

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, January 11, 2016 at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Election of Officers
 - a. The Planning commission is required to elect a Chairperson, Vice Chairperson and Secretary for 2016.
3. Approve Agenda
4. Approve Minutes
 - a. November 23, 2015
 - b. December 14, 2015
5. Public Hearings
 - a. INTERIM USE PERMIT APPLICATION: A request has been made from Danielle Hecker to permit a commercial wedding ceremony venue as an accessory use to their residence at 11658 50th Street N. This property is zoned RR and the PID is 01.029.21.43.0002.
 - b. VARIANCE: A Request from IRET Properties for a 5' height and 4' width variance from the Eagle Point Business Park Planned Unit Development Agreement to permit a 35' high, 16' wide pylon sign at 5807 Hudson Blvd, High Point Health Campus. The property is Zoned (PUD) and the PID is 33.029.21.44.007.
 - c. ZONING TEXT AMENDMENT: A request by the City of Lake Elmo for an Ordinance Amendment to exempt Essential Services from PF-Public or Semi Public Zoning District, Lot Dimensional, Buffering and Architectural and Site Plan submittal requirements.
 - d. ZONING MAP AMENDMENT: A request by the City of Lake Elmo to rezone a RR- Rural Residential parcel to the PF – Public or Semi Public Zoning District. PID 21.029.21.31.0002.
 - e. ORDINANCE AMENDMENT: A request by the City of Lake Elmo for an Ordinance Amendment to the Animal Ordinance as it pertains to the keeping of Pigeons.
 - f. ORDINANCE AMENDMENT: A request by the City of Lake Elmo for an Ordinance Amendment to the Weapons Ordinance as it pertains to Hunting.

6. Business Items

a.

7. Updates

a. City Council Updates – December 15, 2015 Meeting

i. CUP Amendment – Oakdale Gun Club – Approved.

ii. Preliminary Plat Extension – Reider – Approved.

iii. ZTA – Uses in Rural Districts – Repeal uses that were added in 2013.

b. City Council Updates – January 5, 2016 Meeting

i. Update on Status of BRT - verbal

ii. Open Space Development to move to workshop.

c. Staff Updates

i. Upcoming Meetings:

- January 25, 2016

- February 8, 2016

d. Commission Concerns

8. Adjourn



**City of Lake Elmo
Planning Commission Meeting
Minutes of November 23, 2015**

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

COMMISSIONERS PRESENT: Dodson, Dorschner, Haggard, Dunn, Kreimer and Williams.

COMMISSIONERS ABSENT: Griffin, Larson & Fields

STAFF PRESENT: City Planner Stephen Wensman

Approve Agenda:

The agenda was accepted as presented.

Approve Minutes: October 26, 2015

M/S/P: Dorschner/Williams move to approve minutes as amended, ***Vote: 5-0, motion carried unanimously.***

The Commission would like to see greater clarity when there is an amendment to an original motion. There should be no vote attached to the original motion, but should be a statement that the original motion passed with the amendment.

Public Hearing – Conditional Use Permit Amendment – Oakdale Gun Club

Planner Wensman started his presentation explaining the CUP Amendment. Since the original CUP has been put into place, there have been numerous amendments to it. This CUP amendment is asking to construct (2) 8X8 trap shelters. There has been an increase in high school trap shooting and the demand at the range has increased. There is no plan to replace the airgun range that is being displaced by this new trap range.

Staff looked at the 5 criteria for approving a CUP and staff found that only one might be applicable. That would be affecting the surrounding properties. Staff found that this is not a significant change, so there would be little additional impact. Staff felt that the conditions have been met and is recommending approval. Staff had 2 conditions to recommend for approval. The first is a hangover from the last amendment, which is to provide an accurate drawing of the gun range. Staff would like the Commission to decide if what they have provided is sufficient or if something more detailed should be provided. The second would be to limit the time frame for usage. Staff is recommending from Jan 1 – March 14, no use. From March 15 – June 15, both ranges

can be used, but hours of operation should be limited to 3pm – half hour before sunset. June 16- August 31st, no use. Sept 1 – Nov 30th for high school competition. They can designate 6 weeks when both ranges may be used for competitions. Dec 1- Dec 31st, no use.

Haggard is wondering if buses transport the students and if there are a number of high schools that come at the same time.

Williams is wondering if the other time frames should also have operation hours. He would also like the business hours clarified to hours of operation.

Dodson asked why there is a limit to high school students. Wensman stated that it is what they are asking for.

Kreimer asked who received notice on this public hearing. Wensman stated that notice was mailed 750 feet as well as the notice in the paper.

The gun club representative stated that they currently have 1500 members. Dorschner asked if there were any leagues. They stated that there are no leagues. Tartan High School is the only High School that currently trap shoots there. Other High Schools would like to, but they are not able to accommodate them.

Williams asked if it would be a problem to restrict the trap shooting operation from 3pm – half hour before sunset in the fall as well. The trap representative would like the hours to be the same as the overall gun club.

Kreimer asked if there were any opportunities for noise abatement. The representative stated that they will be removing and replanting trees for noise.

Williams asked what the gun club would prefer as far as hours of operation. The representative stated that they would like the same hours of operation as the rest of the gun club.

Public Hearing opened at 7:33 pm.

There was no written or electronic correspondence.

Public Hearing closed at 7:34 pm.

M/S/P: Williams/Haggard move to Recommend approval of the Conditional Use Permit amendment for the Oakdale Gun Club with the following conditions 1) that the Gun Club will submit and updated and accurate site plan and 2) all operations of the Gun Club shall begin no earlier than 9:00 am on the weekends, **Vote: 3-3, motion failed.**

M/S/P: Dorschner/Dodson move to Strike the change of the opening time of 9:00 am from the original motion, **Vote: 3-3, motion failed.**

Haggard would like to see additional notification for surrounding residents because this is an expansion with noise impact.

M/S/P: Dunn/ move to approve the Conditional Use Permit for the Oakdale Gun Club with 2 conditions 1) provide an accurate drawing of the gun range and 2) the 2nd and 3rd limit the time frame for usage. From March 15 – June 15, both ranges can be used, but hours of operation should be limited to noon – half hour before sunset. Sept 1 – Nov 30th for high school competition. They can designate 6 weeks when both ranges may be used for competitions. **Motion fails for lack of 2nd.**

Kreimer would like to see something in the “Fresh” for when this goes to City Council. It will reach more people than just the people within 700 feet.

M/S/P: Kreimer/Dunn, move to approve the Conditional Use Permit amendment for the Oakdale Gun Club with 2 conditions 1) provide an accurate and updated site plan that accurately (to scale) identifies all buildings, ranges, fences, driveway and other site improvements for City review and 2) limit the time frame for usage. January 1st through March 14th, no use is authorized. From March 15 – June 15, both ranges can be used, but hours of operation shall be limited to 2pm – half hour before sunset. Sept 1 – Nov 30th use shall be limited to high school teams and high school competitions. Hours of operation shall be limited to 2pm – half hour before sunset. The Gun Club can designate a 6 week period when both ranges may be used for competitions. Additionally, both ranges can be used on weekends for matches 8 am – half hour before sunset. December 1st through December 31st, no use is authorized. Additionally, there will be notification in the “Fresh” prior to this going to Council.

M/S/P: Williams/Dorschner, move to amend the existing motion to remove condition number 2 as written, meaning that the new lanes are available for use during normal hours of operation of the Gun Club. **Vote: 5-1, motion passed.**

M/S/P: Dodson/Dorschner, move to amend the original motion to strike condition number 1 to require an accurate site plan because the ariel view is adequate to meet the previous requirement. **Vote: 6-0, motion passed.**

Williams does not support the amendment because he feels that what was provided is not to scale. He doesn't feel it needs to be a survey, but should be more accurate with dimensions. The Gun Club presented Planner Wensman with a survey, so condition number 1 is met.

Original motion with amendments passed, **Vote: 5-1**. With amendments, the original motion became “move to recommend approval of the Conditional Use Permit amendment for Oakdale Gun Club to allow 2 new trap ranges to be available for use during normal hours of operation at the Gun Club. Additionally, notification will be in the “fresh” prior to this going to Council.”

Public Hearing – ZTA Permitted, Conditional and Interim Uses in Rural Districts

Planner Wensman started his presentation and went over what he found during his research regarding this topic. Staff is bringing forward for discussion the permitted, Conditional and Interim uses that were added to the code in 2013. These items include secondary dwelling, cemetery, commercial kennels and stables, golf courses, restricted recreation and agricultural sales businesses in the rural districts.

Williams stated that in November the Planning Commission recommended to change the definition for cemetery to remove mortuary and crematory.

Public Hearing Opened at 8:30 pm.

Rich Day, 11049 50th Street, would like the Planning Commission to delete Cemetery as a permitted use in the zones of Ag & RR due to the fact it is already allowed as a conditional use in PF.

Saxe Roberts, 11165 50th Street, would also like the cemetery use deleted from AG & RR zoning.

Jeff Saffle, 11180 50th Street, feels the placement of the cemetery is even less desirable as more homes are being built.

Written correspondence was received from Margaret Schmidt, 4525 Lake Elmo Ave, would also like the use of cemetery to be deleted from the AG & RR zone.

Public Hearing closed at 8:33 pm.

Dunn stated that she feels the conditional. Permitted and interim uses that were added in 2013 do not belong in AG & RR. She feels that they should be recinded.

There was discussion regarding the secondary dwelling. There was concern about the phrase “within a detached structure”. It was recommended to delete that last section.

M/S/P: Dodson/Williams, move to amend the definition of secondary dwelling to remove “or within a detached structure”. **Vote: 5-1, motion passed.**

M/S/P: Dodson/Williams, move to add secondary dwelling to rural residential. **Vote: 5-1, motion passed.**

M/S/P: Dorschner/, move to add secondary dwelling to Rural Single Family. **Motion fails for lack of 2nd.**

M/S/P: Dorschner/, move to add secondary dwelling to Rural Estates. **Motion fails for lack of 2nd.**

M/S/P: Haggard/Dunn, move to remove cemetery as a use in all rural areas and keep it in only the public facilities zone.

M/S/P: Williams/Kreimer, move to amend the motion to change the definition of cemeteries to "Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbariums and mausoleums, when operated in conjunction with and within the boundaries of such cemetery." **Vote: 6-0, motion passed.**

Original motion removing cemetery as a use in all rural districts along with the cemetery definition amendment, **Vote: 6-0, motion passed.**

There was a general discussion regarding commercial kennels. The Commission generally felt that there were not enough standards in place. Planner Wensman stated that the Commission could put standards in. He explained that if there are standards, that sets out the minimum very clearly. With a CUP, you can put additional conditions on things that might be problematic.

M/S/P: Williams/Kreimer, move to remove commercial kennel from RT and RR, but leave in AG as a conditional use. **Vote: 5-1, motion passed.**

Dunn is concerned that the number of horses is not called out specifically. Others felt it was addressed in the general code of animals. Wensman stated that 1 horse is allowed per 2 grazeable acres. There was a general discussion and consideration if it would be covered under CUP. The Commission decided to leave commercial stable as a CUP in AG.

Based on the definition, Haggard doesn't feel that restricted recreation fits with the Comprehensive Plan.

M/S/P: Dunn/Haggard, move to remove restricted recreation from AG. **Vote: 6-0, motion passed.**

The Commission felt that the Agricultural Sales Business should remain as an interim use for RT, AG and RR.

M/S/P: Williams/Dorschner, move to recommend that the City Council approve the changes to the Permitted, conditional and interim uses as discussed by the Planning Commission.

M/S/P: Haggard/Dodson, move to amend the motion to have the staff look at putting stronger standards in for commercial kennels and commercial stables. **Vote: 6-0, motion passed.**

Original motion to recommend that the City Council approve the changes recommended by the planning Commission for the rural areas, including the amendment to look at standards for commercial kennels and stables, **Vote: 6-0, motion passed.**

Council Updates – November 17, 2015 Meeting

1. Hammes Plat Extension – Passed.

Staff Updates

1. Upcoming Meetings
 - a. December 14, 2015
2. There was a question regarding pigeons. Would Commission like to look at standards. Yes.

Commission Concerns

Dunn was wondering if the Airport issue came to the Planning Commission. Dodson stated that it was more of an informative discussion.

Dunn would like to try to figure out how we can notify more people as we change and grow.

Williams received a letter from Matt Barring regarding the bus rapid transit and the fact that there is a number of inaccuracies in it. Williams would also like Public Hearing to be listed in the “Fresh” instead of a link to Commission Agendas. Haggard is wondering if it might be helpful to add the zoning district that is affected.

Haggard asked about the building standards for homes built by the airport or railroad tracks. She would like to see something in the HOA documents with a sound disclosure.

Kriemer is wondering if something can be put in with the storm water bill regarding the “fresh” so that more people sign up and get information.

Meeting adjourned at 10:05 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant

DRAFT



**City of Lake Elmo
Planning Commission Meeting
Minutes of December 14, 2015**

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

COMMISSIONERS PRESENT: Dodson, Dorschner, Haggard, Fields, Kreimer, Larson, Dunn and Williams.

COMMISSIONERS ABSENT: Griffin

STAFF PRESENT: City Planner Stephen Wensman & Interim Administrator Schroeder

Approve Agenda:

The agenda was accepted as presented.

Approve Minutes: October 26, 2015

M/S/P: Dorschner/Williams move to approve minutes as amended, ***Vote: 5-0, motion carried unanimously.***

Public Hearing – Conditional Use Permit and Zoning Map Amendment – Arbor Glen Senior Living

City Planner Wensman started his presentation regarding the Conditional Use Permit request from Arbor Glen Senior living to construct a facility on property located at Lake Elmo Ave and 39th Street. The proposed 2 story building will include 84 units with memory care on the main level and assisted and independent living on the 1st and 2nd floors. The application also includes a request for a zoning map amendment to change the zoning of the site from GB (general Business) to VMX (Village Mixed Use – sewer). Staff recommends a continuation of this public hearing because the density of this project exceeds 5-10 units per acre. Staff is suggesting a Comprehensive Plan amendment to change the density for this type of facility in the VMX zoning.

There are 24 units of memory care that are not considered as housing units. There are 49 underground parking spaces and 46 above ground that would be used for staff, assisted living residents and visitors. Access is off of 39th Street and there is a trail that connects from Wildflower and Village Preserve and connects to 39th Street. The proposal complies with the Cities design standards manual. The City will require a tree preservation plan, but it would appear that they will exceed the code for landscaping.

When County Road 17 is widened, it will decrease the setback from County 17. It will make the facility even closer to a County Road. The Engineer for the project stated that he spoke to Ann Pung-Terwedo at Washington County, and according to her when the street is widened, the trail still would be outside the Counties required clear zone.

Wensman stated that the applicant is proposing a monument sign in 2 locations as well as a wall sign. At this time, there is no sign plan application, so that will need to be reviewed when that is submitted.

Williams asked about the impervious surface calculation. Wensman stated that he did not review that. Williams asked if the Cities landscape architect has reviewed the landscape plan. Wensman stated that he is a certified landscape architect and he feels it is a good plan. Williams stated that the Cities contract landscape architect should be used per code. Interim Administrator Schroeder stated the Wensman is a licensed landscaped architect and based on the limited scope of this project, he is qualified to do the review.

Haggard asked if there is a definition of congregate housing in the code. Wensman stated that there is a definition in the code.

Dorschner thinks the parking seems rather low for this size of facility. Wensman stated that the number actually exceeds what is required by code. Dodson stated that the concern would be on Holidays or high visitor days that there would not be parking in the street.

The applicant stated that there are 31 independent residents and the employees would use the underground parking. The applicant stated that they feel confident that the 46 outside stalls would be more than enough to accommodate the parking.

Susan Farr, Ebenezer, stated that they run numerous of these buildings, and this amount of parking is more than adequate. In some of their facilities, there are even fewer parking stalls and they do not have problems. The only day that gets busy is Mother's Day, and they are still able to accommodate.

Dunn feels that memory care should be counted as a unit as that person is still living there. She also wants to know what kind of precedent that this would set for future VMX. Dunn asked if the residents will require more EMS or 911 calls. Farr stated that with medical staff on hand, they are usually staying ahead of the 911 calls, whereas the elderly living in the community would be the ones making the 911 calls. Dunn also asked what the WAC & SAC determinations would be for the facility. Would it be 84 or would it drop down to 60? Wensman stated that it is a quasi of commercial and residential. The applicant stated that the WAC & SAC determination is approximately 50.

Dunn stated that she is concerned that the City Engineer stated that the underground parking would require a variance as it is only 2 feet about the flood plain and that is a concern.

Haggard asked about the building height. She thought the height in the VMX district was 35 feet.

Kreimer is wondering about the additional drainage that is going to the Village Preserve. Wensman stated that there is excess capacity to the North and this was actually suggested by the City Engineer. The applicant stated that VBWD is also in favor of this drainage plan.

Williams asked why the number of units is so high and does not comply with the code. The applicant stated that there is a sweet spot in density to make the project feasible which is around 80 units. This density is necessary to provide the services that are required to have a mix of resident types.

Haggard asked if there was additional land available that they could purchase to comply with the City Code. The applicant stated that there is open land available for possible expansion, but this is the amount of land the owner wanted to allocate for this project.

Williams asked about the impervious surface calculations. The applicants engineer stated that they have impervious surface of 51 %, greenspace of 51% and ponding of 5%.

Dodson asked if there was a market study that showed there was an area of need here. The applicant stated that there was one done last summer and it did show the need.

Williams asked the engineer regarding the landscaping between the trail and clear zone for the increase on Lake Elmo Ave. He is wondering if the trees are located in the clear zone. Applicant stated that they are not in the 25 foot clear zone and that they are part of the overall landscaping plan.

Public Hearing opened at 8:06 pm.

There was no written or electronic correspondence.

M/S/P: Williams/Fields move to continue the public hearing to the January 25, 2016 Planning Commission meeting and request a letter from the applicant confirming this,
Vote: 7-0, motion passed.

Williams is concerned about how the comprehensive plan amendment will be worded. He would like to see the City consider it from the City's perspective and not the applicants.

Haggard feels that changing the zoning from Commercial to VMX is not appropriate because it changes the lot line setbacks. She thinks the setback is too close to Lake Elmo Avenue for such a large structure. She does not agree with increasing density when the met council has reduced the density. She feels there is other land available adjoining this and that they should try to get more land to comply.

Haggard is concerned about what will happen when the next property goes to develop if we change the density.

Larson stated that the senior living might have higher density, but there won't be the intense use. They will use our businesses downtown as well.

Dunn is concerned about a comp plan amendment and changes in the densities. If we do this will it change it in all of VMX? Williams stated it was for a certain type of housing unit. He is concerned about making any type of exception. Dunn is concerned that if we change it for one applicant, the next applicant could ask for a change as well. Wensman stated that it would apply to senior congregate living only. Dodson thinks there should be a new definition that applies only to senior congregate living as there are other types of congregate housing.

Dorschner is supportive of this type of housing. He is a little concerned about the size of the lot and impervious, but not the density.

Haggard feels that this is almost double what the density is and she feels that the City should get something in return.

Fields thinks that we need to look at the Village model and see how this project fits in. If it isn't VMX than it is commercial. He feels this property is slated for a more dense project vs. something with rural character. He doesn't feel that the greater density is a detriment to the village area. He just wants to make sure that this doesn't create a loophole for others to do more dense things.

Kreimer stated that while he would like to see it on more acreage and be less dense, but given the cost of land and to run a facility like this, he is ok with it. Since it is senior living and the vehicle trips will not be as intense as if it was an apartment building.

Dodson is in favor of the project based on the same comments as Kreimer and Williams. He just wants the City to be careful that there are no unexpected consequences if we change the density.

Haggard asked about the tree preservation plan. Wensman stated that the applicant has met the intent of the plan, but the City can require something more formal. The

Planning Commission would like to require a written plan. The applicant stated that they have the data as part of their survey and can easily provide it as a narrative.

Haggard would like feedback on how the density will be written and if there will be another definition for this type of facility. She does not want to see a precedent so that an apartment unit or something else can come in.

Williams would like to see a draft Comprehensive Plan amendment at the first meeting in January so that the Commission can see if that is the direction they want to go.

Interim Administrator talked about the current language of the letters of credit for the developers. Currently the way it is written, there is no reduction until all record plans are submitted to the City. The staff has been working on looking at language to propose that developers can request a 50% decrease for the security.

Council Updates – December 1, 2015 Meeting

1. Reider Preliminary Plat Extension – Tabled to the Dec 15th meeting.
2. Inwood Development Contract Addendum – approved.

Staff Updates

1. Upcoming Meetings
 - a. January 25, 2016
 - b. February 8, 2016
2. Update regarding a driveway access on Legion Ave.
3. Code enforcement on 50th Street – 2 homes on 1 lot.
4. Rural districts zoning amendment is moving forward, but they are removing the recommendation for removing cemetery on advice of the City attorney.
5. The County is asking for info regarding how we do minor lot splits. They are requesting a graphic with a lot shown as it is easier for the County to process.
6. State building code has changed for fire code and in essence cannot have building closer together than 7 feet including overhang. If it is closer, there needs to be specific things for fire protection. We might want to look at the setbacks in future if building code doesn't change.
7. Verizon is proposing a cell tower in VFW park in exchange for the pole.
8. Auto Owners is ready to submit building permit application.
9. Ben Gozola is working on the OP Ordinance.
10. Wensman has been working on the pigeon ordinance.
11. Wensman has also been working on the hunting ordinance.
12. 3M is still in negotiations for the sale of Tartan Park and they are not willing to disclose the potential purchaser.
13. The City Council will be voting 1/5/16 on the gateway corridor on alignment.

Commission Concerns

Dodson received a call regarding the lighting in the Hans Hagen development. Wensman stated that he talked to the City Engineer and the fixtures are not in compliance with the City's lighting ordinance. They are waiting for Xcel Energy to change the fixtures to the appropriate ones. Wensman also stated that there is another development that has the correct fixtures but the wrong poles and those also will be fixed.

Dorschner is wondering where we are at about getting experts in for information regarding the septic. Schroeder stated that he has sent out a notice to the City Council to get approval for the speaker fee of \$1500. He has heard back from one Council member that would be in favor of spending the fee. Williams would be concerned that someone from the U of M might not have the regulatory background and experience regarding these systems. Fields stated that Universities typically are good at design but not the operations. He thought it would be interesting if we could find someone who deals with the problems that come up and what have they done to solve these problems.

Meeting adjourned at 9:22 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant



PLANNING COMMISSION
DATE: 1/11/2016
AGENDA ITEM: 5a – PUBLIC HEARING
CASE #2015-39

City of Lake Elmo Planning Department
Interim Use Permit Request: Commercial Wedding Ceremony Venue

To: **Planning Commission**
From: **Stephen Wensman, City Planner**
Meeting Date: **January 11, 2016**
Applicant: **Danielle Hecker**
Owner: **Daniel & Danielle Hecker**
Zoning: **RR (Rural Residential)**

Suggested Order of Business

- Introduction..... Planning Staff
- Report by Staff..... Planning Staff
- Questions from the Commission..... Chair & Commission Members
- Open the Public HearingChair
- Continue the Public Hearing to the
February 8, 2016 meeting dateChair
- Discussion by the Commission Chair & Commission Members

Introductory Information

<i>Requested Permit:</i>	The applicant is requesting a 10 year Interim Use Permit to establish a commercial wedding ceremony venue at 11658 50 th Street North. The applicant has requested the public hearing be continued to the February 8, 2016 Planning Commission meeting date, so that an amendment to the Commercial Wedding Ceremony Venue can be prepared to allow a third ceremony per week.
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<i>Application Summary:</i>	The requested interim use would allow a commercial wedding ceremony venue to be established on this rural residential property. This application follows the approval of an ordinance making commercial wedding ceremony venues an accessory interim use
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in the RT, A, and RR zoning districts with development standards approved in May, 2014.

The application details include the following:

Type of business: Commercial wedding ceremony venue.

On-Site Activity: wedding ceremonies within a renovated barn & temporary structures with turf parking.

Employees: 3-4 part time (estimated).

Proposed number of guests: Up to 200.

Use Frequency: 3 times per week, maximum, from May through October with a maximum 3 hour duration for any single ceremony.

Hours of operation: 10 am – 10 pm.

Attachments: Section 154.310 Standards for Accessory Use.
Applications submittal: Written Statement, Proposal letter, Site Plan and Exterior Illustrations.
City Engineer Memo dated December 7, 2015.

Findings & General Site Overview

Site Data: Lot Size: 10 acres
Existing Use: Residential
Existing Zoning: RR - Rural Residential
Property Identification Number (PID): 01.029.21.43.0002

The proposal site is the farmstead of the 200 acre Goetschl Farm which was constructed in 1912. In 2010, the applicant and her husband purchased ten acres containing the farmstead and the remainder was sold to a developer in 2013. Since purchasing the homestead, the applicant has renovated the home, removed 5 dilapidated sheds and 3 grain silos. The barn and grainery will be completely renovated as part of this proposal to accommodate the wedding ceremony venue. This property is adjacent to the potential future Legends of Lake Elmo OP development.

Proposal Review: The applicant is requesting a ten year Interim Use Permit because of the significant financial investment required to bring the site and buildings up to Code for public gatherings. The proposal will have a negative return on investment for the first five years and to get financing, a period of ten years is needed.

