

City of Lake Elmo
3800 Laverne Avenue North

Tuesday, November 18, 2008
6:30 p.m. Closed Meeting – EBI Drilling Inc. Litigation

7:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: ___ Johnston ___ DeLapp ___ Johnson ___ Park ___ Smith
- D. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)
- E. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)
- F. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)
- G. APPROVE MINUTES:
 - 1. November 5, 2008
- 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. Approve settlement agreement with EBI Directional Drilling Inc.
 - 4. Accept donation of painting
 - 5. Resolution accepting the public infrastructure improvements of the Tapestry at Charlotte's Grove Development
 - 6. Resolution accepting work and approval of Payment Certificate No. 2 (Final) for the installation of Supervisory Control and Data Acquisition (SCADA) System.
 - 7.
 - a. Retroactively approve grant for SWCD buckthorn removal
 - b. Schedule City Council workshop on December 2, 2008, 7 p.m. on proposed telecommunication antenna tower permits

J. PUBLIC HEARING:

8. Hold public hearing and assess delinquent utility bills

K. REGULAR AGENDA:

9. Receive a presentation from the Ramsey Washington Cable Commission Representative, Virginia Holder
10. Consider approving sponsorship of the second Safe Routes to School grant for the Lake Elmo Elementary School
11. Receive a presentation on proposed alternatives for the Highway 36 and Lake Elmo Avenue (County Rd 17) interchange from Washington County
12. Consider releasing the draft Village Alternative Urban Areawide Review (AUAR) for public comment
13. Consider proposals for architectural design development services for Carriage Station and DeMontreville park picnic shelter projects
14. Consider expenditures related to the creation and production of a trail map and the construction and location of a directional sign system for Sunfish Lake Park
15. Hold an appeal hearing on zoning code violations related to the property at 5699 Keats Avenue acting as the Board of Adjustment and Appeals

L. REPORTS AND ANNOUNCEMENTS:

Mayor and Council members
Administrator

M. Adjourn

City of Lake Elmo
City Council Minutes

November 5, 2008

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

Present: Mayor Johnston and Council Members DeLapp, Johnson, Park and Smith.

Also present: Planning Director Klatt, City Attorney Filla, Finance Director Bouthilet, City Administrator Hoyt and City Clerk Lumby.

APPROVAL OF AGENDA:

MOTION: Council Member Smith moved to approve the November 5, 2008 agenda as presented. Council Member Johnson seconded the motion. The motion passed unanimously.

MOTION: Council Member Johnson moved to approve moving Agenda Item J6. Accessory structures to a City Council workshop after January 1, 2009. Council Member DeLapp seconded the motion. The motion passed unanimously.

ORDER OF BUSINESS:

GROUND RULES:

APPROVED MINUTES:

The minutes of October 21, 2008 were approved by consensus.

PUBLIC COMMENTS/INQUIRIES:

Ann-O Suckow, Lake Elmo Jaycees community development VP 2008, updated the Council on Jaycee activities for the month of November.

CONSENT AGENDA:

MOTION: Council Member Johnson moved to approve the consent agenda. Council Member DeLapp seconded the motion. The motion passed unanimously.

- Approval of disbursements in the amount of \$225,367.22
- Approve entering into an agreement with Washington County for \$62,924.03 to continue the low income gas line replacement project in Cimarron for approximately 30 additional homes

- Schedule an appeal hearing before the Board of Adjustment and Appeals for Mr. and Mrs. Sessing, property owners of 5699 Keats Avenue, to appeal the determination of code violations for Tuesday, November 18, 2008 on or after 7:30 p.m.
- Adopt Resolution no. 2008-049 canvassing the returns and declaring Dean Johnston as elected as mayor for a 4-year term and Anne Smith and Brett H. Emmons elected as Council member for 4-yr terms by a majority of the votes cast for these races

Consider Amendments to the Accessory Building Section of the Zoning Ordinance
(Agenda item moved to a City Council Workshop after January 1, 2009.)

REPORTS AND ANNOUNCEMENTS:

UPCOMING DATES OF NOTE:

The meeting was adjourned at 7:23 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

City Council
Date: 11/18/2008
CONSENT
Item: 2

ITEM: Approve disbursements in the amount of \$303,525.49

SUBMITTED BY: Tom Bouthilet, Finance Director

| <u>Claim #</u> | <u>Amount</u> | <u>Description</u> |
|----------------|---------------|---|
| ACH | \$ 7,860.12 | Payroll Taxes to IRS |
| ACH | \$ 1,256.71 | Payroll Taxes to Mn Dept. of Revenue |
| ACH | \$ 428.00 | Sales & Use Tax to Mn Dept. of Revenue |
| DD1896-DD1910 | \$ 19,796.48 | Payroll Dated 11/06/2008 (Direct Deposit) |
| 33404-33407 | \$ 6,215.74 | Payroll Dated 11/06/2008 (Payroll & Benefits) |
| 33408-33447 | \$267,968.44 | Accounts Payable Dated 11/18/2008 |

Total: \$ 303,525.49

SUMMARY AND ACTION REQUESTED: The City Council is being asked to approve disbursements in the amount of \$ 303,525.49

Accounts Payable Checks for Approval

User: julie
Printed: 11/13/2008 - 1:49 PM

| Check Number | Check Date | Fund Name | Account Name | Vendor Name | Amount |
|--------------|------------|-------------------------------|--------------------------------|---------------------------------|-----------|
| 33423 | 11/18/2008 | Sewer | Sewer Utility - Mct Council | Metropolitan Council | 1,081.72 |
| 33439 | 11/18/2008 | Water | Utility System Maintenance | TKDA, Inc. | 166.38 |
| 33414 | 11/18/2008 | General Fund | Software Support | City of Roseville | 1,380.83 |
| 33425 | 11/18/2008 | Fall Festival | Miscellaneous | Lillie Suburban Newspapers Inc. | 567.00 |
| 33434 | 11/18/2008 | General Fund | Office Supplies | S&T Office Products, Inc. | 74.74 |
| 33430 | 11/18/2008 | General Fund | Repairs/Maint Contractual Bldg | Quality Air | 98.00 |
| 33444 | 11/18/2008 | Capital Acquisitions | Office Equipment & Furnishings | VISA | 515.45 |
| 33444 | 11/18/2008 | Capital Acquisitions | Use Tax Payable | VISA | -31.46 |
| 33411 | 11/18/2008 | Surface Water Utility | Conferences & Training | Michael Bouthilet | 100.00 |
| 33418 | 11/18/2008 | General Fund | Shop Materials | Lake Elmo Oil, Inc. | 1,576.40 |
| 33433 | 11/18/2008 | General Fund | Repairs/Maint Contractual Bldg | Diane Rud | 319.50 |
| 33433 | 11/18/2008 | General Fund | Repairs/Maint Contractual Bldg | Diane Rud | 255.60 |
| 33433 | 11/18/2008 | General Fund | Cleaning Supplies | Diane Rud | 5.33 |
| 33444 | 11/18/2008 | General Fund | Use Tax Payable | Diane Rud | -35.10 |
| 33444 | 11/18/2008 | Escrow Fund | Deposits Payable | VISA | 330.06 |
| 33444 | 11/18/2008 | Escrow Fund | Deposits Payable | VISA | 135.36 |
| 33444 | 11/18/2008 | General Fund | Miscellaneous | VISA | 28.77 |
| 33429 | 11/18/2008 | Capital Acquisitions | Other Equipment | VISA | 536.23 |
| 33428 | 11/18/2008 | General Fund | Cable Operation Expense | Steven Press | 62.71 |
| 33428 | 11/18/2008 | General Fund | Use Tax Payable | Steven Press | -3.83 |
| 33428 | 11/18/2008 | General Fund | Equipment Parts | Polfus Implement, Inc | 180.16 |
| 33436 | 11/18/2008 | General Fund | Use Tax Payable | Polfus Implement, Inc | -11.00 |
| 33436 | 11/18/2008 | 2006A G.O Equip. Cert. Indebt | Bond Principal | State Bank of Delano | 40,000.00 |
| 33436 | 11/18/2008 | 2006A G.O Equip. Cert. Indebt | Bond Principal | State Bank of Delano | 3,066.00 |
| 33424 | 11/18/2008 | General Fund | Contract Services | Miller Excavating, Inc. | 360.00 |
| 33424 | 11/18/2008 | Water | Utility System Maintenance | Miller Excavating, Inc. | 29.75 |
| 33432 | 11/18/2008 | General Fund | Legal Publishing | RiverTown Newspaper Group | 29.50 |
| 33432 | 11/18/2008 | General Fund | Legal Publishing | RiverTown Newspaper Group | 29.50 |
| 33446 | 11/18/2008 | General Fund | Legal Publishing | RiverTown Newspaper Group | 29.50 |
| 33412 | 11/18/2008 | Tablyn Park/LEH/3M Grant | Repairs/Maint Contractual Bldg | Yocum Oil Company, Inc. | 160.13 |
| 33416 | 11/18/2008 | General Fund | Miscellaneous | CAPRAS UTILITIES INC. | 1,640.00 |
| 33440 | 11/18/2008 | General Fund | Miscellaneous | Hagbergs Country Market | 21.00 |
| 33440 | 11/18/2008 | General Fund | Equipment Parts | Truck Utilites | 21.78 |

| Check Number | Check Date | Fund Name | Account Name | Vendor Name | Amount |
|--------------|------------|---------------|--------------------------------|-------------------------------|-----------|
| 33440 | 11/18/2008 | General Fund | Equipment Parts | Truck Utilities | 57.94 |
| 33418 | 11/18/2008 | General Fund | Fuel, Oil and Fluids | Lake Elmo Oil, Inc. | 55.27 |
| 33418 | 11/18/2008 | General Fund | Fuel, Oil and Fluids | Lake Elmo Oil, Inc. | 79.00 |
| 33418 | 11/18/2008 | General Fund | Fuel, Oil and Fluids | Lake Elmo Oil, Inc. | 28.70 |
| 33418 | 11/18/2008 | General Fund | Fuel, Oil and Fluids | Lake Elmo Oil, Inc. | 33.00 |
| 33418 | 11/18/2008 | General Fund | Fuel, Oil and Fluids | Lake Elmo Oil, Inc. | 37.00 |
| 33418 | 11/18/2008 | General Fund | Fuel, Oil and Fluids | Lake Elmo Oil, Inc. | 41.50 |
| 33418 | 11/18/2008 | General Fund | Fuel, Oil and Fluids | Lake Elmo Oil, Inc. | 27.50 |
| 33418 | 11/18/2008 | General Fund | Fuel, Oil and Fluids | Lake Elmo Oil, Inc. | 48.00 |
| 33418 | 11/18/2008 | General Fund | Fuel, Oil and Fluids | Lake Elmo Oil, Inc. | 98.10 |
| 33418 | 11/18/2008 | General Fund | Fuel, Oil and Fluids | Lake Elmo Oil, Inc. | 51.00 |
| 33443 | 11/18/2008 | General Fund | Telephone | Verizon Wireless | 86.28 |
| 33418 | 11/18/2008 | General Fund | Shop Materials | Lake Elmo Oil, Inc. | 95.12 |
| 33418 | 11/18/2008 | General Fund | Shop Materials | Lake Elmo Oil, Inc. | 40.00 |
| 33418 | 11/18/2008 | General Fund | Miscellaneous | Lake Elmo Oil, Inc. | 25.00 |
| 33419 | 11/18/2008 | General Fund | Repairs/Maint Contractual Eqpt | Lake Elmo Oil, Inc. | 9.78 |
| 33419 | 11/18/2008 | General Fund | Use Tax Payable | Linner Electric Company, Inc. | 488.43 |
| 33432 | 11/18/2008 | Fall Festival | Miscellaneous | Linner Electric Company, Inc. | -3.08 |
| 33432 | 11/18/2008 | General Fund | Miscellaneous | RiverTown Newspaper Group | 318.00 |
| 33432 | 11/18/2008 | General Fund | Miscellaneous | RiverTown Newspaper Group | 35.40 |
| 33432 | 11/18/2008 | General Fund | Miscellaneous | RiverTown Newspaper Group | 38.35 |
| 33432 | 11/18/2008 | General Fund | Miscellaneous | RiverTown Newspaper Group | 8.85 |
| 33432 | 11/18/2008 | General Fund | Miscellaneous | RiverTown Newspaper Group | 38.35 |
| 33413 | 11/18/2008 | General Fund | Equipment Parts | RiverTown Newspaper Group | 20.65 |
| 33413 | 11/18/2008 | General Fund | Equipment Parts | RiverTown Newspaper Group | 26.39 |
| 33413 | 11/18/2008 | General Fund | Building Repair Supplies | Car Quest Auto Parts | 9.11 |
| 33421 | 11/18/2008 | General Fund | Repairs/Maint Imp Not Bldgs | Car Quest Auto Parts | 53.96 |
| 33431 | 11/18/2008 | General Fund | Repairs/Maint Contractual Bldg | Matco Tools | 42.55 |
| 33431 | 11/18/2008 | General Fund | Use Tax Payable | Reliance Electric Motors | 350.92 |
| 33438 | 11/18/2008 | Water | Miscellaneous | Reliance Electric Motors | -21.42 |
| 33438 | 11/18/2008 | Water | Use Tax Payable | Telemetry & Process Controls | 3,006.42 |
| 33438 | 11/18/2008 | Water | Utility System Maintenance | Telemetry & Process Controls | -183.49 |
| 33420 | 11/18/2008 | General Fund | Refuse | Telemetry & Process Controls | 115.00 |
| 33420 | 11/18/2008 | General Fund | Refuse | Maroney's Sanitation, Inc | 103.09 |
| 33420 | 11/18/2008 | General Fund | Refuse | Maroney's Sanitation, Inc | 45.37 |
| 33442 | 11/18/2008 | Water | Bonds Payable - Current | Maroney's Sanitation, Inc | 197.77 |
| 33442 | 11/18/2008 | Water | Bond Interest | Maroney's Sanitation, Inc | 103.09 |
| 33437 | 11/18/2008 | General Fund | Street Maintenance Materials | US Bank Trust N.A. | 30,000.00 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | US Bank Trust N.A. | 12,960.00 |
| 33445 | 11/18/2008 | Sewer | Electric Utility | T.A. Schifsky & Sons | 242.27 |
| 33445 | 11/18/2008 | General Fund | Street Lighting | Xcel Energy | 45.59 |
| 33445 | 11/18/2008 | General Fund | Street Lighting | Xcel Energy | 60.91 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 26.52 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 26.68 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 173.95 |

| Check Number | Check Date | Fund Name | Account Name | Vendor Name | Amount |
|--------------|------------|----------------------|--------------------------------|--------------------------------|-----------|
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 1,235.84 |
| 33445 | 11/18/2008 | General Fund | Street Lighting | Xcel Energy | 58.56 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 10.95 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 19.15 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 18.84 |
| 33445 | 11/18/2008 | Water | Electric Utility | Xcel Energy | 1,390.76 |
| 33445 | 11/18/2008 | General Fund | Street Lighting | Xcel Energy | 34.06 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 123.54 |
| 33445 | 11/18/2008 | Sewer | Electric Utility | Xcel Energy | 15.79 |
| 33445 | 11/18/2008 | Sewer | Electric Utility | Xcel Energy | 28.50 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 191.39 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 17.85 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 1,721.79 |
| 33445 | 11/18/2008 | General Fund | Street Lighting | Xcel Energy | 26.64 |
| 33445 | 11/18/2008 | General Fund | Street Lighting | Xcel Energy | 32.23 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 444.38 |
| 33445 | 11/18/2008 | General Fund | Electric Utility | Xcel Energy | 33.41 |
| 33445 | 11/18/2008 | General Fund | Street Lighting | Xcel Energy | 9.64 |
| 33441 | 11/18/2008 | Water | Utility System Maintenance | Twin City Water Clinic, Inc. | 65.00 |
| 33409 | 11/18/2008 | Water | Utility System Maintenance | Twin City Water Clinic, Inc. | 65.00 |
| 33409 | 11/18/2008 | General Fund | Uniforms | Aramark | 32.18 |
| 33409 | 11/18/2008 | General Fund | Uniforms | Aramark | 35.06 |
| 33409 | 11/18/2008 | General Fund | Uniforms | Aramark | 35.06 |
| 33409 | 11/18/2008 | General Fund | Repairs/Maint Contractual Bldg | Aramark | 31.90 |
| 33415 | 11/18/2008 | General Fund | Telephone | CP Telecom | 522.00 |
| 33415 | 11/18/2008 | General Fund | Telephone | CP Telecom | 442.68 |
| 33408 | 11/18/2008 | General Fund | Repairs/Maint Imp Not Bldgs | Ace Hardware | 22.40 |
| 33408 | 11/18/2008 | Water | Utility System Maintenance | Ace Hardware | 13.83 |
| 33408 | 11/18/2008 | Water | Utility System Maintenance | Ace Hardware | 6.91 |
| 33426 | 11/18/2008 | General Fund | Repairs/Maint Contractual Bldg | Ace Hardware | 9.32 |
| 33426 | 11/18/2008 | General Fund | Sand/Salt | North American Salt Company | 1,314.26 |
| 33418 | 11/18/2008 | General Fund | Use Tax Payable | North American Salt Company | -80.21 |
| 33410 | 11/18/2008 | General Fund | Fuel, Oil and Fluids | Lake Elmo Oil, Inc. | 50.00 |
| 33417 | 11/18/2008 | General Fund | Equipment | Aspen Mills, Inc. | 471.30 |
| 33422 | 11/18/2008 | General Fund | Contract Services | Kern DeWenter Viere | 5,850.00 |
| 33422 | 11/18/2008 | General Fund | Building Repair Supplies | Menards - Oakdale | 25.74 |
| 33422 | 11/18/2008 | General Fund | Building Repair Supplies | Menards - Oakdale | 3.72 |
| 33422 | 11/18/2008 | General Fund | Landscaping Materials | Menards - Oakdale | 86.27 |
| 33422 | 11/18/2008 | General Fund | Building Repair Supplies | Menards - Oakdale | 11.43 |
| 33422 | 11/18/2008 | General Fund | Repairs/Maint Contractual Bldg | Menards - Oakdale | 60.88 |
| 33427 | 11/18/2008 | Water | Bonds Payable - Current | Northland Trust Services, Inc. | 50,000.00 |
| 33427 | 11/18/2008 | Water | Bond Interest | Northland Trust Services, Inc. | 88,262.50 |
| 33447 | 11/18/2008 | General Fund | Repairs/Maint Imp Not Bldgs | Ziegler, Inc. | 149.06 |
| 33435 | 11/18/2008 | Capital Acquisitions | Other Equipment | St Joseph Equipment, Inc. | 13,206.00 |

Check Number Check Date Fund Name Account Name Vendor Name Amount

267,968.44

Total for this Date:

267,968.44

Report Total:

City Council
Date: 11.18.08
CONSENT
Item: 3
Motion

ITEM: Approve settlement agreement with EBI Directional Drilling Inc.

