

FILE

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

July 7, 2009

7:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: ___ Johnston ___ DeLapp ___ Emmons ___ Park
Absent: 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 June 16, 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 swing set, borders and ADA engineered fiber surfacing
 - 4. Approval of purchase of 24" Bobcat Planer from Tri-State Bobcat
 - 5. Final acceptance of Discover Crossing; Resolution No. 2009-032
- J. REGULAR AGENDA:
 - 6. 2008 Annual Financial Report

7. Request Council direction on buffer setback in Open Space Preservation developments

Recess

Convene Board of Appeals and Adjustment:

8. Appeal request from Joe Pelletier, 4884 Lily Avenue N.; Resolution No. 2009-030.

Adjourn

Reconvene City Council Meeting:

9. Consideration of reduced buffer setback for Tana Ridge and Parkview Estates; Resolution No. 2009-033
10. Accept 2009 Street Improvement Project Bids and award contract; Resolution No. 2009-031
11. Grant application for Fire Station stimulus funding

K. REPORTS AND ANNOUNCEMENTS:

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

- Mayor and City Council
- Administrator
- Planning Director

L. Adjourn

City of Lake Elmo
City Council Minutes

DRAFT

June 16, 2009

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

PRESENT: Mayor Johnston and Council Members DeLapp, Emmons (arrived at 7:05 p.m.), and Smith

Absent: Council Member Park

Also Present: Interim City Administrator Dawson, Planning Director Klatt, City Engineers Griffin and Stempski, City Attorney Snyder, Project Assistant Kriegler, Finance Director Bouthilet and City Clerk Lumby.

APPROVAL OF AGENDA:

MOTION: Council Member Smith moved to postpone the sign ordinance agenda item until the July 21st City Council Meeting. Council Member DeLapp seconded the motion. The motion passed 3-0.

MOTION: Council Member Smith moved to approve the June 16, 2009 agenda as presented. Council Member DeLapp seconded the motion. The motion passed 3-0.

ORDER OF BUSINESS:

GROUND RULES:

APPROVED MINUTES:

The June 2, 2009 City Council minutes were approved by consensus.

PUBLIC COMMENTS/INQUIRIES:

CONSENT AGENDA:

MOTION: Council Member Smith moved to approve the Consent agenda as presented. Mayor Johnston seconded the motion. The motion passed 4-0.

- Approve payment of disbursements and payroll in the amount of \$106,179.59
- Approval of Park Meadows Final Plat Resolution No. 2009-028
- Approval of Resolution No. 2009-027 accepting a Capital Improvement Project Grant from the Minnesota DNR cross country ski grant-in-aid program for the construction of an information kiosk at Sunfish Lake Park

REGULAR AGENDA:

Consider on-sale intoxicating liquor license for Huff'n Puff Days and proclaim August 6-9th as Huff's Puff Days

Huff'n Puff Chair reported on the events scheduled for the 33rd Huff'n Puff Days on August 6-9, 2009 and announced the need for members from the community.

Mayor Johnston proclaimed August 6-9, 2009, the official celebration for 2009 and to urge all citizens of our community to give full regard to the past and continuing service of the Lake Elmo Jaycees.

MOTION: Council Member DeLapp moved to grant approval of the on-sale non-intoxicating malt liquor license and waive the liquor fee for August 6-9, 2009 Huff's Puff Days. Council Member Smith seconded the motion. The motion passed 4-0.

Sharon Klumpp, Springsted, City Administrator Search Firm, approval of profile and schedule

Sharon Klumpp, Springsted, provided a position profile for the Lake Elmo city administrator recruitment process and a search timetable for the Councils' review and comment.

The Council discussed compensation and agreed that the salary would be up to \$105,000, depending on qualifications, suitability and experience and asked to accelerate the proposed schedule.

Consideration of Resolution 2009-026 in support of application to the DNR Metro Greenways Grant Program for Sunfish Lake Park

Carol Kriegler, Project Assistant, reported the City Council is being asked to consider a resolution supporting application made to the Minnesota Department of Natural Resources Metro Greenways grant program for a restoration grant and conservation planning grant for Sunfish Lake Park.

The total cost of the development of a Sunfish Lake Park natural resource management plan is estimated to be \$11,075.00. Staff suggested the grant request be in the amount of \$8,306.25. The City would provide a match of \$2,768.25 for the project that would come from the City's park improvement fund.

Carol Kriegler noted she will make the restoration a community project and will involve local volunteers in the process and way to keep the cost of the program as low as possible.

MOTION: Council Member Smith moved to adopt Resolution No. 2009-026 supporting application made to the Minnesota Department of Natural Resources Metro Greenways grant program for a restoration grant and conservation planning grant for Sunfish Lake Park. Mayor Johnston seconded the motion. The motion passed 4-0.

Speed Indicator Sign on CR13 (Ideal Avenue) – Status Report

Craig Dawson, Interim City Administrator, reported a resident representing the Tri-Lakes Association asked whether a speed indicator sign could be placed on Ideal Avenue where the speed limit drops from 50 to 40 miles per hour (just north of Hidden Bay Trail N). Council requested staff report about what could be done at the June 16 Council meeting.

Washington County staff plans on installing a battery-powered temporary feedback sign that would be placed on an existing pole over the next six months or so and determine whether a permanent indicator sign is appropriate. If a permanent driver feedback sign is the right alternative, Washington County would install the sign in 2010 or 2011, depending on available funding.

The consensus of the Council on the proposed plan was very positive.

Sign Ordinance, Ordinance No. 08-015, Resolution No. 2009-025 – POSTPONED until July 21, 2009

MPCA Watermain Extension Project for Municipal water to the Olson Property – Proposal to oversize to 12-inch trunk watermain pipe

Ryan Stempski, Assistant City Engineer, reported the City Council was being asked to authorize the expenditure of approximately \$10,000 to increase the watermain pipe size for the MPCA watermain extension project that is providing municipal water service to the Olson property located along Trunk Highway 5 (9524 Stillwater Boulevard) in response to high levels of PFBA contaminant found in the private well. The City would be responsible to own and maintain the watermain. The cost would be paid from the City Water Fund. The Joint Powers Agreement in which the City would commit to this expenditure will be on a future Council meeting agenda.

MOTION: Council Member Smith moved to approve the oversizing of the MPCA watermain extension project to a 12-inch truck watermain pipe at an approximate project cost of \$10,000 (project bid cost of \$8,846), to be funded through the City Water Fund. Council Member Emmons seconded the motion. The motion passed 4-0.

Resolution No. 2009-029 authorizing publication of Storm Water Management and Erosion and Sediment Control Ordinance No 08-016

Jack Griffin, City Engineer, reported the City Council is being asked to approve a resolution authorizing the publication of the updated Storm Water Management and Erosion and Sediment Control Ordinance. The adoption of the updated Storm Water Management and Erosion and Sediment Control Ordinance fulfills a requirement of the City's MS4 permit through the MPCA and fulfills a requirement of the City's Storm Water Management Plan.

Assistant City Engineer, Ryan Stempiski presented the outline and highlighted key items found in this ordinance. Kyle Klatt, Planning Director, identified outdated Code sections related to storm water that will be replaced.

Attorney Snyder suggested the following wording be added to section: Post implementation requirements: The City reserves the right to impose supplemental or additional conditions or requirements to prevent erosion or undersized runoff.

MOTION: Council Member Smith moved to adopt Ordinance No. 08-016, an ordinance adopting regulations to govern storm water and erosion and sediment control in the City of Lake Elmo as amended by wording submitted by Attorney Snyder. Mayor Johnston seconded the motion. The motion passed 4-0.

MOTION: Council Member Smith moved to approve Resolution No. 2009-029 authorizing publication of Ordinance No. 08-016 by title and summary. Mayor Johnston seconded the motion. The motion passed 4-0.

Appointment to Parks Commission and Planning Commission

Sharon Lumby, City Clerk, reported Marty Dobbs, 4240 Ivy Court N. has applied and been interviewed for membership on the parks commission. Staff will advertise to fill the two vacancies on the parks commission.

MOTION: Council Member DeLapp moved to appoint Marty Dobbs, 4240 Ivy Court N., to a 3-year term on the Parks Commission. Council Member Smith seconded the motion. The motion passed 4-0.

Sharon Lumby, City Clerk, reported with Todd Ptacek's resignation, there is one vacancy on the Planning Commission. Todd Williams and Larry Green's applications are on file and both applicants have been interviewed. Tom Bidon, First Alternate, would be moved to finish Todd Ptacek's term which expires on December 31, 2011 and Steve Britz would be moved to the First Alternate position.

MOTION: Mayor Johnston moved to appoint Todd Williams to the Second Alternate position on the Planning Commission. Council Member DeLapp seconded the motion. The motion passed 4-0.

Appointment to Metro Cities Policy Committee

Mayor Johnston reported while it is common for council members and staff to participate by signing up for a committee voluntarily, the Council also wanted to give interested residents an opportunity to participate. For persons who are not members of the Council or staff, Metro Cities would like to have the Council approve their participation.

Resident:

Jennifer Pelletier, for the Housing and Economic Development Committee

City Officials:

Dean Johnston, for the Metropolitan Agencies Committee and the Housing and Economic Development Committee

Anne Smith, for the Metropolitan Agencies Committee

Craig Dawson, for the Municipal Revenue and Taxation Committee

MOTION: Council Member Smith moved to appoint Jennifer Pelletier to the Housing and Economic Development committee of Metro Cities. Council Member DeLapp seconded the motion. The motion passed 4-0.

Roseville Accounting Services

Interim City Administrator Craig Dawson reported that for this item, which was continued from the June 2, 2009, Council meeting, staff was asked to investigate alternatives to an accounting contract Lake Elmo currently has with the City of Roseville to handle accounting services.

MOTION: Council Member Smith moved to solicit different proposals, including cost savings, and have recommendations presented at the July 21st Council meeting. Council Member DeLapp seconded the motion. The motion passed 4-0.

The meeting adjourned at 8:55 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

City Council
7/7/2009
CONSENT
Item: 2

ITEM: Approve disbursements in the amount of \$ 226,333.79

SUBMITTED BY: Tom Bouthilet, Finance Director

<u>Claim #</u>	<u>Amount</u>	<u>Description</u>
32996	\$ 5,930.00	J.P. Bush Homes-Escrow Return
ACH	\$ 9,342.77	Payroll Taxes to IRS 06/18/09
ACH	\$ 1,291.48	Payroll Taxes to Mn Dept.of Revenue 06/18/09
DD2234 - DD2269	\$ 21,474.09	Payroll Dated 06/18/2009 (Direct Deposit)
34358 - 34376	\$ 18,304.88	Payroll Dated 06/18/2009 (Payroll & Benefits)
ACH	\$ 7,390.28	Payroll Taxes to IRS 07/02/09
ACH	\$ 1,225.73	Payroll Taxes to Mn Dept.of Revenue 07/02/09
DD2270 - DD2283	\$ 18,145.85	Payroll Dated 07/02/2009 (Direct Deposit)
34377 - 34380	\$ 15,834.03	Payroll Dated 07/02/2009 (Benefits)
34427 - 34429	\$ 3,468.77	Payroll Dated 07/02/2009 (Payroll)
34381 - 34430	\$ 123,925.91	Accounts Payable Dated 07/07/2009

Total: \$ 226,333.79

SUMMARY AND ACTION REQUESTED: The City Council is being asked to approve disbursements in the total amount of \$226,333.79

Accounts Payable

Checks for Approval

User: Administrator
 Printed: 07/01/2009 - 11:55 AM

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount	
34381	07/07/2009	General Fund	Repairs/Maint Bldg	Ace Hardware , Inc	20.63	
34381	07/07/2009	General Fund	Repairs/Maint Imp Not Bldgs	Ace Hardware , Inc	12.57	
					Check Total:	33.20
34382	07/07/2009	General Fund	Repairs/Maint Contractual Eqpt	American Flagpole & Flag	69.12	
					Check Total:	69.12
34383	07/07/2009	General Fund	Contract Services	Animal Control Services	680.00	
					Check Total:	680.00
34384	07/07/2009	General Fund	Uniforms	Aramark, Inc.	36.14	
34384	07/07/2009	General Fund	Repairs/Maint Contractual Bldg	Aramark, Inc.	81.37	
34384	07/07/2009	General Fund	Uniforms	Aramark, Inc.	36.14	
34384	07/07/2009	General Fund	Uniforms	Aramark, Inc.	36.14	
					Check Total:	189.79
34385	07/07/2009	General Fund	Uniforms	Aspen Mills, Inc.	69.50	
					Check Total:	69.50
34386	07/07/2009	Water	Repairs/Maint Imp Not Bldgs	Buelow Excavating	1,273.00	
					Check Total:	1,273.00
34387	07/07/2009	General Fund	Miscellaneous	Carol Kriegler	70.28	

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
Check Total:					70.28
34388	07/07/2009	General Fund	Building Repair Supplies	Carquest Auto Parts Store	169.46
34388	07/07/2009	General Fund	Building Repair Supplies	Carquest Auto Parts Store	-25.40
34388	07/07/2009	General Fund	Building Repair Supplies	Carquest Auto Parts Store	2.69
34388	07/07/2009	General Fund	Equipment Parts	Carquest Auto Parts Store	36.69
34388	07/07/2009	General Fund	Equipment Parts	Carquest Auto Parts Store	75.00
34388	07/07/2009	General Fund	Shop Materials	Carquest Auto Parts Store	3.17
34388	07/07/2009	General Fund	Equipment Parts	Carquest Auto Parts Store	146.90
Check Total:					408.51
34389	07/07/2009	General Fund	Small Tools & Equipment	Catco	21.53
Check Total:					21.53
34390	07/07/2009	Water	Utility System Maintenance	City of Bloomington	60.00
Check Total:					60.00
34391	07/07/2009	Water	Water Utility	City of Oakdale	13,982.43
Check Total:					13,982.43
34392	07/07/2009	General Fund	Miscellaneous	Compensation Consultants, Ltd	40.00
Check Total:					40.00
34393	07/07/2009	General Fund	Small Tools & Equipment	Fire Safety USA, Inc.	676.28
34393	07/07/2009	General Fund	Use Tax Payable	Fire Safety USA, Inc.	-41.28
Check Total:					635.00
34394	07/07/2009	General Fund	Assessing Services	FXL, Inc.	2,000.00
Check Total:					2,000.00
34395	07/07/2009	Water	Miscellaneous	John Hamerly	1,000.00
Check Total:					1,000.00
34396	07/07/2009	Water	Chemicals	Hawkins, Inc.	1,034.41

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
34396	07/07/2009	Water	Use Tax Payable	Hawkins, Inc.	-63.13
				Check Total:	971.28
34397	07/07/2009	General Fund	Repairs/Maint Eqpt	I-STATE TRUCK CENTER	168.57
				Check Total:	168.57
34398	07/07/2009	General Fund	Contract Services	Kern DeWenter Viere Ltd	6,446.25
				Check Total:	6,446.25
34399	07/07/2009	General Fund	Conferences & Training	League of MN Cities	350.00
				Check Total:	350.00
34400	07/07/2009	General Fund	Refuse	Maroney's Sanitation, Inc	103.66
34400	07/07/2009	General Fund	Refuse	Maroney's Sanitation, Inc	45.62
34400	07/07/2009	General Fund	Refuse	Maroney's Sanitation, Inc	103.66
34400	07/07/2009	General Fund	Refuse	Maroney's Sanitation, Inc	198.87
				Check Total:	451.81
34401	07/07/2009	General Fund	Contract Services	McCombs Frank Roos Assoc Inc.	1,899.40
				Check Total:	1,899.40
34402	07/07/2009	Water	Utility System Maintenance	Menards - Oakdale	93.53
34402	07/07/2009	General Fund	Small Tools & Equipment	Menards - Oakdale	33.33
34402	07/07/2009	General Fund	Small Tools & Equipment	Menards - Oakdale	5.27
				Check Total:	132.13
34403	07/07/2009	Sewer	Sewer Utility - Met Council	Metropolitan Council	1,068.66
				Check Total:	1,068.66
34404	07/07/2009	Park Dedication	Other Park Ded Prof Services	Minnesota Land Trust	10,000.00
34404	07/07/2009	Park Dedication	Other Park Ded Prof Services	Minnesota Land Trust	198.00
				Check Total:	10,198.00
34405	07/07/2009	General Fund	Telephone	Nextel Communications	101.35

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
34405	07/07/2009	General Fund	Telephone	Nextel Communications	105.17
34405	07/07/2009	General Fund	Telephone	Nextel Communications	34.32
34405	07/07/2009	General Fund	Telephone	Nextel Communications	58.86
34405	07/07/2009	General Fund	Telephone	Nextel Communications	17.80
Check Total:					317.50
34406	07/07/2009	General Fund	Cable Operations	Nicholas Anderson	58.58
34406	07/07/2009	General Fund	Use Tax Payable	Nicholas Anderson	-3.58
Check Total:					55.00
34407	07/07/2009	General Fund	Legal Services	Peterson Fram & Bergman Corp	480.50
34407	07/07/2009	General Fund	Attorney Criminal	Peterson Fram & Bergman Corp	4,225.04
Check Total:					4,705.54
34408	07/07/2009	General Fund	Repairs/Maint Contractual Bldg	Pitney Bowes	693.00
Check Total:					693.00
34409	07/07/2009	General Fund	Contract Services	PLANT HEALTH ASSOCIATES, INC	2,520.00
34409	07/07/2009	Development Fund	Contract Services	PLANT HEALTH ASSOCIATES, INC	72.00
Check Total:					2,592.00
34410	07/07/2009	General Fund	Repairs/Maint Eqpt	Pomp's Tire Service, Inc.	271.58
34410	07/07/2009	General Fund	Use Tax Payable	Pomp's Tire Service, Inc.	-16.58
Check Total:					255.00
34411	07/07/2009	General Fund	Cable Operation Expense	Steven Press	47.03
34411	07/07/2009	General Fund	Cable Operation Expense	Steven Press	62.71
34411	07/07/2009	General Fund	Use Tax Payable	Steven Press	-6.70
Check Total:					103.04
34412	07/07/2009	General Fund	Repairs/Maint Imp Not Bldgs	Webber Recreational Design Inc	206.61
Check Total:					206.61
34413	07/07/2009	General Fund	Public Notices	Reed Business Information	253.38

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
Check Total:					253.38
34414	07/07/2009	General Fund	Fuel, Oil and Fluids	River Country Cooperative	33.00
34414	07/07/2009	General Fund	Fuel, Oil and Fluids	River Country Cooperative	31.00
34414	07/07/2009	General Fund	Fuel, Oil and Fluids	River Country Cooperative	30.50
34414	07/07/2009	General Fund	Fuel, Oil and Fluids	River Country Cooperative	17.25
34414	07/07/2009	General Fund	Fuel, Oil and Fluids	River Country Cooperative	26.00
Check Total:					137.75
34415	07/07/2009	General Fund	Office Supplies	Rogers Printing Services, Corp	268.38
34415	07/07/2009	Water	Printed Forms	Rogers Printing Services, Corp	207.68
Check Total:					476.06
34416	07/07/2009	General Fund	Repairs/Maint Contractual Bldg	Diane Rud	511.20
34416	07/07/2009	General Fund	Repairs/Maint Bldg	Diane Rud	383.40
34416	07/07/2009	General Fund	Use Tax Payable	Diane Rud	-54.60
Check Total:					840.00
34417	07/07/2009	General Fund	Miscellaneous	S&T Office Products, Inc.	75.49
34417	07/07/2009	General Fund	Miscellaneous	S&T Office Products, Inc.	11.59
34417	07/07/2009	General Fund	Miscellaneous	S&T Office Products, Inc.	244.95
Check Total:					332.03
34418	07/07/2009	General Fund	Telephone	Sprint	88.48
Check Total:					88.48
34419	07/07/2009	General Fund	Physicals	Stillwater Medical Group	248.00
Check Total:					248.00
34420	07/07/2009	General Fund	Street Maintenance Materials	T.A. Schifsky & Sons Inc	322.36
34420	07/07/2009	General Fund	Street Maintenance Materials	T.A. Schifsky & Sons Inc	130.03
34420	07/07/2009	General Fund	Street Maintenance Materials	T.A. Schifsky & Sons Inc	196.01
Check Total:					648.40
34421	07/07/2009	General Fund	Telephone	TDS METROCOM - LLC	162.05

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
34421	07/07/2009	General Fund	Telephone	TDS METROCOM - LLC	153.51
34421	07/07/2009	Sewer	Telephone	TDS METROCOM - LLC	103.29
34421	07/07/2009	Water	Telephone	TDS METROCOM - LLC	41.72
Check Total:					460.57
34422	07/07/2009	Village	Engineering Services	TKDA, Inc.	390.17
34422	07/07/2009	Development Fund	Engineering Services	TKDA, Inc.	162.57
34422	07/07/2009	Development Fund	Engineering Services	TKDA, Inc.	1,580.82
34422	07/07/2009	Development Fund	Engineering Services	TKDA, Inc.	732.80
34422	07/07/2009	Development Fund	Engineering Services	TKDA, Inc.	3,147.86
34422	07/07/2009	Development Fund	Engineering Services	TKDA, Inc.	485.98
34422	07/07/2009	Water	Engineering Services	TKDA, Inc.	1,136.32
34422	07/07/2009	Surface Water Utility	Engineering Services	TKDA, Inc.	4,847.54
34422	07/07/2009	Infrastructure Reserve	Engineering Services	TKDA, Inc.	1,246.11
34422	07/07/2009	General Fund	Engineering Services	TKDA, Inc.	339.04
34422	07/07/2009	General Fund	Engineering Services	TKDA, Inc.	4,489.79
34422	07/07/2009	General Fund	Engineering Services	TKDA, Inc.	6,160.48
34422	07/07/2009	Village	Engineering Services	TKDA, Inc.	194.48
34422	07/07/2009	Infrastructure Reserve	Engineering Services	TKDA, Inc.	27,093.73
34422	07/07/2009	Infrastructure Reserve	Engineering Services	TKDA, Inc.	2,970.38
34422	07/07/2009	Park Dedication	Engineering Services	TKDA, Inc.	185.14
34422	07/07/2009	Surface Water Utility	Engineering Services	TKDA, Inc.	5,076.38
34422	07/07/2009	Water	Engineering Services	TKDA, Inc.	771.81
34422	07/07/2009	Sewer	Engineering Services	TKDA, Inc.	349.78
Check Total:					61,361.18
34423	07/07/2009	City Facilities	Office Equipment & Furnishings	VISA	192.09
Check Total:					192.09
34424	07/07/2009	General Fund	Assessing Services	Washington County	4,305.06
34424	07/07/2009	General Fund	Legal Services	Washington County	2,200.00
Check Total:					6,505.06
34425	07/07/2009	General Fund	Radio	WASHINGTON COUNTY	1,066.88
Check Total:					1,066.88
34426	07/07/2009	Surface Water Utility	Utility System Maint Supplies	Winnick Supply	9.75

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
					Check Total: 9.75
34430	07/07/2009	General Fund	Repairs/Maint Bldg	Yocum Oil Company, Inc.	160.13
					Check Total: 160.13
					Report Total: 123,925.91

ITEM: Swing Set, Borders, and ADA Engineered Fiber Surfacing

REQUESTED BY: Parks Department

SUBMITTED BY: Michael Bouthilet, Public Works Superintendent

REVIEWED BY: Craig Dawson, City Administrator
Tom Bouthilet, Finance Director

PURPOSE The City Council is being asked to authorize the purchase of a swing set for Reid Park, playground borders and ADA engineered resilient fiber surfacing for Reid and Carriage Station Parks.

A swing set will be added to the relatively new modular play set at Reid Park. Both Reid and Carriage Station have newer play sets installed with a fiber surface for fall impact control. This was done at the time the play sets were installed. It is now time for the play zone borders to be added with additional ADA resilient fiber surfacing. 650 linear feet of border, ADA accessible ramps, and 270 cu. Yd. of fiber will be added.

Three quotes were provided from:

- St Croix Recreation \$14,399.96 (tax and freight incl.)
- Weber Recreational Design \$16,454.91 (tax and freight incl.)
- Earl F Anderson \$17,412.00 (tax and freight incl.)

Funding source will be the Parks CIP.

RECOMMENDATION

Suggested motion for consideration: Authorize the purchase of a swing set, play zone borders and ADA resilient fiber surfacing not to exceed the amount of \$14,399.96.

SUGGESTED ORDER OF BUSINESS:

Comments

City Administrator, Finance Director

ITEM: Asphalt Planer Purchase

REQUESTED BY: Public Works Department

SUBMITTED BY: Michael Bouthilet, Public Works Superintendent

REVIEWED BY: Craig Dawson, City Administrator
Tom Bouthilet, Finance Director

PURPOSE The City Council is being asked to authorize the purchase of an Asphalt Planer from Tri-State Bobcat for \$12,258.36 (plus tax)

OPTIONS Equipment rental, which was reviewed by the Maintenance Advisory Committee and the rationale for decision to purchase, is reflected in attached minutes.

Three purchase quotes were obtained from:

- Tri-State Bobcat \$12,258.36
- St. Joseph Equipment \$14,217.00
- Ziegler Cat \$14,650.00

Funding source would be the equipment CIP.

RECOMMENDATION

Suggested motion for consideration: Authorize the purchase of the Asphalt Planer from Tri-State Bobcat for the amount of \$12,258.36 (plus tax)

SUGGESTED ORDER OF BUSINESS:

Comments City Administrator, Finance Director

ATTACHMENTS: MAC Minutes

**CITY of LAKE ELMO
MAINTENANCE ADVISORY COMMITTEE**

Minutes of
June 17, 2009

Present : Chuck Stanley, George Dege, Dick Gustafson
Bud Talcott, Mike Bouthilet,

Absent:, Steve Gurney, Steve Ziertman

The meeting was called to order at 7:20pm at The Public Works Building by Bud Talcott.

The agenda was reviewed and accepted with no changes.

Mike passed around photos and reviewed the need to use a planer when doing road patching. As a road ages the seal coat and overlays will break up in areas with a series of small pot holes. These must be opened up and all loose material removed so a solid patch can be made. (similar to scraping old peeling paint) This area can be as large as the road is wide by many feet long. The planer will scrap and loosen all the material down as far as needed to reach solid asphalt. The old material is then removed and the hole swept clean so the can now apply new asphalt over the compete area. This insures a long lasting repair that will not need to again be done the following year.

Mike stated they now are renting units at a cost of about \$250 per day but have had days when the weather has changed not allowing them to use it. When they do rent a planer they try to do all the planning in one area and then come back another day and lay the asphalt. This is not the most time affective way as it may be a day or so before they can get back to it and will have to again sweep and clean out the patch area. He said we have a large number of streets now in need of repair and more showing future need. This repair must be done before any seal coating can be done. Mike estimates he would have use for a planer about 20days per year. At a rate of \$ 250/day we will be spending about \$5,000 per year rental fees plus the cost of man hours needed to pick it up and return it. At \$ 5,000/yr we should have a payback within 3years for a purchased unit. Mike was asked about replacement cutting teeth and he said they cost about \$300 and at the most would replace them once a year.

With the added yearly cost of cutting teeth we could still have a pay back in 3 years, possibly even resulting in a small net savings.

Rental \$ 250 X 20days = \$5,000/yr X 3yr =	\$ 15,000
Less cost of Purchased unit	- \$ 12,258
	\$ 2,742
Less cost of cutting blades \$300/yr X 3	\$ 900
	\$ 1,842 Savings

Mike said he as received three (3) quotes, two were about the same as the state contract \$ 14,217 and \$ 14,650, one was lower \$ 12,258.36. The two from the state contract were for units that would require some modification to fit on our Bobcat. The third was for a unit would require no changes as it was from Bobcat. There was a discussion of the different widths of the cutters. Mike said he has demoed them and the 24in seems the best fit. It was also discussed as what the surrounding communities are using, which in most cases is the same as Mike is suggesting.

A MOTION was made by Chuck Stanley and seconded by Geo Dege to recommend the purchase of the 24in Bobcat Planer with the 24in high speed drum from Tri-State Bobcat at a price of \$ 12,258.36 plus tax.

The Motion passed 4-0

The damaged pickup was discussed and Mike said the insurance company said they will give us the same amount of money with or with out the extras we have installed. If we can take off the plow attachment, power lift gate, lights, tool box and any other items. It was agreed there would then be no reason for us to buy it back for parts.

A MOTION was made by Bud Talcott seconded by Chuck Stanley to recommend Mike get bids on the cost of replacing the pickup, to strip the old one of usable equipment and accept the insurance company offer.

The motion passed 4-0

It was discussed that past CIP plans have been to replace the pickups with hook trucks when they came up for replacement. We will have to revisit this issue when Mike comes back with the pickup quotes.

Hearing no objections the meeting was adjourned at 8:20pm.

Respectfully submitted,

Bud Talcott,
Chairman/ Secretary



City Council
Date: July 7, 2009
CONSENT 5
Motion

ITEM: Resolution accepting the public infrastructure improvements of the Discover Crossing Development

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Craig Dawson, Interim City Administrator
Kyle Klatt, Planning Director
Ryan Stempski, Assistant City Engineer

SUMMARY AND ACTION REQUESTED: The City Council is being asked to accept the public infrastructure installed as part of the Discover Crossing Development. Engineering staff has reviewed the requirements of the Developer's Agreement dated April 26, 2006, and the public infrastructure has been installed in general conformance to City Standards. Please refer to the attached City Engineer's recommendation letter of acceptance for this development.

RECOMMENDATION

It is hereby recommended that the City Council approve Resolution No. 09-032 accepting the public infrastructure installed as part of the Discover Crossing Development.

Motion

Move to approve Resolution No. 09-032 accepting the developer-installed public infrastructure improvements for the Discover Crossing Development.

ATTACHMENTS:

1. City Engineer's letter of development approval, dated July 1, 2009
2. Resolution No. 09-032

TKDA

ENGINEERS • ARCHITECTS • PLANNERS

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

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

July 1, 2009

Mr. Robert D. Clark
Discover Crossing Investments, LLC
118 South Main Street
Stillwater, Minnesota 55082

Re: Engineer's Recommendation for Final Acceptance
Discover Crossing
City of Lake Elmo, Minnesota
TKDA Project No. 13819.005

Dear Mr. Clark:

We have reviewed the Developer-installed improvements for the Discover Crossing Development, and find that the work has been fully completed in all respects and in accordance with the Developer's Agreement, the Contract, Plans and Specifications, and the applicable standards and ordinances of the City. The Improvements are hereby declared to be complete and acceptance of the Improvements by the City is recommended.

The public improvements, except for the streets, have been in place for a minimum of 2 years and no defective work remains. The streets were completed in November, 2008; therefore a Warranty Bond in the amount of \$194,000 to expire on November 30, 2010, has been received to guarantee the street improvements for a period of 2 years.

Sincerely,

John (Jack) W. Griffin, P.E.
City Engineer

cc: Craig Dawson, Interim City Administrator
Kyle Klatt, Planning Director
Mike Bouthilet, Public Works Superintendent

CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA

RESOLUTION NO. 09-032

A RESOLUTION ACCEPTING
THE DEVELOPER-INSTALLED PUBLIC INFRASTRUCTURE IMPROVEMENTS FOR
THE DISCOVER CROSSING DEVELOPMENT

WHEREAS, the public infrastructure improvements the for the Discover Crossing subdivision have been fully completed in compliance with the Development Agreement dated April 26, 2006, with Discover Crossing Investments, LLC (the "Developer"), and the standards and ordinances of the City;

WHEREAS, the City Engineer has reviewed the improvements and in correspondence dated July 1, 2009, has declared the public infrastructure improvements to be complete and recommends acceptance by the City;

WHEREAS, the estimated aggregate costs relating to the installation of public improvements is \$1,413,750.00; and

WHEREAS, the City shall, upon acceptance of the improvements, account for those assets.

NOW, THEREFORE, BE IT RESOLVED, the City Council accepts the Developer-installed public infrastructure improvements for Discover Crossing; effective as of July 7, 2009.

Date: _____, 2009 CITY OF LAKE ELMO

By: _____
Dean A. Johnston
Mayor

ATTEST:

Craig W. Dawson
Interim City Administrator

City Council
Date: 07/02/09
REGULAR
Item: 86
MOTION:

ITEM: 2008 Annual Financial Audit Report
SUBMITTED BY: Tom Bouthilet, Finance Director
REVIEWED BY: Craig Dawson, Interim City Administrator
Joe Rigdon, KDV

SUMMARY AND ACTION REQUESTED: The City Council is being asked to accept the 2008 Annual Financial Report.

BACKGROUND: The City retained the services of ABDO, EICK & MEYERS LLP to perform an audit on the financial statements of the governmental activities, the business type activities, each major fund and the aggregate remaining fund information for the year ending December 31, 2008. ABDO, EICK & MEYERS also has provided the City with a Management Letter which highlights some key areas of the Audit as well as information pertaining to future Statutes and Accounting Standards changes. Steve McDonald from ABDO, EICK & MEYERS will present the report and respond to any inquiries.

ADDITIONAL INFORMATION: After reviewing the reports, the Interim City Administrator, Finance Director and Joe Rigdon have concluded that we are in agreement with the figures and findings.

The Office of the State Auditor, City Financial Reporting Form along with the management letter has been submitted to the State Auditor. The City will submit an amended report if changes become necessary.

MOTION FOR CONSIDERATION: Move to accept the 2008 audited Financial Report.

ATTACHMENT: 2008 Financial Report
Management Letter

ITEM: **Provide direction on buffer setback requirements in all OP developments.**

REQUESTED BY: Kyle Klatt, Planning Director

SUBMITTED BY: Kelli Matzek, Planner

REVIEWED BY: Craig Dawson, Interim City Administrator
Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: The City Council is being asked to provide direction to staff on how to proceed with the implementation of the buffer setback ordinance which applies to all Open Space Preservation (OP) developments. Staff is requesting direction from Council as we are aware that many homes and accessory structures in existing OP developments are nonconforming to this requirement and many vacant lots in newer platted developments are essentially unbuildable when applying this setback. In fact, based on our research detailed in the attachments, staff reviewed four of the nineteen OP developments at various stages of development and found 36 homes already existing within the buffer setback and 14 vacant platted lots to be essentially unbuildable due to this setback requirement. Other properties also had a majority of their rear yard in this setback, in many cases eliminating any option of a permitted accessory structure.

Not taking action will result in continued variance requests being made on 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 an alternate interpretation made at the time of the development review in some cases.

History of the Open Space Preservation Ordinance

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.

The current OP ordinance is attached at the end of this report with the buffer setback section on pages four and five. Unless specified by a 4/5 vote of the City Council, this is the ordinance implemented in all Open Space Preservation developments.

Current Issues:

Staff has found difficulty in implementing the current buffer setback due to its revisions over time and its resulting impact on existing developments as well as the unknown intent at the time of development review. Staff is seeking clarity from the Council as this needs to be addressed in existing and future OP developments as well as future building permits.

Staff is recommending the Council direct the Planning Commission to further study the ordinance and provide some direction to the Commission on how to proceed with addressing the non-conformities. Staff has identified a few options for the City Council to consider in providing direction to the Planning Commission:

Options For Consideration:

Option 1: Adjust the OP ordinance – Setback Distance.

By reducing or eliminating the buffer setback, most, if not all of the existing homes would be in a conforming location. This would allow existing homeowners to potentially build a deck, porch, or addition without a variance. If the buffer setback were eliminated entirely, an accessory structure would also not need a variance from the buffer setback on those lots previously within that setback.

This is the easiest option to administer as it would apply across the board, with the exception of those developments that received a specific 4/5 vote by the Council to put in place a specific buffer setback reduction (such as Farms of Lake Elmo and Tapestry).

Option 2: Adjust the OP ordinance - Structure.

A previous version of the ordinance required only "main structures" to be outside of the buffer setback. By returning to the language requiring only houses or "primary structures" to be outside the buffer setback would open up the rear yard of those lots near the edge of the development to structures such as sheds and pools.

This would not assist those whose homes are currently within the buffer setback who wish to add on to the primary structure.

Option 3: Adjust the OP ordinance – Flexible Language

The buffer setback language could be altered to be more flexible to allow the buffer setback to be set at the time of development approval. Without specific setbacks, each development shall specify buffering and setbacks adequate to protect neighboring uses. This option would provide the City Council the discretion to view each development on a case-by-case basis and make decisions based on the land and unique development characteristics.

While this option would address future developments, it would not identify how to address existing developments with non-conformities and unbuildable lots. The difficulty in administering this option in the future is to check building permits for the unique requirements of each OP development.

Option 4: Review Each Existing Development Independently

There are existing developments in which the City Council at the time chose to reduce the buffer setback, typically from 200 feet to 100 feet from certain edges of a development. Staff has found at least one development (Tana Ridge) where no documentation is recorded reducing the buffer setback, and therefore the 200 foot setback is utilized.

If the City Council would like to revisit each development, a 4/5 vote could be used to alter any requirements for the development that were not working for the particular development without impacting other OP developments.

This would be the most time consuming both for Staff and Council as there is currently no master list (other than that started recently by staff) of what reductions in buffer setbacks were approved. Old development files, resolutions, and minutes must be researched to see if a reduction was ever approved by the required 4/5 vote of the Council. The Planning Commission and City Council would then review each development with respect to what is already built, what the requirements are, and what changes (if any) are warranted.

Option 5: Leave the Ordinance As Is

If the City Council decides that this ordinance has been revised and should remain in its current form, the current ordinance will continue to apply to all nineteen Open Space Preservation developments unless otherwise approved by the City Council (typically at the time of development approval).

This option would result in more variances being requested as many residents have homes either partly or mostly within the buffer setback. Therefore, if they wanted to add a deck, screened porch, or addition in the setback area, a variance would be required. The way the code currently reads (as confirmed by the City Attorney) would be to exclude all structures within this setback. Therefore, if a resident had a property that had the entire rear yard fall within the buffer setback and a conforming location were not possible, a variance would be needed for a pool, shed, or any other structure.

Examples in Open Space Developments

See attached details on the following OP developments.

- Tana Ridge
- Farms of Lake Elmo
- Parkview Estates
- Sanctuary

ADDITIONAL INFORMATION:

- Staff has received an appeal application on the denial of a building permit application. The applicant lives on Lily Avenue in the Tana Ridge neighborhood

and applied to build an in-ground pool in the rear yard. Staff found this would not be permitted as it falls within the buffer setback of the OP development.

- The City Council recently approved a variance for an in-ground pool and spa at 2931 Jonquil Trail North. Due to unique circumstances, the pool and spa were permitted to be 12 feet within the 100 foot buffer setback in the Farms of Lake Elmo development.
- The Open Space Preservation ordinance was revised in 2008 to address concern over the impervious surface requirement in the developments. Staff found numerous non-conformities in existing developments. The impervious surface requirement was raised to twenty percent with an additional five percent permitted if mitigation measures were approved.

RECOMMENDATION:

At this time, staff is not asking the City Council to make a final decision on how to address the non-conformities in the OP developments. Instead, staff is looking for the following:

- Direction from the Council for the Planning Commission to review the OP ordinance with regards to buffer setbacks
- General feedback to the Planning Commission as to what options (either provided above by staff or suggested by the Council) should be looked at more in-depth than the others.
- Intent of the existing ordinance as it relates to all OP developments.

That being said, staff would recommend a combination of the options provided above, specifically Options 3 and 4, to address both existing developments and the related non-conformities as well as to provide direction for future OP development review.

SUGGESTED MOTION:

Move to direct the Planning Commission to review the Open Space Preservation development ordinance with regards to buffer setbacks in order to address both existing non-conformities and future developments and to look more in depth at options # and # provided by staff.

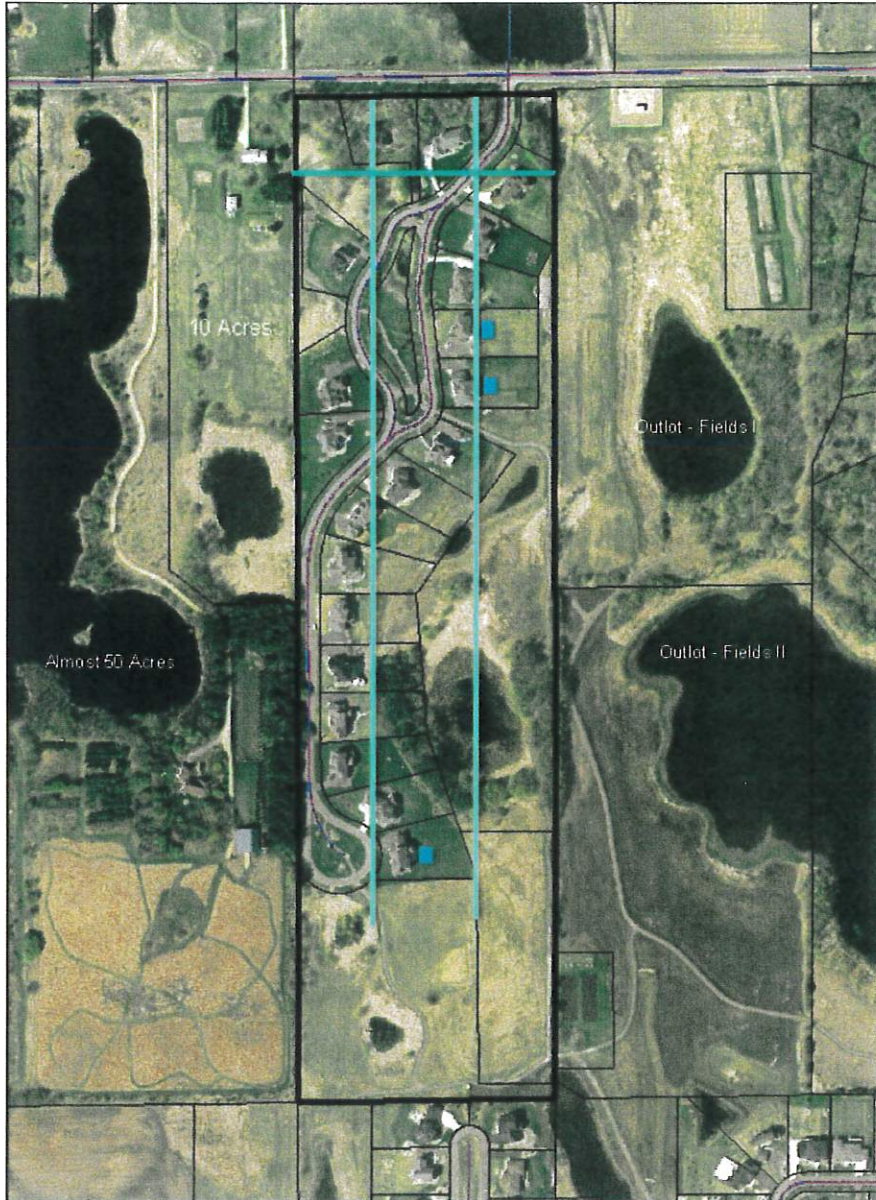
ORDER OF BUSINESS:

- Introduction Craig Dawson, Interim City Administrator
- Report by staff Kyle Klatt, Planning Director
- Questions from the Council Mayor & Council Members
- Questions/Comments from the public Mayor facilitates
- Consider a Motion
(required for further discussion; does not imply approval of the motion Mayor facilitates
- Discussion Mayor facilitates
- Action on motion Council

ATTACHMENTS (2):

1. Existing Development Summaries
2. Current Open Space Preservation ordinance.

TANA RIDGE



Zoned: OP

Residential Lots: 20

Vacant Lots: None

Homes within Buffer Setback (partial or wholly): 14

Properties with Accessory Structures within Buffer Setback: 2 (Pools)

Unbuildable Lots:
Although all the lots have houses built upon them, the 200 foot setback makes 6 lots entirely non-conforming.

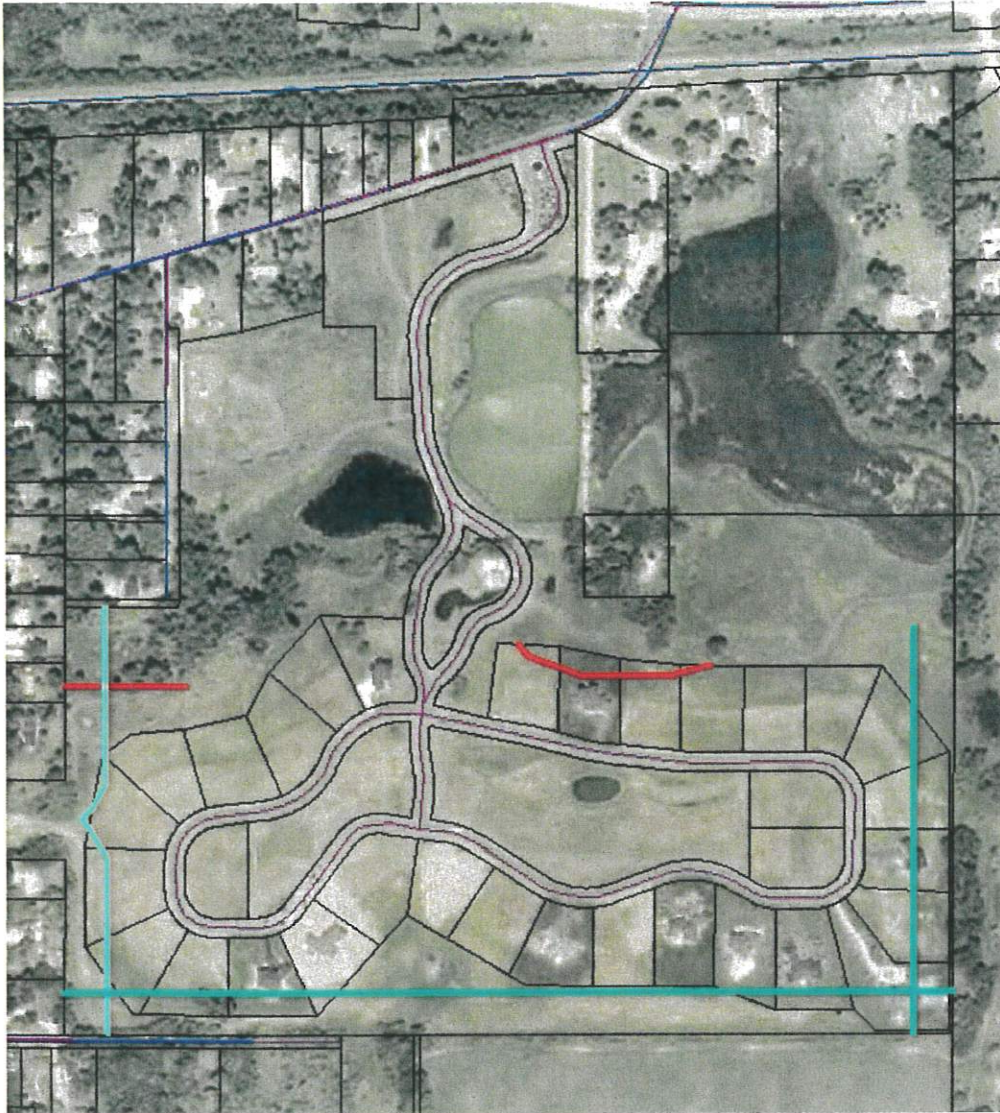
The development was approved in 1999.

No record of the Council reducing the buffer setback.

200 Foot Buffer Setback

Blue Squares represent pools built since aerial photo taken. Pools are not to scale, but shown in the general location they were built.

FARMS OF LAKE ELMO



Zoned: AG
w/CUP for OP

Residential Lots:
30

Vacant Lots: 20

Homes within
Buffer Setback
(partial or
wholly): 2

Properties with
Accessory
Structures within
Buffer Setback:
1

Unbuildable
Lots: 0

Although the lots are buildable, there is little to no room in the rear yard of five lots with existing homes near the setback line.

The development was approved in October 2005.

Council approved a 100 foot buffer setback from the West, South, and East edge of the development. A 200 foot buffer setback remains from the North.

Green Line – 100 foot Buffer Setback

Red Line – 200 foot Buffer Setback

PARKVIEW ESTATES



Zoned: OP

Residential Lots: 32

Vacant Lots: None

Homes within Buffer Setback (partial or wholly): 14

Properties with Accessory Structures within Buffer Setback: 5

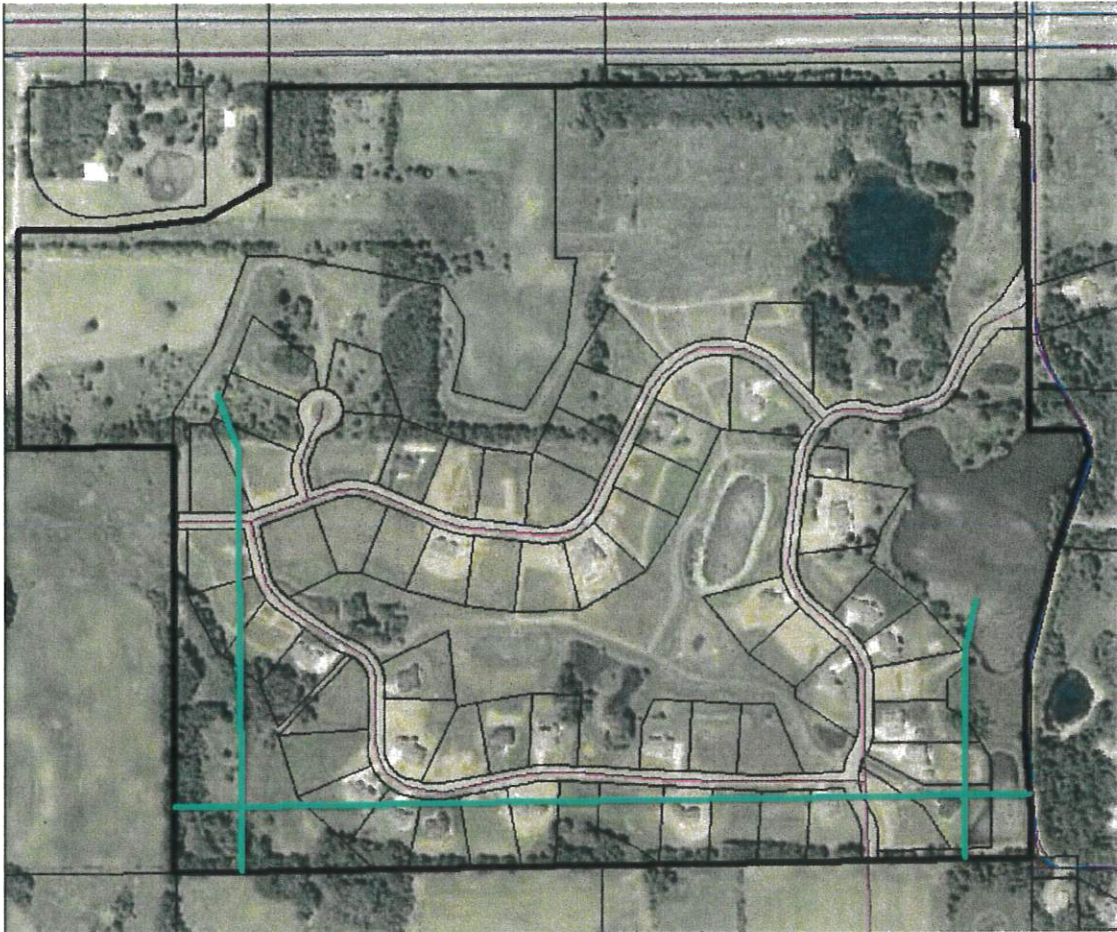
Unbuildable Lots:
Although all the lots have houses built upon them, the 200 foot setback makes four lots entirely non-conforming and eleven additional lots with challenges for any additional improvements to the property.

The development was approved in 1998.

No record of the Council reducing or establishing a buffer setback.

Green Line - 200 Foot Buffer Setback

ST. CROIX'S SANCTUARY



Zoned: Rural Residential with a CUP
for an OP

Residential Lots: 63

Vacant Lots: 38

Homes within Buffer Setback (partial or
wholly): 6

Properties with Accessory Structures
within Buffer Setback: 0

Unbuildable Vacant Lots: 14.

The development was approved in 2005.

No record of the Council officially reducing the buffer setback. The applicant made mention in their narrative that the South and East side of the development would be eligible for the reduced 100 foot buffer setback.

The green line shows a 200 foot buffer setback.

Attachment 2

OPEN SPACE PRESERVATION

§ 150.175 PURPOSE.

(A) The purpose of open space preservation (OP) is to maintain the rural character of Lake Elmo by preserving agricultural land, woodlands, corridors, and other significant natural features while allowing residential development consistent with the goals and objectives of the city's Comprehensive Plan. This type of development will allow an alternative to large lot, single-family housing and will reduce the cost of constructing and maintaining public facilities and infrastructure.

(B) Protected open space will enhance and preserve the natural character of the community and create distinct neighborhoods.

(Ord. 97-79, passed 5-1-2001)

§ 150.176 INTENT.

(A) It is the intent of the City of Lake Elmo to accomplish the stated purpose of OP by approving a conditional use permit for portions of property currently zoned Agricultural, Rural Residential, and Rural Estate; and by adopting the comprehensive development regulations contained herein.

(B) In return for requiring preserved open space as contained herein; it is the intent of the City of Lake Elmo to allow dwelling unit density that will provide a development density equal to or greater than the prior zoning; AG, Agricultural, RR, Rural Residential, and RE Residential Estate.

(Ord. 97-79, passed 5-1-2001)

§ 150.177 DEFINITIONS.

Unless specifically defined in §§ 150.175 *et seq.*, common definitions, words, and phrases used in §§ 150.175 *et seq.* shall be interpreted so as to give them the same meaning as they have in common usage throughout this code and are found in § 11.01.

(Ord. 97-79, passed 5-1-2001)

§ 150.178 USE REGULATIONS.

Within OP, the following uses are allowed.

(A) *Permitted uses.*

(1) Single-family, detached;

- (2) Preserved open space;
- (3) Conservation easements;
- (4) Agriculture;
- (5) Suburban farms;
- (6) Private stables;
- (7) Single-family, attached;
- (8) Townhouses (no more than 25% in any development); and
- (9) Wayside stand.

(B) *Accessory uses.* Uses that are typically found accessory to a permitted use.

(C) *Prohibited uses.* All other uses are hereby prohibited.

(Ord. 97-79, passed 5-1-2001; Am. Ord. 08-006, passed 6-17-2008) Penalty, see § 10.99

§ 150.179 OP CONDITIONAL USE PERMIT REQUIRED.

No property may be developed responsive to §§ 150.175 *et seq.* unless approval is obtained from the City Council following its approval of the concept plan, development stage plan, conditional use permit, and final plan described herein. Applications for Council approval shall be submitted on forms provided by the City Administrator together with all required fees, maps, surveys, and planning data. Only completed applications shall be referred to the Planning Commission for review.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.180 DEVELOPMENT STANDARDS.

(A) OP developments shall comply with the following minimum standards unless modified by 4/5 affirmative votes of the City Council.

(B) (1) *Land area.* Applications for a residential development in the OP District shall meet all the following criteria.

(a) The minimum land area for an OP conditional use permit is a nominal contiguous 40 acres. The ratio of parcel length to width shall not exceed 3 to 1. The total number of dwelling units permitted shall be according to the development density criteria contained in the Comprehensive Plan. The total number of dwelling units within an OP

development shall not exceed the density limitations contained in the Comprehensive Plan for OP Districts.

(b) The total preserved open space area within the OP development shall be at least 50% of the total buildable land area, as defined by § 11.01. Areas not meeting the definition of buildable land area shall not be considered to be preserved open space in determining the amount of preserved open space proposed.

(c) Dwelling units shall be grouped so that at least 50% of the buildable land area of the proposed development remains preserved open space. The preserved open space shall consist of agricultural lands, natural habitat, pedestrian corridors, or neighborhood or community recreational areas.

(2) *Open space easement required.*

(a) *Preserved open space standards.*

1. All preserved open space shall be subject to a conservation easement and used for the purposes as defined by §§ 150.175 *et seq.* The land shall be controlled in 1 or more following manners as determined in the city's sole discretion:

a. Owned by an individual or legal entity who will use the land for preserved open space purposes as provided by permanent conservation restrictions (in accordance with M.S. Ch. 84C.01-.05, as it may be amended from time to time), to an acceptable land trust as approved by the city; and/or

b. Conveyed by conservation easement to the city.

2. Not less than 60% of the preserved open space shall be in contiguous parcels of not less than 10 acres.

3. Parks and recreational facilities shall be provided in addition to preserved open space as specified in the Lake Elmo Parks Plan; and, consistent with the park dedication and fees-in-lieu standards as specified by Chapter 153.

4. The preserved open space land shall be maintained for the purposes for which it was set aside. If preserved open space was set aside for agricultural purposes or for natural habitat, a plan shall be submitted which will indicate how the land will be maintained or returned to a natural state and who will be responsible for plan implementation. Developers shall provide copies of deed covenants to prospective purchasers, and conservation easements to the city, describing land management practices to be followed by the party or parties responsible for maintaining the preserved open space.

5. Where applicable, a homeowner's association shall be established to permanently maintain all residual open space and recreational facilities. The

homeowner's association agreements, guaranteeing continuing maintenance, and giving lien right to the city if there is lack of the maintenance shall be submitted to the city as part of the documentation requirements of §§ 150.175 *et seq.* for a final plan.

6. Preserved open space parcels uses shall be contiguous with preserved open space or public park, on adjacent parcels.

(b) *Lot design.* Lots shall be designed to achieve the following objectives (listed in order of priority):

1. On the most suitable soils for sub-surface septic disposal;
2. On the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for the agricultural use;
3. Within any woodland contained in the parcel, or along the far edges of the open fields, adjacent to any woodland (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features);
4. In locations least likely to block or interrupt scenic vistas, as viewed from Highway 36 and Highway 5 corridors, and other local roads as designated in the Comprehensive Plan; and
5. Away from woodlands in open fields.

(c) *Structures.* Homes shall be oriented on the site that meets the criteria of rural hamlet. It is desired that the structures within neighborhoods convey a particular architectural style with similar building components, materials, roof pitches.

(d) *Buffer zones.* Where a proposed OP development abuts an existing residential development or a parcel of land not eligible for future development under the OP ordinance due to insufficient parcel area, a 200 foot setback shall be provided between the property line of the abutting parcel and any structure or driving surface within the OP development. Driving surfaces that cross the setback area at a 90 degree angle shall be the only exception. Where a proposed OP development abuts an existing OP development, or a land parcel eligible for future development under the OP ordinance, a 100 foot setback from any structure within the proposed OP development and the property line of the abutting parcel may be substituted. The setback substitution shall only be approved when there is existing mature vegetation and/or changes in topography occurring on the site proposed for development; and/or where the OP site developer introduces the physical features that provide an effective year round buffer of the structures proposed for the OP site from existing residences or development. The determination of the buffering effectiveness of existing or introduced physical features that qualify a site for a 100 foot buffer shall be at the sole discretion of the City Council.

(e) *Boulevard landscaping.* Boulevard landscaping is required along all streets to consist of at least 1 tree per every 30 feet or placed in dusters at the same ratio. A landscape plan for the entire site is required and shall consist of at least 10 trees per building site; and trees shall not be not less than 1.5 inch in caliper measured at 54 inches above grade level.

(f) *Pathway.* A pathway system or sidewalks shall be identified which will extend through the buildable land area or through the open space land to connect to a planned or developed pathway on adjacent parcels or to a local road. Pathways shall be linked to the "Old Village" to emphasize the connection between existing and new development. Pathways provided shall be at least equal in length to the sum of the centerline length of all public roads within the development. Pathways shall be constructed of asphalt or concrete in compliance with the standard city design plate for OP trails.

(g) *Densities.* The maximum dwelling unit density shall be 18 units per 40 gross acres of buildable land.

(h) *Minimum district requirements.*

Open Space Preservation District (OP)		
	Single-Family	Townhouse
Maximum Building Height:		
Primary Structure	2 and ½ stories or 35 feet	2 and ½ stories or 35 feet
Accessory Structure	25 feet	1 story or 20 feet, whichever is less
Minimum Lot Width: ½ acre lot; 1 acre lot	NA	NA
Maximum Impervious Surface Coverage: Gross Lot Area	20%. This percentage may be increased to 25% provided a pervious paver or comparable system is installed consistent with the <i>City of Lake Elmo Engineering Standards Manual</i> or storm water mitigation measures are installed to mitigate the runoff created by the additional coverage above the base district amount. All mitigation measures must be approved by the City Engineer.	NA
Minimum Setback Requirements:		
Front Yard	30 feet	20 feet
Open Space Preservation District (OP)		
	Single-Family	Townhouse
Side Yard	15 feet or 10% of lot width, whichever is greater	15 feet or 10% of lot width, whichever is greater
Corner Lot Front	30 feet	30 feet
Corner Lot Side Yard	30 feet	30 feet
Well From Septic Tank	50 feet	50 feet

Minimum Lot Size:		
Individual Well and Septic System	1 acre	NA
Individual Well and Communal Drainfield	½ acre	8,000 square feet per unit

(i) *Utilities.*

1. OP developments may be platted to accommodate home site lots with either individual septic tanks and drainfields; or, with individual septic tanks and communal drainfields. Single-family or multiple-family lots under 1 acre shall be constructed with an individual septic tank and a communal drainfield.

2. All septic systems shall conform to the performance standards of the Minnesota Pollution Control Agency's standards for sewage treatment systems WPC-7080 and its appendices, or the M.P.C.A. standards in effect at the time of installation and septic system regulations of the Lake Elmo Municipal Code.

3. Communal drainfields may be partially or completely located in an area designated as preserved open space provided:

a. The ground cover is restored to its natural condition after installation; and

b. Recreational uses are prohibited above or within 50 feet of communal drainfields, or as approved by the City Engineer.

4. No wetland treatment system shall be allowed within the village green.

(j) *Streets.* Streets shall be developed according to the following standards that promote road safety, assure adequate access for fire and rescue vehicles, and promote adequate vehicular circulation.

1. Streets shall be designed according to the following standards; pavement shall be 14 to 16 feet wide for 1-way streets; pavement shall be 22 to 24 feet wide for 2-way streets; and the pavement width shall be 22 to 24 feet for streets where homes are located on 1 side of the street.

2. The minimum street right-of-way for 1-way streets shall be 40 feet and the minimum right-of-way for 2-way street shall be 50 feet.

3. Streets shall not be constructed with a rural cross-section.

(Ord. 97-79, passed 5-1-2001; Am. Ord. 97-184, passed 10-3-2006; Am. Ord. 97-199, passed 11-5-2007; Am. Ord. 08-008, passed 8-19-2008) Penalty, see § 10.99

§ 150.181 HISTORIC PRESERVATION.

Historic structures on the site shall be identified.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.182 OP DEVELOPMENT/CONCEPT PLAN.

(A) *Required submittals; OP development/concept plan.* The applicant shall submit 20 copies of a concept plan for a development of an OP that shall include the following information.

(1) An existing conditions plan which identifies the following (drawn to a scale of 1 inch equal to 100 feet):

- (a) Primary conservation areas;
- (b) Secondary conservation areas;
- (c) Site topography at 2 foot contour interval; and
- (d) Location and description of existing vegetative cover.

(2) A general site plan to include the general location of all platted lots, streets, and open space areas, structures, trails, common open spaces, and parks (drawn to scale of 1 inch equal to 100 feet).

(3) The applicant shall submit a schedule of site characteristics, calculated in acres, which shall include the following.

(a) *Environmental resources.* Include map and calculated acreage of the following:

1. Total site;
2. Protected wetlands;
3. Wetland buffer/setback area;
4. 12% - 24% sloped area;
5. 25% + sloped area; and
6. Woodlands.

(b) *Public improvements.* Include map and calculated acreage of the following:

1. Public road right-of-way;
2. Drainage way and ponding areas;
3. Trails/bikeways and sidewalks (outside of road right-of-way);
4. Utility easements; and
5. Public parks.

(c) *Proposed development.* Include map and calculated acreage of the following:

1. Total residential area;
2. Total commercial land area; and
3. Total preserved open space.

(d) *A general landscape plan.*

(e) *Statement of intent.* If applicable, provide a statement of intent establishing a homeowners association with bylaws and deed restrictions to include, but not be limited to, the following:

1. Ownership, management, and maintenance of defined preserved open space;
2. Maintenance of public and private utilities; and
3. General architectural guidelines for principal and accessory structures.

(f) *Proposed staging plan.*

(g) *Historic preservation plan.* Where applicable, an historic preservation plan for any historic structures on the site.

(B) *Planning Commission review.*

(1) Upon receipt of a completed application for an OP development/concept plan as certified to by the City Planner, the Planning Commission shall review OP development concept plan application at a public hearing preceded by 10-days published notice and 2-weeks mailed notice to the recorded owners of each parcel located within 350 feet of the perimeter of the proposed development.

(2) The Planning Commission shall make its recommendations to the City Council within 30 days of receipt of a complete application, and shall include its findings on the following.

(a) The concept plan is consistent with the goals, objectives, and policies of the Comprehensive Plan.

(b) The concept plan is consistent with the purpose of §§ 150.175 *et seq.*

(c) The concept plan complies with the development standards of §§ 150.175 *et seq.*

(C) *City Council review.* The City Council shall review and approve or deny OP development concept plan within thirty days of the receipt of a completed application. The City Council may also table its review a reasonable time, if necessary to obtain information that will enable the Council to make a reasonable decision, and if the extension is consented to by the applicant on the record. OP development concept plan approval shall require 3 affirmative votes of the City Council.

(D) *Limitation of approval.* Unless an OP development preliminary plan is submitted within 12 months from the date on which the City Council approved the OP development concept plan, the concept plan approval shall expire. The City Council, in its sole discretion, may extend the filing deadline for an OP development preliminary plan and conditional use permit if an application for extension is filed and approved by the City Council before the OP development concept plan approval expires.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.183 OP DEVELOPMENT PRELIMINARY PLAN, PRELIMINARY PLAT, AND CONDITIONAL USE PERMIT.

(A) *Submittals.* The OP development preliminary plan shall include the following:

(1) A statement of city action necessary for implementation of the proposed plan;

(2) Twenty sets of site plans, drawn to scale of not less than 1 inch equals 100 feet containing at least the following information:

(a) Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat previously recorded in Washington County);

(b) Property boundary lines and dimensions of the property and any significant topographical or physical features of the property that may have an impact on the open space or the development;

(c) Location, dimensions, and number of all driveways, entrances, curb cuts, par stalls, loading spaces, and access aisles, and all other circulation elements including bike and pedestrian trails; and the total site coverage of all circulation elements;

(d) Location, designation, and total area of all preserved open space;

(e) Location, designation, and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites, and recreational facilities;

(f) Proposed lots and blocks, if any, and numbering system;

(g) The location, use, and size of structures and other land use on adjacent properties;

(h) Preliminary sketches of proposed landscaping;

(i) General grading and drainage plans for the developed OP development;

(j) The development plans shall also indicate the results of deep soil test pits and percolation tests, at the rate of no fewer than 2 successful test results for each proposed septic disposal area; and

(k) Any other information that may have been required by the City Council in conjunction with the approval of the OP development concept plan.

(3) An accurate legal description of the entire area within the OP development for which development plans approval is sought;

(4) Architectural and performance standards for the development;

(5) Preliminary grading and site alteration plan illustrating changes to existing topography and natural vegetation. The plan should clearly reflect the site treatment and its conformance with the approved concept plan;

(6) A preliminary plat prepared in accordance with M.S. Ch. 505, as it may be amended from time to time, Chapter 153 of the Lake Elmo Municipal Code, and other applicable laws;

(7) A Soil Erosion Control Plan clearly illustrating erosion control measures to be used during construction and as permanent measures; and

(8) Homeowner's Association documents including bylaws, deed restrictions, covenants, and proposed conservation easements.

(B) *Planning Commission review.* Upon receipt of a complete OP development preliminary plan by the city, as certified as complete by the City Planner, the City Planner shall refer the preliminary plan to the appropriate city staff, consultants, and other review agencies. The Planning Commission shall review the OP development preliminary plan and shall schedule public hearings as required for preliminary plat and conditional use permit review within 30 days of the City Planner's receipt of a completed application and shall make its recommendations to the City Council regarding the preliminary plan, conditional use permit, and preliminary plat.

(C) *City Council review.*

(1) Within 60 days of the city receipt of a complete application, the City Council shall review the OP development preliminary plan, conditional use permit, and the preliminary plat. The OP development plan, conditional use permit, and preliminary plat shall require 3 affirmative council votes for approval.

(2) Upon approval, the City Council shall instruct the City Attorney to draw up an OP development agreement that stipulates the specific terms and conditions established and approved by the City Council and accepted by the applicant. This agreement shall be signed by the Mayor, City Administrator, and applicant within 30 days of Council approval of the OP development preliminary plan and conditional use permit.

(D) *Limitation on preliminary plan approval.* Unless a final plan covering the area designated in the preliminary development plan as the first stage of the OP development has been filed within 6 months from the date Council grants approval, or in any case where the applicant fails to file final plans and to proceed with the development according to the provisions of §§ 150.175 *et seq.*, the preliminary development plan and conditional use permit shall expire. The Council may, at its discretion, extend the filing deadline for any final plan when, for good cause shown, the extension is reasonable. In any case where preliminary development plan and conditional use permit approval expires, the concept plan approval and preliminary development plan approval for that portion of the OP development that has not received final plan approval is void.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.184 OP DEVELOPMENT FINAL PLAN.

(A) The purpose of the final plans is to provide a complete, thorough, and permanent public record of the OP development and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the OP development process. It shall serve in conjunction with other city ordinances as the land use regulation applicable to the OP development.

(B) (1) *Submittals required.* After approval of the concept plan and preliminary plan for an OP development, the applicant shall submit the following material for review by the city staff prior to the issuance of any building related permits:

- (a) A detailed landscaping plan;
- (b) All easements and restrictive covenants;
- (c) All certificates, seals, and signatures required for the dedication of land and recording of documents;
- (d) General architectural working drawings of all historic structures to be rehabilitated;
- (e) Final engineering plans and specifications for streets, utilities, and other public improvements, together with all required development agreements for the installation of the improvements;
- (f) Any other plans, agreements, or specifications reasonably necessary for the city staff to review the proposed construction; and
- (g) Final plat.

(2) *City Council review.* The final plan is intended only to add administration detail to, and to put in final form, the information contained in the concept plan and the preliminary development plan, and shall conform to the concept plan and preliminary development plan. The city shall review and approve the final plan and final plat within 60 days of receipt of a complete final OP development plan and final plat, as certified as complete by the City Planner.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.185 RECORDING OF FINAL PLAT.

The applicant shall submit to the city the recordable final plat drawings; all easements, deeds, plans, fees, financial security, and the other documentation as may be required by the development agreement within 30 days of final plan and final plat approval by the City Council. The recordable Final Plat, approval resolution, and the other documents that require recording shall be released by the city to the applicant for the recording only upon review and approval by appropriate city staff; and, execution by the applicant and required city officials.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.186 BUILDING AND OTHER PERMITS.

Except as otherwise expressly provided herein, upon receiving written notice from the City Planner that the approved final plan has been recorded and all conditions of approval satisfied, the City Building official may issue building and other permits to the applicant for development, construction, and other work in the area encompassed by the approved final plan; provided, however, that no permit shall be issued except upon proper application and after the requirements of all other applicable codes and ordinances have been satisfied.

(Ord. 97-79, passed 5-1-2001)

§ 150.187 LIMITATION ON FINAL PLAT APPROVAL.

Within 18 months after approval of a final plan for OP development, or the shorter time as may be established by the approved development schedule, construction shall commence according to the approved plan. Failure to commence construction within the period shall automatically render void the OP conditional use permit and all approvals for the final OP development plan. The City Council may at its discretion extend the construction time as necessary when good cause is shown.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.188 METHOD OF AMENDING AN OP CONDITIONAL USE PERMIT.

Any desired change involving structural alteration, enlargement, or intensification of the use, not specifically allowed by the specific terms of a previously passed OP conditional use permit, shall require that an application be filed for an amended permit and all procedures shall then apply as if a new permit was applied for.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.189 INFORMATION REQUIREMENTS; ADDITIONS; EXCEPTIONS.

The City Administrator shall maintain a record of all permits issued, including information on the use, locations, conditions imposed, time limits, review dates, and the other information as may be appropriate.

(Ord. 97-79, passed 5-1-2001)

ITEM: Hold an appeal hearing on denial of a building permit application for an in-ground pool structure due to encroachment in 200 buffer setback at 4884 Lily Avenue

REQUESTED BY: Joe and Jennifer Pelletier, property owners, 4884 Lily Avenue

SUBMITTED BY: Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED

The City Council, acting as the Board of Adjustment and Appeals, is being asked to hold an appeals hearing for the denial of a building permit for an in-ground pool proposed to be located in the rear yard of 4884 Lily Avenue. Under Section 31.10 of the city code, property owners are allowed to appeal a determination of the zoning code if the appeal is made within five business days from the date of the decision, order, requirement or determination. The City received a request for an appeal hearing within the required timeframe. The appeals hearing is scheduled for the July 7, 2009 City Council meeting for the Board of Adjustments and Appeals. Notices were mailed to the property owners, the Tana Ridge neighborhood and the Planning Commission Chair.

WHAT IS THE BOARD OF ADJUSTMENT AND APPEALS BEING ASKED TO DETERMINE

The Board of Adjustment is being asked to determine if the in-ground pool proposed by Mr. Pelletier at 4884 Lily Avenue is located within the buffer setback for the Tana Ridge Open Space Preservation development as identified by the Planning Department. The site plan showing the proposed pool location is attached.

AUTHORITY OF THE BOARD OF ADJUSTMENT AND APPEALS

City code describes the authority of the Board of Adjustment and Appeals in the following manner:

The Board of Adjustment and Appeals may reverse or affirm, or wholly or partly, or may modify the order, requirement, decision or determination appealed from and to the extent shall have all the powers of the officer from who the appeal was taken, and may direct the issuance of the permit.

HISTORY OF TANA RIDGE AND PELLETIER PROPERTY

- o April 1998 – Open Space Preservation Ordinance amended, including the Buffer Zone section. A buffer setback is required.
- o July 1998 - The City of Lake Elmo received an application to rezone a property from Rural Residential to Open Space Preservation (OP) on July 7, 1998 (Ordinance 97-32).
- o August 1998 – A Concept Plan for Tana Ridge for approved August 18, 1998 (Resolution 98-48).
- o Feb. 1999 - The OP Concept Plan for Tana Ridge was amended on February 2, 1999 (Resolution 99-11).

- o July 1999 - Council approved the Concept Plan for Tana Ridge on July 6, 1999 (Resolution 99-42).
- o September 1999 - An Open Space Development Stage Plan (Res. 99-57) and Preliminary Plat (Resolution 99-58) was approved by the City Council on September 21, 1999.
- o January 2000 – Final Plat & OP Development Plan and Development Agreement for Tana Ridge was approved on January 18, 2000 (Res. 2000-03).
- o May 1, 2001 – Open Space Preservation Ordinance amended to its current language (Ord. 97-79).
- o May 21, 2001 – A building permit was issued by the City to B.M.L. Builders Inc to build a new home at 4884 Lily Avenue (Lot 1, Block 4 Tana Ridge).
- o June 8, 2009 – A building permit is received for a proposed in-ground pool by Mr. Pelletier for 4884 Lily Avenue North.
- o June 9 – 23, 2009 – Planning Department staff reviews the application and is in contact with Mr. Pelletier regarding his building permit application.
- o June 23, 2009 – Planning Department staff meets with City Attorney and determines the 200 foot buffer setback applies and denies Mr. Pelletier's building permit.
- o June 25, 2009 – Mr. Pelletier applies for an appeal to the denial of his building permit for the in-ground pool.

WHAT IS A "STRUCTURE"?

Also called into question with this appeal is the determination if a pool is indeed a structure. Staff has interpreted a pool as a structure based on the definition provided in code.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, signs, and other similar items.

The interpretation that an in-ground pool is indeed a structure was confirmed by the City Attorney.

OPEN SPACE PRESERVATION ORDINANCE

The Open Space Preservation (OP) Ordinance has been revised multiple times since its original adoption in the 1990's. The Tana Ridge development was approved as an OP development shortly before sections of that code were revised, one of which was the buffer setback subsection. At the time of the Tana Ridge development, the Council did not take formal action to establish a buffer setback (or lack thereof) from the edges of the development. Therefore, when the ordinance was revised to the current version, the new section of code applied not only to Tana Ridge, but all other OP developments except for those where the Council explicitly stated otherwise.

As permitted by the current City Code, at the sole discretion of the City Council, a buffer setback as required from the edge of an Open Space Preservation development, may be reduced in size by a 4/5 vote.

Staff has found no documented indication at the time of the ordinance revision that the intent was for the new requirements not to apply to existing OP developments.

IN THIS CASE:

The Board of Adjustment and Appeals is asked to examine the finding of noncompliance with the existing code which resulted in denial of the building permit for the proposed pool structure. Determination that staff erred in interpreting the code, and that the building permit should be issued for the pool at 4884 Lily Avenue without a variance, must be substantiated by findings of fact. When conducting this review, the Board is asked to keep the following in mind:

1. This is not a policy decision by the Board of Adjustment and Appeal; it is a determination as to whether the City Code has been properly interpreted as written with regards to the buffer setback in the Tana Ridge development.
2. The Board of Appeals cannot find the proposed pool is conforming to code based on what may or may not be present both on the applicant's property or on other property within the City. The proposed pool structure either conforms to code as written or it does not.
3. This is not a policy decision about the clarity or appropriateness of zoning code sections related to the proposed accessory structure. The Board of Appeals and Adjustments is not a policy making body. Such a finding must have no bearing on the determination as to whether the structure is conforming or nonconforming with current codes as written. Please note that the Board may recommend that City Council direct staff to make changes to the ordinance to address any identified concerns or the Planning Commission to further review the ordinance.
4. The Board of Appeals may also recommend that the City Council establish a new buffer setback through a resolution approval by 4/5 vote of the members of the Council.

OPTIONS

- Option 1:** Find that the proposed pool structure would not be in violation of the buffer setback as cited by staff.
- Separate findings of fact must be given as to why the structure conforms to the section of code in question.

- Option 2:** Find that the proposed pool structure, if permitted in the proposed location, would be in violation of the buffer setback requirement for Tana Ridge, an OP development, as cited by staff and therefore the determination to deny the building permit is upheld.

If the Board of Adjustment and Appeals determines that the buffer setback is 200 feet and does apply to this property, the property owners have the option to:

1. Proceed with a request for a variance, which requires a hardship finding. If the variance is not granted, the pool structure would not be permitted.

OR

2. Continue to stay involved and informed of any future discussions of possible revisions to the Open Space Preservation ordinance.

SUGGSETED MOTION FOR CONSIDERATION:

Move to approve findings related to the denial of the proposed pool structure at 4884 Lily Avenue.

ORDER OF BUSINESS

1. Adjourn to the Board of Appeals and Adjustment City Council
2. Open appeal hearing Mayor
3. Introduction to the purpose of the appeal hearing Dave Snyder, City Attorney
 - Questions to the attorney from the City Council
4. Report on determination of permit denial Kyle Klatt, Planning Director
 - Questions to the attorney from the City Council
5. Response to determination of permit denial Joe Pelletier, Property Owner
 - Questions to Mr. Pelletier from the City Council
6. Comments—if any—from those notified of the hearing (neighborhood property owners, planning commission chair) Mayor facilitates
7. Motion on decision based upon findings of fact Mayor and Board members
8. Discussion of the appeal Mayor facilitates
9. Move to approve or deny the appeal—or portions of the appeal—based upon findings of fact Mayor and Board members
10. Adjourn as the Board of Adjustment and Appeal Mayor

ATTACHMENTS:

- 1 Proposed findings of fact
- 2 Mr. Pelletier's Narrative and Images

CITY OF LAKE ELMO
Washington County, Minnesota

BOARD OF ADJUSTMENTS AND APPEALS

RESOLUTION NO. 2009-01
(City Council Resolution No. 2009-030)

**A RESOLUTION STATING FINDINGS OF FACT
RELATED TO AN APPEAL ON THE DETERMINATION NOT TO APPROVE
A BUILDING PERMIT FOR PROPERTY AT 4884 LILY AVENUE NORTH**

WHEREAS, the owners of property at 4884 Lily Avenue North, Joe and Jennifer Pelletier, made application for a building permit to construct an in-ground pool on June 8, 2009; and

WHEREAS, the City staff determined that the building permit could not be approved due to the following circumstances:

- 1) The property is in the Tana Ridge subdivision, for which is the land use is regulated under the City's Open Space Preservation (OP) zone.
- 2) The OP zone requires that there be a 200-foot buffer from the edge of the subdivision to adjoining properties, and within this buffer no structures may be built.
- 3) While the City Code permits the City Council to reduce the buffer setback by a four-fifths vote of the Council, there is no record that the City Council has taken any action to reduce the buffer setback.
- 4) In Section 11.01 of the City Code, "Structure" is defined as "Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, signs, and other similar items."
- 5) As the proposed location of the in-ground pool is within the 200-foot buffer setback and the pool is a structure and thus not allowed in the buffer setback, staff in consultation with the City Attorney informed the applicants on June 23, 2009, that the building permit could not be approved.

WHEREAS, the applicants submitted an appeal to the Board of Adjustments and Appeals regarding the determination not to issue the building permit for the proposed in-ground pool, and requesting that the Board find that the permit should be issued; and

WHEREAS, the Board heard the applicants and the City's staff and counsel on July 7, 2009, and considered the facts of this case.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Appeals and Adjustments of the City of Lake Elmo, that the Board concurs with the reasons not to approve the issuance of the building permit for the proposed in-ground pool at 4884 Lily Avenue North, as stated in 1) through 5) above.

BE IT FURTHER RESOLVED that the Board encourages the City Council to consider whether actions should be taken regarding the Tana Ridge OP development in terms of the buffer setback that applies to it.

ADOPTED BY THE BOARD OF ADJUSTMENTS AND APPEALS of the City of Lake Elmo this 7th day of July, 2009.

Attest:

Dean A. Johnston, Chair

Craig W. Dawson, Interim Administrator

July 7, 2009

City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

RE: Appeal of Pool Permit for the below listed property:

Joe and Jennifer Pelletier
4884 Lily Avenue North
Lake Elmo, MN 55042
Tana Ridge Development

Dear Mayor and City Council Members,

I am appealing the decision of the city planner in relation to a swimming pool permit that was denied on the grounds of an OP buffer of 200 feet.

The OP buffer that was used for denial can not possibly exist in Tana Ridge for a number of reasons that I will outline below:

1. The OP buffer specifically refers to roads and residential structures. In the case of Tana Ridge, the road is within 10 feet of the development line and every residence along the Western border of the development is closer than 100 feet. In fact, many of the residential structures are actually within 50 feet of the development line. A similar situation exists in The Fields of St. Croix II as well.
2. As zoned, Tana Ridge was fully plotted and identified during the approval process from the City Council. The approval included the identification of the lots and the road that are all closer than the specified buffer to the development line.
3. The zoning specific to Tana Ridge changed during the approval process. By precedent of the residential structures and the city maintained road, the current buffer's that exist should be taken into consideration due to 4/5 implied consent.
4. Previous planning staff applied the 4/5 rule to approve pool permits in the Fields of St. Croix II that is the twin in the "package" development of Tana Ridge.
5. Regarding the referenced pool permit application, the position of the pool is actually further from the development line than the residential structures of my neighbors on the Western border of the development. I have also included pictures that identify the position of the pool and the "visual impact" of the proposed pool to the rear of the property.

Exhibit 1: This is the view from the development line to the rear of my property. You will notice that the entire pool and the entire back of my property are not visible from the development line.

Exhibit 2: This identifies the actual location of the pool which is nestled near the back of my residence. The proposed pool is compliant with impervious surface requirements and meets the requirements for residential set-backs and fencing ordinances.

Exhibit 3: This is the view from the pool area to the West. This picture clearly demonstrates the manner in which the pool will have zero impact on the development to the West.

Exhibit 4: This is an affidavit from the property owner on the Western border of the development. As indicated, the property owner has no objections to the pool proposal.

Again, as outlined, the "package development" of Fields of St. Croix II and Tana Ridge have an implied 4/5 vote for the current buffer's due to the existence of the development in its current form. The development was presented to council, fully plotted and in its current form for approval. This also includes the city road that is completely inside of the current buffers that exist.

It is my contention that Tana Ridge and Fields of St. Croix II have the 4/5 implied approval, and by precedent, we have justification for approval of this specific permit. I am aware that this does not solve all of the obvious errors in the OP restrictions for other developments, but Tana Ridge and Fields of St. Croix II have a unique situation due to the timing of the adoption of the developments.

Thank you for your consideration.

Best regards,

A handwritten signature in blue ink, appearing to read "Joe Pelletier". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Joe Pelletier
Lake Elmo resident
Phone: (651) 275-1218

Exhibit 1

- View from "rear" development line to the backyard.



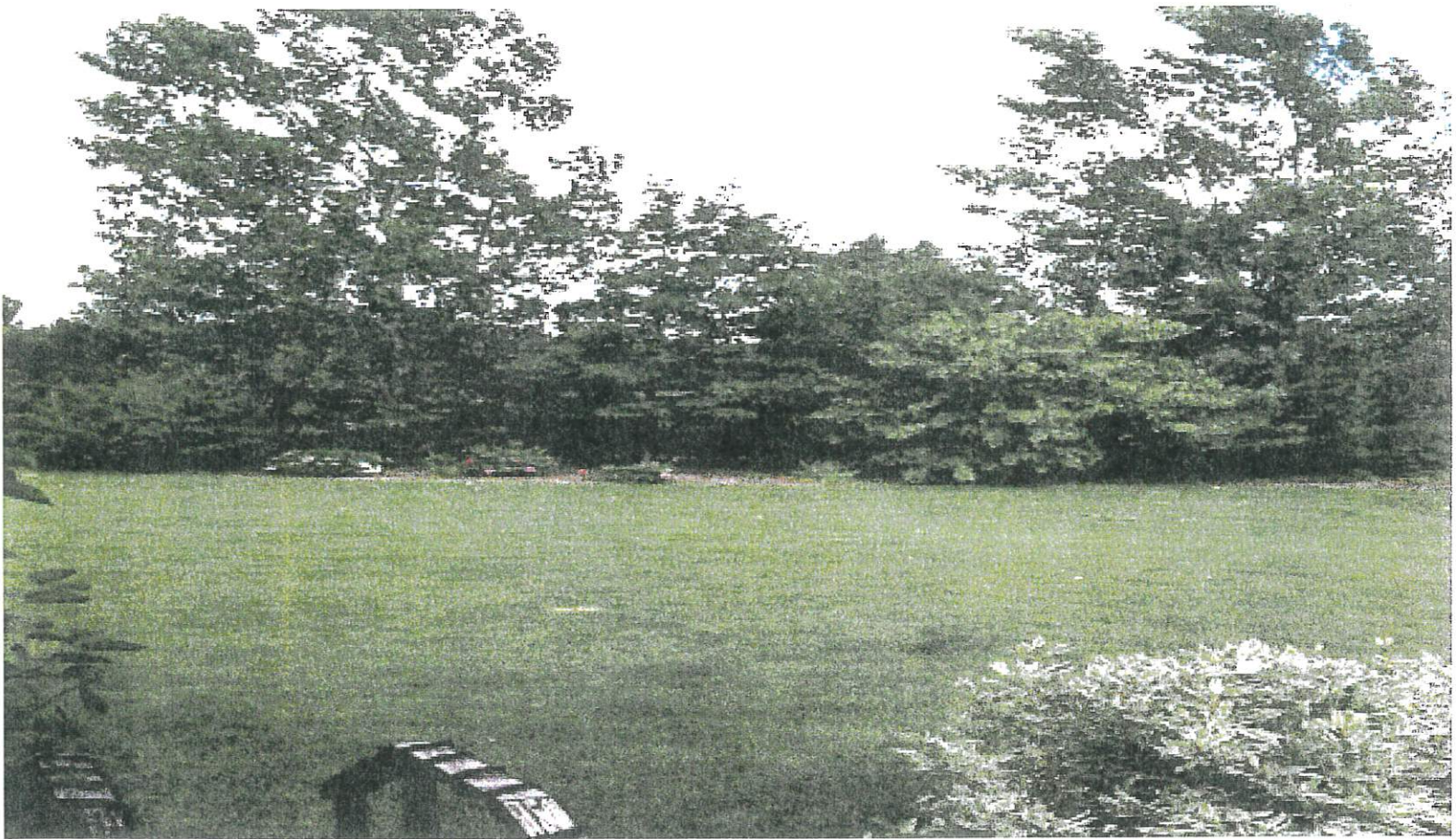
Exhibit 2

- Pool Area View from rear tree line,



Exhibit 3:

- View from "Pool" to the rear of property.



June 29, 2009

City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

RE: Affidavit on behalf of the Pool Permit for the below listed property:
Exhibit 4

Joe and Jennifer Pelletier
4884 Lily Avenue North
Lake Elmo, MN 55042
Tana Ridge Development

Dear Mayor and City Council Members,

Our property is to the West of the proposed pool and we have no objections to the pool permit that is before you.

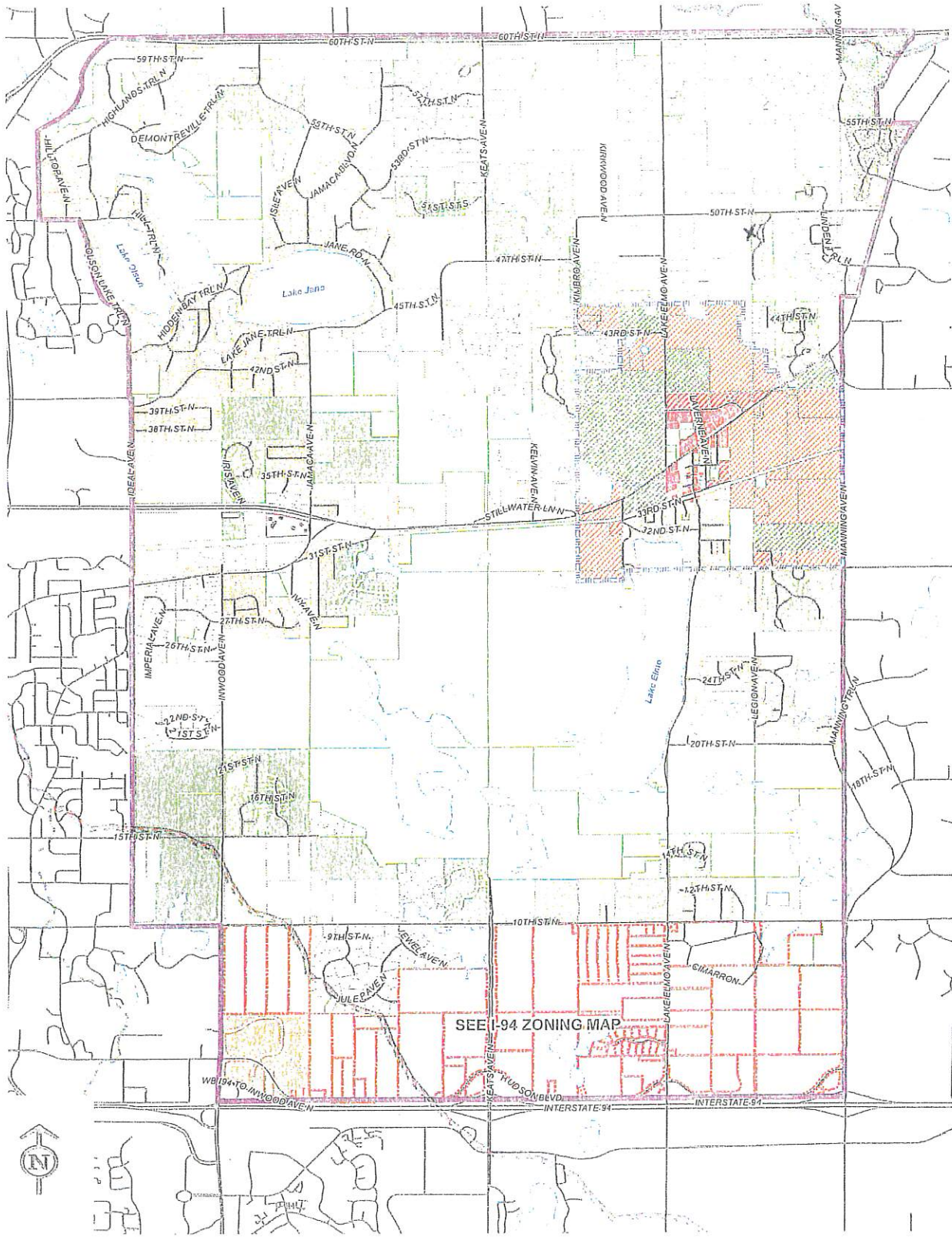
Our address:
Brett and Janet Thompson
11491 50th Street North
Lake Elmo, MN 55042

Signed:



Date: 6/29/09

2007 Lake Elmo Zoning Map



Legend

General

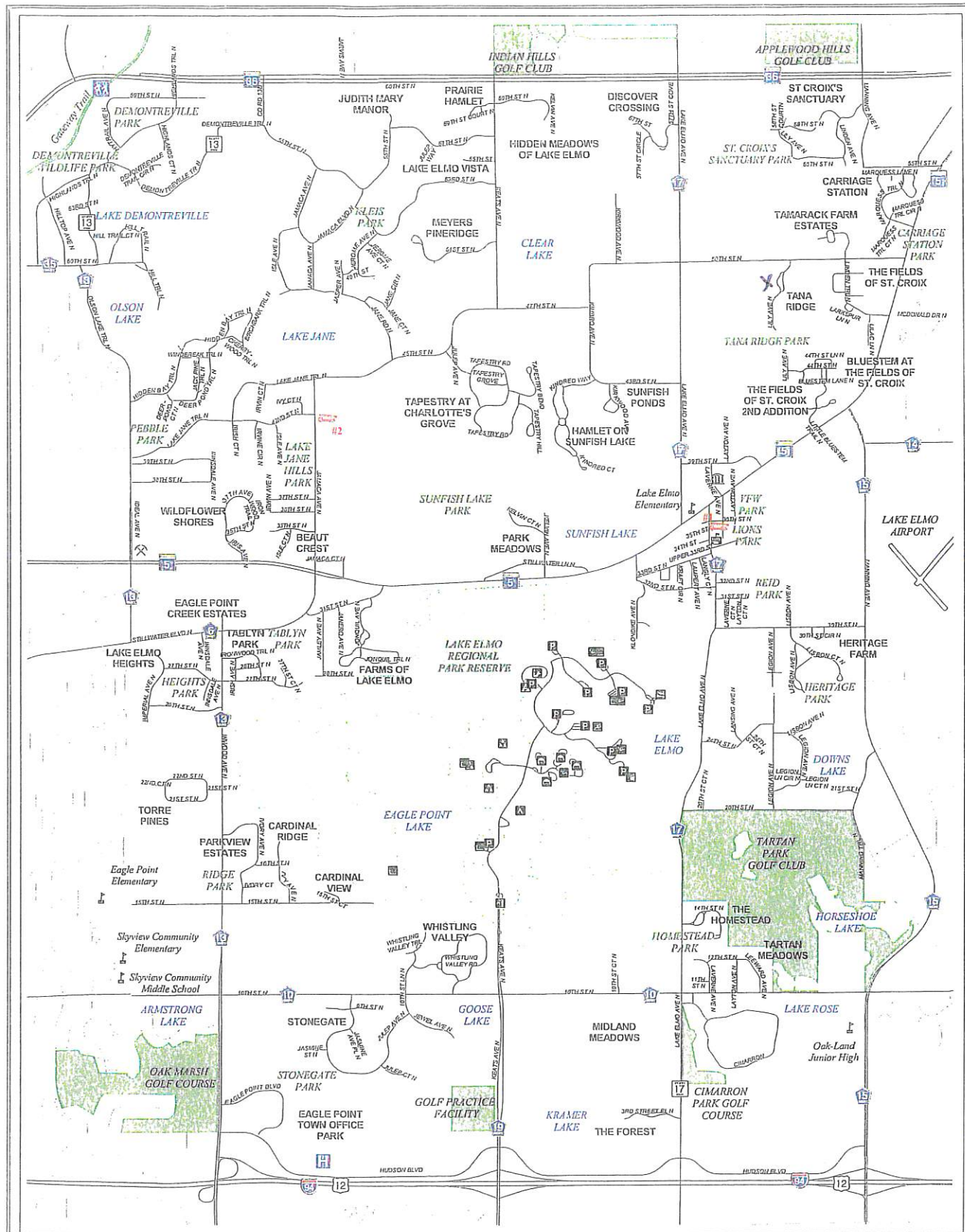
- Village Area
- Lakes
- Lake Elmo Boundary

Watershed Districts

- Browns Creek
- Cottage Grove Ravine
- Valley Branch

Zoning Districts

- | | | | |
|-----------|--------|-----------------------------------|-------|
| A | R1 | GB | VR-A |
| A-Baytown | R2-PUD | HB | VR-GB |
| OP/OS | R3 | LB | VR-RR |
| BP | RE | LB-PUD | VR-R1 |
| P/PF | RR | SEE THE I-94 HOLDING DISTRICT MAP | |









The City of Lake Elmo












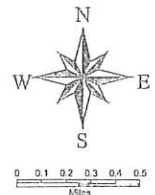
Washington County, MN

-  City Hall
3800 Lavoie Avenue North
651-777-5510
www.lakeelmo.org
-  Public Works
3445 Ideal Avenue North
651-770-2537
-  Fire Station
Station #1
3510 Lavoie Avenue North
651-770-5006
Station #2
4039 Jamaica Avenue North
651-779-8882

-  Golf Courses
-  City Parks
Parks Department
1194 Upper 33rd Street
651-770-3015
-  Post Office
3469 Lake Elmo Avenue North
651-777-0219
-  School
-  High Points Health Campus
8650 Hudson Boulevard
-  Gateway Trail Access

Lake Elmo Regional Park Reserve
Park Office 651-430-8368

-  Archery Range
-  Boat Ramp
-  Equestrian Center
-  Main Office
-  Modern Camping
-  Summer Parking
-  Playground
-  Primitive Camping
-  Shelter
-  Swimming
-  Fishing Pier
-  Group Camp



ITEM: **Establish Buffer Setback in OP Developments Tana Ridge and Parkview Estates**

REQUESTED BY: Kyle Klatt, Planning Director

SUBMITTED BY: Kelli Matzek, Planner

REVIEWED BY: Craig Dawson, Interim City Administrator
Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: The City Council is being asked to consider Resolution 2009 – 031 which would establish a lesser buffer setback for the Tana Ridge and Parkview Estates developments. Both developments are fully developed OP developments that were initially platted in the 1990s. Since the development approvals, the City's ordinances on Preservation Developments have been revised and have created a number of non-conformities that have been touched upon in an earlier item before the Council at this meeting, and will be expanded upon slightly in this report.

EXISTING OPEN SPACE PRESERVATION ORDINANCE

The current subsection of the OP ordinance regarding buffer zones was approved in 2001, as shown below.

- (d) *Buffer zones.* Where a proposed OP development abuts an existing residential development or a parcel of land not eligible for future development under the OP ordinance due to insufficient parcel area, a 200 foot setback shall be provided between the property line of the abutting parcel and any structure or driving surface within the OP development. Driving surfaces that cross the setback area at a 90 degree angle shall be the only exception. Where a proposed OP development abuts an existing OP development, or a land parcel eligible for future development under the OP ordinance, a 100 foot setback from any structure within the proposed OP development and the property line of the abutting parcel may be substituted. The setback substitution shall only be approved when there is existing mature vegetation and/or changes in topography occurring on the site proposed for development; and/or where the OP site developer introduces the physical features that provide an effective year round buffer of the structures proposed for the OP site from existing residences or development. The determination of the buffering effectiveness of existing or introduced physical features that qualify a site for a 100 foot buffer shall be at the sole discretion of the City Council.

EXISTING ESTABLISHED OP DEVELOPMENTS:

Although there are many existing fully developed OP neighborhoods that would be in non-conformance with the existing ordinance, staff has chosen two of such neighborhoods to be more fully explored at this time. Both Tana Ridge and the

Parkview Estates OP developments have recently had building permit applications denied due solely to the buffer setback requirement. As such, staff is eager to move forward with clarification and a potential reduction in the buffer setback to establish a more reasonable and enforceable setback requirement.

Tana Ridge

The Tana Ridge development is adjacent to a 10 acre parcel along a portion of the Western edge of the development. This neighboring area would not qualify for an OP development and therefore, by code, would not be eligible to have a reduced buffer setback from 200 to 100 feet. However, a 4/5 vote of the City Council may amend this requirement and allow the reduction of the 200 foot buffer setback to something less than the 100 feet identified in the code.

The remainder of the Western edge of the development and the entire Eastern edge of the development is adjacent to land either associated with an OP development or would be eligible in terms of parcel area for an OP development. By code, the City Council may reduce the setback from 200 feet to 100 feet. However, should the Council choose to reduce this setback to less than 100 feet (as recommended by staff below) the 4/5 vote would still be required.

Staff suggests the Tana Ridge development have a reduced buffer setback of 50 feet from both the West and East edges of the development. This would reduce the number of non-conforming houses from fourteen to zero. By eliminating this non-conformity in the Tana Ridge development, homeowners would generally be able to build a deck or porch off their rear yard without a variance. Although four properties in the development would continue to have limited space in their rear yard in which to place a structure, a majority of the development would have their entire rear yards available for a permitted structure. A 50 foot buffer setback continues to provide an open area buffer for the adjacent neighbors that has already been established and maintained over the past 10 years.

Should the City Council be interested in reducing the buffer setback from 200 feet to 100 feet (an option identified in the code), staff has provided additional analysis. If a 100 foot buffer setback were required from both the Western and Eastern edges of the development, the number of non-conforming lots would be reduced from fourteen to nine. While this would lessen the number of non-conformities, nine homes would still have a portion of their house in the setback.

By definition in the code, staff is interpreting no buffer setback to be required from the North and a 200 foot setback to be in place from the South. The Southern edge of the development is buffered by Tana Ridge Park and Outlot D, which is subject to a Conservation Easement. Although the Southern buffer setback could be reduced to 100 feet as identified in code, the only benefit would be to allow the City additional room to add play structures in the park, should that ever be chosen to be done.

Parkview Estates

The Parkview Estates development is just south of the Lake Elmo Regional Park Reserve, East of Inwood Avenue North, West of the OP development Cardinal Ridge, and North of 15th Street.

In the Northeast corner of the development is a platted flag lot. This lot is 144 feet deep, and is currently entirely unbuildable when subjected to the 200 foot buffer setback. Along the North side of the development, three of the homes are within (wholly or partially) within the 200 foot buffer setback. In an effort to make the home in the northeast corner of the lot conforming, staff suggests a 20 foot buffer setback

from the Northern edge of the development. This would continue to provide a buffer for the three homes with property adjacent to the park while still providing room for a homeowner to utilize a rear yard and to have a home in a conforming location.

The 200 foot buffer setback from the eastern edge of the development creates 11 houses in a non-conforming location. As mentioned earlier, this development abuts another OP development, Cardinal Ridge. The existing ordinance identifies that in such a case, a reduced setback of 100 feet may be utilized. In an effort to continue to utilize a buffer setback, but to provide conformance for the existing homes, staff suggests a 50 foot buffer setback from the Eastern edge of the development.

Should the Council be interested in reducing the 200 foot buffer setback to 100 feet, staff has provided this analysis as well. If a 100 foot buffer setback were utilized from the East side of the development, three existing houses would continue to be non-conforming. In addition, most, if not all of the properties along the east side would have rear yards that were unable to support an accessory structure without securing a variance.

In Summary:

For Tana Ridge, staff suggests a 50 foot buffer setback from the edge of the Western and Eastern edges of the development and to maintain a 200 foot buffer setback from the South edge of the development. Staff suggests a 20 foot buffer setback from the Northern edge of the Parkview Estates development and

Options For Consideration:

Option 1: Approve Resolution 2009-031 as provided.

Option 2: Approve Resolution 2009-031 as Council may amend to provide a different reduced buffer setback as specified by the City Council.

Option 3: Table the Item for Consideration at a Future Meeting.

Option 4: Decide no action is necessary.

ADDITIONAL INFORMATION:

- Both Tana Ridge and Parkview Estates were approved at the time when the City Code identified OP as a separate zoning district, therefore the developments were not approved as a Conditional Use Permit and a public hearing is not required to make a change to the buffer setback requirements.

RECOMMENDATION:

Staff is recommending Option 1 above. This eliminates all homes as non-conformities in both developments and provides some room for most properties to utilize a rear yard for a structure.

SUGGESTED MOTION:

Move to approve Resolution 2009 – 033 reducing the buffer setbacks in the Tana Ridge and Parkview Estates developments.

ORDER OF BUSINESS:

- Introduction..... Craig Dawson, Interim City Administrator
- Report by staff Kyle Klatt, Planning Director
- Questions from the Council Mayor & Council Members
- Questions/Comments from the public Mayor facilitates
- Consider a Motion
(required for further discussion; does not
imply approval of the motion Mayor facilitates
- Discussion Mayor facilitates
- Action on motion..... Council

ATTACHMENTS (3):

1. Resolution 2009 - 033
2. Tana Ridge Map
3. Parkview Estates Map

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

RESOLUTION NO. 2009-033

*A RESOLUTION APPROVING A BUFFER SETBACK REDUCTION IN THE TANA RIDGE
AND PARKVIEW ESTATES DEVELOPMENTS*

WHEREAS, Tana Ridge and Parkview Estates are zoned OP and were developed under the Open Space Preservation zoning requirements; and

WHEREAS, the existing ordinance requires a setback of 200 feet from the abutting parcel of the development for any structure or driving surface not established at a 90 degree angle unless otherwise approved by the City Council; and

WHEREAS, there is no record of the City Council reducing the buffer setback for either the Tana Ridge or Parkview Estates development; and

WHEREAS, the City Council considered said matter at its July 7, 2009 meeting.

NOW, THEREFORE, based on the comments and information received, the City Council finds as follows:

- a) That the Tana Ridge and Parkview Estates developments were approved under the OP zoning district requirements and were therefore not approved as a Conditional Use Permit and can thereby be amended without a public hearing.
- b) That the City Council did not provide previous approval of a reduction to the required buffer setback at the time of the development approval.
- c) That the existing ordinance as written renders construction on a majority of the properties to be non-conforming and many remaining of the platted properties essentially unbuildable.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Lake Elmo, that:

- 1) The buffer setback will be reduced from 200 feet to 50 feet from the abutting properties on the East and West boundaries of the Tana Ridge development.

- 2) The buffer setback will be reduced from 200 feet to 20 feet from the Lake Elmo Regional Park Reserve on the North boundary of the Parkview Estates development.
- d) The buffer setback will be reduced from 200 feet to 50 feet from the Cardinal Ridge development on the East boundary of the Parkview Estates development.

Passed and duly adopted this 7th day of July 2009 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

Craig Dawson, Interim City Administrator

- 2) The buffer setback will be reduced from 200 feet to 20 feet from the Lake Elmo Regional Park Reserve on the North boundary of the Parkview Estates development.
- d) The buffer setback will be reduced from 200 feet to 50 feet from the Cardinal Ridge development on the East boundary of the Parkview Estates development.

Passed and duly adopted this 7th day of July 2009 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

Craig W. Dawson, Interim City Administrator

- 2) The buffer setback will be reduced from 200 feet to 20 feet from the Lake Elmo Regional Park Reserve on the North boundary of the Parkview Estates development.
- d) The buffer setback will be reduced from 200 feet to 50 feet from the Cardinal Ridge development on the East boundary of the Parkview Estates development.

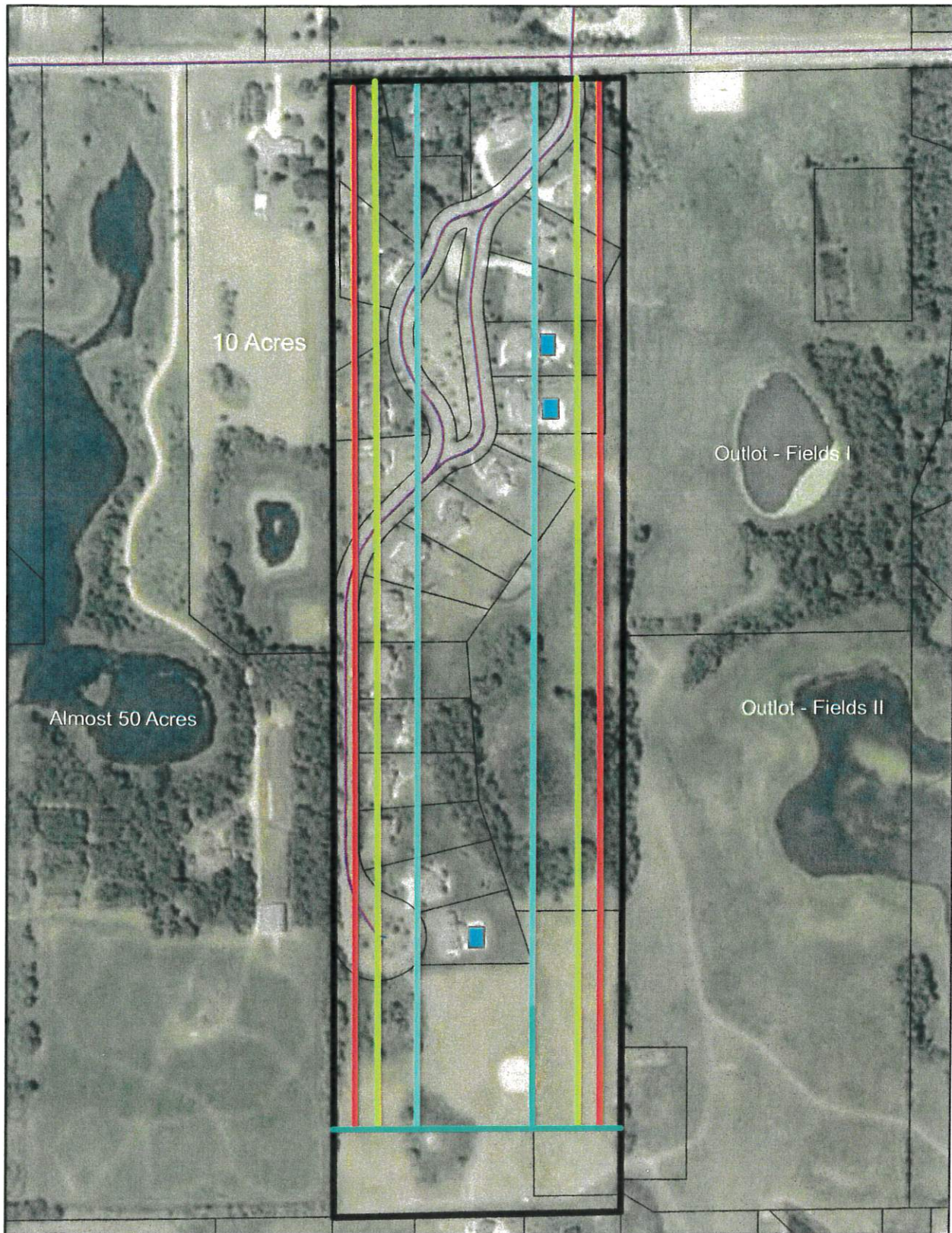
Passed and duly adopted this 7th day of July 2009 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

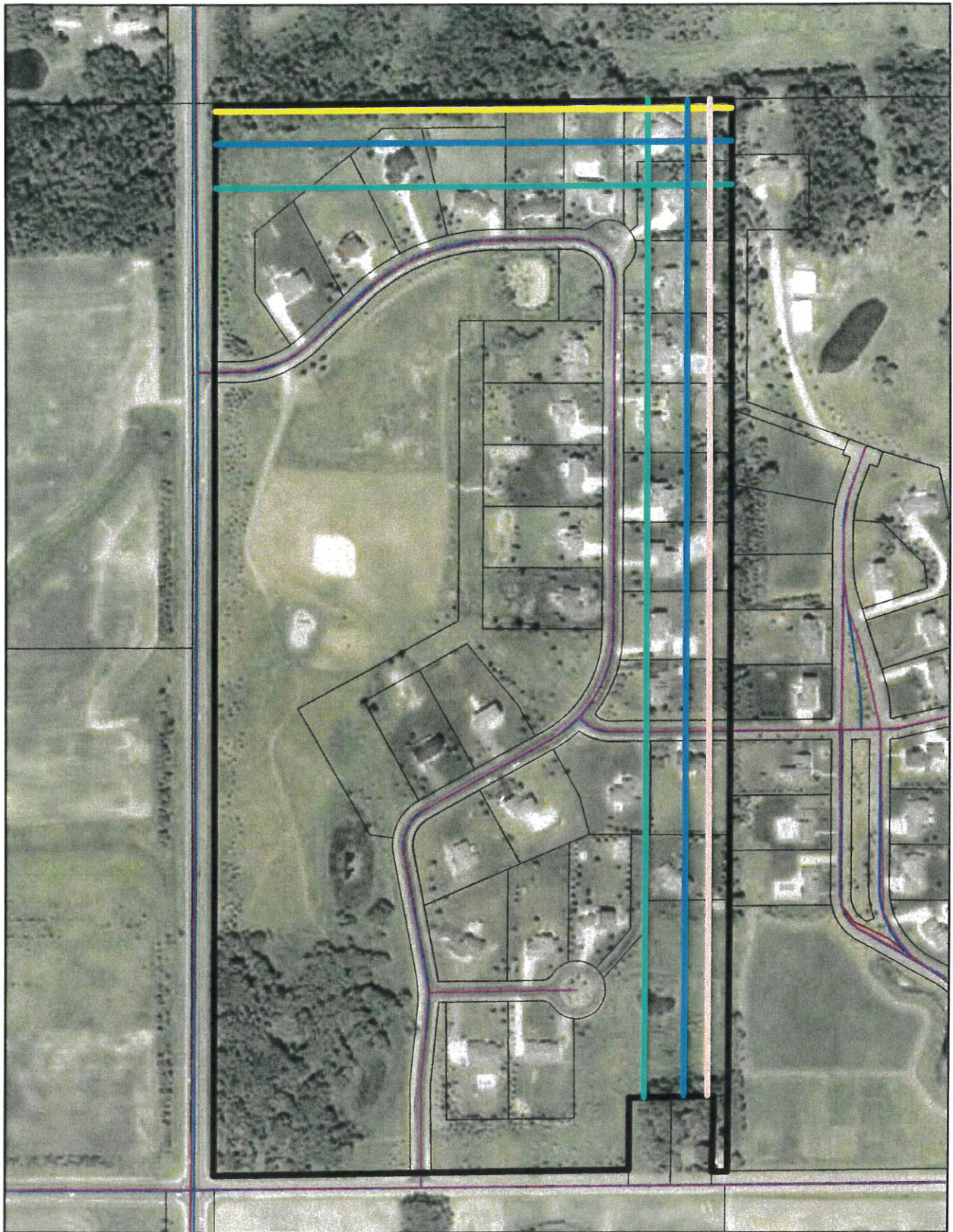
Craig W. Dawson, Interim City Administrator

Tana Ridge



-  50 Foot Setback
-  100 Foot Setback
-  200 Foot Setback

Parkview Estates



- 20 Foot Setback
- 50 Foot Setback
- 100 Foot Setback
- 200 Foot Setback

City Council
Date: July 7, 2009
REGULAR
Item: 10
Motion

ITEM: 2009 Street Improvements – Accepting Bids and Awarding a Contract

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Craig Dawson, Interim City Administrator
Ryan Stempki, Assistant City Engineer
Mike Bouthilet, Public Works
Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The City Council is being asked to accept bids and award a contract for the 2009 Street Improvements.

Bids will be received on July 6, 2009 for the 2009 Street Improvements including the residential streets in the Myron Ellman, Eden Park, Eden Park 2nd, and The Forest subdivisions, and for the Tablyn Park Entrance Road and Parking Lot. TKDA will prepare and present to the City Council the Bid Tabulation worksheet and a Letter of Recommendation for the Award of the Contract at the meeting.

The scope of the improvements is described in further detail below.

Street Improvements:

- Reclamation and overlay of residential streets in the Myron Ellman, Eden Park, Eden Park 2nd, and The Forest subdivisions.
- Reconstruction of the Tablyn Park Entrance Road and Parking Lot.

ADDITIONAL INFORMATION:

On April 7, 2009 the City Council ordered the improvements for the 2009 Street Improvements project. On June 2, 2009 the City Council approved the plans and specifications for the 2009 Street Improvements, and further ordered advertisement for bids.

RECOMMENDATION:

Staff recommends that the City Council accept the bids and award a contract for the 2009 Street Improvements.

SUGGESTED MOTION FOR CONSIDERATION

Move to approve Resolution No. 09-031 Accepting the Bids and Awarding a Contract for the 2009 Street Improvements per the Engineer's Letter of Recommendation for the Award of Contract.

ATTACHMENTS:

1. Resolution No. 09-031
2. Engineer's Letter of Recommendation for Award of Contract, to be distributed at the meeting

ORDER OF BUSINESS:

- Introduction Craig Dawson, Interim City Administrator
- Report by staff or other presenter Jack Griffin, City Engineer
- Questions from City Council members to the presenter Mayor and council members
- Questions/comments from the public to the City Council Mayor facilitates
- Action on motion City Council

CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA

RESOLUTION NO. 2009-031

A RESOLUTION ACCEPTING BIDS AND AWARDING A CONTRACT
FOR THE 2009 STREET IMPROVEMENTS

WHEREAS, pursuant to an advertisement for bids for the 2009 Street Improvements, bids were received, opened and tabulated according to law, and bids were received complying with the advertisement;

WHEREAS, bids were tabulated, checked and summarized to verify that all requirements of the submittals were met;

AND WHEREAS, the City Engineer reviewed the bids and has provided a letter recommending the award of the contract to the lowest responsible bidder;

NOW, THEREFORE, BE IT RESOLVED,

1. That the Mayor and City Clerk are hereby authorized and directed to enter into a Contract in the accordance with the above ordered Project, in the amount of the Contractor's lowest responsible bid, and according to the plans and specifications thereof approved by the City Council.
2. The City Clerk is hereby authorized and directed to return forthwith to all bidders the deposits made with their bids, except that the deposits of the successful bidder and the next two lowest bidders shall be retained until a contract has been signed.

Date: July 7, 2009 CITY OF LAKE ELMO

By: _____
Dean A. Johnston
Mayor

ATTEST:

Craig W. Dawson
Interim City Administrator

ITEM: Approval To Submit Federal Stimulus Grant Application for New Fire Station No. 1
SUBMITTED BY: Greg Malmquist, Fire Chief
REVIEWED BY: Craig Dawson, Interim City Administrator

SUMMARY AND ACTION REQUESTED: As part of the American Recovery and Reinvestment Act (ARRA), the federal economic stimulus program, the Department of Homeland Security is administering a \$210 million appropriation for a fire station construction program. Staff is requesting approval to submit a grant application for the Department of Homeland Security's Assistance to Firefighters Fire Station Construction Grants.

BACKGROUND: This extremely recently-announced construction grant program is a \$210 million appropriation under the American Recovery and Reinvestment Act (ARRA), the federal economic stimulus funding. This program is for the funding of new construction and renovation of fire stations. We believe that based on the previously identified need (2004 analysis of "Fire Protection Needs" for Lake Elmo done by Dahlgren, Shardlow and Uban) and subsequent capital improvement planning, this opportunity would help the City achieve its goal of replacing and upgrading Station #1. This grant, if approved per our application, would provide a modern facility to meet our current and future needs. It would be better located to serve our response area into the future (and which would help improve our ISO rating), meet all current standards, and improve safety and training. While the grant program does not require matching funds from the applicant, there are costs that a grant would not cover and cities willing to provide funding have a better chance of receiving a grant.

There are many departments across the country whose fire station plans are "shovel ready". They have a site identified (and possibly acquired), have plans ready, have completed all the necessary studies, etc. Because Lake Elmo has not completed the necessary preparation, this will make gaining approval of a grant more difficult. We believe that building a new main station would require a 15,000 – 20,000 square foot structure and cost approximately \$150 - \$200/sq.ft., or a range of \$2.25 - \$4.0 million. The City does have \$1.4 million remaining from the \$4 million in bonds that the City issued for City facilities in 2004.

While some may view this grant as a long-shot for the City, we believe that it is prudent for the City to pursue this opportunity. The grant application deadline is July 10, 2009.

RECOMMENDATION: Staff recommends that the Council authorize staff to submit an application for the Department of Homeland Security's Assistance to Firefighters Fire Station Construction Grants.

SUGGESTED MOTION FOR CONSIDERATION

Move to authorize staff to submit an application to the Department of Homeland Security's Assistance to Firefighters Fire Station Construction Grants.

ORDER OF BUSINESS:

- Introduction Administrator Dawson
- Presentation by staff Administrator Dawson/Chief Malmquist
- Questions to staff Mayor facilitates
- Questions/comments from the Public to Council Mayor facilitates
- Action on Motion City Council

Fire Station Construction Grant - Overview

I (Chief Malmquist) have taken the 42-page Guidance and Application Kit and pulled some of the most important items for your review. This will give you a good feel for the grant.

The purpose of SCG is to provide economic stimulus in the form of jobs and increase the safety of the firefighters and the communities they serve.

Since one of the priorities of the ARRA is to stimulate the economy by providing jobs, DHS will provide the high consideration to departments serving communities that have suffered the highest increases in joblessness rates. To assess this criterion, the change in the joblessness rates from 2007 to 2008 in your county or community will be compared.

Highest consideration to:

Own or have otherwise already acquired the land
Applicant's land is already zoned
Already obtained the permits
State or locally required environmental assessments completed

While the type of the project is not considered (i.e., DHS will not differentiate between new construction and modifications), the *purpose* of the construction or modification will have a bearing on the award determination. In this regard, the ARRA has two, equally high priorities:

1) To replace unsafe or uninhabitable structures regardless of whether the project calls for the construction of a new building or the rehabilitation of an existing structure. Applicants claiming unsafe or uninhabitable structures may be required to provide documentation regarding the nature of the health or safety deficiencies. Any health-code violations or orders to vacate unsafe structures must pre-date the enactment of the ARRA for consideration.

2) To fund projects expanding fire protection coverage to meet increased service demand in compliance with NFPA 1710 or 1720. In these instances, expanding fire protection coverage under a community's capital improvement plan will receive higher consideration than expansion projects not engaged in capital improvement planning.

Additional priorities:

Expanding existing structures to provide sleeping quarters and/or amenities for full-time occupancy

The lowest priority is to fund projects replacing or expanding habitable structures that are cramped or inefficiently configured for operation.

Applicants serving communities not in good standing under NFIP receive lower consideration than departments serving those communities in good standing or those which have not been mapped. projects that will be completed on an expedited schedule will receive higher priority.

The length of time a department has been attempting to build a new station would be an indication of need.

There is no cost-share required under the SCG. However, the willingness or ability of a community to contribute to the project is a desirable attribute. A community's contribution demonstrates commitment, enhances the award and provides a greater cost-benefit to the project. As such, applicants who contribute toward the project receive higher consideration than applicants who are relying entirely on the grant funding for their project.

Additional info:

The period of performance for SCG Grants is 36 months from the date of award.

DHS anticipates between 5,000 and 10,000 applications

Within the fire stations built or modified under the SCG, the following items, activities or expenses are eligible:

- Building construction
- Environmental assessment
- Building site preparation, including demolition, if necessary
- Design, planning, and engineering expenses incurred *after* award
- Expenses necessary to comply with the most current edition of NFPA1500
- Expenses necessary to comply with the locally adopted building, fire, plumbing, mechanical and electrical codes.
- Sprinklers or other life safety and fire protection systems
- Vehicle exhaust extraction systems
- Decontamination areas Space for training (up to 600 square feet)
- Space for gender-segregated sleeping
- Gender-segregated restrooms
- Space for exercise equipment
- Kitchens
- Kitchen appliances
- Dining/eating area
- ADA compliance
- Gear racks, storage and shelving for gear/equipment
- Internet cabling
- Energy conservation systems (Leadership in Energy and Environmental Design - LEED™) Renewable energy for HVAC and power systems

D.2. Ineligible Items

- Land acquisition
- Cost overruns
- Fire station staffing
- Pre-award costs (including but not limited to design, planning, and engineering expenses incurred *prior* to award)
- Grant writing fees
- Space for public use (ballrooms, community meetings, fund raising)
- Furnishings (including office/training equipment)
- Exercise equipment
- Firefighting equipment
- Personal protective equipment
- Washers/extractors
- Apparatus
- Vehicle mounted exhaust extraction systems

- Landscaping
- Security systems
- Decorative items (curtains, wall hangings, etc.)
- Projects that duplicate any other Federal awards
- Demolition costs not related to the funded project