



3800 Laverne Avenue North
Lake Elmo, MN 55042

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NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday July 13, 2020
at 7:00 p.m.

AGENDA

Note: Social Distancing protocols will be in place in the City Council Chambers

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. April 13, 2020
 - b. May 11, 2020
 - c. May 27, 2020
 - d. June 8, 2020
4. Public Hearings
 - a. **Zoning Code Text Amendment** – Local Transit and School Bus Terminals in BP Zoning District
Note: Staff has removed this item from consideration for the Planning Commission meeting and there will be no public hearing.
 - b. **Zoning Code Text Amendment** – Fence Ordinance Update
 - c. **City Code Text Amendments** – PUD, OP-PUD and Subdivision Ordinances (Concept Plan Reviews)
5. New/Unfinished Business

None
6. Communications/Updates
 - a. City Council Update:

06-16-20 Meeting: Boulder Ponds 5th Addition – Final Plat and Final PUD Plan

07-07-20 Meeting Farm (Rural) School Zoning Text Amendment
Bruggeman OP-PUD Concept Plan Review (2500 Manning Avenue)
 - b. Staff Updates
 - c. Upcoming PC Meetings:
 1. July 27, 2020
 2. August 10, 2020
7. Adjourn

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



**City of Lake Elmo
Planning Commission Meeting
Minutes of Monday April 13, 2020**

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

COMMISSIONERS PRESENT: Cadenhead, Risner, Graen, Holtz, Mueller, Steil, and Weeks

COMMISSIONERS ABSENT: None

STAFF PRESENT: Planning Director Roberts, Planner Prchal

Approve Agenda:

M/S/P: Holtz/Graen moved to approve the agenda, **Vote: 7-0, motion carried unanimously.**

Approve Minutes:

- a. February 10, 2020: M/S/P: Steil/Graen moved to table the approval of the minutes. **Vote: 7-0, motion carried.**

Public Hearings

- A. Conditional Use Permit Amendment: Stillwater School District (#834) school bus terminal (11530 Hudson Blvd.): Director Roberts presented the staff report for the proposed conditional use permit amendment for the property located at 11530 Hudson Blvd. The Stillwater School District is asking the City of Lake Elmo to approve an amendment to their existing conditional use permit for the property. The proposed amendment would be to allow them to occupy and use the property for a school bus terminal with an on-site septic system rather than connecting to City sanitary sewer as required in the conditions of approval of the City-approved conditional use permit.

Roberts noted that the School District had been using the property as a school bus terminal since mid-October and that they had made many improvements to the property but had not connected the property to sanitary sewer.

Director Roberts then answered questions from the Commission.

Ms. Korrie Land, attorney representing the school district, gave a presentation to the Commission about the history and use of the property and the School Districts need to use property for a school bus terminal. She indicated that the School District wanted to continue to use property for a school bus terminal with a septic system and that the School District would agree to connect to the property to sanitary sewer when it is available to the property.

Cadenhead open the public hearing at 8:46. Staff noted two e-mail the City received that expressed opposition to the proposed conditional use permit amendment. The public hearing was closed at 8:59.

The Commission discussed the proposed conditional use permit amendment and asked City staff questions about the proposal.

Weeks moved to deny the staff recommendation to approve the proposed conditional use permit amendment as requested by the School District. There was no second, so the **motion failed**.

Graen moved, Holtz seconded, to recommend approval of the proposed conditional use permit amendment as requested by the School District.

Cadenhead moved, Holtz seconded, to amend the requested CUP amendment to include language that “any site plan changes must be approved by City staff” as part recommended approval of the proposed conditional use permit amendment as requested by the School District.

Vote: 6-1 (Weeks nay), motion carried.

The Commission took a recess from 9:55 to 10:02 PM.

- B. Interim Use Permit, Variances and Zoning Map Amendment: Whippletree Farm (9130 55th Street North): Planner Prchal presented the staff report explaining the proposed requests for the Whippletree farm property located at 9130 55th Street North. He explained that Peter Kastner, the property owner, is proposing to use the trails and natural areas on the property as part of an agricultural entertainment business. The City Code requires city approval of an interim use permit (IUP) for an agricultural entertainment business in the rural residential zoning districts. He also noted that Mr. Kastner is asking the city to approve a variance to IUP standard that requires an agricultural entertainment business to have access to a collector or arterial road and a variance to allow parking on grass and not on an approved surface such as gravel or blacktop. Planner Prchal answered questions from the Commission.

Peter Kastner, applicant representing Whippletree Farm, answered questions from the Commission and explained his proposal in more detail.

Cadenhead opened the public hearing at 10:53 pm. Prchal noted that City had received several e-mails in support of the proposed IUP and 3 e-mails expressing concerns or opposition to the proposed IUP. Cadenhead closed the public hearing at 11:19 pm.

The Commission discussed the elements of the proposed IUP and the two variances requested by the applicant.

M/S/P: Steil/Weeks move to deny the variances for road access and parking as requested by the applicant for the IUP for an agricultural entertainment business for the property located 9130 55th Street. **Vote: 2-5 (Steil, Weeks Ayes), motion failed.**

M/S/P: Cadenhead/Holtz move to send the application and requests back to staff to review findings for possible approval of the IUP for an agricultural entertainment business for the property located 9130 55th Street. **Vote: 5-2 (Steil, Weeks Nays), motion carried.**

- C. Accessory Building Location Variance (9495 Stillwater Boulevard): Planner Prchal presented the staff report about a front-yard setback variance for an accessory structure for the property located at 9495 Stillwater Boulevard. Prchal explained that the applicant had an accessory building on his property that had been destroyed in a storm and that he asking to build a new, larger accessory structure in the same location on his property. He also noted that because of the location of the house, driveway, septic system and the topography of the property, there were few locations on the property to construct an accessory structure. Because the applicant wants to increase the size of the building and because it would be in the same general location (which is in the front yard), the new building requires City approval a variance.

Prchal answered questions from the Commission.

Cadenhead opened the public hearing at 11:41 pm. There were no public comments. Cadenhead closed the public hearing at 11:43 pm.

M/S/P: Holtz/Weeks move to recommend approval of the proposed variance for the location for a new accessory structure to be located on the property at 9495 Stillwater Boulevard. **Vote: 7-0 (Ayes all), motion carried.**

- D. Zoning Code Text Amendment - Front yard setbacks:

M/S/P: Graen/Holtz move to table review and consideration of the proposed ordinance amendment to a future meeting. **Vote: 7-0 (Ayes all), motion carried.**

New Business

None

Staff and Commission Updates

Roberts reported that at the April 7, 2020 City Council meeting, the City Council approved the Comprehensive Plan Amendment and Preliminary PUD for the Applewood Pointe Senior Cooperative and they approved the final plat/final PUD for the Legacy at North Star Third addition.

Roberts reminded the Commission of the upcoming PC Meetings on April 27 and on May 11, 2020.

Meeting adjourned at 11:47 pm.

Respectfully submitted,

Ken Roberts – Lake Elmo Planning Director



**City of Lake Elmo
Planning Commission Meeting
Minutes of Monday May 11, 2020**

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

COMMISSIONERS PRESENT: Cadenhead, Risner, Graen, Holtz, Mueller, Steil, and Weeks

COMMISSIONERS ABSENT: None

STAFF PRESENT: Planning Director Roberts, Planner Prchal

Approve Agenda:

M/S/P: Graen/Mueller moved to approve the agenda, **Vote: 7-0, motion carried unanimously.**

Approve Minutes:

- a. February 10, 2020: M/S/P: Graen/Steil moved to approve the minutes as submitted. **Vote: 7-0, motion carried.**
- b. March 9, 2020: M/S/P; Cadenhead/Graen moved to approve the minutes as submitted. **Vote: 7-0, motion carried.**

Public Hearings

- A. Zoning Text Amendment: Farm Schools as an accessory use in the Rural Zoning Districts: Planner Prchal presented the staff report for the proposed zoning text amendment that would allow schools by conditional use permit in the rural zoning districts.

Prchal noted that the proposed zoning text amendment would allow by conditional use small or micro schools of up to 25 students as an accessory use in rural locations. He explained that the proposed ordinance requires a minimum lot size of 5 acres, that the school site must have access to a collector or arterial road (not local or neighborhood streets), that an applicant have a pre-application on site with the Building Official and that the applicant also have the septic system verified by Washington County as being able to support the proposed number of students and staff.

Planner Prchal then answered questions from the Commission.

Amy Marotz, Woodbury resident and applicant provided comments about the proposal and answered questions from the Commission.

Cadenhead open the public hearing at 8:01. Staff noted one e-mail the City received that expressed opposition to the proposed zoning text amendment. The public hearing was closed at 8:03.

The Commission discussed the proposed ordinance amendment and asked City staff questions about the proposal.

Holtz moved, Cadenhead seconded, to recommend approval of the proposed zoning text amendment as drafted. **Vote: 5-2 (Steil, Weeks nays), motion carried.**

- B. Zoning Text Amendment – Front Yard Setbacks in Residential districts: Director Roberts presented the staff report explaining the proposed zoning text amendment to clarify front yard setback requirements in the residential zoning districts. Roberts explained the proposed ordinance would allow property owners to put additions onto their existing homes or to place a detached accessory building in line with or behind the front yard setback as established by existing single-family homes even if the existing setback is less than required setback. Director Roberts also explained that the proposed ordinance would require County and City approval of any driveways or access points to the public streets to ensure such access would be safe.

Cadenhead opened the public hearing at 8:43 pm. There were no public comments. Cadenhead closed the public hearing at 8:44 pm.

The Commission discussed the pros and cons of the proposed ordinance amendment.

M/S/P: Cadenhead/Steil move to recommend approval of the proposed zoning text amendment about front yard setbacks in residential zoning districts. **Vote: 6-1 (Graen Nay), motion carried.**

- C. Comprehensive Plan Amendment – City-owned property located at County Road 14 and Ideal Avenue: Director Roberts presented the staff report about the proposed Comprehensive Plan Amendments for the property located on the south side County Road 14 and east of Ideal Avenue. Roberts explained that the City acquired 180 acres of undeveloped land in this area from 3M in 2019 and now the city is starting to explore options for uses and development patterns for the property.

Roberts explained that the City Council had directed City staff to prepared a Comprehensive Plan Amendment for the area south of County Road 14 and east of

Ideal Avenue (about 65 acres) from RAD (Rural Area Development) to BP (business park). This change would be to accommodate a possible office warehouse development similar to what was shown on one of the Concept Plans for the area. Director Roberts also noted that the properties in this area of Lake Elmo do not have access to municipal sanitary sewer and that all existing developed parcels in the area are now served by on-site sanitary sewer (septic) systems. To serve this area with municipal sewer to serve this type of development, the City will need to develop a plan for extending sanitary sewer service to the property.

Roberts also noted that the City would need to amend the MUSA Boundary to include the property in the future sanitary sewer service area and the City would need to amend the Wastewater Service and facilities plan. The City will need to complete a sanitary sewer feasibility study to review the sewerage options that may be available to extend sanitary sewer for the 65 acres and possibly other properties. Director Roberts then answered questions from the Commission. The Commission discussed the pros and cons of the proposed Comprehensive Plan Amendments.

Cadenhead opened the public hearing at 9:05 pm. There were no public comments. Cadenhead closed the public hearing at 9:06 pm.

M/S/P: Graen/Risner move to recommend approval of the proposed Comprehensive Plan amendment re-guiding the 65 acre of City-owned land located south of County Road 14 and east of Ideal Avenue from RAD (rural area development) to BP (business park). **Vote: 7-0 (Ayes all), motion carried.**

M/S/P: Cadenhead/Holtz move to recommend approval of all necessary amendments to the 2040 Comprehensive Plan (including the land use plan, MUSA Boundaries and the Wastewater Services Plan) to add the 65 acres of City-owned property located south of County Road 14 and east of Ideal Avenue to the city's sanitary sewer area. **Vote: 7-0 (Ayes all), motion carried.**

New Business

None

Staff and Commission Updates

Roberts reported that at the April 21, 2020 City Council meeting, the City Council held the public hearing for the CUP revocation for the School Bus Terminal located at 11530 Hudson Blvd.

Director Roberts noted that at the May 5, 2020 City Council meeting, the City Council considered and denied the CUP Amendment for the school bus terminal and they revoked the CUP for the School Bus Terminal located at 11530 Hudson Blvd. The Council also approved a front-yard setback variance for an accessory structure for the property located at 9495 Stillwater Boulevard.

Roberts reminded the Commission of the upcoming PC Meetings on May 27 and on June 8, 2020.

Meeting adjourned at 9:13 pm.

Respectfully submitted,

Ken Roberts – Lake Elmo Planning Director



**City of Lake Elmo
Planning Commission Meeting
Minutes of Wednesday May 27, 2020**

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

COMMISSIONERS PRESENT: Risner, Graen, Holtz, Mueller, Steil, and Weeks

COMMISSIONERS ABSENT: Cadenhead

STAFF PRESENT: Planning Director Roberts, Planner Prchal

Approve Agenda:

M/S/P: Steil/Weeks moved to approve the agenda, **Vote: 6-0, motion carried unanimously.**

Public Hearings

- A. Final Plat and Final PUD Amendment – Boulder Ponds 5th Addition (7th Street North at 5th Street North). Planner Prchal presented the staff report for the proposed Boulder Ponds 5th Addition. This proposal will be the last phase of the Boulder Ponds development and is proposed to create 3 lots for single-dwellings on a vacant lot on the north side of 7th Street near the intersection with 5th Street. Boulder Ponds was approved by the City to have a total of 98 lots and if approved, this development would add 2 additional lots creating a total of 100 single-family lots in the PUD. This change would increase the overall project density from 2.51 units an acre to 2.56 units an acre.

Prchal noted that the proposal is to create three lots for single-dwellings from a 0.74 acre parcel located at the intersection of 7th Street North and 5th Street North. All the proposed lots would be consistent with the lot sizes and lot widths of the other existing lots in the Boulder Ponds PUD. He also explained that the City Engineer has not yet reviewed the proposed plat but that Planning Staff was supportive of the proposed 3-lot design for the site.

Mr. Ben Schmidt, representing the Excelsior Group, provided comments about the proposal and answered questions from the Commission.

Holtz open the public hearing at 7:26.

Mr. Roy Baker, 9081 7th Street North, spoke about the proposal. He noted that he was supportive of development occurring on the property but thinks that 3 lots are too much for the property. He said he supports having 2 lots on the property, but that having 3 new houses would cause problems with setbacks and the driveways.

Holtz closed the public hearing at 7:29.

The Commission discussed the pros and cons of having 2 lots or 3 lots on the property.

Steil moved, Weeks seconded, to recommend approval of the Boulder Ponds 5th Addition, Final Plat and Amended PUD Plans as proposed by the Excelsior Group with the recommended findings and conditions of approval as listed in the staff report, **Vote: 6-0, motion carried.**

B. Concept OP PUD Review – Bruggeman Builders (2500 Manning Avenue North)
Director Roberts presented the staff report explaining the proposed Concept OP PUD plan for a 14-unit residential development proposed by Bruggeman Builders for the property located 2500 Manning Avenue North.

Director Roberts explained that the proposed concept OP PUD has a total of 14 lots for single-dwellings on about 32 acres for a density of about 0.45 dwelling units per acre (D.U.A). A large portion of the development site is within the Shoreland Management Area of Downs Lake. Because much of the site is in the Shoreland Area of Downs Lake, there are several PUD development standards that apply to the property.

Director Roberts showed on the plans how the developer is proposing a new public street that would run through the development from the south end of Lisbon Avenue to Manning Avenue. The driveway for the existing house would be changed to connect to the new public street. He also explained how the development would have public water and private septic systems for each house.

Director Roberts noted that City staff sent the proposed concept plan to Washington County for their review and comments and that County staff sent the City a response letter dated May 15, 2020. Roberts summarized several important issues and design elements noted by Washington County including that County is supportive of the location of the proposed new street intersection (access point) with Manning Avenue. The County also noted several conditions of approval including the dedication of additional 30 feet of right-of-way for Manning Avenue and the need for a trail along Manning Avenue.

Roberts summarized the City Engineer comments as outlined in the letter dated May 20, 2020. The City Engineer has recommended the developer revise the concept plan before any formal City review and comment as this would be the opportunity to address several key design elements that will likely result in significant plan layout. The City Engineer provided comments about stormwater management, street and trail design and public water availability adjacent to and within the proposed PUD.

Director Roberts noted that staff is recommending that the Planning Commission recommend approval of the OP PUD Concept Plan for the property located 2500 Manning Avenue subject to the conditions listed in the staff report. He then answered questions from the Planning Commission.

Mr. Tim Freeman of Folz, Freeman Surveying Inc., representing the developer, gave a short presentation about the proposed concept plan and answered questions from the Planning Commission.

Holtz opened the public hearing at 8:17 pm

Mr. Freeman clarified and explained in more detail some of the modifications or exceptions to the City Code they are asking the City to approve with this OP PUD including:

- The proposed street within the project area is shown at 24-feet of width in a 50-foot-wide right-of-way (instead of a 60 foot-wide right-of-way).
- Not having a home-owners association (HOA) for the 14 lots as they are not proposing to have any commonly owned property.
- Allowing each home to have its own on-site septic system and drainfields rather than having a community septic system or systems that would serve several homes. Communal drainfields also are a requirement of the shoreland ordinance for PUD's.
- Not having community-owned open space. As an alternative, they are requesting the City allow them to plat or dedicate conservation easements on each lot that would protect the natural features on each lot to meet the open space requirements.
- Having the storm water ponding area(s) on individual lots rather than in a separate outlot that would become the responsibility of the HOA or City to maintain.
- Having a reduced buffer from the south property line for construction on the development site (100 feet instead of 200 feet).
- Having a rural section road with gravel shoulders and ditches.

- Having lots with less than 80,000 square feet of lot area and lot widths less than 200 feet as required by the Shoreland Ordinance.
- Not showing the exiting wetland and wetland buffer area in a separate outlot.

Director Roberts noted that by recommending approval of the PUD Concept Plan as prepared by the applicant, the Planning Commission also would be recommending approval of all the exceptions and modifications described above. As noted in the recommendations in the staff report, staff is not recommending approval of all the applicant's requested exceptions or modifications. Roberts explained that such exceptions or modifications to the standards in the OP Ordinance are only possible with a super majority vote (4/5) of the City Council per Section 154.657 of the OP Code. The Code also notes that "Authorization of such modifications resulting from a PUD concept review shall not be construed as approvals for the changes, but rather as an authorization to present such modifications as a component of the (PUD) plan during the PUD Preliminary Plan review."

Director Roberts noted that staff is suggesting that the developer include all requested exceptions and modifications to the shoreland and OP PUD standards and any other variations to City development requirements in a separate PUD planning document at the preliminary platting/PUD stage of the project.

Holtz closed the public hearing at 8:31 pm.

The Commission discussed the proposed OP concept plan and the changes that will be necessary to the plans based on the comments from Washington County and from the City Engineer. These included the need for providing a stub street to the property to the south and whether storm water ponds should be in separate outlots as recommended by the City Engineer or be allowed to be included as part of lots with drainage and utility easements.

M/S/P: Weeks/Steil move to recommend approval of the Concept OP PUD Plans as proposed by Bruggeman Builders for the property located at 2500 Manning Avenue with the staff recommended findings and conditions of approval, **Vote: 2-4 (Weeks and Steil Ayes), motion failed.**

M/S/P: Grean/Risner move to recommend approval of the Concept OP PUD Plans as proposed by Bruggeman Builders for the property located at 2500 Manning Avenue with revised conditions of approval, **Vote: 0-6, motion failed.**

M/S/P: Grean/Mueller move to recommend approval of the Concept OP PUD Plans as proposed by Bruggeman Builders for the property located at 2500 Manning Avenue with revised conditions of approval, **Vote: 2-4 (Graen and Mueller ayes), motion failed.**

M/S/P: Holtz/Steil move to recommend approval of the Concept OP PUD Plans as proposed by Bruggeman Builders for the property located at 2500 Manning Avenue with revised conditions of approval to include a condition requiring an HOA for the maintenance of the trails, **Vote: 5-1 (Mueller nay), motion carried.**

New Business

None

Staff and Commission Updates

Roberts reported that at the May 19, 2020 City Council meeting, the Council held two public improvement hearings and considered the next steps and possible actions for the landscaping in the 5th Street medians.

Roberts reminded the Commission of the upcoming PC Meetings on June 8 and on June 22, 2020.

Meeting adjourned at 9:36 pm.

Respectfully submitted,

Ken Roberts – Lake Elmo Planning Director



**City of Lake Elmo
Planning Commission Meeting
Minutes of Monday June 8, 2020**

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

COMMISSIONERS PRESENT: Cadenhead, Graen, Holtz, Mueller, Steil, and Weeks

COMMISSIONERS ABSENT: Risner

STAFF PRESENT: Planning Director Roberts

Approve Agenda:

M/S/P: Steil/Weeks moved to approve the agenda, **Vote: 6-0, motion carried unanimously.**

Public Hearing

Concept PUD Review – Schiltgen Farm property (10880 Stillwater Boulevard North)
Director Roberts presented the staff report explaining the proposed Concept PUD plan for a 318-unit residential development on the site of the Schiltgen Farm property located at 10880 Stillwater Boulevard.

Roberts noted that the proposed residential development will be located on the southern portion of the Schiltgen Farm at the intersection of CSAH 14 (Stillwater Boulevard) and CSAH 17 (Lake Elmo Avenue) and that the proposed development would have a mix of single-family homes, villas style homes and attached single-family homes (townhouses) with overall average density of 3 units per acre. The subdivision is proposed as a PUD because the developer is requesting flexibility from the strict zoning regulations of the Shoreland Ordinance and the VMX zoning regulations.

Director Roberts explained that the proposed concept PUD has a total of 318 housing units – 200 single family home sites and 118 townhouse or row home units on 105.3 acres (net) with a density of about 3.0 dwelling units per acre (D.U.A). A western portion of the development site is within the Shoreland Management Area of Sunfish Lake.

Roberts also noted that the Planning Commission needs to consider an amendment to the City's Comprehensive Plan. The current land use designation for the site of proposed development is V-LDR (village low-density residential). This designation is intended for only single-family residential uses. He explained that to have the mix of housing types as proposed

within this development, the City would need to approve a Comprehensive Plan Amendment to change the land use designation of the development site or the designation of the proposed townhouse area south of Stillwater Boulevard to V-MDR (village medium density residential). The City intends this land use designation for a variety of residential land uses including detached single-family homes and attached single-family homes (town houses).

Director Roberts showed on the plans how the developer is proposing two primary types of housing within this development – 200 single-family detached homes and 118 townhouse or row homes that would have buildings with 4-6 units connected together. Based on this mix of proposed housing, the City would need to approve an amendment to the land use plan map for at least the townhouse portion of this site to V-MDR (Village Medium Density Residential) for this project to move forward.

Roberts also clarified that the City intends the V-MDR land use designation for areas in the Village Planning Area guided for single-family detached, duplexes and townhomes/villa housing types. This land use designation has residential density ranges between 3.01 and 8 dwelling units per acre. As noted the 2040 Comprehensive Plan, “this land use allows for a greater variety in housing stock and brings more people closer to living within easy access of Village destinations and amenities.” As shown, the 19.92 acre area south of Stillwater Boulevard is proposed to have 118 townhouses – an average of 5.92 units per acre.

Director Roberts noted that City staff sent the proposed concept plan to Washington County for their review and comments and that County staff sent the City a response letter dated June 3, 2020. Roberts summarized several important issues and design elements noted by Washington County that the developer will need to resolve as they move the project forward. These include:

1. The County has prepared two preliminary concept designs for the redesign of the intersection of County Road 17 and County Road 14. These two designs are significantly different than the intersection plan shown by the developer. City staff is recommending the developer coordinate and account for these intersection designs in their designs for the preliminary plat/PUD plans.
2. As part of the platting process, the City and County will be requiring the developer to dedicate additional right-of-way along County Road 17 (Lake Elmo Avenue) and along realigned County Road 14 (Stillwater Boulevard) to meet County standards. The CSAH 17 right-of-way requirement is 75 feet from the centerline and the right-of-way requirement for County Road 14 is 180 feet total – 90 feet from centerline. The County also will be requiring the developer to provide turn lanes according to County requirements
3. The developer will need to clearly show the existing and proposed right-of-way for the County Roads (and all City streets) on the proposed preliminary plat.
4. The County is recommending that access for the townhouse site on the south side of County Road 14 be connected to the updated intersection at County Road 17. The proposed access is now shown to the west of the existing intersection.
5. Revising the access point along County Road 14 as it less than the county's ¼ mile access guideline from County Road 17. The County suggests the developer use Klondike Avenue as their access point as it is just over ¼ mile from the intersection with County Road 17. This issue will require further analysis as the

existing location of Klondike Avenue could not provide access to the north side of Stillwater Boulevard as it is west of the west property line of the project site.

6. The Washington County 2040 Comprehensive Plan identifies the Central Greenway Regional Trail corridor along this section of Stillwater Boulevard. The County will work with the City on the trail efforts and the trails should connect to the subdivisions to the north, to the Old Village Center and Lake Elmo Elementary School.
7. The Concept Plans do not reflect the regional pond as planned during the Downtown Lake Elmo/CSAH 17/Lake Elmo Avenue improvement project. Staff note: The project plans show locations for possible storm water ponding on the site.

Roberts explained that because the requirements of Washington County will require significant design changes to the parts of the development site adjacent to County Road 14, it is staff's opinion that it would be best for the developer to make changes to their concept plans and resubmit them to the City. These changes would be to address the conditions as outlined by Washington County before proceeding further with the City review of the Concept PUD.

Director Roberts summarized the City Engineer comments as outlined in the letter dated June 3, 2020. The City Engineer has recommended the developer revise the concept plan before any formal City review and comment as this would be the opportunity to address several key design elements that will likely result in significant plan layout. The City Engineer provided comments about stormwater management, sanitary sewer and water availability and the timing of those possible improvements.

Roberts noted that the City Engineer's memorandum provides a review of municipal sewer and water considerations. One issue of importance is the need to get sanitary sewer to this development site. The tentative plan is to extend sanitary sewer to the site from the south from the Village area after the City extends sanitary along 32nd Street. The timing of this improvement project has not yet been finalized by the City. Director Roberts explained that the City Engineer recommended that the City should not accept an application for preliminary plat/PUD approval for this site until after the City has awarded a construction contract for the sanitary sewer improvements to the south to ensure the final design and timing of those improvements are known to the City and to the developer. The City Engineer suggests that the preliminary plat and preliminary PUD Plans submittal include a detailed proposal showing the sanitary sewer connection.

Director Roberts noted that staff is recommending that the Planning Commission recommend approval of the PUD Concept Plan for the Schiltgen Farm property located 10880 Stillwater Boulevard subject to the conditions listed in the staff report. He then answered questions from the Planning Commission.

Mr. Ben Schmidt of the Excelsior Group, representing the developer, gave a short presentation about the proposed concept plan and answered questions from the Planning Commission.

Cadenhead opened the public hearing at 7:47 pm

Mr. Jose Chavez, 3505 Kelvin Avenue North, provided information about his land-locked parcel of land that is to the west of the proposed development. He indicated that he was pleased to see the concept plan showing an access to his property and that he has documentation showing his property could be buildable once it has access to a public street.

Adam Johnson, 10550 Stillwater Blvd. North, commented that he is concerned about the density of the proposed development and the affects it could have on Sunfish Lake.

Stephanie Olson, 3308 Kraft Circle North, spoke about the proposed development would bring many changes to the area, asked why people want to live in Lake Elmo (the nature, rural character and small town feel), that changes should benefit the whole community and that the area proposed for townhouses could be a City commons, public park or gathering place.

Colton Mollerud, 3308 Kraft Circle North, expressed concerns about how the design of the development would change the drive into the City from the west along County Road 14, the project density and how the proposed development would change the character and feel of Lake Elmo.

Mary Supina, trustee for the property located at 3360 Klondike Avenue North, questioned the proposed density of the development and how it would be inconsistent with the recently adopted Comprehensive Plan, especially the area south of Stillwater Boulevard, and that having townhouses in that area would be inconsistent with the character of the area.

Steven Olson at 3503 Kelvin Avenue North, expressed concerns about maintaining the undeveloped areas near the lake in perpetuity, the design of the storm water management and ponding system to protect the lake from negative impacts and how the intersection of County Road 14 and County Road 17 would be impacted by the increase in traffic.

Todd Bruchu, 3150 Klondike Avenue, noted concerns about the proposed project density and the need for new ball fields and City parks with the growth of the City's population.

Ms. Susan Dunn, 11018 Upper 33rd Street North, commented that she did not support having townhouses or row housing in the development and that storm water ponding and safe drinking water are concerns that the City should take into consideration.

Cadenhead closed the public hearing at 8:10 pm.

The Commission discussed the proposed concept plan and the changes that will be necessary to the plans based on the comments from Washington County and from the City Engineer.

M/S/P: Steil/Holtz move to recommend approval of the Concept PUD Plans as proposed by the Excelsior Group for Schiltgen Farm property with the recommended findings and conditions of approval, **Vote: 5-1 (Weeks no), motion carried.**

M/S/P: Steil/Holtz move to approve proposed land use plan change from V-LDR to V-MDR for site of the Concept PUD Plan as proposed by the Excelsior Group for Schiltgen Farm property. **Vote: 2-4 (Steil and Weeks ayes), motion failed.**

New Business

None

Staff and Commission Updates

Roberts reported that at the June 2, 2020 City Council meeting, the Council considered the proposed zoning text amendment for farm or rural schools and decided to have staff do further research and bring it back to them in July. They also considered the proposed front yard setback zoning text amendment which failed on a 2-3 vote. The Council also considered the proposed Comprehensive Plan Amendments for the City-owned property located at County Road 14 and Ideal Avenue. After some discussion, they tabled action on those changes to allow the City Engineer to prepare a very preliminary, high-level sanitary sewer study for the area.

Roberts reminded the Commission of the upcoming PC Meetings on June 22, 2020 and July 13, 2020.

Meeting adjourned at 9:00 pm

Respectfully submitted,

Ken Roberts – Lake Elmo Planning Director



STAFF REPORT

DATE: July 13, 2020

TO: Planning Commission Public Hearing
FROM: Ben Prchal, City Planner
AGENDA ITEM: Fencing – Height Limitations
REVIEWED BY: Ken Roberts, Planning Director

BACKGROUND:

After working through the fencing code Staff believes it may be worthwhile to review the height requirements, specifically in the front and side corner yards. Staff has noticed that it is more difficult to obtain a fence that is 3.5 ft. in height opposed to a fence that is 4 ft. in height. It appears to be an odd height as the half foot increments are less popular.

ISSUE BEFORE THE PLANNING COMMISSION

Staff is looking for directions regarding the City Code pertaining to fencing. Does the Planning Commission have comments regarding the proposed and amended zoning code language as it relates to the height of fencing on corner lots?

REVIEW AND ANALYSIS:

Although there are drastically fewer corner lots than other types of lots Planning Staff has noticed there are issues with difficulties with the existing standard of a 3.5 ft. fence height maximum for corner side yards and front yards. It has been stated that contractors or installers do not have or have not installed a 3.5 ft. fence. It seems to be that this height is unique figure that is not readily available. This issue can be further enhanced when HOA's require a specific style of fencing.

Over the years fencing has been discussed many times ranging from a dispute of solid wall fencing and "openness" to height requirements. The fencing code appears to get a little better each time but it still may have some flaws to work out.

Existing Code Sections for Discussion:

154.205 E.

Fence Height and Design

1. Fences within Front and Side (Corner) Yards. Any fence within a front or side (corner) yard setback or any required setback form a public right-of-way may not exceed forty-two (42) inches in height and must be 50% open to air and light.
2. *Residential and Mixed-Use Districts.* No fence shall exceed six feet (6') in height, and shall be subject to the design requirements of §154.205.E.3.
3. *Commercial and Industrial Districts.* No fence or wall shall exceed eight feet (8') in height. Fences that exceed eight feet (8') in height require a conditional use permit.

154.205 Fencing Regulations F.

Temporary Fences

1. Height and Performance. Temporary fences shall comply with the fence height standards of subsection (E). Temporary fences shall be at least 40% open to air and light. If unable to be at least 40% open to air and light, temporary fences shall not exceed forty-two inches (42") in height.
2. **Duration and Limitation**
 - a. No snow fence or posts shall be installed prior to October 1, and must be removed prior to April 15.
 - b. Seasonal recreational fencing intended for winter sports, such as hockey or broomball shall not be installed prior to October 1, and must be removed prior to April 15.
3. **Location.** Snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining property, as determined by the Public Works Director.

Issues within the Code:

Staff has reached out to three fence installers with the following question;

"I have been instructed to work on a code amendment regarding the maximum fence height in the front and corner side yards of Lake Elmo properties. At this point the City allows a maximum height of 3.5 ft. However, after working with

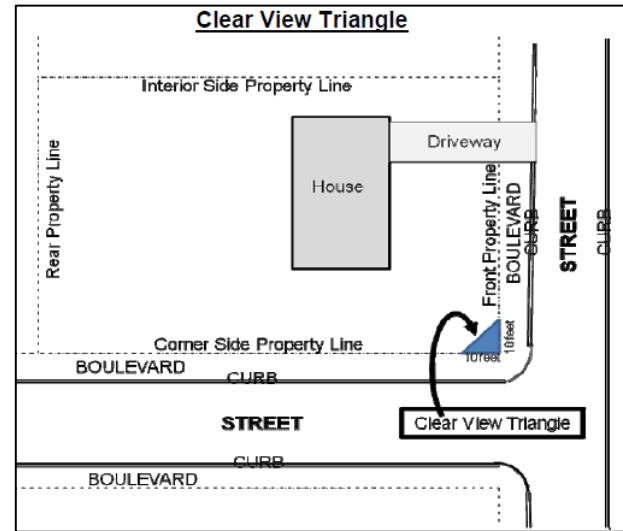
installers this seems to be an odd height where 4 ft. is more common. If someone wanted, could they purchase a 3.5 ft. fence from you and would that be a custom order?"

The responses from the installers are attached but to summarize their responses it is possible to install a 42 inch (3.5 ft.) high fence but it is less common than a 4 ft. fence. One installer said that in 25 years they have never installed a 3.5 ft. fence but if it needed to happen Staff was left with the impression that the installer would make it work. However, they all commented that it was an odd height to leave as the maximum. Staff then pulled together some code from neighboring Cities. The bullet sections below do not show the full extent of their perspective fencing code but the complete version is attached.

City Examples:

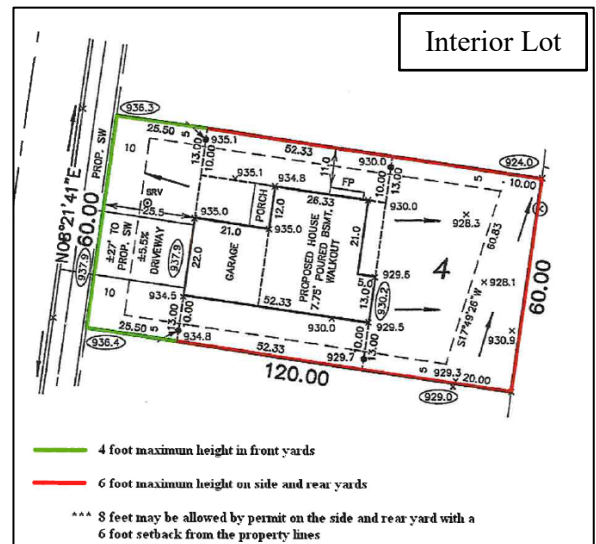
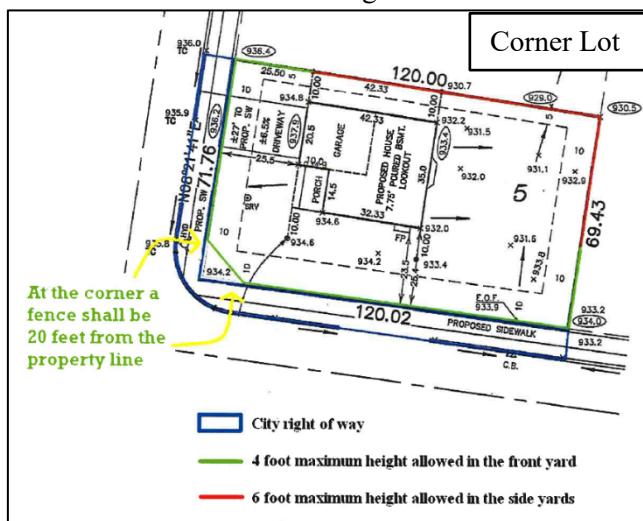
Cottage Grove

- Fence height is limited to a maximum of six feet along rear or side property boundary lines and four feet in the front yard. If the fence is within 15 feet from the front property line, then the fence must be less than 30 inches in height and not less than 50 percent transparent....
- A fence cannot obstruct the safe view from any driveway or street. On corner lots, no structure or planting in excess of 30 inches above the curb line or less than ten feet above the curb line is permitted within the clear view triangle. A clear view triangle is described as that area that begins at the intersection of the front or rear property line and corner side property line and is measured back 10 feet along both property lines. Those points are then connected with a straight line.



Hugo

- Corner lot Regulations
 - A maximum of 4 feet in height is allowed in the front yard.
 - A maximum of 6 ft. in height is allowed in the side yards.



Woodbury

- A fence up to six feet in height may be erected on the rear and side lot lines, and return to the nearest front corner of the principal building.
- A fence not exceeding four feet in height may be erected on the side lot lines, forward of the front corner of the principal building.
- Fences in excess of 30 inches in height extending across front yards are not permitted in residential platted areas.
- No fence shall be constructed in a manner that would block the view of vehicular traffic, or restrict snow plowing of streets.

In summary, Staff reads this code as Woodbury allowing residents to run a 6 ft. fence from the rear corner lot line to the front corner of the home, a 4 ft. fence from the front corner of the home to the front property line, and a 3 ft. fence is required any time it runs parallel to the front lot line in front of the home.

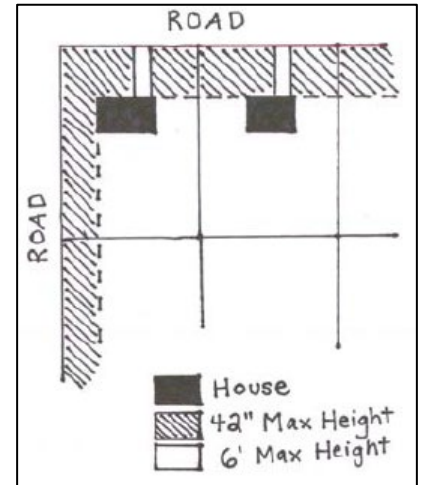
Forest Lake

- *Fence Height Requirements* (as measured from the fence owner's yard grade to the top of the fence):
 - Fences 5' – 6' in height may be placed anywhere on a lot but not in the required front yard setback.
 - Fences 4' in height or less may be placed anywhere on a lot, provided they comply with traffic visibility and are not lakeshore lots where no fence may be constructed in the required shoreline setback.

