



OFFICE OF COUNTY RECORDER
Olmsted County, Minnesota

I hereby certify that this document was filed in this office on 10/12/2001 at 10:00:00 AM and was duly recorded as document number **A-890134**
DANIEL J. HALL – County Recorder, by _____ Deputy.

Well Certificate: ___ Received ___ Not Required
Abstr. – yes ___ no ___
Fees:

Total \$20.00

**ROCHESTER TOWNSHIP
ZONE CHANGE RESOLUTION NUMBER R-01-01**

Amendment to Section 1.16 of the Rochester Township Zoning Ordinance
Rochester Township Zoning Map

WHEREAS, an application for a zone change from Low Density Residential District (R-1) and Agricultural Protection District (A-3) to Mayo Woodlands Special District (MW Special District) on behalf of Mayowood Enterprises, Ltd. the owner(s) of the premises.

WHEREAS, the applicant(s) are asking the Rochester Township Board of the County of Olmsted, State of Minnesota, to be granted a zone change per Article IV of the Rochester Township Zoning Ordinance.

WHEREAS, the matter has been reviewed by the Zoning Administrator and a report submitted to the Rochester Township Planning Commission concerning the Zone Change.

WHEREAS, a public hearing on the proposed zone change was duly noticed and held by the Rochester Township Planning Commission at the Rochester Town Hall, 4111 11th Ave SW, Rochester, MN at 7:30 PM on March 20, 2001, at which hearing all interested persons were given the opportunity to be heard.

WHEREAS, the Rochester Township Planning Commission recommended findings and approval of the Zone Change and forwarded them to the Rochester Township Board for consideration at the Board's regularly scheduled meeting on April 12, 2001.

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the Rochester Township Board as follows:

Findings

Section 4.00 H Amendment Findings (ordinance is in regular text, staff finding in italics)

1. the proposal is consistent with the policies of the General Land Use Plan;

The area is designated as "Suburban Subdivision Area" in the Olmsted County Land Use Plan.

2. the amendment is in the public interest;

TCDA
A no land

Suburban Subdivisions are located in this area. The roadway transportation system for the area was developed when Meadow Crossing Road was built. Restrictions on development are proposed within the Special District language including improvements at the intersection of County Road 8 and Meadow Crossing Road. The developer will be required to add a right turn lane and passing lane at that intersection prior to developing any lots. These improvements along with an escrow fund/development agreement for the area are being proposed. The development agreement will allow for an additional sixty lots prior to an additional access from Meadow Crossing Road being built. The developer has stated that an access point from Meadow Crossing Road to the south will be included in the development agreement.

3. the proposed development is timely based on surrounding land uses, proximity to development and the availability and adequacy of infrastructure;

A majority of the area is suburban in nature now. Additional development is controlled by the Special District zone change request. Limits on the number of units allowed prior to an additional access point from Meadow Crossing Road to either County Road 8 or 48th Street SW are in the Special District language. The proposal shall include a development agreement that provides funds to the Township to create the additional access point. A burden is placed upon the Township by this development in that the Township must exercise its ability to negotiate and develop the additional access to Meadow Crossing Road. The town will be taking on some responsibility for the future development of the area by their ability to negotiate this additional roadway.

4. the proposal permits land uses within the proposed district that are appropriate on the property and compatible with adjacent uses and the neighborhood.

The land is relatively rough and wooded with steep slopes. Large lots would seem appropriate for this area allowing for large areas of vegetation to prevent erosion.

Urban development would create greater environmental impacts on this parcel and adjoining parcels.

Development of any kind will have an impact on wildlife in the area, but suburban development will do far less harm than urban development.

The clustered development style proposed within the Special District will allow the development to preserve large tracks of open spaces for wildlife and preservation of mature vegetation.

5. the proposal does not result in spot zoning;

Adjacent areas have already been developed into residential lots. Continued development of this area is consistent with the Land Use Plan. The proposed density of the Special District is less than the 3.5-acre per dwelling guideline as

indicated in the Olmsted County Land Use Plan.

6. the proposal is consistent with a GDP for the area, if one exists.

