



## STAFF REPORT

DATE: 2/21/2017

**REGULAR**

ITEM #: 15

**MOTION**

**TO:** City Council  
**FROM:** Emily Becker, City Planner  
**AGENDA ITEM:** 3549 Lake Elmo Avenue Zoning Map Amendment and Conditional Use Permit  
**REVIEWED BY:** Stephen Wensman, Planning Director

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### **BACKGROUND:**

The City has received two requests from Christ Lutheran Church, ELCA, of 11194 36<sup>th</sup> Street North:

- Zoning Map Amendment to rezone the property located at 3549 Lake Elmo Avenue North from GB – General Business District to VMX – Village Mixed Use.
- Conditional Use Permit to allow a parking facility as a principal use on a lot.

### **ISSUE BEFORE COUNCIL:**

The Council is being asked to consider a request for a Zoning Map Amendment to rezone 3549 Lake Elmo Avenue (Property) to VMX – Village Mixed Use and for a Conditional Use Permit for a parking facility as a principal use on Tract B of the property, as shown in the attached survey dated 11-30-12. The Council is also being asked to re-affirm a previously approved Minor Subdivision for the property, as depicted on the attached survey.

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

**See Attached Information.** The background and reason for the request may be found in the attached Planning Commission Staff Report. The recommended Ordinance 08-170 approving the zoning map amendment; recommended Resolution 2017-017 approving the Conditional Use Permit; and re-affirmance of the minor subdivision by Resolution 2017-018 are attached and outline conditions of approval.

**Re-Affirmation of Minor Subdivision.** The approval of a Zoning Map Amendment and Conditional Use Permit will allow for the subject property to be subdivided, as explained in the attached Planning Commission Staff Report. The City Attorney has advised that although there is nothing in our Code that says a Minor Subdivision will become invalid if not processed with the County after a certain amount of time, it would be advisable to re-affirm the Minor Subdivision request. Re-affirmation of the Minor Subdivision can be done by adopting Resolution 2017-018, attached to this report.

**Planning Commission/Public Hearing.** The Zoning Map Amendment and Conditional Use Permit requests were noticed to property owners within 350 feet of the subject property. A public hearing was held at the Planning Commission meeting on February 13, 2017. No one spoke at the public hearing, and no comments were received prior to the meeting.

- Zoning Map Amendment: Commission recommended approval 6-0.
- Conditional Use Permit: Commission recommended approval 6-0.

- The Commission made a motion to strike Condition #2, but the motion failed 3-3. Staff does not recommend striking this motion, as the Code says that parking requirements may be waived in the VMX district. This is something that should be vetted, and it was clearly vetted in the past, as it was a condition of the previously-granted Variance and Minor Subdivision approvals.
- Re-affirmance of Minor Subdivision Approval: Commission recommended approval 6-0.

### **FISCAL IMPACT:**

The re-zoning and Conditional Use Permit will facilitate the sale of the parcel of land on which the former Lank Elmo Bank building is located for its reuse and return as a thriving taxable property.

### **OPTIONS:**

The Council may:

- Approve Zoning Map Amendment; Conditional Use Permit with recommended conditions; and re-affirm approval of the Minor Subdivision.
- Amend recommended conditions of approval and approve the requested Zoning Map Amendment and Conditional Use Permit with conditions as amended and re-affirm approval of the Minor Subdivision.
- Deny the Zoning Map Amendment; Conditional Use Permit; and Re-affirmance of Minor Subdivision.

### **RECOMMENDATION:**

Staff and the Planning Commission recommend approval of the Zoning Map Amendment to rezone the property located at 3549 Lake Elmo Avenue North from GB – General Business to VMX – Village Mixed Use.

***“Move to adopt Ord. 08-170 approving a Zoning Map Amendment to rezone the property located at 3549 Lake Elmo Avenue from GB – General Business to VMX – Village Mixed Use.”***

Staff recommends that the Planning Commission recommend approval of the request for a Conditional Use Permit to allow the use of a parking facility on ‘Tract B/Parcel 2’ as shown in the attached Certificate of Survey dated 11-20-12.

***“Move to adopt Resolution 2017-017 approving a Conditional Use Permit for a parking facility on the property legally described as “Lot 29 except the south 40 feet thereof, County Auditor’s Plat No. 8, Washington County, MN.”***

The Council may also wish to re-affirm approval of a Minor Subdivision for the property located at 3549 Lake Elmo Avenue North.

***“Move to adopt Resolution 2017-018 re-affirming approval of a Minor Subdivision granted by Resolution 2013-46.”***

### **ATTACHMENTS:**

- Application
- Planning Commission Staff Report
- Draft Ord 08-170 Zoning Map Amendment
- Draft Resolution 2017-017 Approving a Conditional Use Permit for a parking facility
- Draft Resolution 2017-018 Re-affirming Approval of Minor Subdivision
- Resolution 2013-07 & 2013-46 approving a variance from minimum lot size and width requirements and Minor Subdivision for 3549 Lake Elmo Avenue
- Planning Commission meeting minutes 02/13/2017



## STAFF REPORT

DATE: 2/13/2017

### **PUBLIC HEARING**

ITEM #: 4a & 4b (Case 2017-05)

### **MOTION**

**TO:** Planning Commission  
**FROM:** Emily Becker, City Planner  
**AGENDA ITEM:** 3549 Lake Elmo Avenue Zoning Map Amendment and Conditional Use Permit  
**REVIEWED BY:** Stephen Wensman, Planning Director

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### **BACKGROUND:**

The City has received two requests from Christ Lutheran Church, ELCA, of 11194 36<sup>th</sup> Street North:

- Zoning Map Amendment to rezone the property located at 3549 Lake Elmo Avenue North from GB – General Business District to VMX – Village Mixed Use.
- Conditional Use Permit to allow a parking facility as a principal use on a lot.

*Existing Land Use:* Parking lot and former Lake Elmo Bank Building

*Existing Zoning:* GB - General Business District

*Surrounding Use/Zoning:* Single family homes (RS – Rural Single Family) to the North, West, and East; Lake Elmo Public Library (GB – General Business) to the South.

*Comprehensive Plan:* VMX – Village Mixed Use

*History:* The City conducted a site plan review when Lake Elmo Bank proposed construction of the building that currently exists on the property in 1989. Christ Lutheran Church (Church/Applicant) now owns the property and uses a portion of the parking lot for parking for the church. The church had plans to sell a portion of the property and previously requested a variance and minor subdivision in 2013 (see Proposal Details/Analysis for further explanation).

*Deadline for Action:* Application Complete – 1/23/2017  
60 Day Deadline – 3/24/2017  
Extension Letter Mailed – No  
120 Day Deadline – N/A

*Applicable Regulations:* §154.500 VMX – Village Center District  
§ 154.106 – Conditional Use Permits

### **ISSUE BEFORE COMMISSION:**

The Commission is being asked to hold a public hearing and make recommendation on the request for a Zoning Map Amendment to rezone 3549 Lake Elmo Avenue (Property) to VMX – Village Mixed Use and for a Conditional Use Permit for a parking facility as a principal use on Tract B of the property, as shown in the attached survey dated 11-30-12.

