



STAFF REPORT

DATE: 01/15/2019

REGULAR

TO: Planning Commission
FROM: Ken Roberts, Planning Director
AGENDA ITEM: Planned Unit Development (PUD) Ordinance Update
REVIEWED BY: Ben Prchal, City Planner

BACKGROUND:

The Planning Commission held a public hearing and recommended approval of a draft PUD ordinance at its July 23, 2018 meeting.

On August 21, 2018, the City Council considered the 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. (See the attached staff report from this meeting for more information).

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 a minimum and maximum possible points for each item – including affordable housing. In addition, the Planning Commission also moved to add amenity points for the installation of active soil vapor intrusion systems (radon mitigation) into residential properties.

ISSUE BEFORE THE CITY COUNCIL:

Should the Council approve changes to the PUD ordinance?

PROPOSAL DETAILS/ANALYSIS:

AFFORDABLE HOUSING

It is a goal within the draft 2040 Comprehensive Plan to provide opportunities within the urbanizing areas to accommodate and develop housing that may be more affordable and desirable to younger and senior population. The proposed updated PUD ordinance provides an opportunity for the City to award increased housing density for a development via the use of amenity points when a developer or applicant includes certain design elements or types of construction that are above and beyond the minimum standards of the City. Put another way, to encourage the provision of moderate and low income housing and/or senior housing in Lake Elmo, the city could provide developers/property owners the possibility of gaining a density bonus and additional incentives or concessions in the PUD ordinance.

As noted above, the City Council requested the PUD 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. In response the Planning Commission's discussion and the questions of the City Council about affordable housing as a part of the PUD ordinance, staff researched the matter and offers the following information for the City Council's consideration.

It is unlikely, if not almost impossible, for developers in the Twin Cities area (and across the County) to build and operate affordable housing in today's real estate market without some type of governmental intervention. The PUD ordinance can create incentives for the provision of affordable housing as a part of certain new housing development in the city, it will help implement the affordable housing goals, policies and objectives in the draft 2040 Comprehensive Plan, will help ensure the opportunity for affordable housing for employees of businesses that are located in or will be in Lake Elmo and will help to maintain a balanced community that provides housing for all people of all income levels. By adding density points to the PUD ordinance, the City is making a political and policy commitment with this ordinance to better accommodate affordable housing in Lake Elmo.

A healthy City has a variety of housing types appropriate for residents in all stages of the life cycle; safe and affordable housing for people in all income groups and housing opportunities close to jobs. In areas such as Lake Elmo with little affordable housing, the introduction of mixed-income housing developments can jump-start the process for bringing about diversity, affordability and balance. Developers can create balanced communities (with some affordable housing) by providing a variety of housing at a variety of price points. From the developer's perspective, a mixed-income, mixed housing product development mitigates the development risk by appealing to a variety of potential customers. Market-rate units can help cross-subsidize the income restricted units, making the development more financially feasible. The proper ratio of market-rate, workforce and low-income housing units in any one development varies and really depends on the situation in the city and in the surrounding area at the time of development approval and construction.

Having a density bonus option for including affordable housing in a development will help provide a broader range of affordable housing opportunities for the city's residents. The city should make the affordable housing density bonus and any additional development incentive be available for use in all types of residential developments. The city also should require any increase in density of residential developments be distributed and constructed within the same development site as the market-rate housing, that all affordable units be of similar design and quality as market rate units, including exteriors and floor plans and that the affordable units be dispersed throughout the housing development rather than clustered in a single area or building.

All housing, including any development with affordable housing, should be sited to maximize economic and social opportunities for its residents and to allow for quality-of-life amenities, including access to good schools, safe streets and public transportation. Being located near appropriate retail, daycare, schools, recreational opportunities and commercial districts are plusses for all residents – especially those in affordable units. Nearby shopping, schools and offices are not only amenities for residents, but they also offer employment opportunities that do not require long commutes.

ACTIVE SOIL VAPOR INTRUSION SYSTEMS (radon mitigation)

During their meeting on October 10, 2018, the Planning Commission discussed the importance of radon mitigation in residential properties. It was noted during the meeting that having contractors installing such systems as part of new construction would provide safer housing for the residents and it would be cheaper to install when the home is built (when compared to a retrofit at a later time). The Commission moved to recommend adding amenity points to the PUD ordinance for the installation of active soil vapor intrusion systems (radon mitigation) into residential properties. It should be noted that the city is

encouraging the installation of these systems and not requiring them as part of the PUD ordinance. In addition, the City would need to ensure any such approval for amenity points by the City for these systems be included in a project development agreement that is recorded against the property. The City also should require the developer to notify the builders within the PUD about this requirement to ensure that it is carried forward after the initial developer is done with the project.

SUMMARY:

Staff is proposing changes to three parts of the draft ordinance to reflect the wishes of the Planning Commission and to ensure clarity about affordable housing in the PUD ordinance. Along with the density increase language for providing affordable housing, staff is proposing language in the PUD ordinance about design standards for affordable housing (on page 7), possible density bonus points for the installation of Radon mitigation systems (page 8) and language about development contracts relating to any affordable housing included in a PUD (page 19).

FISCAL IMPACT:

None known.

OPTIONS:

Staff is requesting that the City Council review and comment on the latest draft PUD ordinance. The Council may:

1. Approve the PUD ordinance as written;
2. Adopt the proposed ordinance with changes;
3. Direct staff to send the ordinance back to the Planning Commission again for further study; or
4. Take no action on the proposed PUD ordinance.

RECOMMENDATION:

“Move to adopt Ord. 08-220 making amendments to the City’s Planned Unit Development Ordinance.”

And

“Move to adopt Resolution 2019-009 authorizing summary publication of Ordinance 08-220”

ATTACHMENTS:

- Ord. 08-220
- August 21, 2018 Staff Report
- Summary Publication Resolution 2019-009



STAFF REPORT

DATE: 8/21/2018

REGULAR

ITEM #: 19

TO: City Council
FROM: Emily Becker, Planning Director
AGENDA ITEM: Planned Unit Development Ordinance Update
REVIEWED BY: Ben Gozola, Consulting Planner

BACKGROUND:

In October of 2016, the City approved a revision to the Open Space Development regulations changing the process for such developments from a conditional use permit process to a more appropriate planned unit development (PUD) process. The changes were a specific to open space development regulations, however, Staff believes the new PUD approval process is superior to that within the City's current PUD regulations. When the open space PUD regulations were approved, Staff was given direction by the Commission to proceed with updating our existing PUD regulations so that the processes would be consistent between both PUD ordinances. As such, amendments to the City's PUD ordinance was an item on the Planning Commission's 2017 and 2018 Work Plan.

ISSUE BEFORE THE COUNCIL:

The Council is being asked to consider adoption of an ordinance making amendments to the City's PUD ordinance.

PROPOSAL DETAILS/ANALYSIS:

The proposed update to the City's PUD Ordinance is intended to improve the application process and to make it consistent with the City's recently approved Open Space Development PUD Ordinance.

The draft changes include:

- Making text changes to better describe the ordinance as regulating developments with overlay district, meaning that the regulations are over the underlying base zoning district regulations.
- Clarifies intent and outlines basis for denial.
- 154.751; *PUD Objectives*. At that last meeting at which the draft changes were proposed, the Commission had asked that Staff research how other Cities approach the PUD objectives. There was concern that requiring that developers only meet one of the objectives. Generally, other cities simply state these objectives as goals within their ordinance and don't necessarily require developers to meet a certain number of the requirements.

- 154.752; allows uses to be conditional or interim if needed.
- 154.752; changes strikes reference to uses approved, rather refers to the PUD plans which codify uses, design and other regulatory requirements as needed.
- 154.752 (C); removes references to floor area ratios (FARs). These are defined in Chapter 11, however, the Zoning Code sets forth standards for impervious surface, not maximum gross floor area/floor area ratio. Therefore, it's difficult to deduce what would be the maximum allowed floor area ratio for a zoning district and therefore hard to allow an increase. Alternative language was drafted to allow an increase in impervious surface in order to allow for more intense development.
- 154.752 (D); fixes reference by referencing Table 16-2
- 154.752 (G); fixes reference.
- 154.752 (H); allows flexibility in landscaping requirements.
- 154.753 (A); changes text to say "development area", rather than "lot area". Removed the minimum acreage requirement for PUDs. For PUD requests on tracts greater than 5 acres in size a sketch plan is required for review by the Planning Commission to determine if a PUD meets criteria to move forward. For lots less than five acres, the sketch plan is optional, and the Planning Director makes the determination if the project meets the criteria to move forward.
- 154.753 (B); removes requirements that open space be available to surrounding neighborhoods.
- 154.754; removes table, as the table seems to indicate that density may only be increased incrementally by 5%.
- 154.754 (B); allows partial points to be awarded for amenities if the City finds it is warranted.
- Table 16-2: *Amenity Points*;
 - Contained parking and pedestrian improvements were removed from the amenity points section, as these are items that are already required within a development and should not warrant amenity points. Additionally, providing housing affordable to households at or below the median population was added as an amenity point.
 - The criteria for natural resources was amended because preservation of natural features and/or restoration of ecological functions is already a requirement of development. The criteria would require measures beyond that required. The draft 2040 Comprehensive Plan is clear that natural features should be protected and that the city should encourages the City to protect natural resources.
 - Affordable housing was added as an amenity. It is a goal within the draft 2040 Comprehensive Plan to provide opportunities within the urbanizing areas to accommodate and develop housing that may be more affordable and desirable to younger and senior population.
- 154.756 Phasing and Guarantee of Performance; this section is stricken. The phasing is typically addressed in the developer agreement.
- 154.757 Control of PUD Following completion; this section is stricken as new section 154.757

PUD AMENDMENTS addresses any changes after construction.