The applicant has provided a General Development Plan as an integral part of the Special District. In 1998 an application to rezone this property from Agricultural to Residential was approved. In May of 2000 the Township adopted additional text to the zoning ordinance regulating the use of special districts within the "Suburban Subdivision Area". This is the first development of this type to be proposed for this area.

Development has occurred along a portion of three sides of this development. Not far to the south of this area Heritage Hills was approved as a suburban subdivision. After the land use plan amendment was approved by the County Board for the Heritage Hills development, the Township pursued and got approval for the area between Cairnbrae Farms Subdivision, the Mayowood property and Heritage Hills Development to be designated "Suburban Subdivision Area". This area can now be considered in-fill development.

The Olmsted County Land Use Plan provides guidance for future development. The Mayo Woodland General Development Plan is the only general development plan that has been done for this area to date.

Conclusion

Section 1.16 of the Rochester Township Zoning Ordinance and the Rochester Township Zoning Maps are amended, designating the following from the Low Density Residential (R-1) and Agricultural Protection (A-3) District to Special District (SD). The conditions of the Special District, identified as Mayo Woodlands Special District are attached.

Passed and adopted by the Rochester Township Board on the 12th day of April 2001.

Attest:



Gary Donovan, Clerk

Brenda Dicken
Brenda Dicken, Chairperson

DISTRIBUTION:
County Planning
County Recorder
Township Clerk
Zoning Administrator
Applicant

MAYO WOODLANDS SPECIAL DISTRICT (MW-SPECIAL DISTRICT)

The purpose of this Special District is to provide for zoning regulations to administer residential land uses in the Mayo Woodlands Special District (Mayo Woodlands) that vary from the standard requirements and regulations of a conventional low density residential district of the adopted Zoning Ordinance of Rochester Township (effective date 16 June 1999). The Special District is established under the provisions and land development policies for suburban development under the authority of Section 8.20 Special District – Residential – suburban subdivision area of the zoning ordinance of Rochester Township (effective date 5/11/2000).

This district will provide for 80 residential village lots served by seven (7) community wastewater treatment systems (CWTS) with a common collection system and shared water wells plus 44 conventional residential lots on individual sewage treatment systems (ISTS) with shared water wells. This district also provides for public and private roadways, community open space, community facilities, and neighborhood open space.

The following provisions shall be the zoning regulations applicable to this zoning district (MW – Special District) as approved by the Rochester Townboard in accordance with Board Resolution ~~D~~-R-01-01, dated April 12, 2001. The terms and provisions of this Special District shall remain in effect until such time that is amended by Rochester Townboard.

A. Legal description of property within Special District

Those parts of Section 17, Township 106 North, Range 14 West, Olmsted County, Minnesota, being described as follows:

The North Half of Section 17, less that part of the East Three-fourths of the North Half thereof, lying North and West of the lake and less that part lying northerly and easterly of the following described Line "1":

Line "1"

Beginning at the southeast corner of the Northeast Quarter of said Section 17; thence South 88 degrees 26 minutes 49 seconds West, assumed bearing along the south line thereof, 100.00 feet to the west line of the east 100.00 feet of said Section 17; thence North 01 degree 55 minutes 27 seconds West along said west line, 59.85 feet to the southeast corner of MAYOWOOD HILLS FOURTH (the next three courses are along the southerly and westerly lines of said MAYOWOOD HILLS FOURTH); thence North 70 degrees 41 minutes 24 seconds West, 436.76 feet; thence South 88 degrees 04 minutes 33 seconds West, 410.00 feet; thence North 01 degree 55 minutes 27 seconds West, 1270.00 feet to the south line of land conveyed to the Olmsted County Historical Society by a Quit Claim Deed recorded on December 30, 1965, in Book 322 of Deeds on Page 785 (the next five courses are along the southerly and westerly lines of said property); thence South 88 degrees 53 minutes 55 seconds West, 300.00 feet; thence North 05 degrees 55 minutes 40 seconds East, 134.35 feet; thence North 06 degrees 58 minutes 20 seconds West, 228.80 feet; thence North 65 degrees 57 minutes 50 seconds West, 105.83 feet to the west line of the East Half of the Northeast Quarter of said Section 17; thence North 02 degrees 02 minutes 10 seconds West along said west line, 90 feet more or less to the lake; thence northeasterly along said lake 1080 feet more or less to the north line of said Section 17 and there terminating.