SUBMITTED BY: Jim Golembeck, Attorney on behalf of LMCIT

SUMMARY AND ACTION REQUESTED: The city council is being asked to approve a settlement agreement with EBI Directional Drilling Inc. to terminate litigation. The settlement agreement was mediated on October 30, 2008 with finalization contingent upon city council approval. If approved by the city council, there will be no outstanding lawsuits for the city as of this writing.

ATTACHMENT:

1 Settlement Agreement

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

TENTH JUDICIAL DISTRICT

EBI Directional Drilling, Inc.,

File No. 82-CV-083049

Plaintiff,

Judge Gary R. Schurrer

vs.

**MEDIATED SETTLEMENT
AGREEMENT**

City of Lake Elmo,

Defendant.

A mediation session was held on October 30, 2008, with William D. Hull serving as mediator.

The case was settled on the following terms:

1. This Agreement is binding and the parties have been advised, in writing, of the following:

Minnesota Civil Mediation Act. Pursuant to the requirements of the Minnesota Civil Mediation Act, the mediator hereby advises the parties that:

- (a) the mediator has no duty to protect the parties' interests or provide them with information about their legal rights;
- (b) signing a mediated settlement agreement may adversely affect the parties' legal rights; and
- (c) the parties should consult an attorney before signing a mediated settlement agreement if they are uncertain of their rights.

2. All claims, counterclaims or crossclaims and third-party claims will be dismissed with prejudice and without an award of costs to any of the parties.

3. The Defendant shall pay the mediator's fees of \$350.00 per hour.

4. Plaintiff **EBI Directional Drilling, Inc.** and Defendant **City of Lake Elmo**, in consideration of the mutual release by each of the other, and in consideration of the other covenants and conditions contained herein, hereby release and discharge each other, their shareholders, directors, officers, insurers and attorneys, employees, agents, subsidiaries, dealers, distributors, and assigns, from any and all claims, damages, causes of action or suits of any kind or nature whatsoever, which they may now have or claim to have against each other, arising out of or relating to the construction of the Tablyn Park Lake Elmo Heights Water Main ("Project") which is the subject matter of this litigation, including all claims which were or could have been asserted in the above-captioned litigation.

5. Plaintiff **EBI Directional Drilling, Inc.** will accept the sum of Seventy-Six Thousand and No/100 (\$76,000.00) Dollars in full settlement of all their claims in this litigation.

6. Defendant **City of Lake Elmo** shall pay to Plaintiff the sum of Seventy-Six Thousand and No/100 (\$76,000.00) Dollars on or before December 10, 2008.

7. In further consideration of the payments made pursuant to this Agreement, each of the parties to this litigation agree to release and discharge any claims it or they may have against any of the other parties to this litigation for contribution or indemnity arising from or relating to the claims asserted by the Plaintiff in this litigation.

8. As the compromise of disputed claims, this Agreement is not an admission against the interests of the parties or their officers, agents, employees, insurers, representatives, or affiliates.

9. The parties will cooperate fully and execute all supplementary documents and will take all additional actions as may be reasonably required or appropriate to effectuate the purpose and intent of this Agreement.

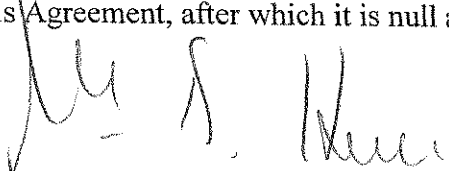
10. The parties may execute this Agreement separately, and each separate signed document shall be deemed an original regardless of the date of its execution and delivery, and these counterparts together shall be one and the same Agreement.

11. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any of its other provisions.

12. This Agreement and any documents executed and delivered contemporaneously therewith are the entire agreement between the parties; supersedes any prior or contemporaneous oral or written discussions, negotiations, and/or commitments between the parties and can be amended only in writing signed by all parties.

13. In the event any party to this Agreement brings suit against an entity who is not a party for contribution and indemnity, the party bringing the action will defend, indemnify and hold harmless all of the other parties to this Agreement.

14. This Agreement is contingent on the approval of the Lake Elmo City Council. Counsel for the City and the City Administrator agree to recommend that the City Council approve this Agreement. The City has until December 3, 2008 to approve this Agreement, after which it is null and void.



William D. Hull, Mediator

City Council
Date: 11.18.08
CONSENT
Item: 4

ITEM: Donation of watercolor painting

SUBMITTED BY: Sharon Lumby, City Clerk

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to accept a donation from Steve DeLapp, 8468 Lake Jane Trail of a water color painting of a scene on Lake Elmo Avenue by artist Harry Heim.

MOTION:

Move to authorize accepting donation of water color painting from Steve DeLapp, 8468 Lake Jane Trail, Lake Elmo, MN

City Council
Date: November 18, 2008
CONSENT
Motion
Item: 5

ITEM: Resolution accepting the public infrastructure improvements of the Tapestry at Charlotte's Grove Development

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Susan Hoyt, 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 Tapestry at Charlotte's Grove development. Engineering staff has reviewed the requirements of the Developer's Agreement dated February 18, 2005, 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. 08-050 accepting the public infrastructure installed as part of the Tapestry at Charlotte's Grove development.

Motion

Move to approve Resolution No. 08-050 accepting the developer-installed public infrastructure improvements for the Tapestry at Charlotte's Grove Development.

ATTACHMENTS:

1. City Engineer's letter of development approval, dated November 10, 2008
2. Resolution No. 08-050

TKDA

ENGINEERS • ARCHITECTS • PLANNERS

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

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

November 10, 2008

Mr. Bryan Kemnetz
Lake Elmo Bank
11465 39th Street North
Post Office Box 857
Lake Elmo, Minnesota 55042-0857

Re: Engineer's Recommendation for Final Acceptance
Tapestry at Charlotte's Grove Development
City of Lake Elmo, Minnesota
TKDA Project No. 13819.003

Dear Mr. Kemnetz:

We have reviewed the Developer-installed improvements for the Tapestry at Charlotte's Grove 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 original developer of Tapestry at Charlotte's Grove no longer owns the development and the Lake Elmo Bank has closed out the development in compliance to City standards to avoid default of the Development Agreement dated February 18, 2005. The public improvements have been in place for a minimum of 2 years and no defective work has been identified. The 2-year warranty has been satisfied.

Sincerely,

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

cc: Susan Hoyt, City Administrator
Kyle Klatt, Planning Director
Mike Bouthilet, Public Works Superintendent

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

RESOLUTION NO. 08-050

**A RESOLUTION ACCEPTING
THE DEVELOPER-INSTALLED PUBLIC INFRASTRUCTURE IMPROVEMENTS FOR
THE TAPESTRY AT CHARLOTTE'S GROVE DEVELOPMENT**

WHEREAS, the public infrastructure improvements the for the Tapestry at Charlotte's Grove subdivision have been fully completed in compliance with the Development Agreement dated February 18, 2005, with St. Croix Farms, LLC (the "Developer"), and the standards and ordinances of the city;

WHEREAS, the City Engineer has reviewed the improvements and in correspondence dated November 10, 2008, 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 \$1,570,500.00; 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 Tapestry at Charlotte's Grove; effective as of November 18, 2008.


Date: November 18, 2008

CITY OF LAKE ELMO

By: _____
Dean Johnston
Mayor

ATTEST:

Susan L. Hoyt
City Administrator

City Council
Date: November 18, 2008
CONSENT 
Resolution and Motion

ITEM: Resolution accepting work and approval of Payment Certificate No. 2 (Final) for the Installation of the Supervisory Control and Data Acquisition (SCADA) System

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Susan Hoyt, City Administrator
Tom Bouthilet, Finance Department
Mike Bouthilet, Public Works
Ryan Stempski, Assistant City Engineer

SUMMARY AND ACTION REQUESTED: The city council is being asked to accept the work completed by Telemetry & Process Controls, Inc., under contract for the Installation of SCADA System. The work has been reviewed by staff and is fully completed in accordance with the contract, plans, specifications, and change orders. Please refer to attachment no. 2, which is the engineer's letter of final acceptance for this project.

The city council is also being asked to approve final payment to Telemetry & Process Controls, Inc., the contractor for the Installation of the SCADA System. Telemetry & Process Controls, Inc. has submitted Payment Certificate No. 2 (Final) in the amount of \$22,006.48. Retainage is being released in full.

RECOMMENDATION

It is hereby recommended that the city council approve Resolution No. 08-051 accepting the work for the Installation of SCADA System, and approve final payment in the amount of \$22,006.48 for this project.

SUGGESTED MOTION FOR CONSIDERATION

Move to approve Resolution No. 08-051 accepting work and move to approve Payment Certificate No. 2 (Final) in the amount of \$22,006.48 for the Installation of SCADA System.

ATTACHMENTS

1. Resolution No. 08-051
2. Engineer's recommendation for final acceptance, dated November 10, 2008
3. SCADA System Project Payment Certificate No. 2 (Final)

CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA

RESOLUTION NO. 08-051

A RESOLUTION ACCEPTING WORK
FOR THE INSTALLATION OF SCADA SYSTEM

WHEREAS, pursuant to a written contract signed with the City on November 8, 2006, Telemetry & Process Controls, Inc. has satisfactorily completed the Installation of SCADA System in accordance with such contract; and

WHEREAS, the one-year Warranty for all the improvements began on November 18, 2008, and will end on November 17, 2009, and a one-year Warranty inspection of these items will be completed in October, 2008, and the contractor will be required to repair or replace, as directed by the City, any work or materials that are found to be defective, at the Contractor's sole cost and expense; and

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

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

Date: November 18, 2008 CITY OF LAKE ELMO

By: _____
Dean Johnson
Mayor

ATTEST:

Susan L. Hoyt
City Administrator

TKDA

ENGINEERS • ARCHITECTS • PLANNERS

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

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

November 10, 2008

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

Re: Engineer's Recommendation for Final Acceptance
Installation of SCADA System
City of Lake Elmo, Minnesota
TKDA Project No. 13593.000

Dear Mayor and City Council Members:

We have reviewed the work under Contract for the Installation of SCADA System, and find that the project has been fully completed in all respects according to the Contract, Plans/Specifications, and Change Orders, as prepared by TKDA. The Improvements are hereby declared to be complete and acceptance of the Contractor's work (Telemetry & Process Controls, Inc.) is recommended.

The Warranty Period for the improvements will start on November 18, 2008, and will end on November 17, 2009.

Sincerely,

Jack W. Griffin, P.E.
City Engineer

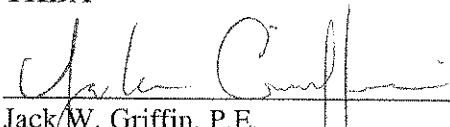
cc: Susan Hoyt, City Administrator
Mike Bouthilet, Public Works
Dan Edison, TPC, Inc.

TKDA

ENGINEERS • ARCHITECTS • PLANNERS

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

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

Proj. No. 13593.000 Cert. No. 2(F) St. Paul, MN, October 22, 20 08
 To City of Lake Elmo, Minnesota Owner
 This Certifies that Telemetry and Process Controls, Inc., Contractor
 For Installation of SCADA System
 Is entitled to Twenty-Two Thousand Six Dollars and 48/100 ----- (\$ 22,006.48)
 being 2nd estimate for FINAL partial payment on contract with you dated November 8, 2006
 Received payment in full of above Certificate. **TKDA**
Telemetry and Process Controls, Inc.
 _____, 20____

 Jack W. Griffin, P.E.

RECAPITULATION OF ACCOUNT

| | CONTRACT PLUS EXTRAS | PAYMENTS | CREDITS |
|--|----------------------|--------------|---------|
| Contract price plus extras | \$ 66,155.00 | | |
| All previous payments | | \$ 47,512.52 | |
| All previous credits | | | |
| Extra No. | | | |
| Change Order No. 1 | \$ 3,364.00 | | |
| " " | | | |
| " " | | | |
| " " | | | |
| Credit No. | | | \$ - |
| " " | | | |
| " " | | | |
| " " | | | |
| AMOUNT OF THIS CERTIFICATE | | \$ 22,006.48 | |
| Totals | \$ 69,519.00 | \$ 69,519.00 | \$ - |
| Credit Balance | | \$ - | |
| There will remain unpaid on contract after payment of this Certificate | | \$ - | |
| | \$ 69,519.00 | \$ 69,519.00 | \$ - |

TKDA
Engineers-Architects-Planners Saint Paul, Minnesota 55101

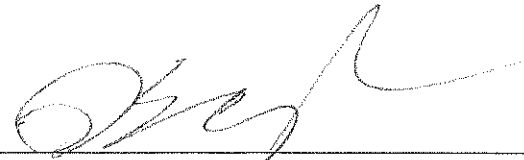
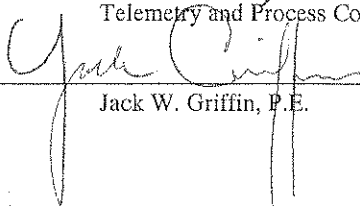
PERIODICAL ESTIMATE FOR PARTIAL PAYMENTS

Estimate No. 2(F) Period Ending October 22, 2008 Page 1 of 1 Proj. No. 13593.000
Contractor Telemetry and Process Controls Inc. Original Contract Amount \$66,155.00
Project Installation of SCADA System
Location City of Lake Elmo, Minnesota

| | | |
|--|----|------------------|
| Total Contract Work Completed | \$ | <u>69,519.00</u> |
| Total Approved Credits | \$ | <u>0.00</u> |
| Total Approved Extra Work Completed | \$ | <u>0.00</u> |
| Approved Extra Orders Amount Completed | \$ | <u>0.00</u> |
| Total Amount Earned This Estimate | \$ | <u>69,519.00</u> |

| | | |
|--------------------------|----|------------------|
| Less Approved Credits | \$ | <u>0.00</u> |
| Less <u>0</u> % Retained | \$ | <u>0.00</u> |
| Less Previous Payments | \$ | <u>47,512.52</u> |
| Total Deductions | \$ | <u>47,512.52</u> |

| | | |
|--------------------------|----|------------------|
| Amount Due This Estimate | \$ | <u>22,006.48</u> |
|--------------------------|----|------------------|

Contractor  Date 10/27/08
Telemetry and Process Controls, Inc.
Engineer  Date October 22, 2008
Jack W. Griffin, P.E.

ESTIMATE NO. 2(F)

PERIOD ENDING: October 22, 2008

INSTALLATION OF SCADA SYSTEM
CITY OF LAKE ELMO, MINNESOTA
TKDA PROJECT NO. 13593.000

| ITEM NO. | DESCRIPTION | UNIT | CONTRACT QUANTITY | QUANTITY TO DATE | UNIT PRICE | AMOUNT TO DATE |
|----------------------------------|---|------|-------------------|------------------|--------------|----------------------------|
| 1 | CONSTRUCT AND INSTALL SCADA SYSTEM PER PLAN | LS | 1.0 | 1.000 | \$ 66,155.00 | \$ 66,155.00 |
| <u>CHANGE ORDER NO. 1</u> | | | | | | |
| 1 | MDS 1710A RADIOS | EA | 4.0 | 4.0 | \$ 841.00 | \$ 3,364.00 |
| TOTAL ESTIMATE NO. 2(F) | | | | | | <u>\$ 69,519.00</u> |

City Council
Date: 11.18.08
CONSENT
Item: 7
Motion

ITEM: Approve grant for state cost share assistance for buckthorn removal
SUBMITTED BY: Kathy Widin, City Forester
REVIEWED BY: Susan Hoyt, City Administrator

SUMMARY AND ACTION REQUESTED: The city council is being asked to retroactively approve the grant application to the Board of Soil and Water Conservation for a \$700 matching grant for buckthorn removal. The grant came to forester, Dr. Kathy Widin. There was time to get it formally placed on a city council agenda prior to sending it to the SWCD, therefore, it is a retroactive request. The city can, if it chooses, reject the funds. However, the city and its residents are frequent participants in buckthorn removal activities.

MOTION

Move to authorize the grant application for the Minnesota State Cost Share Assistance Contract.

ATTACHMENT:

1 Grant agreement

STATE COST-SHARE ASSISTANCE CONTRACT

UP TO \$100

Kathy Wick

GENERAL INFORMATION

| | | | | | | |
|-----------------------|------------|----------------|----------------------|---|---|------------------------------------|
| Conservation District | Washington | Contract No. | Individual/ Group | Federal or other State Cost-Share | Amendment <input type="checkbox"/> | Cancelled <input type="checkbox"/> |
| County Number | 82 | 08-CWMA- 04 | I | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Board Meeting Date(s): _____ Board Meeting Date(s): _____ | |

APPLICANT

| | | | |
|-------------------|---------------------|---------------|-------|
| Applicant* | Address | City/State | ZIP |
| City of Lake Elmo | 3800 Laverne Avenue | Lake Elmo, MN | 55042 |

*If a group contract, this must be filed and signed by the group spokesperson as designated in the group agreement.

CONSERVATION PRACTICE LOCATION

| | | | | | | |
|----------------------|----------|-------|---------|----------|---------------|------------------------|
| Township/City Name | Township | Range | Section | 1/4, 1/4 | County Number | Minor Watershed Number |
| Lake Elmo city parks | 29N | 21W | 9, 15 | | 82 | 37064 |

CONTRACT INFORMATION

I (we) the undersigned, do hereby request cost-share assistance to help defray the cost of installing the following State Cost-Share practice(s) listed on the second page of this contract. It is understood that:

1. The land occupier or landowner is responsible for the operation and maintenance of practices applied under this program to ensure that the conservation objective of the practice is met and the effective life, **a minimum of 2 years**, is achieved. Full establishment and maintenance of all conservation practices to achieve the upland treatment criteria are considered a State Cost Share Program requirement for the life span of the practice receiving financial cost-share assistance. Should the land occupier or landowner fail to maintain the practice during its effective life, the land occupier or landowner is liable to the state of Minnesota for the amount up to 150% of the amount of financial assistance received to install and establish the practice. The land occupier or landowner is not liable for cost-share assistance received if the failure was caused by reasons beyond the land occupier or landowner's control, or if conservation practices are applied at the land occupier or landowner's expense that provide equivalent protection of the soil and water resources.


In no case shall a conservation district provide cost-share assistance to a land occupier or landowner for the reapplication of a practice that was removed by the land occupier or landowner during its effective life without consent of the conservation district board or that failed due to improper maintenance. The specific operation and maintenance requirements for the conservation practice listed are described in the operation and maintenance plan prepared for this contract by the conservation district technical representative. If title to this land is transferred to another party before expiration of the aforementioned life, it shall be the responsibility of the land occupier or landowner who signed this contract to advise the new owner that this contract is in force.