Minimum Criteria:

Under the ordinance, commercial wedding ceremony venues are an interim accessory use in the RR – Rural Residential zoning district on parcels greater than ten acres if meeting the following criteria:

- 1) The site was historically used as a farmstead for the surrounding agricultural land
- 2) The use will incorporate a barn or other historical agriculture building over 75 years of age for the wedding ceremonies.

The application meets the criteria for a commercial wedding ceremony venue because it has ten acres, it was the historic farmstead form the surrounding agricultural land, and the proposal incorporates the uses the farmstead's historic barn (Historic is not meant to mean it has a MN State historic designation status).

Noise:

The applicant will be purchasing a sound system for the venue and will cap the volume at 115dB. The applicant will enforce noise restrictions with the contractual agreement with customers and through use of posted signs. A planted tree barrier will also mitigate noise along the north boundary.

Traffic:

The applicant proposes to employ an attendant for each venue to direct traffic and to organize entering and exiting traffic. There is adequate distance between the parking area and 50th Street N for queuing of exiting traffic. The applicant will provide signs to direct and slow traffic on site and is proposing to post temporary directional signs in the right-of-way on either side of their driveway to direct guests to the driveway.

Sanitary Facilities:

The applicant is proposing to use rented sanitation facilities (port-a-potties) to with permanent wooden screens to be located adjacent an existing shed indicated on the site plan.

Temporary Structures:

The applicant is proposing to hold wedding venue activities within the barn structure and in temporary tent structures. The temporary structures would be erected and taken down within 72 hours of a scheduled event. Location of the temporary structures are not shown on the site plan. The performance standards for commercial wedding venues requires all outdoor activities to be 300 feet from residential property lines. The temporary structures will need to comply with the 300 feet requirement.

Parking and Access:

The proposal is to utilize the existing +/- 12' wide gravel driveway off of 50th Street N and to construct a new gravel driveway branching off of it that follows the east and north perimeter of the lot with the destination being a turf parking area large enough to hold roughly 66 cars. The performance standards for commercial wedding venues requires parking to be 100' from residential property lines. The proposed grass parking is 11'-4" from the north residential property line. Additionally, Section 154.210, General Regulations, of the Lake Elmo City Code requires:

“...a parking surface that is “durable including, but not limited to, hot asphalt, bituminous, or concrete” and “head in parking along property lines shall provide a bumper curb” Accessible parking stalls are also required.

The turf parking does not meet the setbacks, curbing, surfacing, and accessibility requirements. Although, this proposal is an accessory commercial use, the intent of the ordinance is to keep the rural feel of the zoning district. It may be unreasonable to require a paved parking area for the use. An alternative may be to require reinforced turf or some other method to ensure cars do not get stuck when the soils are wet, and to minimize damage to turf and resulting erosion. Because of public safety concerns, Staff is recommending an 18’ wide gravel drive with a 45’ turnaround with a 7 ton design standard to accommodate emergency vehicle access. An alternative to the 45’ turnaround could be a 2nd access to the future residential development to the north and east. The accessible parking stalls will be required to be a durable surface, signed as handicapped parking, and an accessible path connecting the parking to the buildings and restroom facilities.

Lighting:

No site lighting has been proposed, but the applicant has stated that they will comply with city lighting regulations.

Buffering:

The applicant has proposed a row of deciduous trees along the north property line to screen views and to mitigate noise, and to create a separation between the turf parking and the property to the north.

Required Findings:

In order for the City Council to approve the interim use permit, the following six findings must be met:

- 1) The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.
- 2) The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community. *The site is located on a collector road, the site is surrounded by large lot residential and agriculture to the north (future proposed Legends Development).*
- 3) The use will not adversely impact implementation of the Comprehensive Plan. *The improvements respect the rural/agricultural nature of the area and zoning district. The use is accessory to the principle residential use.*
- 4) The date or event that will terminate the use is identified with certainty. The applicant has specified in the application materials that the use will terminate once the property is sold or developed under future zoning. *Staff is recommending a termination date of ten years from the date of approval.*

- 5) The applicant has signed a consent agreement agreeing that the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the interim use permit as well as agreeing that the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future. *A consent agreement will need to be approved by the City Council as a condition of approval.*
- 6) The user agrees to all conditions that the City Council deems appropriate for permission of the use including the requirement of appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit. *This item can also be addressed as part of a consent agreement with the City.*
- 7) There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.

Recommendation:

Conditions:

Based on a review of the applicable code sections, Staff is recommending that the Planning Commission recommend approval of the interim use permit based on the following:

- 1) That noise from ceremony events be capped at 115dB.
- 2) That a parking attendant be on site to assist with cars arriving and exiting the site for each wedding ceremony event.
- 3) That the wedding ceremony venue maintain a contract to supply and maintain temporary sanitary facilities while in operation and that at least one temporary sanitary facility be handicapped accessible.
- 4) That the site plan be revised identifying the location of temporary structures complying with the setback of 300 feet from residential property and 400 feet from neighboring homes.
- 5) That the site plan be revised to comply with the parking the 100 foot setback from residential property lines, 200 feet from neighboring homes.
- 6) That the landscaped buffer on the north property line be comprised of a double row of coniferous trees with each row spaced a minimum of 16' on center.
- 7) That the access driveway be 18' wide and designed to a 7 ton standard to accommodate emergency service vehicles.
- 8) That a 45' wide turnaround be constructed to a 7 ton standard and shown on the site plan, or provide a secondary access when the property develops to the north and east to accommodate emergency service vehicles.
- 9) That an erosion control plan be submitted and approved by the city engineer prior to approval issuance of the interim use permit.
- 10) That a 40' street right-of-way be granted to the city for 50th Street N.

-
- 11) That the approval be contingent on complying with the Valley Branch Watershed District permit.
 - 12) The accessible parking stalls be comprised of a durable material, approved by the city engineer, and signed as handicapped parking with an accessible path connecting to the buildings and restrooms.
 - 13) That the applicant maintain compliance with all applicable City Code standards for the duration of the interim use.
 - 14) That any delinquent property taxes, special assessments, interest, or city utility fees be paid prior to City Council approval.
 - 15) That the applicant enters into a consent agreement with the City in accordance with Section 154.107 of the City Code.
 - 16) That the interim use is valid for a period of ten years and must be renewed by the City Council prior to the end of this time period in order to continue operating from the site.
 - 17) That the interim use will terminate when any portion of the property is rezoned or when public sanitary sewer is provided to the site.

I.U.P

1. Complete: Land Use Form.

2. Written Statements:

a. Owner of Record

Daniel & Danielle Hecker
11658 50th St N, Lake Elmo MN
(612) 327-8561

a. Surveyor

Paul Johnson
12510 McKusick Rd. N
Stillwater, MN 55082
(651) 303-0025

a. Designer

Roger Tomten
Tomten Environmental Design
333 N. Main St., Ste. 201
Stillwater, MN 55082
[\(651\) 303-3275](tel:6513033275)

b. Address

11658 50th N, Lake Elmo MN
Rural Residential
10 acres
PID: 0102921430002

Legal Description: That part of the west half of the Southeast quarter of section 1, Township 29, Range 21, except the South 1725 feet of the east 505 feet thereof, Washington county, MN described as follows: Beginning at the southwest corner of said South 1725 feet of the East. 505 feet of the west half of the Southeast quarter; thence north 00 degrees, 21 minutes, 51 seconds west, Washington county coordinate system NAD B.

c. History

The Goetschl Farm, as recognized by many among the community, was built in 1912 and encompassed 200 acres. The land and outbuildings (barn, grainery, 3 silos, 2 pole sheds, corn bin, and 8 storage sheds) supported a large agricultural operation of dairy and crop farming until 2007. In 2010, the Hecker's became the 2nd owners of the property, purchasing the homestead and 10 acres with the remaining 190 acres being sold to a developer in 2013. In the past five years, we have completely renovated the home, removed 5 sheds that were in disrepair, and 3 silos. This proposed use is being sought to aide in the preservation and renovation of the farmstead outbuildings (Dairy barn and grainery). Without a newly defined use, the structures would fall further into disrepair and potentially disappear from the landscape. No intensive regrading of the site is proposed in order to retain the farmstead character.

d. Proposed Use

- i. Proposal Letter: See attachment (2.d.i)
- ii. Consent Agreement: See attachment (2.d.ii)

e. Justification of Use

- i. Ordinance NO. 08 - 107. Commercial Wedding Ceremony Venues allowable in RT, A, and RR.
- ii. Precautionary measures to mitigate disturbance to neighboring property owners.

1. Noise*

- a. Owner will purchase sound system for venue use. This enables the owner to “cap” the volume and limit the sound decibel to 115dB.
- b. Owner will enforce noise regulation in the contractual agreement with the customer.
- c. Owner will plant a tree barrier on North boundary to help mitigate noise for future development.

2. Traffic*

- a. Owner will employ and staff a minimum of 1 attendant per each event to direct traffic. This will control and organize the flow of vehicles as they enter, park, and exit the venue.
- b. Traffic queuing will form in our driveway for entry/exit. The distance between the parking lot and entry/exit is approximately 1200 feet, which will encourage a safe, steady flow of vehicles regulated by a SLOW posted speed limit. This “waiting line” will be monitored by the attendant upon departure to mitigate congestion on 50th.
- c. Traffic metering by means of the attendant is a contingency plan if queuing isn't sufficient enough for manageable distribution.
- d. Owner will post temporary signs indicating distance to driveway to mitigate turn-around traffic (1-hr prior, both directions of drive-way).

*Owner will post signs to mitigate speed, encourage caution for crossway, and enforce noise regulation.



3. Unsightliness

- a. Portable, rented sanitation facilities will have a temporary structure built to minimize the visual appearance.

- b. Parking areas will remain grass and driveways will remain gravel (class 5) in lieu of blacktop or other impervious surfaces.
 - iii. The use is in-line with the comprehensive plan and supports:
 1. Preservation of rural lands
 2. Enhancement of community's rural sense of place
 - iv. Not applicable - Primary residence, structures are existing.
 - v. There are no delinquent property taxes, special assessments, interest, or City utility fees due (See Washington County records).
 - vi. Applicant is requesting interim use permit expiration date of 2025.
3. Tax record for verification of ownership (See attachment 3).
 4. Address Labels (See attachment 4).
 5. Survey (See attachment 5).
 6. Landscape Plan (See attachment 6).
 7. Architectural plans (See attachment 7).
 8. Utilities & Service Plans.
 - a. Sanitary Sewers: N/A. Operator to contract for rented temporary sanitation facilities. Waste would be managed weekly by the professionally hired company.
 - b. Storm Sewers: Operator is not planning to do any intensive grading to parking area. The proposed grassy parking lot promotes the conveyance of storm water at a slower, controlled rate and acts as a filter medium removing pollutants and allowing stormwater infiltration. Currently, natural ditch formations efficiently transport the water. Catch-dams will be evaluated upon relocation of granery to mitigate any potential soil erosion with a civil engineer.
 - c. Water, gas lines, telephone lines, fire hydrants are not applicable.
 - d. Trash receptacles will be placed by the sanitation facilities and inside of the barn venue.
 9. Electronic Files (See attachment 9).

Proposal Letter: #2.d.i.

The interim use would allow for wedding ceremonies (no receptions) to take place at the property located at 11658 50th St. N, Lake Elmo MN. This use provides a suitable and economically viable option to support the preservation and renovation of a historic barn structure and grainery.

In order to begin operations, the buildings (barn and grainery) will require major renovations to bring them up to current code for public gatherings. The financial investment required is estimated to have a negative ROI for the first five seasons under the assumption of a 75% fill rate. Considering this analysis, I am requesting the interim use permit expiration date of 2025 (10 years; 2016 partial year) and fully understand that violation of any ordinance restrictions is subject to review and/or permit suspension.

Event specifications:

- a. The number of guests would be set at a maximum capacity of 200 persons.
- b. Ceremonies would be a maximum of twice per calendar week.
- c. Employees are estimated to be 3-4 part-time positions. These positions would include responsibilities specific to traffic and security, cleaning & maintenance and event coordination.
- d. Operating hours would be allowable from 10AM until 10PM with all guests and staff vacating by 10PM.
- e. 2 portable, flushable on-site sanitation facilities will be provided. A wooden enclosure would be constructed to screen the facilities from neighboring properties and minimize unsightliness.
- f. Lighting to comply with Section 150.035 of the City Code
- g. Sound system will be purchased by Operator and capped at 115dB.
- h. Temporary structures or tents to be used in association with the planned events will be erected no more than one day prior to an event and must be removed no more than 72 hours following an event.
- i. Signage will include: Residential quiet zone; no honking; speed limit; and trash receptacles.
- j. Security/Traffic attendants will be staffed for duration of each event.
- k. Trash receptacles will be adequately provided in each structure and at sanitation facilities (adjacent to parking lot).
- l. Traffic Management Plan
- m. Sufficient liability coverage would be obtained/maintained before the start of operation.

SCOPE OF PHASE ONE EXTERIOR REMODELING WORK ON EXISTING BARN:

SCOPE OF WORK;

THE WORK WILL BE DONE IN PHASES AND PRIORITIZED TO PRESERVE THE LONGEVITY OF THE STRUCTURE. THE LIST BELOW IS IN NO PARTICULAR ORDER AND WILL BE REFINED AS EACH PHASE IS DEFINED.

- REPLACE ROOF
- PATCH AND REPAIR
- NORTH ELEVATION;
 - PROVIDE HANDICAPPED ACCESSIBLE ENTRY, CODE COMPLIANT EXITING AND GREETING AREA
- WEST ELEVATION;
 - PROVIDE CODE COMPLIANT EXITING AS REQUIRED
- SOUTH ELEVATION;
 - INSTALL DAYLIGHTING / WINDOWS
 - INSTALL SLIDING BARN DOOR STYLE SHUTTERS
- EAST ELEVATION;
 - PROVIDE CODE COMPLIANT EXITING AS REQUIRED
- REPLACE DETERIORATED AND BROKEN TRIM, WINDOWS AND SIDING AS REQUIRED
- PATCH TO MATCH AS CLOSELY AS POSSIBLE, SIDING IN AREAS WHERE ADJACENT CONSTRUCTION WAS REMOVED
- INSTALL GUTTER AND DOWNSPOUT SYSTEM TO PROVIDE DRAINAGE AWAY FROM FOUNDATION OF BUILDING
- TUCK POINT EXISTING STONE FOUNDATION AS REQUIRED



EXISTING BARN VIEWED FROM NORTHWEST



EXISTING BARN VIEWED FROM SOUTHEAST



PROPOSED BARN VIEWED FROM NORTHWEST
ADDED NORTH ENTRY, DECK/PATIO WITH HANDICAPPED ACCESS



PROPOSED BARN VIEWED FROM SOUTHEAST
SIDING IMPROVEMENTS TO REMEDY REMOVED ACCESSORY STRUCTURES



HISTORIC PHOTO OF DAIRY BARN UNDER CONSTRUCTION



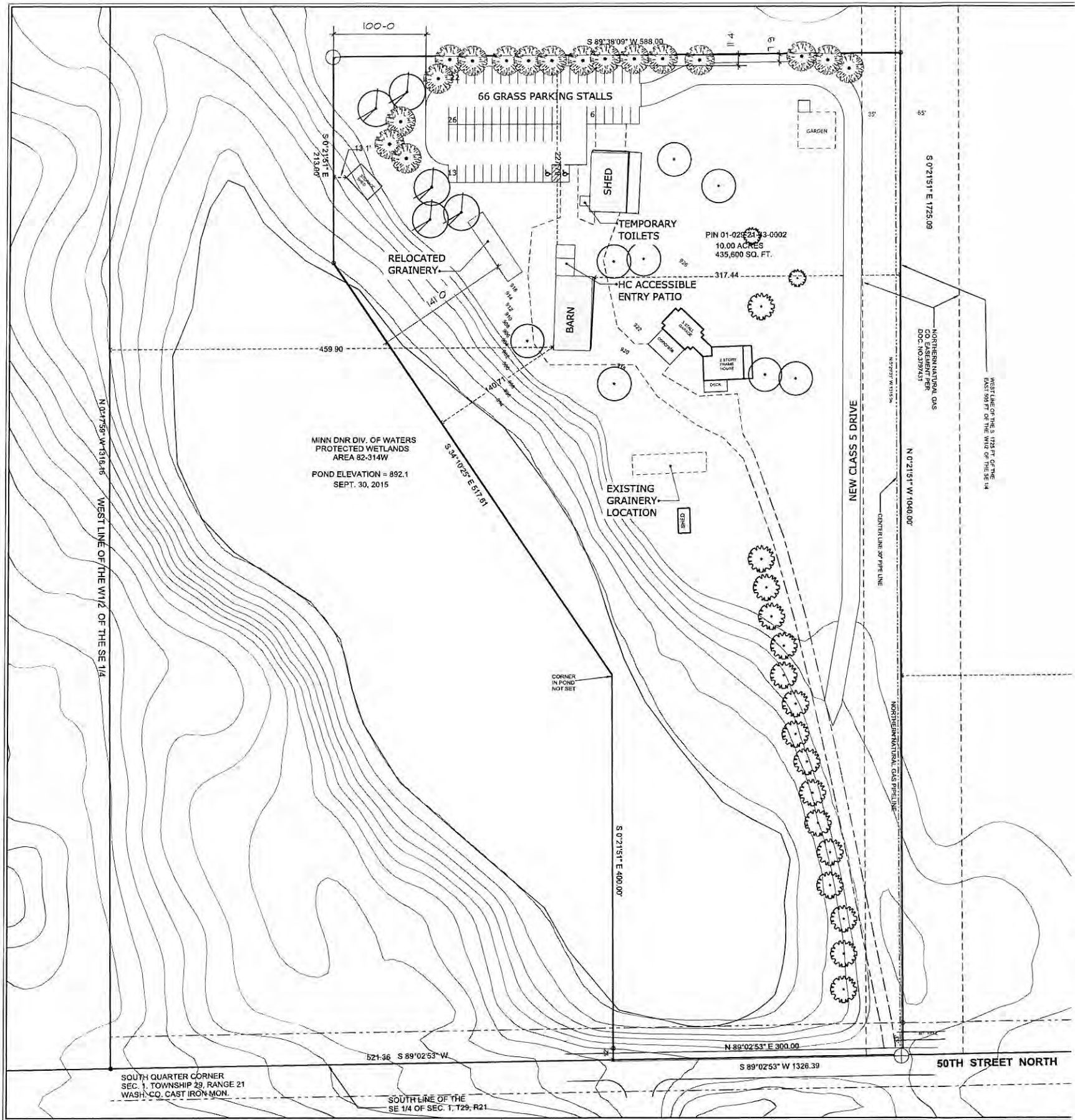
PROPOSED BARN VIEWED FROM SOUTHEAST
BARN DOORS OPENED TO EXPOSE NEW WINDOWS ON SOUTH ELEVATION

TOMTEN
ENVIRONMENTAL
DESIGN
333 North Main Street, Suite 201
St. Paul, MN 55102
651.303.3275
tosten@tosten.com

ALTERATIONS TO THE PROPERTY OF;
DANIELLE HECKER
11658 50TH STREET NORTH
LAKE ELMO, MN 55042
612-327-8561

Revisions	
Item	Date

Sheet Information	
BARN RENOVATION	
Project No:	Drawing No:
Drawn By: RLT	A1
Checked By:	
Date: 11-04-15	



PLANT SCHEDULE				
OVERSTORY DECIDUOUS TREES				
QTY.	COMMON NAME	BOTANIC NAME	SIZE	COMMENTS
	River Birch	Betula nigra	2 1/2" Cal.	
	Red Maple	Acer rubrum		
5				
CONIFEROUS TREES				
	White Pine	Pinus strobus	1 1/2" Cal.	
	White Spruce	Picea glauca		
	White Cedar, arborvitae	Thuja occidentalis		
	Red Pine	Pinus resinosa		
17				
22	TOTAL TREES			

EXISTING TREES

PARKING
TYP. STALL SIZE: 9'x18'
DRIVE AISLES: 24'
2 HANDICAPPED STALLS PROVIDED

TOMTEN
ENVIRONMENTAL
DESIGN
303 North Main Street, Suite 201
Stillwater, MN 55082
851.303.3275

ALTERATIONS TO THE PROPERTY OF;
DANIELLE HECKER
11658 50TH STREET NORTH
LAKE ELMO, MN 55042
612-327-8561

Revisions	
Item	Date

Sheet Information	
SITE LANDSCAPING PLAN	
Project No:	Drawing No:
Drawn By: RLT	L1
Checked By:	
Date: 11-04-15	

SURVEY INFORMATION PROVIDED BY:
PJ LAND SURVEYING, LLC
12510 MCKUSICK ROAD NORTH
STILLWATER, MN 55082
651-303-0025

1 SITE PLAN /
LANDSCAPING PLAN
Scale: 1" = 30'-0"



MEMORANDUM

FOCUS ENGINEERING, inc.

Cara Geheren, P.E.	651.300.4261
Jack Griffin, P.E.	651.300.4264
Ryan Stempski, P.E.	651.300.4267
Chad Isakson, P.E.	651.300.4285

Date: December 7, 2015

To: Stephen Wensman, City	Re: Commercial Wedding Ceremony Venue
Cc: Planner Ben Gozola, Senior Planner, Sambatek	IUP Plan Review
From: Jack Griffin, P.E., City Engineer	

Engineering has reviewed the Commercial Wedding Venue Site Plan. The submittal consisted of the following documentation prepared by Tomten Environmental Design:

- Site Plan, dated November 4, 2015.
- IUP Application.

STATUS/FINDINGS: Engineering has prepared the following comments for consideration.

1. 50th Street access management. As a commercial driveway to the Wedding Venue access spacing requirements are not met with respect to the proposed Legends development. Safety along 50th Street must be appropriately managed along the entire corridor as opportunities arise. With the potential Legends development adjacent to this site, adequate access management spacing must be managed between the two proposals. It is recommended that the existing farm parcel (Hecker) be required to connect its driveway to the new roadway internal to the Legends development to eliminate the commercial driveway access to 50th Street N. This is required to meet current access spacing guidelines should the Hecker parcel become a commercial use. It also appears that this can be accomplished without requiring the commercial use driveway traffic to route through the residential neighborhood by requiring the driveway connection close to 50th Street.
2. 50th Street Pedestrian facilities: A bituminous trail should be incorporated along the north boulevard of 50th Street N. to improve pedestrian safety and work toward future trail connectivity. Segments of a bituminous trail currently exist along 50th Street N. alternating from the north to south side of the road. As traffic continues to increase on 50th Street N. it is critical for the City to create a continuous bituminous trail along the north side of 50th Street, from Old TH5 to Lake Elmo Avenue. The applicant should be required to dedicate the necessary R/W (if necessary) and construct a trail segment across the applicant's property.
3. Commercial driveway requirements. The proposed commercial driveway should be a minimum of 18 feet in width and be designed as a 7-ton roadway. The driveway should be able to accommodate a turnaround with a minimum 45-foot radius or have secondary access. The intersection at 50th Street N. if allowed to remain, should be reconstructed at 90-degrees to improve sight lines.
4. Stormwater Management & Erosion Control. If approved, the applicant must submit an erosion control plan to be reviewed and approved by the City. The application should also provide the total area of disturbance, and total area of new impervious surface to determine if a stormwater management plan is required.
5. Fire Safety. Should watermain be required for fire suppression, engineering will need to review and comment on watermain facilities and easement requirements interior to the site.

- D. *Commercial Wedding Ceremony Venue.* A commercial wedding venue is allowed as an accessory use with an interim use permit in the A – Agriculture, RT – Rural Transitional, and RR-Rural Residential zoning districts on parcels greater than 10 acres in size. The establishment of a Commercial Wedding Venue on RR parcels is limited to those sites meeting the following criteria: 1) the site has historically been used as a farmstead for the surrounding agricultural land; and 2) the use will incorporate a barn or other historical agricultural building over 75 years of age for the wedding ceremonies.

The suitability of a parcel for a wedding venue shall be determined by the characteristics of the site and by the unique capacity of the parcel to accommodate the use while preserving the essential rural character of the neighborhood and the site on which the use is located, by the ability of the parcel to accommodate the use without negative impact on the general health, safety, and welfare of the community, and by other factors the City may deem appropriate for consideration. The use must adhere to the following standards:

1. *Ownership.* The property will be the primary residence of the venue operator(s). The operator must be on the premises for the duration of each event.
2. *Maximum Number of Guests.* The maximum number of guests is limited to 200 for each event.
3. *Food and Beverages.* The serving of food and beverages is permitted only as part of the ceremony.
4. *Seasonal Operation.* Ceremonies are limited to no more than twice per week and are permitted only during the months of May through October.
5. *Hours of Operation.* Events shall only be allowed between the hours of 10:00 a.m. and 10:00 p.m. All guests and staff must vacate the premises by 10:00 p.m. All lights associated with the event must be turned off by 10:00 p.m. Any one ceremony is limited to a maximum duration of three (3) hours.
6. *Overnight Accommodations.* No overnight accommodations are allowed.
7. *Off-Street Parking.* Off-street parking shall be required in the ratio of one (1) parking space for each three attendees based on the maximum number of attendees planned for the site. The off-street parking area and the number of parking spaces shall be documented on the required site plan.
8. *Setbacks.* The minimum setbacks from neighboring houses and property lines for the various activities associated with the wedding venue shall be as follows:
 - i. *Parking:* 100 feet from residential property lines; 200 feet from neighboring houses.
 - ii. *Outdoor Activity Spaces:* 300 feet from residential property lines; 400 feet from neighboring houses.
 - iii. *Indoor Activity Spaces:* 300 feet from residential property lines; 400 feet from neighboring houses.
9. *Landscaping/Screening.* Landscaping may be required to buffer the use from adjacent land uses and to provide screening when such screening does not

presently exist on the site. A landscape plan shall be submitted at the time of application for an Interim Use Permit.