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

#### **REASON FOR REQUEST**

- **Approved Variance from Minimum Lot Size Requirements.** In 2013, the City approved a variance for the Property from the minimum lot size requirements of the GB – General Business District so that the Church could request a Minor Subdivision, separating a portion of the parking lot from the former Lake Elmo Bank Building (Building).
  - *Reason for Minor Subdivision Request.* The Church had plans to sell the property but found that potential buyers believed that the amount of parking provided on the Property exceeded the required parking for the building. Therefore, the Church wanted to subdivide the Property in to two parcels: one that would contain the Building and a small parking area (Tract A, as shown on the attached survey) and one that would provide parking for the Church (Tract B).
  - *Reason for Variance Request.* The resultant parcels would be 0.42 acres and 0.27 acres, not meeting the minimum lot size requirement of the GB – General Business District of 1.5 acres or the minimum lot width.
- **Approved Minor Subdivision Request.** The City subsequently approved the Minor Subdivision request.
- **Conditions.** The Variance and Minor Subdivision were approved with the following conditions:
  - *Shared Parking.* That the Church execute a shared-parking agreement with the future owners of the Building to allow tenants to use the larger parking area when the Church is not using it.
  - *Drainage Easement.* Drainage easement be provided along the storm water infiltration area that collects storm water runoff from both parcels.
- **Minor Subdivision Not Executed, Variance Expired.** The Minor Subdivision was never executed, as the Church had not found a buyer and therefore was not able to satisfy the condition of approval that a shared parking agreement be executed. The Church now has a buyer, and would like the City to sign off on the subdivision, but the City cannot, as the proposed lots do not meet lot size or width standards of the current zoning of the property.
  - While there is nothing in the Code that dictates a time period by which an applicant must execute a minor subdivision after City approval, the Zoning Code states that a variance shall expire if work does not commence within a year of the date it is granted.
  - Therefore, the variance which allowed for the minor subdivision of a parcel which creates two lots which do not meet minimum lot size standards has expired.

#### **ZONING MAP AMENDMENT**

- **Rezoning Required.** In order to approve a land use request, the use should be consistent with the Comprehensive Plan. The Property is guided for VMX – Village Mixed Use. The Variance from the minimum lot size standards for this Property was granted before the Village Mixed Use district was created. Now that this zoning district exists, rezoning the property to VMX – Village Mixed Use would be the best approach, as it would satisfy the following:
  - *Consistency with Comprehensive Plan.* As explained above.
  - *Minimum Lot Size/Maximum Impervious Surface Requirements.* The VMX – Village Mixed Use Zoning District does not have minimum lot area or width requirements, nor does it have maximum impervious surface requirements for non-residential uses, therefore bringing the Property in to compliance.

- *Parking Requirements.* It is not yet known for sure what the use of the building will be, so Staff is unable to calculate what would be required for parking according to the City's Off-Street Parking Regulations. The following off-street parking standards may be waived for lots zoned VMX:
  - Required minimum number of off-street parking spaces.
  - The requirement that off-street parking areas containing more than four parking spaces be located a minimum of 20 feet from the boundary of a lot zoned or used for residential purposes.
- *Use.* A parking facility is a conditional use in the VMX – Village Mixed Use District, whereas it is not an allowed principal use in the GB – General Business District.
- **Recommended Condition of Approval.** The attached ordinance requires that the City receive the recorded documents or document numbers which effectuate the minor subdivision approved by Resolution 2013-46. This is necessary, as the ordinance provides the proposed legal descriptions of the two parcels after the minor subdivision is recorded.

### **CONDITIONAL USE PERMIT**

#### **Conditional Use Permit Required for Parking Facility in VMX District.**

- As previously stated, a conditional use permit for a parking facility in the VMX District is required.
- While the parking lot already exists, it does not exist as the principal use of the parcel; it serves as an accessory use to the former Lake Elmo Bank building.
- The minor subdivision will result in the parking facility becoming the principal use of the new parcel (Tract B), creating the need for a conditional use permit in order to bring the parcel in to compliance with the requirements of the VMX zoning district.

#### **Minimum Parking Space and Aisle Dimensions.**

- *Number.* 'Tract B' provides 26 parking spaces.
  - Christ Lutheran Church provides 33 total parking spaces, and the building located on 'Tract A' has 12 total parking spaces.
- *Size.* These are approximately 9' in width and 20' long, with an aisle width of 30'.
- *Accessibility Parking.* While no handicap spaces are provided on the parcel itself, the parking lot will serve both Christ Lutheran Church, which has four handicap parking spaces, and the building on 'Tract A', which has two handicap parking spaces.
- *Curbing.* The parking lot does not currently provide curbing as required, however, the Church is not currently requesting a current change to the parking lot itself.
  - Per Code, a bumper curb or barrier of normal bumper height is to be provided five or three feet from the property line, respectively.
  - It is a recommended condition of approval that any future improvements made to the parking lot shall be in conformance with City Code and Design Standards.
- *Landscaping.* Trees exist on the north edge of the property; a raingarden exists on the south side of the parking lot; mostly meeting requirements for perimeter parking lot landscaping.
  - The east side of the parking lot is not screened, as it connects to an alley.
  - The number of parking spaces does not require interior parking lot landscaping.
  - It is a recommended condition of approval that any future improvements made to the parking lot shall be in conformance with City Code and Design Standards.

**Village Improvement Project.** Temporary easements were granted to Washington County for the purpose of highway construction for the improvement and protection of County State Aid Highway 17 (Lake Elmo Avenue). These easements expire September 30, 2017.

**Drainage Easement Still Needed.** A condition of approval of both the approved variance and minor subdivision was that a drainage easement be provided across the storm water infiltration area that collects

storm water runoff from both parcels. This will allow 'Tract A' to utilize the storm water infiltration area of 'Tract B.' This has not yet been recorded but has been drafted. It is recommended that the execution and recording of this document be added as a condition of approval to the Conditional Use Permit.

**Parking Agreement Still Needed.** A condition of approval of both the approved variance and minor subdivision was that the Applicant execute and record a shared parking easement in a form acceptable to the City Attorney prior to the transfer of either 'Tract A' or 'Tract B,' as shown in the Certificate of Survey dated 11-20-12 to another party. This easement was to allow any future tenants of the building on Tract A to use the parking lot on Tract B during time periods when this lot is not used by the Applicant, and be reciprocal. This has not yet been recorded, as the Church hadn't found a buyer. This is recommended to be added as a condition of approval to the Conditional Use Permit.

**Drainage and Utility Easement over Storm Sewer Pipe.** There is an existing storm sewer pipe that was reinstalled new as part of the Downtown project under a prescriptive easement. It is a recommended condition of approval that this easement be formalized.