Stillwater

Height in Residential Areas

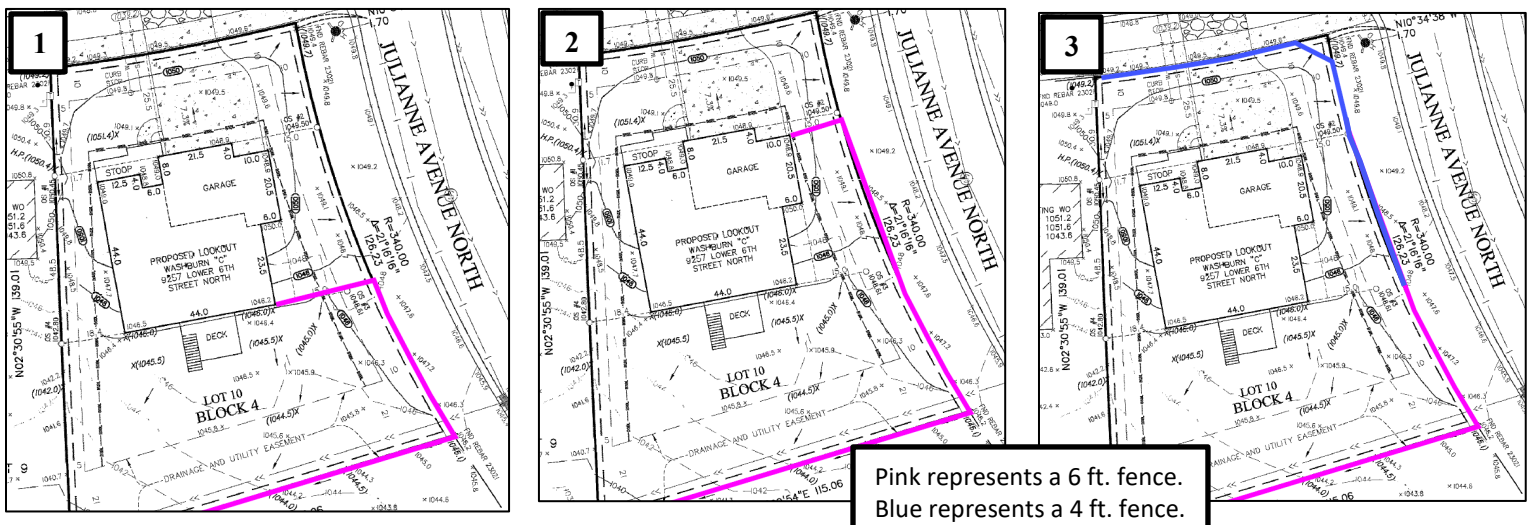
- Prohibited to be higher than 6 feet above ground level.
- Limited to 42 inches in the front yard and exterior side yard setback areas (see diagram).
- Fences built on the street side of a corner lot cannot obstruct the clear view of an intersection by approaching traffic.



With this in mind the following question was asked to the City of Stillwater Planning Staff; *“In your experience have you ever received complaints or had discussions about increasing the 3.5 ft. maximum to a 4 ft. max height for front and corner side yards? It has created some issues/inconveniences for some of the corner lot properties in Lake Elmo. I think the City Code coupled with some of the HOA requirements make the 3.5 ft. requirement more difficult to obtain.”* The following response was received; *“Our corner lot fence requirement is 42”.* *That said, our Zoning Code grants a 6” variance to any measurement. Therefore, in essence, we allow for a 48” tall fence on corner lots.”*

Recommended Amendment:

If site lines are a concern Staff believes there are at least two solutions. Either impose a setback requirement similar to Hugo or Cottage Grove or allow the 4 ft. requirement within the corner side yard but not the front yard.



- 1.) Picture one represents how the current code is applied to corner lots.
- 2.) Picture two would correct the code to allow a 6 ft. fence to be placed in the corner side yard but not the front yard. The front yard could either remain at a 3.5 ft. height or perhaps options 3 may be more appropriate.
- 3.) Picture three allows a 6 ft. fence up to the rear corner of the home and then requires a 4 ft. fence along the corner side yard and in the front yard a 20 ft. setback from the corner pin or ROW would also be required. Lake Elmo could also allow a 6 ft. fence along the side yard and then require a 4 ft. fence from the front of the home forward.

Staff also believes it may be worthwhile for the commission to review the “Location” language in the code.

Location.

a. Fences may be installed on any portion of a lot subject to the height restrictions of §154.205.E and may be installed along or within one foot of property lines provided the adjacent property agrees, in writing, that such fence may be erected on or within one foot of (12 inches) of the boundary lines of the respective properties. Any portion of the fence and all footing material shall not encroach on the neighboring property.

Additional Discussion Point

None of the other Cities used as an example have a provision that is similar to this. It has also lead to the impression that neighbors have the right to be involved for any amendment that may happen to the fence layout. The other Cities all have a provision or bullet discussing the expectations if a fence is directly on a property line but permission is not required form the neighbor. Staff does think there is some merit to requiring at least a discussion between neighbors regarding a fence being installed directly on a property line but outright permission appears to be a stretch when compared to other codes. Staff believes Woodbury, Forest Lake, and Stillwater all have good language for addressing property line fencing.

Woodbury - Fences may be placed up to property lines. It is the owner’s responsibility to verify the location of the property lines.

Forest Lake - Fences may be placed along a property line if there is no physical damage of any kind to the abutting property. The installer of a fence on or within 3 feet of the property line must give consideration to the maintenance of the fence and yard. Unless given permission, the fence owner does the right to enter a neighbor’s yard to conduct fence or landscaping maintenance.

Cottage Grove - Fences are allowed in any required yard or along any property line. The entire fence structure and supporting footings must be within the property boundaries. The owner of a fence is responsible for verifying the location of their property lines.

Recommended Code Amendment

E. Fence Height and Design

1. *Fences within Front and Side (Corner) Yards.* Any fence within a front or side (corner) yard setback or any required setback form a public right-of-way may not exceed ~~forty-two (42)~~ **forty-eight (48)** inches **(4 ft.)** in height and must be at least 50% open to air and light. **The fence must also be setback 20 ft. extending from the front corner lot pin or ROW.**

F. Temporary Fences

1. *Height and Performance.* Temporary fences shall comply with the fence height standards of subsection (E). Temporary fences shall be at least 40% open to air and light. If unable to be at least 40% open to air and light, temporary fences shall not exceed ~~forty-two inches (42")~~ **forty eight (48) inches (4 ft.)** in height.

FISCAL IMPACT:

Staff does not foresee a fiscal impact with the proposed code change.

COMMENTS/RECOMMENDATION

Move to recommend approval of the suggested amendments to the City Code as it pertains to fences.

ATTACHMENTS

- Community Examples
- Emails from Installers
- Amended City Code

Ben Prchal

From: Northland Fence <sales@northlandfence.com>
Sent: Monday, June 29, 2020 4:43 PM
To: Ben Prchal
Subject: Re: City Code Amendment

Caution: This email originated outside our organization; please use caution.

Hi Ben,

Thank you for reaching out to Northland Fence for your questions!

Our standard heights are 4', 5', and 6' for all three materials we install (chain link, ornamental wrought-iron steel, and vinyl). We do not special order or install any materials at 3.5' height and do not sell materials to the public. We only do complete installations.

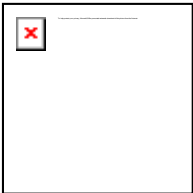
I hope this helps and please let us know if you have further questions.

Kaya

763-316-4881

Northland Fence

www.northlandfence.com



On Mon, Jun 29, 2020 at 4:30 PM Ben Prchal <BPrchal@lakeelmo.org> wrote:

I have been instructed to work on a code amendment regarding the maximum fence height in the front and coder side yards of Lake Elmo properties. At this point the City allows a maximum height of 3.5 ft. However, after working with installers this seems to be an odd height where 4 ft. is more common. If someone wanted, could they purchase a 3.5 ft. fence from you and would that be a custom order?

Thank you,

Ben Prchal, City Planner

City of Lake Elmo

651-747-3911

Ben Prchal

From: Gavin Quinn <gqfence@gmail.com>
Sent: Monday, June 29, 2020 4:38 PM
To: Ben Prchal
Subject: Re: Twin Cities Fence Contact Form

Caution: This email originated outside our organization; please use caution.

The only 3.5' fence I know of would be like a custom wood picket, or potentially a chain link fence. In 25 years I've never installed a 3.5' fence. Either 3 or 4' and 3' is never carried in stock. Always special order. I hope this helps!

On Mon, Jun 29, 2020 at 4:36 PM Ben Prchal <wordpress@mnfencecontractor.com> wrote:

Name: Ben Prchal

Company:

Email: bprchal@lakeelmo.org

Phone:

Address:

City/State/Zipcode:

Fence Style Interested:

How Did You Hear About Us:

Desired Height (in feet):

Desired Length (in feet):

Message: I have been instructed to work on a code amendment regarding the maximum fence height in the front and coder side yards of Lake Elmo properties. At this point the City allows a maximum height of 3.5 ft. However, after working with installers this seems to be an odd height where 4 ft. is more common. If someone wanted, could they purchase a 3.5 ft. fence from you and would that be a custom order?

Thank you

--

Gavin Quinn
Twin Cities Fence
651-270-5520

Ben Prchal

From: Jennifer Brizius <Jennifer.brizius@dakotaunlimited.com>
Sent: Tuesday, June 30, 2020 6:48 AM
To: Ben Prchal
Subject: Fence heights

Caution: This email originated outside our organization; please use caution.

Hi Ben,

48" is definitely more common, but yes, 42" is available. Depending on what type of material the customer is using, it would be a custom order anyways.

Aluminum gets ordered in per job, so ordering it in the correct height is not an issue. It is not a custom size to our supplier, just less commonly ordered.

PVC is the only one that is not offered in a 42" height, no matter the style. There are some that scallop from 48" to 42" but that probably wouldn't meet the requirements. There is one or 2 styles that scallop from 36" to 42", so that would meet the requirement and is easily ordered that way.

Wood can be built to any height and is as easy as cutting down posts and boards to height, which we would also do for a 5' tall fence, so again, not an issue.

Even chain link commonly comes in a 42" height and we use that in some older back yards when putting in 42" used to be more common. We don't keep as much 42" chain link in stock as 48", but it never takes more than a week to arrive.

I know this is probably not the supporting documentation you're looking for in your fight with the city, but I do agree that 42" is a weird height requirement.

Thanks,

Jennifer Brizius

Dakota Unlimited, Inc.

651-322-7128-direct

651-423-3995-main

651-423-3996-fax

jennifer.brizius@dakotaunlimited.com



Like us on:

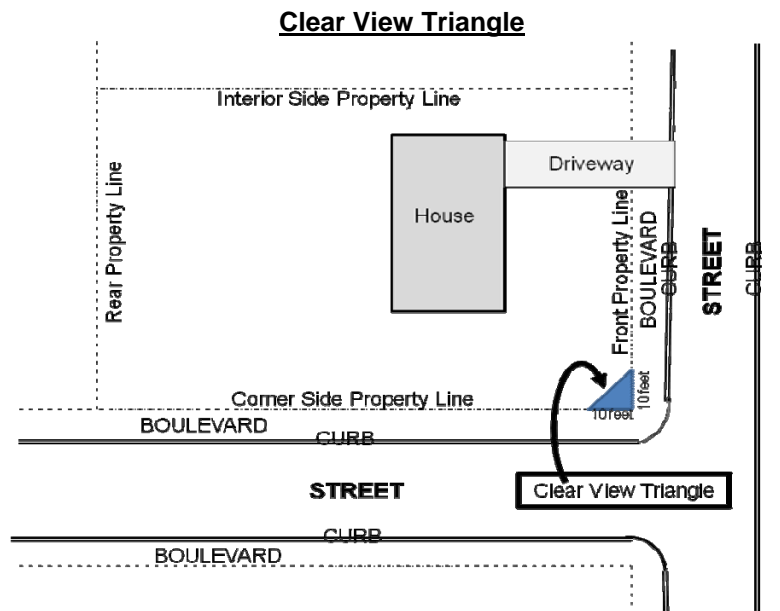
Proud recipient of the Angie's List Super Service Award every year since 2006.



RESIDENTIAL FENCES

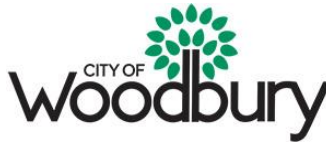
Installation Criteria

- Fence, as defined by ordinance, is any partition, structure, wall, or gate erected as a dividing marker, barrier, or enclosure and located within a boundary or within the required yard.
- Fences are allowed in any required yard or along any property line. The entire fence structure and supporting footings must be within the property boundaries. The owner of a fence is responsible for verifying the location of their property lines.
- Fence height is limited to a maximum of six feet along rear or side property boundary lines and four feet in the front yard. If the fence is within 15 feet from the front property line, then the fence must be less than 30 inches in height and not less than 50 percent transparent. Fences for agricultural uses must not be greater than six feet above grade level and may be located along all property boundary lines.
- A fence cannot obstruct the safe view from any driveway or street. On corner lots, no structure or planting in excess of 30 inches above the curb line or less than ten feet above the curb line is permitted within the clear view triangle. A clear view triangle is described as that area that begins at the intersection of the front or rear property line and corner side property line and is measured back 10 feet along both property lines. Those points are then connected with a straight line.



- Fences are allowed in drainage and utility easements, but repair or replacement is the responsibility of the homeowner should construction activity be required within the easement.
- Fences must be setback a minimum of one foot from a public walkway.

- Fencing construction material types are not currently regulated by the City, but it is required that all fencing be kept structurally sound and maintained in good condition.
- The finished side of a fence must face abutting property or public right-of-way. No fence can have boards, planks, or panels larger than one foot in width.
- All chain link fences must have a top rail, barbed ends must be placed at the bottom of the fence, and vertical posts must be spaced at intervals not to exceed ten feet.
- Barbed wire and electrical fences are allowed for parcels that are five or more acres in area and used to fence livestock. Razor wire fences are prohibited in all districts.
- Fences are required around swimming pools having a depth greater than 18 inches. The minimum required height is 4 feet. Any gates must be self-closing/latching and capable of being locked.
- A building permit is not required for the installation of fences. However, you must call Gopher State One Call at 651-454-0002 **before you dig** to identify any underground utility locations.
- Wall fences are considered an accessory structure and do require a building permit. They are not allowed in the front yard and must setback a minimum of six feet from an interior side property line and ten feet from a rear lot line.
- The above information is excerpted from Cottage Grove City Code Titles 11-3-4, 11-3-5, 11-6-7, and 9-11-4. Other criteria may apply where development restrictions and private covenants prevail.



8301 Valley Creek Road • Woodbury, MN 55125-3300 • www.ci.woodbury.mn.us
(651) 714-3500 • TDD (651) 3568 • building@ci.woodbury.mn.us

Fence Ordinance Summary

1. A fence up to six feet in height may be erected on the rear and side lot lines, and return to the nearest front corner of the principal building.
2. A fence not exceeding four feet in height may be erected on the side lot lines, forward of the front corner of the principal building.
3. Fences in excess of 30 inches in height extending across front yards are not permitted in residential platted areas.
4. No fence shall be constructed in a manner that would block the view of vehicular traffic, or restrict snow plowing of streets.
5. Fences may be placed up to property lines. It is the owner's responsibility to verify the location of the property lines.
6. The side of the fence considered to be the face, the finished side, shall face adjoining property.
7. Barbed wire fences are not permitted in platted areas.
8. All fences shall be properly maintained with respect to appearance and safety.
9. Swimming pools shall be protected by a fence at least four feet high, with a self-closing, self-latching, lockable gate. It shall be built so that a four inch sphere cannot pass through.
10. It is suggested to have a surveyor locate property lines before installing fences. The city does not have surveyors on staff to perform this service.

FENCE PERMIT
ZONING CODE: 153.147

Application Checklist

The following information will need to be submitted to initiate the fence permit review process:

- ☐ Completed fence permit application
- ☐ Application fee (\$50)
- ☐ Survey/Site Plan.
- ☐ Locate and temporarily stake relevant property boundaries
- ☐ Stake proposed location of fence in advance of City site inspection

FENCE PERMIT

ZONING CODE: 153.147

Property owners planning to install a new fence will need to first obtain a permit and Certificate of Compliance from the City. Existing fences that are substantially altered (relocated, change in height or change in materials, etc.) may also require a permit.

1. *Fence Application.* The following information will need to be submitted along with a fence permit/Certificate of Compliance application:
 - a. *Fence Details.* Applicants must indicate specific details including location, height and type of materials.

The following are allowable materials for residential fences:

 - i. Treated wood, cedar, or redwood
 - ii. Simulated wood
 - iii. Decorative brick or stone
 - iv. Wrought iron or aluminum designed to simulate wrought iron
 - v. Coated or non-coated chain link
 - vi. Split rail; and
 - vii. Other materials as approved by the City. Alternative forms of fencing in commercial areas may be allowed when safety or security is an issue.
 - b. *Fence Height Requirements* (as measured from the fence owner's yard grade to the top of the fence):
 - i. Fences greater than six (6) feet in height may require a building permit and must conform to all setback and yard regulations in the same manner as building walls, unless located in a commercial or industrial district and approved by a conditional use permit.
 - ii. Fences 5' – 6' in height may be placed anywhere on a lot but not in the required front yard setback.
 - iii. Fences 4' in height or less may be placed anywhere on a lot, provided they comply with traffic visibility and are not lakeshore lots where no fence may be constructed in the required shoreline setback.
 - c. *Survey/Site Plan.* Applicants must submit a property survey or site plan that shows where proposed fences will be located on the property. Submitted site plans must be scaled drawings. Proposed fences must be accurately shown on the survey/site plan where they are intended to be constructed.

- d. *Locate Property Corners.* Applicants will need to locate and expose the iron property corner markers (pins) prior to applying for fence permits. The city does not locate them for you. Metal detectors can be useful when locating iron property pins. Applicants may need to contact a land surveyor to re-establish or locate property pins if they cannot be located.
- 2. Fence location
 - a. Fences may be placed along a property line if there is no physical damage of any kind to the abutting property.
 - b. The installer of a fence on or within 3 feet of the property line must give consideration to the maintenance of the fence and yard. Unless given permission, the fence owner does the right to enter a neighbor's yard to conduct fence or landscaping maintenance.
 - c. Fences shall not restrict drainage or be placed in a public right-of-way.
 - 3. Fence appearance
 - a. The finished side of fences shall face the neighboring property.

City Review of Property

A City inspector will physically review your proposed fence location as part of the application process. The inspector must be able to identify your exposed property pins before issuing a permit. City inspectors make every effort to review fence permit applications as quickly as possible. However, please be advised that reviews often take a few days and fence construction cannot start until a permit and Certificate of Compliance is issued.

Approved Permits Issued

The fence permit/Certificate of Compliance application fee is \$50 and approved applications can be picked up from the Zoning Division at the City Center, 1408 Lake Street South. Office hours are Monday - Friday, 8:00 AM - 4:30 PM. City staff can be reached at (651) 464-3550 if you have any questions regarding fence regulations or the fence permit application process.

CERTIFICATE OF COMPLIANCE APPLICATION:
FENCE PERMIT
CHAPTER 153.147

FEE: \$50.00

Property Information	Property Type: <input type="checkbox"/> Residential <input type="checkbox"/> Commercial
Property Address for Proposed Fence:	Applicant Phone #:
Applicant Name:	Are you the property owner? <input type="checkbox"/> Yes <input type="checkbox"/> No*
Mailing Address (if different than above):	City/State/Zip
* Property owner's name (if different than applicant):	* Property Owner's Address:

Fence Details
Fence Location: <input type="checkbox"/> Front Yard <input type="checkbox"/> Back Yard <input type="checkbox"/> Side Yard <input type="checkbox"/> Other _____
Fence Materials: <input type="checkbox"/> Chain Link <input type="checkbox"/> Solid Wood <input type="checkbox"/> Other _____
Height: <input type="checkbox"/> 4 Feet <input type="checkbox"/> 6 Feet <input type="checkbox"/> Other _____
Please provide additional details as needed:

IMPORTANT NOTICE: Applicants must include a survey or site plan along with all fence permit applications. Submitted survey/site plans must show where the proposed fence is to be located. In connection with your request, your signature below constitutes permission for City of Forest Lake staff to enter upon your property, during normal business hours, for the purpose of evaluating your request.

 Applicant Signature

 Date

 Property Owner Signature

 Date

City of Hugo – Residential Fencing Guide

The City of Hugo encourages homeowners interested in erecting a fence to contact adjoining property owners. This will hopefully eliminate any future conflict regarding the fencing installation and placement.

Interior lot regulations:

1. A maximum of 4 feet in height is allowed in the front yard to the front corner of the principal building.

2. A maximum of 6 feet in height is allowed in the side and rear yards.

*** 8 feet may be allowed by permit on the side and rear yards with a 6 foot setback from the property lines.

Corner lot regulations: In the situation of a corner lot there are 2 fronts and 2 sides as shown on fence guide examples.

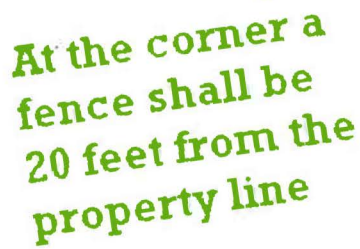
1. A maximum of 4 feet in height is allowed in the front yard.




2. A maximum of 6 feet in height is allowed in the side yards.

All fences shall meet the following:

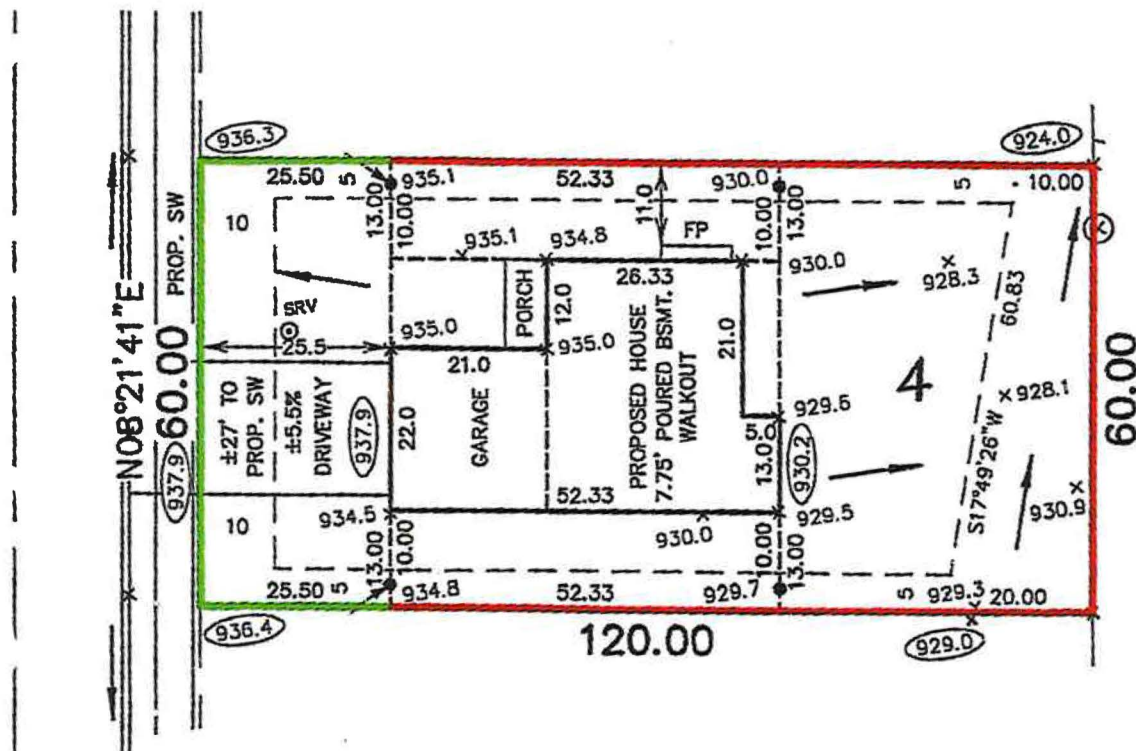
1. No fence shall be constructed in a manner that would block the view of vehicular traffic or restrict snow plowing of streets.
2. No fence is allowed to be constructed on City right of way.
3. Barbed wire fences are not permitted.
4. The side of the fence considered to be the face (the finished side) shall face adjoining property.
5. All fences shall be properly maintained with respect to appearance and safety.
6. Fences may be placed up to property lines, however, wetlands and drainage/utility easements may require additional setbacks set by the Senior Engineering Technician. It is the owner's responsibility to verify the location of the property lines and easements.
7. It is suggested to have a surveyor locate property lines before installing fences. The city does not have surveyors on staff to perform this service.
8. Home Owners Associations may have additional rules. If you live in a neighborhood with an HOA, please contact them for their restrictions.

Fence Guide for Corner Lots



-  City right of way
-  4 foot maximum height allowed in the front yard
-  6 foot maximum height allowed in the side yards

- 4 foot maximum height in front yards
- 6 foot maximum height on side and rear yards
- *** 8 feet may be allowed by permit on the side and rear yard with a 6 foot setback from the property lines





216 4th Street North Stillwater MN 55082
651-430-8800
www.ci.stillwater.mn.us

FENCE PERMIT

Permit No. _____
Date Filed: _____
Base Fee: **\$25.00**
(Payable to City of Stillwater)
Receipt No.: _____

All applications must be accompanied by a survey or accurate site plan showing the proposed fence in relation to all property lines and including the following information:

1. Height (at ground grade):

Front & Corner/Exterior Side Yard: _____ Side yard: _____ Rear Yard: _____

2. Material: ☐ Wood ☐ Chain Link ☐ Vinyl ☐ Other (description)

Address of Property: _____

Legal Description of Property (Lot, Block and Addition): _____

Property Owner: _____	Representative: _____
Mailing Address: _____	Mailing Address: _____
Telephone No.: _____	Telephone No.: _____
**Signature _____	Signature _____

I hereby state that to the best of my knowledge all statements, data, information, and evidence submitted is true and correct. I will comply with City Code Sec. 31-508, *Fence Regulations*, and the applicable conditions of the permit if it is granted and used.

Property Owner/Representative Signature

Date

OFFICE USE ONLY

Conditions of Permit Approval:

- ☐ Finished side of fence to face out.
- ☐ Do not block existing drainage way or easement.
- ☐ Fence may be on property line but posts must be on subject property.
- ☐ The property owner is responsible for field-verifying the property line.
- ☐ Other: _____

C.D. Director / City Planner / Zoning Administrator

Date of Approval

Before You Dig

Call Gopher State One at 651-454-0002 to identify any underground utility locations.

**Property owner signature required



**FENCE PERMIT
CITY OF STILLWATER
PLANNING DEPARTMENT**

1. FENCE - any linear structure used to prevent access by persons or animals or to prevent visual or sound transference

2. PURPOSE

- a. Provide regulation of fences in the city
- b. Prevent fences from being built that would be hazardous to the public, or an unreasonable interference with the uses and enjoyment of neighboring property
- c. Ensure compatibility with existing uses, other zoning restrictions and drainage ways

3. STEPS TO OBTAIN A PERMIT

- a. Complete fence permit application with \$25 fee and include an accurate site plan showing:
 - i. Proposed fence
 - ii. Buildings
 - iii. Property lines
 - iv. Labeled Streets
- b. City Council decides appeals when it is contended that the Community Development Director was in error

4. REGULATIONS

a. Height in Residential Areas

- i. Prohibited to be higher than 6 feet above ground level
- ii. Limited to 42 inches in the front yard and exterior side yard setback areas (see diagram)

b. Design

- i. Side of fence considered to be the face (finished side as opposed to structural side) will face adjoining properties
- ii. Fences built on the street side of a corner lot cannot

obstruct the clear view of an intersection by approaching traffic

c. Along Property Lines

- i. *Residential* – can be placed on lot line provided as long as footings are within fence owner's property
- ii. *Commercial* – can be built on lot lines to the height of 6 feet

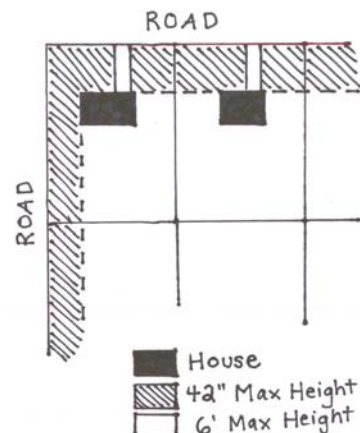
d. Other

- i. Cannot be built on public rights-of-way
- ii. Cannot be built where it will hinder a drainage way or drainage easement
- iii. Cannot be built before all lots with a common drainage system or with in platted block have the final grade established and approved, and all lots within the system have turf set up with grass seed/sod

5. REPLACING/REBUILDING EXISTING FENCE

- a. Replacement or rebuilding of an existing fence must meet the regulations of the fence ordinance
- b. Existing fences that violate this section is not allowed to be replaced or rebuilt

6. VIOLATIONS – violations of the fence ordinance may be enforced by injunction, and the city will be entitled to the remedy of abatement in order that a fence built in violation may be removed



ARTICLE VII. GENERAL REGULATIONS

§ 154.200 PURPOSE.

The purpose of this Article is to establish regulations for activities that may occur in many zoning districts or in association with a variety of land uses, including parking, signage, and activities within yards, to promote the orderly development or use of land and minimize conflicts among land uses.

(Ord. 08-078, passed 5-07-2013)

§ 154.201 APPLICABILITY.

The provisions of this Article shall be applied to all zoning districts and shall be in addition to the requirements in any specific zoning district. A permit shall not be issued unless all applicable general regulations are met.

(Ord. 08-078, passed 5-07-2013)

§ 154.202 PERMITS REQUIRED.

Permits are required for all changes in use and all development activities, with the exception of signs, which shall be governed by the specific requirements of Section 154.212 as may be applicable.

(Ord. 08-078, passed 5-07-2013) (Ord. 08-152, passed 10-01-2016)

§ 154.203 ESSENTIAL SERVICES.

Essential services as defined by this Ordinance are permitted in any district, provided that a site plan for any new or expanded service facility is filed with the Planning Department. The City Council may require site plan review of large facilities, upon the recommendation of the Planning Director.

(Ord. 08-078, passed 5-07-2013)

§ 154.205 FENCING REGULATIONS.

- A. *Purpose.* The purpose of this Ordinance is to provide for the regulation of fences in the City of Lake Elmo and to prevent fences from being erected that would be a hazard to the public, an unreasonable interference with the uses and enjoyment of neighboring property or are incompatible with existing uses and other zoning restrictions.
- B. *Definitions.* The following words, terms and phrases, when used in this Section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Permanent Fence. Fences that are installed in a fixed or enduring manner that are not intended for a seasonal or temporary purpose.

Temporary Fence. Fences that are installed and removed on a seasonal basis, such as snow fences, garden fences and seasonal recreational fences, such as hockey boards.

C. Permit Required.

1. *Permanent Fence.* No permanent fence shall be erected without first obtaining a fence permit. Application shall be made to the Planning Director. The fee shall be established by the City's Fee Schedule. The Planning Director is authorized to issue a fence permit if the application indicates that the fence will be in compliance with this Ordinance. The Board of Adjustment and Appeals shall hear and decide appeals when it is alleged that the Planning Director was in error. The appeals shall follow the procedure outlined in §31.01.
2. *Temporary Fence.* Temporary fencing that complies with subsection (F) and all other applicable provisions of this Ordinance shall be exempt from permit requirements.

D. *General Requirements.* All fences erected in the City of Lake Elmo are subject to the following requirements:

1. *Maintenance.* All fences shall be properly maintained with respect to appearance and safety. Fences that remain in a state of disrepair for an extended period of time shall constitute a nuisance per §96.03.
2. *Face of Fence.* The finished side of any fence or wall must face abutting property or street rights of way.
3. *Fence Materials.* Permitted fence materials shall be limited to brick, stone, wood, wrought iron, vinyl, composite material, steel, aluminum, chain-link, and in cases of temporary fencing only, materials that are consistent with temporary fencing as regulated under subsection (F)
4. *Traffic Obstruction.* No fence or wall shall obstruct a motorist's or a pedestrian's safe view from the driveway or street.
5. Location.
 - a. Fences may be installed on any portion of a lot subject to the height restrictions of §154.205.E and may be installed along or within one foot of property lines provided the adjacent property agrees, in writing, that such fence may be erected on or within one foot of (12 inches) of the boundary lines of the respective properties. Any portion of the fence and all footing material shall not encroach on the neighboring property.
 - b. All pertinent property pins shall be visible upon inspection for fences installed within one foot (12 inches) of a property boundary.
 - c. In the case of a dispute, the City may require a survey to establish the boundary line of a property.
6. *Easement Encroachment.* An easement encroachment agreement must be approved by the Planning Director or his/her designee after review and approval

from the City Engineer or his/her designee, along with a fence permit, for any fence that will be installed within a City easement.

7. *Swimming Pools.* All swimming pools shall be enclosed with required fencing per §151.085.

E. Fence Height and Design

1. *Fences within Front and Side (Corner) Yards.* Any fence within a front or side (corner) yard setback or any required setback from a public right-of-way may not exceed ~~forty-two (42)~~ forty-eight (48) inches (4 ft.) in height and must be at least 50% open to air and light. The fence must also be setback 20 ft. extending from the corner lot pin or ROW.
2. *Residential and Mixed-Use Districts.* No fence shall exceed six feet (6') in height, and shall be subject to the design requirements of §154.205.E.3.
3. *Commercial and Industrial Districts.* No fence or wall shall exceed eight feet (8') in height. Fences that exceed eight feet (8') in height require a conditional use permit.

F. Temporary Fences

1. *Height and Performance.* Temporary fences shall comply with the fence height standards of subsection (E). Temporary fences shall be at least 40% open to air and light. If unable to be at least 40% open to air and light, temporary fences shall not exceed ~~forty-two~~ forty-eight (48) inches (4 ft.) ~~(42")~~ in height.
2. *Duration and Limitation*
 - a. No snow fence or posts shall be installed prior to October 1, and must be removed prior to April 15.
 - b. Seasonal recreational fencing intended for winter sports, such as hockey or broomball shall not be installed prior to October 1, and must be removed prior to April 15.
3. *Location.* Snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining property, as determined by the Public Works Director.

G. *Prohibited Fencing.* Barbed wire and electric fencing are prohibited in platted areas.

H. *Agricultural Exemption.* Fences constructed on parcels in excess of 5 acres for the keeping of horses; and fences constructed on parcels in excess of 10 acres are specifically exempted from the provisions of this Section. Any such agricultural fencing shall be at least 75% open to air and light.

(Ord. 08-086, passed 7-16-2013; Am. Ord 08-140, passed 7-5-2016; Am. Ord. 08-154, passed 10-4-2016)

§ 154.210 OFF-STREET PARKING.

A. *Purpose.* The intent of this section is to prevent or alleviate congestion and promote the public safety and welfare by establishing minimum requirements for off-street parking,



STAFF REPORT

DATE: July 13, 2020

REGULAR

ITEM #:

TO: Planning Commission
FROM: Ken Roberts, Planning Director
AGENDA ITEM: **Lake Elmo Planned Unit Development (PUD), Open Space PUD (OP PUD) and Subdivision Code Amendments**
REVIEWED BY: Ben Prchal, City Planner
Sarah Sonsalla, City Attorney

BACKGROUND:

City staff has been directed to prepare amendments to the City's PUD ordinance (Article XIX) and the City's Open Space PUD (OP-PUD) ordinance (Article XVII). The requested changes are to remove the requirement for a concept plan review for PUD's and the sketch plan review for Open Space PUD's.

In addition, there are some aspects of the PUD and subdivision ordinances that the City could amend to clarify processes and to meet current City standards. As such, staff has included several other minor changes to the OP PUD, PUD and Subdivision Ordinances as part of this review.

REVIEW HISTORY:

The City has reviewed and considered revisions to the PUD ordinance and the OP PUD ordinance several times in the last few years. The City adopted the last revision to the PUD ordinance in 2013 and the last revision to the OP PUD ordinance occurred in 2016.

On August 21, 2018, the City Council considered proposed amendments to the PUD ordinance. The City Council requested the ordinance be brought back to the Planning Commission for discussion on why affordable housing warranted ten amenity points for additional density and provide the Council a detailed explanation as to why.

On October 10, 2018, the Planning Commission reviewed another version of an updated PUD Ordinance. During this meeting, the Planning Commission discussed several parts of the proposed ordinance including the use of amenity points for allowing increased density in a development. The Commission also reviewed the use of having a single maximum amenity point for certain items versus having a points range for each amenity. It was the consensus of the commission to have a points range for each amenity listed in the table with minimum and maximum possible points for each item – including affordable housing.

On January 15, 2019, the City Council considered updates to the PUD ordinance including language about radon mitigation systems in Table 16-2 (Amenities) and about affordable housing. In the end, the City Council did not approve any changes to the PUD ordinance as the motion to approve the changes to the ordinance failed on a 2-2 vote. (Mayor Pearson was not in attendance at this meeting).

ISSUE BEFORE THE PLANNING COMMISSION:

The Commission is being asked to hold a public hearing and make a recommendation to City Council on proposed amendments to the City's PUD ordinance, the OP PUD ordinance and the subdivision ordinance.

REVIEW AND ANALYSIS:

Zoning and subdivision regulations (including PUD ordinances) allow cities to ensure that a new development or redevelopment meets the standards of the city for a safe, functional and enjoyable community. Importantly, PUD regulations can help the City preserve and enhance important natural resources and environmental features by allowing flexibility in the design standards for a specific site through careful and sensitive placement of buildings and facilities.

The City's PUD and OP PUD ordinances must establish the process for the review of PUD applications. Lake Elmo has a several step process for reviewing PUD's and OP PUD's that I outline in more detail below.

Background Information and Proposed Changes

City Review Process

There have been concerns and questions raised about the City development review process – especially the length of time it may take for a new development to get approval. The review and approval process for a PUD includes having a sketch plan review or concept review by staff, the Planning Commission and the City Council. It is not clear to staff that requiring the sketch plan or concept plan review adds time to the PUD review process. There are too many variables involved with each new development occurring in Lake Elmo including the complexity of a proposal, the coordination and review by Washington County and the need for a developer to design and install public improvements (including public street improvements) to make that determination. The availability of public utilities and storm water management are very large factors for developers and the City when considering new development or redevelopment in Lake Elmo.

The sketch plan or concept plan review gives an applicant a chance to get feedback (positive and negative) from City staff and policy makers about a proposal before spending significant time and money on the detailed plans necessary for a preliminary PUD and plat. Sketch plan and concept plan review provides the City and an applicant a chance to identify issues and provides the applicant guidance and a “road map” for moving a project forward in Lake Elmo. This is the requirement now in place for new PUD's or OP PUD's in Lake Elmo. To use or not use the sketch plan (or concept plan) review process is a policy decision for the City.

The City should strive to ensure the development review and approval process is clear and fair for everyone involved. Landowners and developers appreciate and desire predictability in the development review process. A city that takes steps to reduce complex approvals, improve predictability and streamline the development review process will benefit internally and externally. Lake Elmo should strive to provide transparency that clearly defines the development process and expectations. Developers look to partner with cities that are clear about development goals and processes. Early informational meetings signal to developers that the City is serious about partnering on its development sites.

As we know, time is money when comes to development and redevelopment. Development delays and inconsistency in policy direction and approvals can be very costly to developers. The Urban Land Institute of Minnesota (ULI) recently reported that local developers state that the biggest challenge in the development process is political risk. The ULI report also notes that “having a sketch/concept plan

review process can allow developers to change the proposals based on dialogue with city staff and/or policy leaders. A reliable and fair review process with developers can help form a positive working relationship between cities and developers. Most local developers want to work with cities as partners. Some believe that a good working relationship is “essential for successful project.”

As noted above, it is the goal of City staff (and hopefully the Planning Commission and the City Council) to provide clear information, direction and feedback to a developer with a concept plan or a sketch plan review. If the City stops requiring a concept plan review or sketch plan review with PUD’s, applicants and developers will have less clarity and information from the City to work with when considering or preparing a PUD. In the end, this could cost an applicant more time, money and frustration than if the applicant went through a concept plan or sketch plan review with the City. It is staff’s belief that the concept plan or sketch plan review process for PUD’s in Lake Elmo is valuable for applicants, City staff, the Planning Commission and the City Council.

However, if the City did want to drop the requirement for a concept plan review or a sketch plan review of PUD’s by the Planning Commission and City Council, then at a minimum, the City should require an applicant or developer to submit to the City a concept plan or sketch plan for any new PUD for review and comment by City staff. This process also should include a requirement that an applicant for a OP PUD or a PUD meet with City staff after the applicant has submitted the proposed concept plan or sketch plan (in about 30 days) to get feedback and comments about the proposed PUD before submitting a preliminary PUD/plat application.

Subdivision Ordinance Changes

If the City wants to proceed with the proposed amendments to the OP PUD and PUD ordinances about the need for concept or sketch plan reviews, the City also will need to amend the subdivision ordinance. The changes would be necessary as the City has language in Sections 153.08 and 153.09 of the subdivision ordinance that refers to a required sketch plan review for major subdivisions. Staff has prepared revised language for each of these sections of the code that would remove the sketch plan review from the subdivision ordinance and would replace it with a requirement for a pre-application conference with staff and the applicant. (See pages 49-49 of this report).

Other Proposed Changes

Staff is proposing several other changes to the PUD, OP PUD and subdivision ordinances based on comments from other staff persons. Most of these changes are minor and are for clarification purposes.

