



## MAYOR AND COUNCIL COMMUNICATION

DATE: 6/21/16

**CONSENT**

ITEM #: 17

**AGENDA ITEM:** Comprehensive Plan Text Amendment to Rural Single Family Land Use Designation

**SUBMITTED BY:** Stephen Wensman, Planning Director

**THROUGH:** Kristina Handt, City Administrator

**REVIEWED BY:** Emily Becker, City Planner

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### **BACKGROUND:**

On April 19, 2016, the Lake Elmo City Council approved a Comprehensive Plan Text Amendment to the City's Wastewater Facilities Plan by adding three properties to the Village MUSA. The Metropolitan Council, upon reviewing the amendment, requested that the Rural Single Family land use designation be amended to be in compliance with areas guided for sewer. The Comprehensive Land Use Plan designation is defined as being served by private on-site well and septic systems. The proposed new definition will allow for municipal sanitary sewer where the City Council deems it practical. This amendment will allow for municipal sanitary sewer without changing the guided density. Presently, there are two areas where properties guided for Rural Single Family are within a MUSA area; the Old Village and in the Tri-Lakes area near Oakdale.

### **ISSUE BEFORE COUNCIL:**

The Council is respectfully being asked to consider a Comprehensive Plan Text Amendment to the Rural Single Family land use definition to allow municipal sanitary sewer where deemed practical by the City Council.

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

The current Rural Single Family planned land use category definition reads:

**RURAL SINGLE FAMILY** – This category defines a large portion of the City that was historically platted for conventional subdivision prior to 2005, but has been and will continue to be serviced by private on-site well and septic systems. Limited locations within this classification are allowed to have two-family dwellings based on zoning. [Corresponding Zoning District(s): R-1, R-2]

The category as defined is served by private on-site well and septic systems. In addition, the definition references zoning districts that are no longer in existence. The corresponding zoning district is RS - Rural Single Family. The proposed definition will allow on-site well and septic systems, unless the City Council considers connection to the sanitary sewer where practical. The corresponding zoning district is

RS - Rural Single Family. The proposed Rural Single Family planned land use category reads (inserted text is underlined):

**RURAL SINGLE FAMILY** – This category defines a large portion of the City that was historically platted for conventional subdivision prior to 2005, but has been and will continue to be serviced by private on-site well and septic systems unless within a Metropolitan Urban Service Area (MUSA). If within a MUSA, the City Council may consider connection to the sanitary sewer system where practical. Limited locations within this classification are allowed to have two-family dwellings based on zoning. [Corresponding Zoning District(s): RS – Rural Single Family]

This proposed amendment has been reviewed by the Metropolitan Council Staff and will require formal Metropolitan Council approval.

**PUBLIC HEARING:**

A public hearing on the Comprehensive Plan Text Amendment was held on June 13, 2016. Nobody from the public spoke for or against the amendment. During the Planning Commission discussion, Commissioner Dunn opposed the amendment, stating that residents should have a choice whether or not to connect to municipal sanitary sewer. The Planning Commission recommended approval of the Amendment.

**FISCAL IMPACT:**

None.

**OPTIONS:**

The City Council should consider whether the amended land use category definition is acceptable or not.

**RECOMMENDATION:**

Staff and the Planning Commission respectfully request, as part of tonight's consent agenda, that the City Council approve the Comprehensive Plan Text Amendment amending the Rural Single Family land use category definition to allow connection to municipal sanitary sewer where the City Council deems it practical by consent. Comprehensive Plan Text Amendments require a 4/5 affirmative vote of the City Council.

If removed from the Consent Agenda, the recommended action can be completed through the following motion:

*“Move to approve Resolution 2016-50 Amending the City of Lake Elmo Comprehensive Land Use Plan land use designation for Rural Single Family to allow connection to municipal sanitary sewer where deemed practical by the Lake Elmo City Council. ”*

**ATTACHMENTS:**

- 1) Resolution 2016-50
- 2) Planning Commission Report
- 3) June 13, 2016 Planning Commission Minutes

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

**RESOLUTION NO. 2016- 50**

***A RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF LAKE ELMO  
COMPREHENSIVE LAND USE PLAN RURAL SINGLE FAMILY LAND USE CATEGORY  
DEFINITION TO ALLOW CONNECTION TO MUNICIPAL SANITARY SEWER WHERE  
DEEMED PRACTICAL BY THE CITY COUNCIL.***

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

**WHEREAS,** The City of Lake Elmo has established a Comprehensive Plan that provides compilation of background data, policy statements, standards, and maps, which help to guide the future physical, social, and economic development of the City; and

