



STAFF REPORT

DATE: October 15, 2019

TO: City Council
FROM: Ken Roberts, Planning Director
AGENDA ITEM: **EAW Request – Mountain Bike Trails - Sunfish Lake Park**
REVIEWED BY: Sarah Sonsalla – City Attorney

BACKGROUND:

The City received notice on October 7, 2019 that a petition had been submitted to the Minnesota Environmental Quality Board (EQB) requesting that an Environmental Assessment Worksheet (EAW) be prepared for the proposed mountain bike trails in Sunfish Lake Park. The EQB determined that the City of Lake Elmo is the appropriate governmental unit to decide the need for an EAW for this project. I have attached the EAW petition for your reference.

ISSUE BEFORE CITY COUNCIL:

Does the City Council want to order the preparation of an EAW for the proposed Mountain Bike Trail project in Sunfish Lake Park?

ANALYSIS:

An EAW is a “brief document which is designed to set out the basic facts necessary to determine whether and Environmental Impact Statement (EIS) is required for the proposed action.” The purpose of the EAW process is to disclose information about the potential environmental impacts of a project. **It is not a project approval process.** Please see the attached EAW fact sheet from Crow Wing County for more information about EAWs.

The State of Minnesota has several rules and standards for the preparation of EAWs and EIS (Environmental Impact Statement) for projects and land use activities in the State. These rules include which agency should decide the need for an EAW or other type of environmental review, the type of environmental review that may be needed for a project and the timing of governmental approvals for a project during the environmental review process. In this case, because the park is in the City of Lake Elmo and because the project would not impact any other jurisdiction, the EQB determined the City is the responsible governmental unit (RGU) to decide the need for an EAW.

Minnesota Rules Parts 4410.4300 – 4410.4600 set forth when an EAW is mandatory and when it is discretionary and also when a project is exempt from an EAW. The proposed mountain bike trail project for Sunfish Lake Park would include the construction of about four miles of single track (2-3 feet wide) trails in the park. In reviewing the State rules for EAW’s, City staff has determined that the proposed mountain bike trail project in Sunfish Lake Park does not meet the requirements in Minnesota Rules Part 4410.4300 for a mandatory EAW. The proposed project also is not exempt from an EAW pursuant to Minnesota Rules Part 4410.5600. The City Council therefore has the option to choose whether to prepare a discretionary EAW for this project pursuant to Minnesota Rules Part 4410.4500. The decision point is that because of the nature or location of the proposed project that it may have the potential for significant environmental effects.

The standard for making this decision is provided in Minnesota Rules Part 4410.1100, subpart 6. Subpart 6 states “the RGU shall order the preparation of an EAW if the evidence presented by the petitioners, proposers and other persons or otherwise know to the RGU demonstrates that, because of the nature or location of the proposed project, the project may have the potential for significant environmental effects. The RGU shall deny the petition if the evidence presented fails to demonstrate the project may have the potential for significant environmental effects. In considering the evidence, the RGU must take into account the factors listed in part 4410.1700, subpart 7.”

Minnesota Rules Section 4410.1700, subpart 7 states “in deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

- a. Type, extent and reversibility of environmental effects;
- b. Cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;
- c. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and
- d. The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, including other EIS’s.”

Discretionary EAW – Standards for Decision

The City Council must take into account the factors set forth above when considering the evidence provided by the petitioners in their request for an EAW. The submitted petition requesting the EAW alleges the following if the City allows the construction of the mountain bike trails in Sunfish Lake Park:

1. Negative effects on the fragile environment of this specific area.
2. Erosion concerns – soils are erodible throughout the terrain of the park. Trails in this area will inevitably erode, requiring ongoing maintenance as well as present possible hazards.
3. Habitat destruction and the changing nature of the park that the trails would present.
4. That habitat loss would be significant.
5. Wildlife and sensitive species would be lost.
6. Protected areas of the park would be forever changed.
7. Incompatible uses and promises made when the park was established – not all parks are appropriate for all uses.

The City’s Parks Commission has studied the possibility of adding mountain biking trails to Sunfish Lake Park several times over the last year. The Commission reviewed a preliminary bike trail map for the park on January 23, 2019. At that meeting the Commission directed staff to develop one trail in the park to present back to them and to the Minnesota Land Trust (the Minnesota Land Trust is the holder of a conservation easement over land in the park). Staff revised the trail plans and submitted them to the Minnesota Land Trust. The Minnesota Land Trust approved the revised trail plans.

The Parks Commission reviewed the latest trail plans and other information about the project at its May 20, 2019 meeting. I have attached the staff report for this meeting for your reference. In this report staff reviewed concerns and information about potential issues with the proposed mountain bike trail project including soils and erosion, threatened or endangered species, trail design and impact to other users.

The key points for the City Council to consider when reviewing the request for an EAW are noted in Minnesota Rules Part 4410.1100, subpart 6:

“[T]he RGU shall order the preparation of an EAW if the evidence presented by the petitioners, proposers and other persons or otherwise know to the RGU demonstrates that, because of the nature or location of the proposed project, the project may have the potential for significant environmental effects. The RGU shall deny the petition if the evidence presented fails to demonstrate the project may have the potential for significant environmental effects. In considering the evidence, the RGU must take into account the factors listed in part 4410.1700, subpart 7.”

As noted above, the petitioners cite several concerns and potential environmental issues with the mountain bike trails in Sunfish Lake Park. There is nothing in the petition or in the record from the City’s study and review of the proposed mountain bike trails in Sunfish Lake Park that demonstrates that the project would have the potential for significant environmental effects.

As I also noted above, Minnesota Rules Part 4410.1700, subpart 7 states “in deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

a. Type, extent and reversibility of environmental effects.

The City recognizes that adding mountain bike trails to Sunfish Lake Park will have some environmental effects with the minimal grading, tree removal, loss of habitat and trail construction. None of these activities will be significant and if needed, their minimal effects could be reversed with restoration if the City was to close the mountain bike trails.

b. Cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project:

There is nothing in the design of the mountain bike trails or in the EAW petition showing any significant environmental effects from the construction of the mountain bike trails. In fact, the City has designed the proposed trails to minimize their potential environmental effects by taking into account the slopes and the waterbodies in the trail design. Single-track trails have minimal impact on the environment and their effects are on par with a hiking trail.

c. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and

The City may need to mitigate the environmental effects of the trail as they are used - especially in regards to erosion. This is a responsibility the City acknowledges and accepts as part of this project.

d. The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, including other EIS’s.”

There are no other projects or environmental studies in this area of Lake Elmo at this time.

It is important to note that allegations of vague or generalized fears and concerns are not sufficient for the City to make a determination of the potential for significant environmental effects from a project as is required by the State rules. The possible significant environmental effects of a project must be studied and documented by the petitioners in order for the City to consider them as a possible factor in its decision-making about the need for an EAW. It also is important to note that the potential conflict between users of the park is not a criterion set by the State of Minnesota for determining the need for and EAW.

FISCAL IMPACT:

If the City ordered the preparation of an EAW for the Sunfish Lake Park Mountain Bike Trail project, staff estimates the cost of the EAW would range between \$5,000 and \$10,000.

STAFF RECOMMENDATION:

Staff recommends that the City Council deny the petition for the preparation of an EAW for the proposed mountain bike trails in Sunfish Lake Park. Suggested motion:

“Motion to deny the petition for the preparation of an EAW for the proposed mountain bike trails in Sunfish Lake Park and adopt Resolution 2019 – 078 that is a record of the City decision including findings of fact.”

ATTACHMENTS:

1. EAW Petition
2. Crow Wing County EAW Fact Sheet
3. May 20, 2019 City staff report
4. Resolution 2019 – 078

25-Sept-2019

Denise Wilson,

Thank you for calling me to follow up my
EQB questions.

I am enclosing much of the information regarding
a councilperson promoting off road bike trails in
a highly sensitive nature area in Lake Elmo.

Years ago I helped establish the parks in Lake Elmo
and am very concerned about the negative effects on
the fragile environment of this specific area.

I will gladly come to your office - just have an off
peak traffic time.

Also I would encourage anyone + everyone to
come and walk the area ~~to~~ truly appreciate
the wonderful gift the park as you review my
request.

Sincerely,
Susan Duvon
Lake Elmo, Mo. 65042

Some of the trails they MAY
remove are very popular
walking trails. Residents
will protest their removal.

651-777-0197

Sunfish Lake Park - Lake Elmo, MN. 25-Sept-2019

Enclosures: What is Happening to Sunfish Lake Park?

Petition signatures

Parks Comm. meeting minutes 15-July-2019 requesting
EAW/EIS review.

DNR letter 16/MAY/2019

City of Lake Elmo Comprehensive Plan 2030 - NO bikes
inside - MAP

MAP. Sunfish Lake Park. walking, cross country ski trails

Staff Report Mountain Bikes within Sunfish Lake Park.
includes - Map Draft with 2 proposed Routes - both
in wooded, wildlife habitat areas. ~~For~~

MAP - Erosion hazard - Sunfish Lake Park
RFP - Request for Proposal to Trail Source

Letters and comments made in meetings: 23-Jan-2019
18-Mar-2019
20-MAY-2019

Conservation Easement - Mn Land Trust

Letters to Lake Elmo from Mn. Land Trust 26-Feb-2019
18-April-2019

New Draft trail map 4/15/2019 - Green &
letter to Susan Dunn from Mn. Land Trust 15-MAY-2019

Mn. County Biological Survey Map Series: No. 1 (1990)
Washington County -

Susan Dunn
P.O. Box 153
11018 Lepper 33rd St. N.
Lake Elmo, MN.
55042

651-447-0197

What is Happening to Sunfish Lake Park in Lake Elmo?

We are writing today to make everyone in the Twin Cities aware of our concern over a plan by the City of Lake Elmo to construct a network of mountain bike trails in Sunfish Lake Park. This plan will change the fundamental nature and usage of the park from a serene nature park to a high usage, high-impact recreational area.

Sunfish Lake Park was created in 1974 when the land that is now the park was sold by several longstanding local families for well under market value for the expressed purpose of creating a nature preserve. A bond issue was passed by the taxpayers at that time, listing preservation of the natural wilderness and trails for hiking/walking, nature observation and study, snow-shoeing, and cross-country skiing as goals of the park. Mountain biking was tried at one time in the Park, but it quickly became apparent that misuse occurred. In 1992 The Lake Elmo City Council voted to ban mountain biking in Sunfish Lake Park (ordinance #8065 adding section 1005). Reasons for the ban included erosion of unique park topography, destruction of wildlife habitat, increased liability, and conflicts in trail usage. This ordinance is now very hard to find in Lake Elmo City records.

In 2009, Sunfish Lake Park was enrolled in the Minnesota Land Trust for permanent protection and preservation insuring that the park would be preserved in its natural state.

So, given this history, why is there now a push to develop mountain biking trails which fly in the face of both the original intention of the park's creation, and prior experience and desires of the citizens?

In the past ten years, with changes in the makeup of local government, ideas about usages in Sunfish Lake Park have become more aggressively persistent. In January of this year, the City Council directed the Parks Commission to propose a system of mountain bike trails for Sunfish Lake Park. A \$120,000 capital improvement expenditure was reserved for this development. The initial proposal was rejected by the Minnesota Land Trust in February. The proposal was then revised, and was approved by the Land Trust in March of this year.

When this plan was presented by the Parks Commission in May, a number of local residents spoke against the habitat destruction and changing nature of the park that these trails would present, while several biking enthusiasts—including several who were not Lake Elmo residents—spoke in its favor. The proposal was passed and was sent to the City Council for approval.

The Lake Elmo City website states that “Sunfish Lake Park is considered by many to be the ‘crown jewel’ in the Lake Elmo Park system; an important symbol of the quiet character of Lake Elmo... a regionally significant ecological area... Depending on the season, woodland, wetland, and prairie plant communities can be enjoyed by skiing or walking the approximately nine miles of marked trails at Sunfish... Sunfish is one of the best opportunities for bird watching in the seven-county Metro area. Birds identified in recent years include thirteen species that have been identified by the DNR as being in greatest conservation need, meaning populations in Minnesota are rare, declining, or vulnerable.”

A recent review by the Minnesota Department of Natural Resources (DNR) repeatedly praised Sunfish Lake Park as a “high quality native hardwood forest”.

Further, that "Intact forests such as Sunfish are becoming more of a rarity in Central Minnesota"; and, "The biologic diversity located in this continuous wildlife corridor makes this park a very critical habitat".

With the construction of mountain bike trails it is anticipated that habitat loss would be significant, wildlife and sensitive species would be lost and protected areas of the park would be forever changed. The previously cited studies from the DNR, The Nature Conservancy and the 2010 Natural Resource Management Plan for Sunfish Lake Park all have found that the soils are erodible throughout the terrain of the park. The Erosion Hazards map for Washington County shows a large proportion of severe to very severe areas of soil that are very prone to erosion. Sunfish Lake Park's topography is rolling hills with sand and gravel soils. Trails in these areas will inevitably erode, requiring ongoing maintenance as well as present possible hazards. So far, no stated plan is available for repairs and maintenance of the proposed trails, nor a funding source to provide for this.

Liability will continue to be of great concern as well as safety for all. If most of these trails are multiple use, every visitor must be more aware of their surroundings.

Mountain Bike trails already exist in the Lake Elmo area, in Woodbury at Carver Lake Park, Battlecreek Mountain Bike Trails in Maplewood, in Oak Park Heights, and in Lake Elmo at Reid Park and Lake Elmo Regional Park Reserve, with others proposed for Pebble Park, and Pine Point Regional Park. In other local parks, no biking is permitted because of concern over damage to fragile natural areas.

While it has been argued that Sunfish Lake Park should be available to as many citizens as possible, it remains true that not every park needs to be multi-use, and in

fact it's impossible for any small park to provide every type of recreation. This has initiated a tug-of-war between expanded use and conservation. Hikers and birders want peace and quiet, while mountain bikers want challenge and adventure. The Sierra Club researchers describes this "goal interference" as being at the heart of the many bikes-vs-wilderness debates, which often leave unanswered questions of how best to protect nature and wildlife.

Enjoying the natural world should be a peaceful, and refreshing experience.

The 2030 Comprehensive plan which is the guide and existing policy for the development of the city clearly states that Sunfish Lake Park "prohibits bikes on trails within the park". The 2040 plan is currently being evaluated by the Metropolitan Council.

Our concern is not about mountain biking, but rather *incompatible uses* and promises made when the park was established—not all parks are appropriate for all uses.

A recent quote about National Parks summarizes our concerns: "It's the future, they're worried...that's the challenge, the whole tug of war between access and conservation...all potentially infringing on a rare remaining protected place...they're not protected for eternity. What they require is that each succeeding generation has to decide whether or not it's willing to renew the commitment that's necessary to preserve these places for another generation."

For over 40 years, Sunfish Lake Park has remained a treasured and protected site and a uniquely unspoiled natural area. This very critical place isn't broken. So why are we trying to change it?

Susan Saffle

PO BOX 102

Lake Elmo, MN 55042

Susan Dunn

11018 upper 33rd St No

Lake Elmo, MN 55042

PETITION TO BAN MOUNTAIN BIKING IN SUNFISH LAKE PARK

We support the original intent of Sunfish Lake Park: for the preservation of the natural wildness and passive usage of hiking/walking, cross-country skiing, snowshoeing, bird-watching, photography, orienteering, nature studies and picnicking. We feel strongly that mountain biking is NOT compatible with this intent. Moreover, the increased changes of personal injury to both bikers and hikers is a significant concern and a major liability for Lake Elmo. In addition, the creation and use of mountain biking trails will cause severe destruction to the natural areas of the park, and increase erosion of this unique topography.

We OPPOSE the plan put forward by the Lake Elmo Parks Commission and City Council to remove a substantial number of existing walking/skiing trails, and replace them with four miles of mountain biking trails.

We support the originally intended uses of Sunfish Lake Park, and the continued preservation of the Park as a natural area.

NAME	Address (City)	Phone Number	Email address	Signature
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SHERIE NIEBUHR	4444 Linden Tr N Lake Elmo, MN 55042	651-308-5774	jfordfields@comcast.net	<i>Sherie Niebuhr</i>
JILLIAN GELLEMOS	5617E Ave 1 St. Paul Park, MN 55108	671-498-5797	Tulm@bell.net	<i>Jillian Gellemos</i>
Joni Bell	1416 FRANKSON AVE St. Paul, MN 55108	657-497-4150	belltom33@smalldata.com	<i>Joni Bell</i>
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Play Christensen	Lauderdale, MN	651-631-0949	playchristensen@comcast.net	<i>Play Christensen</i>
Bob Katz Sample	Minnetonka, MN	612-455-9338	bobkatz@us1.com	<i>Bob Katz Sample</i>
Elizabeth Bell	5868 Thelma Rd S	651-529-7100	elizabethbell@comcast.net	<i>Elizabeth Bell</i>
Andrea Hansen	4574 Lilac Lane N	651-439-3544		<i>Andrea Hansen</i>

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NAME	Address (City)	Phone Number	Email address	Signature
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RODARD BARCA	4677 Lily Ave	651-351-7665	rodarb@msa.com	<i>Rodard Barca</i>
Shawn Price	4651 Lily Ave	651-235-7613	price5755@gmail.com	<i>Shawn Price</i>
Shane Nelson	4759 Lily Ave	651-246-3112	shane@nelson.net	<i>Shane Nelson</i>
DEB WALL	4791 Lily Ave N	612-220-4644	twall@ymail.com	<i>Deb Wall</i>
Tom W. Aze	4791 Lily Ave N	612-220-4644	"	<i>Tom W. Aze</i>
Paul Nelson	4888 Lily Ave N	651-351-0475	paulnelson@me.com	<i>Paul Nelson</i>
Rhonda Nielsen	"	"	rhondan@me.com	<i>Rhonda Nielsen</i>
Jean Madrivich	11440 50th St N	651-437-0393	jeanm@me.com	<i>Jean Madrivich</i>

PETITION TO BAN MOUNTAIN BIKING IN SUNFISH LAKE PARK

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We feel strongly that mountain biking is NOT compatible with this intent. Moreover, the increased changes of personal injury to both bikers and hikers is a significant concern and a major liability for Lake Elmo. In addition, the creation and use of mountain biking trails will cause severe destruction to the natural areas of the park, and increase erosion of this unique topography.

We OPPOSE the plan put forward by the Lake Elmo Parks Commission and City Council to remove a substantial number of existing walking/skiing trails, and replace them with four miles of mountain biking trails.

We support the originally intended uses of Sunfish Lake Park, and the continued preservation of the Park as a natural area.

NAME	Address (City)	Phone Number	Email address	Signature
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Neal Nelson	452 North Lind Ave	651-439-0335	neal.nelson@comcast.net	Neal K. Nelson
Dianne Bach	1001 Pineview Tr			D. K. Bach
Tim Stelm	2003 THUNDERBOLT RD			Tim Stelm
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Debra Hoffman	4582 Linc Lane N	248-797-0242	debrahoffman-a.2@gmail.com	Debra Hoffman
Lowell Johnson	4574 Lilac Ln N	651-499-9544	lowelljohnson@comcast.net	Lowell Johnson

PETITION TO PROHIBIT THE USE OF MOUNTAIN BIKES AND SIMILAR CYCLES IN SUNFISH LAKE PARK

We support the original intent of Sunfish Lake Park: for the preservation of the natural wildness and passive usage of hiking/walking, cross-country skiing, snowshoeing, birdwatching, photography, orienteering, nature studies and picnicking.

We feel strongly that mountain biking and the use of similar cycles is NOT compatible with this intent. Moreover, the increased changes of personal injury to both bikers and hikers is a significant concern and a major liability for Lake Elmo.

In addition, the creation and use of biking trails will cause severe destruction to the natural areas of the park and increase erosion of this unique topography.

We OPPOSE the plan put forward by the Lake Elmo Parks Commission and City Council to remove a substantial number of existing walking/skiing trails and replace them with four miles of biking trails.

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Name	Address (City)	Phone Number	Email Address	Signature
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Judaea Supan	3982 Kindred way	651-387-5200	jsupan@comcast.net	Judaea Supan
Francis Wallace	3870 Kindred way	651-260-0074	franciswallace@comcast.net	Francis Wallace
Sharon KRAMSON	3862 Kindred way	651-777-0511	sharonkramson@comcast.net	Sharon Kramson
Patricia Hanna	3862 Kindred way	651-777-0511	patricia.hanna@comcast.net	Patricia Hanna
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Nax Lalonde	3736 Kindred Ct	651-770-9140	max.lalonde@gmail.com	Nax Lalonde
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Ann Maline	4844 Kindred Way	651-777-8101		Ann Maline
Ann Maline	4944 Kindred Way	651-777-4200		Ann Maline
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NINA COOPER	3086 Kindred way	918-894-0205	sned@bss.com	Nina Cooper

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Riders →

PLETION TO PROHIBIT THE USE OF MOUNTAIN BIKES AND SIMILAR CYCLES IN SUNFISH LAKE PARK

We support the original intent of Sunfish Lake Park for the preservation of the natural wilderness and passive usage of hiking/walking, cross-country skiing, snowshoeing, birdwatching, photography, orienteering, nature studies and picnicking.

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In addition, the creation and use of biking trails will cause severe destruction to the natural areas of the park and increase erosion of this unique topography.

We OPPOSE the plan put forward by the Lake Elmo Parks Commission and City Council to remove a substantial number of existing walking/skiing trails and replace them with four miles of biking trails.

We support the originally intended uses of Sunfish Lake Park and the continued preservation of the Park as a natural area.

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Karol Friederichs	3584 Kelown St N	651-329-4909	JulieFriedrichson@gmail.com	Karol Friederichs
Kim Kowal	3554 Kelown St N	651-770-6436	Kim.Kowal@gmail.com	Kim Kowal
Patricia	3549 Kelown Ave N	651-340-6668	patricia@comcast.net	Patricia
Maryann Kempch	3531 Kelown St N	651-338-2568	maryannkempch@gmail.com	Maryann Kempch
David Gross	3320 Kelown St N	651-777-7044	dgross@comcast.net	David Gross
Kim Buss	3540 Kelown St N	651-777-1044	kimbuss@comcast.net	Kim Buss
Linda Kallenberg	10200 Stillwood Ln N	651-770-2034	linda.kallenberg@comcast.net	Linda Kallenberg
Steve Kallenberg	10120 Stillwood Ln N	651-770-7034	stevekallenberg@comcast.net	Steve Kallenberg
Jeanne Beaubien	3681 Kelown Ave N	651-743-3031	jeannebeaubien@comcast.net	Jeanne Beaubien
James Gibbons	3681 Kelown Ave N	651-216-6300	gibbons@comcast.net	James Gibbons
Jack Hagers	3490 Kelown Ave N	651-383-7579	jackhagers@comcast.net	Jack Hagers
John Hagers	3476 Kelown Ave N	651-383-7579	johnhagers@comcast.net	John Hagers
Carl Jensen	3047 Kelown Ave N	651-383-7579	carljensen@comcast.net	Carl Jensen

ATTENTION TO PROHIBIT THE USE OF MOUNTAIN BIKES AND SIMILAR CYCLES IN SUNFISH LAKE PARK

We support the original intent of Sunfish Lake Park for the preservation of the natural wilderness and passive usage of hiking/walking, cross-country skiing, snowshoeing, birdwatching, photography, orienteering, nature studies and picnicking.

