

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 September 25, 2017 at 7:00 p.m.**

## **AGENDA**

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
  - a. September 11, 2017
4. Public Hearings
  - a. **COMPREHENSIVE PLAN AMENDMENT AND PLANNED UNIT DEVELOPMENT (PUD) CONCEPT PLAN.** Requests by continental 419 Fund LLC c/o Gwyn Wheeler, W134 N8675 Executive parkway, Menomonee Falls, WI 53051, for a Comprehensive Plan Amendment to re-guide the City's Land Use Plan for a portion of PID #34.029.21.43.0003 from Urban Medium Density Residential to Urban High Density Residential and PUD Concept Plan for a 300 unit multifamily development.
  - b. **VARIANCE.** A request by Peter and Adrienne Pavek of 8130 Hill Trail N for a variance from minimum setback requirements for a septic system from the Ordinary High Water Level (OHWL) within a shoreland district and property lines as well as a variance to allow expansion of a non-conforming structure that does not meet minimum setback requirements from the OHWL within a shoreland district. PID #09.029.21.22.0007.
  - c. **VARIANCE.** A request by Benjamin Osterollo of 8323 Deer Pond Trail N for a variance from minimum setback requirements from the front yard to allow expansion of an existing garage. PID #09.029.21.34.0002.
5. Business Items
  - a.
6. Updates
  - a. City Council Updates – 9/19/17 Meeting
    - i. Royal Golf Development Agreement - passed
    - ii. Northport Development Agreement - passed
    - iii. Hidden Meadows Final Plat Extension Denial - passed
  - Staff Updates
  - iv. Upcoming Meetings:
    - October 11, 2017
    - October 23, 2017
  - v. MAC CEP Report-none
  - vi. Comprehensive Plan Update

b. Commission Concerns

7. Adjourn

\*\*\*Note: Every effort will be made to accommodate person or persons that need special considerations to attend this meeting due to a health condition or disability. Please contact the Lake Elmo City Clerk if you are in need of special accommodations.



**City of Lake Elmo  
Planning Commission Meeting  
Minutes of September 11, 2017**

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

**COMMISSIONERS PRESENT:** Kreimer, Lundquist, Hartley, Dodson, Emerson, Williams, & Larson

**COMMISSIONERS ABSENT:** Johnson & Dorschner

**STAFF PRESENT:** City Planner Becker

**Approve Agenda:**

Agenda was accepted as presented

**Approve Minutes:** August 28, 2017

M/S/P: Hartley/Williams, move to approve the August 28, 2017 minutes as amended,  
***Vote: 7-0, motion carried unanimously.***

**Public Hearing Item – Zoning Text Amendment, Zoning Map Amendment and Conditional Use Permit Mare Affair LLC**

Becker started her presentation regarding the application from Mare Affair Farms for the 4 requests regarding the property. The requests include 1) a ZTA to allow a Commercial Boarding Facility as a conditional accessory use within the Agricultural Zoning District 2) A ZMA to rezone 10880 Stillwater Blvd from Rural Development Transitional to Agriculture 3) A Conditional Use Permit to allow a Commercial Boarding Facility as an accessory use and 4) a Conditional Use Permit for expansion to an existing feedlot within a shoreland area.

The Comprehensive Plan specifically states that existing agricultural uses and qualifying alternative uses that preserve the open space within the community shall be supported and encouraged to continue operations and to retain large land holdings. The term Commercial Boarding Facility is being used because of the state statute governing classification of agricultural property. Becker went through the proposed definition of Commercial Boarding Facility and what the standards are that already exist in the Zoning Code.

As a recommended condition of approval of the Zoning Map Amendment, the City must approve a Comprehensive Plan Amendment to either remove the property from the MUSA, or approve a Comprehensive Plan Amendment to re-guide the Property to an Urban Residential Land use designation as well as a ZMA to re-zone the property to a related Urban Residential zoning district if the property is developed.

The applicant and the City have been in discussions for some time about Stormwater ponds and trails. The applicant is open to the stormwater issue but there needs to be further discussion. The County has a trail plan and is looking for a trail along Stillwater Blvd. The applicant is not amenable to the trail on the North side of Stillwater Blvd because of the horses.

The Conditional Use Permit for the Commercial Boarding Facility is to keep, train and ride horses that do not belong to the owner or occupant on the property. The standards are met for setbacks, parking requirements, and number of structures.

There are some outstanding issues that can be dealt with as conditions of approval. These include 1) landscaping around outdoor exercise arena 2) manure management plan required 3) needs VBWD approval 4) MPCA review and approval 5) turn lanes designed and approved by Washington County 6) Events and living space within barn will require proper fire apparatus and connection to water. Based on the City Engineer review, a number of conditions of approval were added to include 1) hydro CAD model and permit approved by the City 2) Grading & Erosion control plan required and approved 3) site plan to include location of wells 4) capacity of on-site septic systems.

Hartley asked if this meets the definition of a feedlot. Becker stated that it does, however, the MPCA has determined that it does not need an MPCA permit.

Dodson asked how hard is it to withdraw from the MUSA or get added back in later. Becker stated that they might be updating the MUSA with the 2040 Comprehensive Plan. Becker stated that the applicant is not requesting to be removed from the MUSA at this time. That would come into play when they subdivide or develop.

Emerson asked if the Gonyea West property was still proposing a road coming down to this property. Becker stated that it probably will not as this stable proposal has significantly scaled back. Becker stated that the road would be discussed with Gonyea West. Kreimer asked about the County comment regarding the trail. Becker stated that the County is currently working on their Comprehensive Plan and they are looking at a trail along Stillwater Blvd. Becker pointed out that the City cannot require a trail at this time as the property is not being subdivided.

Rich Roth, Morton Buildings, on behalf of the Schiltgen Family. Williams asked if there is a proposed location for the manure building. Roth stated that they do not have a definite location yet, but the MPCA plans to do a site visit and work with them on the

location. The preferred location would be by the commodities building. This area is in the Shoreland, but there is a bluff there so everything flows across the open area to the East. Williams asked about the flood storage pond. Roth stated that the Schiltgens have no need for a flood storage pond to service their property. Roth's understanding is that the City and other developments have a need for the flood storage pond. They are however, open to discussion.

Molly Schiltgen, Mare Affair, stated that the family has no plans to ever develop the property. This is a vision that the family has always had to preserve this property along with the barns that go around it. Schiltgen stated that there are 12 stalls in the new barn proposal. They do not want to limit themselves, but she doesn't think there would ever be more than 20 horses. Pete Schiltgen estimates there is about 110 grazeable acres. Kreimer asked if there would be riding lessons at the site. Schiltgen stated that there would be lessons, but on a very small scale. There would not be more than 5 people in the arena at any given time. Larson asked if the property includes both the North and South side of County 14. Schiltgen stated that Mare Affair Farms includes the property on the North and South side of County 14. There is about 20 acres on the south side that is a hay field that they need to support the operation of the farm and an additional 20 acres of hay field to the North.

Public Hearing opened at 7:45 pm

Joe Chavez, 3505 Kelvin Ave N, they own a parcel on Sunfish Lake that is approximately 11 acres that borders the Schiltgen parcel south of the Hamlet. He is wondering what impact this development will have on their parcel as they are working to get their parcel designated as a buildable lot.

Susan Dunn, 11018 Upper 33<sup>rd</sup> Street, supports this project and feels that this project is part of the vision for this area.

Joan Chavez, 3505 Kelvin Ave N, just wanted to add their support for this project and they are really excited about it.

There was no written correspondence

Public Hearing closed at 7:50 pm

Williams thinks it is a great proposal and feels that they should recommend approval. Williams does feel that despite the lay of the land, he is not in favor of approving a manure storage facility within the shoreland district.

M/S/F: Williams/Lundquist, move to add condition #13 that any manure storage facility must be located outside the shoreland district, **Vote: 1-6, motion fails.**

Emerson feels that the topography of the land all runs away from the Lake so he doesn't see a problem. Williams is not comfortable with it and does not want to set any kind of a precedent for any future proposals. Emerson feels that it would create a lot more work and inconvenience for the applicant and if the MPCA approves it, so should the City. Larson feels that more information is needed regarding the impact on Sunfish Lake. However the practical problem of moving this closer to Lake Elmo Elementary, could create a problem in regards to odors. Hartley stated that without the manure management plan, it is hard to know the impacts. Becker stated that this is something that would be reviewed with the VBWD permit. The VBWD along with the MPCA would need to give their approval to locate the manure storage facility in the Shoreland district.

M/S/P: Williams/Dodson, move to add finding #13 that the City should remove this property from the MUSA, **Vote: 7-0, motion carried unanimously.**

M/S/P: Lundquist/Williams, move to recommend approval of a Zoning Text Amendment to allow Commercial Boarding Facility as a conditional accessory use within the Agricultural Zoning District, **Vote: 7-0, motion carried unanimously.**

M/S/P: Lundquist/Williams, move to recommend approval of a Zoning Map Amendment to rezone 10880 Stillwater Blvd N (PID #14.029.21.11.0001) from Rural Development Transitional to Agricultural, **Vote: 7-0, motion carried unanimously.**

M/S/P: Kreimer/Dodson, move to strike condition #11 regarding screening, **Vote: 7-0, motion carried unanimously.**

M/S/P: Lundquist/Emerson, move to recommend approval of a Conditional Use Permit to allow a Commercial Boarding Facility as an accessory use for the property located at 10880 Stillwater Blvd N (PID #14.029.21.21.0001), subject to the recommended conditions of approval and findings as amended, **Vote: 7-0, motion carried unanimously.**

M/S/P: Lundquist/Williams, move to recommend approval of a Conditional Use Permit to allow expansion of an existing feedlot within the shoreland for the property located at 10880 Stillwater Blvd N (PID #14.029.21.11.0001), subject to the recommended conditions of approval, **Vote: 7-0, motion carried unanimously.**

#### **City Council Updates – September 5, 2017 Meeting**

- i) Royal Golf PUD Final Plat – passed
- ii) Village Park Preserve Final Plat – passed
- iii) Hidden Meadows Final Plat Extension - failed

#### **Staff Updates**

1. Upcoming Meetings

- a. September 25, 2017
  - b. October 11, 2017
2. MAC CEP Report

***Commission Concerns***

Meeting adjourned at 8:24 pm

Respectfully submitted,

Joan Ziertman  
Planning Program Assistant

DRAFT



## STAFF REPORT

DATE: 9/25/17

**REGULAR**

ITEM #: 4A

**TO:** Planning Commission  
**FROM:** Emily Becker, Planning Director  
**AGENDA ITEM:** Comprehensive Plan Amendment to Re-Guide a Portion of PID# 34.029.21.43.0003 from Urban Medium Density Residential to Urban High Density Residential and General Planned Unit Development Concept Plan for Continental Properties  
**REVIEWED BY:** Kristina Handt, City Administrator

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### **BACKGROUND:**

The City has received a request from Continental 419 Fund LLC c/o Gwyn Wheeler for approval of a Comprehensive Plan Amendment to re-guide a portion of PID# 34.029.21.43.0003 from Urban Medium Density Residential to Urban High Density Residential along with a General Planned Unit Development (PUD) Concept Plan for a 300 unit multi-family development on a 21.60 acre parcel to be called Springs Apartments.

### **ISSUE BEFORE COMMISSION:**

The Commission is being asked to hold a public hearing, review and make recommendation on the above-mentioned requests from Continental 419 Fund LLC c/o Gwyn Wheeler.

### **PROPOSAL DETAILS/ANALYSIS:**

#### **General Information.**

- *Property Owner:* DPS-Lake Elmo, LLC of 6007 Culligan Way, Minnetonka, MN 55345
- *Location:* South of the Savona development and North of Hudson Blvd. N
- *Current Site Area:* 39.88 acres
- *Land Use Guidance:* Urban Medium Density Residential on the northern portion of the property and Commercial on the southern portion
- *Zoning:* Rural Development Transitional
- *Surrounding Land Use Guidance:* Medium Density Residential to the East, Urban Medium Density Residential to the North, Urban Medium Density Residential to the West, and Commercial to the South.
- *History:* The property has been used as rural vacant land.

### **CONCEPT PUD PLAN**

**About the Applicant.** Continental 419 Fund LLC. (Applicant) desires to develop a Class A, market-rate apartment community within the City. The company, started in 1979, is based out of Menomonee Falls, WI, and as of 2016 has broken ground on 3,175 apartment homes in 7 states. 65 Springs Apartment



communities, similar to this proposed development, have been developed, including three in Minnesota (Apple Valley, Rochester, and Savage). The applicant has indicated in pre-application meetings with Staff that Continental owns and operates all Springs developments and that they do not have third party management.

**Site Plan.** The proposed site plan consists of 21.6 acres of land and includes 15 buildings with 20 units each, four detached garages (three with 12 stalls each and one with six stalls), parking spaces, an approximately 4,000 square foot club house (including a large gathering room, fitness center, kitchen area, coffee bar, and office space), pool with sun deck along with an outdoor bar-be-que area, trash enclosure, mail kiosk, and two pet playgrounds all within a fenced, controlled access community. Many units provide attached, direct-access garages. The remaining parcel would be platted as an outlot until development.

**Proposed Unit Breakdown.** The proposed number of units totals 300. The following provides a breakdown of the proposed number of units:

Unit Type	Number of Units
Studios	30
1-Bedroom	120
2-Bedroom	120
3-Bedroom	30

**Proposed Design.** The proposed design of the development is a townhouse design two stories in height with private, ground-level entrances to each unit. The building elevations provide architectural interest with use of exterior accents, a large percentage of windows, and high quality materials including fiber cement board siding and stone masonry. The buildings create additional high architectural value with use of varied roof lines, and vertical and horizontal articulation. The typical interiors of the units include dark wood colored cabinets, stainless steel appliances, granite countertops in all kitchens and wood laminate flooring. Select units will be upgraded to include enhanced finishes, painted access walls, granite countertops throughout, among other features.

**Consistency with the Comprehensive Plan.** Although the proposed amendment is not strictly consistent with the guided land use for this area within the Comprehensive Plan, as the area is currently guided for Urban Medium Density Residential with a density 4.5-7 units per acre, and the proposed density is 13.89 units per acre, Chapter II of the Comprehensive Plan, City-Wide Planning Policy, indicates the following:

- *“It shall be the Policy of the City, by adopted plans, programs, and development regulations, to permit the provision by private developers of a variety of housing types for all people of all stages of the life cycle. It will also be the Policy of the City to encourage retention and development of housing affordable to a broad range of incomes while maintaining a fiscally responsible ratio of municipal services to provide real estate tax revenue to support those municipal services.*
  - *Low Amount of Existing Rental Units.* 2015 statistics indicate that roughly 93% of Lake Elmo residents own their home, which is significantly higher above the homeownership rate of Washington County and the metropolitan area. This could be due to a lack of available rental units within the City. According to the Metropolitan Council Housing Existing Housing Assessment for the City of Lake Elmo (February 2017), there are only

204 rental units within the city. Increasing availability of rental units could allow those who are unable to own their own home live within the City.

- *Housing Cost Burdened Households.* According to the Metropolitan Council Housing Existing Housing Assessment for the City of Lake Elmo (February 2017), there are 418 cost-burdened households within the city whose housing costs are at least 30% of their income.
  - *Need for Affordable Housing.* The Metropolitan Council's 2015 Systems Statement indicates that Lake Elmo's share of the region's need for low and moderate income housing is 508 new units affordable to households earning 80% of the area median income (AMI) or below. Of these new units, the need is for 27 affordable to households earning at or below 30% of AMI, 179 affordable to households earning 31% to 50% of AMI, and 302 affordable to households earning 51% to 80% of AMI.
  - According to data from the Minneapolis Association of Realtors, the median home sales price for Lake Elmo in 2016 was \$407,070. This is over 75% more than the metropolitan area median home sales price (\$232,000). By allowing a high density development within this area of the City, which currently has access to City sewer and water, younger professionals and aging adults who cannot yet afford homes in Lake Elmo's current price range will be able to live in the community in which they grew up and enjoy.
- *"Examples of adherence to these housing policies include.....Affirmative City actions to address support for senior and age-restricted housing initiatives within the Regional Sewered areas...south of 10<sup>th</sup> Street North that demonstrate high standards of design, materials, and resident amenities. Ease of resident access to goods and services within the context of the non-residential development policies of this plan will be an important locational determinant in recognition of the reduced mobility of senior and age-restricted residents. Such goods and services shall be facility-integrated with the residential uses intended to be served..."*
    - Continental has indicated in pre-application meetings that 20% of their residents are typically 55+. Locating such a development in close proximity to an area guided for commercial development would, in the future, provide easy access for such members of the community to needed goods and services that will likely become available with an increase in residential development.
  - *"Affirmative City actions to address support of expanded opportunity for development of new housing resources affordable to families of moderate income within the areas of the City planned for service by Regional Wastewater Treatment."*
    - As mentioned, the proposed increase density will allow for families of moderate income to live within the community.
  - *"City financial subsidy in support of housing opportunities is not implied by this Policy."*
    - Continental is not requesting City financial subsidy for the proposed project.
  - *"By zoning and other City codes, the City will encourage housing development that respects the natural environment of the community while striving to accommodate the need for a variety of housing types and costs."*
    - The proposed development is consistent with that of the surrounding area. The Savona townhomes that currently exist to the northeast of the site are similar in design and style to that of the proposed development. Additionally, the proposed development will accommodate the need for a variety of housing types and costs.

- *“Municipal Services...Provision of municipal services will not be in a manner that drives intensive development, but rather responsive to the intensity of development specified by the Comprehensive Plan.”*
  - As previously mentioned in the Engineering review comments, the site was projected to have 145 REC units, although the site is able to handle the additional REC units either internally as part of the site work or by replacing 250 feet of 8-inch sanitary sewer with 10-inch sanitary sewer.

