



Phone (507) 238-9461

CITY OF FAIRMONT – 100 Downtown Plaza – Fairmont, MN 56031
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To: Planning Commission

From: Peter Bode, Planner & Zoning Official

Subject: **Agenda – Regular Meeting**
Tuesday, April 4, 2023 at 5:30 p.m.
City Council Chambers, City Hall, 100 Downtown Plaza

- 1) Approval of Agenda
- 2) Approval of Minutes – March 7, 2023

New Business

- 3) Public Hearing – 221 Krahmer Dr – CUP for a Water-Oriented Accessory Structure

Old Business

None

- 4) Adjournment

MINUTES OF THE FAIRMONT PLANNING COMMISSION

Regular Meeting

March 7, 2023 at 5:30 p.m.

City Council Chambers, City Hall, 100 Downtown Plaza

Members present: Tyler Benschoter, Angela Grafstrom, Tom Mesich, Rin Porter, Council Liaison Britney Kawecki

Members absent: Tom Lytle

Staff present: City Administrator Cathy Reynolds, Planner & Zoning Official Peter Bode

A quorum of members were in attendance and called the meeting to order at 5:30 p.m.

Approval of Agenda: Motion by Grafstrom and second by Porter to approve the agenda as presented. Motion carried.

Election of Officers: Porter nominated Mesich for chair. There were no further nominations. Motion by Porter and second by Grafstrom to elect Mesich chair. Motion carried and Mesich was elected chair.

Mesich nominated Porter for vice chair. There were no further nominations. Motion by Mesich and second by Grafstrom to elect Porter vice chair. Motion carried and Porter was elected vice chair.

Approval of Minutes: Motion by Porter and second by Mesich to approve the December 6, 2023 minutes as presented. Motion carried.

Public Hearing – Rezoning of 800 E Margaret St: Chair Mesich opened the public hearing. Bode presented a request by Martin County to rezone the entire parcel at 800 East Margaret Street to B-3 General Business with the intention of building a Public Safety and Justice Center. Bode stated that staff recommend the request be approved because it was consistent with the 2040 Comprehensive Plan and the intent of City Code.

Scott Higgins, Martin County Coordinator, spoke on behalf of the county.

Kenneth Craig, residing at 553 Winnebago Avenue, commented against the proposal.

Jill Manwarren, residing at 1066 Sioux Avenue, commented against the proposal.

Gary Milchalke, residing at 829 Winnebago Avenue, commented on the proposal.

Jason Bremer, residing at 1044 Sioux Avenue, commented against the proposal.

Kim White, residing at 1074 Sioux Avenue, commented against the proposal.

Debra Sonnek, residing at 1058 Sioux Avenue, commented and wrote against the proposal.

There were no further public comments.

Motion by Porter and second by Benschoter to close the public hearing. Motion carried.

Members discussed topics relating to design of the facility including site layout, safety of nearby residents, noise and light, dimensions of the parcel, and property values.

Bode stated that staff follow State of Minnesota requirements for public notices, including mailing notices 10 days before the hearing to addresses within 350 feet of the subject parcel and posting the notice in the Fairmont Sentinel, the City's designated legal newspaper.

Motion by Grafstrom and second by Benschoter to approve and recommend to City Council the request to rezone 800 East Margaret Street to be entirely B-3 General Business because the proposal was consistent with the 2040 Comprehensive Plan and the intent of City Code. Motion carried with Porter voting no.

Public Hearing – Annual Review of CUP/HOP Permits: Chair Mesich opened the public hearing. Bode presented a list of existing conditional use and home occupation permits for their 2023 annual review by the Planning Commission. Bode provided a series of options with which the Commission may proceed in its review.

Bode stated that staff observed violations of the conditional use permit at 1313 North Hampton Street related to required screening.

Jamie Johnson, owner of Car Parts Direct, permittee to operate a salvage yard at 1313 North Hampton Street spoke to update the Commission on efforts to improve the lot. Johnson asked the Commission to extend the time period required to install a fence by six months from this public hearing's date.

Members discussed the permit with Johnson.

There were no further public comments.

Motion by Porter and second by Benschoter to close the public hearing. Motion carried.

Members discussed the permit at 1313 North Hampton Street.

Motion by Benschoter and second by Porter to approve the conditional use permit at 1313 North Hampton Street for use until the September 5 regular meeting of the Planning Commission, at which time the permittee is required to have obtained a building permit to place the fence per the permit's requirements. Motion carried.

Motion by Porter and second by Benschoter to recommend to City Council that the remaining reviewed permits be approved. The motion was retracted by Porter and Benschoter.

Motion by Grafstrom and second by Porter to approve all permits presented for annual review, except the permit for 1313 North Hampton Street, for use another year. Motion carried.

Old Business: *None*

Adjournment: There were no additional agenda items. Chair Mesich adjourned the meeting at 6:41 p.m.