We feel strongly that mountain biking and the use of similar cycles is NOT compatible with this intent. Moreover, the increased changes of personal injury to both bikers and hikers is a significant concern and a major liability for Lake Elmo.

In addition, the creation and use of biking trails will cause severe destruction to the natural areas of the park and increase erosion of this unique topography.

We OPPOSE the plan put forward by the Lake Elmo Parks Commission and City Council to remove a substantial number of existing walking/skiing trails and replace them with four miles of biking trails.

We support the originally proposed uses of Sunfish Lake Park, and the continued preservation of the Park as a natural area.

Name	Address (city)	Phone Number	Email Address	Signature
Joni Chavez	3505 Kelvin Ave	612-991-6035	joni.chavez@earthlink.net	Joni Chavez
Joe Chavez	3905 Kelvin Ave N.E.	612-901-6360	jchavez@earthlink.net	Joe Chavez
Candice Christensen	3404 Kelvin Ave N.E.	651-775-3742	scynbad2000@yahoo.com	Candice Christensen
Robert Christensen	3404 Kelvin Ave N.E.	651-777-3912	dpld@earthlink.net	Robert Christensen
Neal Walker	3440 Kelvin Ave N.E.	651-777-3912	nealwalker@earthlink.net	Neal Walker
Joni Chavez	10210 St. Louis Dr.	612-991-3210	nealwalker@earthlink.net	Joni Chavez
Bob & Judy Anderson	10174 S. Lincoln Dr.	651-777-8248	bobandjudy@earthlink.net	Bob & Judy Anderson
Thomas-John Burgess	10212 Seward Dr.	651-301-2840	bjburg@earthlink.net	Thomas-John Burgess
John's 71-30065	3592 Kelvin Ave	651-276-0665	johns7130065@earthlink.net	John's 71-30065
Heather Ricciardi	3803 Kelvin Ave N.E.	512-350-4044	heather Ricciardi@earthlink.net	Heather Ricciardi
John Ricciardi	3803 Kelvin Ave N.E.	651-838-6421	john Ricciardi@earthlink.net	John Ricciardi
David W. Rudiger	10321 Lincoln Ave N.E.	952-3448-8478	rudiger@earthlink.net	David W. Rudiger
Madia Beliveau	3505 Kelvin Ave N.E.	712-310-4517	madia.beliveau@earthlink.net	Madia Beliveau

MINUTES

City of Lake Elmo Parks Commission July 15, 2019

Members Present: Commissioners- Nightingale, Olinger, Schumacher, and Weeks

Absent: Ames, Mayek, and Zeno

Staff Present: City Planner- Prchal, Public Works Director- Powers

The meeting was called to order by Weeks at 6:30 PM.

Announcements

Weeks added a public comment section to the agenda.

Approval of Agenda

Commission motioned to pass the agenda.

Motion passed unanimously.

Approval of Minutes

a) June 17, 2019

Schumacher motioned to approve the June minutes, seconded by Olinger.

Motion passed unanimously.

Public Comments

Susan Dunn, 11018 Upper 33rd Street North. She raised concerns about the proposed use change at Sunfish Lake Park. She would like an EAW/EIS review of the proposed extreme mountain bike trail at Sunfish Lake Park. She researched other parks in the area and the only cities that allow mountain biking in their parks are Oak Park Heights and Woodbury. She would like an environmental review done to fully understand how this mountain bike trail would impact the environment at Sunfish Lake Park. She raised concerns that this proposed trail is in violation of the 2030 Comprehensive Plan which states that Sunfish Lake Park prohibits mountain biking on trails. She questioned if the intent is to change the use of Sunfish Lake Park from a nature preserve to a single purpose mountain bike trail park. Her final comments were that the Commission needs to be cautious when looking into a change like this. Olinger asked for clarification on what is meant when talking about "high impact." Mrs. Dunn explained that it refers to the speed, intensity, and number of people performing the action.

Nature Center Patio Request

Prchal presented on a request for the Nature Center which is asking to put in a 500 Sq. ft. patio.

The nature center has lease agreements with the City for the patio that states they can go ahead with the project with approval from the City. It also goes into detail about what it would cost to remove the patio, the plan has budget forecasts for what removal

**m1 DEPARTMENT OF
NATURAL RESOURCES**

Minnesota Department of Natural Resources
Ecological and Water Resources Division
Minnesota Biological Survey Program
500 Lafayette Road, St. Paul, MN 55155

May 16, 2019

*file
in date
in minn.
Return to
Susan
Dunn
MAP
letter*

Ms. Susan Dunn
P.O. Box 153
Lake Elmo, MN 55042

Dear Susan,

In response to your call asking for information about the findings of the Minnesota Biological Survey found in Sunfish Lake Park, I am enclosing a map showing the results of the survey of Washington County. The large map of the county shows the areas that were still intact plant communities at the time of the survey in 1990 as colored areas (except the blue, which indicates water bodies). As you can see, only a small portion of the county still supported intact plant communities at that time, and some of them have since been lost to development or degradation. Sunfish Lake Park was mapped as a mix of oak forest, maple-basswood forest, and aspen forest. It was also designated a Site of Biodiversity Significance (moderate rank on a scale of outstanding to high to moderate). All sites of Biodiversity Significance are important places. The size of this forest makes it important for wildlife habitat too.

Feel free to share this information with others, and to contact me if you have further questions.

Sincerely,



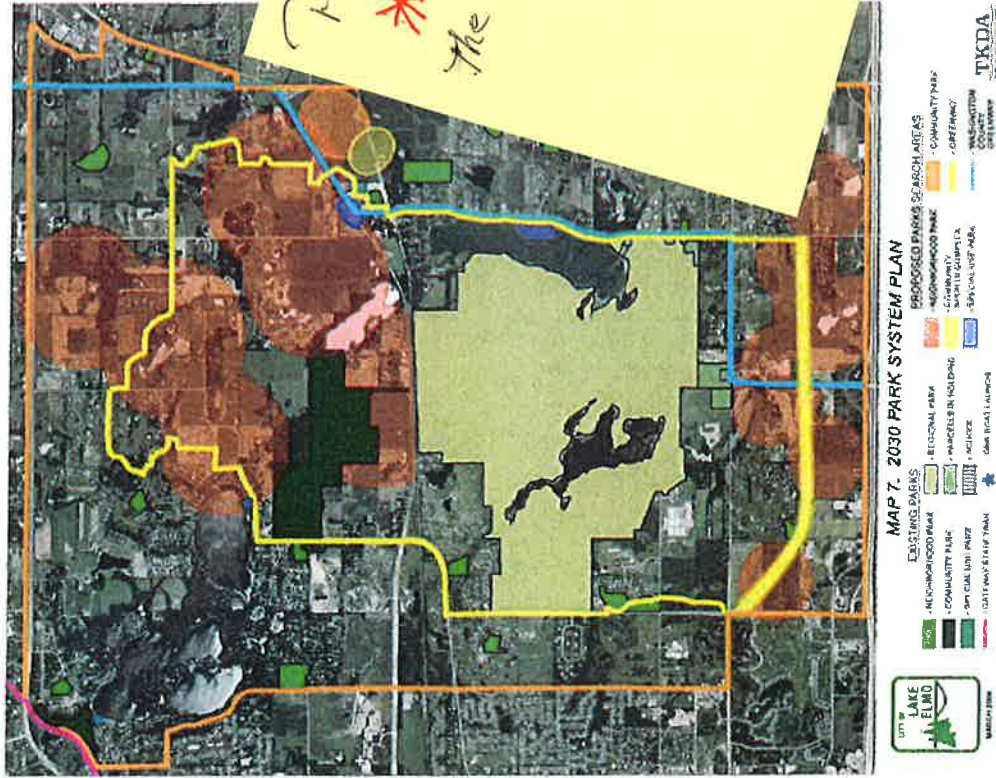
Hannah Texler
Plant Survey Supervisor, Minnesota Biological Survey
651-259-5048
hannah.texler@state.mn.us

cc: Kit Elstad-Haveles

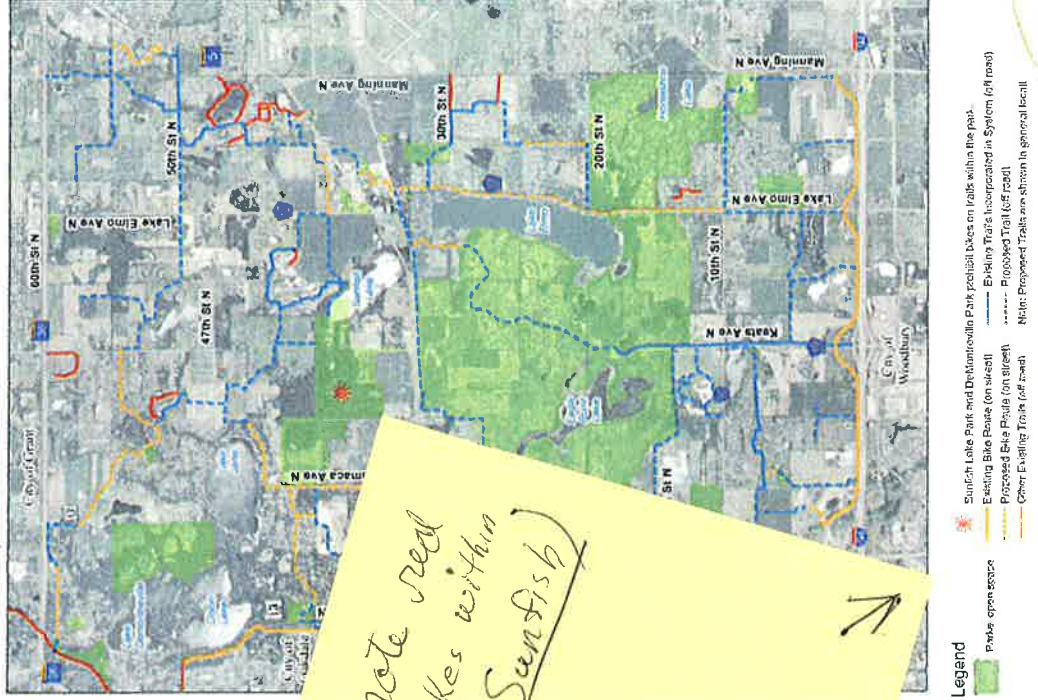
Existing Policy

What does the existing Comprehensive Plan say about trails?

2030 Park System Plan



2030 Final Trail Guide Plan



Please note road
* no bikes within
the park. (Sunfish)

Map copy courtesy of Friends of Lake Elmo's Sunfish Lake Park www.sminc-lake-elmo.org Update 11/2018

Sunfish Lake Park Trails



KEY

- | | | |
|----------------|---------------|-------|
| Lake or Pond | Camel Back | 2.7 K |
| Open Space | Ernie's Trail | 3.7 K |
| Wooded Area | Linda's Loop | .6 K |
| Fence | Morgan Lane | .3 K |
| Sledding Hill | Oak Run | 1.5 K |
| Parking | Pond | 1.8 K |
| Easiest | Rabbit | 1.9 K |
| More Difficult | Sunfish Point | .6 K |
| Most Difficult | | |



This map is available for download at www.lakeelmo.org
(Original 2014 version)



3800 Laverne Ave. N. Lake Elmo, MN 55042
651-747-3900 | www.lakeelmo.org

To Tapestry

Note: points 4 & 5 are reversed on this map

Park Entry Road
Prairie Restoration
Sally Manzara Interpretive Nature Center

STAFF REPORT

DATE: 01/23/2019

REGULAR

TO: Parks Commission
FROM: Ben Prchal, City Planner
AGENDA ITEM: Mountain Bike Trials within Sunfish Lake Park
REVIEWED BY: Ken Roberts, Planning Director

BACKGROUND:

The City of Lake Elmo Parks Commission and City Council approved a Capital Improvement expenditure of \$120,000 for the development of mountain bike trials in Sunfish Lake Park. Staff was then directed through the 2019 parks work plan to further explore trail development and gather information on what it would mean to build the trails. While the City was reviewing the trail design for Reid Park, a trail consultant (Trail Source) was used to provide a draft trail plan for Sunfish Park in conjunction with the Reid Park project.

ISSUE BEFORE THE PARKS COMMISSION:

Which of the routes would the Parks Commission regarding the proposed mountain bike trail map for Sunfish Lake Park?

PROPOSAL DETAILS/ANALYSIS:

At this point of the trail development, staff would like to know if the Commission has comments about the size/length of the trail(s), location, etc. Staff has been working off of the map that had initially been provided by Trail Source. Since then Staff has met with MORC (Minnesota Off-Road Cyclists) to go over the proposed design. This was done because there were certain sections of the trail that should be re-routed to avoid trail crossover conflicts and staff wanted an educated opinion on the re-routes. MORC provided some comments on how the trail should be adjusted so there would be less cross over with existing trails and to lessen erosion. At this point the trail layout needs to be looked at with a degree of flexibility. There will be situations where the trail will need to be redirected to go around a wet spot or perhaps mature trees to avoid damaging such natural features. This means the final trail might have larger curves or maybe a tighter curve in certain spots. The intent for this review is to establish if there is consensus on the scale of trail through the park. Going forward, staff will be communicating with the Minnesota Land Trust about the trail design as they have a degree of influence over the park through a conservation easement. Such as the design and review of potential impacts. If possible, staff will bring their comments as well as more specific technical information to the next Park Commission meeting. This information will include as maintenance costs, expected level of maintenance and trail development costs.

Aspects of the Trial:

Number of Bike/Walking Trail Crossings 38

- Route 1 has 19 crossings
- Route 2 has 19 crossings

Estimated Trail Length 8 – 9 Miles

- As of now the budget would only allow for one of the two sections to be built. Route 1 is around 5 miles and route 2 is around 4 miles.

Staff believes there are opportunities to redesign the trail and reduce the number of crossings without substantially adjusting the design or reworking walking trails.

Rough Draft

Staff also would like to encourage readers to follow the links below, which are videos of established Minnesota Mountain Bike Trails in Minnesota. Staff expects the Sunfish Trails to be similar to what is shown in the videos.

Lebanon Hills – Egan MN <https://www.youtube.com/watch?v=QopWLjmSg8&t=170s>

Cuyuna – Ironton MN <https://www.youtube.com/watch?v=7DOvDS1PD0o>

Carver Lake – Woodbury MN <https://www.youtube.com/watch?v=8CE5WK4QjGs&t=202s>

Impact on surrounding properties:

The park does not boarder a large number of residential properties. The majority of the homes are located to the North/ North East of the park with the rest being farm land or larger residential properties. The majority of the trail is kept internal to the site and Staff believes it would be difficult to see the proposed trail from the edges of the park. Staff does not anticipate mountain bikers would cause more of a nuisance than other users within the park.

There is an established park entrance with a parking lot which is where we would expect users of the park to enter the park. Staff does expect the trail to receive active use and at this time believes the parking lot to be adequate for users.

Impact to other users:

With the added amenity of mountain bike trails, it is anticipated that the number of users in the park will increase. With the user type expected to vary, the majority of the proposed trail is designed to mitigate the speed at which a bike will cross a walking path. The design of the trail is predominately located in areas which do not have an established use, thus not now actively used. It is important that the park be a safe and useful amenity for all residents and visitors. Where crossings are going to occur they will be established in a way that will force bike riders to slow there speed to safely cross the walking trail. Clearing brush near the trail crossings would also be a method to help establish better visibility around each trail intersection.

Signage:

Where intersections occur, trails would be marked displaying the direction of travel and expectations. The City should expect to put up signage warning walkers and bikers of the crossings. There can also be signage placed at the entrance to further inform users of expectations as well as conditions of trails after rain events. Such as: “Riders must wait 2 hours after a rain event before trail use” and “Be good stewards remove all trash”.

FISCAL IMPACT:

There is \$120,000 reserved for the development of mountain bike trails throughout the park. At this time staff does not have more specific information about the project costs to bring forward.

OPTIONS:

Staff is requesting that the Parks Commission review and comment on the draft trail design.

The Parks Commission may:

1. Recommend approve the trail as it has been presented;
2. Direct Staff to amend the trail design;
3. Recommend denial of the development of the mountain bike trail(s) throughout the park; or

RECOMMENDATION:

At this time Staff believes that Route number 1 would be the best option for the park.

“Recommend approval of the proposed Route one mountain bike trail design for Sunfish Lake Park as presented.”





ATTACHMENTS:

- Draft Trail Map.
- Other Mountain Bike Trail Examples.




Sunfish Lake Park Trail

Route Options:

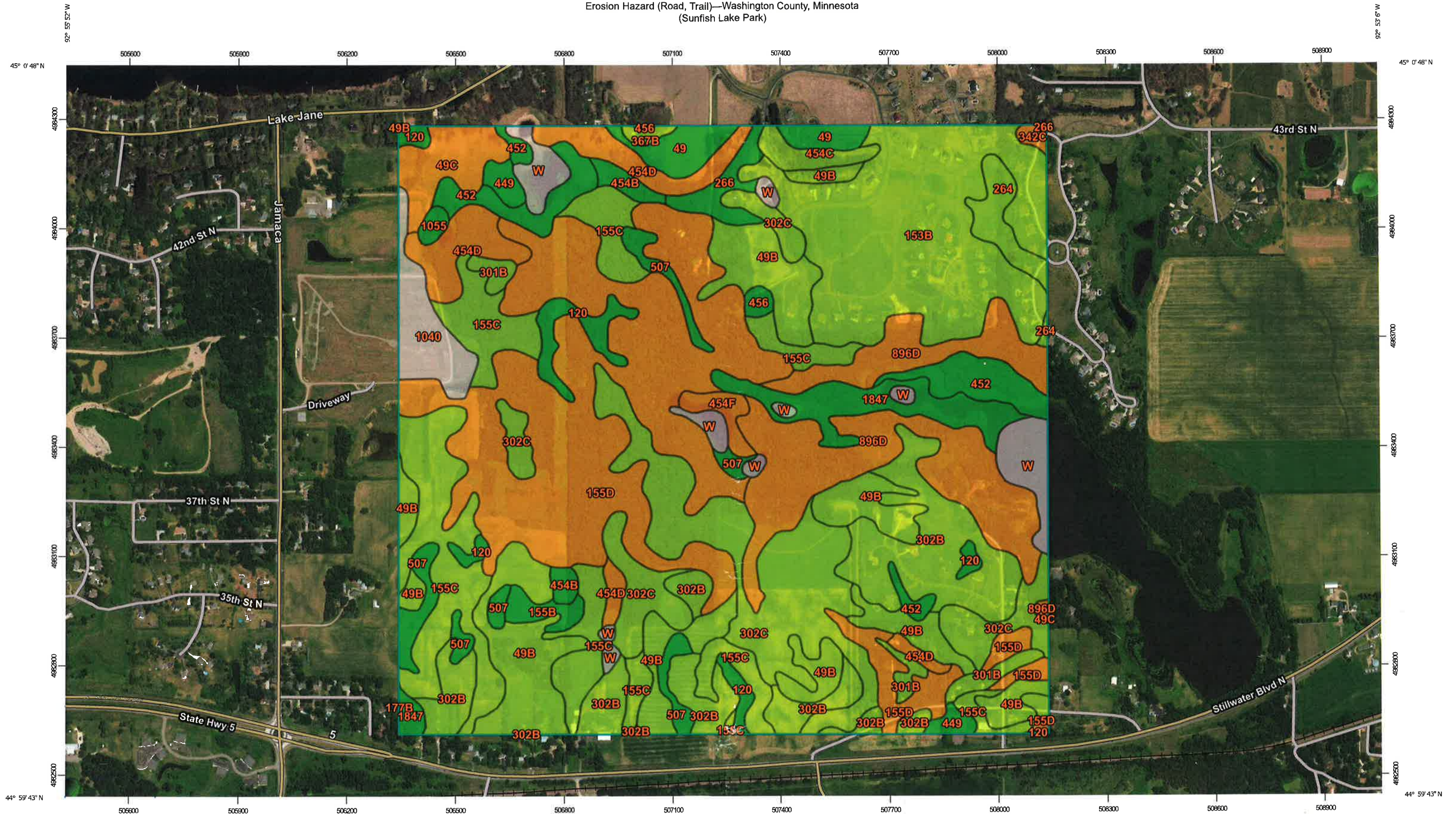
	1		Suggested Trail Removals
	2		Existing Trail

0 0.025 0.05 0.1 Miles

N 

H. Jones


Erosion Hazard (Road, Trail)—Washington County, Minnesota
(Sunfish Lake Park)



Map Scale: 1:9,780 if printed on B landscape (17" x 11") sheet.
 0 100 200 400 600 Meters
 0 450 900 1800 2700 Feet
 Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 15N WGS84

MAP LEGEND

Area of Interest (AOI)

 Area of Interest (AOI)

Soils

Soil Rating Polygons

-  Very severe
-  Severe
-  Moderate
-  Slight
-  Not rated or not available

Soil Rating Lines

-  Very severe
-  Severe
-  Moderate
-  Slight
-  Not rated or not available

Soil Rating Points

-  Very severe
-  Severe
-  Moderate
-  Slight
-  Not rated or not available

Water Features

 Streams and Canals

Transportation

 Rails

 Interstate Highways



US Routes



Major Roads



Local Roads

Background



Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:15,800.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service

Web Soil Survey URL:

Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Washington County, Minnesota

Survey Area Data: Version 14, Oct 9, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jul 1, 2013—Sep 13, 2016

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Erosion Hazard (Road, Trail)

Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
49	Antigo silt loam, 0 to 2 percent slopes	Slight	Antigo (80%)		10.3	1.4%
			Billyboy (8%)			
			Sconsin (5%)			
			Rosholt (3%)			
			Brill (2%)			
			Ossmer (2%)			
49B	Antigo silt loam, 2 to 6 percent slopes	Moderate	Antigo (80%)	Slope/erodibility (0.50)	71.3	9.6%
			Sconsin (5%)	Slope/erodibility (0.50)		
			Rosholt (5%)	Slope/erodibility (0.50)		
			Brill (3%)	Slope/erodibility (0.50)		
49C	Antigo silt loam, 6 to 15 percent slopes	Severe	Antigo (85%)	Slope/erodibility (0.95)	11.9	1.6%
120	Brill silt loam	Slight	Brill (90%)		11.6	1.6%
153B	Santiago silt loam, 2 to 6 percent slopes	Moderate	Santiago (90%)	Slope/erodibility (0.50)	81.7	11.0%
155B	Chetek sandy loam, 0 to 6 percent slopes	Slight	Chetek (90%)		3.7	0.5%
155C	Chetek sandy loam, 6 to 12 percent slopes	Moderate	Chetek (90%)	Slope/erodibility (0.50)	73.7	9.9%
155D	Chetek sandy loam, 12 to 25 percent slopes	Severe	Chetek (90%)	Slope/erodibility (0.95)	138.9	18.7%
177B	Gotham loamy sand, 1 to 6 percent slopes	Slight	Gotham (90%)		0.0	0.0%
264	Freeon silt loam, 2 to 6 percent slopes	Moderate	Freeon (80%)	Slope/erodibility (0.50)	7.6	1.0%
			Santiago (3%)	Slope/erodibility (0.50)		
			Haugen (2%)	Slope/erodibility (0.50)		
			Freeon, very stony (2%)	Slope/erodibility (0.50)		

Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
266	Freer silt loam	Slight	Freer (90%)		5.9	0.8%
301B	Lindstrom silt loam, 2 to 4 percent slopes	Moderate	Lindstrom (90%)	Slope/erodibility (0.50)	6.8	0.9%
302B	Rosholt sandy loam, 2 to 6 percent slopes	Moderate	Rosholt (80%)	Slope/erodibility (0.50)	57.1	7.7%
			Antigo (5%)	Slope/erodibility (0.50)		
			Cress (2%)	Slope/erodibility (0.50)		
302C	Rosholt sandy loam, 6 to 15 percent slopes	Moderate	Rosholt (85%)	Slope/erodibility (0.50)	73.4	9.9%
			Chetek (7%)	Slope/erodibility (0.50)		
342C	Kingsley sandy loam, 6 to 12 percent slopes	Severe	Kingsley (90%)	Slope/erodibility (0.95)	1.1	0.2%
367B	Campia silt loam, 0 to 8 percent slopes	Moderate	Campia (90%)	Slope/erodibility (0.50)	1.3	0.2%
449	Crystal Lake silt loam, 1 to 3 percent slopes	Slight	Crystal Lake (90%)		4.3	0.6%
452	Comstock silt loam	Slight	Comstock (90%)		20.5	2.8%
454B	Mahtomedi loamy sand, 0 to 6 percent slopes	Slight	Mahtomedi (90%)		4.3	0.6%
454C	Mahtomedi loamy sand, 6 to 12 percent slopes	Moderate	Mahtomedi (90%)	Slope/erodibility (0.50)	4.8	0.6%
454D	Mahtomedi loamy sand, 12 to 25 percent slopes	Severe	Mahtomedi (90%)	Slope/erodibility (0.95)	23.3	3.1%
454F	Mahtomedi loamy sand, 25 to 40 percent slopes	Severe	Mahtomedi (90%)	Slope/erodibility (0.95)	3.8	0.5%
456	Barronett silt loam	Slight	Barronett (85%)		1.6	0.2%
507	Poskin silt loam	Slight	Poskin (90%)		14.1	1.9%
896D	Mahtomedi-Kingsley complex, 12 to 25 percent slopes	Severe	Mahtomedi (60%)	Slope/erodibility (0.95)	59.8	8.0%
			Kingsley (35%)	Slope/erodibility (0.95)		

Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
1040	Udorthents	Not rated	Udorthents (90%)		12.8	1.7%
1055	Aquolls and Histosols, ponded	Slight	Histosols, ponded (50%)		1.5	0.2%
			Aquolls, ponded (50%)			
1847	Barronett silt loam, sandy substratum	Slight	Barronett, sandy substratum (85%)		18.2	2.4%
W	Water	Not rated	Water (100%)		18.5	2.5%
Totals for Area of Interest					744.0	100.0%

Rating	Acres in AOI	Percent of AOI
Moderate	377.7	50.8%
Severe	238.9	32.1%
Slight	96.0	12.9%
Null or Not Rated	31.4	4.2%
Totals for Area of Interest	744.0	100.0%

Description

The ratings in this interpretation indicate the hazard of soil loss from unsurfaced roads and trails. The ratings are based on soil erosion factor K, slope, and content of rock fragments.

The ratings are both verbal and numerical. The hazard is described as "slight," "moderate," or "severe." A rating of "slight" indicates that little or no erosion is likely; "moderate" indicates that some erosion is likely, that the roads or trails may require occasional maintenance, and that simple erosion-control measures are needed; and "severe" indicates that significant erosion is expected, that the roads or trails require frequent maintenance, and that costly erosion-control measures are needed.

Numerical ratings indicate the severity of individual limitations. The ratings are shown as decimal fractions ranging from 0.01 to 1.00. They indicate gradations between the point at which a soil feature has the greatest negative impact on the specified aspect of forestland management (1.00) and the point at which the soil feature is not a limitation (0.00).

The map unit components listed for each map unit in the accompanying Summary by Map Unit table in Web Soil Survey or the Aggregation Report in Soil Data Viewer are determined by the aggregation method chosen. An aggregated rating class is shown for each map unit. The components listed for each map unit are only those that have the same rating class as listed for the map unit. The percent composition of each component in a particular map unit is presented to help the user better understand the percentage of each map unit that has the rating presented.

Other components with different ratings may be present in each map unit. The ratings for all components, regardless of the map unit aggregated rating, can be viewed by generating the equivalent report from the Soil Reports tab in Web Soil Survey or from the Soil Data Mart site. Onsite investigation may be needed to validate these interpretations and to confirm the identity of the soil on a given site.

Rating Options

Aggregation Method: Dominant Condition

Component Percent Cutoff: None Specified

Tie-break Rule: Higher



*See Part A
Section 1
"Work and words"*

Request for Proposals on Mountain Bike Trail Construction

City of Lake Elmo

Sunfish Lake Park

Proposals Due: 3-30-20XX

Address Proposals to:

Attention: Ben Prchal - City Planner
3880 Laverne Ave. N.,
Lake Elmo, MN 55042
Phone: 651-747-3911
Email: bprchal@lakeelmo.org

Table of Contents

PART A: GENERAL INFORMATION

SECTION 1: PROJECT DESCRIPTION AND SCOPE

- 1.0 General Project Description
- 1.1 Site Conditions
- 1.2 Project Scope

SECTION 2: CONTRACTOR QUALIFICATIONS, REQUIREMENTS AND RESPONSIBILITIES

- 2.1 Experience and Portfolio
- 2.2 Insurance
- 2.3 Workman's compensation
- 2.4 Tools
- 2.5 Mechanized equipment
- 2.6 Meetings and progress reviews
- 2.7 What contractor provides
- 2.8 Timetable
- 2.9 Guarantee and Warranty

SECTION 3: FINAL INSPECTION

3.1 Final inspection

SECTION 4: TIMELINE AND SCHEDULE

4.1 Pre-bid site visit (Optional)

4.2 Proposal submission deadline (March 30, 2018)

4.3 Work Complete (October 12, 2018)

SECTION 5: PROPOSAL SUBMISSION PACKAGE

SECTION 6: BASIS FOR AWARD AND RIGHT OF REJECTION

6.1 Basis for award

6.2 Right of rejection

6.3 Qualifications and experience

6.4 Additional information

SECTION 7: BID WORKSHEETS

7.1 Bid Worksheet A

PART B: PROJECT DETAIL

SECTION 8: FINISHED TRAIL CONSTRUCTION AND MAINTENANCE GUIDELINES

8.1 Trail Design

8.2 Bike Specific Trail Flow

8.3 Trail Construction Best Practices

8.4 Corridor clearing

8.5 Trail Flagging

8.6 Debris

8.7 Rocks

8.8 Woody material

8.9 Fall Zone Clearing

8.10 Backslope

- 8.11 Trail, Finished Condition
- 8.12 Spoils Stabilization
- 8.13 Turns
- 8.14 Grade reversals
- 8.15 Above Grade Earthen Structures
- 8.16 Water diversions
- 8.17 Invasive species
- 8.18 Filter Strips
- 8.19 Mechanized Equipment Best Practices
- 8.20 Preservation of Vegetation
- 8.21 Ground Disturbance

SECTION 9: MAPS

- 9.1 Field Design- Draft Trail Map
- 9.2 Site Topography
- 9.3 Soil Analysis
- 9.4 Access, Supply and Staging


PART A: GENERAL INFORMATION

SECTION 1: PROJECT DESCRIPTION AND SCOPE

1.0 General Project Description

The City of Lake Elmo is seeking a contractor to provide labor, supervision, materials (as necessary) and equipment to perform specified trail construction for a cross country/flow single track mountain bike trail system within Sunfish Lake Park.

Sunfish Lake Park is located in Lake Elmo Minnesota, which is 25 minutes from downtown St. Paul. The park consists of 268 acres of mature woodland and rolling hills. The City would like the accepted contractor to review the trail design and make adjustments to the design where appropriate, to help mitigate erosion, environmental impacts, and increase the user experience. Though the City is developing mountain bike trails within the park, preservation of the existing features is a priority and an environmentally conscious design and build is expected. There is a conservation easement over the property that is monitored by the Minnesota Land Trust. Because of this, most areas of the trail will need to be built by hand. Throughout the whole build, the City expects the selected contractor to use best practices and follow the International Mountain Bicycling Association guidelines (IMBA).



The City would like to see a flowing trail through the park that will appeal to the majority of riders. The intent is to create a trail system that is dynamic and can create an intimate experience that allows the rider to enjoy the aesthetics of the park. At this time the City does not want to see features that are technically challenging on the main trail. However, those features are not intended during this stage of the trail development. The trail should only be as wide as necessary to safely use the trail. The intent is to keep a low profile and to minimize disturbance to the park and its natural features.

1.1 Site Conditions

The terrain is hilly and forested, with elevation ranging from 920 ft. to 978ft. The City Recommends that the prospective builders visit the site as well as review the soils on the USDA Web Soil Survey. A soils map has been attached but please perform more research as necessary. The characteristics of the soil are listed as being somewhat limited. The USDA further indicates that the limitations can be overcome with appropriate trail design and installation.

1.2 Project Scope

The City has reserved funding to help support the project and the project's scope of work includes at least 22,158 feet of new construction. There is an existing trail system within the park and appropriate slowing methods will need to be used to aide in safety at those crossings. Completed work must meet the specifications outlined in "Part B Project Details." Our preference is to have work start as soon as possible to have the build done in 2019 to summer of 2020.

SECTION 2: CONTRACTOR QUALIFICATIONS, REQUIREMENTS AND RESPONSIBILITIES

2.1 Experience and Portfolio

The Contractor shall have demonstrable experience in building sustainable cross country/flow single-track trail on terrain and/or soil characteristics similar to that of Sunfish Lake Park. The Contractor shall provide a portfolio showing work accomplished and references from 3 past comparable or relevant projects. The City also wants the contractor to be able to provide a GIS file of the final trail.

2.2 Insurance

The Contractor will provide the City of Lake Elmo with a copy of current insurance policy and will show the City as additional insured and showing the type, amount, class of operations covered, effective dates, and dates of expiration of policies.

2.3 Workman's compensation

The Client reserves the right to request proof of compliance with workmen's compensation laws.

2.4 Tools

The Contractor shall perform the required work using hand tools and/or small mechanized equipment that is a maximum of 50" in width. Equipment with adjustable width tracks should be able to reduce track width to less than 50" for building the new trail. Some sites may not be suitable for equipment this large and other sites may not be suitable for any mechanized equipment regardless of size due to terrain and environmental constraints. Permanent modification of trail outside the scope of work to accommodate equipment access is not desirable and must be approved by the City before building the modification.

2.5 Mechanized equipment

All mechanized equipment shall be in good mechanical condition, free of any fluid leaks. All equipment will be clean and free of debris before introduced to work site. Equipment is subject to inspection at the start and during the project. Any equipment that appears to not meet these criteria shall be removed from the project site at the request of the Client's representative and at no additional cost to the Client.

2.6 Meetings and progress reviews

The Contractor shall meet with City Staff as necessary or as otherwise agreed upon by both parties to review progress and project expectations throughout the build.

2.7 What contractor provides

The Contractor shall provide the necessary supervision, labor, equipment and tools to perform specified trail construction on identified trails and sites, including fuel for any mechanized equipment or tools and any and all personal protection and safety equipment that may be required.

2.8 Timetable

The Contractor shall provide an approximate timetable and schedule detailing how all project work will be met.

2.9 Guarantee and Warranty

A one (1) year guarantee and warranty will be provided by the Contractor on all work of this project. Any portions needing replacement or repair within one (1) year from the date of written acceptance by the City shall be completed by the Contractor at their expense, within a time frame agreed upon by the City.

SECTION 3: FINAL INSPECTION

3.1 Final inspection

At the conclusion of the work, the contractor shall demonstrate to the City that the work is fully complete and in compliance with contract specifications. Any deficiencies shall be promptly and permanently corrected by the contractor at the contractor's expense prior to final acceptance of the work. The City also expects the contractor to provide a GIS file to be provided of the final trail route.

SECTION 4: TIMELINE AND SCHEDULE

4.1 Optional Pre-bid Site Visit

A site visit may be arranged with the project manager prior to bid submission. Please contact Ben Prchal at bprchal@lakeelmo.org to arrange a visit.

4.2 Proposal submission deadline (March 30, 2018)

Note date

Proposals must be submitted to City Hall - bprchal@lakeelmo.org no later than April XXX, 20XX to be considered.

4.3 Work Complete (October 12, 20XX)

The City of Lake Elmo would like to begin the project as soon as conditions will allow and achieve a completion date of **Fall 2020**.

SECTION 5: PROPOSAL SUBMISSION PACKAGE

Each bid proposal must be delivered via email to bprchal@lakeelmo.org by March 30, 20XX. The proposal package must contain each of the following in the order which they are listed.

- Complete the bid worksheet. If more space is needed, please provide a separate sheet and indicate that a separate sheet is being used on the form.
- A recommended project schedule and timetable.
- Three references from previous trail construction projects.
- Portfolio containing descriptions and pictures of at least three past projects similar to this project. Project descriptions shall include short explanation of work performed, client, project location, dates, and duration.
- As estimation of future annual trail maintenance costs including materials.
- The Contractor shall include in the proposal price the cost to provide the following:
 - Letter of Surety, stating ability to obtain a Performance Bond, and Labor and Material Bond for 100% of the project amount.

Any and all questions or clarifications shall be submitted via email to the project contact no later than March 22, 20XX. All questions, comments and answers provided shall be distributed via email to all respondents who requested a copy of the RFP package.

SECTION 6: BASIS FOR AWARD AND RIGHT OF REJECTION

6.1 Basis for award

The City reserves the rights to eliminate from consideration for award any or all offers at any time prior to the award of the contract; to negotiate with bidders in the competitive range; and to award the contract to the bidders submitting the bid determined to represent the best values.

6.2 Right of rejection

The City reserves the right to waive any informality in any bid, to reject any or all bids in whole or part, with or without cause, and/or to accept the proposal that in their judgment will be in the best interest of the City of Lake Elmo and its Citizens.

6.3 Qualifications and experience

The qualifications and experience of the Contractor in completing similar work will be given equal weight to price of the bids in determining value of qualified bids. It is considered in the best interest of the City to allow consideration of award to the lowest bidder or most qualified bidder regardless of cost.

6.4 Additional information

The City reserves the right to request that the bidder supply additional information prior to the award of the contract should such action be deemed in the Client's best interest.

SECTION 7: BID WORKSHEETS

7.1 Bid Worksheet A (Please know an overflow sheet may be used. Is used indicate so on the form)

Company name: _____

Contact person: _____

Contact person's phone number: _____

Contact person's email: _____

Company address: _____

Statement and Detailed Approach to the Project:

References- Please insert names, address, phone numbers and description of similar projects completed.

1. _____

2. _____

3. _____

Provide a detailed list of likely project team members, including skill sets and relevant experience.

Provide a list of the equipment and tools intended to be used in completing the scope of work.

Provide a recommended schedule/timetable that allows for work completion per the specified schedule.

Provide a list of other certifications or memberships, such as the Professional Trail Builders Association (PTBA).

PART B: PROJECT DETAIL

SECTION 8: FINISHED TRAIL CONSTRUCTION AND MAINTENANCE GUIDELINES

8.1 Trail Design

The construction of this trail must be guided by the sustainable trail principles promulgated by accepted resources such as the current editions of the Trail Solutions; IMBA's Guide to Building Sweet Single-track, Managing Mountain Biking; IMBA's Guide to Providing Great Riding, Bike Parks; IMBA's Guide to New School Trails, and the USDA's Trail Construction and Maintenance Notebook.

8.2 Bike Specific Trail Flow

The bike trails proposed for Sunfish Lake would be narrow trails called single-track. Once established, single-track trails average 18-24" in width, are not paved, reach a broad range of riders and are designed to flow through natural areas with gradual inclines and declines in topography. The City is hopeful of modern trail design and construction uses sustainable trail building techniques. The City would like the Contractor to build single-track trails that can have minimal impact on the environment, resist erosion through proper design, construction and maintenance, co-exist with the natural environment and blend with the surrounding area:

- Synergy with the landscape: Making the most of what the natural terrain contours present.
- Opposition to user forces: Flow trails maximize the efficiencies afforded by using a bicycle, and are designed to counteract forces that direct a user off the trail. Bermed turns and cambered tread surfaces, for example, promote traction, safety, sustainability and enjoyment.
- Conservation of momentum: the ideal trail avoids "flow killers" such as sharp turns, incongruent features and disjointed climbs and descents. Instead, it utilizes undulations and cambered turns to reward smooth, deliberate riding and maximize forward motions. A flow trail encourages a better understanding of the bicyclist/bicycle interface, allowing riders to reach that unique sensation of floating through the landscape
- Leading the user forward: A sense of discovery, combined with a design that maximizes a rider's forward momentum, helps to draw the user forward. The trail is never repetitive or predictable, nor is it "awkward", with a variety and innovation combining to create an intuitive feel.

8.3 Trail Construction Best Practices - Staff would like the contractor to pay attention to the graphics page following the descriptions.

To satisfy erosion and sediment control requirements, the trail must be finished as the project advances. Ideally, all roughed-in corridor will be finished the same day. Any segments requiring delayed finishing should be planned out in advance to finish as quickly as possible.

8.4 Corridor Clearing

Corridor clearing shall be confined to within five (5') feet of the trail and back-slope edges. The City may expect wider clearing where the mountain bike trail crosses over an existing walking trail.

8.5 Trail Flagging

A flag line or marked line will be pre-installed by the Contractor (at a minimum of every 50 feet) marking the desired corridor, but only suggests the tread location based on the Master Trail Plan. The actual tread location depends on finer analysis and will need to be laid out using pin flags at a minimum of 20 ft. intervals.

8.6 Debris

Cut and scatter all branches and brush cut as part of the trail development. No debris shall be left within ten (10) feet of the trail. Butt-ends of any sawed limbs must face away from the trail.

8.7 Rocks

All rock embedded in the trail surface should be stable. When used in structures, care will be taken to match construction rock to rocks native to the area. Non-native rock may not be imported into the park or work area without approval of the City.

8.8 Woody Material

Woody material such as stumps, logs and brush shall be removed from the trail tread. No stumps less than twelve (12") inches in diameter shall be left within five (5') feet of the trail tread.

8.9 Fall Zone Clearing

Areas adjacent to dynamic trail segments where visitors have a greater potential to exit the immediate trail corridor will be cleared of impact focusers; butt-end branches, stumps and rocks under six (6) inches in diameter.

8.10 Back-Slope/ Out-Slope

Back-slope of trail should be graded to three-to-one (3:1) slope or until it matches the existing slope. In areas where the back-slope has the potential to become part of the active tread it must be finished to trail tread specifications.

Out-slope should range between 3-5% towards the downhill side of the trail.

8.11 Trail, Finished Condition

Hand finishing and grading of the trail tread, back-slope, down-slope spoils, and drainage features shall result in a surface that matches the texture of the surrounding forest floor while enabling water to drain off the trail.

8.12 Spoils Stabilization

All excavated material not used in the trail tread or other trail structures must be stabilized. Spoils shall be distributed in a thin layer adjacent to the trail tread. When possible, spoils should be mulched with native materials to discourage erosion while native seed stocks reestablished.

8.13 Turns

All turns are in-sloped or "bermed" where appropriate. Use generally acceptable values for turn radii and grades across the turns. All turns must include an entrance and exit rolling grade dip.

8.14 Grade Reversals

A designed grade reversal or constructed rolling grade dip should occur as often as necessary. Any grade reversal must be strongly anchored to discourage short cutting. The uphill and downhill cuts of the trail also should not exceed more than 10% of the slope of the hill/elevation.

Grade reversals also double as flow elements: rollers and pump/rhythm sections. In this context, grade reversal shape, size and placement should reflect its placement within the system. Specific details will be determined by the contractor in partnership with the City.

8.15 Above Grade Earthen Structures

Any portion of trail above the grade of its surroundings must be approved by the City in terms of design and material before construction.

Fill structures must have a fill slope of at least two-to-one (2:1) or the angle of repose of the local soil, whichever is greater. A retaining wall may be substituted for a fill slope with prior permission of the City. Fill structures must be completely stabilized and compacted. Acceptable techniques include track-packing or compaction via a dedicated tamping unit. Raw soil faces that do not become tread must be mulched and seeded in the same fashion as spoils and satisfy the terms of the project erosion control methodologies.

Examples of above-grade earthen structures include grade-reversals (“rollers”) and turn pads on in-sloped switchbacks.

8.16 Water Diversions

The majority of the tread should be out-sloped. When not possible or desirable due to purpose-built in-sloping, resource concerns or obstruction, water can be directed down the trail for up to six (6) feet before a water diversion location (grader reversal).

8.17 Invasive Species

To reduce the spread of invasive plant species, the following protocols are required:

- 1 All hand tools and mechanized equipment must be free of invasive seeds and clean of any dirt and mud when entering the project site.
- 2 Consideration should be made while trail clearing and construction through areas occupied by invasive species (such areas to be identified by the client) as to not propagate as construction progresses.
- 3 Imported surface/organic material is prohibited.

8.18 Filter Strips

Filter strips are vegetated areas down-slope of the trail corridor intended to treat sheet flows coming off the tread. Filter strips function by slowing down flow velocities, filtering out sediments and providing an opportunity for infiltration into the underlying soils. Properly mulched spoils may be designated as part of the filter strip. Filter strips shall not be used as regular travel-ways for equipment and materials. Areas with inadequate filter strip capacity above water-ways may require installation of formal erosion control measures to satisfy erosion and sediment control methodologies.

8.19 Mechanized Equipment Best Practices

All track marks will be raked smooth. Affected area will be finished to have a natural shape, spoils piles rounded, smoothed and cleared of significant brush, blade edges blended, etc. A spill kit suitable for five gallons of fluid will be onsite and within 200 yards of mechanized equipment whenever equipment is being operated.