10. *Grading.* Any proposed grading shall observe all requirements of Section 151.017 of the City Code. If a grading plan is required, it shall be submitted in conjunction with an application for an Interim Use Permit.
11. *Traffic.* A transportation management plan shall be submitted as part of an application for an Interim Use Permit. The plan shall address traffic control, including traffic movement to the public street system and impact on the surrounding roadways.
12. *Structures.* All existing or proposed structures to be used for the wedding ceremony venue shall be inspected by the City's Building Official and must meet applicable Building Code requirements.
 - i. *Temporary Structures.* Temporary Structures, including tents and canopies, may be allowed. Tents and canopies may be erected no more than (1) day prior to an event and must be removed no more than 72 hours following the event.
13. *Application.* An application for a commercial wedding venue shall follow the application and review procedures for an Interim Use Permit as specified in Section 154.107. In addition to the submission requirements of Section 154.107, an application for a commercial wedding venue shall include the following information:
 - i. The expected number of attendees per ceremony;
 - ii. The number of ceremonies per year;
 - iii. The number of employees;
 - iv. The hours of operation;
 - v. Sanitary facilities;
 - vi. Lighting;
 - vii. Sound amplification to be used and a plan to minimize any amplified sounds;
 - viii. Temporary structures or tents to be used in association with the planned events;
 - ix. Signage;
 - x. Security to be provided;
 - xi. Location of all trash receptacles;
 - xii. Traffic management plan;
 - xiii. Other documentation as specified herein;
14. *Sanitary Facilities.* Sanitary facilities adequate for the number of attendees shall be provided. Portable toilets may be approved for temporary use, and must be

screened from view from roads and neighboring properties by landscaping or a wooden enclosure. No portable toilets shall be located closer than 400 feet from a neighboring residential structure.

15. *Lighting.* Lighting associated with the wedding venue shall be limited to downcast and shielded fixtures so that the source of the light is not visible from adjacent roads or neighboring properties. Lighting shall comply with Section 150.035 of the City Code.
16. *Noise.* All wedding venues shall comply with City's noise standards found in Section 130.45 through 130.48 of the City Code.
17. *Sound Amplification.* Amplification of music and participants and is allowed only in conjunction with a wedding ceremony. There shall be no other amplification of music or sound outside of the ceremony.
18. *Waste.* All solid waste must be stored in a manner that prevents the propagation, harborage, or attraction of flies, rodents, or other nuisance conditions and must be removed at least once every seven days by a licensed solid waste hauler.
19. *Liability.* The applicant shall secure adequate liability coverage, which shall be in place at least one week prior to any event.
20. *Other Activities.* Other than the commercial wedding ceremonies authorized under this section, no other commercial ceremonial activities may be conducted on the site.

(Ord. 08-080, passed 5-21-2013)

(Ord. 08-107, passed 5-6-2014)



PLANNING COMMISSION
DATE: 1/11/15
AGENDA ITEM: 5b – PUBLIC HEARING
CASE # 2015-40

ITEM: Sign Variance – IRET Properties, 8650 Hudson Blvd
SUBMITTED BY: Stephen Wensman, City Planner
REVIEWED BY: Joan Ziertman

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to hold a public hearing to consider a request from IRET properties for a variance to allow a 35-foot high, 16-foot wide pylon sign. The maximum pylon sign height for the subject property according to the Eagle Point Business Park Exterior Sign Design Agreement is 30-foot high and 12-foot wide. Staff is recommending that the Planning Commission recommend approval of the variance request based on the findings listed in the Staff Report with the following motion:

“Move to recommend approval of the 5 foot height and 4 foot width variance request at 8650 Hudson Blvd. to allow for a 35-foot high, 16-foot wide pylon sign at the High Pointe Medical Campus based on the findings identified in the Staff Report.”

GENERAL INFORMATION

Applicant: IRET Properties, 10050 Crosstown Circle, Suite 105, Eden Prairie, MN 55344
Property Owners: IRET Properties, 1400 31st Ave SW, Suite 60, Minot ND 58702
Location: 8650 Hudson Blvd, Lake Elmo
PID Number: 33.029.21.44.0007
Request: Variance – 5’ height and 4’ width variance from the pylon sign regulations of the Eagle Point Business Park Exterior Sign Design Agreement
Existing Land Use: Medical Facilities
Existing Zoning: BP – Business Park
Surrounding Land Use: Medical Offices, Auto Body Repair, Offices
Surrounding Zoning: BP – Business Park
Comprehensive Plan: Business Park
Proposed Zoning: No Change
History: The subject property was platted as part of the Eagle Point Business Park Planned Unit Development.

<i>Deadline for Action:</i>	Application Complete – 12/1/15 60 Day Deadline – 1/30/16 Extension Letter Mailed – No 120 Day Deadline – 3/30/16
<i>Applicable Regulations:</i>	Eagle Park Business Park PUD Agreement 154.109 – Variances (Administration and Enforcement)

REQUEST DETAILS

The City of Lake Elmo has received a request from IRET Properties for a variance to allow a pylon sign that exceeds the maximum height and width allowed under the Eagle Park Business Park PUD Agreement. Under the Agreement, the maximum height and width for a pylon sign in this location would be 30-foot high and 12 foot wide feet. The applicant is requesting a 5-foot height and 4-foot width variance from the PUD Agreement to allow a 35-foot high and 16-foot wide pylon.

The applicant has provided a written statement to the City indicating the reason for the variance request. The written statement includes a narrative addressing how the proposed variance meets the four required findings to grant a variance under the City's Zoning Code and State Statute.

BACKGROUND

The subject property is located in the southeastern corner of the Eagle Point Business Park, east of Inwood Avenue (CSAH 13) and Eagle Point Boulevard. The attached Exhibit B highlights the location of the parcel and its proposed pylon sign location. The parcel was platted as part of the Eagle Point Business Park and is 10.46 acres in size. The subject property and surrounding properties are zoned BP – Business Park. In terms of land use, the surrounding properties are mostly comprised of offices and other commercial uses with the exception of a collision shop.

In terms of the physical characteristics of the property, the site is irregularly shaped with frontage on Hudson Boulevard, but with two other businesses, the Park Dental and Crossroads Collision carved into their Hudson Boulevard frontage. The High Point Health building is a 3-story brick building that sits up high toward the rear of the lot with the parking to its east side and entrance at the southeast corner of the building. The entrance drive curves behind the Crossroads Collision to Hudson Boulevard. The proposed pylon locations is on a vacant/undeveloped portion of the frontage between the Crossroads Collision and Park Dental. The location is the best location for providing visibility from Interstate 94, as it is the portion of the site where Hudson Boulevard runs parallel to the Interstate. Other signs for the High Point Medical Facility include a large wall sign that faces south and a small monument sign where the entrance drive meets Hudson Boulevard. The building is a multi-tenant building and site lacks signs depicting building tenants.

PLANNING AND ZONING ISSUES

In reviewing the applicable codes and planning considerations that apply to the subject property, Staff would like the Planning Commission to consider the following as it reviews this request:

- **The Eagle Point Business PUD Agreement.** According to the sign design regulations in the agreement, the text references a 25-foot height, whereas the text below the graphic depiction

of the pylon sign states, “approximately 30’ high x 12’ wide. Furthermore, the staff prepared summary of the Eagle Point Development Standards states:

“Sign Height: Businesses can have signage on the building and a monument sign at the property’s entrance, and that a pylon sign must be approved on a case by case basis by the City.”

- The only other pylon sign in the “locality” is a non-conforming pylon sign for Crossroads Collision. Further down the road to the east is one other pylon signs for Lamperts Lumber which is a much larger non-conforming sign.
- **Site Topography/Visibility.** As noted in the application, the building was one of the first to be constructed in the Eagle Point Business Park, and as other buildings have been constructed, some along the frontage, it has become increasingly difficult to find the businesses in the facility. Visibility is poor from Hudson Road and even more so from Interstate 94.
- **Regulatory Ambiguity.** As noted earlier, the Eagle Park Business Park PUD Agreement is somewhat ambiguous. The written text associated with the signs references a 25-foot height, whereas the graphic uses the term, “approximately 30-foot”. To further complicate the matter, a staff’s summary of the agreement states, “case by case” for pylon signs. This ambiguity has caused internal interpretation issues. When first presented with this proposal, Nick Johnson, the City Planner, stated that in an email to the applicant that the 35-foot pylon sign height, “will work”. Later, when Nick left the city, Kyle Klatt, the Development Director, denied the application. Based on the denial, present staff requested that applicant apply for a variance.
- **Regulatory Delays.** This process started on January 14, 2015 with an initial discussion with Nick Johnson the former City Planner. A formal sign permit application was made on July 23, 2015 which was denied by the Development Director on September 2, 2015. On November 6, 2015, the applicant discussed the process with the new City Planner and a variance application was submitted on December 1, 2015.

REVIEW AND ANALYSIS

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. 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.

Under this standard, the City would need to find that the placement of the proposed accessory structure in the proposed location is a reasonable use of the property.

FINDINGS: Increasing the allowed height from 30-foot to 35-foot and the width from 12-foot to 16-foot for a pylon sign represents a reasonable use of the property. The property is zoned Business Park and is surrounded by other commercial uses. A larger nonconforming pylon sign exists adjacent to the site. Visibility to the site is difficult and identification of the multiple tenants is also reasonable. The variance is in keeping with the intent of the City's sign ordinance; to foster high quality commercial and industrial development and to enhance economic development of existing businesses and industries by promoting reasonable, orderly, attractive and effective signs that meet the need for business identification, advertising and communication. Staff determines that this criterion is met.

- 2) **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

In order to demonstrate compliance with this standard, the Planning Commission would need to identify those aspects of the applicant's property that would not pertain to other properties within the same zoning classification.

FINDINGS: The site, lot layout, and the poor visibility from Hudson Boulevard and Interstate 94 are unique and not circumstances created by the landowner. The Crossroads Collision and Park Dental buildings sit in front of the High Point Health facility limiting visibility. The facility sits to the rear of the site, the flat buildable area, leaving little physical presence on the Hudson Boulevard frontage. The restrictive sign design guidelines were created by the developer and approved by the City of Lake Elmo, not the current land owner/applicant. Staff determines that this criterion is met.

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

Propose findings for this criterion are as follows:

FINDINGS. The location of the property and surrounding properties are within the Business Park, or are Commercial zoning. There exists one other pylon sign within the locality, and others beyond that are larger and are noncompliant with the City's sign ordinance. The Eagle Point Business Park Agreement does allow a pylon sign. Staff determines that this criterion is met.

- 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.

Propose findings for this criterion are as follows:

FINDINGS. The proposed variance will not impair an adequate supply of light and air to any properties adjacent to the proposed pylon sign site. The proposed pylon sign is located on an undeveloped portion of the applicant's lot. The presence of the sign will not present additional congestion on public streets, or substantially diminish or impair property values within the neighborhood. Staff determines that this criterion is met.

Please note that the applicant has also provided a set of findings as part of the attached narrative and supporting documentation included with the application.

Considering the potential findings of fact as suggested in the preceding section, Staff is recommending that the Planning Commission recommend approval of the variance request based on the findings noted in items 1-4 above.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the variance request submitted by IRET Properties given that the request meets the four criteria for a variance.

The suggested motion for taking action on the Staff recommendation is as follows:

“Move to recommend approval of the 5 foot height and 4 foot width variance request at 8650 Hudson Blvd. to allow for a 35-foot high, 16-foot wide pylon sign at the High Pointe Medical Campus based on the findings identified in the Staff Report.”

ATTACHMENTS:

1. Written Statement
 2. Exhibits C–H to Written Statement
 3. Site Survey
 4. Adjacent Pylon photos
 5. Letters of Support
 6. Eagle Point Development Standards
-

ORDER OF BUSINESS:

- IntroductionCommunity Development Director
- Report by Staff City Planner
- Questions from the Commission Chair & Commission Members
- Open the Public HearingChair
- Close the Public Hearing.....Chair
- Discussion by the Commission Chair & Commission Members
- Action by the Commission Chair & Commission Members



December 1, 2015

Mr. Stephen Wensman
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, Minnesota 55042

Re: Land Use Application – Variance; High Pointe Medical Campus

Dear Mr. Wensman:

Enclosed please find the following:

1. Land Use Application – Variance
 - a. Exhibit A to application – property location and legal description
 - b. Exhibit B to application – detailed reason for request, with Exhibits
 - c. Exhibit C to application – practical difficulties related to application
2. Non-refundable fee in the amount of \$750.00 for processing the application
3. Written Statements (a-i as defined in the application) with the Exhibits A-H attached
4. Verification of ownership; title insurance commitment from Stewart Title
5. Certified list of property owners located within 350' of the property and certified by a licensed abstractor; provided by Commercial Partners Title
6. Property survey:
 - a. Ten (10) 11x17 copies
 - b. One (1) full size copy

Please contact me if you have any questions about this application.

Sincerely,

A handwritten signature in black ink that reads 'Dawn Grant'.

Dawn Grant, CCIM, CPM, RPA
Director of Commercial Asset Management

Enclosures

Cc: Mayor Pearson

Date Received: _____
Received By: _____
Permit #: _____



651-747-3900
3800 Lavene Avenue North
Lake Elmo, MN 55042

LAND USE APPLICATION

- ☐ Comprehensive Plan ☐ Zoning District Amend ☐ Zoning Text Amend ☒ Variance*(see below) ☐ Zoning Appeal
- ☐ Conditional Use Permit (C.U.P.) ☐ Flood Plain C.U.P. ☐ Interim Use Permit (I.U.P.) ☐ Excavating/Grading
- ☐ Lot Line Adjustment ☐ Minor Subdivision ☐ Residential Subdivision Sketch/Concept Plan
- ☐ PUD Concept Plan ☐ PUD Preliminary Plan ☐ PUD Final Plan

Applicant: IRET Properties, a North Dakota Limited Partnership
Address: 10050 Crosstown Circle, Suite 105, Eden Prairie, MN 55344
Phone #: 952-401-4831
Email Address: dgrant@iret.com

Fee Owner: IRET Properties, a North Dakota Limited Partnership
Address: 140031st Avenue Southwest, Suite 60, Minot, ND 58702
Phone #: 952-401-4831
Email Address: dgrant@iret.com

Property Location (Address and Complete (long) Legal Description): See attached Exhibit A

Detailed Reason for Request: See attached Exhibit B

*Variance Requests: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the applicant must demonstrate practical difficulties before a variance can be granted. The practical difficulties related to this application are as follows:
See attached Exhibit C

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: Dawn M. Grant Date: 12/1/15
Dawn M. Grant
Director of Commercial Asset Management

Signature of fee owner: Charles A. Greenberg Date: 12/1/15
Charles A. Greenberg
Senior Vice President

VARIANCE PROCEDURE¹ FOR THE CITY OF LAKE ELMO

The Lake Elmo City Code was established to protect both current and future residents from the negative impacts of improper development and to ensure a positive future for the city. A variance request is the mechanism that allows the City Council to determine whether a project deviating from code should be permitted. In order to successfully receive a variance, there are a number of steps that must be followed:

1. Contact city staff to discuss your proposed variance and obtain a land use application form from City Hall.
2. Put together an informational packet (described herein) that outlines your request and outlines all reasons as to why the variance should be granted.
3. Submit your completed packet to staff by the applicable due date for review. Staff will examine your information to determine if the application is complete, and contact you if additional information is required or was omitted. It is to your advantage to submit your materials as early as possible so staff can assist you in meeting all requirements. Applications found to be incomplete will be returned to the applicant.²
4. Staff will address completed applications by requesting comments from partnering agencies, scheduling meetings, writing reports, and noticing a public hearing.
5. The Planning Commission will hold the scheduled public hearing (2nd or 4th Monday of the month³); and will forward recommendations to the City Council for consideration (1st or 3rd Tuesday of the month³). Applicants are advised to attend both the commission and Council meetings and be open to questions regarding the request.
6. The City Council will consider the request and either grant or deny the variance.

Above all else, it is imperative that an applicant begin preparations as early as possible to ensure the application is submitted by the due date in any given month. Please anticipate that review by the Planning Commission will not occur until at least one month has passed from the date of submittal.

The City Council has established a non-refundable fee⁴ for processing variance applications. Please consult the fee schedule on the City website for current fee.

Please note that it is the responsibility of the applicant to provide all required information and to illustrate all reasons why the requested variance should be granted. City staff is not authorized,

¹ The information provided in this document is intended to be a correct statement of the law as set forth in the Lake Elmo City Code and the laws of the State of Minnesota. However, the applicant should refer to the actual sources and consult with their own legal advisor regarding applicability to their application. In providing this information, the City makes no representations nor provides any legal advice or opinion.

² Minnesota State Statute 15.99 requires local governments to review an application within 15 business days of its submission to determine if an application is complete and/or if additional information is needed to adequately review the subject request.

³ Staff will determine when applications are reviewed based on the time needed to review the application and the number of items already scheduled on future agendas. Please note that meeting dates are subject to change due to holidays, lack of quorum, etc. Please contact City Hall to confirm all dates and times.

⁴ Applicant is also responsible for any additional fees incurred by the City (i.e. engineering, planning, postage, legal expenses, et cetera).

nor permitted, to prepare applications since the “burden of proof” rests with the applicant to justify the specific request.

At a minimum, the following materials must be submitted prior to deeming an application complete.

Sub: Req: Item:

- | | | | |
|-------------------------------------|--------------------------|----|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 1. | A completed land use application form signed by all property owners and applicants along with payment of the proper filing fee. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 2. | <p>Written statements providing information regarding your proposal. <u>Please provide a separate answer for each of the lettered items listed below</u> (answers must be submitted in both hard copy and electronic form--pdf files or MS Word format):</p> <ul style="list-style-type: none">a. A list of all current property owners (if individually owned), all general and limited partners (if a partnership), all managers and directors (if a limited liability company), and/or officers and directors (if a corporation) involved as either applicants or owners.b. A listing of the following site data: legal description of the property, parcel identification number(s), parcel size (in acres and square feet), existing use of land, and current zoning.c. State the provision(s) of the Lake Elmo City Code for which you seek a variance. <i>(For example, Section 300.07 Zoning Districts, Subd (4b3) – Minimum District Requirements)</i>d. A <u>specific written description of the proposal</u> and how it varies from the applicable provisions of Lake Elmo Code.e. A narrative regarding any pre-application discussions with staff, and an explanation of how the issue was addressed leading up to the application for a variance.f. Explain why the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration.g. Explain why the plight of the landowner is due to circumstances unique to the property and not created by the landowner.h. Justify that the granting of the variance would not alter the essential character of the neighborhoodi. Justify that the granting of the variance will not impair adequate light and air to adjacent properties and that it will not substantially increase the congestion of public streets or substantially diminish or impair property values in the neighborhood. |

- ☒ ☐ 3. **Verification of ownership** (a copy of a current title report, purchase agreement, etc.)

Sub: Req: Item:

- ☒ ☐ 4. **Address labels:** A certified list of property owners located within three hundred fifty (350') feet of the subject property obtained from and certified by a licensed abstractor.
- ☒ ☐ 5. **Ten (10) plan size copies** (11x17 or larger), **and one (1) electronic copy of a certified survey** depicting the lot upon which a variance is requested. The survey shall be at a readable and measurable engineering scale⁵, be pre-folded for distribution, and include the following information⁶:
- ☐ Location, Floor Area, and Building Envelope of Existing & Proposed Structures
 - ☐ Lot Lines
 - ☐ Parcel Size in Acres & Square Feet
 - ☐ Building Setbacks (Front/Rear/Side/Lake): closest point of building to each property line
 - ☐ Actual elevations for Garage Floor, Basement Floor, Foundation Top, & Building Height
 - ☐ Lowest Floor Elevation if any part of property is in flood plain
 - ☐ All Water Features: Floodplain, Floodway Delineations, Ordinary High Water Mark Elevations, Wetlands, Watercourses, Reservoirs, Ponds, & Other Bodies of Water
 - ☐ Existing topographic character of land showing contours at 2' intervals
 - ☐ Proposed topographic character at 2' intervals
 - ☐ Flow arrows indicating direction of drainage
 - ☐ General location of wooded or heavily vegetated areas
 - ☐ All Adjacent Structures Within 100 Feet of Property
 - ☐ All Easements (Road, Utility, Drainage, etc.)
 - ☐ Public Right-of-Way Name (street name)
 - ☐ Proposed driveway location and proposed driveway grades
 - ☐ Wells & Neighboring Wells if New Drainfield is Installed
 - ☐ Septic System & Drainfield, or Sanitary Sewer Connection
 - ☐ Percolation Test & Soil Boring Holes (if applicable)
 - ☐ Hardcover Calculations--% and square footage of:

⁵ If your survey must be larger than 11x17 to be fully legible and to scale, we ask that four (4) copies be in the large format.

⁶ Please consult with staff on exactly what to include on your survey. Every application is unique and may require more or less information than what is listed in this handout. Staff reserves the right to require additional information.

- Building coverage
 - Driveway and parking
- Public street right-of-way
 - Open space and/or landscaped area
- ☐ Proposed Treatment of the Perimeter, including Screens, Fences, Walls, & Landscaping
- ☐ Location of adjacent Municipal boundaries

Survey requirements continued:

- ☐ Shoreline and/or tops of bluffs (if applicable)
- ☐ Administrative Information:
 - Scale
 - North Point
 - Signature of Surveyor
 - Date of Preparation (THE REVISION BOX MUST BE CONTINUALLY UPDATED AS CHANGES OCCUR!!!)
 - PID Number
 - Site Address
 - Legal Description
 - Subdivision Name (if applicable)
 - Zoning Classification

- ☐ ☐ 7. Any other information required by city staff, commissioners, or council members necessary to provide a complete review of the variance request. Information deemed critical to the review process not listed in this handout may be requested⁷. Staff will list other requirements below:

☐ ☐ _____

☐ ☐ _____

If you have any further questions that are not covered by this handout, please contact the Planning Department at Lake Elmo City Hall: (651) 747-3912. We look forward to assisting you!

⁷ Number of copies, size, and other such administrative details may also be imposed when requiring additional information.

Exhibit A to Land Use Application/Variance
High Pointe Health Campus
IRET Properties, a North Dakota Limited Partnership

Address:

8650 Hudson Boulevard, Lake Elmo, Minnesota 55042

PID:

33.029.21.44.0007

Legal Description:

All that part of the Southeast Quarter of the Southeast Quarter of Section 33, Township 29 North, Range 21 West, Washington County, Minnesota, described as follows:

Commence at the Southeast corner of said Southeast Quarter; thence North 00 degrees 00 minutes 40 seconds West, along the East line of said Southeast Quarter, a distance of 435.61 feet to the POINT OF BEGINNING; continue thence North 00 degrees 00 minutes 40 seconds West, along said East line, a distance of 483.26 feet, thence North 90 degrees 00 minutes 00 seconds West a distance of 683.24 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 423.69 feet; thence Westerly 123.88 feet along the arc of a non-tangential curve concave to the South whose radius is 230.00 feet and whose chord bears South 83 degrees 51 minutes 07 seconds West; thence South 68 degrees 24 minutes 49 seconds West a distance of 102.81 feet to a point on the Northerly right of way line of Hudson Blvd.; thence Southeasterly, along said Northerly right of way a distance of 421.73 feet along the arc of a non-tangential curve concave to the Northeast whose radius is 768.51 feet and whose chord bears South 52 degrees 53 minutes 56 seconds East; thence North 00 degrees 00 minutes 40 seconds West a distance of 176.36 feet; thence North 89 degrees 35 minutes 53 seconds East a distance of 175.00 feet; thence South 00 degrees 00 minutes 40 seconds East a distance of 223.25 feet to a point on the Northerly right of way line of Hudson Blvd.; thence Southeasterly, along said Northerly right of way line a distance of 53.13 feet along the arc of a non-tangential curve concave to the North, whose radius is 768.51 feet and whose chord bears South 84 degrees 06 minutes 58 seconds East; continue thence South 86 degrees 05 minutes 47 seconds East a distance of 141.01 feet; thence North 00 degrees 00 minutes 40 seconds West a distance of 301.88 feet; thence North 89 degrees 35 minutes 53 seconds East a distance of 200.00 feet to the POINT OF BEGINNING and there terminating.

Exhibit B to Land Use Application/Variance
High Pointe Health Campus
IRET Properties, a North Dakota Limited Partnership

Detailed Reason for Request:

Applicant is making this application for a variance to allow for the installation of a pylon sign at the southernmost portion of the property previously described, along Hudson Boulevard, approximately as shown on **Exhibit B-1** attached hereto.