**Recommended Findings.** Staff recommends the following required findings for allowing a conditional use:

1. The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city. **The use has already existed for a number of years and has not shown to be detrimental.**
2. The use or development conforms to the City of Lake Elmo Comprehensive Plan. **The area is guided for VMX – Village Mixed Use in the Land Use Guide of the Comprehensive Plan. Parking facility is a conditional use in this district.**
3. The use or development is compatible with the existing neighborhood. **A parking facility will alleviate parking needs for the nearby church and building on the parcel to the south through a shared parking agreement.**
4. The proposed use meets all specific development standards for such use listed in Article 7 of this Chapter. **There are no specific development standards for a parking facility in Article 7.**
5. If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Chapter 150, §150.250 through 150.257 (Shoreland Regulations) and Chapter 152 (Flood Plain Management). **The property is located outside the 0.2% annual chance floodplain.**
6. The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area. **The use is existing and will not change the existing or intended character of the general vicinity or alter the essential character.**
7. The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring structures. **The use is existing and will deter church goers and tenants of the building to the south from parking on the street, thereby allowing for more on-street parking for surrounding residents and visitors to the downtown area.**
8. The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use. **The use will not change and has been served adequately thus far.**
9. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. **The use will not change and therefore will not create additional requirements or cost.**

10. The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors. **The use will not involve anything that would be detrimental.**
11. Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares. **The use will create no more traffic congestion than already exists at the site.**
12. The proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance. **N/A**

**Recommended Conditions of Approval.** If approved, Staff recommends the following conditions of approval for the Conditional Use Permit allowing the use of a parking facility on ‘:

1. This Conditional Use Permit is effective upon the recording Minor Subdivision, as approved by Resolution 2013-46. Recording of the aforementioned Minor Subdivision must be executed within one year of the date of approval of this Conditional Use Permit.
2. The Applicant shall execute and record a shared parking easement in a form acceptable to the City Attorney prior to the transfer of either ‘Tract A’ or ‘Tract B,’ as shown in the Certificate of Survey dated 11-20-12 to another party. This easement shall allow any future tenants of the building on Tract A to use the parking lot on Tract B during time periods when this lot is not used by the Applicant. The agreement shall be drafted to be reciprocal regarding the use of the parking stalls that will be retained by the future owners of Tract A.
3. The Applicant shall execute and record a drainage and utility easement across the storm water infiltration area in a form acceptable by the City Attorney prior to the transfer of either ‘Tract A’ or ‘Tract B’ to another party.
4. Future improvements to the parking lot shall be in conformance with City Code and Design Standards.
5. The Applicant shall execute and record a drainage and utility easement across the existing storm sewer pipe located along the south property line of ‘Tract A.’

#### **RE-AFFIRMING MINOR SUBDIVISION APPROVAL**

As previously mentioned, the variance which allowed for the City to approve the Minor Subdivision granted by variance 2013-46 has expired. There is nothing that states that a Minor Subdivision must be recorded by a specific amount of time. The City Attorney has been consulted and has stated that State Statute allows but does not require governing bodies to mandate a time by which a minor subdivision be recorded before it becomes invalid. If the Zoning Map Amendment and Conditional Use Permit are required by Council, the City Attorney recommends that for clarification purposes, a Resolution be passed re-affirming the Minor Subdivision. A draft of this Resolution is attached.

#### **FISCAL IMPACT:**

The re-zoning and Conditional Use Permit will facilitate the sale of the parcel of land on which the former Lank Elmo Bank building is located for its reuse and return as a thriving taxable property.

#### **OPTIONS:**

The Commission may:

- Recommend approval of the requested Zoning Map Amendment and Conditional Use Permit with recommended conditions.
- Amend recommended conditions of approval and recommend approval of the requested Zoning Map Amendment and Conditional Use Permit with conditions as amended.
- Recommend denial of the Zoning Map Amendment and Conditional Use Permit.

### **RECOMMENDATION:**

Staff recommends that the Planning Commission recommend approval of the Zoning Map Amendment to rezone the property located at 3549 Lake Elmo Avenue North from GB – General Business to VMX – Village Mixed Use.

***“Move to recommend approval of the Zoning Map Amendment to rezone the property located at 3549 Lake Elmo Avenue North from GB – General Business to VMX – Village Mixed Use.”***

Staff recommends that the Planning Commission recommend approval of the request for a Conditional Use Permit to allow the use of a parking facility on ‘Tract B/Parcel 2’ as shown in the attached Certificate of Survey dated 11-20-12.

***“Move to recommend approval of a Conditional Use Permit for a parking facility on the property legally described as ‘Lot 29 except the south 40 feet thereof, County Auditor’s Plat No. 8, Washington County, MN’ with recommended conditions of approval.”***

The Commission may also wish to recommend re-affirmance of approval of a minor subdivision for the property located at 3549 Lake Elmo Avenue North.

***“Move to recommend re-affirming approval of Minor Subdivision granted by Resolution 2013-46.”***

### **ATTACHMENTS:**

- Application
- Draft Ord 08- Zoning Map Amendment
- Draft Resolution 2017- Approving a Conditional Use Permit for a parking facility
- Draft Resolution 2017- Reaffirming the Approval of a Minor Subdivision of 3549 Lake Elmo Avenue North
- Resolution 2013-07 approving a variance from minimum lot size and width requirements
- Resolution 2013-46 approving a minor subdivision for 3549 Lake Elmo Avenue





11194 – 36<sup>th</sup> Street North  
P.O. Box 310  
Lake Elmo, MN 55042  
Telephone: 651/777-2881  
Fax: 651/748-0145

January 23, 2017

Ms. Kristina Handt  
City of Lake Elmo Administrator  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

RE: Rezoning Request and Conditional Use Permit Application, 3549 Lake Elmo Avenue North

Dear Ms. Handt:

As has been discussed recently in phone conversations and by e-mail, Christ Lutheran Church (CLC) of Lake Elmo currently owns the property at 3549 Lake Elmo Avenue. The property currently consists of two parcels, Parcel 1: a 4,684 square foot single story building and associated 12 stall parking lot and access lanes; and Parcel 2: a 26 stall parking lot and rain garden area. CLC currently utilizes Parcel 1 for church activities and storage space, and Parcel 2 for weekend and event parking. The current legal description of the property is:

- Parcel 1: The South 40 feet of Lot 29 and all of Lot 30, County Auditor's Plat No. 8, as surveyed and platted and now on file in the Office of the Registrar of Titles of Washington County, Minnesota, being in the Village of Lake Elmo, Minnesota. Registered Property Certificate of Title No. 58428.
- Parcel 2: Lot 29 except the south 40 feet thereof, County Auditor's Plat No. 8, Washington County, Minnesota.
- Parcel ID No.: 130-29-21-23-0053.

The entire property is currently zoned General Business (GB) and has been for sale or lease since being vacated by our previous tenant in August 2011. CLC was granted tax-exempt status for the property by Washington County in August 2012. CLC is requesting that the zoning designation for the property be changed to **Village Mixed Use (VMX)**, consistent with recent zoning updates in the Old Village area.

In November 2012 CLC requested a variance to City Ordinance 154.051 regarding lot width and minimum acreage of commercially zoned properties in the Old Village area of Lake Elmo for the two parcels. At its February 5, 2013 regular meeting, the Lake Elmo City Council approved the variance request.

