



*Our Mission is to Provide Quality Public Services in a Fiscally Responsible
Manner While Preserving the City's Open Space Character*

NOTICE OF MEETING
City Council Meeting
Tuesday, March 3, 2015 7:00 P.M.
City of Lake Elmo | 3800 Laverne Avenue North
Agenda

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call
- D. Order of Business
- E. Approval of Agenda
- F. Accept Minutes
- G. Council Reports
- H. Presentations/Public Comments/Inquiries
 - Fire Relief Association Raffle Drawing
- I. Finance Consent Agenda
 - 1. Approve Payment of Disbursements and Payroll
- J. Other Consent Agenda
 - 2. Renewal of St Croix Valley Fire Mutual Aid Agreement
 - 3. Support for R/WSCC PEG Rate Review; **Resolution No. 2015-12**
- K. Regular Agenda
 - 4. Bee Safe Resolution; **Resolution No. 2015-13**
 - 5. Noticing of City Meetings; **Resolution No. 2015-14**
 - 6. EDA Resolution Modification; **Public Hearing; Resolution No. 2015-15**
 - 7. 39th Street: Street and Sanitary Sewer Improvements – Change Order No. 4 (update will be provided – no memo)
 - 8. Eagle Point Boulevard Street Improvements – Accept Report; Call Improvement Hearing; **Resolution No. 2015-16**
 - 9. Zoning Text Amendment – Liquor Stores, Convenience Commercial Zoning District; **Ordinance 08-116**, Resolution for Summary Publication, **Resolution No. 2015-17**
 - 10. Easton Village Final Plat; **Resolution No. 2015-07**
 - 11. Easton Village Developer Agreement; **Resolution No. 2015-18**
 - 12. Lennar Sketch Plan
- L. Staff Reports and Announcements
- M. Adjourn

MAYOR & COUNCIL COMMUNICATION

DATE: March 3, 2015
**CONSENT
ITEM
MOTION** #1

AGENDA ITEM: Approve Disbursements in the amount of \$245,308.40

SUBMITTED BY: Cathy Bendel, Finance Director

THROUGH: Cathy Bendel, Finance Director

REVIEWED BY: Dean Zuleger, City Administrator

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation.....City Administrator
- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECOMMENDER: Finance

FISCAL IMPACT: \$245,308.40

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements in the amount of \$245,308.40. No specific motion is needed as this is recommended to be part of the *Consent Agenda*.

LEGISLATIVE HISTORY: NA

BACKGROUND INFORMATION/STAFF REPORT: The City of Lake Elmo has the fiduciary responsibility to conduct normal business operations. Below is a summary of current claims to be disbursed and paid in accordance with State law and City policies and procedures.

Claim #	Amount	Description
42504-42530	\$ 244,768.40	Accounts Payable 3/3/2015
2664-2672	\$ 540.00	Library Card Reimbursement 3/3/2015
TOTAL	\$ 245,308.40	

RECOMMENDATION: Based on the aforementioned, the staff recommends the City Council approve as part of the Consent Agenda the aforementioned disbursements in the amount of \$245,308.40.

ATTACHMENTS:

1. Accounts Payable – check registers

Accounts Payable To Be Paid Proof List

User: PattyB

Printed: 02/26/2015 - 12:38 PM

Batch: 007-02-2015

Invoice #	Inv Date	Amount	Quantity	Fmt Date	Description	Reference	Task	Type	FO #	Close POLine #
CARQUEST Car Quest Auto Parts										
2055-341779	02/25/2015	184.54	0.00	03/03/2015	Parts		-	No		0000
101-430-3125-42210	Equipment Parts									
	2055-341779 Total:	184.54								
	CARQUEST Total:	184.54								
DIVINEHO Divine Custom Homes										
2013-490	02/19/2015	4,900.00	0.00	03/03/2015	Escrow Release 5734 Lily Avenue		-	No		0000
803-000-0000-22900	Deposits Payable									
	2013-490 Total:	4,900.00								
	DIVINEHO Total:	4,900.00								
EASTMAN Eastman Laura										
	02/25/2015	25.00	0.00	03/03/2015	Refund SW Overpayment - Rain Garden		-	No		0000
603-000-0000-37100	Surface Water Utility Sales									
	Total:	25.00								
	EASTMAN Total:	25.00								
GKSERVIC G&K Services										
1182761064	02/18/2015	37.62	0.00	03/03/2015	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
	1182761064 Total:	37.62								
1182772554	02/25/2015	37.62	0.00	03/03/2015	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
	1182772554 Total:	37.62								
	GKSERVIC Total:	75.24								
GREATAM Great America Financial										
15662700	02/13/2015	480.05	0.00	03/03/2015	Copier Maintenance		-	No		0000
101-110-1940-44040	Repairs/Maint Contractual Eqpt									
	15662700 Total:	480.05								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close	POLine #
	GREATAM Total:	480.05									
HOLIDAYC Holiday Credit Office	02/15/2015										
101-420-2220-42120 Fuel, Oil and Fluids		221.03	0.00	03/03/2015	Fuel				No		0000
Total:		221.03									
HOLIDAYC Total:		221.03									
JARDINE Jardine, Logan & O'Brien PLLP											
103025 01/26/2015		1,134.00	0.00	03/03/2015	Legal Services				No		0000
101-000-0000-20200 Accounts Payable											
103025 Total:		1,134.00									
JARDINE Total:		1,134.00									
JFLIFLET Fliflet Julie											
02/21/2015		55.20	0.00	03/03/2015	Mileage - Conference				No		0000
101-410-1110-43310 Mileage											
Total:		55.20									
JFLIFLET Total:		55.20									
kathfuel Kath Fuel Oil Service Co											
499180 02/17/2015		608.69	0.00	03/03/2015	Fuel				No		0000
101-430-3100-42120 Fuel, Oil and Fluids											
499180 Total:		608.69									
kathfuel Total:		608.69									
Landscape Landscape Architecture, Inc											
107 02/24/2014		650.00	0.00	03/03/2015	Hunter's Crossing				No		0000
803-000-0000-22910 Developer Payments											
TO 7 Total:		650.00									
Landscape Total:		650.00									
LANDTITLE Land Title Inc											
5522 08/12/2014		800.00	0.00	03/03/2015	Easton Village				No		0000
803-000-0000-22910 Developer Payments											
5522 Total:		800.00									
LANDTITLE Total:		800.00									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
LEAGMN League of MN Cities										
	02/25/2015									
101-410-1110-44330	Dues & Subscriptions	85.00	0.00	03/03/2015	Handbook - Lundgren		-	No		0000
	Total:	85.00								
	LEAGMN Total:	85.00								
LINNEN Linner Electric Company, Inc.										
	02/17/2015									
24214		257.50	0.00	03/03/2015	Repair Fuel Pump at PW		-	No		0000
101-430-3100-44040	Repairs/Maint Eqpt	257.50								
	24214 Total:	257.50								
	LINNER Total:	257.50								
MENARDSO Menards - Oakdale										
	02/14/2015									
68684		99.99	0.00	03/03/2015	Building Maint Supplies		-	No		0000
101-450-5200-42210	Equipment Parts	26.03	0.00	03/03/2015	Shop Supplies		-	No		0000
68684										
101-450-5200-42150	Shop Materials	126.02	0.00	03/03/2015	Building Repair Supplies		-	No		0000
	68684 Total:	47.76								
101-430-3100-42230	Building Repair Supplies	47.76								
	69543 Total:	173.78								
	MENARDSO Total:									
MORRISSE Morrissey Builders LLC										
	02/20/2015									
2014-630		1,200.00	0.00	03/03/2015	Escrow Release 4719 Olson Lake		-	No		0000
803-000-0000-22900	Deposits Payable									
	2014-630 Total:	1,200.00								
	MORRISSE Total:	1,200.00								
POSTOFF Postmaster										
	02/20/2015									
Permit 19		220.00	0.00	03/03/2015	Annual Permit Fee		-	No		0000
101-410-1320-43220	Postage	220.00								
	Permit 19 Total:	220.00								
	POSTOFF Total:	220.00								
PRESTIPO Prestige Pool										
	02/20/2015									
2014-176		500.00	0.00	03/03/2015	Escrow Release 4748 Larkspur Lane		-	No		0000
803-000-0000-22900	Deposits Payable									
	2014-176 Total:	500.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
PRESTIPO Total:		500.00								
RAHNHOME Rahn Home Service										
	02/19/2014	115.00	0.00	03/03/2015	Refund Overpayment - permits		-	No		0000
101-000-0000-11500 Accounts Receivable		115.00								
Total:		115.00								
RAHNHOME Total:		115.00								
ROSENBAU Rosenbauer - General Division										
66041	02/20/2015	223,972.00	0.00	03/03/2015	Firetruck - partial payment		-	No		0000
410-480-8000-45500 Vehicles		223,972.00								
66041 Total:		223,972.00								
ROSENBAU Total:		223,972.00								
SELECTAC Select/Account										
1079931	02/08/2015	12.66	0.00	03/03/2015	Participant Fee 1/01/15-2/28/15		-	No		0000
101-410-1520-43150 Contract Services		12.66								
1079931 Total:		12.66								
SELECTAC Total:		12.66								
SPRINT Sprint										
761950227-143	02/18/2015	59.77	0.00	03/03/2015	Cell phone - Admin		-	No		0000
101-410-1940-43210 Telephone		221.57								
761950227-143 02/18/2015		221.57								
101-420-2220-43210 Telephone		43.65								
761950227-143 02/18/2015		43.65								
101-420-2400-43210 Telephone		84.78								
761950227-143 02/18/2015		84.78								
101-430-3100-43210 Telephone		85.30								
761950227-143 02/18/2015		85.30								
101-450-5200-43210 Telephone		55.32								
761950227-143 02/18/2015		55.32								
101-410-1450-43210 Telephone		14.73								
761950227-143 02/18/2015		14.73								
101-410-1910-43210 Telephone		565.12								
761950227-143 Total:		565.12								
SPRINT Total:		565.12								
IKDA IKDA, Inc.										
002015000252	02/13/2015	1,413.41	0.00	03/03/2015	2013.133 LE Ave Trunk Watermain		-	No		0000
601-494-9400-43030 Engineering Services		1,413.41								

Invoice #	Inv Date	Amount	Quantity	End Date	Description	Reference	Task	Type	PO #	Close POLine #
002015000252 Total:		1,413.41								
TKDA Total:		1,413.41								
MOBILE T Mobile										
02/11/2015		20.58	0.00	03/03/2015	SCADA line					No 0000
601-494-9400-43210 Telephone										
Total:		20.58								
MOBILE Total:		20.58								
Report Total:		237,668.80								

Accounts Payable To Be Paid Proof List

User: PattyB

Printed: 02/26/2015 - 12:47 PM

Batch: 008-02-2015

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
DELTA Delta Dental Of Minnesota 5881001 02/15/2015 101-000-0000-21706 Medical Insurance 5881001 Total: DELTA Total:		1,724.60 1,724.60 1,724.60	0.00	03/03/2015	March Premium		-	No		0000
LEASSOC Lake Elmo Associates, LLP Mar 15 03/01/2015 101-410-1320-44120 Rentals - Building Mar 15 Total: LEASSOC Total:		2,461.00 2,461.00 2,461.00	0.00	03/03/2015	March Rent		-	No		0000
MDH Minnesota Department of Health M Nicklay 02/18/2015 601-494-9400-44370 Conferences & Training M Nicklay Total: Matt Nicklay 02/18/2015 601-494-9400-44370 Conferences & Training Matt Nicklay Total: M Cornell 02/18/2015 601-494-9400-44370 Conferences & Training M Cornell Total: Mike Cornell 02/18/2015 601-494-9400-44370 Conferences & Training Mike Cornell Total: MDH Total:		32.00 32.00 175.00 175.00 32.00 32.00 175.00 175.00 175.00 414.00	0.00	03/03/2015	Operator Exam - Matt Nicklay Operator Exam - Nicklay Operator Exam - Mike Cornell Operator Exam - Cornell		-	No		0000
RABOUI RABOUI, INC 03/01/2015 101-410-1320-43100 Assessing Services Total:		2,500.00 2,500.00	0.00	03/03/2015	March Monthly Installment		-	No		0000

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
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RABOUIN Total: 2,500.00

Report Total: 7,099.60



MAYOR AND COUNCIL COMMUNICATION

DATE: March 03, 2015

CONSENT

ITEM # 2

AGENDA ITEM: Approve renewal of St. Croix Valley Fire Service Agreement
SUBMITTED BY: Chief Greg Malmquist
THROUGH: Dean Zuleger, City Administrator
REVIEWED BY: Adam Bell, City Clerk

SUGGESTED ORDER OF BUSINESS (if removed from consent agenda):

- Introduction of Item Staff
- Report/Presentation.....Staff
- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

POLICY RECOMMENDER: Fire Chief Malmquist/Lake Elmo Fire Department.

FISCAL IMPACT: None. See Section 9 of agreement for information on how charges are handled.

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to approve the renewal of St. Croix Valley Fire Service Agreement inclusive of City of Lake Elmo, Minnesota and City of Hudson, Wisconsin. *As part of the Consent Agenda, no specific motion is required.* If removed from the Consent Agenda, the recommended action can be approved through following motion:

“Move to approve renewal of St. Croix Valley Fire Service Agreement.”

LEGISLATIVE HISTORY / BACKGROUND INFORMATION:

Staff requests renewal of the two-year contract with the City of Hudson, Wisconsin, to provide Mutual Fire Service Aid to Lake Elmo, and for Lake Elmo to provide Mutual Aid to Hudson, WI upon request. Renewal of this contract also requires approval by the Hudson City Council. Upon approval by the respective cities, the contracts will be forwarded to Governor Mark Dayton for his required signature.

RECOMMENDATION:

Staff recommends that council approve renewal of this contract.

ATTACHMENTS:

- 1) St. Croix Valley Fire Service Agreement

MUTUAL AID AGREEMENT

INCLUSIVE OF: CITY OF LAKE ELMO, MINNESOTA AND CITY OF HUDSON, WISCONSIN

This Agreement is made pursuant to Minnesota Statutes §471.59 and Minnesota Statutes §438.08 and Wisconsin Statutes §66.0303, Subd. (2) and (3)(b) which authorize the joint and cooperative exercise of powers common to contracting parties. The intent of this agreement is to make equipment, personnel and other resources available to political subdivisions from other political subdivisions during an emergency situation or for designated training activities.

Section 1. Definitions.

- a. "Party" means a political subdivision.
- b. "Requesting Official" means the person designated by a Party who is responsible for requesting Assistance from other Parties.
- c. "Requesting Party" means a party that requests assistance from other parties.
- d. "Responding Official" means the person designated by a party who is responsible to determine whether and to what extent that party should provide assistance to a Requesting Party.
- e. "Responding Party" means a party that provides assistance to a Requesting Party.
- f. "Assistance" means Fire and/or emergency medical services personnel and equipment, and any associated and related training necessary to further the purpose of this Agreement.

Section 2. Request for assistance.

Whenever, in the opinion of a Requesting Official, there is a need for assistance from other parties, the Requesting Official may call upon the Responding Official of any other party to furnish assistance.

Section 3. Response to request.

Upon the request for assistance from a Requesting Party, the Responding Official may authorize and direct his/her party's personnel to provide assistance to the Requesting Party. This decision will be made after considering the needs of the responding party and the availability of resources.

Section 4. Recall of Assistance.

The Responding Official may at any time recall such assistance when in his or her best judgment or by an order from the governing body of the Responding Party, it is considered to be in the best interests of the Responding Party to do so.

Section 5. Command of Scene.

The Requesting Party shall be in command of the mutual aid scene. The personnel and equipment of the Responding Party shall be under the direction and control of the Requesting Party until the Responding Official withdraws assistance.

Section 6. Workers' compensation.

Each party shall be responsible for injuries or death of its own personnel. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this agreement. Each party waives the right to sue any other party for any workers' compensation benefits paid to its own employee or volunteer or their dependants, even if the injuries were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

Section 7. Damage to equipment.

Each party shall be responsible for damages to or loss of its own equipment. Each party waives the right to sue any other party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

Section 8. Liability.

- a. For the purposes of Tort Liability, the employees and officers of the Responding Party are deemed to be employees of the Requesting Party.
- b. The Requesting Party agrees to defend and indemnify the Responding Party against any claims brought or actions filed against the Responding Party or any officer, employee, or volunteer of the Responding Party for injury to, death of, or damage to the property of any third person or persons, arising from the performance and provision of assistance in responding to a request for assistance by the Requesting Party pursuant to this agreement.
- c. Under no circumstances, however, shall a party be required to pay on behalf of itself and other parties, any amounts in excess of the limits on liability established in its Home State applicable to any one party. The limits of liability for some or all of the parties may not be added together to determine the maximum amount of liability for any party.
- d. The intent of this subdivision is to impose on each Requesting Party a limited duty to defend and indemnify a Responding Party for claims arising within the Requesting Party's jurisdiction subject to the limits of liability under the laws of its Home State. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among defendants, and to permit liability claims against multiple defendants from a single occurrence to be defended by a single attorney.

- e. No party to this agreement nor any officer of any Party shall be liable to any other Party or to any other person for failure of any party to furnish assistance to any other party, or for recalling assistance, both as described in this agreement.
- f. For the purposes of training, and other than Workers' compensation claims as described in Section 6, the laws of the State where the training takes place will control disputes based upon claims of one party against the other.

Section 9. Charges to the Requesting Party.

- a. No charges will be levied by a Responding Party to this agreement for assistance rendered to a Requesting Party under the terms of this agreement unless that assistance continues for a period of more than 12 hours. If assistance provided under this agreement continues for more than 12 hours, the Responding Party may submit to the Requesting Party an itemized bill for the actual cost of any assistance provided after the initial 12 hour period, including salaries, overtime, materials and supplies and other necessary expenses; and the Requesting Party will reimburse the party providing the assistance for that amount.
- b. Such charges are not contingent upon the availability of federal or state government funds.

Section 10. Duration.

This agreement will be in force from the date of execution and shall continue until terminated. Any party may withdraw from this agreement upon thirty (30) days written notice to the other party or parties to the agreement.

Section 11. Amendments.

Any amendments to this agreement shall be in writing and signed by all parties.

Section 12. Agreement.

This agreement contains the entire agreement of the cities of Bayport, Minnesota and Hudson, Wisconsin. Any prior correspondence, memoranda or agreements are replaced in total by this agreement.

Section 13. Execution.

Each party hereto has read, agreed to and executed this Mutual Aid Agreement on the date indicated. Each party to this agreement shall maintain a copy of an executed copy of this agreement.

IN WITNESS WHEREOF, the undersigned, on behalf of their political subdivision or their fire department corporation has executed this agreement pursuant to authorization by its governing body:

City of Lake Elmo

Mike Pearson, Mayor

Adam Bell, City Clerk

Lake Elmo Fire Department

Greg Malmquist, Fire Chief

Dated: _____, 2015

STATE OF MINNESOTA

Its _____

Dated: _____, 2015

City of Hudson

Allan Burchill, Mayor

Nancy Korson, City Clerk

Hudson Fire Department

Scott St. Martin, Fire Chief

Dated: _____, 2015

STATE OF WISCONSIN

Its _____

Dated: _____, 2015



MAYOR & COUNCIL COMMUNICATION

DATE: March 03, 2015

CONSENT

ITEM # 3

Resolution No. 2015-12

AGENDA ITEM: Support for Ramsey/Washington Suburban Cable Commission review of PEG fees.

SUBMITTED BY: Adam Bell, City Clerk

THROUGH: Mike Pearson, Mayor

REVIEWED BY: Beckie Gumatz, Deputy Clerk

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Staff
- Report/Presentation..... Staff
- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECOMMENDER: Mayor Pearson.

FISCAL IMPACT: Any adjustment to the current PEG fee would have an indirect impact on the franchise fee receipts as the Commission would be forced to use more of the franchise fees to fund their operations and provision of community channels. However, part of the proposal is to look at the services currently provided and determine if they are all needed at the current level.

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to approve Resolution No. 2015-12, A Resolution Supporting the Ramsey/Washington Suburban Cable Commission's Review of Peg Fee Structure by taking the following action:

"Move to approve Resolution No. 2015-14, A Resolution Supporting the Ramsey/Washington Suburban Cable Commission's Review of Peg Fee Structure."

LEGISLATIVE HISTORY / BACKGROUND INFORMATION:

The City of Lake Elmo is a member of the Ramsey/Washington Counties Suburban Cable Communications Commission (R/WSCC) under a Joint Cooperative Agreement for the Administration of Cable Communications Franchises. (R/WSCC) has been established pursuant to Minnesota Statutes § 471.59 for the purpose of monitoring the operation and activities of cable communications and in particular, the Cable Communications System of the Members to provide

coordination of administration enforcement, and renewal of the franchises of Members for their respective System; to promote, coordinate, administer and develop community cable television programming and to conduct such other activities authorized herein as may be necessary to insure equitable and reasonable rates and service levels for the citizens of the Members.

The current franchise agreement with Comcast includes the provision of a number of Public, Educational and Government Access channels (PEG Channels). These community television channels, including the studio facilities and the technical support operations, are funded by an operating grant paid by Comcast to the Cable Commission. Comcast recoups these funds through a PEG fee charged to Comcast subscribers as part of their monthly service, currently set at \$4.29 per month.

Mayor Pearson, as well as staff and former council members have been in contact with several other communities and commissions and have determined that this PEG fee rate is one of the highest in the Twin Cities metro area, a fact R/WSCC acknowledges.

The extent of use of the PEG channels is at question. The government access channel is the most widely viewed PEG channel, yet viewership rate is still extremely low in relation to the number of viewers who access the media via another medium, web viewing being the highest. Staff has recently conducted a survey of residents on this topic. The survey results are still being compiled, but initial data affirms that cable television is tied for last place along with newspapers for how the public prefers to receive City information. One significant factor that contributes to this is that only about one-third of the city is able to purchase cable service. Two-thirds of the city is required to use satellite television services, where the PEG channels are not offered.

Another factor impacting the lower viewership of PEG channels is the advancement of web-viewing technology. The majority of council meetings watched are viewed on the web. It has also become easier and more cost-effective for both the public and governments to utilize such services as YouTube and video blogs to disseminate information. This also impacts the need for the provision of studio facilities and the technical support operations.

If the number of channels and/or resources provided was reduced, while finding a way to provide the same services in a more effective and efficient manner, a lower PEG fee would be justified. This lower PEG fee would result in an indirect tax savings for Lake Elmo Comcast subscribers. Mayor Pearson is requesting that the Council pass a resolution that would simply initiate the conversation at the Commission to review the PEG fee structure to determine if there is any way to lower the fee for Comcast subscribers.

RECOMMENDATION:

Based on the aforementioned, staff recommends the City Council approve Resolution No. 2015-12, A Resolution Supporting the Ramsey/Washington Suburban Cable Commission's Review of Peg Fee Structure with the following motion:

"Move to approve Resolution No. 2015-14, A Resolution Supporting the Ramsey/Washington Suburban Cable Commission's Review of PEG Fee Structure."

ATTACHMENTS:

- 1) Resolution No. 2015-12, A Resolution Supporting the Ramsey/Washington Suburban Cable Commission's Review of Peg Fee Structure.

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION 2015-12

**A RESOLUTION SUPPORTING THE RAMSEY/WASHINGTON
SUBURBAN CABLE COMMISSION'S REVIEW OF PEG FEE
STRUCTURE.**

WHEREAS, the Ramsey/Washington Counties Suburban Cable Communications Commission (R/WSCC) has been established pursuant to Minnesota Statutes § 471.59 for the purpose of monitoring the operation and activities of cable communications and in particular, the Cable Communications System of the Members to provide coordination of administration enforcement, and renewal of the franchises of Members for their respective System; to promote, coordinate, administer and develop community cable television programming and to conduct such other activities authorized herein as may be necessary to insure equitable and reasonable rates and service levels for the citizens of the Members; and

WHEREAS, the City of Lake Elmo is a member of the R/WSCC under a Joint Cooperative Agreement for the Administration of Cable Communications Franchises; and

WHEREAS, the current franchise agreement with Comcast includes the provision of a number of Public, Educational and Government Access channels (PEG Channels). These community television channels, including the studio facilities and the technical support operations, are funded by an operating grant paid by Comcast to the Cable Commission; and

WHEREAS, Comcast recoups these funds through a PEG fee charged to Comcast subscribers as part of their monthly service, currently set at \$4.29 per month; and

WHEREAS, this PEG fee rate is one of the highest in the Twin Cities metro area.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Lake Elmo, that the Ramsey/Washington Counties Suburban Cable Communications Commission and its members should re-evaluate the current PEG fee structure, rate, and provision of services to determine if the subscribers are receiving a fair and reasonable value for the fee.

BE IT FURTHER RESOLVED, the City of Lake Elmo, as stewards of taxpayer funds, believes that a reduction in the PEG fee rate would be appropriate to be more in line with other communities in the area and to promote more effective and efficient services.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF LAKE ELMO THIS
THIRD DAY OF MARCH 2015.**

**CITY COUNCIL
CITY OF LAKE ELMO**

By: _____
Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk



MAYOR & COUNCIL COMMUNICATION

DATE: March 3, 2015
REGULAR
ITEM # 4

AGENDA ITEM: Becoming a Bee Safe City

SUBMITTED BY: Alyssa MacLeod, Taxpayer Relations & Communications Coordinator

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Lake Elmo Park Commission

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Staff
- Report/Presentation.....City Staff
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECOMMENDER: Lake Elmo Park Commission

FISCAL IMPACT: No immediate fiscal impact. Minimal costs may be incurred to implement accompanying action items; costs would be covered by parkland dedication funds.

SUMMARY AND ACTION REQUESTED: A new standard is being passed in cities throughout the world to support the rapidly declining bee population caused by colony collapse disorder. These standards have just recently been gaining traction in the Twin Cities metro area; with Shorewood as the first city in the metro to pass the resolution, followed by Minneapolis and Stillwater, who is currently working on theirs.

The resolution outlines the reasons why bees are necessary to agriculture and are in danger, and aims to position Lake Elmo as a leader in Bee-Safe practices.

City Council is respectfully requested to pass a resolution endorsing bee-safe policies and procedures in the Lake Elmo community. The recommended motion is as follows:

“Move to adopt Resolution No. 2015-13, affirming the City’s commitment to endorse “bee-safe” policies and procedures.”

LEGISLATIVE HISTORY: The Lake Elmo Park Commission first discussed the possibility of becoming a bee-friendly city in November 2014. At their February 2, 2015 meeting, the Lake Elmo Park Commission unanimously recommended a bee-safe resolution for the consideration of the City Council. The resolution outlines the reasons why bees are necessary to agriculture and are in danger, and aims to position Lake Elmo as a leader in Bee-Safe practices. An accompanying action list was also devised and approved for council's consideration. Proposed action items would not have a significant fiscal or procedural impact on current maintenance practices.

BACKGROUND INFORMATION (SWOT):

Strengths	The City of Lake Elmo would be proactive in its approach to protect and encourage the health of pollinator species
Weaknesses	NA
Opportunities	Lake Elmo would be considered a leading community in the Twin Cities metro area to commit to bee-safe practices.
Threats	NA

RECOMMENDATION: City Council is respectfully requested to approve the Bee-Safe resolution. The recommended motion is as follows:

“Move to adopt Resolution No. 2015-13, affirming the City’s commitment to endorse “bee-safe” policies and procedures.”

ATTACHMENTS:

1. Bee-Safe City Resolution No. 2015-13
2. Resolution Action Items

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2015-13

A RESOLUTION ENDORSING "BEE-SAFE" POLICIES AND PROCEDURES

WHEREAS, the City of Lake Elmo Park Commission is dedicated to the protection of pollinators and to promoting a healthy natural environment through the reduction and elimination of harmful pesticides; and

WHEREAS, bees and other pollinators are integral to a wide diversity of essential foods including fruit, nuts, and vegetables; and

WHEREAS, native bees and honey bees are threatened due to habitat loss, pesticide use, pathogens and parasites; and

WHEREAS, recent research suggests that there is a link between pesticides that contain neonicotinoids and the die-off of plant pollinators, including honey bees, native bees, butterflies, moths, and other insects; and

WHEREAS, neonicotinoids are synthetic chemical insecticides that are similar in structure and action to nicotine, a naturally occurring plant compound; and

WHEREAS, the City Council finds it is in the public interest and consistent with adopted City policy for the City to demonstrate its commitment to a safe and healthy community environment through the implementation of pest management practices in the maintenance of the city parks, open spaces and city property.

THEREFORE, BE IT RESOLVED THAT by the City Council of the City of Lake Elmo:

1. The City shall undertake its best efforts to become a Bee-Safe City by undertaking the best management practices in the use of plantings and pesticides in all public places within the City.
2. The City shall refrain from the use of systemic pesticides and systemic insecticides on City owned property including pesticides from the neonicotinoid family.
3. The City shall undertake its best efforts to plant flowers favorable to bees and other pollinators in the City's public spaces.
4. The City shall designate Bee-Safe areas in which future City plantings are free from systemic pesticides including neonicotinoids.
5. The City shall undertake its best efforts to communicate to Lake Elmo residents the importance of creating and maintaining a pollinator-friendly habitat.
6. The City shall publish a Bee-Safe City Progress Report on an annual basis.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council does hereby approve the Bee-Safe Ordinance for the City of Lake Elmo.

Passed and duly adopted this 3rd day of March, 2015 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

“Bee-Safe” City Resolution: Actions

1. Turn public spaces into Bee-Safe areas:

- a) Identify a minimum of two areas on city owned property to develop into a Bee-Safe area per year.
- b) The Bee-Safe area should provide a variety of nectar and pollen sources for a diverse range of pollinators.
- c) The Bee-Safe area will aim to plant in clumps, rather than providing single plants, to better attract pollinators.
- d) Plant a variety of flower colors and shapes to attract different pollinators, with an emphasis on native plant species. Native plants will attract more native pollinators and can serve as larval host plants for some pollinator species.

2. Plant pesticide-free flowers:

- a) Many plant nurseries spray plants with systemic insecticides or pesticides as they grow, or spray the plant seed before growing begins. The term systemic means that the chemical is soluble enough in water that it can be absorbed by the plant. Unfortunately this means that the chemical is forever inside the plant and this alters the pollen and nectar quality, harming pollinators. The city pledges to buy plants from nurseries that do not use systemic insecticides or pesticides. There are many in our region with prices comparable to Menards or Home Depot.

3. Protect and Provide Plant Species

- a) The city pledges not to spray chemicals of any kind on flowering bee friendly species. Flowers are considered “Bee Food” when flowering.
- b) If a pesticide is to be used, we will choose one that is the least toxic to non-pest species, does not persist on vegetation.
- c) If, in the extreme case when a pesticide must be used on a flowering plant, we pledge that it be applied in the evening when pollinators are not as active.
- d) Develop an Integrated Pest Management plan for the city within 6 to 8 months.

4. Educate Our Citizens About Bees: their gifts and needs:

- a) The city aims to provide educational literature to citizens (via pamphlets, and newsletter articles), maintain a Bee-Safe area on the city website, and create educational videos about the Bee-Safe areas.
- b) The city aims to coordinate with the University of Minnesota Bee Lab, the Extension Master Gardener Program, the Honey Bee Club of Stillwater, and other local groups to provide education sessions and events for the public.
- c) Educate private land owners & Homeowners Associations about how they can plant Bee friendly gardens.

- d) Work with various Home Owner's Associations (HOA's) to promote Bee-Safe Areas on HOA lands.

5. Begin this spring to implement this resolution:

- a) Starting this spring the city will plant Bee-Safe areas in at least two parks. The proposed parks are Sunfish Lake Park and Tablyn Park. The areas are scheduled to be planted this year. Bee friendly species and information are attached.
- b) Participate in Pollinator Week (June 15th) with an event promoting pollinators.

6. Publish a "Bee Safe" Progress Report each spring that includes:

- a) The Bee-Safe areas we have created this year.
- b) Any new bee friendly plants we have installed on city property and how they help the bees.
- c) Marketing and Outreach update: synopsis of web site updates and the information available to the public.
- d) Education offered to public: any special events we held to educate the public, celebrate the Bee-Safe Zones, or special events for kids to learn about Bees.
- e) Goals for the next year and our timeline to achieve them.
- f) Metrics to measure effectiveness

7. Take measures to educate city staff about Bee-Safe practices.

8. Incorporate best management practices for bee health in any new park designs.



MAYOR & COUNCIL COMMUNICATION

DATE: March 03, 2015

REGULAR

ITEM # 5

Resolution No. 2015-14

AGENDA ITEM: Support for Open Meetings and Posting of Public Notice

SUBMITTED BY: Adam Bell, City Clerk

THROUGH: Mike Pearson, Mayor

REVIEWED BY: Beckie Gumatz, Deputy Clerk

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Staff
- Report/Presentation..... Staff
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECOMMENDER: Mayor Pearson. Under state statute, local multimember governmental bodies, including committees and subcommittees created by political subdivisions are subject to the Minnesota Open Meeting Law. Staff is recommending that the City Council approve the resolution supporting the principles of the OML and require that all official groups conducting city business post notice of their meetings.

FISCAL IMPACT: None

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to approve Resolution No. 2015-14, A Resolution Supporting Open Meetings and the Posting of Public Notice by taking the following action:

“Move to approve Resolution No. 2015-14, A Resolution Supporting Open Meetings and the Posting of Public Notice.”

LEGISLATIVE HISTORY / BACKGROUND INFORMATION:

The Minnesota Open Meeting Law was originally enacted in Laws 1957, chapter 773, section 1. It is now codified in Minnesota Statutes, chapter 13D. The Minnesota Supreme Court has articulated three purposes of the open meeting law: 1) To prohibit actions being taken at a secret meeting where it is impossible for the interested public to become fully informed about a public board's decisions or to detect improper influences; 2) To assure the public's right to be informed; and 3) To afford the public an opportunity to present its views to the public body. *Prior Lake*

American v. Mader, 642 N.W.2d 729, 735 (Minn. 2002) (en banc) (citing *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1, 4 (Minn. 1983)).

“These purposes are deeply rooted in the fundamental proposition that a well-informed populace is essential to the vitality of our democratic form of government.” Courts interpret the law liberally and in favor of openness. *Prior Lake American*, 642 N.W.2d at 735.

A meeting is open when proper notice was given in advance of the meeting, the public may attend and observe, and relevant materials are available to the public. A meeting may be closed based on a limited attorney-client privilege, and for the purposes of labor negotiations, employee evaluations, and discussion of security issues and property transactions.

The open meeting law applies to the governing body of any city, town, or other public body as well as a committee, subcommittee, board, department, or commission of a public body subject to the law. “Public body” is not defined but the Minnesota Supreme Court has stated that “[i]n common understanding, ‘public body’ is possibly the broadest expression for the category of governmental entities that perform functions for the public benefit.” *Star Tribune Co. v. University of Minnesota Board of Regents*, 683 N.W.2d 274, 280-282 (Minn. 2004) (en banc).

In determining whether the open meeting law applies to a particular entity, one should look at all of the entity’s characteristics. In a 1993 case involving Lake Elmo, the Minnesota Court of Appeals held that the open meeting law was not violated when two of five city council members attended private mediation sessions related to city business. The court determined that the two council members did not constitute a committee or subcommittee of the council because the group was not capable of exercising decision-making powers. *Sovereign v. Dunn*, 498 N.W.2d 62 (Minn. App. 1993), *review denied* (Minn. May 28, 1993).

The Minnesota Court of Appeals has held that the open meeting law does not apply to certain types of advisory groups. *The Minnesota Daily v. University of Minnesota*, 432 N.W.2d 189 (Minn. App. 1988). In that case, a presidential search advisory committee to the University of Minnesota Board of Regents was held not to be a committee of the governing body for purposes of the open meeting law. In reaching its holding, the court pointed out that no regents were on the search committee and that the committee had no power to set policy or make a final decision. It is not clear if a court would reach the same result if members of the governing body were also on the advisory committee. Depending on the number of members of the governing body involved and on the form or extent of the delegation of authority from the governing body to the members, a court might consider the advisory committee to be a committee of the governing body.

The law also applies to informational meetings. The Minnesota Supreme Court has held that the open meeting law applies to all gatherings of members of a governing body, whether or not action is taken or contemplated. This means that a gathering of members of a public body for an informational seminar on matters currently facing the body or that might come before the body must be conducted openly. *St. Cloud Newspapers, Inc.*, 332 N.W.2d 1.

The primary requirement of the open meeting law is that meetings be open to the public. The law also requires that votes in open meetings be recorded in a journal and that the journal be open to the public. *Minn. Stat. § 13D.01, subd. 4*. Open meetings must be held in a public place within the borders of the public body. *Quast v. Knutson*, 276 Minn. 340, 341, 150 N.W.2d 199, 200 (1967).

The law requires public bodies to give notice of their meetings. In 1974, the Minnesota Supreme Court held that failure to give notice of a meeting is a violation of the open meeting law. *Sullivan v. Credit River Township*, 299 Minn. 170, 217 N.W.2d 502 (1974). The court has also held that it is a violation of the open meeting law to conduct business before the time publicly announced for a meeting. *Merz v. Leitch*, 342 N.W.2d 141, 145 (Minn. 1984) (en banc). In 1987, the legislature spelled out the notice requirements in statute for regular, special, emergency, and closed meetings.

Public bodies must do the following: Keep schedules of *regular* meetings on file at their offices, and post notice of *special* meetings (meetings held at a time or place different for regular meetings) on their principal bulletin board. The public body must also either mail notice to people who have requested such mailings, or publish notice in the official newspaper, at least three days before the meetings. *Minn. Stat. § 13D.01, subds. 1 and 2*. The same notice requirements apply to closed meetings. *Minn. Stat. § 13D.01, subd. 5*.

The City currently makes a good faith effort to comply with all statutorily required public notice requirements. This includes posting notice of the meetings of all council, commissions, boards, committees and other municipal public bodies subject to the OML. The proposed resolution would declare formal support for the spirit of the OML that the formation and determination of public policy is public business and shall be conducted at open meetings and be properly noticed to the public.

The proposed resolution would also extend to city advisory and work groups, which due to the lack of any delegated authority or decision-making power are not subject to the OML, the requirement to be open to the public and publicly noticed. The reason for this extension is to promote open and transparent government, increase citizen engagement, and inform and educate the public.

RECOMMENDATION:

Based on the aforementioned, staff recommends the City Council approve Resolution No. 2015-14, A Resolution Supporting Open Meetings and the Posting of Public Notice with the following motion:

“Move to approve Resolution No. 2015-14, A Resolution Supporting Open Meetings and the Posting of Public Notice.”

ATTACHMENTS:

Resolution No. 2015-14, A Resolution Supporting Open Meetings and the Posting of Public Notice

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION 2015-14

**A RESOLUTION SUPPORTING OPEN MEETINGS AND THE POSTING
OF PUBLIC NOTICE**

WHEREAS, it is essential to the fundamental philosophy of the American constitutional form of representative government and to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens be advised of and be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy; and

WHEREAS, the people must be able to remain informed if they are to retain control over those who are their public servants; and

WHEREAS, an open and transparent government, is the only climate under which the people will prosper and enable the governmental process to operate for the benefit of those who created it; and

WHEREAS, to that end, the State of Minnesota enacted Minnesota Statutes, Chapter 13D, formally known as the Minnesota Open Meeting Law, which requires, with few exceptions, that meetings of public bodies be open to the public, balancing the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations effectively; and

WHEREAS, Section 13D.04 of the Minnesota Open Meeting Law requires public notice of all meetings of public bodies subject to the Minnesota Open Meeting Law; and

WHEREAS, the City of Lake Elmo supports these principles of open and transparent government, promoting citizen engagement, and having an informed populace.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Lake Elmo, that the formation and determination of public policy is public business and shall be conducted at open meetings except as required or permitted by the exceptions provided by state law; and.

BE IT FURTHER RESOLVED, it is hereby declared to be the policy of the City of Lake Elmo that every city public body and all city work groups shall give notice of the date, time, and location of its meetings by placing the notice in a prominent public location at which notices are regularly posted and in the office of the clerk.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF LAKE ELMO THIS THIRD
DAY OF MARCH 2015.**

**CITY COUNCIL
CITY OF LAKE ELMO**

By: _____
Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

Resolution No. 2015-14



MAYOR & COUNCIL COMMUNICATION

DATE: March 3, 2015
REGULAR
ITEM # 6
PUBLIC HEARING

AGENDA ITEM: EDA Resolution Modification

SUBMITTED BY: Adam Bell, City Clerk

THROUGH: Julie Fliflet, Council Member

REVIEWED BY: Julie Fliflet, Council Member
Beckie Gumatz, Deputy Clerk

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Clerk
- Report/Presentation..... Staff
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

POLICY RECOMMENDER: Council Member Fliflet

FISCAL IMPACT: None.

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to hold a public hearing to consider the modification of the EDA Enabling Resolution. Following the hearing, Council is further requested to approve Resolution No. 2015-13, Modification to Enabling Resolution Establishing the Economic Development Authority of the City of Lake Elmo, Minnesota Under Minnesota Statutes, Section 469.090 Through 469.1082 by the following motion:

“Move to approve Resolution No. 2015-15, Modification to Enabling Resolution Establishing the Economic Development Authority of the City of Lake Elmo, Minnesota.”

LEGISLATIVE HISTORY/ BACKGROUND INFORMATION:

The Lake Elmo Economic Development Authority was formally enabled in 2013 by Resolution 2013-05. It was established as a recommending body only, and was not to have the power to act on any matter independently without City Council approval. In 2014 the EDA began work on a downtown development plan which was reviewed by the Planning Commission in November

2014. As there had not been much activity by the EDA prior to this point, new and current officials requested more information on the EDA. In a review of the Enabling Resolution, it was noted that the language included did not clearly state that the EDA was a recommending body only.

At the January 13, 2015 City Council Meeting, it was requested that the language used in the initial EDA Enabling Resolution be revised to clarify the enumerated powers to reflect the original intent. Council Member Fliflet, who made the request, wanted to make it clear that the intent of the modification is not to reduce the authority of the EDA, but simply to clarify that any action taken by the EDA must be brought to the City Council for formal approval, which was the original intent when the EDA was established. This recommendation is not changing the way in which the EDA is currently functioning, or was intended to function, in any manner. It is simply changing the language in the Enabling Resolution to more clearly represent the way in which the EDA was established to function.

Per state statute, any modifications to the Enabling Resolution must be made following a public hearing. Legal notice of the public hearing was published in the *Oakdale – Lake Elmo Review* on February 11, 2015 and February 18, 2015 per state statute.

RECOMMENDATION:

Staff recommends the City Council hold a public hearing to consider the modification of the EDA Enabling Resolution and following the hearing, approve Resolution No. 2015-13, Modification to Enabling Resolution Establishing the Economic Development Authority of the City of Lake Elmo, Minnesota Under Minnesota Statutes, Section 469.090 Through 469.1082 by the following motion:

***“Move to approve Resolution No. 2015-15, Modification to Enabling Resolution
Establishing the Economic Development Authority of the City of Lake Elmo, Minnesota.”***

ATTACHMENT:

1. Resolution No. 2015-15

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

RESOLUTION NO. 2015-15

**MODIFICATION TO ENABLING RESOLUTION ESTABLISHING THE ECONOMIC
DEVELOPMENT AUTHORITY OF THE CITY OF LAKE ELMO, MINNESOTA
UNDER MINNESOTA STATUTES, SECTION 469.090 THROUGH 469.1082**

BE IT RESOLVED BY, The City Council of the City of Lake Elmo, Minnesota, as follows:

1. Recitals. The City of Lake of Lake Elmo is authorized pursuant to Minnesota Statutes, 469.090 through 469.1082 (the Economic Development Act), to establish an economic development authority for the City and the Council desires to do so in order to promote certain, economic, commercial, housing, and / or industrial development and redevelopment goals and objectives. The City has caused notice of a public hearing on the establishment by the City of an economic development authority to be published in a newspaper of general circulation in the City once each week for two consecutive weeks, and pursuant to such notice, a public hearing on the proposal has been held by the Council on the date hereof, at which hearing all persons desiring to present their oral or written comments on the proposal were given an opportunity to do so.
2. Establishment of Economic Development Authority. Pursuant to the Economic Development Authority Act, the Council hereby establishes an economic development authority for the City to be known as the Economic Development Authority of the City of Lake Elmo, Minnesota (the "EDA"). The EDA shall be governed by a board of commissioners thereof consisting of seven members, two who shall be members of the City Council. Each Commissioner who is a member of the City Council shall cease to be a Commissioner effective at such a time as he or she is no longer a member of the Council. Five members shall be real property owners, in good standing, from within the jurisdictional boundary of the City of Lake Elmo that be appointed by the Mayor with Council approval. Terms shall be staggered as follows: (1) member serves a one-year term; (2) members serve a two-year term, (2) members serve a three-year term.
3. Staffing. The City Administrator shall act as the Executive Director of the City of Lake Elmo Economic Development Authority.
4. Powers. The EDA shall have all limited powers granted to an economic development authority pursuant to the Economic Development Authority Act, as the same may be amended or supplemented. The City of Lake Elmo City Council pursuant to Minnesota Statutes 469.092 places the following operational control on the EDA:
The EDA shall function as a recommending body only, and shall not have the authority to act independently on any matter without City Council approval.

- ~~1. The sale of all bonds or obligation issued by the EDA must be approved by the City Council before issuance;~~
- ~~2. The EDA follows the budget process for City departments as provided by the City as implemented by the City Council and Mayor;~~
- ~~3. All official actions of the EDA must be consistent with the adopted comprehensive plan of the City, and any official controls or oversight by the City implementing the comprehensive plan;~~
- ~~4. The City Council may by resolution require the EDA to transfer any portion of reserves generated by activities of the EDA that the City Council determines is not necessary for the successful operation of the authority to the debt service fund of the City, to be used solely to reduce tax levies for bonded indebtedness of the City.~~

SECTION 2. Effective Date

This Resolution shall become effective upon its passage and without publication.

SECTION 3. Adoption Date

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE 3RD DAY OF MARCH, 2015.

(Seal)

ATTEST:

By: _____
Mike Pearson
Mayor

Adam Bell
City Clerk



MAYOR & COUNCIL COMMUNICATION

DATE: March 3, 2015
REGULAR
ITEM 8

AGENDA ITEM: Eagle Point Boulevard Street and Sanitary Sewer Improvements – Resolution Receiving Feasibility Report and Calling Hearing on Improvement

SUBMITTED BY: Ryan Stempski, Assistant City Engineer

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Adam Bell, City Clerk
Cathy Bendel, Finance Director
Jack Griffin, City Engineer
Dave Snyder, City Attorney

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Engineer
- Report/Presentation..... City Engineer
- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECOMMENDER: Engineering.

FISCAL IMPACT: None.

The Feasibility Report was previously authorized. Calling for and conducting the Public Improvement Hearing is included in the feasibility report scope of services.

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to consider adopting Resolution No. 2015-16 receiving the Feasibility Report and calling for a Public Improvement Hearing for the Eagle

Point Boulevard Street and Sanitary Sewer Improvements to be held on April 7, 2015. The recommended motion for this action is as follows:

“Move to adopt Resolution No. 2015-16, receiving the Feasibility Report and calling Hearing for the Eagle Point Boulevard Street and Sanitary Sewer Improvements.”

LEGISLATIVE HISTORY/BACKGROUND INFORMATION:

Complaints regarding street condition and requests to address these problems have been received from property owners along Eagle Point Boulevard over the past few years. In 2013, a petition was received to pursue an improvement, however the City did not have sufficient bonding capacity to include the project in the CIP.

In the fall of 2014, the City amended the 2015-2019 CIP, which created bonding capacity to enable the City to pursue improvements to Eagle Point Boulevard in 2015. In January 2015, the City received a petition to represent at least 35% of the properties to be benefitted by the improvements. A feasibility report was authorized by the City Council on January 20, 2015 in order to ready these improvements for 2015 construction. The feasibility report is needed to meet state statutory requirements if any portion of the project is to be assessed to benefitting properties. The report identifies the necessary improvements, the estimated project costs, the assessment methodology and preliminary assessment amounts to be levied against properties adjacent to and benefitting from the street and sanitary sewer improvements.

The improvements consist of the following:

- Reconstruction of approximately 3,500 feet of commercial street, 40 feet wide from back of curb to back of curb.
- Placement of granular drainage subbase with draitile to address frost heaving actions from underlying soils.
- Extension of storm sewer and additional catch basins to improve surface drainage.
- Extension of sanitary sewer to provide service to the Inwood PUD development.

The total estimated project cost is \$1,351,000. The street improvement portion is \$1,243,000 and the sanitary sewer improvement portion is \$108,000. The improvements would be 100% assessed against the benefitting properties consistent with the City's Special Assessment Policy (all properties are commercial). Due to the irregular shaped lots along Eagle Point Boulevard, four separate assessment methodologies were analyzed in the report. On February 19, 2015 a property owner meeting was held to review the proposed scope of improvements and to present the alternative assessment methodologies. The City Administrator led a discussion that resulted in a consensus to assess the abutting properties using the area method. The area method is therefore the assessment methodology recommended in the report. However, the final assessment methodology should be decided by the city council upon hearing from the property owners at the public improvement hearing, tentatively scheduled for April 7th.

Assessments for street improvements are levied over 10 years. The sanitary sewer improvements would be 100% assessed to the Inwood PUD development and would be secured to the City

through a Waiver Agreement. The feasibility report findings and recommendations will be further presented at the meeting.

RECOMMENDATION:

Staff is recommending that the City Council adopt Resolution No. 2015-16, receiving the Feasibility Report and calling Hearing for the Eagle Point Boulevard Street and Sanitary Sewer Improvements. The recommended motion for this action is as follows:

***“Move to adopt Resolution No. 2015-16, receiving the Feasibility Report
and calling Hearing for the Eagle Point Boulevard Street and Sanitary Improvements.”***

ATTACHMENT(S):

1. Resolution 2015-16 Receiving Report and Calling for Hearing on Improvements.
2. Notice of Hearing on Improvement.
3. Location Map.
4. Project Schedule.
5. Feasibility Report *(available for review at City Hall)*

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2015-16

**A RESOLUTION RECEIVING A FEASIBILITY REPORT FOR THE
EAGLE POINT BOULEVARD STREET AND SANITARY SEWER
IMPROVEMENTS AND CALLING HEARING ON IMPROVEMENT**

WHEREAS, pursuant to city council authorization, adopted on January 20, 2015, a feasibility report has been prepared by FOCUS Engineering, Inc. for the Eagle Point Boulevard Street and Sanitary Sewer Improvements; and

WHEREAS, the feasibility report recommends that benefitting properties be assessed all or a portion of the cost of the improvements pursuant to the city's Special Assessment Policy and Minnesota Statutes, Chapter 429; and

WHEREAS, the feasibility report provides information regarding whether the proposed improvement is necessary, cost-effective, and feasible; whether it should best be made as proposed or in connection with some other improvement; the estimated cost of the improvements as recommended; and a description of the methodology used to calculate individual assessments for affected parcels.

NOW, THEREFORE, BE IT RESOLVED,

1. That the City Council will consider the improvements in accordance with the report and the assessments of the abutting properties for all or a portion of the cost of the improvements pursuant to Minnesota Statutes, Chapter 429 at an estimated total project cost of \$1,243,000 for the street improvements and an estimated total project cost of \$108,000 for the sanitary sewer improvements.
2. A public hearing shall be held on such proposed improvements on the 7th day of April, 2015, in the council chambers of the City Hall at or approximately after 7:00 P.M. and the clerk shall give mailed and published notice of such hearing and improvement as required by law.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE THIRD DAY OF MARCH, 2015.

CITY OF LAKE ELMO

By: _____
Mike Pearson
Mayor

(Seal)
ATTEST:

Adam Bell
City Clerk

CITY OF LAKE ELMO
NOTICE OF HEARING ON IMPROVEMENT
EAGLE POINT BOULEVARD STREET & SANITARY SEWER IMPROVEMENTS

Notice is hereby given that the City Council of Lake Elmo will meet in the council chambers of the city hall at or approximately after 7:00 P.M. on Tuesday, April 7, 2015, to consider the making of the following improvements, pursuant to Minnesota Statutes, Sections 429.011 to 429.111;

The street improvements are proposed along Eagle Point Boulevard from Inwood Avenue to Hudson Boulevard and consist of reconstruction of the existing street with a sand subbase, draintile, new concrete curb and gutter and extension of the existing storm sewer system. The sanitary sewer improvements include the extension of existing sanitary sewer along a portion of Eagle Point Boulevard to serve the undeveloped property to the north of Eagle Point Business Park.

The area proposed to be assessed for the street improvements include the properties directly abutting Eagle Point Boulevard. Inwood LLC is proposed to be assessed for the sanitary sewer improvements along Eagle Point Boulevard for service to the property north of the Eagle Point Business Park. The estimated total cost of the street improvements is \$1,243,000 and the estimated total cost of the sanitary sewer extension \$108,000. A reasonable estimate of the impact of the assessment will be available at the hearing. Such persons as desiring to be heard with reference to the proposed improvements will be heard at this meeting.

DATED: March 3, 2015

BY ORDER OF THE LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

(Published in the Oakdale-Lake Elmo Review on March 11, 2015 and March 18, 2015)

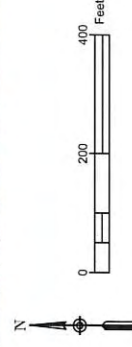


FIGURE NO. 1
PARCELS
EAGLE POINT BOULEVARD

EAGLE POINT BOULEVARD
DECEMBER, 2014



FOCUS ENGINEERING, inc.

PROJECT SCHEDULE
CITY OF LAKE ELMO

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. 651.300.4283

EAGLE POINT BLVD STREET AND SANITARY
SEWER IMPROVEMENTS
PROJECT NO. 2015.120

FEBRUARY 2015

January 20, 2015	Council authorizes Feasibility Report.
March 3, 2015	Presentation of Feasibility Report. Council accepts Report and Calls Hearing.
March, 2015	Property owner meeting. Presentation of Report findings and recommendations.
April 7, 2015	Public Improvement Hearing. Council orders Preparation of plans and specifications.
June 2, 2015	Council approves Plans and Specifications; Orders Advertisement for Bids.
June 30, 2015	Receive Contractor Bids.
July 7, 2015	Council accepts bids and awards Contract.
July 28, 2015	Conduct Pre-construction Meeting and Issue Notice to Proceed.
October 23, 2015	Substantial completion.
November 27, 2015	Final completion.



MAYOR & COUNCIL COMMUNICATION

DATE: March 3, 2015

REGULAR

ITEM # 9

AGENDA ITEM: Zoning Text Amendment – Liquor Store Use in Convenience Commercial Zoning District

SUBMITTED BY: Nick M. Johnson, City Planner

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Kyle Klatt, Community Development Director
Adam Bell, City Clerk

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECCOMENDER: The Planning Commission and Staff are recommending that the City Council approve an amendment to the Zoning Code to change liquor stores to a permitted use in the Convenience Commercial (CC) zoning district.

FISCAL IMPACT: None

SUMMARY AND ACTION REQUESTED: The City has received a request from Mr. Keith Carlson, CHO Investments, to amend the City's Zoning Code to allow liquor stores as a permitted use within the Convenience Commercial (CC) zoning district. To consider the request, the Planning Commission held a public hearing on February 23, 2015. The Planning Commission is recommending approval of the proposed zoning text amendment to change liquor stores as a permitted use in the CC district. The motion to take the recommended action on the request is as follows:

"Move to adopt Ordinance 08-116, changing liquor stores to a permitted use in the Convenience Commercial zoning district."

In addition, Staff is recommending that the City Council authorize summary publication of the approved ordinance through the following motion:

“Move to adopt Resolution No. 2015-17, authorizing summary publication of Ordinance 08-116.”

BACKGROUND INFORMATION/STAFF REPORT:

Keith Carlson, CHO Investments, currently owns and manages the commercial property at 11025 10th Street North, one of two sites in Lake Elmo that is currently zoned Convenience Commercial (CC). The site is currently utilized as a gasoline station, neighborhood convenience store, and also has additional retail space. Mr. Carlson previously submitted an application for a liquor license to open a liquor store within the vacant retail space. Upon review of this liquor license, staff discovered that liquor stores are currently not a permitted use in the CC zoning district. The applicant was therefore notified that a Zoning Text Amendment would be necessary to amend the Zoning Code to allow liquor stores in that zoning district. The applicant has therefore applied for a Zoning Text Amendment to request the Zoning Code amendment. It should be noted that should the City Council approve the amendment to the City Code, the applicant will still need to apply for a liquor license to sell alcohol at that specific location. The process to issue a liquor license requires an additional public hearing held at the City Council, in addition to background check and other review required by statute. Therefore, it is important to note that the requested action of amending the Zoning Code to allow liquor stores as a permitted use in the CC district applies to the zoning district itself, not a specific parcel. Any individual liquor stores on parcels zoned CC would still be required to obtain a liquor license from the City.

The Convenience Commercial zoning district was created in 2012 as part of a broader Zoning Code update, which added urban residential and commercial districts and performance standards. The purpose of this Zoning Code update was to prepare the City for upcoming sewered growth and development. As part of this original update to the Zoning Code, liquor stores were not identified as a permitted use in the CC zoning district. In order to determine if liquor stores are an appropriate use for this district, staff reviewed the purpose statement for the CC district. The purpose statement of the CC zoning district states the following:

The CC District is established to provide for smaller scale commercial development and attractive neighborhood shopping centers that are compatible with surrounding residential and business park development, ideally located at the intersection of two or more collector streets or at the intersection of an arterial and collector street. Convenience goods and services are those which are purchased frequently, i.e., at least weekly; for which comparison buying is not required; and which can be sustained in a limited trade area. Such uses include convenience markets, personal services and repair shops. A limited number of other uses, including but not limited to restaurants, gas stations, medical centers, religious institutions, transit-related park-and-ride lots, and facilities with drive-up windows, are also allowed.

Based on this purpose statement, the CC district is intended for smaller parcels with less intense commercial uses. For example, uses such as club sales or building supply sales would not be appropriate in the CC district, as these uses generate more traffic and parking and draw from a larger trade area. These types of uses generally have larger impacts and would not be appropriate for the CC district. As the purpose statement notes, the CC district is intended for smaller scale commercial development that provides goods and service that are purchased frequently and can be sustained in a limited trade area. In the judgment of staff, a liquor store would qualify as a use that meets the criteria for a commercial use that is consistent with the intent of the CC zoning district. Additional information detailing the staff's review of the liquor store use in the context of the CC district can be found in the staff report to the Planning Commission (Attachment #3). It should also be noted that two parcels currently are zoned Convenience Commercial: 11025 10th Street North and 4201 Manning Avenue North. Both of these parcels are sites of gasoline stations and neighborhood convenience stores, fitting the purpose or intent of the CC zoning district.

PLANNING COMMISSION REPORT:

The Planning Commission reviewed the requested Zoning Text Amendment to make liquor stores a permitted use in the Convenience Commercial zoning district on February 23, 2015. In addition, a public hearing was held on that date. During the public hearing, no one spoke in favor or in opposition to the proposed amendment to the Zoning Code, and staff did not receive any written or electronic correspondence on the matter. In considering the request, the Planning Commission asked a number of questions and engaged in discussion. The details of the discussion can be found in the draft Planning Commission minutes attached to the City Council Agenda Packet. The Planning Commission moved to recommend approval of the amendment to the Zoning Code to allow liquor stores as a permitted use in the Convenience Commercial zoning district (Vote: 4-1). It should be noted that Commissioner Larson voted nay, as he stated that there were enough liquor stores in the community. The reasoning behind his opposition to the motion can be found in the draft minutes of the February 23rd meeting. Finally, as part of the recommendation to approve the requested zoning text amendment, the Planning Commission affirmed the following three findings from the staff report:

- 1) Liquor stores are consistent with and are typically found within smaller scale commercial developments.
- 2) Liquor stores include the sale of goods that are purchased frequently and can be sustained within a limited trade area.
- 3) The existing parcels zoned convenience commercial are located at the intersections of arterial roadways, thereby allowing adequate access to the site and being in conformance with the purpose or intent of the zoning district.

STRENGTHS, WEAKNESSES, OPPORTUNITIES, THREATS:

Strengths: In the judgment of the Planning Commission and staff, liquor stores are an appropriate use for the Convenience Commercial zoning district. Approval of the Zoning

Code amendment allows for refinement of the uses that are consistent or appropriate with the CC zoning district.

Weaknesses: None

Opportunities: Should the zoning text amendment be approved, the property owner intends to apply for liquor license to open a liquor store at one of the two sites zoned CC. If the liquor license were to be approved, it would allow for an additional business in Lake Elmo providing additional opportunities for these goods. The proposed liquor store would be located in a portion of the site that is presently vacant.

Threats: Allowing for additional opportunities for liquor stores does include some inherent risk, as alcohol is an intoxicating good. However, as previously noted in the staff report, only two sites in Lake Elmo are presently zoned Convenience Commercial. In addition, the City does run a successful liquor license program that ensures these businesses are being operated in a safe manner. Each liquor license is subject to a public hearing, background checks are completed by the Washington County Sheriff's Department, and each license is reviewed annually. Through the successful implementation of the liquor license program by the administrative staff, the amount of risk associated with intoxicating liquors is reduced or mitigated.

RECOMMENDATION:

Based on the aforementioned, the Planning Commission and staff are recommending that the City Council approve the proposed amendment to the Zoning Code to make liquor stores a permitted use in the Convenience Commercial zoning district. The motion to take the recommended action on the request is as follows:

“Move to adopt Ordinance 08-116, changing liquor stores to a permitted use in the Convenience Commercial zoning district.”

In addition, Staff is recommending that the City Council authorize summary publication of the approved ordinance through the following motion:

“Move to adopt Resolution No. 2015-17, authorizing summary publication of Ordinance 08-116.”

ATTACHMENTS:

1. Ordinance 08-116
2. Resolution No. 2015-17
3. Staff Report to the Planning Commission
4. Land Use Application and Supporting Narrative
5. City's Official Zoning Map
6. Location Map of Parcels Zoned CC

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-116

AN ORDINANCE AMENDING THE LAKE ELMO ZONING CODE BY AMENDING THE PERMITTED, CONDITION AND INTERIM USES IN THE COMMERCIAL ZONING DISTRICTS BY MAKING LIQUOR STORES A PERMITTED USE WITHIN THE CONVENIENCE COMMERCIAL (CC) ZONING DISTRICT

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 551 to read the following:

§ 154.551 Permitted, Conditional and Interim Uses

Table 12-1 lists all permitted and conditional uses allowed in the commercial districts. “P” indicates a permitted use, “C” a conditional use and “I” an interim use. Uses not so indicated shall be considered prohibited. Cross-references listed in the table under “Standards” indicate the location within this chapter of specific development standards that apply to the listed use.

Table 12-1: Permitted, Conditional and Interim Uses, Commercial Districts

<i>Sales of Merchandise</i>					
	<i>LC</i>	<i>CC</i>	<i>C</i>	<i>BP</i>	<i>Standard</i>
General retail sales	C	P	P	C	154.194(N)
Building supplies sales	-	-	C	-	
Warehouse club sales	-	-	C	-	
Furniture and appliance sales	-	-	P	-	
Grocery, supermarket	-	-	P	-	
Liquor store	-	P	P	-	
Garden center	-	-	P	-	154.194(G)
Neighborhood convenience store	-	P	P	-	
Shopping center	-	P	P	-	
Wholesaling	-	-	P	-	

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 08-116 was adopted on this third day of March 2015, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

This Ordinance 08-116 was published on the ____ day of _____, 2015.

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

RESOLUTION NO. 2015-17

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-116 BY TITLE
AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-116, an ordinance to the City's regulations pertaining to permitted uses within the commercial zoning districts; and

WHEREAS, the ordinance contains charts; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-116 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-116, which amends Article XII – Commercial Districts of the Zoning Code to make liquor stores a permitted use within the Convenience Commercial zoning district.

The full text of Ordinance No. 08-116 is available for inspection at Lake Elmo city hall during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: March 3, 2015.

Mayor Mike Pearson

ATTEST:

Adam Bell, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

_____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.



PLANNING COMMISSION
DATE: 2/23/15
AGENDA ITEM: 4B – PUBLIC HEARING
CASE # 2015-07

ITEM: Zoning Text Amendment – Liquor Store Use in Convenience Commercial Zoning District

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Community Development Director
Adam Bell, City Clerk

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to hold a public hearing on a request to amend the City's Zoning Code to allow liquor stores as a permitted use within the Convenience Commercial zoning district. Staff is recommending that the Planning Commission recommend approval of the requested Zoning Text Amendment.

GENERAL INFORMATION

Applicant: Keith P. Carlson, CHO Investments, 1626 Hunter Hill Road, Hudson, WI 54016

Property Owners: CHO Investments, 9630 Walleye Road NW, Brandon MN 56315

Location: N/A – Request would allow for liquor stores as a permitted use in the Convenience Commercial zoning district city-wide (currently two locations in Lake Elmo have Convenience Commercial zoning designation)

Request: Keith P. Carlson and CHO Investments are requesting to amend the City's Zoning Code to change liquor stores as a permitted use in the Convenience Commercial (CC) zoning district.

Existing Land Use: N/A

Existing Zoning: N/A

Surrounding Land Use: N/A

Surrounding Zoning: N/A

Comprehensive Plan: N/A

Proposed Zoning: N/A

History: The Commercial zoning districts were updated in 2012 as part of a broader effort to update the City's Zoning Code in advance of sewer growth in Lake Elmo. As part of this Zoning Code update, the current commercial zoning districts were added, and permitted, conditional and interim uses identified. At that time, liquor stores were not included as a permitted use in the Convenience Commercial zoning district.

Applicable Regulations: Article XII – Commercial Districts (§154.551)

REQUEST DETAILS

Keith Carlson and CHO Investments have applied for a zoning text amendment to amend the City's Zoning Code to allow liquor stores as a permitted use in the Convenience Commercial (CC) zoning district. The Planning Commission is asked to hold a public hearing on the request, as all changes to the City's Zoning Code require a public hearing. The applicants currently own one of the two sites in Lake Elmo that is zoned Convenience Commercial (see Attachment #4).

BACKGROUND

Keith Carlson and CHO Investments currently own and manage the commercial property at 11025 10th Street North (southeast corner of Lake Elmo Ave. and 10th St.). To supplement the current neighborhood convenience store use of the site, the owner and tenant have proposed to open a liquor store. The applicants applied for a liquor license in January of 2015. Upon review of the liquor license in the context of the City's Zoning Code, it was found that liquor stores are currently not permitted in the Convenience Commercial zoning district. When the applicants submitted the liquor license for this property, they were not aware of the current restriction on liquor stores in the CC district. In fact, when operated by a previous business owner, the neighborhood convenience store previously had a 3.2% liquor license, which is now no longer valid. After the review of the liquor license was completed, the property owner was notified that a zoning text amendment would be required to operate a liquor store on a parcel with the CC zoning designation.

The subject property is one of two sites in Lake Elmo zoned Convenience Commercial. The two sites are located at 11025 10th Street North and 4201 Manning Avenue North. Both of these sites include a gasoline station and neighborhood convenience store. Attachment #4 includes a map that identifies the location of the two parcels with the CC zoning designation. In addition, the City's Official Zoning Map is also attached (Attachment #3). After further consulting City staff, the applicants have submitted a zoning text amendment to allow liquor stores as a permitted use in the CC zoning district based on the current restriction as identified in the Zoning Code.

STAFF REVIEW COMMENTS:

In order to review whether or not liquor stores are an appropriate use in the Convenience Commercial (CC) zoning district, staff reviewed the purpose statement for the district in Article XII – Commercial Districts of the City's Zoning Code. The purpose statement for the CC zoning district reads the following:

The CC District is established to provide for smaller scale commercial development and attractive neighborhood shopping centers that are compatible with surrounding residential and business park development, ideally located at the intersection of two or more collector streets or at the intersection of an arterial and collector street. Convenience goods and services are those which are purchased frequently, i.e., at least weekly; for which comparison buying is not required; and which can be sustained in a limited trade area. Such uses include convenience markets, personal services and repair shops. A limited number of other uses, including but not limited to restaurants, gas stations, medical centers, religious institutions, transit-related park-and-ride lots, and facilities with drive-up windows, are also allowed.

In the context of this purpose statement, staff finds that liquor stores are in fact consistent with the purpose and intent of the CC zoning district. The reasons or findings for this determination are the following:

1. Liquor Stores are consistent with and are typically found within smaller scale commercial developments.
2. Liquor Stores include the sale of goods that are purchased frequently and can be sustained within a limited trade area.
3. The existing parcels zoned Convenience Commercial are located at the intersections of arterial roadways, thereby allowing adequate access to the site and being in conformance with the purpose or intent of the zoning district.

It should be noted that from a planning perspective liquor stores do not present greater impacts to neighboring properties than other general retail uses or forms of retail trade. They all generate similar amounts of traffic and have similar considerations with regards to land use compatibility. The purpose of the Convenience Commercial district is to allow for smaller scale commercial activities, including general retail sales, that will have limited impacts to nearby residential land uses. In the judgment of staff, a liquor store qualifies as a land use that is a limited commercial use in nature. It should be noted that other retail uses that do have larger amounts of traffic and other associated impacts, such as garden centers, building supplies sales, warehouse club sales, grocery stores, supermarkets, and other larger scale uses, are also not permitted in the CC district. When comparing liquor stores to these other larger retail uses that are not consistent with the intent of the CC district, it is clear to staff that the level of traffic and activity of a neighborhood liquor store is far less than that of the other aforementioned uses. For that reason, liquor stores would be an acceptable use that is consistent with the intent of the CC district in the judgment of staff.

In addition to the analysis about whether or not liquor stores as a use are appropriate for the Convenience Commercial district, it should be noted that the proposed action does not remove or replace the procedural requirements necessary for the applicants to procure a liquor license from the City. In order to receive a liquor license, a public hearing must be held by the City Council. The Council has wide discretion in approving or denying the license issuance. As part of the review for a proposed liquor license, the City has the Washington County Sherriff's Office conduct a thorough background check and provide review comments on an annual basis. Following the law enforcement review and subsequent approval by the City, the application is then submitted to the Minnesota Department of Safety for final review. All liquor licenses must be renewed on an annual basis and can be suspended or revoked for any infractions or violations at any time. The reason these procedural steps are highlighted is to note that the proposed action this evening relates solely to whether or not liquor stores should be a permitted use within the CC zoning district, not as to the merits of the applicants' request for a liquor license. To summarize, the requested action would amend the City's Zoning Code to allow the liquor store use in the CC zoning district, as opposed to making a recommendation on an application for a liquor license in a specific location for a specific applicant.

RECCOMENDATION:

Staff is recommending that the Planning Commission recommend approval of the requested zoning text amendment to allow liquor stores as a permitted use in the Convenience Commercial zoning district. The recommended motion is as follows:

“Move to recommend approval of the requested Zoning Text Amendment to change liquor stores to a permitted use in the Convenience Commercial Zoning District based on the findings of fact listed in the Staff Report.”

ATTACHMENTS:

1. Land Use Application and Supporting Narrative
2. Proposed Zoning Text Amendment
3. City’s Official Zoning Map
4. Location Map of Parcels Zoned CC

ORDER OF BUSINESS:

- Introduction Community Development Director
- Report by Staff City Planner
- 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: 2/11/15
Received By: [Signature]
Permit #: _____



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

LAND USE APPLICATION

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

Applicant: Keith P. Carlson / CHO investment
Address: 1626 hunter hill Rd Hudson WI 54016
Phone #: 612-819-1837
Email Address: RAM12-S@hotmail.com

Fee Owner: CHO investments
Address: 9630 Walleye Rd NW Brandon MN
Phone #: 612-819-1837
Email Address: _____

Property Location (Address and Complete (long) Legal Description): See attached
11029 10th St N Lake Elmo MN 55042

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:

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: Keith P. Carlson Date: 2-11-15

Signature of fee owner: Keith P. Carlson Date: 2-11-15

Property Location and legal description

Address: 11029 10th St. N., Lake Elmo, MN 55042

Parcel PID: 36.029.21.22.0001

Section: Under article XII section 154.550 of the Lake Elmo zoning code, the property is coded as CC Convenience Commercial District. The City zoning code states, "The CC District is established to provide for smaller scale commercial development and attractive neighborhood shopping centers that are compatible with surrounding residential and business park development, ideally located at the intersection of two or more collector streets or at the intersection of an arterial and collector street. Convenience goods and services are those which are purchased frequently, i.e., at least weekly; for which comparison buying is not required; and which can be sustained in a limited trade area. Such uses include convenience markets, personal services and repair shops. A limited number of other uses, including but not limited to restaurants, gas stations, medical centers, religious institutions, transit related park-and-ride lots, and facilities with drive-up windows, are also allowed." This zoning text does not currently allow for liquor sales.

Detailed Reason for Request

We are requesting to amend the zoning text to allow the sale of liquor in the CC Convenience Commercial District zoning of Lake Elmo. Our goal is to obtain a liquor license and provide the residents of Lake Elmo with a liquor store on 11029 10th St. N., Lake Elmo, MN 55042.

Reasoning: Since 2012, the existing tenants of the gas station/store within the building have heard complains from neighboring residents regarding the lack of liquor store within the area. There are no liquor stores within a 3 mile radius and many residents do not have vehicles to drive the distance. They have had to find rides to neighboring cities such as Woodbury, Oakdale, or Hudson (Wisconsin) for their needs. Those who do have a source of transportation are also taking their money to these neighboring cities. Many housing units are scheduled to be built near the property in the near future. The sales tax from these future tenants can go to the city of Lake Elmo rather than neighboring cities. Amending the zoning text will only affect one other very small parcel within Lake Elmo. I have owned the building since 1982 and would like to develop the location to create value. Adding a liquor store in the location will create 4-5 job openings for our neighborhood.

Our commitment: We commit to contributing a safe liquor store business to Lake Elmo. We will employ a top of the line security system including cameras, motion sensors, and an alarm. We will also be installing metal bars along the windows and door to deter any potential break in. Any persons under the age of 21 will not be permitted to enter the establishment and Identification will be required for every sale.

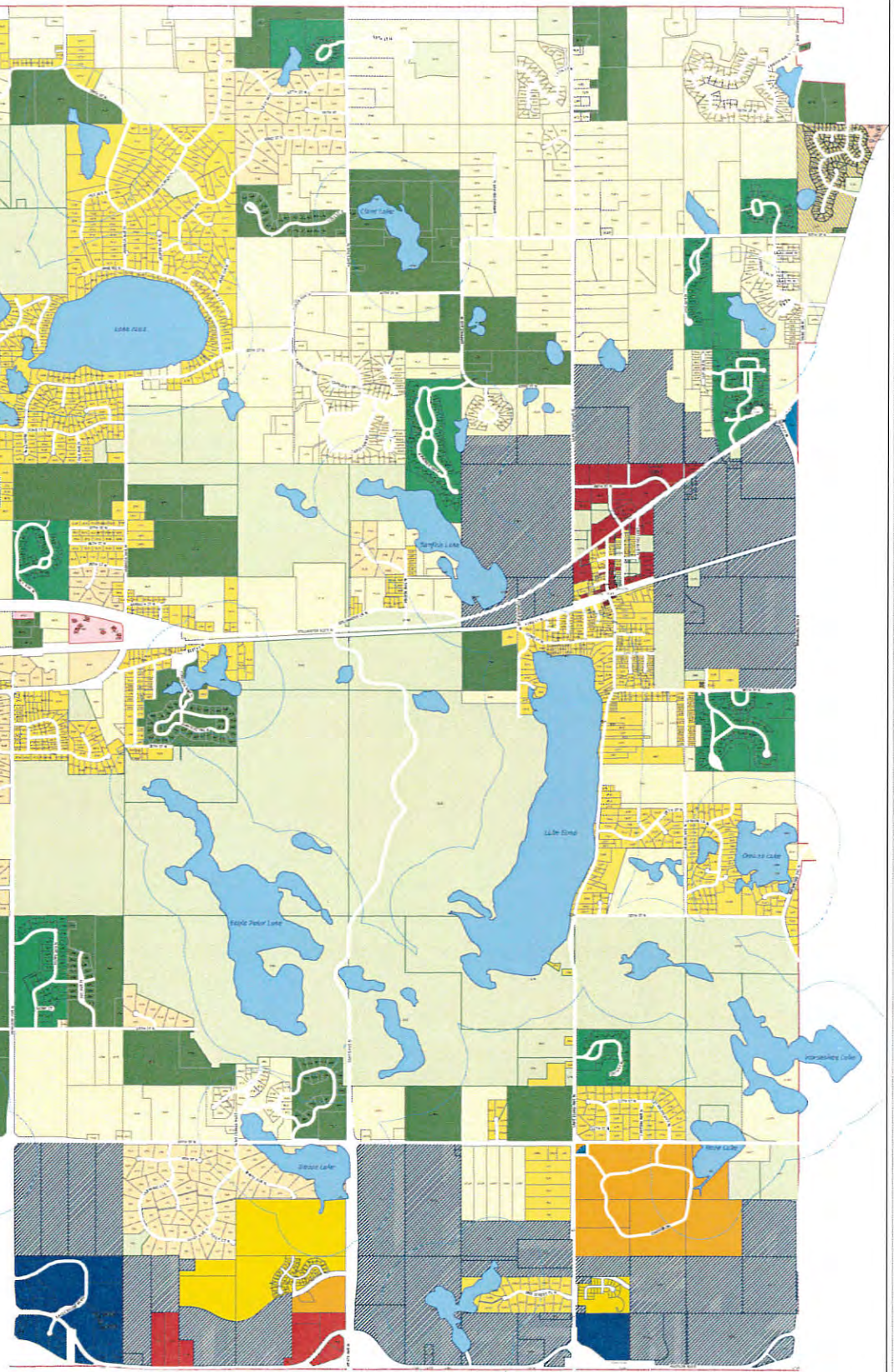


ZONING DISTRICTS

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

- Municipal Boundary
- Shoreland District

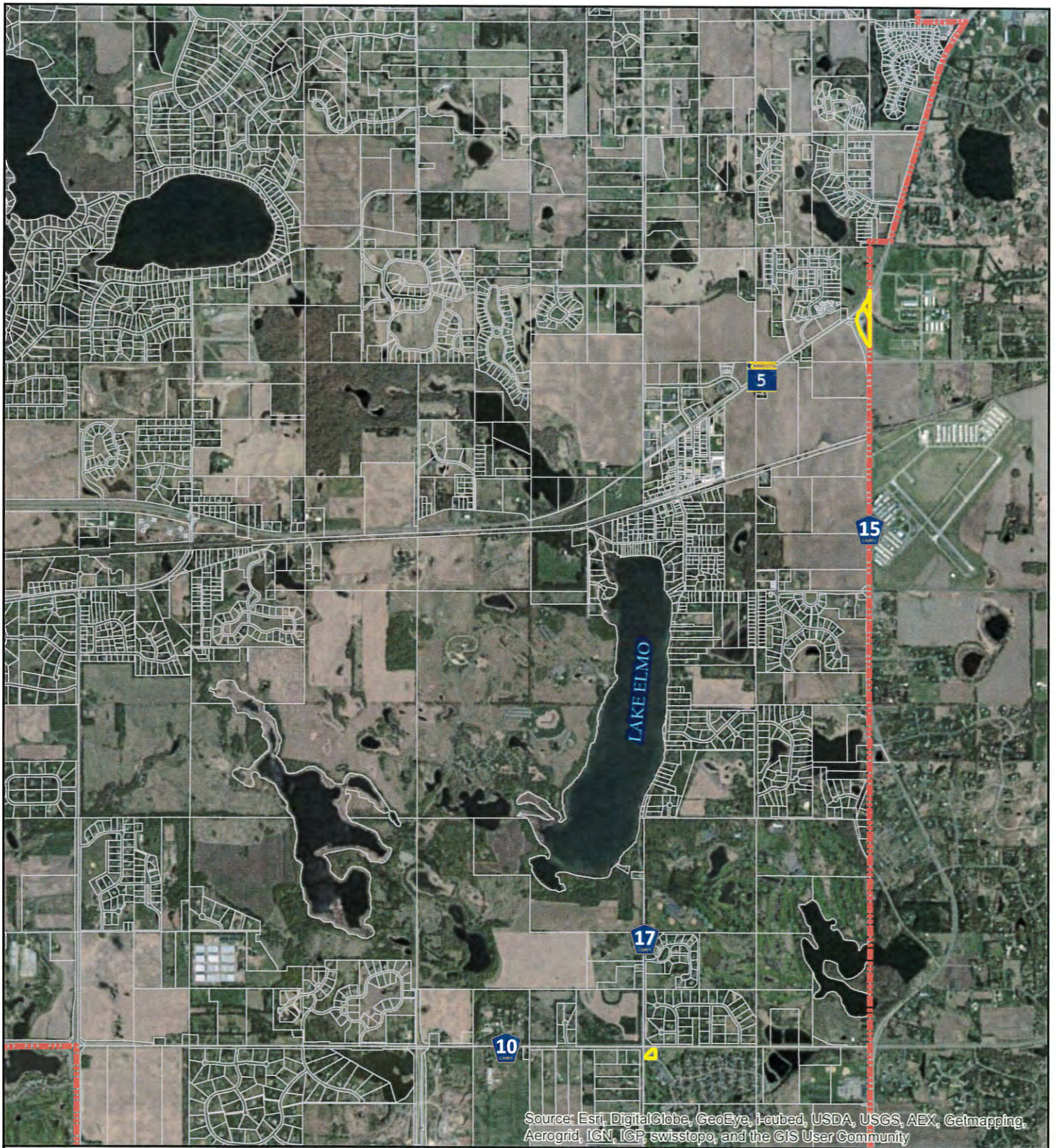
Data Disclaimer:
 This map is not a boundary survey
 and is not intended to be used as such.
 The City of Lake Elmo assumes no
 liability for the completeness of this map
 or responsibility for any associated direct,
 indirect, or consequential damages that
 may result from its use or misuse.



Sources: Washington County & Metro GIS
 1-9-2015

Official Zoning Map





Location Map: Parcels with CC Zoning



Data Source: Washington County, MN
2-18-2015



Parcels in Lake Elmo
with CC zoning

0 1,500 3,000 6,000 Feet



1"=3000'





MAYOR & COUNCIL COMMUNICATION

DATE: March 3, 2015
REGULAR
ITEM # 10

AGENDA ITEM: Easton Village – Final Plat (Phase 1)

SUBMITTED BY: Kyle Klatt, Community Development Director

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Nick Johnson, City Planner
Jack Griffin, City Engineer

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECCOMENDER: The Planning Commission is recommending that the City Council approve a final plat request from Easton Village, LLC for the first phase of a planned 217 unit residential subdivision to be located on 98.47 acres within the Village Planning Area. The final plat will include 71 single-family lots located within the southern portion of the subdivision.

The Planning Commission considered the final plat at its January 26, 2015 meeting and a summary of the Commission's report and recommendation are included below.

The City Council tabled taking action on the final plat at its February 3, 2015 meeting and is being asked to continue its discussion on this matter at its March 3, 2015 meting.

FISCAL IMPACT: TBD – Staff has been working the developer to draft a developer's agreement for review by the Council at its March 3rd meeting. The agreement includes a detailed accounting of any development costs that will be the responsibility of the developer and/or the City. As per the Staff recommendation, the developer has also prepared plans for the Eastern

Village Trunk Sewer line that will be included as part of the Easton Village developer's agreement.

SUMMARY AND ACTION REQUESTED: The City Council is being asked to consider a final plat request from Easton Village, LLC for approval of a final plat for the first phase of the Easton Village residential development. The final plat includes 71 single-family residential lots, and the related construction plans for the improvements necessary to serve these homes. The City Council approved the Easton Village Preliminary Plat on July 15, 2014, which covered approximately 98.5 acres of land within the Village planning area. There are 71 single-family residential units planned within the entire subdivision, and the final plat covers approximately one-third of the overall total of units that will eventually be platted.

The Planning Commission considered this matter at its January 26, 2015 meeting and recommended approval of the final plat as presented and subject to conditions of approval.

The suggested motion to adopt the Planning Commission recommendation is as follows:

“Move to adopt Resolution No. 2015-07 approving the final plat for Easton Village”

LEGISLATIVE HISTORY/PLANNING COMMISSION REPORT: Since the City Council's February 3rd meeting, Staff has been working with the developer to resolved issues concerning the developer's responsibility to pay for and construct public improvements within the subdivision, and to address concerns that the developer be required to pay for his fair share o the future construction costs for the planned Village Parkway railroad crossing. The development agreement for Easton Village (which is scheduled for review by the Council on March 3rd) includes all required developer payments to the City, specifies the amount of overall financial security required for the project, and requires that the developer enter into an agreement with the City to submit funds that will be held in escrow by the City to cover his proportional costs for the crossing based on the number of REC units platted.

The developer has also submitted updated plans for review by the Watershed District and the City concerning the storm water management plan for the site, and has since received an updated permit from the Valley Branch Watershed District for this work. Since the Council's last meeting, the developer has further requested that the plans for the Eastern Trunk Sewer line be incorporated into the developer's agreement. This means that the Easton Village construction project will include not only the localized improvements necessary to serve the subdivision, but will also incorporate the larger regional sewer project that will provide the needed connection to the trunk lines already installed by the City (and that are otherwise unusable until this connection is made). The Eastern Trunk Sewer line will be constructed privately, with no additional City payments to make the final connection to the 30th Street lift station.

The attached Staff report to the Planning Commission includes detailed information concerning the final plat in addition to the staff review and analysis of the request. The preliminary plat was approved by the City Council on July 15, 2014, and this approval included a series of conditions

that must be met by the applicant. Included in the Staff analysis is a line-by-line review of the conditions attached to the preliminary plat.

The Planning Commission considered the proposed final plat at its January 26, 2015 meeting and recommended approval with revisions one of the conditions of approval as drafted by Staff to require additional issues to be disclosed on the proposed disclosure statement. The Commission also requested a minor modification to one of the draft findings of approval.

As part of its review, the Commission asked several questions concerning the proximity of the subdivision to the Lake Elmo Airport, Union Pacific Railroad, and Manning Avenue. In order to help ensure that future property owners and builders are aware of the potential noise impacts from these uses, the Commission is recommending that a disclosure statement be provided to the initial buyer/builder of lots within Easton Village. The requirements for such a statement and the exact wording for the disclosures will be included as part of the development contract for this subdivision. The Commission's draft condition as revised (condition number 8) is included as part of Resolution 2015-07.

The Commission also discussed the request from the Metropolitan Airports Commission (MAC) that a barrier be installed between the residential lots and the storm water ponding area along Manning Avenue. The developer indicated that they would like to install a horse fence consistent with the City's theming study with lower shrubs to act as a barrier, and that they would be further discussing this concept with MAC.

The Planning Commission adopted a motion to recommend approval of the final plat consistent with the findings as noted in the attached Resolution No. 2015-007 and including all conditions of approval as listed in the resolution. The vote on the motion passed with a vote of 5 to 1. The dissenting Commissioner explained that she wanted to see more information on the individual houses and more details concerning the park land dedication before voting on the final plat.

BACKGROUND INFORMATION (SWOT):

Strengths

- The proposed plat is consistent with preliminary plat subject to the conditions being recommended by Staff and the Planning Commission.
- The developers agreement for the project will include construction of the Village Eastern Trunk Sewer Project, which is needed to utilize the City's existing trunk sewer installed within 39th Street and between Highway 5 and the railroad right-of-way
- The applicant received an updated permit from the Valley Branch Watershed District concerning the storm water management plan.

Weaknesses

- Several conditions of approval must be met by the applicant, including revisions to the final construction plans to address

comments from the City Engineer.

Opportunities

- The final plat, in conjunction with the Eastern Village Trunk Sewer project, will complete a missing and critical portion of the Village sewer system. Without Easton Village and the related public improvements, the 39th Street sewer project will not be connected to the lift station along 30th Street.
- The project represents the first Village subdivision to include a portion of the Village Parkway.
- The developer has agreed to pay for a proportional amount of the planned railroad crossing improvements based on the number of REC units being platted. The proposed escrow agreement will set the stage for future contributions from benefiting property owners/developers.

Threats

- The project is located adjacent to the airport, and as such, there is potential for noise and visual impacts to the future residents of this subdivision. Because the preliminary plat area is located outside of the immediate noise and safety zones, the conditions of approval as drafted are advisory in nature.

RECOMMENDATION: The Planning Commission and Staff are recommending that the City Council approve the final plat for Easton Village with 11 conditions of approval. The suggested motion to adopt the Planning Commission recommendation is as follows:

“Move to adopt Resolution No. 2015-07 approving the final plat for Easton Village”

ATTACHMENTS:

1. Resolution No. 2015-07
2. Illustrative Subdivision Drawing
3. Subdivision Street View Rendering
4. Valley Branch Watershed District Permit Review Memorandum 2-20-15
5. **ALL MATERIALS FROM PREVIOUS MEETING AVAILABLE BUT NOT ATTACHED:**
 - a. Planning Commission Staff Report – 1/26/15
 - b. Application Form
 - c. Applicant Memorandum – Southwest Grading
 - d. City Engineer Review Letter
 - e. Landscape Architecture Review Letter
 - f. Metropolitan Airports Commission Review Letter
 - g. Sample Airport Disclosure Notification
 - h. Baytown Township Comments
 - i. Easton Village Final Plat

- j. Landscape and Tree Preservation Plan – Phase I
- k. Tree Survey
- l. Grading and Erosion Control Plan – Phase I (electronic only)
- m. Street and Utility Plan – Phase I (electronic only)
- n. Landscape and Tree Preservation Plan - All Phases (electronic only)

**CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA**

RESOLUTION NO. 2015-07

A RESOLUTION APPROVING A FINAL PLAT FOR EASTON VILLAGE

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Easton Village, LLC, 2140 West County Road 42, Burnsville, MN (Applicant) has submitted an application to the City of Lake Elmo (City) for a Final Plat for Easton Village, a copy of which is on file in the City of Lake Elmo Community Development Department; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on June 30, 2014 to consider the Easton Village Preliminary Plat; and

WHEREAS, the Lake Elmo Planning Commission submitted its report and recommendation concerning the Preliminary Plat as part of a memorandum to the City Council for the July 15, 2014 City Council Meeting; and

WHEREAS, the Lake Elmo Planning Commission adopted a motion recommending approval of the Preliminary Plat; and

WHEREAS, the City Council reviewed the Preliminary Plat request at its July 15, 2014 meeting and adopted Resolution No. 2014-058 approving the Preliminary Plat; and

WHEREAS, the Lake Elmo Planning Commission met on January 26, 2015 to review the Final Plat for Easton Village consisting of 71 single-family detached residential lots; and

WHEREAS, on January 26, 2015 the Lake Elmo Planning Commission adopted a motion to recommend that the City Council approve the Final Plat for Easton Village with conditions; and

WHEREAS, the City Council reviewed the recommendation of the Planning Commission and the Final Plat for Easton Village at a meeting held on February 3, 2015 and on March 3m 2015; and

NOW, THEREFORE, based upon the testimony elicited and information received, the City Council makes the following:

FINDINGS

- 1) That the procedure for obtaining approval of said Final Plat is found in the Lake Elmo City Code, Section 153.08.

- 2) That all the requirements of said City Code Section 153.07 related to the Final Plat have been met by the Applicant, with the exception of the items identified in the Staff report to the Planning Commission dated January 26, 2015.
- 3) That the proposed Final Plat for Easton Village consists of the creation of 71 single-family detached residential structures.
- 4) That the Easton Village Final Plat is consistent with the Preliminary Plat and Plans as approved by the City of Lake Elmo on July 15, 2014 and as amended to comply with all conditions of preliminary plat approval.
- 5) That the Easton Village Final Plat is consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
- 6) That the Easton Village Final Plat complies with the City's Urban Low Density Residential zoning district regulations.
- 7) That the Easton Village Final Plat complies with all other applicable zoning requirements, including the City's landscaping, storm water, sediment and erosion control and other ordinances with the exception of issues identified in the January 26, 2015 Staff report to the Planning Commission.
- 8) That the Easton Village Final Plat complies with the City's subdivision ordinance.
- 9) That the Easton Village preliminary plat is consistent with the City's engineering standards with the plan revisions as requested by the City Engineer in his review comments to the City dated January 22, 2015.

CONCLUSIONS AND DECISION

NOW, THEREFORE, BE IT RESOLVED THAT the City Council does hereby approve the Final Plat for Easton Village subject to the following conditions:

- 1) Final grading, drainage, and erosion control plans, sanitary and storm water management plans, landscape plans, and street and utility construction plans shall be reviewed and approved by the City Engineer prior to the recording of the Final Plat. All changes and modifications to the plans requested by the City Engineer in a memorandum dated January 22, 2015 shall be incorporated into these documents before they are approved.
- 2) Prior to the execution of the Final Plat by City officials, the Developer shall enter into a Developer's Agreement acceptable to the City Attorney and approved by the City Council that delineates who is responsible for the design, construction, and payment of the required improvements for: a) the Easton Village Final Plat with financial guarantees

therefore, and b) for the Eastern Village Trunk Utility Project with financial guarantees therefore.

- 3) All easements as requested by the City Engineer and Public Works Department shall be documented on the Final Plat prior to the execution of the final plat by City Officials.
- 4) A Common Interest Agreement concerning management of the common areas of Easton Village and establishing a homeowner's association shall be submitted in final form to the Community Development Director before a building permit may be issued for any structure within this subdivision. The applicant shall also enter into a maintenance agreement with the City that clarifies the individuals or entities responsible for any landscaping installed in areas outside of land dedicated as public park and open space on the final plat
- 5) The developer is encouraged to incorporate elements from the Lake Elmo Theming Study into the final design of the community mailboxes within Easton Village.
- 6) The applicant shall separate those portions of Outlots B and E that are intended to be used for storm water management facilities and trails respectfully to facilitate the transfer of these public facilities to the City of Lake Elmo. The applicant shall deed Outlots A, D, F and those portions of D and E as described above to the City upon recording of the final plat.
- 7) The applicant shall comply with recommendations of the Metropolitan Airports Commission as documented in a letter dated December 8, 2014 from the Commission's Airport Planner.
- 8) The applicant shall provide shall provide a disclosure statement to all first homeowners in the development advising of the airport and associated over-flights, strobe lighting used by the airport, the potential future expansion of the airport, the location of an active Union Pacific rail line in close proximity to the development, and the temporary nature of the Manning Avenue connection providing access to Easton Village.
- 9) All builders shall be encouraged to incorporate interior noise reduction measures into single family residential structures within the subdivision based on the Metropolitan Council's Builder Guide.
- 10) The proposed street names shall be revised as follows to match existing and planned subdivisions in the area: a) 34th Street North to 32nd Street North and b) Lockwood Avenue North North to Linden Avenue North, and c) Lockwood Lane North to Linden Lane North.
- 11) The proposed access to Manning Avenue will be permitted as a temporary access until such time that the Village Parkway is connected to 30th Street or 5 years has passed from the date of final plat approval, whichever is longer. The developer's agreement for

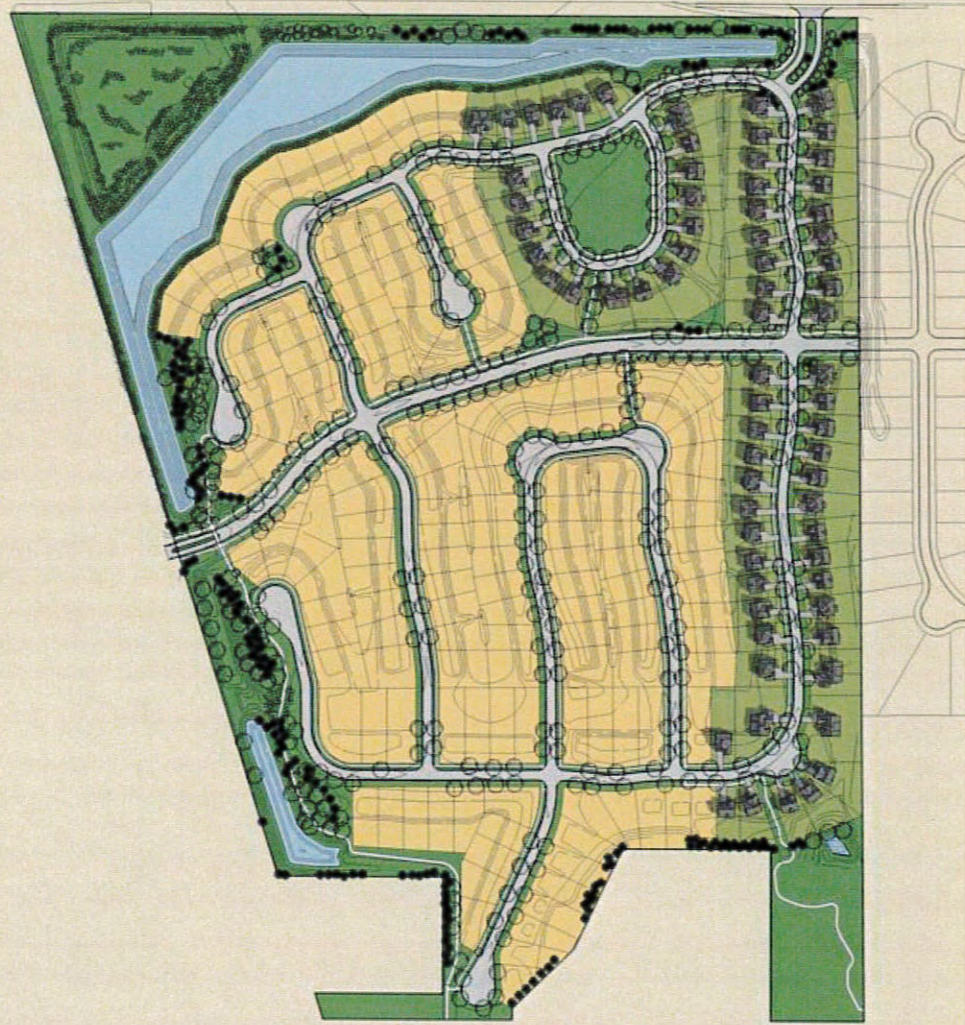
Easton Village shall include appropriate financial securities concerning the future cost for removal of the temporary access.

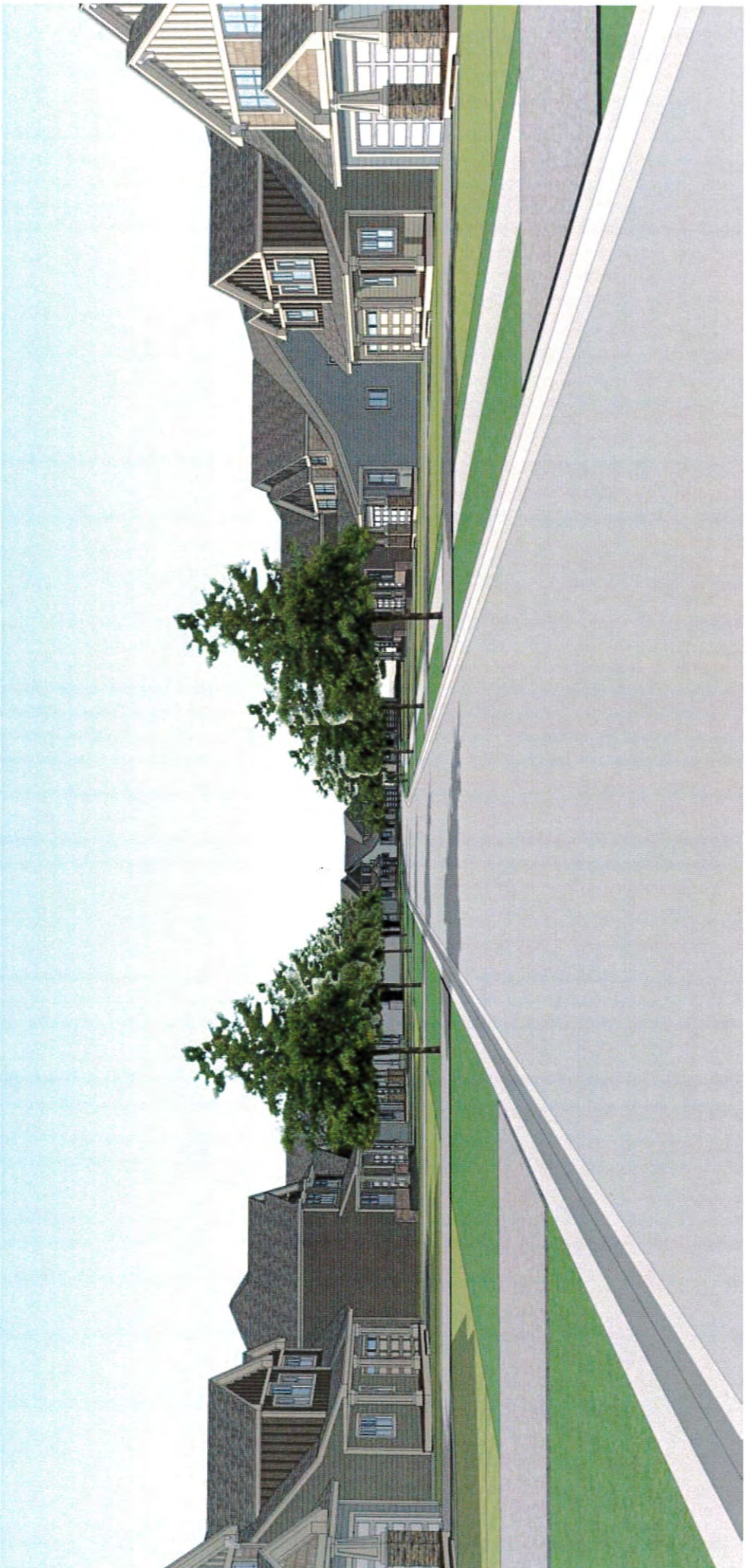
Passed and duly adopted this 3rd day of March 2015 by the City Council of the City of Lake Elmo, Minnesota.

ATTEST:

Mike Pearson, Mayor

Adam Bell, City Clerk





Valley Branch Watershed District Permit Review Memorandum

Subject: Easton Village, Permit 2015-05
Applicant & Owner: Tom Wolter, Easton Village, LLC
Authorized Agent/Engineer: Todd A. Erickson, PE, Erickson Civil Site
Date: February 20, 2015
Barr Project No.: 23/82-0020.00 2200 347

Location: South of railroad, west of Manning Avenue, north of 30th Street North, Lake Elmo
Section/Township/Range: Southeast quarter of Section 13, Township 29 North, Range 21 West
Project Purpose: Overall, the project will subdivide 98 acres into 218 single-family residential lots, approximately 0.2 acres in size. Work will include construction of roads, sidewalks, trails, sanitary sewer, water, and stormwater management facilities, including one large infiltration basin and one small infiltration basin; 20.1 acres of new impervious surfaces are proposed.
In Phase 1, 71 single-family homes and associated infrastructure are proposed along the south side of the site. The small wet pond and infiltration basin at the southwest corner and a majority of the large wet pond and all of the large infiltration basin on the east side will be constructed.
A trunk sewer line from Reid Park to the railroad will be constructed along the west side of the site.

Background:

The Managers approved permit 2014-02 on August 14, 2014, for this project. Since then, the developer's engineer has made several revisions, but the overall project remains very similar. While the Managers might not need to re-issue a permit for the subdivision, the project now includes the trunk sewer from Reid Park to the railroad. Because of the revisions and because VBWD permits are invalid if work does not begin within one year of issuance, I suggest that the Managers review the project again and consider issuing a new permit.

Select plan sheets of the overall plans, Phase 1 plans, and trunk sewer plans are attached and have been reviewed for conformance to the VBWD rules and regulations.

Conformance Summary:

Issue		Conforms to VBWD & WCA Rules?	Comments
Stormwater Management	Rate	Yes	
	Volume	See Comments	See Suggested Site-Specific Conditions 2 and 3.
	Quality		
	Maintenance Agreement	No	See Suggested Site-Specific Condition 4.
	Easement	Yes	See Standard Conditions 9 and 11.
Erosion Control Plan		See comment	See Standard Conditions 4-8.

To: VBWD Managers
From: John Hanson
Subject: Easton Village, Permit 2015-05
Date: February 20, 2015
Page: 2
Project: 23/82-0020.00 2200 347
c: Ray Marshall, Ray Roemmich, Melissa Imse

Issue		Conforms to VBWD & WCA Rules?	Comments
Wetland Management & Buffers	Delineation	NA	
	MNRAM Evaluation	NA	
	Classification	NA	
	Filling/Sequencing	NA	
	Excavating	NA	
	Buffers	NA	
	Hydrology	NA	
	Replacement Plan	NA	
	Banking Plan	NA	
Floodplain Management	100-Year Flood Level	Yes	
	Minimum Floor Elevations		
	Filling within Floodplain	NA	
	Easement	Yes	See Standard Conditions 9 and 10.
Permit Fee		Yes	\$15,728 submitted in June 2014.
Surety		See comment	See Suggested Site-Specific Condition 6. The surety is estimated at \$200,000.

Note: This review is based on these plan sheets:

- Erickson Civil Easton Village Phase 1 Trunk Utility Plan:
 - Plan Sheets C1, C4, and C5 dated 01/07/2015
 - Plan Sheets C2, C3, and C6 dated 02/20/2015
- Erickson Civil Easton Village Phase 1-Grading and Erosion Control Plans, Sheets C1-C13 dated 02/20/2015
- Erickson Civil Easton Village Preliminary Plat Grading Plan dated 02/18/2015

Suggested Site-Specific Conditions:

1. No construction shall start until all permit conditions are met. If the Valley Branch Watershed District Board is not satisfied that the conditions are met, the permit will be revoked.
2. Details of the connection from the proposed large wet pond to the proposed infiltration basin shall be provided and approved prior to construction.
3. The infiltration material specification shall be in conformance to MnDOT Specification 3877.1G, or an equivalent specification approved by the VBWD.
4. This permit is not valid until a maintenance agreement in the general format of Appendix B of the VBWD Rules is submitted to and approved by the VBWD Attorney.
5. The permit holder must obtain permission for any work outside of his property.
6. Prior to construction, the required surety shall be submitted.

To: VBWD Managers
From: John Hanson
Subject: Easton Village, Permit 2015-05
Date: February 20, 2015
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c: Ray Marshall, Ray Roemmich, Melissa Imse

Applicable Standard Conditions:

1. This permit is not transferable.
2. This permit is subject to obtaining all other permits required by governmental agencies having jurisdiction (including a NPDES permit).
3. The VBWD Engineer and Inspector shall be notified at least three days prior to commencement of work.
4. Erosion controls shall be installed prior to the commencement of grading operations and must be maintained throughout the construction period until turf is established. Additional erosion controls may be required, as directed by the VBWD Inspector or VBWD Engineer.
5. The following additional erosion controls shall be implemented on the site:
 - a. All proposed slopes three-feet horizontal to one-foot vertical (3H:1V) should be covered with erosion-control blanket.
 - b. Silt fence should follow existing contours as closely as feasible to limit the potential for gully erosion along the edges.
 - c. Any sediment that collects in storm sewers, ponds, or other water management features shall be removed.
 - d. Street sweeping shall be performed if sediment collects on streets.
 - e. If erosion occurs at the outlets of the storm sewer pipes, the applicant will be responsible for correcting the problem to the satisfaction of the VBWD.
6. To prevent soil compaction, the proposed infiltration area shall be staked off and marked during construction to prevent heavy equipment and traffic from traveling over it. If the infiltration facility is in place during construction activities, sediment and runoff shall be kept away from the facility, using practices such as diversion berms and vegetation around the facility's perimeter. The infiltration facility shall not be excavated to final grade until the contributing drainage area has been constructed and fully stabilized. The final phase of excavation shall remove all accumulated sediment and be done by light, tracked equipment to avoid compaction of the basin floor. To provide a well-aerated, highly porous surface, the soils of the basin floor shall be loosened to a depth of at least 24 inches to a maximum compaction of 85% standard proctor density prior to planting.
7. All disturbed areas shall be vegetated within 14 days of final grading.
8. The applicant is responsible for removal of all temporary erosion-control measures, including silt fence, upon establishment of permanent vegetation at the project site as determined by the VBWD Engineer and/or Inspector.
9. Valley Branch Watershed District shall be granted drainage easements which cover: (a) land adjacent to stormwater management facilities, wetlands, and lowlands up to their 100-year flood elevations and (b) all ditches, storm sewers, and maintenance accesses to the stormwater management facilities.
10. The minimum floor elevations for all buildable lots in the development shall be recorded in a Declaration of Covenants and Restrictions or on the final plat.
11. The required drainage easements and access easements shall be recorded with the Washington County Recorder's Office.

To: VBWD Managers
From: John Hanson
Subject: Easton Village, Permit 2015-05
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c: Ray Marshall, Ray Roemmich, Melissa Imse

12. Return or allowed expiration of any remaining surety and permit closeout is dependent on the permit holder providing proof that all required documents have been recorded (including but not limited to easements) and providing as-built drawings that show that the project was constructed as approved by the Managers and in conformance with the VBWD rules and regulations.



MAYOR & COUNCIL COMMUNICATION

DATE: 3/3/15
REGULAR
ITEM # 11
RESOLUTION 2015-18

AGENDA ITEM: Easton Village Developer's Agreement

SUBMITTED BY: Kyle Klatt, Community Development Director

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Jack Griffin, City Engineer
Dave Synder, City Attorney
Nick Johnson, City Planner

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECCOMENDER: Staff is recommending that the City Council approve a developer's agreement associated with the Easton Village residential development. The agreement has been drafted based on a model agreement previously reviewed by the Council.

FISCAL IMPACT: Direct Payments to Developer – None: there are no City payments for oversizing of utilities or for other reasons included in the agreement. Although the construction plans include oversizing of some infrastructure, the developer has previously agreed to absorb these costs as part of the City's 39th Street Sewer assessment project. Future financial impacts include maintenance of streets, trails, sanitary sewer mains, watermains and other public infrastructure, maintenance of storm water ponding areas (after three years), monthly lease payments for street light, and other public financial responsibilities typically associated with a new development.

SUMMARY AND ACTION REQUESTED: The City Council is being asked to authorize execution of a developer's agreement for the first phase of the Easton Village residential development. The attached agreement has been reviewed by the City Attorney and City

Engineer, and all recommend changes specific to the Easton Village project have been incorporated into the document as drafted. This agreement must be executed before any construction activity, outside of any authorized grading work, may proceed on the site. The recommended motion to take action on the request is as follows:

“Move to adopt Resolution 2015-18 approving the developer’s agreement for Easton Village”

LEGISLATIVE HISTORY/STAFF REPORT: One of the conditions attached to the Council’s approval of the Easton Village Final Plat specified that the developer enter into a Developer’s Agreement prior to the execution of the plat by City officials. Staff has drafted such an agreement consistent with the City’s developer’s agreement template, and this document is attached for consideration by the City Council. Please note that the document as drafted contains some modifications to the original template based on some of the unique aspects of the Easton Village development. The key components of the agreement include the following components:

- That all improvements to be completed by June 30, 2016.
- That the developer provides a letter of credit in the amount of \$4,318,894 related to the cost of the proposed improvements.
- That the developer provide a cash deposit of \$494,749.52 for SAC and WAC charges, engineering administration, one year of street light operating costs, and other City fees. The developer will be dedicating park land within the subdivision area that exceeds the amount required based on the amount of land being subdivided (the agreement does note that the remaining park land dedication or fees in lieu of land dedication will be due with future project phases). This agreement also represents the first developer payment and cost recovery related to the Village AUAR.
- That the developer enters into an escrow agreement with the City concerning the future cost of the Village Parkway railroad crossing. The agreement as drafted would require that all future subdivisions with direct access to the Village Parkway (and by extension will benefitting from this road that will allow their properties to develop) contribute their fair share of the costs of the improvements. Staff has estimated that the costs of the crossing will be \$500,000, which would be distributed amongst the four benefitting properties based on the number of REC units projected for each site. The agreement includes a provision that the City would pay for any oversizing costs associated with any safety improvements associated with the crossing.
- The developer is asking that the City commit to planning for and installing park improvements within the subdivision by summer of 2016.
- The agreement requires that the developer submit an escrow associated with the temporary access to Manning Avenue that will cover the expenses necessary to remove this road in the future.

- The developer is requesting that the City commit to planning for improvements and installing these improvements within the planned Outlot D park area. This provision should be removed if the City Council does not agree to abide by this requested time commitment.

The agreement as drafted incorporates: 1) the improvements and public infrastructure necessary to serve the first phase of Easton Village, and 2) the Eastern Village Trunk Sewer project that will extend a trunk sewer line from the 30th Street lift station to the southern-most connection point of the 39th Street Sewer project (immediately south of the railroad right-of-way west of the gas utility substation). The developer has requested that these projects, both of which are required to bring services into the project area, be covered under one agreement with the City. The attached agreement references of these plans accordingly, and the security calculations include both projects.

The proposed project does not include any specific City payments for utility oversizing or other reasons. The City Engineer has not approved the final construction plans for the project, and no work will be allowed to commence on the site until the City approves these plans.

The City Attorney has not yet completed a final review of the document, and approval should be subject to final review and approval by the City Attorney.

BACKGROUND INFORMATION (SWOT):

Strengths: The developer's agreement has been drafted to guarantee that the improvements associated with Easton Village plans will be installed in accordance with City specifications.

Execution of the developer's agreement and compliance with all conditions in the agreement will allow the developer to record the Final Plat.

Weaknesses: The City will assume responsibility for future maintenance of the public improvements.

Opportunities: The proposed improvements will provide for infrastructure connections to adjacent properties.

The proposed improvements include the construction of the Eastern Village Trunk Sewer Line, which will provide for the needed connection to make currently installed sewer lines along 39th Street and south of Highway 5 functional.

The proposed agreement requires the developer to contribute towards the costs of constructing a new railroad crossing and set up the template that will be used to collect funds from other developments for this project.

Threats: The City will need to provide construction observation throughout the course of the project (these costs will be covered under an Engineering Administration Escrow).

RECOMMENDATION: Based on the above Staff report, Staff is recommending that the City Council approve the Developer's Agreement for Easton Village subject to final review and

approval of the agreement by the City Attorney and that the Council direct the Mayor and Staff to execute this document. The suggested motion to adopt the Staff recommendation is as follows:

“Move to adopt Resolution 2015-18 approving the developer’s agreement for Easton Village”

ATTACHMENTS:

1. Resolution 2015-018
2. Easton Village Developer’s Agreement – Final Draft
3. Railroad Crossing Escrow Agreement

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2015-018

*A RESOLUTION APPROVING THE DEVELOPER'S AGREEMENT FOR
EASTON VILLAGE*

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Easton Village, LLC, 2140 West County Road 42, Burnsville, MN (Applicant) has previously submitted an application to the City of Lake Elmo ("City") for a Final Plat for Easton Village; and

WHEREAS, the Lake Elmo City Council considered and approved the Preliminary Plat request for Easton Village at a meeting held on July 15, 2014; and

WHEREAS, The Lake Elmo City Council adopted Resolution No. 2015-07 on March 3, 2015 approving the Final Plat for Easton Village; and

WHEREAS, Condition (2) of said Resolution No. 2015-07 establishes that, prior to the execution of the Final Plat by City officials, the Applicant is to enter into a Developer's Agreement with the City; and

WHEREAS, the Applicant and City have agreed to enter into such a contract, and a copy of the Developer's Agreement was submitted to the City Council for consideration at its March 3, 2015 meeting.

NOW, THEREFORE, based on the information received, the City Council of the City of Lake Elmo does hereby approve the Developer's Agreement for Easton Village and authorizes the Mayor and City Clerk to execute the document subject to final review and approval by the City Attorney.

Passed and duly adopted this 3rd day of March 2015 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

(reserved for recording information)

DEVELOPMENT CONTRACT

(Public sewer and water)

Easton Village

AGREEMENT dated _____, 2015, by and between the **CITY OF LAKE ELMO** a Minnesota municipal corporation ("City"), and Easton Village, LLC (the "Developer").

1. REQUEST FOR PLAT APPROVAL. The Developer has asked the City to approve the plat for Easton Village (referred to in this this Contract as the "plat"). The land is situated in the County of Washington, State of Minnesota, and is legally described as:

2. CONDITIONS OF PLAT APPROVAL. The City hereby approves the plat on condition that the Developer enter into this Contract, furnish the security required by it, and record the plat with the County Recorder or Registrar of Titles within (180) days after the City Council approves the final plat.

3. RIGHT TO PROCEED. Unless separate written approval has been given by the City, within the plat or land to be platted, the Developer may not grade or otherwise disturb the earth, remove trees, construct sewer lines, water lines, streets, utilities, public or private improvements, or any buildings until all the following conditions have been satisfied: 1) this agreement has been fully executed by both

parties and filed with the City Clerk, 2) the necessary security has been received by the City, 3) the plat and required homeowner's association documents have been recorded with the Washington County Recorder's Office, and 4) the City's Community Development Director has issued a letter that all conditions have been satisfied, a preconstruction conference has been held, and that the Developer may proceed.

4. PHASED DEVELOPMENT. This plat is a phase of a multi-phased preliminary plat; the City may refuse to approve final plats of subsequent phases if the Developer has breached this Contract and the breach has not been remedied. Development of subsequent phases may not proceed until Development Contracts for such phases are approved by the City. Park charges and area charges for sewer and water referred to in this Contract are not being imposed on outlots, if any, in the plat that are designated in an approved preliminary plat for future subdivision into lots and blocks. Such charges will be calculated and imposed when the outlots are final platted into lots and blocks.

5. PRELIMINARY PLAT STATUS. The plat is a phase of a multi-phased preliminary plat, the preliminary plat approval for all phases not final platted shall lapse and be void unless final platted into lots and blocks, not outlots, within five (5) years after preliminary plat approval.

6. CHANGES IN OFFICIAL CONTROLS. For two (2) years from the date of this Contract, no amendments to the City's Comprehensive Plan or official controls shall apply to or affect the residential use, development density, lot size, lot layout or dedications of the approved final plat unless required by state or federal law or agreed to in writing by the City and the Developer. Thereafter, notwithstanding anything in this Contract to the contrary, to the full extent permitted by state law, the City may require compliance with any amendments to the City's Comprehensive Plan, official controls, platting or dedication requirements enacted after the date of this Contract.

7. DEVELOPMENT PLANS. The plat shall be developed in accordance with the following plans and at the Developer's sole expense. The plans shall not be attached to this Contract. If the plans vary from the written terms of this Contract, the written terms shall control. The plans are:

Plan A – Final Plat

Plan B – Final Grading, Drainage, and Erosion Control Plans

Plan C – Final Sanitary Sewer, Water Main, Storm Sewer, and Street Plans

Plan D – Final Landscape and Tree Preservation Plan

Plan E – Eastern Village Trunk Sewer Line

8. IMPROVEMENTS. The Developer shall install and pay for the following:

- A. Streets
- B. Sanitary Sewer
- C. Sanitary Sewer - Eastern Village Trunk Sewer Line
- D. Watermain
- E. Surface Water Facilities (pipe, ponds, rain gardens, etc.)
- F. Grading and Erosion Control
- G. Sidewalks/Trails
- H. Street Lighting
- I. Underground Utilities
- J. Street Signs and Traffic Control Signs
- K. Landscaping and Street Trees
- L. Tree Preservation and Reforestation
- M. Wetland Mitigation and Buffers
- N. Monuments Required by Minnesota Statutes

The improvements shall be installed in accordance with the City subdivision ordinance and the City's Engineering Design and Construction Standards Manual and pursuant to the direction of the City Engineer. The Developer shall submit plans and specifications which have been prepared by a competent registered professional engineer to the City for approval by the City Engineer. The Developer shall instruct its engineer to provide adequate field inspection personnel to assure an acceptable level of quality control to the extent that the Developer's engineer will be able to certify that the construction work meets the approved City standards as a condition of City acceptance. In addition, the City may, at the City's discretion and at the Developer's expense, have one or more City inspectors and a soil engineer inspect the work on a full or part-time basis. The Developer's engineer shall provide for on-site project management. The Developer's engineer is responsible for design changes and contract administration between the Developer

and the Developer's contractor. The Developer or his engineer shall schedule a pre-construction meeting at a mutually agreeable time at the City Hall with all parties concerned, including the City staff, to review the program for the construction work.

All labor and work shall be done and performed in the best and most workmanlike manner and in strict conformance with the approved plans and specifications. No deviations from the approved plans and specifications will be permitted unless approved in writing by the City Engineer. The Developer agrees to furnish to the City a list of contractors being considered for retention by the Developer for the performance of the work required by the Contract. The Developer shall not do any work or furnish any materials not covered by the plans and specifications and special conditions of this Contract, for which reimbursement is expected from the City, unless such work is first ordered in writing by the City Engineer as provided in the specifications.

9. CITY ENGINEERING ADMINISTRATION AND CONSTRUCTION

OBSERVATION. Prior to the commencement of any construction activity authorized under this agreement, the Developer shall submit an escrow for City Engineering Administration and Construction Observation in an amount provided under paragraph 36, Summary of Cash Requirements (City Engineering Administration Escrow). The escrow account will be used to reimburse the City for all engineering administration and construction observation performed during the construction of the improvements until the escrow has been reduced to half of its original amount. Thereafter, the Developer shall reimburse the City each month, within 30 days of receiving an invoice, for all engineering administration and construction observation performed during the construction of the improvements (at normal City rates for such services) and will maintain the account at half of the original balance. If Developer fails to pay the invoiced amount within such 30-day period, and such failure continues for an additional five (5) business days after written notice from the City of such failure, the City may draw upon the escrow and stop the work on site until said escrow has been replenished in accordance with this Section. City engineering administration will include monitoring of construction progress and construction observation, consultation with Developer and his engineer on status or problems regarding the project, coordination for testing,

final inspection and acceptance, project monitoring during the warranty period, and processing of requests for reduction in security. Construction observation may be performed by the City's in-house staff or consulting engineer. Construction observation shall include, at the discretion of the City, part or full time inspection of proposed public utilities and street construction. Services will be billed on an hourly basis at normal City rates therefor.

The direction and review provided through the inspection of the improvements should not be considered a substitute for the Developer required management of the development. Developer will cause the contractor(s) to furnish the City with a schedule of proposed operations at least five (5) days prior to the commencement of construction of each type of Improvement. City shall inspect all Developer Installed Improvements during and after construction for compliance with approved plans and specifications. Developer will notify the City Engineer at such times during construction as the City Engineer requires for inspection purposes. Such inspection is pursuant to the City's governmental authority, and no agency or joint venture relationship between the City and Developer is thereby created.

10. CONTRACTORS/SUBCONTRACTORS. City Council members, City employees, and City Planning Commission members, and corporations, partnerships, and other entities in which such individuals have greater than a 25% ownership interest or in which they are an officer or director may not act as contractors or subcontractors for the public improvements identified in Paragraph 8 above.

11. PERMITS. The Developer shall obtain or require its contractors and subcontractors to obtain all necessary permits, including but not limited to:

- A. Right-of-Way Excavations and Obstructions:
 - City of Lake Elmo, Right-of-Way Utility Installation(s)
 - City of Lake Elmo, Right-of-Way Obstruction(s)
 - Washington County, Utility Installations(s)
 - Washington County, Street or Driveway Access(s)
 - Minnesota Department of Transportation, Utility Installation
 - Minnesota Department of Transportation, Right-of-Way Permit
- B. Watermain Extensions:
 - Minnesota Department of Health
- C. Sanitary Sewer Extensions:
 - Minnesota Pollution Control Agency
 - Metropolitan Council Environmental Services

- D. Stormwater Management:
 - Valley Branch, Brown's Creek or South Washington Watershed District Permit
- E. Erosion, Sedimentation Control:
 - Minnesota Pollution Control Agency, General NPDES Stormwater Permit
 - SWPPP (Stormwater Pollution Prevention Plan)
- F. Wetland Mitigation:
 - Board of Water and Soil Resources, WCA
- G. Construction Dewatering:
 - Minnesota Department of Natural Resources

12. TIME OF PERFORMANCE. The Developer shall install all required public improvements by June 30, 2016, with the exception of the final wear course of asphalt on streets. The Developer shall have the option of installing the wearing course of streets within one (1) year following initial commencement of work on the required basic improvements or installing it after the first course has weathered a winter season, consistent with warranty requirements, however final acceptance of the improvements will not be granted until all work is completed including the final wear course. The Developer may, however, request an extension of time from the City. If an extension is granted, it shall be conditioned upon updating the security posted by the Developer to reflect cost increases and amending this agreement to reflect the extended completion date. Final wear course placement outside of this time frame must have the written approval of the City Engineer.

13. LICENSE. The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the plat to perform all work and inspections deemed appropriate by the City in conjunction with plat development.

14. CONSTRUCTION ACCESS. Construction traffic access and egress for grading, public utility construction, and street construction is restricted to access the subdivision via the planned construction access off of Manning Avenue. No construction traffic is permitted on other adjacent local streets.

15. CONSTRUCTION SEQUENCE AND COMPLIANCE. The City will require the developer to construct the improvements in a sequence which will allow progress and compliance points

to be measured and evaluated. The Developer and/or their representatives are required to supervise and coordinate all construction activities for all improvements and must notify the City in writing stating

when the work is ready for the inspection at each of the measurable points defined in the following paragraphs 16., 17. and 18. For the purpose of this paragraph, Electronic message (email) shall be deemed an acceptable method of notification provided it is captioned "Notice pursuant to Development Agreement".

16. EROSION CONTROL. Prior to initiating site grading, the erosion control plan, Plan B, shall be implemented by the Developer and inspected and approved by the City. Erosion control practices must comply with the approved plans and specifications for the plat, with all watershed district permits and with Minnesota Pollution Control Agency's Best Management Practices. The City may impose additional erosion control requirements as deemed necessary. The parties recognize that time is of the essence in controlling erosion. If the Developer does not comply with the erosion control plan and schedule or supplementary instructions received from the City, the City may take such action as it deems appropriate to control erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder. If the Developer does not reimburse the City for any cost the City incurred for such work within ten (10) days, the City may draw down the security to pay any costs. No development, utility or street construction will be allowed and no building permits will be issued unless the plat is in full compliance with the approved erosion control plan.

If building permits are issued prior to the acceptance of public improvements, the developer assumes all responsibility for erosion control compliance throughout the plat and the City may take such action as allowed by this agreement against the Developer for any noncompliant issue as stated above. Erosion control plans for individual lots will be required in accordance with the City's building permit requirements, or as required by the City or City Engineer.

17. GRADING PLAN. The plat shall be graded in accordance with the approved grading drainage and erosion control plan, Plan "B". The plan shall conform to Engineering Design and Construction Standards Manual. All grading shall be completed within the Subdivision prior to the preparation and submittal of the as-constructed grading plan.

Within thirty (30) days after completion of the grading, the Developer shall provide the City with a "record" grading plan certified by a registered land surveyor or engineer that all trails, ponds, swales, and ditches have been constructed on public easements or land owned by the City. The "record" plan shall contain site grades and field verified elevations of the following: a) cross sections of ponds; b) location and elevations along all swales, emergency overflows, wetlands, wetland mitigation areas if any, ditches, locations and dimensions of borrow areas/stockpiles; c) lot corner elevations and house pads; and d) top and bottom of retaining walls. The City will not issue any building permits, with the exception of the model homes described in Section 26(A), until the approved certified record grading plan is on file with the City.

18. STREET AND UTILITY IMPROVEMENTS. All storm sewers, sanitary sewers, watermain, and streets shall be installed in accordance with the approved Plans and Specifications for Public Improvements, Plan "D". The plan shall conform to the City's Engineering Design and Construction Standards Manual. Curb and gutter and the first lift of the bituminous streets, sidewalks, the boulevards graded, street signs installed, and all restoration work on the site shall be completed in accordance with the approved plans. Once the work is completed, the developer or its representative shall submit a written request to the City asking for an inspection of the initial improvements. The City will then schedule a walk-through to create a punch list of outstanding items to be completed. Upon receipt of the written punch list provided by the City, the punch list items must be completed by the Developer and the City notified to re-inspect the improvements. The final bituminous wear course may be installed in accordance with paragraph 12. above.

19. STREET MAINTENANCE DURING CONSTRUCTION. The Developer shall be responsible for all street maintenance until the streets are accepted by the City in writing. Warning signs shall be placed when hazards develop in streets to prevent the public from traveling on same and to direct attention to detours. If and when streets become impassable, such streets shall be barricaded and closed. In the event residences are occupied prior to completing streets, the Developer shall maintain a smooth surface and provide proper surface drainage to insure that the streets are passable to traffic and emergency vehicles. The Developer shall be responsible for keeping streets

within and without the subdivision clean of dirt and debris that may spill, track, or wash onto the street from Developer's operation. The Developer may request, in writing, that the City keep the streets open during the winter months by plowing snow from the streets prior to final acceptance of said streets. The City shall not be responsible for repairing the streets because of snow plowing operations. Providing snow plowing service does not constitute final acceptance of the streets by the City. The Developer shall contract for street cleaning within and immediately adjacent to the development. At a minimum, scraping and sweeping shall take place on a weekly basis. A copy of this contract shall be approved by the City before grading is started. The contract shall provide that the City may direct the contractor to clean the streets and the contractor will bill the Developer.

20. OWNERSHIP OF IMPROVEMENTS. Upon completion of the work and construction required by this Contract, the improvements lying within public easements shall become City property. Prior to acceptance of the improvements by the City, the Developer must furnish the City with a complete set of reproducible "record" plans, an electronic file of the "record" plans in accordance with the City's Engineering Design and Construction Standards Manual together with the following affidavits:

- Developer/Developer Engineer's Certificate
- Land Surveyor's Certificate

certifying that all construction has been completed in accordance with the terms of this Contract. All necessary forms will be furnished by the City. Upon receipt of "record plans" and affidavits, and upon review and verification by the City Engineer, the City Engineer will accept the completed public improvements.

21. PARK DEDICATION. The Developer shall be required to dedicate 9.84 acres of land for public park purposes for the entire subdivision. The Easton Village Final Plat includes the dedication of 3.99 acres of land, which represents 40.5% of the overall total land dedication required. Future project phases shall either include dedication of the remaining 5.85 acres of park land or a cash payment in lieu of land dedication consistent with the Lake Elmo Subdivision Ordinance.

22. SANITARY SEWER AND WATER UTILITY AVAILABILITY CHARGES (SAC

AND WAC). The Developer shall be responsible for the payment of all sewer availability charges (SAC) and all water availability charges (WAC) with respect to the Improvements required by the City and any state or metropolitan government agency.

The sewer availability charge (SAC) in the amount of \$3,000.00 per REU shall be paid by the Developer prior to the City recording the final plat. The total amount to be paid by the Developer is \$213,000.00.

The water availability charge (WAC) in the amount of \$3,000.00 per REU shall be paid by the Developer prior to the City recording the final plat. The total amount to be paid by the Developer is \$213,000.00.

In addition, a sewer connection charge in the current amount of \$1,000.00 per REU, a Met Council sewer availability charge in the current amount of \$2,485.00 per REU, and a water connection charge in the current amount of \$1,000.00 per REU will be collected by the City at the time the building permit is issued for each lot. These amounts are charged at the time of building permit in accordance with the latest city fee schedule, which may be more or less than the amount specified herein.

23. TRAFFIC CONTROL SIGNS. Traffic control signs shall be included as part of the public street improvements, and the installation costs shall be included in the street construction calculations.

24. STREET LIGHTS. The Developer is responsible for the installation of street lights consistent with a street lighting plan approved by the City. The Developer shall coordinate the installation of street lights with Xcel Energy in conjunction with the other improvements, and agrees to pay Xcel Energy for all upfront costs associated with the street lighting system, including underground cables, posts, lamps, ballasts, starters, photocells, and glassware. All street lights will be leased by the City upon final acceptance of the system. The Developer shall also pay \$749.52 in payment for the first year operating costs for street lights.

25. WETLAND MITIGATION. The Developer shall complete any required wetland mitigation/restoration in accordance with the approved Plans and Specifications and in accordance with any applicable Watershed or agency Permits. If any required mitigation work is found to be incomplete or restoration is unsuccessful, and if Developer fails to remedy such default within fifteen (15) days after written notice from the City (provided, however, that in the event of a bona fide emergency, the City shall only be required to give such notice as is practicable under the circumstances), the City may draw down the security at any time during the warranty period if the Developer fails to take corrective measures to be used by the City to perform the work.

26. BUILDING PERMITS/CERTIFICATES OF OCCUPANCY.

A. Public sewer and water, curbing, and one lift of asphalt shall be installed on all public and private streets prior to issuance of any building permits, except five (5) model homes on lots acceptable to the Community Development Director.

B. Prior to issuance of building permits, wetland buffer monuments shall be placed in accordance with the City's zoning ordinance. The monument design shall be approved by the Community Development Department.

C. Written certification of the as-constructed grading must be on file at the City for the block where the building is to be located.

D. Breach of the terms of this Contract by the Developer, including nonpayment of billings from the City, shall be grounds for denial of building permits and/or withholding of other permits, inspection or actions, including lots sold to third parties, and the halting of all work in the plat.

E. If building permits are issued prior to the acceptance of public improvements, the Developer assumes all liability and costs resulting in delays in completion of public improvements and damage to public improvements caused by the City, Developer, their contractors, subcontractors, materialmen, employees, agents, or third parties.

F. No sewer and water connection permits may be issued until the streets needed for access have been paved with a bituminous surface and the utilities are tested and approved by the City

Engineer.

G. The City will not issue a certificate of occupancy for any building constructed on any lot or parcel in the Plat, including any model homes authorized under this agreement, until Public sewer and water, curbing, and one lift of asphalt is installed on all public and private streets; all utilities are tested and approved by the City Engineer; and the as-constructed grading must be on file at the City for the block where the building is to be located.

27. RESPONSIBILITY FOR COSTS.

A. In the event that the City receives claims from labor, materialmen, or others that work required by this Contract has been performed, the sums due them have not been paid, and the laborers, materialmen, or others are seeking payment from the City, and in the further event that such claims have not been resolved by Developer within thirty (30) days after written notice from the City, the Developer hereby authorizes the City to commence an Interpleader action pursuant to Rule 22, Minnesota Rules of Civil Procedure for the District Courts, to draw upon the letters of credit in an amount up to 125 percent of the claim(s) and deposit the funds in compliance with the Rule, and upon such deposit, the Developer shall release, discharge, and dismiss the City from any further proceedings as it pertains to the letters of credit deposited with the District Court, except that the Court shall retain jurisdiction to determine payment of attorneys' fees pursuant to this Contract.

B. Except as otherwise specified herein, the Developer shall pay all costs incurred by it or the City in conjunction with the development of the plat, including but not limited to legal, planning, engineering and inspection expenses incurred in connection with approval and acceptance of the plat, the preparation of this Contract, review of construction plans and documents, and all costs and expenses incurred by the City in monitoring and inspecting development of the plat, all at normal City rates therefor. All amounts incurred and due at the time, must be fully paid prior to execution and release of the final plat for recording.

C. The Developer shall hold the City and its officers, employees, and agents harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from plat

approval and development. The Developer shall indemnify the City and its officers, employees, and agents for all costs, damages, or expenses which the City may pay or incur in consequence of such claims, including attorneys' fees. Notwithstanding anything to the contrary, Developer's obligation to indemnify, hold harmless and defend the City shall not extend to any claim, liability, loss, costs, damages or expenses, including attorney's fees, which relate to, result from or are caused by the City's violation of applicable law, this Agreement or the negligence of the City and/or its officers, employees, consultants or agents.

D. The Developer shall reimburse the City for costs incurred in the enforcement of this Contract, including reasonable engineering and attorneys' fees.

E. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Contract within thirty (30) days after receipt. Bills not paid within thirty (30) days shall be assessed a late fee per the City of Lake Elmo adopted Fee Schedule. Upon request, the City will provide copies of detailed invoices of the work performed.

28. CITY PAYMENTS. There are no City payments for oversizing due to previous agreements with the Developer concerning the 39th Street Trunk Sewer Line project.

29. SPECIAL PROVISIONS. The following special provisions shall apply to plat development:

A. Implementation of the recommendations listed in the January 22, 2015 Engineering review memorandum concerning the Easton Village Final Plat.

B. Before the City executes the final plat, the Developer shall convey Outlots A, B, D, G, Part of E, and F to the City by warranty deed, free and clear of any and all encumbrances.

C. Railroad Crossing Improvements. The Developer shall enter into an escrow agreement with the City satisfactory to the City Attorney concerning acquisition of and the payment of costs associated with a new railroad crossing and the construction of related public improvements serving the property and providing financial guarantees concerning the construction of said improvements. Developer shall provide all property in fee and/or easements as required by the City necessary to establish the railroad crossing.

D. The Developer shall install temporary turnarounds on the northern end of Linden Avenue North and the termination point of 32nd Street North until these roads are extended to the north as part of a future development phase.

E. Temporary Manning Avenue Access Removal. Prior to the City's acceptance of the streets, the developer shall submit an escrow to the City in the amount of \$26,246 to guarantee the removal of the temporary access road connecting to Manning Avenue.

F. Compliance with recommendations of the Metropolitan Airports Commission as documented in a letter dated December 8, 2014 from the Commission's Airport Planner.

G. Disclosure of Information: The declarations for the Homeowner's Association shall include a disclosure statement in form and substance as attached as Exhibit B hereto regarding the Lake Elmo Airport, Access to Manning Avenue, and Union Pacific Railroad rail line.

H. The Developer must obtain a sign permit from the City prior to installation of any permanent subdivision identification signs.

I. The Developer shall be responsible for the construction of all improvements within the Manning Avenue (CSAH 15) right-of-way as required by Washington County and further described in the review letter received from the County dated June 24, 2014.

I. The Developer shall observe all other County requirements as specified in the Washington County review letter dated June 24, 2014.

J. The Developer shall enter into a maintenance agreement with the City that clarifies the individuals or entities responsible for any landscaping installed in areas outside of land dedicated as public park and open space on the final plat.

K. Any land under which public trails are located will be accepted as park land provided the Developer constructs said trails within the dedicated areas as part of the public improvements for the subdivision and easements are provided where required by the City.

O. The City and Developer agree to prepare a plan for improvements to the Outlot D park area by December 15, 2015 with installation of said improvements to be completed by June 30, 2016.

30. MISCELLANEOUS.

A. The Developer may not assign this Contract without the written permission of the City Council. The Developer's obligation hereunder shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of it.

B. Retaining walls that require a building permit shall be constructed in accordance with plans and specifications prepared by a structural or geotechnical engineer licensed by the State of Minnesota. Following construction, a certification signed by the design engineer shall be filed with the City Engineer evidencing that the retaining wall was constructed in accordance with the approved plans and specifications. All retaining walls identified on the development plans or by special conditions referred to in this Contract shall be constructed before any other building permit is issued for a lot on which a retaining wall is required to be built.

C. Appropriate legal documents regarding Homeowner Association documents, covenants and restrictions relating to the plat approval and outlots and conveyances, as approved by the City Attorney, shall be filed with the final plat. No third-party beneficiary status is hereby conferred. All outlots and common areas, including Outlots A, C, and E shall be maintained in good order and repair by a homeowner's association, and, if it does not do so, then the City may perform the work and assess the costs against the individual lots within the plat of Easton Village and without regard to the formalities or requirements of Minn. Stat. § 429.

D. Developer shall take out and maintain or cause to be taken out and maintained until six (6) months after the City has accepted the public improvements, public liability and property damage insurance covering personal injury, including death, and claims for property damage which may arise out of Developer's work or the work of its subcontractors or by one directly or indirectly employed by any of them. Limits for bodily injury and death shall be not less than \$500,000 for one person and \$1,000,000 for each occurrence; limits for property damage shall be not less than \$200,000 for each occurrence; or a combination single limit policy of \$1,000,000 or more. The City shall be named as an additional insured on the policy, and the Developer shall file with the City a certificate evidencing coverage prior to the City

signing the plat. The certificate shall provide that the City must be given thirty (30) days advance written notice of the cancellation of the insurance.

E. Third parties shall have no recourse against the City under this Contract.

F. If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Contract is for any reason held invalid, such decision shall not affect the validity of the remaining portion of this Contract.

G. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Contract. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's failure to promptly take legal action to enforce this Contract shall not be a waiver or release.

H. This Contract shall run with the land and may be recorded against the title to the property. The Developer covenants with the City, its successors and assigns, that the Developer has fee title to the property being final platted and/or has obtained consents to this Contract, in the form attached hereto, from all parties who have an interest in the property; that there are no unrecorded interests in the property being final platted; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.

I. Each right, power or remedy herein conferred upon the City is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to City, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.

J. The Developer represents to the City that the plat complies with all city, county, metropolitan, state, and federal laws and regulations, including but not limited to: subdivision ordinances, zoning ordinances, and environmental regulations. If the City determines that the plat does not comply, the City may, at its option, refuse to allow construction or development work in the plat until the Developer does comply. Upon the City's demand, the Developer shall cease work until there is compliance.

31. EVENTS OF DEFAULT. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement, any one or more of the following events:

A. Subject to unavoidable delays, failure by Developers to commence and complete construction of the Public Improvements pursuant to the terms, conditions and limitations of this Agreement and the continuance of such failure for a period of thirty (30) days after written notice thereof (provided, however, that in the event of a bona fide emergency, the City shall only be required to give such notice as is practicable under the circumstances).

B. Failure by Developers to substantially observe or perform any material covenant, condition, obligation or agreement on their part to be observed or performed under this Agreement and the continuance of such failure for a period of thirty (30) days after written notice thereof (provided, however, that in the event of a bona fide emergency, the City shall only be required to give such notice as is practicable under the circumstances).

32. REMEDIES ON DEFAULT. Whenever any Event of Default occurs, the City, subject to any rights of third parties agreed to by the City pursuant to this Agreement, or otherwise by written, executed instrument of the City, may take any one or more of the following:

A. The City may suspend its performance under the Agreement until it receives assurances from Developers, deemed adequate by the City, that Developers will cure their default and continue their performance under the Agreement. Suspension of performance includes the right of the City to withhold permits including, but not limited to, building permits.

B. The City may initiate such action, including legal or administrative action, as is necessary for the City to secure performance of any provision of this agreement or recover any amounts due under this Agreement from Developers, or immediately draw on the Letter of Credit, as set forth in this Agreement. In the event of any uncorrected failure to maintain any common area or landscape areas, the City may undertake to do the work and assess the costs to the individual lots within the plat without regard to the formalities or requirements of Minn. Stat. § 429..

33. ENFORCEMENT BY CITY; DAMAGES. The Developers acknowledge the right of the City to enforce the terms of this Agreement against the Developers, by action for specific performance or damages, or both, or by any other legally authorized means. The Developers also acknowledge that their failure to perform any or all of their obligations under this Agreement may result in substantial damages to the City; that in the event of default by the Developers, the City may commence legal action to recover all damages, losses and expenses sustained by the City; and that such expenses may include, but are not limited to, the reasonable fees of legal counsel employed with respect to the enforcement of this Agreement.

34. WARRANTY. The Developer warrants all improvements required to be constructed by it pursuant to this Contract against poor material and faulty workmanship. The Developer shall submit either a cash deposit or letter of credit for twenty-five percent (25%) of the amount of the original cost of the improvements.

A. The required warranty period for materials and workmanship for the utility contractor installing public sewer and water mains shall be two (2) years from the date of final written City acceptance of the work.

B. The required warranty period for all work relating to street construction, including concrete curb and gutter, sidewalks and trails, materials and equipment shall be subject to one (1) year from the date of final written acceptance, unless the wearing course is placed during the same construction season as the bituminous base course. In those instances, the Developer shall guarantee all work, including street construction, concrete curb and gutter, sidewalks and trails, material and equipment for a period of two (2) years from the date of final written City acceptance of the work.

C. The required warranty period for sod, trees, and landscaping is two growing seasons following installation.

D. The required warranty for landscaping within storm water infiltration areas (Portions of Outlot B and Outlot F) shall be three (3) years following installation. The developer shall also enter into a maintenance agreement with the City for a period of three (3) years prior to acceptance of the landscaping for within these storm water infiltration areas. Said maintenance agreement shall include requirements for

the proper care of native plantings and the elimination of weeds and invasive species.

35. SUMMARY OF SECURITY REQUIREMENTS. To guarantee compliance with the terms of this agreement, payment of special assessments, payment of the costs of all public improvements, and construction of all public improvements, the Developer shall furnish the City with an irrevocable letter of credit, in the form attached hereto, from a bank, cash escrow or a combination cash escrow and Letter of Credit ("security") for \$4,318,894. The amount of the security was calculated as follows:

CONSTRUCTION COSTS:

Streets	\$449,489
Sanitary Sewer	\$293,960
Eastern Village Trunk Sewer	\$624,924
Watermain	\$303,289
Surface Water Facilities (pipe, ponds, rain gardens, etc.)	\$585,943
Grading	\$728,739
Erosion Control	\$52,678
Sidewalks/Trails	\$98,777
Street Lighting	Xcel to Install, to be pre-paid directly by developer
Street Signs and Traffic Control Signs	\$5,600
Landscaping	\$110,781
Tree Preservation and Restoration	\$164,435
Wetland Mitigation and Buffers	Separate letter of credit through Watershed District
Monuments	\$30,000
Miscellaneous Facilities	N/A
Developer's Record Drawings	\$6,500
Construction Sub-Total	\$3,455,115
Total Project Securities (at 125% Construction	\$4,318,894

Costs)

This breakdown is for historical reference; it is not a restriction on the use of the security. The bank shall be subject to the approval of the City Administrator. The City may draw down the security, without notice, for any violation of the terms of this Contract or if the security is allowed to lapse prior to the end of the required term. If the required public improvements are not completed at least thirty (30) days prior to the expiration of the security, the City may also draw it down. If the security is drawn down, the proceeds shall be used to cure the default.

35. REDUCTION OF SECURITY. Upon written request by the Developer and upon receipt of proof satisfactory to the City Engineer that work has been completed and financial obligations to the City have been satisfied, with City Engineer approval the security may be reduced as follows:

A. Up to 50%, or \$2,159,447 of the security provided in accordance with paragraph 32. above may be released when: (1) Developer's obligations under this Agreement have been completed and the Public Improvements have been found to be complete to the satisfaction of the City including all corrective work for any identified punch list items, but not including the final wear course; and (2) completion of the Improvements is done to the satisfaction of the City and evidence of such is provided by the City in writing and satisfactory evidence of payment, such as lien waivers are provided.

B. Up to an additional 25%, or \$ 1,079,724 of the security provided in accordance with paragraph 32. above may be released when: (1) Developer's obligations under this Agreement have been completed and the Improvements have been found to be complete to the satisfaction of the City including all corrective work for any identified punch list items and including the final wear course; and (2) Improvements are accepted by the City in writing and satisfactory evidence of payment, such as lien waivers, are provided.

C. Twenty percent (25%) of the amounts certified by the Developer's engineer shall be retained as security until: (1) all improvements have been completed, (2) iron monuments for lot corners have been installed, (3) all financial obligations to the City satisfied, (4) the required "record" plans have been received and approved by the City, (5) a warranty security is provided, and (6) the public

improvements are accepted by the City.

36. SUMMARY OF CASH REQUIREMENTS. The following is a summary of the cash requirements under this Contract which must be furnished to the City at the time of final plat approval:

Sewer Availability Charge (SAC)	\$213,000
Water Availability Charge (WAC)	\$213,000
Park Dedication	N/A
Street Light Operating Fee	\$749.52
Village AUAR Fee	\$16,630
City Base Map Upgrading	\$1,100
City Engineering Administration Escrow	\$50,000 (Based on two months of administration/observation)
Total Cash Requirements	\$494,479.52

37. NOTICES. Required notices to the Developer shall be in writing, and shall be either hand delivered to the Developer, its employees or agents, or mailed to the Developer by certified mail at the following address: 2140 West County Road 42, Burnsville, MN. Notices to the City shall be in writing and shall be either hand delivered to the City Administrator, or mailed to the City by certified mail in care of the City Administrator at the following address: Lake Elmo City Hall, 3800 Laverne Avenue N. Lake Elmo, Minnesota 55042.

38. EVIDENCE OF TITLE. Developer shall furnish the City with evidence of its fee ownership of the property being platted by way of an attorney's title opinion or title insurance policy dated not earlier than thirty (30) days prior to the execution of the plat.

CITY OF LAKE ELMO

BY: _____, Mayor

(SEAL)

AND _____, City Clerk

DEVELOPER:

BY: _____
Its

STATE OF MINNESOTA)
 (ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this _____ day of _____,
2_____, by _____ and by _____, the
Mayor and City Clerk of the City of Lake Elmo, a Minnesota municipal corporation, on behalf of the
corporation and pursuant to the authority granted by its City Council.

NOTARY PUBLIC

STATE OF MINNESOTA)
 (ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day _____ of
_____, 2_____,
_____ the _____
of _____.

NOTARY PUBLIC

DRAFTED BY:
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042
(651) 747-3901

**FEE OWNER CONSENT
TO
DEVELOPMENT CONTRACT**

_____, fee owners of all or part of the subject property, the development of which is governed by the foregoing Development Contract, affirm and consent to the provisions thereof and agree to be bound by the provisions as the same may apply to that portion of the subject property owned by them.

Dated this _____ day of _____, 2_____.

STATE OF MINNESOTA)
 (ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2_____,
by _____.

NOTARY PUBLIC

DRAFTED BY:
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042
(651) 747-3901

**MORTGAGE CONSENT
TO
DEVELOPMENT CONTRACT**

_____, which holds a mortgage on the subject property, the development of which is governed by the foregoing Development Contract, agrees that the Development Contract shall remain in full force and effect even if it forecloses on its mortgage.

Dated this _____ day of _____, 2_____.

STATE OF MINNESOTA)
 (ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2_____, by _____.

NOTARY PUBLIC

DRAFTED BY:
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042
(651) 747-3901

EXHIBIT "A" TO DEVELOPMENT CONTRACT

Legal Description of Property Being Final Platted as Easton Village

All that part of the Northeast Quarter of the Southeast Quarter and the Northwest Quarter of the Southeast Quarter and the Southeast Quarter of the Northeast Quarter and the Southwest Quarter of the Northeast Quarter all being in Section 13, Township 29 North, Range 21 West, Washington County, Minnesota, lying south of the southerly right-of-way line of the Union Pacific Railroad, and further described as follows:

Beginning at the East Quarter Corner of said Section 13; thence South 0 degrees 02 minutes 51 seconds East bearings based on the Washington County Coordinate System (NAO 83), along the east line of said Southeast Quarter of Section 13, a distance of 1321.17 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 89 degrees 32 minutes 18 seconds West along the south line of the North Half of said Southeast Quarter, a distance of 2637.64 feet to the southwest corner of said Northwest Quarter of the Southeast Quarter; thence North 0 degrees 00 minutes 58 seconds East along the North and South Quarter Section line of said Section 13, a distance of 1397.70 feet to the southerly right-of-way line of the Union Pacific Railroad; thence North 72 degrees 32 minutes 48 seconds East along said southerly right-of-way line, a distance of 69.19 feet to the point of intersection with a line being 66.00 feet east of, as measured at right angles to, and parallel with said North and South Quarter Section line of said Section 13; thence South 0 degrees 00 minutes 58 seconds West along said parallel line, a distance of 330.00 feet thence (at right angles) South 89 degrees 59 minutes 02 seconds East, a distance of 300.00 feet thence (at right angles) North 0 degrees 00 minutes 58 seconds East, 424.41 feet to said southerly right-of-way line of the Union Pacific Railroad; thence North 72 degrees 32 minutes 48 seconds East, along said southerly right-of-way line of the Union Pacific Railroad, a distance of 2378.80 feet to the east line of said Southeast Quarter of the Northeast Quarter; thence South 0 degrees 02 minutes 53 seconds East along said east line, a distance of 883.82 feet to the point of beginning.

Excepting therefrom that part of the Northwest Quarter of the Southeast Quarter of said Section 13, lying within the following described area: Commencing at the southwest corner of said Northwest Quarter of the Southeast Quarter; thence North along the west line of said Southeast Quarter of Section 13, a distance of 240.00 feet to the point of beginning; thence continuing North along said west line of the Southeast Quarter, a distance of 667.80 feet thence East at right angles a distance of 30.00 feet; thence southeasterly by a deflection angle to the right 46 degrees 28 minutes 00 seconds, a distance of 220.70 feet; thence southeasterly by a deflection angle to the left 20 degrees 35 minutes 00 seconds, a distance of 286.80 feet; thence south by a deflection angle to the right 64 degrees 07 minutes and parallel with said west line of the Southeast Quarter, a distance of 382.70 feet thence West at right angle, a distance of 440.00 feet to the point of beginning.

And Excepting from the first above described area, all that part lying Easterly of a line 60.00 feet West of, measured at right angle to and parallel with the center line of County State Aid Highway 15 described as follows: Commencing at the East Quarter corner of said Section 13; thence South 00 degrees 51 minutes 49 seconds East, bearing oriented to the Washington County Coordinate System, South Zone, along the East line of said Section 13 to the southeast corner of said Section 13 and the beginning of the center line to be described; thence North 00 degrees 45 minutes 51 seconds West a distance of 3571.19 feet thence North 00 degrees 54 minutes 55 seconds West a distance of 1000.00 feet and said center line there terminating, except the Chicago and Northwestern Railroad right-Of-way, Washington County, Minnesota.

EXHIBIT "B" TO DEVELOPMENT CONTRACT

Disclosure of Information – Easton Village

Developer shall cause the following notice to be given as part of the declarations for the Easton Village Homeowners Association:

Lake Elmo Airport. The Property is located near the Lake Elmo Airport, a public use airport owned and operated by the Metropolitan Airports Commission. The Airport is open 24 hours a day, year round. The Airport operates with a primary runway on a northwest/southeast orientation and a perpendicular crosswind runway on a northeast/southwest configuration. The primary role of the Lake Elmo Airport is to accommodate personal, recreational, and some business aviation users within Washington County and the eastern portion of the Twin Cities Metropolitan Area. The Airport accommodates aircraft operations from single and multi-engine propeller-driven aircraft; occasional corporate jet aircraft; helicopters; and pilot training facilities; all of which may affect the Property with overflights and aircraft noise during the day and at night. The Airport operates lighting which may be visible from the Property.

The Long-Term Comprehensive Plan for the Lake Elmo Airport contemplates constructing a longer primary runway parallel to but shifted north and east of the existing northwest/southeast runway alignment and an extension to the crosswind runway. The proposed expansion is intended to improve the Airport's ability to fulfill its existing role and to compete more effectively for additional business-related flights that use propeller-driven aircraft.

Further information regarding the Lake Elmo Airport can be obtained from the Metropolitan Airports Commission's Airport Manager, Telephone No.: 651-224-4306.

Union Pacific Railroad. The property is located near an active Union Pacific Rail Line, which at present, carries 4-6 trains per day. The City of Lake Elmo intends to construct a new railroad crossing across the railroad right-of-way that will connect the northernmost extension of Village Parkway as platted within Easton Village to Minnesota State Highway 5.

Manning Avenue/County Highway 15. The access to Manning Avenue from 32nd Street North is temporary in nature and will be eliminated at such time that Village Park Way is connected to 30th Street or 5 years has passed from the date of final plat approval, whichever is longer.

IRREVOCABLE LETTER OF CREDIT

No. _____
Date: _____

TO: City of Lake Elmo

Dear Sir or Madam:

We hereby issue, for the account of _____ (Name of Developer) and in your favor, our Irrevocable Letter of Credit in the amount of \$ _____, available to you by your draft drawn on sight on the undersigned bank at its offices in Minnesota.

The draft must:

- a) Bear the clause, "Drawn under Letter of Credit No. _____, dated _____, 2 _____, of (Name of Bank) _____";
- b) Be signed by the Mayor or City Administrator of the City of Lake Elmo.
- c) Be presented for payment at _____ (Address of Bank) _____, on or before 4:00 p.m. on November 30, 2 _____.

This Letter of Credit shall automatically renew for successive one-year terms unless, at least forty-five (45) days prior to the next annual renewal date (which shall be November 30 of each year), the Bank delivers written notice to the Lake Elmo City Administrator that it intends to modify the terms of, or cancel, this Letter of Credit. Written notice is effective if sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least forty-five (45) days prior to the next annual renewal date addressed as follows: City Administrator, City Hall, 3800 Laverne Ave. N. Lake Elmo Minnesota 55042 and is actually received by the City Administrator at least thirty (30) days prior to the renewal date.

This Letter of Credit sets forth in full our understanding which shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement, whether or not referred to herein.

This Letter of Credit is not assignable. This is not a Notation Letter of Credit. More than one draw may be made under this Letter of Credit.

This Letter of Credit shall be governed by the most recent revision of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 500.

We hereby agree that a draft drawn under and in compliance with this Letter of Credit shall be duly honored upon presentation.

BY: _____

Its _____

Return to:
David K. Snyder
Johnson / Turner Legal
56 East Broadway Avenue, Suite 206
Forest Lake, MN 55025

ESCROW AGREEMENT

THIS AGREEMENT is entered into on _____, 2015, by _____ (hereinafter "_____") and the City of Lake Elmo (hereinafter "City"), a Minnesota municipal corporation.

RECITALS

WHEREAS, City and Developer have entered into a Developer's Agreement dated _____ ("Developer's Agreement") pursuant to which Developer has agreed to deposit certain funds as identified in Paragraph 1 below in escrow; and,

WHEREAS, this Escrow Agreement guarantees security for completion of the Improvements in accordance with the Plans and Specifications approved by the City Engineer for Easton Village; and,

WHEREAS, Developer agrees to privately construct railroad crossing improvements serving the property legally described on attached Exhibit A in accordance with the Developers Agreement ("Improvements") not later than _____; and,

WHEREAS, in addition to the requirements of the Development Agreement, Developer will petition for, secure, build and install a public rail crossing at the location shown in Exhibit B to specifications required by the City, the Minnesota Department of Transportation, the Carrier Rail Road _____, and any other regulatory agency having jurisdiction over the crossing and the track in accordance with the specifications of the City of Lake Elmo; and,

WHEREAS, capitalized terms used, and not otherwise defined herein, shall have the meanings set forth in the Developer's Agreement.

NOW THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, it is agreed between the parties as follows:

1. Developer will deposit escrowed funds in the amount of \$_____ with the City of Lake Elmo (hereinafter "Initial Escrow"). To guarantee compliance with the terms of this agreement, payment of the costs of the rail crossing, and construction of related public improvements, the Developer shall furnish the City with an irrevocable letter of credit, in the form approved by the City, from a bank, cash escrow or a combination cash escrow and Letter of Credit ("security") for \$_____. The amount of the security was calculated as follows:

_____ (insert calculation: _____)

This breakdown is for historical reference; it is not a restriction on the use of the security. The bank shall be subject to the approval of the City. The City may draw down the security, without notice, for any violation of the terms of this Contract or if the security is allowed to lapse prior to the end of the required term. If the required public improvements are not completed at least thirty (30) days prior to the expiration of the security, the City may also draw it down. If the security is drawn down, the proceeds may but are not required to be used to cure the default.

2. Developer shall petition for, secure and install the crossing not later than _____. If Developer does not install the crossing, then the City may draw upon the Letter of Credit, seek specific performance or pursue any remedy or combination of remedies to correct or cure the breach.
3. This Agreement may not be assigned without the express written consent of all other parties, but in the event that it is so assigned, it shall be binding upon the parties hereto and their respective successors and assigns, and may be amended or modified only by written Amendment signed by all parties.
4. If it is determined by state and federal regulatory agencies that additional safety measures are needed beyond what would be required for a standard urban rail crossing, then the City agrees to contribute up to twenty-five percent (25%) of the actual, verified costs needed to bring the crossing into compliance with those requirements.
5. This Agreement is intended to provide security for the satisfactory construction of the rail Improvements and for the benefit of the City, and does not inure to and is not intended for the benefit of any third parties, and no claims by any person or entity, including all Contractors, subcontractors or others providing labor or material for the Improvements, shall be entitled to make a claim under this Agreement, to any of the funds held by the City and does not create any rights in any third parties or third party beneficiary rights, including one not a party to this Agreement.

6. This Agreement and the funds held hereunder shall not be pledged, mortgaged or otherwise used as security or collateral by the Developer, and the funds deposited shall be free of liens or other encumbrances.
7. Prior to the execution of this Agreement, the Escrow Agent shall submit financial statements to the City for review and approval.
8. Time is of the essence as to each provision of this Agreement.
9. All notices required or permitted under this Agreement shall be (i) delivered to the addresses set forth below, and (ii) mailed, delivered or transmitted by one party to the other(s) and such notice shall be deemed given and effective: upon receipt if personally delivered; upon receipt if sent by telecopy or electronic mail; upon receipt or upon the date of first attempted delivery, if sent by certified or registered mail with postage prepaid, return receipt requested, or if sent by Federal Express or other nationally recognized carrier service; or upon receipt if sent in any other way. Any party hereto may from time to time, by written notice to the other parties, designate a different address which shall be substituted for the one specified below.
10. In the event the City declares default under the Developer's Agreement or this Agreement a copy of the notice of default shall be provided to the Developer. If the default is not remedied by the Developer pursuant to and within the time, if any, allowed under the Developer's Agreement ("Cure Period"), this Escrow agreement shall terminate and all funds held in escrow, at the time notice of default is given, shall be remitted to the City within 3 business days of notice by the City that the Cure Period has expired. Funds so received shall be used by the City exclusively to pay for the completion of the Improvements and the Cities reasonable administration costs pursuant to the Developer's Agreement and this Agreement.

City: City of Lake Elmo
Attn: City Administrator
3800 Laverne Avenue North
Lake Elmo, MN 55042

Developer: _____
Attn: _____

12. This document shall be recorded in the office of the County Recorder of Washington County, Minnesota.

[SIGNATURES ON FOLLOWING PAGES]

CITY OF LAKE ELMO

By: Mike Pearson

Its: Mayor

By: Dean Zuleger

Its: City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

On this _____ day of _____, 2015, before me, a Notary Public, in and for said County and State, appeared Mike Pearson and Dean Zuleger, to me personally known, who being by me first duly sworn, did say that they are respectively the Mayor and Administrator of the City of Lake Elmo, who executed the foregoing document by authority of the City Council of the City of Lake Elmo, and said Mayor and Administrator acknowledge said instrument to be the free act and deed of said City of Lake Elmo.

Notary Public

[INSERT DEVELOPER]

By: _____

Its: _____

STATE OF _____)

) ss.

COUNTY OF _____)

On this _____ day of _____, 2015, before me, a Notary Public, in and for said County and State, appeared _____, to me personally known, who being by me first duly sworn, did say that he/she is the _____ for _____ and acknowledged said instrument to be the free act and deed of said _____ who then executed the foregoing document by authority _____, and acknowledging said instrument to be the free act and deed of said corporation.

Notary Public

DRAFTED BY:
David K. Snyder
Johnson / Turner Legal
56 East Broadway Avenue, Suite 206
Forest Lake, MN 55025
(651) 464-7292

EXHIBIT A
(Legal Description)

EXHIBIT B
(Description of Crossing Location)



MAYOR & COUNCIL COMMUNICATION

DATE: March 3, 2015
REGULAR
ITEM # 12

AGENDA ITEM: Lennar Townhouse Subdivision (Diedrich/Rieder Property) Sketch Plan

SUBMITTED BY: Kyle Klatt, Community Development Director

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Nick M. Johnson, City Planner
Jack Griffin, City Engineer

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECCOMENDER: Lennar Corporation has submitted a sketch plan related to a proposed single-family detached residential subdivision that would be located on property currently owned by Tammy Diedrich and Gerhard Rieder and located immediately north of the Hunters Crossing subdivision along Lake Elmo Avenue. The applicant is proposing to construct 50 townhouse units as part of the project, all of which would be accessed via a new connection to the planned 5th Street minor collector roadway. The site is situated between the Hunters Crossing development and the Cimarron golf course, and is also bordered the by Trinity Select (Tans-City Investments) industrial building to the east.

At the sketch plan level, high-level review is focused on consistency with the Comprehensive Plan and zoning ordinances, transportation and other infrastructure, proposed parkland dedication, and other planning and land use elements that relate to the subject parcel and proposed development. The sketch plan review is intended to assist the applicant in the preparation of a Preliminary Plat application, and although the plan was reviewed by the Planning Commission, no formal City action is required at this time.

FISCAL IMPACT: None – City costs related to the review of the sketch plan are reimbursed by an application fee and a development review escrow.

SUMMARY AND ACTION REQUESTED: The City Council is being asked to review a Sketch Plan submitted by Lennar Corporation for a proposed 50-unit single family attached townhouse subdivision located within the I-94 Corridor Planning area within the City's urban sewer service area. The Planning Commission reviewed the sketch plan for the subdivision, which will be located on property presented owned by Tammy Diedrich and Gerhard Rieder, at its February 23, 2015 meeting. As the sketch plan review requires no formal action, the City Council is asked to provide preliminary feedback and high level review of the proposed development.

BACKGROUND INFORMATION: Attached is the original detailed Staff Report that was provided to the Planning Commission on February 23, 2015 regarding the Lennar sketch plan. The Staff Report includes general information about the proposed subdivision, a summary of the relevant planning and zoning issues, as well as a review of the proposed design and infrastructure. Review of the Sketch Plan was completed by planning staff, the City Engineer, and the City's landscape architecture consultant.

In terms of the specifics of the review, greater details are found in the Staff Report dated February 23, 2013, as well as the attachments. However, staff did want to highlight two important aspects of the proposed subdivision.

- The developer will need to coordinate with Ryland Homes to either move forward with a joint project to build 5th Street across the southern portion of the site or to stage the construction of the northern segment of this road with other public improvements on this site.
- The applicant understands that all other developers connecting to the recently installed water main along Lake Elmo have agreed to pay the water availability fee of \$3,000 for the entire project at the time of subdivision rather than just the lots included in a final plat. The City will carry this same policy forward with the Lennar project.

PLANNING COMMISSION REPORT: The Planning Commission reviewed the sketch plan at its February 23, 2015 meeting. In reviewing the proposed subdivision, the Planning Commission provided high level review and initial feedback to the applicant. Greater detail of the Planning Commission's review comments can be found in the Planning Commission minutes (DRAFT). However, staff wanted to highlight the following items that were identified during the Planning Commission review:

- The Commission suggested that the plans incorporate a trail connection to 5th Street from the eastern cul-de-sac.
- The Commission strongly encouraged the applicant to coordinate with the Ryland Homes to build 5th Street as one project.
- The Commission suggested that the applicant consider adopting standards to discourage blank garage doors.

In providing feedback directly to the applicant, the Planning Commission was able to communicate the areas of future focus and review. The applicant noted that after review by the City Council, they will likely start preparing a preliminary plat application.

STRENGTHS, WEAKNESSES, OPPORTUNITIES, THREATS:

Strengths: Providing a review of a sketch or concept plan allows for initial review of a development plan in advance of preliminary plat application. This process allows the City to identify critical issues and set expectations before the applicant has expended significant resources in preparing a preliminary plat.

The proposed subdivision is consistent with the Comprehensive Plan and specifically the future land use designation for this property.

Weaknesses: None

Opportunities: The developer has stated that they would like to work with Ryland homes to build 5th Street as one project rather than splitting the construction of this road in half.

The project would add 50 new connections to the City's water system with the corresponding access and connection fee revenue.

Threats: None

RECOMMENDATION: No formal action is required as part of the sketch plan review. The City Council is asked to provide high-level review and feedback regarding the proposed subdivision. The review comments and issues identified in this stage of review are utilized to inform a future preliminary plat application.

ATTACHMENTS:

1. Staff Report to the Planning Commission, 2/23/15
2. Application Forms
3. Location Map
4. Townhouse Plans and Photo Examples
5. City Engineer Review Memorandum 2/17/15
6. Landscape Architect Review Memorandum 2/18/15
7. Lennar Townhouse Sketch Plan



PLANNING COMMISSION
DATE: 2/23/15
AGENDA ITEM: 5A – BUSINESS ITEM
CASE # 2015-08

ITEM: Lennar Homes Sketch Plan – Diedrich/Rieder Property

SUBMITTED BY: Kyle Klatt, Community Development Director

REVIEWED BY: Nick Johnson, City Planner
Jack Griffin, City Engineer
Stephen Mastey, Landscape Architect

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to review a Sketch Plan for a proposed residential subdivision within the I-94 Corridor planning area along Lake Elmo Avenue and immediately north of the Hunters Crossing development. The sketch plan includes 50 single-family residential detached homes (townhouses) on a total site area of 14.35 acres. Because this is a Sketch Plan review, there is no formal action required by the Planning Commission.

GENERAL INFORMATION

Applicant: Lennar Corporation (Paul Tabone); 16305 36th Avenue North, Suite 600, Plymouth MN 55446

Property Owners: Tammy Diedrich and Gerhard Rieder, 7401 Wyndham Way, Woodbury, MN 55125

Location: Part of Section 36 in Lake Elmo, north of I-94, east of Lake Elmo Avenue, and south of the Cimarron Golf Course property. Immediately north of 404 Lake Elmo Avenue North. PID: 36.029.21.32.0002

Request: Sketch Plan Review

Existing Land Use: Vacant

Existing Zoning: RT – Rural Transitional Zoning

Surrounding Land Use: North – Cimarron Manufactured Home Park and golf course; East – Trans-City industrial building; West – Rural Residential property and The Forest residential subdivision; South – Hunters Crossing single family residential development; also one existing home site adjacent to Lake Elmo Avenue.

Surrounding Zoning: MDR – Medium Density Residential, RT – Rural Development Transitional; LDR – Low Density Residential

Comprehensive Plan: Urban Medium Density Residential (2.5 - 4 units per acre)

Proposed Zoning: MDR – Urban Medium Density Residential

History: No history on file with the City. Site has been vacant or used for agricultural purposes for a long amount of time.

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

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

REQUEST DETAILS

The City of Lake Elmo is in receipt of a Sketch Plan from Lennar Corporation related to a proposed single-family detached residential subdivision that would be located on property currently owned by Tammy Diedrich and Gerhard Rieder and located immediately north of the Hunters Crossing subdivision along Lake Elmo Avenue. The applicant is proposing to construct 50 townhouse units as part of the project, all of which would be accessed via a new connection to the planned 5th Street minor collector roadway. The site is situated between the Hunters Crossing development and the Cimarron golf course, and is also bordered the by Trinity Select (Tans-City Investments) industrial building to the east.

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

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

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

BACKGROUND

The proposed Sketch Plan is located within the I-94 Corridor Planning Area and is therefore located within the one of the City's sewer service areas. The City's future land use map guides this site for Urban Medium Density Residential (MDR) at a density of 4.0 to 7.5 units per acre. This land use designation was changed from the original designation of High Density Residential (HDR) at the request of the property owner a little over a year and a half ago. The City's amendment to the Comprehensive Plan also included the Hunters Crossing property to the south, which previously was designated as MDR. The site is also located adjacent to the planned 5th Street minor collector roadway, and as such, the developer will need to plat the appropriate right-of-way for 5th Street with the proposed townhouse subdivision. The 5th Street alignment through this area has previously been decided as part of the development to the south and the proposed concept matches this approved alignment.

The proposed subdivision will facilitate the construction 50 single-family attached units, with all of the planned buildings depicted as side-by-side townhouses. The overall project site includes 14.35 acres, and the resulting gross density calculation of 3.48 units per acre falls slightly below the range specified in the Comprehensive Plan for the MDR land use designation. The net project density will be calculated once the detailed preliminary plat is submitted, but should bring the site close to the minimum level of 4 units per acre as per the Comprehensive Plan. Using the developer's site area calculations after removing the county and 5th Street right-of-way, the net density is estimated at 4.17 units per acre. The project falls under the threshold for a mandatory EAW, and Staff is not aware of any specific environmental concerns associated with the subject property.

Given the location of the proposed townhouse development, Lennar will need to coordinate with the developer to the south in order to ensure that 5th Street is designed and built per City specifications. Ryland Homes (the developer of Hunters Crossing) was allowed to proceed with its final plat under the condition that it builds at least half of 5th Street with its second addition plans. With Lennar now looking to develop the property on the other side of 5th Street, the road must be completed its entirety in order to provide proper access to both developments. Staff is of the understanding that both parties have discussed 5th Street, and that final plans for the roadway would be completed with the Lennar project.

Staff has provided comments where appropriate in the following section to identify elements of the plan that will need to be further addressed before a submission of a preliminary plat.

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

- *Sketch Plan.* The Sketch Plan includes a proposed configuration of roads, lots, and storm water facilities on the applicant's site. All parcels and roads have been designed to confirm to the City's standards and ordinances for single-family attached dwellings.
- *Townhouse Plans.* The developer has provided floor plans and sample photographs of the homes that would be built within this subdivision.

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

STAFF REVIEW COMMENTS:

Staff has reviewed the proposed Sketch Plan and provided comments in the following areas:

- ***Land Use:*** The proposed Sketch Plan conforms to the City's density range specified for the MDR – Medium Density Residential land use category. Townhouses are an expected use within this category, and the proposed site offers a transition from the MDR zoning to the north and industrial uses to the west. Given the limited size of the parcel, and its location between other higher intensity land uses, the townhouses are a good use of the property that will allow the developer to provide an appropriate level of development given the infrastructure necessary to serve this area.
- ***Lake Elmo Theming Study.*** As the applicant prepares Preliminary Plans for the proposed subdivision, staff would recommend that various elements from the Lake Elmo Theming

Study be included in the proposed plans. As an example, the Hunters Crossing development to the south is incorporating white fencing along the 5th Street boulevard

- **Density:** The submitted Sketch Plan includes an estimate of the project area minus County and 5th Street right-of-way, and the estimated net density calculation of 4.17 units per acre falls within the allowed range of the Urban Medium Density land use category (4.0 – 7.5 units per acre).
- **Zoning.** The City has adopted urban development districts, including the Urban Medium Density Residential (LDR) zoning district. The Sketch Plan has been designed to comply with the MDR district standards in regards to lot area, setbacks, and other dimensional standards. The sketch plan does not depict the proposed lot boundaries between individual homes, but in general, the MDR zoning district allows the common areas between units to county towards the minimum lot size and frontage requirements. Staff would recommend that the City rezone the applicant's site to MDR at the time of Preliminary Plat approval.
- **Buffer Areas.** The project is not located in an area that will be subject to required buffering. Staff is recommending that the applicant provide additional screening and/or buffering from the property to the east, which is planned and used for industrial and business park development.
- **Parks and Trails.** The City has previously decided to accept a cash payment in lieu of land dedication for the Hunters Crossing development to the south of sketch plan area. Because this site is even smaller and more constrained from an access perspective, Staff is recommending that a payment in lieu of land dedication also be considered on this site. The developer will be required to provide interior sidewalks along the streets, and is also encouraged to include connections to the planned trail system along 5th Street. Given that the proposed subdivision is proposed for Urban Medium Density, the parkland dedication requirement per the City's Subdivision Ordinance will be 10% of land, fee in lieu of land in the amount of equal market value of 10%, or some combination thereof.
- **Streets/Access.** As part of the City's review of Hunters Crossing, the alignment of 5th street through this area, and its connection point to Lake Elmo Avenue has been reviewed and approved as part of this development's construction plans. The proposed access into the subdivision lines up with the access into Hunters Crossing and meets access spacing requirements from the County road. All portions of the 5th Street right-of-way that are located on the applicant's property will need to be dedicated with the final plat, and the right-of-way as depicted on the sketch plan is consistent with the regional plans for the road. Although the developer of Hunter's Crossing was allowed to build only the southern half of 5th Street with their project, the entire road will need to be constructed in order to provide proper access into the subject property. Other general review comments from the City Engineer concerning streets are as follows:
 - All residential streets shall be constructed to a 28-foot width from back of curb to back of curb per the city standard details. Right-of-ways must be a minimum 60 feet.
 - Ten (10) foot utility easements are required on both sides of the right-of-way.
 - Six (6) foot sidewalks must be provided along all continuous residential streets and along other streets as may be required for connectivity.
 - All street intersections must be at 90 degrees and maintain 100 feet of tangent with maximum slopes of 2% for first 100 feet.

- Residential maximum longitudinal grade is 8% with no sidewalks, 6% where there are sidewalks.
 - Minimum diameter cul-de-sac is 90 feet with 120-foot right-of-way.
- **Utilities.** Public water service has been extended to the Site as part of the City's 2014 Lake Elmo Avenue water main project. Sanitary sewer service is also available within the 5th Street right-of-way as part of an earlier project. The preliminary plans will need to include detailed utility construction plans that meet City engineering standards.
- **Storm Water Management.** The proposed development area resides within the Valley Branch Watershed District (VBWD). City staff recommends early planning/coordination meetings with VBWD. The design of the storm water management systems must be compliant with the requirements of the VBWD, the City of Lake Elmo Storm Water Management Ordinance, and the City of Lake Elmo design standards manual. The applicant is advised to fully read and comprehend the City's storm water and erosion control ordinance since these standards are different, and in some cases more stringent, than the watershed district. The storm water facilities must be platted as Outlots and deeded to the City for maintenance purposes. The storm water ponds will not be allowed to encroach on to adjacent private lots.
- **Grading.** Based upon the existing conditions of the site, the residential subdivision will require substantial grading activity. All grading activities shall meet the approval of the City Engineer.
- **Landscaping.** The applicant has not provided any details concerning landscaping for the site, which must be submitted at the time of Preliminary Plat submission. The City's landscape architecture consultant has conducted an initial review of the sketch plan and has noted that there are a substantial number of existing trees on the property, and that the project will be subject to the City's tree protection and replacement ordinance. He also indicated that that the spacing and layout of the townhouses will not leave a lot of room within the boulevard for street trees. In place of the City's standard 50 foot tree spacing, the developer may need to consider grouping tree planting between townhouse units in order to provide a comparable number of trees within the boulevard or make modifications to the development plans in order to account for these trees.
- **Environmental Review.** The proposed development under the Sketch Plan does not trigger a mandatory environmental review.
- **City Engineer Review.** The City Engineer's review comments are found as part of the attachments to this report. The Engineer did note that the storm water management plan would need to be consistent with City and Valley Branch Watershed District standards.
- **Subdivision Review Process.** In order to proceed with the subdivision of the land included in the Sketch Plan, the applicant will need to next prepare a Preliminary Plat application. At the Preliminary Plat stage, there is much more information required as part of the submission process, which also requires a public hearing. Lennar Corporation has indicated that it would like to proceed with the submission of a Preliminary Plat application in the spring of 2015.

RECCOMENDATION:

Staff is recommending that the Planning Commission accept the Sketch Plan provided by Lennar Corporation for a 50 unit single family attached residential development that would be located within the I-94 Corridor Planning Area.

