

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

June 1, 2010

7:00 p.m.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE:

C. ATTENDANCE:     Johnston     DeLapp     Emmons,     Park     Smith

D. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)

E. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)

F. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)

G. APPROVE MINUTES:

1. Approval of the May 18, 2010 City Council minutes

H. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.

I. CONSENT AGENDA: (Items are placed on the consent agenda by City staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)

2. Approve payment of disbursements and payroll

3. 2010 Street and Water Quality Improvements – Accept bids and award a contract

4. City Hall Annex Improvements – Accept quotes and award a contract

5. Proposed Drainage Improvements to Lions Park – Authorization for

Geotechnical Services

J. REGULAR AGENDA:

6. Thank you from Fire Relief Association

7. Conditional employment offer to Probationary firefighter Amanda Haire, Robin Goodspeed, Tony Frenier and Justin Johnston

*SAME*

*Move  
To  
Consent*

8. Consideration for a variance request from the 150 ft. Ordinary High Water Level setback from Downs Lake to allow construction of attached garage with living space above 11950 21<sup>st</sup> Street N.
9. Municipal Separate Storm Sewer System (MS4) permit program – Annual public meeting and accept the 2009 MS4 annual report
10. Comprehensive Plan Amendment for Senior Living and Farm School – Resolution No. 2010-017
11. Open Space Overlay Zoning for Senior Living and Farm School; Resolution No. 2010-024

K. REPORTS AND ANNOUNCEMENTS:

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

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

L. Adjourn

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

City of Lake Elmo  
City Council Meeting Minutes

May 18, 2010

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

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

Also Present: Administrator Messelt, City Engineer Stempski, Attorney Snyder, Planning Director Klatt, Finance Director Bouthilet, and City Clerk Lumby

APPROVAL OF AGENDA

*MOTION: Council Member Smith moved to approve the May 18, 2010 City Council agenda, as amended (Remove Items 4 and 6 off the Consent agenda and add to the Regular agenda). Council Member Park seconded the motion. The motion passed 5-0.*

GROUND RULES:

APPROVED MINUTES:

The May 4, 2010 City Council minutes were approved by consensus.

PUBLIC COMMENTS/INQUIRIES:

Linda Hardy asked for Council consideration in negotiating with the City for a time extension in order for her contractor to finish completion of her house at 9224 31<sup>st</sup> Street N.. Mrs. Hardy was asked to have her attorney contact City Attorney Snyder.

Anne Bucheck, 2301 Legion Avenue, provided a written statement on the amendment to Lake Elmo's comprehensive Plan. The Council acknowledged receiving her comments which will be inserted in the Comprehensive Plan Amendment file for the Farm School and Senior Living proposal.

CONSENT AGENDA:

*MOTION: Council Member Smith moved to approve agenda Items 2, 3 and 5 on the Consent Agenda. Council Member Park seconded the motion. The motion passed 5-0.*

- Approve payment of disbursements and payroll in the amount of \$148,957.41
- Approve the drafting and execution of a contract Buelow Excavating in the amount of \$3,500.00 to tap the water main and install water service to the VFW Park

- Approve Resolution No. 2010-022 to accept the grant from the State of Minnesota Redevelopment Grant Program

REGULAR AGENDA:

Approve Resolution No. 2010-021 to enter into the Cooperative Construction Agreement for the T.H. 5 Roundabout Project, Mn/DOT Agreement No. 96514.

The City Council is being asked to enter into a Cooperative Construction Agreement with the Minnesota Department of Transportation for the T.H. 5 Roundabout improvements. The agreement addresses the City cost participation requirements, method and determination of payment by the City and the ongoing maintenance responsibilities for the complete infrastructure.

The design, completed by Mn/DOT staff incorporates, to the extent possible, the City's requests and comments pertaining to the lighting system, landscaping, water quality, watermain utilities, detour routine/staging and signage.

*MOTION: Council Member Smith moved to approve Resolution No. 2010-021 to enter into the Cooperative Construction Agreement for the T.H. 5 Roundabout Project, Mn/DOT Agreement No. 96514. Council Member Park seconded the motion. The motion passed 5-0.*

Award a contract to Minnesota Native Landscapes for prairie restoration and management services at Sunfish Lake Park

The City Council is being asked to consider an agreement with Minnesota Native Landscapes for services related to the installation and management of prairie in Area Two of Sunfish Lake Park. Costs associated with the prairie installation are anticipated to be \$36,540.19. Management services will be authorized on an "as needed" basis over a 4-year period with costs anticipated to be approximately \$4,025 each of the first two management years, \$7,750 for the third and \$3,250 for the fourth. The City has received a Minnesota DNR Metro Greenways Grant in the amount of \$27,425.00 for prairie installation and management services conducted through June 30, 2011.

Council discussed the concept plan. Council consensus was to save 25% of area for whatever future Councils would choose.

*MOTION: Mayor Johnston moved to award a contract to Minnesota Native Landscapes for prairie restoration and management services at Sunfish Lake Park and revising the concept plan map to depict saving 25% of land for a future active use; such as a skating rink, interpretative center. Council Member Park seconded the motion. The motion passed 5-0.*



Conditional Use Amendment for Lake Elmo Elementary School; Resolution No. 2010-023

The City Council is being asked to review and act upon a proposed Conditional Use Permit amendment requested by Lake Elmo Elementary School. The proposed improvements include relocation of an existing parking lot, an additional parking lot and parent drop off location, widening of an existing private road, and the addition of an enclosed hallway and two portable classrooms to handle the existing student population

The Council acknowledged the email from Jennifer Pelletier, Lake Elmo resident and parent of three children at Lake Elmo Elementary School, thanking the Stillwater Area schools reps, and City staff for recognizing the carpool problems at the school and following through with a plan.

*MOTION: Council Member Smith moved to approve Resolution No. 2010-023 Amending the Conditional Use permit for the Lake Elmo Elementary School to add two portable classrooms, an enclosed hallway, an additional parking lot, and reconfiguration and expansion of the existing Northern parking lot, as reflected in the specific findings and recommendations of the Planning Commission. Council Member Park seconded the motion. The motion passed 5-0.*

Eder's Century Pines Developer's – Agreement

The City Council is being asked to review and approve a developer's agreement related to the recently approved Eder's Century Pines Subdivision. The primary purpose of this agreement is to document for future owners that no building permits will be issued for the vacant lots within the subdivision until storm water, drainage and erosion control plan is approved for the site.

*MOTION: Council Member Smith moved to enter into an agreement, as amended to include stormwater easements, with the City that requires the submission of rate and volume control calculations meeting the Storm Water and Erosion and Sediment Control Ordinance for each buildable lot prior to the issuance of a building permit for each of these lots. This agreement shall be executed prior to the release of the plat for recording by the City. Council Member DeLapp seconded the motion. The motion passed 5-0.*

Eder's Century Pines Roadway Easement Vacation – Public Hearing, Resolution No. 2010-025

The City Council is being asked to convene a Public Hearing to review and approve the vacation of roadway easements within the area to be replanted as Eder's Century Pines. The proposed vacation has been requested to eliminate existing roadway easements that have previously been granted to the City in the same location as road right-of-way that will be dedicated within this subdivision. These easements are located over a portion of the roads known as Keats Avenue, 47<sup>th</sup> Street North, and Julep Avenue North.

Mayor Johnston opened up the public hearing at 8:11 p.m.

There was no one to speak on the roadway easement vacation.

Mayor Johnston closed the public hearing at 8:12 p.m.

*MOTION: Council Member Smith moved to adopt Resolution No. 2010-025 approving the vacation of roadway and utility easements within the area to be re-platted as Eder's Century Pines. Council Member Emmons seconded the motion. The motion passed 5-0.*

Review of First Quarter of 2010 General Fund Budget (Unaudited)

Pursuant to City Council direction, the City Council received an update on the now-closed First Quarter 2010 General Fund (unaudited). Finance Director Bouthilet announced the preparation of the 2011 Budget has begun. No specific action was requested.

Comprehensive Plan Amendment for Senior Living and Farm School – Resolution No. 2010-017

As per City Council direction from May 4, 2010, resubmitted for Council consideration is a proposed Comprehensive Plan Amendment, requested from Tammy Malmquist, 8549 Ironwood Trail North.

The following residents spoke in favor of the Comprehensive Plan Amendment proposed by Tammy Malmquist. (A verbatim record is available from the City Clerk)

Bill Wacker, 3603 Laverne Avenue N.  
Alan Kupferschmidt, 2769 Legion Avenue N.  
Harold Norby, 4832 Barbara Drive, Minnetonka (Owns property next to proposal)  
Rita Conlin, 8560 Ironwood Trail N.  
Roger Linell, 9402 Stillwater Blvd.

The following residents spoke against the Comprehensive Plan Amendment proposed by Tammy Malmquist: (A verbatim record is available from the City Clerk)

Neil Krueger, 4452 Lake Elmo Avenue N.  
Tim Mandel, 2479 Lisbon Avenue N.

Council Member Emmons requested that discussion be postponed until the May 25<sup>th</sup> Council workshop.

MOTION: Council Member Smith moved to postpone discussion on this agenda item until the May 25<sup>th</sup> Council workshop. Council Member Park seconded the motion

*MOTION: Council member Park moved to amend the motion to address Council Member Emmons' concerns and bring these two items for formal consideration at the June 1<sup>st</sup> City Council meeting:*

- Location of project
- Access/safety
- Affordability
- Quantify demand for senior housing
- Precedence - both legally and internally
- Buffers proposed
- School
- Open lands
- Metropolitan Council
- Height/Elevation of large buildings (3-story)
- Background zoning allowed
- Clarify if Senior Housing is allowed in the village area or not
- Transfer of density
- Comprehensive Plan and density together
- Fire Marshall review

*Mayor Johnston seconded the motion. The motion passed 4-1 (Council Member DeLapp voting against the motion.)*

*MOTION: Council Member Smith moved to postpone discussion on this agenda item, as amended until the May 25<sup>th</sup> Council workshop and bring the two. Council Member Park seconded the motion. The motion passed 5-0.*

The City Council requested City Staff, as well as the applicant, to be present at the May 25<sup>th</sup> workshop to assist the Council deliberation.

Open Space Overlay Zoning for Senior Living and Farm School; Resolution No. 2010-024 - Postponed

The Council adjourned the meeting at 10:15 p.m.



# MAYOR & COUNCIL COMMUNICATION

DATE: 6/01/2010  
CONSENT  
ITEM #: 2  
MOTION *as part of Consent Agenda*

**AGENDA ITEM:** Approve Disbursements and Payroll in the Amount of \$ 75,198.57

**SUBMITTED BY:** Tom Bouthilet, Finance Director

**THROUGH:** Bruce Messelt, City Administrator *BAM*

**REVIEWED BY:** City Staff

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**SUMMARY AND ACTION REQUESTED:** As part of its Consent Agenda, the City Council is asked to approve disbursements and payroll in the amount of \$ 75,198.57. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND INFORMATION:** The City of Lake Elmo has fiduciary authority and responsibility to conduct normal business operation. Below is a summary of current claims to be disbursed and payroll to be paid in accordance with State law and City policies and procedures.

