

AGENDA
BIG LAKE PLANNING COMMISSION MEETING
COUNCIL CHAMBERS

MARCH 4, 2020

6:30 p.m.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL** (Members: A. Heidemann, S. Marotz, L. Odens, L. Sundberg, D. Vickerman, S. Zettervall, K. Green)
- 4. ADOPT PROPOSED AGENDA**
- 5. OPEN FORUM**
- 6. APPROVE MEETING MINUTES**
 - 6A. Approve Regular Planning Commission Meeting Minutes of February 5, 2020
- 7. BUSINESS**
 - 7A. PUBLIC HEARING: PUD Concept Plan for Avalon Estates
 - 7B. PUBLIC HEARING: Conditional Use Permit to Permit Catering and Liquor On-sale at 321 County Road 43 N
 - 7C. PUBLIC HEARING: Housekeeping Ordinance Amendment
 - 7D. Meeting Time Discussion
 - 7E. Community Development Department Update
- 8. PLANNER'S REPORT**
- 9. COMMISSIONERS' REPORTS**
- 10. OTHER**
- 11. ADJOURN**

Disclaimer: This agenda has been prepared to provide information regarding an upcoming meeting of the Big Lake Planning Commission. This document does not claim to be complete and is subject to change.

Notice of City Council Quorum

A quorum of the City Council members may be present at this Big Lake Planning Commission meeting beginning at 6:30 p.m. in the City Council Chambers. No action will be taken by the City Council.



AGENDA ITEM

Big Lake Planning Commission

Prepared By: <i>Corrie Scott, Recreation and Communication Coordinator</i>	Meeting Date: <i>3/4/2020</i>	Item No. 6A
Item Description: <i>February 5, 2020 Planning Commission Regular Meeting Minutes</i>	Reviewed By: <i>Hanna Klimmek, Community Development Director</i>	
	Reviewed By: <i>Sara S.W. Roman, Consultant Planner w/ Landform</i>	

ACTION REQUESTED

Approve the February 5, 2020 Big Lake Planning Commission Regular Meeting Minutes as presented.

BACKGROUND/DISCUSSION

The February 5, 2020 Planning Commission Regular Meeting Minutes are attached for review.

FINANCIAL IMPACT

N/A

STAFF RECOMMENDATION

N/A

ATTACHMENTS

02-05-20 Planning Commission Regular Meeting Minutes

**BIG LAKE PLANNING COMMISSION
REGULAR MEETING MINUTES**

FEBRUARY 5, 2020

**- DRAFT MINUTES -
NOT APPROVED**

1. CALL TO ORDER

Chair Heidemann called the meeting to order at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

3. ROLL CALL

Commissioners present: *Alan Heidemann, *Scott Marotz, *Lisa Odens, *Larry Sundberg, and *Ketti Green. Commissioners absent: *Dustin Vickerman, and *Scott Zettervall. Also present: *City Administrator Clay Wilfahrt, *Consultant Planner Sara S.W. Roman, *Community Development Director Hanna Klimmek, and *Recreation and Communication Coordinator Corrie Scott.

4. ADOPT AGENDA

Commissioner Marotz moved to adopt the agenda. Seconded by Commissioner Green, unanimous ayes, agenda adopted.

5. OPEN FORUM

Chair Heidemann opened the Open Forum at 6:31 p.m. No one came forward for comment. Chair Heidemann closed the Open Forum at 6:31 p.m.

6. APPROVE MEETING MINUTES

**6A. APPROVE REGULAR PLANNING COMMISSION MEETING MINUTES OF
JANUARY 6, 2020**

Commissioner Green motioned to approve the January 6, 2020 Regular Meeting Minutes. Seconded by Commissioner Odens, unanimous ayes, Minutes approved.

7. BUSINESS

7A. PUBLIC HEARING: VISION BUS CODE AMENDMENT AND CUP

Roman reported that Vision Enterprises/United Bus Sales, submitted a development application requesting a Code Amendment and a Conditional Use Permit and Site Plan review for their existing transportation facility at 16676 197th Ave NW. This property currently houses the Applicant's business offices, repair shop, fuel station, bus garages and a small amount of bus sales. The Applicant would like to utilize a greater portion of the property for displaying and selling buses. In order to do so, the applicant would expand their existing paved parking area to accommodate 35 additional parking spaces for buses.

Roman reported that the current Ordinance only allows for Commercial Vehicle Sales, leasing (trucks and buses only) as a conditional use in the I-2 District. The ordinance limits bus sales to up to 30% of the floor area of the principal use. Using the calculation for floor area as defined by the Code, the applicant is allowed roughly 9,600 square feet of bus sales area. The proposed area to be used for bus sales by the applicant is roughly 30,750 square feet of bus sales in total (2,000 sf existing + 28,750 sf proposed). This greatly exceeds what the ordinance currently allows so the project is ineligible for a CUP amendment. City staff recommended that the applicant apply for the following Code Amendment rather than a Variance, because there is no "practical difficulty" in this case:

**SECTION 1060 – I-2, GENERAL INDUSTRIAL DISTRICT
1060:05: CONDITIONAL USES**

Subd. 8. Commercial Vehicle Sales, leasing (trucks and buses only) as a conditional accessory use.

2. Area limit. Outside vehicle sales connected with the principal use is limited to thirty (30) percent shall not exceed one hundred (100) percent of the total gross floor area of the principal use.

As proposed, the area of the site used for outside vehicle sales by the applicant will equal approximately 96% of the gross floor area of the principal use. Roman acknowledged that the request by Vision Enterprises/United Bus Sales is a large expansion of the existing area limit. However, she feels comfortable granting this request, as any new applications for commercial vehicle sales would be required to seek a Conditional Use Permit, and the City is able to attach conditions to any approval as such.

Roman requested that the Planning Commission discuss the proposed area limit expansion and reach a determination. Staff would be supportive of instead allowing a maximum number of commercial vehicles on site, or some other version of language if the Planning Commission is not comfortable extending the area limit to 100%. Roman stated that the Planning Commission has three options for action regarding this proposal:

Option 1: Recommend approval of the ordinance amendment as written, or with proposed changes, to allow commercial vehicle sales with a Conditional Use Permit.

Option 2: Recommend denial of the ordinance amendment but direct Staff to draft an ordinance that would allow Vision Enterprises/United Bus Sales to expand commercial vehicle sales as proposed but regulate through a mechanism other than expanding the area limit. The conditional use permit application would be tabled.

Option 3: Recommend denial of the ordinance amendment and recommend keeping the area limit restriction at 30%. This would trigger a denial of the Conditional Use Permit application. The applicant would not be allowed to apply for another conditional use permit for a minimum of 1 year.

Chair Heidemann opened the public hearing at 6:42 p.m.

Jason Anderson with Vision Transportation asked the Planning Commission if they had any questions. Commissioner Green asked the applicant if the main reason for this expansion is for increased bus sales. Anderson stated that parking for Vision Transportation is limited and that employees are currently parking in an area that is against City code. This parking issue is also being addressed with the proposed expansion.

Chair Heidemann closed the public hearing at 6:44 p.m.

Heidemann stated that he has no issue with the development application. He noted that the expansion will both accommodate the selling of extra buses and additional employee parking.

Commissioner Green motioned to recommend that the City Council approve the proposed ordinance amendment to allow commercial vehicle sales with revised provisions. Seconded by Commissioner Marotz, unanimous ayes, motion carried.

Commissioner Green motioned to recommend that the City Council approve the proposed Conditional Use Permit for commercial vehicle sales. Seconded by Commissioner Odens, unanimous ayes, motion carried.

7B. PUBLIC HEARING: WASTEWATER TREATMENT FACILITY APPLICATION

Roman reported that the City of Big Lake, is seeking approval for a planned unit development concept plan for an expansion of the City of Big Lake's waste water treatment facility. The Planned Unit development is intended to allow for the orderly expansion of the facility and to bring the site into conformance with zoning regulations.

The original wastewater treatment facility was constructed in 1981 and was updated in 1996, and 1999, and a new facility began operating in 2012. The facility was built without planning/zoning approvals and all previous expansions have been overseen by Public Works without obtaining planning/zoning approvals beforehand. Per guidance from the City Attorney, the City is pursuing approvals for the expansion of the waste

water treatment facility through a rezone to Planned Unit Development to both allow the expansion and “correct” the outstanding planning and zoning issues. The following will be addressed through the PUD:

1. The existing facility spans 4 separate non-conforming parcels. The City intends to combine the 4 parcels through a plat. A plat is necessary because PUDs are only allowed on platted lots.
2. Existing structures are built across property lines. Once the property is re-platted into one lot, this condition will no longer be present. However, the PUD will need to explicitly allow multiple principal structures on the lot.
3. The City will process the PUD as a rezoning. Planned Unit developments may be processed as a conditional use permit or as a rezoning. Because PUDs/CUPs are not listed as an allowed use in the AG - Agricultural district, processing as a rezoning is the cleaner approval process.
4. The PUD will regulate, if necessary, the existing communications tower located on the property.

Roman stated that the Police Department and Fire Department do not have any comments on the project. Bolton and Menk will prepare a comment letter for the review of this concept plan by City Council. Roman asked the Planning Commission to provide informal review and comment regarding the project’s acceptability in relation to the Comprehensive Plan and development regulations and to advise the City Council as they review the concept plan.

Odens asked Roman if the surrounding area is planned to be residential or otherwise. Roman stated that there is a mix of recreational, agricultural, and residential areas surrounding the facility. Roman commented that if the surrounding parcels become residential in the future and there isn’t sufficient landscape buffering surrounding the facility, this wouldn’t trigger a requirement for the City to include additional landscaping. This issue would have to be addressed at that time by the City Council.

Chair Heidemann opened the public hearing at 6:56 p.m.

No one came forward for comment.

Chair Heidemann closed the public hearing at 6:56 p.m.

Green asked Staff if there are future plans to expand the Wastewater Treatment Facility. Wilfahrt stated that in the next 5-7 years the plant will have to expand again and that it is more efficient to purchase additional land now rather than having to potentially move the facility in the future due to its exponential cost. Green asked Staff if the water from the plant is placed into the river. Wilfahrt stated that it does go back into the river, but that it is extensively filtered and comes out of the plant cleaner than the existing water that flows through the river.

Green asked Staff if there is one wastewater treatment campus or more. Wilfahrt stated that there is only one campus with two buildings. One focusing on liquid and one on solid waste. Wilfahrt reported that the current facility is operating at 120% capacity.

7C. PUBLIC HEARING: ORDINANCE AMENDMENT FOR NONCONFORMITY (GRANDFATHER) ORDINANCE

Roman reviewed the draft ordinance language amending the City's Nonconformity (Grandfather) Ordinance. The ordinance proposed amendment would do the following:

1. Conform language to help implement the following goal of Big Lake's 2018 Comprehensive Plan:
Land Use and Growth Management Plan - Residential Neighborhoods:
6. Older Neighborhoods: Continue to review zoning regulations that apply to the older neighborhoods so as to accommodate the nonconforming status of dwellings that were caused by setback or area requirements.
2. Align the nonconformity ordinance with State Statute in regards to allowing replacement and improvement of nonconforming structures in addition to maintenance and repair.
3. Align the nonconformity ordinance with State Statute in regards to amortization.
4. Align the nonconformity ordinance with State Statute in regards to the rules for when a nonconforming structure is destroyed by disaster.
5. Allow nonconforming buildings with conforming uses to be expanded as long as the expansion itself complies with the zoning code.
6. Clarify that when someone tears down a grandfathered building and rebuilds it, they are no longer permitted to expand that building without obtaining a variance.

Roman asked the Planning Commission to make a motion recommending approval or denial of the proposed ordinance amendment, either as presented or with modifications. She reported that the Planning Commission also has the option of directing Staff to make additional revisions to the ordinance and return to the Planning Commission for further discussion.

Chair Heidemann opened the public hearing at 7:09 p.m.
No one came forward for comment.
Chair Heidemann closed the public hearing at 7:09 p.m.

Commissioner Marotz motioned to recommend approval of the proposed ordinance amendment as presented. Seconded by Commissioner Sundberg, unanimous ayes, motion carried.

7D. PUBLIC HEARING: ORDINANCE AMENDMENT FOR DETACHED ACCESSORY BUILDINGS

Roman presented a proposed ordinance amendment for detached accessory buildings that would do the following:

1. Leave the rules "as-is" for properties that have an attached garage. The owners of these properties are doing just fine under the current ordinance.

2. Allow properties that do not have attached garages to go back to being allowed 1,800 square feet of accessory building space (as long as they comply with impervious surface limits).
3. Properties that have over 1,200 square feet of detached accessory building space will not be allowed to build an attached garage unless they tear down some of their detached accessory buildings. This provision is necessary to prevent someone from “working the system” by building out 1,800 square feet of detached accessory structures and then attempting to gain even more accessory structure space by building an attached garage.
4. Impervious surface restrictions would still be in place. This would still prevent owners of small properties from going “overboard” with building accessory structures.
5. Address some errors in the table that is located in the Accessory Buildings code section. The table was not correctly updated in 2016 to reflect the revised rules.

Roman reported that most of the areas without attached garages are the older parts of town. The current code puts these neighborhoods at a disadvantage and prevents the homeowners from being able to enjoy their properties the way homeowners in newer neighborhoods with attached garages can. Roman commented that her proposed ‘fix’ seems like the most equitable way to address the current disparity in the Code. If the Planning Commission feels the rules should be modified, they are asked to make a formal recommendation to the City Council.

Chair Heidemann opened the public hearing at 7:14 p.m.

No one came forward for comment.

Chair Heidemann closed the public hearing at 7:14 p.m.

Commissioner Odens motioned to recommend approval of the proposed ordinance amendment as presented. Seconded by Commissioner Marotz, unanimous ayes, motion carried.

7E. HOUSEKEEPING ORDINANCE DISCUSSION

Roman reported that former City Planner Micheal Healy has advised that the Planning Commission go through the process of a housekeeping amendment. Cities undertake housekeeping ordinances primarily to address three issues including accidental code inconsistency, unclear code language, and errors. Roman presented the following issues to the City’s code and their proposed solutions:

Housekeeping Item #1: Unclear Language in Fence Ordinance Concerning Double-Frontage Lots

In 2016, the City revised the fence ordinance (Ordinance #2016-10) to allow double-frontage lots and corner lots to utilize privacy fences in their “second front yard,” the side of their house that faces a street. The new rule was intended to allow people living on corner lots to install a privacy fence in the second “front yard” that their house did not

face as long as they kept their fence at least 5 feet away from their property line. Previously, there was a rule that corner lots could not have privacy fencing in their second front yard as a privacy fence had to be at least as far away from every street as the house itself was. People who lived on corner lots were limited to having 4-foot fences in their second front yard. The fences had to be at least 75% see-through which basically meant that they needed to be chain link.

The ordinance amendment changed the rules for “double-frontage lots” which Staff presented to the Planning Commission in 2016 as being inclusive of corner lots. The presentation was erroneous as Staff has since realized that the Code actual has separate definitions for “double frontage lot” and “corner lot” so the fence ordinance should be updated to clarify that it was intended to apply to corner lots as well. Additionally, there is some old language regarding juxtaposed corner lots that is no longer relevant if all corner lots are allowed to have fences in their “second front yards” so that provision should be removed entirely from the Code:

Roman proposed the following revision:

section 1025 – FENCES

1025.02: GENERAL FENCE REGULATIONS:

Subd. 5. Special Provisions.