2. Practice (s) must be planned and installed in accordance with technical standards and specifications of the: USDA-NRCS.
3. Increases in the practice units or cost must be approved by the conservation district board as a condition to increase the cost-share payments by amendment.
4. This contract, when approved by the conservation district board, will remain in effect unless canceled by mutual agreement, except where installations of practices covered by this contract have not been started by 11/1/2009 (date), this contract will be automatically terminated on that date.
5. Practices will be installed by 12/31/2009 (date) unless this contract is amended by mutual consent to reschedule the work and funding.
6. Items of cost for which reimbursement is claimed on the Voucher and Practice Certification Summary Form are to be supported by invoices/receipts for payments and will be verified by the conservation district board as practical and reasonable. The district board has the authority to make adjustments to the costs submitted for reimbursement.

APPLICANT SIGNATURES

The landowner's and land occupier's signature indicates their agreement to:

1. Grant the conservation district's representative(s) access to the parcel where the conservation practice will be located.
2. Obtain all permits required in conjunction with the installation and establishment of the practice prior to starting construction of the practice.
3. Be responsible for the operation and maintenance of conservation practices applied under this program in accordance with an operation and maintenance plan prepared by the conservation district technical representative.
4. Not accept cost-share funds, from state and federal sources combined, that are in excess of 75 percent of the total cost to establish the conservation practice and provide copies of all forms and contracts pertinent to any other state or federal programs that are contributing funds towards this project.

| | | | |
|------------------------|---|---------------------------------------|---|
| Date 11/3/08 | Landowner/Spokesperson  Mayor/Administrator | Address 3800 Laverne Avenue | City/State/Zip Code Lake Elmo, MN 55042 |
| Date | Landowner | Address | City/State/Zip Code |

CONSERVATION PRACTICE

The conservation practice category for which cost-share is requested is **D-1/ (CWMA 613, brush management 314)**.

| | | | |
|---|-------------------------------------|--|--|
| Eligible component(s) Mechanical removal Herbicide application Revegetation | Other recognized technical practice | Engineered Practice (<input type="checkbox"/> yes or <input checked="" type="checkbox"/> no) Ecological Practice (<input checked="" type="checkbox"/> yes or <input type="checkbox"/> no) | Total Cost Estimate \$700.00 |
|---|-------------------------------------|--|--|

TECHNICAL ASSESSMENT AND COST ESTIMATE

I have reviewed the site where the above listed conservation practice(s) are to be installed and find that they are needed and that the estimated quantities and costs are practical and reasonable.

| | |
|--|------------------------|
| Conservation District Technical Representative | Date 11/3/08 |
|--|------------------------|

AMOUNT AUTHORIZED FOR COST-SHARE (ENCUMBRANCE)

Cost-sharing not to exceed **\$700.00** or **75** percent of the total eligible cost, which ever is less.

| | |
|---|---|
| Conservation District Board, Chair Louise Smallidge | Board Meeting Date 11/12/2008 |
|---|---|

ITEM: Unpaid Utility Assessment

SUBMITTED BY: Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The City Council is being asked to consider the proposed assessment for unpaid utilities. The City of Lake Elmo has the authority by, Minn. State Statue 444.075, subd.3 and City Ordinance No. 50.31, to assess property owners for unpaid utilities and services. All affected homeowners with past due balances were sent notification of the proposed assessment. Notice of Public Hearing for the unpaid utility assessment was published in the Lake Elmo Leader on November 13, 2008. Homeowners will have until December 18, 2008 to pay the balance without additional fees. Payment received after December 18, 2008 will be subject to interest charge or a fee of \$25.00 whichever is greater.

RECOMMENDATION: Motion to approve Resolution 2008-053 authorizing certification to Washington County Auditor for unpaid Utility bills.

SUGGESTED ORDER OF BUSINESS:

| | |
|--|---------------------------------|
| Introduction | Susan Hoyt, City Administrator |
| Staff report | Tom Bouthilet, Finance Director |
| Questions from council to staff | Mayor facilitates |
| Questions/comments from the public to the City Council (a maximum of three minutes per question/statement) | Mayor facilitates |
| Open Public Hearing | Mayor |
| Receive public comment | Mayor facilitates |
| Close public hearing | Mayor |
| Discussion | Mayor and Councilmembers |
| Direction | City Council |

ATTACHMENT: Resolution 2008-053
Exhibit A
Public Hearing Notice

CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2008 – 053
RESOLUTION AUTHORIZING CERTIFICATION TO
WASHINGTON COUNTY AUDITOR FOR
UNPAID UTILITY BILLS

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

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

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

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

ADOPTED, by the Lake Elmo City Council on the 18th day of November, 2008.

Dean Johnston, Mayor

ATTEST:

Susan Hoyt, City Administrator

**City of Lake Elmo
Unpaid Utilities Assessment
Exhibit A**

| Name | Address | Amount | Fee | Total |
|--------------------------------|-------------------------|---------------|------------|--------------|
| GROBNER, DAVID | 10867 33RD ST | 73.30 | \$ 25.00 | 98.30 |
| PROKOSCH, FRED | 11240 32ND ST. | 61.68 | \$ 25.00 | 86.68 |
| SANCHEZ, OCTAVIO & MICHELLE | 11267 32ND ST. | 51.06 | \$ 25.00 | 76.06 |
| BIDLER, BETSY | 11033 32ND ST. | 331.68 | \$ 26.53 | 358.21 |
| MARTIN, DANIEL | 10941 32ND ST. | 285.75 | \$ 25.00 | 310.75 |
| BOHJANEN, KIMBERLY | 10929 32ND ST. | 188.66 | \$ 25.00 | 213.66 |
| KNUDSON, SCOTT | 10865 32ND ST. | 105.04 | \$ 25.00 | 130.04 |
| WAGONER, BRIAN/ELIZABETH | 11334 31ST ST. | 156.17 | \$ 25.00 | 181.17 |
| WATSON, WAYNE | 11256 30TH ST. | 248.99 | \$ 25.00 | 273.99 |
| DAVID E. HARPER, JOHN K LACY & | 11397 30TH ST. | 489.75 | \$ 39.18 | 528.93 |
| TOLLARD, GAYL | 3646 LAYTON AVE. | 82.21 | \$ 25.00 | 107.21 |
| DITTMANN, MELANIE/MELVIN | 3624 LAYTON AV. | 346.70 | \$ 27.74 | 374.44 |
| WEBSTER, GARY | 3604 LAYTON AVE. | 169.45 | \$ 25.00 | 194.45 |
| R & R INDUSTRIES MN, INC. | 3417 LAKE ELMO AVE. | 927.60 | \$ 74.21 | 1,001.81 |
| KAECK, MATTHEW | 3308 LAKE ELMO AVE. | 318.65 | \$ 25.49 | 344.14 |
| ENGDAHL, ANNE | 3296 LAKE ELMO AVE. | 126.26 | \$ 25.00 | 151.26 |
| STUDE, ROBERT | 3263 LAKE ELMO AVE. | 68.53 | \$ 25.00 | 93.53 |
| ZDECHLIK, MARK | 3078 LAKE ELMO AVE. | 68.64 | \$ 25.00 | 93.64 |
| SAEGER, TAMMY & CRAIG | 2813 LAKE ELMO AVE. | 141.64 | \$ 25.00 | 166.64 |
| -SCHMITZ, MANDIE DESCHAMP | 3265 KRAFT CIRCLE | 94.02 | \$ 25.00 | 119.02 |
| GORMAN, JASON & GINA | 2939 LEGION AVE. | 321.21 | \$ 25.70 | 346.91 |
| COLIANNI, MELISSA | 2921 LEGION AVE. | 63.96 | \$ 25.00 | 88.96 |
| DEZIEL, MARK | 2783 LEGION AVE. | 44.73 | \$ 25.00 | 69.73 |
| OLSON, ELIZABETH | 2832 LEGION AVE. | 117.61 | \$ 25.00 | 142.61 |
| OLSON, DONALD | 2932 LEGION AVE. | 213.35 | \$ 25.00 | 238.35 |
| PROKOSCH, FRED | 11223 32ND ST. | 203.70 | \$ 25.00 | 228.70 |
| JENSEN, JANICE | 3010 LISBON AVE. | 463.91 | \$ 37.11 | 501.02 |
| HINMAN, TRACY | 3040 LISBON AVE. | 105.39 | \$ 25.00 | 130.39 |
| MARTIN INVESTMENT | 11090 UPPER 33RD ST | 26.72 | \$ 25.00 | 51.72 |
| WANGO TANGO | 3515 LAKE ELMO AVE. | 1,131.52 | \$ 90.52 | 1,222.04 |
| CHRIST LUTH CHURCH LLAKE ELMO | 3459 LAKE ELMO AVE. | 323.60 | \$ 25.89 | 349.49 |
| JECHORT, MARK | 11035 33RD ST. NO. | 363.26 | \$ 29.06 | 392.32 |
| WIESE, STEVEN | 3328 KRAFT CIRCLE | 57.12 | \$ 25.00 | 82.12 |
| HEROFF, JOHN | 10925 33RD ST LN | 444.56 | \$ 35.56 | 480.12 |
| J.P. Bush Homes | 11123 UPPER 33RD ST. N. | 58.52 | \$ 25.00 | 83.52 |
| TRAN, NANG | 9395 JANE ROAD N. | 250.00 | \$ 25.00 | 275.00 |
| VANDEMMELETRAADT, MARK & SHARC | 9399 JANE ROAD N. | 265.00 | \$ 25.00 | 290.00 |
| CHENEY, WILLIAM | 2632 LISBON AVE CT | 140.90 | \$ 25.00 | 165.90 |
| ANDRES, KENNETH | 2660 LISBON AVE CT | 443.94 | \$ 35.52 | 479.46 |
| BEHRAM, DAVE | 2769 LISBON AVE CT | 231.33 | \$ 25.00 | 256.33 |
| BEZDICEK, MARK | 2662 LISBON AVE | 48.22 | \$ 25.00 | 73.22 |
| HOFFMAN, DAVID | 2750 LISBON AVE | 73.09 | \$ 25.00 | 98.09 |
| LARSON, DAN | 2933 LISBON AVE | 100.47 | \$ 25.00 | 125.47 |
| NEW BUSINESS | 8925 HIGHWAY 5 | 116.34 | \$ 25.00 | 141.34 |
| NEW BUSINESS | 8953 HIGHWAY 5 | 116.34 | \$ 25.00 | 141.34 |
| NEW BUSINESS | 8957 HIGHWAY 5 | 116.34 | \$ 25.00 | 141.34 |
| NEW BUSINESS | 8971 HIGHWAY 5 | 70.54 | \$ 25.00 | 95.54 |
| TACHENY ROOFING & SIDING, INC. | 8975 HIGHWAY 5 | 33.47 | \$ 25.00 | 58.47 |
| TONNAR, KEVIN | 8839 36TH STREET N | 246.08 | \$ 25.00 | 271.08 |
| DUKE, GARY | 9186 JAMACA COURT | 82.74 | \$ 25.00 | 107.74 |
| ROMANEZCZ, STEVE | 9089 JAMACA COURT | 597.67 | \$ 47.81 | 645.48 |
| BEUTEL, JULIE | 3415 JAMACA AVE | 48.64 | \$ 25.00 | 73.64 |
| LABANCZ, AMBER & DAVID | 3351 JAMACA AVENUE | 188.84 | \$ 25.00 | 213.84 |
| CHIN, ROGER | 4220 IVY COURT | 56.34 | \$ 25.00 | 81.34 |

| Name | Address | Amount | Fee | Total |
|---------------------------------|-------------------------------|----------|-----------|----------|
| HANSEL, MICHAEL | 8835 42ND ST | 58.04 | \$ 25.00 | 83.04 |
| MOGREN, PATRICIA | 4033 ISLE AVENUE | 116.14 | \$ 25.00 | 141.14 |
| LINELL, ROGER | 9402 STILLWATER BLVD | 263.60 | \$ 25.00 | 288.60 |
| SEAR, BARBARA | 3455 ISLE COURT N. | 298.41 | \$ 25.00 | 323.41 |
| ARCHAMBEAU, LYLE | 8938 35TH ST | 81.50 | \$ 25.00 | 106.50 |
| TIM CROM, SHARI JOHNSON | 4005 IRONWOOD TRAIL N. | 293.65 | \$ 25.00 | 318.65 |
| Wall, Tom | 4791 LILY AVE N. | 318.13 | \$ 25.45 | 343.58 |
| DETMAR, TROY & AUDREY | 4758 LILY AVE N. | 433.18 | \$ 34.65 | 467.83 |
| PELLETIER, JOSEPH | 4884 LILY AVE N. | 322.88 | \$ 25.83 | 348.71 |
| HEIMERMON, STEVE & ANN | 4938 LILY AVE N. | 482.34 | \$ 38.59 | 520.93 |
| CUMMING, MARY | 11857 44TH STREET LANE N. | 112.05 | \$ 25.00 | 137.05 |
| LUNDGREN, DON | 11598 44TH STREET | 338.47 | \$ 27.08 | 365.55 |
| KIMBALL, MARC & MICHELE | 4415 LILY AVE | 267.16 | \$ 25.00 | 292.16 |
| ANDERSON, TODD & JENNIFER | 4488 LILY AVE N. | 393.32 | \$ 31.47 | 424.79 |
| BUZAY, STACEY/DOUGLAS | 4442 LILY AVE N. | 746.96 | \$ 59.76 | 806.72 |
| OBEY, DEB | 4370 LILY AVE N. | 183.80 | \$ 25.00 | 208.80 |
| INGRAM, BARBARA/STEVEN | 4365 LILY AVE | 697.52 | \$ 55.80 | 753.32 |
| SMITH, KEVIN | 11622 LITTLE BLUESTEM CIR. N. | 399.76 | \$ 31.98 | 431.74 |
| BEEBE, BRADLEY | 11780 LITTLE BLUESTEM CT. N | 31.69 | \$ 25.00 | 56.69 |
| HERRICK, SCOTT OR JEAN | 5058 MARQUESS TRAIL COURT N. | 207.71 | \$ 25.00 | 232.71 |
| CONLIN, MIKE | 5061 MARQUESS TRAIL CIR N. | 688.14 | \$ 55.05 | 743.19 |
| KING, RICHARD | 5091 MARQUESS TRAIL CIRCLE N. | 685.58 | \$ 54.85 | 740.43 |
| LACHOWITZER, GREG & STACY | 5203 MARQUESS TRAIL N. | 155.29 | \$ 25.00 | 180.29 |
| LARSON, JOEL | 12038 MARQUESS LANE N. | 1,992.37 | \$ 159.39 | 2,151.76 |
| HAGGARD, MIKE & KATHLEEN | 12154 MARQUESS LANE N. | 270.25 | \$ 25.00 | 295.25 |
| VILLELA, TWILA | 12409 MARQUESS WAY N. | 220.75 | \$ 25.00 | 245.75 |
| | 12432 MARQUESS WAY N. | 405.49 | \$ 32.44 | 437.93 |
| SOBCZAK, KEVIN & ROBIN | 12521 MARQUESS WAY N. | 789.22 | \$ 63.14 | 852.36 |
| SELECT DEVELOPMENT | 12415 55TH STREET N. | 141.22 | \$ 25.00 | 166.22 |
| CONTEMPORARY PERIODONTICS | 12425 55TH STREET N. | 118.74 | \$ 25.00 | 143.74 |
| CARRIAGE STATION PROFESSIONAL I | 12425 55TH STREET IRRIG @ | 1,467.46 | \$ 117.40 | 1,584.86 |
| SENN & YOUNGDAHL | 9954 TAPESTRY RD | 550.62 | \$ 44.05 | 594.67 |
| RESIDENT, CURRENT | 10024 TAPESTRY RD | 386.76 | \$ 30.94 | 417.70 |
| MACVEY, TERRY & KRISTEN | 9936 TAPESTRY ROAD | 320.70 | \$ 25.66 | 346.36 |
| PETERSON, SCOTT & TIFFANY | 10115 TAPESTRY HILL | 513.61 | \$ 41.09 | 554.70 |
| GARBE, DAVID | 2936 JONQUIL TRAIL N. | 609.71 | \$ 48.78 | 658.49 |
| BLACKSTONE HILLS LLC | 11839 58TH STREET N. | 699.56 | \$ 55.96 | 755.52 |
| CUSTOM HOMES, NORTH COUNTRY | 5725 LILY AVENUE N. | 398.11 | \$ 31.85 | 429.96 |
| HILLS LLC, BROWNSTONE | 11671 56TH STREET N. | 682.84 | \$ 54.63 | 737.47 |
| LLC, BROWNSTONE HILLS | 11704 56TH STREET N. | 1,114.76 | \$ 89.18 | 1,203.94 |
| HILLS LLC, BLACKSTONE | 5693 LINDEN AVENUE N. | 564.85 | \$ 45.19 | 610.04 |
| CASE ARKELL | 11980 58TH STREET | 1,946.48 | \$ 155.72 | 2,102.20 |
| LLC, REDSTONE HILLS | 10929 57TH STREET N. | 80.16 | \$ 25.00 | 105.16 |

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

TO WHOM IT MAY CONCERN:

Notice is hereby given that the City Council of the City of Lake Elmo, Minnesota, will meet in the Council Chambers in the City of Lake Elmo, Minnesota, on the 18th day of November, 2008 at 7:00 p.m. to consider, and possibly adopt the proposed assessment for unpaid municipal services or municipal utilities.

You may prior to certification of assessment to the County Auditor, pay the entire assessment. If the assessment is not prepaid before December 18, 2008, the rate of eight percent (8%) interest or a charge of \$25.00, whichever is greater, will be applied to the assessment balance. The assessment will be due in full for the taxes payable 2009 calendar year.

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

Sharon Lumby, City Clerk

November 4, 2008

Publish on the November 13, 2008 Lake Elmo Leader

ITEM: Presentation by Ramsey Washington Cable Commission Representative Virginia Holder

SUBMITTED BY: Susan Hoyt, City Administrator

SUMMARY AND ACTION REQUESTED: The city council is being asked to receive a presentation from Virginia Holder, the city's representative to the Ramsey Washington Cable Commission. The cable commission provides the city's cable access broadcasting of public meetings. The commission is providing a \$50,000 capital improvement grant to the city to upgrade its broadcasting audio and video. The staff is working with the cable commission technical staff to get plans and costs for this work.

ORDER OF BUSINESS

| | |
|----------------------------|---|
| Introduction | Mayor |
| Presentation | Virginia Holder, Cable Commission Reperesentative |
| Questions to the presenter | Mayor and Councilmembers |
| Questions from the public | Mayor facilitates |
| No action required | |

City Council
Date: 11.18.08
REGULAR
Item: 10.
RESOLUTION

ITEM: Consider approving sponsorship of the second Safe Routes To School grant for the Lake Elmo Elementary School PTA

REQUESTED BY: Sandy Cullen, Lake Elmo Elementary School PTA

SUBMITTED BY: Susan Hoyt, City Administrator

REVIEWED BY: Lake Elmo Elementary School PTA
Safe Routes to School Planning team
Minnesota Department
Jack Griffin, City Engineer
Kyle Klatt, City Planner

SUMMARY AND ACTION REQUESTED: The city council is being asked to sponsor the second application for a Safe Routes to School grant for Lake Elmo Elementary School for \$140,000 for infrastructure improvements. By sponsoring the grant, the city is agreeing to act as the fiscal agent for the project, which is funded through the Minnesota Department of Transportation. The first Safe Routes to School grant was used to plan for pedestrian and bicycling connections between Lake Elmo Elementary School and neighboring locations. Much of the planning involved safe crossing around the school. The current situation in crossing Highway 5, in particular, is dangerous and requires a county deputy to manage the intersection. A planning team with city, state and county staff along with a representatives of the PTA, the school, MnDOT and Washington County participated in the project. David Hirsch of Iteris managed the project. The grant application is for \$139,000 out of a maximum available of \$175,000. The long term solutions will cost about \$822,000 and can be accomplished when Highway 5 is upgraded.