**Consistency with Planned Unit Development Regulations.** Staff has reviewed the proposed plan for its consistency with requirements of Article XVII: Planned Unit Development (PUD) Regulations and has found the following:

- **Intent.** The intent of a PUD is to provide for flexibility in the use of land and the placement and size of buildings in order to better utilize site features and obtain a higher quality of development. A PUD is required for the proposed development, as more than one principal building is proposed to be placed on a platted lot, and the proposed garages are larger than the maximum-allowed 1,000 square feet in size.
- **Identified Objectives.** When reviewing requests for PUDs, the City is to consider whether one or more objectives as outlined in Section 154.751: Identified Objectives of the Zoning Code will be served or is achieved. Staff has found that the following objectives are being met with the proposed development.
  - A. *Innovation in land development techniques that may be more suitable for a given parcel than conventional approaches.*
    - The proposed development is not a typical, multi-story apartment building and instead proposes a townhouse design two stories in height with private, ground-level entrances to each unit
  - C. *Provision of a more adequate, usable, and suitably located open space, recreational amenities and other public facilities than would otherwise be provided under conventional land development techniques.*
    - The proposed development is proposing a number of recreational amenities to residents within the PUD including pet playgrounds, clubhouse, and pool.
  - D. *Accommodation of housing of all types with convenient access to employment opportunities and/or commercial facilities; and especially to create additional opportunities for senior and affordable housing.*
    - The proposed development will provide additional housing opportunities within the City, as there are currently very few multi-family buildings within the City.
  - G. *Coordination of architectural styles and building forms to achieve greater compatibility within the development and surrounding land uses.*
    - The townhouse design will be compatible in design those of the neighboring Savona townhomes.
  - H. *Higher standards of site and building design than would otherwise be provided under conventional land development technique.*

- The City does not currently have standards for single family housing. As such, the City cannot impose guidelines and standards set forth with the Lake Elmo Design Guidelines & Standards Manual. However, the City may impose such guidelines on high density residential development.
- **Minimum Requirements.** PUDs must meet the following minimum requirements:
  - A. *Lot Area.* A PUD must include a minimum of 5 acres for undeveloped land or 2 acres for developed land within the approved development.
    - The proposed development exceeds this requirement with a proposed 21.60 acre development.
  - B. *Open Space:* For all PUDs, at least 20% of the project area not within street rights-of-way to be preserved as protected open space. Other public or site amenities may be approved as an alternative to this requirement. Any required open space must be available to the residents, tenants, or customers of the PUD for recreational purposes or similar benefit. Land reserved for storm water detention facilities and other required site improvements may be applied to this requirement. Open space shall be designed to meet the needs of residents of the PUD and the surrounding neighborhoods, to the extent practicable, for parks, playgrounds, playing fields and other recreational facilities.
    - The applicant has indicated that approximately 42% of the proposed development is open space (including detention ponds, pet areas, green spaces, and landscaped areas).
  - C. *Street Layout...* In newly developing areas, streets shall be designed to maximize connectivity in each cardinal direction, except where environmental or physical constraints make this infeasible. All streets shall terminate at other streets, at public land, or at a park or other community facility, except that local streets may terminate in stub streets when those will be connected to other streets in future phases of the development or adjacent developments.
    - The proposed new road connecting 5<sup>th</sup> Street to Hudson Blvd meets this requirement. Junco Road was intended to continue on through part of this development, though the proposed development will cause it to terminate at the intersection of 5<sup>th</sup> Street. It is a recommended condition of approval that all comments outlined in the Engineering memo dated September 7, 2017 be addressed. The comments in this memo required that improvements to this intersection be made as part of this project.

**Proposed Amenities.** The City's PUD ordinance provides that amenities may be provided for increased density. In this case, because the applicant is proposing a Comprehensive Plan amendment to re-guide the area to Urban High Density Residential, which would accommodate the proposed density of the development, an increase in density beyond the desired land use designation is not required. However, a PUD should still offer the City amenities in exchange for the flexibility of allowing more than one building on a parcel as well as allowing garages larger than 1,000 square feet.

- *Underground or structure parking.* The narrative of the application indicates that many units provide attached, direct-access garages. It has not been indicated that this will reduce the surface parking area outside the footprint of the principal structure by 25%, however, as required by the PUD Code.

- *Contained Parking.* By proposing 162 garage spaces for its residents, the proposed development limits the amount of visible surface parking.
- *Additional Amenities?* Additionally, the City may also consider the allotment of amenity “points” for site amenities that are not otherwise specified within the ordinance. Staff has found that the proposed development offers the following amenities:

**Consistency with Proposed Urban High Density Residential (HDR) Zoning District.** As mentioned, the proposed development will require City approval of a Comprehensive Plan Amendment as well as a Zoning Map Amendment to rezone the property to Urban High Density Residential. As such, review of the proposed General PUD Concept Plan Review against standards including setbacks, impervious coverage, etc. of the Urban High Density Residential zoning districts was done, as shown below.

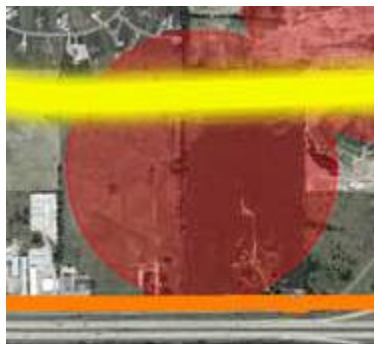
<b>Standard</b>	<b>Required</b>	<b>Proposed</b>
Impervious Surface Maximum	75%	58%
Minimum Lot Width	60 feet	199.09 feet at the smallest proposed width
Front Yard Setback	20 feet	20 feet
Interior Side Yard	15 feet	20 feet
Corner Side Yard	10 feet	20 feet
Rear Yard Setback	20 feet	20 feet
Parking (specific to multi-family development within HDR zoning district)	Not to be located in the front yard or between the front façade and street.	Parking is located in front of Building 3, though this is not necessarily considered the front yard.
Open space (specific to multi-family development within HDR zoning district)	200 square feet of common open space provided per unit.	Approximately 1300 square feet of open space is provided for each unit.

### **Adherence to Lake Elmo Design Guidelines and Standards.**

The proposed development adheres to the Lake Elmo Design Guidelines and Standards in that:

- The proposed structures are located and oriented in a manner that allows for pedestrian accessibility and provides visual interest from the public right-of-way.
- Buildings are located as close to the public street as possible, easily accessible from the street; setbacks are varied slightly; recreational and common spaces are located at the interior or rear of the site.
- Streetscapes provide for pedestrian accessibility and safety while offering aesthetically pleasing environments, as 5<sup>th</sup> Street streetscape is already in place, and a sidewalk/trail is provided along the future road.
- Parking areas do not account for more than 50% of street frontage.
- Trash enclosure is located away from most of the residential buildings.
- Examples of past developments adhere to building design requirements. It is a recommended condition of approval that the applicant include a detailed architectural plan proposal for the development.

**Parkland Dedication.** The Parks Commission will review the proposed development at its October 16, 2017 meeting. The proposed development does not propose a public park but does provide recreation for its residents through the club house, pool and open space. The neighborhood park search area plan of the Comprehensive Plan indicates that a neighborhood park should be located in the below indicated neighborhood park search area. This area is already served by Savona Park.



The proposed development consists of 21.60 acres, and the required parkland dedication for the Urban High Density Residential zoning district is 10%. The required amount of fees would be 10% of the purchase price of the property, which has yet to be determined.

**Trails.** The Comprehensive Plan's Trail Plan shows a planned trail down the proposed street along the west side of the development. The proposed plan indicates a proposed sidewalk along the future road but not a trail. Trail connection requirements along Hudson Blvd need to be reviewed. A crosswalk with pedestrian ramps to cross 5th Street N, should be constructed.



**Parking.** The City's Zoning Code requires one space per unit, along with one visitor space per four units. With the proposed 300 units, 375 spaces would be required, and 525 spaces are proposed. There are also an additional 17 spaces proposed for the clubhouse. The proposed width and length of parking stalls is compliant with code, and the proposed width (estimated to be 24') is adequate for a 2-way aisle width according to the Zoning Code. Of these parking spaces, a total of 17 spaces are proposed to be Americans with Disabilities Act (ADA)-accessible. The ADA requires 2% of parking spaces totaling over 501 to be ADA-accessible, and so the proposed number of ADA parking spaces is compliant, providing adequate width and access aisle spacing.

**Engineering Comments.** The City Engineer has provided a review memo regarding the proposed Comprehensive Plan Amendment and General Concept PUD. This memo is attached for reference. Staff would like to highlight the following comments in summary:

- *Streets and Transportation*
  - *Hudson Right-of-Way.* Additional right-of-way on Hudson Blvd must be dedicated. A Hudson Blvd typical section needs to be developed by the City to determine necessary width. 10 foot utility easements must be provided along each side of the new right-of-way.
  - The concept plan proposes a new commercial street connecting Hudson Blvd and 5<sup>th</sup> Street N, which is the preferred street and access configuration and alignment. The design must take in to consideration the existing location of the existing sanitary sewer and watermain utilities located in the corridor.
  - *Turn Lanes Needed.* An eastbound left turn lane and westbound right turn lane must be constructed along Hudson Blvd as part of the proposed commercial street intersection with Hudson Blvd.
  - *Adjacent Secondary Access.* Further review of the secondary access provided to the adjacent property to the southeast will require further review during preliminary planning.
  - *Emergency Access.* The unpaved emergency access to 5<sup>th</sup> Street North should be paved within the City right-of-way.
  - *Perimeter Fence.* This encroaches the 10 foot utility easement, and so the location must be revised to preserve the easement.
  - *Intersection Improvements to Junco Road.* It is recommended that improvements to the intersection of 5<sup>th</sup> Street N and Junco Rd be made as part of this project, as this road was intended to continue with future development, yet this site plan proposes Junco Road terminating at 5<sup>th</sup> Street N. As a result, minor design and construction revisions will be required at the intersection including the construction of a 5<sup>th</sup> Street crosswalk with pedestrian ramps across 5<sup>th</sup> Street N, and connecting trail segment, to connect the Savona trail from the park to the sidewalk/trail for the new commercial street.
  - *Traffic Impact Study.* Is needed for CSAH 19 and Hudson Blvd and CSAH 19 and 5<sup>th</sup> Street. Consideration of financial contribution to CSAH 19/Hudson Blvd traffic signal.
- *Municipal Sanitary Sewer*
  - The subject parcel was projected to contain approximately 145 Residential Equivalency Charge (REC) units, and the site plan proposes 300 REC units. In order to account for these additional units, the site will need to connect to a 10-inch sanitary sewer line.
- *Municipal Water Supply*
  - The applicant will be responsible to provide watermain stub(s) to the adjacent property to the south.
  - The existing water system has sufficient capacity for domestic service for the proposed number of REC units.
  - The applicant will be responsible to place hydrants throughout the property at the direction of the Fire Department.
- *Stormwater Management*
  - All stormwater facilities need to be in accordance with City and Valley Branch Watershed District (VBWD) requirements.
  - Stormwater facilities will need to include both stormwater ponds (detention) and infiltration basins and to remain privately owned, requiring execution and

recording of a Stormwater Maintenance and Easement Agreement with the City in its standard form. Maintenance access should be provided.

**Building Official and Fire Chief Review.** The Building Official and Fire Chief have reviewed the proposed plan and have commented that the unpaved, second emergency access will need to be paved and maintained year-round. Snow removal is a significant concern with gated emergency access points.

**Apple Valley Administrator Opinion.** The City Administrator of the City of Apple Valley, a City in which a Springs community has been developed, has emailed Staff and has indicated that the Springs at Apple Valley has been a good addition to the community. Police calls to the development have not been a problem; there are five to six such calls a month, which is not excessive given the 280 units in the development. A report of police calls to the property dating from June 2016 to August 2017 was provided. Property maintenance has not been a problem.

**Minnesota Department of Transportation (MNDOT) Review.** MNDOT has reviewed the proposed development (review letter attached) and has the following comments:

- Hudson Blvd was turned back to the City, but if the road section were owned by MNDOT, a turn lane for the future road connection would be required. Please consider making the portion of Hudson Blvd.
- Applicant should assess noise situation and take action deemed necessary to minimize impact of highway noise.

**Environmental Assessment Worksheet (EAW).** Staff has confirmed with the Environmental Quality Board that an EAW would not be required for a housing development of this size. An EAW is only required when over 375 attached units are proposed within a city.

**Neighborhood Meetings.** Prior to this public hearing, the applicant held two neighborhood meetings on August 2, 2017 and September 21, 2017. Staff did not attend these neighborhood meetings due to scheduling conflicts, though the applicant indicates that many compliments were given on the site plan, elevations, proposed buffers, and high quality Springs apartment communities. Attendees did have concerns regarding view to the development from their homes. The minutes from the August 2, 2017 meeting is attached; the September 21, 2017 meeting minutes were not ready in time for the distribution of Planning Commission packets, and so the applicant can comment on responses during the meeting.

**Recommended Findings.** Staff recommends approval of the Concept PUD Plan based on the following findings:

1. That if the Lake Elmo Comprehensive Plan and Land Use Map is amended to re-guide the planned development from Urban Medium Density Residential to Urban High Density Residential, the PUD Concept Plan is consistent with the intent of the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
2. That the PUD Concept Plan complies with the general intent of the Urban High Density Residential zoning districts with PUD modifications.
3. That the PUD Concept Plan generally complies with the City's Subdivision regulations.
4. That the PUD Concept Plan is generally consistent with the City's engineering standards with exceptions as noted in the City Engineer's memorandum dated September 7, 2017.
5. The PUD Concept Plan meets the minimum requirement for a PUD including minimum lot area, open space and street layout.



6. The PUD Concept Plan meets more than one of the required PUD objectives identified in Section 154.751 including providing: innovation in land development techniques that may be more suitable for a given parcel than conventional approaches; provision of a more adequate, usable, and suitably located open space, recreational amenities and other public facilities than would otherwise be provided under conventional land development techniques; accommodation of housing of all types with convenient access to employment opportunities and/or commercial facilities; and especially to create additional opportunities for senior and affordable housing; coordination of architectural styles and building forms to achieve greater compatibility within the development and surrounding land uses; and higher standards of site and building design than would otherwise be provided under conventional land development technique.
7. The PUD Concept Plan meets the allowed density requirements provided the Comprehensive Plan's Land Use Map is amended to re-guide the planned development from Urban Medium Density Residential to Urban High Density Residential.

**Recommended Conditions of Approval.** Staff recommends the Planning Commission recommend approval of the Concept PUD with the following conditions:

1. Approval of a Comprehensive Plan Amendment to amend the City's Land Use Plan to re-guide a portion of the Property from Urban Medium Density Residential to Urban High Density Residential.
2. That the future preliminary plat and preliminary PUD Plans include a portion of the parcel with the PID# 34.029.21.43.0003.
3. That the future preliminary plat and preliminary PUD Plans submittal identify all requests for flexibility from the Zoning Code.
4. That all comments of the City Engineer's Memorandum dated September 7, 2017 be addressed with the future preliminary plat and preliminary PUD Plans submittal.
5. That the Preliminary Plat and PUD Plans submittal include a landscape plan to be reviewed and approved by the City's Landscape Architect.
6. That the Preliminary Plat and PUD Plans submittal include accurate open space and impervious surface calculations.
7. That a trail be provided along the future road providing primary access to the development instead of a sidewalk.
8. That fees in lieu of park land dedication be provided as required by 153.14 with future final plat.
9. That the preliminary plat and preliminary PUD Plans submittal include a detailed architectural plan.

### **COMPREHENSIVE PLAN AMENDMENT**

**Reason for Request.** The proposed gross density of the project will be 13.89 units per acre, and the area in which the development is proposed is guided for Urban Medium Density Residential at a density of 4.5-7 units per acre. The City's Urban High Density Land Use category allows for a density of 7.5-15 units per acre, and so the applicant has proposed amending the land use category of a portion of the subject property to Urban High Density.

**Current Land Use Guidance.** The subject parcel is currently guided for Medium Density Residential on the northern portion of the parcel and Commercial on the southern portion of the parcel. The area of the subject parcel that is guided for Urban Medium Density Residential is 28.73 acres, and so provided an approximate 15% of this area was taken out to determine net density, approximately 170 units could go in this area using the maximum of 7 units per acre allowed within this land use guidance. The following uses are allowed within the Urban Medium Density Residential zoning district:

- Single-family detached dwelling (permitted)
- Two-family dwelling (permitted)
- Single-family attached dwelling (permitted)
- Multi-family dwelling (conditional)
- Secondary dwelling (conditional)
- Manufactured home park (conditional)
- Group home (permitted)
- Group residential facility (conditional)
- Congregate housing (conditional)
- Semi-transient accommodations (conditional)
- Day care center (conditional)
- Schools, public, and private (conditional)
- Wayside stands (permitted)
- Parks and open spaces (permitted)
- Broadcasting or communication facility (conditional)

The following accessory uses are also allowed:

- Home occupation (permitted)
- Bed and breakfast (conditional)
- Family day care (permitted)
- Group family day care (conditional)
- Temporary sales (permitted)
- Other structures typically incidental and clearly subordinate to permitted uses

The proposed land use (Urban High Density Residential) and rezoning would allow the following uses:

- Single-family detached dwelling (permitted)
- Two-family dwelling (permitted)
- Single-family attached dwelling (permitted)
- Multi-family dwelling (permitted)
- Secondary dwelling (conditional)
- Group home (permitted)
- Group residential facility (conditional)
- Halfway house (conditional)
- Congregate housing (conditional)
- Semi-transient accommodations (conditional)
- Community services (conditional)
- Day care center (conditional)
- Schools, public, and private (conditional)
- Office (conditional)
- Funeral home (conditional)
- Personal services (conditional)
- Nursing and personal care (conditional)
- Neighborhood convenience store (conditional)
- Wayside stands (permitted)
- Parks and open spaces (permitted)
- Broadcasting or communication facility (conditional)

The following accessory uses are also allowed:

- Home occupation (permitted)
- Bed and breakfast (conditional)
- Family day care (permitted)
- Group family day care (conditional)
- Parking facility (conditional)

- Temporary sales (permitted)
- Other structures typically incidental and clearly subordinate to permitted uses

**Comprehensive Plan Amendment Requirements by the Metropolitan Council (Met Council).** Before submitting a Comprehensive Plan Amendment request to the Met Council for approval, a City must first submit for review by the Planning Commission, obtain local governing body authorization for the amendment to be submitted for Metropolitan Council review, and have adjacent governmental units, affected special districts, and affected school districts review. After receipt of the Comprehensive Plan Amendment request by the Met Council, they have 15 days to review for completeness and 60 days to approve or deny and may extend this period to an additional 60 days if needed and beyond 120 days if agreed to by the local government.

**Adjacent Review.** The application was sent out for adjacent review on August 30, 2017. Three responses have been received thus far, all stating that they don't have any comments. The review period ends October 29, 2017.

**Required Sewered Housing.** The Metropolitan Council Sewer Allocation Forecasts requires 3,721 sewered households by 2040. Currently, there are 2,401 units within the City that have been platted or at least have received some sort of development entitlement. Therefore, 1,584 more sewered units are required by 2040 according to this data. Of these sewered units, 1,220 would be in the areas planned for sewered development south of 10<sup>th</sup> Street.

