



MAYOR & COUNCIL COMMUNICATION

DATE: 6/01/2010
REGULAR
ITEM: 11
ACTION: ***ORDINANCE 08-025***
RESOLUTION 2010-024

AGENDA ITEM: OP Ordinance Overlay District Zoning Amendment related to a Farm School and Senior Living Project at 9434 Stillwater Boulevard North – PID's: 15-029-21-31-0001 and 15-029-21-31-0003

SUBMITTED BY: Applicant
Kyle Klatt, Planning Director
Planning Commission

THROUGH: Bruce Messelt, City Administrator

REVIEWED BY: Kelli Matzek, City Planner
Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: The City Council is asked to review a proposed amendment to the Lake Elmo City Code creating a new overlay district that would allow higher density development within the context of an OP Open Space Preservation project. This ordinance was drafted in accordance with the Planning Commission's unanimous decision on May 10th, 2010 to pursue an alternative to the Zoning Amendment originally proposed by staff and the applicant, Mrs. Tammy Malmquist, 8549 Ironwood Trail North, relating to a senior living/farm school development proposal.

The complete application from Mrs. Malmquist, including a requested Comprehensive Plan Amendment (item #10 on tonight's Agenda), an Overlay Zoning District, an OP Development Concept Plan and a Planned Unit Development Concept Plan, would allow the establishment of a 40-unit senior living multi-family building, 10 townhouse units, and a farm-themed preschool on a 30.9 acre parcel at 9434 Stillwater Boulevard North. The recommended motion to act on this portion of the approval process (Overlay Zoning District) is as follows:

“Move to adopt Ordinance 08-025 creating a new zoning district and standards associated with an OP-2 Open Space Preservation Overlay District and Resolution 2010-024 authorizing summary publication of this Ordinance”

BACKGROUND INFORMATION: The Applicant's request, as discussed in greater detail at the May 4th and May 18th Council meetings and tonight's previous Agenda item, included

proposed amendments to the City's Comprehensive Plan and existing OP Open Space Preservation Ordinance to allow a proposed senior living/farm school development to proceed as an Open Space Development. The Planning Commission unanimously recommended approval of the first part of the multi-tiered request, a Comprehensive Plan Amendment, but initially tabled taking action on the originally-proposed ordinance revisions. The Commission directed staff to prepare an alternate ordinance that, rather than amending the existing OP Ordinance, would instead create a new overlay zone intended for properties guided for RAD2 (2 units per acre) on the City's Future Land Use Map.

Based on the direction provided by the Planning Commission, Staff prepared a draft ordinance creating a new overlay district to be called the OP-2 Open Space Preservation Overlay District. All of the standards proposed by the applicant have been carried forward into this new district, which references all of the provisions in the current OP Ordinance, but adds language (as requested by the applicant) that allows for new uses and new district standards that would apply only to the areas with the overlay district. Staff also suggested additional provisions that were not requested by the applicant, but that should help clarify and provide consistency throughout the City Code as follows:

- Adding definitions for all the terms that are used in the proposed ordinance provisions.
- Including building standards (primarily setbacks) for Senior Housing Buildings that were not addressed by the applicant.
- Keeping a side yard setback for townhouses in OP Districts as part of the district standards table. A reduction or elimination of side yard setbacks would be appropriate to consider as part of a Planned Unit Development. Please note that the current OP Ordinance appears to use the term "townhouse" when it should describe a "single family attached" dwelling.
- Using the existing OP District language that considers only the "buildable area" in the maximum density calculations, not gross area.

Please be advised that although Staff is calling the proposed district an "overlay" district, the City regulates OP Districts as a conditional use for properties zoned Agricultural, Rural Residential, or Residential Estates. From a technical perspective, the OP District itself functions as an overlay, since the underlying zoning is not changed when an OP development is approved by the City (this is a change from earlier ordinances which established a separate district for these developments). In order to provide clarity between OP and OP-2 as proposed, Staff is recommending that the overlay terminology be used to differentiate between these two districts. If the City Council finds this language confusing, an alternate name for the OP-2 District could be considered.