ATTACHMENTS:

1. Application Forms
2. Location Map
3. Townhouse Plans and Photo Examples
4. City Engineer Review Memorandum 2/17/15
5. Landscape Architect Review Memorandum 2/18/15
6. Lennar Townhouse Sketch Plan

ORDER OF BUSINESS:

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

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



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

LAND USE APPLICATION

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

Applicant: LENNAR CORPORATION - PAUL TABONE
Address: 15315 34th AVE NORTH SE 600 PLYMOUTH MN 55446
Phone #: 952-241-3000
Email Address: PAUL.TABONE@LENNAR.COM

Fee Owner: Tammy Dieckhoff / Gerhard Rieder
Address: 7401 Wyndham Way, Waukegan, IL 60095
Phone #: 815-290-3731
Email Address: criderger@comcast.net

Property Location (Address and Complete (long) Legal Description): PLATT PROPERTY NORTH
OF HUNTERS CROSSING (SEE ATTACHED)

Detailed Reason for Request: TO PLAT + DEVELOP + CONSIDER 50
THREE LOTS

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

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

Signature of applicant: Paul J. Tabone Date: 2/12/2015

Signature of fee owner: Tammy Dieckhoff Date: 2-12-15

Sh Ki



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

ACKNOWLEDGEMENT OF RESPONSIBILITY

This is to certify that I am making application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application should be processed in my name and I am the party whom the City should contact regarding any matter pertaining to this application.

I have read and understand the instructions supplied for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I will keep myself informed of the deadlines for submission of material and of the progress of this application.

I understand that this application may be reviewed by City staff and consultants. I further understand that additional information, including, but not limited to, traffic analysis and expert testimony may be required for review of this application. I agree to pay to the City upon demand, expenses, determined by the City, that the City incurs in reviewing this application and shall provide an escrow deposit to the City in an amount to be determined by the City. Said expenses shall include, but are not limited to, staff time, engineering, legal expenses and other consultant expenses.

I agree to allow access by City personnel to the property for purposes of review of my application.

Signature of applicant Paul J. Tabone Date 2/12/2015
Name of applicant PAUL TABONE Phone 752-249-3000
(Please Print)

Name and address of Contact (if other than applicant) LENIAR CORPORATION -
PLYMOUTH, MN



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

AFFIRMATION OF SUFFICIENT INTEREST

I hereby affirm that I am the fee title owner of the below described property or that I have written authorization from the owner to pursue the described action.

Name of applicant Tammy Diedrich : Gerhard Rieder
(Please Print:)

Street address/legal description of subject property PED 30-C-29-213-2000-2

THE SOUTHWEST 474.00 FEET OF THE NEARLY 1/2 SECTION OF
THE SOUTHWEST 1/4 SECTION OF SECTION 30, TOWNSHIP 24 NORTH,
RANGE 21 WEST, DEERING, IN THE CLAYTON TOWNSHIP
GOVERNMENT SURVEY, TOWNSHIP 24 NORTH, RANGE 21 WEST,
CLAYTON TOWNSHIP, DEERING, IN THE CLAYTON TOWNSHIP
COUNTY, MINNESOTA.

Tammy Diedrich / Gerhard Rieder
Signature

2-12-15
Date

If you are not the fee owner, attach another copy of this form which has been completed by the fee owner or a copy of your authorization to pursue this action.

If a corporation is fee title holder, attach a copy of the resolution of the Board of Directors authorizing this action.

If a joint venture or partnership is the fee owner, attach a copy of agreement authorizing this action on behalf of the joint venture or partnership.

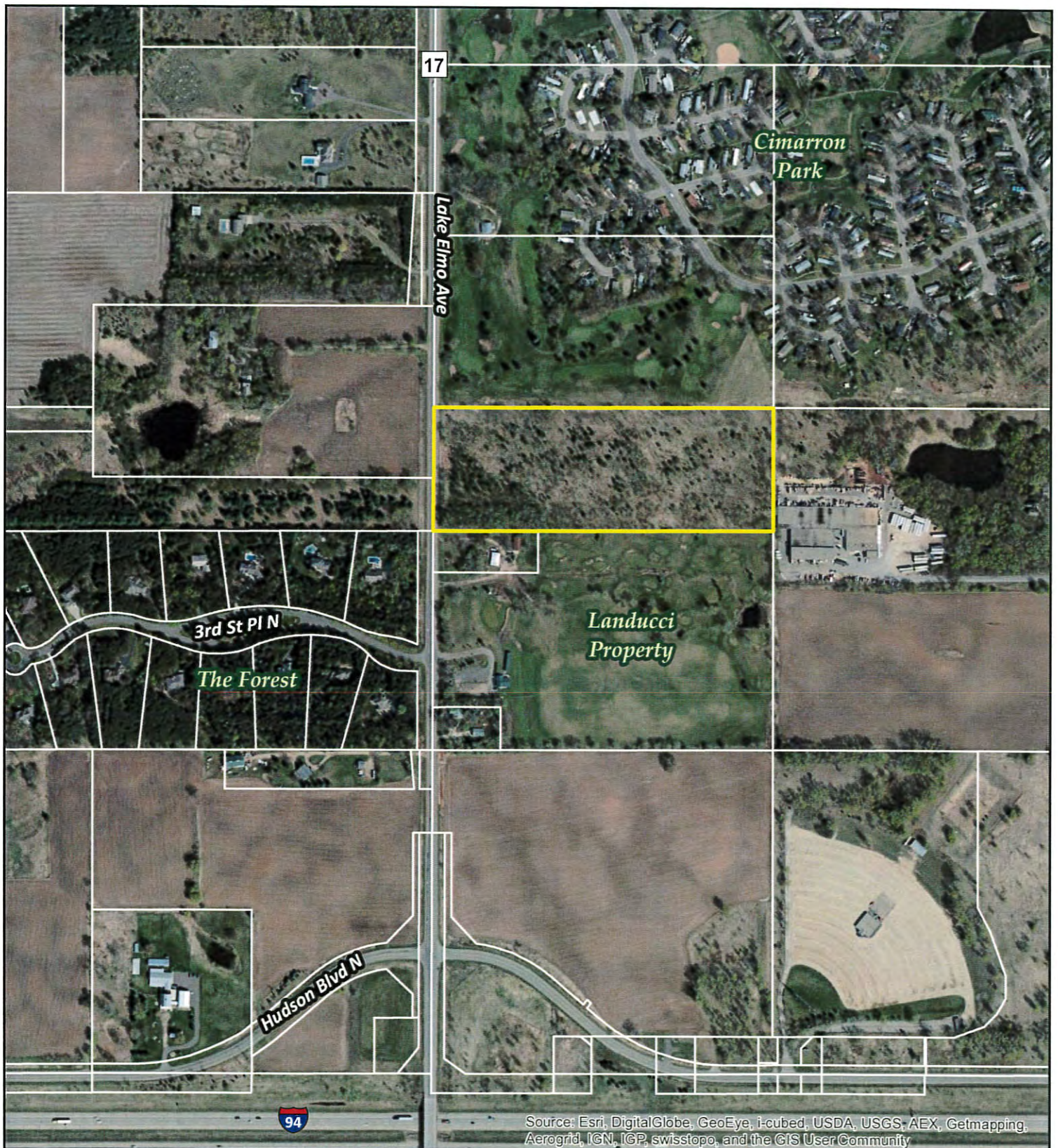
APPLICATION NO.: WAS-OR985039-Z

4. THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:

The north 474.06 feet of the Northwest Quarter of the Southwest Quarter of Section 36, Township 29 North, Range 21 West, according to the United States Government Survey thereof and situate in Washington County, Minnesota.

Abstract Property.

Known as Cty Road 17, Lake Elmo, Minnesota.



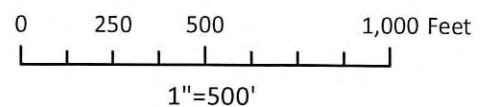
Location Map: Diedrich Property (PIN: 36.029.21.32.0002)



Data Source: Washington County, MN
10-22-2013



Diedrich Property



Parkway Collection

1,622 Sq. Ft.

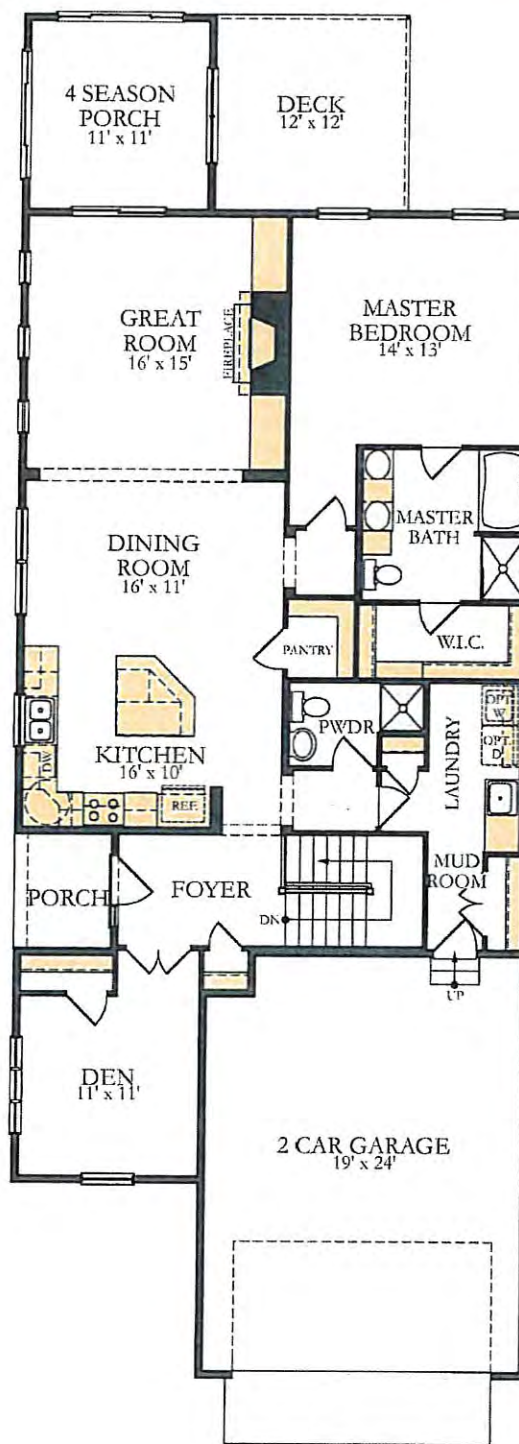
- 1 Story
- 2 Bedrooms
- 2 Bathrooms
- 2 Car Garage

*The Twin Cities #1
homebuilder for the
last 8 years!*

Plans and elevations are artist's renderings and may contain options which are not standard on all models. Lennar reserves the right to make changes to these floor plans, specifications, dimensions and elevations without prior notice. Stated dimensions and square footage are approximate and should not be used as representation of the home's precise or actual size. Any statement, verbal or written, regarding "under air" or "finished area" or any other description or modifier of the square footage size of any home is a shorthand description of the manner in which the square footage was estimated and should not be construed to indicate certainty. Garage sizes may vary from home to home and may not accommodate all vehicles. U.S. Home Corporation d/b/a Lennar - License No. 20464871. Lennar Sales Corp. - Broker. MN Bldr. Lic # BC001413. Copyright © 2014 Lennar Corporation. All rights reserved. Lennar, the Lennar logo and the Everything's Included logo are registered service marks or service marks of Lennar Corporation and/or its subsidiaries. (10201) 12.23.14



16305 36th Ave. N. Suite
600, Plymouth, MN 55446



Main Level

LENNAR®

The Kingsfield

Parkway Collection

1 Story | 2 Bedrooms | 2 Bathrooms | 2 Car Garage
1,622 Sq. Ft.

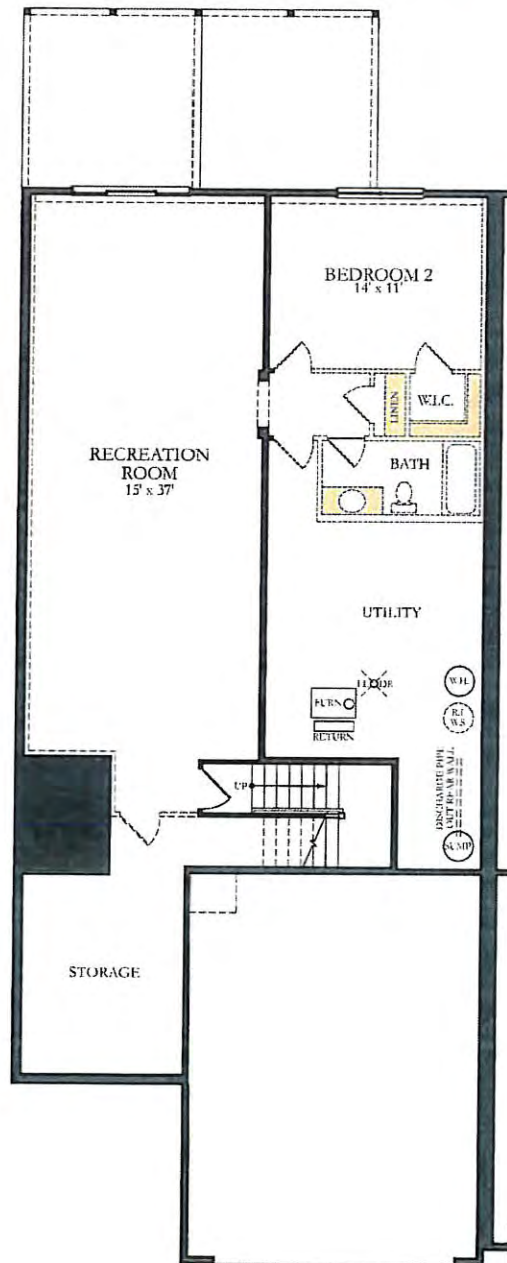


EVERYTHING'S
INCLUDED*

LENNAR.COM

952-249-3000

Optional Finished Basement



16305 36th Ave. N. Suite 600, Plymouth, MN 55446

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Parkway Collection

1,460 Sq. Ft.

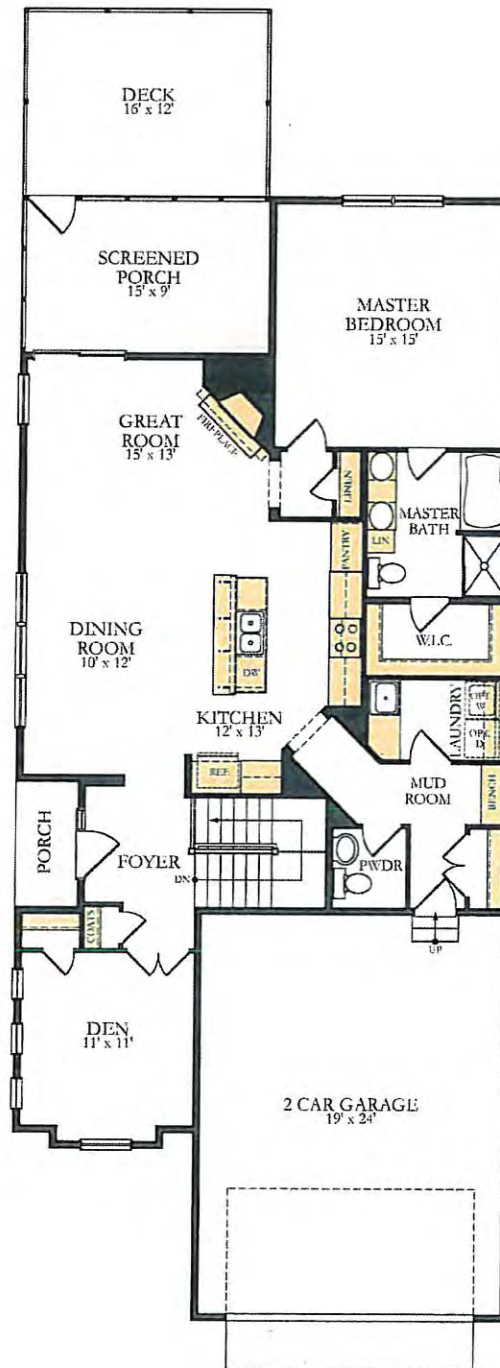
- 1 Story
- 2 Bedrooms
- 2 Bathrooms
- 2 Car Garage

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homebuilder for the
last 8 years!*

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16305 36th Ave. N. Suite
600, Plymouth, MN 55446



Main Level

LENNAR®

The Lakeview

Parkway Collection

**1 Story | 2 Bedrooms | 2 Bathrooms | 2 Car Garage
1,460 Sq. Ft.**

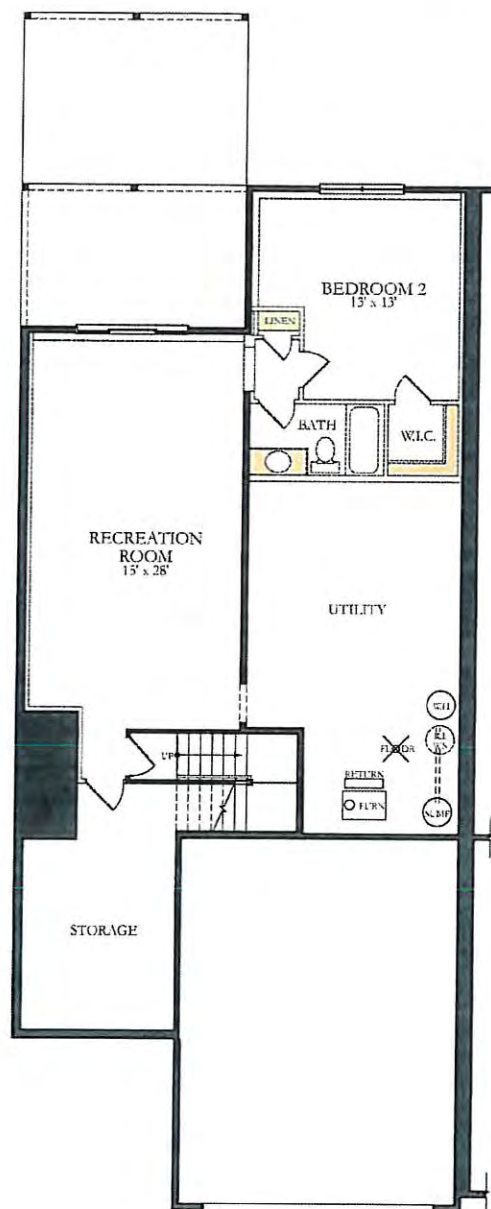


**EVERYTHING'S
INCLUDED***

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952-249-3000

Optional Finished Basement



16305 36th Ave. N. Suite 600, Plymouth, MN 55446

Plans and elevations are artist's renderings and may contain options which are not standard on all models. Lennar reserves the right to make changes to these floor plans, specifications, dimensions and elevations without prior notice. Stated dimensions and square footage are approximate and should not be used as representation of the home's precise or actual size. Any statement, verbal or written, regarding "under air" or "finished area" or any other description or modifier of the square footage size of any home is a shorthand description of the manner in which the square footage was estimated and should not be construed to indicate certainty. Garage sizes may vary from home to home and may not accommodate all vehicles. U.S. Home Corporation d/b/a Lennar - License No. 20464871. Lennar Sales Corp. - Broker. MN Bldg. Lic # BC001413. Copyright © 2014 Lennar Corporation. All rights reserved. Lennar, the Lennar logo and the Everything's Included logo are registered service marks or service marks of Lennar Corporation and/or its subsidiaries. (10203) 12.23.14



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. 651.300.4283

Date: February 17, 2015

To: Kyle Klatt, Planning Director
From: Jack Griffin, P.E., City Engineer

Re: Diedrich Property – PUD Concept Plan Review

An brief engineering review has been completed for the Diedrich Property PUD Concept Plan. The submittal consisted of a one page 11 x 17 concept plan prepared by Pioneer Engineering, dated February 6, 2015.

We have the following review comments:

All public improvements constructed to support the development must be designed and constructed in accordance with the City Engineering Design Standards Manual available on the City website.

MUNICIPAL WATER SUPPLY

- Municipal water service is readily available within the 5th Street R/W located adjacent to the plat.
- The applicant is responsible to extend municipal water into the development to serve the proposed properties. Two connection points to the existing City system will be required and a looped watermain network must be constructed.
- No trunk watermain oversizing is anticipated for this development.

MUNICIPAL SANITARY SEWER

- Municipal sanitary sewer service is readily available within the 5th Street R/W located adjacent to the plat.
- The applicant is responsible to extend the municipal sanitary sewer to the development to serve the proposed properties.
- No trunk sewer oversizing is anticipated. The area can be served without a lift station.

STORMWATER MANAGEMENT

- The site plan is subject to a storm water management plan meeting State, VBWD and City rules and regulations.
- Storm water facilities proposed as part of the site plan to meet State and VBWD permitting requirements must be constructed in accordance with the City Engineering Design Standards Manual available on the City website.
- The general drainage system should mimic the natural topography of the site in order to ensure a drainage system that provides positive storm water drainage across the development. Overland emergency overflows or outlets will be required as part of the site plan.
- The ultimate discharge rate and location will be an important consideration to avoid negative impacts to downstream properties. The storm water management plan will need to address changes to the downstream drainage system to the extent alterations are proposed. To the extent adjacent properties

are impacted, written permission from those properties must be submitted as part of the development applications.

- Per City requirements, all storm water facilities, including infiltration basins, must be placed in Outlots deeded to the City for maintenance purposes. The Stormwater Facility Outlots must fully incorporate the 100-year HWL, 10 foot maintenance bench and all maintenance access roads. It is unclear from the concept plan if the proposed ponding and infiltration is on Outlots that will be dedicated to the City.
- The storm sewer system shall be designed to maintain the City standard **minimum** pipe cover of 3.5 feet. Drain tile is required as part of the City standard street section at all localized low points in the street. Drain tile considerations may impact the storm sewer design and depth requirements at low points.
- Per City requirements all storm sewer pipe easements must be a minimum 30-feet in width.

TRANSPORTATION IMPROVEMENTS

- Access to the development must be from 5th Street as shown, directly across from the Hunters Crossing access roadway.
- The applicant will be responsible to construct the north half of 5th Street from CSAH 17 to the east plat edge of the Hunters Crossing development. This improvement must be completed at the developer's cost.
- The plat must dedicate the existing 5th Street roadway easement as City R/W. The plan indicates the minimum 100 foot R/W as required.
- The proposed 2-lane collector parkway street (5th Street) design and geometrics must meet all Municipal State Aid design standards for urban streets (8820.9936) for ADT > 10,000; 40 mph design speed; and must be consistent with the detailed parkway cross section installed throughout the remaining corridor segments and as outlined in the 5th Street Collector Design Guidelines as prepared by City staff.
- Right and left turn lanes must be incorporated along 5th Street North per the City design standards to maintain mobility along the Parkway since there is only one travel lane in each direction.
- Additional streetscape amenities are required along 5th Street consistent with the remaining corridor segments. 5th Street Amenities include a north side off-road bituminous trail, minimum 10 foot width with 5 foot clear zone; a south side concrete sidewalk, minimum 6 foot width with 2 foot clear zone; landscaping elements including a center landscape median; and theming elements including street and ornamental lighting, banner poles at primary gateway intersections, and white post & rail fencing.
- The applicant will also be partially responsible for the improvements required by Washington County at the intersection of 5th Street and CSAH 17.

RESIDENTIAL STREETS

- All streets must be designed to meet the City's Engineering Design Standards including R/W width, street width and cul-de-sac radii. Surmountable concrete curb and gutter shall be installed in single family residential areas with future driveways and B618 curb installed along entrance roadways. All street intersections must be at 90 degrees and maintain 100 feet of tangent with maximum slopes of 2% for first 100 feet. Residential maximum longitudinal grade is 8% with no sidewalks, 6% where there are sidewalks.
- Six (6) foot sidewalks must be provided along all residential streets and as may be required for connectivity.
- Ten (10) foot utility easements are required on either side of all right-of-ways.



DIEDRICH PROPERTY – DESIGN REVIEW REPORT **LAKE ELMO, MN**

LANDSCAPE ARCHITECTURAL DESIGN REVIEW DATED FEBRUARY 18TH, 2015
REVIEWED CONCEPT PLAN SET DATED FEBRUARY 6TH, 2015

Required Action Items by DEIDRICH PROPERTY Project Team

1. Correctly label Lake Elmo Avenue North on the western edge of the property. Currently it is labeled Lake Elmo Boulevard.
2. Since this preliminary site plan doesn't address plantings within this set of plans we are excited to look at the next generation of plan development set which will have that level of specification for our review.
3. We request more information as it relates to the tree preservation plan.
4. Your site layout design should be working with and incorporating natural features of the site especially the existing vegetation.
5. Please provide an analysis of street tree plantings in relationship to proposed residential utility connections and proposed driveways with appropriate setbacks from both utility service connections and driveways. It appears that once this exercise is completed with the current lot widths and proposed home locations there will be little or no room for proposed street trees as currently represented. Therefore, an adjustment of the lot widths and or reducing the number of proposed housing units may need to take place to facilitate the incorporation of the required trees in the streetscape corridor. A minimum of one (1) tree shall be planted for every fifty (50) feet of street frontage.
6. At all property boundaries please provide design sections for all landscape screening suggested representing all typical planting arrangements with species specified and represented to scale at time of installation. When planting berms please consider planting side slopes verses simply planting the top. Plants are much happier when not placed on the highest, driest and windiest part of the berm.
7. Please provide design drawings for development sign, theme & gateway experiences.

SINCERELY,

LANDSCAPE ARCHITECTURE, INC.

STEPHEN MASTEY, ASLA, CLARB, LEED AP BD+C
DIRECTOR OF DESIGN

2350 BAYLESS PLACE • ST. PAUL, MN • 55114
PHONE: 651.646.1020 • EMAIL: STEPHEN@LANDARCINC.COM