**Current Areas Planned For High Density.** There are currently only three areas within the City planned for High Density housing. Two are within current developments, the Inwood (31.06 acres) and Boulder Ponds (2.98 acres) developments, and the third area is within the Stage 2 area of the Sewered Staging Plan (118.94 acres). It should be noted, however, that the third high density area would require a number of properties to develop before sewer can be extended to this area.

**Currently Density within MUSA.** The Metropolitan Council requires an average of three units per acre for areas within the Metropolitan Urban Service Area (MUSA). Currently, it is estimated that with the addition of The Royal Golf Club at Lake Elmo, that the *current* average density in the MUSA, *only taking in to account developments that now have development rights*, is approximately 2.1 units per acre.

**Resident Concerns Prior to Public Hearing Notice.** The following provides a summary of comments received by Staff regarding the proposed Comprehensive Plan Amendment and proposed development:

- The proposed density is almost double what the land is currently planned for and it is at the high end of the Urban High Density land use density.
- Nearby residents bought property with the knowledge that adjacent parcels were guided for Urban Medium Density, not Urban High Density and would not have purchased such property with knowledge that there would be a high density development adjacent to their property.
- The price point of the studios (\$1,000 per month) could attract younger people, causing drugs, drinking and driving, and safety issues.
- Increased use of 5<sup>th</sup> Street.
- Concern of increased foot traffic in surrounding neighborhoods.
- Concern of the apartment building becoming Section 8 housing.
- Expression of support for the project as well as the applicant. Applicant has a national presence and reputation and builds high quality projects. Possibility to spur higher quality commercial and retail development.

**Zoning Map Amendment.** If the proposed Comprehensive Plan Amendment is approved and the Applicant applies for Preliminary Plat and PUD Plans, a Zoning Map Amendment will be required to rezone the applicable parcel from Rural Development Transitional to Urban High Density Residential.

**Recommended Findings.** Staff recommends the following findings:

1. That the Applicant has submitted a request to amend the Comprehensive Plan in accordance with the procedures as established by the Lake Elmo Planning Department and Lake Elmo Planning Commission; and
2. That the request is to amend the Comprehensive Land Use Plan:
  - a. On page III-11, updating Table 3-B to reflect proposed increased acreage of Urban High Density Residential and decreased acreage of Urban High Density Residential.
  - b. Updating Map 3-3 – the planned land use map.
3. That the proposed expansion of the MUSA will not negatively impact the City’s average MUSA density as required by the Metropolitan Council.
4. That the proposed amendments are consistent with the overall goals and objectives of the Comprehensive Plan.

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

1. Submission of the Comprehensive Plan Amendment to the Metropolitan Council and the receipt of formal notification from the Metropolitan Council that its review has been completed and approved.
2. That the Applicant obtain Preliminary Plat approval from the City for the proposed development based on the proposed Concept Plan as approved by Resolution 2017-\_\_\_\_.

**FISCAL IMPACT:**

There would be no fiscal impact to the City at this time, as the developer would be required to pay for any amendments needed to accommodate the increase in REC units. Concept Plan approval does not afford the applicant development rights. When the property develops, it will have urban services and will pay sewer and water connection charges, building permit fees and the like.

**RECOMMENDATION:**

Staff recommends that the Planning Commission recommend approval of the proposed PUD Concept Plan with the recommended conditions of approval.

***“Motion to recommend approval of the PUD Concept Plan as requested by Continental 419 Fund LLC for PID# 34.029.21.43.0003 with recommended conditions of approval.”***

Additionally, Staff recommends that the Planning Commission recommend approval of an amendment to the Land Use Plan of the Comprehensive Plan, re-guiding a portion of PID# 34.029.21.43.0003 from Urban Medium Density Residential to Urban High Density Residential as requested by Continental 419 Fund LLC subject to recommended condition of approval.

***“Motion to recommend approval of a Comprehensive Plan Amendment re-guiding a portion of PID# 34.029.21.43.0003 from Urban Medium Density Residential to Urban High Density Residential as requested by Continental 419 Fund LLC subject to recommended condition of approval.”***

**ATTACHMENTS:**

- Application materials

- Engineer review memo dated September 7, 2017
- Meeting notes from neighborhood meeting held on August 2, 2017
- MNDOT letter

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    Wireless Communications

Applicant: Continental 419 Fund LLC c/o Gwyn Wheeler  
Address: W134 N8675 Executive Parkway, Menomonee Falls, WI 53051  
Phone # 262-532-9352  
Email Address: gwheeler@cproperties.com

Fee Owner: DPS-Lake Elmo LLC  
Address: 6007 Culligan Way, Minnetonka, MN 55345  
Phone # 612-718-3793  
Email Address: adale@stonehenge-usa.com

Property Location (Address): No address assignment  
(Complete (long) Legal Description: See attached

PID#: portion of 34.029.21.43.0003

Detailed Reason for Request: See attached

\*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:

Not applicable

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.

Continental 419 Fund LLC by: Continental Properties Company Inc., Its manager  
Signature of applicant: *Gwyn Wheeler* Date: 8/24/2017

Signature of fee owner: *Alan J. Dale* Date: 8-18-17

# SPRINGS<sup>®</sup>

*apartments*

## Vision Statement

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Springs Apartments are located within vibrant growing communities across the nation, with convenient access to employment and near to prime shopping, dining, and entertainment venues.

Within the Minneapolis/St. Paul metro, the City of Lake Elmo offers all of the conveniences and civic amenities that attract the demographic segments who prefer to rent rather than own their homes including both young professionals and active adults 55 and up. Nationally, trends continue to show that of new households created *59 percent* are rental households (National Multi-Housing Council, 2015).

Continental 419 Fund LLC ("Continental") proposes to develop a Class A, market-rate apartment community within the City of Lake Elmo, due to its reputation as a sought-after community to live in and its exceptional apartment fundamentals.

Springs buildings feature a townhouse design two stories in height with private, ground-level entrances to each unit. Many units provide attached, direct-access garages and the community would offer a limited number of detached garages. The apartment would be a mix of studio, 1-bedroom, 2-bedroom, and 3-bedroom units.

# SPRINGS<sup>®</sup>

*apartments*

The Springs community would feature a clubhouse measuring approximately 4,000 square feet in size. It would include a large gathering room, fitness center, kitchen area, coffee bar, and office space for Continental's property management team. A pool and sun deck for the residents are provided behind the clubhouse along with an outdoor BBQ area. The clubhouse and pool area are served by wireless internet service.

The building elevations provide architectural interest with use of exterior accents, a large percentage of windows, and high quality materials including fiber cement board siding and stone masonry. The buildings create additional high architectural value with use of varied roof lines, and vertical and horizontal articulation.

The typical interiors of the units include dark wood colored cabinets, stainless steel appliances, granite countertops in all kitchens and wood laminate flooring. Select units will be upgraded to include enhanced finishes, painted accent walls, granite countertops throughout, among other features.

Beyond resident amenities and high quality finishes, a sense of place is created for the community through a thoughtfully designed site plan. Ample open space and landscaping, courtyards, and pedestrian connectivity throughout foster neighbor interaction and contribute to place making. An emphasis on building placement means that architecture is the focus. The development will be enclosed and secured by perimeter fencing and automatic vehicular gates at the community entry.



# S P R I N G S<sup>®</sup>

*apartments*

## Comprehensive Plan Amendment & PUD General Concept Plan Request

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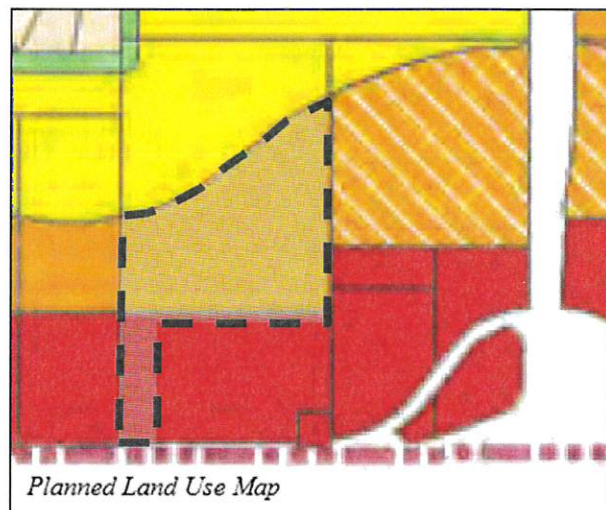
The proposed site for the Springs Apartment community in Lake Elmo is generally located at the west of Keats Avenue on the south side of 5<sup>th</sup> Street, as shown on the enclosed site plan. Continental 419 Fund LLC ("Continental") proposes an up-scale, market-rate apartment community on the 21.6 acre site.

Continental's proposed apartment community includes 300 units within 15 residential buildings. The buildings will offer a townhouse design featuring two stories with private, ground-level entrances to each unit. Residents will have a choice between attached, direct-access garages, detached garages and ample surface parking to best fit their needs. There will be a mix of studio, 1-bedroom, 2-bedroom, and 3-bedroom units, as broken down in the chart to the right.

UNIT TYPE	NUMBER OF UNITS
STUDIO	30
1-BEDROOM	120
2-BEDROOM	120
3-BEDROOM	30

A Comprehensive Plan - Planned Land Use Map amendment from Urban Medium Density/Commercial to Urban High Density as well as a rezoning from Rural Development Transitional (RT) to Urban High Density Planned Unit Development (HDR-PUD), are both being requested as part of Continental's proposal.

The current Planned Land Use designation of Urban Medium Density on the majority of the property allows for residential densities up to 7 units per acre; with greater densities allowed through the PUD process. This category allows for a variety of housing types including up to three-story apartment buildings. A small portion of the property fronting Hudson Blvd. is currently designated Commercial, which allows for residential uses as part of a mixed use development. The requested change to Urban High Density allows for residential densities from 7.5 to 15 units per acre. Continental's request proposes two-story buildings at a density of 13.89 du/acre.



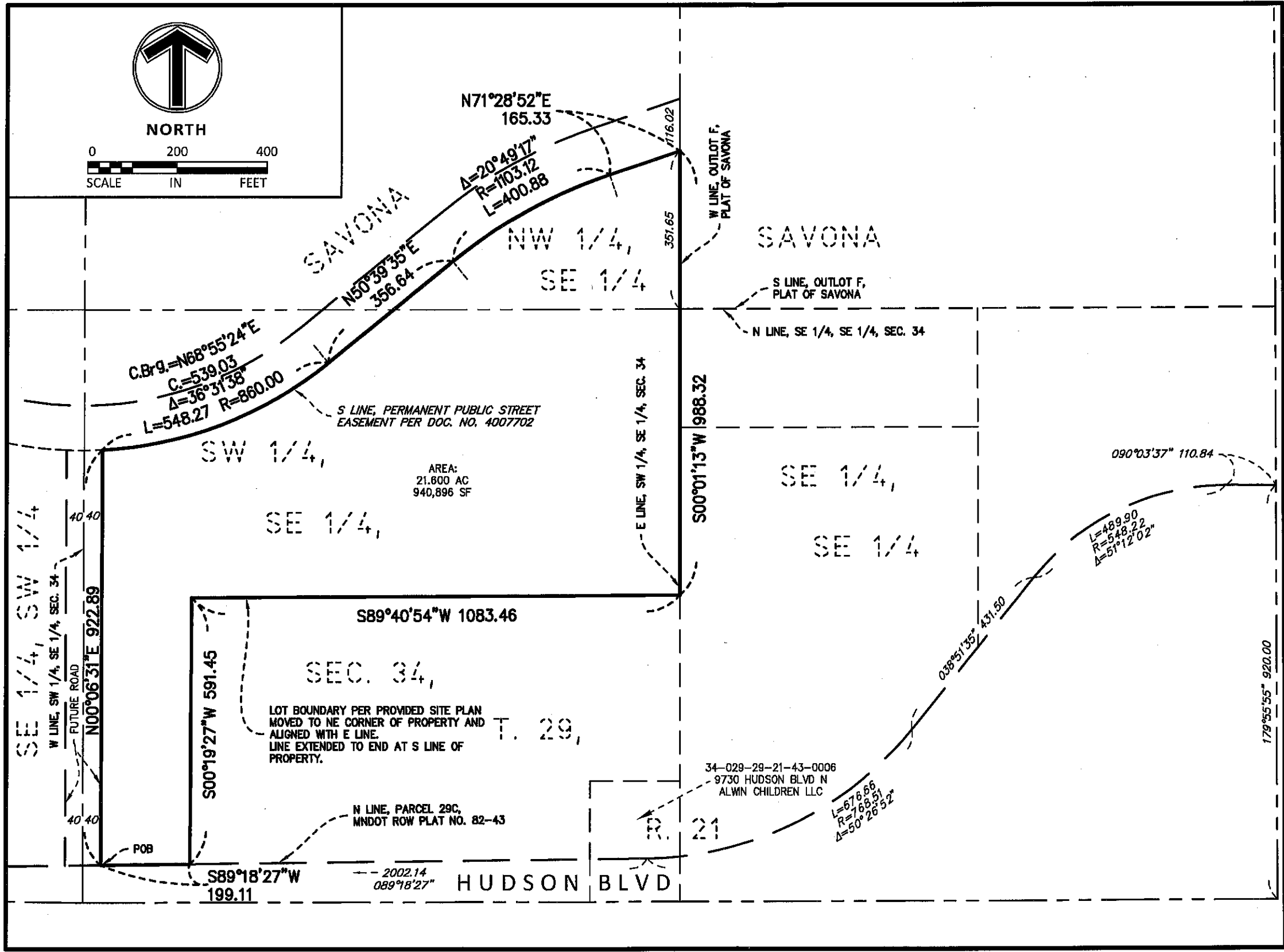
The Springs location is in accordance with Lake Elmo's comprehensive planning goal to locate high intensity uses along the I-94 corridor, preserving the otherwise rural character of the City. The proposed multifamily apartment development serves as a natural transition between the lower density residential to the north of the property and future commercial uses to the south. The proposed development will provide a residential density that will "maintain and protect the city's natural resources", because the land is better suited for development rather than conservation along the Interstate Highway 94 ("I-94")

# SPRINGS<sup>®</sup>

*apartments*

Corridor. The proposed density will provide a strong, up-scale residential base that will support commercial development along the I-94 corridor, ensuring s synergy and vibrancy that attracts high quality businesses.

The existing RT district zoning is an interim holding zone. Rezoning to HDR is required for the proposed density and a PUD is necessary to have more than one principal building per parcel of land. Continental's proposal will meet or exceed the criteria of the base HDR zoning district. Additionally, the Springs will be a high quality apartment community that is compatible in architecture and scale to the adjacent homes. Continental would like the opportunity to provide a unique, upscale rental housing option in this very fitting location to support the City's growth.



**Sambatek**  
 www.sambatek.com  
 12800 Whitewater Drive, Suite 300  
 Minnetonka, MN 55343  
 763.476.6010 telephone  
 763.476.8532 facsimile  
 Engineering | Surveying | Planning | Environmental

**Client**  
**CONTINENTAL**  
**PROPERTIES**

**Project**  
**I 94 & KEATS**  
**AVE N**

**Location**  
**LAKE ELMO,**  
**MN**

**Certification**

**Summary**  
 Approved: KED Drawn: DL

**Revision History**

No.	Date	By	Submittal / Rev.
A	08/15/17	DL	CLIENT COMMENTS

**Sheet Title**  
**BOUNDARY**  
**EXHIBIT**

**Sheet No. Revision**  
**2/2 A**

**Project No.** 20895



www.sambatek.com

12800 Whitewater Drive, Suite 300  
Minnetonka, MN 55343

763.476.6010 telephone  
763.476.8532 facsimile

Engineering | Surveying | Planning | Environmental

**Client**  
**CONTINENTAL**  
**PROPERTIES**

**Project**  
**I 94 & KEATS**  
**AVE N**

**Location**  
**LAKE ELMO,**  
**MN**

**Certification**

**Summary**

Approved: KED Drawn: DL

**Revision History**

No. Date By Submittal / Rev.