8.20 Preservation of Vegetation

The Contractor shall exercise care to preserve the natural landscape, including trees and shrubs, and shall conduct construction operations to prevent any unnecessary

destruction, scarring, or defacing of the natural surroundings in the vicinity of the work. Except where clearing is required for permanent works or excavation operations, all trees, native shrubbery, and vegetation, shall be preserved and protected from damage by the Contractor's construction operations and equipment. The City would not like to see trees larger than 8 inches in diameter removed.

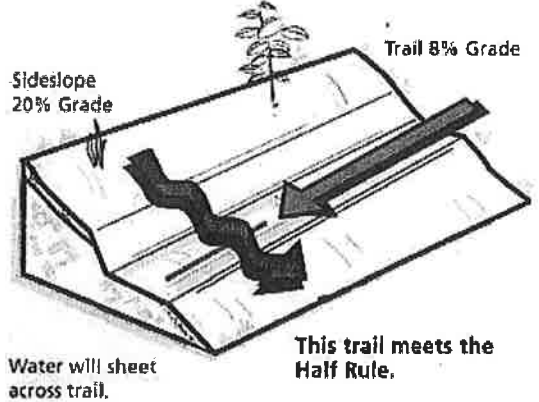
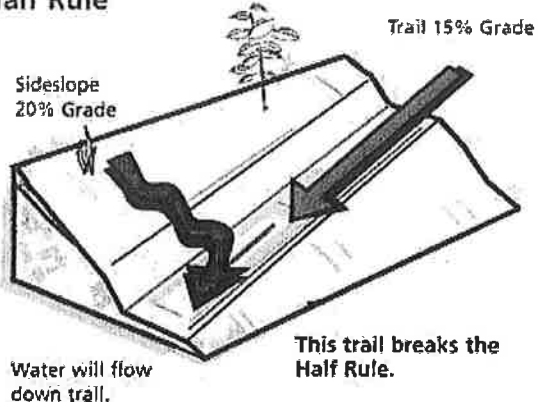
All unnecessary destruction, scarring, damage or defacing of the landscape resulting from the Contractor's operations, shall be repaired, replanted, reseeded or otherwise corrected as directed by the City and at the Contractor's expense.

After completion of the work, all areas disturbed by construction that do not require landscaping or planting, shall be scarified and left in a condition which will facilitate natural vegetation, provide for proper drainage and prevent erosion.

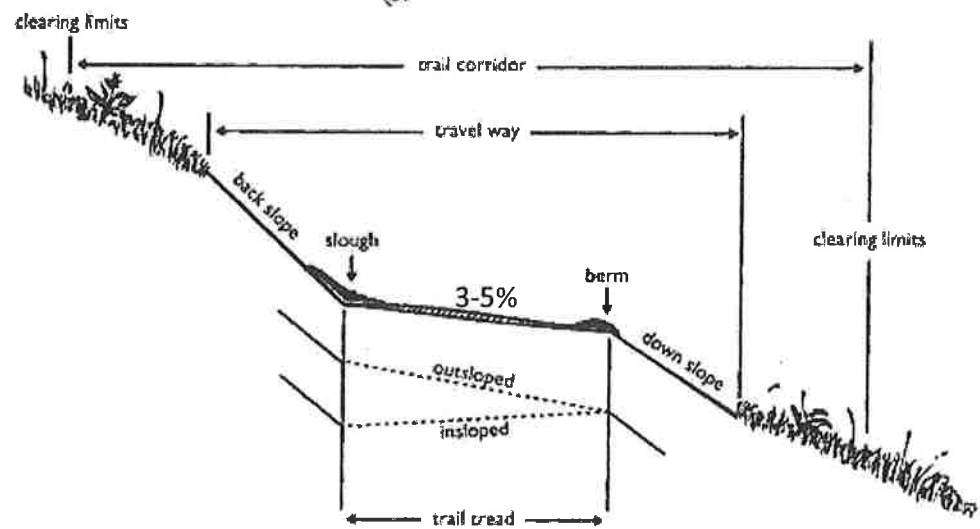
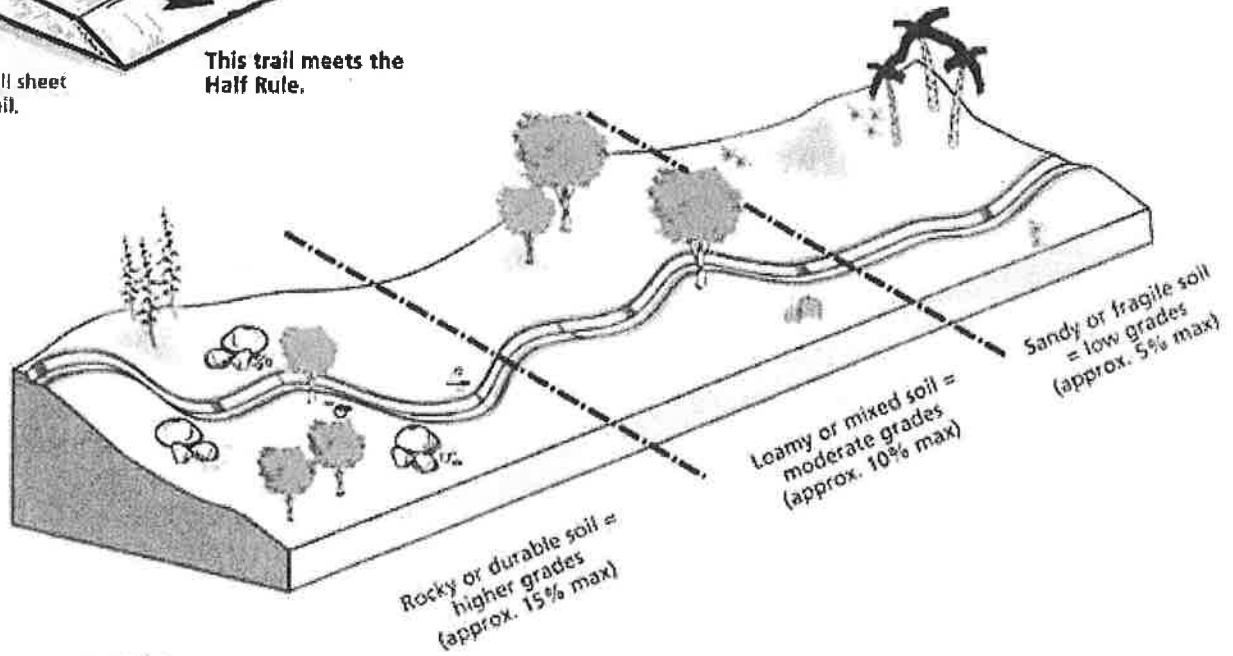
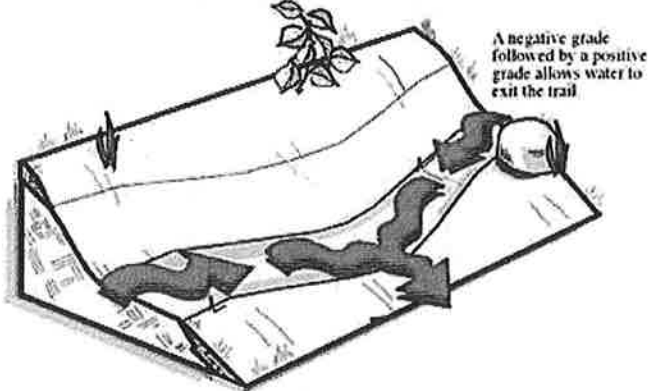
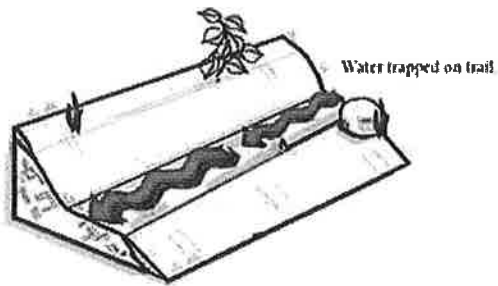
8.21 Ground Disturbance

The grading limits along the trail corridor are defined by the approved tread width plus additional width defined by the required back-sloping, unless further excavation is required for prescribed features, as approved, and performed according to 8.20. Rutting should be avoided outside grading limits along the corridor, by limiting traffic intensity and avoiding wet soil conditions, and corrected as per 8.20.

Half Rule



Grade Reversal



SECTION 9: MAPS

9.1 Field Design - Site Topography

9.2 Soil Analysis

- **Map with Soil Types**

9.3 Access, Supply and Staging

Sunfish Lake Park in Lake Elmo is being undermined by those who wish to change the USE of the park from a passive, low impact nature preserve to a high impact, intense off road mountain bike adventure area. This has been happening for the past several years in total violation of the 2030 Lake Elmo Comprehensive Plan.

In 1974 a park bond was passed to purchase Reid Park, Tablyn Park, De Montreville and Sunfish Lake Parks in Lake Elmo. A great deal of time, discussions and resident involvement occurred. Residents, Elected Officials, City volunteers and landowners worked together to save, in perpetuity, specific parkland for future generations to learn and experience nature in its natural quiet setting.

DeMontreville and Sunfish Lake Parks were identified as wildlife areas with outstanding natural habitats. These specific parks, as noted in the original park bond referendum booklet, were designated as passive, low impact parks. It has been 45 years since these unique areas have been preserved. In the past the City has been a good stewards of these precious resources and worked to honor the promises made to the farmers and residents who worked with the city to preserve these areas. Both these parks prohibited bikes on trails inside the parks as noted in the approved Lake Elmo Comprehensive 2030 Plan.

The DNR has identified Sunfish Lake Park as sensitive, a site of Biodiversity Significance. The size of this undisturbed forest makes this specific park a very important wildlife habitat . Only a small portion of land that still supports

these important attributes due to degradation and loss to development.

The Lake Elmo Park Commission had the Sunfish Lake Park, City Council directed, proposed mountain bike trail on the agenda January 23, 2019. Two different trails were proposed and the Commission made a motion for Route #1 plus two entrances. Motion passed and the staff was directed to refine the Route #1 map. The only standards for the proposed new use was not to litter and no bikes on the trail 2 hours after a rainfall. Nothing was brought back or mentioned at the regular Parks Commission meeting in February or March. The April regular public meeting was cancelled. May 20, 2019 a Sunfish Lake modified Route #2 plan was on the agenda and was voted 5:2 to recommend the project to the City Council. This new interpretation was nothing like what was presented at the January meeting. None of the concerns or questions from the public or commission members like safety, liability, policing , or why is this on the agenda when the Park Survey did not list this as a priority ?

Who really is pushing this project with the \$20,00- \$30,000/ mile estimated cost? Why is the City suing its own residents in the Open Space Developments to get additional trail access to Sunfish Lake Park Preserve? Why is the City working to break the Mn land Trust Agreements?

Off road mountain bike experiences already exist in the area. Oak Park Heights has one, Woodbury has one park (Carver Lake) a high impact, high speed use trail.(50-100 + users / day reported by their staff.

Lake Elmo- Reid Park (in process of being built by volunteers). With yet another City funded Mtn Bike Park being proposed for Pebble Park in the new 2040 draft Comprehensive Plan.

The Lake Elmo Regional Park Reserve has extensive bike trails as does the State Trail System.

A letter to the Lake Elmo City Council from the Parks Commission April 15,1994 supported the ordinance banning biking in Sunfish Lake Park. Ordinance 8065 adding Section 1005 passed the City Council May 18, 1992 and was published in the St Croix Valley Press May 27, 1992

At one time biking was tried in Sunfish Lake Park and it soon became apparent that misuse from enthusiasts throughout the local and metro area occurred. A few reasons bikes had to be banned from inside the park area listed below:

Increased costs to City taxpayers to maintain trails

Increased risk and liability

User Safety and Enforcement

Destruction of habitat for wildlife

Destruction and erosion to the unique topography of the park- Washington County soil erosion map for this area

Conflict in usage of trail system

Park too small to safely accommodate separate trails which do not intersect and overlap.

Park too small to diffuse noise created by bikers.

Park established for passive uses only

The Concern is about Incompatible Uses and the promises made when the park was established. Not all parks are appropriate for all uses.

Lake Elmo has four undeveloped parks already in the system plus 3M gifted 180 acres of land to the city. It would be possible to create a unique “off road bike park” and design safe trails that could be monitored and policed properly.

Why is the Lake Elmo City Council sitting on this issue? Waiting for the Met Council to approve their new 2040 Plan for the City. The Draft new Lake Elmo 2040 Comprehensive Plan is quite fluid and doesn't appear to have much in the way of environmental protection for Sunfish Lake or Demontreville Parks.

Susan Dunn.. Lake Elmo, Mn 55043

MINUTES

City of Lake Elmo Parks Commission

January 23, 2019

Members Present: Commissioners Mayek, Nightingale, Olinger, Schumacher, Weeks, Zeno and Ames (arrived late)

Staff Present: Public Works Director Weldon, City Planner Prchal

The meeting was called to order by Weeks at 6:30 PM.

New Commissioners Steve Schumacher and Isak Nightingale were sworn in.

Pledge of Allegiance

Motion by Olinger to follow the format of the Council meetings and say the Pledge of Allegiance at the beginning of the meeting, seconded by Weeks. Motion passed 5 to 1.

Select Chair and Vice Chair

Mayek nominated Weeks as Chair, seconded by Olinger. Motion passed unanimously.

Weeks nominated Olinger as Vice-Chair, seconded by Mayek. Motion passed unanimously.

Approval of Agenda

Motion by Zeno to approve the agenda, seconded by Mayek. Motion passed unanimously.

Approval of Minutes

Motion by Zeno to approve the December minutes, seconded by Mayek. Motion passed.

Review Sunfish Lake Park Mountain Biking Proposal

Prchal stated that the funds that have been set aside for trails for Sunfish Lake Park would only cover the cost of one of the trail options outlined in the packet. Staff is looking for feedback as to which trail option to spend more time on.

There is a conservation easement across the park and the proposal must be run past the MN Land Trust. Location of the trails, who is constructing it, how it being constructed, and who will maintain the trails.

Zeno asked Prchal to address concerns people have raised about tree removal, wild life disturbance, and the removal of sense of wilderness. Prchal explained the trail would be moved to accommodate existing trees with minimal removal.

Schumacher asked about Ebikes, he asked about the liability to the City for accidents that may occur. Prchal stated that staff has asked the insurance company and mountain biking is an assumed use within a city and is already covered in our policy and will not increase rates by allowing the use in our parks.

Mayek explained about level one Ebikes do not have a throttle and are more like regular bikes. He also made some comments about his experience using trails in other parks. He said he liked Route 1.

Judith Blackford, 9765 45th St N, is a long-time resident that served on the Parks Commission for 14 years, she worked to ban mountain biking in Sunfish Lake Park. The code was changed and it was sent to the MN Land Trust. When the code was re-codified the banning mountain biking was not included. Blackford talked about the wildlife in the park and the highly erodible soils. She also stated that a previous administrator had suggested that Sunfish Lake Park name was changed to Preserve or Reserve to better reflect the use instead of the word Park that carries with it the ideas of recreation.

Deb Krueger, 4452 Lake Elmo Ave N, said she would like to give her minutes to Judith and suggested that Sunfish Lake Park should be named Preserve or Reserve to better reflect the use or type of park.

Jim Blackford, 9765 45th St N, neighbors the park. He has concerns about how these trails will be maintained in the future. He said that the current trails are not maintained due to lack of funding, the current erosion that has gone into his property is not cleaned up. He talked about how residents have protected this park from other development and should protect it now as a place of nature - that mental health professionals are saying people need. He is concerned about lack of enforcement in the park now with bikes that travel into his property and is concerned what the increase in activity.

Susan Dunn, 11018 Upper 33rd St N, is a long-time resident that served on the Parks Commission for 16 years, Planning Commission, City Council, and Washington committees. She asked if staff and the Commission are aware of the fragile areas of Sunfish Lake Park. She asked that the Commission think of the elderly population in the City and provide trails they can use and enjoy. She asked if the Commission received a copy of the Conservation Easement with the MN Land Trust. She read section 3.4 "Sunfish Park may be used for hiking, cross-country skiing, horseback riding, nature observation or study, and other non-intensive recreational and educational programs or activities that have no more than minimal impact on the conservation value of the protected property". She asked if the gravel pits could be purchased and used for biking or if the money coming from the Tartan Park ballfields could be used. (Prchal explained it is strictly for the replacement of ballfields in Lake Elmo, not for general parks.)

Susan Saffle, 11180 50th Street N, had been established as a passive park. She asked the Commission and staff to reconsider mountain biking in the park. She had a number of questions. What are the costs to repair erosion and loss of unique topography? What are the risks to habitat loss to wildlife and sensitive species? What is the cost of loss of peace and serenity? She feels there is a need to preserve open space and wooded areas. What will happen if there is conflict on the trails? How will enforcement happen? Is the park too small to allow for separate trails? Where in the Land Trust does it allow mountain bike trails to be constructed? She stated the DNR has called Sunfish Lake Park has called it a high

quality hardwood forests as has the Nature Conservancy. She mentioned that the Blandings turtle is a threatened species that inhabits the park.

Mike Pearson 2805 Lisbon Ave N, said he was not there to advocate one way or another on the issue and to make a decision on its merits. He apologized to the new people that tonight had a tough issue and said that not all meetings are like this one. He thanked the commission for volunteering.

Jill Lundgren 8282 Hidden Bay Court N, thanked the commission for volunteering. Asked to pause and consider if we need a second park that allows mountain biking in a sensitive park if we have a park with mountain biking trails in Reid Park. Where is the need coming from, was there a petition?

Arlo Frost would like to give his time to Jim Blackford. Blackford thanked Lundgren for asking, "where did this come from". He is concerned about the growing interest in Ebikes. If we ban them, there is no enforcement in the park. He is also concerned about people traveling in the right direction for safety. Blackford would also like to have the Commission to think the decision through and decide if they want to drive all other uses away and make this only a bike park.

Dick Weir 3645 Laverne Ave N, said he was watching the meeting and home. He feels that there are people that only want the park used for what they want it used for and he thinks that it should be for all the people in Lake Elmo. He said that he would have greater concern with horses than with bikes.

Ames apologized for arriving late as he was traveling. He asked if his comments he emailed to the City Administrator had been shared with the Commission. He asked if winter use had been discussed. He explained he has used Sunfish Lake Park in the winter for years and there is a natural conflict between skiers and walkers on the existing trails. He said he has been to other parks where ski trails are separate from other types of trails to avoid the conflicts.

Mayek asked if option one was in place, if there could be more interconnected to the north allowing access from the fire station. He explained if the trails are constructed properly, little erosion occurs, unlike the existing trails.

Zeno mentioned there is a lot of passion for and against the trails. He asked what has the City done to find out from residents where they stand. He asked if the meetings alone are the way to find out what people in Lake Elmo really want. Typically, people that attend the meetings are passionate on one side or another. He would like to know what the City as a whole feels.

Mayek made a motion to approve Route one and Ames seconded the motion to open discussion.

Zeno asked if there is any data on impact to wildlife or if there was a way to know and feels they should try to get this information before a decision is made. He asked how other parks handle intersections.

Ames said the Carver Lake Park in Woodbury they have design features like narrow split rail fence openings that force bikers to slow down at intersections

Mayek responded that nothing says biking has a larger impact than hiking on wildlife.

Schumacher asked how the Land Trust Easement plays into this decision and if any decision could be overturned.

Prchal explained that MN Land Trust wants to see a specific plan before they make a decision. So, staff is asking for a trail to bring to them for an opinion. To this point they have not said mountain biking cannot occur.

Weeks said he would not vote for the motion on the table of approving Route 1 as presented but would support amending it to include reducing the number of crossings, length of trail, and adding a connection point to the northwest and northeast.

Mayek withdrew his original motion and made a new motion to approve route one with a connection to the fire station and to the north east all while minimizing trail crossings and reducing overall length and Ames seconded the motion. Motion passed 5 to 1.

Tony Mazara, 5050 Kirkwood Ave N, stated that he thought people should have a chance to talk and hear what their neighbors think before anything is decided.

February 2019 Meeting

Sunfish Lake Park

Development proposals

Communication

Prchal stated that Council made the change to eliminate a water extension into the Pebble Park as part of the 2019 project. Weldon explained with the stub at the street and the water hydrant, it would provide the opportunity to extend water in the future if needed.

Meeting adjourned at 8:31 p.m.

**Respectfully Submitted,
Tanya Nuss**

MINUTES

City of Lake Elmo Parks Commission March 18, 2019

Members Present: Commissioners Olinger, Schumacker, Weeks, & Zeno. Mayek arrived late.

Members Absent: Commissioners Ames, & Nightingale

Staff Present: Public Works Lead Worker Colemer, City Planner Prchal

The meeting was called to order by Chair Weeks at 6:30 PM.

Approval of Agenda

Weeks made a suggestion to amend the agenda item 5 to Park Naming Policy as it is described in the report and attached documents and add 3b - Public Comment to the agenda after the Approval of Minutes. Zeno made a motion to approve the amended agenda, Schumacker seconded the motion. Motion passed.

Approval of Minutes

Motion by Olinger to approve the February minutes, seconded by Schumacker. Motion passed, Zeno abstained.

Public Comment

George Johnson stated he has been part of the Nature Center board and buckthorn removal in the past but has since resigned and is not here to speak on behalf of the Nature Center. He said he is here speaking as a citizen on his own belief that he does not think mountain biking belongs in the park and will harm the park. He asked what the hurry is to add mountain biking to Sunfish Lake Park before completing the Reid Park trails and surveying the residents.

Johnson stated that there has been two plans completed to restore Sun Fish Lake Park in 2011 and 2017 and he would like to see the restoration take place. He said he found a company called Stantec that creates proposals to the DNR to get funding for parks. All of the paperwork would be completed by Stantec. The City would have to agree to a \$10,000 investment or 10 percent in order to get the project constructed. With the funding the City could plant the species they want into the park, especially now that the buckthorn has been removed.

Linda Keller 4594 Lilac Lane N, member of St. Paul Audubon. She stated that animals need large tracks of land that has not been carved up by human activity in order to survive and believes mountain biking trails will carve up the park.

Judith Blackford 9765 45th St N stated that the erodible soils in the park have been researched by the DNR and Washington County and ordinances were made to protect this park. She stated that through clerical errors and technicalities the ordinances were emitted and now promises of no mountain biking are being asked to be broken. She asked the Commission members to research the topic and to make a decision on integrity.

Susan Dunn, 110818 Upper 33rd Street, is in favor of preserving Sunfish Lake Park. She is concerned that once damage has been done to the park it cannot be undone. She would also like the Parks Commission contacts updated.