CLC is at this time requesting a lot line adjustment for the property as shown on the attached survey by Ulteig Engineers. The proposed new legal description is:

- Tract A: The South 46.00 feet of Lot 29 and all of Lot 30, COUNTY AUDITOR'S PLAT NO. 8, Washington County, Minnesota. Contains 18,155 Sq. Ft., or 0.42 Acres, more or less.

- Tract B: That part of Lot 29 lying north of the South 46.00 feet thereof, COUNTY AUDITOR'S PLAT NO. 8, Washington County, Minnesota. Contains 11,760 Sq. Ft, or 0.27 acres, more or less.

By adjusting the property line along the proposed boundary, CLC is retaining full ownership and maintenance responsibility of the rain garden installed at the property in 2011, the 26-stall parking lot, and the associated green space. CLC intends to operate and maintain the Tract B parking lot as a part of its normal operations. It is used primarily on Sundays, Wednesday evenings, and occasionally during the day for special events. The lot will continue to serve as a community resource, offering off-street parking for residents and visitors when needed, and providing overflow parking for the new business on Tract A. CLC seeks a **Conditional Use Permit** from the City for the continued operation of the parking lot.

In October of 2016, CLC entered into a purchase agreement with a local company who intends to purchase and use the Tract A building and associated parking for business office purposes. CLC and the prospective buyer have entered into a shared parking agreement as required by the City in its approval of the lot line adjustment. CLC is also willing to provide an easement to allow the potential buyer of Tract A (and future owners) the right to discharge storm water to the rain garden. Copies of these documents are available upon request.

CLC is looking forward to working with the City of Lake Elmo to complete the process of adjusting the lot lines on the 3549 Lake Elmo Avenue property, rezoning the property to the VMX zoning designation, and obtaining a Conditional Use Permit for the parking lot. Completing these steps in a timely manner will facilitate the potential sale of the commercial building (Tract A) and its return to the tax rolls, a goal shared by the City and CLC. Please find attached the completed Development Application Form, survey, and application fee. CLC is in the process of obtaining updated mailing labels. If you have any questions please contact Jim Kelly at 651-253-1129 or Kevin Huntley at 612-363-6191.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Leuthe". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dave Leuthe  
Congregation President  
Christ Lutheran Church

Date Received: \_\_\_\_\_  
Received By: \_\_\_\_\_  
Permit #: \_\_\_\_\_



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

## LAND USE APPLICATION

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

Applicant: Christ Lutheran Church, ELCA \_\_\_\_\_  
Address: 11194 36th Street North, Lake Elmo, MN 55042 \_\_\_\_\_  
Phone # 651-777-2881 \_\_\_\_\_  
Email Address: \_\_\_\_\_

Fee Owner: Same as Above \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone # \_\_\_\_\_  
Email Address: \_\_\_\_\_

Property Location (Address and Complete (long) Legal Description: 3549 Lake Elmo Ave., Lake Elmo, MN 55042  
Parcel 1: The South 40 feet of Lot 29 and all of Lot 30, County Auditor's Plat No. 8, as surveyed and platted and now on file in the Office of the Registrar of Titles of Washington County, Minnesota, being in the Village of Lake Elmo, Minnesota. Registered Property Certificate of Title No. 58428  
Parcel 2: Lot 29 except the south 40 feet thereof, County Auditor's Plat No. 8, Washington County, Minnesota.  
Parcel ID No. is 130-29-21-23-0053

Detailed Reason for Request: Christ Lutheran Church owns the property at 3549 Lake Elmo Ave. A lot split was approved by the City Council in 2013 to allow the church to sell the "Bank Building" (identified as "Tract A" on the attached survey) and retain ownership of the parking lot ("Tract B"). The Church has recently been informed that the property needs to be re-zoned to the Village Mixed Use District (VMX) (from General Business, GB) and a Conditional Use Permit (CUP) be applied for to facilitate a sale. The Church has identified a buyer and wishes to proceed with these actions as soon as possible.

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

NA

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

Signature of applicant: \_\_\_\_\_

Date: \_\_\_\_\_

1/22/17

Signature of fee owner: \_\_\_\_\_

Date: \_\_\_\_\_

1/22/17



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

## AFFIRMATION OF SUFFICIENT INTEREST

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

Name of applicant Christ Lutheran Church  
(Please Print)

Street address/legal description of subject property 3549 Lake Elmo Ave  
Parcel ID: 130-29-21-23-0053

David F. Lurie, President 1/22/17  
Signature Date  
CLC

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

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

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

Christ Lutheran Church  
PO Box 310  
Lake Elmo, MN 55042-031

Parcel ID Number: 130-29-21-23-0053  
The property is zoned (GB) General Business under the applicable zoning regulations, and that the current setbacks from property lines are:  
Building:  
Front = 10 feet  
Side = 20 feet  
Side Corner = 50 feet  
Rear = 50 feet  
Height = 35 feet

LEGAL DESCRIPTIONS:

Parcel 1:  
The South 40 feet of Lot 29 and all of Lot 30, County Auditor's Plat No. 8, as surveyed and platted and now on file in the Office of the Registrar of Titles of Washington County, Minnesota, being in the Village of Lake Elmo, Minnesota.

Registered Property  
Certificate of Title No. 58428

Parcel 2:  
Lot 29 except the South 40 feet thereof, County Auditor's Plat No. 8, Washington County, Minnesota.

Abstract property.

PROPOSED LEGAL DESCRIPTIONS:

TRACT A:

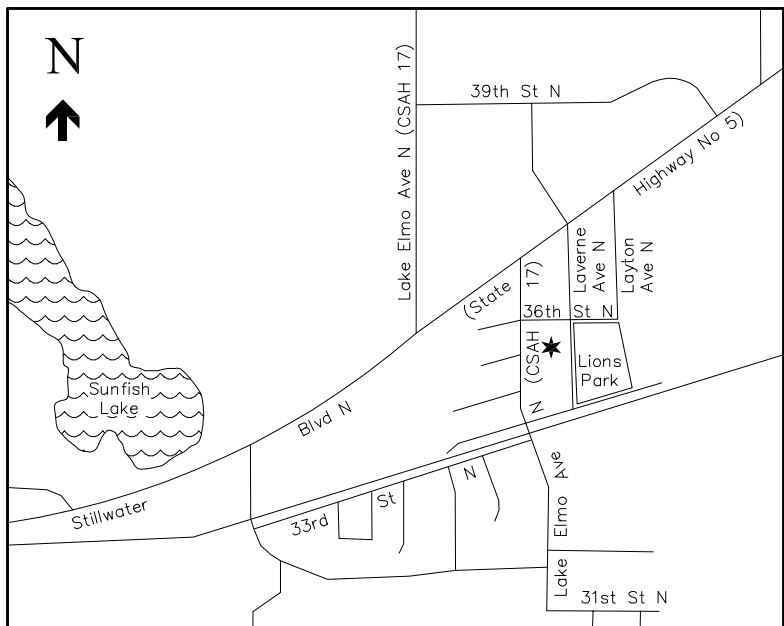
The South 46.00 feet of Lot 29 and all of Lot 30, COUNTY AUDITOR'S PLAT NO. 8, Washington County, Minnesota.  
Contains 18,155 Sq. Ft. or 0.42 Acres, more or less.