ADDITIONAL INFORMATION

The Safe Routes to School planning project built upon the work that was done by a committee of school, city, county and state officials addressing the speed, access and stacking issues related to the school on Highway 5 and Lake Elmo Avenue. This project resulted in some short term improvements like additional striping and speed alert devices on Highway 5 as drivers approach the school from the west.

INTENTIONALLY LEFT BLANK

PROJECT COSTS

| Preliminary Cost Estimate | | | | | Long Term | |
|--------------------------------------|----------|---------------|----------|----------------------|-----------|----------------------|
| Item | Unit | Unit Cost | Quantity | Item Total | Quantity | Item Total |
| Sidewalk | Sq. Ft. | \$ 2.50 | 6200 | \$ 15,500.00 | 20200 | \$ 50,500.00 |
| Pedestrian Ramps | Each | \$ 250.00 | 9 | \$ 2,250.00 | 24 | \$ 6,000.00 |
| Curb and Gutter | Lin. Ft. | \$ 11.00 | 900 | \$ 9,900.00 | 3400 | \$ 37,400.00 |
| Signs | Each | \$ 250.00 | 4 | \$ 1,000.00 | 0 | \$ - |
| Grading (Class 5 and Common Borrow) | Cu. Yd. | \$ 7.00 | 1500 | \$ 10,500.00 | 700 | \$ 4,900.00 |
| Sod | Sq. Ft. | \$ 2.50 | 6000 | \$ 15,000.00 | 2800 | \$ 7,000.00 |
| Drainage (Storm Sewer, Swales, etc.) | Lin. Ft. | \$ 36.00 | 650 | \$ 23,400.00 | 2400 | \$ 86,400.00 |
| Permanent Traffic Control | Each | \$ 250,000.00 | 0 | \$ - | 2 | \$ 500,000.00 |
| Pedestrian Push Button Signal | Each | \$ 12,000.00 | 1 | \$ 12,000.00 | 0 | \$ - |
| Right-Of-Way/Easement | Sq. Ft. | \$ 8.00 | 6000 | \$ 48,000.00 | 16200 | \$ 129,600.00 |
| Bike Racks | Each | \$ 600.00 | 2 | \$ 1,200.00 | 0 | \$ - |
| Total | | | | \$ 138,750.00 | | \$ 821,800.00 |

***Note:**

The Stillwater School District does not promote the crossing of TH 5 until a permanent intersection control device is in place. The improvements incorporated in this application are to establish safe traveling routes to and from Lake Elmo Elementary School and create a building block from which to add additional walkway/bikeway improvements.

ORDER OF BUSINESS

- Introduction Susan Hoyt, City Administrator
- Presentation David Hirsch, ITERIS,
on behalf of Lake Elmo Elementary
- Questions to presenter Mayor and Council members
- Questions from the public Mayor facilitates
- Call for a motion Mayor and Council members
- Discussion Mayor and Council members
- Action City Council

CITY OF LAKE ELMO, MINNESOTA

**RESOLUTION NO. 2008-054
Sponsoring the Safe Routes to School Grant
For Lake Elmo Elementary School**

WHEREAS, the Lake Elmo Elementary School is located in Lake Elmo, Minnesota at the intersection of State Highway 5 and County Road 17; and

WHEREAS, the city of Lake Elmo, Washington County, the Minnesota Department of Transportation and the Stillwater School District have been working together to improve pedestrian and bicycle safety in the vicinity of Lake Elmo Elementary School; and

WHEREAS, the city of Lake Elmo sponsored the first Safe Routes to School Grant for the Lake Elmo Elementary School PTA and participated in the planning process; and

WHEREAS, the result of the Safe Routes to School planning process resulted in a recommendation to make short term (\$139,000) and long term physical improvements (\$822,000) to the area to improve pedestrian and bicycle safety; and

WHEREAS, the short term improvements are a priority for the school, city, county and state.

NOW THEREFORE BE IT RESOLVED, that the city of Lake Elmo sponsor the second Safe Routes to School Grant.

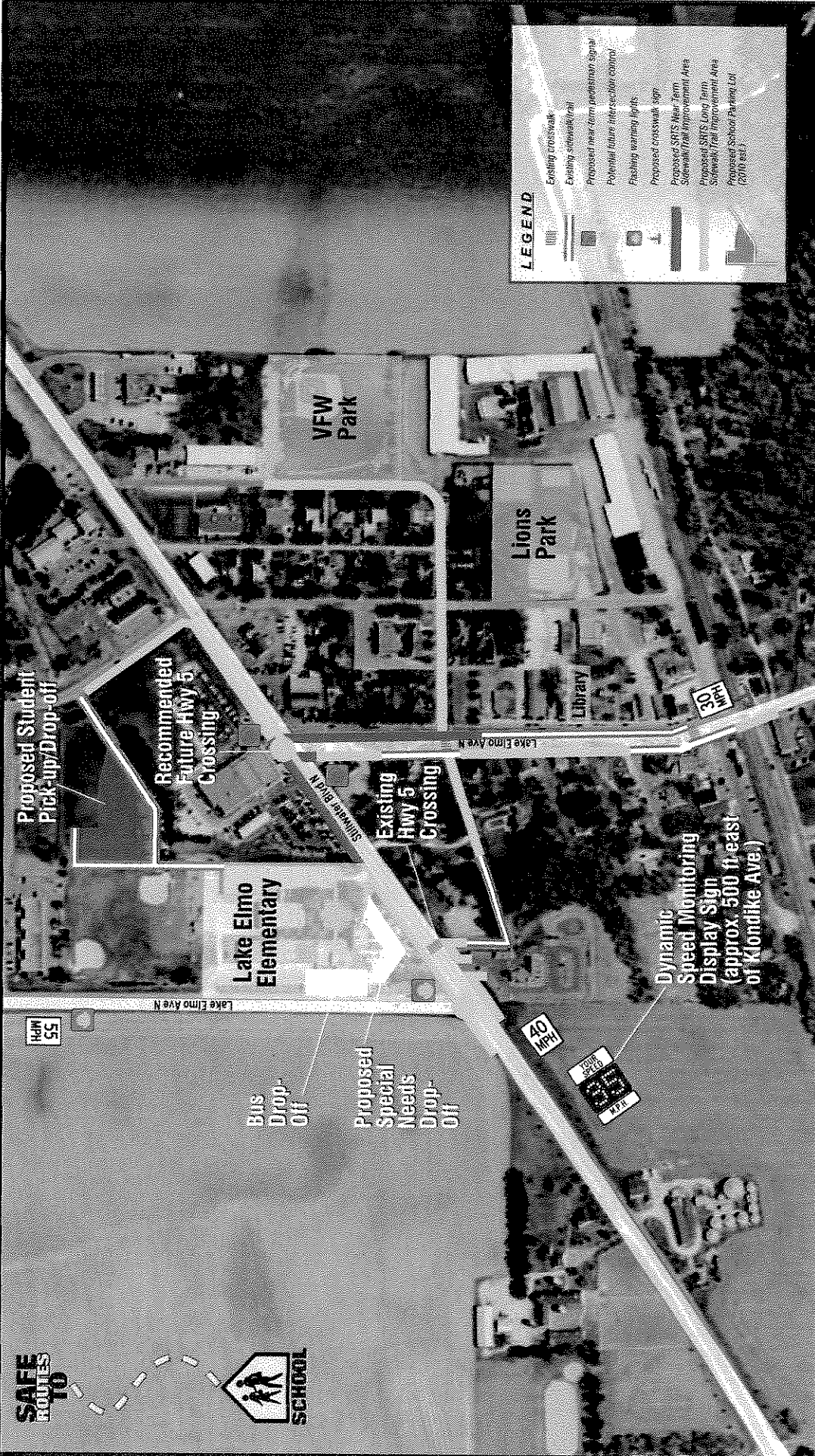
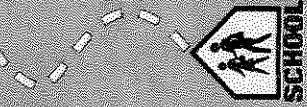
ADOPTED BY THE Lake Elmo City Council on November 18, 2008.

Dean A. Johnston, Mayor

ATTEST:

Susan Hoyt, City Administrator

SAFE ROUTES TO



LEGEND

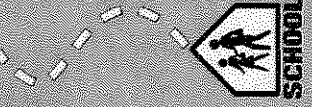
- Existing crosswalk
- Existing sidewalk/trail
- Proposed near-term pedestrian signal
- Potential future intersection control
- Flashing warning lights
- Proposed crosswalk sign
- Proposed SRTS Near-Term Sidewalk/Tail Improvement Area
- Proposed SRTS Long-Term Sidewalk/Tail Improvement Area
- Proposed School Parking Lot (2016 set)

Notes:
 1. Crossing recommendations based on installation of controlled intersections
 2. Map is not to scale.



Lake Elmo School District
Lake Elmo Elementary School
Safe Routes to School Project

SAFE ROUTES TO SCHOOL



LEGEND

| | |
|----------|---|
| [Symbol] | Existing crosswalk |
| [Symbol] | Existing sidewalk/trail |
| [Symbol] | Proposed near-term pedestrian signal |
| [Symbol] | Potential future intersection control |
| [Symbol] | Fishing warning lights |
| [Symbol] | Proposed crosswalk sign |
| [Symbol] | Proposed SRTS Near-Term Sidewalk/Trail Improvement Area |
| [Symbol] | Proposed SRTS Long-Term Sidewalk/Trail Improvement Area |
| [Symbol] | Proposed School Parking Lot (2010 est.) |



Notes:
1. Crossing recommendations based on installation of controlled intersections
2. Map is not to scale.

Lake Elmo
Lake Elmo Elementary School
Safe Routes to School Project

City Council
Date: 11-18-08
REGULAR **11.**
Presentation

ITEM: Receive a presentation on proposed alternatives for the Highway 36 and Lake Elmo Avenue (County Rd 17) interchange from Washington County

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Highway 36/17 Design Review Committee
Susan Hoyt, City Administrator
Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED: The city council is being asked to receive a presentation and to take the opportunity to ask questions about the Highway 36 and Lake Elmo Avenue (County 17) alternatives being considered for the future interchange. The County held a community open house on these proposed alternatives on November 13, 2008 at Rockpoint Church. No action is required at this time.

ORDER OF BUSINESS

| | |
|-----------------------------|--|
| Introduction | Susan Hoyt, City Administrator |
| Presentation | Jacob Gave, Washington County Avo Toghramadjian, SRF Consulting |
| Questions to the presenters | Mayor and Councilmembers |
| Questions from the public | Mayor |
| No action required | |

ITEM: Consider releasing the Draft Village Area Alternative Urban Areawide Review (AUAR) for public comment

SUBMITTED BY: Susan Hoyt, City Administrator

REVIEWED BY: Village AUAR Advisory Panel (comments on preliminary draft)
Kyle Klatt, Planning Director
Ciara Schlichting, Bonestroo

SUMMARY AND ACTION REQUESTED: The city council is being asked to consider releasing the DRAFT Village AUAR including the draft mitigation plan for its formal public comment period of 30 days from the official notice is published in the Environmental Quality Board (EQB) biweekly publication of the EQB Monitor. The release of the draft AUAR, which is a comprehensive environmental review of potential environmental impacts from four future development scenarios and how to mitigate these impacts, formally initiates the 30-day public comment period required by Minnesota Rules (Chapter 4410.3610). The draft Village AUAR incorporates comments made on the preliminary draft AUAR after review by the Village AUAR Advisory Panel and the city council as well as from agency officials, who commented prior to the formal publication, and from anyone responding to the Village AUARdraftcomments@lakeelmo.org email address provided to the public.

The city chose to proceed with the Village AUAR, based upon the recommendation of the Village masterplan team and in order to address any environmental issues that may emerge from future development. The AUAR is an environmental document. It does not select a development scenario nor does it deal with any of the financial implications of development. Following the 30 day public comment period, the city council will receive the comments and determine how to incorporate them into the final document prior to adopting the Final Village AUAR and releasing it for a final 10 day objection period.

VILLAGE AUAR PROCESS TO DATE:

| | |
|--------------------|--|
| February 6, 2007 | City Council endorses seeking proposals for AUAR |
| February 27, 2007 | City Council presentation of Alternative Urban Areawide Review (AUAR) proposals |
| April 10, 2007 | City Council Workshop on Masterplan and AUAR |
| April 17, 2007 | City Council officially accept the AUAR proposal and move forward with Advisory Panel appointments |
| July 10, 2007 | AUAR Reviewing Agencies Meeting: AUAR Scope |
| July 26, 2007 | AUAR Advisory Panel Meeting: The AUAR purpose and process |
| August 23, 2007 | AUAR Advisory Panel Meeting: Current conditions in the Village |
| September 12, 2007 | City council workshop on AUAR current conditions |

- | | |
|--------------------|--|
| February 4, 2008 | City Council endorse four AUAR development scenarios to move to the Village AUAR Advisory Panel and the public for comment |
| February 13, 2008 | Village AUAR Advisory Panel Meeting - Review AUAR development scenarios |
| February 28, 2008 | Public Open House at OakLand Junior High 6:30 to 8:30 AUAR development scenarios (All city mailing, display ads in local papers) – Public comments received via open house comment sheets and open mike. Additional public comments received via e-mail, mail, and public comment periods at City Council meetings. |
| April 1, 2008 | City Council officially orders the preparation of AUAR based on three Village Masterplan development scenarios and the Comprehensive Plan scenario |
| September 10, 2008 | AUAR Reviewing Agencies Meeting: Preliminary Draft AUAR – major findings and proposed mitigation measures |
| September 18, 2008 | AUAR Advisory Panel meets to begin review of preliminary draft AUAR |
| October 2, 2008 | AUAR Advisory Panel meets to review preliminary draft of the AUAR and mitigation plan |
| October 14, 2008 | City Council Workshop on preliminary draft of the AUAR and mitigation plan |
| November 18, 2008 | City Council considers authorizing the distribution of the DRAFT Village AUAR for a 30 day public comment period. |

NEXT STEPS

- o Submit notice of Draft AUAR availability to the EQB for publication in the biweekly EQB Monitor. The next deadline for submission to the EQB Monitor is November 24, 2008
- o Make the document available for public review and send out communication's to notify the public that the document is available for review, where it is available for review, and when the comments are due.
 - Publish in local legal newspaper (Lake Elmo Leader)
 - Post notice on web site
 - Put hard copy in local library
 - Hard copies at city hall
 - Transmit document to those listed on the EQB's official distribution list
- o EQB publishes notice in EQB Monitor, which formally initiates the 30-day public comment period required by Minnesota Rules (Chapter 4410.3610).
- o
- o Receive comments
- o City Council reviews comments and incorporates and responds to comments
- o City Council adopts final AUAR, contingent upon no formal objections being filed by a state agency or the Metropolitan Council. If no objections are filed, then the City Council is required to adopt the final AUAR.

- o City distributes for final 10 day objection period
State agencies and the Metropolitan Council are only allowed to object (Minnesota Rules Chapter 4410.3610 Subp. 5D.)
- o City Council determines next steps in the Village planning process

FUTURE CHANGES IN THE AUAR

The Village AUAR, when adopted, has a five year life span before it must be revisited or updated. This means if it is adopted in March, 2009, it can stay in its current form until 2014.

The Village AUAR needs to be updated if a future development project being considered proposes more development than the maximum development scenario studied in the AUAR. In other words, it will have more impacts than the ones evaluated in the AUAR. If the proposed development project is less intense or will have fewer impacts, the document does not have to be revised. (For example, if the city should determine that it wants less commercial development than in the scenarios evaluated, it would not have to revise the AUAR). Minnesota rules provides other examples of circumstances that warrant updating an AUAR document.

ORDER OF BUSINESS

- o Introduction Susan Hoyt, City Administrator
- o Presentation Ciara Schlichting, Bonestroo
- o Questions to the presenter Mayor and Councilmembers
- o Questions from the public Mayor facilitates
- o Call for a motion Mayor and Councilmembers
- o Discussion Mayor and Councilmembers
- o Action City Council

ATTACHMENTS:

- 1 Comments received on preliminary draft AUAR and response to comments
- 2 Memorandum of changes incorporated into final draft
- 3 CD of draft document proposed for distribution
(in city councilmembers' copy; available at city hall)
- 4 Q and A on the Village AUAR

**Preliminary Draft AUAR Comments Received and Summary Responses
November 13, 2008**

| DATE RECEIVED | COMMENT/QUESTION | RESPONDER | RESPONSE |
|-------------------------------|--|---|--|
| 9/12/2008 via email | <p>“Our home should probably be listed in the AUAR. We bought it from the original owners..our home is the original Railroad Station Masters home and is close to 100 years old.. It is of historical significance just as other homes of this era that were built in Lake Elmo.” (Attachment A)</p> | Ciara Schlichting, Bonestroo; verbally at 10/2/2008 AUAR Advisory Panel meeting | The home is not in the State Historic Preservation Office’s (SHPO) database, but anyone wishing to add a building to this list can contact SHPO and fill out the necessary paperwork. |
| 10/2/2008; hard copy received | See attached sheets (Attachment B); comments are generally requesting clarification or grammatical corrections | Ciara Schlichting, Bonestroo | <p><u>Noise Impacts.</u> The distances in Tables 24-2, 24-3, and 24-5 represent the extent of predicted noise impacts from traffic and trains that exceed state standards. The distances are not recommended structure setback standards.</p> <p><u>Phase 1 Archeological Survey Requirements.</u> This will only be required when ground disturbing activities are proposed in areas with a high potential for containing archeological resources.</p> <p><u>Buffer Zone/Open Space.</u> The buffer is not identified as park; it is not specified as a public space.</p> |
| 10/11/2008; via email | See attached sheets (Attachment C); comments are regarding traffic, airport noise | Ciara Schlichting, Bonestroo | <p><u>Level of Service Description.</u> The previous description can be integrated into the document. The current document includes Table 21-1 and 2 ½ pages of text that further describes LOS.</p> <p><u>Potential Stoplights/Roundabouts.</u> There is not a stoplight/roundabout recommended for Laverne/TH 5 (with or without Village development). Without Village development a stoplight/roundabout is recommended for three intersections: TH5/Lake Elmo Ave N, TH 5/Lake Elmo Ave S, and Manning</p> |

Preliminary Draft AUAR Comments Received and Summary Responses
 November 13, 2008

| DATE RECEIVED | COMMENT/QUESTION | RESPONDER | RESPONSE |
|--------------------------|---|---------------------------------|---|
| | | | <p><u>Ave/30th Street</u>. In addition to these three stoplights/roundabouts, a stoplight/roundabout is recommended for TH5/39th St to serve Village development.</p> <p><u>Traffic Calming</u>. Consistent with the Village Master Plan land use principles, traffic calming measures will be implemented prior to or during development.</p> <p><u>Airport Noise</u>. Land uses proposed within the noise contour areas will need to be revisited during the comprehensive planning process. Uses will need to be consistent with the requirements adopted as part of the forthcoming airport zoning ordinance. The city will be preparing an airport ordinance through a Joint Zoning Board. According to MAC, the airport ordinance will be prepared by a Joint Zoning Board comprised of two representatives from Lake Elmo, Baytown Township, West Lakeland Township, Washington County, and MAC.</p> |
| 10/11/2008; via email | See attached sheets (Attachment D); comments are regarding water resources and stormwater | Ciara Schlichting, Bonestroo | <p><u>Four scenarios</u>. The analysis considered the impacts of all four scenarios and the different amounts of impervious surface related to each.</p> <p><u>Downs Lake</u>. The majority of the AUAR area and adjoining lands to the east and south drain to Downs Lake. The city will address its cumulative impact on Downs Lake and adopt appropriate stormwater management standards for the Downs Lake watershed in its SWMP and stormwater management ordinance. Through this process, the city will determine if it needs to adopt more restrictive volume control standards than VBWD. The city intends to initiate an update to its Surface Water Management Plan in 2009 as part of its required 2030</p> |

**Preliminary Draft AUAR Comments Received and Summary Responses
November 13, 2008**

| DATE RECEIVED | COMMENT/QUESTION | RESPONDER | RESPONSE |
|---------------|------------------|-----------|---|
| | | | <p>Comprehensive Plan update.</p> <p><u>Valley Branch Watershed District (VBWD)</u>. VBWD was involved in scoping out the AUAR study. VBWD was invited, but did not attend a Preliminary Draft AUAR agency meeting in September. The analysis uses and references VBWD requirements.</p> <p><u>St. Croix River</u>. The AUAR documents the goals for the St. Croix River. The AUAR was updated to further note that the St. Croix River is an Outstanding Resource Value Water (ORVW) and that the city is required to address this issue city-wide. A Best Management Practices (BMP) Summary Sheet from the City's Municipal Separate Storm Sewer System (MS4) permit requires the city to create and implement a process that identifies all discharges from the city's MS4 system to ORVW by 2009. As a result, the city will determine if there are alternatives to discharging to the St. Croix, such as diversion from the St. Croix watershed, infiltration, or other alternatives. BMPs that will allow the existing high quality ORVW be maintained will need to be prepared by 2010. Additionally, the city will need to prepare a projected schedule and timeline to incorporate any necessary changes into the Storm Water Pollution Prevention Plan (SWPPP).</p> <p><u>Surface Water Management Standards</u>. The AUAR references VBWD volume reduction standards, which is standard practice for the city. The AUAR should note that the city's upcoming surface water management plan will evaluate surface water management issues (including infiltration requirements and restricted discharges the St. Croix) and VBWD requirements to determine if the city needs to adopt more restrictive standards</p> |

Preliminary Draft AUAR Comments Received and Summary Responses
 November 13, 2008

| DATE RECEIVED | COMMENT/QUESTION | RESPONDER | RESPONSE |
|----------------------------------|---|---|---|
| | | | <p>than VBWD and/or modify the city's SWPPP and submit the changes to the MPCA.</p> <p><u>Downtown Flooding.</u> The recommendations for piping water away from the Village to two proposed ponds occurred prior to the AUAR. The AUAR offers alternative measures for addressing surface water management (including volume control).</p> |
| <p>10/15/2008; via email</p> | <p>See attached sheets (Attachment E); comments are regarding traffic impacts, deforestation, and surface water</p> | <p>Ciara Schlichting and Earth Evans, Bonestroo</p> | <p><u>Right-of-Way Impacts.</u> All development activities, including widening TH 5 from 2 to 4 lanes are subject to the Minnesota Private Cemeteries Act that provides protection for marked and unmarked human burials.</p> <p><u>Deforestation.</u> The Mitigation Plan was updated to include a new policy to require the city to create a tree/woodland preservation policy. This policy will be established in an update to the city's ordinances and will be applied at the time of development.</p> <p><u>Surface Water.</u> The AUAR does not determine the specific design, location, or related cost of surface water management facilities. The city's design requirements will be revisited as it prepares its forthcoming city-wide Surface Water Management Plan. Stormwater discharge is required to meet all the treatment requirements established by the MPCA, VBWD, and city.</p> <p>The AUAR was updated to further note that the St. Croix River is an Outstanding Resource Value Water (ORVW) and that the city is required to address this issue city-wide. A BMP Summary Sheet from the City's MS4 permit requires the city to</p> |

Preliminary Draft AUAR Comments Received and Summary Responses
November 13, 2008

| DATE RECEIVED | COMMENT/QUESTION | RESPONDER | RESPONSE |
|---|---|---|---|
| | | | create and implement a process that identifies all discharges from the city's MS4 system to the St. Croix, and ORVW by 2010. As a result, the city will determine if there are alternatives to discharging to the St. Croix, such as diversion from the St. Croix watershed, infiltration, or other alternatives. |
| 10/15/2008; via email | See attached sheets (Attachment F); comments are regarding the role of Safe Route to School (SRTS) | Ciara Schlichting, Bonestroo | The text regarding the SRTS study was revised to state "could result" vs. "will likely result" in improved visibility and signing of crosswalks at key intersections. |
| 10/15/2008; via email and 10/16/2008 via mail; follow up received via email on 10/20/2008 | See attached sheets (Attachment G1); MnDOT comments on transportation; Follow up email clarification sent (Attachment G2) | Ciara Schlichting and Steven Elmer, Bonestroo | <p><u>Traffic Forecast</u>. The city will revisit the traffic forecasts for the Village and the entire city through the forthcoming Transportation Study and Traffic Management Plan, rather than through the AUAR process.</p> <p><u>Access Management</u>. The Synchro/Sim Traffic software was used to evaluate traffic operations. The programmed signal timing and resultant queue analysis did not show vehicle queues backing up through either Lake Elmo Drive intersection (i.e., north or south leg). The queuing analysis was inadvertently left out of Appendix E and is provided in the revised Draft AUAR.</p> <p><u>Traffic Noise</u>. The city will be revising its land use plans for the AUAR area through its forthcoming Comprehensive Plan update and will address compatibility issues between land use and traffic noise.</p> <p><u>Bicycle Pedestrian Traffic</u>. Mitigation Plan Policy 21.4 was clarified to require the inclusion of appropriate and safe accommodations for bicycles and pedestrians in developer's site</p> |

Preliminary Draft AUAR Comments Received and Summary Responses
November 13, 2008

| DATE RECEIVED | COMMENT/QUESTION | RESPONDER | RESPONSE |
|--------------------------|---|---|--|
| 10/21/2008; via email | See attached sheet (Attachment H); comments are regarding water resources | Ciara Schlichting and Earth Evans, Bonestroo | <p>plans and in the city's plans for trails and transit.</p> <p><u>Enforcement of Stormwater Mitigation Measures.</u> The Mitigation Plan Implementation Summary Table (pgs 27 & 28 in the Mitigation Plan) summarizes when the mitigation measures would be enforced.</p> <p><u>Two Scenarios.</u> The analysis considered the impacts of all four scenarios and the different amounts of impervious surface related to each.</p> <p><u>Flooding South of the AUAR Area.</u> The analysis did not find that flooding would occur south of the AUAR. City-wide surface water management issues will be addressed through the forthcoming city-wide Surface Water Management Plan.</p> <p><u>St. Croix.</u> The AUAR was updated to further note that the St. Croix River is an Outstanding Resource Value Water (ORVW) and that the city is required to address this issue city-wide. A BMP Summary Sheet from the City's MS4 permit requires the city to create and implement a process that identifies all discharges from the city's MS4 system to the St. Croix, and ORVW by 2010. As a result, the city will determine if there are alternatives to discharging to the St. Croix, such as diversion from the St. Croix watershed, infiltration, or other alternatives</p> |
| Letter dated 10/17/2008; | See attached sheets (Attachment I); Washington County comments on transportation; | Ciara Schlichting and Steven Elmer, Bonestroo | <p><u>Bullet #1.</u> Classification of Lake Elmo Avenue (CSAH 17) was updated per comments.</p> <p><u>Bullet #2.</u> The text has been modified to note that LOS concerns will be monitored for potential safety problems, there is funding</p> |

Preliminary Draft AUAR Comments Received and Summary Responses
 November 13, 2008

| DATE RECEIVED | COMMENT/QUESTION | RESPONDER | RESPONSE |
|---------------|------------------|-----------|---|
| | | | <p>for SRTS studies (not projects), and that adding left turn lanes at CSAH 15 and 30th Street are not scheduled, but funding opportunities are being explored.</p> <p><u>Bullet #3.</u> All figures have been revised to highlight both LOSE and F.</p> <p><u>Bullet #4.</u> Bonestroo and the County are currently reviewing the volume thresholds discrepancy. Since Manning Avenue is a county road, the county's thresholds should apply.</p> <p><u>Bullet #5.</u> The following options are clarified in the revised Draft AUAR:</p> <ul style="list-style-type: none"> • The potential realignment of TH 5 intersection with CSAH 15 to align with CSAH 14 is a future option that the city, county, and MnDOT should re-evaluate in the future. • The potential realignment of the existing CSAH 17 and TH 5 intersection to the west of Lake Elmo Elementary to create a buffer to the school and to provide access to the lands west of Gorman's should be reviewed by the city, county, and MnDOT prior to development occurring within the vicinity of this intersection. <p>The reference to signal phasing was deleted.</p> <p><u>Bullet #6.</u> The percentages used for pass-by, multi-use, and internal trips are documented in the revised AUAR.</p> <p><u>Bullet #7.</u> Restricted movements (i.e., right in/out only, medians, etc.) at the intersections along CSAH 17 and TH 5 are future options that the city, MnDOT and county should keep open.</p> |

Preliminary Draft AUAR Comments Received and Summary Responses
 November 13, 2008

| DATE RECEIVED | COMMENT/QUESTION | RESPONDER | RESPONSE |
|------------------------------|--|---------------------------------|---|
| | | | <p>However, 39th Street and a future southern extension of 39th Street south of TH 5 to 30th Street is proposed as a future collector and restricted movements at 39th Street intersections with CSAH 17 and TH 5 would not be viable (<i>this response was discussed with and accepted by Joe Lux at Washington County</i>). The revised AUAR reflects these comments.</p> <p><u>Bullet #8</u>. Table 21-7 has been updated to include a right-turn lane and left/through lane at 39th Street and CSAH 17. The Mitigation Plan has been updated to require turning movement counts at intersections prior to any construction.</p> <p><u>Bullet #9</u>. Comment of support duly noted.</p> <p><u>Bullet #10</u>. The city will work MnDOT, the county, existing property owners, and developers to explore consolidating existing access points as the major intersections are modified to improve operational efficiency and safety.</p> <p><u>Bullet #11</u>. Comment of support duly noted.</p> <p><u>Bullet #12</u>. The city will work with the county to identify right-of-way needs for future expansion of the county road system. The queuing analysis was inadvertently left out of Appendix E and is provided in the revised Draft AUAR.</p> |
| 11/10/2008; via email and | See attached sheets (Attachment J); comments regarding the flexibility of the mitigation plan and the considerations of the potential financial impact of proposed | Ciara Schlichting, Bonestroo | <u>Financial Impacts</u> : It is premature for the city to consider the financial implications of the proposed mitigation measures as the document has not been formally reviewed by the public and agencies. Comments from these parties necessitate changes to |

**Preliminary Draft AUAR Comments Received and Summary Responses
November 13, 2008**

| DATE RECEIVED | COMMENT/QUESTION | RESPONDER | RESPONSE |
|---------------|---------------------|-----------|--|
| | mitigation measures | | <p>the document, which are reflected in the Final AUAR. The financial analysis will occur after the completion of the AUAR process. The outcomes of the financial analysis may warrant reconsideration of the AUAR mitigation measures. This reconsideration may warrant an update to the AUAR</p> <p><u>Mitigation Plan Flexibility</u>: Generally, the mitigation measures put forth policies and implementation steps to assist the city in preparing plans and ordinances to mitigate the impact of development. For example, the AUAR identified and measured airport noise impacts and the mitigation measures require the city to prepare and adopt an airport zoning ordinance to address the impacts in coordination with MAC and affect jurisdictions. The mitigation plan does not prescribe any specific land use restrictions or setbacks to address the issue. Rather, these prescriptive standards will be determined through the ordinance creation process and will need to be consistent with federal, state, and regional policies regarding airport noise.</p> |

QUESTIONS AND ANSWERS ABOUT THE VILLAGE AUAR PURPOSE AND PROCESS

What is an AUAR?

An Alternative Urban Areawide Review is an environmental review done on an area of several acres in advance of any development or redevelopment occurring.

The AUAR document's content and format is organized by guidance issued by the Minnesota Environmental Quality Board (EQB).

How did the idea of the Village AUAR get started?

In October, 2006 the Village planning team recommended that the city follow its master planning process for the Village in order to keep the Village process on track to meet the requirements of the MOU and comprehensive plan and to be responsible about gathering environmental information early in the Village planning and development process. The Village master planning process was completed in April, 2007. The AUAR proposal was implemented after the Village master plan was accepted in April, 2007.

Why do an AUAR on the Village?

The AUAR on the Village will provide the city with information about potential environmental impacts from future development that is being considered, but has not been decided, by the city. This approach to planning is consistent with the city's long standing interest in understanding and protecting its natural environment. It also gives the city information early in the planning process and keeps the city in charge of its future development options rather than reacting to proposals from developers.

How will the information that this extensive environmental study produces be useful?

The AUAR information is used in updating the city's plans and official controls like the comprehensive plan, parks and trail plans, water plan, transportation plan, sewer plan, surface water management plan and zoning and subdivision ordinances. These plans and official controls will protect environmentally and historically sensitive areas and habitats and offer guidance on the provision of infrastructure to serve existing and future development. The mitigation plan for each development scenario is specifically tailored to minimize negative environmental impacts.

**QUESTIONS AND ANSWERS ABOUT
THE VILLAGE AUAR PURPOSE AND PROCESS**

If the city didn't do this environmental study, who would and when would it be done?

Often environmental studies, including AUAR's, are required when a developer has a proposal or plans for an area to be developed and the city proceeds to evaluate his/her plan through an AUAR or a project specific environmental assessment worksheet (EAW). Lake Elmo chose to take this responsibility before any development proposals or plans were submitted to get the information in advance to use in making decisions about future development.

Will the Village AUAR make recommendations for decisions?

The AUAR provides information on the environmental impacts of future development options and makes recommendations for addressing (mitigating) the environmental impacts of each AUAR scenario when one of these scenarios, when selected, is implemented by the city.

The AUAR does not make recommendations nor decisions on whether or not to develop or on which scenario is a preferred scenario.

Does the AUAR deal with financing development and infrastructure?

No, the AUAR is an environmental planning document. It is not a financial document. It does not provide financial data nor undertake a financial analysis in the environmental review or in the mitigation plan. This is done separately from the AUAR.

How was the firm selected to prepare the AUAR?

The city council approved sending out a request for proposals for the AUAR in February of 2006 and selected Bonestroo from three firms that proposed to do the work in April, 2006. A technical team reviewed the proposals and two councilmembers reviewed the proposals and interviewed the teams. They recommended the firm based upon the experience, the completeness of the proposal and the public input process.

Who appointed the Village AUAR Advisory Panel members?

The city council appointed the Village Advisory Panel members. They included the chairs and co chairs of the planning, parks and

QUESTIONS AND ANSWERS ABOUT THE VILLAGE AUAR PURPOSE AND PROCESS

environmental commissions; major property owners and also made sure that residents of the Village area were included in the panel members.

What is the role of the Village AUAR Advisory Panel?

The AUAR advisory panel is made up of commissioners, property owners and citizens. It's role is to become informed about the potential impacts and mitigation methods for various development scenarios in the Village. The panel will receive the detailed information at two meetings (September 18 and October 2) and be given an opportunity to ask questions and give comments about the AUAR and the information included in it. This information includes recommendations on addressing (mitigating) the environmental impacts of each development scenarios and understanding the information and recommendations is important since it will provide an environmental foundation for the Village future development, whatever form that this takes. By involving a panel made up of people who will be involved in the Village development decisions as commissioners, citizens and/or property owners, it provides the city council and the community with another set of eyes and ears on the information other than the city council.

How has the public been informed about the process?

All Village AUAR meetings are televised. All information is available on the web site. A Village email list is sent out to persons who have expressed an interest in the Village planning. An open house on the proposed development scenarios for council consideration was held to give citizens the opportunity to ask questions and to comment on the development scenarios.

Why are we doing this AUAR now when we don't know when development will occur and the development market is flat?

An AUAR anticipates the possible impact of various development scenarios so that a mitigation plan can be developed to manage any potential impacts if and when development of an area occurs. Being prepared in advance to respond to development rather than doing the environmental review after a development is proposed puts the city in a better position for planning and managing development.

**QUESTIONS AND ANSWERS ABOUT
THE VILLAGE AUAR PURPOSE AND PROCESS**

How long is an AUAR good for? Won't it expire before there is any development in the Village?

An AUAR is good for five years. If there is no development in the Village five years after the adoption of the AUAR, anticipated in early 2009, or by 2014, the information in the AUAR would need to be reviewed and updated; The AUAR would not need to be totally redone.

What changes are required in the AUAR if the development scenarios for the Village that emerge from the comprehensive plan process on the Village or development plans change over time?

If the development scenario that is considered reduces the amount of a specific land use (e.g. less commercial use), the AUAR does not have to be amended to reflect this change because conditions will have been addressed.

If the development scenario intensifies the use or significantly changes a use, the AUAR would need to be amended to address this change. For example, if the Lakeview Hospital considered locating in the Village area in Lake Elmo, an amendment to the AUAR would be required to address the new use and its potential impacts and how to mitigate them.

The EQB rules establish specific circumstances that trigger an update to the AUAR analyses. Some examples include:

- Must be updated every five years to capture new information or changes
- If a comprehensive plan amendment allows for more development than analyzed
- If the total development exceeds the maximum amount of residential, commercial, and institutional studied
- New information demonstrates that important assumptions were substantially in error and environmental impacts were underestimated

Who will pay for this AUAR? Why do they pay? When will they pay?

The AUAR, which will cost \$252,790 (including four development scenarios and \$10,000 in reimbursable expenses), the city will be paid for by the property owners /developers who benefit from development in the Village. The city will adopt an ordinance that defines a fee for this work. (There are examples of this in other cities.) The property owners/developers are asked to pay for this because it saves them the

**QUESTIONS AND ANSWERS ABOUT
THE VILLAGE AUAR PURPOSE AND PROCESS**

cost of doing an environmental assessment worksheet (EAW) or an AUAR in the future at their own expense, which is frequently required by the city or the developer chooses to do one his/her own. Not only is there an expense for doing the environmental work; there is a lot of time involved in this process. The city's 2009 Village capital project budget anticipates beginning to collect fees for the AUAR during 2009.

How are the AUAR costs being covered in the interim before collecting fees from developers and benefiting property owners?

The city established a Village capital project loan from the city reserves to the Village fund to cover all costs associated with the Village until the city reserves are reimbursed through fees, charges, bonds paid by benefiting parties. An annual interest is paid by this Village loan fund to the city's general fund reserves. This is set aside as an independent fund, which tracks revenue and expenditures specially related to the Village, so that general tax dollars and fees from current sewer users are not being charged for the Village planning, engineering and financing studies. This interim financing tool was used by the city to fund some of its water infrastructure in the past.

How many development scenarios are being considered?

Four development scenarios are being considered. Three of these are based upon the Village master plan that was accepted in April, 2007 after nearly two years of planning. The fourth scenario, which is required by the EQB regulations, is the adopted future land use plan for the Village in the city's comprehensive plan.

What is different about the three Village master plan development scenarios?

The difference in the three Village master plan scenarios being studied is the number of housing units. These are: 600, 1,000 and 1,600 housing units.

Where did the number of housing units that the city chose to study in the AUAR come from?

Scenario A with 600 housing units is based upon a number in the comprehensive plan. Scenario B (1,000) and C (1,600) included the range recommended in the Village master plan from 1,200 to 1,800 housing units. Scenario D with 906 housing units is based upon the new housing units

**QUESTIONS AND ANSWERS ABOUT
THE VILLAGE AUAR PURPOSE AND PROCESS**

required by the comprehensive plan offset by the existing housing units in the Village (interpretation made by city attorney).

How will the city choose which development scenario will be selected for developing the Village?

The AUAR is just one piece of information required by the city to move ahead with the Village master plan. Following the AUAR, the city has planned to gather financial information on some or all of the scenarios to find out what the extent and value of amenities that each scenario can provide for through the private market.

Will the AUAR recommend a preferred scenario?

No, the AUAR provides environmental information on several scenarios and provides information on how to minimize impacts from development under the various scenarios.

Does the city have to use one of the scenarios in the AUAR for future development?

No, the city can revise a scenario at any time. It is best to do this during the comprehensive planning process for the future land use map of the Village. For example, if it is determined that the designated commercial area in the Village master plan exceeds what makes market sense for the Village, this can be amended. The location of various uses may also be changed.

All the scenarios have the green buffer, is the green buffer for public use? How can it be preserved?

There are designated park areas in the Village. The area identified as green buffer is not for public park use. It is designed to function like some of the open areas in the open space conservation developments. The city may choose to make some of the area designated for buffer as park and/or to have trails through this area

Why don't the development scenarios include future roads and specific neighborhood layouts of future developments?

The AUAR deals with general land use designations identified in the city's planning documents, the comprehensive plan for the Village and the Village master plan. The specifics of where roads will go follows the

QUESTIONS AND ANSWERS ABOUT THE VILLAGE AUAR PURPOSE AND PROCESS

planning process at a later stage when specific development proposals that meet the comprehensive plan, zoning code, and subdivision requirements are proposed. The information in the AUAR will help determine where roads and housing and other uses should go to avoid environmentally sensitive areas and other adverse impacts.

What is meant by a mitigation plan? How can it be used?

These are the recommended actions to be taken in association with development to minimize any negative impacts from development. These are adopted as part of the AUAR document when the city council does this at the end of the AUAR process. The policies in the mitigation can be translated into the city's plans (such as the land use plan, parks and trails plan, and plans for infrastructure – water, sewer, transportation, and surface water management) and official controls (zoning and subdivision ordinances).

What are the next steps in the AUAR process?

The Advisory Panel receives the information and asks questions, the city council will receive the AUAR document for information and questions.

After the Advisory Panel review, the city council will receive the AUAR document at a workshop and have the opportunity to gather the information and ask questions.

After the city council reviews the document, the city council will authorize sending the AUAR out for public comment for 30 days.

Who is allowed to comment? Are comments from Lake Elmo residents accepted during the 30 day comment period?

Anyone who wants to comment on the AUAR document is invited to send in written comments (or email) to the city at 3800 LaVerne Avenue, Lake Elmo, Minnesota. (An email address will also be provided).

What is the process after the comments are received after 30 days by the city?

After the 30 day comment period, the city will review the comments, respond to them and amend the draft AUAR document as it sees fit to create the final AUAR document.

QUESTIONS AND ANSWERS ABOUT THE VILLAGE AUAR PURPOSE AND PROCESS

The final AUAR document is then required by EQB rules to be sent out to public agencies and to anyone who commented on the Draft AUAR. A notice is published for a 10 day comment period.

EQB rules require that the city council adopt the Final AUAR and mitigation plan after the 10 day comment period, unless a state agency or the Metropolitan Council file a formal objection to the document. If an objection is filed, the city and the objecting agency are required to resolve the objection through a formal process prescribed in EQB rules.

EQB rules do not allow citizens to file formal objections to the final document. At its discretion, the city council can amend the Final AUAR and mitigation plan to address comments from citizens.

What happens after the AUAR (environmental) review process is completed?

The city plans to have some or all of the development scenarios evaluated for their financial feasibility. In other words, before determining what development scenario is best, the city wants to get information on what type of private financial investment is required by developers to create the Village according to the principles with the desired public and private amenities.

How does the development scenario that is ultimately selected for the Village through the AUAR, financial analyses and public input processes get implemented?

Once a development scenario is selected, if it is a scenario that reflects the Village master plan (or a variation on this), the city will begin the process of amending the future land use plan in the comprehensive plan for the Village. This will take the plan and turn it into the legal document guiding future development in the Village.

Developing zoning, subdivision and design regulations to implement the comprehensive plan according to the Village master plan principles will follow amending the comprehensive plan.

City Council
Date: 11.18.08
REGULAR
Item: 15
ACTION

ITEM: Hold an appeal hearing on zoning code violations related to the property at 5699 Keats Avenue acting as the Board of Adjustment and Appeals

REQUESTED BY: Mr. and Mrs. Sessing, property owners at 5761 Keats Avenue

SUBMITTED BY: Jerry Filla, City Attorney

SUMMARY AND ACTION REQUESTED

The City Council, acting as the Board of Adjustments and Appeals, is being asked to hold an appeals hearing for alleged zoning code violations related to property at 5699 Keats 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 attorney received an email requesting an appeal hearing within the required timeframe. On November 5, 2008 the city council scheduled the hearing for on or after 7:30 PM on November 18, 2008. Notices were distributed to the parties requesting the appeal as well as the adjacent property owner and chair of the planning commission.

BACKGROUND INFORMATION

All complaints regarding the properties at 5761 and 5699 Keats Avenue are forwarded to the city attorney, Jerry Filla. The attorney asked the consulting planner, Ben Gozola, to review the complaints. The results of this review by the consulting planner and the attorney resulted in a notice to the property owners of outstanding zoning code violations.

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

The Board of Adjustment and Appeals is being asked to determine if each of the zoning code violations cited by the city in communication with the Sessings are violations that should stand or should be eliminated. The Board of Adjustment and Appeals must deal with the appeal and not address any changes in the policy related to this violation.

Depending upon the outcome of these decisions by the Board of Adjustment and Appeals should direct the property owners on how and when the zoning code violations should be addressed.

AUTHORITY OF THE BOARD OF ADJUSTMENTS 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, 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 whom the appeal was taken, and may direct the issuance of a permit.

ZONING CODE VIOLATIONS CITED as of 9.22.08 (Attachment 1)

1. There are two black trailers stored within the driveway in front of the attached garage in violation of city code section 150.001.
2. There is an unlicensed and/or inoperable passenger vehicle stored on the property in violation of city code sections 150.001, 150.003, 154.095, and 96.03.
3. There are a number of personal property items (piles of brick, concrete or other stone building materials; piles of wood and/or wooden building materials; a large tank; a basketball hoop; and an old swing set that is overgrown with vegetation) in violation of city code sections 150.001 and 96.03 (11a).
4. There is a tool shed in excess of 160 square feet in violation of city code section 154.093.
5. The landscaping which was started with various building additions is not complete and in violation of city code sections 150.070, 150.071, and 150.074.

OPTIONS

The Board of Adjustment and Appeals may find that none, some or all of the conditions exist on the property.

- o Conditions 1 through 3. If one, two or three of these conditions are found to exist, the Board may direct the property owner to remove these items from the property or store the items in a way that satisfies the city code in 30 days (suggested timeline).
- o Condition 4. If condition 4 is found to be in violation of the city code, the Board can direct the property owner to:
 - a. remove the tool shed within 30 days (suggested timeline)
 - b. modify the size of the tool shed to be 160 sq feet or less w/n 30 days (suggested timeline)
 - c. request a variance through the planning commission process for a tool shed that exceeds 160 square feet
- o Condition 5: If condition 5 is found to be in violation of the city code, the Board can direct the property owner to meet the code conditions for the landscaping within a time frame that reflects the understanding that winter weather may impact the ability to remedy this violation at this time.

SUGGESTED MOTIONS FOR CONSIDERATION

The Board must approve findings of fact supporting the decision(s) that the Board makes. The Board can find that some of the code violations are supported and that some are not.

Move to approve findings that conditions ___(1, 2, 3, 4, 5) do not comply with the zoning code and that the property owner correct the conditions by

removing the noncompliant items(1, 2, 3) from the property or store the items in a manner consistent with the zoning code within 30 days of this date.

removing the tool shed or otherwise bringing the size of the tool shed into conformance with the 160 square foot zoning code requirement

completing landscaping in the areas identified in the report by June 1, 2009.

AND/ OR

Move to approve findings that conditions ___ (1, 2, 3, 4, 5) do not violate the zoning code.

ORDER OF BUSINESS

- o Adjourn to the Board of Adjustment and Appeal City Council
- o Open Appeal Hearing Mayor
- o Introduction to purpose of the appeal hearing Jerry Filla, City Attorney
- o Report on determination of code violations Ben Gozola, Consulting Planner
- o Response to allegation of code violations Rod and Diane Sessing, Property owners
- o Comments, if any, from others Mayor
- o Motion based upon findings of fact Mayor and Councilmembers
- o Discussion of the Appeal Mayor and Councilmembers
- o Action City Council
- o Adjourn of Board of Adjustment and Appeal City Council

ATTACHMENTS:

- 1 Notice of hearing
- 2 Report from consulting planner
- 3 Proposed findings and conclusions

ITEM: Consider proposals for architectural design development services for Carriage Station and DeMontreville Park picnic shelter projects.

REQUESTED BY: Parks Commission

SUBMITTED BY: Carol Kriegler, Project Assistant

REVIEWED BY: Park Commission
Susan Hoyt, City Administrator
Mike Bouthliet, Park and Public Works Superintendent

SUMMARY AND ACTION REQUESTED:

The city council is being asked to consider proposals for architectural design development services for Carriage Station Park and DeMontreville Park picnic shelter projects in the amount of \$6,000 from the park fund, and to authorize requesting proposals for the construction projects. A substantial portion of the construction materials for the DeMontreville shelter are being provided through a donation from Lowes Inc. at no cost to the city. The service will take the concept design created by Design Forum and turn it into the detail plans and specifications required to obtain competitive proposals. The design development services include a floor plan; elevations, a building section; details for roof edge, gable bent, columns, concrete work and material specifications. The plans will allow the city to obtain competitive proposals for construction of the two shelters. The plans being developed by certified architects also assures the city that the health and safety standards are being met since these will be used by the public. For this reason, the State of Minnesota requires that these shelters be certified by a structural engineer. It is recommended that the city council authorize the hiring of Design Forum to do the plans and specifications for the shelter. There are adequate funds in the park fund balance, which is approximately a \$1,000,000. The projects are expected to be constructed in spring of 2009.

BACKGROUND INFORMATION:

The pre-proposal estimate for construction of the DeMontreville shelter is \$28,000 with a concrete pad and footings estimated at an additional \$10,300. This estimate assumes use of the donated materials (an estimated value of \$11,000) and provides for substantial material upgrades, including an upgrade to a standing seam roof. The pre-proposal estimate for the construction of the Carriage Station shelter is \$26,000 with a concrete pad and footings estimated at an additional \$6,900.00.

Design Forum was contracted for the schematic design services for a picnic shelter to be constructed in Carriage Station Park. The development of a schematic design was intended to illustrate a pattern or theme of form and materials that would have future applications to park picnic shelter / structures and other amenities within the city's park system. The schematic design was also intended to serve in securing a gift from Lowes Inc. in the form of materials and supplies for the construction of a picnic shelter. A gift of approximately \$11,000 in building supplies and materials has since been secured.

A conceptual design has been developed with the intent that it be used in moving forward with the construction of not one, but two picnic shelters. The Parks 2008 CIP includes \$30,000 for the construction of a picnic shelter in DeMontreville Park in 2009. A picnic shelter, approximately 20' x 20' in size, is then proposed for construction in Carriage Station Park, with a 20'x 32' shelter being proposed for DeMontreville Park. Construction of both shelters would take place in early spring of '09. In addition to the Lowes gift of materials and supplies (valued at \$11,000), the Lake Elmo Jaycees has offered \$4,000 towards the smaller shelter to be located at Carriage Station Park.

ADDITIONAL INFORMATION:

Proposals for design development services were requested from 3 architectural firms.

| | | |
|-----------------|---|--|
| Deisgn Forum | \$6,000 | |
| TKDA | \$9,200 | |
| Local architect | Declined since hadn't done schematic design | |
| | | |

Design Forum is already very familiar with the project and the materials and supplies being made available for the projects through the Lowes Partnership Program. In addition, Jerry Mazzara has been involved in Lake Elmo architecture for some time, including planning for the Village and the design of the PCA building behind Hagberg's.

Following is an estimated budget for construction related costs for the picnic shelter projects. The budget is considered conservative based on conversations with contractors.

| Park | Concrete pad | Material / labor | Donated materials |
|------------------|--------------|------------------|-------------------|
| DeMontreville | \$10,300 | \$28,000 | \$11,000 |
| Carriage Station | \$6,900 | \$26,000 | 0 |

Total estimated construction cost for DeMontreville: \$38,300 (assumes use of donated materials)
 Total estimated construction cost for Carriage Station: \$32,900

Architectural services for both projects is anticipated to be \$7,200 including a cost of \$1,200 to date for schematic design services.

ACTION Motion:

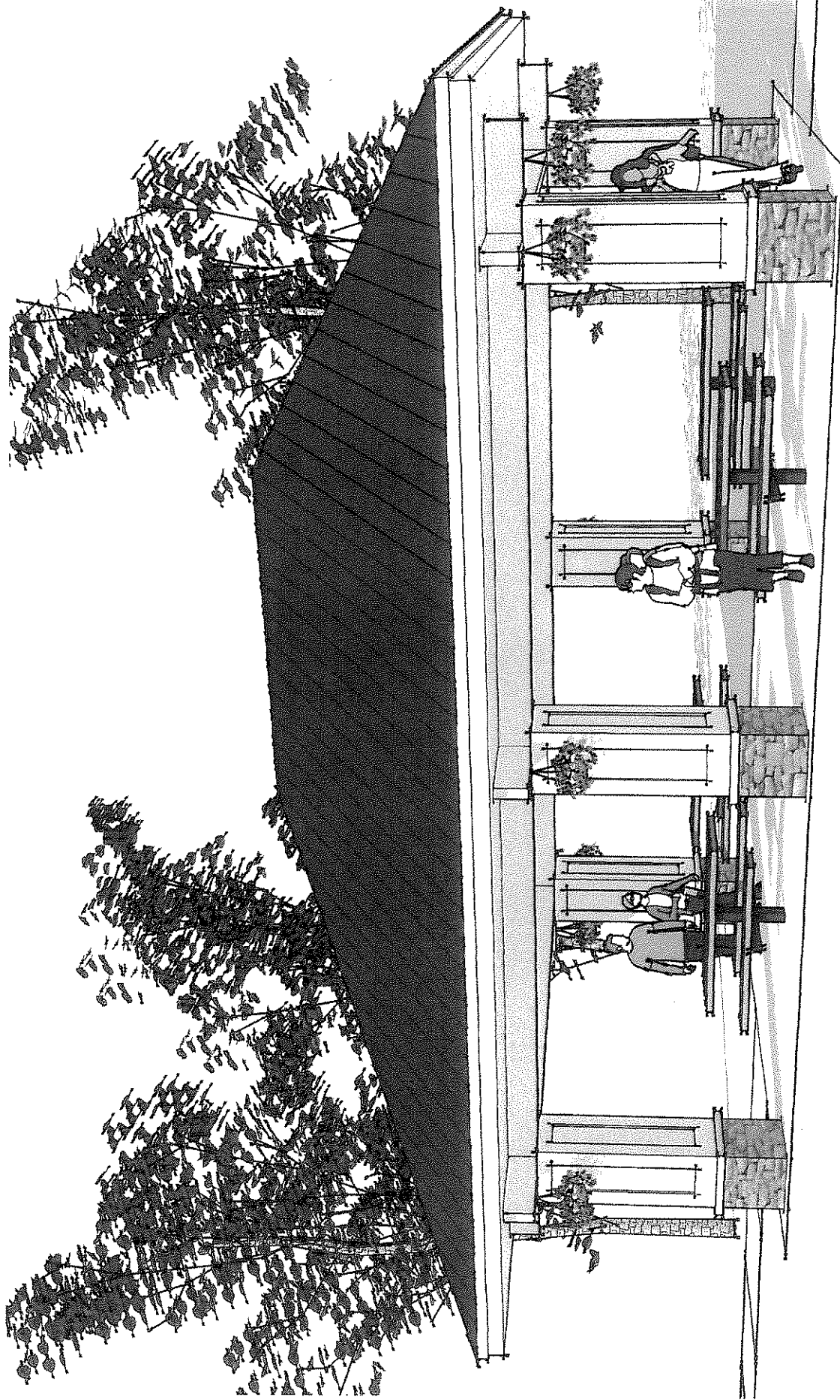
Move to authorize Design Forum to proceed with design development services at a cost of \$6,000.00 for park shelters to be constructed at Carriage Station and DeMontreville Park in spring of '09 and authorize requesting proposals for the projects.

ORDER OF BUSINESS

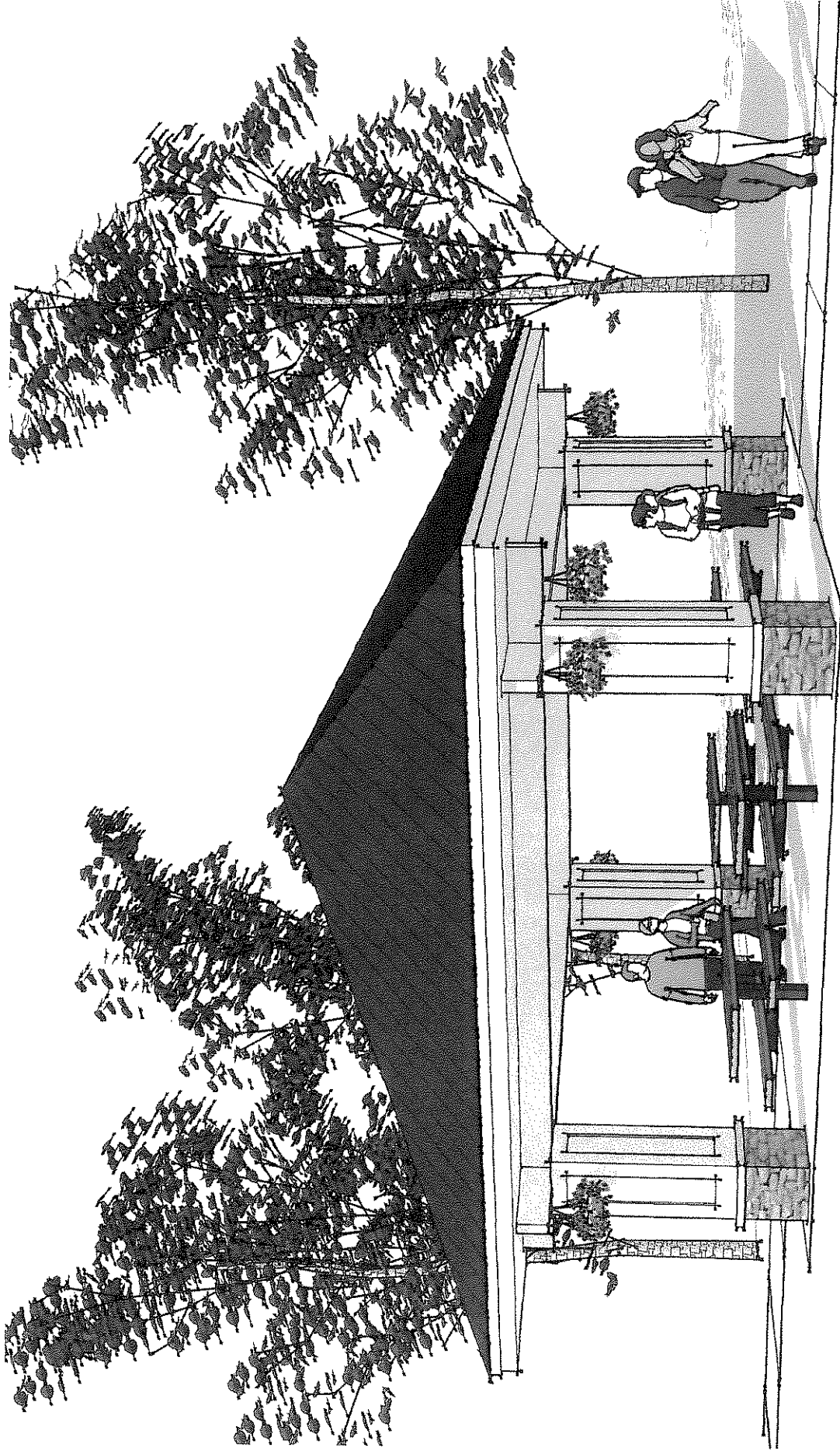
- o Introduction Susan Hoyt, City Administrator
- o Report Carol Kriegler, Project Assistant
Jerry Mazzara, Design Forum
- o Questions to presenters Mayor and Councilmembers
(3 minutes)

- Questions from public
To council (3 minute max) Mayor facilitates
- Call for a motion Mayor and Council members
- Discussion
(3 minutes) Mayor and Council members
- Action City Council

ATTACHMENTS: Picnic shelter schematic drawings



LAKE ELMO PARK SHELTER
CONCEPT #1 w/ GREEN ROOF



LAKE ELMO PARK SHELTER
CONCEPT #2 w/ GREEN ROOF

ITEM: Consider expenditures related to the creation and production of a trail map and the construction and location of a directional sign system for Sunfish Lake Park.

REQUESTED BY: Parks Commission

SUBMITTED BY: Carol Kriegler, Project Assistant

REVIEWED BY: Park Commission
Susan Hoyt, City Administrator
Mike Bouthliet, Park and Public Works Superintendent

SUMMARY AND ACTION REQUESTED:

The city council is being asked to consider expenditures related to the fabrication of a map and directional sign system for Sunfish Lake Park in the amount of \$2900 to construct signs for a sign system in Sunfish Lake Park to guide trail users in the park out of the park dedication fund. The signs will be constructed and mounted by the city's public works department. The signs are designed to serve as information for park users and will be the first step in a systematic signing of parks program being considered by the Park Commission. The Commission has reviewed and revised the park trail map as part of this signing program. This is being done prior to cross country season.

ADDITIONAL INFORMATION:

The city has received several reports of park users getting lost in Sunfish Lake Park. The current wood map at the park is in poor condition, out of date, and not accurate. There are no maps or directional signs available to assist with orientation along the trails. This is part of a larger

This is part of a comprehensive sign program for the city's parks that the Park Commission is developing. The program will include park entrance signs, interpretive and regulatory signage, and information kiosks. The goal is for these amenities to share some of the design elements utilized in the picnic shelter design so that a consistent and unifying look is established that serves to identify the city's park system.

SUGGESTED MOTION FOR CONSIDERATION:

Move to approve the expenditure of \$2900 for the creation and production of a trail map and construction and mounting of directions signs for Sunfish Lake Park.

ORDER OF BUSINESS

- | | |
|---------------------------|-----------------------------------|
| o Introduction | Susan Hoyt, City Administrator |
| o Report | Carol Kriegler, Project Assistant |
| o Questions to presenters | Mayor and Council members |
| o Questions from public | Mayor facilitates |
| o Call for a motion | Mayor and Council members |
| o Discussion | Mayor and Council members |
| o Action | City Council |

ATTACHMENTS:

- 1 Sunfish Lake Park map

Sunfish Lake Park Ski Trails

To Jamaica Ave.

KEY

- Lake or Pond
- Meadow
- Woodland
- Powerline
- Fence
- Sledding Hill
- Parking
- Easiest
- More Difficult
- Most Difficult

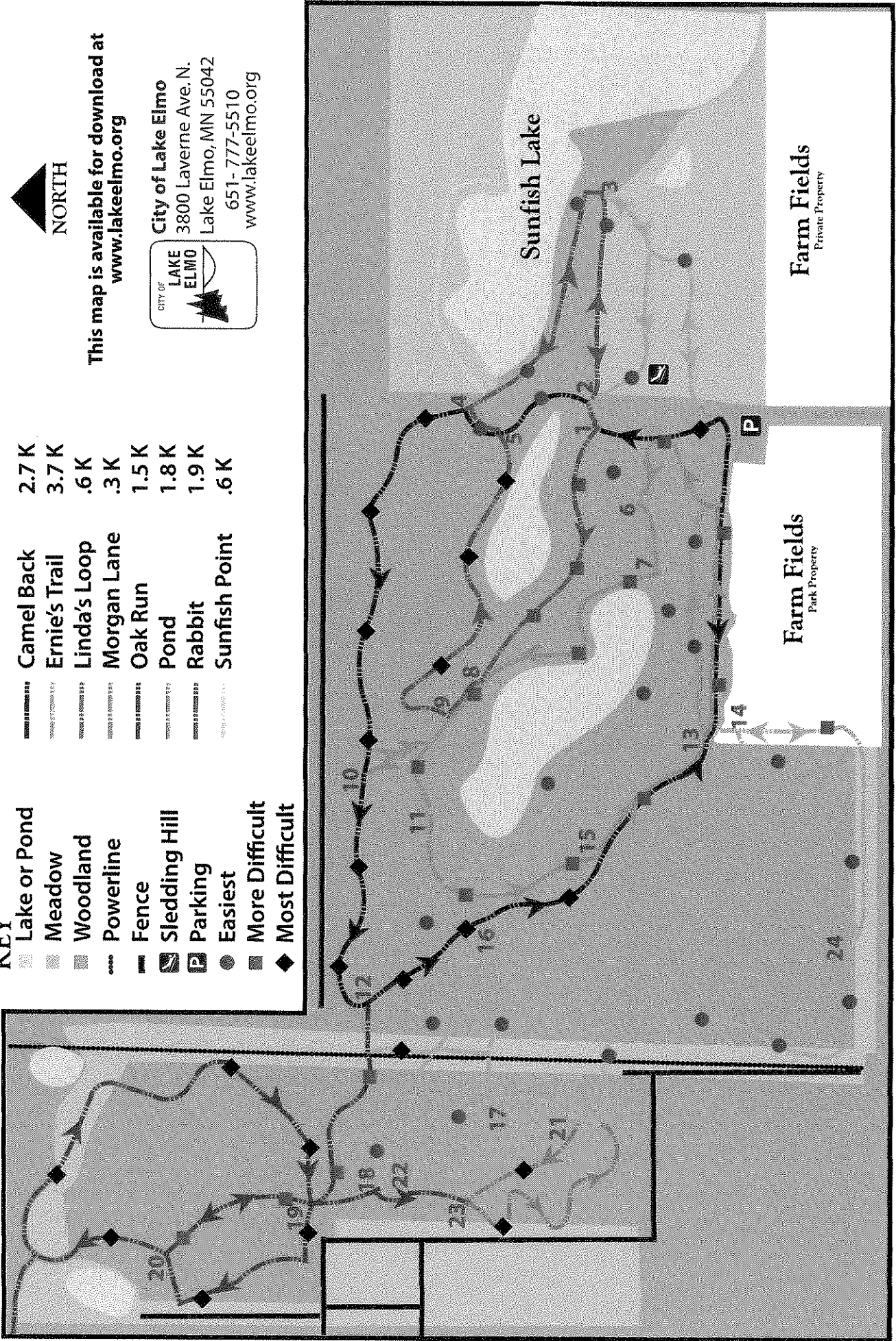
- Camel Back 2.7 K
- Ernie's Trail 3.7 K
- Linda's Loop .6 K
- Morgan Lane .3 K
- Oak Run 1.5 K
- Pond 1.8 K
- Rabbit 1.9 K
- Sunfish Point .6 K



This map is available for download at www.lakeelmo.org



City of Lake Elmo
3800 Laverne Ave. N.
Lake Elmo, MN 55042
651-777-5510
www.lakeelmo.org



Highway 5

Park Entrance

City Council
Date: 11.18.08
REGULAR
Item: 15
ACTION

ITEM: Hold an appeal hearing on zoning code violations related to the property at 5699 Keats Avenue acting as the Board of Adjustment and Appeals

REQUESTED BY: Mr. and Mrs. Sessing, property owners at 5761 Keats Avenue

SUBMITTED BY: Jerry Filla, City Attorney

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4. There is a tool shed in excess of 160 square feet in violation of city code section 154.093.
5. The landscaping which was started with various building additions is not complete and in violation of city code sections 150.070, 150.071, and 150.074.

OPTIONS

The Board of Adjustment and Appeals may find that none, some or all of the conditions exist on the property.

- Conditions 1 through 3. If one, two or three of these conditions are found to exist, the Board may direct the property owner to remove these items from the property or store the items in a way that satisfies the city code in 30 days (suggested timeline).
- Condition 4. If condition 4 is found to be in violation of the city code, the Board can direct the property owner to:
 - a. remove the tool shed within 30 days (suggested timeline)
 - b. modify the size of the tool shed to be 160 sq feet or less w/n 30 days (suggested timeline)
 - c. request a variance through the planning commission process for a tool shed that exceeds 160 square feet
- Condition 5: If condition 5 is found to be in violation of the city code, the Board can direct the property owner to meet the code conditions for the landscaping within a time frame that reflects the understanding that winter weather may impact the ability to remedy this violation at this time.

The Board must approve findings of fact supporting the decision(s) that the Board makes.
The Board can find that some of the code violations are supported and that some are not.

SUGGESTED MOTIONS FOR CONSIDERATION

Move to approve findings that conditions ___ (1, 2, 3, 4, 5) do not comply with the zoning code and that the property owner correct the conditions by:

- *removing the noncompliant items (1, 2, 3) from the property or store the items in a manner consistent with the zoning code within 30 days of this date.*
- *removing the tool shed or otherwise bringing the size of the tool shed into conformance with the 160 square foot zoning code requirement.*
- *completing landscaping in the areas identified in the report by June 1, 2009.*

AND/ OR

Move to approve findings that conditions ___ (1, 2, 3, 4, 5) do not violate the zoning code.

ORDER OF BUSINESS:

- Adjourn to the Board of Adjustment and Appeal City Council
- Open Appeal Hearing Mayor
- Introduction to purpose of the appeal hearing Jerry Filla, City Attorney
- Report on determination of code violations Ben Gozola, Consulting Planner
- Response to allegation of code violations Rod and Diane Sessing, Property owners
- Comments, if any, from others Mayor
- Motion based upon findings of fact Mayor and Council members
- Discussion of the Appeal Mayor and Council members
- Action City Council
- Adjourn of Board of Adjustment and Appeal City Council

ATTACHMENTS:

- 1 Notice of hearing
- 2 Report from consulting planner
- 3 Proposed findings and conclusions

CITY OF LAKE ELMO

NOTICE OF HEARING

To: Mr. & Mrs. Rod Sessing
5699 Keats Ave.
Lake Elmo, MN 55042

YOU ARE HEREBY notified that the Lake Elmo City Council will hear your appeal from the City Attorney's Notice to you regarding various alleged city code violations on your property at 5699 Keats Ave. The hearing will be held on November 18, 2008 at 7:30 p.m. in the City Council's meeting room located at 3800 Laverne Ave. North, Lake Elmo, MN.

In particular the City Council will consider your testimony relating to the following alleged violations:

1. There are two black trailers stored within the driveway in front of the attached garage in violation of City Code Section 150.001.
2. There is an unlicensed and/or inoperable passenger vehicle stored on the property in violation of City Code Sections 150.001, 150.003, 154.095 and 96.03 (11a).
3. There are a number of personal property items (piles of brick; concrete or other stone building materials; piles of wood and/or wooden building materials; a large tank; a basketball hoop; and an old swing set that is overgrown with vegetation) in violation of City Code Sections 150.001 and 96.03 (11a).
4. There is a tool shed in excess of 160 square feet in violation of City Code Section 154.093.
5. The landscaping which was started with various building additions is not complete and is in violation of City Code Sections 150.070, 150.071 and 150.074.

Attached is a copy of the planning report which references the above alleged violations.

Dated: November 6, 2008

** or after*

City of Lake Elmo memorandum

to: JERRY FILLA
from: Ben Gozola
subject: COMPLAINT REVIEW AT 5699 KEATS AVENUE
date: 9/22/08

PURPOSE

MFRA was asked by the City of Lake Elmo to work with Jerry Filla on reviewing a set of complaints regarding the property at 5699 Keats Avenue. MFRA was to visit the site, and make a determination on the following issues:

- 1) Determine if a trailer is being illegally parked within the front yard at 5699 Keats Avenue.
- 2) Determine if a commercial warehousing business is still being conducted at 5699 Keats Avenue. The historic documentation provided clearly shows that storage of goods for sale off-site was being conducted on the property in 2005.
- 3) Determine whether illegal parking of unlicensed or inoperable vehicles is occurring in the rear yard of the property.
- 4) Determine whether an oversized tool shed was illegally constructed at 5699 Keats Avenue.
- 5) Determine what, if any, landscaping requirements were imposed in 2004 in association with a construction project authorized at 5699 Keats Avenue.

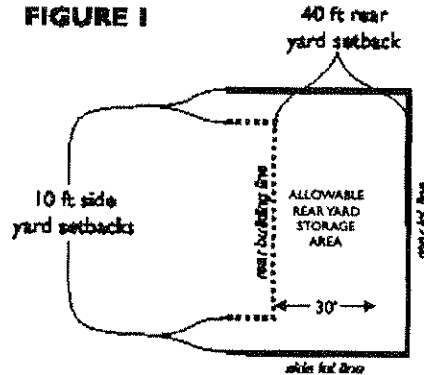
code ANALYSIS & findings

- On the question of whether a trailer is currently being stored illegally...
 - Code Analysis – the following code provisions and definitions would apply:
 - The definition for REAR YARD: A yard extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.
 - The definition for BUILDING LINE: A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
 - Section 150.001 states that storage of personal property in Agricultural and Residential districts must be stored within a building or be fully screened so as not to be visible from adjoining properties. Boats and trailers less than 25 feet in length may be visibly stored outdoors provided they are in the rear yard at least 10 feet from any property line.

- o Section 154.095 outlines requirements on off-street parking including a regulation on truck parking in residential areas (subsection C). This section dictates that "no commercially licensed trailer shall be parked or stored in a residential district except when loading, unloading, or rendering a service."

Findings – During our inspections of the property, we did observe two black trailers being consistently parked in front of the attached garage. Based on the language in 150.001, we find that both trailers do qualify as personal property that must be screened or properly stored. Accordingly, both must be stored indoors, or be stored within the rear yard of the property if visible from adjacent land. Based on the definitions of "rear yard" and "building line," the allowable outdoor storage area is a 30-foot wide area off the eastern property line (see figure 1). Neither trailer was determined to be a "commercial trailer."

FIGURE 1



- **On the question of whether a commercial warehousing business is currently being conducted...**

Code Analysis – the following code provisions and definitions would apply:

- o Section 154.036 outlines the permitted and conditionally permitted uses authorized for Rural Residential property. Permitted uses include single family dwellings and farms, and conditionally permitted uses include kennels, open space developments, and home occupations.
- o The definition for HOME OCCUPATION: Any gainful occupation or profession engaged in by the occupant, only, of a dwelling when carried on within a dwelling unit or in an accessory building, provided that no signs other than those normally utilized in a residential district are present, no stock in trade is stored on the premises, that no over-the-counter retail sales are involved, and entrance to the home occupation is or can be gained from within the structure. Uses include professional office, hairdressing, or teaching limited to 3 students at any time, and similar uses.

Findings – We did not observe any evidence to support the claim that a business was being run from 5699 Keats Avenue. Additionally, we did not observe any evidence to suggest that illegal stock for trade was being stored on-site. However, the City may want to consider the following when contemplating future enforcement activities if more information becomes available:

- o It is alleged that "stock for trade" is being stored within the attached garage. On each of our site visits, two large black trailers were parked in front of the attached garage. Based on past documentation, it appears these same trailers were used in 2005 to transport stock from the premises in conjunction with the 4PerfectPets business. Whether they are currently being used for transporting personal property or illegal stock could not be ascertained.
- o All windows and openings to the attached garage have been covered over for unknown reasons.
- o Video provided to staff showed the property owner at 5699 Keats Avenue moving materials from the garage into one of the black trailers (video was taken sometime this year).

However, the property owner had erected a blue tarp in between the trailer and the garage to screen the loading activity from view. At one point, what appears to be shelving is visible above the tarp. Pictures of the 4PerfectPets set up at trade shows indicate the shelving being loaded onto the trailer was likely linked to the 4PerfectPets business.

There is not sufficient evidence to indicate an illegal business or storage of stock for trade is currently occurring on the property, so no action is recommended. However, enforcement of storage regulations pertaining to the trailers would provide an avenue for future inspections if necessary (i.e. inspection should occur when the trailers are brought back in front of the garage for loading). Additionally, the City may wish to put the property owners on notice that storage of stock for trade is prohibited by code.

• **On the question of whether unlicensed or inoperable vehicles are being stored...**

Code Analysis – the following code provisions and definitions would apply:

- Section 150.001 states that storage of personal property in Agricultural and Residential districts must be stored within a building or be fully screened so as not to be visible from adjoining properties. However, “licensed operable passenger automobiles and pick-up trucks” may be visibly stored outdoors.
- Section 150.003 states that unlicensed passenger vehicles and trucks shall not be parked in residential districts for a period exceeding 7 days.
- Section 154.095 states that as a general provision (subsection A), “no more than 25% of the required yard area shall be surfaced or utilized for driveway or vehicle storage space.” Furthermore, subsection B goes on to state that “off-street parking areas shall be improved with a curable and dustless surface.” Neither of these provisions appear to be linked to “required” off-street parking areas, and therefore would apply to general additional off-street parking areas being provided by the resident in addition to the required spaces.
- Section 154.095 subsection C prohibits commercial trucks and commercial trailers from being parked in a residential district except when loading, unloading, or rendering a service.
- Section 96.03 (11)(a) indicates that “the accumulation, storing, or keeping of old machinery, wrecked or inoperable vehicles or household appliances, and unlicensed vehicles and other junk or debris” is a nuisance under Lake Elmo code.

Findings – Outdoor storage is nonconforming on this site in the following ways:

1. One passenger automobile is located within the wooded/vegetated area on the southern property line. While not extremely visible, it can be viewed and therefore would need to be both operable and licensed in order to be legal. Additionally, the vehicle in question would need to be parked on a “curable and dustless surface” which appears to be very unlikely given its viewed location and the surrounding vegetation.
2. We also viewed a number of personal property items and/or nuisance items that are being illegal stored in the open including:
 - a. Piles of brick, concrete, or other stone building materials;
 - b. Piles of wood and/or wooded building materials that do not constitute wood intended for burning within a residential fireplace;
 - c. A large white tank of some kind;

- d. A portable basketball hoop tipped over on its side;
- e. Two old swing sets that appeared to be overgrown with vegetation and may or may not be functional (nuisance);

Without entering onto the property, it is difficult to clearly define each of the personal property items that can be viewed from adjacent property or the right-of-way. We would be happy to meet with the property owner on-site if needed to specifically identify all such items. In terms of current enforcement, it would be sufficed to say "all personal property items being stored outdoors including but not limited to [those listed above]."

- 3. On a hill towards the eastern side of the property sits a large farm implement and an oil/water tank of some kind. While alone they would probably not qualify as an "accumulation...of old machinery...and other junk or debris," they could be found to be a nuisance when viewed in conjunction with the other illegal personal property items being stored outdoors as listed above.

- **On the question of whether an illegal tool shed is present on the property...**

Code Analysis – the following code provisions and definitions would apply:

- Definition for STORAGE OR TOOL SHED. A 1-story accessory building of less than 160 square feet gross area with a maximum roof height of 12 feet and exterior colors or material matching the principal structure or utilizing earthen tones.
- Definition for DETACHED RURAL STORAGE BUILDING. A 1-story accessory building used or intended for the storage of hobby tools, garden equipment, workshop equipment and the like.
- Section 154.092 (subsection B) states that "a tool shed as defined in this section may be placed on any lot in addition to the permitted number of accessory buildings."
- Section 154.093 outlines the number and size of accessory buildings allowed on RR zoned property
 - <10 acres = one 2000 sq ft building in addition to an attached garage
 - 10 to 15 acres = one 2500 sq ft building in addition to an attached garage
 - >15 acres = one 3000 sq ft building in addition to an attached garage

Findings – We find the "tool shed" is nonconforming to the maximum number of accessory structures.

- The maximum number of allowed accessory structures for this sized parcel in the RR zoning district is one (1).
- Conservatively measuring the square footage of the "tool shed" using GIS and aerial photography indicates dimensions of approximately 12' x 15' (or 180 square feet). The maximum size for an allowable tool shed is 160 square feet, and therefore the existing structure does not qualify as a "tool shed."
- Given that the landowner was permitted to construct a large detached rural storage building on the northern property line, the alleged "tool shed" would clearly constitute a second accessory structure on the property and is therefore illegal.

- **On the question of what landscaping requirements apply in conjunction with construction undertaken in 2004...**

Code Analysis – the following code provisions and definitions would apply:

- Section 150.070 states that “landscaping required on a lot shall consist of a finish grade and a soil retention cover such as sod, seed and mulch, plantings, or as may be reasonably necessary to protect the soil and aesthetic values on the lot and adjacent property.”
- Section 150.071 states that the boundary for landscaping requirements in all districts is “all developed land” from the right-of-way.
- Section 150.074 states that maintaining landscaping in an attractive and well kept condition is the responsibility of the property owner.

Findings – The property is nonconforming to landscaping requirements in the following ways:

- Areas in the front and rear of the garage are clearly not landscaped “as may be reasonably necessary to protect the soil and aesthetic values on the lot and adjacent property.” The area south of the retaining wall off the front of the garage is completely devoid of vegetation that would fulfill the city’s landscaping requirements (i.e. sod, seed & mulch, other plantings, etc). The area to the rear of the attached garage will require a retaining wall to support the hillside that was cut away to provide for the new garage door on the underside of the attached garage. It appears that retaining walls were constructed to facilitate the attached garage in two areas, but the project was never completed for the hill cut closest to the home. The landowner should be made to fill in the missing retaining wall section to tie in with the existing walls.
- The landowner has allowed natural grasses and other vegetation to grow atop the area needing a retaining wall off the rear of the attached garage. Given the rural zoning for this property, we are not inclined to find such growth a violation of the landscaping requirements (although an expert would be needed to determine whether such growth constitutes “noxious weeds” as defined by code). However, this vegetation will likely be lost upon construction of the needed retaining wall, and therefore replacement plantings will eventually be needed.
- As we did not access the property, we could only identify a lack of landscaping in those areas around the attached garage that could be directly viewed from adjacent property.

SUMMARY

The property at 5699 Keats Avenue has multiple nonconformities:

- Two black trailers are being illegally stored within the driveway in front of the attached garage.
- Outdoor storage of personal property and other junk or nuisance items were documented on much of the property to the east of the home.
- At least one likely inoperable and unlicensed vehicle is parked on the property on a surface that is not “curable and dustless.”
- The old cabin or tool shed on the southern property line is illegal. It must be reduced in size to 160 square feet or less in order to be considered a tool shed, or it must be removed from the property.

- Landscaping requirements dictate that plantings are needed off the front of the garage in place of the rocky exposed soil atop the existing retaining wall.
- Landscaping requirements also require the missing section of retaining wall off the eastern side of the garage be constructed to eliminate erosion off the wall of currently exposed dirt.

CITY OF LAKE ELMO MEMORANDUM

TO: SUSAN HOYT
FROM: BEN GOZOLA
SUBJECT: ACCESSORY BUILDING INTERPRETATION
DATE: 6/5/08
CC:

PURPOSE

MFRA was asked by the City of Lake Elmo to work with Jardine, Logan & O'Brien to provide an interpretation of existing codes related to a goat shed erected along Keats Avenue, and to make a determination on whether the structure conforms to code or is nonconforming.

ANALYSIS & FINDINGS

- There are a number of code sections and definitions that play into this determination including:
 - Definition for **ACCESSORY BUILDING**: A subordinate building, or a portion of the main building, which is located on the same lot as the main building and the purpose of which is clearly incidental to that of the principal building.
 - Definition for **AGRICULTURAL BUILDING**: A structure on agricultural land, as defined below in the definition for *FARM, RURAL* of this section, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products grown by the owner, lessee, or sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.
 - Definition for **ANIMALS, DOMESTIC FARM**: Cattle, hogs, horses, bees, turkeys, geese, sheep, goats, chickens, and other animals commonly kept for commercial food producing purposes.
 - Definition for **BUILDING**: Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal, or movable property of any kind. When any portion of a building is completely separated from every other part of a building by area separation, each portion of the building shall be deemed as a separate building.
 - Definition for **BUILDING FOOTPRINT**: The outline of the total area covered by a building's perimeter at the ground level.
 - Definition for **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.
 - **Section 154.036 (B)** which states "accessory structures cannot exceed the size of the principal building."

- Section 154.036 (D) which requires animal shelters to be located at least 100 feet from any property line, 50 feet from any existing well or residential structure on the same parcel, and at least 200 feet from any body of water (seasonal or year-round).
- Section 154.092 (E) which states that the exterior design and color shall be the same as the principal building or be of an earthen tone, and restricts the height to that of the principal structure.
- Section 154.092 (K) which requires that all accessory buildings larger than 100 square feet secure a building permit, and that roof loads and wind loads conform to MN State Building Code requirements.
- Section 154.092 (M) which requires that detached farm animal buildings meet underlying setbacks, not be placed on slopes of 13% or greater, not be within 100 feet of any location where groundwater is within 6.5 feet of the surface, and not be on a wetland.
- Section 154.093 which outlines the number and size of accessory buildings allowed on RR zoned property
 - <10 acres = one 2000 sq ft building in addition to an attached garage
 - 10 to 15 acres = one 2500 sq ft building in addition to an attached garage
 - >15 acres = one 3000 sq ft building in addition to an attached garage
- **CONCLUSION:** The “goat shed” is considered a detached domesticated farm animal building by code. It is nonconforming with code in the following ways:

The goat shed is nonconforming to the maximum number of accessory structures.

- The maximum number of allowed accessory structures for this sized parcel in the RR zoning district is one (1). As a detached structure, the goat shed is the second accessory structure on the property and is therefore illegal.

The goat shed is nonconforming to the maximum accessory structure size limit.

- The parcel in question is 10.73 acres in size, so Section 154.093 limits the property to one 2500 square foot accessory building in addition to an attached garage. Because the property already has one detached accessory building, the goat shed would not be allowed.
- If the goat shed were attached to the existing detached accessory building, it still would not be allowed due to the definition of *building* which states “when any portion of a building is completely separated from every other part of a building by area separation, each portion of the building shall be deemed as a separate building.” The only way to address this problem would be to link the interior of the existing structure with the interior of the goat shed via a doorway of some kind. Once attached, the resulting accessory structure would exceed the limit of 2500 square feet. Site plans submitted by the property owner for the existing accessory structure indicate that it is currently 2499 square feet in size, so only a 1 square foot expansion is possible.
- As an aside, the existing accessory structure includes a breezeway to link the two main portions of the building. The site plan provided to the city at the time of construction indicates the breezeway area is only 9 sq ft, but the angles between the building suggest that figure is inaccurate. If surveyed, we suspect the 2500 square foot limit would be met or exceeded.

The goat shed appears to be nonconforming to the required front yard setback.

- The goat shed appears to be closer to the road than the principal structure which is not allowed unless approved by a resolution from the Council.

The current goat shed (and its predecessor) appears to have been built illegally.

- Adoption of regulations limiting accessory structures to one (1) and the maximum square footage to 2500 square feet were in place prior to 1997 (the exact date can be determined if needed).
- By code, illegal structures will not be deemed nonconforming unless they were constructed prior to adoption of the regulations to which they do not comply.
- A review of available aerial photography indicates that no goat shelter was present on the 1997 Met Council aerials that would have been flown in early spring or late fall (either time beyond the February 18th recodification date that year). Subsequent aerials indicate an original goat shed was likely constructed sometime between 2000 and 2004. The old goat shed, which was ostensibly replaced by the newer structure in questions, was therefore illegal and was never nonconforming. The current goat shed, therefore, cannot be allowed as replacement of an existing nonconforming use.

The goat shed appears to be nonconforming to foundation and roof requirements.

- Section 154.092 (K) eliminated the need for a building permit due to the shelters size of less than 100 square feet. However, waiver of a building permit did not alleviate the need for a permanent foundation (if the goat shed exceeds 35 square feet) or compliance with roof and wind load standards.
- While we have not accessed the property to physically measure the dimensions of the goat shed, remote viewing indicates that it is likely to be greater than 35 square feet in size.

Carl Horning
Building/Water Inspector
3800 Laverne Avenue N.
Lake Elmo, MN 55042

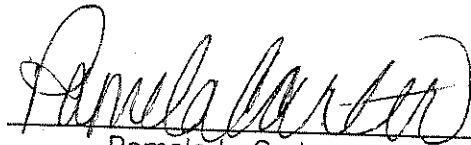
Todd Ptacek
812 Julep Avenue
Lake Elmo, MN 55042

Mr. and Mrs. Sessing
5699 Keats Avenue
Lake Elmo, MN 55042

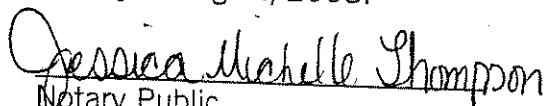
Rockpoint Church
5825 Kelvin Avenue
Lake Elmo, MN 55042

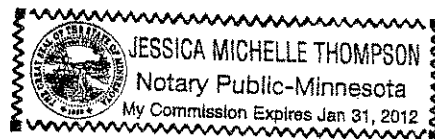
Ben Gozola
Senior Planner
MFRA
14800 28th Avenue N., Suite 140
Plymouth, MN 55447

the last known address.


Pamela L. Carter

Subscribed and sworn to before me this
7th day of August, 2008.


Notary Public



Findings/Order
Appeal from Alleged Zoning Code Violations
5699 Keats Ave., Lake Elmo

On November 18, 2008, the Lake Elmo City Council, acting as the Board of Adjustments and Appeals, conducted a hearing to consider the appeal of Rodney Sessing and Diane Sessing ("Property Owners"), in regard to the alleged zoning code violations on their property, located at 5699 Keats Avenue, Lake Elmo, MN (the "Sessing Property"). At the hearing, the Board of Adjustments and Appeals reviewed the planning report dated September 22, 2008, the comments from the City's consulting planner, and the comments from the Property Owners and made the following findings:

A. General Findings.

1. Rodney and Diane Sessings are the owners of the property located at 5699 Keats Avenue, Lake Elmo, MN, which is legally described as follows:

The south 1125 feet of the west 1100 feet of the northwest quarter of section 2, township 29, range 21, except the west 660 feet of the south 825 feet of said northwest quarter and except the south 400 feet of the east 440 feet of the west 440 feet of the west 1100 feet of the northwest quarter, all subject to easements and restrictions of record.

2. The Sessing Property is located in a rural residential zoning district and is larger than ten (10) acres.

B. Code Violation Findings.

1. In regard to the allegation that there are two (2) black trailers stored within the driveway in front of the attached garage on the Sessing Property, the Board of Adjustments and Appeals finds:
 - a. ____ That the two (2) black trailers continue to be parked within the driveway in front of the attached garage on the Sessing Property and that this is violation of City Code Section 150.001(b).
 - b. ____ That the alleged violation has been remedied by the Property Owners.
2. In regard to the allegation that there is an unlicensed and/or inoperable passenger vehicle stored on the Sessing Property, the Board of Adjustments and Appeals finds:

- a. ___ That there is an unlicensed and/or inoperable passenger vehicle stored on the Sessing Property in violation of City Code Sections 150.001, 150.003, 154.095(b) and 96.03, Subd. 11(a).
 - b. ___ That the alleged violation has been remedied by the Property Owners.
3. In regard to the allegation that there are a number of personal items stored on the exterior of the Sessing Property, the Board of Adjustments and Appeals finds:
 - a. ___ That there are (i) piles of brick, concrete, or other stone building materials; (ii) piles of wood and/or wooden materials; (iii) a large tank; (iv) a basketball hoop; and (v) an old swing set which has overgrown with vegetation, all such items, stored on the exterior of the Sessing Property in violation of City Code Sections 150.001 and 96.03, Subd. 11(a).
 - b. ___ That the alleged violation has been remedied by the Property Owners.
4. In regard to the allegation that there is tool shed in excess of 160 square feet on the Sessing Property, the Board of Adjustments and Appeals finds:
 - a. ___ That there is a tool shed in excess of 160 square feet stored on the Sessing Property in violation of City Code Section 154.093.
 - b. ___ That the alleged violation has been remedied by the Property Owners.
5. In regard to the allegation that landscaping which was started in conjunction with various building additions is not complete, the Board of Adjustments and Appeals finds:
 - a. ___ That the landscaping in the following areas is not complete and is in violation of City Code Sections 150.070 and 150.074:
 - i. The area south of the retaining wall off the front of the garage is not landscaped as may be reasonably necessary to protect the soil and aesthetic values on the lot and adjacent property.

ii. The area to the rear of the attached garage will require a retaining wall to support the hillside that was cut away to provide for the new garage door on the underside of the attached garage.

iii. The area to the rear of the attached garage which requires a retaining wall is also not landscaped as may be reasonably necessary to protect the soil and aesthetic values on the lot and adjacent property.

b. ____ That the alleged violation has been remedied by the Property Owners.

C. Order. Based upon the above findings, the Board of Adjustments and Appeals hereby orders the Property Owners:

1. To remove the two (2) black trailers stored within the driveway on or before the ____ day of _____, 2008.

2. To remove the unlicensed and/or inoperable vehicle stored on the Sessing Property or to provide evidence that the vehicle is both licensed and operable on or before the ____ day of _____, 2008.

3. To remove personal property items consisting of piles of brick, concrete or other stone building materials; piles of wood and/or wooden building materials; a large tank; a basketball hoop; and an old swing set that has overgrown vegetation on or before the ____ day of _____, 2008.

4. To remove the tool shed which is in excess of 160 square feet on or before the ____ day of _____, 2008; or to modify the size of the tool shed so that it is no larger than 160 square feet on or before the ____ day of _____, 2008; or, in the alternative to request a variance to the size of the tool shed by submitting a variance application to the City Planner on or before the ____ day of _____, 2008.

5. To complete the landscaping in the following areas of the Sessing Property on or before the ____ day of _____, 2008:

a. The area south of the retaining wall off the front of the garage is not landscaped as may be reasonably necessary to protect the soil and aesthetic values on the lot and adjacent property.

b. The area to the rear of the attached garage will require a retaining wall to support the hillside that was cut away to provide

for the new garage door on the underside of the attached garage.

- c. The area to the rear of the attached garage which requires a retaining wall is also not landscaped as may be reasonably necessary to protect the soil and aesthetic values on the lot and adjacent property.

Dated: _____

Board of Adjustments and Appeals