



3800 Laverne Avenue North
Lake Elmo, MN 55042

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NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, April 14, 2014 at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. March 24, 2014
4. Public Hearing

ZONING TEXT AMENDMENT - COMMERCIAL WEDDING VENUE
ORDINANCE – The Planning Commission will hold a public hearing on a draft ordinance for Commercial Wedding Venues.
5. Business Items
 - a. WILDFLOWER AT LAKE ELMO SKETCH PLAN – The Planning commission is asked to review a proposed sketch plan for a 143 unit single family residential development located in the northern portion of the Village Planning Area.
 - b. ZONING TEXT AMENDMENT - ANIMAL THERAPY ORDINANCE – The Planning Commission is asked to review a draft of the Animal Therapy Ordinance in advance of a future public hearing.
 - c. ZONING TEXT AMENDMENT - SHORELAND ORDINANCE UPDATE – The Planning Commission is asked to review a draft ordinance that would update the City's Shoreland Management Ordinance. The proposed ordinance would add the recently adopted urban development districts to the City's shoreland regulations and update other sections of this code.
6. Updates
 - a. City Council Updates – April 1, 2014 meeting:
 - i. Condition Use Permit for 901 Lake Elmo Avenue for family means passed.
 - ii. Site Plan Review Ordinance passed.
 - iii. Horning lot size Variance passed.
 - iv. Launch properties CUP Concept Plan and Zoning Map Amendment passed.

- b. Staff Updates
 - i. Development net density discussion. Staff will discuss the methodology used to determine gross and net densities for development projects.
 - ii. Upcoming Meetings:
 - April 28, 2014
 - May 12, 2014
 - c. Commission Concerns
7. Adjourn



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

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

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

COMMISSIONERS ABSENT: Morreale;

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

Approve Agenda:

The agenda was accepted as presented.

Approve Minutes: February 24, 2014

Chairman Williams noted that he did not abstain from voting regarding the February 10th minutes, he did not vote on the minutes because he was not in attendance at the previous meeting.

M/S/P: Kreimer/Lundgren, move to approve the minutes as amended, **Vote: 7-0, motion carried unanimously.**

Public Hearing: *Zoning Text Amendment – Accessory Building Ordinance*

Johnson reviewed various revisions to the draft Accessory Building Ordinance, made as a result of the last meeting. He noted that the draft was revised to allow for additional accessory building square footage through a Conditional Use Permit process. He also stated that Staff is still researching the potential impacts of the 60/40 house to garage ratio in urban residential and mixed-use districts.

Williams questioned why garages are encouraged to be side or rear loaded when this would be difficult to accomplish with smaller lots. Johnson stated that this was intended to communicate the City's design preference at the time, but that it would not be something that could be enforced.

The Commission generally discussed the implications of the existing language concerning garages. Williams suggested revising this provision so that the garage could be set back from the primary façade or be side or rear loaded.

Klatt noted that the City Engineer also provided input to ensure that vehicles parked on driveways would not interfere or encroach onto sidewalks.

Yocum questioned whether or not Lennar had given the City any feedback on this provision. Johnson noted that Lennar was more concerned about the lot width and side yard setbacks.

Klatt noted that the code was intended to prohibit “snout houses” so that garages were not the dominant feature of the landscape.

M/S/P: Williams/Larson, move to add language to 154.456.B.1.a and b to state “unless the garage is side loaded”.

Dorschner stated that the City is not gaining much by adopting this language. Larson commented that the best examples of side-loaded garages occur on curved streets.

Vote: 6-1, motion carried, with Dorschner voting no.

Dodson noted that the same provision should be applied to the VMX district.

Williams noted that they should not have taken any action until after the public hearing.

Williams asked if the City allows accessory apartments or secondary dwellings in accessory buildings. Johnson replied that the City Code allows for secondary dwellings as a conditional use.

Williams questioned the language concerning accessory building height compared to the principal building. Klatt stated that the intent of this provision was to restrict the height of the accessory building to either 22 feet or no higher than the principal building.

Public Hearing opened at 7:30pm.

Dave Gonyea, Gonyea Company, asked whether or not the code would require garages to be side or rear loaded. Williams stated that the code language encourages, but does not require this. Gonyea stated that front loaded garages are often required on a smaller lots.

Staff noted that there were not written comments submitted for the public record.

Public Hearing closed at 7:34pm.

MSP: Williams/Dodson, move to add similar language regarding side loaded garages within the VMX district (see above), **Vote: 6-1, motion carried**, with Dorschner voting no.

There was a general discussion concerning the provision that requires a detached accessory building to be 22 feet in height or no higher than the principle building, whichever is higher.

M/S/P: Dodson/Williams, move to strike “whichever is higher” in 154.08 C2 and 154.4563c.2, **Vote: 6-1, motion carried**, with Dorschner voting no. Dorschner stated that he feels that 22’ in height is an adequate standard regardless of the height of the principal structure.

M/S/P: Dodson/Dorschner, move to recommend approval of the accessory building ordinance as amended, **Vote: 7-0, motion carried unanimously**.

Business Item: *Schiltgen Farms Parcel B Sketch Plan*

Johnson reviewed a sketch plan that has been submitted by Gonyea Homes for a proposed residential development in the northern portion of the Village Planning Area consisting of 101 single family sewerred homes on approximately 40 acres of land presently owned by Pete Schiltgen. He noted that the project includes a portion of Lake Elmo Avenue, which will need to be platted as road right-of-way as part of the subdivision.

Johnson reviewed staff comments concerning the plan: access and access spacing on Lake Elmo Avenue; park dedication, trails and landscaping/buffering along CSAH 17.

Haggard asked if roads taken out of the calculation when calculating net density. Johnson noted that different cities define net density differently. However, generally roads are not counted towards the area in a net density calculation. Staff is working on this definition to make sure that it is consistently applied throughout the City.

Lundgren asked if there is any plan to do construction on Lake Elmo Avenue. Johnson noted that no construction is currently planned in the County CIP north of Trunk Highway 5. Williams noted that there would be improvements required as part of the proposed subdivision such as a turn lane on Lake Elmo Avenue. Johnson sated that Staff is asking that the developer provide a trail along Lake Elmo Avenue.

Kreimer asked if the trail would continue north. Johnson said that extending the trail north makes sense if the northern parcel is developed as a nature preserve.

Dodson questioned why 39th street could not extend across Lake Elmo Avenue and serve that parcel. Johnson stated that it would in the future and would provide secondary access to the future residential neighborhood west of CSAH 17.

Williams expressed concern that the proposed subdivision represents a typical suburban layout and not a traditional grid pattern that would be expected as part of the Village Land Use Plan. Johnson replied that the gridded street pattern can be challenging because of constraints of the property such as access management required by the County. The gridded street pattern also does increase the amount of infrastructure and impervious surface. Nevertheless, the land use plan calls for greater connectivity. Klatt provided comments concerning gridded and traditional neighborhood design. Klatt stated that there needs to be some flexibility in the plans while still meeting the intent of the Comp Plan. Staff would like to see connectivity through sidewalks and trails.

Williams stated that he feels that the Land Use Plan encourages more uniformity between neighborhoods.

Haggard asked how the housing would be consistent with the Old Village character. She shared her concern that it will not be consistent.

Johnson discussed general market trends of housing and its application to this site. Alley loaded homes are not in demand right now. The City needs to be careful about over programming these developments where the market won't support them.

Larson shared some comments concerning park and lack of play areas for children within the development. Johnson noted that the applicant is not opposed to looking at a neighborhood park, but has been focusing on expansion of Reid Park. The City is currently looking at joint powers agreements with the school district for parks at Lake Elmo Elementary and Oakland Junior High. Klatt stated that the property to the North is guided for open space in the Comprehensive Plan and they are looking to put in a Nature Preserve with bees and butterflies and natural plantings.

Haggard stated that she would like to see better access to parks. Yocum stated that she would like to see a smaller park for neighborhood kids.

Williams asked if the northern portion that is covered by trees buildable. Johnson stated that it is not, and the area was not included in net density calculations.

Dodson would like to see a trail connection with the Cul-de-sacs for a more walkable neighborhood.

Dave Gonyea noted that they are not opposed to putting in a small park and are looking for feedback from the Park Commission. Williams suggested putting in a shared park with adjoining property owner to the east.

Williams questioned the objectives of the builder and stated that it is not the objective to have a series of monumented developments that feel separate from the Village. Gonyea commented that the proposed layout does create more connectivity and provides for a different feel to the neighborhood. In his opinion, it is much more walkable neighborhood than if it was in a grid pattern.

Williams stated that he would like to see additional roads that connect to adjacent development and would recommend that one of the cul-de-sac roads go through the development to the east.

Gonyea stated that they would consider the road connection, and that it may not significantly alter project.

Haggard asked how the proposed is consistent with the existing Old Village. Gonyea stated that they are trying to make as consistent as possible by making it walkable, providing connections to school and other points of interest, adding trees and fencing and other elements to the plan.

Johnson stated that the County's likely request to move the access further north will have some implications on how the streets flow through the development.

Kreimer asked what the typical lot width is for Gonyea. Gonyea stated that is between 80 – 95 feet in width for custom lots and they have gone down to 65-70 foot in some instances. They generally build larger homes.

Kreimer asked if Gonyea is planning on working with different builders. Gonyea stated that on a project like this they will probably bring in 5-6 different builders with different home plans. Dodson asked if the 65' wide lots will be starter homes. Gonyea stated will be in the 400k to 550k range.

Williams noted that drainage on the property slopes northwest to southeast. Pete Schiltgen commented that storm water flows more to the east and then south. Gonyea stated that there was a wetland delineation done for the site.

Dorschner would like to see connectivity to the east. Feels that if we can get connectivity to flow towards the downtown that would be the goal.

Kreimer also want to see better walkability. Would like to see trails through cul-de-sac in cases where streets do not extend through. Would like to see a park in the development and a trail along Lake Elmo Avenue.

Johnson asked the Planning Commission to clarify expectations and direction.

Williams suggested the Commission come up with street alternatives:

Street alignment alternatives

- 1) As presented
- 2) Trail from middle cul-de-sac the North/South street to the east
- 3) Connected road through to the east (extending cul-de-sac to neighboring property)

Yocum suggested looking at Interlochen parkway in Woodbury as an example.

Dorschner state that he would rather see trail connection if Lake Elmo access needs to move further to the north, otherwise it may generate too much through traffic.

Dodson not as concerned with curvilinear pattern.

There was a general consensus to make road connectivity a priority, and to otherwise provide trail connections where direct road access would not be possible.

Business Item: *Outdoor Wedding Venue Ordinance*

Klatt started his presentation by reviewing the draft ordinance of the Outdoor Wedding Venue Ordinance that was discussed at the last meeting. Klatt presented the specific standards in order to allow the accessory use of weddings to proceed. The specific performance standards include food, alcohol, noise, lighting, and other standards that are intended to mitigate potential nuisance. Klatt noted that the use would be processed under the interim use permit process. Related to potential nuisance, Klatt noted that amplification of noise would only be allowed during the wedding ceremony, not during the reception.

Dodson asked if other types of events would be allowed, such as anniversaries, graduation parties, bar mitzvahs, etc. He asked why the events have to be restricted to religious events. Dodson noted that it may be a slippery slope allowing only certain types of events, but not others. The Planning Commission noted that not all weddings are religious events. Dodson noted that to allow some type of use on agricultural sites, he would like to expand the types of uses that occur.

Larson asked about the timeframe of when the events would be allowed. Klatt noted it is May through October. Larson also asked if it would be appropriate to require notification of adjacent properties. Klatt noted that notice is sent out to all properties within 350 feet for a public hearing at the Planning Commission. In addition, the interim use permit allows for the City to review the permit when it expires.

Williams noted that he is in agreement with Dodson in that there may be other events that should be allowed in addition to weddings. Haggard noted her concern about the level of noise with other events. She added that enforcement of the City's noise ordinance is difficult.

Kreimer noted that he supports limiting the activity to weddings, as well as limiting the number of activities per week. Kreimer noted that he would be interested in the thoughts of the City Council so that the Planning Commission does not invest too much time before learning their perspective.

Klatt noted that the frequency restriction of limiting the number of events per week could be added back into the ordinance. Dorschner suggested limiting the number events per year, such as 10 events. Williams suggested restricting the number of hours per day as well to minimize the impact.

Williams asked the Commission if everyone is in agreement that there should be some allowance for these special events. Everyone agreed that there should be some allowance. Williams noted that some more thought into mitigating potential nuisance, particularly hours and frequency of operation, noise and the provision of alcohol.

Williams asked about State Statutes with regard to serving alcohol from grapes grown on-site. Klatt noted that Staff is doing additional research. Dodson noted his confusion between the various types of wines. Klatt noted that if alcohol is sold, a liquor license is required. There was a general discussion about alcohol. Staff will research this issue more.

Williams noted that the Planning Commission would like some feedback from the City Council.

Haggard asked about a number of provisions, including portable toilets, lighting, and signage. Williams suggested providing links to the other ordinances.

Kreimer suggested being more specific with regards to having portable toilets. Klatt stated that the specifics would be spelled out as part of the IUP.

Haggard asked how hard it is to revoke an interim use permit. Klatt noted that if the conditions of the interim use are violated, it can be revoked. Klatt explained that it depends on how the IUP agreement is written up, but it is not as difficult to revoke as a CUP.

Haggard also asked about the number of cars allowed to park on the site. Klatt noted the interim use permit review process can address many of these concerns. Each permit will be written based on site conditions.

Dodson asked about security. Klatt stated that an applicant would need to provide contact information for any security that is required.

Klatt asked if the Planning Commission would like to see a revised draft before a public hearing is scheduled. The Planning Commission confirmed that they would like to see a draft before setting up a public hearing.

Updates and Concerns

Council Updates

1. No updates from the previous City Council meeting
2. City Council is planning a joint workshop with the Planning Commission to discuss Thrive 2040 population forecasts – April or May.
3. The 3/11/14 City Council workshop is dedicated to downtown planning. They will be talking about a market study for downtown, business improvements, EDA and discussion of TIF and the County reconstruction of Lake Elmo Avenue.
4. The first open house for the Lake Elmo reconstruction project will take place 3/13/14 at Christ Lutheran Church from 4-7pm. This will be a good information gathering process for the City, VBWD, and Washington County.

Staff Updates

1. Upcoming Meetings
 - a. March 24, 2014
 - b. April 14, 2014

Commission Concerns -

Williams suggested that the Planning Commission take another look and discuss the sketch plan for Easton Village after the Park Commission review. Klatt stated that it could be brought back at a future meeting, but to keep in mind that they could come in with the preliminary plat at any time. Kreimer thinks if it is more than a few tweaks it should come back. Larson stated that some of the changes were based on Planning Commission recommendations and the larger changes were based on the Park Commissions recommendation that there not be a park in the northwest corner.

Dorschner is wondering if there has been any thought put into the need for schools with all of the upcoming development. Johnson stated that staff made a presentation to ISD 834 and they have the City's projection for growth. They could possibly put a school down along the I94 corridor and that would accommodate new growth down there along with the kids that currently go to Lake Elmo Elementary from Woodbury.

Dorschner would like to see the schools integrated more into the neighborhood areas so that they would feel more like neighborhood schools and the kids could walk to them vs. in the more commercial areas.

Yocum was wondering if they could get a map that shows all the developments and what currently surrounds them.