A 08/15/17 DL CLIENT COMMENTS

**Sheet Title**  
**BOUNDARY LEGAL**  
**DESCRIPTION**

**Sheet No. Revision**

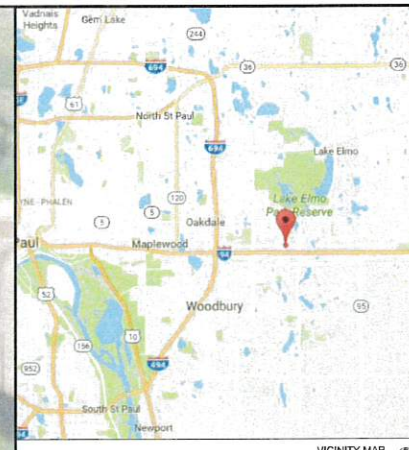
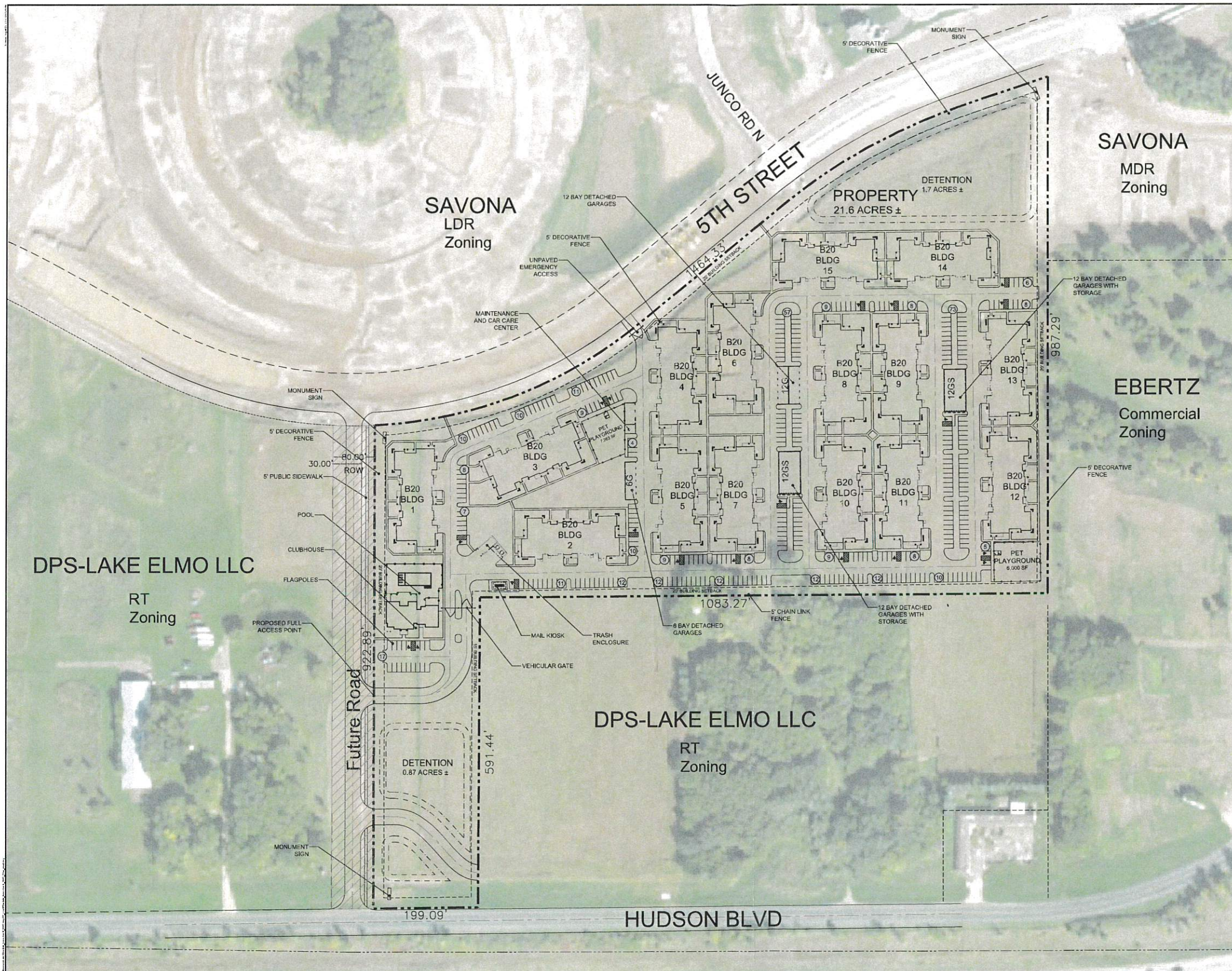
**1/2 A**

**Project No. 20895**

**PARCEL LEGAL DESCRIPTION**

All that part of the West Half of the Southeast Quarter of Section 34, Township 29, Range 21, Washington County, Minnesota, described as follows:

Beginning at the point of intersection of the northerly line of PARCEL 29C, MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 82-43, according to the recorded plat thereof, and a line drawn parallel with and distant 40.00 feet easterly from the westerly line of said West Half of the Southeast Quarter; thence on an assumed bearing of North 00 degrees 06 minutes 31 seconds East, along said parallel line for 922.89 feet to an intersection with the southerly line of that certain PERMANENT PUBLIC STREET EASEMENT per Document No. 4007702, files of the Washington County Recorder; thence northeasterly for 548.27 feet along said southerly line, along a non-tangential curve concave to the northwest, radius 860.00 feet and central angle 36 degrees 31 minutes 38 seconds, the chord of said curve bears North 68 degrees 55 minutes 24 seconds East; thence North 50 degrees 39 minutes 35 seconds East along said southerly line, along tangent to said curve for 356.64 feet; thence northeasterly for 400.88 feet along said southerly line, along a tangential curve concave to the southeast, radius 1103.12 feet and central angle 20 degrees 49 minutes 17 seconds; thence North 71 degrees 28 minutes 52 seconds East along said southerly line along tangent to said curve for 165.33 feet to the westerly line of OUTLOT F, SAVONA, according to the recorded plat thereof; thence South 00 degrees 01 minutes 13 seconds West, along said westerly line and its southerly extension for 988.32 feet; thence South 89 degrees 40 minutes 54 seconds West for 1083.46 feet; thence South 00 degrees 19 minutes 27 seconds West for 591.45 feet to said northerly line of PARCEL 29 C; thence South 89 degrees 18 minutes 27 seconds West, along said northerly line for 199.11 feet to the point of beginning.



**SITE SUMMARY**

MULTIFAMILY AREA	21.60 ACRES
R.O.W DEDICATION	0.00 ACRES
TOTAL ACRES	21.60 ACRES
TOTAL UNIT COUNT	300 UNITS
DENSITY	13.89 UNITS / AC

**BUILDING INFORMATION**

BUILDING CT / TYPE	UNITS	GARAGES
B20 - BUILDINGS (20 DUBLDG)	300	120
F20 - BUILDINGS (24 DUBLDG)	0	0
B12A - BUILDINGS (12 DUBLDG)	0	0
B12B - BUILDINGS (12 DUBLDG)	0	0
TOTAL	300	120

**GENERAL UNIT MIX:**

STUDIO	30	10%
1BR	120	40%
2BR	120	40%
3BR	30	10%
TOTAL	300	100%

**COLOR SCHEME**

COLOR: BEIGE WITH WHITE TRIM AND BRICK

**PALETTE**

A:	COLOR
B:	COLOR

**PARKING INFORMATION**

GARAGE TOTALS	120 GARAGES
NUMBER OF ATTACHED	40.0 %
NUMBER OF STAND ALONE	42 GARAGES
TOTAL GARAGES	162 GARAGES

**OVERALL GARAGES per UNIT** 0.54

**PARKING REQUIRED PER CODE** 520 SPACES

**SURFACE PARKING ADJUT.** 363 SPACES

**TOTAL PROVIDED PARKING:** 525 SPACES (15 ADA)

**UNIT PARKING RATIO** 1.75

**COVERED PARKING RATIO** 0.31

**CLUBHOUSE PARKING** 17 SPACES\* (2 ADA)

**\*NOT INCLUDED IN PARKING CALCS**

**DESIGN CRITERIA / SITE INFORMATION:**

**PARKING STALLS:** Perp - 9' X 18'

**ADA STALLS:** 9' X 18' (IF ACCESSIBLE)

**DRIVES:**

**BUILDING HEIGHT:** 2 STORY

**BUILDING SETBACKS:**

SOUTH	20
WEST	20
NORTH	20
EAST	20

CONTINENTAL

DATE: 08/22/2017

PROJECT: Hudson Blvd 5th Street, MEC

SCALE: 1" = 40'

PROJECT: PD-4



SPRINGS APARTMENTS

LAKE ELMO, MN

**CONTINENTAL**  
PROPERTIES

# MEMORANDUM

# FOCUS ENGINEERING, inc.

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

Date: September 7, 2017

---

To: Emily Becker, Planner Director  
Cc: Chad Isakson, Assistant City Engineer  
From: Jack Griffin, P.E., City Engineer

Re: Springs Apartments (Continental Properties)  
Concept Site Plan Review

---

We have received a Concept Site Plan for a proposed Springs Apartments. The Concept Site Plan submittal consisted of the following documentation received on August 25, 2017:

- Comprehensive Plan Amendment & PUD General Concept Plan Request, dated August 18, 2017.
  - Concept Site Plan dated July 7, 2017, prepared by Continental Properties.
  - Boundary Exhibit dated August 15, 2017, prepared by Sambatek.
- 

Engineering has the following review comments:

## STREETS AND TRANSPORTATION

- 5th Street North Right-of-Way Dedication. The existing collector street to the north of the site (5th Street North) was constructed by Lennar within a permanent roadway easement. This easement area must be dedicated to the City as public right-of-way as part of this development. Per the City design standards for 5th Street, a 10 ft. utility easement corridor along the south side of the 5th Street right-of-way must also be reserved for small utilities.
- Hudson Boulevard Right-of-Way Dedication. Additional right-of-way must be dedicated to the City along Hudson Blvd. A Hudson Blvd typical section needs to be developed by the City to determine the necessary right-of-way width to be dedicated. In addition a 10 ft. utility easement corridor along the north side of Hudson Blvd. must be reserved for small utilities.
- Site Access. The concept plan proposes the construction of a new commercial street connecting Hudson Boulevard and 5th Street North with the proposed apartment property accessing the new street. This is the preferred street and access configuration for the City, rather than creating new access locations along Hudson Blvd or along 5th Street North.
- New Commercial Street Alignment. A new commercial type street is consistent with the City's planning efforts and the proposed street is shown in the approximate location as planned. However there are existing sanitary sewer and watermain utilities located in the corridor. The design for this new commercial street must therefore take into account the existing location of these utilities and must be consistent with City right-of-way and boulevard design standards.
- New Commercial Street Typical Section. The concept plan shows a 30 ft. wide street located in an 80 ft. R/W with a 5 ft. sidewalk located along the east side. The typical section for this street needs to be determined by the City and may require revisions for a wider street and/or right-of-way. In addition, per City design standards, 10 ft. utility easements must be provided along each side of the new R/W.
- Turn Lanes Required. An eastbound right turn lane and westbound left turn lane have been constructed along 5th Street North in preparation of the proposed commercial street. However, an eastbound left

turn lane and westbound right turn lane must be constructed along Hudson Blvd as part of the proposed commercial street intersection with Hudson Blvd.

- **Adjacent Property Access.** A secondary access has been shown for the adjacent property to the southeast. Further review of this access will be needed during the preliminary planning.
- **Emergency Access.** An unpaved emergency access to 5th Street North has been shown. This access should be paved within the City R/W. Further review for the need/design of this access will be needed during the preliminary planning.
- **Perimeter Fence.** A perimeter decorative fence is shown around most of the proposed site. The fence locations should be revised, where necessary, to preserve the City standard 10 ft. utility easement corridors.
- **Intersection Improvements at Junco Road.** It is recommended that provisions be included to complete improvements to the intersection of 5th Street North and Junco Road as part of this project. This road was intended to continue through with future development. The concept plan shows Junco Rd. terminating at 5th Street. Due to this change, minor design and construction revisions will be required at the intersection including the construction of a 5th Street crosswalk with pedestrian ramps and trail connection to connect the sidewalk on Junco Road to the south side trail along 5th Street North.
- **Trail Connectivity.** The City should review the site plan to determine trail connection requirements along Hudson Boulevard and the proposed commercial street. It is recommended that provisions be included to construct a crosswalk with pedestrian ramps across 5th Street North, and connecting trail segment, to connect the Savona trail from the park to the sidewalk/trail for the new commercial street.
- **Private Streets.** The streets interior to the development are proposed to remain privately owned and maintained. Interior street design may require revisions to provide adequate fire lanes and safety access.
- **Traffic Impact Study** should be completed and submitted as part of the preliminary plat application to determine the timing and extent of improvements required for the CSAH 19 and 5<sup>th</sup> Street intersection, and CSAH 19 and Hudson Boulevard intersection; including but not limited to turn lanes and traffic signals. A financial contribution to CSAH 19/Hudson Blvd traffic signal should be considered.

#### MUNICIPAL SANITARY SEWER

- The proposed site is guided in the City's Comprehensive Plan for Phase I of the Regional Sewer Staging Plan and would discharge to the MCEs WONE Interceptor (Woodbury, Oakdale, Northdale and East Oakdale). Sanitary sewer service is therefore readily available to the site.
- The applicant will be responsible to connect to the City sanitary sewer system and extend sanitary sewer into the property at applicant's sole cost. In addition the applicant will be required to stub sanitary sewer mains to adjacent properties (the southeasterly parcel) so that these parcels maintain sewer access.
- The concept plan does not show how sanitary sewer service will be provided. However the applicant has been in contact with staff to understand the sanitary sewer system connection points, capacity and limitations. The subject parcel was projected to contain approximately 145 REC units. The development is proposing 300 REC units.
- To account for the additional REC units the applicant will be required to connect to the existing 10-inch sanitary sewer line that extends north from Hudson Boulevard along the alignment of the proposed commercial street. This could be accomplished either internally as part of the site work or by replacing approximately 250 feet of 8-inch sanitary sewer with 10-inch sanitary sewer.
- **Existing Utility Easements.** The existing sanitary sewer utility easements along Hudson Boulevard and the new commercial street corridor must be shown with the preliminary plan submittal and plan revisions must be made to avoid encroachments/conflicts with these easements.
- Any main sewer lines placed within the development will require minimum 30-foot easements centered over the pipe (or wider dependent upon the sewer depths) dedicated to the City and in the form of the City's Utility Easement Agreement.



#### MUNICIPAL WATER SUPPLY

- The concept plan does not address water supply. However, the applicant will be responsible to extend municipal water into the development at its cost and will be required to construct a looped watermain network internal to the site and with a second City watermain connection point.
- It is assumed that the property will be served by the City's high pressure zone. The watermain is available to be extended to the property from the existing high pressure zone 8-inch watermain along 5th Street North into the site. A second watermain connection should be constructed to the existing high pressure zone 12-inch watermain along the proposed commercial street (presumably near the proposed apartment complex main entrance).
- The applicant will be required to provide watermain stub(s) to the adjacent property to the south. The stub locations would be determined during preliminary planning.
- The existing water system has sufficient capacity for domestic service for the proposed 300 REC units. System capacity is likely adequate for fire suppression as well. However, during preliminary planning the applicant must provide fire flow demands for each building so that staff may verify adequate fire suppression capacity.
- No watermain pipe oversizing is anticipated at this time. Further review will be completed as the application moves forward through the process.
- The applicant will be responsible to place hydrants throughout the property at the direction of the Fire Department. All fire hydrants shall be owned and maintained by the City.
- Any watermain lines and hydrants placed within the development will require minimum 30-foot easements centered over the pipe. Easements must be dedicated to the City and be provided in the City's standard form of easement agreement.

#### 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 (VBWD). A VBWD permit will be required.
- Stormwater facilities will likely need to include both storm water ponds (detention) and infiltration basins. No infiltration basins have been shown on the concept plan. The 100-year high water flood level (HWL) for each basin must be fully contained within private property.
- The storm water facilities constructed for this development should remain privately owned and maintained. The applicant will be required to execute and record a Stormwater Maintenance and Easement Agreement in the City's standard form of agreement.
- Even as privately owned and maintain facilities, maintenance access roads meeting the City engineering design standards should be provided for all storm water facilities.

**Springs Apartments- Neighborhood Meeting**

8/2/2017

5:30pm – 7:30pm

120 households invited, approximately 23 people attended

**Continental Attendees:**

Gwyn Wheeler – Development Director

Caitlin LaJoie – Development Coordinator

Sara Johnson – Senior Development Director

Eric Thom – Vice President of Development Services

**General questions:**

- a) What is the anticipated rental rate for the apartment homes?

Answer: Base rent for the standard units are \$1,000-\$2,000, exclusive of garage options, pet rent, and other optional amenities.

- b) Neighbors are very pleased to see private entrances to each unit. How many bedrooms are provided in the apartment homes?

Answer: 10% studio (30 units), 40% 1 bedroom (120 units), 40% 2 bedrooms (120 units), 10% 3 bedrooms (30 units). Each building has a mix of all unit types.

- c) Neighbors understand the need for multifamily development in Lake Elmo. What happens if Continental has trouble keeping the apartment homes occupied?

Answer: Continental has completed a significant amount of market research on the submarket, and is confident in the demand for rental units. Continental does not anticipate any difficulties during lease up due to the existing demand. Continental's business plan is to develop and manage the property as an asset in their portfolio. It is not the desire of Continental to devalue its assets by lowering the rents.

- d) Neighbors like the idea of a high-end community such as the Springs. What type of interior finishes are provided in the apartment homes?

Answer: Continental developments are considered Class A apartment units. Continental uses high end durable finishes throughout the property. All units will have granite counter tops in the kitchen, upgraded units with granite counters throughout as well as stainless steel appliances.

- e) Neighbors complimented the architecture of the Springs communities and felt it was very compatible with the neighborhood. What type of exterior finishes are planned for the buildings?

Answer: Continental's two-story buildings and direct access units are very similar in scale to the adjacent single family and townhomes. The building elevations provide architectural interest with varying use of architectural accents, a large percentage of windows, and high-quality materials including fiber cement board siding and stone masonry. The buildings create additional architectural appeal with varied roof lines, along with both vertical and horizontal articulation.

- f) Neighbors were impressed with the amenity package offered at the Springs community. What amenities are all included for Springs tenants?

Answer: Continental's gated and fenced apartment community will include a tenant clubhouse with large multi-purpose room for events, a 24-hour fitness facility with garage door for open-air workouts during warmer months, and a resort-style pool and grilling area. Springs communities are pet friendly, and as such, two fenced pet playgrounds are available for tenant use. A car care center and pet spa area are also available to tenants free of charge.

**Conceptual Site Plan discussion:**

- a) The neighbors appreciated the building placement and buffering provided on the site plan. What type of landscaping will be provided in the buffer area?

Answer: In addition to substantially increasing the buffer area provided (code requires 20', Continental is providing 20'- 250' from the buildings to the property line), Continental will provide

high quality landscaping that will meet or exceed the code criteria of the City.

- b) The neighbors were pleased to see a future connection between Hudson Blvd. and 5<sup>th</sup> Street and no resident access onto 5<sup>th</sup> Street. How is the development accessed by residents?

Answer: Continental's development will have one main gated vehicular access point on the future north-south road to be constructed as part of Continental's development. An addition fire access point is likely to be required off 5<sup>th</sup> Street, however, the specific location of that access will need to be coordinated with the City Fire Marshal. Pedestrian access gates will provide connectivity to public sidewalks.

- a) The neighbors liked that the community would be gated and fenced to establish the high quality of the development. What type of fence will be used at the perimeter of the property?

Answer: The fence will be a decorative 4'-5' high wrought iron style black aluminum fence.

**Project Schedule:**

- a) What is the City approval timeline and length of construction?

Answer: Continental expects to submit for city approval in late August for a September Planning Commission meeting and an October City Council meeting. Addition approvals and permit reviews will be necessary which will lead to an estimated Spring 2018 ground breaking. The Clubhouse and 1<sup>st</sup> building would be expected to open in Spring of 2019 with construction to be complete by Spring of 2020.

September 19, 2017

Steven Wensman  
Planning Director, City of Lake Elmo  
3800 Laverne Avenue N.  
Lake Elmo, MN 55042

SUBJECT: CPA17-006 Springs Apartments  
NE Quad of Keats Avenue and I-94  
Lake Elmo, Washington County  
Control Section 8282

Dear Mr. Wensman:

Thank you for the opportunity to review the proposed comprehensive plan amendment for the Springs apartments development. MnDOT's staff has reviewed the document and has the following comments:

***Traffic***

This section of Hudson Blvd has been turned back to the City. If the road section were owned by MnDOT a turn lane for the future road connection would be required. Please consider making the portion of Hudson Blvd consistent with the rest Hudson Rd.

