use or development is compatible with the existing neighborhood.
- 4) The proposed use meets all specific development standards for such use listed in Article 7 of this Chapter.

- 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).
- 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.
- 7) The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring uses.
- 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.
- 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.
- 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.
- 11) Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
- 12) The proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance.

In reviewing this list, Staff finds that the applicant will be able to comply with the required findings in order to issue a conditional use permit. As previously discussed with the Planning Commission, Staff will be preparing a “findings of fact” worksheet for the meeting in order to facilitate the Planning Commission’s discussion on this matter. Please note that the Staff recommendation includes the following conditions of approval:

- 1) The applicant shall submit final development plans and a final plat consistent with the City’s Planned Unit Development and Subdivision requirements prior to the issuance of a building permit and prior to the commencement of any grading activity on the site.
- 2) The applicant shall secure any required permits from the South Washington Watershed District prior to commencing any grading or construction activity on the site.
- 3) The final development plans shall include detailed landscape plans that conform to the Lake Elmo Zoning Ordinance and Eagle Point Business Park PUD Standards.
- 4) The applicant shall submit detailed architectural plans at the time of the final development plan review by the City. These plans shall conform to the City’s Design Guidelines and Standards Manual and the Eagle Point Business Park Design Guidelines.
- 5) The final development plans shall include a signage plan.
- 6) The applicant shall pay a fee in lieu of park land dedication as determined by the City prior to the final plat being released for recording.
- 7) The final plat shall include all easements for drainage and utility and other purposes as required by the City Engineer.

- 8) The applicant shall enter into a service agreement with the City prior to the issuance of a building permit for the site.

DRAFT FINDINGS

Please refer to the comments in the previous section. Staff will be reviewing a findings worksheet with the Planning Commission at the meeting.

RECCOMENDATION:

Staff recommends that the Planning Commission recommend approval of requests by BWBR Architects, acting on behalf of Northeast Metro 916 Intermediate School District and United Properties: 1) to amend the Eagle Point Business Park development standards to add “public schools” to the list of uses and activities allowed as a conditional use permit; and 2) to approve the request for a conditional use permit to authorize a public school for special needs children to be constructed on the site. This recommendation includes the following conditions of approval:

- 1) The applicant shall submit final development plans and a final plat consistent with the City’s Planned Unit Development and Subdivision requirements prior to the issuance of a building permit and prior to the commencement of any grading activity on the site.
- 2) The applicant shall secure any required permits from the South Washington Watershed District prior to commencing any grading or construction activity on the site.
- 3) The final development plans shall include detailed landscape plans that conform to the Lake Elmö Zoning Ordinance and Eagle Point Business Park PUD Standards.
- 4) The applicant shall submit detailed architectural plans at the time of the final development plan review by the City. These plans shall conform to the City’s Design Guidelines and Standards Manual and the Eagle Point Business Park Design Guidelines.
- 5) The final development plans shall include a signage plan.
- 6) The applicant shall pay a fee in lieu of park land dedication as determined by the City prior to the final plat being released for recording.
- 7) The final plat shall include all easements for drainage and utility and other purposes as required by the City Engineer.
- 8) The applicant shall enter into a service agreement with the City prior to issuance of a building permit for the site.

Suggested motion:

“Move to recommend approval of the request by BWBR Architects, acting on behalf of Northeast Metro 916 Intermediate School District and United Properties to amend the PUD standards for the Eagle Point Business Park and to recommend approval of the request for a conditional use permit to construct a public school facility on Outlot A of Eagle Point 7th Addition subject to the conditions of approval as recommended by Staff”

ATTACHMENTS:

1. Application Form

2. Application Contacts and Project Narrative
3. Proposed Eagle Point Business Park Development Standards
4. Review Comments – SWWD
5. Existing Conditions
6. General Site Development Plan
7. Building Interior Layout
8. Architectural Drawings (Building Elevations)

ORDER OF BUSINESS:

- Introduction Community Development Director
- Report by Staff Community Development Director
- Questions from the Commission Chair & Commission Members
- Open the Public Hearing Chair
- Close the Public Hearing..... Chair
- Discussion by the Commission Chair & Commission Members
- Action by the Commission Chair & Commission Members

Date Received: _____
Received By: _____
Permit #: _____



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

LAND USE APPLICATION

- Comprehensive Plan Zoning District Amend Zoning Text Amend Variance*(see below) Zoning Appeal
- Conditional Use Permit (C.U.P.) Flood Plain C.U.P. Interim Use Permit (I.U.P.) Excavating/Grading
- Lot Line Adjustment Minor Subdivision

Applicant: BWBR/STEVE ERICKSON
Address: 380 ST. PETER ST., ST. PAUL, MN. 55102, SUITE 600
Phone #: 651-290-1935
Email Address: SEERICKSON@BWBR.COM

Fee Owner: UNITED PROPERTIES, MELISSA DUCE
Address: 3600 AMERICAN BLVD., SUITE 750,
Phone #: 952-897-8866
Email Address: MELISSA.DUCE@UNITEPROPERTIES.COM

Property Location (Address and Complete (long) Legal Description): LOT 1 & OUT LOT A, EAGLE POINT BUSINESS PARK 7TH ADDITION

Detailed Reason for Request: PROPERTY IS CURRENTLY ZONED BY AS PART OF THE EAGLE POINT PUD. PUBLIC SCHOOLS ARE NOT ALLOWED IN THE EAGLE POINT PUD/ BY DE DEFINITION. WE ARE REQUESTING AN AMENDMENT TO THE PUD TO BE CONSISTENT WITH LAKE ELMO'S CURRENT BY ZONING WHICH ALLOWS PUBLIC SCHOOLS AS A CONDITIONAL USE. WE ARE ALSO REQUESTING APPROVAL OF A ~~VAR~~ CUP WITH CONDITIONS

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

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: Date: 11-6-13 / 11-12-13

City Use Only
Planning: Zoning District: _____ Date: _____
Reviewed by: _____ Date: _____
Subject to the following conditions: _____
Engineering: Reviewed by: _____ Date: _____
Subject to the following conditions: _____



**Northeast Metro 916
Intermediate School District
Lake Elmo/Eagle Point PUD
PUD | CUP Submittal**

BWBR Commission No. 3.2013230.00

Contacts

Melissa Duce – Owner | Agent
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Minneapolis, MN 55431
952.893.8866

Steve Erickson – Architect
BWBR
380 St. Peter Street, Suite 600
St. Paul, MN 55102
651.290.1935

Zac Essig – Civil Engineer
Larson Engineering, Inc.
3524 Labore Road
White Bear Lake, MN 55126
651.203.1901

Jesse Symynkywicz – Landscape Architect
Damon Farber Associates
401 2nd Avenue North, #410
Minneapolis, MN 55401
612.332.7522

Sunde Land Surveying
9001 East Bloomington Freeway, Suite 118
Bloomington, MN 55420
952.881.2455

Site Data

- Current zoning – BP/Eagle Point PUD
- Proposed Zoning – Amend current Eagle Point PUD to be consistent with BP Zoning in current ordinance which allows public schools as a Conditional Use.
- Parcel Size – 19.490 Acres, 848,981/s.f.
- Lot 1 and Outlot A, Eagle Point Business Park 7th Addition

Property History

- The subject property is currently in agriculture use, corn is planted.
- Past use has been agricultural.

Design

The proposed use for this site is a public school serving Level 4 disabled students K-8. The population will be children with autism and emotional behavioral disorders.

The proposed school will be approximately 75,000 s.f with possible expansion to 95,000 s.f. The building will be primarily a one story building with a small lower level dedicated to mechanical equipment. Because of the nature of these students, they require ancillary services as part of their regular school day. Therefore, there is a very high staff to student ratio. Enrollment projections for this school would be 80 – 150 with staff projected to be 70 – 120.

In an effort to work with the natural contours of the site, the building will be generally located in the northeast quadrant of the site, with parking and circulation to the north and east. Site access would be at 2 locations; north and east, taking advantage of the straightest sections of the property perimeter for safety. Buses would enter the site from the north and exit on the east side. Steep slopes on the west side of the site adjacent to the stream will not be disturbed. Development will be set back from the stream approximately 200’.

Students in the programs are all transported by their home district transportation departments. Parents do not drop off and pick up their children because the school is typically not in their neighborhood. Therefore, the car traffic that is generated is by employees.

Traffic patterns are typically concentrated in the morning and late afternoon with most students and staff having exited the site prior to the typical end of the workday rush.

Parking will be limited to staff and visitors which are typically minimal. Parent and family involvement in school programs typically happens during the school day, so after school and weekend use is minimal.

Lighting for the access drives and parking area will be by luminaries with a 90 degree cut off mounted on poles with a maximum height of 20’.

Bus traffic will typically be 20 +/- busses per day and they will be a range of sizes. There will also be many districts that send their students in vans to the school. The number of vans will also be close to 20. Class times are typically from 8:00 to 2:00 or 9:15 to 3:15 each day and transportation vehicles start arriving a half hour ahead of that time.

There is very little activity in the school building during the evening or on weekends. Because students are coming from multiple districts across the metro, and they are transported by their home school district, it is not

feasible to have these types of events in the school. There will however be a few evening conferences and also student programs during the school day that are open for families to attend.

A large emphasis will be placed on open | play space. These areas are not structured and do not include baseball, soccer, or football fields. The west and south quadrants of the site will be reserved for open play space. The proposed building and site design will meet or exceed all Lake Elmo Development Standards. The building will be primarily brick with some metal accents. Because it will be a one story building, and have an irregular footprint, it will appear smaller than its square footage might indicate. It will blend well with adjacent existing buildings through the use of a similar palette of materials.

Northeast Metro 916 offers a unique, innovative and quality education options to its students. Because of the ancillary services provided for these students, the staff has a higher level of professional development than a typical elementary or middle school bringing a higher paid employee into the community.

The landscape design of the site will incorporate the following design principles.

- The front yard is to be sodded with street trees and berms.
- The parking lot islands are to receive trees, shrubs and rock mulch.
- Front drop off islands are to be sodded with accent ornamental trees.
- The front building foundation is to include steel edging, hardwood mulch and shrubs. The side and rear building foundation are not to receive edging or plantings.
- The rear yard is to include large turf seed play areas and two playgrounds (one fenced with rubber surfacing and one with hardwood mulch).
- Drainage basins and swales are to be seeded with prairie | wet meadow seed mixtures.

A low-impact stormwater management design approach will be taken to achieve the stormwater management rules and regulations of the City of Lake Elmo and the South Washington Watershed District. Water quality, rate, and volume requirements shall be met through the proposed treatment practices of vegetated swales, bioinfiltration basins and a pond. The program used to assist in the design shall be HydroCAD (SCS TR-20). Stormwater shall ultimately outlet into the existing ravine running along the entire western end of the property.

The stormwater surface runoff shall be directed through the vegetated pretreatment swales prior to reaching the basins and pond. The basins shall primarily achieve the pollutant removals by filtering the stormwater through at least 2 feet of engineered soil and infiltration shall be maximized depending on the native soil types. Soils are anticipated to be B/C soil types. The geotechnical report will be completed this month. The basins will be linked in series and outlet into the pond which shall accommodate the rate control prior to release into the existing ravine.

Water and sanitary utilities will be pulled from the perimeter Eagle Point Boulevard and have been determined to have ample depth to grade the proposed site to minimize earthwork.

Berms and landscaping shall be implemented at the perimeter of the project adjacent Eagle Point Boulevard in accordance to the comprehensive plan for the Eagle Point Boulevard corridor.



Development Standards for Eagle Point Business Park PROPOSED REVISIONS – 11/25/13

300.12 subd. (1)(B) and 300.12(2). No Business Park structure shall exceed 60' in height. Parapet walls shall not exceed more than 4' above the height permitted of the building.

300.13 subd (6)(A)(3) Parking spaces shall be 9' X 18' at the developments north of Hudson Blvd and 10' X 20' South of Hudson Blvd, with the exception of the hotel and restaurant which needs to be 9' X 18' spacing. Parking spaces for the handicapped shall be minimum of 12' X 20'. 20% of the spaces in an office development can be compact car size 8' X 16". The size of parking space may be altered upon approval of Zoning Administrator.

300.13 subd. (6)(B)(6)(D) The primary landscaping materials shall be shade trees with shrubs, hedges, etc., used only to complement trees, not as the sole means of landscaping. Landscaping and irrigation will be done on a project by project basis. If landscaping within the NSP easement is disturbed, it needs to be replaced by NSP, or the property owner. Berming and landscaping must be approved within one year of City Council approval.

Permitted Uses: Banks, medical clinics, offices, ~~schools (business, professional and private trade)~~, office showrooms.

Conditional Uses: Business services, conference centers, health clubs, hotels and motels, day care centers, limited retail, medical, dental and research labs, recording studios, restaurants and cafeterias, theaters, teleconferencing transmission facilities, veterinary clinics, and hotel, public and private schools.

Minimum Lot Area: 2.0 acres. Lots less than 2.0 acres might be approved on a project by project basis through a conditional use permit.

Minimum Lot Frontage: 200' with the exception of 50' pm a cul-de-sac.

Lot Width/Depth Ratio: 1/3.5

Minimum Building Setbacks: 50' for the front and street frontage, and 10' for side and rear frontage. When abutting residential uses, the current ordinance requirement will apply.

Minimum Parking Setbacks: Front: 20', Side: 10', Side(street): 20', Rear: 10'

Minimum Building Foundation Size: 10,000 s.f.

Parking Ratio: One space for each 250 s.f. of office building area or one space per two employees, whichever is greater. One space per 2,000 s.f of storage, warehouse and 1 space per 1,000 s.f. of showroom.

Pathways: 8' wide pathways as part of the City's trail system and the City will maintain.

Storm Water Control: Storm water management requirements should be averaged over the PUD area as a whole. The tributary setback will be 30' from the tributary setback, and the parking setback will be 10' from the tributary setback.

Lighting Height: 30' maximum

Sign Height: Businesses can have signage on the building and a monument sign at the property's entrance, and that a pylon sign must be approved on a case by case basis by the City.

Pond Maintenance: Recommend the creation of a District to take care of pond maintenance.



November 18, 2013

Mr. Kyle Klatt
Planning Director
3800 Laverne Ave N
Lake Elmo, MN 55042

RE: District 916 CUP & PUD Amendment – Eagle Point Business Park

Dear Mr. Klatt:

SWWD has reviewed the supplied information regarding the requested CUP and PUD amendment for the proposed construction of a District 916 facility in Eagle Point Business Park. The proposed facility is compatible with the existing regional drainage system with the following considerations:

- The proposed development is subject to SWWD review and permitting.
- The proposed development will be reviewed for potential adverse downstream impact.
- The proposed development will be expected to maintain peak runoff rates and volumes previously identified for the site.
- All potential impacts will be evaluated under current SWWD standards and guidance, including recently adopted Atlas 14 precipitation frequency estimates.

If you have any questions or need additional information, please contact me at 651/714-3714 or jloomis@ci.woodbury.mn.us.

Sincerely,
South Washington Watershed District

A handwritten signature in black ink, appearing to read "John Loomis", with a long horizontal flourish extending to the right.

John Loomis
Water Resource Specialist

En (1)

DESCRIPTION OF PROPERTY SURVEYED

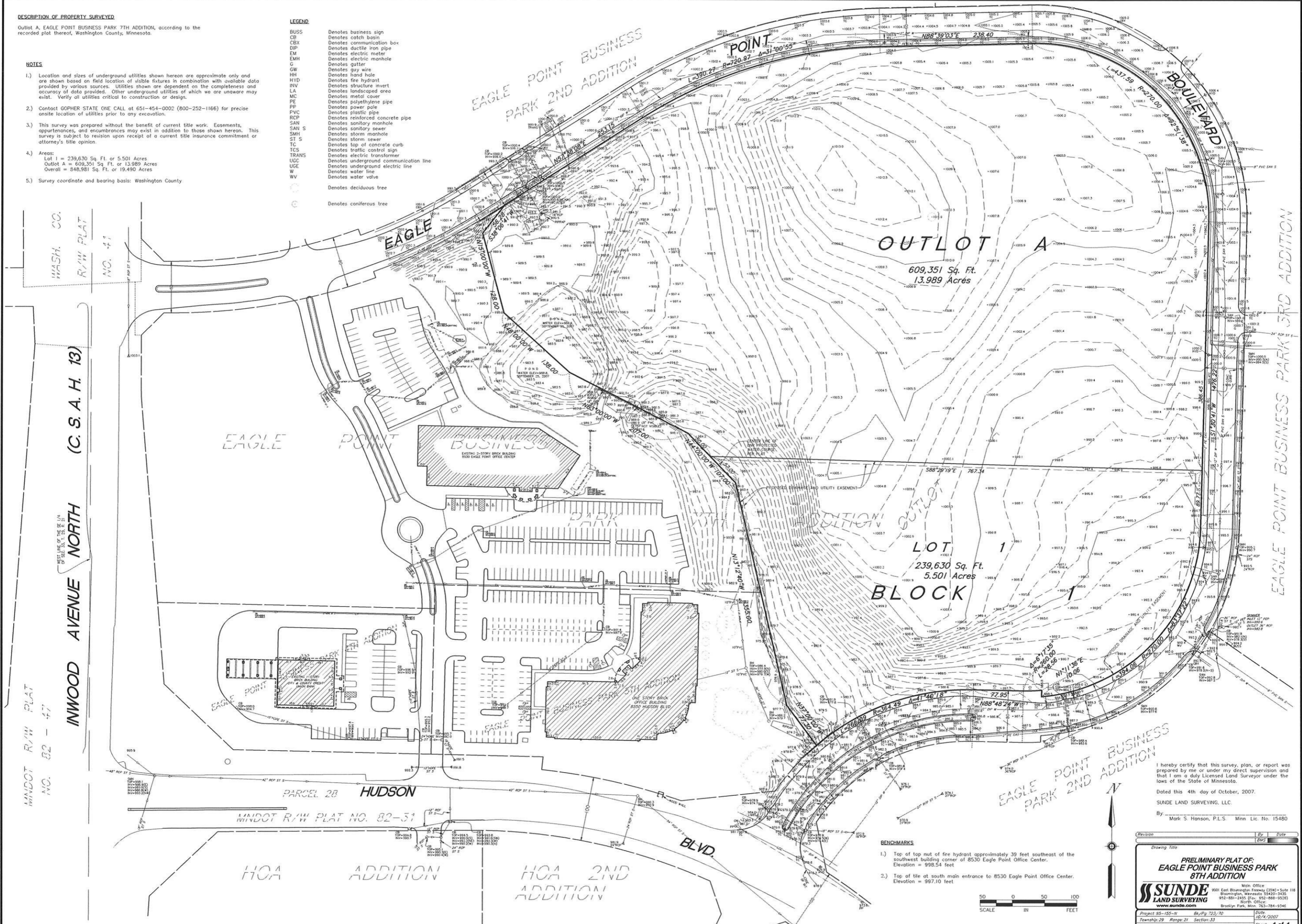
Outlot A, EAGLE POINT BUSINESS PARK 7TH ADDITION, according to the recorded plat thereof, Washington County, Minnesota.