Meeting adjourned at 10:20 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant



PLANNING COMMISSION
DATE: 4/14/14
AGENDA ITEM: 4A – PUBLIC HEARING
CASE # 2014-15

ITEM: Zoning Text Amendment – Commercial Wedding Venue Draft Ordinance

SUBMITTED BY: Kyle Klatt, Community Development Director

REVIEWED BY: Nick Johnson, City Planner

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to conduct a public hearing on a proposed ordinance that would allow commercial wedding venues as an interim use permit on certain properties that are zoned A – Agriculture and RT – Rural Transitional Zoning. This ordinance has been drafted at the direction of the Planning Commission based on the discussion from its previous meetings. Staff is recommending that the Planning Commission review the draft ordinance and conduct a public hearing at this time. Staff is further recommending that the Planning Commission recommend approval of the ordinance as presented.

REQUEST DETAILS

The proposed ordinance would amend appropriate sections of the Zoning Ordinance to allow a new use called “commercial wedding venue” as an accessory use within the City’s use classification system. These types of activities would be allowed as an interim use in A and RT zoning districts. The draft ordinance includes a series of requirements for these types of uses, and covers a wide range of issues, including food handling, hours of operation, off-street parking requirements, setbacks, landscaping, screening, application requirements, lighting requirements, and other relevant information. The draft has been prepared using the City of Afton’s recent ordinance for similar events as a model, and also incorporating the proposed restrictions that were previously brought forward by a resident.

The proposed ordinance is intended to allow for the continued use of private agricultural property in a manner that allows for a reasonable economic return for property owners that otherwise would be limited the use of their property. Commercial wedding venues would be considered accessory to permitted agricultural activities, and would only be allowed upon an application for an Interim Use Permit. The use restrictions drafted as part of the ordinance are intended to minimize any impacts to adjacent properties, taking into account the intensive agricultural activities that are otherwise permitted on these sites.

Please note that Staff is still working on a definition for “wedding ceremony” and “wedding reception” that will provide further clarity for the use of these terms in the ordinance. Staff will present these proposed definitions at the meeting.

RECCOMENDATION:

Staff is recommending that the Planning Commission recommend approval of the draft ordinance as presented and with the definitions for “wedding reception” and “wedding ceremony” as presented by the Planning Department.

ATTACHMENTS:

- 1. Draft Commercial Wedding Venue Ordinance (4/14/14)

ORDER OF BUSINESS:

- IntroductionPlanning Staff
- Report by StaffPlanning Staff
- Questions from the Commission Chair & Commission Members
- Open the Public HearingChair
- Close the Public Hearing.....Chair
- Discussion by the Commission Chair & Commission Members
- Action by the Commission Chair & Commission Members

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-_____

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY ADDING PROVISOINS CONCERNING COMMERCIAL WEDDING VENUES AND ALLOWING SUCH USES AS AN INTERIM USE IN A AND RT ZONING DISTRICTS

SECTION 1. The City Council of the City of Lake Elmo hereby ordains that Title XV: Land Usage; Chapter 154: Zoning Code, is hereby amended by adding the following:

§154.012 Zoning Use Types and Classifications

B. Use Types and Classifications.

12. Accessory Uses

Commercial Wedding Venue. A use involving a location to conduct wedding ceremonies, not including receptions, and operated with the intention of earning a profit by providing the venue to the public.

SECTION 2. The City Council of the City of Lake Elmo hereby ordains that Title XV: Land Usage; Chapter 154: Zoning Code, is hereby amended by adding the following:

§154.400 Permitted and Conditional Uses.

Table 9-1 lists all permitted and conditional uses allowed in the rural districts. “P” indicates a permitted use, “C” a conditional use, and “I” an interim use. Uses not so indicated shall be considered prohibited. Cross-references listed in the table under “Standards” indicate the location within this Ordinance of specific development standards that apply to the listed use.

Table 9-1: Permitted and Conditional Uses, Rural Districts

	RT	A	RR	RS	RE	Standard
Accessory Uses						
Commercial Wedding Venue	I	I	-	-	-	155.111.C

SECTION 3. The City Council of the City of Lake Elmo hereby ordains that Title XV: Land Usage; Chapter 154: Zoning Code, is hereby amended by adding the following:

§ 154. 310 Standards for Accessory Uses

- D. *Commercial Wedding Venue.* A commercial wedding venue is allowed as an accessory use with an interim use permit in the A - Agriculture and RT - Rural Transitional on parcels greater than 10 acres size. The suitability of a parcel for a wedding venue shall be determined by the characteristics of the site and by the unique capacity of the parcel to accommodate the use while preserving the essential rural character of the neighborhood and the site on which the use is located, by the ability of the parcel to accommodate the use without negative impact on the general health, safety, and welfare of the community, and by other factors the City may deem appropriate for consideration.
1. *Ownership.* The property will be the primary residence of the venue operator(s). The operator must be on the premises for the duration of each event.
 2. *Maximum Number of Guests.* The maximum numbers of guests is limited to 150 for each event.
 3. *Food Handling.* Any on-site preparation of food or beverages must comply with all applicable federal, state, or local requirements.
 - a. *Kitchen Facilities.* No commercial kitchen facility is allowed.
 - b. *Catering.* Caterers must be properly licensed.
 4. *Serving of Alcohol.* The serving of alcoholic beverages shall be limited to table, fortified, or sparkling wines. The serving of such beverages shall following proper City and State licensing requirements.
 - a. Bartenders serving guests must be properly licensed.
 5. *Seasonal Operation.* Events are limited to no more than twice per week and are permitted only during the months of May through October.
 6. *Hours of Operation.* Events shall only be allowed between the hours of 10:00 a.m. and 10:00 p.m. All guests and staff must vacate the premises by 10:00 p.m. All lights associated with the event must be turned off by 10:00 p.m.
 7. *Overnight Accommodations.* No overnight accommodations are allowed.
 8. *Off-Street Parking.* Off-street parking shall be required in the ratio of one (1) parking space for each three attendees based on the maximum number of attendees planned for the site. The off-street parking area and the number of parking spaces shall be documented on the required site plan.
 9. *Setbacks.* The minimum setbacks from neighboring houses and property lines for the various activities associated with the wedding venue shall be as follows:
 - a. Parking: 100 feet from residential property lines; 200 feet from neighboring houses.
 - b. Outdoor Activity Spaces: 300 feet from residential property lines; 400 feet from neighboring houses.
 - c. Indoor Activity Spaces: 300 feet from residential property lines; 300 feet from neighboring houses.
 10. *Landscaping/Screening.* Landscaping may be required to buffer the use from adjacent land uses and to provide screening when such screening does not presently exist on the site. A landscape plan shall be submitted at the time of application for an Interim Use Permit.

11. *Grading.* Any proposed grading shall observe all requirements of Section 151.017 of the City Code. If a grading plan is required, it shall be submitted in conjunction with an application for an Interim Use Permit.
12. *Traffic.* A transportation management plan shall be submitted as part of an application for an Interim Use Permit. The plan shall address traffic control, including traffic movement to the public street system and impact on the surrounding roadways.
13. *Structures.* All existing or proposed structures to be used for the wedding venue shall be inspected by the City's Building Official and must meet applicable Building Code requirements.
 - a. *Temporary Structures.* Temporary structures, including tents and canopies, may be allowed. Tents and canopies may be erected no more than two days prior to an event and must be removed no more than two days following the event.
14. *Application.* An application for a commercial wedding venue shall follow the application and review procedures for an Interim Use Permit as specified in Section 154.107. In addition to the submission requirements of Section 154.107, an application for a commercial wedding venue shall include the following information:
 - a. The expected number of attendees per ceremony;
 - b. The number of ceremonies per year;
 - c. The number of employees;
 - d. The hours of operation;
 - e. Sanitary facilities;
 - f. Lighting;
 - g. Sound amplification to be used;
 - h. Temporary structures or tents to be used in association with the planned events;
 - i. Signage;
 - j. Security to be provided;
 - k. Location of all trash receptacles;
 - l. Other documentation as specified herein;
15. *Sanitary Facilities.* Sanitary facilities adequate for the number of attendees shall be provided. Portable toilets may be approved for temporary use, and must be screened from view from roads and neighboring properties by landscaping or a wooden enclosure. No portable toilets shall be located closer than 400 feet from a neighboring residential structure.
16. *Lighting.* Lighting associated with the wedding venue shall be limited to downcast and shielded fixtures so that the source of the light is not visible from adjacent roads or neighboring properties. Lighting shall comply with Section 150.035 of the City Code.
17. *Noise.* All wedding venues shall comply with City's noise standards found in Section 130.045 of the City Code.
18. *Sound Amplification.* Amplification of music and participants and is allowed only in conjunction with a wedding ceremony. There shall be no other amplification of music outside of the ceremony.

19. *Waste.* All solid waste must be stored in a manner that prevents the propagation, harborage, or attraction of flies, rodents, or other nuisance conditions and must be removed at least once every seven days by a licensed solid waste hauler.
20. *Liability.* The applicant shall secure adequate liability coverage, which shall be in place at least one week prior to any event.

SECTION 4. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 5. Adoption Date. This Ordinance 08-_____ was adopted on this _____ day of _____ 2014, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

This Ordinance 08-_____ was published on the _____ day of _____, 2014.



PLANNING COMMISSION
DATE: 4/14/14
AGENDA ITEM: 5A – BUSINESS ITEM
CASE # 2014-17

ITEM: Wildflower at Lake Elmo Sketch Plan Review
SUBMITTED BY: Kyle Klatt, Community Development Director
REVIEWED BY: Nick Johnson, City Planner
Jack Griffin, City Engineer

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to review a sketch plan related to a proposed residential subdivision within the Village Planning Area. The proposed subdivision would be located immediately north of the Brookfield Addition along 39th Street and would extend to the northern limits of the Village area boundary. The sketch plan includes 143 single-family lots on a total site area of approximately 117 acres, roughly half of which would be preserved as open space. Because this is a sketch plan review, the Commission is not required to take any formal action on the proposed development. Based on the comments received during the course of the City's review, Staff is asking that the plans be brought back for further discussion at a future Planning Commission meeting in order to give the developer additional time to address the identified issues.

GENERAL INFORMATION

Applicant: Robert Engstrom Companies; 4801 West 81st Street, #101, Bloomington, MN
Property Owners: Premier Bank, 2866 White Bear Avenue, Maplewood, MN
Location: Part of Sections 12 and 13, Township 29 North, Range 21 West in Lake Elmo, north of 39th Street, west of Lake Elmo Avenue, and south of the northern Village Planning Area boundary line. PID Numbers 13.029.21.32.00001, 12.029.21.34.0001, and 13.029.21.21.0001
Request: Sketch Plan Review
Existing Land Use: Agriculture, Woods/Natural Vegetation, Wetlands, Open Space
Existing Zoning: RT – Rural Transitional Zoning
Surrounding Land Use: North – vacant/agricultural land, rural residential; west – agricultural land (future Village residential); south – offices, business park land; open space subdivision
Surrounding Zoning: RT – Rural Transitional; RR – Rural Residential, GB – General Business
Comprehensive Plan: Village Medium Density Residential (3-4 units per acre)
Proposed Zoning: MDR – Urban Medium Density Residential

History: Property was included in Village Planning Area boundary and municipal sewer service area as defined in the 2013 Village Land Use Plan. Site has historically been used for farming activities, including the growing of agricultural crops. A large portion of the site is located in a Flood District

Deadline for Action: N/A – No action required by City

Applicable Regulations: Article 10 – Urban Residential Districts (MDR)
Chapter 153 – Subdivision Regulations

REQUEST DETAILS

The City of Lake Elmo is in receipt of a sketch plan from Robert Engstrom Companies concerning a proposed residential subdivision to be located within the northern portion of the Village Planning Area as defined in the Comprehensive Plan. The subdivision would be located on land formerly known as the Heritage Farm and Premier Bank property, which consists of 101 acres within the Village Planning Area. In addition to the 101 acres that Mr. Engstrom has agreed to purchase from Premier Bank, the proposed development also includes land that was previously included as part of the open space dedication for the Fields of St. Croix second addition. Because this land was included in the open space calculations for this Open Space development, the applicant will need to modify the terms of an existing conservation easement in order to develop this area as shown on the sketch plan for Wildflower at Lake Elmo.

The entire development site is slightly over 117 acres, which includes the 101-acre Premier Bank land, the 15 acres of open space associated with the Fields of St. Croix Second Addition development, and a smaller strip of land that provides access to the Smith farmstead property to the north of the applicant's site. Of the 117 acres, roughly half would be used for residential development, while the remainder would be preserved as open space or used for storm water infiltration and retention. As noted in the attached project narrative, the applicant is proposing to use the open space for natural habitat restoration and creation, with a focus on providing a landscape that is friendly towards bees, butterflies, and other pollinators. This philosophy would be carried forward into the residential areas, where the developer will work to incorporate pollinator-friendly plants within these areas.

Overall, the project will include 143 single-family residential lots, the majority of which will be located on the higher portion of the property directly north of the Brookman Addition commercial area along 39th Street. A small number of lots are proposed on the lower part of the site along Lake Elmo Avenue, and the applicant is not proposing to connect these ten homes to public sanitary sewer service. The primary access into the subdivision will be a new connection to State Highway 5 between the existing access to the Thrivent Financial building and the entrance into the Fields of Lake Elmo Second Addition. A secondary access will be provided over an existing right-of-way that was previously platted within the Brookman Addition south of the applicant's site. The access through the Brookman Addition will follow the common boundary between the Engstrom property and land immediately to the west now owned by the Gonyea development company.

In addition to cooperating over the future location of the 39th Street access that will serve their residential developments the Gonyea and Engstrom Companies have also been coordinating the siting of a smaller park area to be shared by both developments. This park area would be located essentially in the middle of the two developments and accessible via roads from either development. With the significant amount of open space being set aside within Wildflower at Lake Elmo, the

applicant is not proposing any additional land dedication for parks. The sketch plan has been presented to the Park Commission, and the Commission was open to the idea of the City participating in the long-term maintenance and preservation of the proposed conservation land. The City will need to work with the applicant to define the City's responsibilities for this open space, and to establish an appropriate plan for ownership and upkeep of this area.

The proposed internal street pattern follows a fairly rigid grid system, with larger lots located further to the north. Within the southern half of the residential area, the applicant is proposing a unique lot layout that incorporates small green courtyards surrounded by homes on smaller lots. This layout will allow the homes to face the front of the streets around the block, while moving all garages and vehicular accesses to a secondary road around the courtyard. These courtyard homes are intended to serve a different market than has typically been served in Lake Elmo, and would provide for a traditional streetscape and environment that is very attractive for pedestrians.

Other major features of the plan being presented include the creation of larger storm water facilities to the east of the residential areas and the development of an extensive trail and path system providing access to the conservation areas and to the rest of the Village Planning Area. The applicant is also proposing to construct a community center building near the Highway 5 entrance that could be used for a farmer's market, the sale of home-grown merchandise, a coffee stand, or general community gathering space.

The Lake Elmo Subdivision Ordinance specifies that as part of the pre-application process for a new subdivision, the applicant must first submit a Sketch Plan for review by the Planning Commission. The Ordinance notes that the purpose of the Sketch Plan review is as follows:

***Sketch plan.** In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other city ordinances or plans, prior to the development of a preliminary plat, the subdivider shall meet with the Planning Commission and prepare a sketch plan which explains or illustrates the proposed subdivision and its purpose. The Planning Commission shall accept the information received, but take no formal or informal action which could be construed as approval or denial of the proposed plat.*

Based on this wording, the Planning Commission is not being asked to take any formal action as part of its review other than to accept the information received. Staff has completed an internal review of the sketch plan, and general comments from Staff are included in this memorandum.