Staff is proposing a change to Section 154.658 (OP PUD Development Standards), Section E. about impervious surface standards. The current standard in the code allows for a maximum impervious surface area of 20 percent within the OP PUD. The Code also has language that allows the City to grant a 25 percent credit against the lot’s hardcover if the owner installs storm water mitigation measures consistent with City standards. Such systems could be rain water gardens, infiltration basins or underground storm water filtration, pervious pavers and treatment systems. All these must be maintained on a regular basis to ensure they stay effective in treating storm water. City staff and property owners have found it difficult and cumbersome to meet this standard as it often requires the applicant to hire an engineer to design a system that is then reviewed and hopefully approved by the City Engineer.

The change staff is proposing would increase the overall allowed impervious surface to 25 percent and would remove the language about possible credits. This change will simplify the review and approval process for projects for the property owners in open space PUD developments.

FISCAL IMPACT:

Staff does not foresee a negative fiscal impact with the proposed changes to the PUD and OP PUD ordinances or the subdivision ordinance.

OPTIONS:

Recommend approval of the proposed changes to the OP PUD, PUD and subdivision ordinances.

Recommend approval of the proposed changes to the ordinances with changes to the proposed language.

Recommend denial of the proposed changes to the OP PUD, PUD and subdivision ordinances.

RECOMMENDATION:

Staff is recommending approval of the proposed changes to the Lake Elmo Open Space PUD, PUD and subdivision ordinances. It is the goal of City staff to have ordinances that provide a clear and smooth development review and PUD approval process.

“Motion to recommend approval of the Open Space PUD, PUD and subdivision ordinance amendments as proposed by City staff.”

ATTACHMENTS

- Lake Elmo Open Space PUD Ordinance (Article XVII) with proposed changes
- Lake Elmo PUD Ordinance (Article XIX) with proposed changes
- Lake Elmo Subdivision Ordinance (Sections 153.01 – 153.09)

ARTICLE XVII. OPEN SPACE PLANNED UNIT DEVELOPMENTS

(With proposed additions underlined and deletions shown with ~~striketrough~~)

§ 154.650 PURPOSE.

The purpose of open space planned unit developments is to provide greater development flexibility within rural portions of the community while maintaining the rural character by preserving agricultural land, woodlands, wildlife or natural corridors, pollinator & wildlife habitat, and other significant natural features consistent with the goals and objectives of the city's Comprehensive Plan. The City reserves the right to deny establishment of an open space PUD overlay district and direct a developer to re-apply under standard zoning provisions if it is determined that proposed benefits of the open space PUD do not justify the requested flexibilities.

(Ord. 97-79, passed 5-1-2001; Am. Ord. 08-152, passed 10-4-2016)

§ 154.651 INTENT.

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

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

(Ord. 97-79, passed 5-1-2001; Am. Ord. 08-152, passed 10-4-2016)

§ 154.652 DEFINITIONS.

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

(Ord. 97-79, passed 5-1-2001; Am. Ord. 08-152, passed 10-4-2016)

§ 154.653 INITIATION OF PROCEEDINGS.

The owner of property on which an open space PUD is proposed shall file the applicable application for a PUD by paying the fee(s) set forth in § 11.02 of this Code and submitting a completed application form and supporting documents as set forth on the application form and within this Section. Complete applications shall be reviewed by City Commissions as deemed necessary by the Director of Planning and be acted upon by the City Council. If a proposed OP

PUD is denied, any subsequent application for a substantially similar PUD within one (1) year of the date of denial shall fully address all findings which supported the denial prior to being accepted as complete.

(Ord. 97-79, passed 5-1-2001; Am. Ord. 08-152, passed 10-4-2016)

§ 154.654 REFLECTION ON THE OFFICIAL ZONING MAP.

- A.** PUD provisions provide an optional method of regulating land use which permits flexibility from standard regulating provisions. Establishment of a PUD shall require adoption of an ordinance creating an overlay zoning district atop the boundaries of the development area. For each PUD District, a specific ordinance shall be adopted establishing all rules which shall supersede underlying zoning. Issues not specifically addressed by the PUD Overlay district shall be governed by the underlying zoning district regulations.
- B.** All Open Space Preservation developments approved prior to October 4, 2016 shall be allowed to continue per the original conditions of approval.

(Ord. 08-152, passed 10-4-2016)

§ 154.655 PREREQUISITES FOR OPEN SPACE PUDs.

- A.** Only land zoned as Agricultural, Rural Residential, or Rural Estate may be considered for establishment of an open space planned unit development.
- B.** The minimum land area for establishment of an open space planned unit development is a nominal contiguous twenty (20) acres.
- C.** Establishment of an open space planned unit development will be considered only for areas of land in single ownership or control. Alternatively, multiple party ownership, in the sole discretion of the City, is acceptable when legally sufficient written consent from all persons and entities with ownership interest is provided at the time of application.

(Ord. 08-152, passed 10-4-2016)

§ 154.656 USES WITHIN OPEN SPACE PUDs.

A. Primary Uses.

1. Permitted.

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

- i. Wayside stand; and
- j. Public parks and trails.
- 2. **Conditionally Permitted.**

None

- 3. **Interim Permitted.**

None

B. Accessory Uses.

- 1. **Permitted.**

Uses deemed by the Director of Planning to be typically accessory to an established permitted use on the property as listed in 154.656(A)(1).

- 2. **Conditionally Permitted.**

None

- 3. **Interim Permitted.**

None

C. Prohibited Uses.

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

D. Use Restrictions and Allowances

The final PUD overlay district ordinance for an Open Space PUD may include specific provisions governing uses which supersede underlying zoning and the general PUD regulations herein.

(Ord. 97-79, passed 5-1-2001; Am. Ord. 08-152, passed 10-4-2016)

§ 154.657 OPEN SPACE PUD DESIGN.

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

A. Density

The maximum dwelling unit density within an open space planned unit development shall be 18 units per 40 acres of buildable land (0.45 DU/acre) on the undeveloped parcel; however, the total number of dwelling units shall not exceed the density limitations contained in the Comprehensive Plan for Opens Space Preservation Development.

B. Lot Design

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

1. Soils Analysis Conducted

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

2. Septic Design Identification

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

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

3. Identification of Required Buffers

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

- a.** A two-hundred (200) foot buffer from all adjacent property lines that abut an existing residential development or a parcel of land not eligible for future development as an open space planned unit development due to insufficient parcel area.
- b.** A one-hundred (100) foot buffer from all adjacent property lines that abut land that is eligible for future development as an open space planned unit development.
- c.** If the development site is adjacent to an existing or approved OP development, the required buffer shall be equivalent to the buffer that was required of the adjacent development [see § 154.035(B)].

4. Identification of Preferred Building Pad Locations

Building pad locations [up to the maximum number of units permitted by 154.657(A)] which preserve natural topography and drainage ways, minimize tree loss, protect historic sites or structures, and limit the need for soil removal and/or grading shall then be identified. The orientation of individual building sites shall maintain maximum

natural topography and ground cover.

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

5. **Placement of Streets**

- a. Streets shall then be designed and located in such a manner as to:
 - i. Maintain and preserve natural topography, groundcover, significant landmarks, and trees;
 - ii. Minimize cut and fill;
 - iii. Preserve and enhance both internal and external views and vistas;
 - iv. Promote road safety;
 - v. Assure adequate access for fire and rescue vehicles; and
 - vi. Assure and promote adequate vehicular circulation both within the development and with adjacent neighborhoods.
- b. The design of streets and the dedication of right-of-way shall be in compliance with the City's current engineering design standards ~~standard plates~~ and specifications as may be amended.
- c. Streets shall not encroach into a required buffer area unless it can be demonstrated that such an alignment is necessary to achieve the goals outlined above, and that no equivalent option exists outside of the buffer. Driving surfaces that cross the buffer area at a 90 degree angle to provide current or future access to an adjacent property or boundary road shall be the only exception.

6. **Lot Creation**

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

- a. **Lots**
 - i. Single-family lots being served by individual septic tanks and drain fields shall be a minimum of one (1) acre in size;

- ii. Single-family lots being served by individual septic tanks utilizing communal drain fields shall be a minimum of 1/2 acre (21,780 square feet) in size;
- iii. All land reserved for ~~C~~ommunal septic system use shall be located within a dedicated ~~O~~utlot to be owned by the homeowners' association (HOA) of the development; and
- iv. Base lots for townhomes shall be large enough such that individual unit lots can meet all required structure setbacks contained herein.

b. Lot Specific Buildable Areas

- i. The buildable area on each proposed lot which remains after consideration of each of the following shall be shown:
 - 1. Required buffers from adjacent lands [see § 154.035(B)];
 - 2. Required setbacks from waterbodies and non-buildable land per Shoreland district regulations [see Article XIX] ;
 - 3. Steep slopes;
 - 4. Easements; and
 - 5. Land within the following setbacks:

	HOUSING TYPE	
	Single Family Homes	Townhomes
Front Yard	30	20
Side Yard	15 feet or 10% of lot width	
Corner Lot Front Yard	30	
Corner Lot Street Side Yard	30	
Rear Yard	20	

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

7. Open Space and Parkland Adjustments

a. Open Space

- i. The total preserved open space area within an open space planned unit development shall be no less than 50% of the total gross land area, as defined by § 11.01. If this threshold is not achieved after following the first six steps of lot design, the proposed lot areas will need to be adjusted or lots eliminated

until this requirement is met.

- ii. Land needed for storm water facilities as required by other provisions of the Lake Elmo City Code may count towards required open space for the purposes of Open Space PUD design, but must ultimately be placed in ~~Out~~lots to be dedicated to the City.
- iii. Excluding land needed for compliant storm water facilities, not less than 60% of the remaining preserved open space shall be in contiguous parcels which are five (5) acres or more in size.
- iv. Preserved open space parcels shall be contiguous with preserved open space or public park land on adjacent parcels.

b. **Parkland**

- i. Parks and recreational facilities shall be provided in the Open Space PUD (or cash-in-lieu contributions must be made) in addition to preserved open space as specified in the Lake Elmo Parks Plan.
- ii. Determination of whether a land or cash-in-lieu dedication will be required to fulfill parkland requirements will be at the discretion of the City Council after it receives a recommendation from the City Parks Commission. ~~with direction to be provided as a component of PUD Sketch Plan review.~~ If a required parkland dedication causes overall open space to drop below the minimum threshold, the proposed lot areas will need to be adjusted or lots eliminated until the open space requirement is once again met.
- iii. Any park dedication shall be consistent with the dedication and fee-in-lieu standards specified in Chapter 153.

(Ord. 08-152, passed 10-4-2016)

§ 154.658 OPEN SPACE PUD DEVELOPMENT STANDARDS.

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

A. Preserved Open Space Standards

- 1. With the exception of storm water facilities which must be dedicated to the City, all preserved open space within an open space planned unit development shall be subject to a conservation easement and used for the purposes listed in § 154.650.
- 2. Preserved open space land shall be controlled in one or more of following manners as determined at the sole discretion of the City Council:
 - a. Owned by an individual or legal entity who will use the land for a specific set of

purposes ~~outlined~~ which is subject to by a permanent conservation easement (in accordance with M.S. Ch. 84C.01-.05, as it may be amended from time to time), which is conveyed to an acceptable land trust held by a holder as defined by M.S. Chap 84C.01 (2) as approved by the eCity; and/or

- b. ~~Conveyed by A~~ conservation easement conveyed to the eCity.
 - c. Owned as an ~~Outlot~~ by the City (this option may only be used for land being dedicated to the City for stormwater maintenance and conveyance purposes).
3. Preserved open space land shall be maintained for the purposes for which it was set aside. If preserved open space was set aside for agricultural purposes or for natural habitat, a plan shall be submitted which will indicate how the land will be maintained or returned to a natural state and who will be responsible for plan implementation. Developers shall provide copies of ~~common interest community (CIC) proposed homeowners' association~~ declarations and conservation easements to the City to prospective purchasers, and conservation easements to the city, describing land management practices to be followed by the party or parties responsible for maintaining the preserved open space for the City's review prior to recording of these documents.
4. Where applicable, a ~~Common Interest Community~~ homeowners' association shall be established to permanently maintain all residual open space and recreational facilities. The ~~Common Interest Community homeowners' association's agreements, declaration~~ must guaranteeing guaranty continuing maintenance, and giving lien give assessment rights to the eCity if there is lack of the maintenance. The homeowners' association declaration shall be submitted to the eCity as part of the documentation requirements of § 154.661(3) for an open space PUD Final Plan.

B. Septic System Design Standards

1. In General

The placement and design of all septic systems shall conform to the requirements of Washington County.

2. Individual Septic Drain fields

Sites for individual septic drain fields, both primary and secondary, must be located entirely within each lot and cannot be located within any easement.

3. Communal Drain Fields.

- a. Communal drain fields may be partially or completely located in an area designated as preserved open space provided the ground cover is restored to its natural condition after installation, and recreational uses are prohibited above or within 50 feet of communal drain fields or as approved by the City Engineer.
- b. Communal drain fields, if installed, shall be professionally maintained, and are acceptable once legally sufficient documentation has been provided by the developer to ensure such maintenance will continue in perpetuity.

C. Building Standards

1. Principal structures within open space planned unit developments shall not exceed 2 and ½ stories or 35 feet in height.
2. It is desired that the structures within neighborhoods convey a particular architectural style with similar building components, materials, and roof pitches. The PUD Overlay ordinance crafted for each individual open space planned unit development should establish minimum architectural standards for the neighborhood.
3. All wells shall be located a minimum of fifty (50) feet from septic tanks and septic drain fields.

D. Landscaping Standards

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

E. Impervious Surface Standards

The maximum impervious surface allowable within an open space planned unit development shall be ~~20%~~ **25 %** of the land area not dedicated as preserved open space subject to the following:

1. Impervious surfaces created by roads, trails, and other planned impervious improvements shall count against the maximum allowed impervious coverage.
2. Remaining allowed impervious surface acreage may be distributed between the planned building sites, and maximums for each lot shall be clearly documented within the overlay district ordinance governing the development.
- ~~3. On individual lots, areas covered by pervious pavers or comparable systems may receive a 25% credit against the lot's hardcover if the system is installed consistent with the *City of Lake Elmo Engineering Standards Manual*, and adequate storm water mitigation measures (as may be necessary) are installed to mitigate potential runoff created by the additional coverage above the allowed impervious surface threshold. All such credits shall be at the discretion of the City Engineer.~~

F. Trail Standards

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

1. The linear footage of trails provided shall be at least equal in length to the sum of the centerline length of all public roads within the development.
2. All trails shall be constructed of asphalt or concrete in compliance with the standard ~~e~~City design plate for trails.

3. Proposed trails shall provide connections between and access to the buildable land areas and preserved open space land being created by the development.
4. Proposed trails shall connect to existing, planned, or anticipated trails or roads adjacent to the development site and on adjacent parcels.
5. If applicable, trails shall be linked (or be designed to provide a future link) to the “Old Village” to emphasize the connection between existing and new development.

(Ord. 08-152, passed 10-4-2016)

§ 154.659 RESERVED.

§ 154.660 OPEN SPACE PUD REVIEW CRITERIA

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

- A. The proposed development is consistent with the goals, objectives, and policies of the Comprehensive Plan.
- B. All prerequisites for an open space PUD as outlined in § 154.655 are met.
- C. All open space PUD design standards (as outlined in § 154.657) and all open space development standards (as outlined in § 154.658) are met; or if deviations are proposed, that all such deviations are supported because they achieve the following three (3) goals:
 1. The deviation(s) allow for higher quality building and site design that will enhance aesthetics of the site;
 2. The deviation(s) help to create a more unified environment within the project boundaries by ensuring one or more of the following: architectural compatibility of all structures, efficient vehicular and pedestrian circulation, enhanced landscaping and site features, and/or efficient use of utilities; and
 3. The overall design provides appropriate solutions to eliminate adverse impacts that proposed deviations may impose on surrounding lands.
- D. If the proposed PUD involves construction over two or more phases, the applicant has demonstrated that each phase is capable of being a stand-alone development independent of other phases.

(Ord. 08-152, passed 10-4-2016)

§ 154.661 OPEN SPACE PUD REVIEW PROCEDURE.

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

~~A. Open Space PUD Sketch Plan~~

~~1. Purpose~~

- ~~1. The open space PUD Sketch Plan is the first step in the development process which gives the applicant an opportunity to present their ideas to the City Council~~

~~and public so as to gain general feedback on areas that will require additional analysis, study, design, changes, etc. Feedback gained during the open space PUD Sketch Plan phase should be addressed within the subsequent PUD Preliminary Plan.~~

~~2. Specific open space PUD Sketch Plan Submittal Requirements~~

~~Except as may be waived by the Director of Planning, the following information shall constitute a complete application for an open space PUD Sketch Plan.~~

- ~~a. A listing of contact information including name(s), address(es) and phone number(s) of: the owner of record, authorized agents or representatives, engineer, surveyor, and any other relevant associates;~~
- ~~b. A listing of the following site data: Address, current zoning, parcel size in acres and square feet and current legal description(s);~~
- ~~c. A narrative explaining the applicant's proposed objectives for the open space PUD, a listing of the proposed modifications from standard in § 154.657 and § 154.658 as may be applicable, and an explanation of how the proposal addresses the PUD review criteria in § 154.660.~~
- ~~d. A listing of general information including the following:
 - ~~i. Number of proposed residential units.~~
 - ~~ii. Calculation of the proposed density of the project showing compliance with § 154.657(A).~~
 - ~~iii. A listing of all proposed land uses (i.e. preserved open space, buildable sites, parkland, etc).~~
 - ~~iv. Square footages of land dedicated to each proposed land use.~~~~
- ~~e. An existing conditions exhibit, including topography, that identifies the location of the following environmental features along with calculations (in acres) for each:
 - ~~i. Gross site acreage;~~
 - ~~ii. Existing wetlands;~~
 - ~~iii. Existing woodlands;~~
 - ~~iv. Areas with slopes greater than 12%, but less than 25%;~~
 - ~~v. Areas with slopes of 25% or greater;~~
 - ~~vi. Woodlands;~~
 - ~~vii. Other pertinent land cover(s).~~~~
- ~~f. An open space PUD Sketch Plan illustrating the nature of the proposed development. At a minimum, the plan should show:
 - ~~i. Existing zoning district(s) on the subject land and all adjacent parcels;~~~~

- ii. ~~Layout of proposed lots and proposed uses denoting Outlots planned for public dedication and/or preserved open space;~~
- iii. ~~Area calculations for each parcel;~~
- iv. ~~General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;~~
- v. ~~Location of existing and proposed streets within and immediately adjacent to the subdivision parcel;~~
- vi. ~~Proposed sidewalks and trails;~~
- vii. ~~Proposed parking areas;~~
- viii. ~~General location of wooded areas or significant features (environmental, historical, cultural) of the parcel;~~
- ix. ~~Location of utility systems that will serve the property;~~
- x. ~~Calculations for the following:~~
 - ~~(a) Gross land area (in acres);~~
 - ~~(b) Number of proposed residential units.~~
 - ~~(c) Proposed density of the project showing compliance with § 154.657(A).~~
 - ~~(d) Acreage & square footage of land dedicated to each proposed land use (i.e. preserved open space, buildable sites, parkland, etc.).~~
 - ~~(e) Acreage & square footage of land proposed for public road right-of-way;~~
 - ~~(f) Acreage & square footage of land dedicated to drainage ways and ponding areas;~~
 - ~~(g) Acreage & square footage of land for Trails and/or sidewalks (if outside of proposed road right-of-way);~~
- xi. ~~Other: An applicant may submit any additional information that may explain the proposed PUD or support any requests for modifications (i.e. a landscaping plan to support the lessening or elimination of an otherwise required buffer).~~
- xii. ~~The outline of a conceptual development schedule indicating the approximate date when construction of the project, or stages of the same, can be expected to begin and be completed (including the proposed phasing of construction of public improvements and recreational & common space areas).~~
- xiii. ~~A statement of intent to establish a Common Interest Community association with bylaws and deed restrictions to include, but not be limited~~

to, the following:

~~(a) Ownership, management, and maintenance of defined preserved open space;~~

~~(b) Maintenance of public and private utilities; and~~

~~(c) General architectural guidelines for principal and accessory structures.~~

xiv. ~~If applicable, a historic preservation plan for any historic structures on the site shall be submitted.~~

~~3. Open Space PUD Sketch Plan Proposal Review~~

~~a. Planning Commission~~

i. ~~Upon receiving an open space PUD Sketch Plan proposal, the City shall schedule a date upon which the Planning Commission will review the proposal.~~

ii. ~~Upon completing their review, the Planning Commission shall adopt findings and recommendations on the proposed open space PUD as soon as practical.~~

iii. ~~The Director of Planning may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.~~

~~b. City Council~~

i. ~~The City Council may listen to comments on the proposed development if they deem such necessary prior to discussing the proposed open space PUD Sketch plan.~~

ii. ~~After consideration of the Director of Planning's recommendation, the Planning Commission recommendation, and any public comments received, the City Council may comment on the merit of the request, needed changes, and suggested conditions that the proposer should adhere to with any future application.~~

iii. ~~For each of the identified modifications to the minimum standards outlined in~~

iv. ~~§ 154.657 and § 154.658, the City Council shall take a vote to instruct the applicant as to whether the modification can be pursued as a component of the PUD Preliminary Plan review.~~

~~4. Effect of a PUD Sketch Plan Review~~

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

~~application for an open space PUD Preliminary Plan.~~

- ~~b. Proposed modifications that receive a majority vote of support from Council may be requested as part of the future PUD Preliminary Plan application, but support to pursue the modification as part of the PUD Sketch Plan in no way guarantees that the modification will be approved as part of the PUD Preliminary Plan.~~

~~5. Limitation of Approval~~

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

~~B. A. PUD Preliminary Plan~~

1. **Prerequisite. *Pre-application Conference.*** Before filing of an application for OP planned unit development with the City, the applicant of the proposed OP planned unit development shall arrange for and attend a conference with the Planning Director, City Engineer and other City staff. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this subchapter before incurring substantial expense in the preparation of plans, surveys and other data.

