

<p>Mayor: Lee Hunt Councilmembers: Steve DeLapp Susan Dunn Dean Johnston Wyn John</p>	<p><b>Lake Elmo City Council</b> <b>Tuesday</b> <b>October 5, 2004</b></p>	<p>3800 Laverne Avenue No. Lake Elmo, MN 55042 777-5510 777-9615 (fax)</p>
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**Please read:** Since the City Council does not have time to discuss every point presented, it may appear that decisions are preconceived. However, staff provides background information to the City Council on each agenda item in advance; and decisions are based on this information and experience. In addition, some items may have been discussed at previous council meetings.

If you are aware of information that has not been discussed, please fill out a "Request to Appear Before the City Council form; or, if you came late, raise your hand to be recognized. Comments that are pertinent are appreciated. Items may be continued to a future meeting if additional time is needed before a decision can be made.

**\*\*\*6:30 p.m. INTERVIEW TWO PROSPECTIVE  
PLANNING COMMISSION MEMBERS\*\*\***

**Agenda**

**City Council Meeting Convenes 7:00 PM**

<p><b>Pledge of Allegiance</b></p>	
<p><b>1. Agenda</b></p>	
<p><b>2. Minutes</b></p>	<p>September 21, 2004</p>
<p><b>3. <u>PUBLIC INQUIRIES/INFORMATIONAL:</u></b> <b>A. PUBLIC INQUIRIES:</b></p>	<p>Public Inquiries/Informational is an opportunity for citizens to bring the Council's attention any items not currently on the agenda. In addressing the Council, please state your name and address for the record, and a brief summary of the specific item being addressed to the Council. To allow adequate time for each person wishing to address the Council, we ask that individuals limit their comments to three (3) minutes. Written documents may be distributed to the Council prior to the meeting or as bench copies, to allow a more timely presentation.</p>
<p><b>4. <u>CONSENT AGENDA</u></b> <b>A. Resolution No. 2004-083: Approve claims</b> <b>B. Parks Commission Appointment</b> <b>C. Hire Public Works Employee</b></p>	<p>Those items listed under the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion under a Consent Calendar format. There will be no separate discussion of these items unless a Council member so requests, in which event, the item will be removed from the general order of business and considered separately in its normal sequence on the agenda.</p>
<p><b>5. FINANCE:</b> <b>A. Public Hearing: Assessments for proposed Unpaid Municipal Utilities, Resolution No. 200-084</b> <b>6. <u>NEW BUSINESS</u></b></p>	
<p><b>7. <u>MAINTENANCE/PARK/FIRE/BUILDING:</u></b> <b>A.</b></p>	

<p><b>8. CITY ENGINEER'S REPORT:</b></p> <p>A. Public Hearing: 55<sup>th</sup> Street Vacation, Resolution No. 2004-085</p> <p>B. Escrow Reduction: Whistling Valley Phase I</p>	<p>Tom Prew</p>
<p><b>9. PLANNING, LAND USE &amp; ZONING:</b></p> <p>A. Amateur Radio Tower Permit – Smith/Holm</p> <p>B. Resolution No. 2004-086 :Tapestry at Charlotte's Grove Preliminary Plat, OP Stage Plan, CUP</p> <p>C. Resolution No. 2004-087:Comprehensive Plan Amendment – Inwood Associates</p> <p>D. Resolution No. 2004-088:Variance from Sideyard Setback, 3385 Lake Elmo Avenue, Brookman</p> <p>E. Appointments to Planning Commission</p> <p>F. Ordinance No. 97- 142:Old Village Moratorium</p> <p>G. Site Plan Security Release – Bremer Operations Center</p>	<p>C. Dillerud</p>
<p><b>10. CITY ATTORNEY'S REPORT:</b></p>	
<p><b>11. CITY ADMINISTRATOR'S REPORT:</b></p> <p>A. Tree Program</p>	
<p><b>12. CITY COUNCIL REPORTS:</b></p> <p>A. Mayor Hunt – Report on Met Council Meeting</p> <p>B. Council Member DeLapp</p> <p>C. Council Member Dunn</p> <p>D. Council Member Johnston</p> <p>E. Council Member John</p>	
<p><b>Community Improvement Commission:</b> October 6, 7 p.m.</p>	

LAKE ELMO CITY COUNCIL MINUTES

SEPTEMBER 21, 2004

1. AGENDA
2. MINUTES: September 7, 2004
3. PUBLIC INQUIRIES/INFORMATIONAL:
  - A. Public Informational:Library
4. CONSENT AGENDA:
  - A. Resolution No. 2004-080:Approve Claims
5. FINANCE:
  - A. Monthly Operations Report: Informational
6. NEW BUSINESS:
  - A. Tom Wagner, VAA (Verbal)
7. MAINTENANCE/PARK/FIRE/BUILDING:
  - A. Update on Building Dept. Activities:Building Official
8. CITY ENGINEER'S REPORT:
9. PLANNING, LAND USE & ZONING:
  - A. Resolution No. 2004-081:Zoning Variance – Side Yard Setback (Price, 8384 Stillwater Blvd.)
  - B. Resolution No. 2004-082:Conditional Use Permit – Beauty Salon/Say Spa (Prairie Ridge Office Park)
  - C. Appointments to Planning Commission
  - D. Old Village Moratorium
10. CITY ATTORNEY'S REPORT:
11. CITY ADMINISTRATOR'S REPORT:
  - A. Fire Ordinance
  - B. Fire Study
  - C. Old Village Development Plan
  - D. Booth at League of Minnesota Cities Conference
12. CITY COUNCIL REPORTS:

Mayor Hunt called the meeting to order at 7 p.m. in the Council chambers. PRESENT: John, Dunn, Hunt, Johnston, DeLapp, City Attorney Filla, City Engineer Prew, City Planner Dillerud, Building Official McNamara, Finance Director Tom Bouthilet and Administrator Rafferty.

**1. AGENDA:**

ADD: Workshop on Old Village, Update by City Attorney on Hilyar property, OV Moratorium, Fire Study proposal provided, Discussion on Met Council issues, Public Informational:Library staff review on properties.

M/S/P Johnston/Dunn - to approve the September 21, 2004 City Council agenda, as amended. (Motion passed 5-0).

**8. CITY ENGINEER'S REPORT:**

**9. PLANNING, LAND USE & ZONING:**

**A. Resolution No. 2004-081: Zoning Variance – Side Yard Setback (Price, 8384 Stillwater Blvd.)**

The City Planner reported that Albert and Caroline Price, 8384 Stillwater Boulevard, made application for a zoning variance from the side yard setback to permit reconstruction of a two-stall garage 8 feet 5 inches from the west property line where a 10 foot side yard setback is required.

The Planner explained the Planning Commission's recommended approval was primarily a result from positive findings regarding hardship after the applicant volunteered to reduce the requested variance from 3 feet 7 inches to 1 foot 7 inches, reflecting the exact side yard location of the garage structure proposed to be replaced. Staff advised the Commission that it was likely that the original garage was intended to be located at the 10 foot setback line in 1968, but ended up slightly closer to the lot line.

M/S/P Dunn/John - to adopt Resolution No. 2004-081, Approving a Variance for Albert and Caroline Price, 8384 Stillwater Boulevard, to Permit Reconstruction of a Garage, per the graphics staff dated September 13, 2004, 8 feet 5 inches from the west property line where a 10 foot side yard setback is required, based on the Findings and recommendations of the Planning Commission. (Motion passed 5-0).

**B. Resolution No. 2004-082: Conditional Use Permit – Beauty Salon/Day Spa (Prairie Ridge Office Park)**

The City Planner reported that Mary Gander has requested a Conditional Use Permit, located in one-half of Building #6, Prairie Ridge Office Park 8975 Highway 5, for a Beauty Salon and Accessory Day Spa. The application is responsive to recent amendments to the Limited Business zone text to include Beauty Salons as Conditional Uses and Day Spas as Accessory Uses to Beauty Salons. He said the plan to utilize one half of building #6 in the new office development would not be problematic as the city can regulate the conditional use permit.

Ms. Gander's documentation addressed the concern that the new business would have hair and various chemicals kept from entering the waste processing with traps. Salon chemicals are regulated by the FDA and the University of Minnesota told her that salons are not on the list of business that affects septic systems. Dillerud said that it was possible for the city to see if Gander was complying by testing the septic system every two years when it is pumped.

Ms. Gander estimated that between 16 and 22 spaces would be needed at any given time, which was higher than the assigned 12 spaces to that part of the building. A plan was provided to add about 14 parking spaces.

Council member DeLapp said he would vote for approval, but voiced his concerns that the hours of operation are substantially greater than anticipated, and he didn't like the signs or lights in a residential area.

M/SP Johnston/Dunn - to adopt Resolution No. 2004-082 approving a Conditional Use Permit at Prairie Ridge Office Park, Building #6, for a Beauty Salon and Accessory Day Spa, based on the Findings and recommendations/conditions of the Planning Commission. (Motion passed 5-0).

#### C. Appointments to Planning Commission

The Council interviewed four of the six Planning Commission applicants with applicants, Gloria Knoblauch and Julie Fliflet being interviewed at the October 5<sup>th</sup> Council meeting. The Council discussed how they would proceed with the election of members. Mayor Hunt explained the process used in the past was that each member would write down their first and second pick from among the applicants. The first pick would receive two points and the second pick one point. The two applicants receiving the highest amount of points would be elected.

M/S/P DeLapp/John - to follow the election process by voting by paper ballots indicating their first choice receiving two points, second choice receiving one point, and then make a motion to appoint two Planning Commission members at the October 5<sup>th</sup> Council meeting. (Motion passed 5-0.)

#### D. Old Village Moratorium

The City Planner reported the Old Village Moratorium expired the first week of September. The Council will discuss the moratorium duration at the October 5<sup>th</sup> Council meeting. The Planner requested that Item G be deleted. Council member DeLapp noted there had to be timelines connected with the moratorium and asked that at every council meeting a bar chart be provided showing the progress.

### 9. CITY ATTORNEY'S REPORT:

The City Attorney gave an update on the Hilyar property. The Attorney's asked if the City would want that property once the house has been demolished and property cleaned up, which the Council responded a house, or possible two, could be built on the property. The Fire Chief said they may be interested in a control burn so the City Attorney will relay the message to Washington County.

### 10. CITY ADMINISTRATOR'S REPORT:

#### A. Fire Ordinance

The City Administrator explained the City has the authority to establish a fire department; appoint fire department officers and members; prescribe duties for fire department members; and provide fire fighting equipment. The fire department and its

members are subject to the same rules and regulations that apply to other city departments and employees.

M/S/P John/Johnston – to adopt Ordinance No. 97-141 relating to the Fire Department. (Motion passed 5-0.)

B. Fire Study

The City Planner reported the only response for a Comprehensive Fire Services Study was submitted by Dahlgren, Shardlow and Uban, Inc. which was responsive to an RFP prepared. He said this fire study affects what the City will do in the Old Village.

M/S/P Johnston/DeLapp – to approve the contract with Dahlgren, Shardlow and Uban, Inc. accepting a professional services proposal for a Comprehensive Fire Services Study for Lake Elmo. (Motion passed 5-0).

C. Old Village Development Plan

The City Administrator will come up with dates for two workshops for the Old Village Master Developer Plan where they will discuss the three Components: Master developer, facilities, standard and new ordinances to control development.

D. Booth at League of Minnesota Cities Conference

The staff will give an update on the meeting with the Governor on Monday, September 27, 2004 from 5:30 to 6:30 p.m. Depending on the results of the Governor's meeting, the Council will decide what action to take with the booth for the conference.

**11. CITY COUNCIL REPORTS:**

Mayor Hunt announced there will be a public hearing on options for constructing the new Stillwater bridge at the Stillwater Jr. High School.

Council member DeLapp reported the Sierra Club held its Tour de Sprawl with the Mayor, City Administrator and himself in attendance. The group stopped to listen to Bob Engstrom's comments on preserving open space at the red barn located at the Fields of St. Croix, an open space development Mr. Engstrom had developed.

Adjourn 8:40

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Respectfully submitted by Sharon Lumby, City Clerk

Resolution No. 2004-080 Approve Claims  
Resolution No. 2004-081 Variance Price  
Resolution No. 2004-082 CUP Beauty Salon/Day Spa  
Ordinance No. 97-141 Fire Department Ordinance

MINUTES APPROVED: SEPTEMBER 21, 2004  
LAKE ELMO CITY COUNCIL MINUTES

SEPTEMBER 7, 2004

1. AGENDA
2. MINUTES: August 17, 2004
3. PUBLIC INQUIRIES/INFORMATIONAL:
  - A. Public Inquiries
  - B. Kathi Pelnar: Animal Control Officer: Ordinance Relating to Confinement of Dogs
4. CONSENT AGENDA:
  - A. Planning Commission Resignations
  - B. Resolution No. 2004-076: Approve Claims
  - C. Resolution No. 2004-079: Partial Payment No. 4 to Schifsky & Sons for Hill Trail N./50<sup>th</sup> Street
5. FINANCE:
  - A. Resolution No. 2004-077: Adopting Levy Limit
  - B. Resolution No. 2004-078: Set Truth n' Taxation Hearing Dates
6. NEW BUSINESS:
7. MAINTENANCE/PARK/FIRE/BUILDING:
8. CITY ENGINEER'S REPORT:
  - A. Hill Trail Assessment Appeal: Resolution No. 2004-069: Adopting Hill Trail/50<sup>th</sup> Street Assessments
  - B. Highlands Trail Speed Study Results
  - C. 45<sup>th</sup> Street Pond
9. PLANNING, LAND USE & ZONING:
  - A. Zoning Ordinance Amendment – Family Entertainment Center: CUP in GB Zone, Ordinance No. 138 and Ordinance No. 139
  - B. Amendment to Section 150 – Building Height – Ordinance No. 140
10. CITY ATTORNEY'S REPORT:
11. CITY ADMINISTRATOR'S REPORT:
  - A. Set Public Works Council Committee Meeting Date (Verbal)
12. CITY COUNCIL REPORTS:

Mayor Hunt called the City Council meeting to order at 7:00 p.m. in the Council Chambers: PRESENT: John, Dunn, Hunt, Johnston, DeLapp, City Planner Dillerud, Attorney Filla, City Engineer Prew, Finance Director Tom Bouthilet and Administrator Rafferty.

1. **AGENDA:**

ADD: Response to the Stillwater bridge EIS, REMOVE 4A. off consent agenda for discussion.

M/S/P Dunn/Johnston - to approve the September 7, 2004 City Council agenda, as amended. (Motion passed 5-0).

M/S/P Johnston/John – to accept the resignation of Planning Commissioner Jim Van Pelt and to send a letter of appreciation for his contributions to the residents of the City of Lake Elmo. (Motion passed 5-0).

The Planning Commission now has seven full-voting members and two alternates. First Alternate Planning Commissioner Thomas Meldahl would like to remain as an Alternate Member through the summer. Second Alternate Planning Commissioner Charlie Schneider should be appointed as a full-voting member to finish the term of Jeff Berg that expires on December 31, 2004.

M/S/P DeLapp/John - to appoint Charlie Schneider as a full voting member of the Planning Commission. (Motion passed 5-0.)

The Planning Commission now has two openings (one full voting member and one alternate member) and three applications on file. Those applicants are LeRoy Rossow, Gloria Knoblauch and Thomas Armstrong. An application from Julie Fliflet was presented to the Council at the meeting.

Planner Dillerud noted that Tom Armstrong, as well as Jeff Berg and Jim VanPelt, have indicated their desire to come back to serve on the Commission at a later date.

Council member Johnston noted the City needs a procedure for appointments as the ground rules change with each appointment.

M/S/P Dunn/Johnston – to direct the staff to invite the candidates for an interview and solicit candidates through the website, cable and a press release in the newspaper. (Motion passed 5-0.)

B. Resolution No. 2004-076 Approve Claims

M/S/P John/Dunn - to adopt Resolution No. 2004-076 - approving claim numbers 213, 214, DD230, 26061 through 26074 that were used for staff payroll dated August 19, 2004 Claim numbers 215, 216, DD231 26076 through 26086 which were used for staff dated September 2, 2004, Claim 26075, 2607 through 26152 in the total amount of \$379,805.01. (Motion passed 5-0).

C. Resolution No. 2004-079: Partial Payment No. 4 to Schifsky & Sons for Hill Trail N./50<sup>th</sup> Street

The City Engineer reported T.A. Schifsky has completed the final sodding repair work and the project will be completed the week of September 6, 2004. The City Engineer recommends approval of Partial Payment No. 4 to T.A. Schifsky in the amount of \$77,893.22. This pay request covers the wear course paving and initial turf establishment work done last spring.



The City Engineer provided a response to questions in Bud Talcott's memo of August 17, 2004 and addressed Roger Johnson's Hill Trail Assessment Appeal. Planner Dillerud reported the parcel owned by Roger Johnson is .91 acres and it was not buildable, therefore, this lot will be assessed as a recreational lot.

Council member Dunn explained the purpose of the street reconstruction was to address the drainage concerns. She pointed out that the culverts looked rough and needed to be fixed. She asked the engineer to make sure the stakes are taken out that hold the sod so no one gets hurt.

Bud Talcott, Hill Trail resident, brought in metal stakes found in his driveway, and noted he has seen no one with metal detectors.

M/S/P Johnston/Dunn - to adopt Resolution No. 2004-069 Adopting the assessment roll, as amended (Roger Johnson's combined parcel 05-029-21-33-024 and 05-029-21-33-026 as a recreational lot \$1,250 and parcel 04-029-21-33-0031 with his house at \$2,500) for the Reconstruction of Hill Trail N. and 50<sup>th</sup> Street N., verified by the City Engineer's memo dated September 1, 2004. (Motion passed 5-0).

#### B. Highlands Trail Speed Study Results

Per the request of the Council, a 48-hour speed study was done on Highlands Trail. In his memo dated September 2, 2004, the City Engineer reported the speed study was done west of Highlands Court. The results of the study show that two-thirds of the vehicles travel between 31 and 40 MPH. The posted speed limit is 30 MPH. In order to reduce the traffic speed, he recommends narrowing the street from 59<sup>th</sup> Street to Hytrail Avenue to 26 feet which would eliminate on-street parking.

Council member Johnston explained he has talked to the residents, who said the stop sign has not slowed down the traffic, but it has added safety to the intersection. He didn't feel there was any justification to put in more money into this project. Council member Dunn agreed to leave Highlands Trail with the stop sign. Council member DeLapp indicated the city could do some cosmetic things and that you can't just add a stop sign when you don't know what else to do. We could possibly look at a trail plan for this area. Planner Dillerud was asked to add this section to a trail plan.

Liz Johnson, Planning Commission member, said she lived in that neighborhood and residents did a lot of walking in this neighborhood and have a concern on speed of traffic.

#### C. 45<sup>th</sup> Street Pond

In his memo dated September 2, 2004 the City Engineer reported he received two quotes for repair of an erosion problem on City owned property on 45<sup>th</sup> Street. The quotes received were from Miller Excavating for \$11,665.00 and Larson Contracting for \$17,900.00. The Engineer recommended accepting the quote from Miller Excavating for construction of the 45<sup>th</sup> Street Pond.

**10. CITY ATTORNEY'S REPORT:**

**11. CITY ADMINISTRATOR'S REPORT:**

A. Set Public Works Council Committee Meeting Date (Verbal)

The next Council Committee meeting date is scheduled for September 14<sup>th</sup> which is the Primary Election. The Council rescheduled the Council Committee date to Monday, September 13<sup>th</sup> at 5:30 p.m.

**12. CITY COUNCIL REPORTS:**

Council member DeLapp reminded the Council of the Tour de Sprawl making two stops in Lake Elmo. The group will be meeting at the Fields of St. Croix barn and Steve thought this would be an opportune time to discuss what can be done with the Old Village.

The Council closed the Council meeting at 8:45 to enter a closed meeting with our attorneys to discuss Met Council litigation.

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Respectfully submitted by Sharon Lumby, City Clerk

Resolution No. 2004-076 Approve Claims

Resolution No. 2004-077 Approved proposed 2004 Tax Levy, Collectible in 2005

Resolution No. 2004-078 Setting the Truth in Taxation Public Hearing Dates for 2004 Tax Levy

Resolution No. 2004-079 Approve Final Payment No. 4 to T.A. Schifsky for Hill Trail N. and 50<sup>th</sup> Street N.

Ordinance No. 97-138 Amending the GB district to include Family Entertainment Center as a CUP

Ordinance No. 97-139 Adding a definition of Family Entertainment Center

Ordinance No. 97-140 Amending Section 150 definition of Building Height

4A.

**CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA**

**RESOLUTION NO. 2004-083  
RESOLUTION APPROVING CLAIMS**

BE IT RESOLVED THAT Claim Numbers 219, 220, DD244 through DD252, 26226 through 26237, were used for Staff payroll dated September 30, 2004, Claim 26238 through 26275 in the total amount of \$87,085.00 are hereby approved.

ADOPTED, by the Lake Elmo City Council on the 5<sup>th</sup> day of October, 2004.

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Lee Hunt  
Mayor

ATTEST:

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Martin J. Rafferty  
City Administrator

# Accounts Payable Computer Check Proof List

User: administrator  
Printer: 10/01/2004 - 10:09 AM



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: ACEHARD 02096541	Ace Hardware Library - Cleaning supplies Check Total:	9.57 9.57	10/05/2004	Check Sequence: 1 101-410-1110-44300	ACH Enabled: No
Vendor: ACTION 143013	Action Rental Floor pads - Library Check Total:	39.41 39.41	10/05/2004	Check Sequence: 2 101-410-1110-44300	ACH Enabled: No
Vendor: APPLIMAG 62595	Applied Images Desk Nameplate - FD Check Total:	8.95 8.95	10/05/2004	Check Sequence: 3 101-420-2220-44300	ACH Enabled: No
Vendor: ARAM 629-5557521	Aramark Linen City Hall Check Total:	46.68 46.68	10/05/2004	Check Sequence: 4 101-410-1940-44010	ACH Enabled: No
Vendor: ARCADELE 1631 1710	Arcade Electric VFW Park Lighting VFW Park Lighting Repair Check Total:	18,427.00 564.47 18,991.47	10/05/2004 10/05/2004	Check Sequence: 5 404-480-8000-45300 404-480-8000-45300	ACH Enabled: No
Vendor: ATTWI 023-2750230	AT&T Wireless Floater Phone - FD Check Total:	20.47 20.47	10/05/2004	Check Sequence: 6 101-420-2220-43210	ACH Enabled: No
Vendor: AVAYA 2157024304	AVAYA Inc. Monthly Tel. Maint. Contract	150.36	10/05/2004	Check Sequence: 7 101-410-1940-44040	ACH Enabled: No

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	150.36			
Vendor:BOYER 512871	Boyer Ford Trucks Repair SL8513 Check Total:	254.84 254.84	10/05/2004	101-430-3100-44040	ACH Enabled: No
Vendor: COPYMAG 51927	Copy Images, Inc. Monthly Maint. Check Total:	255.60 255.60	10/05/2004	101-410-1940-44040	ACH Enabled: No
Vendor: EMERGAPP 19215 19216	Emergency Apparatus Maint. Repair to Engine 3173 - cutting out Relay repl. for Engine 3183 Check Total:	547.85 149.18 697.03	10/05/2004 10/05/2004	101-420-2220-44040 101-420-2220-44040	ACH Enabled: No
Vendor: EMPYVER 014118	Employment Verification Svcs Verification - Hristo Galiov Check Total:	12.00 12.00	10/05/2004	101-410-1520-44300	ACH Enabled: No
Vendor: EYECARE 152194	Eyecare Center LB Bifocal Lenses - Greg - FD Check Total:	182.58 182.58	10/05/2004	101-420-2220-45800	ACH Enabled: No
Vendor: FIREBQU 3771	Fire Equipment Specialties PBI Matrix Check Total:	1,329.82 1,329.82	10/05/2004	101-420-2220-45800	ACH Enabled: No
Vendor: GENESIS IVC00108 IVC00108 IVC00113 IVC00113	Next Genesis Productions Phone Support - FD Updates Greg Laptop /maint software Server Updates Check Total:	25.00 50.00 100.00 100.00 275.00	10/05/2004 10/05/2004 10/05/2004 10/05/2004 10/05/2004	101-420-2220-44040 101-410-1520-43180 101-420-2220-44010 101-410-1520-43180	ACH Enabled: No
Vendor: HANSON Permit 4215	Ken Hanson Return of Road Deposit Check Total:	1,000.00 1,000.00	10/05/2004	803-000-0000-22900	ACH Enabled: No

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor:KAMCO 09292004	Kamco Stump Removal at Sunfish Lake Park Check Total:	80.00 80.00	10/05/2004	Check Sequence: 16 101-450-5200-44030	ACH Enabled: No
Vendor:LIFESTYL Permit 3575	Lifestyle Homes Refund for 3575 - 4227 Kirkwood Ln. Check Total:	1,000.00 1,000.00	10/05/2004	Check Sequence: 17 803-000-0000-22900	ACH Enabled: No
Vendor:LIGHT Permit 3697	Lighthouse Home Builders Returned for 3697 11681 Little Bluestem Check Total:	1,000.00 1,000.00	10/05/2004	Check Sequence: 18 803-000-0000-22900	ACH Enabled: No
Vendor:MALMQ 011221223549	GregMahnaquist Dryer for FD Check Total:	893.52 893.52	10/05/2004	Check Sequence: 19 101-420-2220-45800	ACH Enabled: No
Vendor:MCLEOD 6905890 6905890 6905890 6905890 6905890 6905890	McLeod USA Telephone - City Hall Telephone - PD Telephone - Public Works Telephone - 11062 34th St & 2759 Legion Telephone - 3303 Langley & 11975 55th St Telephone - Parks Check Total:	300.19 163.55 129.20 119.31 107.89 67.37 887.51	10/05/2004 10/05/2004 10/05/2004 10/05/2004 10/05/2004 10/05/2004	Check Sequence: 20 101-410-1940-43210 101-420-2220-43210 101-430-3100-43210 602-495-9450-43210 601-494-9400-43210 101-450-5200-43210	ACH Enabled: No
Vendor:MENARDST 13850	Menards - Stillwater 5' Steel Fence Posts Check Total:	29.61 29.61	10/05/2004	Check Sequence: 21 101-420-2220-42230	ACH Enabled: No
Vendor:MEYERCON 04.181.01	Meyer Contracting Inc. 2nd half of Pmt. 34th Lift Station Upgr. Check Total:	9,350.00 9,350.00	10/05/2004	Check Sequence: 22 409-480-8000-45300	ACH Enabled: No
Vendor:NEXTEL 761950227-018 761950227-018 761950227-018 761950227-018	Nextel Communications Cell Phone service - Admin. Cell Phone service - Bldg. Cell Phone service - Public Works Cell Phone service - Parks	75.88 32.64 49.07 16.54	10/05/2004 10/05/2004 10/05/2004 10/05/2004	Check Sequence: 23 101-410-1940-43210 101-420-2400-43210 101-430-3100-43210 101-450-5200-43210	ACH Enabled: No

Invoice No Description Amount Payment Date Acct Number Reference

Check Total: 174.13

Vendor: NORTHTOO Retail Services/Northern Tool & Equipment  
 0562029084 Shop Stool  
 Check Total: 42.59 10/05/2004  
 Check Sequence: 24  
 101-430-3100-42150 ACH Enabled: No

Vendor: PITNEY Piney Bowes  
 2817997-SP04 Equipment Rental - Postage  
 Check Total: 693.00 10/05/2004  
 Check Sequence: 25  
 101-410-1940-44010 ACH Enabled: No

Vendor: PITPURCH Purchase Power  
 1091-8922 Postage  
 Check Total: 519.00 10/05/2004  
 Check Sequence: 26  
 101-410-1320-43220 ACH Enabled: No

Vendor: PRESS StevenPress  
 09/21-09/27 Cable Operator 09/21, 09/27  
 Check Total: 80.00 10/05/2004  
 Check Sequence: 27  
 101-410-1320-43620 ACH Enabled: No

Vendor: QUICKSI Quicksilver  
 6212250 Courier to Peterson Frann & Bergman  
 Check Total: 19.35 10/05/2004  
 Check Sequence: 28  
 101-410-1610-43040 ACH Enabled: No

Vendor: QWEST Qwest  
 651 7142208 456 Hudson Lift Station  
 Check Total: 35.60 10/05/2004  
 Check Sequence: 29  
 602-495-9450-43210 ACH Enabled: No

Vendor: RENNESC Scott Renne  
 Appraisal Property Appraisal - City Hall  
 Check Total: 1,500.00 10/05/2004  
 Check Sequence: 30  
 410-480-8000-45200 ACH Enabled: No

Vendor: RUD DianePrice-Rud  
 867484 Cleaning Supplies  
 9/20-9/29 Cleaning City Hall  
 9/21-9/30 Cleaning Fire Hall  
 Check Total: 490.69  
 Check Sequence: 31  
 101-410-1940-42110 ACH Enabled: No  
 101-410-1940-44010  
 101-420-2220-44010

Vendor: S&T S&T Office Products, Inc.  
 01JH0230 Office Supplies  
 79.95 10/05/2004  
 Check Sequence: 32  
 101-410-1320-42000 ACH Enabled: No

Invoice No Description Amount Payment Date Acct Number Reference

Check Total: 79.95

Vendor: SATELLIT  
 24180613  
 Satellite Shelters, Inc.  
 Rental - Bldg Depr. Trailer Office  
 Check Total: 319.50 10/05/2004  
 319.50  
 Check Sequence: 33  
 101-420-2400-44120  
 ACH Enabled: No

Vendor: STCRTRREE  
 33486  
 Sr. Croix Tree Service  
 Stub removal from Tablyn Park  
 Check Total: 150.00 10/05/2004  
 150.00  
 Check Sequence: 34  
 101-450-5200-44030  
 ACH Enabled: No

Vendor: STILLGAZ  
 00003788  
 Stillwater Gazette  
 Variance - Brookman  
 00003789  
 Public Hearing - Carriage Station  
 00003790  
 Public Hearing - Family Ent.  
 00003795  
 Public Hearing - Tapestry at Charlotte's  
 00003796  
 Public Hearing Rezone  
 00003798  
 Ordinance 138  
 c5257300  
 Sealed Bid Publication  
 Check Total: 292.40 10/05/2004  
 292.40  
 Check Sequence: 35  
 101-410-1320-43510  
 101-410-1320-43510  
 101-410-1320-43510  
 101-410-1320-43510  
 101-410-1320-43510  
 101-410-1320-43510  
 101-410-1320-43510  
 101-410-1320-43510  
 ACH Enabled: No

Vendor: TKDA  
 200400001199  
 TKDA, Inc.  
 50th Str. Overlay  
 200400001200  
 VFW Ballfield Lights  
 200400001201  
 City Hall Planning  
 200400001201  
 2,151.64 10/05/2004  
 2,151.64  
 Check Sequence: 36  
 409-480-8000-43030  
 404-480-8000-43030  
 410-480-8000-43030  
 101-410-1910-43030  
 601-494-9400-43030  
 409-480-8000-43030  
 602-495-9450-43030  
 803-490-9070-43030  
 603-496-9500-43030  
 101-410-1930-43030  
 409-480-8000-43030  
 603-496-9500-43030  
 601-494-9400-43030  
 409-480-8000-43030  
 601-494-9400-43030  
 ACH Enabled: No

Vendor: XCEL  
 0073-736-544260  
 Xcel Energy  
 Street Lights Janley Ave  
 1684-846-045267  
 2759 Legion Ave  
 23.09 10/05/2004  
 12.01 10/05/2004  
 Check Sequence: 37  
 101-430-3160-43810  
 602-495-9450-43810  
 ACH Enabled: No



Invoice No      Description      Amount      Payment Date      Acct Number      Reference

Check Total:      35.10

Vendor: YARUSSO      Raymond Yarusso, Sr.      115.30      10/05/2004      Check Sequence: 38      ACH Enabled: No  
Employee Claim      Travel Claim for Training Conf.      115.30      101-420-2220-44370

Check Total:      115.30

Total for Check Run:      51,857.62  
Total Number of Checks:      38

<u>Mayor</u> Lee Hunt	<b>No. 4B</b>
<u>Councilmembers</u> Steve DeLapp Susan Dunn Dean Johnston Wyn John	<b>Agenda Section: Consent Agenda</b> <b>Agenda Item: Parks Commission Appointment</b> <b>Date: October 5, 2004</b>

**Background Information for October 5, 2004.**

The Parks Commission currently has two vacancies. The city has advertised for vacant positions for over one year. Mr. Charles Nalipinski has submitted an application to the city (attached). Should the Council agree, Mr. Nalipinski should be appointed to finish the term of Mike Tate which expires on December 31, 2005.

**Motion \_\_\_\_\_, Second \_\_\_\_\_, to appoint Charles Nalipinski as Full Voting Member of the Parks Commission to finish a term that expires December 31, 2005.**

Attached: Parks Commission Application – Nalipinski  
Parks Commission Attendance – 2004



CITY OF LAKE ELMO  
3800 Laverne Ave. N.  
Lake Elmo, MN 55042

Voice: (651) 777-5510  
Fax: (651) 777-9615

RECEIVED  
SEP 24 2004

LAKE ELMO PARKS COMMISSION  
APPLICATION FOR APPOINTMENT

Date: 9-22-04

Name: Charles Nalipinski

Address: 235 Cimarron, Lake Elmo, Mn. 55042

Telephone: (H) 651-436-5951 (W) \_\_\_\_\_

1. What do you consider to be the major park planning development and policy issues confronting the City of Lake Elmo? What is your position on these matters?

Improvements to the parks in Lake Elmo and future developments of parks in the city.

2. What do you see as the role and function of the Parks Commission? How does this relate to the role and responsibility of the City Council in Park matters?

Development of city parks and improvements to the parks, policies, maintenance and public use. Commissioners review and make recommendation to the city council on city parks.

3. What experience and qualifications do you have which you feel will contribute to the Parks Commission work, and which will enable you to provide a service in this regard?

as a 15 year resident of the city of Lake Elmo children growing up and use of city parks. What's best for development of parks for the good of Lake Elmo.

4. How much time do you have or are willing to devote to Parks Commission activities?

as I'm retired now, have time to devote to Parks Commission.

Please, complete and return to City Hall.

**City of Lake Elmo  
PARKS COMMISSION  
2004 Attendance**

Parks Commission		27-Jan	18-Feb	22-Mar	19-Apr	17-May	21-Jun	19-Jul	16-Aug	30-Aug	20-Sep	#	#
Bob Schumacher	1998	1		1	1		1	1	0	1			85.71%
John Heroff	1998	0		0	1		0	1	0	1			42.86%
John Ames	2004	0		1	1		1	0	0	1			57.14%
<b>Expires Dec 31, 2004</b>													
Terry Bouthilet (4/18/00 alt)	2002	1		0	1		0	1	0	0			42.86%
Linda Wagner	2003	1		1	1		1	1	1	0			85.71%
Todd Bruchu	2004	1		1	1		1	1	0	1			85.71%
<b>Expires Dec 31, 2005</b>													
David Steele	2003	1		0	1		1	1	1	1			85.71%
VACANCY Tate 5/21/04	2000	0		0	0		1	1	1	1			
Jenifer Watters	2003	1		1	1		1	1	1	1			100.00%
<b>Expires Dec 31, 2004</b>													
VACANT, 2nd Alt	2003	0		0	0		0	0	0	0			0.00%

Agenda

Agenda

Quorum

Quorum

Jim Lund wishes to remain Alternate.  
Mike Tate resigned 5/21/04. CC 6/15/04.

2004 ATTENDANCE CALCULATED

1 = Attended, 0 = Absent

Lake Elmo  
City Council  
October 5, 2004

Agenda Section: Consent Agenda

No. 4C.

**Agenda Item: Consent Item: Hire Public Works Employee Jim Sachs**

**Background Information for October 5, 2004:**

The process of recruiting, reviewing, interviewing and selecting the Public Works Employee has concluded. The city received a number of applications for the position of public works employee. The applications were reviewed and rated by the Administrator, Public Works Superintendent and City Clerk conducted the oral interview. The selected applicants were presented with the same interview questions related to their experience and capabilities. Ten applicants were identified for the first interview and two were recalled for a second interview. After the second interview, the City Administrator and Public Works Superintendent have selected the most qualified person for the position. Jim Sachs, a twenty year LE Fireman, with an excellent employment background for the position.

This process would have moved forward about five weeks ago however, my concerns for his role as a LE Firefighter, which up until the last Council Meeting, were compensated on an hourly basis at \$10.25 per hour for calls for service. At the last Council Meeting the City Council adopted a new Fire Ordinance which included the creation of a new LE Firefighter classification; City Employee/Volunteer Firefighter compensated at an annual stipend of \$2500. This new job classification was developed with the advice of the League of MN Cities and reviewed and approved by the US Department of Labor.

The individual selected, Jim Sachs, has accepted the position for the compensation as budgeted and as planned for in the 2004 budget.

**Action Items:**

Approve hiring of selected candidate.

**Person responsible:**

Martin Rafferty  
City Administrator

**Attachments:**

<b>Lake Elmo City Council 10-05-2004</b>	<b>Agenda Section: FINANCE</b>	<u><b>No. 5A.</b></u>
<b><u>Agenda Item: Public Hearing: Assessment for proposed Unpaid Municipal Utilities</u></b>		
<p><b><u>Background Information for October 05, 2004:</u></b></p> <p>Attached, please find Resolution No. 2004-084 for the proposed assessment of unpaid utilities. The City of Lake Elmo by State Statue and City Code has the authority to assess property owners for unpaid utilities and services. All property owners were sent letters regarding past due Municipal Utilities balances. Notification of the Public Hearing was published in the City's legal newspaper on September 24, 2004. Property owners will have until November 3, 2004 to pay the balance due without interest or a fee of \$ 25.00 whichever is greater.</p>		
<p><b><u>Action Items:</u></b> Motion to approve Resolution No. 2004-084 for the Assessment of Unpaid Municipal Utilities.</p>		<p><b><u>Person responsible:</u></b> Tom Bouthilet</p>
<p><b><u>Attachments:</u></b></p> <ol style="list-style-type: none"> <li>1. Resolution No. 2004-084</li> <li>2. Exhibit A</li> <li>3. Public Hearing Notice</li> </ol>		

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2004 – 084  
RESOLUTION AUTHORIZING CERTIFICATION TO  
WASHINGTON COUNTY AUDITOR FOR  
UNPAID UTILITY BILLS

WHEREAS, Minn. Stat. 444.075, subd. 3, permits certification of unpaid charges to the county auditor for collection with taxes payable;

WHEREAS, the Municipal Code for the City of Lake Elmo contains a provision to certify delinquent accounts to the County Auditor for collection with taxes payable.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE ELMO, MINNESOTA, THAT:

1. The list of delinquent accounts, a copy of which is attached hereto as Exhibit A, and made a part hereof, is hereby accepted and shall be certified to the Washington County Auditor for collection with taxes payable.
2. The certified amount shall be payable over a period of one year, and one installment with interest as provided in Exhibit A.
3. The owner of the property may, at any time prior to certification to the County Auditor, pay the delinquent amount to the City Finance Director.
4. The City Administrator shall forthwith transmit a certified duplicate of Exhibit A to the County Auditor to be extended on the property tax lists of Washington County. Such delinquent accounts shall be collected and paid over in the same manner as other municipal taxes.

ADOPTED, but the Lake Elmo City Council on the 5<sup>th</sup> day of October, 2004.

\_\_\_\_\_  
Lee Hunt, Mayor

ATTEST:

\_\_\_\_\_  
Martin Rafferty, City Administrator

*City of Lake Elmo*  
*2004 Proposed Assessment Roll*

**Exhibit A**

<b>Name</b>	<b>Billing Address</b>	<b>Account No.</b>	<b>Amount</b>	<b>Fee</b>	<b>Total</b>
Billingsley, Bryan & Rebecca	2700 Lisbon Ave	01-00350-00-6	\$ 272.25	\$ 25.00	\$ 297.25
J.R. Essex	11397 30th Street	01-00067-00-5	\$ 108.32	\$ 25.00	\$ 133.32
Klepak, Brad	11714 44th Street	01-00848-00-6	\$ 1,053.36	\$ 84.27	\$ 1,123.01
Larson, Joel	12038 Marquess Lane N.	01-00958-00-6	\$ 870.67	\$ 69.65	\$ 940.32
Linell, Roger	9402 Stillwater Blvd	01-00576-00-2	\$ 179.84	\$ 25.00	\$ 204.84
McCarrell, Nancy	4387 Lily Ave N.	01-00862-00-6	\$ 245.30	\$ 25.00	\$ 270.30
McIntosh, Joan	2735 Lisbon Ave	01-00354-00-0	\$ 325.65	\$ 26.05	\$ 351.70
Mielke, Steve	3631 Laverne Ave	01-000-89-00-3	\$ 615.57	\$ 49.25	\$ 664.82
Moore, Mark & Cheryl	12532 Marquess Way N.	01-00945-00-0	\$ 546.74	\$ 43.74	\$ 590.48
Murphy, Paul	11057 33rd Street	01-00012-00-5	\$ 1,510.26	\$ 120.82	\$ 1,631.08
Murra, Jean	2764 Legion Ave	01-00175-00-3	\$ 752.64	\$ 60.21	\$ 812.85
Prokosch, Fred	11223 32nd Street	01-00188-00-9	\$ 158.60	\$ 25.00	\$ 183.60
R. Hagstrom Builders	3640 Layton Ave	01-00241-02-3	\$ 243.97	\$ 25.00	\$ 268.97
Resident	11033 32nd Street	01-00029-00-5	\$ 201.20	\$ 25.00	\$ 226.20
Resident	4875 Lily Ave	01-00803-00-9	\$ 310.50	\$ 25.00	\$ 335.50
Resident	12067 Marquess Lane N.	01-00960-00-1	\$ 903.06	\$ 72.24	\$ 975.30
Schwarz, David	10961 32nd Street	01-00228-00-8	\$ 173.59	\$ 25.00	\$ 198.59
Sear, Jeffrey	3455 Isle Court	01-00603-00-5	\$ 382.06	\$ 30.56	\$ 412.62
Simkins, Bill	3010 Lisbon Ave	01-00189-00-0	\$ 1,075.82	\$ 86.07	\$ 1,161.89
Winkels, Brad & Molly	2814 Legion Ave	01-00178-02-2	\$ 228.20	\$ 25.00	\$ 253.20
<b>Total</b>			<b>\$ 10,157.60</b>	<b>\$ 892.87</b>	<b>\$ 11,035.85</b>



CITY OF LAKE ELMO  
NOTICE OF HEARING  
ON PROPOSED ASSESSMENT FOR  
CURRENT MUNICIPAL SERVICES AND/OR MUNICIPAL UTILITIES

TO WHOM IT MAY CONCERN:

Notice is hereby given that the City Council of the City of Lake Elmo, Minnesota, will meet in the Council Chambers in the City of Lake Elmo, Minnesota, on the 5<sup>th</sup> day of October, 2004 at 7:00 p.m. to consider, and possibly adopt the proposed assessment for unpaid municipal services or municipal utilities.

You may prior to certification of assessment to the County Auditor, pay the entire assessment. If the assessment is not prepaid before November 3, 2004, the rate of eight percent (8%) interest or a charge of \$25.00, whichever is greater, will be applied to the assessment balance. The assessment will be due in full for the taxes payable 2005 calendar year.

The proposed assessment roll is on file for public inspection at the Finance Director's office. Written or oral objections will be considered at the meeting. No appeal may be taken as to the amount of an assessment unless a signed, written objection is filed with the City Administrator prior to the hearing or presented to the presiding officer at the hearing. The Council may, upon such notice, consider any objection to the amount of a proposed individual assessment to the affected owners as it deems advisable.

---

Martin J. Rafferty

September 22, 2004

Publish in the September 24, 2004 Stillwater Gazette

Lake Elmo  
City Council  
October 5, 2004

**Agenda Section: City Engineer's Report**

No. 8A

**Agenda Item:** Public Hearing – Vacation of 55<sup>th</sup> Street North

**Background Information for October 5, 2004:**

Eight residents with property south of and abutting 55<sup>th</sup> Street North from 93 feet west of Marquess Trail to east of the 55th Street/Manning intersection have petitioned the City to vacate that portion of the unimproved street that was closed to through public travel in 2000 as a condition of the approval of the Carriage Station neighborhood. A copy of the petition is attached.

On September 13, 2004 the Planning Commission considered the petition along with reports from Planning and the City Engineer regarding the request. No Public Hearing was convened at the Planning Commission level as State Statute requires a Public Hearing on street vacation petitions by the City Council. The Commission unanimously (7-0) adopted a recommendation to the City Council for denial of the petition to vacate, "...but to work with the homeowners and city staff for a more permanent barrier to replace the one there..." (today). The Commission action reflected concurrence with the observations of the City Planner and City Engineer that suggested that the vacation may not be in the best interests of the City when potential future development of neighboring land to the west is considered.

The Council should conduct a Public Hearing; and, consider the two resolutions attached – one to concur in the petition and vacate the street; and one to concur with the Planning Commission and deny the vacation petition.

**Action items:**

- 2004-085
1. Motion to adopt the appropriate Resolution regarding the petitioned street vacation.

**Person responsible:**

City Planner

**Attachments:**

1. Draft Resolution to Approve Vacation of 55<sup>th</sup> Street North
2. Draft Resolution to deny the petition to vacate 55<sup>th</sup> Street North
3. Approved Planning Commission Minutes of Sept. 13, 2004
4. Staff Reports and Graphics
5. Petition

**Time Allocated:**

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2004-035

A RESOLUTION RELATING TO THE VACATION OF PORTIONS  
OF 55<sup>th</sup> STREET

WHEREAS, the City received a request that certain platted unimproved portions of 55<sup>TH</sup> Street North be vacated;

WHEREAS, the City conducted a public hearing pursuant to Minnesota Statutes 412.851 and received comments from interested parties; and

WHEREAS, the Lake Elmo City Council has determined that it is in the public's interest to vacate the following described platted, but unimproved portions of 55<sup>th</sup> Street North.

NOW, THEREFORE, BE IT RESOLVED, that the following street segments are hereby vacated as illustrated in Exhibit A and described as:

That portion of 55<sup>th</sup> Street North right-of-way lying easterly of the west line of Lot 8 Block 4, Carriage Station Addition and westerly of the east line of Lot 3, Block 4, Carriage Station Addition, Lake Elmo, Minnesota.

AND BE IT FURTHER RESOLVED, that the City Clerk is directed to file a certified copy of this Resolution with the Washington County Recorder.

IN WITNESS WHEREOF, the City of Lake Elmo has executed this Resolution by authorized officers as indicated below on this 5<sup>th</sup> day of October, 2004.

Approved By:

CITY OF LAKE ELMO

By: \_\_\_\_\_  
Lee Hunt  
Its: Mayor

Attested By:

By: \_\_\_\_\_  
Martin J. Rafferty  
Its: City Administrator

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2004-085

A RESOLUTION DENYING THE VACATION  
OF PORTIONS OF 55<sup>th</sup> STREET

WHEREAS, the City received a request that certain platted unimproved portions of 55<sup>th</sup> Street North be vacated;

WHEREAS, the City conducted a public hearing pursuant to Minnesota Statutes 412.851 and received comments from interested parties; and

WHEREAS, the Lake Elmo City Council has determined that it is not in the public's interest to vacate the platted unimproved portions of 55<sup>th</sup> Street North based on the Planning Commission's recommendation and the City Engineer's and City Planner's reports, dated September 10, and September 13, 2004.

NOW, THEREFORE, BE IT RESOLVED, that the City Council denies the vacation petition for portions of 55<sup>th</sup> Street based on it is not in the best interest of the City when potential future development of neighboring land to the west is considered.

IN WITNESS WHEREOF, the City of Lake Elmo has executed this Resolution by authorized officers as indicated below on this 5<sup>th</sup> day of October, 2004.

Approved By:

CITY OF LAKE ELMO

By: \_\_\_\_\_  
Lee Hunt  
Its: Mayor

Attested By:

By: \_\_\_\_\_  
Martin J. Rafferty  
Its: City Administrator

Vacation 55<sup>th</sup> Street N.

Pete Tacheny developer and owner of Prairie Ridge showed the final plat of the development and modifications to the parking lot plan for the new, additional proof of parking.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:52 PM.

Nobody offered testimony.

THE CHAIR CLOSED THE PUBLIC HEARING AT 7:53 PM.

M/S/P, Ptacek/Johnson, To recommend approval of the application for a conditional use permit for a beauty salon/day spa, amending Finding number 2 for the proposed proof of parking, and with a condition number 3 to provide proof of parking as submitted in two drawings submitted on 9/13/04.

Commissioner Schneider asked how additional parking would affect impervious surface calculations. Considering the size of the site, the Planner said that much asphalt won't affect anything.

VOTE: 7:0.

#### PETITION TO VACATE A PORTION OF 55<sup>TH</sup> STREET – CARRIAGE STATION

The Planner explained about vacations of streets. There are two types. A petition was brought to the Public Works Council Committee. They asked the Planning Commission to provide a recommendation to the City Council. The Public Hearing will be before the City Council. What is proposed is the portion of 55<sup>th</sup> Street depending upon access to two properties. Those accesses have to be maintained at some level. With the platting of Carriage Station, four or five years ago, one of the agreements attached to that approval was that 55<sup>th</sup> Street between Marquess Trail and Manning be closed to traffic. One reason was it was used a shortcut, second potential for Carriage Station residents using it as a route to Highway 36 because Manning is gravel in very poor condition. 55<sup>th</sup> Street north is a statutory street presumed to be 33 feet wide on each side of the centerline. The developer of Carriage Station constructed a barrier to close that road by berming and trees. Road improvements were not maintained but more importantly they were not affective. Wood barricades and fences were defeated by people who wanted to get around it. Public Works gets out there almost monthly to perform some work. This has culminated recently somebody took a chainsaw to the wooden barrier. Residents on both sides of the street have been faced with this traffic that does not belong there but also two dead end streets. They have petitioned to vacate this entire portion of street. Review has to include the future of this area. How are the future residents of this area going to have access? Highway 36 has no additional access. West, they are too far away from Lake Elmo Avenue. 50<sup>th</sup> Street there will be some sort of access. Manning will provide access to the north.

The Planner reported that the City Engineer recommends no vacation. 55<sup>th</sup> Street could ultimately become a significant street.

Commissioner Schneider what is to stop people from doing it anyway?

The Planner said that psychologically it would prevent a lot.

Commissioner Johnson said we are trying to look at the options of other property owners around it. She is concerned about traffic generation. When we look at developments, the commission tries to get them multiple accesses.

Commissioner Deziel said he noticed the barrier has two sides and is right connected. We could move the central closure point to eliminate one dead end. Right now there are two ending points.

The Planner agreed that would mitigate it to some degree. When this was reviewed in the past, there was discussion about one owner moving their driveway access over to Manning.

Commissioner Sedro said she understands not wanting neighbors to cut through. It seems the city's attempts to close the road has caused some of these problems. What about reopening the street with traffic calming? Like many stop signs. Would that be effective?

The Planner said that would not be effective.

Commissioner Johnson said that if we extended the dead end, do we also extend the asphalt?

The Planner said that it currently ends at the existing dead end.

Commissioner Ptacek said he was around before Carriage Station, and there was contentious discussion from neighbors all around. The existing residents on Manning expected some reasonable expectation of privacy and less traffic. He thought that was all temporary. The commission has to allow for future development. We need to plan for it, regardless of public sentiment.

M/S/P, Ptacek/Sessing, To recommend denial of the petition and denial to vacate any portion of 55<sup>th</sup> Street, but to work with homeowners and city staff for a more permanent barrier to replace the one there, based upon Findings in the Staff Report.

Commissioner Ptacek said his reasoning is because we know that road will have to be opened some time in the future to allow for future development.

Chairman Helwig said that Jersey Walls are less penetratable. Another idea is a fence across with an inlet for walking through, or to move to the further extremes.

Commissioner Deziel said the deputies could explore the area once in a while.

The Planner concurred that we need something more effective than what we have but it will cost money. How much time and money do you put in if you plan to tear it out in the future? The residents present are not concerned only with activities but the long term future of the street. He said that there will be a Public Hearing at the council level.

Commissioner Ptacek said that whether the barrier is permanent or not may not be the commissioners' duty to worry about.

Five people asked to speak and the chairman allowed them to do so, but off the record.

Commissioner Deziel said he is uneasy about suggestions for the barrier. He feels that more can be done about it. What is there is inadequate, because it can be easily broken or cut. He would not recommend vacation but mitigation of the problems.

Chairman Helwig disagreed because he said the Planning Commission talked about that road closing as temporary when it was decided in the past.

Commissioner Ptacek agreed that the spirit and intent was never to make it permanent. He said he believed the developer said that to calm other neighbors.

**VOTE: 7:0.**

#### **CITY COUNCIL UPDATES**

The Planner reported that the City Council adopted the amendment of verbiage for Family Entertainment Center as a conditional use in the General Business Zone and the definition. They also made a

Animal Control Officer Kathi Pelnar provided a year end report listing the number of dogs picked up wearing invisible fence collars. For both 2003 and 2004 that number was four dogs. The Council wanted to talk with the ACO to try to understand the actual magnitude of the problem.

M/S/P Johnston/ Dunn – to invite Kathie Pelnar, ACO, to come to the September 7<sup>th</sup> Council meeting to discuss animal control under the Public Information section of the meeting agenda. (Motion passed 5-0).

E. Purchase offer for 3585 Laverne Avenue

Council member Johnston stated he was in favor of a city center and buying this property in question because it is contiguous to the Lions Ball Field. He suggested inviting residents that would be affected by a proposed new city center to a public hearing. The City Administrator added the City is looking at alternative locations for the Lake Elmo Library and this property could serve that purpose until a city center has been decided.

M/S/P Johnston/John - to authorize the Mayor to sign the purchase agreement for the property located at 3585 Laverne Avenue, Lake Elmo, Minnesota; and acknowledgments of receipt of disclosure of sewage treatment system, supplemental disclosure regarding individual On-Site System and Seller Property Disclosure Statement. (Motion passed 5-0.)

F. Vacation of 55<sup>th</sup> Street

M/S/P Johnston/Dunn – to send this item to the Planning Commission for study and review based on the recommendation of the Public Works Council Committee. (Motion passed 5-0.)

G. Council Committees

Attorney Filla provided a draft resolution defining the duties of the three established City Council Committees.

M/S/P John/Dunn – to adopt resolution No. 2004-074, A Resolution Relating to Council Committees (Motion passed 5-0.)

**12. CITY COUNCIL REPORTS:**

A. Mayor Hunt: Board of Directors Vacancies; LMC 2004 Annual Conference

Mayor Hunt explained it would be a fantastic opportunity to have a booth at the conference to contact other cities at the LMC 2004 Conference held in Duluth. Council

**MEMORANDUM**

**To:** Planning Commission Members                      **Reference:** 55th Street Vacation Petition  
**Copies To:** \_\_\_\_\_    City of Lake Elmo, Minnesota  
\_\_\_\_\_  
\_\_\_\_\_

**From:** Thomas D. Prew, P. E.                                      **Comm. No.** 11979-041  
**Date:** September 10, 2004    **Routing:** \_\_\_\_\_  
\_\_\_\_\_

As requested I have reviewed the petitioned request to vacate a portion of 55th Street. I have the following comments:

There are currently gas, electric, telephone, and watermain within the right-of-way of 55th Street. A permanent utility easement would be needed for the City and others to access these facilities.

Vacation of 55th Street would limit subdivision options for the property on the north side of the streets.

If the road were vacated, a plan to remove the road bed, and who should pay for it, would be needed.

This portion of right-of-way could be converted to a trail in the future. The City is currently looking at its trail planning.

This street was temporarily closed because the City could not adequately maintain 55th Street/Manning Trail as a gravel road with the increased traffic the Carriage Station subdivision created. I would recommend that this route be upgraded and improved as a collector route so residents of Lake Elmo can make use of the signal at TH 36 and Manning Trail. Certainly with the future development of property west of Manning Trail, this should be considered.

If this temporary road closure is creating problems, I would recommend it be upgraded with jersey barriers. If we wish to keep people from that portion of the road, we could place barricades near the two driveways to the north. A discussion again about whether the road should be closed at all should be had as well.



MEMO

(September 8, 2004 for the Meeting of September 13, 2004)

To: Lake Elmo Planning Commission

From: Chuck Dillerud

Subject: Street Vacation – 55<sup>th</sup> Street North

---

A group of abutting Carriage Station property owners on the south side of 55<sup>th</sup> Street North from Marquess Trail west have petitioned for the vacation of that portion of 55<sup>th</sup> Street. State Statute provides that a Public Hearing regarding a public street vacation be conducted by the City Council. That Hearing has not as yet been scheduled pending work on, and a recommendation, concerning the proposed vacation by the Planning Commission.

Most of this portion of 55<sup>th</sup> Street North was “closed” by the City in 2000 as a condition of the platting of Carriage Station. The rationale supporting that closure condition was that the 110 homes and 25,000 square feet of office development of Carriage Station would introduce significant volumes of new traffic to the 55<sup>th</sup> Street/Manning “back door” to State Highway 36. That new volume of traffic would not be sustainable on the narrow and unimproved 55<sup>th</sup> Street/Manning roadway.

The actual closure was accomplished by the Carriage Station developer during the Carriage Station grading work at a point several hundred feet west of Marquess Trail by construction of a 4 foot berm across the traveled portion of the gravel roadway with tree plantings near the crest. Almost immediately these closure features became a challenge to some motorists than had visions of glory as off-road racers. The closure measures were either driven over, knocked down or driven around regularly. The developer, and later the City reinstalled/improved the closure features almost monthly – to no avail. The latest example of macho defiance of the road closure has been a “motorist” taking a chain saw to the wooden barricades (official MnDOT design).

Those property owners that abut the “closed” portion of the road have also reported other (primarily nocturnal) activity on the gravel roadway that supposedly is not in service. The hazards and the property damage (including damage to abutting yards) from the “off-roaders”, and the undesirable activities that otherwise take place on the “closed” roadway from the basis for the petition to vacate. The logic is that, if the roadway is vacated, the underlying property rights will accrue to the abutting property owners (33 feet to each side of the road center line). That would result in the owners extending and improving their yards, with all vestiges of roadway disappearing as a temptation (invitation) for the activities that now take place there.

Street vacation by a city – even vacation of an “unused” street – should always be carefully analyzed. While, in most cases, the street proposed to be vacated is not in

service to the Public today, that is no guarantee that the street will not be needed at some point in the future. In addition in this case, portions of the "closed" street still function as driveway access to two residences – one located 125 feet west of Marquess Trail, and another 325 feet east of Manning. Continued public street access to those driveways must be assured (see attached air photo).

The possibility of future Public improvement and use of the roadway is a major consideration to be addressed by the Planning Commission. The attached graphic depicts lands west and south of the portion of 55<sup>th</sup> Street proposed for vacation that Staff predicts will be proposed for residential development in a 24 to 36 month time frame. That prediction is based on contacts with Staff by prospective developers that have been communicating with the present land owners regarding sale. Should that prediction become fact – if not in 36 months, at least at some point in time – about 140 new residential units will be developed at OP density on the 350+ acres depicted west and north of the 55<sup>th</sup> Street/Manning intersection. That would result in about 1,400 daily "trips".

As one considers where these trips could access Collector or Arterial streets, it becomes apparent that access to the West (Lake Elmo Avenue) is problematical; access North to State Highway 36 (except via Manning, which MnDOT has proposed closing to the South in the future) is precluded; access South to 50<sup>th</sup> Street North is possible, but limited; and, access East to State Highway 5 (except via 55<sup>th</sup> Street) is all but precluded between 50<sup>th</sup> Street and State Highway 36. Does that constitute a sufficient "grid" to serve 140 homes? It will surely be argued by some that the 110 residential units of Carriage Station are now served by access from but two directions.

While we have not received a written report from the City Engineer on this matter as of the time this Memo is being drafted, we have been verbally advised by Mr. Prew that he will not be recommending vacation of 55<sup>th</sup> Street for a number of reasons, including those noted here.

The question of vacating 55<sup>th</sup> Street is an "all or nothing" proposition. If any portion is vacated, all but that necessary to serve the two homes on the north side should also be vacated. In the alternative, should no vacation be approved it is incumbent on the City to develop a plan and improvements for the closed right-of-way that will prevent trespass and other activities that now take place there.

Location Map

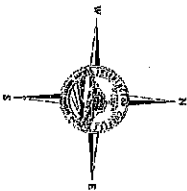
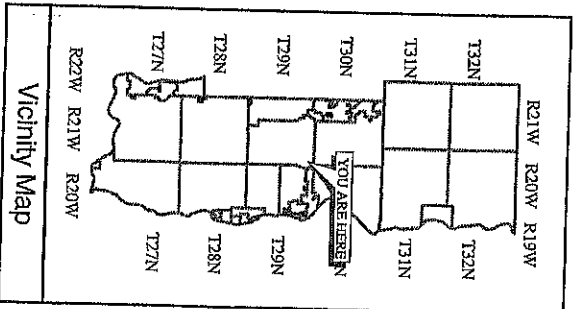
Lake Elmo Avenue

State Highway 36

Potential Residential Development  
350 Acres  
140 Units

50th Street North

Manning Ave.  
55th Street North

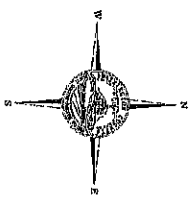
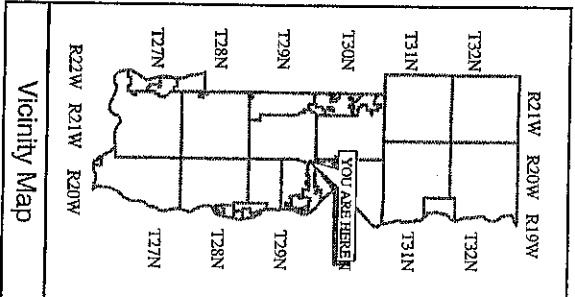
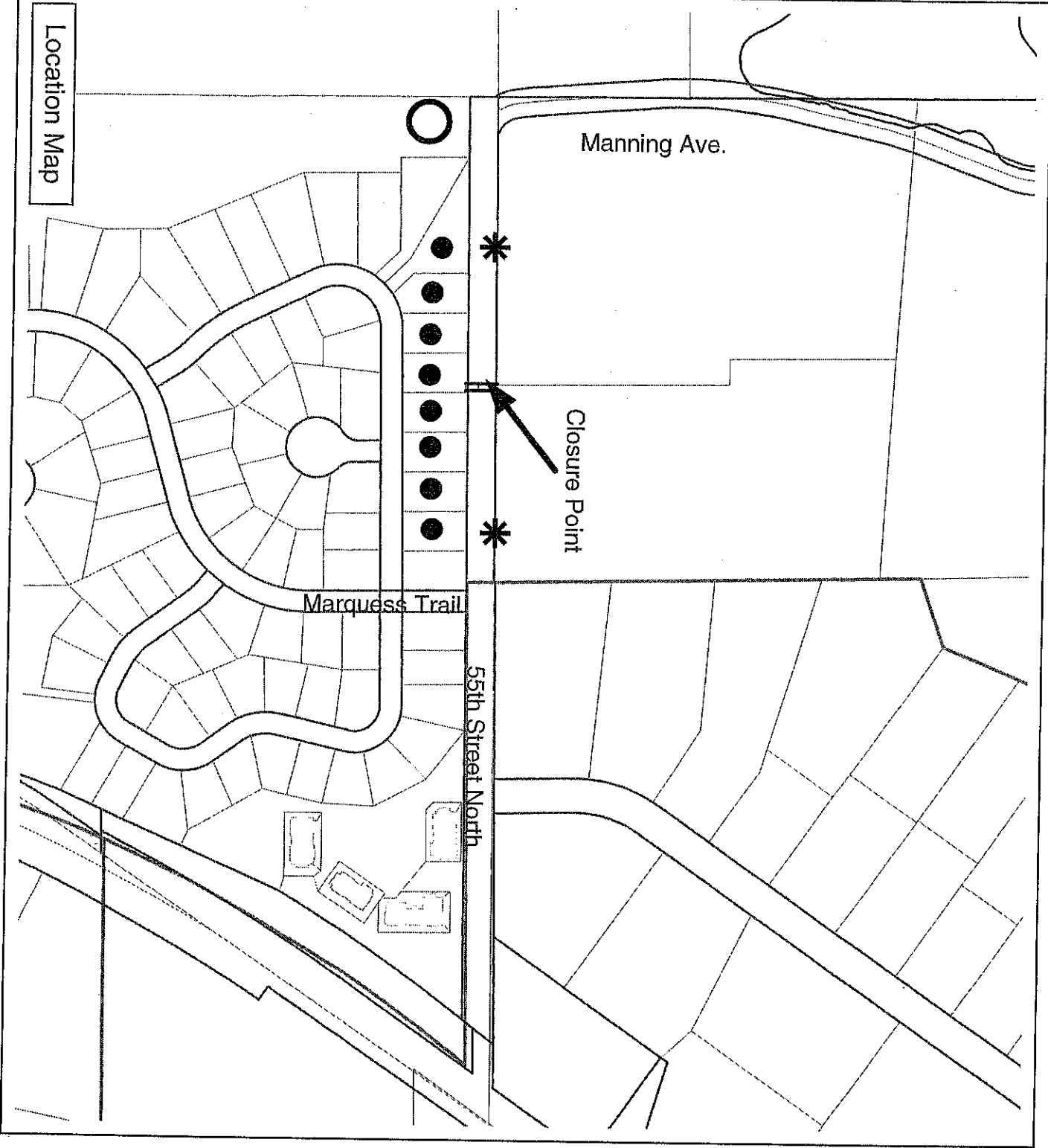


This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

Source: Washington County Surveyor's Office  
Phone (651) 430-6875

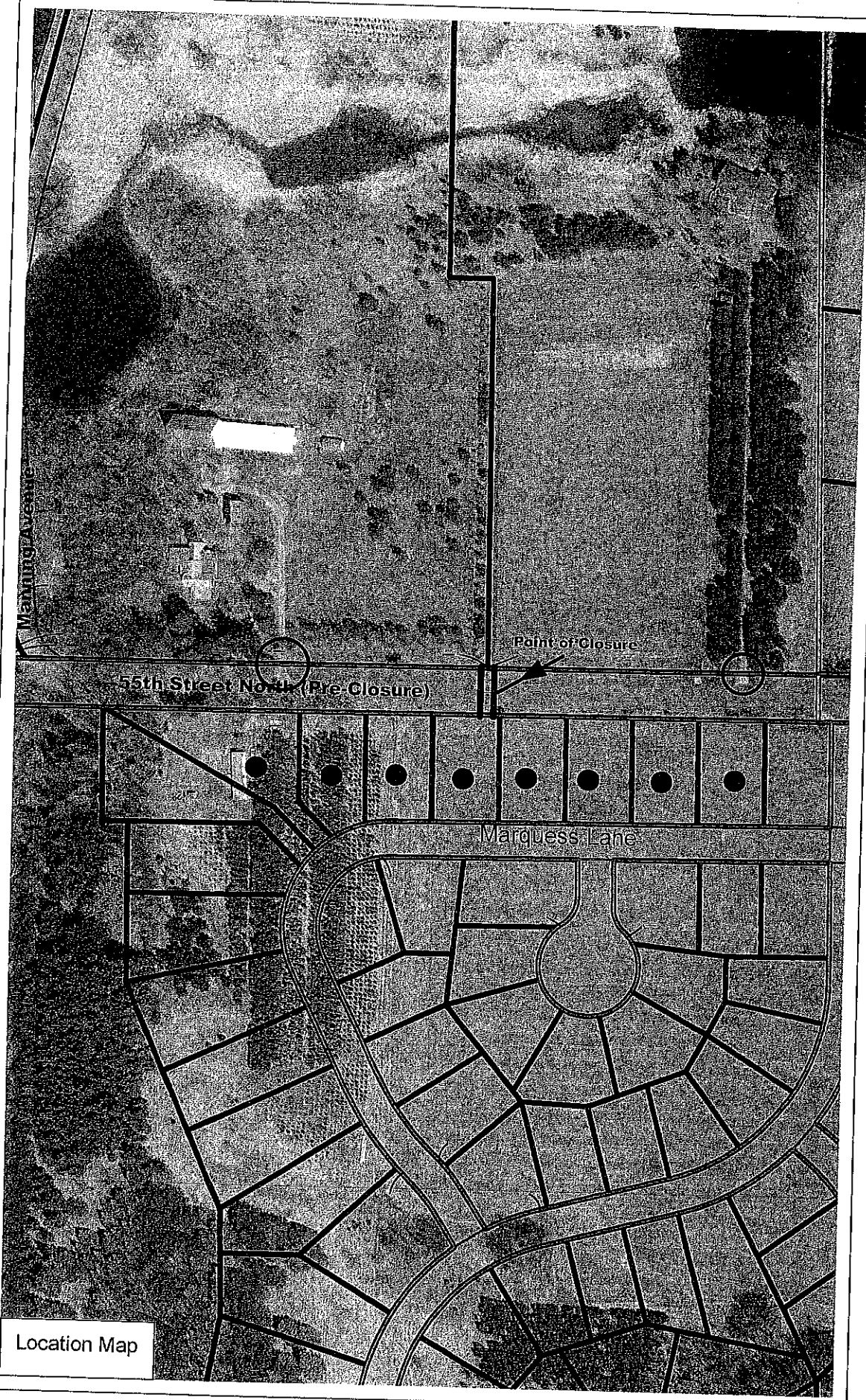
Parcel data based on AS400 information

Location Map

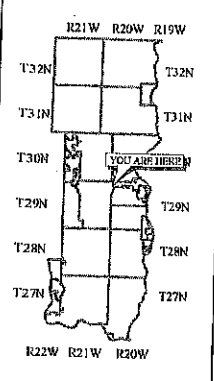


This drawing is the result of a compilation and reproductions of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

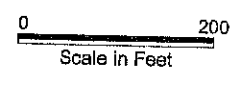
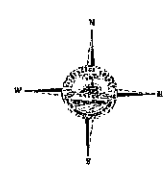
Source: Washington County Surveyor's Office  
Phone (651) 430-6875  
Parcel data based on AS-400 Information



Location Map



Vicinity Map



This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

Source: Washington County Surveyor's Office, Phone (661) 430-6575

Parcel data based on A8400 Information

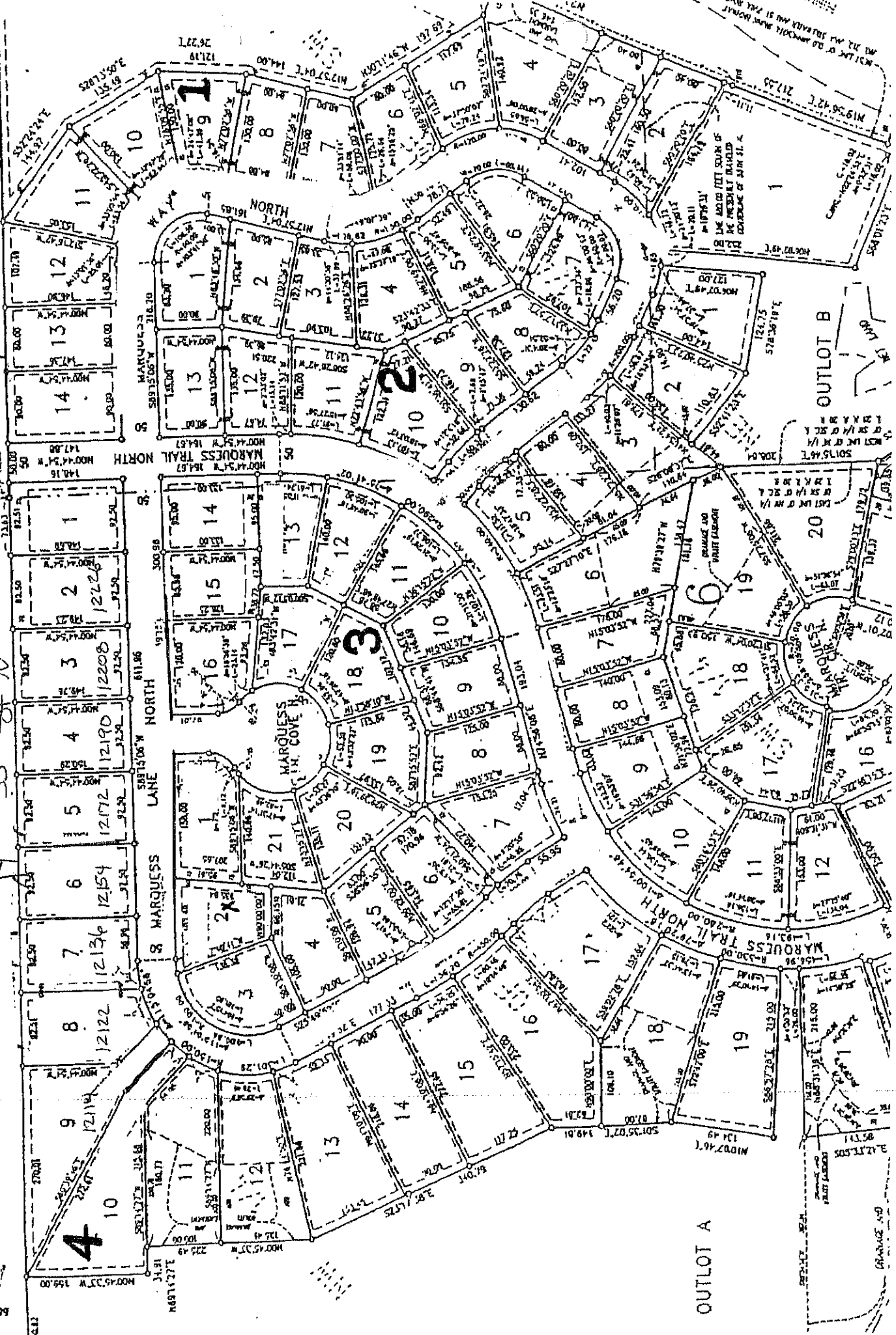
I/We would support the permanent closing of the section of 55<sup>th</sup> St N between the two driveways on 55<sup>th</sup> St N and behind the homes in Carriage Station.

Name	Address	Signature
1. Sloan	12208 Marquess Lane	Gary Sloan
2. Adette	12226 Marquess Lane	Karen Adette
3. Jenkins	12190 Marquess Lane	Tim Jenkins / proxy
4. JUAN	12172 Marquess Lane	Juan
5. The Haggards	12154 Marquess Lane N	Kathleen Haggard
6. Rungel's	12156 Marquess Ln N.	[Signature]
7. Herr's	12122 Marquess Ln N	Cher Herr
8. Wohlers	12114 Marquess Ln. N.	Michelle Wohlers
9.		
10.		

# A CARRIAGE STATION

EXCEPTION

N89°34'51"E 101'



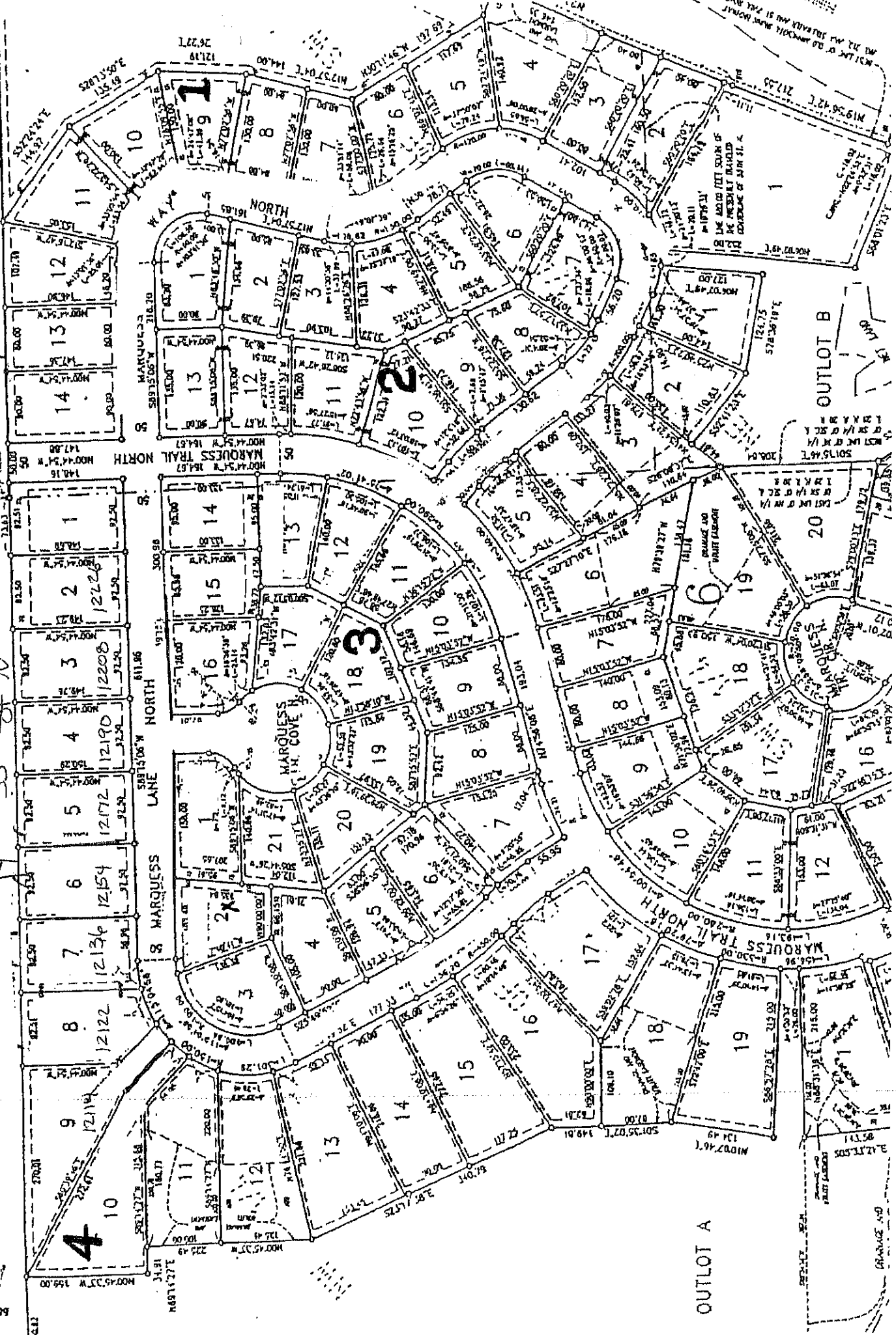
*Denver*  
*55 1/2 S of N*

OUTLOT A

OUTLOT B

EXCEPTION

N89°34'51"E 101'



*Denver*  
*55 1/2 S of N*

OUTLOT A

OUTLOT B

<p>Lake Elmo City Council October 5, 2004</p>	<p><b>Agenda Section: CITY ENGINEER'S REPORT</b></p>	<p><b><u>No 8B.</u></b></p>
<p><b><u>Agenda Item: Whistling Valley Escrow Reduction</u></b></p>		
<p><b><u>Background Information for October 5, 2004:</u></b>  <b>In his memo dated September 29, 2004, the City Engineer reported that much of the work on Whistling Valley 1 is complete. The final lift of paving and some minor clean up items remain.</b></p> <p><b>The City Engineer recommends reduction of the Letter of Credit.</b></p>		
<p><b><u>Action Items:</u> Motion to approve the Whistling Valley I Escrow Reduction to the amounts as recommended by the City Engineer in his memo dated September 29, 2004.</b></p>		<p><b><u>Person responsible:</u></b> Tom Prew</p>
<p><b><u>Attachments:</u></b> September 29, 2004 memo from City Engineer</p>		



# TKDA

ENGINEERS • ARCHITECTS • PLANNERS

1500 Piper Jaffray Plaza  
444 Cedar Street  
Saint Paul, MN 55101-2140

(651) 292-4400  
(651) 292-0083 Fax  
www.tkda.com

September 29, 2004

Honorable Mayor and City Council  
City of Lake Elmo, Minnesota

Re: Whistling Valley Escrow Reduction  
City of Lake Elmo, Minnesota  
TKDA Commission No. 11979-035

Dear Mayor and City Council:


Much of the work on Whistling Valley I is complete. The final lift of paving, and some minor clean up item remain. We recommend reduction of the Letter of Credit to the following amounts:

<u>Item</u>	<u>Estimated Cost</u>
Site Grading/ Turf Establishment	\$ 2,000.00
Storm Sewer	\$ 1,000.00
Sanitary Sewer	\$ 0.00
Drainfield	\$ 4,000.00
Streets	\$ 20,000.00
Street Signs	\$ 0.00
Landscaping	\$ 5,000.00
Subtotal	\$ 35,000.00
125% Security	\$ 43,750.00
2% City Administrative Fee	\$ Paid

Sincerely,

Thomas Prew, P.E.  
City Engineer

TDP:art

<b>Lake Elmo City Council October 5, 2004</b>	<b>Agenda Section: Planning, Land Use &amp; Zoning</b>	<b><u>No.</u> 9A</b>
<b><u>Agenda Item:</u> Amateur Radio Tower Permit – Smith/Holm</b>		
<p><b><u>Background Information for October 5, 2004:</u></b></p> <p>At its meeting September 27, 2004 the Planning Commission unanimously adopted a recommendation for approval of a Permit to construct a 55 foot amateur radio tower and mast in the rear of the south residence at 12460 Marquess Way (Smith property, formerly addressed on Stillwater Blvd.). The Commission found in the affirmative regarding the five Findings required in their recommendation to the City Council as prescribed by Section 1396 of the City Code. The Commission recommends that a condition of approval be that there be an Agreement entered in to between the property owner/applicant and the City regarding the continued maintenance and safety of the tower, similar to that which the City required of the only other Permittee under this ordinance.</p> <p>This is <u>not</u> a zoning action. Therefore Council action may be by a simple majority vote.</p>		
<p><b><u>Action items:</u></b></p> <p>Motion to approve a Amateur Radio Tower Permit for Smith/Holm at 12460 Marquess Way per plans staff dated September 14, 2004 and subject to an Agreement with the City regarding future maintenance and safety of the facility.</p>	<p><b><u>Person responsible:</u></b></p> <p> City Planner</p>	
<p><b><u>Attachments:</u></b></p> <ol style="list-style-type: none"> <li>1. Draft Planning Commission Minutes of September 27, 2004</li> <li>2. Planning Staff Report of September 14, 2004</li> <li>3. Applicant's Documentation</li> </ol>	<p><b><u>Time Allocated:</u></b></p>	

**PUBLIC HEARING: Amateur Radio Tower – Smith/Holm**

The Planner introduced an application for a 55 foot tower with mast. He noted that there is one other similar tower in the City that is permitted by the same section of the City Code – at 110 feet height. He noted that permitting of amateur antennae and towers is not a zoning ordinance function, but is regulated by a separate City Code section. He advised that the Code specifies five specific Findings required by the Planning Commission in the review process.

1. Reasonable necessity.
2. Appropriateness of the intended design.
3. Design must be appropriate and safe.
4. Specific maintenance requirements.
5. 75 feet from any property line.

The Planner reported that staff finds that the three of the last Findings are met. The design is by a registered engineer; an Agreement can be drafted between the applicant and the city that provides for an annual inspection by the city and that the minimum distance to any property line is 75 feet. Based on those quantitative Findings, he reported that staff has no objections. He suggested that “reasonableness” and “necessity” are Findings to be made by the Planning Commission.

Commissioner Schneider asked if the Carriage Station Homeowner’s Association had contacted the City in this regard.

The Planner replied that they had not.

Commissioner Deziel said he thought the setbacks in the Code were designed so the entire tower plus its mast can fall in any direction and still be on their property, and therefore, the applicant should be limited to a twenty foot mast.

**John Holm, Applicant**

Mr. Holm said that by design, this tower and antenna looks like a flag pole. The base is 6 inches in diameter and the top is 3 inches. It is a crank up design that allows its height to go from 25 feet to 55 feet. The fiberglass mast is green. It only weighs about 20 pounds. Its location will be hidden by the trees. The operating height is actually more efficient at 40 feet than at 55 feet. Their property is known as Lot 1, Block 1, Carriage Station. In the Declaration of Covenants, they are exempt from all the design and architectural restrictions of that development.

Commissioner Deziel asked how the tower is supported.

Mr. Holm said it is self supporting. It is placed in a concrete block 4 X 4 by 5 feet deep filled with rebar and bolted down. It has a 70 mph basic wind speed rating. The antenna is rated at about 100 mph wind speed. He can crank it down to 25 feet and tilt it over to lie on the ground.

THE CHAIR OPENED THE PUBLIC HEARING AT 7:15 P.M.

**Harry Sonnek, 5073 Marquess Trail Circle**

Mr. Sonnek said he will have a view of the antenna to the east. He does not understand why the applicant’s lot is part of Carriage Station. One year ago 30 of his trees were infected with Dutch Elm disease, and they had to be removed. He expressed concern about his neighbor’s elms too,

and whether the antenna will be even more visible to him if the applicant's elms die as well.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:17 PM

The Planner explained that it is common that a parent property is given a lot in and then excluded from covenants in a new development. The Planner said the City Council, Administrator and Public Works Superintendent have discussed the elm issue. There is a City Ordinance that addresses diseased trees. He said the city is about to enter an agreement with a tree specialist to identify publicly owned trees with apparent problems.

Mr. Rafferty explained there was resurgence in the last year of Dutch Elm Disease. Oak wilt is a problem too. The city staff is pursuing finalizing an agreement with an arborist who specializes in these diseases, and will work with the city to alert the public. There is allocation in next year's budget for it as well. The city has not been as active about the trees in the last couple of years because the issues were not as prevalent.

M/S/P, Ptacek/Sessing, To recommend approval of a Radio Tower Permit for John Holm and Betty Smith based on Findings in the staff report, and the Findings that the tower is of reasonable necessity and appropriate design, with the condition that the city enter into an agreement with Mr. Holm similar to that with the existing tower permit..

Commissioner Ptacek said the applicant did his homework. The application materials show the antenna to be safe, the height is good, and the technology is state of the art.

Commissioner Deziel would like to see better wind resistance because 70 mph winds are relatively common but he said he appreciates that this antenna can be cranked up and down.

**VOTE: 6:0 PASSED.**

**LAKE ELMO PLANNING COMMISSION  
STAFF REPORT**

**Date:** September 14, 2004 for the Meeting of September 20, 2004

**Applicant:** Betty A. Smith /John Holm

**Location:** 12460 Marquess Way

**Requested Action:** Amateur Radio Tower Antenna Permit (Section 1396)

**Land Use Plan Guiding:** SRD

**Existing Zoning:** R-2

**Site History and Existing Conditions:**

The site is what is now Lot 1, Block 1, Carriage Station. This 1.06 acre site was created with the Carriage Station PUD as the "remainder" of lands that were platted into new building lots. This site contains two residences and accessory structures that substantially pre-date the other Carriage Station homes. These homes were located in Baytown Township prior to 1998. Therefore there are no City records prior to that date. Since 1998 the only City actions regarding this site have been hook-up to the Carriage Station septic system and interior remodeling.

**Discussion and Analysis:**

This application is for an amateur radio tower antenna responsive to Section 1396 of the City Code. This is not a zoning action but does required adjacent property owner notification; a hearing before the Planning Commission; and, Planning Commission recommendations regarding specific issues regarding the proposal. Section 1396 was added to the City Code in 2001. Only one such permit has been applied for and issued since ordinance adoption – Lake Elmo Heights Addition. That tower/antenna was permitted at an overall height of 110 feet.

The applicant proposes construction of a 55+ foot amateur radio tower and mast assembly adjacent to and west of the older (red) existing residence. While details of the mast assembly have been supplied in part – we know what it will look like – the exact distance that mast will extend above the tower is not known at this time, nor depicted on the visual representations. The applicant has otherwise provided the materials and drawings prescribed by the Code.

**Findings and Recommendations:**

Both the "Purpose and Intent" paragraph and the "Planning Commission Review" paragraph of Section 1396 address matters of qualitative judgment – inappropriate subject matter for a Staff Report. The Commission is required, however, to advise the Council of :

1. The reasonable necessity for the tower/antenna.
2. The "appropriateness" of the tower/antenna design.

With respect to the Ordinance required Findings of the Commission that are qualitative – or close to that – Staff observes the following:

1. The proposed tower is a factory-supplied appliance designed by a Registered Engineer, including prescribed specifications for the tower base. On that basis it is reasonable to assume that the tower's construction materials and assembly are "appropriate".
2. There are no specific Maintenance Requirements suggested by the tower manufacturer or the applicant. The only other tower permittee in the City is subject to an Agreement with the City that provides for annual certification by the tower owner that the tower is in good working order, and insurance requirements are complied with. We would anticipate a similar Agreement in this case.
3. The minimum distance from the proposed tower location to any property line is 75 feet (south and east). No other residences or accessory structures exist on the adjoining Outlot of Carriage Station in either direction.

Based on these quantitative Findings alone, Staff offers no objections to the Planning Commission adopting a positive recommendation to the City Council regarding this permit. We recommend that a condition of any approval recommendation by that the applicant enter into an Agreement of the type that was required with the other amateur radio tower permit that has been issued in the City.

**Planning Commission Actions Requested:**

Motion of recommendation to the City Council regarding issuance of the requested amateur radio tower permit following Commission Findings regarding "reasonable necessity" and "appropriateness of design". Any approval recommendation should include a condition that the applicant enter into an Agreement of the type that was required with the other amateur radio tower permit that has been issued by the City.

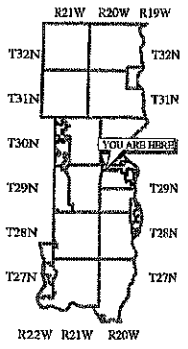
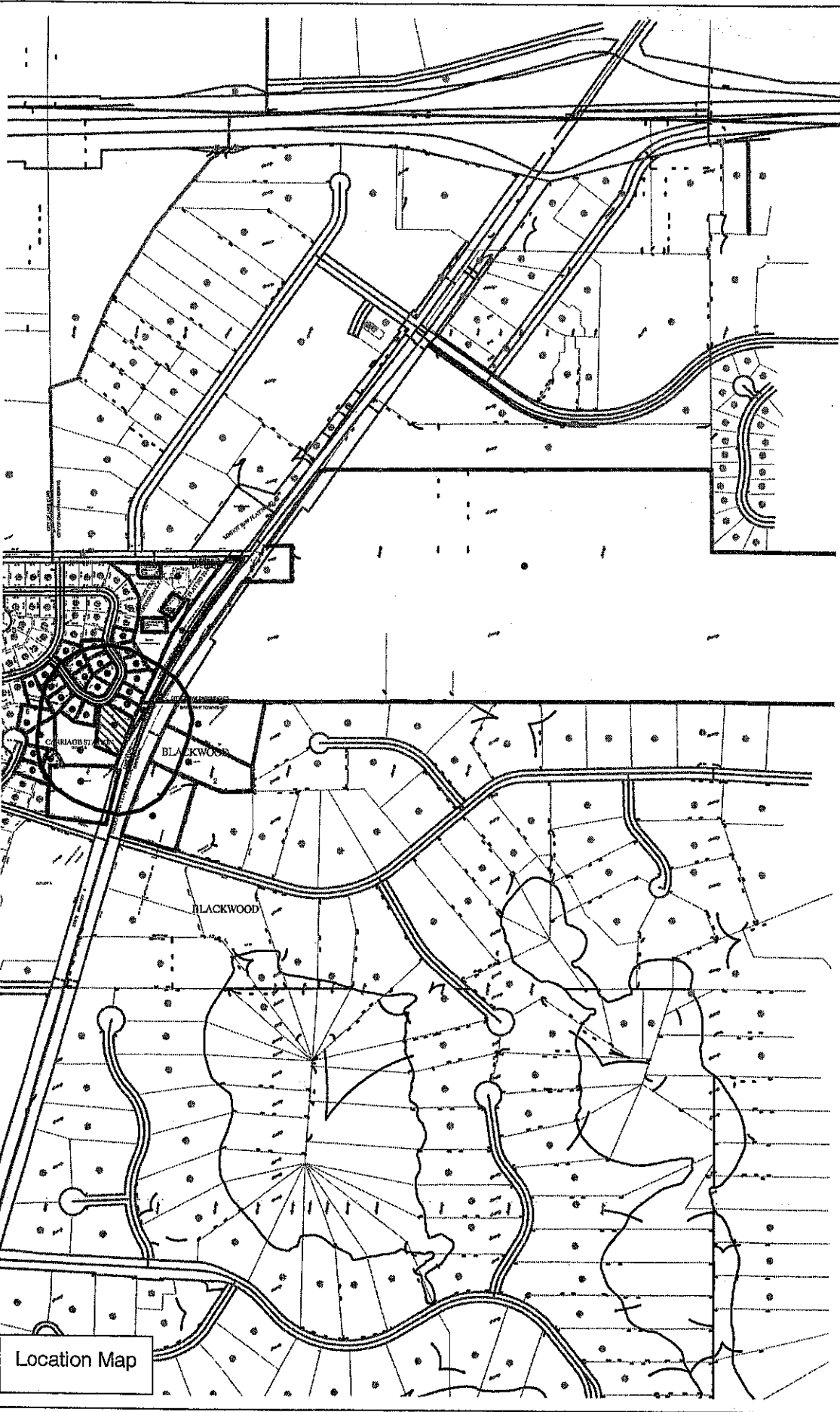


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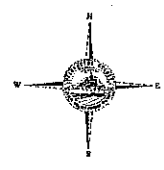
Charles E. Dillerud, City Planner

**Attachments:**

1. Location Map
2. Section 1396 of the City Code
3. Tower Agreement Draft
4. Applicant's Documentation



Vicinity Map



Scale in Feet

This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

Source: Washington County Surveyor's Office. Phone (651) 450-6676

Parcel data based on AS400 Information

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

Ordinance 97- 84

An Ordinance Adding Section 1396 - Amateur Radio Tower Antenna to the  
Lake Elmo Municipal Code

Section 1. Amendment: Section 1396 is hereby added to the Lake Elmo Municipal Code and shall read as follows:

Section 1396 - Amateur Radio Tower Antenna

1396.01 Purpose and Intent.

The City's Amateur Radio Tower Antenna regulations are adopted in order to:

- A. Facilitate the provision of Amateur Radio Tower Antenna services to the residents and businesses of the City.
- B. Minimize adverse visual effects Amateur Radio Tower Antennas through careful design and siting standards.
- C. Minimize adverse visual effects of Amateur Radio Tower Antennas.
- D. Avoid potential damage to adjacent properties from Amateur Radio Tower Antenna failures through structural standards and setback requirements.
- E. ~~Maximize the use of existing and approved towers, antennas and wireless telecommunication facilities to accommodate new wireless telecommunication equipment in order to reduce the number of such facilities needed to serve the community.~~

1396.02 Permit Required.

No person shall install an Amateur Radio Tower Antenna higher than what is permitted in the zone in which it is located without first receiving the appropriate permit.

1396.03 Amateur Radio Tower Antenna Permit.

Subd. 1. Application.

Applications for a Amateur Radio Tower Antenna permit shall be submitted to the City Planner, and shall include the following:

- A. A survey drawn to scale, which illustrates the parcel on which the antenna will be located, buildings located on the parcel, buildings located within 100 feet of the parcel and the location of the proposed Amateur Radio Tower Antenna.
- B. A drawing to scale, which illustrates the antenna's relative size and visibility from adjoining property. Amateur Radio Tower Antenna structures shall not exceed 120 feet in height. The Amateur Radio Tower Antenna must be set back from all adjoining property lines a distance no less than the height of the Amateur Radio Tower Antenna plus 15 feet.



- C. Documentation from the Amateur Radio Tower Antenna manufacturer showing construction details and construction materials.
- D. Mailing addresses for all property owners of record located within 350 feet of the subject property.
- E. A copy of the applicant's FCC Amateur Radio License.

#### 1396.04 Planning Commission Review.

Upon receipt of a completed application, the City Planner shall schedule a hearing before the Planning Commission, which shall be preceded by ten days mailed notice to the record owners of property located within 350 feet of the parcel on which the Amateur Radio Tower Antenna will be located. The Planning Commission shall make recommendations to the City Council regarding the issuance of Amateur Radio Tower Antenna Permit and, in particular, concerning the following:

- A. The reasonable necessity for the Amateur Radio Tower Antenna.
- B. The appropriateness of the Amateur Radio Tower Antenna design.
- C. The appropriateness of the Amateur Radio Tower Antenna's construction materials and assembly.
- D. Maintenance Requirements.
- E. The distance of the Amateur Radio Tower Antenna from adjoining property lines.

#### 1396.05 City Council Review.

Upon receipt of Planning Commission recommendations, the City Council shall review the application. The City Council may approve the application subject to conditions, table its review until a date certain, or deny the application for an Amateur Radio Tower Antenna Permit. If the application is approved by the City Council, an Amateur Radio Tower Antenna and a Building Permit shall be issued upon the execution of an Amateur Radio Tower Antenna Agreement. The terms of the Amateur Radio Tower Antenna agreement shall include the following:

- A. A list of the conditions of approval to the Amateur Radio Tower Antenna Permit.
- B. A statement indicating that failure to comply with the conditions of approval shall result in the removal of the Amateur Radio Tower Antenna structure.
- C. A statement indicating that the expenses incurred by the City to enforce the provisions of the Amateur Radio Tower Antenna Agreement shall be reimbursed by the applicant
- D. A statement, which requires the applicant to use the procedures, established by the FCC to resolve any complaints received relating to interference allegedly caused by the Amateur Radio Tower Antenna.
- E. A statement indicating that the Amateur Radio Tower Antenna Permit shall be valid during the term of the Amateur Radio Tower Antenna agreement and only while the applicant resides on the property.

#### 1396.06 Review and Revocation.

The City Planner shall inspect the property at least annually for compliance with the provisions of the Amateur Radio Tower Antenna agreement. If the permittee does not comply with the terms of the Agreement, a hearing shall be scheduled before the City Council for determining whether to terminate the Agreement. The hearing shall be preceded by ten- (10) days-mailed notice to occupants of property within 350 feet of the lot on which the Amateur Radio Tower Antenna is located.

Section 2. Effective Date: This ordinance shall become effective upon its passage and publication according to law.

Lee Hunt  
Lee Hunt, Mayor

Attest:

Mary Kueffner  
Mary Kueffner, City Clerk/Administrator

Published in the Stillwater Gazette on the 29<sup>th</sup> day of Aug., 2001

**AMATEUR RADIO TOWER  
ANTENNA AGREEMENT**

1.0 **Parties.** This Agreement is dated the \_\_\_\_ day of \_\_\_\_\_, 2001, and is entered into by and between the City of Lake Elmo, a Minnesota statutory city ("Lake Elmo") and [REDACTED] and [REDACTED] husband and wife ("Permitee").

2.0 **Recitals.**

A. Permitee is the owner of the following described real property situated in Washington County, Minnesota, to wit:

[REDACTED]

B. On the 4<sup>th</sup> day of September, 2001, Permitee made application for an amateur radio tower permit ("Tower Permit Application").

C. The Lake Elmo Planning Commission reviewed the Tower Permit Application on September 24, 2001 and recommended its approval.

D. The Lake Elmo City Council reviewed the Tower Permit Application and the recommendations of the Planning Commission on October 2, 2001.

E. Lake Elmo City Council authorized the issuance of the Amateur Radio Tower Antenna Permit subject to the preparation and execution of the Amateur Radio Tower Antenna Agreement.

3.0 **Terms and Conditions.** Now, therefore, in consideration of the authorization granted by the Lake Elmo City Council and in reliance upon the undertakings herein expressed, the parties agree as follows:

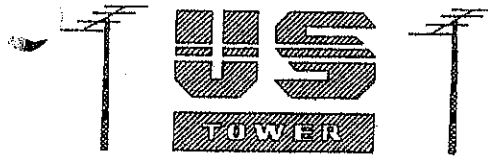
A. Copy of Permitee's FCC license and any amendments or renewals thereof shall be kept on file with the City Administrator.

B. Permitee shall follow the procedures established by the FCC to resolve any complaints relating to interference allegedly caused by the location and use of Permitee's Amateur Radio Tower.

C. The Amateur Radio Tower shall be constructed and maintained in compliance

with the specifications for a Rohn No. 45G communication tower as submitted with the Permittee's application. The specification shall be kept on file with the City Administrator.

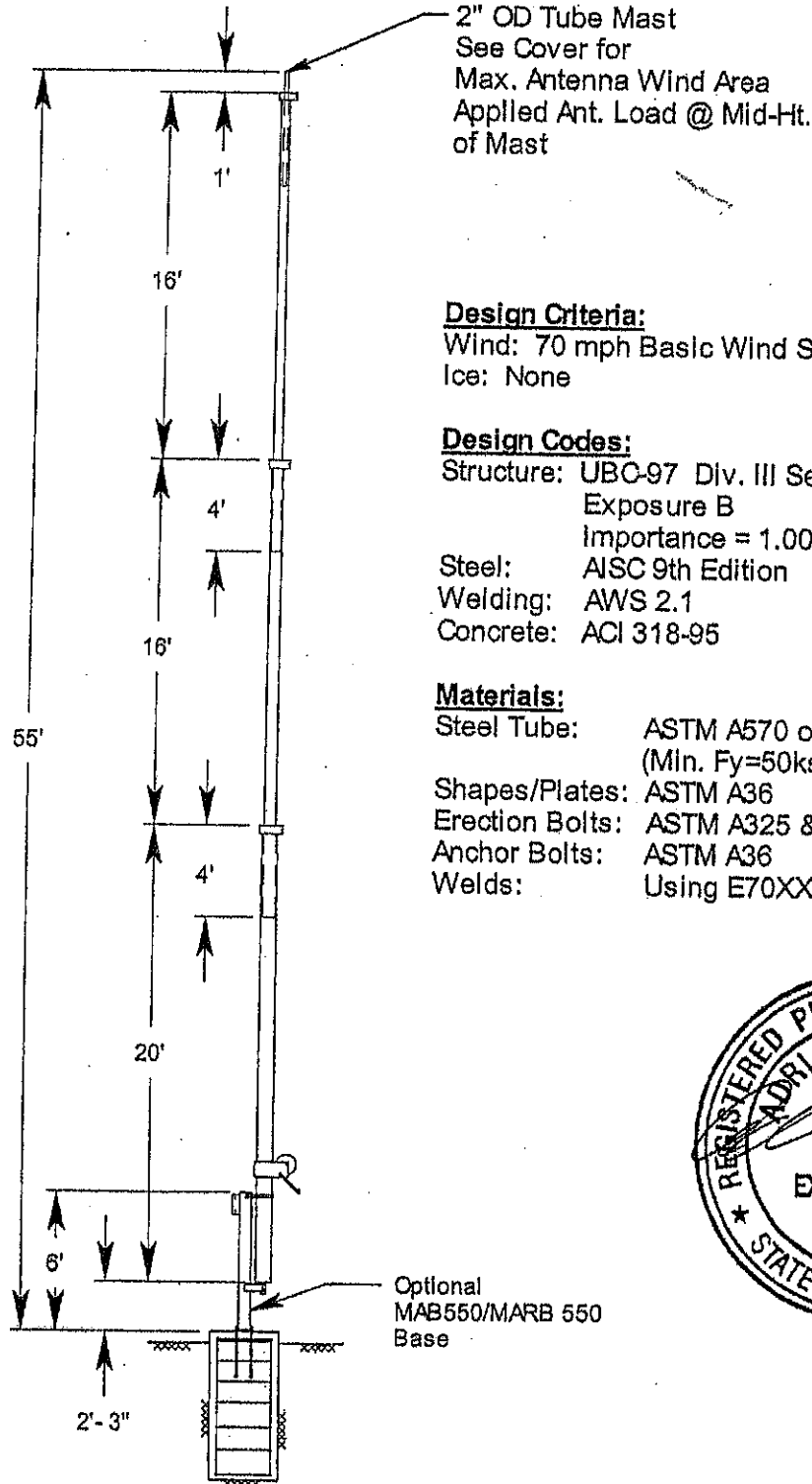
- D. The Amateur Radio Tower shall be located on Permittee's Property as illustrated on the site plan initialed by the City Planner and dated October 2, 2001 which shall be filed with the City Administrator.
- E. The height of the Amateur Radio Tower shall not exceed 110 feet.
- F. The Amateur Radio Tower shall be located so that the fall down radius of the Tower is a minimum of 110 feet from adjoining property lines.
- G. During the first two weeks of December for each year that the Amateur Radio Tower Permit is in force, Permittee shall provide the City with a statement indicating that the Amateur Radio Tower is in good working order and that Permittee is still using the Amateur Radio Tower pursuant to the provisions of the FCC license; and has homeowner's insurance which covers the Amateur Radio Tower and names the City as an additional insured.
- H. Permittee's failure to comply with the conditions of approval shall result in the removal of the Amateur Radio Tower Antenna structure.
- I. Any expenses incurred by Lake Elmo in order to enforce provisions of the Amateur Radio Tower Antenna Agreement shall be reimbursed by the Permittee including reasonable consultant and attorney's fees.
- J. The Amateur Radio Tower Permit shall be valid during the term of the Amateur Radio Tower Agreement and only while the Permittee resides on the property.



**TOWER MODEL: MA-550**

THIS DOCUMENT CONTAINS PROPRIETARY INFORMATION, AND SHALL NOT BE USED OR REPRODUCED OR ITS CONTENTS DISCLOSED, IN WHOLE OR IN PART, WITHOUT THE PRIOR WRITTEN CONSENT OF U.S. TOWER CORPORATION.

Section No.	Tube Size
MA 3	Square Tube 3" x .120 wall
MA 4.5	Round Tube 4 1/2" OD x .120 wall
MA 6	Round Tube 6" OD x .135 wall



**Design Criteria:**

Wind: 70 mph Basic Wind Speed  
 Ice: None

**Design Codes:**

Structure: UBC-97 Div. III Sections 1615 Thru 1625  
 Exposure B  
 Importance = 1.00  
 Steel: AISC 9th Edition  
 Welding: AWS 2.1  
 Concrete: ACI 318-95

**Materials:**

Steel Tube: ASTM A570 or A446 Gr. D  
 (Min. Fy=50ksi)  
 Shapes/Plates: ASTM A36  
 Erection Bolts: ASTM A325 & SAE Gr. 5  
 Anchor Bolts: ASTM A36  
 Welds: Using E70XX Electrodes

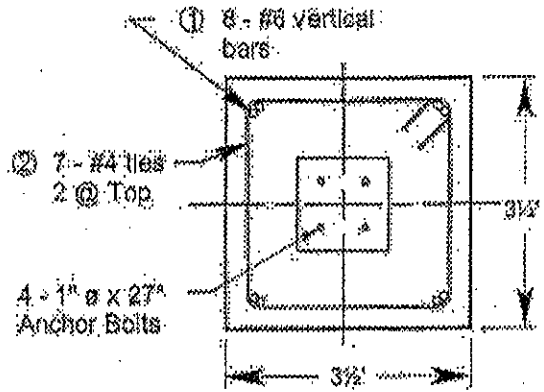
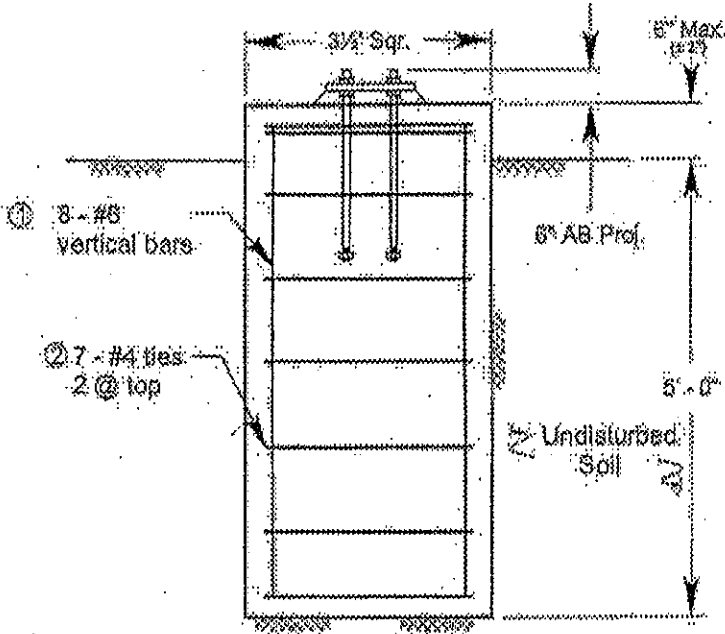


**Elevation View**  
 No Scale

Foundation has been design to accommodate the following loads:

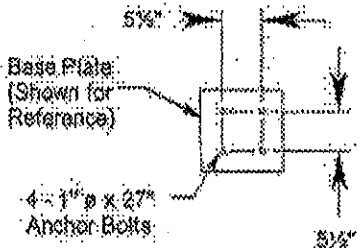
Overturning Moment = 13.95 ft.-kips  
 Base Shear = 0.25 kips  
 Structure Weight = 0.74 kips

Concrete volume is estimated at 2.5 cu. yds.



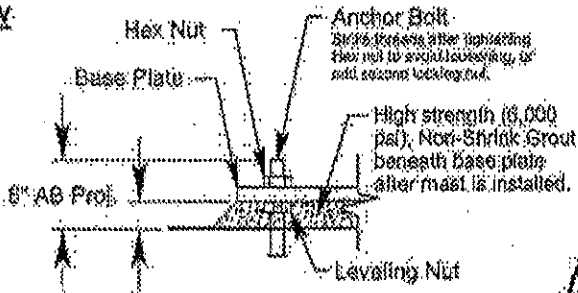
**Elevation View**  
No Scale

**Plan View**  
No Scale



**Anchor Bolt Detail**  
No Scale

Note: Dimensions are chr.-to.-chr. of anchor bolts



**2" Non-Grouting Detail**  
 Extreme care should be taken to assure that all leveling nuts are level with respect to each other prior to installation of lower

Note: If leveling nuts not used, grout not required, and reduce AB projection to 4".



**Reinforcement Material List**

Sym	Type	Bar Size	Bar Spacing	Dimensions				Qty	Weight (lbs.)
				a	b	c	10db		
①	A	#8	See Plan	5'-0"	---	---	---	8	60 lbs.
②	B	#4	12"	2'-6"	2'-6"	2"	5"	7	51 lbs.
<b>Total Steel Weight for Complete Foundation Installation</b>									<b>111 lbs.</b>



REV. NO.	DESCRIPTION OF REVISION	BY	CHKD BY	DATE

UNLESS OTHERWISE SPECIFIED:

ALL DIMENSIONS IN INCHES.  
 TOLERANCES:  
 ±.125" ON ALL FRACTIONAL DIMENSIONS  
 ±.0250" ON ALL ANGLE DIMENSIONS

**US TOWER CORPORATION**  
 (220 MARCIN STREET  
 VISALIA, CALIFORNIA 93281  
 PHONE 559-733-2438  
 FAX 559-733-7194

**DRAWING TITLE**  
 Installation of Pler Footing for MA-550  
 Crank-Up Tubular Mast.

SCALE: None	REV. NO.
APPROVED:	DATE
CHKD. BY: US	DATE: 5 Oct 99
DRAWN BY: AM	DATE: 2 Oct 99
DRAWING NO.	

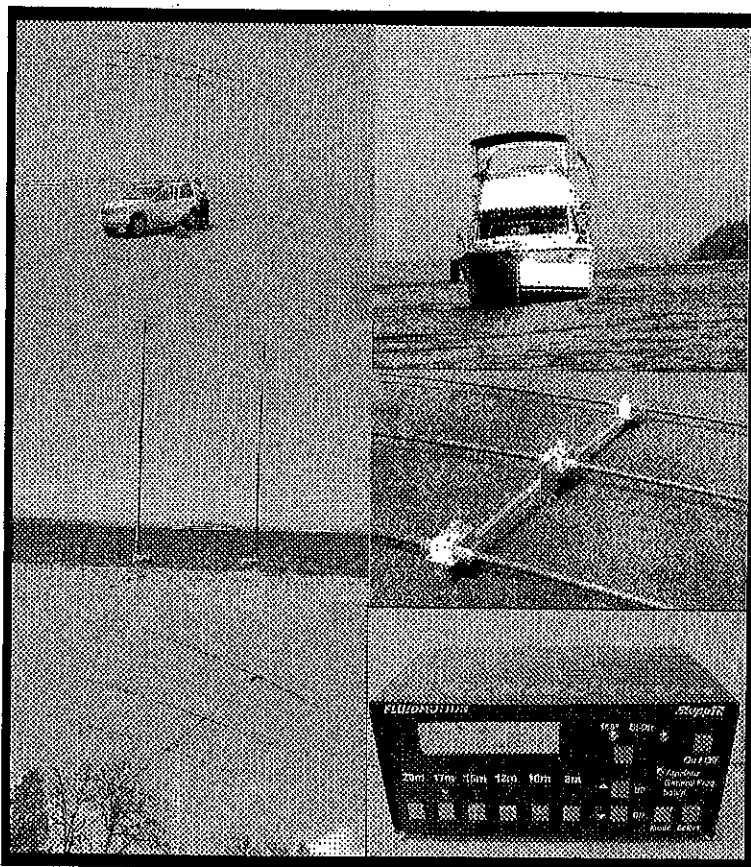
**A-991003**

# SteppIR™

Yagi • Dipole • Vertical

(Patent Pending)

## A Monoband Antenna - On Every Frequency!



**MonstIR 40m-6m Yagi Now Available -  
7.8 dBi Gain, 25 dB F/R on 40m!  
8.2 dBi Gain, 20 dB F/R on 30m!**

**[www.steppir.com](http://www.steppir.com)**

**SteppIR Antenna Systems**

23831 SE Tiger Mountain Road  
Issaquah, WA 98027

Tel: 425.391.1999 - Fax: 425.391.8377

Email: [sales@steppir.com](mailto:sales@steppir.com)

Toll Free: 866-SteppIR (783-7747)

*The telescoping fiberglass supports do not move - the copper beryllium elements change length on the inside of the supports*

*Remotely adjustable - 7.0 MHz - 54 MHz continuous coverage! You can even create your own antenna and store it in memory*

*Easy to assemble, regardless of antenna type!*

*Unequaled F/B ratios combined with forward gain performance equal or exceeding that of antennas with much larger profiles*

*Excellent SWR on all frequencies*

*All three elements are individually adjusted automatically by the microprocessor based controller*

*In life cycle testing, the unit has gone over 60,000 cycles without failure - That's over 2 million band changes!*

*Wind rated to 100 mph; simple and durable design*

*Bi-directional mode gives user gain in two directions simultaneously (yagi)*

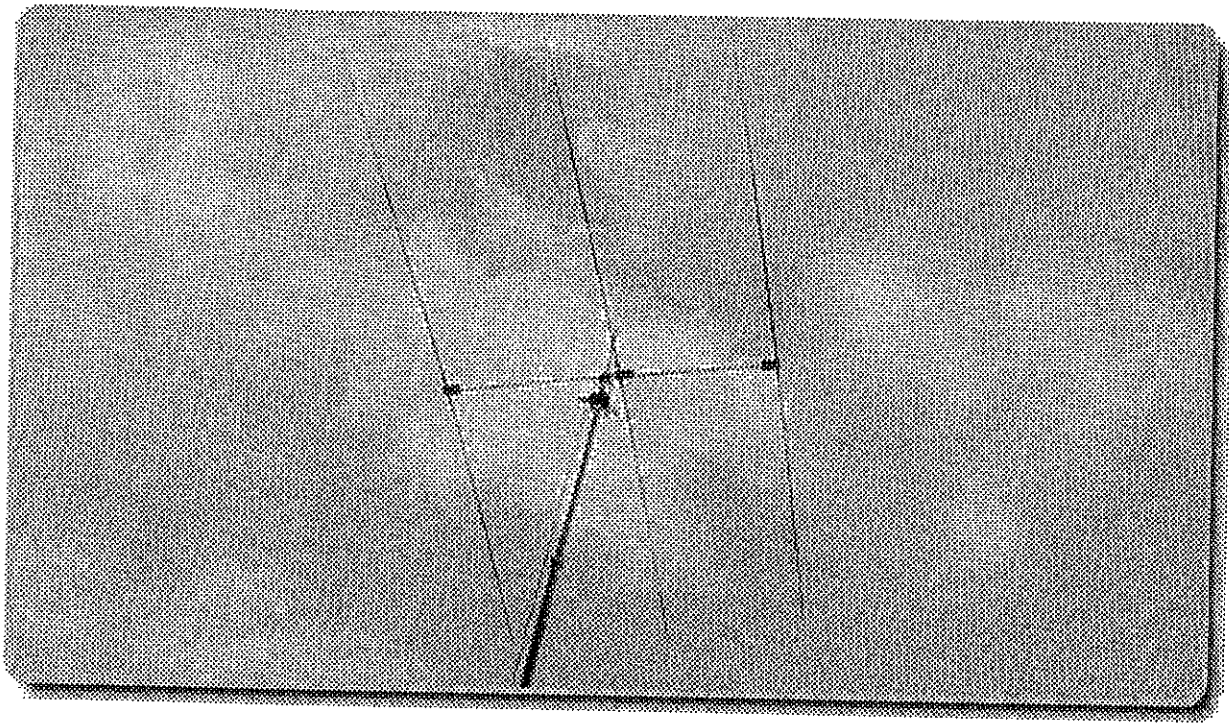
*Switch direction of antenna 180° in just three seconds (yagi), greatly reduces rotating time and wear - outstanding for short path / long path operation*

*All materials are corrosion resistant and are designed for long term, outdoor applications*

*Excellent for ham, military, commercial, marine and SWL communications*







Cut Along This Line

Cut Along This Line



UNITED STATES OF AMERICA  
FEDERAL COMMUNICATIONS COMMISSION  
AMATEUR RADIO LICENSE



NOYW

HOLM, JOHN P  
5340 N STILLWATER BLVD  
PO BOX 264  
STILLWATER MN 55082

Licensee: This is your radio authorization in sizes suitable for your wallet and for framing. Carefully cut the documents along the lines as indicated and sign immediately upon receipt. They are not valid until signed.

The Commission suggests that the wallet size version be laminated (or another similar document protection process) after signing. The Commission has found, under certain circumstances, laser print is subject to displacement.

Cut Along This Line

FCC Registration Number (FRN) 0008981987

Special Conditions/Endorsements

NONE

Grant Date	Effective Date	Print Date	Expiration Date
01-16-2004	01-16-2004	01-16-2004	01-16-2014
File Number	Operator Privileges	Station Privileges	
0001558487	Amateur Extra	PRIMARY	

THIS LICENSE IS NOT TRANSFERABLE

*John P. Holm*  
\_\_\_\_\_  
(Licensee's Signature)


FCC 660

April 2002

Cut Along This Line

Cut Along This Line

Cut Along This Line

Call Sign/Number	Grant Date	Expiration Date	File Number	Print Date	Effective Date
NOYW	01-16-2004	01-16-2014	0001558487	01-16-2004	01-16-2004
Operator Privileges	Station Privileges		SPECIAL CONDITIONS/ENDORSEMENTS		
Amateur Extra	PRIMARY		NONE		
HOLM, JOHN P 5340 N STILLWATER BLVD PO BOX 264 STILLWATER MN 55082			<p>THIS LICENSE IS NOT TRANSFERABLE.</p> <p><i>John P. Holm</i> _____ (Licensee's Signature)</p> 		
<b>AMATEUR RADIO LICENSE</b> FCC Registration Number (FRN) 0008981987 FCC 660			April 2002 <b>FEDERAL COMMUNICATIONS COMMISSION</b>		

FOLD

April 2002

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Cut Along This Line

<b>Lake Elmo City Council October 5, 2004</b>	<b>Agenda Section: Planning, Land Use &amp; Zoning</b>	<b>No. 9B</b>
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**Agenda Item:** Tapestry at Charlotte's Grove – OP Development Stage Plan/Preliminary Plat/CUP

**Background Information for October 5, 2004:**

At its meeting September 27, 2004 the Planning Commission, following a Public Hearing, unanimously adopted a recommendation for approval of the several subject concurrent applications for the 2<sup>nd</sup> OP Stage of this project to develop 172 acres into 67 single family building lots.

In response to the single testifying party at the Public Hearing, the developer has agreed to enhance landscaping along the east property line. The Commission attached a condition in that regard, and it was understood that staff will be looking for that enhancement with the Final Landscape Plan. The remainder of the adjacent property owner issues that were raised during the Concept Stage of this project have been addressed to the satisfaction of the Commission.

The Commission conditioned the approval recommendation on compliance with review recommendations of the City Engineer and City Attorney, and those deemed pertinent of "outside agencies". The City Engineer is continuing discussions with the applicant's engineer regarding some innovative approaches to rural section streets and surface water treatment. The final determination of the City Engineer will be the controlling factor with those designs.

<p><b><u>Action items:</u></b></p> <p>Motion to adopt Resolution 20004 - <sup>086</sup>, approving the OP Development Stage Plan, Conditional Use Permit, and Preliminary Plat of Tapestry at Charlotte's Grove per plans staff dated September 20, 2004 and based on Findings and conditions of approval recommended by the Planning Commission of the Planning Commission.</p>	<p><b><u>Person responsible:</u></b></p> <p> City Planner</p>
--	---

<p><b><u>Attachments:</u></b> <sup>086</sup></p> <ol style="list-style-type: none"> <li>1. Draft Resolution 2004 - Approving Plan, CUP and Plat</li> <li>2. Draft Planning Commission Minutes of September 27, 2004</li> <li>3. Planning Staff Report</li> <li>4. Applicant's Documentation (Previously Provided)</li> </ol>	<p><b><u>Time Allocated:</u></b></p>
--	--------------------------------------

**CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA**

**RESOLUTION NO. 2004-086**

**A RESOLUTION APPROVING THE OP DEVELOPMENT STAGE PLAN,  
CONDITIONAL USE PERMIT, AND PRELIMINARY PLAT OF  
TAPESTRY AT CHARLOTTE'S GROVE**

**WHEREAS**, St. Croix Farm, LLC have made application for a Development Stage Plan, Conditional Use Permit, and Preliminary Plat to create 67 residential building lots and nine outlots on a parcel of 173 acres. The property is generally located south of 45<sup>th</sup> Street North and West of Keats Avenue and legally described as follows:

Property I.D. Numbers 11-029-21-32-0001, 10-029-21-44-0002 and an easterly 16 acre portion of Property I.D. No. 10-029-21-42-0001

**WHEREAS**, at its September 27, 2004 meeting, the Planning Commission reviewed and unanimously recommended approval of this application to plat a 173 acre parcel as a residential development of 67 building lots and nine outlots.

**WHEREAS**, the Preliminary Plat of TAPESTRY AT CHARLOTTE'S GROVE was presented to the City Council at its October 5, 2004 City Council Meeting where the following Findings were made:

1. The OP Development Stage Plan is consistent with the Lake Elmo Comprehensive Plan and the approved OP Concept Plan.
2. The OP Development Stage Plan complies with the documentation requirements and standards of the OP Ordinance, except as noted.
3. The Preliminary Plat complies with the documentation requirements and standards of Section 400 of the City Code (Subdivision).

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council for the City of Lake Elmo does hereby approve and accept the OP Development Stage Plan, Conditional Use Permit, and Preliminary Plat of TAPESTRY AT CHARLOTTE'S GROVE, per plans that staff dated September 20, 2004, as the same on file with the City Administrator, based on the following Conditions:

1. Compliance with the recommendations of the City Engineer, City Attorney, and those deemed pertinent of "outside agencies".
2. The applicant shall enhance the landscape buffering at the southeast corner of the plat.

**PUBLIC HEARING: Preliminary Plat – TAPESTRY at Charlotte's Grove**

The Planner reported that no specific Findings are required in the Commission's recommendation but the city has had five in the past that staff looks at in review:

1. Compliance with approved concept plan
2. Compliance with conditions attached
3. Compliance with OP submission requirements and with standards of platting
4. Compliance with applicable outside review agencies as applicable - engineer, attorney, etc.
5. Compliance with CUP standards

The Planner said the City Engineer has some issues with street design that the Planning Commission may not wish to deal with here.

Commissioner Sedro asked about the addition of new streets in the design, and if, as a result of the new street linkages, the plat is still compliant with the amount of contiguous open space required.

The Planner said streets do not change the contiguous character of open space. That does not happen unless the open space is segregated by home sites.

The Planner explained that because of the scale of this project, this stage was supposed to go before the Parks Commission for review. They did not gather a quorum. The Public Works Superintendent reviewed the plan and staff reviewed the Parks and Trails Plan of record. This area is not designated for a neighborhood park. He reported that the Trails System Plan is not yet complete but it seems obvious to staff that there should be public trail corridors one north/south (linking to Sunfish Park's trails) and one east/west. Generally the city asks the developer which trails serve them best as public trails based on general desire lines like those he has explained. Those trails are then developed at developer's cost, dedicated to the city, and then their value is deducted from the public use fee.

Commissioner Schneider asked about buffer screening. At the southeast corner of the site, the existing woods get quite thin.

**Darren Senn, Director of Design for Senn and Youngdahl**

Mr. Senn said it has been fun working on this plan. He has taken input from the Planning Commission, neighbors, and City Council and incorporated them into the plan as now proposed. He displayed a color version of the plan.

Commissioner Schneider said the key references evergreens so does the plan call for mixed evergreen and deciduous.

Mr. Senn said yes they are mixed evergreen and deciduous because it appears more natural, white pines, red pines, spruce, aspens and amur maples in clumps rather than boulevard type plantings will be strategically placed to create a buffer.

Commissioner Schneider asked about sizes of trees.

Mr. Senn said they will meet whatever the city minimum size requirements are.

Commissioner Ptacek asked about Block 8, Lot 1 and Block 7, Lot 1. He asked if those were the two lots that will not be marketed. The lot that looked like a flag lot concern is now gone. He said he is disappointed that Block 7, Lot 1 still looks like a flag lot.

Chairman Helwig asked the radiuses on cul de sacs.

**Greg Moris** said the sizes are the 70 feet minimum standard.

Commissioner Schneider asked again about additional screening of the pond that is at the southeasterly end of the plat.

Darren Senn said they removed many lots, removed the road, and with proper placement of clumps of trees, the buffer will be maintained. He said he was sympathetic to The Molines' plight, so they removed one more lot.

Commissioner Schneider said he was referring to the Landscape Plan.

Mr. Senn said he feels there is enough significant vegetation there. The natural buffer begins at the pond and that is where the lots actually begin.

The Planner asked if the developer would mind adjusting landscaping to address that concern without actually adding more trees to the overall plan – relocate some shown elsewhere to this short buffer area..

Mr. Senn said they could do that.

Chairman Helwig noted that the Berschen's Open Space Preservation Outlot has a considerably different shape than in the Concept Plan.

Greg Moris said that is an old image that was on the original layout, and should not have appeared as such on the plat.

**Mark Youngdahl** said he and The Berschens are looking more closely at where those lines will end up. They are working on a better solution even now to those lines, and he would like to visit The Berschens with that new layout. He spoke to the City Planner about it.

The Planner asked Mr. Senn to show the Planning Commission what they meant. That area is going to be a conservation easement farmed with a non-development requirement. It used to be shaped differently. He said he has spoken with developers but is not positive what they have in mind. The city perspective is the acreage, not the orientation or exact shape of an open space easement area.. He said he would be in favor of letting the developer and Berschens coordinate that layout.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:47 P.M.

**Jerry Marsolek, Hamlet on Sunfish Lake**

Mr. Marsolek said he is concerned about the landscaping placement of trees between the two

developments (Tapestry and Hamlet on Sunfish Lake). If some of the HOA could be involved in the tweaking of how that landscaping is done, that would give them a level of comfort.

THE CHAIR CLOSED THE PUBLIC HEARING AT 7:50 P.M.

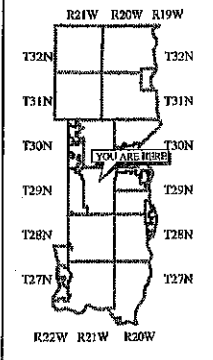
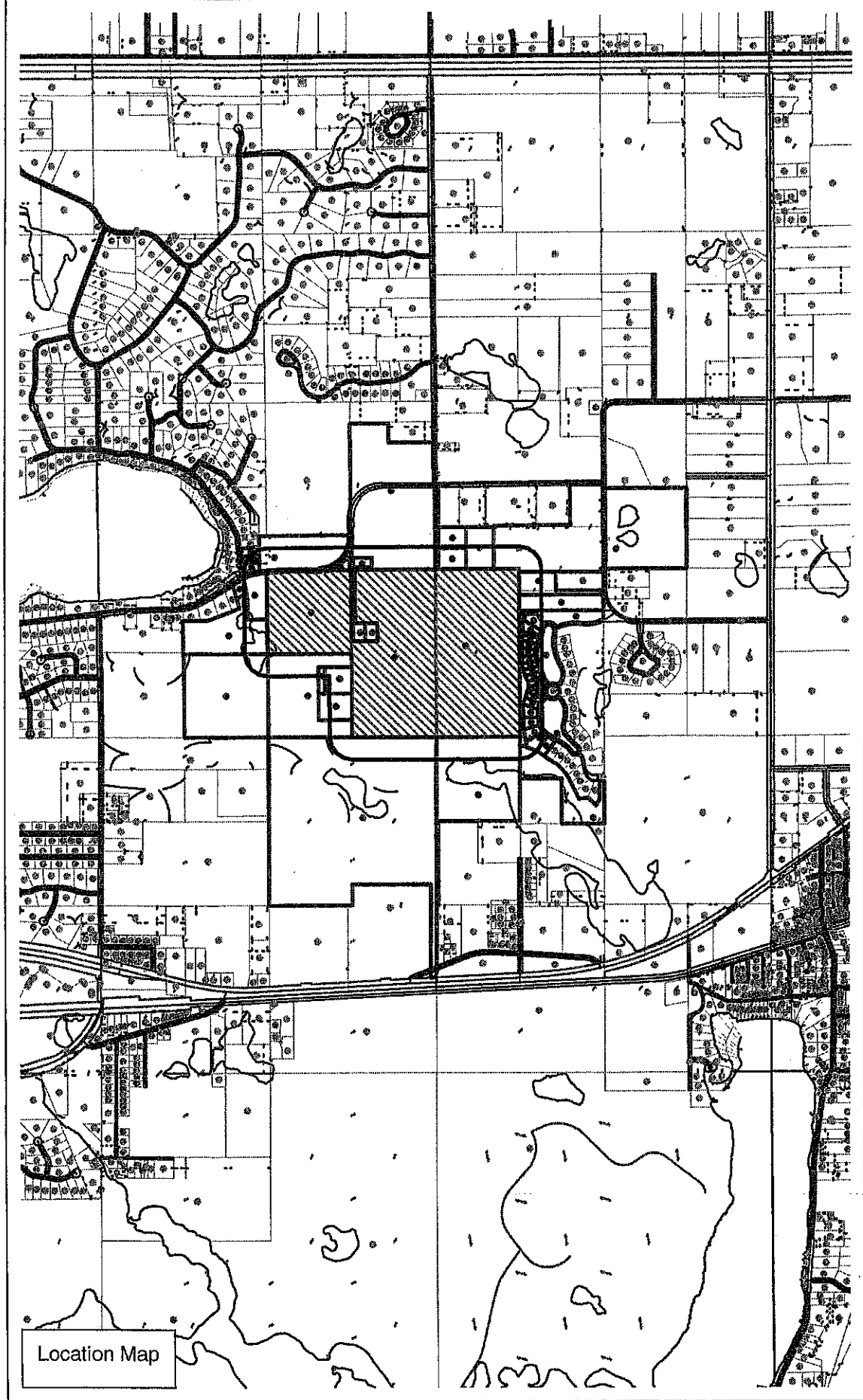
The Planner said he would prefer the Commission not endorse any HOA involvement in plans but encourage the developer to do so. The Ordinance specifies tree counts and the OP Buffer requirement. The developer has heard what has been said here. It would be difficult for staff to enforce that type of condition.

Commissioner Deziel reminded the Commission that the City Engineer’s technical issues will be complied with.

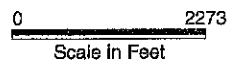
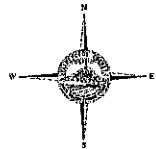
M/S/P, Ptacek/Sessing, To recommend approval based on Findings and plans staff dated September 22, 2004, subject to outside agencies recommendations and conditions as pertinent and particularly to those of the City Engineer, and upon condition to enhance the landscape buffering at the southeast corner of the plat.

**VOTE: 6:0 PASSED.**

DRAFT



Vicinity Map



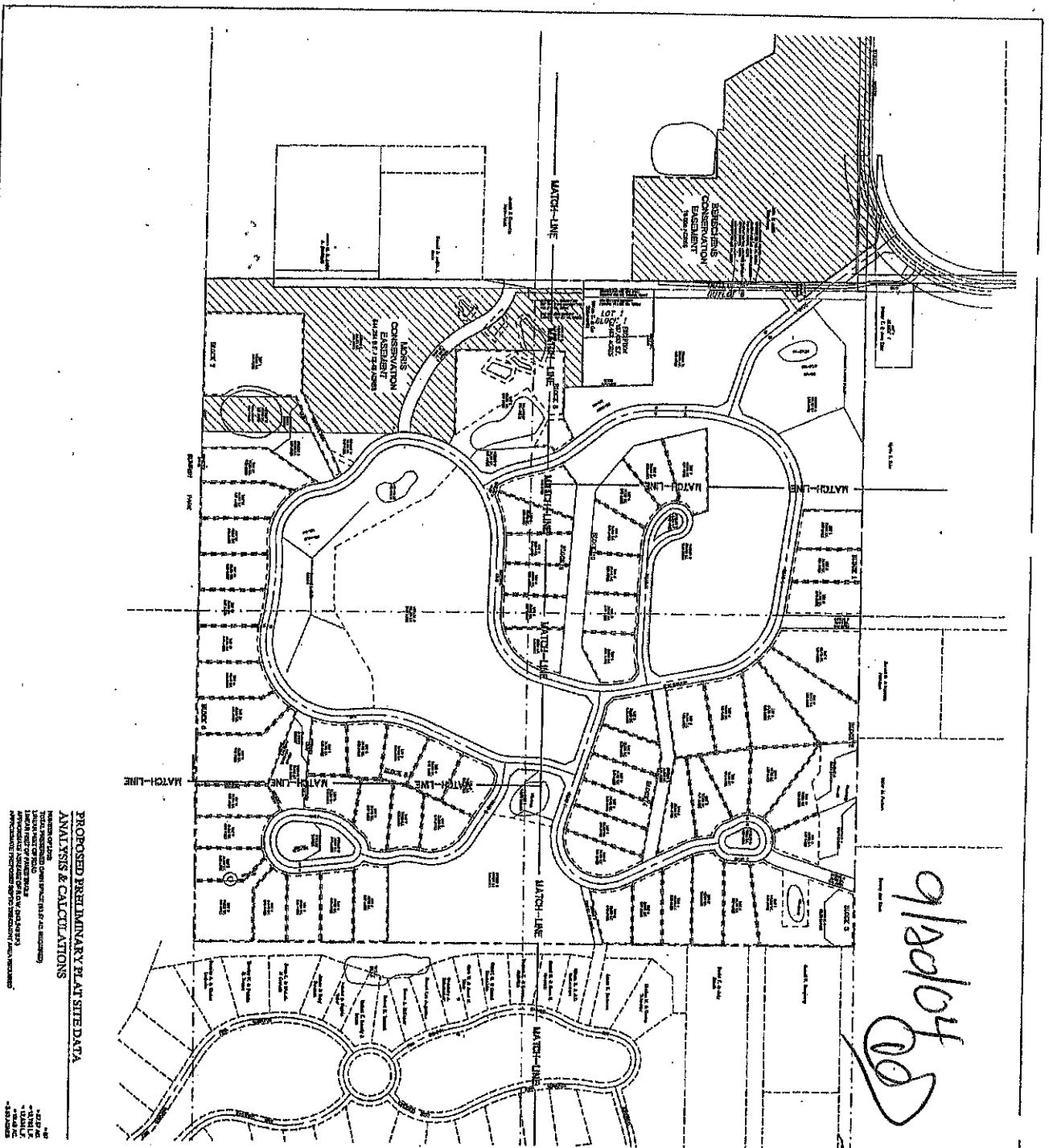
Location Map

This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

Source: Washington County Surveyor's Office, Phone (651) 430-6876

Parcel data based on AS400 Information

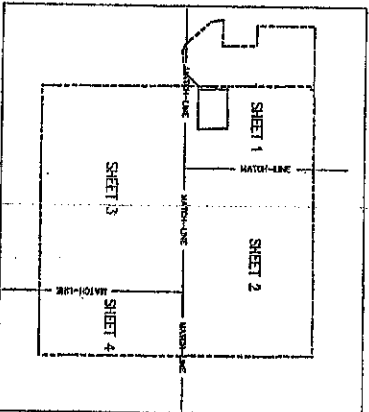




**PROPOSED PRELIMINARY PLAT SITE DATA ANALYSIS & CALCULATIONS**

\* 40% OF THE TOTAL AREA IS TO BE MAINTAINED AS OPEN SPACE PRESERVATION DISTRICT (OP)  
 \* 40% OF THE TOTAL AREA IS TO BE MAINTAINED AS OPEN SPACE PRESERVATION DISTRICT (OP)  
 \* 40% OF THE TOTAL AREA IS TO BE MAINTAINED AS OPEN SPACE PRESERVATION DISTRICT (OP)

9/26/04

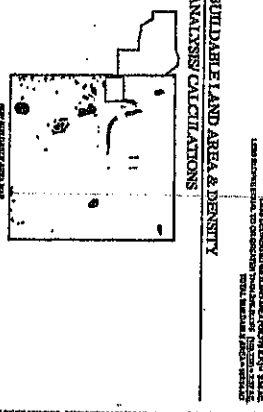


SHEET LEGEND

**OPEN SPACE PRESERVATION DISTRICT (OP)**

**MINIMUM DISTRICT REQUIREMENTS**

- MINIMUM DISTRICT AREA: 100,000 SQ. FT.
- MINIMUM DISTRICT WIDTH: 50 FT.
- MINIMUM DISTRICT LENGTH: 100 FT.
- MINIMUM DISTRICT PERIMETER: 1,000 FT.
- MINIMUM DISTRICT OPEN SPACE: 10% OF TOTAL DISTRICT AREA
- MINIMUM DISTRICT OPEN SPACE PERCENTAGE: 10%
- MINIMUM DISTRICT OPEN SPACE PERCENTAGE: 10%
- MINIMUM DISTRICT OPEN SPACE PERCENTAGE: 10%



**PRELIMINARY FOR REVIEW ONLY**

PROJECT NO. 0510  
 SHEET NO. 05.0  
 DATE: 09/26/04

Project Name and Address:  
**TAPESTRY AT CHARLOTTE'S GROVE**  
 JULIEP AVE. N. & 45TH ST. N.  
 LAKE ELMO, MINNESOTA

Project Title:  
**PRELIMINARY PLAT OVERALL**

Prepared by:  
 GDM  
 Date: 09/26/04

Project Name and Address:  
**TAPESTRY AT CHARLOTTE'S GROVE**  
 JULIEP AVE. N. & 45TH ST. N.  
 LAKE ELMO, MINNESOTA

Project Title:  
**PRELIMINARY PLAT OVERALL**

Prepared by:  
 GDM  
 Date: 09/26/04

**PDA** Professional Design Associates, Inc.  
 1000 W. WISCONSIN ST. SUITE 100  
 CHICAGO, IL 60606-3496  
 TEL: 312.640.8888 FAX: 312.640.8889  
 WWW.PDADESIGN.COM

I hereby certify that the information on this plat was prepared by me or under my direct supervision and that I am a duly licensed professional engineer in the State of Minnesota.  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

PREPARED FOR:  
**ST. CROIX FARMS LLC**  
 109 EAST MYRILE STREET  
 ST. L. WATER, MN 55082  
 PH: 651.351.1450 FX: 651.351.7696

**LAKE ELMO PLANNING COMMISSION  
STAFF REPORT**

**Date:** September 22, 2004 for the meeting of September 27, 2004

**Applicant:** St. Croix Farms, LLC

**Location:** South of 45<sup>th</sup> Street North/West of Keats Avenue

**Requested Action:** OP Development Stage Plan & CUP/Preliminary Plat

**Land Use Plan Guiding:** RAD

**Existing Zoning:** RR

**Site History and Existing Conditions:**

City records regarding this vacant 173 acre site are complex (and convoluted) , but sketchy as to details. From a 1976 City consultant's staff report to the Lake Elmo Planning Commission and City Council, it appears that the owners of the majority of the site (Moris Family) platted the "Moris Addition" about that time (1976). From that document we learn that Moris had previously created one of the two parcels along (but west of) the west border of the site. In 1976 Moris added to one of those parcels, and created the second parcel west of this site, and the "Exception" parcel along the west border (and surrounded by) this site. Those division and platting actions in the 1970's created unusual access accommodations to those new parcels from 45<sup>th</sup> Street by way of easements and outlots. The technical details of those arrangements – as they impact this Concept Plan – have been reviewed by the City Attorney. It appears that access to the subject site can be accomplished by a Public Roadway, as proposed.

On August 17, 2004 the City Council adopted Resolution #2004-071 approving an OP Concept Plan for this site including 67 single family detached lots. The Council further endorsed the minor Public street encroachment into the OP Buffer that the Concept Plan proposed at the west periphery of the site. There were no design related or other conditions attached to the Concept Plan approval.

**Discussion and Analysis:**

The OP Ordinance provides no specified Findings that must be made regarding a Development Stage Plans. Review of prior OP Development Stage plans by the Staff/Commission/City Council as focused on the following:

1. Compliance with the approved Concept Plan
2. Compliance with any conditions attached the Concept Plan approval
3. Compliance with Development Stage Plan submission requirements/documentation.
4. Compliance with the Standards of the Subdivision Ordinance (Preliminary Plat)
5. Compliance with City Engineer, City Attorney and (applicable) Outside Agency Reviews

Review of the proposed Development Stage Plan graphic reveals general compliance with the approved Concept Plan. As recommended by the City Engineer during Concept Plan review street linkages have been added across two open space areas to reduce the convoluted accessibility to some home sites that was observed in the Concept Plan. All other significant design features of the

Concept Plan have been replicated by the Development Stage Plan. There were no design-related conditions to the Concept Plan approval.

The Preliminary Plat and preliminary construction plans for plat improvements have been submitted to the City Engineer for his review as to compliance with the Subdivision Ordinance and City Public Improvements design standards, and community septic system design. As of this writing, the City Engineer has not reported his review findings and recommendations. We have been advised that his review will be available on September 27, as will that of the City Attorney regarding the HOA documentation.

In addition to engineering and legal documentation the applicant has submitted a preliminary landscape plan, a complete Wetlands Delineation (to be reviewed by Valley Branch Watershed) proposed individual site landscape standards, and proposed architectural standards for all home sites in the project – all of which are required in a preliminary form with the Development Stage Plan.

This Development Stage Plan was scheduled for review by the Lake Elmo Parks Commission on September 20, 2004. That meeting was cancelled for lack of a quorum. The Staff recommendation to the Parks Commission was there be Public Trail dedication and construction from the east site border to the west site border upon the proposed trail corridor that best fits the developer's plans; and, that there be Public Trail dedication and construction on a south/north axis from Sunfish Park to 45<sup>th</sup> Street North – again as it best fits the developer's plans. The Lake Elmo Public Works Supervisor has advised Planning Staff that the developer proposal for the trail access to Sunfish Park is ideally located in the Development Stage Plan. The balance of the Public trail within the plat will be coordinated with the developer, with the balance of the Park Dedication requirement payable in cash. No neighborhood park is contemplated in this vicinity in the latest City Park Plan.

Due to the location of this proposal, a limited number of outside agencies have been requested to review and comment on the Development Stage Plan. To date, Valley Branch Watershed has not responded with comments regarding drainage and the Wetland Delineation.

The DNR has responded in a curious manner regarding the relationship of this project site to the Shoreland of Sunfish Lake. They have advised that the lot areas are too small to meet Shoreland standards, and suggest amending our Shoreland standards or modifying the plat lot sizes. I have advised the DNR that our Shoreland Ordinance does permit OP lots to be as small as 0.50 acres already (Section 325.06 Subd. 2) – based on the old OP minimum lot size. I do not expect the issue will be again raised.

### **Findings and Recommendations:**

While no specific Findings are required on an OP Development Stage Plan, Staff suggest the following Findings should be made by the Commission:

1. The Plan complies with the approved Concept Plan
2. There are no conditions of Concept Plan approval to be complied with.
3. The Plan/Plat generally comply with OP Development Stage Plan and Preliminary Plat submission requirements/documentation.
4. The Development Stage Plan/Preliminary Plat complies with applicable outside agency review comments, as available.

5. The OP Conditional Use Permit complies with the Conditional Use Permit required Findings of the Zoning Ordinance.

The Planning Staff recommends approval of the Tapestry at Charlotte's Grove OP Development Stage Plan, Preliminary Plat and Conditional Use Permit based on the foregoing Finding, subject only to pertinent outside agency comments yet to be received by the City.

**Planning Commission Actions Requested:**

Motion to recommend approval of the Tapestry at Charlotte's Grove OP Development Stage Plan, Preliminary Plat and Conditional Use Permit based on the foregoing Findings and per plans staff dated September 22, 2004 , subject only to pertinent outside agency comments yet to be received by the City.



---

Charles E. Dillerud, City Planner

**Attachments:**

1. Location Map
2. Resolution #2004-071 – Concept Plan Approval
3. Planning Commission Minutes of August 9, 2004
4. Approved Concept Plan Graphic
5. Applicant's Graphics and Documentation (Partial)

**CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA**

**RESOLUTION NO. 2004-071**


**A RESOLUTION APPROVING THE OPEN SPACE CONCEPT PLAN FOR  
TAPESTRY AT CHARLOTTE'S GROVE**

**WHEREAS**, at its July 12 and August 9, 2004 meetings, the Lake Elmo Planning Commission reviewed the Open Space Concept Plan for Tapestry at Charlotte's Grove, a 172 acre site with 67 single family detached lots and 92+ acres of Preserved Open Space, and recommended approval to the City Council.

**NOW, THEREFORE, BE IT RESOLVED**, that the Lake Elmo City Council does hereby approve and accept the Open Space Concept Plan for Tapestry at Charlotte's Grove, located at Julep Avenue N. and 45<sup>th</sup> Street N., for 67 single family detached lots, as staff-dated August 5, 2004, based upon the following findings

1. The Concept Plan is generally consistent with the goals, objectives and policies of the Comprehensive Plan, as reflected by the Zoning Ordinance.
2. The Concept Plan is consistent with the purpose of the Open Space Preservation Ordinance.
3. The Concept Plan generally complies with the development standards of the Open pace Preservation Ordinance.

**ADOPTION**, by the Lake Elmo City Council this 17th day of August, 2004.

  
\_\_\_\_\_  
Lee Hunt, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Martin J. Rafferty, City Administrator

Tapestry Concept Res

# TKDA

ENGINEERS • ARCHITECTS • PLANNERS

1500 Piper Jaffray Plaza  
444 Cedar Street  
Saint Paul, MN 55101-2140(651) 292-4400  
(651) 292-0089 Fax  
www.tkda.com

September 23, 2004

Planning Commission Members  
City of Lake Elmo, MinnesotaRe: Preliminary Plat Review  
Tapestry at Charlotte's Grove  
City of Lake Elmo, Minnesota  
TKDA Commission No. 11979-041

Dear Planning Commission Members:

I have reviewed the preliminary plat material dated September 13, 2004, and have the following comments:

### *Streets*

Access to the subdivision is from the curve at 45th Street and Julep Avenue. There is good sight distance at this curve. The streets in the area are lightly traveled, so the increase in traffic will be noticeable, but well under the capacity of the streets.

Some of the streets are designed with a rural section. We do not allow rural sections in OP developments. The problems which lead to this decision included erosion on steeper slopes, problems with driveway culverts, and the desires of residents to fill in the ditches. The steep slopes do not appear to be a problem, and there are no driveway culverts. So the only issue to address would be with the property owner at a later date. The City staff should be able to deny any requests for filling in the ditch, since the drainage structures are in the bottom of the ditch. This issue should be discussed before preliminary plat approval.

It is planned that the shoulders on the rural section streets will not have gravel. They have substituted a reinforced sand mixture, with a topsoil layer in its place. This should be reviewed by Public Works.

Outlots B and C should be reviewed for their suitability as future streets. In both cases, the street should be graded and posted as a future street. We have had trouble with planned street extensions in the past. In these cases, residents were upset with the decision to build a road on their side lot line.

Outlot B is on the Keats Avenue alignment. If this corridor were improved, it would result in a well traveled street in and out of this plat.

Outlot C is in an awkward position within the cul-de-sac. This should be aligned differently

Preliminary Plat Review  
Tapestry at Charlotte's Grove  
City of Lake Elmo, Minnesota  
September 23, 2004  
Page 2

### *Drainage*

Drainage calculations were supplied and the drainage design is in accordance with City Standards. The Developer is using infiltration, ditches, and other methods to reduce the amount of run-off leaving the site.

The proposed alternate plan for using infiltration trenches instead of catch basin and storm sewers needs to be reviewed. The detail should be reviewed and modified for constructability. The circular draintile trench is not a standard construction method.

### *Septic System*

The septic system is not a wetland treatment type, but is of a similar design to them. It consists of a recirculating gravel/sand filter, followed by a full drainfield. A back-up area has been identified.

An MPCA permit is required for a septic system of this size. Final plat approval cannot be given until this is approved.

The septic system needs to be designed by a licensed ISTS designer. Final plat approval cannot be given until this completed.

Operation, mitigation, and monitoring plans are required. Final plat approval cannot be given until these are provided.

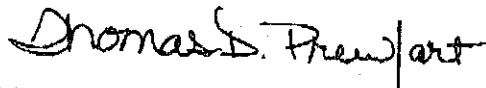
The lift station should be a duplex rather than a simplex station.

### *Grading*

In addition to the mass grading, the Developer will be removing debris in the ravines. The location of the debris removal should be noted. Permission from the City is required for work in Sunfish Lake Park.

Should you have any questions, please feel free to contact me.

Sincerely,



Thomas D. Prew, P.E.  
Project Manager

TDP:art

**MEMO**

(September 16, 2004 for the Meeting of September 20, 2004)

To: Lake Elmo Par Commission

From: Chuck Dillerud

Subject: Plat Review – Tapestry at Charlotte's Grove

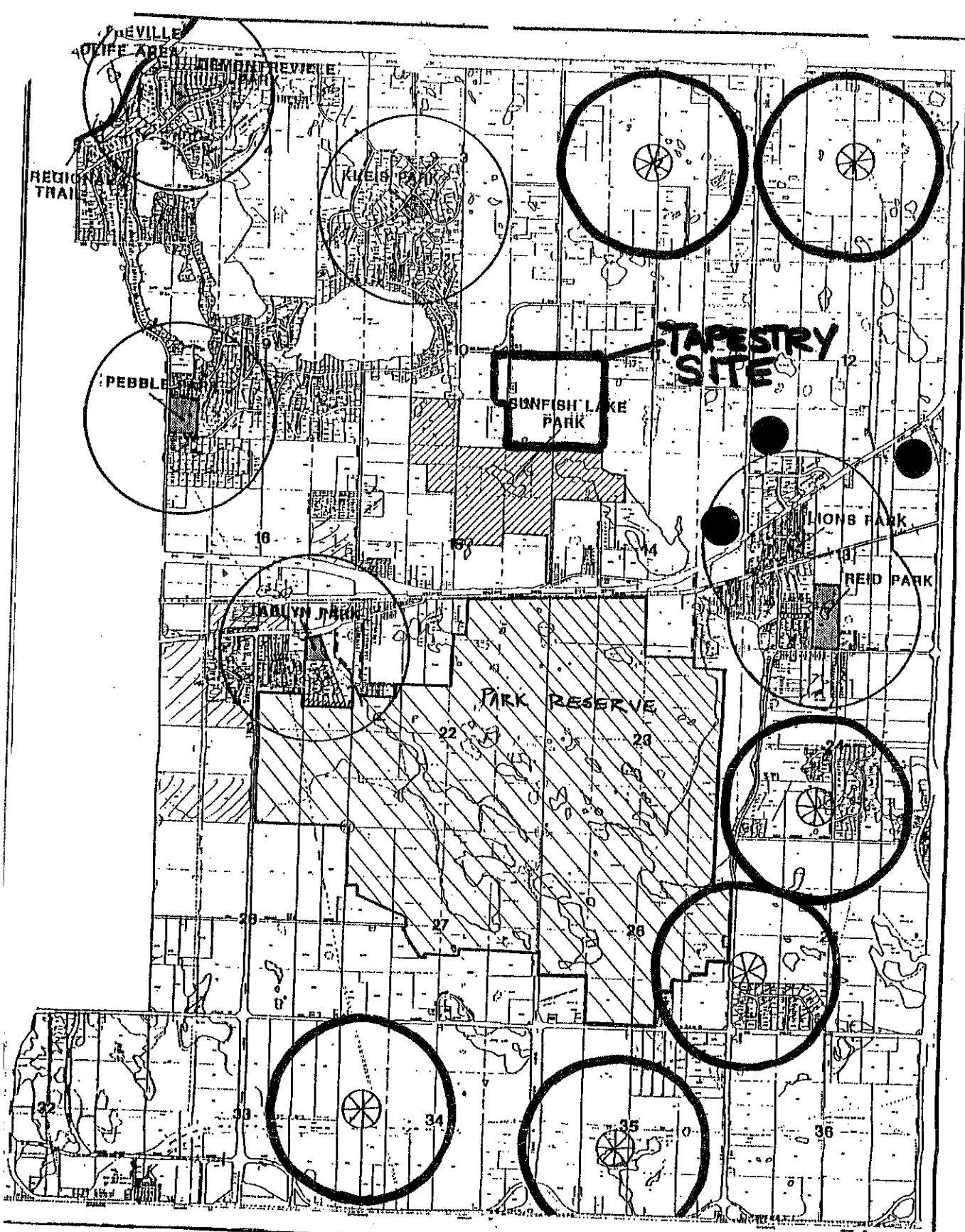
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The City Council has recently approved an OP Concept Plan to develop a 172 acre tract as a 67 lot residential subdivision. The developer has now submitted the Preliminary Plat and Development Plan for the project. The City has ordered the pre-development land value appraisal from the appraiser we have been using for the past few years. While that appraisal is yet to be completed, I estimate that the payable Park Dedication fees for the project will be in the \$225,000-\$250,000 range – or, less than that as that by an amount equal to the cost of developer-installed park/trail improvements required by the City. One or the other (or some combination) – not both. The task of the Park Commission is to determine what, if any, Public park/trail improvements are required within the Tapestry development to meet the City's city-wide park/trail plans.

The task Preliminary Plat depicts a proposed internal trail system at a length equal to or exceeding that required of the developer under the OP design standards of the City. That length of trails must be constructed at the developer's expense, regardless of any Public use plans the City may have. The question before the Commission is (like with Sunfish Ponds) is what, if any, of that proposed trail system should be a Public use/maintenance access and responsibility? We want to be certain that the strategy of our trail system plan is accommodated, but we also need to be careful to not "overkill" on Public improvements at the expense of the Park Dedication Capital Account that needs sustenance for City-wide park/trail improvements.

I have attached a copy of the latest park system plan, since surely the subject of neighborhood park needs here will arise as well. Recognizing that the type of development we encourage in Lake Elmo does not foresee as tight a grid of neighborhood parks as one would see in a more densely developed City (such as Oakdale), it does not appear that a neighborhood park is contemplated in this area. Does the Commission continue to believe that to be the case? Keep in mind that the development cost of even a minimal neighborhood park will be over \$50,000 plus the value of 5+ acres that would be required to be dedicated. In addition, Public trail access to/from the park would be required as well – maybe even in addition to the "through" Public trails that may be necessary here.









**lake elmo**

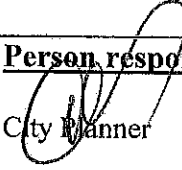
MAP #3

PROPOSED PARKS AND SERVICE AREAS

**LEGEND**

-  PROPOSED NEIGHBORHOOD PARK
-  1/2 MILE SERVICE AREAS
-  PROPOSED ACTIVE COMMUNITY PARK/FACILITY LOCATIONS

 **JAMES R. HILL, Inc.**  
 PLANNERS ENGINEERS SURVEYORS  
 1100 West Lovell Drive, Suite 170  
 Loveland, Colorado 80537

<b>Lake Elmo City Council October 5, 2004</b>	<b>Agenda Section: Planning, Land Use &amp; Zoning</b>	<b>No. 9C</b>
<b>Agenda Item:</b> Comprehensive Plan Amendment -- Inwood Associates		
<p><b><u>Background Information for October 5, 2004:</u></b></p> <p>At its meeting September 27, 2004 the Planning Commission conducted a Public Hearing on this application for Comprehensive Plan amendments and rezoning of a 160+ acre vacant parcel at the southeast corner of Inwood Avenue and 10<sup>th</sup> Street North. The applicant had proposed to reclassify and rezone this site from the present RAD/RR to part "Mixed Use Commercial", part "High/Medium Density Residential", and part "Single Family Residential" – all proposed uses to be served by Regional Sewer, requiring an Comprehensive Plan amendment to the Urban Service District (MUSA) as well.</p> <p>At the conclusion of the Hearing the Commission discussed the applications, the Hearing Testimony, and the Planning Staff Report; and, thereafter, unanimously adopted a recommendation that all applications be <u>denied</u>. The denial recommendation was based on Findings that there is no error in the present Comprehensive Plan regarding this site; there have been no changes in conditions regarding this site that would suggest Comprehensive Plan amendments are warranted; and, that the 5 Findings provided by the Planning Staff Report of September 20, 2004 are valid and applicable.</p>		
<p><b><u>Action items:</u></b></p> <p>Motion to deny the application of Inwood Associates for Comprehensive Plan and Zoning Map/Ordinance amendments for a site at the southeast corner of Inwood Avenue and 10<sup>th</sup> Street north based on the recommendation and Findings of the Planning Commission.</p>	<p><b><u>Person responsible:</u></b></p>  City Planner	
<p><b><u>Attachments:</u></b>                    087</p> <ol style="list-style-type: none"> <li>1. Draft Resolution # 2004 – Denial</li> <li>2. Draft Planning Commission Minutes of Sept. 27, 2004</li> <li>3. Planning Staff Report</li> <li>4. Location Map</li> <li>5. Applicant's Documentation</li> </ol>	<p><b><u>Time Allocated:</u></b></p>	

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2004 - 087

A RESOLUTION DENYING A COMPREHENSIVE PLAN AMENDMENT

WHEREAS, at its September 27, 2004 meeting, the Planning Commission conducted a Public Hearing and adopted a recommendation to deny the application of Inwood Associates for a Comprehensive Plan and Zoning Map/Ordinance to amend the Land Use Element of the Comprehensive Plan to reclassify approximately 160+ acre vacant parcel at the Southeast corner of Inwood Avenue and 10<sup>th</sup> Street North from RAD/RR (Rural Agricultural Development) to part "Mixed Use Commercial", part "High/ Medium Density Residential", and part "Single Family Residential" – all proposed uses to be served by Regional Sewer, requiring a Comprehensive Plan amendment to the Urban Service District (MUSA) based on the following Findings:

1. There is no change in conditions impacting the site that supports a Comprehensive Plan Amendment.
2. There is no demonstrated error in the Comprehensive Plan that impacts the site.
3. The site is eligible (with a Conditional Use Permit) for up to 64 dwelling units, of which up to 16 may be of a "common wall" design. That level of development intensity has resulted in significant residential development on other similar sites throughout the City over the past few years - and continues to today. There is no question that the 16 units per 40 acres residential density for which this site is eligible is reasonable use of the site. There is nothing unique regarding this site that truly distinguishes it from the many other sites in the City that have been successfully developed at 16 units per 40 acres – other than a "view" of Oakdale-style development.
4. Recent traffic studies related to on-going commercial developments in Oakdale and Woodbury have suggested that the I-94/Inwood interchange and associated service roads will approach "failure" Service Levels assuming development at the existing Lake Elmo Comprehensive Plan scale and intensity. To increase the development intensity of this site in the manner proposed by the applicants will certainly increase the traffic volumes at that interchange location, pushing the intersections into a "fail" Service level. MnDOT, County and FHWA officials have stated that there will be no funds available until well into the future to address the I-94/Inwood interchange congestion forecasts.
5. Over 50% of the Eagle Point Business Park PUD to the south remains vacant with all Public infrastructure and paid. In addition, several multiple use commercial developments exist or are under construction within a 1 mile radius of this site in Woodbury and Oakdale with hundreds of thousands of square feet available for almost any commercial use. We seriously question the Public's (and or market's) need for more commercial development in this area.

6. While Regional Sewer is installed in the Eagle Point Business Park south of this site, the available conveyance capacity is severely limited – to the extent that the City should not even be considering any “wet” user in Eagle Point – much less extending the Regional Sewer to another site as proposed by the applicant. No other Regional Sewer Interceptor capacity is available to this site, nor will it be for years – if ever.
7. The existing residential development to the east (Stonegate) is developed at a density 0.30 units per acre. At the minimum residential density allowable with Regional Sewer service (3 units per acre) a “single family” style residential development as proposed on this site would be 10 times the density of the existing neighborhood to the east. Such a large disparity of land use intensity (even if the land itself is the same) at such close proximity could adversely impact the character and property values of the existing development.

WHEREAS, at its October 5, 2004 meeting, the Lake Elmo City Council reviewed the application of Inwood Associates for a Comprehensive Plan Amendment; the City Planner’s memo of September 20, 2004; and the recommendations of the City’s Planning Commission.

WHEREAS, the Lake Elmo City Council has reviewed its records regarding the adoption of the City’s 2000 Comprehensive Plan (see City Planner memo dated September 20, 2004) and has determined that the City’s 2000 Comprehensive Plan Land Use Map designations for this site were not the result of error and that the conditions relating to the site and its surroundings have not changed significantly since the adoption of the City’s 2000 Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED, that the Lake Elmo City Council denies the application of Inwood Associates for Land Use Plan reclassification from RAD/RR (Rural Agricultural Development) to part Mixed Use Commercial, part High/Medium Density Residential, and part Single Family Residential; and related rezoning based on the findings presented by the Planning Commission.

ADOPTED, by the Lake Elmo City Council on October 5, 2004.

---

Lee Hunt, Mayor

ATTEST:

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Martin J. Rafferty, City Administrator

## **PUBLIC HEARING: Comprehensive Plan Amendment – Inwood Associates**

The Planner explained that the subject site is comprised of approximately 160 acres just north of Eagle Point Business Park and east of the Stonegate neighborhood. The application is for a Comprehensive Plan Amendment and consequent rezoning, changing the character from rural to urban. This action would change the zoning text and the map. The Planner reported that the applicants propose to essentially divide the parcel into thirds. The west portion would be mixed use commercial, the center would be high to medium density residential, and the east portion would be single family residential.

The Planner said that in the Staff Report he did attempt to define the terms of the applicant and those definitions would have to be added to the Comprehensive Plan, as well as the zoning classifications that would have to be created to match those definitions. He advised the Commission that a Comprehensive Plan Amendment is usually considered only when there is either a change in conditions since the initial Comprehensive Plan was adopted for the site or there was clearly documented error in the Plan. He advised the Commission that he could not detect an error in the Plan regarding this site nor any changes in condition regarding this site since the Comprehensive Plan was adopted – from the perspective of the City. Therefore, he reported that Staff suggests there are several Findings supporting a Commission recommendation to deny the proposed Plan/Zoning amendments:

1. The site is eligible (with a Conditional Use Permit) for up to 64 dwelling units, of which up to 16 may be of “common wall” design. That level of development intensity has resulted in significant residential development on other similar sites throughout the City over the past few years – and continues to today. There is no question that the 16 units per 40 acres residential density for which this site is eligible is reasonable use of the site. There is nothing unique regarding this site that truly distinguishes it from the many other sites in the City that have been successfully developed at 16 units per 40 acres – other than a “view” of Oakdale-style development.
2. Recent traffic studies related to on-going commercial developments in Oakdale and Woodbury have suggested that the I-94/Inwood interchange and associated service roads will approach “failure” Service Levels assuming development at the existing Lake Elmo Comprehensive Plan scale and intensity. To increase the development intensity of this site in the manner proposed by the applicants will certainly increase the traffic volumes at that interchange location, pushing the intersections into a “fail” Service level. MnDOT, County and FHWA officials have stated that there will be no funds available until well into the future to address the I-94/Inwood interchange congestion forecasts.
3. Over 50% of the Eagle Point Business Park PUD to the south remains vacant with all Public infrastructure and paid. In addition, several multiple use commercial developments exist or are under construction within a 1 mile radius of this site in Woodbury and Oakdale with hundreds of thousands of square feet available for almost any commercial use. We seriously question the Public’s (and or market’s) need for more commercial development in this area.
4. While Regional Sewer is installed in the Eagle Point Business Park south of this site, the available conveyance capacity is severely limited – to the extent that the City should not even be considering any “wet” user in Eagle Point – much less extending the Regional Sewer to another site as proposed by the applicant. No other Regional Sewer Interceptor capacity is available to this site, nor will it be for years – if ever.

5. The existing residential development to the east (Stonegate) is developed at a density 0.30 units per acre. At the minimum residential density allowable with Regional Sewer service (3 units per acre) a "single family" style residential development as proposed on this site would be 10 times the density of the existing neighborhood to the east. Such a large disparity of land use intensity (even if the land itself is the same) at such close proximity could adversely impact the character and property values of the existing development.

Commissioner Deziel asked if the city has sixty days to act upon this application.

The Planner said yes.

Commissioner Deziel asked if the city is going to have to deal with this sort of question regarding the site within nine months anyway during new Plan negotiations with the Metropolitan Council.

The Planner said that was not necessarily the case.. He advised the Commission at a City officials laid out parameters for how the City would like to deal with circumstances of the Metropolitan Council. The city requested a one year grace period for planning purposes. Planning off of 10th Street would be a very detailed plan for the area of the City south of 10<sup>th</sup> Street with the primary goal of preserving existing neighborhoods, along with not having a fiscal burden to the City. Tabling of this application to await the outcome of that work would not be productive since the time line of the work will be lengthy..

**Scott Montgomery, Inwood Associates**

Mr. Montgomery apologized for the minimum documentation in the application. He said he did not want to spend a great deal of money on giant plans. His idea was to take into consideration the development of the surrounding area there. He thought it was sensible to have commercial area buffered with townhomes then residential single family on the other side. They have this land under contract and it made sense to him to do it that way.

Commissioner Ptacek said the city usually tries to work with developers. In his opinion, the City usually does so from a friendly perspective and he said he felt the comments in the application regarding the Metropolitan Council appeared to create an adversarial position between the City and the applicant.

Commissioner Deziel said he appreciated the idea of mixed use development. He appreciated the consideration of buffering and less intense residential use. He said he would like to see parties working together in the future on a plan like this.

Commissioner Schneider said the applicant asked the city to furnish municipal sewer and municipal water. He asked if the applicant expects the city to pay for that.

Mr. Montgomery said he understood that the sewer was adjacent to this property, and no, they expect to pay for it.

THE CHAIR OPENED THE PUBLIC HEARING AT 8:17 P.M.

**Greg Milnar**

He said it maybe premature to get into details at this stage.

**Dan Stadick**

Mr. Stadick said he is a homeowner east of the subject area. He came to get a better idea and got that explanation from the City Planner. He said they like the view of the corn and hope it stays.

**Sheryl DeBruzzi**

Ms. DeBruzzi said she lives across Inwood in Oak Run Shores and access to their development is at the traffic beacon; and that there is a business development going in at 10<sup>th</sup> and Inwood with 200 parking spots. Residents already have a problem getting out of their neighborhood because of traffic. She asked what the prices would for homes in this neighborhood. She said that what is proposed by the applicant is vague; and, said that the sewer system is already at maximum capacity for Oakdale.

**Belinda Worth**

Ms. Worth said she is a homeowner in Stonegate. She said it is early in the process and the plan of the applicant is kind of vague, but she understands this parcel will be developed at some point. She assumes it will be residential. She would like the City to keep in mind that there should be a good buffer between Stonegate and the visual and noise concerns of two to three years of construction on this site.. She suggested that potentially there could be barriers created with berms and trees before the structures are built.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 8:21 P.M.

Chairman Helwig told the audience they would be kept informed.

M/S/P, Sedro/Schneider, To recommend denial of the Comprehensive Plan Amendment and rezoning based on the five specific Findings found in the Planning Staff Report on this application of September 20, 2004.

Commissioner Schneider commended the Planner for the Staff Report.

**VOTE: 6:0 PASSED.**

**LAKE ELMO PLANNING COMMISSION  
STAFF REPORT**

**Date:** September 20, 2004 for the Meeting of September 27, 2004

**Applicant:** Inwood Associates, LLC/North Suburban Co.

**Location:** Southeast Quadrant of Inwood Avenue and 10<sup>th</sup> Street North

**Requested Action:** Comprehensive Plan Amendments and Rezoning

**Land Use Plan Guiding:** RAD

**Existing Zoning:** RR

**Site History and Existing Conditions:**

City/County GIS records describe the present North Suburban ownership at this locations to be 5 contiguous tax parcels totaling 158.1 acres. The overall site is gently rolling and primarily open farm land. The course of Eagle Point Creek crosses the extreme southwest portion of the site. The site is directly bounded by the Eagle Point Business Park to the south, and the Residential Estates neighborhood Stonegate to the east. Vacant RAD-guided lands are located across 10<sup>th</sup> Street North to the north; and, a golf course (in the City of Oakdale) across Inwood Avenue to the west.

**Discussion and Analysis:**

The applicants' documentation in support of these requests is brief and generalized. Neither the Comprehensive Plan nor the Zoning Ordinance provide a detailed listing of application content requirements for these types of reviews. Hence Staff will here report as to what we believe the applicants are seeking from the City from the minimal information provided by them.

It appears the applicants propose such amendments to the text of the (1990) Comprehensive Plan; and, to the Future Land Use Map (1997 OP Amendment to the Comprehensive Plan, as later amended regarding OP classifications); and amendments to the site zoning that would result from those amendments to develop the entire site with service by City water and Regional sewer. The applicants have defined requested uses in general terms but have not quantitatively specified the proposed intensity of those uses. Therefore, the Comprehensive Plan amendments that appear to be requested are that of the 1990 text, as follows:

1. A statement that the City anticipates that portions of the City will be served by Regional Sewer (included within the Metropolitan Urban Service Area – MUSA), as Regional Sewer capacity becomes available.
2. Quantitative definitions of the uses the applicant proposes at “urban” (Regionally Sewered) intensity – not now addressed in the Comprehensive Plan, but could be as follows:
  - a. **Mixed Use Commercial** – “A single building containing more than one type of land use or a single development of more than one building and use, where the different land uses are in close proximity, planned as a unified, complimentary whole, and functionally integrated with transit, pedestrian access and parking areas.” (“Regional Development Framework”, METC, Page 51)



- b. **High to Medium Density** – Usually considered to be 3-5 units per acre (medium) and 5+ units per acre (High) in a Regional Sewer context.
- c. **Single Family** – At least 3 units per acre in a Regional Sewer context.

A second Comprehensive Plan Amendment that appears to be requested would be to the Future Land Use Map. The 1990 Future Land Use Map designated this site as RE (Residential Estates), thereby becoming eligible for conventional residential platting at 3.3 acres average lot size (2.5 acres minimum) and ISTS waste treatment. The most current Lake Elmo Future Land Use Map that has been concurred in by the Metropolitan Council is the OP Amendment of 1997. That map was later slightly amended to reclassify all OP designations to RAD at the time of the major amendments to the OP Ordinance. The subject site is, therefore, currently classified RAD. While no specific definition of RAD appears in the 1990 Plan, it is implied that the responsive zoning is RR – 1 unit per 10 acres. More recent amendments to the Zoning Ordinance have resulted in OP residential development (16 units per 40 acres, if clustered) becoming an allowable use in the RR zoning classification by Conditional Use Permit. Therefore, OP development now is the highest intensity use allowable on the site under the current Plan and Zoning Ordinance.

Given the foregoing, and the fact that no Land Use classes now exist in Lake Elmo for Regionally sewer residential development, new Future Land Use Map classes need to be created to accommodate a Land Use Plan amendment as here proposed. A simple approach would be to use the terms “Urban Residential High Density”, “Urban Residential Medium Density”, and “Urban Single Family Residential”, with quantitative densities as noted above attached to those terms – or, some other quantitative measures, but not less than 3 units per acre when Regionally sewer.

No Land Use Plan text or Plan Map amendments would necessarily be required for Regionally sewer commercial uses if said uses would comply with the “Business Park” land use classification and resulting BP zoning now of record in the City Plan and Zoning Ordinance. That, however, may not coincide with the applicants’ definition of “Mixed Use Commercial”.

Finally, the applicants request City zoning to accommodate the uses they propose. As with the Comprehensive Plan, the City Zoning Ordinance does not contemplate residential use at an “urban” scale (as defined by Metropolitan Council minimum development density for Regional Sewer service). If the aforementioned Comprehensive Plan amendments were adopted by the City – and applied to this site as proposed - it would appear logical to amend the Zoning Ordinance residential districting in a similar manner. Such Zoning Ordinance Amendments would be substantial and detailed as to set backs and other design-related provisions – far beyond the scope of this Staff Report. The City has, by Statute, 9 months to bring the Zoning Ordinance and Map into compliance with the Comprehensive Plan. There would be little practical sense in launching the complex Zoning Ordinance text modifications of this task until a decision on the Comprehensive Plan amendments proposed is rendered.

### **Findings and Recommendations:**

Comprehensive Plan amendments, are in most cases, supported by one or both of two circumstances:

1. A change in conditions impacting the site.
2. An demonstrated error in the land use classification of the impact site.

In this case, the applicants have not documented either circumstance in the materials submitted with the application. With that void from the applicants, and, while it is not necessarily the task of City Staff to do so, we have carefully considered what facts may be present that could lead to the conclusion that there has been some “change” or “error” that would suggest that there is basis to amend the Comprehensive Plan as proposed by the applicants. We have detected no supporting facts for “change” or “error” regarding this site. While it could be suggested that the Metropolitan Council would like to see Regional Sewer serving more of Lake Elmo than currently is the case – and apparently has some authority to influence those desires – those issues remain unresolved as to specifics of scale, timing or location.

We do suggest, however that sufficient reasons are apparent to not amend the Comprehensive Plan as proposed by the applicant:

1. The site is eligible (with a Conditional Use Permit) for up to 64 dwelling units, of which up to 16 may be of “common wall” design. That level of development intensity has resulted in significant residential development on other similar sites throughout the City over the past few years – and continues to today. There is no question that the 16 units per 40 acres residential density for which this site is eligible is reasonable use of the site. There is nothing unique regarding this site that truly distinguishes it from the many other sites in the City that have been successfully developed at 16 units per 40 acres – other than a “view” of Oakdale-style development.
2. Recent traffic studies related to on-going commercial developments in Oakdale and Woodbury have suggested that the I-94/Inwood interchange and associated service roads will approach “failure” Service Levels assuming development at the existing Lake Elmo Comprehensive Plan scale and intensity. To increase the development intensity of this site in the manner proposed by the applicants will certainly increase the traffic volumes at that interchange location, pushing the intersections into a “fail” Service level. MnDOT, County and FHWA officials have stated that there will be no funds available until well into the future to address the I-94/Inwood interchange congestion forecasts.
3. Over 50% of the Eagle Point Business Park PUD to the south remains vacant with all Public infrastructure and paid. In addition, several multiple use commercial developments exist or are under construction within a 1 mile radius of this site in Woodbury and Oakdale with hundreds of thousands of square feet available for almost any commercial use. We seriously question the Public’s (and or market’s) need for more commercial development in this area.
4. While Regional Sewer is installed in the Eagle Point Business Park south of this site, the available conveyance capacity is severely limited – to the extent that the City should not even be considering any “wet” user in Eagle Point – much less extending the Regional Sewer to another site as proposed by the applicant. No other Regional Sewer Interceptor capacity is available to this site, nor will it be for years – if ever.
5. The existing residential development to the east (Stonegate) is developed at a density 0.30 units per acre. At the minimum residential density allowable with Regional Sewer service (3 units per acre) a “single family” style residential development as proposed on this site would be 10 times the density of the existing neighborhood to the east. Such a large disparity of land use intensity (even if the land itself is the same) at such close proximity could adversely impact the character and property values of the existing development.

We suggest that the foregoing 5 observations, along with the lack of evidence of a change of conditions impacting the site or an error in the Comprehensive Plan, can become sufficient Findings upon which to base a recommendation for denial of the applicants’ proposed

Comprehensive Plan amendments. Without the applied for Comprehensive Plan amendments, rezoning of the site would be both inappropriate and illegal. Therefore the rezoning application should be recommended for denial as well.

**Planning Commission Actions Requested:**

Motion to recommend denial of the applications of Inwood Associates, LLC for Comprehensive Plan amendments and rezoning at the southeast quadrant of Inwood Ave. and 10<sup>th</sup> Street North based on the 7 Findings outlined in the Planning Staff Report of September 20, 2004.

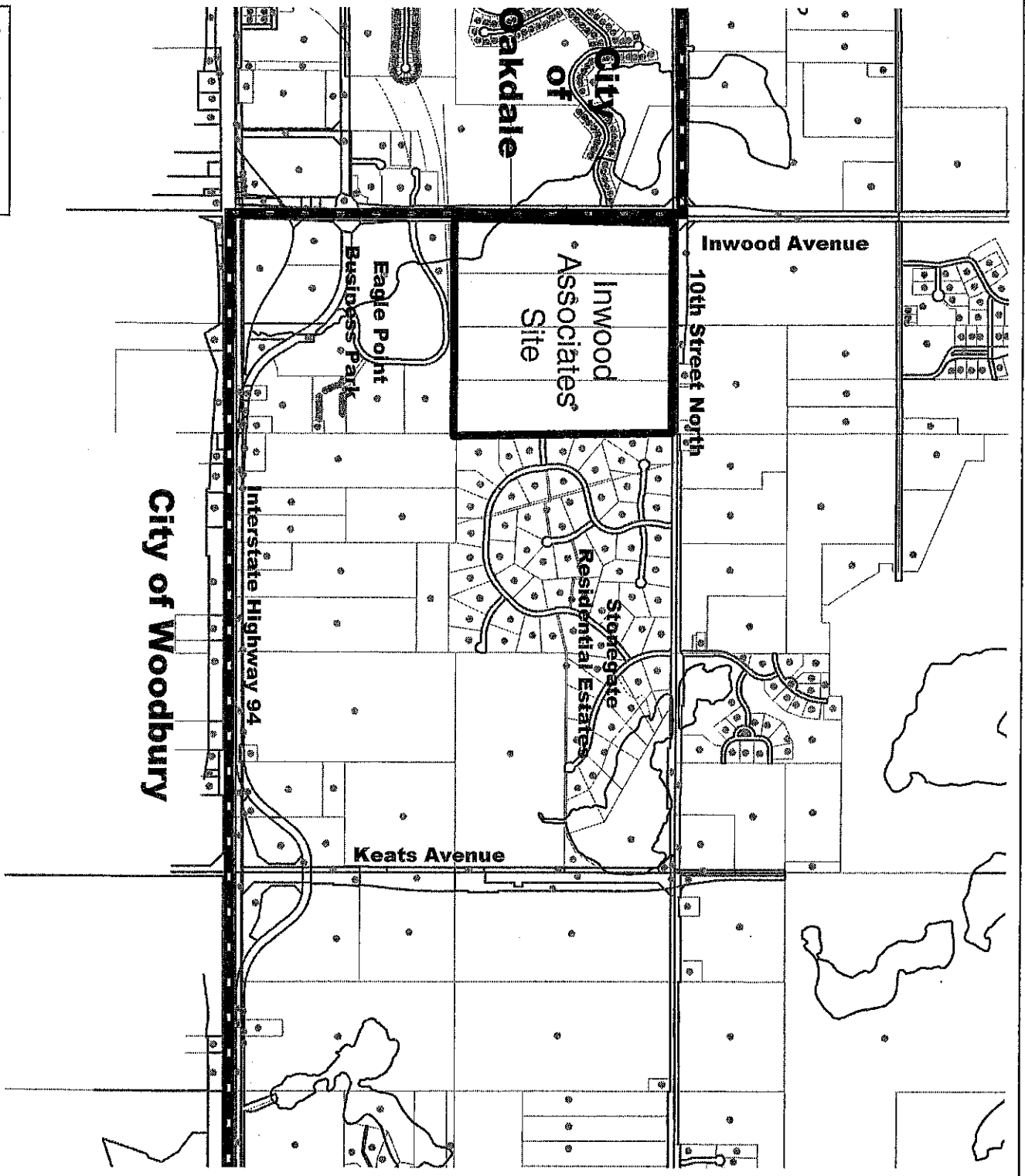


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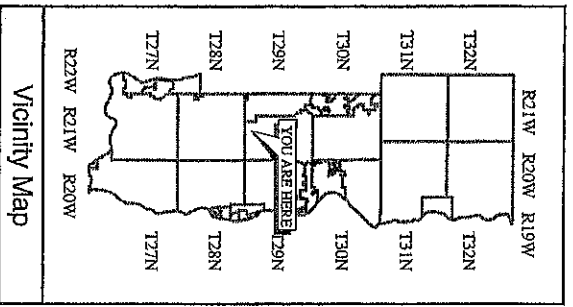
Charles E. Dillerud, City Planner

**Attachments:**

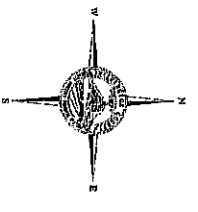
1. Location Map
2. Air Photo
3. Applicants' Documentation



Location Map

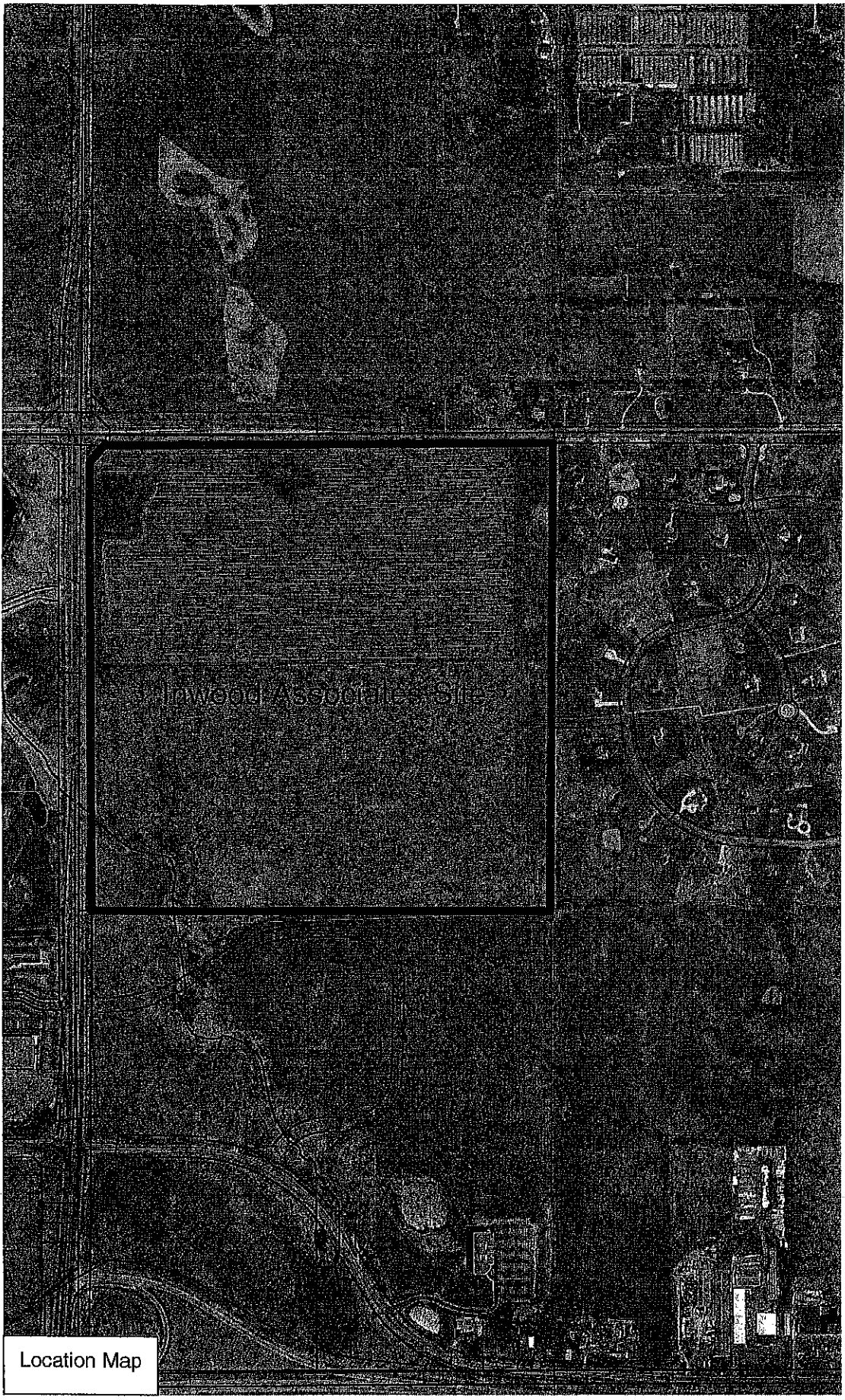


Vicinity Map

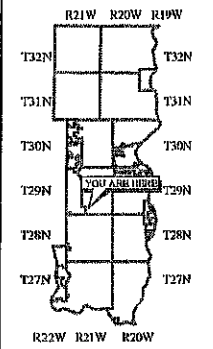


This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

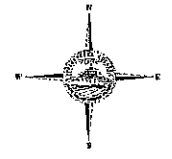
Source: Washington County Surveyor's Office  
 Phone (651) 430-6875  
 Parcel data based on AS400 information



Location Map



Vicinity Map



This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.  
Sources: Washington County Surveyor's Office, Phone (651) 439-6876  
Parcel data based on AS400 Information

DEVELOPMENT APPLICATION FOR COMPREHENSIVE  
PLAN AMENDMENT

Detailed Reason for Request

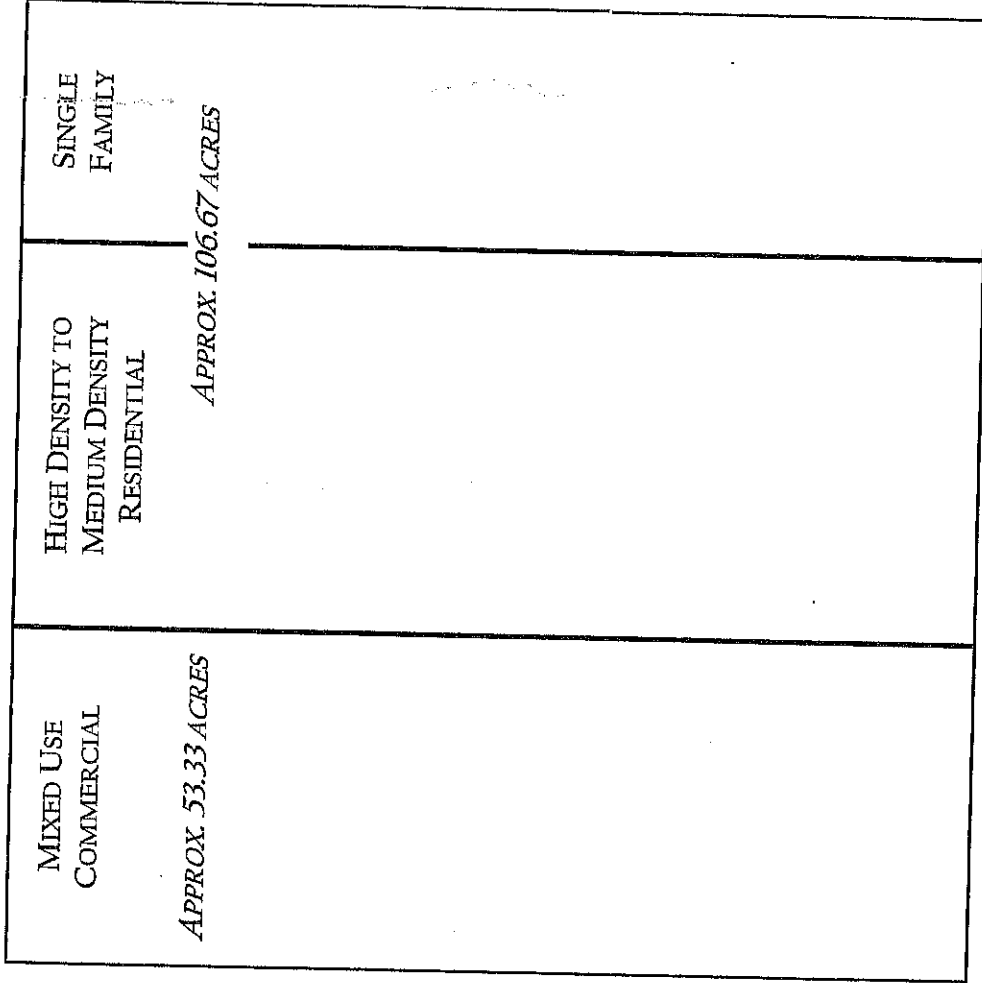
Applicant Inwood Associates, LLC ("Inwood") is engaged in final negotiations to purchase the Property, and currently holds an option for that purpose. Inwood is a real estate development concern, and has plans to develop the Property for medium to high-density mixed-use retail with ancillary residential use (see attached concept sketch (Exhibit "A")).

In order to enable such development it is necessary for the Property to acquire, among other things, a change in zoning designation from the current "R-R" (rural residential) classification either to "GB" (general business) or some other, new classification to allow this to go forward. Further, Inwood requests that municipal sewer and municipal water supply be furnished to the Property to service the new development, inasmuch as existing alternatives such as septic fields, at the scale of the proposed development, are impractical and most probably environmentally unsound.

It is our understanding that all of these proposed changes must begin, procedurally, with a request for a comprehensive plan amendment to enable such changes. Therefore Inwood requests, and hereby applies for, an Amendment to the current Lake Elmo Comprehensive Plan: (1) revising the Land Use Plan (Section II, pp. 8 through 29, generally) to reflect goals of greater density more in keeping with policies and guidelines evolving through the Metropolitan Council; (2) revising the Community Facilities Plan (Section III, pp. 30 through 50, generally) to allow for support services and infrastructure to serve the same goals; and (3) specific revisions as needed to authorize and implement (a) rezoning of the Property as requested, and (b) provision of City sewer and water services throughout the Property to support the proposed development and future enhancements of same.

All of the above to be in keeping with the policy goals set forth and implied by the Metropolitan Council.

# SKETCH PLAN



APPROX  
160 ACRES

INWOOD  
AVE


<b>Lake Elmo City Council October 5, 2004</b>	<b>Agenda Section: Planning, Land Use &amp; Zoning</b>	<b><u>No.</u> 9D</b>
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**Agenda Item:** Setback Variance – 3385 Lake Elmo Avenue (Brookman)

**Background Information for October 5, 2004:**

At its meeting September 27, 2004 the Planning Commission conducted a Public Hearing and unanimously adopted a recommendation for denial of a variance to the side yard setback standard of the R-1 zoning district. The applicant had requested construction of a new garage structure to replace one now existing essentially on the south property line of the subject site. The R-1 setback standard is 10 feet – about what the variance would be.

The Commission found that no physical hardship exists that would support a variance in that sufficient room appears available on the site to construct a new garage of the proposed dimensions that would fully comply with the setback standards.

<p><b><u>Action items:</u></b></p> <p style="text-align: center;">088</p> <p>Motion to adopt Resolution #2004 – denying a side yard setback variance to construct a new garage at 3385 Lake Elmo Avenue, based on the Findings and recommendation of the Planning Commission</p>	<p><b><u>Person responsible:</u></b></p> <p style="text-align: center;"> City Planner</p>
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<p><b><u>Attachments:</u></b></p> <p style="text-align: center;">088</p> <ol style="list-style-type: none"> <li>1. Draft Resolution 2004 - , Variance Denial</li> <li>2. Draft Planning Commission Minutes of Sept. 27, 2004</li> <li>3. Planning Staff Report</li> <li>4. Applicant's Documentation</li> </ol>	<p><b><u>Time Allocated:</u></b></p>
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CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2004-088

A RESOLUTION DENYING A SIDE YARD SETBACK VARIANCE REQUESTED  
BY CALVIN BROOKMAN AT 3385 LAKE ELMO AVENUE

WHEREAS, Calvin Brookman has made application to the City of Lake Elmo for a side yard setback variance in the R-1 zoning district to construct a new garage at 3385 Lake Elmo Avenue North, Lake Elmo, Minnesota.

WHEREAS, the Lake Elmo Planning Commission considered this variance request at its September 27, 2004 meeting, and recommended that the variance not be granted based on the following Findings:

1. The property can be put to reasonable use without the granting of the variance requested. Reasonable use must be defined in the context of the reasonable availability of locations that comply with R-1 setbacks to construct a garage of the dimensions proposed.
2. The variance requested does not result from physical circumstances unique to this property. Lot widths of 90 feet are common on properties developed responsive to the Open Space Preservation Ordinance over the past eight years. In addition, the circumstances leading to this request for variance are partly the result of 1971 actions by the applicant with the construction of an in-ground swimming pool at a locating on the site that precludes one (but not all) location options for a garage structure that meets setbacks.
3. Granting of the variance will not change the essential character of the neighborhood.

WHEREAS, the Lake Elmo City Council reviewed the side yard setback variance requested by Calvin Brookman, 3385 Lake Elmo Avenue, at the October 5, 2004 meeting.

NOW, THEREFORE, BE IT RESOLVED, that the Lake Elmo City Council hereby denies a side yard setback variance request to allow Calvin Brookman, 3385 Lake Elmo Avenue, to construct a new garage based on no physical hardship exists that would support a variance in that sufficient room appears available on the site to construct a new garage on the proposed dimensions that would fully comply with the setback standards.

ADOPTED by the Lake Elmo City Council on October 5, 2004.

\_\_\_\_\_  
Lee Hunt, Mayor

ATTEST:

\_\_\_\_\_  
Martin J. Rafferty, City Administrator

Brookman variance

**PUBLIC HEARING: Variance Sideyard Setback – Brookman**

The Planner reported that this application was for a sideyard setback variance for a residential lot on Lake Elmo Avenue. The applicant proposes razing and reconstructing a garage that has been there at least 75 years essentially on the south property line. He noted that he had visited the site and concurred that the existing structure is partially deteriorated. The applicant proposes to construct a new garage of the same size on the exact same location – on the south property line; and that a ten foot sideyard setback would be required in R-1 Zone. The Planner reported that he believes that sufficient area is available on the site to construct the new garage without the need for a setback variance, and suggested denial of the variance based on the following Findings:

1. The property can be put to reasonable use without the granting of the variance requested. Reasonable use must be defined in the context of the reasonable availability of locations that comply with R-1 setbacks to construct a garage of the dimensions proposed.
2. The variance requested does not result from physical circumstances unique to this property. Lot widths of 90 feet are common on properties developed responsive to the Open Space Preservation Ordinance over the past eight years. In addition, the circumstances leading to this request for variance are partly the result of 1971 actions by the applicant with the construction of an in-ground swimming pool at a location on the site that precludes some (but not all) location options for a garage structure that meets setbacks.
3. Granting of the variance will not change the essential character of the neighborhood.

The Planner continued that he recognizes the applicant has to do something with the existing garage. However, he questioned whether there is another option short of rebuilding on the exact same location. He observed that even though this lot is ninety feet wide, this lot width is common with dozens of OP lots throughout the City, and not a unique physical circumstance. He noted that an extensive portion of the property is utilized as a drive/turnaround that could be modified, and still function as an alternative to vehicles backing onto Lake Elmo Avenue. He said he believes the applicant could meet setbacks and make a new garage of the same size work on this property. A competent designer could come up with something that would work.

The Planner reported that the adjoining neighbor to the south has endorsed approval of the variance in writing.

**Kelly Brookman, Applicant**

The applicant provided written statements from all abutting property owners who approve or do not object to this variance. Rather than the survey, he asked the commissioners to refer to the aerial photo. There you can see where the pool is and the garage is upper left of the pool. Move the 22 feet of garage ten feet and deduct ten feet on the other property line, and then deduct the width of the driveway, and then you are down to 38 feet which is too small to turn around. A turnaround is better for safety for ingress and egress on Lake Elmo Avenue. The circle works pretty well. The existing garage has been there 75-80 years, and the neighbor's garage is on the same line. He said he cannot understand why the new garage cannot be put there. It is an ideal spot for it. Moving that garage east or west, turning the garage north-south will create a mess in the backyard for getting around. He said he understands the ten foot setback, but it does not make sense in this situation. It is a unique situation, and he said he would hope the commissioners will consider it.

Commissioner Schneider noted the neighbor gets in and out by backing out onto County Road 17.

Mr. Brookman said that is dangerous and traffic is getting worse.

Commissioner Ptacek asked if the speed limit is 30 there. He asked if a Lot Line Adjustment with the neighbor to the south (perhaps resulting in both garage locations becoming conforming with setbacks) would be a better solution.

Mr. Brookman said it would be easier to grant the variance.

THE CHAIRMAN OPENED PUBLIC HEARING AT 8:49 P.M.

Nobody offered testimony.

THE CHAIR CLOSED THE PUBLIC HEARING AT 8:50 P.M.

Commissioner Ptacek said he appreciates the need for garages but that they should be built at the setback. He said it was a black and white issue that the variance is not needed.

M/S/P, Ptacek/Sessing, To recommend denial of a sideyard setback variance based on Findings and recommendations in the Staff Report.

Commissioner Deziel said we should think of these situations when we make those setback laws. This is a good example of a need to build flexibility into our zoning laws.

Commissioner Sedro said building on a lot line puts undo burden on a neighbor.

Mr. Brookman pointed out that his neighbor has the same situation.

**VOTE: 6:0 PASSED.**

**LAKE ELMO PLANNING COMMISSION  
STAFF REPORT**

**Date:** September 22, 2004 for the Meeting of September 27, 2004

**Applicant:** Calvin J. Brookman

**Location:** 3385 Lake Elmo Avenue

**Requested Action:** Side Yard Setback Variance

**Land Use Plan Guiding:** SRD

**Existing Zoning:** R-1

**Site History and Existing Conditions:**

According to the applicant, this .81 acre (35,000 square foot) site has been developed with a home and detached garage structure for at least 75 years. City records regarding the site begin in 1971 with a Special Use Permit approved to construct an in-ground swimming pool, and complete internal remodeling. Since 1971 several permits for siding, roofing and mechanical renewals have also been issued. The only site-related City action has been a 1994 permit to construct a 140 square foot "tool shed" (more likely used as a "pool shed" today).

**Discussion and Analysis:**

The applicant proposes to raze and replace a 22 foot by 34 foot detached garage structure that has reported structural deterioration, with the replacement structure of the same dimensions and in the same location as the structure to be razed. The existing structure is located on or about the south property line of the site where the R-1 setback standards require a 10 foot side yard setback for the new garage structure. The applicant claims a physical site hardship related to the width of the site (90 feet), and dangerous driveway access to Lake Elmo Avenue should the applicant be required to construct a new garage with the required set back.

While it is true that the site is narrow at 90 feet, it is also true that the site is long – 425 feet west to east, with 290 feet from the rear of the dwelling to the rear property line. The aforementioned in-ground pool is situated in the north center of the site with the fence enclosure some 115 feet behind the dwelling, with a circular drive arrangement between the house and pool/garage locations. There would appear to be a rectangle of 70 feet by about 115 feet between the house and the pool fence within which a detached garage could be constructed without requiring a setback variance – with room remaining to accommodate a driveway maneuvering area sufficient to avoid backing out onto Lake Elmo Avenue.

Staff has briefly discussed this situation with the applicant while recently visiting the site. As we have advised the applicant, we are not prepared to design his garage driveway configuration for him, but it appears to us that a design is possible that will function – and mitigate his stated hardship – within the prescribed setbacks of the zoning ordinance. An altered view from house to pool area is surely not a physical hardship.

**Findings and Recommendations:**

As with all zoning ordinance variance applications, the City Code requires the Planning Commission to address several required Findings in its recommendation to the City Council. It is the rigorous application those Findings that provides legal defense to the City from precedent issues with future variance applications. In the terms of those Code-prescribed Findings Staff suggests the following regarding this application:

1. The property can be put to reasonable use without the granting of the variance requested. Reasonable use must be defined in the context of the reasonable availability of locations that comply with R-1 setbacks to construct a garage of the dimensions proposed.
2. The variance requested does not result from physical circumstances unique to this property. Lot widths of 90 feet are common on properties developed responsive to the Open Space Preservation Ordinance over the past eight years. In addition, the circumstances leading to this request for variance are partly the result of 1971 actions by the applicant with the construction of an in-ground swimming pool at a location on the site that precludes some (but not all) location options for a garage structure that meets setbacks.
3. Granting of the variance will not change the essential character of the neighborhood.

Staff suggest that the applicant can find a location for the new garage that will meet setback standards within the lot area between the house and the swimming pool that will not result in a need to back out onto Lake Elmo Avenue.

**Planning Commission Actions Requested:**

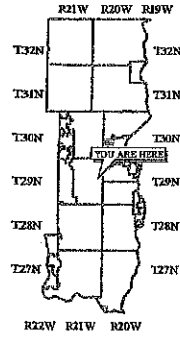
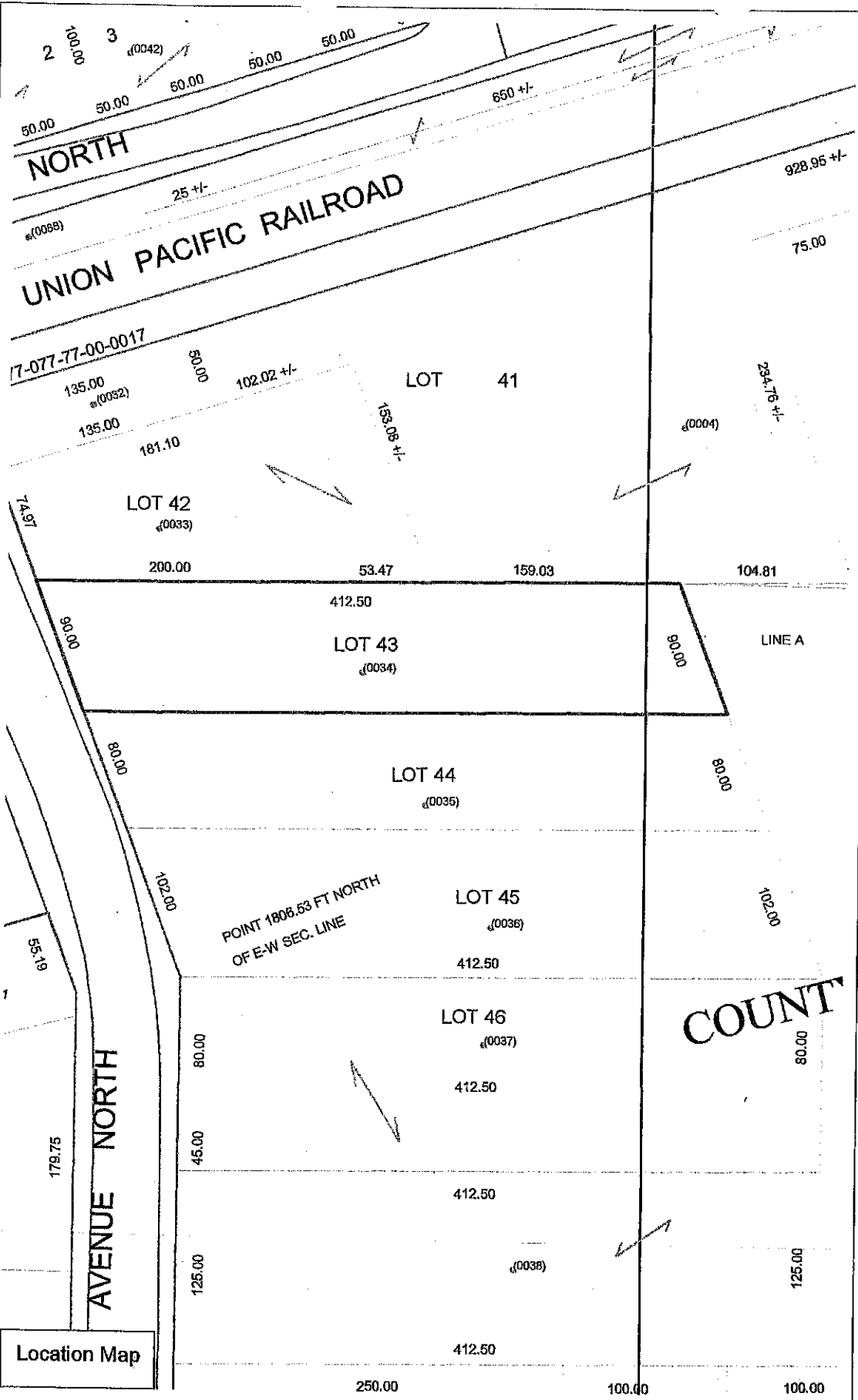
The foregoing Findings suggest a Planning Commission Motion to recommend to the City Council a denial of the variance application. Should the Commission determine some other recommendation is more appropriate, the Findings should be modified accordingly to support that recommendation.



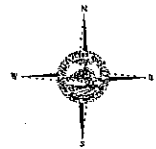
Charles E. Dillerud, City Planner

**Attachments:**

1. Location Map
2. Air Photo
3. Applicant's Documentation



Vicinity Map



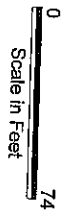
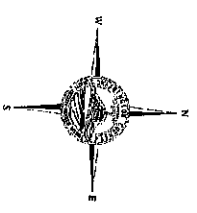
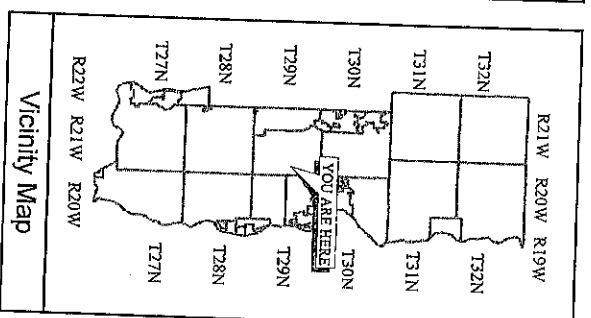
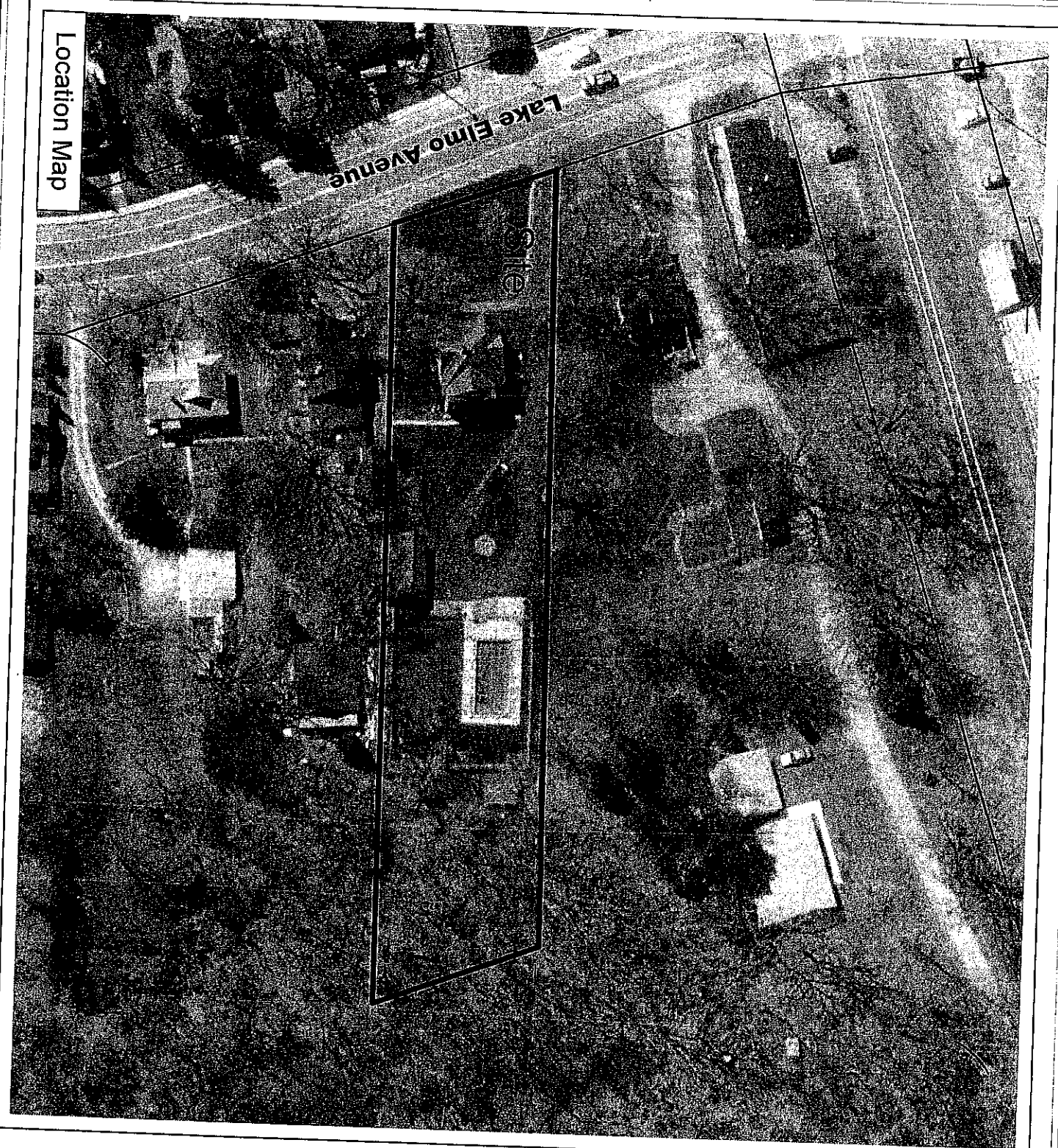
COUNTY

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SEP 14 2004

Location Map

This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.  
Source: Washington County Surveyor's Office, Phone (661) 436-9075  
Parcel data based on AFRS information current through May 31, 2004  
Map printed: July 6, 2004

Location Map



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Source: Washington County Surveyor's Office  
 Phone (651) 430-6875

Parcel date based on AS400 information



City of Lake Elmo  
DEVELOPMENT APPLICATION FORM

- Comprehensive Plan Amendment
- Variance \* (See below)
- Residential Subdivision Preliminary/Final Plat
  - 01 - 10 Lots
  - 11 - 20 Lots
  - 21 Lots or More
- Zoning District Amendment
- Minor Subdivision
- Excavating & Grading Permit
- Text Amendment
- Lot Line Adjustment
- Appeal
- PUD
- Flood Plain C.U.P. Conditional Use Permit
- Residential Subdivision Sketch/Concept Plan
- Conditional Use Permit (C.U.P.)
- Site & Building Plan Review

APPLICANT: Calvin J. Brookman 3385 LAKE ELMO AV. N.  
 (Name) (Mailing Address) LAKE ELMO, MN 55042  
 (Zip)

TELEPHONES: 777-9750  
 (Home) (Work) (Mobile) (Fax)

FEE OWNER:  
 (Name) (Mailing Address) (Zip)

TELEPHONES:  
 (Home) (Work) (Mobile) (Fax)

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 SEP 14 2004

PROPERTY LOCATION (Address and Complete (Long) Legal Description):  
3385 LAKE ELMO AV. N.  
LOT 43 of COUNTY AUDITORS PLAT #8  
22' x 34'

DETAILED REASON FOR REQUEST: TO REPLACE A GARAGE THAT IS 75+ YEARS OLD.  
IT HAS STRUCTURAL PROBLEMS, HAS MOVED OFF THE FOUNDATION, THE  
CONCRETE FLOOR HAS SEVERAL 1" + 2" CRACKS ACROSS ENTIRE FLOOR.  
SIDING IS IN A DETERIORATED STATE.

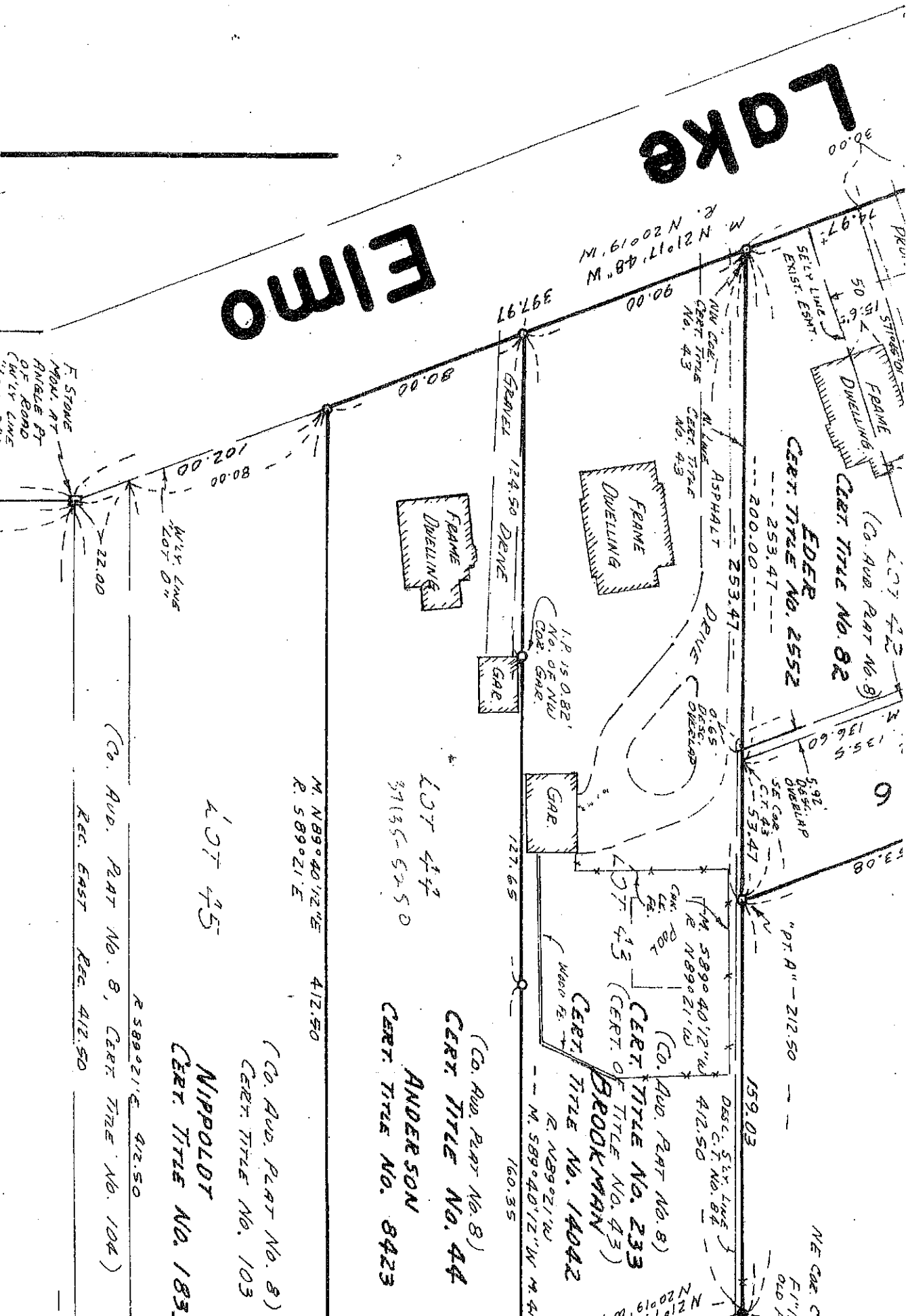
\*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:  
VARIANCE FROM THE REQUIREMENT OF A 10' SIDE LOT SET BACK. THE PRESENT  
GARAGE IS BUILT ON THE PROPERTY LINE, AS IS THE NEIGHBOR'S. THE LOT IS 90' WIDE.  
THE GARAGE WITH A 10' SET BACK WOULD TAKE OVER 1/3 WIDTH OF LOT. THAT WOULD  
NOT ALLOW FOR THE PRESENT TURN AROUND DRIVEWAY, WOULD HAVE TO BACK OUT OF A  
LONG NARROW DR. ONTO BUSY LAKE ELMO AV. VERY DANGEROUS. IT WOULD ALSO BE  
 In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Calvin J. Brookman 8/18/04  
 Signature of Applicant Date  
Calvin J. Brookman  
Ruth Brookman 8/18/04  
 Signature of Applicant Date

10/1/2003 City of Lake Elmo • 3800 Laverne Avenue North • Lake Elmo • 55042 • 651-777-5510 • Fax 651-777-9615  
 VERY UNSIGHTLY FOR NEIGHBOR THE NEIGHBORS ON BOTH SIDES  
 AGREE AND APPROVE OF THE NEW GARAGE BEING BUILT ON THE SITE  
 OF THE PRESENT GARAGE.

# Lake

# Elmo



SEPT, 19,2004

TO THE LAKE ELMO PLANNING COMMISSION

WE ARE THE OWNERS OF THE PROPERTY THAT ABUTS THE BROOKMAN PROPERTY ON THE SOUTH AND EAST SIDE.

OUR GARAGE AND THE BROOKMAN GARAGE ARE BOTH WITHIN A FOOT OF THE SOUTH PROPERTY LINE.

WE HAVE NO OBJECTION TO THE BROOKMANS REPLACING THEIR OLD GARAGE ON THE SAME LINE AS THEIR PRESENT ONE.

DUE TO THE NARROW WIDTH OF OUR LOTS, AND THAT BOTH OF OUR GARAGES HAVE BEEN ON THE LOT LINE FOR 50 PLUS YEARS , WE FEEL THE VARIANCE SHOULD BE GRANTED.

SIGNED PATRICIA ANDERSON

*Patricia J. Anderson*

RUSSELL ANDERSON

*Russell W. Anderson*

SEPT, 21, 2004

WE, THE PROPERTY OWNERS LISTED BELOW, HAVE NO OBJECTION TO THE BROOKMANS RECEIVING A VARIANCE TO REPLACE THEIR GARAGE ON THE SAME LOCATION AS THEIR OLD ONE.

SIGNED Susan Wang 9-25-04  
ADDRESS AND DATE 3405 Lake Elmo Ave N Lake Elmo, Md  
55042

SIGNED Tim Richards 9-25-2004  
ADDRESS AND DATE 3405 Lake Elmo Ave N Lake Elmo, MN 55042

SEPT, 21, 2004

WE, THE PROPERTY OWNERS LISTED BELOW, HAVE NO OBJECTION TO THE BROOKMANS RECEIVING A VARIANCE TO REPLACE THEIR GARAGE ON THE SAME LOCATION AS THEIR OLD ONE.

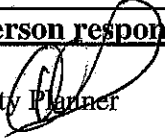
SIGNED Willard J. Eder 9-24-04

ADDRESS AND DATE 3407 LAKE ELMO AVE.

SIGNED Sandra Eder

ADDRESS AND DATE 3407 Lake Elmo Ave. No.

9/24/04

<b>Lake Elmo City Council October 5, 2004</b>	<b>Agenda Section: Planning, Land Use &amp; Zoning</b>	<b><u>No.</u> 9E</b>
<b><u>Agenda Item:</u> Appointments to Planning Commission</b>		
<p><b><u>Background Information for October 5, 2004:</u></b></p> <p>The Council interviewed several candidates for the two current Planning Commission vacancies (1 Full Voting and 1 Alternate) on September 21. Since two candidates were unable to attend the interview session on that date, additional interviews were completed immediately prior to this meeting.</p> <p>At this time the Council should consider appointing two of the candidates to the Commission (1 as a Full Voting Member and 1 as an Alternate). We understand that a system for ranking candidates that has been used previously will again be used to facilitate the appointments. City Clerk Lumby will be available to assist with the ranking process.</p>		
<p><b><u>Action items:</u></b></p> <ol style="list-style-type: none"> <li>1. Motion to appoint _____ as a Full Voting Member of the Planning Commission.</li> <li>2. Motion to appoint _____ as the Second Alternate Member of the Planning Commission</li> </ol>	<p><b><u>Person responsible:</u></b></p>  City Planner	
<p><b><u>Attachments:</u></b></p> <ol style="list-style-type: none"> <li>1. Candidate Applications</li> </ol>	<p><b><u>Time Allocated:</u></b></p>	

City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, Minnesota 55042  
651.777.5510 Fax 777.9615

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AUG 18 2004



APPLICATION FOR PLANNING COMMISSION APPOINTMENTS

Date: 8 / 16 / 2004

Name Thomas P. Armstrong  
Address 8280 15th St. N.  
Phone Number W) 651-738-2450 H) 651-739-5047

1. What do you consider to be the major planning and development issues confronting the City of Lake Elmo?

The Met Council and its required modifications to the Comprehensive Plan.

2. What do you see as the role and function of the Planning Commission?

To advise the City Council regarding planning, development, and zoning issues.

3. What experience and qualifications do you have that you feel will contribute to the Planning Commission's work and which will enable you to provide a service in this regard?

I have served on the Planning Commission before, during the drafting of our Comprehensive Plan.

4. How much time do you have, or are you willing to devote to Planning Commission activities?

As much time as necessary.

5. What property or development interest, either direct or indirect, do you have within Lake Elmo?

My wife and I own 40 acres of agricultural land, which is part of my family's 260 acre farm.

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SEP 20 2004

City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, Minnesota 55042  
651.777.5510 Fax 777.9615

## APPLICATION FOR PLANNING COMMISSION APPOINTMENTS

Date: 09/19/2004

Name: Rita B. Conlin

Address: 8560 Ironwood Trail North  
Lake Elmo MN 55042

Phone Number W) 612-253-4249 H) 651-770-8112

1. What do you consider to be the major planning and development issues confronting the City of Lake Elmo?

The I-94 Corridor. In view of recent regional planning authority decisions and legal decisions, the city will need to be creative and cutting edge in planning development along I-94. We need regulations and ordinances in place that preserve a rural ambiance while allowing for the housing and business demands of the region.

2. What do you see as the role and function of the Planning Commission?

An advisory body to the city council and city staff which provides research, analysis and public perspective on planning and zoning issues/projects. Facilitate public input, make recommendations to the city council.

3. What experience and qualifications do you have that you feel will contribute to the Planning Commission's work and which will enable you to provide a service in this regard?

- 25 yr resident of Lake Elmo
- Served on the Planning Commission 2 terms
- Served on the City Council 6 yrs
- Served 8 yrs Core Member of Recycle and Preserve Parks

4. How much time do you have, or are you willing to devote to Planning Commission activities?

As needed.

5. What property or development interest, either direct or indirect, do you have within Lake Elmo?

A single family home owner for 25 years, no other financial interest.

Please complete and return to the City Office



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SEP 03 2004

Original

City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, Minnesota 55042  
651.777.5510 Fax 777.9615



APPLICATION FOR PLANNING COMMISSION APPOINTMENTS

Date: 9/1/04

Name Julie Fliflet

Address 4577 Lily Ave N

Phone Number W) 651-265-0727 H) 651-439-2171

1. What do you consider to be the major planning and development issues confronting the City of Lake Elmo?  
Keeping the "rural" feel of Lake Elmo while at the same time growing + keeping up with the times to develop our area in a way that gives residents services + facilities that they want and that will contribute to a better way of life.
2. What do you see as the role and function of the Planning Commission?  
To look in detail at planning issues affecting Lake Elmo + make recommendations to the City Council regarding those issues.
3. What experience and qualifications do you have that you feel will contribute to the Planning Commission's work and which will enable you to provide a service in this regard?  
I am a business woman - and have been for 13 years. I am a CPA, + I am well educated. I am a very analytical person + have the ability to see the big picture on issues. I am not afraid to give my opinion + speak my mind. I try to consider all viewpoints on issues + arrive at the best possible solution for all involved.
4. How much time do you have, or are you willing to devote to Planning Commission activities?  
From my understanding there are 2 meetings per month and that there is also some time involved in studying issues + gathering information that will be discussed at those meetings. My schedule will allow me to devote that time to Planning Commission activities.
5. What property or development interest, either direct or indirect, do you have within Lake Elmo?  
We have a home in Tana Ridge.

Please complete and return to the City Office

City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, Minnesota 55042  
651.777.5510 Fax 777.9615

APPLICATION FOR PLANNING COMMISSION APPOINTMENTS

RECEIVED

Date: 1/07/03

JAN 7 2003

Name Gloria Knoblauch

CITY OF LAKE ELMO

Address 9181-31 St. N.

Phone Number W) \_\_\_\_\_ H) 777-6471

1. What do you consider to be the major planning and development issues confronting the City of Lake Elmo? Sewer along Hwy 94 to be used by businesses and zoned accordingly. Building affordable housing for our seniors and young families.
2. What do you see as the role and function of the Planning Commission?  
Advise the city council on zoning and variances.
3. What experience and qualifications do you have that you feel will contribute to the Planning Commission's work and which will enable you to provide a service in this regard?  
I was on the Park's commission for 3 terms ending in Feb. 2000. I regularly attend city council meetings. I belong to the Oakdale-Lake Elmo Historical Society.
4. How much time do you have, or are you willing to devote to Planning Commission activities?  
I need to spend 2 hrs. reading the packet. I like to do research on special topics.
5. What property or development interest, either direct or indirect, do you have within Lake Elmo?  
We own an acre of land (with house) in Friedrichsville

Please complete and return to the City Office

City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, Minnesota 55042  
651.777.5510 Fax 777.9615

**APPLICATION FOR PLANNING COMMISSION APPOINTMENTS**

Date: Dec. 30/02

Name LeRoy J Rossow  
Address 11050 50th St. Lake Elmo, Mn 55042  
Phone Number (W) 651 439 6184 (H) 651 439 6327

1. What do you consider to be the major planning and development issues confronting the City of Lake Elmo?  
How and when to expand the proper use of the available unuse land. . .

2. What do you see as the role and function of the Planning Commission?

To meet the needs of the public and help decide the various issues as necessary . . .

3. What experience and qualifications do you have that you feel will contribute to the Planning Commission's work and which will enable you to provide a service in this regard?

Old enough to know and understand , No one can serve the needs and requests of everyone .

4. How much time do you have, or are you willing to devote to Planning Commission activities?

WHAT every public volunteer should be able to understand, all the time that is necessary

5. What property or development interest, either direct or indirect, do you have within Lake Elmo?

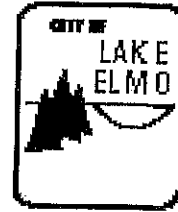
L E. resident for 18 yrs. Associated in area 35 yrs Owned land in Lake Elmo 33 yrs

Please complete and return to the City Office

RECEIVED

SEP 10 2004

City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, Minnesota 55042  
651.777.5510 Fax 777.9615



## APPLICATION FOR PLANNING COMMISSION APPOINTMENTS

Date: 09 / 03 / 2004

Name: Ben Roth  
Address: 10819 Third Street Place  
Phone Number: W) 665-5461 H) 337-2015

1. What do you consider to be the major planning and development issues confronting the City of Lake Elmo? City leaders are challenged with defining the vision of our community as pressure to urbanize comes on many fronts. We must use creativity and common sense to define the future identity of Lake Elmo.
2. What do you see as the role and function of the Planning Commission? The role of the Planning Commission is two-fold. First, the Planning Commission must be an advisory body to the City Council (e.g., researching and reporting on the best practices and identifying model communities around the nation). Second, the Planning Commission must be an administrative body providing guidance and recommendations (e.g., reviewing development proposals and providing technical assistance to citizens and organizations).
3. What experience and qualifications do you have that you feel will contribute to the Planning Commission's work and which will enable you to provide a service in this regard?

I would bring the following key strengths to the Planning Commission:

- Leadership in the ability to motivate others, be a team player and deliver pertinent & timely results.
- Creative solutions to issues and problems. Outside of the box thinking, when appropriate.
- Positive attitude at all times. I'm at my best when confronted with challenging situations.
- Ability to listen to others, balance diverse opinions and maintain open and honest dialogue.

These strengths have been developed through many years of work experience in the financial services industry including my current role leading Strategic Projects at Minnesota Life Insurance Company, and through my education (MBA from Northwestern University in Evanston, IL; Bachelor of Science in Mathematics & Actuarial Science from Drake University in Des Moines, IA).

I would also bring a very good knowledge of the community and of the government process.

4. How much time do you have, or are you willing to devote to Planning Commission activities? While I work full time and have regular family commitments, I will make whatever time is needed to fulfill the needs of the City and the Planning Commission. I could attend several hours of meetings each week and devote time outside of the meetings to conduct research, review proposals, prepare work plans, and develop ideas & potential solutions.
5. What property or development interest, either direct or indirect, do you have within Lake Elmo? I am a resident of Lake Elmo. My home is located at 10819 Third Street Place.

Please complete and return to the City Office

Lake Elmo  
City Council  
October 5, 2004

Agenda Section: Planning, Land Use & Zoning

No. 9F

**Agenda Item:** Old Village Moratorium (Ordinance will be handed out at meeting)

**Background Information for October 5, 2004:**

As staff advised the Council on September 21, the Old Village Moratorium expired during the first week of September. Of the three infrastructure investigation that the Council directed before adopting an the Old Village Comprehensive Plan amendment that has been recommended by the Village Commission and Planning Commission, one (Surface Water Drainage) remains to be completed by TKDA. The purpose of the former Moratorium within the Old Village Area was to allow time to complete these important investigations related to the impact of the recommended Plan on Public infrastructure.

The Surface Water work has been on hold for several months pending the update of the Valley Branch Watershed District Plan that is under way (the entire Old Village Area is within the Valley Branch jurisdiction). That District Plan update has not met the schedule that was understood by the City. Staff has now advised the City Engineer to proceed with the Old Village Surface Water Plan without further waiting on the District's Plan. Mr. Prew has advised that 4-6 weeks will be required to complete hydrologic modeling, and present a draft Plan for the Old Village surface water handling.

Considering the foregoing it has been suggested that the City may wish to re-establish a Development Moratorium in the Old Village Plan Area pending completion of the surface water work. We have attached a new ordinance that would accomplish that proposal. The Moratorium duration is not specified, and should be in any Council Motion to adopt. Recent amendment to the State Statutes limits the duration of a Development Moratorium to 12 months without a Public Hearing.

Staff is aware of at least three owners of undeveloped property within the Old Village Area that are interested in proceeding with development plans in a timely manner.

**Action items:**

**Person responsible:**


142  
Motion to adopt Ordinance No. 97 - establishing a Development Moratorium within the Old Village Planning Area.

  
City Planner

**Attachments:**

1.

**Time Allocated:**

<b>Lake Elmo City Council October 5, 2004</b>	<b>Agenda Section: Planning, Land Use &amp; Zoning</b>	<b>No. 9G</b>
<b><u>Agenda Item:</u> Site Plan Security Release – Bremer Operations Center</b>		
<b><u>Background Information for October 5, 2004:</u></b>		
<p>The Public Works Superintendent has reviewed the subject site in Eagle Point Business Park for compliance with the approved landscape plan and landscape survival for two growing season, and finds the site to be compliant in both respects. Release of the \$75,000 Letter of Credit is hereby recommended.</p>		
<b><u>Action items:</u></b>	<b><u>Person responsible:</u></b>	 City Planner
Motion to approve release of Bremer Letter of Credit #S120010103 in the amount of \$75,000 which secured landscape improvements and survival at the Bremer Operations Center site.		
<b><u>Attachments:</u></b>	<b><u>Time Allocated:</u></b>	
1. Mike Bouthilet Recommendation letter		

# Memo

**To:** Chuck Dilerud  
**From:** Michael Bouthilet  
**Date:** 9/29/2004  
**Re:** Bremer Building Landscape Plan

---

I inspected the landscape planting and noted the following:

- A. Plant count meets specifications.
- B. Altered plant placement acceptable.
- C. All plants appeared to be healthy and thriving.

Please call if you have any questions or need any clarification.

Michael Bouthilet

770-2537

Lake Elmo  
City Council  
October 5, 2004

Agenda Section: CITY ADMINISTRATOR'S REPORT

No. 11. A

**Agenda Item: Contract for Forestry Services with Dr. Kathy Widin**

**Background Information:**

At a recent PW Council Committee meeting, the committee recommended moving forward with a service contract with Kathy Widin. The Council Committee had requested the Administrator begin developing/revitalizing an active tree program and fund the program in the 2005 budget. Twenty five thousand dollars was placed in the 2005 budget.

In developing a diseased tree program the City Administrator contacted the neighboring cities to determine best practices of other city entities. The Cities of Oak Park Heights, Bayport Stillwater and Oakdale were contacted. It should also be noted that all the cities surveyed take financial responsibility for public property trees and require owners to be responsible for their own private property tree related issues. Private property inspections, removal and assessments are part of some of the city programs.

Of the Cities contacted only Oakdale has an on staff person designated as the City Forester. The other cities surveyed contract with Dr. Kathy Widin to provide forestry services. Locally she provides service for the Cities of Stillwater, Oak Park Heights and Lakeland.

Lake Elmo has had an active tree program in the past. Chapter 910 of the City Code articulates the responsibility of the City Forester, and the responsibilities of private properties owners. The City Code also authorizes the city to cause tree removal on public or private property as specified in 910.04-910.06. In 910.07 the City is authorized to assess for unpaid claims related to diseased tree removal on private property.

Dr. Widin has provided the City of Lake Elmo with a forestry proposal to assist the city with eliminating diseased trees. The proposal should be viewed as a starting place to reinvigorate the Lake Elmo Tree Program.

Dr. Widin has proposed that the city develop a diseased tree program that has the following task elements. She has estimated her time and associated costs as a starting place for agreement development. The proposed elements include:

- Maintenance of Public Trees
- Public Educational and Outreach,
- Tree Protection

I am recommending that the city begin the contract in October of 2004 to get a head start in the evaluation and public educational process.

**Action Items:**

**Person responsible:**

Approve Contract with Kathy Widin for Forestry Services

Martin Rafferty

**Attachments:** Kathy Widin Contract and Resume



**FORESTRY CONSULTANT CONTRACT  
FOR 2004**

This contract is made this 15th day of October 2004, between the City of Lake Elmo, existing under the laws of the State of Minnesota, with offices at 3800 Laverne Avenue North, Lake Elmo, Minnesota, 55042, "City", and Kathy Widin, Plant Health Associates, Inc., 13457 Sixth Street North, Stillwater, Minnesota, 55082, "Consultant".

**RECITALS**

The City desires to retain the services of the Consultant to provide consulting services in the development and maintenance of a forestry management program.

Consultant agrees to perform these services for the City under the terms and conditions set forth in this Contract.

In consideration of the mutual promises set forth herein, it is agreed between the City and the Consultant as follows:

**SECTION I. NATURE  
OF WORK**

Consultant will perform these services as shown on the attached Exhibit "A" on behalf of the City. Services as defined in Exhibit A may be modified during the term of this contract with an approved motion by City Council.

**SECTION II. PLACE  
OF WORK**

It is understood that Consultant services will be rendered largely in the field or at Consultants' place of business and not in the Office of the City.

**SECTION III.  
COMPENSATION**

1. The City will pay the Consultant as follows:
  - a. \$40.00 per hour for services listed in Exhibit "A" or as otherwise approved by the City.
  - b. Ordinary and necessary business expenses incurred by the Consultant and attributable to the work will be reimbursed by the City provided that prior written approval is given by the City.

**SECTION IV.  
STATUS OF CONSULTANT**

This Contract calls for the performance of the services of the Consultant as an independent contractor and the Consultant will not be considered an employee of the City for any purpose.

**SECTION V.  
INDEMNIFICATION**

Any and all claims that arise or may arise against the Contractor, its agents, servants or employees as a consequence of any act or omission on the part of the Consultant or its agents, servants or employees while engaged in the performance of this Contract shall in no way be the obligation or responsibility of the City. Consultant shall indemnify, hold harmless and defend the City, its officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees, which the City, its officers or employees may hereafter sustain, incur or be required to pay, arising of out or by reason of any negligence or willful act of omission of the Consultant, its agents, servants or employees, in the execution, performance or failure to adequately perform Consultant's obligation under this Contact.

**SECTION VI.  
AUTHORITY**

The City hereby grants to the Consultant all authority reasonably necessary to pursue and achieve the objectives of this Contract.

**SECTION VII.  
DURATION**

This contact will be in effect from October 15, 2004, through October 14, 2005, and will be renewable on an annual basis upon mutual agreement by both parties. This agreement may be terminated by either party upon sixty (60) days written notice to terminate the agreement by the party.

**IN WITNESS WHEREOF**, the parties have set their hands this 1st day of October, 2004.

**CITY OF LAKE ELMO**

By: \_\_\_\_\_  
Lee Hunt, Mayor

By: \_\_\_\_\_  
Sharon Lumby, City Clerk

**PLANT HEALTH ASSOCIATES, INC.**

By: \_\_\_\_\_  
Kathy Widin

**EXHIBIT "A"**  
**FORESTRY CONSULTING WORK PROGRAM**  
**FOR YEAR 2004**

SERVICE	ESTIMATED HOURS	WORK PROPOSED
<b>Maintenance of Public Trees</b>		
Evaluation of Trees on Public Property Boulevard Trees Park Trees Trail Right-of-Ways Utility Easements Trees on City Property	25	Evaluations of trees on public property: to determine nature of tree problem(s) and whether or not specific trees should be removed or need other care - on a case by case basis; recommendations for tree protection, selection, planting and care. Inspections, evaluation of risk, diseased and injured trees.
<b>Education/Outreach</b>		
Write Articles	6	Articles for City Newsletter (5) and local newspaper on tree-related issues
Maintain Forestry Hotline	30	Return phone calls left on City voicemail regarding questions about trees and shrubs on private property. Send literature to residents regarding information requested.
Tree City USA Award Designation	6	Program administered by National Arbor Day Foundation, i.e., Arbor Day Proclamation, Tree Ordinance, Ceremonial Tree Planting
Seminars/Workshops for Residents	6	Two 1 hr. educational sessions for residents on topics, i.e., oak wilt/Dutch elm disease recognition and mgmt., tree insects and diseases, tree selection, planting and care, tree pruning, buckthorn mgmt.
<b>Tree Protection</b>		
Conservation of Significant Tree Resources & Construction Damage	15	Consult as needed Site design of developments (as part of City review process tree protection, landscape plan review).
Disease and Pest Management	40	Oak Wilt and Dutch Elm Disease inspections and management recommendations for trees on public and private property.

**Estimated Annual Hours for 2004: City = 128 @ \$40.00/hour = \$5120.00**

## Katharine D. Widin

Plant Health Associates  
13457 Sixth Street North, Stillwater, MN 55082  
(651) 436-8811

8/04

email: kdwidin@comcast.net

### PROFESSIONAL EMPLOYMENT

1982 to present

#### **Plant Pathologist/Urban Forestry Consultant.**

Diagnosis & Control Recommendations  
(Insects, Diseases, Cultural Problems)

Plant Health Evaluations

Inventories & Management Plans

Tree Protection Plans (Construction)

Ordinance Development

Tree Appraisal /Expert Witness

Educational Programs

Author & Editor - Plant Insects & Diseases

Photographic Slides for Publication - Plant Insects & Diseases

1980-1982

#### **Curry College, Milton, MA**

Lecturer/ Assistant Professor of Biology

#### **Massachusetts Bay Community College, Wellesley, MA**

Lecturer - Plant Insects & Diseases

### EDUCATION

1977-1980

Ph.D. Plant Pathology, University of Minnesota, St. Paul, MN

1974-1977

M.S. Plant Pathology, University of Minnesota, St. Paul, MN

1970-1974

A.B. Biology, Kenyon College, Gambier, OH

### PROFESSIONAL ACTIVITIES (chronological order)

Major Clients

City of Monticello – Farr Development – tree preservation plans

Pulte Homes – tree preservation and management (2003- )

Lyman Development Co. – tree preservation plans (2001-present)

Tree Trust - (1992-present) Tree Planting Projects & Programs

(also inventories, planting and education: woodland, wetland and prairie projects)

City of Oak Park Heights, MN - Municipal Arborist (1998 - present)

City of Stillwater, MN - Consulting Forester (1998 - present)

Hamline University - Graduate School - Adjunct Professor (1995-2000)

Tree Appraisal Cases/Expert Witness Work - various (since 1983)

City of Apple Valley, MN - Tree Inspector (1994 -1998)

City of Inver Grove Heights, MN - Consulting Forester (1984-1998)

Univ. of Minnesota - Instructor, Master Gardener Program (1996-97)

Northern States Power Company - Consultant (1987- 1997)

Sherco Terrestrial Vegetation Study

- Contributor
- Northern Gardener Mag. "Under Siege – New Insect & Disease Threats" Jan. 2004
  - Northern Gardener Mag. "Weeds 101" May 2003
  - Northern Gardener Mag. ('Plant Health' monthly column) (1983-present)
  - Tree Trust - Manual for Community Tree Planting Projects (1996, 2002)
  - Field Guide: Preserving Today's Trees for Tomorrow (2002)
  - Horticulture Magazine - "Vegetable Insects" (1993)
  - Fine Gardening Magazine - "What's Eating Your Plants?" (1997)
  - Taylor's Guide Series on Gardening - ed. Insects & Diseases
  - Wise Gardening Encyclopedia - ed. Insects & Diseases
  - American Nurseryman - IPM (1987)
  - Minnesota Home & Design - "Save A Treasure, Save A Tree"
- Workshops/  
Educ. Programs
- Tree Trust - Creative Development with Natural Resource Planning  
(for Builders/Developers, Local Units Gov. & Nat. Res. Prof.)
  - Tree Trust - Community Tree Planting Workshops  
(various: tree boards, comm. groups, landscape managers)
  - Tree Trust - Intro. to Environ. Educ.; Project Learning Tree;  
Project Wild; Midwest Prairies (teachers - K-12)
  - Tree Trust - Eco-Building - Preventing Construction Damage to Trees
  - University of Minnesota Master Gardener Program - Plant Diseases
  - The Arborists (tree service)- Plant Problem Diagnosis Workshop
  - Public Works Dept., Wash. Cty., Minnesota - Tree Problems & Care
  - International Society of Arboriculture (Midwest)
  - Minnesota Society of Arboriculture, Minnesota Horticultural Society
  - Minnesota Landscape Arboretum
  - University of Minnesota Shade Tree Shortcourse
  - Federated Garden Clubs of Minnesota & Wisconsin
  - Minnesota Park Supervisors Association
  - Minnesota Nursery & Landscape Association
  - University of Minnesota Professional Home Horticulture Shortcourse
  - Hamline University Graduate School - Courses - Env. Educ.
- Photography
- Rodale Press—Guide to Natural Insect & Disease Control
  - Weldon Russell Publishing (Australia)—Successful Organic Gardening
  - Landsdowne Pub. (Australia) - Rodale's Pest & Disease Problem Solver
  - Time-Life Books --- The Complete Gardener - Pests & Diseases

### **ORGANIZATIONS**

- Committees
- Minnesota Shade Tree Advisory Committee (MnSTAC); Board 2002-03
  - Forest Health Sub-Committee (MnSTAC); Chair (2003-)
  - Minnesota Invasive Species Advisory Committee
  - Conference and Education Committee, Minn. Soc. of Arboriculture (2004-)
  - Tree Valuation Committee, Minn. Soc. of Arboriculture (1999-)
- Memberships
- Liaison, ISA Research Trust/TREE Fund, Minn. Soc. of Arboriculture (1997-2003)
  - International Society of Arboriculture
  - Minnesota Society of Arboriculture
  - Minnesota Nursery and Landscape Association
  - Minnesota Horticultural Society
  - Minnesota Native Plant Society

### **CERTIFICATIONS**

- Certified Arborist - International Society of Arboriculture
- Certified Shade Tree Inspector, Certified Pesticide Applicator, Minnesota

### **AWARDS**

- Distinguished Service Award – Minn. Soc. Arboriculture (2003)
- Outstanding Facilitator - Project Learning Tree – Minnesota (1995)

## Chapter 9 - Mining, Forest Management, Tree Diseases

### Section 910 - Tree Diseases

**910.01 Declaration of Policy.** The Council determines that the health of the elm and oak trees within the municipal limits is threatened by fatal diseases known as Dutch elm and oak wilt diseases, and other trees may be threatened by other epidemic diseases of shade trees. It further determines that the loss of elm, oak and other trees growing upon public and private property would substantially depreciate the value of property within the City and impair the safety, good order, general welfare, and conveniences of the public. It is declared to be the intention of the Council to control and prevent the spread of those diseases and this Section is enacted for that purpose.

**910.02 Forester Position Created.** The powers and duties of the City forester as set forth in this section are conferred upon the persons or employees whom the Council shall deem appropriate.

**910.03 Duties of Forester.** It is the duty of the forester to coordinate, under the direction and control of the Council, all activities of the municipality relating to the control and prevention of Dutch elm, oak wilt, or similar plant pests or plant diseases. The forester shall recommend to the Council the details of a program for the control of Dutch elm disease, oak wilt, or similar plant pests or plant diseases, and perform the duties incident to the program adopted by the Council.

### 910.04 Nuisance Declared.

**Subd. 1 Nuisance Defined.** The following are public nuisances wherever they may be found within the City:

- A. Any living or standing elm tree or part of the elm tree infected to any degree with Dutch elm disease fungus *Ceretocystis Ulmi* (Buisman) Moreau, or which harbors any of the elm bark beetles, *Scolytus Multistriatus* (Eichh.) or *Hylugopinus Rufites* (Marsh).
- B. Any dead elm tree or part of the tree, including branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;
- C. Any living or standing oak tree or part of an oak tree infected to any degree with the oak wilt fungus, *Endoconidiothora Faga-ccaarum*.
- D. Any dead oak tree or part which, in the opinion of the forester, constitutes a hazard including but not limited to, logs, branches, stumps, roots, firewood or other oak material, which has not been stripped of its bark and burned or sprayed with an effective fungicide;

**Subd. 2 Abatement.** It is unlawful for any person to permit any public nuisance as defined in 910.04, Subd. 1 to remain on any premises owned or controlled by that person within the City. The nuisance may be abated in the manner prescribed by this section.

### 910.05 Inspection and Investigation.

**Subd. 1 Inspection.** As often as practicable, the forester shall inspect all public and private premises within the City which might harbor any plant pest as defined in Minn. Stat. 18.46, Subd. 13 to determine whether any condition described in Section 910.04 of this Code exists. The forester shall investigate all reported incidents of infestation by Dutch Elm fungus, elm bark beetles, oak wilt fungus, or any other epidemic disease of shade trees.

**Subd. 2 Entry on Private Premises.** The forester or forester's duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned the forester under this section.

**Subd. 3 Diagnosis.** The forester shall, upon finding conditions indicating Dutch elm infestation or oak wilt, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis, or take such other steps for diagnosis as may be recommended by the commissioner. Except as provided in Section 910.07, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

**910.06 Abatement of Dutch Elm Disease and Oak Wilt Nuisances.** In abating the nuisances defined in Section 910.04, Subd. 1, the forester shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of epidemic diseases including Dutch elm disease or oak wilt disease. The forester shall also take steps that are necessary to prevent root graft transmission of the diseases. The abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the commissioner of agriculture.

**910.07 Action by Forester.** Whenever the forester finds with reasonable certainty that the infestation defined in Section 910.04 exists in any tree or wood in any public or private place in the City, the forester shall in writing notify the owner of the existence of a nuisance, which notice shall state that the owner has 60 days to abate the nuisance and avoid City action. A copy of the notice shall be transmitted to the city clerk for the information of the Council. If within the 60 day period the property owner has not abated the nuisance, the forester shall report all the facts surrounding the unabated nuisance to the Council.

**Subd. 1 Abatement.** Upon receipt of the forester's report required by 910.07, the Council shall, by resolution, order the nuisance abated. Before action is taken on the resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At the hearing or adjournment of the hearing, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall then adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

**Subd. 2 Records.** The forester shall keep a record of the costs of abatements done under this section and shall report monthly to the administrator all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

**Subd. 3 Assessment.** On or before September 1 of each year, the administrator shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The Council may then spread the charges or any portion of the charges against the property involved as a special assessment under Minnesota Statutes Sec. 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

**910.08 Spraying Elm or Oak Trees.**

**Subd. 1 Treatment of Nearby Trees.** Whenever the forester determines that any elm or oak tree or elm or oak wood within the City is infected with Dutch elm fungus or oak wilt fungus, the forester may spray all nearby high value elm or oak trees with an effective elm bark beetle destroying concentrate or other appropriate

substance suitable for destroying or controlling Dutch elm disease fungus or oak wilt fungus. Spraying activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans for the Commissioner of Agriculture and under the supervision of the commissioner and commissioner's agents whenever possible.

**Subd. 2 Notice.** The notice provisions of Section 1500.06 apply to spraying operations conducted under this section.

**910.09 Transporting Elm Wood Prohibited.** It is unlawful for any person to transport within the City any bark-bearing elm wood without having obtained a permit from the forester. The forester shall grant the permits only when the purposes of this section will be served.

**910.10 Interference Prohibited.** It is unlawful for any person to prevent, delay or interfere with the forester or forester's agents while they are engaged in the performance of duties imposed by this section.

**910.11 Penalty.** Violations of this part of this chapter shall constitute a petty misdemeanor.