BACKGROUND

The proposed sketch plan is located within the Village Planning Area and is therefore located within the one of the City's future sewer service areas. The Comprehensive Plan guides this area as urban medium density residential at a density of 3 to 4 units per acre, which is consistent with the residential land use classification used for areas closer to the core of the Village. When considering the entire area of 117 acres, the overall gross density proposed is very low at only 1.2 units per acre; however, the net density calculation (which removes wetlands, floodplains, storm water facilities, steep slopes, and other undevelopable areas) is closer to the low end of the medium density range at roughly 3 units per acre (approximately 133 homes on 45 acres).

Given its location within the Village Planning Area, there are several issues and details that will need to be resolved for the proposed project to move forward. Most critically, the project falls under the scope of the AUAR Mitigation Plan, and the components of this plan that may be relevant to the

applicant's project must be addressed at the preliminary platting stage. The inclusion of land formerly set aside for conservation as part of an open space development must also be addressed by the applicant and will require Comprehensive Plan and Zoning amendments in order to move forward as proposed. Additionally, there are a number of concerns that have been raised by the City regarding the proposed access to Highway 5 raises, which will also need to be addressed by the applicant prior to the submission of a preliminary plat. As noted below, Staff is recommending that the concept plan review be continued to a future Planning Commission in order to provide additional time for the City and developer to address outstanding issues.

Staff has provided comments where appropriate in following section to identify elements of the plan that need to be further addressed by the applicant.

The applicant's submission to the City includes the following components:

- *Concept Plan Narrative.* The attached narrative includes a general overview of the project with additional details concerning some of the unique aspects of the Wildflower at Lake Elmo development.
- *Concept Plan.* The sketch plan includes a proposed configuration of roads, lots, and other public spaces on the applicant's site. While the plan provides initial dimensions for many of the various lots and streets, some details are still missing and will need to be reviewed for compliance with the City's standards and regulations. The general lot sizes of 7,200 to 11,200 square feet meet the City's requirements for the MDR – Medium Density Residential zoning district (7,000 square feet is the minimum allowed in this district).
- *Color Plan Rendering.* The applicant has provided a colored drawing that highlights the conservation areas, green space and wetland areas within the development.
- *Access Spacing Diagram.* At the request of Staff, the applicant has provided an aerial photograph depicting the current and proposed access spacing along Highway 5, and included a second similar drawing also showing the most recent version of the County's Manning Avenue realignment plan.

The Staff review comments that follow are all based on conducting a very high level review of the concept plan since there is not a lot of detailed information that is required at this stage in the development process. Staff has instead focused on the bigger picture items and those things that would otherwise not allow the development to move forward if they contrasted with elements from the Comprehensive Plan, Village AUAR Mitigation Plan, or the City Code.

STAFF REVIEW COMMENTS:

Members of the Community Development, Public Works, Engineering, and Fire Departments have reviewed the proposed sketch plan and provided comments in the following areas:

- *Land Use:* The proposed residential development is consistent with the future land use map, which guides this area for Village Urban Medium Density and open space. Staff has been working to review the net densities within proposed developments consistently between the various proposals that have been brought forward. In calculating net density, Staff is deducting steep slopes, wetlands, storm water facilities, county and state right-of-way, and other unbuildable land from the gross land area. Other elements of the plan, including parks,

local road rights-of-way, trails, general open space and other such elements are included in the area calculation for net density (this methodology does not penalize a developer for providing amenities that benefit the community that would otherwise reduce the number of units that could be built on a site).

- **Buffer Areas/Green Belt.** The open space/green belt as generally shown in Comprehensive Plan is preserved as part of the Wildflower development.
- **Comprehensive Plan/Zoning Amendments.** The following amendments would be necessary for the development as proposed to proceed:
 - A Comprehensive Plan amendment to change the Fields of St. Croix Second Addition open space land from RAD/Green Belt to MDR.
 - A Zoning Map Amendment to change the zoning of this development area from RT – Rural Transitional to MDR – Medium Density Residential. Some form of public or open space zoning may be appropriate for the conservation areas depending how this land is owned and managed.
 - A Comprehensive Plan amendment and zoning map amendment to allow the proposed 10 lot development along Lake Elmo Ave. The appropriate land use guidance and zoning for this site would be LDR – Low Density Residential or RS – Rural Single Family.
- **Density:** The net density calculation for the site is right at three units per acre, which at the minimum end of the MDR range of three to four units per acre.
- **Village Guiding Principles.** The Village Land Use Plan incorporated the 13 guiding principles from the Village Master Plan. Of these principles, the proposed Wildflower at Lake Elmo will implement several of them, including:
 - Principle 1 - Evoke a sense of place: Build on existing assets to preserve the small town, rural character of Lake Elmo, maintaining the Old Village as the heart of the city.
 - Principle 2 - Balance natural and built systems: Integrate development within a green framework of parks, trails and the open space greenbelt.
 - Principle 7 - Improve connectivity: Provide a balanced network for movement that links local neighborhoods and Village Area attractions with city-wide and regional systems, paying equal attention to cars, bicycles, pedestrians and transit.
 - Principle 11 - Become a great model: Encourage other communities to ‘raise the bar’ by demonstrating low impact development, best practices and sustainability.
- **Lake Elmo Theming Study.** As Robert Engstrom Companies move forward with the preparation of a preliminary plat, Staff is strongly encouraging the applicant to incorporate elements from the Lake Elmo Theming Study into the design of the project. The inclusion of

various theming elements would help augment the implementation of several of the guiding principles noted above.

- **Zoning.** The City recently adopted new urban development districts, including urban low density, medium density, and high-density residential zoning districts. In general, the sketch plan has been designed to comply with the medium density district standards in regards to lot area, setbacks, and other dimensional standards. The smallest lots that are around 7,200 square feet are consistent with the MDR district requirements. The City has not adopted any special zoning for the Village Residential areas, and Staff is recommending that the City rezone applicant's site to MDR at the time of preliminary plat review. Zoning changes as noted above will be necessary for the project to move forward as proposed.
- **Land Use and Zoning Flexibility.** Proposed lot layouts and street widths in some cases do not meet minimum zoning requirements. The developer has suggested that he will be seeking a Planned Unit Development (PUD) for the project, which allows for some flexibility from zoning and subdivision requirements. While the single family homes are permitted in the underlying MDR zoning, the community center and associated uses will need to be authorized through a PUD, which specifically allows for a mix of different development types and densities.
- **Conservation Easements.** The developer is proposing to trade additional open space to the north of the development in exchange for being able to develop land that is currently subject to a conservation easement. There are approximately 13 lots that would be platted across the Premier Bank parcel on to land that is presently owned by Robert Engrstrom Companies, but currently encumbered by said easement. This land would also be used for the proposed community building and for storm water facilities. The applicant has met with the Fields of St. Croix Homeowner's Association to discuss the land use change on this parcel, and the association has therefore been made aware of the plans and will ultimately need to agree to the changes in order for this plan to move forward.

Natural Resource Areas. The Village AUAR included an analysis of ecologically sensitive areas within the planning area, and a portion of the primary ecological areas are found on the northern portions of the applicant's property. These ecologically sensitive areas are all located with the proposed conservation areas. The applicant's plan for habitat restoration is very much in line with the mitigation plan adopted as part of the AUAR.

Wetlands. The ecologically sensitive areas discussed above include wetlands, but will be protected from impacts through the platting process as part of the open space preservation areas within the development.

- **Parks and Open Space.** The proposed plans include the creation of a shared park with the neighboring development. The Park Commission will need to continue to work with the applicant at developing a long-rang plan for the conservation area.
- **Sidewalks and Trails.** The sketch plans include an extensive series of paths and trails. The developer will need to work with the City to establish which are private and which are public. Trails around storm water facilities should be public since they will likely be located on storm water outlots dedicated to the City.

- **Subdivision Review Process.** In order to proceed with the subdivision of the land included in the sketch plan area the applicant will need to prepare a preliminary plat application. At this stage there is much more information required as part of the submission process, which also requires a public hearing. Staff is recommending that the Commission conduct an additional review of the sketch plan before a preliminary plat is submitted to the City.
- **Public Utilities.** The applicant has been cooperating with other property owners within the Village to extend sanitary sewer services to the site from the south. The City has also been coordinating with these owners to run the eventual sewer service line under 39th Street. The sewer would then follow the 39th Street connection road into both the Engstrom and Gonyea North developments.
- **Landscaping.** The applicant has not provided any details concerning landscaping for the site, which must be submitted at the time of preliminary plat submission. The applicant will also need to submit a tree preservation and protection plan as part of this application. The plan as submitted avoids any significant impacts to the portions of the site covered with trees and other vegetation.
- **City Street Standards.** The roads as proposed do not meet the minimum requirements and standards for residential streets, and in particular, the City's typical cross section for such streets. The streets as depicted on the sketch plan range in size from 28 feet wide to 18 feet wide; the City's typical section calls for a 28 foot wide street. The City Engineer is asking for additional details concerning the streets serving the back portion of the courtyard homes, which are planned to be 18 feet wide. Other streets in the development are either 22 feet or 24 feet wide. The information requested includes the planned location of easements, utilities, garages, driveways, and other infrastructure to serve this portion of the development. Staff is also seeking clarification on how these streets will function (i.e. on-street parking, one-way traffic, etc.) and even whether or not the City should own the streets internal to the courtyard homes.
- **State Highway 5 Access.** The proposed connection to State Highway 5 does not meet access spacing guidelines for this type of roadway. In addition, the City Engineer, County public works department, and MnDOT engineer have all raised concerns over this connection, but do acknowledge that there is some merit to the proposed east-west connection through the northern portion of the Village. With the forecasted level of traffic along Highway 5, proper management of new intersections and access points should be given careful review to ensure the long-term safety of the public is not compromised, both for the residents of the new subdivision, existing residents of neighboring developments, and the general public traveling on these roadways. Staff is therefore recommending that the plans be reviewed by a traffic engineer, and that this engineer provide recommendations concerning the proposed connection. In particular, Staff would like to gain a better understanding of whether or not the proposed access spacing can be safely accommodated, and if so, what changes might be necessary to the sketch plan in order to make the connection viable. Other issues that warrant further review include the following:
 - The City Council has recently provided the County with general support for the proposed realignment of Manning Avenue and State Highway 5. Should this

realignment be implemented at some point in the future, there is potential for the Wildflower at Lake Elmo development to access a local road off of the state highway instead of the proposed direct connection to Highway 5. The developer has provided a sketch showing existing access spacing along the highway along with their initial ideas for connecting to the planned realignment. Staff expects the actual alignment of Highway 5 to change as the County continues to update its plans for Manning Avenue, therefore any access road that connects to the highway will need to be adjusted accordingly.

- The Fields of St. Croix Second Addition homeowners association has informed Staff that they are opposed to any new connections to Highway 5. At one point the developer approached the association to propose a shared access point on to Highway 5, but this proposal was rejected by the HOA.
- The sketch plan eliminates an existing access driveway that connects directly to Highway 5. This driveway would be routed to one of the local streets within Wildflower at Lake Elmo.
- **39th Street Access.** The developer will need to construct the new road connecting the development with 39th Street as part of the public improvements associated with the project. The developer is encouraged to work with the neighboring property owner to build this road (Gonyea will have a similar requirement with its Gonyea North development). Engstrom Companies has requested that the City consider expanding the existing 60-foot right-of-way through the Brookman Addition to 80-feet on order to provide additional room for a trail and enhanced landscaping.
- **Environmental Review.** The proposed Easton Subdivision is located within the area covered by the Village AUAR. As such, the City and the developer will need to comply with the AUAR Mitigation plan that was adopted with the Final AUAR. The most critical elements of the Mitigation Plan that must be addressed include the following:
 - *Floodplain Management.* While the northern portion of the applicant's site includes a large floodplain area, there is no development proposed within these areas.
 - *Storm Water Management.* The storm water management plan for Wildflower at Lake Elmo will need to meet the AUAR requirements in addition to City ordinances and Valley Branch Watershed District standards.
 - *Natural Resource Areas.* Preservation of the primary ecological areas is one of the goals of this development.
 - *Transportation.* The developer is proposing a new access to Highway 5 that was not identified in the AUAR. As noted above, Staff is recommending that a transportation engineer be retained to provide recommendations concerning this proposed connection. In general, Staff does not believe that the proposed Highway 5 access would substantially alter the findings and conclusions from the AUAR; however, there are potential safety concerns associated with this connection that warrant further study before this access can be shown on a preliminary plat.

- *Potential Environmental Hazard Sites.* There are no identified hazard sites on this property.
- *Storm Water Ponds.* In accordance with the City’s Engineering and Design Standards, all storm water facilities must be located on an outlot dedicated to the City. The developer will need to provide access to these ponds to allow for future maintenance.
- *City Engineer Review.* The City Engineer’s has submitted comments as outlined in the attached letter. The Engineer did note that he would need to see additional details before commenting on any proposed storm water management plan, and in particular, questioned how storm water runoff would be directed by applicant. The Engineer has requested additional information from the developer, and does not recommend that the City proceed with any further reviews until this information is received.
- *Fire Chief Review.* The Fire Chief has asked that the roads within the development be designed in accordance with Minnesota Fire Code standards. He did express concern that the proposed roads interior to the courtyard homes would be difficult to maneuver through, especially if parking were allowed on these streets.

RECOMMENDATION:

Staff is recommending that the Planning Commission review the proposed sketch plan and continue its discussion on this matter until a future meeting for the reasons noted in the above memorandum.

ATTACHMENTS:

1. Application Form
2. Legal Description
3. Concept Plan Narrative
4. Wildflower at Lake Elmo Sketch Plan
5. Wildflower at Lake Elmo Color Sketch
6. Location Map – Aerial Image
7. Future Village Land Use Map (Map 3-3 from Comprehensive Plan)
8. Lake Elmo Zoning Map – Village North
9. Access Spacing – State Highway 5
10. Access Spacing with Manning Ave. Realignment
11. City Engineer Comments
12. Comments from Washington County Public Works and MnDOT

ORDER OF BUSINESS:

- Introduction Community Development Director
- Report by Staff Community Development Director
- Questions from the Commission Chair & Commission Members

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

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



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

LAND USE APPLICATION

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

Applicant: ROBERT ENGSTROM COMPANIES
Address: 4801 W. 81ST ST. #101 BLOOMINGTON, 55437
Phone #: 952-893-1001
Email Address: ROBERTENGSTROM@gmail.com

Fee Owner: PREMIER BANK
Address: 2866 WHITE BEAR AVE MAPLEWOOD 55109
Phone #: 651-777-7700
Email Address: ANDREW.NATH@PREMIERBANKS.COM

Property Location (Address and Complete (long) Legal Description):
ATTACHED

Detailed Reason for Request: Sub-Division

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

?

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

Signature of applicant: Robert Engstrom Date: 3/10/14

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

The North 1/2 of the Southwest 1/4 and the Southeast 1/4 of the Southwest 1/4 of Section 12, Township 29, Range 21, Washington County, Minnesota, save and except the following described part thereof: All that part of the Northeast 1/4 of the Southwest 1/4 of Section 12, Township 29, Range 21, Washington County Minnesota, described as follows: Beginning at the center of said Section 12; thence due South along the East line of said Northeast 1/4 of Southwest 1/4 a distance of 1240.5 feet; thence at right angles due West a distance of 200 feet; thence North 55°00" West a distance of 270 feet; thence due North a distance of 617 feet; thence at right angles due East a distance of 147 feet; thence at right angles due North a distance of 466 feet more or less to the North line of said Northeast 1/4 of Southwest 1/4; thence Easterly along the North line of said Northeast 1/4 of Southwest 1/4 a distance of 274.17 feet to the place of beginning.

AND

That part of the Northeast 1/4 of the Northwest 1/4 of Section 13, Township 29, Range 21, Washington County, Minnesota, described as follows: Commencing at the Northeast corner of said Northeast 1/4 of Northwest 1/4 of said Section 13, thence West on the North line thereof 35 feet to a point, thence South and parallel to the East line of said quarter section to the North line of Trunk Highway No. 212; thence Northeast on the North line of said Highway to the East line of said quarter section; thence North on the East line of said quarter section to the place of beginning.

EXCEPTING THEREFROM all of the following described real property: The North 330.88 feet of the Northwest Quarter of the Southwest Quarter of Section 12, Township 29, Range 21, Washington County, Minnesota.

NOTE: The precise legal description of the Property is to be confirmed by an updated Title Commitment (defined herein). It is the intent of the parties that the Property consists of the real property owned by the Seller as identified as PID Nos. 12.029.21.32.0001, 12.029.21.34.0001 and 13.029.21.21.0001, consisting of approximately 101 acres. In the event that the correct description of the Property established in the Title Commitment should differ from the description set forth herein, the description set forth in the Title Commitment shall be deemed to automatically replace the description set forth herein.

Wildflower at Lake Elmo

Robert Engstrom Companies has acquired a 101-acre site from Premier Bank. The site is located immediately west of the second phase of The Fields of St. Croix and in close proximity to the Old Village of Lake Elmo.

Approximately 60 acres, when combined with an outlot from The Fields of St. Croix, will be dedicated to Natural Habitat restoration and creation, along with surface water management.

A preliminary site plan has been prepared, which indicates four different types of residential housing products. 66 lots are approximately 60X115' in a Garden Court setting that has interior park-like features in the center of the block, similar to our long-lasting Summit Place development in the Cathedral Hill district of St. Paul. This product would have association-maintained exterior grounds and be attractive to baby-boomers, singles, and others. Target price range is estimated at \$300-350,000. The second product is 80 and 90 foot wide lots by 135' and suitable for custom homes. Another grouping of nine lots overlooks a proposed wetland area and prairie. Another product is eleven high-value sites on the bluff overlooking the Wildflower Conservancy. The last product is ten lots at a lower level, adjacent to Lake Elmo Avenue and adjoining the Wildflower Conservancy. Hopefully, these homes will provide surveillance for the large natural area and maybe even discourage the deer.

Wildflower is intended to capitalize on the national Healthy Communities movement. The sidewalks and pathways will be convenient walking and biking opportunities. The landscape philosophy is to include some bee and pollinator-friendly plants as part of each homeowner's landscape. Public art might include distinctive benches, street signs, mailboxes, and sculpture. Dark skies street and home lighting will be friendly to pollinators and people alike.

Our company has successfully developed 2 landmark developments within a ½ mile of this site – Cloverdale Farm and The Fields of St. Croix 1st and 2nd Addition. The Fields of St. Croix is 2nd Addition is contiguous to this property. Being an established presence in the Lake Elmo area, we feel we have a distinct advantage. Our thought given to land plans, architectural control, innovative development and respect for the land itself has proven to be successful.

In 1994, at Cloverdale Farm, we required, in the Declaration of Covenants, that the homeowner maintain at least one-half of their 2 1/2 acre lot in natural landscaping. Wildflower is a more urban development with sanitary sewer and municipal water services, adjoining The Old Village of Lake Elmo. It is believed that requiring homeowners to include some native plantings as part of their landscape plan will be a “timely first” for Minnesota and, perhaps, nationwide.

A
THE
WILDFLOWER
CONSERVANCY

Proposed main
to Conservancy

B
WILDFLOWER
OUTLOT
CONSERVANCY

DESIGN FORUM
 10000 W. 10th Ave., Suite 100
 Denver, CO 80231
 Phone: 303.755.1000
 Fax: 303.755.1001
 Website: www.designforum.com

PROJECT INFORMATION
 Project Name: Wildflower at Lake Elmo
 Project No.: 10000-10000
 Date: 10/15/10

DESIGN TEAM
 Designer: [Name]
 Checker: [Name]
 Engineer: [Name]

CLIENT
 [Name]
 [Address]
 [Phone]

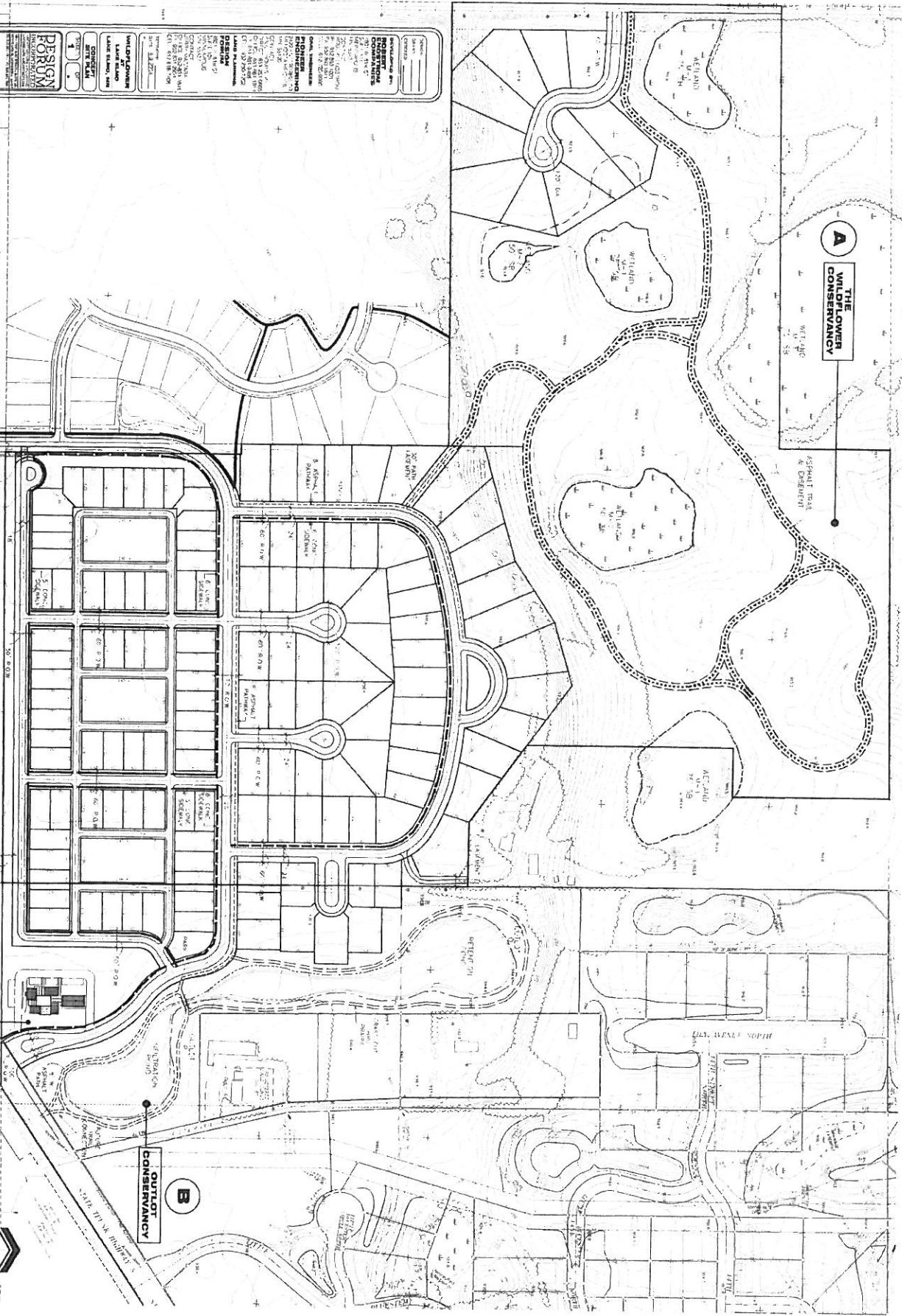
NOTES
 1. See site plan for details.
 2. All dimensions are in feet and inches.
 3. All areas are to be landscaped.
 4. All areas are to be graded to match existing conditions.
 5. All areas are to be paved with asphalt.

LEGEND
 1. Proposed Main to Conservancy
 2. Proposed Outlot to Conservancy
 3. Proposed Driveway
 4. Proposed Walkway
 5. Proposed Utility Line

PROPOSED
 80' R.O.W.
 37' R.A.P.E.P.

**WILDFLOWER
AT
LAKE ELMO**

THE
WILDFLOWER
CENTER



DESIGN: _____
 DRAWN: _____
 CHECKED: _____

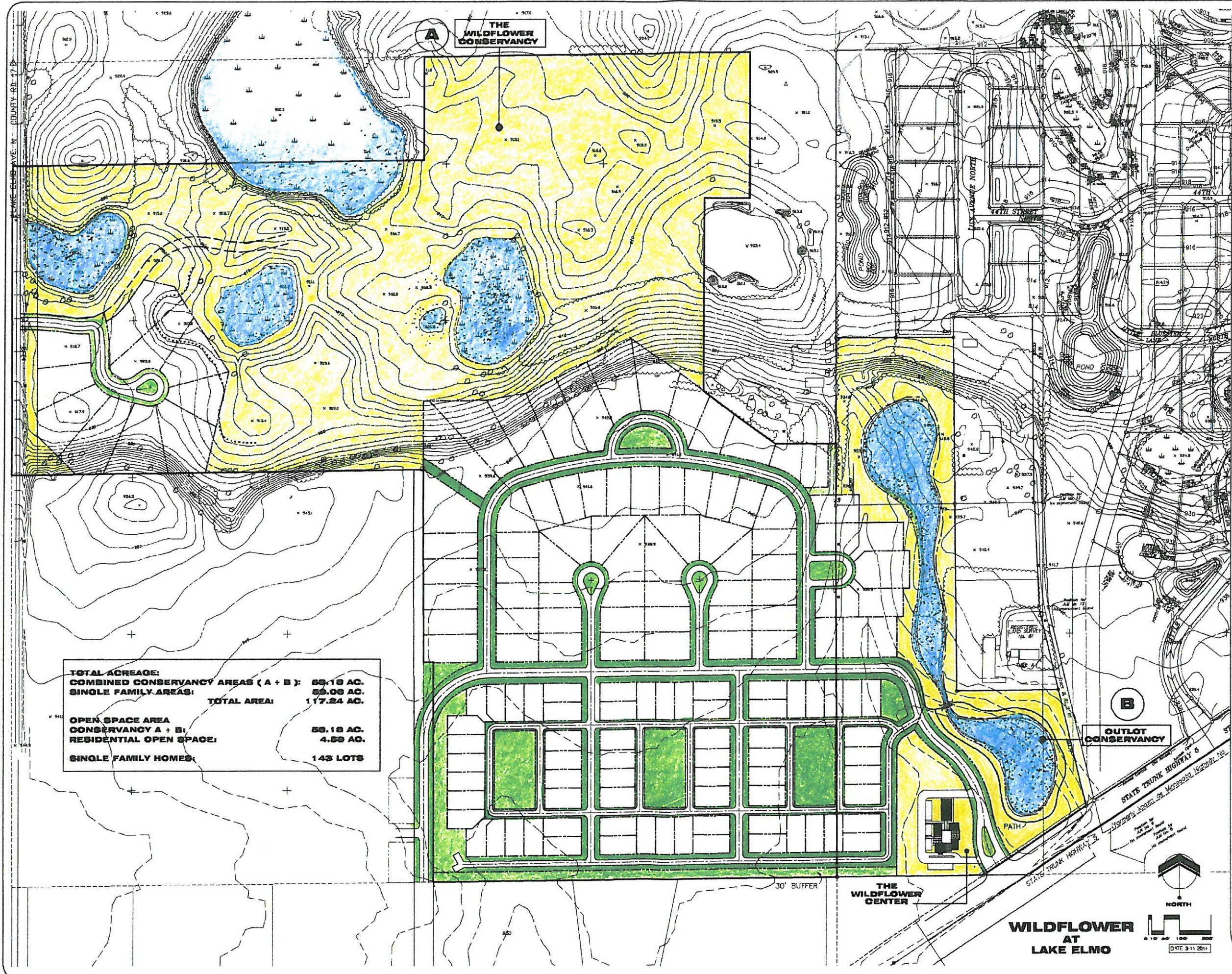
REVISIONS: _____
 DATE: _____
 #:

WILDFLOWER AT LAKE ELMO
 LAKE ELMO, MN

CONCEPT SITE PLAN

SHEET: **1** OF: **1**

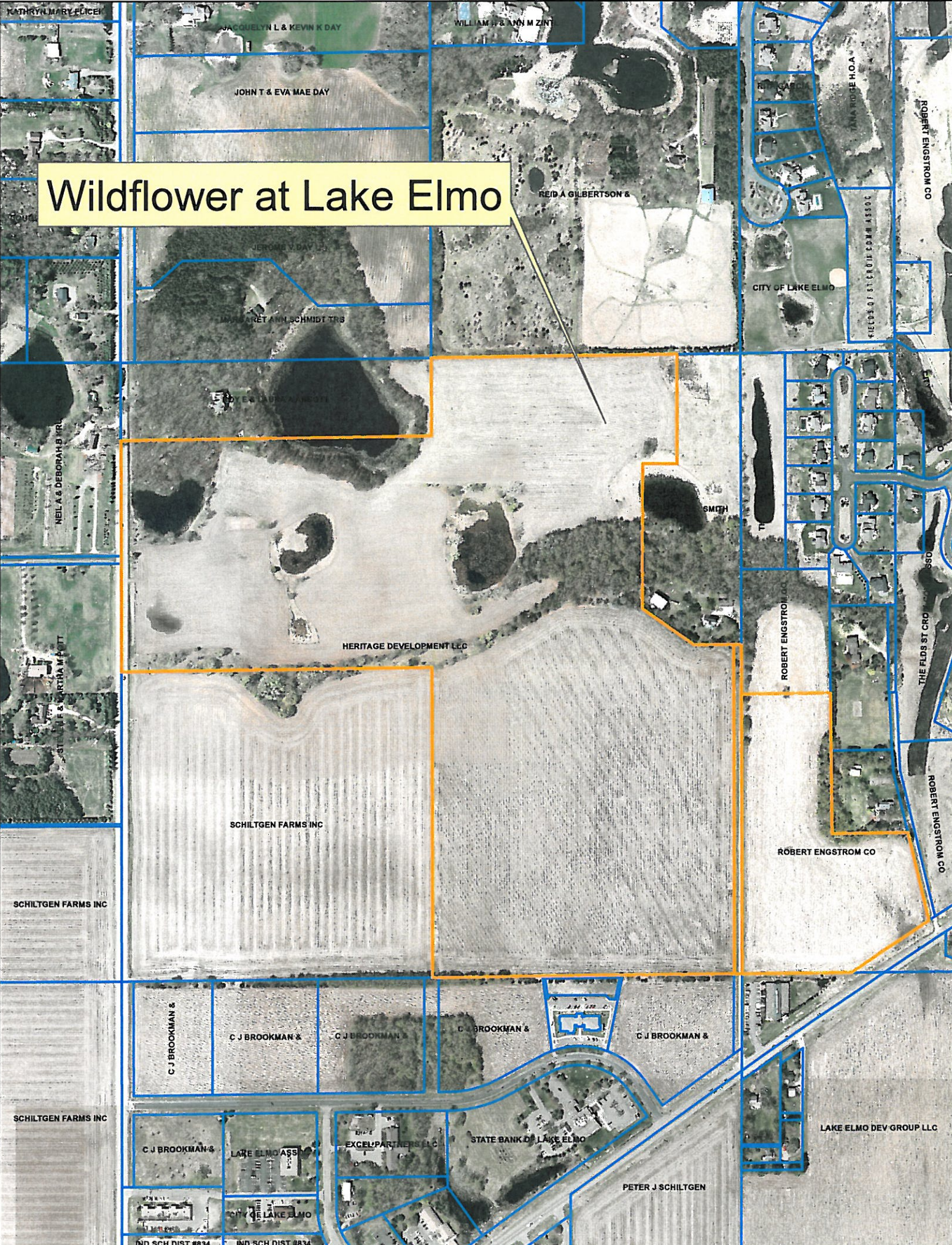
DESIGN FORUM INCORPORATED
 ARCHITECTURE & PLANNING
 LANDSCAPE ARCHITECTURE
 4801 WEST BIRCH STREET, SUITE 101
 MINNEAPOLIS, MINNESOTA 55427
 PH: 952.831.1811 FAX: 952.831.2004