Susan Saffle, 11180 50th Street N, Sunfish Lake Park has been called it a high quality hardwood forest. The intact forests are becoming more of a rarity in central Minnesota. The DNR promotes low-impact walking trails. She is concerned about safety, injury, and liability as a nurse. Would like to attend the meeting with the MN Land Trust.

Jeff Moris, 9876 Tapestry Road, was around when the park was created and aware of the original ordinances to protect the park. His family has mountain bikes and his property has egress to the park and would never bike in the park. Concerned about safety.

Ann Bucheck, 2301 Legion Ave, asked if the Parks Commission received a copy of the Conservation Easement established by the MN Land Trust. She asked if there would be a report of the meeting. Wanted to know when, why, and how did the rules regarding biking in city parks change.

Playground Proposal for Wildflower and Village Preserve

Prchal stated that .7 acres of land was provided in-lieu of cash for parkland in the Wildflower & Village Preserve area. The city has \$105,000 set aside for park improvements.

There were three proposals, St. Croix Recreation is the preferred choice since their bid is inclusive of grading, pea gravel, curbing, etc. Both other bids require the City to do that work separate from the bid costs.

Weeks asked if St. Croix Recreation is who did Savona or another park in the city. Colemer stated the have supplied equipment for Sanctuary. Additional questions around pea gravel and mulch, screening materials, and maintenance were discussed.

Weeks made a made a motion to approve the proposal from St. Croix Recreation, seconded by Mayek.

Olinger asked if this is Public Works and the residents' first choice. Prchal explained it was and that Inwood would be the next park for review and construction.

Motion passed unanimously.

Park Naming

Prchal presented the proposed policy.

Ann Bucheck, 2301 Legion Ave, asked if the public would be notified if parks would be changing names. She also asked if people would be notified of the parks naming. Weeks explained that most of the publication is online and the purpose is to have future parks to not be named for the development it is located near to prevent the confusion about who can use a park.

Zeno made a motion to add in a method to notify public. Mayek made a motion to adopt the Parks Naming Policy, Zeno seconded the motion.

Amended motion passed unanimously.

April Meeting Agenda

Parks Commission bylaws and policy

Communications

None

Meeting adjourned at 7:43 p.m.

**Respectfully Submitted,
Tanya Nuss**

MINUTES

City of Lake Elmo Parks Commission May 20, 2019

Members Present: Commissioners Olinger, Schumacher, Weeks, Zeno, Mayek, Ames and Nightingale

Members Absent: None

Staff Present: City Planner Prchal, Public Works Director Powers, Administrator Handt

The meeting was called to order by Chair Weeks at 6:30 PM.

Approval of Agenda

Ames requested to amend the agenda to a discussion about Kleis Park. Motion passed.

Approval of Minutes

Minutes approved as presented

Sunfish Lake Bike Trails

Planner Prchal gave an update on MN Land Trust approval since the January meeting. He pointed out that due to the time involved all of the maps in the RFP have not been updated yet however the map that was approved was dated 4/15/19 in the lower left hand corner. All of the maps would be updated before the RFP issued.

Prchal covered issues related to the soils, endangered species, existing trails and the proposed new trail plan. Staff is recommending the removal of some trails due to redundancy, environmental impacts and eliminates crossings. Parking areas and access to trails was presented.

Narrow trail (1-2 feet) is proposed in RFP. Prchal covered fiscal items such as cost and maintenance. Staff recommends approval of the Trail Plan and RFP to build new trails as presented.

Schumacher pointed out that Battle Creek has paved trails. Mayek pointed out there are both at Battle Creek.

Ames asked questions about number of crossings. There are a couple of places where they are very close together.

Schumacher can we get these crossing down further. Theodore Wirth Park has no crossings. Nightingale pointed out that some trails in the north at Theodore Wirth Park have some crossings.

Discussion on good trail design would include slowing mechanisms near the crossings.

Olinger had questions about the RFP. She questioned the use of machinery. Sec. 2.9 warranty period, she would like for it to be longer to 2 or 3 years. Will presentation to commission/council occur? Handt said there could be a joint meeting for the presentation. Olinger asked about removal beyond the narrow corridor. Sec. 8.2 can that be changed to not remove trees larger than 8 inches?

Zeno questioned removing two sections of trails on the far west side that offer challenging routes. Mayek responded that they see the most erosion and few people ski them. Schumacher likes the challenging trails as well.

Olinger asked how many miles someone could hike away from the bike trails. Prchal identified paths but didn't know the specific miles.

Public Comments:

Deb Krueger, 4452 Lake Elmo Ave N, concerned about biking. Reviewed other parks in the area that allowed and did not allow mountain biking.

Stuart Johnson, 3603 Lake Elmo Ave N, avid mountain biker, mountain bikers intend to leave a soft foot print. Narrow trails are better. Weekend trail maintenance is common volunteer opportunity.

Brenda Jo Carlson, 8554 Hidden Bay Trail, excited to see a lot of thought put into trail system, not a proponent of trails designed by random walkers. Why just a mountain bike trail? Should be all bikes, all hikers, all users.

Susan Dunn, 11018 Upper 33rd St N, mountain biking started in 2013 in Parks Commission discussion. Ordinance was passed that prohibited mountain biking. What happened to it? In the 1970s there were specific uses for parks purchased in the City. Sunfish is a nature park. This was a closed process since January.

David Morgan, 13780 Manning Trail N, chair of first parks commission in 1971. Sunfish was to be left as natural as possible. Terrain is steep. Liability for crashes. Citizens of Lake Elmo are more important than visitors.

Susan Saffle, 11180 50th St, park survey data shared. Walking and hiking was highest activity of usage from responders. Rare birds. Habitat loss. Maintenance costs-who will pay and will it be done consistently? Erosion concerns-severe soils prone to erosion. Will there be promotion of commercial uses such as renting out park for races, time trials.

Todd Williams, 3025 Lake Elmo Ave N, Sunfish should remain natural. Need a large area to remain natural. Council accepted Trail Guide Plan in 2006. Plan states bicycles and motorized uses prohibited from Sunfish Lake Park.

Joe Chavez, 3505 Kelvin Ave N, petition submitted to prohibit mountain biking trails in Sunfish Lake Park.

Joni Chavez, 3505 Kelvin Ave N, opposed to mountain bike trails is two fold-landlocked parcel may impact value of land. Father was one of the landowners that sold land for Sunfish Lake Park. Purpose was to create a nature preserve. Joni also submitted written comment.

Mary Frick, 2773 Lisbon Ave N, routinely in Sunfish and other parks at least once a week. Encountered some mountain bikes over the last year. Bikers come up on you quickly with little detectability (few seconds). Lake Elmo Park preserve has minutes to see the bikes. Dogs running loose. Concern bikers will go on other trails. Maintenance is an issue. Sees trees down for about a month. Construction and early use of trail creates 2/3 of disturbance.

Linda Keller, 4594 Lilac Lane N, birder, loves Sunfish Lake Park. Against biking in Sunfish. Concerned about safety. Where are accesses for emergency services? Training and extra personnel needed for extraction?

Ann Budcheck, 2301 Legion Ave, 2040 comp plan relevant areas-only two parks where mountain biking is allowed is in Pebble and Reid. April 4, 2013, Administrator Zueleger suggested keeping Sunfish a natural park. Ordinance prohibiting mountain biking. Soils limited. Blandings turtles in the area what will happen when they are nesting. Rust patch bumble bee area. Safety of crossings.

Brad Kopp, 2040 Manning Trail N, avid mountain biker. Biking community is not about destroying this park. One acre of physical trail is allocated, 0.5% of park. Great need for this. Over 40% increase in high school mountain biking teams in the last few years. Other trails but nothing like this is intended to be. Reid Park is also different as an entry for kids beginning. Riders slow down for crossings. Average 8-9 miles of speed. Trail builders know how to build trails that require minimal maintenance. Community driven and will volunteer. Work together.

Sarah Berkowitz, 11063 11th St N, love Sunfish for hiking and would also like to mountain bike there. It is a great park for that if trails are built right. Strong community willing to build trails and do maintenance. Parent of high school mountain biker.

Matt Lehmann, 218 Maple St W, Stillwater, representing SASCA. Addressed mountain biking culture. Mountain biking has changed. With a good trail design problems of the past go away.

Jeffrey Saffle, 11180 50th St, two different cultures-bikers and birders. Marginalize those who want to use the park for things other than mountain biking.

Ed Nielsen, 9498 Stillwater Blvd, dumb idea to put mountain biking in the best park in Lake Elmo. Woodbury only has one park suitable for mountain biking. Shared the uses in Sunfish Lake Park, does not include mountain biking. Shared letter to the city.

Kim Knandel, 3554 Kelvin Ct N, small portion of plant communities still in place today. Referenced DNR info from Sue Dunn. Won't be able to restore trails if this goes wrong. Concerned about dogs getting hurt.

Dick Wier, 3645 Laverne Ave N, viewed by MN Land Trust and they ok'ed it. If it was harmful to the park they wouldn't have approved it. Some slides showed foot traffic more harmful than bikes. Park should be open to everyone.

Ames motion seconded by Mayek to recommend approval of the Trail Plan and RFP to build the new trails which has been presented, within Sunfish Lake Park.

Ames understands from the city that biking is an allowed use in the park. Discussion should be around the proposal, not the use. Weeks asked administrator about issues raised that would prohibit mountain biking. Handt said the process of an ordinance being changed is reasonable, conservation easement does not prohibit mountain biking, 2040 Comp Plan has language that allows biking in Sunfish Lake Park.

Zeno recalls conservation easement he voted on included prohibition of mountain biking. Schumacher said Land Trust is not saying we should build it, only that we can.

Ames referenced the report in the packet regarding soils and erosion. If you can't bike in there you can't walk in there.

Olinger mentioned this issue keeps coming up year after year. It's not just a small group of people. The prohibition on mountain biking in 1990s was because of erosion due to them not being built properly.

Schumacher safety is still a concern. Should you overlay this on the existing park? Zeno not convinced safety is an issue at intersections if speed control is included. Speed control should be included in the RFP.

Motion passed 5-2.

2020-2024 Parks Commission Capital Improvement Plan (CIP)

Handt provided a summary of the 2020-2024 CIP.

Public Comments:

Mark Rubbert, 8740 9th Place N, support for Inwood Park. A neighborhood task force has been formed and is willing to help.

Motion by Olinger, seconded by Ames to proceed with lighting and security features for Pebble Park. Motion approved 7-0.

Zeno left the meeting.

Motion by Weeks, seconded by Olinger to recommend approval of 2020-2024 CIP as presented.
Motion passed 6-0.

Buckthorn Removal Grant

George Johnson requested approval to have Stantec prepare grant proposal for buckthorn management.

Ames motion to pursue this proposal from Stantec, seconded from Mayek. Motion passed 6-0.

Sunfish Lake Nature Center Patio Addition

Prchal summarized the patio proposal. Noted that it has been approved by the MN Land Trust. Tony Manzara mentioned that a contractor was willing to donate the concrete patio.

Commissioners had questions about what was allowed in the lease agreement and when Manzara had to come back for approval. Handt read Article IV, section 8 regarding alterations.

Motion by Weeks, seconded by Ames to table until the June meeting. Motion passed 6-0.

Kleis Park

Ames inquired about the broken swing set at Kleis Park. Powers noted that it had been removed a couple of weeks ago. Replacement of the equipment will be evaluated in the future.

June Meeting Agenda

Sunfish Lake Nature Center Patio Addition
Parks Commission bylaws and policy
Mowing at Sunfish

Communications

New park construction in progress for this summer. Names will be solicited for park according to the new naming policy. Gravel roads to parks will be graded.

Meeting adjourned at 9:30 p.m.

**Respectfully Submitted,
Kristina Handt**

1194266

Receipt#: 112894

CVE

\$46.00



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400 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55401

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Property Records & Taxpayer Services
Washington County, MN
Kevin J Corbid, County Recorder

CONSERVATION EASEMENT

Page 9 Section 3.4 non intensive uses

3749285

Receipt#: 106429

EAS \$46.00

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MINNEAPOLIS MN 55401

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7/10/2009 8:19 AM

3749285

Office of the County Recorder
Property Records & Taxpayer Services
Washington County, MN

Kevin J Corbid, County Recorder

CONSERVATION EASEMENT

This is a CONSERVATION EASEMENT granted by the City of Lake Elmo, a political subdivision under the laws of the State of Minnesota, (the "Owner") to the Minnesota Land Trust, a non-profit corporation organized and existing under the laws of the State of Minnesota (the "Land Trust".)

RECITALS:

- A. OWNER. The Owner is the current owner of approximately 256 acres of real property located in Washington County, Minnesota. That real property is more fully described below as the "Protected Property."
- B. PROTECTED PROPERTY. The Protected Property is that real property legally described in Exhibit A and generally depicted on the "Property Map" in Exhibit B. Both exhibits are attached to this conservation easement and incorporated by this reference.

The Protected Property, known to area residents as "Sunfish Lake Park," consists of approximately 173 acres of rolling forest land that includes a number of hardwood tree species such as oak, maple, birch, and cherry. The Protected Property also consists of approximately 2 acres of woodland, 25 acres of grassland, 20 acres of wetland, and 4 acres of open water ponds. Sunfish Lake, which is classified by the Minnesota Department of Natural Resources as a natural environment lake, covers approximately 17 acres of the eastern

portion of the Protected Property. Approximately 15 acres of the site consists of cultivated fields currently planted in corn.

Two clustered residential developments with open space protected by conservation easements are located adjacent to the Protected Property, contributing to a larger expanse of open space.

Sunfish Lake Park is part of the Lake Elmo park system, and it has been used primarily as a passive park for activities such as walking, hiking, cross country skiing, horseback riding, solitude, and nature observation. The Protected Property has an unimproved divided access road and parking area, barbeque grills, a portable toilet, and fencing. A power line traverses the western portion of the Protected Property. No other structures or improvements currently exist on the Protected Property.

- C. MINNESOTA LAND TRUST. The Minnesota Land Trust is a non-profit corporation organized and operated exclusively for charitable and educational purposes, including the preservation and protection of land in its natural, scenic or other open space condition. The Land Trust is a public charity as defined in Sections 501(c)(3) and 509(a) of the Internal Revenue Code and an organization qualified to hold conservation easements under Minnesota law and Section 170(h) of the Internal Revenue Code and related regulations.
- D. CONSERVATION VALUES. The Protected Property has the following natural, scenic and open space qualities of significant importance:
- The Protected Property includes native upland aspen-oak and upland hardwood forests, which provide habitat for a variety of species in greatest conservation need as established by the Minnesota Department of Natural Resources in *Tomorrow's Habitat for the Wild and the Rare: An Action Plan for Minnesota's Wildlife*, Comprehensive Wildlife Conservation Strategy, 2006.
 - The Protected Property also is a component of a regionally significant wildlife corridor and project focus area identified by the Minnesota Department of Natural Resources and the Metropolitan Conservation Corridors Partnership, a collaboration of public and private conservation entities funded in part by Minnesota Laws 2007, Chapter 30, Section 2, Subd.4(c).
 - The undeveloped shoreline along Sunfish Lake helps maintain the water quality and near-shore aquatic habitat of the lake.
 - The Protected Property provides outstanding opportunities for the public to experience, appreciate and learn about the natural and scenic environment through low-impact outdoor recreation and educational activities.

Collectively, these outdoor recreational and educational, natural, scenic and open space qualities of the Protected Property comprise its "Conservation Values."

These Conservation Values have not been and are not likely to be adversely affected to any substantial extent by the continued use of the Protected Property as described above or as authorized below or by the use, maintenance, or construction of those structures and improvements that presently exist on the Protected Property or that are authorized below.

E. CONSERVATION POLICY. Preservation of the Protected Property will further those governmental policies established by the following:

- Minnesota Statutes Chapter 116P, which establishes the Environmental and Natural Resources Trust Fund, and Minnesota Laws 2008, Chapter 367, Section 2, Subdivision 3(a), which provides funding from that Fund to accelerate programs for the purposes of planning, restoring, and protecting important natural areas in the metropolitan region and portions of the surrounding counties.
- Minnesota Statutes Chapter 103A, which promotes protection of Minnesota's waters and their adjacent lands and Minnesota Statutes Section 103A.206 in particular, which recognizes the economic and environmental importance of maintaining and enhancing the soil and water resources of this state and role of private lands in these conservation efforts.
- Minnesota Statutes Section 103A.201, which specifically promotes the protection of wetlands and Minnesota Statutes Section 103A.202, which specifically declares that it is in the public interest to preserve the wetlands of this state to conserve surface waters, maintain and improve water quality, preserve wildlife habitat, reduce runoff, provide for floodwater retention, reduce stream sedimentation, contribute to improved subsurface moisture, and enhance the natural beauty of the landscape.
- Minnesota Statutes Chapter 84C, which recognizes the importance of private conservation efforts by authorizing conservation easements for the protection of natural, scenic, or open space values of real property, assuring its availability for agriculture, forest, recreational, or open space use, protecting natural resources, and maintaining or enhancing air or water quality.
- City of Lake Elmo 2030 Comprehensive Plan, which outlines a city-wide planning policy to "evaluate available options to increase the long-term viability of its park system in an environmentally sensitive manner" (Chapter II, Page II-5), and more specifically, sets out goals to "have recreational and natural parks available to all residents" and to "prevent use of parkland for non recreational or non-conserving purposes." (Chapter IX, Page IX-2)

F. CONSERVATION INTENT. The Owner and the Land Trust are committed to protecting and preserving the Conservation Values of the Protected Property in perpetuity. Accordingly, it is their intent to create and implement a conservation easement that is binding upon the current Owner and all future owners of the Protected Property and that conveys to

the Land Trust the right to protect and preserve the Conservation Values of the Protected Property for the benefit of this generation and generations to come.

CONVEYANCE OF CONSERVATION EASEMENT:

Pursuant to the laws of the State of Minnesota, and in particular Minnesota Statutes Chapter 84C, and in consideration of the facts recited above and the mutual covenants contained herein and as an absolute and unconditional gift, the Owner hereby conveys and warrants to the Land Trust and its successors and assigns a perpetual conservation easement over the Protected Property. This conservation easement consists of the following rights, terms, and restrictions (the "Easement"):

1. **CONSERVATION PURPOSE.** The purpose of this Easement is to preserve and protect in perpetuity the Conservation Values of the Protected Property identified above by confining the development, management and use of the Protected Property to activities that are consistent with the preservation of these Conservation Values, by prohibiting activities that significantly impair or interfere with these Conservation Values, and by providing for remedies in the event of any violation of this Easement.

The terms of this Easement are specifically intended to provide a significant public benefit by:

- Providing an opportunity for the public to learn about, experience, and enjoy the out-of-doors in a significant and relatively undisturbed natural setting.
- Protecting natural habitat that contributes to a larger complex of protected forest and wetlands that support a variety of wildlife and plants, both terrestrial and aquatic.
- Protecting the water quality and near-shore aquatic habitat of Sunfish Lake by restricting development of the lakeshore of the Protected Property.

2. **LAND-USE RESTRICTIONS.** Any activity on or use of the Protected Property that is inconsistent with the purposes of this Easement is prohibited.

This prohibition specifically includes any intrusion or future development that would interfere with the essential scenic quality of the Protected Property or the visual enjoyment of the open and natural character of the Protected Property by the general public.

Except as specifically permitted in section 3 below and without limiting the general prohibition above, restrictions imposed upon the Protected Property expressly include the following:

- 2.1. Industrial and Commercial Activity. No industrial or commercial use of the Protected Property is allowed except for that agricultural use, forest or habitat management, or minimal commercial recreational use specifically permitted in section 3 below.
- 2.2. Agricultural Use. No agricultural use of the Protected Property is allowed except as specifically permitted in section 3 below.
- 2.3. Residential Development. No residential use or development of the Protected Property is allowed.
- 2.4. Rights of Way. No new right of way shall be granted across the Protected Property by the Owner in conjunction with any industrial, commercial, or residential use or development of other land not protected by this Easement without the prior approval of the Land Trust under the provisions of section 7.7 of this Easement. This provision does not affect any rights of way existing at the time of conveyance.

The Owner may, however, grant an easement to the Commissioner of the Minnesota Pollution Control Agency as needed to permit the location, operation and maintenance of a monitoring well or wells on the Protected Property.

- 2.5. Division of the Protected Property. The Protected Property may not be divided, subdivided, or partitioned. The Protected Property may be conveyed only in its entirety as a single parcel under single ownership (joint or undivided) regardless of whether it now consists of separate parcels, was acquired as separate parcels, or is treated as separate parcels for property tax or other purposes.

This provision does not, however, prohibit:

- The division of the Protected Property when a portion of the Protected Property is being conveyed to a conservation organization defined in section 7.1 below.
 - The correction or adjustment of boundary lines to resolve an ownership dispute.
- 2.6. Development Rights. No portion of the Protected Property may be used to satisfy land area requirements for other property not subject to this Easement for purposes of calculating building density, lot coverage, open space, or natural resource use or extraction under otherwise applicable laws, regulations, or ordinances controlling land use. The development rights that have been encumbered or extinguished by this Easement may not be transferred to any other property or used to obtain any regulatory mitigation credits.
 - 2.7. Structures and Improvements. No temporary or permanent buildings, structures, utilities, roads or other improvements of any kind may be placed or constructed on the Protected Property except as specifically authorized in section 3 or as set forth below:

- a. Utilities. Utility systems and facilities may be installed, maintained, repaired, extended, and replaced to serve only uses and activities specifically permitted by this Easement.

Permitted utility systems and facilities include, without limitation, all systems and facilities necessary to provide on-site power, fuel, water, waste disposal, and communication but do not include communication towers, wind turbines, or similar structures without the prior approval of the Land Trust.

Permitted utility systems and facilities shall be installed or constructed with minimal grading and disturbance to vegetation. Following installation or construction, the surface shall be restored in a timely manner to a condition consistent with the purposes of this Easement.

- b. Signs. No billboards or other signs may be placed or erected on the Protected Property except for small signs for informational or interpretive purposes. These permitted small signs include signs necessary for monitoring, safety, and security purposes in conjunction with those recorded easements and agreements between the Owner and the Minnesota Pollution Control Agency.

Additionally, the Owner may also construct and maintain a park entry monument and signs as permitted in section 3.5 below. With the Owner's permission, the Land Trust may place signs on the Protected Property identifying the land as protected.

- c. Roads and Parking Areas. The existing park access road and parking area may be maintained and improved but may not be widened, enlarged, or relocated without the prior written approval of the Land Trust.

No other roads or paved areas may be established or constructed on the Protected Property without the prior written approval of the Land Trust.