TRACT B:

That part of Lot 29 lying north of the South 46.00 feet thereof, COUNTY AUDITOR'S PLAT NO. 8, Washington County, Minnesota.  
Contains 11,760 Sq. Ft. or 0.27 Acres, more or less.

LEGEND

- IRON MONUMENT FOUND
- REBAR SET W/PLASTIC CAP #40035
- ▣ CATCH BASIN
- ⊙ POWER POLE
- ⊙ SIGN
- ⊙ FLAG POLE
- ⊙ DECIDUOUS TREE W/ TRUNK DIAMETER
- OT — OT — OVERHEAD TELEPHONE
- OE — OE — OVERHEAD ELECTRIC
- G — G — UNDERGROUND GAS
- W — W — WOOD FENCE
- ▨ BITUMINOUS SURFACE
- ▨ CONCRETE SURFACE



VICINITY MAP — NOT TO SCALE  
LAKE ELMO, MINNESOTA  
★ = SITE LOCATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Michael E. Cannon  
Lic. No. 40035  
Date: 11-20-12

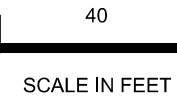
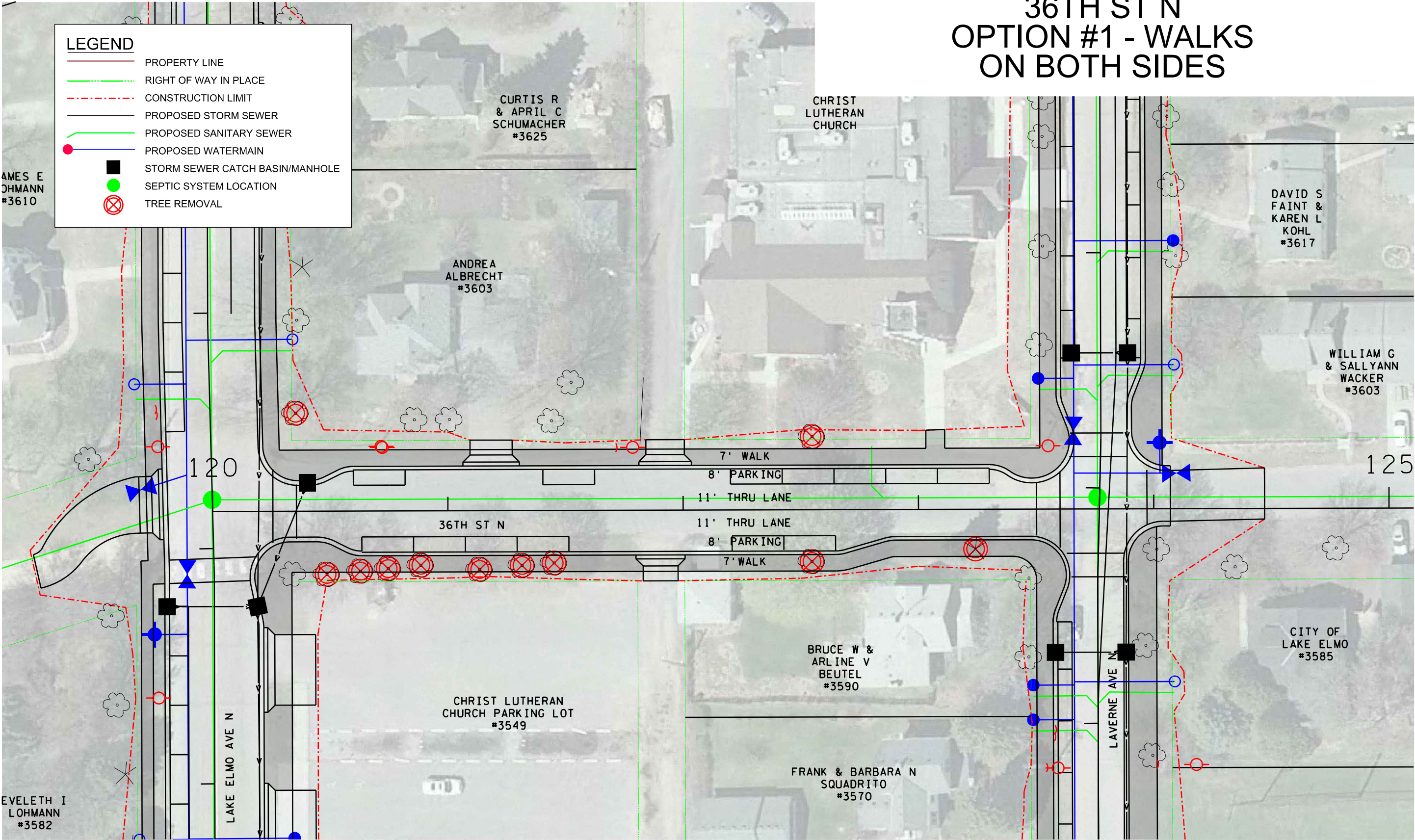
Certificate of Survey  
3549 Lake Elmo Ave. N.  
Lake Elmo, MN 55042

Project Number: 12.02058  
Date: 11-20-12  
Sheets: 1 of 1

V1



# 36TH ST N OPTION #1 - WALKS ON BOTH SIDES



CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA

ORDINANCE NO. 08-170

AN ORDINANCE TO AMEND THE LAKE ELMO CITY CODE  
BY AMENDING THE OFFICIAL ZONING DISTRICT MAP  
OF THE CITY OF LAKE ELMO

The City Council of the City of Lake Elmo ordains that Lake Elmo City Code, Section 154.032 Zoning District Map, of the Municipal Code, shall be amended by adding Ordinance No. 08-017, as follows:

**Section 1: Zoning Map Amendment.** The following properties are hereby rezoned from GB - General Business District to VMX - Village Mixed Use:

The South 46.00 feet of Lot 29 and all of Lot 30, COUNTY AUDITOR'S PLAT NO. 8, Washington County, Minnesota.

That part of Lot 29 lying north of the South 46.00 feet thereof, COUNTY AUDITOR'S PLAT NO. 9, Washington County, Minnesota.

**Section 2:** This Zoning Map Amendment is conditioned on the City receiving recorded documents or recorded document numbers for the deeds of conveyance which effectuate the Minor Subdivision approved by Resolution 2013-46 within one year of the effective date of this Ordinance.

**Section 3:** The City Council of the City of Lake Elmo also hereby ordains that the Zoning Administrator shall make the applicable changes to the official zoning map of the City of Lake Elmo.

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

This Ordinance No. 08-170 was adopted on this 21<sup>st</sup> day of February, 2017, by a vote of \_\_\_\_ Ayes and \_\_\_\_ Nays.

