

3800 Laverne Avenue North Lake Elmo, MN 55042

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NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday March 27, 2017 at 7:00 p.m.
AGENDA

- 1. Pledge of Allegiance
- 2. Approve Agenda
- 3. Approve Minutes
 - a. March 13, 2017
- 4. Public Hearings
 - a. ZONING MAP AMENDMENT: A request by the City of Lake Elmo for a Zoning Map Amendment to rezone all properties currently zoned GB-General Business to VMX Village Mixed Use.
 - b. COMPREHENSIVE PLAN AMENDMENT: A request by the City of Lake Elmo to amend the City's Wastewater Facilities and Land Use Plan of the Comprehensive Plan, adding two properties to the Olson Lake Trail sewer area and re-guiding them to Rural Single Family Sewered. PID #'s 08.029.21.14.0059 & 09.029.21.32.0001.

5. Business Items

- a. PRELIMINARY PLAT AND PUD PLANS: A request by HC Royal Golf Course Development LLC for Preliminary Plat and Preliminary PUD Development Plans for the Royal Golf Club at Lake Elmo an 18-hole golf course and 292 lot single family detached residential planned unit development. The subject properties are bound by 20th Street N, Lake Elmo Avenue, and 10th Street N and bordering West Lakeland Township with PID's 25.029.21.12.0001, 25.029.21.14.0001, 25.029.21.21.0001, 25.029.21.31.0001, 25.029.21.42.0001, 25.029.21.43.0001, 25.029.21.43.0002
- b. ZONING TEXT AMENDMENT -Village Low Density Residential Zoning: The Planning Commission will discuss a draft for the V-LDR Zoning.
- c. ZONING TEXT AMENDMENT Solar Ordinance: The Planning Commission will discuss a draft of the solar ordinance.

6. Updates

- a. City Council Updates March 21, 2017
 - i. Wildflower 2nd Developer Agreement
 - ii. Lakewood Crossing 2nd Addition Concept Plan PUD
 - iii. Noise Ordinance
- b. Staff Updates
 - i. Upcoming Meetings:
 - April 10, 2017
 - April 24, 2017
 - ii. MAC CEP Report-none

c. Commission Concerns

7. Adjourn

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



City of Lake Elmo Planning Commission Meeting Minutes of March 13, 2017

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

COMMISSIONERS PRESENT: Kreimer, Dodson, Dorschner, Emerson, Larson, Williams,

Lundquist and Hartley

COMMISSIONERS ABSENT: Fields

STAFF PRESENT: Planning Director Wensman and City Administrator Handt

Approve Agenda:

M/S/P: Dodson/Williams, move to approve the agenda as presented, Vote: 7-0, motion

carried, unanimously.

Approve Minutes: January 23, 2017

M/S/P: Dodson/Larson, move to approve the January 23, 2017 minutes as presented,

Vote: 7-0, motion carried unanimously.

Approve Minutes: February 27, 2017

M/S/P: Williams/Lundquist, move to approve the February 27, 2017 minutes as

amended, Vote: 7-0, motion carried unanimously.

Public Hearing – PUD Concept Plan – Lakewood Crossing 2nd

Wensman started his presentation regarding the Lakewood Crossing 2nd Addition PUD Concept Plan. This will be a 3 lot subdivision on 3.82 acres. The proposal is for a full service restaurant, chiropractic and other retail activities. This property is currently vacant but is guided for commercial. This PUD Concept Plan is intended to be intended to provide the applicant guidance so that they can adjust the proposal if necessary. The PUD will give flexibility to maximize the use of the property when straight zoning does not work. There is a requirement that 20% of the project area be open space. There are no open space calculations which must be provided. Lot dimensions and Bulk requirements are largely met, but flexibility is being requested for the following 1) minimum lot width 2) Impervious surface 3) Parking setbacks.

There are some deviations from the commercial design standards. Some of the standards do not apply to this site and the unique shape of the lot make some of them a challenge. There is not much landscaping proposed, especially along the exterior streets. Most of the review comments come from engineering and have to do with traffic and access management. Hudson Blvd is a main collector and there is spacing limitations to 660 feet spacing for full access intersections. That would put the West access in the Ebertz property. The City is suggesting working with the Ebertz to develop together.

There are 18 recommended conditions of approval including meeting all engineering comments, a comprehensive sign plan, open space calculations, amended landscape plan to meet city standards, financial security, obtain necessary permits, etc.

Kreimer asked if this could be done with one entrance or if there would need to be two for safety. Wensman stated that to his knowledge there would not need to be two, but should be run by the fire chief and city engineer.

Williams asked why there would be no deed restriction on the shared parking as part of this as it states it is at the time of sale. Wensman stated that there should be a cross access agreement with the plat, not at time of sale.

Hartley asked if the city engineer reviewed this for drainage. Wensman stated that at the concept plan, they are looking at the bigger picture and the issue is the access management.

Kreimer asked why this property would need to provide the sewer and water. Is it not in Hudson Road? Wensman stated that the sewer access does not extend all the way down to Ebertz property.

Bruce Miller, CM Properties, they are building on speculation and hope that the businesses will come. They are asking for some flexibility from the code so that they can bring a much more quality development forward. The drive through component is a CUP in the Commercial code through the PUD process and they would like to get those approvals now so that they can market to those types of businesses with confidence. He feels that the allowed signage is limiting and signs would be difficult to see. They have been working on some signage proposals for a comprehensive sign plan. Miller stated that rather than the 20% open space required with a PUD, he is proposing upgraded architectural features. He is confident that there will be enough parking. It is to there benefit to make sure there is adequate parking to meet the needs of their tenants.

Hartley asked about a shared driveway on the West side with the Ebertz. Miller stated that the first phase would not need the second access point unless the fire chief

requires it. He stated that he does not control the Ebertz property, but he is willing to give them an easement for access.

Public Hearing opened at 7:52 pm

No one spoke and there were no written comments

Public Hearing closed at 7:52 pm

Williams feels that this is a good development and good for this spot. He does have concerns about the access spacing, traffic flow for all the drive thru and parking needs to be more detailed. The offsets to open space he is willing to discuss, but needs to be convinced with more details of landscaping and architectural design. Dodson agrees with Williams and would like to see an agreement worked out with the property owner to the West. There was discussion regarding concern with the traffic flow of the drive thru. Kreimer would like to see a couple of islands in the center of parking lot to break it up a little bit. He is also concerned about the turn radius for the multiple drive-thru and is concerned about the access spacing.

Lundquist thinks this will be a great addition to the community and she is not concerned about the drive-thru radius. Hartley is uncomfortable permitting some of these activities without knowing what the actual use or scale will be. He would like to see them as Conditional Use Permits as the use comes in. Kreimer would like to add condition #19 that the applicant shall be limited to 4 drive thru accesses and 2 of these must be low intensity uses. Miller stated that the approval or denial for a drive thru would impact how you lay out the site and construct the building. Dodson is wondering if the design of the buildings limits what types of businesses would go in there. Miller stated that the design would dictate what types of businesses would go in there.

Williams is wondering if with the next phase the developer could give them information regarding the drive thru traffic. Hartley stated that the drive thru traffic could be part of the parking space analysis.

M/S/P: Dodson/Williams, move to add condition of approval #19 that an analysis be done on the drive thru traffic volume, including any impact on the parking areas as well as the secondary access and overall development, *Vote: 7-0, motion carried unanimously.*

Dorschner feels that this would be self-managing as businesses will pick a location that will accommodate their needs. He doesn't see the concern with the parking as this development doesn't seem any more dense than in other communities. Lundquist agrees. She sees the traffic going around with a flow.

M/S/P: Dorschner/Lundquist, move to recommend approval of the Lakewood Crossing 2nd addition PUD Concept Plan with the 19 conditions of approval as drafted by staff and amended by the Planning Commission, based on the findings of fact listed in the staff report, *Vote: 7-0, motion carried unanimously.*

Williams would like a friendly amendment to #14 that the word "for" be inserted at the beginning of the sentence. This friendly amendment was accepted. Wensman suggested that for condition #17, the first part of sentence should be struck and it should read "a deed restriction that guarantees access to the parking for all uses must be submitted." This friendly amendment was accepted.

Public Hearing – Final Plat and PUD Plans – Inwood 5th Addition

Wensman started his presentation regarding Inwood 5th Addition final plat and PUD Plans. This is the last addition of the residential portion of the development. This is a replatting of Outlots A, B, F and G of Inwood 3rd Addition. They are proposing 101 Single family lots. In 2014, Washington County conducted a Preliminary Plat review and requested an additional 32 ft of ROW from future 10th Street improvements. This condition was a condition of approval documented in several locations. It is in the 2014 Preliminary Plat report, the resolution approving Preliminary Plat and the signed developer's agreement. At one point the Developer was talking with the County about ROW to the north. That never transpired and plans were never updated. The County has control over the proposed Island Trail and 10th street intersection and they want the 32 ft of dedicated ROW with this plat.

Another condition of preliminary plat approval is that the developer install a multipurpose trail along 10th street between Island Trail and Inwood Ave. Staff was supportive of removal of this trail, but the Commission and Council's resolution of approval required this trail. Preliminary Plat was never updated and it is not included in Inwood 5th Plat submittal. There are some Landscaping and engineering revisions that are required, such as removal of certain trees and berms and required water main easements.

Kreimer asked if there is room to build the homes if they do the 32 foot ROW dedication. Wensman stated that those are deep lots, but the back yards will have part of the berms and it will tighten things up. Williams is wondering why the application is not deemed incomplete without that ROW dedication. Wensman stated that it was originally deemed incomplete. The Developer provided more information and upon the City Attorney's advice, it can be dealt with through conditions. There was discussion about the advantage of the trail ROW to the North vs. the South. The trail would be located within the 32 feet of ROW being required. Wensman stated that from a Planning perspective, the trail is desirable to move people to the future commercial properties to the West. Dodson asked if the segment of trail along 10th street would be a City trail. Wensman stated that he thinks it is HOA owned and maintained, but he is not sure.

Williams stated that condition #4 should be South Washington instead of Valley Branch watershed district.

Hartley is wondering if this was reviewed by the Fire Chief, specifically if the Circles that dead end are wide enough. Wensman stated that it was a concern of the City Engineer and he would like the pavement widened there so that they function better.

John Rask, MI Homes, stated that the cul-de-sacs are standard radius for cul-de-sacs so they would accommodate a fire truck. He does not necessary disagree with the conditions of approval of Preliminary Plat, but what is missing is that there were subsequent approvals granted for final plats and grading that didn't have this trail. They had discussions with the County and they agreed to take the ROW and trail to the North. Rask feels that with the staff turnover, some things have fallen through the cracks. Rask stated that these discussions were held after the Preliminary Plat was approved. He feels that the County has changed the requirements. When Inwood was approved, it was known and stated that both Inwood and 10th Street would someday be 4 lane roads with trails on one side. Rask stated that if they grant the ROW, they will need to take out the berm and the trail was never once shown on any of their plans. The berm was installed at expense to the developer to make the development look better. They graded the berm with a grading permit and no one ever mentioned that the trail wasn't on the plan. Rask feels they are consistent with the City's trail plan and added trails at the City's request. Rask is making the following request that 1) the Planning Commission find that the trail along 10th street is inconsistent with the City's Comprehensive Plan 2) Strike the conditions requiring additional ROW and a trail along 10th Street 3) Reconfirm that the trail and additional Row should be on the north side of 10th Street 4) allow the existing berm to remain as approved in the Development contract approved by the City Council.

Dodson asked what would happen to the berm if the additional 32 feet of ROW is given. Rask stated that they would need to take out the berm. Williams asked why it couldn't be moved to the south. Rask stated that the whole row of lots would be lost as it couldn't remain in the ROW. Williams asked when the developer was made aware of the staff's analysis of the ROW issue. Rask stated that it was probably in December. What happened is they went to County for an access permit to construct the road and then they were told about the trail and additional ROW. Rask doesn't believe that the County has that authority. Williams doesn't see that the City should be involved in this other than dealing with what is in written record which is the condition of approval. Wensman stated that the trail and the ROW were conditions of approval that are in multiple locations and were carried over from Preliminary Plat. It is typical for the County to require these things with access and typical for the City to require that as part of the plat.

Public Hearing opened at 9:00 pm

No one spoke and there were no written comments

Public Hearing closed at 9:00 pm

Williams thinks that the trail and ROW issue is more complicated than they can deal with tonight. He would suggest that under condition #9 that at the end add "unless the County submits written permission for less ROW". He feels that the written record shows that the ROW should be dedicated, but it is up to the County. Wensman stated that the County has reaffirmed their letter from November 17, 2014, that they would still need that ROW. Handt stated that if the City does not get that ROW at the time of plat, when the County does need to acquire the land, they will come back and charge the City for the acquisition of the ROW. Rask disagrees with that statement.

M/S/P: Williams/Dodson, move to add finding #8 that the legal issues surrounding the additional 32 feet of ROW and the trail from Island to Inwood along 10th Street are beyond the scope of the Planning Commission, *Vote: 6-1, motion carried, with Lundquist opposed. Lundquist feels that they have an obligation to remain consistent with what the County is asking for.*

M/S/P: Kreimer/Dodson, move to add finding #9 that the Planning Commission finds significant value to the existing berm that the developer built along 10th Street and the County should be requested to retain the berm regardless of the ROW issue, *Vote: 6-1, motion carried, with Lundquist opposed.*

Wensman stated that the County is fine with the berm staying as long as there is a wall once it gets to the ROW. They don't want to have to move or restore the berm if improvements need to be made. Lundquist stated that 10th street is a major thorough fare with plans to go to a 4 lane and they need the space.

M/S/P: Dodson/Williams, move to recommend removing condition number 11 requiring a multi-purpose trail along 10th Street between Island Trail and Inwood Ave be removed, *Vote: 7-0, motion carried unanimously.*

Kreimer remembers the discussion about the trails and he remembers giving up the requirement for a trail on Inwood, but that they decided that they wanted the trail along 10th Street. Larson stated that there is already a trail through the development to the commercial so it is not like there is no trail at all. Dorschner remembers the developer stating that they could get easements on the North side of 10th for the trail. He feels it makes sense to make the connection. Rask stated that to give more ROW and build the trail, he would have to remove the berm. Rask stated that when they sat down with the County, he felt that there was no compromise. He feels that the County wants everything and is willing to give nothing.

M/S/P: Kreimer/Williams, move to add a condition requiring that the section of trail from Island trail to the eastern buffer is built, *Vote: 7-0, motion carried unanimously*.

M/S/P: Dodson/Williams, move to add a finding #10 that the City consider any trail required to be implemented by the development from Island Trail to Inwood be credited towards parkland dedication, *Vote: 7-0, motion carried unanimously.*

M/S/P: Williams/Dorschner, move to recommend approval of Inwood 5th Addition Final Plat and Final PUD plans with 11 conditions of approval based on the findings as amended in the staff report, *Vote: 7-0, motion carried unanimously.*

Public Hearing – Zoning Map Amendment and Preliminary Plat and PUD Plans - Royal Golf

Wensman started his presentation regarding the rezoning from PF to GCC – Golf Course Community and the Preliminary Plat and PUD Plans. Wensman went through the issues from the Concept plan that were addressed with the Preliminary plan. With the PUD Overlay, the developer has requested flexibility. They would like single access to the clubhouse, lot sizes smaller than 9000 for villa lots, 40% impervious and 20 ft front yard setbacks on villa lots, 50 ft ROW on Street C, add'l subdivision and neighborhood signs, and garages greater than 1000 sq ft to be permitted rather than a CUP.

With the Shoreland evaluation, there are 100 lots within the shoreland area, the development is preserving 50.5% or the shoreland, where 50% is required, less than allowed base density within each shoreland, shoreland impact zones and steep slopes preserved in Lake Elmo and Downs Lake, 70% of shoreland impact preserved for Rose and Horseshoe, 59.9% of Lake Elmo shoreland preserved, and preserved a wildlife/drainage corridor from NW to SE. The developer needs to maintain a 100 ft Natural Corridor outside of lot areas. They have 89 feet, so staff has made the 100 foot corridor a condition of approval. The GCC minimum lot size is 9000 sq feet. The PUD flexibility sought is 6,600 sq ft on some lots. The average lot size is 13,499 sq feet because of some of the larger lots. There is also a request for PUD flexibility for 20' front setback and 7.5' setbacks. The 7.5' setback averaging is already allowed by policy. Staff is requesting there be an exhibit which clearly shows specific lots and setbacks, no encroachments into D & U easements and lots with 20' setbacks should have garages adorned with windows or other architectural features for sides of garages facing the public ROW. The GCC maximum impervious per lot is 30%, the request for PUD flexibility is for 40%. Staff feels this is ok as it matches LDR zoning and will be limited to the villa lots. The developer is asking to forego the sidewalk requirement on a number of streets. Staff is only supportive of street C having no sidewalk because of site limitations. Dodson would like the exhibit showing the setbacks to also show which lots can have the larger garage.

GCC allows 1000 sq ft maximum garage and the developer is asking for a deviation for a larger garage to store golf carts. Staff is supportive of the request, provided that the garage doors will not exceed 60% of the principal building façade fronting a public road, impervious surface limits are not exceeded, and that the upper limit of permitted garages is 1300 square feet.

Williams stated that in a PUD process the City is supposed to get something to give something. He is wondering what we are getting for all of these deviations. Wensman stated that a large part of what the City is getting is less impact to the Shoreland. There are other things in the presentation and they can discuss the give and take at the end of the presentation. GCC zoning requires a 100 foot buffer from external residential lots. They are meeting or exceeding that buffer. Note that the City does not require the buffer to properties outside of the City limits. There was some discussion about parkland dedication and trails. The Park Commission is not recommending a park on this property, but would like to see trail dedication. The trails in the development connect all of the neighborhoods which was a goal. Wensman would like a trail phasing plan as trails need to be constructed with each corresponding phase of the development. The development exceeds the open space requirements both for GCC zoning and for shoreland. There are restrictive covenants that need to be submitted prior to final plat. These would include conservation easements over shoreland areas and HOA/CIC documents.

The subdivision code allows for two 24 square foot subdivision signs per development. Developer is requesting flexibility to have up to 4 subdivision signs (including one at clubhouse entrance) and up to 6 neighborhood markers to identify the villa enclaves within the development. Staff is supportive of the flexibility due to the unique layout and size of the development and the multiple entrances. A sign permit is required prior to construction. The developer is proposing unique street names that have a golf theme. Wensman stated that it does not meet the County street naming conventions, but does meet the City's street naming ordinance. The allowed architecture would be addressed in the HOA documents. For tree preservation and tree replacement, the developer is interpreting the site as mixed-use which would allow replacement trees to be used as landscape required trees. The City attorney and staff interpretation is that it is not a mixed use. The landscape plan cannot be evaluated until tree replacement is determined. Landscape walls crossing residential property lines shall be owned and maintained by the HOA and within the maintenance easements. Williams asked if there was a definition of "forest management and natural seeding". He feels that it needs to be clearly defined.

The developer's vision is to have all the development accessible by golf cart. The public ROW and trails would need to allow golf carts. This would require a special City ordinance as it is currently prohibited. An agreement has been reached with the Emerson property to provide access to 10th Street. Wensman talked about phasing of the development. It is anticipated to be done in 4 phases from 2017-2023. Phase one

is a big phase as the infrastructure must be put in and the golf club is required to be sewered within 2 years. There are some engineering issues that will need to be addressed such as infiltration ponds located in gas line easement, lift stations on outlots that do not appear large enough to accommodate them, outlots need to be dedicated and others on the engineers report. There are some transportation requirements including dedicating ROW and supplying turn lanes.

The Golf Course is planning to put in clubhouse cottages. The location is currently shown as a separate lot. Staff is recommending that the lot be combined with the clubhouse lot as these cottages are accessory to the clubhouse and will require a CUP. Hartley asked if this property is then considered commercial. Larson feels that the zoning is confusing when the golf course is taken out of it. There are a lot of different things going on with this development and he is wondering why it would not be mixed use. Wensman stated that the City Attorney does not feel it is a mixed use.

Wensman went through the 34 conditions of approval and findings of fact. Staff is recommending rezoning from Public Facilities to GCC based on the findings identified in the staff report. Staff is also recommending approval of the Preliminary Plat and PUD plans with the 34 conditions with the understanding that the City Council cannot approve this until the Met Council approves the comprehensive Plan amendment. Wensman stated that the jurisdictional review period ends on March 24th. Once that ends, the Comprehensive Plan Amendment can be submitted to the Met Council. The Met Council has 60 days to review it and get back to the City.

Dodson is asking about impervious surface and drainage around the villas. Wensman stated that the engineering plans were not included but the water has been addressed through the engineering plans. Dorschner asked about reductions of golf fees and six figures for replacing ball fields. He is wondering if it is not a condition, where would that be captured for the City. Schroeder, HC Golf, stated that it would be in the developer's agreement. Kreimer asked if the Park Commission weighed in about the Tot lot location. It seems in a location that would not serve many people. Wensman stated that the Park Commission did not really talk about it. The developer is actually talking about moving it where the more millennial product is located. Dodson is concerned about the drive into the clubhouse. If there is a big tournament, people might try to park along that driveway. Is there a way to mitigate that? Wensman stated that it could be signed no parking.

Rick Packer & Clark Schroeder, Royal Golf, are not in favor of the sidewalk/trail and prefer 6 ft. He does not like the look of sidewalks in a cul-de-sac and they do not help with connectivity because they would dead end. Sidewalks are not typically put in a cul-de-sac. There is discussion regarding the tree preservation. This is clearly a commercial use and should be treated as a mixed use. They are not opposed to the forest management. The golf cart access is very important to them as a golf course community.

Lundquist stated that at one time there was talk about putting an 8 foot shoulder on the south side of 20th street to make it safer. She is wondering if they still plan to do that. Schroeder stated that they will be dedicating ROW, but what that is used for, they are not sure. Packer stated that they will be building right turn lanes at 4 locations. There will be widening at the turn lanes. Packer stated that the speed limit is 45 mph on the road. If there is a concern about safety, maybe the speed limit should be reduced to 30 mph. Williams stated that a trail in the NW corner from 20th Street to Lake Elmo Ave would be very useful. Packer stated that they could look at that and it would take tree removal. Larson would like to discuss the zoning for the golf course as public facility vs. golf course community. Packer stated that was the route the City Council chose to go with. He feels that it helps preserve the golf course and the open space.

Kreimer asked about the tot lot location. Would it work by street "F". Packer stated that it might work there or in the Southern area, but they are trying to be sensitive to the Homestead neighborhood. Packer stated that maybe it could go up with the pool and fitness center on HOA maintained property.

Public Hearing opened at 11:10 pm

Michael Biebl, 12020 18th Street N, representing people on the East side of the development, he feels some of the things that the City is asking for, such as increased sidewalks, decreases the buffers. The City has no requirements to provide buffers to anyone outside of the City. The tightest units are the one that border West Lakeland and there are no buffers. Even though there have been traffic studies, he is concerned that development traffic and wedding venue traffic will be too much for this road. Would like to see a good give and take with the developer to make this a good plan.

Michael Zwiefel, 2055 Manning Trail, the common theme of this development is flexibility. He would like to point out that this property was purchased with the only use allowed a golf course. He heard at the very first presentation that a well-run golf course is sustainable on its own, so everything else being mentioned is not necessary. He feels with all of the uses on the site, close to 300 homes, restaurant, fitness center, wedding venue, etc., the traffic count will increase 10, 20 or even 30%. The events held at this location will be very hard on the community surrounding it. There are a lot of Villa lots and it seems that there is an exception being asked for with almost all of them. Lot sizes are being asked to be smaller, setbacks reduced, larger garages and less impervious surface. All of these things seem to be counterproductive for what the City should be looking for. He feels that to meet City requirements, they should reduce the density and they could easily meet the standards.

Jim Voeller, 11314 12th Street N, it is hard to stay on top of this development as it continues to change. He does not like the trail that goes to the northern of the existing neighborhoods. He does not see the benefit of it with people running along their

backyards. The City has agreed to sewer and do all of these extra things. When is the City going to say no to something? He feels the answer to the cottages should be no. He feels that this development is totally inconsistent with the neighborhood. It seems that the City is too willing to give the developer everything that they want. He feels that if the golf course would not have been a part of this, the development would have been done as an open space development as 18 units per 40 acres. Even if the golf course property was included as an open space development, there would have been 200 houses vs 300 houses. Voeller feels that the neighbors are not being listened to as there was a petition signed by 160 neighbors that were not in favor of the density here.

Ellen Johnson, 11050 14th Street, board member for Homestead community. Her neighborhood feels that having the trail so close to their neighborhood infringes on their privacy. Their neighborhood is currently in negotiations with the developer to provide a custom shielding. They have an agreement in spirit, but would like it in writing so it is clear. They are wondering if the neighbors will have access to Royal Golf if the shielding isn't adequate and they want to add to it.

Dana Smith, 2121 Legion Lane N, he likes the forest management and the fact that about 60% of the trees are being preserved. He likes the idea of reducing the speed limit on 20th Street to 30 mph because the safety of bikers and walkers is a big concern. All of the deviations stem from the number of units being put in. He feels that if the number of units are reduced, the deviations would be fewer. He is not sure why the density discussion has been abandoned. He feels that the safety of 20th street is very important and he feels that the developer saying that they have done the best that they can is not good enough. He is concerned about the light pollution from the lights. He is wondering if there are regulations surrounding lighting.

Mary Leslie, 11546 20th Street, her husband negotiated the original purchase agreement with the original property owner when 3M purchased the property. She is very concerned with how steep the banks are on 20th Street and the fog that is on the road from Lake Elmo Lake. She feels with the intensity of the things going in at Tartan Park, the speed limit should be reduced. She is concerned about the water and the ponding.

Public Hearing closed at 11:53 pm

Dorchner is still not clear why the golf course needs to be rezoned. Wensman stated that it is currently public facilities. If it stays that way, there would be no development and the comprehensive plan approved by the City Council guides it for a golf course community zoning. Dorschner stated that when they approved the golf course community zoning he did not understand that to be adding all of the commercial type uses such as the clubhouse, rental units, restaurant and the fitness center. Williams stated that as much as he is opposed to this development, the City Council has decided on the direction and this proposal meets the GCC zoning.

M/S/P: Lundquist/Larson, move to recommend approval of the rezoning of the Royal Golf Course Development properties from PF-Public Facilities to GCC-Golf Course Community based on the findings identified in the staff report, and changing the finding on page 19 to say "that the rezoning is consistent with the Comprehensive plan approved by the City", *Vote: 7-0, motion carried unanimously.*

M/S/P: Williams/Dodson, move to add condition #35 that a sidewalk be constructed along the south side of 20th Street from what is labeled street E, West to Lake Elmo Ave, *Vote: 7-0, motion carried unanimously.*

Lundquist was going to make a proposal or finding of fact that we do a little more work on 20th Street as it doesn't have any shoulders on either side. In all the public hearings, people talk about the safety on 20th Street with current traffic, let alone adding more to it. Dodson feels that the sidewalk is needed to get to the Park Preserve.

M/S/P: Lundquist/Larson, move to add finding of fact #9 that there has been a significant amount of testimony that 20th Street is already dangerous without any additional traffic and the City and developer need to explore ways to make the road safer, **Vote: 7-0, motion carried unanimously.**

M/S/P: Dodson/Williams, move that the Royal Golf Development will not have any street lighting, except at street intersections and that there be a photometric analysis to ensure that any current lights in the parking lot meet the dark sky ordinance, *Vote: 7-0, motion carried unanimously.*

Williams asked about the photometric of the parking lot. Wensman stated that they are not making any changes. The position of the City is that any intensification would require a CUP amendment. Wensman stated the current City code does not require lighting, but there are standards for when they are placed. This might be a topic that the Planning Commission looks at in the future. Packer stated that they do not have a strong feeling one way or the other in regards to street lights. They would like to see the street lights at intersections for safety however.

M/S/P: Dorschner/Lundquist, move to add condition #36 that the developer work with all adjacent properties to get an agreement for shielding in place for screening and that it be incorporated into the final landscape plan, *Vote: 7-0, motion carried unanimously.*

Williams stated that there was testimony from a West Lakeland resident that there was not adequate screening and it is not shown on the plan for the Eastern border. Packer stated that there is an email agreement with the resident for a septic and landscaping agreement. Schroeder stated that the person that spoke regarding not having adequate screening, actually lives across Manning Trail and is not actually an adjacent property owner.

Dodson wanted to discuss the forest management proposal. Wensman stated that one of the builders for the development is proposing different lot lines for the eastern portion of the development. Wensman stated that staff would like to review this and bring it back to the Planning Commission in the future. The developer is requesting that this be tabled to the next meeting to give staff time to review the changes with revised plans. The forest management discussion can also be brought forward at that meeting. There was some discussion regarding the irregular shaped lots.

Williams wanted to comment on the number of units for the development and the fact that the time has passed to try to lower the number.

Dodson is wondering if the trail in outlot "T" can be re-routed to go along the new homes of the development. Packer stated that there are wetland buffers that do not allow trails and there is a retention basin. There is no way to get a trail closer to those homes.

M/S/P: Williams/Larson, move to postpone consideration of the preliminary plat and PUD plans until the next meeting, *Vote: 7-0, motion carried unanimously.*

Wensman asked about the forest management plan. Williams stated that buckthorn is a big concern of his. Hartley stated that it should be a continuing effort and not a one shot deal and there should be some assurance that the woodlands is preserved.

Williams reminded everyone to bring all of the data for Royal Golf to the next meeting for Royal Golf so that the City doesn't have to reproduce it.

City Council Updates – March 7, 2017 Meeting

- i) Hammes Estates 2nd Addition Final Plat Extension –Passed
- ii) Approve SHC Comp Plan Update Agreement Passed
- iii) Shoreland Management Overlay District Ordinance Amendment Passed
- iv) Planning Commission Appointment Terry Emerson 2nd Alternate

Staff Updates

- 1. Upcoming Meetings
 - a. March 27, 2017
 - i. Comp Plan Amendment hearing for Tri-Lakes MUSA
 - ii. VMX rezoning hearing
 - iii. Possibly Hidden Meadows Final Plat
 - b. April 10, 2017
- 2. MAC CEP Report

Commission Concerns

Dodson is concerned that the commercial code was not adequate for the commercial development that was brought forward tonight. He is concerned with the number of PUD's that keep coming forward. Wensman stated that once the PUD ordinance is in place it will be easier and is a tool that is used to make development better.

Dodson mentioned that another thing that was not talked about with Royal Golf was the use of golf carts. He is in favor of the use of golf carts in this development. Wensman stated that it would be an ordinance amendment.

Lundquist is wondering if the City Engineer works with a hydrologist. Wensman stated that they work with Valley Branch which is probably a hydrologist. Goose Lake is filling up and probably can't take much more.

Meeting adjourned at 12:47 pm

Respectfully submitted,

Joan Ziertman Planning Program Assistant



STAFF REPORT

DATE: 03/27/2017 PUBLIC HEARING

ITEM #: 4a

TO: Planning Commission

FROM: Emily Becker, Planner

AGENDA ITEM: Rezoning Old Village GB – General Business District to VMX – Village

Mixed Use District

REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

Creation of VMX District. In November of 2013, creation of the Village Mixed Use District was approved in support of the 2030 Comprehensive Plan update for the Village Planning Area. The Village Mixed Use District was created to replace the existing intermingling of commercial, residential, and public zoning classifications within the central portion of the Village area. While the creation of the District was approved, the majority of the area for which it was meant has not yet been rezoned. Currently, the majority of the parcels that are planned for VMX - Village Mixed Use zoning are still zoned GB – General Business. Only three parcels within the City have been rezoned to VMX thus far.

Former Planning Commission Review of Rezoning GB Parcels to VMX. The Planning Commission discussed rezoning all parcels zoned GB – General Business District within the Old Village to VMX – Village Mixed Use in June of 2016. The meeting minutes of this meeting are attached for reference. Summarily, the Commission was not in favor at that time of this mass rezoning for concern of the following:

- That the densities within this area are guided too high.
- That VMX district standards are less restrictive (higher maximum impervious surface, additional permitted uses, smaller minimum building setbacks, etc.) than the GB district standards.
- That Form Based Code should be created for the Village.

• That updated population and development projections for the areas guided for VMX in the Old Village are needed.

Reconsideration Requested. At its February 27, 2017 meeting, the Commission again discussed rezoning parcels within the Old Village from GB to VMX. This discussion was prompted by a number of requests from residents to further develop or make improvements on their properties located within the GB – General Business zoning district. Staff has found that a number of these requests required rezoning to VMX, as the proposals did not meet the minimum requirements of the GB – General Business District but did meet the requirements of the VMX – Village Mixed Use District. Many infrastructure improvements have been made to the Old Village including availability of city sewer and additional stormwater management. For these reasons, and because updating the Zoning Map to change Village parcels to VMX consistent with the Comprehensive Plan is an item on the 2017 Planning Department Work Plan, Staff would like the Planning Commission to re-review rezoning GB parcels within the Old Village to VMX.

ISSUE BEFORE PLANNING COMMISSION:

The Planning Commission should consider rezoning the parcels currently zoned GB - General Business District to VMX - Village Mixed Use. It should also consider removal of 154.034: GB - General Business from the Zoning Code, along with all other references within the Code to the GB - General Business zoning district, as this district will no longer exist on the Zoning Map.

PROPOSAL DETAILS/ANALYSIS:

Reason for Requesting Zoning Map Amendment Now vs. at Time of Development Application. In order to ensure that the property is being developed according the Comprehensive Plan, rezoning will typically occur at the time of a development application if a parcel is not zoned in accordance with the Comprehensive Plan. However, as previously mentioned, there are many non-conforming parcels within the GB – General Business zoning district which cannot further develop or, in some cases, make simple improvements, as a non-conformity may not be expanded. Rezoning these parcels will allow for owners to further develop and/or make improvements without having to submit application and go through a public hearing and approval process.

Number of Parcels Currently in the GB – General Business District. According to data provided in the City's Zoning Map, there are currently 83 parcels that are zoned GB – General Business District. It should be noted that only those properties currently zoned GB are proposed to be rezoned to VMX. There are some RS - Rural Single Family-zoned parcels that are guided for VMX, however, these are not proposed to be rezoned.

Comparison Tables of Two Ordinances. In general, the proposed rezoning will allow a higher degree of flexibility for site improvements and land development in the Village than is presently permitted under the current ordinance. The following outlines differences in lot dimensions, setback requirements, and permitted uses in the two districts. Staff has also provided a complete draft the GB and VMX District regulations for review.

Permitted and Conditional Use Comparison. The following shows that there are a number of uses that the VMX district either permits or allows with a conditional use permit that the GB district does not. In some cases, the VMX is actually more restrictive, in that it requires a conditional use permit for some uses that the GB district permits. It should be noted that current properties that currently employ any of these land uses would not be required to obtain a conditional use permit for such uses unless an expansion of the use was proposed or if the use was discontinued for more than a year.

The VMX district <u>permits</u> the following uses that the GB district <u>does not allow</u>:

- Single Family Detached
- Single Family Attached
- Two Family
- Live Work Unit
- Wayside Stand
- Temporary Sales as Accessory Use
- Parking Facility as Accessory Use
- Solar Equipment as Accessory Use

The VMX districts allows the following conditional uses that the GB district does not allow:

- Multi Family
- Secondary Dwelling
- Congregate Housing
- Semi-Transient Accommodations
- Schools
- Funeral Home
- Lodging
- Trade Shop
- Farmer's Market
- Gas Station
- Parking Facility
- Outdoor Recreation Facility
- Parks and Open Areas
- Indoor Athletic Facility
- Broadcasting or Communication Facility

The VMX district requires a Conditional Use Permit for the following uses that the GB district permits (does not require a Conditional Use Permit):

- Group Residential Facility/Nursing and Personal Care (the GB district permits a Boarding Care Facility with 15 residents max)
- Public Assembly
- Religious Institutions
- Medical Facility
- Membership Organization
- Repair and Maintenance Shop
- Veterinary Services
- Restaurant with Drive Thru
- Garden Center
- Shopping Center
- Automobile Maintenance Service
- Sales and Storage Lots
- Indoor Recreation (the GB district allows Family Entertainment Centers (no definition provided))
- Bed and Breakfast as Accessory Use
- Group Family Day Care as Accessory Use

Lot Dimension and Setback Requirements Comparison. The table below compares the minimum lot size requirements of the GB General Business District to those of the VMX District and provides analysis on the differences.

Standard	GB	VMX	Analysis
Minimum	• 1.5 acres	Non-Residential Use:	The minimum lot size requirement of
Lot Area		None	1.5 acre most likely assumed that
		Single Family	properties within the GB district would
		Detached Dwelling:	not be sewered. The entire Village Area
		5,000 sf	is now within the MUSA, and lots of
		 Two-Family Dwelling 	this size are no longer necessary to
		(per unit): 3,000 sf	provide wastewater treatment. It should
		Single-Family	also be noted that properties that further
		Attached (per unit):	subdivide would be required to rezone
		2,500 sf	to VMX and would need to adhere to
		 Multi-Family Dwelling 	the standards of the VMX district.
		(per unit): 1,800 sf	
		• Live-Work Unit: 3,000	
		sf	

		• Other Structures: 3,500 sf	There are 50 parcels within the GB district that do not meet its minimum lot size requirement.
Maximum Lot Area	• None	Residential Structures:NoneOther Structures: 5acres	This would also only be applicable when a property further subdivided, which would already necessitate a rezoning from GB to VMX.
Minimum Lot Width	• 150 ft	 Single Family Detached Dwelling: 50 ft Two-Family Dwelling (per unit): 30 ft. Single-Family Attached (per unit): 25 ft. Multi-Family Dwelling (per building): 75 ft. Live-Work Unit: 25 ft. 	The VMX minimum lot width requirements are smaller than those of the GB district, as the minimum lot size requirements of the VMX district are much smaller. There are approximately 20 parcels within the GB district that do not meet the minimum lot width requirement.
Setbacks	• Front: 0 ft. for Old Village • Interior Side: 0 ft. for Old Village • Side (Corner): 50 ft. • Rear: 50 ft.	 Front: 0-20 ft. (25 ft for single family homes) Interior Side: 10 ft. (for properties abutting residential uses) Side (Corner): 0 ft. (or maintain front setback of adjacent property adjoining street) Rear: 10 ft. 	This item has been discussed at previous Planning Commission meetings. The VMX ordinance is undergoing revisions, and the Planning Commission has suggested that because of the street design of some areas within the Village, there should be certain defined areas of the VMX that have a build-to setback.
Maximum Building Height	• 35 ft	• 35 ft/3 stories	Standard does not change.
Maximum Impervious Coverage	 Residential Structures: 75% Other Structures: No Limit 	 Up to 4 acres: 40% >4-8 acres: 35% >8 acres: 25% 	Many lots within the GB district do not meet the maximum impervious surface requirement. The Village has increased stormwater management efforts, and stormwater management plans will be evaluated upon the receipt of land use applications.

			It is difficult to know without having exact impervious surface calculations, but one can see by looking from an aerial that a vast majority of parcels within the GB district do not meet the maximum impervious surface
			requirement.
Lot Config-	Maximum	• None	
uration	depth to		
	width ratio		
	no more		
	than 3:1		
Septic	• 20,000 sf	• None	All GB parcels within the Village would
Drainage	dedicated for		be required to be sewered eventually, as
Regulation	septic		they are in the MUSA. This standard is
			no longer applicable.

Density. The Comprehensive Plan guides the Village Mixed Use area for a density of 5-10 residential equivalency units per acre. Maximum lot size and no minimum lot size requirement for the VMX district help to accomplish this higher density.

Form Based Code. Staff is also cognizant of the fact that the Planning Commission is in support of implementing a Form Based Zoning for the VMX District, as is supported in the Comprehensive Plan. Creation of a draft of a form-based code for the VMX zoning district is currently on the 2017 Planning Department Workplan. The Commission should consider if it is necessary for Form Based Code to be adopted before rezoning Village parcels to VMX. It should be noted that the City can do nothing, short of enacting a moratoria, to prevent further development within the area guided for VMX until a Form Based Code is adopted. The goal of rezoning these parcels is to make non-conforming parcels conforming.

General Business District References No Longer Required in the Zoning Code. Currently, the only parcels zoned GB – General Business are located in the Old Village. Rezoning these parcels to VMX – Village Mixed Use will leave the GB – General Business District non-existent on the Zoning Map. Therefore, Staff is recommending that Section 034, GB – General Business be removed along with all other references to this zoning district.

Public Hearing Notices – Additional Consideration Requested. A public hearing notice was published in the official City newspaper, and public hearing notices were sent out to property owners within 350 feet of all properties zoned GB – General Business District. Staff received a number of inquiries about the rezonings, asking for clarification. One resident was not in support

the rezonings, citing concerns of increased density and the ability for homeowners not being able to keep a single family home. As previously mentioned in this report, GB-zoned parcels are still guided for VMX, which means that a rezoning would need to occur when the property develops, and any development may occur at the density which the Comprehensive Plan dictates. Additionally, existing single family detached homes are a permitted use in the VMX.

Another comment that was received was that there are still a number of parcels that are guided for VMX that were not zoned GB – General Business District (currently either zoned RS – Rural Single Family, RT – Rural Development Transitional, or had no zoning classification on the City's Zoning Map), even though the land use of some of these parcels is not a single family home. Staff has looked further in to this and have found that the following parcels are zoned RS but are guided for VMX, yet are not used as single family homes. Please note that this list does not include land that is guided for VMX yet is still used as single family homes. If the Commission wishes to recommend rezoning all parcels that are guided for VMX to VMX, a motion can be made to do so.

PID#	Address	Description
1302921230010	None	Small strip of land south of and
		owned by same owner as 3699
		Laverne Avenue North (vacant)
1302921230026	None	Small strip of land north of and
		owned by same owner as 3520
		Laverne Avenue North (vacant)
1302921230027	3520 Laverne Ave N	Industrial Use per Washington
		County Use Description
1302921230077	11127 Stillwater Blvd N	Lake Elmo Oil
1302921320007	None	Small strip of land near 33 rd St
		N (vacant)
1302921320010	None	Paved area for Lake Elmo Inn
1302921240003	11179 Stillwater Blvd N	Lake Elmo Repair Shop
		Building
1302921230064	None	Small strip of land west of
		11799 Stillwater Blvd N
1302921230062	None	Small strip of land east of and
		owned by same owner as 11179
		Stillwater Blvd N
1302921320009	None	Small strip of land north of 33 rd
		St N
1302921320022	3504 Lake Elmo Ave N	Owned by Lake Elmo Inn

1302921320008	None	Small strip of land north of 33 rd
		St N
1302921230020	None	Small strip of land used for
		parking, owned by Christ
		Lutheran Church
1302921320096	11123 Upper 33 rd St N	Owned by Grain on Main LLC
1302921230063	None	Parking area for 11179
		Stillwater Blvd N
1302921230018	None	Parcel south of parking area for
		11179 Stillwater Blvd N
1302921240028	None	Schiltgen Property (31.78 acre
		parcel)
1302921320086	None	Small strip of land north of 33 rd
		St N
1302921320085	None	Small piece of land west of and
		owned by same owner as 11123
		Upper 33 rd St N
1302921320094	11320 Upper 33 rd St N	Storage building with parking
		(parking shared with Lake Elmo
		Inn)

The Commission should consider if the above-mentioned parcels should also be rezoned to VMX. If the Commission recommends this, an additional public hearing notice would need to be published, and it is recommended this item be tabled until the next meeting after which an appropriate public hearing notice has been given for this Zoning Map Amendment to rezone these parcels.

FISCAL IMPACT:

Rezoning the subject area to Village Mixed Use zoning will allow property owners to redevelop or make improvements to their property in accordance with VMX standards, thereby allowing greater flexibility. Not having to go through the process or pay the application fee for a Zoning Map Amendment may further incent a property owner within the current GB district to make improvements that otherwise may not be allowed under the GB district standards.

OPTIONS:

The Planning Commission may recommend any of the following:

1) Rezone all of the parcels located in the GB – General Business District to VMX – Village Mixed Use and omit references to the GB district from the City Code.

- 2) Rezone some of the parcels located in the GB General Business District to VMX Village Mixed Use and not omit references to the GB district from the City Code.
- 3) Table discussion so that an additional public hearing notice may be published to include the above-mentioned parcels in the Zoning Map Amendment rezoning properties to VMX Village Mixed Use.
- 4) Table discussion so that an additional public hearing notice may be published to include <u>all properties</u> guided for VMX Village Mixed Use in the Zoning Map Amendment rezoning properties to VMX Village Mixed Use.
- 5) Not rezone any parcels to VMX Village Mixed Use at this time and leave references to the GB district from the City Code for the time being.

RECOMMENDATION:

Staff recommends that the Planning Commission table tonight's discussion so that an additional public hearing notice may be published to include the above-mentioned parcels in the Zoning Map Amendment rezoning properties to VMX – Village Mixed Use.

"Move to table this Zoning Map Amendment Discussion to rezone properties to VMX – Village Mixed Use until an appropriate public hearing notice may be published to include the above-mentioned properties in the Zoning Map Amendment."

ATTACHMENTS:

- GB District Regulations
- VMX District Regulations
- Ord. 08-___ rezoning GB parcels to VMX and omitting references to GB district from City Code.
- Current and Proposed Zoning Maps
- PC Meeting Minutes from 6.13.2016.

	the first drainfield is prohibited.
Maximum Width of Primary Dwelling	All dwelling units must be at least 20 feet wide through the main living area of the structure.
Footings	The primary structure must have continuous frost footings. Continuous frost footings are not required for porches, decks, and other appendages so long as proper post type footings per existing Building Codes are constructed.
Maximum Impervious Surface Coverage	
Maximum Width of Driveways	See § 93.26
Signage	See §§ 154.212

(1997 Code, § 300.07 Subd. 4.D) (Am. Ord. 97-192, passed 6-19-2007)

§ 154.034 GB – GENERAL BUSINESS.