- New Section 154.756 PUD Review Procedure; this section is renumbered and amended to follow the procedures outlined in the City's new Open Space Development PUD review procedure with a few exceptions to fit the PUD Ordinance. Please note these changes:
 - Sketch plans have a 6 month limitation of approval before they expire.
 - The City Council will vote on modifications proposed to the underlying zoning standards to instruct the applicant as to whether the modification can be pursued as a component of the PUD Preliminary Plan review.
 - Effect of a PUD Sketch Plan Review; this language clarifies that the sketch plan process is primarily for information purposes
 - Preliminary PUD Plans must be distinctly similar to PUD Sketch Plans reviewed by the City Council
 - Limitation of Approval for Preliminary PUD Plans will be valid for 180 days, consistent with the City's preliminary plat requirements, Section 153.07 (L)
 - Approved PUD Plans need to be constructed one year after final approval or they may be deemed void.
- 154.757 PUD AMENDMENTS; this section sets forth provisions for administrative amendments, PUD Ordinance amendments and PUD Plan amendments.
- 154.758 PUD CANCELLATION; this was language was brought over from the OP PUD ordinance.
- 154.759 ADMINISTRATION; this language was brought over from the OP PUD ordinance.
- In general, the public hearing requirements for a sketch plan are eliminated when they were previously required.

A no-redlined version is attached to the redlined version for easier reading.

FISCAL IMPACT:

None

OPTIONS:

The Council may:

- Adopt Ord. 08-221 as presented.
- Make amendments to Ord. 08-221 and adopt as amended.
- Do not adopt Ord. 08-221.

RECOMMENDATION:

Staff and the Planning Commission recommend Council adopt an ordinance making amendments to the City's Planned Unit Development ordinance.

“Move to adopt Ord. 08-221 making amendments to the City's Planned Unit Development Ordinance.”

And

“Move to adopt Resolution 2018-098 authorizing summary publication of Ordinance 08-221

ATTACHMENTS:

- Ord. 08- 221
- Ord. 08- 221
- Resolution 2018-098 summary publication of Ord. 08-221

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-220

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
AMENDING ARTICLE XVII. PLANNED UNIT DEVELOPMENT (PUD)
REGULATIONS

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Article XVII: Planned Unit Development (PUD) Regulations, by amending the following:

ARTICLE XVII. PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS

§ 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. The intent of the Planned Unit Development (PUD) overlay zoning district is to provide greater flexibility in the use of land and the placement and size of buildings within the development of residential and non-residential areas in order to achieve more creative development outcomes while remaining economically viable and marketable. 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 and 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 overlay district, with specific requirements and standards that are unique to that development. The City reserves the right to deny establishment of a PUD overlay district and direct a developer to re-apply for City approval under the standard applicable zoning district if the City determines the proposed benefits do not justify requested flexibilities.

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

§ 154.751 IDENTIFIED OBJECTIVES.

When reviewing requests for approval of a planned unit development, the city shall consider whether the proposal will serve or achieve 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 city's identified objectives ((A) through (K) (J)). The City should not allow ~~P~~planned unit developments ~~should not be allowed~~ simply for the purpose of increasing overall project density or allowing to allow development ~~that the City could not~~ otherwise ~~could not be approved~~ approve.

- A. Innovation in land development techniques that may be more suitable for a given parcel than conventional development 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, natural resource protection, and other public facilities or amenities 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 streets, utilities, 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 of the City will be achieved.
- J. Achieving ~~H~~higher standards of site and building design than would otherwise be provided under conventional land development technique.
- K. Expanded opportunity for development of housing resources affordable to households at or below the area median income.

(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, conditional or interim uses with the acceptance of the development plan. Any change ~~in the list of uses approved in~~ to the development plan will be considered an amendment to the PUD, and will follow the procedures specified in Article 3, Administration, for zoning amendments. PUDs may allow for flexibility in the following:

- A. ~~Permitted~~ Uses. The PUD application shall identify all proposed land uses and those uses shall become permitted, conditional, or interim uses upon the approval of the planned unit development. Uses not otherwise allowed in the zoning district are prohibited within a PUD. Alternative: The extent of allowed land uses within a PUD shall be limited to

those land uses that are allowed or deemed by the City to be substantially similar to those allowed in the allowed-in the underlying zoning district.