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Mike Pearson, Mayor

ATTEST:

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Julie Johnson, City Clerk

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

**RESOLUTION 2017-017**

*A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A PARKING FACILITY  
FOR CHRIST LUTHERAN CHURCH*

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

**WHEREAS**, Christ Lutheran Church, 11194 36<sup>th</sup> Street North (the “Applicant”) has submitted an application to the City of Lake Elmo (the “City”) for a Conditional Use Permit for a parking facility for the property legally described as that part of Lot 29 lying north of the South 46.00 feet thereof, COUNTY AUDITOR’S PLAT NO. 8, Washington County, Minnesota (the “Property”); and

**WHEREAS**, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.102; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on February 13, 2017; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated February 13, 2017; and

**WHEREAS**, the City Council considered said matter at its February 21, 2017 meeting.

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

**FINDINGS**

- 1) That the procedures for obtaining said Conditional Use Permit are found in the Lake Elmo Zoning Ordinance, Section 154.106.
- 2) That all the submission requirements of said Section 154.106 have been met by the Applicant.
- 3) That the proposed Conditional Use Permit includes the following components:



- a) A Conditional Use Permit for a parking facility and for the Property.
- 4) The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city. **The use has already existed for a number of years and has not shown to be detrimental.**
  - 5) The use or development conforms to the City of Lake Elmo Comprehensive Plan. **The area is guided for VMX – Village Mixed Use in the Land Use Guide of the Comprehensive Plan. Parking facility is a conditional use in this district.**
  - 6) The use or development is compatible with the existing neighborhood. **A parking facility will alleviate parking needs for the nearby church and building on the parcel to the south through a shared parking agreement.**
  - 7) The proposed use meets all specific development standards for such use listed in Article 7 of this Chapter. **There are no specific development standards for a parking facility in Article 7.**
  - 8) If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Chapter 150, §150.250 through 150.257 (Shoreland Regulations) and Chapter 152 (Flood Plain Management). **The property is located outside the 0.2% annual chance floodplain.**
  - 9) The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area. **The use is existing and will not change the existing or intended character of the general vicinity or alter the essential character.**
  - 10) The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring structures. **The use is existing and will deter church goers and tenants of the building to the south from parking on the street, thereby allowing for more on-street parking for surrounding residents and visitors to the downtown area.**
  - 11) The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use. **The use will not change and has been served adequately thus far.**
  - 12) The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. **The use will not change and therefore will not create additional requirements or cost.**
  - 13) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors. **The use will not involve anything that would be detrimental.**
  - 14) Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares. **The use will create no more traffic congestion than already exists at the site.**

- 15) The proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance. N/A

### **CONCLUSIONS AND DECISION**

Based on the foregoing, the Applicant's application for a Conditional Use Permit for a self-service storage facility and outdoor vehicle storage is granted, subject to the following conditions:

- 1) The Minor Subdivision, as approved by Resolution 2013-46, must be executed within one year of the date of approval of this Conditional Use Permit.
- 2) The Applicant shall execute and record a shared parking easement in a form acceptable to the City Attorney prior to the transfer of either 'Tract A' or 'Tract B,' as shown in the Certificate of Survey dated 11-20-12 to another party. This easement shall allow any future tenants of the building on Tract A to use the parking lot on Tract B during time periods when this lot is not used by the Applicant. The agreement shall be drafted to be reciprocal regarding the use of the parking stalls that will be retained by the future owners of Tract A.
- 3) The Applicant shall execute and record a drainage and utility easement across the storm water infiltration area in a form acceptable by the City Attorney prior to the transfer of either 'Tract A' or 'Tract B' to another party.
- 4) Future improvements to the parking lot shall be in conformance with City Code and Design Standards.
- 5) The Applicant shall execute and record a drainage and utility easement across the existing storm sewer pipe located along the south property line of 'Tract A.'

Passed and duly adopted this 21<sup>st</sup> day of February, 2017 by the City Council of the City of Lake Elmo, Minnesota.

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Michael Pearson, Mayor

ATTEST:

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Julie Johnson, City Clerk

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

**RESOLUTION NO. 2017-018**

*A RESOLUTION RE-AFFIRMING APPROVAL OF A MINOR SUBDIVISION FOR  
CHRIST LUTHERAN CHURCH – 3549 LAKE ELMO AVE*

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

**WHEREAS**, Christ Lutheran Church, 11194 36<sup>th</sup> Street North (Applicant) submitted an application to the City of Lake Elmo (City) for a Minor Subdivision to split an existing parcel located at 3549 Lake Elmo Avenue (PID 13.029.21.23.0053) (Property) into two separate parcels in accordance with the certificate of survey dated November 20, 2012 signed by Michael Cannon, License #40035, a copy of which is on file in the City of Lake Elmo Planning and Zoning Department; and

**WHEREAS**, the Lake Elmo Planning Department reviewed the Minor Subdivision request for consistency with the City of Lake Elmo Zoning and Subdivision Ordinances; and

**WHEREAS**, the Lake Elmo Board of Adjustments and Appeals approved a variance request by the applicant to create two lots that do not meet the minimum lot size and minimum street frontage requirements of the Lake Elmo Zoning Ordinance on February 5, 2013; and

**WHEREAS**, the City Council reviewed the Applicant's Minor Subdivision request at a meeting held on June 4, 2013 and adopted Resolution 2013-46, approving the Minor Subdivision for Christ Lutheran Church – 3549 Lake Elmo Avenue North.

**WHEREAS**, the variance that was approved by the Lake Elmo Board of Adjustments and Appeals to create two lots that do not meet the minimum lot size and minimum street frontage requirements of the Lake Elmo Zoning Ordinance on February 5, 2013 has since expired; and

**WHEREAS**, the Planning Commission has reviewed at its meeting on February 13, 2017 requests by the Applicant for a Zoning Map Amendment to re-zone the Property from GB – General Business District to VMX – Village Mixed Use and a Conditional Use Permit to allow a parking facility as the principal use of the property legally described as that part of Lot 29 lying north of the South 46.00 feet thereof, County Auditors Plat No. 8, Washington County, Minnesota; and submitted its report and recommendation concerning the requested Zoning Map Amendment and Conditional Use Permit as part of a memorandum to the City Council for the February 21, 2017 Council Meeting; and

**WHEREAS**, the City Council reviewed the Applicant's request for a Zoning Map Amendment and Conditional Use Permit and approved Ordinance 08-170, rezoning the Property from GB – General Business District to VMX – Village Mixed Use, and adopted Resolution 2017-017, granting a Conditional Use Permit for the property legally described as that part of Lot 29 lying north of the South 46.00 feet thereof, County Auditors Plat No. 8, Washington County, Minnesota, thereby bringing the proposed Minor Subdivision in to conformance with City Code.

**NOW, THEREFORE BE IT RESOLVED**, that based on the testimony elicited and information received, the City Council of the City of Lake Elmo hereby re-affirms its approval of the request by Christ Lutheran Church for a Minor Subdivision, provided the following conditions are met:

1. The Applicant shall execute and record a shared parking easement in a form acceptable the City Attorney prior to the transfer of either "Tract A" or "Tract B" to another party. This easement shall allow any future tenants of the building on Tract A to use the parking lot on Tract B during time periods when this lot is not used by the Applicant. The agreement shall be drafted to be reciprocal regarding the use of the parking stalls that will be retained by the future owners of Tract A.
2. The Applicant shall execute and record a drainage and utility easement across the storm water infiltration area in a form acceptable the City Attorney prior to the transfer of either "Tract A" or "Tract B" to another party.
3. The Applicant shall execute and record a drainage and utility easement over the existing storm sewer pipe located along the south property line of the "Tract A."