Also less that part of the North Half of Section 17 described as follows:

Commencing at the northwest corner of the Northwest Quarter of said Section 17; thence North 87 degrees 41 minutes 44 seconds East, assumed bearing, along the north line thereof, 987.86 feet for the point of beginning; thence South 02 degrees 28 minutes 06 seconds East, 809.99 feet; thence South 54 degrees 42 minutes 33 seconds East, 352.35 feet; thence North 01 degree 44 minutes 35 seconds West, 1025.00 feet to the north line of said Northwest Quarter; thence South 87 degrees 41 minutes 44 seconds West, along said north line, 291.54 feet to the point of beginning.

Together With:

That part of the South Half of Section 17, Township 106 North, Range 14 West, Olmsted County, Minnesota, described as follows:

Commencing at the southeast corner of the Southeast Quarter of said Section 17; thence South 88 degrees 35 minutes 10 seconds West, assumed bearing, along the south line of said Southeast Quarter, 1572.80 feet for the point of beginning; thence North 23 degrees 12 minutes 35 seconds West, 121.12 feet; thence northeasterly 349.14 feet along a non-tangential curve, concave northwesterly, radius of 954.93 feet, central angle of 20 degrees 56 minutes 53 seconds and the chord of said curve bears North 56 degrees 18 minutes 58 seconds East, 347.20 feet; thence North 45 degrees 50 minutes 32 seconds East, tangent to said curve, 1649.87 feet to the east line to the west line of the east 100.00 feet of the East Half of said Section 17; thence North 01 degree 55 minutes 38 seconds West, along said west line, 1221.45 feet to the north line of the Southeast Quarter of said Section 17; thence South 88 degrees 26 minutes 49 seconds West, along said line 2520.58 feet to the northwest of said Southeast Quarter; thence South 88 degrees 27 minutes 41 seconds West, along the north line

of the Southwest Quarter 2218.73 feet; thence South 02 degrees 13 minutes 03 seconds East, 490.21 feet; thence South 61 degrees 33 minutes 03 seconds East, 76.50 feet; thence South 05 degrees 13 minutes 03 seconds East, 429.10 feet; thence South 65 degrees 33 minutes 03 seconds East, 351.50 feet; thence South 89 degrees 02 minutes 03 seconds East, 305.69 feet; thence North 08 degrees 26 minutes 57 seconds East, 93.60 feet; thence North 86 degrees 11 minutes 57 seconds East, 1488.00 feet to the east line of said Southwest Quarter; thence South 01 degree 51 minutes 03 seconds East, along said east line, 1659.90 feet to the southwest corner of the Southeast Quarter of said Section 17; thence North 88 degrees 35 minutes 10 seconds East along the south line of said Southeast Quarter, 1051.20 feet to the point of beginning.

Together with:

The East Half of the Northeast Quarter of Section 18, Township 106 North, Range 14 West, Olmsted County, Minnesota.

Together with:

That part of the Southwest Quarter of Section 8, Township 106 North, Range 14 West, Olmsted County, Minnesota, described as follows:

Commencing at the southwest corner of said Southwest Quarter; thence North 01 degree 16 minutes 14 seconds West, assumed bearing, along the west line of said Southwest Quarter, 1297.50 feet; thence North 64 degrees 26 minutes 46 seconds East, 571.80 feet to a point centerline of S.A.R. No. 3; thence South 01 degree 44 minutes 14 seconds East, 1116.60 feet

for the point of beginning; thence South 83 degrees 22 minutes 14 seconds East, 313.20 feet; thence North 69 degrees 14 minutes 46 seconds East, 48.30 feet; thence South 76 degrees 06 minutes 14 seconds East, 97.81 feet; thence South 02 degrees 28 minutes 06 seconds East, 345.81 feet to the south line of said Southwest Quarter; thence South 87 degrees 41 minutes 44 seconds West along said south line, 987.86 feet to the southwest corner of said Southwest Quarter; thence North 01 degree 16 minutes 14 seconds West, along the west line of said Southwest Quarter, 406.52 feet; thence North 87 degrees 41 minutes 44 seconds East, 530.39 feet to the point of beginning.

Containing 472.86 acres more or less.

B. Land Use and Zoning Regulations

1. **Land Use:** The property within the Special District is designated for suburban subdivision in accordance with the Land Use Plan for Olmsted County as adopted in November of 1995.

2. **Zoning Regulations:** The property is zoned as R-1 (low density residential district) and a small area is A-3 (8.86 acres – agricultural protection) and the general zoning district regulations of the R-1 Low Density Residential District of the Rochester Township Zoning Ordinance effective June 16, 1999, shall apply except as herein modified by the regulations of the Special District:
 - a. For conventional lots served by ISTS, the minimum lot size shall be two (2) acres.

- b. For conventional lots served by ISTS, the minimum lot width at the front building line shall be 120 feet except on cul-de-sacs. The minimum lot width at the front building line shall be 90 feet on cul-de-sacs. The minimum lot width at the front building line shall be 60 feet on lots served by community wastewater treatment systems.
- c. The average overall density shall be approximately one (1) lot to 3.8 acres.
- d. The village homes shall be located within the building envelopes as defined on the Special District Exhibit and General Development Plan ⁽¹⁾. The village homes shall conform to the setback requirements for a Special District in the Rochester Township Zoning Ordinance and Subdivision Code except as otherwise defined in this text.

Prior to submission of the preliminary plat to Rochester Township Planning and Zoning Commission, the identity and/or configuration of the village lots, whether separate fee ownership of individual lots, condominiums or other common interest communities shall be determined, but in no instance will there be any common wall units.

(1) The setback between each residence in the village lots as depicted on the General Development Plan shall be a minimum of forty (40) feet.

- e. Front and side yard regulations: No building or part thereof shall be erected on any lot within thirty (30) feet of the front lot line, or closer than twenty (20) feet to one side and eight (8) feet to the other side lot line.

 - f. Rear yard regulations: A minimum rear yard depth of forty (40) feet shall be provided for all village units and a minimum of one hundred fifty feet (150) from the rear lot line or one hundred (100) feet from the preservation easement for the conventional lots unless otherwise shown on the Special District Exhibit..
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C. Wastewater Treatment System, Common Collection System, Individual Sewage Treatment Systems, and Shared Wells

- 1. Community Wastewater Treatment System: The “village” portion of the development will be served by community wastewater treatment system (CWTS) as shown on the Special District Exhibit. There will be seven CWTS sites. Three sites may be designed as advanced wetland treatment systems.
 - a. Easements will be provided for the sewage disposal line and access road to each drainfield site.

 - b. A septic tank will be provided for each house served by the CWTS.

 - c. Access to the treatment site (drainfield area) shall be provided by constructing a service road within the designated access easements.

- d. Upon completion of the community wastewater treatment systems and common collection systems, the ownership shall be the responsibility of a properly licensed and certified agency, such as Peoples Cooperative Service of Olmsted County or other similar agency that is equipped, staffed, and properly licensed to operate such a system (Agency). The operation, repair, maintenance, and monitoring of the system shall be the responsibility of the Agency.

- e. Mayowood Enterprises, Ltd. (owner) shall transfer ownership of the systems within Outlots A – G to the Agency. The Agency shall own the CWTS for the life of the development or upon connection to another central or municipal system.

If the approved Agency elects to sell the system, it shall be done on the following terms:

- (1) The Agency shall provide the Rochester Townboard with a written notice of the sale or transfer of the systems to another entity at least six (6) months prior to the planned execution of the change of ownership.

- (2) The Agency hereby agrees to sell or transfer the system to a qualified entity with a properly licensed operator as specified by Rochester Township.

- (3) The Agency shall also have the option of transferring or selling the systems to the owners of the lots or units within the Mayo Woodland Development.

Should this occur, the lot owners utilizing the CWTS shall be required to own

and control the system through the Homeowners Association, which shall assume all the responsibilities from the Agency for the systems. The Association shall retain the services of a property-licensed operator to operate, maintain, repair, and monitor the systems.

(4) An agreement shall be executed between the Agency of record and the lot owners designating the responsible party for the CWTS and the future Agency shall execute an agreement with each individual lot owner by the CWTS to perform the same duties.