Respectfully submitted, Peter Bode



MEMORANDUM

TO: Planning Commission
FROM: Peter Bode, Planner & Zoning Official
DATE: April 4, 2023
RE: 221 Krahmer Dr – CUP for a Water-Oriented Accessory Structure

John Lund, property owner of a single-family home at 221 Krahmer Drive, has applied for a conditional use permit to build a water-oriented accessory structure (WOAS) near the shore of Hall Lake. 221 Krahmer Drive abuts Hall Lake to the north with a relatively flat shoreline and substantial single-family residential development to the east and west.

The structure is proposed to be placed 192 square feet or less (12 by 16 feet) and 12 feet from the ordinary high water level (OHWL) of Hall Lake. The structure could be used to store watercraft or watercraft equipment.

The normal structure setback from the OHWL is 50 feet. Upon recommendation of the Planning Commission, City Council adopted a revision to the zoning code in January clarifying the status of structures close to the water. Under Ordinance 2022-14, WOAS structures like the one proposed are able to be placed closer to the water if certain development conditions are met. These conditions, listed below, should be made part of the CUP if granted:

- 1. The structure must not exceed 10 feet in height and cannot occupy an area greater than 250 square feet.

The applicant does not propose a height but would be required to comply with the condition if approved. The structure is proposed to be a maximum of 192 square feet.

- 2. The structure is not in the Bluff Impact Zone.

This lot does not have a bluff.

- 3. The setback of the structure from the OHWL must be at least 10 feet.

The applicant proposes an OHWL setback of at least 12 feet.

- 4. The structure is not a boathouse as defined under MN Stat. Sec. 103G.245.

The structure is not a boathouse per MN definitions.

- 5. The structure must be treated to reduce visibility as viewed from public waters and adjacent shorelines by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

The applicant proposes to color the structure a clay tone to blend with the lot’s tree trunks. Given the substantial residential development surrounding this lot and the lot’s lack of natural vegetation, staff believe this color will allow the structure to meet the condition satisfactorily.



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6. The structure must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

The applicant does not propose facilities to allow human habitation or sanitation.

7. The structure may have the lowest floor placed lower than the elevation specified in City Code Sec. 26-519 if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

Section 26-519 requires a lowest floor elevation of 1,155.8 feet above sea level. The applicant proposes to place the structure approximately 1,156 feet above sea level (without grading) according to information available to the City. The proposed placement appears to just satisfy the condition. However, the Planning Commission may require the applicant to confirm this with a survey before placing the structure or increase the setback from OHWL.

Minnesota DNR was given the opportunity to comment on the proposal and has done so in its attached letter, including to indicate that the application appears to meet Ordinance 2022-14.

Staff find the proposal conforms to the City's Comprehensive Plan and City Code, will not impede orderly development, or otherwise be detrimental to the general vicinity. Considering applicable statute and code, staff recommend approval of the CUP with the conditions listed here.

Staff have prepared a resolution for the Commission's consideration which will provide a written report to City Council and contain appropriate findings of fact. The Commission may approve the resolution by motion or amend it.

*Respectfully submitted,
Peter Bode, Planner & Zoning Official*

Attachments: Planning Commission Resolution 2023-1
Application for CUP
Satellite photo of parcel
Minnesota DNR comment
Ordinance 2022-14

**CITY OF FAIRMONT
PLANNING COMMISSION
RESOLUTION 2023-1**

**RECOMMENDING APPROVAL OF A CONDITIONAL USE PERMIT FOR A WATER-ORIENTED ACCESSORY
STRUCTURE AT 221 KRAHMER DRIVE**

Whereas, John Lund has applied for a conditional use permit to place a water-oriented accessory structure at 221 Krahmer Drive ,and;

Whereas, Minnesota DNR has provided comment on the application stating that the proposal appears to meet Ordinance 2022-14, and;

Whereas, City staff recommend the request be approved with conditions contained in their report, and;

Whereas, the Fairmont Planning Commission held a public hearing on the topic April 4, 2023.

Now therefore, be it resolved by the Fairmont Planning Commission that it makes the following findings of fact:

1. The applicant does not propose a height but would be required to comply with the condition that the structure not exceed 10 feet in height if approved. The structure is proposed to be a maximum of 192 square feet.
2. This lot does not have a bluff.
3. The applicant proposes an OHWL setback of at least 12 feet.
4. The structure is not a boathouse per MN definitions.
5. The applicant proposes to color the structure a clay tone to blend with the lot's tree trunks.
6. The applicant does not propose facilities to allow human habitation or sanitation.
7. City Code Section 26-519 requires a lowest floor elevation of 1,155.8 feet above sea level. The applicant proposes to place the structure approximately 1,156 feet above sea level (without grading) according to information available to the City.
8. The proposal conforms to the City's Comprehensive Plan and City Code, will not impede orderly development, or otherwise be detrimental to the general vicinity.

Be it further resolved by the Fairmont Planning Commission that it recommends to Fairmont City Council that the conditional use permit for a water-oriented accessory structure at 221 Krahmer Drive be approved with the conditions contained in City staff's report.

Passed by the Planning Commission of the City of Fairmont on this 7th day of April, 2023.

Tom Mesich, Chair

CITY OF FAIRMONT
Planning & Zoning
Application Form

NOTE TO APPLICANT: This is a comprehensive application form. Only those items related to your specific type of development are to be completed. All items applicable must be included prior to acceptance of the application.

Name of Applicant: John B. Lund Address: 221 Kraemer Dr. Phone#: [REDACTED]

Street Address of Proposal: 221 Kraemer Dr.

Legal Description of Property: _____

Existing Use of Property: Homestead

Proposed Use of Property: add a Water Oriented Accessory Structure

Type of Application	Fee	Submission Requirements (Attached)
<input type="checkbox"/> Appeal/Code Amendment	\$150.00	7
<input type="checkbox"/> Administrative Appeal	50.00	8
<input checked="" type="checkbox"/> Conditional Use Permit	150.00	4, 6(d-g)
<input type="checkbox"/> Home Occupation Permit	30.00	9
<input type="checkbox"/> Minor Plat	90.00	2(a), 5 (a-b)
<input type="checkbox"/> Planned Unit Development	150.00	1, 4, 6(d-g)
<input type="checkbox"/> Preliminary Plat	150.00	5 (b), 6
<input type="checkbox"/> Rezoning	150.00	1
<input type="checkbox"/> Variance	90.00	2,3

I HEREBY CERTIFY THAT THE INFORMATION AND EXHIBITS HERewith SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

John B. Lund
 Owner's Name(Printed) John B. Lund
 Owner's Signature

John B. Lund
 Applicant's Name (Printed) John B. Lund
 Applicant's Signature

City Staff Use Only

DATE FILED: _____

DATE FEE PAID: _____

MEETING DATE: _____

NOTICES SENT (DATE): _____

NOTIFICATION OF EXTENSION (LETTER SENT): _____

March 16, 2023

John Lund
221 Krahmer Drive
Fairmont, MN 56031

Dear Planning Commission-

I am requesting to place a Water-Oriented Accessory Structure in my backyard near Hall Lake. It would be 12 feet by 16 feet or less and would meet all the rules for a WOAS. It would be at least 12 feet from the OHWM and the property line. It would be sided and shingled to match the house, which is clay-tone: a dull, earth-tone, light brown color that blends in with the 12 tree trunks in the back yard. It would have no impact on the lake or shoreline.

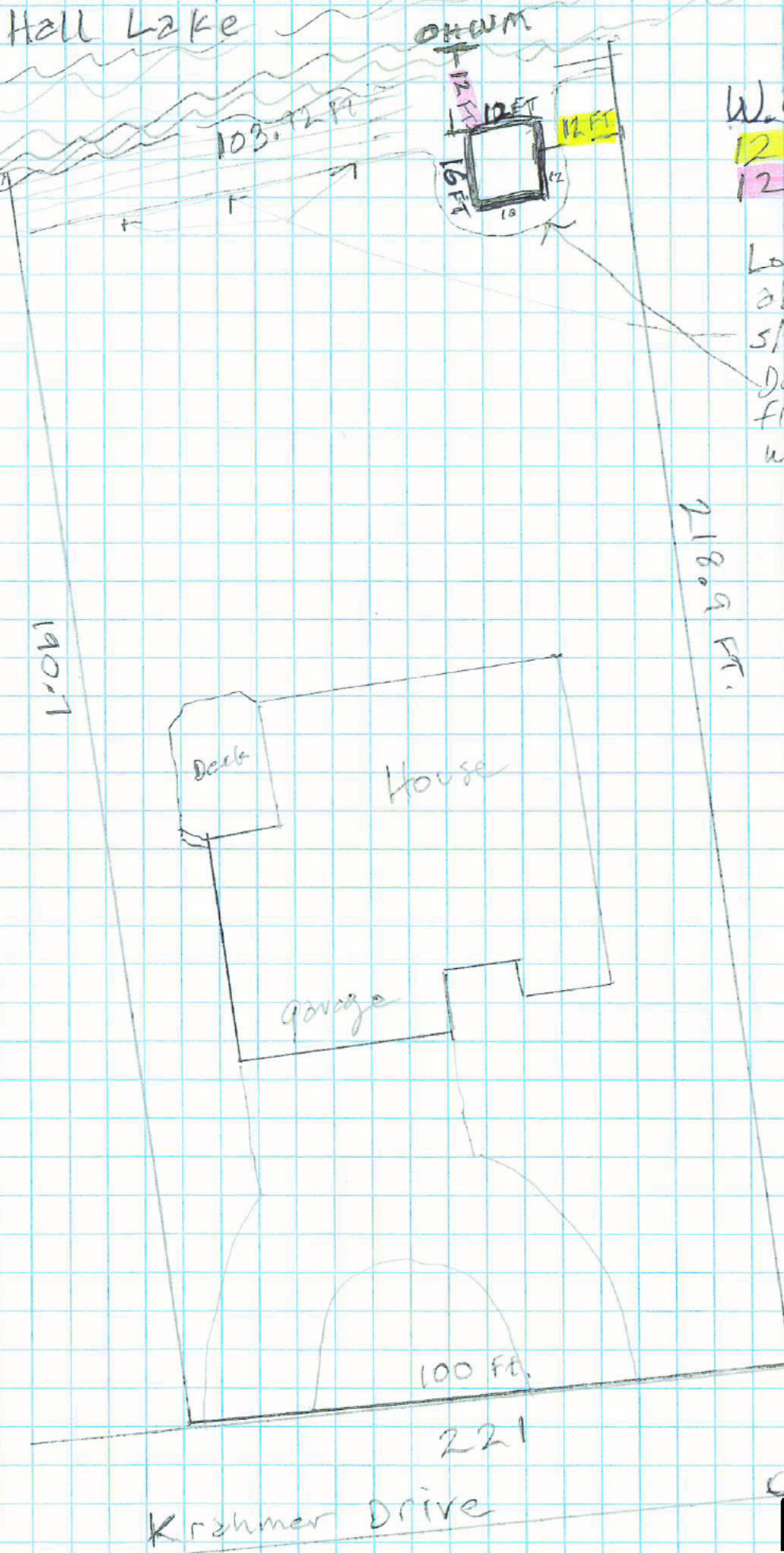
If you have any questions, please don't hesitate to contact me at [REDACTED].
Thank-you for your consideration.

Sincerely-

A handwritten signature in cursive script that reads "John Lund". The signature is written in black ink and is positioned below the word "Sincerely-".

John Lund

Hall Lake



W.O.A.S. = 12 FT X 16 FT
 12 FT from East property line
 12 FT from OHWM

Lot is approximately 6 Ft above beach, over to 18 Ft; slopes to beach is 6 Ft. Depression within slope, flat area where boat shed would be.

25 FT = 1 inch

Kraemer Drive

John Lund



23148002

231480030


231480040

231480050

231480060

231480065

231480040



JOHN B & SUSAN LUND
 221 KRAHMER DR
 0.4847 Acres Value \$893500 Note:

View: [Parcel Report](#) | [Soil Report](#) | [Pictometry Imagery](#)

March 23, 2023

Peter Bode, Planner – Code Enforcement
City of Fairmont
100 Downtown Plaza
Fairmont, MN 56031

RE: Conditional Use Permit Application Comments for John Lund – PID 231480040, Hall Lake, Martin County

Dear Mr. Bode,

Thank you for sending the Conditional Use Permit (CUP) application for review. The application requests approval for a Water Oriented Accessory Structure measuring approximately 16' x 12' and setback 12' or more for the Ordinary High Water Level (OHWL) for Hall Lake (1152.8 ft NGVD29 or 1153.043ft NAVD88). This structure would be sided and shingled to match the existing residence and blend in with existing screening vegetation.

The following comments are submitted for your consideration:

- The application meets City of Fairmont's Ordinance 2022-14 standards for a Water Oriented Accessory Structure: the facility is not in the Bluff Impact Zone, setback from OHW is more than 10', area is less than 250 ft², and the structure will be treated to reduce visibility.
- The City Ordinance for Water Oriented Accessory Structures states that the structure must not exceed 10' in height; a proposed dimension for the structure is not listed in the permit application.
- The permit application states that the intended setback from OHWL is 12' or greater. If the structure were to be placed at a setback of approximately 15'-17' from OHWL, ground level appears to be flatter, decreasing the likelihood for supplementary grading and filling and may slightly increase the lowest floor elevation.

This CUP application appears to meet the City of Fairmont Ordinance for Water Oriented Control Structures. Please note that should any work below the OHWL occur, a DNR Public Waters Work permit may be required.

Sincerely,



Erynn Jenzen
Area Hydrologist
507-389-8809
erynn.jenzen@state.mn.us

EC: Todd Kolander, DNR District Manager

ORDINANCE 2022-14

STATE OF MINNESOTA
COUNTY OF MARTIN
CITY OF FAIRMONT

AN ORDINANCE AMENDING CHAPTER 26 OF THE CITY CODE REGARDING WATER-ORIENTED ACCESSORY STRUCTURES

WHEREAS, the Fairmont City Code regulates the use and location of Boathouses within the city limits; and,

WHEREAS, the Fairmont City Council desires to amend the definition of structures used primarily for storage of boating and marine equipment.

NOW THEREFORE, the City Council of the City of Fairmont does ordain:

1. *Section 26-1. Definitions of the Fairmont City Code shall be amended as follows (deletions are ~~stricken~~, additions are underlined):*

Sec. 26-1. Definitions.

The following terms, as used in this chapter, shall have the meanings stated:

Abutting or *abuts* means areas or lots whose boundaries at least touch one (1) another at a single point, including areas or lots whose boundaries would touch but for an intervening public right-of-way including streets and alleys.

Accessory structure or use means a subordinate structure or use located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use. On waterfront lots accessory structures shall include ~~boathouses~~ water-oriented accessory structures, decks, permanent boat lifts and stairways.

Agricultural means an area in excess of five (5) contiguous acres used for the production of farm crops customary on open tracts of land and the accessory raising of livestock and poultry. The term shall also include incidental retail selling by the producer of products raised on the premises, provided that space necessary for parking of customers vehicles shall be furnished off the public right-of-way. The term does not include commercial feedlots or the commercial feeding of garbage to swine or other animals.

Airport means the municipal airport.

Alley means a public right-of-way twenty (20) feet or less in width, affording a secondary means of access to abutting property.

Apartment means a part of a building consisting of a room or suite of rooms which is used for a semi-permanent residence for one (1) family or an individual, and is equipped with cooking facilities, other than a boardinghouse, hotel or motel.

Automobile repair—major means the general repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, framework, welding and major painting service.

Automobile repair—minor means the replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission or differential; incidental body and fender work, minor painting and upholstering service when said service above stated is applied to passenger automobiles, and trucks not in excess of seven thousand (7,000) pounds gross vehicle weight.

Automobile wrecking and junkyard means land or buildings where waste, discarded or salvaged materials are bought, kept, sold, stored, exchanged, packed, disassembled, or handled, including, but not limited to, scrap metal, rags, paper, hides, rubber products and products resulting from the wrecking of automobiles, other vehicles, or machinery.

Basement means a portion of a building located partly underground but having half or more of its floor-to-ceiling height below the average grade of the adjoining ground.

Bed and breakfast inn means an owner-or manager-occupied business other than a boardinghouse, hotel or motel, in which a room or rooms are rented on a nightly basis and in which only breakfast is included as part of the basic compensation, and where the rooms are single, habitable units used or intended to be used for living and sleeping, but not for cooking and eating purposes.

Bluff means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than eighteen (18) percent over a distance for fifty (50) feet or more shall not be considered part of the bluff):

- (1) Part or all of the feature is located in a shoreland area;
- (2) The slope rises at least twenty-five (25) feet above the ordinary high water level of the waterbody;
- (3) The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30) percent or greater; and
- (4) The slope shall drain toward the waterbody.

Bluff impact zone means a bluff and land located within twenty (20) feet from the top of a bluff.

Boardinghouse means a building other than a hotel containing at least one (1) dwelling unit, where for compensation and by prearrangement for definite periods lodging, or lodging and meals, are provided for one (1) to eight (8) persons not members of the principal family therein.

~~*Boathouse* means an accessory structure primarily used for storage of boating and marine equipment. Boathouses shall not be used for permanent habitation or contain sanitary facilities not connected to the municipal sewer and water system.~~

Building means any structure having a roof which may provide shelter or enclosure of persons, animals or chattel. When a structure is divided by area separation walls without openings, each portion of such building so separated shall be deemed a separate building.

Building height means the vertical distance from the average elevation of the finished lot grade at the front of the building to the highest point of the coping of a flat roof, or the deck line of a mansard roof or to the highest point of a gable, hip or gambrel roof.

Building line means the line beyond which no structure may project.

Bulk materials means uncontained solid matter such as powder, grain, stone, sand, sulphur, etc., that would become airborne if not covered.

Business means any occupation, employment or enterprise wherein merchandise is exhibited or sold, or which occupies time, attention, labor and materials, or where services are offered for compensation.

Clear-cutting means removal of an entire stand of trees or shrubs on waterfront lots.

Commercial animal raising or kennel means any premises where three (3) or more animals at any one (1) time, over six (6) months of age are owned, boarded and bred or offered for sale.

Commercial feedlot means any facility consisting of barns, confinement buildings, corrals, or fenced areas of any kind, for the purpose of breeding or feeding domestic livestock for the sole purpose of retail or wholesale sale. Commercial operation is that use that can be determined to be beyond what is for personal consumption.

Commercial planned unit developments, in shoreland means uses that provide transient, short-term lodging spaces, rooms, or parcels and where the operations are essentially service oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, retail, offices and other primarily service-oriented uses as defined in Minnesota Statutes, chapter 394.

Comprehensive plan means a compilation of material, statements, goals, standards and maps adopted by the planning commission and used by the commission in making recommendations for guiding the orderly development of the private and public sectors of the city.

Conditional use means those occupations, vocations, skills, arts, businesses, professions, or uses specifically designated in each zoning use district, which for their respective conduct, exercise or performance in such designated use districts may require reasonable but special, peculiar, unusual or extraordinary limitations, facilities, plans, structures, thoroughfares, conditions, modifications, or regulations in such use district for the promotion or preservation of the general public welfare, health, convenience, or safety therein and in the city and therefore may be permitted in such use district only by a conditional use permit.

Condominium means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interest in the common elements are vested in the unit owners.

Curb level means the mean level of the curb where it is not already in place.

Daycare, home means a family dwelling in which foster care, supervision and training for children of school or preschool age out of their home is provided during part of a day (less than twenty-four (24) hours) with no overnight accommodations or facilities and children are delivered and removed daily. The number to be cared for in one (1) daycare home shall not exceed ten (10) including the family's own children.

Daycare, group nursery means a service provided to the public, in which six (6) or more children of school or preschool age are cared for during established business hours. No overnight facilities are provided. The children are delivered and removed daily.

Deck in shoreland means a horizontal, enclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three (3) feet above ground.

Duplex, triplex, and quad means a dwelling structure on a single lot, having two (2), three (3), and four (4) units respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling means that part of a building intended to be occupied for residential purposes, but not including rooms in motels, hotels, nursing homes, boarding houses, trailers, cabins or mobile homes.

Dwelling, attached means a dwelling which is joined to another dwelling at one (1) or more abutting walls.

Dwelling, detached means a single dwelling having a yard on all sides.

Dwelling, multiple means a structure or portion thereof intended and designed for three (3) or more dwellings.

Dwelling, townhouse means a single structure consisting of three (3) or more dwelling units on individual lots having one (1) or more walls abutting with another dwelling and designed to have all exits open directly to the outside.

Dwelling, twin home means two (2) single-family attached dwellings located on individual lots in such a manner that a common party wall is located on the common side lot line.

Dwelling, two-family means a dwelling on a single lot, designed or intended exclusively for occupancy by two (2) families living independently of each other, commonly referred to as a duplex.

Dwelling, zero lot line means two (2) to four (4) single-family dwellings attached by party walls in such a manner that the common party wall(s) are located on the common side or rear lot line(s). This definition includes but is not limited to such common references as twin homes.

Dwelling site means a designated location for residential use by one (1) or more persons using temporary or movable shelter, including camping and recreational vehicle site in the shoreland.

Dwelling unit means any structure or portion of a structure, or other shelter designed as short-or long-term living quarters for one (1) or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins in the shoreland.

Essential services means the erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission and distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies.

Extractive use means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

Family means one (1) or more persons each related by blood, marriage, or adoption, or group of not more than four (4) persons not so related maintaining a common household and using common cooking and kitchen facilities.

Fence means any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure.

Floor area means the sum of the gross horizontal area of several floors of the building, measured from the exterior faces of the exterior walls.

Floor area, habitable means the same as floor area except that its application is limited to dwellings. It is measured from the interior faces of the interior walls, and excludes all unused cellars, garages, porches, attics, stairways, unimproved basements, storage, utility, heating rooms and similar areas.

Floor area ratio (FAR) means the floor area of the building or buildings on that zoning lot divided by the area of such zoning lot, or, in the case of planned developments-group projects by gross site area.

Forest land conversion means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Garage, private means an accessory building or accessory portion of the principal building which is intended for use to store the private passenger vehicles of the family or families resident upon the premises, and in which no business, service or industry is carried on.

Hardship means the property in question cannot be put to reasonable use under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property, not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under terms of the official controls.

Home occupation means an accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and services as regulated by this chapter.

Hotel means a building having provision for nine (9) or more guests in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

Housepet means a dog, cat or any animal of a type customarily used for a pet by an individual family.

Intensive vegetation clearing means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Large domestic animal means horses, swine, cattle, llamas, camels, buffalo or other like animals.

Livestock means any domestic animal except a house pet—horses, swine, cattle, llamas, camels, buffalo, sheep, goats, rabbits, poultry or other like animals over one (1) year of age.

Lot means land occupied or to be occupied by a building and its accessory buildings together with such open spaces as are required under this chapter and having its principal frontage upon a public street or officially approved access.

Lot area means the area of lot in a horizontal plan bounded by the lot lines.

Lot corner means a lot situated at the junction of and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred and thirty-five (135) degrees.

Lot line means the property line bounding a lot except that where any portion of a lot extends into the street right-of-way or a proposed street right-of-way, the line of such street right-of-way shall be the lot line for applying this chapter.

Lot line, front means that boundary of a lot which abuts an existing or dedicated private or public street, and in case of a corner lot it shall be the shortest dimension on a street except that a corner lot in a nonresidential area, shall be deemed to have frontage on both streets.

Lot line, rear means that boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line. In the case of a corner lot in a nonresidential area, such line shall be parallel to the front line facing the existing or proposed main entrance.

Lot of record means a platted lot or metes and bounds parcel which has been recorded in the office of the register of deeds prior to June 30, 1986.

Lot, through means a lot which has a pair of opposite lot lines abutting two (2) substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying this chapter.

Lot, width means the horizontal distance between the side lot lines of a lot measured parallel to the front lines of the lot at the front building setback line.

Manufactured home, single family means a manufactured, transportable, single-family dwelling unit, suitable for year-round occupancy and containing water supply, waste disposal and electrical conveniences designed for attachment to outside systems. A manufactured home is designed so that it is or may be mounted on wheels and used as a conveyance on highways and streets.

Manufactured home park means a contiguous parcel of land which has been developed and is licensed for the placement of mobile homes.

Mini-storage or self-storage means a building or group of buildings in a controlled access or fenced area that contains varying sizes of individual compartmentalized units, which are accessed by separate exterior doorways for each unit, designed for the storage of property for individuals, organizations and businesses. These are also known as self-storage facilities or mini-warehouse facilities.

Motel means a building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, each of which has a separate outside entrance leading directly from the outside of the building, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests traveling by automobile.

Motor fuel station means a retail place of business engaged primarily in the sale of motor fuels, but also may be engaged in supplying goods and services generally required in the operation and maintenance of motor vehicles. These may include sale of petroleum products, sale and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication services, and the performance of minor automotive maintenance and repair.

Nonconforming building, structure or use means a building, structure or use which does not conform with the district regulations in which it is situated.

Open sales lot means land devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building.

Ordinary high water level means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Parking space means an area, enclosed in a main building, in an accessory building, or unenclosed, sufficient in size to store one (1) standard automobile, which has adequate access to a public street or alley and permitting satisfactory ingress or egress of an automobile.

Planned development in shoreland means a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units of sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, the time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Planned unit development means the improvement of any sized parcel of land on which two (2) or more principal buildings and supporting structures are possible and permitted according to a development plan agreed upon by the city and developer according to conditions set forth in this chapter.

Public open space means any publicly owned open area, including but not limited to the following: parks, playgrounds, school sites, parkways and streets.

Public waters means any waters as defined in Minnesota Statutes, section 105.37, subdivisions 14 and 15. However, no lake, pond or flowage of less than ten (10) acres in size in municipalities and twenty-five (25) acres in size in unincorporated areas need be regulated for the purposes of Minnesota Rules parts 6120.2500 to 6120.3900. A body of water created by a private user where there was no previous shoreland may, at the discretion of the local government, be exempted from Minnesota Rules parts 6120.2500 to 6120.3900.

Residential planned unit development means a use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments.

Semipublic use means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Sensitive resource management means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Setback means the minimum horizontal distance between a structure, sewage treatment system, road, highway, property line, or other facility, from an ordinary high water level of the top of a bluff.

Sewage treatment system means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in MPCA Rules Chapter 7080.

Sewer system means pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Shore impact zone means land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty (50) percent of the structure setback.

Shoreland means land located within the following distance from public waters:

- (1) One thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage; and
- (2) Three hundred (300) feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater.

The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Minnesota Commissioner of Natural Resources.

Sign means any outdoor structure either stationary or movable containing any writing, announcements, declaration, demonstration, display, illustration, insignia or illumination used to advertise or promote the distribution of any merchandise or the sale of property or service of any person.

Sign, advertising means a sign which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located.

Sign, business means a sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered on the premises on which such sign is located.

Significant historic site means any archeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Solar collector means any device or structure, or combination thereof, that collects solar radiation and converts it to chemical, electrical, mechanical and thermal energy.

Solar energy means radiant energy (direct, defuse, and reflected) received from the sun.

Steep slope means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it; or if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story.

Street means a dedicated private or public right-of-way not less than fifty (50) feet in width which affords a primary means of access to abutting property, and shall also include avenue, highway, or road, excepting existing public right-of-way of lesser width.

Structure means anything constructed or erected on, or connected to the ground.

Subdivision means land that is divided for the purpose of sale, rent, or lease, including planned unit development.

Surface water-oriented commercial use means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Toe of the bluff means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of bluff shall be determined to be the lower end of a fifty-foot segment, measured on the ground, with an average slope exceeding eighteen (18) percent.

Top of the bluff means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of bluff shall be determined to be the upper end of a fifty-foot segment, measured on the ground, with an average slope exceeding eighteen (18) percent.

Use means the purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity or defined by the performance standards in this chapter.

Use, accessory means a use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

Use, principal means the main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.

Use, substandard means any use of shorelands existing prior to June 30, 1986 which is permitted within the applicable zoning district but does not meet the minimum lot area and length or water frontage, structural setbacks, or other dimensional standards of the shoreland management district.

Variance means a modification or variation from provisions of this chapter applying to a particular parcel of property because of undue hardship due to circumstances peculiar and unique to the parcel. Variances shall be limited to height, bulk, density and yard requirements.

Waterfront lots means unplatted land or platted lots whose property line abuts a DNR designated lake or stream.

Water-oriented accessory structure means a watercraft and watercraft equipment storage structure, which, because of the relationship of its use to public water, is located closer to the public water than the normal structure setback. Boathouses given the meaning under Minnesota Statutes, Section 103G.245 are not water-oriented accessory structures. Any structure which complies with the normal structure setback from the public water is not a water-oriented accessory structure.

Wetland means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), which is hereby incorporated by reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change.

Wind energy conversion system (WECS) means any device that converts wind power to useable energy, such as electricity or heat. Such devices include: wind charges, windmills, and wind turbines.

Yard means an open space on a lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends along a lot line at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

Yard, corner means a yard extending along a street right-of-way which is not a front yard.

Yard, front means a yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the district in which such lot is located.

Yard, rear means a yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which such lot is located.

Yard, side means a yard extending along the side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.

Zoning district means an area or areas within the limits of the zoning jurisdiction for which the regulations and requirements governing use are uniform.

(Ord. No. 86-4, § 7.02, 6-30-86; Ord. No. 89-13, § I, 9-25-89; Ord. No. 92-13, 12-14-92; Ord. No. 96-7, 9-23-96; Ord. No. 2016-06, 10-24-16; Ord. No. 2017-07, 7-31-17; Ord. No. 2018-14, 6-25-18)

2. Section 26-503. Shoreland overlay district (SOD) shall be amended as follows (deletions are ~~stricken~~, additions are underlined):

Sec. 26-503. Shoreland overlay district (SOD).

- (a) The shorelands of the city are designated as the shoreland overlay district. The purpose of the shoreland overlay district is to provide for the wise utilization of shoreland areas in order to preserve the quality and natural character of these protected waters of the city.
- (b) Permitted uses in the district are all permitted uses allowed and regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the official zoning map of the city.
- (c) Conditional uses in the district are as follows:
 - (1) All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the official zoning map of the city.
 - ~~(2) Boathouses.~~
 - (2) One water-oriented accessory structure per lot provided it complies with the following provisions:
 - a. The structure must not exceed ten feet in height and cannot occupy an area greater than 250 square feet.
 - b. The structure or facility is not in the Bluff Impact Zone;
 - c. The setback of the structure or facility from the ordinary high water level must be at least ten feet;
 - d. The structure is not a boathouse as defined under Minnesota Statutes, Section 103G.245;
 - e. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - f. The structure must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
 - g. Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Sec. 26-519 if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- (d) Any uses of shorelands in existence prior to June 30, 1984, which are permitted within the applicable underlying zoning district, but do not meet the minimum lot area, setbacks, or other dimensional requirements of this division are substandard uses. Substandard uses other than uses regulated in subsection

(e) shall be allowed to continue. However, any structural alteration or addition to a substandard use on waterfront lots that will increase the substandard dimensions shall not be allowed.

- (e) Prohibited uses are in the district. Any uses which are not permitted or conditional uses as regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the official zoning map of the city.

(Ord. No. 86-4, § 7.11(II)(B)(2), 6-30-86)

3. Section 26-516. Lots and setbacks shall be amended as follows (deletions are ~~stricken~~, additions are underlined):

Sec. 26-516. Lots and setbacks.

In order to reduce the effects of overcrowding, to prevent pollution of waters of the state, to maintain property values and to maintain natural characteristics of shorelands and adjacent water areas, the following standards shall be applied to all shorelands of the protected waters within the city as listed in Division 1 of this article:

- (1) Lot area:

Minimum Lot Area for Sewered Lots (square feet)

	Waterfront Lots	Other Lots
Single	15,000	10,000
Duplex	26,000	17,500
Triplex	38,000	25,000
Quad	49,000	32,500

Minimum Lot Area for Nonsewered Lots (square feet)

	Waterfront Lots	Other Lots
Single	20,000	40,000
Duplex	40,000	80,500
Triplex	60,000	120,000
Quad	80,000	160,000

- (2) Water frontage and lot width:

Minimum Water Frontage and Lot Width for Sewered Lots

	Waterfront Lots	Other Lots
Single	85	85
Duplex	135	135
Triplex	195	190
Quad	255	245

Minimum Water Frontage and Lot Width for Nonsewered Lots

	Waterfront Lots	Other Lots
Single	100	150
Duplex	180	265
Triplex	260	375
Quad	340	490

- (3) Structure setback, except for water-oriented accessory structures as provided in Sec. 26-503, from ordinary high water mark:
 - a. For sewerred lots: fifty (50) feet.
 - b. For unsewered lots: one hundred (100) feet.
- (4) Structure setbacks from road:
 - a. Highways (federal, state & county), fifty (50) feet.
 - b. Municipal roads, thirty (30) feet.
- (5) Structure setback from top of bluff, thirty (30) feet, and no structures except stairways, lifts and landings are allowed in bluff impact zone.
- (6) Structure setback from unplatted cemeteries, fifty (50) feet.
- (7) Sewage systems from ordinary high water level, seventy-five (75) feet.
- (8) Where the requirements of the underlying zoning district as shown on the official map are more restrictive the more restrictive standards shall apply.

(Ord. No. 92-13, 12-14-92)

Passed and adopted by the City Council of Fairmont, Minnesota, this 9th day of January 2023.



 Lee C. Baarts, Mayor

ATTEST:



 Patricia J. Monsen, City Clerk

Motion by: Council Member Michele Miller
 Seconded by: Council Member Jay Maynard
 All in Favor: Council Members Deb Foster, Wayne Hasek, Britney Kawecki, Jay Maynard and Michele Miller
 Opposed: None
 Abstained: None
 Absent: None

1st Reading: December 12, 2022

2nd Reading: January 9, 2023