<b>Claim #</b>	<b>Amount</b>	<b>Description</b>
ACH	\$ 7,586.89	Payroll Taxes to IRS 05/20/2010
ACH	\$ 1,160.05	Payroll Taxes to MN Dept. of Revenue 05/20/2010
DD 2748 –DD 2795	\$ 24,960.74	Payroll Dated 05/20/2010 (Direct Deposit)
35650 – 35661	\$ 7,957.33	Payroll Dated 05/20/2010
35662 – 35649	\$ 33,533.56	Accounts Payable Dated 06/01/2010
<b>TOTAL</b>	<b>\$ 75,198.57</b>	

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

**RECOMMENDATION:** It is recommended that the City Council approve as part of the Consent Agenda proposed disbursements in the amount of \$ 75,198.57.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda or a particular claim from this item and further discuss and deliberate prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**“Move to approve the June 1st, 2010 Disbursement and Payroll, as Presented [*and modified*] herein.”**

**ATTACHMENTS:**

1. Accounts Payable Dated 06/01/2010

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

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

# Accounts Payable To Be Paid Proof List

User: joan Z  
 Printed: 05/26/2010 - 12:02 PM  
 Batch: 004-05-2010

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
3 M 3 M										
SS24594	05/12/2010	1,005.69	0.00	06/01/2010	Sign Materials		-	No		0000
101-430-3120-42260	Sign Repair Materials									
	SS24594 Total:	1,005.69								
SS24595	05/12/2010	288.56	0.00	06/01/2010	Sign Materials		-	No		0000
101-430-3120-42260	Sign Repair Materials									
	SS24595 Total:	288.56								
	3 M Total:	1,294.25								
<hr/>										
AMLEGAL American Legal Publishing Corp										
74648	03/04/2010	262.50	0.00	06/01/2010	Internet Renewal 3/3/10-3/3/11		-	No		0000
101-410-1450-43180	Information Technology/Web									
	74648 Total:	262.50								
75308	04/30/2010	2,277.00	0.00	06/01/2010	2010 S-Y Supplement Pages for City Code		-	No		0000
101-410-1450-43180	Information Technology/Web									
	75308 Total:	2,277.00								
	AMLEGAL Total:	2,539.50								
<hr/>										
ARAM Aramark, Inc.										
629-6993992	04/19/2010	59.73	0.00	06/01/2010	Monthly rug service - station #2		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-6993992 Total:	59.73								
629-6993993	05/17/2010	94.15	0.00	06/01/2010	Linen City Hall		-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-6993993 Total:	94.15								
629-6993994	04/19/2010	57.37	0.00	06/01/2010	Monthly rug service - station #1		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-6993994 Total:	57.37								
629-6996922	05/20/2010	22.97	0.00	06/01/2010	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
	629-6996922 Total:	22.97								
629-69998787	05/24/2010	42.43	0.00	06/01/2010	Linen City Hall		-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
629-69998787 Total:		42.43								
ARAM Total:		276.65								
ASPENMI Aspen Mills, Inc.										
97510	05/07/2010	69.50	0.00	06/01/2010	Replacement Medic Boots		-	No		0000
101-420-2220-44170	Uniforms									
97510 Total:		69.50								
ASPENMI Total:		69.50								
BOUTHMI Bouthilet Michael										
97642, 97636	05/21/2010	327.90	0.00	06/01/2010	Rooms for water operator school		-	No		0000
601-494-9400-44370	Conferences & Training									
97642, 97636 Total:		327.90								
BOUTHMI Total:		327.90								
BROWN Brown Barry										
05/12/2010	05/12/2010	200.00	0.00	06/01/2010	Return of Escrow		-	No		0000
411-480-8000-45200	Buildings and Structures									
05/12/2010 Total:		200.00								
BROWN Total:		200.00								
CARQUEST Car Quest Auto Parts										
2055-189504	05/20/2010	33.41	0.00	06/01/2010	Air Filter Toro		-	No		0000
101-450-5200-42210	Equipment Parts									
2055-189504 Total:		33.41								
CARQUEST Total:		33.41								
CTYOAKDA City of Oakdale										
10000460-01	05/31/2010	9,354.20	0.00	06/01/2010	Water Service I94		-	No		0000
601-494-9400-43820	Water Utility									
10000460-01 Total:		9,354.20								
CTYOAKDA Total:		9,354.20								
EMERGAPP Emergency Apparatus Maint. INC										
Multiple	05/12/2010	156.20	0.00	06/01/2010	48223-Service Chief 2		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple	05/12/2010	1,040.00	0.00	06/01/2010	48224-Service Pump Test (Fail) Engine 1		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple	05/12/2010	1,046.98	0.00	06/01/2010	48225-Service Pump Test (Pass) Engine 2		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
Multiple	05/12/2010	237.00	0.00	06/01/2010	48226-Service Gas Rig 1		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple	05/12/2010	237.00	0.00	06/01/2010	48227-Service Gas Rig 2		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple	05/12/2010	245.00	0.00	06/01/2010	48228-Service Rescue 2		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple	05/12/2010	795.00	0.00	06/01/2010	48229-Service Pump Test (pass) Tender 1		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple	05/12/2010	1,115.00	0.00	06/01/2010	48230-Service Pump Test (Pass) Tender 2		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple	05/12/2010	1,830.00	0.00	06/01/2010	48231-Service Pump Test (Fail) Aerial		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple	05/12/2010	59.13	0.00	06/01/2010	48546-Check Bumper Light E2		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple Total:		6,761.31								
EMERGAPP Total:		6,761.31								
<hr/>										
EMMONS A Emmons Alex										
05/18/2010	05/18/2010	55.00	0.00	06/01/2010	City Council Cable 5/18/2010		-	No		0000
101-410-1450-43620	Cable Operations									
05/18/2010 Total:		55.00								
05/24/2010	05/24/2010	55.00	0.00	06/01/2010	PZ Commission Meeting Cables 5/24/2010		-	No		0000
101-410-1450-43620	Cable Operations									
05/24/2010 Total:		55.00								
EMMONS A Total:		110.00								
<hr/>										
F.I.R.E. Rescue Education Inc Fire Instruct										
8245	05/13/2010	400.00	0.00	06/01/2010	Bus Extrication		-	No		0000
101-420-2220-44370	Conferences & Training									
8245 Total:		400.00								
F.I.R.E. Total:		400.00								
<hr/>										
FXL FXL, Inc.										
June 2010	06/01/2010	2,000.00	0.00	06/01/2010	Assessing Services - June 2010		-	No		0000
101-410-1320-43100	Assessing Services									
June 2010 Total:		2,000.00								
FXL Total:		2,000.00								
<hr/>										
GEAR Gear Grid										
0002565-IN	05/08/2010	2,752.04	0.00	06/01/2010	Purchase and Install hose drying rack		-	No		0000
411-480-8000-45700	Office Equipment & Furnishings									
0002565-IN Total:		2,752.04								

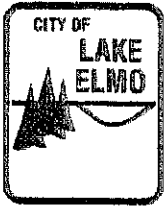


Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
GEAR Total:		2,752.04								
GRACZYK Kevin	05/25/2010	41.25	0.00	06/01/2010	Council Workshop Cables	5/25/2010	-	No		0000
101-410-1450-43620	Cable Operations									
05/25/2010 Total:		41.25								
GRACZYK Total:		41.25								
GRANDVIE Grand View Lodge	05/05/2010	464.08	0.00	06/01/2010	Conference Lodging - Administrator		-	No		0000
R36A5E	101-410-1320-44370	Conferences & Training								
R36A5E Total:		464.08								
GRANDVIE Total:		464.08								
HAWKINS Hawkins, Inc.	05/10/2010	1,024.92	0.00	06/01/2010	Hydroflouosillic Acid (Flouride)		-	No		0000
1379378 RI	601-494-9400-42160	Chemicals								
1379378 RI Total:		1,024.92								
HAWKINS Total:		1,024.92								
KLATT Klatt Kyle	05/13/2010	91.80	0.00	06/01/2010	Health Savings Reimbursement		-	No		0000
101-000-0000-21710	Health HSA									
05/13/2010 Total:		91.80								
KLATT Total:		91.80								
LERELIEF Lake Elmo Fire Relief Assn.	05/05/2010	1,000.00	0.00	06/01/2010	Fire Relief Association Donation		-	No		0000
Donation	101-410-1320-44370	Conferences & Training								
Donation Total:		1,000.00								
LERELIEF Total:		1,000.00								
LEREPAIR Lake Elmo Repair, Inc	05/14/2010	556.75	0.00	06/01/2010	Repair Front Brakes on Chief #1		-	No		0000
150891	101-420-2220-44040	Repairs/Maint Eqpt								
150891 Total:		556.75								
LEREPAIR Total:		556.75								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
LINNER Linner Electric Company, Inc.										
20936	05/10/2010	1,247.75	0.00	06/01/2010	Light repair and replacement			No		0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs				Pebble/Lion					
	20936 Total:	1,247.75								
	LINNER Total:	1,247.75								
LTG PWR L.T.G. Power Equipment										
130660	05/24/2010	12.88	0.00	06/01/2010	Toro Belt Spring			No		0000
101-450-5200-42210	Equipment Parts									
	130660 Total:	12.88								
	LTG PWR Total:	12.88								
MFRA McCombs Frank Roos Assoc Inc.										
66757	05/01/2010	90.00	0.00	06/01/2010	General Planning Assistance			No		0000
101-410-1910-43150	Contract Services									
	66757 Total:	90.00								
	MFRA Total:	90.00								
NEXTEL Nextel Communications										
761950227-086	05/18/2010	102.11	0.00	06/01/2010	Cell Phone Service - Administration			No		0000
101-410-1940-43210	Telephone									
761950227-086	05/18/2010	218.51	0.00	06/01/2010	Cell Phone Service - Fire Dept			No		0000
101-420-2220-43210	Telephone									
761950227-086	05/18/2010	35.52	0.00	06/01/2010	Cell Phone Service - Building Dept			No		0000
101-420-2400-43210	Telephone									
761950227-086	05/18/2010	62.08	0.00	06/01/2010	Cell Phone Service - Public Works			No		0000
101-430-3100-43210	Telephone				Dept					
761950227-086	05/18/2010	24.45	0.00	06/01/2010	Cell Phone Service - Parks Dept			No		0000
101-450-5200-43210	Telephone									
761950227-086	05/18/2010	-27.98	0.00	06/01/2010	Cell Phone Service - Administration			No		0000
101-410-1940-43210	Telephone									
	761950227-086 Total:	414.69								
837908817	05/18/2010	-40.00	0.00	06/01/2010	Cell Phone Service - Fire Dept			No		0000
101-420-2220-43210	Telephone									
	837908817 Total:	-40.00								
	NEXTEL Total:	374.69								
POMPS Pump's Tire Service, Inc.										
555056	05/24/2010	114.00	0.00	06/01/2010	Tire 85-1 Dodge			No		0000
101-450-5200-42210	Equipment Parts									
	555056 Total:	114.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
POMPS Total:		114.00								
QUALITY Quality Locksmith Service, Inc										
65042	05/25/2010	138.56	0.00	06/01/2010	Deadbolt - Building Dept		-	No		0000
101-410-1320-44300	Miscellaneous									
	65042 Total:	138.56								
	QUALITY Total:	138.56								
QUILL Quill										
5400481	05/11/2010	80.02	0.00	06/01/2010	Office Supplies - Copy Paper		-	No		0000
101-410-1320-42000	Office Supplies									
	5400481 Total:	80.02								
	QUILL Total:	80.02								
RUD Prince-Rud Diane										
05/12/2010	05/12/2010	320.00	0.00	06/01/2010	Cleaning City Hall & Annex		-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
05/12/2010	05/12/2010	240.00	0.00	06/01/2010	Cleaning Fire Hall		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
05/12/2010	05/12/2010	5.77	0.00	06/01/2010	Supplies		-	No		0000
101-410-1940-42110	Cleaning Supplies									
	05/12/2010 Total:	565.77								
	RUD Total:	565.77								
SAMSLUB Sam's Club										
5508	05/25/2010	49.57	0.00	06/01/2010	Supplies for both stations		-	No		0000
101-420-2220-44300	Miscellaneous									
5508	05/25/2010	99.69	0.00	06/01/2010	Office Supplies		-	No		0000
101-410-1320-42000	Office Supplies									
	5508 Total:	149.26								
	SAMSLUB Total:	149.26								
TASCH T.A. Schifsky & Sons Inc										
49181	05/01/2010	575.45	0.00	06/01/2010	Asphalt tack oil		-	No		0000
101-430-3120-42240	Street Maintenance Materials									
	49181 Total:	575.45								
	TASCH Total:	575.45								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close P.O.Line #
TDS TDS METROCOM - LLC										
651-779-8882	05/13/2010	164.00	0.00	06/01/2010	Analog Lines - Fire		-	No		0000
101-420-2220-43210	Telephone									
651-779-8882	05/13/2010	155.46	0.00	06/01/2010	Analog Lines - Public Works		-	No		0000
101-430-3100-43210	Telephone									
651-779-8882	05/13/2010	104.76	0.00	06/01/2010	Analog Lines - Lift Station Alarms		-	No		0000
602-495-9450-43210	Telephone									
651-779-8882	05/13/2010	42.24	0.00	06/01/2010	Alarm Well House #2		-	No		0000
601-494-9400-43210	Telephone									
	651-779-8882 Total:	466.46								
	TDS Total:	466.46								
YOCUM Yocum Oil Company, Inc.										
188174	05/20/2010	160.69	0.00	06/01/2010	Bulk Oil Tanks		-	No		0000
101-430-3100-44010	Repairs/Maint Bldg									
	188174 Total:	160.69								
	YOCUM Total:	160.69								
ZACK Zack's, Inc.										
25879	05/13/2010	159.98	0.00	06/01/2010	Noise Canceling headsets		-	No		0000
101-410-1940-42230	Building Repair Supplies									
25879	05/13/2010	100.49	0.00	06/01/2010	Tamping bar and asphalt removal sprayer		-	No		0000
101-430-3100-42400	Small Tools & Minor Equipment									
	25879 Total:	260.47								
	ZACK Total:	260.47								
	Report Total:	33,533.56								



# MAYOR & COUNCIL COMMUNICATION

DATE: 6/01/2010  
REGULAR  
ITEM: 11  
ACTION: **ORDINANCE 08-025**  
**RESOLUTION 2010-024**

**AGENDA ITEM:** OP Ordinance Overlay District Zoning Amendment related to a Farm School and Senior Living Project at 9434 Stillwater Boulevard North – PID's: 15-029-21-31-0001 and 15-029-21-31-0003

**SUBMITTED BY:** Applicant  
Kyle Klatt, Planning Director  
Planning Commission

**THROUGH:** Bruce Messelt, City Administrator *BAM*

**REVIEWED BY:** Kelli Matzek, City Planner  
Dave Snyder, City Attorney

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to review a proposed amendment to the Lake Elmo City Code creating a new overlay district that would allow higher density development within the context of an OP Open Space Preservation project. This ordinance was drafted in accordance with the Planning Commission's unanimous decision on May 10th, 2010 to pursue an alternative to the Zoning Amendment originally proposed by staff and the applicant, Mrs. Tammy Malmquist, 8549 Ironwood Trail North, relating to a senior living/farm school development proposal.

The complete application from Mrs. Malmquist, including a requested Comprehensive Plan Amendment (item #10 on tonight's Agenda), an Overlay Zoning District, an OP Development Concept Plan and a Planned Unit Development Concept Plan, would allow the establishment of a 40-unit senior living multi-family building, 10 townhouse units, and a farm-themed preschool on a 30.9 acre parcel at 9434 Stillwater Boulevard North. The recommended motion to act on this portion of the approval process (Overlay Zoning District) is as follows:

*“Move to adopt Ordinance 08-025 creating a new zoning district and standards associated with an OP-2 Open Space Preservation Overlay District and Resolution 2010-024 authorizing summary publication of this Ordinance”*

**BACKGROUND INFORMATION:** The Applicant's request, as discussed in greater detail at the May 4th and May 18th Council meetings and tonight's previous Agenda item, included

proposed amendments to the City's Comprehensive Plan and existing OP Open Space Preservation Ordinance to allow a proposed senior living/farm school development to proceed as an Open Space Development. The Planning Commission unanimously recommended approval of the first part of the multi-tiered request, a Comprehensive Plan Amendment, but initially tabled taking action on the originally-proposed ordinance revisions. The Commission directed staff to prepare an alternate ordinance that, rather than amending the existing OP Ordinance, would instead create a new overlay zone intended for properties guided for RAD2 (2 units per acre) on the City's Future Land Use Map.

Based on the direction provided by the Planning Commission, Staff prepared a draft ordinance creating a new overlay district to be called the OP-2 Open Space Preservation Overlay District. All of the standards proposed by the applicant have been carried forward into this new district, which references all of the provisions in the current OP Ordinance, but adds language (as requested by the applicant) that allows for new uses and new district standards that would apply only to the areas with the overlay district. Staff also suggested additional provisions that were not requested by the applicant, but that should help clarify and provide consistency throughout the City Code as follows:

- Adding definitions for all the terms that are used in the proposed ordinance provisions.
- Including building standards (primarily setbacks) for Senior Housing Buildings that were not addressed by the applicant.
- Keeping a side yard setback for townhouses in OP Districts as part of the district standards table. A reduction or elimination of side yard setbacks would be appropriate to consider as part of a Planned Unit Development. Please note that the current OP Ordinance appears to use the term "townhouse" when it should describe a "single family attached" dwelling.
- Using the existing OP District language that considers only the "buildable area" in the maximum density calculations, not gross area.

Please be advised that although Staff is calling the proposed district an "overlay" district, the City regulates OP Districts as a conditional use for properties zoned Agricultural, Rural Residential, or Residential Estates. From a technical perspective, the OP District itself functions as an overlay, since the underlying zoning is not changed when an OP development is approved by the City (this is a change from earlier ordinances which established a separate district for these developments). In order to provide clarity between OP and OP-2 as proposed, Staff is recommending that the overlay terminology be used to differentiate between these two districts. If the City Council finds this language confusing, an alternate name for the OP-2 District could be considered.

**PLANNING COMMISSION REPORT:** The Planning Commission considered the proposed OP-2 Overlay District amendment at its May 10, 2010 meeting. A few of the discussion topics that were considered by the Planning Commission included the following:

- What does the term “senior” mean when used with “senior housing”? Is there a specific age that should be regulated differently than others?
- Should the City approve a project as a Senior Housing project if there is not an age-restriction associated with the project? Should the City’s definition of Senior Housing require an age restriction?
- Is there an appropriate mix of senior living and market-based apartments/condominiums that is acceptable?
- Does the City need to differentiate between a preschool and a “farm-based” preschool?
- As drafted, the ordinance proposed by the applicant would allow a “farm-based” school for school-aged children. Is a school, or educational programs, for kids older than preschool age appropriate as part the overlay zoning district?

The Commission reviewed the draft and made recommendations for changes to certain portions of the draft, including:

- Requesting that Staff research the licensing requirements and definitions used in the State Statutes for preschool, and including this information as appropriate in the draft ordinance.
- Adding townhouses to the list of permitted uses with a provision that no more than 50% of a project could consist of townhouse units.
- Requiring that all OP-2 Developments be permitted as a Planned Unit Development.
- Specifying that the buffer setback be 100 feet for structures and 50 feet for driving surfaces.
- Adding Farm-based Preschools to the development standards table.
- Revising the district setback and impervious coverage requirements.

The Planning Commission unanimously recommended that the City Council approve the proposed amendment to the City Code related to an OP-2 Open Space Preservation Overlay District.

**STAFF REPORT:** Staff has prepared the Ordinance for consideration by the City Council. However, it should be noted that there are a few additional changes that Staff recommends be included as part of the Ordinance, beyond the amendments recommended by the Planning Commission. These changes are shown in green in the attached Draft Ordinance and include slightly revised definitions, based upon Staff’s research of state licensing requirements, and a new statement concerning the keeping of domestic farm animals.

All additional revisions proposed by Staff that were not specifically reviewed by the Planning Commission are depicted in green on the enclosed Draft Ordinance. Staff has undertaken these additional changes within the intent and spirit of the Planning Commission’s actions and also

indicated these as separate considerations in the official Ordinance for review by the Council. Any changes made to this official document will be only as accepted and/or directed by the City Council.

**RECOMMENDATION:** Based upon the above background information, Planning Commission action, and staff report, it is recommended that the City Council discuss and consider the proposed OP-2 Overlay Zoning amendment. Affirmative action may be taken by the following motion:

***“Move to adopt Ordinance 08-25 creating a new zoning district and standards associated with an OP-2 Open Space Preservation Overlay District and Resolution 2010-024 authorizing summary publication of this Ordinance”***

Alternatively, the City Council may elect to act only upon the ordinance language recommended by the Planning Commission; table consideration at tonight’s meeting, or direct the Planning Commission to consider a different type of zoning amendment. It should be noted, however, that further delay of action tonight may require the concurrence of the applicant, given state statutes governing timely responses to land use applications.

The City Council may also deny the proposed amendment with the identification of findings of fact (which may also correlate with previous Council action concerning the proposed senior living/farm school Comprehensive Plan Amendment). Finally, the Council may amend the proposed Ordinance at tonight’s meeting. If the latter is undertaken, the recommended motion would be to:

***“Move to adopt Ordinance 08-25 creating a new zoning district and standards associated with an OP-2 Open Space Preservation Overlay District, as amended at tonight’s meeting, and Resolution 2010-024 authorizing summary publication of this Ordinance”***

**ATTACHMENTS:**

1. Draft OP-2 Open Space Preservation Overlay District (with optional language)
2. Ordinance No 08-025
3. Resolution No. 2010-024

*Additional Attachments for Proposal included with Agenda Item #10*



**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Council Discussion ..... Mayor Facilitates
- Public Input, if Appropriate ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

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

**ORDINANCE NO. 08-025**

**AN ORDINANCE ADDING AN OP-2 OPEN SPACE PRESERVATION  
OVERLAY DISTRICT TO THE CITY CODE**

**SECTION 1.** The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions, by amending section 11.01 Definitions to eliminate existing definitions as follows:

~~**NURSERY, DAY.** A use where care is provided for 3 or more children under kindergarten age for periods of 4 hours or more per day for pay.~~

**SECTION 2.** The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions, by amending section 11.01 Definitions to add the following definitions in alphabetical order with the already existing definitions:

**ELDERLY HOUSING (SENIOR HOUSING).** A facility consisting of three or more dwelling units, the occupancy of which is limited to persons 55 years of age or older. The facility may include medical facilities or care as an accessory use. Senior housing shall typically consist of multiple-household attached dwellings, but may include other forms of attached or detached dwelling units as part of a wholly owned and managed senior project.

**SENIOR HOUSING.** *See Elderly Housing.*

**PRESCHOOL.** A licensed facility for the organized instruction of children who have not reached the age for enrollment in kindergarten. Does not include the school aged child care.

**FARM SCHOOL.** A facility that supports a school program that emphasizes fostering a child's intellectual, social, physical, and emotional growth, using farm animals, agriculture, and nature as the learning environment and conducted as part of an operational farm.

**DAY CARE CENTER** – Any facility licensed by the Minnesota Department of Human Services and operated for the purpose of providing care, protection, and guidance to 14 or more individuals during only part of a twenty-four hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full twenty-four hour period.

**SCHOOLS, PUBLIC AND PRIVATE** -- Establishments at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before or after school day care. Examples include public and private daytime schools, boarding schools, and military academies. Exemptions: 1) Preschools are classified as Day Care Facilities, and 2) Business Schools and Professional Private Trade Schools.

**SECTION 3. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, by adding the following language:**

**§ 154.067 OP-2 – OPEN SPACE PRESERVATION OVERLAY DISTRICT.**

(A) **Purpose.** The purpose of the Open Space Preservation Overlay District (OP-2) is to maintain the rural character of Lake Elmo by preserving agricultural land, woodlands, corridors, and other significant natural features while allowing residential development consistent with the goals and objectives of the city's Comprehensive Plan. This type of development will allow an alternative to large lot, single-family housing and will reduce the cost of constructing and maintaining public facilities and infrastructure. The OP-2 Overlay District allows for higher density development than is permitted under the OP District regulations at a density of up to 2 units per acre. In addition to single-family residences and townhouses, multi-family housing for seniors is permitted in this district.

(B) **General regulation.** All regulations governing the OP Open Space Preservation District, Sections 150.175 through 150.189, shall also apply to properties zoned OP-2 Open Space Preservation Overlay District except as outlined in this section.

(C) **Permitted uses.** Permitted uses and the general requirements of such in the OP-2 Overlay District shall be the same as in the OP District and also include the following:

- (1) Senior Housing
- (2) Farm Schools for pre-school children and school-aged children.
- (3) Townhouses (no more than 50% in any development)

(D) **Development Standards.** The development standards for the OP District shall also apply to properties zoned OP-2 Overlay District unless modified by 4/5 affirmative votes of the City Council and with the following exceptions:

(1) All development within an OP-2 district shall only be permitted as a Planned Unit Development.

(2) The minimum land area for an OP-2 conditional use permit is a nominal contiguous 20 acres.

(3) Not less than 60% of the preserved open space shall be in contiguous parcels of not less than 5 acres.

(4) *Buffer zones.* A 100 foot setback shall be provided between the property line of the abutting parcel and any structure and a 50 foot setback shall be provided between the property line and any driving surface within an OP-2 development.

(5) *Densities.* The maximum dwelling unit density shall be 2 units per gross acres of buildable land.

(7) *Domestic Farm Animals.* The keeping of domestic farm animals related to an agricultural use or farm-based preschool within a development shall comply with all applicable City and MPCA requirements related to livestock and other domestic farm animals.

(7) *Minimum District Requirement.* The minimum district requirements in the OP-2 Overlay District shall be the same as in the OP Zoning District except as noted below:

<i>OP-2 Overlay District</i>		
	<i>Senior Housing Buildings</i>	<i>Farm-based Preschool</i>
Maximum Building Height:		
Primary Structure	3stories or 48 feet	35 feet
Accessory Structure	25 feet	25 feet
Minimum Lot Width: ½ acre lot; 1 acre lot	NA	NA
Maximum Impervious Surface Coverage:  Calculated on a development-wide basis	25%	25%
Minimum Setback Requirements:		
Front Yard	20 feet	30 feet
Side Yard	10 feet	10 feet
Corner Lot Front	20 feet	30 feet
Corner Lot Side Yard	20 feet	30 feet
Well From Septic Tank	50 feet	50 feet

<i>OP-2 Overlay District</i>		
	<i>Senior Housing Buildings</i>	<i>Farm-based Preschool</i>
Minimum Lot Size:		
Individual Well and Septic System	NA	NA
Individual Well and Communal Drainfield	6,000 square feet per unit	NA

**SECTION 4. Effective Date**

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

**SECTION 5. Adoption Date**

This Ordinance No. 08-025 was adopted on this 1<sup>st</sup> day of June 2010, by a vote of \_\_\_ Ayes and \_\_\_ Nays.

\_\_\_\_\_  
Mayor Dean Johnston

ATTEST:

\_\_\_\_\_  
Bruce Messelt  
City Administrator

This Ordinance No 08-025 was published on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**CITY OF LAKE ELMO**

**RESOLUTION NO. 2010-024**

**RESOLUTION AUTHORIZING PUBLICATION OF  
ORDINANCE NO. 08-025 BY TITLE AND SUMMARY**

**WHEREAS**, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-025, an ordinance to update the existing city code to improve consistency with the storm water and erosion and sediment control ordinance; and

**WHEREAS**, the ordinance is lengthy; and

**WHEREAS**, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

**WHEREAS**, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Lake Elmo, that the City Administrator shall cause the following summary of Ordinance No. 08-025 to be published in the official newspaper in lieu of the entire ordinance:

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-025 which adds a new zoning district with district standards to the Zoning Ordinance and described as "OP-2 Open Space Preservation Overlay District". This new Zoning District specifies that all regulations governing the OP Open Space Preservation District shall also apply to properties zoned OP-2 Open Space Preservation Overlay District except as outlined in the ordinance. The OP-2 District specifically allows for an increase in density (up to 2 units per acre) and additional uses (including multi-family senior housing and farm-based preschools) beyond those allowed in the current OP district.

The full text of Ordinance No. 08-025 is available for inspection at Lake Elmo city hall during regular business hours.

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Mayor Dean Johnston

**BE IT FURTHER RESOLVED** by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance in his office at city hall for public inspection and that she post a full copy of the ordinance in a public place within the city.

Dated: June 1, 2010.

\_\_\_\_\_  
Mayor Dean Johnston

ATTEST:

\_\_\_\_\_  
Bruce A. Messelt  
City Administrator

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

\_\_\_\_\_ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.

DRAFT ORDINANCE – OVERLAY ZONING  
Lake Elmo Planning Department: 5/6/10  
Planning Commission Revisions – 5/10/10

*Notes: Green text is optional language that adds provisions beyond those reviewed by the Planning Commission, but has been suggested by Staff in response to some of the issues raised by the Planning Commission.*

§ 11.01 DEFINITIONS.

**Elderly Housing (Senior Housing).** A facility consisting of three or more dwelling units, the occupancy of which is limited to persons 55 years of age or older. The facility may include medical facilities or care as an accessory use. Senior housing shall typically consist of multiple-household attached dwellings, but may include other forms of attached or detached dwelling units as part of a wholly owned and managed senior project.

**Senior Housing.** *See Elderly Housing.*

**Preschool.** A licensed facility for the organized instruction of children who have not reached the age for enrollment in kindergarten. Does not include the school aged child care.

**Farm School.** A facility that supports a school program that emphasizes fostering a child's intellectual, social, physical, and emotional growth, using farm animals, ~~garden~~ agriculture, and nature as the learning environment and conducted as part of an operational farm.

**OPTIONAL DEFINITIONS – ADD/DELETE:**

**Day Care Center** – Any facility licensed by the Minnesota Department of Human Services and operated for the purpose of providing care, protection, and guidance to 14 or more individuals during only part of a twenty-four hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full twenty-four hour period.

**Schools, Public and Private** – Establishments at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before or after school day care. Examples include public and private daytime schools, boarding schools, and military academies. Exemptions: 1) Preschools are classified as Day Care Facilities, and 2) Business Schools and Professional Private Trade Schools.



~~Nursery, Day. A use where care is provided for 3 or more children under kindergarten age for periods of 4 hours or more per day for pay.~~

§ 154.067 OP-2 – OPEN SPACE PRESERVATION OVERLAY DISTRICT.

(A) **Purpose.** The purpose of the Open Space Preservation Overlay District (OP-2) is to maintain the rural character of Lake Elmo by preserving agricultural land, woodlands, corridors, and other significant natural features while allowing residential development consistent with the goals and objectives of the city's Comprehensive Plan. This type of development will allow an alternative to large lot, single-family housing and will reduce the cost of constructing and maintaining public facilities and infrastructure. The OP-2 Overlay District allows for higher density development than is permitted under the OP District regulations at a density of up to 2 units per acre. In addition to single family residences and townhouses, multi-family housing for seniors is permitted in this district.

(B) **General regulation.** All regulations governing the OP Open Space Preservation District shall also apply to properties zoned OP-2 Open Space Preservation Overlay District except as outlined in this section.

(C) **Permitted uses.** Permitted uses and the general requirements of such in the OP-2 Overlay District shall be the same as in the OP District and also include the following:

- (1) Senior Housing
- (2) Farm Schools for pre-school children and school-aged children.
- (3) Townhouses (no more than 50% in any development)

(D) **Development Standards.** The development standards for the OP District shall also apply to properties zoned OP-2 Overlay District unless modified by 4/5 affirmative votes of the City Council and with the following exceptions:

(1) All development within an OP-2 district shall only be permitted as a Planned Unit Development.

(2) The minimum land area for an OP-2 conditional use permit is a nominal contiguous 20 acres.

(3) Not less than 60% of the preserved open space shall be in contiguous parcels of not less than 5 acres.

(4) *Buffer zones.* A 50-100 foot setback shall be provided between the property line of the abutting parcel and any structure ~~or~~ and a 50 foot setback shall be provided between the property line and any driving surface within an OP-2 development.

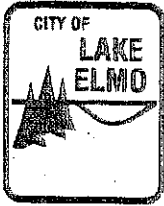
(5) *Densities.* The maximum dwelling unit density shall be 2 units per gross acres of buildable land.

(7) *Domestic Farm Animals.* The keeping of domestic farm animals related to an agricultural use or farm-based preschool within a development shall comply with all applicable City and MPCA requirements related to livestock and other domestic farm animals.

(7) *Minimum District Requirement.* The minimum district requirements in the OP-2 Overlay District shall be the same as in the OP Zoning District except as noted below:

<i>OP-2 Overlay District</i>		
	<i>Senior Housing Buildings</i>	<i><u>Farm-based Preschool</u></i>
Maximum Building Height:		
Primary Structure	3 stories or 48 feet	35 feet
Accessory Structure	25 feet	25 feet
Minimum Lot Width: ½ acre lot; 1 acre lot	NA	<u>NA</u>
Maximum Impervious Surface Coverage:		
Gross Lot Area	25%	<u>25%</u>
Calculated on a development-wide basis		
Minimum Setback Requirements:		
Front Yard	20 feet	<u>30 feet</u>
Side Yard	15 feet or 10% of lot width, whichever is greater <del>10 feet</del>	<u>10 feet</u>
Corner Lot Front	20 feet	<u>30 feet</u>
Corner Lot Side Yard	20 feet	<u>30 feet</u>

<i>OP-2 Overlay District</i>		
	<i>Senior Housing Buildings</i>	<i>Farm-based Preschool</i>
Well From Septic Tank	50 feet	<u>50 feet</u>
Minimum Lot Size:		
Individual Well and Septic System	NA	<u>NA</u>
Individual Well and Communal Drainfield	6,000 square feet per unit	<u>NA</u>



## MAYOR & COUNCIL COMMUNICATION

DATE: 6/01/2010

**CONSENT**

ITEM #: 4

**MOTION as part of Consent Agenda**

**AGENDA ITEM:** City Hall Annex Improvements -- Consideration of Quotes and Awarding a Contract.

**SUBMITTED BY:** Ryan Stempiski, Assistant City Engineer

**THROUGH:** Bruce Messelt, City Administrator *BAM*

**REVIEWED BY:** Jack Griffin, City Engineer  
Tom Bouthilet, Finance Director  
Karl Horning, Building Inspector

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to consider and award a contract for improvements to the City Hall Annex. Quotes were solicited and received from contractors to perform the proposed improvements; a tabulation of the results has been prepared and attached for reference. No specific motion is needed, as it is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND INFORMATION:** During the 2010 Budget preparation and approval process, it was identified by both City staff and the Budget & Finance Subcommittee that timely expansion of the existing City Hall, let alone construction of a New City Hall, was well beyond the City's current planning horizon, especially given the current economic conditions.

As a result, the Budget & Finance Subcommittee recommended and the City Council acted to remove the proposed new City Hall from the City's five-year Capital Improvement Program, defeased some of the bonding proceeds being held for such a project to lower existing bond payments on the Public Works Building, and dedicated approximately \$400,000 for updating, maintaining and modestly improving existing municipal structures, including City Hall and the "temporary annex."

Further, modest improvements to the City Hall Annex's conference space, office space, and restroom facilities were identified as a high priority with low cost but high customer service and community payback. As a result, TKDA was directed by the City Council to coordinate evaluation of improvements for the City Hall Annex and to obtain contractor quotes for completing the work.

The proposed improvements would be split into two separate contracts (1) the interior remodel of the office space and (2) the sewer and water utility extension to service a new bathroom for the building. The interior remodel is proposed to better utilize the available office space. The building would be improved to have a functional bathroom, a dedicated storage space, an enlarged office for the Washington County Sheriff's Department to meet their space needs, and a relocated conference room to have more space around the conference table (see attachment no. 1 for the proposed layout).

The exterior work includes the extension of sewer and water utilities to the building. The water service will be extended to the Annex from the existing service at City Hall. The plan for sewer service allowed for two methods to treat the wastewater (1) the installation of a holding tank that would need to be pumped on a regular basis or (2) the installation of a compartmentalized septic tank with an ejector pump to be connected to the existing City Hall drain field system.

**STAFF REPORT:** ModSpace originally installed the City Hall Annex building in 2008; therefore we obtained a quote from them to remodel the interior of the building. ModSpace provided a quote in the total amount of \$7,620.00 (see attachment no. 2 for an itemization of the costs).

Quotes for the utility work were sent to three utility contractors. Capra Utilities submitted the low quote of \$8,275.00 to perform the base bid and a quote of \$11,675.00 for Alternate No. 1 (see attachment no. 6).

**RECOMMENDATION:** It is recommended that the City Council award a contract for the proposed interior portion of the work to ModSpace in the amount of \$7,620.00, and recommended that the utility contract be awarded to Capra Utilities in the total amount of \$11,675.00 (Alternate No. 1). This would result in the total amount of \$19,295.00 to complete the City Hall Annex Improvements. Based upon the above background information and staff report, it is recommended that the City Council move to approve the motion by undertaking the following action:

***“Move to Award a Construction Contract to ModSpace in the amount \$7,620.00 and to Capra Utilities in the amount of \$11,675.00 for the City Hall Annex Improvements.”***

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss and deliberate this recommendation prior to taking action. The Council may table this item at its discretion, take no action (in essence denying the recommendation), or amend the recommended action. If the later is done so, the appropriate action of the Council following such discussion would be:

***“Move to approve improvements to the City Hall Annex, as denoted and identified at tonight's meeting.”***

**ATTACHMENTS:**

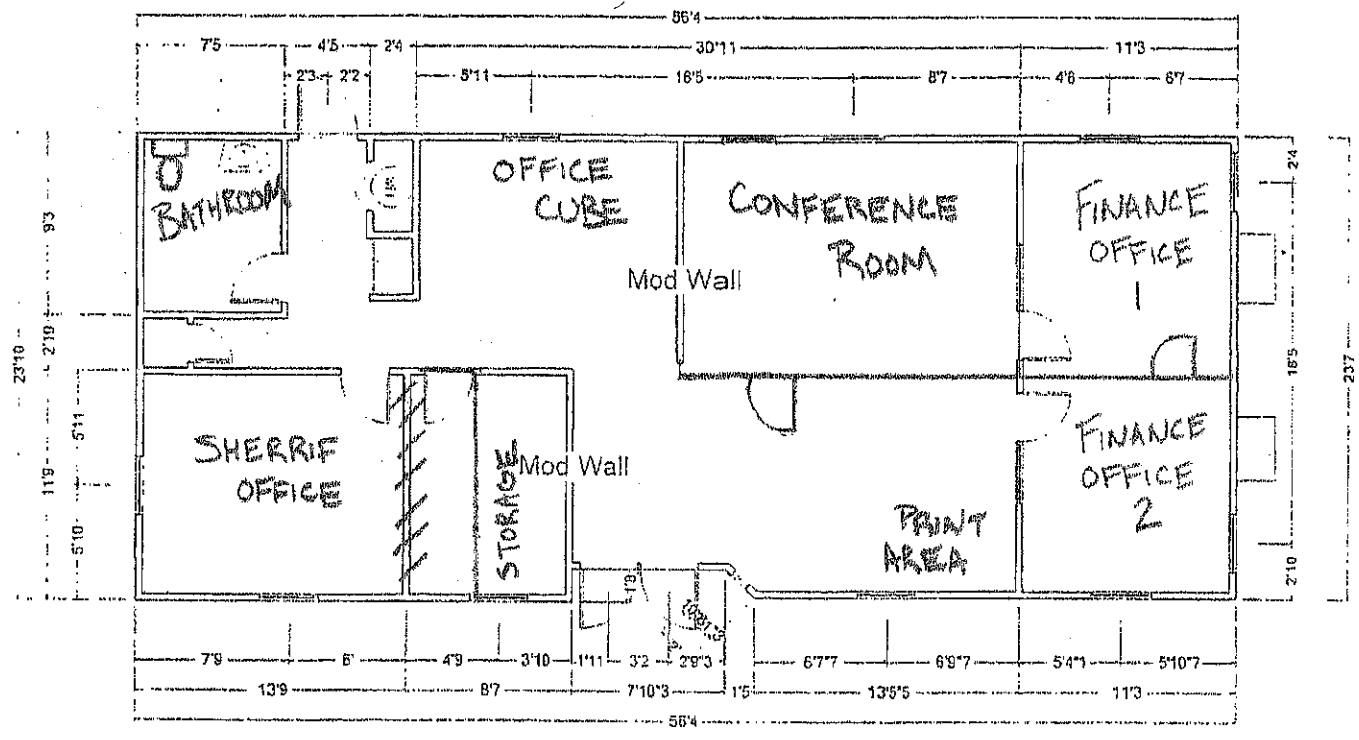
1. Proposed Interior Remodel Layout
2. Interior Remodel Cost Breakdown
3. Construction Contract for Interior Remodel
4. Proposed Site Plan
5. Proposed Site Plan Alternative No.1
6. Quote Tabulation for the Utility Improvements
7. Construction Contract for Utility Improvements

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

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

# PROPOSED LAYOUT

24' X 56' Designer



Unit 609619-620

# INTERIOR REMODEL COST BREAKDOWN

CITY HALL ANNEX IMPROVEMENTS  
 CITY OF LAKE ELMO, MINNESOTA  
 TKDA PROJECT NO. 14575.004

ITEM NO.	DESCRIPTION	TOTAL AMOUNT
<b>INTERIOR REMODEL</b>		
1	FURNISH AND INSTALL A TOLIET EXPAND THE SHERIFF'S OFFICE, CONVERT FINANCE OFFICE TO SECURED STORAGE SPACE, CONVERT THE EXISTING CONFERENCE ROOM INTO TWO OFFICES FOR THE FINANCE DEPARTMENT, RELOCATE CONFERENCE ROOM	\$ 1,064.00
2		
3	RELOCATE THE COPIER/PRINT AREA	\$ 4,933.00
4	FURNISH & INSTALL ADDITIONAL WINDOW TO THE CONFERENCE ROOM	\$ 304.00
5	PERMITS	\$ 863.00
	<b>TOTAL BID</b>	<b>\$ 7,620.00</b>



**CONSTRUCTION CONTRACT FOR INTERIOR REMODEL**

State of Minnesota

Washington County

This Contract, made this \_\_\_\_\_ day of June 2010, by the City of Lake Elmo, Minnesota (hereinafter called the "Owner") and ModSpace (hereinafter called the "Contractor").

WITNESSETH that the parties hereto agree as follows:

- (A) The Contractor shall provide all labor, services, materials, equipment and machinery, transportation, tools, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals, including profit and overhead, necessary for the performance, testing, start-up, and completion of the work as described herein:

**DESCRIPTION OF WORK:**

Contractor shall furnish all materials and labor necessary to complete the following:

- Furnish and plumb toilet in the existing bathroom
- Convert the existing finance office to a secured storage area
- Expand the existing Sheriff's Office
- Relocate the conference room as shown on the Proposed Layout, Contractor shall salvage and reuse existing doors
- Reconfigure the existing conference room to two new offices
- Cut in and install an additional window in the new conference room
- Relocate the copy/print area including all necessary communication and data wiring

Reference the attached Proposed Layout for a sketch of the improvements.

Contractor shall ensure that the proposed improvements are in compliance with Building Code, handicap accessible, and that the required permits are issued prior to construction.

At the lump sum price of \$7,620.00 (Seven Thousand Six Hundred Twenty Dollars and 00/100).

In accordance with the "General Conditions" shown in this contract as follows:

- (B) The Contractor will complete the work by \_\_\_\_\_ (See paragraph III of General Conditions).
- (C) The Owner will make payment for the whole contract, upon acceptance by the Owner of all work required hereunder and compliance by Contractor with all the terms and conditions of this contract.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first above written.

\_\_\_\_\_  
(Contractor)

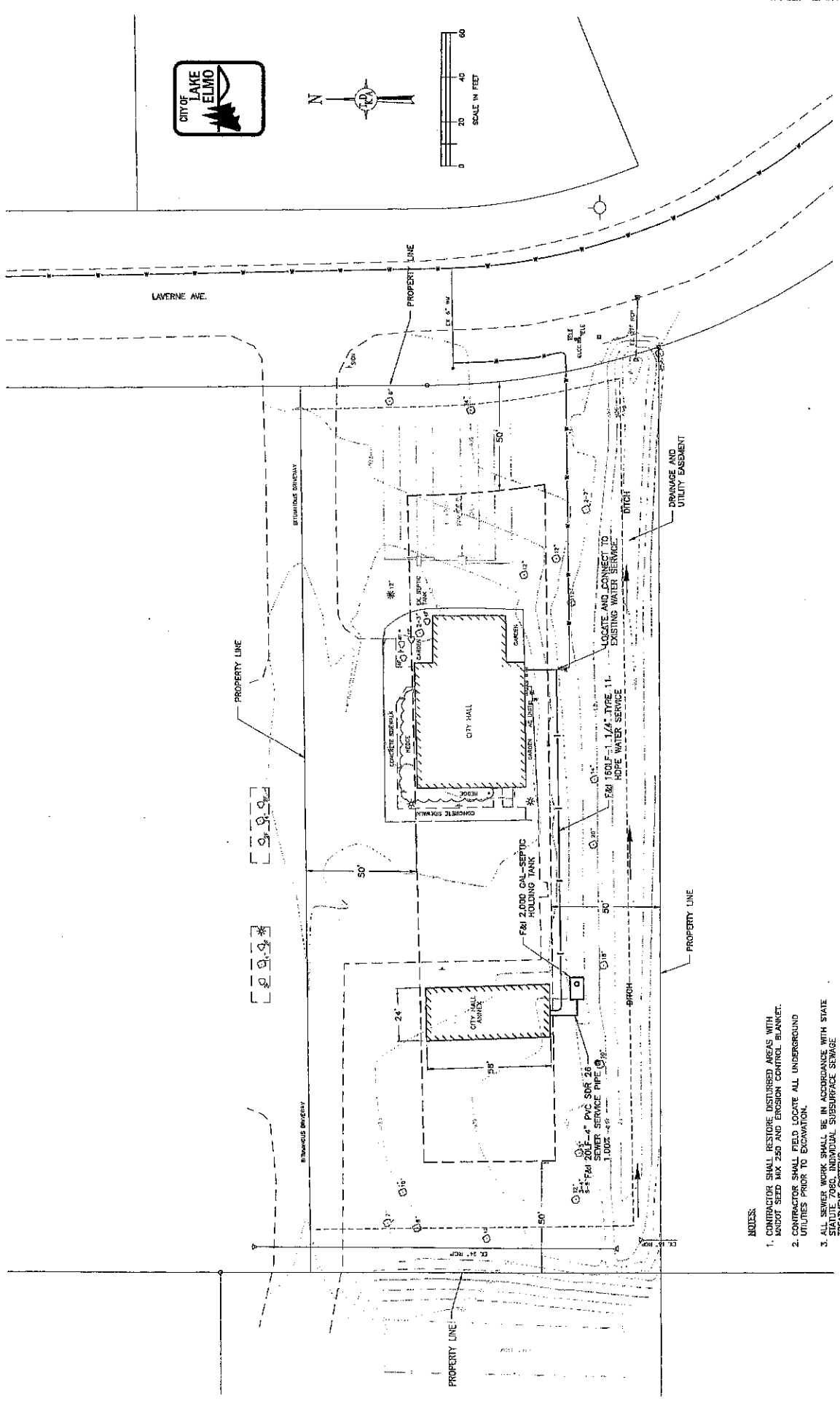
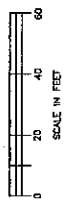
\_\_\_\_\_  
(City of Lake Elmo)

## GENERAL CONDITIONS

- I. **CHANGES IN WORK.** - The Owner may at any time, make changes in the drawings and specifications, within the general scope thereof. If such changes cause an increase or decrease in the amount due under this contract or in the time required for its performance, an equitable adjustment will be made, and this contract will be modified accordingly by a "Contract Change Order". No charge for any extra work or material will be allowed unless the same has been ordered on such contract change order by the Owner and the price therefore stated in the order.
- II. **INSPECTION OF WORK.** - All materials and workmanship will be subject to inspection, examination, and test, by the Owner, who will have the right to reject defective material and workmanship or require its correction.
- III. **COMPLETION OF WORK.** - If the Contractor refuses or fails to complete the work within the time specified in paragraph B of this contract, or any extension thereof, the Owner may terminate the Contractor's rights to proceed. In such event the Owner may take over the work and prosecute the same to completion by contract or otherwise, and the Contractor will be liable for any excess cost occasioned the Owner thereby; and the Owner may take possession of and utilize in completing the work such materials and equipment as may be on the site of the work and necessary therefore. If the Owner does not terminate the right of the Contractor to proceed, the Contractor will continue the work, in which event, actual damages for delay will be impossible to determine, and in lieu thereof, the Contractor may be required to pay to the Owner the sum of **\$100** as liquidated damages for each calendar day of delay, and the Contractor will be liable for the amount thereof. Provided, however, that the right of the Contractor to proceed will not be terminated because of delays in the completion of the completion of the work due to unforeseeable causes beyond the Contractor's control and without Contractor's fault or negligence.
- IV. **RELEASES.** - Prior to final payment, the Contractor will submit evidence that all payrolls, material bills, and other indebtedness connected with the work have been paid as required by the Owner.
- V. **OBLIGATION TO DISCHARGE LIENS.** - Acceptance by the Owner of the completed work performed by the Contractor and payment therefore by the Owner will not relieve the Contractor of obligation to the Owner (which obligation is hereby acknowledged) to discharge any and all liens for the benefit of subcontractors, laborers, material-person, or any other persons performing labor upon the work or furnishing material or machinery for the work covered by this contract, which have attached to or may subsequently attach to the property, or interest of the Owner.
- VI. **NOTICES AND APPROVAL IN WRITING.** - Any notice, consent, or other act to be given or done hereunder will be valid only if in writing.
- VII. **CLEANING UP.** - The Contractor shall keep the premises free from accumulation of waste material and rubbish and at the completion of the work shall remove from the premises all rubbish, implements and surplus materials.
- VIII. **WARRANTY.** - Contractor warrants and guarantees that title to all work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens. If within one year after completion of the work, any work is found to be defective, Contractor shall promptly, without cost to the Owner, correct such defective work as approved by the Owner.
- IX. **IDEMNIFICATION.** - Contractor shall defend and indemnify the city against claims brought or actions filed against the city or any of its officers, employees or agents for property damage, bodily injury or death to third persons, arising out of or relating to contractors work under the contract.
- X. **WORKERS' COMPENSATION INSURANCE.** - Contractor shall provide a certificate of insurance showing evidence of workers' compensation coverage or provide evidence of qualification as a self-insurer of workers' compensation.
- XI. **LIABILITY INSURANCE REQUIREMENTS.** - A certificate of insurance acceptable to the City shall be filed with the City prior to the commencement of the work. The certificate and the required insurance policies shall contain a provision that the coverage afforded under the contract will not be canceled or allowed to expire until at least 30 days prior written notice has been given to the city.

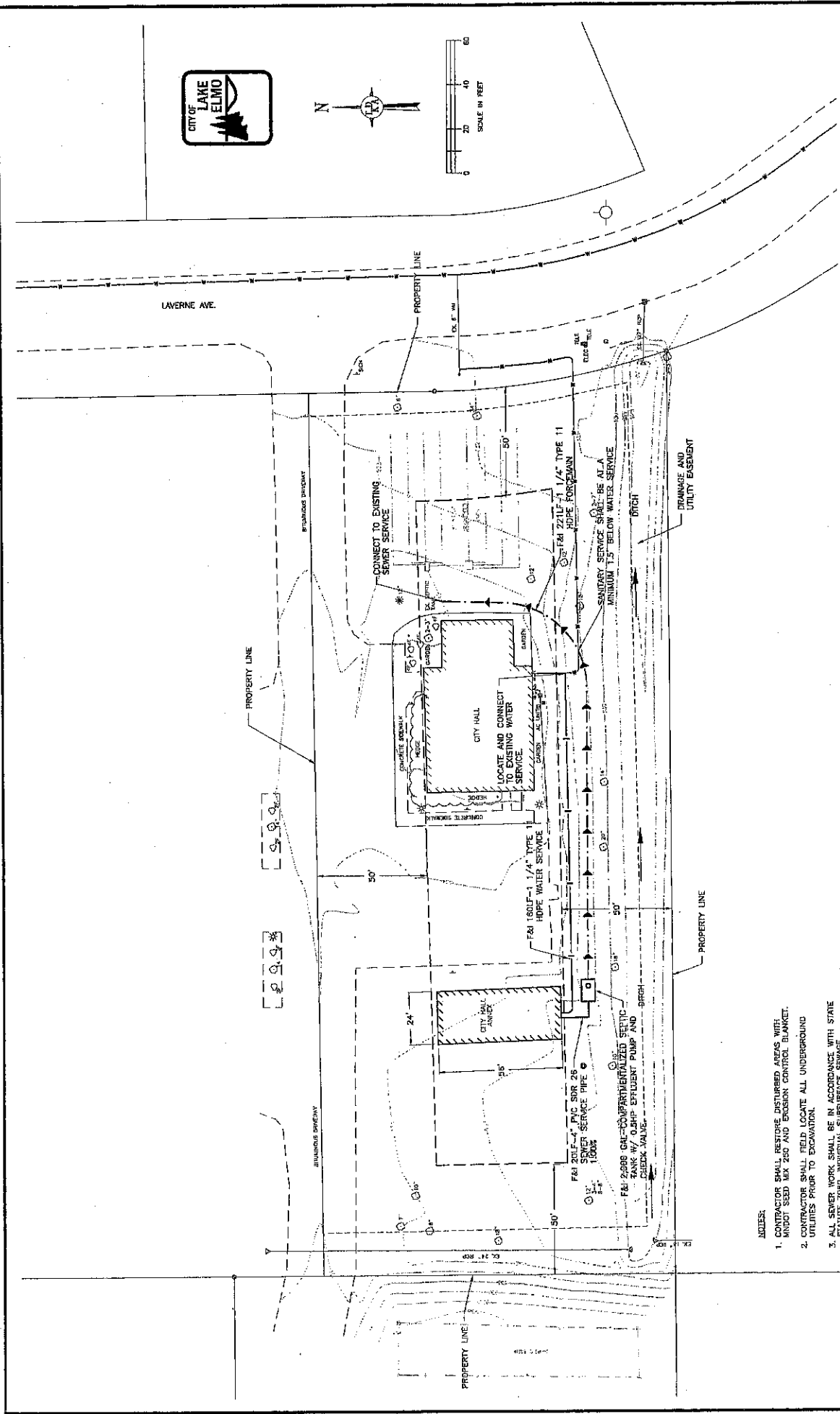
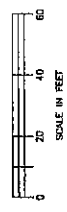
Contractor shall maintain commercial general liability (CGL), and if necessary commercial umbrella insurance, with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, the general aggregate limit shall be not less than \$2,000,000 and the aggregate limit shall apply on a per-project basis. The CGL insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and contractually-assumed liability. The city shall be named as an additional insured under the CGL.

Contractor shall maintain automobile liability insurance, and if necessary, umbrella liability insurance with a limit of not less than \$1,000,000 each accident. If such insurance contains a general aggregate limit, the general aggregate limit shall be not less than \$2,000,000. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos.



- NOTES:**
1. CONTRACTOR SHALL RESTORE DISTURBED AREAS WITH MANDOT SEED MIX 250 AND EROSION CONTROL BLANKET.
  2. CONTRACTOR SHALL FIELD LOCATE ALL UNDERGROUND UTILITIES PRIOR TO EXCAVATION.
  3. ALL SEWER WORK SHALL BE IN ACCORDANCE WITH STATE REGULATIONS FOR RURAL SUBSURFACE SEWAGE TREATMENT SYSTEMS.

		CITY HALL ANNEX PROPOSED ANNEX IMPROVEMENTS LAKE ELMO MINNESOTA		PROJECT NO. 14576.004 REVISIONS	
SHEET NO. 1 OF 2 SHEETS		DRAWING NO.		DATE: 07/27/16	
DESIGNED RVS	CHECKED RVS	DRAWN RVS	DATE 07/27/16	PROJECT NO. 14576.004	SHEET NO. 1 OF 2 SHEETS
FIELD BOOK					



- NOTES:**
1. CONTRACTOR SHALL RESTORE DISTURBED AREAS WITH RIGID SOED MIX 255 AND EXPOSED GENERAL SURFACET.
  2. CONTRACTOR SHALL FIELD LOCATE ALL UNDERGROUND UTILITIES PRIOR TO EXCAVATION.
  3. ALL SEWER WORK SHALL BE IN ACCORDANCE WITH STATE STATUTE 70900, INDIVIDUAL SUBSURFACE SEWAGE TREATMENT SYSTEMS.

		PROJECT NO. 14576.004 RECORD SET
CITY HALL ANNEX PROPOSED ANNEX IMPROVEMENTS LAKE ELMO COUNTY NO.		PROPOSED SITE PLAN ALTERNATE NO. 1 SHEET NO. 2 OF 2 SHEETS
STATE OF MINNESOTA COUNTY OF WAASHAW		DRAWN BY: [Signature] DATE: 5/27/15 CHECKED BY: [Signature] DATE: 5/28/15
PREPARED BY: [Signature] DATE: 5/27/15		PROJECT NO. 14576.004

**TABULATION OF QUOTES**

WATER AND SEWER SERVICE EXTENSION  
 CITY OF LAKE ELMO, MINNESOTA  
 TKDA PROJECT NO. 14575.004



QUOTES RECEIVED: MAY 21, 2010

**\*DENOTES ERROR IN BIDDERS CALCULATION**

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	CAPRA UTILITIES		MILLER EXCAVATING	
				UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
<b>BASE BID</b>							
1	FURINSH AND INSTALL 1 1/4" WATER SERVICE, 4" SANITARY SEWER SERVICE AND HOLDING TANK	1	LS	\$ 8,275.00	\$ 8,275.00	\$ 14,550.00	\$ 14,550.00
<b>TOTAL BASE BID</b>					<b>\$ 8,275.00</b>	<b>\$ 14,550.00</b>	<b>\$ 14,550.00</b>
<b>ALTERNATE NO. 1</b>							
ADD COMPARTMENTALIZE TANK WITH 0.5HP EFFLUENT PUMP, 1 1/4" FORCEMAIN AND CONNECT TO EXISTING DRAINFIELD							
1		1	LS	\$ 11,675.00	\$ 11,675.00	\$ 26,303.75	\$ 26,303.75
<b>TOTAL ALTERNATE NO. 1</b>					<b>\$ 11,675.00</b>	<b>\$ 26,303.75</b>	<b>\$ 26,303.75</b>

# CONSTRUCTION CONTRACT

State of Minnesota

Washington County

This Contract, made this \_\_\_\_\_ day of May 2010, by the City of Lake Elmo, Minnesota (hereinafter called the "Owner") and Capra Utilities (hereinafter called the "Contractor").

WITNESSETH that the parties hereto agree as follows:

- (A) The Contractor shall provide all labor, services, materials, equipment and machinery, transportation, tools, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals, including profit and overhead, necessary for the performance, testing, start-up, and completion of the work as described herein:

## DESCRIPTION OF WORK:

### Water Service

Contractor shall locate and connect to the existing city hall water service located near the southeast corner of the building. Contractor shall furnish all materials and labor necessary to connect to the existing service and run a new 1 1/4-inch HDPE service by horizontal directional drilling approximately 160-feet to the existing city annex building (see sheet 1). The new service shall be connected to the existing copper service located under the annex building. Contractor shall ensure that there is at minimum 8-feet of cover over the proposed service. Contractor shall perform a pressure test of the newly installed water line to ensure no leaks are present.

### Sanitary Sewer Service

Contractor shall furnish a 2,000 gallon holding tank and install at the location shown on attached plan sheet 1. A 4-inch service pipe shall be installed at a minimum of 1% from the existing city annex building to the holding tank.

All areas disturbed by construction activities shall be restored with MnDOT seed mix 250 with fertilizer and blanket.

### Sanitary Sewer Alternate No. 1

Item shall include the work stated in the above sanitary sewer service with the following additions. In lieu of a 2,000 gallon holding tank, the Contractor shall furnish and install a 2,000 gallon compartmentalized septic tank with a 0.5HP effluent pump and check valve. A 1 1/4-inch forcemain approximately 221-feet in length shall be installed by horizontal directional drilling from the septic tank to the existing city hall gravity sewer service. Contractor shall furnish all materials and labor associated with the above work (see sheet 2).

At the lump sum price of \$11,675.00 (Eleven Thousand Six Hundred Seventy-Five and 00/100).

In accordance with the "General Conditions" shown in this contract as follows:

- (B) The Contractor will complete the work by **June 30, 2010**. (See paragraph III of General Conditions).
- (C) The Owner will make payment for the whole contract, upon acceptance by the Owner of all work required hereunder and compliance by Contractor with all the terms and conditions of this contract.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first above written.

\_\_\_\_\_  
*(Contractor)*

\_\_\_\_\_  
*(City of Lake Elmo)*



## GENERAL CONDITIONS

- I. **CHANGES IN WORK.** - The Owner may at any time, make changes in the drawings and specifications, within the general scope thereof. If such changes cause an increase or decrease in the amount due under this contract or in the time required for its performance, an equitable adjustment will be made, and this contract will be modified accordingly by a "Contract Change Order". No charge for any extra work or material will be allowed unless the same has been ordered on such contract change order by the Owner and the price therefore stated in the order.
- II. **INSPECTION OF WORK.** - All materials and workmanship will be subject to inspection, examination, and test, by the Owner, who will have the right to reject defective material and workmanship or require its correction.
- III. **COMPLETION OF WORK.** - If the Contractor refuses or fails to complete the work within the time specified in paragraph B of this contract, or any extension thereof, the Owner may terminate the Contractor's rights to proceed. In such event the Owner may take over the work and prosecute the same to completion by contract or otherwise, and the Contractor will be liable for any excess cost occasioned the Owner thereby; and the Owner may take possession of and utilize in completing the work such materials and equipment as may be on the site of the work and necessary therefore. If the Owner does not terminate the right of the Contractor to proceed, the Contractor will continue the work, in which event, actual damages for delay will be impossible to determine, and in lieu thereof, the Contractor may be required to pay to the Owner the sum of **\$100** as liquidated damages for each calendar day of delay, and the Contractor will be liable for the amount thereof: Provided, however, that the right of the Contractor to proceed will not be terminated because of delays in the completion of the work due to unforeseeable causes beyond the Contractor's control and without Contractor's fault or negligence.
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- IX. **IDEMNIFICATION.** - Contractor shall defend and indemnify the city against claims brought or actions filed against the city or any of its officers, employees or agents for property damage, bodily injury or death to third persons, arising out of or relating to contractors work under the contract.
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## MAYOR & COUNCIL COMMUNICATION

DATE: 6/01/2010  
CONSENT  
ITEM #: 5  
MOTION *as part of Consent Agenda*

**AGENDA ITEM:** Proposed Drainage Improvements to Lions Park -- Authorization for Geotechnical Services

**SUBMITTED BY:** Ryan Stempski, Assistant City Engineer

**THROUGH:** Bruce A. Messelt, City Administrator *BAW*

**REVIEWED BY:** Jack Griffin, City Engineer  
Tom Bouthilet, Finance Director  
Mike Bouthilet, Public Works

---

**SUMMARY AND ACTION REQUESTED:** The City Council is asked to authorize geotechnical services in the amount of \$2,100 for proposed drainage improvements within Lions Park. The soil information is necessary to determine feasible options for drainage issues that exist along the City's drainage ditch through the Old Village Area, specifically in the area near Laverne Avenue at Lions Park. No specific motion is needed, as it is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND INFORMATION:** The existing conditions of the drainage ditch through the Old Village Area have created drainage issues for several years. 3570 Laverne Avenue North is the last residential property downstream of the drainage ditch that runs through the Old Village.

Over the past few years, the City has been contacted by the resident at 3570 Laverne Avenue North regarding the flooding of the City's drainage ditch onto private property. Last summer, the Lake Elmo Public Works Department worked with a Contractor to clean out debris in the ditch, but flooding issues still occurred this spring at 3570 Laverne Avenue North.

**STAFF REPORT:** To alleviate the flooding onto 3570 Laverne Avenue North, Staff is looking at the concept of draining standing water in the culvert under Laverne Avenue and at the culvert outlet located on the Lions Park property. Possibility exists for construction of a rain garden or other retention/drainage system, as opposed to the current over-land gravity-flow arrangement. A soil boring will be necessary before a scope of the drainage improvement project can be provided by engineering staff.

The proposed geotechnical services are proposed to be funded out of the Storm Water Fund. Once a feasible option has been provided, the City of Lake Elmo will seek grant assistance from the Valley Branch Watershed District to construct the drainage improvement. Some Parks improvements (signage, landscaping, and ball field leveling) may also be possible during this endeavor.

**RECOMMENDATION:** Based upon the above background information and staff report, it is recommended that the City Council move to approve the motion as part of the overall approval of the *Consent Agenda*.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss and deliberate this recommendation prior to taking action. The Council may table this item at its discretion, take no action (in essence denying the recommendation), or amend the recommended action. If the later is done so, the appropriate action of the Council following such discussion would be:

***“Move to Authorize American Engineering Testing, Inc. to Perform Geotechnical Services for the Proposed Drainage Improvements to Lions Park in the Amount of \$2,100.00, [as amended at tonight’s meeting].”***

**ATTACHMENTS:**

1. American Engineering Testing, Inc. Proposal for Geotechnical Services
2. Location Map

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

- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Public Input, if Appropriate ..... Mayor Facilitates
- Action on Motion ..... Mayor Facilitates



AMERICAN  
ENGINEERING  
TESTING, INC.

CONSULTANTS  
• ENVIRONMENTAL  
• GEOTECHNICAL  
• MATERIALS  
• FORENSICS

May 26, 2010

City of Lake Elmo  
Department of Public Works  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

Attn: Ryan Stempksi, PE

RE: Proposal for Geotechnical Services  
Stormwater Improvements, Lyons Park, Lake Elmo, Minnesota

Dear Mr. Stempksi:

Per our initial May 24 discussion and your May 26 request to provide a proposal with options, we are submitting this updated proposal to conduct the following scope:

**Scope:**

***Fieldwork***

- **Option A:** Drill one standard penetration test boring at the site to a depth of 11 feet.
- **Option B:** Drill two standard penetration test borings at the site to depths of 11 feet.
- Clear underground public utilities through the Gopher State One Call system.
- Measure and document the boring locations and surface elevations.

***Laboratory***

- Conduct water content testing on cohesive soils (hourly during lab logging)
- **Lab Option:** Conduct sieve analysis testing to allow more accurate estimating of soil infiltration rates (\$88 per sieve analysis test).

***Report***

- Logs of test borings, including descriptions of drilling, test and classification methods.
- Estimates of soil infiltration values. If sieve analysis tests are done, estimates will be calculated per the Kozeny-Carman formula.

The scope of work defined in this proposal is intended for geotechnical purposes only, and not to explore for the presence or extent of environmental contamination at the site. However, we will note obvious contamination encountered.

**Fee:**

Our services will be performed on a time-and-materials basis per the attached fee schedule. For the scope described, we will establish \$1750 as a not-to-exceed fee for Option A and \$2100 as a not-to-exceed for Option B. After the boring is completed, we will review the need/desire for the Lab Option with you, and if approved, this would add \$88 per sieve test to the not-to-exceed

550 Cleveland Avenue North | St. Paul, MN 55114

Phone 651-659-9001 | Toll Free 800-972-6364 | Fax 651-659-1379 | [www.amengtest.com](http://www.amengtest.com) | AA/EEO

This document shall not be reproduced, except in full, without written approval from American Engineering Testing, Inc.



City of Lake Elmo  
May 26, 2010  
Page 2 of 2

fees. In the event the scope of our work needs to be revised, we will review such scope adjustments and the associated fees with you, and receive your approval before proceeding.