(5) The Agency shall charge each lot owner a fee based on water usage to cover the cost of operating, maintaining, repairing, and monitoring the system.

f. If the approved agency defaults on their obligations to the homeowners or elects to charge an unreasonable fee for services, the Protective Covenants contains a provision to resolve all disputes in these matters.

2. Common Collection System (sewermain):

a. The common collection system shall be constructed in accordance with the engineering plans that will be submitted with the preliminary plat. It will be constructed as part of the subdivision work, as each phase is developed.

b. A sewer service line connection from the collection system to the septic tank shall be constructed with the CWTS.

- c. The service lines on the individual owners lot from the septic tank to the house shall be considered private and the responsibility of the individual lot owner.
- d. The Agency shall maintain the same level of responsibility and service as stated in C.1. (e).

3. Individual Sewage Treatment Systems:

- a. All conventional lots (minimum 2 acres in size) shall have an individual sewage treatment system consisting of a septic tank and drainfield.
- b. The ISTS shall have a primary and secondary treatment (drainfield) area on the lot. The location of the primary and secondary treatment areas shall be identified on the preliminary plat,
- c. Maintenance, repair and operation of the ISTS shall be the responsibility of a licensed managed care agency similar to the one that will provide the same service to the CWTS.

4. Shared Wells:

- a. Shared wells shall be located as shown on the preliminary plans and constructed as lots are developed in each phase.

- b. Maximum 10-party shared wells will be utilized. The type of water supply will be the same for the village and conventional style development.
- c. Where necessary, utility easements will be provided for the water distribution system (watermains).

5. Access and Roadway:

- a. The Special District incorporates the use of both private and public roadways as identified on the Special District Exhibit.
- b. All public roadways shall be designed and constructed to the standards of Section 5.101 – 5.104 and the roadway sections contained in Section 5.109 of the Subdivision Code for Rochester Township. Private roadways shall be designed and constructed to the minimum standards of Section 5.106 of the Subdivision Code for Rochester Township.
- c. Mayowood Enterprises, Ltd., shall own, maintain, repair, and control the private roadways until the final bituminous surface is placed and 75 per cent of the lots are sold within each cul-de-sac “village” area.

After 75 per cent of the lots are sold and the bituminous surfacing is in place within each cul-de-sac “village”, Mayowood Enterprises, Ltd., shall transfer the ownership, maintenance, control, and repair of the private roadways to a Homeowners Association. The Homeowners Association documents shall

establish a monthly fee agreeable to each homeowner for the maintenance and repair of the private roadways, including an amount sufficient to fund the depreciation for resurfacing or overlaying the bituminous surface.

d. Mayowood Enterprises, Ltd., shall turn over the public roadways for ownership, maintenance, and control to Rochester Township in accordance with the requirements of Section 5.110 of the Subdivision Code.

e. Off-Site Roadway Improvements. Certain off-site roadway improvements have been identified with this project. They consist of constructing a right-of-way turn lane and by-pass lane on County Road #8 at Meadow Crossing Road. In addition, a public secondary roadway from Meadow Crossing Road to County Road #8 is required to serve this development after sixty (60) new lots are developed.

6. Open Space:

An open space preservation area is being created within the project to preserve the amenities of the property, provide for surface water detention/sedimentation control facilities, common drainfields, trails, community recreational facilities, landscaping, and wildlife corridor. There will be two classifications of open space that will be titled "community" and "neighborhood" and are defined below. These areas will be defined as Outlots or with easements as shown on the Special District Exhibit.

The main purpose of the open space preservation area is to preserve the existing woodlands, steep sloped areas, floodplain areas, and drainage corridors on the

property that necessitate protection from removal disturbance, or destruction of woodlands other than as specified in the Forest Management Plan. The open space preservation area also includes the open space between the village homes that is used to provide a landscaped buffer area between homes; a trail system, landscape berm, and wildlife corridor.

A Forest Management Plan has been developed to ensure a method to maintain the quality of the forest area within the open space preservation area. The Forest Management Plan (Plan) shall become a part of the Special District Text. (Refer to Section seven (7)). The plan will identify how the forested areas should be maintained to ensure the longevity of a healthy forest.