- 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 ~~maximum gross floor area or floor area ratio~~ the maximum impervious surface by up to 20 percent as measured over the entire project site ~~20%~~ of that allowed in the base zoning district, for the purpose of promoting project integration and additional site amenities. The impact of increased maximum impervious surface must be mitigated by increased setbacks from exterior site property lines and through stormwater management techniques approved by the City staff and all other applicable agencies.
- D. *Density.* The PUD may provide for an increase in density of housing units in a 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 Section 154.209754 Table 16-~~21~~. In addition, the city retains the right to evaluate all proposals for bonus density in accordance with the overall goals and policies of the city's Land Use Element of the Comprehensive Plan.
- E. *Building Setbacks.* The PUD may provide for a reduction in or elimination of required building 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 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 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.
- H. Trees/Landscaping Requirements. The Council may authorize flexible landscaping approaches and/or tree preservation and replacement standards that better address on-site needs or may require specialized landscaping plans that address adjacent property concerns.

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

§ 154.753 MINIMUM REQUIREMENTS.

- A. ~~Lot Development~~ *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-five~~ acres may be developed as a PUD ~~if, only after as~~ a result of sketch plan review, ~~and the Planning Commission City Council~~ determines that the following applies:
- a. the proposed project is of superior design and can ~~be achieved to meet~~ one or more of the identified objectives listed in § 154.751, ~~or and~~
 - b. that compliance with the City's Comprehensive Plan goals and policies can be attained through the use of the PUD process.
- B. *Open Space*. For all PUDs, at least 20% of the project area not within street rights-of-way shall be preserved as protected public 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. Wetlands and other 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 one (1) site amenity, or a combination of site amenities, that equal the required amount of amenity points needed 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 each amenity point granted to a PUD, an applicant will be allowed a 1% increase to the allowed density on the site up to a maximum increase of 20%. ~~Table 16-1 outlines the required amount of amenity points needed 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 16-21, along with their associated standards of implementation. Some amenities may be awarded a range of amenity point based upon the quality and magnitude of the amenity. The City is not requiring the installation or use of any of these amenities. ~~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 may specifically be allowed in Table 16-2.~~
- ~~C.~~ *Site Amenities Not Listed*. The city reserves the right to consider ~~allotting~~ allotting amenity points for site amenities ~~that are~~ not specified within this ordinance as part of the preliminary plan phase of the planned development if it is shown that such amenities fulfill the objectives listed in § 154.751.

C.

Table 16—21: Site Amenities

<i>Points</i>	<i>Amenity</i>	<i>Standards</i>
15 -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.
<u>1-10</u>	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. Incorporate historic or cultural resources in to the project, such as preservation.
<u>1-10</u>	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 <u>to other dedicated open space</u> . Open space classifications that qualify may include natural habitat, neighborhood recreation, trail corridors or open space buffers.
<u>1-10</u>	Public Right-of-Way Dedication	Dedication of land and construction of a public road, trail, pathway, or greenway that is part of an approved city plan, but outside the scope of the immediate project area. Right-of-way improvements should be designed per the specification of the City Engineer.
<u>1-5</u>	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.
<u>5</u>	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 city. This amenity is separate from underground or structure parking.
<u>1-5</u>	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 city, 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.
<u>1-5</u>	Adaptive Reuse	Significant renovation, rehabilitation and adaptive reuse of an existing building(s), rather than demolition.
<u>1-5</u>	Plaza	The development shall include some form of <u>public</u> 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.
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.
<u>1-3</u>	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 <u>for the property owner or HOA</u> . 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.
<u>1-3</u>	Natural Features	Site planning that preserves significant natural features or restores ecological functions of a previously damaged natural environment <u>above and beyond that required by City Ordinance or Engineering requirements</u> .
<u>1-10</u>	<u>Affordable Housing</u>	<u>Provides housing that is affordable to households at or below the City's area median income. Points are awarded on a percentage basis. A development</u>

		<p><u>with 3% affordable housing would receive 3 amenity points, 4% - 4 points, etc.</u></p> <p><u>All affordable housing units shall be:</u></p> <ol style="list-style-type: none"> <u>1. of similar design and quality as the market rate units, including exterior building materials and floor plans.</u> <u>2. dispersed throughout the housing development rather than clustered together in a single area or building.</u>
<u>1-5</u>	<u>Radon Mitigation System</u>	<u>Installation of active soil vapor intrusion system (radon mitigation) into residential properties.</u>

(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 find 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 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 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.~~

~~§ 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 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.~~

~~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.~~

§ 154.7586 PLANNED UNIT DEVELOPMENT REVIEW PROCEDURES FOR A PLANNED UNIT DEVELOPMENT

There are four stages to the PUD Process; application conference, general concept plan, preliminary plan and final plan, as described below. All requests to establish a Planned Unit Development shall be initiated by following the steps below.