2. *When two corner lots are juxtaposed, a six (6) foot opaque fence may be constructed at a distance of fifteen (15) feet from the shared property line.*
3. *On double frontage lots and corner lots, the front yard that has no access may have a fence that is less than 75% open to the passage of air and light, up to six (6) feet tall, at a distance of five (5) feet from the property line. On a corner lot, said fence may not extend beyond the front corner of the principal building.*

Housekeeping Item #2: Code Inconsistency Regarding Grading, Filling, and Excavating

The City’s “Grading, Filling, and Excavating” code section does not correctly incorporate the Shoreland Ordinance’s rules regarding excavation and grading in Shore and Bluff Impact zones. Further, it states that an MPCA permit is needed for very minor grading projects which is not accurate or consistent with the rest of City Code. Additionally, it does not specifically identify that it is the Engineering Department’s Land Alteration Permit that is utilized for medium-sized grading and excavation projects. The City’s fee schedule includes the land alteration permit and it should be referenced specifically in the Code for consistency between City documents. Staff is also correcting a minor typo in the code section:

Roman proposed the following revision:

section 1026 – GRADING, FILLING AND EXCAVATING

1026.01: PERMIT REQUIRED:

Subd. 1. Except for City land grading, filling and excavating operations, and in cases where a grading and drainage plan for a private development has been approved as part of a subdivision or other development plan approved by the City, or as may be otherwise stipulated by this Ordinance, any person who proposes to add landfill or extract sand, gravel, black dirt, or other natural material from the land or grade land shall apply for a land alteration permit as specified below:

Cubic Yards of Landfill or Land to be Excavated/Graded	Permit Requirement
1 to 50 cubic yards	MPCA Storm Water Permit / No City Permit <u>unless in Shore or Bluff Impact Zone</u>
50 – 250 cubic yards	MPCA Storm Water Permit and Administrative <u>land alteration</u> permit as provided in Section 1003 of this Ordinance
Greater than 250 cubic yards	MPCA Storm Water Permit and Interim Use Permit as provided in Section 1010 of this Ordinance

1026.04: ISSUANCE OF PERMIT: Upon receiving information and reports from the City staff and other applicable agencies, as applicable, a public hearing shall be scheduled before the Planning Commission which shall forward a recommendation to the City Council. The City Council shall take formal action on the application and as to whether, and when, and under what conditions such permit for a landfill or excavation/grading activity is to be issued to the applicant.

Housekeeping Item #3: Errors in the R-5 Residential Redevelopment Zoning District Code

Staff identified two errors in the R-5 zoning district ordinance. The first is that there is a spot in the Code that continues to incorrectly state that all lots in the R-5 zoning district are limited to 25% coverage by impervious surfaces. The City Code was amended in 2015 to allow up to 35% impervious surface coverage in the R-1, R-1E, and R-5 zoning districts (Ordinance 2015-09) except for properties in the Shoreland district which, per State Law, are still restricted to 25%. It appears that Staff simply “missed” one spot in the R-5 ordinance that continued to reference a 25% standard for non-Shoreland Lots.

The second error is a numerical error. There is a section in the Code that references the modern lot size requirements for properties in the R-5 zoning district and refers to the requirements as “Subd. 6 Single Family Lot Standards- Existing Lots of Record.” This is

a typo. Subdivision 6 is the “Single Family-Lot Standards-New Subdivision.” The code section only makes sense if it is referring to the lot standards for a new subdivision.

Roman advised the following revisions:

section 1049 – R-5, RESIDENTIAL REDEVELOPMENT DISTRICT

Subd. 6. *Single Family Lot Standards – New Subdivision. The following minimum requirements shall be observed in the R-5 District for new lots, platted after July 20, 2002 (effective date of Ordinance), subject to additional requirements, exceptions and modifications set forth in this Ordinance. (Ord. 2003-05).*

<i>Minimum Lot Area Riparian Lot</i>	<i>12,000 square feet</i>
<i>Minimum Lot Area Non-Riparian Lot</i>	<i>10,000 square feet.</i>
<i>Minimum Lot Width</i>	<i>75 feet</i>
<i>Front Yard Setback</i>	<i>25 feet</i>
<i>Rear Yard Setback</i>	<i>25 feet</i>
<i>Side Yard Setback</i>	<i>10 feet</i>
<i>Maximum Impervious Surface</i>	<i>25 percent</i>

AND

1049.08: CONSTRUCTION ON SUBSTANDARD LOTS OF RECORD.

Subd. 1. *Lots of record in the office of the Sherburne County Recorder on or before October 29, 1985 that do not meet the requirements of Section 1049.07, (Lot Area, Height and Setback Requirements), Subd. 6, (Single Family Lot Standards- New Subdivision Single Family Lot Standards – Existing Lots of Record), may be allowed as building sites without variances from lot size requirements under the following provisions:*

Housekeeping Item #4: Inconsistency Regarding Landscaping Setbacks

In 2004, the City revised section 520 of the City Code to allow trees to be closer to front property lines. Previously, trees were required to be set back 12 feet from front property lines (Ordinance 2004-02). The revision changed the requirement to a “3-5-foot setback.” Section “1027 Landscape, Screening, and Tree Preservation” of the zoning code should have been simultaneously updated to reflect the new standard but it was missed. The zoning code, therefore, continues to erroneously state that a 12-foot front yard setback is required for trees.

Roman proposed the following “cleanup” of the landscaping section:

section 1027 – LANDSCAPE, SCREENING AND TREE PRESERVATION

1027.03: REQUIRED LANDSCAPING: (Ord. 2003-05); (Ord. 2004-19, 8/11/04).

Subd. 2. *The complement of trees fulfilling the requirements of this Section shall be not less than twenty-five (25) percent deciduous and not less than twenty-five (25) percent coniferous. (Ord. 2003-05).*

3. *Spacing:*

a. *Plant material centers shall not be located closer than three (3) feet from a side property line or twelve (12) three (3) feet from a front property line and shall not be planted to conflict with public plantings, drainage and utility easements, sidewalks, trails, fences, parking areas, and driveways based on the judgment of the Zoning Administrator.*

Housekeeping Item #5: Unclear Code Language Regarding Setbacks from Major Roads

Section 1041 of the City Code sets special setback requirements for structures along major roads. The Code sets a 50-foot structure setback for arterial roads and then lists out several arterial roads in the community. It sets a 45-foot structure setback for major collector streets and lists out several major collector streets in the community. The comprehensive plan calls for reevaluating and reducing those setback requirements (they seem to be unnecessarily high which is an inefficient use of land) but that is beyond the scope of a housekeeping ordinance.

The issues that need to be addressed in the housekeeping ordinance are:

- In addition to listing out several streets that the setbacks apply to, the Code section vaguely references that there may be additional major collector streets and arterial roads indicated by the comprehensive plan that also should be subjected to these setback standards.
- The new comprehensive plan lays roads out differently than the previous comprehensive plan that the Code is referencing. The old comprehensive plan differentiated between “minor collectors” and “major collectors.” The 45-foot setback standards were intended to be applied only to “major collectors.”
- The new Comprehensive Plan does not designate any streets as “major collector” but rather lays out a collector street network without distinguishing between “major” and “minor.” There are many roads that our new comprehensive plan lists as being collector streets or future collector streets that do not need a 45-foot setback. In some cases, such a setback would be unworkable due to lot sizes and would damage the aesthetics of the street. Staff is specifically thinking of Lakeshore Drive, Manitou Street, Hiawatha Avenue, Ormsbee Street, Forest Road, 204th Street, Highland Avenue, and Minnesota Avenue. These are all streets that the Comprehensive Plan steers towards being “collector streets” but they are not streets where the City has historically required a 45-foot setback nor are they streets where it would be appropriate to begin requiring a 45-foot setback.

- The existing Code lists Eagle Lake Road South as a major collector street. Eagle Lake Road South has never been treated as a major collector street and houses have been built along that road for the last 20 years with 30-foot setbacks. It would be inappropriate to begin requiring a 45-foot setback at this point and the Code should be revised to reflect actual practices.

As previously stated, the major road setback issue should eventually be dug into more deeply, per the comprehensive plan. As an Interim measure, Staff is recommending that the Code be amended to specifically list out which streets the setbacks are intended to apply to. The City can update this list, in the future, if additional collector roads or arterial roads are constructed that need an increased structure setback due to their design.

Roman proposed the existing Code section be amended to state the following:

1041.06: GENERAL SETBACK PROVISIONS:

Subd. 4. *Setbacks along Thoroughfares. Heavily used streets designated as arterials, County Roads or major collector streets by the Big Lake Comprehensive Plan have special minimum setback needs and requirements.*

1. *Along the following principal arterial and major arterials, the minimum principal structure setback shall be fifty (50) feet from the right-of-way unless otherwise identified in the underlying Zoning District.*

- a. *U.S. Highway 10 (Jefferson Boulevard)*
- b. *State Trunk Highway 25 (Lake Street South)*
- c. *County Road 5 (Eagle Lake Road North)*

2. *Along collector streets including, but not limited to the following thoroughfares, the minimum principal structure setback shall be forty-five (45) feet from the right-of-way unless otherwise identified in the underlying Zoning District.*

- a. *County Road 43*
- b. *County Road 73*
- c. *County Road 81*
- d. *Glenwood Avenue/205th Avenue (east of County Road 43)*
- e. *Highline Drive*
- f. *Eagle Lake Road South*
- f. *72nd Street NW*
- g. *Marketplace Drive*

Housekeeping Item #6: Unclear Code Rules Regarding Pond and Drainage Way Setback

In 2016, the City undertook an update of its ordinances to comply with our State-issued

MS-4 stormwater permit (Ordinance #2016-09). The MS4 permit required that the City upgrade its 30-foot wetland buffer requirement to a 50-foot wetland buffer requirement. This increased buffer requirement is applied to all lots platted after 2016.

Per the City Engineer, the revised buffer requirement was only intended to affect wetlands. The way that the update was implemented in the Code, however, the language accidentally was revised to include an increased setback requirement for man-made ponds and drainage ways as well. The 30-foot setback requirement should continue to be in effect for ponds and drainage ways. There is no need for a 50-foot setback requirement in those situations since there is no buffer requirement.

Roman proposed the following revision:

1041.06: GENERAL SETBACK PROVISIONS:

Subd. 7. *Wetland, Pond and Drainage way Setback. In addition to the setbacks required for principal and/or accessory structures under individual zoning districts or in other sections of this Ordinance, all structures must be set back a minimum of fifty (50) feet from the ordinary high water level or the edge of a delineated wetland (whichever is greater) of all wetlands., All structures must be set back a minimum of thirty (30) feet from the ordinary high water level of all ponds or drainage ways.*

Housekeeping Item #7: Inconsistent NorthStar TOD Area Setback Rules

The City revised all of the NorthStar TOD area setback rules in 2019 to give developers more flexibility in terms of setbacks (Ordinance #2019-08). Buildings are now allowed to be set back as far as 15 feet from the front property line. The previous maximum setback was 5 feet. It appears that one small section of the TOD Ordinance was overlooked when the setback requirements were being updated and, as a result, the “main entrance” of new buildings is required to be no further than 5 feet from the front property line. This should be revised to 15 feet since the building is now allowed to be 15 feet away from the front property line.

Roman proposed the following revision:

1068.06: DESIGN STANDARDS:

Subd. 2. *Building Facades.*

c. The main entrance of any building shall face the street. The main entrance shall not be set back more than fifteen-five (15) feet from the front property line, unless a public seating area or plaza is provided in front of the building.

Housekeeping Item #8: Inconsistency Relating to Public Hearings for PUD's

Big Lake historically has required a public hearing during the concept plan review of Planned Unit Developments (PUD's). Most cities no longer require a public hearing as

part of concept plan review since a public hearing is held during the next step of the PUD process once the plans are more fleshed out. Holding a public hearing increases the costs of the concept plan review and, generally, the concept plan review is intended to be a low-cost way for the developer to get feedback from the Planning Commission and City Council.

The City of Big Lake attempted to remove the public hearing requirement for PUD concept plans in 2005 (Ordinance #2005-11). The requirement was stricken from the Code but Staff apparently missed one code section in the PUD ordinance where it still states that a public hearing is required. Per the City Attorney, the City must continue to hold public hearings for concept plans until the mistake is corrected.

Roman proposed the following which would remove the final mention of public hearings being required for concept plans from the City Code:

1011.09: CONCEPT PUD PLAN PROCEDURE: *The general processing steps for a PUD are intended to provide for an orderly development and progressions of the project with the greatest expenditure of developmental funds being made only after the City has had ample opportunity for informed decisions as to the acceptability of the various segments of the whole as the plan affects the public interest. The process for filing a Planned Unit Development (PUD) is outlined below:*

Subd. 3. *Concept PUD Plan. The applicant shall submit a Concept PUD Plan of the project to the Zoning Administrator. The Concept PUD Plan provides an opportunity for the applicant to submit a plan to the City showing the basic intent and the general nature of the entire development before incurring substantial cost. The Concept PUD Plan serves as the basis for the public hearing so that the proposal may be publicly considered at an early stage. The following elements of the proposed Concept PUD Plan represent the immediately significant elements which the City shall review and for which a decision shall be rendered:*

Housekeeping Item #9: Code Inconsistency related to *Schulz v. Town of Duluth*

The Minnesota Supreme Court has upheld a city's authority to enact, via the City Code, the ability to limit the time to appeal City's zoning decisions to the district court. In a footnote, the court says that the city ordinance's 30-day limit on appeals is enforceable. The Attorney for the City of Big Lake has recommended that the City modify its ordinance to limit time to appeal city decisions.

Roman proposed the following revision which would expressly limit the right to appeal a zoning decision to 30 days:

SECTION 1005 – APPEALS

1005.06: APPEALS FROM THE BOARD OF ADJUSTMENT AND APPEALS: All decisions made by the City regarding zoning shall be final, except any person or

persons, any private or public board, or taxpayer of the City aggrieved by any decision of the Board of Adjustment and Appeals shall have the right to seek review of the decision appeal within thirty (30) days after delivery of the decision to the appellant, with a court of record in the manner provided by the laws of the State of Minnesota, and particularly Minnesota Statutes, Chapter 462, as such statutes may be from time to time amended, supplemented or replaced. Any person seeking judicial review under this ordinance must serve the City and all necessary parties, including any landowners, within the 30-day period defined above.

Roman stated that in order to make the proposed changes, it is necessary to call a public hearing.

Commissioner Sundberg motioned to call a public hearing for a housekeeping ordinance as proposed. Seconded by Commissioner Odens, unanimous ayes, motion carried.

7F. PARKS ADVISORY BOARD LIAISON

Klimmek reported that Scott Marotz, Planning Commissioner, has served as a liaison to the Parks Advisory Board for years. According to the Parks Advisory Board Bylaws the Planning Commission is supposed to formally select a Planning Commissioner to serve as a liaison to the Parks Advisory Board on an annual basis. Marotz is willing to continue in this position, but suggests that this conversation come back to the Planning Commission each December to comply with the Bylaws of the Parks Advisory Board.

Sundberg commented that the Parks Board Liaison should be doing a formal report monthly at Planning Commission Meetings. Marotz stated that this can be brought up under agenda item 9. Commissioner’s Reports.

Commissioner Green motioned to appoint Scott Marotz as the Planning Commission Liaison to the Parks Advisory Board for 2020. Seconded by Commissioner Sundberg, unanimous ayes, motion carried.

7G. COMMUNITY DEVELOPMENT DEPARTMENT UPDATE

Business Retention & Expansion Visits:

01/06/19	Keller Lake Commons	01/31/20	Kensho Salon
01/2720	Options, Inc.		