**WHEREAS,** The City Council has approved the Old Village Phase 2 Street and Utility Improvement Project which will extend municipal sanitary sewer to some properties within the Old Village MUSA ; and

**WHEREAS,** the City has approved projects to connect properties within the Tri-Lakes Sewer Service Area to sanitary sewer;

**WHEREAS,** many of the properties within these areas have the land use designation of Rural Single Family in the City of Lake Elmo Comprehensive Plan; and

**WHEREAS,** the Rural Single Family land use definition states these properties have been and will continue to be serviced by private on-site well and septic systems; and

**WHEREAS,** the Rural Single Family land use definition should be amended to allow for municipal sanitary sewer connection consistent with the City's practice; and

**NOW, THEREFORE,** based on the testimony elicited and the information received, the City makes the following:

**Findings**

1. The text amendment will not impact lot density or any other standards for the affected properties.
2. The Metropolitan Council has administratively reviewed the text amendment has appeared to have no objection and had waived adjacent jurisdictional review.
3. The expansion of the MUSA is consistent with improving the health, safety and welfare of the City of Lake Elmo residents.

4. The text amendment will remove an inconsistency between the MUSA designation and Land Use category definition in the City's Comprehensive Plan.

**NOW, THEREFORE, BE IT RESOLVED** that based on the foregoing, the Lake Elmo City Council does hereby approve the Lake Elmo Comprehensive Plan Text Amendment to allow connection to municipal sanitary sewer where deemed practical by the City Council, subject to and contingent upon the following:

1. The Metropolitan Council's approval of the Comprehensive Plan Text Amendment.

This resolution was adopted by the City Council of the City of Lake Elmo on this 21 day of June, 2016.

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Mike Pearson, Mayor

ATTEST:

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Julie Johnson, City Clerk



PLANNING COMMISSION  
DATE: 6/13/16  
AGENDA ITEM: 4D – PUBLIC HEARING  
CASE # 2016-19

ITEM: Comprehensive Plan Text Amendment to Rural Single Family Land Use Designation

SUBMITTED BY: Stephen Wensman, Planning Director

REVIEWED BY: Emily Becker, City Planner  
Lisa Barajas, Metropolitan Council

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

The Planning Commission is requested to review a Comprehensive Plan Text Amendment to bring the planned official land use plan category, Rural Single Family, into compliance with the Comprehensive Plan's Wastewater Facilities Plan as recently amended. Staff is recommending the Planning Commission recommend approval of the Comprehensive Plan Text Amendment.

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### **GENERAL INFORMATION**

*Applicant:* City of Lake Elmo

*Location:* Areas guided as Rural Single Family

*Request:* A Comprehensive Plan Text Amendment to bring the planned official land use plan category, Rural Single Family, into compliance with the Comprehensive Plan's Wastewater Facilities Plan as recently amended.

*History:* On 4/19/16, the City Council approved an amendment to the Village MUSA to add three properties. The Metropolitan Council requested that the Rural Single Family land use designation be amended to be in compliance with areas guided for sewer.

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### **REQUEST DETAILS:**

The Lake Elmo City Council, on April 19, 2016, approved a Comprehensive Plan Text Amendment to the City's Wastewater Facilities Plan by adding three properties to the Village MUSA. The Metropolitan Council, upon reviewing the amendment, requested that the Rural Single Family land use designation be amended to be in compliance with areas guided for sewer. Presently, there are two areas where properties guided for Rural Single Family are within a MUSA area; the Old Village and in the Tri-Lakes area near Oakdale.

The current Rural Single Family planned land use category reads:

**RURAL SINGLE FAMILY** – This category defines a large portion of the City that was historically platted for conventional subdivision prior to 2005, but has been and will continue to be serviced by private on-site well and septic systems. Limited locations within this classification are allowed to have two-family dwellings based on zoning. [Corresponding Zoning District(s): R-1, R-2]

The category as defined is served by private on-site well and septic systems. In addition, the definition references zoning districts that are no longer in existence. The corresponding zoning district is RS - Rural Single Family. The proposed definition will allow on-site well and septic systems, unless the City Council considers connection to the sanitary sewer practicable. The corresponding zoning district is RS - Rural Single Family. The proposed Rural Single Family planned land use category reads (inserted text is underlined):

**RURAL SINGLE FAMILY** – This category defines a large portion of the City that was historically platted for conventional subdivision prior to 2005, but has been and will continue to be serviced by private on-site well and septic systems unless within a Metropolitan Urban Service Area (MUSA). If within a MUSA, the City Council may consider connection to the sanitary sewer system where practical. Limited locations within this classification are allowed to have two-family dwellings based on zoning. [Corresponding Zoning District(s): RS – Rural Single Family]

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#### ANALYSIS:

The RS-Zoning District as defined in City Code Section 154.400, D. reads:

*RS Rural Single Family District.* The RS District is established for lands that have already been platted as conventional residential subdivisions prior to the 2005 adoption of the Comprehensive Land Use Plan. This district provides an environment of predominantly single-family detached dwellings on moderately sized lots in areas that have typically not been provided with public sanitary sewer services.