A. Pre-Application Conference. ~~Upon filing of Prior to~~Before submitting an application for a PUD Sketch Plan, the applicant of the proposed PUD shall arrange for and attend a conference with the Planning Director 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 PUD Sketch Plan

1. Purpose. The PUD Sketch Plan ~~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. is the second step in the development review process that which gives the applicant an opportunity to present their ideas to the Planning Commission, the City Council and public so as to gain general feedback on areas that will require additional analysis, study, design, changes, etc. The applicant should use ~~F~~feedback gained during the PUD Sketch Plan phase ~~should be addressed~~ to address issues and concerns and to make changes to the proposed project plans within the subsequent PUD Preliminary Plan.
2. PUD Sketch Plan Submittal Requirements. Requests for PUD Sketch Plans shall be filed with the Planning Director on an official city 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 of all graphics. The application shall be considered as being officially submitted and complete when the applicant has ~~met~~ complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

a. General Information

- i. The landowner's name and address and his/her interest in the subject property.
- ii. The applicant's name and address if different from the landowner.
- iii. 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, Landscape Architect, engineer, and surveyor.

b. Present Status

- i. The address and legal description of the property.
- ii. Gross site acreage.
- iii. The existing zoning classification and present use of the subject property and all lands within 350 feet of the subject property.
- iv. 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.
- v. Site conditions. Where deemed necessary by the city, graphic reproductions of the existing site conditions at a scale of 1 inch equals 100 feet shall be submitted and contain the following:
 - a. Contours; minimum 5 foot intervals;
 - b. Location, type and extent of tree cover;
 - c. Slope analysis; and
 - d. Location and extent of water bodies, wetlands, streams, and flood plains within 300 feet of the subject property.
- vi. A written narrative describing the proposed PUD, explaining the applicant's proposed objectives for the PUD, a listing of the proposed modifications from current zoning as may be applicable, an explanation of how the proposal achieves the objectives identified in §154.751 and the ~~proposals~~ relationship of the proposal to the goals and policies in the City Comprehensive Plan.
- vii. 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:
 - a. Calculation of the proposed density;
 - b. Area devoted to residential use by building type;
 - c. Area devoted to common open space;

- d. Area devoted to public open space and public amenities;
- e. Approximate area devoted to, and number of, off-street parking and loading spaces and related access;
- f. Approximate area, and floor area, devoted to commercial uses; and
- g. Approximate area, and floor area, devoted to industrial or office use.
- viii. 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 all other land uses.
- ix. 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, trails, utility easements and storm water facilities.
- x. 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 public or common elements;
 - b. Maintenance of public and private utilities; and
 - c. General architectural guidelines for principal and accessory structures.
- xi. Proposed PUD phasing if it 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.
- xii. Any additional information if deemed necessary and required by the Planning Director. The Planning Director may waive for good cause certain information requirements not pertinent to the particular request.

3. Review of PUD Sketch Plan Proposal

a. Planning Commission

- i. Upon receiving a PUD Sketch Plan proposal, the City shall schedule a date upon which the Planning Commission will review the proposal.
- ii. The Planning Director shall review the PUD Sketch Plan proposal and prepare a report which identifies the proposed modifications from current zoning as may be applicable, analyzes how the proposal achieves the objectives identified in §154.751, discusses the proposal's relationship to the City Comprehensive Plan, and provides any other relevant information deemed necessary for the City to judge the

proposal against the objectives listed in § 154.751.

ii.

- iii. The Planning Commission shall review the application, and upon completing their review, shall adopt findings and recommendations on the proposed PUD as soon as practical.
- iv. The Planning Director 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 by the City Council.

b. City Council

- i. The City Council may listen to comments from the public on the proposed development if they deem such necessary ~~prior to~~ before discussing the proposed PUD Sketch plan.
- ii. After consideration of the Planning Director's recommendation, the Planning Commission recommendation, and any public comments received, the City Council may comment on the merit of the request, and should note the needed changes, and suggested conditions the proposer should adhere to with any future application for the PUD.
- iii. For each of the identified modifications to the underlying zoning standards, the City Council shall take a vote (by simple majority) 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~~ before making an application to the City for a 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 a 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~~ one additional year.

C. PUD Preliminary Plan

- 1. Prerequisite. No application for a PUD Preliminary Plan will be accepted unless

an applicant's proposal is distinctly similar to one reviewed in the completed the PUD Sketch Plan review process which is valid upon the date of application.

2. PUD Preliminary Plan Submittal Requirements. Requests for Preliminary PUD Plans shall be filed with the Planning Director on an official City 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 of all graphics. The application shall be considered as being officially submitted and complete when the applicant has ~~met~~ complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.
 - a. Preliminary plat and preliminary major subdivision information required by § 153.09.
 - b. General Information
 - i. The landowner's name and address and his interest in the subject property.
 - ii. The applicant's name and address if different from the landowner.
 - iii. 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, landscape architect, engineer, and surveyor.
 - iv. 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; and such other evidence as the City Attorney may require to show the status of title or control of the subject property.
 - c. Present Status
 - i. The address and legal description of the subject property(s).
 - ii. The existing zoning classification and present use of the subject property and all lands within 350 feet of the property.
 - iii. 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.

- iv. 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 ~~ceity~~'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 ~~Ceity~~.
- ~~v.~~ A statement of the proposed financing of the PUD.
- ~~vi.~~ v. 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.
 - a. Contours; minimum two 2 foot intervals.
 - b. Location, type and extent of tree cover.
 - c. Slope analysis.
 - d. Location and extent of water bodies, wetlands and streams and flood plains within 300 feet of the property.
 - e. Significant rock outcroppings.
 - f. Existing drainage patterns
 - g. Vistas and significant views.
 - h. Soil conditions as they affect development.
- ~~vii.~~ vi. Schematic drawing of the proposed development concept, including but not limited to the general location of the proposed major circulation elements, public and common open space, trails, residential, and other land uses.
- ~~viii.~~ vii. 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:
 - a. Area devoted to residential use by building type;
 - b. Area devoted to common open space;
 - c. Area devoted to public open space, ~~parks and trails and any other~~ public amenities;
 - d. Approximate area devoted to ~~public~~ streets;
 - e. Approximate area devoted to, and number of, off-street parking and loading spaces and related access;
 - f. Approximate area, and floor area, devoted to commercial uses; and

- g. Approximate area, and floor area, devoted to industrial or office use.

~~ix.~~viii. 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 ~~which that~~ demonstrates how ~~that~~ the proposed site amenities clearly achieve the desired density bonus. The burden of proof is on the applicant to demonstrate ~~that~~ how all site amenity standards have been met in order to be awarded increased density for residential development.

~~x.~~ix. If the PUD is to be constructed in stages during a period of time extending beyond a single construction season, the applicant shall provide a schedule for the development of such stages or units shall be submitted to the City 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.

~~xi.~~x. When the proposed PUD includes provisions for public or common open space or service facilities, provide a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.

~~xii.~~xi. Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.

~~xiii.~~xii. Schematic utilities plans indicating placement of water, sanitary and storm sewers.

~~xiv.~~xiii. Applicable plans must meet or exceed the requirements of the City's Engineering Design and Construction Manual.

~~xv.~~xiv. The City may require the submission of ~~any~~ additional information or documentation ~~which that~~ it may find necessary or appropriate to give full consideration of the proposed PUD.

~~xvi.~~ Any additional information ~~if~~ deemed necessary and required by the Planning Director. The Planning Director may waive for good cause certain information requirements not pertinent to the particular request.

xv.

3. PUD Preliminary Plan Review

- a. As part of the review process for a PUD Preliminary Plan, the Planning Director shall review the PUDs, and shall prepare a report and make a recommendation regarding the proposed Preliminary PUD Plan for Planning Commission and City Council consideration.
- b. The Planning Director shall prepare a draft ordinance to establish the

potential PUD overlay zoning district to be established as a component of the PUD Final Plan.

- c. The Planning Commission shall hold a public hearing and report its findings and make recommendations to the City Council on the merit, needed changes, and suggested conditions to the City should impose on the PUD.
- d. As a condition of PUD Preliminary Plan approval; finalization, adoption, and publication of an overlay district ordinance shall need to occur before ~~prior to~~ the filing of any future final plat.

~~d.~~

4. Effect of a PUD Preliminary Plan Review. ~~The approved PUD Preliminary Plan approval governs the preparation of the PUD Final Plan. which The~~ proposed PUD Final PUD plan must be submitted to the City for final approval in accordance with the requirements of this Article.
5. Limitation of Approval. The City Council's approval of a PUD Preliminary Plan shall remain valid for a period of 180 days, unless a request for time extension of up to one year is submitted in writing to the City and approved by the City Council. (See Section D4 below about PUD time limits.)

~~5.~~

D. PUD Final Plan

1. Application Deadline. Application for a PUD Final Plan shall be submitted for approval within 180 days of City Council approval of the 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.
 - a. A final plat and information required by § 153.10;
 - b. 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:
 - i. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat heretofore recorded in the Washington eCounty ~~where the subject property is situated~~);
 - ii. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property;
 - iii. 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;

- iv. 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;
- v. Location, designation and total area of all common open space;
- vi. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, trails, school sites and recreational facilities;
- vii. The location of applicable site amenities, if any;
- viii. Proposed lots and blocks, if any and numbering system;
- ix. The location, use and size of structures and other land uses on adjacent properties;
- x. Detailed sketches and provisions of proposed landscaping;
- xi. General grading and drainage plans for the developed PUD; and
- xii. Any other information that may have been required by the Planning Commission or City Council in conjunction with the approval of the Preliminary Plan;
- xiii. Detailed list of differences from the PUD Preliminary Plan (if applicable).
- c. An accurate legal description of the entire area within the PUD for which final development plan approval is sought;
- d. 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, trails, general landscaping plan, structure, including manufactured homes, and uses;
- e. Applicable plans must meet or exceed the requirements of the City's Engineering Design and Construction Manual.

