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## NOTICE OF MEETING

The City of Lake Elmo  
Planning Commission will conduct a meeting on  
**Monday, February 24, 2014 at 7:00 p.m.**

## AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
  - a. February 10, 2014
4. Business Items
  - a. ZONING TEXT AMENDMENT – ACCESSORY BUILDING ORDINANCE. The Planning Commission will review an updated draft of an accessory building ordinance in advance of a future public hearing.
  - b. OUTDOOR SOCIAL EVENT DISCUSSION. The Planning Commission has received a request to be addressed by Carol Palmquist (12202 55<sup>th</sup> Street North) to discuss an outdoor social event ordinance.
  - c. CUL-DE-SAC DISCUSSION. The Planning Commission will continue an informal discussion about cul-de-sacs that was tabled at the last meeting.
5. Updates
  - a. City Council Updates – February 18, 2014 meeting:
    - i. Final Plat – Savona 1<sup>st</sup> Phase. The City Council approved the Final Plat of the 1<sup>st</sup> Phase of the Savona residential subdivision.
    - ii. Zoning Map Amendment – Savona Subdivision. The City Council approved the Zoning Map Amendment to rezone the parcels associated with the Savona Subdivision from RT to LDR and MDR.
    - iii. Zoning Text Amendment - Livestock Ordinance. The City Council approved the updates to the City’s animal ordinances with minor amendment.
    - iv. AUAR Fee Ordinance. The City Council adopted an ordinance to reimburse the City for the costs of the Village AUAR Study.
  - b. Staff Updates
    - i. Planning Commission Discussion Series – “Ma’am, We’re Here For You” (hard copy provided in 2/10/14 agenda packet)
    - ii. Upcoming Meetings:

- March 10, 2014
- March 24, 2014

c. Commission Concerns

6. Adjourn



**City of Lake Elmo  
Planning Commission Meeting  
Minutes of February 10, 2014**

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

**COMMISSIONERS PRESENT:** Yocum, Dodson, Haggard, Dorschner, Kreimer, Larson and Lundgren

**COMMISSIONERS ABSENT:** Williams and Morreale

**STAFF PRESENT:** Community Development Director Klatt and City Planner Johnson

**Approve Agenda:**

Dodson suggested tabling Items 5D and 5E. He noted that Ms. Carol Palmquist was unable to attend, so it would make more sense to have that discussion when she would be present. Also, the cul-de-sac discussion was brought forward by Chairman Williams, and it would be beneficial to have him present for that discussion.

M/S/P: Dorschner/Lundgren, move to amend the agenda by eliminating Items 5D and 5E, **Vote: 7-0, motion carried.**

**Approve Minutes:** January 27, 2014

Haggard requested that the minutes reflect that the Planning Commission suggested that one acre be the minimum size for both chickens and bees, not just chickens.

Dodson asked that the minutes reflect that Dorschner commented on the City Council decision related to the proposed Comprehensive Plan Amendment at 9434 Stillwater Blvd. N. He asked that the City Council respect the Planning Commission's time when requesting that they review a land use item at the direction of the Council.

M/S/P: Haggard/Larson, move to approve the minutes as amended, **Vote: 6-0, motion carried,** with Lundgren not voting.

**Public Hearing:** Zoning Map Amendment – Savona Subdivision.

Klatt introduced the Zoning Map Amendment by providing background information about the Savona residential subdivision. He noted that the Savona site now has access to utilities as a result of substantial completion of the Section 34, 429 Utility Project. In addition, the Savona Subdivision also has an approved Preliminary Plat. Given these two

considerations of status, it makes sense to now rezone the site to the zoning districts that are consistent with the City's Comprehensive Plan. He also noted that the applicants have submitted a Final Plat for the 1<sup>st</sup> Phase of the single family area.

Haggard asked if Staff did any calculations about the total number of units as guided by the Comp Plan compared with in the approved Savona Preliminary Plat. Klatt noted that he does not have the Comp Plan figures for these parcels at this time. However, it should be noted that the applicants chose to move the 5<sup>th</sup> street minor collector road to the South. Moving the road made the area guided for Urban Low Density Residential – LDR larger, thereby decreasing the total number of projected units slightly.

Public Hearing opened at 7:21pm.

No one spoke.

Public Hearing closed at 7:21pm.

M/S/P: Kreimer/Lundgren, move to recommend approval of the Zoning Map Amendment to rezone the parcels associated with the Savona residential subdivision from Rural Transitional District to Urban Low Density Residential and Urban Medium Density Residential, ***Vote: 7-0, motion carried unanimously.***

#### **Business Item: Savona Final Plat – First Phase**

Klatt introduced the item by providing information about the status of the Savona Subdivision. He noted that the subdivision has an approved Preliminary Plat. The purpose of the Final Plat action is to ensure that the applicants have met the conditions of approval that are established at the Preliminary Plat approval. Klatt explained that while the City has significantly more discretion in requesting revisions to a Preliminary Plat, the Final Plat step is more of a procedural review to ensure consistency with the Preliminary Plat. Klatt noted that there are 44 single family lots in the proposed Final Plat, which likely represent a two-year build-out for Lennar Homes, the applicant.

Klatt presented an aerial map of the general area of the Final Plat. He highlighted the properties that are included in the application, highlighting the new property boundaries that have resulted from the land transaction between Dale Properties and Lennar.

Klatt presented the general statistics of the Final Plat, as well as the plat itself. He noted that Outlot F is the area guided for future townhome development. Outlot A is the future area of residential homes. The applicants are proposing to mass grade almost the entirety of the site included in the Final Plat.

Klatt noted that Staff has found that the Final Plat application is generally consistent with the approved Preliminary Plat. Staff is recommending approval of the Final Plat with several conditions. The conditions are primarily related to requested updates and changes to the Construction Plans. Klatt also noted that Staff is recommending that these changes be completed before the City releases the Final Plat. Related to additional review of the plans, Klatt noted that the Valley Branch Watershed District did provide approval with multiple conditions for the storm water permit for the site. He also noted that Washington County provided comments regarding the improvements to Keats Ave. N. Klatt noted that Staff is also recommending that a trail improvement be installed on the west side of Keats Ave. as part of this project. This trail would allow for future connection to the Lake Elmo Regional Park Reserve. Finally, Klatt suggested that one condition be added to change the name of Jewel Ave. on the Final Plat to Juniper Ave. to avoid confusion related to address numbering.

Haggard asked if the northern boundary of the final plat area should include a 100-foot buffer. Klatt noted that no buffer is programmed here due to the adjoining property being guided for low density development. The area in question is actually the location of the power-line easement.

Haggard also noted that the names of the outlots are not consistent on the various plan sets.

Dorschner asked why the City would hire a consultant to review the landscape plan, which relates to Condition #7. Klatt noted that the plans would be reviewed by an independent consultant to review the proposed species and location of plant materials. The City wants to ensure that these plant materials are properly located, installed and have the best chance to survive.

Haggard asked about the location of the requested trail improvement on Keats Ave. Klatt noted that these improvements would occur in the County right-of-way.

Dodson asked for clarification on the ownership of the various outlots.

Ryan Bluhm, representing Lennar Homes, addressed some of the questions of the Planning Commission. Regarding the attempt to relocate the existing pine trees on the site, he noted that the sandy soils did not allow for transplant. Also, he noted that Lennar has agreed to install the trail along Keats Ave. within the County right-of-way.

Lundgren asked about the likely number of bedrooms in each home. Ryan Bluhm estimated that the homes would include anywhere between 3-5 bedrooms.

Haggard asked for more information about the mailboxes. Bluhm noted that the Post Office is now requiring that these mail boxes be clustered.

Kreimer noted that Linden trees in the Stonegate neighborhood have been decimated by Asian Beetles.

Dodson thanked Ryan Bluhm for addressing the Planning Commission's questions.

Dodson noted that he thinks that the City should take a larger role in maintaining common open spaces. In addition, HOAs made up of residents that are often not properly equipped to deal with the many broad issues that a neighborhood may face. Dodson suggested removing condition #5 from the recommended list of conditions. Haggard agreed that neighborhoods are sometimes not equipped to deal with some of these issues, but she does not think it's fair that the City maintains common spaces for certain neighborhoods. Kreimer noted that neighborhoods will likely include much more robust landscaping than the City is equipped to maintain.

Dorschner asked how many HOAs would likely serve the development. Bluhm noted that two HOAs are likely; one HOA for the single family area and one HOA for the townhome area.

Klatt also provided comments regarding HOAs. First, he stated that the City does not have enough capacity to maintain many common open areas.

Lundgren asked about condition #16. Klatt provided further explanation of the process.

Haggard asked if it would be possible to beautify the mail boxes a little bit. Bluhm noted that it could be possible. Haggard also asked if the monument sign has to read "A Lennar Development". Bluhm noted that the applicant would prefer to keep the Lennar name on the monument.

M/S/P: Haggard/Dorschner, move to add a condition that the Planning Commission would encourage the applicant to incorporate the design elements of the City's Theming Study into the proposed mailboxes within the Savona Subdivision, ***Vote: 7-0, motion carried unanimously.***

M/S/P: Lundgren/Dorschner, move to recommend approval of the Savona Final Plat with the 15 conditions of approval as drafted by staff and the Planning Commission, ***Vote: 6-1, motion carried,*** with Dodson voting no.

Dodson wanted it known that he voted against the motion due to condition #5, related to the requirement of establishing an HOA to maintain common open areas.

### **Business Item: Zoning Text Amendment – Livestock Ordinance**

Planner Johnson started discussion by stating that they are bringing back a revised version of the ordinance based on the discussion at the last meeting. The most

significant change is raising the minimum lot size for bees from ½ acre to one acre. From earlier discussion, it appears that the Planning Commission would also like to see that change for chickens as well. Johnson noted that this is a fairly conservative approach based on what other communities are doing.

Based on the fact that the public notice for the Planning Commission was only intended to address moving the Livestock Ordinance out of Zoning Code, there will be another public hearing next Tuesday night at the City Council meeting. This public hearing will allow the public to give more input on the proposed amendments to the City's Animal Ordinance, including the addition of bees and chickens on smaller lots.

Kreimer said that the Planning Commission wanted a 25 foot setback from an occupied residential lot for chickens and bees.

Dodson was wondering why Johnson considers the proposed ordinance conservative or cautious. Johnson stated based on the research that staff has completed of what other communities have in their code related to bees and chickens, the proposed approach is fairly conservative.

Dodson wanted clarification of chart because it was a little confusing regarding chickens on less than 5 acres.

Kreimer stated we would need to change the chart to one acre and there is a section that needs to be amended for the setbacks.

Haggard is wondering if it should state that the coops need to be in the backyard. Johnson stated that a coop would follow the accessory structure setback.

M/S/P: Kreimer/Larson, move to recommend approval of the adoption of Animal Ordinance, amending the Zoning Code concerning Livestock and Kennels and amending the Animals Chapter of the General Regulations of the City of Lake Elmo, **Vote: 6-1, motion carried**, with Lundgren voting no.

Lundgren wanted to make her position clear that she voted against the motion because she feels that the proposed ordinance does not provide enough opportunity for smaller parcels to have chickens and bees.