PLANNING COMMISSION REPORT: The Planning Commission considered the proposed OP-2 Overlay District amendment at its May 10, 2010 meeting. A few of the discussion topics that were considered by the Planning Commission included the following:

- What does the term “senior” mean when used with “senior housing”? Is there a specific age that should be regulated differently than others?
- Should the City approve a project as a Senior Housing project if there is not an age-restriction associated with the project? Should the City’s definition of Senior Housing require an age restriction?
- Is there an appropriate mix of senior living and market-based apartments/condominiums that is acceptable?
- Does the City need to differentiate between a preschool and a “farm-based” preschool?
- As drafted, the ordinance proposed by the applicant would allow a “farm-based” school for school-aged children. Is a school, or educational programs, for kids older than preschool age appropriate as part the overlay zoning district?

The Commission reviewed the draft and made recommendations for changes to certain portions of the draft, including:

- Requesting that Staff research the licensing requirements and definitions used in the State Statutes for preschool, and including this information as appropriate in the draft ordinance.
- Adding townhouses to the list of permitted uses with a provision that no more than 50% of a project could consist of townhouse units.
- Requiring that all OP-2 Developments be permitted as a Planned Unit Development.
- Specifying that the buffer setback be 100 feet for structures and 50 feet for driving surfaces.
- Adding Farm-based Preschools to the development standards table.
- Revising the district setback and impervious coverage requirements.

The Planning Commission unanimously recommended that the City Council approve the proposed amendment to the City Code related to an OP-2 Open Space Preservation Overlay District.

STAFF REPORT: Staff has prepared the Ordinance for consideration by the City Council. However, it should be noted that there are a few additional changes that Staff recommends be included as part of the Ordinance, beyond the amendments recommended by the Planning Commission. These changes are shown in green in the attached Draft Ordinance and include slightly revised definitions, based upon Staff’s research of state licensing requirements, and a new statement concerning the keeping of domestic farm animals.

All additional revisions proposed by Staff that were not specifically reviewed by the Planning Commission are depicted in green on the enclosed Draft Ordinance. Staff has undertaken these additional changes within the intent and spirit of the Planning Commission’s actions and also

indicated these as separate considerations in the official Ordinance for review by the Council. Any changes made to this official document will be only as accepted and/or directed by the City Council.

RECOMMENDATION: Based upon the above background information, Planning Commission action, and staff report, it is recommended that the City Council discuss and consider the proposed OP-2 Overlay Zoning amendment. Affirmative action may be taken by the following motion:

“Move to adopt Ordinance 08-25 creating a new zoning district and standards associated with an OP-2 Open Space Preservation Overlay District and Resolution 2010-024 authorizing summary publication of this Ordinance”

Alternatively, the City Council may elect to act only upon the ordinance language recommended by the Planning Commission; table consideration at tonight’s meeting, or direct the Planning Commission to consider a different type of zoning amendment. It should be noted, however, that further delay of action tonight may require the concurrence of the applicant, given state statutes governing timely responses to land use applications.

The City Council may also deny the proposed amendment with the identification of findings of fact (which may also correlate with previous Council action concerning the proposed senior living/farm school Comprehensive Plan Amendment). Finally, the Council may amend the proposed Ordinance at tonight’s meeting. If the latter is undertaken, the recommended motion would be to:

“Move to adopt Ordinance 08-25 creating a new zoning district and standards associated with an OP-2 Open Space Preservation Overlay District, as amended at tonight’s meeting, and Resolution 2010-024 authorizing summary publication of this Ordinance”

ATTACHMENTS:

1. Draft OP-2 Open Space Preservation Overlay District (with optional language)
2. Ordinance No 08-025
3. Resolution No. 2010-024

Additional Attachments for Proposal included with Agenda Item #10

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Council Discussion Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates