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*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 Workshop
3800 Laverne Avenue North
Tuesday, May 10, 2016
6:30 PM**

- | | | |
|------|--|---------|
| I. | Call to Order | 6:30 pm |
| II. | Washington County HRA Legislative Bill | 6:30 pm |
| III. | OP Ordinance Discussion | 7:00 pm |
| IV. | Land Use Discussion: MUSA Areas | 8:00 pm |
| V. | Adjourn | 9:00 pm |



MAYOR AND COUNCIL COMMUNICATION

DATE: May 10, 2016

WORKSHOP

ITEM #:

AGENDA ITEM: Washington County HRA Economic Development Bill

SUBMITTED BY: Kristina Handt, City Administrator

BACKGROUND:

Council will receive a presentation from the Washington County HRA regarding their bill in the state legislature to add economic development activities to their organization. After the presentation and questions from the Council the Council should discuss the resolution. Staff is not looking for approval at this meeting but the resolution could be placed on the May 17th agenda. The last day for the state legislature to pass any bills, without going to special session, is May 22nd so the May 17th meeting would be the last opportunity for the City of Lake Elmo to weigh in on this issue.

Additional background materials, memo, and resolution from the HRA are included in your packet.



Memo To: City of Lake Elmo Mayor and Councilmembers
Mayor Mike Pearson
Councilmember Justin Bloyer
Councilmember Julie Fliflet
Councilmember Jill Lundgren
Councilmember Anne Smith

From: Barbara Dacy, Executive Director

Date: May 2, 2016 

RE: Proposed Legislation to Add Economic Development Powers to Washington County HRA

The Washington County Housing and Redevelopment Authority (HRA) respectfully requests the City of Lake Elmo to adopt the enclosed resolution which will legally enable the HRA to conduct economic development activities in partnership with county cities and townships. The HRA has drafted legislation to amend its enabling law and has introduced a proposed bill for consideration during the 2016 legislative session. The proposed bill has been identified as part of the 2016 legislative agendas for both Washington County and Washington County HRA.

Attached to this memo is a summary of the key provisions of the bill (Attachment A), the proposed bill (Attachment B) and the proposed resolution (Attachment C).

Background

In the fall of 2013, Washington County convened a work group consisting of city economic development practitioners and community representatives to define the appropriate role of the county in economic development. A question was also included in the county's survey of residents, and 69% of respondents agreed that a stronger role in economic development is appropriate. An Economic Development Strategic Plan, adopted in 2014, establishes guiding policy principles and identifies specific strategies and goals. In 2015, the County Board researched organizational options and determined the Washington County HRA is to be responsible for county-wide economic development activities. The objectives of economic development are consistent with the HRA's mission, to promote community and economic development, and the HRA's brand, "to help communities thrive". The County Board authorized \$215,000 of the annual HRA levy to hire an Economic Development Director, support staff, and startup funds.

Implementing the Washington County Economic Development Strategic Plan

Guiding Principles

It is envisioned that the Washington County CDA will fill a vital role in coordinating county-level economic development activities and will support communities in the county in working towards their individual economic development goals. This supportive role has been the key foundation of the Economic Development Strategic Plan. The Washington County CDA would collaborate with the City of Lake Elmo to provide additional support and capacity to the city's local economic development programs, business retention and business creation efforts, as may be mutually determined.

The Washington County CDA would adhere to the following economic development guiding principles identified in the Strategic Plan:

- The private sector is the lead that drives the economy.
- The County will not duplicate or replace the work of cities and other public agencies.
- The County supports a strong collaborative approach to economic development.
- Business attraction and business retention are essential policy objectives.
- The diversity of the county requires an adaptable and open-minded approach.
- A deliberate, purposeful and strategic plan is required.

Goals and Benefits of Proposed Bill

Goals

The proposed bill to amend the HRA's enabling law was drafted to fulfill the following goals:

- Add statutory powers to enable the County to address economic needs through programs and projects, given the diversity of municipalities, large and small.
- Complement municipal economic development authorities and not impede their activities.
- Provide municipal approval prior to the CDA exercising any physical development powers.
- Confer consistent geographic jurisdiction for both HRA and EDA activities and levy authority.
- Maintain current process for levy authority and level of control by County Board.

Benefits to the City of Lake Elmo

A county role in economic development will provide the following benefits:

- Dedicated staff experienced in economic development to respond to city and township requests.
- Stronger presence in the industry and marketplace through communication and marketing.
- Stronger county relationship with GreaterMSP.
- Opportunity to build on tourism initiatives, labor and talent attraction initiatives, business creation programs, or other suggestions from communities.
- Potential for additional financial resources for communities to augment existing programs.
- Conduct economic development and industrial/commercial market studies.
- Advocacy for economic development issues at the Legislature.

The initial responsibility of the new CDA Economic Development Director will be to determine how best to support the cities and to cultivate relationships with communities, key stakeholders, and relevant boards. One of the recommendations of the existing strategic plan was to convene a community workgroup; this will be implemented and a starting point to provide community input to determine the best manner in which the County can complement and augment what communities are doing.

Recommendation

We are excited to work with the City of Lake Elmo in a collaborative approach. We respectfully request support for the proposed bill by adopting the attached resolution.

ATTACHMENT A

Key Aspects of the Proposed Bill

Key aspects of the proposed bill include naming of the agency, determining levy authority, requiring municipal approval prior to the CDA exercising its physical development powers within a jurisdiction, offering tax-forfeited lands to the CDA, and identifying limitations requiring County Board approval.

Agency Renaming

In order to adequately represent the combined housing, redevelopment and economic development powers to be bestowed, it is proposed the HRA be renamed the Washington County Community Development Agency (CDA). While this term is not defined in statute, the CDA nomenclature has been adopted by Dakota, Carver and Scott counties in their respective enabling laws. The consistency in terminology across the Minneapolis-St. Paul metropolitan area provides for greater recognition and understanding of a county CDA.

Levy Authority

State Statute permits special levying authority for housing and redevelopment authorities up to 0.0185% upon all taxable property, subject to the consent by resolution of the governing body. In addition, a county may, at the request of an economic development authority, levy a tax of up to 0.01813% upon all taxable property. The proposed bill, however, waives EDA tax levying authority under section 469.107 and, it retains the County Board consent process currently in place for establishing the levy rate and amount under the HRA limits in section 469.033, subd. 6. The proposed language reserves the right to levy the higher of the HRA or EDA permissible rates, as they may be determined by the legislature. This provides the County with future flexibility should there be a program or issue that the County determines is appropriate for this purpose. On an annual basis, the HRA Board has prepared a levy request, within its annual budget, of sufficient size to complete its strategic priorities and financial obligations for approval from the County Board. Under the amended enabling law, the CDA would follow the same process in proposing an annual levy request and obtaining the consent of the County Board.

Municipal Approval

The HRA's current enabling law requires municipal approval prior to the HRA undertaking a housing development. The proposed bill maintains this requirement and adds the municipal approval requirement prior to exercising economic development powers.

Offer of Tax Forfeited Land

When the County receives real property through the tax forfeiture process, it may determine the property to be appropriate for a housing, redevelopment, or economic development purpose. Currently, the HRA must purchase forfeited parcels in the same process as the general public. The proposed bill adds that such parcels "may" be offered to the CDA in the same manner it would be offered to a County department with justification of public purpose.

Establishing the Washington County CDA

The Washington County HRA was created in 1980 under a special enabling law and authorizing resolution from the County Board. This enabling law must be amended to add the powers of an economic development authority and formally rename the agency to the Washington County Community Development Agency (CDA) to reflect the full scope of responsibilities. The proposed bill follows the same process taken by CDAs established in Dakota, Scott, and Carver counties.

The proposed bill retains board composition. The HRA Board is currently composed of seven members: five appointees representing each County district, a representative of the County Board of Commissioners, and a participant in the federal housing assistance programs. Historically, because many of the activities of the HRA require real estate development transactions involving public financing, the HRA Board has been comprised of members with backgrounds in real estate, finance and banking, business or government. It is also proposed that the CDA would solicit comment on policies and programs from county citizen boards including the Workforce Investment Board and the Community Development Block Grant Advisory Committee. The CDA will also convene a workgroup of community economic development professionals to provide ongoing input.

Final Approval

Upon passage of the proposed bill, the County Board will need to pass a resolution to formally confer the EDA powers and establish the Washington County CDA. The resolution will further identify any limitations of EDA powers the County may wish to impose on the CDA.

RESOLUTION NO. _____

RESOLUTION OF THE _____, MINNESOTA

**SUPPORTING PROPOSED LEGISLATION TO AUTHORIZE THE COUNTY
OF WASHINGTON TO CONFER ECONOMIC DEVELOPMENT POWERS
UPON THE WASHINGTON COUNTY HOUSING AND REVELOPMENT
AUTHORITY**

BACKGROUND RECITALS

WHEREAS, the Washington County Housing and Redevelopment Authority (the “WCHRA”) is a county housing and redevelopment authority created and existing under Laws 1974, Chapter 475, as amended, which provides and maintains affordable, decent, and safe housing opportunities in Washington County ; and

WHEREAS, in 2013 the County Board of Commissioners (the “County Board”) of the County of Washington (the “County”) established a broadly-representative economic development work group comprised of municipal economic development practitioners and community partners to assist the County in developing a county-wide long-range economic development strategy; and

WHEREAS, based on the process carried out by the economic development work group, in May of 2014 the County adopted an Economic Development Strategic Plan (the “Economic Development Strategic Plan”); and

WHEREAS, in furtherance of the Economic Development Strategic Plan, the County has determined that the WCHRA should have primary responsibility for economic development activities on behalf of the County; and

WHEREAS; proposed legislation has been prepared which would authorize the County Board by resolution to confer on the WCHRA the powers of an economic development authority (the “Proposed Law”), thus enabling the County to address economic needs as identified in the Economic Development Strategic Plan; and

WHEREAS, adoption of the Proposed Law would empower the WCHRA to undertake economic development activities not authorized by the current WCHRA enabling law, such as, by way of illustration, implementing County marketing and public relations programs relating to economic development, conducting economic development studies to document the need for financial assistance programs, and carrying out financial assistance programs for economic development purposes; and

WHEREAS, the Proposed Law would retain the existing County Board consent process for establishing the WHCRA's housing and redevelopment authority levy under Minnesota Statutes, Section 469.033, subdivision 6, and would preclude the WCHRA from imposing any concurrent or separate economic development authority levy otherwise authorized under Minnesota Statutes, Section 469.107 (while permitting the County Board to consent to a WCHRA levy at a rate equal to the higher of the permissible housing and redevelopment authority levy rate or the permissible economic development authority levy rate as they may be established by the Legislature); and

WHEREAS, consistent with existing requirements of the WCHRA's enabling law for local approval of housing projects and redevelopment projects, the Proposed Law would require municipal location and project approval as well for development districts and economic development projects; and

WHEREAS, in order to appropriately reflect the combined housing, redevelopment and economic development powers to be conferred, the Proposed Law would change the name of the WCHRA to the Washington County Community Development Agency; and

WHEREAS, the Proposed Law would effect no change in the current structure or composition of the WCHRA Board of Commissioners; and

WHEREAS, the Proposed Law would authorize the County to offer tax-forfeited real property to the WCHRA on the same basis as such parcels are offered to a County department; and

WHEREAS, the County Board has determined to include the Proposed Law as part of the County's legislative initiative for the 2016 Legislature; and

WHEREAS, the _____ of the _____, Minnesota, finds that enactment by the Legislature of the Proposed Law, and the carrying out of economic development activities by the WCHRA in the County, including in the _____, pursuant to the Proposed Law, would be in the public interest and would afford substantial benefit to the residents, businesses, citizens and taxpayers of the _____; and

WHEREAS, the County, the WCHRA and the _____ contemplate that the WCHRA and the _____ will work together as partners in carrying out economic development activities within the _____ which will be complementary and non-duplicative.

NOW, THEREFORE, the _____ of the _____, Minnesota adopts this Resolution supporting the proposed legislation described above in furtherance of economic development activities by the WCHRA on behalf of Washington County.

This Resolution was declared duly passed and adopted and was signed by the _____ of the _____ and attested to by the _____ this _____ day of _____, 2016.

(Signature of _____)

ATTESTED:

(Signature of _____)

ATTACHMENT B
PROPOSED BILL

Laws 1974, Chapter 475, section 1, is amended to read:

Section 1. **WASHINGTON COUNTY; COMMUNITY DEVELOPMENT AGENCY HOUSING AND REDEVELOPMENT AUTHORITY.** There is created in Washington county a public body corporate and politic, to be known as the Washington county ~~housing and redevelopment authority~~ community development agency, having all the powers and duties of a county authority under the provisions of Minnesota Statutes, sections 469.001 to 469.047, and all powers of a county housing and redevelopment authority under any other provisions of Minnesota law. ~~and Sections 469.001 to 469.047 and 469.090 to 469.1081 apply to the county of Washington. For purposes of applying sections 469.090 to 469.1081 to Washington county, notwithstanding Minnesota Statutes, section 469.090, subdivision 3, "city" means county and "city council" means county board.~~

Laws 1974, chapter 475, section 2, subdivision 1, is amended to read:

Subdivision 1. This act shall not limit or restrict any existing housing and redevelopment authority or city economic development authority. The jurisdiction and area of operation of the Washington county community development agency ~~housing and redevelopment authority~~ includes all of the area within the territorial boundaries of the county and includes the areas within the boundaries of every city in the county and the areas of operation of city housing and redevelopment authorities and city economic development authorities in the county, whenever created, and notwithstanding any provision of Minnesota Statutes, sections 469.005, subdivision 1, or 469.008, subject, however, to Section 3. The jurisdiction and area of operation of the Washington county community development agency ~~housing and redevelopment authority~~ shall not be affected by any concurrence by the Washington county community development agency ~~housing and redevelopment authority~~ under section 469.004, subdivision 5.

Laws 1974, chapter 475, section 2, subdivision 2, is amended to read:

Subdivision 2. A municipal housing and redevelopment authority may request the Washington county community development agency ~~housing and redevelopment authority~~ to handle the housing duties of the authority and, in such an event, the Washington county community development agency ~~housing and redevelopment authority~~ shall act and have exclusive jurisdiction for housing in the municipality pursuant to the provisions of the municipal housing and redevelopment act, Minnesota Statutes, sections 469.001 to 469.047 ~~462.411 to 462.711~~, and acts amendatory thereof. A transfer of duties relating to housing shall not transfer any duties relating to redevelopment.

Laws 1974, chapter 475, section 2, is amended by adding a subdivision to read:

Subdivision 2a. The governing body of a statutory or home rule charter city or township with an existing municipal economic development authority may request the Washington county community development agency to handle the economic development, housing or redevelopment duties of the authority and, in such an event, the Washington county community development agency shall act and have exclusive jurisdiction for economic development, housing or redevelopment duties in the city or township pursuant to the provisions of the economic development authorities act, Minnesota Statutes, sections 469.090 to 469.1081. ~~462.411 to 462.711~~

Laws 1974, chapter 475, section 2 is amended by adding a subdivision to read:

Subdivision 4. Washington county community development agency.

(a) The Washington county housing and redevelopment authority shall be known as the Washington county community development agency. In addition to the other powers granted in this section, the Washington county community development agency shall have the powers of an economic development authority under sections 469.090 to 469.1081 that are granted to the agency by resolution adopted by the Washington county board of commissioners, except as provided in paragraph (b). The enabling resolution may impose the limits upon the actions of the agency that are listed in paragraph (c). The agency may exercise any of the powers granted to it under sections 469.001 to 469.047 and any of the powers of an economic development authority granted to it by the Washington county board of commissioners for the purposes described in these sections.