Staff believes the definition of RS - Rural Single Family suggests on-site septic systems, but does not preclude them from connecting to public sewer. No change to the RS Rural Single Family definition is needed and the proposed Comprehensive Plan Text Amendment will bring the Land Use Plan in compliance with the Wastewater Facilities Plan without changing existing densities, setbacks, etc.

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#### DRAFT FINDINGS:

The City Code does not require specific findings for comprehensive plan amendments, however, Staff is suggesting the following findings in support of the amendment:

1. The comprehensive plan text amendment will bring the Lake Elmo Comprehensive Land Use Plan into conformity with the Comprehensive Wastewater Facilities Plan.
2. The comprehensive plan text amendment will not affect underlying density or zoning code regulations.

3. The Metropolitan Council has administratively reviewed the amendment, has no objection, and had waived adjacent jurisdictional review.

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#### **RECOMMENDATION:**

Staff is recommending the Planning Commission recommend approval of the Comprehensive Plan Text Amendment with the following motion:

***“Move to recommend the City Council approve the comprehensive plan text amendment to amend the planned land use category in the Comprehensive Land Use Plan to read:***

**RURAL SINGLE FAMILY** – This category defines a large portion of the City that was historically platted for conventional subdivision prior to 2005, but has been and will continue to be serviced by private on-site well and septic systems unless within a Metropolitan Urban Service Area (MUSA). If within a MUSA, the City Council may consider connection to the sanitary sewer system where practical. Limited locations within this classification are allowed to have two-family dwellings based on zoning. [Corresponding Zoning District(s): RS – Rural Single Family]

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#### **ATTACHMENTS:**

- None

#### **ORDER OF BUSINESS:**

- Introduction .....Planning Staff
- Report by Staff .....Planning Staff
- Questions from the Commission ..... Chair & Commission Members
- Open the Public Hearing .....Chair
- Close the Public Hearing.....Chair
- Discussion by the Commission ..... Chair & Commission Members
- Action by the Commission..... Chair & Commission Members



**City of Lake Elmo  
Planning Commission Meeting  
Minutes of June 13, 2016**

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

**COMMISSIONERS PRESENT:** Dunn, Fields, Larson, Griffin, Dodson, and Williams.

**COMMISSIONERS ABSENT:** Haggard, Kreimer, & Lundquist

**STAFF PRESENT:** Planning Director Wensman & City Planner Becker

**Approve Agenda:**

Agenda is approved as presented.

**Approve Minutes:** June 23, 2016

M/S/P: Dunn/Fields, move to approve the June 23, 2016 minutes as amended, **Vote: 4-0, motion carried with Griffin and Dodson not voting.**

**Public Hearing – Easement Vacation 8574 Eagle Point circle**

Becker started her presentation regarding the easements related to Auto Owners water mains and hydrants. The city moved the location of the water mains and hydrants, so new easements were recorded. Auto Owners is requesting the old easements be vacated.

Public hearing opened at 7:07 pm

No one spoke

There was written comment from Machine Shed, but once the application was explained to them, they were fine with the item.

Public hearing closed at 7:08 pm

Dunn stated it was straight forward and she has no issue with it.

M/S/P: Dunn/Griffin, move to recommend approval of the request to vacate the easement as outlined in Exhibit B-2/2138129 Water Main Easement as recorded, **Vote: 6-0, motion carried unanimously.**

Lake Elmo Planning Commission Minutes; 6-13-16



**Public Hearing – Zoning Text Amendment – To amend the fencing regulations to allow administrative approval of encroachment agreements.**

Becker stated that the current code the way it is written requires any easement encroachment agreement be approved by the City Council. This change would allow for those agreements to be approved administratively by staff. The current process is time consuming for staff as well as the resident and delays the issuing of the permit. The fee for this agreement is \$150.00, making a fence permit \$225.00. In the future, we might be able to reduce the fee with the reduced staff time.