- d. Trails. Unpaved paths or foot trails, including necessary footbridges and boardwalks, may be established and maintained for non-motorized recreational uses. Paved trails may be established and maintained only within Area 2 of the Protected Property, which is generally depicted on the Property Map attached as Exhibit B. Paved trails may be allowed in Area 1 of the Protected Property, as generally depicted on the Property Map, only as necessary to meet requirements of the American with Disabilities Act and only with advance written approval from the Land Trust. Trails shall be established, maintained and used in a manner that does not result in significant erosion or have an adverse impact on the natural and scenic quality of the Protected Property.
- e. Fences. Fences may be constructed, maintained, improved, replaced or removed to mark boundaries, to secure the Protected Property, or as needed in carrying out activities permitted by this Easement and by recorded documents between the Owner and the Minnesota Pollution Control Agency, including those documents specifically referenced in section 7.5.

- f. Outdoor Lighting. In order to minimize sky glow or light pollution originating from the Protected Property, no permanent outdoor lighting is permitted within Area 1 of the Protected Property. Any outdoor light fixtures within Area 2 must minimize light emitted above the plane of the horizon of the fixture through the use of earthward directed or full cut-off fixtures or lamps with single or minimal-color light sources, or other equally effective fixtures designed to minimize light pollution.
- 2.8. Dumping. No trash, non-compostable garbage, debris, unserviceable vehicles or equipment, junk, other unsightly material or hazardous or toxic substances may be dumped or accumulated on the Protected Property. This does not prohibit burning or composting of excess brush or other plant material resulting from activities permitted by this easement.
- 2.9. Mining. No mining, drilling, exploring for, or removing any minerals, sand, gravel, rock, or fossil fuels from the Protected Property is allowed.
- 2.10. Topography and Surface Alteration. No alteration or change in the topography or the surface of the Protected Property is allowed. This includes no ditching, draining or filling and no excavation or removal of soil or other material, except as incidental to activities or uses specifically permitted by this Easement.

Any permitted alteration shall be undertaken with minimal grading and disturbance to vegetation and with the surface restored in a timely manner to a condition consistent with the purposes of this Easement.

- 2.11. Water. No alteration or manipulation of natural watercourses, lakes, shorelines, wetlands or other surface or subsurface bodies of water or creation of new wetlands or water bodies is allowed except to restore or enhance wildlife habitat or native biological communities or to improve or enhance the function and quality of existing wetlands or water bodies. Any alteration or creation of wetlands or water bodies must be undertaken in accordance with a habitat management plan approved by the Land Trust under section 3 below.

No activities on or uses of the Protected Property that cause significant erosion or are seriously detrimental to water quality or purity are allowed.

- 2.12. Vegetation Management. No removal, cutting, pruning, trimming or mowing of any trees or other vegetation, living or dead, and no introduction of non-native species is allowed except as follows:
 - a. In conjunction with agricultural use and forest or habitat management as specifically permitted in section 3 below.
 - b. As reasonably required to construct and maintain permitted buildings, structures, roads, trails and other permitted improvements and provided that vegetation shall be restored by the Owner following any construction to a condition consistent with the purpose of this Easement.

- c. As reasonably required to prevent or control insects, noxious weeds, invasive vegetation, disease, fire, personal injury, or property damage.
 - d. Landscaping in areas immediately adjacent to permitted buildings, within the divided entry road corridor, or as specifically authorized in section 3 below.
- 2.13. Vehicles. Motorized vehicles may not be used on the Protected Property except on roads or parking areas permitted under this Easement or in conjunction with construction and maintenance of permitted buildings, structures, roads, trails, or other improvements, forest or habitat management, agricultural use, or in conjunction with Minnesota Pollution Control Agency permitted activities including those permitted under the recorded documents specifically referenced in section 7.5 below. Use of motorized vehicles shall not result in significant erosion or have an adverse impact on the natural and scenic quality of the Protected Property.
3. **RESERVED RIGHTS**. The Owner retains all rights associated with ownership and use of the Protected Property that are not expressly restricted or prohibited by this Easement. The Owner may not, however, exercise these rights in a manner that would adversely impact the Conservation Values of the Protected Property. Additionally, the Owner must give notice to the Land Trust before exercising any reserved right that might have an adverse impact on the Conservation Values of the Protected Property.

Without limiting the generality of the above, the following rights are expressly reserved and the Owner may use and allow others to use the Protected Property as follows:

- 3.1. Right to Convey. The Owner may sell, give, lease, bequeath, devise, mortgage or otherwise encumber or convey the Protected Property. This right to convey the Protected Property is subject to the following:
- a. Any conveyance or encumbrance of the Protected Property is subject to this Easement.
 - b. The Owner will reference or insert the terms of this Easement in any deed or other document by which the Owner conveys title to the Protected Property. The Owner will also specify to what extent reserved rights have been exercised, if at all, and are no longer available for use by the new owner and which reserved rights are specifically allocated to the property being conveyed in accordance with other provisions of this Easement.
 - c. The Owner will notify the Land Trust of any conveyance within fifteen (15) days after closing and will provide the Land Trust with the name and address of the new owner and a copy of the deed transferring title.
 - d. If the Protected Property is owned by a trust, business entity or any common or jointly held ownership, the Owner shall designate a representative authorized to receive notice on behalf of the owner and provide the Land Trust with the name and address of the designated representative. The Owner shall notify the Land

Trust of any change in the designated representative and provide the Land Trust with the new name, address and other contact information.

The enforceability or validity of this Easement will not be impaired or limited by any failure of the Owner to comply with this section 3.1.

- 3.2. Agricultural Use. Agricultural use of the Protected Property is limited to only that area designated as Cultivated Land on the Property Map attached as Exhibit B. If this area is restored to forest or grassland, then no further agricultural use is permitted.
- 3.3. Forest and Habitat Management. The Protected Property may be used to create, maintain, restore, or enhance habitat for wildlife and native biological communities in accordance with a restoration or habitat management plan approved in writing by the Land Trust. The Owner may remove timber and other wood products and otherwise manage the vegetation on the Protected Property in accordance with this approved plan.
- 3.4. Recreational and Educational Uses. The Protected Property may be used for hiking, cross-country skiing, horseback riding, nature observation or study, and other non-intensive recreational and educational programs or activities that have no more than minimal impact on the Conservation Values of the Protected Property.

The Protected Property may not be used for more than minimal commercial recreational purposes.

- 3.5. Recreational and Educational Structures. Minor rustic structures such as tents, trail barriers, boardwalks, overlook decks, footbridges, benches, birdhouses, and informational kiosks may be placed on the Protected Property in conjunction with permitted recreational and educational activities.

Additionally, the Owner may choose to use and develop Area 2 of the Protected Property, or a portion of it, as an educational, outdoor recreational, nature observation or interpretive center. Such use must be consistent with and must not interfere with the Conservation Values and purposes of this Easement. The size, location, and characteristics of the buildings and structures, as well as all necessary utilities, driveways, parking areas, and all other improvements associated with the facility or the uses described in this section, including a park entry monument and signs, must be in accordance with a park concept plan developed by the Owner and approved in writing by the Land Trust. All buildings, structures and improvements must be designed and constructed so as not to detract from the natural and scenic character of the Protected Property. Review and written approval of architectural plans by the Land Trust is required prior to commencing construction.

The Owner will request and obtain approvals and give the Land Trust notices as set out in section 7.7 of this Easement before beginning any construction permitted under this section.

4. LAND TRUST'S RIGHTS AND REMEDIES. In order to accomplish the purposes of this Easement to preserve and protect the Conservation Values of the Protected Property, the Land Trust has the following rights and remedies:

- 4.1. Right to Enter. The Land Trust has the right to enter the Protected Property at reasonable times and in a reasonable manner for the following purposes:
- a. To inspect the Protected Property and to monitor compliance with the terms of this Easement.
 - b. To obtain evidence for use in seeking judicial or other enforcement of this Easement.
 - c. To survey or otherwise mark the boundaries of all or part of the Protected Property if necessary to determine whether there has been or may be a violation of this Easement. Any survey completed under this provision will be at the Owner's expense.
 - d. To otherwise exercise its rights under this Easement.

4.2. Right of Enforcement. The Land Trust has the right to prevent or remedy violations of this Easement, including prohibiting the construction of buildings or improvements, through appropriate judicial action brought in any court of competent jurisdiction against the Owner or other responsible party.

- a. Notice. The Land Trust may not initiate judicial action until the Owner has been given notice of the violation, or threatened violation, of this Easement and a reasonable opportunity to correct the situation. This provision shall not apply if, in the sole discretion of the Land Trust, immediate judicial action is necessary to prevent or mitigate significant damage to the Conservation Values of the Protected Property or if reasonable, good faith efforts to notify the Owner are unsuccessful.
- b. Remedies. In enforcing this Easement, the Land Trust has the right to:
 - Temporary or permanent injunctive relief for any violation or threatened violation of this Easement.
 - Require restoration of the Protected Property to its condition at the time of this conveyance or as otherwise necessitated by a violation of this Easement.
 - Specific performance or declaratory relief.
 - Recover damages resulting from a violation of this Easement or injury to any Conservation Values associated with the Protected Property.

These remedies are cumulative and are available without requiring the Land Trust to prove actual damage to the Conservation Values of the Protected Property.

The Land Trust and the Owner agree that the damages created by a violation of this Easement may be determined by calculating the cost of acquiring a conservation easement over similar property. The Land Trust and the Owner also recognize that restoration, regardless of cost, may be the only adequate remedy for certain violations of this Easement.

The Land Trust is entitled to seek expedited relief, ex parte if necessary, and shall not be required to post any bond applicable to a petition for such relief.

- c. Costs of Enforcement. The Owner shall be responsible for all reasonable costs incurred by the Land Trust in enforcing this Easement, including without limitation costs of suit, attorneys' fees, and expenses related to restoration of the Protected Property. If, however, the Owner ultimately prevails in a judicial enforcement action, each party shall be responsible for its own costs and attorneys' fees.
- d. Discretionary Enforcement. Enforcement of the terms of this Easement is solely at the discretion of the Land Trust. The Land Trust does not waive or forfeit the right to take any action necessary to assure compliance with the terms of this Easement by any delay or prior failure of the Land Trust in discovering a violation or initiating enforcement proceedings. The Land Trust shall not be barred by any applicable statute of limitations in bringing any action to enforce the term of this Easement.
- e. Acts Beyond Owner's Control. The Land Trust may not bring an action against the Owner for any change to the Protected Property resulting from:
 - causes beyond the Owner's control such as changes caused by fire, flood, storm, natural deterioration or the unauthorized acts of third parties, or
 - reasonable actions taken in good faith under emergency conditions to prevent or mitigate damage resulting from such causes.

Actions by the Owner's lessees, agents, employees or contractors are not considered unauthorized acts of third parties.

This section does not preclude the Owner or the Land Trust from recovering damages or bringing an action against any third party for trespass or other violation of their respective rights in this Easement or in the Protected Property.

- f. Right to Report. In addition to other remedies, the Land Trust has the right to report any environmental concerns or conditions or any actual or potential violations of any environmental laws to appropriate regulatory agencies.
- g. Enforcement Rights of Others. Nothing in this Easement is intended to create any right to enforce this Easement in any third party where no such right otherwise exists under this Easement or under law.

4.3. Limitation on Rights. Nothing in this Easement gives the Land Trust the right or responsibility to exercise physical control over day-to-day operations on the Protected Property or to become involved in management decisions involving the use or disposal of hazardous substances or to otherwise become an operator of the Protected Property within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act, the Minnesota Environmental Response and Liability Act, or other similar successor federal, state or local statutes or laws regarding responsibility for environmental conditions associated with contamination.

5. PUBLIC ACCESS AND USE. The public shall have the right to use the Protected Property and any trail established on the Protected Property for low-impact recreational and educational purposes, subject to the restrictions set out in this easement and subject to any reasonable use restrictions established by the Owner.

6. DOCUMENTATION. The current uses of the Protected Property, the state of any existing improvements, and the specific Conservation Values of the Protected Property that are briefly described in this Easement will be more fully described in a property report on file at the office of the Land Trust. The Owner and the Land Trust acknowledge that this property report will accurately represent the condition of the Protected Property at the time of this conveyance and may be used by the Land Trust in monitoring future uses of the Protected Property, in documenting compliance with the terms of this Easement and in any enforcement proceeding. This property report, however, is not intended to preclude the use of other information and evidence to document the present condition of the Protected Property in the event of a future controversy.

7. GENERAL PROVISIONS.

7.1. Assignment. This Easement may be assigned or transferred by the Land Trust only to a conservation organization defined as a qualified organization under Section 170(h) of the Internal Revenue Code and related regulations and as an authorized conservation easement holder under Minnesota law. Any future holder of this Easement shall have all of the rights conveyed to the Land Trust by this Easement.

As a condition of any assignment or transfer, the Land Trust will require any future holder of this Easement to continue to carry out the purpose of this Easement in perpetuity.

The Land Trust will notify the Owner of any assignment within thirty (30) days of the assignment and will provide the Owner with the name and address of the new holder.

7.2. Amendment. Under appropriate circumstances, this Easement may be modified or amended. However, no amendment or modification will be allowed if, in the sole and exclusive judgment of the Land Trust any of the following apply:

- The amendment does not further the purposes of this Easement.

- The amendment will adversely impact the Conservation Values of the Protected Property.
- The amendment affects the perpetual duration of this Easement.
- The amendment affects the validity of this Easement under Minnesota law or the status of the Land Trust under Sections 501(c)(3) and 170(h) of the Internal Revenue Code.

Any amendment or modification must be in writing and recorded in the same manner as this Easement.

7.3. Termination. This Easement may be terminated or extinguished only as follows:

- The Owner and the Land Trust recognize that circumstances may arise that make continued use of the Protected Property in a manner consistent with the purpose of this Easement impossible or impractical. In this event, this Easement may be extinguished through judicial proceedings.
- This Easement may be extinguished pursuant to the proper exercise of the power of eminent domain.

7.4. Proceeds. Following any extinguishment or termination of this Easement in whole or in part, the Land Trust shall be entitled to a portion of the proceeds from any sale, exchange or involuntary conversion of the Protected Property.

The Land Trust's share of the proceeds shall be an amount equal to the fair market value of this Easement at the time of the extinguishment but not less than an amount equal to the proportionate value that this Easement bears to the value of the Protected Property as a whole at the time of this conveyance (excluding the value of any permitted improvements made after the conveyance of this Easement.)

The value of this Easement shall be calculated by the method required by the Internal Revenue Service for calculating an income tax deduction for the charitable donation of a conservation easement.

The Land Trust will use its share of any proceeds in a manner consistent with the purpose of this Easement.

7.5. Warranties. The current Owner represents and warrants as follows:

- a. The Owner is the sole owner of the Protected Property in fee simple and has the right and ability to convey this Easement to the Land Trust.
- b. The Protected Property is free and clear of all rights, restrictions and encumbrances other than those subordinated to this Easement or otherwise specifically agreed to by the Land Trust.

- c. A portion of the Protected Property is subject to the terms and restrictions of the following documents:
- Landfill Cleanup Agreement by and between Washington County, Ramsey County, the City of Lake Elmo and the Commissioner of the Minnesota Pollution Control Agency dated November 21, 1995, recorded December 14, 1995, as Document Number 866611;
 - Easement in favor of the State of Minnesota dated November 13, 1995, recorded December 14, 1995, as Document Number 866615; and
 - Declaration of Restrictions and Covenants dated November 13, 1995, recorded December 14, 1995, as Document Number 866619.
- d. The Owner has no actual knowledge of any use or release of hazardous waste or toxic substances on the Protected Property that is in violation of a federal, state, or local environmental law and will defend, indemnify and hold the Land Trust harmless against any claims of contamination from such substances.

7.6. Ownership Responsibilities, Costs and Liabilities. The Owner retains all responsibilities and shall bear all costs and liabilities of any kind related to the use, ownership, and maintenance of the Protected Property.

- a. Taxes. The Owner shall pay all real estate taxes and assessments levied against the Protected Property, including any levied against the interest of the Land Trust created by this Easement. The Land Trust may, at its discretion, pay any outstanding taxes or assessments and shall then be entitled to reimbursement from the Owner.
- b. Regulatory Compliance. All activities or construction permitted by this Easement shall be undertaken in accordance with applicable federal, state and local laws, regulations and ordinances and nothing in this Easement shall be construed to exempt the Protected Property or the Owner from otherwise applicable laws or regulations.

The Owner is solely responsible for obtaining any required governmental permits.

- c. Indemnity. The Owner shall defend, indemnify, and hold the Land Trust harmless from any and all costs or liability for any loss, damage, or personal injury occurring on or related to the Protected Property or the existence of this Easement, except to the extent attributable to the negligence of the Land Trust.
- d. Insurance. The Owner will name the Land Trust as an additional insured on any general liability insurance policy carried by the Owner with respect to the Protected Property.
- e. Future Environmental Condition. The Owner is solely responsible for Owner's use or release on the Protected Property of any hazardous or toxic substances as

defined by the Comprehensive Environmental Response, Compensation and Liability Act, the Minnesota Environmental Response and Liability Act, or other similar successor federal, state or local law or regulation regarding responsibility for environmental conditions associated with contamination. The Owner shall take all steps necessary to assure any needed containment or remediation resulting from any release of such substance.

7.7. Notice and Approval. Any notice or request for approval required by this Easement must be in writing and is subject to the following:

a. Delivery. Any required notice or request for approval must be delivered personally or sent by first class mail or other nationally recognized delivery service to the appropriate party at the following addresses (or other address specified in writing):

To the Owner:
City of Lake Elmo
3800 Laverne Avenue N.
Lake Elmo, MN 55042

To the Land Trust:
Minnesota Land Trust
2356 University Avenue West
St. Paul, MN 55114

b. Timing. Unless otherwise specified in this Easement, any required notice or request for approval must be delivered at least 30 days prior to the date proposed for initiating the activity in question.

c. Content. The notice or request for approval must include sufficient information to allow the Trust to make an informed decision on whether any proposed activity is consistent with the terms and purposes of this Easement. At a minimum, this should include:

- The location, nature, and scope of the proposed activity.
- The proposed use, design, and location of any building, structure or improvement.
- The potential impact on the Conservation Values of the Protected Property.

d. Approval. The Land Trust may withhold its approval if it determines that the proposal is inconsistent with the terms or purposes of this Easement or lacks sufficient information to allow the Land Trust to reach an informed decision. The Land Trust may condition its approval on the Owner's acceptance of modifications, which would, in the Land Trust's judgment, make the proposed activity consistent with the Easement or otherwise meet any concerns.

Approval of the Land Trust must be in writing to be effective.

- 7.8. Binding Effect. This Easement creates a property right immediately vested in the Land Trust and its successors and assigns that cannot be terminated or extinguished except as set out herein.

This Easement shall run with and burden the Protected Property in perpetuity. The terms of this Easement are binding and enforceable against the current Owner of the Protected Property, all successors in title to the Protected Property and all other parties entitled to possess or use the Protected Property.

If at any time the Land Trust or other holder of this Easement becomes the owner of all or a portion of the fee interest in the Protected Property, this Easement shall not be deemed to merge with the underlying fee interest but shall remain in force and effect unless otherwise terminated or extinguished as set out herein.

- 7.9. Definitions. Unless the context requires otherwise, the term "Owner" includes, jointly and severally, the current owner or owners of the Protected Property identified above and their personal representatives, heirs, successors and assigns in title to the Protected Property. The term "Land Trust" includes the Minnesota Land Trust and its successors or assigns to its interest in this Easement.
- 7.10. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon the transfer or termination of that party's interest in this Easement or the Protected Property, provided, however, that any liability for acts or omissions occurring prior to the transfer or termination will survive that transfer or termination.
- 7.11. Recording. The Land Trust will record this Easement in a timely manner in the official records for the county in which the Protected Property is located. The Land Trust may re-record this Easement or any other documents necessary to protect its rights under this Easement or to assure the perpetual enforceability of this Easement.
- 7.12. Interpretation. This Easement shall be interpreted as follows.
- a. Controlling Law and Construction. This Easement shall be governed by the laws of the State of Minnesota and construed to resolve any ambiguities or questions of validity of specific provisions in favor of giving maximum effect to its conservation purposes and to the policies and purposes of Minnesota Statutes Chapter 84C.
 - b. Severability. A determination that any provision or specific application of this Easement is invalid shall not affect the validity of the remaining provisions or any future application.

- c. Captions. Captions have been inserted in this document solely for convenience of reference and shall have no effect upon interpretation or construction.
 - d. Future Economic Condition. In conveying this Easement, the Owner has considered the possibility that uses of the Protected Property prohibited by this Easement may in the future become more economically valuable than uses permitted by this Easement and that neighboring properties may be put entirely to such prohibited uses. Such changes alone are not deemed to be circumstances justifying the extinguishment of this Easement as otherwise set forth above.
- 7.13. Additional Documents. The Owner agrees to execute or provide any additional documents reasonably needed by the Land Trust to carry out in perpetuity the provisions and the intent of this Easement, including, but not limited to any documents needed to correct any legal description or title matter or to comply with any federal, state, or local law, rule or regulation.
- 7.14. Entire Agreement. This document sets forth the entire agreement of the parties with respect to this Easement and supersedes all prior discussions or understandings.
- 7.15. Signatures. This Easement may be completed with the signatures of the parties to this Easement executed and notarized on separate pages which when attached to this document shall constitute one complete document.

The remainder of this page has been intentionally left blank.

IN WITNESS WHEREOF, the Owner has voluntarily executed this Conservation Easement on the 30th day of June, 2009.

OWNER:

CITY OF LAKE ELMO

By: [Signature]
Mayor

By: [Signature]
City Administrator

State of MINNESOTA)
County of Washington) ss

The foregoing instrument was acknowledged before me this 30th day of June, 2009, by Dean Johnston and Craig Dawson, the Mayor and the City Administrator, respectively, of the City of Lake Elmo, a municipal corporation in the State of Minnesota, on behalf of the City.

[Signature]
Notary Public
My Commission Expires:



ACCEPTANCE

The MINNESOTA LAND TRUST hereby accepts the foregoing Conservation Easement effective as of the 30th day of June, 2009.

MINNESOTA LAND TRUST

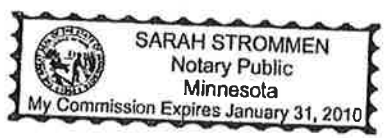
By: [Signature]

Title: President

State of MINNESOTA)
County of Ramsey) ss

The foregoing instrument was acknowledged before me this 30th day of June, 2009, by Jane Prohaska, the President of the Minnesota Land Trust, a non-profit corporation under the laws of the State of Minnesota, on behalf of said corporation.

[Signature]
Notary Public
My Commission Expires:



This document drafted by:

Minnesota Land Trust
2356 University Avenue West
St. Paul, MN 55114

Exhibit A

Legal Description of the Protected Property

The Northwest Quarter of the Northwest Quarter (NW 1/4 of NW 1/4) of Section Fourteen (14), Township Twenty-nine (29), Range Twenty-one (21), and the West Thirty-three (33) feet of the Southwest Quarter of the Northwest Quarter (SW 1/4 of NW 1/4) of Section Fourteen (14), Township Twenty-nine (29), Range Twenty-one (21), Washington County, Minnesota.

AND

That part of the Northeast quarter of the Northwest quarter of Section 15, Township 29, Range 21, Washington County, Minnesota, described as commencing at the Northeast corner of said Northeast quarter of Northwest quarter; thence South 0° 51' 45" East, assumed bearing, along the East line thereof, 501.27 feet to the South line of the North 30 acres of said Northwest quarter and to the actual point of beginning of the land to be hereinafter described; thence South 89° 01' 54" West along said South line of North 30 acres 800 feet; thence South 0° 51' 45" East 734.30 feet; thence North 89° 01' 54" East 800 feet to the East line of said Northeast quarter of the Northwest quarter; thence North 0° 51' 45" West along said East line 734.30 feet to the actual point of beginning.

AND

The Northwest quarter of the Northeast quarter, the Northeast quarter of the Northeast quarter, the Southwest quarter of the Northeast quarter, the North three-quarters of the Southeast quarter of the Northeast quarter and that part of the East 87 feet lying South of the North three-quarters of the Southeast quarter of the Northeast quarter all in Section 15, Township 29, Range 21.

AND

The east 87 feet of that part of the Southeast quarter of Section 15, Township 29, Range 21, lying Northerly of the Northerly right of way line of State Highway #212, subject to the right of way Stillwater Lane (formerly State Highway #212).

AND

↙
The Southwest Quarter of the Northeast Quarter of the Northwest Quarter (SW1/4 of NE 1/4 of NW 1/4) of Section Fourteen (14), Township Twenty-nine (29) North, Range Twenty-one (21) West, Washington County, Minnesota.

AND

↙
The North Three (3) rods of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter (NW 1/4 of SE 1/4 of NW1/4) of Section Fourteen (14), Township Twenty-nine (29), Range Twenty-one (21), Washington County, Minnesota.

AND

The South Forty (40) acres of Government Lot Five (5), Section Ten (10) and the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Ten (10). AND the North Thirty (30) acres of the North one-half of the Northwest Quarter (N $\frac{1}{2}$ of NW $\frac{1}{4}$) of Section Fifteen (15), all in Township Twenty-nine (29) North of Range Twenty-one (21) West, containing 110 acres more or less.

EXCEPT:

All that part of the South 40 acres of Government Lot 5, Section 10, and the Southeast Quarter of the Southwest Quarter of Section 10, and the North 30 acres of the North One-Half of the Northwest Quarter of Section 15, all in Township 29 North, Range 21 West, Washington County, Minnesota, described as follows:

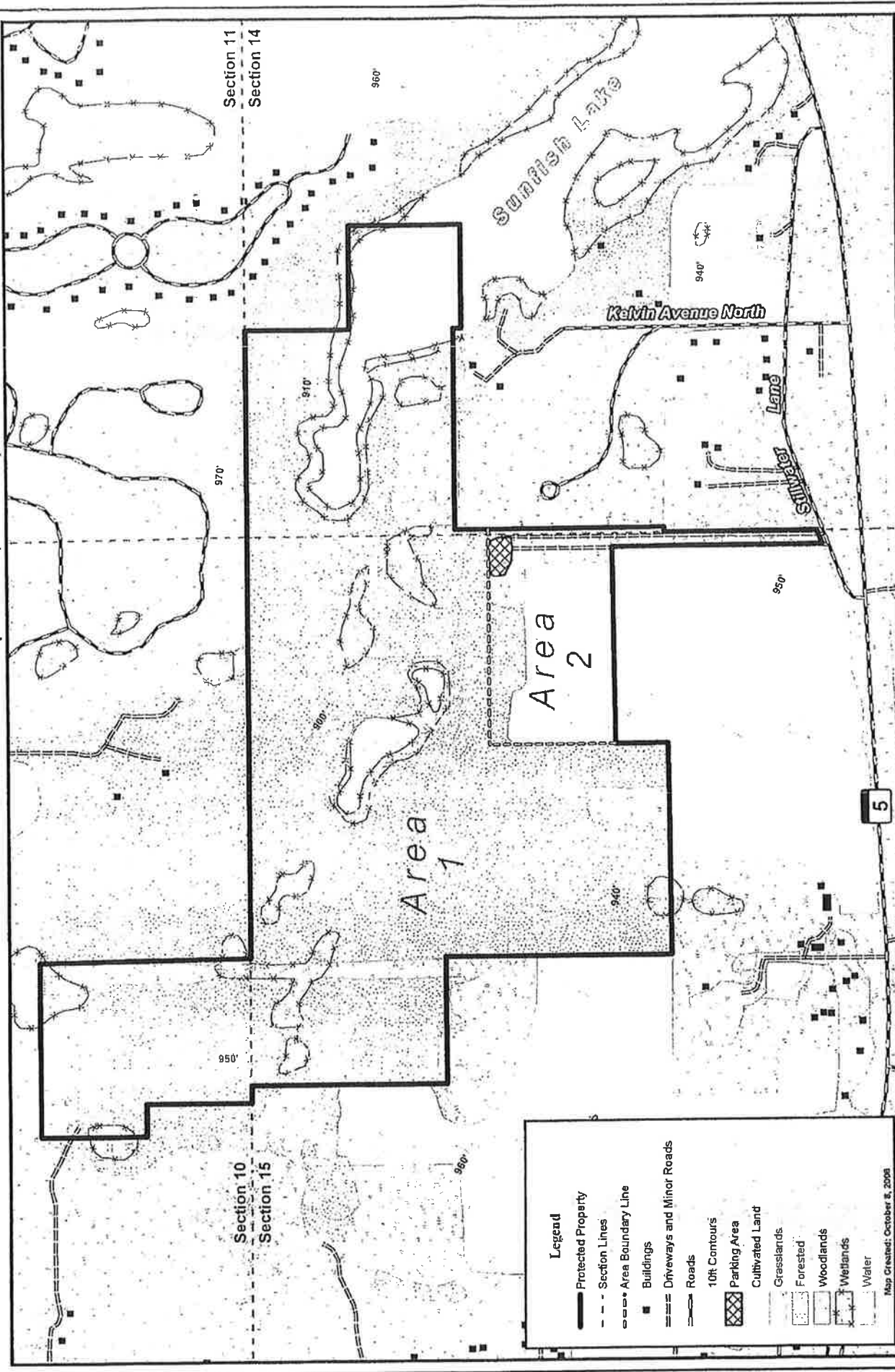
Beginning at the northwest corner of said Section 15, thence South 00 degrees, 18 minutes, 30 seconds West, bearings are based on the Washington County Coordinate System NAD83, along the west line of said Section 15, a distance of 501.27 feet to the south line of said North 30 acres of the North One-Half of the Northwest Quarter of Section 15, thence North 89 degrees, 51 minutes, 00 seconds East, along said south line, a distance of 1808.59 feet, thence North 00 degrees, 02 minutes, 32 seconds West and parallel with the east line of said Northwest Quarter of Section 15, a distance of 501.26 feet to the north line of said Section 15, thence South 89 degrees, 51 minutes, 00 seconds West, along said north line a distance of 105.52 feet, thence North 00 degrees, 53 minutes, 21 seconds West and parallel with the west line of said Section 10, a distance of 650.00 feet, thence South 89 degrees, 51 minutes, 00 seconds West and parallel with the south line of said Section 10, a distance of 200.00 feet, thence North 00 degrees, 53 minutes, 21 seconds West and parallel with the west line of said Section 10, a distance of 656.24 feet, to a point on the north line of said Southeast Quarter of the Southwest Quarter of Section 10, thence South 89 degrees, 45 minutes, 24 seconds West, along said north line, a distance of 193.17 feet to the northwest corner of said Southeast Quarter of the Southwest Quarter, thence North 00 degrees, 42 minutes, 39 seconds West, along the east line of said Government Lot 5, a distance of 29.52 feet to the northeast corner of said South 40 acres of Government Lot 5, thence South 89 degrees, 51 minutes, 00 seconds West, along the north line of said South 40 of Government Lot 5, a distance of 706.92 feet, thence South 00 degrees, 53 minutes, 21 seconds East and parallel with the west line of said Section 10, a distance of 200.00 feet, thence South 50 degrees, 54 minutes, 08 seconds West, a distance of 127.25 feet, thence South 89 degrees, 51 minutes, 00 seconds West and parallel with the north line of said South 40 acres of Government Lot 5, a distance of 500.00 feet to the west line of said Section 10, thence South 00 degrees, 53 minutes, 21 seconds East along the west line of said Section 10, a distance of 1055.45 feet to the point of beginning, containing 65.9 acres, more or less.

AND ALSO EXCEPT:

All that part of the South 40 acres of Government Lot 5, Section 10, Township 29 North, Range 21 West, Washington County, Minnesota, described as follows:

Commencing at the southwest corner of said Section 10, thence North 00 degrees, 53 minutes, 21 seconds West along the west line of said Section 10, a distance of 1055.45 feet to the point of beginning, thence continuing North 00 degrees, 53 minutes, 21 seconds West along the west line of said Section 10, a distance of 280.00 feet to the northwest corner of said South 40 acres of Government Lot 5, thence North 89 degrees, 51 minutes, 00 seconds East along the north line of said South 40 acres of Government Lot 5, a distance of 600.00 feet, thence South 00 degrees, 53 minutes, 21 seconds East and parallel with the west line of said Section 10, a distance of 200.00 feet, thence South 50 degrees, 54 minutes, 08 seconds West, a distance of 127.25 feet, thence South 89 degrees, 51 minutes, 00 seconds West and parallel with the north line of said South 40 acres of Government Lot 5, a distance of 500.00 feet to the point of beginning, containing 3.8 acres, more or less.

Exhibit B: Property Map



Legend

- Protected Property
- Section Lines
- Area Boundary Line
- Buildings
- Driveways and Minor Roads
- Roads
- 10ft Contours
- Parking Area
- Cultivated Land
- Grasslands
- Forested
- Woodlands
- Wetlands
- Water

Map Created: October 8, 2008

Scale: 1" = 800'

800 400 0 800 Feet



Site: Sunfish Park - Tract: City of Lake Elmo
 Washington County - Twp. 29 N Rng. 21 W Sec. 10, 14 & 15



Map Resource Information

Protected Property, Section Lines, Area Boundary Line, Buildings, Roads, Driveways & Minor Roads, 10-foot Contours, 10-foot Water, Cultivated Land, Grasslands, Forested, Woodlands, Wetlands, and Water created by Community GIS Services Inc.

Users of this map agree and acknowledge that Community GIS Services Inc. and the Minnesota Land Trust cannot be held liable for accuracy of GIS material provided. GIS materials should not be relied upon to establish legal title, boundary lines, or locations of improvements.



MINNESOTA LAND TRUST

February 26, 2019

Kristina Handt, City Administrator
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

Re: Sunfish Lake Park (City of Lake Elmo)
Washington County
Our Project File ID #: 2009-387

Dear Ms. Handt:

The Minnesota Land Trust has reviewed a Request for Proposals on Mountain Bike Trail Construction (“RFP”), which includes a map of the new trails proposed to be completed in Sunfish Lake Park (the “Protected Property”). The captioned property is protected by a Conservation Easement co-held by the Minnesota Land Trust and the City of Lake Elmo. It is our understanding that the City is requesting a review of the trails to ensure that the trail design, as currently proposed, are consistent with the terms and purposes of the Conservation Easement. Below is the response of the Minnesota Land Trust to your request.

The Minnesota Land Trust’s review is based primarily on the information provided in the draft RFP as well as the Conservation Easement, Baseline Documentation Report and available public information. Because of the season and desired time frame of the City, the Land Trust has not been able to conduct a site visit as part of this review.

In reviewing the RFP and proposed trail map, we identified three general issues:

1. The location of the proposed trails;
2. The intensity/density of the trail system; and
3. The proposed trails in relationship to the existing trails and use at the Protected Property.

We reviewed this information in light of the general purposes and terms of the Conservation Easement. These purposes include:

1. Provide an opportunity for the public to learn about, experience and enjoy the out of doors in a significant and relative undisturbed natural setting;
2. Protecting natural habitat that contributes to a larger complex of protected forest and wetlands that support a variety of wildlife and plants, both terrestrial and aquatic; and
3. Protecting water quality and near shore aquatic habitat of Sunfish Lake by restricting the development of the lakeshore of the Protected Property.

We also reviewed the proposed trail system in light of the permitted uses and restrictions that are set forth in the Conservation Easement. The terms which relate to the proposed trail development include:

1. Section 2.7.d Trails. Unpaved trails and footpaths are allowed but “...shall be established, maintained and used in a manner that does not result in significant erosion or have an adverse impact on the natural and scenic quality of the Protected Property”.
2. Section 2.10 Topography and Surface Alteration. No alteration of the surface or topography is allowed “except as incidental to activities or uses specifically permitted by this Easement”.
3. Section 2.11 Water. “No activities on or uses of the Protected Property that cause significant erosion or are seriously detrimental to water quality and purity are allowed”.
4. Section 2.12.b Vegetation Management. Vegetation management is allowed “As reasonably required to construct and maintain ...trails...”.
5. Section 2.13 Vehicles. Use of motorized vehicles not allowed except to construct or maintain trails but such use “...shall not result in significant erosion or have an adverse impact on the natural and scenic quality of the Protected Property”.
6. Section 3.4 Recreational and Educational Uses. “The Protected Property may be used for hiking... and other non-intensive recreational...activities that have no more than minimal impact on the Conservation Values of the Protected Property”.

As currently designed, the Minnesota Land Trust finds the proposed trail system to be inconsistent with the terms of the Conservation Easement and as such, is unable to approve the proposed new trail system. We have come to the conclusion that the location and density of the new trail system would have adverse impacts on the Easement’s conservation values and purposes, regardless of the type of use on the new trails, whether mountain biking or otherwise. We have come to this conclusion for several reasons:

1. LOCATION: *The proposed trail system is of greatest density within an area of ecological importance and least disturbed areas within the Protected Property.* This is not in keeping with the Conservation Easement terms of having no more than “minimal impact” on the conservation values. In addition to the findings in the Baseline Documentation Report, note that the Minnesota Biological Survey (MBS) surveyed Sunfish Lake Park in the early 1990s. MBS identified a large area of the Protected Property as part of a “site of moderate biodiversity significance”. The MBS identified this site as the “East Oakdale 15” and states that it encompasses much of the Protected Property and areas outside of the Park. Moderate biodiversity sites contain occurrences of rare species, moderately disturbed native plant communities, and/or landscapes that have strong potential for recovery of native plant communities and characteristic ecological processes.

MBS identified the native plant communities (“NPCs”) found within the East Oakdale 15 site, two of which are in the Park; Oak (Red Maple) Woodland and Red Oak-Sugar Maple-Basswood Forest. The latter NPC is considered “vulnerable to extirpation” in Minnesota and has been assigned a state status conservation rank of S3, where S1 is critically imperiled and S5 is secure, common, widespread, and abundant. “High quality examples” of NPCs are sometimes selected for inclusion in the state’s Natural History Inventory System, which tracks rare ecological

features found in the state. The Oak (Red Maple) Woodland found in the East Oakdale 15 site was included in the Natural History Inventory, demonstrating its relative rarity and endangerment throughout its range in the state.


Additionally, a series of birding inventories were conducted at the Protected Property between 2009 and 2011. These surveys identified 77 species of birds during that time, and at least four of the identified species are currently considered Species in Greatest Conservation Need (SGCN) in Minnesota (hooded warbler, brown thrasher, wood thrush, and Acadian flycatcher), and two are also considered Species of Special Concern (hooded warbler and Acadian flycatcher). Acadian flycatchers are forest-dwelling birds that are highly sensitive to forest fragmentation and stand size. They require intact, mature deciduous forests for breeding. Wood thrushes require similar forest habitat and are also highly sensitive to forest disturbance and fragmentation. Hooded warblers require mature, deciduous forest in areas with dense shrub layer and are typically limited to larger tracts of forest. The intact forests in the Park provide excellent potential habitat for these species.

2. LENGTH AND DENSITY OF TRAILS: *The proposed trail system is of such significant length and intensity that it would more than triple the total amount of trails in a most environmentally sensitive portion of the Protected Property.* The proposed trails would impact a forested area approximately 80 acres in size. Approximately two miles of existing trails are already present in this area. If constructed, the additional trails would add about 5 miles of trails in the same area. We do not believe that such a significant extent of new trails comports with the original purposes and terms of the Conservation Easement, including the requirements that trails do not “have an adverse impact on the natural and scenic qualities of the Protected Property.”

3. POTENTIAL CONFLICTS WITH OTHER USES OUTLINED IN THE EASEMENT PURPOSES: *One of the purposes of the easement is to allow for the public to learn about and enjoy the relatively undisturbed natural setting on the Protected Property.* The location and density of the proposed trails has the potential to conflict with other uses which are specifically protected by the Conservation Easement which are more passive or “low-impact” on nature such as outdoor education.

As we have stated in past correspondence, the Conservation Easement does not prohibit mountain biking per se and therefore, we have focused our review on the proposed trail system itself and its impacts to the conservation purposes that are set forth in the Conservation Easement. In light of our comments above, we would be happy to review a revised trail map or have a conversation regarding what proposed trail development might be in keeping with the conservation purposes of the Conservation Easement.

Sincerely,



Kris Larson
Executive Director

cc: Ben Prchal, City Planner



MINNESOTA LAND TRUST

April 18, 2019

Kristina Handt, City Administrator
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

Re: Sunfish Lake Park (City of Lake Elmo)
Washington County
Our Project File ID #: 2009-387
Revised Mountain Biking Trail Plan

Dear Ms. Handt:

The Minnesota Land Trust has reviewed the revised trail map depicting the proposed construction of approximately 4.19 miles of new trails within Sunfish Lake Park (the “Protected Property”). The revised plan also shows that approximately 2 miles of existing trails will be removed. We received the revised map by email from Ben Prchal on April 10th. The revised map is entitled “Sunfish Lake Park Draft Trail Map” and is dated April 15, 2019.

It is our understanding that the City is requesting our review and approval of the revised trail map, which is to be substituted for the trail map that was included with the Request for Proposals on Mountain Bike Trail Construction (“RFP”) that the City provided us in February 2019.

As you know, the Protected Property is protected by a Conservation Easement held by the Minnesota Land Trust. The Land Trust’s review is based on the information provided in the draft RFP, the revised trail map as well as the Conservation Easement, Baseline Documentation Report and available public information. The Land Trust has not conducted a site visit as part of this review.

As we have stated in past, the Conservation Easement does not prohibit mountain biking *per se* and therefore, we have focused our review on the proposed revised trail system itself and its impacts to the conservation purposes that are set forth in the Conservation Easement. The general purposes and terms of the Conservation Easement. These purposes include:

1. Providing an opportunity for the public to learn about, experience and enjoy the out of doors in a significant and relative undisturbed natural setting;
2. Protecting natural habitat that contributes to a larger complex of protected forest and wetlands that support a variety of wildlife and plants, both terrestrial and aquatic; and
3. Protecting water quality and near shore aquatic habitat of Sunfish Lake by restricting the development of the lakeshore of the Protected Property.

We also reviewed the revised proposed trail system considering the permitted uses and restrictions that are set forth in the Conservation Easement. The Conservation Easement terms that relate to the proposed trail development include:

1. Section 2.7.d. Trails. Unpaved trails and footpaths are allowed but "...shall be established, maintained and used in a manner that does not result in significant erosion or have an adverse impact on the natural and scenic quality of the Protected Property".
2. Section 2.10. Topography and Surface Alteration. No alteration of the surface or topography is allowed "except as incidental to activities or uses specifically permitted by this Easement".
3. Section 2.11. Water. "No activities on or uses of the Protected Property that cause significant erosion or are seriously detrimental to water quality and purity are allowed".
4. Section 2.12.b. Vegetation Management. Vegetation management is allowed "As reasonably required to construct and maintain ...trails...".
5. Section 2.13. Vehicles. Use of motorized vehicles not allowed except to construct or maintain trails but such use "...shall not result in significant erosion or have an adverse impact on the natural and scenic quality of the Protected Property".
6. Section 3.4. Recreational and Educational Uses. "The Protected Property may be used for hiking ... and other non-intensive recreational ... activities that have no more than minimal impact on the Conservation Values of the Protected Property".

The Minnesota Land Trust finds the revised proposed trail system is consistent with the terms of the Conservation Easement and by this letter provides approval of the revised proposed new trail system. The City has adequately addressed the concerns that we outlined in our letter dated February 26, 2019 regarding the location of the proposed trails; the intensity/density of the trail system; and the proposed trails in relationship to the existing trails and use of the Protected Property.

Please keep us posted as this project progresses. We would like to see the final trail plan that is approved by the City's Parks Commission and City Council, together with the next draft of the RFP. Although we understand that there is no specific plan as yet to restore the two miles of trails that are to be abandoned, we suggest that you consider replanting any areas of the old trails that are compacted or subject to erosion. Also, the Conservation Easement also guides construction activities to assure that the Conservation Values are preserved. Please see Sections 2.7, 2.10, and 2.12, in particular.

Thank you for addressing the concerns we outlined in our February 26, 2019 letter. If you have any questions or comments, please don't hesitate to contact me or Sue Steinwall.

Sincerely,


Kris Larson
Executive Director

cc: Ben Prchal, City Planner

KL/SDS

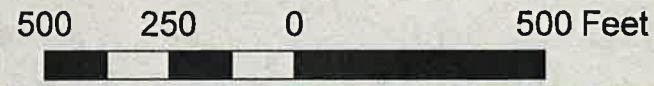
*No reference to
impacts on
birds and other
wildlife in area.*

Sunfish Lake Park Draft Trail Map

Landfill

Sunfish Lake Draft Trail Map

- Existing Trail
- Proposed Trail Addition
- Removed Trail
- Wetlands



7.7 Miles of Existing Trail
2 Miles of Trail Being Removed
4.19 Miles of Additional Trail
9.89 Total Miles



MINNESOTA LAND TRUST

May 15, 2019

Ms. Susan Dunn
P.O. Box 153
Lake Elmo, MN

Re: Sunfish Lake Park – Lake Elmo
Washington County
Project Number 2009 -- 387

Dear Ms. Dunn:

Thank you for your letter of May 13, 2019 with additional background information regarding Sunfish Lake Park and the City's planning efforts. You added a note requesting information from our files regarding the Land Trust's 2013 interpretation of the Sunfish Lake Park Conservation Easement with respect to mountain biking. Enclosed please find a copy of our April 4, 2013 internal memorandum regarding a conversation Anne Murphy had with City Administrator Dean Zuleger. There is nothing further in our files regarding interpretations provided to the City in 2013 regarding mountain biking.