~~No application for an open space PUD Preliminary Plan will be accepted by the City unless an applicant's proposal is distinctly similar to one reviewed by City staff in the required pre-application conference. in the completed the open space PUD Sketch Plan review process which is valid upon the date of application.~~

2. PUD Preliminary Plan Submittal Requirements

Except as may be waived by the Director of Planning, the following information shall constitute a complete application for an open space PUD Preliminary Plan.

- a. All required information for a preliminary plat per Chapter 1102, § 1102.01(C) and § 1102.02.
- b. A separate open space PUD Preliminary Plan which includes the following information:
 - i. Administrative information (including identification of the drawing as an "Open Space PUD Preliminary Plan," the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and north arrow);
 - ii. Area calculations for gross land area, wetland areas, right-of-way dedications, and proposed public and private parks or open space and net land area for calculating project residential density;
 - iii. Existing zoning district(s) on the subject land and all adjacent parcels;

- iv. Layout of proposed lots with future lot and block numbers. The perimeter boundary line of the subdivision should be distinguishable from the other property lines. Denote ~~Out~~lots planned for public dedication and/or open space (schools, parks, etc.);
 - v. The location of proposed septic disposal area(s);
 - vi. Area calculations for each parcel;
 - vii. Proposed setbacks on each lot (forming the building pad) and calculated buildable area;
 - viii. Proposed gross hardcover allowance per lot (if applicable);
 - ix. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question;
 - x. Delineation of wetlands and/or watercourses over the property;
 - xi. Delineation of the ordinary high water levels of all water bodies;
 - xii. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;
 - xiii. Easements and rights-of-way within or adjacent to the subdivision parcel(s);
 - xiv. The location and orientation of proposed buildings;
 - xv. Proposed sidewalks and trails;
 - xvi. Vehicular circulation system showing location and dimension for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access, if necessary, public and private streets, alleys, sidewalks, bike paths, direction of traffic flow and traffic control devices;
 - xvii. Lighting location, style and mounting and light distribution plan;
 - xviii. Proposed parks, common areas, and ~~preservation~~ conservation easements (indicate public vs. private if applicable); and
 - xix. Location, access and screening detail of large trash handling and recycling collection areas.
- c. Proposed architectural theming and performance standards for the development;
 - d. A grading drainage and erosion control plan prepared by a registered professional engineer providing all information as required by Public Works, the City Engineer, and/or the Director of Planning;
 - e. A utility plan providing all information as required by Public Works, the City Engineer, and/or the Director of Planning;
 - f. Results of deep soil test pits and percolation tests, at the rate of no fewer than 2 successful test results for each proposed septic disposal area;

- g. The location and detail of signage providing all pertinent information necessary to determine compliance with § 154.212;
- h. A tree preservation plan as required by § 154.257;
- i. A landscape plan, including preliminary sketches of how the landscaping will look, prepared by a qualified professional providing all information outlined in § 154.258;
- j. A traffic study containing, at a minimum, the total and peak hour trip generation from the site at full development, and the effect of such traffic on the level of service of nearby and adjacent streets, intersections, and total parking requirements;
- k. A plan sheet or narrative clearly delineating all features being modified from standard open space PUD regulations;
- l. ~~Common Interest Community Homeowners' Association~~ documents including declarations, covenants, articles of incorporation, and bylaws, ~~deed restrictions, covenants, and proposed conservation easements~~;
- m. Proposed conservation easement documents; and
- n. Any other information as directed by the Director of Planning.

3. PUD Preliminary Plan Review

- a. As part of the review process for an open space PUD Preliminary Plan, the Director of Planning shall generate an analysis of the proposal against the expectations for PUDs, and make a recommendation regarding the proposed overlay district for Planning Commission and City Council consideration.
- b. The Director of Planning shall prepare a draft ordinance to establish the potential overlay district to be established as a component of the PUD Final Plan.
- c. The Planning Commission shall hold a public hearing and consider the application's consistency with the goals for PUDs, the PUD review criteria, and applicable comprehensive plan goals. The Planning Commission shall make recommendations to the City Council on the merit, needed changes, and suggested conditions to impose on the PUD.
- d. In approving or denying the PUD Preliminary Plan, the City Council shall make findings on the PUD review criteria outlined in § 154.660.
- e. As a condition of PUD Preliminary Plan approval; finalization, adoption, and publication of an overlay district ordinance shall need to occur prior to the filing of any future final plat.

4. Effect of a PUD Preliminary Plan Review

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

Article.

5. Limitation of Approval

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

C. B. PUD Final Plan

1. Application Deadline

Application for an open space PUD Final Plan shall be submitted for approval within ~~ninety (90)~~ 180 days of City Council approval of the open space PUD Preliminary Plan unless a written request for a time extension is submitted by the applicant and approved by the City Council.

2. PUD Final Plan Submittal Requirements

Except as may be waived by the Director of Planning, the following information shall constitute a complete application for an open space PUD Final Plan.

- a. All required information for a final plat per City Code § 153.08;
- b. All required PUD Preliminary Plan documents, other than the preliminary plat, shall be updated to incorporate and address all conditions of PUD Preliminary Plan approval.
- c. Any deed restrictions, covenants, agreements, and articles of incorporation and bylaws of any proposed homeowners' association or other documents or contracts which control the use or maintenance of property covered by the PUD.
- d. A final staging plan, if staging is proposed, indicating the geographical sequence and timing of development, including the estimated start and completion date for each stage.
- e. Up-to-date title evidence for the subject property in a form acceptable to the Director of Planning and the City Attorney.
- f. Warranty deeds for ~~P~~property being ~~dedicated~~ deeded to the City for all parks, ~~Outlets~~ stormwater ponds, open space, etc., free from all mortgages, liens and encumbrances.
- g. All easement ~~dedication~~ documents for easements not being dedicated ~~shown~~ on the final plat including those for trails, ingress/egress, etc., together with all necessary consents to the easements by existing encumbrancers of the property.
- h. Any other information deemed necessary by the Director of Planning to fully present the intention and character of the open space PUD.
- i. If certain land areas or structures within the open space PUD are designated

for recreational use, public plazas, open areas or service facilities, the owner of such land and buildings shall provide a plan to the eCity that ensures the continued operation and maintenance of such areas or facilities in a manner suitable to the eCity.

3. PUD Final Plan Review

- a. The Director of Planning shall generate an analysis of the final documents against the conditions of the open space PUD Preliminary Plan approval, and make a recommendation as to whether all conditions have been met or if additional changes are needed.
- b. Staff should once again identify any information submittals that were waived so the City Council may determine if such is needed prior to making a final decision.
- c. The Director of Planning shall finalize the ordinance to establish the proposed overlay district for consideration by the Planning Commission and the City Council.
- d. The Planning Commission shall hold a public hearing on the proposed Overlay District ordinance and open space Final PUD Plans, and shall submit a recommendation to the City Council for consideration. Because an open space PUD Preliminary Plan was previously approved, the Planning Commission's recommendation shall only focus on whether the Ordinance and open space PUD Final Plan are in substantial compliance with the open space PUD Preliminary Plan and the required conditions of approval.
- e. The City Council shall then consider the recommendations of the Director of Planning, the public, and the Planning Commission; and make a decision of approval or denial, in whole or in part, on the open space PUD Final Plan. A denial shall only be based on findings that an open space PUD Final Plan is not in substantial compliance with the approved open space PUD Preliminary Plan and/or the required conditions of approval.
- f. As a condition of PUD Final Plan approval, publication of the overlay district ordinance or a summary thereof shall be required prior to filing of the approved final plat.
- g. Planned Unit Development Agreement.
 - i. At its sole discretion, the City may as a condition of approval, require the owner and the developer of the proposed open space PUD to execute a development agreement which may include but not be limited to all requirements of the open space PUD Final Plan.

ii. The development agreement may require the developers to provide an irrevocable letter of credit in favor of the City. The letter of credit shall be provided by a financial institution licensed in the state and acceptable to the City. The City may require that certain provisions and conditions of the development agreement be stated in the letter of credit. The letter of credit shall be in an amount sufficient to ensure the provision or development of improvement called for by the development agreement.

h. As directed by the City, documents related to the PUD shall be recorded against the property.

4. Time Limit

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

(Ord. 08-152, passed 10-4-2016)

§ 154.662 OPEN SPACE PUD AMENDMENTS.

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

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

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

1. Administrative Amendment

The Director of Planning may administratively approve minor changes to an approved Open Space PUD if such changes are required by engineering or other circumstances, provided the changes conform to the approved overlay district intent and are consistent with all requirements of the open space PUD ordinance. Under no circumstances shall an administrative amendment allow additional lots, or changes to designated uses established as part of the PUD. An ~~A~~administrative Aamendment shall be memorialized via letter signed by the Planning Director ~~and recorded against the PUD~~

property.

2. Ordinance Amendment

A PUD change requiring a text update to the adopted open space PUD overlay district language shall be administered in accordance with adopted regulations for zoning code changes in § 154.105. Ordinance amendments shall be limited to changes that are deemed by the Director of Planning to be consistent with the intent of the original open space PUD approval, but are technically necessary due to construction of the adopted overlay district language.

3. PUD Amendment

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

B. Pre-existing OP Developments

1. Pre-existing OP developments authorized prior to October 4, 2016 shall continue to be governed per the original conditions of approval until the OP development is cancelled by the City, or the OP development is converted to an open space PUD overlay district.
2. An application to amend an existing OP development shall require the development to be converted into an open space PUD beginning at open space PUD Preliminary Plan.
 - a. Replatting of lots will only be required if the Director of Planning determines such is necessary to implement the requested change.
 - b. The resulting overlay zoning district shall be applied to all properties within the OP development being amended.

(Ord. 08-152, passed 10-4-2016)

§ 154.663 PUD CANCELLATION.

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

§ 154.664 ADMINISTRATION.

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

A. Rules and regulations

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

B. Preconstruction

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

C. Effect on Conveyed Property

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

(Ord. 08-152, passed 10-4-2016)

ARTICLE XIX. PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS.

(With proposed additions underlined and deletions shown with ~~striketrough~~)

§ 154.750 INTENT.

This article establishes the procedures and standards for the development of areas as unified, planned developments in accordance with the intent and purpose of this zoning ordinance and the applicable policies of the Comprehensive Plan. Because of the larger size of PUDs and to help achieve the identified objectives for planned unit development sites, this article provides for flexibility in the use of land and the placement and size of buildings in order to better utilize site features and obtain a higher quality of development. Approval of a planned unit development shall result in a zoning change to a specific PUD district, with specific requirements and standards that are unique to that development.

(Ord. 08-070, passed 2-19-2013)

§ 154.751 IDENTIFIED OBJECTIVES.

When reviewing requests for approval of a planned unit development, the eCity shall consider whether one or more of the objectives listed below will be served or achieved. It is the responsibility of the applicant to provide a narrative of how the proposed planned development meets one or more of the eCity's identified objectives ((A) through (J)). Planned unit developments should not be allowed simply for the purpose of increasing overall density or allowing development that otherwise could not be approved.

- A. Innovation in land development techniques that may be more suitable for a given parcel than conventional approaches.
- B. Promotion of integrated land uses, allowing for a mixture of residential, commercial, and public facilities.
- C. Provision of more adequate, usable, and suitably located open space, recreational amenities and other public facilities than would otherwise be provided under conventional land development techniques.
- D. Accommodation of housing of all types with convenient access to employment opportunities and/or commercial facilities; and especially to create additional opportunities for senior and affordable housing.
- E. Preservation and enhancement of important environmental features through careful and sensitive placement of buildings and facilities.
- F. Preservation of historic buildings, structures or landscape features.
- G. Coordination of architectural styles and building forms to achieve greater compatibility within the development and surrounding land uses.
- H. Creation of more efficient provision of public utilities and services, lessened demand on transportation, and the promotion of energy resource conservation.
- I. Allowing the development to operate in concert with a redevelopment plan in certain areas of the City and to ensure the redevelopment goals and objectives will be achieved.

- J. Higher standards of site and building design than would otherwise be provided under conventional land development technique.

(Ord. 08-070, passed 2-19-2013)

§ 154.752 ALLOWED DEVELOPMENT.

Uses within the PUD may include only those uses generally considered associated with the general land use category shown for the area on the official Comprehensive Land Use Plan. Specific allowed uses and performance standards for each PUD shall be delineated in an ordinance and development plan. The PUD development plan shall identify all the proposed land uses and those uses shall become permitted uses with the acceptance of the development plan. Any change in the list of uses approved in the development plan will be considered an amendment to the PUD, and will follow the procedures specified in Article 5, Section 154.105 for zoning amendments. (Ord. 08-152, passed 10-01-2016)

- A. *Permitted Uses.* The PUD application shall identify all proposed land uses and those uses shall become permitted uses upon the approval of the planned unit development.
- B. *Placement of Structures.* More than one principal building may be placed on a platted lot within a planned unit development. The appearance and compatibility of buildings in relation to one another, other site elements, and surrounding development shall be considered in the review process.
- C. *Development Intensity.* The PUD may provide for an increase in the maximum gross floor area or floor area ratio by up to 20% of that allowed in the base zoning district, for the purpose of promoting project integration and additional site amenities.
- D. *Density.* The PUD may provide for an increase in density of residential development by up to 20% of that allowed in the base zoning district, for the purpose of promoting diversity of housing types and additional site amenities. Increased residential densities of varying levels will be awarded based upon the provision of a combination of various site amenities outlined in § 154.209. In addition, the eCity retains the right to evaluate all proposals for bonus density in accordance with the overall goals of the eCity's Land Use Element of the Comprehensive Plan.
- E. *Building Setbacks.* The PUD may provide for a reduction in or elimination of required setbacks in the base zoning district, provided that a landscaped setback area of the minimum width established for the base zoning district is maintained along the periphery of the adjacent zoning district(s).
- F. *Lot Requirements.* The City Council may authorize reductions in the area and width of individual lots within a PUD from that required for the base zoning district, provided that such reductions are compensated for by an equivalent amount of open space or other public amenities elsewhere in the planned unit development. Any open space shall not include areas designated as public or private streets. The plan may increase the maximum density beyond that permitted in the base zoning district for the purpose of promoting an integrated project with a variety of housing types and additional site amenities.
- G. *Other Exceptions.* As part of PUD approval, the City Council is authorized to approve other exceptions to the zoning controls applicable to the base zoning district, such as the maximum height of structures or the minimum off-street parking requirements. Such

exceptions shall only be granted when they are clearly warranted to achieve the objectives identified in § 154.751.

(Ord. 08-070, passed 2-19-2013)

§ 154.753 MINIMUM REQUIREMENTS.

- A. *Lot Area.* A PUD must include a minimum of 5 acres for undeveloped land or 2 acres for developed land within the approved development. Tracts of less than 2 acres may be approved only if the applicant can demonstrate that a project of superior design can be achieved to meet one or more of the identified objectives listed in § 154.751, or that compliance with the Comprehensive Plan goals and policies can be attained through the use of the PUD process. ~~The Planning Commission shall authorize submittal of a PUD for a tract of less than 2 acres prior to submittal of a general concept plan application.~~
- B. *Open Space.* For all PUDs, at least 20% of the project area not within street rights-of-way shall be preserved as protected open space. Other public or site amenities may be approved as an alternative to this requirement. Any required open space must be available to the residents, tenants, or customers of the PUD for recreational purposes or similar benefit. Land reserved for storm water detention facilities and other required site improvements may be applied to this requirement. Open space shall be designed to meet the needs of residents of the PUD and the surrounding neighborhoods, to the extent practicable, for parks, playgrounds, playing fields and other recreational facilities.
- C. *Street Layout.* In existing developed areas, the PUD should maintain the existing street grid, where present, and restore the street grid where it has been disrupted. In newly developing areas, streets shall be designed to maximize connectivity in each cardinal direction, except where environmental or physical constraints make this infeasible. All streets shall terminate at other streets, at public land, or at a park or other community facility, except that local streets may terminate in stub streets when those will be connected to other streets in future phases of the development or adjacent developments.

(Ord. 08-070, passed 2-19-2013)

§ 154.754 DENSITY.

The PUD may provide for an increase in density of residential development by up to 20% of that allowed in the base zoning district. Applicants seeking increased residential density through a Planned Unit Development are required to provide at least 1 or a combination of site amenities that equal the required amount of amenity points to achieve the desired density bonus.

- A. *Amenity Points and Equivalent Density Increases.* Increases in density will be awarded through a 1:1 ratio with amenity points. For every increase in amenity points for a Planned Unit Development, the applicant will be allowed an equivalent amount of density increase, up to a maximum increase of 20%. Table 16-1 outlines the required amount of amenity points to achieve various density increases.

Table 16-1: Amenity Points and Equivalent Density Increases

<i>Amenity Points</i>	<i>Density Increase</i>
5	5%
10	10%
15	15%
20	20%

- B. *Site Amenities*. Site amenities that are eligible for amenity points are listed in Table 16-2, including the associated standards of implementation. Some of the amenities may be awarded a range of amenity point based upon the quality and magnitude of the amenity. Where the amenity does not meet all of the standards required in Table 16-2, no points shall be awarded. Partial points for site amenities shall not be awarded, except as otherwise allowed in Table 16-2.
- C. *Site Amenities Not Listed*. The eCity may also consider the allotment of amenity points for site amenities that are not otherwise specified within this ordinance article as part of the preliminary plan phase of the planned unit development.

Table 16-2: Site Amenities

<i>Points</i>	<i>Amenity</i>	<i>Standards</i>
5-10	Underground or Structure Parking	Proposed underground or structured parking must be integrated into the primary structure. The purpose of this amenity is to better integrate parking into the site, reduce the amount of surface parking stalls, and reduce the amount of impervious surface. Proposed underground or structured parking must reduce the amount of surface parking stalls located outside of the footprint of the principal structure by a minimum of 25%. Amenity points will be awarded based upon the amount of surface parking stalls reduced (between 25-50%). For every additional 5% of surface parking stalls reduced above 25%, the applicant will be awarded 1 additional amenity point, up to a maximum of 10 amenity points. The facade of any underground or structure parking areas must match the architectural design of the principal structure.
10	Historic Preservation	Preservation, rehabilitation or restoration of designated historic landmarks in a manner that is consistent with the standards for rehabilitation of the Secretary of the Interior as part of the development.
<i>Points</i>	<i>Amenity</i>	<i>Standards</i>
10	Additional Open Space	A minimum of 50% of the site not occupied by buildings shall be landscaped outdoor open space. A minimum of 50% of the provided open space shall be contiguous. Open space classifications that qualify may include natural habitat, neighborhood recreation, trail corridors or open space buffers.
10	Public Right-of-Way Dedication	Dedication of land and construction of a public road, trail, pathway, or greenway that is part of an approved eCity plan, but outside the scope of the immediate project area. Right-of-way improvements should be designed per the specification of the City Engineer.