High Pointe Medical Campus is part of the Eagle Point Business Park PUD exterior sign design which provides for a pylon sign of *approximately* 30' in height and 12' in width. Applicant is requesting a variance from this approximate height and width requirement to a pylon sign of 35' in height and 16' in width, at a value of approximately \$100,450.00. A drawing is attached as **Exhibit B-2** and a photograph depicting the proposed location is attached as **Exhibit B-3**.

Exhibit B-1 - Location of sign on property

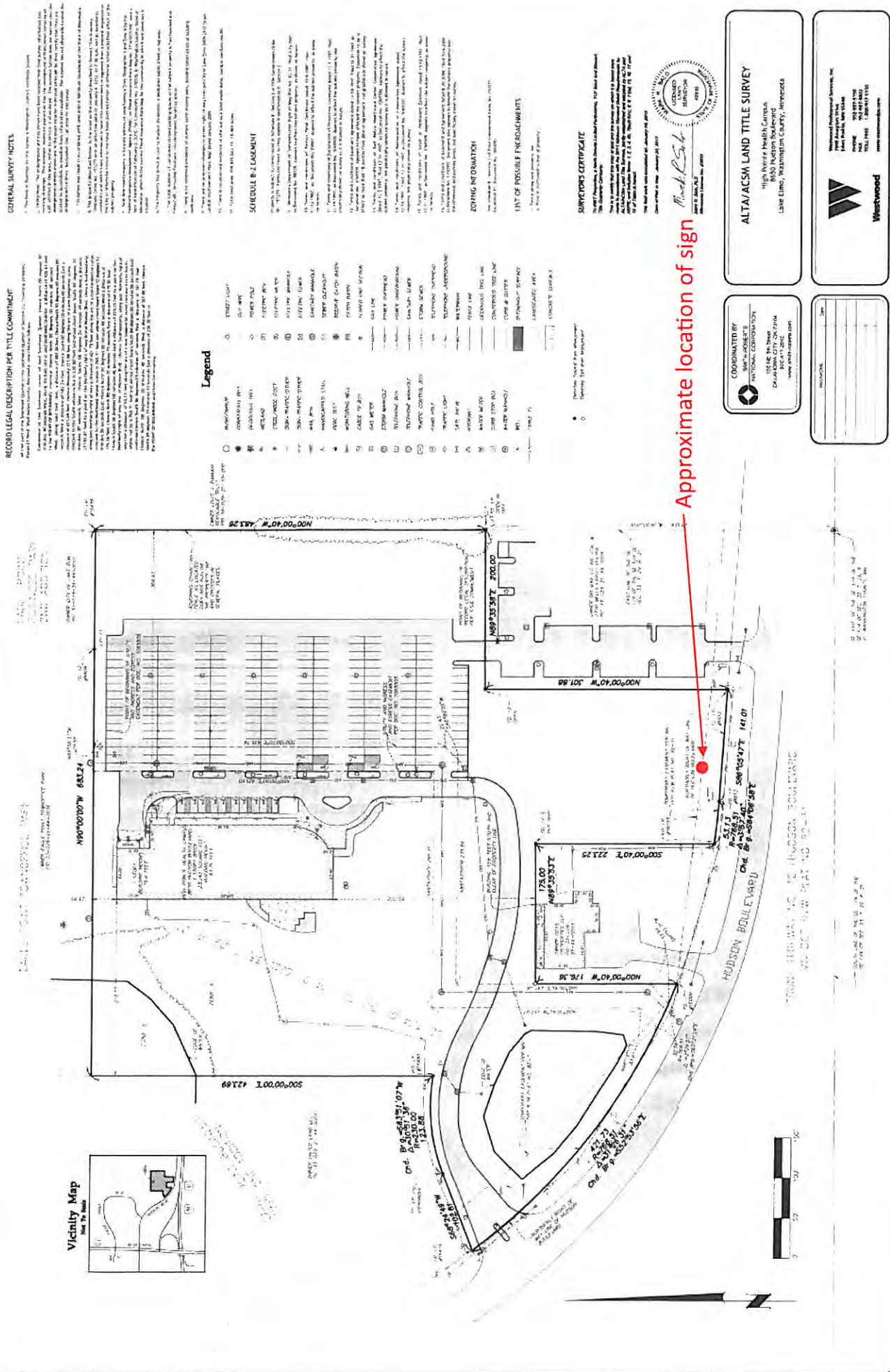
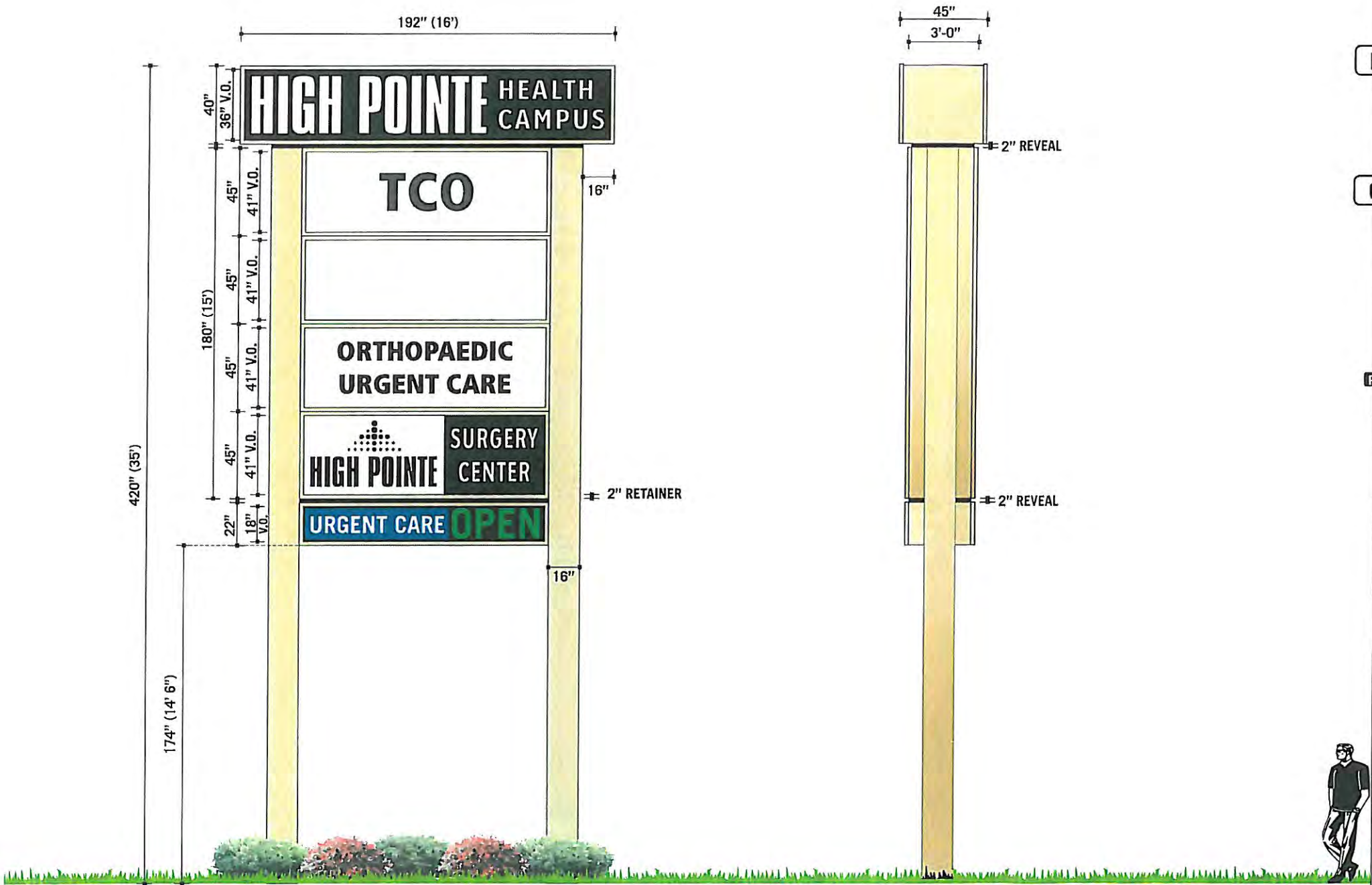


Exhibit B-2: Drawing of sign

LAKE ELMO, MN

OPTION: A



1 DOUBLE FACE ILLUMINATED PYLON - ELEVATION VIEW
SCALE: 3/16"=1'-0"


2 DOUBLE FACE ILLUMINATED PYLON - SIDE VIEW
SCALE: 3/16"=1'-0"

DESCRIPTION

- A** ALUMINUM CABINET
- ALUM. CABINET PAINTED P1
- 2" ALUM. RETAINERS / DIVIDER BAR PAINTED P1
- B** TENANT PANELS
- (4) 6'-0" x 9'-0" FLAT WHITE LEXAN TENANT PANELS WITH HANGER BARSS
- 3M TRANSLUCENT VINYL GRAPHICS
- WHITE LED ILLUMINATION
- C** POLE WRAPPER
- 16" FABRICATED ALUMINUM POLE WRAPPER
- PAINTED TO MATCH CABINET

FINISH SCHEDULE


- P1  MP12257 CABAT TRAIL LRV 28.5
- 1  CHANGE COPY
- 2  CHANGE COPY



NORDQUIST
SIGN COMPANY

www.nordquistsign.com

945 Pierce Butler Route, St. Paul, MN 55104
612.823.7291 877.823.7291

CLIENT: 

8650 Hudson Blvd. N.
Lake Elmo, MN 55042

SIGN TYPE:
D/F ILLUMINATED PYLON

CUSTOMER APPROVAL


NAME: _____

DATE: _____

REV 1: 01.29.15 JS
REV 2: 02.11.15 JS
REV 3: 07.20.15 RR

SALES: **SH** PR:
DESIGN: **JS**
DATE: 01.29.15
DWG: 5807

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ELECTRIC
SIGN

PAGE: 0.1

Exhibit B-3: photoshop location of sign

LAKE ELMO, MN



www.nordquistsign.com

945 Pierce Butler Route, St. Paul, MN 55104
612.823.7291 877.823.7291

CLIENT: 
HIGH POINT
HEALTH CAMPUS

8650 Hudson Blvd. N.
Lake Elmo, MN 55042

SIGN TYPE:
D/F ILLUMINATED PYLON

CUSTOMER APPROVAL

NAME: _____

DATE: _____

REV 1: 01.29.15 JS
REV 2: 02.11.15 JS
REV 3: 07.20.15 RR

SALES: SH PR:
DESIGN: JS
DATE: 01.29.15
DWG: 5807

These plans are the exclusive property of Walker Sign Holdings Inc. dba Nordquist Sign and are the result of the original work of its employees. They are submitted to your company for the sole purpose of your consideration of whether to purchase these plans or to purchase from Walker Sign Holdings Inc. dba Nordquist Sign A sign manufactured according to these plans, distribution or exhibition of these plans to anyone other than employees of your company, or use of these plans to construct a sign similar to the one embodied herein, is expressly prohibited and will render the user liable for damages. Copyright 2014 © Walker Sign Holdings Inc. All rights reserved.



Exhibit C to Land Use Application/Variance
High Pointe Health Campus
IRET Properties, a North Dakota Limited Partnership

Practical Difficulties related to this application

High Pointe Medical Campus was developed originally as part of a larger health care campus. The current building is the initial medical building completed without other properties having been developed as originally proposed. It has poor visibility and access. The patients of the clinics/surgery center in the building have difficulty locating the building. Further, the lack of visibility of the building from the frontage road and I-94 provides for no marketing opportunity for the clinics/surgery center. These factors have also impeded leasing of the vacancies in the building while trying to compete with the locations in the City of Woodbury just across the freeway. Signage is being proposed in order to provide visibility to compete in the current marketplace.

The current sign design plan for the Eagle Point Business Park PUD Agreement provides for a pylon sign of approximately 30' in height and 12' in width. This is not feasible given the topography of the site and would not achieve the kind of height required to be visible from the frontage road, but more importantly from I-94. In order to accommodate the existing tenants and an additional prospective tenant, the width also needs to increase so that the names are appropriately legible from a distance.

Therefore a variance is being requested to increase the height by 16.5% to 35' and the width by 33% to 16'.

Written Statements to Land Use Application/Variance

High Pointe Health Campus

IRET Properties, a North Dakota Limited Partnership

- a) A list of all current property owners
IRET Properties, a North Dakota Limited Partnership, a limited partnership under the laws of North Dakota
- b) A listing of following site data: legal description of property, parcel identification number(s), parcel size (in acres and square feet), existing use of land and current zoning
- Legal description: see attached Exhibit A to Written Statements
 - Parcel identification number(s): 33.029.21.44.0007
 - Parcel size (acres and square feet): 10.464 acres and 455,831 square feet
 - Existing use of land: 3-story brick medical office building with parking lot and vacant land
 - Current zoning district: BP – Business Park/Light Manufacturing per City of Lake Elmo Zoning Map; see attached Exhibit B to Written Statements
- c) State the provisions(s) of the Lake Elmo City Code for which you seek a variance
Variance being considered according to the provisions of §154.017. Variance from the approved Eagle Pointe Business Park PUD, which is in essence the zoning district. A variance is from the negotiated sign regulations in the PUD Agreement. Please refer to a letter from the City of Lake Elmo (Mr. Kyle Klatt) attached to Exhibit C to Written Statements.
- d) A specific written description of the proposal and how it varies from the applicable provisions of Lake Elmo Code
The Eagle Point Business Park PUD exterior sign design provides for a tenant pylon sign, at *approximately* 30' in height and 12' in width. Due to topography of the site and to achieve the amount of panels needed for High Pointe Medical Campus, a pylon sign of 35' in height and 16' in width is being proposed. Please refer to *Exhibits B-2 and B-3* attached *detailed reason for request* as part of this land use application.
- e) A narrative regarding any pre-application discussions with staff, and an explanation of how the issue was addressed leading up to the application for a variance
Dawn Grant of IRET Properties and Steve Hirtz of Nordquist Signs met with Nick Johnson of the City of Lake Elmo Planning Department on January 14, 2015 to discuss the possibility of increasing the size of a pylon sign along Hudson Boulevard, which would be a variance from the negotiated sign regulations in the Eagle Point Business Park PUD Agreement that governs the High Pointe Medical Campus (HPMC). In meeting with Mr. Johnson was provided a proposed sign drawing (at 35' in height and 18' in width) and Dawn Grant discussed hardship of visibility and competition of the City of Woodbury's more visible properties for patients of the HPMC tenants. Mr. Johnson agreed to take it under advisement. On January 15, 2015, Mr. Johnson stated that our initial request was a 16% variance in height, but more than a 50% variance in width and requested a revision to our initial drawing. We provided a revised drawing on January

30, 2015, attempting to work within the PUD's *approximate* approved height and width of 30' and 12' respectively, while trying to achieve what the property needs, and therefore created a revised drawing of 38' in height and 16' wide, a 27% and 33% variance respectively. Mr. Johnson asked that a lower height sign was considered and a revised drawing was submitted for 35' in height. On February 9, 2015, Mr. Johnson indicated that he would meet with other staff and provide feedback. On February 20, 2015, after meeting with other staff members, Mr. Johnson provided in an e-mail that *"the 35' feet in height will work. In addition, the proposed width should also work. Please note that this interpretation is based on the approved Eagle Point Business Park Sign Plan which allows for approximately 30 feet in heights and approximately 12 feet in width"*. In response to this e-mail, Dawn Grant indicated that IRET would meet with the tenants of the building and inquired if a permit application was the next step. Mr. Johnson responded by e-mail that applying for a permit application would be the next step. This sequence of e-mails is attached as Exhibit D to Written Statements. In light of this approval from Mr. Johnson through mid-July, IRET worked with existing and prospective tenants to ascertain locations on the proposed sign. On July 23, 2015, Nordquist Sign (Steve Hirtz) applied for the permit application as was documented in the February 20, 2015 e-mail from Mr. Johnson. After not hearing a response (both e-mail and voice mail) for several days, Steve Hirtz contacted the City of Lake Elmo on August 3, 2015 and was notified that Mr. Johnson was no longer employed there and Steve Hirtz was assigned to Kyle Klatt as the new planning department representative. Steve Hirtz resent the permit application, along with the e-mail correspondence from Mr. Johnson that provided approval subject to the permit application, and after waiting for several weeks, Dawn Grant contacted Mr. Klatt as to the status on August 25, 2015 of the permit application. On September 2, 2015, Mr. Klatt denied the sign permit application and provided a formal letter (attached as Exhibit E to Written Statements) and an e-mail correspondence with options for pursuing alternative signage options (attached as Exhibit F to Written Statements). Dawn Grant contacted Mayor Pearson to discuss the situation of the length of time for responses and asked the City of Lake Elmo to honor the original approval by Mr. Johnson. Apparently after internal discussions, the denial was not going to change and September 23, 2015, Mr. Klatt again denied the permit application and required that either a variance application or zoning appeal should be applied for. In several e-mail and voice mails following this e-mail from Mr. Klatt, Dawn Grant asked Mr. Klatt for guidance on which of the applications was more applicable. After no response, sometime in October, Dawn Grant contacted Mayor Pearson again as to not being able to get a response from Mr. Klatt and was informed that Mr. Klatt was leaving the City of Lake Elmo in early November. Dawn Grant was then given the name of Ben Gozola, a temporary planning staff member to work with on the process. Mr. Gozola deferred the question to Steve Wensman, a new planner who would start on November 2, 2015. Mr. Gozola and Mr. Wensman discussed the issue and on November 6, 2015, Mr. Wensman answered the question of which application process was more applicable and asked that a variance application be filed.

f) Explain why the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration

The property was developed originally as part of a larger health care campus. The current building is the initial medical building completed without other properties developed and therefore has poor visibility and access. The patients of the clinics/surgery center in the building have difficulty locating the building. Further, the lack of visibility of the building from the

frontage road and more importantly from I-94, provides for no marketing opportunity for the clinics/surgery center. These factors have also impeded leasing of the vacancies in the building, with the 45,721 square foot building standing at 24.5% vacant which is far under the market for medical office buildings in the surrounding market. The signage proposed would provide the visibility that is necessary in order to compete effectively. A minimum of four panels is required for current tenants, leaving one available for prospective tenant of the remaining vacancy. In order to provide identity of the campus, as well as readable sign panels for each tenant while being able to see the sign visibly from both the frontage road and I-94, the 35' proposed is necessary. In preparing for the initial meeting, both Dawn Grant and Steve Hirtz spent a great deal of time ascertaining the right height in order to achieve the level of visibility necessary (otherwise the sign at a lower height would simply not achieve what is necessary). It is the opinion of the applicant that the viability of the building and tenant's future success in the City of Lake Elmo depends in part on the pylon sign approval. Two of the major tenants in the building (High Pointe Surgery Center and Twin Cities Orthopedics) have provided letters of support and justification for the pylon sign. Please find these letters attached Exhibit G and H to the Written Statements.

g) Explain why the plight of the landowner is due to circumstances unique to the property and not created by the landowner

High Pointe Medical Campus (HPMC) is not in the heart of the local medical community; which is located mostly in Woodbury. The City of Woodbury has been and continues to be the strongest competition to the City of Lake Elmo. Many prospective tenants have not considered HPMC because it has a Lake Elmo address. Even though less than a mile from Woodbury and as accessible from I-94, tenants such as an independent pediatrics clinic were in the market for space and chose not to consider HPMC because it was not in the City of Woodbury. To further exacerbate the current market conditions, there are new medical office buildings and two new surgery centers announced in the City of Woodbury (Tria Orthopedics and Summit Orthopedics). One of HPMC's major tenants is St. Croix Orthopaedics, a division of Twin Cities Orthopedics, who want to grow their presence and compete head on, are planning on providing urgent care services in 2016, but feel strongly that without signage visibility, they cannot effectively compete. HPMC's largest tenant, High Pointe Surgery Center serves not just the local community but throughout the Twin Cities and greater Minnesota. One of the main issues facing their continued success is visibility and patient access. IRET Properties currently has two prospects to lease the remaining vacancy and increase the viability of HPMC, who have both indicated they will not consider HPMC without the approved pylon sign.

h) Justify that granting of the variance would not alter the essential character of the neighborhood

The proposed sign is tasteful and the only thing in question is the height and width of the sign. Given the proposed location, it provides visibility from I-94 and the frontage road without impeding the neighborhood. The installation of the proposed sign has no different affect than an existing pylon sign on the neighboring property to the west. Please refer to the proposed location photo attached to the *detailed reason for request* exhibit of this land use application.

- i) Justify that granting of the variance will not impair adequate light and air to adjacent properties and that it will not substantially increase the congestion of public streets or substantially diminish or impair property values in the neighborhood

The proposed sign at 35' in height and 16' in width will not cause any impairment to light and air, and will not cause congestion. Please refer to the proposed location photo attached to the *detailed reason for request* exhibit of this land use application. The property values of the neighboring properties with existing signage available on the frontage road, will not be diminished in value; it cannot have an affect on what already exists. The only probably affect on property values would be an increase in value of HPMC when fully occupied and the possibility of an addition to the existing building if additional tenants are achieved or existing tenants expand.

Exhibit A to Written Statements – Legal Description

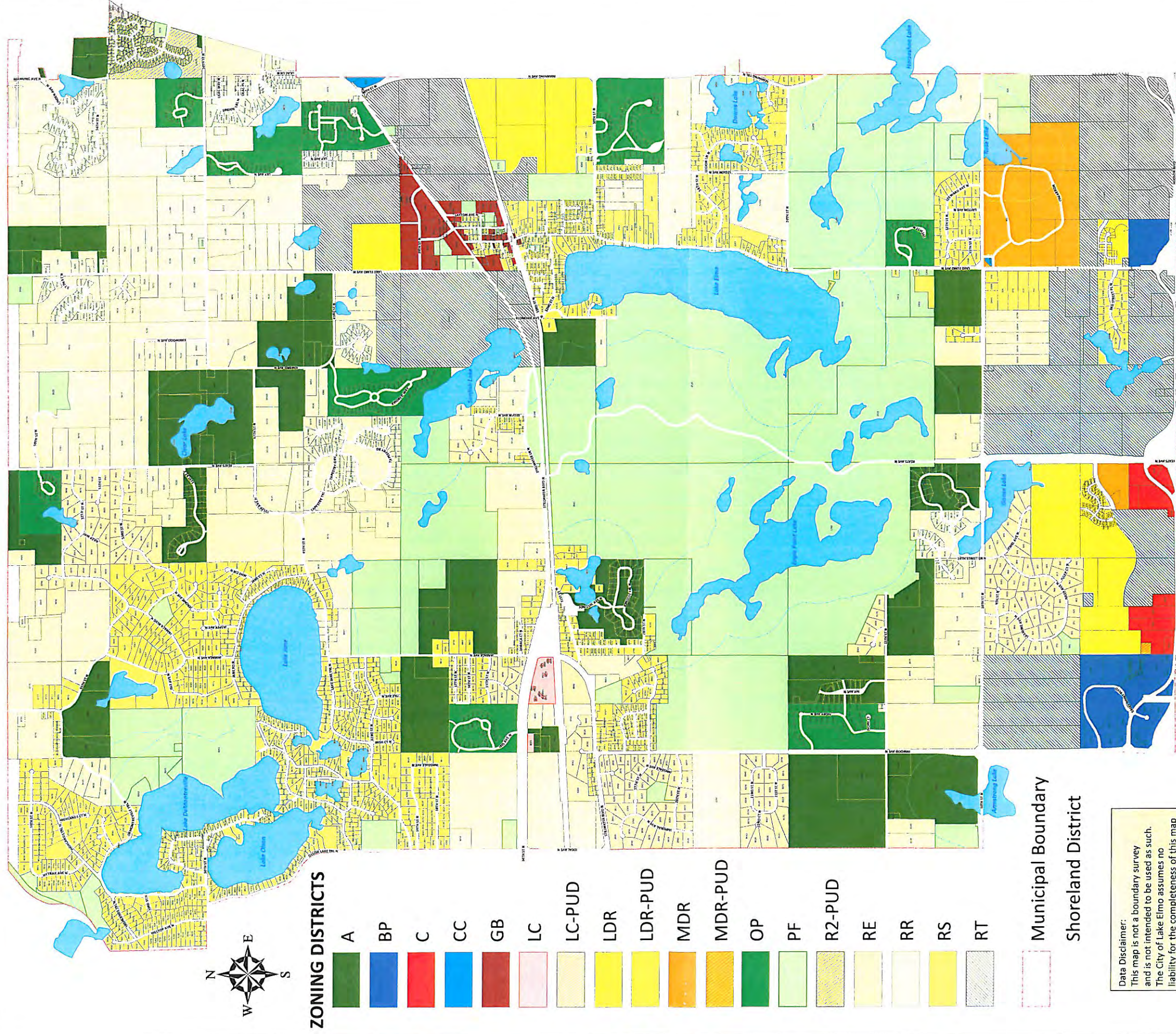
Land Use Application/Variance

High Pointe Health Campus

IRET Properties, a North Dakota Limited Partnership

All that part of the Southeast Quarter of the Southeast Quarter of Section 33, Township 29 North, Range 21 West, Washington County, Minnesota, described as follows:

Commence at the Southeast corner of said Southeast Quarter; thence North 00 degrees 00 minutes 40 seconds West, along the East line of said Southeast Quarter, a distance of 435.61 feet to the POINT OF BEGINNING; continue thence North 00 degrees 00 minutes 40 seconds West, along said East line, a distance of 483.26 feet, thence North 90 degrees 00 minutes 00 seconds West a distance of 683.24 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 423.69 feet; thence Westerly 123.88 feet along the arc of a non-tangential curve concave to the South whose radius is 230.00 feet and whose chord bears South 83 degrees 51 minutes 07 seconds West; thence South 68 degrees 24 minutes 49 seconds West a distance of 102.81 feet to a point on the Northerly right of way line of Hudson Blvd.; thence Southeasterly, along said Northerly right of way a distance of 421.73 feet along the arc of a non-tangential curve concave to the Northeast whose radius is 768.51 feet and whose chord bears South 52 degrees 53 minutes 56 seconds East; thence North 00 degrees 00 minutes 40 seconds West a distance of 176.36 feet; thence North 89 degrees 35 minutes 53 seconds East a distance of 175.00 feet; thence South 00 degrees 00 minutes 40 seconds East a distance of 223.25 feet to a point on the Northerly right of way line of Hudson Blvd.; thence Southeasterly, along said Northerly right of way line a distance of 53.13 feet along the arc of a non-tangential curve concave to the North, whose radius is 768.51 feet and whose chord bears South 84 degrees 06 minutes 58 seconds East; continue thence South 86 degrees 05 minutes 47 seconds East a distance of 141.01 feet; thence North 00 degrees 00 minutes 40 seconds West a distance of 301.88 feet; thence North 89 degrees 35 minutes 53 seconds East a distance of 200.00 feet to the POINT OF BEGINNING and there terminating.



Sources: Washington County & Metro GIS
5-11-2015

Official Zoning Map





Exhibit C to Written Statment
Land Use Variance
Application
IRET Properties

September 2, 2015

Steven M. Hirtz
Nordquist Sign Company
945 Pierce Butler Route
St. Paul, MN 55104

Re: Sign Permit Application – High Point Health Campus

Mr. Hirtz,

I am writing to inform you that the City of Lake Elmo is hereby denying your request for a sign permit for 8650 Hudson Boulevard North. The reasons for the denial are as follows:

- The sign permit application specifies that the sign will be 35 feet in height and is taller than the maximum height specified in the development standards for the Eagle Point Business Park Planned Unit Development (PUD) as approved by the City of Lake Elmo.

Although the Eagle Point PUD Standards include an exterior sign design plan and location plan that depicts an approximate height for pylon signs within the park, the written standards contain specific requirements for signs in two locations as follows:

Proposed Standard: Monument and pylon signs (25' maximum height) may be constructed within 20' of the street right-of-way.

Proposed Standard (Revised): The City is concerned about the pylon sign height, specifically our reference to attracting traffic off the freeway, and the number of pylons that might exist. We propose that businesses can have signage on the building and a monument sign at the property's entrance, and that a pylon sign must be approved on a case-by-case basis by the City, however the size of the sign will match what we have proposed in our signage plan. The size, 12' X 6' signface and 25' height is designed primarily for Inwood traffic, not freeway.

In this case, it is our staff's interpretation that the more restrict provisions in the PUD development standards will apply to individual sites. This is consistent with the administration of the City's Zoning Ordinance which states that: *where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, chapter, statute, resolutions or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.*

Please contact me if you have any questions about the City's review of this permit or the interpretation of the sign requirements for the Eagle Point Business Park as described above

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle Klatt", is written over a horizontal line.

Kyle Klatt
Community Development Director

Exhibit D to Written Statements
Land Use Application
IRET Properties

Dawn Grant - IRET

From: Nick Johnson <NJohnson@lakeelmo.org>
Sent: Friday, February 20, 2015 1:45 PM
To: Dawn Grant - IRET
Cc: Steve M. Hirtz; Kyle Klatt; Dean Zuleger; Rick Chase
Subject: RE: High Pointe Medical Campus - pylon sign
Attachments: Sign_permit app 10.7.13.pdf; BuildingPermitApplication 3.19.14.pdf

Dawn,

That's correct. If you want to proceed, you can apply for a sign permit through me. Attached is the sign permit application. In addition, given the size of the sign, you will also need a building permit (attached). The building permit will need to include all the necessary engineering due to the size of the sign. If you have questions about what will need to be submitted with regards to the building permit, contact Rick Chase, the Building Official. Generally speaking, the plans will need to be signed/stamped by a certified engineer. An electrical permit will also be required. Rick Chase is a good resource to navigate that process.

Let us know if you have additional questions.

Take care,

Nick M. Johnson | City Planner
City of Lake Elmo, Minnesota
njohnson@lakeelmo.org
(w) 651-747-3912 | (f) 651-747-3901
www.lakeelmo.org

-----Original Message-----

From: Dawn Grant - IRET [mailto:DGrant@iret.com]
Sent: Friday, February 20, 2015 1:38 PM
To: Nick Johnson
Cc: Steve M. Hirtz; Kyle Klatt; Dean Zuleger
Subject: RE: High Pointe Medical Campus - pylon sign

Thank you so much! We will discuss with our tenants and then apply for a permit if that's our next step with you?

Dawn M. Grant, CCIM, CPM, RPA
Director of Commercial Asset Management
IRET Properties
10050 Crosstown Circle
Suite 105
Eden Prairie, MN 55344
952.401.4831 (phone) | 952.401.7058 (fax) dgrant@iret.com www.iret.com | NYSE Symbol: IRET a subsidiary of
Investors Real Estate Trust

-----Original Message-----

From: Nick Johnson [mailto:NJohnson@lakeelmo.org]

Sent: Friday, February 20, 2015 8:53 AM
To: Dawn Grant - IRET
Cc: Steve M. Hirtz; Kyle Klatt; Dean Zuleger
Subject: RE: High Pointe Medical Campus - pylon sign

Dawn,

I apologize, I thought I responded earlier. The 35' feet in height will work. In addition, the proposed width should also work. Please note that this interpretation is based on the approved Eagle Point Business Park Sign Plan which allows for approximately 30 feet in heights and approximately 12 feet in width.

Let us know if you have any questions.

Take care,

Nick M. Johnson | City Planner
City of Lake Elmo, Minnesota
njohnson@lakeelmo.org
(w) 651-747-3912 | (f) 651-747-3901
www.lakeelmo.org

-----Original Message-----

From: Dawn Grant - IRET [mailto:DGrant@iret.com]
Sent: Friday, February 20, 2015 6:48 AM
To: Nick Johnson
Cc: Steve M. Hirtz; Kyle Klatt; Dean Zuleger
Subject: Re: High Pointe Medical Campus - pylon sign

Hi Nick. I hope you are well. I was wondering what you thought of our latest version? I have a meeting with one of our major tenants on Tuesday and would love to give an update if I could. Thanks and have a great weekend. Dawn

Dawn Grant, CCIM, CPM, RPA

C 612-940-8499 <tel:612-940-8499>

Sent from my iPhone

On Feb 13, 2015, at 3:26 PM, "Dawn Grant - IRET" <DGrant@iret.com <mailto:DGrant@iret.com>> wrote:

Hi Nick:

We took another stab at this and like the attached that lessens the overall height to 35' and using only 3 tenant names (we would like to go to four which is also shown on the attached, but we feel the last name may be lost in the sight line from the freeway). What do you think?

Thanks and have a great weekend!

Dawn

Dawn M. Grant, CCIM, CPM, RPA
Director of Commercial Asset Management
IRET Properties

-----Original Message-----

From: Nick Johnson [mailto:NJohnson@lakeelmo.org]
Sent: Monday, February 09, 2015 12:43 PM
To: Dawn Grant - IRET
Cc: Steve M. Hirtz; Kyle Klatt; Dean Zuleger
Subject: RE: High Pointe Medical Campus - pylon sign

Dawn,

In discussing the updated version of the sign with the Community Development Director, I think the updated sign is a bit too high. In working within the constraints of "approximately" 30 feet in height and 12 feet in width, 38 feet is too high from our perspective to be defensible. In working in the realm of "approximately", I believe that the width of the updated sign (16 feet) is acceptable. In addition, the previous sign had a height of 35 feet, which was within a range that we were comfortable. 38 feet in height, however, is too great a deviation. We would like to be within 5 feet if possible. Could the proposed sign be reduced to 35 feet in height and keep the width as is? The "approximately" language does give us a little bit of latitude, but we need to be in the ball park for it to be defensible.

I would mention that there are a few other sign requests out there that may drive an ordinance amendment to our sign code. However, I don't know what direction that may go, and it may take longer than your desired time period. There still is the option of the variance, although less desirable due to process, cost and timing.

Let me know what you think about our review. I am happy to answer any questions you may have. At the end of the day, we want to assist you as best we can while still being able to defend our decisions as being in the reasonable range of "approximately".

Take care,

Nick M. Johnson | City Planner
City of Lake Elmo, Minnesota
njohnson@lakeelmo.org <mailto:njohnson@lakeelmo.org>
(w) 651-747-3912 | (f) 651-747-3901
www.lakeelmo.org <http://www.lakeelmo.org>

-----Original Message-----

From: Dawn Grant - IRET [mailto:DGrant@iret.com]
Sent: Friday, January 30, 2015 11:46 AM
To: Nick Johnson
Cc: Steve M. Hirtz
Subject: High Pointe Medical Campus - pylon sign

Nick:

Thanks again for your time a couple of weeks ago to discuss the proposed pylon sign for High Pointe Medical Campus. We recognized the issue of allowing too much of a variance. As you mentioned, our last drawing was a 16% variance in height, but more than a 50% variance in width.

Trying to work within the "approximate" approved height and width of 30' and 12' respectively, while trying to achieve what we need, we created the attached which is 38' high and 16' wide, a 27% and 33% variance respectively.

What do you think of this revision? I'll be out next week on brief medical leave, not checking e-mail the first few days, but will be back in e-mail world mid-late in the week.

My husband and I did come to Lake Elmo that Saturday after we met for lunch at the Lake Elmo Inn. You are right - the bar area is a nice quiet area to be. Thanks for the tip. It was fun.

Dawn

Dawn M. Grant, CCIM, CPM, RPA

Director of Commercial Asset Management

IRET Properties

10050 Crosstown Circle

Suite 105

Eden Prairie, MN 55344

952.401.4831 (phone) | 952.401.7058 (fax)

dgrant@iret.com <mailto:dgrant@iret.com> <mailto:dgrant@iret.com>

www.iret.com <http://www.iret.com> <http://www.iret.com> | NYSE Symbol: IRET

a subsidiary of Investors Real Estate Trust

<5807 HIGH POINTE HEALTH CAMPUS Lake Elmo pylon_02 11 15.pdf>



Exhibit E to Written Statment
Land Use Variance
Application
IRET Properties

September 2, 2015

Steven M. Hirtz
Nordquist Sign Company
945 Pierce Butler Route
St. Paul, MN 55104

Re: Sign Permit Application – High Point Health Campus

Mr. Hirtz,

I am writing to inform you that the City of Lake Elmo is hereby denying your request for a sign permit for 8650 Hudson Boulevard North. The reasons for the denial are as follows:

- The sign permit application specifies that the sign will be 35 feet in height and is taller than the maximum height specified in the development standards for the Eagle Point Business Park Planned Unit Development (PUD) as approved by the City of Lake Elmo.

Although the Eagle Point PUD Standards include an exterior sign design plan and location plan that depicts an approximate height for pylon signs within the park, the written standards contain specific requirements for signs in two locations as follows:

Proposed Standard: Monument and pylon signs (25' maximum height) may be constructed within 20' of the street right-of-way.

Proposed Standard (Revised): The City is concerned about the pylon sign height, specifically our reference to attracting traffic off the freeway, and the number of pylons that might exist. We propose that businesses can have signage on the building and a monument sign at the property's entrance, and that a pylon sign must be approved on a case-by-case basis by the City, however the size of the sign will match what we have proposed in our signage plan. The size, 12' X 6' signface and 25' height is designed primarily for Inwood traffic, not freeway.

In this case, it is our staff's interpretation that the more restrict provisions in the PUD development standards will apply to individual sites. This is consistent with the administration of the City's Zoning Ordinance which states that: *where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, chapter, statute, resolutions or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.*

Please contact me if you have any questions about the City's review of this permit or the interpretation of the sign requirements for the Eagle Point Business Park as described above

Sincerely,

A handwritten signature in black ink, appearing to read "K. Klatt", is written over the word "Sincerely,".

Kyle Klatt
Community Development Director

Exhibit F to Written Statements
Land Use Variance Application
IRET Properties

From: Kyle Klatt
To: Steve M. Hirtz
Cc: Dawn Grant - IRET; mikepearson1965@yahoo.com; Clark Schroeder
Subject: RE: High Pointe Medical Campus - pylon sign
Date: Wednesday, September 02, 2015 4:08:26 PM
Attachments: SKMBT_C25315090214530.pdf
Eagle Point Development Standards - Reduced.pdf

Steve:

Attached is the City's formal response letter to the sign permit application for High Pointe Medical Campus. I am also attaching the full set of development standards for the Eagle Point Business Park that are on file in our office for your consideration.

I was able to contact Nick Johnson to discuss his previous correspondence with you concerning this matter. While he and I were in agreement on the potential interpretation and application of the illustrative drawing included in the Eagle Point Business Park Development Standards, neither of us caught the written standards specific to signs when this initial review was performed. I apologize for the earlier direction you were given, but at this point, I need to take into account all pertinent information as part of our formal sign permit review. The attached letter documents the specific reasons for the denial of the permit request.

Based on the City's decision regarding this matter, you have the following options in order to continue perusing alternative signage options for this site:

- Revise the plans to conform to the sign height standard of 25 feet.
- Appeal the interpretation of the Eagle Point Business Park Development Standards to the City's Board of Adjustment and Appeals (which is the City Council)
- Request a variance to allow a higher sign than allowed under the City's Zoning Ordinance; or
- Apply for an amendment to the Eagle Point Business Park PUD to allow a sign that is higher than allowed under the development standards or to change the maximum sign height throughout the business park.

If you wish to pursue any of these options or if you have any general questions about the City's review, please contact me.

Kyle Klatt
Community Development Director
City of Lake Elmo
(651) 747-3911

-----Original Message-----

From: Steve M. Hirtz [mailto:SteveH@nordquistsign.com]
Sent: Friday, August 21, 2015 9:07 AM
To: Kyle Klatt <KKlatt@lakeelmo.org>
Cc: 'Dawn Grant - IRET' <DGrant@iret.com>
Subject: RE: High Pointe Medical Campus - pylon sign

Hello Kyle -

I am checking in to see if there is need for additional information from us and if there is an updated on our submittal.

Thanks,

Steve

Exhibit G to Written Statements
Land Use Application
IRET Properties



8650 Hudson Blvd. N., Suite 235 Lake Elmo, MN 55042
651-702-7400 866-328-4490

www.hpsurgery.com

November 23, 2015

Mayor Mike Pearson
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

Dear Mike,

Hope you are doing well. I was going to connect with you today after the boys' basketball tournament but didn't want to burden you with Lake Elmo City business at that time. I am writing on behalf of High Pointe Surgery Center. Our surgery center was formed in 1998 and has been a vibrant, successful business in the City of Lake Elmo. Our patients not only come from Lake Elmo but from as far away as the Iron Range and the surrounding Twin Cities' metropolitan area. As health care continues to evolve, we are also seeing patients from all over the United States and even so far as other countries. We believe we offer Lake Elmo something that otherwise wouldn't be available – local, high quality, cost-effective health care. The campus also provides many other high quality health care services (e.g. Twin Cities Orthopedics, OSI Therapy, and Pediatric & Young Adult Medicine).

One of the main issues facing us today is visibility and patient access. Our location is not in the heart of the local medical community; therefore, we must find ways to enhance our signage and visibility. Very soon, we will have a competing surgery center across I-94 in Woodbury. Prior to this happening we are hopeful the City of Lake Elmo will allow our building owners, IRET, the ability to move ahead with driveway monument signage. It is my understanding that IRET has gone through all necessary protocols for us to place new signage. However, the Lake Elmo city administration and council challenges have created roadblocks for us to move forward. Our monument signs have not been updated since opening in 1998; therefore, IRET's request is not unreasonable or made in haste.

I'm hopeful you can help us move this forward and have it resolved by the end of this year. It would be great if we could count on new signage in early January 2016. I appreciate your help Mike. If you would like to visit with me and/or if there is anything I can do to help move this forward, please don't hesitate to let me know.

Take care,

Traci Albers

Digitally signed by Traci Albers
DN: cn=Traci Albers, o=OU,
email=talbers@hpsurgery.com, c=US
Date: 2015.11.22 13:47:54 -06'00'

Traci Albers, Executive Director

Exhibit H to Written
Statements Land Use Variance
Application IRET Properties



Part of Twin Cities Orthopedics

PHYSICIANS

Jaclyn M. Bailey, M.D.
Bruce J. Bartie, D.O.
Melanie L. Berg, D.P.M.
Glenn W. Clegler, M.D., Ph.D.
Benjamin L. Clair, D.P.M.
Thomas K. Comfort, M.D.
Jason P. Dieterle, D.O., M.S.
Jessica M. Downes, M.D.
Christian M. DuBols, M.D.
Paul D. Hartleben, M.D., M.B.A.
Nancy A. Henry-Socha, M.D., MEd
Nicholas N. Holmes, M.D.
Ryan R. Karlstad, M.D.
Eric E. Kirksson, M.D.
Robert V. Knowlan, M.D.
Kevin E. Lindgren, M.D.
Michael R. Meisterling, M.D.
Steven W. Meisterling, M.D.
Steven D. Meletlou, M.D.
Nicholas J. Meyer, M.D.
David H. Palmer, M.D.
Timothy J. Panek, M.D.
Erik J. Peterson, M.D.
Andrea M. Saterbak, M.D.
William T. Schneider, M.D.
Troy A. Vargas, D.P.M.
Nicholas G. Weiss, M.D.

EMERITUS

Robert C. Meisterling, M.D.

5803 Neal Avenue North
Oak Park Heights, MN 55082-2177
Tel: 651/439-8807
Toll free: 800/423-1088
Fax: 651/439-0232

October 23, 2015

Mayor Mike Pearson
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

RE: High Pointe Building Signage

Dear Mayor Pearson,

Twin Cities Orthopedics (TCO) (previously St. Croix Orthopaedics) is a long time and consistent tenant in the High Pointe Health Campus building, located at 8650 Hudson Boulevard in Lake Elmo. The landlords, IRET, have consistently heard my concerns related to the visibility of the campus, the signage on the building and the monument sign located at the entrance of the facility. We have grown our presence on this campus with increased services, expanded hours and additional volumes, all without the support of this critical component for our patients.

IRET has been diligent, professional and supportive of addressing these concerns by working with the sign vendor to modify the existing signage. They worked directly with the City of Lake Elmo, receiving a written approval subject to a permit application and went through all the appropriate channels. After months and months of delays, due to staffing changes and internal issues with the City of Lake Elmo government, I was informed that there are even further delays in moving forward with the signage that was previously approved. We understand they will be filing a variance application or appeal, which TCO will unanimously support.

TCO has 34 locations throughout the metro area and in Western Wisconsin. The signage process with other city entities is typically straight forward, easy and streamlined. In every instance of my dealings with the City of Lake Elmo related to this campus, I am always extremely disappointment and frustrated by the responsiveness to your business owners within your city.

We are planning on further expanding our business in January 2016 by providing urgent care services 7 days per week from 8 a.m. to 8 p.m. The visibility and signage is an important element in that overall business strategy to ensure success. I am requesting an expedited approval process on the previously agreed upon signage so that we can complete installation as soon as possible.

Sincerely,

Melanie (Mel) Sullivan, Ed.D., MBA
CEO – East Metro

Cc: Dawn Grant, IRET

Verification of Ownership
Land Use Application
IRET Properties

INFORMATION

The Title Insurance Commitment is a legal contract between you and the Company. It is issued to show the basis on which we will issue a Title Insurance Policy to you. The Policy will insure you against certain risks to the land title, subject to the limitations shown in the Policy.

The Company will give you a sample of the Policy form, if you ask.

The Policy contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or you as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <<http://www.alta.org>>.

The Commitment is based on the land title as of the Commitment Date. Any changes in the land title or the transaction may affect the Commitment and the Policy.

The Commitment is subject to its Requirements, Exceptions and Conditions.

THIS INFORMATION IS NOT PART OF THE TITLE INSURANCE COMMITMENT. YOU SHOULD READ THE COMMITMENT VERY CAREFULLY.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at P.O. Box 2029, Houston, Texas 77252.

TITLE INSURANCE COMMITMENT
Issued by



AGREEMENT TO ISSUE POLICY

We agree to issue policy to you according to the terms of the Commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the Commitment Date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.

Our obligation under this Commitment is limited by the following:

The Provisions in Schedule A.

The Requirements in Schedule B-I.

The Exceptions in Schedule B-II.

The Conditions on Page 2.

This Commitment is not valid without SCHEDULE A and Sections I and II of SCHEDULE B.

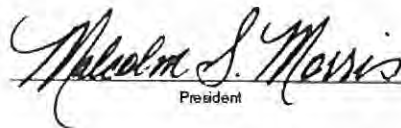
This Commitment shall not be valid or binding until countersigned by a validating officer or authorized signatory.

IN WITNESS WHEREOF, Stewart Title Guaranty Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the date shown in Schedule A.


Chairman of the Board


title guaranty company




President

Countersigned


Authorized Countersignature

Stewart Title of Minnesota, Inc.
Company

Bloomington, Minnesota
City, State

CONDITIONS

1. DEFINITIONS

(a) "Mortgage" means mortgage, deed of trust or other security instrument. (b) "Public Records" means title records that give constructive notice of matters affecting your title according to the state statutes where your land is located.

2. LATER DEFECTS

The Exceptions in Schedule B – Section II may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attach between the Commitment Date and the date on which all of the Requirements (a) and (c) of Schedule B – Section I are met. We shall have no liability to you because of this amendment.

3. EXISTING DEFECTS

If any defects, liens or encumbrances existing at Commitment date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

4. LIMITATION OF OUR LIABILITY

Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, our liability will be limited to your actual loss caused by your relying on this Commitment when you acted in good faith to:

Comply with the Requirements shown in Schedule B – Section I

or

Eliminate with our written consent any Exceptions shown in Schedule B – Section II.

We shall not be liable for more than the Policy Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

5. CLAIMS MUST BE BASED ON THIS COMMITMENT

Any claim, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this Commitment and is subject to its terms.



ESTABLISHED 1893

INCORPORATED 1908

A NAME

RECOGNIZED NATIONALLY

AS BEING

SYNONYMOUS WITH

QUALITY



P.O. Box 2029
Houston, Texas 77252

TABLE OF CONTENTS

Page

AGREEMENT TO ISSUE POLICY

1

SCHEDULE A

1. Commitment date
2. Policies to be Issued, Amounts and Proposed Insureds
3. Interest in the Land and Owner
4. Description of the Land

SCHEDULE B-I – REQUIREMENTS

SCHEDULE B-II – EXCEPTIONS

CONDITIONS

2

SCHEDULE A

Customer Reference #: 955743

Order Number: 153273

1. Effective Date: January 4, 2012 at 7:00 A.M.
2. Policy or Policies to be issued: Amount of Insurance
 - (a) ALTA Owner's 2006
Proposed Insured: NONE
 - (b) ALTA Loan 2006 \$5,400,000.00
Proposed Insured: TCF Bank, its successors and/or assigns
3. The estate or interest in the land described or referred to in this Commitment and covered herein is fee simple and is at the effective date hereof vested in:
IRET Properties, a North Dakota Limited Partnership, a limited partnership under the laws of North Dakota
4. The land referred to in this Commitment is located in the County of Washington, State of Minnesota, and described as follows:

SEE ATTACHED EXHIBIT A

**STEWART TITLE
GUARANTY COMPANY**

SCHEDULE A

EXHIBIT A

All that part of the Southeast Quarter of the Southeast Quarter of Section 33, Township 29 North, Range 21 West, Washington County, Minnesota, described as follows:

Commence at the Southeast corner of said Southeast Quarter; thence North 00 degrees 00 minutes 40 seconds West, along the East line of said Southeast Quarter, a distance of 435.61 feet to the POINT OF BEGINNING; continue thence North 00 degrees 00 minutes 40 seconds West, along said East line, a distance of 483.26 feet, thence North 90 degrees 00 minutes 00 seconds West a distance of 683.24 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 423.69 feet; thence Westerly 123.88 feet along the arc of a non-tangential curve concave to the South whose radius is 230.00 feet and whose chord bears South 83 degrees 51 minutes 07 seconds West; thence South 68 degrees 24 minutes 49 seconds West a distance of 102.81 feet to a point on the Northerly right of way line of Hudson Blvd.; thence Southeasterly, along said Northerly right of way a distance of 421.73 feet along the arc of a non-tangential curve concave to the Northeast whose radius is 768.51 feet and whose chord bears South 52 degrees 53 minutes 56 seconds East; thence North 00 degrees 00 minutes 40 seconds West a distance of 176.36 feet; thence North 89 degrees 35 minutes 53 seconds East a distance of 175.00 feet; thence South 00 degrees 00 minutes 40 seconds East a distance of 223.25 feet to a point on the Northerly right of way line of Hudson Blvd.; thence Southeasterly, along said Northerly right of way line a distance of 53.13 feet along the arc of a non-tangential curve concave to the North, whose radius is 768.51 feet and whose chord bears South 84 degrees 06 minutes 58 seconds East; continue thence South 86 degrees 05 minutes 47 seconds East a distance of 141.01 feet; thence North 00 degrees 00 minutes 40 seconds West a distance of 301.88 feet; thence North 89 degrees 35 minutes 53 seconds East a distance of 200.00 feet to the POINT OF BEGINNING and there terminating.

Being Torrens property. Certificate No.: 60591

**STEWART TITLE
GUARANTY COMPANY**

SCHEDULE B – Section I

Requirements

Order Number: 153273

THIS COMMITMENT IS NOT AN ABSTRACT, EXAMINATION, REPORT, OR REPRESENTATION OF FACT OR TITLE AND DOES NOT CREATE AND SHALL NOT BE THE BASIS OF ANY CLAIM FOR NEGLIGENCE, NEGLIGENT MISREPRESENTATION OR OTHER TORT CLAIM OR ACTION. THE SOLE LIABILITY OF COMPANY AND ITS TITLE INSURANCE AGENT SHALL ARISE UNDER AND BE GOVERNED BY PARAGRAPH THREE (3) OF THE CONDITIONS.

The following are the requirements to be complied with:

1. A properly executed and recordable mortgage from IRET Properties, a North Dakota Limited Partnership, a limited partnership under the laws of North Dakota, to TCF Bank.
2. Affidavit Regarding Borrower(s) executed by IRET Properties, a North Dakota Limited Partnership, a limited partnership under the laws of North Dakota.
3. The company requires the following to be satisfied, subordinated or partially released:
Mortgage, Security Agreement and Fixture Financing Statement in the original principal amount of \$8,100,000.00, dated 11-8-1998, filed 12-17-1998, as Document No. 1075768, between East Metro Medical Building, LLC, a Minnesota limited liability company, mortgagor, and The Variable Annuity Life Insurance Company, a Texas corporation, mortgagee.
Amended by Consent, Assumption, Loan Modification, Amendment to Mortgage, Security Agreement and Fixture Financing Statement and Indemnification Agreement dated 7-30-2004, filed 10-5-2004, as Document No. 1150298; mortgage assumed by IRET Properties, a North Dakota Limited Partnership, a limited partnership under the laws of North Dakota.
4. The company requires the following to be satisfied, subordinated or partially released:
Absolute Assignment of Leases and Rents dated 12-8-1998, filed 12-17-1998, as Document No. 1075769, between East Metro Medical Building, LLC, a Minnesota limited liability company, assignor, and The Variable Annuity Life Insurance Company, a Texas corporation, assignee.
Amended by Consent, Assumption, Loan Modification, Amendment to Mortgage, Security Agreement and Fixture Financing Statement and Indemnification Agreement dated 7-30-2004, filed 10-5-2004, as Document No. 1150298; assignment assumed by IRET Properties, a North Dakota Limited Partnership, a limited partnership under the laws of North Dakota.

**STEWART TITLE
GUARANTY COMPANY**

SCHEDULE B – Section II

Exceptions

Order Number: 153273

The policy or policies to be issued will contain exceptions to the following unless the same are disposed of to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof, but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.
2. Rights or claims of parties in possession, not shown by the public records.
3. Easements, or claims of easements, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the premises would disclose and which are not shown by the public records.
5. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
6. Rights or claims of tenants, as tenants only, in possession under unrecorded leases.
7. Taxes for the year 2011 in the amount of \$346,110.00. They are paid in full. Base Tax amount \$343,323.63.
PIN: 33.029.21.44.0007. Non-Homestead
There are no delinquent taxes of record.
8. Special and pending assessments, if any.
Note: An assessment search has been requested and the results of that search will follow by revision.
9. Minnesota Department of Transportation Right of Way Plat No. 82-31, filed 9-29-1981, as Document No. 58129.
10. Terms and conditions of Partial Final Certificate dated 10-9-1987, filed 11-12-1987, as Document No. 85987.
11. Terms and conditions of Declaration of Protective Covenants dated 12-1-1997, filed 12-19-1997, as Document No. 1065503.
12. Terms and conditions of Easement Agreement dated 12-10-1997, filed 12-31-1997, as Document No. 1065505.

**STEWART TITLE
GUARANTY COMPANY**

SCHEDULE B – Section II

Exceptions


13. Terms and conditions of East Metro Healthcare Center Cooperation Agreement dated 12-2-1997, filed 12-31-1997, as Document No. 1065506.
14. Terms and conditions of Memorandum of Cooperation Agreement dated 12-10-1997, filed 12-31-1997, as Document No. 1065507.
15. Terms and conditions of Grant of Permanent Easement dated 12-10-1997, filed 12-31-1997, as Document No. 1065509.
16. Terms and conditions of Easement and Agreement dated 8-30-2004, filed 10-6-2004, as Document No. 1150352.

**STEWART TITLE
GUARANTY COMPANY**

Parcel Search: October 20, 2015 at 9:13 a.m. by SURVPUB
350 feet surrounding 3302921440007. 49 parcels, 29 labels.

0402821110006
3302921440003
3302921440005
3302921440006
3302921440007
3302921440009
3302921440010
3302921440012
3302921440013
3302921440014
3302921440015
3302921440016
3302921440017
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3402921330023
3402921330024
3402921330025
3402921330027

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or Current Resident
16845 108TH ST N
STILLWATER MN 55082

HANCOCK DAVE & JEAN M
or Current Resident
7574 185TH ST
CHIPPEWA FALLS WI 54729

CJ BLOSSOM LLC
or Current Resident
8631 EAGLE POINT BLVD
LAKE ELMO MN 55042

GIGUERE ROBIN M
or Current Resident
1101 PARIS AVE N
WEST LAKELAND MN 55082

IRET PROPERTIES
or Current Resident
1400 31ST AVE SW # 60
MINOT ND 58702-1988

SCHNY ZONE LLC
or Current Resident
8625 EAGLE POINT BLVD
LAKE ELMO MN 55042

CASEY LEE E
or Current Resident
8617 EAGLE POINT BLVD
LAKE ELMO MN 55042

EJM PROPERTIES LLC
or Current Resident
8653 EAGLE POINT BLVD
LAKE ELMO MN 55042

JTAAA PROPERTIES LLC
or Current Resident
8649 EAGLE POINT BLVD
LAKE ELMO MN 55042

JTZ LLC & TMZ LLC
or Current Resident
8615 EAGLE POINT BLVD
LAKE ELMO MN 55042

CITY OF LAKE ELMO
or Current Resident
3800 LAVERNE AVE N
LAKE ELMO MN 55042

UNITED LAND LLC
or Current Resident
3600 AMERICAN BLVD W # 750
BLOOMINGTON MN 55431-1079

EAGLE POINT TOWNOFFICE PARK ASSN INC
or Current Resident
2970 CHASKA BLVD
CHASKA MN 55318

ZYWIEC JOSEPH J & DEBORAH A
or Current Resident
7980 113TH ST S
COTTAGE GROVE MN 55016

CITY OF WOODBURY
or Current Resident
8301 VALLEY CREEK RD
WOODBURY MN 55125

OP4 BOULDER PONDS LLC
or Current Resident
11455 VIKING DR # 350
EDEN PRAIRIE MN 55344

BACHMANN CLINIC PROPERTY LLC
or Current Resident
8669 EAGLE POINT BLVD
LAKE ELMO MN 55042

BRI MAR CO INC ETAL
or Current Resident
7450 FRANCE AVE S # 260
EDINA MN 55435

LEGACY ASSET PROPERTIES LLC
or Current Resident
8623 EAGLE POINT BLVD
LAKE ELMO MN 55042

D GETSCH LLC
or Current Resident
11711 ASTER WAY
WOODBURY MN 55129

CREATIVE HOMES INC
or Current Resident
707 COMMERCE DR #410
WOODBURY MN 55125

P & R PROP GROUP LLP
or Current Resident
8661 EAGLE POINT BLVD
LAKE ELMO MN 55042

LAW SPACE LLC
or Current Resident
8681 EAGLE POINT BLVD
LAKE ELMO MN 55042

NORMAN JAMES LLC
or Current Resident
8362 TAMARACK VILLAGE #119-160
WOODBURY MN 55125-3392

HLI PROP LLC
or Current Resident
7202 NEWBURY RD
WOODBURY MN 55125

ZYWIEC JOSEPH J
or Current Resident
9471 JEFFERY AVE S
COTTAGE GROVE MN 55016

GOSS PROPERTIES LLP
or Current Resident
8910 HUDSON BLVD N
LAKE ELMO MN 55042

STATE OF MN-DOT
or Current Resident
1500 COUNTY ROAD B2 W
ROSEVILLE MN 55113

MILES LLC
or Current Resident
8657 EAGLE POINT BLVD
LAKE ELMO MN 55042

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8615 EAGLE POINT BLVD
LAKE ELMO MN 55042

EAGLE POINT TOWNOFFICE PARK ASSN INC
or Current Resident
2970 CHASKA BLVD
CHASKA MN 55318

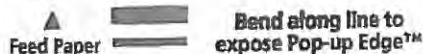
OP4 BOULDER PONDS LLC
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EDEN PRAIRIE MN 55344

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WOODBURY MN 55125

STATE OF MN-DOT
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1500 COUNTY ROAD B2 W
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MINOT ND 58702-1988

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MILES LLC
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LAKE ELMO MN 55042

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SCHNY ZONE LLC
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8625 EAGLE POINT BLVD
LAKE ELMO MN 55042

JTAAA PROPERTIES LLC
or Current Resident
8649 EAGLE POINT BLVD
LAKE ELMO MN 55042

UNITED LAND LLC
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3600 AMERICAN BLVD W # 750
BLOOMINGTON MN 55431-1079

CITY OF WOODBURY
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8301 VALLEY CREEK RD
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BRI MAR CO INC ETAL
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7450 FRANCE AVE S # 260
EDINA MN 55435

CREATIVE HOMES INC
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707 COMMERCE DR #410
WOODBURY MN 55125

NORMAN JAMES LLC
or Current Resident
8362 TAMARACK VILLAGE #119-160
WOODBURY MN 55125-3392

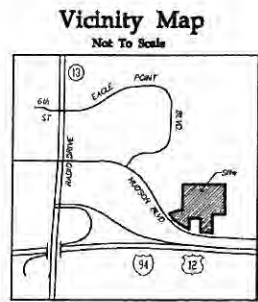
GOSS PROPERTIES LLP
or Current Resident
8910 HUDSON BLVD N
LAKE ELMO MN 55042

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OWNER UNITED LAND LLC
PID 33-029-21-44-0009

EAGLE POINT BUSINESS
PARK 2ND ADDITION

EAGLE POINT TOWNOFFICE PARK

OWNER EAGLE POINT TOWNOFFICE PARK
PID 33-029-21-44-0036

EAGLE POINT
BUSINESS PARK
2ND ADDITION

OWNER CITY OF LAKE ELMO
PID 33-029-21-44-0010

OWNER LOUIS J. DAMIANI
REVOCABLE TRUST
PID 34-029-21-33-0001

ADJOINING CHAIN LINK
FENCE AS LOCATED
DOES NOT FOLLOW
THE PROPERTY LINE
AND CROSSES IN
SEVERAL PLACES.

RECORD LEGAL DESCRIPTION PER TITLE COMMITMENT

All that part of the Southeast Quarter of the Southwest Quarter of Section 33, Township 29 North,
Range 21 West, Washington County, Minnesota, described as follows:

Commence at the Southeast corner of said Southeast Quarter; thence North 00 degrees 00 minutes 40 seconds West, along the East line of said Southeast Quarter, a distance of 423.61 feet to the POINT OF BEGINNING; continue thence North 01 degrees 00 minutes 40 seconds West, along said East line, a distance of 483.24 feet, thence North 85 degrees 00 minutes 00 seconds West a distance of 683.24 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 423.61 feet; thence West 123.88 feet along the arc of a non-tangential curve concave to the South whose radius is 120.00 feet and whose chord bears South 83 degrees 51 minutes 07 seconds West; thence South 88 degrees 24 minutes 49 seconds East a distance of 102.81 feet to a point on the Northright of way line of Hudson Blvd.; thence Southeast, along said Northright of way line a distance of 421.73 feet along the arc of a non-tangential curve concave to the Northwest whose radius is 748.51 feet and whose chord bears South 52 degrees 53 minutes 56 seconds East; thence North 00 degrees 00 minutes 40 seconds West a distance of 175.00 feet; thence South 00 degrees 00 minutes 40 seconds East a distance of 223.25 feet to a point on the Northright of way line of Hudson Blvd.; thence Southeast, along said Northright of way line a distance of 53.13 feet along the arc of a non-tangential curve concave to the North, whose radius is 748.51 feet and whose chord bears South 84 degrees 05 minutes 47 seconds East; continue thence South 86 degrees 05 minutes 47 seconds East a distance of 141.01 feet; thence North 00 degrees 00 minutes 40 seconds West a distance of 301.88 feet; thence North 89 degrees 35 minutes 58 seconds East a distance of 200.00 feet to the POINT OF BEGINNING and there terminating.

Legend

- | | |
|-----------------------|-------------------------|
| ○ BUSH/SHRUB | ✱ STREET LIGHT |
| ✱ CONIFEROUS TREE | — GUY WIRE |
| ✱ DECIDUOUS TREE | — POWER POLE |
| — WETLAND | — ELECTRIC BOX |
| — STEEL/WOOD POST | — ELECTRIC METER |
| — SIGN-TRAFFIC/OTHER | — ELECTRIC MANHOLE |
| — SIGN-TRAFFIC/OTHER | — ELECTRIC TOWER |
| — MAIL BOX | — SANITARY MANHOLE |
| — HANDICAPPED STALL | — SEWER CLEANOUT |
| — PERC TEST | — BEEHIVE CATCH BASIN |
| — MONITORING WELL | — CATCH BASIN |
| — CABLE TV BOX | — FLARED END SECTION |
| — GAS METER | — GAS LINE |
| — STORM MANHOLE | — POWER OVERHEAD |
| — TELEPHONE BOX | — POWER UNDERGROUND |
| — TELEPHONE MANHOLE | — SANITARY SEWER |
| — TRAFFIC CONTROL BOX | — STORM SEWER |
| — HAND HOLE | — TELEPHONE OVERHEAD |
| — TRAFFIC LIGHT | — TELEPHONE UNDERGROUND |
| — GATE VALVE | — WATERMAIN |
| — HYDRANT | — FENCE LINE |
| — WATER METER | — DECIDUOUS TREE LINE |
| — CURB STOP BOX | — CURB & GUTTER |
| — WATER MANHOLE | — BITUMINOUS SURFACE |
| — WELL | — LANDSCAPED AREA |
| — CABLE TV | — CONCRETE SURFACE |

- Denotes Found Iron Monument
- Denotes Set Iron Monument

GENERAL SURVEY NOTES:

- The Basis of Bearings for this survey is Washington County Coordinate System.
- Utility Note: The underground utilities shown have been located from field survey information and existing drawings. The surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated although he does certify that they are located as accurately as possible from information available. The surveyor has not physically located the underground utilities. No Gopher One Call done for this survey.
- This survey was made in accordance with laws and/or Minimum Standards of the State of Minnesota.
- The property described herein is the same as the property described in Stewart Title Guaranty Company Order No. 153273 with an effective date of January 4, 2012, at 2:00 A.M. and all easements, covenants and restrictions referenced in said title commitment or apparent from a physical inspection of the site or otherwise known to have been placed hereon or otherwise noted as to their effect on the subject property.
- Said described property is located within an area having a Zone Designation X and Zone B by the Federal Emergency Management Agency (FEMA), on Flood Insurance Rate Map No. 27141C0135E, with a date of identification of February 3, 2010, for Community No. 270505, in Washington County, State of Minnesota, which is the current Flood Insurance Rate Map for the community in which said premises is situated.
- The Property has direct access to Hudson Boulevard, a dedicated public street or highway.
- The total number of completed striped parking spaces on the subject property is Two Hundred and Forty (240), including Fourteen (14) designated handicap spaces.
- There is no observed evidence of current earth moving work, building construction or building additions.
- There are no proposed changes in street right of way lines per City of Lake Elmo 2009-2013 Street Capital Improvement Plan, Map dated January 2009.
- There is no observed evidence of the use as a solid waste dump, sump or sanitary landfill.
- Total land area: 455,831 Sq. Ft. 10.464 Acres.

SCHEDULE B-2 EASEMENT

Property is subject to items listed in Schedule B - Section 2 of Title Commitment Order No. 153273. Items are listed as they appear in said Schedule B - Section 2.

9. Minnesota Department of Transportation Right of Way Plat No. 82-31, filed 9-29-1981, as Document No. 58129, appears to affect the subject property, as shown on hereon.

10. Terms and conditions of Partial Final Certificate dated 10-1-1987, filed 11-12-1987, as Document No. 45987, appears to affect the subject property, as shown on hereon.

11. Terms and conditions of Declaration of Protective Covenants dated 12-1-1997, filed 12-19-1997, as Document No. 1065503, appears to affect the subject property, not graphically shown on survey as it is blanketed in nature.

12. Terms and conditions of Easement Agreement dated 12-10-1997, filed 12-31-1997, as Document No. 1065505, appears to have affected the subject property. Easement to be in effect no more than 18 months from date of agreement, not graphically shown on survey.

13. Terms and conditions of East Metro Healthcare Center Cooperation Agreement dated 12-2-1997, filed 12-31-1997, as Document No. 1065506, appears to affect the subject property, not graphically shown on survey as it is blanketed in nature.

14. Terms and conditions of Memorandum of Cooperation Agreement dated 12-10-1997, filed 12-31-1997, as Document No. 1065507, appears to affect the subject property, not graphically shown on survey.

15. Terms and conditions of Grant of Permanent Easement dated 12-10-1997, filed 12-31-1997, as Document No. 1065509, appears to affect the subject property, as shown on hereon.

16. Terms and conditions of Easement and Agreement dated 8-30-2004, filed 10-4-2004, as Document No. 1193552, Document also appears to benefit the subject property over the driveway and parking areas, not specifically shown on survey.

ZONING INFORMATION

See Schedule B - Section 2 of Title Commitment Order No. 153273, Exception 11, Document No. 1065503.

LIST OF POSSIBLE ENCROACHMENTS

- Fence along east property line
- Pond in northwest corner of property

SURVEYOR'S CERTIFICATE

To JET Properties, a North Dakota Limited Partnership, TCF Bank and Stewart Title Guaranty Company:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 6a, 7(a)(i)(ii), 8, 9, 11(a), 13, 16, 17 and 18 of Table A hereof.

The field work was completed on January 16, 2012.

Date of Plat or Map: January 23, 2012

Mark R. Selt

Mark R. Selt, FLS

Minnesota License No. 43833



COORDINATED BY:
SMITH-ROBERTS
NATIONAL CORPORATION
100 NE 5th Street
OKLAHOMA CITY, OK 73104
800 411 2010
www.smith-roberts.com

ALTA/ACSM LAND TITLE SURVEY

High Pointe Health Campus
8650 Hudson Boulevard
Lake Elmo, Washington County, Minnesota



Westwood Professional Services, Inc.
7696 Anagram Drive
Eden Prairie, MN 55344
PHONE 952-937-5150
FAX 952-937-5622
TOLL FREE 1-888-937-5150
www.westwoodps.com

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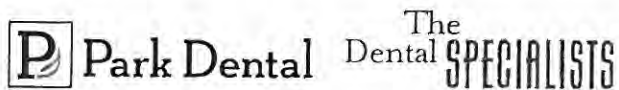
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Mayor Mike Pearson
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, Mn 55042

Re: High Pointe Health Campus Signage

Dear Mayor Pearson:

The Dental Specialists and Park Dental High Pointe have been located on the High Pointe Health Campus since 1998. We have consistently had concerns relating to the visibility of both practices on the campus and have had patients comment that it is difficult to find our practices. The Dental Specialists and Park Dental have both grown by increasing our services, increasing our patient base and our hours. All without the support of critical signage either lit or un-lit.

We have worked tirelessly directly with the City of Lake Elmo, receiving verbal approval for additional signage. However, after months of delay due to staffing changes and internal issues, we were informed that no further signage would be approved.

Park Dental and The Dental Specialists have over 40 locations throughout the Twin Cities and Western Wisconsin and the signage process has been easily moved along and approved. We are disappointed that further signage on the campus has not been allowed. Park Dental High Pointe has one lit sign on the west side of the building (only allowed one sign) which cannot be seen in driving from the East along the frontage road. With the new development going in to the East of our practice, we were looking for more signage on the building to easily identify the practice. Park Dental is open 7 a.m. – to 9 p.m. daily except for Friday which is 7 a.m – 4:00 p.m. And Saturdays for children. It is particularly difficult to locate the practice early in the morning or later in the day during Fall and Winter. Visibility is also critical for our emergency patients. The Dental Specialists are open 7:00 a.m. – 5:00 p.m. as well. Lighted monument signage would be helpful in the effort to locate the practice.

Visibility and signage are an important element in the overall service to our patients and potential patients. We are asking for approved signage on the campus for both The Dental Specialists and for Park Dental High Pointe. We thank you in advance for your attention to this matter.

Sincerely,

Dr. Alan Law
President, The Dental Specialists

Peter Swenson
Chief Administrator
Park Dental & The Dental Specialists



Lake Elmo City Hall
651-747-3900
3800 Laverne Avenue North
Lake Elmo, MN 55042

Development Standards for Eagle Point Business Park

300.12 subd. (1)(B) and 300.12(2). No Business Park structure shall exceed 60' in height. Parapet walls shall not exceed more than 4' above the height permitted of the building.

300.13 subd (6)(A)(3) Parking spaces shall be 9' X 18' at the developments north of Hudson Blvd and 10' X 20' South of Hudson Blvd, with the exception of the hotel and restaurant which needs to be 9' X 18' spacing. Parking spaces for the handicapped shall be minimum of 12' X 20'. 20% of the spaces in an office development can be compact car size 8' X 16". The size of parking space may be altered upon approval of Zoning Administrator.

300.13 subd. (6)(B)(6)(D) The primary landscaping materials shall be shade trees with shrubs, hedges, etc., used only to complement trees, not as the sole means of landscaping. Landscaping and irrigation will be done on a project by project basis. If landscaping within the NSP easement is disturbed, it needs to be replaced by NSP, or the property owner. Berming and landscaping must be approved within one year of City Council approval.

Permitted Uses: Banks, medical clinics, offices, schools (business, professional and private trade), office showrooms.

Conditional Uses: Business services, conference centers, health clubs, hotels and motels, day care centers, limited retail, medical, dental and research labs, recording studios, restaurants and cafeterias, theaters, teleconferencing transmission facilities, veterinary clinics, and hotel.

Minimum Lot Area: 2.0 acres. Lots less than 2.0 acres might be approved on a project by project basis through a conditional use permit.

Minimum Lot Frontage: 200' with the exception of 50' pm a cul-de-sac.

Lot Width/Depth Ratio: 1/3.5

Minimum Building Setbacks: 50' for the front and street frontage, and 10' for side and rear frontage. When abutting residential uses, the current ordinance requirement will apply.

Minimum Parking Setbacks: Front: 20', Side: 10', Side(street): 20', Rear: 10'

Minimum Building Foundation Size: 10,000 s.f.

Parking Ratio: One space for each 250 s.f. of office building area or one space per two employees, whichever is greater. One space per 2,000 s.f. of storage, warehouse and 1 space per 1,000 s.f. of showroom.

Pathways: 8' wide pathways as part of the City's trail system and the City will maintain.

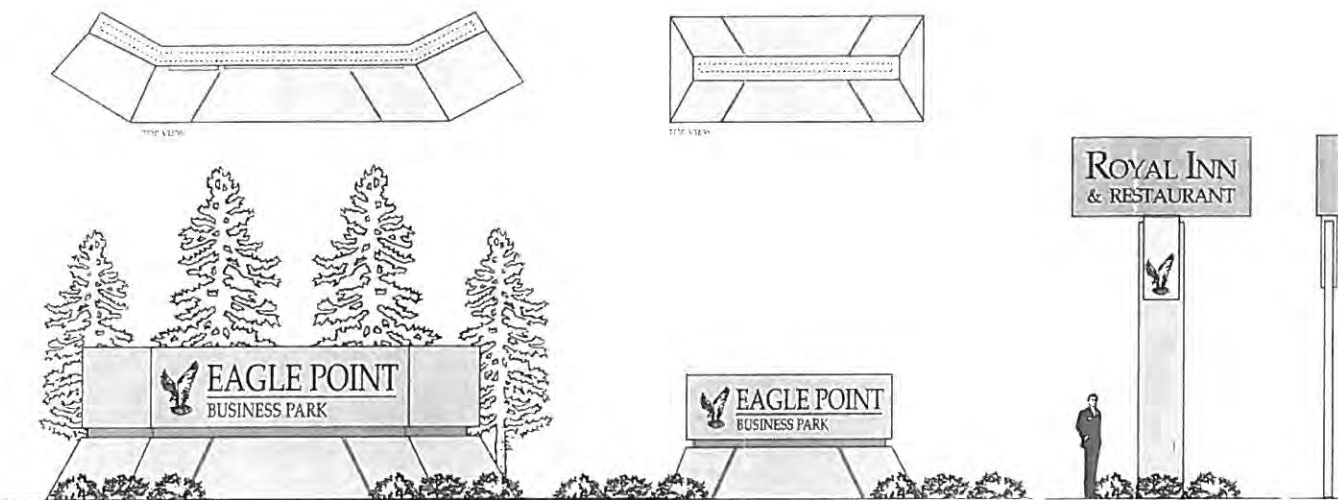
Storm Water Control: Storm water management requirements should be averaged over the PUD area as a whole. The tributary setback will be 30' from the tributary setback, and the parking setback will be 10' from the tributary setback.

Lighting Height: 30' maximum

Sign Height: Businesses can have signage on the building and a monument sign at the property's entrance, and that a pylon sign must be approved on a case by case basis by the City.

Pond Maintenance: Recommend the creation of a District to take care of pond maintenance.

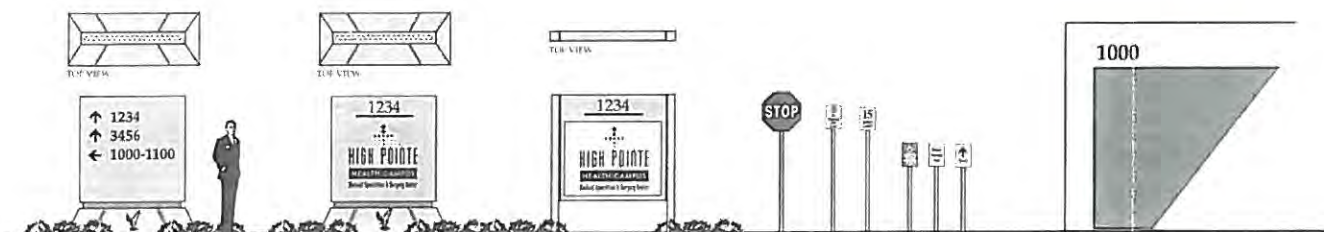
ORDINANCE REQUIREMENTS	PROPOSED DEVELOPMENT STANDARDS (5/28/99)	PLANNING COMMISSION'S COMMENTS (6/14/99)	PROPOSED DEVELOPMENT STANDARDS REVISED (6/23/99)	PLANNING COMMISSION RESPONSE (6/28/99)	City Council Response (7/13/99)
	space		to approved R&D Office/showroom uses, for those cases that are approved by the City as a conditional use	showroom - Approved	
Pathways:	8' wide bituminous	Would like to see 8'	No Change: Pathways will be 8' wide. We propose giving the City R.O.W. for pathways. The City will install and maintain at their cost.	Recommend we install 8' wide pathways as part of City's traf. system and the City will maintain. This was passed on to Park Commission.	Refer to Park Commission - <i>Decker</i> <i>Recommend Approval</i>
Storm Water Control	To new holding ponds	Incorporate into green corridor and innovative storm water control procedures.	Storm water management requirements should be averaged over the PUD area as a whole. The creation of ponds provide innovative storm water management solutions for water quality treatment and rate control. The tributary setback will be 25' from ordinary high water mark. The building setback will be 30' from the tributary setback, and the parking setback will be 10' from the tributary setback.	Approved	Approved
Lighting Height: 30'	Variable; maximum permitted height to be 35'	Show that there would be no spillover	No change. We accept the City's current standard of 30' maximum.	Approved with reference to Chapter 1350	Approved
Sign Height: Per Section 535	Variable heights, to be reviewed with City on an individual site basis	Pylon sign only	Sign Heights/Signage Plan: The City is concerned about the pylon sign height, specifically our reference to attracting traffic off the freeway, and the number of pylons that might exist. We propose that businesses can have signage on the building and a monument sign at the property's entrance, and that a pylon sign must be approved on a case-by-case basis by the City, however the size of the sign will match what we have proposed in our signage plan. The size, 12' X 6' signface and 25' height is designed primarily for Inwood traffic, not freeway.	No recommendation of approval made	Approved
Pond Maintenance			Pond Maintenance: We prefer that the City be required to maintain ponds and assess each property owner for their fair share, of the cost to do so.	Not an issue for Planning Commission's approval. Recommend the creation of a District to take care of pond maintenance.	Approved
M. TOWN DEVELOPMENT STANDARDS 14.DOC					



PRIMARY PROJECT IDENTIFICATION: Stone base, painted aluminum cabinet with cut through letters. Black letters during day; white illuminated letters at night. Approximately 15' high X 25' wide

SECONDARY PROJECT IDENTIFICATION: Painted cement base, painted aluminum cabinet with cut through letters. Black letters during day; white illuminated letters at night. Approximately 7' high X 12' wide

TENANT PYLON SIGNAGE: Painted aluminum base, painted aluminum cabinet with cut through letters. Top panel may be corporate colors and logo. **Approximately 30' high X 12' wide**



DIRECTIONAL: Painted cement base, non-illuminated aluminum cabinet with reflective black letters. Approximately 8' high X 6' wide

PRIMARY TENANT IDENTIFICATION: Painted cement base, painted aluminum cabinet with cut through letters. Black letters during day; white illuminated letters at night. Approximately 8' high X 6' wide (Option post and panel construction; white graphic background)

REGULATORY SIGNAGE: Painted 2 X 2 aluminum poles with standard DOT signage or custom regulatory signage as shown. Also includes Trail signage identification and direction

ADDRESS SIGNAGE: All building addresses will be consistent letter style and sizing. Placement will be in upper corner but will be determined specific to site. Approximately 12" high



PLANNING COMMISSION
DATE: 01/11/16
AGENDA ITEM: 5c/d – PUBLIC HEARING
CASE #2015-45

City of Lake Elmo Planning Department
PF Zoning District Text Amendment – Rezoning to PF Zoning District

To: Planning Commission
From: Stephen Wensman, City Planner
Meeting Date: January 11, 2016
Applicant: City of Lake Elmo
Legal Address: All that part of the North 75.00 feet of the East 150.00 feet of the North ½ of the SW ¼ of Section 21, Township 29 North, Range 21 West, Washington County, Minnesota, which lies westerly of the west line of Parcel 3 of the WASHINGTON COUNTY HIGHWAY RIGHT OF WAY PLAT NO. 98 – C.S.A.H. 13, according to the recorded plat thereof.
PID# 21.029.21.31.0002
Owner: City of Lake Elmo
Comprehensive Plan: Public or Semi Public

Summary and Request:

<i>Application Summary:</i>	The City of Lake Elmo is requesting a zoning text amendment to exempt <i>essential services</i> from the dimensional and buffer requirements of the PF - Public or Semi-Public Zoning District. In addition, the city is requesting the rezoning of the Inwood Booster Station property from Rural Residential to PF – Public or Semi-Public Zoning District.
<i>Recommendation:</i>	Staff is recommending that the Planning Commission recommend approval of the zoning text amendment to exempt essential services from the dimensional and buffer requirements of the PF - Public or Semi-Public Zoning District, and recommend approval of the rezoning of the Inwood Booster Station property, PID# 21.029.21.31.0002, from Rural Residential to PF – Public or Semi-Public Zoning District with the following motions: <ol style="list-style-type: none">1) <i>Move to approve a zoning text amendment exempting essential services from the dimensional and buffer requirements of the PF - Public or Semi-Public Zoning District.</i>

- 2) *Move to approve a rezoning of Inwood Booster Station property from RR-Rural Residential to PF- Public and Semi-Public Zoning District.*

Attachments: Location Map
Draft Ordinance Amendment 97-__
Property Exhibit.

Zoning Text Amendment and Rezoning

Review: The City of Lake Elmo negotiated the sale of property for the 75 foot x 90 foot, .16 acre, Inwood Booster Station to be located adjacent to CSAH 13 (Inwood Avenue). A 15 foot setback from the current roadway easement is being preserved for future County right-of-way as required in the County's Comprehensive Plan, leaving a 75 foot x 75 foot parcel upon which to site the booster station. The Inwood Booster Station is an essential part of the city's water distribution system. By definition, public utilities are considered an essential service in the City Code of Ordinances:

§ 154.012, Subd. B, 11

ESSENTIAL SERVICES. *Underground or overhead gas, electric, steam, or water distribution systems; collection, communication, supply, or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, or other similar equipment and accessories, but not including buildings or transmission services.*

Essential services are a permitted use in all zoning districts, however, the City's comprehensive plan guides publicly owned facilities, such as essential services to the PF Zoning District.

§ 154.203 ESSENTIAL SERVICES.

Essential services as defined by this Ordinance are permitted in any district, provided that a site plan for any new or expanded service facility is filed with the Planning Department. The City Council may require site plan review of large facilities, upon the recommendation of the Planning Director.

The original parcel and the newly created parcel for the Inwood Booster Station are presently zoned RR-Rural Residential. The new Inwood Booster Station parcel should be zoned PF – Public or Semi-Public as guided in the city's comprehensive plan.

Upon review of the proposed rezoning to PF – Public or Semi-Public, it became apparent that the new parcel was non-conforming with the PF Zoning District dimensional, and buffer requirements. The requirements are important for most land uses, however, *essential services* are generally incidental and subordinate to the surrounding land uses, whatever they may be. In addition, it serves the welfare of the public to have the least amount of property in public ownership while serving the

essential needs of the public. For this reason, the City is requesting the amendment to exempt essential services from the district's dimensional, and buffer requirements of the PF Zoning District.

The PF District requirements are as follows:

Minimum Lot Width: 100 feet

Minimum Lot Depth: 150 feet

Setbacks from property lines: 50 feet

Buffer Requirement: 50 feet

As part of the purchase agreement, the city has the right to provide landscaping within the first 15 feet to the south and west of the parcel, upon permission for right of entry by the seller. The City is planning to provide a landscape screening of the Inwood Booster Station parcel.

Recommendation:

Staff recommends the Planning Commission recommend approval of the zoning text amendment and zoning map amendment with the following motions:

- 3) ***Move to approve a zoning text amendment exempting essential services from the dimensional and buffer requirements of the PF - Public or Semi-Public Zoning District.***
- 4) ***Move to approve a rezoning of Inwood Booster Station property from RR- Rural Residential to PF- Public and Semi-Public Zoning District.***

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

ORDINANCE NO. 97-__

**AN ORDINANCE AMENDING SECTION 154.600 OF THE LAKE ELMO CITY CODE
TO EXEMPT ESSENTIAL SERVICES FROM THE PF- PUBLIC AND SEMI-PUBLIC
DIMENSIONAL AND BUFFER REQUIREMENTS**

The City Council of the City of Lake Elmo hereby ordains that Section 154.600 is hereby amended to read as follows:

ARTICLE I. PUBLIC AND SEMI-PUBLIC DISTRICTS

§ 154.600 PF – PUBLIC AND QUASI-PUBLIC OPEN SPACE.

- A. *Purpose and Intent.* The purpose and intent of the PF Zoning District is to allow uses and structures that are incidental and subordinate to the overall land uses permitted in the city. While allowing certain uses within the city, general performance standards have been established. This is intended to assure maintenance and preservation of the established rural character of the city by preserving agricultural land, woodlands, corridors, and other significant natural features, and provide buffering between PF and residential or other uses.
- B. *Uses Allowed by Conditional Use Permit.* In addition to the specific standards and criteria which may be cited below for respective uses, each application shall be evaluated based on the standards and criteria set forth in §§ 154.015 through 154.021 of this code. Uses allowed herein that are in existence within the city at the effective date of this chapter may continue the use as a permitted use. The following uses are conditionally permitted in the PF Zoning District:
 - 1. Cemeteries, provided that:
 - a. Direct access is provided to a public street classified by the Comprehensive Plan as major collector or arterial; and
 - b. No mausoleum, crematorium, or other structure is permitted, except a 1-story tool or storage shed of 160 square feet floor maximum floor area.
 - 2. Places of worship, provided that:
 - a. Direct access is provided to a public street classified by the Comprehensive Plan as major collector or arterial;
 - b. No use may exceed 235 gallons wastewater generation per day per net acre of land;

- c. No on-site sewer system shall be designed to handle more than 5,000 gallons per day;
 - d. Exterior athletic fields shall not include spectator seating, public address facilities or lighting; and
 - e. No freestanding broadcast or telecast antennas are permitted. No broadcast dish or antenna shall extend more than 6 feet above or beyond the principal structure.
3. Facilities for local, county and state government, provided that:
 - a. Direct access is provided to a public street classified by the Comprehensive Plan as major collector or arterial;
 - b. The use and location is consistent with the community facilities element of the Comprehensive Plan; and
 - c. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive
 4. Libraries and museums (public and private), provided that:
 - a. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive;
 - b. For private facilities, a plan is provided, together with a declaration and covenants to run with the title to the land, that prescribes perpetual maintenance, insurance and ownership responsibilities for all facilities and land area; and
 - c. Direct access is provided to a public street classified by the Comprehensive Plan as a major collector or arterial.
 5. Public and private schools (except licensed day care), provided that:
 - a. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive; and
 - b. Direct access is provided to a public street classified by the Comprehensive Plan as a major collector or arterial.
 6. Historic sites and interpretive centers, provided that:
 - a. Direct access is provided to a public street classified by the Comprehensive Plan as a major collector or arterial; and
 - b. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive.

C. *Uses Allowed by Interim Use Permit.* The keeping of horses in conjunction with churches provided that:

1. The keeping of horses does not constitute a feedlot per Minn. Rules.
2. The property is directly adjacent to only Agricultural (A) and Rural Residential (RR) zoned properties that are not developed as open space preservation subdivisions. Roadways shall be considered an adequate buffer.
3. Evidence is provided to show adherence to all livestock and horse regulations in city code.

D. *Accessory Uses and Structures.* Uses and structures, which are clearly incidental and subordinate to the principal permitted uses and structures. All exterior materials of accessory structures must be the same as those of the principal structure.

E. Minimum district requirements.

1. District requirements in PF Zoning District.

<i>District Requirements in PF Zoning District^a</i>		
	<i>With Structure</i>	Without Structure
Maximum Parcel Area	20	N.A.
Lot Width – Minimum:	100 Feet	N.A.
Lot Depth – Minimum:	150 Feet	N.A.
Primary Structure Setback from Property Line		
Front – Minimum:	50 Feet	N.A.
Side (Interior) – Minimum:	50 Feet	N.A.
Side (Corner) – Minimum:	50 Feet	N.A.
Rear – Minimum:	50 Feet	N.A.
Accessory Structure Setback from Property Line		
Front – Minimum:	50 Feet	N.A.
Side (Interior) – Minimum:	50 Feet	N.A.
Side (Corner) – Minimum:	50 Feet	N.A.
Rear – Minimum:	50 Feet	N.A.
Principal Structure Height -	50 Feet – Structure Side Walls Not	N.A.

Maximum	to Exceed 3.5 feet	
Accessory Structure Height - Maximum	35 Feet – Structure Side Walls Not to Exceed 18 Feet	N.A.
Unoccupied Structure Above the Highest Point of the Roof	25 Feet	-
Septic Drainfield Regulations	See §§51.002 through §§51.008	See §§51.002 through §§51.008
Signage	See §§154.212	See §§154.212

a. Essential services shall be exempt from the minimum district requirements of the PF Zoning District.

2. Maximum lot area, buffer width and impervious coverage shall be in compliance with the following table:

<i>Maximum Parcel Area^a</i>	Buffer Width (Feet)	Maximum Impervious Site Coverage
0 to 5 acres	50	39.5%
5.1 to 10 acres	100	38%
10.1 to 20 acres	150	35%

a. Essential services shall be exempt from the buffering requirements of the PF Zoning District.

F. Performance standards.

1. Generally

a. Architectural Standards

- i. It is the purpose and intent of the city, by the adoption of the performance standards of this division (F), to ensure commercial buildings constructed within the city are of a high quality of exterior appearance, consistent with the terms of Non-Residential Development Policy #5 of the 2000-2010 Lake Elmo Comprehensive Plan. It is the finding of the city that a limited selection of primary exterior surfacing materials meets this standard of quality.
- ii. It is the further finding of the city that several specific exterior surfacing materials are appropriate, and of sufficient quality, to be utilized only as accent materials in varying percentages. The

variations of percentage of specific accent materials relates to a finding by the city as to the relative quality and rural character of those respective accent materials.

- b. *Architectural and Site Plan Submittals.* New building proposals shall include architectural and site plans prepared by registered architect and shall show the following as a minimum:
 - i. Elevations of all sides of the buildings;
 - ii. Type and color of exterior building materials;
 - iii. Typical general floor plans;
 - iv. Dimensions of all structures; and
 - v. Location of trash containers, heating, cooling and ventilation equipment and systems.
- c. *Applicability – structure additions and renovation.*
 - i. Additions to existing structures resulting in an increase of gross floor area of the structure of less than 100%; and/or installation of replacement exterior surfacing any portion of an existing structure shall be exempt from the standards of this subdivision where it is found that the new or replacement exterior surfacing proposed is identical to that of the existing structure.
 - ii. Where additions to an existing structure result in an increase in the gross floor area of the existing structure of 100% or greater, the entire structure (existing structure and structure addition) shall be subject to the standard of this subdivision.
- d. *Performance standards – primary exterior surfacing.*
 - i. The primary exterior surfacing of structures shall be limited to natural brick, stone, or glass. Artificial or thin veneer brick or stone less than nominal 4 inches thick shall not qualify as complying with this performance standard
 - ii. Primary exterior surface shall be defined as not less than 70% of the sum of the area of all exterior walls of a structure nominally perpendicular to the ground. All parapet or mansard surfaces extending above the ceiling height of the structure shall be considered exterior surface for the purposes of this division. Windows and glass doors shall be considered a primary surface, but the sum area of this glass shall be deducted from the wall area for purposes of the 70% primary/30% accent formulas of this section. Doors of any type of material, except glass, shall not be considered a primary exterior surface.
 - iii. Each wall of the structure shall be calculated separately and, individually comply with the 70/30 formula.

- e. *Performance Standard – Exterior Surfacing Accents.* Not more than 30% of the exterior wall surfacing, as defined by division (F)(1)(d) above may be of the following listed accent materials, but no single accent material, except natural wood, may comprise more than 20% of the total of all accent materials; and no combustible materials shall be used:
 - i. Cedar, redwood, wood siding
 - ii. Cement fiber board;
 - iii. Standing seam metal;
 - iv. Architectural metal;
 - v. Stucco;
 - vi. Poured in place concrete (excluding “tilt-up” panels);
 - vii. Architectural metal panels; and

(Am. Ord. 97-172, passed 6-20-2006)

- viii. Porcelain or ceramic tile.
- f. *Performance Standards – Accessory Structures.* All accessory structures shall comply with the exterior surfacing requirements specified by this division.
- g. *Performance Standard – HVAC Units and Exterior Appurtenances.* All exterior equipment, HVAC and trash/recycling and dock areas shall be screened from view of the public with the primary exterior materials used on the principal structure
- h. *Performance Standard – Visible Roofing Materials.* Any roofing materials that are visible from ground level shall be standing seam metal, fire-treated cedar shakes, ceramic tile, clay tile, concrete, or slate.
- i. *Applicability – New Construction.* The standards of this division (F)(1) shall be applicable to all structures and buildings constructed in the city, on and after the effective date of this division. The performance standards of this division shall not be in any manner minimized by subsequent planned unit development plans or agreement.

(Am. Ord. 97-168, passed 5-2-2006)

- 2. *Parking.* Each site shall be provided with off-street automobile parking as follows:

- a. *Places of Worship.* One space for each permanent and temporary 4 seats based on the design capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings and uses shall be subject to additional requirements that are imposed by the city code.
- b. *Facilities for Local, County and State Government.* One space for each 250 square feet of office area. Facilities as may be provided in conjunction with

such buildings and uses shall be subject to additional requirements that are imposed by the city code.

- c. *School, Elementary and Junior High (public or private)*. Three spaces for each class room.
 - d. *School, High School (public or private)*. One space for each 2 students.
 - e. *Historic Sites and Interpretive Centers, libraries, and museums (public or private)*. One space for each 300 square feet of floor area.
3. *Landscaping*. All yard area shall either be landscaped green areas or open and left in a natural state. Yards to be landscaped shall be landscaped attractively with lawn, trees, and shrubs in accordance with a plan prepared by a landscape architect. Areas left in a natural state shall be kept free of litter, debris, and noxious weeds. Yards adjoining any residential zone shall contain a buffer area consisting of berming, landscaping, and/or fencing for the purpose of screening noise, sight, sound, and glare.
4. *Buffering*. Where areas abut residential districts, a buffer area and setback in compliance with this division (F) is required. The buffer requirement shall be applicable to any interior parcel property line, and not applied to property lines abutting improved public streets. No public/private streets or driveways, or off-street parking facilities may be located in the buffer area. The buffer area shall be completely defined and designed, and approved by the city prior to all final city approvals for construction on site. Prior to the issuance of a building permit or commencement of any improvements on site, the owner shall provide the city with a financial security for a minimum of 24 months unless a shorter term of security is specifically approved by the City Council, approved by the City Attorney, to assure construction of the buffer area. All landscaping shall comply with § 151.070.
5. *Signage*. All signs shall comply with § 151.121 of this Code.
6. *Lighting*. All lighting shall comply with §§ 150.035 through 150.038.
7. *Traffic*. All applications for a building permit responsive to the requirements of this section shall include a detailed report, certified by a registered engineer, demonstrating the extent of and quantitative impact on public roads from forecasted traffic of the use, based on ITE average daily and peak hour/event traffic. Forecasted traffic generation within the design capacity of an impacted public street, as determined by the City Engineer, shall be the primary determinant for approval of the site plan.

(Am. Ord. 97-62, passed 9-5-2000; Am. Ord. 97-192, passed 6-19-2007; Am. Ord. 97-204, passed 12-11-2007)

Effective Date

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

Adoption Date

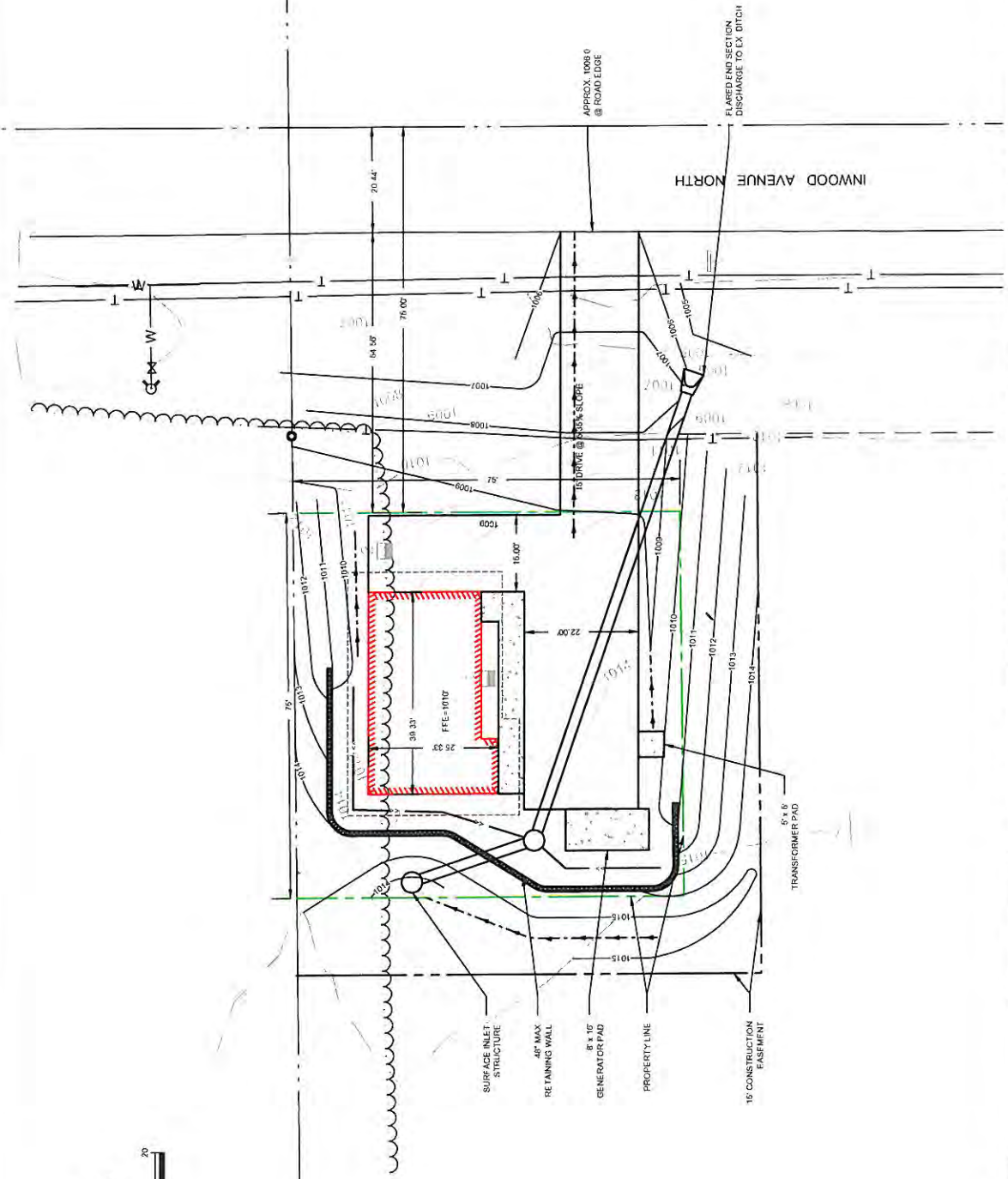
This Ordinance No. _____ was adopted on this 19 day of January, 2016, by a vote of _ Ayes and _ Nays.

