



STAFF REPORT

DATE: 11/28/22

REGULAR

ITEM#: 4a – PUBLIC HEARING

MOTION

TO: Planning Commission
FROM: Ben Hetzel, Lake Elmo City Planner
AGENDA ITEM: Upper 33rd Street N Conditional Use Permit Request
REVIEWED BY: Sophia Jensen, Code Enforcement Official

INTRODUCTION:

Henry Elgersma of Upper 33rd LLC recently submitted a conditional use permit application to construct a four unit townhome building at the properties described as Lots 10 and 11, Block 2, Subdivision of Lake Elmo Park. (PIDs 1302921320051 and 1302921320052). The Village Mixed Use Zoning District requires a conditional use permit for all new residential uses. The existing vacant lots are located along Upper 33rd Street N to the west of Lake Elmo Avenue N in the Old Village. The applicant has also submitted a lot consolidation application to combine lots 10 and 11. Administrative approval of a consolidation is required since the properties are existing platted lots.

History

Lot 11 was originally platted as lots 11, 12, and half of 13 in the early 1900s. Since the original platting, lots 11, 12, and half of 13 were consolidated into one lot, now known as lot 11. Lot 10 has remained untouched.

ISSUE BEFORE PLANNING COMMISSION:

The Planning Commission is being asked to hold a public hearing, review, and make a recommendation on the requests to approve a conditional use permit amendment to construct a four unit townhome building.

REQUEST DETAILS/ANALYSIS:

<i>Applicants:</i>	Henry Elgersma
<i>Property Owner:</i>	Upper 33 rd Street LLC
<i>Location:</i>	Lots 10 and 11, Block 2, Subdivision of Lake Elmo Park
<i>Request:</i>	Conditional Use Permit for a four unit townhome building.
<i>Site Area:</i>	0.4 total acres
<i>Existing Land Use:</i>	Vacant
<i>Existing Zoning:</i>	Village Mixed Use (VMX)
<i>Surrounding:</i>	Rural Single Family – North, West, East
<i>Comprehensive Plan:</i>	Village Mixed Use (VMX)

<i>Deadline for Action:</i>	Application Complete – 11/8/22 60 Day Deadline – 1/8/23 Extension Letter – NA
<i>Regulations:</i>	Article XIII Village Districts Article VIII Environmental Performance Standards Article VII, Section 105.12.420 Off-Street Parking

Proposal

The applicant is proposing a total of four units in the single family attached dwelling structure. All four units will be located on a contiguous lot surrounded by existing single family residential uses. The building has a mixture of 1-1/2 and 2 story units and has a footprint of approximately 5,700 square feet with varying unit sizes. Each unit has a total of three bedrooms and a rear facing attached two car garage. A driveway is proposed off of Upper 33rd Street N along the west property line and would wrap around to access the rear facing attached garages. The provided landscape plan depicts a 6 foot privacy fence along the north property line along with trees and 3 foot tall gabions to provide screening from Upper 33rd Street N.

Village Mixed-Use Zoning District Description

This district is intended to continue the traditional mixed-use development that has occurred in the Old Village by allowing retail, service, office, civic and public uses as well as residential units. The mixture of land uses within the district is essential to establishing the level of vitality and intensity needed to support retail and service uses. Development within areas zoned VMX will occur at a density of 5 - 10 units per acre. Senior congregate care facilities may exceed this density maximum with a range not to exceed a total of 16 units per acre, provided the facility can satisfy all zoning and applicable conditional use permit review criteria. The placement of building edges and treatment of building, parking, landscaping, and pedestrian spaces is essential to creating the pedestrian friendly environment envisioned for the VMX district.

Comprehensive Plan

The subject property is located within the Old Village District of the Village Planning Area. The Old Village carries the nostalgic history and character of the City. In turn, vitality of the Old Village Main Street is dependent upon enough households supporting the existing businesses and desired businesses along Main Street.

The 2040 Comprehensive Plan indicates that the future plan for the Old Village is to enhance and preserve the historic character of Main Street. There is an opportunity to fill existing gaps with similarly sized and scaled buildings that are supportive and consistent with the architectural charm of existing buildings.

Density

The total site area equals 0.4 acres. The allowable density within the Village Mixed-Use district is a range of 5-10 units per acre. This proposal would meet the minimum and maximum density with a calculation of 10 units per acre.

VMX Lot Dimensions and Building Bulk Requirements

	Required	Proposed
<i>Minimum Lot Area (Square Feet)</i>	3,000 per unit	17,424 total
<i>Minimum Lot Width</i>	25 ft per unit	175 ft total
<i>Max Impervious Coverage</i>	75 percent	66.8 percent
<i>Front Yard Setback</i>	25 ft	25 ft
<i>Rear Yard Setback</i>	10 ft	25.8 ft
<i>Side Yard Setback</i>	10 ft	32.3ft and 16.7 ft
<i>Driveway Setback (side lot line)</i>	5 ft	5 ft

The applicant is proposing a retaining wall that abuts the west and north property lines. According to Section 105.12.200 if the Lake Elmo City Code, walls six feet in height or less may encroach into side and rear yard setbacks. However, the City Engineer has indicated that the applicant must establish drainage and utility easements along the side and rear property lines. The retaining wall and portion of driveway may not encroach within these easements. The applicant will be required to provide updated plans showing the requested easements and that they are free of encroachments.

Off-Street Parking Requirements

The off-street parking requirements of the Lake Elmo City Code require one parking space per one bedroom unit and two spaces per two bedroom unit or larger for single-family attached dwellings. An additional ten percent of parking spaces shall also be required for visitor parking. The architectural plans show that the proposal will meet the bedroom parking space requirement by providing each residential unit an attached two car garage. Currently, the plans do not show visitor parking.

The Lake Elmo City Code does have a provision to waive the parking requirements in the VMX zoning district recognizing the availability of on-street and shared parking facilities. Due to the inability to park along Upper 33rd Street N, staff does not recommend waiving the parking requirements for this proposal. The applicant should be required to revise the plans to show adequate visitor parking spaces.

Development Standards

Development of land within the village districts shall follow established standards for specific uses. The following standards apply to single family attached dwellings.

- a) The primary entrance to each unit shall be located on the facade fronting a public street. ***The proposal shows a primary entrance facing Upper 33rd Street N for each unit.***
- b) Common open space for use by all residents or private open space adjacent to each other shall be provided. Such open space shall comprise of a minimum of 300 square feet in the V-HDR and VMX, and 500 square feet per unit in the V-MDR. ***The total amount of open space required for four units is 1,200 square feet. The provided site plan shows 2,950 square feet of open space.***

- c) Unless otherwise specified in this article, single family attached dwellings in the VMX and V-MDR shall adhere to the MDR district setbacks. *Article XIII Village Districts lists specific setbacks for the VMX district. The proposal meets the required setbacks of the VMX district.*

Stormwater Management

The proposal includes an underground storm water infiltration chamber to mitigate 100% of the required rate and volume control. The applicant has not provided soil boring data to determine the feasibility of infiltration on the site. This data will be a requirement for an acceptable stormwater management plan.

REVIEW COMMENTS

City Engineer

1. Final Construction Plans must be prepared in accordance with the Engineering and Design Standards Manual, dated January 2022.
2. Upper 33rd Street N does not meet the minimum city standards for road width and right of way width.
3. No on street parking is allowed along Upper 33rd Street N. Parking must be kept internal to the site.
4. No sidewalk or trail currently exists along Upper 33rd Street due to the narrow roadway.
5. A 10-ft drainage and utility easement should be provided along the property frontage. Minimum lot easements should be included along the side and rear property lines as well.
6. The proposed retaining walls along the west and rear property lines should be a minimum of 5 ft from property lines and outside all lot easements.
7. Revise the existing conditions plan to show a minimum distance of 150 ft outside the property boundary in all directions.
8. The project is subject to a stormwater management plan. Post construction discharge rates and volumes must be equal or less than pre-existing discharge rates.
9. No storm sewer calculations have been provided to demonstrate the available capacity in the City storm sewer system at this location.
10. Soil borings are required to determine the feasibility of infiltration on site.
11. The stormwater facilities shall remain privately owned and maintained. A stormwater maintenance and easement agreement will be required. A Homeowner's association would be required to provide for ongoing ownership and maintenance.
12. Municipal water supply is available to the site.
13. Sanitary sewer service is available to the site.

Fire Department (Memo dated 10/31/22)

1. The fire sprinkler system shall be installed compliant with provisions of 2016 NFPA Standard 13D, Installation of Sprinkler Systems in One- and Two-Family Dwellings or IRC P2904. City permit required prior to initiation of work.
2. Building address numbers shall be plainly visible from the street fronting the property and shall be a contrasting color from the background. Size and placement of address numbers shall be approved by the fire and planning departments.

RECOMMENDED CONDITIONAL USE FINDINGS

Conditional use means a land use or development as defined by ordinance that would not be

appropriate generally but may be allowed with appropriate restrictions as provided by official controls only upon a finding that all of the following provisions are met. Staff recommends 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 is already zoned in conformance with the intent of the Old Village District of the Village Planning Area and the Village Mixed Use zoning district.***
3. The use or development is compatible with the existing neighborhood. ***The proposed use is compatible with the existing single family residential in the neighborhood. The design of the proposed structure is consistent with the surrounding area in terms of building height, building materials, colors, and variations of pitched roofs.***
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 single family attached dwellings set forth in LEC 105.12.820(a)(3).***
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 within a Shoreland Management District or a Floodplain Management zone.***
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 design of the proposed structure is designed to be compatible with the height, colors, and building materials of the surrounding area.***
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.***
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 residential use will not produce excessive noise, fumes, glare, or odors. The addition of four dwelling units should not create excessive traffic along 33rd Street N especially with the restriction of on street parking. Any future expansion of 33rd Street N to the west will further improve traffic circulation.

11. Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares. ***The proposed structure will not create traffic congestion or interfere with traffic on surrounding public thoroughfares. Four additional residential units should not create congestion. The rear facing garages and singular access creates for a safer vehicle access onto Upper 33rd Street N by eliminating the need to back out into a public street.***
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.***

FISCAL IMPACT:

None

RECOMMENDED CONDITIONS OF APPROVAL:

1. The applicant must obtain all other necessary City, State, and other governing body permits and approvals prior to the commencement of any construction activity onsite.
2. All recommendations in the City Engineer's memorandum dated 11/15/22 shall be met prior to any construction activity.
3. All recommendations provided by the City's Landscape Architect shall be met prior to any construction activity.
4. All conditions in the Fire Chief's memorandum dated 11/8/22 must be met prior to any construction activity.
5. The applicant shall provide the City with recorded documents from Washington County which effectuate the required lot consolidation prior to any construction activity.
6. The applicant must receive an approved address from Washington County prior to any construction activity.
7. The applicant shall provide one additional off-street parking space for visitor parking as per Lake Elmo City Code.
8. An encroachment agreement is required for fencing located in the required drainage and utility easements prior to any construction activity. A fence permit is also required regardless of the location of the fencing.
9. If the applicant has not taken action toward starting the townhouse structure or if substantial construction has not taken place within 12 months of the City's approval of the conditional use permit, the CUP approval shall become void. The applicant may request City Council approval of a time extension to start or implement the conditional use permit.

PUBLIC COMMENT:

A public hearing notice was sent to surrounding property owners on November 16, 2022 and published in the Stillwater Gazette on November 18, 2022. Staff has received one public comment that was against the request.

Susan Dunn at 11018 Upper 33rd Street N provided comment to staff in opposition of the proposal. The reason being, is that the proposed single family attached use is inappropriate for this area.

OPTIONS:

The Planning Commission may:

- Recommend approval of the requests.
- Recommend approval of the requests with conditions.
- Recommend denial of the requests, citing findings of fact for denial.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the conditional use permit amendment to construct a four unit townhome building.

“Move to recommend approval of a conditional use permit to allow the construction of a four unit townhome building at the properties described as Lots 10 and 11, Block 2, Subdivision of Lake Elmo Park.”

ATTACHMENTS:

- 1) Land Use Applications
- 2) Written Statements
- 3) Location Map
- 4) Civil Plans
- 5) Architectural Plans
- 6) City Engineer Email Dated 11/15/22
- 7) Fire Department Memo dated 11/8/22