5	Fire Sprinkler Systems	The installation of fire sprinkler systems, per NFPA 13, 13D or 13R, in structures that are not currently required to install these systems under state code. Amenity points will only be awarded in situations where there are a significant proportion of structures in the development that are not required to be sprinkled under State Building Code. In addition, the density bonus calculation shall only be applied to the number of structures that do not require fire sprinkler systems.
5	Contained Parking	The purpose of this amenity is to better integrate surface parking into the site and reduce the amount of visible surface parking from the public right-of-way. Parking should be rear-loaded and hidden by the building facade, or integrated into the site in some other fashion that is acceptable to the eCity. This amenity is separate from underground or structure parking.
5	Leadership in Energy and Environmental Design	The proposed development shall meet the minimum standards for LEED Silver certification. The project does not have to achieve actual LEED certification; however, the developer must submit the LEED checklist and documentation to the eCity, approved by a LEED Accredited Professional (LEED-AP), which shows that the project will comply with LEED Silver requirements.
5	Pedestrian Improvements	A site and building design that allows for exceptional and accessible pedestrian and/or bicycle access through and/or around a site. The improvements shall use a combination of trails, landscaping, decorative materials, access control and lighting to create safe, clear and aesthetically pleasing pedestrian facilities through and /or around the site that comply with the Americans with Disabilities Act accessibility requirements.
5	Adaptive Reuse	Significant renovation, rehabilitation and adaptive reuse of an existing building(s), rather than demolition.
5	Plaza	The development shall include some form of plaza or public square that is wholly or partly enclosed by a building or buildings. Plazas are landscaped or paved open areas that shall have a minimum area not less than 1,000 square feet. Plazas for commercial or mixed-use development shall be open to the public during daylight hours.
Points	Amenity	Standards
1-5	Enhanced Landscaping	A Landscaping Plan of exceptional design that has a variety of native tree, shrub and plan types that provide seasonal interest and that exceeds the requirements of the Lake Elmo Design Standards Manual. The landscaped areas should have a resource efficient irrigation system. The Landscaping Plan shall be prepared by a licensed landscape architect. Amenity points shall be awarded based upon the quality and magnitude of the Landscaping Plan.
3	Enhanced Storm Water Management	Provide capacity for infiltrating stormwater generated onsite with artful rain garden design that serves as a visible amenity. Rain garden designs shall be visually compatible with the form and function of the space and shall include long-term maintenance of the design. The design shall conform to the requirements per the Minnesota Stormwater Manual and shall meet the approval of the City Engineer.
1-3	Theming	Significant utilization of various elements of Theming consistent with the 2013 Lake Elmo Theming Project, including but not limited to signage, fencing, landscaping, lighting and site furnishings. Amenity points will be awarded based upon the quality and magnitude of Theming elements integrated into the

		project.
3	Natural Features	Site planning that preserves significant natural features or restores ecological functions of a previously damaged natural environment.

(Ord. 08-070, passed 2-19-2013)

§ 154.755 COORDINATION WITH OTHER REGULATIONS.

- A. *Coordination with Subdivision Review.* Subdivision review under the subdivision regulations shall be carried out simultaneously with the review of the PUD. The plans required under this subchapter shall be submitted in a form that will satisfy the requirements of the Subdivision Ordinance for the preliminary plat and final plat.
- B. *Coordination with Other Zoning Requirements.* All of the provisions of this chapter applicable to the original district within which the Planned Unit Development District is established shall apply to the PUD District except as otherwise provided in approval of the Final Plan.

(Ord. 08-070, passed 2-19-2013)

§ 154.756 PHASING AND GUARANTEE OF PERFORMANCE.

- A. *Development Schedule.* The City shall compare the actual development accomplished in the various PUD zones with the approved development schedule.
- B. *Schedule Extension.* For good cause shown by the property owner, the City Council may extend the limits of the development schedule.
- C. *Phasing of Amenities.* The construction and provision of all of the common open space, site amenities and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units, if any. The Development Review Committee shall review all of the building permits issued for the PUD and examine the construction which has taken place on the site. If ~~they~~ the Committee finds that the rate of construction of dwelling units is greater than the rate at which common open spaces, site amenities and public and recreational facilities have been constructed and provided, ~~they~~ it shall forward this information to the City Council for action.
- D. *Guarantees.* A financial guarantee or letter of credit shall be required to guarantee performance by the developer. The amount of this financial guarantee or letter of credit, and the specific elements of the development program that it is intended to guarantee, will be stipulated in the development agreement.
- E. *Changes During Development Period*
 - 1. Minor changes in the location, placement and height of structures may be authorized by the Development Review Committee if required by engineering or other circumstances not foreseen at the time the final plan was approved and filed with the Planning Director.
 - 2. Changes in uses, any rearrangement of lots, blocks and building tracts, changes in the provision of common open spaces, and all other changes to the approved final

development plan may be made only under the procedures for zoning amendments, §§ 154.105. Any changes shall be recorded as amendments to the recorded copy of the final development plan.

- F. *Rezoning to Original District.* If substantial development has not occurred within a reasonable time after approval of the PUD Zoning District, the City Council may instruct the Planning Commission to initiate rezoning to the original zoning district. It shall not be necessary for the City Council to find that the rezoning was in error.

(Ord. 08-070, passed 2-19-2013)

§ 154.757 CONTROL OF PLANNED UNIT DEVELOPMENT FOLLOWING COMPLETION.

- A. *Final Development Plan Controls Subsequent Use.* After the certificate of occupancy has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the planned unit development shall be governed by the final development plan.
- B. *Allowed Changes.* After the certificate of occupancy has been issued, no changes shall be made in the approved final development plan except upon application as provided below:
1. Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the Development Review Committee if they are consistent with the purposes and intent of the final plan. No change authorized by this section may increase the cubic volume of any building or structure by more than 10%; and
 2. Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under this ~~chapter~~ article.
- C. *Amendment Required for Major Changes.* Any other changes in the final development plan, including any changes in the use of common open space, must be authorized by an amendment of the final development plan under the procedures for Zoning Amendments, Article 3.

(Ord. 08-070, passed 2-19-2013)

§ 154.758 PROCEDURES FOR PROCESSING A PLANNED UNIT DEVELOPMENT.

There are three ~~four~~ stages to the PUD process: application conference, ~~general concept plan~~, preliminary plan and final plan, as described below.

- ~~A.~~ *Application Conference.* ~~Upon~~ Before filing of an application for PUD with the City, the applicant of the proposed PUD shall arrange for and attend a conference with the Planning Director, the City Engineer and other City staff. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this subchapter before incurring substantial expense in the preparation of plans, surveys and other data.

- ~~B. *General Concept Plan.* The general concept plan provides an opportunity for the applicant to submit a plan to the city showing his or her basic intent and the general nature of the entire development without incurring substantial cost. The plan should include the following: overall density ranges, general location of residential and nonresidential land uses, their types and intensities, general location of streets, paths and open space, and approximate phasing of the development.~~
- ~~C. *B. Preliminary Plan.* Following the pre-application conference, approval of the general concept plan, the applicant may shall submit a preliminary plan application and preliminary plat, in accordance with the requirements described in § 153.07. The application shall proceed and be acted upon in accordance with the procedures in this subchapter article for zoning changes.~~
- ~~D. *C. Final Plan.* Following approval of the preliminary plan, the applicant shall submit a final plan application and final plat, in accordance with the requirements described in § 153.08. The application shall proceed and be acted upon in accordance with the procedures in this ordinance article for zoning changes. If appropriate because of the limited scale of the proposal, the preliminary plan and final plan may proceed simultaneously.~~
- ~~E. *D. Schedule for Plan Approval*~~
- ~~1. *1. Developer has a pre-application conference with City staff for their review and comment of the proposed PUD. Presents the general concept plan to the Planning Commission for their review and comment.*~~
 - ~~2. *After verification by the Planning Director that the required plan and supporting data are adequate, the Planning Commission shall hold a public hearing, with public notice.*~~
 - ~~3. *The Planning Commission shall conduct the hearing and report its findings and make recommendations to the City Council.*~~
 - ~~4. *The City may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.*~~
 - ~~5. *The Council may hold a public hearing after the receipt of the report and recommendations from the Planning Commission. If the Planning Commission fails to make a report within 60 days after receipt of the application, then the City Council may proceed without the report. The Council may approve the general concept plan and attach such conditions as it deems reasonable.*~~
 - ~~6. *2. Following the pre-application conference with City staff, approval of the General Concept Plan, the application may proceed to the preliminary plan phase.*~~
 - ~~7. *3. The Ddeveloper presents the preliminary plan to the Planning Commission for their its review and comment.*~~
 - ~~8. *4. After verification by the Planning Director that the required plan and supporting data are adequate, the Planning Commission shall hold a public hearing about the proposed preliminary PUD plan, with public notice.*~~

9. ~~5.~~ The Planning Commission shall conduct the hearing and report its findings and make recommendations to the City Council.
- ~~10.~~ ~~6.~~ The City may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.
- ~~11.~~ ~~7.~~ The City Council may hold a public hearing after the receipt of the report and recommendations from the Planning Commission. If the Planning Commission fails to make a report within 60 days after receipt of the application, then the City Council may proceed without the report. The City Council may approve the preliminary plan and attach such conditions as it deems reasonable.
- ~~12.~~ ~~8.~~ Following City Council approval of the Preliminary Plan, the application may proceed to the final plan phase.
- ~~13.~~ ~~9.~~ The ~~D~~developer must presents the Final Plan to the Planning ~~Commission~~ Director for ~~their~~ his or her review and comment.
- ~~14.~~ ~~10.~~ After verification by the Planning Director that the required Final pPlan and supporting data are adequate, the Planning Commission shall hold a public hearing, with public notice.
- ~~15.~~ ~~11.~~ The Planning Commission shall conduct the hearing and report its findings and make recommendations to the City Council.
- ~~16.~~ ~~12.~~ The City may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.
- ~~17.~~ ~~13.~~ After the receipt of the report and recommendations from the Planning Commission, the City Council may approve the Final Plan and attach such conditions as it deems reasonable.

(Ord. 08-070, passed 2-19-2013)

§ 154.759 APPLICATION REQUIREMENTS FOR PRE-APPLICATION CONFERENCE, GENERAL CONCEPT PLAN, PRELIMINARY PLAN AND FINAL PLAN.

~~Ten~~ Five copies of the following plans, exhibits and documents shall be submitted to the City before at the pre-application conference, general concept plan stage, and as part of preliminary plan stage and the final plan stage applications.

A. Pre-application conference General Concept Plan Stage

1. General Information
 - a. The landowner's name and address and his/her interest in the subject property.
 - b. The applicant's name and address if different from the landowner.
 - c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including but not limited to attorney, land planner, engineer and surveyor.

2. Present Status

- a. The address and legal description of the property.
- b. The existing zoning classification and present use of the subject property and all lands within 350 feet of the subject property.
- c. A map depicting the existing development of the subject property and all land within 350 feet of the subject property and showing the location of existing streets, property lines, easements, water mains, and storm and sanitary sewers, with invert elevations on and within 100 feet of the subject property.
- d. Site conditions. Where deemed necessary by the eCity, graphic reproductions of the existing site conditions at a scale of 1 inch equals 100 feet shall be submitted and contain the following:
 - i. Contours; minimum 5 foot intervals;
 - ii. Location, type and extent of tree cover;
 - iii. Slope analysis; and
 - iv. Location and extent of water bodies, wetlands, streams, and flood plains within 300 feet of the subject property.
- e. A written statement generally describing the proposed PUD and showing its relationship to the City Comprehensive Plan.
- f. Schematic drawing of the proposed development concept, including but not limited to the general location of major circulation elements, public and common open space, residential and other land uses.
- g. Proposed design features related to proposed streets, showing right-of-way widths, typical cross-sections, and areas other than streets including but not limited to pedestrian ways, utility easements and storm water facilities.
- h. Statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
 - i. Area devoted to residential use by building type;
 - ii. Area devoted to common open space;
 - iii. Area devoted to public open space and public amenities;
 - iv. Approximate area devoted to, and number of, off-street parking and loading spaces and related access;
 - v. Approximate area, and floor area, devoted to commercial uses; and
 - vi. Approximate area, and floor area, devoted to industrial or office use.
- i. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a preliminary schedule for the development of such stages or units shall be submitted stating the approximate

beginning and completion date for each such stage and overall chronology of development to be followed from stage to stage.

- j. The City may excuse an applicant from submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal.
- k. The City may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD.

B. Preliminary Plan Stage

- 1. Preliminary plat and information required by § 153.07.
- 2. General Information
 - a. The landowner's name and address ~~and his interest in the subject property.~~
 - b. The applicant's name and address if different from the landowner and the applicant's interest in the subject property.
 - c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including but not limited to attorney, land planner, engineer and surveyor.
 - d. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or ~~registered property report certificate of title,~~ and such other evidence as the City Attorney may require to show the status of title or control of the subject property.
- 3. Present Status
 - a. The address and legal description of the property.
 - b. The existing zoning classification and present use of the subject property and all lands within 350 feet of the property.
 - c. A map depicting the existing development of the property and all land within 350 feet thereof and indicating the location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within one hundred feet of the property.
 - d. A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the city's Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the eCity.
 - e. A statement of the proposed financing of the PUD.
 - f. Site conditions. Graphic reproductions of the existing site conditions at a scale of one 1 inch equals 100 feet. All of the graphics should be at the same scale

as the final plan to allow easy cross-reference. The use of overlays is recommended for ease of analysis

- i. Contours; minimum two 2 foot intervals.
 - ii. Location, type and extent of tree cover.
 - iii. Slope analysis.
 - iv. Location and extent of water bodies, wetlands and streams and flood plains within 300 feet of the property.
 - v. Significant rock outcroppings.
 - vi. Existing drainage patterns
 - vii. Vistas and significant views.
 - viii. Soil conditions as they affect development.
- g. Schematic drawing of the proposed development concept, including but not limited to the general location of major circulation elements, public and common open space, residential and other land uses.
- h. A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
 - i. Area devoted to residential use by building type;
 - ii. Area devoted to common open space;
 - iii. Area devoted to public open space and public amenities;
 - iv. Approximate area devoted to streets;
 - v. Approximate area devoted to, and number of, off-street parking and loading spaces and related access;
 - vi. Approximate area, and floor area, devoted to commercial uses; and
 - vii. Approximate area, and floor area, devoted to industrial or office use.
- i. When the proposed PUD includes increases in density of residential development above the base zoning district, a statement describing the site amenities to be included within the PUD, and demonstrating that the proposed site amenities sufficiently achieve the desired density bonus. The Applicant is required to demonstrate that all site amenity standards have been met in order to be awarded increased density for residential development.
- j. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such state and overall chronology of development to be followed from stage to stage.

- k. When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.
- l. Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
- m. Schematic utilities plans indicating placement of water, sanitary and storm sewers.
- n. The City may excuse an applicant from submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal.
- o. The City may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD.

C. *Final Plan Stage.* Development stage submissions should depict and outline the proposed implementations of the Preliminary Plan stage for the PUD. Information from the pre-application conference ~~general concept~~ and preliminary plan stages may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include but not be limited to:

- 1. A final plat and information required by § 153.08;
- 2. Final plans drawn to a scale of not less than 1 inch equals 100 feet (or a scale requested by the ~~Zoning Administrator~~ Planning Director) containing at least the following information:
 - a. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat heretofore recorded in the county where the subject property is situated);
 - b. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property;
 - c. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area of proposed buildings, including manufactured homes, and existing buildings which will remain, if any;
 - d. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements;
 - e. Location, designation and total area of all common open space;
 - f. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities;
 - g. The location of applicable site amenities, if any;
 - h. Proposed lots and blocks, if any and numbering system;

- i. The location, use and size of structures and other land uses on adjacent properties;
 - j. Detailed sketches and provisions of proposed landscaping;
 - k. General grading and drainage plans for the developed PUD; and
 - l. Any other information that may have been required by the Planning Commission or City Council in conjunction with the approval of the Preliminary Plan;
3. An accurate legal description of the entire area within the PUD for which final development plan approval is sought;
 4. A tabulation indicating the number of residential dwelling units and expected population;
 5. Density calculations, including proposed density bonuses above the base zoning district. To be granted increased density of residential development, the applicant must submit a schedule of site amenities with proposed designs and standards. The applicant must demonstrate that site amenity standards in Table 15-2 have been met to be rewarded additional density;
 6. A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. retail or office);
 7. Preliminary architectural “typical” plans indicating use, floor plan, elevations and exterior wall finishes of proposed building, including manufactured homes;
 8. A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights of way, utility lines and facilities, lots, block, public and common open space, general landscaping plan, structure, including mobile homes, and uses;
 9. Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the approved ~~concept~~ preliminary plan; and
 10. A soil erosion control plan acceptable to watershed districts, the Department of Natural Resources, ~~Natural Resources Conservation Service~~, or any other agency with review authority, clearly illustrating erosion control measures to be used during construction and as permanent measures.

(Ord. 08-070, passed 2-19-2013)

§ 154.760 CITY COSTS.

The applicant shall make a deposit of a fee escrow with the City for the purpose of reimbursing any costs directly related to a given development. Such costs include but are not limited to professional fees and expenses incurred by the City for consultants (including but not limited to planners, engineers, architects, landscape architects and attorneys) who the City determines in its sole judgment are necessary to assist in reviewing, implementing or enforcing the provisions of this article. The amount of the deposit, and any addition to it that the City may later require, shall be established by the Planning Director. The City and the applicant may agree to share the costs

of consultants based upon a specific written agreement. Any funds not used by the City shall be returned to the applicant at the conclusion of the project.

(Ord. 08-070, passed 2-19-2013)

LAKE ELMO SUBDIVISION REGULATIONS (Latest version adopted 11-19-2019)

(With proposed additions underlined and deletions shown with ~~striketrough~~)

§ 153.01 REGULATIONS ESTABLISHED.

No land shall be subdivided, nor shall any land be platted, in the City except as provided by this chapter.

(1997 Code, § 400.02) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.02 GENERALLY.

(A) *Purpose.* In order to provide for orderly, economic, and safe development of land, necessary urban services and facilities, and to promote the public health and safety of the City. It is the intent of the City to protect the right of landowners to put their land to its highest and best use and protect each owner's right to full beneficial use of their land to accomplish enjoyment without detriment to the public interest.

(B) *Scope.* The provisions of this chapter apply to any division of a tract of land into 2 or more parcels for the purpose of transfer of ownership, building development, or tax assessment purposes by platting, re-platting, registered land survey, conveyance, sale, contract for sale or any other means by which a beneficial interest in land is transferred except those divisions listed below:

- (1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;
- (2) creating cemetery lots; or
- (3) resulting from court orders.

(C) *Approval necessary for acceptance of subdivision plats.* Before any plat or subdivision shall be recorded or be of any validity, it shall be referred to the Planning Commission and approved by the City Council as having fulfilled the requirements of this chapter.

(D) *Building permits.* No building permits shall be issued for the construction of any building, structure, or improvement to any land or lot in a subdivision, as defined in this chapter, until all requirements of this chapter have been satisfied, with the following exceptions.

(1) Building permits may be issued for model homes after approval of the final plat by the City ~~e~~Council upon receipt of a signed ~~developer's~~ development agreement. The issuance of building permits for model homes shall be in accordance with the signed development agreement.

(2) ~~The Developer~~ shall agree in writing to indemnify and hold harmless the City for damages that may occur as a result of the model home construction prior to the required improvements being completed.

(3) No certificate of occupancy shall be issued by the City until all applicable requirements set forth by the development agreement have been met.

(4) Traffic and parking arrangements relating to model homes shall be subject to the City's review and approval.

(Am. Ord. 9707, passed 5-20-1997) (Am. Ord. 08-205, passed 4-3-2018)

(E) *Conflicts.* Whenever there is a difference between minimum standards or dimensions required by this chapter or other ordinances of the City, the most restrictive standards of dimensions shall apply.

(F) *Flood plain management.*

(1) No land shall be subdivided which is held unsuitable by the City Council for reason of flooding, inadequate drainage, steep slopes, water supply, or sewage treatment facilities. All lots within the flood plain shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this chapter, and have road access both to the subdivision and to the individual building sites no lower than 2 feet below the regulatory flood protection elevation.

(2) In the general flood plain district, applicants shall provide the information required in § 152.140. The City Council shall evaluate the subdivision in accordance with procedures established in this chapter and standards contained in § 152.07.

(G) *Consistency with Comprehensive Plan and Zoning District.* Subdivision of property shall be in compliance with the City's Comprehensive Plan and zoning district in which the property is located.