Mayor Mike Pearson

ATTEST:

Clark Schroeder
Interim Administrator

This Ordinance No. ____ - ____ was published on the ____ day of ____, 2016.



PROJECT NO.	09880003	DATE	11/14/11	SCALE	AS SHOWN	BY	CS	REVISION	DATE
PROJECT NAME	INWOOD BOOSTER STATION	DESIGNED BY	CS	CHECKED BY	UA	DATE	11/14/11	REVISION	DATE
PROJECT LOCATION	CITY OF LAKE ELMO, WASHINGTON COUNTY, MN	ENGINEER	CS	DATE	11/14/11	REVISION	DATE	REVISION	DATE



MSA
Engineering & Surveying
855 Pine Island Road, Suite 200, Lake Elmo, MN 55427
Tel: 763-466-1000 Fax: 763-466-1001
Web Address: www.msa-inc.com

INWOOD BOOSTER STATION
CITY OF LAKE ELMO
WASHINGTON COUNTY, MN

EXHIBIT L

09880003
EXHIBIT L



PLANNING COMMISSION
DATE: 01/11/2016
AGENDA ITEM: 5e – PUBLIC HEARING
CASE #2015-44

City of Lake Elmo Planning Department
Ordinance Amendment – Keeping and Maintaining Pigeons

To: Planning Commission
From: Stephen Wensman, City Planner
Meeting Date: January 11, 2016
Applicant: City of Lake Elmo

Summary and Action Requested

Request: The City of Lake Elmo is requesting an amendment to the Animal Ordinance as it pertains to keeping and maintaining pigeons in the City of Lake Elmo. Staff recommends that the Planning Commission recommend approval of Ordinance __ with the following motion:

Move to recommend approval of Ordinance 97-__ pertaining to the keeping and maintenance of pigeons in the City of Lake Elmo.

Application Summary: Staff initiated this ordinance in response to a call by a potential resident looking for a place to live where he can keep 100 pigeons. The current ordinance does not address pigeons as they are not farm animals, nor are they pets. Without the ordinance, the city would address potential pigeon keeping issues through the nuisance ordinance. Nuisances are dealt with on a case-by-case basis as complaints are brought to staff's attention. Rather than wait for nuisance calls, staff asked the Planning Commission in November 2015 if staff should address the issue with an ordinance amendment. Staff was directed to do so. This ordinance was drafted based on review of several Wisconsin ordinances, an ordinance from Gem Lake, MN and the City of Lake Elmo Chicken Ordinance. The Wisconsin ordinances found are basically variations of the same ordinance. The Gem Lake is the most restrictive. The proposed ordinance is modeled on these ordinances.

Analysis: The primary difference between the draft ordinances reviewed and the proposed is:

- Only applicable in the RR-Rural Residential and A- Agriculture Zoning Districts.
- Minimum Lot Size: 2.5 acres.
- Maximum number of pigeons allowed: 20.

To minimize potential nuisance issues and to maximize setbacks from residential homes, the larger lot zoning and a minimum 2.5 acres lot size is recommended. To

determine the number of pigeons allowed, staff calculated the number of pigeons that could fit within an allowed 200 sq. ft. accessory structure. According to staff research, the recommended area per pigeon is around 4-5 cubic foot per bird.

Attachments: Draft - Ordinance Amendment No. 97-__
 Gem Lake Pigeon Ordinance
 Wisconsin Pigeon Ordinances

Recommendation:

Staff recommends that the Planning Commission recommend approval of Ordinance no. 97-__ with the following motion:

Move to recommend approval of Ordinance No. 97-__pertaining to the Keeping and Maintenance of Pigeons in the City of Lake Elmo.

Section 3.12 Keeping of Pigeons. The keeping, breeding, maintenance and flying of pigeons may be permitted subject to the following:

3.12.1 A loft must be constructed and maintained to keep and confine the pigeons. The loft must provide at least nine cubic feet of space per bird. The loft must be enclosed with wire netting or equivalent material that will prevent pigeons from escaping the confines of the loft. Lofts must be elevated a minimum of six inches and a maximum of twelve inches above grade to ensure free-way beneath the loft. Lofts shall rest upon concrete footings, cement blocks, or other suitable foundation material. A loft may have a maximum height of nine feet.

3.12.2 The loft must be constructed and maintained so as to be rodent proof.

3.12.3 The owner may construct pigeon lofts up to a cumulative maximum floor area of 200 square feet. Any single loft with over 120 square feet in floor area requires a building permit, as with other accessory structures.

3.12.4 Pigeon lofts may be located in the rear yard only and shall be at least 50 feet from adjacent habitable structures.

3.12.5 Pigeons shall be confined to the loft except when they are released for exercise, performance, training, or to return from areas outside the City of Gem Lake for the purpose of engaging in a race or returning from training flights.

3.12.6 All pigeons shall be fed within the confines of the loft on the premises on which the pigeons are housed.

3.12.7 All grains and food stored for the use of the pigeons on a licensed premises shall be kept in a rodent-proof container.

3.12.8 Pigeons must be banded in a way to identify each pigeon as kept by its owner.

3.12.9 All premises on which pigeons are kept or maintained shall be kept reasonably clean from filth, garbage, and any substances which attract rodents. The loft and its surroundings must be cleaned daily.

3.12.10 No one shall release pigeons to fly for exercise, training or competition within the City of Gem Lake except an owner of pigeons who is a member in good standing of an organized pigeon club, such as the American Racing Pigeon Union, Inc., the International Federation of Racing Pigeon Fanciers, the National Pigeon Association, the American

Tippler Society, the International Roller Association, the Rare Breeds Pigeon Club, or a local club which has rules that will help preserve the peace and tranquility of the neighborhood.

Section 3.13 Keeping of Domestic Fowl. The keeping of domestic fowl may be permitted subject to the following:

3.13.1 A structure must be constructed and maintained to keep and confine the birds. The structure must provide at least five square feet of floor space per bird. The structure must provide shelter from the elements for all kept birds. The structure would be built of suitable foundation material or built in such a way that it allows for air flow and it is suitable for cleaning.. A structure for domestic fowl shall have a minimum of four feet of interior space from floor to ceiling, and may have a maximum height of nine feet.

3.13.2 The bird structure must be constructed and maintained so as to be rodent-proof.

3.13.3 The owner may construct bird structures up to a cumulative maximum floor area of 200 square feet. Any single bird structure with over 120 square feet in foundation floor area requires a building permit, as with other accessory structures.

3.13.4 Bird structures may be located in the rear yard only and shall be at least 50 feet from adjacent habitable structures.

3.13.5 An area outside of the bird structure must be designated and reserved for the birds to exercise and forage outside of the bird structure. The designated area must provide a minimum of 11 square feet per bird.

3.13.6 All grains and food stored for the use of the domestic fowl on a licensed premises shall be kept in a rodent-proof container.

3.13.7 All premises on which domestic fowl are kept or maintained shall be kept reasonably clean from filth, garbage, and any substances which attract rodents. The bird structure and its surroundings must be cleaned daily.

SECTION 4 - ANIMAL LICENSING AND IDENTIFICATION

Section 4.1 Dog Licensing and Identification Required.

4.1.1 Dog Licensing and Identification. No person shall own, keep, or harbor any dog over the age of six (6) months within the City of Gem Lake

Home

Pigeon Keeping Ordinances

**Adopted for Eau Claire County WI. &
the cities of Eau Claire WI. & Altoona WI. - Eau Claire County**

If You live within Eau Claire County in Rural Housing (RH) or the Cities of Eau Claire & Altoona WI. You are Required to be in compliance with the Pigeon Keeping Ordinances listed below. They were written & adopted for You, the Pigeon Fancier

Eau Claire County WI. Pigeon Keeping & Maintaining Ordinance

Ordinance File No: 98-99/232

PIGEONS

Section 2 of the County Code - Conditional Uses in the RH District

Non commercial raising of animals & birds

Paragraph C

Pigeons are allowed as accessory uses in the Agricultural Districts and as conditional uses in the Residential districts. Pigeons are defined as Racing Pigeons, Fancy Pigeons, & Sporting Pigeons. All Sites shall meet the following conditions:

1. All premises on which Pigeons are kept and maintained shall be kept clean and free from filth, garbage and such substances which attract rodents at all times.
2. All Pigeons shall be fed within the confines of the aviary in which the Pigeons are housed.
3. All feed or food stored for the use of the Pigeons shall be kept in rodent-proof containers.
4. Pigeons shall be permitted to fly only when under the control of the Licensee or a representative of the Licensee.
5. All aviaries shall be completely enclosed with wire netting or equivalent material that will prevent Pigeons from escaping its confines.
6. The aviaries shall be sided similar to the principal structure on the property.
7. All aviaries housing Pigeons shall be elevated a minimum of six (6) inches and a maximum of twelve (12) inches above grade to insure a free-way beneath the aviary; further, the aviary shall rest upon and be anchored to a foundation or piers made of concrete or other suitable foundation material. No aviary shall exceed twelve feet in height.
8. There shall be a principal use and structure on the property which conforms to the Zoning district in which the property lies.
9. All Pigeons shall be Banded and Registered.

Section 3. That this Ordinance hereby repeals Ordinance 98-99/182 adopted December 15, 1998.
ENACTED: January 19, 1999.

City of Eau Claire WI. (Corporate Limits) Pigeon Keeping & Maintaining Ordinance

Chapter 6.16

PIGEONS

Sections:

6.16.010 Definitions.

6.16.060 Conditions for keeping and maintaining.

6.16.070 Violation--Penalty.

6.16.010 Definitions. The following definitions shall apply only in the interpretation and enforcement of this chapter:

A. "Loft" includes any and all quarters in which pigeons are housed.

B. "Pigeon" includes any and all varieties and breeds of pigeons.

C. This chapter shall apply to the keeping and harboring of pigeons for any purpose within the corporate limits of the city of Eau Claire. (Ord. 5207 §2, 1992; Prior code §12.11(1)).

6.16.060 Conditions for keeping and maintaining. It is a violation of this chapter for any person, firm or corporation to harbor, keep or maintain pigeons upon other than the following conditions unless varied

by provisions of chapter 18.35:

A. No loft, coop or other place for keeping or confining pigeons shall be maintained or operated in any

manner which violates the city building code or zoning ordinance.

B. All premises on which pigeons are kept and maintained shall be kept reasonably clean and free from filth, garbage and such substances which attract rodents at all times.

C. All pigeons shall be fed within the confines of the loft or premises on which pigeons are housed.

D. All grains and food stored for the use of pigeons shall be kept in rodent-proof containers.

E. Pigeons shall be exercised and permitted to fly only when under control of the licensee or a representative of the licensee.

F. All aviaries shall be completely enclosed with wire netting or equivalent material that will prevent pigeons from escaping the confines of the loft or coop.

G. The loft floor area shall not exceed two hundred square feet.

H. The outline of the loft to house said pigeons shall be of such design to conform with the symmetry of the existing buildings.

I. Any loft housing pigeons shall be elevated a minimum of six inches and maximum of twelve inches above grade to insure free-way beneath the loft; further, the loft shall rest upon concrete footings and piers,

cement blocks, or other suitable foundation material. Any loft built expressly to house pigeons shall have a

maximum height of nine feet.

J. The property upon which pigeons are kept shall have established a principal use conforming to the zoning ordinance. (Ord. 5207 §§3, 4, 5, 1992; Prior code §12.11(2)(e)).

6.16.070 Violation--Penalty. Any person who violates any of the provisions of this chapter shall forfeit a penalty not exceeding twenty-five dollars and the costs of prosecution for each and every offense, and

in default of payment thereof, shall be committed to the county jail of Eau Claire County until such forfeiture

and costs are paid, not exceeding ten days, unless said forfeiture and costs and expenses of prosecution are

sooner paid. (Prior code §12.11(2)(f)).
158 (Eau Claire 6/92)

City of Altoona WI. Pigeon Keeping & Maintaining Ordinance

Chapter 6.06

PIGEONS

Sections:

6.06.010 Definitions.

6.06.020 Conditional use.

6.06.030 Minimum Conditions for keeping and maintaining.

6.06.040 Violation-Penalty

6.06.010 Definitions.

The following definitions shall apply only in the interpretation and enforcement of this chapter.

A. "Loft" includes any and all quarters in which pigeons are housed.

B. "Pigeon" includes any and all varieties and breeds of pigeons.

C. This chapter shall apply to the keeping and harboring of pigeons for any purpose within the corporate limits of the City of Altoona.

6.06.020 Conditional use.

A. Pigeon Lofts shall be approved only as a conditional use in the R-1 District.

B. Pigeon Lofts are prohibited in all other Districts.

6.06.030 Minimum Conditions for keeping and maintaining.

It is a violation of this chapter for any person, firm or corporation to harbor, keep or maintain pigeons upon other than the following minimum conditions.

A. No loft for keeping or confining pigeons shall be maintained or operated in any manner which violates city building code or zoning ordinance, including but not limited to Section 15.04.120.

B. All premises on which pigeons are kept and maintained shall at all times be kept clean and free from filth, garbage and such substances which attract rodents.

C. All pigeons shall be fed within the confines of the loft in which pigeons are housed.

D. All grains and food stored for the use of pigeons shall be stored indoors and shall be kept in rodent-proof containers.

E. Pigeons shall be exercised and permitted to fly only when under control of the permittee or a representative of the permittee.

F. All aviaries shall be completely enclosed with wire netting or equivalent material that will prevent pigeons from escaping the confines of the loft or coop.

G. The loft floor area shall not exceed one hundred square feet.

H. The exterior appearance and finish of the loft to house pigeons shall be defined in the conditional use permit.

I. Any loft housing pigeons shall be elevated a minimum of six inches and maximum of twelve inches above grade to insure free-way beneath the loft. The loft shall rest upon concrete footings

or piers having a minimum depth of three (3) feet. Any loft built expressly to house pigeons shall have a

maximum height of nine feet.

J. The property upon which pigeons are kept shall have established a principal use conforming to the zoning ordinance.

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6.06.040 Violation—Penalty.

Any person who violates any of the provisions of this chapter shall forfeit a penalty not exceeding twenty-five dollars and the costs of prosecution for each and every offense, and in default of payment thereof, shall be committed to the county jail of Eau Claire County until such forfeiture and costs are paid,

not exceeding ten days, unless said forfeiture and costs and expenses of prosecution are sooner paid. (Ord. 4A-04, 2004).

Home

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

ORDINANCE NO. __ - __

**AN ORDINANCE AMENDING SECTIONS 95.114 - 95.122 OF THE LAKE ELMO CITY
CODE AS IT PERTAINS TO KEEPING AND MAINTAINING PIGEONS.**

The City Council of the City of Lake Elmo hereby ordains that Sections 95.114 - 95.122 are hereby amended to read as follows:

KEEPING AND MAINTAINING PIGEONS

§ 95.114 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LOFT. Any and all quarters in which pigeons are housed.

PIGEON. Any and all varieties and breeds of pigeons.

§ 95.115 PURPOSE.

The purpose of this subchapter is to establish certain requirements for keeping and maintaining pigeons to avoid issues that might otherwise be associated with keeping and maintaining pigeons in populated areas.

§ 95.116 INVESTIGATION AND ENFORCEMENT.

Officers designated by the city shall have authority in the investigation and enforcement of this subchapter, and no person shall interfere with, hinder or molest any such officer in the exercise of such powers. The city shall make investigations as is necessary and may grant, deny, or refuse to renew any application for permit, or terminate an existing permit under this subchapter.

§ 95.117 KEEPING OF PIGEONS.

(A) Pigeons shall only be permitted on lots 2.5 acres or greater in size in the RR – Rural Residential and A-Agriculture zoning districts.

(B) Maximum number of pigeons shall be no more than twenty (20) per residential lot.

§ 95.118 PERMIT REQUIRED; TERM, CONSENT, FEE.

(A) No person shall (without first obtaining a permit in writing from the City Clerk) own, keep, harbor, or have custody of any pigeons within the city of Lake Elmo.

(B) The first permit is valid for up to 2 years beginning on the date of issuance and ending on December 31 of the following year. Subsequent permits are valid from January 1 to December 31.

(C) Prior to issuance of a permit, notices must be mailed to all homes within 150 feet of the applicant's property lines.

(D) The fee for a permit may be imposed, set, established and fixed by the city council, by ordinance, from time to time.

§ 95.119 APPLICATION.

Any person desiring a permit required under the provisions of this subchapter shall make written application to the City Clerk upon a form prescribed by and containing such information as required by the city. Among other things, the application shall contain the following information:

(A) A description of the real property upon which it is desired to keep the pigeons.

(B) The number of pigeons to be maintained on the premises.

(C) A site plan of the property showing the location and size of the proposed loft, and/or aviary, setbacks from the loft to property lines and surrounding buildings (including houses and buildings on adjacent lots).

(D) Statements that the applicant will at all times keep the pigeons in accordance with all of the conditions prescribed by the officer, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this article and grounds for cancellation of the permit.

(E) Such other and further information as may be required by the officer.

§ 95.120 PERMIT CONDITIONS.

Each person keeping pigeons within the City of Lake Elmo shall comply with the following:

(A) No loft for keeping or confining pigeons shall be maintained or operated in any manner which violates the city building code or zoning ordinance.

(B) Pigeons must be banded in a way to identify each pigeon as kept by its owner.

(C) All premises on which pigeons are kept and maintained shall be kept reasonably clean and free from filth, garbage and such substances which attract rodents at all times.

(D) All pigeons shall be fed within the confines of the loft or premises on which pigeons are housed.

(E) All grains and food stored for the use of pigeons shall be kept in rodent-proof containers.

(F) Pigeons shall be exercised and permitted to fly only when under control of the permit holder or their representative.

(G) All aviaries shall be completely enclosed with wire netting or equivalent material that will prevent pigeons from escaping the confines of the loft or coop.

(H) The outline of the loft to house said pigeons shall be of such design to conform to the symmetry of the existing buildings.

(I) The loft must provide a minimum 4 cubic feet of space per bird. The loft must be enclosed with wire netting or equivalent material that will prevent pigeons from escaping the confines of the loft. Lofts must be elevated a minimum of six inches and a maximum of twelve inches above grade to ensure free-way beneath the loft. Lofts shall rest upon concrete footings, cement blocks, or other suitable foundation material. A loft may have a maximum height of 12 feet and a maximum floor area of 200 square feet and must comply with Section 154.406.

(K) Pigeon lofts may be located in the rear yard only and shall be at least 50 feet from adjacent habitable structures.

(L) The property upon which pigeons are kept shall have established a principal use conforming to the zoning ordinance.

(L) Dead Pigeons must be disposed of according to the Minnesota Board of Animal Health rules which require pigeon carcasses to be disposed of as soon as possible after death, usually within 48 to 72 hours. Legal forms of Pigeon carcass disposal include burial, off-site incineration or rendering, or composting.

§ 95.121 VIOLATIONS.

(A) Any person violating any of the sections of this article shall be deemed guilty of a misdemeanor and upon conviction, shall be penalized in accordance with § 10.99.

(B) If any person is found guilty by a court for violation of this section, their permit to own, keep, harbor, or have custody of pigeons shall be deemed automatically revoked and no new permit may be issued for a period of 1 year.

(C) Any person violating any conditions of this permit shall reimburse the city for all costs borne by the city to enforce the conditions of the permit including, but not limited to, the pickup and impounding of pigeons.

§ 95.122 ISSUANCE, REVOCATION.

(A) If granted, the permit shall be issued by the city and shall state the conditions, if any, imposed upon the permitted for the keeping of pigeons under this permit. The permit shall specify the restrictions, limitations, conditions and prohibitions which the city deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health and safety. Such permit may be modified from time to time or revoked by the city for failure to conform to such restrictions, limitations, or prohibitions. Such modification or revocation shall be effective after 10 days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintaining such pigeons.

(B) The city may revoke any permit issued under this subchapter if the person holding the permit refuses or fails to comply with this subchapter, with any regulations promulgated by the

city council pursuant to this article, or with any state or local law governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within 10 days thereafter, humanely dispose of all pigeons being owned, kept or harbored by such person, and no part of the permit fee shall be refunded.

Effective Date

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

Adoption Date

This Ordinance No. _____ was adopted on this ____ day of _____, 2016, by a vote of _ Ayes and _ Nays.

Mayor Mike Pearson

ATTEST:

Clark Schroeder
Interim Administrator

This Ordinance No. ____-____ was published on the ____ day of _____, 2016.



PLANNING COMMISSION
DATE: 01/11/2016
AGENDA ITEM: 5f – PUBLIC HEARING
CASE #2015-43

City of Lake Elmo Planning Department
Ordinance Amendment - Weapons

To: Planning Commission
From: Stephen Wensman, City Planner
Meeting Date: January 11, 2016
Applicant: City of Lake Elmo

Summary and Action Requested

Request: The City of Lake Elmo is requesting an amendment to the Weapons Ordinance as it pertains to hunting in the City of Lake Elmo. Staff recommends that the Planning Commission recommend approval of Ordinance 97-__ with the following motion:

Motion to recommend approval of Ordinance 97-__ as it pertains to weapons and hunting in the City of Lake Elmo.

Application Summary: This past hunting season, staff has had numerous complaints regarding hunting which has prompted this amendment. As the city develops, conflicts such as these will only increase. It is presently difficult for the average person to know what land is platted and appropriate for hunting. The intent of the ordinance is to clarify where hunting is allowed and to restrict it to areas away from platted property and other areas where hunting may conflict with public safety such as near street rights-of-way, homes, schools, parks and trails.

Attachments: Section 130.15 Weapons
Ordinance Amendment No.

Recommendation:

Staff recommends that the Planning Commission recommend approval of Ordinance __ with the following motion:

Motion to recommend approval of Ordinance 97-__ as it pertains to weapons and hunting in the City of Lake Elmo.

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

ORDINANCE NO. 97--__

**AN ORDINANCE AMENDING SECTION 130.15 OF THE LAKE ELMO CITY CODE
AS IT PERTAINS TO WHERE HUNTING IS ALLOWED.**

The City Council of the City of Lake Elmo hereby ordains that Section 130.15 is hereby amended to read as follows:

WEAPONS

§ 130.15 POSSESSION, DISCHARGE, OR SALE OF WEAPONS.

(A) *Definitions.* Unless specifically defined in this section, words or phrases used in this section shall be interpreted so as to give them the same meaning as they have in common usage in § 11.01.

(B) *Unlawful acts.* Except as otherwise provided in this section, it shall be unlawful for any person:

(1) To fire, discharge, release, throw, or in any other manner propel a weapon within 500 feet of a residence, whether or not inhabited, or any other structure or building or within 500 feet of any platted area in the city, public park, public trail, public/private school, and public right-of-way, except on an approved target range;

(2) To wear or carry a loaded weapon for hunting or other purposes on land not owned by the person wearing or carrying the weapon, in the city, without specific written and dated permission of the owner of the land. The writing containing the permission shall also describe with reasonable accuracy the boundaries of the land owned by the owner giving the permission, except on an approved target range.

(C) *Seizure; confiscation.* If any police officer personally observes conduct in violation of division (B) above, the weapon may be immediately seized and held in the custody of the City Police Department pending appropriate court action. If the court determines a violation of division (B) above has occurred, the weapon involved in the violation shall be forfeited to and confiscated by the city.

(D) *Exceptions.* The prohibitions of this section shall not apply to:

(1) *Police officers.* Duly authorized police officers of the city when in the course and scope of their duties, nor to any officer of any court whose duty shall be to serve warrants or to make arrests, nor to persons who shall have obtained from the Council or some other appropriate governmental agency, a license or permit to handle or have in his or her possession or control any weapon;

(2) *Encased weapons.* Persons in possession of any weapon that is unloaded and properly encased and/or is being stored, transported, or displayed within a residence;

(3) *Bows and arrows.* Persons in possession or control of bows and arrows while engaged in recreational activities, except hunting or instructional programs or archery ranges located within county or city parks; and/or

(4) *Sale not in regular course of business.* Persons in possession or control of any weapon for the purpose of the sale of the weapon as long as the sale is not in the regular course of the person's business.

(1997 Code, § 1300.01) Penalty, see § 10.99

Effective Date

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

Adoption Date

This Ordinance No. _____ was adopted on this ____ day of _____, 2016, by a vote of _ Ayes and _ Nays.

Mayor Mike Pearson

ATTEST:

Clark Schroeder
Interim Administrator

This Ordinance No. ____ - ____ was published on the ____ day of _____, 2016.