Passed and duly adopted this 21<sup>st</sup> day of February 2017 by the City Council of the City of Lake Elmo, Minnesota.

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Mike Pearson, Mayor

ATTEST:

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Julie Johnson, City Clerk

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

**RESOLUTION NO. 2013-07**

***A RESOLUTION APPROVING A VARIANCE TO ALLOW CHRIST LUTHERAN  
CHURCH TO SPLIT AN EXISTING LOT INTO TWO SEPARATE PARCELS THAT DO  
NOT MEET MINIMUM LOT SIZE AND WIDTH REQUIREMENTS***

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

**WHEREAS**, Christ Lutheran Church, 11194 36<sup>th</sup> Street North (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a variance to split the lot at 3549 Lake Elmo Avenue North into two separate parcels that do not meet the minimum area and lot width requirements of the GB – General Business zoning district; and

**WHEREAS**, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on January 14, 2013; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated February 5, 2013; and

**WHEREAS**, the City Council considered said matter at its February 5, 2013 meeting.

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

**FINDINGS**

- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.017.
- 2) That all the submission requirements of said Section 154.017 have been met by the Applicant.
- 3) That the proposed variance is to split the existing lot at 3549 Lake Elmo Avenue North into two separate parcels that do not meet the minimum area and lot width requirements of the GB – General Business zoning district. The proposed parcels would be 0.42 acres

and 0.27 acres in size, which is under the minimum lot size requirement of 1.5 acres. The proposed parcels would also be 80 and 123.5 feet in length, which is shorter than the minimum requirement of 150 feet.

- 4) That the Variance will be located on property legally described as follows: Lots 39 and 40, County Auditor's Plat No. 8, as surveyed and platted and now on file in the Office of the Registrar of Titles of Washington County, Minnesota, being in the Village of Lake Elmo, Minnesota. More commonly known as 3549 Lake Elmo Avenue North.
- 5) That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. *Specific findings: That the proposed use is reasonable because the potential buyer of the former Lake Elmo Bank building has stated that they do not have a need for all of the parking provided on the site. Between the former bank building and the Christ Lutheran Church facility there is an expected amount of parking that will be using this property that will not change due to a change in ownership over a portion of the site.*
- 6) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. *Specific findings: That the applicant's property is unique due to the large amount of parking that exceeds most other off-street parking lots in the downtown village area of Lake Elmo. The Zoning Ordinance does allow for waivers of parking requirements in the GB – General Business District and any future users would need to request such a waiver under if their parking needs exceeded the amount available.*
- 7) That the proposed variance will not alter the essential character of the locality in which the property in question is located. *Specific findings: That the proposed lot split will not change the current use of the site for offices and parking. Any potential impacts associated with a lack of parking for the office uses could be mitigated with a shared parking arrangement that allowed any potential building tenants to use the parking area outside of peak Church usage periods.*
- 8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. *Specific findings: No impacts above and beyond those considered normal for any other business use in the surrounding area would be expected should the variance be granted.*

#### CONCLUSIONS AND DECISION

Based on the foregoing, the Applicant's application for a Variance is granted, provided the following conditions are met:

1. The Applicant shall execute a shared-parking arrangement with the future owners of the former Lake Elmo Bank Building that will allow any future tenants of this building to use the parking lot to be retained by the Applicant during time periods when the parking lot is not used by the Applicant. The agreement shall be drafted to be reciprocal regarding the use of the parking stalls that will be retained by the future owners of the former Lake Elmo Bank Building.
2. The applicant shall provide for a drainage easement across the storm water infiltration area that collects storm water runoff from both of the parcels to be created by the lot split.

Passed and duly adopted this 5<sup>th</sup> day of February 2013 by the City Council of the City of Lake Elmo, Minnesota.



Michael Pearson, Mayor

ATTEST:



Adam Bell, City Clerk

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

**RESOLUTION NO. 2013-46**

*A RESOLUTION APPROVING A MINOR SUBDIVISION FOR  
CHRIST LUTHERAN CHURCH – 3549 LAKE ELMO AVE*

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

**WHEREAS**, Christ Lutheran Church, 11194 36<sup>th</sup> Street North (Applicant) has submitted an application to the City of Lake Elmo (City) for a Minor Subdivision to split an existing parcel located at 3549 Lake Elmo Avenue (PID 13.029.21.23.0053) into two separate parcels in accordance with the certificate of survey dated November 20, 2012 signed by Michael Cannon, License #40035, a copy of which is on file in the City of Lake Elmo Planning and Zoning Department; and

**WHEREAS**, the Lake Elmo Planning Department has reviewed the Minor Subdivision request for consistency with the City of Lake Elmo Zoning and Subdivision Ordinances; and

**WHEREAS**, the Lake Elmo Board of Adjustments and Appeals approved a variance request by the applicant to create two lots that do not meet the minimum lot size and minimum street frontage requirements of the Lake Elmo Zoning Ordinance on February 5, 2013; and

**WHEREAS**, the Lake Elmo Planning Commission reviewed the proposed Minor Subdivision at a meeting held on May 29, 2013; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation concerning the Minor Subdivision as part of a memorandum to the City Council from Planning Director Kyle Klatt for the June 4, 2013 Council Meeting; and

**WHEREAS**, the City Council reviewed the Applicant's Minor Subdivision request at a meeting held on June 4, 2013.

**NOW, THEREFORE BE IT RESOLVED**, that based on the testimony elicited and information received, the City Council of the City of Lake Elmo hereby approves the request by Christ Lutheran Church for a Minor Subdivision, provided the following conditions are met:

1. The Applicant shall execute and record a shared parking easement in a form acceptable the City Attorney prior to the transfer of either "Tract A" or "Tract B" to another party. This easement shall allow any future tenants of the building on Tract A to use the parking



lot on Tract B during time periods when this lot is not used by the Applicant. The agreement shall be drafted to be reciprocal regarding the use of the parking stalls that will be retained by the future owners of Tract A.

2. The Applicant shall execute and record a drainage and utility easement across the storm water infiltration area in a form acceptable the City Attorney prior to the transfer of either "Tract A" or "Tract B" to another party.

Passed and duly adopted this 4<sup>th</sup> day of June 2013 by the City Council of the City of Lake Elmo, Minnesota.