LEGEND

- BUSS Denotes business sign
- CB Denotes catch basin
- DIP Denotes ductile iron pipe
- EM Denotes electric meter
- EMH Denotes electric manhole
- G Denotes gutter
- GW Denotes guy wire
- HH Denotes hand hole
- HYD Denotes fire hydrant
- INV Denotes structure invert
- LA Denotes landscaped area
- MC Denotes metal cover
- PE Denotes polyethylene pipe
- PP Denotes power pole
- PVC Denotes plastic pipe
- RCP Denotes reinforced concrete pipe
- SAN Denotes sanitary manhole
- SAN S Denotes sanitary sewer
- SMH Denotes storm manhole
- ST S Denotes storm sewer
- TC Denotes top of concrete curb
- TCS Denotes traffic control sign
- TRANS Denotes electric transformer
- UC Denotes underground communication line
- UCE Denotes underground electric line
- W Denotes water line
- WV Denotes water valve
- Denotes deciduous tree
- Denotes coniferous tree

NOTES

1. Location and sizes of underground utilities shown hereon are approximate only and are shown based on field location of visible fixtures in combination with available data provided by various sources. Utilities shown are dependent on the completeness and accuracy of data provided. Other underground utilities of which we are unaware may exist. Verify all utilities critical to construction or design.
2. Contact GOPHER STATE ONE CALL at 651-454-0002 (800-252-1166) for precise onsite location of utilities prior to any excavation.
3. This survey was prepared without the benefit of current title work. Easements, appurtenances, and encumbrances may exist in addition to those shown hereon. This survey is subject to revision upon receipt of a current title insurance commitment or attorney's title opinion.
4. Areas:
 Lot 1 = 239,630 Sq. Ft. or 5.501 Acres
 Outlot A = 609,351 Sq. Ft. or 13.989 Acres
 Overall = 848,981 Sq. Ft. or 19.490 Acres
5. Survey coordinate and bearing basis: Washington County

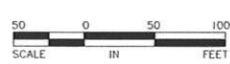


OUTLOT A
 609,351 Sq. Ft.
 13.989 Acres

LOT 1
 239,630 Sq. Ft.
 5.501 Acres

BLOCK 1

- BENCHMARKS**
- 1.) Top of top nut of fire hydrant approximately 39 feet southeast of the southwest building corner of 8530 Eagle Point Office Center. Elevation = 998.54 feet
 - 2.) Top of tile at south main entrance to 8530 Eagle Point Office Center. Elevation = 997.10 feet



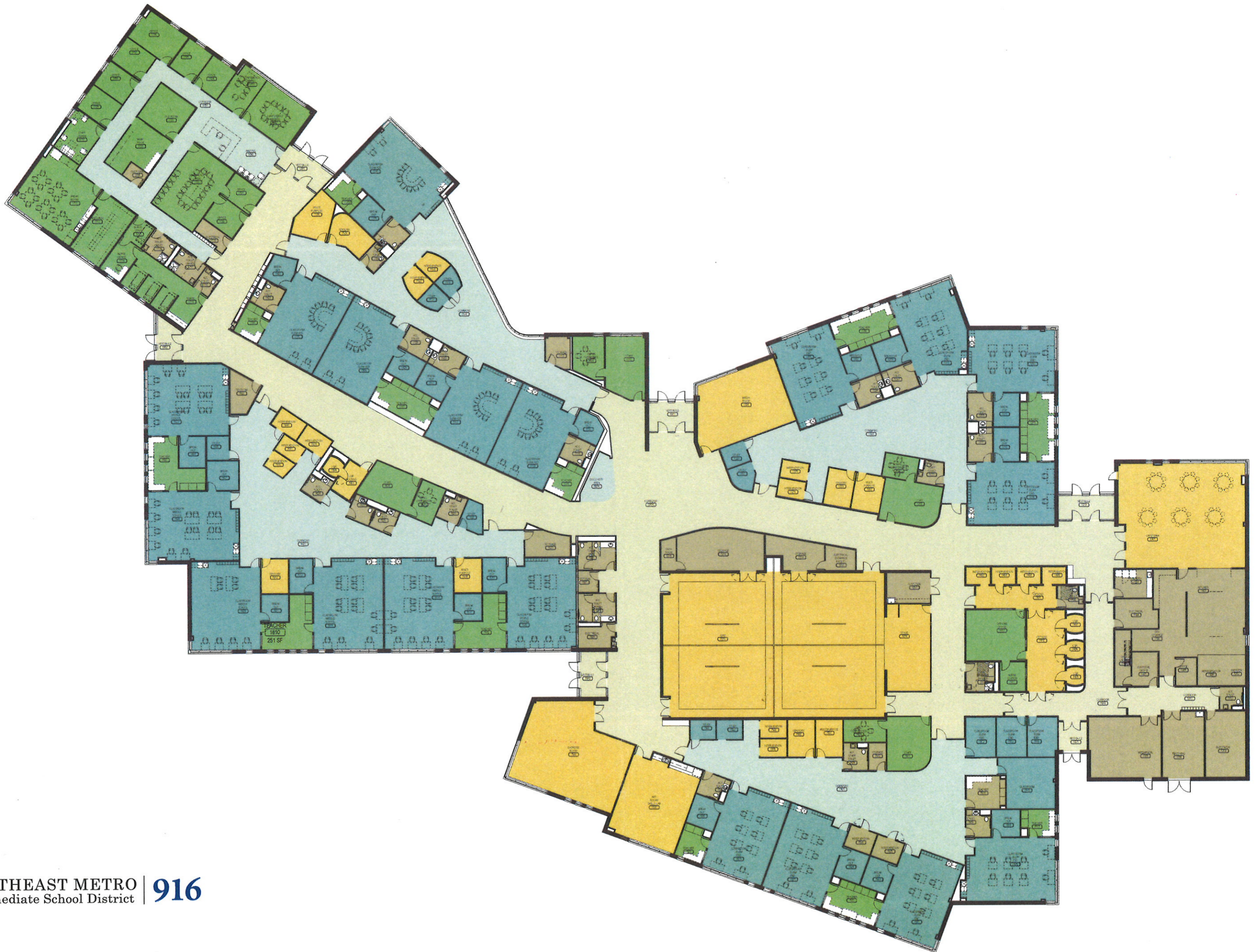
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
 Dated this 4th day of October, 2007.
 SUNDE LAND SURVEYING, LLC.
 By: Mark S. Hanson, P.L.S. Minn. Lic. No. 15480

Revision	By	Date

Drawing Title
**PRELIMINARY PLAT OF:
 EAGLE POINT BUSINESS PARK
 8TH ADDITION**

SUNDE LAND SURVEYING
 Main Office: 900 East Bloomington Freeway (151A) • Suite 118
 Bloomington, Minnesota 55420-3433
 952-881-2425 (Fax: 952-888-9528)
 North Office: Brooklyn Park, Minn. 764-784-9346
 www.sunde.com

Project: 85-155-8 Blk/Pg: 723/70 Date: 10/4/2007
 Township: 29 Range: 21 Section: 33
 File: 85155PrePlat.dwg Sheet: 1 of 1









PLANNING COMMISSION
DATE: 11/25/13
AGENDA ITEM: 5B – PUBLIC HEARING
CASE # 2013-38

ITEM: Comprehensive Plan Amendment and Zoning Map Amendment – 10689 60th Street North

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Community Development Director
Jack Griffin, City Engineer
Rick Chase, Building Official
MnDOT

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to hold a Public Hearing for a request to amend the Lake Elmo Comprehensive Plan and Zoning Map to change the land use designation and zoning for a property at 10690 60th Street North from Rural Residential (RR) to Commercial (C). The applicants currently operate multiple landscaping businesses on the site. Under the current zoning for the site, Rural Residential, landscaping businesses (classified under the use Trade Shop) are not a permitted use. The Comp Plan and Zoning Map Amendment requests are intended to bring the site's land use guidance under the Comp Plan and zoning under the City's Zoning Map into conformance with the existing use. Staff is recommending that the Planning Commission recommend denial of the request.

GENERAL INFORMATION

Applicant: Brian Meyers, John Putzier and Joe Skaar, 623 Cresthaven Drive, South St. Paul, MN 55075

Property Owners: Brian Meyers and John Putzier, 623 Cresthaven Drive, South St. Paul, MN 55075

Location: Part of Section 02 in Lake Elmo, immediately south of Trunk Highway (TH) 36 and approximately 1,300 feet west of Lake Elmo Avenue (CSAH-17). Property Identification Number (PIN): 02.029.21.11.0004.

Request: Application for Comprehensive Plan Amendment (Rural Area Development (RAD) to Commercial (C)) and Zoning Map Amendment (RR to C)

Existing Land Use: Trade Shop – Landscaping Business

Existing Zoning: RR – Rural Residential

Surrounding Land Use: North – TH 36; South and West – agricultural operation (Country Sun Farms); and South and East – Discover Crossing (Open Space Preservation (OP) Neighborhood).

Surrounding Zoning: RR – Rural Residential; and RR – Rural Residential with an OP Conditional Use Permit (CUP)

<i>Comprehensive Plan:</i>	Rural Area Development (RAD)
<i>Proposed Zoning:</i>	C – Commercial
<i>History:</i>	The subject property has been the site of a single family home since 1940 (according to County parcel data). In 1988, a 1,800 square foot accessory structure (pole barn) was added. Currently, the site is used as a base of operations by three landscaping businesses: Oak Meadows Landscape & Design, Northland Seasonal Outdoor Services, and Selfscapes.
<i>Deadline for Action:</i>	Application Complete – 11/8/13 60 Day Deadline for Action– 1/6/14 Extension Letter Mailed – No 120 Day Deadline – 3/7/14
<i>Applicable Regulations:</i>	Comprehensive Plan (Chapter III – Land Use) Article 9 – Rural Districts (RR): §154.400 Article 12 – Commercial Districts: §154.550

REQUEST DETAILS

The City of Lake Elmo has received a request from Mr. Brian Meyers, Mr. John Putzier and Mr. Joe Skaar for a Comprehensive Plan and Zoning Map Amendment to change the future land use designation and zoning of property (10689 60th Street North) immediately south of TH-36 and west of Lake Elmo Avenue from Rural Residential (RR) to Commercial (C). This property is located within the Rural Planning Area. The property is owned by Brian Meyers and John Putzier and is presently used as a base of operations for three landscaping businesses. Under the Rural Residential zoning, trade shops (which landscaping businesses are classified as under the Zoning Code) are not a permitted use in the RR district. Trade shops are a permitted use only in the Commercial zoning district. Therefore, the applicants have requested to rezone the property to make the zoning consistent with the existing use.

BACKGROUND

As a result of ongoing complaints related to outdoor storage of equipment and landscape materials, the property at 10689 60th Street is currently subject to the City's Code Enforcement Process. Beginning in July of 2013, the City has been working with the property owners to clean up their site due to a significant amount of debris and landscape materials. In addition, the City informed the property owners that the operation of a landscaping business on a parcel zoned Rural Residential is not permitted. To work with the property owners on cleaning up the site and ceasing the commercial activity, the City informally established deadlines to clean up landscaping materials and debris (December 2013) and cease all commercial activities on the site (April 2014). The established mitigation schedule can be reviewed in the attached Code Enforcement Letter (Attachment #8). This timeline would allow the property owners enough time to remove all of the debris and materials related to the landscaping business, as well as give the landowners the ability to use the site for snow removal activities during the winter.

As a result of the Code Enforcement agreement, the property owners have been successful in removing a substantial amount of the debris and materials. The City's Building Official, Rick Chase, has been working with the applicants on following through on the agreed-upon deadlines for debris removal. However, the issue of the illegal use of the property as a trade shop persists. In order to request the continued use of the site, the property owners met with staff to determine the correct course of action. This meeting resulted in the City communicating to the land owners that they could not continue to use the site for the existing use under the current Comprehensive Plan and zoning. Therefore, the landowners are requesting that the land use designation under the Comprehensive Plan and zoning be changed to Commercial.

Currently, three landscaping businesses use the site as a base of operations. These businesses include Oak Meadows Landscape & Design, Northland Seasonal Outdoor Services, and Selfscapes. The City is not able to pinpoint the total number of employees who use the site or the amount of traffic. In addition, it is not clear how long the property owners have been using the site for these businesses. However, this information should not have a critical bearing on the ultimate decision. The Comp Plan and Zoning Map Amendment requests should be evaluated based on the merits of changing the zoning of the subject property from Rural Residential to Commercial.

PLANNING AND ZONING ISSUES

Currently, the City's Comprehensive Plan does not guide any portion of the community along TH-36 for Commercial use. The subject property is in the Rural Planning Area, and is currently guided Rural Area Development. Under the purpose statement of the Comprehensive Plan, Purpose #2 states the following:

"2. The Land Use Plan is intended to be a guide for future development which reinforces the City's commitment to preserving a rural character. By focusing required and necessary growth into targeted and logical areas based on historical and transportation system factors, the City can ensure a vast majority of the community can and will retain its agricultural feel. The plan is responsive to development patterns in neighboring communities by focusing a majority of the proposed urbanized development South of 10th Street near or adjacent to similar developments in Oakdale and Woodbury. Rural boundaries with neighboring communities are also maintained."

With this purpose in mind, it was the goal of the City's Land Use Plan (Comprehensive Plan) to plan for growth and development in two specific areas: the I-94 Corridor and the Village. Considering this goal, planning for Commercial areas outside of the I-94 Corridor and Village conflict with the purpose of the City's Comprehensive Plan. While there are some areas of limited commercial activity in the community outside of the Village and I-94 Corridor, such as the Carriage Station and Prairie Ridge Office Parks, these areas were planned for and developed before the adoption of the City's current Comprehensive Plan. In addition, these sites were originally developed to accommodate commercial activities, with appropriate access, parking and circulation, whereas the subject property has been transitioned from a residential property to a commercial property without accounting for these important considerations related to developing commercial sites. For these reasons, it is the recommendation of Staff that amending the City's Future Land Use Map to change the future guidance of this property from Rural Area Development (RAD) to Commercial (C) would be in conflict with the intent of the City's Comprehensive Plan.

With regards to zoning, it should be noted that the purpose of the City's Zoning Map is to implement the Comprehensive Plan. As designated under the City's Zoning Map, the subject property is zoned Rural Residential (RR). Under the RR zoning, the applicants are operating a use, Trade Shop, that is

not permitted in the Rural Residential (RR) zoning district. Under the Lake Elmo Zoning Code (§154.012.B.3.q), Trade Shops are defined as the following:

“Any lot, land, building, or structure that serves as the headquarters for contractors involved in specialized activities such as plumbing, painting, masonry, carpentry, roofing, well drilling, landscaping and the like, where tools, equipment and materials used in the business are stored. The category also includes establishments involved in specialized trades such as sheet metal, sign painting, drapers, and exterminators.”

The only zoning district where trade shops are a permitted use is the Commercial zoning district. Given the definition, the applicants’ use of the property clearly falls under the classification of Trade Shop. Therefore, in order to legally operate a landscaping business on the site, the property would have to be zoned Commercial. It should also be noted that the surrounding properties are currently zoned Rural Residential (RR) and, in the case of Discover Crossing, Rural Residential with an Open Space Preservation (OP) Conditional Use Permit (CUP). Given the zoning of the surrounding properties, it is important to consider the potential issues related to consistency in zoning and land use compatibility if the request were to be approved. Due to these considerations, the rezoning request likely constitutes a Spot Zoning situation in the judgment of Staff. According to an article in *Issues in Land Use Law and Zoning* (Attachment #10), Spot Zoning is defined as “the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners.” Two of the key factors in determining if a request constitutes a Spot Zoning is evaluating the request based on consistency with the community’s Comprehensive Plan and consistency with surrounding land uses. In both cases, Staff has determined that the request would be characteristic of a Spot Zoning action.

It should also be noted that the applicants have stated in their application that other similar businesses currently operate along TH-36. They are correct in that some RAD properties along TH-36 do include some limited commercial activities. However, the commercial activities on these sites were either in existence before the adoption of the Zoning Code, thereby making the uses legal non-conforming (“grandfathered”) uses, or the commercial activities have been permitted through a Conditional or Interim Use Permit. The most similar comparison for this case remains Lauseng Stone (9591 60th Street North). Before the adoption of the 1979 Zoning Code, commercial activities related to landscaping materials and an open sales lot were occurring on the property. After the adoption of the 1979 Code, the City required Lauseng Stone to apply for a Conditional Use Permit (CUP) to allow for the storage of landscape materials and an open sales lot. At this time, these activities were allowed by CUP in the agricultural zoning district. However, these activities are not currently permitted in the Rural Residential zoning district under the current Zoning Code. Therefore, the comparison between the applicant’s proposed use and other existing businesses along TH-36 is not applicable. The applicants did not establish their business at a time when these activities would have been permitted (even conditionally) in the Rural Residential zoning district.

REVIEW AND ANALYSIS

The subject property is 9.93 acres in size and is accessed by a driveway directly connected to eastbound TH-36. The site contains a single family home that serves as an office for the landscaping operation, as well as a 1,800 square-foot accessory building for the storage of equipment. The site is nearly divided in half from north to south by an approximately 90,000 square foot (nearly 2 acres) pond. The operation of the landscaping business and storage of equipment and materials primarily

occur on the north side of the pond. In addition, as noted by the applicants, the site is also underneath high-voltage power lines than run along the south side of TH-36.

Regarding adequate public facilities for a commercial use, the site does not currently have access to the City's municipal water system. However, a municipal water line connecting the Discover Crossing neighborhood to the Rockpoint Church facility from east to west is located approximately 350' to the south of the parcel boundary of the subject parcel. It could be feasible to connect the property to the municipal water system to this water line. In relation to wastewater facilities on the subject property, there is an on-site sub-surface sewage treatment system on site. To Staff's knowledge, this system has not been evaluated or inspected in terms of its ability to manage the wastewater produced by the existing landscaping business, as staff is not certain how many employees use the site. In reviewing the Comp Plan and Zoning Map Amendment requests, the City Engineer has stated that for the City to change the guidance and zoning of this property to Commercial, adequate public facilities should be provided. Adequate public facilities would include connecting to City's municipal water system and demonstrating a viable long term plan for wastewater on the site. Per the Engineer's review letter (Attachment #9), the site is not guided to be served by municipal sanitary sewer. In addition, no municipal sewer service is available in close proximity to the site. Given this condition, the long-term wastewater solution would most likely have to be accounted for on-site.

In addition to water and wastewater services, access is another critical component of demonstrating adequate public facilities. Given that the site is accessed via a direct driveway on TH-36, Staff does not find that there is adequate and safe access to the site for a Commercial use. The City Engineer notes that expanded access, i.e. rezoning to Commercial, should not be allowed due to safety concerns and access management considerations. If the City were to approve the amendment requests, the City Engineer recommends that an alternative access to the site must be provided. The City Engineer also notes that the City has been working with MnDOT and Washington County on extensive transportation planning efforts related to TH-36. These efforts have always included the elimination of existing driveway accesses, as opposed to expansion of existing access points. In addition to the City Engineer's review comments, Tod Sherman, MnDOT Planning Supervisor, notes that TH-36 is a principal arterial, emphasizing mobility as opposed to private property access. In addition, Mr. Sherman recommends minimizing the amount of traffic utilizing adjacent private driveways on TH-36. Rezoning the property to Commercial would not be minimizing the amount of traffic, but rather expanding the amount of traffic. MnDOT's review comments can be found in Attachment #10. Based upon the review of the City Engineer and MnDOT, Staff does not feel that there is adequate access to the site if used for Commercial purposes. It is Staff's determination that the lack of a safe access to the site is another factor demonstrating a lack of adequate public facilities to serve a property zoned Commercial. Overall, a lack of adequate public facilities for a Commercial use reinforces Staff's recommendation to recommend denial of the Comp Plan and Zoning Map Amendment requests.

DRAFT FINDINGS

Given that the request is not compatible with the City's Comprehensive Plan or the surrounding land uses, Staff is not supportive of the proposed amendments. In addition, Staff has determined that the applicant has not demonstrated that adequate public facilities are present to serve a Commercial use on the site. Staff is recommending denial of the requested amendments to the City's Comprehensive Plan and Zoning Map based on the following findings:

1. That the proposed Comprehensive Plan Amendment is not consistent with the intent and purpose the City’s Land Use Plan, which encourages growth and development in the I-94 Corridor and Village Planning Areas while maintaining rural character in the Rural Planning Area.
2. That rezoning the property to Commercial would represent a Spot Zoning action due to inconsistency with the City’s Comprehensive Plan and incompatible surrounding land uses.
3. That the applicant has not demonstrated that adequate public facilities exist on the site to serve a future Commercial land use. More specifically, that direct driveway access onto TH-36 represents a hazard to public safety and poor access management, and is not consistent with the State, County and City’s planning efforts for the corridor to date.

RECCOMENDATION:

Staff recommends that the Planning Commission recommend denial of the request to amend the Lake Elmo Comprehensive Plan and Lake Elmo Zoning Map by changing the future land use designation and zoning of property at 10689 60th Street North from Rural Area Density (RAD) to the Commercial (C) land use category and the zoning from the Rural Residential (RR) to Commercial (C). Suggested motion:

“Move to recommend denial of the request to amend the Lake Elmo Comprehensive Plan and Lake Elmo Zoning Map at 10689 60th Street North based upon the findings outlined in the Staff Report”

ATTACHMENTS:

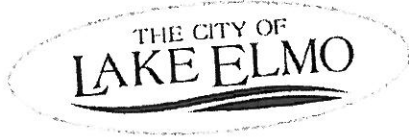
1. Land Use Application
2. Location Map
3. Site Aerial
4. Future Land Use Map (Map 3-3 from Comprehensive Plan)
5. Proposed Comprehensive Plan Amendment: RAD to C
6. Urban and Rural Areas (Map 3-1 from Comprehensive Plan)
7. Lake Elmo Zoning Map
8. Code Enforcement Letter/Agreement
9. City Engineer Review Letter
10. MnDOT Review Letter
11. “Understanding Spot Zoning”, *Daniel Shapiro, Esq.*

ORDER OF BUSINESS:

- Introduction City Planner
- Report by Staff City Planner
- Questions from the Commission Chair & Commission Members
- Open the Public HearingChair

- Close the Public Hearing.....Chair
- Discussion by the Commission Chair & Commission Members
- Action by the Commission..... Chair & Commission Members

Date Received: _____
Received By: _____
Permit #: _____



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

LAND USE APPLICATION

- Comprehensive Plan Zoning District Amend Zoning Text Amend Variance*(see below) Zoning Appeal
 Conditional Use Permit (C.U.P.) Flood Plain C.U.P. Interim Use Permit (I.U.P.) Excavating/Grading

- Lot Line Adjustment Minor Subdivision

Applicant: Brian Meyers, John Putzier, Joe Skaar
Address: 623 Cresthaven Drive South St. Paul, MN 55075
Phone # 651-246-0950
Email Address: brian@oakmeadowslandscape.com

Fee Owner: Brian Meyers, John Putzier, Joe Skaar
Address: 623 Cresthaven Drive South St. Paul, MN 55075
Phone # 651-246-0950
Email Address: brian@oakmeadowslandscape.com

Property Location (Address and Complete (long) Legal Description): 10689 60TH ST N LAKE ELMO, MN 55042
PT W1/2-NE1/4 DESC AS FOLL: BEG AT INTERSECT OF ELY LINE SD W1/2-NE1/4 WITH SLY RAW LINE MN TRK HWY 36 AS LOCATED TRAVELED & MONUMENTED THN
SLY ALG SD ELY LINE 760FT THN WLY PAR WITH SD SLY RAW LI NE 569 35FT
THN NLY PAR WITH SD ELY LINE 760FT ML TO SD SLY RAW THN ELY ALG SD SLY RAW LINE 569.35FT ML TO PT OF BEG SUBJ TO NSP CO EASEMENT DESC IN BK 291 DEEDS PG 213 SECTION 02 TOWNSHIP 029 RANGE 021

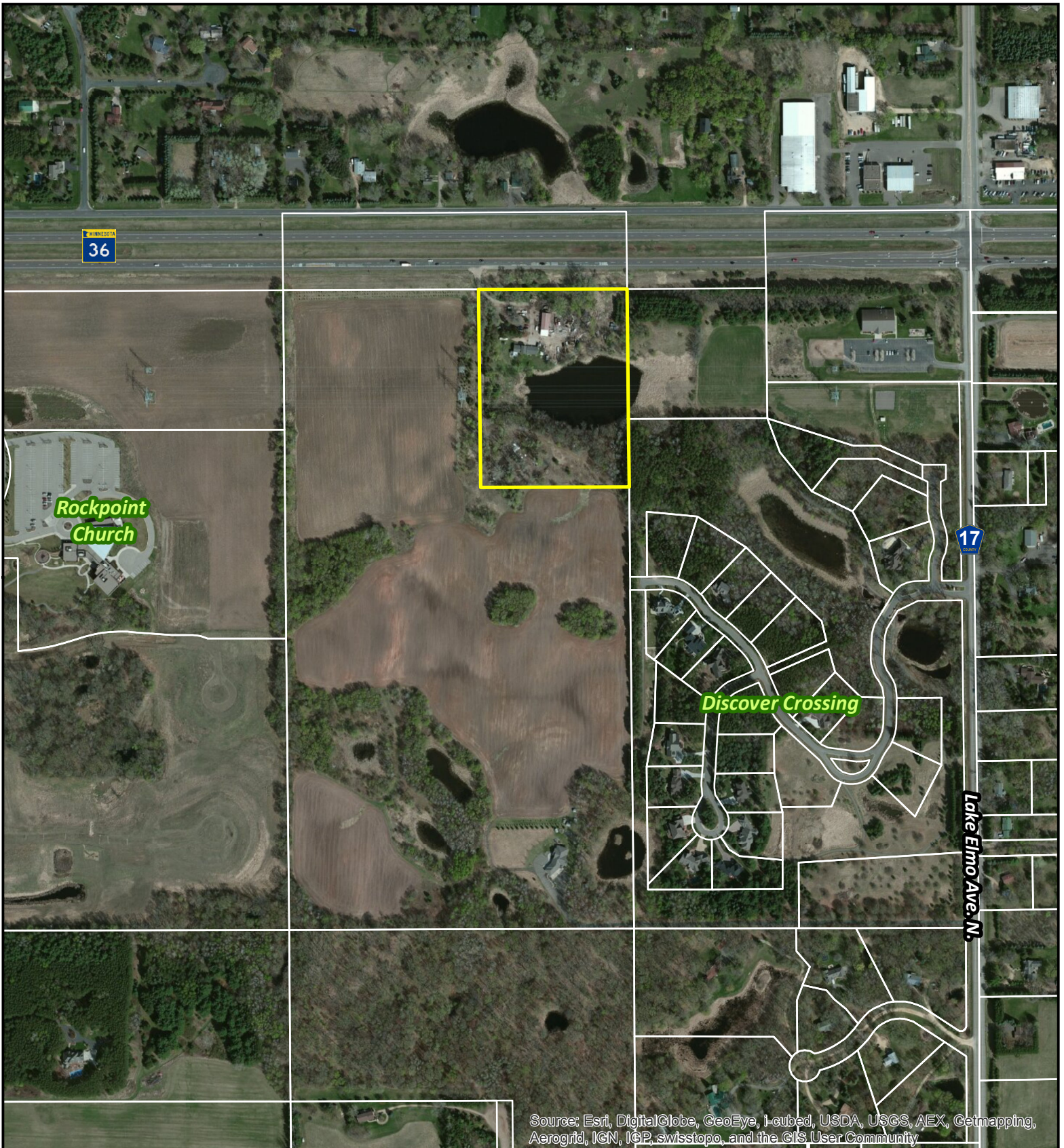
Detailed Reason for Request: To be compliant with land use located in Lake Elmo and continue using for local business.
Our property is located along Highway 36 under power lines making it an undesirable location for residential homes. Other similar businesses operating
similar services operate along Highway 36. Our property is also unique in that it is divided by a pond and we primary use the north side.

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

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: [Signature] Date: 10/22/13
[Signature] Date: 10/22/13

City Use Only
Planning: Zoning District: _____ Date: _____
Reviewed by: _____
Subject to the following conditions: _____
Engineering: Reviewed by: _____ Date: _____
Subject to the following conditions: _____



Source: Esri, DigitalGlobe, GeoEye, I-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

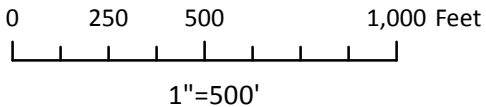
Location Map: 10689 60th Street N.



Data Source: Washington County, MN
11-20-2013




10689 60th Street N.





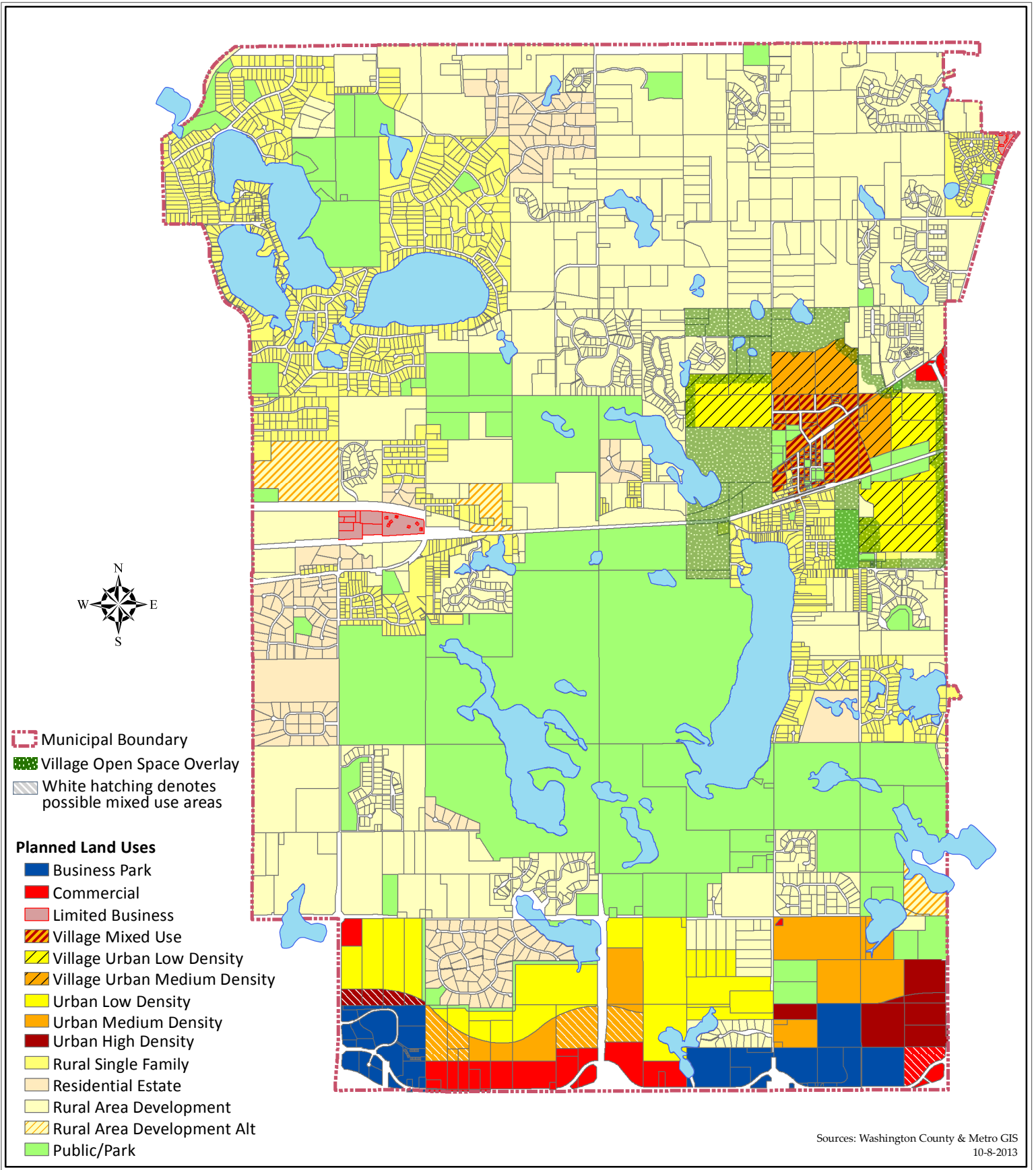
Site Aerial
10689 60th St.

 10689 60th Street N.

0 50 100 200 Feet

1"=100'



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

















Planned Land Use

Lake Elmo Comprehensive Plan 2030



-  Municipal Boundary
-  White hatching denotes possible mixed use areas

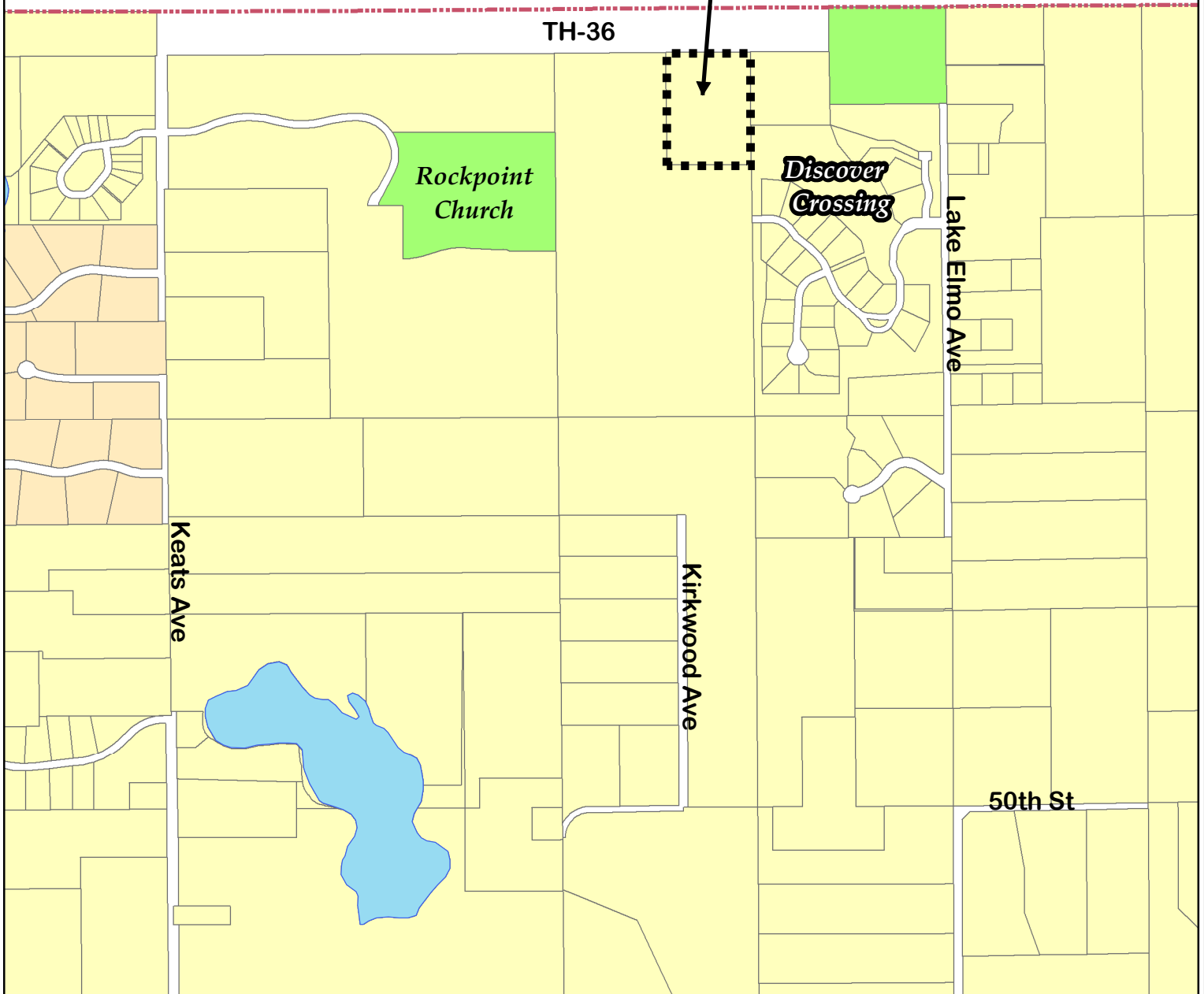
Planned Land Uses

- | | |
|---|--|
|  Business Park |  Urban Medium Density |
|  Commercial |  Urban High Density |
|  Limited Business |  Rural Single Family |
|  Village Mixed Use |  Residential Estate |
|  Village Urban Low Density |  Rural Area Development |
|  Village Urban Medium Density |  Rural Area Development Alt |
|  Urban Low Density |  Public/Park |

Proposed Amendment: RAD to C



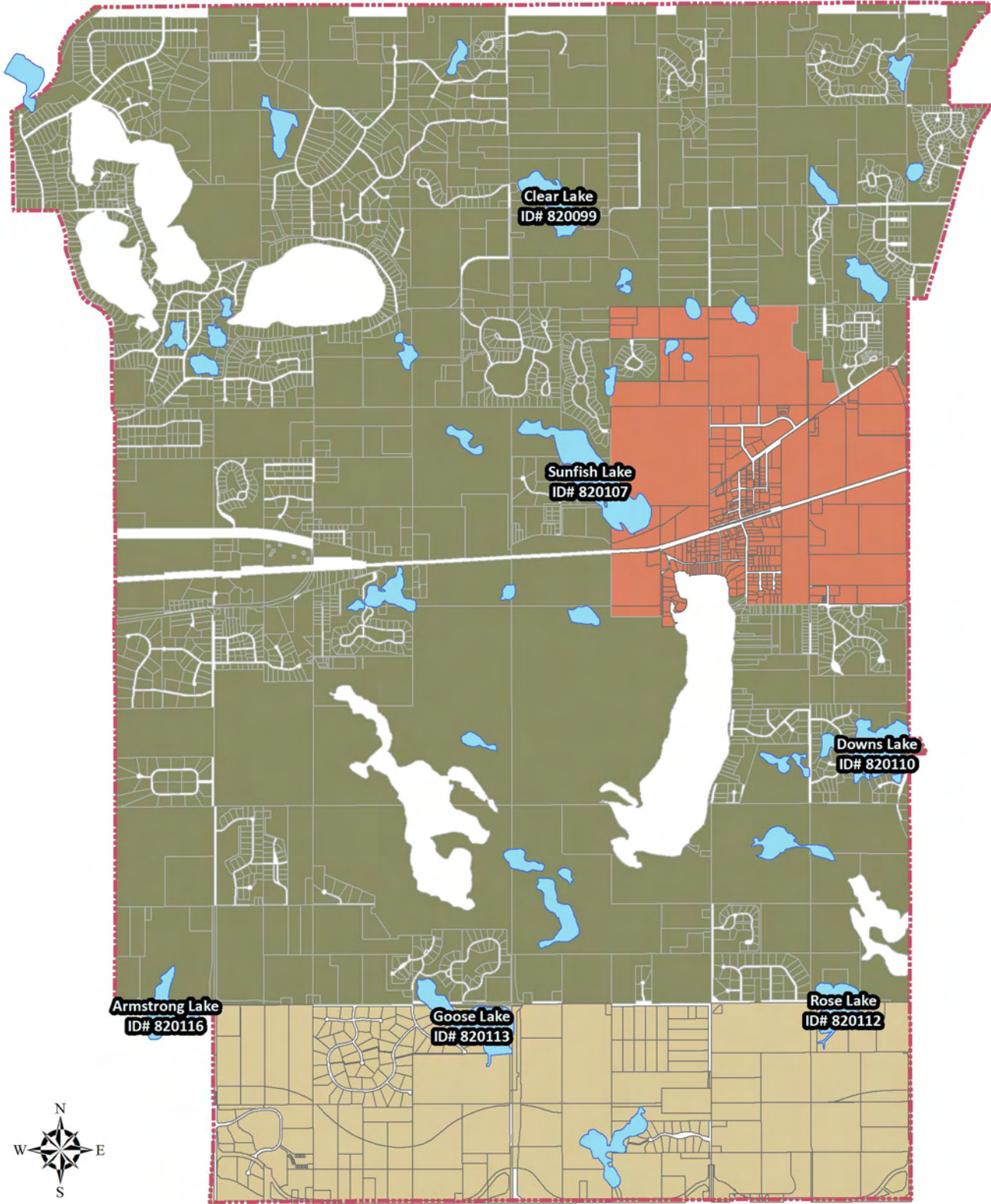
Sources: Washington County & Metro GIS
11-21-2013



Planned Land Use - Amendment

Lake Elmo Comprehensive Plan 2030









Sources: MetroGIS
7-6-12

Urban/Rural Areas & Surface Waters

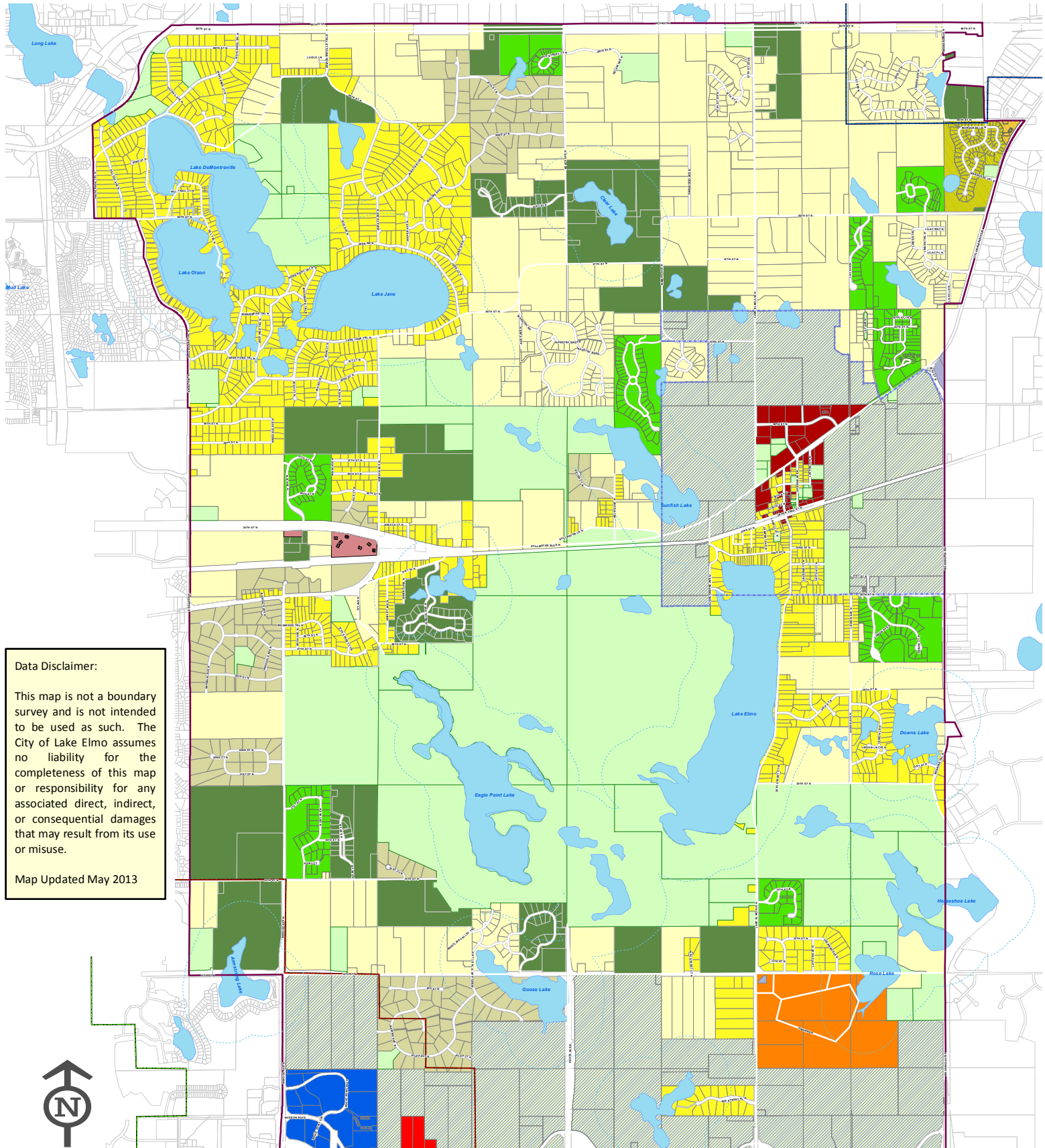
Lake Elmo Comprehensive Plan 2030

-  Municipal Boundary
-  Rural
-  Urban (I-94)
-  Urban (Old Village)



This map was created using MFRA's Geographic Information Systems (GIS), it is a compilation of information and data from various sources. This map is not a surveyed or legally recorded map and is intended to be used as a reference. MFRA is not responsible for any inaccuracies contained herein.

Lake Elmo Zoning Map



Data Disclaimer:

This map is not a boundary survey and is not intended to be used as such. The City of Lake Elmo assumes no liability for the completeness of this map or responsibility for any associated direct, indirect, or consequential damages that may result from its use or misuse.

Map Updated May 2013



Legend

General

- Village Area
- Lakes
- Lake Elmo Boundary
- Shoreland District Boundary

Watershed Districts

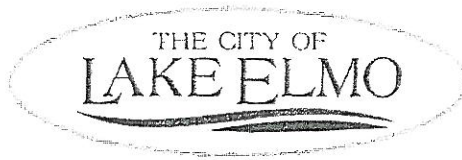
- Browns Creek
- South Washington
- Valley Branch

Zoning Districts

- | | | | | |
|----|--------|-----|--------|----|
| A | OP | HDR | CC | RT |
| RR | R2-PUD | BP | LC | PF |
| RE | LDR | C | LC-PUD | |
| RS | MDR | GB | VMX | |



Lake Elmo Planning Department
May 21, 2013



August 23, 2013

John Putzier
Brian Meyers
Joseph Skaar
W 8085 810th Ave.
River Falls, WI 54022



RE: Code Violations at 10689 60th Street North, Lake Elmo, MN

Mr. Putzier, Mr. Meyers and Mr. Skaar,

On August 13th, the City received your proposed schedule to address the various code violations on your property at 10689 60th Street North, Lake Elmo, MN. After reviewing the proposed schedule of removing the debris and work related equipment, the timeline for mitigating the various code violations is determined to be adequate. To be clear, this schedule would include removing all debris by November 30th, and removing 70% of the equipment by November 15th. We understand that you also store equipment related to snow removal that may be utilized over the course of the winter. The proposed schedule would only be acceptable if the equipment related to snow removal is the only equipment that remains on site after November 15th. This equipment would have to be removed by April 1st, 2014, effectively ending the use of this site for commercial purposes. In addition, the City only agrees to move forward with the proposed schedule under two conditions:

1. You must demonstrate incremental improvement related to debris cleanup and equipment removal leading up to the two critical dates (11/15 and 11/30). The proposed schedule allows for roughly 10 weeks to address the various code violations. The City will reinspect the property every 2.5 weeks (4 total inspections) to ensure that incremental progress is made. Given the time frame, it stands to reason that the debris cleanup should improve by 25% between each inspection date. The first phase of cleanup should focus on Areas #1 and #2 (as shown in attached pictures). Cleanup of Areas #3 and #4 will be determined after the cleanup of Areas #1 and #2 is completed. For the City to follow the proposed plan of cleanup, it is critical for the City that you show good faith in making incremental progress in the cleanup effort.
2. To ensure the tasks related to the cleanup of the code violations are completed, the city will require a security escrow in the amount of \$5,000. This escrow is to not only ensure that the cleanup proceeds as planned, but protect the City should the cleanup not proceed as planned. As you make incremental improvement in removing the debris and equipment, the City is willing to release portions of the escrow in the amount equal to the progress of cleanup (i.e. 25% of escrow released for 25% of debris and equipment removal).

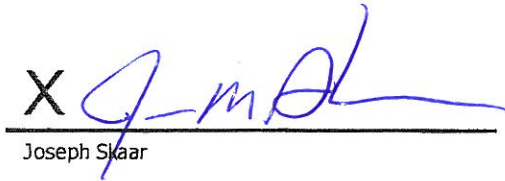
See
Page (2)
fm

As we have stated in previous meetings, the City wants to work with you to address the code violations in a reasonable timeframe. In reviewing your proposed schedule, the timeframe seems reasonable. However, the City has to ensure that incremental progress is being made on the site, and your intention to remove all business activities on the site is made in good faith.

If you are amenable to the proposed schedule and agree to execute it as determined by the City, please sign this document and return it to the City to the attention of the City Clerk, Adam Bell.

X 
John Putzier

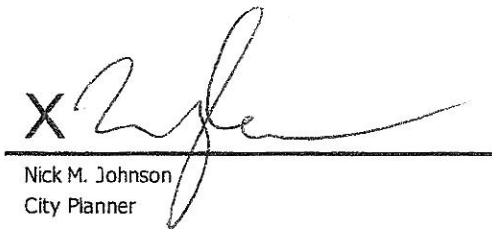
X 
Brian Meyers

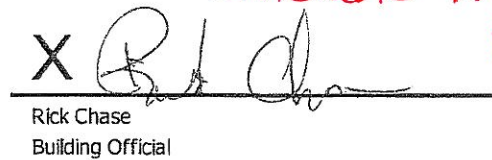
X 
Joseph Skaar

In addition to agreeing to the proposed schedule of cleanup, the City must have the security escrow in the amount of ~~\$5,000~~ posted to the City within 7 business days of receipt of this letter. As soon as the City receives the required security escrow and the signed letter, we can proceed with the proposed schedule and postpone further Code Enforcement action with the understanding that all required elements of the cleanup plan are followed.

Let us know if you have any further questions.

Sincerely,

X 
Nick M. Johnson
City Planner

X 
Rick Chase
Building Official

*\$1,000 Each
Separate checks
& receipts
Include Address
Escrow*

Second Letter

8/23/2013

MEMORANDUM

FOCUS ENGINEERING, inc.

Cara Geheren, P.E. 651.300.4261
Jack Griffin, P.E. 651.300.4264
Ryan Stempski, P.E. 651.300.4267
Chad Isakson, P.E. 651.300.4285

Date: November 19, 2013

To: Nick Johnson, City Planner Re: 10689 60th Street North
Cc: Kyle Klatt, Community Development Director Comp Plan and Zoning Map Amendment
From: Jack Griffin, P.E., City Engineer

An engineering review has been completed for the above Comprehensive Plan and Zoning map amendment for 10689 60th Street North. The applicant has requested an amendment to the comprehensive plan and zoning map in order to change the land use designation and zoning for the subject property from residential to commercial. The applicant intends is to use the property to operate a landscaping business.

STATUS/FINDINGS: An expanded access to TH 36 should not be allowed due to safety concerns and access management issues existing along the corridor. Any consideration given to allow the expanded use of the subject property should be done only after the applicant has demonstrated an acceptable alternative access for the use of the property. Further consideration should be given to requiring the applicant to connect to city water and demonstrate a viable long term plan for wastewater management.

- The property currently accesses TH 36 directly. As part of MnDOT's TH 36 Corridor Plan, this access point will need to be eliminated at some time in the future, and an alternative access will need to be provided.

Extensive transportation planning work has been completed over the years by the City, MnDOT and Washington County to address safe access to State Highway 36. MnDOT has designated TH 36 as an Inter-Regional Corridor. The City of Lake Elmo is in process of completing a State Highway 36 South Frontage Road Study to identify a long range access management plan and to identify an east-west collector roadway to facilitate this access for the community.

- The property resides outside of the city's planned sewer service areas. Sanitary sewer service is not available to this property and there are no future plans to provide this property with sanitary sewer service in the future.
- City water service is available in the vicinity of the property from the northern trunk watermain extension project. The property is not currently connected to city water.

From: [Sherman, Tod \(DOT\)](#)
To: [Nick Johnson](#)
Cc: [Josephson, Adam \(DOT\)](#)
Subject: Access off of TH 36
Date: Friday, November 22, 2013 12:03:30 PM

Nick:

Thank You for providing MnDOT information concerning the proposed zoning change for the property adjacent to Hwy 36. As you are aware, since there is no other reasonably convenient and suitable alternative access available for the property, MnDOT would likely continue to allow the property direct access onto Hwy 36. Hwy 36 is functionally classified as a principal arterial and therefore emphasizes mobility rather than private property access. Property access should be provided off local public streets wherever possible. Therefore, until access to this property can be relocated to the local roadway network, MnDOT recommends minimizing the amount of traffic using adjacent private driveways.

At a minimum, a MnDOT access permit will be needed for this property due to the change in use. With the permit review for the change in use, MnDOT will need to review plans (site plan, grading plan, landscaping plan, etc.) to insure safe access and to identify any additional permits that may be needed (such as a drainage permit).

Thank You, Tod

Tod Sherman, Planning Supervisor

Mn/DOT Metro District

1500 W. County Road B-2

Roseville, MN 55113

(651) 234-7794

tod.sherman@state.mn.us

Understanding Spot Zoning

by Daniel Shapiro, Esq.

November 7th, 2013

Editor's note: We're pleased to continue offering articles providing an overview of some of the key zoning and land use law issues planners and planning commissioners face. As with all such articles, we encourage you to consult with your municipal attorney as laws and legal practice vary from state to state.

Occasionally, planning boards or commissions are faced with a petitioner's request to re-zone property only to be challenged with an objector's claim that doing so would constitute illegal spot zoning. The plan commission often has a quandary; approve the development and risk making an improper, if not illegal decision, or deny the development which would have financially improved the community. To better assist with this difficult decision, it is beneficial for the commission to understand exactly what "spot zoning" is.

What Constitutes Spot Zoning

The "classic" definition of spot zoning is **"the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners."**¹

Spot zoning is, in fact, often thought of as the very antithesis of plan zoning.² When considering spot zoning, courts will generally determine whether the zoning relates to the compatibility of the zoning of surrounding uses. Other factors may include; the characteristics of the land, the size of the parcel, and the degree of the "public benefit." Perhaps the most important criteria in determining spot zoning is the extent to which the disputed zoning is consistent with the municipality's comprehensive plan.

Counties and municipalities both adopt comprehensive plans for the purposes of stating their long term planning objectives, and addressing the needs of the community in one comprehensive document that can be referred to in making many zoning decisions over time.

Comprehensive plans also typically map out the types (and locations) of future land use patterns which the municipality (or county) would like see — again, these provide guidance for changes in the zoning ordinance and zoning district maps.

The key point: rezonings should be consistent with the policies and land use designations set out in the comprehensive plan.

Importantly, each claim of spot zoning must be considered based upon its own factual scenario. Indeed, some courts engage in a

cost/benefit analysis to determine whether the challenged zoning is spot zoning.

For instance, in *Griswold v. Homer*,³ the Alaska Supreme Court found spot zoning to exist by considering a cost benefit analysis, as well as the size of the parcel in question and the rezoning in relationship to the comprehensive plan. Critically, it found that the spot zoning was absent because, among other things, the underlying ordinance resulted in genuine benefits to the City of Homer as a whole, and not just to the particular land owner.

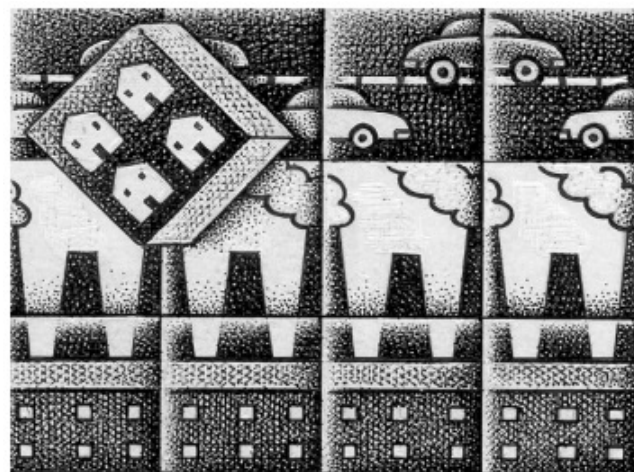


illustration by Paul Hoffman for PlannersWeb

Although courts often find spot zoning where the challenged zone is surrounded by other incompatible zones, spot zoning is less likely to occur when the rezoning has “slopped over” by the extension of the perimeter of an existing zone to include the rezoned area.



illustration by Paul Hoffman for PlannersWeb

Additionally, improper spot zoning is less likely when the disputed area is characterized by mixed uses or transitional areas. In other words, spot zoning is more frequently found in residential than in commercial neighborhoods.

When holding that spot zoning is invalid, some courts will couch their ruling in in terms of substantive due process — in other words, that the rezoning was not “reasonably related” to a legitimate state interest. Other courts will frame a ruling upon equal protection principles.⁴

Regardless, when courts declare such rezoning invalid they must base their declaration on: (1) the lack of connection of the rezoning to a legitimate power or purpose; (2) the lack of the rezoning’s conformity to the comprehensive plan; or (3) the rezoning’s representing an unreasonable inequality in the treatment of similarly situated lands. See, e.g., *Hanna v. City of Chicago*⁵ (spot zoning occurs when a relatively small parcel or area is rezoned to a classification out of harmony with the comprehensive plan).

Rebutting Spot Zoning

Spot zoning, however, may be rebutted when the challenged zoning is found to be consistent with a municipality’s recent zoning trends in the area, not just with the present surrounding uses.⁶ To illustrate the importance that each factual scenario must be closely addressed, rather than merely labeled, it should be noted that one Illinois court found that the rezoning of small parcels inconsistent with the zoning of surrounding areas is not necessarily unlawful.⁷ The size of a parcel is just one factor to be considered in determining spot zoning.

A claim of spot zoning may also lack merit, for instance, when the zoning or planning regulations consider the boundaries of the property in dispute to contain a line of demarcation between zoning districts which would appropriately separate one zoning district from another.⁸

Most importantly though, if the zoning is enacted in accordance with a comprehensive plan, it is typically not “spot zoning.”⁹

What’s a Planning Commission to Do?

When considering zoning map amendments, the planning commission or board must not only determine whether the petitioner has satisfactorily responded to the traditional standards in support of his or her application, but it should also closely scrutinize whether a potential exists for spot zoning. In doing so, the commission should look at the comprehensive plan and the surrounding uses to the property at issue.

While the commission is not qualified to make legal determinations of spot zoning, it is nonetheless the gatekeeper of identifying that such an issue may exist. It is therefore appropriate for the commission to defer its decision and consult with its municipal attorney *before* voting to approve the rezoning and referring it to the governing body for adoption.

Summing Up:

Spot zoning must be addressed upon the facts and circumstances of each case. As such, when faced with allegations of spot zoning, the courts will closely look at factors such as the size of the parcel; the anticipated public benefit; the consistency with the community’s comprehensive plan; and the consistency with surrounding zoning, and uses, to make a determination of the validity of the rezoning.



Dan Shapiro is a partner with the law firm of Robbins, Salomon and Patt, Ltd in Chicago, Illinois. He practices in the areas of land use, zoning, governmental relations, municipal law, and civil litigation.

Dan represents a wide variety of private developers as well as governmental entities and advises his clients closely on issues of concern. As part of his practice, he has successfully presented legislative and administrative matters before plan commissions, zoning boards, and other village, city, and county bodies.

Dan also is an adjunct professor teaching land use at Kent Law School in Chicago, and is the Chairman of the Village of Deerfield (Illinois) Plan Commission.

Notes:

1. Anderson’s American Law of Zoning, 4th Edition, § 5.12 (1995). __
2. See, e.g., *Jones v Zoning Board of Adjustment of Township of Long Beach*, 32 N.J. Super 397,108 A.2d 498, 502 (1954). __
3. *Griswold v. Homer*, 926 P.2d 1015 (Alaska 1996) __
4. See, e.g., *Rando v. Town of N. Attleborough*, 692 N.E.2d 544 (Mass. App. Ct. 1998). __
5. *Hanna v. City of Chicago* 771 N.E.2d 13 (2002) __
6. See e.g., *1350 Lakeshore Associates v. Casalino*, 352 Ill.App.3d 1027, 816 N.E.2d 675 (1st Dist. 2004). __
7. See, e.g., *Goffinet v. County of Christian*, 65 Ill.2d 40 357 N.E.2d 442 (1976). __

8. See, e.g., *LaSalle National Bank v. City of Highland Park*, 344 Ill.App.3d 259, 799 N.E.2d 781 (2nd Dist. 2003).
—
9. See, e.g., *Jones v. Zoning Board of Adjustment of Township of Long Beach*, 32 N.J. Super. 397, 108 A.2d 498, 502 (1954). —

Tags: [Land Use Law](#), [Zoning & Land Use Regulations](#)

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