

City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, Minnesota

December 15, 2009

6:30 p.m. EXECUTIVE SESSION:

Discuss current or potential threatened litigation

7:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: Johnston DeLapp Emmons, Park Smith
- D. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)
- E. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)
- F. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)
- G. APPROVE MINUTES:
 - 1. Approval of the December 1, 2009 City Council minutes
- H. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.
- I. CONSENT AGENDA: (Items are placed on the consent agenda by City staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)
 - 2. Approve payment of disbursements and payroll
 - 3. Approval of contingent-offer of employment of Ice Rink Operator and other intermittent employees
 - 4. Approve liability coverage waiver form as part of LMCIT insurance renewal package
 - 5. Substantial completion of the public infrastructure improvements within Farms of Lake Elmo – Authorize release of letter of credit
 - 6. Approve Maplewood-Oakdale Lions Club one-day off-site charitable gambling permit, Resolution 2009-053
 - 7. Approve 2010 calendar of Council meetings and workshops
 - 8. Lake Elmo Library hours of operation; Resolution No. 2009-054
 - 9. Resolution No. 2009-055 accepting work for the 2009 crack seal project and authorize payment no. 1 (Final)

J. REGULAR AGENDA:

10. Organizational Meeting
 - a. Election of Acting Mayor
 - b. Designation of legal newspaper
 - c. Designation of official depositories for 2010
 - d. Letter agreement with KDV
 - e. Appointment of City Engineer and City Attorney
 - f. Appointment to Planning Commission
11. Beyond Yellow Ribbon discussion; Resolution No. 2009-056
12. 2010 Street & Water Quality Improvements – Resolution No. 2009-057
accepting report and call for public improvement hearing
13. Consider approving Ordinance 08-021 revising the buffer setbacks in existing
Open Space Preservation (OP) developments

K. REPORTS AND ANNOUNCEMENTS:

(These are verbal updates and do not have to be formally added to the agenda.)

- Mayor and City Council
- Administrator
- City Attorney
- City Engineer
- Planning Director

L. Adjourn

A social gathering may or may not be held at the Lake Elmo Inn following the meeting.

City of Lake Elmo
City Council Minutes

December 1, 2009

Mayor Johnson called the meeting to order at 7:00 p.m.

PRESENT: Mayor Johnston and Council Members DeLapp, Emmons, Park and Smith.

Also Present: City Administrator Messelt, Planning Director Klatt, Planner Matzek, City Engineer Griffin, Attorney Snyder, Finance Director Bouthilet, Joe Rigdon, KDV Consultant, and City Clerk Lumby.

APPROVAL OF AGENDA:

MOTION: Council Member Park moved to approve the December 1, 2009 City Council Agenda as presented. Council Member Smith seconded the motion. The motion passed 5-0.

GROUND RULES:

APPROVED MINUTES:

The November 15, 2009, City Council minutes were approved by consensus.

PUBLIC COMMENTS/INQUIRIES: None

CONSENT AGENDA:

MOTION: Council Member Smith moved to approve the Consent Agenda as presented. Council Member Emmons seconded the motion. The motion passed 5-0.

- Approve payment of disbursements and payroll in the amount of \$310,149.37
- Approve 2010 Liquor license renewals and On-sale intoxicating liquor license for the Lake Elmo Inn Event Center
- Consider approval of Resolution No. 2009-046 approving the renewal of an Interim Use Permit application from Common Ground Church to permit the keeping of horses.

REGULAR AGENDA:

Update on Friends of Washington County – Marc Hugunin

Bruce Messelt, City Administrator, reported the City Council was asked to receive an update from Marc Hugunin, Executive Director of the Friends of Washington County regarding efforts to address state-wide rulemaking on landfills that will have an impact on the proposed Xcel fly ash landfill in West Lakeland Township.

Mr. Hugunin explained because their work will expand to encompass Legislative activity, the costs for this project will be somewhat greater in 2010 than in 2009. He requested that the City renew its support of this project at the same level (\$2,500) as in 2009.

MOTION: Council Member DeLapp moved to authorize \$2,500 to come out of the CIP Bond Fund to renew the City's support for the Friends of Washington County in an effort to strengthen the statewide rules for landfill siting and to better protect our groundwater resources from contamination from landfill operations. Council Member Emmons seconded the motion. The motion passed 5-0.

Final 2009 Tax Levy Certification, Payable 2010, Resolution No. 2009-048

Bruce Messelt, City Administrator, reported the City Council is being asked to affirmatively consider and adopt the Final 2009 Tax Levy Certification, Payable 2010.

Joe Rigdon, KDV Financial consultant, presented the proposed 2010 City property tax levy and proposed 2010 city budget.

MOTION: Council Member Park moved to approve Resolution No. 2009-048 authorizing certification to the Washington County Auditor of the 2009 Tax Levy (\$2,743,346 collectible in 2010). Council Member Emmons seconded the motion. The motion passed 5-0.

Proposed 2010 Operating Budget and 2010-14 Capital Improvement Program; Resolution No. 2009-049

The Public Hearing notice on the budget and on the proposed amount of 2010 property taxes the City proposed to collect to pay for the cost of services the City will provide in 2010 was published in the November 25, 2009 Oakdale/Lake Elmo Review.

Tom Bouthilet, Finance Director, reported the City Council is being asked to convene a public hearing on the proposed 2010 Budget and then take action on the 2010 Budget and 2010-2014 CIP.

Mayor Johnston invited residents in attendance to express their opinions on the budget and on the proposed amount of 2010 property taxes.

Dan Novak, 8520 Ironwood Trail N, asked what percentage of the budget was increased or decreased. The City Administrator responded for the 2010 total budget there was a 1.3% increase over the 2009 budget.

MOTION: Council member Smith moved to approve Resolution No. 2009-049 as amended by redirecting \$2,500 to the Friends of Washington County, adopting the 2010 Budget and 2010-2014 Capital Improvement Plan. Council Member Emmons seconded the motion. The motion passed 5-0.

Public Hearing: Delinquent water and wastewater utility bills: Resolution No. 2009-050
The public hearing notice was published in the November 18, 2009 Oakdale/Lake Elmo Review

Tom Bouthilet, Finance Director, reported the City Council is being asked to convene a public hearing, as required under State law, to consider recommended action to assess property owners for delinquent 2009 Water and Wastewater utility bills.

Mayor Johnston opened up the public hearing at 8:08 p.m.

Jeff Riegler, 2773 Inwood Avenue N., referred to his letter submitted to the City stating his objections:

- Rationale for the "Estimated" billing of water to the resident
- Repair of defacement of home
- Connection of water service to water softener system
- Water service with proper water pressure
- Water meter of good working order

Phillip Liniewicz, 8226 26th Street, stated they just installed a new well two years ago at a cost of \$12,000 and had to cap this well. Since they have been connected to the city water service, they have had problems with proper water pressure even though a booster pump has been installed.

Mayor Johnston closed the public hearing at 8:15 p.m.

Administrator Messelt will follow-up on residents' concerns by contacting public works and the city engineer.

MOTION: Council Member Park moved to approve Resolution No. 2009-050, A Resolution authorizing certification to Washington County Auditor for unpaid utility bills. Council Member DeLapp seconded the motion. The motion passed 5-0.

Consider an application from James Burns for a variance from the front yard setback requirement in an R1 zoning district to allow the construction of a building addition: Resolution No. 2009-045

Kyle Klatt, Planning Director, reported the City Council is being asked to consider a request from James Burns for a variance allowing the construction of an addition to an existing residence at 11140 20th Street Court North. The addition would be set back 22.8 feet from a front property line, or 3.2 feet closer to this line than allowed under the R-1 Single Family Residential Zoning District requirements and related provisions for established neighborhood setbacks.

MOTION: Council Member Park moved to approve Resolution No. 2009-045, A Resolution approving a variance request to a setback variance for James Burns, 11140 20th Street Court North, to allow the construction of an addition to an existing residence

at this address that would be set back 22.8 feet from a front property line, or 3.2 feet closer to this line than allowed under R-1 single Family Residential Zoning District requirements and related provisions for established neighborhood setbacks. Council Member Smith seconded the motion. The motion passed 5-0.

Consider application for a CUP to allow an Agricultural Entertainment Business, a rezoning request, and an amendment to a CUP for Country Sun Farm and Greenhouse, Resolution No. 2009-047, Ordinance No. 08-021

Kelli Matzek, City Planner, reported the City received an application for land use changes, including renewal, update and expansion of an existing Conditional Use Permit, as well as a related rezoning request and new Conditional Use Permit received from Sun Country Farm and Greenhouse. The City Council is being asked to consider the following requests from Country Sun Farm & Greenhouse:

CONDITIONAL USE PERMIT: To issue a CUP for the entire 67 acres of property under consideration, or specified portion thereof, thereby allowing an "Agricultural Entertainment Business" on the property. At this time it would be appropriate through the issuance of such CUP to clearly delineate the specific uses existing on the site and to clarify which uses are legally permitted, either outright or under the current and/or proposed updated and expanded CUP. This issuance could include the construction of an overflow parking area of 39,900 square feet which is accessory to the other uses on the site.

Action on the proposed new CUP establishing an Ag Entertainment District

MOTION: Mayor Johnston moved to approve Resolution No. 2009-047 (Option B) whereby issuing a Conditional Use Permit for an Agricultural Entertainment Business for Country Sun Farm & Greenhouse on the identified 65 acre portion of the requested 67 acres, with the conditions identified in the Planning staff report, and to include the construction of an overflow parking area of 39,900 square feet accessory to the other uses on the site, as recommended by the City Administrator, City Attorney and Planning Advisor. Council Member Park seconded the motion. The motion passed 5-0.

REZONING: To rezone a 33.44 acre parcel from Rural Residential (RR) to Agricultural (Ag). This rezoning could allow the future movement of an existing greenhouse from the original CUP area to the new proposed area, as greenhouses is not permitted in the RR zoning district.

Action on the rezoning of 33.44 acres from Rural Residential to Agricultural:

MOTION: Council Member Park moved to adopt Resolution No. 2009-052 denying the rezoning of the identified 33.44 acres of property from Rural Residential to Agricultural, with the specific findings of fact:

1. That the procedures for obtaining said Map Amendment is found in the Lake Elmo Zoning Ordinance, Section 154.020.
2. That all the submission requirements of said Section 154.020 have been met by the applicant.
3. That the proposed rezoning of the property is from Rural Residential to Agricultural for the entire 33.44 acres.
4. The Rural Residential zoning district has a 10 acre minimum lot size requirement while the agricultural zoning district has a 40 acre minimum lot size. The rezoning of the parcel to Agricultural would result in non-conformance to the minimum lot size as the parcel is 33.44 acres.
5. Relocating the greenhouses would still allow for reasonable use of the current property, thereby resulting in a de facto expansion of business activity and, with it, traffic concerns and other public health, life and safety considerations.
6. The proposed rezoning would be preemptive in nature as the applicant's intent is to move a greenhouse to the property which may or may not be in conflict with currently unknown, unplanned or unscheduled future reconfigurations of the intersection of County Road 17 and State Highway 36.
7. As public infrastructure would be significantly impacted by any rezoning an subsequent access road and greenhouse relocation, the public stands to have such disruption of public services over on multiple times and at significantly increase cost due to this premature rezoning.
8. The applicant retains reasonable use of the affected property today and, with approval of the Agricultural Entertainment Business CUP, is allowed for reasonable expansion of said business within the acceptable parameters established by the City.

Mayor Johnston seconded the motion. The motion passed 5-0.

CONDITIONAL USE PERMIT AMENDMENT: To amend the existing conditional use permit currently allowing operation of Country Sun Farm & Greenhouse at 11211 60th Street North to add approximately 24 acres of land (as the rest is in a roadway easement) for the "greenhouse" and "food concession" uses currently permitted. This land would be added to allow the eventual future movement of existing uses for the business. This amend would include the construction of an overflow parking area of 39,900 square feet which is accessory to the other uses on the site.

Action on the requested CUP Amendment to extend CUP uses to newly rezoned property

MOTION: Mayor Johnston moved to approve Resolution No. 2009-051 (Option B) denying the requested CUP amendment, with the specific findings of fact:

1. That the procedures for obtaining said Conditional Use Permit Amendment and are found in the Lake Elmo Zoning Ordinance, Section 154.018.
2. That all the submission requirements of said Section 154.018 have been met by the applicant.
3. That the proposed Conditional Use Permit amendment is to include an additional 24 acres to the existing 43 acres and to allow construction of a 39,900 square foot

overflow parking lot. The applicants are intending to move existing structures (greenhouses) and uses (hay ride and corn maze) to this area at a time in the future if and when the reconfiguration of County Road 17 and State Highway 26 and a subsequent frontage road displaces those uses and structures. The Conditional use Permit amendment would allow the movement of the following use and structure:

- a. Greenhouse growing range
 - b. Sale of concessions
4. That the uses identified in the existing Conditional Use Permit are not allowed without the rezoning of the property to the Agricultural zoning district.
 5. The proposed amendment, as stated by the applicant, is intended to allow the movement of an existing greenhouse to the property due to a future reconfiguration of County Road 17 and State Highway 36. This is preemptive in nature as a plan for the reconfiguration has not been approved, nor is a timeline identified for when the project will take place.
 - a. The area identified for movement of the greenhouse may be in conflict with a future frontage road, public utilities, or other improvements in conjunction with a future reconfiguration of the interchange.
 6. That the Conditional Use Permit Amendment does not meet the review criteria for Conditional Use Permits (Section 154.018).
 - a. Without road reconfiguration, and/or until such road reconfiguration occurs, the applicant would still have reasonable use of existing property, in addition to the property identified within this CUP.
 7. The expansion of the CUP property will likely lead to an expansion of the existing uses which would negatively impact traffic conditions on the site,
 - a. Applicant's own application material includes MNDOT concern over increased traffic problems, leading the City to conclude serious community life, health and safety considerations would be detrimentally harmed by approval of this CUP.

Council Member Park seconded the motion. The motion was passed 5-0.

The City Planner explained due to recent ordinance changes and the evolving nature of these types of requests, City Staff and the Planning Commission recommended the City Council direct greater scrutiny of this issue as part of the department's 2010 Workplan.

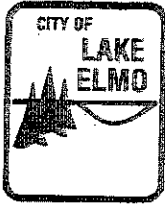
MOTION: Council Member Smith moved to direct the inclusion of the recommendations promulgated by the City staff and Planning Commission and delineated in this communication in the Planning Department's 2010 Workplan. Council Member DeLapp seconded the motion. The motion passed 5-0.

MOTION: Mayor Johnston moved to delay enforcement of seasonal sales of Christmas trees until the end of the year. Council Member Smith seconded the motion. The motion passed 5-0.

The meeting was adjourned at 9:40 p.m.

Respectfully submitted by Sharon Lumby

DRAFT



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09
CONSENT AGENDA
ITEM #: 2

AGENDA ITEM: Approve Disbursements in the Amount of \$ 119,243.62

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: City Staff

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements in the amount of \$ 119,243.62. No specific motion is needed, as this item is recommended to be part of the overall approval of the *Consent Agenda*.

STAFF REPORT: The City of Lake Elmo has fiduciary authority and responsibility to conduct normal business operations. Below is a summary of current claims to be disbursed in accordance with State law and City policies and procedures.

<u>Claim #</u>	<u>Amount</u>	<u>Description</u>
ACH	\$ 6,404.82	Payroll Taxes to IRS 12/03/2009
ACH	\$ 1,065.93	Payroll Taxes to Mn Dept. of Revenue 12/03/09
ACH	\$ 205.00	Payroll Levy to MN. Dept of Revenue 11/30/09
DD2531 - DD2545	\$ 19,492.05	Payroll Dated 12/03/2009 (Direct Deposit)
35025 - 35028	\$ 16,274.62	Payroll Dated 12/03/2009 (Payroll)
35029 - 35084	\$ 75,801.20	Accounts Payable Dated 12/15/2009
Total:	\$ 119,243.62	

STAFF REPORT: City staff has compiled and reviewed the attached set of claims. All appears to be in order and consistent with City budgetary and fiscal policies and Council direction.

RECOMMENDATION: It is recommended that the City Council approve as part of its Consent Agenda proposed disbursements in the amount of \$ 310,149.37.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda or a particular claim from this item and further discuss and deliberate prior to taking action.

ATTACHMENTS:

12/11/2009 Accounts Payable

SUGGESTED ORDER OF BUSINESS (if removed from Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

Accounts Payable To Be Paid Proof List

User: Administrator
 Printed: 12/11/2009 - 8:52 AM
 Batch: 002-12-2009

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
AMERICAN 46314	American Engineering and Testi 11/20/2009	176.00	0.00	12/15/2009	Sieve analysis of 2009 overlay gravel		-			No 0000
101-430-3100-43030	Engineering Services 46314 Total:	176.00								
	AMERICAN Total:	176.00								
ANCOM 12508	ANCOM COMMUNICATIONS, INC. 11/13/2009	13.36	0.00	12/15/2009	Pager Repair Warranty		-			No 0000
101-420-2220-43230	Radio 12508 Total:	13.36								
	ANCOM Total:	13.36								
ARAM 629-6840515	Aramark, Inc. 10/12/2009	82.84	0.00	12/15/2009	Linen City Hall		-			No 0000
101-410-1940-44010	Repairs/Maint Contractual Bldg 629-6840515 Total:	82.84								
629-6843505	10/15/2009	36.26	0.00	12/15/2009	Uniforms		-			No 0000
101-430-3100-44170	Uniforms 629-6843505 Total:	36.26								
629-6845417	10/19/2009	40.86	0.00	12/15/2009	Monthly Rug Service Station #1 Oct		-			No 0000
101-420-2220-44010	Repairs/Maint Bldg 629-6845417 Total:	40.86								
629-6845418	10/19/2009	42.56	0.00	12/15/2009	Monthly Rug Service Station #2 Oct		-			No 0000
101-420-2220-44010	Repairs/Maint Bldg 629-6845418 Total:	42.56								
629-6878364	12/03/2009	28.72	0.00	12/15/2009	Uniforms		-			No 0000
101-430-3100-44170	Uniforms 629-6878364 Total:	28.72								
	ARAM Total:	231.24								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ASPENMI Aspen Mills, Inc.										
93764	12/11/2009	99.95	0.00	12/15/2009	Bunker Boots		-			No 0000
101-420-2220-42400	Small Tools & Equipment									
	93764 Total:	99.95								
93765	12/11/2009	138.50	0.00	12/15/2009	Medi Coat		-			No 0000
101-420-2220-44170	Uniforms									
	93765 Total:	138.50								
	ASPENMI Total:	238.45								
BURN Burnet Title										
Chk Req	12/09/2009	261.80	0.00	12/15/2009	Street Assessment over payment		-			No 0000
409-000-0000-12100	Special Assessments - Current									
	Chk Req Total:	261.80								
	BURN Total:	261.80								
C&J CONS C & J Consulting Services, LLP										
11-2009	12/02/2009	925.00	0.00	12/15/2009	Monthly Accounting Service		-			No 0000
101-410-1520-43150	Contract Services				November 09					
	11-2009 Total:	925.00								
	C&J CONS Total:	925.00								
CAPRA CAPRA'S UTILITIES INC.										
2028	12/03/2009	1,722.00	0.00	12/15/2009	Hagbergs water service repair		-			No 0000
601-494-9400-43150	Contract Services									
	2028 Total:	1,722.00								
	CAPRA Total:	1,722.00								
CARQUEST Car Quest Auto Parts										
2055-173697	11/25/2009	18.96	0.00	12/15/2009	Air filter and reflective tape 03-1		-			No 0000
101-430-3100-42210	Equipment Parts									
	2055-173697 Total:	18.96								
	CARQUEST Total:	18.96								
COMCAST COMCAST										
11/27/2009	11/27/2009	7.90	0.00	12/15/2009	Monthly Service		-			No 0000
101-420-2220-44300	Miscellaneous									
	11/27/2009 Total:	7.90								
	COMCAST Total:	7.90								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
COMPENSA Compensation Consultants, Ltd										
11/25/2009	11/25/2009	40.00	0.00	12/15/2009	Monthly Admin Fee December 2009		-			No 0000
101-410-1320-44300	Miscellaneous									
11/25/2009	11/25/2009	150.00	0.00	12/15/2009	Annual Fee		-			No 0000
101-410-1320-44300	Miscellaneous									
	11/25/2009 Total:	190.00								
	COMPENSA Total:	190.00								
CTYBLOOM City of Bloomington										
November 2009	11/30/2009	337.54	0.00	12/15/2009	Lab Bacteria Tests		-			No 0000
601-494-9400-42270	Utility System Maintenance									
	November 2009 Total:	337.54								
	CTYBLOOM Total:	337.54								
CTYROSEV City of Roseville										
0010394	12/04/2009	1,551.58	0.00	12/15/2009	Monthly IT Services December 2009		-			No 0000
101-410-1450-43180	Information Technology/Web									
	0010394 Total:	1,551.58								
	CTYROSEV Total:	1,551.58								
DELUXE Deluxe Business Checks										
2014740746	10/24/2009	403.67	0.00	12/15/2009	Check Stock		-			No 0000
101-410-1320-42030	Printed Forms									
2014740746	10/24/2009	-25.97	0.00	12/15/2009	Use Tax Payable		-			No 0000
101-000-0000-20201	Use Tax Payable									
	2014740746 Total:	377.70								
2015064427	11/29/2009	67.59	0.00	12/15/2009	Deposit Bank Forms		-			No 0000
101-410-1320-42030	Printed Forms									
	2015064427 Total:	67.59								
	DELUXE Total:	445.29								
ECKBERG Eckberg Lamers Briggs Wolff										
100721	11/30/2009	3,810.95	0.00	12/15/2009	Legal Services - Civil		-			No 0000
101-410-1320-43040	Legal Services									
	100721 Total:	3,810.95								
	ECKBERG Total:	3,810.95								
ENVENTIS ENVENTIS										
737500	12/01/2009	444.67	0.00	12/15/2009	Telephone & Data Public Works		-			No 0000
101-430-3100-43210	Telephone				Dec.09					
	737500 Total:	444.67								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
738507	12/01/2009	526.29	0.00	12/15/2009	Telephone & Data City Hall Dec.09		-			No 0000
101-410-1940-43210	Telephone									
	738507 Total:	526.29								
	ENVENTIS Total:	970.96								
<hr/>										
Gophseal GOPHER STATE SEALCOAT INC.										
Pay Cert. I	10/30/2009	25,200.00	0.00	12/15/2009	Sealcoat Streets - 2009		-			No 0000
409-480-8000-45300	Improvements Other Than Bldgs									
	Pay Cert. I Total:	25,200.00								
	Gophseal Total:	25,200.00								
<hr/>										
H & L H & L Mesabi										
78810	11/30/2009	1,911.18	0.00	12/15/2009	Snow Plow Cutting Edges		-			No 0000
101-430-3125-44040	Repairs/Maint Eqpt									
	78810 Total:	1,911.18								
	H & L Total:	1,911.18								
<hr/>										
HAGBERGS Hagbergs Country Market										
293303	11/07/2009	20.14	0.00	12/15/2009	Refreshments for Sat. AM drill		-			No 0000
101-420-2220-44300	Miscellaneous									
	293303 Total:	20.14								
	HAGBERGS Total:	20.14								
<hr/>										
KDV Kern DeWenter Viere Ltd										
102111	11/30/2009	6,142.50	0.00	12/15/2009	Financial Services - November 2009		-			No 0000
601-494-9400-43150	Contract Services									
	102111 Total:	6,142.50								
	KDV Total:	6,142.50								
<hr/>										
LARSON LARSON DIESEL SERVICE										
91105010	11/05/2009	1,105.77	0.00	12/15/2009	DOT and repairs on 86-1		-			No 0000
101-430-3120-44040	Repairs/Maint Eqpt									
	91105010 Total:	1,105.77								
91123037	11/23/2009	311.16	0.00	12/15/2009	DOT and repairs on 06-1		-			No 0000
101-430-3120-44040	Repairs/Maint Eqpt									
	91123037 Total:	311.16								
91123039	11/23/2009	83.90	0.00	12/15/2009	DOT 02-1		-			No 0000
101-430-3120-44040	Repairs/Maint Eqpt									
	91123039 Total:	83.90								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
LARSON Total:		1,500.83								
LEOIL Lake Elmo Oil, Inc.										
11/30/2009	11/30/2009	401.94	0.00	12/15/2009	Fuel					
101-420-2220-42120	Fuel, Oil and Fluids								No	0000
	11/30/2009 Total:	401.94								
	LEOIL Total:	401.94								
Lillie Newspapers Inc. Lillie Suburban										
12/01/2009	12/01/2009	-45.60	0.00	12/15/2009	Credit					
101-410-1320-44300	Miscellaneous								No	0000
	Total:	-45.60								
007148	12/01/2009	37.13	0.00	12/15/2009	Legal Publication - Planning				No	0000
101-410-1910-44300	Miscellaneous								No	0000
007148	12/01/2009	46.13	0.00	12/15/2009	AD for Public Works employee				No	0000
101-430-3100-44300	Miscellaneous								No	0000
007148	12/01/2009	30.38	0.00	12/15/2009	Legal Publication-Budget & Levy				No	0000
101-410-1520-44300	Miscellaneous								No	0000
	007148 Total:	113.64								
	Lillie Total:	68.04								
LOFF Loffler Companies, Inc.										
1073383	12/01/2009	208.62	0.00	12/15/2009	101-410-1940-44040				No	0000
101-410-1940-44040	Repairs/Maint Contractual Eqpt								No	0000
	1073383 Total:	208.62								
	LOFF Total:	208.62								
LUCZAK Carole Luczak										
12/02/2009	12/02/2009	40.00	0.00	12/15/2009	Notary Renewal					
101-410-1320-44300	Miscellaneous								No	0000
	Chk Req Total:	40.00								
	LUCZAK Total:	40.00								
MAGNUSON Magnuson Gerald										
12/1/2009	12/01/2009	302.57	0.00	12/15/2009	Health Savings Reimbursement				No	0000
101-000-0000-21710	Health HSA								No	0000
	12/1/2009 Total:	302.57								
	MAGNUSON Total:	302.57								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MARONEYS Maroney's Sanitation, Inc										
316103	12/04/2008	103.66	0.00	12/15/2009	Waste Removal - City Hall		-			No 0000
101-410-1940-43840	Refuse									
316103	12/04/2008	45.62	0.00	12/15/2009	Waste Removal - Fire		-			No 0000
101-420-2220-43840	Refuse									
316103	12/04/2008	198.87	0.00	12/15/2009	Waste Removal - Public Works		-			No 0000
101-430-3100-43840	Refuse									
316103	12/04/2008	198.87	0.00	12/15/2009	Waste Removal - Parks		-			No 0000
101-450-5200-43840	Refuse									
	316103 Total:	547.02								
	MARONEYS Total:	547.02								
MATHOMED Mahtomedi Fire Department										
Chk Req	11/30/2009	134.00	0.00	12/15/2009	NFA-Safety Officer Class		-			No 0000
101-420-2220-44370	Conferences & Training									
	Chk Req Total:	134.00								
	MATHOMED Total:	134.00								
MATZEK Kelli Matzek										
12/2/2009	12/02/2009	15.00	0.00	12/15/2009	A view from the river workshop		-			No 0000
101-410-1910-44370	Conferences & Training									
12/2/2009	12/02/2009	22.00	0.00	12/15/2009	Cty copies of Docs for Bergmann CUP		-			No 0000
101-410-1910-42030	Printed Forms									
	12/2/2009 Total:	37.00								
	MATZEK Total:	37.00								
MENARDSO Menards - Oakdale										
12990	11/24/2009	31.19	0.00	12/15/2009	Christmas Lights		-			No 0000
101-430-3100-44300	Miscellaneous									
	12990 Total:	31.19								
	MENARDSO Total:	31.19								
MENARDST Menards - Stillwater										
58535	12/04/2009	2.68	0.00	12/15/2009	Ceiling Tile, replaced water damage		-			No 0000
101-420-2220-44010	Repairs/Maint Bldg									
58535	12/04/2009	6.86	0.00	12/15/2009	Cords for Truck		-			No 0000
101-420-2220-44040	Repairs/Maint Eqpt									
	58535 Total:	9.54								
	MENARDST Total:	9.54								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MES Municipal Emergency Services										
00122749-SNV	09/15/2009	87.61	0.00	12/15/2009	Replacement Flashlight					
101-420-2220-42400	Small Tools & Equipment									No 0000
	00122749-SNV Total:	87.61								
	MES Total:	87.61								
METCOU Metropolitan Council										
0000914913	12/02/2009	1,374.96	0.00	12/15/2009	Monthly Wastewater Service - Jan 2010					
602-495-9450-43820	Sewer Utility - Met Council									No 0000
	0000914913 Total:	1,374.96								
	METCOU Total:	1,374.96								
MFRA McCombs Frank Roos Assoc Inc.										
66182	12/01/2009	782.90	0.00	12/15/2009	Code Enforcement/General Planning					
101-410-1910-43150	Contract Services									No 0000
	66182 Total:	782.90								
	MFRA Total:	782.90								
MILLEREX Miller Excavating, Inc.										
14509	11/30/2009	540.00	0.00	12/15/2009	Grading gravel roads					
101-430-3120-43150	Contract Services									No 0000
	14509 Total:	540.00								
	MILLEREX Total:	540.00								
MSFDA MSFDA										
11/25/2009	11/25/2009	216.00	0.00	12/15/2009	Annual Dues for MSFDA					
101-420-2220-44330	Dues & Subscriptions									No 0000
	11/25/2009 Total:	216.00								
	MSFDA Total:	216.00								
NATREPRO National Reprographics, LLC										
64584	11/06/2009	9.43	0.00	12/15/2009	Color copies for buffer setback maps					
101-410-1910-44300	Miscellaneous									No 0000
	64584 Total:	9.43								
	NATREPRO Total:	9.43								
NORCHEM Northland Chemical Corp.										
5027886	11/24/2009	154.74	0.00	12/15/2009	Salt & Liquid De-icer City Hall Sidewalk					
101-410-1940-44010	Repairs/Maint Contractual Bldg									No 0000
	5027886 Total:	154.74								

Invoice #	Inv Date	Amount	Quantity	Put Date	Description	Reference	Task	Type	PO #	Close POLine #
NORCHEM Total:		154.74								
NORTHTOO HSBC Business Solutions										
11/24/2009	11/24/2009	77.09	0.00	12/15/2009	Battery minder and hitch for ranger		-		No	0000
410-480-8000-45800	Other Equipment									
11/24/2009 Total:		77.09								
11/25/2009	11/25/2009	53.53	0.00	12/15/2009	Battery minder to correct problem		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt				3175					
11/25/2009	11/25/2009	149.99	0.00	12/15/2009	Battery charger for station #1/replace		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
11/25/2009 Total:		203.52								
NORTHTOO Total:		280.61								
ONECALL One Call Concepts, Inc Gopher Stat										
9110621	11/30/2009	149.00	0.00	12/15/2009	Line Locates - November 2009		-		No	0000
101-430-3100-43150	Contract Services									
9110621 Total:		149.00								
ONECALL Total:		149.00								
OWL & EMC Test Labs, Inc Owl Engineer										
2960	11/30/2009	9,200.00	0.00	12/15/2009	Wireless Ord. Project Consultant fees		-		No	0000
101-410-1910-43150	Contract Services									
2960 Total:		9,200.00								
OWL Total:		9,200.00								
PIONEERP Pioneer Press										
1009515526	12/02/2009	269.04	0.00	12/15/2009	Public Hearing Notice - Wireless Ord		-		No	0000
101-410-1450-43510	Public Notices									
1009515526 Total:		269.04								
PIONEERP Total:		269.04								
PLANTH PLANT HEALTH ASSOCIATES, INC										
983-09	12/09/2009	936.00	0.00	12/15/2009	Forester Services Nov. 09		-		No	0000
101-430-3250-43150	Contract Services									
983-09	12/09/2009	312.00	0.00	12/15/2009	Forester Services Development		-		No	0000
203-490-9070-43150	Contract Services									
983-09 Total:		1,248.00								
PLANTH Total:		1,248.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
PLUNKETT Plunkett's Pest Control										
1432292	12/01/2009	80.16	0.00	12/15/2009	Pest Control - City Hall		-			No 0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	1432292 Total:	80.16								
	PLUNKETT Total:	80.16								
PRESS Press Steven										
101-410-1450-43620	12/11/2009 Cable Operations	45.06	0.00	12/15/2009	Cable Operator - City Council Work Shop		-			No 0000
101-000-0000-20201	12/11/2009 Use Tax Payable	-2.90	0.00	12/15/2009	Use Tax Payable		-			No 0000
	Total:	42.16								
12/1/2009	12/01/2009	62.93	0.00	12/15/2009	City Council Mtg - Cable		-			No 0000
101-410-1320-43620	12/01/2009 Cable Operation Expense						-			No 0000
12/1/2009	12/01/2009	-4.05	0.00	12/15/2009	City Council Mtg - Cable		-			No 0000
101-000-0000-20201	Use Tax Payable						-			No 0000
	12/1/2009 Total:	58.88								
	PRESS Total:	101.04								
RENTERS Renter Acceptance										
2390	11/30/2009	24.00	0.00	12/15/2009	New Employee Background Check		-			No 0000
101-430-3100-44300	Miscellaneous									
	2390 Total:	24.00								
	RENTERS Total:	24.00								
RIVRCOOP River Country Cooperative										
141352	11/30/2009	194.26	0.00	12/15/2009	Fuel		-			No 0000
101-420-2220-42120	Fuel, Oil and Fluids									
	141352 Total:	194.26								
	RIVRCOOP Total:	194.26								
RUD Prince-Rud Diane										
11/17/2009	11/17/2009	342.00	0.00	12/15/2009	Cleaning City Hall & Annex		-			No 0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
11/17/2009	11/17/2009	256.50	0.00	12/15/2009	Cleaning Fire Hall		-			No 0000
101-420-2220-44010	Repairs/Maint Bldg									
11/17/2009	11/17/2009	29.92	0.00	12/15/2009	Supplies		-			No 0000
101-410-1940-42110	Cleaning Supplies									
11/17/2009	11/17/2009	-38.50	0.00	12/15/2009	Use Tax		-			No 0000
101-000-0000-20201	Use Tax Payable									
	11/17/2009 Total:	589.92								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
RUD Total:		589.92								
SAMSCLUB Sam's Club										
11/30/2009	11/30/2009	44.74	0.00	12/15/2009	Station Supplies		-		No	0000
101-420-2220-44300	Miscellaneous									
11/30/2009 Total:		44.74								
1213 00943	11/25/2009	64.02	0.00	12/15/2009	Flash Drives and 60 ct Cocoa		-		No	0000
101-430-3100-42000	Office Supplies									
1213 00943 Total:		64.02								
SAMSCLUB Total:		108.76								
SPRINGB Springbrook Software										
0012722	09/01/2009	4,214.60	0.00	12/15/2009	Annual Financial Maint Support 2010		-		No	0000
101-410-1450-43180	Information Technology/Web									
0012722 Total:		4,214.60								
SPRINGB Total:		4,214.60								
STILLGAZ Stillwater Gazette										
12/1/2009	12/01/2009	114.04	0.00	12/15/2009	AD for PT ice rink attendant		-		No	0000
101-430-3100-44300	Miscellaneous									
12/1/2009 Total:		114.04								
STILLGAZ Total:		114.04								
TASCH T.A. Schifsky & Sons Inc										
48465	11/24/2009	126.33	0.00	12/15/2009	Asphalt		-		No	0000
101-430-3120-42240	Street Maintenance Materials									
48465 Total:		126.33								
TASCH Total:		126.33								
VISALE40 VISA										
11/30/2009	11/30/2009	53.55	0.00	12/15/2009	Smoke for locating stormwater		-		No	0000
603-496-9500-42270	Utility System Maint Supplies									
11/30/2009 Total:		53.55								
VISALE40 Total:		53.55								
WAS-SHER Washington County										
64713	11/30/2009	1,166.90	0.00	12/15/2009	Monthly User Fee for 800 MHz Radios		-		No	0000
101-420-2220-43230	Radio									
64713 Total:		1,166.90								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
WAS-SHER Total:		1,166.90								
WASHACC Washington County										
101-410-1320-44300	12/02/2009	100.00	0.00	12/15/2009	Notary commission renewal		-			No 0000
Miscellaneous Chk Req Total:		100.00								
WASHACC Total:		100.00								
XCEL Xcel Energy										
101-430-3160-43810	12/11/2009	1,931.09	0.00	12/15/2009	Street Lighting		-			No 0000
51-3736544-2 Total:		1,931.09								
101-430-3160-43810	12/07/2009	29.79	0.00	12/15/2009	Street Lighting		-			No 0000
51-4572945-7 Total:		29.79								
101-420-2220-43810	12/07/2009	608.62	0.00	12/15/2009	Fire Station 2		-			No 0000
51-4576456-3 Total:		608.62								
101-410-1940-43810	12/07/2009	1,009.06	0.00	12/15/2009	City Hall		-			No 0000
51-4580376-5 Total:		1,009.06								
101-450-5200-43810	12/07/2009	9.28	0.00	12/15/2009	Tennis Courts		-			No 0000
51-4733556-8 Total:		9.28								
101-450-5200-43810	12/07/2009	99.39	0.00	12/15/2009	Parks Bldg		-			No 0000
51-5044219-0 Total:		99.39								
101-450-5200-43810	12/07/2009	15.69	0.00	12/15/2009	Pebble Park		-			No 0000
51-5275289-3 Total:		15.69								
601-494-9400-43810	12/11/2009	1,312.46	0.00	12/15/2009	Wells 1 & 2		-			No 0000
51-5356323-8 Total:		1,312.46								
101-430-3160-43810	12/07/2009	35.31	0.00	12/15/2009	Traffic Lights		-			No 0000
51-5522332-2 Total:		35.31								
101-450-5200-43810	12/07/2009	142.55	0.00	12/15/2009	Arts Center		-			No 0000
51-5747685-4 Total:		142.55								
602-495-9450-43810	12/07/2009	16.78	0.00	12/15/2009	Lift Station		-			No 0000
51-5916043-7 Total:		16.78								
602-495-9450-43810	12/07/2009	14.88	0.00	12/15/2009	Lift Station		-			No 0000
51-6429583-8 Total:		14.88								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	51-6429583-8 Total:	14.88								
51-6433976-2	12/07/2009	283.63	0.00	12/15/2009	Fire Station 1		-			No 0000
101-420-2220-43810	Electric Utility									
	51-6433976-2 Total:	283.63								
51-6625457-1	12/07/2009	54.51	0.00	12/15/2009	Legion Park		-			No 0000
101-450-5200-43810	Electric Utility									
	51-6625457-1 Total:	54.51								
51-6928283-3	12/07/2009	25.59	0.00	12/15/2009	Traffic Lights		-			No 0000
101-430-3160-43810	Street Lighting									
	51-6928283-3 Total:	25.59								
51-6956201-4	12/07/2009	54.21	0.00	12/15/2009	VFW Ballfield Lts		-			No 0000
101-450-5200-43810	Electric Utility									
	51-6956201-4 Total:	54.21								
51-7538112-1	12/07/2009	1,223.65	0.00	12/15/2009	Public Works		-			No 0000
101-430-3100-43810	Electric Utility									
	51-7538112-1 Total:	1,223.65								
51-8126093-5	12/07/2009	122.20	0.00	12/15/2009	Water Tower 2		-			No 0000
601-494-9400-43810	Electric Utility									
	51-8126093-5 Total:	122.20								
51-8711719-3	12/07/2009	10.37	0.00	12/15/2009	Speed sign Hwy 5		-			No 0000
101-430-3160-43810	Street Lighting									
	51-8711719-3 Total:	10.37								
	XCEL Total:	6,999.06								
<hr/>										
YOCUM Yocum Oil Company, Inc.										
181195	11/23/2009	160.69	0.00	12/15/2009	Bulk Oil Tanks		-			No 0000
101-430-3100-44010	Repairs/Maint Bldg									
	181195 Total:	160.69								
	YOCUM Total:	160.69								
<hr/>										
	Report Total:	75,801.20								



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09

CONSENT

ITEM #: 3

AGENDA ITEM: Approval of Contingent-Offer of Employment for Ice Rink Operator and other Intermittent Employees.

SUBMITTED BY: Mike Bouthilet, Public Works Supervisor
Kyle Klatt, Planning Director
Sharon Lumby, City Clerk

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: City Staff

SUMMARY AND ACTION REQUESTED: Pursuant to approval of the 2010 Annual Budget and City Council direction, authorization is requested to offer employment to the most qualified candidate for the position of Ice Rink Operator, as well as authorization for the City Administrator to execute minor employment and/or service contracts for a variety of positions of less than 50% FTE or intermittent in nature. Suggested motions:

“Move to approve an offer of Employment to the most qualified candidate for the position of Ice Rink Operator, consistent with the already-budgeted compensatory parameters for the position and contingent upon completion of reference checks and an appropriate background investigation.”

“Move to authorize the City Administrator to renew and/or execute minor employment and service contracts for various minor City positions, consistent with City policies and the approved 2010 Annual Budget.”

BACKGROUND INFORMATION: The positions identified herein are fully funded in the City's FY 2010 Annual budget. Larger and more significant employment agreements and professional services contracts will continue to be brought to the City Council for consideration on an individual basis.

The City is currently finalizing the recommended selection of an Ice Rink Operator, following advertizing and selection of candidates to interview. Other positions are anticipated to be renewed “as is” to the greatest extent practicable, with the exception of augmenting the number of additional Back-up Cable Operators, due to limited availability of current Cable Operators.

STAFF REPORT: City staff has followed the normal advertizing, review, interview and recommendation for the position of Ice Rink Operator. However, a final recommendation is not available

prior to the December 15th, 2009 Council Meeting. As a result, City Staff is recommending approval of a Contingent Offer of Employment to the most qualified candidate.

In addition, the following minor City positions and/or service contracts, as determined by their limited FTE %, the intermittent nature of their employment, or the size and scope of their contracts, are identified for either annual renewal or re-appointment:

- Custodial Services for City Facilities
- Planning Advisor
- CDBG Administrator
- Accounting Clerk
- Animal Control Services
- Forestry Services
- Ski Trail Grooming Services
- Snow Plow, Sanding and Salting Services
- Assessing Services

Many current contracts have automatic annual renewal provisions and may follow a non-calendar year schedule. Affirmative authorization of tonight's recommendation will allow the City Administrator and staff to review and standardize such employment agreements and contracts and pursue, where reasonable, additional efficiencies and programmatic improvements.

RECOMMENDATION: It is recommended that the City Council undertake the following two actions:

“Move to approve an offer of Employment to the most qualified candidate for the position of Ice Rink Operator, consistent with the already-budgeted compensatory parameters for the position and contingent upon completion of reference checks and an appropriate background investigation.”

“Move to authorize the City Administrator to renew and/or execute minor employment and service contracts for various minor City positions, consistent with City policies and the approved 2010 Annual Budget.”

Alternatively, the City Council may elect to reject either or both proposed motions and await specific recommendation on the hiring of an Ice Rink Attendant and direct that all City-related employment agreements and/or service contracts be brought directly to the City Council.

ATTACHMENTS: None

SUGGESTED ORDER OF BUSINESS (if removed from Consent Agenda):

- Questions from Council to Staff.....Mayor Facilitates
- Call for Motion.....Mayor & City Council
- Discussion.....Mayor & City Council
- Action on Motion.....Mayor Facilitates



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09

CONSENT

ITEM #: 4

MOTION

AGENDA ITEM: Approve LMNCIT Insurance Renewal and Monetary Limits on Tort Liability Coverage

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: The City Council is being asked to consider whether or not to waive the statutory tort limits for the City's liability insurance coverage. Based upon the identified needs and liabilities of the City, it is recommended that the City Council approve the liability coverage-waiver form stating that the City does not waive the monetary limits on municipal tort liability as established under Minnesota Statutes 466.04. The suggested motion (as part of the Consent Agenda) is:

“Move to approve the liability coverage-waiver form stating that the City does not waive the monetary limits on municipal tort liability as established under Minnesota Statutes 466.04.”

BACKGROUND INFORMATION: The City Council is being asked to consider whether or not to waive the statutory tort limits for the City's liability insurance coverage. The City of Lake Elmo obtains liability coverage through the League of Minnesota Cities Insurance trust for buildings and vehicles. The coverage also covers tort liability. Because of this coverage, the City must decide whether or not to waive the monetary limits on municipal tort liability as established by Minnesota Statutes §466.04.

STAFF REPORT: If the City **does not waive the statutory tort limits**, an individual claimant would be able to recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,200,000. These statutory tort limits would apply regardless of whether or not the city purchases the optional excess liability coverage.

If the City **waives the statutory tort limits**, and does not purchase excess liability coverage, a single claimant could potentially recover up to \$1,200,000 on a single occurrence. The total

which all claimants would be able to recover for a single occurrence to which the statutory limits apply would also be limited to \$1,200,000, regardless of the number of claimants.

If the City **waives the statutory tort limits** and purchases excess liability coverage, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

RECOMMENDATION: It is recommended that the City Council undertake the following action approve the liability coverage-waiver form stating that the City does not waive the monetary limits on municipal tort liability. The suggested motion to do so is as follows:

“Move to approve the liability coverage-waiver form stating that the City does not waive the monetary limits on municipal tort liability as established under Minnesota Statutes 466.04.”

Alternatively, the City Council may elect to reject the proposed motion discuss this issue further and pass an alternative resolution.

ATTACHMENTS: Liability Coverage - Waiver Form

SUGGESTED ORDER OF BUSINESS (if removed from Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

SECTION I: LIABILITY COVERAGE WAIVER FORM

Cities obtaining liability coverage from the League of Minnesota Cities Insurance Trust must decide whether or not to waive the statutory tort liability limits to the extent of the coverage purchased. The decision to waive or not to waive the statutory limits has the following effects:

- o *If the city does not waive the statutory tort limits*, an individual claimant would be able to recover no more than \$500,000. on any claim to which the statutory tort limits apply. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether or not the city purchases the optional excess liability coverage.
- o *If the city waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could potentially recover up to \$1,500,000. on a single occurrence. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to \$1,500,000., regardless of the number of claimants.
- o *If the city waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

This decision must be made by the city council. **Cities purchasing coverage must complete and return this form to LMCIT before the effective date of the coverage.** For further information, contact LMCIT. You may also wish to discuss these issues with your city attorney.

_____ accepts liability coverage limits of \$ _____ from the League of Minnesota Cities Insurance Trust (LMCIT).

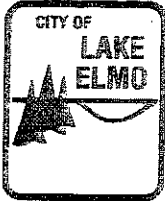
Check one:

- The city **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minnesota Statutes 466.04.
- The city **WAIVES** the monetary limits on tort liability established by Minnesota Statutes 466.04, to the extent of the limits of the liability coverage obtained from LMCIT.

Date of city council meeting _____

Signature _____ Position _____

Return this completed form to LMCIT, 145 University Ave. W., St. Paul, MN. 55103-2044



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09

CONSENT

ITEM #: 5

MOTION

AGENDA ITEM: Substantial Completion of the Public Infrastructure Improvements within Farms of Lake Elmo – Authorize Release of Letter of Credit No. 453 in the Amount of \$21,250 and accept Cash Escrow for the Remaining Items

SUBMITTED BY: Kyle Klatt, Planning Director
Ryan Stempski, Assistant City Engineer

THROUGH: Bruce Messelt, City Administrator

REVIEWED BY: Dave Snyder, City Attorney
Jack Griffin, City Engineer

SUMMARY AND ACTION REQUESTED: The City Council is asked to release the Letter of Credit securing public infrastructure installed as part of the Farms of Lake Elmo Development. Instead of extending the Letter of Credit, the developer has provided cash security in the amount of \$12,000 to ensure completion of the two remaining items by June 30, 2010. To accomplish this, the following motion is proposed to be included as part of approval of the Consent agenda:

“Move to authorize the release of Letter of Credit No. 453 for the Farms of Lake Elmo Development and to accept the cash escrow in the amount of \$12,000 for the remaining work to be completed by June 30, 2010.”

BACKGROUND INFORMATION: The public infrastructure within the development has been substantially completed (see attachment No. 1). The developer of the Farms of Lake Elmo has addressed all punch list items except for additional treatment and seeding of the drain field area and the removal of a plug in the sanitary sewer pipe located within the public Right-of-Way. These items cannot currently be completed due to weather conditions.

STAFF REPORT: City staff has reviewed the status of this development and finds the request reasonable. Letter of Credit No. 453, secured by Lake Elmo Bank, in the amount of \$21,250 is set to expire on December 21, 2009.

Instead of extending the Letter of Credit, the developer has agreed to provide cash security in the amount of \$12,000 to ensure completion of the two remaining items by June 30, 2010.

RECOMMENDATION: It is recommended that the City Council authorize the release of Letter of Credit No. 453, in the amount of \$21,250, based on the substantial completion of the public infrastructure and the provision of a cash security in the amount of \$12,000 for the remaining items to complete the development. The suggested motion to accomplish this is as follows:

“Move to authorize the release of Letter of Credit No. 453 for the Farms of Lake Elmo Development and to accept the cash escrow in the amount of \$12,000 for the remaining work to be completed by June 30, 2010.”

Alternatively, the City Council may elect to remove this item from the consent Agenda, discuss the item in greater detail, accept or reject the suggested motion, and/or provide City staff direction other than that recommended.

ATTACHMENTS: City Engineer’s letter of substantial completion dated December 10, 2009.

SUGGESTED ORDER OF BUSINESS (if removed from Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

TKDA

ENGINEERS • ARCHITECTS • PLANNERS

444 Cedar Street, Suite 1500
Saint Paul, MN 55101-2140

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

December 10, 2009

Mr. Jack Krongard
M & K Development, LLC.
14791 60th Street North
Stillwater, Minnesota 55082

Re: Engineer's Acknowledgement of Substantial Completion
Farms of Lake Elmo
City of Lake Elmo, Minnesota
TKDA Project No. 13819.004

Dear Mr. Krongard:

We have reviewed the Developer-installed improvements for the Farms of Lake Elmo Development, and find that the work has been substantially completed in accordance with the Developer's Agreement, the Contract, Plans and Specifications, and the applicable standards and ordinances of the City.

The items that remain to be completed are weed treatment and seeding of the drainfield area and the removal of a plug in an unused sanitary sewer line. These items were not able to be completed this year due to weather conditions. A cash security in the amount of \$12,000 has been provided to the City of Lake Elmo to ensure these items are completed by June 30, 2010.

Sincerely,


Ryan W. Stempski, P.E.
Assistant City Engineer

cc: Bruce Messelt, City Administrator
Kyle Klatt, Planning Director
Mike Bouthilet, Public Works Superintendent



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09
CONSENT
ITEM #: 6
MOTION: Resolution 2009-053

AGENDA ITEM: Approve One-Day Gambling License: Maplewood-Oakdale Lions.

SUBMITTED BY: Sharon Lumby, City Clerk

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: Pursuant to state statutes and City review, the City Council is asked to affirmatively consider the Maplewood-Oakdale Lions annual One-day (February 1, 2010), Off-Site Gambling License to sell raffles and hold bingo at the Lake Elmo Inn Event Center. Staff is recommending approval of issuing the charitable gambling license. The **Recommended Motion is:**

“Move to adopt Resolution No. 2009-053 Approving the Issuance of a Charitable Gambling License by the State of Minnesota to the Maplewood/Oakdale Lions.”

BACKGROUND INFORMATION: The City has the authority and responsibility to review and, if acceptable, issue such licenses.

STAFF REPORT: City staff has reviewed the application and finds no issues of concern.

RECOMMENDATION: It is recommended that the City Council undertake the following:

“Move to adopt Resolution No. 2009-053 Approving the Issuance of a Charitable Gambling License by the State of Minnesota to the Maplewood/Oakdale Lions.”

ATTACHMENTS:

1. Application to conduct annual off-site gambling at Lake Elmo Inn Event Center
2. Resolution No. 2009-053

SUGGESTED ORDER OF BUSINESS (if removed from Consent Agenda):

- Questions from Council to Staff.....Mayor Facilitates
- Call for MotionMayor & City Council
- Discussion.....Mayor & City Council
- Action on MotionMayor Facilitates

RESOLUTION NO. 2009-053
CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA

**A RESOLUTION APPROVING THE ISSUANCE OF A
CHARITABLE GAMBLING LICENSE
BY THE STATE OF MINNESOTA
TO THE MAPLEWOOD/OAKDALE LIONS**

WHEREAS, the Maplewood/Oakdale Lions has requested that the State of Minnesota issue a One-Day (February 1, 2010) Off-Site Gambling License; and

WHEREAS, the Maplewood/Oakdale Lions has requested to sell raffles and hold bingo at a location within an establishment known as the Lake Elmo Inn Event Center, located at 3712 Lake Elmo Avenue N., Lake Elmo, Minnesota; and

WHEREAS, the Maplewood/Oakdale Lions comply with the Charitable Gambling rules and regulations as set forth in Section 1110.04 of the Lake Elmo Municipal Code;

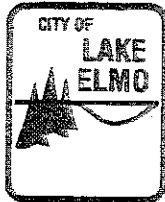
NOW, THEREFORE, BE IT RESOLVED, that the City Council of Lake Elmo hereby approves the issuance of a charitable gambling application requested by the Maplewood/Oakdale Lions.

ADOPTED, by the Lake Elmo City Council this 15th day of December, 2009.

Dean Johnston, Mayor

ATTEST:

Sharon Lumby, City Clerk



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09

CONSENT

ITEM #: 7

MOTION

AGENDA ITEM: Adopt 2010 Calendar of City Council Meetings and Workshops

SUBMITTED BY: Sharon Lumby, City Clerk

THROUGH: Bruce Messelt, City Administrator *BAM*

SUMMARY AND ACTION REQUESTED: Pursuant to state statute, the City Council is asked to adopt the 2010 calendar of Council meetings and Workshops, if needed. The Suggested motion, included as part of the Consent Agenda, is as follows:

“Move to adopt the 2010 calendar of City Council Meetings and Workshops”

BACKGROUND INFORMATION: The City must adopt an official calendar of meetings and other public forums (i.e. workshops), in accordance with state statutes and City policies. Additional changes to the Council Calendar can be undertaken, as needed, on a case-by-case pursuant to the same requirements.

STAFF REPORT: City staff has prepared the attached proposed 2010 Calendar. Please note the suggested changes for January, as the first Tuesday falls close to New Years' Day vacations and the current projected Agenda is rather light. In addition to moving the first Regular Meeting to January 12th, the convening of a January 19th Workshop will better facilitate the January 18th Holiday.

RECOMMENDATION: It is recommended that the City Council approve the proposed Calendar by the following motion:

“Move to adopt the 2010 calendar of City Council Meetings and Workshops”

Alternatively, the City Council may elect to remove this item from the Consent Agenda, discuss and modify as desired, and amend the proposed motion or provide staff specific direction with preparation of the 2010 Calendar.

ATTACHMENTS: Proposed 2010 Calendar of Council Meetings and Workshops (if needed)

SUGGESTED ORDER OF BUSINESS *(if removed from Consent Agenda):*

- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**2010 CALENDAR OF LAKE ELMO CITY COUNCIL
MEETINGS AND WORKSHOPS***

(The Mayor and Council have the right to add or cancel meetings.)

January 12 – City Council
January 19 - Workshop
January 26 – City Council (if needed)

February 3 – City Council
(*Precinct Caucus - February 2*)
February 9 – Workshop
February 16 – City Council

March 2 – City Council
March 9 – Workshop
March 16 – City Council

April 6 – City Council
April 13 – Workshop
April 20 – City Council

May 4 – City Council
May 11 – Workshop
May 18 – City Council

June 1 – City Council
June 8 – Workshop
June 15 – City Council

July 6 – City Council
July 13 – Workshop
July 20 – City Council

August 3 – City Council
August 10 – Workshop
August 17 – City Council

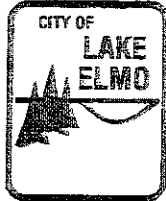
September 7 – City Council
September 15 – Workshop
(*Primary Election - September 14*)
September 21 – City Council

October 5 – City Council
October 12 – Workshop
October 19 – City Council

November 3 – City Council
(*General Election – November 2nd*)
November 9 - Workshop
November 16 – City Council

December 7 – City Council
December 14 - Workshop
December 21 – City Council

***7:00 p.m. City Council meetings
6:30-8:30 p.m. workshops**



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09
CONSENT
ITEM #: 8
MOTION Resolution 2009-054

AGENDA ITEM: Lake Elmo Library Hours and Days of Operation
SUBMITTED BY: Bruce Messelt, City Administrator *BAM*
REVIEWED BY: Larry Green, Supporters of the Rosalie E. Wahl Library
Paul Ryberg, Friend of the Lake Elmo

SUMMARY AND ACTION REQUESTED: This item has been scheduled at the direction of the City Council following its discussion on December 8th, 2009. The recommended motion to act on this is as follows:

“Move to approve Resolution 2009-054 Regarding Hours and Days of Operation at the Rosalie E. Wahl Branch Library in Lake Elmo”

BACKGROUND INFORMATION: The City Council has requested preparation of a Resolution of support for efforts by the community to change the days of operation of the Rosalie E. Wahl Branch Library to include Saturdays.

Council also directed City staff to include language suggesting affirmative consideration of additional hours of operation for the Lake Elmo branch, though cognizant of the restrictive budgetary situation, and possible utilization of limited staff and/or volunteers for certain additional limited operations.

STAFF REPORT: City staff has prepared the attached Resolution at the direction of City Council. *Please note that it remains in draft format as it awaits final review from Messer’s Green and Ryberg.* A final proposed Draft Resolution will be sent to Council prior to Tuesday’s meeting. Upon Council action, a letter will also be prepared for transmittal of this Resolution to both the Library Board of Directors and Washington County Commission.

RECOMMENDATION: It is recommended that the City Council enact the following motion:

“Move to approve Resolution 2009-054 Regarding Hours and Days of Operation at the Rosalie E. Wahl Branch Library in Lake Elmo”

Alternatively, the City Council may elect to consider an alternative motion, may modify the proposed resolution or may further direct City staff as appropriate regarding this issue.

ATTACHMENTS: Resolution 2009-054

SUGGESTED ORDER OF BUSINESS *(if removed from Consent Agenda):*

- Questions from Council to Staff.....Mayor Facilitates
- Call for Motion.....Mayor & City Council
- Discussion.....Mayor & City Council
- Action on Motion.....Mayor Facilitates

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

RESOLUTION NO. 2009-054

**A RESOLUTION OF SUPPORT FOR ESTABLISHING SATURDAY
HOURS AT THE ROSALIE E. WAHL BRANCH OF THE WASHINGTON
COUNTY LIBRARY SYSTEM**

WHEREAS, RESIDENTS OF LAKE ELMO AND OTHER PATRONS ARE DEDICATED SUPPORTERS OF THE ROSALIE E. WAHL BRANCH LIBRARY; AND

WHEREAS, THE CITY COUNCIL OF LAKE ELMO AND BOTH THE FRIENDS AND SUPPORTERS OF THE ROSALIE E. WAHL BRANCH LIBRARY IN LAKE ELMO RECOGNIZE THE PUBLIC LIBRARY AS AN IMPORTANT EDUCATIONAL AND SOCIAL CORNERSTONE OF OUR COMMUNITY; AND

WHEREAS, THE CURRENT HOURS OF OPERATION AT THE ROSALIE E. WAHL BRANCH LIBRARY INCLUDE ONLY 4 HOURS PER DAY MONDAY THROUGH FRIDAY AND DO NOT INCLUDE SATURDAY HOURS; AND

WHEREAS, MONDAY AND FRIDAY HOURS OF OPERATION OF 10 AM – 2 PM ARE DEEMED MINIMALLY BENEFICIAL TO THE OVERALL LIBRARY COMMUNITY AND OCCUR DURING THE REGULAR SCHOOL DAY FOR FAMILIES AND YOUNGER PATRONS; AND

WHEREAS, EVENING HOURS OF OPERATION OF 2 PM – 6 PM ON TUESDAY, WEDNESDAY AND FRIDAY LEAVE LITTLE TIME FOR FAMILIES AND YOUNGER PATRONS TO PATRONIZE THE LIBRARY FOLLOWING THE COMPLETION OF WORK, SCHOOL AND AFTER-SCHOOL ACTIVITIES;

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY COUNCIL OF THE CITY OF LAKE ELMO, CONGINZANT OF BOTH THE OPERATIONAL AND FISCAL CONSTRAINTS FACING THE WASHINGTON COUNTY LIBRARY SYSTEM, DOES HEREBY RESPECTFULLY REQUEST EARNEST CONSIDERATION OF ESTABLISHMENT OF SATURDAY HOURS OF OPERATION, PARTICULARLY FOR FAMILIES AND YOUNGER PATRONS, EVEN IF SUCH SHOULD REQUIRE A CONCOMMITTANT REDUCTION OF HOURS OF OPERATION DURING OTHER DAYS OR AT OTHER TIMES DURING THE WEEK IN ORDER TO REMAIN REVENUE NEUTRAL AND MINIMALLY DISRUPTIVE TO ASSIGNMENT OF STAFF TO THIS AND OTHER BRANCH LIBRARIES; AND

BE IT FURTHER RESOLVED, THAT THE CITY COUNCIL OF THE CITY OF LAKE ELMO FURTHER RESPECTFULLY REQUESTS THAT THE WASHINGTON COUNTY LIBRARY BOARD OF DIRECTORS AND ITS STAFF AFFIRMATIVELY CONSIDER ENTERING INTO A TIMELY DIALOGUE WITH THE CITY OF LAKE ELMO AND THE FRIENDS AND SUPPORTERS OF THE ROSALIE E. WAHL BRANCH LIBRARY REGARDING THIS ISSUE, THE LARGER ISSUE OF IDEAL DAYS AND HOURS OF OPERATION FOR

LAKE ELMO AND OTHER PATRONS OF THE ROSALIE E. WAHL BRANCH LIBRARY, AND THE POSSIBILITY OF AUGMENTING SUCH DAYS AND HOURS OF OPERATION WITH CURRENT PROFESSIONAL STAFF, WELL-TRAINED VOLUNTEERS, OR A COMBINATION THEREOF.

APPROVED THIS DAY, DECEMBER 15TH, 2009.

CITY OF LAKE ELMO

By: _____
Dean A. Johnston
Mayor

ATTEST:

Bruce A. Messelt
City Administrator

DRAFT



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09

CONSENT

ITEM #: 9

MOTION

AGENDA ITEM: Resolution Accepting Work for the 2009 Crack Seal Project and Authorize Payment No. 1 (Final)

SUBMITTED BY: Ryan Stempiski, Assistant City Engineer

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Tom Bouthilet, Finance Director
Jack Griffin, City Engineer

SUMMARY AND ACTION REQUESTED: The City Council is asked to accept the work completed by Gopher State Sealcoat, Inc. under the contract for the 2009 Crack Seal Project. Additionally, the City Council is asked to approve final payment to Gopher State Sealcoat, Inc. for the 2009 Crack Seal Project. As part of the Consent Agenda, the suggested motion is to:

“Move to approve Resolution No. 2009-055 Accepting the work for the 2009 Crack Seal Project and Authorizing payment in the amount of \$25,200 to be paid from the Street Maintenance Fund for the 2009 Crack Seal project.”

BACKGROUND INFORMATION: Gopher State has submitted Payment Certificate No. 1 (Final) in the amount of \$25,200 with all required documentation. This request has been reviewed and payment is recommended in the amount requested. All work has been completed per contract documents. The one-year warranty will begin December 15, 2009, and extend to December 15, 2010.

STAFF REPORT: All work has been reviewed by staff and is fully completed in accordance with the contract, plans and specifications. Please refer to Attachment No. 2, which is the Engineer’s letter of final acceptance for this project.

RECOMMENDATION: It is recommended that the City Council approve the proposed actions via inclusion in the Consent Agenda of the following motion:

“Move to approve Resolution No. 2009-055 Accepting the work for the 2009 Crack Seal Project and Authorizing payment in the amount of \$25,200 to be paid from the Street Maintenance Fund for the 2009 Crack Seal project.”

Alternatively, the City Council may elect to remove this item from the Consent Agenda, discuss and modify as desired, and amend the proposed motion or provide staff specific direction with respect to this item.

ATTACHMENTS:

1. Resolution No. 2009-055
2. Engineer’s recommendation for final acceptance, dated December 9, 2009
3. Payment Certificate No. 1 (Final) for the 2009 Crack Seal Project

SUGGESTED ORDER OF BUSINESS (if removed from Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA

RESOLUTION NO. 2009-055

A RESOLUTION ACCEPTING
THE WORK FOR THE 2009 CRACK SEALING PROJECT

WHEREAS, pursuant to a written contract signed with the City on August 18th, 2009, Gopher State Sealcoat, Inc. has satisfactorily completed the 2009 Crack Sealing Project in accordance with such contract.

WHEREAS, the one-year Warranty for the improvements began on December 15th, 2009, and will end on December 14th, 2010 and an one-year warranty inspection will be completed in November, 2010, and the contractor will be required to repair or replace, as directed by the City, any work or materials that are found to be defective, at the Contractor's sole cost and expense.

NOW, THEREFORE, BE IT RESOLVED, the work completed under said contract is hereby accepted and approved, and,

BE IT FURTHER RESOLVED that the City Administrator and Mayor are hereby directed to issue a proper order for the final payment on such contract, taking the contractor's receipt in full.

Date: _____, 2009 CITY OF LAKE ELMO

By: _____
Dean A. Johnston
Mayor

ATTEST:

Bruce A. Messelt
City Administrator

TKDA

ENGINEERING - ARCHITECTURE - PLANNING

The right time. The right people. The right company.

444 Cedar Street, Suite 1500
Saint Paul, MN 55101

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

December 9, 2009

Honorable Mayor and City Council Members
City of Lake Elmo
3800 Laverne Avenue
Lake Elmo, Minnesota 55042

Re: Engineer's Recommendation for Final Acceptance
2009 Crack Seal Project
City of Lake Elmo, Minnesota
TKDA Project No. 14290.003

Dear Mayor and City Council Members:

We have reviewed the work under Contract for the 2009 Crack Seal Project, and find that the project has been fully completed in all respects according to the Contract, Plans and Specifications as prepared by TKDA. The Improvements are hereby declared to be complete and acceptance of the Contractor's work (Gopher State Sealcoat, Inc.) is recommended.

The one-year Warranty Period will begin on December 15th, 2009 and end on December 14th, 2010.

Sincerely,



Ryan W. Stampski, P.E.
Project Manager

DMK:art

cc: Bruce Messelt, City Administrator
Mike Bouthilet, Public Works

TKDA

ENGINEERS - ARCHITECTS - PLANNERS

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

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

Proj. No. 14290.003 Cert. No. 1 (F) St. Paul, MN, October 30, 2009

To City of Lake Elmo, Minnesota Owner

This Certifies that Gopher State Sealcoat, Inc. Contractor

For 2009 Crack Sealing Project

Is entitled to Twenty-Five Thousand Two Hundred Dollars and 00/100 (\$ 25,200.00)
 FINAL

being 1st estimate for partial payment on contract with you dated August 18, 2009

Received payment in full of above Certificate.

TKDA

Ryan W. Stempinski

Gopher State Sealcoat, Inc.
 _____, 2009
 Ryan W. Stempinski, P.E.

RECAPITULATION OF ACCOUNT

	CONTRACT PLUS EXTRAS	PAYMENTS	CREDITS
Contract price plus extras	\$ 25,200.00		
All previous payments		\$ -	
All previous credits			
Extra No.			
" "			
" "			
" "			
Credit No.			\$ -
" "			
" "			
" "			
AMOUNT OF THIS CERTIFICATE		\$ 25,200.00	
Totals	\$ 25,200.00	\$ 25,200.00	\$ -
Credit Balance		\$ -	
There will remain unpaid on contract after payment of this Certificate		\$ -	
	\$ 25,200.00	\$ 25,200.00	\$ -

TKDA
Engineers-Architects-Planners Saint Paul, Minnesota 55101

PERIODICAL ESTIMATE FOR PARTIAL PAYMENTS

FINAL

Estimate No. 1 Period Ending October 27, 20 09 Page 1 of 1 Proj. No. 14290.003
Contractor Gopher State Sealcoat, Inc. Original Contract Amount \$25,200.00
Project 2009 Crack Sealing Project
Location City of Lake Elmo, Minnesota

Total Contract Work Completed		\$	<u>25,200.00</u>
Total Approved Credits		\$	<u>0.00</u>
Total Approved Extra Work Completed	\$	<u>0.00</u>	
Approved Extra Orders Amount Completed		\$	<u>0.00</u>
Total Amount Earned This Estimate		\$	<u>25,200.00</u>

Less Approved Credits	\$	<u>0.00</u>	
Less 0 % Retained	\$	<u>0.00</u>	
Less Previous Payments	\$	<u>0.00</u>	
Total Deductions		\$	<u>0.00</u>
Amount Due This Estimate		\$	<u>25,200.00</u>

Contractor *Alvin Black*
Gopher State Sealcoat, Inc.

Date 11/1/09

Engineer *[Signature]*
Ryan W. Stempski, P.E.

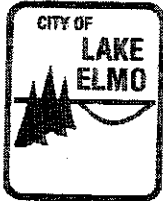
Date _____

ESTIMATE NO. 1 (FINAL)

PERIOD ENDING: October 27, 2009

2009 CRACK SEAL PROJECT
CITY OF LAKE ELMO, MINNESOTA
TKDA PROJECT NO. 14290.003

ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	AMOUNT TO DATE
<u>BITUMINOUS SEALCOAT</u>						
1	ROUTE AND SEAL CRACKS	LBS	20,000	20,000	\$ 1.26	\$ 25,200.00
TOTAL - CRACK SEAL						\$ 25,200.00
TOTAL ESTIMATE NO. 1 (FINAL)						\$ 25,200.00



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09

REGULAR

ITEM #: 10a

MOTION

AGENDA ITEM: Election of Acting Mayor

SUBMITTED BY: Sharon Lumby, City Clerk

THROUGH: Bruce Messelt, City Administrator *BAM*

SUMMARY AND ACTION REQUESTED: Pursuant to State Statute 412.121, the City Council is asked to select an Acting Mayor on the City's behalf should Mayor Johnston be unavailable or unable to attend a meeting, sign an agreement, or attend functions on behalf of the City. Any member of the Council is eligible for this position. The recommended motion to act on this organizational function is as follows:

"Move to approve Council Member _____ as Acting Mayor for 2010"

BACKGROUND INFORMATION: The City must appoint an Acting Mayor. State Statute 412.121 reads: "At its first meeting each year the Council shall choose an Acting Mayor from the Council Members. The Acting Mayor shall perform the duties of Mayor during the disability or absence of the Mayor from the City, or, in case of vacancy in the office of Mayor, until a successor has been appointed and qualifies."

STAFF REPORT: City staff has prepared this action in accordance with Minnesota State Statute 412.121.

RECOMMENDATION: It is recommended that the City Council appoint an Acting Mayor by the following motion:

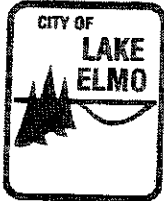
"Move to approve Council Member _____ as Acting Mayor for 2010."

Alternatively, the City Council may elect to consider an alternating arrangement, such as appointing each Council Member as Acting Mayor for a specified 3-month period.

ATTACHMENTS: None

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item..... City Clerk
- Questions from Council to Staff.....Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion.....Mayor Facilitates



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09

REGULAR

ITEM #: 10b

MOTION

AGENDA ITEM: Designation of Legal Newspaper

SUBMITTED BY: Sharon Lumby, City Clerk

THROUGH: Bruce Messelt, City Administrator *BDM*

SUMMARY AND ACTION REQUESTED: Pursuant to State Statute 412.121, the City Council is to select an official newspaper. Four newspapers are potential candidates for this: The Oakdale-Lake Elmo Review, the St. Croix Valley Press, the Stillwater Gazette and the St. Paul Pioneer Press. The Lake Elmo Leader is no longer in business. Based upon current and projected need, it is recommended the City Council undertake the following action:

“Move to designate the Oakdale-Lake Elmo Review as the official, legal newspaper and to designate the St. Paul Pioneer Press as a back up official, legal newspaper on an as needed basis.”

BACKGROUND INFORMATION: According the State Statute, the City must appoint an official legal newspaper for 2010. The City solicited proposals and the two preferred responses are attached.

STAFF REPORT: City staff is comfortable continuing with the Oakdale-Lake Elmo Review as its official designated newspaper. As a back up paper, the St. Paul Pioneer Press would be used under unique circumstances when the City needs to get a quicker turn around for publication to serve property owners and to meet the 60 day rule in particular. The Pioneer Press gives the City a two-day turn around time for publications that may be unexpected and time sensitive.

RECOMMENDATION: It is recommended that the City Council designate an official legal newspaper for 2010 by the following motion:

“Move to designate the Oakdale-Lake Elmo Review as the official, legal newspaper and to designate the St. Paul Pioneer Press as a back up official, legal newspaper on an as needed basis.”

Alternatively, the City Council may elect to consider an alternate official legal newspaper.

ATTACHMENTS:

1. Lille Suburban Newspaper Proposal
2. Pioneer Press Newspaper Proposal

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Clerk
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

Lillie Suburban Newspapers, Inc.

2515 E. Seventh Avenue
North St. Paul, MN 55109
(651) 777-8800

November 18, 2009

Sharon Lumby, City Clerk
City of Lake Elmo
3800 Laverne Ave
Lake Elmo MN 55042

Sharon,

Here is the information you requested regarding your RFP for Legal Newspaper for the City of Lake Elmo.

- 1) Name of Paper: Oakdale-Lake Elmo Review
- 2) Owner of Paper: Lillie Suburban Newspapers
- 3) Legal Location of Newspaper: Main Office is 2515 E 7th Ave.
N. St. Paul MN 55109
- 4) Area of Distribution: The Oakdale-Lake Elmo Review is distributed throughout the cities of Lake Elmo and Oakdale.
- 5) Distribution Method: City of Lake Elmo Distribution
 - a. Direct Mail: 549 papers.
 - b. Motor Route: 1025 papers
 - c. Subscriptions Direct Mail: 30 papers
 - d. Bulk Drops: 60 papers
- 6) Web Access for the Public: www.oakdalelakeelmoreview.com
- 7) Publication Schedule: The Oakdale-Lake Elmo Review is distributed once a week on a weekly basis 52 weeks per year. The primary distribution days are Tuesday/Wednesday.
- 8) Deadlines for Accepting Notices for Publication: 3PM Friday for publication the following week.
- 9) Cost Per Column Inch Per Publication: \$2.75 for first insertion.
\$2.55 for additional insertions



Ramsey County Review • Maplewood Review • Oakdale-Lake Elmo Review • Review Perspectives
New Brighton Bulletin • Shoreview Bulletin • St. Anthony Bulletin • South-West Review
Roseville-Little Canada Review • Woodbury-South Maplewood Review • East Side Review

Lillie Suburban Newspapers, Inc.

2515 E. Seventh Avenue
North St. Paul, MN 55109
(651) 777-8800

10) Distribution:

a) Distribution Area: Throughout Lake Elmo

b) Subscribers in City of Lake Elmo: 30 paid subscribers.*

*The Oakdale-Lake Elmo Review is a legal newspaper, not a shopper. It is distributed throughout Lake Elmo and is not subscriber based, however subscriptions are available.

c) Number of None Subscriptions Papers Delivered in City of Lake Elmo:

Mailed:	549
Motor Route:	1,025
Drop Route:	60

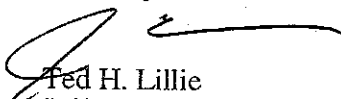
Areas of distribution and distribution method: Currently we deliver 1,664 newspapers to the city of Lake Elmo comprised of 579 direct mail, 1,025 motor routes and 60 retail drops. This gives us the most complete and comprehensive coverage in the City of Lake Elmo.

11) Most Recent Audited Circulation: Attached.

12) Estimated Number of News Stories on Lake Elmo in the Oakdale-Lake Elmo Review:

One or more staff written news articles per week, plus multiple submitted community events, bulletin board items, faith articles, events and letters to the editor.

Sincerely,


Fed H. Lillie
Jeff Enright
Publishers



Ramsey County Review • Maplewood Review • Oakdale-Lake Elmo Review • Review Perspectives
New Brighton Bulletin • Shoreview Bulletin • St. Anthony Bulletin • South-West Review
Roseville-Little Canada Review • Woodbury-South Maplewood Review • East Side Review

PUBLISHER'S STATEMENT

Oakdale-Lake Elmo Review

CIRCULATION DATA FOR ISSUE DATE: 03/27/2007 TOTAL QUALIFIED CIRCULATION: 9,835

DISTRIBUTION ANALYSIS BY COUNTY:	COUNTY NAME	DISTRIBUTION
	WASHINGTON COUNTY	9,484
	MISCELLANEOUS	426
	<u>TOTAL GROSS DISTRIBUTION</u>	<u>9,910</u>
	LESS TARGET (BULK) RETURNS	(75)
	<u>TOTAL QUALIFIED CIRCULATION</u>	<u>9,835</u>

ZIP CODE	COMMUNITY	COUNT	COUNTY INDEX*	U.S. INDEX*	DELIVERIES**	FREE + PAID = TOTAL	PERCENT OF TOTAL DISTRIBUTION	ESRI/USPS COVERAGE
(NO ZONE ASSIGNED)								
55128	SAINT PAUL							
	POPULATION/HOUSEHOLDS	28,928 / 11,438			11,514 c	7,349 259	7,608	76.8%
	AVERAGE HOUSEHOLD SIZE	2.50	92.6%	96.2%				
	MEDIAN HOUSEHOLD INCOME	\$69,473	84.2%	167.9%		Carrier	6,365	
	RACE***	90%-W 3%-B 3%-A 4%-O				Mail	703	
	HISPANIC ORIGIN***	HO: 4%				Target (Bulk)	540	
55042	LAKE ELMO							
	POPULATION/HOUSEHOLDS	8,769 / 3,030			2,965 c	1,843	1,843	18.6%
	AVERAGE HOUSEHOLD SIZE	2.90	107.4%	111.5%				
	MEDIAN HOUSEHOLD INCOME	\$99,228	120.2%	239.9%		Mail	1,784	
	RACE***	95%-W 1%-B 2%-A 2%-O				Target (Bulk)	59	
	HISPANIC ORIGIN***	HO: 2%						
ZIP CODES ACCOUNTING FOR LESS THAN 5% OF TOTAL DISTRIBUTION:								
55082	STILLWATER	34,510 / 12,825			13,545 c	33	33	0.3%
<u>TOTAL GROSS DISTRIBUTION FOR ZONE</u>							<u>9,484</u>	
						Carrier	6,365	
						Mail	2,487	
						Target (Bulk)	632	
MISCELLANEOUS							426	
<u>TOTAL GROSS DISTRIBUTION</u>							<u>9,910</u>	
						Carrier	6,365	
						Mail	2,807	
						Target (Bulk)	738	
LESS TARGET (BULK) RETURNS							(75)	
<u>TOTAL QUALIFIED CIRCULATION</u>							<u>9,835</u>	

* The zip code percentage for the variable compared to the county or national percentage for the variable.
 ** C-Postal Home Deliveries, PO-Post Office Boxes (may include non-rented boxes), B-Postal Business Deliveries.
 *** Race: W = White, B = Black, A = Asian, O = Other, HO = Hispanic Origin (rounding error may occur).

Source for demographic data: ESRI Business Information Solutions, (2006) (1-800-795-7483).
 June 2007 USPS Zip update

PIONEER PRESS

TwinCities.com

345 Cedar St.
St. Paul, MN. 55101-1057
651-228-2111

Sharon Lumby, City Clerk
City of Lake Elmo
3800 Laverne Ave.
Lake Elmo, MN. 55042

ATTN: CITY OF LAKE ELMO,

SUBMISSION FOR PROPOSALS FOR LEGAL NEWSPAPER

The Pioneer Press respectfully submits its bid to be considered for publication of 2010 legal notices. The Pioneer Press provides both full run and community zone circulation/readership. Response to the October 28, 2009 request for information is as follows:

- 1) **NAME OF PAPER:** Pioneer Press
- 2) **OWNER OF PAPER:** Media News Group
- 3) **LEGAL LOCATION OF NEWSPAPER:** St. Paul, Minnesota
- 4) **AREA OF DISTRIBUTION:** Approximately 70% Of Pioneer Press Circulation Is Distributed Within Ramsey, Dakota and Washington Counties. Weekday circulation to Lake Elmo is 1,329 and Sunday is 1,761
- 5) **DISTRIBUTION METHOD:** 85% of total Distribution Is Home Delivered, 10% Is Single Copy (purchased from newsstands/racks) and the remainder is bulk sales or e-edition. **NOTE:** Other Distribution Can Include Registered College Student Copies, Newspapers In Education, Restaurants & Businesses Having Newspaper Available For Patrons, Hospitals, Hotels, Etc. See Attached Audit For Detail
- 6) **WEB ACCESS FOR THE PUBLIC:** Newspaper Web Site, <http://www.twincities.com/>
- 7) **PUBLICATION SCHEDULE:** Full Circulation Publishes Daily And Sunday, 7 Days A Week; Zone Circulation Publishes Wednesday Through Saturday
- 8) **TIMELINE FOR ACCEPTING NOTICES FOR PUBLICATION:**
In Column Line Ad Deadline: Noon, The Day Prior To Publication, For Ads Running Tuesday through Friday; Ads Running Saturday, Sunday Or Monday Deadline at 11:00 AM On Friday
Zone Ad Deadlines: Ads Running Sunday, Deadline On Wednesday, 5pm; Ads Running Wednesday Deadline Friday, 5pm; Ads Running Thursday Deadline Monday, 5pm; Ads Running Friday or Saturday, Deadline Tuesday, 5pm. **Note:** Holidays can Affect Deadlines, Which May Be Earlier Times than stated.

9) COST PER LINE FOR LEGAL NOTICES SPACE:

The **Washington County Zone** may be sufficient for Lake Elmo legal messages and we are offering the discounted 92x published rate level for these ads, as follows:

\$15.15 Per Column Inch Wednesday-Saturday; \$20.48 Per Column Inch Sunday

Zone editions are available Wednesday through Sunday. Minimum ad size is 4 inches.

In-Column City Wide (full run) Legal Line Ad Rate: \$4.56 Per Line

10) DISTRIBUTION

A. DISTRIBUTION AREA: Approximately 80% Of Pioneer Press Circulation Is Distributed To The Counties Of Chisago, Dakota, Ramsey And Washington In Minnesota And Pierce And St. Croix In Wisconsin (**Source:** ABC Audit, March, 2007) The City Of Lake Elmo, Falls Into Our Washington County Zone And Community Editions Publish Wednesday-Saturday

B. SUBSCRIBERS IN THE CITY OF LAKE ELMO: Weekday circulation to Lake Elmo is 1,329 and Sunday is 1,761

11) ATTACH MOST RECENT AUDITED CIRCULATION CERTIFICATE: Annual Audit Attached

12) ESTIMATED NUMBER OF NEWS STORIES ON LAKE ELMO IN YOUR PAPER PER WEEK A search of TwinCities.com archives found an average of 5-6 mentions of Lake Elmo each week in the Pioneer Press.

CONTACT INFORMATION Legal Advertising Can Be E-Mailed To: legals@pioneerpress.com;

ADVERTISING CONTACT For Ad Placements Is LuLetta Schmitz 651-228-5154

For any other information contact Iris Ledford, Advertising Operations Manager at 651-228-5294

SUBMITTED BY: Iris Ledford, Advertising Operations Manager **DATE:** November 12, 2009



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09
REGULAR
ITEM #: 10c
MOTION

AGENDA ITEM: Appointment of Official Depositories for 2010

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator *BMM*

SUMMARY AND ACTION REQUESTED: Pursuant to State Statute 412.121, the City Council is being asked to designate official depositories for 2010. The recommended motion to act on this organizational function is as follows:

“Move to designate Lake Elmo Bank, Wells Fargo Advisors, Morgan Stanley Smith Barney LLC. and Northland Securities for the 2010 Depositories.”

BACKGROUND INFORMATION: The City must appoint official Depositories in accordance with Minnesota State Statute 412.121.

STAFF REPORT: Based upon past practice and current and likely future needs, staff recommends the following be designated as official depositories for 2010:

- Lake Elmo Bank
- Wells Fargo Advisors
- Morgan Stanley Smith Barney, LLC
- Northland Securities.

RECOMMENDATION: It is recommended that the City Council designate official depositories for 2010 by the following action:

“Move to designate Lake Elmo Bank, Wells Fargo Advisors, Morgan Stanley Smith Barney LLC. and Northland Securities for the 2010 Depositories.”

Alternatively, the City Council may elect to consider different depositories.

ATTACHMENTS: None

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Tom Bouhilet
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09
REGULAR
ITEM #: 10d
MOTION

AGENDA ITEM: Letter of Agreement with KDV

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator *BAM*

SUMMARY AND ACTION REQUESTED: The City Council is asked to approve the letter of agreement for continuing financial advising on budget, accounts and records with KDV for 2010. Based upon current and projected need, it is recommended the City Council undertake the following action:

“Move to Approve the Attached Letter of Agreement with KDV for Financial Consultative Services for 2010.”

BACKGROUND INFORMATION: The 2010 budget includes funds for these services. Mr. Steve MacDonald, City Auditor, recommends this service continue to maintain fiscal quality.

STAFF REPORT: The City utilized Joe Rigdon of KDV, on the recommendation of the City auditor, to reconcile the City’s records to be consistent with best practices for government accounting. Due to substantial experience in government including being a Finance Director, Joe is very efficient with his time.

In addition, Joe has prepared quarterly revenue and expenditures reports for the City Council and the City staff. He also prepared document format for the budget and other documents. Joe Rigdon’s financial expertise complements and supports the day to day work of the City’s Finance Director. The hourly rate for Joe Rigdon remains at \$135.00 per hour with no minimum fee for his services.

RECOMMENDATION: It is recommended that the City Council approve the attached Letter of agreement with KDV for 2010 Financial Consultative Services by undertaking the following action:

“Move to Approve the Attached Letter of Agreement with KDV for Financial Consultative Services for 2010.”

Alternatively, the City Council may elect to consider a different arrangement for undertaking City financial activities. It should be noted, however, that the City Administrator and Finance Director already plan on undertaking just such an internal programmatic and management audit in 2010 and would not recommend any changes at this time, or at least until this task is accomplished.

ATTACHMENTS: Letter of Agreement with KDV for 2010 Services

SUGGESTED ORDER OF BUSINESS:

- Introduction of ItemFinance Director
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates



November 30, 2009

Mayor and City Council
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

The City of Lake Elmo has previously contracted for various hours of accounting, finance, and consulting services with KDV. The purpose of this letter is to revise the engagement to confirm our understanding of the services we are to provide to the City of Lake Elmo, Minnesota through December 31, 2010.

We are proposing one or more of (but not limited to) the following consulting services:

- Assistance with oversight of the accounting and finances of the City to comply with government standards and generally accepted accounting principles
- Assistance with preparation of 2009 audit working papers for the independent auditors
- Assistance with preparation of a comprehensive 2011 budget document and five-year capital improvement plan
- Attendance and presentations at City Council meetings, as requested
- Other services, as requested

If for any reason we are unable to complete these services, we will discuss such reasons with you. You agree to indemnify and hold harmless Kern, DeWenter, Viere, Ltd., its successors and affiliates, from any losses, claims, damages or liabilities relating to Kern, DeWenter, Viere, Ltd.'s services under this agreement attributable to false or incomplete representations made by you, except to the extent such losses, claims, damages or liabilities are determined to have resulted from the intentional or deliberate misconduct of Kern, DeWenter, Viere, Ltd. personnel.

The City of Lake Elmo agrees to perform the following functions in connection with this engagement:

- Make all management decisions and perform all management functions
- Designate a competent individual to oversee the services
- Evaluate the adequacy and results of the services performed
- Accept responsibility for the results of the services
- Establish and maintain internal controls, including monitoring ongoing activities

Expert advice. When you need it.™

*Certified Public Accountants
Wealth Management
Payroll Services
Business Valuations
Technology Services*

Twin Cities
3800 American Boulevard W.
Suite 1000
Bloomington, Minnesota 1
55431
Phone: 952.563.6800
Fax: 952.563.6801

St. Cloud
220 Park Avenue S.
P.O. Box 1304
St. Cloud, Minnesota
56302
Phone: 320.251.7010
Fax: 320.251.1784

www.kdv.com
877.912.7696

Technology Help Desk:
866.490.6426

Our charges for services, including travel and out-of-pocket expenses, will be billed as the work progresses on a monthly basis. Payments for our services are due upon receipt of our billing. These services will be billed at the rate of \$135 per hour for services performed through December 31, 2010. When, and if, our hours or billings approach the estimated amounts, we will discuss the progress of the above consulting services with you. We will also provide the City with progress reports on objectives accomplished on an "as requested" basis.

Should our relationship terminate before our engagement is completed, you will be billed for services to the date of termination. All bills are payable upon receipt. A service charge of 1% per month, which is an annual rate of 12%, will be added to all accounts unpaid 30 days after billing date. If collection action is necessary, expenses and reasonable attorney's fees will be added to the amount due.

Any disputes between us that arise under this agreement, or for a breach of this agreement, or that arise out of any other services performed by us for you, must be submitted to non-binding mediation before either of us can start a lawsuit against the other. To conduct mediation, each of us shall designate a representative with authority to fully resolve any and all disputes, and those representatives shall meet and attempt to negotiate a resolution of the dispute. If that effort fails, then a competent and impartial third party acceptable to each side shall be appointed to hold and conduct a non-binding mediation proceeding. You and we will equally share in the expenses of the mediator and each of us will pay for our own attorneys' fees, if any. No lawsuit or legal process shall be commenced until at least sixty (60) days after the mediator's first meeting with the parties.

The nature of our engagement makes it inherently difficult, with the passage of time, to present evidence in a lawsuit that fully and fairly establishes the facts underlying any dispute that may arise between us. We both agree that notwithstanding any statute of limitation that might otherwise apply to a claim or dispute, including one arising out of this agreement or the services performed under this agreement, or for breach of contract, fraud or misrepresentation, a lawsuit must be commenced within twenty-four (24) months after the date of our report. This twenty-four (24) month period applies and starts to run on the date of each report, even if we continue to perform services in later periods and even if you or we have not become aware of the existence of a claim or the basis for a possible claim. In the event that a claim or dispute is not asserted at least sixty (60) days before the expiration of this twenty-four (24) month period, then the period of limitation shall be extended by sixty (60) days, to allow the parties to conduct non-binding mediation.

We appreciate the opportunity to be of service to the City of Lake Elmo, Minnesota and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. At any time, please feel free to contact Matthew Mayer at 952-563-6800 or Joe Rigdon at 952-563-6868.

Sincerely,



Matthew Mayer, CPA



Joe Rigdon, CPA

RESPONSE:

This letter correctly sets forth the understanding of the City of Lake Elmo, Minnesota.

By: _____

Title: _____

Date: _____

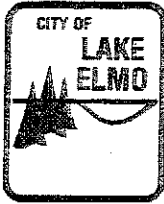
RESPONSE:

This letter correctly sets forth the understanding of the City of Lake Elmo, Minnesota.

By: _____

Title: _____

Date: _____



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09
REGULAR
ITEM #: 10e
MOTION

AGENDA ITEM: Appointment of City Engineer and City Attorney

SUBMITTED BY: Sharon Lumby, City Clerk

THROUGH: Bruce Messelt, City Administrator *BAW*

SUMMARY AND ACTION REQUESTED: The City Council is asked to appoint an official City Engineer and City Attorney. These officials are contracted for professional engineering and legal advice. These appointments are not specifically required by statute or ordinance, but are consistent with past practice. The suggested motions are to:

“Move to appoint Mr. Jack Griffin of TKDA as the official City Engineer and principal provider of professional engineering services for 2010.”

“Move to appoint Mr. Dave Snyder of Eckberg & Lammers as the official City Attorney and principal provider of both civil and criminal services for 2010.”

BACKGROUND INFORMATION: Mr. Jack Griffin of TKDA currently serves as the Official City Engineer and primary provider of professional engineering services. He is supported by Mr. Ryan Stempski. TKDA has submitted a proposal for 2010 services which does not include an increase for the cost for their 2010 engineering services.

Mr. Dave Snyder of Eckberg & Lammers currently serves as the Official City Attorney for regular City business and civil litigation. Criminal prosecution services are provided by Mr. Jerry Filla of Peterson, Fram and Bergman.

STAFF REPORT: The City did not solicit additional bids or conduct an RFP for Engineering Services. City staff is satisfied with the Engineering services provided by TKDA and the City Council has not directed formal action to consider an alternative engineering service provider.

In 2009, the City Council appointed Mr. Dave Snyder City Attorney for official City business and civil litigation. Criminal prosecution services remained with Mr. Jerry Filla. City staff is

satisfied with the legal services currently provided and has no opinion on the efficacy of either changing or combining legal services at this time.

In November, 2009, the City Council directed the City Administrator to combine the two services (civil and criminal) and overall City legal needs under Eckberg & Lammers, provided it proved cost effective for 2010. The City has solicited bids from the law firms of Eckberg & Lammers, Peterson, Fram and Bergman and Lawson. These were as follows:

<u>Firm:</u>	<u>Monthly Bid:</u>
Eckberg & Lammers	\$ 3,750 per month
Lawson	\$ 3,900 per month
Peterson, Fram and Bergman	\$ 4,000 per month (telephone bid)

While the amount of projected annual savings by combining legal services under a single firm is less than that discussed at the Council meeting, Eckberg & Lammers provided the lowest responsible monthly bid for comparable combined legal services.

Should the Council direct a change in legal services, it is recommended that January be denoted as the suggested month for transition of files and calendars (already established well into 2010) from the current firm to the newly-selected firm. This will affect only minimally the overall financial benefits derived from any transition and would minimize as much as possible any disruption in service.

RECOMMENDATION: Based upon Council direction & Staff assessment, it is recommended that the City Council approve the proposed actions as they related via following motion:

“Move to appoint Mr. Jack Griffin of TKDA as the official City Engineer and principal provider of professional engineering services for 2010.”

“Move to appoint Mr. Dave Snyder of Eckberg & Lammers as the official City Attorney and principal provider of both civil and criminal services for 2010.”

Alternatively, the City Council may elect to discuss and modify these recommendations, as desired, and provide staff specific direction with respect to how to proceed accordingly.

ATTACHMENTS:

1. Letter of interest from TKDA
2. Letters of interest from Eckberg & Lammers, and Lawson

SUGGESTED ORDER OF BUSINESS (if removed from Consent Agenda):

- Introduction of Item City Administrator
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

TKDA

ENGINEERING - ARCHITECTURE - PLANNING

The right time. The right people. The right company.

444 Cedar Street, Suite 1500
Saint Paul, MN 55101

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

November 30, 2009

Honorable Mayor and City Council
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, Minnesota 55042

Re: Annual Appointment of City Engineer
City of Lake Elmo, Minnesota

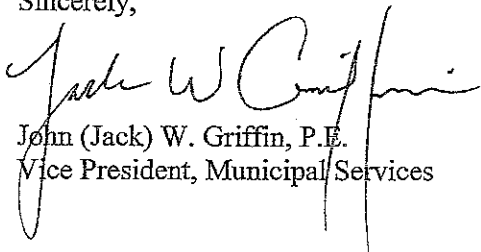
Dear Mayor and City Council:

We are pleased to express to you our continued interest in serving as the Lake Elmo City Engineer and providing day-to-day engineering services in 2010. Since 1979, TKDA has provided engineering services to the City in a professional and cost-effective manner. Over these years we have established a thorough understanding of your existing and planned infrastructure that will continue to result in significantly lower capital costs for your storm water management, wastewater management, drinking water, and transportation systems.

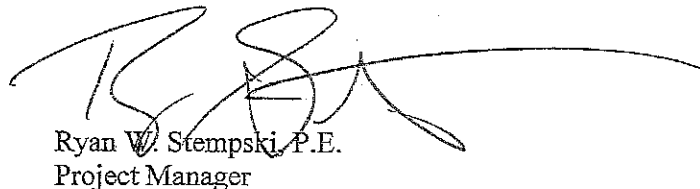
Our approach is to form a partnership with your community working as an extension of your staff. As your appointed City Engineer, we are committed to providing the City with high quality professional services that are responsive to your residents, council and staff, are flexible in service approach to support your needs as they vary through the years, and are cost effective, adding value to the City.

Thank you for this opportunity to request reappointment as your City Engineer. We look forward to continuing our long service relationship with the City. Please do not hesitate to call me at (651) 292-4552 with any questions or comments you may have regarding TKDA and the services we provide.

Sincerely,



John (Jack) W. Griffin, P.E.
Vice President, Municipal Services



Ryan W. Stempinski, P.E.
Project Manager

JWG:art

cc: Bruce Messelt, City Administrator
Sharon Lumby, City Clerk



Writer's Direct Dial:
(651) 351-2131

Writer's E-mail:
dsnyder@eckbergammers.com

November 5, 2009

Bruce Messelt
City Administrator
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

Stillwater Office:
1809 Northwestern Avenue
Stillwater, Minnesota 55082
(651) 439-2878
Fax (651) 439-2923

Hudson Office:
2417 Monetary Boulevard
Hudson, Wisconsin 54016
(715) 386-3733
Fax (651) 439-2923

www.eckbergammers.com

Re: *Lake Elmo, City of - General File 2009*
Our File No.: 22702-18698

Dear Bruce:

We are pleased to renew our proposal to offer prosecution services to the City of Lake Elmo. We have, by far, the most extensive criminal prosecution team and practice in this area and believe we can bring significant value to the City of Lake Elmo.

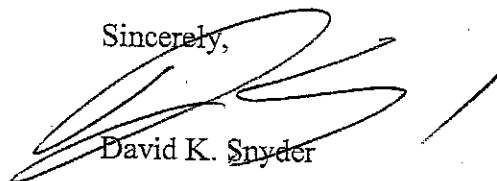
In April we proposed to offer prosecution services for a flat rate in the amount of \$3,750.00 per month for the balance of the year 2009. That reflected a twelve percent (12%) reduction in prosecution costs to the City over the preceding year. We would renew that proposal for the year 2010 and thus propose no increase.

Our ability to bring, and maintain over time, value to the City comes from the fact that we have at least three attorneys who are engaged nearly full time in offering prosecutorial services for numerous municipalities in Washington County. Accordingly, we have developed an efficient system for the management of pre-trial and trial hearings as well as prosecutorial documentation and charging, which creates a savings to every city we serve. Because we serve more cities, we can serve more efficiently and cost effectively.

Please note that this is an approach that we have not only innovated but have maintained over time and will maintain over time so that the City need not be bothered with fluctuations in costs. We are not aware of what monthly costs have been year to date but we believe we are well suited to deliver competitive costs and consistently excellent service over time.

Should you have any questions, please do not hesitate to notify me.

Sincerely,



David K. Snyder

DKS/jmh



LAWSON

December 11, 2009

10390 39th Street North
Lake Elmo, Minnesota 55042

TEL: 651-777-6960
FAX: 651-777-8937

lawsonlawfirm.com

Mr. Bruce Messelt
City Administrator
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

RE: Lake Elmo Misdemeanor Prosecutions

Dear Bruce:

Thank you for allowing our law firm to submit a proposal for the City of Lake Elmo's misdemeanor prosecutions. We welcome the opportunity to provide information about our firm.

Our law firm was formed in Washington County in 1912. We are the oldest law firm in Lake Elmo, and one of the largest, most respected law firms in Washington County. We presently have an active general practice with a strong concentration in municipal law. We currently perform misdemeanor prosecutions for the cities of Willernie and Pine Springs.

We would be willing to undertake the Lake Elmo prosecutions for a flat fee of \$3,900 per month. I believe that this is a significantly lower rate than your current monthly average for criminal legal fees.

If Lake Elmo accepts our bid, I will be the lead attorney handling the prosecutions. I am a Lake Elmo resident. I have been with the Lawson law firm for four years. I received my undergraduate degree from the University of Minnesota and my law degree from the William Mitchell College of Law, where I graduated magna cum laude and served as an editor of the William Mitchell Law Review.

I believe I am uniquely qualified to serve as the Lake Elmo misdemeanor prosecutor. As the prosecutor for Willernie and Pine Springs, I have the same court schedule as the current Lake Elmo prosecutor. I am familiar with the court staff and procedures in Washington County and am also familiar with many members of local law enforcement.

ATTORNEYS

Roderick A. Lawson • Retired

Raymond O. Marshall • John S. McDonald • Tracey A. Galowitz • Barbara Wolle • William T. Armstrong

Also doing business as St. Croix Title

Appointment of City Engineer and City Attorney

MOTION: Council Member Smith moved to appoint Jack Griffin of TKDA as the official City Engineer and principal provided of professional engineering services for 2010. Mayor Johnston seconded the motion. The motion passed 5-0.

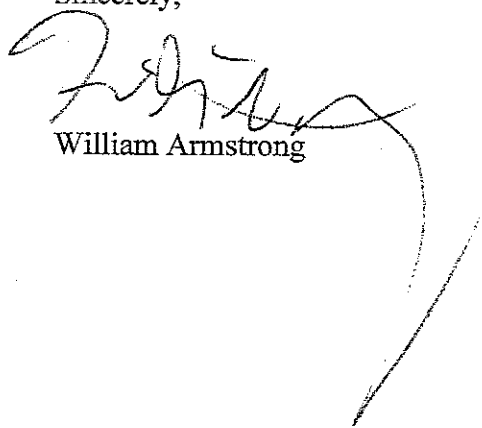
MOTION: Council Member Smith moved to appoint Dave Snyder of Eckberg & Lammers as the official City Attorney and principal provider of both civil and criminal services for 2010. Mayor Johnston seconded the motion. The motion passed 5-0.

Mr. Bruce Messelt
December 11, 2009
Page Two.

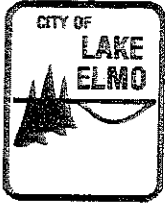
If you decide to engage Lawson Law Firm to handle your prosecutions, you will benefit by having the full resources of the law firm at your disposal. If there is ever a situation in which I am unable to appear in court due to a scheduling conflict, attorney Barbara Wolle is able step in on my behalf. Barbara also has several years of experience as a misdemeanor prosecutor.

Thank you again for considering our proposal. If you require more information, please contact me. Otherwise, I look forward to hearing from you and would be happy to sit for an interview.

Sincerely,

A handwritten signature in black ink, appearing to read "William Armstrong", with a long, sweeping flourish extending downwards and to the right.

William Armstrong



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09

REGULAR

ITEM #: 10f

MOTION

AGENDA ITEM: Appoint Commissioner to Existing Vacancy on the Planning Commission

SUBMITTED BY: Sharon Lumby, City Clerk

THROUGH: Bruce Messelt, City Administrator *BAM*

SUMMARY AND ACTION REQUESTED: The City Council is asked to formally appoint members to the Planning and Parks Commissions. One appointment to the Planning Commission is forwarded tonight for Council consideration. The recommended motion to act on this is as follows:

“Move to appoint Joan Ziertman to a 3-year term as a Full Voting Member on the Lake Elmo Planning Commission.”

BACKGROUND INFORMATION: Ms. Joan Ziertman has finished out Bob Helwig’s one-year term and has indicated an interest in reappointment to the Planning Commission. This reappointment would be Ms. Ziertman’s first -3 year term as a Full voting member.

STAFF REPORT: There is currently one opening on the Planning Commission. In addition to Ms. Zertman’s application, one other application for Planning Commission was received. However, as Ms. Ziertman is currently serving as an active member of the Planning Commission, City staff is recommending Ms. Ziertman’s [re-] appointment.

There are currently two vacancies on the Parks Commission. The City does not have any current applications on file. These vacancies have been advertized in the recent December newsletter, published on our website and on cable TV. Council interviews will be set up as soon as applications are received.

RECOMMENDATION: It is recommended that the City Council appoint Ms. Ziertman to the Planning Commission via the following motion:

“Move to appoint Joan Ziertman to a 3-year term as a Full Voting Member on the Lake Elmo Planning Commission.”

Alternatively, the City Council may elect to consider another action, as may be determined by the Council following deliberation and discussion.

ATTACHMENTS: None

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Clerk
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09
REGULAR
ITEM #: 11
MOTION Resolution 2009-056

AGENDA ITEM: Beyond the Yellow Ribbon Discussion
SUBMITTED BY: Lake Elmo Beyond the Yellow Ribbon Committee
THROUGH: Bruce Messelt, City Administrator *BAM*

SUMMARY AND ACTION REQUESTED: At the request of the Lake Elmo Committee of the Yellow Ribbon Network of Washington County, the City Council is requested to receive a brief update entitled "Beyond the Yellow Ribbon" and then discuss and act upon a proposed Resolution of support for the Yellow Ribbon Network's efforts. The recommended motion to act upon this is as follows:

"Move to approve Resolution 2009-056 lending the City of Lake Elmo's Support for the Yellow Ribbon Network and, in particular, its efforts in Lake Elmo."

BACKGROUND INFORMATION: Mr. Paul Ryberg and Ms. Jennifer Pelletier have been leading an effort to bring the Yellow Ribbon Network of Washington County to Lake Elmo. They have requested City political and logistical support in this effort, especially as they endeavor to look at actions that go *Beyond the Yellow Ribbon*.

STAFF REPORT: City staff has already provided logistical support and advice to the Committee and, pending formal City Council support tonight, will continue to do so. Currently, there are no budgeted funds in 2010 for further financial assistance, so such political and logistical support will be provided pursuant to the approved 2010 Annual Budget.

RECOMMENDATION: It is recommended that the City Council discuss and, if acceptable, support the efforts of the Yellow Ribbon Network by undertaking the following action:

"Move to approve Resolution 2009-056 lending the City of Lake Elmo's Support for the Yellow Ribbon Network and, in particular, its efforts in Lake Elmo."

Alternatively, the City Council may elect to consider other action, as determined by the City Council, and/or provide City staff with specific direction with respect to this community effort.

ATTACHMENTS:

1. Resolution 2009-056
2. information on the Yellow Ribbon Network

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Presentation..... Ms. Pelletier and/or Mr. Ryberg
- Questions from Council Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA

RESOLUTION NO. 2009-056

A RESOLUTION OF SUPPORT FOR THE YELLOW RIBBON OF
WASHINGTON COUNTY

WHEREAS, many families support their military service members who are serving in the United States and overseas to protect the values and freedom enjoyed by the citizens of the United States of America; and

WHEREAS, the Yellow Ribbon Network of Washington County has been formed to connect local military family members with citizens and organizations such as cities, townships, schools, churches, community groups, businesses, and government agencies that can provide assistance and support in various forms to family members including spouses and children; and

WHEREAS, the Yellow Ribbon Network of Washington County will build on the existing strengths of organizations already providing support of service personnel and their families by adding to the community support and awareness for helping spouses and children in ways to lessen their burden while a family member is deployed to protect our country; and

WHEREAS, the Yellow Ribbon Network of Washington County encourages communities and citizens to work together to support the active duty troops and their families; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Lake Elmo City Council acknowledges with grateful appreciation, respect, and admiration, the sacrifices of military personnel who are leaving home and their loved ones to serve our nation; and

BE IT FURTHER RESOLVED, that the Lake Elmo City Council fully supports the efforts of the Yellow Ribbon Network of Washington County to support family members of service personnel during deployments to defend the democratic values of the United States of America.

Date: December 15, 2009 CITY OF LAKE ELMO

By: _____
Dean A. Johnston, Mayor

ATTEST:

Bruce A. Messelt, City Administrator



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HomePage

Holiday Support

Want to know how to support the Minnesota military community this holiday season? [Click here](#) for a list of ideas how you can get involved in sending care packages to families and service members.



Remember Our Military Minute

Remember Our Military Minute Public Service Announcement airs weekly. Want to follow up on this weeks idea for supporting our troops? [Click here](#).



The First Lady's Military Family Care Initiative is a web based program that's designed to help military families during deployments. Your organization could help military families with simple volunteer services. Click on the logo to sign up to help a family in your area.

Get Help

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in:

Entire Site

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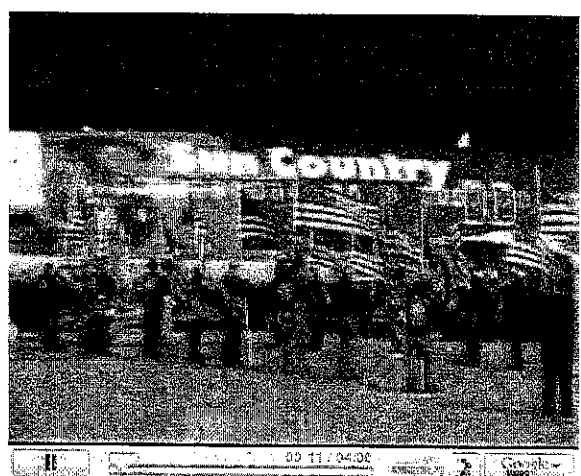
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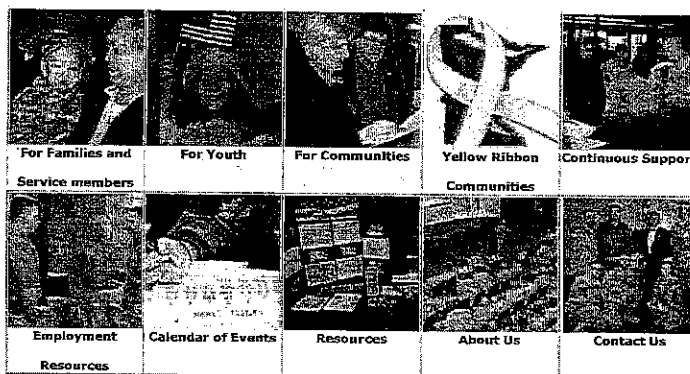


This video displays the deployment departure and the welcome home by family, friends, and fellow service members of the 34th Combat Aviation Brigade headquartered out of St. Paul, MN and the Marine Wing Support Squadron 471's (MWSS-471) headquartered out of Minneapolis, MN.

Mission Statement:

To empower leadership, service members and families by providing relevant training, services, and resources throughout the deployment cycle.

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Page last modified on Tuesday 08 of December, 2009 19:02:40 UTC

What's New

Deals and Happenings
Fri 04 of Dec, 2009

Click below for the latest information on Minnesota events, news, and happenings.

[Family events](#)

[In the News](#)

Minnesota Wild National Guard Night
Fri 04 of Dec, 2009

On Tuesday, December 15th the Minnesota Wild play the Columbus Blue Jackets, this is the second of four games sponsored by the Minnesota Army National Guard.

In recognition of this partnership, the Minnesota Wild has provided Minnesota National Guard Soldiers and Airmen with a special ticket offer.

For more information visit, <http://btvr.org/Familiv+Events>

Military Spouse Scholarship
Thu 03 of Dec, 2009

The National Military Family Association's Joanne Holbrook Patton Military Spouse Scholarships range from \$500 to \$1,000 and are awarded to spouses of Servicemembers to obtain professional certification or to attend post-secondary or graduate school.

The scholarship funds may be used to assist with tuition, fees, and school room and board, and are paid directly to the accredited educational institution involved. Applications are due by midnight, January 31, 2010.

Click [here](#) for more information.

R.O.S.E. Program
Tue 01 of Dec, 2009

Nominate your Employer to be recognized by the state as one of the most supportive military Employers in Minnesota!

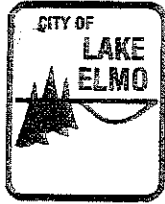
Family Academies
Mon 16 of Nov, 2009

Families of the 34th ID, 34th STB, 1-151 FA and the 204th AMSC prepare for a weekend retreat! For more details about your event see your unit's event flyer.

- [1-151 Mid Tour Flyer](#)
- [204 Mid Tour Flyer](#)
- [FRA 34th & 34th STB Mid Tour Flyer](#)

[All articles](#)

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MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09
REGULAR
ITEM #: 12
MOTION Resolution 2009-057

AGENDA ITEM: 2010 Street and Water Quality Improvements – Resolution Accepting the Report and Calling for a Public Improvement Hearing

SUBMITTED BY: Ryan Stempski, Assistant City Engineer

THROUGH: Bruce A Messelt, City Administrator *BAM*

REVIEWED BY: Tom Bouthilet, Finance Director
Jack Griffin, City Engineer

SUMMARY AND ACTION REQUESTED: The City Council is asked to receive the Feasibility Report for the 2010 Street and Water Quality Improvements and pass a Resolution Accepting the Report and Calling for a Public Improvement Hearing to be held on January 19, 2010. The suggestion action to accomplish this is as follows:

“Move to adopt Resolution No. 2009-057 Accepting the Feasibility Report for the 2010 Street and Water Quality Improvements and Calling for a Public Improvement Hearing to be held on January 19, 2010.”

BACKGROUND INFORMATION: TKDA has completed the Feasibility Report for the 2010 Street and Water Quality Improvements including the residential streets of Jane Road, Isle Avenue, 53rd Street, and 57th Street. TKDA will present the findings of the Feasibility Report to the City Council.

The preparation of the Feasibility Report was authorized on October 20, 2009. At that time, the City Council directed that City staff apply the City’s revised street assessment policy for 2010 to these projects, which has been done and is included in this report. The City Council also directed that the Budget Committee undertake a more thorough review of all City assessments during 2010.

STAFF REPORT: As part of the feasibility study, a geotechnical investigation was completed to identify the existing roadway sections and subsurface soil characteristics for each street segment. The findings of this investigation resulted in a modification of the proposed improvements. Inadequate soils identified underneath Isle Avenue, 53rd Street, and 57th Streets

have resulted in the need to remove these soils and stabilize them with suitable material, resulting in an increase in project costs more commensurate with a partial street reconstruction (versus simple reclaim).

In addition, the geotechnical investigation determined that Jane Road North had insufficient existing pavement and base section to support a reclaim process. Therefore the report recommends a full street reconstruction for Jane Road North using recycled aggregate base from the excess reclaim material from the other street segments.

The inability to salvage existing curb and the need to match into numerous flat driveways and front yards have also increased the anticipated restoration costs for the streets to be completed in the 2010 improvement project.

Estimated project costs, including application of the approved 2010 Street Assessment Policy, are included in the Feasibility Report and will be presented at the Council meeting. It should be noted, however, that the City Engineer, Attorney and Administrator believe the short- and long-term benefits to adjoining properties to be assessed far outweigh the projected assessment costs.

RECOMMENDATION: It is recommended that the City Council receive the Engineer's report and, following discussion, formally accept the Feasibility Report and call for the required Public Improvement Hearing by undertaking the following action:

“Move to adopt Resolution No. 2009-057 Accepting the Feasibility Report for the 2010 Street and Water Quality Improvements and Calling for a Public Improvement Hearing to be held on January 19, 2010.”

If approved, the Budget Subcommittee will also have to incorporate these changes into the Street's portion of the approved Capital Improvement Plan for 2010. This will then be scheduled for future Council action. Alternatively, the City Council may elect to consider other action, as determined by the City Council, and/or provide City staff with specific direction with respect to these needed street projects.

ATTACHMENTS (3):

1. Resolution No. 2009-057
2. Notice of Public Hearing
3. 2010 Street and Water Quality Improvements Feasibility Report

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report City Engineer
- Questions from Council Mayor Facilitates
- Questions from Citizens Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA

RESOLUTION NO. 2009-057

**A RESOLUTION RECEIVING AND ACCEPTING THE FEASIBILITY REPORT
FOR 2010 STREET AND WATER QUALITY IMPROVEMENTS AND CALLING
HEARING ON IMPROVEMENTS**

WHEREAS, pursuant to City Council authorization, a feasibility report has been prepared by TKDA for Jane Road North (0.57 miles), Isle Avenue North (0.28 miles), 53rd Street North (0.59 miles), and 57th Street North (0.21 miles),

WHEREAS, feasibility report states that the project is necessary, cost-effective, and feasible,

NOW, THEREFORE, BE IT RESOLVED,

1. The City Council will consider the improvements in accordance with the report and the assessments of the abutting properties for all such portion of the cost of the improvements pursuant to Minnesota Statutes, Chapter 429.
2. A public hearing shall be held on such proposed improvements on the 19th day of January, 2010, in the council chambers of the City Hall at or approximately after 7:00 P.M. and the clerk shall give mailed and published notice of such hearing and improvement as required by law.

Date: _____, 2009 CITY OF LAKE ELMO

By: _____
Dean A. Johnston
Mayor

ATTEST:

Bruce A. Messelt
City Administrator

CITY OF LAKE ELMO
NOTICE OF HEARING
2010 STREET AND WATER QUALITY IMPROVEMENTS

Notice is hereby given that the City Council of Lake Elmo will meet in the council chambers of the city hall at or approximately after 7:00 P.M. on Tuesday, January 19, 2010, to consider the making of the following improvements, pursuant to Minnesota Statutes, Sections 429.011 to 429.111;

The improvement of the **city streets including Jane Road North (0.57 miles), Isle Avenue North (0.28 miles), 53rd Street North (0.59 miles), and 57th Street North (0.21 miles)** will consist of reclaiming and reconstructing the existing road and providing a new bituminous surface in the current location and grade.

The area proposed to be assessed for these improvements include properties abutting the above referenced streets or properties that gain access to their property from the above referenced streets. The estimated total cost of the street improvements is \$608,000 if the streets are replaced with new bituminous curb. The estimated total cost of the street improvements is \$721,000 if the streets are replaced with new concrete curb and gutter. A reasonable estimate of the impact of the assessment to each property will be available at the hearing. Such persons as desire to be heard with reference to the proposed improvements will be heard at this meeting.

DATED: December 10, 2009

BY ORDER OF THE LAKE ELMO CITY COUNCIL

Dean Johnston, Mayor

(Published in the Oakdale-Lake Elmo Review on December 30, 2009 and January 6, 2010)

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

ORDINANCE NO. 08-021

AN ORDINANCE APPROVING THE BUFFER SETBACKS IN 19 EXISTING OPEN SPACE PRESERVATION (OP) DEVELOPMENTS

WHEREAS, Section 150.180, Subd. (B,2,d) of the City Code prescribes specific buffer setbacks requirements within OP – Open Space Preservation developments; and

WHEREAS, the buffer setbacks required by the City Code have not been observed in many of the City’s OP – Open Space developments due to either the lot arrangement approved by the City at the time of subdivision approval or the setbacks approved as part of the building permits review in OP Zoning Districts; and

WHEREAS, the City Council finds that it is in the best interests of the City and its residents within OP – Open Space Preservation Zoning Districts to clarify the required buffer setback within each OP – Open Space development and to create a reference table with all buffer setbacks identified for specific developments; and

WHEREAS, the Planning Commission reviewed the proposed buffer setbacks, held a public hearing at their regular meeting held November 23, 2009, and recommended approval of the OP – Open Space Preservation Buffer Setbacks as identified in the chart below; and

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Lake Elmo, Washington County, Minnesota, that buffer setbacks be applied from the edge of OP – Open Space Preservation Zoning Districts as follows:

Recommended Buffer Setbacks in OP Developments (in feet)					
	North Edge	South Edge	West Edge	East Edge	Exception Parcel(s)
St. Croix's Sanctuary	200	50	50	100	
Discover Crossing	200	100	50	100	
Whistling Valley I	25	200	N/A	N/A	
Whistling Valley II	25	100	85	N/A	
Whistling Valley III	50	100	100	N/A	
Farms of Lake Elmo	100	50	100	25	
Prairie Hamlet	200	50	50	100	
Fields of St. Croix I	50	N/A	200	100	
Fields of St. Croix II	N/A	200	200	N/A	N/A
The Homestead	50	50	200	50	
Tapestry at Charlotte's Grove	50	50	200	50	100
Tamarack Farm Estates	100	100	100	100	
Sunfish Ponds	100	100	100	200	
Hamlet on Sunfish Lake	50	100	50	50	

Cardinal Ridge	100	200	50	50	
Wildflower Shores	100	200	100	200	
Heritage Farms	50	N/A	N/A	50	N/A
Tana Ridge (Res. 2009-033)	N/A	N/A	50	50	
Parkview Estates (Res. 2009-033)	50; except Lot 9, Block 5 use 20 ft	N/A	N/A	50	

ADOPTION DATE, This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

This Ordinance No. 08-021 was adopted on this 15th day of December, 2009, by a vote of ____ Ayes and ____ Nays.

Dean Johnston, Mayor

ATTEST:

Bruce Messelt, City Administrator

This Ordinance No. 08-021 was published on the ____ day of _____, 2009.



MAYOR & COUNCIL COMMUNICATION

DATE: 12/15/09
REGULAR
ITEM #: 13
MOTION: Ordinance 08-021

AGENDA ITEM: To Consider Approving Ordinance 08-021 Revising the Buffer Setbacks in Existing Open Space Preservation (OP) Developments.

REQUESTED BY: Planning Commission

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Bruce Messelt, City Administrator *BAM*
Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED: The City Council is asked to consider adopting Ordinance 08-021 to establish buffer setbacks for nineteen Open Space Preservation (OP) developments. This action is requested to provide clarity for future review and approval of building permits and, in most cases, eliminate existing non-conformities that were permitted in the past. *It should be noted that Council direction to review rear yard set-back requirements and establish acceptable accessory structure parameters for Open Space Preservation developments is already scheduled for Planning Commission action. Their recommendations and specific incorporation of these into existing City ordinances will be presented to Council for subsequent action at a later date.* The recommended motion to adopt Ordinance 08-021 is as follows:

“Move to approve Ordinance 08-021 approving the OP Buffer Setbacks for the 19 existing developments, as recommended by the Planning Commission and modified by the City Council, and direct inclusion of the study and recommendation in the Planning Department’s 2010 Workplan of setbacks for OP developments for rear yards, primary structures, and accessory buildings.”

BACKGROUND INFORMATION: The Open Space Preservation development ordinance was first written for Lake Elmo in the 1990’s. The purpose of the ordinance is to provide a developer the ability to cluster more homes than otherwise permitted on smaller lots and to set aside land as preserved open space in perpetuity. Originally, an Open Space Preservation development required an additional step to rezone the property as OP before a development was reviewed and approved.

Since then, this approach has been revised so that an OP development could be permitted by a conditional use permit in specific zoning districts, thereby eliminating the additional step of rezoning the property. Although the zoning district code language was repealed, the zoning of the existing developments was never retroactively returned to Agricultural or Rural Residential, and, therefore, the Open Space district remains on the zoning maps.

As a part of this ordinance, from the beginning, a buffer setback (originally called a buffer zone) was identified as an effort to physically buffer the existing adjoining neighbors from the more densely built clustered homes. The buffer setback section of the ordinance has been revised a few times throughout the years to its current form, which was last approved in 2001. A buffer setback has always been required, but has varied in depth from 100 to 200 feet and has been revised from once just requiring "main structures" to be outside the setback to all structures and road surfaces not at a 90 degree angle.

The OP ordinance permits the City Council to modify any of the minimum standards outlined in the ordinance by a 4/5 vote. Staff has found this clause has been used in altering the buffer setback requirement in some of the OP developments. [Of note: by not taking action, variance requests will continue to be received and acted upon for some lots in most, if not all, OP developments. As mentioned, some existing platted vacant lots in the City are also essentially unbuildable when this setback applies, which appear to be due to errors, oversight, or, in some cases, an alternate interpretation made at the time of the development review.]

In an effort to address denied building permits due solely to the buffer setback, on July 7, 2009, the City Council approved resolution 2009-033 reducing buffer setbacks in the Tana Ridge and Parkview Estates development. Because both developments are zoned OP and not approved as a Conditional Use Permit, a public hearing was not required. Since then, the City Attorney has advised staff to proceed with revising buffer setbacks by ordinance, thus the Tana Ridge and Parkview Estates developments are included in the proposed action.

ADDITIONAL INFORMATION: City Planning Staff is recommending approval of the OP Buffer Setbacks identified in the chart below and as depicted in the attached maps.

Recommended Buffer Setbacks in OP Developments (in feet)					
	North Edge	South Edge	West Edge	East Edge	Exception Parcel
St. Croix's Sanctuary	200	50	50	100	
Discover Crossing	200	100	50	100	
Whistling Valley I	25	200	N/A	N/A	
Whistling Valley II	25	100	85	N/A	
Whistling Valley III	50	100	100	N/A	
Farms of Lake Elmo	100	50	100	25	
Prairie Hamlet	200	50	50	100	
Fields of St. Croix I	50	N/A	200	100	
Fields of St. Croix II	N/A	200	200	N/A	N/A
The Homestead	50	50	200	50	
Tapestry at Charlotte's Grove	50	50	200	50	100
Tamarack Farm Estates	100	100	100	100	
Sunfish Ponds	100	100	100	200	
Hamlet on Sunfish Lake	50	100	50	50	
Cardinal Ridge	100	200	50	50	
Wildflower Shores	100	200	100	200	
Heritage Farms	50	N/A	N/A	50	N/A

Already Approved by Council; Resolution 2009 - 033					
Tana Ridge	N/A	N/A	50	50	
Parkview Estates	50; except Lot 9, Block 5 use 20 ft	N/A	N/A	50	

- The Hidden Meadows development, while an OP development, was not evaluated at this time, as the final plat for the residential lots has not been approved. The buffer setbacks can be addressed for that development at the time of final plat approval.
- Though not required, the city mailed notices to contact points for the Homeowner Associations of the various OP developments in addition to publishing the public hearing notice in the legal newspaper and on the city's website.

PLANNING COMMISSION/STAFF REPORT: The Planning Commission reviewed each of the OP developments individually with regards to the implications on the property owners. A majority of the commission (though not all) expressed the importance of maintaining a buffer setback whenever feasible, even if the buffer setback was entirely within an outlot of the development and preserved for open space through a conservation easement. At least one commissioner felt strongly that the presence of a buffer setback, when overlapping with private property, was inappropriate, as property owners are still responsible for the land and continue to pay taxes on the entire property.

The commission held a public hearing at the November 23, 2009 meeting at which one person asked for clarification on the setback for the St. Croix's Sanctuary development. The commission recommended by a 6:1 vote to recommend approval of the buffer setbacks identified in this staff report.

SUGGESTED MOTIONS: The City Council is asked to consider the following motion as part of tonight's action:

"Move to approve Ordinance 08-021 approving the OP Buffer Setbacks for the 19 existing developments, as recommended by the Planning Commission and modified by the City Council, and direct inclusion of the study and recommendation in the Planning Department's 2010 Workplan of setbacks for OP developments for rear yards, primary structures, and accessory buildings."

Should the City Council wish to not take action at tonight's meeting, it may table the item indefinitely, until the Planning Commission completes its additional work (though it should be noted that the Planning Commission's efforts may take some time and the City feels it will continue to receive variance requests in the interim), or deny the recommendations outright via the following action:

"Move to deny Ordinance 08-021 establishing OP Buffer Setbacks for 19 existing developments [and . . .]."

ORDER OF BUSINESS:

- Introduction.....Bruce Messelt, City Administrator
- Report by staff.....Kyle Klatt, Planning Director
- Questions from the Council..... Mayor & Council Members
- Call for a motion.....Mayor Facilitates
- Discussion of Council on the motion.....Mayor Facilitates
- Action by the City Council..... Mayor & Council Members

ATTACHMENTS (3):

1. Ordinance 08-021
2. Maps Identifying Recommended Buffer Setbacks
3. Recommendation Chart

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

ORDINANCE NO. 08-021

AN ORDINANCE APPROVING THE BUFFER SETBACKS IN 19 EXISTING OPEN SPACE PRESERVATION (OP) DEVELOPMENTS

WHEREAS, Section 150.180, Subd. (B,2,d) of the City Code prescribes specific buffer setbacks requirements within OP – Open Space Preservation developments; and

WHEREAS, the buffer setbacks required by the City Code have not been observed in many of the City’s OP – Open Space developments due to either the lot arrangement approved by the City at the time of subdivision approval or the setbacks approved as part of the building permits review in OP Zoning Districts; and

WHEREAS, the City Council finds that it is in the best interests of the City and its residents within OP – Open Space Preservation Zoning Districts to clarify the required buffer setback within each OP – Open Space development and to create a reference table with all buffer setbacks identified for specific developments; and

WHEREAS, the Planning Commission reviewed the proposed buffer setbacks, held a public hearing at their regular meeting held November 23, 2009, and recommended approval of the OP – Open Space Preservation Buffer Setbacks as identified in the chart below; and

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Lake Elmo, Washington County, Minnesota, that buffer setbacks be applied from the edge of OP – Open Space Preservation Zoning Districts as follows:

Recommended Buffer Setbacks in OP Developments (in feet)					
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Whistling Valley II	25	100	85	N/A	
Whistling Valley III	50	100	100	N/A	
Farms of Lake Elmo	100	50	100	25	
Prairie Hamlet	200	50	50	100	
Fields of St. Croix I	50	N/A	200	100	
Fields of St. Croix II	N/A	200	200	N/A	N/A
The Homestead	50	50	200	50	
Tapestry at Charlotte's Grove	50	50	200	50	100
Tamarack Farm Estates	100	100	100	100	
Sunfish Ponds	100	100	100	200	
Hamlet on Sunfish Lake	50	100	50	50	

Cardinal Ridge	100	200	50	50	
Wildflower Shores	100	200	100	200	
Heritage Farms	50	N/A	N/A	50	N/A
Tana Ridge (Res. 2009-033)	N/A	N/A	50	50	
Parkview Estates (Res. 2009-033)	50; except Lot 9, Block 5 use 20 ft	N/A	N/A	50	

ADOPTION DATE, This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

This Ordinance No. 08-021 was adopted on this 15th day of December, 2009, by a vote of ____ Ayes and ____ Nays.

Dean Johnston, Mayor

ATTEST:

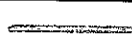
Bruce Messelt, City Administrator

This Ordinance No. 08-021 was published on the ____ day of _____, 2009.

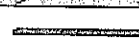
St. Croix's Sanctuary; Buffer Setback



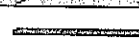
50 Foot Buffer Setback



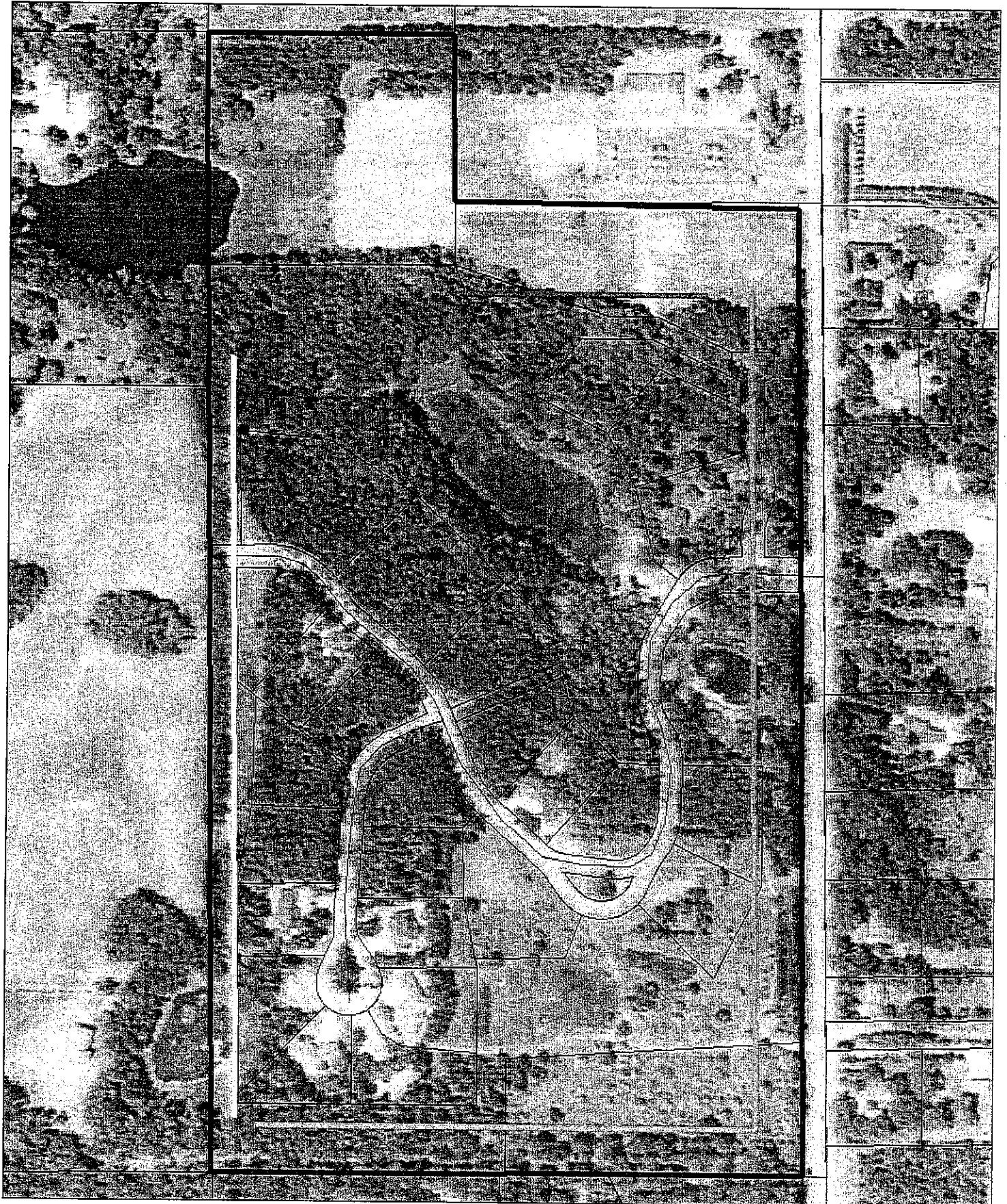
100 Foot Buffer Setback



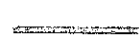
200 Foot Buffer Setback



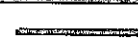
Discover Crossing; Buffer Setback



50 Foot Buffer Setback



100 Foot Buffer Setback



200 Foot Buffer Setback

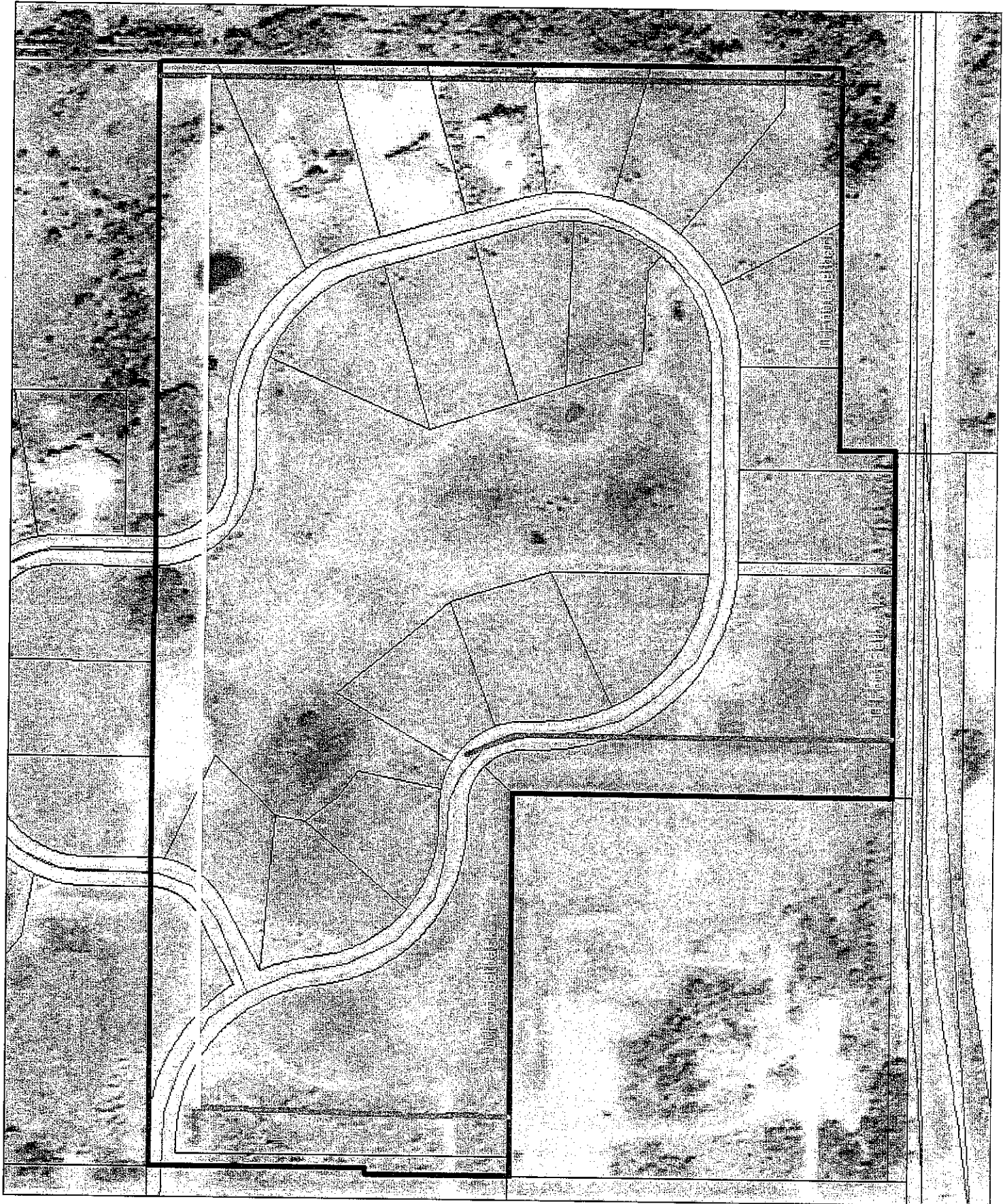
Whistling Valley I; Buffer Setback



25 Foot Buffer Setback

200 Foot Buffer Setback

Whistling Valley II; Buffer Setback

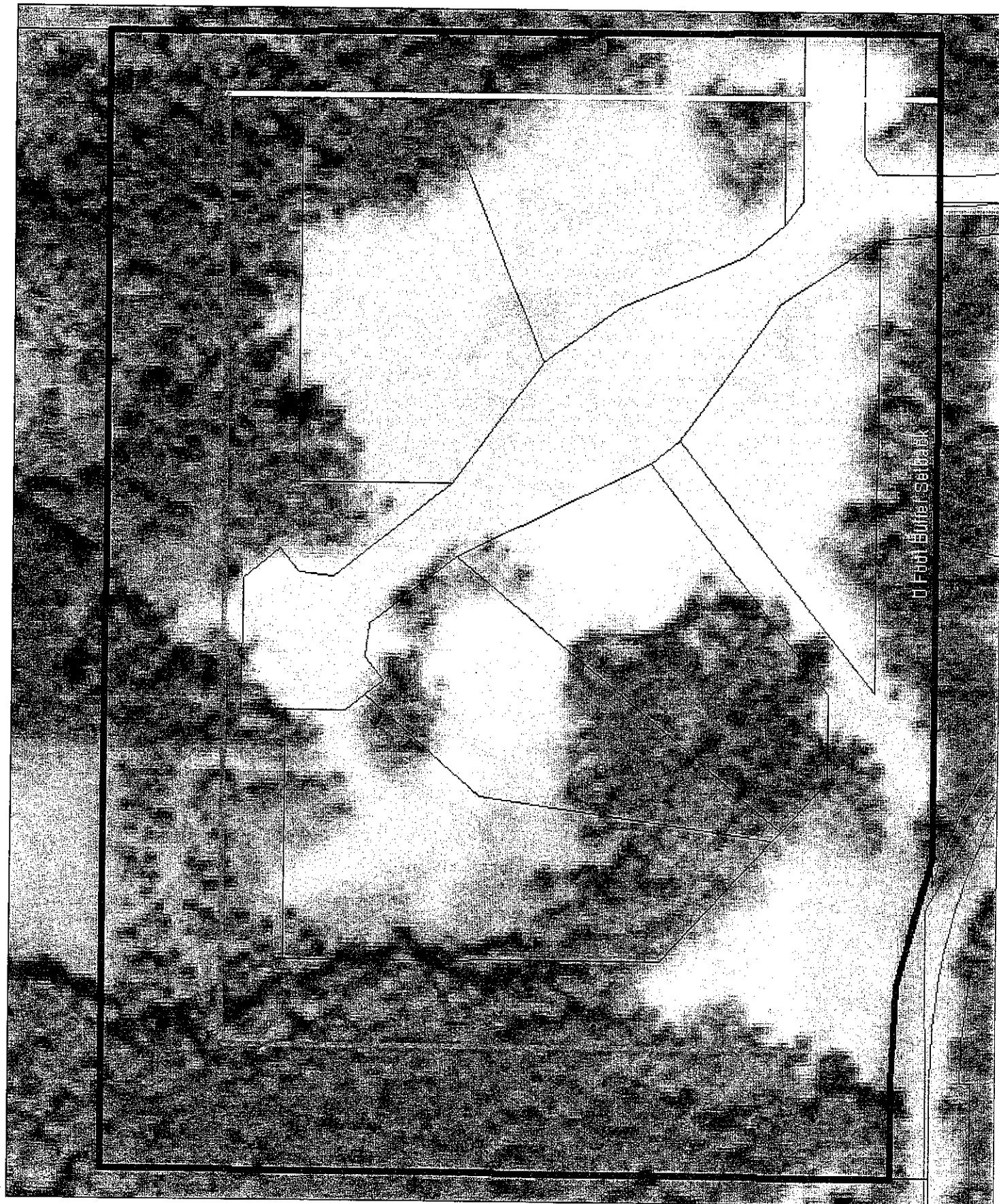


25 Foot Buffer Setback

85 Foot Buffer Setback

100 Foot Buffer Setback

Whistling Valley III; Buffer Setback

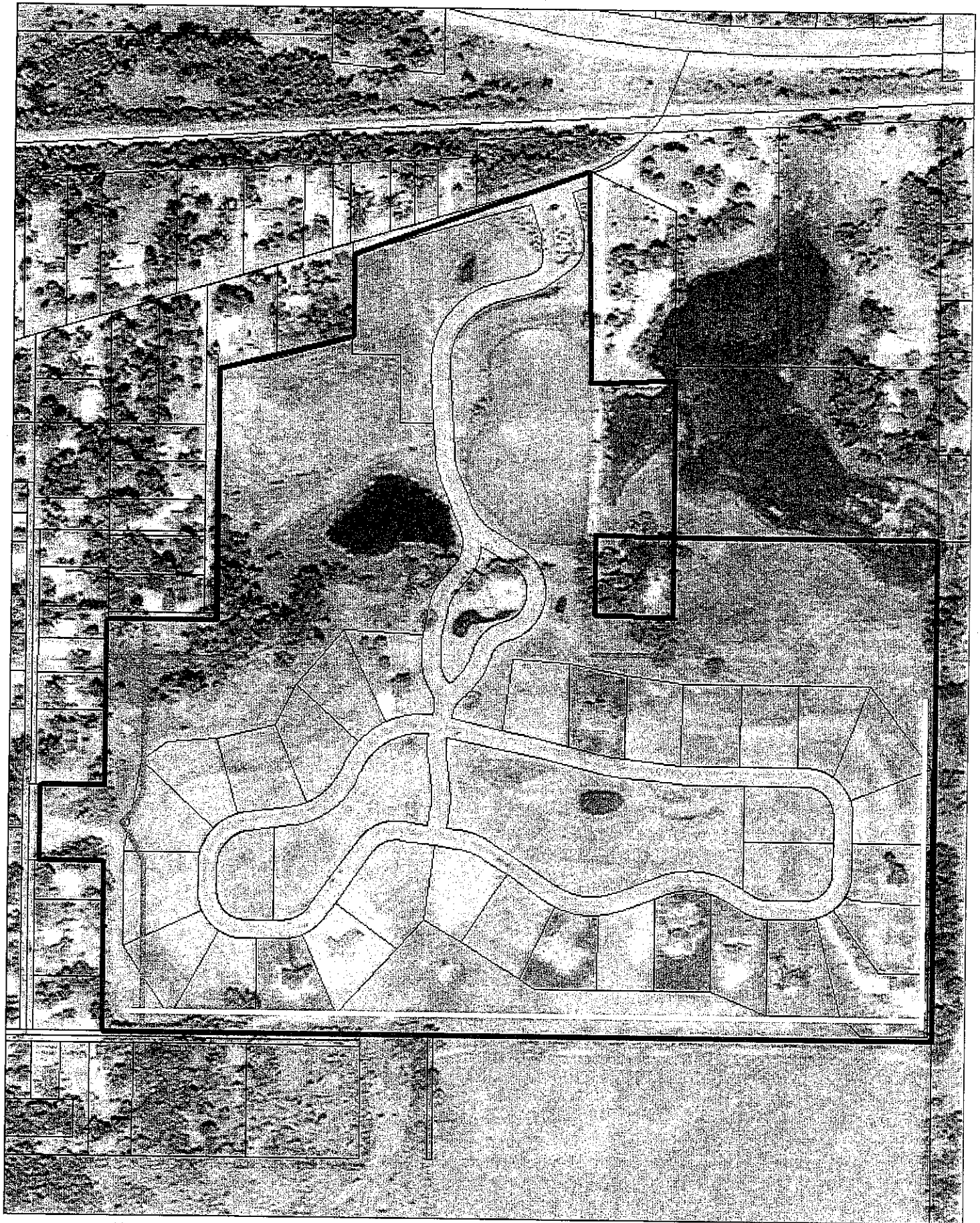


100 Foot Buffer Setback

50 Foot Buffer Setback

----- 100 Foot Buffer Setback

Farms of Lake Elmo; Buffer Setback



25 Foot Buffer Setback

50 Foot Buffer Setback



100 Foot Buffer Setback

Prairie Hamlet; Buffer Setback



50 Foot Buffer Setback



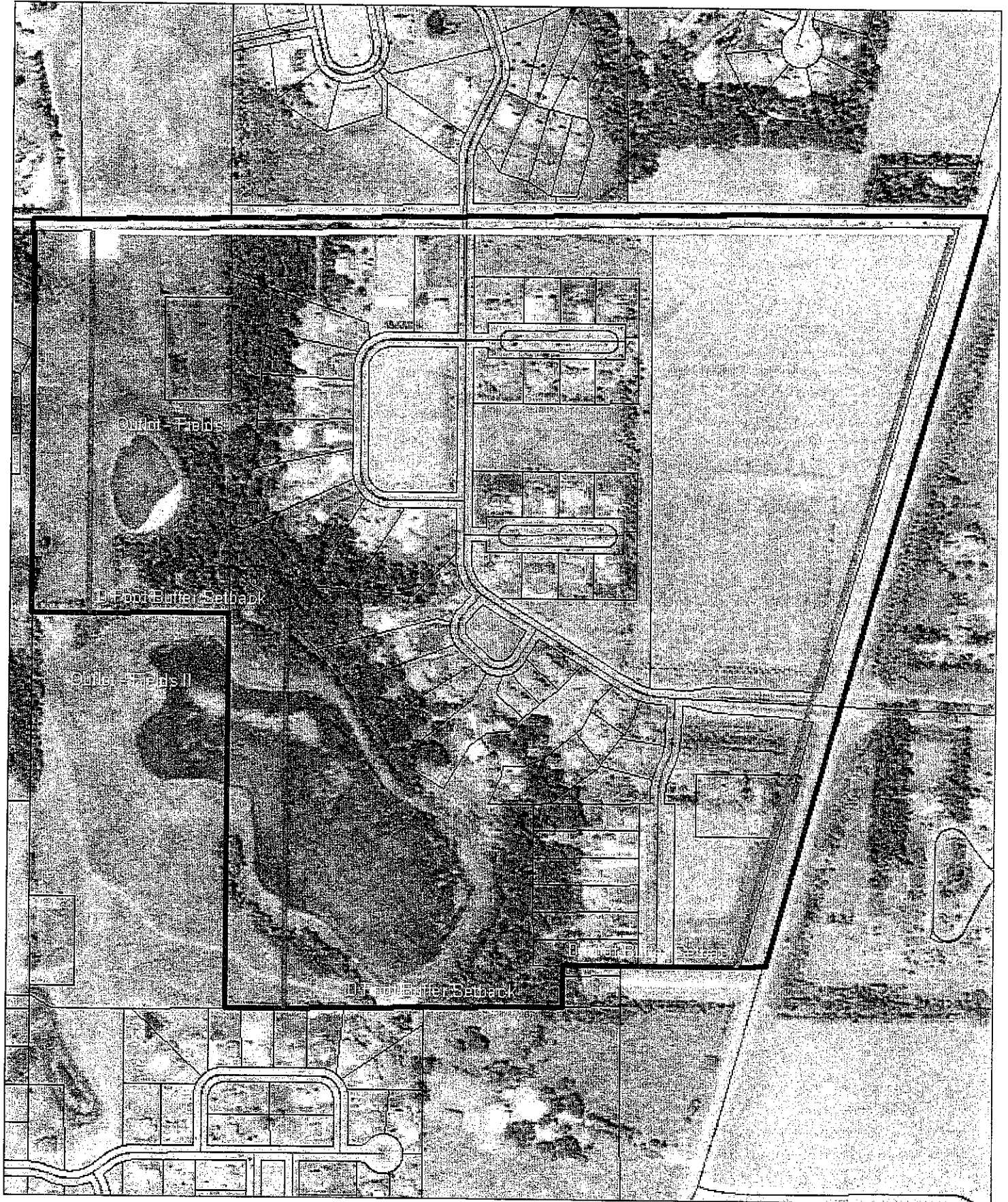
100 Foot Buffer Setback



200 Foot Buffer Setback



Fields of St. Croix I; Buffer Setback



50 Foot Buffer Setback



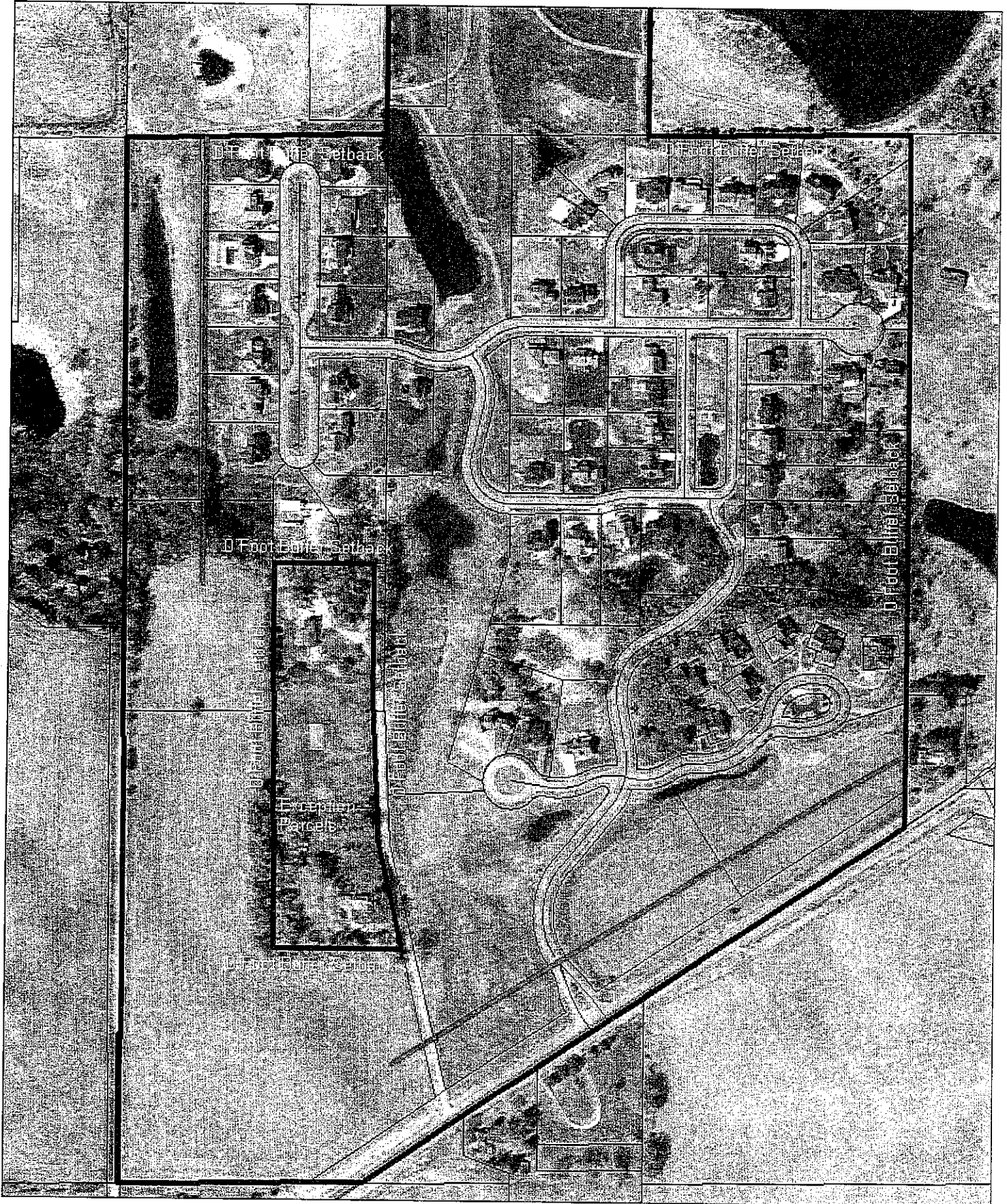
100 Foot Buffer Setback



200 Foot Buffer Setback

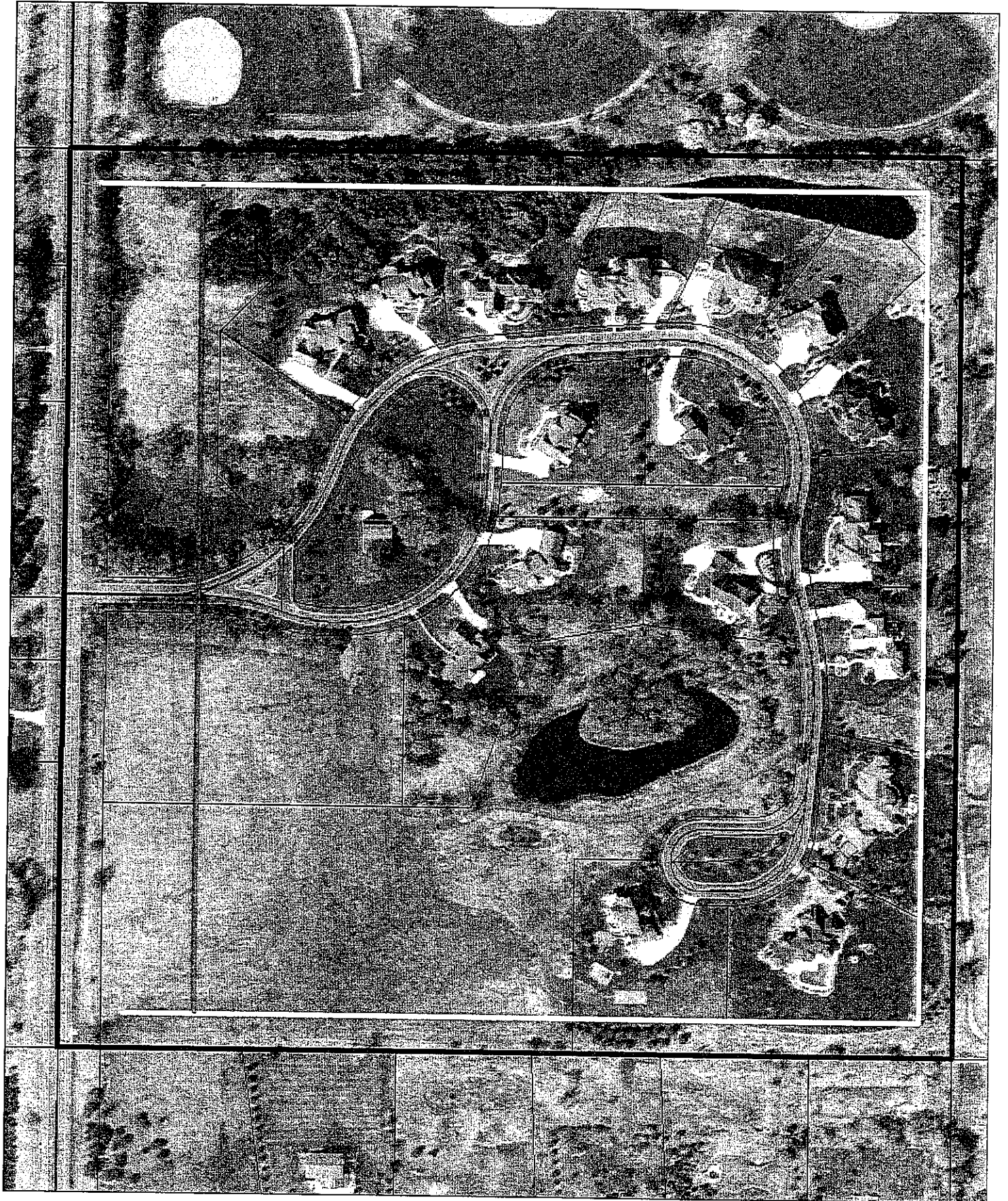


Fields II, Little Bluestem; Buffer Setback



200 Foot Buffer Setback

The Homestead; Buffer Setback

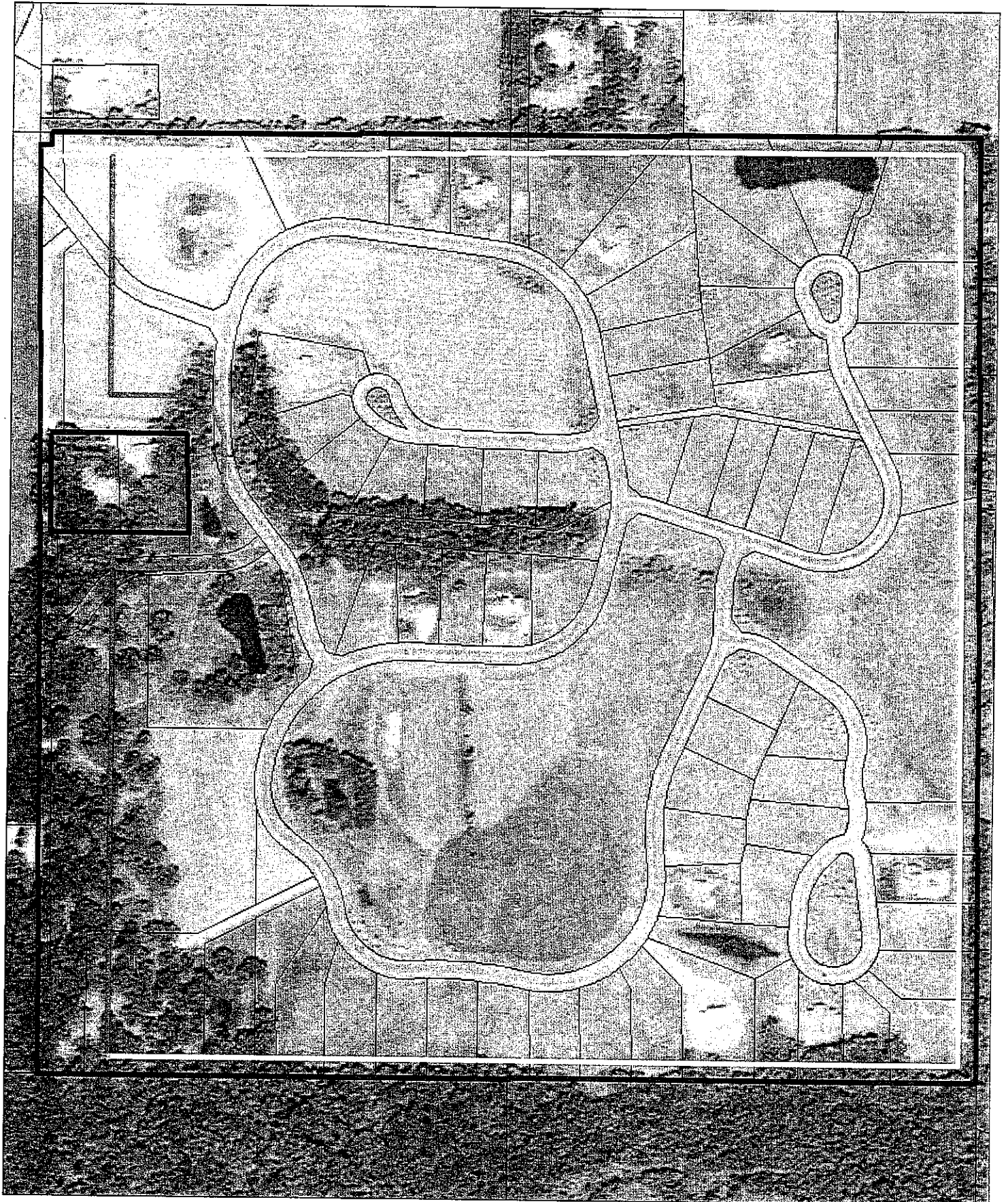


50 Foot Buffer Setback



200 Foot Buffer Setback

Tapestry at Charlotte's Grove; Buffer Setback



50 Foot Buffer Setback



100 Foot Buffer Setback



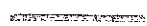
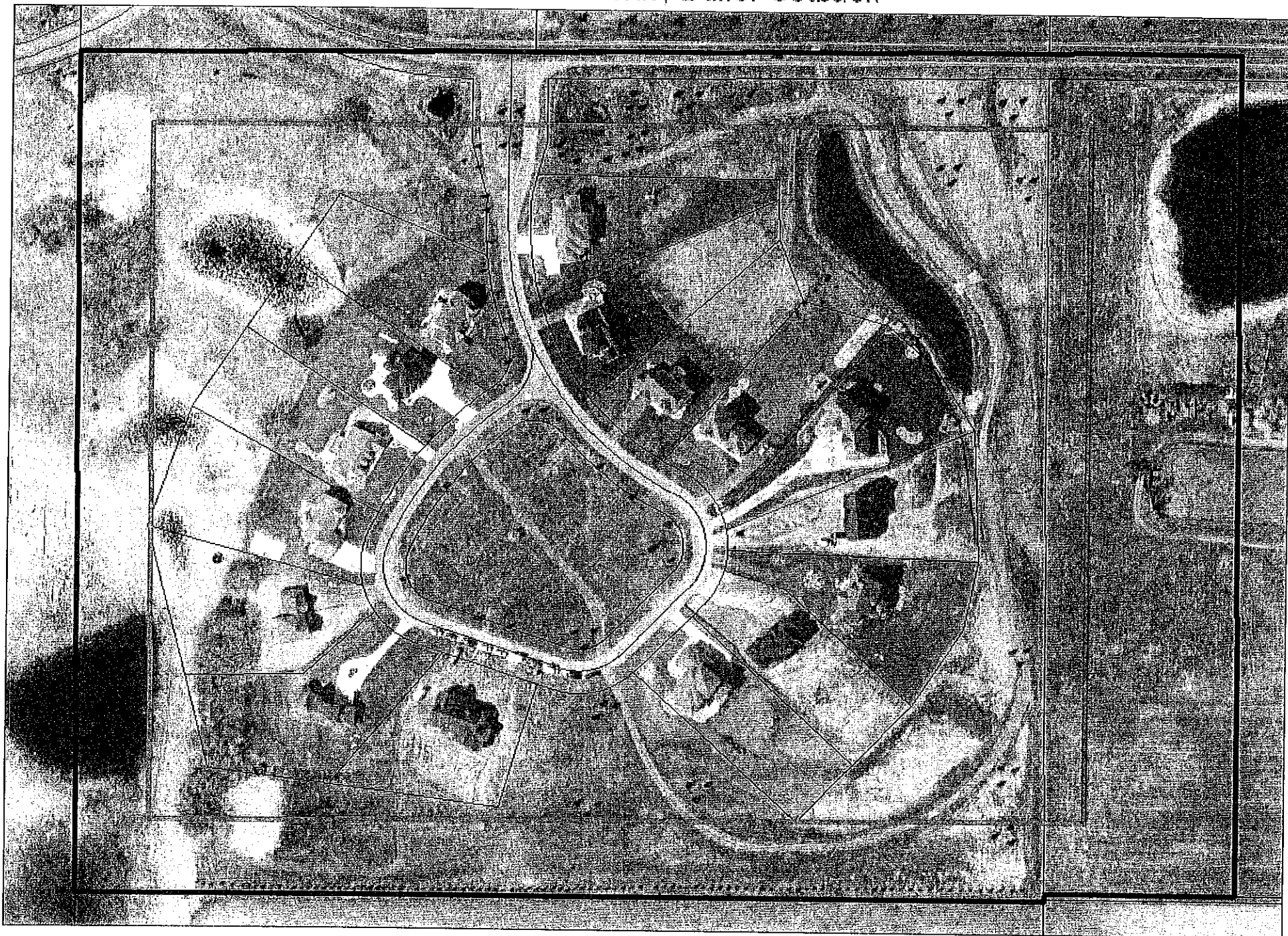
200 Foot Buffer Setback

Tamarack Farm; Buffer Setback

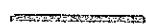


100 Foot Buffer Setback

Sunfish Ponds; Buffer Setback

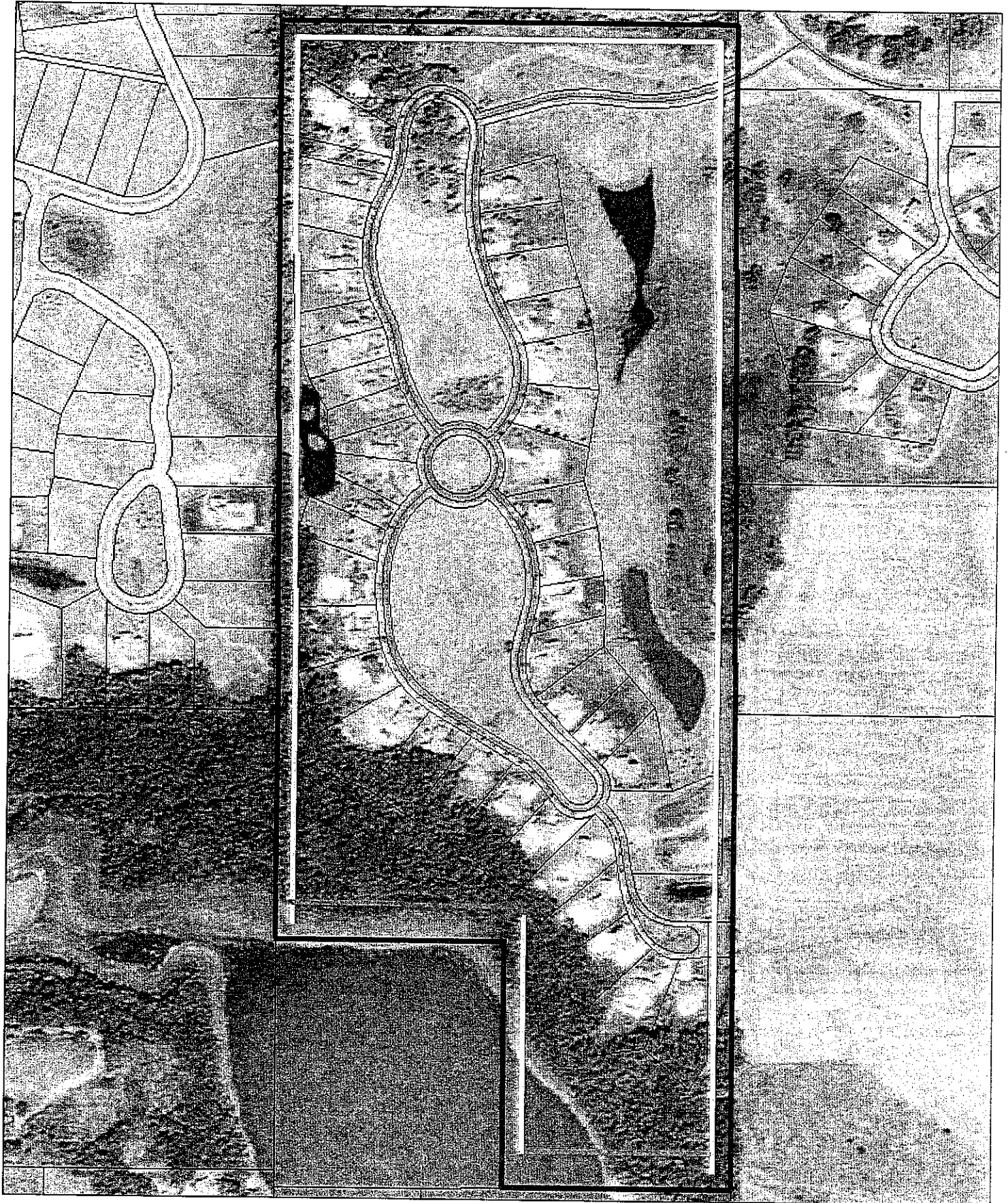


100 Foot Buffer Setback



200 Foot Buffer Setback

Hamlet on Sunfish Lake; Buffer Setback

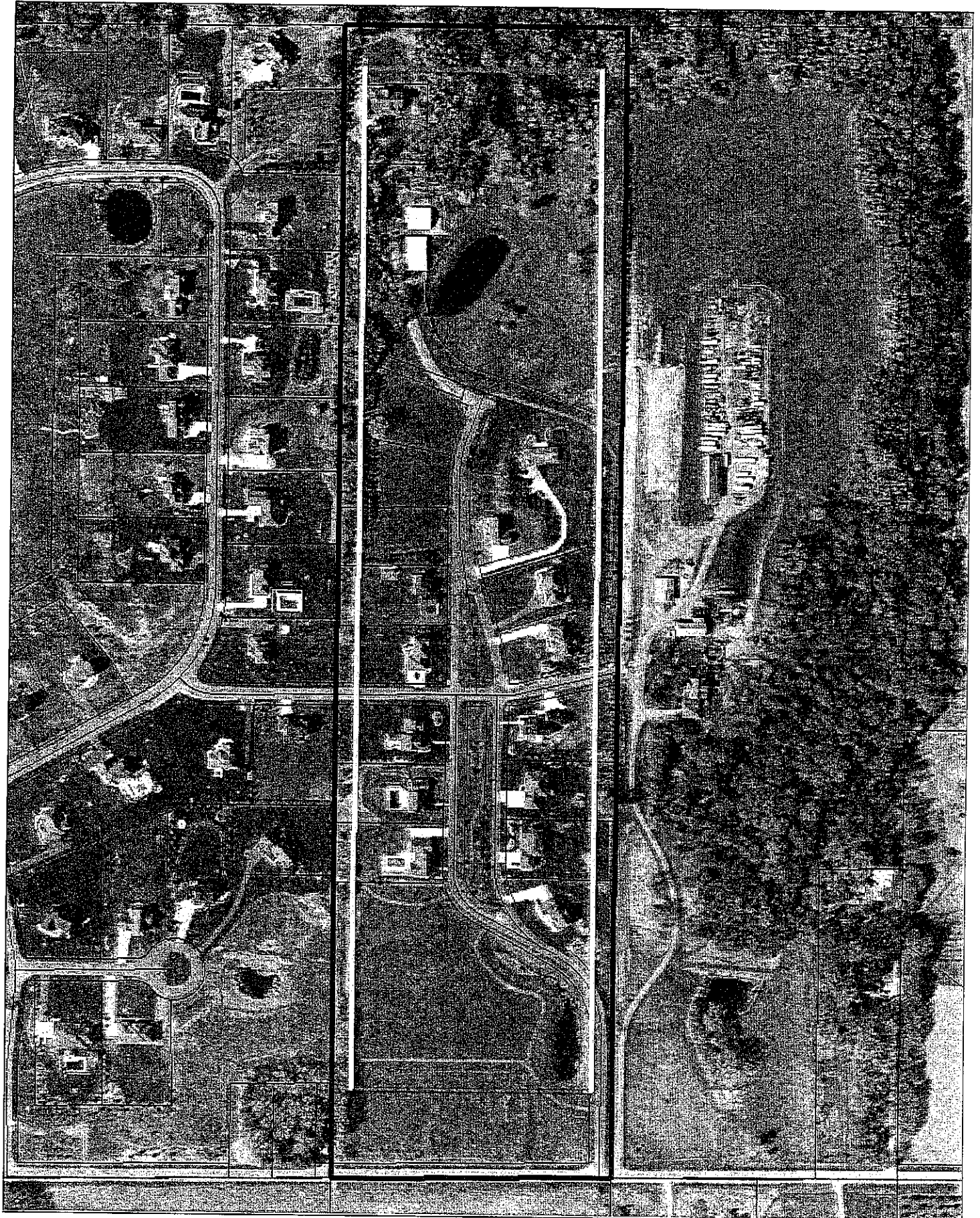


50 Foot Buffer Setback



100 Foot Buffer Setback

Cardinal Ridge; Buffer Setback



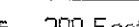
50 Foot Buffer Setback



100 Foot Buffer Setback



200 Foot Buffer Setback

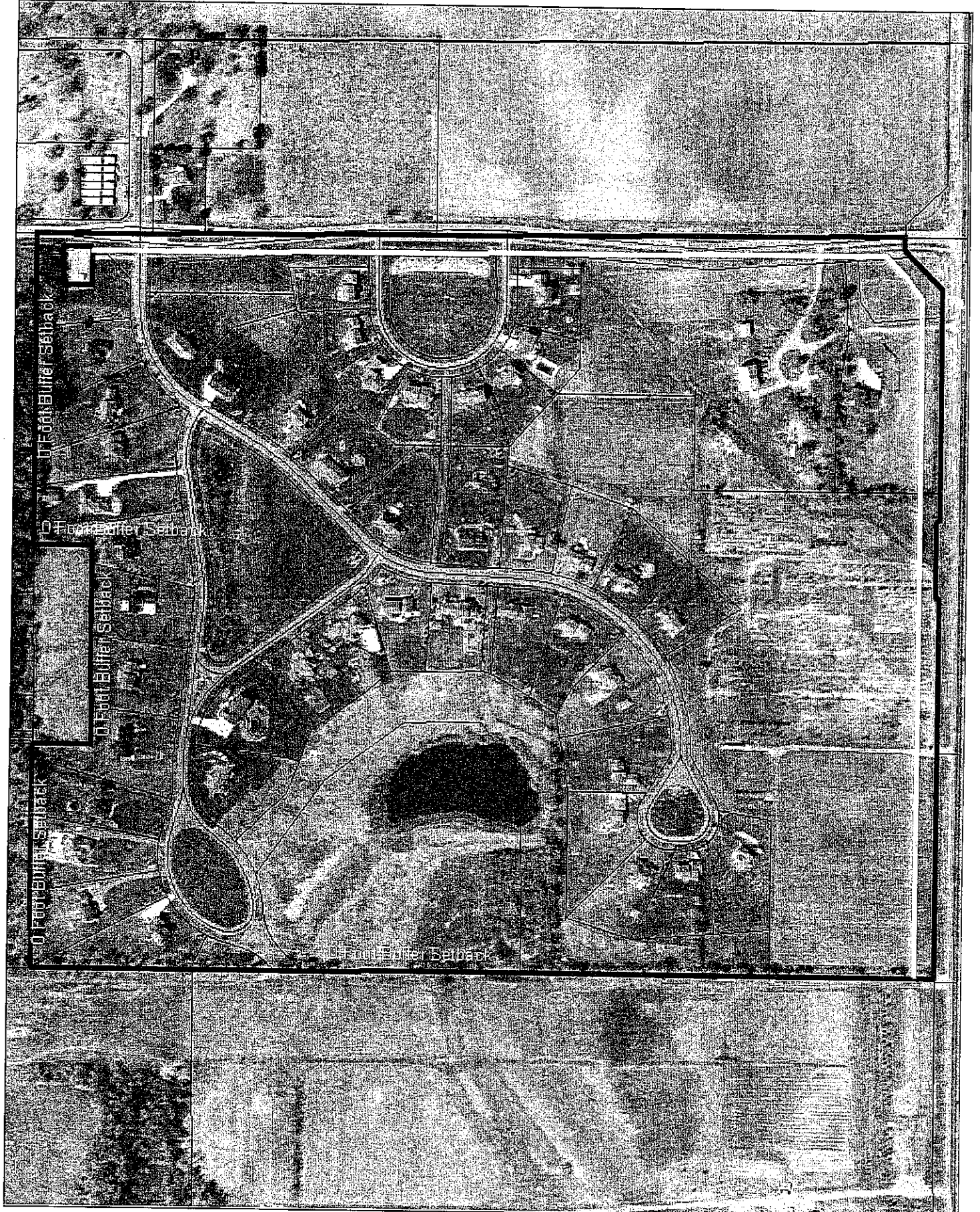


Wildflower Shores; Buffer Setback



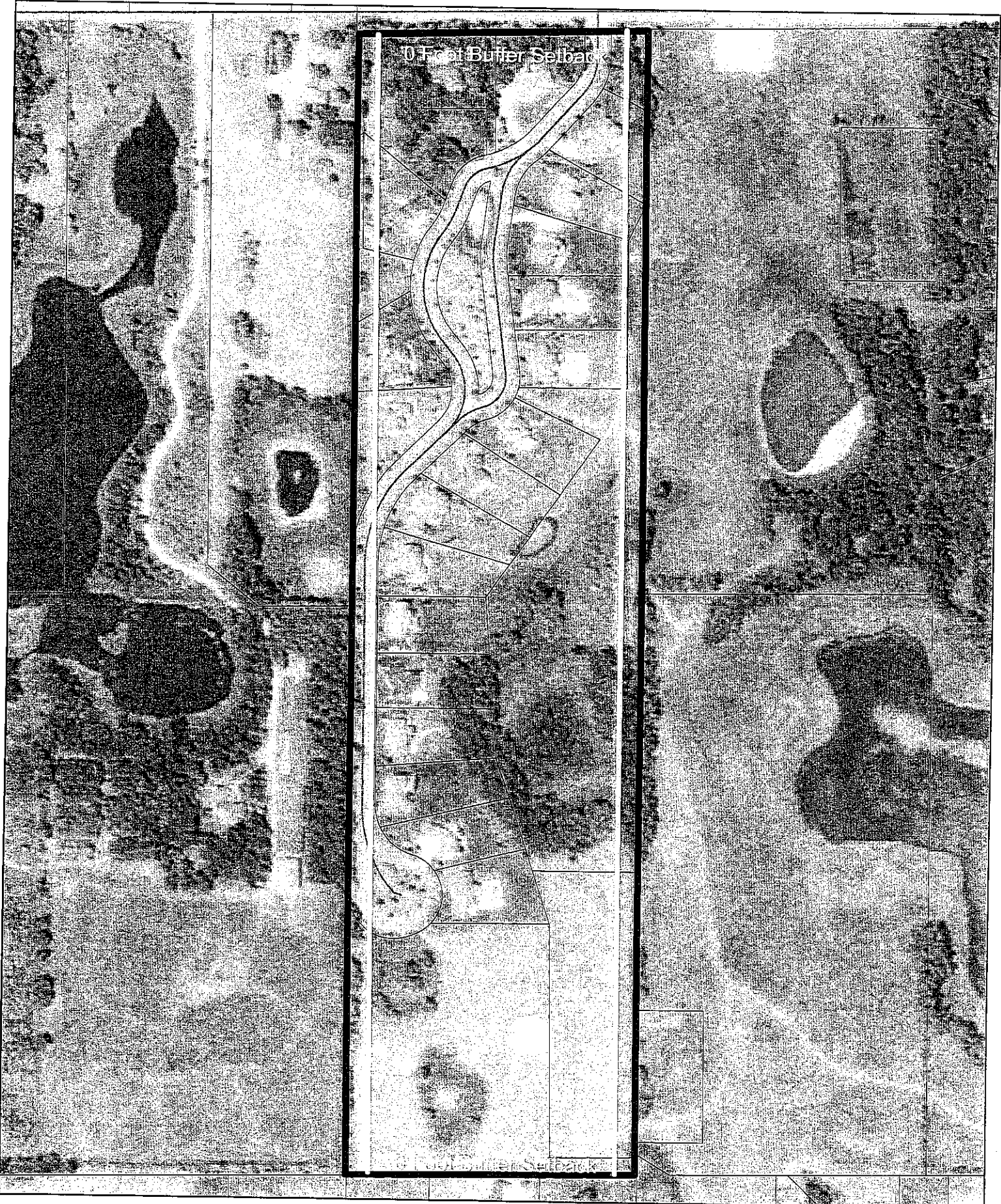
100 Foot Buffer Setback 200 Foot Buffer Setback

Heritage Farms; Buffer Setback



50 Foot Buffer Setback

Tana Ridge; Buffer Setback



50 Foot Buffer Setback

Parkview Estates; Buffer Setback



20 Foot Buffer Setback

50 Foot Buffer Setback

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
St. Croix's Sanctuary (RR)	200 Ft; all edges	Assuming 200 ft from N and E; 100 ft from S and W	100 Ft from E; 50 Ft from S and W; 200 Ft from N	<p>Northern Edge - Whether the setback is 200 feet or 0 feet; the entire area is covered by conservation easements in an outlot and would not have future private structures built on that property, which abuts State Highway 36</p> <p>Western Edge - The development borders property eligible for OP development based on property size; both properties that would be affected by this reduction back up to an outlot or currently undeveloped city park</p> <p>Southern Edge - The development borders property eligible for OP development based on property size which allows a reduced buffer setback to 100 feet; staff is recommending 50 feet to continue providing a buffer between this development and any future development to the South while allowing the properties platted up to the edge of the development the ability to utilize a backyard for a structure</p> <p>Eastern Edge - Manning Avenue borders the eastern edge of development along with a minimum 100 foot wide outlot covered by a conservation easement and therefore unbuildable</p>	

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Discover Crossing (RR)	200 ft from S; 100 Ft from W		100 Ft from E and S; 200 Ft from the N; and 50 Ft from the W	<p>Northern Edge - The recommendation is to maintain a 200 foot setback, although would understand if a reduced setback was established. A 200 foot setback was thought to be appropriate as the neighboring property to the North is not eligible for OP development due to lot size and zoning designation. Although the 200 foot setback does encroach on one private property, it does not detract from the buildability of the property.</p> <p>Southern Edge - While the property to the South of this development is not eligible for OP development due to insufficient parcel size, a buffer already exists in the form of an outlot of over 100 feet in width buffering the existing homes from the future development</p> <p>Western Edge - The development borders property eligible for OP development based on property size and was actually platted to stub into that property for future connectivity; the properties affected by this change would have room in the rear yard to place a conforming structure or, in the case of the vacant lots, would have additional options in which to configure a home location</p> <p>Eastern Edge - County Road 13 (Lake Elmo Avenue) borders the development on the Eastern edge; this would reduce the non-conformity existing and would allow the lots to again be buildable while providing a 100 foot setback</p>	

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Whistling Valley I (Ag)	0 Ft from E; 100 feet from W;	0 Ft from N; 0 Ft from South	200 Ft from S and 0 from E, N, and W	<p>Northern Edge - The recommendation is a 0 Ft setback; if the goal is to eliminate existing non-conformities, even with a 50 foot setback, the home furthest to the North would remain non-conforming; the Regional Park Reserve is located to the north and serves as a dedicated open space;</p> <p>Southern Edge - A buffer setback of 200 feet would not impact any private land</p> <p>Western Edge - two homes exist in a non-conforming location with a 100 foot setback; reducing the setback to 50 feet would make the homes conforming but would reduce the ability to put a conforming structure in the rear yard of the property; for a majority of the Western edge, the development abuts Whistling Valley III which could be considered an extension of this development and therefore no buffer setback would be required, the remaining West edge abuts a parcel eligible for OP development due to sufficient parcel size which would provide an opportunity for creating a sizeable buffer should that property be developed in the future</p> <p>Eastern Edge - this has already been approved by Council at the time of the development approval</p>	Staff report says there should be no setback from regional park, but no Council action to that affect

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Whistling Valley II (RR)	85 Ft for Lot 1, Block 1 from W edge	0 Ft from N and E edge	85 Ft from W, 100 from S, 0 from E and N	<p>Northern Edge - the property abuts the Regional Park which provides a dedicated open space; a reduction to 100 ft would not eliminate all non-conforming houses</p> <p>Southern Edge - This would eliminate additional, greater front yard setbacks for three properties; the lots are already separate from County Road 10 (10th Street) by an outlot with a conservation easement</p> <p>Western Edge - maintain the reduced buffer setback approved by Council at the time of the development</p> <p>Eastern Edge - The recommendation is a 0 foot setback as the lots abut either Keats Avenue North or a strip of land that is part of the Regional Park Reserve - a protected open space; establishing a buffer setback in this location greater than 50 feet would severely impact the buildability of at least two platted lots</p>	

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Whistling Valley III (RR)	Res. Says CC allows a reduction in 100 ft buffer setback from E	100 ft from N, W, and S	50 from N; 100 from S and W; 0 from E	<p>Northern Edge - The property to the North is eligible for OP development based on lot size. This development also has a road stub to the North which would connect with a future development.</p> <p>Southern Edge - A 100 foot setback is recommended as it would not impact any future residential home, but would leave a buffer in place.</p> <p>Western Edge - A 100 foot setback is recommended as it would not impact any future residential home, but would also leave a buffer in place. The property to the West of this development is eligible for OP development based on lot size.</p> <p>Eastern Edge - The property to the East is Whistling Valley I.</p>	Unclear in Resolution

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Farms of Lake Elmo (RR)	100 ft from W, S, and E; 200 ft from N		100 ft from N; 50 Ft from S; 100 Ft from W and 25 Ft from East	<p>Northern Edge - this setback only applies to a few properties and that is due to a neighbor's parcel that is landlocked inside the borders of this development (an unusual situation); a 100 foot setback is being recommended as the "true" northern edge of the development is much further to the North along 31st Street North</p> <p>Southern Edge - Although the City Council already reduced this buffer setback to 100 feet at the time of the development, if the intention is to eliminate non-conformities; the setback would need to be reduced to 50 feet and even then it is close for the Southwest corner lot</p> <p>Western Edge - A 100 foot setback would not encumber a lot to make it unbuildable, but would reduce the area for a conforming accessory structure; a 50 foot buffer exists in the form of an outlot to provide a physical barrier from the adjacent properties</p> <p>Eastern Edge - a 25 foot setback would eliminate the non-conformities with regards to the homes; the development abuts the Regional Park Reserve which will be preserved as open space</p>	(CC minutes 4-5-05)

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Prairie Hamlet (OP)	200 Ft; all edges		50 Ft setback from S and W; 200 Ft from N; and 100 Ft from E	<p>Northern Edge - Whether the setback is 200 feet or 0 feet; the entire area is covered by conservation easements in an outlot and would not have future private structures built on that property, which abuts State Highway 36</p> <p>Western Edge - Although a 100 foot setback could be established without excluding much private land from accessory structure construction; the actual implementation of this would be difficult due to the curve in the development; it would provide minimal buffer setback functionality</p> <p>Southern Edge - in order to eliminate existing non-conformities, a 50 foot setback would suffice while providing minimal back yard area for a permitted accessory structure</p> <p>Eastern Edge - Whether the setback is reduced to 100 feet or 0 feet, the setback would not (or negligibly) encroach on private property and the non-conformities would be eliminated</p>	

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Fields of St. Croix (RR)		100 ft from ag land (staff report)	0 from South; 200 Ft from W; 50 Ft from N; 100 Ft from E	<p>Northern Edge - There are two developed lots affected by the buffer setback along the north side of the property. Both properties abut 50th Street North and on the other side of the road is an outlot from another OP development. A 50 foot buffer setback would be minimal as it is measured from the center of the road, but given the adjacent property (road, outlot), staff finds that minimal buffering is necessary.</p> <p>Western Edge - A majority of the property along the western edge of the development are dedicated outlots. By keeping the 200 foot setback, only one lot would be minimally affected and it is in a largely wooded area.</p> <p>Southern Edge - Because there is a thin lot platted adjacent to the southern edge of the development, staff is recommending a zero foot setback to ensure the existing home is no longer non-conforming.</p> <p>Eastern Edge - A recommendation of a 100 foot setback from the eastern edge as this would only affect one residential property. Reducing it from 200 feet makes the home conforming again. A 100 foot setback would be duplicative of a front yard setback and would have minimal impacts to the existing property owner.</p>	

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Fields of St. Croix 2nd Addn (OP)			No buffer setback from "exception" parcels (internal to subdivision). 0 Ft from N and E; 200 ftom S and W	<p>Northern Edge - The recommendation is a 0 ft setback as there are two home sites platted with homes built into a 50 foot setback. Those two homes are adjacent to Tana Ridge Park - an OP development.</p> <p>Western Edge - The recommendation is to maintain a 200 foot buffer setback as it would have minimal, if any, impact on any residential home site.</p> <p>Southern Edge - The recommendation is to maintain a 200 foot buffer setback as it would have no impact any any residential home site.</p> <p>Eastern Edge - The recommendation is a zero foot setback as there are two single family homes and two townhomes built within a 50 foot setback from the eastern edge of the development.</p> <p>Exception Lots - The platted development did not include two existing residential homes that were located internally to the development. Two home sites were added later to the development from the exception property to the north and therefore the homes are built close to that property owner. Because that property owner subdivided with the intention of creating two home sites at that location, the recommendation is a 0 foot buffer setback from the exception parcels.</p>	

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
The Homestead (OP)		0 Ft; Staff report stated "No buffer zone is necessary since the agricultural use will be a tree farm."	200 Ft from W; 50 Ft from N, E, and S	<p>Northern Edge - The recommendation is a 50 foot setback from the North because the properties are adjacent to Tartan Park baseball fields. An additional structure in the rear yard would have minimal to no impact on the spectators utilizing the fields.</p> <p>Western Edge - The recommendation is a 200 foot buffer setback as it would not affect any residential home sites.</p> <p>Southern Edge - The recommendation is a 50 foot buffer setback from the South as the properties to the South are zoned R-1 and although slightly larger, are similar in size.</p> <p>Eastern Edge - The recommendation is a 50 foot setback to make the existing homes conforming.</p>	

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Tapestry at Charlotte's Grove (RR)	200 Ft from W; 200 Ft from Exception Parcels	200 Ft from N, 200 Ft in NE corner; 100 Ft from E and S	100 Setback from Exception Parcels; 50 Ft setback from N, S, and E; 200 from W	<p>Northern Edge - The recommendation is a 50 ft setback as the property is adjacent largely to parcels undevelopable by OP standards, but maintaining a 200 ft setback renders the lots unbuildable and 100 feet reduces (or possibly eliminates) the ability of the existing homes to utilize the rear yard, to build an addition (such as a deck) in a conforming location in the rear yard.</p> <p>Western Edge - The recommendation is a 200 foot buffer setback as it would affect only one property and would not preclude other building on the site.</p> <p>Southern Edge - The recommendation is a 50 foot buffer setback as it is adjacent to Sunfish Lake Park, which will not be developed. The full 200 foot setback renders the lots unbuildable. The commission suggested a 50 foot setback may be more in-line with setbacks in OP developments from parks elsewhere in the city.</p> <p>Eastern Edge - The recommendation is a 50 foot setback as it is adjacent to another OP development for a majority of the length of the development which also has a small outlot adjacent to the development. A 200 foot setback renders a few lots unbuildable and a 100 foot setback would create difficulties in building a residential lot on one of the sites. This would also create a little more buildable area for the SE corner lot which would have a buffer setback from the South as well.</p> <p>Exception Parcels - The City Council approved by 4/5 vote to allow a road to be built within a 200 foot buffer setback from the exception parcels. However, the recommendation is for a 100 foot setback as the parcel to the Southeast already has challenges for building due to the large pond/wetland on the site.</p>	

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Tamarack Farm Estates (OP)		100 ft from S	100 ft from N, S, W, and E	<p>Northern Edge - The recommendation is for a 100 foot buffer setback as leaving a 200 foot setback would retain a non-conforming home on the furthestmost lot. The property to the North is currently vacant and eligible for OP development based on parcel size.</p> <p>Western Edge - The recommendation is for a 100 foot buffer setback as leaving a 200 foot buffer setback would leave three homes non-conforming. The parcel to the West is not eligible for OP development based on size; however, it is owned by the same trust that owns an additional (approximately) 180 adjacent acres which would be eligible for OP development.</p> <p>Southern Edge - The recommendation is for a 100 foot buffer setback as leaving a 200 foot buffer setback would leave two existing homes non-conforming. To the South is 50th Street North and then another OP development (Fields of St. Croix).</p> <p>Eastern Edge - The recommendation is for a 100 foot setback from the Eastern edge as leaving a 200 foot buffer setback would leave at least two homes non-conforming. To the east of the development is an outlot for the Carriage Station development.</p>	<p>Staff report for concept plan had notes: "100 foot buffer will need to be provided if the open space on the south side of the property is planted in corn or soy beans." Staff report for Preliminary Plan said that the "...space adjacent to the public road be maintained so that it has visual continuity with the adjacent open space."</p>

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Sunfish Ponds (RR)		200 from N, W, and E; 100 from S	200 from E; 100 from N, S, and W	<p>Northern Edge - The recommendation is for a 100 foot buffer setback as leaving a 200 foot setback would retain a non-conforming home on the north lot. To the North of the development is 43rd Street North and further to the North of the roadway are two parcels ineligible for OP development based on property sizes.</p> <p>Western Edge - The recommendation is for a 100 foot buffer setback as an OP development is directly to the West. A 400 foot wide outlot exists between the Western edge of this (Sunfish Ponds) development and rear residential property lines in the Hamlet on Sunfish Lake development.</p> <p>Southern Edge - The recommendation is for a 100 foot buffer setback as leaving a 200 foot buffer setback would leave one existing home non-conforming. To the South of this development is the Schiltgen Farm which is a part of the Village Area. The Village Master Plan identifies a buffer zone/open area along this property.</p> <p>Eastern Edge - The recommendation is for leaving a 200 foot buffer setback in place as there is almost 350 feet of outlots between the edge of the development and the rear property line of a residential lot.</p>	Staff report for concept; structure footprints would likely comply with the 200 foot-to-adjointing property line requirements except to the South; applicants propose 100 ft buffer

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Hamlet on Sunfish Lake (OP)		100 ft from W and E	100 ft from S; 50 ft from W, E, and N	<p>Northern Edge - The recommendation is for a 50 foot setback from the North because the corner of the existing home is approximately 104 feet from the edge of the development. To the North of the development is a residential lot that would not be eligible for OP development based on the lot size requirements.</p> <p>Western Edge - The recommendation is for a 50 foot buffer setback. Although a reduction to a 100 foot buffer setback would eliminate non-conformities, staff is recommending 50 feet as the development is adjacent to another OP development, the development has a 50 foot wide outlot along the western edge, and an 850 foot length of the two adjoining OP developments is a large outlot in the Tapestry development. The South portion of the Western edge is adjacent to city-owned Sunfish Lake Park.</p> <p>Southern Edge - The recommendation is for a 100 foot setback from the Southern edge as the administrative execution of the setback would be considerably easier given the odd shape of the "cut-out" corner in the southwest.</p> <p>Eastern Edge - The recommendation is for a 50 foot setback as a non-conforming home would remain if a 100 foot setback was utilized.</p>	

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Cardinal Ridge (Ag)		100 ft from W and E	100 ft from N, 200 front S, and 50 from E and W	<p>Northern Edge - The recommendation is for a 100 foot setback as it would not impact any residential lots and it is adjacent to the Lake Elmo Regional Park Reserve.</p> <p>Western Edge - The recommendation is a 50 foot setback as the development is adjacent to another existing OP development. The Parkview Estates development was granted a reduced buffer setback of 50 feet as a number of homes were found to be non-conforming previously. The combination of two 50 foot buffer setbacks would provide a total of 100 feet buffer area between the two developments. See notes.</p> <p>Southern Edge - The recommendation is to retain the 200 foot buffer setback.</p> <p>Eastern Edge - The recommendation is a 50 foot buffer setback as leaving it at 100 feet would leave one existing home non-conforming.</p>	A variance was denied by resolution at the Planning Commission for the Northwestern flag lot to have a home built within the buffer setback. However, the home was then built. Staff is still researching why this was allowed.

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Wildflower Shores (OP)			100 feet from N and W; 200 feet from S and E	<p>Northern Edge - The recommendation is a 100 foot buffer setback as leaving a 200 foot setback would leave at least two homes non-conforming. The property to the North of this development is eligible for OP development based on lot size and zoning. That property is utilized for a mining company.</p> <p>Western Edge - The recommendation is a 100 foot buffer setback as a 200 foot buffer setback would leave five homes non-conforming. The road and an approximately 60 foot wide outlot provide a buffer to the large vacant land to the west that is owned by 3M.</p> <p>Southern Edge - The recommendation is a 200 foot buffer setback as it would continue to have no impact on any private residential properties and falls entirely within an outlot.</p> <p>Eastern Edge - The recommendation is to retain a 200 foot buffer setback as it would not impact the existing homes in the development and would continue to provide conforming locations for accessory buildings for the three properties it would cross.</p>	

Existing OP Development	Existing Buffer Setback (200 Ft unless otherwise noted)	What we think was approved, but was not officially approved by the Council	Proposed Buffer Setback	Reasoning behind Recommendation:	Notes:
Heritage Farms (OP)			50 ft from N and E, 0 ft from S and W	<p>Northern Edge - The recommendation is a 50 foot buffer setback as a 100 foot setback abuts two existing homes. The development is bordered on the North by 30th Street North. To the north of the road is the southern boundary of the Village Area which is identified to have a greenspace/open area border which would further separate the development from future development.</p> <p>Western Edge - A 0 foot setback is being recommended as the existing residential homes to the west of the development are on lot sizes similar, if not smaller, than the homes in this development. In addition, the implementation of the setback around the varying edge would provide difficult.</p> <p>Southern Edge - A 0 foot setback is being recommended as one existing home would be retained as non-conforming if a 50 foot setback were in place. The two properties to the South are not eligible for OP development based on lot size.</p> <p>Eastern Edge - The recommendation is for a 50 foot buffer setback as the development abuts Manning Avenue which is a heavily used roadway. That roadway provides a significant buffer between the development and the property in West Lakeland Township.</p>	