Current Development Activity (as of 1/29/20):

Housing:

- Single-Family New Construction Issued Permits 1
- Single-Family New Construction in Review 1
- Multi-Family New Construction

- Duffy Development - The Crossing at Big Lake Station Phase II – In Construction.
- Kuepers, Inc. – Station Street Apartments - 105-unit multi-family, market rate new construction project – in pre-development phase.
- Sandhill Villas (HOA) – 12-unit development project – in predevelopment phase

Commercial/Industrial:

- ❖ Minnco Credit Union – New Business / New Construction
 - In construction (plan to open by June 1, 2020)
- ❖ Car Condo Project – New Business / New Construction
 - Pre-development
- ❖ Wastewater Treatment Project - Expansion
 - Pre-development
- ❖ Vision Bus - Expansion
 - Pre-development
- ❖ Nystrom Associates Rehabilitation Facility
 - Pre-development

BLEDA:

- Recommendations for revising the BLEDA Bylaws were presented to the BLEDA during their September meeting. Revisions were brought to the Joint Powers Board on January 8, 2020. Revisions were formally approved by the City Council on January 22, 2020.
- The BLEDA Strategic Plan has been revised to include a city-wide branding project to begin in 2020. The RFP was issued on January 9, 2020 and responses are due on February 7, 2020.
- During their November 12, 2019 meeting, the BLEDA entered into a Contract for Private Development with the Blackbird Group LLC to newly construct a laundromat facility on the corner of Martin and Fern.
- Staff will be attending the 2020 EDAM Winter Conference on January 23rd and 24th.
- Staff will be attending the MN Public Finance Seminar hosted by Ehlers on February 6th and 7th.
- The February 10th BLEDA meeting will focus on its Strategic Plan and have open dialogue to discuss economic development opportunities, challenges, etc.

Planning & Zoning:

- Conducted 2nd interviews for the City Planner position on Monday, February 3, 2020. The City is currently seeking applicants for City Planner position.
- Preparing to hire a summer intern to facilitate code enforcement.

Building – Permit Fee Activity:

- The Personnel Committee will be meeting to discuss the Building Official position and the future of it for the City of Big Lake.
- Klimmek provided the following Building – Permit Fee Activity report:

Permit Type	Permits Issued in Jan. of '20	2020 Total
Single-Family	1	1
Multi-Family	0	0
Commercial New / Remodel / Addition	2	2
Remodel / Decks / Misc.	13	13
HVAC / Mechanical	11	11
Plumbing	6	6
Zoning	2	2
Land Alteration	1	1
TOTAL	36	36

	Permit Fee	Plan Review	TOTAL
Total Fees in Jan.	\$5,575.55	\$1,622.65	\$7,198.20

2020 Total Valuation	2020 Permit Fee + Plan Review
\$356,642.76	\$7,198.20

Sundberg asked staff about the current inventory of buildable residential lots. Klimmek reported that when she started her position it was over 900 available lots and currently there are 269.

8. **PLANNER'S REPORT** – None.

8. **COMMISSIONERS' REPORTS**

Marotz reported that the Parks Advisory Committee is working on updating Bylaws to reflect current operations. The Parks Advisory Committee has also been moved to the City Council Chambers in an attempt to make the meeting more accessible to the public. Other measures are being made to make the meetings more formal so that

members are encouraged to attend regularly. Lastly, Marotz updated that the Parks Advisory Committee is focusing on building a park on the south side of Big Lake so that residents in that area have a park that is within walking distance of their homes. There is City owned land near Brom, but it is mainly wetland.

Green asked about the plan for River Oaks Park. Marotz stated that there is a complex master plan for River Oaks that includes a larger parking lot, camping, canoe launches, etc... But the cost is substantial and the park dedication budget will not allow for the proposed updates currently. Green also asked about the land near Lakeside Park. Klimmek stated that Council has decided to allow the free market to decide what happens to that land as the City focuses on lowering their current debt.

Odens asked if the current park dedication fees required from developers is in line with area communities. Marotz stated that previous developers have confirmed that the City's current park dedication fees are reasonable compared to surrounding communities.

Sundberg asked about Council's recommendations on appointment of new Planning, BLEDA, and Parks Members. Klimmek stated that Council's opinions differed on the best option for interviewing and appointing these members, but the ultimate decision was to keep the appointment structure as it is for the time being. Green recommended to ensure a healthy turnover of Commissioners that the Planning Commission set term limits. Odens stated that having Commissioners present who have experience from previous years' projects can be extremely valuable. Klimmek stated that Council will be discussing potential options for a new interview/appointment structure at the upcoming Council Workshop.

10. OTHER

Heidemann recommended that a conversation about moving Planning Commission meetings to start at 6:00 p.m. ensue at the March Planning Commission Meeting.

11. ADJOURN

Commissioner Green motioned to adjourn at 8:14 p.m. Seconded by Commissioner Sundberg, unanimous ayes, motion carried.



AGENDA ITEM

Big Lake Planning Commission

Prepared By: Kevin Shay through Sara S.W. Roman, AICP Consultant Planner	Meeting Date: 3/4/2020	Item No. 7A
Item Description: Public Hearing for PUD Concept Plan for "Avalon Estates" (PID 10-324-1200)	Reviewed By: Hanna Klimmek, EDFP, Community Development Director	
	Reviewed By: Corrie Scott, Recreation and Communication Coordinator	

60-DAY REVIEW DEADLINE: April 6, 2020

ACTION REQUESTED

The Planning Commission is asked to provide informal review and comment regarding the project's acceptability in relation to the Comprehensive Plan and development regulations and to advise the City Council as they review the concept plan.

Any comments given by the Planning Commission are advisory in nature. While the comments are non-binding, the applicant will consider the comments from the Planning Commission when they prepare their formal submittal.

BACKGROUND/DISCUSSION

APPLICATION:

Avalon Homes has submitted a development application for a PUD Concept Plan. The request is for a residential development on 57 acres west of Highland Avenue.

The existing property is currently vacant agricultural land. There are no existing structures on the site. The parcel lies directly south of Blacks Lake and west of Big Lake. The property is currently part of Big Lake Township and is guided as future neighborhood on the land use map.

PROPOSED DEVELOPMENT:

The subject application is for a residential development that will provide patio homes, quad townhomes and two apartment buildings. The development is proposed to include 14 patio home lots, 40 quad townhome units and 80 apartment units for a total of 134 units. The development includes exterior amenities such as a shared walking path, amenity space, and a park area.

PROPERTY CHARACTERISTICS:

The existing 57-acre property is currently vacant agricultural land. There are no existing structures on the site.

EXISTING ZONING AND LAND USE:

Zoning	Urban Expansion (County), Shoreland Overlay
Future Land Use	Future Neighborhood
Existing Land Use	Vacant Land - Agricultural
Topography	Relatively flat with some wooded area

SURROUNDING ZONING AND LAND USE:

Direction	Zoning	Future Land Use Plan	Existing Land Use
North	R-1 Single Family Residential	Low Density Housing	Low Density Housing
South	R-1 Single Family Residential / R-2 Medium Density Residential	Low Density Housing / Medium and High Density Housing	Low Density Housing / Medium and High Density Housing
East	R-5 Residential Development	Lakeshore Cottage Neighborhood	Lakeshore Cottage Neighborhood
West	Urban Expansion (County)	Future Neighborhood / Medium and High Density Housing	Vacant Land - Agricultural

ANALYSIS OF REQUEST

REZONING REQUESTED:

The parcel is currently zoned Urban Expansion by the County with a Shoreland Overlay from multiple lakes. Following annexation into the City the property would be assigned the A-Agricultural zoning. A rezoning would take place to assign the PUD zoning for the site. The applicant is requesting a planned unit development in order to receive additional density and some potential flexibility on the shoreland regulations. The potential flexibilities are from the standards discussed below.

PROPOSED SITE PLAN

Shoreland Overlay

The proposed development has four lakes that are classified as shoreland lakes by the MN DNR and impose restrictions on the development of the property. Big Lake and Lake Mitchell are classified as general development lakes, Blacks Lake is classified as a recreational development lake and Beulah Pond (located on the southern portion of the property) is classified as a natural environment lake. Each of these lakes has a 1,000-foot Shoreland Overlay boundary where the development standards are applied. The 1,000-foot shoreland boundary is further broken down into the tiers shown below, which are used to calculate the allowable number of residential units within each shoreland tier.

Shoreland Tier Dimensions	
	Sewered
General Development Lakes	200 feet
Recreational Development Lakes	267 feet
Natural Environment Lakes	320 feet

Each tier is evaluated for the amount of land suitable to development, which excludes wetlands, bluffs and land below the ordinary high water level (OHWL) of the lakes. The suitable land within each tier is then divided by the single residential lot size standard for the lake classification to determine the allowable number of units for each tier.

A density bonus is available to increase the base number of units within each tier, provided the increase to standards such as lakeshore setbacks and shoreland preservation can be achieved.

There is also a provision which allows the developer to take any number of units not provided in a given tier and transfer them into a tier that is further from the lakeshore. The further from the lakeshore the tier is, the greater the bonus to the number of units. The intent of this provision is to push density away from the lakeshore.

The tables included below show the calculations for the base number of allowable units and the allowable units with the density bonus compared to what the applicant is proposing.

Recreational Development Lake (Blacks Lake)

Tier	Total Area (SF)	Unsuitable Area (SF)	Suitable Area (SF)	Minimum Lot Size (SF)	Base Density	Bonus Density Factor	Allowable Units per tier with Bonus Density	Adjusted Allowable Units per tier	Proposed Units	Units transferred to next tier
1	225,000	0	225,000	20,000	11.3	1.5	16.9		7	9.9
2	223,300	37,100	186,200	15,000	12.4	2.0	24.8	34.7	16	18.7
Total	448,300	37,100	411,200		23.7		41.7		23	

Natural Environment Lake (Beulah Pond)

Tier	Total Area (SF)	Unsuitable Area (SF)	Suitable Area (SF)	Minimum Lot Size (SF)	Base Density	Bonus Density Factor	Allowable Units per tier with Bonus Density	Adjusted Allowable Units per tier	Proposed Units	Units transferred to next tier
1	657,474	29,426	628,048	40,000	15.7	1.5	23.6		45	0
2	332,764	0	332,764	20,000	16.6	2.0	33.3	33.3	58	0
3	119,740	26,798	92,942	20,000	4.6	3.0	13.9	13.9	8	
Total	1,109,978	56,224	1,053,754		37.0		70.8		111	

The current concept greatly exceeds the number of residential units allowed in the shoreland tiers for Beulah Pond, even with the maximum density bonus. In Tier 1, only 24 units are allowed at maximum. The concept is proposing 45 units. The current concept would need to reduce the number of units within the first tier by 21 to meet the shoreland tiering requirements. In Tier 2, only 33 units are allowed at maximum. The current concept is proposing 58 units. The number of units within the second tier must be reduced by 25 to meet shoreland tiering requirements.

Shoreland Standards

The applicant has not provided enough information to determine compliance with most of the shoreland standards that apply to each lot. However, the standards are included below to inform both the developer and Planning Commission of the standards that will be evaluated at the time of a preliminary plat and development stage PUD plan submittal.

- The maximum impervious surface coverage is 25%, unless a conditional use permit is approved to allow a maximum of 35%.
- The minimum lakeshore setback for:
 - A recreational development lake is 75 feet (112.5 feet with density bonus)
 - A natural environment lake is 150 feet (225 feet with density bonus)
- 70% of the lakeshore setback must be preserved in a natural or existing state.
- The minimum setbacks for non-lakeshore residential lots:
 - Front setback is 30 feet
 - Side setback is 10 feet
 - Rear setback is 30 feet
- The minimum required open space is 50% of the project area.

Note: The proposed extension of Highland Avenue may fall within the lakeshore setback. The developer will need to provide calculations to the City to ensure that 70% of the lakeshore setback is preserved in a natural or existing state if the roadway falls within the lakeshore setback. Alternatively, the developer may revise plans to locate the roadway outside of the lakeshore setback. An alternative roadway layout should also consider the future roadway alignment noted by the City Engineer below.

PLANNED UNIT DEVELOPMENT:

PUD Justification

The Applicant is seeking a shoreland PUD approval, an approval that goes outside of the zoning code and subdivision ordinance. The City's PUD ordinance (Code Section 1011) is very clear that the City should only grant PUD approval in situations where there is a "public benefit" that comes from granting the approval. The PUD ordinance lays out thirteen (13) benefits that are being sought by the City.

PUD Format

The Zoning Code's PUD ordinance states that shoreland PUD's must be processed as a CUP. Staff would process the project by rezoning it to PUD and processing a CUP to address the shoreland PUD standards.

ENVIRONMENTAL REVIEW:

The state requires certain projects to go through an environmental review process before proceeding. The standards for determining when a project requires an environmental review is provided in the Minnesota Rules. Section 4410.4300 Subpart 19a “residential development in shoreland outside the seven-county metro area” applies to this project because of the shoreland lakes surrounding the project. The number of residential units allowed before requiring an environmental review is determined by whether the surrounding shoreland is considered sensitive or nonsensitive shoreland. The shoreland lakes are considered as nonsensitive shoreland if they are classified as general development or recreational development lakes and considered sensitive shoreland if they are classified as a natural environment lake. Beulah Pond is considered sensitive shoreland and Blacks lake is considered nonsensitive shoreland.

An environmental assessment worksheet (EAW) is mandatory if there are more than 25 units in the sensitive shoreland area or there are more than 50 units in the nonsensitive shoreland area. An environmental impact statement (EIS) is mandatory if there are more than 100 units in the sensitive shoreland area or there are more than 200 units in the nonsensitive shoreland area.

Since the current concept is not compliant with the number of units allowed in each shoreland tier and must reduce the number of units to proceed, an evaluation on the required environmental process has not been completed. When a concept has been submitted that meets the shoreland requirements, a determination could be made regarding any required environmental reviews.

DEVELOPMENT FEES

Park Dedication

The City’s subdivision ordinance and fee schedule state residential subdivisions must dedicate 10% of the land being subdivided as parkland OR pay a fee equal to 10% of the value of the land with a minimum of \$2500 per unit. It is at the City’s discretion whether to require a land donation or allow the fee in lieu to be paid. The park dedication will be calculated with a preliminary plat application that meets the density standards. A portion of the area proposed for development is shown as future park in the 2018 Comprehensive Plan (Attachment E).

Trunk Sewer Fee, Trunk Water Fee and Trunk Storm Sewer Fee

When land is developed, trunk sewer and trunk water fees are charged based on the amount of land that is being developed. These fees are “per acre” and help the City cover the costs of providing sewer and water infrastructure as the City grows. The fees are set every year by a City Council.

The 2020 fee schedule sets trunk fees at \$1,650 per acre for trunk water and \$5,330 per acre for trunk sewer. Trunk storm sewer fees are “case by case” and are waived entirely if all storm water is contained within the plat boundary. A final acreage calculation will be determined based on the preliminary plat.

Sewer Access Charges (SAC) and Water Access Charges (WAC) Fees

These fees, which are used to fund investments in expanding the capacity of the City’s sewer and water plants and infrastructure as the City grows, are collected at the time of building permit issuance. The 2020 fee schedule sets the fees based on anticipated daily use of water.

STAFF COMMENTS:

Engineering and Public Works:

Bolton and Menk prepared a comment letter for the review of this concept plan (Attachment C). Public Works Director/City Engineer Layne Otteson also provided a comment noting that an area overview map including the western property showing how a road fits should be looked at. The roadway must be designed to provide a feasible connection of Highland to 204th Avenue Connection.

The Functional Classification Plan (Figure 12-1) from the 2018 Comprehensive Plan showing the future collector road is provided as "Attachment F".

Fire Department

No comment provided.

Police Department

Chief Scharf commented that the Police Department has no issues with the proposed concept plan.

ADDITIONAL COMMENTS:

Department of Natural Resources:

James Bedell of the Department of Natural Resources provided comment on a prior version of the concept plan. His comment read:

The basin on the south side of the parcel is a natural environment lake which would require the concept to be significantly modified as large portions are shown as tier 4 when they should be tier 1. I have cc'd Jeremy of Avalon homes so that he is aware of this. I have also been in contact with Jeremy and provided some documents on how to proceed with PUD development. These documents I am attaching again in-case anyone needs them.

The calculator will calculator will need to be adjusted to show the natural environment lake standards. Please let me know if there are any questions,

Xcel Energy:

Pete Cluever, Senior Gas Territory Representative at Xcel Energy provided comment that this would be CenterPoint gas and Connexus electric.