For questions regarding these comments please contact Kaare Festvog at 651-234-7814 or [kaare.festvog@state.mn.us](mailto:kaare.festvog@state.mn.us).

***Noise Control:***

MnDOT's policy is to assist local governments in promoting compatibility between land use and highways. Residential uses located adjacent to highways often result in complaints about traffic noise. Traffic noise from this highway could exceed noise standards established by the Minnesota Pollution Control Agency (MPCA), the U.S. Department of Housing and Urban Development, and the U.S. Department of Transportation.

Minnesota Rule 7030.0030 states that municipalities are responsible for taking all reasonable measures to prevent land use activities listed in the MPCA's Noise Area Classification (NAC) where the establishment of the land use would result in violations of established noise standards.

MnDOT's policy regarding development adjacent to existing highways prohibits the expenditure of highway funds for noise mitigation measures in such areas. The project proposer should assess the noise situation and take the action deemed necessary to minimize the impact of any highway noise.

If you have any questions regarding MnDOT's noise policy please contact Natalie Ries in our Noise/Air Quality section at (651) 234-7681.

***Permit Required***

Any use of or work within or affecting MnDOT right of way requires a permit. Permit forms are available from MnDOT's utility website at <http://www.dot.state.mn.us/metro/maintenance/permits.html>

Please include one to one set of plans formatted to 11X17 with each permit application. Please submit/send all permit applications and 11X17plan sets to: [metropermitapps.dot@state.mn.us](mailto:metropermitapps.dot@state.mn.us).

Please direct any questions regarding permit requirements to Buck Craig (651-234-7911) of MnDOT's Metro Permits Section.

***Review Submittal Options:***

MnDOT's goal is to complete the review of plans within 30 days. Submittals sent electronically can usually be turned around faster. There are four submittal options:

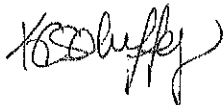
1. One (1) electronic pdf version of the plans. MnDOT accept plans at [metrodevreviews.dot@state.mn.us](mailto:metrodevreviews.dot@state.mn.us) provided that each e-mail is less than 20 megabytes.
2. Three (3) sets of full size plans. Although submitting seven sets of full size plans will expedite the review process. Send plans to:

MnDOT -- Metro District Planning Section  
Development Reviews Coordinator  
1500 West County Road B-2  
Roseville, MN 55113

3. One (1) compact disk.
4. Plans can also be submitted to MnDOT's External FTP Site at: <ftp://ftp2.dot.state.mn.us/pub/incoming/MetroWatersEdge/Planning>. Internet Explorer may not work using FTP so use an FTP Client or your Windows Explorer (My Computer). Notify [metrodevreviews.dot@state.mn.us](mailto:metrodevreviews.dot@state.mn.us) indicating the plans have been submitted on the FTP site.

If you have any questions concerning this review, please contact me at 651-234-7784.

Sincerely,



Karen Scheffing  
MnDOT Principal Planner

**Copy sent via E-Mail:**  
Buck Craig, Permits  
Nancy Jacobson, Design  
Bryce Fossand, Water Resources  
Matt Aguirre, Right-of-Way  
Russ Owen, Metropolitan Council  
Kaare Festvog, Traffic  
Ryan Coddington, Area Engineer  
Natalie Ries, Noise/Air



## **STAFF REPORT**

DATE: 9/25/17

REGULAR

ITEM#: 4B – PUBLIC HEARING

MOTION

**TO:** Planning Commission

**FROM:** Emily Becker, Planning Director

**AGENDA ITEM:** Variance Request from Septic Setback Standards and Expansion of Non-Conforming Structure within the Shoreland District

**REVIEWED BY:** Joan Ziertman, Planning Program Assistant

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### **BACKGROUND:**

The City has received a request from owners/applicants Peter and Adrienne Pavek (Applicant), of 8130 Hill Trail North, to allow installation of a new septic system which does not meet setback standards and expansion of a non-conforming structure within the shoreland district.

### **ISSUE BEFORE COMMISSION:**

The Commission is being asked to hold a public hearing, review and make recommendation on the above mentioned requests.

### **REVIEW/ANALYSIS:**

*Existing Land Use/Zoning:* Single-family detached residential home guided for Rural Single Family / Rural Single Family.

*Surrounding Land Use/Zoning:* Surrounded by single family homes and guided for Rural Single Family / Rural Single Family. Lake Demontreville is to the East.

*History:* The property has long been used as a single-family detached dwelling. The property received a variance in 1999 for expansion of a non-conforming structure which did not meet the minimum setback requirements from the OHWL to allow enclosure of an open porch.

*Deadline for Action:* Application Complete – 8/23/2017  
60 Day Deadline – 10/22/2017  
Extension Letter Mailed – N/A  
120 Day Deadline – N/A

*Applicable Regulations:*

- Article V - Zoning Administration and Enforcement
- Article XVIII – Shoreland Management Overlay District
- Table V, Section 16, Chapter Four of the Washington Development Code

## VARIANCE FROM SEPTIC SETBACK REQUIREMENTS

The applicant is requesting a variance from the minimum setback requirements for a septic system as highlighted below due to the minimal size of the lot.

Standard	Required	Existing	Proposed
Setback from Ordinary High Water Level (OHWL) of Recreational Development (RD) Lake	75 feet	38 feet	50 feet
Drainfield setback from non-occupied structures (garage)	10 feet	Less than 5 feet	6 feet
Drainfield setback from property line	10 feet	3 feet (from south property line) 5 feet (from north property line)	4 feet (from south property line)
Drainfield setback from the shoreland bluffline	20 feet	5 feet	15 feet

**Reason for Variance.** The applicant is proposing a remodel of the existing home, which includes a small square footage addition of frost footings on the northwest corner of the house, the addition of a covered walkway between the garage and the house, adding a screened porch to the west side of the house, and building a second story over the existing foundation. The existing septic system will need to be upgraded in order to allow for this remodel. The applicant has indicated that the existing garage, which was constructed by a previous landowner approximately 13 years ago, limited an alternative location. Additionally, soil borings have indicated that the area to the west of the home along Hill Trail will not support a system due to compacted silty loam and sand layer causing standing water in the soil profile.

The current system was installed around 1981 and has a drainfield in approximately the same location but is 12 feet closer to the lake than the proposed drainfield and only five feet from the bluff line at the closest point. All neighboring wells are located more than 100 feet from the proposed treatment area. The proposed Multi-Flo septic system includes an aerobic tank which filters over 95% of the normal sewage contaminants prior to the wastewater being pumped to the drainfield. The applicant has indicated that the system will be serviced two times a year with reports being sent to the homeowner, City, Minnesota Pollution Control Agency, and Multi-Flo yearly. Currently, Chapter 4 of the Washington County Development Code requires that sewage tanks be pumped or inspected by a licensed septic pumper, or inspected by a state-certified septic inspector every two years and that a pumping report be submitted to the permitting authority by the pumper or inspector. However, Section 51.003: Exceptions to County Ordinance of the Subsurface Sewage Treatment Systems Chapter of the Lake Elmo Municipal Code, lists this requirement as an exception to the adoption of the County's Code. Staff recommends that it be a condition of approval that the applicant at least adhere to the requirements of Chapter 4 of the Washington County Development Code in this case



due to the non-conformance of required setback from the OHWL. Additionally, it is a recommended condition of approval that the existing tanks be abandoned, pumped and filled with soil and that a tank abandonment report be completed.

**Review by Washington County Department of Public Health and Environment.** Washington County Department of Health and Environment has reviewed the proposed variance request and has not provided feedback by the time this report was written. However, Staff from this department have been consulted during the design process and have visited the site to observe pits being dug in the proposed drain field area.

**Review by Minnesota Department of Natural Resources (MNDNR).** The application was sent to the MNDNR. At the time of writing this report, Staff has not yet received comments back from the MNDNR.

### VARIANCE TO ALLOW EXPANSION OF NON-CONFORMING STRUCTURE

**Reason for Variance.** As previously mentioned, the applicant is proposing a remodel of the existing home, which includes a small square footage addition of frost footings on the northwest corner of the house, the addition of a covered walkway between the garage and the house, adding a screened porch to the west side of the house, and building a second story over the existing foundation (not to exceed the maximum height of 35 feet). The home is non-conforming in that:

- It does not meet the required setback from the OHWL of 100 feet from Lake Demontreville (a Recreational Development Lake) as required by 154.800: Shoreland Management Overlay District of the Zoning Code.
- It is located on an existing lot which does not meet the minimum lot size required for the Rural Single Family zoning district. The minimum size required for this zoning district is 1.5 acres. There is a provision that allows an existing lot or parcel which was of record prior to the effective date of the applicable zoning standard to be used as a single-family detached dwelling provided the area and the width are within 60% of the minimum requirements of the chapter, provided all setback requirements are maintained. However, the subject parcel does not meet this requirement, as the parcel is not 60% (0.9 acres) of 1.5 acres; it is 0.38 acres.

**Setback Averaging.** There is a provision with the Shoreland Management Overlay District Section of the Zoning Code that states that where structures exist on the adjoining lots on *both* sides of a proposed building that structure setbacks may be altered without a variance to conform to the adjoining setbacks from the OHWL. This provision does not apply in this case however, because the home to the northwest of the subject property is setback much further from the OHWL (approximately 77 feet) than the subject property (48.4 feet).

**Reduced Impervious Surface.** The applicant is proposing to remove the existing 2,340 square foot gravel driveway and replace it with a new 1,847 square foot driveway and use pervious pavers for the sidewalk connecting the driveway to the proposed covered walkway between the house and garage, thereby reducing the impervious surface from 27% to 25%.

**Review by Minnesota Department of Natural Resources (MNDNR).** The application was sent to the MNDNR. At the time of writing this report, Staff has not yet received comments back from the MNDNR. In the past, the MNDNR has recommended that if such a variance is granted, that the City include the condition that the impervious surface created by the further encroachment of the

structure within the required setback from the OHWL be mitigated. With a very similar request, the MNDNR has specifically recommended that the condition be that the Applicant direct rain gutter discharges into a rain garden (infiltration basin designed to capture and infiltrate runoff). However, because the Applicant is actually reducing the impervious surface on the lot, Staff does not recommend that this condition be added. This condition has been recommended by Staff in previous variance requests due to MNDNR recommendation, but that was because the impervious surface was increased. The Planning Commission has recommended in the past that the applicant either install the rain garden or install pervious pavers as a form of mitigation, but Council has not adopted this condition. Staff has recommended adding conditions of approval that the applicant remove the existing gravel driveway and re-sod the area and that the maximum allowable impervious surface on the property shall not exceed 25%.

**Recommended Findings.** An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicant's request.

- 1) **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

**FINDINGS:**

- **Septic Variance:** *The applicant is proposing to expand an existing home and needs to upgrade the septic system in order to do so. The small size of the lot makes it difficult to find other viable septic sites. Soil borings determined that no other sites throughout the property would be acceptable.*
- **Expansion of Non-Conforming Structure:** *The size of the lot and the required setbacks for the septic system and wells create difficulties in determining an area for expansion of the existing home. A great majority of the proposed addition to the home will be adding a second story, which does not increase the non-conformity. Only the addition of a covered walkway, entry roof, and small expansion to match an already existing width of the house is being proposed within the required setback from the Ordinary High Water Level.*

- 2) **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

**FINDINGS:**

- **Septic Variance:** *The property was platted and the house was constructed long before current minimum lot size and shoreland standards, and so there are no other options for location of an upgraded septic system. A garage was constructed about 13 years ago by a previous landowner that significantly limited alternative options for a septic location.*
- **Expansion of Non-Conforming Structure:** *The property was platted and the house was constructed long before current minimum lot size and shoreland standards. The addition of a garage by a previous landowner about 13 years ago severely limited options to expand the*

*home elsewhere on the property. The majority of the proposed addition to the home will be on the second story and will in no way limit secondary septic drainfield options, as soil borings have determined the proposed locations of the additions are not suitable for septic area.*

- 3) **Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

***FINDINGS:***

- **Septic Variance:** *The location of the septic system will not alter the character of the neighborhood, as it will have no visual impact. The current system was installed in 1981, and the new system will be less impactful to the lake, as 95% of contaminants will be removed before entering the drainfield.*
- **Expansion of Non-Conforming Structure:** *The house is currently smaller than surrounding homes, and so the expansion of the home will in fact cause the home to conform closer to the essential character of the locality.*

- 4) **Adjacent Properties and Traffic.** The proposed variance will not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

***FINDINGS.***

- **Septic Variance:** *The property owners to the south to whose property line the septic drainfield is proposed to be located closer than the required minimum distance of ten feet have indicated that they have no issue with the proposed setback of four feet. The proposed septic system will be less impactful to the lake and surrounding properties than the current system.*
- **Expansion of Non-Conforming Structure:** *The proposed addition will not encroach further to the required setback from the Ordinary High Water Level, thus not impairing views of the lake. Surrounding homes appear to be larger than the subject property, and so supply of air and light will not be affected with the addition.*

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**FISCAL IMPACT:**

The proposed variance is not expected to have fiscal impact to the City.

**OPTIONS:**

The Commission may:

- Recommend approval of the proposed variance, subject to recommended conditions of approval.
- Amend recommended conditions of approval and recommend approval of the variances, subject to amended conditions of approval.
- Recommend approval of only the proposed septic variance, subject to recommended or amended conditions of approval.
- Move to recommend denial of both proposed variances, citing findings of fact for denial.

**RECOMMENDATION:**

**Staff recommends that the Planning Commission recommend approval of the request from Peter and Adrienne Pavek for a variance from the required setbacks for a septic system, subject to the following conditions:**

- 1) The proposed sewage tank shall be serviced or inspected by a licensed septic pumper, or inspected by a state-certified septic inspector at least every 2 years. A pumping and/or inspection report shall be submitted to the City.
- 2) The existing tanks shall be abandoned, pumped and filled with soil. A tank abandonment report shall be completed.

*“Move to recommend approval of the request from Peter and Adrienne Pavek for a variance from the required setbacks for a septic system from property lines, shoreland bluffline, Ordinary High Water Level, and non-occupied structure, subject to recommended conditions of approval.”*

**Staff also recommends that the Planning Commission recommend approval of a variance to allow expansion of a non-conforming structure not meeting the required setback from the Ordinary High Water Level as required by the Shoreland Management Overlay District Article or the minimum lot size for a single family detached dwelling as required by the Rural Districts Article of the Zoning Code, subject to the following conditions:**

**Conditions:**

- 1) That the applicant remove the existing gravel driveway and re-sod the area as shown on the proposed site plan.
- 2) That the maximum allowable impervious surface coverage on the property shall not exceed the proposed 25%.

*“Move to recommend approval of the request from Peter and Adrienne Pavek for a variance to allow expansion of a non-conforming structure not meeting the required setback from the Ordinary High Water Level or minimum lot size required within the Rural Single Family zoning district, subject to recommended conditions of approval.”*

**ATTACHMENTS:**

- 1) Application and narrative
- 2) SP Testing narrative
- 3) Existing and proposed site plan
- 4) Architectural drawings
- 5) Neighbor letters of support

**ORDER OF BUSINESS:**

- Introduction .....Planning Staff
- Report by Staff .....Planning Staff
- 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  Wireless Communications

Applicant: Peter and Adrienne Pavak  
Address: 8130 Hill Trail N  
Phone # 612.221.1425  
Email Address: pete.pavak@gmail.com

Fee Owner: same  
Address: \_\_\_\_\_  
Phone # \_\_\_\_\_  
Email Address: \_\_\_\_\_

Property Location (Address): 8130 Hill Trail N, Lake Elmo 56042  
(Complete (long) Legal Description): Lane's Demontreville Country Club Lot 614 SubdivisionCd 37445 Lots 524 thru 627 & Lots 612 thru 615  
PID#: 0902921220007

Detailed Reason for Request: Home owners are looking to remodel home in a way that will bring the home up to the standard of the surrounding properties. The current septic system will not pass compliance standards and requires upgrading. The new septic design requires variances. See the Land use Application Information document for details

\*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:  
The small lot size makes finding a suitable place for the septic system a challenge. See the Land use Application Information document for details

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: Adrienne Pavak Date: 8/22/2017  
Pavak 8/21/2017

Signature of fee owner: Adrienne Pavak Date: 8/22/2017  
Adrienne 8/22/2017

Land Use Application Information

8130 Hill Trail N, Lake Elmo

Prepared by Peter and Adrienne Pavsek

- A) **List of all property owners:** Peter Pavsek married to Adrienne Pavsek involved as owner applicants
- B) **Legal Description:** LANE'S DEMONTREVILLE COUNTRY CLUB Lot 614 SubdivisionCd 37445 LOTS 524 THRU 527& LOTS 612 THRU 615  
**Parcel ID:#** 0902921220007  
**Parcel size:** .38 acres / 16757 sq ft  
**Existing use of land:** Single family /owner occupied  
**Current zoning:** 100 Residential
- C) **Code seeking variance from:**  
 Table V of Section 16: Treatment and Dispersal of Chapter Four: Subsurface Sewage Treatment System Regulations of the Washington County Development Code –Requires the Soil Treatment and Dispersal Area be setback; 75 feet from a Recreational Development Lake, 20 feet from a Shoreland Bluffline, 10 feet from property lines, and 20 feet from occupied buildings and buildings with basements or crawlspaces.

**Table V – Minimum Setback Distances (Feet)**

Feature	Sewage Tank	Soil Treatment and Dispersal Area
Water supply wells less than 50 feet deep and not encountering at least 10 feet of impervious material	50	100
Any other water supply well or buried suction pipe	50	50
Buried pipe distributing water under pressure	10	10
Occupied buildings and buildings with basements or crawl spaces	10	20
Non-occupied structures	5	10
Property lines	10	10
Above ground and in-ground swimming pools	10	10
<b>The Ordinary High Water Mark of:</b>		
Natural Environment Lakes and Streams	150	150
Recreational Development Lakes and Streams	75	75
General Development Lakes and Streams	75	75
All unclassified waters	75	75
St. Croix River-Rural Districts	150	150
St. Croix River-Urban Districts	100	100
<b>Blufflines:</b>		
St. Croix River Blufflines	40	40
Shoreland Blufflines	20	20

Shoreland Ordinance 154.800 (C) (1) Table 17-3 – requires that a Unswered Structure have a minimum setback from the OHWL of 100 feet and as indicated by 154.800 (C) (12) (b) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this ordinance. Any deviation from these requirements must be authorized by a variance.

