



## STAFF REPORT

DATE: 4/17/18  
REGULAR  
AGENDA ITEM: 19

**TO:** City Council  
**FROM:** Emily Becker, Planning Director  
**ITEM:** Halcyon Cemetery Preliminary and Final Plat  
**REVIEWED BY:** Kristina Handt, City Administrator  
Sarah Sonsalla, City Attorney

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### **BACKGROUND:**

The City had received a request by Mr. Lee Rossow for approval of a preliminary and final plat for a cemetery to be called Halcyon located at 11050 50<sup>th</sup> Street North. The City ultimately denied the request, and the District Court has ordered that the City approve the preliminary and final plat in accordance with Resolution 2015-59.

### **ISSUE BEFORE COUNCIL:**

Council is being ordered to approve the request for Preliminary and Final Plat for the cemetery located at 11050 50<sup>th</sup> Street North to be called Halcyon Cemetery.

### **REVIEW/ANALYSIS:**

*Applicant and Owner:* Lee Rossow, 11050 50<sup>th</sup> Street North, Lake Elmo, MN 55042  
*Location:* Northeast corner of 50<sup>th</sup> Street North and Lake Elmo Avenue (CSAH 17).  
*Request:* Application for preliminary and final plat approval of Halcyon Cemetery  
*Existing Land Use:* Single family detached  
*Surrounding Land Use:* North – single family home (RR); west – single family home (RR); south – Agricultural (RR); east – single family residential (RR) and Municipal Well Site #4.  
  
*Comprehensive Plan:* Rural Area Development  
*History Summary:* The ten acre site has historically been used for a single family home. According to the County records, the existing home was built in 1984. The sketch plan for the preliminary plat was reviewed by the Planning Commission on November 24, 2014 and by the Council on December 2, 2014. The Planning Commission reviewed the Preliminary and Final Plat on July 13, 2015 and recommended approval subject to 14 conditions of

approval. The Valley Branch Watershed District recommended approval of the plans and issued a permit. The City Council considered the request at its July 21, 2015 meeting and tabled the item, reconsidering the request at its October 6, 2015 meeting and ultimately denying the Preliminary and Final Plat, due to its being a large scale business, overwhelming citizen opposition, and the funeral home component. Additionally, the Council removed the uses of cemeteries, among other uses (commercial kennels, commercial stables and golf courses) from the Zoning Code as allowed uses a permitted use in 2013. The denial was then challenged in the District Court, which granted summary judgment to the City. The decision was appealed to the State of Minnesota Court of Appeals, which remanded the case to the district court with instructions to issue an Order directing the City to approve the plat.

## History.

- *Sketch Plan.* The Sketch Plan was proposed in 2014 and had proposed three main areas for in-ground burials, space for columbarium, and a parking area. The single family home and pole barn on the site was to be re-purposed for cemetery administration and maintenance; the single family home would be used as the caretaker's residence. The cemetery would cater to "modern burials," be private and non-denominational and would not provide funeral home services. There are and were at the time of the request no standards for cemeteries in the Zoning Code.
- *Preliminary and Final Plat.*
  - *Review by Planning Commission.* At the July 2015 Planning Commission meeting and public hearing, seven members of the public expressed concern about the cemetery proposal, including future funding for cemetery maintenance, possible increased traffic, and possible decreased property values. The Planning Commission concluded that surrounding roads were adequate to accommodate the cemetery, that the relationship between cemeteries and property values was inconclusive and that there was a plan in place to provide for cemetery maintenance. There was conclusion that a crematorium would not be on the site and that state law required creation of a permanent trust fund to maintain the property.
  - *Review by Council – Tabled.* Council reviewed the Preliminary and Final Plat application at its July 21, 2015 meeting and tabled the item requesting information from the City Attorney on definitions of "cemetery" and "funeral home."
  - *Decision by Council.* The Council reconsidered the request at its October 6, 2015 meeting and ultimately denying the Preliminary and Final Plat, due to its being a large scale business, overwhelming citizen opposition, and the funeral home component.
- *District Court Review.* Rossow then sued the district court, challenging the denial of his Preliminary and Final Plat applications, alleging the denial was arbitrary, capricious and without sufficient factual or legal basis.
- *District Court Review.* The district court granted summary judgment to the City and dismissed Rossow's complaint.
- *Appeal.* The decision was then appealed to the State of Minnesota Court of Appeals, and the Court remanded the case to the district court with instructions to issue an Order directing the

City to approve the plat. The decision was based mainly on the second finding of the Resolution of denial:

- “That the Halcyon Cemetery does not comply with the City’s RR – Rural Residential zoning district because it includes uses and activities that are not allowed under the definition of a “Cemetery” in Section 154.102 of the Zoning Ordinance. Specifically, the proposed site plan includes an administration building, a proposed expansion of this structure to add room for public gathering space, and parking lot that will accommodate 59 parking stalls. The definition of “Cemetery” offers no provisions for the conduct of services on the premises. The proposed buildings and parking areas exceed the activities allowed for “land used or intended to be used for the burial of the dead and dedicated for cemetery purposes.”

The Court ruled that there is a lack of guidance in the Zoning Code as it relates to specific development regulations of a cemetery, and therefore the City cannot place such standards without codifying them within the Code. The Court noted that the cemetery definition within the Zoning Code does not prohibit Rossow’s proposed cemetery-related activities, such as administration, memorial-type services, and parking.

- *Supreme Court Ruling.* The Supreme Court denied the petition by the City of Lake Elmo to further review the LeRoy J. Rossow, Jr. vs. The City of Lake Elmo, Minnesota on February 20, 2018.
- *District Court Order.* The District Court ordered on March 21, 2018 for the City to approve the preliminary and final plat within 30 days of the Order.

**Previously-Recommended Findings and Conditions of Approval.** The District Court ruled the City to approve the preliminary and final plat with the conditions as listed in the proposed Resolution 2015-59. That Resolution is attached for reference.

#### **OPTIONS:**

The Council must:

- 1) Approve the preliminary and final plat in accordance with proposed Resolution 2015-59.

#### **RECOMMENDATION:**

The District Court orders the Council to approve Resolution 2015-59.

***“Move to adopt Resolution 2015-59 approving the Halcyon Cemetery Preliminary and Final Plat, subject to recommended conditions of approval as ordered by the District Court.*”**

#### **ATTACHMENTS:**

1. October 2, 2015 City Council Meeting Packet – Item: Halcyon Cemetery Preliminary and Final Plat
2. State of Minnesota Court of Appeals – LeRoy J. Rossow Jr. vs. The City of Lake Elmo
3. Supreme Court Ruling
4. District Court Ruling
5. Resolution 2015-59



## MAYOR & COUNCIL COMMUNICATION

**DATE: July 21, 2015**  
**REGULAR**  
**ITEM #17**  
**RESOLUTION 2015-59**

**AGENDA ITEM:** Halcyon Cemetery Preliminary and Final Plat

**SUBMITTED BY:** Nick M. Johnson, City Planner

**THROUGH:** Julie Johnson, City Clerk

**REVIEWED BY:** Planning Commission  
Kyle Klatt, Community Development Director  
Jack Griffin, City Engineer  
Greg Malmquist, Fire Chief  
Washington County Public Works

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### **SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item .....Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion ..... Mayor Facilitates

**POLICY RECCOMENDER:** Planning Commission

**FISCAL IMPACT:** None, all of the review activities on the part of the City are reimbursed by application and escrow fees submitted by the developer. All of the improvements to the site are private.

**SUMMARY AND ACTION REQUESTED:** The City Council is being asked to consider a request from Mr. Lee Rossow for approval of a preliminary and final plat for a cemetery to be called Halcyon located at 11050 50<sup>th</sup> Street North. The Planning Commission held a public hearing to consider the matter at its July 13, 2015 meeting and unanimously recommended approval of the Halcyon Cemetery Preliminary and Final Plat subject to 14 conditions of approval. The suggested motions to adopt the Planning Commission recommendation is as follows:

***“Move to adopt Resolution No. 2015-59, approving the Halcyon Cemetery Preliminary and Final Plat.”***

**BACKGROUND INFORMATION:**

Attached is the original detailed Staff report that was provided to the Planning Commission regarding the applicant’s request for preliminary and final plat approval. The staff report includes general information about the application, a summary of the relevant planning and zoning issues, a thorough review and analysis of the final plat (including a draft list of recommended conditions of approval), draft findings, and the Staff recommendation to the Planning Commission.

**PLANNING COMMISSION REPORT:**

The Planning Commission held a public hearing to review the preliminary and final plat application at its July 13, 2015 meeting. During the public hearing, the Planning Commission received the following testimony:

- Jean Madrinich, 11420 50<sup>th</sup> Street N., noted that there are multiple flood plains in the area. She asked how the flood plains are being addressed. Lee Rossow noted that they have worked through those issues with the watershed district. Ms. Madrinich also noted concern about additional traffic that would be generated on 50<sup>th</sup> Street.
- Deb Kreuger, 4552 Lake Elmo Ave. N., asked questions about the need for parkland dedication associated with this property. In addition, she referenced several State Statutes that relate to cemeteries. She wanted to ensure that the statutory requirements are being followed with the project, especially the establishment of a permanent care trust fund for the cemetery association. The applicant noted that a trust fund is being established with the project.
- Janet Thompson, 11491 50<sup>th</sup> Street N., noted that she is concerned about a commercial venue being placed in a residential area. She stated that her family moved here to live in a rural area, and this use is not in keeping with that goal.
- Rebecca Tenpas, 11330 50<sup>th</sup> Street N., stated that she does not believe the proposed use is consistent with the rural character that the City desires. She also stated that the traffic on 50<sup>th</sup> Street is a concern, and the use will add to the existing problem.
- Rich Day, owner of a property to the south of the proposed cemetery, asked if the project has undergone an environmental review, such as an EIS. Johnson noted that the project did not meet the threshold to trigger an environmental review, but that the City does have the discretion to request environmental review. Mr. Day also voice his concern about the storm water on the site that travels to his property. The applicant noted that they have received permit approval from the Valley Branch Watershed District for the proposed storm water management design.

- Jeffrey Saffle, 11180 50<sup>th</sup> Street N., asked if the lights on the site would be compliant with dark skies standards. He noted that is important to follow the City's dark skies ordinance.
- Saxe Roberts, 11165 50<sup>th</sup> Street N., noted his concern about the effect of cemeteries on property values. Mr. Roberts agreed with staff that research is inconclusive on the matter, but he worried that the presence of the cemetery would eliminate some buyers for his property in the future.

The full account of the testimony can be reviewed in the draft Planning Commission minutes dated 7/13/15.

The Planning Commission discussed a variety of topics in considering the preliminary and final plat application for the cemetery. In discussing the project, the Planning Commission added the following conditions:

- A condition was added that any future expansions for the cemetery use would need City review and approval.
- A condition was added to ensure that dark skies ordinances were followed.
- A condition was added that any expansion of the home meet design criteria contained in the City's design standards.
- A condition was added to add a warranty period for the transplanted trees on the site.
- A condition was added to provide additional screening along the east and north property lines.
- Finally, a condition was added that the cemetery association provide copies of all annual minutes and financial reporting of the permanent care trust fund to the City on an annual basis.

The Planning Commission recommended approval of the Halcyon Cemetery Preliminary and Final Plat with 14 conditions of approval. The vote to recommend approval of the preliminary and final plat was unanimous (Vote: 6-0).

**STRENGTHS, WEAKNESSES, OPPORTUNITIES, THREATS (SWOT):**

**Strengths:** The proposed preliminary and final plat are compliant with the City's subdivision ordinance, as well as other ordinances found in the zoning code.

**Weaknesses:** Neighboring property owners have expressed concerns about traffic generated by the use.

**Opportunities:** N/A

**Threats:** N/A

**RECOMMENDATION:**

*Based on the aforementioned, the Planning Commission and Staff are recommending that the City Council approve the Halcyon Cemetery Preliminary and Final Plat through the following motion:*

***“Move to adopt Resolution No. 2015-59, approving the Halcyon Cemetery Preliminary and Final Plat.”***

**ATTACHMENTS:**

1. Resolution 2015-59
2. Staff Report to the Planning Commission, 7/13/15
3. Location Map
4. Application Forms and Project Narrative
5. Preliminary and Final Plat and Plans
6. City Engineer Review Memorandum, dated 7/8/15
7. Fire Chief Review Memorandum, dated 7/7/15
8. Washington County Review Memorandum, dated 7/7/15
9. Valley Branch Watershed District Permit
10. Lake Elmo Transportation Plan, Existing and Projected Traffic Volumes
11. Cemetery Proximity and Single Family Home Price Report (1<sup>st</sup> Half)

**INCLUDED IN THE ELECTRONIC PACKET BUT NOT PROVIDED IN HARD COPY:**

1. 2<sup>nd</sup> Half of Cemetery Proximity and Single Family Home Price Report – Supporting Data
2. Information Handout from League of MN Cities on Cemeteries

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

**RESOLUTION NO. 2015-59**

*A RESOLUTION APPROVING A PRELIMINARY AND FINAL PLAT FOR THE HALCYON  
CEMETERY*

**WHEREAS**, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

**WHEREAS**, Mr. Lee Rossow, 11050 50<sup>th</sup> Street North, Lake Elmo MN 55042 has submitted an application to the City of Lake Elmo (“City”) for a Preliminary and Final Plat for a cemetery to be called Halcyon, a copy of which is on file in the City of Lake Elmo Community Development Department; and

**WHEREAS**, the proposed Final Plat includes a cemetery on one parcel of land (PID: 01.029.21.33.0003) in the Rural Planning Area; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on July 13, 2015 to consider the Preliminary and Final Plat application; and

**WHEREAS**, the Lake Elmo Planning Commission adopted a motion recommending approval of the Final Plat subject to 14 conditions of approval; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation concerning the Preliminary and Final Plat as part of a memorandum to the City Council for the July 21, 2015 Council Meeting; and

**WHEREAS**, the City Council reviewed the Halcyon Cemetery Preliminary and Final Plat at its meeting held on July 21, 2015 and made the following findings of fact:

- 1) That the Halcyon Cemetery Final Plat is consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
- 2) That the Halcyon Cemetery complies with the City’s RR – Rural Residential zoning district.
- 3) That the Halcyon Cemetery complies with the City’s subdivision ordinance.
- 4) That the Halcyon Cemetery Final Plat meets other City zoning ordinances, such as landscaping, tree preservation, erosion and sediment control, off-street parking and other ordinances, except where noted in this report herein.
- 5) That the Halcyon Cemetery Final Plat is consistent with the City’s engineering standards, except where noted, provided the plans are updated to address the City Engineer’s



comments documented in a letter dated July 8, 2015 and the Fire Chief's comments documented in a letter dated July 7, 2015.

- 6) The applicant has committed to establishing a permanent care trust fund consistent with the requirements established under State Statute.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council does hereby approve the Halcyon Cemetery Preliminary and Final Plat subject to the following conditions:

- 1) The applicant shall revise the Final Plat to accommodate all required right-of-way on Lake Elmo Avenue and 50<sup>th</sup> Street North as documented in review memorandums submitted by Washington County and the City Engineer.
- 2) All required modifications to the plans as requested by the City Engineer in a review letter dated July 8, 2015 shall be incorporated into the plans prior to the City's execution of the Final Plat.
- 3) The developer shall follow all of the rules and regulations spelled out in the Wetland Conservation Act, and abide by all conditions of approval established in the approved Valley Branch Watershed District permit.
- 4) The applicant shall be responsible to address all review comments submitted by Washington County described in the review memorandum received from the County dated July 7, 2015. In addition, the applicant shall obtain all necessary right-of-way permitting from Washington County.
- 5) The Landscape Plan shall be revised to include 6 additional trees to fulfill the City's Landscaping Requirements. In addition, the plant material that is on top of utilities shall be moved to comply with the direction of the City Engineer per his memorandum dated July 8, 2015. Finally, prior to installation of plant material, the plan shall be reviewed by the City's Landscape Consultant for final approval.
- 6) The applicant must enter into an agreement with the City to own, operate and maintain the private storm water facilities on the property. The storm water maintenance agreement must be recorded with the Final Plat.
- 7) Prior to the issuance of grading/building permits, all review comments of the Fire Chief must be addressed by the applicant.
- 8) The applicant shall obtain the necessary permitting from Washington County to install a new septic system to serve the property prior to the City issuing and building permits for the remodel of the home.
- 9) Any future expansion of the site, including plans to install a crematorium, shall be reviewed and approved by the City.
- 10) All lighting installed on the Halcyon Cemetery site must comply with the City's dark skies ordinance.

- 11) Any alterations to the existing single family home shall be reviewed for conformance to the City's design standards.
- 12) All transplanted trees transplanted on the site shall include a 2-year warranty period to ensure survival. Any trees that do not survive the two-year period shall be replaced.
- 13) The Landscape Plan shall be amended to add plantings along the Eastern and Northern property lines consistent with screening requirements specified in 154.258.F of the City Code.
- 14) Annual meeting minutes, including annual financial reporting and status of the permanent care trust fund, shall be submitted to the City on an annual basis.

Passed and duly adopted this 21<sup>st</sup> day of July, 2015 by the City Council of the City of Lake Elmo, Minnesota.

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Mike Pearson, Mayor

ATTEST:

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Julie Johnson, City Clerk



PLANNING COMMISSION  
DATE: 7/13/2015  
AGENDA ITEM: 4A – PUBLIC HEARING  
CASE # 2015-06

ITEM: Halcyon Cemetery – Preliminary and Final Plat  
SUBMITTED BY: Nick Johnson, City Planner  
REVIEWED BY: Kyle Klatt, Community Development Director  
Jack Griffin, City Engineer  
Ann Pung-Terwedo, Washington County  
Greg Malmquist, Fire Chief

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#### **SUMMARY AND ACTION REQUESTED:**

The Planning Commission is being asked to hold a public hearing to consider a Preliminary and Final Plat application request from Mr. Lee Rossow for a cemetery to be platted on a 10-acre parcel located at the northeast corner of Lake Elmo Avenue (CSAH 17) and 50<sup>th</sup> Street North. Staff is recommending approval of the request subject to compliance with 8 conditions as noted in this report.

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#### **GENERAL INFORMATION**

*Applicant:* Lee Rossow, 11050 50<sup>th</sup> Street North, Lake Elmo, MN 55042  
*Property Owners:* Lee Rossow, 11050 50<sup>th</sup> Street North, Lake Elmo, MN 55042  
*Location:* Part of Section 01, Township 29 North, Range 21 West in Lake Elmo, immediately north of 50<sup>th</sup> Street and immediately east of Lake Elmo Avenue (CSAH 17). PID Number: 01.029.21.33.0003  
*Request:* Application for preliminary and final plat approval of a cemetery to be called Halcyon.  
*Existing Land Use and Zoning:* Single Family Detached, Rural Residential (RR) zoning  
*Surrounding Land Use and Zoning:* North – single family home (RR); west – single family home (RR); south – Agricultural (RR); east – single family residential (RR) and Municipal Well Site #4.  
*Comprehensive Plan:* Rural Area Development  
*History:* Sketch Plan review by Planning Commission on 11/24/2014.  
*Deadline for Action:* Application Complete – 6/17/2015  
60 Day Deadline – 8/17/2015  
Extension Letter Mailed – No  
120 Day Deadline – 10/16/2015

*Applicable Regulations:* Chapter 153 – Subdivision Regulations  
 Article IX – Rural Districts  
 Article V – Off Street Parking  
 Article VI – Landscaping and Tree Preservation  
 §150.270 Storm Water, Erosion, and Sediment

## **REQUEST DETAILS**

The City of Lake Elmo has received a request from Mr. Lee Rossow to plat a 10-acre cemetery at 11050 50<sup>th</sup> Street North to be called Halcyon. Under State Law, cemeteries must be filed and recorded with the County. In order for the cemetery plat to be filed and recorded at the County, the City must approve a final plat for the cemetery. The Planning Commission is asked to hold a public hearing on the proposed cemetery plat. The proposed cemetery would be located at the northeast corner of Lake Elmo Ave. and 50<sup>th</sup> St. North. The 10-acre parcel has historically been used as a single family residential home.

It should be noted that a Sketch Plan of the Halcyon Cemetery was reviewed by the Planning Commission on November 24<sup>th</sup> of 2014. At the Sketch Plan review level, the City completed a high-level review of the proposal to inform a future preliminary/final plat application. There is no formal approval issued by the City at the time of Sketch Plan review. According to standard subdivision procedures, a typical plat will go through both a preliminary and final plat review process. However, it is possible to proceed with preliminary and final plat review concurrently for plats of more limited scope and size. In the judgment of staff, the review of the Halcyon Cemetery represents such an application of more limited scope/size where the review of preliminary and final plans should be permitted to proceed in a concurrent fashion. Therefore, the applicant has prepared a final plat and construction plans for consideration by the City.

The existing condition of the property is that of a single family residential home with an accessory building on the eastern side of the property. It should be noted that the existing home has access off both 50<sup>th</sup> Street and Lake Elmo Avenue. The proposed cemetery would eliminate the access on Lake Elmo Ave., improving the access spacing related to driveways on the County arterial road. Access to the proposed cemetery would be accommodated off of 50<sup>th</sup> Street North approximately 270 feet east of Lake Elmo Ave. (CSAH 17). As part of the proposed cemetery use, the existing home and accessory building would be repurposed to support the cemetery use. The home would be used as an administrative office, caretaker quarters and gathering space for the bereaved. The existing accessory building would be utilized as a maintenance garage. In addition to these existing improvements, the applicant is planning to construct private storm water management facilities along the eastern portion of the site to address the additional impervious surface. It should be noted that these facilities have been designed to comply with the rules of the City of Lake Elmo and the Valley Branch Watershed District. With regards to the cemetery, the applicant is planning a total of 5 sections or areas to serve as burial sites or columbarium/mausoleums. Sections 1, 2 and 5 are within the planned Phase 1 area of the cemetery, while Sections 3 and 4 are in the planned Phase 2 area of the cemetery. The options for burial or interment include in-ground burials, mausoleums, columbarium, in-ground cremation and estate lots. At full capacity, the 5 sections could host the remains of 1,995 persons according to the site plan. Finally, there is also a 58-stall parking area planned for the cemetery. The parking lot would be utilized to accommodate larger parties for various burial ceremonies or rituals.

As far as utilities are concerned, the existing building will be served by a private septic system. The applicant has completed a compliance inspection and submitted to Washington County. The inspection revealed that the existing system is not compliant per Washington County ordinance.

Therefore, the applicant will need to construct a new septic system in consultation with Washington County Health Department (Condition #8). With regards to water, the site does have access to the City's municipal water system within 50<sup>th</sup> Street. Water service will be extended to the site to provide proper fire suppression for the home once it is converted to serve the cemetery use. It should also be noted that there is an existing well on the site. It is the understanding of the City that the well is to be protected and maintained for irrigation purposes.

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## PLANNING AND ZONING ISSUES

The Halcyon Cemetery parcel is guided Rural Area Development (RAD) according to the City's Comprehensive Plan. The existing zoning of the parcel is Rural Residential (RR). According to Article XI – Rural Districts of the Zoning Code, cemeteries are considered a permitted use within the Agricultural (A) and Rural Residential (RR) zoning districts. Therefore, the proposed use of a cemetery on this property is in compliance with the City's Zoning Code. It should also be noted that the Zoning Code does not contain any specific development standards for the cemetery use.

Based on Staff's review of the preliminary and final plat, the applicant has demonstrated compliance with all applicable code requirements at the level of detail that is required for a plat. As noted previously, the plat approval from the City is not required as a result of splitting the parcel into 4 or more lots, but rather as an approval of the proposed use prior to the filing of the property as a cemetery with Washington County. However, the platting procedures do allow the City and County to obtain the necessary right-of-way to serve both Lake Elmo Avenue and 50<sup>th</sup> Street.

With regards to parkland dedication, the Subdivision Ordinance does require that residential and commercial plats provide parkland dedication based upon a percentage or fee set under the City's Fee Schedule. Residential developments typically require a dedication percentage in between 7-10%, whereas the City's Fee Schedule require \$4,500/acre for commercial development be provided for parkland fees. In researching the cemetery use, staff has determined that the use is technically defined as a public cemetery association, meaning that the cemetery is owned privately but is open to the public. As a result of this definition and the fact that private cemeteries are considered a quasi-public use, staff does not believe that the City can require parkland dedication fees for the proposed use. The cemetery use is neither residential nor commercial, and thus staff is not recommending to impose any parkland dedication fees.

Finally, it should be noted that City staff has received some inquiries of concern from some surrounding property owners about the cemetery use. In speaking with the surrounding property owners, the general concerns staff has received relate to traffic, the effect on property values and the means to maintain the cemetery into perpetuity. Staff has completed some general research to look into these concerns:

- **Traffic.** With regards to increased traffic generated by the cemetery, the property is located at the intersection of a County arterial road and City major collector road. These facilities, as opposed to local residential streets, should be able to accommodate any increased traffic generated from the cemetery use. According to the City's Transportation Plan, the average daily traffic of 50<sup>th</sup> Street in 2009 was 500 trips, whereas the projected volume on 50<sup>th</sup> Street in 2030 is 1500 trips per day. Given this lower average daily traffic as of 2009, it is unlikely that the cemetery use would generate the amount of traffic that would come within any proximity of the available capacity. Lake Elmo average daily traffic as of 2009 was 3100 vehicle trips per day. The projected traffic volume for 2030 is 9200 vehicle trips per day. The applicant has estimated that daily travel to the cemetery will be extremely limited, with peak

travel resulting from scheduled funerals on an infrequent basis. While staff understands the concern over additional traffic generated by the proposed cemetery, the fact that the subject property is located at the intersection of an arterial road and major collector provides assurance to staff that the use would be ideally located. In the judgment of staff, there is adequate capacity on Lake Elmo Ave. and 50<sup>th</sup> Street.

- **Property Values.** Staff has received two concerns about reduced property values as a result of the proposed cemetery. Staff has conducted some research into this concern. Based on the limited research conducted, staff is not confident that there is a documented or proven correlation between property values and cemeteries. In researching the matter, the connection between cemeteries and property values remains inconclusive. There are academic studies and anecdotal articles that fall on both sides of the argument. For the benefit of the Planning Commission, staff has attached the article (Attachment #9) that presented the most comprehensive look at the effect of cemeteries on property values based on the research conducted.
- **Permanent Care of the Cemetery.** One resident that contact staff inquired about how the cemetery would be well maintained into the future. In researching this question, staff found that some cemeteries depending on location and population are required to maintain a Permanent Care and Improvement Fund. Whether or not the Halcyon Cemetery is required to establish this fund is undetermined at this time. However, the applicant has noted in their narrative that they intend to utilize a percentage of funds from every burial and interment to pay a permanent care and maintenance fund, which would be established and run by the cemetery association. The narrative notes that this fund will be in compliance with State Statutes. According to the applicant, this fund would be utilized to care for the grounds and complete capital projects and improvements to the cemetery.

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## REVIEW AND ANALYSIS

City Staff has reviewed the proposed preliminary and final plat for the Halcyon Cemetery. It should be noted that the applicant chose to wait to submit the plat application until the Valley Branch Watershed Permit was approved and issued, which occurred on June 25<sup>th</sup>, 2015. During the course of these review, staff has evaluated the proposed plans according to City ordinances and engineering standards. In completing the review, there are some elements of the plat that remain in conflict with City, County or Valley Branch Watershed District standards, which must still be addressed or corrected by the applicant. In general, the proposed plat will meet all applicable City requirements for conditional approval, and any deficiencies or additional work that is needed is noted as part of the review record.

The City has received a detailed list of comments from the City Engineer, Fire Chief and Washington County concerning the proposed cemetery, all of which are attached for consideration by the Commission.

In addition to the general comments that have been provided in the preceding sections of this report, Staff would like the Planning Commission to consider the issues and comments related to the following discussion areas as well:

- **Comprehensive Plan.** The proposed subdivision is consistent with the Lake Elmo Comprehensive Plan for this area. The subject property is guided Rural Area Development (RAD), which correlates to Agricultural and Rural Residential land uses. Under the Comprehensive Plan, cemetery use is not in conflict with this land use guidance.

- **Zoning.** The zoning of the subject property is Rural Residential (RR). Under this zoning designation, cemeteries are a permitted use according to the Zoning Code.
- **Subdivision Requirements.** The City's Subdivision Ordinance details the process for platting and other pertinent design standards. The majority of the standards are not applicable as the parcel is not being subdivided in the manner that is typical of other development. Staff, as well as the City Engineer, have not identified any existing conflicts with the City's Subdivision Ordinance. However, staff has found that additional public right-of-way may need to be provided on both 50<sup>th</sup> Street and Lake Elmo Avenue. The requirements to provide public right-of-way is found in the Subdivision Ordinance.
- **Infrastructure.** No public infrastructure is proposed to be constructed as part of the cemetery use. The wastewater facilities will be private. The existing home will be connected to the City water system via a water service. In addition, the Fire Chief will be requesting a hydrant to be located on the property. Nevertheless, the water line and hydrant will be privately owned and maintained. Finally, the storm water management facilities will also be privately owned and maintained. The City will require the landowner or association to enter into a maintenance agreement for the storm water facilities.
- **Wetlands.** The landowner has completed a wetland delineation as part of the permitting process for the Valley Branch Watershed. The applicant will be required to meet all the rules and regulations of the Wetland Conservation Act and Valley Branch Watershed District (Condition #3).
- **Landscaping.** Staff has reviewed the landscape plan submitted by the applicant and found the plan to be in general conformance with the City's ordinance. However, the applicant must provide 6 additional new trees to meet the City's quantity standards. Aside from this issue, the plant material provided meets the City standards for variety and plant size. It should also be noted that the applicant is proposing to transplant many of the existing trees on the site. In combination with the new plant material, there should be a fairly significant amount of landscaping on the 10-acre site. Staff was unable to have the plan reviewed by a registered Landscape Architect prior to consideration by the City. Therefore, Staff would recommend that the plan be reviewed for final approval prior to the installation of the plant material on the site. Finally, it should be noted that the City Engineer has identified some areas where plant material or trees are located on top of proposed utilities. The Landscape Plan should be revised to provide separation between the proposed utilities and plant material. These recommendations are included in a recommended condition of approval (Condition #5).
- **Tree Preservation Plan.** Staff has reviewed the Tree Preservation Plan and found it to be in conformance with the City's regulations pertaining to tree preservation for sites undergoing development activity. The total number of caliper inches on the site according to the survey is 1,550 caliper inches of significant trees. According to the Tree Preservation Ordinance, an applicant is allowed to remove 30% of significant trees on the site before tree replacement schedule is initiated. 30% of 1,550 total caliper inches is 465 caliper inches. The applicant is proposing to remove 340 caliper inches of significant trees, which is below the threshold for tree replacement. It should be noted that the applicant is proposing to transplant a significant amount of existing trees on the site to install mature plantings from an early point. Under the Tree Preservation Ordinance, transplanted trees do not count towards the total tree removals.

Staff finds the submitted tree preservation plan to be in conformance with the City's ordinance.

- ***Off-Street Parking.*** The proposed site plan for the cemetery shows 58 parking stalls. The City's Off-Street Parking Ordinance (§154.210) includes the required number of off-street parking stalls for various uses. As for cemeteries, the ordinance does not provide concrete direction, but rather states that parking should be provided in an amount determined by the Planning Director. Planning staff has reviewed the overall amount of parking on the plan and found it to be more than adequate. The amount of parking provided in the southern parking lot should prevent cars from parking on 50<sup>th</sup> Street or Lake Elmo Ave., both of which are currently designated no parking. Should an overflow parking be necessary, it is likely it could be accommodated within the various drive lanes that circulate the cemetery. In the judgment of staff, the amount of parking provided is more than adequate. Finally, it should be noted that the parking stall dimensions meet the City's minimum standards per the ordinance.
- ***City Engineer Review.*** The City Engineer has completed a review of the proposed cemetery and submitted his review comments in a memorandum dated July 8, 2015. With regards to the plat, he notes that 50<sup>th</sup> Street North is a major collector road, requiring 80 total feet of right-of-way. The plat currently shows 35 feet granted on the north side of 50<sup>th</sup> Street. He is requesting an additional 5 feet to establish the correct amount of right-of-way for collector roads. In addition, he is requesting additional right-of-way at the intersection to accommodate the sight line triangle. Finally, he is also requesting that a 10-foot drainage and utility easement be provided on the southern property line. This additional right-of-way and easement should not impact the proposed improvements on the site. Should any improvement be located in the drainage and utility easement, an easement encroachment agreement may be approved to allow fencing and other such improvements to be located there. In addition to the review comments on right-of-way, the engineer is requiring that the storm water management system be owned and maintained privately. The storm water facilities have not been designed to meet City standard. These facilities must be owned, operated and maintained privately. The City will expect a maintenance agreement to ensure proper operation of the facilities. Finally, the City Engineer has also noted several revisions and additions to the Construction Plan sheets. These review comments are mostly detail and plan notes that provide greater accuracy and clarity on the plans. Staff is recommending that the Engineer's review comments be adopted as a condition of approval (Condition #2). These modifications should be completed prior to the City executing the Final Plat.
- ***Fire Department Review.*** The Fire Chief has reviewed the proposed cemetery and identified some areas of further review. One request included additional information about the location of hydrants on the property. In addition, the Fire Chief is requesting additional information related to the movement of emergency vehicle on the site. Staff is recommending that the concerns identified by the Fire Chief be addressed prior to the issuance of grading or building permits (Condition #7)
- ***Washington County Review.*** County Staff has reviewed the cemetery plat and responded with a review memorandum dated July 7, 2015. Within the memo, County staff correctly notes that the amount of public right-of-way for Lake Elmo Ave. shown on the final plat is insufficient. In order to address this deficiency, an additional 25 feet must be provided. Staff is confident that the additional amount of right-of-way requested can be accommodated, as the Final Construction Plans include the correct amount of right-of-way, while the plat does



not. In other words, the additional right-of-way should not result in redesign of the site. In addition to the right-of-way issue, County staff notes that a right-of-way permit will be needed for the removal of the driveway and grading work associated with the retaining wall. In addition, the applicant must submit drainage calculations to review downstream impacts in the County ditch. Staff is recommending that all requirements and modifications identified in the County review memorandum be adopted as a condition of approval (Condition #4).

- ***Watershed District Review.*** The project area lies within the Valley Branch Watershed District (VBWD). The Valley Branch Watershed District reviewed the proposed cemetery at their June 25<sup>th</sup> meeting. At the meeting, the Valley Branch Board of Managers approved the permit for the cemetery with several conditions (see Attachment #7). It should be noted that the applicant must meet all the rules of the Wetland Conservation Act and the conditions of the VBWD permit. Staff is recommending a condition of approval (Condition #3) that these requirements be fulfilled.

Based on the above Staff report and analysis, Staff is recommending approval of the preliminary plat with 8 conditions intended to address the outstanding issues noted above and to further clarify the City's expectations in order for the developer to move forward with a final plat. The recommended conditions are as follows:

***Recommended Conditions of Approval:***

- 1) The applicant shall revise the Final Plat to accommodate all required right-of-way on Lake Elmo Avenue and 50<sup>th</sup> Street North as documented in review memorandums submitted by Washington County and the City Engineer.
- 2) All required modifications to the plans as requested by the City Engineer in a review letter dated July 8, 2015 shall be incorporated into the plans prior to the City's execution of the Final Plat.
- 3) The developer shall follow all of the rules and regulations spelled out in the Wetland Conservation Act, and abide by all conditions of approval established in the approved Valley Branch Watershed District permit.
- 4) The applicant shall be responsible to address all review comments submitted by Washington County described in the review memorandum received from the County dated July 7, 2015. In addition, the applicant shall obtain all necessary right-of-way permitting from Washington County.
- 5) The Landscape Plan shall be revised to include 6 additional trees to fulfill the City's Landscaping Requirements. In addition, the plant material that is on top of utilities shall be moved to comply with the direction of the City Engineer per his memorandum dated July 8, 2015. Finally, prior to installation of plant material, the plan shall be reviewed by the City's Landscape Consultant for final approval.
- 6) The applicant must enter into an agreement with the City to own, operate and maintain the private storm water facilities on the property. The storm water maintenance agreement must be recorded with the Final Plat.

- 7) Prior to the issuance of grading/building permits, all review comments of the Fire Chief must be addressed by the applicant.
- 8) The applicant shall obtain the necessary permitting from Washington County to install a new septic system to serve the property prior to the City issuing and building permits for the remodel of the home.

---

## DRAFT FINDINGS

Staff is recommending that the Planning Commission consider the following findings with regards to the proposed Halcyon Cemetery Final Plat:

- That the Halcyon Cemetery Final Plat is consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
- That the Halcyon Cemetery complies with the City's RR – Rural Residential zoning district.
- That the Halcyon Cemetery complies with the City's subdivision ordinance.
- That the Halcyon Cemetery Final Plat meets other City zoning ordinances, such as landscaping, tree preservation, erosion and sediment control, off-street parking and other ordinances, except where noted in this report herein.
- That the Halcyon Cemetery Final Plat is consistent with the City's engineering standards, except where noted, provided the plans are updated to address the City Engineer's comments documented in a letter dated July 8, 2015.

---

## RECCOMENDATION:

Staff recommends that the Planning Commission recommend approval of the Halcyon Cemetery Final Plat with the 8 conditions of approval as listed in the Staff report. Suggested motion:

***“Move to recommend approval of the Halcyon Cemetery Final Plat with the 8 conditions of approval as drafted by Staff based on the findings of fact listed in the Staff Report.”***

## ATTACHMENTS:

1. Location Map
2. Application Forms and Narrative
3. Preliminary and Final Plat and Plans
4. City Engineer Review Memorandum, dated 7/8/15
5. Fire Chief Review Memorandum, dated 7/7/15
6. Washington County Review Memorandum, dated 7/7/15
7. Valley Branch Watershed District Permit
8. Lake Elmo Transportation Plan, Existing and Projected Traffic Volumes
9. Cemetery Proximity and Single Family Home Price Report (1<sup>st</sup> Half)

**INCLUDED IN THE ELECTRONIC PACKET BUT NOT PROVIDED IN HARD COPY:**

1. 2<sup>nd</sup> Half of Cemetery Proximity and Single Family Home Price Report – Supporting Data
2. Information Handout About Cemeteries from League of Minnesota Cities

**ORDER OF BUSINESS:**

- Introduction .....Planning Staff
- Report by Staff .....Planning Staff
- Questions from the Commission ..... Chair & Commission Members
- Open the Public Hearing .....Chair
- Close the Public Hearing.....Chair
- Discussion by the Commission ..... Chair & Commission Members
- Action by the Commission ..... Chair & Commission Members



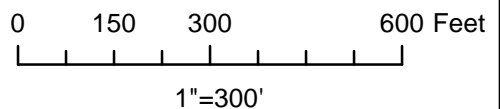
# Location Map: Proposed Halcyon Cemetery



Data Source: Washington County, MN  
11-17-2014



11050 50th Street N.



Date Received: \_\_\_\_\_  
Received By: \_\_\_\_\_  
LU File #: \_\_\_\_\_



651-747-3900  
3800 Laveme Avenue North  
Lake Elmo, MN 55042

### PRELIMINARY PLAT APPLICATION

Applicant: LEE ROSSOW  
Address: 1870 RICE STREET  
Phone #: 651-308-3999  
Email Address: 337 @ LACH.NET

Fee Owner: SAME  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Property Location (Address and Complete (long) Legal Description): \_\_\_\_\_  
11050 50TH STREET N  
\_\_\_\_\_  
\_\_\_\_\_

General information of proposed subdivision: \_\_\_\_\_  
CEMETERY  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Conducted pre-application meeting with Staff?  Yes  No

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning Ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: Lee Rossow Date: 2-8-2015

Signature of Fee Owner: SAME Date: \_\_\_\_\_

Date Received: \_\_\_\_\_  
Received By: \_\_\_\_\_  
LU File #: \_\_\_\_\_



651-747-3900  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

## FINAL PLAT APPLICATION

Applicant: LEE ROSSOW  
Address: 1870 RICE STREET  
Phone #: 651-308-2999  
Email Address: 339 Q LACH, NET

Fee Owner: SAME  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Property Location (Address and Complete (long) Legal Description: \_\_\_\_\_

11050 50TH STREET N

General information of proposed subdivision: \_\_\_\_\_

CEMETERY

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning Ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: Lee Rossow Date: 2-8-2015

Fee Owner Signature \_\_\_\_\_ Date: \_\_\_\_\_



Lake Elmo City Hall  
651-747-3900  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

### AFFIRMATION OF SUFFICIENT INTEREST

I hereby affirm that I am the fee title owner of the below described property or that I have written authorization from the owner to pursue the described action.

Name of applicant LEE ROSSOW  
(Please Print)

Street address/legal description of subject property  
11050 50<sup>TH</sup> STREET N

Lee Rossow  
Signature

OCTOBER 30, 2014  
Date

If you are not the fee owner, attach another copy of this form which has been completed by the fee owner or a copy of your authorization to pursue this action.

If a corporation is fee title holder, attach a copy of the resolution of the Board of Directors authorizing this action.

If a joint venture or partnership is the fee owner, attach a copy of agreement authorizing this action on behalf of the joint venture or partnership.



Lake Elmo City Hall  
651-747-3900  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

### ACKNOWLEDGEMENT OF RESPONSIBILITY

This is to certify that I am making application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application should be processed in my name and I am the party whom the City should contact regarding any matter pertaining to this application.

I have read and understand the instructions supplied for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I will keep myself informed of the deadlines for submission of material and of the progress of this application.

I understand that this application may be reviewed by City staff and consultants. I further understand that additional information, including, but not limited to, traffic analysis and expert testimony may be required for review of this application. I agree to pay to the City upon demand, expenses, determined by the City, that the City incurs in reviewing this application and shall provide an escrow deposit to the City in an amount to be determined by the City. Said expenses shall include, but are not limited to, staff time, engineering, legal expenses and other consultant expenses.

I agree to allow access by City personnel to the property for purposes of review of my application.

Signature of applicant Lee Rossow Date OCTOBER 30, 2014

Name of applicant LEE ROSSOW Phone 651 308 2999  
(Please Print)

Name and address of Contact (if other than applicant) \_\_\_\_\_

E-MAIL 337 @ LACH. NET

\_\_\_\_\_

\_\_\_\_\_



February 16, 2015

Lee Rossow  
Halcyon, GLCJ Properties, LLC, Rossow, INC  
1870 Rice Street  
St. Paul, MN 55113

Nick Johnson  
City of Lake Elmo  
3800 Laverne Ave North  
Lake Elmo, MN. 55042

Dear Nick Johnson,

The following narrative is in response to the Final Plat Application Requirements.

Item 1: Submitted with the proper fees on January 9, 2015.

Item 2: Sub a. Contact. Lee Rossow, 1870 Rice Street. (651) 308 – 2999, email – [337@lach.net](mailto:337@lach.net).  
Architect. William Sanders at LOUCKS

Sub b. Halcyon at 11050 50<sup>th</sup> Street North, 10 acres, Rural Residential, 435,600 sq. feet.

Sub c. i. HALCYON

iv. Wetland cannot be exactly determined until May, 2015. The area where the proposed wetland is located is in the phase II construction area which will not be touched until after the exact delineation is completed.

v. There are no dedicated rights of way within the property boundaries. There is a discussion with the County and right of way along Lake Elmo Ave. 25 feet

vi. The general legal descriptions of the burial locations are listed on the plans.

Sub d. Issues discussed after the sketch plan review: Park dedication and water assessment. Open issues are right of Way on Lake Elmo Ave. and the wetland delineation. Discussed in iv. v.

Sub f. All of the site work during the first building season, except that which is deemed necessary by the V.B.W.D. will be confined to the western 400 feet of the parcel. Including parking, sidewalks, storm sewer, mausoleums, columbariums, structure modifications and landscaping.

Sub g. Issues raised by one of the neighbors were addressed at the sketch plan meetings.

Sub h. At this time I am unaware of any issues with the neighbors.

Sub i. Halcyon will develop into a serene park like setting with minimal impact the community. Traffic will be accommodated entirely on site. Any funeral processions will enter the property and be accommodated on the property.

Sub I. We intend to start as soon as our plans are approved. We will work on phase 1 during this building season and phase II probably in 2016. Target date to be operational is August 2015.

Item 1. Administrative Information.

Sub 14. Labels with addresses of adjacent property owners were secured from Washington County and delivered to you on January 12, 2015.

Item 3. Final grading. Signed copies. Once the Engineers and the Watershed agree on the details, freshly signed plans will be resubmitted to your office.

Item 12. Spot elevations. I talked to Bill Sanders about including this on the plan if not already there.

Item 17. Phasing plan. As discussed the phase 1 and phase 2 areas on the erosion control plan will be clearly identified.

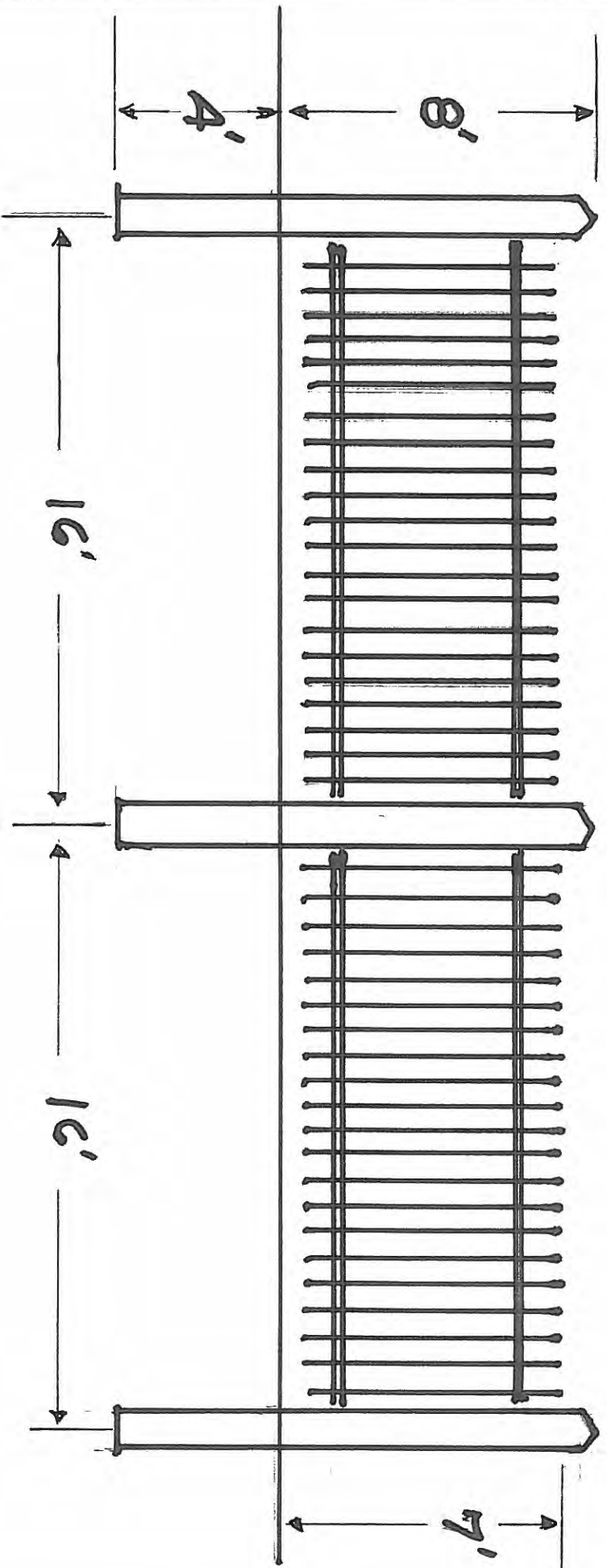
Other topics:

Care and Improvement: In compliance with Minnesota Statute 306.37, 306.41, 306.731, 20% of every burial lot and 10% of every mausoleum or columbarium space shall be paid to a permanent trust fund for the care, maintenance and improvement of the cemetery.

Public Service Agreement. I'm at a loss to make a suggestion because the City doesn't currently have any public service agreements with the other three cemeteries or religious organizations.



Lee Rossow



HALCYON FENCE DETAIL

12' CONCRETE POSTS

2-24-2015

15' SPAN STEEL SECTIONS

By LEE ROSSOW

# HALCYON

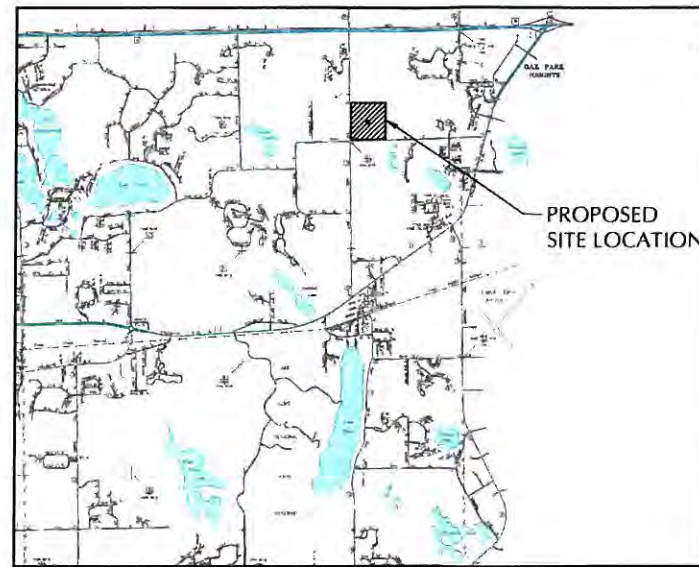
## LAKE ELMO, MINNESOTA

PLANS FOR:  
CEMETERY BURIAL LOCATIONS, PARKING, GRADING &  
DRAINAGE, UTILITIES AND LANDSCAPE

### SHEET INDEX

- C0-1 COVER SHEET
- C1-1 EXISTING CONDITIONS / REMOVALS
- C2-1 SITE LAYOUT PLAN
- C3-1 GRADING & DRAINAGE PLAN
- C3-2 EROSION CONTROL PLAN
- C5-1 PRELIMINARY PLAT
- C8-1 CIVIL DETAILS
- C8-2 CIVIL DETAILS
- C8-3 CIVIL DETAILS
- L1-0 TREE PRESERVATION PLAN
- L2-0 LANDSCAPING PLAN
- L2-1 LANDSCAPING DETAILS

### VICINITY MAP



EXISTING	CIVIL LEGEND	PROPOSED
	SANITARY MANHOLE	
	STORM MANHOLE	
	CATCH BASIN	
	CULVERT	
	HYDRANT	
	GATE VALVE	
	POST INDICATOR VALVE	
	LIGHT POLE	
	POWER POLE	
	SIGN	
	BENCHMARK	
	SOIL BORING	
	WATER MANHOLE	
	TELEPHONE MANHOLE	
	UTILITY MANHOLE	
	ELECTRIC MANHOLE	
	WATER SERVICE	
	SANITARY SERVICE	
	HANDICAP PARKING	
	DIRECTION OF FLOW	
	SPOT ELEVATION	
	CONTOURS	
	SANITARY SEWER	
	STORM SEWER	
	WATERMAIN	
	FOREMAN	
	DRAIN TILE	
	SALT FENCE	
	CURB & GUTTER	
	RETAINING WALL	
	TREE LINE	
	EASEMENT LINE	
	SETBACK LINE	
	FENCE LINE	
	UNDERGROUND TELE	
	UNDERGROUND GAS	
	OVERHEAD UTILITY	

Project Name:

HALCYON

11050 50th St. N.  
Lake Elmo, MN 55042

halcyoncemetry.com

Owner/Developer:

GLCJ Properties, Inc.  
Lee Rossow  
1870 Rice St.  
Roseville, MN 55113  
651-308-2999  
337@lach.net

Professional Services:

**LOUCKS ASSOCIATES**

Planning • Civil Engineering • Land Surveying  
Landscape Architecture • Environmental

7200 Hennock Lane - Suite 300  
Maple Grove, MN 55369  
Telephone: (763) 424-5505  
www.LoucksAssociates.com

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CADD Qualification:

CADD files prepared by the Consultant for this project are instruments of the Consultant professional services for use solely with respect to the project. These CADD files shall not be used on other projects, for additions to the project, or for completion of the project by others without written approval by the Consultant. With the Consultant's approval, others may be permitted to create copies of the CADD drawings for information and reference only. All intentional or unintentional revisions, additions, or deletions to these CADD files shall be made at the full risk of that party making such revisions, additions or deletions and that party shall hold harmless and indemnify the Consultant from any & all responsibilities, claims, and liabilities.

14530 C0-1 COVER SHEET.DWG/Cover

03/04/15 Revised City Submittal

05/14/15 Watershed Submittal

06/17/15 Final City Submittal

Professional Signature:

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota.

*William D. Sanders*  
William D. Sanders

12335 License No. 6/17/15 Date

Quality Control:

Project Lead: WS Drawn By: GAJ  
Checked By: WS Review Date: 06/17/15

- C0-1 COVER SHEET / PROJECT LOCATION
- C1-1 EXISTING CONDITIONS & REMOVALS
- C2-1 SITE LAYOUT PLAN
- C3-1 GRADING & DRAINAGE PLAN
- C3-2 EROSION CONTROL PLAN
- C4-1 UTILITY PLAN
- C5-1 PRELIMINARY PLAT
- C8-1 - C8-3 CIVIL DETAILS
- L1-0 TREE PRESERVATION PLAN
- L2-0 LANDSCAPING PLAN
- L2-1 LANDSCAPING DETAILS

Sheet Title:

COVER SHEET

Project No.:

14530

Sheet No.:

C0-1

### WARNING:

THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING FOR LOCATIONS OF ALL EXISTING UTILITIES. THEY SHALL COOPERATE WITH ALL UTILITY COMPANIES IN MAINTAINING THEIR SERVICE AND / OR RELOCATION OF LINES.

THE CONTRACTOR SHALL CONTACT GOPHER STATE ONE CALL AT 651-454-0002 AT LEAST 48 HOURS IN ADVANCE FOR THE LOCATIONS OF ALL UNDERGROUND WIRES, CABLES, CONDUITS, PIPES, MANHOLES, VALVES OR OTHER BURIED STRUCTURES BEFORE DIGGING. THE CONTRACTOR SHALL REPAIR OR REPLACE THE ABOVE WHEN DAMAGED DURING CONSTRUCTION AT NO COST TO THE OWNER.



CALL BEFORE YOU DIG!

Gopher State One Call

TWIN CITY AREA: 651-454-0002  
TOLL FREE: 1-800-252-1166

### DESIGN CONSULTANTS

LANDSCAPE ARCHITECT  
LOUCKS ASSOCIATES  
365 E. KELLOGG BLVD.  
ST. PAUL, MINNESOTA 55101

BILL SANDERS  
TEL: 763-496-6784

CIVIL ENGINEER  
LOUCKS ASSOCIATES  
365 E. KELLOGG BLVD.  
ST. PAUL, MINNESOTA 55101

VICKI VANDELL  
TEL: 763-496-6720

# Preliminary Plat of: HALCYON

Project Name  
11050  
50th Street North

## PRELIMINARY PLAT GENERAL NOTES

**SURVEYOR:**  
Loucks Associates, Inc.  
7200 Hemlock Lane, Suite 300  
Maple Grove, MN 55330  
763-424-5505

**OWNER/DEVELOPER:**  
GLCJ Properties, LLC  
1870 Rice Street  
Roseville, MN 55113  
651-308-2999

**LEGAL DESCRIPTION:**  
The South 660 feet of the West 660 feet of the Southwest Quarter of the Southwest Quarter, Section 1, Township 29 North, Range 21 West, Washington County, Minnesota.

**DATE OF PREPARATION:**  
February 27, 2015

**BENCHMARK:**  
Top nut of hydrant located at the northeast corner of Lake Elmo Avenue and 50th Street North as shown. Elev. = 933.90 (NAVD88)

**EXISTING ZONING:**  
Zone RR (Rural Residential)

**PROPOSED ZONING:**  
Zone RR (Rural Residential)

**AREAS:**  
Total Property Area = 435,638 Sq.Ft. or 10.00 Acres  
Right of way Dedication Area = 54,354 Sq.Ft. or 1.25 Acres  
Net Property Area = 381,284 Sq.Ft. or 8.75 Acres

**PROPOSED BUILDING SETBACKS:**

Front = 30 Feet  
Side (Corner) = 25 Feet  
Side (Interior) = 10 Feet  
Rear = 40 Feet

**FLOOD ZONE DESIGNATION:**

This property is contained in Zone X (areas determined to be outside the 0.2% annual chance floodplain) per Flood Insurance Rate Map, Community Panel No. 27163C0245E, effective date of February 3, 2010

Lake Elmo, Minnesota

Owner/Developer:

GLCJ Properties, LLC

1870 Rice Street  
Roseville, MN 55113

Professional Services:

**LOUCKS ASSOCIATES**

Planning • Civil Engineering • Land Surveying  
Landscape Architecture • Environmental

7200 Hemlock Lane - Suite 300  
Maple Grove, MN 55369  
Telephone: 763/424-5505  
www.LoucksAssociates.com

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**CADD Qualification:**

CADD files prepared by the Consultant for this project are instruments of the Consultant professional services for use solely with respect to this project. These CADD files shall not be used on other projects, for portions of the project, or for completion of the project by others without written approval by the Consultant. With the Consultant's approval, others may be permitted to obtain copies of the CADD files for information and reference only. All extensions or modifications, additions, or deletions to these CADD files shall be made at the full risk of the party making such extensions, additions or deletions and that party shall hold harmless and indemnify the Consultant from any & all responsibilities, claims, and liabilities.

S14510-MASTER.DWG/PREPLAT

**Revisions:**

Date	Description
02-27-15	Drawing Issued

**Professional Signature:**

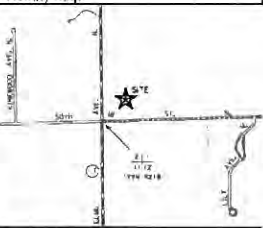
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor or under the laws of the State of Minnesota.

*Richard L. Licht*  
Richard L. Licht - PLS  
26724 February 27, 2015  
License No. Date

**Quality Control:**

Project Lead: RLL Drawn By: SFH  
Checked By: Katherine Dyer

**Vicinity Map:**



**Sheet Title:**

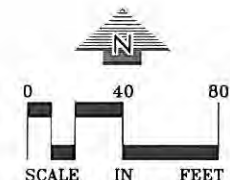
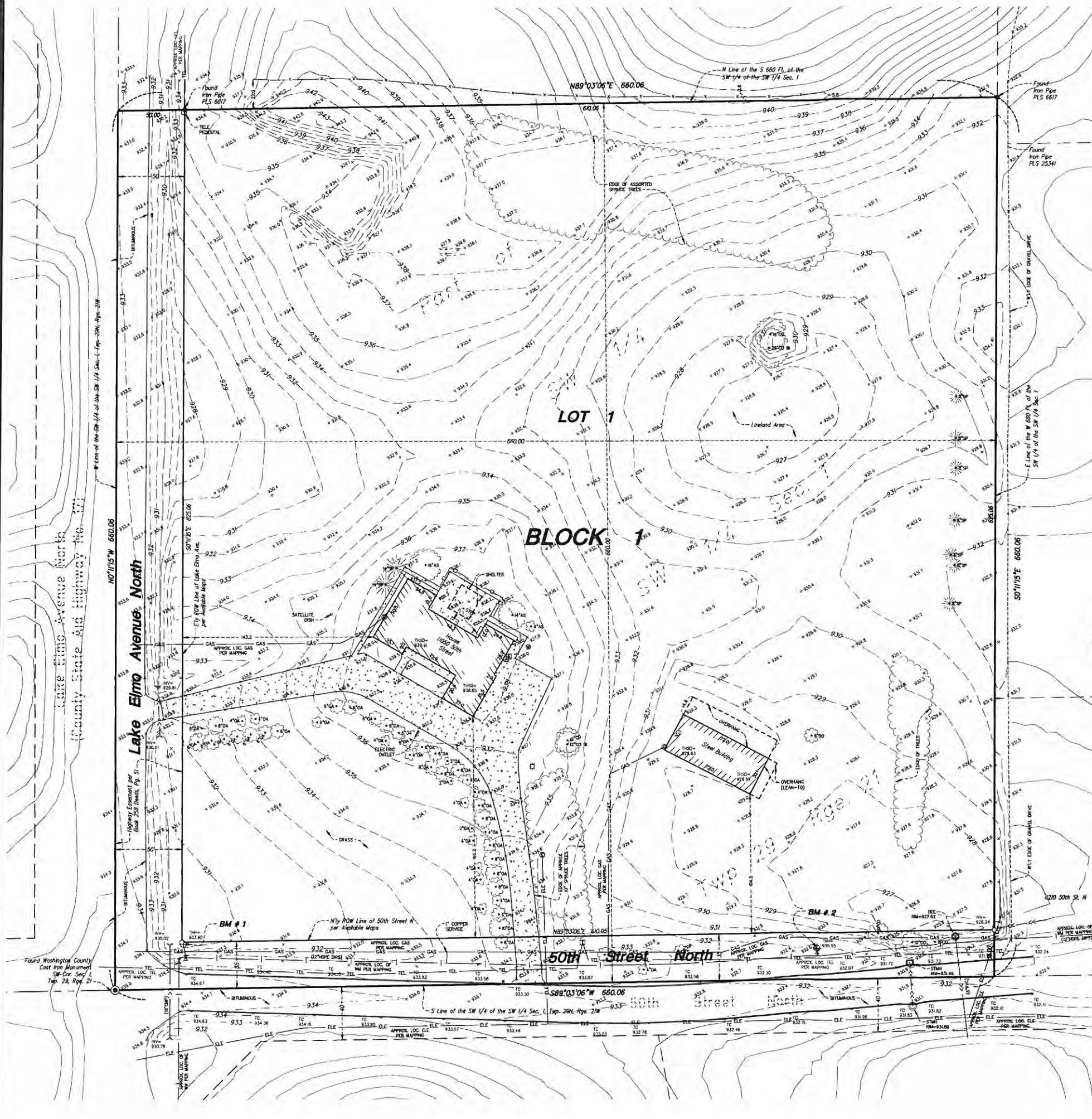
Preliminary Plat

**Project No.:**

14-530

**Sheet No.:**

C5-1



○ DENOTES 1/2 INCH X 14 INCH IRON MONUMENT SET, MARKED "RLS 17255"  
● DENOTES IRON MONUMENT FOUND  
HORIZONTAL DATUM IS BASED ON WASHINGTON COUNTY COORDINATES

**SURVEY LEGEND**

AS ASH	☒ CATCH BASIN	—●— STORM SEWER
BO BOXELDER	⊙ STORM MANHOLE	— — WATERMAIN
CO COTTONWOOD	⊕ WATER WELL	— — CULVERT
OA OAK	⊕ HYDRANT	— — UNDERGROUND ELECTRIC
SP SPRUCE	⊕ GATE VALVE	— — UNDERGROUND GAS
BT TWIN TREES	⊕ LIGHT POLE	— — UNDERGROUND TELEPHONE
TC TOP OF CURB	⊕ MAIL BOX	—x— CHAIN LINK FENCE
THSD THRESHOLD	⊕ GUARD POST	— — WOOD FENCE
	⊕ SIGN	— — CONCRETE CURB
	⊕ SPOT ELEVATION	— — CONCRETE
	⊕ A/C UNIT	— — CONTOUR
	⊕ TELEPHONE PEDESTAL	☼ CONIFEROUS TREE
	⊕ ELECTRIC METER	☼ DECIDUOUS TREE
	⊕ GAS METER	

Plotted: 02/27/2015 10:52 AM W:\2014\141530\CADD\DATA\SURVEY

# HALCYON

**KNOW ALL PERSONS BY THESE PRESENTS:** That GLCJ Properties, LLC, a Minnesota limited liability company, owner of the following described property situated in the County of Washington, State of Minnesota, to wit:

The South 660 feet of the West 660 feet of the Southwest Quarter of the Southwest Quarter, Section 1, Township 29 North, Range 21 West.

Has caused the same to be surveyed and platted under Minnesota Statute 307.01 as HALCYON, and do hereby donate and dedicate to the public the thoroughfares as shown hereon.

In witness whereof said GLCJ Properties, LLC, a Minnesota limited liability company has caused these presents to be signed by its proper officer this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_

**GLCJ PROPERTIES, LLC**

By \_\_\_\_\_

its \_\_\_\_\_

State of \_\_\_\_\_  
County of \_\_\_\_\_

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ by \_\_\_\_\_ of GLCJ Properties, LLC, a Minnesota limited liability company, on behalf of the company.

(Signature)

(Printed Name)  
Notary Public \_\_\_\_\_ County, \_\_\_\_\_  
My Commission Expires January 31, 20\_\_\_\_

**SURVEYORS CERTIFICATION**

I, Richard L. Licht, do hereby certify that I have surveyed and platted the property described on this plat under Minnesota Statute 307.01 as HALCYON, that this is a correct representation of the survey; that all distances are correctly shown on the plat in feet and hundredths of a foot; that all monuments have been correctly placed in the ground as shown; that the outside boundary lines are correctly designated on the plat.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_

Richard L. Licht, Licensed Land Surveyor  
Minnesota License No. 26724

State of Minnesota  
County of Hennepin

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ by Richard L. Licht, a Licensed Land Surveyor.

(Signature)

(Printed Name)  
Notary Public Hennepin County, Minnesota  
My Commission Expires January 31, 2020

**LAKE ELMO PLANNING COMMISSION**

Approved by the Planning Commission of the City of Lake Elmo, Minnesota, this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_

By \_\_\_\_\_ Chair  
By \_\_\_\_\_ Secretary

**COUNTY SURVEYOR**

I certify that this plat has been checked mathematically and approved the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

By \_\_\_\_\_  
Washington County Surveyor

**COUNTY AUDITOR/TREASURER**

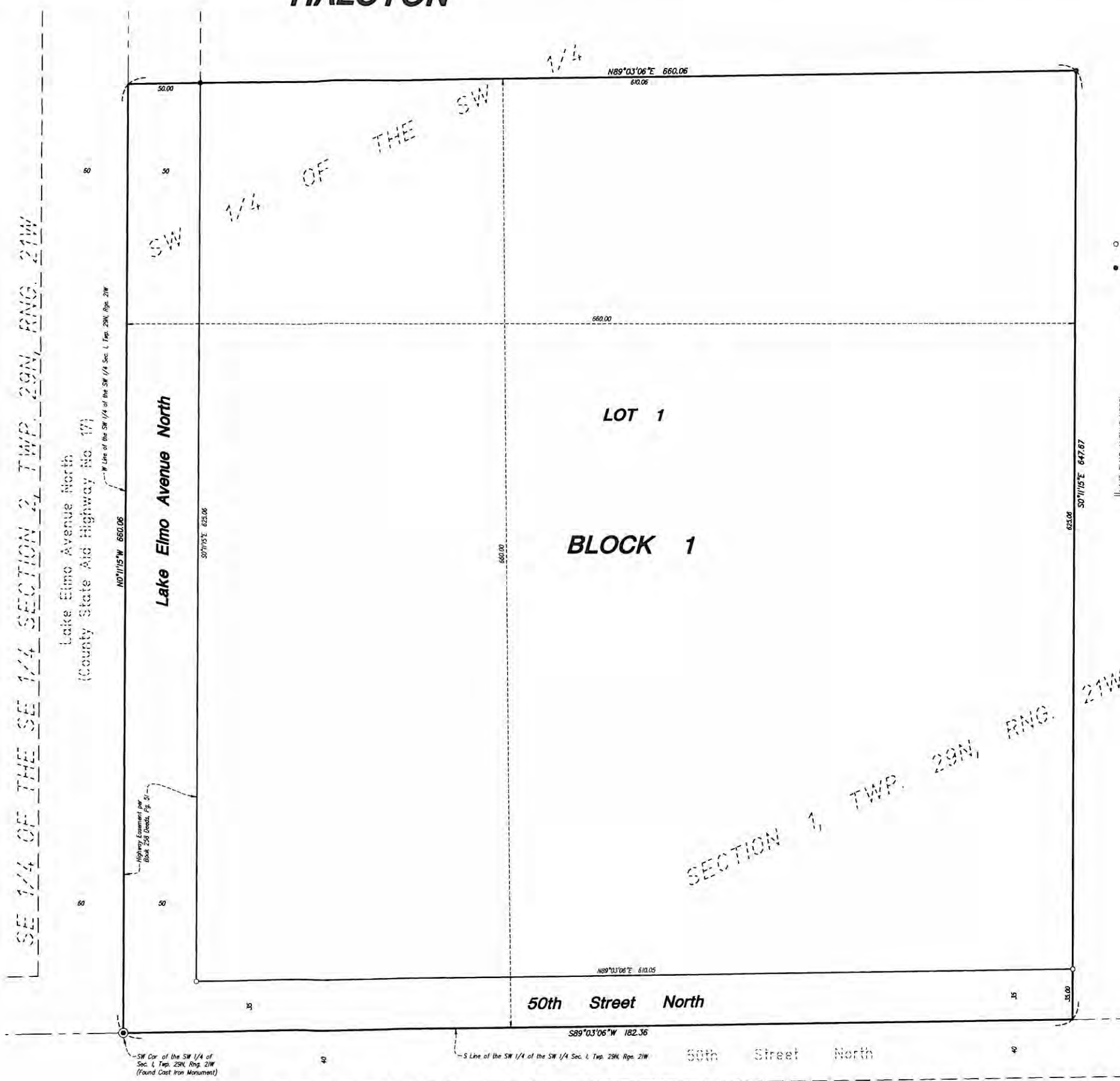
There are no delinquent taxes, the current taxes due are payable for the year \_\_\_\_\_ have been paid and transfer has been entered this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

By \_\_\_\_\_ Washington County Auditor/Treasurer  
By \_\_\_\_\_ Deputy

**COUNTY RECORDER, Washington County, Minnesota**

I hereby certify that the within plat of HALCYON was recorded in this office this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By \_\_\_\_\_ Washington County Recorder  
By \_\_\_\_\_ Deputy

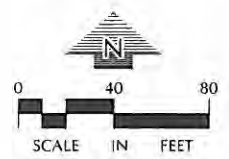


SE 1/4 OF THE SE 1/4 SECTION 2, TWP. 29N, RNG. 21W

Lake Elmo Avenue North  
(County State Aid Highway No. 17)

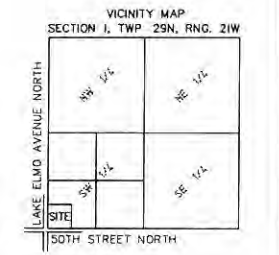
SECTION 1, TWP. 29N, RNG. 21W

JOHN M DAY FARM ADDITION



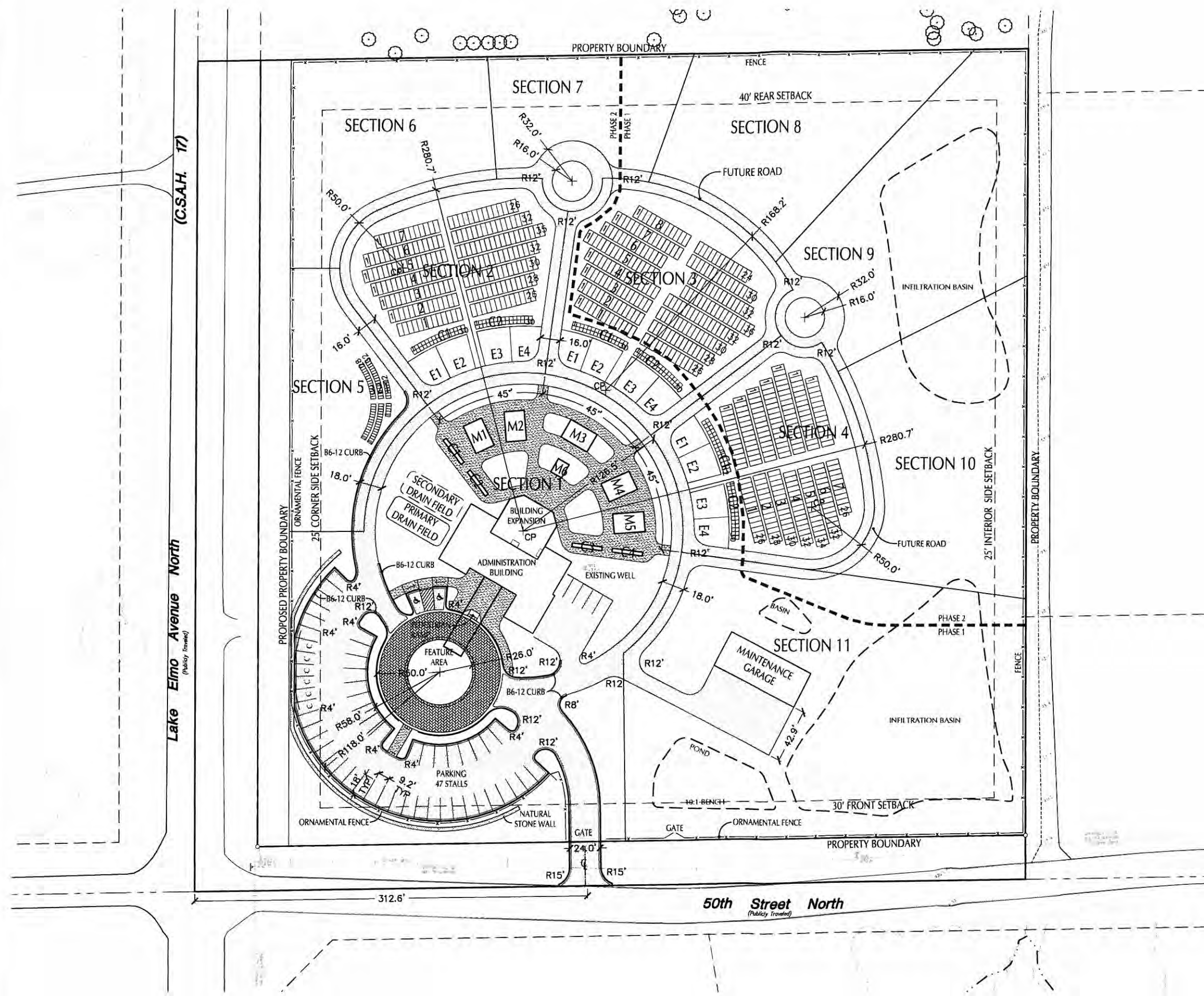
○ DENOTES 1/2 INCH X 1/4 INCH IRON MONUMENT SET, MARKED "RLS 28724"  
● DENOTES IRON MONUMENT FOUND

THE SOUTH LINE OF THE SW1/4 OF THE SW1/4 IS ASSUMED TO HAVE A BEARING OF S89°03'06\"/>



**LOUCKS ASSOCIATES**

Plotted: 09/12/2015 3:6 PM W:\2014\14530\CADD\DATA\LANDSCAPE.dwg Sheet Files

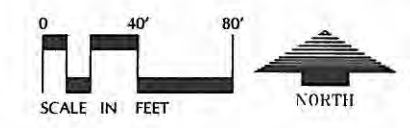


**LEGEND**

- BITUMINOUS ROAD
- CONCRETE SURFACING
- PAVER SURFACING

**BURIAL TOTALS**

SECTION 1 - MAUSOLEUM	322
SECTION 1 - COLUMBARIUM	640
SECTION 2 - IN-GROUND FULL	209
SECTION 2 - IN-GROUND CREMATION	60
SECTION 2 - ESTATE LOTS	48
SECTION 3 - IN-GROUND FULL	209
SECTION 3 - IN-GROUND CREMATION	60
SECTION 3 - ESTATE LOTS	48
SECTION 4 - IN-GROUND FULL	209
SECTION 4 - IN-GROUND CREMATION	60
SECTION 4 - ESTATE LOTS	48
SECTION 5 - IN-GROUND INFANT	72
SECTION 6 - FUTURE	
SECTION 7 - FUTURE	
SECTION 8 - FUTURE	
SECTION 9 - FUTURE	
SECTION 10 - FUTURE	
SECTION 11 - FUTURE	
<b>TOTAL</b>	<b>1985</b>



Project Name: **HALCYON**

11050 50th St. N.  
Lake Elmo, MN 55042

halcyoncemetery.com

Owner/Developer:  
GLCJ Properties, Inc.  
Lee Rossow  
1870 Rice St.  
Roseville, MN 55113  
651-308-2999  
337@lach.net

Professional Services:  
**LOUCKS ASSOCIATES**  
Planning • Civil Engineering • Land Surveying  
Landscape Architecture • Environmental  
7200 Hemlock Lane - Suite 300  
Maple Grove, MN 55369  
Telephone: (763) 424-5205  
www.LoucksAssociates.com

**CADD Qualification:**  
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14530 C2-1 LAYOUT PLAN.DWG/Layout Plan

03/04/15	Revised City Submittal
05/14/15	Watershed Submittal
06/17/15	Final City Submittal

**Professional Signature:**  
I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota.  
*William D. Smider*

24610 License No. 6/17/15 Date

**Quality Control:** \_\_\_\_\_ GAI

Project Lead: WS Drawn By: \_\_\_\_\_ 06/17/15  
Checked By: \_\_\_\_\_ Review Date: \_\_\_\_\_

**Sheet Title:**  
**PRELIMINARY SITE PLAN**

Project No.: 14530  
Sheet No.: \_\_\_\_\_

**C2-1**

SITE LAYOUT PLAN:



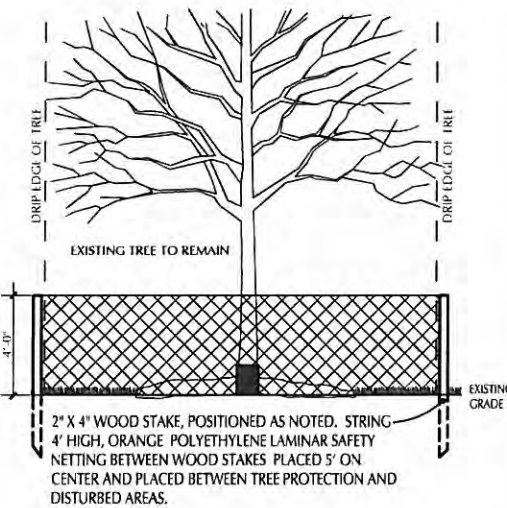
EXISTING CONDITIONS AND REMOVALS:

REMOVALS / SITE PREPARATION NOTES:

- REFER TO SHEET C3-2 FOR EROSION CONTROL PLAN AND ADDITIONAL NOTES.
- CONTRACTOR SHALL VISIT THE SITE PRIOR TO SUBMITTING BID. INSPECT THE SITE AND BECOME FAMILIAR WITH EXISTING CONDITIONS RELATING TO THE NATURE AND SCOPE OF THE WORK.
- ASSURE COMPLIANCE WITH ALL APPLICABLE CODES AND REGULATIONS GOVERNING THE WORK OR MATERIALS SUPPLIED.
- PREVENT SOIL FROM WASHING INTO THE STORM SEWER. ALL SEDIMENT AND EROSION CONTROL MEASURES AS REQUIRED BY STATE AND LOCAL CODES SHALL BE INSTALLED PRIOR TO ANY DEMOLITION OR EARTHWORK ACTIVITIES.
- LOCATION AND SIZES OF ALL UNDERGROUND UTILITIES ARE APPROXIMATE AND ARE SHOWN BASED ON FIELD LOCATION OF VIEWABLE FIXTURES. CONTRACTOR SHALL VERIFY LOCATIONS OF ALL UNDERGROUND UTILITIES WITH GOPHER ONE AND LOCAL UTILITY SERVICES. PROVIDE THE NECESSARY PROTECTION FOR EXISTING UTILITIES BEFORE CONSTRUCTION OR MATERIAL INSTALLATION BEGINS (MINIMUM 10' CLEARANCE).
- NO CONSTRUCTION, DEMOLITION OR COMMERCIAL POWER MAINTENANCE EQUIPMENT SHALL BE OPERATED WITHIN THE CITY BETWEEN THE HOURS OF 6:00 PM AND 7:00AM ON WEEKDAYS OR DURING ANY HOURS ON SATURDAYS, SUNDAYS AND STATE AND FEDERAL HOLIDAYS, EXCEPT UNDER PERMIT.
- CONTRACTOR IS RESPONSIBLE FOR ANY DAMAGE TO EXISTING SITE FEATURES TO REMAIN. ANY DAMAGE TO EXISTING SITE FEATURES SHALL BE REPORTED TO LANDSCAPE ARCHITECT AND OWNER PRIOR TO START OF CONSTRUCTION ACTIVITIES. ANY DAMAGE TO SAME SHALL BE REPAIRED AT NO COST TO THE OWNER.
- LOCATIONS FOR STORING CONSTRUCTION EQUIPMENT AND MATERIALS SHALL BE COORDINATED WITH THE LANDSCAPE ARCHITECT.
- ALL CONSTRUCTION AND POST-CONSTRUCTION PARKING SHALL BE AS DIRECTED BY THE OWNER. NO ON-STREET PARKING / LOADING / UNLOADING ALLOWED.
- SEE SHEETS L1-0 AND L2-0 - FOR ADDITIONAL TREE REMOVAL / TRANSPLANT INFORMATION

LEGEND

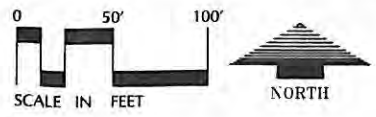
- EXISTING CONTOUR
- EXISTING DECIDUOUS TREE TO BE TRANSPLANTED
- EXISTING TREE TO BE PROTECTED - SEE 2/C1-1
- EXISTING TREE TO BE REMOVED
- CONCRETE SURFACE TO BE REMOVED



**TREE PROTECTION NOTE:**  
 INSTALL SNOW FENCE AROUND EACH TREE TO BE PROTECTED PRIOR TO GRADING. FENCE SHALL BE PLACED AT THE DRIP EDGE OR CRITICAL ROOT ZONES OF THE TREES. FENCING SHALL BE NO CLOSER THAN 6' TO THE TRUNK OF ANY TREE TO BE PROTECTED. THE PERIMETERS FOR TREES BEING PROTECTED SHALL BE DESIGNATED AT ALL TIMES DURING CONSTRUCTION ACTIVITY AND SIGNAGE SHALL BE INSTALLED AT ALL TREE PROTECTION AREAS THAT INSTRUCTS WORKERS TO STAY OUT. CONTRACTOR SHALL AVOID ALL AREAS WITHIN TREE PROTECTION FENCE. SOIL SHOULD BE PROTECTED FROM EROSION AND CHANGES IN CHEMISTRY FROM CONCRETE OR TOXIC MATERIALS SUCH AS FUELS AND PAINTS.

ALL DAMAGE TO TREES TO BE PROTECTED SHALL BE BROUGHT TO THE ATTENTION OF THE OWNER AND LANDSCAPE ARCHITECT.

**2** TREE PROTECTION  
 SCALE: 1/2" = 1'-0"



CALL BEFORE YOU DIG  
**Gopher State One Call**  
 TWIN CITY AREA: 651-454-0002  
 TOLL FREE: 1-800-252-1166

Project Name:

**HALCYON**  
 11050 50th St. N.  
 Lake Elmo, MN 55042

halcyoncemetery.com

Owner/Developer:

GLC Properties, Inc.  
 Lee Rossow  
 1870 Rice St.  
 Roseville, MN 55113  
 651-308-2999  
 337@lclch.net

Professional Services:

**LOUCKS ASSOCIATES**

Planning • Civil Engineering • Land Surveying  
 Landscape Architecture • Environmental  
 7200 Hemlock Lane - Suite 300  
 Maple Grove, MN 55369  
 Telephone: (763) 424-5505  
 www.LoucksAssociates.com

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14530 C1-1 REMOVALS.DWG/Removals

03/04/15	Revised City Submittal
05/14/15	Watershed Submittal
06/17/15	Final City Submittal

Professional Signature:

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota.

12335 License No. 6/17/15 Date

Quality Control: GAJ

Project Lead: WS Drawn by: 06/17/15  
 Checked by: Review Date:

C0-1	COVER SHEET / PROJECT LOCATION
C1-1	EXISTING CONDITIONS & REMOVALS
C2-1	SITE LAYOUT PLAN
C3-1	GRADING & DRAINAGE PLAN
C3-2	EROSION CONTROL PLAN
C6-1	UTILITY PLAN
C5-1	PRELIMINARY PLAN
C8-1 - C8-3	CIVIL DETAILS
L1-0	TREE PRESERVATION PLAN
L3-0	LANDSCAPING PLAN
L3-1	LANDSCAPING DETAILS

Sheet Title:

EXISTING CONDITIONS & REMOVALS

Project No.:

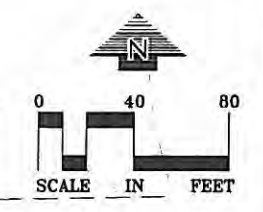
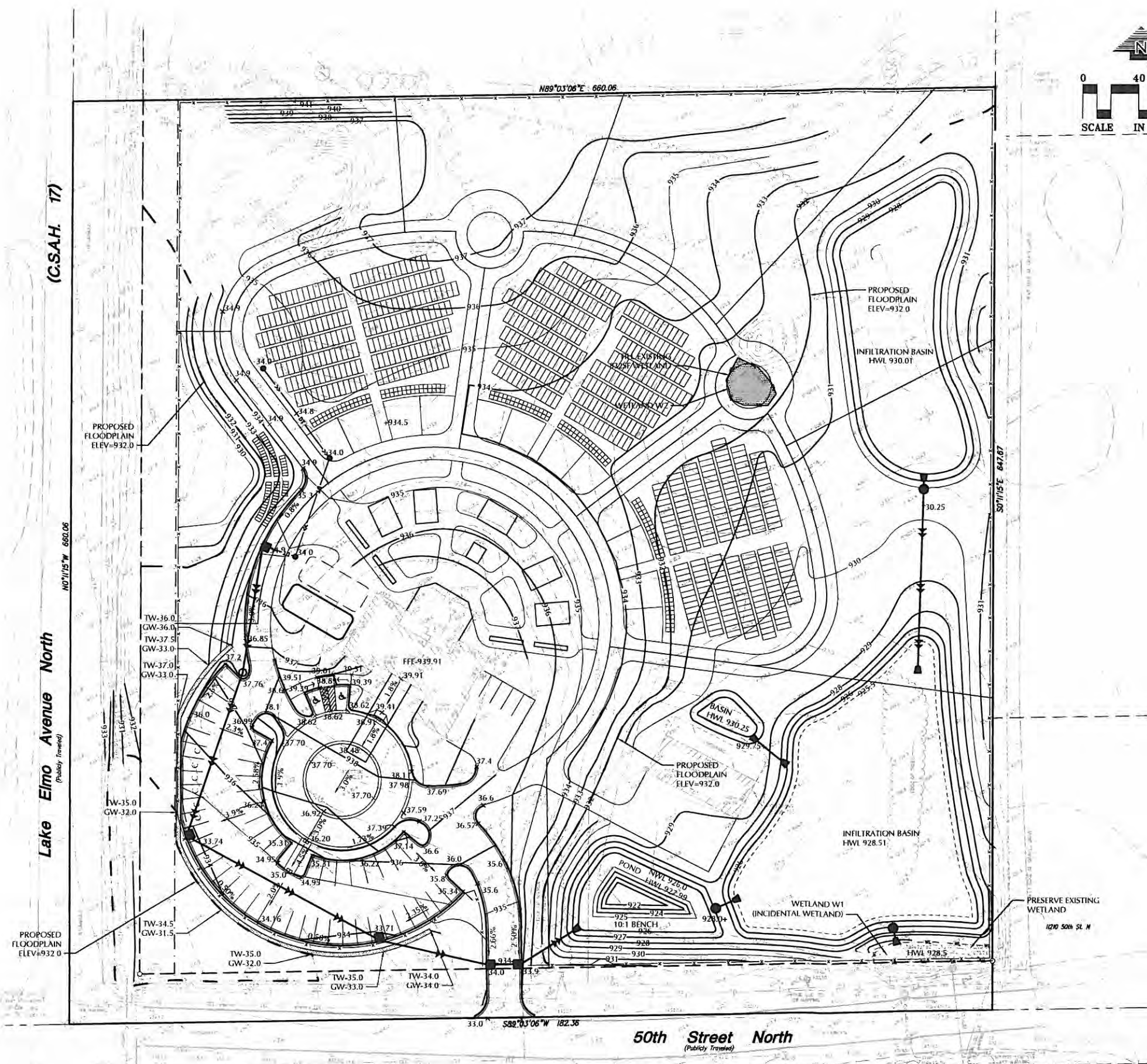
14530

Sheet No.:

C1-1



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LEGEND	
EXISTING	PROPOSED
TOPOGRAPHIC CONTOUR	800
SPOT ELEVATION	X 800.0
DRAINAGE SLOPE	X.XX%
STORM SEWER	—+—+—+—
STORM MANHOLE	○
CATCH BASIN	●
SANITARY SEWER	—+—+—+—
WATERMAIN	—+—+—+—
BENCHMARK	⊕
EMERGENCY OVERTFLOW	~
CONSTRUCTION LIMITS	—+—+—+—

NOTE:  
CATCH BASINS RIMS ARE 2 INCHES LOWER THAN FLOW LINE ELEVATION.

NOTE:  
SPOT ELEVATIONS AT CURB LINES INDICATE BASE OF CURB AND GUTTER LINE (I.E. FLOW LINE) ELEVATIONS UNLESS OTHERWISE NOTED.

**GRADING PLAN NOTES**

- BACKGROUND INFORMATION IS BASED ON A FIELD SURVEY BY LOUCKS ASSOCIATES AND RECORD UTILITY DRAWINGS FROM THE CITY OF LAKE ELMO. LOUCKS ASSOCIATES DOES NOT GUARANTEE THE ACCURACY OF INFORMATION PROVIDED BY OTHERS.
- THE CONTRACTOR SHALL REFER TO THE ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF BUILDINGS, VESTIBULES, SLOPED PAVING, EXIT PORCHES, RAMPS, TRUCK DOCKS, ENTRY LOCATIONS AND LOCATIONS OF DOWNSPOUTS.
- THE CONTRACTOR SHALL TAKE ALL PRECAUTIONS NECESSARY TO AVOID PROPERTY DAMAGE TO ADJACENT PROPERTIES DURING THE CONSTRUCTION PHASE OF THIS PROJECT. THE CONTRACTOR WILL BE HELD RESPONSIBLE FOR ANY DAMAGES TO ADJACENT PROPERTIES OCCURRING DURING THE CONSTRUCTION PHASE OF THIS PROJECT.
- IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, THE CONTRACTOR WILL BE SOLELY AND COMPLETELY RESPONSIBLE FOR CONDITIONS ON THE JOB SITE, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY DURING THE PERFORMANCE OF THE WORK. THIS REQUIREMENT WILL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS.
- BEFORE BEGINNING CONSTRUCTION THE CONTRACTOR SHALL INSTALL A TEMPORARY ROCK ENTRANCE PAD AT ALL POINTS OF VEHICLE EXIT FROM THE PROJECT SITE. SAID ROCK ENTRANCE PAD SHALL BE MAINTAINED BY THE CONTRACTOR FOR THE DURATION OF THE PROJECT.
- EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE ESTABLISHED AROUND THE ENTIRE SITE PERIMETER AND IN ACCORDANCE WITH NPDES PERMIT REQUIREMENTS, BEST MANAGEMENT PRACTICES, AND CITY REQUIREMENTS.
- ALL SPOT ELEVATIONS SHOWN REPRESENT FINISHED SURFACE OR GUTTER LINE ELEVATIONS UNLESS OTHERWISE NOTED.
- CONTRACTOR TO VERIFY EXISTING INFORMATION PRIOR TO CONSTRUCTION AND NOTIFY ENGINEER OF ANY PLAN DISCREPANCIES.
- EXISTING UTILITY LOCATIONS AS-PER CITY AS-BUILT PLANS AND FIELD SHOTS.
- SEE SHEET C3-2 FOR EROSION CONTROL INFORMATION.
- GENERAL CONTRACTOR MUST VERIFY ALL THE IN GRADES.
- THE POND IS TO BE LINED BELOW 926.0 ELEVATION WITH 2' OF CLEAN CLAY COMPACTED TO 98%. CLAY MATERIAL PROVIDED NEEDS TO BE TESTED TO VERIFY QUALITY AND INFILTRATION RATE.

**WARNING**

THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING FOR LOCATIONS OF ALL EXISTING UTILITIES. THEY SHALL COOPERATE WITH ALL UTILITY COMPANIES IN MAINTAINING THEIR SERVICE AND / OR RELOCATION OF LINES.

THE CONTRACTOR SHALL CONTACT GOPHER STATE ONE CALL AT 651-454-0002 AT LEAST 48 HOURS IN ADVANCE FOR THE LOCATIONS OF ALL UNDERGROUND WIRES, CABLES, CONDUITS, PIPES, MANHOLES, VALVES OR OTHER BURIED STRUCTURES BEFORE DIGGING. THE CONTRACTOR SHALL REPAIR OR REPLACE THE ABOVE WHEN DAMAGED DURING CONSTRUCTION AT NO COST TO THE OWNER.

CALL BEFORE YOU DIG!

**Gopher State One Call**

TWIN CITY AREA: 651-454-0002  
TOLL FREE: 1-800-252-1166

Project Name

**HALCYON**

11050 50th St. N.  
Lake Elmo, MN 55042

halcyoncemetery.com

Owner/Developer:

GLC Properties, Inc.  
Lee Rossow

1870 Rice St.  
Roseville, MN 55113  
651-308-2999  
337@lach.net

Professional Services:

**LOUCKS ASSOCIATES**

Planning • Civil Engineering • Land Surveying  
Landscape Architecture • Environmental

7400 Hemlock Lane - Suite 300  
Maple Grove, MN 55369  
Telephone: (763) 424-5505  
www.LoucksAssociates.com

2015

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C:\14530\1-DWG/Layout

Submital:

03/04/15	Revised City Submittal
05/14/15	Watershed Submittal
06/17/15	Final City Submittal

Professional Signature:

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

*John J. Madell*  
John J. Madell  
4452 License No. 6/17/15 Date

Quality Control:

Project Lead:	VJV	Drawn By:	WBS
Checked By:	VJV	Review Date:	6/17/15

Sheet Index:

C0-1	COVER SHEET / PROJECT LOCATION
C1-1	EXISTING CONDITIONS & REMOVALS
C2-1	SITE LAYOUT PLAN
C3-1	GRADING & DRAINAGE PLAN
C3-2	EROSION CONTROL PLAN
C4-1	UTILITY PLAN
C5-1	PRELIMINARY PLAN
C6-1 - C6-3	CIVIL DETAILS
L1-0	TREE PRESERVATION PLAN
L2-0	LANDSCAPING PLAN
L2-1	LANDSCAPING DETAILS

Sheet Title:

**GRADING & DRAINAGE PLAN**

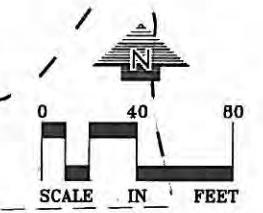
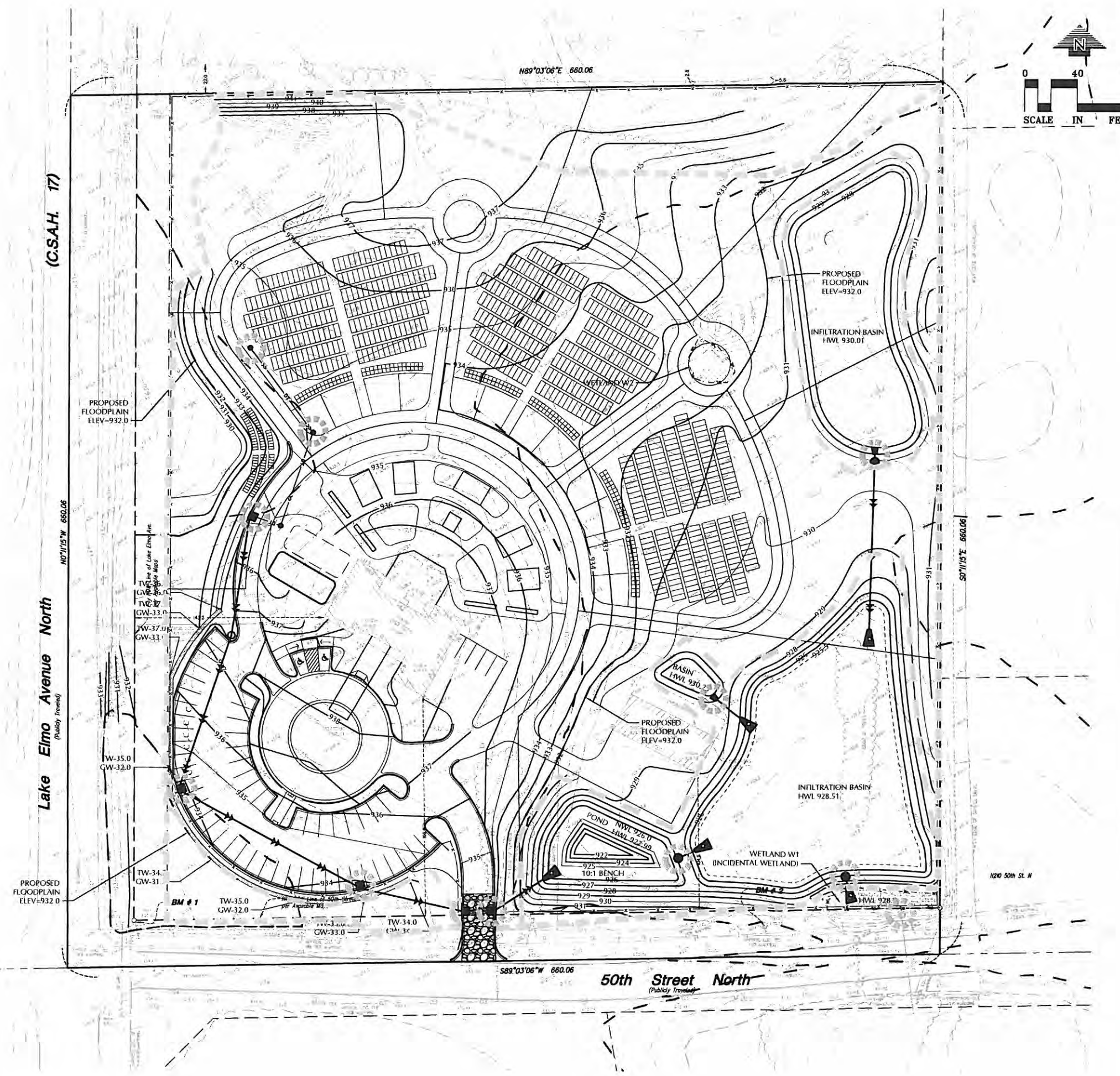
Project No.:

14530

Sheet No.:

C3-1

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EXISTING IMPERVIOUS	0.46 Acres
PROPOSED IMPERVIOUS	2.07 Acres
DISTURBED AREA	8 Acres

**NOTE:**  
SEE C8-2 FOR EROSION CONTROL NOTES & DETAILS

EXISTING	PROPOSED
TOPOGRAPHIC CONTOUR	
SPOT ELEVATION	
DRAINAGE SLOPE	
STORM SEWER	
STORM MANHOLE	
CATCH BASIN	
SANITARY SEWER	
WATERMAIN	
BENCHMARK	
EMERGENCY OVERTFLOW	
CONSTRUCTION LIMITS	
ADA ACCESSIBLE ROUTE	
SILT FENCE	
BASIN SILT FENCE	
INLET PROTECTION	

Project Name:

**HALCYON**  
11050 50th St. N.  
Lake Elmo, MN 55042

halcyoncemetery.com  
Owner/Developer:

GLCJ Properties, Inc.  
Lee Rossow  
1870 Rice St.  
Roseville, MN 55113  
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337@lach.net

Professional Services:

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Submital:	Date
Revised City Submittal	03/04/15
Watershed Submittal	05/14/15
Final City Submittal	06/17/15

Professional Signature:

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.  
  
4/952 License No. 6/17/15 Date

Quality Control:

Project Lead: **WBS**  
Drawn By: **VJV**  
Checked By: **VJV**  
Review Date: **06/17/15**

Sheet Index:

C8-1	COVER SHEET / PROJECT LOCATION
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C5-1	PRELIMINARY PLAN
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L1-0	TREE PRESERVATION PLAN
L2-0	LANDSCAPING PLAN
L2-1	LANDSCAPING DETAILS

Sheet Title:

**EROSION CONTROL PLAN**

Project No.:

14530

Sheet No.:

**C3-2**

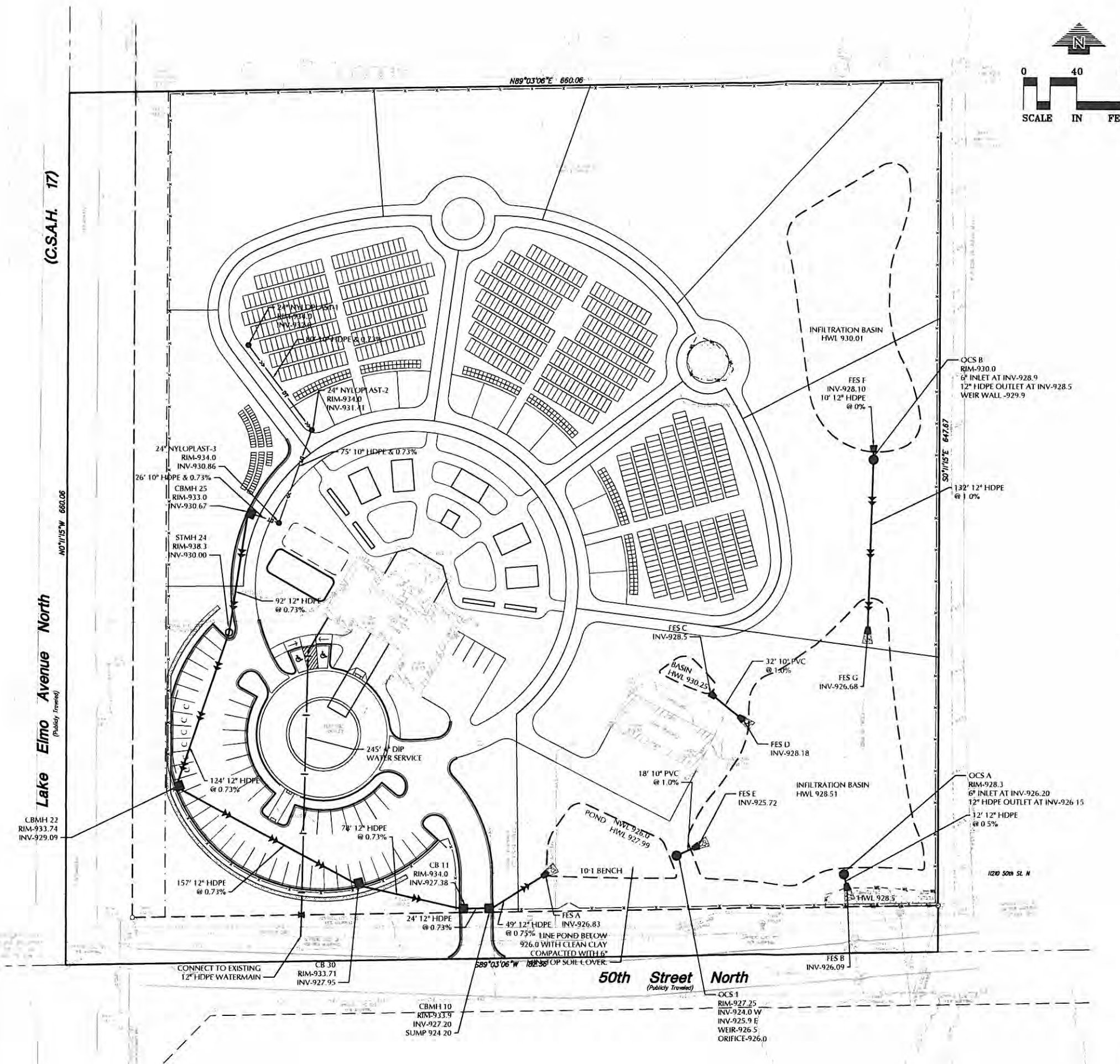
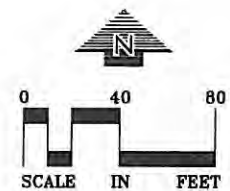
03/04/15	Revised City Submittal
05/14/15	Waterlined Submittal
06/17/15	Final City Submittal

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

*John J. Jundell*  
 Victor Jundell, PE  
 License No. 41552 Date: 6/17/15

WBS  
 Project Lead: VJV Drawn By: 06/17/15  
 Checked By: Review Date:

C0-1	COVER SHEET / PROJECT LOCATION
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L2-0	LANDSCAPING PLAN
L3-1	LANDSCAPING DETAILS



**NOTES**

- BACKGROUND INFORMATION IS BASED ON A FIELD SURVEY BY LOUCKS ASSOCIATES AND RECORD UTILITY DRAWINGS FROM THE CITY OF ELMO. LOUCKS ASSOCIATES DOES NOT GUARANTEE THE ACCURACY OF INFORMATION PROVIDED BY OTHERS.
- ALL SANITARY SEWER, STORM SEWER AND WATERMAIN UTILITIES SHALL BE FURNISHED AND INSTALLED PER THE REQUIREMENTS OF THE SPECIFICATIONS, THE CITY AND THE STANDARD UTILITIES SPECIFICATION OF THE CITY ENGINEERS ASSOCIATION OF MINNESOTA (CEAM), 1999 EDITION. HDPE PIPE CONNECTIONS INTO ALL CONCRETE STRUCTURES SHALL BE MADE WITH WATER TIGHT MATERIALS, UTILIZING AN A-LOK OR WATERSTOP GASKET OR BOOT, CAST-IN-PLACE RUBBER BOOT, OR APPROVED EQUAL. WHERE THE ALIGNMENT PRECLUDES THE USE OF THE ABOVE APPROVED WATERTIGHT METHODS, CONSEAL 231 WATERSTOP SEALANT, OR APPROVED EQUAL WILL ONLY BE ALLOWED AS APPROVED BY THE ENGINEER. ALL SANITARY SEWER MAIN LINE SHALL BE SDR 35. ALL SANITARY SEWER SERVICES SHALL BE SDR 26.
- SEE SHEETS CB-1 - CB-3 AND THE CONTRACT SPECIFICATIONS FOR SPECIFIC UTILITY DETAILS AND UTILITY SERVICE DETAILS.
- ALL UTILITY PIPE BEDDING SHALL BE COMPACTED SAND OR FINE GRANULAR MATERIAL PER THE REQUIREMENTS OF THE CITY. ALL COMPACTION SHALL BE PERFORMED PER THE REQUIREMENTS OF THE CEAM SPECIFICATION.
- THE CONTRACTOR SHALL NOTIFY GOPHER STATE ONE CALL AT 651-454-0002 AT LEAST 48 HOURS PRIOR TO PERFORMING ANY EXCAVATION OR UNDERGROUND WORK.
- ADJUST ALL EXISTING STRUCTURES, BOTH PUBLIC AND PRIVATE TO THE PROPOSED GRADES WHERE DISTURBED AND COMPLY WITH ALL REQUIREMENTS OF THE UTILITY OWNERS. STRUCTURES BEING RESET TO PAVED AREAS MUST MEET OWNERS REQUIREMENTS FOR TRAFFIC LOADING.
- PROPOSED PIPE MATERIALS:  
 STORM SEWER: 12" HDPE-WT 12" - 18" DIAMETER.  
 WATER SERVICE: 8" DIP CL 52 7.5' BURY DEPTH
- STORM SEWER PIPE SHALL MEET OR EXCEED AASHTO M294 MINIMUM PIPE STIFFNESS PER ASTM D2412 60PSI FOR 8"-18".
- PROPOSED GAS, TELEPHONE & ELECTRIC SERVICES ARE APPROXIMATE LOCATIONS ONLY. COORDINATE EACH SERVICE WITH THE UTILITY OWNER AND GENERAL CONTRACTOR. IF ANY PROPOSED SERVICE LOCATION VARY SIGNIFICANTLY OR CONFLICT, THE ENGINEER MUST BE NOTIFIED PRIOR TO THE INSTALLATION OF THE SERVICE.
- THE REMOVAL OF EXISTING SERVICES WITHIN THE CONSTRUCTION LIMITS SHALL BE COORDINATED WITH THE GENERAL CONTRACTOR AND UTILITY OWNER. ADDITIONAL SERVICES MAY EXIST.

**WARNING**

THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING FOR LOCATIONS OF ALL EXISTING UTILITIES. THEY SHALL COOPERATE WITH ALL UTILITY COMPANIES IN MAINTAINING THEIR SERVICE AND / OR RELOCATION OF LINES.

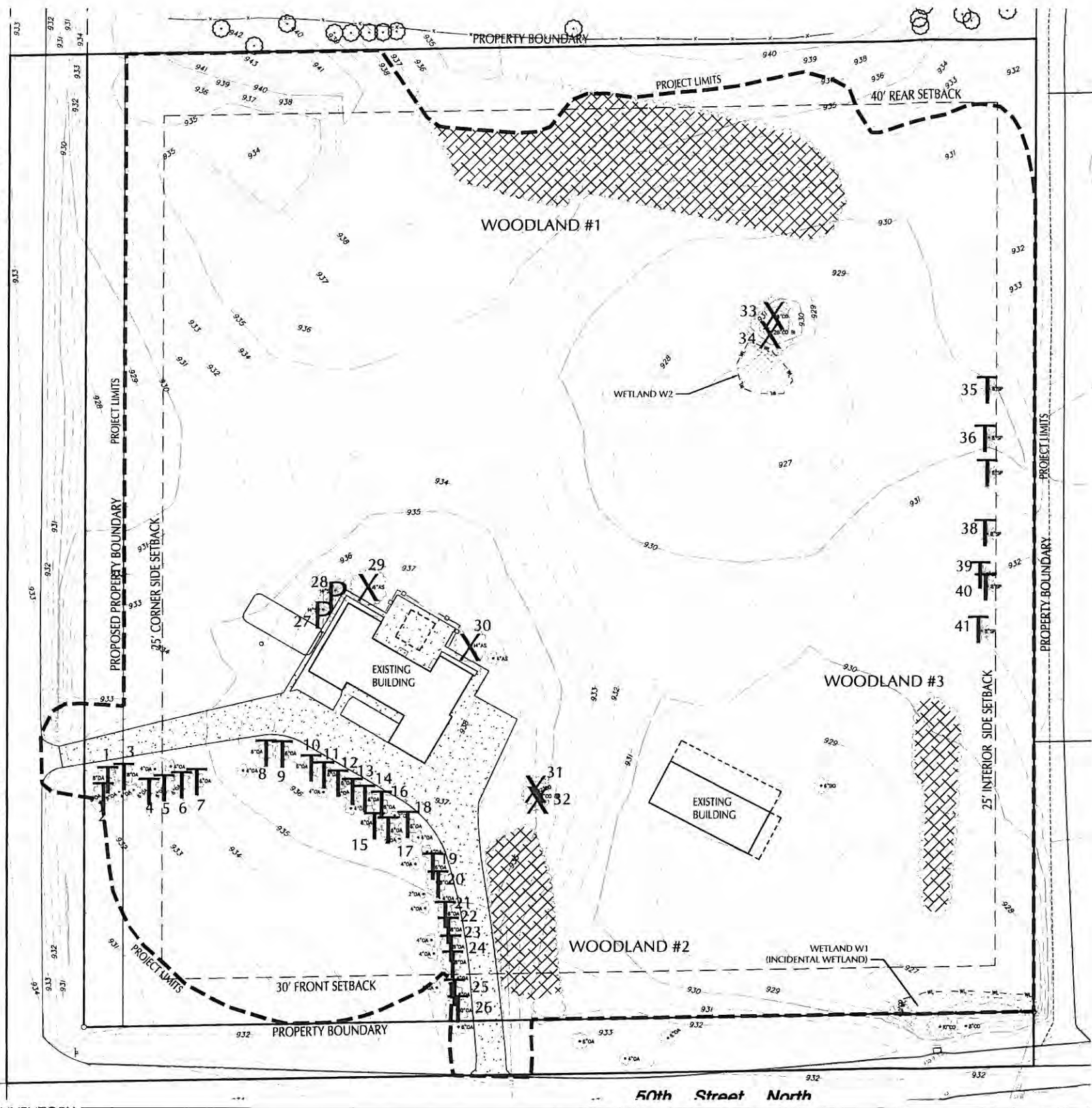
THE CONTRACTOR SHALL CONTACT GOPHER STATE ONE CALL AT 651-454-0002 AT LEAST 48 HOURS IN ADVANCE FOR THE LOCATIONS OF ALL UNDERGROUND WIRES, CABLES, CONDUITS, PIPES, MANHOLES, VALVES OR OTHER BURIED STRUCTURES BEFORE DIGGING. THE CONTRACTOR SHALL REPAIR OR REPLACE THE ABOVE WHEN DAMAGED DURING CONSTRUCTION AT NO COST TO THE OWNER.



CALL BEFORE YOU DIG!  
**Gopher State One Call**  
 TWIN CITY AREA: 651-454-0002  
 TOLL FREE: 1-800-252-1166

(CSAH. 17)

Lake Elmo Avenue North  
(Publicly Traded)



SIGNIFICANT TREE INVENTORY

TREE #	SPECIES	DIAM (IN.)	DISPOSITION
1	OAK	8	TRANSPLANT
2	OAK	8	TRANSPLANT
3	OAK	8	TRANSPLANT
4	OAK	6	TRANSPLANT
5	OAK	6	TRANSPLANT
6	OAK	6	TRANSPLANT
7	OAK	6	TRANSPLANT
8	OAK	6	TRANSPLANT
9	OAK	6	TRANSPLANT
10	OAK	6	TRANSPLANT
11	OAK	6	TRANSPLANT
12	OAK	6	TRANSPLANT
13	OAK	8	TRANSPLANT
14	OAK	6	TRANSPLANT
15	OAK	6	TRANSPLANT
16	OAK	6	TRANSPLANT
17	OAK	6	TRANSPLANT
18	OAK	6	TRANSPLANT
19	OAK	6	TRANSPLANT
20	OAK	8	TRANSPLANT
21	OAK	6	TRANSPLANT
22	OAK	8	TRANSPLANT
23	OAK	8	TRANSPLANT
24	OAK	8	TRANSPLANT
25	OAK	6	TRANSPLANT
26	OAK	10	TRANSPLANT
27	SPRUCE	14	SAVED
28	SPRUCE	14	SAVED
29	ASH	16	REMOVED
30	ASH	14	REMOVED
31	COTTONWOOD	12	REMOVED
32	COTTONWOOD	12	REMOVED
33	COTTONWOOD	16	REMOVED
34	COTTONWOOD	20	REMOVED
35	SPRUCE	8	TRANSPLANT
36	SPRUCE	8	TRANSPLANT
37	SPRUCE	8	TRANSPLANT
38	SPRUCE	8	TRANSPLANT
39	SPRUCE	8	TRANSPLANT
40	SPRUCE	8	TRANSPLANT
41	SPRUCE	8	TRANSPLANT
WOODLAND #1	SPRUCE	(17) @10	SAVED
	SPRUCE	(52) @10	TRANSPLANTED
	SPRUCE	(16) @10	REMOVE
WOODLAND #2	SPRUCE	(16) @10	TRANSPLANTED
	SPRUCE	(6) @10	REMOVE
WOODLAND #3	SPRUCE	(10) @10	TRANSPLANTED
	SPRUCE	(3) @10	REMOVED

TREE INVENTORY NOTES:

SIGNIFICANT TREES LISTED ARE AS SHOWN ON THE BOUNDARY AND TOPOGRAPHICAL SURVEY DATED 1-5-15 BY LOUCKS ASSOCIATED (SEE ATTACHED)

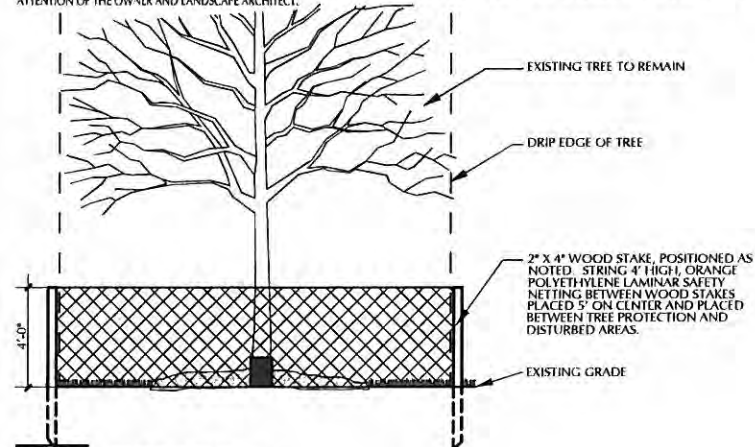
TRANSPLANTED TREE SPECIES WILL BE VERIFIED PRIOR TO FINAL SUBMITTAL. TREES LISTED AS OAK MAY ALSO INCLUDE WALNUT AND MAPLE SPECIES

WOODLAND TREE EVALUATION QUANTITIES ARE BASED ON 10" DIAM SPRUCE (TYP) AT APPROXIMATELY 15' O.C.

SEE SHEET L2-0 FOR PROPOSED STRUCTURES AND IMPERVIOUS SURFACE LOCATIONS

TREE PROTECTION NOTE:  
INSTALL SNOW FENCE AROUND EACH TREE TO BE PROTECTED PRIOR TO GRADING. FENCE SHALL BE PLACED AT THE DRIP EDGE OR CRITICAL ROOT ZONES OF THE TREES. FENCING SHALL BE NO CLOSER THAN 6" TO THE TRUNK OF ANY TREE TO BE PROTECTED. THE PERIMETERS FOR TREES BEING PROTECTED SHALL BE DESIGNATED AT ALL TIMES DURING CONSTRUCTION ACTIVITY AND SIGNAGE SHALL BE INSTALLED AT ALL TREE PROTECTION AREAS THAT INSTRUCTS WORKERS TO STAY OUT. CONTRACTOR SHALL AVOID ALL AREAS WITHIN TREE PROTECTION FENCE. SOIL SHOULD BE PROTECTED FROM EROSION AND CHANGES IN CHEMISTRY FROM CONCRETE OR TOXIC MATERIALS SUCH AS FUELS AND PAINTS.

THE CONTRACTOR SHALL HAVE "TREE PAINT" ON SITE AT ALL TIMES. IF AN OAK IS WOUNDED DURING CONSTRUCTION, THE CONTRACTOR MUST IMMEDIATELY APPLY PAINT TO THE WOUND IN ORDER TO PREVENT OAK WILT. ALL DAMAGE TO TREES TO BE PROTECTED SHALL BE BROUGHT TO THE ATTENTION OF THE OWNER AND LANDSCAPE ARCHITECT.



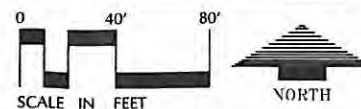
2 TREE PROTECTION  
SCALE: 1/2" = 1'-0"

TREE INVENTORY:

- LEGEND:
- X SIGNIFICANT TREE TO BE REMOVED
  - T SIGNIFICANT TREE TO BE TRANSPLANTED
  - P SIGNIFICANT TREE TO BE SAVED / PROTECTED DURING CONSTRUCTION - SEE DETAIL 2/L1-0
  - [Cross-hatched box] SIGNIFICANT WOODLAND TREES TO BE TRANSPLANTED

TREE INVENTORY SUMMARY:

EXISTING SIGNIFICANT TREES	187 (1550" TOTAL CAL. DIAM.)
30% ALLOWED REMOVAL	56 (465" TOTAL CAL. DIAM.)
SIGNIFICANT TREES TO BE REMOVED	35 (286" TOTAL CAL. DIAM.)
NO TREE MITIGATION IS REQUIRED	



Project Name:

**HALCYON**  
11050 50th St. N.  
Lake Elmo, MN 55042

halcyoncemetry.com

Owner/Developer:

GLC Properties, Inc.  
Lee Rossow  
1870 Rice St.  
Roseville, MN 55113  
651-308-2999  
337@lach.net

Professional Services:

**LOUCKS ASSOCIATES**

Planning • Civil Engineering • Land Surveying  
Landscape Architecture • Environmental

7200 Herlock Lane - Suite 300  
Maple Grove, MN 55369  
Telephone: (763) 424-5255  
www.LoucksAssociates.com

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CADD Qualification:

CADD files prepared by the Consultant for this project are instruments of the Consultant's professional services for use solely with respect to the project. These CADD files shall not be used on other projects, for additions to the project, or for completion of the project by others without written approval by the Consultant. With the Consultant's approval, others may be permitted to obtain copies of the CADD files for information and reference only. All intentional or unintentional revisions, additions, or deletions to these CADD files shall be made at the full risk of the party making such revisions, additions or deletions and that party shall hold harmless and indemnify the Consultant from any and all responsibilities, claims, and liabilities.

14530 L1-0 TREE PRESERVATION.DWG/Planting

03/04/15 Revised City Submittal

05/14/15 Waterford Submittal

06/17/15 Final City Submittal

Professional Signature:

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota.

*William R. Spitzer*

12335 License No. 06/17/15 Date

Quality Control:

Project Lead: WS  
Checked By: WS  
Drawn By: GJ  
Review Date: 06/17/15

- C0-1 COVER SHEET / PROJECT LOCATION
- C1-1 EXISTING CONDITIONS & REMOVALS
- C2-1 SITE LAYOUT PLAN
- C3-1 GRADING & DRAINAGE PLAN
- C3-2 EROSION CONTROL PLAN
- C4-1 UTILITY PLAN
- C5-1 PRELIMINARY PLAN
- C6-1 CIVIL DETAILS
- L1-0 TREE PRESERVATION PLAN
- L2-0 LANDSCAPING PLAN
- L3-1 LANDSCAPING DETAILS

Sheet Title:

TREE PRESERVATION PLAN

Project No.:

14530

Sheet No.:

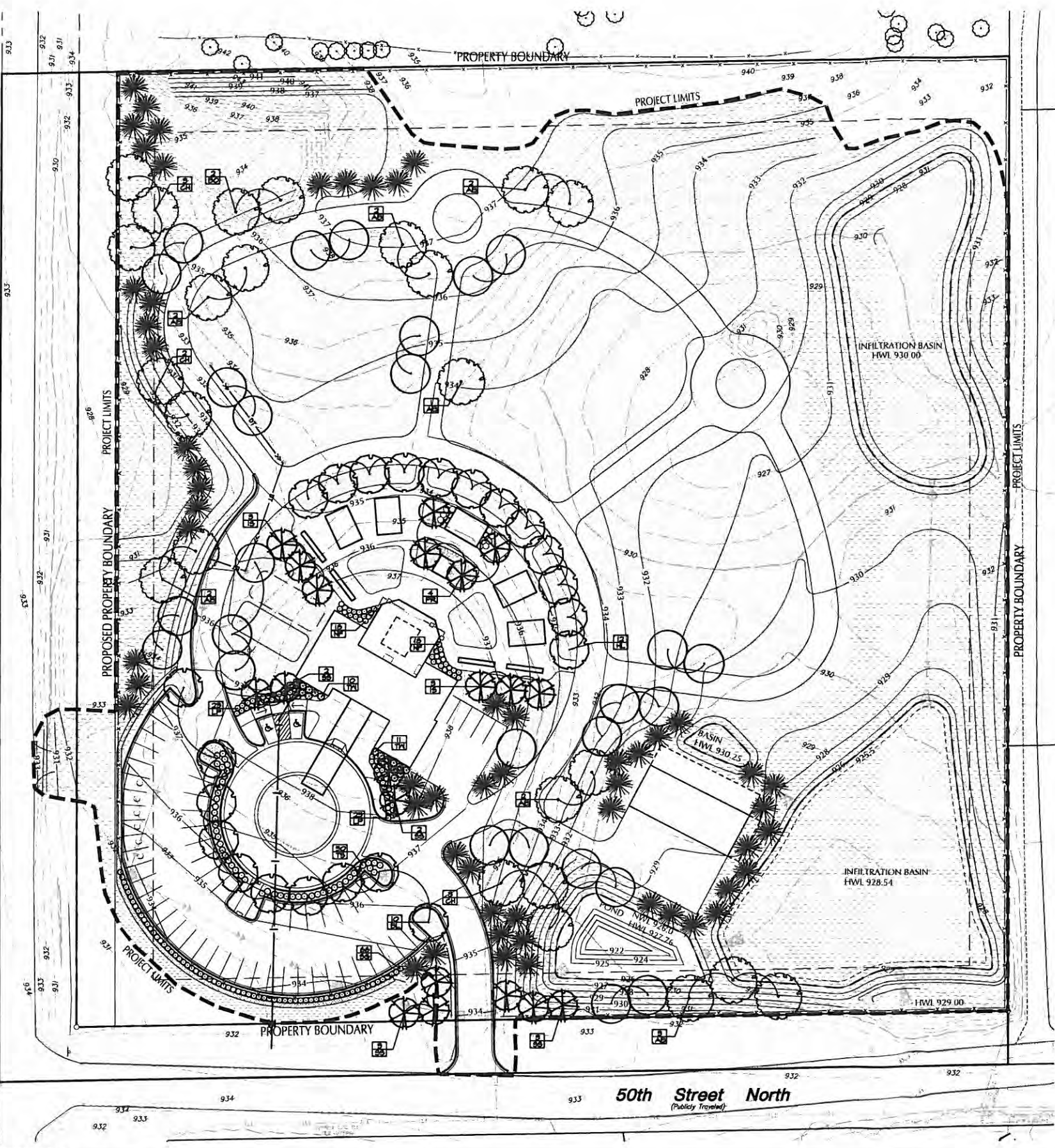
L1-0

Plotted: 06/12/2015 3:12 PM W:\014\14530\CADD\DATA\LANDSCAPE\DWG\Sheet Files

(CSAH. 17)

Lake Elmo Avenue North  
(Publicly Traveled)

PLANTING PLAN:



**PLANT LIST:**

	QTY.	COMMON NAME	BOTANICAL NAME	SIZE	COMMENTS
<b>OVERSTORY TREES</b>					
BL	10	BOULEVARD LINDEN	Tilia americana "Boulevard"	2-1/2" CAL B.B.	
AB	12	AUTUMN BLAZE MAPLE	Acer x freemanii "Jeffersred"	2-1/2" CAL B.B.	
CH	10	COMMON HACKBERRY	Celtis occidentalis	2-1/2" CAL B.B.	
PO	12	IMPERIAL HONEYLOCUST	Quercus ellipsoidalis	2-1/2" CAL B.B.	
BO	2	BUR OAK	Quercus macrocarpa	6" - 10" CAL	
	26	OAK - TRANSPLANTS	Quercus x species	6" - 10" CAL	
<b>ORNAMENTAL TREES</b>					
SS	10	SPRING SNOW CRABAPPLE	Malus "Spring Snow"	2" CAL B.B.	
AF	4	PRAIRIE FIRE CRABAPPLE	Malus "Prairie Fire"	2" CAL B.B.	
IS	6	IVORY SILK LILAC	Syringa reticulata "Ivory silk"	2" CAL B.B.	
<b>EVERGREEN TREES</b>					
	61	SPRUCE - TRANSPLANTS	Picea x species	15'-25' HT	
<b>CONIFEROUS SHRUBS</b>					
SG	66	SEA GREEN JUNIPER	Juniperus chinensis "Sea Green"	#5 CONT	4' O.C.
TY	21	TAUNTON YEW	Taunton x media "Taunton"	#5 CONT	3-1/2' O.C.
<b>DECIDUOUS SHRUBS</b>					
NF	36	NEON FLASH SPIREA	Spiraea japonica "Neon Flash"	#2 CONT	4' O.C.
LP	48	LITTLE PRINCESS SPIREA	Spiraea japonica "Little Princess"	#2 CONT	3' O.C.
TS	50	TOR SPIREA	Spiraea betulifolia "Tor"	#2 CONT	3' O.C.
<b>PERENNIALS / GRASSES</b>					
KF	52	KARL FOERSTER GRASS	Calamagrostis acutiflora "Karl Foerster"	#1 CONT	2' O.C.
SD	90	STELLA DE ORO DAYLILY	Hemerocallis "Stella de Oro"	#1 CONT	2' O.C.

**LANDSCAPE REQUIREMENTS:**

1 TREE PER 50 LF. OF STREET FRONTAGE - 1210 LF — 25 TREES  
 5 TREES PER 1 ACRE OF DISTURBED LAND - 8.5 ACRES — 45 TREES  
**TOTAL TREES REQUIRED — 70 TREES**

**PROPOSED PLANT TOTALS:**

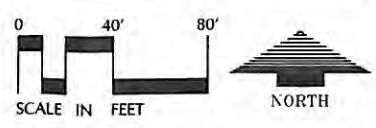
OVERSTORY TREES - NEW — 44  
 OVERSTORY TREES - TRANSPLANT — 26  
 ORNAMENTAL TREES — 20  
 CONIFEROUS TREES - TRANSPLANT — 61  
 SHRUBS — 221  
 PERENNIALS / GRASSES — 142

**GENERAL NOTES:**

- CONTRACTOR SHALL VISIT SITE PRIOR TO SUBMITTING BID. HE SHALL INSPECT SITE AND BECOME FAMILIAR WITH EXISTING CONDITIONS RELATING TO THE NATURE AND SCOPE OF WORK.
- VERIFY LAYOUT AND ANY DIMENSIONS SHOWN AND BRING TO THE ATTENTION OF THE LANDSCAPE ARCHITECT ANY DISCREPANCIES WHICH MAY COMPROMISE THE DESIGN AND/OR INTENT OF THE PROJECT'S LAYOUT.
- ASSURE COMPLIANCE WITH ALL APPLICABLE CODES AND REGULATIONS GOVERNING THE WORK OR MATERIALS SUPPLIED.
- CONTRACTOR SHALL PROTECT ALL EXISTING ROADS, CURBS/GUTTERS, TRAILS, TREES, LAWNS AND SITE ELEMENTS TO REMAIN DURING PLANTING OPERATIONS. ANY DAMAGE TO SAME SHALL BE REPAIRED AT NO COST TO THE OWNER.
- CONTRACTOR SHALL VERIFY ALIGNMENT AND LOCATION OF ALL UNDERGROUND AND ABOVE GRADE UTILITIES AND PROVIDE THE NECESSARY PROTECTION FOR SAME BEFORE CONSTRUCTION / MATERIAL INSTALLATION BEGINS (MINIMUM 10' - 0" CLEARANCE).
- ALL UNDERGROUND UTILITIES SHALL BE LAID SO THAT TRENCHES DO NOT CUT THROUGH ROOT SYSTEMS OF ANY EXISTING TREES TO REMAIN.
- EXISTING CONTOURS, TRAILS, VEGETATION, CURB/GUTTER AND OTHER EXISTING ELEMENTS BASED UPON INFORMATION SUPPLIED TO LANDSCAPE ARCHITECT BY OTHERS. CONTRACTOR SHALL VERIFY ANY AND ALL DISCREPANCIES PRIOR TO CONSTRUCTION AND NOTIFY LANDSCAPE ARCHITECT OF SAME.

**LEGEND:**

- OVERSTORY TREE
- TRANSPLANTED OAK
- ORNAMENTAL TREE
- TRANSPLANTED SPRUCE
- SHRUB BED
- PERENNIAL BED
- TURF SEED
- NATIVE SEED MIX - MNDOT #35-221



Project Name:

**HALCYON**  
 11050 50th St. N.  
 Lake Elmo, MN 55042

halcyoncemetery.com  
 Owner/Developer:  
 GLCJ Properties, Inc.  
 Lee Rossow  
 1870 Rice St.  
 Roseville, MN 55113  
 651-308-2999  
 337@lach.net

**Professional Services:**  
  
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 Landscape Architecture • Environmental  
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 Telephone: (763) 424-5525  
 www.LoucksAssociates.com  
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 CADD files prepared by the Consultant for this project are instruments of the Consultant's professional services. They are not to be used on any other project, for additions to this project, or for completion of this project by others without written approval by the Consultant. With the Consultant's approval, others may be permitted to create copies of the CADD files for use in the field for information and reference only. All dimensional or circumferential variations, additions, or deletions to these CADD files shall be made at the full risk of the party making such revisions, additions or deletions and that party shall hold harmless and indemnify the Consultant from any and all responsibilities, claims, and liabilities.  
 14530 L2-0 LANDSCAPE PLAN.DWG/Planting

03/04/15	Revised City Submittal
05/14/15	Watershed Submittal
06/17/15	Final City Submittal

**Professional Signature:**  
 I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota.  
  
 12335 06/17/15  
 License No. Date

**Quality Control:** \_\_\_\_\_ (GA)  
 Project Lead: **WS** Drawn By: \_\_\_\_\_  
 Checked By: \_\_\_\_\_ Review Date: 06/17/15

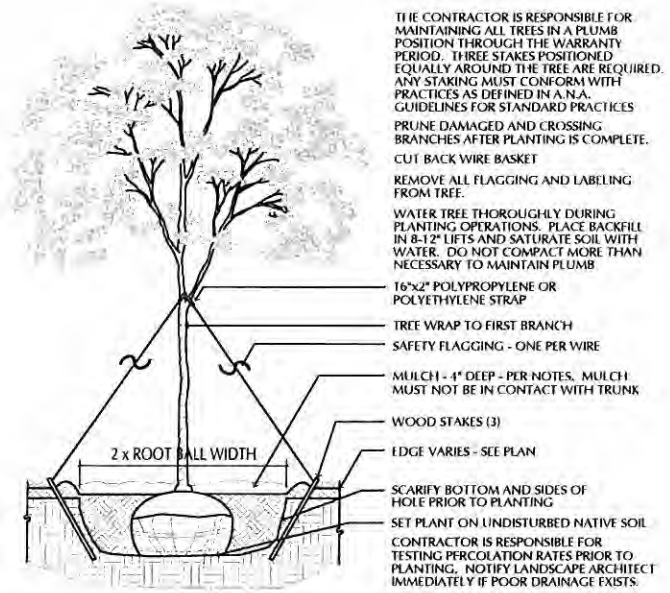
C0-1	COVER SHEET / PROJECT LOCATION
C1-1	EXISTING CONDITIONS & REMOVALS
C2-1	SITE LAYOUT PLAN
C3-1	GRADING & DRAINAGE PLAN
C3-2	EROSION CONTROL PLAN
C4-1	UTILITY PLAN
C5-1	PRELIMINARY PLAN
C6-1 - C6-3	CIVIL DETAILS
L1-0	TREE PRESERVATION PLAN
L2-0	LANDSCAPING PLAN
L3-1	LANDSCAPING DETAILS

Sheet Title:

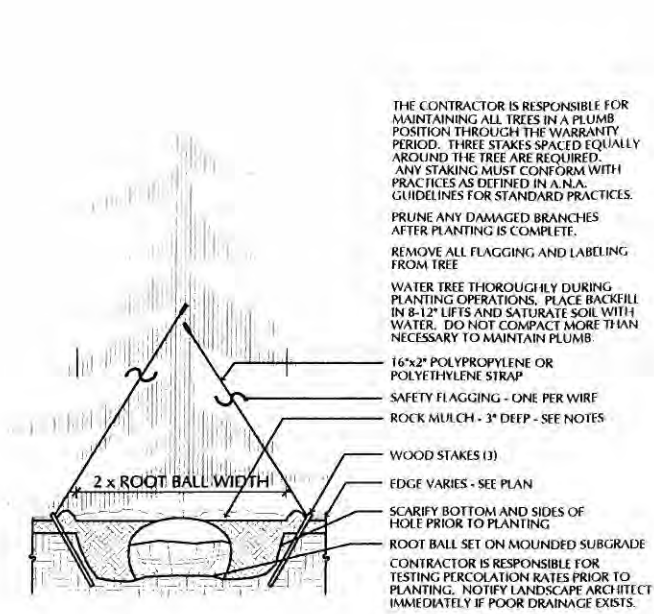
LANDSCAPE PLAN

Project No.: \_\_\_\_\_  
 Sheet No.: 14530

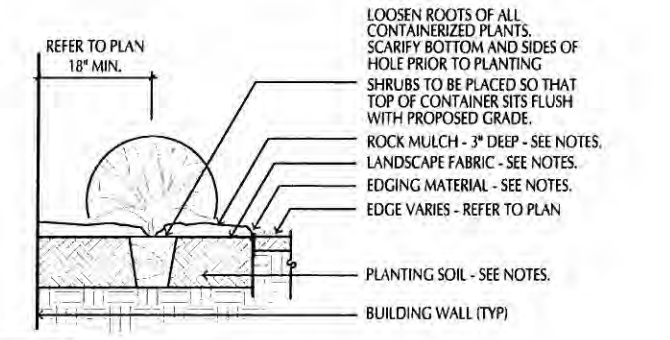
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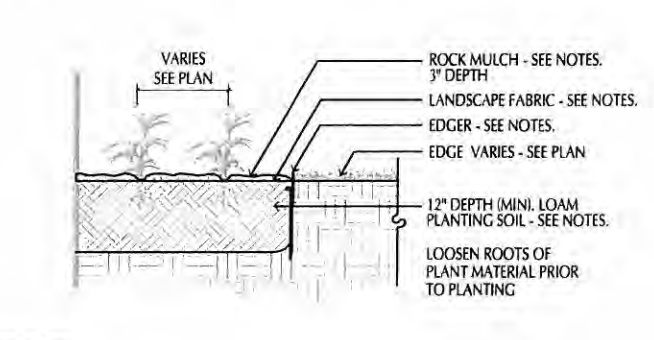
**1**  
L2-1 DECIDUOUS TREE PLANTING DETAIL  
SCALE: 1/2" = 1'-0"



**2**  
L2-1 CONIFEROUS TREE PLANTING DETAIL  
SCALE: 1/2" = 1'-0"



**3**  
L2-1 SHRUB PLANTING DETAIL  
SCALE: 3/4" = 1'-0"



**4**  
L2-1 PERENNIAL PLANTING  
SCALE: 3/4" = 1'-0"

**LANDSCAPE INSTALLATION:**

- COORDINATE THE PHASES OF CONSTRUCTION AND PLANTING INSTALLATION WITH OTHER CONTRACTORS WORKING ON SITE.
- NO PLANTING WILL BE INSTALLED UNTIL COMPLETE GRADING AND CONSTRUCTION HAS BEEN COMPLETED IN THE IMMEDIATE AREA.
- WHERE TURF ABUTS PAVED SURFACES, FINISHED GRADE SHALL BE HELD 1" BELOW SURFACE ELEVATION OF TRAIL, SLAB, CURB, ETC.
- ALL SEEDED AREAS SHALL HAVE 4" OF TOPSOIL BORROW. TOPSOIL BORROW SHALL BE USDA CLASSIFICATION MEDIUM SANDY LOAM. THE TOPSOIL SHALL HAVE 50% TO 70% SAND BY WEIGHT, A SILT/CLAY RATIO OF 2/1 OR LESS WITH NO MORE THAN 15% TO 20% CLAY BY WEIGHT AND 12% TO 20% ORGANIC MATTER BY WEIGHT.
- ALL PLANT MATERIAL SHALL COMPLY WITH THE LATEST EDITION OF THE AMERICAN STANDARD FOR NURSERY STOCK, AMERICAN ASSOCIATION OF NURSERYMEN. UNLESS NOTED OTHERWISE, DECIDUOUS SHRUBS SHALL HAVE AT LEAST 5 CANES AT THE SPECIFIED SHRUB HEIGHT. ORNAMENTAL TREES SHALL HAVE NO V CROTCHES AND SHALL BEGIN BRANCHING NO LOWER THAN 3' ABOVE ROOT BALL. STREET AND BOULEVARD TREES SHALL BEGIN BRANCHING NO LOWER THAN 6' ABOVE FINISHED GRADE.
- PLAN TAKES PRECEDENCE OVER PLANT SCHEDULE IF DISCREPANCIES IN QUANTITIES EXIST. SPECIFICATIONS TAKE PRECEDENCE OVER NOTES.
- ALL PROPOSED PLANTS SHALL BE LOCATED AND STAKED AS SHOWN ON PLAN. ALL TREES ARE REQUIRED TO BE STAKED WITH 3 STAKES SPACED EQUALLY AROUND THE TREES.
- NO PLANT MATERIAL SUBSTITUTIONS WILL BE ACCEPTED UNLESS APPROVAL IS REQUESTED OF THE LANDSCAPE ARCHITECT BY THE LANDSCAPE CONTRACTOR PRIOR TO THE SUBMISSION OF A BID AND/OR QUOTATION.
- ADJUSTMENTS IN LOCATION OF PROPOSED PLANT MATERIALS MAY BE NEEDED IN FIELD. SHOULD AN ADJUSTMENT BE ADVISED, THE LANDSCAPE ARCHITECT MUST BE NOTIFIED.
- ALL PLANT MATERIALS SHALL BE FERTILIZED UPON INSTALLATION WITH DRIED BONE MEAL, OTHER APPROVED FERTILIZER MIXED IN WITH THE PLANTING SOIL PER THE MANUFACTURER'S INSTRUCTIONS OR MAY BE TREATED FOR SUMMER AND FALL INSTALLATION WITH AN APPLICATION OF GRANULAR 0-20-20 OF 12 OZ PER 2.5" CALIPER PER TREE AND 6 OZ PER SHRUB WITH AN ADDITIONAL APPLICATION OF 10-10-10 THE FOLLOWING SPRING IN THE TREE SAUCER.
- ALL PLANTING AREAS RECEIVING PERENNIALS SHALL RECEIVE A MINIMUM OF 12" DEPTH OF PLANTING SOIL CONSISTING OF AT LEAST 45 PARTS TOPSOIL, 45 PARTS PEAT OR MANURE AND 10 PARTS SAND.
- ALL PLANTS TO BE INSTALLED AS PER PLANTING DETAILS.
- WRAPPING MATERIAL SHALL BE CORRUGATED PVC PIPING 1" GREATER IN CALIPER THAN THE TREE BEING PROTECTED OR QUALITY, HEAVY, WATERPROOF CREPE PAPER MANUFACTURED FOR THIS PURPOSE. WRAP ALL DECIDUOUS TREES PLANTED IN THE FALL PRIOR TO 12-1 AND REMOVE ALL WRAPPING AFTER 5-1.
- BLACK METAL EDGER TO BE USED TO CONTAIN SHRUBS, PERENNIALS, AND ANNUALS WHERE BED MEETS SOD/SEED UNLESS NOTED OTHERWISE.
- ALL PLANTING BEDS TO RECEIVE 3" ROCK MULCH 3/4", 1-12" SIZE, COLOR TO BE VERIFIED WITH OWNER. ROCK MULCH SHALL BE PLACED OVER 3.5 OUNCE MINIMUM FIBER MAT WEED BARRIER.
- ALL TREES NOT WITHIN PLANTING BEDS TO RECEIVE 4" DEEP SHREDDED HARDWOOD MULCH WITH NO MULCH IN DIRECT CONTACT WITH TREE TRUNK.
- SPREAD GRANULAR PRE EMERGENT HERBICIDE (PREEN OR EQUAL PER MANUFACTURER'S RECOMMENDATIONS UNDER ALL MULCHED AREAS.
- IF THE LANDSCAPE CONTRACTOR IS CONCERNED OR PERCEIVES ANY DEFICIENCIES IN THE PLANT SELECTIONS, SOIL CONDITIONS OR ANY OTHER SITE CONDITION WHICH MIGHT NEGATIVELY AFFECT PLANT ESTABLISHMENT, SURVIVAL OR GUARANTEE, HE MUST BRING THESE DEFICIENCIES TO THE ATTENTION OF THE LANDSCAPE ARCHITECT PRIOR TO PROCUREMENT AND/OR INSTALLATION.
- CONTRACTOR SHALL SUBMIT A WRITTEN REQUEST FOR THE OWNER ACCEPTANCE INSPECTION OF ALL LANDSCAPE AND SITE IMPROVEMENTS.
- CONTRACTOR IS RESPONSIBLE FOR ON-GOING MAINTENANCE OF ALL NEWLY INSTALLED MATERIALS UNTIL TIME OF OWNER ACCEPTANCE. ANY ACTS OF VANDALISM OR DAMAGE WHICH MAY OCCUR PRIOR TO OWNER ACCEPTANCE SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. CONTRACTOR SHALL PROVIDE THE OWNER WITH A MAINTENANCE PROGRAM INCLUDING, BUT NOT NECESSARILY LIMITED TO, PRUNING, FERTILIZATION AND DISEASE/PEST CONTROL.
- CONTRACTOR SHALL GUARANTEE NEW PLANT MATERIAL THROUGH ONE CALENDAR YEAR FROM THE DATE OF OWNER ACCEPTANCE.
- WARRANTY (ONE FULL GROWING SEASON) FOR LANDSCAPE MATERIALS SHALL BEGIN ON THE DATE OF ACCEPTANCE BY THE LANDSCAPE ARCHITECT AFTER THE COMPLETION OF PLANTING OF ALL LANDSCAPE MATERIALS. NO PARTIAL ACCEPTANCE WILL BE CONSIDERED.
- REPRODUCIBLE AS-BUILT DRAWING(S) OF ALL LANDSCAPE INSTALLATION AND SITE IMPROVEMENTS UPON COMPLETION OF CONSTRUCTION INSTALLATION AND PRIOR TO PROJECT ACCEPTANCE.
- THE APPROPRIATE DATES FOR SPRING PLANT MATERIAL INSTALLATION AND SOD PLACEMENT IS FROM THE TIME GROUND HAS THAWED TO JUNE 15. FALL SODDING IS GENERALLY ACCEPTABLE FROM AUGUST 15 - NOVEMBER 1. FALL CONIFEROUS PLANTING MAY OCCUR FROM AUGUST 15 - OCTOBER 1 AND FALL DECIDUOUS PLANTING FROM THE FIRST FROST UNTIL NOVEMBER 15. PLANTING OUTSIDE THESE DATES IS NOT RECOMMENDED. ANY ADJUSTMENT MUST BE APPROVED IN WRITING BY THE LANDSCAPE ARCHITECT.
- LANDSCAPE CONTRACTOR SHALL ESTABLISH TO HIS SATISFACTION THAT SOIL AND COMPACTION CONDITIONS ARE ADEQUATE TO ALLOW FOR PROPER DRAINAGE AT AND AROUND THE BUILDING SITE

Project Name:

**HALCYON**  
11050 50th St. N.  
Lake Elmo, MN 55042

halcyoncemetery.com

Owner/Developer:

GLC Properties, Inc.  
Lee Rossow  
1870 Rice St.  
Roseville, MN 55113  
651-308-2999  
337@lach.net

Professional Services:

**LOUCKS ASSOCIATES**  
Planning • Civil Engineering • Land Surveying  
Landscape Architecture • Environmental  
7200 Hemlock Lane - Suite 300  
Apple Grove, MN 55349  
Telephone: (763) 424-5505  
www.LoucksAssociates.com

CADD Qualification:  
CADD files prepared by the Consultant for this project are instruments of the Consultant's professional services. They shall not be used on other projects, for additions to this project, or for completion of this project by others without written approval of the Consultant. With the Consultant's consent, others may be permitted to obtain copies of the CADD drawings for information and reference only. All intentional or unintentional revisions, additions, or deletions to these CADD files shall be made at the full risk of the party making such revisions, additions or deletions and that party shall hold harmless and indemnify the Consultant from any & all responsibilities, claims, and liabilities.

03/24/15	Revised City Submittal
05/14/15	Watershed Submittal
06/17/15	Final City Submittal

Professional Signature:

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota.

*William A. Spindler*  
12335 License No. 06/17/15 Date

Quality Control: GAI

Project Lead: WVS Drawn By: 06/17/15  
Checked By: System Date:

CD-1	COVER SHEET / PROJECT LOCATION
CI-1	EXISTING CONDITIONS & REMOVALS
CI-1	SITE LAYOUT PLAN
CI-1	GRADING & DRAINAGE PLAN
CI-2	EROSION CONTROL PLAN
CI-1	UTILITY PLAN
CI-1	PRELIMINARY PLAT
CI-1 - CI-3	CIVIL DETAILS
L1-1	TREE PRESERVATION PLAN
L1-2	LANDSCAPING PLAN
L2-1	LANDSCAPING DETAILS

Sheet Title:

LANDSCAPING DETAILS

Project No.: 14530

Sheet No.: L2-1

# MEMORANDUM

Cara Geheren, P.E. 651.300.4261  
Jack Griffin, P.E. 651.300.4264  
Ryan Stempski, P.E. 651.300.4267  
Chad Isakson, P.E. 651.300.4283

Date: July 8, 2015

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To: Nick Johnson, City Planner  
Re: Halcyon Cemetery  
Preliminary and Final Plan Review

Cc: Kyle Klatt, Planning Director  
From: Jack Griffin, P.E., City Engineer

---

An engineering review has been completed for the Halcyon Cemetery Preliminary-Final Plat, and Construction Plans. The submittal consisted of the following documentation prepared by Loucks Associates, dated January 5, 2015:

- Site Plan and Preliminary Plat dated June 17, 2015.
  - Construction Plans for Parking, Grading, Drainage, Erosion Control and Utilities dated June 17, 2015.
  - Tree Preservation Pland and Landscape Plan dated June 17, 2015.
  - Stormwater Management Plan dated May 14, 2015.
- 

**STATUS/FINDINGS: Engineering has prepared the following review comments and conditions for Final Plat:**

---

PRELIMINARY / FINAL PLAT

- The Final Plat must be revised to include an additional 25 feet R/W along CSAH 17 (Lake Elmo Avenue) as required by Washington County (75 feet from CSAH 17 centerline).
- An 80 foot R/W with 10 foot utility easements immediately outside of the R/W is the recommended minimum corridor plan for 50<sup>th</sup> Street as a Municipal State Aid major collector roadway.
  - The Final Plat must include an additional 5 feet R/W along 50<sup>th</sup> Street so that the 50<sup>th</sup> Street R/W is a total of 80 feet. The proposed plat of 35 feet must be revised to 40 feet.
  - The Final Plat must include a 10 foot utility easement along the full length of the south property line, located just outside of the 50<sup>th</sup> Street R/W.
- The Final Plat must include additional R/W at the intersection of CSAH 17 and 50<sup>th</sup> Street to accommodate a sight line triangle similar to the sight triangle at the southeast corner of this intersection.
- The Final Plat must be contingent upon the applicant providing written documentation demonstrating adequate wastewater management facilities for the proposed land use. Minimum documentation must include:
  - If the existing system is to continue in use, submit to the City a compliance inspection report that has been reviewed and approved by Washington County.
  - Provide water use data used to size the current and secondary ISTS systems for the property.
  - Provide percolation testing indicating that the proposed locations are suitable for the proposed use.
  - Provide to the City a copy of Washington County’s ISTS system approvals, including conditions.

- The storm water ponds, infiltration basins and all storm sewer are to be privately owned and maintained by the property owner with this responsibility recorded to run with the property ownership. These facilities have not been designed to meet City design standards for storm sewer or storm water management facilities. The Final Plat must be conditioned upon the applicant executing an agreement to own, operate and maintain the storm sewer and storm water facilities proposed on the site and recording this agreement with the property.

CONSTRUCTION PLANS: The following engineering review comments must be addressed prior to any construction work on the property.

- Provide plan notes on Sheet C3-1, C3-2 and C4-1 calling out measures to protect both the existing and proposed drainfield sites throughout the construction process.
- Sheet C4-1, Utility Plan: Add note that all storm sewer pipe and storm water facilities are to be privately owned and maintained.
- Sheet C4-1, Utility Plan: Update all Plan Notes to be pertinent and consistent with the proposed Utility Plan. Generic notes appear to be inconsistent or irrelevant to this project.
- Replace all City Standard Details and Plan Notes with the updated Details and Plan Notes dated February 2015.
- Sheet C8-1, Civil Details: Remove details 3003 and 3013. The City Standard Detail No. 605 and 604 respectively must be used as shown on Sheet C8-2.
- The Construction Plans must be updated with field verified utility locations with the plans resubmitted for engineering review and approval prior to the start of construction. The applicant must complete a Gopher State One call and utility locate and field survey all utilities to finalize the construction plans. All notes referring to utility information being provided by others must be removed from the plans.
- The Tree Protection detail on Sheet C1-1 and Sheet L1-0 must be replaced with the City standard detail 904.

LANDSCAPE PLANS: This engineering review does not include a review of the proposed Landscape Plans, however the following comments are noted.

- The landscape plan must be revised to provide maintenance access for the storm water pond adjacent to the entrance driveway.
- The landscape plan must be revised to relocate trees planted directly over the proposed utilities. Revisions must be made to address these conflicts to maintain a minimum 5 foot separation.



**Station #1**  
3510 Laverne Ave. No.  
Lake Elmo, MN 55042  
651-770-5006



**Station #2**  
4259 Jamaca Ave. No.  
Lake Elmo, MN. 55042  
651-779-8882

---

**LAKE ELMO FIRE DEPARTMENT**

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July 7, 2015

Review of the PRELIMINARY AND FINAL PLAT – CEMETARY

Following a review of the packet provided, I have questions and concerns related to the following:

- Hydrant placement/spacing. This being a commercial property, we must adhere to the 350' spacing. I did not see any indication of hydrants on the drawings I had.
- FD will also need to approve the placement of the FDC (Fire Department Connection) as it relates to the fire sprinkler suppression system.
- Designation of "Fire Lanes" and possibly "No Parking" area to ensure proper access for emergency vehicles to all areas at all times.
- Adequate overhead clearance of driveway canopy for ambulance and fire vehicles.
- Proper turning radius's at all corners to allow emergency vehicles to access all areas of the facility.

Sincerely,

Greg Malmquist, Fire Chief



**Public Works Department**

Donald J. Theisen, P.E.  
Director

Wayne H. Sandberg, P.E.  
Deputy Director/County Engineer

July 7, 2015

Nick Johnson  
City Planner  
City of Lake Elmo  
3600 Laverne Avenue North  
Lake Elmo, MN 55042

**RE: Washington County comments on the plans and plat for Halcyon**

Dear Mr. Johnson,

Thank you for providing Washington County with the plans and plat for Halcyon. Based on review of the plans, we offer the following comments and recommendations to consider as you process this application through the City of Lake Elmo:

- The plans identify a retaining wall at the west edge of the parking lot along the future right-of-way line of CSAH 17/Lake Elmo Avenue. In order to construct the retaining wall, work from the county road right-of-way will be necessary. Also, the retaining wall must be located outside the road right-of-way so it will be necessary to stake the property line to verify the location.

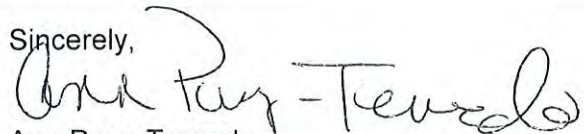
A detailed construction plan set of the wall should be prepared and submitted with a Washington County Right-of-Way Permit application.

- The existing driveway access on Lake Elmo Avenue should be removed as a condition of approval. The plan to remove the driveway can be included in the permit application noted above.
- The Plat of Halcyon is included in the application package. The final plat should include the additional 25 feet required for CSAH 17/Lake Elmo Avenue. Currently, there is 100 feet of right-of-way (50 feet from the centerline). The Washington County Comprehensive Plan 2030, Right-of-Way requirement is 150 feet (75 feet from the centerline).
- The developer or the city must submit the drainage report and calculations to our office for review of any downstream impacts to the county drainage system. Along with the drainage calculations, we will request written conclusions that the volume and rate of stormwater run-off into the county right of way will not increase as part of the project.
- A copy of the Valley Branch Watershed Permit shall be submitted to our office.

Halcyon  
July 7, 2015  
Page 2

Thank you for the opportunity to comment on this plan. If you have any questions, please contact me at 651-430-4362 or [ann.pung-terwedo@co.washington.mn.us](mailto:ann.pung-terwedo@co.washington.mn.us). For permit applications, please contact Carol Hanson at [Carol.hanson@co.washington.mn.us](mailto:Carol.hanson@co.washington.mn.us).

Sincerely,

A handwritten signature in black ink that reads "Ann Pung-Terwedo". The signature is written in a cursive style with a large initial "A".

Ann Pung-Terwedo  
Senior Planner

C: Carol Hanson, Office Specialist

R/Plat Reviews/City of Lake Elmo/Halcyon 7-7-2015

**VALLEY BRANCH WATERSHED DISTRICT  
PERMIT APPLICATION**

TO BE COMPLETED BY VBWD:

PERMIT NUMBER 2015-04  
 PERMIT FEE RECEIVED \$1,000 (\$2,347 still required)  
 DATE RECEIVED December 30, 2014

Return application to  
 John Hanson  
 Barr Engineering Company  
 Engineers for the Valley Branch Watershed District  
 4700 West 77<sup>th</sup> Street  
 Edina, MN 55435-4803



A permit fee shall accompany this permit, unless waived by the Board of Managers.  
 (Governmental Bodies are not required to pay a fee.)

Project Information	Applicant Information
Name of Project: Purpose of Project: <b>H A L C Y O N</b>	Name: <b>GLCJ PROPERTIES</b>
Project Location (street address, if known; otherwise, major intersection): <b>11050 50<sup>TH</sup> ST N</b>	Address: <b>1870 RICE ST</b>
City or Township: <b>LAKE ELMO</b>	City, State, Zip: <b>ST PAUL, MN</b>
Legal Description (proof of ownership required): PID: Section:                      Township:                      Range:	Phone: <b>651-308-2999</b>
Project Timeline: Start Date: <b>2-1-15</b> Completion Date: <b>9-1-15</b>	Fax:
<b>Authorized Agent Information</b>	<b>Owner Information (if different than Applicant)</b>
Name:	Name: <b>LEE ROSSOW</b>
Business Name:	Address: <b>4416 RIVER RD S</b>
Address:	City, State, Zip: <b>AFTON, MN 55001</b>
City, State, Zip:	Phone: <b>SAME</b>
Phone:	Fax:
Fax:	Email:
Email:	

Once a Valley Branch Watershed District permit has been approved, the permit conditions will attached to the back of this form.

By signing this permit application, the permit applicant, his/her agent, and owner (hereinafter "Permittee") shall abide by all the conditions set by the Valley Branch Watershed District (VBWD). All work which violates the terms of the permit by reason of presenting a serious threat of soil erosion, sedimentation, or an adverse effect upon water quality or quantity, or violating any rule of the VBWD may result in the VBWD issuing a Stop Work Order which shall immediately cause the work on the project related to the permit to cease and desist. All work on the project shall cease until the permit conditions are met and approved by the VBWD representatives. In the event Permittee contests the Stop Work Order issued by the VBWD, Permittee shall attend a VBWD Board of Managers meeting and discuss the project. Any attorney fees, costs, or other expenses incurred on behalf of the VBWD in enforcing the terms of the permit shall be the sole expense of the permit applicant. Costs shall be payable from the permit applicant's permit fee. If said fees exceed the permit amount, the Permittee shall have ten (10) days from the date of receipt of the invoice from the VBWD to pay for the cost incurred in enforcing the permit, by which to pay the VBWD for said costs. If costs are not paid within the ten (10) days, the VBWD will draw on the permit applicant's surety. The Permittee agrees to be bound by the terms of the final permit and conditions required by the VBWD for approval of the permit. The permit applicant further acknowledges that he/she has the authority to bind the owner of the property and/or any entity performing the work on the property pursuant to the terms of the VBWD permit, and shall be responsible for complying with the terms of the VBWD permit.

**Signatures (Required):**

12-30-2014  
 Applicant/Date

Owner (if different than Applicant)/Date

*Lee Rossow* 12-30-14  
 Owner's Authorized Agent/Date



LINCOLN FETCHER • DAVID BUCHECK • DONALD SCHEEL • DALE BORASH • RAY LUCKSINGER


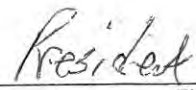
VALLEY BRANCH WATERSHED DISTRICT • P.O. BOX 838 • LAKE ELMO, MINNESOTA 55042-0538

www.vbwd.org

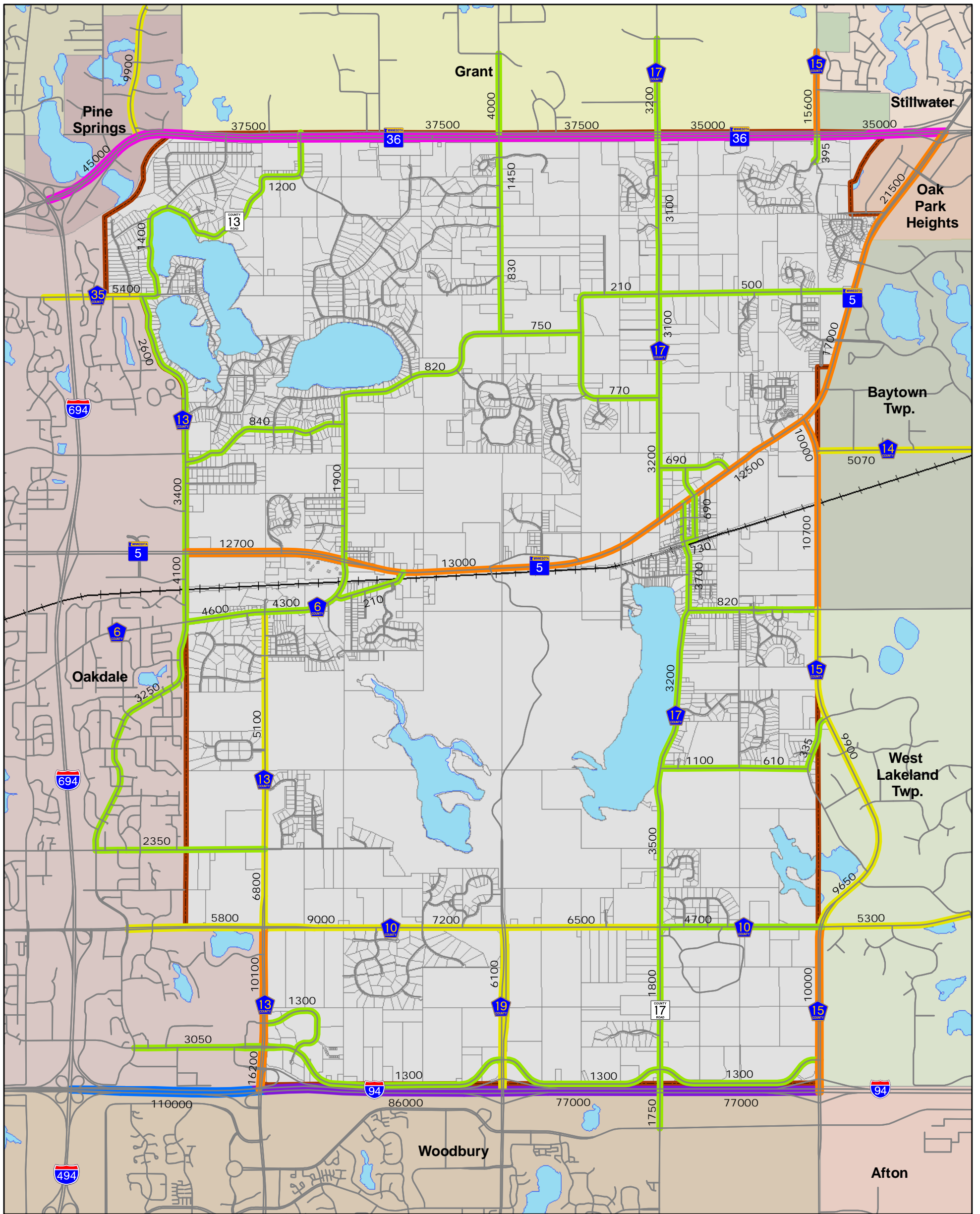
1. Plans shall be revised and/or calculations shall be updated to show the site will conform to VBWD stormwater runoff-rate control standards on the west side.
2. Specifications for the needed soil corrections at the proposed infiltration basin shall be provided for VBWD approval prior to construction. The biofiltration detail on Sheet C8-3 should not allow the use of native soil that is clayey in the planting medium.
3. The plans should be updated to include details of OSA, and the elevations should be consistent with the HydroCAD model for Pond 10P.
4. This permit is not valid until a maintenance agreement in the general format of Appendix B of the VBWD Rules is submitted to and approved by the VBWD Attorney.
5. The required surety and fees shall be submitted prior to construction.
6. This permit is not transferable.
7. This permit is subject to obtaining all other permits required by governmental agencies having jurisdiction (including an NPDES permit).
8. The VBWD Engineer and Inspector shall be notified at least 3 days prior to commencement of work.
9. Erosion controls shall be installed prior to the commencement of grading operations and must be maintained throughout the construction period until turf is established. Additional erosion controls may be required, as directed by the VBWD Inspector or VBWD Engineer.
10. The following additional erosion controls shall be implemented on the site:
  - a. All proposed slopes 3 feet horizontal to 1 foot vertical (3H:1V) should be covered with erosion-control blanket.
  - b. Silt fence should follow existing contours as closely as feasible to limit the potential for gully erosion along the edges.
  - c. Any sediment that collects in storm sewers, ponds, or other water management features shall be removed.
  - d. Street sweeping shall be performed if sediment collects on streets.
11. To prevent soil compaction, the proposed infiltration areas shall be staked off and marked during construction to prevent heavy equipment and traffic from traveling over it. If infiltration facilities are in place during construction activities, sediment and runoff shall be kept away from the facility, using practices such as diversion berms and vegetation around the facility's perimeter. Infiltration facilities shall not be excavated to final grade until the contributing drainage area has been constructed and fully stabilized. The final phase of excavation shall remove all accumulated sediment and be done by light, tracked equipment to avoid compaction of the basin floor. To provide a well-aerated, highly porous surface, the soils of the basin floor shall be loosened to a depth of at least 5 feet to a maximum compaction of 85% standard proctor density prior to planting. The upper 10 inches of soil shall be tilled prior to planting.
12. All disturbed areas shall be vegetated within 14 days of final grading.
13. The applicant is responsible for removal of all temporary erosion-control measures, including silt fence, upon establishment of permanent vegetation at the project site as determined by the VBWD Engineer and/or Inspector.
14. Valley Branch Watershed District shall be granted drainage easements which cover land adjacent to stormwater management facilities, wetlands, and lowlands up to their 100-year flood elevations and all ditches, storm sewers, and maintenance access to the stormwater management facilities.
15. The required drainage easements and access easements shall be recorded with the Washington County Recorder's Office.
16. Return or allowed expiration of any remaining surety and permit closeout is dependent on the permit holder providing proof that all required documents have been recorded (including but not limited to easements) and providing as-built drawings that show that the project was constructed as approved by the Managers and in conformance with the VBWD Rules and Regulations.

Approved: \_\_\_\_\_

June 25, 2015


  
 \_\_\_\_\_  
 Signature Title  
 Valley Branch Watershed District

**Note:** The grant of this permit in no way purports to permit acts, which may be prohibited by other governmental agencies.



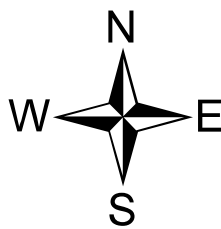
**FIGURE 3:  
EXISTING AADT**

Transportation Plan  
2030 Comprehensive Plan  
City of Lake Elmo, Minnesota



Map date: April 2009  
Prepared by:

**TKDA**  
ENGINEERS • ARCHITECTS • PLANNERS



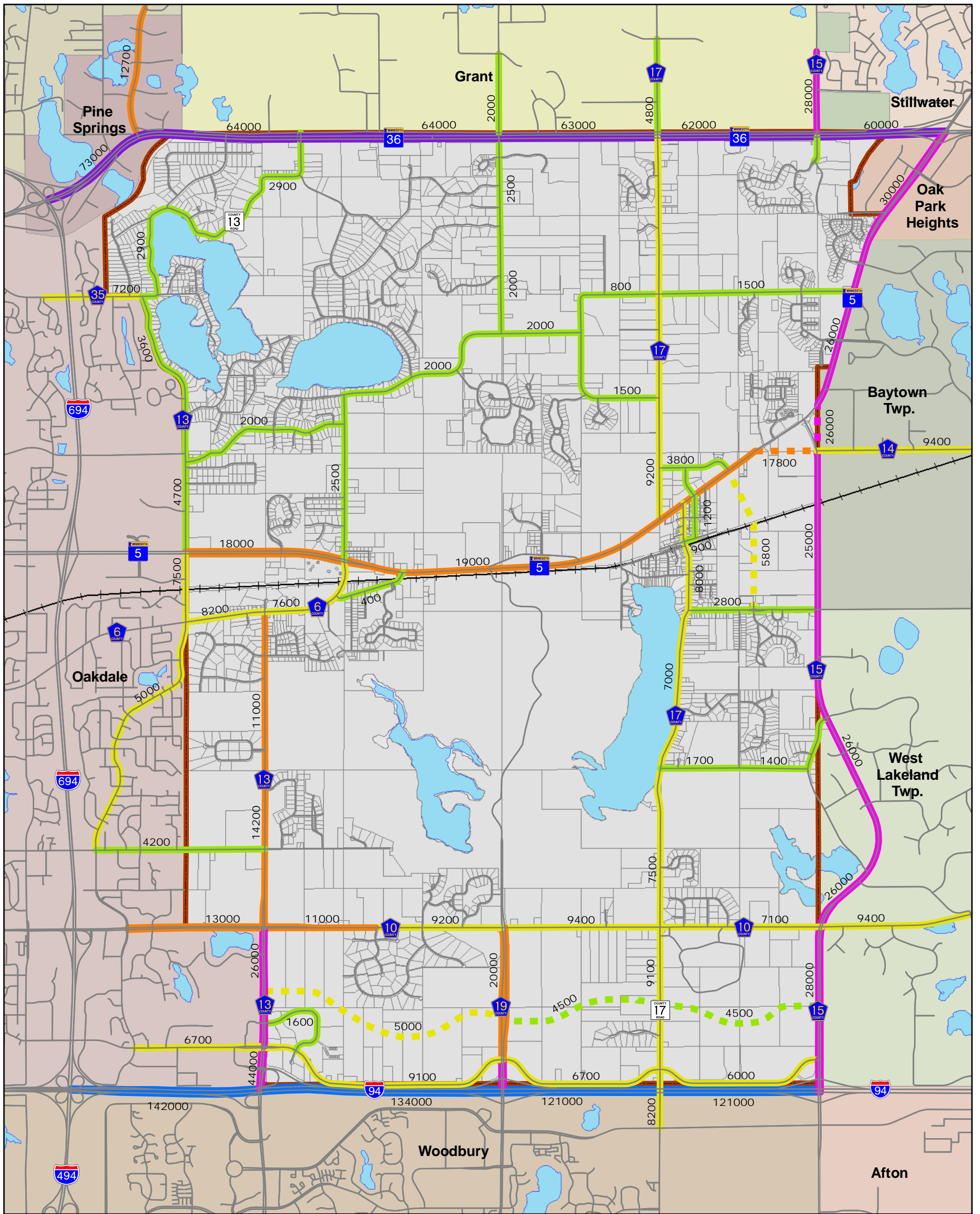
**LEGEND**

- City Boundary
- Parcels
- Lakes
- Roadways

**EXISTING AADT**

- < 5,000
- 5,000 - 9,999
- 10,000 - 24,999
- 25,000 - 49,999
- 50,000 - 99,999
- 100,000 OR >

LIMITATION OF LIABILITY  
This document is not a legally recorded map or survey and is not intended to be used as one. This map is a compilation of records and information from various state, county, and city offices, and other sources.



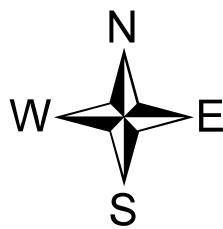
**FIGURE 8:  
2030 PROJECTED VOLUMES  
IMPROVED SCENARIO**

Transportation Plan  
2030 Comprehensive Plan  
City of Lake Elmo, Minnesota



Map date: April 2009  
Prepared by:

**TKDA**  
ENGINEERS • ARCHITECTS • PLANNERS



**LEGEND**

- City Boundary
- Roadways
- Parcels
- Lakes

**2030 PROJECTED VOLUMES  
IMPROVED SCENARIO**

- < 5,000
- 5,000 - 9,999
- 10,000 - 24,999
- 25,000 - 49,999
- 50,000 - 99,999
- 100,000 OR >

Note: Dashed lines represent future roadways not currently in place.

LIMITATION OF LIABILITY  
This document is not a legally recorded map or survey and is not intended to be used as one. This map is a compilation of records and information from various state, county, and city offices, and other sources.



984

Like Share 10k

Periodicals  Literature

Keyword  Title  Author  Topic

## Cemetery proximity and single-family house price.

### Stadium View /

Luxury Apartments In A Convenient



[Link/Page Citation](#)

1

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#### ABSTRACT

In this article, the potential impact of cemeteries on value is addressed empirically using regression analysis on data from 575 transactions of single-family houses in the vicinity of four cemeteries. Consistent with the limited previous research on this topic, when all observations are analyzed simultaneously no price effect is discovered. However, when each cemetery is investigated separately, the results vary. In two cases, cemetery view is not significantly related to price. In a third case, cemetery view is associated with higher prices (equal to 8.8% of mean house price), and in a fourth case, cemetery view is associated with lower prices (equal to 10.1% of mean house price).

\*\*\*\*\*

The real estate literature is replete with papers reporting the influence of externalities on residential property values. Studies appearing in *The Appraisal Journal*, for example, observe positive price effects given a house's proximity to a golf course, (1) or an ocean, (2) and negative effects for proximity to freight rail lines, (3) a cell phone tower, (4) a ruptured oil pipeline, (5) highway noise barriers, (6) and the residence of a registered sex offender. (7)

It is intuitive that price premiums should apply when an externality adds to an owner's enjoyment of his or her property and that discounts should apply when a property is located close to an externality that poses either a nuisance or potential danger. Not all market participants, however, immediately adopt this view, as indicated by Hansen, Benson, and Hagen (8) who report significant price discounts for houses located close to a major fuel pipeline after, but not before, it exploded.

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Online library of books, journals, a



The impact of open space property uses on nearby residential property values has been subject to some empirical investigation. The results, in general, are not surprising. Golf courses, parks, and green spaces tend to be positive externalities for surrounding properties, and landfills tend to be negative externalities. Of the various types of open space property uses, cemeteries have been the least studied. A search of the literature reveals only two published studies on this topic and both of these examine the same Portland, Oregon, database to report an insignificant price difference between houses located close to a cemetery and those located farther away. (9)



The purpose of the current study, therefore, is to direct some additional attention to this little-examined subject. In this study, regression analysis is applied to transaction data from 575 single-family houses located in relatively close proximity to four cemeteries in Greene County, Ohio. Grouping cemeteries for analysis, as was done in previous analyses, may mask the impact of a cemetery on the transaction price of nearby houses.

Because some of the advantages and disadvantages associated with close cemetery proximity depend upon whether or not the cemetery is within sight of the subject property, the present study also improves upon the previous research by simultaneously investigating the price effect resulting from both the distance from, and view of, a cemetery. This article describes the characteristics of cemeteries that may impact the value of nearby properties, reviews the pertinent literature, and explains the data and methodology used in the research. The results of the analysis are then presented.

### Cemetery Characteristics That May Influence Value

The effect of proximity to a cemetery on nearby residential property value is uncertain. On the positive side, cemeteries offer a place to walk, jog, exercise, or otherwise enjoy the outdoors safe from speeding traffic. In effect, some people may view a cemetery as a park, and the tombstones as incidental.

A view of a relatively open vista that includes some tombstones may be preferable to one that is limited to the back of the neighbor's garage or house. Further, a person who wishes to regularly visit the final resting place of a loved one may value a house located conveniently close to the loved one's grave. To the extent that any of these advantages apply, purchasers may be willing to pay a premium for a house located in close proximity to a cemetery, and the premium may be enhanced to the degree that market participants believe the future use of the cemetery will not change.

#### First Home Buyer Programs

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Historically, there has been considerable reluctance, especially in rural areas, to disturb land used as a cemetery. Therefore, owners of houses in close proximity to such cemeteries can be fairly certain that their properties will not subsequently be squeezed in by additional houses or less desirable property uses. On the other hand, there is no guarantee that the use of cemetery property is fixed. Cemeteries are occasionally relocated and the property put to an alternative use, which residential neighbors may find objectionable. Kay (10) observed that the probability of cemetery relocation may be positively related to the rate at which an area is becoming urbanized.

There are also potential disadvantages associated with close proximity to a cemetery. Cemetery workers, visitors, or trespassers may create noise disturbances. The relatively pleasing vista previously mentioned may be compromised if the cemetery falls into disrepair or if trespassers vandalize it.

Potential physical dangers to people residing in close proximity to a cemetery include poisoning and disease. Spongberg and Becks (11) reported that cemeteries may release hazardous chemicals and metals into surrounding soil and ground water. Possible contaminants include arsenic and mercury, which were used in past embalming practices, or formaldehyde used in current embalming practices; and varnishes, sealers, and preservatives used on wood coffins, or lead, zinc, and copper from metal coffins.

Vezzani (12) asserts that mosquitoes are the most medically important insect vectors of disease. He also concludes that cemeteries are highly suitable habitats for artificial container-breeding mosquitoes due to the great availability of the different resources that they need (i.e., sugar substances, shelter, and water-filled containers).

Finally, there are psychological factors associated with cemeteries that may negatively impact some people. The sight of a grave being dug or an interment service can put a damper on a party being held at a residence with a cemetery view. For some, the sight of a cemetery or of tombstones may be upsetting, and for others, knowing that the cemetery is close may be disconcerting.

Each of these factors may influence potential purchasers who may lower their bids or refuse to make offers on properties with cemetery views. Larsen and Coleman (13) report moderate, but statistically significant selling price effects for residential properties that were classified as psychologically impacted for reasons other than the property's proximity to a cemetery.



Casual examination of cemeteries in the U.S. Midwest results in several observations that are consistent with the notion that cemeteries may negatively impact the value of nearby single-family houses. First, cemeteries tend to be initially situated remotely from residential properties. Second, in recent years when residential development has occurred in close proximity to a cemetery, developers have shown a propensity, where possible, to leave a wooded buffer zone between the cemetery and the residential development. Finally, houses constructed in close proximity to an existing cemetery are rarely, if ever, high-end properties.

Even if the disadvantages enumerated are significant in the transaction process, their impact may not be observable in transaction prices as long as the search for a buyer routinely continues until a buyer is located who does not care about or is ignorant of the physical risks or is not psychologically impacted by the proximity of a cemetery to the subject property. It may, however, take more time to locate such a purchaser and this would be revealed by a significantly longer time on market for houses located in close proximity to a cemetery.

The fact that the only relevant database previously studied did not contain time on market data may help explain why it yielded no significant market effects attributable to cemetery proximity. Also, there are other factors that may have contributed to the previous findings. Unfortunately, time on market is not available in the present database. The addition of a time on market variable would be a valuable addition to any extensions of this research.

#### Literature Review

Bolitzer and Netusil (14) employ regression analysis to study how single-family house selling price is influenced by the proximity of the house to a variety of open space property uses, including cemeteries. They analyze transactions that occurred in 1990-1992 in Portland, Oregon. Selling prices of 662 houses located within 1,500 feet of one of fifteen cemeteries are compared to prices of 6,005 houses that are not located within 1,500 feet of any type of open space (e.g., cemetery, golf course, public park). No significant differences in prices attributable to cemetery proximity are discovered.

Lutzhiser and Netusil (15) analyze the same database and employ basically the same methodology as Bolitzer and Netusil. Again, selling price is found not to differ significantly between houses located on either side of the 1,500-foot demarcation. In addition, a variable to account for cemetery size is included in this model, and house prices are found to be insignificantly related to it.

These studies are noteworthy because they were pioneering efforts, but both suffer from problematic methodological issues. For instance, the 1,500-foot demarcation point appears a bit arbitrary; Bolitzer and Netusil state it "was selected after consulting with park specialists at Metro." (16) It is unclear what expertise metropolitan park specialists possessed concerning setting this kind of criteria. No tests were conducted to determine if price effects are present within 1,500 feet of each cemetery or whether 1,500 feet is an appropriate demarcation point. It is possible that in some cases local price effects do not occur, but for other cases the local price effects exist and are exhausted before 1,500 feet, while for still other properties, local price effects extend farther. The exact solution is unique to each situation and dependent upon factors such as topography, foliage, housing density, and cemetery condition.

Another methodological problem is that neither one of the studies compares properties with a cemetery view to those without a view to investigate whether view might represent a better demarcation point. Also, although the model employed in these studies includes binary variables to control for the area of the city in which a particular house is located, a number of factors not included in the model could compromise the validity of the comparison (e.g., the extent to which other externalities affect properties on both sides of the demarcation line). Further, the data for houses surrounding the fifteen cemeteries is incorporated into a single model, which may have exacerbated the issue if the variables that significantly influence nearby residential property values are not identical for all cemeteries. This possibility is demonstrated in the current study by first estimating a single model that includes all four study areas, and then comparing this result to results obtained by estimating separate models for each cemetery and restricting the analysis to houses located in the same neighborhood.

#### Data

This article analyzes transactions of 575 single-family houses in the vicinity of four cemeteries, all located in Greene

County, Ohio. Greene County, located in southwestern Ohio, was established at its present boundaries in 1819. Historically, Greene was an agricultural county, and today it remains predominantly rural. Only 4% of the county's 421 square miles consists of urban areas. Its total population is about 148,000 residents. After World War II, parts of Greene County became a bedroom community for the city of Dayton in adjacent Montgomery County. In more recent years, the county has undergone substantial commercial development.

According to the Greene County Auditor's office, 65 cemeteries are located in the county. Several are small family plots and most of the 65 are located remotely enough that measuring their effect on nearby houses is problematic because there are not many houses close by. This article focuses on four locations where residential development has extended to an active (i.e., burials are still taking place) cemetery border: Bellbrook, Fairborn, Beavercreek, and Xenia. All four study areas were personally inspected to determine whether each property currently has a cemetery view. A definition of variables used in studying the four locations can be found in Table 1.

#### Bellbrook Area

The first study location is situated on 16.9 acres in the northeastern corner of the city of Bellbrook (population 7,009). Residential development reached this cemetery in 1961, when the first of five houses that abut the cemetery was constructed. The last house to abut the cemetery was built in 1965. All houses in the sample were constructed in 1951-2003. There are 157 houses located to the east and southeast and within 1,513 feet of the well-maintained cemetery. The sample is limited to the 122 houses where an arm's-length transaction of an improved lot could be identified. Transactions in this study area occurred in 1958-2008.

There is no buffer zone between the Bellbrook cemetery and the residential development, but trees, houses, and structures in the development block a cemetery view for most houses in the Bellbrook study area. However, 18 of the sample properties do have a full or partial view of this cemetery. It was assumed that the view from each property was the same at the time of each transaction. Data limitations prevent determination of property quality and condition at the time of each transaction, but at the time of the study, it was observed that property quality and condition tended to improve with distance from the cemetery. The Bellbrook area is limited to 1,513 feet by default because the neighborhood ends at that distance.

Property characteristic and transaction information analyzed in this study were obtained from the office of the Greene County Tax Assessor and the office of the Greene County Recorder. Table 2 shows descriptive statistics for houses in the Bellbrook study area. The mean transaction price (PRICE) for these houses is \$97,012. The mean house age at the time of the transaction (AGE) is 27.4 years. The mean living space (SQFT) is 1,408 feet, and the mean parcel size (LOT) is 13,427 square feet.

#### Fairborn Area

The second cemetery in the study is situated on 22.3 acres near the eastern edge of Greene County's second largest city, Fairborn (population 51,390). The residential development is located south of the cemetery. The first house in the development, constructed on the southern boundary of the development, sold in 1996. Development proceeded to the north (toward the cemetery), with all the houses closest to the south side of the cemetery being sold between 2003 and 2006.

Transaction data could not be obtained for 28 houses (these lots were purchased unimproved from the developer), so the sample is restricted to the 244 observations that are arm's-length transactions of improved lots. The Fairborn area is the newest development of the study areas, and the developer dedicated a buffer zone between the development and cemetery that is approximately 200-feet wide (187 feet at the narrowest point) and fairly heavily wooded.

The deciduous trees in the buffer zone eliminate any view of the well-maintained cemetery from all but a few houses for approximately seven months of the year, but when the trees are bare, 46 houses have a full or partial view of the cemetery. There is no discernable difference in the house quality and condition in this study area; all are currently in above-average condition due, in no small part, to their relatively young age.

Table 3 shows that PRICE in this area is the highest of the four study areas. More houses in this area, 85.9%, have a basement (BASE) than the other study areas and all houses in this development have central air conditioning (AIR).

#### Beavercreek Area

The third cemetery investigated is situated on 8.7 acres near the southern edge of Greene County's largest city, Reavercreek (population 40,014). There are 103 houses located to the south and southwest and within 1,215 feet of the cemetery. The study is restricted to the 77 houses for which an arm's-length transaction of an improved lot could be identified.

The oldest house in the sample was built in 1900. All but three houses have been constructed since 1950, with the newest built in 2005. Residential development reached the western and southern border of this cemetery in 1956, when the first two of twelve houses that abut the cemetery were built. Transactions included in the sample occurred in 1962-2008.

There is no buffer zone between the residential development and this well-maintained cemetery, but only 18 of the sample houses have a full or partial view of the cemetery. Similar to the Bellbrook study area, house quality and condition in this area tend to improve with distance from the cemetery. Table 4 shows that the mean lot size in the Beaver creek area is the largest of the four study areas.

#### Xenia Area

The fourth cemetery is situated on 9.9 acres in the southwestern portion of Xenia, the county seat and the county's third-largest city (population 27,557). Two hundred houses, located north and east of the cemetery, are within 1,594 feet of the cemetery. The study is restricted to the 151 houses where an arm's-length transaction of the improved lot could be identified, 28 of which have a full or partial cemetery view.

Similar to the Fairborn study area, there is little difference in house quality within this study area. Almost all the houses in this sample are single-story, tract houses constructed in 1956-1958; none has a basement. Although house quality and condition at the time sale could not be ascertained, almost all houses in this sample were rated average at the time of the study. The oldest house was built in 1951 and the newest in 2000. Transactions included in the sample occurred in 1967-2008.

The maintenance condition of this cemetery can be generously described as moderate/average. There is no buffer zone between the residential development and this cemetery. The nominal transaction prices shown in Tables 2, 5, 4, and 5 are partially a function of the year in which the transactions occurred. Table 5 shows that the Xenia study area involves the lowest-valued houses of the four study areas.

#### Correlation of Variables

Table 6 contains the simple correlation of model variables for all four cemetery areas and shows that most of the explanatory variables are highly correlated with transaction price. There is high correlation among many of the independent variables (e.g., square footage, bathrooms, bedrooms, and basement).

What is surprising is the significant correlation between distance from a cemetery (DISTANCE) and every other variable. The correlations indicate that house size increases with distance from the cemetery. Houses located farther from the cemetery tend to have more garage space, bathrooms, and bedrooms, but lot size tends to decrease with distance from the cemetery.

The correlations also indicate that the farther a house is located from a cemetery in the sample, the greater the probability that the house has air conditioning and a basement. On the other hand, a significant simple correlation between whether a cemetery view is available from the house and the other explanatory variables does not exist.

The appendix section of this article provides the correlation coefficients for the individual study areas.

#### Methodology

In studies of the impact of externalities on real property values, regression analysis is frequently referred to as hedonic regression. This well-known and often-used technique facilitates the effective unbundling of the implicit value attributable to the physical and location-specific characteristics of a property from the sale price.

The methodology in this study has two basic parts. First, the data for all four study areas is combined and the following model is estimated to investigate whether housing prices are influenced by cemetery proximity: (17)

[MATHEMATICAL EXPRESSION NOT REPRODUCIBLE IN ASCII] (1)

where:

PRICE = the transaction price

[alpha] = the intercept

[beta] = the estimators

SALEYR = a variable equal to the year in which the house sold

e = the error term

All the other independent variables are as defined in Table 1.

Based on the results of previous studies, (18) a positive sign is expected on the estimator for SQFT, LOT, GAR, BATH, BED, AIR, and BASE, and a negative sign is expected for AGE. The expected sign for GAS is positive because it was the most affordable form of heat in the area over the study period and should be capitalized in house prices.

Preliminary analysis reveals that three variables designed to detect seasonality in selling prices are highly insignificant and they were dropped from the model. The REG Procedure (19) was used to estimate Equation 1 with the COLLIN option specified. The results of the COLLIN option indicate a moderate amount of multicollinearity is present. (20)

For the second part of the methodology in this article, Equation 1 is estimated separately for each cemetery. The estimate of the Fairborn data does not include AIR or GAS because each of the sample houses in this area has central air conditioning and gas heat. The estimate of the Xenia data does not include GAS or BASE because all houses in this area have gas heat and none has a basement. (21)

## Results

The results of the present study are similar to the two previous cemetery proximity studies when, as was the case in the previous studies, all cemeteries are analyzed with a single estimate. Table 7 shows summarized estimation results of the full model; the data fits the model well.

The F-value is highly significant and the independent variables explain 92.29% of the variation in the dependent variable. Seven of the ten control variables are significant at the 99% confidence level. Focusing on the two variables of interest, the estimators for both VIEW and DISTANCE are highly insignificant, indicating that neither a cemetery view nor distance from a cemetery has a significant effect on nearby house price.

To investigate the possibility that the results may vary by cemetery, this study estimates Equation 1 separately for each area. The results for the Fairborn cemetery area are consistent with the full model results. Table 8 shows the summarized estimation results for the Fairborn cemetery area; the data fits the model well, the F-value is highly significant. The adjusted [R.sup.2] indicates that the model explains 78.14% of the variation in the dependent variable.

This figure is low compared to the [R.sup.2] reported for the full model, but recall that AIR and GAS have been dropped from this model because they are constants. Five of the eight control variables are significant at the 99% confidence level. Regarding the variables of interest, the estimators for both VIEW and DISTANCE are highly insignificant in this estimation, indicating that no price effect can be attributed to cemetery proximity.

A different result occurs when the analysis is limited to the Xenia cemetery area. Examination of the results, which are summarized in Table 9, shows that the data fits the model fairly well; the F-value is highly significant, and the model explains 70.11% of the variation in the dependent variable.

This is the lowest adjusted [R.sup.2] of any of the estimates, but this estimate does not include BASE or GAS because each is constant. Only one of the control variables is significant at the 99% confidence level; two more are significant at the 90% level, and the sign of the estimator for each of these variables is in the anticipated direction.

Recall that almost all the houses in this sample are nearly identical tract houses. It is interesting, therefore, that the estimation indicates only four factors are significantly related to house price: date when the house sold, age of the

house when the sale occurred, garage size, and whether the house has a cemetery view.

The estimator for VIEW is negative and significant at the 90% confidence level and indicates that houses with a cemetery view in this area sold, on average, at a discount of \$6,291.89 compared to those without a cemetery view. For the mean-priced house in this sample, this represents a discount of 10.1% ( $\$6,291.89/\$62,531.30$ ). The variable DISTANCE is not significant in this estimate.

Table 10, where the estimation results for the Beavercreek cemetery area are presented, shows that the data fits the model well. The F-value is highly significant, and the adjusted [R.sup.2] indicates that the model explains 90.71% of the variation in the dependent variable. Four of the ten control variables are significant at the 99% confidence level, and three are significant at the 95% level. Focusing on the variables of interest, VIEW is insignificant, indicating no price effect can be attributed to this variable, but DISTANCE is significant at the 90% level.

The positive estimator for DISTANCE indicates that transaction price in this area increased by \$29.58, on average, for each additional foot the lot is removed from the cemetery. This result should occur if market participants systematically deem the negative factors associated with close cemetery proximity to dominate the positive factors, but this may not be the case here and there may be an alternative explanation.

Recall that casual observation indicated that property quality and condition in this study area improved with distance from the cemetery, so DISTANCE may actually be serving as a proxy for quality and condition. If this explanation is correct, there is a cemetery proximity effect associated with distance, but it is occurring not because market participants judged the disadvantages of close proximity to the cemetery to outweigh the advantages; it occurred because the original homeowners and/ or developers/builders constructed better-quality houses farther from, rather than closer to, the cemetery.

Table 11, where the estimation results of Equation 1 for the Bellbrook cemetery area are summarized, reveals that the data fits the model well. The F-value of 124.4 is highly significant and the adjusted [R.sup.2] indicates that the model explains 92.45% of the variation in the dependent variable.

Four of the ten property characteristic variables are significant at the 99% confidence level and four are significant at the 95% level. The sign of each of the significant explanatory variables is in the expected direction, and each appears reasonable in amount. Both of the variables of interest are significant: VIEW at the 90% confidence level, and DISTANCE at the 95% level.

The results indicate that buyers in this area value the park-like view. A cemetery view added \$8,521.46 on average to the transaction price for houses with a cemetery view. For the mean priced house in this sample, this represents a premium of 8.8% ( $\$8,521.46/\$97,012.30$ ).

The estimator for DISTANCE indicates that residential property values increased by \$8.10 for each foot the lot was removed from the cemetery. As was the case for the Beavercreek cemetery area, casual observation indicates that property quality and condition in this study area improve with distance from the cemetery; here again it is believed that DISTANCE is acting as a proxy for house quality and condition and the effect is occurring because the original homeowners and/or developers/builders constructed better quality houses farther from rather than closer to the cemetery.

## Conclusion

The characteristics of cemeteries that may influence value are presented in this article and suggest that the influence of a particular cemetery on nearby residential properties is uncertain. To empirically test this issue, data from 575 sale transactions of houses in relatively close proximity to one of four cemeteries is subjected to regression analysis.

In five iterations, transaction price is regressed against a battery of property characteristic variables to control for price differences. Transaction price is also regressed against two variables of interest, DISTANCE, specified as the shortest straight-line distance between the cemetery and the lot on which the subject house is located; and VIEW, specified as the ability to view the cemetery from the subject property.

When all observations are tested in a single model, the results are consistent with the limited previous studies on this topic--no significant price effect attributable to cemetery proximity is discovered. When each cemetery is tested individually, however, the results vary. For two cemeteries, no price effect can be attributed to VIEW. For a third cemetery, the estimator for VIEW is a negative \$6,291.89, but for a fourth cemetery, the estimator for VIEW is a

positive \$8,521.46. For the mean priced house in each sample, the former represents a 10.1% discount and the latter represents an 8.8% premium.

The sign of the estimator in each of these two instances is intuitively appealing because the positive estimator is associated with a well-maintained cemetery, and the negative estimator is associated with a less well-maintained cemetery. The fact that the results vary by cemetery suggest the possibility that previous studies might have arrived at different conclusions if they had not grouped all cemeteries into a single model. The fact that VIEW is significant in two of the four samples investigated here suggests that previous models may have used the wrong criteria in testing for market effects due to cemetery proximity; VIEW may be more important than DISTANCE.

DISTANCE is insignificant in two of the four study areas. In both of these cases, almost all sample houses are constructed within a relatively compact Lime frame and house quality and condition do not vary within the study area. In the other two samples, house construction took place over a protracted period of time and it is observed that property quality and condition tend to improve with distance from the cemetery.

In these two cases, the estimator for DISTANCE is a positive \$8.10 per foot in one case and \$29.58 per foot in the other. The interpretations of these findings is that DISTANCE is actually serving as a proxy for house quality and condition in these two cases. This suggests that the effect occurred not because market participants judged the disadvantages of close proximity to outweigh the advantages, but because the original homeowners and/or developers/builders constructed better quality houses farther from rather than closer to the cemetery.

Cemetery proximity should not be ignored by residential appraisers in arriving at a value estimate. It is possible cemetery proximity will have no significant impact on nearby residential property values, but as the present study indicates, it may. It is recommended, therefore, that appraisers test their local area to determine if cemetery proximity market effects are present.

Unfortunately, data restrictions prevented the testing for another important market effect--time on market. Time on market is more likely to be influenced by cemetery proximity than price. Extensions of this research, therefore, could examine not only whether the results reported here apply in other markets, but also whether cemetery proximity impacts time on market.

#### Appendix 1 Correlation Coefficients, Bellbrook Cemetery Area

	SQFT	LOT	AGE	GAR	BATH	BED	AIR
PRICE	.6178 <.0001	.2025 .0253	.0435 .6345	.2391 .0080	.5543 <.0001	.3430 .0001	.2152 .0173
SQFT		.2461 .0063	.4490 <.0001	.2019 .0257	.6604 <.0001	.5693 <.0001	.1973 .0294
LOT			.1509 .0971	.1023 .2623	.2059 .0229	.1103 .2264	.0593 .3465
AGE				.0617 .4994	.3369 .0001	.2343 .0094	.0593 .5167
GAR					.1426 .1172	.0246 .7875	.0842 .3566
BATH						.3688 <.0001	.2749 .0022
BED							.2042 .0240
AIR							
GAS							
BASE							
SALEYR							
VIEW							
	GAS	BASE	SALEYR	VIEW	DISTANCE		
PRICE	.0105 .9089	.4717 <.0001	.7429 <.0001	.2245 .0129	.09185 .3143		
SQFT	.1194	.4804	.1286	.1397	.0053		

	.1902	<.0001	.1582	.1248	.9540
LOT	.0814 .3725	.0934 .3060	.0322 .7251	.1094 .2304	.0632 .4889
AGE	.0943 .3013	.2233 .0134	.6431 <.0001	.0645 .4802	.0324 .7232
GAR	.0192 .8335	.0587 .5210	.1094 .2305	.0466 .6104	.0961 .2926
BATH	.2505 .0054	.6528 <.0001	.1646 .0701	.1693 .0622	.1435 .1149
BED	.2121 .0190	.5087 <.0001	.3405 .7096	.0007 .9934	.0996 .2748
AIR	.0915 .3163	.2207 .0146	.1002 .2721	.0061 .9465	.1261 .1664
GAS		.3032 .0007	.0153 .8675	.1102 .2269	.0953 .2964
BASE			.1730 .0567	.1406 .1225	.0829 .3640
SALEYR				.2452 .0065	.1012 .2671
VIEW					.5726 <.0001

Appendix 2 Correlation Coefficients, Fairborn Cemetery Area

	SQFT	LOT	AGE	GAR	BATH	BED	BASE
PRICE	.5566 <.0001	.2761 <.0001	.0213 .7410	.0631 .3261	.1459 .0226	.2932 <.0001	.2108 .0009
SQFT		.1405 .0282	.1063 .0976	.1633 .0106	.4622 <.0001	.4837 <.0001	.0405 .5293
LOT			.0981 .1263	.0231 .7192	.0321 .6179	.1013 .1145	.1146 .0740
AGE				.0424 .5099	.0428 .5055	.1537 .0163	.2737 <.0001
GAR					.0678 .2914	.0844 .1890	.1929 .0025
BATH						.4953 <.0001	.1882 .0032
BED							.2307 .4958
BASE							
SALEYR							
VIEW							
	SALEYR	VIEW	DISTANCE				
PRICE	.6351 <.0001	.2542 <.0001	.3577 <.0001				
SQFT	.0225 .7261	.1259 .0495	.0680 .2904				
LOT	.0817 .2030	.0000 1.0000	.0812 .2963				
AGE	.3930 <.0001	.2078 .0011	.3447 <.0001				
GAR	.0477 .4582	.0992 .1221	.1043 .1042				
BATH	.1256 .0500	.0258 .6889	.0865 .1781				



BED	.0438 .4958	.0579 .3681	.0958 .1354
BASE	.0581 .3659	.1626 .0110	.2320 .0001
SALEYR		.1844 .0038	.3295 <.0001
VIEW			.6128 <.0001

Appendix 3 Correlation Coefficients, Beaver Creek Cemetery Area

	SQFT	LOT	AGE	GAR	BATH	BED	AIR
PRICE	.6499 <.0001	.0129 .9103	.2980 .0080	.2327 .0403	.5016 <.0001	.3282 .0033	.0915 .4256
SQFT		.0771 .5018	.4830 <.0001	.2926 .0093	.7569 <.0001	.5234 <.0001	.0340 .7674
LOT			.2233 .0494	.0316 .7837	.1669 .1441	.1417 .2159	.0711 .5363
AGE				.2220 .0508	.4193 .0001	.2400 .0343	.1269 .2681
GAR					.2458 .0301	.1039 .3653	.0894 .4363
BATH						.5738 <.0001	.0980 .3935
BED							
AIR							
GAS							
BASE							
SALEYR							
VIEW							
	GAS	BASE	SALEYR	VIEW	DISTANCE		
PRICE	.0925 .4204	.1534 .1801	.6665 <.0001	.1595 .1632	.5138 <.0001		
SQFT	.0846 .4613	.1563 .1717	.1730 .1299	.1844 .1060	.4987 <.0001		
LOT	.0953 .4064	.0754 .5119	.0570 .6203	.2330 .0401	.1835 .1077		
AGE	.0288 .8027	.0100 .9308	.3942 .0004	.2202 .0527	.4523 <.0001		
GAR	.1683 .1409	.0202 .8604	.0145 .1309	.1725 .1309	.2218 .0509		
BATH	.2327 .0403	.1188 .3001	.2204 .0524	.2199 .0531	.4525 <.0001		
BED	.1798 .1151	.0090 .9378	.1372 .2310	.1164 .3103	.1944 .0881		
AIR	.4615 <.0001	.3250 .0037	.2844 .0116	.0462 .6879	.1271 .2675		
GAS		.3221 .0040	.0287 .8030	.0141 .9028	.0852 .4583		
BASE			.0333 .7720	.2056 .0709	.0754 .5116		
SALEYR				.0314 .7847	.1764 .1225		

VIEW .7660  
<.0001

Appendix 4 Correlation Coefficients, Xenia Cemetery Area

	SQFT	LOT	AGE	GAR	BATH	BED	AIR
PRICE	.1903 .0294	.0405 .6460	.6538 <.0001	.0997 .2571	.0852 .3332	.2249 .0098	.1464 .0951
SQFT		.1116 .2045	.1258 .1522	.1111 .2065	.2690 .0019	.3242 .0002	.0241 .7845
LOT			.1025 .2441	.0873 .3216	.1940 .0264	.0188 .8315	.0909 .3020
AGE				.0908 .3024	.0618 .4828	.1167 .1845	.1098 .2119
GAR					.1250 .1549	.0232 .7922	.0522 .5537
BATH						.1634 .0621	.0113 .8981
BED							.0299 .7346

AIR

SALEYR

VIEW

	SALEYR	VIEW	DISTANCE
PRICE	.8233 <.0001	.1776 .0425	.2039 .0195
SQFT	.2039 .0195	.0150 .8651	.0234 .7910
LOT	.1011 .2505	.3378 <.0001	.2636 .0024
AGE	.8622 <.0001	.0777 .3777	.0930 .2904
GAR	.0196 ,8241	.1304 .1377	.1553 .0765
BATH	.0843 .3383	.1897 .0300	.1738 .0471
BED	.2484 .0042	.0969 .2710	.0838 .3413
AIR	.1612 .0658	.0113 .8976	.0433 .6233
SALEYR		.1172 .1824	.2078 .0173
VIEW			.6514 <.0001

Additional Reading

Major, Christopher, and Kenneth M. Lusht. "Beach Proximity and the Distribution of Property Values in Shore Communities" *The Appraisal Journal* (Fall 2004): 333-338.

Morancho, Aurelia Bengochea. "A Hedonic Valuation of Urban Green Areas." *Landscape and Urban Planning* (December 2005): 35-41.

Web Connections

Internet resources suggested by the Lum Library

Funeral Assistant

<http://www.funeralassistant.com/>

International Cemetery, Cremation, and Funeral Association

<http://www.iccfa.com/>

Cemetery Records Online-Geneasearch

<http://geneasearch.com/cemeteries.htm>

Interment.net

<http://www.interment.net/>

(1.) Gary Grudnitski and A. Quang Do, "Adjusting the Value of Houses Located on a Golf Course," *The Appraisal Journal* (July 1997): 261-266; and Gary Grudnitski, "Golf Course Communities: The Effect of Course Type on Housing Prices," *The Appraisal Journal* (April 2003): 145-149.

(2.) Rachele Rush and Thomas H. Bruggink, "The Value of Ocean Proximity on Barrier Island Houses," *The Appraisal Journal* (April 2000): 142-150.

(3.) Robert A. Simons and Abdellaziz El Jaouhari, "The Effect of Freight Railroad Tracks and Train Activity on Residential Property Values," *The Appraisal Journal* (Summer 2004): 223-233.

(4.) Sandy Bond and Ko-Kang Wang, "The Impact of Cell Phone Towers on House Prices in Residential Neighborhoods," *The Appraisal Journal* (Summer 2005): 256-277.

(5.) Robert A. Simons, Kimberly Winson-Geideman, and Brian A. Mikelbank, "The Effects of an Oil Pipeline Rupture on Single-Family House Prices," *The Appraisal Journal* (October 2001): 410-418.

(6.) Benoit Julien and Paul Lanoie, "The Effect of Noise Barriers on the Market Value of Adjacent Residential Properties," *The Appraisal Journal* (Fall 2008): 316-327.

(7.) James E. Larsen, Kenneth J. Lowrey, and Joseph W. Coleman, "The Effect of Proximity to a Registered Sex Offender's Residence on Single-Family House Selling Price," *The Appraisal Journal* (July 2003): 253-265.

(8.) Julia L. Hansen, Earl D. Benson, and Daniel A. Hagen, "Environmental Hazards and Residential Property Values: Evidence from a Major Pipeline Event," *Land Economics* (November 2006): 529-541.

(9.) Benjamin Bolitzer and Noelwah R. Netusil, "The Impact of Open Spaces on Property Values in Portland, Oregon," *Journal of Environmental Management* (July 2000): 185-193; and Margot Lutzenhiser and Noelwah R. Netusil, "The Effect of Open Spaces on a Home's Sale Price," *Contemporary Economic Policy* (July 2001): 291-298.

(10.) Dianne H. Kay, "Cemetery Relocation: Emerging Urban Land Development Issue," *Journal of Urban Planning and Development* (March 1998): 1-10.

(11.) Alison L. Spongberg and Paul M. Becks, "Inorganic Soil Contamination from Cemetery Leachate," *Water, Air, and Soil Pollution* (January 2000): 313-327.

(12.) Dario Vezzani, "Artificial Container-Breeding Mosquitoes and Cemeteries: A Perfect Match," *Tropical Medicine & International Health* (February 2007): 299-313.

(13.) James E. Larsen and Joseph W. Coleman, "Psychologically Impacted Houses: Broker Disclosure Behavior and Perceived Market Effects in an Unregulated Environment," *Journal of Real Estate Practice and Education* (2001): 1-16.

(14.) Bolitzer and Netusil.

(15.) Lutzenhiser and Netusil.

(16.) Bolitzer and Netusil, 188.

(17.) One reviewer of this article suggested that in order to ensure that DISTANCE was not a proxy for some omitted variable that the correlation between the residuals (the actual dependent variable value minus the predicted dependent variable value) and DISTANCE be calculated for each model. We did so and in all cases the correlation was 0 with a p-value of 1.

(18.) David M. Brasington, "Which Measure of School Quality Does the Housing Market Value?" *Journal of Real Estate Research* 18, no. 3 (3.999): 395-43.3; and Larsen, Lowrey, and Coleman.

(19.) SAS Institute Incorporated, SAS OnlineDoc[R] 9.1.3, 2004, <http://www.sas.com>.

(20.) Multicollinearity is the term used to describe the fact that two or more of the explanatory variables are correlated. It is present to some degree in all data. If it is severe it can result in estimates that are highly unreliable, although the estimators will have the smallest variance of all unbiased estimators. The results of the COLLIN option, which follows the approach of Belsy, Kuh, and Welsch, indicate multicollinearity is not severe in any of the databases examined here. See David A. Belsey, Edwin Kuh, and Roy E. Welsch, *Regression Diagnostics: Identifying Influential Data and Sources of Collinearity* (New York: John Wiley, 1980).

(21.) Preliminary analysis demonstrated that both the log and linear functional form specifications provide similar results. Following the suggestion of Robert A. Yaffee's presentation, "Regression Analysis with SAS" ([www.nyu.edu/its/socsci/Docs/SASREG.ppt](http://www.nyu.edu/its/socsci/Docs/SASREG.ppt)), the linear form is selected as the one that best represents the true functional form of this data, and for expository expedience the linear model only is presented in the article. Because many studies that examine distance from an externality have found that externality effect degrades with distance, we followed the suggestion of a reviewer of this article and estimated Equation 1 with (1/distance) in place of distance. The adjusted [R.sup.2] for this estimation (0.9262) was nearly identical to the results presented here. The p-value of 0.4103 for (1/distance) indicates that (1/distance) does not improve the linear model.

by James E. Larsen, PhD, and Joseph W. Coleman, PhD

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Table 1 Definition of Variables

PRICE	Transaction price in nominal dollars
SQFT	Number of square feet of living space in house
LOT	Number of square feet in lot
AGE	Age of house in years
GAR	Number of square feet in garage
BATH	Number of bathrooms in house
BED	Number of bedrooms in house
AIR	Binary variable = 1 if house has central air conditioning, otherwise = 0
GAS	Binary variable = 1 if house has gas heat, otherwise = 0

BASE Binary variable = 1 if house has full basement,  
= 0

VIEW Binary variable = 1 if full or partial view of the  
cemetery from house, otherwise = 0

DISTANCE Distance in feet between nearest borders of residential  
lot and cemetery

Table 2 Property Characteristics, Bellbrook Cemetery Area

Variable	Mean	St. Dev.	Minimum	Maximum
PRICE	97,012.30	51,430.42	13,000	248,800
SQFT	1,407.95	407.26	900	2,844
LOT	13,426.75	5,720.96	8,976	47,840
AGE	27.41	15.61	0	55
GAR	361.63	164.22	0	924
BATH	1.67	0.55	1	3
BED	3.22	0.51	2	5
AIR	0.89	0.31	0	1
GAS	0.93	0.25	0	1
BASE	0.39	0.48	0	1
VIEW	0.11	0.28	0	1
DISTANCE	700.96	416.48	0	1,513

Table 3 Property Characteristics, Fairborn Cemetery Area

Variable	Mean	St. Dev.	Minimum	Maximum
PRICE	176,851.64	24,629.71	115,500	250,700
SQFT	1,883.70	389.09	1,197	3,044
LOT	10,392.75	1,808.92	7,930	16,348
AGE	2.01	3.025	0	12
GAR	444.81	56.71	340	840
BATH	2.33	0.35	1	3.5
BED	3.45	0.53	2	5
AIR	1.00	0.00	1	1
GAS	1.00	0.00	1	1
BASE	0.86	0.32	0	1
VIEW	0.14	0.30	0	1
DISTANCE	1,177.30	547.06	187	2,225

Table 4 Property Characteristics, Beavercreek Cemetery Area

Variable	Mean	St. Dev,	Minimum	Maximum
PRICE	124,802.60	71,412.69	16,000	322,800
SQFT	1,936.08	649.09	1,014	3,590
LOT	21,508.47	4,142.49	10,500	40,804
AGE	26.3	17.9	0	104
GAR	529.16	191.38	0	1,462
BATH	2.02	0.55	1	3.5
BED	3.33	0.52	2	5
AIR	0.70	0.46	0	1
GAS	0.48	0.50	0	1
BASE	0.46	0.46	0	1
VIEW	0.23	0.43	0	1
DISTANCE	621.77	394.05	0	1,215

Table 5 Property Characteristics, Xenia Cemetery Area

Variable	Mean	St. Dev.	Minimum	Maximum
PRICE	62,531.30	20,167.83	11,000	103,000
SQFT	984.68	174.69	864	1,893
LOT	8,044.39	1,699.52	6,900	20,732
AGE	40.88	10.48	1	51
GAR	338.93	242.29	0	900
BATH	1.07	0.25	1	2.5
BED	2.98	0.30	2	5
AIR	0.74	0.44	0	1
GAS	1.00	0.00	1	1
BASE	0.00	0.00	0	0
VIEW	0.17	0.34	0	1
DISTANCE	611.37	420.90	0	1,394

Table 6 Correlation Coefficientsfor Four Cemetery Areas

	SQFT	LOT	AGE	GAR	BATH	BED	AIR
PRICE	0.7367	0.1029	0.6204	0.2932	0.7295	0.4130	0.2491

	<.0001	0.0135	<.0001	<.0001	<.0001	<.0001	<.0001
SQFT		0.3029 <.0001	0.6093 <.0001	0.3404 <.0001	0.7797 <.0001	0.5650 <.0001	0.1605 0.0001
LOT	0.0216 0.6050			0.2331 <.0001	0.1878 <.0001	0.0978 0.0190	0.1210 0.0037
AGE	0.2288 <.0001	0.6934 <.0001	0.3624 <.0001	0.2822 <.0001		0.6176 <.0001	
GAR					0.2976 <.0001	0.0938 0.0245	0.0373 0.3725
BATH						0.5283 <.0001	0.2404 <.0001
BED							0.1397 0.0008
AIR							
GAS						0.0514 0.2182	
BASE							
SALEYR							
WEW							

	GAS	BASE	SALEYR	VIEW	DISTANCE
PRICE	0.0509 0.22	0.6487 <.0001	0.6015 <.0001	0.0431 0.3026	0.3618 <.0001
SQFT	0.1910 <.0001	0.5373 <.0001	0.1366 0.0010	0.0172 0.6802	0.2637 <.0001
LOT	0.4607 <.0001	0.0897 0.0315	0.1824 <.0001	0.0398 0.3407	0.1458 0.0005
AGE	0.0976 0.0192		0.0806 0.0534	0.0120 0.7737	0.3896 <.0001
GAR	0.2063 <.0001	0.1360 0.0011	0.0378 0.3655	0.0674 0.1064	0.1323 0.0015
BATH	0.1391 0.0008	0.6869 <.0001	0.2077 <.0001	0.0423 0.3114	0.3376 <.0001
BED	0.1059 0.0111	0.4129 <.0001	0.0619 0.1385	0.0115 0.7832	0.0948 0.0229
AIR	0.2722 <.0001	0.3205 <.0001	0.1125 0.0069	0.0235 0.5742	0.1376 0.0009
GAS			0.1473 0.0004	0.0016 0.9696	0.1275 0.0022
BASE			0.2203 <.0001	0.0317 0.4481	0.2223 <.0001
SALEYR				0.0701 0.0931	0.2016 <.0001
WEW					0.5542 <.0001

Table 7 Regression Analysis Results for Four Cemetery Areas

Variable	Parameter Estimate	Standard Error
Intercept	-7,782,652	183,934
SQFT	37.09	2.37
LOT	1.53	0.17
AGE	-1,427.81	68.28
GAR	13.75	4.63
BATH	-3,891.26	2,306.94
BED	1,055.88	1,787.32
AIR	-1,686.66	2,439.29
GAS	10,470	3,203.42

```

BASE          9,600.01      2,277.17
SALEYR       3,925.09      93.06
VIEW        -1,156.23      2,320.52
DISTANCE     -2.21      1.91
Adjusted [R.sup.2] = .9229
F-Value = 573.6
Pr > F < .0001
    
```

```

Variable          t-Value   Pr > t
Intercept        -42.31   <.0001
SQFT             15.65   <.0001
LOT              8.97   <.0001
AGE            -20.91   <.0001
GAR              2.97   .0031
BATH            -1.69   .0922
BED              0.59   .5549
AIR            -0.69   .4896
GAS              3.27   .0011
BASE             4.22   <.0001
SALEYR          42.18   <.0001
VIEW            -0.50   .6185
DISTANCE        -1.16   .2459
Adjusted [R.sup.2] = .9229
F-Value = 573.6
Pr > F < .0001
    
```

n = 575

Table 8 Regression Analysis Results, Fairborn Cemetery Area

```

Variable          Parameter Estimate   Standard Error
Intercept        -10,728,989          633,894
SQFT              33.59              2.40
LOT               1.58              0.42
AGE            -1,153.96          337.23
BATH            -3,104.85          2,765.77
BED              1,540.71          1,780.12
GAR              19.70             13.75
BASE             8,072.82          2,640.34
SALEYR          5,397.34           316.09
VIEW            1,229.34          2,446.68
DISTANCE         0.03              2.03
Adjusted [R.sup.2] = .7814
F-Value = 87.87
Pr > F < .0001
    
```

```

Variable          t-Value   Pr > t
Intercept        -16.93   <.0001
SQFT             14.01   <.0001
LOT              3.75   .0002
AGE            -3.42   .0007
BATH            -1.12   .2628
BED              0.87   .3877
GAR              1.43   .1533
BASE             3.06   .0025
SALEYR          17.08   <.0001
VIEW             0.50   .6158
DISTANCE         0.01   .9888
Adjusted [R.sup.2] = .7814
F-Value = 87.87
Pr > F < .0001
    
```

n = 244

Table 9 Regression Analysis Results, Xenia Cemetery Area

```

Variable          Parameter Estimate   Standard Error
Intercept        -4,152,393          452,801
SQFT              -3.25              6.29
LOT               0.74              0.64
AGE            -366.21          195.57
GAR               7.94              4.28
BATH            -1,366.94          4,223.16
BED            -336.44          3,666.72
AIR             112.24          2,302.61
SALEYR          2,116.19          228.70
VIEW            -6,291.89          3,354.84
DISTANCE        -3.33              3.25
    
```

Adjusted [R.sup.2] = .7011  
 F-Value = 29.58  
 Pr > F < .0001

Variable	t-Value	Pr > t
Intercept	-9.17	<.0001
SQFT	-0.52	.6066
LOT	1.17	.2460
AGE	-1.87	.0636
GAR	1.86	.0660
BATH	-0.32	.7467
BED	-0.09	.9270
AIR	0.05	.9612
SALEYR	9.25	<.0001
VIEW	-1.88	.0632
DISTANCE	-1.02	.3085

Adjusted [R.sup.2] = .7011  
 F-Value = 29.58  
 Pr > F < .0001

n = 131

Table 10 Regression Analysis Results, Beaver Creek Cemetery Area

Variable	Parameter Estimate	Standard Error
Intercept	-10,760,738	635,750
SQFT	34.50	7.12
LOT	1.46	0.69
AGE	-2,081.68	249.97
GAR	33.98	14.80
BATH	-26,308	-8,562.62
BED	6,071.35	6,545.21
AIR	7,279	7,409.71
GAS	10,804	6,728.52
BASE	17,265	7,008.54
SALEYR	5,424.09	326.15
VIEW	15,765	12,229
DISTANCE	29.58	15.43

Adjusted [R.sup.2] = .9071  
 F-Value = 63.68  
 Pr > F < .0001

Variable	t-Value	Pr > t
Intercept	-16.93	<.0001
SQFT	4.85	<.0001
LOT	2.12	.0376
AGE	-8.33	<.0001
GAR	2.30	.0250
BATH	-3.07	.0031
BED	0.93	.3570
AIR	0.98	.3296
GAS	1.61	.1132
BASE	2.46	.0164
SALEYR	16.63	<.0001
VIEW	1.29	.2019
DISTANCE	1.92	.0596

Adjusted [R.sup.2] = .9071  
 F-Value = 63.68  
 Pr > F < .0001

n = 78

Table 11 Regression Analysis Results, Bellbrook Cemetery Area

Variable	Parameter Estimate	Standard Error
Intercept	-7,854,904	350,615
SQFT	18.38	5.69
LOT	0.18	0.24
AGE	-1,518.02	159.38
GAR	21.51	8.41
BATH	8,567.14	3,965.23
BED	7,240.64	3,471.40
AIR	2,980.84	4,431.78
GAS	21,956	5,634.77
BASE	8,092.16	3,985.52
SALEYR	3,953.47	179.42
VIEW	8,521.46	4,797.33
DISTANCE	8.10	4.07



Adjusted [R.sup.2] = .9245  
 F-Value = 124.40  
 Pr > F< .0001

Variable	t-Value	Pr > t
Intercept	-22.40	<.0001
SQFT	3.23	.0016
LOT	0.74	.4587
AGE	-9.52	<.0001
GAR	2.56	.0119
BATH	2.16	.0329
BED	2.09	.0393
AIR	0.67	.5026
GAS	3.90	.0002
BASE	2.03	.0448
SALEYR	22.03	<.0001
VIEW	1.78	.0785
DIS TANCE	1.99	.0489

Adjusted [R.sup.2] = .9245  
 F-Value = 124.40  
 Pr > F< .0001

n = 122

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## INFORMATION MEMO

# Cemetery Regulations

*Learn about the legal requirements and issues associated with municipal cemetery establishment, maintenance, and care. Contains links to LMC model ordinances establishing a city cemetery and regulating its maintenance and use, establishing a permanent care and improvement fund, and a cemetery lot agreement.*

### RELEVANT LINKS:

[Minn. Stat. § 412.221, subd. 9.](#)

[Minn. Stat. § 412.211.](#)  
[Minn. Stat. § 465.01.](#)

[A.G. Op. 870j \(June 2, 1959\).](#)

## I. Types of cemeteries

There are three types of cemeteries in Minnesota. The first are private cemeteries, which restrict burial to a certain group of people, such as a fraternal organization or a particular religious group. The second type is city-owned cemeteries, which are often referred to as municipal cemeteries. Municipal cemeteries are public cemeteries because lots are sold without restriction. The third type is public cemetery associations. Public cemetery associations are privately owned, but lot sales are open to the public without restriction. Although municipal cemeteries are separate from public cemetery associations, background information on public cemetery associations can be helpful in regulating cemeteries and any transfer of cemetery ownership between a city and a public cemetery association. This memo discusses legal requirements and issues associated with municipal cemetery establishment, maintenance, and care. Public cemetery associations are briefly discussed as they relate to municipal cemeteries.

## II. Municipal cemeteries

Statutory cities have the express authority to establish and maintain cemeteries. A city may acquire a cemetery through purchase, gift, condemnation, or devise of land. Devise is a gift given through a will. A city may provide funds for the cemetery's upkeep including its layout, enclosures, and ornaments on the grounds. The city may also sell and convey the lots to members of the public. Additionally, a city has the authority to regulate cemeteries and the disposal of the dead by ordinance.

### A. Land purchase

Statutory cities have express authority to purchase property for a city purpose, such as a cemetery. While most municipal cemeteries lie within the boundaries of the city, state statute allows cities to acquire real property outside city limits for municipal purposes. This general grant of power is likely broad enough to allow cities to establish a cemetery outside of its boundaries as long as it will be used for burial of city residents.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

**RELEVANT LINKS:**

[Minn. Stat. § 412.211.](#)  
[Minn. Stat. § 306.025, subd. 1.](#)  
[A.G. Op. 870j \(June 2, 1959\).](#)

[Minn. Stat. § 465.01.](#)  
[Minn. Stat. ch. 117.](#)  
[Handbook, Chapter 14,](#)  
[Section V-C, \*Eminent domain.\*](#)

[Minn. Stat. § 410.01.](#)  
[Minn. Stat. § 471.84.](#)

[Minn. Stat. § 471.59, subd. 1.](#)  
[Handbook, Chapter 17.](#)  
[LMC information memo,](#)  
[Combining Governmental Services: Issues to Consider.](#)

[Minn. Stat. § 471.24.](#)

Additionally, cities are authorized to accept the transfer of an existing public cemetery located either inside or outside city limits.

## **1. Eminent domain**

All cities have the authority to take (or condemn) private property for public use as long as they pay the landowner reasonable compensation. Essentially, this is a way to require that an owner sell his or her land to a city. This procedure requires a formal court action, and a city must pay an owner for the value of the land, or the damages to the land if the city is taking only part of the private property for a public purpose, such as an easement. Occasionally, a city may desire to expand its municipal cemetery but cannot come to an agreement with the neighboring property owners. In such cases, the power of eminent domain may be used. However, before using this power, the city must establish that the addition is required because of public necessity, propriety, and convenience.

## **B. Funding cemeteries**

Statutory cities may appropriate funds to maintain a cemetery the city owns. Additionally, any statutory city or any city of the fourth class (population of no more than 10,000) is authorized to appropriate up to \$10,000 per year to any other public or private cemetery. The cemetery does not have to be located within the city limits, but it must allow burials from any city without restriction.

## **C. Joint operation and maintenance**

The Joint Powers Act authorizes cities to cooperatively exercise any powers common to the participating units of government. In addition, local governments (such as counties and cities) may enter into agreements whereby one entity will exercise power for both governments. For example, a city and a county may enter into a joint powers agreement for operation of a cemetery where both governments engage in operation and maintenance through that joint powers entity. In exercising such powers, local governments are not necessarily confined to their territorial limits.

### **1. City-town and city-city joint maintenance**

In addition to the joint powers agreement, cities and towns may enter into a joint agreement for maintenance of a cemetery. If a city or town owns an established cemetery, either within city limits or outside, it may enter into a mutual agreement with neighboring towns or cities for the maintenance of the cemetery. In order to enter into a joint agreement:

## RELEVANT LINKS:

[Minn. Stat. § 471.24.](#)

[A.G. Op. 870a \(Dec. 31, 1959\).](#)

[Handbook, Chapter 6.](#)

[Johnson v. State, 553 N.W.2d 40 \(Minn. 1996\).](#)

[Minn. Stat. § 15.17.](#)

- The cities or towns must have contiguous borders.
- Each entity must have an estimated market value not less than \$2,000,000.
- The cemetery must be open for burial of residents from all municipalities.

Once the municipalities have established a joint agreement for maintenance, each may appropriate up to \$10,000 per year toward upkeep of the cemetery. The council or governing board may also levy a tax to generate funds for maintenance.

### D. Cemetery board

The city council may appoint a cemetery board and delegate ministerial power to it. However, the city council must retain complete discretionary control of the cemetery.

The courts have not explicitly described the meaning of discretionary administrative power. They have, however, provided several rules that offer some basis for distinguishing which powers the council can delegate.

Discretionary powers or functions are those that involve the exercise of judgment. Ministerial functions are absolute, fixed, and certain so that no judgment is necessary in fulfilling them.

For example, in exercising ministerial power, the cemetery board may advise the city council on setting lot prices for the cemetery. Yet, it is the city council that has the discretionary authority to actually set the lot fees.

### E. Recordkeeping

While there appears to be no specific statutory recordkeeping requirement for municipal cemeteries, the city is required to keep full and accurate records of its official activities. Therefore, if a city owns a cemetery, it must keep current and accurate records. Specifically, a burial register, information on each person buried or interred in the cemetery, and a cemetery map are important records to maintain.

#### 1. Burial register

The specific information for each individual buried in the cemetery is not prescribed in statute for municipal cemeteries. However, public cemetery associations are specifically required to record certain information on each person buried or interred in the cemetery. Although the requirements do not apply to municipal cemeteries, such requirements may be a helpful guide for cities.

**RELEVANT LINKS:**

[Minn. Stat. § 306.03.](#)

[Minn. Stat. § 306.03.](#)

[Minn. Stat. § 13.03.](#)

[General Records Retention Schedule.](#)  
[Minn. Stat. § 138.17.](#)

[Minn. Stat. § 15.17.](#)

[Minn. Stat. § 306.02.](#)  
[Minnesota Association of Cemeteries.](#)

For instance, cemetery associations must include the following information for each person buried or interred in the cemetery:

- Date of burial, entombment, or cremation.
- Name, date of birth, sex, nativity, and cause of death.

The information should come from a reliable source to ensure it is accurate. Public cemetery associations are required to obtain the information from friends, the attending physician, or the undertaker in charge. In the case of a pauper, stranger, or criminal, the information may come from the public official directing the burial. While cities are not required to obtain information from specific sources, it could be helpful to establish from whom information should come to ensure the information is correct.

For municipal cemeteries, the burial record is government data and is classified as public data under the Minnesota Data Practices Act. This means the burial record must be accessible to the public for inspection. If someone requests to see the burial record or wants a copy of it, the city must produce the record in accordance with the Minnesota Data Practices Act. Additionally, under the Minnesota Records Retention law, the retention period for the burial record is permanent, which means that burial records may never be destroyed.

## **2. Cemetery map**

In order to maintain an accurate record of the city's actions regarding the cemetery, a map of the cemetery land is necessary. Although cities are not technically required to maintain a map, for practical purposes the cemetery map is necessary for lot sales, burials, and future planning for cemetery improvements.

Consequently, it would be prudent to maintain a map that illustrates the cemetery land and how the land is divided into lots, including all alleys, roads, and walks. If new land is either donated or purchased, the city would update the map by having the cemetery surveyed.

## **III. Public cemetery association**

Cities are not authorized to form public cemetery associations and are not considered a public cemetery association. However, there are a few reasons cities may need to be familiar with public cemetery association laws. First, state statute provides little guidance for the operation of a municipal cemetery; however, there are several statutes governing public cemetery associations. In some cases, these statutes may serve as a helpful guide for cities. Second, a city may transfer its cemetery ownership to a public cemetery association, or the association may transfer its cemetery ownership to a city.

**RELEVANT LINKS:**

[Minn. Stat. § 306.01.](#)

[Minn. Stat. § 306.02, subd. 1.](#)

[Minn. Stat. § 306.02, subd. 1\(2\).](#)

[Minn. Stat. § 306.05.](#)

[Minn. Stat. § 306.05.](#)

[Minn. Stat. § 306.09.](#)

[Minn. Stat. § 306.10.](#)

Third, cities may contract with a public cemetery association to operate or maintain a municipal cemetery. In all of these instances, a basic understanding of public cemetery associations may be useful.

## **A. Association incorporation**

A public cemetery association may be formed to secure, hold, or sell land or lots used exclusively for the purpose of a public cemetery. Public cemetery associations established after March 1, 1906, must organize and follow state statutes.

To establish a public cemetery association, three or more persons, who become the trustees of the association, must initiate incorporation. The trustees must also verify the certificate or articles of incorporation. The certificate of incorporation must be recorded with the county recorder's office of the county where the cemetery is located. Upon filing, the association is a corporation.

## **B. Powers of public cemetery association**

A public cemetery association has many powers that enable it to manage its operations and grounds.

### **1. Acquisition of land by purchase or gift**

Once incorporated, a public cemetery association may acquire and manage all real and personal property necessary for the establishment, care, and management of a cemetery as well as the operation of a crematorium on cemetery grounds.

An association may purchase or receive as a gift up to 300 acres of land within the county of the cemetery or an adjoining county. The land must be used exclusively for burial, cremation, or related purposes.

Any land must be surveyed and divided into lots of a size determined by the trustees. Avenues, alleys, and walks must also be surveyed, as necessary. A map of the survey must be filed with the county recorder of the county where the cemetery is located.

#### **a. Gifts to cemetery association**

An association may accept a gift of real or personal property to maintain a monument or to keep or improve cemetery grounds. If an association accepts a gift with such conditions, the funds must always be devoted to these uses.



## RELEVANT LINKS:

[Minn. Stat. § 306.05.](#)

[Minn. Stat. § 306.09.](#)

[Minn. Stat. § 306.09.](#)

[Minn. Stat. § 306.10.](#)  
Section IV, *Permanent care and improvement funds.*

[Minn. Stat. § 306.14, subd. 1.](#)  
[Minn. Const. art. X, § 1.](#)  
*State v. Lakewood Cemetery Ass'n*, 101 N.W. 161 (Minn. 1904). *Grand View Park Cemetery Ass'n v. City of Edina*, 257 N.W.2d 329 (Minn. 1977). *City of New Hope v. Catholic Cemeteries*, 467 N.W.2d 336 (Minn. Ct. App. 1991).

[Minn. Stat. § 306.14, subd. 2.](#)

## 2. Eminent domain

In cases when a cemetery association needs to expand but cannot come to an agreement with adjacent property owners, it may use the power of eminent domain. However, along with consideration of the cemetery boundaries, the association must establish that there is a public necessity, propriety, and convenience that require the addition before using this power.

## 3. Sale of cemetery lots or property

Trustees may sell or convey designated cemetery lots once the association's survey map is filed with the county recorder. The trustees may create terms, conditions, or restrictions on sales and conveyance as they deem appropriate. The terms must be listed on the lot agreement.

Every conveyance must be expressly for burial purposes and be in the corporate name of the association and signed by its president or vice president and by its treasurer or secretary.

A public cemetery association may sell or convey real or personal property that is not needed for cemetery purposes. The proceeds from lot sales may be invested in a permanent care and improvement fund, or applied solely to the payment of debts incurred in purchasing the cemetery grounds and property, fencing, improvement, or beautification of the cemetery.

## C. Tax-exempt status

The property of a public cemetery association is exempt from all taxes and special assessments. This tax-exempt status also applies to land the cemetery owns but is not yet actively using for burial. As long as the land will presumably be used in the future for burial, it is not subject to taxes or special assessments. It may not be sold against an association or any lot owner. Furthermore, no road may be constructed through a cemetery or any part of its lands without the consent of the trustees.

## 1. Exception to special-assessment exemption

Cemetery associations are generally exempt from special assessments. However, if at least part of the purpose for forming the association is to provide monetary gain for its shareholders and members and it pays dividends or some other monetary remuneration either directly or indirectly to shareholders and members, it is not exempt from special assessments. Most cemeteries are nonprofit organizations and would be exempt from special assessments.

**RELEVANT LINKS:**

[Minn. Stat. § 306.155, subds. 1, 3.](#)

[Minn. Stat. § 149A.96, subd. 1.](#)

[Minn. Stat. § 149A.96, subd. 7.](#)

[Minn. Stat. § 149A.96, subd. 5.](#)

[Minn. Stat. § 149A.96, subd. 3.](#) [Minn. Stat. § 149A.80, subd. 2.](#)

[Minn. Stat. § 306.155, subd. 2.](#)

However, there are some private cemeteries that may provide some type of monetary payment to members or shareholders and, thus, would not be exempt from special assessments to cemetery property.

## **D. Disinterment and reinterment**

In the rare situation where an operator of a cemetery is informed or becomes aware that it has interred or permitted the interment of a body or remains in the wrong burial space, the cemetery must disinter the burial container wrongfully interred, identify the burial container, and reinter it in the proper burial space. The only exception is if the interested parties have agreed otherwise in writing. The cemetery is responsible for all costs of the disinterment and reinterment. The cemetery must give reasonable notice, in advance of the disinterment, to the person or persons legally entitled to control the body or remains of the deceased person and, if requested, the owner of the burial space.

Disinterment and reinterment may only occur with (1) the written authorization of the person or persons legally entitled to control the body or remains and (2) a disinterment-reinterment permit properly issued by the commissioner or a licensed mortician. The cemetery where the body or remains were originally interred must retain a copy of the disinterment-reinterment permit, the authorization to disinter, and, if applicable, the court order showing reasonable cause to disinter. Until the body or remains are reinterred, the original permit and other documentation must be in the possession of the person in physical or legal custody of the body or remains, or attached to the transportation container which holds the body or remains. At the time of reinterment, the permit and other documentation must be filed according to the laws, rules, or regulations of the state or country where reinterment occurs.

A disinterment-reinterment permit is not required if the disinterment and reinterment is within the same dedicated cemetery. Under these circumstances, the authorities in charge of the cemetery may disinter and reinter a body or remains within the same dedicated cemetery upon receipt of the written and notarized authorization of the person or persons with the right to control the disposition.

At the disinterment and reinterment, the cemetery must permit the person or persons legally entitled to control the body or remains and, if requested, the owner of the burial space to witness the disinterment and reinterment.

**RELEVANT LINKS:**

[Minn. Stat. § 306.41\(b\).](#)  
[Minn. Stat. ch. 50.](#)  
[Minn. Stat. § 306.44, subd. 1.](#)

[Minn. Stat. § 306.41\(b\).](#)

[Minn. Stat. § 306.41\(a\).](#)

[Minn. Stat. § 306.42.](#)

[Minn. Stat. § 306.44, subd. 1\(a\).](#)

[LMC Model Resolution Accepting Donations. Minn. Stat. § 465.03.](#)

[Minn. Stat. § 306.43.](#)

## **IV. Permanent care and improvement fund**

The purpose of a permanent care and improvement fund is to provide a means for continual care and improvement of a cemetery. Portions of the sale of burial space are directed to the fund, the interest from which is used to maintain the cemetery.

There is no statutory authority to force current lot owners to contribute to the permanent care and improvement fund if the lot was purchased prior to the establishment of the fund. However, some cemeteries accept voluntary contributions to the fund from such lot owners.

### **A. Municipal cemeteries**

The city council may establish a permanent care and improvement fund, by a unanimous vote, to be deposited or invested in the same securities in which savings banks are allowed to invest. While adoption of a resolution may be sufficient, an ordinance may be better given the perpetual nature of a cemetery permanent care and improvement fund.

However, in order to establish the fund, the cemetery must be at least one-half acre in area, and the plat must be on file with the county recorder.

The principal of the fund may not be spent or dispersed. The interest accrued from the fund may be spent, but only for the care, maintenance, and improvement of the cemetery. The permanent care and improvement fund must not exceed \$25,000 per acre.

#### **1. Payments to the fund**

The council may stipulate that any portion of a cemetery lot sale must be deposited as a part of the permanent care and improvement fund, and that the interest accruing from the amount set aside from the lot be used by the board or municipality to care for and beautify the lot. Deposits to the fund must be made on January 1, April 1, July 1, and October 1.

#### **2. Gifts and donations**

The city council may, by resolution, accept donations or gifts of money to the permanent care and improvement fund to be used for the purpose specified by the donor. This may include care of a specific lot or general care of the cemetery. If the cemetery lacks funds for the general care of the cemetery, the council or board may use one-fifth of the annual income from any particular lot for general care.

## RELEVANT LINKS:

Minn. Stat. § 306.44, subd. 1(a), (c).  
Minn. Stat. ch. 50.

Minn. Stat. § 306.44, subd. 1(f).

LMCIT Risk Management  
Information: [Bond Coverage](#).

Minn. Stat. § 306.44, subds. 1(c), 2.

Minn. Stat. § 306.54. Minn. Stat. § 306.44, subd. 1(a), (b).  
LMC Model Ordinance  
[Establishing a Permanent Care and Improvement Fund](#).

Minn. Stat. § 306.44, subd. 1(e).

Minn. Stat. § 306.45.

Minn. Stat. § 306.48.

### 3. Investment of permanent care and improvement fund

The city council may vote to invest the permanent care and improvement fund in the same securities in which savings banks are allowed to invest. The funds must be invested quarterly on January 1, April 1, July 1, and October 1.

The city council must designate some of its members to handle those funds. The designated persons must be bonded by the city. The bond must be at least equal to the total amount of the fund at the time of posting the bond, conditioned upon the faithful discharge of the trust. The bond must be renewed in the amount of the new fund balance on July 1 of each even-numbered year.

The principal of the fund may not be used; only the interest from the fund may be spent or dispersed. Any interest in excess of \$100 that is unused for one year, after becoming available for care, maintenance, or improvement, must be returned to the fund and become a part of the principal.

### 4. County cemetery fund

For cities in counties under 50,000 in population, the city council may deposit the money belonging to the permanent care and improvement fund into the county treasury. The money must be deposited quarterly on January 1, April 1, July 1, and October 1.

At the time of deposit, the council must file a statement indicating any particular gifts or donations set aside for a specific lot. For each instance, the statement must include the name of the lot owner, name of the donor, and a description of the lot to which the income from the particular amount of the permanent funds is applicable.

The aggregated funds of all the cemeteries in the county that deposit their permanent care and improvement funds with the county constitute the county cemetery fund. This fund is managed and invested by the county commissioners and deposited by the county treasurer. Interest on the fund is due and payable on or about February 1.

#### a. Investment of county cemetery fund

Upon petition of at least two-thirds of the city councils or governing boards of cemeteries participating in the county cemetery fund and approval of the county attorney, the county commissioners must invest all or part of the county cemetery fund in the same kinds of bonds and securities in which the state permanent school fund may be invested.

**RELEVANT LINKS:**

[Minn. Stat. § 306.48.](#)

The law as it exists at the time any money is received into this fund controls the investment of the fund, and no subsequent amendment of the law authorizes the investment of any fund differently or in any other class of securities.

[Minn. Stat. § 306.48.](#)

Bonds or other securities in which the fund is invested remain with the county treasurer, and the bond is the security for the proper care of the bonds or other securities and the payment of interest received.

**b. Apportionment and payment of interest from county cemetery fund**

[Minn. Stat. § 306.44, subds. 1\(c\), 2.](#)

The principal of the permanent care and improvement fund may not be used; only the interest on the fund is available for use. Additionally, a cemetery must use the interest during the year in which it is received or it will be returned as part of the principal of the permanent care and improvement fund.

[Minn. Stat. § 306.50.](#)

On or before February 1 of each year, the clerk or secretary of the board of directors of each cemetery must file a report with the county auditor, showing in detail the amount of interest expended that it received from the county cemetery fund. Unused interest, in excess of \$100, must be re-deposited in the county cemetery fund and added to the principal of the permanent fund credited to the cemetery.

[Minn. Stat. § 306.44, subds. 1\(c\), 2.](#)

[Minn. Stat. § 306.51.](#)

The county auditor apportions the interest payments on or about March 1 to each cemetery participating in the county cemetery fund in proportion to the amount of each cemetery's permanent fund. Funds deposited to the county cemetery fund just before the close of the year, on which no interest has collected, are not considered part of the permanent fund for that apportionment.

[Minn. Stat. § 306.52.](#)

Immediately after apportionment, the county auditor must report to the cemetery secretary the amount of interest due to the cemetery, along with a statement of the total amount of cemetery funds received by the county treasurer during the preceding year, closing on January 1, and a statement of the amount of the cemetery's permanent care and improvement fund.

[Minn. Stat. § 306.53.](#)

On or after March 1, if the council or cemetery board has made its report and deposited any excess interest, the county treasurer must pay to the treasurer of the municipality or the cemetery board its apportioned share of the interest from the county cemetery fund.

[Minn. Stat. § 306.51.](#)

If the legal existence of any religious corporation or association has ended during the year, the interest due is paid to the municipality where the cemetery is located. The city must use this money for care, maintenance, or improvement of the cemetery.

## RELEVANT LINKS:

[Minn. Stat. § 306.44, subd. 1\(d\).](#)

[Minn. Stat. §§ 306.31-39.](#)  
[Minn. Stat. §§ 306.76-79.](#)  
[Minn. Stat. § 306.54.](#)

[Minn. Stat. § 306.80.](#)  
[Minn. Stat. § 306.40.](#)

[Minn. Stat. § 412.221.](#)  
[LMC Model Ordinance Regulating the Maintenance and Use of a Municipal Cemetery.](#)  
*State ex rel. City of St. Paul v. District Court of Ramsey County*, 131 N.W. 327 (Minn. 1911). *State ex rel. Oak Hill Cemetery Ass'n v. Harrington*, 209 N.W. 6 (Minn. 1926). *Clifton v. E. Ridgelawn Cemetery*, 4 A.2d 79 (N.J. 1939). *Foster v. Mayor of Beverly*, 53 N.E.2d 693 (Mass. 1944). *Grand View Park Cemetery Ass'n v. City of Edina*, 257 N.W.2d 329 (Minn. 1977). *Laurel Hill Cemetery v. City and County of San Francisco*, 216 U.S. 358 (1910). *Union Cemetery Ass'n. v. Kansas City*, 161 S.W. 261 (Mo. 1913).

## 5. Withdrawal and transfer of funds between depository and investments

A city or cemetery association may also choose to deposit a portion of its permanent care fund into the county cemetery fund and invest the other portion. Funds from either the investments or the county cemetery fund may be withdrawn and transferred to the other by resolution. The county treasurer must return any money deposited into the county cemetery fund that the board, by resolution, withdraws.

## B. Public cemetery associations

Public cemetery associations are permitted and sometimes required to establish a permanent care and improvement fund. The population size of the county where a public cemetery association is located determines whether or not establishing a permanent care and improvement fund is optional or required. State statutes also establish requirements for investment and reporting on the fund.

## V. Regulating cemeteries

There are no general statutory provisions regulating the location, size, or general operation of municipal cemeteries.

However, charter and statutory provisions relating to health and burial of the dead are generally broad enough to permit the enactment and enforcement of police-power measures regulating or prohibiting burial of the dead, establishing of new cemeteries, enlarging existing cemeteries, establishing future interments, and requiring removal of bodies from existing cemeteries. The location and maintenance of cemeteries may also be regulated by zoning and nuisance ordinances.

## RELEVANT LINKS:

*Scott v. Lakewood Cemetery Ass'n*, 208 N.W. 811 (Minn. 1926).

[“Choices’: Information on the Regulations and Requirements of the Final Disposition of a Dead Human Body in Minnesota.”](#)

Minnesota Department of Health (January 2011), for ideas about what types of rules cemeteries can impose.

*Scott v. Lakewood Cemetery Ass'n*, 208 N.W. 811 (Minn. 1926).

*Brown v. Hill*, 119 N.E. 977 (Ill. 1918).

[LMC Model Ordinance Regulating the Maintenance and Use of a Municipal Cemetery.](#)

*Brown v. Hill*, 119 N.E. 977 (Ill. 1918). *Anderson v. Acheson*, 110 N.W. 335 (Iowa 1907). *Rowley v. Laingsburg Cemetery Ass'n*, 184 N.W. 480 (Mich. 1921). *Erickson v. Sunset Memorial Park Ass'n*, 108 N.W.2d 434 (Minn. 1961).

## VI. Cemetery rules and regulations

A municipal cemetery or a public cemetery association may establish rules and regulations that provide for the improvement, decoration, and care of lots. However, the rules must be reasonable.

There is no general definition of what is considered “reasonable;” it depends on the facts of each situation. However, the courts have found rules that do not apply uniformly to all owners are unreasonable. Other rules considered unreasonable by the courts include:

- Rules that require lot owners to use cemetery staff for decorating their lot instead of a competent person of their choosing.
- Rules that could cause monuments, markers, or cornerstones of lots that are in reasonably good condition, to be removed or changed without permission of the owners merely for the purpose of beautifying the cemetery.
- Re-platting the cemetery in a way that would change the size of the original lot.

A municipal cemetery may set out such regulations by resolution, ordinance, or policy. However, only an ordinance is ultimately enforceable and, therefore, may be more desirable.

## VII. Cemetery lot agreements and lot owner rights

### A. Cemetery lot agreements

Nothing exists in state law that explicitly provides what a cemetery lot owner’s interest is, and Minnesota courts have not resolved the issues. However, courts in Illinois, Iowa, and Michigan have adopted the general rule that the owner possesses only the right of burial in the lot, not absolute title to the land. Courts in Minnesota may agree with these decisions.

## RELEVANT LINKS:

[LMC Model Municipal Cemetery Lot Agreement.](#)

[Minn. Stat. § 306.15.](#)

[Minn. Stat. § 306.15\(e\).](#)

[Minn. Stat. § 307.08, subd. 2.](#)

[Minn. Stat. § 306.027.](#)

[Minn. Stat. § 306.027.](#)

Since purchasing a cemetery lot is not absolute title to the land, it is sometimes designated as an easement, privilege, or license. Instead of issuing a traditional cemetery lot deed, cities may want to consider issuing a cemetery lot agreement. A cemetery lot agreement is a license that restricts use of the lot to burial. A deed could connote absolute title to the land and could potentially be troublesome for a city if challenged in court.

### **1. Cemetery lot transfers and sales**

The original cemetery lot owner, or his or her heir, may sell or convey his or her unused lot to be used for burial purposes to the cemetery or to another person. An agreement of sale or transfer must be filed with the cemetery. The lot sale or transfer agreement must transfer the lot back to the cemetery. In the case of a sale or transfer to another person, the agreement must also request the cemetery issue a new conveyance of the lot directly to the purchaser. The agreement must also include the purchase price of the lot, which may not exceed the price the cemetery would charge for a similar lot. The agreement must be signed and acknowledged by the lot owner and spouse, if any, and the proposed purchaser. A cemetery may charge a transfer and service fee up to \$15 to be paid at the time of filing the agreement.

### **B. Lot owner rights**

Although the lot owner's right to the lot is only an easement, privilege, or license, an owner is able to sue cemetery owners or strangers for disturbing the lot without consent while the lot is used as a cemetery. Consequently, lot owners have rights against invasion by trespassers or by the cemetery itself.

## **VIII. Merger and transfers of cemeteries**

Mergers between cemeteries of all distinctions, including those owned by a cemetery association or corporation, a municipality, a religious corporation, or of a privately-owned cemetery, are permitted. The terms of the merger are set by the cemeteries' governing bodies, board of trustees, or owner. The surviving entity is subject to the laws that apply to that particular type of cemetery ownership.

A merger cannot impair the rights of any third parties, such as lot owners. After the merger, lot owners of the former cemeteries are entitled to the same rights and privileges concerning their lots that were accorded to them under the previous ownership.



## RELEVANT LINKS:

[Minn. Stat. § 306.02, subd. 2.](#)

[Minn. Stat. § 306.06.](#)

[Minn. Stat. § 306.025, subd. 1.](#)

[Minn. Stat. § 306.025, subd. 3.](#)

[Minn. Stat. § 412.211.](#)

[A.G. Op. 870j \(June 2, 1959\).](#)

### **A. Transfers to a public cemetery association**

Ownership of municipal cemetery land may be transferred by deed, with or without conditions, to a public cemetery association. The transfer agreement should be drafted by the city attorney. As a part of the transaction, the city may enter into a contract or agreement with the cemetery association to provide for the management and maintenance of the cemetery, for the sale of lots or land in the cemetery, and for those other matters concerning the care and control of the cemetery as the city sees necessary.

In cities where land has been devoted, without restriction, to public cemetery purposes since 1870, the city council may convey the land to a public cemetery association organized to acquire land for cemetery purposes. In these transfers, the city determines the terms of the transfer.

### **B. Transfers to a city**

Any public cemetery association owning cemetery lands at least partially located within a city may transfer ownership of the lands, along with other funds and property, to that city. The city may accept the transfer and continue to maintain and operate the cemetery. Any funds received in the transfer will be administered by the city for the same purposes and upon the same trusts for which they were originally established. Before the transfer is made, the city must first adopt a resolution.

A city may also be able to accept a transfer of ownership from a public cemetery association located wholly outside of city limits. Since cities are authorized in statute to purchase real or personal property outside of the city for purposes the city requires, it seems likely a transfer of cemetery lands to be used for the burial of city residents would be permissible. Furthermore, the state attorney general has added that a public cemetery association, if established prior to 1906, may transfer its ownership of lands to a city, even if outside city limits.

## **IX. Cemetery abandonment**

Increasingly, cities are encountering cemeteries that have been abandoned by their incorporating associations or corporations. An abandoned cemetery can quickly become a nuisance when graves and the land are not maintained. The area can become vulnerable to criminal activity. To prevent or mitigate this situation, many cities appropriate funds to maintain the cemetery and ultimately clear the title to gain legal rights to the cemetery.

## RELEVANT LINKS:

[Minn. Stat. § 306.246.](#)  
[Minn. Stat. § 410.01.](#)  
[Minn. Stat. § 471.84.](#)

[Minn. Stat. § 306.243, subds. 1, 4.](#)  
[A.G. Op. 870 \(Aug. 6, 1957\).](#)  
[Minn. Stat. § 306.246.](#)  
[Minn. Stat. § 306.243, subd. 5.](#)

[Minn. Stat. § 508.03\(6\).](#)

[Minn. Stat. § 508.06.](#)

[Minn. Stat. § 508.11.](#)

[Minn. Stat. § 508.13.](#)

Cities are authorized to disburse funds for the general maintenance of an abandoned or neglected cemetery. Likely, statutory cities and fourth-class cities would have to factor any funds disbursed to this cemetery into their overall limit of \$10,000 per year for all cemeteries. However, there appears to be no limit on how long a city may provide for an abandoned cemetery, so feasibly a city council could disburse funds indefinitely.

### A. County takeover

To gain legal title to the cemetery, a city may ask the county to take over the cemetery and maintain it for one year. Counties are given express authority to take over and maintain an abandoned cemetery, whereas cities only have the authority to disburse funds for maintenance. After one year, the county may transfer the cemetery to the city. This is perhaps the least complicated option; however, it relies on the county's willingness to take on the control of the cemetery.

### B. Title registration in Torrens system

A city may also obtain title to an abandoned cemetery by registering the title under the Torrens system. Torrens law is intended to establish an indefeasible title that is free from any rights or claims not registered with the register of titles. In the case of an abandoned cemetery, it would clear the title.

Registration can be a complex court proceeding, and the city should consult its city attorney for assistance. To register title, a city must pass a resolution to register the title of the cemetery before the clerk and mayor apply on behalf of the city.

The application must be in writing and approved by the examiner of titles before filing with the district court administrator.

As soon as possible after filing the application with the court administrator, the city must submit an abstract title of the land described in the application. In some cases, the title examiner may require the city to have a land survey of the cemetery. In such cases, the city is then required to file a plat of the land resulting from the survey with the court administrator. A certified copy of the application is filed with the country recorder and serves as notice of pending action.

The examiner of titles will then review the application and related documents, identify the legal and factual issues, and prepare a recommendation to the court of the necessary parties to be joined as defendants to adjudicate the matter. A copy of this report is given to the city, and the city must comply with it.

**RELEVANT LINKS:**

[Minn. Stat. § 508.15.](#)

Once all of the requirements of the title examiner’s report are met, the city files a petition for a summons with the court administrator. The court will examine the files and records of the case and issue the summons.

[Minn. Stat. § 508.16.](#)

The summons requires defendants (possible parties with interest or claim to the title) to appear and provide an answer to the application of the city within 20 days of service. Additionally, any party claiming an interest in the title, even if they are not listed on the summons, may file an answer in the case.

[Minn. Stat. § 508.17.](#)

[Minn. Stat. § 508.16.](#)

The service of the summons must follow the Minnesota Rules of Civil Procedure, and the city is responsible for the cost. The required form of the summons is provided in statute.

[Minn. Stat. § 508.16.](#)

A diligent search for defendants or their heirs must be done. However, if the defendants cannot be found, are unknown, or are not residents of Minnesota, publication of the summons suffices as service.

[Minn. Stat. § 508.16.](#)

The summons must be published at least once a week for three consecutive weeks in a newspaper published and printed in the same county as the application to register the title was filed.

[Minn. Stat. § 508.16.](#)

Additionally, if the title in question has not been registered before, which is likely in the case of a cemetery, the summons must be published in the newspaper. Again, the newspaper must be published and printed in the same county as the application was filed in, and run at least once a week for three consecutive weeks.

[Minn. Stat. § 508.19.](#)

Once the time for answering the summons has expired, no person has appeared, and the court is satisfied with proof of the city’s right to the title, the court may issue a decree confirming the title of the applicant and ordering its registration. The decree of registration binds the land to the city and clears the title. The city is thus the legal owner of the cemetery.

[Minn. Stat. § 508.22.](#)

**C. Quiet title action**

[Minn. Stat. § 559.01.](#)

The city may also bring an action in court to settle any adverse claims to the land and clear the title. This is sometimes referred to as quiet title action. This process is often complex and the city should consult its city attorney if exercising this option.

[Minn. Stat. § 559.02.](#)

When the city files the claim with the court, the filings must include the title and the names of any persons or heirs that are known or appear of record to have some right, title, estate, interest, or lien on the property. The city must also include the following statement: “Also all other persons unknown claiming any right, title, estate, interest, or lien in the real estate described in the complaint herein.”

**RELEVANT LINKS:**

[Minn. Stat. § 559.02.](#)

[Minn. Stat. § 508.16.](#)

[Minn. Stat. § 559.02.](#)

[League of Minnesota Cities Research Service.](#)

[Minnesota Association of Cemeteries.](#)

Summons for the proceedings must be issued to any and all known persons with a valid interest in the property. The summons is served in person to those who are still living in the state. For those persons who are unknown or cannot be found with a reasonable diligent search, the service of summons may be made by publication in the newspaper. The newspaper must be printed and published in the county where the action was filed and must run at least once a week for three consecutive weeks.

Prior to publication, the city must file a notice of the pending action with the county recorder. If no person with valid interest or right to the land contests the city's claim to the cemetery, the court will issue an order quieting all adverse claims to the land. The city then records the order in its records as proof of title to the cemetery.

## **X. Conclusion**

Cemeteries provide an important service for communities. However, many issues and requirements factor into the establishment, care, and maintenance of a cemetery. For additional information not included in this memo, please contact the League of Minnesota Cities Research Service or the Minnesota Association of Cemeteries.

*This opinion will be unpublished and  
may not be cited except as provided by  
Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A17-0077**

LeRoy J. Rossow, Jr.,  
Appellant,

vs.

The City of Lake Elmo, Minnesota,  
Respondent.

**Filed November 27, 2017  
Reversed and remanded  
Schellhas, Judge  
Dissenting, Kalitowski, Judge**

Washington County District Court  
File No. 82-CV-15-6016

Joseph J. Dudley, Jr., Christopher W. Boline, Dudley and Smith, P.A., St. Paul, Minnesota  
(for appellant)

Mary D. Tietjen, James J. Thomson, Kennedy & Graven Chartered, Minneapolis,  
Minnesota (for respondent)

Considered and decided by Florey, Presiding Judge; Schellhas, Judge; and  
Kalitowski, Judge.\*

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\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to  
Minn. Const. art. VI, § 10.

## UNPUBLISHED OPINION

SCHELLHAS, Judge

Appellant landowner challenges the district court's entry of summary judgment in favor of respondent city, arguing that the city acted arbitrarily, capriciously, or unreasonably when it denied his preliminary and final plat applications. We reverse and remand with instructions.

### FACTS

Appellant LeRoy J. Rossow Jr. is the owner of a ten-acre parcel in the City of Lake Elmo (the city). The parcel contains a single-family home and an accessory building (pole barn). According to the city's zoning ordinance, the parcel is zoned as rural residential (RR), and under the city's comprehensive plan, the parcel is designated for rural area development (RAD).

In 2014, Rossow submitted a sketch plan to the city's planning commission detailing a proposal to develop a cemetery on the parcel. Rossow's sketch plan included "three main areas for in-ground burials, space for columbarium, and a parking area." Rossow planned to repurpose the single-family home and pole barn for cemetery administration and maintenance. In November 2014, the planning commission concluded that Rossow's proposal did not require rezoning of the parcel because cemeteries are a permitted use in the RR zoning district.<sup>1</sup> At the public meeting, Rossow explained that he intended to

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<sup>1</sup> Despite RR zoning permitting cemetery use, Rossow was required by statute to submit a sketch plan and proceed with a formal platting process. *See* Minn. Stat. § 306.05 (2016) (requiring that cemetery land "be surveyed and divided into lots of a size determined by

convert the existing single-family home into a caretaker's residence. Rossow also said that the cemetery would cater to "modern burials," would be private and non-denominational, and would not provide funeral-home services. The planning commission noted that Rossow's sketch plan conformed to the city's comprehensive plan and that the city's zoning ordinance did not contain specific development standards for cemeteries. No community members spoke against the proposed development.

At a December 2014 city council meeting, when the council addressed Rossow's sketch plan, a councilmember suggested that the council review the zoning ordinances related to cemeteries in the future. No community members spoke against the proposed development. The council took no formal action.

In July 2015, the planning commission held another public meeting after Rossow submitted his preliminary and final plat applications.<sup>2</sup> In a premeeting report, city staff stated (1) "these facilities have been designed to comply with the rules of the City of Lake Elmo and the Valley Branch Watershed District," (2) "[b]ased on Staff's review of the preliminary and final plat, the applicant has demonstrated compliance with all applicable code requirements at the level of detail that is required for a plat," (3) "[t]he proposed subdivision is consistent with the Lake Elmo Comprehensive Plan [and] . . . cemetery use is not in conflict with this land use guidance," (4) the property is zoned RR and "cemeteries are a permitted use" under this zoning designation, (5) city staff and the city engineer "have

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the trustees" and that "[a] map of the survey must be filed with the county recorder of the county where the cemetery is located").

<sup>2</sup> The city permitted Rossow to submit his preliminary and final plat applications together because of the small scale of the project.

not identified any existing conflicts with the City's Subdivision Ordinance," and (6) "Planning Staff has reviewed the overall amount of parking on the plan and found it to be more than adequate."

At the July 2015 meeting, seven community members expressed concerns about the cemetery proposal, including future funding for cemetery maintenance, possible increased traffic, and possible decreased property values.<sup>3</sup> The planning commission noted that the surrounding roads were adequate to accommodate the cemetery, that the relationship between cemeteries and surrounding property values was inconclusive, and that Rossow had a plan in place to provide for cemetery maintenance. Rossow agreed not to establish a crematorium on the property and explained that state law required the creation of a permanent trust fund to maintain the cemetery. *See* Minn. Stat. § 306.76 (2016) (requiring cemetery association to establish permanent care and improvement fund when it maintains public cemetery in or adjacent to city of 50,000 or more people). The commission voted 6-0 for approval of Rossow's preliminary and final plat applications with proposed conditions that included a condition that any future expansion of the site, including plans to install a crematorium, must be reviewed and approved by the city. The commission forwarded the plat applications to the city council with a proposed resolution.

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<sup>3</sup> In addition to community members testifying against Rossow's proposed development, individuals created an online petition named "Oppose the proposed Lake Elmo cemetery" and Facebook users formed a group called "Stop the Lake Elmo Cemetery." On September 4, 2015, KSTP news reported on some residents' opposition to the cemetery. Some residents also submitted an opposition petition to the city.



On July 21, 2015, the city council considered the plat applications. The city planner explained that the preliminary and final plat applications did not include a proposal to operate the site as a “funeral home.” Community members renewed their concerns. The council tabled the vote, requested additional information from the city attorney regarding the definitions of “cemetery” and “funeral home,” and extended its 60-day deadline for addressing Rossow’s plat applications to 120 days under Minn. Stat. § 15.99, subd. 3(f) (2016).

City staff provided the city council with additional information and prepared two proposed resolutions for the city council’s consideration at a council meeting on October 6, 2015—one resolution for approval, like the July 21, 2015 proposed resolution, and one resolution for denial. At that meeting, ten community members spoke against Rossow’s applications and an attorney argued against approval on behalf of a group of individuals. A city councilmember stated that the cemetery “proposal is not what the zoning code allows for, as it is a large scale business and has overwhelming citizen opposition.” The Mayor stated that “a cemetery is a reasonable use and could be an asset but the funeral home component of this proposal doesn’t fit.” The city council denied Rossow’s plat applications 5-0.

Rossow sued the city in district court, challenging the denial of his preliminary and final plat applications. Rossow sought declaratory judgment pursuant to Minn. Stat. §§ 555.01–.16, 462.361 (2016), and alleged that the city council’s denial of his plat applications was arbitrary, capricious, and without sufficient factual or legal basis. Both

parties moved for summary judgment. The district court granted summary judgment to the city and dismissed Rossow's complaint with prejudice. This appeal follows.

## DECISION

### **I. The city's denial of Rossow's preliminary and final plat applications on the basis of the city council's second finding was unreasonable, arbitrary, and capricious.**

When appellate courts review action by a governmental body, the focus is on the proceeding before the decision-making body, not the findings of the district court. *Carl Bolander Sons Co. v. City of Minneapolis*, 502 N.W.2d 203, 207 (Minn. 1993). "The denial or approval of a preliminary plat application is a quasi-judicial administrative decision that we review to determine whether the decision is unreasonable, arbitrary, or capricious." *Hurrle v. Cty. of Sherburne by Bd. of Comm'rs*, 594 N.W.2d 246, 249 (Minn. App. 1999), review denied (Minn. Dec. 19, 2001).

"Reasonableness is measured by 'the legal sufficiency of and factual basis for the reasons given.'" *Swanson v. City of Bloomington*, 421 N.W.2d 307, 313 (Minn. 1988). "A decision lacks a rational basis if it is unsupported by substantial evidence in the record, premised on a legally insufficient reason, or based on subjective or unreasonably vague standards." *PTL, LLC v. Chisago Cty. Bd. of Comm'rs*, 656 N.W.2d 567, 571 (Minn. App. 2003). "While neighborhood feeling may not constitute the sole basis for a zoning decision, it may still be taken into account." *Swanson*, 421 N.W.2d at 313; see also *Nw. Coll. v. City of Arden Hills*, 281 N.W.2d 865, 869 (Minn. 1979). In evaluating the city council's reasons for its decision, appellate courts "look at the contemporaneous record made by the entity." *Hurrle*, 594 N.W.2d at 249. "Because local officials have broad discretion in deciding

whether to grant or deny a proposed land use, we give great deference to their land-use decisions and will reverse only in rare instances where the decision lacks a rational basis.” *PTL*, 656 N.W.2d at 571. But “[t]he absence of substantial evidentiary support and [a] board’s failure to justify its finding based on an ordinance indicate arbitrary action.” *Hurrle*, 594 N.W.2d at 251.

“[W]e apply the substantial-evidence test to determine whether the decision is supported by legally sufficient reasons and factually supported in the record.” *Watab Twp. Citizen All. v. Benton Cty. Bd. of Comm’rs*, 728 N.W.2d 82, 93–94 (Minn. App. 2007), *review denied* (Minn. May 15, 2007). “The decision must be supported by substantial evidence on the record, which addresses the requirements of the applicable ordinances.” *Id.* at 94. “[W]hen an ordinance specifies minimum standards to which subdivisions must conform, local officials lack discretionary authority to deny approval of a preliminary plat that meets those standards.” *PTL*, 656 N.W.2d at 571 (quotation omitted).

“To determine whether a governmental entity’s decision was unreasonable or arbitrary and capricious, we look to the controlling ordinance.” *Hurrle*, 594 N.W.2d at 250. “[T]he interpretation of an existing ordinance is a question of law for the court.” *Frank’s Nursery Sales, Inc. v. City of Roseville*, 295 N.W.2d 604, 608 (Minn. 1980). “[W]here the question is whether an ordinance is applicable to certain facts, the determination of those facts is for the governmental authority, but the manner of applying the ordinance to the facts is for the court.” *Id.*

In reviewing zoning decisions of local governing bodies, appellate courts make an “independent examination” of “the record and decision and arrive at [their] own

conclusions as to the propriety of that determination without according any special deference to the same review conducted by the [district] court.” *Nw. Coll.*, 281 N.W.2d at 868. “Along with a clearly articulated rationale for its decision, specific reference to the local ordinance is essential to facilitate effective judicial review.” *Earthburners, Inc. v. County of Carlton*, 513 N.W.2d 460, 463 (Minn. 1994).

“A zoning ordinance should be construed (1) according to the plain and ordinary meaning of its terms, (2) in favor of the property owner, and (3) in light of the ordinance’s underlying policy goals.” *Watab Twp. Citizen All.*, 728 N.W.2d at 94 (quotation omitted); *see also Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 172 (Minn. 2006) (“Generally, [appellate courts] narrowly construe any restrictions that a zoning ordinance imposes upon a property owner.”); *Chanhassen Estates Residents Ass’n v. City of Chanhassen*, 342 N.W.2d 335, 340 (Minn. 1984) (“[A] zoning ordinance is in derogation of the common law and should be construed strictly against the city and in favor of the property owner.”). If an entity’s zoning ordinances specify “standards to which a proposed plat must conform, it is arbitrary as a matter of law to deny approval of a plat which complies in all respects” with the ordinances. *Nat’l Capital Corp. v. Vill. of Inver Grove Heights*, 301 Minn. 335, 337, 222 N.W.2d 550, 552 (1974).

“[C]ourts generally strive to construe a term according to its plain and ordinary meaning.” *Frank’s Nursery Sales*, 295 N.W.2d at 608. To determine the plain and ordinary meaning of an undefined term, appellate courts turn to dictionary definitions. *State v. Thonesavanh*, \_\_\_ N.W.2d \_\_\_, \_\_\_ 2017 WL 3880768, at \*3 (Minn. Sept. 6, 2017).

In the ordinance at issue in this case, cemetery is defined as “[l]and used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.” Lake Elmo, Minn., Code of Ordinances (LECO) § 154.012(B)(2)(a) (2012). Apart from the definition of cemetery, the zoning ordinance contains few regulatory standards for cemeteries. The city council made four findings to support its denial of Rossow’s preliminary and final plat applications. In its second and fourth findings, the city alleged nonconformities with the zoning ordinance.

In its second finding, the council stated:

That the [proposed cemetery] does not comply with the City’s RR – Rural Residential zoning district because it includes uses and activities that are not allowed under the definition of a “Cemetery” in Section 154.012 of the Zoning Ordinance. Specifically, the proposed site plan includes an administration building, a proposed expansion of this structure to add room for public gathering space, and parking lot that will accommodate 59 parking stalls. The definition of “Cemetery” offers no provisions for the conduct of services on the premises. The proposed buildings and parking areas exceed the activities allowed for “land used or intended to be used for the burial of the dead and dedicated for cemetery purposes.”

Rossow argues that this finding was arbitrary because his plat applications are in compliance with the applicable zoning ordinances. He asserts that the finding is based on zoning restrictions that are not clearly expressed in the zoning ordinance. He also asserts that the city council failed to apply the least-restrictive interpretation of its definition of cemetery and that, because cemeteries are a “permitted use” in the RR zoning district, the city council was required to approve his applications.

Rossow notes that the zoning ordinance does not contain additional development standards for cemeteries and argues that because the definition of cemetery does not prohibit buildings or structures, the denial of his applications was arbitrary, capricious, and unreasonable. Rossow argues that an administrative office and gathering space for the bereaved, which would be “operated in conjunction with and within the boundaries of” the cemetery, is permitted under the ordinance. He also argues that if permissible uses of cemetery land include crematories and mortuaries, the city council’s interpretation of the ordinance as not permitting administrative space is unreasonable.

As to the city council’s claim that the proposed parking lot is not a permitted cemetery use, Rossow notes that Table 5-2 in LECO § 154.210 (2013), states that the minimum off-street parking requirement for cemeteries is to be “determined by the Planning Director.” The record reflects that the planning commission reviewed Rossow’s proposed parking and found it to be adequate. And, as Rossow notes, the zoning ordinance does not prohibit parking spaces at cemeteries. Rossow therefore argues that the city council unreasonably relied on imprecise regulatory standards to deny his plat applications.

The city argues that Rossow’s proposal did not comply with the zoning ordinance’s “narrow” definition of cemetery that it claims “only allows for the use of land for burial and the keeping of remains of deceased persons.” The city also points to LECO § 154.401 (2013), and Table 9-1 within that section, which provide that any uses not indicated as permitted, conditional, or interim, “shall be considered prohibited.” The city asserts that the “unambiguous definition” of cemetery included in the zoning ordinance disallows use

of cemetery land “for wake services, memorial and funeral services, and accommodations for large gatherings of people.”

But the city conceded at oral argument that burial services would necessarily occur at a cemetery. And we note that the definition of “cemetery” includes the use for “dedicated . . . cemetery purposes.” LECO § 154.012(B)(2)(a) (2012). Adopting the city’s interpretation of the ordinance would require us to conclude that, despite the lack of guidance in the zoning ordinance, Rossow’s proposed cemetery-related activities, such as administration, memorial-type services, and parking, were required to be exhaustively listed in Table 9-1 of section 154.401. Our examination of Table 9-1 does not support such a conclusion. *See* LECO § 154.401, Table 9-1 (2013).

The city’s argument is further undercut by the fact that the city’s own zoning ordinance defines “cemetery” more narrowly as it relates to the PF (“Public and Quasi-Public Open Space”) zoning district, providing that a landowner may obtain a conditional-use permit to operate a cemetery so long as there is “[n]o mausoleum, crematorium, or other structure . . . except a 1-story tool or storage shed of 160 square feet . . . maximum floor area.” LECO § 154.600(B) (2007). If the city desired similar limitations on cemetery structures or permitted cemetery-related activities in the RR zoning district, it could have included those limitations in its ordinance, but it did not. *See PTL*, 656 N.W.2d at 572 (“Regulatory standards must be sufficiently precise to ensure the application of objective standards to all similarly situated property, to adequately inform landowners of the requirements they must satisfy to gain subdivision approval, and to allow a reviewing court to evaluate noncompliance.”).

The city also argues that because the definition of “funeral home” in LECO § 154.012(B)(3)(h) (2012), includes “undertaking services” and “managing funerals,” memorial services are permitted at a funeral home but not at a cemetery. But “undertaking services” implies something different than permitting graveside memorial services or services in an administrative building in the event of inclement weather, and nothing in the record indicates that Rossow planned to conduct undertaking services or to manage funerals.<sup>4</sup> The record reflects only that if a person purchased a cemetery plot, an on-site service would be an option.

Interpreting the zoning ordinance in favor of Rossow, we conclude that the ordinance does not prohibit the uses and activities identified in the city council’s second finding. We therefore conclude that Rossow’s proposed development and use set forth in his applications are permissible under the zoning ordinance, and that the denial of Rossow’s applications based on the city council’s second finding was unreasonable, arbitrary, or capricious, and lacked legal and factual support. *See Hurrele*, 594 N.W.2d at 250–52 (concluding that record did not contain evidentiary support for board’s denial of plat application).

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<sup>4</sup> “Undertaking” means: “The profession or duties of a funeral director.” *American Heritage Dictionary of the English Language* 1890 (5th ed. 2011). “Funeral director” means: “One whose business is to arrange for the burial or cremation of the dead and assist at the funeral rites and who is usually an embalmer. Also called *mortician, undertaker*.” *Id.* at 711. Additionally, the city’s definition of “funeral home” makes the difference between “undertaking” and memorial services clear by stating that funeral homes are “[e]stablishments engaged in undertaking services *such as preparing the dead for burial*.” LECO § 154.012(B)(3)(h) (emphasis added).



**II. Rossow’s preliminary and final plat applications comply with the city’s comprehensive plan.**

Zoning ordinances “regulate[] the building development and uses of property.” *In re Denial of Eller Media Co.’s Applications*, 664 N.W.2d 1, 8 (Minn. 2003). But a “comprehensive guide plan . . . has an advisory role that is different from that of the official controls embodied in the zoning and subdivision ordinances.” *PTL*, 656 N.W.2d at 574. A comprehensive plan is merely a guide containing “objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and waters within the jurisdiction of the local governmental unit.” Minn. Stat. § 473.859, subd. 1 (2016); *see also PTL*, 656 N.W.2d at 574 (differentiating between advisory role of comprehensive land-use plan and zoning ordinances which “have the force of law”).

The city council’s first finding reads as follows:

That the [proposed cemetery] Final Plat is not consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area. The site under consideration is located within the City’s Rural Development Area land use classification, which allows for: *large areas of rural residential development within the City. Common uses found in these areas include working farms, alternative agricultural uses as defined by City Code, and rural single family detached residences. Development in these areas requires 10+ acres, or a conditional use permit to authorize a cluster development meeting the City’s Open Space Preservation regulations.* The establishment of a private cemetery and related gathering space, administrative activities, funeral services, and large parking area is not consistent with the City’s land use plan for this area.

“Compatibility with the public’s health, safety, and general welfare of the local government’s comprehensive land-use plan is an appropriate consideration in approving an application for a *conditional* use.” *PTL*, 656 N.W.2d at 573; *see* Minn. Stat. § 394.22, subd. 7 (2016) (defining conditional use).

[F]or a *permissible* use, the law recognizes that when a city designates a specific use as permissible in a particular zone or district, the city has exercised its discretion and determined that the permitted use is consistent with the public health, safety, and general welfare and consonant with the goals of its comprehensive plan.

*PTL*, 656 N.W.2d at 574 (quotation omitted).

Rossow argues that the city council’s first finding is arbitrary. He emphasizes the consistency of the zoning ordinance with the comprehensive plan: “The zoning districts in this chapter and the delineation of zoning district boundaries on the zoning map are consistent with the goals and policies of the Lake [Elmo] City Comprehensive Plan.” *LECO* § 154.352 (2012). Rossow argues that when the city designated cemetery use as a permissible use in the RR zoning district, it exercised its discretion and determined that a cemetery is consistent with the goals of its comprehensive plan. Rossow asserts that because his plat applications were for a permissible use and complied with the regulatory standards included in the zoning ordinance, his applications necessarily complied with the city’s comprehensive plan.

The city argues that the proposed cemetery conflicted with the city’s comprehensive plan because Rossow’s proposed cemetery did not comply with the zoning ordinance’s definition of cemetery. But the city concedes that a cemetery, as defined by the zoning

ordinance, is permissible in the proposed location and only argues that Rossow's proposal was not for a "cemetery" because it included memorial services and a parking lot.

Because Rossow's proposal to host memorial services and build a parking lot does not clearly conflict with the zoning ordinance's definition of cemetery, and because the city concedes that a cemetery in the proposed location is permissible and would not conflict with the city's comprehensive plan, we conclude that the city's denial on the basis of its first finding was unreasonable, arbitrary, and capricious, and lacked legal and factual support.

**III. The city's zoning ordinance does not regulate the size of cemetery-related buildings in the RR zoning district.**

The city council's third finding reads as follows:

That the combined size of over 6,000 square feet for the proposed administration building, expansion area, and maintenance garage is not proportional to the size of the proposed cemetery. The re-use and expansion of the existing single-family structure far exceeds what would otherwise be required to provide for the care and maintenance of the cemetery.

Rossow argues that this finding creates land restrictions not found in the zoning ordinance and therefore is arbitrary. We agree. The zoning ordinance contains no requirements that regulate the size of cemetery-related buildings in the RR zoning district or cemetery care and maintenance. The city council's denial therefore lacks a legal basis. *See PTL*, 656 N.W.2d at 572 (noting that two objectives of regulatory standards are "to ensure the application of objective standards to all similarly situated property," and "to adequately inform landowners of the requirements they must satisfy to gain subdivision

approval”). Without regulations to support the city council’s third finding, the finding lacks legal support and therefore the city’s denial of Rossow’s plat applications on the basis of the third finding was arbitrary, capricious, and unreasonable.

**IV. The city’s zoning ordinance does not unambiguously prohibit the existence of two “principal uses” on one property in the RR zoning district, nor does it unambiguously define “accessory use.”**

The city council’s fourth finding reads as follows:

The Zoning Ordinance does not allow for two principal uses to exist on property that is zoned [RR]. Specifically, the continued occupation of a single-family residence on the property is in conflict with the proposed platting of a cemetery on the same property. Because the site is 10 acres in size and is at the minimum requirement of the Zoning Ordinance for lot size in a RR zoning district, the applicant would not be able to separate the home from the cemetery use.

Rossow notes that the city council did not rely on a specific provision in the zoning ordinance to support this finding and argues that the lack of citation demonstrates arbitrary action and prevents this court from conducting an effective review of the denial. And he argues that because the record contains no evidence that the dual cemetery and single-family residential uses would be injurious to the health, safety, or welfare of the neighboring landowners or the community at large, both should be allowed.

The city argues that LECO § 154.401(A) (2013) prohibits two principal uses on a single parcel. The city acknowledges that, at the same time of Rossow’s proposal, both cemetery use and single-family residential use were “permitted uses” in Table 9-1 of

section 154.401 but claims that, because they were not “accessory uses,” they must be “principal uses,” and therefore cannot coexist.<sup>5</sup>

LECO § 154.401(A) provides: “*Combinations of uses.* Principal and accessory uses may be combined on a single parcel.” This language could be interpreted to prohibit the combination of multiple principal uses on a single parcel. But the language is not unambiguous and could simply mean that accessory uses are allowed when principal uses already exist. Further, even if this court assumes that this language clearly prohibits the combination of multiple principal uses on a single parcel, section 154.401 addresses “permitted” and “conditional” uses, not “principal” uses. At the time of Rossow’s application, Table 9-1 included multiple categories of uses, such as “residential uses,” “public and civic uses” (including cemeteries), and “accessory uses.” Table 9-1 did not include a category of “principal uses.” We note also that under “accessory uses,” Table 9-1 listed, without further definition, “other structures typically incidental and clearly subordinate to permitted uses,” and notes that such structures are permitted in the RR zoning district. LECO § 154.401, Table 9-1.

We conclude that these provisions are ambiguous for the purpose of determining whether a single-family residence is a “principal use” that cannot coexist with a cemetery or a structure incidental and clearly subordinate to cemetery use.

Rossow also argues that the zoning ordinance contains no restrictions that prohibit two permitted uses on the same property and that unless dual use would be injurious to the

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<sup>5</sup> The city amended Table 9-1 in 2016 and removed cemeteries as a permitted use on land zoned RR. Lake Elmo, Minn. Ordinance No. 08-136 (June 14, 2016).

health, safety, or welfare of the neighboring properties, both uses can exist. The record before the city council contained no evidence to support a finding that Rossow's proposed dual uses would be injurious to the health, safety, or welfare of the neighboring properties. *See N. R. Fairbanks Co. v. City of Blaine*, 308 Minn. 315, 317–18, 242 N.W.2d 99, 102 (1976) (“If both plaintiff’s retail [uses] are individually permissible . . . we conclude that the combination of these uses must also be found permissible, absent a showing by the city that the hybrid use is in some way injurious to the health, safety, or welfare of the neighboring landowners or the community at large.”).

The city council’s fourth finding lacks legal and factual support. We therefore conclude that the city’s denial of Rossow’s plat applications on the basis of the fourth finding was unreasonable, arbitrary, and capricious.

Because none of the city council’s findings provides a rational basis for denial, we reverse the district court’s grant of summary judgment to the city and remand to the district court for an order directing the city to approve Rossow’s preliminary and final plat applications.

**Reversed and remanded.**

**KALITOWSKI, Judge (dissenting)**

I respectfully dissent. I agree with the district court that the city provided legally sufficient rational bases for denying Rossow's preliminary and final plat applications. And if there is a rational basis for the city's decision, or if the wisdom of the city's decision is "reasonably debatable," a court should not interfere. *Honn v. City of Coon Rapids*, 313 N.W.2d 409, 417 (Minn. 1981). "[E]xcept in those rare cases in which the city's decision has no rational basis, 'it is the duty of the judiciary to exercise restraint and accord appropriate deference to civil authorities in the performance of their duties.'" *Swanson v. City of Bloomington*, 421 N.W.2d 307, 311 (Minn. 1988).

The city found that Rossow's proposal, which included an expansion of an existing single-family home to a more than 6000 square foot commercial public gathering space with 59 parking stalls, encompasses uses and activities that are not allowed under the definition of "cemetery" in the city's applicable zoning ordinance. The city had a rational basis for interpreting the ordinance in this manner and for rejecting this commercial proposal because, at the time of Rossow's application, Table 9-1 of Lake Elmo, Minn., Code of Ordinances § 154.401 (2013) categorized cemetery use as a "Public and Civic Use," and because funeral home use is not a permitted use in the *rural* residential (RR) zoning district. In addition, the city found that appellant's proposal for continued occupation of the single-family home would result in two principal uses on the property, which the city reasonably interpreted as prohibited by the zoning ordinance. Here, the district court properly affirmed the city's denial of Rossow's plat applications after

determining that denial on these bases “is not unreasonable, arbitrary, or capricious.”

A municipal body’s denial of a land-use request need only be based on one reason that satisfies the rational-basis test. *St. Croix Dev., Inc. v. City of Apple Valley*, 446 N.W.2d 392, 398 (Minn. App. 1989), *review denied* (Minn. Dec. 1, 1989). Therefore, I would affirm the district court’s grant of summary judgment to the city.



**FILED**

February 20, 2018

**OFFICE OF  
APPELLATE COURTS**

STATE OF MINNESOTA  
IN SUPREME COURT

A17-0077

LeRoy J. Rossow, Jr.,

Respondent,

vs.

The City of Lake Elmo, Minnesota,

Petitioner.

ORDER

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the petition of The City of Lake Elmo, Minnesota  
for further review be, and the same is, denied.

Dated: February 20, 2018

BY THE COURT:



Lorie S. Gildea  
Chief Justice

State of Minnesota  
Washington County

District Court  
Tenth Judicial District

Court File Number: **82-CV-15-6016**

Case Type: Civil Other/Misc.

FILE COPY

**Notice of Filing of Order**

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**LeRoy J Rossow, Jr. vs The City of Lake Elmo, Minnesota, a municipal corporation**

You are notified that an order was filed on March 21, 2018.

Order-Other

Dated: March 21, 2018

Annette Fritz, Court Administrator  
By: Joy Montgomery, Deputy  
Washington County District Court  
14949 - 62nd St. N; PO Box 3802  
Stillwater MN 55082  
651-430-6263

cc: CHRISTOPHER WILLIAM BOLINE  
MARY DAWN TIETJEN

A true and correct copy of this notice has been served upon the parties herein at the last known address of each, pursuant to Minnesota Rules of Civil Procedure, Rule 77.04.

STATE OF MINNESOTA  
COUNTY OF WASHINGTON

File #  
WASHINGTON COUNTY  
DISTRICT COURT  
MAR 21 2018

DISTRICT COURT  
NINTH JUDICIAL DISTRICT

FILED

FILED

COURT ADMINISTRATOR

By [Signature] Deputy

Leroy J. Rossow,

Court File No.: 82-CV-15-8016

Plaintiff,

**ORDER**

v.

The City of Lake Elmo, Minnesota,  
a municipal corporation,

Defendant.

This matter came on for hearing on August 19, 2016, before the Honorable Ellen L. Maas, Washington County District Court pursuant to the parties' cross motions for summary judgment. Plaintiff appeared with and through counsel, Christopher W. Boline, Esq., 101 East Fifth Street, Suite 2602, St. Paul, MN 55101. Defendant was represented by Mary D. Tietjen, Esq., Kennedy & Graven, 470 US. Bank Plaza, 200 South Sixth Street, Minneapolis, MN 55402. After the hearing, the record was left open until September 9, 2016, to allow counsel to submit their proposed findings, at which time the record was closed.

This Court granted Defendant's motion for summary judgment on November 22, 2016. The Washington County District Court Administrator entered judgment on January 13, 2017. Plaintiff appealed this Court's decision on January 18, 2017. Following oral argument, the Minnesota Court of Appeals reversed this Court and remanded the case for "an order directing the city to approve Rossow's preliminary and final plat applications."

Now, based on the directive of the Minnesota Court of Appeals, this Court issues the following:

## ORDER

1. Within thirty days from the date of this Order, Defendant shall approve Plaintiff's preliminary and final plat application in accordance with proposed Resolution No. 2015-59, located at pages 185-187 of the stipulated record, including the following conditions as recommended in proposed Resolution No. 2015-59:
  - i. Plaintiff shall revise the Final Plat to accommodate all required right-of-way on Lake Elmo Avenue and 50th Street North as documented in review memorandums submitted by Washington County and the City Engineer (condition 1);
  - ii. All required modifications to the plans as requested by the City Engineer's July 8, 2015 review letter shall be incorporated into the plans before the City's execution of the Final Plat (condition 2);
  - iii. Plaintiff shall follow all of the rules and regulations spelled out in the Wetland Conservation Act, and abide by all conditions of approval established in the approved Valley Branch Watershed District permit (condition 3);
  - iv. Plaintiff shall be responsible to address all review comments submitted by Washington County's July 7, 2015 review memorandum. Additionally, Plaintiff shall obtain all necessary right-of-way permitting from Washington County (condition 4);
  - v. The Landscape Plan shall be revised to include 6 additional trees to fulfill the City's Landscaping Requirements. In addition, the plant material that is on top of utilities shall be moved to comply with the direction of the City Engineer, per his July 8, 2015 memorandum. Before installation of plant material, the plan shall be reviewed by the City's Landscape Consultant for final approval (condition 5);
  - vi. Plaintiff must enter into an agreement with Defendant to own, operate and maintain the private storm water facilities on the property. The storm water maintenance agreement must be recorded with the Final Plat (condition 6);
  - vii. Prior to issuance of grading/building permits, all review comments of the Fire Chief must be addressed by Plaintiff (condition 7);
  - viii. Plaintiff shall obtain the necessary permitting from Washington County to install a new septic system to serve the property before Defendant issues building permits for the remodel of the home (condition 8);
  - ix. All lighting installed on the Halcyon Cemetery site must comply with Defendant's dark skies ordinance (condition 10);
  - x. Any alterations to the existing single family home shall be reviewed for conformance to Defendant's design standards (condition 11);

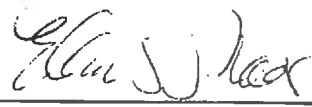
- xi. All trees transplanted to the site shall include a two-year warranty period to ensure their survival. Any trees that do not survive the two-year period shall be replaced (condition 12);
- xii. The Landscape Plan shall be amended to add plantings along the Eastern and Northern property lines, consistent with screening requirements specified in § 154.258.F of the City Code (condition 13);

2. Service of this Order may be made by U.S. Mail in lieu of personal service upon the parties.

**IT IS SO ORDERED.**

Date: June 19, 2018  
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BY THE COURT:

  
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Honorable Ellen L. Maas  
Washington County District Court

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

**RESOLUTION NO. 2015-59**

*A RESOLUTION APPROVING A PRELIMINARY AND FINAL PLAT FOR THE HALCYON  
CEMETERY AS ORDERED BY THE DISTRICT COURT*

**WHEREAS**, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

**WHEREAS**, Mr. Lee Rossow, 11050 50<sup>th</sup> Street North, Lake Elmo MN 55042 (“Applicant”) has submitted an application to the City of Lake Elmo (“City”) for a Preliminary and Final Plat for a cemetery to be called Halcyon, a copy of which is on file in the City of Lake Elmo Community Development Department; and

**WHEREAS**, the proposed Final Plat includes a cemetery on one parcel of land (PID: 01.029.21.33.0003) in the Rural Planning Area; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on July 13, 2015 to consider the Preliminary and Final Plat application; and

**WHEREAS**, the Lake Elmo Planning Commission adopted a motion recommending approval of the Final Plat subject to 14 conditions of approval; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation concerning the Preliminary and Final Plat as part of a memorandum to the City Council for the July 21, 2015 Council Meeting; and

**WHEREAS**, the City Council reviewed the Halcyon Cemetery Preliminary and Final Plat at its meeting held on July 21, 2015 and tabled taking action at that time; and

**WHEREAS**, the City Council further reviewed the Halcyon Cemetery Preliminary and Final Plat at its meeting held on October 6, 2015 and denied the request based on findings of fact as outlined in Resolution 2015-59.

**WHEREAS**, the Applicant sued the District Court, challenging the denial of the Applicant’s Preliminary and Final Plat applications, alleging the denial was arbitrary, capricious and without sufficient factual or legal basis.

**WHEREAS**, the District Court granted summary judgment to the City and dismissed the Applicant’s complaint.

**WHEREAS**, the District Court’s decision was appealed to the State of Minnesota Court of Appeals, and the Court remanded the case to the district court with instructions to issue an Order directing the City to approve the plat.

**WHEREAS**, The Supreme Court denied the petition by the City of Lake Elmo to further review the LeRoy J. Rossow, Jr. vs. The City of Lake Elmo, Minnesota on February 20, 2018.

**WHEREAS**, The District Court ordered on March 21, 2018 for the City to approve the preliminary and final plat within 30 days of the Order in accordance with the proposed Resolution No. 2015-59.

**WHEREAS**, the findings of fact of proposed Resolution 2015-59 made the following findings of fact:

- 1) That the Halcyon Cemetery Final Plat is consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
- 2) That the Halcyon Cemetery complies with the City's RR – Rural Residential zoning district.
- 3) That the Halcyon Cemetery complies with the City's subdivision ordinance.
- 4) That the Halcyon Cemetery Final Plat meets other City zoning ordinances, such as landscaping, tree preservation, erosion and sediment control, off-street parking and other ordinances, except where noted in this report herein.
- 5) That the Halcyon Cemetery Final Plat is consistent with the City's engineering standards, except where noted, provided the plans are updated to address the City Engineer's comments documented in a letter dated July 8, 2015 and the Fire Chief's comments documented in a letter dated July 7, 2015.
- 6) The applicant has committed to establishing a permanent care trust fund consistent with the requirements established under State Statute.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council does hereby approve the Halcyon Cemetery Preliminary and Final Plat subject to the following conditions:

- 1) The applicant shall revise the Final Plat to accommodate all required right-of-way on Lake Elmo Avenue and 50<sup>th</sup> Street North as documented in review memorandums submitted by Washington County and the City Engineer.
- 2) All required modifications to the plans as requested by the City Engineer in a review letter dated July 8, 2015 shall be incorporated into the plans prior to the City's execution of the Final Plat.
- 3) The developer shall follow all of the rules and regulations spelled out in the Wetland Conservation Act, and abide by all conditions of approval established in the approved Valley Branch Watershed District permit.
- 4) The applicant shall be responsible to address all review comments submitted by Washington County described in the review memorandum received from the County dated July 7, 2015. In addition, the applicant shall obtain all necessary right-of-way permitting from Washington County.

- 5) The Landscape Plan shall be revised to include 6 additional trees to fulfill the City's Landscaping Requirements. In addition, the plant material that is on top of utilities shall be moved to comply with the direction of the City Engineer per his memorandum dated July 8, 2015. Finally, prior to installation of plant material, the plan shall be reviewed by the City's Landscape Consultant for final approval.
- 6) The applicant must enter into an agreement with the City to own, operate and maintain the private storm water facilities on the property. The storm water maintenance agreement must be recorded with the Final Plat.
- 7) Prior to the issuance of grading/building permits, all review comments of the Fire Chief must be addressed by the applicant.
- 8) The applicant shall obtain the necessary permitting from Washington County to install a new septic system to serve the property prior to the City issuing and building permits for the remodel of the home.
- 9) All lighting installed on the Halcyon Cemetery site must comply with the City's dark skies ordinance.
- 10) Any alterations to the existing single family home shall be reviewed for conformance to the City's design standards.
- 11) All trees transplanted on the site shall include a two-year warranty period to ensure survival. Any trees that do not survive the two-year period shall be replaced.
- 12) The Landscape Plan shall be amended to add plantings along the Eastern and Northern property lines consistent with screening requirements specified in 154.258.F of the City Code.

Passed and duly adopted this 17<sup>th</sup> day of April by the City Council of the City of Lake Elmo, Minnesota.

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Mike Pearson, Mayor

ATTEST:

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Julie Johnson, City Clerk