Very truly yours,

Sue Steinwall
Director of Conservation Stewardship
651-917-6280

SDS

Enclosure
cc: Kris Larson (w/o enc.)

MEMORANDUM

MINNESOTA LAND TRUST



To: Sunfish Lake Park (City of Lake Elmo) file

From: Anne Murphy

Date: April 4, 2013

Re: Phone call with city administrator, Dean Zuleger

Dean Zuleger, the city administrator of Lake Elmo, returned my call on April 1, 2013. Kyle Klatt suggested I contact Dean regarding the mountain biking issue in Sunfish Lake Park, which Kyle believed to be a controversial issue in the city.

Dean said that he would like to keep Sunfish Lake Park as a natural area with nature center-style programming rather than an active use recreational park. Dean said that his understanding behind preserving the park in first place was to preserve the natural resources, not open it up to uses that harm some of those resources. I explained to Dean that while the easement doesn't expressly prohibit mountain biking, we would like to see a proposal much like the other management plans we've reviewed and approved for Sunfish Lake Park that would provide detail on trail use, location, and ways in which impacts to resources would be measured.

Dean said that Lake Elmo hasn't, until recently, had a younger generation of residents with an interest in active recreation, such as mountain biking. He said that there were several other parks that had yet to be developed in the city and these areas may provide opportunities for mountain biking. The city is going to be doing some planning around these parks and Dean thinks mountain biking can be incorporated into the planning.

EAW FACTSHEET



What is an EAW?

An **Environmental Assessment Worksheet (EAW)** is defined by state statute as a “brief document which is designed to set out the basic facts necessary to determine whether an Environmental Impact Statement (EIS) is required for a proposed action.” The purpose of the EAW process is to disclose information about potential environmental impacts of a project. **It is not an approval process.** The Minnesota Environmental Quality Board (EQB) is the state agency that issues rules about EAWs.

What causes an EAW to be prepared?

EAWs are required by law on certain large projects, but can also be ordered by a Responsible Government Unit (RGU) if it feels that there is the potential for significant environmental effects. In addition, a group of 100 citizens in Minnesota can petition an RGU to conduct an EAW. An RGU then must decide if the petition has merit.

The EAW process involves three primary steps

Step 1 – EAW Preparation

The project proposer supplies all necessary data to the Responsible Governmental Unit (RGU), which is assigned responsibility to conduct the review and prepare the final EAW document according to the EQB rules. Crow Wing County is the RGU on most development-related EAWs, but the RGU could also be a state agency, such as MPCA. The RGU prepares the EAW in consultation with the project proposer. It consists of a standard form supplied by the EQB and relevant supporting materials. Costs associated with EAW preparation are the responsibility of the proposer. The county often charges an administrative cost for its role in preparing and processing an EAW.

Step 2 – Public Comment Period

An EAW is a public document. Public notice is given of its availability for review in the local newspaper. The EAW is also distributed to various local, state, and federal agencies along with the local library. The comment period is 30 calendar days. Any person may review and comment in writing on an EAW. Comments must be submitted to the RGU by the end of the 30 day comment period.

Step 3 – Decision on Need for an EIS

The RGU responds to the comments received and makes a decision on the need for an EIS based on the EAW, comments received, and responses to the comments based on Minnesota Rules 4410.1700, subparts 6 and 7. Findings supporting this decision are also adopted by the decision-making body of the RGU (such as the County Board). The RGU and other units of government may require modifications to the project to mitigate environmental impacts as disclosed through the EAW process. If a **negative declaration** on the need for an EIS is determined, then the other permits and approvals can be issued and the project can move forward. If the RGU determines that an EIS is necessary, permits/approvals cannot be issued until an EIS is completed.

Where can I get more information?

The EQB publishes a “Guide to Minnesota Environmental Review Rules” that further details the environmental review process. It is available online at <http://www.eqb.state.mn.us>

Environmental Review Types

EAW:

A screening tool to determine whether a full environmental impact statement is needed. The worksheet contains 20 questions documenting focusing on the project's environmental setting, the potential for environmental harm, and plans to reduce the harm. About 150 worksheets are completed each year in Minnesota.

Time Frame: 2 to 6 months

EIS:

An in-depth analysis used for major development projects that will significantly change the environment. The statement covers social and economic influences, as well as environmental impact, and looks at alternate ways to proceed with the project.

Time Frame: 1 year or more

AUAR: Alternative Urban Areawide Review

An AUAR is a type of environmental assessment used to assess potential cumulative environmental impacts from future urban development over a broad geographic area. The AUAR process includes the preparation of a “Mitigation Plan” that identifies methods to avoid, minimize, or mitigate identified environmental impacts as future development takes place.

Time Frame: 6 months or more

Questions???

Contact Environmental Services at (218) 824-1125 or environmental.services@crowwing.us



STAFF REPORT

DATE: 5/20/2019

REGULAR

TO: Parks Commission
FROM: Ben Prchal, City Planner
AGENDA ITEM: Bike Trials within Sunfish Lake Park
REVIEWED BY: Kristina Handt, City Administrator

BACKGROUND:

The City of Lake Elmo Parks Commission and City Council approved a Capital Improvement expenditure of \$120,000 for the development of bike trials in Sunfish Lake Park. Staff was then directed through the 2019 parks work plan to further explore trail development and gather information on what it would mean to build bike trails within the park. The Parks Commission had an opportunity to review a preliminary bike trail map at their January 23rd meeting. At that meeting they directed staff to focus on developing one trail that would be reasonable to present to them and to the Land Trust, who also has a level of authority over the park related to the conservation easement. A draft map was sent to the Land Trust to review, to which they provided feed back to the City. Staff took their comments and incorporated them into the other trail option as it was more in line with what the Trust saw as being acceptable. Since then, a new bike trail map has been developed which has been approved by the Land Trust. Staff recognizes that this map is different than what the Parks Commission had previously approved but would ask them to understand that it has met the expectations of the Land Trust. A Request for Proposal (RFP) was also prepared in tandem with the trail.

ISSUE BEFORE THE PARKS COMMISSION:

Does the Parks Commission support the proposed Trail Map and RFP for the Sunfish Lake Trail system?

PROPOSAL DETAILS/ANALYSIS:

The intent of this report is to cover a few of the key discussion points that came up at prior meetings as well as provide some relevant detail about the proposed bike trail map.

SOILS:

Staff researched the soil types that are throughout the park and have provided some information from the USDA Web Soil survey website (<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>). After looking into the site in more detail the survey produced a map that would indicate the soils to range from somewhat limited to very limited in terms of their ability to develop trails. On the site you can search the soils capability for development by use, such as trails, off-road trails, camp grounds, home sites, etc. Staff ran two reports one for paths and trails and one for off road motorcycle trails. Staff ran both reports because the bike trails seemed to fit between the two use categories, both reports produced similar results. Beyond maintenance reasons, motorized vehicles will not be allowed on the trails. The section of soil that the trail will be going through is classified as somewhat limited for this use. The USDA classifies the "somewhat limited" soils as follows:

““Somewhat limited” indicates that the soil has features that are moderately favorable for the specified use. The limitations can be overcome or minimized by special planning, design, or installation. Fair performance and moderate maintenance can be expected.”

Staff believes that with the professional design, review of the Minnesota Land Trust, and design implementation of the final contractor the trails will be able to overcome the limiting factors of the soil.

HISTORY:

MN Historical Society:

Searching the Minnesota Historical Society website did not produce any information that was relevant to Sunfish Lake Park.

National Registry:

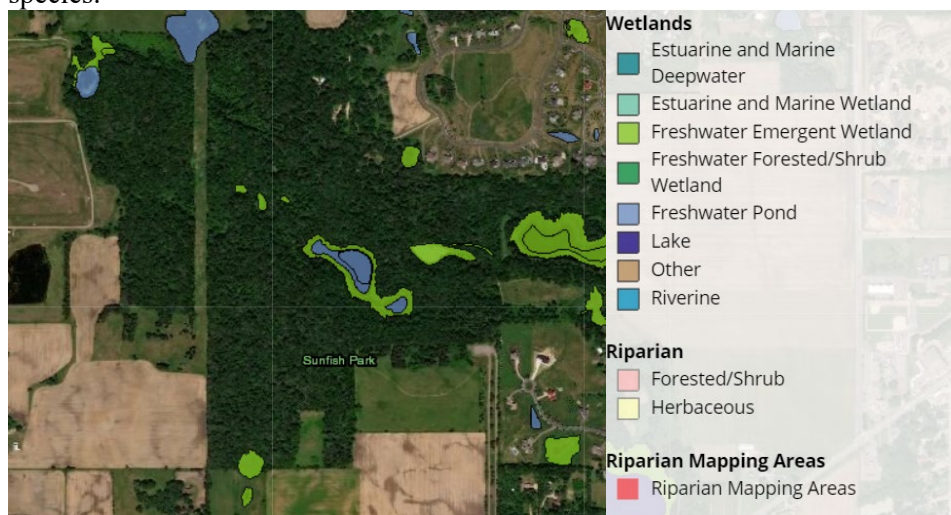
The National Registry for Historical Places also did not produce any information pertaining to Sunfish Lake Park.

Staff understands that the park does hold historical value to some residents. This is clearly outlined in the “History of Sunfish Lake Report” that was produced by residents of the City.

THREATENED OR ENDANGERED SPECIES:

MN DNR:

Using the Minnesota DNR website Staff performed a search of Lake Elmo (<https://www.dnr.state.mn.us/rsg/index.html>). There was only one species that came up as being threatened which was the Pugnose Shiner (fish). These fish are known to inhabit clear glacial lakes. The trail has limited exposure to the pond within the Park and if the fish are present in the pond it is not expected that the trail will impose detrimental effects to the fish. Also known to be in the park is the Blandings Turtle. The DNR lists the turtles habitat as being in prairie, floodplain forest, wet forest, steams and ponds. As you will see the trial has been moved out of the prairie to help mitigate the impact to other species.



US. Fish and Wildlife:

The search through this agency produced more results but instead of providing data specific to Lake Elmo it provided information state wide (<https://ecos.fws.gov/ecp0/reports/species-listed-by-state-report?state=MN&status=listed>). The search could suggest that there is habitat for the Rusty Patch Bumble Bee which is listed as endangered. Their habitat consists of grasslands. Keeping this in mind a trail route has been suggested which would mitigate interference with the existing grassland/prairie. Beyond that they also list Bush-clover as being a threatened species. The preferred habitat is considered to be tall grass parries. Similar to the bumble bee, the bike trail has been moved to help limit the potential exposure.

NEPA (National Environmental Protection Agency):

Staff also ran a report from the NEPA website, which is attached. There are some relevant categories that the report will provide for evaluating the site. Such as historic relevance, impaired (*does not meet quality standards*) waterbodies, or streams. Based on the produced report staff did not see anything that was not already known or posed substantial concern for further review.

Staff was unable to find substantial evidence proving that mountain bikers would cause more of a disturbance to the natural environment than other user groups. There is also a continual statement that mountain bikers produce more litter than hikers or other user groups. Again, there was not supporting evidence to prove that there was a direct correlation between activity and careless displacement of litter.

SUNFISH LAKE TRAIL PROPOSAL:

Aspects of the Trial:

Due to the potential for conflicts between user groups, the number of crossings was reduced. This is beneficial from two perspectives. It will help to reduce the potential for conflicts as well as prolong the riders' ability to focus on the trail without constantly being cautious of another crossing.

Number of Bike/Walking Trail Crossings

- 10 crossings

Estimated Trail Length

- 4 miles

The bike trails proposed for Sunfish Lake would be narrow trails called single-track. Once established, single-track trails average 18-24" in width, are not paved, reach a broad range of riders and are designed to flow through natural areas with gradual inclines and declines in topography. These single-track trails can be seen as similar to a narrow hiking path (not like the trails already existing) with the exception that bike trails would be closed to the public when saturated with water after a significant rainfall, melting snow or melting frost, and would remain closed until dry to avoid erosion and degradation of the trail surface. Modern trail design and construction uses sustainable trail building techniques. Single-track trails have been shown to have minimal impact on the environment, resist erosion through proper design, construction and maintenance, co-exist with the natural environment and blend with the surrounding area.

Impact on surrounding properties:

The park does not border a large number of residential properties. The majority of the homes are located to the North/ North East of the park with the rest being farm land or larger residential properties. The bike trail is generally kept internal to the site and Staff believes it would be difficult to see the proposed trail from the edges of the park. Staff does not anticipate bikers to cause more of a nuisance than other users within the park.

There is an established park entrance with a parking lot which is where we would expect most users to enter the park. Staff does expect the trail to receive active use but at this time believes the parking lot(s) to be adequate for users.

Impact to other users:

With the added amenity of bike trails, it is anticipated that the number of users in the park will increase. With the user type expected to vary, the majority of the proposed trail is designed to mitigate the speed at which a bike will cross a walking path. The design of the trail is predominately located in areas that do not have an established use, thus not now actively used. It is important that the park is safe and offer useful amenities for all residents and visitors. Where crossings are going to occur they will be established in a way that will force bike riders to slow their speed to safely cross the walking trail. Clearing brush near the trail crossings would also be a method to help establish better visibility around each trail intersection.

Signage:

Where intersections occur, trails would be marked displaying the direction of travel and expectations. The City should expect to put up signage warning walkers and bikers of the crossings. There can also be signage placed at the entrance to further inform users of expectations as well as conditions of trails after rain events. Such as: "Riders must wait 2 hours after a rain event before trail use" and "Be good stewards remove all trash".

Request for Proposal Details:

The attached RFP is important in that it outlines the expectations that the City would have for the trail builder. Staff sent the Land Trust the RFP at the time that the first trail map was provided to them for review. The organization did not have any suggestions for edits to the RFP with the exception of adding language to improve the trails which are being removed. Staff does not believe this is largely impactful and something that can easily be accomplished. Some ideas to satisfy this requirement might be an Eagle Scout project or else the City could consider ordering a few more

trees for the Arbor Day give away that would be plated in the park. *Staff is aware that the maps have not been updated in the RFP but they will be changed out by the time the request is made public.*

FISCAL IMPACT (Estimated) :

There is \$120,000 reserved for the development of bike trails throughout the park.

Signage \$700 - \$800 (intersection signage)

Trail Head Sign \$1,000 - \$2,000 staff would recommend revamping the entire kiosk at the park.

A report for trail maintenance was prepared by rails to trails conservancy, this is not solely specific to Minnesota but staff does not believe that trail maintenance and costs will dramatically vary. The full report can be found on the City website at <http://www.lakeelmo.org/parks-commission-sunfish-lake-park-documents>. The time and cost to maintain trails had a wide range which would depend on the amount of yearly maintenance such as mowing, vegetative clearing, and asphalt repair. The report was written to cover asphalt and crushed stone paths. Crushed stone is similar to mountain bike trails but different in design and natural material. However, the report indicated that entities that actively maintained their trails expected to spend \$1,000 to \$2,000 per mile depending on surface type.

After speaking to Minnesota Off-Road Cyclists (MORC) and the Recreation Manager at the City of Woodbury, those figures do appear to also apply to bike trails. Based on current information, there does not appear to be an increased cost to maintain mountain bike trails over other paved or natural surface trails.

OPTIONS:

Staff is requesting that the Parks Commission review and comment on the draft trail design.

The Parks Commission may:

1. Recommend approval of the bike trail and RFP as approved by the Land Trust.
2. Direct Staff to make amendments and then recommend approval.
3. Recommend denial of the bike trail and RFP as approved by the Land Trust

RECOMMENDATION:

At this time Staff believes that information known today is sufficient to know that bike trails, if designed, built, and maintained appropriately will not erode the park.

“Recommend approval of the Trail Plan and RFP to build the new trails which has been presented, within Sunfish Lake Park”

ATTACHMENTS:

- Draft Trail Map.
- April 18, 2019 Letter from MN Land Trust
- Due to the size of some of the attachments a City webpage has been established to hold the documents. Please visit <http://www.lakeelmo.org/parks-commission-sunfish-lake-park-documents>
 - Soil Survey
 - MN DNR Report
 - National Environmental Protection Agency Report (NEPA)
 - Ecological Review
 - Maintenance Report
 - History of Sunfish Lake Park
 - Land Trust Easement
 - RFP

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

RESOLUTION NO. 2019-078

***A RESOLUTION DENYING A PETITION FOR PREPARATION OF AN
ENVIRONMENTAL ASSESSMENT WORKSHEET FOR THE PROPOSED MOUNTAIN
BIKING TRAIL PROJECT IN SUNFISH LAKE PARK***

WHEREAS, on October 7, 2019, the City of Lake Elmo (the “City”) received from the Environmental Quality Board (EQB), a petition requesting that the City Council require an environmental assessment worksheet (EAW) for the potential mountain bike trail project which has been proposed to be located at Sunfish Lake Park in the City (the “Project”); and

WHEREAS, the EQB has designated the City as the responsible governmental unit (RGU) for the Project; and

WHEREAS, the City Council considered the request for the EAW at its meeting on October 15, 2019 and the petitioners and their representatives were provided the opportunity to present information; and

WHEREAS, the City Council considered all of the information presented at its October 15, 2019 meeting along with the staff report and its supporting documentation; and

WHEREAS, the EQB rules (Minnesota Rules Part 4410.1100, subpart 6) require the City to determine whether, because of the nature or location of the Project, the Project may have the potential for significant environmental effects; and

WHEREAS, the EQB rules (Minnesota Rules Part 4410.1700, subpart 7) further require the City to consider the following factors:

- a. Type, extent, and reversibility of environmental effects;
- b. Cumulative potential effects: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;
- c. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority;

- d. The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

NOW, THEREFORE, BE IT RESOLVED THAT that based on all of the evidence presented and the findings below, the City Council determines that the Project does not present the potential for significant environmental effects:

1. The Project involves construction of approximately 4.20 miles of single-track mountain bike trails within Sunfish Lake Park.
2. Multi-use single-track trails are unpaved and average 18-24” in width. Single-track trails have been shown to have minimal impact on the environment, resist erosion through proper design, construction, and maintenance, co-exist with the natural environment, and blend with the surrounding area.
3. All trails--whether improved or unimproved or for use by pedestrians, bicycles or mountain bikes--have some environmental impacts. The evidence demonstrates that the Project is not likely to have *significant* environmental impacts, which is required by Minnesota Rules Part 4410.1100, subpart 6.
4. Studies have shown that the environmental impacts from properly designed mountain bike trails are similar to those of hiking trails. The City has hiking trails throughout wooded areas of the City, including within Sunfish Lake Park and the City has not found those trails to have caused significant environmental impacts to those areas.
5. The petitioners assert that the Project will have significant environmental effects in the following ways. Each of these assertions is addressed in the findings below:
 - a. *Negative effects on the fragile environment of this specific area.* The City has not found any evidence that the Project will have a negative effect on the environment in Sunfish Lake Park and the petitioners have not provided any evidence to that effect. Furthermore, the Minnesota Land Trust holds a conservation easement over the area in Sunfish Lake Park and the purpose of the conservation easement is to protect habitat for wildlife and native plant communities. The Minnesota Land Trust has consented to the Project. It would not have consented to the Project if it had found that the Project had a negative effect on the environment as protecting the environment is the purpose of the conservation easement.

- b. *Erosion concerns – soils are erodible throughout the terrain of the park. Trails in this area will inevitable erode, requiring ongoing maintenance as well as present possible hazards.* There is no evidence that the soils in Sunfish Lake Park are any more erodible than soils in other areas of the City. As stated above, any erosion caused by the mountain bike trails would be similar to those of hiking trails, which also are present in Sunfish Lake Park. Furthermore, the mountain bike trails will be designed, constructed, and maintained so they resist erosion. Mountain bike trails will follow existing contours that will minimize erosion potential. There has been no evidence presented by the petitioners that these techniques or plans will be insufficient to prevent a significant environmental impact.
- c. *Habitat destruction and the changing nature of the park that the trails would present.* Potential habitat loss due to the Project is minimal (approximately one acre of ground disturbance) and represents a small fraction of the habitat within the 268-acre park. Additionally, the mountain bike trails will be unpaved and construction of the trail system will result in minimal tree removal, so there will be very little disturbance to the nature of Sunfish Lake Park or its habitat. Trails will be designed to go around mature trees to avoid their removal.
- d. *That habitat loss would be significant.* As noted above, potential habitat loss due to the Project is minimal.
- e. *Wildlife and sensitive species would be lost.* There is no evidence that the Project will negatively impact any wildlife or any sensitive species.
- f. *Protected areas would be forever changed.* The Minnesota Land Trust holds a conservation easement over the area within the Park. It has consented to the Project. The Minnesota Land Trust would not have consented to the Project if it had found that the Project was going to change the conservation easement area as the purpose of the conservation easement is to preserve the land in its natural state.
- g. *Incompatible uses and promises were made when the park was established, not all parks are appropriate for all uses.* Mountain bike trails provide opportunities for bikers to observe and appreciate natural surroundings in the same manner as existing trails through Sunfish Lake Park. The mountain bike trails are being designed in order to avoid trail cross-over conflicts with other trails in the park and are predominately located in areas which do not have an established use, thus not now actively used. When trail crossings occur, they will be established in a way that will require mountain bikers to slow down to a speed that allows them to safely cross the other trails.

6. Minnesota Rules Part 4410.1700, subpart 7 also requires the following factors to be considered when determining whether the Project has the potential for significant environmental effects. Each of these factors is considered by the City Council in the findings below:

- a. *Type, extent, and reversibility of environmental effects. Type, extent and reversibility of environmental effects.*

The City recognizes that adding mountain bike trails to Sunfish Lake Park will have some environmental effects with the minimal grading, tree removal, loss of habitat and trail construction. None of these activities will be significant and if needed, their minimal effects could be reversed with restoration if the City was to close the mountain bike trails.

- b. *Cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project:*

There is nothing in the design of the mountain bike trails or in the EAW petition showing any significant environmental effects from the construction of the mountain bike trails. In fact, the City has designed the proposed trails to minimize their potential environmental effects by taking into account the slopes and the waterbodies in the trail design. As discussed above, single-track mountain bike trails have minimal impact on the environment and their effects are on par with a hiking trail.

- c. *The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and*

The City may need to mitigate the environmental effects of the trail as they are used - especially in regard to erosion. This is a responsibility the City acknowledges and accepts as part of the Project.

- d. *The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, including other EIS's."*

There are no other projects or environmental studies in this area in the City of Lake Elmo at this time.

NOW THEREFORE BE IT FURTHER RESOLVED THAT THE CITY COUNCIL OF THE CITY OF LAKE ELMO FINDS THAT:

1. The petition to require preparation of an EAW is hereby denied because the evidence presented has failed to demonstrate that the Project may have the potential for significant environmental effects.

This resolution was adopted by the City Council of the City of Lake Elmo on this 15th day of October, 2019.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk