

ADMINISTRATION

§ 1007.015 ADMINISTRATION: AMENDMENTS AND REZONINGS.

In accordance with the provisions of Minnesota Statutes, the City Council may from time to time amend the Zoning Ordinance text or map (rezoning). Amendments may be initiated by City Council, Planning and Zoning Board, or property owner. The procedure for an amendment to the Zoning Ordinance or Zoning District Map (rezone) shall be as follows:

(1) Persons wishing to initiate an amendment shall submit a “Land Use Application Form” accompanied by a fee as required in §1007.000 (9) of this ordinance to be used for the costs of processing the application. The Land Use Application Form shall be filed with the Zoning Administrator. The request for amendment shall be placed on the agenda of the Planning and Zoning Board according to the City’s deadline and meeting schedule. The request shall be considered officially submitted and the application approval time line commences when all the information requirements are complied with.

(2) Property owners or occupants within six hundred (600) feet of any property proposed for zoning district amendment (rezoning) shall be notified in writing, although failure by any property owner to receive notification shall not invalidate the proceedings, provided that proof of an attempt at notification has been made. Notification shall be by first-class mail. A notice shall be published in the newspaper and mailed to property owners at least ten (10) days prior to the day of the public hearing. Such notification shall include the Affidavit of Mailing completed by the City and a list of all persons who have been notified pursuant to this section. In the case of rezoning shoreland, as defined by Lino Lakes Ordinance, all property owners or occupants of property, which abut the shoreline, shall be notified in writing of any property proposed for any zoning district amendment (rezoning), even though their property may be beyond the six hundred (600) feet previously contemplated in this section.

(3) Depending on the project and as determined by the Community Development Director, either site and building plans consistent with the requirements established in §1007.020 or information required by Chapter 1000 of the City Code for a plat submittal, shall be provided prior to Planning and Zoning Board review.

(4) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation of the action to the City Council.

(5) The Planning and Zoning Board shall consider possible adverse effects of the proposed amendment. Its judgement 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 official City Comprehensive Plan.

(b) The proposed use is or will be compatible with present and future land uses of the area.

- (c) The proposed use conforms with all performance standards contained herein.
 - (d) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
 - (e) Traffic generation by the proposed use is within capabilities of streets serving the property.
- (6) A public hearing on the rezoning application shall be held by the Planning and Zoning Board or City Council.
- (7) The City Council must approve or deny the application for zoning amendment request within sixty (60) days of receiving all required information. The sixty (60) day time limit starts over only if the City sends notice, within ten (10) business days, of receipt of the request, telling the applicant what information is missing. The City may extend the sixty (60) day time limit before the end of such time limit by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days, unless approved by the applicant. Failure of the City Council to deny an application within sixty (60) days is approval of the request. If the City Council denies a request, it shall state in writing the reasons for the denial at the time it denies the request.
- (8) Approval of a proposed amendment shall require passage by a majority vote of all members of the City Council except that the adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a four-fifths (4/5) majority vote of all members of the City Council.
- (9) The amendment shall not become effective until such time as the City Council approves an ordinance reflecting said amendment and after said ordinance is published in the official newspaper. An emergency ordinance shall take effect immediately upon its adoption or at such later date as it specifies. Every other ordinance shall take effect thirty (30) days after its publication or at such later date as it specifies.
- (10) No application for a zoning amendment or rezoning which has been denied shall be resubmitted for a period of twelve (12) months from the date of said order of denial.

§ 1007.016 ADMINISTRATION: CONDITIONAL USE PERMITS.

(1) *General Statement.* Certain uses, while generally not suitable in a particular zoning district, may under some circumstances be suitable. When such circumstances exist, a conditional use permit may be granted. Conditions may be applied to issuance of the permit and an annual review of the permit shall be required. The permit shall be granted for a particular use and not for a particular person or firm. Conditional use permits may be granted in accordance with this subdivision for any use or purpose for which such permits are required or permitted by this ordinance or as listed as a conditional use for the zoning districts provided in §1007.080 through §1007.132 of this ordinance.

(2) *Procedure.*

(a) The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a “Land Use Application Form” together with a fee as established by City Council resolution. The request for conditional use permit shall be placed on the agenda of the Planning & Zoning Board according to the City’s deadline and meeting schedule. The request shall be considered officially submitted and the application approval time line commences when all the information requirements are complied with.

(b) A public hearing on the conditional use permits shall be held by the Planning and Zoning Board or the City Council.

(c) At least ten (10) days prior to the public hearing; notice of the purpose, time and place of such public hearing shall be published in the official newspaper of the City and mailed to the property owners within three hundred fifty (350) feet of the property in question. Failure of any property owner to receive the mailed notification shall not invalidate the proceedings.

(d) The applicant or his representative must appear before the Planning and Zoning Board in order to answer questions concerning the proposed conditional use.

(e) Site and building plans consistent with the requirements established in §1007.019 (2) shall be provided prior to Planning and Zoning Board review.

(f) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate and provide general assistance in preparing a recommendation of the action to the City Council.

(g) *Standards.* The Planning and Zoning Board shall recommend a conditional use permit and the Council shall order the issuance of such permit only if it finds the following criteria have been met:

1. The proposed development application has been found to be consistent with the policies and recommendations of the Lino Lakes Comprehensive Plan including:

a. Land Use Plan.

- b. Transportation Plan.
- c. Utility (Sewer and Water) Plans.
- d. Local Water Management Plan.
- e. Capital Improvement Plan.
- f. Policy Plan.
- g. Natural Environment Plan.

2. The proposed development application is compatible with present and future land uses of the area.

3. The proposed development application conforms to performance standards herein and other applicable City Codes.

4. Traffic generated by a proposed development application is within the capabilities of the City when:

a. If the existing level of service (LOS) outside of the proposed subdivision is A or B, traffic generated by a proposed subdivision will not degrade the level of service more than one grade.

b. If the existing LOS outside of the proposed subdivision is C, traffic generated by a proposed subdivision will not degrade the level of service below C.

c. If the existing LOS outside of the proposed subdivision is D, traffic generated by a proposed subdivision will not degrade the level of service below D.

d. The existing LOS must be D or better for all streets and intersections providing access to the subdivision. If the existing level of service is E or F, the subdivision developer must provide, as part of the proposed project, improvements needed to ensure a level of service D or better.

e. Existing roads and intersections providing access to the subdivision must have the structural capacity to accommodate projected traffic from the proposed subdivision or the developer will pay to correct any structural deficiencies.

f. The traffic generated from a proposed subdivision shall not require City street improvements that are inconsistent with the Lino Lakes Capital Improvement Plan. However, the City may, at its discretion, consider developer-financed improvements to correct any street deficiencies.

g. The LOS requirements in paragraphs 1. to 4. above do not apply to the I-35W/Lake Drive or I-35E/Main St. interchanges. At City discretion, interchange impacts must

be evaluated in conjunction with Anoka County and the Minnesota Dept. of Transportation, and a plan must be prepared to determine improvements needed to resolve deficiencies. This plan must determine traffic generated by the subdivision project, how this traffic contributes to the total traffic, and the time frame of the improvements. The plan also must examine financing options, including project contribution and cost sharing among other jurisdictions and other properties, that contribute to traffic at the interchange.

- h. The City does not relinquish any rights of local determination.
- i. The proposed development shall be served with adequate and safe water supply.
- j. The proposed development shall be served with an adequate and safe sanitary sewer system.
- k. The proposed development shall not result in the premature expenditures of City funds on capital improvements necessary to accommodate the proposed development.

5. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, or odors.

6. Will not result in the destruction, loss, or damage of a natural, scenic or historic feature of major importance.

(h) Whether the Planning and Zoning Board recommends denial or approval of a conditional use permit or the Council orders such denial or approval, it shall include in its recommendations or determination findings as to the ways in which the proposed use does or does not comply with the standards established in this Ordinance.

(i) The City Council must approve or deny the application for amendment or conditional use permit requests within sixty (60) days of receiving all required information. The sixty (60) day time limit starts over only if the City sends notice, within ten (10) business days of receipt of the request, telling the applicant what information is missing. The City may extend the sixty (60) day time limit before the end of such time limit by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days, unless approved by the applicant. Failure of the City Council to deny an application within sixty (60) days is approval of the request. If the City Council denies a request, it must state in writing the reasons for the denial at the time it denies the request.

(j) Following approval of the conditional use permit, the City shall file a certified copy thereof including a legal description of the property with the County Recorder and/or Registrar of Title.

(k) If construction has not begun within one (1) year after the date of the conditional use permit, or if substantial construction has not taken place within three (3) years after the date

of issuance of the conditional use permit, the permit is void. A conditional use specified in the permit expires if, for any reason, the authorized use ceases for more than one (1) year.

(l) If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review; it shall be the responsibility of the City Clerk to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review.

(m) Any change involving structural alteration, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. An amended conditional use permit application and requests for changes in conditions shall be administered in a manner similar to that required for a conditional use permit.

(n) All uses existing as of July 14, 1997 that are included in the list of conditional uses for the zoning district in which they are located shall be considered as having a conditional use permit which contains conditions that permit the land use and structures as they existed on said date. Any enlargement, structural alteration, or intensification of such use shall require an amended conditional use permit as provided for above.

(o) No application for a conditional use permit shall be resubmitted for a period of twelve (12) months from the date of said order of denial.

(3) *Revocation.* If an approved conditional use permit is in violation of this Ordinance or the conditions of permit approval, the City may initiate a process to revoke the conditional use permit. The City shall then conduct a public hearing to consider the revocation of a conditional use permit. Notifications shall be distributed and published according to paragraph (2)(c) The public hearing shall be conducted by the Planning & Zoning Board, which shall make a recommendation to the City Council. In considering revocation, the Board and the City Council shall consider compliance with the approved conditions of the conditional use permit and the standards listed in paragraph (2)(g). The City may also conduct a public hearing and consider revocation if the time requirements of paragraph (2)(k) have not been met.

(a) Following a vote by the City Council to revoke the conditional use permit, the City shall file a certified copy thereof including a legal description of the property with the County Recorder and/or Registrar of Title.

§ 1007.017 ADMINISTRATION: INTERIM USE PERMITS.

(1) *Purpose and Intent.* The purpose and intent of allowing interim uses is:

(a) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.

(b) To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.

(c) To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

(2) *Procedure.*

(a) *Existing Uses.* All uses existing as of July 14, 1997 that are included in the list of interim uses for the zoning district in which they are located shall be considered as having an interim use permit which contains conditions that permit the land use and structures as they existed on said date. Any enlargement, structural alteration, or intensification of such use shall require an amended interim use permit regulated by the §1007.017 of this Ordinance and shall be processed according to the submittal requirements, standards and procedures for a conditional use permit as established by §1007.016 of this Ordinance.

(b) *New Uses.* Uses defined as interim uses which do not presently exist within a respective zoning district shall be processed according to the submittal requirements, standards and procedures for a conditional use permit as established by §1007.016 of this Ordinance.

(3) *General Standards.* An interim use shall comply with the following:

(a) *Existing Uses.* Existing uses shall be in conformance with zoning and building standards in effect at the time of initial construction and development, and may not be enlarged or expanded except under the terms for newly established uses, and shall continue to be governed by such regulations in the future.

(b) *New Uses.*

1. Meets the standards of a conditional use permit set forth in §1007.016 of this Ordinance.

2. Conforms to the applicable performance standards of this Ordinance.

3. The use is allowed in an interim use in the respective zoning district.

4. The date or event that will terminate the use can be identified with certainty.

5. The use will not impose additional costs on the public if it is necessary for the public to take the property in the future.

6. The user agrees to any conditions that the City Council deem appropriate for permission of the use.

(4) *Termination.* An interim use shall terminate on the happening of any of the following events, whichever first occurs:

(a) The date stated in the permit.

(b) Upon violation of conditions under which the permit was issued.

(c) Upon change in the City's zoning regulations which renders the use non-conforming.

(d) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

(5) *Revocation.* If an approved interim use permit is in violation of this Ordinance or the conditions of permit approval, the City may initiate a process to revoke the interim use permit. The City shall then conduct a public hearing to consider the revocation of an interim use permit. Notifications shall be distributed and published according to paragraph (2). The public hearing shall be conducted by the Planning & Zoning Board, which shall make a recommendation to the City Council. In considering revocation, the Board and the City Council shall consider compliance with the approved conditions of the interim use permit and the standards listed in paragraph (3).

§ 1007.018 VARIANCES AND APPEALS.

(1) *Variances.* Variances from the requirements of this ordinance, including restrictions placed on nonconformities, may be granted under the following conditions.

(a) *Criteria and Findings of Fact.* No variance shall be granted unless it meets all the criteria in paragraphs 1. through 6. or unless paragraph 7. applies. The City shall make findings regarding compliance with these criteria.

1. The variance shall be in harmony with the general purposes and intent of the ordinance.

2. The variance shall be consistent with the comprehensive plan.

3. There shall be practical difficulties in complying with the ordinance. “Practical difficulties,” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the ordinance. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

4. The plight of the landowner shall be due to circumstances unique to the property not created by the landowner.

5. The variance shall not alter the essential character of the locality.

6. A variance shall not be granted for any use that is not allowed under the ordinance for property in the zoning district where the subject site is located.

7. In accordance with MN Stat. 462.357, Subp. 6, variances shall be granted for earth sheltered construction as defined in MN Stat. 216C.06, Subd. 14, when in harmony with the zoning ordinance.

(b) *Variance Procedure.* The City shall decide upon requests for variance by approving or denying the same in part or in whole. The procedure for granting variances is as follows:

1. A person desiring a variance shall fill out and submit to the Zoning Administrator or his/her designee a “Land Use Application Form”, together with a fee as established by City Council resolution/ordinance and all related material to document said hardship.

2. The request for variance shall be placed on the agenda of the Planning and Zoning Board according to the City’s deadline and meeting schedule. The request shall be considered as being officially submitted and the application approval timeline commences when all the information requirements are complied with.

3. The City Council must approve or deny the application within sixty (60) days of receiving all required information. Failure of the City Council to deny an application within sixty (60) days is approval of the request. If the City Council denies an application, it shall state in writing the reasons for the denial at the time it denies the application. However, when a vote on a resolution or properly made motion to approve an application fails for any reason, the failure shall constitute a denial of the application provided that those voting against the motion state on the record the reasons why they oppose the application.

a. The sixty (60) day time limit starts over only if the City sends notice, within ten (15) business days of receipt of the application, telling the applicant what information is missing. The City may extend the sixty (60) day time limit before the end of such time limit by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days, unless approved by the applicant. An applicant may by written notice to the City request an extension of the time limit.

b. Other conditions of MN Stat 15.99, as amended, also apply.

4. The petitioner or representative may appear before the Planning and Zoning Board in order to present information or to answer questions. The Board shall make a recommendation to the City Council including findings on compliance with required criteria and conditions to be imposed.

5. The City Council may grant the variance if it has been established that the application complies with the required criteria. The City Council shall, on all variance applications whether granted or denied, record findings of fact. Such findings shall be recorded in writing and shall state the City Council's reasons for such action.

6. Following approval of the variance, the City shall file a certified copy thereof including a legal description of the property with the County Recorder or Registrar of Titles.

(c) The City may impose conditions in the granting of variances. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.

(d) *Submittal Requirements.* Applications for variances shall be filed with the Community Development Department and shall be accompanied by the following submittal information:

1. Proof of title and contract/purchase agreement and/or property owner signature on the application form when applicable.

2. Eight (8) large scale copies and reduced (11" x 17") copies of detailed written materials, plans and specifications to include the following information:

Note: One/two *additional* large scale copies shall be provided for each of the following, if applicable:

- Project adjacent to a County Road or County State Aid Highway – (2 sets)

- Project adjacent to a State Highway or Interstate Highway – (2 sets)
- Project lies within a Shoreland District – (1 set)

3. Certificate of survey prepared by a licensed land surveyor identifying the following: The Community Development Department may waive the certificate of survey when the survey will not provide information relevant to the variance necessary to review the application.

a. Scale (engineering only) at not less than one (1) inch equals one hundred (100) feet.

b. North point indication.

c. Existing boundaries with lot dimension and lot area.

d. Existing buildings, structures and improvements.

e. Easements of record.

f. Delineated wetland boundary, to include the OHWL of any lakes or DNR waters.

g. All encroachments.

h. Legal description.

i. Graphic information, plans, specifications, or other materials that illustrate the requested variance.

j. Narrative description of how the application complies with the variance criteria listed above.

(2) *Appeal Procedure.* An appeal shall only be applicable to an administrative permit, order, requirement or interpretation of intent of provisions of this Ordinance. Opinions and evaluations as they pertain to the impact or result of a request are not subject to the appeal procedure. The City Council shall be the Board of Appeals and Adjustments with powers listed in Minnesota Statutes 462.357, subdivision 6.

(a) *Appeal Procedures.*

1. An appeal from an administrative action shall be filed by the property owner or their agent with the Zoning Administrator within ten (10) days after the making of the order, requirement, or interpretation being appealed.

2. The property owner or their agent shall file with the Zoning Administrator an application for appeal stating the specific grounds upon which the appeal is made. Said application shall be accompanied by a fee as established by City Council ordinance. In cases

where the application is judged to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within ten (10) days of the date of submission.

3. An appeal stays all proceedings and the furtherance of the action being appealed unless it is certified to the Board of Adjustment Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life and property.

4. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate and shall provide general assistance in preparing a recommendation on the action to the Board of Adjustments and Appeals.

5. The Board of Appeals and Adjustment shall consider the application for appeal at a public meeting and consider testimony of the property owner and City staff.

6. Pursuant to Minnesota Statutes 15.99, the Board of Adjustment and Appeals shall make its decision in accordance with the timeline described for variances in Subd. 4.A.2.c. of this Chapter.

7. The Zoning Administrator shall serve a copy of the final order of the Board upon the applicant by mail.

§ 1007.019 ADMINISTRATION: ADMINISTRATIVE PERMITS AND APPROVALS.

(1) *Purpose.* The purpose of this section is to establish regulations and procedures for the processing and consideration of activities allowed by administrative permit, and of matters requiring the approvals of the Zoning Administrator with the goal of protecting the health, safety, and welfare of the citizens of the City.

(2) *Procedure.*

(a) Application for an administrative permit shall be filed by the property owner or designated agent with the Zoning Administrator on forms to be provided by the City.

(b) Applications for administrative permits or administrative approvals shall be accompanied by a non-refundable fee as established by City Council ordinance.

(c) The Zoning Administrator shall review the applications and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Ordinance. The Zoning Administrator shall notify the applicant, in writing, of any incomplete application within ten (10) days of the date of submission.

(d) The Zoning Administrator's review is based upon the following factors:

1. The proposed development application has been found to be consistent with the policies and recommendations of the Lino Lakes Comprehensive Plan including:

- a. Land Use Plan.
- b. Transportation Plan.
- c. Utility (Sewer and Water) Plans.
- d. Local Water Management Plan.
- e. Capital Improvement Plan.
- f. Policy Plan
- g. Natural Environment Plan

2. The proposed development application is compatible with present and future land uses of the area.

3. The proposed development application conforms to performance standards herein and other applicable City Codes.

4. Traffic generated by a proposed development application is within the capabilities of the City when:

a. Traffic generated by a proposed development will not degrade the level of service outside of the proposed development to a level worse than the existing level of service. (Level of service as defined by the Highway Capacity Manual.)

b. The existing level of service must be D or better for any street providing access to the development. If the existing level of service is E or F, the subdivision developer must provide, as part of the proposed project, improvements needed to ensure a level of service D or better.

c. Existing roads providing access to the development have the structural capacity to accommodate projected traffic from the proposed subdivision or the developer will pay to correct any structural deficiencies.

d. The traffic generated from a proposed development shall not require City street improvements that are inconsistent with the Lino Lakes Capital Improvement Plan or the developer shall pay to correct any street deficiencies.

5. The proposed development shall be served with adequate and safe water supply.

6. The proposed development shall be served with an adequate and safe sanitary sewer system.

7. The proposed development shall not result in the premature expenditures of City funds on capital improvements necessary to accommodate the proposed development.

(e) The Zoning Administrator shall make a determination on approval or denial of the administrative permit within sixty (60) days from the date of submission of a complete application unless the review is extended as allowed by MN Stat. 15.99.

(f) A written report or letter of approval shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this Ordinance shall be attached to the permit or letter.

(g) Determination of non-compliance with applicable codes, ordinances, and the standards in this paragraph shall be communicated to the applicant in writing and the application for the permit shall be considered denied; unless, within ten (10) days of the date of such notice, the applicant submits revised plans and/or information with which the Zoning Administrator is able to determine compliance.

(h) Unresolved disputes as to administrative application of the requirements of this paragraph shall be subject to appeal as outlined in § 1007.018 of this Ordinance.

(3) *Information Requirement.* The information required for all administrative permit or approval applications shall include:

(a) The applicant shall include as part of the application, the applicable submission information as identified in § 1007.020 Site and Building Plan Review. The Zoning Administrator may waive submission information not deemed necessary for the administrative review.

(b) A concise statement describing the proposed use, event or activity, including the purpose, type of merchandise involved, dates and times of operation, number of employees involved, provisions for on-site security, provisions for on-site parking, and other pertinent information required by the Zoning Administrator to fully evaluate the application.

(c) A copy of the current sales tax certificate issued by the State of Minnesota, if applicable.

(d) Information identified in §1007.044 of this Ordinance as may be applicable.

(4) *Performance Standards.* All uses, events, or activities allowed by administrative permit shall conform to the applicable standards outlined in the zoning district in which such use, event or activity is proposed.

(5) *Administration and Enforcement.*

(a) The Zoning Administrator shall keep a record of applications and administrative permits or approvals.

(b) A copy of all administrative permits issued shall be forwarded to appropriate staff as determined by the Zoning Administrator.

(c) Enforcement of the provisions of this paragraph shall be in accordance with §1007.023 of this Ordinance. Violation of an issued permit or of the provisions of this section also shall be grounds for denial of future permit applications.

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§ 1007.020 SITE AND BUILDING PLAN REVIEW.

(1) *General.* All site and building plans for multiple family, commercial, industrial or public/semi-public uses shall require review and approval by the Community Development Department. Relocated structures shall also require a site and building plan review as required by §1007.046.

(2) *Applications and Submittal Requirements.* Applications for site and building plan review shall be filed with the Zoning Administrator and shall be accompanied by the appropriate fee and the following submittal information:

(a) Proof of title and contract/purchase agreement and property owner signature on the application form when applicable.

(b) Eight (8) large scale copies and reduced (11" x 17") copies of detailed written materials, plans and specifications. One electronic copy in a format compatible with the City's computer system.

Note: One/two *additional* large scale copies shall be provided for each of the following, if applicable:

- Project adjacent to a County Road or County State Aid Highway – (2 sets)
- Project adjacent to a State Highway or Interstate Highway – (2 sets)
- Project lies within a Shoreland District – (1 set)

(c) Certificate of Survey prepared by a licensed land surveyor identifying the following:
1. Scale (engineering only) at not less than one (1) inch equals one hundred (100) feet.

2. North point indication.
3. Existing boundaries with lot dimension and lot area.
4. Existing buildings, structures and improvements.
5. Easements of record
6. Delineated wetland boundary, to include the OHWL of any lakes or DNR waters.
7. All encroachments.
8. Legal description.

(d) Site Plan using the current Certificate of Survey as a base depicting the following:

1. Name of project or development.

2. Name and address of developer and/or owner.
 3. Name and address of engineer/architect/designer.
 4. Date of plan preparation and dates of any subsequent revisions.
 5. All proposed improvements, including:
 - a. Required and proposed setbacks.
 - b. Location, setback and dimensions of all proposed buildings and structures.
 - c. Location of all adjacent buildings and structures within one hundred (100) feet of the exterior boundaries of the subject property.
 - d. Location, number, dimensions of all proposed parking stalls, loading areas and drive aisles, with curbing shown.
 - e. Location, width and setbacks of all proposed street accesses and driveways.
 - f. Location, width and setbacks of all proposed sidewalks, walkways and trails.
 - g. Location and type of all proposed lighting, including fixture details.
 - h. Provisions for storage and disposal of waste, garbage and recyclables, including details for enclosing and screening exterior containers.
 6. Calculations for impervious/pervious surfaces.
- (e) Grading Plan (using the current Certificate of Survey as a base) depicting the following:
1. Existing contours at two- (2) foot intervals.
 2. Proposed grade elevations at two- (2) foot maximum intervals.
 3. Drainage plan, including the configuration of drainage areas and calculations.
 4. Spot elevations.
 5. Surface water ponding and treatment areas.
 6. Erosion control measures.
 7. Wetland replacement plan (when applicable).

8. Soil borings.
9. Drainage calculations for 2-, 10-, & 100-year storm events.
10. Delineated wetland boundary, to include OHWL of any lakes or DNR waters.
11. Date of plan preparation and dates of any subsequent revisions.

(f) Landscaping Plan using the current Certificate of Survey as a base depicting the following:

1. Planting schedule including:
 - a. Symbols.
 - b. Quantities.
 - c. Common and botanical names.
 - d. Sizes of plant materials.
 - e. Root specification (bare root, balled/burlapped, potted, etc.).
 - f. Special installation instructions.
2. Tree Preservation Plan: location, type and size of all significant trees to be removed or preserved. (see tree plan requirements in §1007.043 (17)(d))
3. Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).
4. Typical sections with details of fences, tie walls, planter boxes, tot lots, picnic areas and the like.
5. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials to be used.
6. Delineation of both sodded and seeded areas with respective areas measured in square feet.
7. Coverage plan for underground irrigation systems, if any.
8. Other existing or proposed conditions that could be anticipated to affect landscaping.
9. Date of plan preparation and dates of any subsequent revisions.

(g) *Photometric Lighting Plan, to include fixture details/cut sheets/drawings.*

1. Date of plan preparation and dates of any subsequent revisions.

(h) *Architectural Plans.*

1. Date of plan preparation and dates of any subsequent revisions.
2. Architectural elevations, IN COLOR, of all principal and accessory buildings and structures (type, color, and materials used in all exterior surfaces).
3. Typical floor plan and typical room plan drawn to scale with a summary of square footage by use or activity.

(i) *Utility Plan.*

1. Location of hydrants, valves and manholes, if any.
2. Location, sizing, and type of water and sewer system mains and proposed service connections, hydrants, valves, and manholes; or,
3. Location and size of proposed primary and secondary on-site treatment systems, when allowed.
4. Storm sewer, catch basins, invert elevation, type of castings and type of materials (refer to Engineering Manual for City standards).
5. Date of plan preparations and dates of any subsequent revisions.

(j) Other plans and information as may be required by the Zoning Administrator which may include (but not be limited to) the following:

1. Location, type and size (area and height) of all signs to be erected upon the subject property.
2. Vicinity map showing the subject property in relation to nearby highways or major street intersections.
3. Sound source control plan.
4. Fire protection plan.
5. Proposed protective covenants or private restrictions.
6. Where landscaping or man-made materials are used to provide screening from adjacent properties, a cross section shall be provided showing the perspective of the site from neighboring properties at the property line elevation.

(k) For applications for new communication towers, the application must include information to demonstrate compliance with the provisions of §1007.054, including but not limited to:

1. Demonstration that a significant gap in coverage exists that would be resolved by the proposed location and that adequate service cannot be provided utilizing existing structures within a two (2) mile search radius of the proposed site.

2. Structural design information to ensure compliance with manufacturer specifications and to ensure the tower can accommodate additional antennas (co-location).

3. Authorization from the property owner if different from applicant.

4. Lease or agreement requiring removal of the tower and facilities after cessation of use.

5. Copies of applicable federal, state, and local licenses, permits, approvals.

(3) *Review.*

(a) The Zoning Administrator shall forward copies of the application and site and building plans to the appropriate staff, consultants and governmental agencies for review and recommendation. The Community Development Department shall perform a review and approve or deny the application. The Community Development Department may also suggest such conditions as they deem necessary to the approval of the site and building plans.

(b) The Community Development Department shall approve or deny the application for site and building plan review within sixty (60) days of receiving all required information. The sixty (60) day time limit starts over only if the City sends notice, within ten (10) business days, of receipt of the request, telling the applicant what information is missing. The City may extend the sixty (60) day time limit before the end of such time limit by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days, unless approved by the applicant. Failure of the Department to deny an application within sixty (60) days is approval of the request. If the Department denies a request, it shall state in writing the reasons for the denial at the time it denies the request.

(c) The applicant may appeal any denial or decision by the Department according to §1007.018.

(d) No application for a site and building plan review shall be resubmitted for a period of twelve (12) months from the date of said order of denial.

(e) The Community Development Department shall provide to the City Council reports summarizing submitted site and building plan applications and outcomes regarding approval or denial as they occur.

(4) *Design Standards.* Plans which fail to meet the following criteria shall not be approved.

(a) The proposed development application must be consistent with the policies and recommendations of the Lino Lakes Comprehensive Plan including:

1. Land Use Plan.
2. Transportation Plan.
3. Utility (Sewer and Water) Plans.
4. Local Water Management Plan.
5. Capital Improvement Plan.
6. Policy Plan
7. Natural Environment Plan.

(b) The proposed development application is compatible with present and future land uses of the area.

(c) The proposed development application conforms to performance standards herein and other applicable City Codes.

(d) Traffic generated by a proposed development application is within the capabilities of the City when:

1. If the existing level of service (LOS) outside of the proposed subdivision is A or B, traffic generated by a proposed subdivision will not degrade the level of service more than one grade.

2. If the existing LOS outside of the proposed subdivision is C, traffic generated by a proposed subdivision will not degrade the level of service below C.

3. If the existing LOS outside of the proposed subdivision is D, traffic generated by a proposed subdivision will not degrade the level of service below D.

4. The existing LOS must be D or better for all streets and intersections providing access to the subdivision. If the existing level of service is E or F, the subdivision developer must provide, as part of the proposed project, improvements needed to ensure a level of service D or better.

5. Existing roads and intersections providing access to the subdivision must have the structural capacity to accommodate projected traffic from the proposed subdivision or the developer will pay to correct any structural deficiencies.

6. The traffic generated from a proposed subdivision shall not require City street improvements that are inconsistent with the Lino Lakes Capital Improvement Plan. However, the City may, at its discretion, consider developer-financed improvements to correct any street deficiencies.

7. The LOS requirements in paragraphs 1. to 4. above do not apply to the I-35W/Lake Drive or I-35E/Main St. interchanges. At City discretion, interchange impacts must be evaluated in conjunction with Anoka County and the Minnesota Dept. of Transportation, and a plan must be prepared to determine improvements needed to resolve deficiencies. This plan must determine traffic generated by the subdivision project, how this traffic contributes to the total traffic, and the time frame of the improvements. The plan also must examine financing options, including project contribution and cost sharing among other jurisdictions and other properties that contribute to traffic at the interchange.

8. The City does not relinquish any rights of local determination.

(e) The proposed development shall be served with adequate and safe water supply.

(f) The proposed development shall be served with an adequate or safe sanitary sewer system.

(g) The proposed development shall not result in the premature expenditures of City funds on capital improvements necessary to accommodate the proposed development.

(h) Development shall be permitted only in such a manner that the maximum number of trees shall be preserved. It shall be the duty of the person seeking approval to demonstrate that there are no feasible or prudent alternatives to the cutting of trees on the site.

(5) *Performance Standards.* All uses shall comply with the requirements of this section. In order to determine whether a proposed use will conform to the requirements of this ordinance, the Zoning Administrator may obtain a qualified consultant to testify, whose cost for services shall be borne by the applicant.

(a) Fire prevention and fighting equipment acceptable to the Board of Fire Underwriters and City Council shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.

(b) Activities authorized by site and building plan approval shall be initiated within six (6) months. The time limits established in this paragraph may be extended by the Zoning Administrator

(c) The applicant or the owner of land affected by such site and building plan review shall submit to the City at the time of site and building plan review application an amount for fee and deposit as required by City resolution or ordinance.

(d) The applicant shall, upon completion of site and building plan review, submit to the City an agreement that they will cause all improvements called for in the site and building plan review to be completed within the time specified by the City. Performance of such contracts shall be secured by the amount submitted at application or additional amount as may be required by the City Council.

§ 1007.021 DUTIES OF CITY STAFF.

The offices of the Zoning Administrator and Building Official are hereby established; official(s) shall be appointed by the government body and serve at its pleasure.

(1) *Duties of the Zoning Administrator.* The Community Development Director shall be the Zoning Administrator. The Zoning Administrator shall enforce the provisions of this ordinance as provided herein; in addition to the duties and powers of the Zoning Administrator under this Ordinance, express or implied, the Zoning Administrator shall have the duty and power to:

- (a) Issue permits required by this ordinance.
- (b) Maintain all records necessary for the enforcement of this ordinance; including, but not limited to, all data, maps, amendments, rezonings, and conditional use permits, variances, appeal notices, certificates of occupancy, and applications thereof, nonconforming uses.
- (c) Receive, file and forward all appeals, notices, applications for variances, conditional use permits, certificates of occupancy, or other matters to the appropriate officials or boards.
- (d) Serve as ex-officio, non-voting member of the Planning and Zoning Board.
- (e) Perform all duties set forth in job description.

(2) *Duties of the Building Official.* The Building Official shall enforce the provisions of this ordinance as provided herein; in addition to the duties and powers of the Building Official under this ordinance, express or implied, the Building Official shall have the duty and power to:

- (a) Conduct inspections of land, buildings or structures at reasonable times, to determine compliance with and enforce the provisions of this ordinance.
- (b) Perform annual and/or periodic review of all conditional use permits.
- (c) Institute in the name of the City any appropriate actions or proceedings to enforce this ordinance.
- (d) Perform all duties set forth in job description.

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§ 1007.022 CERTIFICATE OF OCCUPANCY.

(1) No person may change the use of any land except for construction of essential services and transmission lines or occupy or utilize a new structurally altered building (except single-family detached dwellings or their accessory buildings or private garages in any district) or change the use of any building after the effective date of this ordinance unless he has first obtained a certificate of occupancy.

(2) Application for a certificate of occupancy for a new building or for an existing building which has been so altered or the reuse of any land may be filed with the Building Official any time after the application for a building permit. The Certificate of Occupancy shall be issued within ten (10) days after the construction or alteration of such building or part thereof or site has been completed in conformity with the provisions of this ordinance and building code. Pending the issuance of said certificate, a temporary certificate of occupancy may be issued, subject to the provisions of the building code and zoning ordinance for a period not to exceed twelve (12) months during the completion of the erection or the alteration of such a building. The temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the community relating to the use or occupancy of the premises or any other matter, except under such restrictions and provisions as will adequately insure the safety of the occupants. The use of any structure for which a building permit is required or the use of any land shall be considered a violation of this ordinance unless a certificate of occupancy has been issued.

(3) Application for a certificate of occupancy for a new use of land shall be made to the Building Official before any such land shall be so used. Such certificate of occupancy shall be issued within ten (10) days after this application if the use is in conformity with the provisions of this ordinance.

(4) A record of all certificates of occupancy shall be kept on file with the City.

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§ 1007.023 ENFORCEMENT AND PENALTIES.

(1) *Administration and Enforcement.*

(a) This Ordinance shall be administered and enforced by the Zoning Administrator who is appointed by the City Council. The Zoning Administrator may institute in the name of the City of Lino Lakes any appropriate actions or proceedings against a violator as provided by statute, ordinance, or code.

(b) If the provisions of this Ordinance are being violated, the City shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The City shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Section to insure compliance with or to prevent violation of its provisions.

(2) *Penalties, Violations, and Enforcement.* In addition to the remedies set out in the paragraph above, the City may enforce any provisions of this Ordinance by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

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§ 1007.024 PUD, PLANNED UNIT DEVELOPMENT.

(1) *Purpose and Intent.* The purpose of this section of the Zoning Ordinance is to provide for the grouping of lots or buildings for development as an integrated, coordinated unit as opposed to traditional parcel by parcel, piecemeal, or sporadic approach to development. This section is intended to introduce flexibility of site design and architecture for the conservation of land and open space through clustering of lots, buildings and activities, which promote the goals outlined in the Comprehensive Plan or serve another public purpose. It is further intended that planned unit developments are to be characterized by central management, integrated planning and architecture, joint and common use and maintenance of parking, open space and other similar facilities, and harmonious selection and efficient distribution of uses.

A residential conditional use permit PUD may include a variety of residential units, including single family and multifamily units as long as it complies with the density requirements. A non-residential conditional use permit PUD may include a variety of commercial and/or industrial uses. A PUD that includes a mix of residential and commercial/industrial uses must utilize the PUD zoning district as described in §1007.132 of this ordinance.

The PUD, by allowing deviation from the strict provisions of this Ordinance related to setbacks, heights, lot area, width and depths, yards, etc., by conditional use permit or a mixture of uses by rezoning to a PUD District, is intended to encourage:

- (a) A development pattern in harmony with the objectives of the Comprehensive Plan.
- (b) Innovations in development that address growing demands for all styles of economic expansion, greater variety in type, design, architectural standards, and siting of structures through the conservation and more efficient use of land in such developments.
- (c) The preservation and enhancement of desirable site characteristics such as existing vegetation, natural topography and geologic features and the prevention of soil erosion.
- (d) A creative use of land and related physical development which allows a phased and orderly transition of varying land uses in close proximity to each other.
- (e) An efficient use of land resulting in smaller networks of utilities and streets thereby lowering development costs and public investments.
- (f) Promotion of a desirable and creative environment that might be prevented through the strict application of City zoning and subdivision regulations.

(2) *General Requirements and Standards for a PUD.*

(a) *Ownership.* An application for PUD approval shall be filed by the landowner or jointly by all landowners of the property included in a project. The application and all submissions shall be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved PUD shall be binding on all owners.

(b) *Comprehensive Plan Consistency.* The proposed PUD shall be consistent with the City Comprehensive Plan.

(c) *Public or Common Open Space.* Public or common open space at least sufficient to meet the minimum requirements established in this Ordinance and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents of the PUD shall be provided within the area of the PUD.

(d) *Operating and Maintenance Requirements for PUD Common Open Space/Facilities.* Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard. Common open space and service facilities within a PUD may be placed under the ownership of one or more of the following:

1. *Landlord – Tenant.* Landlord control, where only use by tenants is anticipated.
2. *Owners.* Property owners association, provided all of the following conditions are met:

- a. *Declaration of Covenants and Conditions.* Prior to the use, occupancy or sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document or a document, as specified by the Minnesota Common Interest Ownership Act set out in Minnesota Statutes, Chapter 515B and a set of floor plans, as specified by Minnesota Statutes, Chapter 515B shall be filed with the City of Lino Lakes, said filing with the City to be made prior to the filings of said declaration or document or floor plans with the recording officers of Anoka County, Minnesota.

- b. Open space may be owned in common by the property owners created through subdivision of the original tract. Management shall be the responsibility of that subdivision's homeowner association. In the case where at least one (1) open space is held in common ownership, a homeowner association shall be established for that subdivision. Membership in the association by all property owners in the subdivision shall be mandatory. The homeowners association documents or the declaration of covenants, conditions and restrictions shall be submitted as part of the preliminary plat application and shall contain the following information:

- i. The legal description of the common lands or facilities.
- ii. The restrictions placed upon the use and enjoyment of the lands or facilities including the persons or entities entitled to enforce the restrictions.
- iii. A mechanism for resolving disputes among the owners or association members.
- iv. A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes, and insurance premiums.

v. The conditions and timing of the transfer of ownership and control of land or facilities to the association or to common ownership.

c. *Natural Habitat.* Open space may be deeded to an established land trust, a government agency, or non-profit organization. Management shall be the responsibility of the land trust or non-profit organization. Maintenance may be performed by the neighborhood homeowner association, through written agreement between the association and the land trust or non-profit organization.

i. Open space may be protected by establishing conservation easements in perpetuity in favor of an established land trust or non-profit organization as provided in Minnesota Statutes 84.64 – 84.65. Unless the document establishing the restrictions specifically provides to the contrary, the City shall have no responsibility for the maintenance or management of the area subject to the restrictions. The form and content of the deed or other instrument establishing the restrictions must be approved by the City prior to the execution and delivery thereof. Notwithstanding any provision of this Ordinance to the contrary, the City may, in cases where conservation restrictions are utilized to meet open space dedication requirements of this Ordinance, waive the requirement that the area subject to the restrictions be platted as a separate outlot.

ii. Stormwater drainage systems located within open spaces or the residential lots shall be covered by utility and drainage easements dedicated on the final plat to the City.

d. *Neighborhood Recreational and Trail Corridor.* Recreational open space or trail corridors intended as public parks or public trails shall be dedicated to the City. Management and maintenance of the public recreational areas shall be the responsibility of the City.

3. *Staging.* When a PUD provides for common or public open space, the total area of common or public open space or land escrow security in any stage of development, shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.

(e) *Utilities.*

1. *Underground.* All utilities serving a two family and townhome development, including telephone, electricity, gas, and telecable, shall be installed underground.

2. *Public Utility Service.* Separate public utility services shall be provided to each unit unless exempted by the City Engineer.

3. *Water Connections.* Where more than one (1) property is served from the same service line, a shut off valve must be located in such a way that each unit's service may be shut off and secured by the City, in addition to the normally supplied shut off at the street.

4. *Sewer Connections.* Where more than one (1) unit is served by a sanitary sewer lateral which exceeds three hundred (300) feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.

(f) *Roadways, Private.*

1. *Design.* Private roadways within the project shall have an improved surface to twenty-six (26) feet or more in width and shall be so designed as to permit the City fire trucks to provide protection to each building.

2. *Parking.* No portion of the required private road system may be used in calculating required off-street parking space or be used for parking.

(g) *Development Agreement.* Prior to a rezoning or the issuance of a building permit as part of Planned Unit Development, the permit, applicant, builder, or developer shall execute and deliver to the City Council a development agreement. The agreement shall detail all use restrictions and required on and off-site improvements conditional to the PUD rezoning or CUP approval. The agreement shall provide for the installation within one (1) year of the off-site and on-site improvements (exclusive of building permit) as approved by the City Council, secured by a cash escrow or letter of credit in an amount and with surety and conditions satisfactory to the City, to insure the City that such improvements will be actually constructed and installed according to specifications and plans approved by the City as expressed in such agreement.

(3) *Rural Residential Planned Unit Development Requirements.*

(a) *Purpose.* It is the intent of this section to establish special requirements for the granting of a conditional use permit for rural (without City water or sanitary sewer) residential conservation subdivision PUD project in order to promote:

1. Preservation of productive land for agricultural use.
2. Preservation of wildlife habitat and unique natural resources.
3. Reduction of negative impacts on the environment.
4. Creation of common open space that provides a unified landscape for the use and enjoyment of the neighborhood community and/or the general public.
5. A variety of rural residential lot sizes, configurations, and neighborhoods.

(b) *Application.* Rural residential planned unit development shall be applied only outside of areas guided for City water and sanitary sewer (Stage 1 and Stage 2 growth areas) as identified within the Comprehensive Plan.

(c) *Densities.*

1. Subdivisions served by independent sewage treatment systems shall not exceed four (4) units per forty (40) acres.

2. Subdivisions served by a MPCA approved community sewer system shall not exceed eight (8) units per forty (40) acres.

(d) *Open Space Performance Standards.*

1. *Open Space Area Regulations.*

a. A minimum of fifty (50) percent of land subdivided for development shall be dedicated to common open space.

b. All designated open space shall be platted as outlot parcels held as open space in perpetuity. Public trail corridors shall be dedicated as park land.

c. Each open space outlot shall be classified as natural habitat, neighborhood recreation, or trail corridor open space, and shall conform to the type of use, location criteria, and deed restrictions of that classification, as specified in Section 1001.099 of the Lino Lakes Subdivision Ordinance.

2. *Location Criteria.* Open space outlots shall be located on the development site according to the following locational criteria:

a. *Natural Habitat.* The development shall preserve natural habitat in a contiguous, connected configuration. Natural habitat open spaces may include, but are not limited to, fields, wetlands, slopes, bluffs, dense woods, lakes, ponds, streams, shorelands, and other environmentally sensitive areas or desirable view sheds.

b. *Trail Corridors.* The development shall locate trail corridor open spaces in strategic places such that larger open space outlots and designated places of destination both on the development tract and adjacent tracts are connected with one another. Trail corridor open spaces may include, but are not limited to, established regional trails, local pathways, paved walkways, and shorelines. Public trail corridors shall be a minimum of twenty (20) feet in width.

c. *Neighborhood Recreation.* The development shall locate neighborhood recreation open spaces such that they are an integral part of the neighborhood of surrounding homesites, at an elevation appropriate to their intended recreational use, defined by coherent boundaries, and accessible to all neighborhood residents. Neighborhood recreation open spaces may include, but are not limited to, greens, commons, playgrounds, ball fields, gardens, or other recreational areas.

d. *Public Open Space Accessibility.* Open spaces dedicated to the public shall be accessible to pedestrians at no less than one thousand two hundred (1,200) foot intervals along public roadways. Where necessary, pedestrian access corridor outlots between private lots shall be at least twenty (20) feet in width.

e. *Open Space Ownership and Management.* Each designated open space area shall be owned and managed in accordance with standards in Section 1001.099 of the Lino Lakes Subdivision Ordinance.

(e) *Neighborhood Performance Standards.*

1. *Neighborhood Configuration.*

a. In order to establish a cohesive neighborhood unit, residential lots shall be located in a neighborhood cluster. A neighborhood cluster shall include a minimum of four (4) lots or twenty-five (25) percent of the allowable number of lots on the parcel to be subdivided, whichever is greater. An efficiency of land utilization and community development should be encouraged by maximizing the number of lots in any one cluster development, while adhering to the underlying density and open space requirements of this Ordinance.

b. A neighborhood cluster shall be oriented toward an identifiable feature which all residential units share in common. Neighborhood identity may be accomplished by one or more of the following features:

i. *View Shed.* The lots of a neighborhood may be arranged such that a majority of the principle structures will take visual advantage of a field, wetland, woods, lake, stream, or other open space which could be described as a view shed.

ii. *Physical Amenity.* The lots of a neighborhood may be arranged such that a majority of the principle structures will face a green, playground, ball field, rock outcropping, stand of trees, church, school, or other physical feature unique to that particular neighborhood.

iii. *Streetscape.* The lots may be arranged such that the principle structures will face a street space enhanced with landscaping, street trees, boulevards, medians, or other landscaping techniques appropriate to the City's street design standards.

2. *Lot Area.*

a. Lots served by individual sewage treatment systems (ISTS) shall have a minimum of one (1) acre of buildable land area capable of accommodating the principle dwelling, accessory buildings, and two (2) individual soil treatment systems (drainfields).

b. Lots served by a MPCA approved community sewage treatment system shall have a minimum lot area of twenty-five thousand (25,000) square feet of buildable land.

c. No individual single family lot may exceed five (5) acres in size.

3. *Minimum Lot Width.*

a. *ISTS Lots.* Two hundred (200) feet.

b. *Lots Served by a MPCA Approved Community Sewage System.*

- i. *Interior Lot.* One hundred (100) feet.
- ii. *Corner Lot.* One hundred twenty-five (125) feet.

4. *Setbacks.* Setbacks shall be the same as those imposed in the applicable base zoning district.

5. *Sewer Management.* A report, prepared by a Minnesota Pollution Control Agency licensed designer, on the feasibility of individual sewage treatment systems (ISTS) and water systems on each lot or a community or shared sewage and water system serving the rural subdivision. The report shall follow Minnesota Rules Chapter 7080, as may be amended, and include soil boring analysis and percolation tests to verify report conclusions.

For any development with a community sewage treatment system, the City shall require documentation that the property association shall be responsible for liability insurance and costs associated with the maintenance and operation of a community sewage treatment system. The City shall also require an agreement that if the association is not maintaining the system or the system is not operating properly, the City can undertake needed repair and maintenance and assess the property owners for the costs of such action.

(4) *Urban Residential Planned Unit Development Requirements.*

(a) *Purpose.* It is the intent of this section to establish special requirements for the granting of a conditional use permit for an urban (with City water and sanitary sewer) residential conservation subdivision PUD project in order to promote:

- 1. Preservation of wildlife habitat and unique natural resources.
- 2. Reduction of negative impacts on the environment.
- 3. Creation of common open space that provides a unified landscape for the use and enjoyment of the neighborhood community and/or the general public.
- 4. A variety of urban residential lot sizes, configurations, and neighborhoods.

(b) *Application.* Urban residential planned unit development shall be applied only within the City's R-2, R-3, and R-4 Zoning Districts.

(c) *Densities.* The maximum allowable density within an urban residential PUD shall be consistent with the density directives of the Comprehensive Plan.

(d) *Open Space Performance Standards.*

- 1. *Open Space Area Regulations.*

a. A minimum of fifty (50) percent of land subdivided for development shall be reserved as common open space.

b. Designated open space shall be exclusive of unit lots and driveways. Road rights-of-way, parking lots, and driveways shall provide an emphasis upon tree preservation, natural habitat, and wetland protection

c. All designated open space shall be platted as outlot parcels held as open space in perpetuity. Public trail corridors shall be dedicated as park land.

d. Each open space outlot shall be classified as natural habitat, neighborhood recreation, or trail corridor open space, and shall conform to the type of use, location criteria, and deed restrictions of that classification, as specified in Section 1001.099 of the Lino Lakes Subdivision Ordinance.

(e) *Neighborhood Performance Standards.*

1. *Identity.* To provide an identity and create a cohesive development pattern, residential units/buildings shall be oriented toward an identifiable future which they have in common. Such identity may be accomplished by one or more of the following features:

a. *View Shed.* The lots of a neighborhood may be arranged such that a majority of the principle structures will take visual advantage of a field, wetland, woods, lake, stream, or other open space which could be described as a view shed.

b. *Physical Amenity.* The lots of a neighborhood may be arranged such that a majority of the principle structure will face a green, playground, ball field, rock outcropping, stand of trees, church, school, or other physical feature unique to that particular neighborhood.

c. *Streetscape.* The lots may be arranged such that the principle structures will face a street space enhanced with landscaping, street trees, boulevards, sidewalks, trails, medians, or other landscaping techniques appropriate to the City's street design standards.

(f) *Yards.*

1. *Setbacks, Periphery.* The front and side yard restrictions at the periphery of the Planned Unit Development site at a minimum shall be the same as imposed in the respective base districts.

2. *Setback, Front.* No building shall be located less than twenty-five (25) feet from the back of the curb line along those roadways which are part of the internal street pattern.

3. *Building Separation.* Buildings upon the same lot shall maintain a minimum setback of ten (10) feet between buildings.

(g) Townhouses, cooperatives, condominiums shall comply with the design standards of §1007.018 (2)(b).

(5) *Commercial or Industrial Planned Unit Development, CUP Requirements.*

(a) *Purpose.* It is the intent of this section to further the directives of §1007.001 and establish special requirements for the granting of a conditional use permit to allow flexibility from the strict provisions of this Ordinance in regard to multiple buildings, shared access/parking, parking supply reductions, internal setbacks, etc.

(b) *Standards.*

1. *Open Space.*

a. The PUD design will result in greater landscaped pervious area than the base zoning district standard.

b. The PUD design will result in the protection of important natural features (e.g., wetlands, significant trees, water courses, slopes over twelve (12) percent).

c. The PUD design will include extensive landscaping with an emphasis on streetscape, site entrances, and the perimeter of the building.

2. *Architectural Guidelines.* Commercial and industrial buildings shall comply with design standards of §1007.043 (2)(d) of this Ordinance.

(6) *Procedure for Processing a Planned Unit Development.*

(a) *Stages of PUD.* The processing steps for a PUD are intended to provide for an orderly development and progression of the Plan, 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 various steps and applications, outlined in detail in the following sections, are:

1. *Application Conference and Neighborhood Meeting.* Preliminary discussions.

2. *General Concept Plan Application.* Consideration of overall concept and plan. The concept plan review is voluntary but strongly recommended.

3. *Development Stage Plan Application.* One or more detailed Plans as part of the whole final plan.

4. *Final Plan Application.* The summary of the entire concept and each Development Stage Plan in an integrated complete and final plan.

(b) *Application Conference.* Prior to filing of an application for PUD, the applicant for the proposed PUD shall arrange for and attend a conference with the Community Development Department. At such conference, the applicant shall be prepared to generally describe the proposal for a PUD. The primary purpose of the conference shall be to provide the applicant

with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this Ordinance before incurring substantial expense in the preparation of plans, surveys and other data.

Neighborhood Meeting. The City strongly recommends the property owner/applicant hold a neighborhood meeting for informal comment and feedback prior to submitting a formal concept application.

(c) The person applying for a planned unit development shall fill out and submit to the Zoning Administrator an application form together with a fee as established by City Council resolution. The request for planned unit development shall be placed on the agendas of the Park Board, Environmental Board, and Planning and Zoning Board according to the City's deadline and meeting schedule.

(d) Planned unit develop/rezoning application shall be posted and advertised in accordance with §1007.015 of this Ordinance.

(e) Planned unit development/conditional use permit applications shall be posted and advertised in accordance with §1007.016 (2) of this Ordinance.

(f) Public hearings shall be held at the PUD development stage.

(g) *General Concept Plan Application.*

1. *Purpose.* The General Concept Plan provides an opportunity for the applicant to submit an application and plan to the City showing his basic intent and the general nature of the entire development before incurring substantial cost. This Concept Plan provides an opportunity for the proposal to be publicly considered at an early stage. The following elements of the proposed General Concept Plan represent the immediately significant elements which the City shall review and for which a decision shall be rendered:

a. Overall Maximum PUD Density Range.

b. General Location of Major Streets and Pedestrian Ways.

c. General Location and Extent of Public and Common Open Space.

d. General Location of Residential and Non-Residential Land Uses with Approximate Type and Intensities of Development.

e. A Staging and Time Schedule of Development.

f. Other Special Criteria for Development.

2. *General Concept Plan Submission Information.*

a. *General Information.*

i. *Owner.* The landowner's name, address and telephone number and his interest in the subject property.

ii. *Applicant.* The applicant's name, address and telephone number if different from the landowner. The applicant may designate an agent to be contacted by the City, who may speak for the applicant.

iii. *Consultants.* The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.

iv. *Title of Applicant.* Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidence as the City Attorney may require to show the status of title or control of the subject property.

b. *Present Status of Premises and Adjacent Properties.*

i. *Description.* The address and legal description of the subject property. A survey is required.

ii. *Zoning.* The existing zoning classification and present use of the subject property and all lands within five hundred (500) feet of the subject property.

iii. *Map.* A single reproducible map or aerial photograph at a scale of not less than one (1) inch equals one hundred (100) feet, depicting the existing development of the subject property and all land within five hundred (500) feet thereof and showing the precise location of existing streets.

c. *Narrative Description.* A written statement generally describing the proposed PUD and the market which it is intended to serve, showing its relationship to the City's Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.

d. *Site Conditions:* Where deemed necessary by the City, graphic reproductions of the existing site conditions at a scale of not less than one (1) inch equals one hundred (100) feet shall be submitted and shall contain the following:

i. Survey showing lot dimensions and existing easements and utilities.

ii. Contours - minimum two (2) foot intervals.

iii. Location, type, and extent of tree cover.

iv. Slope analysis.

v. Location and extent of water bodies, wetlands, and streams and flood plains within three hundred (300) feet of the subject property.

vi. Existing drainage patterns.

vii. Vistas and significant views.

viii. Soil conditions as they affect development.

All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.

e. *Concept Drawing.* Schematic drawing of the proposed development concept including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses.

f. *Number of Units.* A statement of the estimated total number of dwelling and/or other units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:

i. Area devoted to residential uses.

ii. Area devoted to residential use by building or structure or use type.

iii. Area devoted to common open space.

iv. Area devoted to public open space.

v. Approximate area devoted to streets.

vi. Approximate area, and potential floor area, devoted to commercial uses.

vii. Approximate area, and potential floor area, devoted to industrial or office uses.

g. *Staged Development.* When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such stage and the overall chronology of development to be followed from stage to stage.

h. *Common Areas.* When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted during the development stage.

i. *Covenants.* General intent of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.

j. *Market Feasibility.* Where deemed necessary, a market feasibility study including an analysis of the proposals economic impact on the City.

3. *General Concept Plan Process.* The Community Development Department shall forward the concept plan submission to the City's advisory boards and City Council for their consideration at regularly scheduled meetings to solicit informal review and comment on the project's acceptability in relation to the City's Comprehensive Plan and development regulations. Such meetings should be attended by the applicant.

(h) *Development Stage Plan Application*

1. *Purpose.* The purpose of the Development Stage Plan is to provide one (1) or more specific and particular plans upon which the Planning and Zoning Board will base its recommendation to the City Council and with which substantial compliance is necessary for the preparation of the Final Plan.

2. *Submission of Development Stage.* Following review of the General Concept Plan, the applicant shall file with the Community Development Department a Development Stage Plan application including the information and submissions required by §1007.024 (6)(h)5. for the entire PUD. The Development Stage Plan shall refine the General Concept Plan.

3. *Review and Action by City Staff and Planning and Zoning Board.* Immediately upon receipt of a completed Development Stage Plan, the Community Development Director shall refer such plan to the appropriate City staff, citizen boards, and other special review agencies such as the Rice Creek Watershed District, Department of Natural Resources, or Environmental Quality Board where applicable.

4. *Development Stage Plan Review Criteria.* The evaluation of the proposed Development Stage Plan shall include but not be limited to the following criteria:

a. *Individual Rights.* Adequate property control is provided to protect the individual owners' rights and property values and the public responsibility for maintenance and upkeep.

b. *Traffic Plan.* The interior circulation plan plus access from and onto public rights-of-way does not create congestion or dangers and is adequate for the safety of the project residents and the general public.

- c. *Open Space.* A sufficient amount of useable open space is provided.
- d. *Compatibility.* The architectural design of the project is compatible with the surrounding area.
- e. *Drainage.* The drainage and utility system plans are submitted to the City Engineer and the final drainage and utility plans shall be subject to their approval.
- f. *Schedule.* The development schedule insures a logical development of the site which will protect the public interest and conserve land.
- g. *Platting Requirements.* The development is in compliance with the requirements of the Lino Lakes Subdivision Ordinance.
- h. *District Requirements.* Dwelling unit and accessory use requirements are in compliance with the district provisions in which the development is planned.

5. *Development Stage Submission Information.* Development stage submissions should depict and outline the proposed implementation of the General Concept Stage for the PUD. Information from the General Concept Stage may be included for background and to provide a basis for the submitted plan. The Development Stage submissions shall include but not be limited to:

- a. *Zoning Required.* Zoning classification required for Development Stage submission and any other public decisions necessary for implementation of the proposed plan.
- b. *Preliminary Plat.* Informational requirements of the Subdivision Ordinance plus the following:
 - i. *Buildings.* The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, or proposed buildings, and existing buildings which will remain, if any.
 - ii. *Traffic Circulation.* Location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements.
 - iii. *Common Areas.* Location, designation and total area of all common open space.
 - iv. *Public Open Space.* Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
 - v. *Locate Existing Structures.* The location, use and size of structures and other land uses on adjacent properties.

vi. *Other Data.* Any other information that may have been required by the Planning and Zoning Board in conjunction with the approval of the General Concept Plan.

vii. *Legal Description.* An accurate legal description of the entire area within the PUD for which final development plan approval is sought, correlated to the legal description defining use districts in this Ordinance.

c. *Areas of Use.* A tabulation indicating the approximate gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drug store, dry cleaning, supermarket).

d. *Architectural Plans.* Preliminary architectural plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings and architectural guidelines for future development phases.

e. *Landscape Plan.* A detailed landscaping plan including the type, size and quantity of all existing and proposed plantings.

f. *Grading and Drainage Plan.* Preliminary grading and drainage plan illustrating changes to existing topography and natural site vegetation. The Plan should clearly reflect the site treatment and its conformance with the approved concept plan.

g. *Erosion Control.* A Soil Erosion Control Plan acceptable to watershed district and any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.

h. *Document Changes.* A statement summarizing all changes which have been made in any document, plan data or information previously submitted, together with revised copies of any such document, plan or data.

i. *Additional Data.* Such other and further information as the Planning and Zoning Board, Community Development Director or City Council shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.

6. The terms of the PUD as approved by the City Council shall be embodied in a PUD Agreement, Development Contract, and such other documents as the City shall deem necessary or desirable. The PUD Agreement and any appropriate resolution of the City Council shall be filed with the Anoka County Recorder at the expense of the applicant. At the election of the City, filing of the Development Stage PUD may be delayed until the final plan is filed. Where the Development Stage Plan is denied approval, Council action shall be by written resolution setting forth its findings and conclusions in support of its action.

7. *Limitation on Development Plan Approval.* Unless a Final Plan covering the area designated in the Development Stage Plan as the first stage of the PUD has been filed within one (1) year from the date the City Council grants Development Stage Plan approval, or in any case where the applicant fails to file Final Plans and to proceed with development in accordance with

the provisions of this Ordinance and/or an approved Development Stage Plan, the approval shall expire. The City Council may at its discretion extend for six month intervals the filing deadline for any Final Plan when, for good cause shown, such extension is necessary. The City Council may approve such an extension after the deadline date passes. In any case where Development Plan approval expires and no extension has been approved, the City Council may adopt a resolution repealing the Development Stage Plan approval for that portion of the PUD that has not received Final Plan approval and re-establishing the zoning and other Code provisions that would otherwise be applicable.

(i) *Final Plan Application.*

1. *Purpose.* The Final Plan is to serve as a complete, and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other provisions of the City Code as the land use regulation applicable to the PUD.

2. *Submission of Final Plan.* Upon approval of the Development Stage Plan, and within the time established herein the applicant shall file with the Zoning Administrator an application and Final Plan consisting of the information and submissions required by this Code for the entire PUD or for one (1) or more stages. The Final Plan shall conform to the Development Stage Plan in all respects, and shall be integrated as a coherent statement of the entire Plan. Appropriate cross-referencing and incorporation of recorded documents may be utilized.

3. *Final Plan Submission Information.* After review of a General Concept Plan for the PUD and approval of a Development Stage Plan for a section or sections of the proposed PUD, the applicant will submit the following material for review by the City staff prior to issuance of a building permit:

a. *Recording Proof.* Documents establishing the recording of any easement or other documents required by the City prior to the sale of any land or dwelling unit included in the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.

b. *Final Plans, Structures.* Final architectural working drawings at all structures.

c. *Final Engineering Plans.* Final engineering plans and specifications for streets, drainage, utilities and other public improvements, together with a development contract providing for the installation of such improvements and financial guarantees for the completion of such improvements.

d. *Other Plans.* Any other plans, agreements, or specifications necessary for the City staff to review the proposed construction. All work shall be in conformance with the Building Code of the City.

e. *Recording of Final Plan.* Within sixty (60) days of its approval, the applicant, or at its election, the City, shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the County Recorder or Registrar of Titles, at the expense of the applicant. Certified copies of all relevant recorded documents shall be furnished to the City.

f. *Building and Other Permits.* Except as otherwise expressly provided herein, upon receiving notice from the Community Development Director that the approved Final Plan and development agreement have been recorded, all appropriate officials of the City may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved Final Plan or intermediate Development Stage Plan provided, however, that no such permit shall be issued unless the appropriate official is first satisfied that all requirements which are applicable to the permit sought, have been satisfied.

g. *Limitation on Final Plan Approval.* Within one (1) year after the approval of a Final Plan for PUD, or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an extension shall have been granted and hereinafter provided, automatically render void the PUD permit and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions of the Zoning Code, and other Code provisions, applicable in the district in which it is located. In such case, the Council shall adopt a resolution repealing the PUD permit and PUD approvals and re-establishing the zoning and other provisions that would otherwise be applicable.

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