- D) **Description of Proposal:** A variance is needed to upgrade the existing septic system to allow a remodel of the existing home which includes; a small square footage addition of frost footings on the Northwest corner of the house, the addition of a covered walkway between the garage and the house, adding a screened porch to the West side of the house, and building a 2<sup>nd</sup> story over the existing foundation. See existing and proposed site plans. Note that a new Well is also part of the plan and incorporated into the Septic Plan.

The drain field for the proposed Septic System would be; 6 ft from the slab on grade garage (10 ft required by code), 4 ft from the South Property Line (10ft required by code), 50 ft from Lake Demontreville OHWL (75 ft required by code) and 15 ft from the bluff line (20 required by code). See "Septic Plan".

The addition of the frost footing on the North side of the house and the covered walkway on the South side between the garage and the house is being included in the variance request as they fall within the 100 ft set back from the OHWL of Lake Demontreville and increases the existing non-conformance. The 24x6 ft frost footing addition begins at 78ft from the OHWL, matching the width of the existing structure which ends at 102 ft from the OHWL. **These two additions are outside of the setback established by averaging the distance between the two adjacent structures.** See existing and proposed site plans and "Set Back by Ave Adjacent Structure" satellite photo.

- E) Prior to submission of the application owners met with Planning Director (Stephen Wensman) in late 2015 to learn what would be required to initiate a remodel of the property and what requirements and codes would need to be observed. Due to the small size of the lot and that the current septic would not meet set back requirements owners met with Peter Ganzel on 1/15/2016 from Washington County to begin to understand how to best meet the septic requirements on the small lot. S-P Testing Inc was employed to design a septic system for the site. Chris W LeClair from Washington County was consulted by S-P Testing during the design process and he was on-site on 4/10/2017 to observe pits being dug in proposed drain field area. City Planner (Emily Becker) reviewed briefly the proposed septic and remodel plan on 6/5/2017, advised on the the process to apply for variance and supplied the Land Use Application packet.

- F) **Practical difficulties Explained:**

**Septic** - Due to the small size of the lot there is very limited space for placing a new septic system. All other viable sites for the septic drain field were considered by the septic designer through soil borings and none were found acceptable as detailed in the attached septic design.

**Addition**- The size of the lot with the setbacks required for the septic system and wells make adding additional space challenging. The existing home is essentially all inside the 100ft setback from the lake. The proposed addition would widen the street side of the house (furthest from the lake) to match the width of the house closer to the lake. A portion of the addition would go over existing foundation which is the current well room located under the existing front entry

deck. The covered walkway is designed minimally to allow a "connection" between the house and garage. The small lot size and the location of the garage, (also with 100 ft of the OHWL) built by a previous owner, and approved by the city, greatly limits options. Almost all existing homes on the street are with-in, and several have been recently built with-in, the 100 foot setback to the OHWL. The approval of the variance to increase the structures non-conformity would allow us to maximize the development of the lot without having a negative impact on future septic, impervious surface %, and neighbor's rights to enjoy the lakes.

- G) **Unique Circumstances: Septic** -The non-conforming lot has limited space for a septic drain field. The garage which was added to the site about 13 years ago by the previous owner further limits septic drain field options. Ideally the garage site would have been chosen more carefully to integrate with the house and not reduce options for the septic system.

**Addition – 96%** of the existing structure is within the 100 foot setback requirement ensuring any addition to the current structure will require a variance. The garage, also inside the 100 ft setback, which was added by an earlier homeowner and approved by the city severely limits the opportunity to add additional square footage to the home without further limiting septic / drain field options. The neighbor's property to the South begins at about 45 ft from the OHWL, and the home to the North begins at about 77 ft from the property line, the average of these structures is ~61 ft from the OHWL. This proposed frost footing addition starts at 78 ft from the OHWL and extends further from the lake. The Covered walkway is also about 77ft from the lake. Both additions are well behind the setback set established by the two adjacent structures. See satellite picture with line drawn between the two adjacent structures.

The current structure is very narrow (20ft) and the small additional square footage addition will allow current homeowners to create usable space on the main floor and build up without in any way limiting Secondary Septic Drain field options and keeping impervious surfaces to a minimum. Approval of the request would permit homeowners to construct a home on the property reasonably consistent in size and character with other homes in the vicinity.

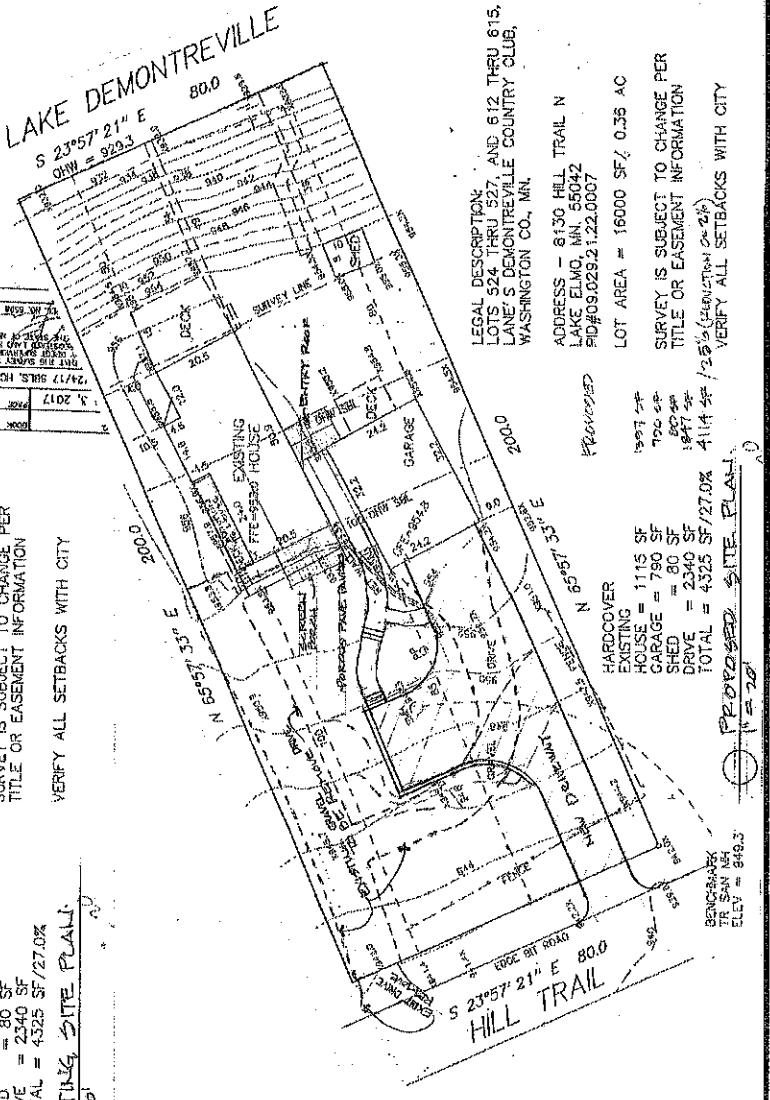
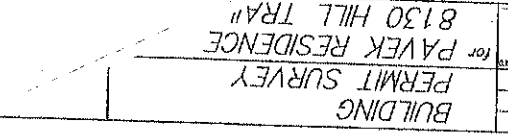
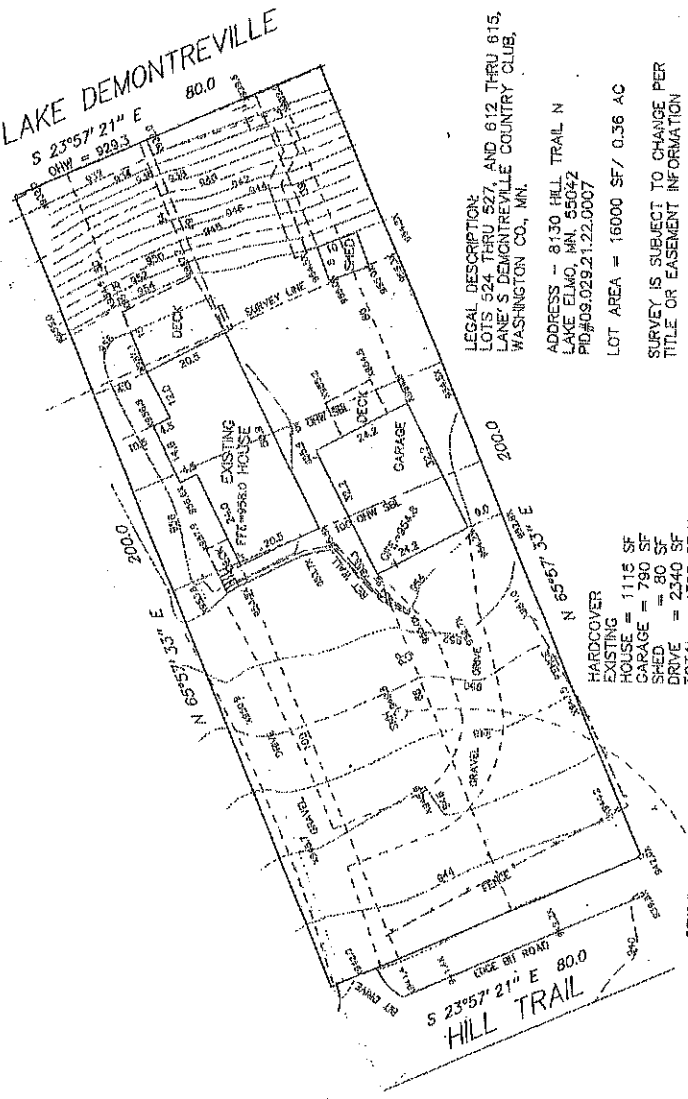
- H) **Septic** -Granting the variance for the septic system will only serve to protect Lake Demontreville from any future pollution. The current system which was installed in ~1981 has a drain field in the same relative location but it is 12 feet closer to the lake than the proposed drain field and only 5 ft from the bluff line at the closest point. The existing system is also about 5 ft from the North property line and 3 ft from the South property line. The Septic Drain field proposed in this variance is further from the lake and further from the North property line. The Property to the South has its drain field on the same side, and owners of the property have no issue with the proposed set back of 4 ft (see attached letter, signed by property owner). The Proposed Multi-Flo Septic system includes an aerobic tank and filtering prior to the waste water being pumped to the drain field. Over 95% of the normal sewage contaminants are removed by the Multi-Flo system prior to the drain field. The system will be serviced 2x per year with reports being sent to the homeowner, city, MPCA, and Multi-Flo yearly. The proposed system is a dramatic upgrade to the existing system and ensure protection of the lake from any pollution from the sites sewage. Please see septic plan for additional details.



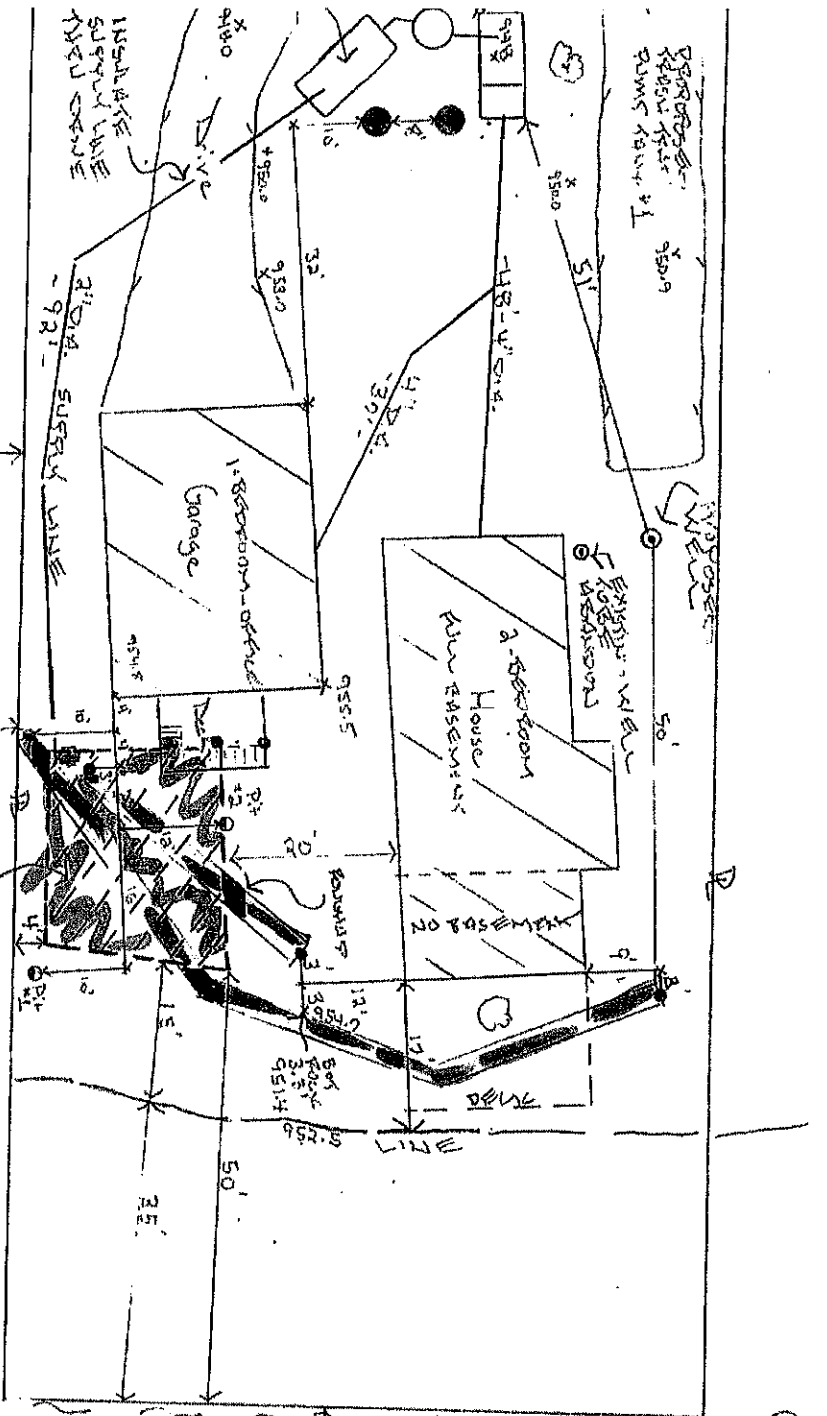
**Addition-** Overall, the proposed plan will decrease the total impervious surface of the lot when compared to the existing condition. The additional square footage in the NW corner of the home will allow the homeowners to remodel in a way that will bring the home up to the standards of the neighborhood. The Covered Walkway will allow owners to semi-connect to the existing garage and create a main entrance to the Home which functions well with a long narrow home without having to widen the home further. The existing house stands out as being below the high standards as set by neighbors. Of the 7 homes on Lake Demontreville to the South of the property and the 11 homes immediately North; all are within 100 feet of the lake, most well with-in 75 ft. The proposed additions requested in this variance are further back from the setback created by the line drawn between the two adjacent structures. The addition will not in any way reduce any other home owner's enjoyment of the lake. Approval of the request would permit homeowners to construct a home on the property reasonably consistent in size and character with other homes in the vicinity. We have consulted with neighboring home owners regarding our request and have not encounter any opposition to our proposal. Approval of the request would not conflict with any other aspect of the Lake Elmo's Zoning Ordinance to our knowledge.

Thank you

Peter and Adrienne Pavak



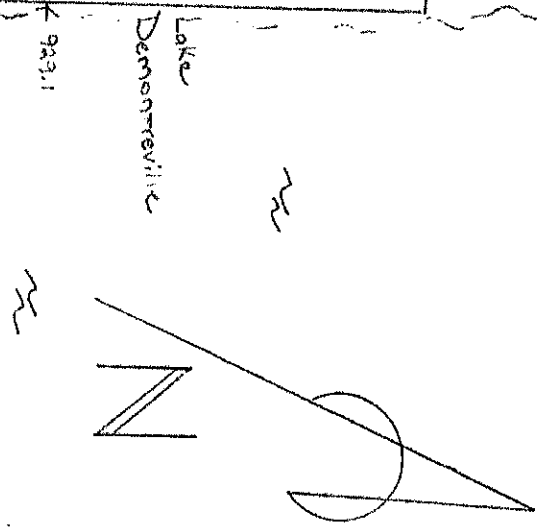
PROPOSED SITE PLAN  
 1" = 20'



\* PROPERTY'S EXISTING  
TRENCHES A MIN OF 3.0'  
BACK FROM SEPARATE BOSS

\* KEEP ALL HEAVY CONCRETES  
OFF OF TRENCH AREAS

**Proposed Drainfield**  
**Existing Drainfield**



- ⊙ Penetration Tests
- ⊙ Soil Borings
- ⊙ Bench Mark

Note: This system is to be constructed to meet  
the Minnesota Pollution Control Agency  
Chapter 7080 & Local Ordinance

Check all underground utilities

PROPERTY OF REXER PAVEN

8130 HILKELAN RD.  
WISCONSIN 530 00.

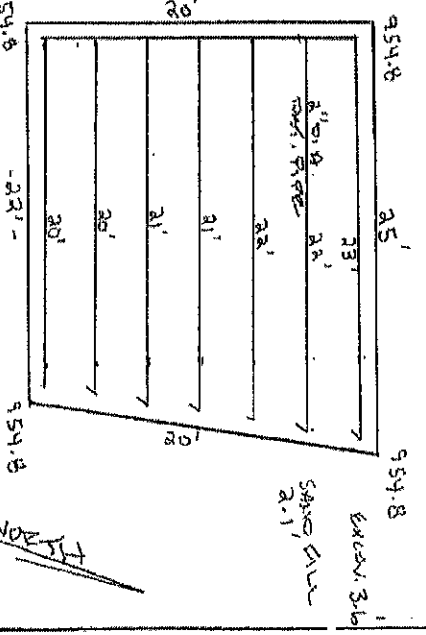
S-PESTING INC.  
Designed By: [Signature]  
PH 763-497-3566

MULTI-FLO 600 gal  
 OIL TANKS - 8" dia  
 TOTAL HEIGHT - 8'6"  
 LEAKAGE TO ADJACENT INVERT - 18"  
 LEAKAGE TO ADJACENT INVERT - 18"  
 EXHAUSTION DUCT - 24" dia  
 SUBSTITUTABLE HEIGHT - 35' (2) lbs  
 INVERT INVERT - 58'  
 ADJACENT INVERT - 56'

SET-BACKS  
 System must be:  
 Tank 1/2" from property lines  
 50' from wells  
 10' from bldgs.