Mayowood Enterprises, Ltd., current owner, will initially own the open space and be responsible to ensure that the Plan is implemented. The Forest Management Plan applies only to the community open space and areas within the preservation easement.

- a. The Special District shall contain two types of open space that are defined as follows:

(1) Community Open Space: All that area lying outside of the platted lot areas and CWTS Outlots and extending north from the top of the ridge line through the river corridor to the northerly property line. The community open space is noted on the Special District Exhibit as Outlot H.

The community open space is for the use and enjoyment of the entire residents of Mayo Woodlands. Its use is restricted to passive recreation-type uses including walking and cross-country ski trails.

(2) Neighborhood Open Space (limited open space): The neighborhood open space provides an inter-connection between homes in the village area of the project as noted on the Special District Plan as Outlots I & J. This open space also provides a landscaped buffer for separation between homes.

The “neighborhood open space” is for the primary use and enjoyment of the residents in the “village” area of Mayo Woodlands but also provides a pedestrian link to all other areas of the project. It also provides a wildlife corridor connection from the south side of Meadow Crossing Road to the “community open space” area.

In addition to the “community” and “neighborhood open space” preservation area, there is an easement along a portion of the south, northerly, and westerly boundaries of the conventional development portion of the property, as shown on the Special District Exhibit, to ensure preservation of the natural wooded areas and planted bufferyards.

- b. Each lot owner shall be informed of the open space preservation areas by the Special District Exhibit and in the Protective Covenants that will be recorded with the final plan.

- c. The Special District Exhibit identifies the allowable buildable areas of each single family detached lot. The homes within the village area shall be built in the approximate location as shown on the Special District Exhibit and will be subject to the setback criteria set forth in Section B-2 d & e of this text.

The final position of the home or building within the designated buildable area shall be subject to the approval of the Architectural Control Committee (Committee). The Committee may require greater building setbacks than the minimum specified in Section B-2 d & e of this text, if it is the opinion of the committee that the change is consistent with the basic principles of good site interrelationship.

7. Forest Management Plan:

A Forest Management Plan has been prepared by Kunde & Associates and is a part of this Special District Text by attachment.

Initially, Mayowood Enterprises, Ltd., will be responsible to ensure that the plan is implemented and enforced. Subsequently, as the ownership of the open space is transferred to another entity, the plan will remain in force, as it will be referenced in the Protective Covenants for the project. The Covenants shall be recorded to ensure perpetuation of the Plan as the property changes ownership.

8. Turf Management:

The majority of Mayo Woodlands drains toward the Zumbro River corridor, which is an environmentally sensitive area.

The turf management plan shall address proper fertilization, mowing, watering, and pesticide application procedures on lawns and gardens to minimize potential pollution. The turf management plan shall be included in the Protective Covenants for the project. The covenants shall be recorded to ensure perpetuation of the plan.

9. Agriculture Protection:

The Protective Covenant for Mayo Woodlands shall include language that discloses the Mayo Woodland development lies in close proximity to active agriculture operations and that it is expected that these operations shall continue on an indefinite basis.

Notice shall be provided to all future lot owners in this development that such uses may create unpleasant odors, dust, noise, and other similar annoyances.

10. Architectural Control Committee:

An Architectural Control Committee shall be formed to review all house plans, including the site plans to ensure proper siting within identified buildable areas.

The specific requirements applicable to the homes shall be included in the Protective Covenants.

The Architectural Control Committee shall consist of Mayowood Enterprises, Ltd., or successors or assigns.

11. Phasing:

This project will be completed in five (5) phases as shown on the phasing plan. There is a limitation of sixty (60) new units until a permanent secondary access between Meadow Crossing Road and County Road #8 is secured.

It may be necessary to adjust some of the phasing limits as the project progresses.

A development agreement will be created that addresses the secondary road access, contribution fees for the roadways, timing of construction, and other similar issues.

12. Technical Amendments

Every effort will be to design and construct the project in accordance with the approved Special District Exhibit and text. It may be necessary from time to time to make minor adjustments to the plan based on technical design issues relative to maintaining good engineering practices.

In no instance shall the density or intensity of development be increased from the original adopted Special District Plan without an approved amendment to the plan.