  
Mike Pearson, Mayor

ATTEST:

  
Adam Bell, City Clerk



**City of Lake Elmo  
Planning Commission Meeting  
Minutes of February 13, 2017**

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

**COMMISSIONERS PRESENT:** Kreimer, Dodson, Dorschner, Williams, Lundquist and Hartley

**COMMISSIONERS ABSENT:** Fields, and Larson

**STAFF PRESENT:** Planning Director Wensman

**Approve Agenda:**

M/S/P: Williams/Dodson, move to approve the agenda as amended, adding picking a member of the Planning Commission to be on the Comprehensive Plan Advisory Board as item 5b, ***Vote: 6-0, motion carried, unanimously.***

**Approve Minutes:** January 9, 2017

M/S/P: Williams/Lundquist, move to approve the January 9, 2017 minutes as amended, ***Vote: 6-0, motion carried unanimously.***

**Approve Minutes:** January 23, 2017

M/S/P: Dodson/Dorschner, move to postpone consideration of the January 23, 2017 minutes until the next meeting, ***Vote: 6-0, motion carried unanimously.***

**Public Hearing – Zoning Text Amendment and Conditional Use Permit – 3549 Lake Elmo Ave**

Wensman started his presentation for the Zoning Map Amendment and CUP for 3549 Lake Elmo Ave. Christ Lutheran Church owns this property and now has a buyer for the property. The Church would like to separate part of the parking lot and keep that portion of the property. In 2013 the Church had approval for a variance and lot split. They did not proceed with the lot split as they did not have a buyer for the bank building. The variance is now expired, as they are only good for 1 year. This property is currently zoned Village Mixed Use. Wensman stated that a variance is not the way to go forward at this point. It would be more appropriate to rezone the property to Village Mixed Use. There is no minimum lot size in this district which would allow the property owner to subdivide. A parking lot is a conditional use in this zoning district.

The City is suggesting 3 conditions of approval. 1) that there be a shared parking agreement between the church and new property owner 2) a drainage easement be provided along the storm water infiltration area that collects storm water runoff from both parcels 3) a formalized document for a drainage and utility easement for the storm sewer pipe reinstalled as part of downtown project executed and recorded.

Williams asked if the minor lot split was administrative. Wensman stated that it is administrative, but cannot be done until the property is rezoned to Village Mixed Use. (statement corrected on page 4)

Dorschner asked why the City would ask for the shared parking agreement if VMX does not have required parking. Wensman stated that it is to ensure that both users will have access to that parking lot. Dorschner stated that he thinks that should just be a private agreement between property owners and not a condition of approval. Wensman stated that was a condition for the variance and they just brought it forward, but the Planning Commission can remove if they desire. Dorschner is wondering if the drainage and utility easement is the same thing. Wensman stated that it is 2 different things. One is for the pipe and one is for the shared drainage area in the parking lot. Hartley asked if either property is sold, will they have to come back to the City to change the use on the property. Wensman stated that if it is a conditional use, it would have to come back through the process. If it is a permitted use, it would be a certificate of zoning compliance and the staff would review it for compliance administratively.

Jim Kelly, for Christ Lutheran Church, stated the Church purchased this property primarily for use of the parking lot, but they have also maintained the building and have rented it in the past. They are ready to sell the building and get it back on the tax rolls.

M/S/P: Williams/Dodson, move to hold the 2 public hearings simultaneous for the Zoning Map Amendment and CUP, **Vote: 6-0, motion carried unanimously.**

Public Hearing opened at 7:21 pm

No one spoke and there were no written comments

Public Hearing closed at 7:22 pm

M/S/P: Lundquist/Williams, move to recommend approval of the zoning map amendment to rezone the property located at 3549 Lake Elmo Avenue from GB – General Business to VMX – Village Mixed Use, **Vote: 6-0, motion carried unanimously.**

M/S/P: Williams/Lundquist, move to recommend approval of a Conditional Use Permit for a parking facility on the property legally describes as "Lot 29 except the south 40 feet thereof, County Auditor's Plat No. 8, Washington County, MN" with the findings and recommended conditions of approval, **Vote: 6-0, motion carried unanimously.**

M//P: Dorschner/, move to make an amendment to remove condition #2, requiring an easement for shared parking , **Vote: 3-3, motion fails. (note: there was no formal second)**

Dorschner feels the shared parking agreement should be between the 2 business owners as it is not a requirement of the VMX zoning district. Wensman stated that it might be worth touching base with applicant to see what their preference would be.

Mr. Kelly, representing Christ Lutheran Church stated that it was a requirement of the variance at the request of City Staff. The Church feels that that fewer agreements that go into the future would be preferable from a property standpoint. They would be in support of the amendment as described.

Wensman asked the Commission to reaffirm their recommendation of approval for the lot split and corrected a previous statement that the lot split did require Commission and Council approval which was granted by Resolutin 2013-46.

John Whitcomb, representing the buyer of the property, stated that the easement will be in place regardless of the action tonight. There is an agreement in place between the buyer and the seller that this easement will be put in place.

Dorschner stated that his reason for recommending removing this condition is because VMX does not require parking and he does not want to see the City setting a precedent to require commercial to find parking.

Williams would like to speak against the motion because even though it isn't required in the VMX, it is very valuable downtown and at a premium. He thinks the shared easement will benefit both properties as well as the City. Kreimer agrees with Williams and would like to see the easement put in place. Dorschner agrees that parking is at a premium, but he feels it is something the Planning Commision needs to think about, not putting that burden on the business owners that currently have that asset. If parking is required, it should be required and not done piece meal.

Hartley agrees with Dorschner from the standpoint that if parking is important to businesses in the VMX district, than it should be required of all businesses. He feels that the City needs to look down the road and consider what could happen in the future on those two properties. This creates an oddity in the VMX zone. He feels this is somewhat of a backdoor requirement for parking. Dodson asked what would happen if they want to change the number of parking spaces. Would that violate the easement? John Whitcomb stated that the easement is a benefit to both property owners and the only way that the easement can be changed is if both parties agree to the change.

Hartley stated that both of the parties have agreed to an easement agreement that they are comfortable with. He does not feel that the City needs to be involved with the private agreement. He feels that since VMX does not have a parking requirement, if the City requires the agreement, it is creating an awkward situation for the future. If something changes with the properties, with the City requiring an agreement, it would have to come back to the City vs. the property owners working out a different agreement.

Williams stated that the conditions are for the Conditional Use for parking. Parking is a Conditional Use in the VMX zoning and therefore he feels that it is very appropriate for the City to put conditions on the parking that are useful for the City and the property owners. Nothing that he has heard so far has indicated to him that anybody is losing anything by having this condition retained. He feels it does not set a precedent as it is specifically related to this CUP, not the general zoning district.

Dorschner feels that by putting this condition in place for the parking lot, it is not treating the old bank building property like a VMX property. It is placing a condition on it that they have to have an easement with the church for the parking.

M/S/P: Williams/Kreimer, move to recommend re-affirming approval of Minor Subdivision granted by Resolution 2013-46, **Vote: 6-0, motion carried unanimously.**

#### **Public Hearing – Zoning Text Amendment to repeal OP-ALT District**

Wensman started his presentation giving background about OP-Alt District that was created in 2010. This was repealed from the Comprehensive Plan, but it still exists in the zoning code. There is nothing guided for this zoning, so staff has prepared a Zoning Text Amendment to repeal it from the zoning code.

Public Hearing opened at 7:43 pm

No one spoke and there were no written comments

Public Hearing closed at 7:43 pm

M/S/P: Williams/Dodson, move to recommend approval of repealing Article XV – OP-Alt District from the Zoning Code, **Vote: 6-0, motion carried unanimously.**

#### **Business Item – Village District Zoning Discussion**

Wensman started his presentation by stating that there are some projects coming forward that are guided for Village LDR, but there are no standards set forth for this district. There are a couple of the Village developments that were approved using the