### **Business Item: Zoning Text Amendment – Accessory Structures**

Nick Johnson presented a summary of proposed Zoning Ordinance amendments to revise the regulations concerning accessory buildings. Staff is proposing to eliminate the existing accessory building provisions and replace these sections with new language. The City has previously adopted general accessory building requirements as part of the specific zoning district standards.

Johnson noted that the City has a wide variety of land uses that add some complexity to the drafting of an accessory building ordinance. He reviewed the specific ordinance revisions that are being proposed, and stated that Staff is seeking initial feedback from the Commission before proceeding with a public hearing on the changes.

The Building Official has recommended eliminating or increasing the maximum door size allowed for storage/tool sheds and maintain a minimum setback of six feet between accessory buildings and principal buildings.

Haggard questioned the exceptions that will be allowed, and if these exceptions could create problems for smaller lots. Johnson noted that other ordinance provisions, including impervious coverage limits, still would apply and would limit the number of location of allowed structures and buildings.

Dodson asked how often Staff receives questions related to accessory buildings. Johnson replied that a large number of permits are specific to or include accessory buildings.

Dorschner suggested that the ordinance should only include a maximum size and should not necessarily need to limit the space devoted to vehicle parking.

Yocum commented that the requirements for lots under 1 acre in size can be somewhat restrictive. Johnson cited examples in other communities that allow larger buildings on smaller parcels.

Dodson questioned that requirement for garages to be located behind the primary façade of a building. Johnson stated that this requirement applies only to urban residential districts and not rural districts.

Haggard stated her preference for fewer buildings and larger attached garages on smaller residential lots. Klatt noted that the Commission has previously discussed the size of accessory buildings and considered language that would not allow a detached garage to exceed the size of the principle structure on a lot.

The Commission generally agreed to eliminate the 1,000 square foot limit for the parking of vehicles.

Johnson suggested that the Planning Commission examine the maximum structure size in preparation for the next meeting.

Klatt noted that he has received inquiries in the past from rural property owners that would like to see an allowance for additional structures for keeping animals.



There was a general discussion concerning the number of buildings allowed, and whether or not it is more important to regulate the overall size or number of buildings allowed.

Johnson stated that this matter will be brought back for further review at a future meeting.

## **Updates and Concerns**

### *Council Updates*

1. Zoning Text Amendment – Zoning District Cleanup passed at the Feb 5, 2014 City Council Meeting
2. The City Council reviewed the Easton Village Sketch Plan at the Feb 5, 2014 City Council Meeting.
3. Approval of the agreement to sunset the Memorandum of Understanding with the Met Council at the Feb 5, 2014 City Council Meeting.

### *Staff Updates*

1. Planning Commission discussion series – “Ma’am, We’re here for you”, to be discussed at February 24 meeting.
2. Upcoming Meetings
  - a. February 24, 2014
  - b. March 10, 2014

### *Commission Concerns - None*

Dodson asked that all the Planning Commissioners read Chairman Williams’ letter regarding cul-de-sacs. Staff will provide more input.

Haggard stated it would be helpful to have some additional training or education on how to better read surveys and construction plans.

Dodson noted his concern about radon. Klatt noted that the Minnesota State Building Code likely has provisions related to radon. Dorschner stated that the Building Code does address radon. In addition, State law requires notification for radon.

Meeting adjourned at 10:05pm

Respectfully submitted,

Joan Ziertman  
Planning Program Assistant



PLANNING COMMISSION

DATE: 2/24/14

AGENDA ITEM: 4A – BUSINESS ITEM

CASE # 2014 - 10

ITEM: Zoning Text Amendment – Accessory Building Ordinance Updates

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Community Development Director

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### **SUMMARY AND ACTION REQUESTED:**

The Planning Commission is asked to review an updated draft of the City's provisions related to accessory buildings. The Planning Commission reviewed the draft ordinance at a meeting on 2/10/14. Staff would like to discuss the various provisions of the ordinance in advance of an upcoming public hearing on March 10, 2014.

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### **REQUEST DETAILS**

City Staff has been working on an update to the City's accessory building provisions. This effort is two-fold: 1) the proposed update would move the general accessory building provisions into Article V – General Regulations, continuing the Zoning Code update and general house-keeping efforts, and 2) the proposed update allows the City to evaluate which aspects of the City's accessory building provisions should be modified or updated based upon community desire and best practices. At this time, Staff is proposing to leave the residential accessory building provisions in the Urban Residential and Village Mixed-Use districts the same. Rather, Staff would like the Planning Commission to focus on the accessory building provisions in the rural districts to determine if any changes should be made.

As part of the first review of the draft ordinance presented on 2/10/14, Staff presented proposed changes to the City's accessory building provisions. Generally, these proposed changes included the following:

- Either a zoning permit or building permit will be required as determined by the State Building Code. The current ordinance requires a building permit above 100 square feet, which is not consistent with the State Building Code.
- Staff proposes to regulate the allowed number and size of accessory buildings based solely on parcel size, whereas the existing ordinance has different considerations for parcels zoned Agricultural (A) vs. Rural Residential (RR).
- Staff proposes to list exempt structures that do not count towards a property's accessory building allowance, such as gazebos, sport courts, swimming pools, etc.
- Related to structure location in rural districts, staff would propose that the exception to allow buildings nearer the front property line in RS, A and RR districts by resolution of the City Council should apply to all rural districts.

- Staff proposed to include a list of structures where the design of the structure does not have to match the principal structure due to the purpose of the building. The best example of such a structure is a greenhouse.

In addition to these changes, Staff also presented two proposed changes as a result of a review of the draft ordinance by the Building Official, Rick Chase:

- He recommended removing the maximum door size for tool sheds due to the fact that most of the existing structures in the community would not comply with the maximum size allowed (28 square feet). In discussion the matter with the Planning Commission, there seemed to be general agreement that regulating the maximum size of these structures (less than 160 square feet) would be sufficient.
- The Building Official recommended a six-foot setback for accessory structures from the principal building. The reason for this is to avoid additional regulations required by the State Building Code for structures within 6 feet of the principal building.

In addition to Staff recommendations, the Planning Commission discussed two main areas related to accessory buildings: 1) the size of attached garages allowed under the ordinance, and 2) the allowed size and number of accessory building in rural districts.

- ***Attached Garages.*** The existing ordinance has a provision which limits the size of any building, attached or detached, intended for the storage of automobiles to 1000 square feet maximum. In discussing this provision with the Planning Commission, there was general consensus that this provision does not need to be carried forward, as many new homes include attached garage space that exceeds 1000 square feet. Staff would recommend limiting the size of attached garages by including a provision that an attached garage cannot exceed the size of the principal building.
- ***Allowed Size and Number of Accessory Buildings – Rural Districts.*** At the meeting on 2/10/14, Staff suggested that the Planning Commission take additional time to consider what the appropriate quantities should be for allowed size and number of accessory buildings in rural zoning districts. In researching other similar communities, Staff has found that some cities that are similar in character have a larger allowance for accessory buildings than Lake Elmo. However, given the great variation of the lots in the rural areas or zoning districts in Lake Elmo, the allowed number and size of buildings has to be appropriate given the existing context of the lots in the rural areas. In addition, the allowed size and number of buildings should reflect community desire. During the Planning Commission discussion of this topic, Staff interpreted that there may be some support to slightly increasing the size and building allowance in some instances. For example, allowing 2 buildings on parcels of 10 acres or more was discussed. Staff recommends discussing the issue further to build greater consensus and direction in advance of the public hearing.

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#### **RECCOMENDATION:**

No formal action is required at this time. Staff is looking for feedback on the accessory building ordinance in advance of a Public Hearing on 3/10/14.

**ATTACHMENTS:**

1. Draft Accessory Building Ordinance, dated 2/24/14
2. Existing Ordinances pertaining to Accessory Buildings – Hard Copies delivered in 2/10/14 Agenda Packet.

**ORDER OF BUSINESS:**

- Introduction .....Planning Staff
- Report by Staff .....Planning Staff
- Questions from the Commission ..... Chair & Commission Members
- Discussion by the Commission ..... Chair & Commission Members

## ARTICLE 5. GENERAL REGULATIONS

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### §154.213 Accessory Buildings and Structures, Generally

#### §154.213 Accessory Buildings and Structures, Generally

- A. *Purpose.* Within the city of Lake Elmo, the following provisions shall apply to accessory building and structures in all zoning districts.
- B. *Definitions.* The following words, terms and phrases, when used in this section, and all sections pertaining to accessory buildings or structures, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- Agricultural Farm Building.* An accessory building used or intended for use on an active commercial food-producing farm operation of more than 20 acres. A Minnesota Pollution Control Agency permit may be required.
- Detached Domesticated Farm Animal Building.* A 1-story accessory building used or intended for the shelter of domestic farm animals and/or related feed or other farm animal supportive materials. The building may require a Minnesota Pollution Control Agency feedlot permit in addition to site and building plan approval.
- Detached Residential Garage.* A 1-story accessory building used or intended for the storage of motor driven passenger vehicles. No door or other access opening shall exceed 14 feet in height.
- Storage or Tool Shed.* A 1-story accessory building of less than 160 square feet gross area with a maximum roof height of 12 feet. ~~No door or other access opening shall exceed 28 square feet in area.~~
- C. *Permit Required.* All accessory building and structures require either a certificate of zoning compliance or a building permit as determined by the Minnesota State Building Code.
- D. *Principal Structure Necessary.* No accessory buildings or structures shall be constructed nor accessory use located on a lot until a building permit has been issued for the principal structure to which it is accessory.
- E. *Proximity to Principal Structure.* Accessory buildings shall maintain a six (6) foot setback from the principal structure. An accessory building or structure will be considered as an integral part of the principal building if it is located six (6) feet or less from the principal structure.
- F. *Storage or Tool Sheds.* A storage or tool shed as defined in this section may be placed on any lot in addition to the permitted number of accessory buildings.
- G. *Exempt Structures.* The following residential improvements shall be exempt from the maximum allowed structure size and number requirements in residential districts:
1. Unenclosed playhouses
  2. Gazebos up to 120 square feet in size and a maximum of twelve (12) feet in overall height
  3. Detached decks up to 120 square feet in size
  4. Outdoor swimming pools
  5. Patios
  6. Tennis and sport courts
  7. Structures, sheds or coops up to two hundred (200) square feet in size used to house permitted animals, such as chickens, horses, or other livestock. These structures must not exceed twelve (12) feet in height and must meet all required setbacks per MPCA guidelines and the City's animal ordinances.

§154.214 Pole Construction Buildings

- A. Pole Construction Buildings, A and RR Districts.
  1. Pole construction buildings are permitted in the A and RR zoning districts subject to the setbacks and other performance standards required under the Zoning Code.
  2. Pole construction buildings are prohibited on properties zoned A and RR where a conditional use permit has been issued for an open space preservation (OP) development.
- B. Pole Construction Buildings, RS District. Pole construction buildings are permitted in the RS zoning district only on parcels that are abutted by land zoned Rural Residential (RR) or Agricultural (A) Zoned along 75% or more of the perimeter of the subject parcel.

ARTICLE 9. RURAL DISTRICTS

§154.406 Accessory Structures, Rural Districts.

