



## **STAFF REPORT**

DATE: November 14, 2022

**AGENDA ITEM:** Ratify Votes

**TO:** Planning Commission

**SUBMITTED BY:** Molly Just, Planning Director

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### **BACKGROUND:**

The Lake Elmo Planning Commission currently consists of five members. The City Code contains a provision that says that a quorum is four members, regardless of vacancies. There is case law that says that when determining a quorum, you exclude the vacant seats (so if the Planning Commission has only five seated members, a quorum would be a majority of five, which is three). So, while votes taken at the three meetings with less than four seated members were valid, it is appropriate to ratify those votes when four seated members are present.

### **ISSUE BEFORE COMMISSION:**

To ratify the actions taken by the Planning Commission when there were less than four seated members present.

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

Appointed commissions rely on volunteer participation and so it is not advisable to require a specific minimum number of seated members to equal a quorum. A quorum is a majority of seated members. Planning Staff has drafted code amendments that remove this minimum number for a quorum. The amendments are on the November 15<sup>th</sup> City Council agenda as a consent item.

There have been six votes taken at Planning Commission meetings with less than four members present. Planning Staff have drafted resolutions for each of these items for the Planning Commission to act on. Approval of the motions will ratify the votes taken while less than four members were present. If there are not four seated members present at this meeting this agenda item will carry over to the next meeting with four seated members.

### **FISCAL IMPACT:**

None.

### **OPTIONS:**

- 1) Ratify the subject decisions of the Planning Commission
- 2) Table ratification of the subject decisions and provide reasons why

## **RECOMMENDATIONS:**

***“Motion to approve Resolution 2022-1 ratifying the Planning Commission recommendation to approve with conditions a Conditional Use Permit to allow the commercial vehicle repair use in Suites 215-220 at 11160 Hudson Boulevard”***

***“Motion to approve Resolution 2022-2 ratifying the Planning Commission recommendation to approve with conditions a Conditional Use Permit to allow the automotive maintenance and repair use in Suites 140-145 at 11160 Hudson Boulevard”***

***“Motion to approve Resolution 2022-3 ratifying the Planning Commission recommendation to deny a Conditional Use Permit to allow the motor freight and warehouse use in Suite 345 at 11160 Hudson Boulevard”***

***“Motion to approve Resolution 2022-4 ratifying the Planning Commission recommendation to approve Zoning Text Amendments to incorporate a 40 foot setback south of 10<sup>th</sup> Street”***

***“Motion to approve Resolution 2022-5 ratifying the Planning Commission recommendation to approve with conditions a Preliminary Plat & PUD, Comprehensive Plan Amendment and Zoning Map Amendment for United Properties on PID 33.029.21.44.0009”***

***“Motion to approve Resolution 2022-6 ratifying the Planning Commission recommendation to approve the 2023-2027 Capital Improvement Plan”***

## **ATTACHMENTS:**

- Resolution 2022-1
- Resolution 2022-2
- Resolution 2022-3
- Resolution 2022-4
- Resolution 2022-5
- Resolution 2022-6

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

**RESOLUTION NO. 2022-1**

*A RESOLUTION RATIFYING THE PLANNING COMMISSION'S RECOMENDATION OF  
APPROVAL WITH CONDITIONS TO ALLOW A COMMERCIAL VEHICLE REPAIR USE IN  
SUITES 215-220 AT 11160 HUDSON BOULEVARD N.*

**WHEREAS**, Heppner' s Auto Body ( the "Applicant") submitted an application to the City of Lake Elmo ( the "City") for a Conditional Use Permit to allow a commercial vehicle repair use in suites 215-220 at 11160 Hudson Blvd N (PID# 3602921330020) (the "Property"); and

**WHEREAS**, the Lake Elmo City Council adopted Resolution No. 2022-097, approving the conditional use permit for a commercial vehicle repair use on October 18, 2022; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on September 26, 2022 to consider the conditional use permit request; and

**WHEREAS**, on September 26, 2022, the Lake Elmo Planning Commission passed a motion with three members present to recommend that the City Council approve a conditional use permit with conditions to allow a commercial vehicle repair use in Suites 215-220 at 11160 Hudson Boulevard N with ; and

**WHEREAS**, the Lake Elmo City Code requires a quorum of the Planning Commission to consist of a minimum of four members; and

**WHEREAS**, the Planning Commission is adopting this Resolution with a quorum of the Planning Commission present and voting to ratify its recommendation of approval for a conditional use permit to allow a commercial vehicle repair use in Suites 215-220 at 11160 Hudson Boulevard N that occurred on September 26, 2022; and

**NOW, THEREFORE, BE IT RESOLVED THAT** the Planning Commission does hereby ratify its recommendation of approval for a conditional use permit for a commercial vehicle repair use in Suites 215-220 at 11160 Hudson Boulevard N that occurred on September 26, 2022 subject to the following findings:

1. The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city. *The proposed use will not endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the City.*

2. The use or development conforms to the City of Lake Elmo Comprehensive Plan. ***The site has already been rezoned to the zoning guided by the 2040 Comprehensive Plan.***
3. The use or development is compatible with the existing neighborhood. ***The proposed use is within the Crossroads East First Addition development that has similar uses that may be readily permitted or also require conditional use permit approval.***
4. The proposed use meets all specific development standards for such use listed in the Zoning Code. ***The use meets all the specific development standards for a commercial vehicle repair use set forth in LEC 105.12.950(h).***
5. If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Article XIX (Shoreland Management) and Title 100 (Flood Plain Management). ***The proposed use is not in a flood plain management or shoreland area.***
6. The proposed use will be designed, constructed, operated, and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area. ***The proposed use does not require the construction of any new buildings or change in appearance of the Crossroads East Office Warehouse. The building has already been approved and near completion.***
7. The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring structures. ***The use is not hazardous and will not create a nuisance. Vehicles arriving onsite have already had body work completed and just need sensor calibration inside the building.***
8. The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use. ***The proposed use will be served adequately by essential public facilities and services.***
9. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. ***The proposed use will not create excessive additional requirements at a public cost.***
10. The proposed use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, or odors. ***The proposed use will not produce excessive traffic, noise, fumes, glare, or odors.***
11. Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares. ***The use will not create traffic congestion or interfere with traffic on surrounding public thoroughfares.***
12. The proposed use will not result in the destruction, loss, or damage of a natural or scenic

feature of major importance. *The use will not result in the destruction, loss, or damage of a natural or scenic feature of major importance.*

Passed and duly adopted this 14<sup>th</sup> day of November, 2022 by the Planning Commission of the City of Lake Elmo, Minnesota.

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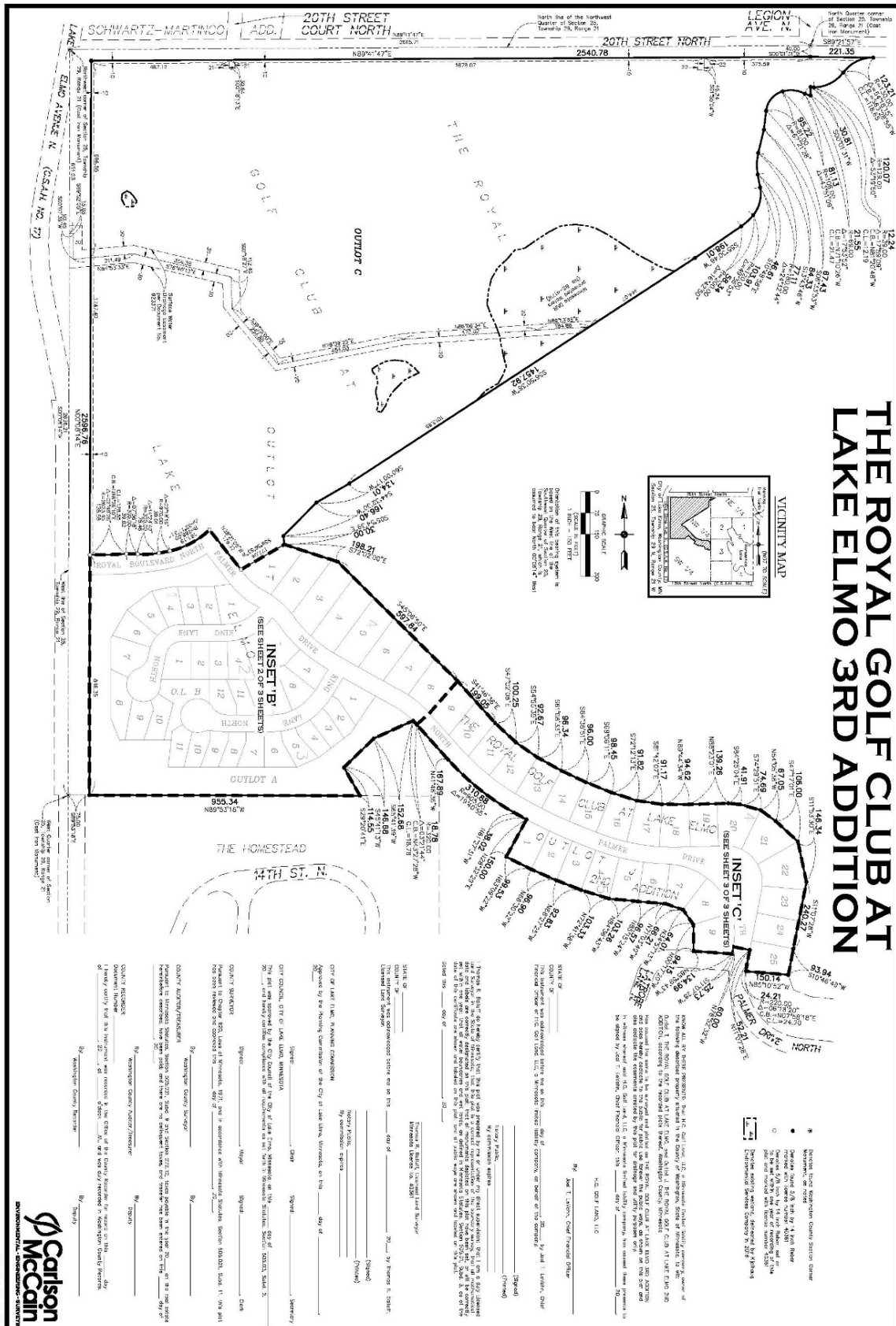
Kyle Risner, Planning Commission Chair

ATTEST:

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Julie Johnson, City Clerk

## EXHIBIT A



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

**RESOLUTION NO. 2022-2**

*A RESOLUTION RATIFYING THE PLANNING COMMISSION'S RECOMENDATION OF  
APPROVAL FOR A CONDITIONAL USE PERMIT TO ALLOW AN AUTOMOTIVE  
MAINTENANCE AND REPAIR USE IN SUITES 140-145 AT 11160 HUDSON BOULEVARD N.*

**WHEREAS**, Carden Equities ( the "Applicant") submitted an application to the City of Lake Elmo ( the "City") for a Conditional Use Permit for an automotive maintenance and repair use in Suites 140-145 at 11160 Hudson Blvd N (PID# 3602921330020) (the "Property"); and

**WHEREAS**, the Lake Elmo City Council adopted Resolution No. 2022-095, approving the conditional use permit for a commercial vehicle repair use on October 18, 2022; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on September 26, 2022 to consider the conditional use permit request; and

**WHEREAS**, on September 26, 2022, the Lake Elmo Planning Commission passed a motion with three members present to recommend that the City Council approve a conditional use permit for an automotive maintenance and repair use in Suites 140-145 at 11160 Hudson Boulevard N with ; and

**WHEREAS**, the Lake Elmo City Code requires a quorum of the Planning Commission to consist of a minimum of four members; and

**WHEREAS**, the Planning Commission is adopting this Resolution with a quorum of the Planning Commission present and voting to ratify its recommendation of approval for a conditional use permit to a allow an automotive maintenance and repair use in Suites 140-145 at 11160 Hudson Boulevard N that occurred on September 26, 2022; and

**NOW, THEREFORE, BE IT RESOLVED THAT** the Planning Commission does hereby ratify its recommendation of approval for a conditional use permit to allow an automotive maintenance and repair use in Suites 140-145 at 11160 Hudson Boulevard N that occurred on September 26, 2022 subject to the following findings:

1. The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city. *The proposed use will not endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the City.*
2. The use or development conforms to the City of Lake Elmo Comprehensive Plan. *The site has already been rezoned to the zoning guided by the 2040 Comprehensive Plan.*

3. The use or development is compatible with the existing neighborhood. ***The proposed use is within the Crossroads East First Addition development that has similar uses that may be readily permitted or also require conditional use permit approval.***
4. The proposed use meets all specific development standards for such use listed in the Zoning Code. ***The use meets all the specific development standards for a commercial vehicle repair use set forth in LEC 105.12.950(h).***
5. If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Article XIX (Shoreland Management) and Title 100 (Flood Plain Management). ***The proposed use is not in a flood plain management or shoreland area.***
6. The proposed use will be designed, constructed, operated, and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area. ***The proposed use does not require the construction of any new buildings or change in appearance of the Crossroads East Office Warehouse. The building has already been approved and near completion.***
7. The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring structures. ***The use is not hazardous and will not create a nuisance. All work is to be conducted indoors.***
8. The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use. ***The proposed use will be served adequately by essential public facilities and services.***
9. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. ***The proposed use will not create excessive additional requirements at a public cost.***
10. The proposed use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, or odors. ***The proposed use will not produce excessive traffic, noise, fumes, glare, or odors. All work is to be confined in the dedicated space indoors.***
11. Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares. ***The use will not create traffic congestion or interfere with traffic on surrounding public thoroughfares.***
12. The proposed use will not result in the destruction, loss, or damage of a natural or scenic feature of major importance. ***The use will not result in the destruction, loss, or damage of a natural or scenic feature of major importance.***



Passed and duly adopted this 14<sup>th</sup> day of November, 2022 by the Planning Commission of the City of Lake Elmo, Minnesota.

\_\_\_\_\_  
Kyle Risner, Planning Commission Chair

ATTEST:

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Julie Johnson, City Clerk



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

**RESOLUTION NO. 2022-3**

*A RESOLUTION RATIFYING THE PLANNING COMMISSION'S RECOMENDATION OF  
DENIAL FOR A CONDITIONAL USE PERMIT TO ALLOW A MOTOR FREIGHT AND  
WAREHOUSING USE IN SUITE 345 AT 11160 HUDSON BOULEVARD N.*

**WHEREAS**, Delwin Transfer ( the "Applicant") submitted an application to the City of Lake Elmo ( the "City") for a Conditional Use Permit to allow a motor feight and warehousing use in Suite 345 at 11160 Hudson Blvd N (PID# 3602921330020) (the "Property"); and

**WHEREAS**, the Lake Elmo City Council adopted Resolution No. 2022-096, approving the conditional use permit for a motor freight and warehousing use on October 18, 2022; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on September 26, 2022 to consider the conditional use permit request; and

**WHEREAS**, on September 26, 2022, the Lake Elmo Planning Commission passed a motion with three members present to recommend that the City Council deny a conditional use permit for a motor freight and warehousing use in Suite 345 at 11160 Hudson Boulevard N with ; and

**WHEREAS**, the Lake Elmo City Code requires a quorum of the Planning Commission to consist of a minimum of four members; and

**WHEREAS**, the Planning Commission is adopting this Resolution with a quorum of the Planning Commission present and voting to ratify its recommendation of denial for a conditional use permit to a allow a motor freight and warehousing use in Suite 345 at 11160 Hudson Boulevard N that occurred on September 26, 2022; and

**NOW, THEREFORE, BE IT RESOLVED THAT** the Planning Commission does hereby ratify its recommendation of denial for a conditional use permit to allow a motor freight and warehousing use in Suite 345 at 11160 Hudson Boulevard N that occurred on September 26, 2022 subject to the following finding of facts:

1. There is inadequate screening between the Crossroads East Office Warehouse and the existing residential development to the north for a motor freight and warehousing use.
2. The increased noise, traffic, and hours of operation created by this use in the existing neighborhood are not acceptable.

Passed and duly adopted this 14<sup>th</sup> day of November, 2022 by the Planning Commission of the City of Lake Elmo, Minnesota.

\_\_\_\_\_  
Kyle Risner, Planning Commission Chair

ATTEST:

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Julie Johnson, City Clerk



**CITY OF LAKE ELMO'  
PLANNING COMMISSION  
WASHINGTON COUNTY  
STATE OF MINNESOTA**

**RESOLUTION NO. 2022-4**

*A RESOLUTION RATIFYING THE PLANNING COMMISSION'S RECOMENDATION OF APPROVAL FOR ZONING TEXT AMENDMENTS TO INCORPORATE A 40 FOOT SETBACK FOR ALL NEW RESIDENTIAL DEVELOPMENT ABUTTING A PUBLIC STREET SOUTH OF 10<sup>TH</sup> STREET.*

**WHEREAS**, The City of Lake Elmo ( the "City") self intitiated zoning text amendments to incorporate a 40 foot setback for all new residential development abutting a public street.

**WHEREAS**, the Lake Elmo City Council adopted Ordinance No. 2022-08, amending the Lake Elmo City Code to incorporate a 40 foot setback; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on August 22, 2022 to consider the zoning text amendments; and

**WHEREAS**, on August 22, 2022 the Lake Elmo Planning Commission passed a motion with three members to recommend that the City Council approve the amendment to Section 105.12.930 Commercial Lot Dimensions and Building Bulk Requirements to incorporate a 40 foot setback for all new residential development south of 10<sup>th</sup> Street; and

**WHEREAS**, on August 22, 2022 the Lake Elmo Planning Commission passed a motion with a three members to recommend that the City Council approve the amendment to Section 105.12.720 Lot Dimensions and Building Bulk Requirements to incorporate a 40-foot setback for all new residential development south of 10<sup>th</sup> Street; and

**WHEREAS**, on August 22, 2022 the Lake Elmo Planning Commission passed a motion with three members to recommend that the City Council approve the amendment to Section 105.12.880 Mixed-Use Commercial and Mixed – Use Business Park Districts Lot Dimensions and Building Bulk Requirements to incorporate a 40-foot setback for all new residential development south of 10<sup>th</sup> Street; and

**WHEREAS**, the Lake Elmo City Code requires a quorum of the Planning Commission to consist of four members; and

**WHEREAS**, the Planning Commission is adopting this Resolution with a quorum of the Planning Commission present and voting to ratify its recommendation of approval to amend Sections 105.12.930, 105.12.720, and 105.12.880.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Planning Commission does hereby ratify its recommendation of approval for zoning text amendments to incorporate a 40 foot setback in all new residential development south of 10<sup>th</sup> Street that occurred on August 22, 2022.

Passed and duly adopted this 14<sup>th</sup> day of November, 2022 by the Planning Commission of the City of Lake Elmo, Minnesota.

\_\_\_\_\_  
Kyle Risner, Planning Commission Chair

ATTEST:

\_\_\_\_\_  
Julie Johnson, City Clerk





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

**RESOLUTION NO. 2022-5**

*A RESOLUTION RATIFYING THE PLANNING COMMISSION'S RECOMENDATION OF  
APPROVAL WITH CONDITIONS FOR A PRELIMINARY PLAT/PUD, COMPREHENSIVE PLAN  
AMENDMENT AND ZONING MAP AMENDMENT FOR UNITED PROPERTIES ON PID  
33.029.21.44.0009*

**WHEREAS**, United Properties ( the "Applicant") submitted an application to the City of Lake Elmo (the "City") for a Preliminary Plat and PUD, Comprehensive Plan Amendment and Zoning Map Amendment for a 146-unit age restricted building (the "Application") at PID# 33.029.21.44.0009 (the "Property"); and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on October 12, 2022 to consider the Application; and

**WHEREAS**, on October 12, 2022, the Lake Elmo Planning Commission passed a motion with three members present to recommend that the City Council approve the Application; and

**WHEREAS**, the Lake Elmo City Code requires a quorum of the Planning Commission to consist of a minimum of four members; and

**WHEREAS**, the Planning Commission is adopting this Resolution with a quorum of the Planning Commission present and voting to ratify its recommendation of approval of the Application that occurred on October 12, 2022; and

**NOW, THEREFORE, BE IT RESOLVED THAT** the Planning Commission does hereby ratify its recommendation of approval for the Application that occurred on October 12, 2022 subject to the following findings:

**Comprehensive Plan Amendment.**

1. That the applicant has submitted a request to the City of Lake Elmo to amend the Comprehensive Plan in accordance with the procedures as established by the Lake Elmo Planning Department and the Lake Elmo Planning Commission; and
2. That the request is to amend the Land Use Plan Map for the site of the proposed Amira of Lake Elmo from MU-BP (mixed use business park) to HDR (High density residential); and
3. That the proposed amendment is consistent with the overall goals and objectives of the Lake Elmo Comprehensive Plan.

### **Zoning Map Amendment.**

1. That if the Comprehensive Plan Land Use Map is amended as requested then the Zoning Map Amendment to HDR is consistent with the City of Lake Elmo Comprehensive Plan.

### **Preliminary PUD/Plat.**

1. That if the City amends the Lake Elmo Comprehensive Plan and Land Use Map to re-guide the site of this PUD from MU-BP (mixed use business park) to HDR (high density residential), the preliminary PUD plan would be consistent with the intent of the Lake Elmo Comprehensive Plan and Future Land Use Map for the area.
2. That the preliminary PUD Plan and Plat will meet the general intent of the High Density Residential Land Use designation in the Comprehensive Plan (with a Comprehensive Plan amendment) and the High Density Residential (HDR) zoning district with PUD modifications.
3. That the preliminary PUD Plan and Plat generally comply with the City's Subdivision regulations.
4. That the preliminary PUD Plan and Plat is generally consistent with the City's engineering standards with exceptions as noted in the City Engineer's memorandum dated September 27, 2022.
5. That the preliminary PUD Plan meets the minimum requirement for a PUD including minimum lot area, open space and street layout.
6. That if the proposed preliminary PUD Plan has no more than 146 residential units, it will meet the allowed density requirement provided the City amends the Comprehensive Plan's Land Use Map to re-guide this site from Mixed Use Business Park (MU -BP) to High Density Residential (HDR).
7. The preliminary PUD Plan meets more than one of the required PUD objectives identified in Section 105.12.1130 including providing: innovation in land development techniques that may be more suitable for a given parcel than conventional approaches; provision of a more adequate, usable, and suitably located open space, recreational amenities and other public facilities than would otherwise be provided under conventional land development techniques; accommodation of housing of all types with convenient access to employment opportunities and/or commercial facilities; and especially to create additional opportunities for senior and affordable housing; and coordination of architectural styles and building forms to achieve greater compatibility within the development and surrounding land uses.

Passed and duly adopted this 14<sup>th</sup> day of November, 2022 by the Planning Commission of the City of Lake Elmo, Minnesota.

\_\_\_\_\_  
Kyle Risner, Planning Commission Chair

ATTEST:

\_\_\_\_\_  
Julie Johnson, City Clerk

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

**RESOLUTION NO. 2022-6**

*A RESOLUTION RATIFYING THE PLANNING COMMISSION'S RECOMENDATION OF  
APPROVAL OF THE 2023-2027 CAPITAL IMPROVEMENT PLAN*

**WHEREAS**, the City of Lake Elmo City Council must adopt a Capital Improvement Plan after a public hearing and recommendation from its Planning Commission; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on October 24, 2022 to consider the 2023-2027 CIP (the "CIP"); and

**WHEREAS**, on October 24, 2022, the Lake Elmo Planning Commission passed a motion with three members present to recommend that the City Council approve the CIP; and

**WHEREAS**, the Lake Elmo City Code requires a quorum of the Planning Commission to consist of a minimum of four members; and

**WHEREAS**, the Planning Commission is adopting this Resolution with a quorum of the Planning Commission present and voting to ratify its recommendation of approval of the Application that occurred on October 24, 2022; and

**NOW, THEREFORE, BE IT RESOLVED THAT** the Planning Commission does hereby ratify its recommendation of approval of the CIP that occurred on October 24, 2022 subject to the following finding:

That the 2023-2027 CIP is consistent with the 2040 Comprehensive Plan

Passed and duly adopted this 14<sup>th</sup> day of November, 2022 by the Planning Commission of the City of Lake Elmo, Minnesota.

\_\_\_\_\_  
Kyle Risner, Planning Commission Chair

ATTEST:

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Julie Johnson, City Clerk