



3800 Laverne Avenue North
Lake Elmo, MN 55042

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www.lakeelmo.org

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday July 26, 2021
at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. June 28, 2021
4. Public Hearings
 - a. Variances and Lot Division – 3100 Lake Elmo Avenue (Dorschner)
 - b. Zoning Code Text Amendment – Setback Requirements in the Agricultural (A) Zoning District
5. New/Unfinished Business
 - a. None
6. Communications/Updates
 - a. City Council Update

07-06 2021 Meeting – Planning Commission Appointment – Micah Vrieze
07-20-2021 Meeting – Zoning Code Text Amendment (Accessory Structures in Shoreland District), Tree Preservation Ordinance Amendment
 - b. Staff Updates
 - c. Upcoming PC Meetings:
 1. August 9, 2021
 2. August 23, 2021
7. Adjourn

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



**City of Lake Elmo
Planning Commission Meeting
Minutes of June 28, 2021**

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

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

COMMISSIONERS ABSENT: none

STAFF PRESENT: Planning Director Roberts

Pledge of Allegiance at 7:00 PM

Approve Agenda:

M/S/P: Steil/Weeks moved to approve the agenda. **Vote: 5-0, motion carried unanimously.**

Approve Minutes:

M/S/P: Weeks/Steil moved to approve the Planning Commission minutes of May 10th, 2021. **Vote: 5-0, motion carried unanimously.**

Public Hearings:

- a. Variances and Lot Division – 3100 Lake Elmo Avenue (Dorschner) **(POSTPONED – NO REPORT AND NO PUBLIC HEARING THIS EVENING)**
- b. Zoning Code Amendment – Accessory Structures (Shoreland District)

Director Roberts gave the staff report and presentation. He explained that the City Council has directed Staff to consider the standards of where accessory buildings should be placed on lake shore lots. It has been noticed that many of the recent variances are on lake lots that have difficulty contending with the required setbacks for structure. Roberts noted that the City Code currently prohibits the placement of accessory structures in the front yard of a property. By setting a new standard or redefining what is and is not a front yard it will likely help eliminate the need for some variances.

Director Roberts explained that amending the code would make it more conducive for residents who have tight setbacks on shoreland lots and who also would like to install an accessory building. Staff also believes the City should consider the height and possibly the size standards when accessory buildings are placed closer to the front lot line than the home.

Mr. Roberts continued by noting that at this point the City Code does not differentiate between a lake shore lot and a non-lake shore lot, in terms of where the front yard is. After reviewing some recent variances it is clear that perhaps the City Code could be amended to re-define what is and what is not a “front yard” for lake shore lots. Director Roberts explained that staff found that other City’s do apply setbacks differently for lake lots. It is not uncommon in other City Codes for the lake side to be considered the front of the lot which would mean the road (street) side of the property is the rear. He noted that this change in definition would

allow a detached accessory building to be located closer to the road or street than the principle structure. With the setbacks from the OHWL generally being substantially more than what is required by the zoning code it would greatly increase the options for these types of properties to place/expand their garages and accessory buildings on their sites.

Director Roberts stated that staff is recommending the City make an amendment to the City Code that would consist of a notation related to the accessory building requirement, change would indicate that accessory buildings can sit closer to the front lot line/roadway than the principle structures on lake lots or in Lake Elmo's instance "Riparian Lots."

Director Roberts also stated that the City understands the need for accessory buildings for owners of the lakeshore properties, but there is concern is with the height of the accessory buildings. In addition, if the Commission wants to recommend a reduction in height for accessory structures on riparian lots, the amendment should be added to Section 154.406 B. *Structure Height, Rural Districts*.

Director Roberts mentioned three options that are available to the Commission for recommendation:

- Recommend approval of the proposed amendments.
- Recommend approval of the amendment with changes.
- Recommend denial of the proposed amendments.

Commissioner Graen requested adding a note about "exceptions" to wording in Section 154.406

Commissioner Weeks asked if Rural Districts Table 9-2 needs to be amended to show the setback information for lake side structures.

Commissioner Risner opened the public hearing at 7:26 PM

There were no comments from the public.

Commissioner Risner closed the public hearing at 7:26 PM.

M/S/P: Graen/Weeks motioned to recommend approval of the proposed code amendment that will allow the placement of accessory building may be placed between the principle structure and public right-of-way of properties identified as riparian lots with the amendments to the text such that after the Table 9-2 is stated "for exception and additional information" and in Table 9-2 adding the text "and following all other setbacks as listed" for approval **Vote: 5-0, motion carried unanimous**

New/Unfinished Business

a. Tree Preservation Ordinance Amendment

Director Roberts gave the staff report and presentation. He explained that the latest proposed changes to the Lake Elmo tree preservation ordinance (dated June 28, 2021) include adding definitions and adding language that clarifies when the City will require a tree preservation plan and when the City will not require a tree preservation plan. Staff is not proposing any changes to the type or size of trees that are used for determining the amount of tree replacement or those a developer may remove or the amount of allowable tree removal on a new development or redevelopment site.

Roberts also explained that staff also was originally proposing to delete some of the language in Section E 2, Reduced Mitigation for Exceptions. It is important to note that this section of the Code allows the City to approve exceptions to the tree preservation standards. The Code now includes several options the City may approve if the

City wishes to grant the request of the developer to have an exception to the City tree preservation standards. Director Roberts noted that one of the relief or mitigation methods currently in the Code allows the City to require a developer or property owner to pay a fee to the City if they are unable or unwilling to meet all the tree preservation and/or replacement standards.

Director Roberts mentioned three options that are available to the Commission for recommendation:

- Recommend approval of the proposed changes to the tree preservation ordinance
- Recommend approval of the proposed changes to the tree preservation ordinance with changes to the proposed language.
- Recommend denial of the proposed changes to the tree preservation ordinance.

The Commission then discussed the proposed Tree Preservation Ordinance and asked staff questions about the proposed ordinance.

M/S/P: Steil/Risner moved to recommend approval of the Tree Preservation Ordinance amendments as proposed by the city staff, also to include changes to the proposed language and to include the changes in Section F-2. **Vote: 4 Ayes (Risner, Weeks, Steil, Mueller) – 1 Nay (Graen). Motion passes**

Communications/Updates

City Council Update

Director Roberts gave reports and updates on the following

- a. 05-18-2021 Meeting – Union Park West and Easton Village 7th Addition Final Plat Approvals
- b. 06-01-2021 Meeting – Crossroads/Launch Properties Preliminary PUD/Preliminary Plat (Tabled)
- c. 06-15-2021 Meeting – No Planning/Land Use Items

Staff Updates - Still looking for two Planning Commissioners.

Upcoming PC Meetings:

- July 26, 2021
- August 9, 2021

M/S/P: Risner/Mueller moved adjourn the meeting. **Vote: 5-0, motion carried unanimously.**

Meeting adjourned at 8:13 PM.

Respectfully submitted,

Diane Wendt
Permit Technician



STAFF REPORT

DATE: 7-26-2021

REGULAR

ITEM#: PUBLIC HEARING

TO: Planning Commission
FROM: Ben Prchal, City Planner
AGENDA ITEM: Variance Requests for 3100 Lake Elmo Avenue
REVIEWED BY: Ken Roberts, Planning Director

BACKGROUND

The City has received two variance requests from applicant Dale Dorschner, for the property located at 3100 Lake Elmo Ave. The first request is for a variance from the City Code minimum lot width requirement of 125 feet in the Rural Single Family (RS) district. The second variance request is to have a front yard setback of 30 feet from the County Road right-of-way instead of 50 feet as required for properties within the Shoreland District. The proposed building would meet the allowed size for the property and should meet all other setbacks and impervious surface requirements.

ISSUE BEFORE COMMISSION

The Commission is being asked to hold a public hearing, review, and make a recommendation on the variance requests that would allow for a lot to be subdivided into two lots, resulting in a one lot that would meet all zoning requirements (there is an existing home on the lot) and one lot that would not meet the zoning district's minimum lot width requirement or required right-of-way setback requirement.

REVIEW/ANALYSIS:

Address: 3100 Lake Elmo Ave.
PID: 13.029.21.33.0019
Existing Land Use/Zoning: Single-family zoned as Rural Single Family
Surrounding Land Use/Zoning: Single family homes
History: The property's use has been a residential dwelling.
Deadline for Action: Application Complete – 5/30/2021
 60 Day Deadline – 7/29/2021
 120 Day Deadline – 9/27/2021
Applicable Regulations:

- Article V - Zoning Administration and Enforcement
- Article XI – Rural Districts
- Article XX – Shoreland Management

PROPOSED VARIANCES

Variance Request. The applicant is requesting to split the lot from one existing lot into two lots and allow a reduced lot width and a reduced setback from the right-of-way on the vacant parcel.

Standard	Required	Proposed
Lot Width. <i>Table 9-2</i>	125 ft.	112 ft.
Setback – Rural District	30 ft.	30 ft.
Setback – Shoreland District	50 ft.	30 ft.

Because this property is within the Shoreland District, both the Rural Single-Family District and Shoreland District standards apply. A unique aspect with this review that is not common is the fact that the setback variance being requested is from the front lot line instead of the rear, which is typically the subject of discussion in the Shoreland District.

Applicable code provisions explained:

Rural Single Family District Lot Size - The Rural Single Family Zoning District normally requires a minimum lot size of 1.5 acres. However, because this property has and will inevitably be connected to City sanitary sewer, a provision within the Code allows a new minimum size of 24,000 square feet. As it is being requested both lots will meet the minimum lot size requirement.

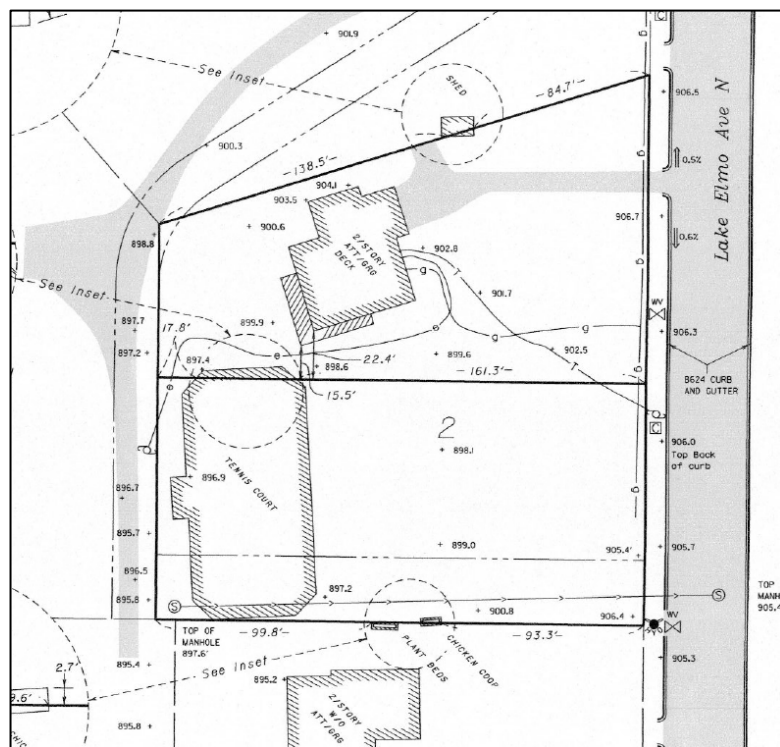
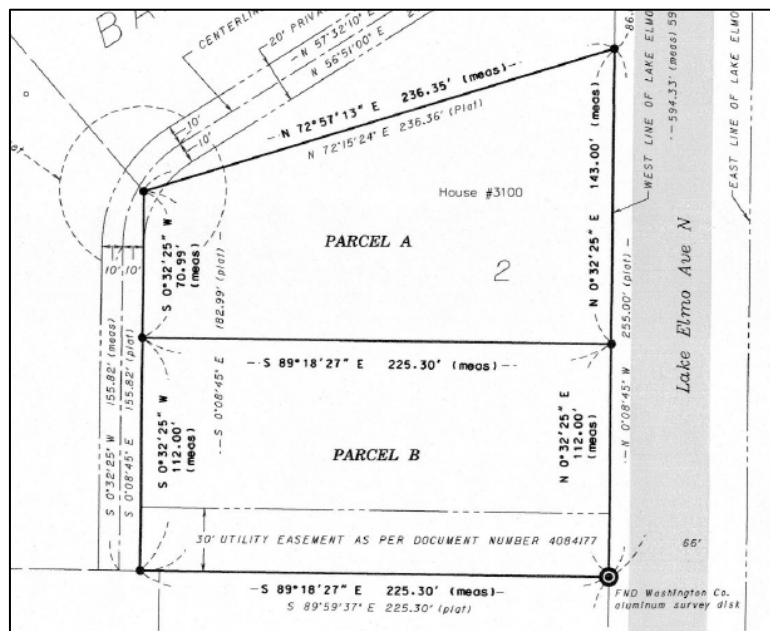
Rural Single Family District Setbacks – The required setback from the front lot line is 30 feet in the Rural Single Family District which can be achieved on the property. However, because the property also is in the Shoreland District which has stricter setback requirements (explained below), the minimum setback from Lake Elmo Avenue is 50 feet.

Shoreland District Lot Size – The Shoreland District regulations require a minimum lot size of 15,000 square feet for non-riparian lots within the Shoreland District. Again, both lots can easily meet this requirement.

Shoreland District Setbacks – Because the property fronts onto a County road (Lake Elmo Avenue), the Shoreland District Regulations state that the “minimum structure setback from County, State or Federal road right-of-way” – must be a minimum of 50 feet. Parcel A already has an existing home on the property (shown on the complete survey) which meets this requirement and all other code requirements. The front yard setback variance is being requested for proposed Parcel B which as proposed the new house would only have a 30-foot setback from Lake Elmo Avenue.

The graphic to the right shows a more complete depiction of what the lot split would look like. Temporarily excluding the discussion of the variance, Staff would have difficulty or the outright inability to approve a lot split of this nature *(because it would create a nonconformity)*. The primary reason for this is that the tennis court that is on the property would not meet setback requirements. However, the applicant has indicated that the tennis court will be “cut back” in order to comply with the zoning district setbacks and will not cross over the proposed property line.

A quick discussion regarding impervious surface does need to be considered when one reviews the current impervious surface number that is being proposed. Parcel A is below the allowed limit, but Parcel B will exceed the allowed amount of impervious surface for the property, if it is built out as shown. A variance for an increase above the maximum allowed impervious surface is not being requested at this time. It is likely that a variance will not be required given there are a number of things the property owner can do to bring this number down to the allowed 25% for the RS district.



Variance: Section 154.109 of the Zoning Code:

Staff believes it is worthwhile to provide a brief explanation of the variance criteria and how it should be applied. Section 154.109 is the variance section of the City's zoning code which is the “practical difficulties” standard. The City also has a different variance standard in its code for variances from the City's subdivision regulations (the

“unusual hardship” standard), but that standard is not applicable in this case because the applicant is requesting a variance from required setbacks and lot size requirements which are in the City’s zoning code (not subdivision).

Section 154.109 of the zoning code states as follows:

F. *Required Findings.* Any action taken by the Board of Adjustment to approve or deny a variance request shall include the following findings:

1. ***Practical Difficulties.*** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.

a. *Definition of Practical Difficulties.* “Practical difficulties,” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

Essentially the City needs to determine if the proposed request is reasonable. This can often be a difficult to apply since what is and is not reasonable can vary from person to person. The request in itself may be reasonable, but the conditions of the request may not be reasonable. For example, it is generally reasonable for a property to ask for an accessory building, but it may not be reasonable for a property to request an accessory building that is 2 feet from the property line when a 10-foot setback can be achieved. In this request, is it reasonable to grant the variances with respect to the minimum lot width and reduced front yard setback?

2. ***Unique Circumstances.*** The problem for the landowner/applicant which the proposed variance is intended to correct must be due to circumstances that are unique to the property in question and that were not created by the land owner/applicant.

This is a two-part question. Did you (as property owner) cause the “issues” on site/are they the reason a variance is required? If you did not create the “problem”, then what is unique about the property that variance approval is warranted? For example, compared to other lots or requests, why does it make sense to allow a reduced setback? This standard could be interesting to address because the decision cannot be dependent upon something that was done by the property owner.

3. ***Character of Locality.*** The proposed variance will not alter the essential character of the locality in which the property in question is located.

a. *Definition of Locality.* For purposes of this subsection, “locality” shall be defined as all that property within 350 feet of the property proposed for the variance; however, in all events, it shall include all parcels abutting the affected parcel, including those immediately across a public street, alley or other public property.

Will approval of the request lead to a site, structure, etc. that does not blend in with the surrounding and nearby properties? This standard is definitely contextual and is very site specific. For example, a reduced setback of 10% is going to look a lot different than 40%. In this instance, the reduced lot width will likely have a marginal impact on the surrounding properties but the reduced front yard setback of 30 feet instead of 50 feet will likely be visibly different.

4. Adjacent Properties and Traffic. The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

Will approval have a negative impact on property values, increase traffic, or prevent air or light from getting to neighboring properties? As proposed, adding one lot for one additional house should not impair light and air from getting to adjacent properties and will not measurably increase traffic.

AGENCY REVIEW

Washington County: No comments pertaining to the request, only that driveway access for the new lot(s) would not be granted until after the City approved the lot split.

Neighboring Comments: City staff notified all the property owners within 350 feet of this property about the variance requests. City staff received three comments:

- 3160 Lake Elmo Ave – Not Supportive.
- 3078 Lake Elmo Ave. – Not Supportive.
- 3025 Lake Elmo Ave. – Supports the lot split but does not support the setback variance request.

RECOMMENDED FINDINGS

An applicant must establish and demonstrate compliance with the variance criteria set forth in Section 154.109 of the Zoning Code before the City grants a variance from the Zoning Code requirements. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicant's request.

- 1) **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties –
“Practical difficulties” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

FINDINGS:

- **Variance for Lot Width:** *With respect to the proposed variance for the reduced lot width, strict enforcement of the City's zoning regulations, it will cause practical difficulties because the applicant is proposing to use the property in a reasonable manner (single family residences). The request to use the property as a single family residential dwelling unit is not an unreasonable request. The desire to have the new lot line parallel to the existing lot lines instead of an angled line is preferred and it is believed that the variance is warranted in this respect. Furthermore, it is expected that strictly following the code to have the new lot be 125 feet wide would result in a less desirable outcome than if the City approves a variance to have the new lot be 112 feet wide.*
 - **Variance for Front Yard Setback:** *With respect to the proposed variance for a reduction from the required front yard setback of the City's zoning regulations, it will cause practical difficulties because the applicant is proposing to use the property in a reasonable manner (single family residences). The request to abide by the Rural Single Family zoning district setback of 30 feet is a reasonable request given that is the applicable standard for the property's Zoning District when the Shoreland District regulations do not apply (although in this case, they do apply).*
- 2) **Unique Circumstances.** The problem for the landowner/applicant which the proposed variance is intended to correct must be due to circumstances that are unique to the property in question and that were not created by the land owner/applicant.

FINDINGS:

- **Variance for Lot Width:** *With respect to the proposed variance for the reduction of the minimum lot width, the applicant did not create the current size of the property, so the applicant did not create the problem. Although the lot can be split and divided in a way that would allow both properties to meet the minimum size and minimum frontage, such a configuration would be awkward. The City concedes that the circumstance is unique in that the general objective can be achieved though it would create an unfavorable layout for the new lot line.*
 - **Variance for Front Yard Setback:** *With respect to the proposed variance for a reduction from the required front yard setback of the City's zoning regulations, the plight of the property was not created by the property owner as discussed above but there is no unique circumstance. A unique circumstance has not been established that would warrant a reduced front yard setback. Especially when it is taken into consideration the rear yard setback from the high-water level, which is normally the point of discussion is not needed. By all measures it appears the applicant can meet all City-required front and rear yard setbacks on the proposed lot. Although the Shoreland Regulations are more restrictive than the setback regulations in this zoning district, a unique circumstance has not been noticed or identified on the site that would warrant a reduced front yard setback. Also, there are no contour lines/evidence presented on the site survey to further support the claims being made regarding geography or water flow.*
- 3) **Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

FINDINGS:

- **Variance for Lot Width:** *With respect to the proposed variance for the reduction of the lot width, the proposed variance will not alter the essential character of the locality. A reduced lot size, width, etc. within this area of Lake Elmo is not uncommon and it is very unlikely that the reduced lot width will change the character of the neighborhood.*
 - **Variance for Front Yard Setback:** *With respect to the proposed variance for a reduction from the required front yard setback of the City's zoning regulations, the proposed variance will alter the essential character of the locality. With the exception of homes on 31st Street, the majority of the homes within 350 feet of the property do appear to have front yard setbacks that are closer to 50 feet than 30 feet. It does appear that the homes immediately east are set back closer to 50 feet than the requested 30 feet. Specifically speaking on the west side of Lake Elmo Avenue, it would certainly look out of character to have a home that is only 30 ft. from the road when the neighboring properties are 100 feet or more.*
- 4) **Adjacent Properties and Traffic.** The proposed variance will not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

FINDINGS.

- **Variance for Lot Width:** *With respect to the proposed variance for the reduction of the front lot width, the proposed variance will not impair an adequate supply of light and air to the adjacent property or substantially increase the congestion of the public streets or substantially diminish property values. The proposed reduced front lot width would not lead to the shading of the neighboring properties or structures, nor would it impair air flow.*
- **Variance for Front Yard Setback:** *With respect to the proposed variance for the reduction of the front yard setback from the front lot line, the proposed variance will not impair an adequate supply of light and air to the adjacent property or substantially increase the congestion of the public streets or substantially diminish property values. The allowance would not shade the neighboring properties or structures, nor would it impair air flow.*

FISCAL IMPACT:None.

OPTIONS:

The Planning Commission may:

- Recommend approval of the proposed variances, with findings and conditions as cited.
- Amend the findings and conditions of approval and recommend approval/denial of the variances.
- Move to recommend denial of all variances, citing recommended findings for denial.

RECOMMENDATIONS:

The applicant has achieved positive findings for all points of review for the requested lot width variance but has failed to meet the findings and requirements for “Unique Circumstances” and “Character of Locality” for the proposed front yard setback variance. Staff recommends that the Planning Commission recommend approval of the lot split by recommending approval of the variance of 13 feet to allow for a new lot with a width of 112 feet and recommend denial of the requested variance for a reduced front yard setback of 20 feet (30 feet versus 50 feet). Staff is recommending these with the following conditions of approval:

1. That the applicant obtain all applicable permits including but not limited to a City building permit.
2. The applicant update the survey to include accurate impervious surface information.
3. The applicant shall remove a northern section of the tennis court so that it will be at least 10 ft. from the side property line.
4. The applicant provide the City with the required escrow funds for project review.
5. That the applicant provide the City with \$3,600 per lot for the satisfaction of park dedication (Total \$3,600)
6. If approved, the variances shall be valid for 1 year and would expire on XXX (date set after Council approval). The City must receive a building permit for the home on Parcel B by XXX or the approval will automatically expire.
7. The applicant must provide the City with any drainage and utility or right-of-way easements that are deemed necessary by the City Engineer.
8. That if approved, the applicant pay the City any required SAC (\$5,485 - 2021 Fee) or WAC (\$3,000 – 2021 Fee) charges before the City issues a building permit for the new lot (Parcel B).

Suggested Motions:

***“Move to recommend approval of the variance request of 13 feet for the proposed Parcel B for the property located 3100 Lake Elmo Avenue that will allow for the creation of a new lot with a minimum lot width of 112 feet which allows the proposed lot split to occur.*”**

Move to recommend denial of the front yard setback variance request of 20 feet, which would allow a 30 foot front yard setback instead of the required 50 ft. for the property identified as Parcel B, south of the property addressed as 3100 Lake Elmo Avenue with recommended findings and conditions.”

ATTACHMENTS:

- 1) Narrative
- 2) Survey
- 3) Location/Site Map
- 4) Neighboring Comments

m e m o

DATE: 6/9/2021

TO: Ken Roberts

FROM: Dale Dorschner

SUBJECT: Minor Sub-Division – Variance Application Addendum (Narrative)

RE: Variance Request for allowance of 112 linear vs. 125 feet of frontage and 30 vs 50 foot setback from road.

This memo serves to justify the necessity of the variance to have 112 vs 125 feet of frontage:

- a) Why the strict enforcement of the code would cause practical difficulties because of circumstances unique to the individual property.

To comply with the strict enforcement of the code would require the lot line to the north to be non-perpendicular to the lot line to south. Configuring the lot to meet the strict interpretation of the code, it would create confusion in the future and possible cause disputes among future landowners. The proposed variance would allow the proposed parcel to be uniform in nature and easy to distinguish property boundary's. It would also preserve a century old tennis clay court which is a very rare amenity for any property and one that should be preserved if possible.

- b) Why the plight of the landowner is due to circumstances unique to the property and not created by the landowner.

The plight of the property is unique and has not been caused by the current owner. The current owner did not have a hand in influencing the configuration of the minor subdivision nor the plotting of an irregular shaped lot, its size or the placement of the residential structure near the century old clay tennis court. The issue only appears to exist because the property failed to be split before the RS ordinance requiring 125 feet of frontage came into affect, therefore restricting the new owners ability to conform to the strict enforcement of the ordinance in a manner that is consistent with neighboring lots and within the character of the neighborhood. Although the property could meet all aspects of the ordinance it would create an unnecessary burden to the landowner(s), county and the city to properly distinguish where the north property line is located. This potentially would cause disputes and complaints that the city would have to deal with in the future.

- c) How the granting of the proposed variance will not alter the character of the area in which the property in question is located.

Granting this variance will only serve to align the property to the character of the neighboring properties by having symmetrical lot lines and similar linear frontage. This variance would certainly not alter the existing character of the area because many of the neighboring lots have less than the current requirement of 125 feet of frontage. The proposed property meets all required square footage and side and rear setback requirements and is larger than the majority of neighboring lots to the east.

- d) How the granting of the proposed variance will not impair the supply of light and air to adjacent properties or would substantially increase congestion of the public streets or substantially diminish or impair property values.

The proposed structure placement allows for all the city setbacks with plenty of room to spare. This property is located on a county road in which a single residential lot will not substantially increase the congestion of the public streets. A new residential property will not diminish or impair neighboring property values, but could arguably increase property values by having new residential structure in the neighborhood.

This memo serves to justify the necessity of the variance to allow 30 foot setback vs 50 from frontage (road):

- a) Why the strict enforcement of the code would cause practical difficulties because of circumstances unique to the individual property.

The natural contours and drainage of the property are such that complying with the strict enforcement of the ordinance would increase the environmental impact to the lake. Meeting the city ordinance places the residential structure closer to the lake and neighboring properties increasing the potential impacts of runoff to both of them. This is counter to what the shoreland ordinance was intended to mitigate. Meeting the ordinance would also require significant fill to be brought in further disrupting the natural drainage of the property. This variance also minimizes visual impacts of the new residential structure for the properties to the north and south.

- b) Why the plight of the landowner is due to circumstances unique to the property and not created by the landowner.

As previously stated the natural contours of the property were not created by the property owner rather is a product of the natural landscape. The property meets all lot square footage and side and rear setback requirements and is larger than neighboring lots to the east.

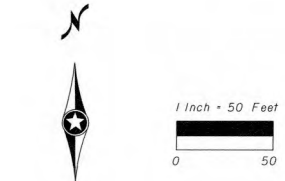
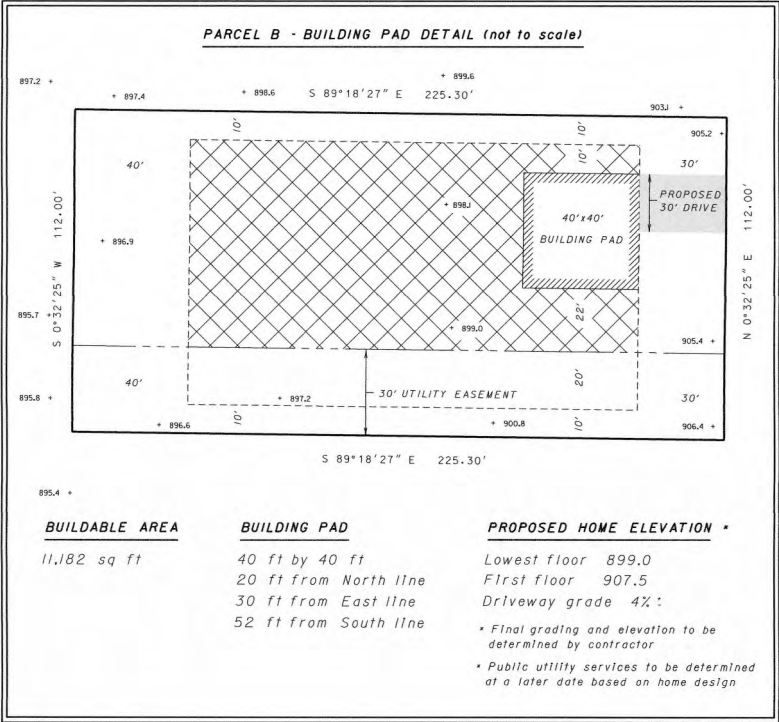
- c) How the granting of the proposed variance will not alter the character of the area in which the property in question is located.

This variance request does not alter the character of the area but rather allows the property to better align with the existing character of the neighboring properties to the east where the setbacks are less than 50 feet and maintain the rural visual feel of the properties to the north and south. The variance also reduces any potential impact to the lake by increasing the distance from the lake that the shore land ordinance serves to protect. The property meets all lot square footage and side and rear setback requirements and is larger than neighboring lots to the east.

- d) How the granting of the proposed variance will not impair the supply of light and air to adjacent properties or would substantially increase congestion of the public streets or substantially diminish or impair property values.

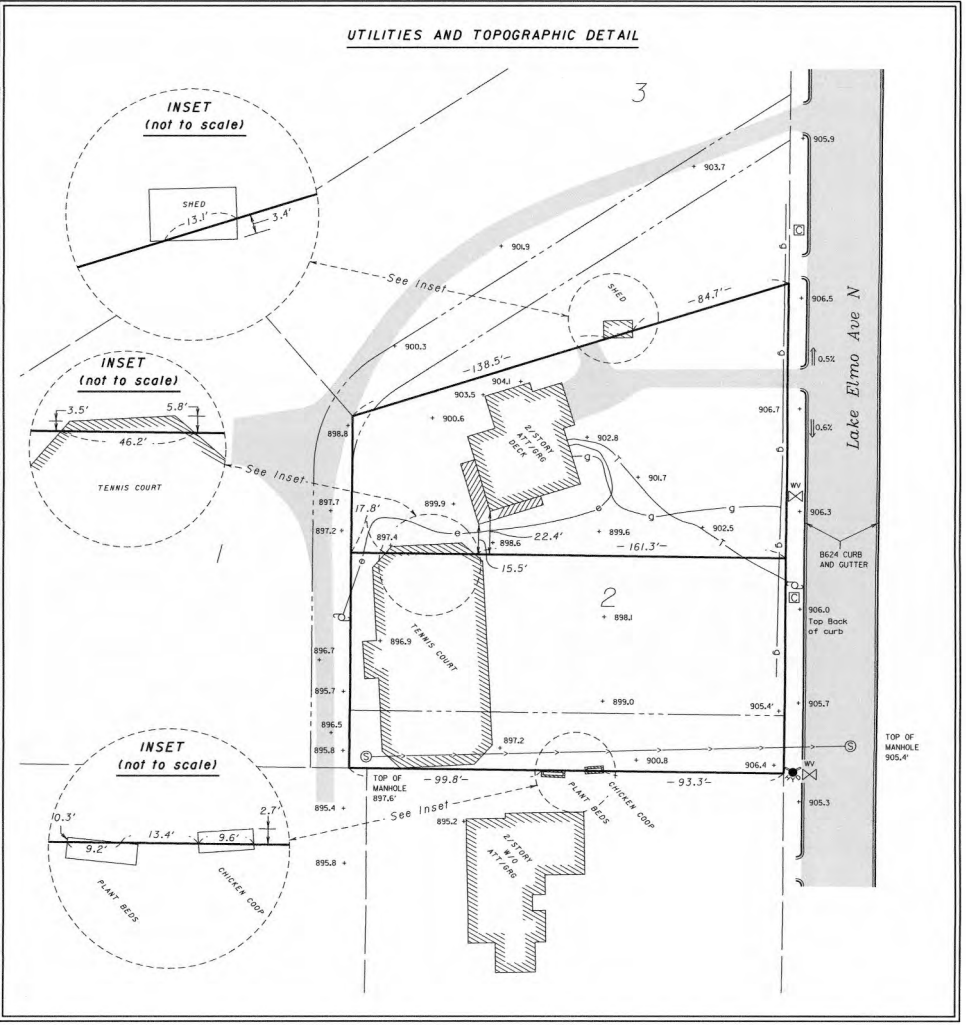
This variance request does not alter the supply of light or air to neighboring properties and again actually abates any potential impacts to neighboring properties by off-setting the setback from the street from the neighboring properties to the north and south. The property is located on a county road in which a single residential property will not significantly increase congestion.

MINOR SUBDIVISION
for
DALE DORSCHNER



PERMEABLE SURFACE QUANTITIES (sq ft)	
PARCEL A	
LOT SIZE	24,106
EXISTING STRUCTURES	
HOUSE/GARAGE	2,666
SHED	29
* TOTAL NONPERMEABLE SURFACES	2,695
PERCENTAGE (total nonpermeable/lot size)	11 %
PARCEL B	
LOT SIZE	25,234
EXISTING STRUCTURES	
GAZEBO	148
** TOTAL NONPERMEABLE SURFACES	148
PERCENTAGE (total nonpermeable/lot size)	0.6 %

* The deck is deck board construction with a 1/4" or greater gap and was not included in this quantity
* The driveway material is dirt and was not included in this quantity
** The tennis court material is clay and was not included in this quantity



RS - RESIDENTIAL SINGLE FAMILY REQUIREMENTS

24,000 sq ft lot with sanitary sewer
Lot width 125 feet (both PARCEL A and B require a variance)
Nonpermeable surface 25% max lot coverage
House pad 24 feet minimum width

Principal Structure	Accessory Building
Front 50 ft *	Front 30 ft
Interior side 10 ft	Interior side 10 ft
Corner side 25 ft	Corner side 25 ft
Rear 40 ft	Rear 10 ft

* Housepad shown at 30 ft. PARCEL B will require a variance

PROPERTY ADDRESS

3100 Lake Elmo Avenue North, Lake Elmo, MN

PARENT TRACT PROPERTY DESCRIPTION
(1.13 acres - 49,340 square feet)

Lot 2, Block 1, Gay S. Banister
Washington County, MN

PARCEL A (0.55 acre - 24,106 square feet)

That part of Lot 2, Block 1, Gay S. Banister, according to the recorded plat thereof on file and of record in the office of the County Recorder, Washington County, Minnesota, lying northerly of the south 112.00 feet of said Lot 2.

Subject to a perpetual easement for drainage and utility purposes, over, under, and across said part of Lot 2. Said easement being 10.00 feet in width and adjoining all lot lines.

Subject to a perpetual private driveway easement as per Book 149 Deeds Page 42. Said easement being 20.00 feet in width and the centerline is described and shown on the plat Gay S. Banister.

PARCEL B (0.58 acre - 25,234 square feet)

The south 112.00 feet of Lot 2, Block 1, Gay S. Banister, according to the recorded plat thereof on file and of record in the office of the County Recorder, Washington County, Minnesota.

Subject to a perpetual easement for drainage and utility purposes, over, under, and across said part of Lot 2. Said easement being 10.00 feet in width and adjoining all lot lines.

Subject to a perpetual easement for utility purposes as per Document number 4084117, as of record in the office of County Recorder, Washington County, Minnesota, over, under, and across the southerly 30.00 feet of said Lot 2.

LEGEND:

- Denotes found iron monument
- ⊙ Denotes found Wash. Co. monument
- Denotes 1/2 inch by 18 inch metal pipe set and marked by license number 48975
- W Denotes water valve
- ⚡ Denotes hydrant
- ⌵ Denotes utility pole
- ⊙ Denotes sanitary sewer
- ⊠ Denotes cable box
- ← Denotes direction of drainage
- + 899.0 Denotes spot ground elevations

- ▨ Denotes buildable area
- Denotes parent tract boundary
- Denotes property line
- - - Denotes easement boundary
- - - Denotes easement centerline
- - - Denotes contour line
- - - Denotes building setback line
- - - Denotes underground gas
- - - Denotes underground electric
- - - Denotes underground telephone
- - - Denotes sanitary sewer

DATUM REFERENCE

For the purposes of this survey, the basis of bearing is the Washington County Coordinate System (1986 adjustment). The survey was calibrated to existing Washington County PLS corners of record.

Elevations are based on the North American Vertical Datum of 1988 (NAVD88). Survey calibrated to MnDOT Geodetic station "C 349".

Field work for this survey was conducted on October 11, 2020.

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

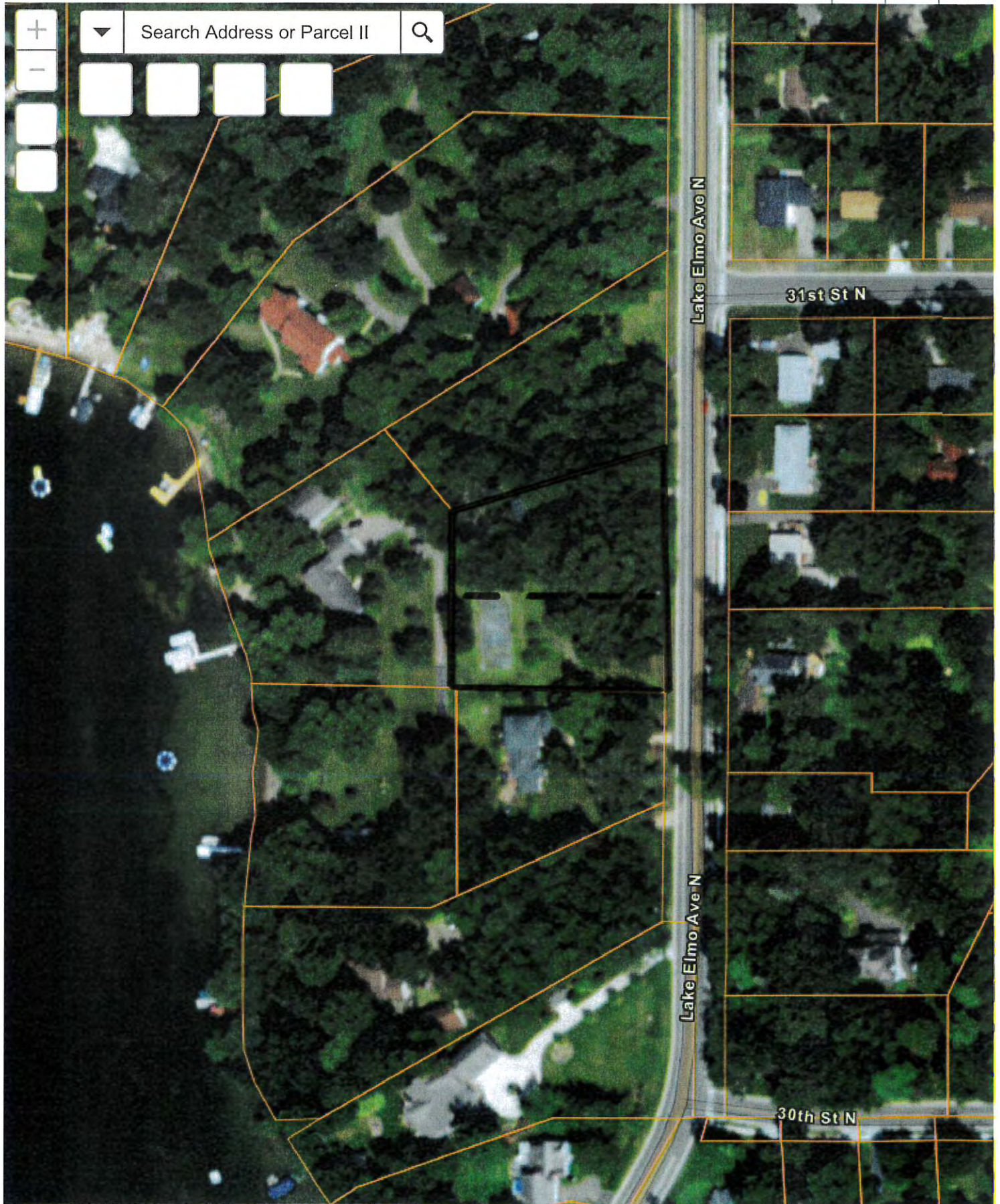
Nathan Anderson, MN License No. 48975

Date 04-27-2021

Parcel Viewer - Quick Access

Beta

Washington Co.



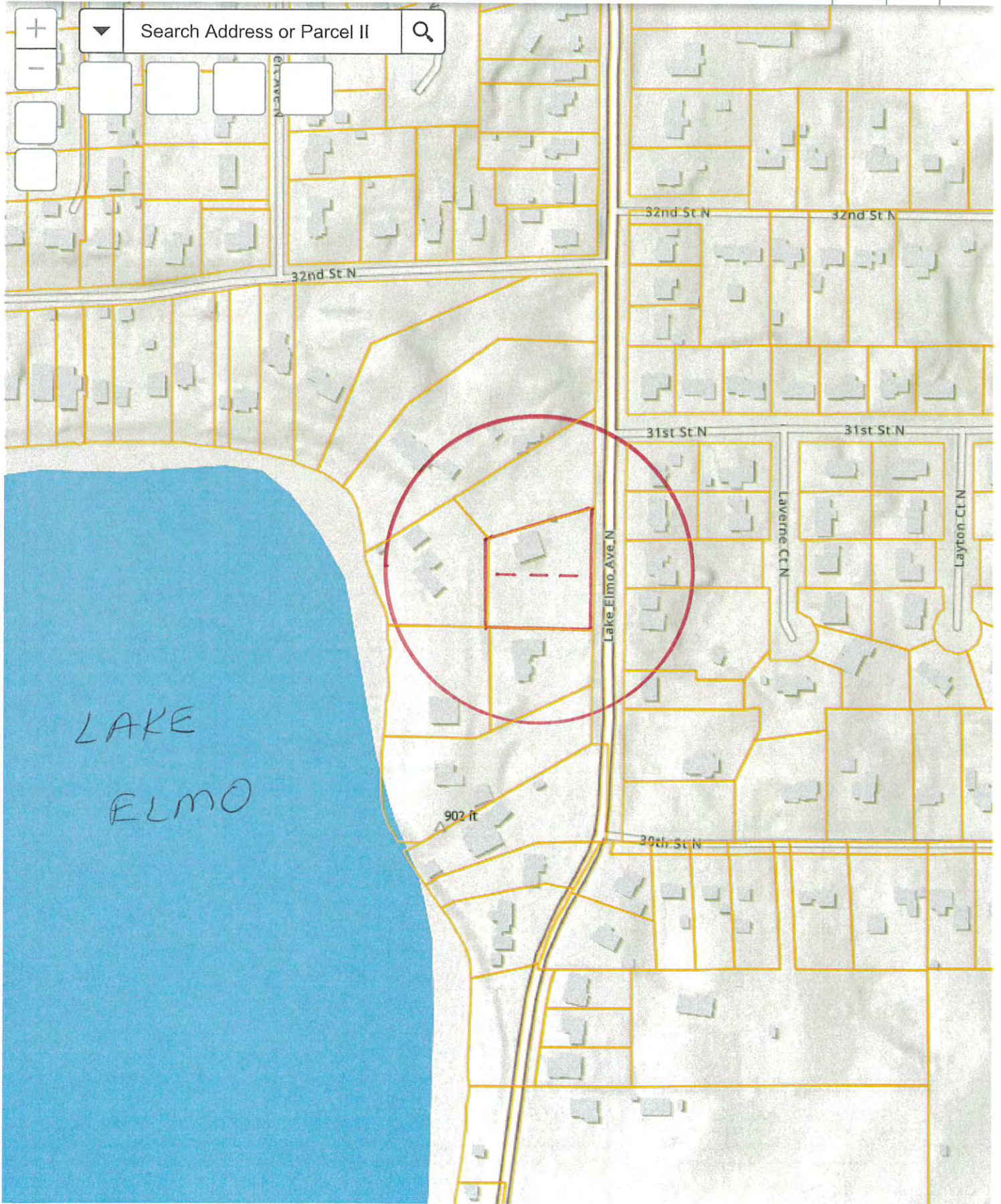
100ft

-92.872 44.996 Degrees

Parcel Viewer - Quick Access

Beta

Washington Co.



-92.864 44 997 Degrees

LOCATION MAP

Comments on Variance request by Dale Dorschner, to be heard by the Planning Commission on June 28, 2021

I will be out of town on June 28 and will not be able to appear in person at the public hearing. Please accept this letter and have it become part of the official record of the hearing.

I have no objections to the lot split variance. The resulting lots will be close enough to the zoning code requirements. However, I totally reject the applicant's arguments in his submission about "disputes and complaints" in the future if the new lot did not have nice, straight and parallel lot lines. The maps the applicant submitted himself clearly show that none of the nearby lots have such lot lines and have not had them for decades. Yet, the City has not suffered from "disputes and complaints" regarding where the lot lines are. The applicant's arguments in this regard are unconvincing.

However, I object to the building setback variance being requested. The applicant has produced no real evidence that such a variance is warranted or needed. I reject his comment that "the natural drainage of the property" would be disrupted if the house were a full 50 feet back, rather than the 30 feet requested. The land does not change that much in elevation over the lot. The applicant does not provide any contour diagram to justify his claim. The applicant does provide a "Survey Detail" map which shows a total of 10 feet (or so) change over the whole lot east-west dimension. One can estimate an elevation change from a 50 foot setback of 6-8 feet. Many people would welcome such a change in elevation in order to build a home with a nice walkout basement.

Also, in the same "Survey Detail" map and in the supplied "Property Line Map" the neighboring homes are clearly shown as in line with a setback of approximately 100 feet from Lake Elmo Avenue. If the applicant's new structure were built at a setback of only 30 feet, it would be conspicuously out of line and very much disruptive of the neighborhood character. The setbacks of the homes on the east side of the road are not really an issue, since they are in line with each other and would not be viewed simultaneously with the proposed new structure. Finally, there is more than enough room to build a 40 x 40 foot home with a 50 foot road setback and no impingement on the tennis court.

I ask the Planning Commission and the City Council to grant the lot split variance but reject the road setback variance.

Respectfully submitted,

Todd Williams
3025 Lake Elmo Ave N
Lake Elmo, MN 55042
June 21, 2021

Letter in opposition to granting variances to allow the subdivision of 3100 Lake Elmo Avenue North.

Submitted by Mark Zdechlik

City of Lake Elmo

ATT: Planning Director Ken Roberts and Planning Commission

Dear Mr. Roberts,

Per our telephone conversation, I strongly oppose Mr. Dorschner's effort to subdivide the property adjacent to mine, which Mr. Dorschner recently acquired from my neighbors of nearly 30 years.

Mr. Dorschner's argument that dividing the property and building another home would not "alter the character of the area" and would "better align" the property "with the existing character of the neighboring properties to the east" is nonsensical.

All the homes in this unique enclave, which I would define as the west side of Lake Elmo Avenue North and south of 32nd Street North, are located on large lots. In general, the characteristics of these properties are very different from those on the east side of Lake Elmo Avenue North Mr. Dorschner references. A simple scan of the included property line map clearly demonstrates that.

I believe granting multiple variances to subdivide and to add another home to the property would significantly change the dynamic of the area.

A major reason I decided to buy my home in the early 1990s was the open space adjacent to it. I trusted that zoning codes would be enforced, not set aside to accommodate the type of development Mr. Dorschner is proposing.

Thanks for taking my concerns into consideration.

Please contact me if anything is unclear.

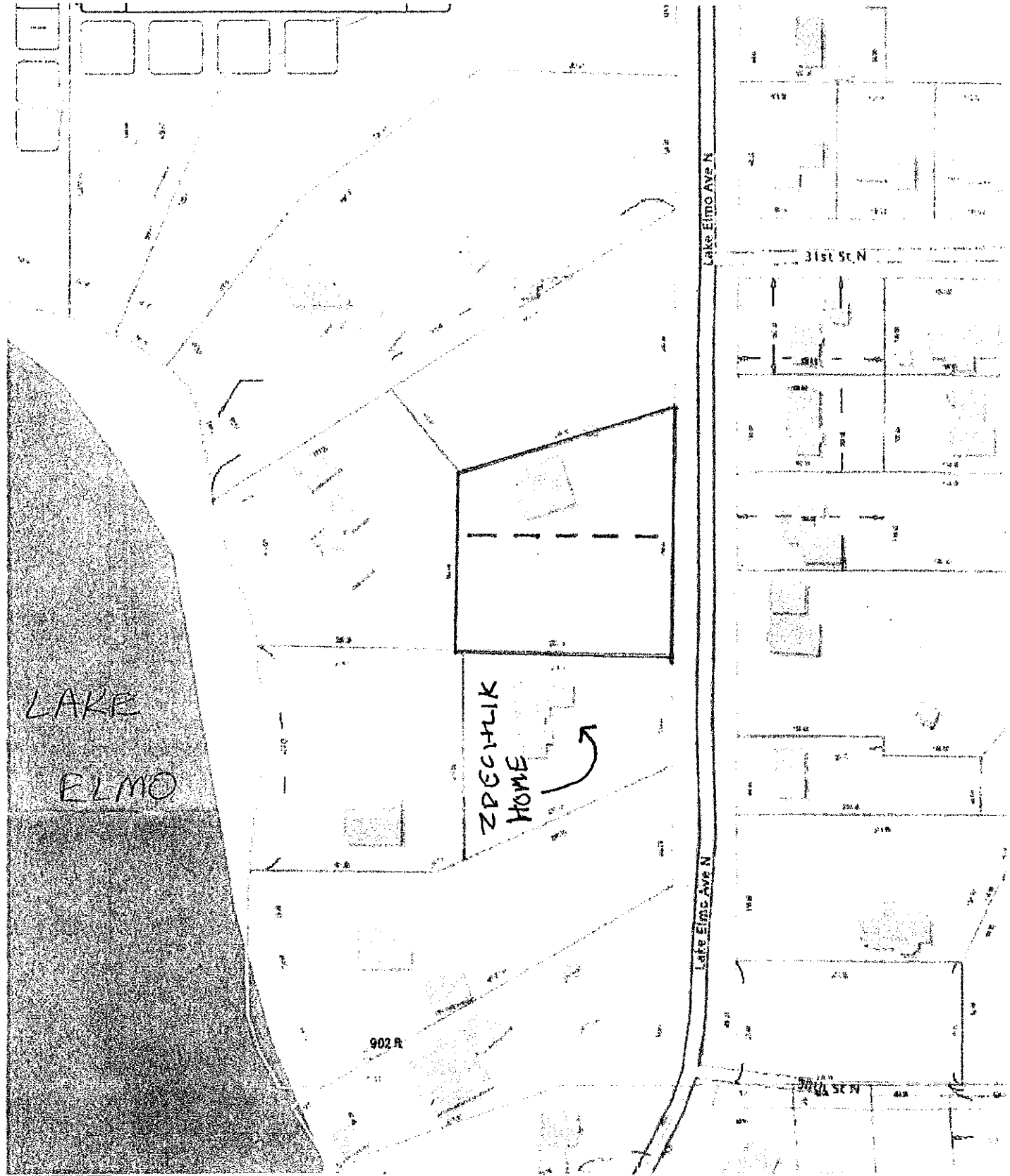
Respectfully,

A handwritten signature in black ink, appearing to read 'Mark Zdechlik', with a long, sweeping horizontal line extending to the right.

Mark Zdechlik

3078 Lake Elmo Ave North

Tel 651-214-7019



PROPERTY LINE MAP



Public Works Department

Donald J. Theisen, P.E.
Director

Wayne H. Sandberg, P.E.
Deputy Director/County Engineer

June 22, 2021

Mr. Dale Dorschner
3100 Lake Elmo Avenue
Lake Elmo, MN 55042

WASHINGTON COUNTY DRIVEWAY ACCESS PERMIT REQUEST FOR 3100 LAKE ELMO AVENUE IN THE CITY OF LAKE ELMO

Mr. Dorschner,

This letter is in response to your access permit request to Washington County for additional private driveway access to County State Aid Highway (CSAH) 17 (Lake Elmo Avenue) due to a potential lot split at 3100 Lake Elmo Avenue. Washington County will not approve a second private driveway access to 3100 Lake Elmo Avenue in its current configuration as a single lot. The lot split would first need to be approved and finalized with the City of Lake Elmo before Washington County would grant another driveway access.

Washington County policy guidance for the approval of access permits is contained within Washington County Ordinance #188 and in the County's Comprehensive Plan. Policies listed in the Comprehensive Plan include minimizing the number of access points along County highways, limiting access to particular locations to maximize traffic safety, and providing adequate spacing to separate and reduce traffic conflicts. Any work conducted within county highway right-of-way is allowed only via an approved permit through Washington County, which may place conditions on construction and design such as culverts, slope rates, and surfacing.

If the lot split is approved by the City of Lake Elmo, Washington County would grant an additional access permit in order to provide lawful access to the new lot. The county encourages property owners to consider shared driveways to limit the number of driveways on roads like CSAH 17.

We appreciate your communication. Please contact me directly with any questions or concerns.

Kurt Howard

Thank you,
Kurt Howard
Planner II

Ben Prchal

From: Ken Roberts
Sent: Tuesday, June 22, 2021 8:16 AM
To: Ben Prchal
Subject: FW: Planning Meeting

Ben –

Regarding Dales request.

Ken

From: ted kohn [mailto:xitchie@yahoo.com]
Sent: Monday, June 21, 2021 5:43 PM
To: Ken Roberts <KRoberts@lakeelmo.org>
Subject: Planning Meeting

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

Ted and I are opposed to granting the requested variances for 3100 Lake Elmo Avenue North. Dale Dorschner needs to use his own property to install a driveway to his 1st property at 3150 Lake Elmo Avenue North. We see no reason for using our property. The current driveway is an easement through the middle of our property at 3160 Lake Elmo Avenue North. Dale Dorschner needs to take this into account when making plans on his properties. The city should enforce current property lines because of his encroachment onto our property already. Everything in his plans to the city needs inclusion of this.

Ted and I would appreciate communication as to the outcome of this matter.

Ted and Ellen Kohn
3160 Lake Elmo Avenue North



STAFF REPORT

DATE: July 26, 2021

REGULAR

TO: Planning Commission – Public Hearing
FROM: Ben Prchal, City Planner
AGENDA ITEM: Agricultural Building Setbacks
REVIEWED BY: Ken Roberts, Planning Director

BACKGROUND:

At the July 13th, 2021 Council workshop, City Staff was directed to explore the possibility of reducing the setback requirements within the Agricultural Zoning District and bring those findings to the July 26th, 2021 Planning Commission meeting. With the directive from the City Council to bring the code setbacks in the Agricultural Zone forward for review, Staff researched code from neighboring Cities and used those to evaluate the setback standards. The intent of this review is to understand if Lake Elmo code is more or less restrictive in its setback requirements than the setback requirements in neighboring Cities.

ISSUE BEFORE THE PLANNING COMMISSION:

The Planning Commission is being asked to hold a public hearing and review the proposed ordinance amendments pertaining the required setbacks for buildings within the Agricultural Zoning District.

REVIEW AND ANALYSIS:

The Agricultural (A) zoning district requires a 200 ft. setback from all property lines for all buildings. Staff has done a review of surrounding Cities to understand if Lake Elmo has a larger than normal setback for buildings in the agricultural district. Being that zoning district descriptions can vary from City to City it should be known that Staffs evaluation was primarily focused on districts obviously classified as agricultural or rural. Also, the setback(s) measurements that were reviewed were only from property lines not wells, HWL, etc. It should also be understood that Staff did not take into consideration (for each City) the height or size restrictions that each jurisdiction may impose on buildings. Height standards could play into the established setbacks as larger buildings will look more imposing depending on the established setback from a property line.

City of Afton:

The City of Afton requires half the setback that Lake Elmo does. Afton requires a setback of 105 ft. from the center line of a local roadway and 150 ft. for a State/County highway. For buildings over 1,500 sqft, a 100 ft. setback is required from the rear lot line. It also allows for a 50 ft. setback for non-agricultural buildings (homes). Without doing a comprehensive look at Afton's code it seems as though the Ag. building definition is not necessarily relevant when it comes to setbacks since the setback is determined on the size and not the type. Especially since the setbacks are the same in table 12-131 as 12-187 N.1.

Agricultural building means a structure on agricultural land as defined in "agricultural, rural," of this section, designed, constructed, and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sub-lessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products according to MN State Statutes 326B.103.

Afton's code section 12-187 provides some insight on what the maximum size can be with the following language:

- **Agricultural District** - 1 or 2 on parcels of 10-20 acres not to exceed a total of 2,500 square feet; 2 on parcels less than 10 acres not to exceed 2,000 square feet. Residential parcels shall be regulated by the RR district. Permit shall be recorded. No Admin permit required on buildings 1,000 s.f. or less.
- **Rural Residential District** - 1 or 2 on parcels of 5 and more ac. Not to exceed a total of 2,000 square feet; 1 on parcels less than 5 acres not to exceed 1,000 square feet. Agricultural parcels shall be regulated by the A and AP districts. Permit shall be recorded. No Admin permit required on buildings 1,000 s.f. or less.

Baytown Township:

Baytown defines an Ag. building as the following:

Agricultural Building: A structure on agricultural land designed, constructed, and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sublease of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products.

Similar to Lake Elmo, they remove restrictions for agricultural buildings on properties over 20 acres in size. For example, they have no limit on number or size for the buildings on 20 acres or more.

The setback requirement for homes is 40 ft. from the front property line and a setback of 100 ft. setback from any property line for domestic farm buildings, feed lots, or manure storage sites. Again, this is quite a big difference compared to what Lake Elmo requires. From an enforcement/application perspective Staff would prefer to keep the setback standard for Ag. and non-Ag. buildings be the same. For example, both set at 40 ft. or both set at 100 ft.

As another standard, Baytown requires a 150 ft. building setback from the road centerline OR 75 ft. from the right-of-way (the greater) along Arterial roadways. This may be confusing at first glance but essentially the City requires one set of standards for Arterial roadways and a different set of standards along another.

City of Cottage Grove:

Cottage Grove did not have a definition for agricultural buildings but they did have a definition for agricultural land, both rural and urban.

Agricultural, rural: a commercial crop-producing use on ten (10) or more contiguous acres and as defined under minnesota statutes section 273.111, subdivision 6. Real property shall be considered to be an agricultural use; provided, that annually: a) at least thirty three and one-third percent (33 1/3%) of the total family income of the owner is derived therefrom, or the total family income, including rental income from the property, is three hundred dollars (\$300.00) plus ten dollars (\$10.00) per tillable acre; and b) it is devoted to the production for sale of livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grain, bees and apiary products.

It is from this definition they seem to base the rest of their code on, rather than a specific Ag. building definition. Their setbacks are again smaller when compared to Lake Elmo's rural districts.

Cottage Grove requires:

- Front yard setback of 100 ft. or behind the principle structure
- Side yard of 25 ft.
- Rear yard of 50 ft.
- Limited to 2 accessory buildings up to 2,500 sqft. up to 20 ft. in height
- Properties meeting agricultural definition – unlimited number of buildings and 300 sqft. per acre.

City of Dayton:

Agricultural Building: A structure on agricultural land designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the owner, lessee, or sub-lessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

Dayton has a specific definition for an agricultural building but Staff was unable to locate any other reference within the code to address the building. There are specific setbacks for accessory buildings within their Agricultural districts and the front yard measurement is set at 30 ft. or 50 ft. depending on the district. Staff believes this would not be an appropriate setback to be used in Lake Elmo as it seems that Dayton does not or did not need to address agricultural buildings in the same way as other Cities. A size limit was not readily found.

City of Hugo:

Agricultural building means a structure on agricultural land as defined in Minn. Stats. 273.13, subd. 23, designed, constructed and used to house farm implements, livestock, or agricultural produce or products used by the owner,

lessee, and sublessee of the building and members of their immediate family, their employees, and persons engaged in the pickup or delivery of agricultural produce and products.

Their definition is similar to the way Lake Elmo Defines an Ag. Building. Staff has been unable to locate additional setbacks for this type of building. Though, it looks like they require a 40 ft. setback from the front property line and perceivably allow a building up to 5,000 sqft. up to 35 ft. in height. Staff again would not recommend a 50 ft. front yard setback in the Agricultural District. However, it is worth nothing that these setbacks are similar to the City's Rural Residential District.

Other Cities:

It is clear there is a range between the Cities in regard to setbacks within agricultural or rural districts. However, from what Staff what able to gather, Lake Elmo does have the largest setback requirement for buildings in an agricultural zoning district when compared to all of the Cities that were used for the review.

Lake Elmo Code Discussion

Staff speculates that the large setback for buildings in the agricultural district in Lake Elmo was intended to protect against potential nuisances that are generally associated with agricultural activities. However, if you were to compare the same request to a property zoned as RR and one that is zoned as A you would achieve two very different outcomes.

For example: Let's assume there are two forty acre parcels (which allows the largest building type), one zoned as A and the other RR. If both parcels were to place a home and an Ag. building of 3,000 sqft. (Assume all setbacks are met) the following setbacks would be used.

A – Zoning District	RR – Zoning District
Front Yard Setback – 200 ft.	Front Yard Setback – 30 ft.
Rear Yard Setback – 200 ft.	Rear Yard Setback – 40 ft.

There are a few uses that are allowed within the Agricultural District that are not allowed within the Rural Residential District.

The uses are:

- Outdoor Recreational Facility – CUP
- Restricted Recreation – CUP
- Agricultural Services – CUP
- Forestry Operation – Permitted

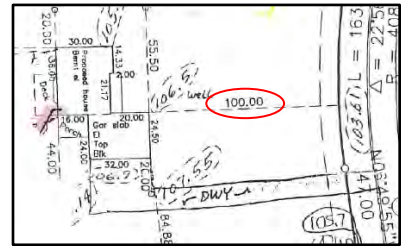
These uses further support the idea that the large setbacks were intended to protect residential neighbors from farming practices. It should also be known that in both zoning districts there is a 200 ft. setback for Animal Buildings, feedlots, and manure storage sites which applies to both districts.

Detached Domesticated Farm Animal Building. A 1-story accessory building used or intended for the shelter of domestic farm animals and/or related feed or other farm animal supportive materials. The building may require a Minnesota Pollution Control Agency feedlot permit in addition to site and building plan approval.

A reduction in a required setback would have an immediate benefit for all Ag. zoned properties in that they would be allowed to place structures at least 100 ft. (*Recommended setback*) from any property line. Whether its for a private residence or a farming business in the district all will be allowed to use the change. This proposed change does not allow for an exclusion form site specific reviews or approvals, only the allowance for a reduced setback (*For buildings*). Staff is not proposing any changes to the setback requirements for animal buildings, feedlots, or manure storage sites.

Residential Estate Distract (RE): Although this district will not be impacted it is worth mentioning because it does have the most restrictive setbacks after the Ag. district. The Ag. districts are typically on larger properties with the RE properties generally being 2.5 acres in size. Their front and rear yard setback is set at 100 ft. for the principle building. Accessory buildings are then allowed to have a reduced setback. Staff recommends reviewing table 9-2 (attached) if there are additional questions on the established setbacks.

Example of 100 ft. setback – 820 Jasmine Ave.

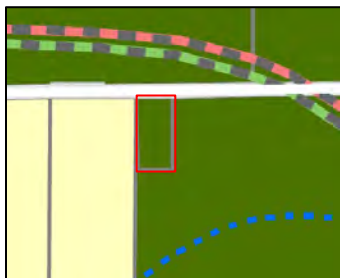


The City of Baytown allows the home to sit closer to the front lot line than the accessory buildings. Staff considered amending this standard into the code but the primary reason to shy away from this recommendation was function of the property. To set a different standard for accessory buildings from the principal structure (the home) would mean that properties without attached garages would be forced to either attach a garage to their home or place the detached building/garage a substantial distance away from the home. Though there are not many properties zoned as A within the City, Staff believes that standard would likely result in issues/variance requests. If the City chose to move in that direction Staff will need to amend additional sections of code to meet the recommendation. Staff suggests reducing the City's setback from 200 ft. to 100 ft. from all property lines for all buildings in the Agricultural Zoning District.

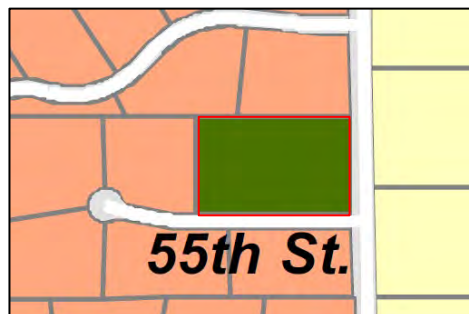
Staff would like to further state that there are a few parcels within Lake Elmo that are zoned as A that are drastically undersized when it comes to the practical application of the setbacks. It is staffs opinion that this is more of an issue with the zoning of the property than it is with setbacks. In certain instances the City could rezone the parcel as a courtesy to the property owner to make it more conforming with zoning standards. Staff is likely to recommend a rezoning to RR or RE for such properties. The comprehensive plan will need to be consulted for each site to specifically pin down which zoning district would be most appropriate.

For example:

8167 15th St. – 1.32 acres



5630 Keats Av. – 5 acres



FISCAL IMPACT:

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

OPTIONS:

1. Recommend approval of the proposed changes to the Agricultural Zoning District.
 2. Amend the recommend changes to the Agricultural Zoning District and then recommend approval.
 3. Recommend denial of the proposed changes to the Agricultural Zoning District.
-

COMMENTS/RECOMMENDATION

Please refer to the attached code amendment to fully understand what the amendments will look like within the City code.

Staff recommends the following motion:

“Motion to recommend approval of the code amendment(s) that would reduce the required setback(s) for buildings within the Agricultural Zoning District as they have been drafted.”

ATTACHMENTS

- City Codes Used for Comparison
- Lake Elmo Rural District Code with amendments

AFTON CODE

- K. Provide for the enforcement of this article and to define and limit the powers and duties of the administrative officers and bodies responsible therefore.
- L. Protect and preserve economically viable agricultural land.
- M. Provide for the wise use and conservation of energy resources.
- N. Implement the City's Comprehensive Land Use Plan as prepared by the Planning Commission and adopted by the City Council.

Sec. 12-54. Interpretation and construction.⁶

- A. In the application of this article, the provisions thereof shall be interpreted to be the minimum requirements necessary to accomplish the general and specific purposes of this article.
- B. Nothing contained in this article shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any building, structure or facility or to carry on any trade, industry, occupation or activity.
- C. Except as herein provided, the provisions of this article are cumulative and in addition to the provisions of other laws and ordinances, heretofore passed or which may be passed hereafter, governing the same subject matter as this article.

Sec. 12-55. Definitions.⁷

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where expressly defined in another article or the context clearly indicates a different meaning:

Accessory building or structure means a subordinate building or structure which is located on the same lot as the main building and the purpose of which is incidental to that of the principal building.⁸

Accessory use means a use related or subordinate to the principal use of the same land.

Administrator means the City Zoning Administrator.

Agricultural building means a structure on agricultural land as defined in "agricultural, rural," of this section, designed, constructed, and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sub-lessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products according to MN State Statutes 326B.103.

Agriculture, rural is a commercial food producing use on ten or more contiguous acres and is defined under a portion of Minnesota Agricultural Property Tax Law (Green Acres Law) M.S.A. § 273.111, subd. 6, Agricultural Property Tax: Real property shall be considered to be in agricultural use provided that annually it is devoted to the production for sale of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, apiary products and activities incidental thereto.

Agriculture, suburban is a noncommercial food producing use primarily intended for the use of the residents and usually on less than ten contiguous acres. Suburban agricultural uses may include production of crops such as fruit trees, shrubs, plants, flowers, vegetables and domestic pets.

⁶ Code 1982, § 301.203

⁷ Code 1982, § 301.301; Res. No. 1997-5, 2-11-97; Res. No. 1997-16, § 9, 6-17-97; Ord. No. 1997-19, 7-15-97; Ord. No. 02-2011, 7-19-2011.

Cross reference(s)--Definitions generally, § 1-2.

⁸ See Section 12-178.

LAND USE

- U. Expiration. Expiration of an agricultural preserve initiated by the landowner shall not automatically result in a rezoning of the property to a greater density.
- V. Early termination. Termination of an agricultural preserve earlier than a date derived through application as regulated in this section shall be permitted only if the governor declares a public emergency pursuant to a petition submitted to him by either the landowner or the City Council.

Sec. 12-140. Agriculture 1 (A) zoning district .¹³⁶

- A. Purpose. The A zoning district is intended to recognize land in the City that is primarily rural in character with the primary land use being farming or agriculture. This district is designated in recognition of the comprehensive plan that states the City's policy to retain prime agricultural land and to encourage the continuance of commercial farming. While non-farm housing is a permitted use as regulated herein, the primary purpose of the district is to preserve and protect land for commercial farming.
- B. Permitted uses and structures. The following uses shall be permitted:
 - 1. Single Family Residential housing at a density of one dwelling unit per 10 acres provided that: (Total Acreage / 10 = allowed density) All numbers shall be rounded down. Each dwelling unit shall be located on a separately owned parcel which shall be at least five acres in area;
 - 2. The parcel on which a dwelling unit is located shall have at least 300 feet of frontage along an existing, improved public street;
 - 3. The driveway serving the parcel shall be separated from adjacent driveways on the same side of the street by the following distances depending upon street type:
 - a. Local street..... 300 feet
 - b. Collector street..... 300 feet
 - c. Minor arterial..... 500 feet
 - d. Minimum distance from the intersection of two or more of the above..... 100 feet
 - 4. The dwelling shall be set back at least 105 feet from the nearest existing or planned street centerline and be separated at least 500 feet from the nearest farm building;
 - 5. 20 acres are required to subdivide a property, of which two or more parcels may qualify if 100% of all of the land owners apply.
 - 6. Other uses as permitted by Section 12-134 for the zoning district.
- C. Accessory uses and structures. Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses and structures, and those accessory uses permitted by Section 12-134 for the zoning district shall be permitted.
- D. Conditionally Permitted Uses. The following Conditionally Permitted Uses may be approved by the City Council provided that the provisions and requirements of this article are fully met:
 - 1. Agricultural service establishments incidental to the principal agricultural use of the property primarily engaged in performing agricultural animal husbandry or horticultural services on a fee or contract basis including corn shelling, hay baling, thrashing, sorting, grading and packing of fruits and vegetables for the grower; agricultural produce milling and processing; horticultural services; fruit picking, grain cleaning; harvesting and plowing; farm equipment service and repair; veterinary services; and the boarding and training of horses; and
 - 2. Those uses listed as being allowed by Conditional Use Permit in the A zoning district in Section 12-134.
- E. Standards for granting Conditional Use Permits. No Conditional Use Permit shall be issued by the City Council unless following review and written findings it determines that the proposed use satisfies the conditions set forth in Sections 12-78 and 12-139.
- F. Prohibited uses and structures. All other uses and structures which are not specifically permitted or permitted by Conditional Use Permit shall be prohibited.

¹³⁶ Code 1982, § 301.610, Ord 7-2006, 8/15/2006; Ord 01-2012, §12-140, 1/17/2012

LAND USE

habitable dwelling unit unless the existing building conforms or the building after such improvement (including septic system) will conform with all the requirements of the City's ordinances and any applicable state requirements.

- I. Any alterations, modifications or enlargements of an existing seasonal principal building for the purpose of continuing the seasonal use shall require a Conditional Use Permit.
- J. In all districts where single-family detached dwellings are permitted, the following standards shall apply for single-family detached dwellings, including manufactured homes, except that these standards shall not apply to manufactured homes permitted by Section 12-213(B), (C), (D) or (E):
 - 1. Minimum width. The minimum width of the main portion of the structure shall not be less than 20 feet, as measured across the narrowest portion.
 - 2. Foundations. All dwellings shall be placed on a permanent foundation extending below the frostline and anchored to resist overturning, uplift and sliding in compliance with the state building code.
- K. The size of a garage attached to a principal residential building shall not have a foundation that exceeds 2,000 square feet.¹⁴⁸

Sec. 12-187. Types of accessory buildings.¹⁴⁹

- A. Storage or tool sheds; detached residential accessory buildings; detached domesticated farm animal buildings on residential parcels; and agricultural buildings on rural farms. Such accessory buildings are defined as follows:
 - 1. Storage or tool sheds: A one-story accessory building of less than 160 square feet gross area with a maximum roof height of 12 feet. No door or other access opening in a storage or tool shed shall exceed 28 square feet in area.
 - 2. Detached residential accessory building. A one-story accessory building used or intended for the storage of motor-driven passenger vehicles, hobby tools, garden equipment, workshop equipment and so forth. The total area of all accessory buildings shall not exceed 2,500 square feet, subject to the acreage requirements in Subsection (B) of this section. (Also see Paragraph (4) of this section.)¹⁵⁰
 - 3. Detached domesticated farm animal building on residential parcels. A one-story accessory building used or intended for the shelter of domestic farm animals and/or related feed or other farm animal supportive materials on any nonagricultural parcel as defined in Section 12-55. The total area of all accessory building shall not exceed 2,500 square feet, subject to the acreage requirements in Subsection (B) of this section. Such buildings shall be regulated by Subsections (B), (M), and (N) of this section.
 - 4. Agricultural buildings on rural farms. An accessory building used or intended for use on a parcel on which rural agriculture, as defined in Section 12-55, is the principal use, and shall be subject to the following restrictions: No accessory building, except for agricultural buildings on rural farms, shall be more than 20 feet in height, nor have a roof pitch which exceeds that of the principal building. On any lot of less than five acres no accessory building shall exceed the square footage of the principal structure.¹⁵¹
 - 5. Existing agricultural buildings at the time of a subdivision are exempt from the limits on the maximum square footage and on the total number of accessory buildings imposed by Subsection (B) of this section. Any additions to or expansions of accessory buildings shall thereafter be subject to requirements of this section with the existing agricultural buildings being included in both the square footage and building number calculations.
 - 6. Temporary Accessory Dwelling Unit. A temporary dwelling unit that is accessory to a residential principal structure, and that can be easily removed. A temporary accessory dwelling unit requires an administrative permit. Such permit shall expire 180 days from the date of issuance, unless there is specific ordinance language setting out a longer timeframe, and may be renewed for one additional 180 day period.¹⁵²

¹⁴⁸ Ord 03-2012, § 12-186 (K), 4/17/2012

¹⁴⁹ Code 1982, § 301.703

¹⁵⁰ Ord 05-2013, 3/19/2013

¹⁵¹ Ord 05-2015, 3/19/2013

¹⁵² Ord 05-2013, 3/19/2013

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B. Permitted uses of accessory buildings.¹⁵³

	A	R	VHS
Storage or tool shed:			
Permit required	Building	Building	Building
Maximum square footage	160	160	160
Maximum roof height	12 feet	12 feet	12 feet
Maximum door opening area	28 sq. ft.	28 sq. ft.	28 sq. ft.
Maximum number of stories	One story*	One story*	One story*

Detached residential accessory building:			
Permit required	Admin & Bldg.	Admin & Bldg.	Bldg.
Maximum square footage	***	***	720
Maximum number of stories	One story*	One story*	One story*

Detached domesticated farm animal building on residential parcels:			
Permit required	Admin & Bldg.	Admin & Bldg.	N****
Maximum square footage	***	***	
Maximum number of stories	One story*	One story*	

Agricultural building on rural farm of:			
More than 10 but less than 20 acres:			
Permit required	Admin	Admin	N
Maximum square footage	***	***	
20 or more acres:			
Permit required	Admin/Farm Site Plan	Admin/Farm Site Plan	N

* See Ch. 11, Sec. 1102 of the International Building Code (IBC)

<p>***Total number of accessory buildings possible:</p> <p>1 or 2 on parcels of 10-20 acres not to exceed a total of 2,500 square feet; 2 on parcels less than 10 acres not to exceed 2,000 square feet. Residential parcels shall be regulated by the RR district. Permit shall be recorded. No Admin permit required on buildings 1,000 s.f. or less.</p>	<p>1 or 2 on parcels of 5 and more ac. Not to exceed a total of 2,000 square feet; 1 on parcels less than 5 acres not to exceed 1,000 square feet. Agricultural parcels shall be regulated by the A and AP districts. Permit shall be recorded. No Admin permit required on buildings 1,000 s.f. or less.</p>	<p>1 not to exceed 720 square feet.</p>
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**** See Section 12-230 regulating the keeping of chickens on parcels less than five (5) acres.¹⁵⁴

C. A storage or tool shed as defined in this section may be placed on any lot in addition to the permitted type and number of accessory buildings.

¹⁵³ Ord 09-2010, § 12-187(B), 9/21/10

¹⁵⁴ Ord 05-2013, 3/19/2013

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- D. No accessory building shall be constructed nor accessory use located on a lot until a building permit has been issued for the principal building to which it is accessory.
- E. A building shall be considered an integral part of the principal building if it is located six feet or less from the principal building. The exterior design and color shall be the same as that of the principal building and the height shall not exceed the height of the principal structure.
- F. No accessory building in a Commercial or Industrial Zoning District shall exceed the height of the principal building.
- G. No accessory building shall be located nearer the front lot line than the principal building on that lot except by Administrative Permit as provided for herein:
 - 1. The proposed accessory building shall be located on a lot of five or more acres; and
 - 2. The proposed accessory building shall be screened from the public street and neighboring parcels by existing vegetation that provides year-round screening and exceeds the height of the accessory building unless the accessory building is of the same design and material as the principal building and is located 25 feet or less from the principal building, provided all other required setbacks are met.
- H. Accessory structures located on lake or stream frontage lots may be located between the public street and the principal structure as regulated by the shoreland management ordinance and Subsection (G) of this section.
- I. Houseboats and buildings used as shelters from which to fish during open water months are to be considered accessory structures for purposes of this article. All houseboats used within the City limits for a period of 30 consecutive days or more shall require a Administrative Permit. Such permit shall show the owner, owner's address, boat license number, whether the boat is to be used as a seasonal residence, and if so, for what period of time during the year, type of sanitary sewage facility, water supply and site plan showing the method of access to the public street. Each houseboat shall have one off-street parking space within 400 feet of the docking of such houseboat. No houseboat shall be used as a permanent residence.
- J. Ice fishing houses stored on parcels of land during summer months shall be considered an accessory storage building equivalent to a storage or tool shed as defined in Subsection (A)(1) of this section. Ice fishing houses shall meet the size limitations of Subsection (B)(1) of this section and all other provisions of this article, except Subsection (K) of this section.
- K. All accessory buildings shall be securely anchored. Those over 100 square feet shall have a foundation, concrete slab or footings. Nonagricultural accessory buildings larger than 100 square feet shall require a building permit regardless of improvement value. Roof and wind loads shall conform to requirements as contained in the building code.
- L. All accessory buildings shall meet the minimum required setbacks contained in Section 12-132(A) for the zoning district in which it is to be located.
- M. An Administrative Permit is required for approval and construction of a detached domesticated farm animal building on a residential parcel of at least five acres and up to 20 acres. No detached domesticated farm animal building shall be permitted on any lot less than five acres. An application for an Administrative Permit shall include the following:
 - 1. A dimensioned site plan or aerial photograph illustrating within 500 feet of the proposed structure: All adjacent property owners' lot lines, houses, septic systems, fences, wells, animal buildings and other structures and feed storage areas; all wet marshy areas, drainageways, and shorelines; all proposed grazing areas on the site; all new utility extensions and driveway access to the proposed building; and all manure storage and disposal areas.
 - 2. A written soil inventory and evaluation from the county soil conservation district.
 - 3. Details of the building floor plan, elevations, materials and color of structure.
- N. Performance standards for detached agricultural buildings and domesticated farm animal buildings shall include the following:

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1. Setbacks. All domestic farm animal buildings, feedlots and manure storage areas shall be setback as follows:

Natural or Manmade Feature	Minimum Horizontal Setback
a. Any property line:	100 feet
b. Any existing well or residential structure on the same parcel:	50 feet
c. Any existing well or residential structure on adjacent or nearby parcels:	200 feet
d. Any body of seasonal or year-round surface water, stream, or drainageway	200 feet

2. Slopes. Such building, feedlot or manure storage area shall not be placed on slopes that exceed 13 percent.
3. Marsh or wetland. No marsh or wetland (as established by the predominant wetland vegetation and/or soils) shall be utilized for placement of the proposed structure, feedlot or grazing area.

- O. The size of a lean-to shall not exceed 40% of the size of the enclosed portion of the building to which it is attached.¹⁵⁵

Sec. 12-188. Livestock.¹⁵⁶

- A. Prohibition of manure deposition without safeguards. No manure or livestock waste shall be deposited, stored, kept or allowed to remain in or upon any storage site or feedlot without reasonable safeguards adequate to prevent the escape or movement of such manure or waste or a solution thereof from the site that may result in pollution of any public waters or any health hazard. No manure shall be stored within 100 feet of any property line.
- B. Pollution control agency standard minimum requirements. All regulations imposed by the state pollution control agency relating to keeping of livestock shall be adhered to, and such regulations shall be considered the minimum safeguard necessary to prevent pollution of public waters or creation of health hazards. New livestock feedlots, poultry lots and other animal lots are prohibited within the following areas:
 1. Within 1,000 feet of the ordinary high water mark of any lake, pond or flowage; or within 300 feet of the landward extent of a floodplain;
 2. Within 1,000 feet of the boundary of a public park; and
 3. Within one-half mile of the nearest point to a concentration of ten or more private non-farm residences.
- C. Permit required. No feedlot or manure storage site shall be maintained unless a permit therefore¹⁵⁷ has first been issued by the state pollution control agency and a Conditional Use Permit has been issued by the City Council. The application for a permit by the owner or other person responsible for a feedlot or manure storage site shall be accompanied by plans showing the features and method of operation and construction and existing or proposed safeguards or disposal systems. The City Council may thereafter issue a Conditional Use Permit therefore¹⁵⁸ upon such conditions as it shall prescribe to prevent pollution of any public water or creation of health hazard.
- D. Inadequate safeguards. In case the Zoning Administrator shall find that any manure is stored or kept on any feedlot or storage site without a safeguard, or that any existing safeguard is inadequate, he may order the owner or other responsible person to immediately remove the manure from the feedlot or storage site and refrain from further storage or keeping of any manure thereat unless and until an adequate safeguard is provided as herein prescribed.
- E. Notice concerning loss. It shall be the duty of the owner of a feedlot or manure storage site or other responsible person in charge thereof to notify immediately the Zoning Administrator of any loss of stored manure by accident or otherwise when such loss of stored manure involves a substantial amount that would

¹⁵⁵ Ord 05-2013, 3/19/2013

¹⁵⁶ Code 1982, § 301.704; Cross reference(s)--Animals, Ch. 6.

¹⁵⁷ Amendment 02-2009, 4/21/2009

¹⁵⁸ Amendment 02-2009, 4/21/2009

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- A. Setback and siting. The setback of new buildings should be compatible with the setback of existing adjacent buildings.
- B. Parking. Residential parking areas should be confined to the rear of existing or new buildings. Parking spaces should be screened from view from the public street by landscaping such as hedges, grade changes, or low fences.
- C. Fences. Fences which allow some visual penetration of front yard space are preferable to complete enclosure. Cyclone fences should not be used to enclose front yards in the front half of side yards.

Sec. 12-1716. Public improvements.⁴¹³

New street and landscape improvements, lighting, street furniture and signs should be compatible with the character of the district. The historic urban pattern of grid-plan streets should be retained.

Sec. 12-1717. Signs.⁴¹⁴

Sign materials and design should complement the materials and design of the building and adjacent buildings.

Secs. 12-1718--12-1770. Reserved.

ARTICLE VIII. BUILDINGS AND BUILDING REGULATIONS⁴¹⁵

DIVISION 1. GENERALLY

Secs. 12-1771--12-1800. Reserved.

DIVISION 2. BUILDING CODE⁴¹⁶

Sec. 12-1801. Adopted.⁴¹⁷

The Minnesota State Building Code, established pursuant to M.S.A. §§ 16B.59--16B.75, one copy of which is on file in the office of the City Administrator, is hereby adopted as the building code for the City. Such code is hereby incorporated in this article as completely as if set out in full.

Sec. 12-1802. Administration required.⁴¹⁸

As periodically adopted and amended by the State of Minnesota, the International Building Code will be administered as the Building Code for the City.

Sec. 12-1803. Application, administration and enforcement.⁴¹⁹

⁴¹³ Code 1982, § 309.103(6)

⁴¹⁴ Code 1982, § 309.103(7), Cross reference(s)--Signs generally, § 12-210.

⁴¹⁵ Cross references—Building department, § 2-201 et seq.; building official, § 2-111 et seq.; building permits in the building code regarding zoning, § 12-81; floodplain regulations, § 12-901 et seq.; manufactured homes, mobile homes, travel trailers, etc., prohibited in floodplain district, § 12-912; heritage preservation, § 12-1526 et seq.; use of individual sewage treatment systems, § 12-2006 et seq.; individual sewage treatment systems, § 12-2076 et seq.; construction and materials for building sewers, § 12-2165; numbering buildings, § 20-61 et seq.; utilities, ch. 24.

⁴¹⁶ State law reference—Authority to regulate the construction of buildings, M.S.A. § 412.221, subd. 28; State law reference—State building code applicable throughout the state, M.S.A. § 16B.62.

⁴¹⁷ Res 1995-11, § 401.101, 11-21-95; Res 1997-16, § 21, 6-17-97, State law reference(s)--Authority to adopt codes by reference, M.S.A. § 471.62.

⁴¹⁸ Ord 1997-20, 4/20/99, Sec. 12-1802 Repealed and Replaced

⁴¹⁹ Res. No. 1995-11, § 401.201, 11-21-95

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- A. The application, administration and enforcement of the building code adopted in Section 12-1801 shall be in accordance with MN Rule, § 1300.2100.
- B. The building code department shall be the building code department of the City. The administrative authority shall be a state-certified building official.
- C. The appointing authority shall designate the building code administrative authority for the jurisdiction of the City.

Sec. 12-1804. Permits, inspections and fees.⁴²⁰

- A. Permits, inspections and collection of fees shall be authorized in M.S.A. Stat. 16B.62, subdivision 1. The building permit fee schedule for the City shall be established by resolution of the City Council.
- B. In addition to the permit fee required by Subsection (A) of this section, the applicant shall pay a surcharge to be remitted to the state department of administration as prescribed by M.S.A. § 16B.70.
- C. In addition to the basic building permit fee, a park fee is hereby imposed on each new home building permit as stated in chapter 12, article VI, pertaining to subdivisions.

Sec. 12-1805. Violations and penalties.⁴²¹

A violation of the building code adopted in Section 12-1801 is a misdemeanor and shall, upon conviction, be punished as provided in Section 1-13.

Secs. 12-1806--12-1850. Reserved.

DIVISION 3. FIRE PREVENTION AND LIFE SAFETY CODE⁴²²

Sec. 12-1851. Adopted.⁴²³

There is hereby adopted by the City for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the Uniform Fire Code, including Appendix Chapters I-A, I-B, II-A, II-B, II-C, II-D, III-A, III-B, III-C, IV-A, V-A, VI-A, VI-C, VI-D, and the Uniform Fire Code Standards published by the Western Fire Chiefs Association and the International Conference of Building Officials and the Minnesota Uniform Fire Code being particularly the 1982 Edition thereof and the whole thereof. One copy of these codes and standards must be and are now filed in the office of the clerk of the City and the same are hereby adopted and incorporated as fully as if set out at length herein. From the date on which the ordinance from which this division was derived shall take effect, the provision thereof shall be controlling within the limits of the City.

Sec. 12-1852. Establishment, duties of bureau of fire prevention.⁴²⁴

- A. The **Uniform Fire Code** shall be enforced by the Bureau of Fire Prevention in the fire department of the Lower St. Croix Valley Fire Protection District which is hereby established and which shall be operated under the supervision of the chief of the fire department.
- B. The chief (or marshal) in charge of the Bureau of Fire Prevention shall be appointed by the Lower St. Croix Valley Fire Protection District on the basis of established procedures.

⁴²⁰ Ord 1997-20, 4/20/99, Ord. 2004-25, 4/20/04, Res. No. 1995-11, § 401.301, 11-21-95, Cross reference -- Building permits in subdivisions, § 12-1268.

⁴²¹ Res. No. 1995-11, § 401.401, 11-21-95, State law reference--Similar provisions, M.S.A. § 16B.69.

⁴²² State law references—Authority to adopt ordinances to prevent, control or extinguish fires, M.S.A. § 412.221, subd. 17; fire prevention in cities, M.S.A. ch. 438.

⁴²³ Code 1982, § 402.101, State law reference--Authority to adopt codes by reference, M.S.A. § 471.62.

⁴²⁴ Code 1982, § 402.102

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- C. The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the Lower St. Croix Valley Fire Protection District the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the fire department, and appointments made after examination shall be for an indefinite term with removal only for cause.

Sec. 12-1853. Definition.⁴²⁵

Wherever the word "jurisdiction" is used in the **Uniform Fire Code**, it means the City of Afton.

Sec. 12-1854. New construction and renovation.⁴²⁶

All plans and specifications for new construction and renovation of commercial and public buildings, shall be submitted to and approved by the fire department, fire prevention bureau officer, prior to the start of construction.

Sec. 12-1855. Appeals.⁴²⁷

Whenever the chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the codes adopted by this article do not apply or that the true intent and meaning of the codes have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief to city within 30 days from the date of the decision appealed.

Sec. 12-1856. Open burning prohibited.⁴²⁸

It shall be unlawful for any person to start or allow to burn, any open fire on any property within the City without first having obtained a permit therefor⁴²⁹ from the Lower St. Croix Valley Fire Protection District, except for supervised recreational or cooking fires contained within approved fire rings, pits or barbecue grills.

Sec. 12-1857. Rules adopted by reference.⁴³⁰

Chapter 8, State of Minnesota Air Pollution Control Rules current edition as amended May 13, 1976, is hereby adopted by reference and is made a part of this division as if fully set forth herein. Three copies of such rules are on file with the City Clerk.

Secs. 12-1858--12-1900. Reserved.

ARTICLE IX. SEWAGE⁴³¹

DIVISION 1. GENERALLY

Secs. 12-1901--12-1950. Reserved.

⁴²⁵ Code 1982, § 402.103, Cross reference --Definitions generally, § 1-2.

⁴²⁶ Code 1982, § 402.104

⁴²⁷ Code 1982, § 402.105

⁴²⁸ Code 1982, § 402.106, Cross reference --Open fires in parks prohibited, § 16-7.

⁴²⁹ Ord 02-2009, 4/21/2009

⁴³⁰ Code 1982, § 402.107

⁴³¹ Cross references—Zoning and water supply sanitary requirements for shoreline management, § 12-401 et seq.; Lower St. Croix River management requirements for sewage disposal, § 12-587; floodplain management on-site sewage treatment and water supply systems, § 12-1143. State law references —Authority to establish and maintain sewers, M.S.A. § 412.221, subd. 6; authority to build and construct sewers and sewage disposal plants, M.S.A. § 444.075.

Commentary/Interpretive
Purposes Only

BAYTOWN TOWNSHIP ZONING ORDINANCE

CHAPTER TWO

PART 3

PERFORMANCE STANDARDS

The performance standards established in this Part are designed to encourage a high standard of development. The standards are designed to prevent and eliminate those conditions that cause blight and to assure that neighboring land uses are compatible. All future development in all districts shall be required to meet these standards and the standards shall also apply to existing development where so stated.

SECTION 1. DEVELOPMENT STANDARDS

General Standards apply to all lots or uses. These regulations must be met in addition to other specific regulations that may apply to the individual lot or proposed use.

1.1 General Standards

- (1)

All lots or uses will be subject to these general standards as well as other specific regulations that apply to the lot or the proposed use.
- (2)

All agricultural and livestock operations being conducted in compliance with the terms of this Zoning Ordinance shall not be deemed a violation of this Zoning Ordinance notwithstanding the fact that there may have been changes in the surrounding character of the area.
- (3)

All applicants for a certificate of compliance or conditional use permit in the commercial zones must explain their business and any manufacturing processes involved. Any business/use storing or using hazardous substances as defined in Title 49 CFR, the Clean Water Act, Hazardous Waste Rules or Department of Transportation Rules must meet all applicable Environmental Standards.
- (4)

Sloping or Erodible Building Sites. No structure shall be constructed on sites with slopes of greater than twenty-five percent (25%) or on easily erodible soils as defined on the community soils maps and compiled by the Washington County Soil and Water Conservation District.
- (5)

Permitted Encroachments into Required Setbacks. The following shall be permitted encroachments into setback requirements:

(A)

Flues, eaves and awnings up to three (3) feet in width;

- (B) Steps, chimneys, sidewalks, and stoops up to three (3) feet in width;
 - (C) Exposed wheelchair ramps, bay windows and doors up to three (3) feet in width.
- (6) Corner lots. Nothing shall be placed or allowed to grow, with the exception of seasonal crops, in such a manner as to materially impede vision between a height of two and one-half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets to a distance such that a clear line of vision is possible of the intersecting street from a distance of 50 feet from the intersection of the right of way lines.
- (7) Setbacks along Arterials. The minimum setback for all structures shall be one hundred (150) feet from the centerline, or seventy five (75) feet from the right-of-way (whichever is greater), along roads designated as “Arterials” in the Township’s Comprehensive Plan.
- (8) Minimum width and foundations. In all districts where single family dwellings are permitted, the following standards shall apply for single family dwellings, except for temporary dwellings permitted by Chapter Two, Part 3, Sections 2.29, 2.30 and 2.31 of this Zoning Ordinance:
 - (A) The minimum width of the main portion of the structure shall be not less than twenty (20) feet, as measured across the narrowest portion.
 - (B) All dwellings shall be placed on a permanent foundation and anchored to resist overturning, uplift and sliding in compliance with the Minnesota State Building Code.
- (9) Code compliance. All principal buildings shall meet or exceed the minimum standards of the Minnesota Building Code, the Minnesota State Uniform Fire Code, the Minnesota Department of Health, the Minnesota Pollution Control Agency, and the Washington County Subsurface Sewage Treatment System Regulations, except that manufactured homes shall meet or exceed the requirements of the State of Minnesota Manufactured Home Building Code in lieu of the Minnesota State Building Code.
- (10) Buildable land. All new parcels created must have at least one (1) contiguous acre of accessible buildable land. Buildable land is defined as:
- (11) Land with a slope less than 25 percent, and

- (A) outside of any required setbacks, except that on a natural environment lake where a 200 foot structure setback is required, the buildable area calculation would be measured from a 150 foot setback rather than the required 200 foot setback; and
- (B) above any 100 year floodplain, drainage way, or drainage easement.

Property situated within Shorelands or the Saint Croix River districts are also subject to the requirements in those Chapters.

- (12) Number of structures. There shall be no more than one (1) principal structure on any one (1) parcel of land, unless otherwise authorized by the Zoning Ordinance.
- (13) Certain dwelling units prohibited. No cellar, garage, recreational vehicle or trailer, basement with unfinished exterior above or accessory building shall be used at any time as a dwelling unit.
- (14) Occupancy of a Single Family Residential dwelling. No more than six (6) persons can reside in a single family residential dwelling not related by blood, marriage or adoption.
- (15) Traffic control. The traffic generated by any use shall be controlled so as to prevent congestion of the public streets, traffic hazards and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be regulated so as to ensure its safe and orderly flow. Traffic into and out of business and industrial areas in all cases shall be forward moving with no backing into streets.
- (16) Vacated streets. Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceedings.
- (17) Access drives, access and service roads. Access drives onto Township or County roads shall require an access permit from the appropriate road authority. This permit shall be issued prior to the issuance of any building permits. The Township or County Engineer shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

One primary access driveway is permitted for a residential

use. The Town Board may approve a secondary access to a residential parcel to address unique circumstances.

- (18) Private roads. Private roads are not allowed in any new subdivisions created after the effective date of this Zoning Ordinance. Existing lots of record on private roads will be subject to the Standards contain in the Township's Zoning and Subdivision Ordnances.
- (19) No structure shall exceed the maximum height permitted for the zoning district in which it is located, except for church spires, chimneys, flag poles up to 45 feet in height. Maximum height of Wireless Communication Facilities and Wind Energy Conversion Systems is regulated in accordance to Chapter Two, Part 3, of this Development Code.
- (20) Structures must be setback a minimum of 50' from an underground pipeline easement.
- (21) Unclassified water bodies. All lots having frontage on or containing an unclassified water body as defined in Chapter Six, Shoreland Management Regulations shall be subject to the setback regulations for unclassified water bodies as established in the Shoreland Management Regulations.

1.2 Accessory Structures

- (1) Required Permits. A building permit is required for all accessory structures, including temporary structures, except small sheds that are 120 square feet or less in size and agricultural buildings on a farm of forty acres or more, as defined in Minnesota Statute 16B.6. A certificate of compliance is required for all agricultural buildings and accessory structures over 1,000 square feet in size.
- (2) Performance Standards. The following standards apply in all districts.
 - (A) No accessory structure shall be constructed on a lot prior to construction of the principal structure unless the property is a rural farm containing forty (40) acres or more.
 - (B) An accessory structure shall be considered attached to the principal building if it is within six (6) feet or less from the principal building.
 - (C) No detached accessory structure shall be located closer to the road right-of-way than the principal building on a lot unless all of the following conditions are met:

- (A) The Town Board approves the building location.
- (B) All setbacks are met.
- (C) The accessory building is located no closer than one-half (1/2) the distance between the principal structure, as measured from the closest point to the road, and the front setback line.
- (D) The Township may require the applicant to screen the building with plantings on the sides of the building to be screened (front sides and sides facing neighbors). The plants must be coniferous trees (spruce, fir, arborvitae) at least four (4) feet tall from the top of the root and spaced no greater than eight (8) feet apart. The landowner shall be responsible for care and maintenance of these trees. The Township shall determine the number of trees based upon recommendation of the Township Planner. Such requirements shall be included as part of action of the Board on the request for a certificate of compliance.
- (E) The Town Board conducts a public hearing before making the decision after complying with the requirements for published and mail notice as required for standard hearings.

- (3) In Agricultural (AG, AP), Residential (RR,SFE), St. Croix River (SCR) and Transitional (TZ) districts, the following additional standards apply to all land within these districts:

- (A) The permitted size and number of accessory buildings are as follows:

Size of parcel in Acres	No. of buildings allowed	Total sq. ft.
Less than 1 acre	1	720 sq. ft.
1-2.49 acres	1	1,000
2.5-5 acres	2	2,000
5.01 acres – 20 acres	2	2,500
20.01+ acres	No limit if agricultural	No limit if agricultural

- (B) One single-story shed of 120 square feet or less is permitted in addition to the accessory structures

Accessory structures used to house domestic farm animals are subject to additional regulations.

identified on the table above.

- (C) All detached accessory buildings and temporary structures are to be used for personal use or agricultural use only. No commercial use or commercial-related storage is allowed in these structures.
- (D) No land shall be subdivided so as to have a larger building or structure and/or exceed the total number of buildings and structures as permitted by this Zoning Ordinance
- (E) Land may be subdivided with a minor subdivision into parcels of no less than five (5) acres and retain the existing number and square footage of accessory structures on the site if they are part of a farmstead as existed on January 1, 2001, subject to the following conditions:
 - a) There shall be no additional accessory buildings constructed on the property.
 - b) If any existing accessory buildings become Hazardous Buildings they shall be repaired or removed by the owner.
- (F) **Domestic Farm Animals. Accessory buildings and structures used to shelter domestic farm animals must meet the following requirements:**
 - a) All domestic farm animal structures, feedlots and manure storage sites shall be setback as follows:

Natural/ Man-Made Features	Horizontal Setbacks
(a) Any property line	100 feet
(b) Any existing well or residential structure on the same parcel	50 feet
(c) Any existing well or residential structure on adjacent or nearby parcel	200 feet
(d) Seasonal or year-round body of surface water	200 feet

- b) Said structure, feedlot or manure storage shall not be placed on slopes which exceed thirteen (13) percent.
- c) Evidence of seasonally high ground water level or mottled soil (as established by six (6) foot borings) shall not be closer than four (4) feet to the natural surface ground grade in any area within one hundred (100) feet of the proposed structure and/or feedlot.
- d) No marsh or wetland (as established by the predominant wetland vegetation and/or soils) shall be utilized for placement of the proposed structure, feedlot or grazing area.

11-3-3: ACCESSORY STRUCTURES:

In all zoning districts, accessory structures shall be subject to the following performance standards:

- A. Construction:
1. Accessory structures are prohibited from being taller than or greater in footprint than the principal structure. Building permits are required for all permanent accessory structures. Temporary accessory structures including tents that consist of metal or fiberglass poles, metal hoops and PVC, cotton or nylon fabric covering materials are prohibited except as permitted in conjunction with an approved conditional use, permitted camping area, or special event.
2. In all zoning districts the exterior finishes of accessory structures sized less than one hundred sixty (160) square feet shall be constructed of quality weather resistant materials consisting of wood, metal, or engineered composite materials that are similar to the color palette of the principal structure.
3. In all zoning districts the exterior finishes of accessory structures sized greater than one hundred sixty (160) square feet shall be constructed of quality weather resistant materials in accordance with table 1 of this section:

TABLE 1
ACCESSORY STRUCTURE EXTERIOR MATERIAL STANDARDS

Property Classification	Exterior Finish
AG-1	Wood, metal, split face block, vinyl lap, or engineered cementitious materials
AG-2	Wood, metal, split face block, vinyl lap, or engineered cementitious materials that are similar to the color palette of the principal structure
R-1	Wood, metal, split face block, vinyl lap, or engineered cementitious materials that are similar to the color palette of the principal structure
R-2	The same design, material, and color palette of the principal structure
UR	The same design, material, and color of the principal structure
R-2.5	The same design, material, and color of the principal structure
R-2A	The same design, material, and color of the principal structure
R-2B	The same design, material, and color of the principal structure
R-2C	The same design, material, and color of the principal structure
R-2D	The same design, material, and color of the principal structure
R-2E	The same design, material, and color of the principal structure
R-2F	The same design, material, and color of the principal structure
R-3	The same design, material, and color of the principal structure
R-4	The same design, material, and color of the principal structure
R-3 and R-4 non-MUSA, 3 acres or greater	Wood, metal, split face block, vinyl lap, or engineered cementitious materials that are similar to the color palette of the principal structure
R-5	The same design, material, and color of the principal structure
R-6	The same design, material, and color of the principal structure
PUD	Site plan review
All properties meeting agricultural definitions	Wood, metal, split face block, vinyl, or engineered cementitious materials
Commercial and industrial	Site plan review

(Ord. 903, 5-16-2012)

B. Number And Size: The number and size of accessory structures permitted on any lot shall be determined by the following table (table 2 of this section). In addition to the accessory structures listed in table 2 of this section, one accessory storage structure, up to one hundred sixty (160) square feet in size, and swimming pools meeting the criteria established in title 9, chapter 11 of this code shall be permitted on each lot.

TABLE 2
ACCESSORY STRUCTURE SIZE AND NUMBER STANDARDS

Property Classification	Number	Total Size
AG-1	2	2,500 sq. ft.
AG-2	2	2,500 sq. ft.

R-1	2	2,500 sq. ft.
R-2	2	2,000 sq. ft.
UR	1	1,200 sq. ft.
R-2.5	1	1,200 sq. ft.
R-2A	1	780 sq. ft.
R-2B	1	780 sq. ft.
R-2C	1	780 sq. ft.
R-2D	1	480 sq. ft.
R-2E	n/a	n/a
R-2F	n/a	n/a
R-3	1	1,000 sq. ft.
R-4	1	850 sq. ft.
R-3 and R-4 non-MUSA, 3 acres or greater	2	2,500 sq. ft.
R-5	Site plan review	576 sq. ft. per unit
R-6	Site plan review	576 sq. ft. per unit
PUD	1	1,000 sq. ft.
All properties meeting agricultural definitions	Unlimited	300 sq. ft. per acre
Commercial and industrial	Site plan review	Site plan review

C. Setbacks: Setbacks for accessory structures shall be determined by the following table (table 3 of this section):

TABLE 3

ACCESSORY STRUCTURE SETBACK REGULATIONS

Property Classification	Side Yard	Rear Yard	Front Yard
AG-1	25 feet	50 feet	Behind principal structure
AG-2	25 feet	50 feet	Behind principal structure
R-1	20 feet	50 feet	Behind principal structure
R-2	20 feet	20 feet	Behind principal structure
UR	6 feet	15 feet	Behind principal structure
R-2.5	6 feet	15 feet	Behind principal structure
R-2A	10 feet	15 feet	Behind principal structure
R-2B, R-2C, and R-2D	15 feet	15 feet	Behind principal structure
R-2A, R-2B, R-2C, and R-2D adjoining an alley	20 feet	20 feet	Behind principal structure
R-2E and R-2F	50 feet	50 feet	Behind principal structure
R-3	6 feet	10 feet	Behind principal structure
R-4	6 feet	10 feet	Behind principal structure
R-5	Site plan review	Site plan review	Site plan review
R-6	Site plan review	Site plan review	Site plan review
PUD	6 feet	15 feet	Behind principal structure
Commercial and industrial	Not in required yards	Not in required yards	Behind principal structure

D. Height: Height of accessory structures shall be determined by the following table (table 4 of this section):

TABLE 4

ACCESSORY STRUCTURE HEIGHT STANDARDS

Property Classification	Maximum
AG-1	20 feet
AG-2	20 feet
R-1	20 feet
R-2	20 feet
UR	18 feet
R-2.5	18 feet
R-2A, R-2B, R-2C, R-2D, R-2E, R-2F	18 feet
R-3	18 feet
R-4	18 feet
R-5	18 feet
R-6	18 feet
PUD	18 feet
All districts meeting agricultural definitions	Unlimited
Commercial and industrial	20 feet

E. Miscellaneous Requirements:

1. Accessory structures greater than that permitted in subsections B and D of this section may be approved by conditional use permit if in compliance with section 11-2-9 of this title and the following standards are met:
 - a. There is adequate setback, screening, or topography changes that buffer the proposed structure from adjacent public roadways or adjacent properties.
 - b. The proposed building height or building square footage does not exceed the ordinance criteria as specified in subsection B or D of this section by more than twenty percent (20%) within the metropolitan urban service area (MUSA) and forty percent (40%) outside the MUSA.
 - c. Setback distances are increased five feet (5') for each one foot (1') of height or one hundred (100) square feet of size increase or fraction thereof.
 - d. If future site development renders the structure nonconforming, the building must be brought into compliance or removed as a condition of the development approval.
2. No accessory structures shall be constructed on any lot prior to the time of construction of the principal structure to which it is accessory unless the building is accessory to the ongoing agricultural land use.
3. No accessory structure shall be located nearer the front lot line than is the principal building on the lot, except where the lot area of the site is five (5) acres or greater. If the lot area is five (5) acres or greater, the principal structure setbacks of the applicable zoning district will apply.
4. No tent, trailer, camper, motor home or accessory building shall at any time be used as a habitable building. No tent, trailer, camper, or motor home shall at any time be used as a storage building.
5. The required setback of accessory buildings or structures from the principal structure shall be determined by the building code as adopted by the city.
6. When a property is developed and an existing accessory structure made nonconforming, the structure must be brought into conformance as part of the development approval or removed from the property.
7. At-grade structures such as basketball courts, tennis courts, patios, and dog kennels shall meet the established accessory structure setbacks for the appropriate districts. These structures are not included in the total allowable accessory structure square footage as regulated in subsection B of this section, as long as the total impervious surface of the lot does not exceed thirty five percent (35%) of the rear area of the lot measured from the rear building line of the house to the rear lot line.
8. Swimming pools and surrounding apron/decks shall meet the established accessory structure setbacks for the appropriate districts. These structures are not included in the total allowable accessory structure square footage as regulated in subsection B of this section, as long as the total impervious surface of the lot does not exceed thirty five percent (35%) of the total rear area of the lot measured from the rear building line of the house to the rear lot line. (Ord. 796, 6-21-2006)
9. Temporary family healthcare dwellings are prohibited in all zoning districts. (Ord. 966, 8-10-2016)

F. Garage Requirements In All Residential Districts:

1. Four hundred forty (440) gross square feet of garage space per dwelling unit in the R-1, R-2, R-2.5, R-3, R-4, R-5, and R-6 districts is required for single-family homes constructed or relocated after the adoption of this section, with the following exception: A minimum of one hundred (100) square foot storage shed per dwelling unit is required and must be constructed for licensed

manufactured home parks in the Cottage Grove Estates subdivision and licensed manufactured homes in out lot A of Cottage Grove Estates addition. This does not prohibit construction of a garage so long as the storage shed does not exceed one hundred sixty (160) square feet.

2. Two hundred forty (240) gross square feet of garage space per dwelling unit in the R-3, R-4, R-5, and R-6 districts is required for attached dwellings constructed or relocated after the adoption of this section.

3. A minimum of five hundred seventy six (576) gross square feet of garage space per detached single-family dwelling in the R-2A, R-2B, and R-2C districts is required.

4. A minimum of four hundred eighty (480) gross square feet of garage space is required for each twin home unit and townhome unit in the R-2D and R-2E districts.

5. A minimum of three hundred (300) gross square feet of garage space is required for each multi-family dwelling unit in the R-2F district.

6. The garage floor area attached to the principal structure in any residential district must not exceed one thousand (1,000) square feet in gross floor area. (Ord. 796, 6-21-2006)

11-9A-5: DEVELOPMENT STANDARDS:

A. Minimum Requirements: The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications set forth in this title:

Lot area	3 acres
Lot width	180 feet
Front yard	30 feet
Rear yard	50 feet
Side yard	25 feet
Side yard, attached garage	20 feet
Maximum structure height	30 feet
Maximum impervious lot coverage	10 percent

B. Cluster Developments: In order to encourage the preservation of environmentally sensitive areas, encourage more efficient allocation and maintenance of privately controlled open space and more efficiently utilize investment in and maintenance of public streets, cluster developments in the R-1 district shall be encouraged under the following conditions:

1. No individual lot shall be less than one and one-half ($1\frac{1}{2}$) acres in size, with a minimum of one and one-half ($1\frac{1}{2}$) acres of land suitable for on site sewage disposal systems. Exceptions to the minimum lot width requirement may be granted.
2. The overall density of the parcel shall not exceed one dwelling unit per three (3) acres.
3. The remaining area shall be permanently preserved as open space. This area may be accepted by the city as fulfillment of the park dedication requirement of the subdivision regulations, if consistent with the parks and open space element of the comprehensive plan. If not so dedicated, the open space shall be placed under control of a homeowners' association or other appropriate jurisdiction. Deed restrictions requiring the permanent preservation of these areas as open space shall be recorded before building permits for lots in a cluster development may be issued. (Ord. 939, 2-4-2015)

11-8A-2: PERMITTED USES:

No structure or land shall be used except for one or more of the following uses:

1.

Commercial agriculture and horticulture.
2.

Farm buildings and pole barns.
3.

Farm drainage and irrigation systems.
4.

Feedlots and poultry facilities.
5.

Forestry.
6.

One single-family detached dwelling per each forty (40) acres, on a separately owned parcel. Any parcel of land that has thirty seven and one-half (37.5) acres or more, after deducting road right of way, and variations due to longitude and latitude deviations, complies with the forty (40) acre requirement.

A. Lot Dimensions And Setbacks:

Lot area	1 1/2 acres
Lot width	180 feet
Front yard	100 feet
Side yard	25 feet
Rear yard	50 feet

B. Lot Depth: A new parcel subdivided after August 19, 1981, must not have a lot depth more than three (3) times greater than the lot width.

C. Sewage Disposal: The lot must have an acceptable on- site sewerage disposal area of at least one and one-half (1 1/2) acres on a slope of less than thirteen percent (13%).

D. Location Of Nonfarm Structures: No nonfarm structure may be located closer than three hundred feet (300') from the nearest accessory farm building or property regularly used as pasture for livestock.

E. Location Of Driveways: The lot shall be located in such a manner that no driveways may be located within three hundred feet (300') of an intersection of a minor arterial with another road or within one hundred fifty feet of an intersection of two (2) collector streets. (Ord. 617, 8-2-1995)

current taxes the following year or in annual installations not exceeding 10 as the Council may determine in each case.

Subd. 15 Penalty.

The offending party will be issued an administrative citation for the unsatisfactory condition at the time the written notice of violation is given. The City may also enforce M.S. § 169.42 with the maximum penalty for a misdemeanor as prescribed by state law.

Subd. 16 Compensatory Action.

In lieu of enforcement proceedings, penalties and remedies authorized by this section, the City may impose alternative compensatory actions upon a violator, such as storm drain stenciling, attendance at compliance workshops, creek cleanup and the like.

(Ord. 2007-03, passed 4-10-07)

1001.35 ACCESSORY BUILDINGS AND STRUCTURES.

Subd. 1 Purpose.

The purpose of this chapter is to provide performance standards for the erection, siting and use of accessory buildings, structures and uses that may be allowed within the various zoning districts to ensure compatibility with the principal use and with surrounding properties, as well as to protect the general health, safety, and welfare of the community.

Subd. 2 General Regulations

(1) No accessory building or structure shall be permitted on any lot, in any district, prior to the time of construction of the principal building to which it is accessory, except for a building devoted exclusively to agricultural use, and on a parcel of land at least 10 acres in size and zoned A-1 or A-2 or 20 acres in size and zoned S-A.

(2) The City Council may allow the construction of an accessory building prior to the principal structure being constructed if a building permit is taken out for both structures and an appropriate escrow deposit and agreement is made between the applicant and the City to provide for forfeiture in the event the principal structure is not built within the time specified.

(3) All accessory storage buildings 200 square feet in area or less except those used for agricultural purposes shall be located in the rear yard between the rear property line and the rear of the main structure no closer than 5 feet to any property line or 20 feet to a side lot line, if adjacent to any public street right-of-way.

(4) In case an accessory building is attached to the main building it shall be made structurally a part of the main building and shall comply in all respects to the main building. An accessory building, unless attached to and made a part of the main building shall not be closer than 10 feet to the main building, except as otherwise provided in this Subsection.

(5) Accessory building design requirements:

a. The exterior materials of the proposed accessory building shall be complementary in color, texture or materials and of equal or greater quality with those of the principal dwelling. No accessory building shall be constructed of canvas, plastic, fabric or other similar nonrigid materials.

b. In all Residential Zoning Districts, no post frame construction shall be constructed in whole or in part on lots less than 80,000 square feet. For purposes of this section, a post frame construction is defined as a structure, the basic support and framework of which is provided by wooden poles inserted vertically into the ground similarly to telephone poles.

c. Architectural metal siding can be used as a permitted material provided it is complementary in color to the principle structure. Any exposed screws or fasteners shall match the color of the siding. Roof material shall be asphalt shingles or standing seam metal roof material.

d. Vertical siding shall be in 2 colors on all 4 sides of the structure. Horizontal siding shall match the principle structure and include trim or other design element to provide a visual break in the siding.

e. The accessory building shall include design elements that match the principal structure. This shall include additional accenting through the use of a porch, complementary building trim, window/door trim, dormer, wainscoting, or other elements that are complementary to the principle building.

f. Any application for a post frame construction accessory structure in residential districts shall require a site plan review and approval by the Planning Commission prior to issuance of a building permit and shall be accompanied by a color photo of the existing primary structure on site and a colored elevation plan of the proposed accessory structure with exterior building materials indicated. A fee for site plan review by the Planning Commission to cover administrative costs shall also accompany the application and shall be determined by the current adopted Fee Schedule.

(6) For Commercial and Industrial Districts, the exterior materials shall meet the exterior building materials requirements as specified in this Code.

(7) All accessory storage buildings in any zone, shall be maintained and kept in a neat and orderly fashion, specifically, structurally sound, no excessive flaking or peeling; if a metal building, no excessive rusting upon or through the walls, floor or roof. Any building which is not so maintained shall be removed by the property owner or upon due notice, the building may be removed by the City at the property owner's expense.

- (8) No permanent accessory storage building shall be located in any public utility easement or easements of record. Where any question arises as to the location or design of accessory buildings, the City Administrator or designee may refer the matter to the City Council for final determination.
- (9) All accessory buildings shall be suitably anchored to the ground.
- (10) Any accessory building in excess of 200 square feet shall require a building permit issued by the City of Dayton and shall be constructed to the standards of the Minnesota State Building Code.
- (11) For the purpose of this Subsection, gazebos, decks, patios, and other unenclosed residential uses of property similar in nature shall be excluded from the definition of the term accessory building.
- (12) Consideration shall be given to provide for the future expansion and/or replacement of the septic system. Any application for an accessory structure in a non-sewered site shall be accompanied by a certified septic compliance certificate and a site plan showing both the primary and a secondary site suitable for a septic system. The City may deny the requested permit or alter the location to account for future septic system needs.
- (13) No accessory building or structure shall be permitted on any lot, in any district, without an approved building permit and/or site plan and a declaration of use statement signed by the applicant.
- (14) Accessory buildings are not permitted in Mixed Use or Business Districts.

Subd. 3 Conditional Use Permits.

Application for a conditional use permit under this chapter shall be regulated by Subsection 1001.23 of this Code. Such a conditional use permit may be granted provided that:

- (1) There is a demonstrated need and potential for continued use of the structure for the purpose stated.
- (2) No accessory building or private garage shall be utilized for all or a portion of a home occupation, for commercial activities or for commercial storage.
- (3) No accessory buildings shall be constructed in Business Districts zoned B-1, B-2, B-3, B-4 or Mixed Use Districts zoned V-M, H-M, 125th Avenue-M without a CUP.
- (4) The accessory building has an evident reuse or function related to a single-family residential environment in urban service areas, agriculture environment in nonurban service areas, business or industrial use in urban areas of the City.
- (5) Detached accessory buildings shall be maintained in a manner that is compatible with the adjacent residential uses and does not present a hazard to public health, safety and general welfare.
- (6) The performance standards and criteria of Subsection 1001.14 of this Code shall be considered and a determination made that the proposed activity is in compliance with such criteria.
- (7) There is a demonstrated need and potential for an accessory structure taller than the principal structure in all Residential, Mixed Use, Commercial and Industrial zoned districts.

Subd. 4 Agricultural Districts

- (1) *Conditional use permit.* No building permit shall be issued for the construction of detached accessory buildings on an agriculture parcel exceeding the limits stated below, except by conditional use permit.
- (2) *Site plan approval.*
 - a. *Building permit required.* Detached accessory buildings greater than 200 square feet in floor area shall require a building permit. The Building Official shall review the site plan and construction drawings to determine compliance with the Building Code and other applicable ordinances, laws, and regulations.
- (3) *Setbacks and encroachment.*

A-1, Agricultural District	
A-2, Agricultural District	
S-A, Special Agricultural District	
Setbacks	
Front, side or rear to a street	30 feet
Front, side or rear to an arterial street	50 feet
Side yard	10 feet
Rear yard	10 feet
*Accessory building height shall not exceed the principle dwelling height	

(4) *Accessory building performance standards.*

a. Accessory buildings and structures constructed for agricultural purposes in Agricultural Districts (A-1, A-2, S-A) are permitted as impervious coverage allows in Section 1001.05 Subd. 9 and Subd. 10.

b. On parcels of less than 1 acre there shall be no more than 2 detached accessory structures and the total area of all detached accessory buildings shall not exceed the footprint of the principal dwelling.

c. The footprint of the principal building includes attached garage area, if any.

d. The exterior materials for residential accessory buildings must be comparable to the exterior materials of the principal dwelling. Residential accessory buildings shall have eaves and overhangs.

e. No new accessory structures are permitted on the non-homestead outlot. Existing structures at the time of creation of the outlot will become legal non-conforming structures.

Subd. 5 Residential Districts

(1) *Conditional use permit required.* No building permit shall be issued for the construction of more than 1 detached accessory building on a single parcel in addition to 1 private garage (attached or detached), except by conditional use permit.

(2) *Site plan approval.*

a. *Building permit required.* Detached accessory buildings greater than 200 square feet in floor area shall require a building permit. The Building Official shall review the site plan and construction drawings to determine compliance with the Building Code and other applicable ordinances, laws, and regulations.

(3) *Setbacks and encroachment.*

<i>R-1, Single-Family Residential District (less than 50,000 sq. ft.)</i>	
<i>R-1A, Single-Family Residential District with Lot Averaging</i>	
<i>R-3, Single-Family Attached and Detached</i>	
Front, side or rear to a street	30 feet*
Front, side or rear to an arterial street	50 feet
Side yard	5 feet
Rear yard	5 feet
Height	16 feet**
Size limit	800 square feet
* Cannot be placed in front yard	
** Cannot exceed the height of the principal structure	

<i>R-1, Single-Family Residential District (more than 50,000 sq. ft.)</i>	
Front, side or rear to a street	30 feet*
Front, side or rear to an arterial street	50 feet
Side yard	5 feet
Rear yard	5 feet
Height	35 feet**
Size limit	1,200 square feet
* Cannot be placed in front yard	
** Cannot exceed the height of the principal structure	

<i>R-2, Single Family Residential District</i>	
<i>R-E, Single Family Estate Residential District</i>	
Front, side or rear to a street	30 feet*

Sec. 90-94. - **Agricultural district (AG).**

- (a) **Purpose.** The agricultural district (AG) is to provide an area for the production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forages, grains, timber, trees, or bees and apiary products, and other uses dependent on the inherent productivity of the land. Single-family detached housing at a density of one unit per ten gross acres is also permitted.
- (b) **Permitted uses.** The following are permitted in the AG district:
- (1) Agriculture, including sale of produce grown on premises.
 - (2) Daycare facilities, as defined by statute (refer to section 90-220).
 - (3) Essential public services (refer to section 90-223).
 - (4) Feedlots (refer to section 90-226).
 - (5) Indoor riding arenas (refer to section 90-235).
 - (6) Plant nurseries, wholesale (refer to section 90-256).
 - (7) Recreational fields, structures and buildings, city only.
 - (8) Residential facility (community residence) with one to six individuals (refer to section 90-218).
 - (9) Single-family detached residential dwellings (refer to section 90-266).
- (c) **Accessory uses.** The following are permitted accessory uses in an AG district:
- (1) Accessory buildings (refer to section 90-204).
 - (2) Accessory dwelling unit (refer to section 90-277).
 - (3) Exterior storage (refer to section 90-224).
 - (4) Farm and garden produce sales (refer to section 90-225).
 - (5) Farmhand living quarters (refer to section 90-276).
 - (6) Fences (refer to section 90-227).
 - (7) Garages, private (refer to section 90-230).
 - (8) Home occupations (refer to section 90-232).
 - (9) Horse training and boarding facilities, private (refer to section 90-233).
 - (10) Kennels, commercial (refer to section 90-236).
 - (11) Kennels, hobby (refer to section 90-237).
 - (12) Lighting, outdoor (refer to section 90-239).
 - (13) Livestock and livestock operation (refer to section 90-241).
 - (14) Parking and loading areas (refer to section 90-253).
 - (15) Signs (refer to section 90-265).
 - (16) Water-oriented accessory structure (refer to section 90-270).
- (d) **Conditional uses.** Following are conditional uses allowed in the AG district and require a conditional use permit based upon procedures set forth in and regulated by section 90-37. Additionally, besides the specific standards and criteria, which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated, based upon the standards and criteria in section 90-37.
- (1) Accessory apartments (refer to section 90-203).

- (2) Antennas (refer to article VI, division 2, of this chapter).
 - (3) Balloon ports, commercial (refer to section 90-209).
 - (4) Bed and breakfast business (refer to section 90-210).
 - (5) Campgrounds (refer to section 90-211).
 - (6) Cemeteries (refer to section 90-214).
 - (7) Commercial recreational, outdoor.
 - (8) Golf courses (refer to section 90-231).
 - (9) Horse training and boarding facilities, commercial (refer to section 90-233).
 - (10) Hunt and gun clubs (refer to section 90-234).
 - (11) Marinas, commercial (refer to section 90-244).
 - (12) Marinas, private (refer to section 90-245).
 - (13) Mining and excavation (refer to section 90-247).
 - (14) Places of worship (refer to section 90-254).
 - (15) Plant nurseries, retail (refer to section 90-255).
 - (16) Residential facility (community residence) with seven to 16 individuals (refer to section 90-218).
 - (17) Schools (refer to section 90-260).
 - (18) Solar energy systems (refer to section 90-278).
 - (19) Wind-powered generator (refer to section 90-271).
- (e) **Area requirements and construction limitations.** The following minimum requirements shall be observed in an AG district subject to additional requirements, exceptions and modifications set forth in this chapter:

Minimum lot or parcel size	10 acres
Minimum lot width at front setback line	300 ft.
Minimum lot width for corner lots	300 ft.
Minimum lot depth	480 ft.
Minimum lot depth-double frontage lot	480 ft.
Minimum front yard building setback	40 ft.
Minimum side yard building setback	20 ft.
Minimum rear yard building setback	50 ft.
Maximum building height	35 ft.

Maximum lot area to be covered by buildings	20%
Maximum lot area to be covered by impervious surface	35%
Minimum building size of principal building	960 sq. ft.
Maximum garage size	Refer to section 90-230
Maximum size of accessory buildings, excluding garages	Refer to section 90-204

(Prior Code, § 1050; Ord. No. 2010-453, § 3, 12-6-2010; Ord. No. 2011-460, § 1, 11-7-2011; Ord. No. 2015-470, § 3, 5-4-2015; Ord. No. 2016-475, 12-21-2015)

Sec. 90-204. - Accessory buildings.

- (a) It is unlawful for any person to construct or replace an accessory building in any district in the city, except in conformance with this chapter.
- (b) A site plan must be submitted for approval by the community development director or designee before a permit is issued for any accessory building.
- (c) One accessory storage shed is allowed per lot with a maximum size less than 120 square feet in addition to the number and size of accessory buildings listed in this section.
- (d) Setbacks for accessory buildings less than 120 square feet and located in the urban residential zoning districts are as follows:
 - (1) Ten foot rear yard setback
 - (2) Six foot side yard setback
 - (3) Shall be outside all drainage and utility easements.
- (e) All accessory buildings 120 square feet or larger, are to be in conformance with all building setbacks.
- (f) Accessory buildings, up to the maximum number and size listed in this section are permitted as an accessory use in all residential and agricultural districts of the city. Accessory buildings of up to 125 percent of the size permitted may be allowed by conditional use permit, if no variance is required for their construction. The number and size of accessory buildings permitted are as follows:

Lot size	Maximum number of accessory buildings allowed	Maximum combined size of accessory buildings (square feet)
Under 1.5 acre	1	260
1.5 to 2.99 acres	2	1,500
3 to 4.99 acres	2	2,000
5 to 9.99 acres	2	3,500
10 or more acres	3	5,000

- (g) Garages allowed under sections 90-229 and 90-230 are permitted in addition to accessory buildings. Detached garages are considered accessory buildings and are subject to all requirements of this section. For residential properties without an attached garage, an additional 500 square feet, and an additional building shall be allowed beyond the maximum size and number of buildings referenced in the table above.
- (h) Except for agricultural buildings, no accessory building may exceed in size or height, the size or height of the principle building on a lot, or be located within six feet of another building.
- (i) Except in the agricultural and long-term agricultural zoning districts, no accessory building shall be located or protrude in front of the principle building on the site, in relation to any public street.

- (j) All accessory buildings shall resemble, in style, materials, color, roofline, and siding type, the principle building on the lot, except the following building types may vary from this standard:
 - (1) Accessory buildings located in the agricultural and long-term agricultural zoning districts.
 - (2) Accessory building under 120 square feet in size.
 - (3) Horse stables and riding arenas.
 - (4) Greenhouses.
 - (5) Gazebos and decorative shelters.
 - (6) Historic buildings.
 - (7) Buildings, constructed as part of a planned unit development, which are subject to an overall site plan prepared by a registered architect.
- (k) Any accessory building located in a commercial or industrial zoning district shall have an approved site plan from the community development director prior to the issuance of a building permit. The maximum number and size of buildings permitted shall be determined on a case by case basis. Accessory buildings shall not dominate the streetscape, restrict views across the property, and shall not alter the character of the area.
- (l) All accessory buildings located in commercial and industrial zoning districts shall be of the same style, materials, color, roofline, and siding type as the principle building on the lot. Building types listed under subsection (j), (1)—(7) of this section may vary from this standard.
- (m) Accessory buildings shall not have indoor plumbing such that it would allow the structure to be used as living space, which would constitute a dwelling.
- (n) Other provisions of this chapter notwithstanding, there is no limit to the number or size of agricultural buildings allowed on parcels of land 20 acres or more in size located in the agricultural, long-term agricultural, and rural residential zoning districts.
- (o) Any property zoned R-I, RR, AG, or FUS that is less than three acres in size shall be allowed two accessory buildings with a maximum combined size of 1,500 square feet, and shall not be subject to the requirements as stated in the table outlined in subsection (f).

(Prior Code, § 1195-030.1; Ord. 2009-429, § 1, 6-15-2009; Ord. No. 2015-470, § 3, 5-4-2015)

Sec. 90-95. - Rural residential district (RR).

- (a) **Purpose.** The rural residential district (RR) is to provide a location for single-family detached housing on parcels of land served by private well and septic systems at a density of one home per ten gross acres. Continued use of land for agricultural pursuits listed below will be permitted.
- (b) **Permitted uses.** The following are permitted in the RR district:
 - (1) Agriculture, including sale of products grown on premises.
 - (2) Daycare facilities, as defined by statute (refer to section 90-220).
 - (3) Essential public services (refer to section 90-223).
 - (4) Indoor riding arenas (refer to section 90-235).
 - (5) Plant nurseries, wholesale (refer to section 90-256).
 - (6) Recreational fields, structures and buildings, city only.
 - (7) Residential facility (community residence) with one to six individuals (refer to section 90-218).
 - (8) Single-family detached residential dwellings (refer to section 90-266).
- (c) **Accessory uses.** The following are permitted accessory uses in a RR district:
 - (1) Accessory buildings (refer to section 90-204).
 - (2) Accessory dwelling unit (refer to section 90-277).
 - (3) Exterior storage (refer to section 90-224).
 - (4) Farm and garden produce sales (refer to section 90-225).
 - (5) Feedlots (refer to section 90-226).
 - (6) Fences (refer to section 90-227).
 - (7) Garages, private (refer to section 90-230).
 - (8) Home occupations (refer to section 90-232).
 - (9) Horse training and boarding facilities, private (refer to section 90-233).
 - (10) Lighting, outdoor (refer to section 90-239).
 - (11) Livestock and livestock operation (refer to section 90-241).
 - (12) Parking and loading areas (refer to section 90-253).
 - (13) Signs (refer to section 90-265).
 - (14) Water-oriented accessory structure (refer to section 90-270).
- (d) **Conditional uses.** Following are conditional uses allowed in a RR district and require a conditional use permit based upon procedures set forth in and regulated by section 90-37. Additionally, besides the specific standards and criteria, which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated, based upon the standards and criteria in section 90-37.
 - (1) Accessory apartments (refer to section 90-203).
 - (2) Antennas (refer to article VI, division 2, of this chapter).
 - (3) Balloon port, commercial (refer to section 90-209).
 - (4) Bed and breakfast business (refer to section 90-210).
 - (5) Campgrounds (refer to section 90-211).

- (6) Cemeteries (refer to section 90-214).
 - (7) Commercial recreation, outdoor.
 - (8) Farmhand living quarters (refer to section 90-276).
 - (9) Golf courses (refer to section 90-231).
 - (10) Horse training and boarding facilities, commercial (refer to section 90-233).
 - (11) Kennels, hobby (refer to section 90-237).
 - (12) Marinas, commercial (refer to section 90-244).
 - (13) Marinas, private (refer to section 90-245).
 - (14) Places of worship (refer to section 90-254).
 - (15) Residential facility (community residence) with seven to 16 individuals (refer to section 90-218).
 - (16) Schools (refer to section 90-260).
 - (17) Solar energy systems (refer to section 90-278).
 - (18) Wind-powered generator (refer to section 90-271).
- (e) **Area requirements and construction limitations.** The following minimum requirements shall be observed in an RR district subject to additional requirements, exceptions and modifications set forth in this chapter:

Minimum lot or parcel size	10 acres
Minimum lot width at front setback line	300 ft.
Minimum lot width for corner lots	300 ft.
Minimum lot depth	480 ft.
Minimum lot depth-double frontage lot	480 ft.
Minimum front yard building setback	40 ft.
Minimum side yard building setback	20 ft.
Minimum rear yard building setback	50 ft.
Maximum building height	35 ft.
Maximum lot area to be covered by buildings	30%
Maximum lot area to be covered by impervious surface	50%
Minimum building size of principal building	960 sq. ft.

Maximum garage size	Refer to section 90-230
Maximum size of accessory buildings, excluding garages	Refer to section 90-204

(Prior Code, § 1055; Ord. No. 2010-453, § 3, 12-6-2010; Ord. No. 2011-460, § 1, 11-7-2011; Ord. No. 2015-470, §§ 1, 3, 5-4-2015; Ord. No. 2016-475, 12-21-2015)

ARTICLE XI. RURAL DISTRICTS

§ 154.400 PURPOSE.

The rural districts are established to provide guidance for existing rural development that is served primarily by on-site wastewater treatment facilities in Lake Elmo. The objectives of these districts are to preserve and enhance the quality of living in the existing rural areas, as well as regulate structures and uses which may affect the character or desirability of these areas. The rural districts and their purposes are as follows:

- A. *RT Rural Development Transitional District.* The RT District is an interim holding zone that will regulate land uses within those portions of the City planned and staged for development that will connect to regional sewer service in accordance with the Comprehensive Plan. The future zoning classification for areas zoned RT and the timing for any zoning map amendments to rezone property in this district will be determined by the City Council upon the extension of public sanitary sewer and water services into these areas. In the meantime, agricultural and existing residential uses will be allowed to continue in addition to other uses that are consistent with the A and RR zoning districts.
- B. *A Agricultural District.* The A District will apply to agricultural or undeveloped areas in Lake Elmo, including any newly annexed areas. The purpose of the district is to allow for agricultural and other activities typically associated with agriculture, including non-farm dwellings at a density of 1 unit per 40 acres. Future residential development may occur at the aforementioned density or through the Open-Space Preservation Development process. These parcels are expected to be served by on-site wastewater treatment facilities. In addition, some limited agriculture-related businesses, such as wayside stands and outdoor recreation, are appropriate short-term or interim uses for this district.
- C. *RR Rural Residential District.* The RR District is established for lands that have existing small-scale agricultural activity, as well as single-family residential dwellings. Future residential development may occur at a density of 1 dwelling unit per 10 acres, or through the Open-Space Preservation Development process. These sites are expected to be served by on-site wastewater treatment facilities. Some limited agriculture-related businesses, such as wayside stands, are appropriate as interim uses for this district.
- D. *RS Rural Single Family District.* The RS District is established for lands that have already been platted as conventional residential subdivisions prior to the 2005 adoption of the Comprehensive Land Use Plan. This district provides an environment of predominantly single-family detached dwellings on moderately sized lots in areas that have typically not been provided with public sanitary sewer services.
- E. *RE Residential Estate District.* The purpose of the RE District is to allow for single-family detached dwellings on large lots. The large lots and setbacks provide for an open-space environment that is consistent with the rural character of Lake Elmo. Planned residential subdivisions are allowed on a minimum of 20 acres (nominal) with an average subdivision density of 3.33 acres per residential unit. Lot sizes should be adequate to provide for on-site wastewater treatment.

(Ord. 2012-073, passed 3-19-2013)

§ 154.401 PERMITTED, CONDITIONAL, AND INTERIM USES.

Table 9-1 lists all permitted, conditional, and interim uses allowed in the rural districts. “P” indicates a permitted use, “C” a conditional use, and “I” an interim use. Uses not so indicated shall be considered prohibited. Cross-references listed in the table under “Standards” indicate the location within this Ordinance of specific development standards that apply to the listed use.

A. *Combinations of Uses.* Principal and accessory uses may be combined on a single parcel.

Table 9-1: Permitted, Conditional, and Interim Uses, Rural Districts

	RT	A	RR	RS	RE	Standard
Residential Uses						
Household Living						
Single-Family Detached Dwelling	P	P	P	P	P	154.404 (A)
Secondary Dwelling	-	P	-	-	-	154.404 (D)
Services						
Self Service Storage Facility	I ^a	I ^a	-	-	-	154.404 (G)
Outdoor Recreation						
Outdoor Recreation Facility	-	C	-	-	-	154.306 (C)
Parks and Open Areas	P	P	P	P	P	154.012 (B) (7)
Restricted Recreation	-	C	-	-	-	154.306 (B)
Agricultural and Related Uses						
Agricultural Entertainment Business	I	I	I	-	-	154.914
Agricultural Production	P	P	P	-	-	154.012 (B) (9)
Agricultural Sales Business	I	I	I	-	-	154.913
Agricultural Services	C	C	-	-	-	154.404 (J)
Forestry Operations	-	P	-	-	-	154.012 (B) (9)
Greenhouses, Non Retail	C	C	C	-	-	154.012 (B) (9)
Wayside Stand	P	P	P	-	-	154.012 (B) (9)
Industrial and Extractive Uses						
Motor Freight and Warehousing	I ^a	-	-	-	-	154.404 (G)
Alternative Energy						
Solar Farm	I	C	C	-	-	154.308 (A)
Wind Generator – Ground Mounted	C	C	C	C	C	154.308 (B)
Wind Generator – Roof/Structure Mounted	C	C	C	C	C	154.308 (B)
Accessory Uses						
Bed and Breakfast	P	P	P	P	P	154.310 (A)
Domestic Pets	P	P	P	P	P	154.012 (B) (12)
Family Day Care	P	P	P	P	P	154.012 (B) (12)
Home Occupation	P	P	P	P	P	154.310 (E)
Kennel, Private	C	C	C	-	-	154.012 (B) (12)

Table 9-1: Permitted, Conditional, and Interim Uses, Rural Districts

	RT	A	RR	RS	RE	Standard
Solar Energy Systems	P	P	P	P	P	154.310 (C)
Stable, Private	C	C	C	-	-	154.012 (B) (12)
Swimming Pools, Hot Tubs, Etc.	P	P	P	P	P	154.012 (B) (12)
Temporary Sales	P	P	P	P	P	154.012 (B) (12)
Water-Oriented Accessory Structures	P	P	P	P	P	154.800
Wind Generator – Ground Mounted	C	C	C	C	C	154.308 (B)
Wind Generator – Roof/Structure Mounted	C	C	C	C	C	154.308 (B)
Other Structures Typically Incidental and Clearly Subordinate to Permitted Uses	P	P	P	P	P	
Commercial Wedding Ceremony Venue	I	I	I			154.310 (D)
Open Space Preservation Development						
OP Development	-	C	C	-	-	Article 16

Notes to Rural Districts Table 9-1

- a. Non-Agricultural Low Impact Use (see 154.404 (G))

Note: Standards listed in Table 9-1 are listed by Article, Section and Subsection.

(Ord. 2012-073, passed 3-19-2013) (Ord. 08-136, passed 6-14-16)

(Ord. 08-107, passed 5-6-2014) (Am. Ord. 08-198, passed 2-7-2018) (Am. Ord. 08-199, passed 2-7-2018) (Am. Ord. 08-197, passed 2-7-2018)

§ 154.402 LOT DIMENSIONS AND BUILDING BULK REQUIREMENTS.

Lot area and setback requirements shall be as specified in Table 9-2, Lot Dimension and Setback Requirements.

Table 9-2: Lot Dimension and Setback Requirements, Rural Districts					
	RT	A	RR	RS	RE
Minimum Lot Area (acres)					
Single Family Detached Dwelling	20	40 ^{a,b}	10 ^c	1.5 ^d	2.5 ^{e,f}
Minimum Lot Width (feet)					
Single Family Detached Dwelling	300	300	300	125	NA ^f
Maximum Principal Structure Height (feet)ⁱ	35	35	35	35	35
Table 9-2: Lot Dimension and Setback Requirements, Rural Districts					
	RT	A	RR	RS	RE
Maximum Impervious Coverage	-	-	-	25%	15%

Minimum Principal Building Setbacks (feet)^{h,i}					
Front Yard	30	200	30	30	100
Interior Side Yard	10	200	10	10	50
Corner Side Yard ^g	25	200	25	25	80
Rear Yard	40	200	40	40	100
Minimum Accessory Building Setbacks (feet)^{h,i}					
Front Yard	30	200	30	30	100
Interior Side Yard	10	200	10	10	15
Corner Side Yard	25	200	25	25	30
Rear Yard	40	200	40	10	15
Minimum Agricultural Related Setbacks (Animal buildings, feedlots or manure storage sites)					
Any Property Line	200	200	200	-	-
Any Existing Well or Residential Structure	50	50	50	-	-
Any Body of Seasonal or Year-round Surface Water	200	200	200	-	-

Notes to Rural Districts Table 9-2

- a. 1 dwelling unit per 40 acres applies to all non-farm dwellings. In addition to non-farm dwellings (1 per 40 acres), each farm is allowed one farm dwelling per farm.
- b. Nominal 40 acres: a 40-acre parcel not reduced by more than 10% due to road rights-of-way and survey variations.
- c. Nominal 10 acres: a 10-acre parcel not reduced by more than 10% and/or a 10-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road rights-of-way and survey variations.
- d. The minimum lot size for lots served by public sanitary sewer shall be 24,000 square feet per residential unit.
- e. A minimum of 1.25 acres of land above the flood plain or free of any drainage easements is required.
- f. Lots must be configured to contain a circle with a diameter of 250 feet minimum; the ratio of lot length to width shall be a maximum of 3:1 – Flag lots are prohibited.
- g. Corner properties: The side façade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be as shown in the table.
- h. Setback standards do not apply to solar farms. 154.915 should be referenced for these specific standards.

- i. Ground-mounted wind generators may exceed the allowable height restriction designated in all rural districts and are subject to different setback requirements as identified in section 154.308.

(Ord. 2012-073, passed 3-19-2013; Am. Ord. No. 08-198, passed 2-7-2018; Am. Ord. 08-199, passed 2-7-2018)

§ 154.403 DIMENSIONAL REQUIREMENTS AND PRESERVATION OF OPEN SPACE.

- A. Lot Configuration, RR District. All lots must be rectangular in shape and any 2 adjacent sites must have an aspect ratio not exceeding 4:1.

(Ord. 2012-073, passed 3-19-2013)

§ 154.404 SITE DESIGN AND DEVELOPMENT STANDARDS.

Development of land within the rural districts shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in Articles 7,8 and 9. (Ord. 08-152, passed 10-01-2016) The following standards apply to specific uses, and are organized by district.

- A. *Single-Family Detached Dwelling, All Rural Districts.* All single-family dwellings shall be at least twenty-four (24) feet in width, at least nine hundred sixty (960) square feet in area, and be placed on a permanent foundation.
- B. *Septic Drainfield Regulation, A, RR, and RS Districts.* All applicants for a use or building permit in any district not served by public sanitary sewer must demonstrate that an on-site sewage treatment system (Primary and Secondary Location) as approved by Washington County can be installed in accordance with Washington County Subsurface Sewage Treatment System Regulations.
- C. *Septic Drainfield Regulation, RE District.* All applicants for a use or building permit in any district not served by public sanitary sewer must demonstrate that an on-site sewage treatment system (Primary and Secondary Location) as approved by Washington County can be installed in accordance with Washington County Subsurface Sewage Treatment System Regulations.
- D. *Secondary Dwelling, A District.* One non-farm dwelling per each 40 acres, or part of a dwelling on a prorated basis, not already containing a farm or non-farm dwelling, is permitted provided:
 - 1. The dwelling unit is located on a separate parcel of record in the office of the County Recorder and/or County Auditor, which shall be at least 1-1/2 acres in size;
 - 2. The parcel on which the dwelling unit is located must have at least 125 feet of frontage along a public street, be rectangular in shape and no dimension to be greater than 3 times the other; and

3. The dwelling is separated by at least 300 feet from the nearest farm building.
- E. *Parking Standards, A, RR and RS Districts.* 3 space of off-street parking required per dwelling unit.
- F. *Parking Standards, RE District*
1. 2 enclosed spaces minimum (200 square feet minimum per space).
 2. 2 exterior spaces within minimum setback of 50 feet from any property line.
- G. *Non-Agricultural Low Impact Use, A, RT Districts.* The City recognizes that allowing non-agricultural low impact uses, strictly controlled and regulated by Interim Use Permit, might allow a farmer or large property owner an economical use of his or her property that is zoned Agricultural. The following standards may apply to these types of uses.
1. All of the property owner's real estate that is contiguous to the non-agricultural low impact use must be zoned Agricultural and remain so zoned while the conditional use permit is in effect.
 2. The area where the non-agricultural low impact use is located shall be legally defined and approved by the city and is hereafter known as the "Non-Ag Area." The Non-Ag Area shall not exceed 4% of the property owner's contiguous agricultural zone gross lot area. The building footprints and asphalt and concrete surfaces within the Non-Ag Area shall not exceed 1.5% of the property owner's contiguous agricultural zone gross lot area. Landscaping, berms, ponds, gravel driveways, and other improvements that would otherwise be permitted in the Agricultural zone may be located outside of the Non-Ag Area.
 3. Non-agricultural low impact uses shall only be allowed on a parcel of a nominal 40 acres or larger.
 4. Non-agricultural low impact uses shall not generate more than 3 trips per day per acre of contiguous agriculturally zoned area, with the exception of land with sole access to Hudson Boulevard that shall not generate more than 6 trips per day per acre.
 5. Any uses under this section involving the outside storage of vehicles, equipment, or goods shall be located a minimum of 200 feet from any public roadway or adjacent landowner's boundary, except that the setback from the I-94 frontage road shall be not less than 50 feet. In addition, any such outside storage shall be screened from view from adjacent property and the public roadway by berms and landscaping. A plan for such screening shall be submitted with the application for the Interim Use Permit which shall clearly demonstrate by view cross-sections that said screening will be effective immediately, and in all seasons. Degradation of such screening by loss of landscape materials, outdoor storage of items that exceed the screened height or for any other reason shall be grounds for rescinding the outdoor storage portion of the Interim Use Permit.
 6. Non-agricultural low impact uses may not generate more than 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based upon design capacity of facilities, whichever is more restrictive.

7. The property owner shall maintain the remaining land or farm outside of the IUP Area in accordance with the permitted uses of the Agricultural zoning district and the required practices of the Soil and Water Conservation District.
 8. Rate and volume of stormwater runoff must meet the requirements of the City's Stormwater Ordinance.
 9. In the event that the property owner, or future property owner, initiates a Comprehensive Plan amendment and rezoning of any or all of the contiguous real estate from Agriculture to a more intensive use, the Interim Use Permit shall terminate and all non-conforming structures shall be removed from the site within 1 year from the date of the City Council's adoption of the Comprehensive Plan amendment and rezoning, unless the City agrees otherwise. This section shall not apply if the City initiates rezoning or if property owner is forced to transfer title to any part of the contiguous real estate due to eminent domain.
 10. All conditional use permits granted to a non-agricultural low impact shall be reviewed on an annual basis, and may be rescinded, after a 2-week notice and a public hearing, if the Council finds that the public health, safety, or welfare is jeopardized.
 11. The standards for buildings or structures, as listed in the minimum district requirements of the Agricultural Zone, shall not apply to structures built prior to the effective date of this chapter.
- H. *Unserviced Lots, RT, A, RR Districts.* All lots that are subdivided without city sewer and public water service shall meet the following standards:
1. Lots, houses and other structures, driveways and any new streets shall be located in compliance with the comprehensive plan and any more detailed area plans for future roads, public water services, and drainage.
 2. The Planning Commission may require a sketch plan showing how the entire tract could be divided when city services become available. Lots and buildings shall be sited and streets shall be laid out to facilitate future subdivision.
- I. *Commercial Kennel, Commercial Stable, or Accessory Kennel or Stable, RT, A, RR Districts.* The facility shall occupy a site at least ten (10) acres in size. Outdoor exercise areas shall be located at least 100 feet from adjacent properties; landscaping or other screening may be required.
- J. *Agricultural Services and Support, RT, A Districts*
1. A facility established after the effective date of this ordinance shall have direct access to a collector or higher classification street.
 2. An appropriate transition area between the use and adjacent property may be required, to include landscaping, screening and other site improvements consistent with the character of the neighborhood.
 3. All processing of animal or dairy products shall take place within an enclosed building.

(Ord. 2012-073, passed 3-19-2013)

§ 154.405 ACCESSORY USES AND STRUCTURES.

Accessory uses are listed in the Rural District Use Table as permitted or conditional accessory uses. Accessory uses and structures in the rural districts shall comply with the following standards and all other applicable regulations of this ordinance:

- A. *Phasing*. No accessory use or structure shall be constructed or established on any lot prior to the time of construction of the principal use to which it is accessory.
- B. *Incidental to Principal Use*. The accessory use or structure shall be incidental to and customarily associated with the principal use or structure served.
- C. *Subordinate to Principal Use*. The accessory use or structure shall be subordinate in area, extent, and purpose to the principal use or structure served.
- D. *Function*. The accessory use or structure shall contribute to the comfort, convenience, or necessity of the occupants of the principal use or structure served.
- E. *Location*. The accessory use or structure shall be located on the same zoning lot as the principal use or structure.
- F. *Exemption*. Fish houses as defined in this code and located in the RS Rural Single Family District are exempt from this requirement provided the following criteria are met: must be located on a lot half acre in size or more with direct access to a water body; is 120 square feet or less; and complies with Shoreland regulations and RS Rural Single Family setback requirements. One fish house per lot may exist without a principal structure. The structure must maintain a current fish house license with the Minnesota Department of Natural Resources regardless if it is left on a water body overnight. If a current Minnesota Department of Natural Resources Fishhouse License is not obtained for the structure, the structure must be removed from the property within 60 days.

(Ord. 2012-073, passed 3-19-2013; Am. Ord. 08-138, passed 6-21-2016)

§ 154.406 ACCESSORY STRUCTURES, RURAL DISTRICTS.

- A. *Size and Number*. The maximum number and size of accessory buildings permitted in rural zoning districts are outlined in Table 9-3:

Table 9-3: Accessory Buildings, Rural Zoning Districts

Lot Size	Maximum Structure Size^a (square feet)	No. of Permitted Bldgs
under 1 acre	1,200	1
1 – 1.99 acres	1,500	1
2 – 4.99 acres	1,750	1
5 – 9.99 acres	2,000	2

10 – 14.99 acres	2,500	2 ^b
15 – 19.99 acres	3,000	2 ^b
20 – 39.99 acres	4,000	2 ^b
40+ acres	Unregulated ^c	Unregulated ^c

Notes to Table 9-3

- a. Maximum structure size accounts for the total maximum area allowed for all permitted accessory structures combined.
 - b. One agricultural building, as defined in §154.213, is allowed in addition to the permitted number and size of accessory structures.
 - c. Agricultural buildings, as defined in §154.213, are allowed in addition to up to two permitted accessory structures which total 4,000 square feet.
- B. *Structure Height, Rural Districts.* No accessory building shall exceed the height of the principal structure, with the exception of agricultural buildings, as defined in §154.213. Building projections or features on accessory structures that are not agricultural buildings as defined in §154.213, such as chimneys, cupolas, and similar decorations are permitted in rural districts.
- C. *Structure Location, Rural Districts.* No detached garages or other accessory buildings shall be located nearer the front lot line than the principal building on that lot.
- D. *Exterior Design and Color.* The exterior building materials, design and color of all accessory building or structures shall be similar to or compatible with the principal building, with the exception of the following accessory building or structures:
1. Detached domesticated farm animal buildings
 2. Agricultural buildings
 3. Pole buildings, as defined and regulated in §154.214.
 4. Gazebos
 5. Swimming pools
 6. Other structures in which the required design is integral to the intended use, such as a greenhouse.
- E. *Attached Garages, Size.* Attached garages must not exceed the footprint size of the principal building.

(Ord. 08-104, passed 3-18-2014; Am. Ord. 08-138, passed 6-21-2016; Am. Ord. 08-210, passed 5-15-2018) Penalty, see § 154.999

§ 154.407 ACCESSORY USES.

A. *Exterior Storage in Residential Districts.* All materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following:

1. Laundry drying
2. Construction and landscaping materials and equipment currently being used on the premises. Materials kept on the premises for a period exceeding six (6) months shall be screened or stored out of view of the primary street on which the house fronts.
3. Agricultural equipment and materials, if they are used or intended for use on the premises.
4. Off-street parking and storage of trailers 25ft. in length or less as regulated in Article 7, Section 154.210, are licensed (when applicable) and kept in operable condition.
 - a. Trailers shall be licensed to a resident of the property.
 - b. Residential properties are allowed to store one trailer (boat trailer, snowmobile trailer, utility trailer, recreational vehicle, etc.) within the front yard. All other trailers must be stored either in the side or rear yard, and must be at least 5 ft. from all property lines.
 - c. All trailers must be stored on a durable surface with suitable drainage that is not subject to rutting and/or erosion.
 - d. Trailers must not be used as temporary or permanent storage of items as described in Chapter 96 of the City Code.
5. Firewood storage, for personal use only.
 - a. Firewood must be stacked in a stable manner, cannot exceed 5 feet in height, and stored only in the side or rear yards. In the case of properties with multiple street frontages, fire wood shall not be stored on a side that abuts a public street.
6. Outdoor parking

B. *Temporary Sales.* Temporary sales, also known as yard or garage sales, are permitted in all residential districts, limited to two (2) per calendar year per residence, not to exceed four (4) days in length.

(Ord. 2012-073, passed 3-19-2013)

§ 154.408 ACCESSORY USES AND STRUCTURES NOT LISTED.

Standards for accessory uses and structures that are permitted in all districts, or in all residential buildings in any district, are listed in Article 9, Specific Development Standards. These include uses such as family and group family day care, bed and breakfast facilities, and home occupations, and structures such as swimming pools and solar equipment.

(Ord. 2012-073, passed 3-19-2013) (Ord. 08-152, passed 10-01-2016)

Proposed Code Change

Table 9-1: Permitted, Conditional, and Interim Uses, Rural Districts

	RT	A	RR	RS	RE	Standard
Solar Energy Systems	P	P	P	P	P	154.310 (C)
Stable, Private	C	C	C	-	-	154.012 (B) (12)
Swimming Pools, Hot Tubs, Etc.	P	P	P	P	P	154.012 (B) (12)
Temporary Sales	P	P	P	P	P	154.012 (B) (12)
Water-Oriented Accessory Structures	P	P	P	P	P	154.800
Wind Generator – Ground Mounted	C	C	C	C	C	154.308 (B)
Wind Generator – Roof/Structure Mounted	C	C	C	C	C	154.308 (B)
Other Structures Typically Incidental and Clearly Subordinate to Permitted Uses	P	P	P	P	P	
Commercial Wedding Ceremony Venue	I	I	I			154.310 (D)
Open Space Preservation Development						
OP Development	-	C	C	-	-	Article 16

Notes to Rural Districts Table 9-1

- a. Non-Agricultural Low Impact Use (see 154.404 (G))

Note: Standards listed in Table 9-1 are listed by Article, Section and Subsection.

(Ord. 2012-073, passed 3-19-2013) (Ord. 08-136, passed 6-14-16)

(Ord. 08-107, passed 5-6-2014) (Am. Ord. 08-198, passed 2-7-2018) (Am. Ord. 08-199, passed 2-7-2018) (Am. Ord. 08-197, passed 2-7-2018)

§ 154.402 LOT DIMENSIONS AND BUILDING BULK REQUIREMENTS.

Lot area and setback requirements shall be as specified in Table 9-2, Lot Dimension and Setback Requirements.

Table 9-2: Lot Dimension and Setback Requirements, Rural Districts					
	RT	A	RR	RS	RE
Minimum Lot Area (acres)					
Single Family Detached Dwelling	20	40 ^{a,b}	10 ^c	1.5 ^d	2.5 ^{e,f}
Minimum Lot Width (feet)					
Single Family Detached Dwelling	300	300	300	125	NA ^f
Maximum Principal Structure Height (feet)ⁱ	35	35	35	35	35
Table 9-2: Lot Dimension and Setback Requirements, Rural Districts					
	RT	A	RR	RS	RE
Maximum Impervious Coverage	-	-	-	25%	15%

Minimum Principal Building Setbacks (feet) ^{h,i}					
Front Yard	30	100	30	30	100
Interior Side Yard	10	100	10	10	50
Corner Side Yard ^g	25	100	25	25	80
Rear Yard	40	100	40	40	100
Minimum Accessory Building Setbacks (feet) ^{h,i}					
Front Yard	30	100	30	30	100
Interior Side Yard	10	100	10	10	15
Corner Side Yard	25	100	25	25	30
Rear Yard	40	100	40	10	15
Minimum Agricultural Related Setbacks (Animal buildings, feedlots or manure storage sites)					
Any Property Line	200	200	200	-	-
Any Existing Well or Residential Structure	50	50	50	-	-
Any Body of Seasonal or Year-round Surface Water	200	200	200	-	-

Deleted: 200

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Notes to Rural Districts Table 9-2

- 1 dwelling unit per 40 acres applies to all non-farm dwellings. In addition to non-farm dwellings (1 per 40 acres), each farm is allowed one farm dwelling per farm.
- Nominal 40 acres: a 40-acre parcel not reduced by more than 10% due to road rights-of-way and survey variations.
- Nominal 10 acres: a 10-acre parcel not reduced by more than 10% and/or a 10-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road rights-of-way and survey variations.
- The minimum lot size for lots served by public sanitary sewer shall be 24,000 square feet per residential unit.
- A minimum of 1.25 acres of land above the flood plain or free of any drainage easements is required.
- Lots must be configured to contain a circle with a diameter of 250 feet minimum; the ratio of lot length to width shall be a maximum of 3:1 – Flag lots are prohibited.
- Corner properties: The side façade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be as shown in the table.
- Setback standards do not apply to solar farms. 154.915 should be referenced for these specific standards.