Dunn is wondering why this was added in 2011 and how often this happens. Becker stated that it has happened quite a bit since she has been here. The new developments all have the utility easements located on the properties.

Larson asked what happens if there is conflicting rules between the City and the HOA. Becker stated that this change doesn't in effect change any of the rules other than who is allowed to make the approval. Wensman stated that the City does not regulate HOA covenants between property owners.

Public hearing opened at 7:20 pm

No one spoke and there was no written comments received.

Public hearing closed at 7:21 pm

M/S/: Fields/Dunn, would like to add a sentence at the end of the suggested motion to read that the fee be reduced to \$50 when the city Council considers the fee schedule.

M/S/P: Williams/Dunn, would like to make an amendment to the motion that the fee not be specified, but only that it be reduced. **Vote: 6-0, motion carried unanimously.**

Original motion as amended to add "that the fee be reduced when the City Council considers the fee schedule", **Vote: 6-0, motion carried unanimously.**

M/S/P: Dodson/Griffin, move to recommend approval of an ordinance to amend Chapter 154: Zoning Code; Section 205: Fencing Regulation; Subp. (D) (6) to allow approval of a fence easement encroachment agreement by the Planning Director or his/her designee after review and approval and furthermore recommends that the fee be reduced when the City Council considers the fee schedule, **Vote: 6-0, motion carried unanimously.**

## Public Hearing – Zoning Text Amendment – To amend the accessory Structure Regulations

Becker stated that staff is bringing forward 3 suggested changes to the accessory structure ordinance. The first is to exempt fish houses to the requirement that a primary structure not be required prior to a fish house being located on the lot. The second is removing the portion of the code that allows an accessory structure to be located closer to the front lot line by resolution. Staff would like this removed because it is essentially granting a variance without the requirement to go through the variance process. The third change is to change the size of a tool shed from a maximum of 160 square feet to 200 square feet and move that to the exempted section with one being allowed on a residential lot.

Dodson is wondering why a fishhouse would be any different than something like a camper trailer. Wensman stated that the concern was that there would be storage on vacant lots if there are not specific standards.

Williams was wondering if the tool shed size is calculated into the overall size of accessory structure. Becker stated that no it would not be included for size or number.

Dodson thinks it might be beneficial to have the 120 square feet in the definition. Becker stated that there are fish houses that are larger. The size limit only applies if there is no primary structure.

Public hearing opened at 7:47 pm

No one spoke and there was no written comments received.

Public hearing closed at 7:48 pm

Williams is not in favor of exempting the tool shed from size and number in all districts and thinks it should adhere to the limitations of the district. Wensman stated that if that is the direction the Planning Commission wants to go, there should be some language added in the old "F" and would specify one.

M/S/P: Williams/Fields, move to change the wording of the definition for storage or tool sheds to be: Storage or Tool sheds: One storage or tool shed as defined in this section may be placed on any lot in addition to the permitted number of accessory buildings, provided it complies with the maximum area requirements of the zoning district, providing a principal structure exists on the lot. ***Vote: 6-0, motion carried unanimously.***

Williams is wondering about separate lots of record owned by the person who lives next door. This might open up the door for someone to have a fishhouse on both lots.

Becker stated as it is written, that could happen. Williams is uncomfortable with this possibility because it could create a lot of clutter for the neighbors.

Dodson thinks that this seems like a really small problem and that there is not a lot of lots this would pertain to. Dodson wants the 3 proposals to be separate motions.

Williams would like to separate out the fishhouse portion and know how many parcels this would apply to.

M/S/P:Dodson/Williams, Move to recommend approval of Ordinance 08- the exception to 154.406, subd D, and the definition of “storage or tool shed” as amended, **Vote: 6-0, motion carried unanimously.**

Becker stated that there is roughly 50 parcels that are adjacent to the lake and could potentially put a fishhouse on the lot without a primary structure. Fields is comfortable with the language written as this is not a permanent structure.

M/S/P:Williams/Dodson, move to recommend the following finding of fact that there is some concern that if every one of these lots had a fishhouse, it may lead to complaints by the neighbors. **Vote: 6-0, motion carried unanimously.**

M/S/P: Dunn/Griffin, Move to recommend approval of the accessory structure ordinance as it pertains to fishhouses as amended, **Vote: 6-0, motion carried unanimously.**

**Public Hearing – Comprehensive Plan Text Amendment to allow connection to sanitary sewer in Rural Single Family zoning where practical.**

Wensman stated that the Met Council suggested that we amend the definition of the rural single family definition in the Comprehensive Plan so that it would allow connections to sanitary sewer where reasonable.

Dodson would like it to also read to municipal water where practical. Wensman stated that we are really just talking about areas in the MUSA and the water system extends outside the MUSA.

Williams is wondering about the term practical. Wensman stated that it was what was suggested by Lisa Barajas at the Met Council. Williams asked what if the resident did not want to connect. Wensman stated that the connection would be determined by the City Council.

Dunn would like the “when practical” changed to “when requested”, which gives the resident much more control. Wensman stated that the MUSA dictates where the sewer can go, but this basically allows for Rural Single Family to connect.

Public hearing opened at 8:34 pm

No one spoke and there was no written comments received.

Public hearing closed at 8:35 pm

Dunn would like to see the option of sewer or private septic. She doesn't think that they should be forced to connect to sewer. Wensman stated that the comprehensive Plan is not in compliance with the projects that we are doing. If we don't do this amendment, the land use designation would need to be changed.

M/S/P: Fields/Dodson, Move to recommend the City Council approve the comprehensive plan text amendment to amend the planned land use category in the Comprehensive Land Use Plan to read as written, **Vote: 5-1, motion carried. Dunn voted no because she feels it is important that people have an option regarding connection.**

#### **Business Item – Zoning Text Amendment to discuss the VMX Zoning Text .**

Wensman began his presentation by showing the areas that are zoned as general business, but guided as VMX in the Comprehensive Plan. To bring the zoning into compliance with the Comprehensive Plan, Wensman would like to see these properties rezoned. Wensman believes by rezoning, it would actually eliminate some non conformities. The area that would change the most, would be in the Northern area by 39<sup>th</sup> Street. Wensman stated that this was intended to bring the district more in conformance than it is now and should be done as a district vs. one at a time. If there are things about the district that the Commission does not like, then changes should be made to the district.

Dunn feels that the premise is based on the Village Master Plan. Where is the master plan? Wensman stated that the plan was based on transfer of density and he is not sure what happened to that plan. Dunn did a rough calculation on what could be done if the maximum densities were used. With her calculation, there is potential for upwards of 3000 people. She feels it is quite intense without a lot of restrictions. She would like to see more work done on the reductions for the comprehensive plan and possibly look at form based code. She thinks we should take our time and do this right.

Dunn pointed out some of the differences between GB and VMX. She feels one of the biggest differences is the impervious surface coverage maximum goes from 40% based on acreage in GB to 75% in VMX.

Fields is confused because if the comprehensive plan is guided the way we want it, the rezoning should happen. If we are considering if the guiding is correct, then it should not be rezoned, but should be discussed what the guiding should be.

Larson thinks that what brings the guiding for VMX into question is that the density of this area is in transition. Larson understands the feeling of discomfort as this zone is less restrictive. There are still a lot of questions that make it uncomfortable for people to buy into this zone.

Williams thinks it would be good to ask the City Council if past projections of population in this area are still valid.

Dodson is wondering how big a project form based code is. Wensman stated that it is something that takes some technical skill to do and it would need to be contracted out.

Williams thinks it would help facilitate the vision, but would not be necessary to do the rezone.

M/:Dunn/, Move to recommend not rezoning the parcels to VMX until the City Council can review the target numbers and there is a form based code, **motion dies for lack of second.**

M/S/P: Williams/Dunn, Move to ask the City Council to give the Planning Commission guidance on updated population and development projections for the areas guided for VMX in the Old Village, **Vote: 6-0, motion carried unanimously.**

Fields would like to know what the driving force was for the VMX. If it was to bring more people to the downtown to make it more vibrant, or if it was to meet the Met Council mandates for housing population. Williams recollection was that it was for both of those reasons in addition to form based code to make it a more picturesque downtown and to incorporate business and residential in the same building, which general business does not do.

M/S/P: Williams/Dodson, Move to ask the City Council to approve funds for a consultant to work on a form based code for the downtown Old Village, **Vote: 6-0, motion carried unanimously.**

Fields would like any information that he could get on form based code. Williams believes that the City has a couple of videos on this topic.

### **Staff Updates**

1. Upcoming Meetings
  - a. June 27, 2016
  - b. July 11, 2016

### **Commission Concerns**

Dunn asked about the AUAR. Wensman stated that the City is overdue for the update and it is in the City Engineers hands right now.

Meeting adjourned at 9:28 pm

Respectfully submitted,

Joan Ziertman  
Planning Program Assistant

DRAFT