

AGENDA
BIG LAKE PLANNING COMMISSION MEETING
COUNCIL CHAMBERS
FEBRUARY 5, 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 January 6, 2020
- 7. BUSINESS**
 - 7A. PUBLIC HEARING: Vision Bus Code Amendment and CUP
 - 7B. PUBLIC HEARING: Wastewater Treatment Facility Application
 - 7C. PUBLIC HEARING: Ordinance Amendment for Nonconformity (Grandfather) Ordinance
 - 7D. PUBLIC HEARING: Ordinance Amendment for Detached Accessory Buildings
 - 7E. Housekeeping Ordinance Discussion
 - 7F. Parks Advisory Board Liaison
 - 7G. 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>2/5/2020</i>	Item No. 6A
Item Description: <i>January 6, 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 January 6, 2020 Big Lake Planning Commission Regular Meeting Minutes as presented.

BACKGROUND/DISCUSSION

The January 6, 2020 Planning Commission Regular Meeting Minutes are attached for review.

FINANCIAL IMPACT

N/A

STAFF RECOMMENDATION

N/A

ATTACHMENTS

01-06-20 Planning Commission Regular Meeting Minutes

**BIG LAKE PLANNING COMMISSION
REGULAR MEETING MINUTES**

JANUARY 6, 2020

- DRAFT MINUTES - NOT APPROVED

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIENCE

The Pledge of Allegiance was recited.

3. ROLL CALL

Commissioners present: *Alan Heidemann, *Scott Marotz, *Lisa Odens, *Dustin Vickerman, and *Scott Zettervall (*one vacant seat at this meeting). Commissioners absent: *Larry Sundberg. Also present: *City Planner Michael Healy, *Consultant Planner Sara S.W. Roman, *Community Development Director Hanna Klimmek, and *Recreation and Communication Coordinator Corrie Scott.

*Commissioner Odens left the Council Chambers at 6:47 p.m. and returned at 6:54 p.m.

4. ADOPT AGENDA

Commissioner Zettervall moved to adopt the agenda. Seconded by Commissioner Odens, unanimous ayes, agenda adopted.

5. OPEN FORUM

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

6. APPROVE MEETING MINUTES

6A. APPROVE REGULAR PLANNING COMMISSION MEETING MINUTES OF DECEMBER 4, 2019

Commissioner Heidemann motioned to approve the December 4, 2019 Regular Meeting Minutes. Seconded by Commissioner Zettervall, unanimous ayes, Minutes approved.

7. BUSINESS

7A. PUBLIC HEARING: PUBLIC HEARING FOR RESIDENTIAL TREATMENT CENTER APPLICATION (PUD CONCEPT PLAN) (PID 65-029-2101)

Consultant Planner Sara Roman reviewed the concept plan for a residential treatment facility submitted by Nystrom & Associates, Ltd. Roman reported that the facility will include 25-30 shared residential units on a 3.3-acre portion of an 11.82-acre parcel that bisected by a public roadway. The existing property is vacant agricultural land with no existing structures. There is currently a plat application under review for the entire 11.82-acre parcel that would turn this 3.3-acre portion into an outlot. A final plat application for Nystrom's project site, to replat from OUTLOT A to a buildable lot, cannot be reviewed or approved by the City until the plat application made by Kueper's Construction has been approved, all conditions have been satisfied, and the final plat has been recorded at Sherburne County.

The Applicant has provided the following additional details regarding their organization and their proposed facility:

- Nystrom & Associates, Ltd., are the leading behavioral health system in Minnesota with 16 clinics, serving communities across the state, and have been serving Big Lake for 3 years. They offer psychiatry, individual and family therapy services, drug and alcohol treatment and community based mental health services.
- There is an identified need in the Big Lake/Sherburne County area to provide residential drug and alcohol treatment for adults, and Nystrom proposes to fill that need with the construction of a sober residential treatment program that will deliver group therapy, individual therapy, educational groups, family involvement, and more.
- The program is NOT a "wet house." It is abstinence based, meaning there is no alcohol kept onsite. And the treatment program is totally "voluntary," meaning clients want to be in programming to get better and are motivated to stay sober.
- The building will be an apartment-style complex that will provide services for up to 50 people at a time, with an average length of stay of 45-60 days. The facility will have a fitness room, sport court, and other amenities for its residents.
- This facility will bring nearly 40 full-time jobs to the City of Big Lake.

Rezoning: The parcel is currently zoned A – Agricultural and it is located within the T.O.D. district that surrounds the Northstar Train Station. Section 1068.03 of the code states that all permitted uses in the B-2 Neighborhood Business District not already permitted in the Station Zone are allowed as a conditional use within the "Station Zone." The applicant is requesting a planned unit development overlay in order to receive flexibility on a number of items, including the use.

Lot Coverage:

- In the T.O.D. District, a minimum Lot Coverage of 60% of the net lot area is required.
 - This lot coverage may be reduced if a minimum of 40% of the lot is developed as improved public open space. The code also states a maximum lot coverage requirement of 85% of the net lot area. This lot

coverage may be increased to 100% for mixed use buildings.

- As proposed, the development does not meet the minimum impervious surface requirement and will need to be granted PUD flexibility.
- The applicant has not provided a lot coverage calculation, but will be required to provide this calculation for formal development review.

Setbacks: In the Station Zone, the following setbacks are required:

- Front Yard: Minimum of five (5) feet and a maximum of fifteen (15) feet for residential buildings without a mixed-use component
- Side Yard: Minimum of zero (0) feet and maximum of twenty-five (25) feet
- Rear Yard: Fifteen (15) feet
- Based on 1041.04 Subd. 4, which outlines setbacks for double frontage lots and corner lots:
 - the lot line abutting Forest Road and Station Street NW are considered front lot lines,
 - the lot line abutting County Road 43 S is considered a rear lot line
 - the lot line abutting the parcel to the south is considered a rear lot line

The site plan provided does not provide a setback measurement from property lines; these distances will be required to be provided for the Development Plan PUD/Preliminary Site Plan phase. Staff notes that the site plan provided is the second to be provided to the City, and the proximity of the building to the Forest Road and County Road 43 S has been increased, showing an effort by the applicant to provide a site plan in keeping with the general intent of the Station Zone.

Sidewalks: The concept plan currently shows a sidewalk along County Road 43 NW, Forest Road and Station Street NW. The code requires that sidewalks not less than five feet in width be constructed along the frontage of all public streets and that all sidewalks and walkways meet ADA requirements. The concept plan complies as drawn. A landscape plan and lighting plan were not submitted with the initial concept plan, but will be required in the final application.

Access: The County will not allow access onto County Road 43 when a local roadway is available for access. The applicant must revise the site plan to allow for access to the site and surface parking from either Station Street or Forest Road. The

Parking: The site plan proposes parking to be provided by a surface lot with 27 total parking stalls. In the T.O.D. District "Station Area," the following parking requirements are in place:

- Non-residential Uses: Not more than one (1) parking space per one hundred (100) square feet of gross building area.
- Residential Uses: A minimum of one (1) stall shall be provided per unit. A maximum of two (2) parking stalls per unit is allowed as a permitted use. Up to three (3) parking stalls per unit may be allowed by Conditional Use Permit.

Group Care Facilities are generally considered to be a residential use, although they are

commonly only permitted in commercial areas. As a residential use, per the parking requirements, 25-30 parking stalls would be required, dependent on the final number of units proposed.

Planning staff would like to note that in many cities, parking for group care facilities is based on the proposed number of employees as well as a ratio of residents, such as 1 parking space per employee plus 1 parking space per every 3 residents. The architect for the application, Wilkus Architects, has indicated that 27 parking stalls were included to accommodate staff parking and a small number of parking spaces for drop-off/pick-up of residents.

The applicant is seeking PUD flexibility for parking to allow for parking lots located within front yards or other yards which abut public streets. The parcel fronts three public streets: Forest Road, Station Street NW and County Road 43 S, so there is no ideal way to locate surface parking so that it would not abut a public street or be located in a front yard. In total, 2 bicycle parking spaces would be required. The applicant is not currently showing any bicycle parking spaces on the concept plan.

Building Height: The applicant has not provided elevations of the proposed building height, but the structure is shown in renderings as three stories. The code requires a minimum building height of two stories or 30 feet and a maximum of five stories or 60 feet, whichever is less, except as is allowed through the Conditional Use Permit process. Under these requirements, the proposed building height meets code standards.

Building Design Standards: The Zoning Code's Section 1040 contains different exterior material requirements for residential buildings and commercial buildings. It's unclear whether the Applicant's project should be considered a residential project or a commercial project in the application of these standards.

Section 1040 of the Zoning ordinance requires that at least 50% of each exterior elevation of a multi-family residential (apartment) building, exclusive of windows, entrance doors, garage doors or roof areas, must be constructed of brick or stone, or equivalent material approved by the City. There is no such requirement for commercial buildings. The applicant has not yet provided building material calculations for the proposed structure.

PUD Flexibility Requested: The Applicant is seeking a 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 applicant is seeking the following PUD flexibility with the Concept Plan, and additional flexibilities may be requested for development stage PUD:

- Permission to allow a Group Care Facility in the T.O.D. Station Zone.
- Permission to have less than the 60% minimum impervious surface coverage.

- Permission to have building setbacks that do not meet the 5-foot minimum or 25-foot maximum setback requirements.
- Permission to have main entrances set back more than five feet from the front property line.
- Permission to have parking lots located in front yards.
- Permission to provide building façades below the minimum material standards.
- Permission to not construct pedestrian amenities such as benches, public art, planters, trash receptacles, etc. located along sidewalks and in landscaped areas, open spaces and plazas.

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. Commercial and Industrial developments must dedicate 4% of the land being subdivided or pay a fee equal to 4% of the value of the land. It is at the City's discretion whether to require a land donation or allow the fee in lieu to be paid. In this case, the cash option is preferable as there is no need for parkland in the residential treatment center development.

In the case of this development, the resolution approving the Final Plat for the Station Street Apartments may defer the collection of park dedication fees on the outlot until such time as the outlot is final platted as a buildable lot for the proposed residential treatment facility.

Roman reported that the Fire Department, Police Department, and Planning Department are in general support of this project.

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. In particular, Roman suggested that the Planning Commission comment on the general nature of the use – and whether staff should review the use as residential or commercial, particularly while calculating development impact fees and determining the "base level" for exterior material requirements.

Commissioner Zettervall asked about the requirements for this kind of facility to change to a 'wet house.' Roman stated that Nystrom & Associates, Ltd. would have to apply through the City to make this change.

Chair Marotz opened the public hearing at 6:53 p.m.

Ketti Green commented that she feels this is something valuable for the Big Lake community. As a Sherburne County Sheriff's Department staff member, she sees that the community has a need for this type of facility.

One comment was submitted via email by a resident living at 19 County Road 43. The resident opposes this concept as in his opinion the facility would devalue his property

and he would like another location to be considered.

Chair Marotz closed the public hearing at 6:55 p.m.

Zettervall suggested that the submitted public commenter could potentially change his mind if the entrance to the facility was not directly from County Road 43.

Commissioner Zettervall and Chair Marotz stated that this facility should be classified as commercial. Commissioner Oden commented that 'fee-wise' it makes more sense to classify the facility as commercial, but that the facility should look more like an apartment building rather than a hotel. Roman commented that the code currently allows flexibility when facilities are classified as a commercial use, but they would also have flexibility because of the PUD. Healy confirmed that you can use the PUD to compromise between commercial and residential.

Zettervall asked if more stone should be requested. Marotz feels the concept is aesthetically pleasing as is. Heidemann stated that in the next phase the layout will change significantly due to the restructuring of the entrance.

Marotz made a final comment that this facility is being placed in an area that is undeveloped, which will help with potential buyers of surrounding land as they will be made aware of the facility before development of surrounding land begins.

7B. CANDIDATE INTERVIEWS FOR VACANT PLANNING COMMISSION SEAT

Hanna Klimmek explained that candidate interviews for the one (1) Planning Commission vacancy would be conducted one at a time and asked the interview candidates to step outside temporarily until they are called in for their interview. The order in which the candidates were interviewed was: 1) Kameron Hanson; 2) Ketti Green. Hanna Klimmek stated that Kendal Janousek applied but was not in attendance.

Both of the candidates were interviewed separately and were asked the same six (6) questions. After the interviews were concluded, the Commissioners ranked each of the candidates' interviews and staff tallied the rankings.

Chair Marotz thanked both candidates for applying/interviewing for the open seats and encouraged those not chosen to apply for future board openings. He reported that the Commission had selected Ketti Green to be recommended to the City Council for appointment to the open Planning Commission seat.

Commissioner Heidemann motioned to select Ketti Green to be recommended to the City Council for appointment to the open Planning Commission seat. Seconded by Commissioner Zettervall, unanimous ayes, motion carried.

7C. DISCUSSION: ORDINANCE AMENDMENT UPDATING THE CITY'S

NONCONFORMITY (GRANDFATHER) ORDINANCE

Update to the nonconformity (grandfather) ordinance. It was written in 2002, but the state statute was changed in 2004. The City's ordinance has overly strict rules for structures with setback nonconformities.

City Planner Michael Healy is suggesting three items be changed including 1) Big Lake only allows grandfathered structures and uses to be "repaired and maintained." Statute now requires that we also allow owners to "improve and replace" Still does not allow "expansion" and City gets to define expansion. 2) Big Lake's Code tries to amortize junk yards. Amortization of unwanted uses no longer allowed by Statute. 3) Code says a grandfathered use or structure cannot be rebuilt if it is destroyed beyond 50% of its value. We must allow a rebuild if a building permit is pulled within 180 days of the destruction. The only exception is in the Shoreland.

Most cities do not allow expansions of nonconforming uses, but they do allow expansions of nonconforming structures that contain conforming uses as long as the expansion meets Code. Big Lake does not allow expansion of ANY nonconformity and defines expansion as:

- Any alteration that expands the building's size
- Any alteration that changes the building's occupancy or parking capacity
- Any alteration that increases the # of bedrooms in a dwelling unit.

Healy recommended that the Planning Commission call a public hearing.

Commissioner Zettervall motioned to call a public hearing for an ordinance amendment to update the nonconformity ordinance. Seconded by Commissioner Vickerman. unanimous ayes, motion carried.

7D. DISCUSSION: MAXIMUM AREA OF DETACHED ACCESSORY BUILDINGS

City Planner Michael Healy stated that the zoning code doesn't treat attached and detached garages similarly. Prior to 2002, every household could have accessory buildings up to 10% of their property, but no more than two total. In 2002, every property was given an 1,800 square foot allowance. In 2016, a large lot property owner who was 'maxed out' wanted to build a workshop. He petitioned for a code amendment, and Council decided not to include attached garages in the allowance, but the total allowance was reduced to 1,200. Healy recognized that the revised ordinance benefits properties with attached garages. Healy's proposed 'fix' is to leave rules as is for houses with attached garages and allow properties without attached garages to go back to 1,800 square foot Properties with more than 1,200 square feet of detached accessory buildings cannot build an attached garage. Healy recommended that the Planning Commission call a public hearing.

Commissioner Zettervall motioned to motion to call a public hearing for an ordinance amendment to revise the area allowance for detached accessory buildings. Seconded

by Commissioner Odens, unanimous ayes, motion carried.

7E. 2020 CHAIR AND VICE-CHAIR POSITIONS

Chair Marotz reported that the positions of Planning Commission Chair and Vice-Chair for 2019 were held by Scott Marotz and Ketti Green, respectively, and that staff is asking for volunteers or nominations for these positions for 2020.

Commissioner Marotz proposed the nomination of Alan Heidemann as Planning Commission Chair for 2020. Commissioner Heidemann accepted the nomination.

Commissioner Zettervall motioned to recommend Alan Heidemann for Chair and Ketti Green for Vice-Chair. Seconded by Commissioner Odens unanimous ayes, motion carried.

7F. COMMUNITY DEVELOPMENT DEPARTMENT UPDATE

2019 Business Retention & Expansion Visits:

1/03/19	AutoStop	6/05/19	Industrial Molded Rubber
1/07/19	Bank of Elk River	7/23/19	Ice-O-Metric Contracting, Inc.
1/14/19	Keller Lake Commons	8/07/19	Big Lake Floral
1/14/19	Gess What's Cookin'	8/28/19	ProFusion
2/05/19	West Sherburne Tribune	9/06/19	Sherburne State Bank
2/15/19	Create & Connect Studio	10/01/19	Nystrom Associates
3/14/19	Lupulin Brewing Company	10/03/19	LISI MEDICAL Remmele
3/21/19	Russell's on the Lake	10/22/19	Arconic
4/01/19	Vision Transportation	10/29/19	Williams Dingmann Funeral Homes
4/10/19	Connexus Energy	11/05/19	Minnco Credit Union
5/09/19	Arcadian Salon	12/03/19	Horace Mann - Insurance
5/20/19	Freedom Strategy Group	12/03/19	Terning & Company, Inc.
5/28/19	Northstar Technologies	12/03/19	Kensho Salon
5/28/19	BP Athletics	12/03/19	Chainmail Joe
5/28/19	TJ's Packaging	12/03/19	Garnet Capital
5/28/19	Black Label	12/20/19	French Twist – Salon & Boutique

Current Development Activity (as of 1/2/20):

Housing:

- 2019 Single-Family New Construction Issued Permits 77
- 2020 Single-Family New Construction Issued Permits 0
- Single-Family New Construction in Review 1
- Current vacant residential platted lots 269
- 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
- ❖ Car Condo Project – New Business / New Construction
 - Pre-development
- ❖ Wastewater Treatment Project - Expansion
 - PUD Process – Pre-development
- ❖ Vision Bus - Expansion
 - Pre-development
- ❖ Nystrom Associates Rehabilitation Facility
 - Concept phase

BLEDA:

- Recommendations for revising the BLEDA Bylaws were presented to the BLEDA during their September meeting. Revisions will be brought to the Joint Powers Board on January 8, 2020.
- The BLEDA Strategic Plan has been revised to include a city-wide branding project to begin in 2020. The RFP will be issued on January 9, 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.
- 2018/2019 Countywide Commercial Industrial Growth (taxable value added):
 - Becker \$7,494,100
 - Elk River \$4,392,600
 - Princeton \$3,461,000
 - **Big Lake \$3,096,500**
 - Zimmerman \$2,893,400
 - Clear Lake \$571,000

Planning & Zoning:

- Michael Healy, City Planner, has accepted a planning position with the City of South St. Paul. His last day with the City of Big Lake is January 17, 2020. Community Development is accepting applications through January 6, 2020 hoping to have a new City Planner in place by the beginning of February.
- Working on an ordinance amendment updating the City's Non-conformity (Grandfather) Ordinance.
- Working on an ordinance amendment regarding the maximum area of detached accessory buildings.
- Working on a housekeeping ordinance to clean up the City Code.
- Preparing to hire a summer intern to facilitate code enforcement and fire/safety inspections for all multi-family units.

Building – Permit Fee Activity:

Permit Type	Permits Issued in Dec. of '19	2019 Total
Single-Family	3	77
Multi-Family	0	2
Commercial New / Remodel / Addition	1	22
Remodel / Decks / Misc.	9	247
HVAC / Mechanical	6	74
Plumbing	5	62
Zoning	1	133
Engineering	0	8
TOTAL	25	625

	Permit Fee	Plan Review	TOTAL
Total Fees in Dec.	\$10,625.30	\$3,506.03	\$14,131.33

2019 Total Valuation	2019 Permit Fee + Plan Review
\$35,308,205.07	\$450,899.99

Other:

- Clay Wilfahrt and Hanna Klimmek will be meeting with Planning Commission, BLEDA, and Parks Board officers to work on 2020 goal setting

8. PLANNER'S REPORT

City Planner Michael Healy thanked the Big Lake Planning Commission for working with him over the years. The Planning Commission thanked Healy and congratulated him on his new City Planner position in South St. Paul.

9. COMMISSIONERS' REPORTS – None.

10. OTHER – None.

11. ADJOURN

Commissioner Odens motioned to adjourn at 8:02 p.m. Seconded by Commissioner Vickerman, unanimous ayes, motion carried.



AGENDA ITEM

Big Lake Planning Commission

Prepared By: Sara S.W. Roman, AICP Consultant Planner	Meeting Date: 2/5/2020	Item No. <div style="text-align: center; font-size: 1.5em; font-weight: bold;">7A</div>
Item Description: Public Hearing for a Code Amendment to Amend the Provisions for Commercial Vehicle Sales, leasing (trucks and buses only) as a conditional accessory use & for a Conditional Use Permit and Site Plan Application at 16676 197th Ave NW (PID 65-557-0105)	Reviewed By: Hanna Klimmek, Community Development Director <hr/> Reviewed By: Corrie Scott, Recreation and Communication Coordinator	

60-DAY REVIEW DEADLINE: March 06, 2020
120-DAY REVIEW DEADLINE: May 05, 2020

ACTION REQUESTED

- Code Amendment to amend the provisions for Commercial Vehicle Sales as a Conditional Accessory Use
- A Conditional Use Permit to allow bus sales

BACKGROUND/DISCUSSION

APPLICATION:

The applicant, Vision Enterprises/United Bus Sales, has 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.

BACKGROUND:

Prior Approvals

In 2007, Vision Bus was granted a Conditional Use Permit to store sixteen buses on site. The City Code no longer allows CUP’s for outside storage, so this use is “grandfathered.” Until 2017, the sale of any type of vehicle was not an allowable use in the I-2 General Industrial Zoning District. In that year, the same

applicant, Vision Transportation and United Bus Sales, petitioned the City of Big Lake to amend the zoning code to allow this type of use in the I-2 district. The Joint Planning Board held a public hearing for the proposed ordinance amendment on November 1, 2017. They motioned to recommend that the City Council approve an amendment to the City’s zoning code that would allow the sale of commercial vehicles (buses and trucks only) as a conditional accessory use in the I-2 General Industrial Zoning District. The Board agreed with Staff that the industrial districts should not be used for car sales lots but that it would be appropriate to allow small quantities of commercial vehicles to be sold as an accessory use to an existing business. The Joint Planning Board felt that these types of sales would generate very little traffic since customers would not be performing frequent test drives and many transactions would take place online. The Joint Planning Board recommended approval of the ordinance amendment, and the applicant applied for a conditional use permit under the new code requirements. The Conditional Use Permit allowed the sale of 4 school-bus vehicles on the property. A public hearing for the Conditional Use Permit was held by the Joint Planning Board on December 13, 2017 and they recommended approval of the CUP contingent on the City Council approving the ordinance amendment. The City Council then approved the ordinance amending Chapter 10 of the Big Lake City Code to allow commercial vehicle sales as an accessory use with a conditional use permit in the I-2 General Industrial District and a Conditional Use Permit for bus sales as an accessory use at Vision Transportation and United Bus Sales.

CODE AMENDMENT:

The Applicant, Vision Enterprises/United Bus Sales, is seeking to expand bus sales at their existing location, and to expand their paved parking area to accommodate the additional bus sales. 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 greatly exceeds what the ordinance currently allows so the project is ineligible for a CUP amendment. City staff recommended that the applicant apply for a Code Amendment rather than a Variance, because there is no “practical difficulty” in this case.

Existing Code Regarding Commercial Vehicle Sales in the I-2 District

This excerpt from the Big Lake zoning code states the City’s existing policy for commercial vehicle sales in the I-2 District:

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.

1. Accessory use. The sale of commercial vehicles is an accessory use.
2. Area limit. Outside vehicle sales connected with the principal use is limited to thirty (30) percent of the gross floor area of the principal use.

3. Screened from Residential. Outside vehicle sales areas are fenced or screened from view of neighboring residential uses or an abutting "r" District in compliance with Section 1027 (Landscape, Screening, and Tree Preservation) of this ordinance.
4. Lighting Shielded. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and be in compliance with Section 1032 (Performance Standards) of this Ordinance.
5. Surfacing. Sales area is surfaced with asphalt or concrete to control dust, mud and to provide clean, and usable surface.
6. Required Plans. A detailed site plan conforming to the requirements of Section 1013 (Site Plans) of this Ordinance shall be submitted. Said site plan shall also illustrate the location of outdoor sales and storage areas.
7. Parking. In addition to the required parking for the principal use or activity, one (1) off-street parking stall for every one thousand (1,000) square feet of outdoor motor vehicle sales area shall be required. Areas used for outdoor sales shall be separated from the required off-street parking stalls. The required off-street parking shall not be used for outdoor sales or storage.

Proposed Ordinance Amendment

In order to allow Vision Enterprises/United Bus Sales bus to expand outside vehicle sales, as proposed, the provision limiting the area would need to be changed. Using the calculation for floor area as defined by the Code, the applicant is currently allowed roughly 9,600 square feet of bus sales area, and they are proposing roughly 30,750 square feet of bus sales in total (2,000 sf existing + 28,750 sf proposed). Staff recommends the following code amendment to accommodate the applicant's request:

**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.

Staff Recommendation on Ordinance Amendment

Staff acknowledges that the request by Vision Enterprises/United Bus Sales is a large expansion of the existing area limit. However, staff 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. Staff believes that the Planning Commission should weigh the pros and cons of allowing the 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%. The Planning Commission essentially has three options 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.

CONDITIONAL USE PERMIT AND SITE PLAN REVIEW

Interaction with Existing Conditional Use Permits

The Applicant already has a Conditional Use Permit that allows the outdoor storage of up to 16 school-buses. This Conditional Use Permit pre-dates the Interim Use Permit process to regulate outdoor storage in the City of Big Lake. Staff would note that the display of buses that are being offered for sale would not be considered open outdoor storage. The Zoning Code defines this type of display separately as an “Open Sales Lot” which is any open land used or occupied for the purpose of buying, selling, and/or renting merchandise and for the storing of same prior to sale.

The applicant also has a Conditional Use Permit to allow commercial vehicle sales. The existing Conditional Use Permit allows the display of 4 for-sale school-buses on the property.

If this CUP is approved as proposed, the Applicant will still be able to store up to sixteen buses outdoors and they will also be allowed to display up to 39 (4 existing + 35 additional) buses for sale as shown on the attached site plan. Three CUPs will be attached to this property.

Parking

The ordinance states that one (1) additional off-street parking stall is required for every 1,000 square feet of outdoor motor vehicle sales area. The proposed display area will be roughly 28,750 square feet which would require 29 parking stalls. The site has ample existing parking to accommodate the proposed use:

-Parking Requirements-		
Use Square Footage	Requirement	#
4,320 Office (-10% (Mech./Rest.))	3 plus 1 stall for every 300 square feet	16
8,160 Vehicle Repair	4 plus 3 stalls for each service bay	19
2,000 Vehicle Sales (existing)	1 per 1,000 feet of display area	2
28,750 Vehicle Sales (proposed)	1 per 1,000 feet of display area	29
	Total Required	66
	Total Existing	75

Landscaping

The Applicant is seeking to display the for-sale buses in a lot to the east of the existing building and parking areas where they will be clearly visible from the street. The applicant is proposing landscaping on the perimeter of the proposed parking area, to meet the landscaping requirements of the City Code, which requires visually appealing landscaping. When reviewing the landscape plan, the City must assume that Vision Bus could/will sell the lot to the East in the future for development. Staff reviewed the landscape plan to ensure that the proposed parking lot areas are sufficiently landscaped to not have a blighting impact on neighboring properties.

The applicant is proposing the following landscaping at the perimeter of the new parking area:

- 6 deciduous trees
- 7 coniferous trees
- 24 shrubs

This landscaping is in addition to the existing landscaping installed on site. 41 trees were planted, required, as part of the original Vision Development in 2007.

Conditional Use Permit Considerations

The Planning Commission is asked to consider the CUP application and the possible adverse effects of the proposed conditional use permit. The judgment of the Planning Commission regarding 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 industry and industrial uses. While it would not be appropriate to have a commercial car sales lot in this zoning district, Staff believes that it is appropriate for an industrial user to sell large commercial/industrial vehicles. This use is currently

allowed by code but would be allowed to be expanded under the ordinance amendment and CUP amendment.

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

The proposed action will meet the intent of the ordinance if the City Council approves the proposed ordinance amendment. If the Ordinance amendment is not passed, this action will be rendered ineffective.

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

The proposed use can easily be accommodated with existing roads which already accommodate a great deal of bus traffic. No additional utility service will be required, and storm water will be handled on site.

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

The adjacent uses are all industrial. A buffer yard is not needed.

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

This area is guided for industrial uses and the proposed use is compatible.

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

The proposed use conforms with the performance standards contained in the proposed ordinance amendment. The use is approved contingent on the ordinance amendment being approved by the Big Lake City Council.

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

Very limited traffic that will be produced by the proposed use. The proposed use should not exceed traffic capabilities of the streets serving the property.

Furthermore, in Industrial Districts, the following additional considerations are to be made:

- a. Nuisance. Nuisance characteristics generated by the use will not have an adverse effect upon existing and future development in adjacent areas.

The use will not produce any new nuisance characteristics. Buses are already being stored and displayed outside at this site.

- 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 Recommendation on Conditional Use Permit

If the Ordinance Amendment is recommended for approval as proposed or recommended for approval in an amended form that still allows the applicant to proceed as proposed, the Conditional Use Permit requirements are considered to be satisfied by Planning Staff.

Staff recommends approval of the proposed Conditional Use Permit with the following conditions:

1. The Conditional Use Permit's approval is contingent on the Big Lake City Council approving an ordinance amendment to allow the proposed use as a Conditional Use in the I-2 General Industrial zoning district with amended provisions. If the ordinance amendment is not passed, this Conditional Use Permit shall be made invalid.
2. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and be in compliance with Section 1032 (Performance Standards) of this Ordinance.
3. The sales area shall be surfaced with asphalt or concrete to control dust, mud and to provide clean, and usable surface. For-sale buses must not be parked on grass or landscaping.
4. The display of for-sale buses shall not be permitted to block any entrances to the site.
5. The Applicant may display up to thirty-five (35) for-sale buses in the eastern-most parking area as shown on the attached site plan. They will continue to be allowed to store up to sixteen (16) additional buses outside in their outdoor storage area, in accordance with their Conditional Use Permit from 2007. Further, they will continue to be allowed up to four (4) for-sale buses in the area in front of the building, in accordance with their Conditional Use Permit from 2017. Any additional outdoor sales area or additional outdoor storage will require formal approval through a modification of the Conditional Use Permits.
6. Outdoor storage of buses will continue to only be allowed on asphalted surfaces, per the 2007 Conditional Use Permit for outdoor storage.
7. The Applicant is responsible for obtaining a sign permit for any new signage. All signage must comply with the City's sign ordinance.
8. The sale of commercial vehicles is allowed as an accessory use only. The Applicant must continue to maintain a principal use at the site. Outside vehicle sales connected with the principal use is limited to the area allowable under code.
9. Any additions/modifications as required by the Planning Commission, City Council, City Staff, or any other individuals responsible for review of this application.

FINANCIAL IMPACT

NA

STAFF COMMENTS

Engineering and Public Works:

Bolton and Menk prepared a comment letter, dated January 29, 2020 (Attachment D).

Fire Department

No comment.

Police Department

No comment.

STAFF RECOMMENDATION

Planning staff is supportive of this project and recommends approval of the ordinance amendment and the conditional use permit. The proposed additional school-bus sales do not have a detrimental effect on the surrounding properties and supports the growth of a local business.

The Planning Commission should weigh the pros and cons of amending the provisions of the conditional use for commercial vehicle sales and make a recommendation to Council. The Planning Commission may recommend text amendments to the attached resolution and ordinance. Those recommendations would be forwarded to City Council for review.

Action Needed

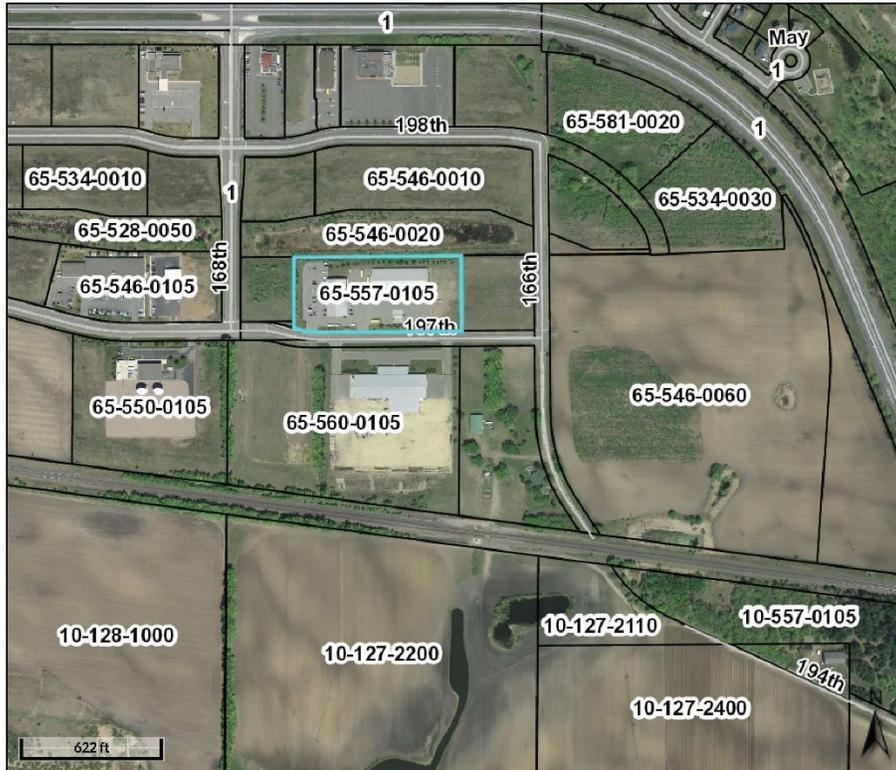
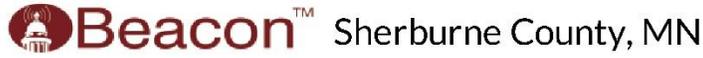
A motion is needed to recommend that the City Council approve or deny the proposed ordinance amendment to allow commercial vehicle sales with revised provisions. A motion is also needed to recommend that the City Council approve or deny the proposed Conditional Use Permit for commercial vehicle sales. The City Council will be acting on both applications at their next meeting unless the Planning Commission denies the ordinance amendment and directs staff to revise the ordinance amendment.

Note: If the application for the ordinance amendment is recommended for denial, the conditional use permit must be recommended for denial. If substantial changes are recommended and staff is directed to re-write the ordinance, the conditional use permit application may be tabled. Non-substantial changes to the ordinance may be forwarded as recommendations and the conditional use permit should be recommended for approval.

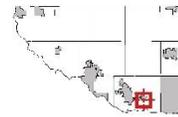
ATTACHMENTS

- Attachment A: Aerial Site Location Map
- Attachment B: Site Plan
- Attachment C: Landscape Plan
- Attachment D: Public Hearing Notice
- Attachment E: Engineers Memorandum dated January 29, 2020.
- Attachment F: Draft Ordinance amending Chapter 10 of the Big Lake City Code, commercial vehicle sales
- Attachment G: Draft Resolution approving the Conditional Use Permit for bus sales as proposed as an accessory use at Vision Transportation and United Bus Sales
- Attachment H: Draft Resolution approving the Summary Publication of Ordinance 2020-XX Amending Chapter 10 of the Big Lake City Code, commercial vehicle sales

Attachment A
Site Location Map



Overview



Legend

- Roads
- ▭ Parcels
- Streams

Parcel ID	65-557-0105	Alternate ID	n/a	Owner Address	16676 197TH AVE NW
Sec/Twp/Rng	21-33-27	Class	234-Industrial Preferred		BIG LAKE MN 55309
Property Address	16676 197TH AVE NW	Acreage	5.28		
	BIG LAKE				
District	BIG LAKE CITY				
Brief Tax Description	n/a				
	<i>(Note: Not to be used on legal documents)</i>				

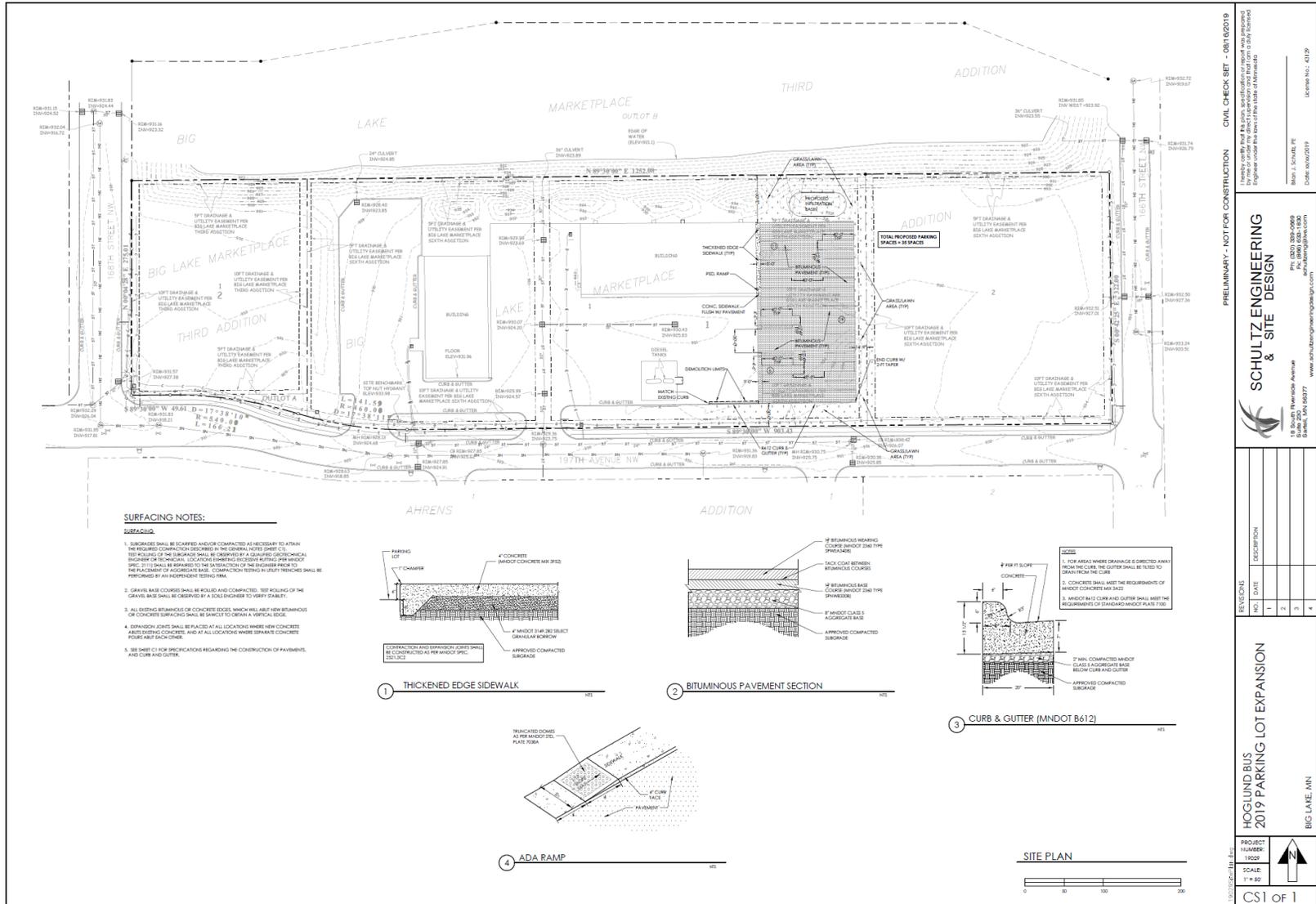
Disclaimer: Every attempt has been made to ensure that the information contained on this web site is valid at the time of publication. Sherburne County reserves the right to make additions, changes, or corrections at any time and without notice. Additionally, Sherburne County disclaims any and all liability 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: 1/29/2020
Last Data Uploaded: 1/29/2020 2:53:37 PM

Developed by Schneider
GEO SPATIAL

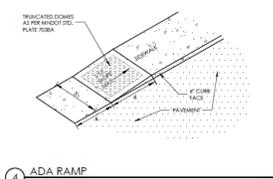
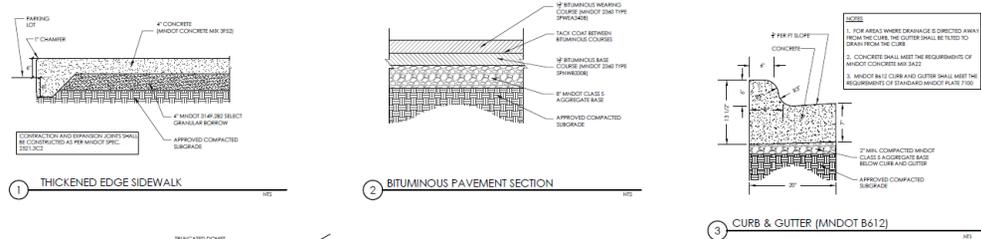
Attachment B Proposed Site Plan



SURFACING NOTES:

NOTES:

1. SURFACES SHALL BE SCARIFIED AND/OR COMPACTED AS NECESSARY TO ATTAIN THE REQUIRED COMPACTION DESIRED IN THE GENERAL NOTES SHEET C1. THE FINISH OF THE SURFACE SHALL BE OBSERVED BY A QUALIFIED GEOTECHNICAL ENGINEER OR TECHNICIAN. LOCATION DIMENSIONS SHOWN ALONG PER MNDOT SPEC. 111 SHALL BE REFERRED TO THE SATISFACTION OF THE ENGINEER. PROVIDE THE REQUIREMENT OF AGRICULTURAL BASE. COMPACTION TESTING IN USURY TRACKS SHALL BE PERFORMED BY AN INDEPENDENT TESTING FIRM.
2. GRAVEL BASE COURSE SHALL BE ROLLED AND COMPACTED. TEST ROLLING OF THE GRAVEL BASE SHALL BE OBSERVED BY A SOILS ENGINEER TO VERIFY DENSITY.
3. ALL BEARING MEMBERS OF CONCRETE DECK WHICH WILL BE NEW MEMBERS OR CONCRETE SURFACING SHALL BE SAWCUT TO OBTAIN A VERTICAL EDGE.
4. EXPANSION JOINTS SHALL BE PLACED AT ALL LOCATIONS WHERE NEW CONCRETE MEETS EXISTING CONCRETE AND AT ALL LOCATIONS WHERE SPANNE CONCRETE JOINTS MEET EACH OTHER.
5. SEE SHEET C1 FOR PRESCRIPTIONS REGARDING THE CONSTRUCTION OF PAVEMENTS, AND CURB AND GUTTER.



SITE PLAN

PRELIMINARY - NOT FOR CONSTRUCTION

SCHULTZ ENGINEERING & SITE DESIGN

18 South Westdale Avenue
Barnes, MN 56337
www.schultz-engineering.com

PROJECT NUMBER: 1708P
SCALE: 1/4" = 1'-0"
CS1 of 1

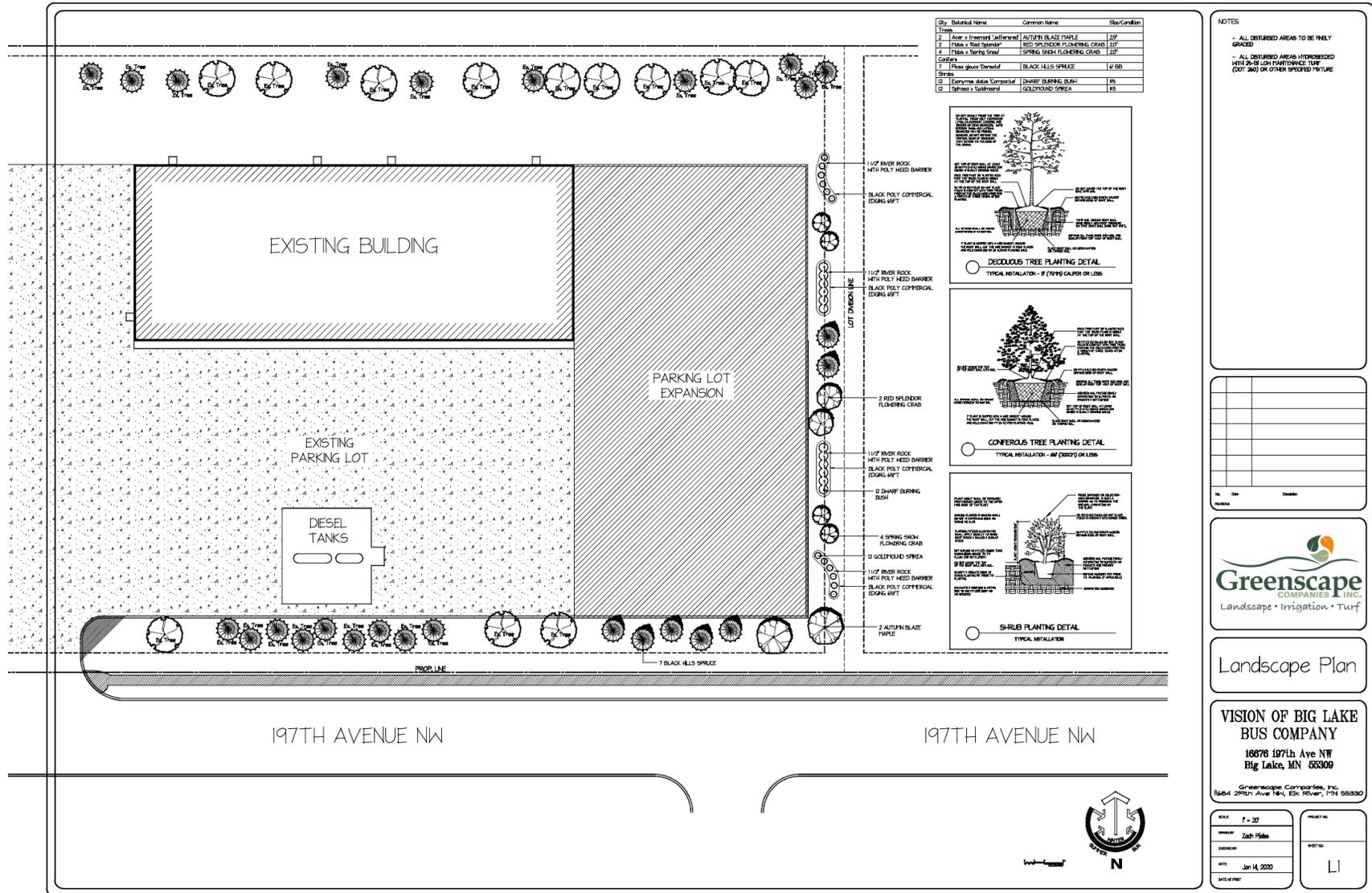
CIVIL CHECK SET - 08/18/2019

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Engineer under the laws of the State of Minnesota.

Matt J. Schulte, PE
Date: 08/18/2019 License No.: 41139

NO.	DATE	DESCRIPTION
1		
2		
3		
4		

Attachment C Proposed Landscape Plan



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 AN ORDINANCE
AMENDMENT,
CONDITIONAL USE PERMIT
AMENDMENT AND SITE
PLAN REVIEW FOR "VISION
ENTERPRISES/UNITED
BUS SALES PARKING
LOT EXPANSION"**

You are hereby notified that the Big Lake Planning Commission will hold a public hearing in order to consider development applications pertaining to a project known as "Vision Enterprises/United Bus Sales Parking Lot Expansion". The public hearing will be held in the Big Lake City Council Chambers located at 160 Lake Street North, Big Lake, MN on: **Wednesday, February 5, 2020 at or about 6:30 p.m.**

Applicant:

Monique Hoglund Bergan
Parcel Identification Number:
65-557-0105

The Applicant is seeking approval of several development applications relating to a proposal to allow expanded bus sales in the I-2 General Industrial Zoning District and to construct an expansion for an existing parking lot at 16676 197th Ave NW to accommodate additional bus sales.

At present, the Applicant has been granted permission to have bus sales on the premises only up to 30% of the floor area of the principal use or roughly 9,600 square feet of bus sales area based on the floor area of the existing structures. This use is regulated under a conditional use permit (CUP). The applicant is seeking a code amendment to allow bus sales as a larger side business or bus sales as a principal business.

The Applicant has applied for the following approvals:

- An Ordinance Amendment to the I-2 General Industrial Zoning District to allow United Bus's expansion project to proceed as proposed
- A Conditional Use Permit to allow an expansion of bus sales and surface parking lot.
- A Site and Building Plan review

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 S.W. Roman, Consultant Planner at 612-638-0227 or swoolf@biglakermn.org.

Published in the
Monticello Times
January 23, 2020
1014700

Date: 01/14/20
Account #: 388115
Customer: CITY BIG LAKE ~

Address: 160 LAKE STREET N
BIG LAKE
Telephone: (763) 263-2107
Fax: (763) 263-0133

Publications:
Monticello Times

Ad ID: 1014700
Copy Line: Ord Amend CUP Vision Bus-PH
PO Number:
Start: 01/23/20
Stop: 01/23/2020
Total Cost: \$0.00
of Lines: 75
Total Depth: 8,333
of Inserts: 1
Ad Class: 150
Phone #: (763) 691-6000
Email: publicnotice@ecm-inc.com
Rep No: SM700

Contract-Gross

Attachment E
Engineers Memorandum dated January 29, 2020.



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

January 29, 2020

Sara Woolf, Consultant City Planner
via e-mail: swoolf@biglakemn.org

RE: Hoglund Bus 2019 Parking Lot Expansion
City of Big Lake, Minnesota
Project No.: W18.120307

Dear Sara,

We have reviewed the plans dated 08/16/2019 and drainage calculations dated 01/27/2020 which were submitted for the above referenced project and have the following comments:

1. The applicant shall enter into a Stormwater Maintenance Agreement for the proposed infiltration basin on the property.
2. The proposed infiltration basin shall be contained within an easement.
3. The proposed infiltration basin shall be seeded with MnDOT seed mix 35-221.
4. Final construction plans shall be signed and dated.
5. The applicant shall reconcile the Water Quality (WQ) volume and impervious areas identified in the plans with the drainage report.
6. The undeveloped portion of DAI and volumes in excess of the WQ volume should be bypassed.
7. The hydraulic report should be modified to model the parking lot impervious area as directly connected impervious area to better understand the outlet hydraulics and potential pond bounce.
8. Confirmation of the rainfall distribution used in the Hydro CAD model shall be provided.
9. The proposed orifice outlet should be modeled as the area of the orifice opening, factoring in any loss of capacity due to the grate.
10. Revised plans shall be labeled "Final Plans for Construction" and shall be signed.
11. All construction shall be in accordance with the City of Big Lake Standards.

We recommend the above requested information be submitted with the final construction plans 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 Voge, P.E.
Principal Engineer

II:\BGLR\W18120307\1_Comes\C_To Others\2020-01-29 120307 Woolf\Hoglund Bus Parking Lot Review.docx

Bolton & Menk is an equal opportunity employer.

Attachment F

Draft Ordinance amending Chapter 10 of the Big Lake City Code, commercial vehicle sales

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

**AN ORDINANCE AMENDING CHAPTER 10 (ZONING) OF THE BIG LAKE CITY
CODE AMENDING SECTION 1061 (I-2 GENERAL INDUSTRIAL DISTRICT) TO
ALLOW COMMERCIAL VEHICLE SALES AS AN ACCESSORY USE WITH A
CONDITIONAL USE PERMIT**

THE CITY COUNCIL OF BIG LAKE ORDAINS:

SECTION 1. Chapter 10 (Zoning), Section 1061, (I-2 General Industrial 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 1061 – I-2, GENERAL INDUSTRIAL DISTRICT

1061:05: CONDITIONAL USES: Subject to the applicable provisions of this Ordinance, the following are conditional uses in an I-2 District. (Requires a conditional use permit based upon the procedures set forth in and regulated by Section 1007 (Conditional Use Permits) and Section 1032 (Performance Standards) of this Ordinance.

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

1. Accessory use. The sale of commercial vehicles is an 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.
3. Screened from Residential. Outside vehicle sales areas are fenced or screened from view of neighboring residential uses or an abutting "r" District in compliance with Section 1027 (Landscape, Screening, and Tree Preservation) of this ordinance.

4. Lighting Shielded. Lighting Shielded. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and be in compliance with Section 1032 (Performance Standards) of this Ordinance.
5. Surfacing. Sales area is surfaced with asphalt or concrete to control dust, mud and to provide clean, and usable surface.
6. Required Plans. Required Plans. A detailed site plan conforming to the requirements of Section 1013 (Site Plans) of this Ordinance shall be submitted. Said site plan shall also illustrate the location of outdoor sales and storage areas.
7. Parking. In addition to the required parking for the principal use or activity, one (1) off-street parking stall for every one thousand (1,000) square feet of outdoor motor vehicle sales area shall be required. Areas used for outdoor sales shall be separated from the required off-street parking stalls. The required off-street parking shall not be used for outdoor sales or storage.

SECTION 3. This Ordinance shall be effective following its passage and summary publication.

Adopted by the Big Lake City Council this ___th day of February, 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 January, 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 G

Draft Resolution approving the Conditional Use Permit for bus sales as proposed as an accessory use at Vision Transportation and United Bus Sales

**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, February 26, 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
VISION ENTERPRISES LLC**

WHEREAS, the City of Big Lake Planning Commission reviewed the conditional use permit and site plan on February 5, 2020; and

WHEREAS, the Planning Commission conducted a public hearing on February 5, 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: Lot 1, Block 1, Big Lake Marketplace Sixth Addition, Sherburne County, Minnesota. (formerly known as Outlot C, Big Lake Marketplace Third Addition)
- B. The above legal description has been rezoned from I-1 (Industrial Park) to I-2 (General industrial) prior to the approval of these conditions use permits per City Ordinance No. 2007-02.
- C. The Site Location Map showing the project location within the City is attached as Exhibit A.
- D. The applicant's site plan is attached as Exhibit B.
- E. The applicant's landscape plan is attached as Exhibit C.
- F. 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.
- G. The proposed action meets the purpose and intent of this Ordinance and the intent of the underlying zoning district.
- H. The proposed use is or will be compatible with present and future land uses of the area.
- I. The proposed use will conform to all performance standards contained within this Ordinance.
- J. There is an adequate buffer yard or transition provided between potentially incompatible uses or districts.
- K. The structure will have an appearance that will not have an adverse effect upon nearby residential properties.
- L. Nearby residentially-zoned land will not be adversely affected because of noise, smell or other nuisance characteristics associated with the accessory structures.
- M. Traffic generated by this proposal is within the capabilities of site's parking and streets servicing the site.
- N. The proposed use will not cause traffic hazards or congestion.
- O. Properties values abutting the subject site will not depreciate from the proposed use.

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

Vision Enterprises LLC
CUP Res.
Page 2

- 1) A Conditional Use Permit for the commercial vehicle sales for 39 school-bus vehicles.

The conditional use permit and site plan are further subject to the following conditions and statements:

1. The Conditional Use Permit's approval is contingent on the Big Lake City Council approving an ordinance amendment to allow the proposed use as a Conditional Use in the I-2 General Industrial zoning district with amended provisions. If the ordinance amendment is not passed, this Conditional Use Permit shall be made invalid.
2. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and be in compliance with Section 1032 (Performance Standards) of this Ordinance.
3. The sales area shall be surfaced with asphalt or concrete to control dust, mud and to provide clean, and usable surface. For-sale buses must not be parked on grass or landscaping.
4. The display of for-sale buses shall not be permitted to block any entrances to the site.
5. The Applicant may display up to thirty-five (35) for-sale buses in the eastern-most parking area as shown on the attached site plan. They will continue to be allowed to store up to sixteen (16) additional buses outside in their outdoor storage area, in accordance with their Conditional Use Permit from 2007. Further, they will continue to be allowed up to four (4) for-sale buses in the area in front of the building, in accordance with their Conditional Use Permit from 2017. Any additional outdoor sales area or additional outdoor storage will require formal approval through a modification of the Conditional Use Permits.
6. Outdoor storage of buses will continue to only be allowed on asphalted surfaces, per the 2007 Conditional Use Permit for outdoor storage.
7. The Applicant is responsible for obtaining a sign permit for any new signage. All signage must comply with the City's sign ordinance.
8. The sale of commercial vehicles is allowed as an accessory use only. The Applicant must continue to maintain a principal use at the site. Outside vehicle sales connected with the principal use is limited to the area allowable under code.
9. 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 26th of February, 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
- Exhibit B – Applicant’s Site Plan
- Exhibit C – Applicant’s Landscape Plan

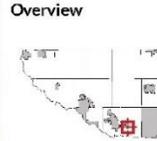
Drafted By:
City of Big Lake
160 North Lake Street
Big Lake, MN 55309

STATE OF MINNESOTA)
) SS.
COUNTY OF WRIGHT)

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

EXHIBIT A VISION ENTERPRISE LLC – SITE LOCATION MAP



- Legend**
- Roads
 - Parcels
 - Streams

Parcel ID	65-557-0105	Alternate ID	n/a	Owner Address	16676 197TH AVE NW
Sec/Twp/Rng	21-33-27	Class	234-Industrial Preferred		BIG LAKE MN 55309
Property Address	16676 197TH AVE NW	Acres	5.28		
	BIG LAKE				
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: 1/29/2020
Last Data Uploaded: 1/29/2020 2:53:37 PM



Attachment H
Draft Resolution approving the Summary Publication

**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, February 26, 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 _____.

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

**RESOLUTION APPROVING SUMMARY PUBLICATION OF ORDINANCE NO. 2020-XX
AMENDING CHAPTER 10 (ZONING) TO ALLOW COMMERCIAL VEHICLE SALES AS AN
ACCESSORY USE IN THE I-2 GENERAL INDUSTRIAL DISTRICT WITH A CONDITIONAL
USE PERMIT**

WHEREAS, the City Council has adopted an ordinance amendment; and that amendment allows businesses in the I-2 General Industrial District to operate commercial vehicle sales (trucks and buses only) as an accessory use with a Conditional Use Permit; and

WHEREAS, as authorized by Minnesota Statutes, Section 412.191, subd. 4, the City Council has determined that publication of the title and summary of Ordinance No. 2020-XX will clearly inform the public of the intent and effect of the Ordinance; and

WHEREAS, a printed copy of the Ordinance is available for inspection during regular office hours in the office of the City Clerk.

NOW THEREFORE, BE IT RESOLVED that the following summary of Ordinance No. 2020-XX is approved for publication:

**CITY OF BIG LAKE, MINNESOTA
ORDINANCE NO. 2020-XX**

The Big Lake City Code is amended to allow businesses in the I-2 General Industrial District to operate commercial vehicle sales as an accessory use with a Conditional Use Permit. Only the sale of commercial trucks and buses is allowed and there are several site requirements placed upon vehicle sales operations. A printed copy of the Ordinance is available for inspection during regular office hours in the office of the City Clerk.

Adopted by the Big Lake City Council on the 26th of February, 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.

STATE OF MINNESOTA)
) SS.
COUNTY OF SHERBURNE)

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

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



AGENDA ITEM

Big Lake Planning Commission

Prepared By: Sara S.W. Roman, AICP Consultant Planner	Meeting Date: 2/5/2020	Item No. 7B
Item Description: Public Hearing for Big Lake Waste Water Treatment Facility Application (PUD Concept Plan) (PID 65-031-3405, 65-031-4302, 65-006-1201 and 65-031-3410)	Reviewed By: Hanna Klimmek, EDFP, Community Development Director Reviewed By: Corrie Scott, Recreation and Communication Coordinator	

60-DAY REVIEW DEADLINE: March 15, 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:

The Applicant, 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.

BACKGROUND:

The original wastewater treatment facility was constructed in 1981 and was updated in 1996, and 1999, and a new facility began operating in 2012. It appears that 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:

- 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.

- 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.
- 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.
- The PUD will regulate, if necessary, the existing communications tower located on the property.

PROPOSED DEVELOPMENT:

The proposal will consist of internal upgrades to the waste water treatment facility as well as some external upgrades, most notably an additional clarifying pond and the expansion of existing fencing surrounding the clarifying pond area (see **Attachment D**). This improvement is necessary for the growth of the City. The expansion also addresses regulatory requirements of the State of Minnesota.

CONCEPT PLAN ANALYSIS

PROPERTY CHARACTERISTICS:

Two of the existing 4 parcels are currently vacant. The remaining 2 parcels contain the existing waste water treatment facility structures and exterior treatment areas.

EXISTING ZONING AND LAND USE:

Zoning	A – Agricultural
Future Land Use	Public Facility - Planned Unit Development
Existing Land Use	Wastewater Treatment Facility
Topography	Relatively flat with minor topography changes

SURROUNDING ZONING AND LAND USE:

Direction	Zoning	Future Land Use Plan	Existing Land Use
North	Agricultural (County)	Agricultural	Agricultural
South	NA – Mississippi River		
East	Recreational River (County)	Wild, Scenic & Recreational Riverway	Agricultural / Vacant
West (Across County Road 43 S)	General Rural & Recreational River (County)	Rural Residential & Wild, Scenic & Recreational Riverway	Single Family Residential & Agricultural

REZONING REQUESTED:

The parcel is currently zoned A – Agricultural. However, PUDs/CUPs are not listed as an allowed use in the AG - Agricultural district, so a rezoning to a PUD is requested and may be approved conditionally with the preliminary plat approval.

PROPOSED SITE PLAN

The applicant is requesting to have the site plan approved as proposed and is requesting flexibility from the remaining requirements of the Zoning and Subdivision Ordinance.

Access

As proposed, access to the development would remain unchanged. Access is provided through a drive off County Road 14 NW. The County has been asked to provide comment on this proposal.

Parking

The existing site does not demarcate parking stalls. The site plan proposes no changes to parking areas.

Landscaping and Screening

No new landscaping is proposed by the City at this time. Portions of the site are screened from surrounding uses by existing trees and shrubs. Where there is no screening or landscaping on the perimeter of the site, the use currently abuts vacant land.

Communications Tower

There is a lawful nonconforming 200-foot-tall cellular tower located north of the wastewater treatment facility. Per Section 1022 ANTENNAS, towers in the AG district must not be greater than 75 feet in height. The city is unclear of the age of the tower, or what planning/zoning framework was in place when it was built. It is possible that it was built before the land was annexed into the city.

Staff would like the applicant to provide additional information as to who owns the tower and if there are any existing easements regarding the tower being on City land. Staff would also like to see the tower and any easements shown on site plans and plat documents; the tower must be considered when the regulations for the PUD zoning district are written.

PUD FLEXIBILITY REQUESTED:

PUD Justification

The Applicant is seeking a 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. There is a clear public benefit to allowing necessary upgrades to a public facility.

PUD Format

The City Attorney's office has advised City Staff not to process PUD approvals as CUP's as the City has done in the past. The City Attorney's Office is advising that, going forward, all of the City's PUD's be processed as "Rezone to PUD." The City Attorney's stance is that the rezoning process is "cleaner," leaves better records, and is preferable because it is a legislative action while CUP's are quasi-judicial actions. Further, the AG Zone does not explicitly permit PUDs as CUPs.

The Zoning Code's PUD ordinance states that PUD's can be processed as either a CUP or a rezone. Staff is processing this project's PUD as a rezone under the guidance of the City Attorney.

Overview of Requested Flexibility

The applicant is requesting to have the site plan approved as proposed and is requesting flexibility from the remaining requirements of the Zoning and Subdivision Ordinance.

The applicant is seeking the following PUD flexibility, and additional flexibilities may be requested for development stage PUD:

1. Permission to allow more than one primary building on the parcel.
2. Permission to allow a lawful nonconforming 200-foot-tall cellular tower.
3. Permission for relief from the landscaping and screening requirements of Section 1027 (Landscape, Screening and Tree Preservation).
4. Permission for relief from the off-street parking and loading requirements of Section 1030 (Off-Street Parking & Loading).
5. Permission to allow all parking and building setbacks as proposed.
6. Permission to allow exterior storage.

DNR REVIEW:

The combined parcels for the waste water treatment facility will fall within the Mississippi Recreational River District (MMR) and will require written review and approval of the project by the Commissioner of Natural Resources per City ordinance. The DNR was notified of the public hearing for this concept plan review on January 22, 2020. The treatment facility itself appears to be outside of the district and does not fall within any required setbacks from the Mississippi River.

STAFF COMMENTS:

Planning:

Staff recommends that the preliminary plat provided by the applicant be revised to acknowledge the tower located on the property and any access easements that may be present or desired in relation to the tower.

Engineering and Public Works:

Bolton and Menk will prepare a comment letter for the review of this concept plan by City Council.

Fire Department

No comment.

Police Department

No comment.

FINANCIAL IMPACT

NA

STAFF RECOMMENDATION

The Planning Commission is asked to provide staff with guidance on drafting the PUD district requirements, and to provide recommendation on the types of regulations that should be followed, and where flexibility can be granted. The City has asked for few restrictions in order to allow for future growth of the facility as needed without the requirement for a lengthy amendment process.

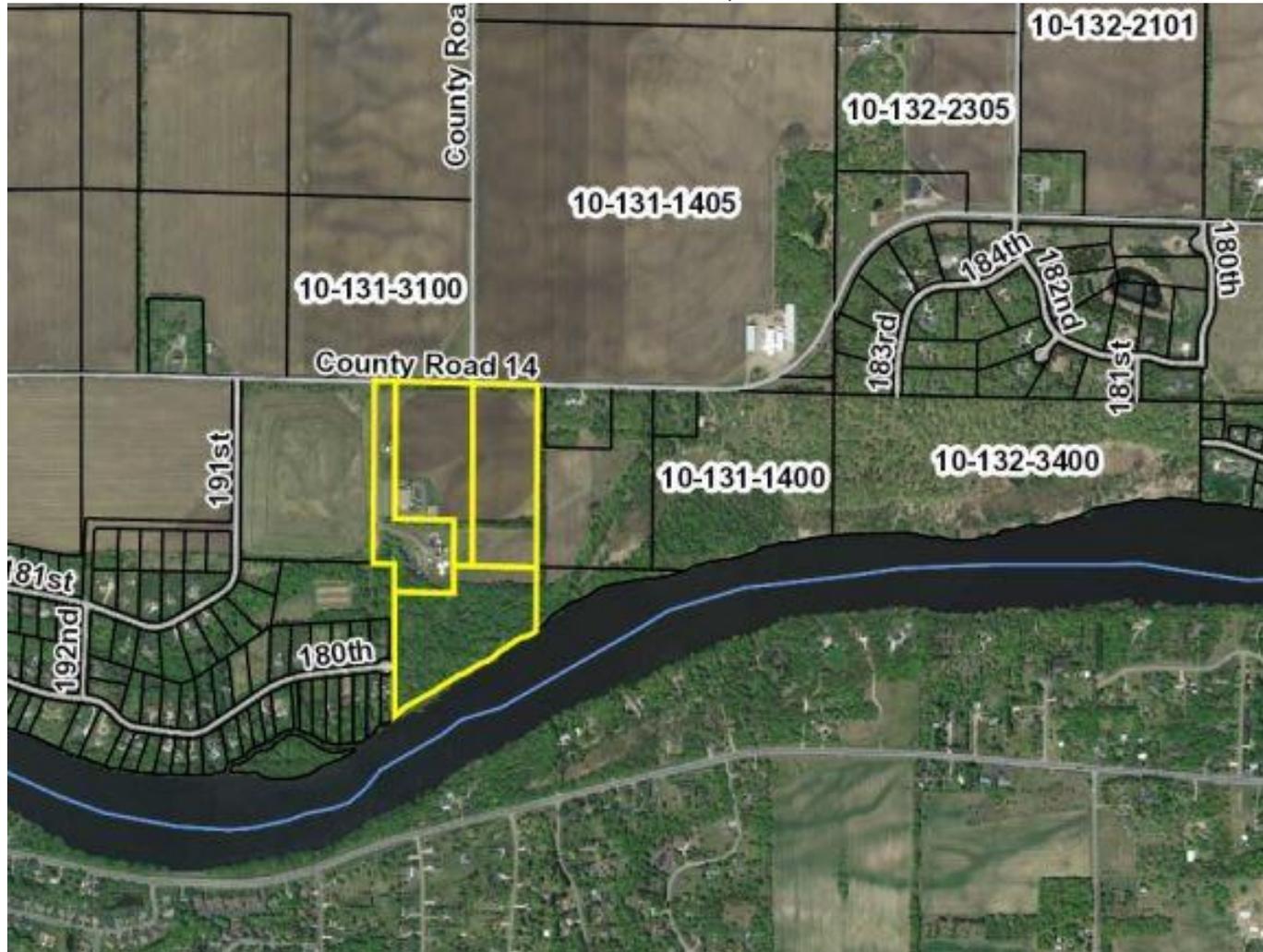
The Planning Commission should provide feedback on the applicant’s proposal and whether there are additional items that should be addressed by the applicant prior to the submittal of the preliminary plat and Development Stage PUD. The applicant would take these comments under advisement as they prepare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

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.

ATTACHMENTS

- Attachment A: Site Location Map
- Attachment B: Public Hearing Notice
- Attachment C: Existing Site
- Attachment D: Proposed Site Plan

Attachment A
Site Location Map



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

Date: 01/21/20
Account #: 388115
Customer: CITY BIG LAKE ~

Address: 160 LAKE STREET N
BIG LAKE

Telephone: (763) 263-2107
Fax: (763) 263-0133

Ad ID: 1016622
Copy Line: Concept Plan-PH

PO Number:
Start: 01/25/20
Stop: 01/25/2020
Total Cost: \$63.00
of Lines: 62
Total Depth: 6.889
of Inserts: 1
Ad Class: 150
Phone #: (763) 691-6000
Email: publicnotice@ecm-inc.com
Rep No: CA700

Contract-Gross

Publications:
Star News

Ad Proof

Enlarged

**CITY OF BIG LAKE
NOTICE OF PUBLIC
HEARING
FOR A CONCEPT
PUD PLAN FOR "BIG
LAKE WASTE WATER
TREATMENT FACILITY"**

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 "Big Lake Waste Water Treatment Facility". The public hearing will be held in the Big Lake City Council Chambers located at 160 Lake Street North, Big Lake, MN on: **Wednesday, February 5, 2020 at or about 6:30 p.m.**

Applicant: City of Big Lake
Parcel Identification Numbers:

#65-031-3405, #65-031-4302,
#65-006-1201, and
#65-031-3410

The Applicant is seeking comments from the Planning Commission on a planned unit development concept plan for an expansion of the City of Big Lake's waste water treatment facility. The proposal will consist of internal upgrades as well as some external upgrades, most notably an additional clarifying pond. This improvement is necessary for the growth of the City. It also addresses regulatory requirements of the State of Minnesota. The waste water treatment facility is located within the Mississippi Recreational River District (MMP) and will require written review and approval of the project by the Commissioner of Natural Resources per City ordinance.

The Applicant has applied for the following approvals:

- Concept PUD Plan Review

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 S.W. Roman, Consultant Planner at 612-638-0227 or swoof@biglakemn.org.

Published in the
Star News
January 25, 2020
1016622



AGENDA ITEM

Big Lake Planning Commission

Prepared By: Sara S.W. Roman, AICP Planning Consultant	Meeting Date: 2/5/2020	Item No. 7C
Item Description: Public Hearing for an Ordinance Amendment Updating the City's Nonconformity (Grandfather) Ordinance	Reviewed By: Hanna Klimmek, Community Development Director	
	Reviewed By: Corrie Scott, Recreation and Communication Coordinator	

ACTION REQUESTED

The Planning Commission is asked to make 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 the City Council, the Planning Commission held a discussion regarding the city's nonconformity ordinance at their January 6, 2020 meeting. In the memo provided for that meeting, Staff provided an analysis of the City's existing Nonconformity Ordinance. That memo is provided as "ATTACHMENT A" at the end of this report.

The Planning Commission made a motion at their January 6th meeting calling for a public hearing to review potential revisions to the ordinance. The ordinance 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.

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 nonconformity rules should be modified, they are asked to make a formal recommendation to the City Council.

Proposed Ordinance Amendment

Per the Planning Commission's request, Staff has drafted new ordinance language that would accomplish the rule changes that the Planning Commission wished to discuss. The proposed ordinance is provided as "Attachment B." Underlined text indicates text that is proposed to be added to the ordinance while text that is ~~struck out~~ is proposed for removal.

FINANCIAL IMPACT

The revisions to the nonconformity ordinance will allow owners of nonconforming buildings with conforming uses to invest in their properties. This should have a positive effect on the City's tax base and neighborhood aesthetics.

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 January 6th.

Staff would caution that this is a highly technical ordinance that has a lot of interaction with State Statute so it may not be possible to make substantial revisions to the draft ordinance without additional consultation with the City Attorney.

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 Memo from January 6th Planning Commission Meeting

Attachment B – Draft Ordinance Amendment

Attachment C – Public Hearing Notice

ATTACHMENT A

Staff Memo from January 6th Planning Commission Meeting



AGENDA ITEM

Big Lake Planning Commission

Prepared By: <i>Michael Healy, City Planner</i>	Meeting Date: 1/6/2020	Item No. Click or tap here to enter text.
Item Description: <i>Discussion on Ordinance Amendment Updating the City's Nonconformity (Grandfather) 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 an ordinance amendment revising the nonconformity ordinance.

BACKGROUND/DISCUSSION

Background

This is a continuation of a series of informal discussions held in 2017 by the City Council and Planning Commission. A consensus was reached in 2017 that the existing “grandfather ordinance” is too strict and has too many provisions that are no longer in compliance with State Statute. At their August 2, 2017 meeting, the Planning Commission asked Staff to work with the City Attorney to prepare a draft ordinance and to return to the Planning Commission for a public hearing. The Planning Commission provided some rough input regarding what the draft ordinance might look like.

This item was indefinitely placed on the “back-burner” due to Staff capacity issues and the complexity of the ordinance rewrite. The City Attorney’s office made substantial revisions to Staff’s original proposed revised ordinance based on best practices and Minnesota case law. The ordinance has changed enough and enough time has passed since the last discussion on the subject that Staff does not feel comfortable holding a public hearing without checking in and getting fresh authorization from the Planning Commission. In addition to fixing issues with noncompliance with State Law, revising the nonconformity ordinance will 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.

Overview

There are some fairly significant issues with Big Lake’s “Non-conforming Buildings, Structures, and Uses” Ordinance, the ordinance that is colloquially known as the “Grandfather Ordinance.” This ordinance regulates buildings, structures, and uses that were legal at the time that they were built or began to operate

but which would not be allowed under the City's existing rules. These structures and uses are considered "grandfathered" and are generally allowed to continue but with some restrictions.

The issues with Big Lake's current ordinance are as follows:

- The State Legislature determines how much authority Minnesota cities have to regulate grandfathered land uses. Big Lake's ordinance was written in 2002 based on State law at the time. The State Legislature dramatically changed Minnesota's nonconformity laws in 2004 and the City of Big Lake no longer has the legal authority to enforce many of the provisions of our Nonconformity ordinance. The fact that the Ordinance contains outdated and unenforceable provisions causes confusion and frustration for residents and Staff. State Statutes trump City ordinances in any situation where there is a conflict and the City has not been granted the authority to adopt rules that are more restrictive than the State.
 - Big Lake's current ordinance only allows grandfathered structures to be "repaired and maintained." The State now requires that Big Lake also allow grandfathered structures to be "improved and replaced." The State does not require cities to allow expansion of nonconformities and allows each city to define what expansion means (within reason).
 - Big Lake's current ordinance attempts to "amortize" junk yards by stating that any junk yards annexed into City limits may continue for five (5) years following annexation and then must be shut down. State Law no longer allows amortization with the exception of adult uses. Big Lake does not have any existing nonconformities relating to adult uses.
 - The Code currently says that nonconforming structures which are destroyed by fire or other disaster to the extent where they lose more than 50% of their value are no longer grandfathered and can only be rebuilt in conformity with the ordinance. State Statute now requires cities to allow a grandfathered structure to be rebuilt if the owner applies for a building permit within 180 days of the structure's destruction. The only two exceptions to this provision are in floodplain areas and in Shoreland areas where a structure is too close to a lake or river. In those situations, the City can still require that the property be brought at least somewhat "up to code" in terms of zoning compliance.
- As previously stated, the one thing that the State Legislature does not guarantee is the right to "expansion" of a nonconformity. Each City is permitted to set their own definition of what "expansion" means. Big Lake has chosen to establish a highly restrictive definition of expansion. The Planning Commission and City Council described the existing rule as "draconian" during their discussions in 2017 and indicated to Staff that they wanted to rework the definition as part of the ordinance update.
 - Cities generally do not allow structures with nonconforming uses to be expanded except under rare circumstances. If a building contains a use that should not be in a zoning district but is "grandfathered," a City generally does not want the building to be expanded as it may further intensify the unwanted use. A variance would be required to deviate from this.
 - Many cities are more understanding in situations where the use conforms with the City Code but the structure itself is nonconforming. An example of this would be a house, located in a neighborhood where houses are allowed, but this house is 5 feet too close to the front property line because it was lawfully constructed prior to the setback requirement being

adopted. The structure itself is considered “lawful nonconforming” because of its setback issue even though the structure is being used as a house which is an allowed use.

- Big Lake’s current ordinance states that lawful nonconforming structures and uses cannot be expanded and defines “expanded” as:
 - Any alteration that expands the building’s size.
 - Any alteration that changes the building’s occupancy or parking capacity.
 - Any alteration that increases the number of bedrooms in a dwelling unit.
- Under Big Lake’s current ordinance, a house that is 5 feet too close to the front property line cannot be expanded in size. It does not matter if the new addition is located in the back yard and the addition itself complies with all of the City’s height and setback ordinances. The building permit for the addition would be denied because it would be an expansion of a nonconforming structure. The owner would need to obtain a variance in order to build their addition.
- In 2017, the Planning Commission asked Staff to write a draft ordinance that would do the following:
 - Continue to prohibit nonconforming uses from expanding their buildings without variances.
 - Allow nonconforming structures with conforming uses to expand as long as the nonconformity itself is not expanding and the addition itself complies with all code requirements such as height and setbacks.
 - Consider allowing some nonconforming structures to expand in a way that increases the nonconformity through a Conditional Use Permit. An example of this would be a 1-story house that is 5 feet too close to the side property line being allowed to build a second story that is also 5 feet too close to the side property line. *Staff no longer supports this provision. Through conversations with the City Attorney’s office, Staff has come to believe that it would be best for expansions of nonconformities to continue to require a variance. It seems like it could open a “can of worms” to allow nonconformity expansion through Conditional Use Permits. The City has far less flexibility to deny Conditional Use Permits than it does variances. There is greater discretion with variances since there is a need to prove practical difficulty.*

Draft Ordinance

The draft ordinance, which is included as Attachment A, would do the following:

1. Align the nonconformity ordinance with State Statute in regards to allowing replacement and improvement of nonconforming structures in addition to maintenance and repair.
2. Align the nonconformity ordinance with State Statute in regards to amortization.
3. Align the nonconformity ordinance with State Statute in regards to the rules for when a nonconforming structure is destroyed by disaster.

4. Allow nonconforming buildings with conforming uses to be expanded as long as the expansion itself complies with the zoning code.
5. Make it clear that when someone tears down a grandfathered building and rebuilds it by taking advantage of the State Statute's rules allowing "replacement," they are no longer permitted to expand that building without obtaining a variance. This is necessary to prevent property owners from exploiting a loophole in the Code to essentially build an entirely new structure that does not comply with the zoning code by replacing the existing structure and then building a bunch of "additions" onto it. Essentially, they would have built an entirely new building but would be pretending that it is just an expansion of the grandfathered building.

FINANCIAL IMPACT

The revisions to the nonconformity ordinance will allow owners of nonconforming buildings with conforming uses to invest in their properties. This should have a positive effect on the City's tax base and neighborhood aesthetics.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission call for a public hearing to review the nonconformity ordinance overhaul. 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 this memo.

Staff would caution that this is a highly technical ordinance that has a lot of interaction with State Statute so it may not be possible to make substantial revisions to the draft ordinance without additional consultation with the City Attorney.

ATTACHMENTS

Attachment A- Draft Ordinance Amendment

ATTACHMENT B
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 1029 (NON-CONFORMING BUILDINGS,
STRUCTURES, AND USES) TO ALIGN THE ORDINANCE WITH STATE STATUTE
AND REVISE THE CITY'S APPROACH TO EXPANSION OF NONCONFORMING
STRUCTURES WITH CONFORMING USES**

THE CITY COUNCIL OF BIG LAKE ORDAINS:

SECTION 1. Chapter 10 (Zoning), Section 1020, (Non-Conforming Buildings, Structures, and Uses) 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 1029 – NON-CONFORMING BUILDINGS, STRUCTURES AND USES

SECTION

- 1029.01: Non-Conforming Buildings, Structures and Uses
- ~~1029.02: Non-Conforming Junk Yards~~
- 1029.03: Floodplain District Non-Conforming Uses

1029.01: NON-CONFORMING BUILDINGS, STRUCTURES AND USES: It is the purpose of this Section to provide for the regulation of non-conforming ~~buildings,~~ structures and uses and to specify those requirements, circumstances and conditions under which non-conforming ~~buildings,~~ structures and uses may be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses, which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming ~~buildings,~~ structures and uses not be permitted to continue without restriction and that they be regulated in a way that is sensitive to their surroundings. Furthermore, it is the intent of this Section that all non-conforming uses shall be eventually brought into conformity with this Ordinance.

Subd. 1. Grandfather Clause. A structure or the use of a structure which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance ("non-conforming") may be continued subject to the conditions of this Section. Any structure or use lawfully existing before the passage of this Ordinance on July 20, 2002 (effective date of Ordinance) shall not be enlarged except under the provisions of this Ordinance, but may be continued at the size and in the

manner of operation existing upon such date except as hereinafter specified or, subsequently amended.

Subd. 2. Remedial Work. Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Official providing the necessary repairs shall not constitute more than fifty (50) percent of fair market value of such structure. The Sherburne County Assessor will determine said fair market value.

Subd. 3. Normal Maintenance. ~~Maintenance of a building or other structure containing or used by a non-conforming use will be permitted when it includes necessary non-structural repair and incidental alterations, which do not extend or intensify the non-conforming building or use. Repairs shall be considered structural if they relate to foundations, walls, rafters, joists, headers, beams, timbers, structural sheathing, structural siding, or similar items. Repair, Replacement, Restoration, Maintenance, and Improvement. A non-conforming structure or use may continue, including through repair, replacement, restoration, maintenance, and improvement, unless the nonconformity is discontinued for a period of more than one (1) year.~~

Subd. 4. Reversal of Non-Conformity. When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

Subd. 5. Reduction of Non-Conformity. A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered as to increase the non-conformity.

Subd. 6. Restoration and Alteration.

1. ~~Restoration. No lawful non-conforming building or structure which has been damaged by fire, explosion, rot, decay, act of God or the public enemy, to the extent of more than fifty (50) percent of its value, as determined by the Sherburne County Assessor, shall be restored, except in conformity with the regulations of this Ordinance.~~ When a nonconforming structure is destroyed by fire or other peril, to the extent of greater than fifty (50) percent of its estimated market value, as indicated in the records of the Sherburne County Assessor at the time of the removal or damage, and no building permit for repair or replacement of the structure has been applied for within one hundred-eighty (180) days of the removal or damage, it shall not be reconstructed except in conformity with the provisions of this code. When a nonconforming structure in the Shoreland District with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, the structure setback may be increased if practicable and reasonable conditions are placed upon

a zoning or building permit to mitigate created impacts on the adjacent property or water body.

2. Alterations to Expansions of lawful non-conforming structures. ~~Alteration and normal maintenance to~~ Expansions of a lawful non-conforming building or structure may be made provided:

~~a. The alterations do not expand the building size.~~

~~b. The alterations do not change the building occupancy capacity or parking demand.~~

~~c. The alteration does not increase the number of bedrooms in any dwelling unit.~~

a. A lawful non-conforming structure with a conforming use may be physically expanded or altered so long as such expansion or addition does not increase its nonconformity and conforms to all setback, height, and other requirements of this Ordinance. A structure with a nonconforming setback shall not be expanded horizontally or vertically within the setback area.

b. A structure containing a non-conforming use shall not be expanded. Expansion is defined as an alteration that expands the building size, increases the building occupancy or adds parking demand, or increases the number of bedrooms in a dwelling unit.

For the purposes of this section, "expansion" means only the addition to an existing structure. "Expansion" does not mean the tear down of a structure and the rebuilding of that structure with an addition.

3. Decks. Lawful non-conforming single-family detached dwelling units in the R-1, R-1E, R-2, and R-5 districts may be expanded by adding a deck provided that the deck itself meets the current zoning regulations, including all setback requirements. Structures that are lawful non-conforming due to a failure to meet the required setback from the ordinary high water level shall be subject to the conditions of Section 1020.09 Shoreland District Decks, Stairways, Lifts, and Landings.

Subd. 7. Discontinuance. Whenever a lawful non-conforming use of a structure or land is discontinued for a period of one (1) year, following written notice from an authorized agent of the City, any future use of said structure or land shall be made to conform to the provisions of this Ordinance.

Subd. 8. Threats to General Welfare. Non-conforming buildings, structures, and/or uses, which based upon documented study and evidence, pose a danger and/or threat to the health, safety, and general welfare of the community, shall:

1. Be legally described a nuisance by the City Council.
2. Upon being identified by the City Council and upon the owner being notified in writing by the Zoning Administrator, the owner shall provide to the City Council a documented time schedule and program, which will result in the termination or correction of the non-conformity.
 - a. The termination/correction time schedule shall be based upon, but not be limited to, factors such as the initial investment and the degree of threat or danger being posed.
 - b. The acceptability of the time schedule shall be determined by the City Council with right of appeal.
 - c. In no case shall a time schedule exceed two (2) years.

~~**1029.02: NON CONFORMING JUNK YARDS:** Junk yards that are annexed into the City may continue as a non-conforming use for up to five (5) years following the date of annexation. Upon annexation, the owner of a junk yard shall file an interim use permit application with the City identifying the terms of operation and setting forth a program and performance securities if required by the City Council, to bring the site into compliance with the underlying Zoning District by the end of the five (5) year term.~~

~~**Subd. 1.** Minimum Requirements. The junk yard may continue operation from the date of annexation to five years following the date of annexation provided the site is located within a Business or Industrial Zoning District, and further provided that it is completely enclosed within a building, fence, screen planting or other device of such height as to completely screen the operations of the junkyard. Plans for a building or screening shall be approved by the City Council before it is erected or put into place.~~

1029.032: FLOODPLAIN DISTRICT NON-CONFORMING USES

Subd. 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Chapter but which is not in conformity with the provisions of this Chapter may be continued subject to the following conditions. Historic structures, as defined in Section 1001 of this Chapter, shall be subject to the provisions Section 1029.03, Subd. 2., through Subd. 6., of this Chapter.

Subd. 2. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

Subd. 3. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in Section 1029.03, Subd. 4. And 1029.03, Subd. 7. (Ord. 2011-05, 09-14-11)

Subd. 4. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty (50) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the market value of the structure, then the structure must meet the standards of Section 1064.04 or 1064.05 of this Chapter for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

Subd. 5. If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Chapter. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of twelve (12) months.

Subd. 6. If any nonconforming use or structure is substantially damaged, as defined in Section 1001.02 of the Chapter, it shall not be reconstructed except in conformity with the provisions of this Chapter. The applicable provisions for establishing new uses or new structures in Sections 1064.04 and 1064.05 will apply depending upon whether the use or structure is in the Floodway, or Flood Fringe District, respectively. (Ord. 2011-05, 09-14-11)

Subd. 7. If a substantial improvement occurs, as defined in Section 1001 of this Chapter, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition (as required by Subd. 3., above) and the existing nonconforming building must meet the requirements of section 1064.04 or 1064.05 of this Chapter for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. (Ord. 2004-09, 4/14/04).

SECTION 4. 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 C
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

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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, February 5, 2020, at or about 6:30 p.m.

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

The existing nonconformity ordinance, also known as the "grandfather ordinance" is no longer compliant with State Statute. In 2017, the Planning Commission and City Council asked City staff to prepare a revision to the ordinance to bring the ordinance into compliance with State Statute and to revise ordinance language that was deemed too strict. Revised ordinance language has been drafted based on best practices and Minnesota case law. In addition to fixing issues with noncompliance with State Law, revising the nonconformity ordinance will 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.

The Big Lake Planning Commission will formally review the proposed modifications to the nonconformity rule and will make a recommendation to the City Council. The draft ordinance would do the following:

1. Align the nonconformity ordinance with State Statute in regards to allowing replacement and improvement of nonconforming structures in addition to maintenance and repair.

2. Align the nonconformity ordinance with State Statute in regards to amortization.

3. Align the nonconformity ordinance with State Statute in regards to the rules for when a nonconforming structure is destroyed by disaster.

4. Allow nonconforming buildings with conforming uses to be expanded as long as the expansion itself complies with the zoning code.

5. 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.

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.

Publications: Monticello Times

Date: 01/09/20

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BIG LAKE

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Fax: (763) 263-0133

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AGENDA ITEM

Big Lake Planning Commission

Prepared By: Sara S.W. Roman, AICP	Meeting Date: 2/5/2020	Item No. 7D
Item Description: Public Hearing for an Ordinance Amendment Updating the City Ordinance for Maximum Area of Detached Accessory Buildings	Reviewed By: Hanna Klimmek, Community Development Director	
	Reviewed By: Corrie Scott, Recreation and Communication Coordinator	

ACTION REQUESTED

The Planning Commission is asked to make 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 the City Council, the Planning Commission held a discussion regarding the city’s detached accessory structures ordinance at their January 6, 2020 meeting. In the memo provided for that meeting, Staff provided an analysis of the City’s existing Ordinance. That memo is provided as “ATTACHMENT A” at the end of this report.

Staff proposed a “fix” for the Code that would:

- 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.
- 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).
- 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.
- Impervious surface restrictions would still be in place. This would still prevent owners of small properties from going “overboard” with building accessory structures.
- 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.

Staff views this as a “common sense” solution. 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. It 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.

Proposed Ordinance Amendment

Per the Planning Commission’s request, Staff has drafted new ordinance language that would accomplish the rule changes that the Planning Commission wished to discuss. The proposed ordinance is provided as “Attachment B.” Underlined text indicates text that is proposed to be added to the ordinance while text that is ~~struck out~~ is proposed for removal.

FINANCIAL IMPACT

The proposed ordinance amendment will allow owners of single-family home properties without attached garages to make investments in their properties.

STAFF RECOMMENDATION

Staff believes there is a strong case to be made that the proposed revisions will make the rules more equitable since the 2016 rewrite had a negative effect on properties without attached garages while directly benefiting properties that did have attached garages.

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 January 6th.

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 Memo from January 6th Planning Commission Meeting

Attachment B – Draft Ordinance Amendment

Attachment C – Public Hearing Notice

ATTACHMENT A
STAFF MEMO, JANUARY 6th PLANNING COMMISSION MEETING



AGENDA ITEM
Big Lake Planning Commission

<p>Prepared By: <i>Michael Healy, City Planner</i></p>	<p>Meeting Date: 1/6/2020</p>	<p>Item No. Click or tap here to enter text.</p>
<p>Item Description: <i>Discussion on Maximum Area of Detached Accessory Buildings</i></p>	<p>Reviewed By: <i>Hanna Klimmek, Community Development Director</i></p> <p>Reviewed By: <i>Corrie Scott, Recreation and Communication Coordinator</i></p>	

ACTION REQUESTED

A motion calling a public hearing for an ordinance amendment revising the area allowance for detached accessory buildings.

BACKGROUND/DISCUSSION

Background

A member of the City Council has requested that the Planning Commission review the Code’s rules for accessory building area to eliminate disparities that exist between households that have attached garages and households that do not. The way that the Code is currently written, households with attached garages are able to have a very large amount of accessory building space and households without attached garages are much more limited and are “worse off” than they were under earlier versions of the City Code that were in place as recently as 2015. This is an accidental side effect of a series of evolutions in the zoning code that have taken place over the last several years. The disparities were brought to Council’s attention during the recent review of a variance for a garage addition.

Prior to 2002, the Zoning Code allowed each residential property to have accessory buildings that covered up to 10% of the property. Attached garages were included as accessory buildings in that calculation. No more than 2 detached accessory buildings were permitted and the detached accessory buildings could not take up more than 30% of the back yard or side yard. Since the Code required new residential lots to be at least 12,000 square feet, most properties were given an allowance of at least 1,200 square feet. 1/3 acre lots were awarded a roughly 1,500 square foot allowance. Large lot semi-rural properties (the handful that are in city limits) had an extremely high allowance under this set of rules. In 2001, if a property in city limits was 2.5 acres (108,900 square feet) it could, theoretically, have 10,890 square feet of accessory building space as long as that space was all contained within two (2) buildings which had heights no greater than 17 feet and which had a roof pitch of at least 4:12. *This was an excessive allowance for large lot properties and greatly exceeded even what is/was allowed in Big Lake Township. Big Lake Township generally allows up to 4% lot coverage by accessory buildings.*

In 2002, the Code was overhauled. The new code streamlined and standardized the accessory building regulations and allotted every single-family home residential property a flat allowance of 1,800 square feet of accessory building space which included attached garages. The City made a conscious decision that the

total square footage of accessory buildings should be capped at 1,800 square feet, even for large lot properties. Part of the reasoning for this policy shift was that the city never intended to have large lot properties in city limits long-term. Large lot properties, which have private well and septic systems, typically are expected to remain in Big Lake Township unless they are being brought into the City for redevelopment. Most of the City's existing large lot residential properties (2.5-20 acres) were brought into City limits because the property owners petitioned for annexation to facilitate future development. Those properties are intended for future subdivision and redevelopment as city neighborhoods with sewer and water. There has historically been a concern that allowing too large of accessory buildings on these temporary large lot properties will "clutter" the properties and make it difficult to subdivide and develop them in the future.

It should be noted that the "maximum area allowance" is only one of the regulations that dictates how much accessory building area a property can have. Many properties are unable to fully utilize the allowance because they cannot comply with setback requirements or run up against impervious surface restrictions. Owners of single-family home properties within 1,000 feet of a lake can only cover 25% of their property with impervious surfaces (per State law) while single-family home owners elsewhere in the City can go up to 35% coverage.

In 2016, the City received a petition from a property owner of a 10-acre large lot property who was seeking to build a detached accessory building to function as a hobby-shop. He had already used up most of his 1,800 square foot allowance, however, to construct a very large attached garage. This issue was discussed by Staff, the Planning Commission, and the City Council and the eventual consensus was that the Code should be revised to allow properties with attached garages to ALSO have detached accessory buildings. The Code was revised to:

- Give all single-family home properties a 1,200 square foot allowance for detached accessory buildings.
- Stop counting attached garages towards the maximum allowance. Attached garages are instead limited to not exceeding the ground coverage of the dwelling unless a Conditional Use Permit is obtained.

The way the Code is now written, property owners who have an attached garage (typically between 528-800 square feet) can easily end up being allowed to have over 2,000 square feet of accessory building space because their attached garages do not count against their size allowance. Property owners who do not have attached garages, however, are limited to 1,200 square feet of accessory building storage space. There are many properties in town where an attached garage is not feasible either due to the way the property is laid out or the way the house is built. The 2016 Code revision resulted in these homeowners seeing their total accessory building allowance shrink by 600 square feet.

Proposed Solution

Staff is proposing a "fix" for the Code that would:

- 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.
- 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).

- 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.
- Impervious surface restrictions would still be in place. This would still prevent owners of small properties from going “overboard” with building accessory structures.
- 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.

Staff views this as a “common sense” solution. 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. It seems like the most equitable way to address the current disparity in the Code.

The revised rule would read in the following manner:

Subd. 1. Within the A, R-1, R-1E, R-2, and R-5 Zoning Districts, properties that have a dwelling with an attached garage of any size shall be limited to a maximum total combined area of 1,200 square feet of detached accessory buildings. The attached garage will not count towards this total.

Subd. 2. Within the A, R-1, R-1E, R-2 and R-5 Zoning Districts, properties that have a dwelling without an attached garage shall be limited to a total combined area of 1,800 square feet of detached accessory buildings. For any property in these zoning districts with more than 1,200 square feet of detached accessory building area, the construction of an attached garage or conversion of any portion of the dwelling into an attached garage shall not be permitted.

FINANCIAL IMPACT

The proposed ordinance amendment will allow owners of single-family home properties without attached garages to make investments in their properties.

STAFF RECOMMENDATION

Big Lake is an outdoor-recreation oriented community. Many/most of our residents have either a boat(s), camper, ice house, trailer, snowmobile, etc. There is a strong demand for accessory building storage space in Big Lake which is the reason that, historically, Big Lake has allowed significantly more accessory building space than most of its peer communities. Staff supports the proposed amendment if there is a desire to restore the pre-2016 rules for properties that do not have attached garages. Staff believes there is a strong case to be made that the proposed revisions will make the rules more equitable since the 2016 rewrite had a negative effect on properties without attached garages while directly benefiting properties that did have attached garages.

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

ATTACHMENTS

Attachment A- Draft Ordinance Amendment

Side Yard Setback Detached Acc. Structure:	5'	5'	5'	5'	10'	5'	5'
Rear Yard Setback Detached Acc. Structure:	5'	5'	5'	5'	10'	5'	5'
Min. Garage Size Single Family (2 stalls):	480 sq. ft.	480 sq. ft.	480 sq. ft.	480 sq. ft.	-	-	480 sq. ft.
Min. Garage Size Twin & Townhomes (2 stalls):	-	-	-	22 x 24' 528 sq. ft.	22 x 24' 528 sq.ft.	-	22 x 24' 528 sq. ft.
Min. Garage Area Multi-Family Residential:	-	-	-	-	12 x 24' 240 sq. ft.	-	-

*Properties without attached garages may receive an additional allowance, subject to the provisions of this ordinance.

~~**Subd. 1.** Within the A, R-1, R-1E, R-2 and R-5 Zoning Districts, the maximum area of all accessory buildings (except for attached garages) shall be limited to a combined total area of 1,200 square feet. (Ord. 2003-13, 9/10/03; Ord. 2016-17, 10/12/16)~~

Subd. 1. Within the A, R-1, R-1E, R-2, and R-5 Zoning Districts, properties that have a dwelling with an attached garage of any size shall be limited to a maximum total combined area of 1,200 square feet of detached accessory buildings. The attached garage will not count towards this total.

Subd. 2. Within the A, R-1, R-1E, R-2 and R-5 Zoning Districts, properties that have a dwelling without an attached garage shall be limited to a total combined area of 1,800 square feet of detached accessory buildings. For any property in these zoning districts with more than 1,200 square feet of detached accessory building area, the construction of an attached garage or conversion of any portion of the dwelling into an attached garage shall not be permitted.

Subd. 23. In the R-3 Zoning District, the total square footage of all accessory buildings shall not exceed ten (10) percent of the lot area.

Subd. 34. The total floor area of an attached garage for a single family detached dwelling shall not exceed the ground coverage of the dwelling, except by conditional use permit. Attached garages shall not exceed seventeen (17) feet in height or the height of the principal building, whichever is greater. (Ord. 2003-13, 9/10/03)

Subd. 45. No individual detached garage or structure shall exceed nineteen (19) feet in height, measured at the peak, in the R-1, R-1E, R-2, R-3, R-4, and R-5 zoning districts. Detached accessory structures in the afore-mentioned zoning districts with a mansard, gambrel, round, shed, or flat roof shall not be permitted to exceed fifteen (15) feet in height, measured at the highest point on the roof, unless the roof style matches that of the principal structure and the height of the detached accessory structure does not

exceed the height of the principal building. In the A district, a detached accessory garage or structure shall not exceed the height of the principal building or exceed twenty-three (23) feet in height, whichever is less. The maximum side wall height of a detached accessory structure in any residential zoning district shall not exceed twelve (12) feet in height. Side wall height shall be measured from the finished floor to the horizontal plane of the roof. (Ord. 2010-04, 7/28/10; Ord. 2016-17, 10/12/16; Ord. 2019-04, 02/27/19)

Subd. 56. Detached accessory buildings shall have not more than a 12:12 roof pitch. Detached accessory buildings that are larger than 200 square feet shall have not less than a 4:12 roof pitch.

Subd. 67. Detached accessory buildings not exceeding two hundred (200) square feet in floor area shall be allowed without issuance of a building permit, but shall comply with all other provisions of this Ordinance. Such buildings must receive an administrative permit before they are constructed or moved onto property. The Zoning Administrator or designee shall review the site plan and construction drawings to determine compliance with this Ordinance and other applicable ordinances, laws, and regulations.

Subd. 78. Detached accessory buildings greater than two hundred (200) square feet in floor area shall require a building permit. The Building Official shall review the site plan and construction drawings to determine compliance with the Building Code and other applicable ordinances, laws, and regulations.

Subd. 89. Limit on Number of Accessory Buildings: Every lot shall be limited to no more than two (2) detached accessory buildings with the exception of the R-4 District where no more than one (1) accessory building is permitted per lot.

Subd. 910. In commercial and industrial districts, accessory buildings and trash enclosures shall be of similar type, quality, and appearance as the principal structure. Accessory buildings and structures, with the exception of canopies, temporary structures, monuments, landscape structures, and other decorative uses, shall not be allowed in the front yard of commercial or industrial properties without approval of a conditional use permit. The size of accessory buildings shall be limited to thirty (30) percent of the area of the required rear or side yard except for in the I-4 Innovation Industrial Zoning District. Said structures shall not exceed seventeen (17) feet in height unless expressly permitted elsewhere in the Code and shall be setback a minimum of twenty (20) feet from side and rear property lines, except that side and rear yard setback requirements may be reduced to ten (10) feet for accessory structures and uses on lots that do not abut residentially zoned or used property. (Ord. 2004-19, 8/11/04; Ord. 2015-04, 03/25/15; Ord. 2018-07, 09/26/18).

SECTION 2. This Ordinance shall be effective following its passage and summary publication.

Adopted by the Big Lake City Council this ___th 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 C
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Big Lake MN 55309

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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.

The Big Lake Planning Commission will formally review the proposed modifications to the nonconformity rule and will make a recommendation to the City Council. The draft ordinance would do the following:

1. Align the nonconformity ordinance with State Statute in regards to allowing replacement and improvement of nonconforming structures in addition to maintenance and repair.

2. Align the nonconformity ordinance with State Statute in regards to amortization.

3. Align the nonconformity ordinance with State Statute in regards to the rules for when a nonconforming structure is destroyed by disaster.

4. Allow nonconforming buildings with conforming uses to be expanded as long as the expansion itself complies with the zoning code.

5. 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.

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.

Date:	01/09/20
Account #:	388115
Customer:	CITY BIG LAKE ~
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AGENDA ITEM

Big Lake Planning Commission

Prepared By: <i>Michael Healy, City Planner</i>	Meeting Date: 2/5/2020	Item No. 7E
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).*

<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.

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 A
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 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

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



AGENDA ITEM

Big Lake Planning Commission

Prepared By: <i>Hanna Klimmek, Community Development Director</i>	Meeting Date: 2/5/2020	Item No. 7F
Item Description: <i>Parks Advisory Board Liaison</i>	Reviewed By: <i>Clay Wilfahrt, City Administrator</i>	
	Reviewed By: <i>Corrie Scott, Recreation & Communication Coordinator</i>	

ACTION REQUESTED

Formally select a Planning Commissioner to serve as a liaison to the Parks Advisory Board.

BACKGROUND/DISCUSSION

Scott Marotz, Planning Commissioner, has served as a liaison to the Parks Advisory Board for years. Corrie Scott, Recreation & Communication Coordinator, has been reviewing the Parks Advisory Board Bylaws and has found that 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.

Scott Marotz has expressed that he enjoys serving on the Parks Advisory Board as the liaison and would be happy to continue, but would also suggest that this conversation come back to the Planning Commission at the end of every year to comply with the Bylaws of the Parks Advisory Board.

FINANCIAL IMPACT

N/A

STAFF RECOMMENDATION

Discuss and nominate a Planning Commissioner to serve as a liaison to the Parks Advisory Board.

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 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

4. 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 attended 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.

5. Planning & Zoning:

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

6. Building – Permit Fee Activity:

- Hanna Klimmek, Community Development Director, will provide a report during the 2/5/20 Planning Commission meeting. Report was not ready in time for the meeting packet to be released as the month of January is not yet complete.
- The Personnel Committee will be meeting to discuss the Building Official position and the future of it for the City of Big Lake.