(1997 Code, § 400.03) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.03 DEFINITIONS.

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

(1997 Code, § 400.04) (Am. Ord. 08-205, passed 4-3-2018)

§ 153.04 REGISTERED LAND SURVEY.

No registered land survey of lands in the City shall be recorded with the Registrar of Titles until the registered land survey has been approved by the City. The approval shall be indicated by resolution endorsed on or attached to the registered land survey signed by the Mayor and City

Clerk. No registered land survey shall be approved by the City or signed by the officers if the recording of the registered land survey will result in a subdivision in violation of any provision, regulation, or requirement of this chapter.

(1997 Code, § 400.05) (Am. Ord. 08-205, passed 4-3-2018)

§ 153.05 CONVEYANCE BY METES AND BOUNDS AND OTHER UNAPPROVED DESCRIPTIONS.

(A) No conveyance of lands to which the regulations contained in this chapter are applicable shall be made and no conveyance of land to which the regulations contained in this chapter are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after 10-3-1968, or to an unapproved plat made after 10-3-1968.

(B) The foregoing provision does not apply to a conveyance if the land described:

(1) Was a separate parcel of record prior to or on 10-3-1968, or as to lands within the jurisdictional boundaries of the Old Village prior to its consolidation with the Town of East Oakdale if the land was a separate parcel of record 6-4-1974;

(2) Was the subject of a written agreement to convey, entered into prior to 10-3-1968;

(3) Is a single parcel of land having not less than ½ 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of a parcel into 2 or more lots or parcels any 1 of which is less than 20 acres in area or 500 feet in width; and/or

(4) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width;

§ 153.06 LOT CONSOLIDATION/LOT LINE ADJUSTMENT.

(A) *Purpose and Intent.* The lot consolidation/lot line adjustment process provides a simple administrative procedure for the consolidation of 2 or more lots into 1 parcel, or to adjust a common lot line affecting existing parcels. In areas that are well defined and land descriptions are simple, the City may permit the conveyance of land using metes and bounds descriptions or without the preparation and recording of a plat. In areas which are not well defined, or where lots are irregular in shape and/or are included in more than one plat, the City may require that lot consolidation/lot line adjustment occur through the major or minor subdivision platting requirements of this chapter.

(B) *Criteria for Lot Line Adjustment/Lot Consolidation.* Lot line adjustments exempted from platting by Minnesota Statute 462.352, Subd. 12 and shall not require a plat or replat and may be administratively approved by City staff, provided all of the following are met:

- (1) Each resultant parcel equals or exceeds the minimum lot dimension requirements and public road frontage requirements for the zoning district in which the property is located or is made more conforming through the lot line adjustment;
 - (2) The lot line adjustment does not create additional lots.
 - (3) The lot line adjustment shall not cause any structure on the property to be made non-conforming or in violation of the Zoning Chapter or any other provisions of the City Code.
 - (4) All resultant parcels shall have frontage and access on an existing improved street or access to an existing improved street protected by a restrictive covenant approved by the City Attorney which includes the City as a beneficiary.
 - (5) The resulting parcels shall generally conform to the shape, character, and area of existing or anticipated land subdivisions in the surrounding areas.
 - (6) Any such lot line adjustment shall not require any public improvements.
 - (7) Any easements that become unnecessary as a result of the combination of parcels must be vacated. A request to vacate easements shall be made concurrently with the application for lot consolidation/lot line adjustment. Review of the easement vacation request, including any public hearings and City Council action, shall be completed before action may be taken on the application for lot consolidation/lot line adjustment.
 - (8) New easements shall be established as the City deems necessary.
- (C) *Subdivision of Property for Public Purpose.* Alternatively, the subdivision of property resulting from acquisition by governmental agencies for public improvements or uses may be processed in the same manner as a lot line adjustment or lot consolidation.
- (D) *Submittal Requirements.* Requests for lot line adjustments or lot consolidation shall be filed with the City on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.
- (1) A fee as set forth by the City's adopted fee schedule.
 - (2) Detailed written and graphic materials fully explaining the proposed lot line adjustment.
 - (3) A legal description of the affected parcels and legal descriptions for each of the resulting parcels; and, in regard to lot line adjustments, legal descriptions for the adjusted or consolidated parcels;
 - (4) A written description stating the reason for the request; and
 - (5) A land survey prepared by and signed by a registered land surveyor describing the lot line adjustment and showing all buildings, driveways, easements, setbacks, and other pertinent information including the legal descriptions herein required.

- (6) A title search showing ownership of the property and any existing deed restrictions.
- (7) Other information shall be provided as may be reasonably requested by the City staff.
- (E) *Review of lot line adjustment or lot consolidation.* A completed application shall be reviewed administratively by the Planning Department who shall make a written finding in regard to the provisions of division (B) above. The City's approval shall be conditioned upon recording of documents which effectuate the lot line adjustment or lot consolidation and any other conditions deemed necessary to ensure compliance with the Zoning Code. Unless a request for additional review time is requested by the City, action on the application shall be taken within 60 days after a complete application is submitted. Prior to the issuance of any development permits, and no later than 60 days after administrative review and approval, the applicant shall provide the City with recorded documents or recorded document numbers for the deeds of conveyance which effectuate the lot line adjustment or lot consolidation. Failure to provide the required verifications within the required time shall invalidate the City's approval.
- (F) *Certification of Taxes Paid.* Prior to approval of an application for a lot line adjustment or lot consolidation, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the lot line adjustment or lot consolidation application relates.

(1997 Code, § 400.06) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

SECTION 153.065 LOT DIVISIONS.

Section 153.065 Lot Divisions.

- A. The City Planning Director may approve administratively the subdivision of one lot or parcel into two or three lots where no public infrastructure, easements or rights-of-way are being dedicated. The following requirements must be met before the City may approve an administrative lot division:
 - 1. The submittal of the required land use application and fee.
 - 2. The submittal of proof of ownership.
 - 3. The submittal of a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
 - a. Graphic scale of the survey (engineering scale only, not less than 1 inch equals 50 feet).
 - b. North arrow.
 - c. Date of the survey.
 - d. Existing legal description of the parcel of land to be subdivided.
 - e. Existing parcel boundaries shown with survey measurement data matching the legal description of the parcel of land.
 - f. Area in square feet and in acres of the parcel of land to be subdivided.
 - g. Existing site improvements within the subject property and those within 50 feet of the boundaries of the parcel to be subdivided.
 - h. All encroachments along the outside boundary of the parcel of land to be subdivided.

- i. All easements of record affecting the parcel of land to be subdivided.
 - j. Basins, lakes, rivers, streams, creeks, wetlands and other waterways bordering on or running through the parcel of land to be subdivided. The ordinary high water elevation and the 100-year flood elevation shall be shown where applicable.
 - k. The location, right-of-way widths and names of public streets or other public ways, showing type, width and condition of improvements, if any, that pass through and/or adjacent to the parcel of land being subdivided.
 - l. Location, right-of-way widths and names of any railroad, if any, that pass through or are adjacent to the parcel of land being subdivided.
 - m. The location, type and size of any public infrastructure (sanitary sewer, water, storm sewer) that is located on or adjacent to the parcel of land being subdivided.
 - n. Identify all gaps and overlaps of the property being subdivided.
 - o. The outside boundary of the property being subdivided must be clearly marked survey monumentation.
 - p. The boundary shown with survey measurement data and proposed legal description for each of the lots as they are proposed to be subdivided.
 - q. The boundary and legal description of any proposed easements on the property. The owner must provide a 10-foot-wide drainage and utility easement along all property lines. The City also may require a drainage and utility easement over wetlands, wetland buffers, stormwater basins, lakes, drainage channels and tributaries.
 - r. The City also may require the dedication of easements or right-of-way for public streets consistent with the City's Comprehensive Plan.
 - s. If the owner is proposing residential lots that would use on-site septic systems, then the owner must provide documentation that each lot would have enough area for a primary and secondary on-site septic system along with the proposed location of the houses, driveways and wells for each of those lots.
4. A lot division shall not result in the creation of more than three lots.
 5. The Planning Director may approve or cause to be modified plans for a lot division. The Director must first determine, however, that the plans meet all eCity ordinances and policies and that the lot division proposal would not have an adverse impact on the subject property or surrounding properties. If the Director makes a negative determination about the proposed lot division or if the applicant wishes to appeal the decision, the case shall be sent to the Planning Commission for a review and recommendation and to the City Council for action.
 6. The City may require a letter of credit as a condition of a lot divisions in order to guarantee the proper repair and patching of streets after the installation of or connection to utilities in the streets or in the public rights-of-way.
 7. The City shall not approve more than three new lots from a parcel or tract in any single calendar year.
 8. The owner must record the deeds for the lot division with Washington County within 180 days of City approval of a lot division, or the lot division shall be no longer valid.

§ 153.07 MINOR SUBDIVISIONS.

- (A) *Purpose and Intent.* The purpose of a minor subdivision process is to allow the City to waive certain procedures and requirements of a major subdivision. The purpose is to reduce the time and cost to the property owner for dividing land in locations and situations that are well defined and where no new public infrastructure is required. The minor subdivision process allows for concurrent review and approval of a ~~P~~preliminary and ~~F~~final ~~P~~plat.
- (B) *Criteria for Minor ~~s~~ubdivision.* A minor subdivision is a division of land which results in no more than 4 parcels shown on the plat/survey:
- (1) Each resultant parcel meets all applicable requirements of the Zoning Code, including but not limited to density, lot size, lot width, and minimum frontage on a public road, unless a variance has been approved according to the procedures set forth in Section 153.11 of the City Code.
 - (2) No new public rights-of-way or streets shall be necessary for or created by the subdivision.
 - (3) Streets, utility easements, drainage easements or public park land or cash in lieu of land shall be dedicated as required by the City.
 - (4) All wetland areas and Minnesota Department of Natural Resources protected waters shall be protected with a conservation easement up to the 100-year flood level.
 - (5) The minor subdivision complies with all applicable requirements of the road authority, including access spacing and location criteria for sight distances if located adjacent to a state or county highway, and/or of the watershed district(s) in which it is located.
- (C) *Submittal Requirements.* Requests for minor subdivision shall be filed with the City on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of 4 large scale copies and 10 reduced scale (11" X 17") copies and electronic versions of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.
- (1) An application fee as set forth by the City's adopted fee schedule
 - (2) Detailed written and graphic materials fully explaining the proposed minor subdivision.
 - (3) List of property owners located within 350 feet of the subject property in a format prescribed by the City.

- (4) A preliminary plat prepared by a registered land surveyor in the form required by M.S. Ch. 505, as it may be amended from time to time, and the name, address, and registration number of the surveyor, which includes:
 - a. Graphical scale not more than 1 inch equals 100 feet.
 - b. North point indication.
 - c. Original and proposed lot boundaries.
 - d. Topographic data at 2 foot contours.
 - e. Existing and resulting parcel legal descriptions.
 - f. Buildable area on each lot and proposed building pad.
 - g. The location of existing structures on the site.
 - h. Existing and proposed driveway locations.
 - i. Existing easement locations.
 - j. Existing parks, streets and utility easements.
 - k. Delineated wetlands and water bodies including ordinary high water elevations and floodplain boundaries as applicable.
 - l. Sewage treatment systems and/or well locations.
 - m. Location and size of existing sewers, water mains, wells, culverts, or other underground utilities within the tract and to a distance of 150-feet beyond the tract, the data as grades, invert elevations, and locations of catch basins, and manholes shall also be shown;
- (5) Drainage, grading and erosion control plans, if applicable.
- (6) Existing and proposed lowest floor elevations for each lot.
- (7) Soil testing for the installation of subsurface sewage treatment system, if applicable.
- (8) If driveways to a state or county highway are required, driveway permits or a letter of intent to approve said driveways from the applicable road authority.
- (9) Any additional information if deemed necessary and required by the City. The City may waive for good cause certain information requirements not pertinent to the particular minor subdivision request.

(D) *Review of Minor Subdivision.*

- (1) *Review by staff and other commissions or jurisdictions.* The City shall refer copies of the preliminary plat to the City Engineer, Planner, Attorney, the Watershed District and the appropriate county, state, or other public agencies for their review and comment. The City shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation on the action to the Planning Commission and Council.
- (2) *Public Hearing Set.* Upon receipt of a complete application, the City shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make a recommendation to Council. Notice of said hearing shall consist of a legal property description and a

description of the request, which shall be published in the official newspaper at least 10 days prior to the hearing and written notification of said hearing shall be mailed at least 10 days prior to the hearing to all owners of land within 350 feet of the boundary of the property in question. Public hearings shall follow the hearing procedures outlined in Section 154.102. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.

- (3) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of this Chapter.
 - (4) The City Council shall not approve a minor subdivision until it has received a report and recommendation from the Planning Commission and ~~the~~ City staff, or until 60 days after the first regular Planning Commission meeting at which the request was considered.
 - (5) Approval of a minor subdivision shall require passage of a resolution by a majority vote of a quorum of the City Council.
 - (6) Prior to certification by the City of the approval of the minor subdivision, the applicant shall submit the final plat for signature, supply the ~~deed(s)~~ easement documents granting the City any easements required by the City using the City's standard form of easement and pay any required recording or other fees.
 - (7) Whenever an application for a minor subdivision has been considered and denied by the City Council, a similar application for a minor subdivision affecting substantially the same property shall not be considered again by the Planning Commission or the City Council for at least 6 months from the date of its denial unless a decision to reconsider such matter is made by a majority vote of the entire City Council.
- (E) *Recording of the Minor Subdivision.* If the minor subdivision is approved by the Council, the subdivider shall record it with the County Recorder or Registrar of Titles within 180 days after the approval. If not ~~filed~~ recorded within 180 days, approval of the minor subdivision shall be considered void, unless a request for a time extension is submitted in writing and approved by the City Council. The subdivider shall, immediately upon recording, furnish the City with copies of the recorded documents which effectuate the minor subdivision. No building permits shall be issued for construction of any structure on any lot within the approved minor subdivision until the City has received evidence of the plat being recorded by the County.
- (F) *Financial Guarantee.* Following the approval of a minor subdivision as required by this Section and prior to the issuing of any building permits or the commencing of any work, the applicant may be required to submit a financial guarantee to the City to ensure the completion of any improvements as shown on the approved plans and as required as a condition of minor subdivision approval.

(G) *Certification of Taxes Paid.* Prior to approval of an application for a minor subdivision, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the minor subdivision application relates.

**§ 153.08 MAJOR SUBDIVISIONS – PRE-APPLICATION CONFERENCE ~~SKETCH~~
~~PLAN REVIEW.~~**

(A) *Purpose and Intent.* In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other City ordinances or plans, prior to the development of a preliminary plat, applicants are required to attend a pre-application conference with City staff (including, but not limited to, the Planning Director and the City Engineer) to review and discuss the proposed subdivision. ~~submit a sketch plan of the proposed subdivision to the City for review.~~

1. **Prerequisite. *Pre-Application Conference.*** Before filing of an application for a major subdivision with the City, the applicant of the proposed major subdivision shall arrange for and attend a pre-application conference with the Planning Director, City Engineer and other City staff. The primary purpose of the pre-application conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this section before incurring substantial expense in the preparation of plans, surveys and other data.
2. No application for a major subdivision will be accepted by the City unless an applicant's proposal is distinctly similar to one reviewed by City staff in the required pre application conference.

(B) *Submittal requirements.* Requests for pre-application conference and staff review of a major subdivision shall be filed with the City on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of 4 large scale copies and 10 reduced scale (11" X 17") copies and electronic versions of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

- (1) An application fee as set forth by the City's adopted fee schedule.
- (2) Detailed written and graphic materials fully explaining the proposed major subdivision.
- (3) List of property owners located within 350 feet of the subject property in a format prescribed by the City.
- (4) A scaled drawing which includes:
 - a. Locations of boundary lines in relation to a known section, quarter section, or quarter quarter section line comprising a legal description of the property;
 - b. Graphical scale not less than 1 inch equals 100 feet.
 - c. Data and north point.
 - d. Existing conditions.
 - i. Boundary line of proposed subdivision, clearly indicated;
 - ii. Existing zoning classification for land within and abutting the subdivision;
 - iii. A statement on the acreage and dimensions of the lots;
 - iv. Location widths and names of existing or previously platted streets or other public ways, showing type, width, and conditions of improvements, if any, railroad and utility rights-of-way, parks and other open spaces, permanent buildings and structures, easements in section and corporate lines within the tract and to a distance of 150 feet beyond the tract;
 - v. Location and size of existing sewers, water mains, wells, culverts, or other underground utilities within the tract and to a distance of 150 feet beyond the tract, the data as grades, invert elevations, and locations of catch basins, and manholes shall also be shown;
 - vi. Boundary lines of adjoining unsubdivided or subdivided land, within 150 feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider;
 - vii. Topographic data, including contours at vertical intervals of not more than 5 feet; water courses, marshes, rock outcrops, power transmission poles and lines and other significant features shall also be shown; National Geodetic Vertical Datum (N.G.V.D.) shall be used for all topographic mapping; ~~and~~
 - viii. The subdivider may be required to file a report prepared by a registered civil engineer or soil scientist on the feasibility of on-site sewer and water systems on each lot; the report shall include a soil borings analysis and a percolation test to verify conclusions;
 - ix. Buildable area on each lot and proposed building pad;
 - x. Existing and proposed driveway locations;
 - xi. Existing parks, streets and easement locations; and

- xii. Delineated wetlands and water bodies including ordinary high water elevations and floodplain boundaries as applicable.
- e. Proposed design features.
 - i. Layout of proposed streets showing right-of-way widths, center line grade, typical cross-sections, and proposed names of streets in conformance with all applicable City ordinances and policies; the name of any street used in the City or its environs shall not be used unless the proposed street is the logical extension of an already named street, in which event the same name shall be used. The names and number shall comply with the County Uniform Street Numbering System.
 - ii. Areas other than streets, pedestrian ways, utility easement, intended to be dedicated or reserved for public use, including the size of the areas in acres.
 - iii. Provision for surface water disposal, drainage, and flood control within the boundaries of the proposed property division consistent with ~~s~~Section 150.273 of the City Code, storm water management and erosion and sediment control
- f. *Supplementary information.*
 - i. The supplementary information as shall reasonably be deemed necessary by City staff, ~~the Planning Commission or the City Council;~~
 - ii. Proposed protective covenants;
 - iii. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwellings and type of business or industry, so as to review the effect of the development on traffic, fire hazards, and congestion of population;
 - iv. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. The proposed zoning plans shall be for information only and not vest any rights in the application for use other than residential;
 - v. A statement showing the proposed density with the method of calculating said density also shown.
 - vi. Where the subdivider owns property adjacent to that which is being proposed for division, the City Planning Commission may require that the subdivider submit a sketch plan or ghost plat of the remainder of the property so as to show the possible relationship between the proposed division and a future subdivision. All subdivisions shall be reasonably consistent with the existing or potential adjacent subdivisions; and
 - vii. Where structures are to be placed on large or excessively deep lots, which are subject to replat, the development subdivision plans shall indicate placement of structures so that lots may be further subdivided,

in addition to a sketch plan that illustrates a way in which the lots can possibly be resubdivided.

(C) ~~*Sketch Pre-application Plan Review.*~~ The ~~sketch~~ pre-application plan for the proposed subdivision shall be reviewed by City Staff, the Planning Commission, and Council. The City may refer the sketch plan to the Parks Commission to secure its recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds, trails, open space or other public property. The City shall accept the information received, but take no formal or informal action which could be construed as approval or denial of the proposed plat. The staff review of the proposed subdivision plan is to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this subchapter. The applicant shall not construe any of the information provided by City at this point in the review process as an approval or denial of the proposed subdivision but rather as information to guide the applicant through the next steps in the City review process for the applicant's proposal.

(1997 Code, § 400.07) (Am. Ord. 08-024, passed 4-20-2010) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.09 PRELIMINARY MAJOR SUBDIVISIONS (PRELIMINARY PLAT).

(A) *Submittal requirements.* Requests for preliminary plat approval may be filed with the City on an official application form after the applicant has attended a pre-application conference with City staff and has received comments about the proposed subdivision from the City ~~received comments on the proposed sketch plan~~ as outlined in Section 153.08 of this Chapter. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner.

The application shall be considered as being officially submitted and complete when the applicant has complied all the specified requirements and submitted all the information as outlined below.