(b) The Washington county community development agency may not levy the tax described in section 469.107, but with the approval of the Washington county board may increase its levy of the special tax described in section 469.033, subdivision 6, to any higher limit authorized under section 469.107. The money in the housing and redevelopment project fund under section 469.033, subdivision 6, may be expended by the Washington county community development agency for the purposes of sections 469.001 to 469.047 or sections 469.090 to 469.1081.

(c) The enabling resolution may impose the limits upon the actions of the agency as may be imposed by a municipality under section 469.092, except that the resolution adopted under paragraph (a) may not impose any limitations on the authority's exercise of its powers under sections 469.001 to 469.047.

(d) Section 469.1082 does not apply to the county of Washington.

Laws 1974, chapter 475, section 2, is amended by adding a subdivision to read:

Subdivision. 5. Offers of tax-forfeited lands. Notwithstanding any other law, Washington county may offer to the Washington county community development agency, under the conditions and policies established by the county, nonconservation tax-forfeited land prior to making the properties available to cities in Washington county.

Laws 1974, chapter 475, section 3 is amended to read:

Sec. 3. MUNICIPAL APPROVAL.

Subdivision 1. Housing and redevelopment projects. If any housing or redevelopment project is undertaken in Washington county pursuant to this authorization, and the project is within the boundaries of any statutory or home rule charter city or township, the project and the location of the project shall be subject to approval by the governing body of the city or township.

The procedures in section 469.007, subdivision 2, shall apply to the governing body project and location approvals required by this section.

Subdivision 2. **Economic development projects.** If any development district or economic development project is undertaken in Washington county pursuant to this authorization, and the project is within the boundaries of any statutory or home rule charter city or township, the project shall be subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the project is situated. Additionally, unless such city or township has authorized the Washington county community development agency to exercise exclusive jurisdiction for economic development duties pursuant to Laws 1974, chapter 475, section 2, subdivision 2a, as amended, then prior to the exercise of any powers under Minnesota Statutes, sections 469.090 to 469.1081, within the boundaries of the city or township with respect to a proposed development district or economic development project or proposed development district or economic development project site, the development district or economic development project and the location of the project must be authorized by resolution of the governing body of the city or township with respect to each identified parcel of property.

EFFECTIVE DATE. This section is effective the day after the governing body of Washington county and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 654.021, subdivisions 2 and 3.

Memorandum

DATE: 5-10-16
TO: Lake Elmo City Council
FROM: Stephen Wensman, City Planner
SUBJECT: OP Ordinance Update –Initial Draft for Discussion

PURPOSE

To update the City's OP development codes to eliminate on-going issues (i.e. allowed density, required buffers, lot design, etc) and to ensure these developments are meeting the City's expectations.

APPROACH SUMMARY

The City's recent experiences with the Legends of Lake Elmo Open Space development kicked off a great deal of discussion at both the City Council and Planning Commission level as to whether the existing regulations are still accomplishing the City's stated goals. This in turn prompted the City Council to direct staff to begin an update process which is now underway with this initial draft.

While the language before the Council focuses solely on the OP update, please note that a number of additional changes will also be needed given the state of the City's current ordinances:

1. Definitions may need to be updated;
2. The OP regulations should be relocated from Chapter 150 to the more appropriate Chapter 154; and
3. Some Articles in Chapter 154 are numbered while others are not. In order to place this new language in 154, all Articles will need to be given a number, and all Article references throughout zoning will need to be updated accordingly.

With regards to how the OP ordinances should be updated, the City requested that Sambatek put together an initial draft to begin the discussion. Specific issues to address included but were not limited to:

- Continue placing a focus on proper septic site locations to determine future lot locations, but maintain the current set of options (individual and communal options);
- Give more options as to what could be done on Open Space land;

- Add criteria for what buffers will be required;
- Limit accessory structure height to 22'
- Maintain 40 acre minimum before OP can be used;
- Consider referencing new landscaping regulations;
- Consider updates to hardcover regulations;
- Change all references to an HOA to a CIC;
- Provide for a slight increase in density by right (many have received waivers for up to 20 units per 40 acres);
- Maintain open space requirements;
- Maintain 4/5 waiver voting requirement by Council;
- Update street requirements per direction of the City Engineer;
- Consider updating the process if necessary (i.e. transitioning to an overlay district rather than a CUP)
- Remove redundancy found throughout the current regulations.

The draft that is now before the Council attempts to address the goals above, but will certainly need adjusting based on the feedback we receive. Having already been through the Planning Commission in April, the current draft has already been updated to address some of their main concerns while still tackling the above list. At some points in this draft, Sambatek is suggesting shifts in policy (i.e. minimum lot sizes) that have not been specifically requested, but are absolutely worth discussion at this early stage. Please give each provision and the process as a whole your best consideration, and come to the meeting prepared with comments as to what you like, what you don't like, and/or other ideas that should be considered or studied moving forward.

The current plan is to utilize Council's direction to craft a final draft that will go before the Planning Commission one more time prior to a public hearing being scheduled.

DRAFT ORDINANCE SUMMARY

Open space developments in Lake Elmo have always focused on tailoring development requirements to a specific piece of property to ensure the end result was best for the property in question, best for surrounding lands, and best for the City as a whole to maintain its rural character. Based on this premise, the major transition in policy being proposed is to discontinue using CUPs to approve these developments, and instead treat OP as specialized Planned Unit Developments.

The resulting draft ordinance is broken down into the following sections:

154.650 Purpose

This section simply states what the City is trying to accomplish when it reviews and approves "open space planned unit developments."

154.651 Intent

This section outlines specific things the City wants to accomplish with open space planned unit developments including allowing for a variety of housing types in the rural areas of the city, allowing for increased density, reducing infrastructure costs, protecting open space, and creating distinct but interconnected rural neighborhoods.

154.652 Definitions

This section references 11.01 as the City's location for applicable definitions.

154.653 Initiation of Proceedings

This section simply outlines how a landowner can begin the open space PUD process.

154.654 Reflection on the Official Zoning Map

This is our first reference to the fact that OP regulations for each development will now be incorporated into an overlay district. Accordingly, issues not addressed by the OP ordinance will be handled by the underlying zoning regulations, so the City will not need to worry about missing details during the approval process.

154.655 Prerequisites for Open Space PUDs

Must be zoned Agricultural, Rural Residential, or Rural Estates

Must have a minimum of 40 acres

Land must be under single ownership or have legally sufficient documentation if under multiple party control

154.656 Uses Within Open Space PUDs

Here we maintained existing language. The only transition proposed is to allow the overlay district regulations to amend specific use provisions that may otherwise be in code. For example, if wayside stands are limited to one per lot, the overlay district regulations may specifically identify an area within preserved open space where up to three wayside stands may be erected at any point in time. The use has not changed, but the specific rules governing the use may be amended if deemed appropriate as part of the PUD approval.

154.657 Open Space PUD Design Standards

This section will require ample examination as it completely reorganizes the City's existing regulations that impact lot design. As presented, the language is intended to ensure the City's goals are met, and updates the lot development process to more closely follow the process pioneered by Randall Arendt in his book Rural by Design.

The current guidance on lot design is unorganized, difficult to follow, and has no connection to how developers actually approach the creation of a development plan. What we've tried to accomplish in this section is to maintain the existing regulations (updated as requested and/or as necessary), but to structure them in a logical order that will result in the end results desired by the City. The process would be as follows:

Step 1: Soil Analysis Completed. All soils identified and ranked as either highly suitable, moderately suitable, or poorly suitable for septic facilities.

Step 2: Septic Design Identified. Based on the soils data, the areas for communal septic drain fields must be identified. If individual sites are proposed, the applicant at this step must be able to show adequate soils exist throughout the site for such a proposal.

Step 3: Identification of Required Buffers. Currently this is way too much of an afterthought. This new process will REQUIRE that buffers be thought about before anything is designed. Existing requirements are still listed in the draft language, but we are recommending two changes. First, if a neighboring OP development has specialized setbacks, the required buffer in the proposed development is to be equivalent to that established setback. Second, Council has full authority to reduce or eliminate buffers based on topography, vegetation, proposed improvements, etc.

Step 4: Identification of Building Pads. With areas designated for septic identified and required buffers shown, the developer is to then identify proposed home locations. Locations must minimize needed grading, minimize tree loss, protect historic sites, etc. If individual septic sites are proposed, each home site should also ID the general area for septic. If communal drain fields are proposed, each home site should identify the communal drain field to be used.

Step 5: Placement of Streets. With building pads and septic areas now located, right-of-way for proposed roadways can now be identified. Again, road placement must minimize changes to the natural topography, limit tree removal, etc.

Step 6: Lot Creation. As a second to last step, the developer will then draw proposed lot lines showing total lot area and total available buildable area per lot given setbacks, septic areas, etc.

Step 7: Open Space and Parkland Adjustments. With lots now identified, the remaining open space and possible park land dedication must be adjusted to meet minimum requirements. If lots need to be reduced in size or eliminated, that's simply what must occur. Parkland and open space minimum requirements are proposed to remain consistent with existing standards.

While some may argue that placing open space at the end of the development process makes little sense given that is the focus of these developments, staff would argue otherwise. Current code requires that proper soils and good septic sites be the driver of developments, but that simply isn't occurring. By forcing the above process to be used, the City will ensure the best septic sites DO become the focus of how a development is organized; and by dictating that building pads and roads must achieve general development goals (i.e. minimize grading, avoid vegetation, etc); the resulting open space WILL be the areas the City wishes to preserve. Furthermore, the City can demand that a developer preserves the best open space all it wants, but that will never change the fact that developers will ALWAYS be more focused on the quality and value of lots they are creating, and the resulting open space will simply be an afterthought.

154.658 Open Space PUD Development Standards

Here we maintain the city's existing regulations relating to open space (must be placed in a conservation easement, must be maintained for its intended purpose, etc), septic systems, building standards, landscaping standards, impervious surface standards, and trail standards. In other words, 154.657 includes all of the regulations that dictate how the development is laid out, while Section 154.658 tells the applicant how the development must be constructed and improved.

154.659 Buffer Setbacks in OP Developments

This will likely need to be relocated, but is included here as a place-holder for now.

154.660 Open Space PUD Review Criteria

Lists the questions the City will ask when reviewing these types of developments.

154.661 Open Space PUD Review Procedure

This lengthy section outlines the process to be used to review open space PUDs from beginning to end. For initial discussion purposes, we are proposing a five (5) step, very transparent process:

- 1) **Sketch Plan Review** – initial review by the City, and determination by Council as to what modifications may be pursued in the future.
- 2) **Preliminary Plan Review** – traditional preliminary plat & development plan review process. The term “preliminary” is sometimes misconstrued by the public, so we're offering up “concept” as an alternate term for consideration.

- 3) **Final Plan Review** – traditional final plat/plan reviews with the additional need for a public hearing to approve the final PUD overlay district ordinance that will govern the development.

Each of these steps outlines the information that must be submitted for a complete application, and outlines the process to be used by the City during the review.

154.662 Open Space PUD Amendments

This section will deal with how the City will process amendments to both open space PUDs and existing OP developments.

154.663 PUD Cancellation

This section will outline the process for cancelling a previous PUD approval.

154.664 Administration

This section includes some final rules and regulations deemed important by staff.

Note: **Language in RED** within the draft ordinance indicates language that must be added, amended, or still needs to be addressed.

PLANNING COMMISSION REVIEW

In preparation for the meeting on the 10th, we strongly encourage you to read through this draft and prepare questions for discussion ahead of time. Nothing is finalized, and feedback from the Commission and Council in the coming weeks will dictate the final ordinance to be assembled by staff.

Thank you!

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL EXISTING OPEN SPACE DEVELOPMENT
REGULATIONS WITHIN CHAPTER 150, ADOPT NEW OPEN SPACE
DEVELOPMENT REGULATIONS IN CHAPTER 154, AND TO
IMPLEMENT REFERENCE UPDATES IN CHAPTER 154

SECTION 1 (Will include definition updates if needed -- TBD)

SECTION 2 (Will repeal existing OP codes in Chapter 150)

SECTION 3 (Will replace existing OP codes in Chapter 150 with reserved language)

i.e. "Sections 150.161 through 150.199 – RESERVED"

SECTION 4 (Will clean up numerous existing problems with numbering in Chapter 154
to allow for placement of the new ordinance within zoning)

SECTION 5 Will adopt the new Open Space Planned Unit Development Regulations as follows:

Article XVI: OPEN SPACE PLANNED UNIT DEVELOPMENTS

§ 154.650 **PURPOSE.**

The purpose of open space planned unit developments is to maintain the rural character of Lake Elmo by preserving agricultural land, woodlands, corridors, pollinator & wildlife habitat, and other significant natural features; while still allowing for residential development consistent with the goals and objectives of the city's Comprehensive Plan.

§ 154.651 **INTENT.**

It is the intent of the City of Lake Elmo that open space planned unit developments will offer needed development flexibility within the Agricultural, Rural Residential, and Rural Estate zoning districts to provide for:

- (A) A variety of lot configurations and housing styles that may not otherwise exist within the City's rural areas;

Commented [BGA1]: Section One will include all of the new or updated definitions to be adopted with this ordinance

Commented [BGA2]: Because we are proposing a significant reorganization of the current regulations, the cleanest approach is to simply start with a clean slate. Section two of the ordinance will delete the current OP regulations in their entirety.

Commented [BGA3]: Current OP regulations are housed in Chapter 150, but the more appropriate location (given the current code framework) is Chapter 154. This new ordinance will facilitate that move.

Once complete, sections 150.161 through 150.199 will no longer exist. City Code should never skip over section numbers or readers are left wondering if they're missing portions of the code. To address this problem, the existing OP section numbers will be marked with the word "reserved."

Commented [BGA4]: Placing the new OP language into Chapter 154 will require that we complete some general organizational clean up that is long overdue. This section will make sure that all Articles in Chapter 154 have numbers (some do not), and that existing Article numbers are updated to accommodate these new additions. Finally, all article references—and many references that currently point to nowhere or to incorrect sections—will also be updated.

Commented [BGA5]: Section 5 of the ordinance will house all of the new language being adopted.

Commented [BGA6]: This section simply states what the City is trying to accomplish when it reviews and approves "open space planned unit developments."

Commented [BGA7]: This section outlines specific things the City wants to accomplish with open space planned unit developments including allowing for a variety of housing types in the rural areas of the city, allowing for increased density, reducing infrastructure costs, protecting open space, and creating distinct but interconnected rural neighborhoods.

- (B) An avenue to provide a development density equal to or greater than what could be achieved via underlying zoning;
- (C) A reduction in the costs to construct and maintain public facilities and infrastructure in a rural setting;
- (D) Protected open space to enhance and preserve the natural character of the community; and
- (E) The creation of distinct neighborhoods that are interconnected within rural areas.

§ 154.652 DEFINITIONS.

Unless specifically defined in §§ 154.009 *et seq.*, common definitions, words, and phrases used in §§ 154.009 *et seq.* shall be interpreted so as to give them the same meaning as they have in common usage throughout this code and are found in § 11.01.

Commented [BGA8]: This section references 11.01 as the City's location for applicable definitions. New definitions (or updated definitions) created by Section One of this ordinance will be placed in Section 11.01

§ 154.653 INITIATION OF PROCEEDINGS.

The owner of property on which an open space PUD is proposed shall file the applicable application for a PUD by paying the fee(s) set forth in _____ of this Code and submitting a completed application form and supporting documents as set forth on the application form and within this Section. Complete applications shall be reviewed by City Commissions as deemed necessary by the Community Development Department, including a public hearing before the Planning Commission, and be acted upon by the City Council. If a proposed PUD is denied, any subsequent application for a substantially similar PUD within one (1) year of the date of denial shall fully address all findings which supported the denial prior to being accepted as complete.

Commented [BGA9]: This section simply outlines how a landowner can begin the open space PUD process.

§ 154.654 REFLECTION ON THE OFFICIAL ZONING MAP.

- (A) PUD provisions provide an optional method of regulating land use which permits flexibility from standard regulating provisions. Establishment of a PUD shall require adoption of an ordinance creating an overlay zoning district atop the boundaries of the development area. For each PUD District, a specific ordinance shall be adopted establishing all rules which shall supersede underlying zoning. Issues not specifically addressed by the PUD Overlay district shall be governed by the underlying zoning district regulations.
- (B) All Open Space Preservation developments approved prior to [date of ordinance publication] shall be allowed to continue per the original conditions of approval.

Commented [BGA10]: This is our first reference to the fact that OP regulations for each development will now be incorporated into an overlay district. Importantly, issues not addressed by the OP ordinance will be handled by underlying zoning regulations, so the City will never have to worry about missing details during the approval process.

§ 154.655 PREREQUISITES FOR OPEN SPACE PUDs.

- (A) Only land zoned as Agricultural, Rural Residential, or Rural Estate may be considered for establishment of an open space planned unit development.
- (B) The minimum land area for establishment of an open space planned unit development is a nominal contiguous 40 acres.

Commented [BGA11]: This section sets the minimum requirements that must be met before someone can request an Open Space PUD.

The listed prerequisites are existing criteria.

- (C) Establishment of an open space planned unit development will be considered only for areas of land in single ownership or control. Alternatively, multiple party ownership, in the sole discretion of the City, is acceptable when legally sufficient written consent from all persons and entities with ownership interest is provided at the time of application.

§ 154.656 **USES WITHIN OPEN SPACE PUDs.**

(A) **Primary Uses.**

(1) **Permitted.**

- (a) Single-family, detached;
- (b) Preserved open space;
- (c) Conservation easements;
- (d) Agriculture;
- (e) Suburban farms;
- (f) Private stables;
- (g) Single-family, attached;
- (h) Townhouses (no more than 25% in any development)
- (i) Wayside stand; and
- (j) Public parks and trails.

(2) **Conditionally Permitted.**

None

(3) **Interim Permitted.**

None

(B) **Accessory Uses.**

(1) **Permitted.**

Uses deemed by the Community Development Department to be typically accessory to an established permitted use on the property as listed in 154.656(A)(1).

(2) **Conditionally Permitted.**

None

(3) **Interim Permitted.**

None

(C) **Prohibited Uses.**

All other uses not listed in 154.656(A)(1) or 154.656(A)(2) are hereby prohibited.

Commented [BGA12]: Here we've maintained existing language. The only transition proposed is to allow the overlay district regulations to amend specific use provisions that may otherwise be in code. For example, if wayside stands are limited to one per lot, the overlay district regulations may specifically identify an area within preserved open space where up to three wayside stands may be erected at any point in time. The use has not changes, but the specific rules governing the use may be amended if deemed appropriate as part of the PUD approval.

Commented [BGA13]: The Planning Commission had a split opinion on whether Townhomes should continue to be allowed in OP developments. Some felt townhomes were not appropriate in rural areas, while others felt they had been very successful in such developments to date and helped to created more open space than could otherwise be provided by all single family homes. Others pointed out that modern townhomes include detached units on zero setback "unit lots" which are surrounded by association owned and maintained property.

(D) Use Restrictions

Adopted PUD overlay district regulations may include specific provisions governing uses which supersede the general regulations herein or that which may otherwise be required by underlying zoning.

§ 154.657 OPEN SPACE PUD DESIGN

Open space PUDs shall comply with all of the following minimum design standards unless modifications are authorized for consideration by the City Council via a super-majority vote at the time of PUD Sketch Plan review. Authorization of such modifications resulting from a PUD Sketch Plan review shall not be construed as approvals for the change(s), but rather as an authorization to present such modifications as a component of the plan during the PUD Preliminary Plan review.

(A) Density

The maximum dwelling unit density within an open space planned unit development shall be **20 units per 40 acres of buildable land**; however, the total number of dwelling units shall not exceed the density limitations contained in the Comprehensive Plan for Open Space Preservation Development.

(B) Lot Design

Lot locations and configurations within open space planned unit developments shall be derived utilizing the following methodology. An applicant must be able to demonstrate how these steps resulted in the plan being proposed.

(1) Soils Analysis Conducted

A certified septic designer or soils scientist shall complete a review of the soils on the site, and categorize all areas as highly suitable for septic systems, moderately suitable for septic systems, or poorly suited for septic systems.

(2) Septic Design Identification

Based on the soils analysis, an applicant must identify whether the proposed development will be serviced by individual septic tanks and drain fields, or via a system of individual septic tanks which utilize one or more communal drain fields.

- (a) If individual septic tanks and drain fields can be supported by the available soils and is the chosen methodology to serve the development, all proposed lots must be able to provide primary and secondary drain field sites, and must meet a minimum lot size requirement as outlined herein.
- (b) If individual septic tanks which utilize communal drain fields is the chosen methodology to serve the development, then the location(s) for communal drain fields shall be identified within the area(s) deemed the most suitable on the site for supporting septic utilities according to the soils analysis. All such areas shall be clearly denoted on provided plan sets.

Commented [BGA14]: This section will require ample examination as it completely reorganizes the City's existing regulations governing lot design. As presented, the language is intended to ensure the City's goals are met, and requires lots to be created utilizing the process pioneered by Randall Arendt in his book Rural by Design. While I believe that has always been the intent, the current guidance on lot design is unorganized, difficult to follow, and has no connection to how developers actually approach the creation of a development plan. What we've tried to accomplish in this section is to maintain the existing regulations (updated as requested and/or as necessary), but to structure them in a logical order that will result in the end product desired by the City.

Commented [BGA15]: Here is where we re-establish the current policy requiring a super-majority vote to authorize modifications to open space design standards.

The current code lumps all lot design and development standards into one section (150.180). This new organization splits design requirements (i.e. how lots are made and configured) from development standards (what can be done on lots in terms of impervious surfaces, septic designs, etc), so you will see this same provision in both Section 154.657 and 154.658.

Commented [BGA16]: We have included an increased density allowance in this initial draft, but it must be noted that this can only be placed into effect in conjunction with a comprehensive plan amendment. The Comp Plan language is very specific and cannot be worked around with a zoning update.

Commented [BGA17]: Requiring a developer to analyze soils followed by choosing a septic design will actually achieve the City's goal of ensuring proper septic design drives developments.

Commented [BGA18]: The Planning Commission is recommending the City consider adopting a minimum number of units before a community septic system can be used. Based on some commissioner's personal experiences, the number 40 was suggested as a potential starting point. If Council concurs with this recommendation, the City Engineer should be asked to provide guidance on an appropriate number.

(3) **Identification of Required Buffers**

No build zones from each property boundary shall be derived as follows:

- (a) A two-hundred (200) foot buffer from all adjacent property lines that abut an existing residential development or a parcel of land not eligible for future development as an open space planned unit development due to insufficient parcel area.
- (b) A one-hundred (100) foot buffer from all adjacent property lines that abut an existing open space planned unit development, or a parcel of land eligible for future development as an open space planned unit development.
- (c) If the development site is adjacent to an existing OP development, the required buffer shall be equivalent to the buffer that was required of the adjacent development (see **Section xxx**).
- (d) By majority vote of the City Council, required buffers may be reduced or eliminated entirely if the applicant can demonstrate that existing mature vegetation, changes in topography occurring on the site, or proposed landscaping will provide an effective year-round buffer between the structures proposed within the open space planned unit development and neighboring development.

Commented [BGA19]: As currently constructed, subsections (a) and (b) are existing requirements.

Subsection (c) is new, and states that if an adjacent OP development was granted lesser setbacks (see section 154.659), then that same lesser setback would apply in a new OP development.

Subsection (d) is also new, and is intended to give the City Council full authority to reduce or eliminate buffers when conditions don't require a buffer (i.e. topography provides a buffer, woodlands provide a visual barrier, etc).

Commented [BGA20]: Note that a reduced buffer under subsection (d) is NOT considered a modification of design standards, but is rather a built in component of open space lot design. Accordingly, this is the one design provision that would only require a majority vote of Council to authorize.

(4) **Identification of Preferred Building Pad Locations**

Building pad locations [up to the maximum number of units permitted by 154.657(A)] which preserve natural topography and drainageways (in as much as possible), minimizes tree loss, protects historic sites or structures, and limits the need for soil removal and/or grading shall then be identified. The orientation of individual building sites shall strive to maintain maximum natural topography and ground cover.

- (a) Building pads shall be located outside of required buffers, and shall be cited so as to provide ample room for accessory structures on future lots.
- (b) ~~Whenever possible, building pads shall be oriented in small clusters often referred to as rural hamlets.~~
- (c) If individual septic tanks and drain fields for each lot are to be utilized, locations for primary and secondary facilities for each proposed building pad shall also be identified. Generalized locations for such may be shown during the PUD Sketch Plan phase, but all such sites must be verified as being viable as a component of PUD Preliminary Plan review.
- (d) If individual septic tanks utilizing communal drain fields is intended, the plan must clearly identify which communal drain field will service each of the proposed building pads.

Commented [BGA21]: Both staff and the planning commission are recommending striking this provision.

Commented [BGA22]: Note that even up front, we will be requiring the developer to identify general locations that can accommodate primary and secondary septic sites. Detailed information would be needed during the Preliminary Plan stage.

(5) Placement of Streets

(a) Streets shall then be designed and located in such a manner as to:

1. Maintain and preserve natural topography, groundcover, significant landmarks, and trees;
2. Minimize cut and fill;
3. Preserve and enhance both internal and external views and vistas;
4. Promote road safety;
5. Assure adequate access for fire and rescue vehicles; and
6. Assure and promote adequate vehicular circulation both within the development and with adjacent neighborhoods.

(b) The minimum street right-of-way for one-way streets shall be 40 feet, and the minimum right-of-way for two-way streets shall be 50 feet.

(c) Streets shall not encroach into a required buffer area unless it can be demonstrated that such an alignment is necessary to achieve the goals outlined above, and that no equivalent option exists outside of the buffer. Driving surfaces that cross the buffer area at a 90 degree angle to provide current or future access to an adjacent property or boundary road shall be the only exception.

(d) Streets shall be designed according to the following standards:

1. Pavement shall be 14 to 18 feet wide for 1-way streets;
2. Pavement shall be 22 to 28 feet wide for 2-way streets; and
3. Pavement width shall be 22 to 24 feet for streets where homes are located on just 1 side of the street.
4. Streets shall not be constructed with a rural cross-section.

(6) Lot Creation

Based on the street location(s), building pad locations, and septic system location(s); lines to delineate individual lots shall then be identified in accordance with the following:

(a) Lot Size

1. Single-family lots being served by individual septic tanks and drain fields shall be a minimum of one (1) acre in size;
2. Single-family lots being served by individual septic tanks utilizing communal drain fields shall be a minimum of ¼ acre (10,890 square feet) in size;
3. Base lots for townhomes shall be large enough such that individual unit lots can meet all required structure setbacks contained herein.

Commented [BGA23]: Staff is asking the City to consider allowing lots as small as ¼ acre within open space developments for two main reasons: 1) provides greater flexibility to developers who will only respond to market demands; and 2) density is capped, so smaller lots will not result in more homes but rather more open space (which is the point).

The Planning Commission felt that a ½ acre minimum was preferable.

(b) Buildable Area to be Shown

1. Buildable area on each proposed lot shall be shown taking into account required buffers from adjacent parcels and the following setback standards:

	HOUSING TYPE		Additional Requirements
	Single Family Homes	Townhomes	
Front Yard	30	20	xxx
Side Yard	15 feet or 10% of lot width		xxx
Corner Lot Front Yard	30		xxx
Corner Lot Side Yard	30		xxx
Rear Yard	20		xxx
Well from Septic Tank	50		xxx

2. Proposed buildable area on each lot shall be sufficient to accommodate primary and accessory structures that are normal and customary to the type of development being proposed.

(7) Open Space and Parkland Adjustments

(a) Open Space

1. The total preserved open space area within an open space planned unit development shall be no less than 50% of the total gross land area, as defined by § 11.01. If this threshold is not achieved after following the first six steps of lot design, the proposed lot areas will need to be adjusted or lots eliminated until this requirement is met.
2. Not less than 60% of the preserved open space shall be in contiguous parcels which are ten (10) or more acres in size.
3. Preserved open space parcels shall be contiguous with preserved open space or public park land on adjacent parcels.

(b) Parkland

1. Parks and recreational facilities shall be provided in addition to preserved open space as specified in the Lake Elmo Parks Plan.
2. Determination of whether a land or cash dedication will be required to fulfil parkland requirements will be at the discretion of the City Council, with direction to be provided as a component of PUD Sketch Plan review. If a required parkland dedication causes overall open space to drop below the minimum threshold, the proposed lot areas will need to be adjusted or lots eliminated until the open space requirement is once again met.
3. Any dedication shall be consistent with the dedication and fee-in-lieu standards specified in Chapter 153.

Commented [BGA24]: The overall seven (7) step design process we have laid out now both emphasizes what is important to the City while recognizing and embracing how a developer will approach the site anyway.

At this final step, the developer may need to shrink lot sizes or eliminate lots to meet open space and parkland requirements.

Commented [BGA25]: The open space provisions are existing requirements. The Planning Commission would like additional requirements or changes that would eliminate the use of thin strips of land to connect open spaces. A minimum dimension could be considered.

§ 154.658 OPEN SPACE PUD DEVELOPMENT STANDARDS

Open space PUDs shall comply with all of the following development standards unless modifications are authorized for consideration by the City Council via a super-majority vote at the time of PUD Sketch Plan review. Authorization of such modifications resulting from a PUD Sketch Plan review shall not be construed as approvals for the change(s), but rather as an authorization to present such modifications as a component of the plan during the PUD Preliminary Plan review.

(1) Preserved Open Space Standards

- (a) All preserved open space within an open space planned unit development shall be subject to a conservation easement and used for the purposes as defined by §§ 150.175 *et seq.*
- (b) Preserved open space land shall be controlled in one or more of following manners as determined at the sole discretion of the City Council:
 - 1. Owned by an individual or legal entity who will use the land for preserved open space purposes as provided by permanent conservation restrictions (in accordance with M.S. Ch. 84C.01-.05, as it may be amended from time to time), to an acceptable land trust as approved by the city; and/or
 - 2. Conveyed by conservation easement to the city.
- (c) Preserved open space land shall be maintained for the purposes for which it was set aside. If preserved open space was set aside for agricultural purposes or for natural habitat, a plan shall be submitted which will indicate how the land will be maintained or returned to a natural state and who will be responsible for plan implementation. Developers shall provide copies of common interest community (CIC) declarations to prospective purchasers, and conservation easements to the city, describing land management practices to be followed by the party or parties responsible for maintaining the preserved open space.
- (d) Where applicable, a Common Interest Community association shall be established to permanently maintain all residual open space and recreational facilities. The Common Interest Community association agreements, guaranteeing continuing maintenance, and giving lien right to the city if there is lack of the maintenance shall be submitted to the city as part of the documentation requirements of §§ 150.175 *et seq.* for a final plan.