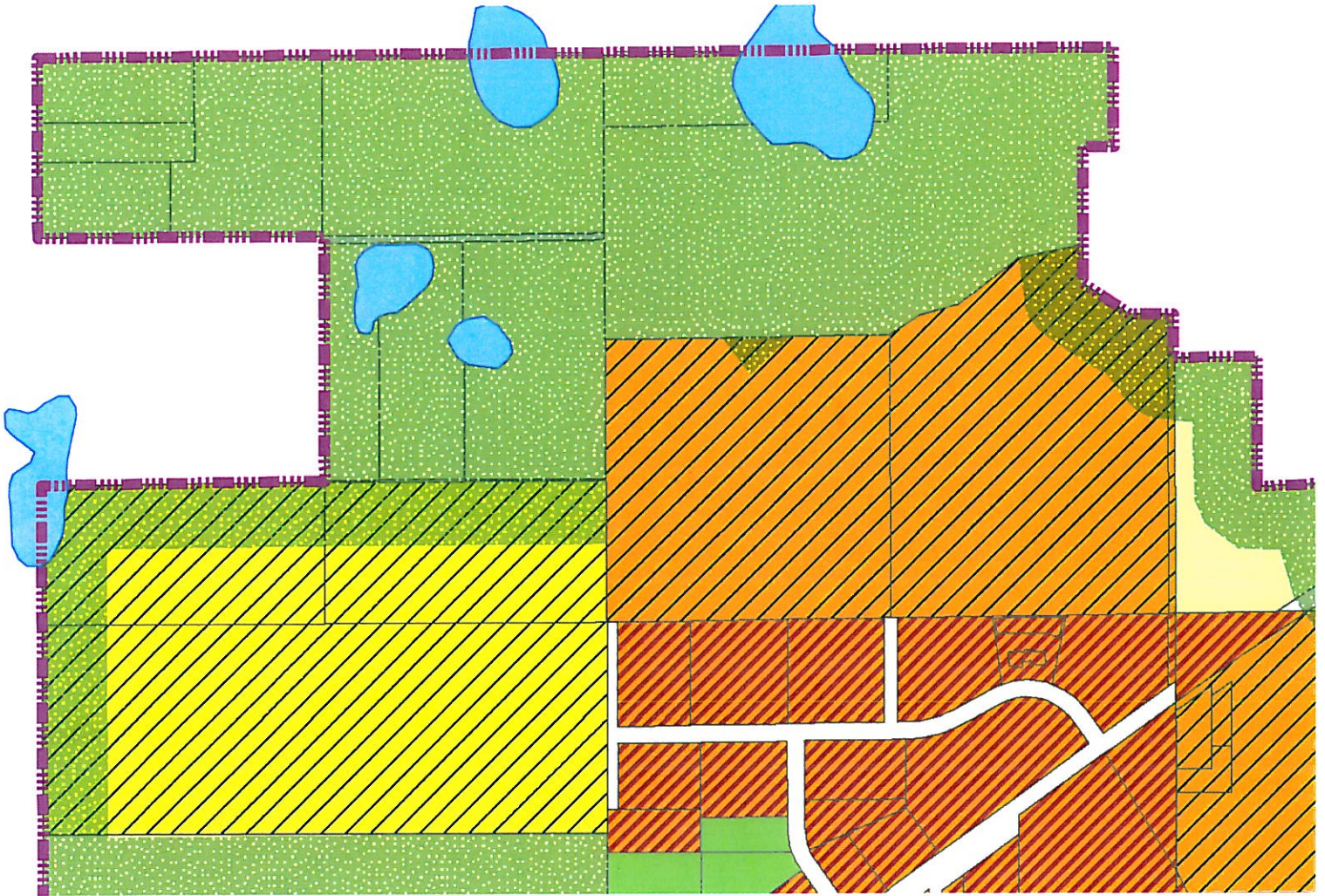


TOTAL ACREAGE:	
COMBINED CONSERVANCY AREAS (A + B):	59.18 AC.
SINGLE FAMILY AREAS:	59.08 AC.
TOTAL AREA:	117.24 AC.
OPEN SPACE AREA CONSERVANCY A + B:	59.18 AC.
RESIDENTIAL OPEN SPACE:	4.69 AC.
SINGLE FAMILY HOMES:	143 LOTS

WILDFLOWER AT LAKE ELMO
 DATE: 3-11-2011

Wildflower at Lake Elmo





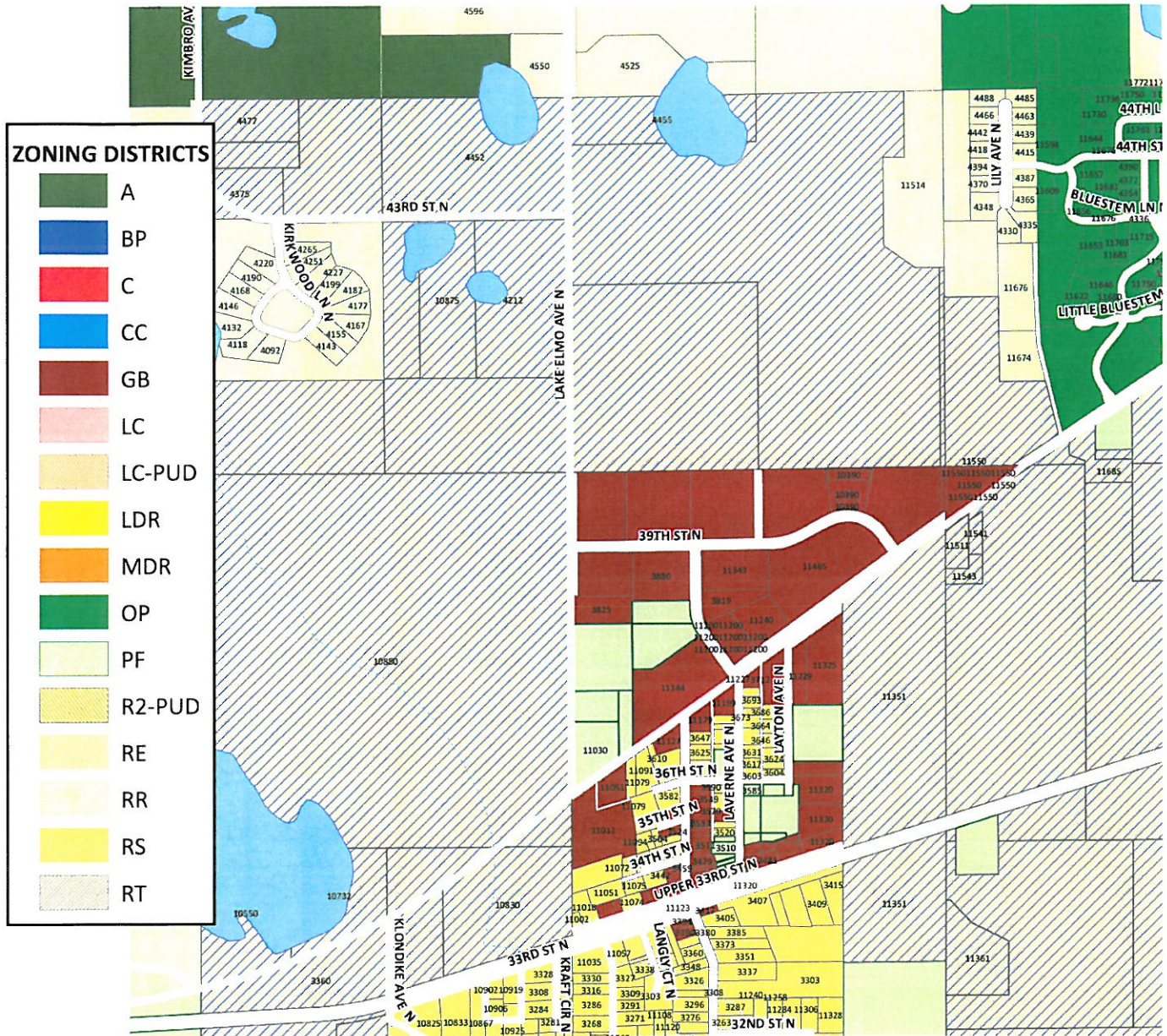
Wildflower at Lake Elmo

Future Land Use Map

Planned Land Uses

- Public/Park (P)
- Rural Area Development (RAD)
- Rural Single Family (RS)
- Village Urban Low Density (V-LDR)
- Village Urban Medium Density (V-MDR)
- Village Mixed Use (VMX)
- Commercial (C)

- Village Boundary
 - Village Open Space Overlay
- Open Space Acreage: 592 Acres



Wildflower at Lake Elmo
Zoning Map





RIGHT IN/
RIGHT OUT

POTENTIAL
FUTURE ROAD

THE WINDFLOWER
CENTER

1250 ±

650'

PATH

VACATE

MEMORANDUM

FOCUS ENGINEERING, inc.

Cara Geheren, P.E. 651.300.4261
Jack Griffin, P.E. 651.300.4264
Ryan Stempki, P.E. 651.300.4267
Chad Isakson, P.E. 651.300.4283

Date: April 4, 2014

To: Kyle Klatt, Planning Director
Cc: Nick Johnson, City Planner

Re: Wildflower at Lake Elmo
Sketch Plat Engineering Review

From: Jack Griffin, P.E., City Engineer

We have received a Concept Plan submittal for the above referenced development proposal consisting of the following exhibits/documentation prepared by Design Forum, Inc. The plan does not provide sufficient information to allow for an adequate engineering review and fails to provide public infrastructure meeting City code and design standards.

- Concept Site Plan dated April 9, 2014, Sheet 1.
- No other submittals were available for engineering review.

We have the following review comments:

MUNICIPAL WATER SUPPLY

- Municipal water supply is available along 39th Street North and along State Highway 5. Connections to both locations will be required as well as a stub to the adjacent property to the west.
- The applicant is responsible to extend the municipal water supply to the development site at developers cost. Watermain distribution lines will need to be looped wherever reasonably possible.

MUNICIPAL SANITARY SEWER

- Municipal sanitary sewer is not currently available to the site. The applicant is responsible to extend the municipal sanitary sewer to the development site at developers cost. We understand that the developer is part of a collaborative group pursuing a trunk sanitary sewer extension project to route the sewer along the east side of the Village, then along 39th Street north. Preliminary Plat approval should be conditioned upon this extension being secured or completed.
- Consideration should be given to stubbing municipal sanitary sewer to the northeast of this development for a future potential extension for relief of failing wastewater management systems. A 10-inch sewer line will be to be run to the northeast corner.

STORMWATER MANAGEMENT: Stormwater facilities shall be in accordance with the Requirements listed in the City of Lake Elmo Engineering Design Standards, in addition to the requirements of the Valley Branch Watershed District. Specifically:

- The Sketch Plat is incomplete from the perspective that it does not clearly indicate that sufficient space is being provided to protect wetlands and wetland buffers. Existing wetlands are not clearly identified on

the Sketch Plan due to a lack of plan legend. Wetland buffers meeting VBWD requirements are not shown. A minimum 25 foot buffer must be maintained in an Outlot.

- The Sketch Plat is incomplete from the perspective that it does not clearly indicate that sufficient space is being provided for Storm Water Management facilities including infiltration basins and storm water ponding. The Sketch Plan does not clearly identify infiltration basins or storm water ponds. Some areas appear to be reserved for storm water ponds but this is not clear. In addition it is not clear that the reserved area is of adequate capacity or has been placed in an Outlot dedicated to the City for ongoing operation and maintenance. The Stormwater Facility Outlots must fully incorporate the 100-year HWL.
- Maintenance access roads meeting the engineering design standards must be provided for all storm water facilities.

STREETS AND TRANSPORTATION

- The development access location to State Highway 5 does meet access spacing guidelines for a State Highway, County Highway (if TH 5 is turned over to the County), nor does it meet City Collector Street access spacing guidelines if that portion of TH 5 is turned over to the City. The proposed access location is a safety concern and will exacerbate the safety issues currently experienced at Little Blue Stem. This access location should be denied.
- It is recommended that a second access connection be pursued along 39th Street North, or the development access is combined with the Fields of St. Croix development access.
- Any access to State Highway 5 should be conditioned upon a detailed review by a Transportation expert retained by the City and should consider a review of approach sight lines.
- The access to TH 5 does not meet the City requirement to intersect TH 5 at 90 degrees with a minimum 100-foot tangent.
- The development will be required to provide any improvements along State Highway 5 as required by the State, County, and or City, including turn lanes and or by-pass lane improvements.
- The access to Lake Elmo Avenue requires further review and discussion with Washington County to determine an acceptable access location meeting County spacing guidelines.
- The proposed streets fail to meet the City minimum required width of 28 feet. A 28 foot minimum width was established by all City staff including planning, engineering, public works, emergency services, and administration after careful review and evaluation. This standard should not be lowered.
- City staff determined 28 feet to be the minimum street width to be allowed only under the circumstance that a sidewalk be provided along one side of the street. Sidewalks along one side of each street is not proposed in this plan.
- The proposed emergency exit should be eliminated by connecting the road as a full intersection.
- A minimum R/W of 60 feet is required for all City Streets.
- The plan shows many streets and R/W with no width shown. The plan is therefore incomplete although it appears the widths do not meet the City standards.
- Trail and sidewalk connectivity is extremely important for a Village Area development. Sidewalks must be 6-feet wide and be provided along one side of every public street. Trail connections should be in addition to sidewalks.

Kyle Klatt

From: Ann Pung-Terwedo <Ann.Pung-Terwedo@co.washington.mn.us>
Sent: Friday, April 11, 2014 10:35 AM
To: Kyle Klatt
Cc: Josephson, Adam (DOT) (adam.josephson@state.mn.us)
Subject: RE: Wildflower site plan 140409

Kyle,
My initial thoughts-Yes get a traffic engineer on to do the evaluation on TH5.

CSAH 17

This 10 lot plat seems to be an afterthought to catch some density and has no internal road connections to the subdivisions to the south.

If this will not have urban services, I would question if the lots on the eastern edge of the properties are even buildable. There also appears to be a wetland on one of the lots on the western side.

If the Gonyea concept hadn't been reviewed prior to this review, the access location would have been acceptable at 43rd Street North.

It does not meet access spacing guidelines from where the concept plan access was located.

Would there be an opportunity to provide access to this Parcel from the Gonyea development?

Has Gonyea revised their plan since the concept review?

Have a great weekend.

Ann

Kyle Klatt

From: Josephson, Adam (DOT) <adam.josephson@state.mn.us>
Sent: Friday, April 11, 2014 1:12 PM
To: Ann Pung-Terwedo; Kyle Klatt
Cc: Sherman, Tod (DOT); Coddington, Ryan (DOT)
Subject: RE: Wildflower site plan 140409

I will selectively route for addition comments but my initial thoughts would be around access

Access location is not consistent with good access spacing on Hwy 5.

There is poor inter-connectivity with neighboring developments and thus continuing the trend of an isolated neighborhood with access only onto Hwy 5.

Provisions for a E/W city street connection between neighborhoods and CSAH 17 should be accommodated

If there has to be access to Hwy 5, the access should be provided at existing accesses either at Lisbon Ave or Little Blue Stem Trail, not at a new access point onto Hwy 5

Will need to see turn volumes to determine if a RTL, bypass or LTL is needed

Adam Josephson, P.E.
East Area Manager
MnDOT – Metro District
651/234-7719
adam.josephson@state.mn.us



Planning Commission
Date: 4/14/2014
Item: 5B
Business Item

ITEM: Animal Assisted Therapy Ordinance
SUBMITTED BY: Adam Bell, City Clerk/Asst. City Administrator
REVIEWED BY: Kyle Klatt, Community Development Director

SUMMARY AND ACTION REQUESTED: The City of Lake Elmo has is seeking input and feedback from the Planning Commission in regards to creating a new conditional use type known as Animal Assisted Therapy.

BACKGROUND INFORMATION: City Staff is continually working with various residents to aide them in suitably utilizing their property to meet their goals while complying with City zoning regulations. A recent resident request for a use of property currently does not fit neatly within any defined use yet is not specifically prohibited. In the spirit of promoting the reasonable use of property, staff is proposing an ordinance amendment to add a conditional use type to clarify this type of activity as an allowed use subject to a permit. The proposed ordinance includes the following:

- *Animal Assisted Therapy (AAT)* is defined as a use of land and associated structures for the delivery of therapy to improve human physical, social, emotional, and/or cognitive functioning, in which animals that meet specific criteria are an integral part of the treatment process. AAT is goal-directed and is delivered by a health/human service professional with specialized expertise. AAT may be provided in a group or individual setting.
- A requirement for adequate insurance.
- Appropriate licensing or qualifications by therapist providing the AAT.
- Requires a description of the AAT program/services to be delivered including what animals will be used.
- The city’s animal density standards will apply.
- No other commercial business or activity will be allowed under the CUP.

Staff has looked at other communities in the area that have AAT as an allowed use as a starting point for the ordinance language. Staff plans to bring this topic back to the Planning Commission to hold a Public Hearing and seek a formal recommendation to add the proposed ordinance language to the appropriate sections of the Zoning Code.

RECCOMENDATION: No formal action is requested at this time.

ATTACHMENTS: First Draft of AAT Ordinance

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

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-0XX

AN ORDINANCE AMENDING THE ZONING CODE TO INCLUDE ANIMAL ASSISTED THERAPY AS
ACONDITIONAL USE IN RURAL ZONING DISTRICTS

SECTION 1: The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, City Code Section 154.012 by adding the following language:

Animal Therapy Facility: A facility that provides Animal Assisted Therapy on properties larger than five acres in size.

Animal Assisted Therapy (AAT): A use of land and associated structures for the delivery of therapy to improve human physical, social, emotional, and/or cognitive functioning, in which animals that meet specific criteria are an integral part of the treatment process. AAT is goal-directed and is delivered by a health/human service professional with specialized expertise. AAT may be provided in a group or individual setting.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code by adding the following language:

Animal Assisted Therapy (AAT) may be permitted as a conditional use by action of the city council pursuant to subsections 154.012, 154.106 and 154.401 of the zoning ordinance, subject to the following additional conditions:

(a) The applicant shall provide proof of insurance in an amount and with such coverage as the city attorney deems reasonable, and shall thereafter maintain such insurance.

(b) The applicant shall provide proof of licensing or appropriate educational attainment and training in ATT for all therapists delivering services at the site. This requirement shall be continuing and the city may request such proof on a periodic basis for all therapists then delivering services.

(c) The applicant shall provide documentation and a site plan describing the AAT program(s) to be delivered. Such documentation shall include a description of the goal-directed process and criteria for evaluating the effectiveness of the program(s).

(d) The applicant shall identify all species of animals that will be present at the site and used in delivering AAT. No other species of animals shall be allowed under the permit without the city's approval.

(e) The Animal Therapy Facility is subject to all animal density standards as prescribed by the city.

(f) Other than the delivery of AAT, no commercial or business activities may be conducted on the site except the production of agricultural products in *de minimis* amounts as a result of the delivery of AAT.

(g) The city may periodically inspect the site without notice.



PLANNING COMMISSION
DATE: 4/14/14
AGENDA ITEM: 5C – BUSINESS ITEM
CASE # 2014 - 20

ITEM: Zoning Text Amendment – Shoreland Ordinance Update

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Community Development Director

SUMMARY AND ACTION REQUESTED:

The Planning Commission is asked to review a draft Shoreland Ordinance intended to update the City's shoreland provisions in advance of upcoming sewer growth in the community. The City will work with the DNR to review the draft ordinance in advance of a future public hearing.

REQUEST DETAILS

In an effort to update the City's shoreland provisions in advance of future sewer growth, staff has produced a draft ordinance that would address all anticipated development activity in the future. The proposed ordinance is modeled after the City of Woodbury's shoreland provisions. The reason that the City's existing shoreland provisions must be updated is that they only address activities and performance standards for rural development types in shoreland areas. As the City moves towards more sewer growth, the shoreland provisions must be updated accordingly. For example, the City's existing Shoreland Ordinance lists specific development standards by specific zoning district. Many of these zoning districts, such as R3, are longer in the City's Zoning Code. Moving forward, staff would like to provide standards that relate to whether the lot is riparian or non-riparian, or whether or not the lot is sewer or unsewered. This approach is different from the existing provisions which list performance standards by zoning district. In addition, staff is proposing to bring the shoreland provisions into the Zoning Code (Chapter 154).

TO update the Shoreland Ordinance to prepare for future sewer development, staff is proposing the following changes contained within the draft ordinance:

- Permitted and conditional uses within shoreland areas has been updated to reflect the City's updates list of use classifications and definitions (Article II – Definitions, §154.012).
- The biggest change to the provisions relate to the shoreland standards, which include performance standards and lot size requirements for various forms of residential development. The shoreland standards have been updated with the following changes:
 - Maximum impervious surface requirements have been updated according to riparian vs. non-riparian lots and sewer vs. non-sewered lots. The only exception proposed is to maintain the 15% or 6,000 square-foot maximum

standards for Rural Single Family (RS) lots. The reason for carrying this standard forward is that many RS lots are likely to get sewerred within the City’s Sanitary Sewer Service Areas.

- Lot size and width requirements have been updated according to riparian vs. non-riparian lots and sewerred vs. unsewerred lots.
- Provision have been added to require riparian dedications of 150’ around both Goose and Kramer Lake, both of which are in the I-94 Corridor. Through the use of a riparian buffer, sewerred development can proceed through the provisions of the base zoning district. Without this 150-foot riparian dedication, sewerred developments would need to meet larger lot size requirements. These riparian dedications allow the City to take a more active role in ensuring surface water quality for public water bodies in and around developing areas.
- Per a previous request by the DNR, staff is proposing to change the allowed height of water oriented accessory structures from 13 feet to 10 feet. This change would make the City’s ordinance consistent with the State model standard, as well as all other Metro communities researched by staff.

The attached draft ordinance is the first attempt to update these provisions. The City still must review the proposed shoreland ordinance with the DNR. In addition, as staff is proposing to bring the shoreland provisions into the Zoning Code, a future public hearing will also be necessary. To help facilitate the review of the shoreland ordinance at the meeting and in the future, staff will create a shoreland map to show the location and extent of these areas. Staff intends to present this map at the Planning Commission meeting.

RECCOMENDATION:

No formal action is required at this time. The Planning Commission is asked to provide initial feedback regarding the draft shoreland ordinance. This feedback, along with DNR review, will inform a future draft, at which time staff intends to hold a public hearing.

ATTACHMENTS:

1. Draft Shoreland Ordinance, dated 4/14/14
2. Existing Shoreland Ordinance (§150.250)

ORDER OF BUSINESS:

- IntroductionPlanning Staff
- Report by StaffPlanning Staff
- Questions from the Commission Chair & Commission Members
- Discussion by the Commission Chair & Commission Members

ARTICLE 17. SHORELAND MANAGEMENT OVERLAY DISTRICT

§154.800 Shoreland Management Overlay District

§154.800 Shoreland Management Overlay District

- A. *Purpose.* The purpose of the Shoreland Management Overlay District is to preserve and enhance the quality of surface waters and conserve the economic and natural environmental values of shorelands through the following activities:
1. Regulate placement of sanitary and waste treatment facilities on shorelands of public waters to prevent pollution of public waters and public health hazards resulting from the facilities.
 2. Regulate alteration of shorelands of public waters to prevent excessive sediment pollution, increased water runoff and excessive nutrient runoff pollution.
 3. Preserve and enhance the unique aesthetic appearance and ecological value of the shoreland.
 4. Regulate the construction of buildings and changes of land use in shorelands to minimize property damage during periods of high water.
- B. Shoreland Management Overlay District
1. *Shoreland Classifications.* The public waters in Table 17-1 have been classified by the commissioner of natural resources as natural environment (NE), recreational development (RD) and tributary (T) shorelands. Where noted, riparian dedication is required by the City.

Table 17-1: Shoreland Classifications

DNR ID #	Name	Location	Class	150 FT ^a Riparian Dedication Required
82011601	Armstrong (north of CSAH 10)	Sec 28, T29, R21	NE	No
82011602	Armstrong (south of CSAH 10)	Sec 28, T29, R21	NE	No
82010500	Berschen's Pond	Sec 10, T29, R21	NE	No
82009900	Clear	Sec 2 & 11, T29, R21	NE	No
82010100	DeMontreville	Sec 4, 5 & 9, T29, R21	RD	No
82011000	Downs	Sec 24, T29, R21	NE	No
82010900	Eagle Point	Sec 22 & 27, T29, R21	NE	No
82010600	Elmo	Sec 13, 14, 23, 24 & 26, T29, R21	RD	No
82010800	Friedrich Pond	Sec 15 & 22, T29, R21	NE	No
82011300	Goose	Sec 27, 34 & 35, T29, R21	NE	Yes
82011100	H.J. Brown Pond	Sec 26, T29, R21	NE	No
82007400	Horseshoe	Sec 25, T29, R21	NE	No
82010400	Jane	Sec 9 & 10, T29, R21	RD	No

DNR ID #	Name	Location	Class	150 FT ^a Riparian Dedication Required
82011700	Kramer	Sec 35, T29, R21	NE	Yes
82041900	Margaret	Sec 26, T29, R21	NE	No
82010300	Olson	Sec 8 & 9, T29, R21	RD	No
N/A	Raleigh Creek North (to Eagle Point Lake)	Sec 16, 21 & 22, T29, R21	T	No
N/A	Raleigh Creek South (Eagle Point Lake to Lake Elmo)	Sec 22, 23 & 227, T29, R21	T	No
82011200	Rose	Sec 25 & 36, T29, R21	NE	No
82010700	Sunfish	Sec 14, T29, R21	NE	No
82010000	Unnamed	Sec 4, T29, R21	NE	No
N/A	Unnamed to Wilmes Lake	Sec 33, T29, R21	T	No
N/A	Unnamed Tributary	Sec 25, T29, R21	T	No

Classifications

RD = Recreational Development Lake Classification

NE = Natural Environment Lake Classification

T = Tributary River Classification

Notes to Table 17-1:

a. As measured from and perpendicular to the ordinary high water level (OHWL)

2. Land Uses in Shoreland Districts. All uses of land shall be regulated by the applicable zoning district subject to applicable conditions. Notwithstanding the underlying zoning district, the following uses shall be regulated in shoreland districts as specified in Table 17-2:

Table 17-2: Permitted, Conditional and Interim Uses, Shoreland Classifications

Land Uses	Shoreland Classification		
	Recreational Development	Natural Environment	Tributary River
Residential	P	P	P
Commercial	P	C	C
Public and Civic Uses	P	C	C
Outdoor Recreation ^a	C	C	C
Agricultural and Related Uses ^b	P	P	P
Industrial and Extractive Uses	-	-	-
Utilities, Transportation and Communications	C	C	C
Accessory Uses	P	P	P

Land Uses	Shoreland Classification		
	Recreational Development	Natural Environment	Tributary River
Planned Developments (PUDs)	C	C	C

Notes to Table 17-2:

- a. City owned parks and open space and any uses or structures accessory to such uses are permitted within shoreland areas.
- b. Vegetative clearing within shore and bluff impact zones and on steep slopes is not permitted.

3. *Shoreland Standards.* The following standards in Table 17-3 shall apply within shoreland areas to principal, conditional and accessory uses and structures:

Table 17-3: Shoreland Standards

Standards	Shoreland Classification		
	Recreational Development	Natural Environment	Tributary River
Minimum structure setback from County, State or Federal road right-of-way	50 feet	50 feet	50 feet
Minimum structure setback from an unplatted cemetery or historical site ^a	50 feet	50 feet	50 feet
Minimum structure setback from the Ordinary High Water Level (OHWL) ^{b, c}			
Riparian dedication required	200 feet	200 feet	200 feet
Riparian dedication not required ^d			
Sewered	75 feet	100 feet	75 feet
Unsewered	100 feet	150 feet	100 feet
Minimum structure setback from top of bluff	30 feet	30 feet	30 feet
Minimum septic system setback from OHWL	75 feet	150 feet	75 feet
Minimum low floor elevation above OHWL	2 feet	2 feet	2 feet
Maximum impervious lot coverage			
With riparian dedication	50%	50%	50%
Without riparian dedication			
Sewered ^e	30%	30%	30%
Unsewered	15% or 6,000 square feet (sf), whichever is larger		
Minimum lot size ^f , riparian lots			
Riparian dedication required	Same as zoning district		
Riparian dedication not required, sewerd			
Single family detached	20,000 sf	40,000 sf	Same as zoning district
Two-family or duplex	35,000 sf	70,000 sf	

Riparian dedication not required, unsewered			
Single family detached	40,000 sf	80,000 sf	Same as zoning district
Minimum lot size^f, non-riparian lots			
Riparian dedication required	Same as zoning district		
Riparian dedication not required, sewered			
Single family detached	15,000 sf	20,000 sf	Same as zoning district
Two-family or duplex	17,500 sf	26,000 sf	
Riparian dedication not required, unsewered			
Single family detached	40,000 sf	80,000 sf	Same as zoning district
Minimum lot width^f			
Riparian dedication required	Same as zoning district		
Riparian dedication not required, sewered			
Single family detached	80 feet	125 feet	80 feet
Two-family or duplex	135 feet	225 feet	115 feet

Notes to Table 17-3:

- a. Reduction of the required setback from a historic site is permitted with the approval of the office of the Minnesota State Archeologist.
- b. Where structures exist on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the Ordinary High Water Level (OHWL), provided the proposed building is not located in a shore impact zone or bluff impact zone.
- c. With the exception of public crossings of public waters, roads, driveways and parking areas shall meet the minimum structure setback. Where no alternative exists, such improvements may be placed within the required structure setbacks provided they are designed to adapt to the natural landscape, soil erosion is minimized and no construction shall occur in shore or bluff impact zones.
- d. Commercial and public and civic uses with public waters frontage shall be setback double the required setback or be substantially screened from the water by vegetation or topography, assuming summer, leaf-on conditions.
- e. The maximum amount of impervious surface allowed for sewered lots zoned Rural Single Family (RS) is 15% of lot area or 6,000 sf, whichever is larger.
- f. Minimum lot size and width requirements apply to residential uses only.

4. Design Criteria for Structures

- a. *Water Oriented Accessory Structures.* Each lot may have one (1) water oriented accessory structure not meeting the normal structure setbacks if the structure complies with the following provisions:
 - i. *Structure Height.* The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, from the average grade of the structure to

the peak of the roof. Detached decks must not exceed eight (8) feet above grade at any point.

- ii. *Structure Size.* Water oriented accessory structures cannot occupy an area greater than two-hundred and fifty (250) square feet.
- iii. *Structure Setback.* The setback of the structure or facility landward from the Ordinary High Water Level (OHWL) must be at least ten (10) feet on a recreational development lake and fifty (50) feet on a natural environment lake.
- iv. *The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.*
- v. *The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.*
- vi. The structure or facility must not be used for human habitation and must not contain water supply or sewage treatment facilities.
- vii. *Watercraft Storage Facilities.* As an alternative for recreational development water bodies, water oriented accessory structures used solely for watercraft storage, and including the storage of related boating and water oriented sporting equipment, may occupy up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.

b. *Stairways, Lifts and Landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- i. Stairways and lifts must not exceed four (4) feet in width. Wider stairways may be used for public open space or recreation properties.
- ii. Landings for stairways and lifts must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for public open space or recreation properties.
- iii. Canopies or roofs are not allowed on stairways, lifts or landings.
- iv. Stairways, lifts and landings may be either constructed above ground on posts or pilings or placed into the ground, provided that they are designed and built in a manner that ensures control of soil erosion.
- v. Stairways, lifts and landing must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
- vi. Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (i) through (v) above are satisfied.

5. *Subdivision Standards.* The following standards shall apply to subdivisions in shoreland areas:

- a. Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. In determining suitability the City will consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of

significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision, or of the community at large.

- b. Subdivisions must conform to all other official controls adopted by the City of Lake Elmo. Subdivisions will not be approved that are designed so variances from one or more standards in official controls would be needed to use the lots for their intended purpose.
 - c. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this section, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirement of this section as much as possible.
6. *Agricultural Activities.* The following standards shall apply to agricultural activities in shoreland areas:
- a. The shore impact for parcels with permitted agricultural uses is equal to a line parallel to and 50 feet from the OHWL.
 - b. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation district or the USDA Natural Resources Conservation Service.
 - c. Feedlots and manure storage are not permitted within the shoreland of watercourses or in bluff impact zones, and must meet a minimum setback of 300 feet from the ordinary high water level of all public water basins identified in subsection (1).
 - d. The use of pesticides, fertilizers or animal wastes within shoreland areas shall be done in such a way as to minimize impacts on shore impact zones by proper application or use of earth or vegetation.
7. *Shoreland Alterations.* The purpose of this section is to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent back slumping and protect fish and wildlife habitat. Shoreland alterations shall be allowed in accordance with the following standards:
- a. No principal or accessory structure or use shall be placed within bluff or shore impact zones other than agricultural activities as permitted by subsection (5)(b).
 - b. Shore impact zones shall be maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation district.
 - c. *Intensive Vegetative Clearing.* Intensive vegetation clearing within shore and bluff impact zones and/or steep slopes is not permitted. Intensive clearing within shoreland areas outside of bluff or shore impact zones and steep slope areas is permitted subject to City approval of an erosion and sedimentation control plan that is consistent with the City's Storm Water and Erosion and Sediment Control Ordinance (§150.270).
 - d. *Limited Tree Clearing.* Limited clearing of trees and shrubs and the cutting, pruning and trimming of trees within bluff and shore impact zones or steep slopes to accommodate picnic areas, trails and water access and to provide a view to the water from a principal dwelling site shall be permitted provided the screening of structures, as viewed from the water, is not substantially reduced. These provisions do not apply to the removal of tree limbs or branches that are dead or pose a safety hazard.

- e. *Grading in Shoreland Areas.* Any grading or filling on steep slopes or within shore or bluff impact zones involving the movement of ten (10) or more cubic yards of material or involving more than fifty (50) cubic yards of material elsewhere in a shoreland area shall require the submission of a Grading Permit. Approval shall be granted only if the following conditions are met:
 - i. Any filling or grading in any Type 2, 3, 4, 5, 6, 7 or 8 wetland shall be in conformance with the Wetland Conservation Act of 1991 and shall require consideration of how extensively the proposed activity will affect the following functional qualities of the wetland:
 - a) Sediment and pollution trapping and retention
 - b) Storage of surface runoff to prevent or reduce flood damage
 - c) Fish and wildlife habitat and endangered plants and animals
 - d) Recreational use
 - e) Shoreline or bank stabilization
 - f) Historical significance
 - ii. The smallest amount of bare ground is exposed for the shortest time possible;
 - iii. Ground cover such as mulch is used for temporary bare soil coverage and permanent ground cover, such as sod, is established;
 - iv. Methods to prevent erosion and trap sediment during construction are employed;
 - v. Altered areas are stabilized to accepted erosion control standards;
 - vi. Fill is not placed so as to create unstable slopes;
 - vii. Plans to place fill or excavated material on steep slopes are certified by qualified professionals as to slope stability;
 - viii. Alterations below the OHWL are authorized by the Commissioner of the Minnesota Department of Natural Resources per Minn. Stats. § 103G.245;
 - ix. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the OHWL and the height of the riprap above the OHWL does not exceed three feet; and
 - x. Alterations of topography shall only be permitted if accessory to a permitted or conditional use.
 - f. *Dedicated Riparian Areas.* Riparian areas dedicated to the City shall be protected from intensive development. Permitted uses include passive open space, pedestrian trails, public parks and park-related structures, facilities for public water access, fishing piers, parking lots for park users, and stormwater treatment ponds. Unless being used for active park purposes, the riparian areas shall be maintained in permanent natural vegetation.
8. *Sand and Gravel Extraction.* The following standards shall apply to sand and gravel extraction uses:
- a. Processing machinery shall be located consistent with setback standards for structures.
 - b. A site development and restoration plan shall be developed by the owner for approval by the city which addresses dust, noise, possible pollutant discharges, hours and

duration of operation and anticipates vegetation and topography alterations. It shall identify actions to be taken to mitigate adverse environmental impacts and measures to be employed to restore the site after excavation.

9. *Stormwater Management.* Stormwater management shall be in accordance with the City's Storm Water and Erosion and Sediment Control Ordinance (§150.270). In addition, the Minnesota Pollution Control Agency's Minnesota Stormwater Manual shall be used as guidance. Within shoreland areas, the following standards also apply:
 - a. Existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water before discharge to public waters.
 - b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as grading is complete and facilities or methods used to retain sediment on the site are removed.
 - c. Use of fertilizers, pesticides or animal wastes within shoreland areas must be done in a way to minimize impact on the shore impact zone or public water by proper application.
 - d. New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
10. *Private Utilities.* The following provisions shall apply in shoreland areas:
 - a. Private subsurface sewage treatment systems shall meet applicable City and County requirements and Minnesota Pollution Control Agency's Chapter 7080 standards. Publicly owned sewer systems shall be used where available.
 - b. Any private water supply to be used for domestic purposes shall meet quality standards established by the Minnesota Department of Health and the Minnesota Pollution Control Agency.
11. *Planned Unit Developments.* Residential planned unit developments shall be permitted in shoreland areas subject to the requirements of Article XVI of this chapter.
 - a. Design criteria for planned unit developments within shoreland areas:
 - i. At least 50 percent of the total project area shall be preserved as open space. The open space computation shall not include road rights-of-way, or land covered by roads, structures or parking surfaces.
 - ii. Open space shall include areas having physical characteristics that are unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries.
 - iii. Open space may contain outdoor recreational facilities for use by the owners of residential units or the public.
 - iv. The appearance of open space areas, including topography, vegetation and allowable uses, shall be preserved.
 - v. PUDs shall be connected to public water supply and sewer systems.
 - vi. Before final approval of a PUD is granted, the developer/owner shall provide for the preservation and maintenance, in perpetuity, of open space and the continuation of the development as a community.
12. *Nonconformities.* Nonconformities, substandard lots and structures, and nonconforming on-site sewage treatment systems within shoreland areas shall meet the requirements specified in Article IV of this chapter.

- a. The expansion or enlargement of a riparian substandard structure shall meet the shoreland development standards set forth in subsection (3) except as follows:
 - i. The extension, enlargement or alteration of a riparian substandard structure or sanitary facility may be permitted on the side of the structure or facility facing away from the OHWL without following the variance process.
 - ii. An improvement to a riparian substandard structure or sanitary facility may be allowed to extend laterally by a conditional use permit (parallel to the OHWL) when the improvement is in compliance with the other dimensional standards of this chapter. In no case shall the improvement extend closer to the OHWL than the existing structure.
 - iii. Decks may be allowed without a variance where riparian dedication is not required, provided as follows:
 - a) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OHWL setback of the structure;
 - b) The deck encroachment toward the OHWL does not exceed 15 percent of the existing shoreline setback of the structure from the OHWL or does not encroach closer than 30 feet, whichever is more restrictive; and
 - c) The deck is constructed primarily of wood, and is not roofed or screened.
 - iv. If a riparian substandard structure is demolished, replacement shall comply with the dimensional standards of this section.
- C. *Required Notice to the Department of Natural Resources.* The zoning administrator shall send copies of notices of any public hearings to consider variances, plats, ordinance amendments, PUDs or conditional uses under local shoreland management controls to the commissioner of the department of natural resources or his designee at least ten days prior to the hearings. In addition, a copy of the approved amendments, plats, variances and conditional uses shall be sent to the commissioner or his designee within ten days of the final decision.

Print

Lake Elmo, MN Code of Ordinances

SHORELAND DISTRICT

§ 150.250 PURPOSE.

(A) The shorelands within the city are designated as shoreland district. Regulations set forth in §§ 150.250 *et seq.* shall govern land use and other activities within this district. The classification of the lakes shall govern the use, alteration, and development of land within the shoreland district.

(B) The uncontrolled use of shorelands adversely affects the public health, safety, and general welfare by contributing to pollution of public waters and by impairing the local tax base. In furtherance of the policies declared in M.S. Ch. 103G, 103F, 115, 116, 394, and 462, as they may be amended from time to time, the Commissioner provides the following minimum standards and criteria for the subdivision, use, and development of the shore lands of public waters. The standards and criteria are intended to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of water and related land resources of the state.

(1997 Code, § 325.01)

§ 150.251 INTENT.

It is the intent of the city to:

(A) Regulate placement of sanitary and waste treatment facilities on shorelands of public waters to prevent pollution of public waters and public health hazards resulting from the facilities;

(B) Regulate alteration of shorelands of public waters to prevent excessive sediment pollution, increased water runoff, excessive nutrient runoff pollution;

(C) To preserve and enhance the unique aesthetic appearance and ecological value of the shoreland; and

(D) Regulate the construction of buildings and changes of land use in shorelands to minimize property damage during periods of high water.

(1997 Code, § 325.02)

§ 150.252 DEFINITIONS.

Unless specifically defined below, words or phrases used in §§ 150.250 *et seq.* shall be interpreted so as to give them the same meaning as they have in § 11.01 with common usage in

this and all other sections of the code. For the purpose of this §§ 150.250 *et seq.*, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

(1997 Code, § 325.03)

§ 150.253 ADMINISTRATION.

(A) The city will provide for the administration and enforcement of their shoreland management controls by establishing permanent procedures for building construction, installation of sewage treatment systems, and grading and filling.

(B) (1) *Permits required.* A permit is required for the construction of buildings or building additions (including the related activities as construction of decks and signs), installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by § 150.255(E). Application for a permit shall be made to the city on the forms provided. The application shall include the necessary information so that the city can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) *Variance.*

(a) Variance requests will be considered pursuant to the procedures set forth in the zoning code.

(b) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a non-conforming sewage treatment system.

(3) *Notifications to the Department of Natural Resources.*

(a) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least 10 days before the hearings. Notices of hearings to consider proposed subdivision or plats must include copies of the subdivision or plat.

(b) When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in division (B)(3) of this section shall also include the Board of Adjustment's summary of the public record and testimony and the findings of facts and conclusions which supported the issuance of the variance.

(c) A copy of approved amendments and subdivisions or plats and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within 10 days of final action.

(1997 Code, § 325.04) Penalty, see § 10.99

§ 150.254 SHORELAND CLASSIFICATION.

(A) The public waters of the city have been classified below, consistent with the criteria found in Minnesota Rules, Chapter 6120.3000, as it may be amended from time to time, and the Protected Waters Inventory Map for Washington County, Minnesota. The shoreland area for the water bodies listed below shall be defined in § 150.252 and as shown on the city's shoreland management area map.

(B) The classes of public waters for the city are natural environment lakes, recreational development lakes, and tributary streams.

(1) *Natural environment lakes.* Natural environment lakes are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development, such as high water tables, exposed bedrock and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

<i>D.N.R. I.D.#</i>	<i>Lake Name</i>	<i>Location</i>	<i>OHW</i>	<i>100-Year Elevation</i>
82007400	Horseshoe	Sec. 25	876.8	
82009900	Clear	Sec. 2, 11		
82010000	Unnamed	Sec. 4		
82010500	Berschen's Pond	Sec. 10		
82010700	Sunfish	Sec. 14	896.4	899
82010800	Friedrich Pond	Sec. 15, 22		913.0
82011000	Downs	Sec. 24	889.1	893
82011100	H.J. Brown pond	Sec. 26		
82011200	Rose (Sunfish)	Sec. 25, 36		
82011300	Goose	Sec. 27, 34, 35	924.4	

<i>D.N.R. I.D.#</i>	<i>Lake Name</i>	<i>Location</i>	<i>OHW</i>	<i>100-Year Elevation</i>
82011601	Armstrong (north of 10th Street)	Sec. 28	1020.3	
82011602	Armstrong (south of 10th Street)	Sec. 33	1019.1	

(2) *Recreational development lakes.* Recreational development lakes are generally medium- sized lakes of varying depths and shapes with a variety of land forms, soil, and ground water situations on the lands around them. They often are characterized by moderate levels of

recreational use and existing development. Development consists mainly of seasonal and year-round residences. Many of these lakes have capacities of accommodating additional development and use.

<i>D.N.R. I.D.#</i>	<i>Lake Name</i>	<i>Location</i>	<i>OHW</i>	<i>100-Year Elevation</i>
82-101	DeMontreville	Sec. 4, 5, 9	929.3	931.0
82-103	Olson	Sec. 8, 9	929.3	931.0
82-104	Jane	Sec. 9, 10	924	925.0
82-106	Elmo	Sec. 13, 14, 23, 24, 26	885.6	889

(3) *Tributary streams.* Tributary stream segments consist of water courses mapped in the protected waters inventory that have not been assigned 1 of the river classes. These segments have a wide variety of existing land and recreational use characteristics.

<i>Location</i>	<i>Stream Name</i>
Sec. 33	Unnamed to Wilmes Lake
Sec. 16, 21, 22	Raleigh Creek North (to Eagle Point Lake)
Sec. 22, 23, 27	Raleigh Creek South (Eagle Point lake to Lake Elmo)
Sec. 25	Unnamed Tributary

(C) The permitted and conditional uses allowed in the underlying zoning district shall be those allowed in the natural environment lakes, recreational development lakes, and tributary streams shoreland districts.

<i>Land Use Matrix</i>											
<i>Land Uses</i>	<i>Zoning Districts</i>										
	<i>AG</i>	<i>RI</i>	<i>P</i>	<i>HB</i>	<i>GB</i>	<i>R3</i>	<i>RR</i>	<i>RE</i>	<i>LB</i>	<i>BP</i>	<i>OP</i>
Auto Service				P							
Churches and Schools			P								
Commercial Ag	P	P					P				P
Duplex Multi-Family											CUP
Farming	P	P		P	P	P	P	P			P
Greenhouses	CUP										CUP
Kennels	CUP				CUP		CUP				

Manufactured Homes; with sewer						P					
Manufacturing					CUP						
Office Uses				P	P				P	P	
Restaurants				P					CUP	CUP	
Retail Uses				P	P				P	CUP	
Single-Family Residential	P	P				P	P	P			P
Stables	CUP										CUP

NOTES TO TABLE:
(1) P=Permitted Use
(2) CUP=Conditional Use Permit
(3) The Land Use Matrix outlines general allowed uses, subject to restrictions and provisions of the zoning code. Reference the Chapter 154 of the city code for specific allowable uses in each district.

(Am. Ord. 97-16, passed 9-16-1997 ; Am. Ord. 08-005, passed 2-4-2008)

(1997 Code, § 325.05)

§ 150.255 SHORELAND STANDARDS.

(A) *General provisions.* The following standards shall apply to all shorelands of the protected waters. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth in §§ 150.250*et seq.*, the more restrictive standards shall apply. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.

(B) *Lot area; no sewer.*

Zoning District	Natural Environment Lakes		Recreation Development Lakes	
	<i>Riparian</i>	<i>Non-Riparian</i>	<i>Riparian</i>	<i>Non-Riparian</i>
RE (No Sewer)	2.5 acres	2.5 acres	2.5 acres	2.5 acres
R1 (No Sewer)	80,000 square feet	80,000 square feet	1.5 acres	1.5 acres
RR (No Sewer)	10 acres	10 acres	10 acres	10 acres
AG (No Sewer)	40 acres	40 acres	40 acres	40 acres
OP (No Sewer)	0.5 acres	0.5 acres		
R3 (No Sewer)	40,000 square feet	20,000 square feet	20,000 square feet	15,000 square feet

GB (No Sewer)	3.5 acres	3.5 acres	3.5 acres	3.5 acres
BP (No Sewer)	3 acres	3 acres	3 acres	3 acres

(Am. Ord. 97-16, passed 9-16-1997)

(C) *Lot width.*

<i>Classification</i>	<i>Riparian Lot (No Sewer)</i>	<i>Riparian Lot (With Sewer)</i>	<i>Non-Riparian Lot (Without Sewer)</i>	<i>Non-Riparian Lot (With Sewer)</i>
Natural Environment	200 feet	200 feet	200 feet	NA
Recreational Development	150 feet	150 feet	150 feet	NA
Tributary Streams	100 feet	100 feet	NA	NA

(Am. Ord. 97-16, passed 9-16-1997)

(D) *Placement, design, and height of structures.*

(1) *Placement.* When more than 1 setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows.

(a) *Structure and on-site sewage system setbacks.* Structure and on-site sewage system setbacks (in feet) from ordinary high water level.

<i>Setbacks From OHW</i>		
<i>Classification</i>	<i>Structures</i>	<i>Sewage Treatment System</i>
Natural Environment	150 feet	150 feet
Recreational Development	100 feet	75 feet
Tributary	100 feet	75 feet

(b) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the water body.

<i>Setback From</i>	<i>Setback (In Feet)</i>
---------------------	--------------------------

Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highways	Per underlying zoning district regulations and exceptions
Right-of-way line of town road, public street, or other roads or streets not classified	Per underlying zoning district regulations and exceptions

(c) *Bluff impact zone.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(d) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(e) *Steep slopes.* The city shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public water, assuming summer, leaf-on vegetation.

(f) *Proximity to roads and highways.* Per underlying zoning district regulations and exceptions.

(g) *Use without water-oriented needs.* Use without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public water frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(2) *Design criteria for structures.*

(a) *High water elevations.* Structures must be placed in accordance with any flood plain regulations applicable to the site. All principal structures shall have their lowest floor at a level at least 3 feet above the highest known water level or the ordinary high water level, whichever is higher.

(b) *Water-oriented accessory structures.* Each lot may have 1 water-oriented accessory structure not meeting the normal structure setback in § 150.255(D) if this water-oriented accessory structure complies with the following provisions.

1. The structure or facility must not exceed 13 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed 8 feet above grade at any point.

2. The setback of the structure or facility landward from the ordinary high water level must be at least 10 feet on a recreational development lake and 50 feet on a natural environment lake.

3. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer, leaf-on conditions.

4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

6. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(c) *Stairways, lifts, and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements.

1. Stairways and lifts must not exceed 4 feet in width. Wider stairways may be used for public open space recreational properties.

2. Landings for stairways and lifts must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for public open space recreational properties.

3. Canopies or roofs are not allowed on stairways, lifts, or landings.

4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

5. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of divisions (D)(2)(c)1. to (D)(2)(c)5. above are satisfied.

(3) *Height of structures.* All structures in residential districts, except churches and non-residential agricultural structures, must not exceed 35 feet in height.

(E) *Shoreland alterations.*

(1) *Generally.* Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat. Best management practices are recommended to guide shoreland alteration activities.

(2) *Vegetation alterations.* Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by § 150.255(F) are exempt from the vegetation alteration standards that follow. Removal or

alteration of vegetation, except for agricultural uses as regulated in § 150.255(H) is allowed, subject to the following standards.

(a) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.

(b) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs, and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas and permitted water-oriented accessory structures or facilities, provided that:

1. The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

2. Along rivers, existing shading of water surfaces is preserved; and

3. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

(3) *Topographic alterations; grading and filling.*

(a) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. The grading and filling standards in §§ 150.250*et seq.* must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

(b) Public roads and parking areas are regulated by § 150.255(F).

(c) Notwithstanding divisions (E)(3)(a) and (E)(3)(b) above, a grading and filling permit will be required for:

1. The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and

2. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

(d) The following considerations and conditions in addition to §§ 150.215*et seq.* must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals.

1. Grading and filling in any Type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland. (This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.)

a. Sediment and pollutant trapping and retention;

b. Storage of surface runoff to prevent or reduce flood damage;

c. Fish and wildlife habitat;

- d. Recreational use;
 - e. Shoreline or bank stabilization; and
 - f. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
 3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as grading is complete.
 4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
 5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
 6. Fill or excavated material must not be placed in a manner that creates an unstable slope.
 7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater.
 8. Fill or excavated material must not be placed in bluff impact zones.
 9. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under M.S. § 103G.245, as it may be amended from time to time.
 10. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
 11. Placement of natural rock rip-rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed 3 feet horizontal to 1 foot vertical, the landward extent of the rip-rap is within 10 feet of the ordinary high water level, and the height of the rip-rap above the ordinary high water level does not exceed 3 feet.
- (e) Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must comply with all provisions of §§ 150.250*et seq.* Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.
- (F) *Placement and design of roads, driveways, and parking areas.*
- (1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view of public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(2) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If the Council, at its discretion, determines that no alternative exists, the structures may be placed within these areas and must be designed to minimize adverse impacts.

(3) Public and private (intended solely for the use of the property owner) watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones, provided the vegetative screening and erosion control conditions of §§ 150.250*et seq.* are met. For private facilities, the grading and filling provisions of § 150.255(E) must be met.

(G) *Storm water management.* The following general and specific standards shall apply, in addition to all applicable requirements found in § 150.273.

(1) *General standards.*

(a) Existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters.

(b) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as grading is complete and facilities or methods used to retain sediment on the site.

(c) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration other than buried pipes and man-made materials and facilities.

(d) Use of fertilizers, pesticides, or animal wastes within shorelands must be done in a way as to minimize impact on the shore impact zone or public water by proper application.

(2) *Specific standards.*

(a) Impervious surface coverage of lots must not exceed 6,000 S.F. or 15% of the lot area, whichever is larger.

(b) When constructed facilities are used for storm water management, documentation must be provided by a licensed civil engineer that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(c) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(H) *Special provisions for public/semi-public, agricultural, and forestry.*

(1) *Standards for public and semi-public uses.*

(a) Surface water-oriented public or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards.

1. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in §§ 150.250*et seq.*, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
2. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
3. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.
4. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(b) Use without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(2) *Agriculture use standards.*

(a) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management System) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. Best management practices of the Minnesota D.N.R. must be used. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(b) Animal feedlots, as defined by the Minnesota Rules, Chapter 7020.300, as amended from time to time, for compliance with permits, must meet the following standards.

1. New feedlots must not be located in the shoreland of water courses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public water basins.
2. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(I) *Water supply and sewage treatment.*

(1) *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency. Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the water well construction code of the Minnesota Department of Health.

(2) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows.

(a) Publicly-owned sewer systems must be used where available.

(b) All private sewage treatment systems must meet or exceed the standards contained in City Code Chapter 51 or the standards for individual sewage treatment systems contained in Minnesota Rules, Chapter 7080.0060, a copy of which is adopted by reference and declared to be a part of §§ 150.250*et seq.* In all cases the more restrictive regulation shall apply.

(c) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in § 150.255(D)(1).

(d) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in this division (I)(2)(d). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from onsite field investigations. Evaluation criteria:

1. Depth to the highest known or calculated ground water table or bedrock;
2. Soil conditions, properties, and permeability;
3. Slope; and
4. The existence of lowlands, local surface depressions, and rock outcrops.

(e) Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with § 150.256(B)(3).

(f) The discharge of non-treated raw sewage effluent into a lake, wetland, or stream is strictly prohibited and the condition will be required to be ceased immediately; and within a reasonable period (not to exceed 30 days) of notice and order to comply by the Zoning Administrator, the property owner shall install a system which complies with Minn. Rules Chapter 7080, as it may be amended from time to time, and Chapter 51 of the city code, whichever is more restrictive.

(g) Gray water, meaning liquid waste from a dwelling produced by bathing, laundry, culinary operations, and floor drains associated with these sources, and specifically excluding toilet waste, must be treated in accordance with Minn. Rules Chapter 7080, as it may be amended from time to time. Discharge of gray water directly into a lake, wetland, or stream is prohibited and the condition shall cease immediately.

(h) Any discharge of chemically-treated water into a lake, wetland, or stream, such as an example only, the drainage of a swimming pool, must not be done without first obtaining all required permits from the Minnesota Pollution Control Agency.

(J) *Conditional uses.*

(1) Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in the zoning code.

(2) The following additional evaluation criteria and conditions apply within shoreland areas.

(a) *Evaluation criteria.* A thorough evaluation of the water body and topographic, vegetation, and soils conditions on the site must be made to ensure:

1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
2. The visibility of structures and other facilities as viewed from public waters is limited;
3. The site is adequate for water supply and on-site sewage treatment; and
4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the ability of public waters to safely accommodate these watercraft.

(b) *Conditions attached to conditional use permits.* The Council, upon consideration of the criteria listed above and the purposes of §§ 150.250*et seq.*, shall attach the conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of §§ 150.250*et seq.* The conditions may include, but are not limited to, the following:

1. Increased setbacks from the ordinary high water level;
2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
3. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(1997 Code, § 325.06) (Am. Ord. 08-005, passed 2-4-2008; Am. Ord. 08-024, passed 4-20-2010; Am. Ord. 2012-61, passed 9-4-2012; Am. Ord. 2012-63, passed 10-2-2012) Penalty, see § 10.99

§ 150.256 NON-CONFORMITIES.

(A) All legally established non-conformities as of the date of §§ 150.250*et seq.* may continue, but they will be managed according to applicable state statutes and other regulations of the city for the subject of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply to shoreland areas.

(B) (1) *Construction on non-conforming lots of record.*

(a) Lots of record in the office of the County Recorder on the date of enactment of §§ 150.250*et seq.* that do not meet the requirements of § 150.255(B) may be allowed as building sites without variances from lot size requirements, provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of §§ 150.250*et seq.* are met.

(b) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(c) If, in a group of 2 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of § 150.255(B), the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the 1 or more contiguous lots so they equal 1 or more parcels of land, each meeting the requirements of § 150.255(B) as much as possible.

(2) *Additions/expansions to non-conforming structures.*

(a) *Additions/expansions.* All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of § 150.255. Any deviation from these requirements must be authorized by a variance pursuant to § 150.253(B)(2).

(b) *Decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met.

1. The structure existed on the date the structure setbacks were established.
2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
3. The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.
4. The deck is constructed primarily of wood and is not roofed or screened.

(3) *Non-conforming sewage treatment systems.*

(a) A sewage treatment system not meeting the requirements of § 150.255(I) must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(b) The Council of the city has notified the D.N.R. Commissioner of its plan to identify non-conforming sewage treatment systems in shoreland areas. The city will require upgrading or replacement of any non-conforming system identified by this program within a reasonable period of time, which will not exceed 180 days of notice and order to comply by the Zoning Administrator. Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. § 103F.201, as it may be amended from time to time, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems including cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above ground water than required by the Minnesota Pollution Control Agency's Chapter 7080, as it may be amended from time to time, for design of off-site sewage treatment systems, shall be considered nonconforming.

(1997 Code, § 325.07) Penalty, see § 10.99

§ 150.257 SUBDIVISION/PLATTING PROVISIONS.

(A) *Land suitability.* Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the city.

(B) *Platting.* All subdivisions shall be in accordance with the city's platting regulations and requirements.

(C) *Consistency with other controls.* Subdivisions must conform to all regulations for the city. A subdivision will not be approved where a later variance from 1 or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with § 150.255(D) and (I) can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of § 150.255(B), including at least a minimum contiguous vegetative area, that is free of limiting factors sufficient for the construction of 2 standard sewage treatment systems. Lots that would require use of holding tanks must not be approved.

(D) *Information requirements.* Sufficient information must be submitted by the applicant for the city to make a determination of land suitability. The information may include the following at the discretion of the City Planner or City Engineer:

- (1) Topographic contours at 2 foot intervals or less;
- (2) The surface water features required in M.S. § 505.02, Subd. 1, as it may be amended from time to time, to be shown on plats obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- (3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- (4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;
- (5) Location of 100-year flood plain areas and flood way districts from existing adopted maps or data; and
- (6) A line or contour representing the ordinary high water level, the "toe" and "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(E) *Dedications.* When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.

(F) *Controlled access or recreational lots.* Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in § 150.255(B) and (C).

(1997 Code, § 325.08) Penalty, see § 10.99