3. PUD Final Plan Review

- a. The Planning Director shall ~~prepare~~ generate an analysis of the final documents against the conditions of the PUD Preliminary Plan approval, and shall make a recommendation as to whether all conditions have been met or if the applicant needs to make additional changes ~~are needed~~ to the project plans.
- b. The Planning Director shall identify any information submittals that were waived so the City Council may determine if such is needed ~~prior to~~ before making a final decision.
- c. The Planning Director shall finalize the ordinance to establish the proposed overlay district for consideration by the Planning Commission and City Council.

- d. The Planning Commission shall hold a public hearing on the proposed PUD overlay district ordinance and Final PUD Plans, and shall submit a recommendation to the City Council for their consideration. Because a PUD Preliminary Plan was previously approved, the Planning Commission's recommendation shall only focus on whether the Ordinance and PUD Final Plan are in substantial compliance with the PUD Preliminary Plan and the required conditions of approval.
- e. The City Council shall then consider the recommendations of the Planning Director, the public, and the Planning Commission; and make a decision of approval or denial, in whole or in part, on the PUD Final Plan. A City Council denial shall only be based on findings that a PUD Final Plan is not in substantial compliance with the approved PUD Preliminary Plan and/or the required conditions of approval.
- f. As a condition of PUD Final Plan approval, publication of the PUD ordinance shall be required prior to before -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 developer of the proposed PUD to execute a development agreement which that may include but not be limited to all requirements of the 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 installation or development of all improvements called for by the City and outlined in the development agreement.
 - iii. If the approved PUD plan includes density credits for affordable housing, the City may require the developer to enter into a developer's agreement, an affordable housing development agreement or some other type of legal contract. Such an agreement or contract shall set forth the commitments and obligations of the City and the applicant and shall incorporate an Affordable Housing Plan. This agreement is to eliminate ambiguity over what is required regarding maintaining the affordability of the units and establishing and monitoring the eligibility of those who purchase or rent the affordable units. The City shall also use such an agreement to ensure the continued affordability of the dwelling units for a period of at least 30 years. This agreement must be approved by

the City Attorney and shall be recorded to run with the land or property in question. The 30-year or longer affordability period shall commence from the date the City issues final certificate of occupancy or the date of the recording of the affordable housing agreement, whichever shall last occur.

- iv. If the approved PUD plan includes density credits for the installation of active soil vapor intrusion systems (radon mitigation) systems, the City may require the developer to enter into a developer's agreement or some other type of legal contract. Such an agreement or contract shall set forth the commitments and obligations of the City and the applicant about the installation of such systems in all residential properties in the PUD. This agreement is to ensure the developer, applicant and all future builders and buyers of the residential units in the PUD know what is required regarding the installation of such systems in each of the residential units when each of the residential units is constructed.

~~ii.~~

- h. As directed by the City, the applicant or developers shall record with Washington County all documents related to the PUD 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 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 time extensions for validation of an approved PUD of up to one (1) year if requested in writing by the applicant; extension requests shall be submitted to the Planning Director and shall identify the reason(s) why the extension is necessary along with an anticipated timeline for validation of the Planned Unit Development.
- b. The City shall administer and process an ~~An~~ application to reinstate an ~~open space~~ PUD that was voided for not meeting the required time limit for validation and implementation ~~shall be administered~~ in the same manner as a new PUD beginning at PUD Preliminary Plan.

~~§ 154.758 PROCEDURES FOR PROCESSING A PLANNED UNIT DEVELOPMENT.~~

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

~~A. *Application Conference.* Upon filing of an application for PUD, the applicant of the proposed PUD shall arrange for and attend a conference with the Planning Director. 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. *Preliminary Plan.* Following approval of the general concept plan, the applicant 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 for zoning changes.~~

~~D. *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 for zoning changes. If appropriate because of the limited scale of the proposal, the preliminary plan and final plan may proceed simultaneously.~~

~~E. Schedule for Plan Approval~~

- ~~1. Developer 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 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. Following approval of the General Concept Plan, the application may proceed to the preliminary plan phase.~~
- ~~7. Developer presents the preliminary plan to the Planning Commission for their review and comment.~~
- ~~8. 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.~~
- ~~9. The Planning Commission shall conduct the hearing and report its findings and make recommendations to the City Council.~~

- ~~10. 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. 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 preliminary plan and attach such conditions as it deems reasonable.~~
- ~~12. Following approval of the Preliminary Plan, the application may proceed to the final plan phase.~~
- ~~13. Developer presents the Final Plan to the Planning Commission for their review and comment.~~
- ~~14. 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.~~
- ~~15. The Planning Commission shall conduct the hearing and report its findings and make recommendations to the City Council.~~
- ~~16. 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. 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.~~

~~§ 154.759 APPLICATION REQUIREMENTS FOR GENERAL CONCEPT PLAN,
PRELIMINARY PLAN AND FINAL PLAN:~~

~~Ten copies of the following plans, exhibits and documents shall be submitted at the general concept plan stage, preliminary plan stage and the final plan stage.~~

~~A. 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 city, 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.~~
- ~~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, 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 city.
- 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;
- 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. 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 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) 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 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 plan; and~~
 - ~~10. A soil erosion control plan acceptable to watershed districts, 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 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)~~

§ 154.757 PUD AMENDMENTS

Approved PUDs may be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer or neighborhood. At such a time, the

applicant shall make an application to the City for a PUD amendment.

A. Amendments to Existing Planned Unit Development: ~~s~~shall be processed as one of the following:

1. Administrative Amendment. The Planning Director may approve minor changes to an approved PUD if such changes are required by engineering or other circumstances, provided the changes conform to the approved PUD overlay district intent and are consistent with all requirements of the PUD ordinance. Under no circumstances shall an administrative amendment allow additional lots; to an approved PUD. The Planning Director may allow ~~or~~ changes to designated uses established as part of the PUD if the city determines the proposed use changes would be substantially similar to the permitted uses approved by the City for the PUD. An Administrative Amendment 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 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 City to be consistent with the intent of the original PUD approval, but are technically necessary due to construction of the adopted PUD district language.
- 2.
3. PUD Amendment. Any change not qualifying for an administrative amendment or an ordinance amendment shall require a PUD amendment. An application to amend a PUD shall be administered in the same manner as that required for a new PUD beginning at PUD Preliminary Plan. Such major changes requiring City approval of a PUD amendment are those that, as determined by the Planning Director, substantially change the basic design, density, open space, similar requirements; or provisions of the approved PUD.

3.

~~§ 154.758 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 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.~~

~~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 PUD CANCELLATION

A PUD shall only be cancelled and revoked upon the City Council adopting an ordinance rescinding the PUD district. Cancellation of a PUD by the City Council 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; has become void; or other applicable findings in accordance with law.

§ 154.759 ADMINISTRATION

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

- A. *Rules and regulations.* No requirement outlined in the PUD review process shall restrict the City Council from taking action on an application if necessary to meet state mandated time deadlines;
- B. *Preconstruction.* ~~No~~ The City will not grant or issue a building permit ~~shall be granted~~ for any building on land for which a 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 PUD plan.
- C. *Effect on Conveyed Property.* In the event that any real property in an approved PUD is conveyed in total, or in part, the new owners thereof shall be bound by the provisions of the PUD zoning district.

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

SECTION 3. Adoption Date. This Ordinance 08-220 was adopted on this _____ day of _____ 2019, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-220 was published on the ____ day of _____, 2019.

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

RESOLUTION NO. 2019-009

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-220 BY TITLE
AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-220, an ordinance amending the City Code of Ordinances by amending the City's provisions related to Planned Unit Developments (PUD's); and

WHEREAS, the Ordinance is lengthy; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-220 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-220, which amends Chapter 154: Zoning Code; Article XVII: Planned Unit Development (PUD) Regulations, by:

- Clarifying intent and outlining basis for denial.
- Allowing uses within a PUD to be permitted, conditional or interim.
- Allowing additional flexibility for impervious surface and landscaping standards.
- Removing contained parking and preservation of natural features as amenities that may earn the developer additional density and adding affordable housing and radon mitigation as amenities.
- Amending the review procedure by limiting the amount of time sketch plans are valid to six months; removing the requirement that Council approve a PUD sketch (concept) plan and instead outlining a process in which the Council votes on modifications proposed to the underlying zoning standards to instruct the applicant as to whether such a modification can be pursued during the preliminary plan review; clarifying that the sketch plan is primarily for information purposes; requiring that the Preliminary PUD Plans be distinctly similar to the PUD Sketch Plan; limiting the valid time period of Preliminary PUD Plans to 180 to be consistent with the City's preliminary plat requirements; requiring that construction commence within one year of final PUD approval.

- Setting forth provisions for administrative amendments, PUD ordinance amendments, PUD Plan amendments, and PUD cancellations.
- The public hearing requirement for sketch plans are eliminated.

The full text of Ordinance No. 08-220 is available for inspection at Lake Elmo city offices during regular business hours.

BE IT FURTHER RESOLVED by the Lake Elmo City Council that the City Administrator keep a copy of the Ordinance at City Hall for public inspection and that a copy be placed for public inspection at the Lake Elmo Public Library.

Dated: January 15, 2019.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

(SEAL)

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

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

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.