(2) Septic System Design Standards

- (a) All septic systems shall conform to the performance standards of the Minnesota Pollution Control Agency's standards for sewage treatment systems WPC-7080 and its appendices, or the M.P.C.A. standards in effect at the time of installation and septic system regulations of the Lake Elmo Municipal Code.

Commented [BGA26]: While Section 154.657 lays out the regulations that dictate how a development is laid out, Section 154.658 tells the applicant how the development must be constructed and improved.

Here again we maintain the city's existing *development* standards for open space developments (i.e. regulating open space, septic systems, building standards, landscaping standards, impervious surface standards, and trail standards).

Commented [BGA27]: Because this is a new section, we again must state that a super-majority vote is needed to authorize modifications during Sketch Plan review.

Commented [BGA28]: The Planning Commission would like the City Attorney to provide guidance on proper lien language to protect against community septic systems from failing, and an HOA that is unwilling or unable to act.

Commented [BGA29]: City staff will need to ensure these existing references are still accurate based on how the City current regulates septic systems. Does Washington County need to be referenced?

- (b) Communal drain fields may be partially or completely located in an area designated as preserved open space provided:
 - 1. The ground cover is restored to its natural condition after installation; and
 - 2. Recreational uses are prohibited above or within 50 feet of communal drain fields, or as approved by the City Engineer.
 - 3. No wetland treatment system shall be allowed ~~within the village green~~.
- (c) Communal drain fields, if installed, shall be professionally maintained; and are acceptable once legally sufficient documentation has been provided by the developer to ensure such maintenance will continue in perpetuity.

Commented [BGA30]: The Planning Commission and staff are both recommending that this phrase be stricken from the ordinance. "Village Green" is not defined within the ordinance, and recent developments within the Old Village have not (it appears) provided the envisioned belt around the urbanizing town core.

Whether wetland treatment systems should be allowed should be a question for the City Engineer.

(3) Building Standards

- (a) Principal structures within open space planned unit developments shall not exceed 2 and ½ stories or 35 feet in height.
- (b) ~~Accessory structures within open space planned unit developments shall not exceed 22 feet in height.~~
- (c) It is desired that the structures within neighborhoods convey a particular architectural style with similar building components, materials, roof pitches. The PUD Overlay ordinance crafted for each individual development should establish minimum architectural standards for the neighborhood.

Commented [BGA31]: The Planning Commission questioned whether we should specifically exclude historic structures from this requirement. Staff would say "no." Historic structures taller than 22 feet would be legal nonconforming structures subject to protections of State Statute. We strongly recommend not creating special provisions based on the age of a building.

(4) Landscaping Standards

- (a) A landscape plan for the entire site is required and shall consist of at least 10 trees per building site; and trees shall not be not less than 1.5 inch in caliper measured at 54 inches above grade level.
- (b) Boulevard landscaping is required along all streets to consist of at least 1 tree per every 30 feet or placed in clusters at the same ratio.

OR

- (a) Developer shall plant a minimum of 6 trees, 1 inch caliper deciduous, or coniferous trees; 3 feet in height per acre unless a lot within the subdivision is determined by the Community Development Department to be naturally wooded which would, at a minimum, consist of the caliper and height of trees required by this chapter; and
- (b) Developer shall provide spaced or clustered plantings of 1 ½ inch caliper deciduous trees at a rate of 2 per 100 lineal feet on both sides of the street, between 0 and 5 feet to the inside of the right-of-way for rural sections and between 5 feet and 10 feet to the inside of right-of-way for urban sections. Four foot conifers may be substituted.

Commented [BGA32]: The Planning Commission thought the existing language could be considered a bit confusing. This second set of subsections (a & b) is just optional language for consideration.

(5) **Impervious Surface Standards** (still needs work)

Commented [BGA33]: We will likely proposed amendments to this existing language as we move forward.

The maximum impervious surface allowable within an open space planned unit development shall be 20% of the land area not dedicated as preserved open space subject to the following:

- (a) Impervious surfaces created by roads, trails, and other planned impervious improvements shall count against the maximum allowed impervious coverage.
- (b) Remaining allowed impervious surface acreage may be distributed between the planned building sites, and maximums for each lot shall be clearly documented within the overlay district ordinance governing the development.
- (c) On individual lots, areas covered by pervious pavers or comparable systems may receive a 25% credit against the lot's hardcover if the system is installed consistent with the *City of Lake Elmo Engineering Standards Manual*, and adequate storm water mitigation measures (as may be necessary) are installed to mitigate potential runoff created by the additional coverage above the allowed impervious surface threshold. All such credits shall be at the discretion of the City Engineer.

(6) **Trail Standards**

A trail system or sidewalks shall be established within open space planned unit developments in accordance with the following:

- (a) The linear footage of trails provided shall be at least equal in length to the sum of the centerline length of all public roads within the development.
- (b) All trails shall be constructed of asphalt or concrete in compliance with the standard city design plate for OP trails.
- (c) Proposed trails shall provide connections between and access to the buildable land areas and preserved open space land being created by the development.
- (d) Proposed trails shall connect to existing, planned, or anticipated trails or roads on adjacent parcels.
- (e) If applicable, trails shall be linked (or be designed to provide a future link) to the "Old Village" to emphasize the connection between existing and new development.

§ 154.659 **BUFFER SETBACKS IN OP DEVELOPMENTS**

Buffer setbacks shall be applied from the edge of the existing open space preservation developments as follows.

Commented [BGA34]: This Section will likely need to be relocated to a more appropriate location in Chapter 154, but is included here as a place-holder for now.

Recommended Buffer Setbacks in OP Developments (in feet)					
	North Edge	South Edge	West Edge	East Edge	Exception Parcel(s)
St. Croix's Sanctuary	200	50	50	100	
Discover Crossing	200	100	50	100	
Whistling Valley I	25	200	N/A	N/A	
Whistling Valley II	25	100	85	N/A	
Whistling Valley III	50	100	100	N/A	
Farms of Lake Elmo	100	50	100	25	
Prairie Hamlet	200	50	50	100	
Fields of St. Croix I	50	N/A	200	100	
Fields of St. Croix II	N/A	200	200	N/A	N/A
The Homestead	50	50	200	50	
Tapestry at Charlotte's Grove	50	50	200	50	100
Tamarack Farm Estates	100	100	100	100	
Sunfish Ponds	100	100	100	200	
Hamlet on Sunfish Lake	50	100	50	50	
Cardinal Ridge	100	200	50	50	
Wildflower Shoves	100	200	100	200	
Heritage Farms	50	N/A	N/A	50	N/A
Tana Ridge (Res. 2009-033)	N/A	N/A	50	50	
Parkview Estates (Res. 2009-033)	50; except Lot 9, Block 5 use 20 ft	N/A	N/A	50	

Commented [BGA35]: The current ordinance labels these setbacks as "Recommended." We are recommending striking that language.

§ 154.660 OPEN SPACE PUD REVIEW CRITERIA

The following findings shall be made by the City Council prior to approval of a new or amended open space planned unit development:

- (1) The proposed development is consistent with the goals, objectives, and policies of the Comprehensive Plan.
- (2) The Preliminary Plan is consistent with the purpose of §§ 150.175 *et seq.*
- (3) The Preliminary Plan complies with the development standards of §§ 150.175 *et seq.*

Commented [BGA36]: Lists the questions the City will ask when reviewing these types of developments. Additional criteria may be needed (this is essentially all we see in the current code), but we've left that determination for another day.

§ 154.661 OPEN SPACE PUD REVIEW PROCEDURE

All requests to establish an open space Planned Unit Development shall be initiated by following the steps below.

(1) Open Space PUD Sketch Plan

(a) Purpose

The open space PUD Sketch Plan is the first step in the development process which gives the applicant an opportunity to present their ideas to the City Council and public so as to gain general feedback on areas that will require additional analysis, study, design, changes, etc.

1. Feedback gained during the open space PUD Sketch Plan phase should be addressed within the subsequent PUD Preliminary Plan.
2. At Council's discretion via super-majority vote, any of the minimum standards outlined in either § 154.657 or § 154.658 may be modified to authorize submission of an open space PUD Preliminary Plan that is tailored to the development site. Authorization of such modifications resulting from a PUD Sketch Plan review shall not be construed as approvals for the change(s), but rather as an authorization to present such modifications as a component of the plan during the PUD Preliminary Plan review.

Commented [BGA37]: This lengthy section outlines the process to be used to review open space PUDs from beginning to end. In general, this current draft follows the standard City platting process with specific PUD requirements thrown in.

Boiled down to its core, the review will require a sketch plan proposal, a preliminary plan, and then a final plan.

(b) Specific open space PUD Sketch Plan Submittal Requirements

Except as may be waived by the Community Development Department, the following information shall constitute a complete application for an open space PUD Sketch Plan.

1. A listing of contact information including name(s), address(es) and phone number(s) of: the owner of record, authorized agents or representatives, engineer, surveyor, and any other relevant associates;
2. A listing of the following site data: Address, current zoning, parcel size in acres and square feet and current legal description(s);

Commented [BGA38]: We are currently struggling with this language in this draft, and where it is most appropriately located. In general, we strongly advise against repeating standards; stating things once is always the best approach.

Earlier we state this provision in both sections 154.657 and 154.658 as we want to put the reader on notice that flexibility is built into the process, and that lot design and development standards are not entirely rigid. At the same time, it seems appropriate to have that provision here. As the draft continues to be refined, we will determine the best location for this language, but wanted to show this as an option.

Commented [BGA39]: We are quite detailed on the information that must be provided with applications to protect the City's ability to deem applications incomplete when necessary. Allowing the Community Development Department to waive individual requirements allows staff to use discretion on what to require given the particulars of a specific application.

3. A narrative explaining the applicant's proposed objectives for the open space PUD, a listing of the proposed modifications from standard in § 154.657 as may be applicable, and an explanation of how the proposal addresses the PUD review criteria in § 154.660.
4. A listing of general information including the following:
 - a. Number of proposed residential units.
 - b. Calculation of the proposed density of the project showing compliance with § 154.657(A).
 - c. A listing of all proposed land uses (i.e. preserved open space, buildable sites, parkland, etc).
 - d. Square footages of land dedicated to each proposed land use.
5. An existing conditions exhibit, including topography, that identifies the location of the following environmental features along with calculations (in acres) for each:
 - a. Gross site acreage;
 - b. Existing wetlands;
 - c. Existing woodlands;
 - d. Areas with slopes greater than 12%, but less than 25%;
 - e. Areas with slopes of 25% or greater;
 - f. Woodlands;
 - g. Other pertinent land cover(s).
6. An open space PUD Sketch Plan illustrating the nature of the proposed development. At a minimum, the plan should show:
 - a. Existing zoning district(s) on the subject land and all adjacent parcels;
 - b. Layout of proposed lots and proposed uses denoting Outlots planned for public dedication and/or preserved open space;
 - c. Area calculations for each parcel;
 - d. General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;
 - e. Location of existing and proposed streets within and immediately adjacent to the subdivision parcel;
 - f. Proposed sidewalks and trails;
 - g. Proposed parking areas;

- h. General location of wooded areas or significant features (environmental, historical, cultural) of the parcel;
 - i. Location of utility systems that will serve the property;
 - j. Calculations for the following:
 - i. Gross land area (in acres);
 - ii. Number of proposed residential units.
 - iii. Proposed density of the project showing compliance with § 154.657(A).
 - iv. Acreage & square footage of land dedicated to each proposed land use (i.e. preserved open space, buildable sites, parkland, etc).
 - v. Acreage & square footage of land proposed for public road right-of-way;
 - vi. Acreage & square footage of land dedicated to drainage ways and ponding areas;
 - vii. Acreage & square footage of land for Trails and/or sidewalks (if outside of proposed road right-of-way);
 - k. Other: An applicant may submit any additional information that may explain the proposed PUD or support any requests for modifications (i.e. a landscaping plan to support the lessening or elimination of an otherwise required buffer).
7. The outline of a conceptual development schedule indicating the approximate date when construction of the project, or stages of the same, can be expected to begin and be completed (including the proposed phasing of construction of public improvements and recreational & common space areas).
 8. A statement of intent to establish a Common Interest Community association with bylaws and deed restrictions to include, but not be limited to, the following:
 - a. Ownership, management, and maintenance of defined preserved open space;
 - b. Maintenance of public and private utilities; and
 - c. General architectural guidelines for principal and accessory structures.
 9. If applicable, a historic preservation plan for any historic structures on the site shall be submitted.

(c) Open Space PUD Sketch Plan Proposal Review

1. Planning Commission

- a. Upon receiving an open space PUD Sketch Plan proposal, the Community Development Department shall schedule a date upon which the Planning Commission will review the plans and hold a public hearing on the proposal. Notice for the public hearing shall be completed in conformance with (reference applicable code section assuming we have one).

Commented [BGA40]: In accordance with the current process, we have included a public hearing at the sketch plan level. Because we are utilizing Sketch Plan to determine what modifications may be requested at the Preliminary stage, a public hearing still seems appropriate.

- b. Following the hearing, the Planning Commission shall adopt findings and recommendations on the proposed open space PUD as soon as practical.
- c. The Community Development Department may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

2. City Council

- a. The City Council may listen to comments on the proposed development if they deem such necessary prior to taking action on the proposed open space PUD Sketch plan.
- b. After consideration of the Community Development Department recommendation, the Planning Commission recommendation, and the comments received at the public hearing, the City Council may comment on the merit of the request, needed changes, and suggested conditions that the proposer should adhere to with any future application.
- c. For each of the identified modifications to the minimum standards outlined in § 154.657, the City Council shall take a vote to instruct the applicant as to whether the modification can be pursued as a component of the PUD Preliminary Plan review. The ability to pursue approval of modified standards may only be authorized via a super-majority vote of the City Council.

(d) Effect of a PUD Sketch Plan Review

The City Council and Planning Commission's comments during the PUD Sketch Plan review are explicitly not an approval or denial of the project, and are intended only to provide information for the applicant to consider prior to application for an open space PUD Preliminary Plan.

Commented [BGA41]: Under this process, Council would take individual votes on each modification proposed by the applicant. Approval at this stage ONLY authorizes the applicant to make the request at the Preliminary stage; it does NOT grant any rights to the modification. Again, modifications can only be pursued IF Council allows such via a super majority vote.

(e) Limitation of Approval

The City Council's review of an open space PUD Sketch Plan shall remain valid for a period of six (6) months. The City Council, in its sole discretion, may extend the validity of their findings for an additional year.

Commented [BGA42]: This subsection clarifies EXACTLY what a developer gets as a result of the sketch plan process.

Commented [BGA43]: Sketch Plan reviews may remain valid for up to 1.5 years.

(2) PUD Preliminary Plan

(a) Prerequisite

No application for an open space PUD Preliminary Plan will be accepted unless a distinctly similar proposal has completed the open space PUD Sketch Plan review process which is valid upon the date of application.

Commented [BGA44]: The City will not accept a preliminary plan application unless a valid sketch plan is in place.

(b) PUD Preliminary Plan Submittal Requirements

Except as may be waived by the Community Development Department, the following information shall constitute a complete application for an open space PUD Preliminary Plan.

1. All required information for a preliminary plat per Chapter 1102, Section 1102.01(C) and Section 1102.02.
2. A written summary of the required Developer Open House meeting as required by Chapter 1102, Section 1102.01(B)(5).
3. A separate open space PUD Preliminary Plan which includes the following information:
 - a. Administrative information (including identification of the drawing as an "Open Space PUD Preliminary Plan," the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and north arrow);
 - b. Area calculations for gross land area, wetland areas, right-of-way dedications, and proposed public and private parks or open space;
 - c. Existing zoning district(s) on the subject land and all adjacent parcels;
 - d. Layout of proposed lots with future lot and block numbers. The perimeter boundary line of the subdivision should be distinguishable from the other property lines. Denote Outlots planned for public dedication and/or open space (schools, parks, etc.);
 - e. The location of proposed septic disposal area(s);
 - f. Area calculations for each parcel;
 - g. Proposed setbacks on each lot (forming the building pad) and calculated buildable area;
 - h. Proposed gross hardcover allowance per lot (if applicable);
 - i. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question;
 - j. Delineation of wetlands and/or watercourses over the property;
 - k. Delineation of the ordinary high water levels of all water bodies;
 - l. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;
 - m. Easements and rights-of-way within or adjacent to the subdivision parcel(s);
 - n. The location and orientation of proposed buildings;

- o. Proposed sidewalks and trails;
 - p. Vehicular circulation system showing location and dimension for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access, if necessary, public and private streets, alleys, sidewalks, bike paths, direction of traffic flow and traffic control devices;
 - q. Lighting location, style and mounting and light distribution plan.
 - r. Proposed parks, common areas, and preservation easements (indicate public vs. private if applicable);
 - s. Location, access and screening detail of large trash handling and recycling collection areas
4. Colored renderings which detail the building materials being used and clearly communicate the look and design of the proposed building(s);
 5. Proposed architectural and performance standards for the development;
 6. A grading drainage and erosion control plan prepared by a registered professional engineer providing all information as required by Public Works and/or the Community Development Department;
 7. A utility plan providing all information as required by Public Works and/or the Community Development Department;
 8. Results of deep soil test pits and percolation tests, at the rate of no fewer than 2 successful test results for each proposed septic disposal area;
 9. A landscape plan, including preliminary sketches of how the landscaping will look, prepared by a qualified professional providing all information outlined in Section **<insert applicable section here>** ;
 10. A tree preservation plan as required by Section **<insert applicable section here>**;
 11. The location and detail of signage providing all pertinent information necessary to determine compliance with Section **<insert applicable section here>**;
 12. A traffic study containing, at a minimum, the total and peak hour trip generation from the site at full development, and the effect of such traffic on the level of service of nearby and adjacent streets, intersections, and total parking requirements;
 13. A plan sheet or narrative clearly delineating all features being modified from standard open space PUD regulations;
 14. Common Interest Community Association documents including bylaws, deed restrictions, covenants, and proposed conservation easements.
 15. Any other information as directed by the Community Development Department.

(c) PUD Preliminary Plan Review

1. As part of the review process for an open space PUD Preliminary Plan, the Community Development Department shall generate an analysis of the proposal against the expectations for PUDs, and make a recommendation regarding the proposed overlay district for Planning Commission and City Council consideration.
2. The Community Development Department shall prepare a draft ordinance to establish the potential overlay district to be established as a component of the PUD Final Plan.
3. The Planning Commission shall hold a public hearing and consider the application's consistency with the goals for PUDs, the PUD review criteria, and applicable comprehensive plan goals. The Planning Commission shall make recommendations to the City Council on the merit, needed changes, and suggested conditions to impose on the PUD.
4. In approving or denying the PUD Preliminary Plan, the City Council shall make findings on the PUD review criteria outlined in Section 1023.08.
5. As a condition of PUD Preliminary Plan approval; finalization, adoption, and publication of an overlay district ordinance shall need to occur prior to the filing of any future final plat.

Commented [BGA45]: Rather than allowing the applicant to draft an overlay district, we are proposing that staff begin the process at preliminary plan. The cost for this work will need to be incorporated into the fee for a Preliminary Plan application.

Note that staff will ONLY be creating a draft now for feedback and direction. The actual code language will be reviewed during the Final Plan phase.

(d) Effect of a PUD Preliminary Plan Review

Preliminary Plan approval governs the preparation of the PUD Final Plan which must be submitted for final approval in accordance with the requirements of this Article.

Commented [BGA46]: This subsection clarifies EXACTLY what a developer gets as a result of the Preliminary Plan process.

(e) Limitation of Approval

The City Council's review of an open space PUD Preliminary Plan shall remain valid for a period of one (1) year. The City Council, in its sole discretion, may extend the validity of their findings for an additional year.

Commented [BGA47]: Preliminary Plan approvals may remain valid for up to 2.0 years.

(3) PUD Final Plan

(a) Application Deadline

Application for an open space PUD Final Plan shall be submitted for approval within ninety (90) days of City Council approval of the open space PUD Preliminary Plan unless a written request for a time extension is submitted by the applicant and approved by the City Council.

Commented [BGA48]: To ensure the process continues to move forward, we are recommending a 90 day time-frame in which the final plan application must be submitted.

(b) PUD Final Plan Submittal Requirements

Except as may be waived by the Community Development Department, the following information shall constitute a complete application for an open space PUD Final Plan.

1. All required information for a final plat per <insert applicable section here>;
2. All required PUD Preliminary Plan documents, other than the preliminary plat, shall be updated to incorporate and address all conditions of PUD Preliminary Plan approval.
3. Any deed restrictions, covenants, agreements, and articles of incorporation and bylaws of any proposed homeowners' association or other documents or contracts which control the use or maintenance of property covered by the PUD.
4. A final staging plan, if staging is proposed, indicating the geographical sequence and timing of development, including the estimated start and completion date for each stage.
5. Up-to-date title evidence for the subject property in a form acceptable to the Community Development Department.
6. Warranty deeds for Property being dedicated to the City for all parks, Outlots, etc., free from all liens and encumbrances.
7. All easement dedication documents for easements not shown on the final plat including those for trails, ingress/egress, etc., together with all necessary consents to the easement by existing encumbrancers of the property.
8. Any other information deemed necessary by the Community Development Department to fully present the intention and character of the open space PUD.
9. If certain land areas or structures within the open space PUD are designated for recreational use, public plazas, open areas or service facilities, the owner of such land and buildings shall provide a plan to the city that ensures the continued operation and maintenance of such areas or facilities in a manner suitable to the city.

(c) PUD Final Plan Review

1. The Community Development Department shall generate an analysis of the final documents against the conditions of the open space PUD Preliminary Plan approval, and make a recommendation as to whether all conditions have been met or if additional changes are needed.
2. Staff should once again identify any information submittals that were waived so Council may determine if such is needed prior to making a final decision.
3. The Community Development Department shall finalize the ordinance to establish the proposed overlay district for consideration by the Planning Commission and City Council.

4. The Planning Commission shall hold a public hearing on the proposed Overlay District ordinance and open space Final PUD Plans, and shall submit a recommendation to the City Council for consideration. Because an open space PUD Preliminary Plan was previously approved, the Planning Commission's recommendation shall only focus on whether the Ordinance and open space PUD Final Plan are in substantial compliance with the open space PUD Preliminary Plan and the required conditions of approval.
5. The City Council shall then consider the recommendations of the Community Development Department, the public, and the Planning Commission; and make a decision of approval or denial, in whole or in part, on the open space PUD Final Plan. A denial shall only be based on findings that an open space PUD Final Plan is not in substantial compliance with the approved open space PUD Preliminary Plan and/or the required conditions of approval.
6. As a condition of PUD Final Plan approval, publication of the overlay district ordinance shall be required prior to filing of the approved final plat.
7. Planned Unit Development Agreement.
 - a. At its sole discretion, the City may as a condition of approval, require the owner and developer of the proposed open space PUD to execute a development agreement which may include but not be limited to all requirements of the open space PUD Final Plan.
 - b. The development agreement may require the developers to provide an irrevocable letter of credit in favor of the City. The letter of credit shall be provided by a financial institution licensed in the state and acceptable to the City. The City may require that certain provisions and conditions of the development agreement be stated in the letter of credit. The letter of credit shall be in an amount sufficient to ensure the provision or development of improvement called for by the development agreement.
8. As directed by the City, documents related to the PUD shall be recorded against the property.

Commented [BGA49]: Unlike most platting processes, we must hold a public hearing at this point in the process as the City must adopt the final ordinance language that will govern the PUD.

(d) Time Limit

1. A Planned Unit Development shall be validated by the applicant through the commencement of any necessary construction or establishment of the authorized use(s), subject to the permit requirements of Title 9 of this Code, in support of the Planned Unit Development within one (1) year of the date of open space PUD Final Plan approval. Failure to meet this deadline shall render the open space PUD Final Plan approval void. Notwithstanding this time limitation, the City Council may approve extensions of the time allowed for validation of the Planned Unit Development approval if requested in writing by the applicant; extension requests shall be submitted to the Community Development Department and shall identify the reason(s) why the extension is necessary along with an anticipated timeline for validation of the Planned Unit Development.
2. An application to reinstate an open space PUD that was voided for not meeting the required time limit shall be administered in the same manner as a new open space PUD beginning at open space PUD Preliminary Plan.

§ 154.662 OPEN SPACE PUD AMENDMENTS

Approved open space PUDs may be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer or neighborhood. At such a time, the applicant shall make an application to the city for an open space PUD amendment.

Commented [BGA50]: This section will deal with how the City will process amendments to both open space PUDs and existing OP developments.

(A) Amendments to Existing Open Space PUD Overlay District(s)

Amendments to an approved open space PUD Overlay district shall be processed as one of the following:

(1) Administrative Amendment

The Community Development Department may approve minor changes in the location, placement, and height of buildings if such changes are required by engineering or other circumstances, provided the changes conform to the approved overlay district intent and are consistent with all requirements of the open space PUD ordinance. Under no circumstances shall an administrative amendment allow additional stories to buildings, additional lots, or changes to designated uses established as part of the PUD. An Administrative Amendment shall be memorialized via letter signed by the Community Development Director and recorded against the PUD property.

(2) **Ordinance Amendment**

A PUD change requiring a text update to the adopted open space PUD overlay district language shall be administered in accordance with adopted regulations for zoning code changes in **Section xxx**. Ordinance amendments shall be limited to changes that are deemed by the Community Development Department to be consistent with the intent of the original open space PUD approval, but are technically necessary due to construction of the adopted overlay district language.

(3) **PUD Amendment**

Any change not qualifying for an administrative amendment or an Ordinance amendment shall require an open space PUD amendment. An application to amend an open space PUD shall be administered in the same manner as that required for a new PUD beginning at open space PUD Preliminary Plan.

(B) **Pre-existing OP Developments** **(work in progress)**

Pre-existing OP developments authorized prior to [date this ordinance is effective] shall continue to be governed per the original conditions of approval until the OP development is cancelled by the City, or the OP development is converted to an open space PUD overlay district. An application to amend an existing OP development shall be administered in the same manner as that required for a new open space PUD beginning at open space PUD Preliminary Plan.

Commented [BGA51]: This section will be written if these amendments continue to move forward.

§ 154.663 **PUD CANCELLATION**

An open space PUD shall only be cancelled and revoked upon the City Council adopting an ordinance rescinding the overlay district establishing the PUD. Cancellation of a PUD shall include findings that demonstrate that the PUD is no longer necessary due to changes in local regulations over time; is inconsistent with the Comprehensive Plan or other applicable land use regulations; threatens public safety, health, or welfare; or other applicable findings in accordance with law.

Commented [BGA52]: This section outlines the process for cancelling a previous PUD approval.

§ 154.664 **ADMINISTRATION**

In general, the following rules shall apply to all open space PUDs:

Commented [BGA53]: This section includes some final rules and regulations deemed important by staff.

(A) **Rules and regulations**

No requirement outlined in the open space PUD review process shall restrict the City Council from taking action on an application if necessary to meet state mandated time deadlines;

(B) Preconstruction

No building permit shall be granted for any building on land for which an open space PUD plan is in the process of review, unless the proposed building is allowed under the existing zoning and will not impact, influence, or interfere with the proposed open space PUD plan.

(C) Effect on Conveyed Property

In the event that any real property in an approved open space PUD is conveyed in total, or in part, the new owners thereof shall be bound by the provisions of the approved overlay district.

SECTION 6 (Will update the list of overlay districts in Chapter 154 to include the Open Space Planned Unit Development Overlay District)

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

ORDINANCE NO. _____

**AN ORDINANCE TO REPEAL EXISTING OPEN SPACE DEVELOPMENT
REGULATIONS WITHIN CHAPTER 150, ADOPT NEW OPEN SPACE
DEVELOPMENT REGULATIONS IN CHAPTER 154, AND TO
IMPLEMENT REFERENCE UPDATES IN CHAPTER 154**

SECTION 1^[BGA1] (Will include definition updates if needed -- TBD)

SECTION 2^[BGA2] (Will repeal existing OP codes in Chapter 150)

SECTION 3^[BGA3] (Will replace existing OP codes in Chapter 150 with reserved language)

i.e. "Sections 150.161 through 150.199 – RESERVED"

SECTION 4^[BGA4] (Will clean up numerous existing problems with numbering in Chapter 154 to allow for placement of the new ordinance within zoning)

SECTION 5^[BGA5] Will adopt the new Open Space Planned Unit Development Regulations as follows:

Article XVI: OPEN SPACE PLANNED UNIT DEVELOPMENTS

§ 154.650 PURPOSE^[BGA6].

The purpose of open space planned unit developments is to maintain the rural character of Lake Elmo by preserving agricultural land, woodlands, corridors, pollinator & wildlife habitat, and other significant natural features; while still allowing for residential development consistent with the goals and objectives of the city's Comprehensive Plan.

§ 154.651 INTENT^[BGA7].

It is the intent of the City of Lake Elmo that open space planned unit developments will offer needed development flexibility within the Agricultural, Rural Residential, and Rural Estate zoning districts to provide for:

- (A) A variety of lot configurations and housing styles that may not otherwise exist within the City's rural areas;
- (B) An avenue to provide a development density equal to or greater than what could be achieved via underlying zoning;
- (C) A reduction in the costs to construct and maintain public facilities and infrastructure in a rural setting;
- (D) Protected open space to enhance and preserve the natural character of the community; and
- (E) The creation of distinct neighborhoods that are interconnected within rural areas.

§ 154.652 DEFINITIONS^[BGA8].

Unless specifically defined in §§ 154.009 *et seq.*, common definitions, words, and phrases used in §§ 154.009 *et seq.* shall be interpreted so as to give them the same meaning as they have in common usage throughout this code and are found in § 11.01.

§ 154.653 INITIATION OF PROCEEDINGS^[BGA9].

The owner of property on which an open space PUD is proposed shall file the applicable application for a PUD by paying the fee(s) set forth in ____ of this Code and submitting a completed application form and supporting documents as set forth on the application form and within this Section. Complete applications shall be reviewed by City Commissions as deemed necessary by the Community Development Department, including a public hearing before the Planning Commission, and be acted upon by the City Council. If a proposed PUD is denied, any subsequent application for a substantially similar PUD within one (1) year of the date of denial shall fully address all findings which supported the denial prior to being accepted as complete.

§ 154.654 REFLECTION ON THE OFFICIAL ZONING MAP^[BGA10].

- (A) PUD provisions provide an optional method of regulating land use which permits flexibility from standard regulating provisions. Establishment of a PUD shall require adoption of an ordinance creating an overlay zoning district atop the boundaries of the development area. For each PUD District, a specific ordinance shall be adopted establishing all rules which shall supersede underlying zoning. Issues not specifically addressed by the PUD Overlay district shall be governed by the underlying zoning district regulations.
- (B) All Open Space Preservation developments approved prior to [date of ordinance publication] shall be allowed to continue per the original conditions of approval.

§ 154.655 PREREQUISITES FOR OPEN SPACE PUDS^[BGA11].

- (A) Only land zoned as Agricultural, Rural Residential, or Rural Estate may be considered for establishment of an open space planned unit development.

- (B) The minimum land area for establishment of an open space planned unit development is a nominal contiguous 40 acres.
- (C) Establishment of an open space planned unit development will be considered only for areas of land in single ownership or control. Alternatively, multiple party ownership, in the sole discretion of the City, is acceptable when legally sufficient written consent from all persons and entities with ownership interest is provided at the time of application.

§ 154.656 **USES WITHIN OPEN SPACE PUDs**[BGA12].

(A) **Primary Uses.**

(1) **Permitted.**

- (a) Single-family, detached;
- (b) Preserved open space;
- (c) Conservation easements;
- (d) Agriculture;
- (e) Suburban farms;
- (f) Private stables;
- (g) Single-family, attached;
- (h) Townhouses [BGA13](no more than 25% in any development)
- (i) Wayside stand; and
- (j) Public parks and trails.

(2) **Conditionally Permitted.**

None

(3) **Interim Permitted.**

None

(B) **Accessory Uses.**

(1) **Permitted.**

Uses deemed by the Community Development Department to be typically accessory to an established permitted use on the property as listed in 154.656(A)(1).

(2) **Conditionally Permitted.**

None

(3) **Interim Permitted.**

None

(C) **Prohibited Uses.**

All other uses not listed in 154.656(A)(1) or 154.656(A)(2) are hereby prohibited.

(D) Use Restrictions

Adopted PUD overlay district regulations may include specific provisions governing uses which supersede the general regulations herein or that which may otherwise be required by underlying zoning.

§ 154.657 OPEN SPACE PUD DESIGN^[BGA14]

Open space PUDs shall comply with all of the following minimum design standards unless modifications are authorized for consideration by the City Council via a super-majority vote ^[BGA15] at the time of PUD Sketch Plan review. Authorization of such modifications resulting from a PUD Sketch Plan review shall not be construed as approvals for the change(s), but rather as an authorization to present such modifications as a component of the plan during the PUD Preliminary Plan review.

(A) Density

The maximum dwelling unit density within an open space planned unit development shall be **20 units per 40 acres of buildable land**^[BGA16]; however, the total number of dwelling units shall not exceed the density limitations contained in the Comprehensive Plan for Opens Space Preservation Development.

(B) Lot Design

Lot locations and configurations within open space planned unit developments shall be derived utilizing the following methodology. An applicant must be able to demonstrate how these steps resulted in the plan being proposed.

(1) Soils Analysis Conducted^[BGA17]

A certified septic designer or soils scientist shall complete a review of the soils on the site, and categorize all areas as highly suitable for septic systems, moderately suitable for septic systems, or poorly suited for septic systems.

(2) Septic Design Identification^[BGA18]

Based on the soils analysis, an applicant must identify whether the proposed development will be serviced by individual septic tanks and drain fields, or via a system of individual septic tanks which utilize one or more communal drain fields.

(a) If individual septic tanks and drain fields can be supported by the available soils and is the chosen methodology to serve the development, all proposed lots must be able to provide primary and secondary drain field sites, and must meet a minimum lot size requirement as outlined herein.

(b) If individual septic tanks which utilize communal drain fields is the chosen methodology to serve the development, then the location(s) for communal drain fields shall be

identified within the area(s) deemed the most suitable on the site for supporting septic utilities according to the soils analysis. All such areas shall be clearly denoted on provided plan sets.

(3) Identification of Required Buffers[BGA19]

No build zones from each property boundary shall be derived as follows:

- (a) A two-hundred (200) foot buffer from all adjacent property lines that abut an existing residential development or a parcel of land not eligible for future development as an open space planned unit development due to insufficient parcel area.
- (b) A one-hundred (100) foot buffer from all adjacent property lines that abut an existing open space planned unit development, or a parcel of land eligible for future development as an open space planned unit development.
- (c) If the development site is adjacent to an existing OP development, the required buffer shall be equivalent to the buffer that was required of the adjacent development (see Section xxx).
- (d) By majority vote of the City Council[BGA20], required buffers may be reduced or eliminated entirely if the applicant can demonstrate that existing mature vegetation, changes in topography occurring on the site, or proposed landscaping will provide an effective year-round buffer between the structures proposed within the open space planned unit development and neighboring development.

(4) Identification of Preferred Building Pad Locations

Building pad locations [up to the maximum number of units permitted by 154.657(A)] which preserve natural topography and drainageways (in as much as possible), minimizes tree loss, protects historic sites or structures, and limits the need for soil removal and/or grading shall then be identified. The orientation of individual building sites shall strive to maintain maximum natural topography and ground cover.

- (a) Building pads shall be located outside of required buffers, and shall be cited so as to provide ample room for accessory structures on future lots.
- ~~(b) Whenever possible, building pads shall be oriented in small clusters often referred to as rural hamlets~~[BGA21].
- (c) If individual septic tanks and drain fields for each lot are to be utilized, locations for primary and secondary facilities [BGA22]for each proposed building pad shall also be identified. Generalized locations for such may be shown during the PUD Sketch Plan phase, but all such sites must be verified as being viable as a component of PUD Preliminary Plan review.
- (d) If individual septic tanks utilizing communal drain fields is intended, the plan must clearly identify which communal drain field will service each of the proposed building pads.

(5) Placement of Streets

(a) Streets shall then be designed and located in such a manner as to:

1. Maintain and preserve natural topography, groundcover, significant landmarks, and trees;
2. Minimize cut and fill;
3. Preserve and enhance both internal and external views and vistas;
4. Promote road safety;
5. Assure adequate access for fire and rescue vehicles; and
6. Assure and promote adequate vehicular circulation both within the development and with adjacent neighborhoods.

(b) The minimum street right-of-way for one-way streets shall be 40 feet, and the minimum right-of-way for two-way streets shall be 50 feet.

(c) Streets shall not encroach into a required buffer area unless it can be demonstrated that such an alignment is necessary to achieve the goals outlined above, and that no equivalent option exists outside of the buffer. Driving surfaces that cross the buffer area at a 90 degree angle to provide current or future access to an adjacent property or boundary road shall be the only exception.

(d) Streets shall be designed according to the following standards:

1. Pavement shall be 14 to 18 feet wide for 1-way streets;
2. Pavement shall be 22 to 28 feet wide for 2-way streets; and
3. Pavement width shall be 22 to 24 feet for streets where homes are located on just 1 side of the street.
4. Streets shall not be constructed with a rural cross-section.

(6) Lot Creation

Based on the street location(s), building pad locations, and septic system location(s); lines to delineate individual lots shall then be identified in accordance with the following:

(a) **Lot Size**

1. Single-family lots being served by individual septic tanks and drain fields shall be a minimum of one (1) acre in size;
2. Single-family lots being served by individual septic tanks utilizing communal drain fields shall be a minimum of ¼ acre (10,890 square feet) in size[BGA23];

3. Base lots for townhomes shall be large enough such that individual unit lots can meet all required structure setbacks contained herein.

(b) Buildable Area to be Shown

1. Buildable area on each proposed lot shall be shown taking into account required buffers from adjacent parcels and the following setback standards:

	HOUSING TYPE		Additional Requirements
	Single Family Homes	Townhomes	
Front Yard	30	20	xxx
Side Yard	15 feet or 10% of lot width		xxx
Corner Lot Front Yard	30		xxx
Corner Lot Side Yard	30		xxx
Rear Yard	20		xxx
Well from Septic Tank	50		xxx

2. Proposed buildable area on each lot shall be sufficient to accommodate primary and accessory structures that are normal and customary to the type of development being proposed.

(7) Open Space and Parkland Adjustments^[BGA24]

(a) Open Space^[BGA25]

1. The total preserved open space area within an open space planned unit development shall be no less than 50% of the total gross land area, as defined by § 11.01. If this threshold is not achieved after following the first six steps of lot design, the proposed lot areas will need to be adjusted or lots eliminated until this requirement is met.
2. Not less than 60% of the preserved open space shall be in contiguous parcels which are ten (10) or more acres in size.
3. Preserved open space parcels shall be contiguous with preserved open space or public park land on adjacent parcels.

(b) Parkland

1. Parks and recreational facilities shall be provided in addition to preserved open space as specified in the Lake Elmo Parks Plan.
2. Determination of whether a land or cash dedication will be required to fulfil parkland requirements will be at the discretion of the City Council, with direction to be provided as a component of PUD Sketch Plan review. If a required parkland

dedication causes overall open space to drop below the minimum threshold, the proposed lot areas will need to be adjusted or lots eliminated until the open space requirement is once again met.

3. Any dedication shall be consistent with the dedication and fee-in-lieu standards specified in Chapter 153.

§ 154.658 OPEN SPACE PUD DEVELOPMENT STANDARDS[BGA26]

Open space PUDs shall comply with all of the following development standards unless modifications are authorized for consideration by the City Council via a super-majority vote [BGA27] at the time of PUD Sketch Plan review. Authorization of such modifications resulting from a PUD Sketch Plan review shall not be construed as approvals for the change(s), but rather as an authorization to present such modifications as a component of the plan during the PUD Preliminary Plan review.

(1) Preserved Open Space Standards

- (a) All preserved open space within an open space planned unit development shall be subject to a conservation easement and used for the purposes as defined by §§ 150.175 *et seq.*
- (b) Preserved open space land shall be controlled in one or more of following manners as determined at the sole discretion of the City Council:
 1. Owned by an individual or legal entity who will use the land for preserved open space purposes as provided by permanent conservation restrictions (in accordance with M.S. Ch. 84C.01-.05, as it may be amended from time to time), to an acceptable land trust as approved by the city; and/or
 2. Conveyed by conservation easement to the city.
- (c) Preserved open space land shall be maintained for the purposes for which it was set aside. If preserved open space was set aside for agricultural purposes or for natural habitat, a plan shall be submitted which will indicate how the land will be maintained or returned to a natural state and who will be responsible for plan implementation. Developers shall provide copies of common interest community (CIC) declarations to prospective purchasers, and conservation easements to the city, describing land management practices to be followed by the party or parties responsible for maintaining the preserved open space.
- (d) Where applicable, a Common Interest Community association shall be established to permanently maintain all residual open space and recreational facilities. The Common Interest Community association agreements, guaranteeing continuing maintenance, and giving lien right to the city if there is lack of the maintenance shall be submitted to the city as part of the documentation requirements of §§ 150.175 *et seq.* for a final plan.

(2) Septic System Design Standards[BGA28]

- (a) All septic systems shall conform to [BGA29] the performance standards of the Minnesota Pollution Control Agency's standards for sewage treatment systems WPC-7080 and its

appendices, or the M.P.C.A. standards in effect at the time of installation and septic system regulations of the Lake Elmo Municipal Code.

- (b) Communal drain fields may be partially or completely located in an area designated as preserved open space provided:
 - 1. The ground cover is restored to its natural condition after installation; and
 - 2. Recreational uses are prohibited above or within 50 feet of communal drain fields, or as approved by the City Engineer.
 - 3. No wetland treatment system shall be allowed ~~within the village green~~ [BGA30].
- (c) Communal drain fields, if installed, shall be professionally maintained; and are acceptable once legally sufficient documentation has been provided by the developer to ensure such maintenance will continue in perpetuity.

(3) Building Standards

- (a) Principal structures within open space planned unit developments shall not exceed 2 and ½ stories or 35 feet in height.
- (b) ~~Accessory structures within open space planned unit developments shall not exceed 22 feet in height~~ [BGA31].
- (c) It is desired that the structures within neighborhoods convey a particular architectural style with similar building components, materials, roof pitches. The PUD Overlay ordinance crafted for each individual development should establish minimum architectural standards for the neighborhood.

(4) Landscaping Standards

- (a) A landscape plan for the entire site is required and shall consist of at least 10 trees per building site; and trees shall not be not less than 1.5 inch in caliper measured at 54 inches above grade level.
- (b) Boulevard landscaping is required along all streets to consist of at least 1 tree per every 30 feet or placed in clusters at the same ratio.

OR [BGA32]

- (a) Developer shall plant a minimum of 6 trees, 1 inch caliper deciduous, or coniferous trees; 3 feet in height per acre unless a lot within the subdivision is determined by the Community Development Department to be naturally wooded which would, at a minimum, consist of the caliper and height of trees required by this chapter; and
- (b) Developer shall provide spaced or clustered plantings of 1 ½ inch caliper deciduous trees

at a rate of 2 per 100 lineal feet on both sides of the street, between 0 and 5 feet to the inside of the right-of-way for rural sections and between 5 feet and 10 feet to the inside of right-of-way for urban sections. Four foot conifers may be substituted.

(5) Impervious Surface Standards^[BGA33] **(still needs work)**

The maximum impervious surface allowable within an open space planned unit development shall be 20% of the land area not dedicated as preserved open space subject to the following:

- (a) Impervious surfaces created by roads, trails, and other planned impervious improvements shall count against the maximum allowed impervious coverage.
- (b) Remaining allowed impervious surface acreage may be distributed between the planned building sites, and maximums for each lot shall be clearly documented within the overlay district ordinance governing the development.
- (c) On individual lots, areas covered by pervious pavers or comparable systems may receive a 25% credit against the lot's hardcover if the system is installed consistent with the *City of Lake Elmo Engineering Standards Manual*, and adequate storm water mitigation measures (as may be necessary) are installed to mitigate potential runoff created by the additional coverage above the allowed impervious surface threshold. All such credits shall be at the discretion of the City Engineer.

(6) Trail Standards

A trail system or sidewalks shall be established within open space planned unit developments in accordance with the following:

- (a) The linear footage of trails provided shall be at least equal in length to the sum of the centerline length of all public roads within the development.
- (b) All trails shall be constructed of asphalt or concrete in compliance with the standard city design plate for OP trails.
- (c) Proposed trails shall provide connections between and access to the buildable land areas and preserved open space land being created by the development.
- (d) Proposed trails shall connect to existing, planned, or anticipated trails or roads on adjacent parcels.
- (e) If applicable, trails shall be linked (or be designed to provide a future link) to the "Old Village" to emphasize the connection between existing and new development.

§ 154.659 BUFFER SETBACKS IN OP DEVELOPMENTS [BGA34]

Buffer setbacks shall be applied from the edge of the existing open space preservation developments as follows.

<i>Recommended</i> [BGA35] <i>Buffer Setbacks in OP Developments (in feet)</i>					
	<i>North Edge</i>	<i>South Edge</i>	<i>West Edge</i>	<i>East Edge</i>	<i>Exception Parcel(s)</i>
St. Croix's Sanctuary	200	50	50	100	
Discover Crossing	200	100	50	100	
Whistling Valley I	25	200	N/A	N/A	
Whistling Valley II	25	100	85	N/A	
Whistling Valley III	50	100	100	N/A	
Farms of Lake Elmo	100	50	100	25	
Prairie Hamlet	200	50	50	100	
Fields of St. Croix I	50	N/A	200	100	
Fields of St. Croix II	N/A	200	200	N/A	N/A
The Homestead	50	50	200	50	
Tapestry at Charlotte's Grove	50	50	200	50	100
Tamarack Farm Estates	100	100	100	100	
Sunfish Ponds	100	100	100	200	
Hamlet on Sunfish Lake	50	100	50	50	
Cardinal Ridge	100	200	50	50	
Wildflower Shoves	100	200	100	200	
Heritage Farms	50	N/A	N/A	50	N/A

Tana Ridge (Res. 2009-033)	N/A	N/A	50	50	
Parkview Estates (Res. 2009-033)	50; except Lot 9, Block 5 use 20 ft	N/A	N/A	50	

§ 154.660 OPEN SPACE PUD REVIEW CRITERIA [BGA36]

The following findings shall be made by the City Council prior to approval of a new or amended open space planned unit development:

- (1) The proposed development is consistent with the goals, objectives, and policies of the Comprehensive Plan.
- (2) The Preliminary Plan is consistent with the purpose of §§ 150.175 *et seq.*
- (3) The Preliminary Plan complies with the development standards of §§ 150.175 *et seq.*

§ 154.661 OPEN SPACE PUD REVIEW PROCEDURE [BGA37]

All requests to establish an open space Planned Unit Development shall be initiated by following the steps below.

(1) Open Space PUD Sketch Plan

(a) Purpose

The open space PUD Sketch Plan is the first step in the development process which gives the applicant an opportunity to present their ideas to the City Council and public so as to gain general feedback on areas that will require additional analysis, study, design, changes, etc.

1. Feedback gained during the open space PUD Sketch Plan phase should be addressed within the subsequent PUD Preliminary Plan.
2. At Council's discretion via super-majority vote [BGA38], any of the minimum standards outlined in either § 154.657 or § 154.658 may be modified to authorize submission of an open space PUD Preliminary Plan that is tailored to the development site. Authorization of such modifications resulting from a PUD Sketch Plan review shall not be construed as approvals for the change(s), but rather as an authorization to present such modifications as a component of the plan during the PUD Preliminary Plan review.

(b) Specific open space PUD Sketch Plan Submittal Requirements

Except as may be waived by the Community Development Department [BGA39], the

following information shall constitute a complete application for an open space PUD Sketch Plan.

1. A listing of contact information including name(s), address(es) and phone number(s) of: the owner of record, authorized agents or representatives, engineer, surveyor, and any other relevant associates;
2. A listing of the following site data: Address, current zoning, parcel size in acres and square feet and current legal description(s);
3. A narrative explaining the applicant's proposed objectives for the open space PUD, a listing of the proposed modifications from standard in § 154.657 as may be applicable, and an explanation of how the proposal addresses the PUD review criteria in § 154.660.
4. A listing of general information including the following:
 - a. Number of proposed residential units.
 - b. Calculation of the proposed density of the project showing compliance with § 154.657(A).
 - c. A listing of all proposed land uses (i.e. preserved open space, buildable sites, parkland, etc).
 - d. Square footages of land dedicated to each proposed land use.
5. An existing conditions exhibit, including topography, that identifies the location of the following environmental features along with calculations (in acres) for each:
 - a. Gross site acreage;
 - b. Existing wetlands;
 - c. Existing woodlands;
 - d. Areas with slopes greater than 12%, but less than 25%;
 - e. Areas with slopes of 25% or greater;
 - f. Woodlands;
 - g. Other pertinent land cover(s).
6. An open space PUD Sketch Plan illustrating the nature of the proposed development. At a minimum, the plan should show:
 - a. Existing zoning district(s) on the subject land and all adjacent parcels;
 - b. Layout of proposed lots and proposed uses denoting Outlots planned for public dedication and/or preserved open space;
 - c. Area calculations for each parcel;

- d. General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;
- e. Location of existing and proposed streets within and immediately adjacent to the subdivision parcel;
- f. Proposed sidewalks and trails;
- g. Proposed parking areas;

- h. General location of wooded areas or significant features (environmental, historical, cultural) of the parcel;
- i. Location of utility systems that will serve the property;
- j. Calculations for the following:
 - i. Gross land area (in acres);
 - ii. Number of proposed residential units.
 - iii. Proposed density of the project showing compliance with § 154.657(A).
 - iv. Acreage & square footage of land dedicated to each proposed land use (i.e. preserved open space, buildable sites, parkland, etc).
 - v. Acreage & square footage of land proposed for public road right-of-way;
 - vi. Acreage & square footage of land dedicated to drainage ways and ponding areas;
 - vii. Acreage & square footage of land for Trails and/or sidewalks (if outside of proposed road right-of-way);
- k. Other: An applicant may submit any additional information that may explain the proposed PUD or support any requests for modifications (i.e. a landscaping plan to support the lessening or elimination of an otherwise required buffer).
- 7. The outline of a conceptual development schedule indicating the approximate date when construction of the project, or stages of the same, can be expected to begin and be completed (including the proposed phasing of construction of public improvements and recreational & common space areas).
- 8. A statement of intent to establish a Common Interest Community association with bylaws and deed restrictions to include, but not be limited to, the following:
 - a. Ownership, management, and maintenance of defined preserved open space;
 - b. Maintenance of public and private utilities; and
 - c. General architectural guidelines for principal and accessory structures.
- 9. If applicable, a historic preservation plan for any historic structures on the site shall be submitted.

(c) Open Space PUD Sketch Plan Proposal Review

1. Planning Commission

- a. Upon receiving an open space PUD Sketch Plan proposal, the Community Development Department shall schedule a date upon which the Planning Commission will review the plans and hold a public hearing [BGA40] on the proposal. Notice for the public hearing shall be completed in conformance with (reference applicable code section assuming we have one).
- b. Following the hearing, the Planning Commission shall adopt findings and recommendations on the proposed open space PUD as soon as practical.
- c. The Community Development Department may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

2. City Council

- a. The City Council may listen to comments on the proposed development if they deem such necessary prior to taking action on the proposed open space PUD Sketch plan.
- b. After consideration of the Community Development Department recommendation, the Planning Commission recommendation, and the comments received at the public hearing, the City Council may comment on the merit of the request, needed changes, and suggested conditions that the proposer should adhere to with any future application.
- c. For each of the identified modifications to the minimum standards outlined in § 154.657, the City Council shall take a vote to instruct the applicant as to whether the modification can be pursued as a component of the PUD Preliminary Plan review [BGA41]. The ability to pursue approval of modified standards may only be authorized via a super-majority vote of the City Council.

(d) Effect of a PUD Sketch Plan Review [BGA42]

The City Council and Planning Commission's comments during the PUD Sketch Plan review are explicitly not an approval or denial of the project, and are intended only to provide information for the applicant to consider prior to application for an open space PUD Preliminary Plan.

(e) Limitation of Approval [BGA43]

The City Council's review of an open space PUD Sketch Plan shall remain valid for a period of six (6) months. The City Council, in its sole discretion, may extend the validity of their findings for an additional year.

(2) PUD Preliminary Plan

(a) Prerequisite^[BGA44]

No application for an open space PUD Preliminary Plan will be accepted unless a distinctly similar proposal has completed the open space PUD Sketch Plan review process which is valid upon the date of application.

(b) PUD Preliminary Plan Submittal Requirements

Except as may be waived by the Community Development Department, the following information shall constitute a complete application for an open space PUD Preliminary Plan.

1. All required information for a preliminary plat per Chapter 1102, Section 1102.01(C) and Section 1102.02.
2. A written summary of the required Developer Open House meeting as required by Chapter 1102, Section 1102.01(B)(5).
3. A separate open space PUD Preliminary Plan which includes the following information:
 - a. Administrative information (including identification of the drawing as an “Open Space PUD Preliminary Plan,” the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and north arrow);
 - b. Area calculations for gross land area, wetland areas, right-of-way dedications, and proposed public and private parks or open space;
 - c. Existing zoning district(s) on the subject land and all adjacent parcels;
 - d. Layout of proposed lots with future lot and block numbers. The perimeter boundary line of the subdivision should be distinguishable from the other property lines. Denote Outlots planned for public dedication and/or open space (schools, parks, etc.);
 - e. The location of proposed septic disposal area(s);
 - f. Area calculations for each parcel;
 - g. Proposed setbacks on each lot (forming the building pad) and calculated buildable area;
 - h. Proposed gross hardcover allowance per lot (if applicable);
 - i. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question;

- j. Delineation of wetlands and/or watercourses over the property;
 - k. Delineation of the ordinary high water levels of all water bodies;
 - l. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;
 - m. Easements and rights-of-way within or adjacent to the subdivision parcel(s);
 - n. The location and orientation of proposed buildings;
-
- o. Proposed sidewalks and trails;
 - p. Vehicular circulation system showing location and dimension for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access, if necessary, public and private streets, alleys, sidewalks, bike paths, direction of traffic flow and traffic control devices;
 - q. Lighting location, style and mounting and light distribution plan.
 - r. Proposed parks, common areas, and preservation easements (indicate public vs. private if applicable);
 - s. Location, access and screening detail of large trash handling and recycling collection areas
4. Colored renderings which detail the building materials being used and clearly communicate the look and design of the proposed building(s);
 5. Proposed architectural and performance standards for the development;
 6. A grading drainage and erosion control plan prepared by a registered professional engineer providing all information as required by Public Works and/or the Community Development Department;
 7. A utility plan providing all information as required by Public Works and/or the Community Development Department;
 8. Results of deep soil test pits and percolation tests, at the rate of no fewer than 2 successful test results for each proposed septic disposal area;
 9. A landscape plan, including preliminary sketches of how the landscaping will look, prepared by a qualified professional providing all information outlined in Section <insert applicable section here> ;
 10. A tree preservation plan as required by Section <insert applicable section here>;
 11. The location and detail of signage providing all pertinent information necessary to determine compliance with Section <insert applicable section here>;
 12. A traffic study containing, at a minimum, the total and peak hour trip generation from the site at full development, and the effect of such traffic on the level of service of

nearby and adjacent streets, intersections, and total parking requirements;

13. A plan sheet or narrative clearly delineating all features being modified from standard open space PUD regulations;
14. Common Interest Community Association documents including bylaws, deed restrictions, covenants, and proposed conservation easements.
15. Any other information as directed by the Community Development Department.

(c) PUD Preliminary Plan Review

1. As part of the review process for an open space PUD Preliminary Plan, the Community Development Department shall generate an analysis of the proposal against the expectations for PUDs, and make a recommendation regarding the proposed overlay district for Planning Commission and City Council consideration.
2. The Community Development Department shall prepare a draft ordinance to establish the potential overlay district [BGA45] to be established as a component of the PUD Final Plan.
3. The Planning Commission shall hold a public hearing and consider the application's consistency with the goals for PUDs, the PUD review criteria, and applicable comprehensive plan goals. The Planning Commission shall make recommendations to the City Council on the merit, needed changes, and suggested conditions to impose on the PUD.
4. In approving or denying the PUD Preliminary Plan, the City Council shall make findings on the PUD review criteria outlined in Section 1023.08.
5. As a condition of PUD Preliminary Plan approval; finalization, adoption, and publication of an overlay district ordinance shall need to occur prior to the filing of any future final plat.

(d) Effect of a PUD Preliminary Plan Review [BGA46]

Preliminary Plan approval governs the preparation of the PUD Final Plan which must be submitted for final approval in accordance with the requirements of this Article.

(e) Limitation of Approval [BGA47]

The City Council's review of an open space PUD Preliminary Plan shall remain valid for a period of one (1) year. The City Council, in its sole discretion, may extend the validity of their findings for an additional year.

(3) PUD Final Plan

(a) Application Deadline [BGA48]

Application for an open space PUD Final Plan shall be submitted for approval within

ninety (90) days of City Council approval of the open space PUD Preliminary Plan unless a written request for a time extension is submitted by the applicant and approved by the City Council.

(b) PUD Final Plan Submittal Requirements

Except as may be waived by the Community Development Department, the following information shall constitute a complete application for an open space PUD Final Plan.

1. All required information for a final plat per ~~<insert applicable section here>~~;
2. All required PUD Preliminary Plan documents, other than the preliminary plat, shall be updated to incorporate and address all conditions of PUD Preliminary Plan approval.
3. Any deed restrictions, covenants, agreements, and articles of incorporation and bylaws of any proposed homeowners' association or other documents or contracts which control the use or maintenance of property covered by the PUD.
4. A final staging plan, if staging is proposed, indicating the geographical sequence and timing of development, including the estimated start and completion date for each stage.
5. Up-to-date title evidence for the subject property in a form acceptable to the Community Development Department.
6. Warranty deeds for Property being dedicated to the City for all parks, Outlots, etc., free from all liens and encumbrances.
7. All easement dedication documents for easements not shown on the final plat including those for trails, ingress/egress, etc., together with all necessary consents to the easement by existing encumbrancers of the property.
8. Any other information deemed necessary by the Community Development Department to fully present the intention and character of the open space PUD.
9. If certain land areas or structures within the open space PUD are designated for recreational use, public plazas, open areas or service facilities, the owner of such land and buildings shall provide a plan to the city that ensures the continued operation and maintenance of such areas or facilities in a manner suitable to the city.

(c) PUD Final Plan Review

1. The Community Development Department shall generate an analysis of the final

documents against the conditions of the open space PUD Preliminary Plan approval, and make a recommendation as to whether all conditions have been met or if additional changes are needed.

2. Staff should once again identify any information submittals that were waived so Council may determine if such is needed prior to making a final decision.
3. The Community Development Department shall finalize the ordinance to establish the proposed overlay district for consideration by the Planning Commission and City Council.
4. The Planning Commission shall hold a public hearing [BGA49] on the proposed Overlay District ordinance and open space Final PUD Plans, and shall submit a recommendation to the City Council for consideration. Because an open space PUD Preliminary Plan was previously approved, the Planning Commission's recommendation shall only focus on whether the Ordinance and open space PUD Final Plan are in substantial compliance with the open space PUD Preliminary Plan and the required conditions of approval.
5. The City Council shall then consider the recommendations of the Community Development Department, the public, and the Planning Commission; and make a decision of approval or denial, in whole or in part, on the open space PUD Final Plan. A denial shall only be based on findings that an open space PUD Final Plan is not in substantial compliance with the approved open space PUD Preliminary Plan and/or the required conditions of approval.
6. As a condition of PUD Final Plan approval, publication of the overlay district ordinance shall be required prior to filing of the approved final plat.
7. Planned Unit Development Agreement.
 - a. At its sole discretion, the City may as a condition of approval, require the owner and developer of the proposed open space PUD to execute a development agreement which may include but not be limited to all requirements of the open space PUD Final Plan.
 - b. The development agreement may require the developers to provide an irrevocable letter of credit in favor of the City. The letter of credit shall be provided by a financial institution licensed in the state and acceptable to the City. The City may require that certain provisions and conditions of the development agreement be stated in the letter of credit. The letter of credit shall be in an amount sufficient to ensure the provision or development of improvement called for by the development agreement.
8. As directed by the City, documents related to the PUD shall be recorded against the property.