DISCREPANCY  
 149 units of 2" above ground  
 PIPE WITH 1/4" DIA. PERFORATED  
 3/4" DIA. (50 PERFORATED HOLES)  
 \* EXHAUSTION - 450 sq ft x 3.6  
 + 20' = 60 cu ft x 3.6  
 \* WASH TANK 54" dia x 45" x 2.1' + 20'  
 = 35 x 1.2 = 42 cu ft x 3.6  
 \* 4050 gal x 2.54 sq ft x 1.0 1.2  
 = 28 cu ft x 1.2 = 34 cu ft x 3.6

PLAN VIEW

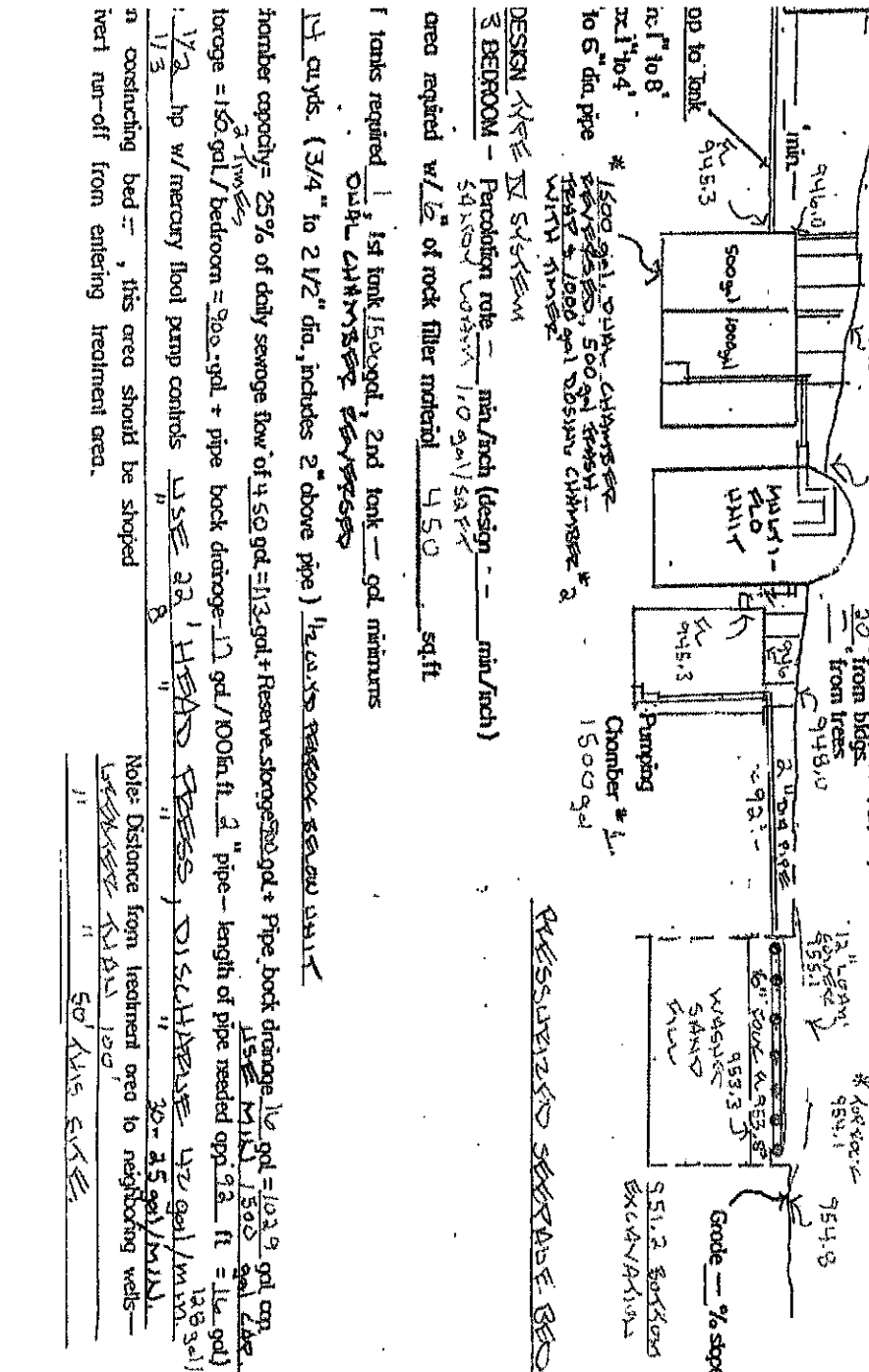


SOIL BORING ELEVATIONS

TH#	EL.	DEPTH	REMARKS
TH#1	EL. - 954.8	4.5'	2025' x 1.5' x 5' m
TH#2	EL. - 954.8	4.5'	950.3
TH#3	EL. -		
TH#4	EL. -		
TH#5	EL. -		

ELEVATION of PROPOSED PUMPING CHAMBER - 948.0 (ground level)

REMARKS: 1st EXHAUSTION TANK - 949.2  
 2nd EXHAUSTION TANK - 949.3  
 3rd EXHAUSTION TANK - 949.3  
 4th EXHAUSTION TANK - 949.2



DESIGN PER SYSTEM  
 3 BEDROOM - Percolation rate - min/ftch (design) - min/ftch)  
 area required w/ 1/2" of rock filler material 450 sq. ft  
 Tanks required 1st tank 15,000 gal, 2nd tank - gal minimum  
 1st tank (3/4" to 2 1/2" dia, includes 2" above pipe) 1/2" above tank  
 number capacity = 25% of daily sewage flow of 450 gal = 113 gal + Reserve storage 20 gal + Pipe back drainage 10 gal = 143 gal cap.  
 storage = 150 gal / bedroom = 90 gal + pipe back drainage - 13 gal / 100 ft dia 2" pipe - length of pipe needed approx 98 ft = 16 gal  
 1/2 hp w/ mercury float pump controls USE 22' HEAD PRESS, DISCHARGE 472 gal/min. 128 gal  
 1/3 hp w/ mercury float pump controls USE 22' HEAD PRESS, DISCHARGE 472 gal/min. 128 gal  
 a constructing bed - this area should be sloped  
 invert run-off from entering treatment area.

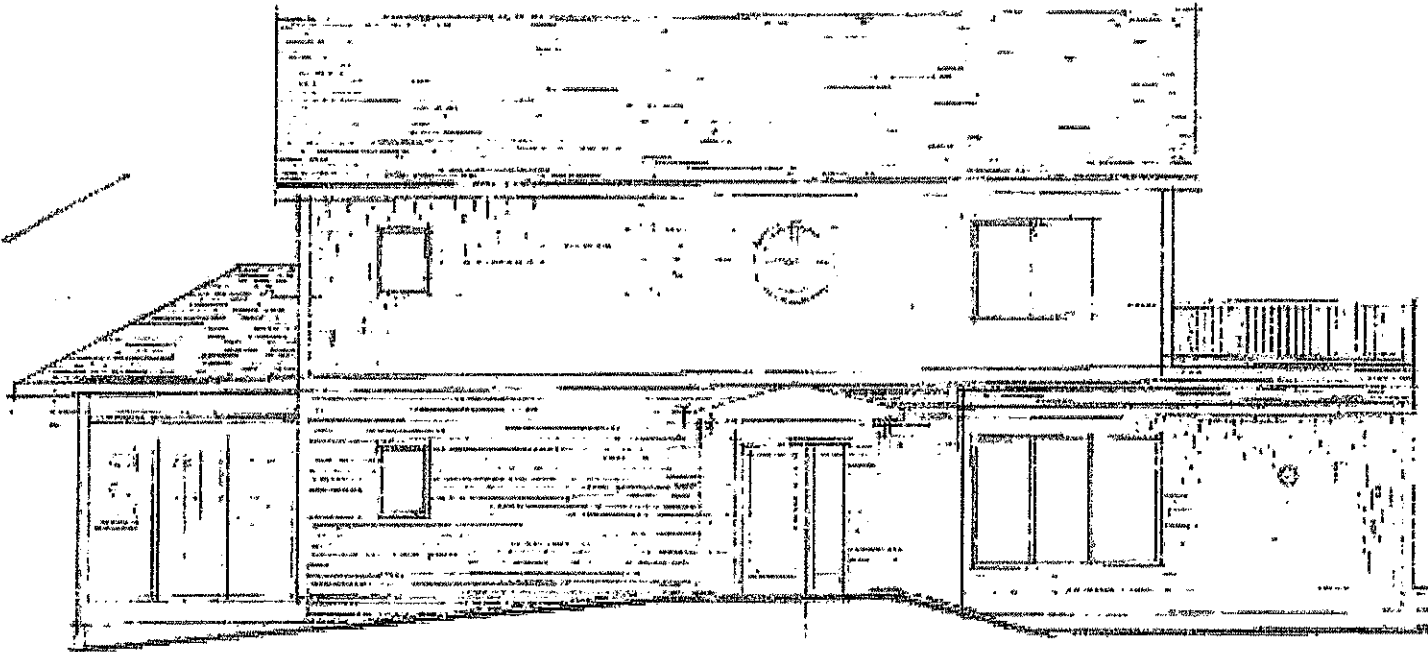
PROPERTY OF: PERKINS SAWYER  
 B30 HULLMAN RD.  
 WASHINGTON MO.  
 WASHINGTON MO.  
 S-P TESTING INC.  
 Designed By: [Signature]  
 Date: 5/10/77, PH. 763-497-3566

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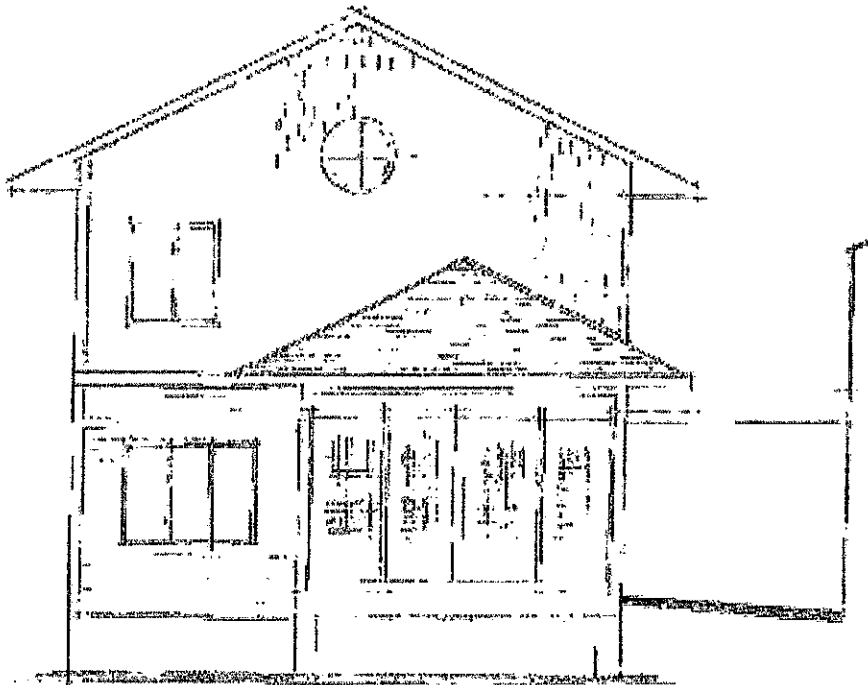
© 2011



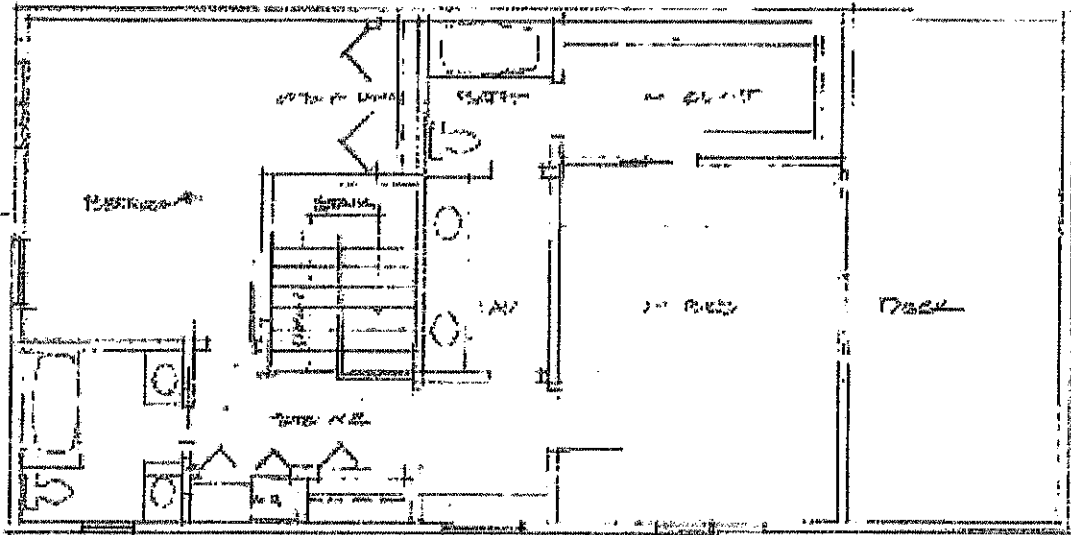
© 2011

© 2011

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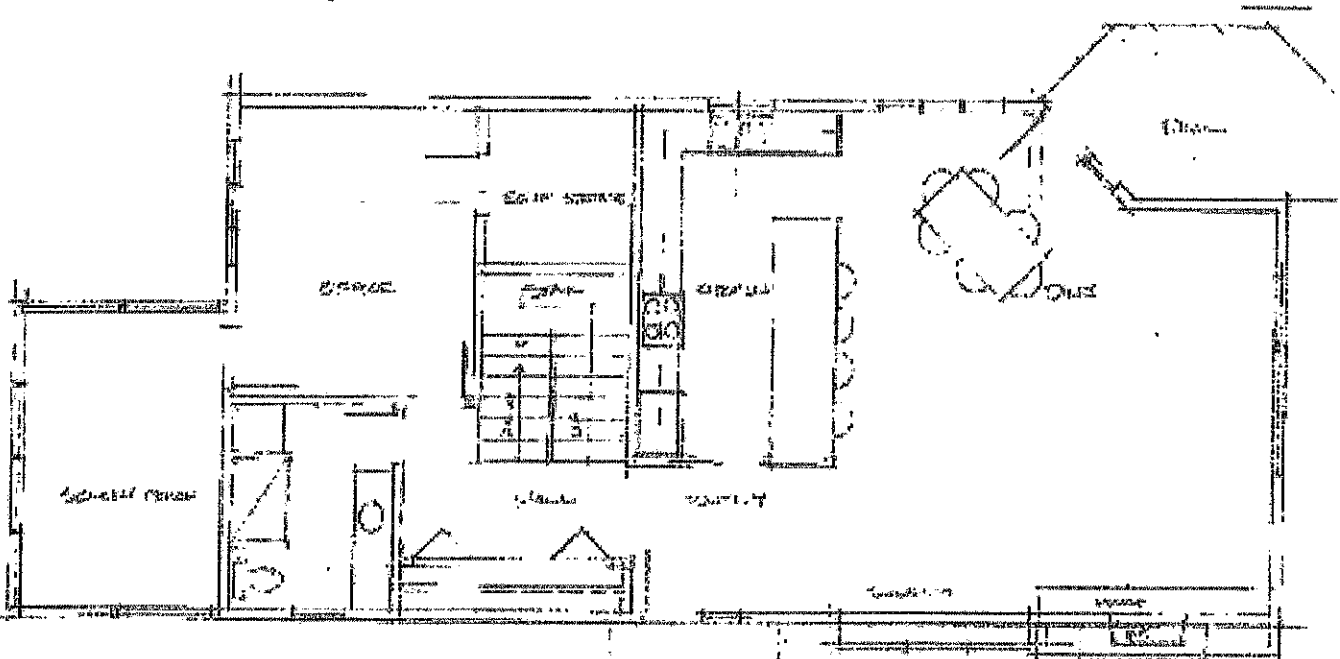
© 2011



SECOND LEVEL PLAN  
12-21-17

FINISHES SEE...  
RUST ARCHITECTS & ASSOCIATES, P.A.

2017



MAIN LEVEL PLAN  
12-21-17

FINISHES SEE...

RUST ARCHITECTS & ASSOCIATES, P.A.

2017

**\*NOTE\***

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Rust Architects, P.A.



AUG 11 2017

**From:** [Gayle Dworak](#)  
**To:** [Emily Becker](#)  
**Subject:** Variances for Peter and Adrienne Pavek  
**Date:** Sunday, September 17, 2017 7:04:26 AM

---

We strongly support the variance requests of Peter and Adrienne Pavek. Their requests are reasonable and necessary to allow them to remodel their existing home. If granted, not only will their newly remodeled home enhance our street, and the entire neighborhood, it will also add additional tax revenue to the City of Lake Elmo. We respectfully request that you grant them their variances.

Dean and Gayle Dworak

Sent from my iPad

Dear Jim and Melissa Fazzino,

8148 Hill Trail N

We are writing to you to communicate our plan to seek a Variance from the City of Lake Elmo for a proposed Septic Design which would allow us to proceed with our plans to re-model our home.

The drain field for the proposed septic system would be; 6 ft from our slab on grade garage (10 ft required by code), **4 ft from your Property Line (10ft required by code)**, 50 ft from Lake Demontreville OHWL (75 ft required by code) and 15 ft from the bluff line (20 required by code).

The current system was installed in about 1981 and while not failing is reaching the end of its expected life-span. The existing system has a drain field in the same relative location but it is 12 feet closer to the lake than the proposed drain field and only 5 ft from the bluff line at the closest point. The existing system is also about 5 ft from the North property line and 3 ft from **your** property line. Please see an attached drawing of the proposed septic and drain field which also depicts the existing drain field. Note that the new (*Multi-flo*) septic system will include aerobic filtering tanks prior to the drain field which eliminates over 95% of the normal sewage contaminants.

Our remodel plan also includes a variance to the 100 foot set back from Lake Demontreville. We intend to add a covered walkway between the garage and the house, and widen the street side of the house by about 6 ft to match the existing width and then build up on the new foundation and existing foundation. Note that the vertical addition does not include the 12 feet of the existing home closest to the lake which is supported by pier footings and not on a foundation. I have also attached some plan drawings to assist in communicating the plan.

Please respond with any concern you might have to the proposed plan and we will do our best to address them.


We look forward to your reply.

Thanks

Peter and Adrienne

8130 Hill Trail N

After Looking at the project it is abundantly clear that this plan is not only viable but contributes in meaningful ways to Lake Elmo of WASHINGTON COUNTY.

  
8/17/2017





**STAFF REPORT**

DATE: 9/25/17

REGULAR

ITEM#: 4C – PUBLIC HEARING

MOTION

**TO:** Planning Commission

**FROM:** Emily Becker, Planning Director

**AGENDA ITEM:** Front Yard Setback Variance from Rural Single Family Zoning District Standards

**REVIEWED BY:** Joan Ziertman, Planning Program Assistant

---

**BACKGROUND:**

The City has received a request from Ben Ostarello for a variance from the minimum front setback standards for the Rural Single Family zoning district in order to add an additional stall to an existing attached garage on the property located at 8323 Deer Pond Trail North.

**ISSUE BEFORE COMMISSION:**

The Commission is being asked to hold a public hearing, review and make recommendation on the above mentioned request.

**REQUEST DETAILS/ANALYSIS:**

*Existing Land Use/Zoning:* Single-family detached residential home guided for Rural Single Family / Rural Single Family.

*Surrounding Land Use/Zoning:* Surrounded by single family homes and guided for Rural Single Family / Rural Single Family.

*History:* The property has long been used as a single-family detached dwelling.

*Deadline for Action:* Application Complete – 8/28/2017  
60 Day Deadline – 10/27/2017  
Extension Letter Mailed – N/A  
120 Day Deadline – N/A

*Applicable Regulations:*

- Article V - Zoning Administration and Enforcement
- Article IX – Rural Districts

**Variance Request.** The applicant is requesting a setback from the minimum front property line setback required within the Rural Single Family (RS) Zoning District. Per Section 154.033 (D) of the Zoning Code, the RS district requires a minimum 30 foot setback from the property line.

**Reason for Request.** The reason for the request is to construct a third stall addition on to the existing two stall garage. The encroachment in to the front yard setback would be 8'6". The applicant's home was built in 1973, prior to the existence of current zoning standards and is sited at an angle. Any garage addition that would not require a variance from the front setback standards would drastically change the look of the existing property as well as significantly increase the amount of impervious surface on the site.

**All other standards of the Zoning Code are met.** The proposed impervious surface is 11.5%, which is under the 15% maximum allowed impervious surface in the shoreland district. Additionally, the garage is not larger than the footprint of the principal structure, as required by Section 154.406. Further, the Rural District code does not prohibit attached garages from being nearer the front lot line than the principal structure; this standard only applies to detached structures.

#### **REVIEW AND ANALYSIS:**

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicant's request.

- 1) **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

***FINDINGS:** The house, which was built prior to current zoning standards, is unique in that the house is sited at an angle, whereas surrounding the faces of garages of surrounding houses are perpendicular to the street. Had the face of the garage been perpendicular to the street, an addition to the garage could have been constructed without the need for a variance. It is not proposed that the principal structure expand in to the front setback, only a portion of the attached garage.*

- 2) **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

***FINDINGS:** The house was constructed prior to current zoning standards and is sited at an angle, requiring any expansion of the existing garage to require a variance from the minimum front yard setback requirements.*

- 3) **Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

***FINDINGS:** The proposed variance will allow an expansion of an existing garage, only requiring a minor alteration to the existing structure, as opposed to requiring construction of an entirely new garage. One of two trees will require removal, but the remaining pine tree provides some screening from the garage. The design and color of the exterior building materials of the addition are similar or compatible with the existing garage and principal building.*

- 4) **Adjacent Properties and Traffic.** The proposed variance will not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

*FINDINGS. The proposed variance will not impair an adequate supply of light and air to properties adjacent to the subject property, increase congestion of public streets or substantially diminish or impair property values within the neighborhood.*

**FISCAL IMPACT:**

Staff has not found that the proposed variance will have any fiscal impact to the City.

**OPTIONS:**

The Planning Commission may:

- Recommend approval of the proposed variance.
- Recommend approval of the proposed variance with recommended conditions.
- Recommend denial of the variance, citing recommended findings of fact for denial.

**RECOMMENDATION:**

Staff recommends that the Planning Commission recommend approval of the request from Ben Ostarello for a variance from the City’s Rural Single Family front yard minimum setback requirements for the property located at 8323 Deer Pond Trail N.

*“Move to recommend approval of the request from Ben Ostarello for a variance from the City’s Rural Single Family minimum front yard setback requirements for the property located at 8323 Deer Pond Trail N.”*

**ATTACHMENTS:**

- 1) Variance application and narrative
- 2) Proposed Site Plan

**ORDER OF BUSINESS:**

- Introduction.....Planning Staff
- Report by Staff.....Planning Staff
- 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  Wireless Communications

Applicant: Benjamin Ostarello  
Address: 8323 Deer Pond Trl N Lake Elmo, MN 55042  
Phone # 651-249-7453  
Email Address: ostarelloben@yahoo.com


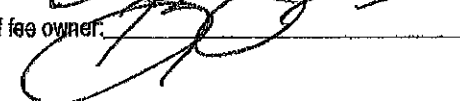
Fee Owner: Benjamin Ostarello  
Address: 8323 Deer Pond Trl N Lake Elmo, MN 55042  
Phone # 651-249-7453  
Email Address: ostarelloben@yahoo.com

Property Location (Address): 8323 Deer Pond Trl N Lake Elmo, MN 55042  
(Complete (long) Legal Description): Once Acres 5th Add Lot 2 Block 1 Subdivision CD 37549  
PID#: 09.029.21.34.0002

Detailed Reason for Request: We are trying to add an addition to our house that includes a 3rd stall on the garage. Due to the positioning of the house on the property, there are few options for adding a 3rd stall without significantly changing the appearance and functionality of the property. Allowing for the variance would keep the property within the style of the existing house and neighborhood. The 3rd stall would allow us to store an additional vehicle, boat, or other larger items inside the garage without it having to be stored outside, which can be an eyesore in the neighborhood.

\*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: The house was built in 1973, prior to the current zoning and setback regulations. The house is placed on a property at an angle to the main road. This detail doesn't allow for a 3rd stall to be added without dramatically changing the property. New curbing was installed on our road in 2014 and my property isn't allowed to have 2 curb cuts, limiting the options for the garage. Allowing the variance would also add the least amount of impermeable surfaces to the property. The variance request is only for 8'-6" over the current 30' setback and extends for 14'-8" on an angle. The square footage over the setback line is approximately 64sqft or 17% of the garage addition.

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

Signature of applicant:  Date: 8/25/17  
Signature of fee owner:  Date: 8/25/17

**Narrative for a Request for Variance**

**August 25, 2017**

Ostarello Residence  
8323 Deer Pond Trail North  
Lake Elmo, MN

**a. A list of all current property owners (if individually owned), all general and limited partners (if a partnership), all managers and directors (if a limited liability company), and/or officers and directors (if a corporation) involved as either applicants or owners.**

Benjamin A Ostarello

**b. A listing of the following site data: legal description of the property, parcel identification number(s), parcel size (in acres and square feet), existing use of land, and current zoning.**

Legal Description: SUBDIVISION NAME OACE ACRES 5TH ADD LOT 2 BLOCK 1 SUBDIVISIONCD 37549  
Parcel ID#: 09.029.21.34.0002  
Parcel Size: 1.004 acres (43,751sqft)  
Existing Use of Land: Home  
Current Zoning: Residential

**c. State the provision(s) of the Lake Elmo City Code for which you seek a variance. (For example, Section 300.07 Zoning Districts, Subd (4b3) – Minimum District Requirements)**

154.033 D Minimum district requirements for One- and Two-Family Residential.  
TABLE showing Building Setback from Property Lines: Front -30'

**d. A specific written description of the proposal and how it varies from the applicable provisions of Lake Elmo Code.**

Our proposal is requesting a variance from the front yard setback requirement, in order to add a 3<sup>rd</sup> stall to our existing garage. The 3<sup>rd</sup> stall would encroach upon the front yard setback by 8'-6". The total square footage over the front yard setback would be approximately 64sqft, 17% of the total square footage of the garage addition.

**e. A narrative regarding any pre-application discussions with staff, and an explanation of how the issue was addressed leading up to the application for a variance.**

I called and spoke with Emily about the current setback within my development. She confirmed the setback of 30' in the front yard. I asked what the process was for requesting a variance and she explained it to me. She said that since the house was built prior to current zoning and setback laws that it is possible to acquire a variance for our proposed addition. I followed up with her and she reviewed our application, prior to submitting it to the City.

**f. Explain why the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration.**

Currently, our house is sited at an angle to the street and the garage addition we are proposing encroaches on the 30' front yard setback. Without a variance, any addition would drastically change the

look of the existing house and property, as well as, significantly increase the amount of impervious surface on our site. Many of our neighbors have houses that are perpendicular to the winding street and therefore don't have the same issue as us. Properties that have added a 3<sup>rd</sup> stall, had plenty of room to the side and were within the 10' side yard setback. If our garage was positioned similarly (facing the street), we would have no issues with adding a 3<sup>rd</sup> stall to it.

**g. Explain why the plight of the landowner is due to circumstances unique to the property and not created by the landowner.**

Since the house was built on the property at an angle, it limits the options for adding onto the garage. The house was built in 1973, well before I purchased it, in 2007, and before the current zoning and setback laws were established.

**h. Justify that the granting of the variance would not alter the essential character of the neighborhood.**

By granting the variance, it would allow the house to stay within the style of the neighborhood. The 3<sup>rd</sup> stall would just be a continuance of the existing garage structure. We would lose one of two pine trees but new landscaping and plantings will enhance the front yard. The addition as we have proposed it would have less impact on the City's concern for impervious surfaces. The front corner of the garage would still be at least 40' from the street and our addition and remodeling will not stand out in the neighborhood. Our goal is to have the work done in a way that changes in the original home are not noticeable. The winding road and distance between our neighbors will make it difficult for anyone to realize that our house encroaches on the front yard setback.

**SITE DATA**

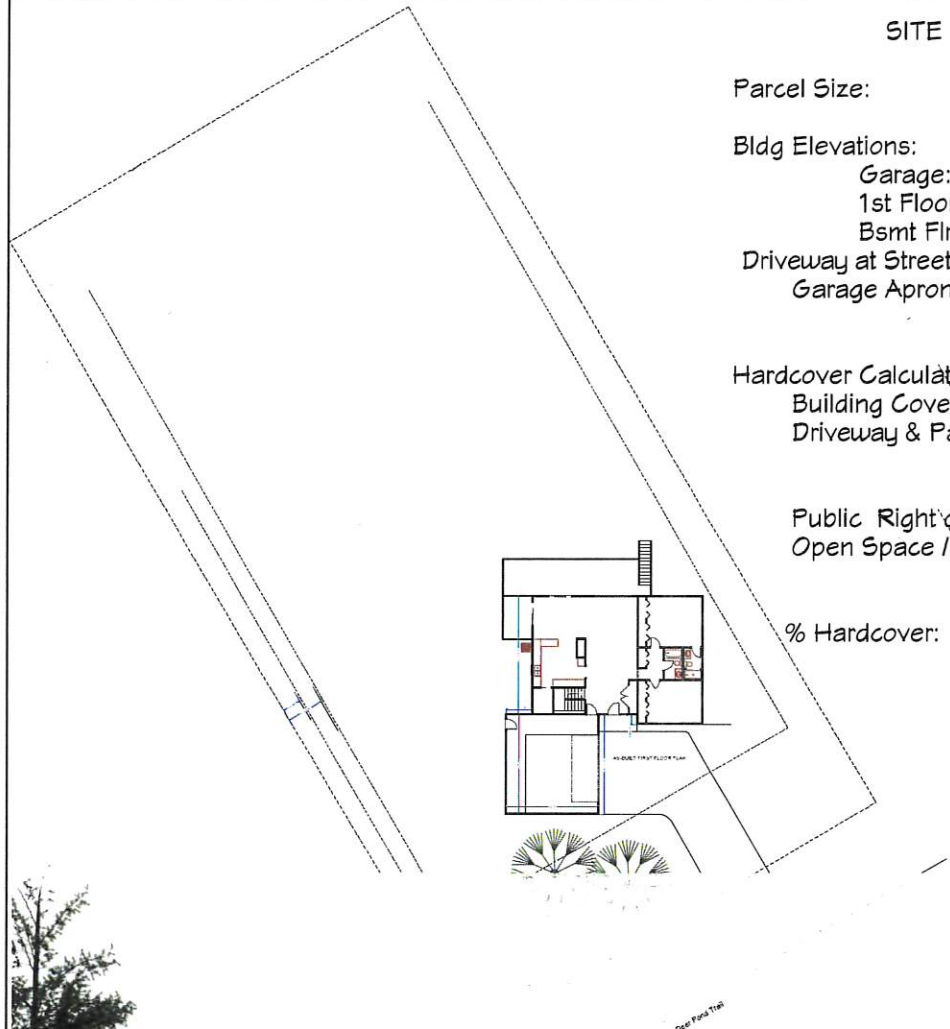
Parcel Size: 125' x 350' = 43,750 sf  
1.004 Acres

Bldg Elevations:  
Garage: = 963.65  
1st Floor: = 964.78  
Bsmt Flr: = 956.3  
Driveway at Street: = 964.6  
Garage Apron: = 963.7

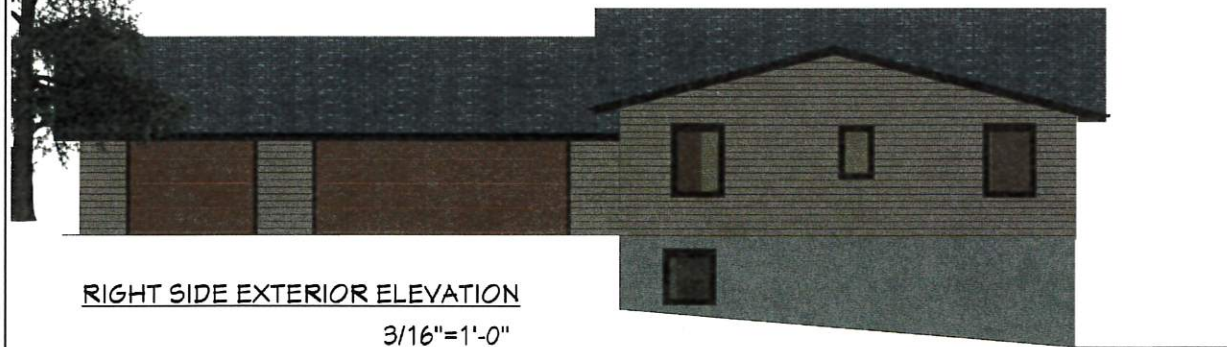
Hardcover Calculations: Existing Proposed  
Building Coverage: = 2,324 = 3,480 sf  
Driveway & Parking: = 1,415 = 1,537 sf

Public Right of Way: = 2,750 = 2,750 sf  
Open Space / Landscaping: = 37,261 = 35,983 sf  
Sub Total: = 40,011 = 38,733 sf

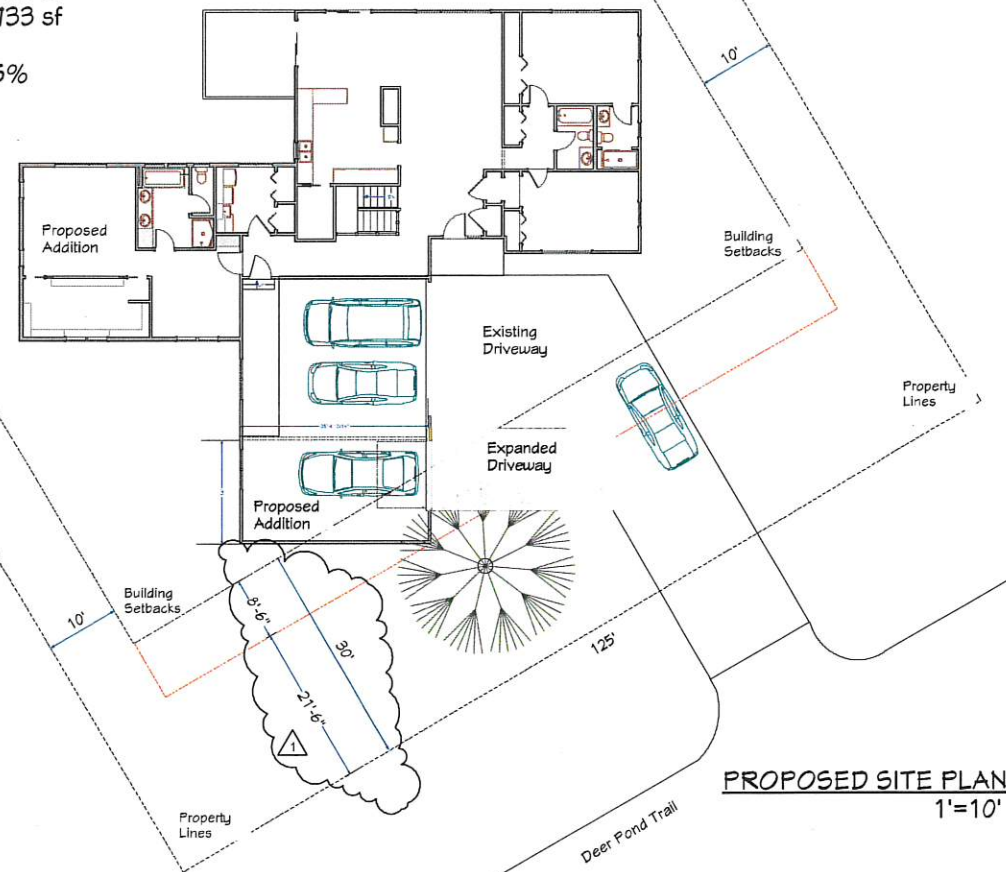
% Hardcover: = 8.5% = 11.5%



**EXISTING SITE PLAN**  
1'=20'



**RIGHT SIDE EXTERIOR ELEVATION**  
3/16"=1'-0"



**PROPOSED SITE PLAN**  
1'=10'

REV. No.	DATE	DESCRIPTION
1	8/25/17	Issue 2-Zoning Variance Application
2	9/6/17	Response to City Comment

**CURRAN**  
CONSTRUCTION, INC.  
Billuauer, MN  
(851) 241-0841

**OSTARELLO RESIDENCE**  
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1998 - 4th Street  
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wmc5105@gmail.com



DATE:

9/6/2017

SCALE:

AS SHOWN

SHEET:

**A1**