Public Comments:

The City received one letter pertaining to this concept plan. The letter is attached as "Attachment G."

FINANCIAL IMPACT

NA

STAFF RECOMMENDATION

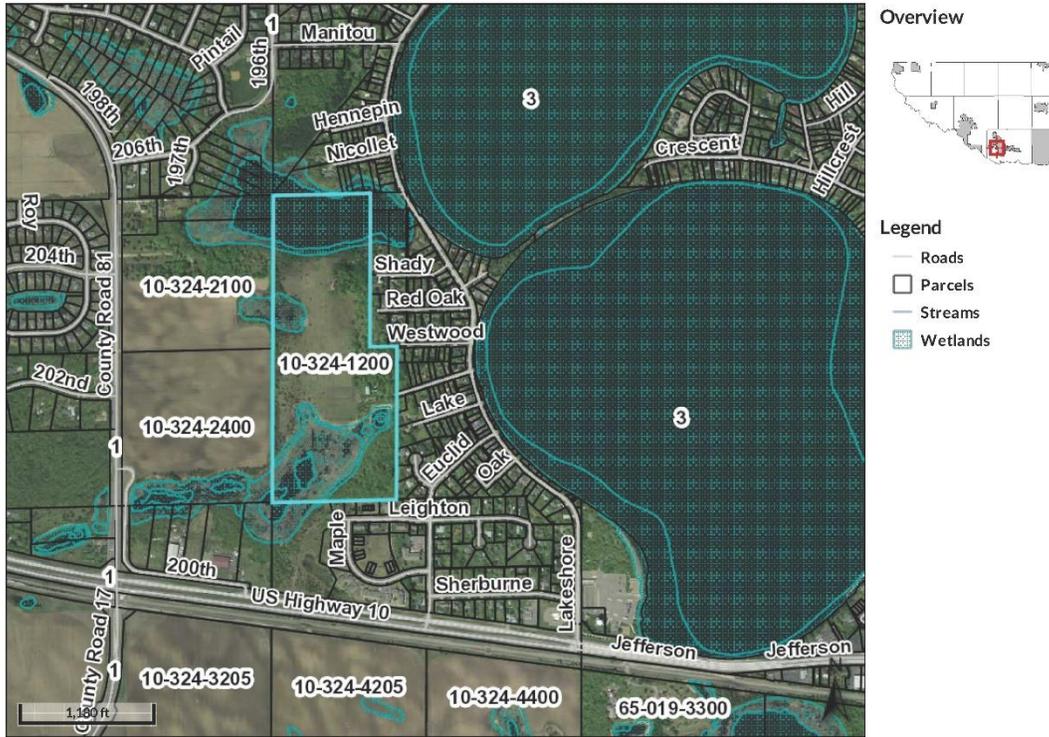
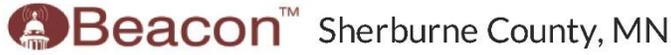
The Planning Commission should provide feedback on the applicant’s proposal and whether there are additional items that should be addressed by the applicant prior to the submittal of the preliminary plat and PUD. The applicant would take these comments under advisement as they prepare a formal submittal.

Staff is not supportive of the current concept plan because it is not consistent with shoreland standards and could not be approved as proposed. The applicant will need to rework the concept plan to reduce the units and meet the shoreland standards. If these standards are met through a revised concept, staff would be supportive of the concept. The Planning Commission is asked to provide informal review and comment regarding the project’s acceptability in relation to the Comprehensive Plan and overall use and to advise the City Council as they review the concept plan.

ATTACHMENTS

- Attachment A: Site Location Map
- Attachment B: Public Hearing Notice
- Attachment C: Engineer’s Memo
- Attachment D: Concept Plan
- Attachment E: Current and Future Parks Map from the 2018 Comprehensive Plan
- Attachment F: Functional Classification Plan from the 2018 Comprehensive Plan
- Attachment G: Comments Received by City for Public Hearing

Attachment A
Site Location Map



Parcel ID	10-324-1200	Alternate ID	n/a	Owner	KNAEBLE, SHANON E & ANDERSON TRUST
Sec/Twp/Rng	24-33-28	Class	201-Residential 1 unit, 801-Wetlands Located on Non-Ag Property, 111-Rural Vacant Land	Address	1831 HIAWATHA AVE BIG LAKE MN 55309
Property Address	Acreage 57				
District	BIG LAKE				
Brief Tax Description	n/a				
	(Note: Not to be used on legal documents)				

Disclaimer: Every attempt has been made to ensure that the information contained on this web site is valid at the time of publication. Sherburne County reserves the right to make additions, changes, or corrections at any time and without notice. Additionally, Sherburne County disclaims any and all liability for damages incurred directly or indirectly as a result of errors, omissions or discrepancies and is not responsible for misuse or misinterpretation. Data is updated periodically. For the most current information contact the appropriate county department.

Disclaimer for St Cloud Parcels: Sherburne County information about St Cloud properties are limited to classification and value. Any questions regarding additional information please contact the City of St Cloud's assessor office.

Date created: 2/12/2020
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Developed by Schneider GEOSPATIAL

Attachment B
Public Hearing Notice

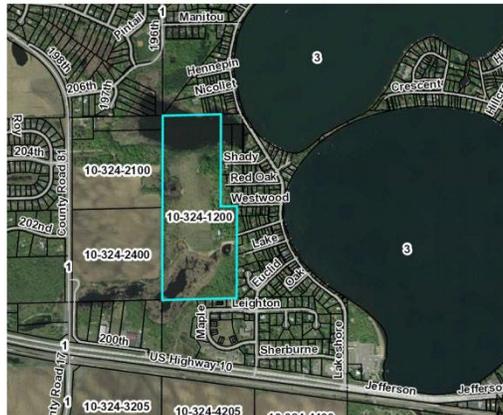
**CITY OF BIG LAKE
NOTICE OF PUBLIC HEARING
CONCEPT PLAN FOR A PROJECT KNOWN AS
“AVALON ESTATES”**

You are hereby notified that the Big Lake Planning Commission will hold a public hearing in order to consider a concept plan for a project known as “Avalon Estates”. The public hearing will be held in the Big Lake City Council Chambers located at 160 Lake Street North, Big Lake, MN on: **Wednesday, March 4, 2020 at or about 6:30 p.m.**

Applicant: Jeremy Schommer, Avalon Homes Inc.
P.O. Box 266
Sartell, MN 56377

Parcel Identification Number: 10-324-1200

Location Description: Parcel directly west of Big Lake city border, adjacent to Blacks Lake and in proximity to Big Lake and Lake Mitchell. Property west of Highland Avenue.



The Applicant is proposing to build a residential development comprising of patio homes, townhomes, and one apartment building on 57 acres. The concept plan calls for a total of 124 residential units and open space amenities such as lake access and a trail network. This public hearing is for a concept plan. The Planning Commission and members of the community are asked to provide the Applicant with feedback to take into consideration as they plan out the more specific details of their development.

Please note: As proposed, this development will trigger a mandatory EAW under Minnesota Administrative Rules. The parcel will also require annexation into the City of Big Lake.

Both oral and written comments will be considered by the Planning Commission. If you desire to be heard in reference to this matter, you should attend this hearing or submit written comments to City Hall. If you have any questions, please feel free to contact Sara Roman, Planning Consultant at 612-638-0227 or SWoolf@biglakemn.org.

Attachment C
Memorandum, Bolton and Menk



Real People. Real Solutions.

7533 Sunwood Drive NW
Suite 206
Ramsey, MN 55303-5119

Ph: (763) 433-2851
Fax: (763) 427-0833
Bolton-Menk.com

February 24, 2020

Sara S.W. Roman, Consultant City Planner
via e-mail: swoolf@biglakemn.org

RE: Avalon Estates Concept
City of Big Lake, Minnesota
Project No.: W18.120331

Dear Sara,

We have reviewed the revised concept plan submitted for the above referenced project and have the following comments:

1. All roadway right-of-ways shall be a minimum of 60 feet in width.
2. The alignment and right-of-way width of the Highland Avenue extension should be evaluated with respect to the City Comprehensive Plan, Chapter 12, Transportation.
3. The applicant shall submit a Storm Water Pollution Prevention Plan for the review of the city.
4. The applicant shall submit a Storm Water Management Plan including storm water calculations complete with drainage area maps for the review of the city.
5. The applicant shall enter into a Stormwater Maintenance Agreement for all stormwater basins on the property.
6. All stormwater Best Management Practices (BMPs) shall be contained within easements.
7. All wetlands and waterbodies within the development shall be delineated.
8. The applicant shall submit a grading plan for the review of the city.
9. The applicant shall submit utility plans for the review of the city.
10. A watermain loop shall be provided within the development.
11. The applicant shall submit striping plans for the review of the city.
12. The applicant shall submit signage plans for the review of the city.
13. The applicant shall submit construction details for the review of the city.
14. The applicant shall submit a lighting plan for the review of the city.
15. All construction shall be in accordance with the City of Big Lake Standards.

We recommend the above requested information be submitted with a preliminary plat application for the review and approval of the City of Big Lake.

If you have any questions on the above, please call.

Sincerely,

Bolton & Menk, Inc.

Jared Vogt, P.E.
Principal Engineer

U:\BGLK\W18120307\1_Correc\C_To Others\2020-02-24 120307 Roman Avalon Estates Concept Review.docx

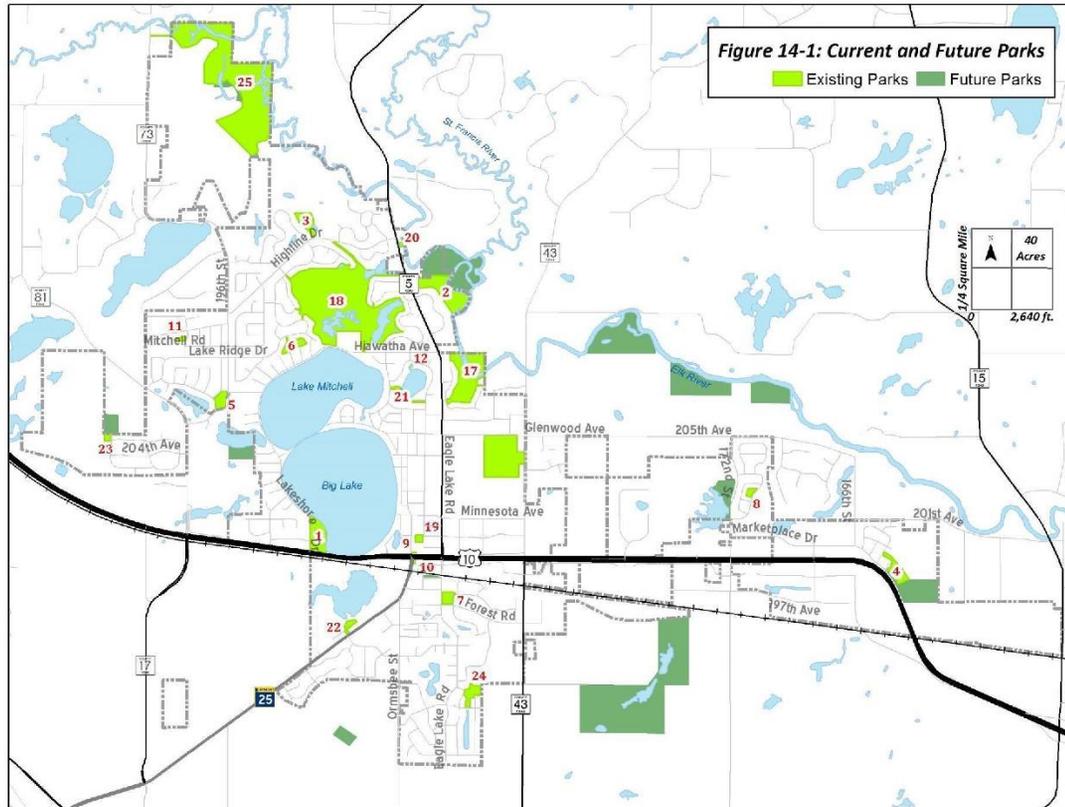
Bolton & Menk is an equal opportunity employer.

Attachment D
Concept Plan



Attachment E
Current and Future Parks Map from the 2018 Comprehensive Plan

Parks, Trails and Protective Open Space Plan



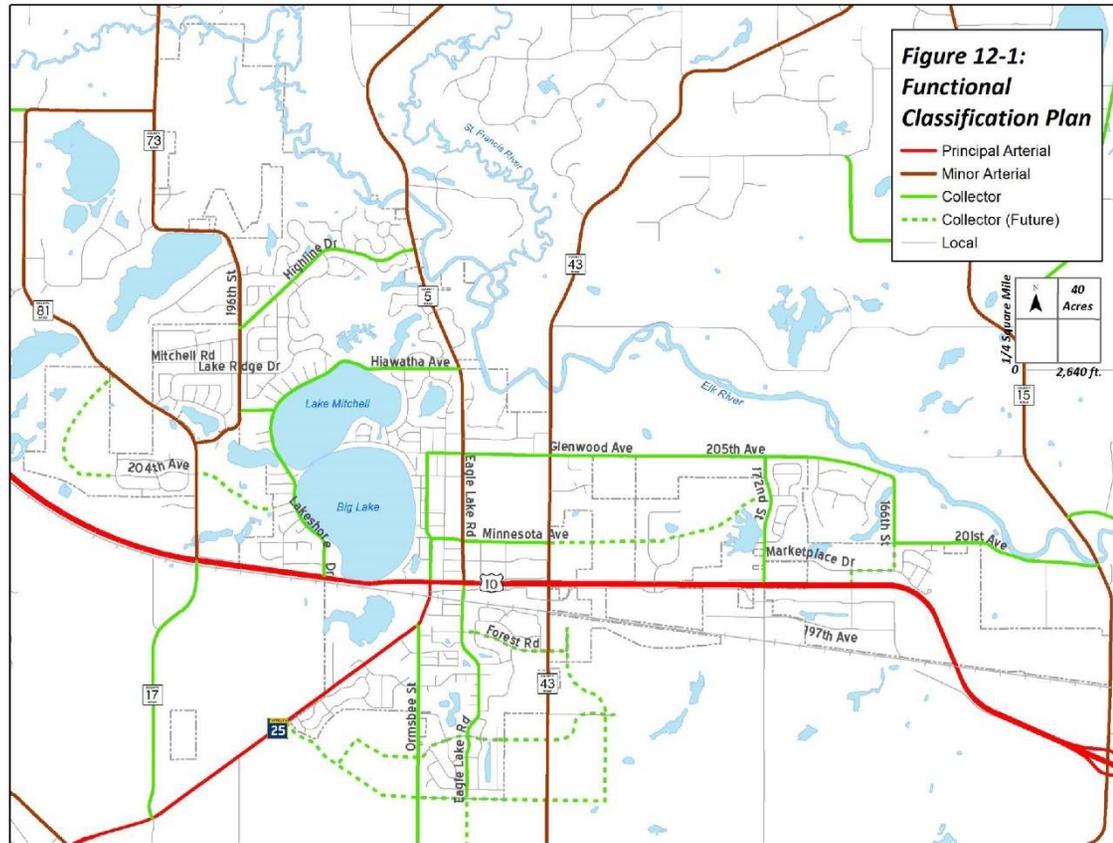
City of Big Lake

14-4

Comprehensive Plan

Attachment F
Functional Classification Plan from the 2018 Comprehensive Plan

Land Use, Design and Growth Management Plan



Attachment G
Comments Received by City for Public Hearing

James & Susan Ellavsky
484 Highland Ave
Big Lake, MN 55309
763-222-6704
jnsellavsky@hotmail.com
February 24, 2020

Sara Roman
Planning Consultant
Planning Commission

Dear Sara Roman:

Unfortunately James and I will be out of the state and unable to attend the Open House for Avalon Estates March 4th. Please read / include our letter at the meeting. As this is an important topic for us we want to ensure our thoughts and concerns are heard.