(d) Time Limit

1. A Planned Unit Development shall be validated by the applicant through the commencement of any necessary construction or establishment of the authorized use(s), subject to the permit requirements of Title 9 of this Code, in support of the Planned Unit Development within one (1) year of the date of open space PUD Final Plan approval. Failure to meet this deadline shall render the open space PUD Final Plan approval void. Notwithstanding this time limitation, the City Council may approve extensions of the time allowed for validation of the Planned Unit Development approval if requested in writing by the applicant; extension requests shall be submitted to the Community Development Department and shall identify the reason(s) why the extension is necessary along with an anticipated timeline for validation of the Planned Unit Development.
2. An application to reinstate an open space PUD that was voided for not meeting the required time limit shall be administered in the same manner as a new open space PUD beginning at open space PUD Preliminary Plan.

§ 154.662 OPEN SPACE PUD AMENDMENTS^[BGA50]

Approved open space PUDs may be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer or neighborhood. At such a time, the applicant shall make an application to the city for an open space PUD amendment.

(A) Amendments to Existing Open Space PUD Overlay District(s)

Amendments to an approved open space PUD Overlay district shall be processed as one of the following:

(1) Administrative Amendment

The Community Development Department may approve minor changes in the location, placement, and height of buildings if such changes are required by engineering or other circumstances, provided the changes conform to the approved overlay district intent and are consistent with all requirements of the open space PUD ordinance. Under no circumstances

shall an administrative amendment allow additional stories to buildings, additional lots, or changes to designated uses established as part of the PUD. An Administrative Amendment shall be memorialized via letter signed by the Community Development Director and recorded against the PUD property.

(2) Ordinance Amendment

A PUD change requiring a text update to the adopted open space PUD overlay district language shall be administered in accordance with adopted regulations for zoning code changes in **Section xxx**. Ordinance amendments shall be limited to changes that are deemed by the Community Development Department to be consistent with the intent of the original open space PUD approval, but are technically necessary due to construction of the adopted overlay district language.

(3) PUD Amendment

Any change not qualifying for an administrative amendment or an Ordinance amendment shall require an open space PUD amendment. An application to amend an open space PUD shall be administered in the same manner as that required for a new PUD beginning at open space PUD Preliminary Plan.

(B) Pre-existing OP Developments [BGA51](work in progress)

Pre-existing OP developments authorized prior to [date this ordinance is effective] shall continue to be governed per the original conditions of approval until the OP development is cancelled by the City, or the OP development is converted to an open space PUD overlay district. An application to amend an existing OP development shall be administered in the same manner as that required for a new open space PUD beginning at open space PUD Preliminary Plan.

§ 154.663 PUD CANCELLATION [BGA52]

An open space PUD shall only be cancelled and revoked upon the City Council adopting an ordinance rescinding the overlay district establishing the PUD. Cancellation of a PUD shall include findings that demonstrate that the PUD is no longer necessary due to changes in local regulations over time; is inconsistent with the Comprehensive Plan or other application land use regulations; threatens public safety, health, or welfare; or other applicable findings in accordance with law.

§ 154.664 ADMINISTRATION [BGA53]

In general, the following rules shall apply to all open space PUDs:

(A) Rules and regulations

No requirement outlined in the open space PUD review process shall restrict the City Council from taking action on an application if necessary to meet state mandated time deadlines;

(B) Preconstruction

No building permit shall be granted for any building on land for which an open space PUD plan is in the process of review, unless the proposed building is allowed under the existing zoning and will not impact, influence, or interfere with the proposed open space PUD plan.

(C) Effect on Conveyed Property

In the event that any real property in an approved open space PUD is conveyed in total, or in part, the new owners thereof shall be bound by the provisions of the approved overlay district.

SECTION 6 (Will update the list of overlay districts in Chapter 154 to include the Open Space Planned Unit Development Overlay District)



MAYOR AND COUNCIL COMMUNICATION

DATE: May 10, 2016

WORKSHOP

ITEM #:

AGENDA ITEM: MUSA Land Use Study

SUBMITTED BY: Stephen Wensman, Planning Director

REVIEWED BY: Kristina Handt, City Administrator

BACKGROUND:

At the April City Council Workshop the City Council discussed land use within the Old Village and I-94 MUSA areas. At the meeting, the Council requested more information including:

- Clarification of the City's responsibility toward meeting the regions affordable housing need.
- Need for future sewer development.
- Update study maps to include current development.

On April 29, 2016, Staff met with the Metropolitan Council Representative, Lisa Barajas, to discuss the implications of the City's system statement and potential land use changes within the MUSA areas.

DETAILS/ANALYSIS:

The 2015 System Statement shows population, household and employment and the City's allocation of affordable housing need. The following charts summarize these numbers:

Population, Households and Employment Forecasts			
Forecast Year	Population	Households	Employment
2020	10,500	3,800	2,900
2030	14,100	5,300	3,350
2040	18,200	7,100	3,800

Allocation of Affordable Housing Need	
AtOrBelow30AMI	27
From31to50AMI	179
From51to80AMI	302
Total Units	508

AMI = Area Median Income

The 2030 forecasted population, household and employment numbers have dropped from that which was initially planned, however, the City is still required to meet the forecasted 2040

numbers, including have enough land guided for sewerred growth at an average density of 3 units per acre.

The City's responsibility for regional affordable housing need does include the Cimarron properties, however the City is required to have 508 additional units of housing that are:

- at a density of 8 units/acre, or
- at a density of 12 units/acre to address the allocated affordable housing need at <50% AMI (This combines your community's allocation at <30% AMI and 31-50% AMI), and 6 units/acre to address the allocated affordable housing need at 51-80% AMI.

The City will need to maintain some high and medium land use in the MUSA areas to accommodate the City's allocated affordable housing needs, approximately 64 acres at 8 units per acre to meet the 2030 need, but likely more will be needed for 2040.

As of today, between Inwood, Hammes, Savona, Boulder Ponds, Hunters Crossing, Wildflower, Village Preserve, Easton Village, Village Park Preserve and Diedrich plats, there are 1567 units of sewerred residential development approved. In addition, Arbor Glen Senior Living will likely add an additional 45 units to the MUSA. The total number of existing planned (platted) new sewerred housing units in the MUSA is approximately 1854.

Summary:

- Unplatted areas in the I-94 MUSA area have the potential for an additional 1851-3456 new housing units, based on the range of densities allowed in the Comprehensive Plan.
- The unplatted Old Village MUSA area has the potential for an additional new 839-2085 housing units, based on the range of densities allowed in the Comprehensive Plan.
- Cimarron is being counted as toward Lake Elmo's existing allocation of 2020 housing need.
- 508 new units of high density (min. 8 units per acre) needed for 2030 for Lake Elmo's allocation of housing need.
- Additional allocations of affordable housing need will likely be added for 2040.
- Current 2030 Comprehensive Plan: guides for approximately 763 high density units.
- Sewerred growth must average 3 units per acre.
- Undeveloped Phase 1-3 properties in MUSA will yield an approximate additional 3,305 REC units (not including Cimarron).
- Undeveloped Old Village properties in MUSA will yield an approximate additional 487 REC units
- Tartan park would provide approximately 275-350 additional REC units if added to the MUSA.

ISSUE BEFORE COUNCIL:

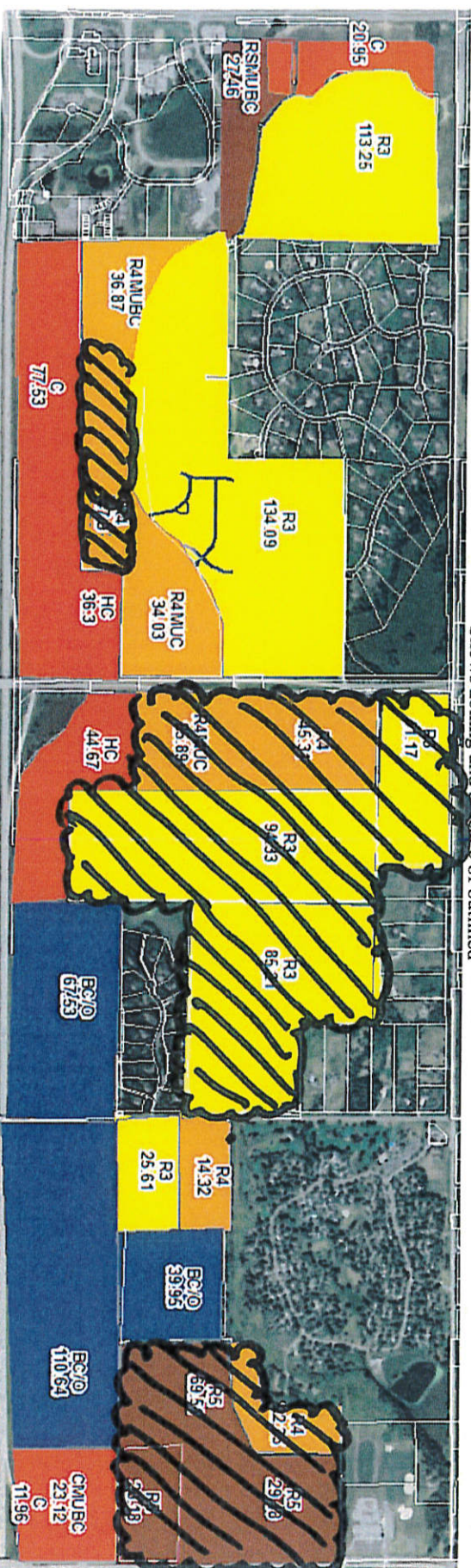
The issue before Council is to determine desired Comprehensive Plan changes and to provide direction to Staff.

ATTACHMENTS:

- Village Planned Land Use Map 3-5
- Land Use Plan for South of 10th Street (Updated with existing development)
- Land Use Plan for South of 10th Street (hatched unplatted areas)

Land Use Plan for South of 10th Street (as updated by 2015 CPAs)

Shows zoning and acreage of outlined



Approximate Corresponding REC Units (Lowest permitted density assumptions: R-3=2.5 upa, R-4=4.5 upa, R-5=7.5 upa, C&HC=4 rec/acre, B C/O=2 rec/acre)



Previous approximate NEW REC units (excluding anticipated Eagle Point & Cimarron hook-ups): 4685 (High)/4384 (Low)

Updates with new developments (updated numbers are outlined in yellow on figure above) ("+" indicates that the new developments are more than the previous numbers by indicated number & "-", indicates that the new developments are less than the previous numbers by indicated number):

Inwood: +26, Hammes: -6, Savona: +91, Boulder Ponds: -55, Hunters Crossing: -53, Reider: -59

Updated approximate NEW REC units (excluding anticipated Eagle Point & Cimarron hook-ups): 4629 (High)/4328 (Low)

Shows zoning and acreage of outlined



Approximate Corresponding REC Units (Lowest permitted density assumptions: R-3=2.5 upa, R-4=4.5 upa, R-5=7.5 upa, C&HC=4 rec/acres, B C/O=2 rec/acre)

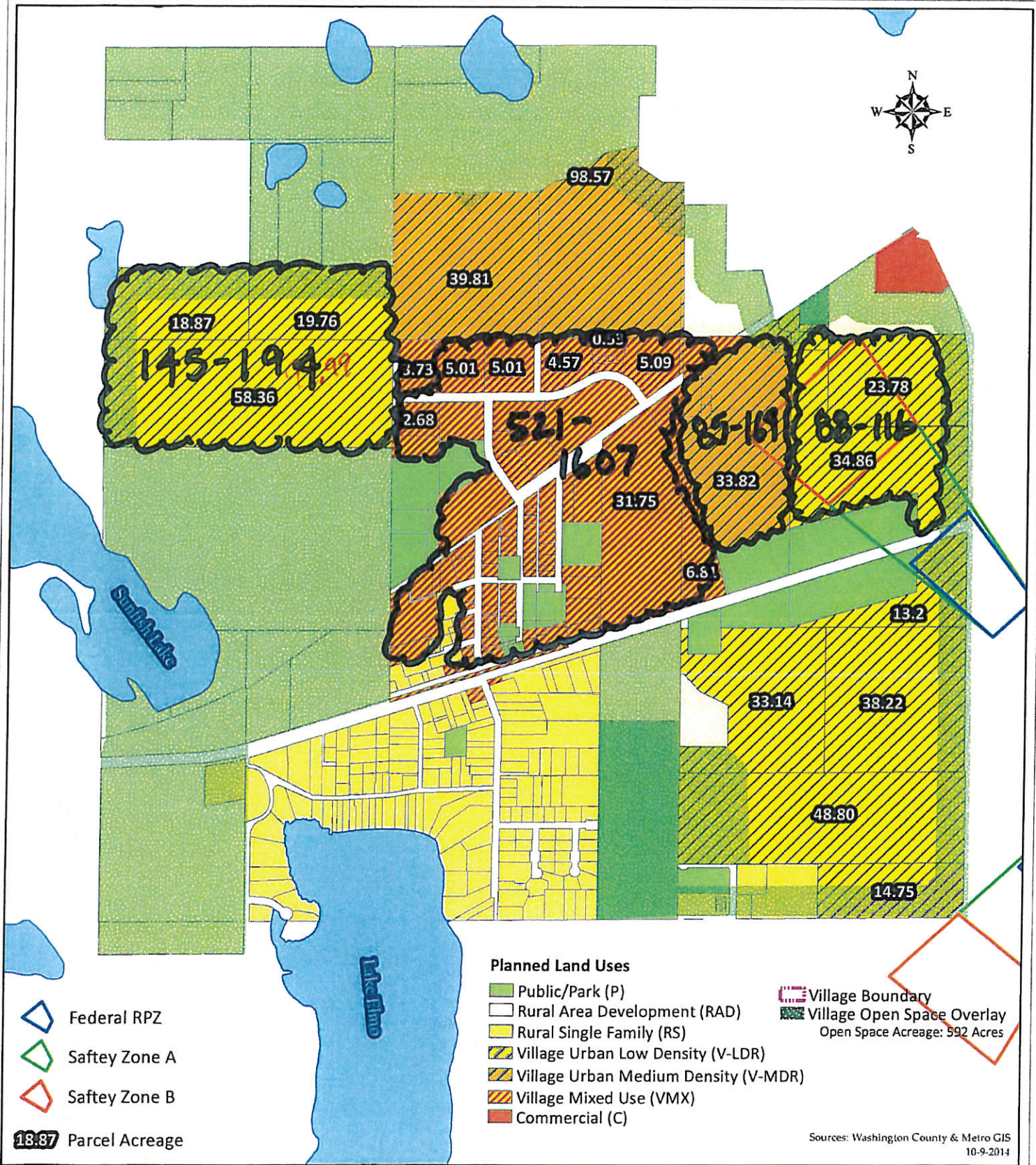


Previous approximate NEW REC units (excluding anticipated Eagle Point & Cimarron hook-ups): 4685 (High)/4384 (Low)

Updates with new developments (updated numbers are outlined in yellow on figure above) (“+” indicates that the new developments are more than the previous numbers by indicated number & “-” indicates that the new developments are less than the previous numbers by indicated number):

Inwood: +26, Hammes: -6, Savona: +91, Boulder Ponds: -55, Hunters Crossing: -53, Reider: -59

Updated approximate NEW REC units (excluding anticipated Eagle Point & Cimarron hook-ups): 4629 (High)/4328 (Low)



Village Planned Land Use

Lake Elmo Comprehensive Plan 2030