- A. Permitted uses and structures.
 - 1. The following service/office uses:

General Business – Service/Office	
Accounting	
Advertising	(Sign fabrication not permitted use)
Alterations	
Apparel Cleaning Pick-up Stations	
Apparel Repair and Alterations	
Architectural	
Art Gallery	
Auditing	
Bakeries	(With production of bakery goods limited to retail sales)
Barber Services	
Beauty Shops	
Bookkeeping	
Business and Management Consultant Offices	

Business Associations	
Cafes and Restaurants - Drive-up window	(Menu boards and intercom systems prohibited; Adequate vehicle stacking must be provided)
Cafes and Restaurants	(Limited to full table service operations)
Charitable	
Chiropractic	
Civic, Social and Fraternal Association Offices and Halls	
Collection and Adjustment Services	
General Business – Service/Office	
Credit Reporting (Consumer and Mercantile)	
Dental	
Detective and Protective Agencies	
Duplication	
Educational	
Employment Agencies	
Engineering	
Finance	
Galleries	
Governmental Offices	
Insurance	
Investment	
Labor Unions	
Legal	
Libraries	
Mailing	
Medical	
Medical Services	(The compounding, dispensing or retail sale of drugs, prescription items, patient or proprietary medicine, sick room supplies, prosthetic devices or items relating to any of the foregoing when conducted in the building occupied primarily by medical, dental, osteopathic, chiropractic or

	optometric offices)
Optometric	
Osteopathic	
Photo Gallery	
Professional Membership Organizations	
Real Estate	
Religious	
Scientific Research	(Excluding laboratory facilities)
Shoe Repair	
General Business – Service/Office	
Stenographic Service	
Therapeutic Massage	(See licensing requirements in § 114.01)
Welfare Offices	

(Am. Ord. 97-170, passed 5-2-2006; Am. Ord. 2012-064, passed 12-4-2012)

2. The following retail uses:

General Business - Retail
Antiques and Secondhand Merchandise
Apparel and Related Accessories
Automobile Repair and Services
Automobiles and Automobile Accessories
Bicycles
Books
Building Supplies
Cameras and Photographic Supplies
Cigars and Cigarettes
Drugs and Proprietary Items
Electrical Supplies
Flowers and Floral Accessories
Food and Grocery Products
Furniture

Gifts, Novelties and Souvenirs
Glass
Heating Equipment
Home Furnishings and Related Equipment
Jewelry
Liquors
Marine Craft and Accessories
Newspapers and Magazines
Nursery and Garden Supplies
General Business – Retail
Optical Goods
Paint
Pets
Plumbing Equipment
Sporting Goods
Stationery
Wallpaper

3. The following repair/service uses:

General Business – Repair/Service
Clock Repair
Electrical Repair and Supplies
Equipment–Rental and Leasing
Food Catering
Furniture Repair
Heating
Household Appliances
Jewelry Repair
Landscaping
Plumbing
Radio

Reupholstery	
Television	
Watch Repair	

4. The following office uses (excluding equipment storage):

General Business - Office
Air Conditioning Contractor
Building Construction Contractor
Carpentry Contractor
General Business - Office
Decorating Contractor
Heating Contractor
Masonry Contractor
Painting Contractor
Plastering Contractor
Plumbing Contractor
Roofing Contractor
Sheet Metal Contractor
Stone Work Contractor
Tile Setting Contractor
Wallpaper Contractor
Water Well Drilling Contractor
Wood Flooring Contractor

5. Uses permitted by conditional use permit.

General Business - Conditional Use			
Bed and Breakfast Facility	15 Beds Maximum		
Boarding Care Facility	15 Residents Maximum		
Day Care Centers	40 Children Maximum		
Family Entertainment Centers			
Fitness Studio	Maximum floor area not to exceed 5,000 square feet		

Kennels		
Nursing Care Facility	15 Residents Maximum	
Open Sales Lots		
Manufacturing	Any industrial manufacturing operation in existence within the city at the effective date of this chapter, including manufacture of wood products and plastic products, may continue the use as a conforming use without a conditional use permit. Nothing in this provision shall otherwise be construed to require the city to authorize any manufacturing use in the General Business Zone after the effective date of this chapter.	
General Business - Conditional Use		
Veterinary Clinics		

(Am. Ord. 97-20, passed 10-21-1997; Am. Ord. 97-86, passed 10-2-2001; Am. Ord. 97-88, passed 10-2-2001; Am. Ord. 97-138, passed 9-7-2004; Am. Ord. 2012-064, passed 12-4-2012)

- 6. General requirements.
 - a. All storage, services, repair or processing shall be conducted wholly within an enclosed building or behind opaque fence or wall not less than 6 feet high, except the outdoor display of merchandise;
 - b. Incineration of waste matter shall be conducted in approved equipment located within the building wherein the permitted use is conducted;
 - c. Where a proposed GB development abuts on RR, R-1, R-2, R-3, R-4, or RE district other than at a public street line, buffer provision shall be established. There shall be provided a protective strip of not less than 35 feet in width. The protective strip shall not be used for parking, off- street loading or storage and shall be landscaped. The protective strip must be approved by the Council as being in harmony with the residential neighborhood and providing sufficient screening of the commercial area;
 - d. All lots must have at least 1 acre of land suitable for septic drainfields and area sufficient for 2 separate and distinct drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited; and
 - e. Must meet all requirements of §§ 51.002 through 51.008.
- B. Accessory uses. Uses which are clearly incidental and subordinate to the allowed uses. (Am. Ord. 97-38, passed 11-17-1998)
 - C. Minimum district requirements.

1. The Old Village District shall be defined as the Old Village Sign District described in § 151.117(S)(1)(a).

General Business		
Lot Size	1-1/2 acres (except as required by Interstate Corridor Overlay District, §§ 150.230 - 150.238)	
Lot Width	150 Feet Minimum	
Building Setback from property lines: (Also see § 154.082)		
Front:	10 Feet Minimum	
	No setback required for properties located in the Old Village District and south of Minnesota State Highway 5	
Side (Interior):	20 Feet Minimum	
	No setback required for properties located in the Old Village District and south of Minnesota State Highway 5	
Side (Corner):	50 Feet Minimum	
Rear:	50 Feet Minimum	
Building Height (Also see § 154.083)	35 Feet Maximum	
Maximum area to be covered	by buildings, parking lots, driveways and other hard surfaces:	
Up to 4 acres	40% of lot size	
Larger than 4 acres to 8 acres	35% of lot size	
Larger than 8 acres	25% of lot size	
Lot Configuration	Maximum lot depth to width dimension ratio shall be no more than 3:1	
Lot Size	Covered Area	
Lot Configuration	1	
Maximum Width of Driveways	See § 93.26	
Signage	See §§ 154.212	
Septic Drainage Regulation (Also see §§ 51.002 through 51.008)	All newly subdivided lots shall have a minimum of 20,000 square feet of land dedicated for septic system use and suitable for that use. This land may comprise up to 2 separate areas, each of which	

is contiguous to the 1.25-acre building site or contained within it, and each of which contains at least 10,000 contiguous square feet.

Placement of the second required drainfield between the trenches of the first drainfield is prohibited.

(1997 Code, § 300.07 Subd. 4.H) (Am. Ord. 08-030, passed 10-5-2010)

D. Performance standards.

- 1. Purpose and intent.
 - a. It is the purpose and intent of the city, by the adoption of the performance standards of this division, 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 2000-2020 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.
 - b. 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.
- 2. 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:
 - a. Elevations of all sides of the buildings;
 - b. Type and color of exterior building materials;
 - c. Typical general floor plans;
 - d. Dimensions of all structures; and
 - e. Location of trash containers, heating, cooling and ventilation equipment and systems.
- 3. Applicability structure additions and renovation.
 - a. 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 of any portion of an existing structure shall be exempt from the standards of this division where it is found that the new or replacement exterior surfacing proposed is identical to that of the existing structure.
 - b. 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 standards of this division.

- 4. Performance standards primary exterior surfacing.
 - a. 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.
 - b. 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 chapter. Doors of any type of material, except glass, shall not be considered a primary exterior surface.
 - c. Each wall of the structure shall be calculated separately and, individually comply with the 70/30 formula.
- 5. Performance standard exterior surfacing accents. Not more than 30% of the exterior wall surfacing, as defined by division (D)(4) 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:
 - a. Cedar, redwood, wood siding;
 - b. Cement fiber board;
 - c. Standing seam metal;
 - d. Architectural metal:
 - e. Stucco:
 - f. Poured in place concrete (excluding "tilt-up" panels);
 - g. Architectural metal panels; and

(Am. Ord. 97-175, passed 6-20-2006)

- h. Porcelain or ceramic tile.
- 6. *Performance Standard Accessory Structures*. All accessory structures shall comply with the exterior surfacing requirements specified by this division (D).
- 7. 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.
- 8. *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.
- 9. *Applicability New Construction*. The standards of this division shall be applicable to all structures and buildings constructed in the city, on and after the

ARTICLE XIII. VILLAGE MIXED USE DISTRICT

§ 154.500 PURPOSE AND DISTRICT DESCRIPTION.

The purpose of the VMX district is to provide an area for compact, mixed use development made mutually compatible through a combination of careful planning and urban design and coordinated public and private investment. This district is intended to continue the traditional mixed use development that has occurred in the Village area by allowing retail, service, office, civic and public uses as well as residential units. The mixture of land uses within the district is essential to establishing the level of the level of vitality and intensity needed to support retail and service uses. The placement of building edges and treatment of building, parking, landscaping, and pedestrian spaces is essential to creating the pedestrian friendly environment envisioned for the VMX district. The standards in this chapter are intended to implement and effectuate the principles and relationships established in the Village Master Plan, which will be carried out through specific standards related to site planning, signage, architecture, building materials, and landscaping. Renovation and infill of traditional storefront-type buildings is encouraged, and parking standards may be waived to recognize the availability of on-street and shared parking facilities.

(Ord. 08-091, passed 11-13-2013)

§ 154.501 PERMITTED AND CONDITIONAL USES.

Table 11-1 lists all permitted and conditional uses allowed in the urban residential districts. "P" indicates a permitted use, "C" a conditional use. Uses not so indicated shall be considered prohibited. Cross-references listed in the table under "Standards" indicate the location within this Ordinance of specific development standards that apply to the listed use.

- A. Combinations of Uses. The following use types may be combined on a single parcel:
 - 1. Principal and accessory uses may be combined on a single parcel.
 - 2. A principal and secondary dwelling unit may be combined according to the standards of Section 154.454 (A) and 154.505 (D).
 - 3. Single-family attached or multi-family complexes designed for rental or condominium occupancy, since these typically include multiple units and buildings on a single parcel.
 - 4. Other permitted or conditional uses allowed within the district may be combined on a single parcel, provided that a unified and integrated site plan is approved. The entire development must be approved as a conditional use.
 - 5. A mixed-use building that combines permitted or conditionally permitted residential, service, retail and civic uses may be developed meeting the form standards of this Article. Office or studio uses on upper stories are encouraged.

Table 11-1: Permitted and Conditional Uses, VMX Districts

	VMX	Standard
Residential Uses		
Household Living		
Single-family detached dwelling	P*	* See Restrictions in 155.504 (A)
Two-family dwelling	P	* See Restrictions in 155.504 (A)
Single-family attached dwelling	С	154.505 (B)
Multifamily dwelling	С	154.505 (C)
Secondary dwelling	С	154.505 (D), 154.454 (C)
Live-work unit	P	154.505 (J)
Group Living	· · · · · ·	•
Group Home	P	154.012 (B) (1) (b), 154.301 (A)
Group Residential Facility	С	154.012 (B) (1) (b), 154.301 (B)
Congregate Housing	С	154.012 (B) (1) (b), 154.301 (C)
Semi-Transient Accommodations	С	154.012 (B) (1) (b), 154.301 (D)
Public and Civic Uses		
Community Services	P	154.012 (B) (2)
Day Care Center	P	154.012 (B) (2)
Public Assembly	С	154.012 (B) (2)
Religious Institutions	С	154.012 (B) (2), 154.303 (N)
Schools, Public and Private	С	154.012 (B) (2), 154.303 (A)
Services		
Business Services	P	154.012 (B) (3)
Business Center	P	154.012 (B) (3)
Offices	P	154.012 (B) (3)
Communications Services	P	154.012 (B) (3)
Education Services	P	154.012 (B) (3), 154.303 (A)
Financial Institution	P	154.012 (B) (3)
Funeral Home	С	154.012 (B) (3)
Lodging	С	154.012 (B) (3), 154.302 (D)
Medical Facility	С	154.012 (B) (3), 154.303 (B)
Membership Organization	С	154.012 (B) (3)
Nursing and Personal Care	С	154.012 (B) (3), 154.303 (C)
Personal Services	P	154.012 (B) (3)
Repair and Maintenance Shop	С	154.012 (B) (3), 154.505 (E)
Trade Shop	С	154.012 (B) (3), 154.505 (F)
Veterinary Services	С	154.012 (B) (3), 154.505 (G)
	VMX	Standard
Food Services		
Standard Restaurant	P	154.012 (B) (4), 154.505 (L)
Restaurant with Drive-through	С	154.012 (B) (4), 154.505 (L), 154.304 (A)
Drinking and Entertainment	P	154.012 (B) (4), 154.505 (L), 154.304 (B)
Sales of Merchandise		

Retail Trade ¹	P	154.012 (B) (5)		
Farmer's Market	С			
Garden Center	С	154.012 (B) (5), 154.505 (H)		
Neighborhood Convenience Store	P	154.012 (B) (5)		
Shopping Center	C	154.012 (B) (5)		
Wayside Stand	P			
Automotive/Vehicular Uses				
Automobile Maintenance Service	С	154.505 (I)		
Automobile Parts/Supply	P	154.505 (I)		
Gasoline Station	С	154.305 (B)		
Parking Facility	С	154.505 (K)		
Sales and Storage Lots	С	154.305 (C)		
Outdoor Recreation				
Outdoor Recreation Facility	С	154.306 (C)		
Parks and Open Areas	P	154.012 (B) (7)		
Indoor Recreation/Entertainment				
Indoor Athletic Facility	С	154.012 (B) (7), 154.307 (A)		
Indoor Recreation	C	154.012 (B) (7), 154.307 (A)		
Transportation and Communications				
Broadcasting or Communications Facility	C	154.012 (B) (11), 154.083		
Accessory Uses				
Home Occupation	P	154.012 (B) (12)		
Bed and Breakfast	C	154.012 (B) (12)		
Domestic Pets	P	154.012 (B) (12)		
Family Day Care	P	154.012 (B) (12)		
Group Family Day Care	С	154.012 (B) (12)		
Temporary Sales	P	154.012 (B) (12)		
Parking Facility	P	154.505 (K)		
Solar Equipment	P	154.012 (B) (12), 154.310 (C)		
Swimming Pools, Hot Tubs, Etc.	P	154.012 (B) (12)		
Other Structures Typically Incidental and Clearly Subordinate to Permitted Uses	Р			

Note: Standards listed in Table 11-1 are listed by Article, Section and Subsection.

1. Retail Trade in the VMX District includes all uses and activities defined as Retail Trade in §154.012 (B) (5) with the exception of building supplies sales and warehouse club sales.

(Ord. 08-091, passed 11-13-2013)

§ 154.502 LOT DIMENSIONS AND BUILDING BULK REQUIREMENTS.

Lot area and setback requirements shall be as specified in Table 11-2, Lot Dimension and Setback Requirements.

Table 11-2: Lot Dimension and Setback Requirements, VMX District

	VMX	
Minimum Lot Area (sq. ft.) ^a		
Non-Residential Use	None	
Single Family Detached Dwelling	5,000	
Two-Family Dwelling (per unit) ^b	3,000	
Single-Family Attached (per unit) ^c	2,500	
Multi-Family Dwelling (per unit)	1,800	
Secondary Dwelling	See 154.454 (C)	
Live-Work Unit	3,000	
Congregate Housing	See 154.301 (C)	
Other Structures	3,500	
Maximum Lot Area (acres)	1	
Residential Structures	N/A	
Other Structures	5	
Minimum Lot Width (feet)	1	
Single Family Detached Dwelling	50	
Two-Family Dwelling (per unit) ^b	30	
Single-Family Attached (per unit) ^c	25	
Multi-Family Dwelling (per building)	75	
Live-Work Unit	25	
Maximum Height (feet/stories)	35/3 ^d	
	VMX	
Maximum Impervious Coverage	•	
Residential Structures	75%	
Other Structures	No Limit	
Minimum Building Setbacks (feet)	•	
Front Yard ^e	See 154.506	
Interior Side Yard f	10	
Corner Side Yard ^g	0	
Rear Yard	10	
1-	+	

Notes to VMX District Table

a. No development may exceed the residential density range as specified in the Comprehensive Plan for the Village Mixed Use land use category

- b. Two-family units may be side-by-side with a party wall between them ("twin") or located on separate floors in a building on a single lot ("duplex"). The per-unit measurements in this table apply to "twin" units, whether on a single lot or separate lots. The standards for single-family detached dwelling shall apply to a "duplex" containing two vertically-separated units on a single lot.
- c. In the case of single-family attached dwellings that are not situated on individual lots, minimum lot size shall be applied to each unit as a measure of density; i.e. 1 unit per 2,500 square feet. This standard is also used for multifamily dwellings.
- d. Buildings up to 45 feet in height may be permitted as part of a PUD.
- e. The front yard setback for single family homes shall be 25 feet.
- f. Side yard setbacks in the VMX District apply only along lot lines abutting residentially zoned parcels or those parcels with residential uses as the sole use.
- g. Corner properties: the side yard façade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be shown in the table.

(Ord. 08-091, passed 11-13-2013)

§ 154.503 DIMENSIONAL REQUIREMENTS AND PRESERVATION OF OPEN SPACE.

- A. Averaging of Lot Area. When lots are clustered within a development to provide common open space, the open space may be used to calculate an average density per lot to determine compliance with the individual lot are requirements.
- B. *Lot Dimension Reductions*. Other reductions in dimensional standards may be considered as part of a Planned Unit Development if these reductions provide for common open space within a development.

(Ord. 08-091, passed 11-13-2013)

§ 154.504 GENERAL SITE DESIGN CONSIDERATIONS – VMX DISTRICT.

Development of land within the VMX District shall follow established standards for traffic circulation, landscape design, and other considerations as specified in Article 7, 8 and 9. (Ord. 08-152, passed 10-01-2016)

- A. *Circulation*. New access points to State Highway 5 may be refused or restricted to right-in right-out movement if alternatives exist. Internal connections shall be provided between parking areas on adjacent properties wherever feasible.
 - 1. The number and width of curb-cuts shall be minimized. To promote pedestrian circulation, existing continuous curb-cuts shall be reduced to widths necessary for vehicular traffic, and unnecessary or abandoned curb cuts shall be removed as parcels are developed.

- B. *Fencing and Screening*. Fencing and screening walls visible from the public right-of-way shall be constructed of materials compatible with the principle structure.
- C. *Lighting Design*. Lighting shall be integrated into the exterior design of new or renovated structures to create a greater sense of activity, security, and interest to the pedestrian, and shall comply with §150.035-150.038 Lighting, Glare Control, and Exterior Lighting Standards.
- D. *Exterior Storage*. Exterior materials storage must be screened from view from adjacent public streets and adjacent residential properties, by a wing of the principal structure or a screen wall constructed of the same materials as the principal structure. Height of the structure or screen wall must be sufficient to completely conceal the stored materials from view at eye level (measured at six feet above ground level) on the adjacent street or property.
- E. Screening of Existing Residential Structures. When a new development is proposed adjacent to an existing single family residential structure, screening shall be provided in accordance with §154.258.F. The City may require buffering or screening above and beyond this section in cases where the required screening will not provide an adequate separation between incompatible uses.

(Ord. 08-091, passed 11-13-2013)

§ 154.505 DEVELOPMENT STANDARDS FOR SPECIFIC USES.

Development of land within the VMX district shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in Articles 7, 8 and 9. The following standards apply to specific uses; other standards related to design and building type may be found at §154.506. (Ord. 08-152, passed 10-01-2016)

- A. Single-Family and Two-Family Dwellings
 - 1. Single-Family Dwellings are limited to those existing at the time of adoption of this Ordinance. Existing single-family dwellings shall be considered permitted uses, rather than nonconforming uses.
 - 2. Unless otherwise specified in this Article, Single and Two Family Dwellings in the VMX district shall adhere to the MDR district setbacks as specified in §154.452.
- B. Single-Family Attached Dwellings
 - 1. A maximum of eight (8) units shall be permitted within a single building.
 - 2. Townhouse dwellings shall be located on lots in such a way that each individual unit has a minimum of twenty-five (25) feet of public street frontage. No parking shall be located in the front yard or between the front façade and the street.
 - 3. The primary entrance to each unit shall be located on the façade fronting a public street; an additional entrance may be provided on the rear or side façade.

- 4. Common open space for use by all residents or private open space adjacent to each unit shall be provided. Such open space shall compromise a minimum of three hundred (300) square feet per unit.
- C. *Multi-Family Dwelling Units*. Dwelling units (both condominium and rental) are restricted to the upper floors or rear or side ground floors of a mixed use building.
 - 1. No parking shall be located in the front yard or between the front façade and the street.
- D. Secondary Dwellings. Restricted to lots occupied by single-family dwellings, and must meet the standards for secondary dwellings in residential districts, §154.454 (C).
- E. *Repair and Maintenance Shop*. No outdoor storage is permitted unless fully screened from public view.
- F. *Trade Shop*. Exterior materials storage must be totally screened from view from adjacent public streets and adjacent residential properties by a wall of the principal structure or a screen wall constructed of the same materials as the principal structure.
- G. Veterinary Services. All activities must be conducted within an enclosed building.
- H. Garden Center.
 - 1. The storage or display of any materials or products shall meet all setback requirements of a structure, and shall be maintained in an orderly manner. Screening along the boundaries of adjacent residential properties may be required, meeting the standards of Section 154.258 (F).
 - 2. All loading and parking shall be provided off-street.
 - 3. The storage of any soil, fertilizer or other loose, unpackaged materials shall be contained so as to prevent any effects on adjacent uses.
- I. Automobile Maintenance Service and Automobile Parts/Supply.
 - 1. All vehicle repairs shall be conducted in a completely enclosed building
 - 2. The storage or display of inoperable or unlicensed vehicles or other equipment shall meet all setback requirements of a structure, and shall be totally screened from view from adjacent public streets and adjacent residential properties.
- J. *Live-Work Unit*. The purpose of a live-work unit is to provide a transitional use type between a home occupation and a larger commercial enterprise, and to provide neighborhood-oriented commercial services, while maintaining a generally residential character in which the work space is subordinate to the residential use.
 - 1. The work space component shall be located on the first floor or basement of the building.
 - 2. The dwelling unit component shall maintain a separate entrance located on the front or side façade and accessible from the primary abutting public street.
 - 3. The work space component of the unit shall not exceed thirty (30) percent of the total gross floor area of the unit.

- 4. A total of two (2) off-street parking spaces shall be provided for a live-work unit, located to the rear of the unit, or underground/enclosed.
- 5. The size and nature of the work space shall be limited so that the building type may be governed by residential building codes. An increase in size or intensity beyond the specified limit on floor area would require the building to be classified as a mixed-use building.
- 6. The business component of the building may include offices, small service establishments, home crafts which are typically considered accessory to a dwelling unit, or limited retailing (by appointment only) associated with fine arts, crafts, or personal services. It may not include a wholesale business, a commercial food service requiring a license, a limousine business or auto service or repair for any vehicles other than those registered to residents of the property.
- 7. The business of the live-work unit must be conducted by a person who resides on the same lot. The business shall not employ more than two (2) workers on-site at any one time who live outside of the live-work unit.
- K. *Parking Facility*. Structured parking is permitted as a ground floor use within a mixed-use building, provided that it is located on side or rear facades, not facing the primary abutting street. The primary street-facing façade shall be designed for retail, office or residential use. The primary street façade may include an entrance into the parking facility.
- L. *Outdoor Dining Accessory to Food Services*. Outdoor dining is allowed as an accessory use in the commercial districts, provided that tables do not block the sidewalk. A minimum of five (5) feet of sidewalk must remain open.

(Ord 08-091, passed 11-13-2013)

§ 154.506 VMX DISTRICT DESIGN AND DEMOLITION REVIEW.

- A. *Review of Design*. For certain development activity as specified in the Lake Elmo Design Standards Manual, design review is required as part of the approval process for a permit or certificate under this Ordinance. All projects subject to design review shall be reviewed for conformance with the Lake Elmo Design Standards Manual. A separate process for design review is not established.
 - Review Authority and Process. Design review shall be the responsibility of the
 individual or body authorizing the permit or certificate and shall be incorporated
 in the established review of the applicable permit or certificate. For those
 applications under this Ordinance that require review by the Planning
 Commission, the Planning Commission shall consider the standards in the Lake
 Elmo Design Standards Manual as part of its recommendation to the City
 Council.
 - 2. *Review by Professional*. The authorizing body may request review by a design professional of the proposed design or demolition. The cost of review by such design professional shall be charged by the applicant, and shall not exceed \$1,000 unless otherwise agreed to by the applicant.

- 3. Development Activity Defined. Development Activity consists of new construction and redevelopment activities, including remodeling that expands the footprint of a structure, altering, or repairing a structure in a manner that will change the exterior appearance of said structure. Development activity also includes the construction of a new parking lots and installation of signage.
 - a. *Exempt Activities*. The following activities shall be exempt from under review of this Section:
 - i. Ordinary repairs and maintenance that will not change the exterior appearance of a structure;
 - ii. Removal of existing signage without replacement unless said signs are an integral part of the building;
 - iii. Emergency repairs ordered by the Director of Planning in order to protect public health and safety;
 - iv. Exterior alteration, addition, or repair of a structure used as a single-family residence, duplex, or two-family residence.
 - v. Temporary signage, installed in accordance with §154.212 of this Ordnance, or during which time an application for permanent signage is pending under this Ordinance;
 - vi. Maintenance of existing signage advertising an on-site business;
 - vii. Alterations only to the interior of a structure.

(Ord 08-091, passed 11-13-2013)

§ 154.507 ACCESSORY USES AND STRUCTURES.

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

- A. *Phasing*. No accessory use or structure shall be constructed or established on any lot prior to the time of construction of the principal use to which it is accessory.
- B. *Incidental to Principal Use*. The accessory use or structure shall be incidental to and customarily associated with the principal use or structure served.
- C. *Subordinate to Principal Use*. The accessory use or structure shall be subordinate in the area, extent, and purpose to the principal use or structure served.
- D. *Function*. The accessory use or structure shall contribute to the comfort, convenience, or necessity of the occupants of the principal use or structure served.
- E. *Location*. The accessory use or structure shall be located on the same zoning lot as the principal use or structure.

(Ord 08-091, passed 11-13-2013)

§154.508 RESIDENTIAL ACCESSORY STRUCTURES, VILLAGE MIXED-USE DISTRICT.

- A. *Attached Structures, Village Mixed-Use District.* An accessory structure shall be considered attached, and an integral part of, the principal structure when it is connected by an enclosed passageway. All attached accessory structures shall be subject to the following requirements:
 - 1. The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located.
 - 2. The structure shall not exceed the height of the principal building to which it is attached.
- B. Attached Garages, Mixed-Use District
 - 1. Attached garages are encouraged to be side or rear loaded. If facing the primary street, garages shall be designed using one of the following techniques, unless specific physical conditions on the lot in question require a different approach:
 - a. The front of the garage is recessed at least four (4) feet behind the plane of the primary façade; or
 - b. The front of the garage is recessed at least four (4) feet behind a porch if the garage is even with the primary façade.
 - 2. The width of the attached garage shall not exceed 40% of the width of the entire principal building façade (including garage) fronting the primary street.
 - 3. Attached garages shall not exceed one thousand (1,000) square feet in area at the ground floor level except by conditional use permit.
 - 4. Garage doors or openings shall not exceed fourteen (14) feet in height.
- C. *Detached Structures*, *Village Mixed-Use District*. Detached accessory structures that are accessory to permitted residential structures in the VMX District shall adhere to the following requirements:
 - 1. Detached accessory structures shall be located to the side or rear of the principal building, and are not permitted within the required front yard or within a side yard abutting a street.
 - 2. Detached garages shall not exceed one thousand (1,000) square feet at ground floor level and shall not exceed a height of twenty-two (22) feet or the height of the principal structure. The maximum size and height may be increased upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.
 - 3. Pole barns, as defined herein, shall be prohibited.
 - 4. No more than thirty (30) percent of the rear yard area may be covered by accessory structures.
 - 5. Garage doors or openings shall not exceed fourteen (14) feet in height.

- D. Exterior Design and Color, All Accessory Structures. The exterior building materials, design and color of all accessory building or structures shall be similar to or compatible with the principal building, with the exception of the following accessory building or structures:
 - 1. Gazebos
 - 2. Swimming pools
 - 3. Tennis and sport courts
 - 4. Other structures in which the required design is integral to the intended use, such as a greenhouse.

(Ord. 08-104, passed 3-18-2014) Penalty, see § 154.999

§ 154.509 ACCESSORY USES.

- A. *Exterior Storage on Residential Parcels*. All materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following:
 - 1. Laundry drying
 - 2. Construction and landscaping materials and equipment currently being used on the premises. Materials kept on the premises for a period exceeding six (6) months shall be screened or stored out of view of the primary street on which the house fronts.
 - 3. Agricultural equipment and materials, if these are used or intended for use on the premises.
 - 4. Off-street parking and storage of vehicles and accessory equipment, as regulated in Sections 154.404 and 154.210.
 - 5. Storage of firewood shall be kept at least ten (10) feet from any habitable structure and screened from view of adjacent properties.
 - 6. Outdoor parking
- B. *Temporary Sales*. Temporary sales, also known as yard or garage sales, are permitted in all residential districts, limited to two (2) per calendar year per residence, not to exceed four (4) days in length for each event.

(Ord 08-091, passed 11-13-2013)

§ 154.510 ACCESSORY USES AND STRUCTURES NOT LISTED.

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

(Ord 08-091, passed 11-13-2013) (Ord. 08-152, passed 10-01-2016)

CITY OF LAKE ELMO COUNTY OF WASHINGTON STATE OF MINNESOTA

ORDINANCE NO. 08-

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LAKE ELMO AND AMENDING THE ZONING CODE BY OMITTING SECTION 034: GB - GENERAL BUSINESS

SECTION 1. The City Council of the City of Lake Elmo hereby ordains the following properties to be rezoned from GB - General Business to VMX - Village Mixed Use:

PIDs:

1302921230055	1302921320001	1302921320052	1302921210010	1302921120013
1302921230057	1302921230038	1302921320026	1302921320012	1302921120010
1302921230058	1302921230037	1302921230007	1302921240022	1302921120016
1302921320021	1302921320019	1302921320046	1302921220007	1302921120012
1302921230068	1302921210013	1302921230059	1302921220023	1302921120009
1302921320025	1302921210014	1302921310017	1302921220018	1302921120011
1302921230070	1302921210011	1302921210016	1302921220016	1302921120015
1302921320049	1302921210012	1302921310016	1302921220017	1302921120014
1302921320051	1302921210015	1302921230046	1302921220019	1302921220008
1302921320048	1302921320041	1302921230065	1302921220022	1302921220010
1302921320047	1302921320042	1302921230053	1302921220021	1302921240016
1302921240020	1302921320083	1302921240024	1302921220020	1302921220012
1302921310003	1302921230054	1302921240019	1302921240021	1302921230071
1302921230056	1302921210001	1302921240017	1302921210006	1302921210007
1302921320032	1302921320005	1302921230067	1302921220002	1302921220013
1302921320027	1302921230025	1302921240025	1302921220011	1302921220014
		1302921210009	1302921230004	1302921210002
	1302921230057 1302921230058 1302921320021 1302921320025 1302921320025 1302921320049 1302921320049 1302921320048 1302921320047 1302921320047 1302921320047 1302921320032	1302921230057 1302921230038 1302921230058 1302921230037 1302921320021 1302921320019 1302921230068 1302921210013 1302921320025 1302921210014 1302921230070 1302921210011 1302921320049 1302921210012 1302921320051 1302921210015 1302921320048 1302921320041 1302921320047 1302921320042 1302921240020 1302921320083 1302921330056 1302921210001 1302921320032 1302921320005	1302921230057 1302921230038 1302921320026 1302921230058 1302921230037 1302921230007 1302921320021 1302921320019 1302921320046 1302921230068 1302921210013 1302921230059 1302921320025 1302921210014 1302921310017 1302921230070 1302921210011 1302921210016 1302921320049 1302921210012 1302921310016 1302921320051 1302921210015 1302921230046 1302921320048 1302921320041 1302921230065 1302921320047 1302921320042 1302921230053 1302921240020 1302921320083 1302921240024 1302921230056 1302921230054 1302921240019 1302921320032 1302921320005 1302921230067 1302921320027 1302921230025 1302921240025	1302921230057 1302921230038 1302921320026 1302921320012 1302921230058 1302921230037 1302921230007 1302921240022 1302921320021 1302921320019 1302921320046 1302921220007 1302921230068 1302921210013 1302921230059 1302921220023 1302921320025 1302921210014 1302921310017 1302921220018 1302921320049 1302921210011 1302921210016 1302921220016 1302921320049 1302921210012 130292130046 1302921220017 1302921320048 1302921210015 1302921230046 1302921220019 1302921320047 1302921320042 1302921230053 1302921220021 1302921240020 1302921320083 1302921240024 1302921220020 1302921310003 1302921230054 1302921240019 1302921240021 1302921230036 1302921210001 1302921240017 1302921220002 1302921320032 1302921320005 1302921230067 1302921220001 1302921320027 1302921230025 1302921240025 1302921220011

SECTION 2. The City Council of the City of Lake Elmo also hereby ordains that the Zoning Administrator shall make the applicable changes to the official Zoning Map of the City of Lake Elmo.

SECTION 3. The City Council of the City of Lake Elmo hereby strikes Title XV: Land Usage; Chapter 154: Zoning Code; by repealing Section 154.034: GB - General Business in its entirety.

SECTION 4. The City Council of the City of Lake Elmo hereby strikes reference to 154.034: GB - General Business District from the Table of Contents of Chapter 154: Zoning Code of Title XV: Land Usage.

SECTION 5. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 030: Classifications by eliminating the following:

§ 154.030 CLASSIFICATIONS.

For the purpose of this chapter, all land in the city is divided into zoning districts. The zoning districts shall be identified by the following classifications, including those districts identified in § 154.350:

(A)	R-2	One- and Two-Family Residential
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(B) GB General Business

(C) B OP Open Space Preservation District

(D) C OZD Overlay Zoning Use District

SECTION 6. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 212: Sign Regulations; Table 5-3 to read the following:

Ground Signs				
Zoning Districts		Aa, LDR, OP, RE, RS, RRa, RTa	MDR, HDR	BP, C, CC, GB, LC, VMX
No. of Total Traffic Lanes	Speed Limit (MPH)	Max Height/ Area (Sq. Ft.)	Max Height/ Area (Sq. Ft.)	Max Height/ Area (Sq. Ft.)
1-3	0-34	-	6'/32	10'/32
	35-44	-	6'/32	10'/50
	45+	-	6'/32	10'/72
4-5	0-34	-	6'/32	10'/40
	35-44	-	6'/32	10'/64
	45+	-	6'/32	12'/80

SECTION 7. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 150.116: [Wireless Communications] Zoning Requirements to read the following:

■§ 150.116 ZONING REQUIREMENTS.

(A) Wireless communications facilities that require a conditional use permit, including the installation of a new tower, shall be permitted in the following districts and subject to the following height restrictions provided they meet all other requirements of this subchapter.

Zoning District	Zoning District Maximum Height (in feet) Mi		nimum Parcel Area	
A- Agriculture				10
RR - Rural Residential Zoning				5
R-1, R-2, R-3 and R-4 Urban Residential			125	2.5
OP - Open Space			125	2.5
RE - Residential Estates			125	2.5
GB _→ LB, CB, HB - Business			125	5
BP - Business Park		125	5	
PF - Public Facility		125	None	

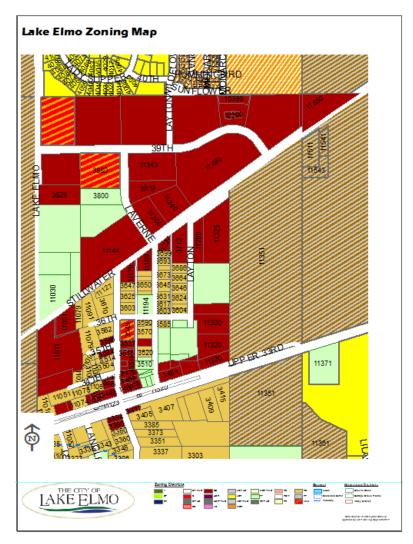
SECTION 8. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 153.14: Park Land Dedication Requirements to read the following:

Zoning Districts	Minimum Required Land Dedication		
GB , LB, HB, BP, CB,	Fee as set by Council resolution		
C, CC, LC, VMX, BP	Fee as set by Council resolution		
RR and AG with OP Conditional Use Permit	7%		
RR and AG with OP-A Conditional Use Permit	10%		

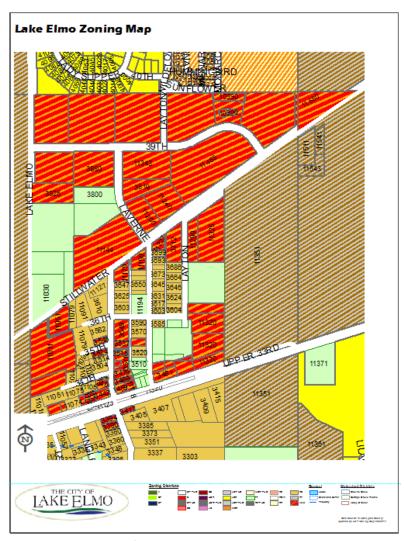
SECTION 9. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 10.	Adoption Date.	This Ordinance	08	was adopted on thi	is day
of,	2016, by a vote of	Ayes and	Nays.		

	Mike Pearson, Mayor			
ATTEST:				
Julie Johnson, City Clerk				
This Ordinance 08 was published of 2017.	on the day of			



Current Zoning



Proposed Zoning (Only includes parcels included in the Public Hearing Notice – see next page for parcels added in Staff report)

Proposed Zoning (includes parcels that were included in tonight's Staff report but were not advertised in public hearing)



The aqua-outlined VMX-zoned parcels are those that were added in the Staff Report that were not zoned GB

Public hearing opened at 8:34 pm

No one spoke and there was no written comments received.

Public hearing closed at 8:35 pm

Dunn would like to see the option of sewer or private septic. She doesn't think that they should be forced to connect to sewer. Wensman stated that the comprehensive Plan is not in compliance with the projects that we are doing. If we don't do this amendment, the land use designation would need to be changed.

M/S/P: Fields/Dodson, Move to recommend the City Council approve the comprehensive plan text amendment to amend the planned land use category in the Comprehensive Land Use Plan to read as written, *Vote: 5-1, motion carried. Dunn voted no because she feels it is important that people have an option regarding connection.*

Business Item - Zoning Text Amendment to discuss the VMX Zoning Text.

Wensman began his presentation by showing the areas that are zoned as general business, but guided as VMX in the Comprehensive Plan. To bring the zoning into compliance with the Comprehensive Plan, Wensman would like to see these properties rezoned. Wensman believes by rezoning, it would actually eliminate some non conformities. The area that would change the most, would be in the Northern area by 39th Street. Wensman stated that this was intended to bring the district more in conformance than it is now and should be done as a district vs. one at a time. If there are things about the district that the Commission does not like, then changes should be made to the district.

Dunn feels that the premise is based on the Village Master Plan. Where is the master plan? Wensman stated that the plan was based on transfer of density and he is not sure what happened to that plan. Dunn did a rough calculation on what could be done if the maximum densities were used. With her calculation, there is potential for upwards of 3000 people. She feels it is quite intense and not appropriate for this target area. She would like to see more work done on the reductions for the comprehensive plan and possibly look at form based code. Dunn would like to see the Comprehensive Plan revisited as soon as possible for population reductions. She thinks we should take our time and do this right.

Dunn pointed out some of the differences between GB and VMX. She feels one of the biggest differences is the impervious surface coverage maximum goes from 40% based on acreage in GB to 75% in VMX.

Fields is confused because if the comprehensive plan is guided the way we want it, the rezoning should happen. If we are considering if the guiding is correct, then it should not be rezoned, but should be discussed what the guiding should be.

Larson thinks that what brings the guiding for VMX into question is that the density of

this area is in transition. Larson understands the feeling of discomfort as this zone is less restrictive. There are still a lot of questions that make it uncomfortable for people to buy into this zone.

Williams thinks it would be good to ask the City Council if past projections of population in this area are still valid.

Dodson is wondering how big a project form based code is. Wensman stated that it is something that takes some technical skill to do and it would need to be contracted out.

Williams thinks it would help facilitate the vision, but would not be necessary to do the rezone.

M/:Dunn/, Move to recommend not rezoning the parcels to VMX until the City Council can review the target numbers and there is a form based code, **motion dies for lack of second.**

M/S/P: Williams/Dunn, Move to ask the City Council to give the Planning Commission guidance on updated population and development projections for the areas guided for VMX in the Old Village, *Vote: 6-0, motion carried unanimously.*

Fields would like to know what the driving force was for the VMX. If it was to bring more people to the downtown to make it more vibrant, or if it was to meet the Met Council mandates for housing population. Williams recollection was that it was for both of those reasons in addition to form based code to make it a more picturesque downtown and to incorporate business and residential in the same building, which general business does not do.

M/S/P: Williams/Dodson, Move to ask the City Council to approve funds for a consultant to work on a form based code for the downtown Old Village, *Vote: 6-0, motion carried unanimously.*

Fields would like any information that he could get on form based code. Williams believes that the City has a couple of videos on this topic.

Staff Updates

- 1. Upcoming Meetings
 - a. June 27, 2016
 - b. July 11, 2016

Commission Concerns

Dunn asked about the AUAR. Wensman stated that the City is overdue for the update and it is in the City Engineers hands right now.

Meeting adjourned at 9:28 pm

Respectfully submitted,

Joan Ziertman Planning Program Assistant



STAFF REPORT

DATE: 3/27/2017 **REGULAR** ITEM #: 4b

TO: Planning Commission

FROM: Emily Becker, City Planner

AGENDA ITEM: Comprehensive Plan Amendment to City's Wastewater Facilities and

Lane Use Plans - Lake Olson Area Sewer Service Area Extension and Re-

guidance to Rural Single Family Sewered

REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

The City approved a Comprehensive Plan Amendment in 2013 to include additional homes in an area along Olson Lake Trail that could be served with public sanitary sewer service. This was in response to a request for service which proposed an extension involving improvements within the Olson Lake Trail right-of-way, which serves as the boundary between Lake Elmo and the City of Oakdale.

The service area shown in the Comprehensive Plan amendment was somewhat larger than would be served by the initial joint public works project in order to allow the City to design the initial project in a manner that would permit additional connections in the future, should the opportunity arise.

Recently, additional property owners not currently included within the Olson Lake Trail sewer area have requested to be included.

ISSUE BEFORE COMMISSION:

Should these additional properties be included in the Olson Lake Trail sewer area?

PROPOSAL DETAILS/ANALYSIS:

Amendment to Wastewater Facilities Plan. Engineering has reviewed the addition of these properties to the Olson Lake Trail sewer area and recommends that they be included.

The following properties are requesting to be added to this sewer area:

- PID# 0802921140059 (4497 Olson Lake Trail N)
- PID# 0902921320001 (4473 Olson Lake Trail N)

Amendment to Land Use Plan. In July of 2016, the City approved amendments to the Comprehensive Plan's land use plan:

- Creating a new Rural Single Family Sewered land use category allowing municipal sanitary sewer where deemed practical by the City Council in Metropolitan Urban Service Area (MUSA) areas; and
- Guiding the properties currently guided for Rural Single Family within a MUSA area to Rural Single Family Sewered.

The aforementioned properties will need to be re-guided to the Rural Single Family Sewered land use designation.

Met Council Review. The Met Council has confirmed that the usual jurisdictional review period for this Comprehensive Plan Amendment will likely not be required. Alternatively, an amended Joint Powers Agreement would suffice. Additionally, the request may qualify for administrative review by the Met Council, rather than full Council review, meaning that the approval process for this request may take a shorter time period than a typical Comprehensive Plan Amendment.

FISCAL IMPACT:

Adding these properties to the Olson Lake Trail sewer area would reduce City cost for this sewer project by generating additional Sewer Access Charge (SAC) fees.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of an amendment to the Wastewater Facilities Plan of the Comprehensive Plan by adding the aforementioned properties to the Olson Lake Trail sewer area.

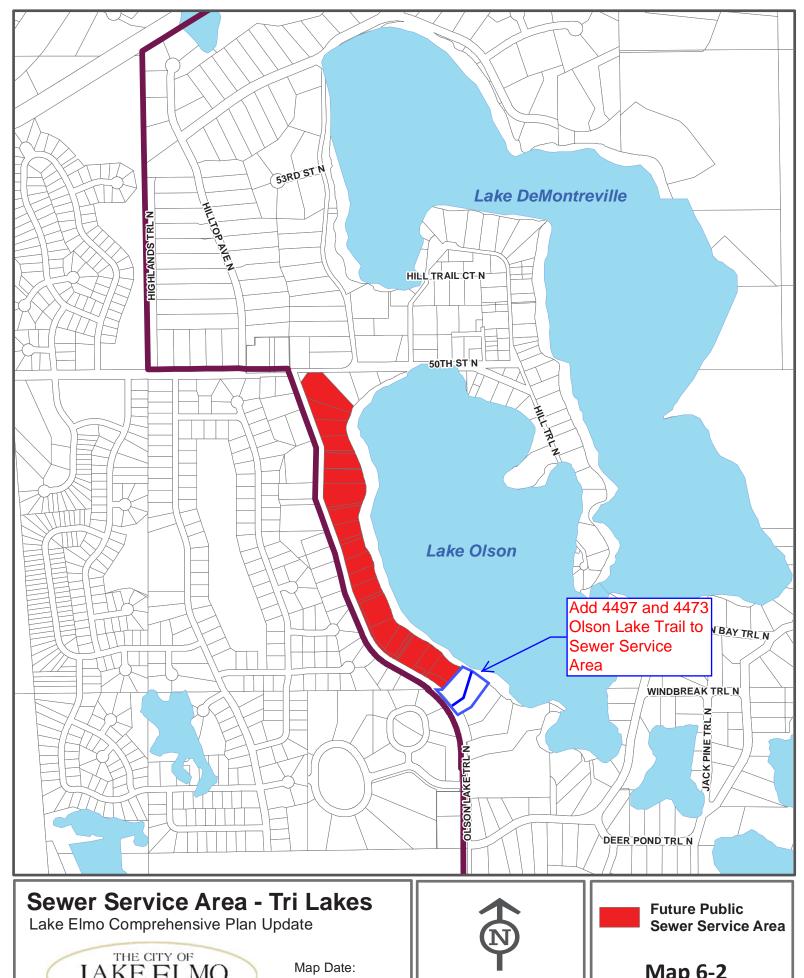
"Motion to recommend approval of the amendment to the City's Wastewater Facilities Plan by adding PID#'s 0902921320001 & 0802921140059 to the Olson Lake Trail MUSA."

Additionally, Staff recommends that the Planning Commission recommend approval of an amendment to the Land Use Plan of the Comprehensive Plan, reguiding the aforementioned properties to Rural Single Family Sewered.

"Motion to recommend approval of a Comprehensive Plan Amendment re-guiding PID#'s 0902921320001 & 0802921140059 to Rural Single Family Sewered on the City's Land Use Plan."

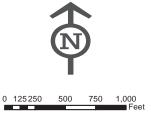
ATTACHMENTS:

- Proposed Amended Sewer Service Area Map
- Proposed Amended Land Use Map

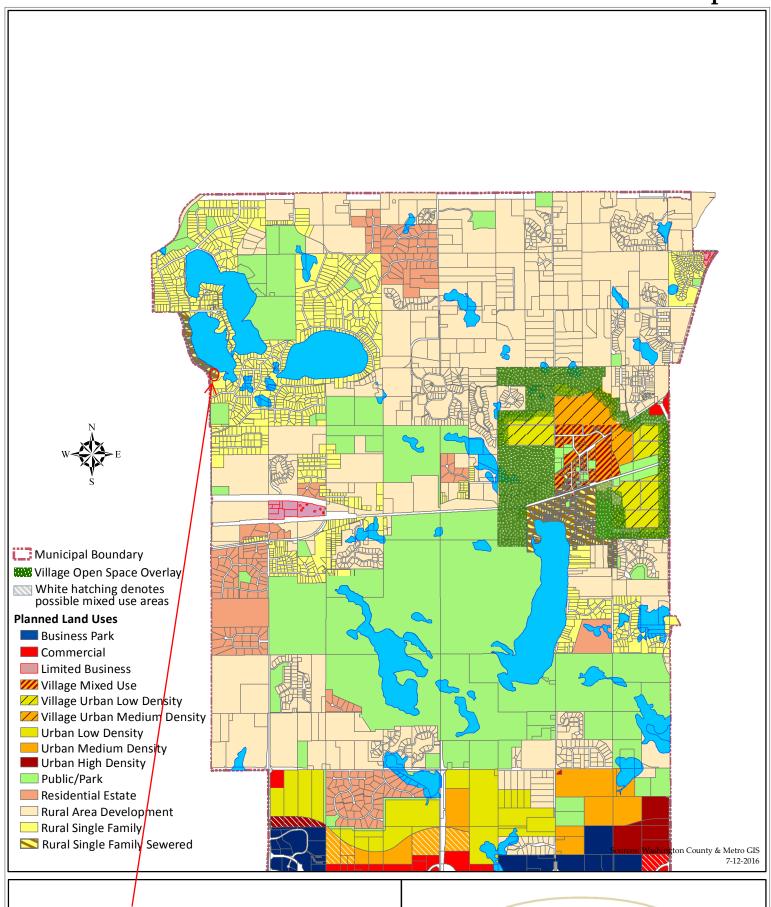




April 22, 2013



Map 6-2



Proposed Planned Land Use

Lake Elmo Comprehensive Plan 2030



STAFF REPORT



PLANNING COMMISSION DATE: 03/27/2017

AGENDA ITEM: 5A-BUSINESS ITEM

CASE # 2017-07

TO: Planning Commission

FROM: Stephen Wensman, Planning Director

AGENDA ITEM: Royal Golf Club at Lake Elmo Preliminary Plat and Preliminary PUD

Plans

REVIEWED BY: Stephen Wensman, Planning Director

Emily Becker, City Planner Mike Bent, Building Official Jack Griffin, City Engineer Greg Malmquist, Fire Chief

Kristina Handt, City Administrator Sarah Sonsalla, City Attorney

PRELIMINARY PLAT AND PUD PLANS UPDATE:

On 3/13/2017, the Planning Commission held a public hearing on the HC Golf Course Development is request for approval of:

- 1. A zoning map amendment rezoning from PF Public Facilities to GCC Golf Course Community; and
- 2. Preliminary Plat and Preliminary PUD Plans for the Royal Golf Club at Lake Elmo golf course/residential development.

The Planning Commission held the public hearings and recommended approval of the rezoning to GCC – Golf Course Community, and held the public hearing for the Royal Golf Course Preliminary Plat and Planned Unit Development, but tabled the request at the request of the developer in order for the developer to introduce a slight change to the preliminary plat in the northeast corner of the site and for staff to bring back more details on the requested tree preservation flexibility to allow some forest management in lieu of some replacement trees.

Plat and PUD changes - None. Since 3/13/17, the Developer has abandoned any planned changes to the preliminary plat and preliminary PUD Plans. The northeast neighborhood remains unchanged from the plans submitted at the last meeting.

Forest Management in lieu of replacement trees. The developer has decided that they would rather replace trees as required rather than do forest management as suggested by Staff. The issue of whether the site is to be considered a mixed use development or not is still unresolved.

This issue will determine the amount of replacement trees. Staff is following the City Attorney's determination that the project is not a mixed use site. The Planning Commission should still discuss the merits of forest management as it was suggested by the Washington Conservation District comment in their EAW comments (attached).

Stormwater Infiltration. Since the 3/13/17 meeting, the VBWD has raised some concerns about the functionality of some of the proposed infiltration basins shown in the Preliminary PUD Plans. These concerns are the same as has been raised by the City Engineer. Staff's primary concern is that the resultant stormwater changes may require changes to the preliminary plat. Staff has made it clear to the applicant that any changes will need to be reflected on an approved preliminary plat and that if the changes are significant, the plans will need to be approved by the Planning Commission and Council. The recommended conditions include (slightly revised):

• That the preliminary PUD Plans be approved by Valley Branch Watershed District and that evidence be provided that all conditions attached to a Valley Branch Watershed District permit be provided prior to the commencement of any grading activity on the site.

PUBLIC HEARING/ PLANNING COMMISSION COMMENTS:

At the 3/13/17 Planning Commission, the Commission held a public hearing and reviewed the development proposal. The public comments pertained to:

- Support for the forest management idea.
- Inappropriate speed limit on 20th Street and safety issues.
- Too many access points to 20th, should require internal connections.
- Lighting
- City already too flexible without PUD flexibility
- Dislike of trail in Outlot T behind Homestead and Tartan Meadows
- Custom screening for adjacent residences.

The Planning Commission discussion pertained to:

- Discussion of the interpretation of mixed use as it pertains to tree preservation requirements.
- Requiring a sidewalk from Street E to Lake Elmo Avenue.
- Amending findings to state that 20th Street was not safe based on testimony.
- Screening discussion.
- Lighting in the subdivision.
- Reduction in golf fees
- No parking along golf course entrance drive
- Totlot not located in a central location.
- Forest management
- Trail in outlot T alignment.

Prior to tabling the discussion to tonight's meeting, the Planning Commission added the following recommended conditions of approval:

- #35 That a sidewalk be constructed along the south side of 20th Street from what is labeled as Street E, west to Lake Elmo Avenue.
- #36 That the Royal Golf development will not have street lighting, except at the street intersections and that there be a photometric analysis be done to ensure that any current lights in the parking lot meet the dark sky ordinance.
- #37 That the developer work with all adjacent property owners to get an agreement in place for screening and that it be incorporated into the final landscape plans.

An additional finding was added:

#9 That there has been significant public testimony that 20th Street is already dangerous without the additional traffic and that the City and developer need to explore ways to make the road safer.

RECOMMENDATION:

Staff recommends the Planning Commission recommend approval of the Preliminary Plat and Preliminary PUD Plans for the Royal Golf Club at Lake Elmo with the following motion (this item cannot be approved by the Council until the Metropolitan Council approves the comprehensive plan amendment):

"Move to recommend approval of the Preliminary Plat and Preliminary Planned Unit Development Plans for the Royal Golf Club at Lake Elmo with 37 conditions based on the 9 findings identified in the Staff report."

ATTACHMENTS:

- 1. 3/13/17 Planning Commission packet
- 2. 3/13/17 Planning Commission Minutes
- 3. City Attorney's determination on "mixed use"
- 4. Washington Conservation District EAW comments

From:

Sonsalla, Sarah J.

To:

Stephen Wensman

Cc:

Benjamin Gozola, AICP; Stephen Mastey; Emily Becker; Kristina Handt; Sonsalla, Sarah J.

Subject: Date: RE: Royal Golf Tree Preservation issue Monday, October 10, 2016 1:23:02 PM

Dear Stephen,

I reviewed the Code provisions pertaining to tree preservation (Section 154.257). A tree preservation plan is required for any "new development in any zoning district," unless it falls within one of the exceptions (an single family residence on an existing platted lot of record or harvesting trees). I don't think that either exception applies, so a tree preservation plan is clearly required in this case since it is a new development and it doesn't matter what zoning district the property is in. As part of the tree preservation plan, a certain amount of trees are allowed to be removed without having to be replaced (30 percent of the total diameter inches of significant trees on the site). The remaining inches above the allowable limit must be replaced in accordance with the Tree Replacement Schedule that is set forth in paragraph (C) 8 of Section 154.257 of the Code.

The Code also provides that the planting of trees for mitigation on residential projects (which I think this is because it is housing that is being built) shall be in addition to any other landscaping requirements of the City (see Section 154.257 (C)(6)(c) of the Code). Therefore, it is my opinion that based on this provision of the Code, that replacement trees are required in addition to the landscaping trees.

As for paragraph (d) of Section 154.257 (C)(6)(d), that says that all trees, with the exception of ornamental trees, planted as landscaping on commercial or mixed-use projects may be counted towards tree replacement requirements, I don't think that it is applicable here. To be a mixed use, I would think that the project would need to have both residential and commercial components to it. The Tartan Park project is going to consist of residential housing and there aren't any commercial elements, other than the golf course. The Code's definition of "commercial use" is "[t]he principal use of land or buildings for the sale, lease, rental or trade of products, goods or services." I think that it is arguable that the golf course does not fit within this definition as no products, goods or services are being provided except those that are incidental to the golf course (i.e. pro shop retail sales, golf instruction services). A golf course is more of a "recreational" type use, although it doesn't look like the Code has a definition of "recreational use." Furthermore, as you indicate, the comprehensive land use map does not identify the Tartan Park property as a place where "mixed use" is allowed. Therefore, based on this information, I don't think that this section applies.

The Code does allow the City Council to grant exceptions to the tree preservation/mitigation requirements (Clark brought this up in one of his emails). However, there is a list of certain conditions that must exist and ALL of them must be met. One of the conditions is that the subject parcel must be five acres in size or less, which is not the case here. Since all of the conditions must be met, the City Council would not be able to grant an exception for this property.

Let me know if you have any questions or need any other information.

Thanks!

Sarah

Sarah J. Sonsalla | Attorney | Kennedy & Graven, Chartered | 470 U.S. Bank Plaza | 200 South Sixth Street | Minneapolis, MN 55402 | direct: 612.337.9284 | fax: 612.337.9310 | e-mail: ssonsalla@kennedy-graven.com

From: Stephen Wensman [mailto:SWensman@lakeelmo.org]

Sent: Thursday, October 06, 2016 3:55 PM

To: Sonsalla, Sarah J.

Cc: Benjamin Gozola, AICP; Stephen Mastey; Emily Becker

Subject: Royal Golf Tree Preservation issue

Hi Sarah,

I have a million dollar question for you. Tree mitigation is going to be a huge expense for the Developer depending on this interpretation. Royal Golf submitted their tree preservation plan to the city for preliminary review. They are removing significant number of trees to develop the property and tree replacement is required under the Ordinance 154.257. In a typical residential development, a developer needs to provide replacement trees in addition to required landscape trees. Section 154.257, Subd. C, 6, d, states:

All trees, with the exception of ornamental trees, planted as landscaping on commercial or mixed use projects may be counted toward tree replacement requirements.

Some facts:

- The City Code has no definition of "mixed use"
- The comprehensive land use plan map identifies hatch areas where "mixed use" is allowed and Tartan Park is not included
- The golf course is in a PF zone would you consider it as commercial?
- The entire site needs to be platted and is all part of the PUD, but the underlying PF zoning will remain for the golf course.
- The golf course removed lots of trees when they regraded but did not have to do a tree preservation because they did not meet the grading threshold found in Section 154.257, Subd. C, 1, a, ii
- The residential development is now proposing to remove significant number of trees and is causing the need for mitigation, not the golf

course.

Therefore, it is Staff's interpretation that the mitigation trees are required in addition to the landscaping trees. Do you concur? Call me if you need to discuss this more. A decision is not needed immediately, but I want to be prepared for when staff meets to discuss the pre-plat submittal with the Developer.

Stephen Wensman Planning Director City of Lake Elmo 651-747-3911 November 22, 2016

Stephen Wensman, Planning Director City of Lake Elmo 3800 Laverne Ave N. Lake Elmo, MN 55042

RE: The Royal Golf Club Residential Development EAW

Dear Steven,

The Washington Conservation District (WCD) has received and reviewed the above-mentioned EAW. The WCD review focuses on wetlands, erosion and sediment control, natural area management, and stormwater management. Based on this review the WCD offers the following comments:

Section 7 – Cover Types

Use of native vegetation and habitat restoration is encouraged in the open space areas, including native vegetated buffers around stormwater treatment systems. Enhancing the greenway cooridor that connects Lake Elmo to natural areas to the east is encouraged.

Section 10 – Geology, Soils and Topography / Land Forms

Section b. Soils and Topography

- Compliance with NPDES, watershed, and local requirements will minimize adverse impacts of soil
 erosion and sedimentation. The WCD can provide support to the City to ensure compliance as
 needed. The WCD recommends phasing the earthwork and grading to the greatest extent possible
 to limit the scale and duration of exposed soils during construction.
- Preserve HSG B soils to the extent possible. Protecting zones of optimum infiltration from compaction is preferred
- Minimize soil compaction and provide soil restoration in landscaped areas to enhance infiltration
- Deep-rip the soils with a toothed bucket in low or compacted areas to promote infiltration after major construction is complete

Section 11 - Water Resources

Section iv. Surface Waters

• The EAW indicates the site will meet City and VBWD infiltration guidelines, which recommend retaining the 1.1" rain event on-site. WCD encourages the use of bioretention to meet the onsite volume retention standards. Bioretention promotes both infiltration and evapotranspiration which more effectively mimics terrestrial hydrology than pure infiltration systems. These systems are designed to be distributed throughout the site and treat small contributing drainage areas, breaking up larger catchments into smaller, more manageable parts. Minimizing the drainage area provides multiple benefits to stormwater treatment, including the potential for reduced infrastructure conveyance costs.

To ensure the long-term effectiveness of volume control, the following design specifications are presented for consideration:

- Do not rely on long-term infiltration from unlined stormwater ponds or wet detention basins
- Install bioretention/infiltration practices off-line
- Include flow-splitter and high-flow bypass
- Provide pre-treatment (especially for sediment to prolong the life of a practice)
- Keep the max water depth to acceptable levels based on soil types and actual infiltration rates
- Refer to the Minnesota Stormwater Manual, 2013 (on MN PCA website) for additional design and implementation considerations

The WCD is also serving on the WCA TEP and will provide comments on the wetland permiting through that process.

Section 13 – Fish, Wildlife, Plant Communities and Sensitive Ecological Resources (Rare Features) Section d.

 Buckthorn removal from entire project area rather than leaving visual barrier along exterior roadways will minimize spread of this restricted noxious weed. Replace visual barrier of removed Buckthorn by replanting native trees and shrubs.

Conclusions

There are no known impacts that have not already been addressed in this EAW that warrant an Environmental Impact Statement. The Washington Conservation District appreciates the opportunity to review this EAW. Please call me at 651-330-8220, extension 20, if you have any questions about our review.

Sincerely,

Jay Riggs, District Manager Washington Conservation District

Cc: John Hanson, VBWD



STAFF REPORT

Date: February 27, 2017

AGENDA ITEM: 5B - BUSINESS ITEM

CASE #2016-59

TO: Planning Commission

FROM: Emily Becker, Planner

SUBMITTED BY: Zoning Text Amendment – Village Urban Districts

REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

Planning Staff has amended the draft ordinance creating standards for the Village Urban Low Density (V-LDR) zoning district as well as clarified some setback standards for the Village Mixed Use (VMX) District based on feedback provided by the Planning Commission at its January 23, 2017, February 13, and February 27, 2017 meetings.

ISSUE BEFORE THE COMMISSION:

Staff respectfully requests that the Commission review the revised draft ordinance of the Village Urban Residential Districts and provide additional feedback before a public hearing and formal recommendation is made.

PLANNING/ZONING ANALYSIS:

Summary of Discussed Changes since the last Planning Commission meeting to Proposed Ordinance. The following provides changes and responses to Commission feedback provided from the last meeting at which the subject ordinance was discussed:

- Adding Density Ranges to VMX. This has been added.
- *Increasing Impervious Surface Coverage to 35%.* It was requested that this be changed from the previously-proposed 30% to allow for residential structures of the same size as the LDR district would have. This has been changed.
- Maximum Setback Stricken.
- Multi-Family Use Standards and Setbacks.
 - Current Code Indicates Freestanding Multi-Family Dwellings Not Allowed. The current VMX ordinance allows multi-family dwellings as a conditional use and sets forth standards which indicate that dwelling units are restricted to the upper floors or rear or side ground floors of a mixed use building. Therefore, a freestanding multi-family building would not be allowed.
 - Ocomprehensive Plan Guides Area for Multi-Family Dwelling Units. The Comprehensive Plan, however, does indicate that the VMX district should allow for freestanding multi-family dwelling units. The following provides quotes from the City's Comprehensive Plan as they relate to Residential Development within the VMX district:
 - "Residential uses will also be allowed within the mixed-use development (VMX) areas either as the primary land use or as part of a mixed-use development project."

- The City will adopt zoning districts that correlate with the planned [...] VMX land uses, which generally relate to the Master Plan categories as follows [...]:
 - o VMX: Twin Home, Townhouse, <u>Apartment/Condominium</u>, Housing Above Retail
- Freestanding Multi-Family Dwelling Added. For the aforementioned reason, Staff has revised the standards set forth for Multi-Family housing within the VMX district to allow for freestanding multi-family dwellings.
- Setbacks for Multi-Family Dwellings. In regards to setbacks for multi-family dwellings, because there are many different types of multi-family dwellings, and because it is difficult to gauge what would be an appropriate setback for each type, the proposed ordinance indicates that the necessary setback for multi-family dwellings is determined through the Conditional Use process.
- Setbacks for Other Residential Uses. Staff has found that setbacks for other residential uses outside of those with standards listed (i.e. live-work unit, group home, group residential facility, congregate housing, semi-transient accommodations) are not listed. Because of this, Staff has added 154.505 (A) (7), which indicates that all other residential uses shall be determined by either 154.506 (Lake Elmo Design Standards Manual review) or through the Conditional Use process (as most of these other residential uses are conditional uses). This will allow the City to determine the appropriate setback unique situations.
- Build-To Setback in VMX.
 - It was discussed during the last meeting that there should be a build-to setback within the VMX, or at least there should be certain defined areas with build-to setbacks.
 - Language was previously proposed that spoke to this: 154.505 (B) (1) sets forth the requirement that the front yard setback of a new non-residential building within the VMX District shall maintain the prevailing front yard setback of that block, or a maximum setback of 20 feet, whichever is less.
 - Staff believes this accomplishes the goal of a build-to setback standard. The Lake Elmo Design Standards Manual indicates that a building shall be setback 0-20 feet, so the aforementioned standard only sets forth additional guidance that if another building exists on that block, the new building shall have a front yard setback of the same length as the existing building.
- *Cul-de-sac Connection. Cul-*de-sacs are required to connect the bulb of the cul-de-sac to the nearest through road or trail.
- New Single Family Homes within the VMX District. The Comprehensive Plan does not currently allow single-family detached homes within the VMX District. However, all current single-family detached homes within the VMX District are considered permitted uses, not non-conforming uses. This means that any lot on which a single-family detached home currently exists does not have to adhere to the non-conforming use ordinance of the zoning code (i.e. houses can be expanded, etc.). As stated, this is a Comprehensive Plan discussion, and the Zoning Code cannot deter from the Comprehensive Plan.
- Suggestion that 154.507 (A-F) Regarding Accessory Uses and Structures Be Rewritten. There was suggestion that these subsections be written because of redundancy. It should be noted that this same language is used in Article XI: Rural Districts and Article XII: Urban Residential Districts. Section 154.507 was reformatted to include Sections 154.508-154.510 as subsections, as all of these sections pertain to accessory uses and structures, and Staff believes that combining these sections makes it less confusing to readers.
- Garage Setback in Relation to Principal Structure.
 - o The Commission did not wish to be prescriptive in determining the garage setback in relation to the principal structure. The ordinance was changed to reflect the suggested

- language by the Commission that the garage be offset by a minimum of 2 feet from the principal structure.
- The 40% requirement of garage width was kept, and the previously proposed 60% requirement was deleted.
- There was also suggestion that garages maintain a front yard setback of 25 feet. The ordinance currently refers to setback standards of the MDR district for single-family detached and attached and two-family dwellings, which require a front yard setback of 25 feet, so this standard already applies for this use. Standards have been added that indicate that garages for multi-family uses and all other residential uses within the VMX district must be setback 25 feet as well.
- *Minimum size standards for single family detached dwellings*. The Commission had asked for standards from other cities but did not specify which cities. The following provides data on other home minimum size requirements:
 - o International Residential Code: 120 sq. ft.
 - o Minneapolis: 350 sq. ft. for efficiency units; 500 sq. ft. for all other units
 - o St Paul: No minimum sq. ft. found, but must measure at least 22 ft.
 - o Woodbury: No minimum sq. ft. found, but must measure at least 20 ft. along property line.
 - Oakdale: No minimum size requirement, but must measure at least 20 ft. along property line.

The Commission should consider that the standard of 960 sq. ft. and 24 ft. in width is a standard that currently applies to both the rural and urban residential districts. Village Low Density Residential requires a larger lot size than do other urban residential districts, and so it may make sense to keep this requirement. Single-family detached homes cannot be built on lots within the VMX that have not previously employed such land use, so this standard would rarely apply to homes within the VMX district.

Findings.

The Planning Commission drafted the following findings at its February 13, 2017 meeting:

- 1. That certain areas of the Old Village are guided for Urban Limited Density Residential in the Land Use Plan of the Comprehensive Plan, which designates a density of 1.5-2.49 units per acre.
- 2. That there currently does not exist a Village Limited Density Residential zoning district which has a density of 1.5-2.49 units per acre within the Zoning Code.
- 3. That the Village Limited Density Residential zoning district is being proposed due to the imminence of the Gonyea West Development, which is expected to be proposed to be located within the Old Village in an area guided for Village Limited Density Residential.
- 4. That the Planning Commission would be interested in exploring increased densities within the Old Village as an amendment to the Comprehensive Plan.

RECOMMENDATION:

Staff recommends that the Planning Commission review and provide feedback on the addition of the proposed V-LDR Zoning Districts to Article XIII of the Zoning Code:

ATTACHMENTS:

- 1. Draft Ordinance
- 2. Planning Commission meeting minutes pertaining to Village Low Density Residential Zoning from 2/27/2017

Planning Commission Draft 3/27/2017

CITY OF LAKE ELMO COUNTY OF WASHINGTON STATE OF MINNESOTA

ORDINANCE NO. 08-__

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES PERTAINING TO STREET NAMING

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Article XIII: Village Mixed Use District; to read the following:

ARTICLE XIII: VILLAGE MIXED USE DISTRICTS

§ 154.500 PURPOSE AND DISTRICT DESCRIPTION

(A) V-LDR Village Low Density Residential. The purpose of the V-LDR zoning district is to provide opportunity for lower density residential development within the Old Village and create a transition and connectivity between the heart of the Old Village and surrounding rural areas. Residential development within areas zoned V-LDR will occur at a density of 1.5-2.49 units per acre.

(B) VMX – Village Mixed Use District. The purpose of the VMX district is to provide an area for compact, mixed use development made mutually compatible through a combination of careful planning and urban design and coordinated public and private investment. This district is intended to continue the traditional mixed use development that has occurred in the Village area by allowing retail, service, office, civic and public uses as well as residential units. The mixture of land uses within the district is essential to establishing the level of vitality and intensity needed to support retail and service uses. Development within areas zoned VMX will occur at a density of 5-10 units per acre. The placement of building edges and treatment of building, parking, landscaping, and pedestrian spaces is essential to creating the pedestrian friendly environment envisioned for the VMX district. The standards in this chapter are intended to implement and effectuate the principles and relationships established in the Village Master Plan, which will be carried out through specific standards related to site planning, signage, architecture, building materials, and landscaping. Renovation and infill of traditional storefront-type buildings is encouraged, and parking standards may be waived to recognize the availability of on-street and shared parking facilities.

§ 154.501 PERMITTED AND CONDITIONAL USES

Table 11-1 lists all permitted and conditional uses allowed in the urban residential districts. "P" indicates a permitted use, "C" a conditional use. Uses not so indicated shall be considered prohibited.

Cross-references listed in the table under "Standards" indicate the location within this Ordinance of specific development standards that apply to the listed use.

- A. Combinations of uses. The following use types may be combined on a single parcel:
 - 1. Principal and accessory uses may be combined on a single parcel.
 - A principal and secondary dwelling unit may be combined according to the standards of Section 155.137-154.454 (C).

B. Combinations of uses in the VMX District

- 1. Single-family attached or multi-family complexes designed for rental or condominium occupancy, since these typically include multiple units and buildings on a single parcel.
- Other permitted or conditional uses allowed within the district may be combined on a single parcel, provided that a unified and integrated site plan is approved. The entire development must be approved as a conditional use.
- A mixed-use building that combines permitted or conditionally permitted residential, service, retail and
 civic uses may be developed meeting the form standards of this Article. Office or studio uses on upper
 stories are encouraged.

Planning Commission Draft 3/27/2017

Table 11-1: Permitted and Conditional Uses, VMX Village Districts

	V-LDR	VMX	Standard
Residential Uses		_	
Household Living			
Single-family detached dwelling	P	P*	155.504.A · <u>154.505 (A) (1),</u>
			(2), *(3)
Two-family dwelling	_	P*	155.504.A-154.505 (A) (1),
, 0		_	*(3), (4)
Single-family attached dwelling	-	С	154.505 (A) (1), (4)
Multifamily dwelling	_	C*	154.505 (A) (1), (4), *(5)
Secondary dwelling		C*	154.505.D-154.454 (C) &
Secondary awening	_	_	*154.505 (A) (1), (6)
Live-work unit	_	Р	155.505.J <u>154.505 (B) (6)</u>
Group Living	_	b	155 100 0 151 201 (1)
Group Home	<u> </u>	P	155.102.C_154.301 (A)
Group Residential Facility	_	С	155.102.D - <u>154.301 (B)</u>
Congregate Housing	-	С	155.102.E 154.301 (C)
Semi-Transient Accommodations		С	155.102.F <u>154.301 (C)</u>
Public and Civic Uses			
Community Services	_	Р	155.103.C
Day Care Center	_	Р	155.103.D
Public Assembly	_	С	155.505.M
Religious Institutions	_	С	155.505.N <u>154.303 (N)</u>
Schools, Public and Private	_	С	155.505.0 - <u>154.303 (A)</u>
Services			
Business Services	_	Р	
Business Center	_	Р	
Offices	_	Р	
Communications Services	_	Р	
Education Services	_	Р	154.303 (A)
Financial Institution	_	Р	155.505.P
Funeral Home	_	С	
Lodging	_	С	155.505.Q <u>154.302 (D)</u>
Medical Facility	_	С	155.505.R <u>154.303 (B)</u>
Membership Organization	_	С	155.505.N
Nursing and Personal Care	_	С	155.104.C <u>154.303 (C)</u>
Personal Services	_	Р	_
Repair and Maintenance Shop	_	С	155.505.E <u>154.505 (B) (1)</u>
Trade Shop	_	С	155.505.F-154.505 (B) (2)
Veterinary Services	_	С	154.505.G <u>154.505 (B) (3)</u>

Food Services			
Standard Restaurant	L	Р	
Restaurant with Drive-through	_	C	154.304 (A)
Drinking and Entertainment	_	P	155.505.S -154.304 (B)
Sales of Merchandise	_		<u> </u>
Retail Trade ¹	_	Р	155.505.T
Farmer's Market	_	С	155.505.AA
Garden Center	_	c	155.505.U- 154.505 (B) (4)
Neighborhood Convenience Store	_	P	155.505.V
Shopping Center	_	С	155.505.W
Wayside Stand	P	Р	154.454 (D)
Automotive/Vehicular Uses			
Automobile Maintenance Service	Ŀ	С	155.505.X-154.505 (B) (5)
Automobile Parts/Supply	_	Р	155.505.X 154.505 (B) (5)
Gasoline Station	_	С	155.505.X-154.305 (B)
Parking Facility	_	С	155.505.X 154.505 (B) (7)
Sales and Storage Lots	_	С	155.505.X 154.305 (C)
Outdoor Recreation	F	_	<u> </u>
Outdoor Recreation Facility	_	С	155.505.Y 154.306 (C)
Parks and Open Areas	<u>P</u>	Р	
Indoor Recreation/Entertainment			
Indoor Athletic Facility	<u>_</u>	С	155.505.Z - <u>154.307</u>
Indoor Recreation	_	С	155.505.Z <u>154.307</u>
Transportation and Communications		*	
Broadcasting or Communications	_	С	155.110.B
Accessory Uses	_		
Home Occupation	Р	Р	155.111.A,B
			154.012 (12) (e)
Bed and Breakfast	=	С	155.111.C
			154.310 (A)
Family Day Care	P	P	
l allilly Day Cale	_	Г	155.111.G
Constant Formille Day Cons		6	154.012 (12) (d)
Group Family Day Care	-	С	155.111.G
Temporary Sales	<u>P</u>	Р	155.107.8
			154.509 (G)
Parking Facility		P	154.505 (H) (7)
Solar Equipment	P	Р	
	<u> </u>	1	155.111.l
Swimming Pools, Hot Tubs, Etc.		P	154.310 (C)
Other Structures Typically Incidental	<u>r</u>	P	155.111.J
and Clearly Subordinate to Permitted Uses	<u>P</u>	P	

Note: Standards listed in Table 11-1 are listed by Article, Section and Subsection.

¹Retail Trade in the VMX District includes all uses and activities defined as Retail Trade in §155.507.B.5 154.012 (5) (c) with the exception of building supplies sales and warehouse club sales.

\S 154.502 L O T DIMENSIONS AND BUILDING BULK REQUIREMENTS

Lot area and setback requirements shall be as specified in Table 11-2, Lot Dimension and Setback Requirements.

Table 11-2: Lot Dimension and Setback Requirements, VMX Villages Districts

	V-LDR	VMX
Minimum Lot Area (sq. ft.) ^a		
Non-Residential Use	-	None
Single Family Detached Dwelling	9,000	5,000
Two-Family Dwelling (per unit) ^D	=	3,000
Single-Family Attached (per unit) C	=	2,500
Multi-Family Dwelling (per unit)	Ξ.	1,800
Secondary Dwelling	-	See 154.454 (C)
Live-Work Unit	=	3,000
Congregate Housing	Ξ	155.102.E
		<u>154.301 (C)</u>
Other Structures	Ξ.	3,500
Maximum Lot Area (acres)		
Residential Structures	N/A	N/A
Other Structures	N/A	5
Minimum Lot Width (feet)		
Single Family Detached Dwelling	<u>70</u>	50
Two-Family Dwelling (per unit) ^b	Ξ.	30
Single-Family Attached (per unit) ^C	=	25
Multi-Family Dwelling (per building)	=	75
Live-Work Unit	Ξ.	25
Maximum Height (feet/stories)	<u>35</u>	35/3 ^d
Maximum Impervious Coverage		-
Residential Structures	<u>35%</u>	75%
Other Structures	=	No Limit
Minimum Building Setbacks (feet)		

Front Yard	<u>25</u>	Single-Family Detached, Two- Family, and Single-Family Attached: 154.452 Multi-Family Dwellings: 154.505 (A) (5) (b) All Other Residential Uses: 154.505 (A) (7) Non-Residential Uses:
		154.505 (B) (1)
Interior Side Yard	<u>10</u>	10 ^f
Corner Side Yard	<u>15</u>	0 ^g
Rear Yard	<u>20</u>	10

Commented [EB1]: Is this an issue anywhere on Village Parkway or 39th Street?

Notes to **VMX** <u>Village</u> District Table

- a. No development may exceed the residential density range as specified in the Comprehensive Plan for the Village Mixed Use corresponding land use category.
- b. Two-family units may be side-by-side with a party wall between them ("twin") or located on separate floors in a building on a single lot ("duplex"). The per-unit measurements in this table apply to "twin" units, whether on a single lot or separate lots. The standards for single-family detached dwelling shall apply to a "duplex" containing two vertically-separated units on a single lot.
- c. In the case of single-family attached dwellings that are not situated on individual lots, minimum lot size shall be applied to each unit as a measure of density; i.e. 1 unit per 2,500 square feet. This standard is also used for multifamily dwellings.
- d. Buildings up to 45 feet in height may be permitted as part of a PUD in the VMX District.
- e. The front yard setback for single family homes shall be 25 feet.
- f. Side yard setbacks in the VMX District apply only along lot lines abutting residentially zoned parcels or those parcels with residential uses as the sole use.
- g. Corner properties: the side yard façade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be shown in the table.

Commented [EB2]: This is already indicated in 154.505

§ 154.503 DIMENSIONAL REQUIREMENTS AND PRESERVATION OF OPEN SPACE

- A. Averaging of Lot Area. When lots are clustered within a development to provide common open space, the open space may be used to calculate an average density per lot to determine compliance with the individual lot area requirements.
- B. Lot Dimension Reductions. Other reductions in dimensional standards may be considered as part of a Planned Unit Development if these reductions provide for common open space within a development.
- C. Village Open Space Overlay District. Development of areas within the Village Open Space Overlay District, as designated by the Comprehensive Plan, is not allowed. Residential lots shall not encroach on the areas designated as open space per this overlay district, unless approved by Council.

§ 154.504 GENERAL SITE DESIGN CONSIDERATIONS – LMX VILLAGE DISTRICTS

Development of land within the <u>VMX Village</u> Districts shall follow established standards for traffic circulation, landscape design, and other considerations as specified in Article 5, 6 and 7.

- A. Circulation. New access points to State Highway 5 County State Aid Highway 14 may be refused or restricted to right-in right-out movement if alternatives exist. Internal connections shall be provided between parking areas on adjacent properties wherever feasible.
 - The number and width of curb-cuts shall be minimized. To promote pedestrian circulation, existing continuous curb-cuts shall be reduced to widths necessary for vehicular traffic, and unnecessary or abandoned curb cuts shall be removed as parcels are developed.
- B. Fencing and Screening. Fencing and screening walls visible from the public right-of-way shall be constructed of materials compatible with the principle structure.
- C. Lighting design. Lighting shall be integrated into the exterior design of new or renovated structures to create a greater sense of activity, security, and interest to the pedestrian, and shall comply with \$150.035-150.038 Lighting, Glare Control, and Exterior Lighting Standards.
- D. Exterior Storage. Exterior materials storage must be screened from view from adjacent public streets and adjacent residential properties, by a wing of the principal structure or a screen wall constructed of the same materials as the principal structure. Height of the structure or screen wall must be sufficient to completely conceal the stored materials from view at eye level (measured at six feet above ground level) on the adjacent street or property.
- E. Screening of Existing Residential Structures. When a new development is proposed adjacent to an existing single family residential structure, screening shall be provided in accordance with §154.258.F. The City may require buffering or screening above and beyond this section in cases where the required screening will not provide an adequate separation between incompatible uses.

- F. <u>Sidewalks and/or Trails</u>. Where cul-de-sacs are permitted by the City, sidewalks or trails are required to connect the bulb of the cul-de-sac with the nearest through-road or trail.
- G. Lake Elmo Theming Study. Elements of the Lake Elmo Theming Study not herein described must be incorporated in to development within Village Districts where applicable.

§ 154.505 DEVELOPMENT STANDARDS FOR SPECIFIC USES

Development of land within the VMX Village d Districts shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in Articles 5, 6 and 7. The following standards apply to specific uses; other standards related to design and building type may be found at §154.506.

- A. Residential Units, Village Districts
 - 1. All Residential Units, Village Districts
 - a. Residential housing units shall be designed to reflect the general scale and character of the Village, including front yard depth, height and roof pitch, primary materials, facade detailing and size and placement of window and door openings.
 - 2. Single-Family Detached Dwellings, Village Districts
 - No parking shall be located in the front yard or between the front façade and the street except on a permitted driveway.
 - b. Primary entrances are required to be along the front façade.
 - c. Dwelling units shall be at least twenty-four (24) feet in width, at least nine hundred sixty (960) square feet in area, and be placed on a permanent foundation.
 - 3. Single-Family <u>Detached</u> and Two-Family Dwellings, <u>VMX District</u>.
 - Single-Family <u>Detached</u> Dwellings are limited to those existing at the time of adoption of this
 Ordinance. Existing single-family <u>detached</u> dwellings shall be considered permitted uses, rather
 than nonconforming uses.
 - b. Unless otherwise specified in this Article, Single and Two-Family Dwellings in the VMX district shall adhere to the MDR district setbacks as specified in §154.452.
 - 4. Single-Family Attached, <u>VMX Districts.</u>
 - a. A maximum of eight (8) units shall be permitted within a single building.
 - a. The primary entrance to each unit shall be located on the façade fronting a public street; an additional entrance may be provided on the rear or side façade.

- b. For redevelopment projects, new housing types should be introduced in limited quantities to increase diversity and housing choice, not to replace whole blocks of existing housing. Therefore, no more than 1/4 of the lineal frontage of a developed block (measured around the entire block perimeter) may be converted to townhouse units, and no further townhouse, two-family or higher-density development is permitted once this threshold is reached.
- c. Common open space for use by all residents or private open space adjacent to each unit shall be provided. Such open space shall compromise a minimum of three hundred (300) square feet per unit.
- d. No parking shall be located in the front yard or between the front façade and the street.
- e. <u>Unless otherwise specified in this Article, Single-Family Attached dwellings in the VMX</u> district shall adhere to the MDR district setbacks as specified in §154.452.
- 5. Multi-Family Dwelling Units, VMX District.
 - a. Dwelling units (both condominium and rental) within a mixed use development are restricted to the
 upper floors or rear or side ground floors of a mixed use building.
 - Setback standards for multi-family dwellings not within a mixed use development shall be determined through the Conditional Use process. Attached and detached garages shall maintain a front yard setback of 25 feet.
- 6. Secondary Dwellings, <u>Village District</u>. Restricted to lots occupied by single-family dwellings, and must meet the standards for secondary dwellings in residential districts, §154.13454 (C) and be located within the primary structure.
- All Other Residential Uses, VMX District. Setbacks for all other residential uses within the Village district not specifically outlined in this Section shall be determined by either 154.506 or through the Conditional Use process. Attached and detached garages shall maintain a front yard setback of 25 feet.

B. Non-Residential Uses, VMX District.

- Setbacks, Generally. The front yard setback of a new non-residential building within the VMX district shall maintain the prevailing front yard setback of that block, or a maximum setback of 20 feet, whichever is less.
- Repair and Maintenance Shop. No outdoor storage is permitted unless fully screened from public view
- Trade Shop. Exterior materials storage must be totally screened from view from adjacent public streets and adjacent residential properties by a wall of the principal structure or a screen wall constructed of the same materials as the principal structure.

- 4. Veterinary Services. All activities must be conducted within an enclosed building.
- 5. Garden Center.
 - a. The storage or display of any materials or products shall meet all setback requirements of a structure, and shall be maintained in an orderly manner. Screening along the boundaries of adjacent residential properties may be required, meeting the standards of Article 6, Section 155.89.F.
 - b. All loading and parking shall be provided off-street.
 - The storage of any soil, fertilizer or other loose, unpackaged materials shall be contained so as to
 prevent any effects on adjacent uses.
- 6. Automobile Maintenance Service and Automobile Parts/Supply
 - a. All vehicle repairs shall be conducted in a completely enclosed building
 - b. The storage or display of inoperable or unlicensed vehicles or other equipment shall meet all setback requirements of a structure, and shall be totally screened from view from adjacent public streets and adjacent residential properties.
- 7. Live-Work Unit. The purpose of a live-work unit is to provide a transitional use type between a home occupation and a larger commercial enterprise, and to provide neighborhood-oriented commercial services, while maintaining a generally residential character in which the work space is subordinate to the residential use.
 - a. The work space component shall be located on the first floor or basement of the building.
 - b. The dwelling unit component shall maintain a separate entrance located on the front or side façade and accessible from the primary abutting public street.
 - c. The work space component of the unit shall not exceed thirty (30) percent of the total gross floor area of the unit.
 - d. A total of two (2) off-street parking spaces shall be provided for a live-work unit, located to the rear of the unit, or underground/enclosed.
 - e. The size and nature of the work space shall be limited so that the building type may be governed by residential building codes. An increase in size or intensity beyond the specified limit on floor area would require the building to be classified as a mixed-use building.
 - f. The business component of the building may include offices, small service establishments, home crafts which are typically considered accessory to a dwelling unit, or limited retailing (by appointment only) associated with fine arts, crafts, or personal services. It may not include a

- wholesale business, a commercial food service requiring a license, a limousine business or auto service or repair for any vehicles other than those registered to residents of the property.
- g. The business of the live-work unit must be conducted by a person who resides on the same lot. The business shall not employ more than two (2) workers on-site at any one time who live outside of the live-work unit.
- 8. Parking Facility. Structured parking is permitted as a ground floor use within a mixed-use building, provided that it is located on side or rear facades, not facing the primary abutting street. The primary street-facing façade shall be designed for retail, office or residential use. The primary street façade may include an entrance into the parking facility.
- Outdoor Dining Accessory to Food Services. Outdoor dining is allowed as an accessory use in the
 commercial districts, provided that tables do not block the sidewalk. A minimum of five (5) feet
 of sidewalk must remain open.

§ 154.506 VMX DISTRICT DESIGN AND DEMOLITION REVIEW

- A. Review of Design. For certain development activity as specified in the Lake Elmo Design Standards Manual, design review is required as part of the approval process for a building permit, conditional use permit, or certificate of zoning compliance under this Ordinance. All projects subject to design review shall be reviewed for conformance with the Lake Elmo Design Standards Manual. A separate process for design review is not established.
 - Review Authority and Process. Design review shall be the responsibility of the individual or body
 authorizing the permit or certificate and shall be incorporated in the established review of the
 applicable <u>building permit</u>, <u>conditional use</u> permit, or certificate <u>of zoning compliance</u>. For those
 applications under this Ordinance that require review by the Planning Commission (i.e.
 conditional use permits), the Planning Commission shall consider the standards in the Lake Elmo
 Design Standards Manual as part of its recommendation to the City Council.
 - 2. Review by Professional. The authorizing body may request review by a design professional of the proposed design or demolition. The cost of review by such design professional shall be charged by the applicant, and shall not exceed \$1,000 unless otherwise agreed to by the applicant.
 - 3. Development Activity Defined. Development Activity consists of new construction and redevelopment activities, including remodeling that expands the footprint of a structure, altering, or repairing a structure in a manner that will change the exterior appearance of said structure. Development activity also includes the construction of a new parking lots and installation of signage.
 - a. Exempt Activities. The following activities shall be exempt from under review of this Section:
 - i. Ordinary repairs and maintenance that will not change the exterior appearance of a structure;
 - ii. Removal of existing signage without replacement unless said signs are an integral part of the building;

- iii. Emergency repairs ordered by the Director of Planning in order to protect public health and safety;
- Exterior alteration, addition, or repair of a structure used as a single-family residence, duplex, or two-family residence.
- Temporary signage, installed in accordance with §154.212 of this Ordnance, or during which time an application for permanent signage is pending under this Ordinance;
- vi. Maintenance of existing signage advertising an on-site business;
- vii. Alterations only to the interior of a structure.

§ 154.507 ACCESSORY USES AND STRUCTURES

Accessory uses are listed in the VMX District Use Table 11-1 as permitted or conditional accessory uses. Accessory uses and structures in the $\frac{VMX}{Village}$ Districts shall comply with the following standards and all other applicable regulations of this ordinance:

- A. *Phasing*. No accessory use or structure shall be constructed or established on any lot prior to the time of construction of the principal use to which it is accessory.
- B. Incidental to Principal Use. The accessory use or structure shall be incidental to and customarily associated with the principal use or structure served.
- C. Subordinate to Principal Use. The accessory use or structure shall be subordinate in the area, extent, and purpose to the principal use or structure served.
- D. Function. The accessory use or structure shall contribute to the comfort, convenience, or necessity of the occupants of the principal use or structure served.
- E. Location. The accessory use or structure shall be located on the same zoning lot as the principal use or structure.
- F. Residential Accessory Structures

§ 154.5087 RESIDENTIAL ACCESSORY STRUCTURES

- A. 1. Design Compatibility. On parcels used for residential structures within the VMX Village Districts, the design and construction of any garage, carport, or storage building shall be similar to or compatible with the design and construction of the main building. The exterior building materials, roof style, and colors shall be similar to or compatible with the main building or shall be commonly associated with residential construction.
- B. 2. Attached structures. An accessory structure shall be considered attached, and an integral part of, the principal structure when it is connected by an enclosed passageway. All attached accessory structures shall be subject to the following requirements:

- a. The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located.
- b. The structure shall not exceed the height of the principal building to which it is attached.

B. 3. Attached Garages.

- 3. a. Attached garages are encouraged to be side or rear loaded. If facing the primary street, garages shall be designed using one of the following techniques, unless specific physical conditions on the lot in question require a different approach:
 - The front of the garage is recessed at least four (4) feet behind the plane of the primary façade; or
 - ii. The front of the garage is recessed at least four (4) feet behind a porch if the garage is even with the primary façade; or
 - i. Garages shall be offset from the principal structure by a minimum of two feet.
 - The width of the attached garage shall not exceed 40% of the width of the entire principal building façade (including garage) fronting the primary street.
- 4. b. Attached garages shall not exceed one thousand (1,000) square feet in area at the ground floor level except by conditional use permit.
- 5. <u>c.</u> Garage doors or openings shall not exceed fourteen (14) feet in height.
- 4. Detached structures. Detached accessory structures for permitted residential structures in the VMX Village Districts must be in accordance with the following requirements:
 - a. Detached accessory structures shall be located to the side or rear of the principal building, and are not permitted within the required front yard or within a side yard abutting a street.
 - b. Detached garages shall not exceed one thousand (1,000) square feet at ground floor level and shall not exceed a height of twenty-two (22) feet or the height of the principal structure, whichever is higher. The maximum size and height may be increased upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.
 - c. Pole barns, as defined herein, shall be prohibited.
 - d. No more than thirty (30) percent of the rear yard area may be covered by accessory structures.
 - e. Garagedoors or openings shall not exceed fourteen (14) feet in height.

- A. G. Exterior Storage on Residential Parcels. All materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following:
 - a. Laundry drying,
 - b. Construction and landscaping materials and equipment currently being used on the premises. Materials kept on the premises for a period exceeding six (6) months shall be screened or stored out of view of the primary street on which the house fronts.
 - c. Agricultural equipment and materials, if these are used or intended for use on the premises.
 - d. Off-street parking and storage of vehicles and accessory equipment, as regulated in Article
 5, Section <u>155.67-154.210.</u>
 - e. Storage of firewood shall be kept at least ten (10) feet from any habitable structure and screened from view of adjacent properties.
 - f. Outdoor parking.
- B. H. Temporary Sales. Temporary sales, also known as yard or garage sales, are permitted in all residential districts, limited to two (2) per calendar year per residence, not to exceed four (4) days in length for each event.
- C. I. Accessory Uses and Structures Not Listed

§ 154.51009 ACCESSORY USES AND STRUCTURES NOT LISTED

Standards for accessory uses and structures that are permitted in all districts, or in all residential buildings in any district, are listed in Article 7, Specific Development Standards. These include uses such as family and group family day care, bed and breakfast facilities, and home occupations, and structures such as swimming pools and solar equipment.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter154: Zoning Code; Article X: Division Into Districts; Section 154.350 to read the following:

	Zoning District	Reference
R-2	One and Two Family Residential	154.033
GB	General Business	154.034
A	Agriculture	Article XI
RR	Rural Residential	Article XI
RT	Rural Development Transitional	Article XI
RS	Rural Single Family	Article XI
RE	Residential Estate	Article XI
LDR	Urban Low Density Residential	Article XII

MDR	Urban Medium Density Residential	Article XII
HDR	Urban High Density Residential	Article XII
<u>V-LDR</u>	Village Limited Density Residential	Article XIII
VMX	Village Center - Mixed Use	Article XIII
C	Commercial	Article XIV
CC	Convenience Commercial	Article XIV
LC	Neighborhood Office/Limited Commercial	Article XIV
BP	Business Park/Light Manufacturing	Article XIV
PF	Public Facilities	Article XV

SECTION 3. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

adoption and publication in the official newspaper of the City of Lake Ethic	J.
SECTION 4. Adoption Date. This Ordinance 08 was adopted on this, 2017, by a vote of Ayes and Nays.	day of
LAKE ELMO CITY COUNCIL	
Mike Pearson, Mayor	
ATTEST:	
Julie Johnson, City Clerk	
This Ordinance 08- was published on the day of	2017

existing language that limits garage width to 40% of the width of the principal structure in the VMX.

The Commission wanted to further research into the minimum house square footage requirements allowed in all the zoning districts and suggested looking at the zoning codes for progressive cities, neighboring cities and a few similar cities in the west metro.

Business Item - Zoning Text Amendment - Planned Unit Development Zoning

Planning Director Wensman introduced draft changes to the PUD ordinance. He suggested the purpose to the changes was to add the recently approved OP PUD process to the Article I PUD regulations. The other primary change was to eliminate the size requirement for commercial PUDs and to allow the Planning Director to waive the Sketch Plan requirement for small commercial PUDs when they meet the identified objectives in Section 154.751. Wensman also mentioned that Consulting Planner Gozola had reviewed the draft and offered some additional suggested changes. Wensman stated he will review some of Gozolas suggestions and will incorporate them into a future draft amendment.

Commissioner Williams wanted to revisit section 154.751, Identified Objectives. He felt the requirement that one or more of them needing to be met was too easy for developers. It was suggested that Planning staff research what other cities do for establishing a basis for allowing PUDs.

Commissioner Hartley suggested that 154.752 C and D be reworded to something like 120% increase from the underlying zoning requirements.

Commissioner Williams was supportive of the draft changes to the minimum requirements, but suggested some rewording.

Commissioner Hartley wanted 154.753 B to include public trails.

The Commission discussed potential changes to the point system in Table 16-2 and wanted to revisit this. It was felt that Trails were a requirement already if part of a comprehensive trail plan and that otherwise the City should not award points for them.

Business Item – Zoning Text Amendment – Solar Ordinance Discussion

Planning Director Wensman introduced the Solar Ordinance discussion asking the Commissioners what they wanted to see changed with the City's ordinance.

Commissioner Dorschner wanted to be sure the ordinance protected neighbors from glare, etc. related to solar facilities. Commissioner Larson also stressed that safety was a concern.

Commissioner Williams thought the ordinance should address impervious surface requirements. Williams also felt the City should be less concerned with the amount of energy that can produced and more concerned about the area or size requirements and the districts in which the facilities should be located.

Director Wensman offered that he would review the city's ordinance against other ordinances to create a draft ordinance that takes into consideration the Commissions' concerns along with items generally addressed in other ordinances for future discussion.

City Council Updates – February 21, 2017 Meeting

- i) OP-Alt Zoning District Repeal passed
- ii) Shoreland Management Overlay Ordinance Amendment failed and tabled to next meeting
- iii) ZMA and CUP for 3549 Lake Elmo Ave passed

Staff Updates

- 1. Upcoming Meetings
 - a. March 13, 2017
 Planning Director Wensman informed the Commission that the Royal Golf zoning map amendment and preliminary plat and preliminary PUD, Inwood 5th final plat and PUD and Lakewood Crossing 2nd Concept PUD public hearings will be held.
 - b. March 27, 2017
 Planning Director Wensman thought that Easton Village 2nd Addition and Hidden Meadows 2nd Addition final plat might be reviewed at this meeting along with business items for future ordinance amendments.

Commission Concerns

Commissioner Dodson asked to review the engineering standards for street lighting. Commissioners Dorschner and Hartley requested updated zoning maps for their zoning notebooks.

Meeting adjourned at 9:45 pm

Respectfully submitted,

Joan Ziertman Planning Program Assistant



STAFF REPORT

DATE: 3/27/2017 **REGULAR**ITEM #:5c **MOTION**

TO: Planning Commission

FROM: Emily Becker, City Planner

AGENDA ITEM: Solar Energy Ordinance

REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

At its February 27, 2017 meeting, the Planning Commission gave Staff direction on what changes should be made to the City's Zoning Code in regards solar garden/solar power, as the item is on the 2017 Planning Commission Work Plan. With this feedback, Staff has prepared a draft ordinance for review for the Commission to provide further comment.

ISSUE BEFORE COMMISSION:

The Planning Commission should review the draft amendments to the Zoning Code as they relate to solar energy and provide feedback.

PROPOSAL DETAILS/ANALYSIS:

Commission Feedback, Summarized. At the February 27, 2017 Planning Commission meeting, the Commission provided comments as to what sort of solar energy standards it would like to see included in the Code. The following summarizes these comments and details how these comments are being addressed:

- Protection for neighbors from glare, etc. related to solar facilities and regulating safety. The proposed amendments address this in the following ways:
 - Of Glare. The proposed amendment includes a provision that any solar energy system employing a reflector shall minimize glare and outlines ways in which this can be achieved. Additionally, the amendment proposes that any mirror-reflecting designed solar energy systems be located on properties five acres or larger and obtain a conditional use permit.
 - O Safety. The proposed amendment indicates that solar systems meet applicable code requirements. Additionally, an interconnection agreement with the interconnecting electric utility is required for all solar energy systems that are connected to the electric distribution or transmission system. Nearly all solar electric systems are "grid-connected," meaning that the system is connected into the electric system of a building that is connected to the grid, or the solar installation is connected directly to the grid.

- O Decommissioning. The proposed ordinance amendment requires a decommissioning plan to ensure that facilities are removed after their useful life. Decommissioning shall occur when facilities are not in use for 12 consecutive months. This will help ensure that solar energy systems do not become a nuisance after they've been abandoned or are no longer working for a period of time.
- o *Easements*. Language is proposed that allows property owners to be granted or buy easements to prevent certain restrictions that would diminish solar access.
- Impervious surface, area, and size requirements. The current ordinance already mandates that a solar structure must comply with all setback, height and lot coverage restrictions unless a variance is granted.
 - Exempt Structures. The Zoning Code currently exempts certain structures from the maximum allowed structure size and number requirements in rural residential districts including unenclosed playhouses, gazebos (up to 120 sf), detached decks of a certain size, outdoor swimming pools, patios, tennis and sport courts, structures of a certain size which are used to house animals, and water-oriented accessory structures. The Planning Commission may wish to consider if solar energy systems should be included in this list.
 - Additionally, the urban residential district prohibits more than 30% of the rear yard to be covered by accessory structures. The Commission may wish to consider if solar energy systems should be exempt from this requirement.

Additional Standards for Solar Farms. While solar farms are not currently outlined in the Zoning Code as an allowed permitted or conditional <u>primary</u> use, the proposed ordinance outlines standards should this change. There is currently a solar energy system located on the former site of the Washington County landfill, and the Minnesota Pollution Control Agency (MPCA) has created a Land Use Plan for this area (pursuant to Minn. Stat. 115B.412, Subd. 9, which requires all local land-use plans be consistent with the MPCA's land-use plans for landfill management areas) that designates an area of the site as restricted from the use of park and open space available to the public but allows a solar energy farm. It may be beneficial to create standards for such use.

Model Sustainable Development Ordinance. The GrowSolar Rooftop Solar Toolkit has provided a model sustainable development ordinance.

- This model ordinance is attached for reference, and language from this model ordinance was used in the proposed ordinance amendment.
- Additional Standards to Consider. The Commission may wish to recommend adding additional standards from the Model Ordinance, including standards that require on-site renewable energy systems as a condition of approval for a PUD permit or rezoning; solar roof incentives; solar-ready buildings; or solar access conditions. These standards were not added to the proposed ordinance amendment, but the Commission may review the attached Model Sustainable Development Ordinance for reference.

Other Cities' Examples. The comparison table comparing standards set forth by other cities' solar energy ordinances that Staff provided to the Commission at its Februrary 27th meeting is again attached. These are cities within Washington County that participate in Xcel Energy's Solar Rewards Community program,

which enables community solar gardens to interconnect to Xcel Energy's systems and allows for a bill credit on subscribers' Xcel Energy electric bills which may, or may not, offset the cost of subscription.

FISCAL IMPACT:

None.

OPTIONS:

The Commission may wish to:

- Specify desired amendments or additions to the Zoning Code regarding solar garden/solar power ordinance.
- Not recommend amending current or adding new standards.

ATTACHMENTS:

- Model Sustainable Development Ordinance
- Comparison table of other cities' solar energy systems ordinances
- Draft Ordinance



Prepared for the Minnesota Department of Commerce by:



Brian Ross

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INTRODUCTION

In spite of its cold and dark reputation, Minnesota has good solar potential, as good as Houston, Texas and many parts of Florida. As solar energy system components have become more efficient and less costly an increasing number of solar energy installations have been installed in Minnesota. Since 2005, the interest in solar energy has rapidly increased such that many communities have had to address solar installations as a land use issue. Moreover, starting in 2014 many utilities will be making new investments in large-scale solar "farms," and Minnesota has started to see new "community-shared" solar projects. Solar energy components continue to improve in efficiency and decline in price; the U.S. Department of Energy forecasts that solar energy will start to reach widespread cost parity with retail electric costs by 2016; solar is already a cost-competitive option in some locations.

Solar energy offers retail customers an alternative (or supplement) to utility power. Solar energy has become a symbol of energy self-sufficiency and environmental sustainability. The growth in solar installations is attributable more to the non-economic benefits than as an economic substitute to the utility. Households and businesses wanting to reduce their carbon footprint see solar energy as a strong complement to energy efficiency. Volatility in natural gas or propane prices makes free solar fuel look attractive as a price hedge.

Solar energy issues

Local governments will need to address solar energy installations in their development regulation in the near future. Three primary issues tie solar energy to development regulations:

- 1) Protecting access to solar resources. Development regulations can limit a property owner's ability to access their solar resource. Moreover, solar access can be limited by buildings or vegetation on adjacent lots, and should be a consideration in zoning districts that allow tall buildings or in developing communities where subdivisions should enhance or protect homeowner's access direct sunlight.
- 2) Nuisance and safety considerations. Solar energy systems have few nuisances, but visual impacts and safety concerns by neighbors sometimes create opposition to solar installations. Good design and attention to aesthetics can answer most concerns. But the misperception that solar energy systems are ugly and unsafe, rooted in poorly designed 1970s solar installations, have sometimes resulted in unnecessary regulation or outright prohibitions.
- 3) Climate protection goals. Local governments that have committed to meeting climate protection goals can meet some of their commitment by removing regulatory barriers to solar energy and incorporating low or no-cost incentives in development regulations to spur solar investment.

Model Solar Energy Standards

This ordinance was developed for the Minnesota Solar Challenge program, co-funded by the U.S. DOE Rooftop Solar Challenge. It was developed as a county/rural community version of the Minnesota model Urban Solar Energy Standards, and was last updated February, 2014

Statutory Solar Access Requirement

Local governments within the seven-county metropolitan region are required under state law to address solar access in their comprehensive plans, and thus indirectly in their development regulation that implements the comprehensive plan (Minn. Stat. 473.859, Subd. 2[b]). Refer to the Metropolitan Council Land Planning Handbook for more information.

Components of a solar standards ordinance

Solar energy standards should consider the following elements:

- Remove regulatory barriers and create a clear regulatory path (an as-of-right installation) to solar development for both accessory and (if appropriate) principal uses such as solar farms and ground-mount community shared solar installations.
- Address solar access issues within the subject property to ensure reasonable access not unduly limited by height, setback, or coverage limitation, recognizing the distinct design and function of solar technologies.
- If there are urban density developments, define aesthetic standards that retain an as-of-right installation while balancing design concerns.
- Encourage solar-ready subdivision and building design.
- · Incorporate regulatory incentives that can spur private-sector solar investment.

Urban and rural communities

The model ordinance language addresses concerns that are primarily in counties, townships, and rural areas rather than cities and urban areas. The incentive potion of the urban model ordinance can be applied in rural areas, as are provisions addressing solar access and aesthetic considerations in those rural areas with development patterns at an urban scale (typically lots smaller than 1 acre).

Principal and accessory uses

This ordinance addresses solar energy as both a principal use and as an accessory use to the primary residential or commercial use. Counties and rural areas are much more likely to see "solar farms" or ground-mounted "community solar" installations. These solar installations are large arrays of hundreds or thousands of ground or pole-mounted panels covering anywhere from a few acres to over 100 acres. These land uses have different issues and need to be addressed in a substantially different manner than discussed in the urban model ordinance standards.

- I. Scope This article applies to all solar energy installations in Model County.
- II. Purpose Consistent with the County Comprehensive Plan, the intent of this Section is to allow reasonable capture and use, by households, businesses, and property owners, of their solar energy resource, and encourage the development of renewable energy businesses, consistent with community development standards. Model County has adopted this ordinance for the following purposes:
 - A. **Comprehensive Plan Goals** To meet the goals of the Comprehensive Plan and preserve the health, safety and welfare of the County's citizens by promote the safe, effective and efficient use of active solar energy systems installed to reduce the on-site consumption of fossil fuels or utility-supplied electric energy. The following solar energy standards specifically implement the following goals from the Comprehensive Plan:
 - 1. **Goal** Encourage the use of local renewable energy resources, including appropriate applications for wind, solar, and biomass energy.
 - 2. **Goal** Promote sustainable building design and management practices in residential, commercial, and industrial buildings to serve the needs of current and future generations.
 - 3. **Goal** Assist local businesses to lower financial and regulatory risks and improve their economic, County, and environmental sustainability.
 - 4. **Goal** Efficiently invest in and manage public infrastructure systems to support development and growth.
 - B. **GHG Reduction Goals** Model County has committed to reducing carbon and other greenhouse gas emissions in its GHG Reduction Plan. Solar energy is an abundant, renewable, and nonpolluting energy resource and its conversion to electricity or heat will reduce our dependence on nonrenewable energy resources and decrease the GHG emissions and other air and water pollution that results from the use of conventional energy sources.
 - C. **Local Resource** Solar energy is an under used local energy resource and encouraging the use of solar energy will diversify the community's energy supply portfolio and exposure to fiscal risks associated with fossil fuels.
 - D. **Improve Competitive Markets** Solar energy systems offer additional energy choice to consumers and will improve competition in the electricity and natural gas supply market.

Comprehensive Plan Goals

Tying the solar energy ordinance to Comprehensive Plan goals is particularly important when the solar standards include regulatory incentives or solar requirements as described in the last section of this ordinance. If the Comprehensive Plan does not include goals that could address solar energy, and the community does not have some of policy foundation for encouraging private investment in solar energy (such as climate protection goals) the community should consider creating a local energy plan.

Climate Protection Strategies

Solar energy should be part of every community's portfolio for addressing climate change or energy independence considerations. Local governments that are participating in climate protection programs or the Cool Cities/Cool Counties program can use private solar investment as a vehicle for meeting goals. Additional community benefits that improve sustainability are also spelled out in the findings section.

III. Definitions

Building-integrated Solar Energy Systems - An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

Community Solar - A solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minn. Statutes 216B.1641 or successor statute. A community solar system may be either an accessory or a principal use.

Grid-intertie Solar Energy System - A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

Off-grid Solar Energy System - A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Passive Solar Energy System - A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Photovoltaic System - A solar energy system that converts solar energy directly into electricity.

Renewable Energy Easement, Solar Energy Easement - An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land, as defined in Minn Stat. 500.30 Subd. 3 or most recent version.

Renewable Energy System - A solar energy or wind energy system. Renewable energy systems do not include passive systems that serve a dual function, such as a greenhouse or window.

Roof Pitch - The final exterior slope of a building roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

Solar Access - Unobstructed access to the solar resource (see definition below) on a lot or building, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

Solar Definitions

Not all these terms are used in this model ordinance, nor is this a complete list of solar definitions. As a community develops its own design standards for solar technology, many of the concepts defined here may be helpful in meeting local goals. For instance, solar daylighting devices may change the exterior appearance of the building, and the community may choose to distinguish between these devices and other architectural changes.

Solar Resource - A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year.

Solar Collector - A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Collector Surface - Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.

Solar Daylighting - A device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

Solar Energy - Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy Device - A system or series of mechanisms designed primarily to provide heating, cooling, electrical power, mechanical power, solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Such systems may also have the capability of storing such energy for future utilization. Passive solar energy systems are designed as a solar energy device, such as a trombe wall, and not merely a part of a normal structure such as a window.

Solar Energy System - A device or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of sunlight for space heating or cooling, generation of electricity, water heating, or providing daylight for interior lighting.

Solar Farm - A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

Solar Heat Exchanger - A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

Solar Hot Air System - An active solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance typically uses a vertically mounted collector on a south-facing wall.

Solar Resource

Understanding what defines a "solar resource" is foundational to understanding how land use regulation affects solar development. Solar energy resources are not simply where sunlight falls. A solar resource has minimum spatial and temporal characteristics, and needs to be considered not only today but also into the future. Solar energy equipment can not function as designed if installed in partial shade, with too few hours of daily or annual direct sunlight, or without southern or near-southern exposure. Many provisions of the model ordinance are predicated on the concept that a solar resource has definable characteristics that are affected by local land use decisions and regulation.

Interconnection

Nearly all solar electric system are "grid-connected," meaning that the system is connected to into the electric system of a building that is connected to the grid, or the solar installation is connected directly to the grid (such as a solar farm). In all cases, grid-connected systems need to have an interconnection agreement with the electric utility.

Glare

Solar collectors (the panels) have glass surfaces and thus can create glare. However, the glare is no different than glare from a glass window, and as panels are pitched toward the sun reflections are almost always upward. Moreover, solar panels are specifically designed to be anti-glare, as reflected light lowers the panel efficacy.

Reflectors

Unlike the solar collector, systems that use a reflector do create a potential glare situation that may be greater than building windows.

Reflectors are designed to reflect, not absorb, light. However, the glare risk is intermittent and seasonal (usually only in the summer, early morning or late evening, and only for a limited amount of time). Counties may want to include provisions regarding reflector glare in the event that a glare nuisance situation arises in order to provide guidance for addressing the nuisance.

Solar Hot Water System (also referred to as Solar Thermal) - A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar Mounting Devices - Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

Solar Storage Unit - A component of a solar energy device that is used to store solar generated electricity or heat for later use.

- IV. General standards All solar energy systems shall comply with the following standards.
 - **A.** Interconnection agreement All electric solar energy systems that are connected to the electric distribution or transmission system through the existing service of the primary use on the site shall obtain an interconnection agreement with the electric utility in whose service territory the system is located. Solar energy systems connected directly to the distribution or transmission system must obtain an interconnection agreement with the interconnecting electric utility. Off-grid systems are exempt from this requirement.
 - **B. UL listing -** Electric solar system components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing.
 - C. Electric code All solar installations must comply with the Minnesota and National Electric Code.
 - **D. Building code -** All rooftop solar systems shall comply with the Minnesota Building Code.
 - **E. Plumbing Code** Solar thermal hot water systems shall comply with applicable Minnesota State Plumbing Code requirements.
 - **F. Reflectors -** All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.
 - **G. Height limit -** Building- or roof- mounted solar systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being

- installed, except that solar energy systems shall not be required to be screened.
- **H. Visibility, commercial installations -** Commercial rooftop systems shall be placed on the roof to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the property owner to reasonably capture solar energy.
- V. Standards for specific solar uses. The following standards apply to specific types of solar uses:
 - **A. Rooftop solar energy systems** accessory to the primary land use, designed to supply energy for the primary use.
 - (1) These systems are permitted accessory uses in all districts in which buildings are permitted.
 - (2) No land use permit is required.
 - **B.** Ground-mount solar energy systems accessory to the primary land use, designed to supply energy for the primary use.
 - (1) Ground-mount systems are permitted accessory uses in all districts where buildings are permitted.
 - (2) Ground-mount systems require a land use permit and are subject to the accessory use standards for the district in which it is located, including setback, height, and coverage limits.
 - (3) The collector surface of a ground-mount system and any foundation, compacted soil, or other component of the solar installation that rests on the ground is considered impervious surface. Vegetated ground under the collector surface can be used to mitigate stormwater runoff.
 - C. **Community solar energy systems** Roof or ground-mount solar energy systems, may be either accessory or primary use, designed to supply energy for off-site uses on the distribution grid, consistent with Minn. Statutes 216B.1641 or successor statute.
 - (1) Rooftop community systems are permitted in all districts where buildings are permitted.
 - (2) Ground-mount community solar energy systems are conditional uses in all districts.
 - (3) An interconnection agreement must be completed with the electric utility in whose service territory the system is located.
 - (4) All structures must comply with setback, height, and coverage limitations for the district in which the system is located.
 - (5) Ground-mount systems must comply with all required standards for structures in the district in which the system is located.

Height Standards

In rural areas the height standards that apply to the principal and accessory uses are unlikely to constrain solar development. Solar resources are unlikely to be constrained by trees or buildings on adjacent lots, and is likely to have adequate an solar resource for a ground-mount application even if the roof is shaded.

Visibility and Aesthetic Considerations

Not all counties use design or aesthetic standards for commercial buildings. This standard is provided as an example for counties that do regulate commercial building design or the aesthetics of rooftop equipment. Solar arrays should be treated similar to other rooftop equipment, while accommodating the functioning of the system (screening requirements render the system useless).

Impervious Surface and Stormwater

The county should consider an important distinction between a ground-mount solar array and the roof of an accessory building; the uncompacted and vegetated ground under the array can be used to infiltrate stormwater. Having the infiltration area does not eliminate all the impacts of the collector surface, but should be considered as a significant mitigating factor.

Community Solar or Solar Gardens

Community solar systems differ from rooftop or solar farm installations primarily in regards to system ownership and disposition of the electricity generated, rather than land use considerations. There is, however, a somewhat greater community interest in community solar, and thus counties should consider creating a separate category.

Stormwater and NPDES Standards

As noted with ground-mount accessory use installations, the county needs to understand the distinction between a ground-mount solar array and the roof of an accessory building as regards impervious surfaces. The collector surface is impervious, but the uncompacted and vegetated ground under the array can be used to infiltrate stormwater. A solar farm will almost always require an NPDES permit. However, greater attention should be given, in developing the SWPPP, to how the applicant manages the ground under the panels than to the panels themselves. Perennial grasses planted under the panels and between arrays will substantially mitigate the effect of the panels on rainwater.

Site Plan

Solar farm developers should provide a site plan similar to that required by the county for any other development. Refer to your existing ordinance to guide site plan submittal requirements.

Aviation Standards

This standard was developed for the FAA for solar installations on airport grounds. It can also be used for surrounding areas, particularly for solar farm installations.

Agricultural Protection

If the county has ordinances that protect agricultural soils, this provision applies those same standards to solar development. Counties should understand, hower, that solar farms do not pose the same level or type of risk to agricultural practices as does housing or commercial development.

- **D. Solar farms** Ground-mount solar energy arrays that are the primary use on the lot, designed for providing energy to off-site uses or export to the wholesale market.
 - (1) **Conditional use permit** Solar farms require a conditional use permit.
 - (2) **Stormwater and NPDES -** Solar farms are subject to the County's stormwater management and erosion and sediment control provisions and NPDES permit requirements.
 - (3) Foundations A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.
 - (4) Other standards and codes All solar farms shall be in compliance with all applicable local, state and federal regulatory codes, including the State of Minnesota Uniform Building Code, as amended; and the National Electric Code, as amended.
 - (5) **Power and communication lines** Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the zoning administrator.
 - (6) Site Plan Required A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by the County. The site plan should also show all zoning districts, and overlay districts.
 - (7) Aviation Protection For solar farms located within 500 feet of an airport or within the A or B safety zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.
 - (7) **Agricultural Protection** Solar farms must comply with site assessment or soil identification standards that are intended to protect agricultural soils.
 - (8) **Decommissioning** A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or founda-

tions shall meet the provisions of the County Solid Waste Ordinance. The County may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

- V. Non-Conforming Accessory Installations Model County encourages the installation of productive solar energy systems and recognizes that dimensional standards, height standards, and other standards to retain desired character and aesthetic must be balanced with the reasonable desire of building owners to harvest their renewable energy resources. Where the standards in Section IV. G., or H., cannot be met without diminishing the minimum reasonable performance of the solar energy system as defined in Section V. A., a non-conforming installation can be, if the County so chooses, permitted under a conditional use permit (CUP).
 - A. **Minimum Performance Design Standards** The following design thresholds are necessary for efficient operation of a solar energy system:
 - 1. **Fixed-Mount Solar Energy Systems** Solar energy systems must be mounted to face within 45 degrees of south (180 degrees azimuth).
 - 2. **Solar Electric (photovoltaic) Systems** Solar collectors must have a pitch of between 20 and 65 degrees.
 - 3. **Solar Hot Water Systems** Solar collectors must have a pitch between 40 and 60 degrees.
 - 4. **System Location** The system is located where the lot or building has a solar resource, as defined in this ordinance.
 - B. **Standards for granting a** C**UP** A CUP shall be granted by the zoning official if the applicant meets the following safety, performance and aesthetic conditions:
 - 1. **Aesthetic Conditions** The solar energy system must be designed to blend into the architecture of the building or be screened from routine view from public right-of-ways to the maximum extent possible while still allowing the system to achieve efficient performance.
 - 2. Safety Conditions All applicable health and safety standards are met.
 - 3. **Non-Tracking Ground-Mounted Systems** Pole-mounted or ground-mounted active solar energy systems must be set back from the property line by three feet.
- VI. Restrictions on Solar Energy Systems Limited No homeowners' agreement, covenant, common interest community, or other contract between multiple property owners within a subdivision of Model County shall forbid installation of solar energy systems or create design standards that effectively preclude solar energy installations.

Decommissioning Standards

Solar farms should file a decommissioning plan with the county. Requiring financial surety for decommissioning may not be justified for small solar farms, as some farms could be too small to be able to acquire a bond or similar instrument. These standards could also apply to Community Solar installations.

Non-Conforming Accessory Installations

This provision allows property owners (usually in small lot areas) who have a solar resource to apply for a conditional use permit if dimensional standards or height limits restrict installations where the resource is located. On large lots dimensional or height standards are unlikely to limit the solar installation.

Homeowners' Associations

This provision would apply to new subdivisions and HOAs, and provides very general language for protecting solar development rights. Alternatively, the county could set aesthetic standards for solar development and limit the HOA from being more restrictive than the county (see the urban solar design standards for examples).

Solar Easements

Minnesota allows the purchase and holding of easements protecting access to solar and wind energy. Examples of what the easement must specify are noted below, see the statute for a complete list:

Required Contents - Any deed, will, or other instrument that creates a solar or wind easement shall include, but the contents are not limited to:

- (a) A description of the real property subject to the easement and a description of the real property benefiting from the solar or wind easement; and
- (b) For solar easements, a description of the vertical and horizontal angles, expressed in degrees and measured from the site of the solar energy system, at which the solar easement extends over the real property subject to the easement, or any other description which defines the three dimensional space, or the place and times of day in which an obstruction to direct sunlight is prohibited or limited . . .

Source: Minnesota Stat. 500.30 Subd. 3.

Renewable Energy Conditions

The community can use traditional development tools such as conditional use permits, PUDs, or other discretionary permits to encourage solar energy development. This model ordinance notes these opportunities for consideration by local governments. In most cases, additional ordinance language would need to be inserted into the community's ordinances. For instance, a provision that PUDs incorporate solar energy or ensure the buildings in the PUD are solar-ready construction, the provision should be included in the community's PUD ordinance.

- **VII. Solar Access** Model County encourages solar access to be protected in all new subdivisions and allows for existing solar to be protected consistent with Minnesota Statutes.
 - A. Easements Allowed Model County has elected to allow solar easements to be filed, consistent with Minnesota Stat. Chapter 500 Section 30. Any building owner can purchase an easement across neighboring properties to protect access to sunlight. The easement is purchased from or granted by owners of neighboring properties and can apply to buildings, trees, or other structures that would diminish solar access.
 - B. **Subdivision Solar Easements** Model County may require new subdivisions to identify and create solar easements when solar energy systems are implemented as a condition of a PUD, subdivision, conditional use, or other permit, as specified in Section 8 of this ordinance.

VIII. Renewable Energy Condition for Certain Permits

- A. Condition for Rezoning or Conditional Use Permit Model County may, in an area where the local electric distribution system was installed more than twenty years ago, or where the local electric utility has documented a near-term need for additional distribution substation or conductor capacity, require on-site renewable energy systems as a condition for a rezoning or a conditional use permit.
 - 1. The renewable energy condition may only be exercised for new construction or major reconstruction projects.
 - 2. The renewable energy condition may only be exercised for sites that have 90% unimpeded solar or wind energy access, and for which the renewable energy system can reasonably meet all performance standards and building code requirements.
- B. Condition for Planned Unit Development (PUD) Approval Model County may require on-site renewable energy systems as a condition for approval of a PUD permit, in order to mitigate for:
 - 1. Risk to the performance of the local electric distribution system,
 - 2. Increased emissions of greenhouse gases,
 - 3. Other risks or effects inconsistent with Model County's Comprehensive Plan.
- **IX. Solar Roof Incentives** Model County has identified the following incentives for development applications or subdivisions that will include buildings using active solar energy systems.
 - A. **Density Bonus** Any application for subdivision of land in the ____ Districts that will allow the

development of at least four new lots of record shall be allowed to increase the maximum number of lots by 10% or one lot, whichever is greater, provided all building and wastewater setbacks can be met with the increased density, if the applicant enters into a development agreement guaranteeing at each two kilowatts of PV or 64 square feet of solar hot water collector installed for each new residence.

- B. **Solar-Ready Buildings** Model County encourages builders to use solar-ready design in buildings. Buildings that submit a completed U.S. EPA's Renewable Energy Ready Home Solar Photovoltaic Checklist and associated documentation will be certified as a Model County solar ready home, a designation that will be included in the permit home's permit history.
- C. Solar Access Conditions On a site where the solar access standards of the subdivision ordinance are difficult to meet due to topography or road connectivity, the county shall consider non-conforming development patterns as a conditional use provided the applicant meets the following conditions:
 - 1. **Solar Access Lots Identified** At least ___% of the lots, or a minimum of ___ lots, are identified as solar development lots.
 - 2. **Covenant Assigned** Solar access lots are assigned a covenant that homes built upon these lots must include an active solar energy system. Photovoltaic systems must be at least one (1) KW in capacity and solar thermal systems must have at least 64 square feet of collector area.
 - 3. **Additional Fees Waived** Model County will waive any additional fees for filing of the covenant.

Solar Roof Incentives

This section of the model ordinance provides examples of incentives that can be incorporated into development regulation. Most cities and many counties use incentives to encourage desired public amenities in new development. These same tools and incentives can be used to encourage private investment in solar energy. Communities will not want to use all these incentives, but should select which ones make the most sense in their community (or create some other incentive that encourages solar energy). As with any incentive, an important element of creating the incentive is to engage planning or economic development staff in the creation of the incentive, so that staff can assist the developer in taking advantage of the provisions.

Solar Access in Subdivisions

Some local governments require solar orientation of new subdivisions (requiring a south-facing building or lot line to accommodate solar design in the buildings). Designing the subdivision around natural features or contours can make these provisions difficult to meet. This language offers an alternative to simply granting a variance to the solar orientation requirement.

City	Zoning District in Which Solar Energy Systems are Allowed / Permitted or Conditional / Principal or Accessory Uses	Aesthetic Standards	Size and Height Standards, Setbacks and Impervious Coverage	Permits, Agreements, Industry Standards, and Discontinuation and Decommissioning Required	Protection of Solar Access	Standards for Specific Uses
Afton	 Solar energy systems are permitted accessory use in all districts (unless aesthetic standards are not met) Rooftop community systems and solar farms are permitted uses and groundmount community solar energy systems as conditional uses in the Industrial District 	Must be designed to blend in to the architecture of the building Must be contained on roof of commercial buildings Those not meeting design standards require a CUP	 Same as zoning district unless Pole mounted systems to be setback same distance from property line as height of pole Size Regulated by district: VHS District: Max panel sf: 150 sf or 1% of total sf of lot RR and Ag Districts: Lots up to 10 acres: If not fully screened: Max height: 15 ft Max panel sf: 150 sf If fully screened: Max height: 20 ft Max size restrictions increase as lot size increase Height not to exceed maximum height allowed in any zoning district 	 Clarifies that appropriate City permits are required for installation Requires interconnection agreement for systems connecting to electric distribution or transmission system through the existing service Requires a decommissioning plan Panels must be decommissioned if not in use for six months May require escrow to ensure proper decommissioning 	 Prevents blockage of solar access Prevents homeowners' agreements, etc. from forbidding solar energy installations Allows easements across neighboring properties and can prevent erection of structures that would diminish solar access 	Sets forth standards for specific solar uses including community solar energy systems and solar farms Solar array shall not exceed 40 kW
Scandia	• Solar farms and community solar gardens are allowed within	Solar farms and community solar garden must be	 Regulates passive solar energy systems as any other building element Exempts accessory solar farm and community solar farm garden uses 	Solar farm or community solar garden requires Conditional Use Permit application		• Solar farms with a generating capacity of 50 megawatts to fall

	certain Ag and Rural zoning districts as a conditional principal use • Prohibits solar farms and community solar gardens in the shoreland district, within 600 feet of formally protected wildlife areas, wetlands, floodplain district	screened from public ROW To be designed and located to prevent reflective glare toward inhabited buildings on adjacent properties, ROW Warning sign concerning voltage required Mechanical equipment to be enclosed by fence and screened	from maximum square footage and number of structures standards of accessory structures Solar farms are to be located on lots of at least 5 acres Solar farms subject to principal structure setbacks and lot coverage standards and must be setback a minimum of 200 ft from centerline or 150 ft from ROW of minor arterial roads Ground-mounted solar energy systems not to exceed 15 ft in height Building-integrated not to exceed height of building	 Requires interconnection agreement Requires liability insurance Requires decommissioning plan Must be decommissioned if not operable or operated for one year May require posting of bond, letter of credit, etc. to ensure proper decommissioning Requires payment in lieu of taxes for prospective tax revenue lost due to reclassification of property to solar energy generating system Qualified engineer to certify foundation and design is within accepted professional standards Specifies that solar energy systems must meet all applicable standards and regulations 		under jurisdicition of MN Public utilities
Forest Lake	Solar energy systems are allowed as permitted accessory uses in all district	 To be screened from view to extent possible Shall be designed to blend in to architecture of building to extent possible 	 Roof-mounted solar energy systems: Max height requirements of zoning district Setbacks to comply with building setbacks and not extend beyond exterior perimeter of building Shall be flush mounted on pitched roofs Ground-mounted solar energy system: Max height: 15 ft 	 Specifies that solar energy systems must meet industry standards and certified by appropriate industry certifying entity System must be abandoned if system is nonfunctional or inoperative for continuous period of six months 	• Structures shall not be located such that solar power access blocks a neighboring property	Passive or building- integrated solar systems are exempt from the requirements

	Feeder line to be placed underground	-Setbacks to comply with accessory structure setback requirements -Limited to 200 sf in size in more urban residential districts -Restricted to rear yard in residential districts and side or rear yard in non-residential districts	Building permit required	
 Cottage Grove Solar collection systems are an accessory use in all zoning districts Community solar garden or solar farm is a conditional, principal use in designated areas 	 Reflection angles oriented away from neighboring windows Screening may be required Power lines to be placed underground with exceptions 	 Wall mounted solar collection systems prohibited on side of building facing a street Ground-mounted systems: Minimum lot size of 5 acres for all residential properties Non-residential properties: may be in front, side, or rear yard if set back 20 ft Max height: 15 ft General systems must comply with accessory structure setbacks Community solar gardens or solar farms are to comply with principal structure setback requirements Roof-mounted systems: Max height requirements of zoning district Must be flush with roof with exceptions to nonresidential uses Building integrated solar energy system allowed on principal structures in all zoning districts and regulated as building element Mirror-reflecting systems allowed only on properties 5 acres or larger 	 Must meet minimum standards as outlined and receive outlined certification Building permit required with exceptions Requires decommissioning plan Decommissioning required after 1 year and 90 days of discontinued use or abandonment or 90 days after end of service life 	

CITY OF LAKE ELMO COUNTY OF WASHINGTON STATE OF MINNESOTA

ORDINANCE NO. 08-

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY ADDING ADDITIONAL STANDARDS FOR SOLAR ENERGY SYSTEMS.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Article II; Section 154.012; Subd. (B) (12) by amending the definition of Solar Equipment and adding one definition relating to solar energy systems:

<u>Solar Farm.</u> A commercial facility that converts sunlight into electricity, whether by photovoltaic (PV), concentrating solar thermal devices (CST), or other conversion technology, for the principal purpose of wholesale sales of generated electricity.

Solar-Equipment Energy System. Any solar collector, skylight, or other solar energy device whose A device or structural design feature, a primary purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating, cooling, water heating, providing daylight for interior lighting, or for power generation.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Article II; Section 154.310 (C) to read as follows.

Solar Energy Systems. Solar energy systems and solar structures are permitted accessory uses in all districts, provided the system or equipment is in compliance with minimum lot requirements and setback standards set forth for the zoning district in which the solar energy system is located.

- 1. A solar structure All solar energy systems must comply with all accessory setback, height and lot coverage restrictions unless a variance is granted and shall not encroach on any City easement unless an easement encroachment agreement approved by the Planning Director or his/her designee after review and approval from the City Engineer or his/her designee has been executed. A certificate of zoning compliance is required for all solar energy systems unless a conditional use permit is required as stated herein.
- 2. Interconnection Agreement. All electric solar energy systems that are connected to the electric distribution or transmission system through the existing service of the primary use on the site shall obtain an interconnection agreement with the electric utility in whose service territory the system is located. Solar energy systems connected directly to the distribution or transmission system must obtain an interconnection agreement with the interconnecting electric utility. Off-grid systems are exempt from this requirement.
- 3. Reflectors. All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.

Commented [EB1]: "Solar structure" is not defined in the code. "Solar Energy System" is now defined, and so was kept. "Solar energy systems" is sufficient to meet the intent of what is trying to be said here.

 $\begin{tabular}{ll} \textbf{Commented [EB2]:} This is confusing, as it leaves the questions if the lot must meet minimum lot size requirements. \end{tabular}$

- a. <u>Mirror Reflecting Designed Solar Energy Systems</u>. Mirror reflecting designed solar energy systems are permitted only on properties with five (5) acres or larger and located outside the metropolitan urban service area (MUSA). A conditional use permit is required.
- 4. <u>Code Requirements.</u> Electric solar system componements that are connected to a building electric system must have an Underwriters Laboratory (UL) listing. All solar installations must comply with the Minnesota and National Electric Code. All rooftop solar systems shall comply with the Minnesota Building Code. Solar thermal hot water systems shall comply with applicable Minnesota State Plumbing Code requirements.
- 5. <u>Decommissioning</u>. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The City may require the posting of a bond, letter of credit or the establishement of an escrow to ensure proper decommissioning.
- 6. Easements Allowed. Solar easements may be filed, consistent with Minnesota Stat.

 Chapter 500 Section 30. Any building owner can purchase an easement across
 neighboring properties to protect access to sunlight. The easement is purchased or
 granted by owners of neighborhing properties and can apply to buildings, trees, or other
 structures that would diminish solar access.
- Visibility, Commercial Installations. Commercial rooftop systems shall be placed on the
 roof to limit visibility from the public right-of-way or to blend into the roof design,
 provided that minimizing visibility still allows the property owner to reasonably capture
 solar energy.
- 8. <u>Solar Farms.</u> Ground-mount solar energy arrays that are the primary use on the lot, designed for providing energy to off-site uses or export to the wholesale market.
 - a. Conditional Use Permit. A conditional use permit is required.
 - Stormwater and NPDES. Solar farms are subject to the City's stormwater management and erosion and sediment control provisions and NPDES permit requirements.
 - c. *Foundations*. A qualified engineer shall certify that the foundation and design of the solar panels, racking and support is within accepted professional standards, given local soil and climate conditions.
 - d. <u>Power and communication lines</u>. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the City in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding feasible, at the discretion of the Planning Director.

SECTION 2. Ef					mediately	upon
SECTION 43 Add	-	_	was adopt	ed on this	day of	f

LAKE ELMO CITY COUNCIL Mike Pearson, Mayor ATTEST: Julie Johnson, City Clerk

This Ordinance 08-___ was published on the ____ day of ______, 2017.