Although we recently moved into our home at 484 Highland Ave, Big Lake, MN my husband and I are long-time residents of our city. We are writing to express our concern about the Notice of Public Hearing for the project known as "Avalon Estates". We understand that a proposal has been submitted to create a new 55+ Senior Community with the only entrance into the area being via Highland Avenue.

One access point doesn't make any sense. Lake Shore Drive isn't intended to be a high volume road and neither is Highland Avenue. The project needs to have a "Natural traffic flow" to County Road 81, which is what County Road 81 was meant for.

The average number of vehicles in a household in Minnesota is 2, adding 124 new residential units would increase the amount of traffic on Lake Shore Drive and Highland Avenue exponentially. A traffic light would have to be installed on Highway 10 and Lake Shore Drive to handle the influx of traffic, as well as numerous crosswalks for residents of Lake Shore Drive that have lake access and want to cross the street. The atmosphere around the lake is quiet and relaxed. Let's keep it that way.

We are all for the City growing and a new 55+ Senior Community sounds great, but the access to it needs to be via County Road 81.

Thank you for your time and consideration.

Sincerely,
James & Susan Ellavsky



AGENDA ITEM

Big Lake Planning Commission

<p>Prepared By: Sara S.W. Roman, AICP Consultant Planner</p>	<p>Meeting Date: 3/4/2020</p>	<p>Item No. 7B</p>
<p>Item Description Public Hearing for Conditional Use Permit to Permit Catering and liquor on-sale at 321 Country Road 43 N (PID 65-020-3213)</p>	<p>Reviewed By: Hanna Klimmek, EDFP, Community Development Director</p>	
	<p>Reviewed By: Corrie Scott, Recreation and Communication Coordinator</p>	

60-DAY REVIEW DEADLINE: March 31, 2020

ACTION REQUESTED

A Conditional Use Permit for Catering and liquor on-sale at a property located within the B-3 General Business zoning district.

BACKGROUND/DISCUSSION

APPLICATION:

Gerrath Properties, LLC has submitted a development application for a Conditional Use Permit on behalf of the applicant, Style Catering. The request is for a catering business and on-sale liquor at 321 County Road 43 N (PID 65-020-3213).

Catering and liquor on-sale are allowed in the B-3 General Business zoning district but a Conditional Use Permit is required. If granted the CUP, the catering business intends to obtain a liquor license from the State of Minnesota. There will be no sales or serving of liquor at the business location, and the applicant is not proposing any modifications to the site or exterior of the existing building where the catering service will be located. Liquor on-sale is only allowed conditionally as accessory to a restaurant.

BACKGROUND:

The existing building and on-site parking were constructed in 1980. The building was remodeled in 2014 and has served several uses over the years, including a prior use as a cafe, and currently has vacant tenant space. The building houses Evolution Tae Kwon Do which comprises approximately 1,300 square feet. The building also includes common areas and two shared ADA bathrooms. The catering business is proposed to comprise another 1,360 square feet.

PROPOSED DEVELOPMENT:

The applicant is proposing to use a portion of a space within the existing building at 321 County Road 43 N for a catering business. This business will use the space within the building for cooking and office purposes only and will not serve patrons at this location. However, the proposed space will include a small area for customer consultations. In addition, the liquor sales proposed will only occur off-site. The applicant intends to offer liquor for sale at events they cater and will not sell liquor directly to consumers from this location. The applicant will seek a permit for liquor sales with the state of Minnesota, as required by state law.

The applicant is not proposing any exterior improvements to the existing structure on site. Due to this, the City of Big Lake waived the site plan requirement for this CUP. However, the site is still required to adhere to the standards found in the City Code.

Conditional Use Standards for Restaurant (Convenience (fast food), drive-in, special event and catering) and Liquor on-sale when accessory to a restaurant or tavern.

Both of the uses proposed by Style Catering are a conditional use in the B-3 district. The Conditional Uses section of the code reads:

Subd. 22. *Liquor on-sale when accessory to a restaurant or tavern.*

Subd. 41. *Restaurant (convenience (fast food), drive-in, special event and catering) provided that:*

- 1. Street Access. The establishment must have access to a street sufficient to accommodate traffic generated by the use.*
- 2. A proposed restaurant shall be specifically identified as fast food or general restaurant.*
- 3. Where possible, all outside parking spaces shall be located to the side and/or rear of the restaurant.*

The conditions outlined for a catering use are deemed to be satisfied by Planning staff. The site, as it exists today, has access from two curb cuts: one on Minnesota Avenue East and one on Country Road 43 North. The proposed restaurant is to be specifically identified as a general restaurant for the purposes of this CUP. However, the applicant has noted that the restaurant will not serve patrons from this facility. The parking layout on site is not proposed to be changed, but is currently located in the rear of the building.

PERFORMANCE STANDARDS:

Section 1007.05 of the City Code lays out general performance standards for any proposed Conditional Use Permit request. The following are applicable for this site and proposed use:

- Adequate off-street parking and off-street loading shall be provided in compliance with Section 1030 (Off-Street Parking and Loading) of this Ordinance.
- If applicable, a pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.

Parking:

35 parking stalls exist on site today. Staff has used best judgement to determine appropriate parking for this site, however neither use is specifically listed in the Parking Ordinance. The Big Lake Parking Ordinance states the following parking requirements for restaurant uses:

Subd. 25. Restaurants, Cafes, Private Clubs Serving Food and/or Drinks, Bars, Taverns, Night Clubs. At least one (1) space for each forty (40) square feet of gross floor area of dining and bar area and one (1) space for each eighty (80) square feet of kitchen area.

The applicant has indicated that no dining or bar area is proposed, and so the entire 1360 square feet of proposed area would be calculated as kitchen area, resulting in the need for 17 spaces. However, staff believes that the actual need for parking spaces falls well below 17 spaces. A use that may be more comparable would be a convenience foot takeout/delivery establishment which requires at least 1 off-street parking space for each 200 square feet of floor area, or 7 parking spaces. For the purposes of this CUP, staff has used this calculation.

The parking ordinance does not directly define a parking requirement for a taekwondo studio. Studio-style facilities such as dance/ballet, yoga, martial arts and fitness studios have different parking needs than either a private health club or a recreational court, which are the two uses most similar in the city code. A Private Health Club would require 1 stall for every 300 square feet of floor area and a Recreational Court, including such uses as basketball, volleyball, squash, handball, and other similar uses, would require 1 space per each 3 patrons based on the maximum occupancy (court and spectator areas), plus such spaces required for affiliated uses such as, but not limited to, restaurant, bar, pro shop and the other similar uses. The Planning Commission may recommend that staff determine the parking based on the maximum occupancy of a Recreational Court if desired.

As proposed, staff believes site has ample existing parking to accommodate the catering use:

-Parking Requirements-		
Use Square Footage	Requirement	#
1,360 Convenience Food Takeout/Delivery Establishment	1 stall for every 200 square feet of floor area	6.8
1,360 Private Health Clubs - Taekwondo Studio Or Approximate patrons based on the maximum occupancy	1 stall for every 300 square feet of floor area	4.5 TBD if requested
	Total Required	12
	Total Existing	35

If the Planning Commission is concerned that parking requirements are not being accurately calculated, they should recommend that the City Council decide on the required parking. Uses not specifically mentioned in the parking ordinance shall be determined on an individual basis by the City Council. Factors to be considered in such determination must include (without limitation) national parking standards, parking standards for similar businesses or land uses, size of building, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles. The Planning Commission may also recommend that staff and City Council consider joint use of parking, where one or more businesses provide off-street parking less than the sum of the total required for each business due to factors such as nighttime or Sunday uses. This allows business to “share” one parking space between two or more uses. The City Council would need to approve a Conditional Use Permit for joint use of off-street parking facilities upon a recommendation from Planning Commission. This may be a good option as the taekwondo studio is primarily utilized for classes on evenings (after 2:00pm) during the weekdays.

Pedestrian Circulation System:

A trail exists along the eastern property line of the property. This trail is part of the larger Safe Routes to School network. The City of Big Lake participated in a MnDOT-funded Safe Routes to School (SRTS) program in 2015. The purpose of the program was to identify factors that prevent school-aged children from walking and biking to school. Each of the city’s three schools was included in the study. The study resulted in the creation of a SRTS plan for the Big Lake School District.

The northern property line of the subject property is also included in the Safe Routes to School plan. This portion is one of the last remaining developed areas that lacks a sidewalk within 1 mile of a school. As such, planning staff is asking that the applicant dedicate a portion of the northern property line to the City of Big Lake for a future sidewalk.

Conditional Use Permit Considerations

Per City Code, the judgment of the Planning Commission with regard to the application shall be based upon (but not limited to) the following factors:

- a. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the objectives of the Comprehensive Plan, including public facilities and capital improvement plans.

The comprehensive plan guides this area for business uses. Staff believes that it is appropriate for a catering business with liquor permit to at this location. This use is currently allowed by with a CUP.

- b. The proposed action meets the purpose and intent of this Ordinance and the intent of the underlying zoning district.

The B-3 zoning district permits restaurants by right. Staff believes that the purpose and intent of the ordinance and the underlying zoning district is in no way compromised by the proposed use of catering with liquor sales.

- c. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

The site is currently served by existing public services and will not overburden the City's service capacity.

- d. There is an adequate buffer yard or transition provided between potentially incompatible uses or districts.

The proposed use is adjacent to two existing businesses that house compatible business uses. No additional transition or buffer is considered necessary.

- e. The proposed use is or will be compatible with present and future land uses of the area.

This area is intended to provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or sub-region. The proposed catering business is appropriate for the area.

- f. The proposed use conforms with all performance standards contained within this Ordinance.

The proposed use conforms with all performance standards contained within this Ordinance.

- g. Traffic generation by the proposed use is within capabilities of streets serving the property.

Street capacity is sufficient for the traffic that will be generated by the use.

- h. In addition to the above general criteria, the proposed conditional use permit meets the criteria specified for the various zoning districts outlined as follows.

(2) In Business Districts:

- (a) Traffic. The proposed use will not cause traffic hazards or congestion.

No traffic hazards or congestion are anticipated as a result of the proposed use.

- (b) Nearby Residences. Adjacent residentially-zoned land will not be adversely affected because of traffic generation, noise, glare, or other nuisance characteristics.

There are no nearby residentially zoned parcels.

STAFF COMMENTS:

Engineering and Public Works:

No comment.

Fire Department

Fire Department stated that they had no issues with the proposal.

Police Department

No comment.

FINANCIAL IMPACT

NA

STAFF RECOMMENDATION

Staff is recommending approval of the Conditional Use Permit. A restaurant is an allowable use in the B-3 district and staff has no concern with a catering company, which is a less intensive use. Staff’s recommendation of approval comes with the following conditions:

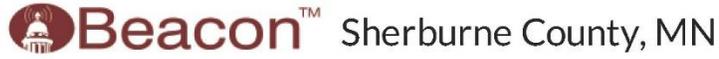
PLANNING AND ZONING CONDITIONS

1. The Conditional Use Permit’s liquor on-sale approval is contingent on the Big Lake City Council approving the Conditional Use Permit to allow a restaurant (convenience (fast food), drive-in, special event and catering).
2. Liquor on-sale shall only be permitted when accessory to a restaurant or tavern. Should the restaurant use cease, the conditional use permit shall be invalidated for liquor on-sale.
3. Sidewalk easements, as reviewed and approved by the City Engineer, shall be dedicated to the city in easement documents that shall be recorded.
4. The applicant is responsible for obtaining a sign permit for any new signage. All signage must comply with the City’s sign ordinance.
5. Any additions/modifications as required by the Planning Commission, City Council, City Staff, or any other individuals responsible for review of this application.

ATTACHMENTS

- | | |
|---------------|---|
| Attachment A: | Site Location Map |
| Attachment B: | Public Hearing Notice |
| Attachment C: | Draft Resolution approving the Conditional Use Permit |

Attachment A
Site Location Map



Overview



Legend

- Roads
- Parcels
- Streams

Parcel ID	65-020-3213	Alternate ID	n/a	Owner Address	GERRATH PROPERTIES LLC
Sec/Twp/Rng	20-33-27	Class	233-Commercial Preferred		PO BOX 485
Property Address	321 COUNTY ROAD 43 N BIG LAKE	Acreage	1.36		BIG LAKE MN 55309

District BIG LAKE CITY
Brief Tax Description n/a
(Note: Not to be used on legal documents)

Disclaimer: Every attempt has been made to ensure that the information contained on this web site is valid at the time of publication. Sherburne County reserves the right to make additions, changes, or corrections at any time and without notice. Additionally, Sherburne County disclaims any and all liability for damages incurred directly or indirectly as a result of errors, omissions or discrepancies and is not responsible for misuse or misinterpretation. Data is updated periodically. For the most current information contact the appropriate county department.

Disclaimer for St Cloud Parcels: Sherburne County information about St Cloud properties are limited to classification and value. Any questions regarding additional information please contact the City of St Cloud's assessor office.

Date created: 2/3/2020
Last Data Uploaded: 2/3/2020 2:36:13 PM

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GEOSPATIAL

Attachment B
Public Hearing Notice



-Public Notice Ad Proof-

This is the proof of your ad scheduled to run on the dates indicated below. Please proof read carefully if changes are needed, please contact us prior to deadline at Cambridge (763) 691-6000 or email at publicnotice@ecm-inc.com

Ad Proof

Enlarged

**CITY OF BIG LAKE
NOTICE OF PUBLIC
HEARING FOR A
CONDITIONAL USE PERMIT
FOR A RESTAURANT
(CATERING) AND
LIQUOR ON-SALE WHEN
ACCESSORY TO A
RESTAURANT OR TAVERN.**

You are hereby notified that the Big Lake Planning Commission will hold a public hearing in order to consider an application for a Conditional Use Permit (CUP). The public hearing will be held in the Big Lake City Council Chambers located at 160 Lake Street N., Big Lake, Minnesota on Wednesday March 4, 2020 at or about 6:30 p.m.
Applicant: Gerrath Properties, LLC (on behalf of Style Catering)

Parcel ID Number:
65-020-3213

Property Description: Property located at 321 County Road 43 N, Big Lake MN

The Applicant is proposing to open a catering business that will obtain a liquor license from the State of Minnesota. Catering and liquor on-sale are allowed in the B-3 General Business zoning district but a Conditional Use Permit is required. There will be no sales or serving of liquor at the business location. The applicant is not proposing any modifications to the site or exterior of the existing building where the catering service will be located.

Both oral and written comments will be considered by the Planning Commission. If you desire to be heard in reference to this matter, you should attend this hearing or submit written comments to City Hall. If you have any questions, please feel free to contact Sara Roman, Planning Consultant at 612-638-0227 or SWool@biglakemn.org.

Published in the
Monticello Times
February 20, 2020
1023342

<p>Date: 02/13/20</p> <p>Account #: 388115</p> <p>Customer: CITY BIG LAKE ~</p> <p>Address: 160 LAKE STREET N BIG LAKE</p> <p>Telephone: (763) 263-2107</p> <p>Fax: (763) 263-0133</p>	<p>Publications: Monticello Times</p>
<p>Ad ID: 1023342</p> <p>Copy Line: Gerrath Properties-PH</p> <p>PO Number:</p> <p>Start: 02/20/20</p> <p>Stop: 02/20/2020</p> <p>Total Cost: \$0.00</p> <p># of Lines: 55</p> <p>Total Depth: 6.111</p> <p># of Inserts: 1</p> <p>Ad Class: 150</p> <p>Phone # (763) 691-6000</p> <p>Email: publicnotice@ecm-inc.com</p> <p>Rep No: SM700</p> <p>Contract-Gross</p>	

Attachment C
Draft Resolution for Conditional Use Permit

**CITY OF BIG LAKE
MINNESOTA**

A general meeting of the City Council of the City of Big Lake, Minnesota was called to order by Mayor Mike Wallen at 6:00 p.m. in the Council Chambers of City Hall, Big Lake, Minnesota, on Wednesday, _____, 2020. The following Council Members were present: Seth Hansen, Rose Johnson, Paul Knier, Mike Wallen, and Scott Zettervall. A motion to adopt the following resolution was made by Council Member _____ and seconded by Council Member _____.

**CITY OF BIG LAKE
RESOLUTION NO. 2020-XX**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR
GERRATH PROPERTIES LLC**

WHEREAS, the City of Big Lake Planning Commission reviewed the conditional use permit application on March 4, 2020; and

WHEREAS, the Planning Commission conducted a public hearing on March 4, 2020 to consider the application; and

WHEREAS, notice of public hearing on said motion has been duly published and posted in accordance with the applicable Minnesota Statutes; and

WHEREAS, it is the recommendation of Planning Commission that the City Council approve the conditional use permit subject to the conditions identified herein; and

WHEREAS, the City Council makes the following findings of fact in support of granting approval:

- A. The Legal Description of the subject property is: XX

Gerrath Properties LLC
CUP Res.
Page 1

- B. The Site Location Map showing the project location within the City is attached as Exhibit A.
- C. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the objectives of the Comprehensive Plan.
- D. The proposed action meets the purpose and intent of this Ordinance and the intent of the underlying zoning district.
- E. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
- F. There is an adequate buffer yard or transition provided between potentially incompatible uses or districts.
- G. The proposed use is or will be compatible with present and future land uses of the area.
- H. The proposed use will conform to all performance standards contained within this Ordinance.
- I. Traffic generation by the proposed use is within capabilities of streets serving the property.
- J. Nearby residentially-zoned land will not be adversely affected because of noise, smell or other nuisance characteristics associated with the accessory structures.
- K. Traffic generated by this proposal is within the capabilities of site's parking and streets servicing the site.
- L. The proposed use will not cause traffic hazards or congestion.
- M. Adjacent residentially-zoned land will not be adversely affected because of traffic generation, noise, glare, or other nuisance characteristics.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Big Lake that it hereby approves the following Conditional Use Permits:

- 1) A Conditional Use Permit for the operation of a catering business with accessory liquor sales.

The conditional use permit is further subject to the following conditions and statements:

Gerrath Properties LLC
CUP Res.
Page 2

1. The Conditional Use Permit's on-sale liquor approval is contingent on the Big Lake City Council approving the Conditional Use Permit to allow a Restaurant (convenience (fast food), drive-in, special event and catering).
2. Liquor on-sale shall only be permitted when accessory to a restaurant or tavern. Should the restaurant use cease, the conditional use permit shall be invalidated for on-sale liquor.
3. Sidewalk easements, as reviewed and approved by the City Engineer, shall be dedicated to the city in easement documents that shall be recorded.
4. The Applicant is responsible for obtaining a sign permit for any new signage. All signage must comply with the City's sign ordinance.
5. Any additions/modifications as required by the Planning Commission, City Council, City Staff, or any other individuals responsible for review of this application.

Adopted by the Big Lake City Council on the ___th of _____, 2020.

Mayor Mike Wallen

Attest:

Gina Wolbeck, City Clerk

The following Council Members voted in favor:
The following Council Members voted against or abstained:

Whereupon the motion was duly passed and executed.

Attachments:

Exhibit A – Site Location Map

Drafted By:
City of Big Lake
160 North Lake Street
Big Lake, MN 55309

STATE OF MINNESOTA }
 } SS.
COUNTY OF WRIGHT)

Gerrath Properties LLC
CUP Res.
Page 3

The foregoing instrument was acknowledged before me this _____ day of February, 2020, by the Mayor and City Clerk of the City of Big Lake, a Minnesota municipal corporation, on behalf of the corporation.

Notary Public

Gerrath Properties LLC
CUP Res.
Page 4



AGENDA ITEM

Big Lake Planning Commission

Prepared By: Sara S.W. Roman, AICP, Consultant Planner	Meeting Date: 3/4/2020	Item No. 7C
Item Description: Public Hearing for a Housekeeping Ordinance Amendment Updating the City's Ordinance to correct errors in the Code	Reviewed By: Hanna Klimmek, Community Development Director	
	Reviewed By: Corrie Scott, Recreation and Communication Coordinator	

ACTION REQUESTED

A motion recommending approval or denial of the proposed ordinance amendment, either as presented or with modifications. The Planning Commission also has the option of directing Staff to make additional revisions to the ordinance and return to the Planning Commission for further discussion.

BACKGROUND/DISCUSSION

Background

At the request of City Staff, the Planning Commission held a discussion regarding a proposed housekeeping ordinance at their February 5, 2020 meeting. In the memo provided for that meeting, Staff provided an in-depth analysis of the items being proposed for revision in the Housekeeping Ordinance. That memo is provided as "ATTACHMENT A" at the end of this report.

The Planning Commission made a motion at their February 5th meeting calling for a public hearing to review potential revisions to the Zoning Ordinance. The ordinance amendment would address issues that have been discovered in the code over time. The correction of these issues would not create substantive change to the ordinance, rather, they address accidental code inconsistencies, errors, and unclear code language.

The Planning Commission is asked to review Staff's draft ordinance language and discuss whether they still feel the ordinance needs to be revised. If the Planning Commission feels the housekeeping ordinance should be brought forth for adoption, they are asked to make a formal recommendation to the City Council.

Revisions to Items following the February 5th Discussion

The Planning Commission did not recommend revisions to the items included in the housekeeping ordinance at the discussion held by the Planning Commission on February 5, 2020. However, an error was discovered by staff following the discussion (see ATTACHMENT B) and the housekeeping ordinance has been modified to correct this error. The Planning Commission should review this change to ensure they are comfortable with the modification. The modification is found below **in red**:

Subd. 4. *Setbacks along Thoroughfares. Heavily used streets designated as arterials, County Roads or major collector streets by the Big Lake Comprehensive Plan may have special minimum setback needs and requirements.*

1. *Along the following principal arterial and major arterials, the minimum principal structure setback shall be fifty (50) feet from the right-of-way unless otherwise identified in the underlying Zoning District.*

- a. *U.S. Highway 10 (Jefferson Boulevard)*
- b. *State Trunk Highway 25 (Lake Street South)*
- c. *County Road 5 (Eagle Lake Road North)*

2. *Along the following collector streets ~~including, but not limited to the following thoroughfares~~, the minimum principal structure setback shall be forty-five (45) feet from the right-of-way unless otherwise identified in the underlying Zoning District.*

- a. *County Road 43*
- b. *County Road 73*
- c. *County Road 81*
- d. *Glenwood Avenue/205th Avenue (east of County Road 43)*
- e. *Highline Drive*
- ~~f. *Eagle Lake Road South*~~
- ~~f. *17nd Street NW*~~
- ~~g. *Marketplace Drive*~~

Justification for Revision

The language proposed on February 5, 2020 was an attempt to fix the section of the Code that discusses additional setbacks for arterial and collector roads. The language as proposed on February 5, 2020 essentially kept the existing error from being fixed. Many of the roads that are called collectors in the 2018 Comprehensive Plan should not have extra setback requirements. The original language proposed further did not amend the section that refers to the Comprehensive Plan or amend the collector street list to be “limited to” only the listed streets.

FINANCIAL IMPACT

NA

STAFF RECOMMENDATION

Staff recommends approval of the ordinance amendment as written but would be amenable to revising the amendment if the Planning Commission sought to accomplish additional goals beyond those that have been outlined by Staff in the memo from February 5th.

The Planning Commission may do the following:

- Recommend approval of the proposed ordinance “as presented.”
- Recommend approval of the proposed ordinance amendment with modifications.
- Request that Staff draft a modified ordinance and return to the Planning Commission for additional discussion.

ATTACHMENTS

Attachment A – Staff memorandum to Planning Commission dated February 5, 2020
Attachment B – Email received from former City Planner Healy dated February 26, 2020
Attachment C – Draft Ordinance Amendment
Attachment D – Public Hearing Notice

**Attachment A
Staff Memorandum to Planning Commission dated February 5, 2020**



**AGENDA ITEM
Big Lake Planning Commission**

Prepared By: <i>Michael Healy, City Planner</i>	Meeting Date: <i>2/5/2020</i>	Item No. Click or tap here to enter text.
Item Description: <i>Discussion on Proposed Housekeeping Ordinance</i>	Reviewed By: <i>Hanna Klimmek, Community Development Director</i>	
	Reviewed By: <i>Sara Woolf, Planning Consultant</i>	

ACTION REQUESTED

A motion calling a public hearing for a housekeeping ordinance, either as proposed or with modifications

BACKGROUND/DISCUSSION

Background

Staff is advising that the Planning Commission go through the process of a housekeeping amendment. Cities undertake housekeeping ordinances primarily to address three issues:

1. **Accidental Code Inconsistency:** City codes are complex documents with a lot of different layers. When reviewing a land use proposal, Staff reviews the project for conformity with the subdivision ordinance, the building requirements code section, the landscaping code section, the lot and yard standards code section, etc. The different parts of the City code all reference each other and restate key regulations and, as a result, a zoning rule may be contained in more than one section of the ordinance. The same zoning rule may show up in 3 or 4 different code sections. What happens sometimes is that a City will update an ordinance to change a zoning rule and Staff will “miss” one or two instances of that rule that are buried somewhere else in the Code. Over the years, codes can end up being “inconsistent” because there are old rules buried in an obscure secondary code section that should have been updated during an ordinance amendment that revised that rule in the main code section. This can make things confusing for residents, Staff, and Policymakers. A housekeeping ordinance allows the City to “clean up” these inconsistencies and make it so the entire Code supports the most recent version of a rule.
2. **Unclear Code Language:** When Staff writes code language, the intent is always to have the code be clear and unambiguous as possible. We want our rules to be easily understood by the general public AND we want them to be easily understood by future City staff who may not have been part of the original rulemaking. Occasionally, a rule is written in such a way that “makes sense at the time” but which causes confusion in the years following its passage. A housekeeping ordinance can be a good opportunity to “clean up” unclear code language and make the code more understandable for the public. No actual substantive changes are being made to the Code with a housekeeping ordinance; it is just a polishing of the Code language.
3. **Errors:** Occasionally there is Code language that is simply erroneous but easily corrected. There may be a numerical typo that references an incorrect section, for instance. This can sometimes result from

ordinance amendments that renumber a code section. There may still be language elsewhere in the Code that references the old numbering scheme.

Staff has identified several sections of the City Code that need to be “cleaned up” through a housekeeping ordinance. Staff will go over the issues one by one and present a proposed solution.

Housekeeping Item #1: Unclear Language in Fence Ordinance Concerning Double-Frontage Lots

In 2016, the City revised the fence ordinance (Ordinance #2016-10) with the intention of allowing double-frontage lots and corner lots to utilize privacy fences in their “second front yard,” the side of their house that faces a street. The new rule was intended to allow people living on corner lots to install a privacy fence in the second “front yard” that their house did not face as long as they kept their fence at least 5 feet away from their property line. Previously, there was a rule that corner lots could not have privacy fencing in their second front yard as a privacy fence had to be at least as far away from every street as the house itself was. People who lived on corner lots were limited to having 4-foot fences in their second front yard. The fences had to be at least 75% see-through which basically meant that they needed to be chain link.

The ordinance amendment changed the rules for “double-frontage lots” which Staff presented to the Planning Commission in 2016 as being inclusive of corner lots. The presentation was erroneous as Staff has since realized that the Code actual has separate definitions for “double frontage lot” and “corner lot” so the fence ordinance should be updated to clarify that it was intended to apply to corner lots as well. Additionally, there is some old language regarding juxtaposed corner lots that is no longer relevant if all corner lots are allowed to have fences in their “second front yards” so that provision should be removed entirely from the Code:

Staff is proposing the following revision:

SECTION 1025 – FENCES

1025.02: GENERAL FENCE REGULATIONS:

Subd. 5. Special Provisions.

2. ~~*When two corner lots are juxtaposed, a six (6) foot opaque fence may be constructed at a distance of fifteen (15) feet from the shared property line.*~~
3. *On double frontage lots and corner lots, the front yard that has no access may have a fence that is less than 75% open to the passage of air and light, up to six (6) feet tall, at a distance of five (5) feet from the property line. On a corner lot, said fence may not extend beyond the front corner of the principal building.*

Housekeeping Item #2: Code Inconsistency Regarding Grading, Filling, and Excavating

The City’s “Grading, Filling, and Excavating” code section does not correctly incorporate the Shoreland Ordinance’s rules regarding excavation and grading in Shore and Bluff Impact zones. Further, it states that an MPCA permit is needed for very minor grading projects which is not accurate or consistent with the rest of our Code. Additionally, it does not specifically identify that it is the Engineering Department’s Land Alteration Permit that is utilized for medium-sized grading and excavation projects. The City’s fee schedule

includes the land alteration permit and it should be referenced specifically in the Code for consistency between City documents. Staff is also correcting a minor typo in the code section:
 Staff is proposing the following revision:

SECTION 1026 – GRADING, FILLING AND EXCAVATING

1026.01: PERMIT REQUIRED:

Subd. 1. *Except for City land grading, filling and excavating operations, and in cases where a grading and drainage plan for a private development has been approved as part of a subdivision or other development plan approved by the City, or as may be otherwise stipulated by this Ordinance, any person who proposes to add landfill or extract sand, gravel, black dirt, or other natural material from the land or grade land shall apply for a land alteration permit as specified below:*

Cubic Yards of Landfill or Land to be Excavated/Graded	Permit Requirement
1 to 50 cubic yards	MPCA Storm Water Permit / No City Permit <u>unless in Shore or Bluff Impact Zone</u>
50 – 250 cubic yards	MPCA Storm Water Permit and Administrative <u>land alteration</u> permit as provided in Section 1003 of this Ordinance
Greater than 250 cubic yards	MPCA Storm Water Permit and Interim Use Permit as provided in Section 1010 of this Ordinance

1026.04: ISSUANCE OF PERMIT: *Upon receiving information and reports from the City staff and other applicable agencies, as applicable, a public hearing shall be scheduled before the Planning Commission which shall forward a recommendation to the City Council. The City Council shall take formal action on the application and as to whether, and when, and under what conditions such permit for a landfill or excavation/grading activity is to be issued to the applicant.*

Housekeeping Item #3: Errors in the R-5 Residential Redevelopment Zoning District Code

Staff has identified two errors in the R-5 zoning district ordinance. The first is that there is a spot in the Code that continues to incorrectly state that all lots in the R-5 zoning district are limited to 25% coverage by impervious surfaces. The City Code was amended in 2015 to allow up to 35% impervious surface coverage in the R-1, R-1E, and R-5 zoning districts (Ordinance 2015-09) except for properties in the Shoreland district which, per State Law, are still restricted to 25%. It appears that Staff simply “missed” one spot in the R-5 ordinance that continued to reference a 25% standard for non-Shoreland Lots.

The second error is a numerical error. There is a section in the Code that references the modern lot size requirements for properties in the R-5 zoning district and refers to the requirements as “Subd. 6 Single Family Lot Standards- Existing Lots of Record.” This is a typo. Subdivision 6 is the “Single Family-Lot Standards-New Subdivision.” The code section only makes sense if it is referring to the lot standards for a new subdivision.

Staff is advising the following revisions:

SECTION 1049 – R-5, RESIDENTIAL REDEVELOPMENT DISTRICT

Subd. 6. *Single Family Lot Standards – New Subdivision.* The following minimum requirements shall be observed in the R-5 District for new lots, platted after July 20, 2002 (effective date of Ordinance), subject to additional requirements, exceptions and modifications set forth in this Ordinance. (Ord. 2003-05).

Minimum Lot Area Riparian Lot	12,000 square feet
Minimum Lot Area Non-Riparian Lot	10,000 square feet.
Minimum Lot Width	75 feet
Front Yard Setback	25 feet
Rear Yard Setback	25 feet
Side Yard Setback	10 feet
Maximum Impervious Surface	25 percent

AND

1049.08: CONSTRUCTION ON SUBSTANDARD LOTS OF RECORD.

Subd. 1. *Lots of record in the office of the Sherburne County Recorder on or before October 29, 1985 that do not meet the requirements of Section 1049.07, (Lot Area, Height and Setback Requirements), Subd. 6, (Single Family Lot Standards- New Subdivision ~~Single Family Lot Standards—Existing Lots of Record~~), may be allowed as building sites without variances from lot size requirements under the following provisions:*

Housekeeping Item #4: Inconsistency Regarding Landscaping Setbacks

In 2004, the City revised section 520 of the City Code to allow trees to be closer to front property lines. Previously, trees were required to be set back 12 feet from front property lines (Ordinance 2004-02). The revision changed the requirement to a “3-5-foot setback.” Section “1027 Landscape, Screening, and Tree Preservation” of the zoning code should have been simultaneously updated to reflect the new standard but it was missed. The zoning code, therefore, continues to erroneously state that a 12-foot front yard setback is required for trees.

Staff is proposing the following “cleanup” of the landscaping section:

SECTION 1027 – LANDSCAPE, SCREENING AND TREE PRESERVATION

1027.03: REQUIRED LANDSCAPING: (Ord. 2003-05); (Ord. 2004-19, 8/11/04).

Subd. 2. *The complement of trees fulfilling the requirements of this Section shall be not less than twenty-five (25) percent deciduous and not less than twenty-five (25) percent coniferous. (Ord. 2003-05).*

3. Spacing:

- a. *Plant material centers shall not be located closer than three (3) feet from a side property line or ~~twelve (12)~~ three (3) feet from a front property line and shall not be planted to conflict with public plantings, drainage and utility easements, sidewalks, trails, fences, parking areas, and driveways based on the judgment of the Zoning Administrator.*

Housekeeping Item #5: Unclear Code Language Regarding Setbacks from Major Roads

Section 1041 of the City Code sets special setback requirements for structures along major roads. The Code sets a 50-foot structure setback for arterial roads and then lists out several arterial roads in the community. It sets a 45-foot structure setback for major collector streets and lists out several major collector streets in the community. The comprehensive plan calls for reevaluating and reducing those setback requirements (they seem to be unnecessarily high which is an inefficient use of land) but that is beyond the scope of a housekeeping ordinance.

The issues that need to be addressed in the housekeeping ordinance are:

- In addition to listing out several streets that the setbacks apply to, the Code section vaguely references that there may be additional major collector streets and arterial roads indicated by the comprehensive plan that also should be subjected to these setback standards.
- The new comprehensive plan lays roads out differently than the previous comprehensive plan that the Code is referencing. The old comprehensive plan differentiated between “minor collectors” and “major collectors.” The 45-foot setback standards were intended to be applied only to “major collectors.”
- The new Comprehensive Plan does not designate any streets as “major collector” but rather lays out a collector street network without distinguishing between “major” and “minor.” There are many roads that our new comprehensive plan lists as being collector streets or future collector streets that do not need a 45-foot setback. In some cases, such a setback would be unworkable due to lot sizes and would damage the aesthetics of the street. Staff is specifically thinking of Lakeshore Drive, Manitou Street, Hiawatha Avenue, Ormsbee Street, Forest Road, 204th Street, Highland Avenue, and Minnesota Avenue. These are all streets that the Comprehensive Plan steers towards being “collector streets” but they are not streets where the City has historically required a 45-foot setback nor are they streets where it would be appropriate to begin requiring a 45-foot setback.
- The existing Code lists Eagle Lake Road South as a major collector street. Eagle Lake Road South has never been treated as a major collector street and houses have been built along that road for the last 20 years with 30-foot setbacks. It would be inappropriate to begin requiring a 45-foot setback at this point and the Code should be revised to reflect actual practices.

As previously stated, the major road setback issue should eventually be dug into more deeply, per the comprehensive plan. As an Interim measure Staff is recommending that the Code be amended to specifically list out which streets the setbacks are intended to apply to. The City can update this list, in the future, if additional collector roads or arterial roads are constructed that need an increased structure setback due to their design.

Staff is proposing the existing Code section be amended to state the following:

1041.06: GENERAL SETBACK PROVISIONS:

Subd. 4. *Setbacks along Thoroughfares. Heavily used streets designated as arterials, County Roads or major collector streets by the Big Lake Comprehensive Plan have special minimum setback needs and requirements.*

1. Along the following principal arterial and major arterials, the minimum principal structure setback shall be fifty (50) feet from the right-of-way unless otherwise identified in the underlying Zoning District.

- a. U.S. Highway 10 (Jefferson Boulevard)
- b. State Trunk Highway 25 (Lake Street South)
- c. County Road 5 (Eagle Lake Road North)

2. Along collector streets including, but not limited to the following thoroughfares, the minimum principal structure setback shall be forty-five (45) feet from the right-of-way unless otherwise identified in the underlying Zoning District.

- a. County Road 43
- b. County Road 73
- c. County Road 81
- d. Glenwood Avenue/205th Avenue (east of County Road 43)
- e. Highline Drive
- ~~f. Eagle Lake Road South~~
- ~~f. 17nd Street NW~~
- ~~g. Marketplace Drive~~

Housekeeping Item #6: Unclear Code Rules Regarding Pond and Drainage Way Setback

In 2016, the City undertook an update of its ordinances to comply with our State-issued MS-4 stormwater permit (Ordinance #2016-09). The MS4 permit required that the City upgrade its 30-foot wetland buffer requirement to a 50-foot wetland buffer requirement. This increased buffer requirement is applied to all lots platted after 2016.

Per the City Engineer, the revised buffer requirement was only intended to affect wetlands. The way that the update was implemented in the Code, however, the language accidentally was revised to include an increased setback requirement for man-made ponds and drainage ways as well. The 30-foot setback requirement should continue to be in effect for ponds and drainage ways. There is no need for a 50-foot setback requirement in those situations since there is no buffer requirement.

Staff is proposing the following revision:

1041.06: GENERAL SETBACK PROVISIONS:

Subd. 7. *Wetland, Pond and Drainage way Setback. In addition to the setbacks required for principal and/or accessory structures under individual zoning districts or in other sections of this Ordinance, all structures must be set back a minimum of fifty (50) feet from the ordinary high water level or the edge of a delineated wetland (whichever is greater) of all wetlands. All structures must be set back a minimum of thirty (30) feet from the ordinary high water level of all ponds or drainage ways.*

Housekeeping Item #7: Inconsistent NorthStar TOD Area Setback Rules

The City revised all of the NorthStar TOD area setback rules in 2019 to give developers more flexibility in terms of setbacks (Ordinance #2019-08). Buildings are now allowed to be set back as far as 15 feet from the front property line. The previous maximum setback was 5 feet. It appears that one small section of the TOD Ordinance was overlooked when the setback requirements were being updated and, as a result, the “main entrance” of

new buildings is required to be no further than 5 feet from the front property line. This should be revised to 15 feet since the building is now allowed to be 15 feet away from the front property line.

Staff is proposing the following revision:

1068.06: DESIGN STANDARDS:

Subd. 2. Building Facades.

- c. *The main entrance of any building shall face the street. The main entrance shall not be set back more than ~~fifteen-five~~ (15) feet from the front property line, unless a public seating area or plaza is provided in front of the building.*

Housekeeping Item #8: Inconsistency Relating to Public Hearings for PUD's

Big Lake historically has required a public hearing during the concept plan review of Planned Unit Developments (PUD's). Most cities no longer require a public hearing as part of concept plan review since a public hearing is held during the next step of the PUD process once the plans are more fleshed out. Holding a public hearing increases the costs of the concept plan review and, generally, the concept plan review is intended to be a low-cost way for the developer to get feedback from the Planning Commission and City Council.

The City of Big Lake attempted to remove the public hearing requirement for PUD concept plans in 2005 (Ordinance #2005-11). The requirement was stricken from the Code but Staff apparently missed one code section in the PUD ordinance where it still states that a public hearing is required. Per the City Attorney, the City must continue to hold public hearings for concept plans until the mistake is corrected.

Staff is proposing the following revision which would remove the final mention of public hearings being required for concept plans from the City Code:

1011.09: CONCEPT PUD PLAN PROCEDURE: *The general processing steps for a PUD are intended to provide for an orderly development and progressions of the project with the greatest expenditure of developmental funds being made only after the City has had ample opportunity for informed decisions as to the acceptability of the various segments of the whole as the plan affects the public interest. The process for filing a Planned Unit Development (PUD) is outlined below:*

Subd. 3. Concept PUD Plan. *The applicant shall submit a Concept PUD Plan of the project to the Zoning Administrator. The Concept PUD Plan provides an opportunity for the applicant to submit a plan to the City showing the basic intent and the general nature of the entire development before incurring substantial cost. ~~The Concept PUD Plan serves as the basis for the public hearing so that the proposal may be publicly considered at an early stage.~~ The following elements of the proposed Concept PUD Plan represent the immediately significant elements which the City shall review and for which a decision shall be rendered:*

Housekeeping Item #9: Code Inconsistency related to *Schulz v. Town of Duluth*

The Minnesota Supreme Court has upheld a city's authority to enact, via the City Code, the ability to limit the time to appeal City's zoning decisions to the district court. In a footnote, the court says that the city ordinance's 30-day limit on appeals is enforceable. The Attorney for the City of Big Lake has recommended that the City modify its ordinance to limit time to appeal city decisions.

Staff is proposing the following revision which would expressly limit the right to appeal a zoning decision to 30 days:

SECTION 1005 – APPEALS

1005.06: APPEALS FROM THE BOARD OF ADJUSTMENT AND APPEALS: All decisions made by the City regarding zoning shall be final, except any person or persons, any private or public board, or taxpayer of the City aggrieved by any decision of the Board of Adjustment and Appeals shall have the right to seek review of the decision- appeal within thirty (30) days after delivery of the decision to the appellant, with a court of record in the manner provided by the laws of the State of Minnesota, and particularly Minnesota Statutes, Chapter 462, as such statutes may be from time to time amended, supplemented or replaced. Any person seeking judicial review under this ordinance must serve the City and all necessary parties, including any landowners, within the 30-day period defined above.

FINANCIAL IMPACT

NA

STAFF RECOMMENDATION

Staff is recommending that the Planning Commission make a motion to call a public hearing to formally review the proposed housekeeping amendment.

ATTACHMENTS

Attachment A – Draft Ordinance Amendment

Attachment B
Email Received from former City Planner Healy dated February 26, 2020

Sara Roman, AICP

From: Sara Woolf <SWoolf@Biglakemn.org>
Sent: Thursday, February 27, 2020 10:33 AM
To: Sara Roman, AICP
Subject: FW: Typo in my "Housekeeping Ordinance"
Attachments: IMG_0251.jpg

From: Mike Healy [mhealy@southstpaul.org]
Sent: Wednesday, February 26, 2020 11:15 AM
To: Sara Woolf
Cc: Hanna Klimmek
Subject: Typo in my "Housekeeping Ordinance"

Hey Sara,

So I have been informally "keeping an eye on" all of the half-finished planning items that I bequeathed to you (gotta protect my legacy!!!!). I was looking at your last Planning Commission packet and I noticed I had a typo in my housekeeping ordinance that undermines one of the things that I was trying to fix:

- I was trying to fix the section that talks about extra setbacks for arterial and collector roads. My typo basically keeps it from being fixed.
- The issue is that there is a list of affected collector roads but then the Code ALSO seems to say that roads that are called collectors in the Big Lake comprehensive plan should also have extra setback requirements. Many of the roads called collectors in the comp plan should not have extra setback requirements.
- I forgot to amend the section that talks about the comprehensive plan or to amend the collector street list to be "limited to" just the listed streets.
- I would advise you to do the following to fix my typos (in red and underlined):

1041.06: GENERAL SETBACK PROVISIONS:

Subd. 4. *Setbacks along Thoroughfares. Heavily used streets designated as arterials, County Roads or major collector streets by the Big Lake Comprehensive Plan may have special minimum setback needs and requirements.*

1. *Along the following principal arterial and major arterials, the minimum principal structure setback shall be fifty (50) feet from the right-of-way unless otherwise identified in the underlying Zoning District.*

- a. *U.S. Highway 10 (Jefferson Boulevard)*
- b. *State Trunk Highway 25 (Lake Street South)*
- c. *County Road 5 (Eagle Lake Road North)*

2. *Along the following collector streets ~~including, but not limited to the following thoroughfares,~~ the minimum principal structure setback shall be forty-five (45) feet from the right-of-way unless otherwise identified in the underlying Zoning District.*

- a. County Road 43
- b. County Road 73
- c. County Road 81
- d. Glenwood Avenue/205th Avenue (east of County Road 43)
- e. Highline Drive
- ~~f. Eagle Lake Road South~~
- ~~f. 17nd Street NW~~
- ~~g. Marketplace Drive~~

Hope all is well! I'm also including a recent baby picture for you to circulate around City Hall if you'd like.

Michael



Michael Healy

City Planner/Zoning Administrator

P (651) 554-3217

City of South St. Paul | 125 3rd Avenue North | South St. Paul, MN 55075

www.southstpaul.org

**Attachment C
Draft Ordinance Amendment**

**City of Big Lake
Ordinance No. 2020-XX**

AN ORDINANCE AMENDING CHAPTER 10 (ZONING) OF THE BIG LAKE CITY CODE AMENDING SECTION 1025 (FENCES) TO CLARIFY LANGUAGE REGARDING FENCES AND DOUBLE-FRONTAGE LOTS, AMENDING SECTION 1026 (GRADING, FILLING AND EXCAVATING) TO RECTIFY CODE INCONSISTENCIES, AMENDING SECTION 1049 (R-5, RESIDENTIAL REDEVELOPMENT DISTRICT) TO CORRECT TWO ERRORS, AMENDING SECTION 1027 (LANDSCAPE, SCREENING AND TREE PRESERVATION) TO CORRECT AN INCONSISTENCY REGARDING LANDSCAPE SETBACKS, AMENDING SECTION 1041 (GENERAL LOT AND YARD REQUIREMENTS) TO CLARIFY LANGUAGE REGARDING SETBACKS FROM MAJOR ROADS AND POND AND DRAINAGE WAY SETBACKS, AMENDING SECTION 1068 (TOD, TRANSIT-ORIENTED DEVELOPMENT DISTRICT) TO REMOVE AN INCONSISTENCY RELATED TO MAIN ENTRANCE SETBACKS, AMENDING SECTION 1011 (PLANNED UNIT DEVELOPMENTS (PUD)) TO CORRECT AN INCONSISTENCY RELATING TO PUBLIC HEARINGS FOR THE CONCEPT PUD PLAN, AND AMENDING SECTION 1005 (APPEALS) TO STATE A TIME LIMIT FOR APPEALS FROM THE BOARD OF ADJUSTMENT AND APPEALS

THE CITY COUNCIL OF BIG LAKE ORDAINS:

SECTION 1. Chapter 10 (Zoning), Section 1025 (Fences), of the Big Lake Municipal Code is hereby amended to add the provisions with underlined text and delete provisions shown with a line through the text as follows:

SECTION 1025 – FENCES

Subd. 5. Special Provisions

2. ~~When two corner lots are juxtaposed, a six (6) foot opaque fence may be constructed at a distance of fifteen (15) feet from the shared property line.~~
3. On double frontage lots and corner lots, the front yard that has no access may have a fence that is less than 75% open to the passage of air and light, up to six (6) feet tall, at a distance of five (5) feet from the property line. On a corner lot, said fence may not extend beyond the front corner of the principal building.

SECTION 2. Chapter 10 (Zoning), Section 1026 (Grading, Filling and Excavating), of the Big Lake Municipal Code is hereby amended to add the provisions with underlined text and delete provisions shown with a line through the text as follows:

1026.01: PERMIT REQUIRED:

Subd. 1. Except for City land grading, filling and excavating operations, and in cases where a grading and drainage plan for a private development has been approved as part of a subdivision or other development plan approved by the City, or as may be otherwise stipulated by this Ordinance, any person who proposes to add landfill or extract sand, gravel, black dirt, or other natural material from the land or grade land shall apply for a land alteration permit as specified below:

Cubic Yards of Landfill or Land to be Excavated/Graded	Permit Requirement
1 to 50 cubic yards	MPCA Storm Water Permit / No City Permit <u>unless in Shore or Bluff Impact Zone</u>
50 – 250 cubic yards	MPCA Storm Water Permit and Administrative <u>land alteration</u> permit as provided in Section 1003 of this Ordinance
Greater than 250 cubic yards	MPCA Storm Water Permit and Interim Use Permit as provided in Section 1010 of this Ordinance

1026.04: ISSUANCE OF PERMIT: Upon receiving information and reports from the City staff and other applicable agencies, as applicable, a public hearing shall be scheduled before the Planning Commission which shall forward a recommendation to the City Council. The City Council shall take formal action on the application and as to whether, and when, and under what conditions such permit for a landfill or excavation/grading activity is to be issued to the applicant.

SECTION 3. Chapter 10 (Zoning), Section 1049 (R-5, Residential Redevelopment District), of the Big Lake Municipal Code is hereby amended to add the provisions with underlined text and delete provisions shown with a line through the text as follows:

SECTION 1049 – R-5, RESIDENTIAL REDEVELOPMENT DISTRICT

Subd. 6. Single Family Lot Standards – New Subdivision. The following minimum requirements shall be observed in the R-5 District for new lots, platted after July 20, 2002 (effective date of Ordinance), subject to additional requirements, exceptions and modifications set forth in this Ordinance. (Ord. 2003-05).

Minimum Lot Area Riparian Lot	12,000 square feet
Minimum Lot Area Non-Riparian Lot	10,000 square feet.
Minimum Lot Width	75 feet

Front Yard Setback	25 feet
Rear Yard Setback	25 feet
Side Yard Setback	10 feet
Maximum Impervious Surface	25 percent

1049.08: CONSTRUCTION ON SUBSTANDARD LOTS OF RECORD.

Subd. 1. Lots of record in the office of the Sherburne County Recorder on or before October 29, 1985 that do not meet the requirements of Section 1049.07, (Lot Area, Height and Setback Requirements), Subd. 6, (Single Family Lot Standards- New Subdivision ~~Single Family Lot Standards—Existing Lots of Record~~), may be allowed as building sites without variances from lot size requirements under the following provisions:

SECTION 4. Chapter 10 (Zoning), Section 1027 (Landscape, Screening and Tree Preservation), of the Big Lake Municipal Code is hereby amended to add the provisions with underlined text and delete provisions shown with a line through the text as follows:

1027.03: REQUIRED LANDSCAPING: (Ord. 2003-05); (Ord. 2004-19, 8/11/04).

Subd. 2. The complement of trees fulfilling the requirements of this Section shall be not less than twenty-five (25) percent deciduous and not less than twenty-five (25) percent coniferous. (Ord. 2003-05).

3. Spacing:

- a. Plant material centers shall not be located closer than three (3) feet from a side property line or ~~twelve (12)~~ three (3) feet from a front property line and shall not be planted to conflict with public plantings, drainage and utility easements, sidewalks, trails, fences, parking areas, and driveways based on the judgment of the Zoning Administrator.

SECTION 5. Chapter 10 (Zoning), Section 1041 (General Lot and Yard Requirements), of the Big Lake Municipal Code is hereby amended to add the provisions with underlined text and delete provisions shown with a line through the text as follows:

1041.06: GENERAL SETBACK PROVISIONS:

Subd. 4. Setbacks along Thoroughfares. Heavily used streets designated as arterials, County Roads or major collector streets by the Big Lake Comprehensive Plan may have special minimum setback needs and requirements.

- 1. Along the following principal arterial and major arterials, the minimum principal structure setback shall be fifty (50) feet from the right-of-way

unless otherwise identified in the underlying Zoning District.

- a. U.S. Highway 10 (Jefferson Boulevard)
- b. State Trunk Highway 25 (Lake Street South)
- c. County Road 5 (Eagle Lake Road North)

2. Along the following collector streets including, but not limited to the following ~~thoroughfares~~, the minimum principal structure setback shall be forty-five (45) feet from the right-of-way unless otherwise identified in the underlying Zoning District.

- a. County Road 43
- b. County Road 73
- c. County Road 81
- d. Glenwood Avenue/205th Avenue (east of County Road 43)
- e. Highline Drive
- f. ~~Eagle Lake Road South~~
- f. 17nd Street NW
- g. Marketplace Drive

SECTION 6. Chapter 10 (Zoning), Section 1041 (General Lot and Yard Requirements), of the Big Lake Municipal Code is hereby amended to add the provisions with underlined text and delete provisions shown with a line through the text as follows:

1041.06: GENERAL SETBACK PROVISIONS:

Subd. 7. Wetland, Pond and Drainage way Setback. In addition to the setbacks required for principal and/or accessory structures under individual zoning districts or in other sections of this Ordinance, all structures must be set back a minimum of fifty (50) feet from the ordinary high water level or the edge of a delineated wetland (whichever is greater) of all wetlands. All structures must be set back a minimum of thirty (30) feet from the ordinary high water level of all ponds or drainage ways.

SECTION 7. Chapter 10 (Zoning), Section 1068 (TOD, Transit-Oriented Development District), of the Big Lake Municipal Code is hereby amended to add the provisions with underlined text and delete provisions shown with a line through the text as follows:

1068.06: DESIGN STANDARDS:

Subd. 2. Building Facades.

- c. The main entrance of any building shall face the street. The main entrance shall not be set back more than ~~fifteen-five~~ (15) feet from the front property line, unless a public seating area or plaza is

provided in front of the building.

SECTION 8. Chapter 10 (Zoning), Section 1011 (Planned Unit Developments (PUD)), of the Big Lake Municipal Code is hereby amended to add the provisions with underlined text and delete provisions shown with a line through the text as follows:

1011.09: CONCEPT PUD PLAN PROCEDURE: The general processing steps for a PUD are intended to provide for an orderly development and progressions of the project with the greatest expenditure of developmental funds being made only after the City has had ample opportunity for informed decisions as to the acceptability of the various segments of the whole as the plan affects the public interest. The process for filing a Planned Unit Development (PUD) is outlined below:

Subd. 3. Concept PUD Plan. The applicant shall submit a Concept PUD Plan of the project to the Zoning Administrator. The Concept PUD Plan provides an opportunity for the applicant to submit a plan to the City showing the basic intent and the general nature of the entire development before incurring substantial cost. ~~The Concept PUD Plan serves as the basis for the public hearing so that the proposal may be publicly considered at an early stage.~~ The following elements of the proposed Concept PUD Plan represent the immediately significant elements which the City shall review and for which a decision shall be rendered:

SECTION 9. Chapter 10 (Zoning), Section 1005 (Appeals), of the Big Lake Municipal Code is hereby amended to add the provisions with underlined text and delete provisions shown with a line through the text as follows:

1005.06: APPEALS FROM THE BOARD OF ADJUSTMENT AND APPEALS: All decisions made by the City regarding zoning shall be final, except any person or persons, any private or public board, or taxpayer of the City aggrieved by any decision of the Board of Adjustment and Appeals shall have the right to seek review of the decision- appeal within thirty (30) days after delivery of the decision to the appellant, with a court of record in the manner provided by the laws of the State of Minnesota, and particularly Minnesota Statutes, Chapter 462, as such statutes may be from time to time amended, supplemented or replaced. Any person seeking judicial review under this ordinance must serve the City and all necessary parties, including any landowners, within the 30-day period defined above.

SECTION 10. This Ordinance shall be effective following its passage and summary publication.

Adopted by the Big Lake City Council this XX day of _____, 2020.

CITY OF BIG LAKE

Mayor Mike Wallen

Attest:

City Clerk Gina Wolbeck

*Drafted by:
City of Big Lake
160 North Lake Street
Big Lake, MN 55309*

STATE OF MINNESOTA)
) SS.
COUNTY OF SHERBURNE)

The foregoing instrument was acknowledged before me this ___ day of _____, 2020 by the Mayor and City Clerk of the City of Big Lake, a Minnesota municipal corporation, on behalf of the corporation.

Notary Public

Attachment D
Public Hearing Notice



-Public Notice Ad Proof-

This is the proof of your ad scheduled to run on the dates indicated below. Please proof read carefully if changes are needed, please contact us prior to deadline at Cambridge (763) 691-6000 or email at publicnotice@ecm-inc.com

Ad Proof

Enlarged

CITY OF BIG LAKE NOTICE OF PUBLIC HEARING FOR ORDINANCE AMENDMENT

You are hereby notified that the Big Lake Planning Commission will hold a public hearing to consider an ordinance amendment. The public hearing will be held in the Big Lake City Hall Council Chambers located at 160 Lake Street North on Wednesday, March 4, 2020, at or about 6:30 p.m.

Applicant:

City of Big Lake
160 Lake Street N
Big Lake MN 55309

Cities periodically undertake housekeeping ordinance amendments primarily to address three issues: accidental code inconsistencies, unclear code language, and errors in the code. City Planning staff have identified several sections of the City Code that need to be addressed through a housekeeping ordinance. Staff will go over the issues one by one and present a proposed solution at the public hearing. No actual substantive changes are being made to the Code with a housekeeping ordinance.

The Big Lake Planning Commission will formally review the proposed modifications to the zoning ordinance and will make a recommendation to the City Council.

Housekeeping Item #1: Unclear Language in Fence Ordinance Concerning Double-Frontage Lots

Housekeeping Item #2: Code Inconsistency Regarding Grading, Filling, and Excavating

Housekeeping Item #3: Errors in the R-5 Residential Redevelopment Zoning District Code

Housekeeping Item #4: Inconsistency Regarding Landscaping Setbacks

Housekeeping Item #5: Unclear Code Language Regarding Setbacks from Major Roads

Housekeeping Item #6: Unclear Code Rules Regarding Pond and Drainage Way Setback

Housekeeping Item #7: Inconsistent NorthStar TOD Area Setback Rules

Housekeeping Item #8: Inconsistency Relating to Public Hearings for PUD's

Housekeeping Item #9: Code Inconsistency related to Schulz v. Town of Duluth

Both oral and written comments will be considered by the Planning Commission. If you desire to be heard in reference to these matters, you should attend this hearing or submit written comments to City Hall prior to the hearing. Comments can be emailed to Consultant Planner Sara Roman at swoolf@biglakemn.org. Sara S.W. Roman, AICP
Planning Consultant
City of Big Lake

Published in the
Star News
February 22, 2020
1022941

Date:	02/13/20
Account #:	388115
Customer:	CITY BIG LAKE ~
Address:	160 LAKE STREET N BIG LAKE
Telephone:	(763) 263-2107
Fax:	(763) 263-0133

Ad ID:	1022941
Copy Line:	Ordinance Amend-PH
PO Number:	
Start:	02/22/20
Stop:	02/22/2020
Total Cost:	\$85.50
# of Lines:	82
Total Depth:	9.111
# of Inserts:	1
Ad Class:	150
Phone #	(763) 691-6000
Email:	publicnotice@ecm-inc.com
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AGENDA ITEM

Big Lake Planning Commission

Prepared By: <i>Hanna Klimmek, Community Development Director</i>	Meeting Date: 3/4/2020	Item No. 7D
Item Description: <i>Meeting Time Discussion</i>	Reviewed By: <i>Clay Wilfahrt, City Administrator</i>	
	Reviewed By: Click or tap here to enter text.	

ACTION REQUESTED

Discuss the possibility of changing the Planning Commission meeting time from 6:30 pm to 6:00 pm. If the Planning Commission would like to change the meeting time, a formal motion is requested.

BACKGROUND/DISCUSSION

During the February 5, 2020 Planning Commission meeting, Alan Heidemann (Chair) asked that a discussion regarding the regularly scheduled Planning Commission meeting time take place during the 3/4/20 meeting.

Commissioner Heidemann would like for the Planning Commission to explore the idea of starting at 6:00 pm rather than 6:30 pm.

FINANCIAL IMPACT

N/A

STAFF RECOMMENDATION

Discuss the possibility of changing the Planning Commission meeting time from 6:30 pm to 6:00 pm. If the Planning Commission would like to change the meeting time, a formal motion is requested.

ATTACHMENTS

N/A



Community Development Department Update

1. Business Retention & Expansion Visits:

01/06/19	Keller Lake Commons	01/31/20	Kensho Salon
01/2720	Options, Inc.		

2. Current Development Activity (as of 2/26/20):

Housing:

- Single-Family New Construction Issued Permits 2
- Single-Family New Construction in Review 1

- Multi-Family New Construction
 - Duffy Development - The Crossing at Big Lake Station Phase II
 - In construction
 - Kuepers, Inc. – Station Street Apartments - 105-unit multi-family, market rate new construction project
 - Pre-development
 - Sandhill Villas (HOA) – 12-unit development project
 - Pre-development
 - Avalon Estates – Approximately 120-unit development for 55+
 - Pre-development
 - *Actively working with Developers on two (2) additional concepts for multi-family development*

Commercial/Industrial:

- ❖ Minnco Credit Union – New Business / New Construction
 - In construction (plan to open by June 1, 2020)
- ❖ Car Condo Project – New Business / New Construction
 - Pre-development
- ❖ Wastewater Treatment Project - Expansion
 - Pre-development
- ❖ Vision Bus - Expansion
 - Pre-development
- ❖ Nystrom Associates Rehabilitation Facility
 - Pre-development
- ❖ *Actively working with Developers/Business Owners on three (3) additional new construction projects*

4. BLEDA:

- A Panel interviewed three candidates to facilitate the Community Brand and Identity Design Project. The Panel selected Como Lake Marketing Partners and recommended the BLEDA approve a Contract for Service.
- BLEDA Strategic Plan Committee will be meeting on March 16th to revise the Strategic Plan as it is a “working document.”
- The Telecommuter Forward! Certification Resolution is expected to be approved by City Council on 3/11/20.
- Aeon is asking for a Resolution of Support to submit two (2) tax credit applications to MN Housing to newly construct a 55-unit multi-family structure and a 70-unit apartment building for senior’s age 55+.
- During their November 12, 2019 meeting, the BLEDA entered into a Contract for Private Development with the Blackbird Group LLC to newly construct a laundromat facility on the corner of Martin and Fern.

5. Planning & Zoning:

- City Council appointed Big Lake’s new City Planner on 2/26/20.
- Preparing to hire a summer intern to facilitate code enforcement and assist with operating the Farmers Market.
- Public Hearing for a housekeeping ordinance is scheduled for the 3/4/20 Planning Commission Meeting.
- Public Hearing for the Avalon Estates Concept Plan Review is scheduled for the 3/4/20 Planning Commission Meeting – Open House is scheduled for 5:30 – 6:30pm, right before the meeting.
- Public Hearing for Style Catering (new business) to receive a CUP approval for use another CUP approval to allow for liquor sales.

6. Building:

- Working on hiring a Chief Building Official.

7. Other:

- Trisha Lindahl, Administrative Assistant, has resigned and her employment with the City ended on 2/28/20.
 - Sandy Petrowski will return to a full-time status on 3/16/20.
 - Working on re-designing and filling the part-time position within Community Development.

Staff will be attending the LMC Legislative Conference on March 18th and 19th – Meetings are set up with both Mary Kiffmeyer and Paul Novotny.