- A. Size and Number. The maximum number and size of accessory buildings permitted in rural zoning districts are outlined in Table 9-3:

Table 9-3: Accessory Buildings, Rural Zoning Districts

Lot Size	Maximum Structure Size <sup>a</sup> (square feet)	No. of Permitted Bldgs
5,000 sq. ft. - 1 acre	1,200 <sup>b</sup>	1
1 - 2 acres	1,200	1
2 - 5 acres	1,300	1
5 - 10 acres	2,000	1
10 - 15 acres	2,500	1
15 - 20 acres	3,000	2
20 - 40 acres	4,000	2
40+ acres	Unregulated <sup>c</sup>	Unregulated <sup>c</sup>

Notes to Table 9-3

- a. Maximum structure size accounts for the total maximum area allowed for all permitted accessory structures combined.
- b. The 1,200 square foot allowance is for the combined area of the attached and detached accessory structure or residential garage.
- c. To be allowed additional accessory buildings beyond two total buildings, the buildings must be agricultural buildings as defined in §154.213 or clearly serve an agricultural purpose in the judgment of the City.
- C. Structure Height, Rural Districts. No accessory building shall exceed ~~twenty-two (22)~~ twenty-two (22) feet in height or the height of the principal structure, with the exception of buildings that are intended for a farming or other agricultural use in the judgment of the City. Building projections or features, such as chimneys, cupolas, and similar decorations that do not exceed twenty-five (25) feet in height are permitted in rural districts.
- D. Structure Location, Rural Districts. No detached garages or other accessory buildings shall be located nearer the front lot line than the principal building on that lot, unless, by Resolution of

the City Council, an exception is made to permit a detached garage or accessory structure nearer the front lot line than the principal building.

- E. *Exterior Design and Color.* The exterior building materials, design and color of all accessory building or structures shall be similar to or compatible with the principal building, with the exception of the following accessory building or structures:
  - 1. Detached domesticated farm animal buildings
  - 2. Agricultural farm buildings
  - 3. Pole buildings, as defined and regulated in §154.214.
  - 4. Gazebos
  - 5. Swimming pools
  - 6. Other structures in which the required design is integral to the intended use, such as a greenhouse.
- F. *Openings and Doors.* Garage doors and other openings shall not exceed fourteen (14) feet in height for all accessory structures, with the exception of buildings that are intended for a farming or other agricultural use in the judgment of the City.
- G. *Attached Garages. Attached garages must not exceed the size of the principal building.*

## ARTICLE 10. URBAN RESIDENTIAL DISTRICTS

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### §154.456 Residential Accessory Structures, Urban Residential Districts.

- A. *Attached Structures, Urban Residential Districts.* An accessory structure shall be considered attached, and an integral part of, the principal structure when it is connected by an enclosed passageway. All attached accessory structures shall be subject to the following requirements:
  - 1. The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located; and
  - 2. The structure shall not exceed the height of the principal building to which it is attached.
- B. *Attached Garages, Urban Residential Districts*
  - 1. Attached garages are encouraged to be side or rear loaded. If facing the primary street, garages shall be designed using one of the following techniques, unless specific physical conditions on the lot in question require a different approach:
    - a. The front of the garage is recessed at least 4 feet behind the plane of the primary facade; or
    - b. The front of the garage is recessed at least 4 feet behind a porch if the garage is even with the primary façade.
  - 2. The width of the attached garage shall not exceed 60% of the width of the entire principal building façade (including garage) fronting the primary street.
  - 3. Attached garages shall not exceed 1,000 square feet in area at the ground floor level except by conditional use permit.
  - 4. Garage doors or openings shall not exceed 14 feet in height.

- C. *Detached Structures, Urban Residential Districts.* Detached accessory structures shall be permitted in residential districts in accordance with the following requirements:
  - 1. Detached accessory structures shall be located to the side or rear of the principal building, and are not permitted within the required front yard or within a side yard abutting a street.
  - 2. Detached garages shall not exceed 1,000 square feet at ground floor level and shall not exceed a height of 22 feet or the height of the principal structure, whichever is higher. The maximum size and height may be increased upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.
  - 3. Pole barns, as defined herein, exceeding 120 square feet shall be prohibited.
  - 4. No more than 30% of the rear yard area may be covered by accessory structures.
  - 5. Garage doors or openings shall not exceed 14 feet in height.
- D. *Exterior Design and Color, All Accessory Structures.* The exterior building materials, design and color of all accessory building or structures shall be similar to or compatible with the principal building, with the exception of the following accessory building or structures:
  - 1. Gazebos
  - 2. Swimming pools
  - 3. Tennis and sport courts
  - 4. Other structures in which the required design is integral to the intended use, such as a greenhouse.

## ARTICLE 11. VILLAGE MIXED-USE DISTRICT

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### §154.508 Residential Accessory Structures, Village Mixed-Use District.

- A. *Attached Structures, Village Mixed-Use District.* An accessory structure shall be considered attached, and an integral part of, the principal structure when it is connected by an enclosed passageway. All attached accessory structures shall be subject to the following requirements:
  - 1. The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located.
  - 2. The structure shall not exceed the height of the principal building to which it is attached.
- B. *Attached Garages, Mixed-Use District*
  - 1. Attached garages are encouraged to be side or rear loaded. If facing the primary street, garages shall be designed using one of the following techniques, unless specific physical conditions on the lot in question require a different approach:
    - a. The front of the garage is recessed at least four (4) feet behind the plane of the primary façade; or
    - b. The front of the garage is recessed at least four (4) feet behind a porch if the garage is even with the primary façade;
  - 2. The width of the attached garage shall not exceed 40% of the width of the entire principal building façade (including garage) fronting the primary street.
  - 3. Attached garages shall not exceed one thousand (1,000) square feet in area at the ground floor level except by conditional use permit.
  - 4. Garage doors or openings shall not exceed fourteen (14) feet in height.



- C. *Detached Structures, Village Mixed-Use District.* Detached accessory structures for permitted residential structures in the VMX District accordance with the following requirements:
1. Detached accessory structures shall be located to the side or rear of the principal building, and are not permitted within the required front yard or within a side yard abutting a street.
  2. Detached garages shall not exceed one thousand (1,000) square feet at ground floor level and shall not exceed a height of twenty-two (22) feet or the height of the principal structure, whichever is higher. The maximum size and height may be increased upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.
  3. Pole barns, as defined herein, shall be prohibited.
  4. No more than thirty (30) percent of the rear yard area may be covered by accessory structures.
  5. Garage doors or openings shall not exceed fourteen (14) feet in height.
- D. *Exterior Design and Color, All Accessory Structures.* The exterior building materials, design and color of all accessory building or structures shall be similar to or compatible with the principal building, with the exception of the following accessory building or structures:
1. Gazebos
  2. Swimming pools
  3. Tennis and sport courts
  4. Other structures in which the required design is integral to the intended use, such as a greenhouse.



**Existing Ordinances pertaining to Accessory Structures  
Planning Commission, 2/10/2014**

**§154.902 ACCESSORY BUILDINGS AND STRUCTURES.**

(A) Types of accessory buildings include storage or tool sheds; detached residential garage; detached rural storage building; detached domesticated farm animal buildings; agricultural farm buildings. The accessory buildings are defined as follows:

(1) **STORAGE OR TOOL SHED.** A 1-story accessory building of less than 160 square feet gross area with a maximum roof height of 12 feet and exterior colors or material matching the principal structure or utilizing earthen tones. No door or other access opening in the storage or tool shed shall exceed 28 square feet in area.

(2) **DETACHED RESIDENTIAL GARAGE.** A 1-story accessory building used or intended for the storage of motor driven passenger vehicles regulated in § 154.093 with a maximum roof height of 20 feet. No door or other access opening shall exceed 14 feet in height. The exterior color, design, and materials shall be similar to the principal structure.

(3) **DETACHED RURAL STORAGE BUILDING.** A 1-story accessory building used or intended for the storage of hobby tools, garden equipment, workshop equipment and the like. Exterior materials shall match the principal structure in exterior color or be of an earthen tone.

(4) **DETACHED DOMESTICATED FARM ANIMAL BUILDING.** A 1-story accessory building used or intended for the shelter of domestic farm animals and/or related feed or other farm animal supportive materials. The building shall require a Minnesota Pollution Control Agency feedlot permit and site and building plan approval.

(Am. Ord. 97-38, passed 11-17-1998)

(5) **AGRICULTURAL FARM BUILDING.** An accessory building used or intended for use on an active commercial food-producing farm operation of more than 20 acres, a Minnesota Pollution Control Agency permit may be required.

(B) A tool shed as defined in this section may be placed on any lot in addition to the permitted number of accessory buildings.

(C) No accessory building shall be constructed nor accessory use located on a lot until a building permit has been issued for the principal building to which it is accessory.

(D) No accessory building used or intended for the storage of passenger automobiles shall exceed 1,000 square feet of gross area, nor shall any access door or other opening exceed the height of 10 feet, nor shall any structure exceed 1 story in height except when the garages are located in business, industrial or planned unit developments. On parcels of 20,000 square feet in area or less, no detached accessory building or garage shall exceed the size of the principal

building in gross floor area.

(E) An accessory building shall be considered as an integral part of the principal building if it is located 6 feet or less from the principal building. The exterior design and color shall be the same as that of the principal building or be of an earthen tone; the height shall not exceed the height of the principal structure unless more restrictive portions of this chapter prevail.

(F) No accessory building in a commercial or industrial district shall exceed the height of the principal building.

(G) No accessory buildings in apartment developments shall exceed the height of the principal building.

(H) Accessory buildings in the commercial and industrial districts may be located to the rear of the principal building, subject to the Building Code and fire zone regulations.

(I) No detached garages or other accessory buildings in residential districts shall be located nearer the front lot line than the principal building on that lot, except in AG, RR, and R-1 Districts where detached garages may be permitted nearer the front lot line than the principal building by resolution of the City Council, except in planned unit developments or duster developments.

(Ord. 97-107, passed 4-16-2002)

(J) Accessory structures located on lake or stream frontage lots may be located between the public road and the principal structure, provided that the physical conditions of the lot require such a location and a resolution is issued. In no event shall the structure be located closer than 20 feet to the public right-of-way.

(K) All accessory buildings over 35 square feet in area shall have a foundation, concrete slab or wind anchor. Buildings larger than 100 square feet shall require a building permit regardless of improvement value. Roof loads and wind loads shall conform to requirements as contained in the Building Code.

(L) The required rear yard setbacks for detached residential garages, and storage, boat, and tool sheds shall be a distance equal to the required side yard setback for each zoning district, except on through lots when the required rear yard setback in each zoning district shall apply.

(M) Performance standards for detached agricultural buildings and domesticated farm animal buildings on parcels of less than 20 acres shall include the following:

(1) *Setbacks.* All animal buildings, feedlots, and manure storage sites shall be set back in accordance with the underlying zoning district regulations.

(2) *Slopes.* The building, feedlot, or manure storage shall not be placed on slopes which exceed 13%.

(3) *Water level.* Evidence of the seasonally high groundwater level or mottled soil (as established by 8-1/2 foot borings) shall not be closer than 6-1/2 feet to the natural surface ground grade in any area within 100 feet of the proposed building and/or feedlot.

(4) *Wetlands.* No marsh or wetland (as established by the predominant wetland vegetation and/or soils) shall be utilized for placement of the proposed structure, feedlot, or grazing area.

(1997 Code, § 300.13 Subd. 3)

### **§ 154.903 NUMBER/SIZE OF ACCESSORY BUILDINGS.**

The maximum number and size of accessory buildings permitted in each zoning district shall be as follows. No accessory building shall be constructed unless there is adequate room for the required secondary drainfield site.

<b><i>Maximum Number and Size of Accessory Buildings</i></b>	
Agricultural	There shall be no limit on the size or number of accessory buildings so long as the parcel is a nominal 40 acres or more, and buildings are agricultural buildings as defined in § 154.092(A)(5).
<b><i>Maximum Number and Size of Accessory Buildings</i></b>	
Agricultural (Non-conforming)	
Up to 10 acres	Two buildings with a combined area not to exceed 2,000 square feet
Over 10 acres but less than 40 acres	Two buildings and the area of each building not to exceed 2,000 square feet
Rural Residential	
Up to 10 acres	One 2,000-square foot detached building, in addition to an attached garage
Over 10 acres 15 Acres	One 2,500-square foot detached building in addition to an attached garage
Over 15 acres	One 3,000-square foot detached building, in addition to an attached garage
Residential - R-1, RED, and OP	
Over 5,000 square feet but less than 1 acre	A combined 1,200 square feet total for both attached and detached accessory structures or residential garage; the size of the footprint of the detached structure shall not exceed the size

	of the footprint of the primary structure
From 1 acre to 2 acres	One 1,200-square foot detached residential, garage or building, in addition to an attached garage
Over 2 acres	One 1,300-square foot detached residential garage or building in addition to an attached garage

(1997 Code, § 300.13 Subd. 4) (Am. Ord. 97-38, passed 11-17-1998; Am. Ord. 97-206, passed 12-11-2007)

### **§ 151.024 POLE CONSTRUCTION BUILDINGS.**

Pole construction buildings shall be permitted in the Agricultural and Rural Residential Zoning Districts only, except they are permitted in the R1 Zoning District where a parcel Zoned R-1 is abutted in a measured amount of 75% or more its perimeter by lands zoned Agricultural; and except they shall be prohibited where a conditional use permit has been issued for an open space preservation development.

(1997 Code, § 505.10) (Am. Ord. 97-91, passed 10-16-2001; Am. Ord. 97-100, passed 2-5-2002)

### **§ 154.406 ACCESSORY STRUCTURES – RURAL DISTRICTS.**

In all rural districts, the design and construction of any garage, carport, or storage building shall be similar to or compatible with the design and construction of the principal building. The exterior building materials, roof style, and colors shall be similar to or compatible with the principal building.

- A. *Maximum Number and Size of Accessory Structures in Rural Districts.* The maximum number and size of accessory buildings permitted in the rural districts are outlined in Table 9-3. No accessory building shall be constructed unless there is adequate room for the required secondary drainfield site.

**Table 9-3 Maximum Number and Size of Accessory Structures – Rural Districts**

<b>Zoning District + Parcel Size</b>	<b>Standard</b>
A (Conforming)	There shall be no limit on the size or number of accessory buildings so long as the parcel is a nominal 40 acres or more, and buildings are agricultural buildings as defined in § <a href="#">154.092(A)(5)</a>
A (Non-conforming)	
Up to 10 acres	Two buildings with a combined area not to exceed 2,000 square feet.
Over 10 acres but less than 40 acres	Two buildings and the area of each building not to exceed 2,000 square feet
RR	
Up to 10 acres	One 2,000-square foot detached building.
10-15 acres	One 2,500-square foot detached building.
Over 15 acres	One 3,000-square foot detached building.
RS and RE	
Over 5,000 square feet but less than one acre	A combined 1,200 square feet total for both attached and detached accessory structures or residential garage; the size of the footprint of the detached structure shall not exceed the size of the footprint of the primary structure

1-2 acres	One 1,200-square foot detached residential garage or building.
Over 2 acres	One 1,300-square foot detached residential garage or building.

- B. *Attached Structures.* An accessory structure shall be considered attached, and an integral part of, the principal structure when it is connected by an enclosed passageway. All attached accessory structures shall be subject to the following requirements:
1. The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located.
  2. The structure shall not exceed the height of the principal building to which it is attached.
- C. *Detached Structures.* Detached accessory structures shall be permitted in rural districts in accordance with the following requirements:
1. Detached structures shall comply with the provisions of Section 154.092.
  2. No detached garages or other accessory buildings in residential districts shall be located nearer the front lot line than the principal building on that lot, except in AG, RR and RS Districts where detached garages may be permitted nearer the front lot line than the principal building by resolution by the City Council.
  3. Pole barns, as defined herein, exceeding one hundred twenty (120) square feet shall be prohibited in the RS and RE Districts.
  4. Garage doors or openings shall not exceed fourteen (14) feet in height.
  5. Detached structures shall not exceed a height of twenty-two (22) feet or the height of the principal structure, whichever is higher unless otherwise specified in Section 154.092.

(Ord. 2012-073, passed 3-19-2013)

#### **§ 154.457 RESIDENTIAL ACCESSORY STRUCTURES.**

In all residential districts, the design and construction of any garage, carport, or storage building shall be similar to or compatible with the design and construction of the main building. The exterior building materials, roof style, and colors shall be similar to or compatible with the main building or shall be commonly associated with residential construction.

(A) *Attached structures.* An accessory structure shall be considered attached, and an integral part of, the principal structure when it is connected by an enclosed passageway. All attached accessory structures shall be subject to the following requirements:

(1) The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located; and

(2) The structure shall not exceed the height of the principal building to which it is attached.

(B) *Attached garages.*

(1) Attached garages are encouraged to be side or rear loaded. If facing the primary street, garages shall be designed using one of the following techniques, unless specific physical conditions on the lot in question require a different approach:

(a) The front of the garage is recessed at least 4 feet behind the plane of the primary facade;

(b) The front of the garage is recessed at least 4 feet behind a porch if the garage is even with the primary façade; or

(2) The width of the attached garage shall not exceed 60% of the width of the entire principal building façade (including garage) fronting the primary street.

(3) Attached garages shall not exceed 1,000 square feet in area at the ground floor level except by conditional use permit.

(4) Garage doors or openings shall not exceed 14 feet in height.

(C) *Detached structures.* Detached accessory structures shall be permitted in residential districts in accordance with the following requirements:

(1) Detached accessory structures shall be located to the side or rear of the principal building, and are not permitted within the required front yard or within a side yard abutting a street.

(2) Detached garages shall not exceed 1,000 square feet at ground floor level and shall not exceed a height of 22 feet or the height of the principal structure, whichever is higher. The maximum size and height may be increased upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.

(3) Pole barns, as defined herein, exceeding 120 square feet shall be prohibited.

(4) No more than 30% of the rear yard area may be covered by accessory structures.

(5) Garage doors or openings shall not exceed 14 feet in height.

(Ord. 2012-062, passed 9-18-2012) Penalty, see § 154.999

## **§ 154.508 RESIDENTIAL ACCESSORY STRUCTURES**



On parcels used for residential structures within the VMX District, the design and construction of any garage, carport, or storage building shall be similar to or compatible with the design and construction of the main building. The exterior building materials, roof style, and colors shall be similar to or compatible with the main building or shall be commonly associated with residential construction.

A. *Attached structures.* An accessory structure shall be considered attached, and an integral part of, the principal structure when it is connected by an enclosed passageway. All attached accessory structures shall be subject to the following requirements:

1. The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located.
2. The structure shall not exceed the height of the principal building to which it is attached.

B. *Attached Garages.*

1. Attached garages are encouraged to be side or rear loaded. If facing the primary street, garages shall be designed using one of the following techniques, unless specific physical conditions on the lot in question require a different approach:
  - a. The front of the garage is recessed at least four (4) feet behind the plane of the primary façade; or
  - b. The front of the garage is recessed at least four (4) feet behind a porch if the garage is even with the primary façade; or
  - c. The width of the attached garage shall not exceed 40% of the width of the entire principal building façade (including garage) fronting the primary street.
2. Attached garages shall not exceed one thousand (1,000) square feet in area at the ground floor level except by conditional use permit.
3. Garage doors or openings shall not exceed fourteen (14) feet in height.

C. *Detached structures.* Detached accessory structures for permitted residential structures in the VMX District accordance with the following requirements:

1. Detached accessory structures shall be located to the side or rear of the principal building, and are not permitted within the required front yard or within a side yard abutting a street.
2. Detached garages shall not exceed one thousand (1,000) square feet at ground floor level and shall not exceed a height of twenty-two (22) feet or the height of the principal structure, whichever is higher. The maximum size and height may be increased upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.

3. Pole barns, as defined herein, shall be prohibited.
4. No more than thirty (30) percent of the rear yard area may be covered by accessory structures.
5. Garage doors or openings shall not exceed fourteen (14) feet in height.

(Ord 08-091, passed 11-13-2013)



Planning Commission  
Date: 2/24/14  
**Discussion – Outdoor Social Events**  
Item: 4b

ITEM: Request for Discussion – Outdoor Social Events (Carol Palmquist)

SUBMITTED BY: Kyle Klatt, Director of Planning

REVIEWED BY: Nick Johnson, City Planner

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**SUMMARY AND ACTION REQUESTED:**

Carol Palmquist, 12202 55<sup>th</sup> Street North, has asked to address the Planning Commission to discuss a proposal to allow wedding receptions on her property. She has not applied for a formal ordinance amendment, and would like some feedback from the Commission before submitting a zoning text amendment. Approximately eight years ago, the City adopted and then shortly thereafter rescinded a similar ordinance. Some of the documentation and information from the City's previous ordinance discussion is attached for review.

Please note that Staff has attached the following information to assist the Planning Commission's discussion on this matter:

- Letter from Carol Palmquist describing the proposed activity
- Previous City documentation concerning "Outdoor Social Events"
  - Timeline
  - Ordinance 97-167
  - Meeting Minutes
  - Ordinance 97-191
  - General Information
- Recent Afton, MN ordinance allowing "Commercial Wedding Venues"

**RECOMMENDATION:**

There is no action required on this item; however, Carol Palmquist is seeking feedback from the Planning Commission concerning her proposal.

**ORDER OF BUSINESS:**

- Introduction ..... Kyle Klatt, Community Development Director
- Report by staff..... Kyle Klatt, Community Development Director
- Questions/Comments from the Planning Commission .....Planning Commission

**ATTACHMENTS:**

- See above for list of attachments

## Kyle Klatt

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**From:** Carol Palmquist <carolpalmquist@gmail.com>  
**Sent:** Monday, February 10, 2014 10:41 AM  
**To:** Kyle Klatt; Adam Bell; Michael Pearson

TO: Kyle Klatt, Lake Elmo City Planner  
FROM: Carol Palmquist  
DATE: February 10, 2014  
RE: Vineyard Weddings, revised request

I am seeking permission from the City of Lake Elmo to allow wedding ceremonies to occur in my vineyard.

The vineyard is on a 10 acre parcel located at 12202 55th Street North, Lake Elmo Minnesota. The south boundary is bordered by 55th Street North, a public street, and a portion of the Lake Elmo City public trail system. Residential property lies to the immediate south of the trail. My property is insulated from the south neighboring residential area by several rows of mature pine trees. The City of Oak Park Heights lies on the east boundary and is entirely commercial. A single residence on the west boundary is insulated by mature pine trees from my property. The north boundary is a 3 acre pond and additional wetland. Commercial buildings circle one-half of the 3 acre pond. Remaining land on the north, opposite the wetland is proposed commercial/high density development and lies in Stillwater Township.

I will focus on wedding ceremonies; no receptions. The maximum number of guests would be 150.

It is my desire to develop a working relationship with area dining venues for receptions.

Northern Vineyards wine or champagne may be served under a licensed bartender, should that be requested.

If deemed necessary, appropriate security will be provided.

Tents or canopies, if requested, may be erected no more than two days prior to the event and removed no more than two days following the event.

All parking shall be off-street, set back, and is screened with mature pine trees from residential properties.

Hours of operation shall be between 10:00 AM and 10:00 PM.

All guests and staff will be gone by 10:00 PM.

Lights shall be off by 10:00 PM.

Adequate on-site portable sanitation will be provided.

Appropriate liability coverage will be guaranteed and in place one week prior to a wedding ceremony.

I am requesting permission to schedule ceremonies twice weekly, Monday through Saturday, during the months May through October.

I shall be on premise during each event.

We shall comply with the Lake Elmo City Code for Ambient Noise.

Thank you for your consideration of this request

## Outdoor Social Events

1. Timeline put together by Carol Palmquist
2. Ordinance 97-167 Published 5/26/06 adding Commercial Outdoor Social Events as a Conditional Use in the AG zone.
3. Minutes related to meetings pertaining to approval of Ordinance 97-167.
4. Ordinance 97-191 Published 4/12/07 Repealing Commercial Outdoor Social Events as a Conditional use in the AG zone.
5. Pertinent information prepared by Ben Gozola.

2007-05

MEMO

TO: Lake Elmo Planning Commission

FROM: Carol Palmquist

DATE: March 26, 2007

RE: Ordinance No.97-167 and CUP application for Vineyard Weddings

## TIME LINE – CUP APPLICATION FOR VINEYARD WEDDINGS

January, 2006: Responding to queries from individuals inquiring on the availability of a local vineyard for weddings, Northern Vineyard Winery asked if I would consider hosting weddings in my vineyard. I thought it would be a wonderful idea.

January, 2006: I contacted Lake Elmo City Planner, who advised that an Agriculture Ordinance amendment would be necessary for this to occur. Mr Dillerud then walked me through the process, suggesting initially to direct my request in writing to the Lake Elmo Planning Commission.

February, 2006: Letter submitted to Lake Elmo Planning Commission, where request for Ordinance amendment was discussed and tabled.

March, 2006: Further discussion re Ordinance amendment at Lake Elmo Planning Commission. Forwarded to Lake Elmo City Council for review and discussion.

March 13, 2006: Lake Elmo Planning Committee Agenda Item No.5: PUBLIC HEARING: Consider Code Amendment – Wedding Ceremonies in AG Zoning District.

April, 2006: Ordinance amendment to Lake Elmo City Council for review and discussion.

May 2, 2006: Ordinance 97-167 regarding outdoor social events adopted 5-0.

May 3, 2006: I called City Hall for clarification re tents being removed. In a written memo per City Planner, “tents can be taken down the following day.”

May 16, 2006: Ordinance 97-167 formally adopted by City Council.

Sept.2006-Jan.2007: I begin collecting required data for Conditional Use Permit Application, respectfully delaying for a period of time due to death of Mr. Rafferty.

December, 2006 & January, 2007: Met with Mayor Johnston on 2 occasions for clarification & discussion re tent removal. Mayor was supportive, helpful & encouraging. Suggested I draft letter to Kelly Matzek explaining my question, asking Ms Matzek to forward to City Council Agenda.

January, 2007: Was told by Ms Matzek, per City Planner, that letter could not go to City Council. No reason was given.

January 18, 2007: Met with Ms Matzek in her office for purposes of “ getting her up to speed” on Ordinance Amendment and subsequent CUP Application. Also for more specific directions on completion of CUP Application.

February 12, 2007: Meeting with Ms Matzek for cursory review of CUP application.



Page 2

February 15, 2007: Asked Ms Matzek for a final review of final CUP application and general opinion on its completeness. Her response was positive and favorable.

February 20, 2007: Learned by chance that Ordinance 97-167 was on City Council Agenda for discussion. I attended meeting with completed CUP application and was astonished when Mayor Johnston introduced a proposal placing a Moratorium on the Ordinance. This was tabled.

February 21, 2007: Submitted completed CUP application and \$ 975.00 fee.

March 2, 2007: Received via mail from City Hall, documents outlining process for the repeal of Ordinance No.97-167 at March 6, 2007 Council meeting. At this point, I decided to withdraw CUP application and fee.

March 6, 2007: City Council have now decided they created a "bad policy."

Is this standard decision-making procedure for City Council members?

I am disappointed and offended that not once was I informed that there may be problems with the ordinance. On the contrary, I was encouraged to continue with completion of the Conditional Use Permit application. And, to submit a \$975.00 non-refundable fee. I do not feel that Council conducted themselves with professionalism nor integrity in this matter. Certainly published quotes made by the Mayor and council members were shameful and an embarrassment to me as a citizen of Lake Elmo.

In preparing this document, I ask only that it be made a matter of public record. I do not intend to pursue weddings in my vineyard at this time.

# CVB

(Continued from page 1)

the Stillwater Bed & Breakfast Association. He said such a tax would unjustly punish bed and breakfast customers, who often dine at downtown restaurants and spend money at the different antique shops during their extended stays.

"I don't think we can understate the symbiotic relationship of the downtown merchants and the restaurants and the lodging. I mean, we all recognize that we interplay together. The antique stores, the retailers, all that is a package," Lynum said. "We realize we're all in this together. ... If you look at business downtown, odds are our financial statements will reflect the activity downtown."

If the CVB draws more tourists to the area and benefits other businesses than lodging,

those businesses should shoulder some of the cost, Lynum said.

"But the bottom line is when you pretty much look at Stillwater, there are other businesses and industries that are going to benefit (from a CVB) significantly more than lodging," he said.

He continued that the Stillwater Bed & Breakfast Association does not support an across-the-board sales tax at this point, but is open to researching the different options.

Lynum also said the ratio of money spent on food and beverage in the city compared to the amount spent on lodging is about 7.5-to-1. Red Wing counts a 2.5-to-1 ratio in money spent on dining and drink compared to lodging, he said.

Severson brought the proposal first to the Stillwater City Council, but will be meeting with the Lake Elmo, Bayport and Oak Park Heights city coun-

cils in the near future.

Before the meeting Tuesday, Severson pointed out the strengths of the chamber's plans, saying the lodging tax is a "pass-through" tax that would only affect those visiting the city.

"It won't necessarily affect (Stillwater residents)," she said.

At the meeting, Severson said the measure would help Stillwater compete with similar river cities like Red Wing, Hudson, Wis., and Hastings. Those cities have already created tourism bureaus and invest thousands of dollars every year on tourism.

"In our opinion, we're losing ground in that regard," Severson said.

....

*Elliot Mann covers police, Washington County and the cities of Bayport and Stillwater for the Gazette. He can be reached by phone at 651-796-1108. To comment on this story visit [www.stillwatergazette.com](http://www.stillwatergazette.com).*

# Lake Elmo

(Continued from page 1)

Baytown Vineyards, located near the corner of Manning Avenue and 55th Street, is owned by Carol Palmquist Eilers, who attended the Feb. 20 council meeting to defend her plans ask the body for guidance before submitting a \$975 conditional-use permit application.

After reviewing the ordinance in more detail, council members said they felt it allowed for too many people (250) and too many events (up to two a week from May through October) to be acceptable.

"It was a good-faith effort to help out a resident, and in hind-

sight I think we made a mistake. I think any event that brings potentially 100-200 vehicles into a residential neighborhood is completely inconsistent with anything that we've talked about on any other subject," Mayor Dean Johnston said. "I don't know how I did it. I don't know why I supported it. To me, it's just bad policy. I think we should repeal it."

The council went as far as it could in that direction, unanimously recommending the planning commission review the ordinance at its next meeting with an eye toward eliminating it altogether. Before the ordinance can be repealed, it will first have to be reviewed by the planning commission and subjected to a public hearing. The council could finalize the matter at its March 20 meeting.

"We really botched a lot of this thing. That was never anybody's intent, either the initial applicant or any of us. We just blew it," DeLapp said.

On this phone this morning, a frustrated Palmquist Eilers said the 18-month ordeal has left her "disillusioned and disappointed."

"The intent was for this to be a beautiful place for couples to start their married life together, not a venue for rock concerts, drinking parties or anything like that," she said.

....

*Andrew Wallmeyer covers education and the cities of Lake Elmo, Grant and Oak Park Heights for the Gazette. He can be reached by phone at 651-796-1111.*

*To comment on this story visit [www.stillwatergazette.com](http://www.stillwatergazette.com).*

# Pawlenty visits

RECEIVED

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

ORDINANCE NO. 97-167

AN ORDINANCE ADDING SECTION 300.07 SUBDIVISION 4.A.2.(h) RELATING  
TO CONDITIONAL USES IN THE AGRICULTURAL ZONING DISTRICT

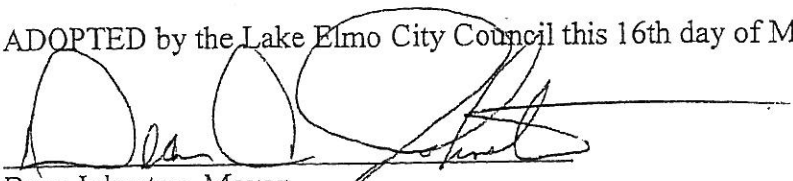
The City Council hereby ordains that Section 300.07, Subdivision 4.A.2(h) of the Lake Elmo Municipal Code is hereby added to read as follows:

h. Commercial Outdoor Social Events, subject to the following required conditions:


1. A site tax parcel area not less than 10 acres.
2. No existing permanent or newly constructed structures may be used. Tents are allowed.
3. Events limited to twice weekly and only during the months of May through October.
4. Attendance at events shall be limited to 250 people.
5. Compliance with City Code Ambient Noise standards.
6. All parking shall be off-street, and shall be set back and/or adequately screened from adjoining properties.
7. Limiting the hours for any event to 10:00 a.m. to 10:00 p.m. including take down activity. All event-related people must be off the site by 10:00 p.m.
8. On-site portable sanitation adequately sized for the events.
9. Prohibiting charging an admission fee for any commercial outdoor social event.
10. The lighting meets code and lights go off at 10:00 p.m..

This ordinance shall become effective upon its passage and publication according to law.

ADOPTED by the Lake Elmo City Council this 16th day of May, 2006.



\_\_\_\_\_  
Dean Johnston, Mayor

ATTEST:  
  
 \_\_\_\_\_  
 Martin J. Rafferty, City Administrator

Published in the MAY 26, 2006 Lake Elmo Leader

B. Variance for Septic System Setback for 7949 Hill Trail (Scharrer).

City Planner Dillerud said the existing septic system at 7949 Hill Trail is no longer functioning. They are requesting a variance to Septic 700 septic / design standards to permit a replacement drain field within 15 feet of the existing house where a 20 foot setback is otherwise required.

M/S/P Johnston/Conlin – to direct Staff to come back with a Motion for denial of Resolution No. 2006-028, because applicant can construct a mound style drain field without need for set back variance. Staff asked Council to waive the variance application fee. (Motion passed 5-0)

C. Zoning Ordinance / City Code Amendments – Home Occupations

The City Planner reported that over the past two years there have been numerous meetings with the City Council and Planning Commission, and numerous drafts prepared addressing the regulation of Home Occupations. He presented a draft set of City Code amendments that had been created and recommended by the Planning Commission, and on which the required Public Hearing had been conducted.

The Council received a handout of the City of Oak Park Heights Home Occupations ordinance. There was discussion about perpetual licenses, and storage-related businesses. Council members were not supportive of an overly complex set of regulations.

M/S/P DeLapp/Johnson – to move Home Occupations to the next Council Workshop meeting on April 11, 2006. (Motion passed 5-0)

D. Ordinance 97-167: Zoning Text Amendment – CUP in AG Zone for Outdoor Social Events

The City Planner reported that the Planning Commission conducted a Public Hearing regarding a proposal to amend the Zoning ordinance to permit “Outdoor Social Events” on properties within the AG zoning district. The Commission recommends another Conditional Use to the AG District for Outdoor Social Events with nine required conditions.

Concerns were expressed on the noise, parking, lighting and safety.

M/S/P – Johnson/Conlin – to table to the next Council Workshop, April 11, 2006. (Motion passed 4-0-1: DeLapp-he was unable able to provide comment)

E. Ordinance 97-168: Amend GB Zoning District Text Restaurant Drive-Up Facilities

The City Planner reported that the Planning Commission has conducted a Public Hearing and recommends amendment to the General Business District list of “Permitted Uses” to include drive-up service windows at cafes and restaurants, as otherwise regulated by the City Code. He noted that the Commission’s recommendation specifically excludes both menu boards and intercom systems associated with the drive-up window.

20' watermain easement granted from the developer. The developer agreed that language could be added granting a watermain easement of 10-20 feet to the east.

M/S/P Johnson/Conlin - to adopt Resolution 2006-038, approving the OP Development Stage Plan/OP Conditional Use Permit and Preliminary Plat for Hidden Meadows of Lake Elmo per plans staff dated April 13, 2006, with the following conditions:

1) Compliance with the recommendations/requirements of the City Engineer, 2) Compliance with the recommendations/requirements of the Valley Branch Watershed District as found to be appropriate by the City Engineer, 3) Trail setback to the Ziertman property be increased and screening be considered in the Landscape Plan, 4) Confirm drainfield setback is to be 100' feet from property line; 5) Provide size and delineation of the alternate drainfield, 6) Secondary drainfield have the appropriate easement for trail use; 7) A trail easement be added to the proposed watermain easement; eventually allowing the trail system to connect Keats Avenue to Lake Elmo Avenue.

(Motion passed 5-0)

C. Zoning Ordinance Text Amendment – Outdoor Social Events:

City Planner Dillerud recommended referring back to the Planning Commission. This is dealing with ordinance as part of a CUP, and would be dealt with on an individual basis. No applications have been received yet.

Council Member DeLapp saw the point of customized AG CUP's; police should not be required to be there. Council Member Johnson focused on any potential AG use.

Resident Carol Palmquist wanted to clarify the number of people and vehicles. Her staff would control loud music, security and safety. Two hundred people or less would be attending.

M/S/P Johnson/Conlin – to refer the draft language for the proposed Outdoor Commercial Social Events CUP in the AG District back to the Planning Commission with direction to consider and make recommendations regarding the issues raised at the April 11 Council Workshop, and to include a bullet for traffic impact analysis.

(Motion passed 5-0)

D. Update on Met Council Meeting

Council Member DeLapp asked for Council support in his effort to develop a parallel plan option through the state legislature as an alternative to the Met Council process for comprehensive planning.

Council Member Conlin asked him what is being asked, and to submit a proposal.

Council Member DeLapp left the table at 10:28 p.m.

M/S/P Johnston/Johnson - to table to the next Council meeting with a written proposal to discuss. (Motion passed 4-0: DeLapp Absent)

M/S/P DeLapp/Smith - to send the design standards for commercial and public facilities zoning districts to the Planning Commission to evaluate recommended changes for wood and veneer brick definitions. (Motion passed 4-0)

M/S/P Johnson/Smith – to approve the Summary of Performance Standards of the Public Facilities zoning district in Ordinances and Standards as amended, authorizing publication of the summary. (Motion passed 4-0)

D. Rockpoint Church – Variance for Sidewall Height: Resolution 2006-042; Section 520 Site Plan: Resolution No. 2006-043

The City Planner reported that a Public Hearing was held by the Planning Commission on April 24, 2006, regarding a variance for the height of sidewall for the proposed church structure of 50,000+ square feet on a 20-acre site. The Commission had previously tabled the application pending proper Notice regarding the variance issues that had been raised by Staff (April 10, 2006) regarding the Section 520 Site Plan for this facility.

The Planner advised that no building permit can be issued for this project until a Final Plat has been recorded. For the parcel on which the project is proposed, he advised that there remains no clear understanding regarding the responsibility for the private septic system that is to be shared by the church and the adjacent OP residential development. He recommended that the Site Plan approval resolution included conditions related to both matters.

Richard Stuhlman, architect for Rockpoint Church, presented a 3-D model of the church as originally designed. He reviewed with the Council the alternatives to the high sidewall on a portion of the building as now designed.

M/S/P Johnson/Johnston - to adopt Resolution 2006-042 approving a variance for sidewall height for Rockpoint Church based on the findings and recommendation of the Planning Commission per plans staff dated April 24, 2006. (Motion passed 4-0)

M/S/P Johnson/DeLapp - to adopt Resolution 2006-043 approving a Site Plan for Rockpoint Church per plans staff dated April 24, 2006, with two additional conditions: 1. No Building Permit shall be approved until Final Plat and Development Agreement are approved by City Council; and 2. Developers Agreement shall reflect responsibility for the joint septic system with the OP Plat. (Motion passed 4-0)

E. Zoning Text Amendment – Outdoor Social Events: Ordinance 97-167:

The City Planner reported that the Planning Commission considered the Council's concerns stated at the April 18, 2006, meeting and adopted 3 additional recommendations as mandatory CUP conditions.

Additional conditions to be added: Tents are to be allowed; events only during the months of May to the end of October; limited to 250 people, hours will be from 10:00 am

to 10:00 pm with all activities stopped and event attendees/staff off the site; and lighting will have to follow City ordinances.

M/S/P Smith/Johnston - to table until a version of the ordinance with the Council's modifications included is presented at the May 16, 2006, Council meeting.  
(Motion passed 4-0)

F. Zoning Text Amendment - Fences Standards: Ordinance 97-169

The City Planner reported that the Planning Commission conducted a Public Hearing on April 24, 2006, to consider amendment to the screening provisions of the new fence regulations that would permit residential property owners abutting commercial uses to them, construct fencing that would be effective screening of the adjoining commercial site. The amendment would allow 72 inch screen fencing at the property line where residential property abuts commercial property. He advised that, as written, where a residential lot backs up to commercial zoning or use, all three yards behind the home could utilize the property line screen fencing. He reported that the Planning Commission recommended adoption of the zoning text amendment.

Council discussion of the amendment addressed the screening of the whole backyard creating a boxy effect. It was concluded that it would be best to only allow screen fencing along the residential property line that directly abuts the commercial zone or use rather than all three property lines.

M/S/P DeLapp/Johnson - to adopt Ordinance 97-169 amending the Zoning Ordinance Fence Standards to permit screen fencing of residential yard where residential properties abut commercial uses only on the common property line. (Motion passed 4-0)

G. RR District Setbacks

The City Planner reported that the Planning Commission reviewed the existing setback provisions in the RR and RE districts, and the recommendation by the Planning Commission to make no amendments to those existing standards.

M/S/P Smith/Johnston – to direct staff to proceed with preparing an amendment to the RR zoning district standards to incorporate the RE setback standards.  
(Motion passed 3-1: Johnson opposed)

Council Member Johnson advised that her vote reflects her belief that the existing RR setback standards were adopted to preserve rural character and should be maintained for that reason. She also noted that RR-zoned property owners have relied on the existing standards as they have placed structures on their land, and planned the locations of future structures.

draft Resolution would require different findings to support denial beyond a simple finding that the application fails to comply with the required variance standards.

M/S/P Conlin/Johnson – to adopt Resolution 2006-041, approving variances at 8009 Hill Trail, based on the recommendations of the Planning Committee.

ROLL CALL: DeLapp-no, Johnson-yes, Johnston-no, Smith-yes, Conlin-yes.  
(Motion passed 3-2: DeLapp, Johnston)

B. Final Plat and Development Agreement – Hidden Meadows:

The City Planner reported that the Development Agreement for this plat differs from those prepared for other projects. New Agreement language has been added to assure future responsibility for the septic treatment system to be shared with the OP residential neighborhood. The City will look only to the church for compliance with system operations and reporting requirements.

A complaint was received about work being conducted this past weekend (Sunday) from a resident. City Staff contacted the developer. The subcontractor for the site addressed the Council, apologizing for any work being done on Sunday. He stated that the subcontractor and the developers were and are aware of City codes, and reiterated that it will not occur again.

M/S/P Conlin/Johnson – to adopt Resolution 2006-048, approving the Final Plat and Development Agreement for Hidden Meadows. (Motion passed 5-0)

C. Village Area Master Plan: Moved to 3A (1)

D. Zoning Ordinance Text Amendment – Outdoor Social Events:

City Council requested that the draft ordinance 97-167 for Outdoor Social Events be reviewed with the modifications requested from the May 2, 2006, Council meeting.

City Attorney Filla recommended incorporation of one change to #1, by deleting the word “nominal.” It should read, “A site tax parcel area not less than 10 acres.”

M/S/P Smith/Johnson – to adopt Ordinance 97-167, amending Conditional Uses in the AG zoning district to include Outdoor Commercial Social Events. (Motion passed 5-0)

E. Park Plan Update – Request for Proposals:

The Planner reported that the Staff presented a Request for Proposal (RFP) to update the 1990 Park Plan to the Parks Commission at the April 17, 2006, meeting. The Commission reviewed the draft RFP, suggested several minor modifications and adopted a recommendation to the City Council that the RFP be approved at modified

M/S/P Johnson/Smith – to approve the 2006 Park Plan Update – Request for Proposals, as presented. (Motion passed 4-1:DeLapp – the Plan was so badly flawed, it is not necessary and considered it a premature expense.)



CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA


ORDINANCE NO. 97- 191

AN ORDINANCE REPEALING SECTION 300.07, SUBDIVISION 4.A.2.(h)  
RELATING TO CONDITIONAL USES IN THE AGRICULTURAL ZONING  
DISTRICT OF THE LAKE ELMO MUNICIPAL CODE

The Lake Elmo City Council hereby repeals Section 300.07, Subdivision 4.A.2.(h) which relates to a Conditional Use Permit for Commercial Outdoor Social Events in the (AG) Agricultural Zoning district.

This ordinance shall become effective upon its passage and publication according to law.

ADOPTED by the Lake Elmo City Council this 3<sup>rd</sup> day of April, 2007.



Dean A. Johnston, Mayor

ATTEST:



Thomas Bouthilet, Interim City Administrator

Published in the April 12, 2007 Lake Elmo Leader

City of Lake Elmo Planning Department  
**Commercial Outdoor Social Events Review**

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*To:* City Council

*From:* Ben Gozola, City Planner

*Meeting Date:* 3-6-07

***Introductory Information***

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On May 16, 2006; the City of Lake Elmo adopted ordinance 97-167 which approved an amendment to City Code to allow commercial outdoor social events as a conditionally permitted use in the Agricultural (AG) zoning district (see attached). On February 20<sup>th</sup>, Council requested that staff place the issue of “commercial outdoor social events” on the March 6<sup>th</sup> agenda for an overall review of the original ordinance approval and Council options at this time if changes to the ordinance are desired.

***Review***

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***Main Questions:***

In bringing this matter forward, staff identified four main questions being asked by the City Council:

**1) If the City Council maintains the current ordinance, can additional conditions be added to future approvals for commercial outdoor social events?**

**YES.** Under City Code section 300.06 Subd 4, the City Council as the “governing body” has the authority to approve or deny conditional use permit applications. In doing so, Council is to consider the recommendation of the Planning Commission and the following factors:

- The effect of the proposed use upon the health, safety, morals, convenience, and general welfare of occupants of surrounding lands;
- The existing and anticipated traffic conditions;
- The effect on utility and school capacities;
- The effect on property values in the surrounding area; and
- The effect of the proposed use on the Comprehensive Plan.

In addition to these general requirements, individual conditional uses may also have their own requirements outlined in code; this is the case for commercial outdoor social events. Specifically, ordinance 97-167 also established the following thresholds for these types of events:

- The subject parcel must be a least 10 acres in size;

- (cont.)
- No existing permanent or newly constructed structures may be used – tents are allowed;
  - Only two events may be held per week at the site, and only during the months of May through October;
  - Attendance at events can be no more than 250;
  - The use must comply with City Code Ambient Noise standards;
  - All parking must be off-street, and shall be set back and/or adequately screened from adjoining properties;
  - Hours for events are limited to 10:00 a.m. to 10:00 p.m. which is inclusive of set up and take down activities;
  - Portable sanitation facilities adequately sized for the event(s) must be located on the site;
  - No admission fees may be charged for the commercial outdoor social event; and
  - All lighting must meet City Code standards and be shut off by 10:00 p.m.

**Keep in mind that all of the specific requirements outlined above are minimum standards, and that further conditions may be necessary to ensure compliance with the general standards outlined in code.**

For example, a property owner of 15 acres in the Agricultural zoning district may be planning an event for 220 people and has adequate on-site parking to do so, but the property may be located at a very dangerous location along a busy County Road. In such a case, Council may elect to find that no conditions can adequately ensure the safety of the public driving on the County Road during the social event and therefore the application could be denied. Or, using that same scenario with a less dangerous access, Council may require *as a condition of approval* that a certain number of police officers be available and be hired to direct traffic during the proposed event.

It is also important to remember that with any CUP, your approval runs with the land and not with the property owner. The City must be very confident that the conditions imposed with any approval are all that is necessary to ensure compliance with code requirements.

In any event, if Council finds that a proposed conditional use does NOT meet even one of the review criteria, the application may be denied based on such grounds.

**2) Can the City Council amend the current ordinance to create additional conditions for commercial outdoor social events?**

**YES.** The City Council has the authority and responsibility to ensure that local regulations are crafted in a manner that upholds the goals of the comprehensive plan. If Council believes that codes allowing for commercial outdoor social events need amending, staff should be directed to begin work to craft an ordinance to address such concerns.

(cont.)

Keep in mind that changes to any city code require the city to go through a full ordinance review using the following general steps:

- a. First, council must direct staff on what issues need to be addressed and/or what changes you would like to see to the ordinance;
- b. Next, staff must research the matter and prepare proposed language to address the issue along with a report for Planning Commission consideration.
- c. The Planning Commission must hold a public hearing on the proposed ordinance, discuss the proposed changes, and make a recommendation to the City Council on what (if any) action should be taken.
- d. The recommended ordinance would then be forwarded to the City Council for final consideration and possible adoption.
- e. Any approved ordinance would then become law once published in the official newspaper.

**3) Can Council repeal the city code language which makes commercial outdoor social events a conditionally permitted use?**

**YES.** Again, the City Council has the authority and responsibility to ensure that local regulations are crafted in a manner that upholds the goals of the comprehensive plan. If you do not believe that commercial outdoor social events are appropriate under any circumstances in the AG zoning district, you can certainly take action to eliminate the use. Doing so would require the City to follow the same process noted above for amending the ordinance (see steps “a” through “e”).

**4) Can Council adopt a moratorium on commercial outdoor social events applications to study the issue?**

**YES.** Moratoriums are a tool available to City Councils which allow you to put the breaks on current and future applications dealing with a specific issue the City has identified as needing study. If changes are deemed necessary with regards to commercial outdoor social events, then consideration of a moratorium on current and future applications should be strongly considered. This would provide the City with time to study the issue, and proceed through the required ordinance review process (steps “a” through “e”) if necessary.

Please note that the City recently received an application requesting a conditional use permit for reoccurring commercial outdoor social events. Staff is currently in the process of determining whether the application is complete. However, according to the City Attorney, the receipt of a completed application by the City does not create vested rights. The City is free to review and/or changes or repeal its regulations after it receives an application and before it gives preliminary approval.

**Other general questions:**

- Currently “commercial outdoor social events” is not defined in City Code, which allows the City to use reasonable interpretation when reviewing any such requests. If Council believes further clarification is necessary to ensure the ordinance operates as intended, a definition could certainly be added in the future. Further comments are provided by the City Attorney in the memo attached to this report.
- The question was raised as to whether an applicant could request a variance from one of the specific conditions outlined for commercial outdoor social events (i.e. requesting that the hours of operation on a given site extend to midnight). The answer to that question is yes. However, given that the City has already determined that these minimum thresholds are necessary for the approval of such a CUP, it will be difficult to impossible for an applicant to describe a hardship acceptable to the City to justify the variance.

The confusion with regards to variances generally relates to the question of “use.” In this case, the proposed “use” is conditionally permitted – not prohibited. Therefore requesting a variance from the minimum criteria outlined in code is allowed. Compare this situation to someone requesting to locate a gas station in the AG zoning district. In such a case, the use itself is neither permitted nor conditionally permitted – it’s prohibited. Therefore, a variance cannot be requested to allow for the use.

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**Conclusion**

The information contained in this report was assembled at the request of City Council. Staff will be available on March 6<sup>th</sup> to answer any questions.

**Council Options:**

The City Council has the following options:

- A) Do nothing.** Council may find that the ordinance approved in May 2006 is sufficient and addresses all city concerns regarding commercial outdoor social events;
- B) Propose Changes.** Council may find problems with the ordinance in its current form, and propose changes to be incorporated into the City Code. Such an amendment would need to go through the full City review process before appearing before Council for possible approval;
- C) Propose Repeal.** Council may find problems with the ordinance in its current form, and direct staff to take action to repeal ordinance 97-167. Such action would also need to go through the full City review process before Council could take action;
- D) Propose Moratorium.** Council may direct staff to prepare a moratorium on reviewing and accepting applications for commercial outdoor social events. Staff would then study the matter to address any concerns surrounding the health, safety, and welfare of the community with regards to these potential uses.

cc: Carol Palmquist, Current CUP Applicant

ORDINANCE XX-2013

CITY OF AFTON, MINNESOTA  
WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDING SECTIONS 12-55 AND 12-134 OF THE AFTON LAND USE CODE, AND ADDING A NEW SECTION 12-231. COMMERCIAL WEDDING VENUE TO THE AFTON LAND USE CODE TO ADD A COMMERCIAL WEDDING VENUE USE AS AN ACCESSORY USE WITH AN INTERIM USE PERMIT IN THE RURAL RESIDENTIAL AND AGRICULTURAL DISTRICTS, WITH A 16 MONTH EXPIRATION DATE ON THE ORDINANCE AMENDMENT

BE IT ORDAINED by the City Council of the City of Afton that the Afton Code of Ordinances be amended as shown below.

Delete the strike-through language and modify the bold and underlined language as shown below:

**Sec. 12-55 Definitions.**

Commercial Wedding Venue means a use involving a location to conduct wedding ceremonies and hold wedding receptions, and operated with the intention of earning a profit by providing the venue to the public.

**Sec. 12-134. Uses**

	(A)	(R)	(VHS-R)	(VHS-C)	(I1-A)	(I1-B)	(I1-C)	(MS)
<u>Commercial Wedding Venue</u>	IUP	IUP	N	N	N	N	N	N

**Sec. 12-231. Commercial Wedding Venue**

A commercial wedding venue use is allowed as an accessory use with an interim use permit in the Agricultural District, and is allowed as an accessory use with an interim use permit in the Rural Residential District on parcels greater than 20 acres located adjacent to the Industrial District. Suitability of a parcel, or lack thereof, for a wedding venue use shall be determined by the characteristics of the zoning district and by the unique capacity of the parcel to accommodate the use while preserving the essential rural character of the neighborhood and the zoning district in which the use is located, by the capacity of the parcel to accommodate the use without negative impact on the general health, safety, and welfare, and by other factors the City may deem appropriate for consideration

Performance standards are as follows:

- A. No commercial kitchen
- B. Use of licensed caterer only
- C. Use of licensed bartender

- D. Off-street parking done within the property only and set back a minimum of 300 feet from adjacent properties . No on-street parking
- E. Hours of operation 10:00 a.m. to 11:00 p.m.
- F. No overnight accommodations
- G. Property will be the primary residence of the property owners/venue operators
- H. Events limited to **200 guests, unless specified in the CUP**
- I. Ceremony facilities must comply with all rules and regulations of federal, state, county, and local agencies.
- J. The applicant shall provide information in the application for the permit, and as requested by the City for permit review, regarding the activities provided by the facility. Information shall include the following:
  - 1. the number of attendees per ceremony,
  - 2. The number of ceremonies and receptions per year
  - 3. The number of employees
  - 4. The hours of operation
  - 5. Parking facilities
  - 6. sanitary facilities
  - 7. lighting
  - 8. sound amplification
  - 9. temporary structures/tents
  - 10. Signage
  - 11. Screening
- K. Off-street parking shall be required in the ratio of one (1) parking space for each (two or three) seats/(attendees) based on the maximum number of attendees planned. The off-street parking area and the number of parking spaces shall be shown on the Site Plan.
- L. All existing structures to be used for the wedding venue use shall be inspected by the City's Building Inspector and must meet applicable requirements
- M. Any on-site preparation and handling of food or beverages must comply with all applicable federal, state or local standards.
- N. The sale/serving of liquor requires proper liquor licensing
- O. Traffic. A Transportation Management Plan shall be submitted to the zoning administrator at the time of application. This plan shall address traffic control, including traffic movement to the public street system and impact on the surrounding roadways.
- P. Grading. If any grading is proposed, a Grading, Drainage and Erosion Control Plan shall be submitted. The standards of the Watershed Management Organization or Watershed District must be met.
- Q. Landscaping/Screening. Landscaping may be required to be installed to buffer the use from adjacent land uses and to provide screening. A Landscape Plan shall be submitted at the time of application for a Conditional Use Permit, if required by the Zoning Administrator.
- R. Minimum setbacks from neighboring houses and property lines for the various activities related to the wedding venue use shall be as follows: (the use must meet both sets of setbacks)

- |                             | <u>From Neighboring<br/>Houses</u> | <u>From Residential<br/>Property Lines</u> |
|-----------------------------|------------------------------------|--|
| 1. Parking:                 | 300 feet                           | 150 feet front<br>100 feet other           |
| 2. Outdoor activity spaces: | 300 feet                           | 150 feet front<br>100 feet other           |
| 3. Indoor activity spaces:  | 300 feet                           | 150 feet front<br>100 feet other           |
- S. Sanitary facilities. Sanitary facilities adequate for the number of attendees shall be provided. Portable toilets may be approved for temporary use. Portable toilets must be screened from view from roads and neighboring properties by landscaping or wooden enclosures.
- T. Lighting shall be limited, low, downcast and shielded so that the source of the light is not visible from roads or neighboring properties
- U. temporary structures/tents may be allowed
- V. signage must meet the requirements of the signage section of the zoning code
- W. As deemed necessary, the City Council may restrict the operation of the facility.
- X. The applicant shall provide a site plan showing existing and proposed structures with the maximum capacity of each building where customers have access.
- Y. All solid waste must be stored in a manner that prevents the propagation, harborage, or attraction of flies, rodents, vector, or other nuisance conditions and must be removed at least once every seven days by a licensed Solid Waste Hauler. Burning of solid waste is strictly prohibited.
- Z. The grounds and all structures shall be maintained in a clean and safe manner

**Sunset Provision**

**This ordinance amendment will go into effect on June 1, 2014, and will expire on September 30, 2015.**

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS XX DAY OF \_\_\_\_\_, 2013.

**SIGNED:**

\_\_\_\_\_  
Pat Snyder, Mayor

**ATTEST:**

\_\_\_\_\_



TO: Lake Elmo Community Development Department

FROM: Todd Williams, Planning Commission Chair

RE: Culdesac Discussion

DATE: Feb 4, 2014

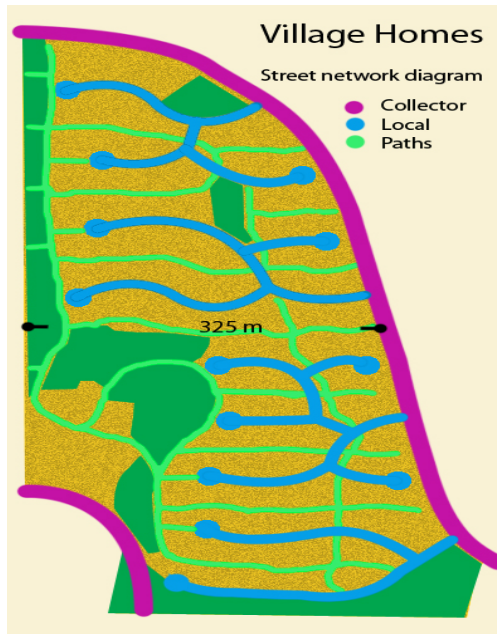
There is an apparent divergence of opinion regarding the desirability of culdesacs in new residential developments in the Old Village. This issue has been brought to the forefront by the Easton Village development, whose initial concept plan was presented at the last Planning Commission meeting.

It occurs to me that our current zoning code and design standards do not address this issue, but they should. Accordingly, I request that this issue be part of the next Planning Commission meeting agenda as a discussion item. Specifically, the Commission should discuss whether or not the Lake Elmo development regulations and standards should contain language either favoring or discouraging culdesacs in new residential developments in the Old Village.

I understand that development in the Mixed Use area of the Old Village will be regulated by some kind of form based code, yet to be developed. But the significant areas of residential development outside the MX area do not have any regulations about culdesacs, except a general limit of 600 feet in length. These are the areas the Commission should discuss.

Because I will not be attending the next Commission meeting, I wish to present my own comments here, for the benefit of the overall discussion. I am highlighting only the most important considerations, in my current understanding.

1. Former Planning Commissioner Nadine Obermuller sent an email to the Council, Community Development Department, and myself regarding this topic. She included a selection of text from a Wikipedia discussion of culdesacs. I found the Wikipedia discussion very balanced and informative. All Commissioners are encouraged to read the text at <https://en.wikipedia.org/wiki/Culdesac>. Note that the text included by Obermuller is down several screens from the start.
2. Culdesacs certainly have an advantage in reducing overall traffic in local neighborhoods. They also improve opportunities for children to play in the street more safely than in through streets.
3. As the Old Village sewered development was discussed over years, the concept of walkability was frequently mentioned as being desirable for all areas, not just the Mixed Use area. Traditional culdesacs do not encourage walkability, because they are not connected except by convoluted roadways. Some kind of trail or pathway system connecting culdesacs would go a long way to improving the traditional model. In the Wikipedia entry is a diagram of such a "connected" culdesac system. I have copied it here:



Certainly, this is only one concept, but it does give us an idea of how the traditional, “disconnected” culdesac development might be made more walkable. I think it is obvious that this concept could easily apply to the Easton Village development, and by inference to all future Old Village residential developments.

4. As sewer development in Lake Elmo proceeds, unanticipated issues will continue to arise. As long as Lake Elmo’s leaders maintain a healthy attitude of continuous learning, we will successfully deal with such issues as they arise and make the best decisions based on knowledge available. When such issues arise, we must address them forthrightly and honestly. This culdesac consideration is one of those issues.
5. It is very important that the Lake Elmo Planning Commission and Council address this culdesac issue at the earliest opportunity. While this is only one issue in the complex development planning process for the Old Village, it will likely have a very large effect on the overall feeling and environment of the final, developed area. Our current regulations do not really address the issue, so concept plans and preliminary plats have no guidance one way or the other. We need to make a conscious decision how we want to direct residential developments: either leave it up to the inconsistencies of different developers or have a unifying standard for the Old Village area.
6. Walkability is a goal in the sewer residential developments south of 10<sup>th</sup> Street. Some attention should be given to whether traditional, disconnected culdesacs are desirable for that area as well.

Respectfully submitted,

Todd Willams

## Ethics & the Planning Commission

### “Ma’am, We’re Here for You.”

by Ben Frost, AICP, Esq.

December 11th, 2013

We’re pleased to welcome Ben Frost to the PlannersWeb. In this column, he addresses a question every planning commissioner faces, but one that’s not often discussed: who does the planning commission serve? We invite you to join a discussion of this article — adding your own thoughts — [on our PlannersWeb LinkedIn group page](#).

As I sat through a public hearing for another minor site plan revision, what I wanted to say was “Ma’am, we’re here for *you*.”

I serve on my town’s planning commission. We’re a group of volunteers appointed by our board of selectmen; our appointments are based partly on our qualifications, but mainly they’re based on the fact that we show an interest in our community and its future. I suspect that this is the primary factor that motivates the interest of most planning commissioners – wanting to *give something back*. But to give back to whom? Who do we serve as we fulfill this motivation?

This was the situation at that recent public hearing: the owner of a small light manufacturing plant wanted to modestly expand his building to accommodate new equipment, and this required a modification to the approved site plan. The facility is in a commercial zone, but surrounded by residential uses. Abutters were notified, the hearing was scheduled, and there we sat listening to the presentation by the applicant. The commissioners all seemed amenable to the proposal and asked few questions.

The public hearing was opened, and an elderly woman — the only person there other than us and the applicant — introduced herself as a direct abutter. She spoke glowingly of the applicant, saying that he was a good neighbor, and then she started to gently interrogate him — would the hours of operation change? would the traffic pattern change? would there be added noise from the new HVAC unit? and so on. All her questions were good and expressed the valid concerns of an abutter, but at one point she turned to the commissioners and said “I’m sorry, I don’t want to waste your time.”

**It was then that I wanted to say “Ma’am, we’re here for *you*.” But I didn’t say it, because as the words sat inside my head I thought, I’m also here for the *applicant*.** While I know that we commissioners sat there also to represent the interests of the public generally, our decisions often are reduced to a struggle between an applicant and those who would be directly impacted by the proposal under consideration.

When there is such conflict, the commission can’t please both the applicant and the abutters, and it may feel easier to yield to abutter-raised concerns and either deny the application or impose unreasonable conditions. Otherwise, the commission risks being seen as a “rubber stamp” body that is in the pocket of developers. The abutters are the people whom commissioners are more likely to run into in the grocery store. They’re more often our neighbors than are the applicants. But commissioners generally are compelled by law to make the harder decision and say “yes” to the applicant.



As a young town planner twenty-five years ago, I remember reading a local newspaper article about my counterpart in an adjacent town who had been fired because of allegations that he was too “friendly” with developers. Chances are he was just doing his job. Planning commissioners are in the same boat. My state’s constitution has been interpreted to mean that as governmental bodies, planning commissions are required to assist the applicants appearing before them; <sup>1</sup> your state likely has a similar requirement, whether it is in your constitution, statutes, or court decisions.



You don’t need to engineer the applicant’s plans, but you do need to provide the applicant with guidance through the process. For example, a commission should tell an applicant early on what the major concerns are that will pose a barrier to approval. Failure to give this guidance doesn’t protect the public interest by validating abutters’ issues. Rather, it ignores the purpose of government and the planning commission’s ethical obligations to serve all of the people, not just those you pass regularly on the sidewalk. By the same token, you’re there to serve your friends and neighbors too — so the abutters deserve your best advice as well.

At the end of our recent hearing for the minor site plan amendment, the elderly abutter expressed her gratitude to us for listening to her concerns and the commission approved the application with a short list of conditions. The abutter and the applicant both left with the satisfaction that we had done our job. We had balanced the interests of the property owner against those of the people living in the neighborhood — that is, the private property rights weighed against the interests of the larger community. Striking that balance and serving the interests of all is the essential legal and ethical obligation of the planning commission.





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Ben has over 25 years of experience as a land use planner, and over 15 years as an attorney. Previously, he was a Senior Planner with the NH Office of Energy and Planning, he was the executive director of the Upper Valley Lake Sunapee Regional Planning Commission, and he was also a planner and administrator in local and regional government in New Hampshire and elsewhere.

Ben is also past chairman of the Municipal Section of the New Hampshire Bar Association and is a founding director of the NH Municipal Lawyers Association. He serves as the Treasurer of the NH Planners Association and as the Professional Development Officer of the Northern New England Chapter of the American Planning Association. Ben holds B.A. and M.A. degrees in Geography from Colgate University and Syracuse University, respectively and a law degree from Cornell Law School. He lives in Warner, NH, where he serves on the planning board.

#### Notes:

1. “...in furtherance of Part I, Article 1 of our State Constitution, municipalities have an obligation ‘to provide assistance to all their citizens’ seeking approval under zoning ordinances.”  
*Richmond Company, Inc. v. City of Concord*, 149 N.H. 312, 315, 821 A.2d 1059 (2003)  
(quoting *Savage v. Town of Rye*, 120 N.H. 409, 411, 415 A.2d 873 (1980) and *Carbonneau v. Town of Rye*, 120 N.H. 96, 99, 411 A.2d 1110 (1980) ). ↵

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