**Schedule:**

Based on our current backlog, we anticipate drilling can be performed within about two weeks after receiving authorization to proceed. Verbal results can be provided shortly after the fieldwork is completed. The report should follow the fieldwork by about two weeks.

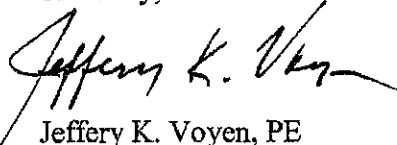
**Terms/Conditions:**

Our services will be performed per the attached two-page *Service Agreement* and the one-page *Subsurface Boring Supplement*.

**Acceptance:**

Please indicate your acceptance of this proposal by endorsing the enclosed copy and returning it to us. The original proposal is intended for your records.

Sincerely,



Jeffery K. Voyer, PE  
Vice President, Geotechnical Division  
Phone #651-659-1305  
Cell #612-961-9186  
jvoyer@amengtest.com

**PROPOSAL ACCEPTANCE BY:**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachments:**

2009 Geotechnical Fee Schedule  
Service Agreement, Subsurface Boring Supplement

**2009 GEOTECHNICAL FEE SCHEDULE**

<b>I. Personnel Hourly Rates</b>		7. Stabilized Earth Slopes & Walls	15.00/hr		
A.	Word Processing Specialist	8. Settlement (FoSSA)	15.00/hr		
B.	Drill Technician/Lab Technician	9. SHAFT	15.00/hr		
C.	Senior Engineering Technician	F. Bit Wear- Rock Coring			
D.	Engineering Assistant	1. Diamond Bit - Sedimentary Rock			
E.	Engineer I/Geologist I	a) B, NQ	10.00/foot		
F.	Engineer II/Geologist II/Sr. Engr. Assistant	b) HQ	12.00/foot		
G.	Senior Engineer/Geologist	2. Diamond Bit - Metamorphic & Igneous			
H.	Principal Engineer/Geologist	a) B, NQ	17.00/foot		
		b) HQ	20.00/foot		
<b>II. Vehicle Mileage</b>		<b>IV. Laboratory Tests of Soil</b>			
A.	Personal Automobile/Truck	0.70/mile	A. Water Content	hourly	
B.	Auxiliary Truck Vehicle	0.90/mile	B. Dry Density (includes water content)	50.00/test	
C.	Truck with Coring Equipment	1.00/mile	C. Atterberg Limits (ASTM:D4318)		
D.	Truck with Warning Sign/Crash Trailer	1.10/mile	1. Plasticity Index	100.00/test	
E.	1-ton Truck with Drill Rig	1.10/mile	2. Liquid Limit or Plastic Limit	75.00/test	
F.	1-1/2 to 2-1/2-ton Truck with Drill Rig	1.25/mile	Separately		
G.	CPT Truck Rig (20-ton push capacity)	1.50/mile	D. Shrinkage Limit (ASTM:D427)	95.00/test	
H.	Tractor/Lowboy Trailer	1.70/mile	E. Sieve Analysis (includes #200)	88.00/test	
<b>III. Equipment Rental</b>			F. Hydrometer Analysis (sieve included)	235.00/test	
A.	Drill Rig Rental		G. Thermal Resistivity w/Proctor (ASTM:D5334)		
1.	Rotary Drill on 1-ton Truck	62.00/hr	1. As Received and Oven Dried (2 pts)	910.00/test	
2.	Rotary Drill on 1½ to 2½-ton Truck	72.00/hr	2. Dry Out Curve (4 pts)	1130.00/test	
3.	Rotary Drill on All-Terrain Vehicle	102.00/hr	H. Electrical Resistivity (ASTM:G57-Soil Box)	85.00/test	
4.	Portable, Non-rotary Rig	72.00/hr	I. Unconfined Compression (ASTM:D2166)	76.00/test	
B.	Auxiliary/Specialty Vehicle Rental		J. Hand Penetrometer	10.00/test	
1.	Auxiliary Truck Vehicle	15.50/hr	K. Organic Content of Soil	55.00/test	
2.	Truck with Warning Sign/Crash Trailer	25.00/hr	L. Topsoil Borrow Test (Mn/DOT 3877)	340.00/test	
3.	Truck with Coring Equipment	40.00/hr	M. R-value (Hveem Stabilometer)	360.00/test	
C.	Cone (CPT) Rig/Equipment Rental		N. California Bearing Ratio		
1.	CPT Rig (Truck or ATV)	128.00/hr	1. Granular	560.00/test	
2.	Electronic Cone w/Computer	37.00/hr	2. Cohesive	630.00/test	
3.	Soil Sampler	3.00/hr	O. Proctor Tests (Methods A or B)		
4.	Water Sampler	20.00/hr	1. Standard	115.00/test	
D.	Miscellaneous Equipment Rental		2. Modified	130.00/test	
1.	Field Vane Shear	300.00/day	<b>V. Expenses</b>		
2.	Field Electrical Resistivity	210.00/day	A.	Direct Project Expenses: includes out-of-town per diem; plowing & towing; special materials & supplies; special travel, transportation & freight; subcontracted services, and miscellaneous costs	Cost + 15%
3.	Field Seismic Refraction (ReMi)	370.00/day	B.	Equipment Replacement (when abandonment is more feasible than recovery)	Cost
4.	Inclinometer Reading Equipment	300.00/day	C.	Equipment Recovery (when required by regulatory agencies or project specifications)	Cost + 15%
5.	Pneumatic Transducer Reading	150.00/day	<b>VI. Expert Witness Service Rates</b>		
6.	Bore Hole Permeability		A.	Litigation Preparation	210.00/hr
a.	Open End Casing Method	120.00/day	B.	Deposition or Court Time (4-hour minimum)	265.00/hr
b.	HQ Wireline Packer	300.00/day	The rates presented are portal-to-portal with vehicle mileage, expenses and equipment rentals being additional.		
7.	Borehole Pressuremeter	55.00/hr	Overtime for personnel charged at above cost plus 25% for over 8 hours per day or Saturday; and at above cost plus 50% for Sundays or Holidays. Hazardous work charged at an additional 25%. Night time shift work will include a premium charge of \$30.00 per person per shift.		
8.	Iowa Borehole Shear Tester	310.00/day			
9.	Double Ring Infiltrometer	235.00/day			
10.	Photoionization Detector (PID)	110.00/day			
11.	GPS Mapping System	13.00/hr			
12.	Pile Driving Analyzer (PDA)	680.00/day			
13.	Calibrated SPT Rod	175.00/day			
14.	Portable Concrete Coring Equipment	35.00/hr			
15.	Pavement Testing (FWD includes Truck)				
a.	Falling Weight Deflectometer	150.00/hr			
b.	Light Weight Deflectometer	50.00/hr			
E.	Geotechnical Software Rental				
1.	Geo Studio Finite Element	55.00/hr			
2.	CAPWAP	30.00/hr			
3.	AutoCAD	25.00/hr			
4.	Wave Equation (WEAP)	15.00/hr			
5.	LPILE or GROUP	15.00/hr			
6.	Slope Stability (ReSSA)	15.00/hr			

**SECTION 1 - RESPONSIBILITIES**

**1.1** - The party to whom the proposal/contract is addressed is considered the Client of American Engineering Testing, Inc. (AET). The terms and conditions stated are binding, upon acceptance, on the Client, its successors, assignees, joint ventures and third-party beneficiaries. **Oral proposal acceptance or authorizing purchase orders from the Client are considered formal acceptance of AET's terms and conditions.**

**1.2** - Prior to AET performing work, Client will provide AET with all information that may affect the cost, progress, safety and performance of the work. This includes, but is not limited to, information on proposed and existing construction, all pertinent sections of contracts between Client and property owner, site safety plans or other documents which may control or affect AET's work. If new information becomes available during AET's work, Client will provide such information to AET in a timely manner. Failure of client to timely notify AET of changes to the project including, but not limited to, location, elevation, loading, or configuration of the structure or improvement will constitute a release of any liability of AET. Client will provide a representative for timely answers to project-related questions by AET.

**1.3** - Work by AET will not relieve other persons of their responsibility to perform work according to the contract documents or specifications, and AET will not be held responsible for work or omissions by Client and other persons. AET does not perform construction management, general contracting or surveying services and our presence on site does not constitute any assumption of those responsibilities. AET will not be responsible for directing or supervising the work of others, unless specifically authorized and agreed to in writing.

**1.4** - Work by AET often includes sampling at specific locations. Inherent with such sampling is variation of conditions between sampling locations. Client recognizes this uncertainty and the associated risk, and acknowledges that opinions developed by AET, based on the samples, are qualified to that extent.

**1.5** - AET is not responsible for interpretations or modifications of AET's recommendations by other persons.

**1.6** - Should changed conditions be alleged, Client agrees to notify AET before evidence of alleged change is no longer accessible for evaluation.

**SECTION 2 - SITE ACCESS AND RESTORATION**

**2.1** - Client will furnish AET safe and legal site access.

**2.2** - It is understood by Client that in the normal course of the work, some damage to the site or materials may occur. AET will take reasonable precautions to minimize such damage. Restoration of the site is the responsibility of the Client.

**SECTION 3 - SAFETY**

**3.1** - Client shall inform AET of any known or suspected hazardous materials or unsafe conditions at the work site. If, during the course of AET's work, such materials or conditions are discovered, AET reserves the right to take measures to protect AET personnel and equipment or to immediately terminate services. Client shall be responsible for payment of such additional protection costs.

**3.2** - AET shall only be responsible for safety of AET employees at the work site. The Client or other persons shall be responsible for the safety of all other persons at the site.

**SECTION 4 - SAMPLES**

**4.1** - Client is responsible for informing AET of any known or suspected hazardous materials prior to submittal to AET. All samples obtained by, or submitted to, AET remain the property of the Client during and after the work. Any known or suspected hazardous material samples will be returned to the Client at AET's discretion.

**4.2** - Non-hazardous samples will be held for 30 days and then discarded unless, within 30 days' of the report date, the Client provides a written request that AET store or ship the samples, at the Client's expense.

**SECTION 5 - PROJECT RECORDS**

The original project records prepared by AET will remain the property of AET. AET shall retain these original records for a period of three years following submission of the report, during which period the project records can be made available to Client at AET's office at reasonable times.

**SECTION 6 - STANDARD OF CARE**

AET will perform services consistent with the level of care and skill normally performed by other firms in the profession at the time of this service and in this geographic area, under similar budgetary constraints. No other warranty is implied or intended.

**SECTION 7 - INSURANCE**

AET carries Worker's Compensation, Comprehensive General Liability, Automobile Liability and Professional Liability insurance. AET will furnish certificates of insurance to Client upon request.



**SECTION 8 - DELAYS**

If AET work delays are caused by Client, work of others, strikes, natural causes, weather, or other items beyond AET's control, a reasonable time extension for performance of work shall be granted, and AET shall receive an equitable fee adjustment.

**SECTION 9 - PAYMENT, INTEREST AND BREACH**

**9.1** - Invoices are due on receipt. Client will inform AET of invoice questions or disagreements within 15 days of invoice date; unless so informed, invoices are deemed correct.

**9.2** - Client agrees to pay interest on unpaid invoice balances at a rate of 1.5% per month, or the maximum allowed by law, whichever is less, beginning 30 days after invoice date.

**9.3** - If any invoice remains unpaid for 60 days, such non-payment shall be a material breach of this agreement. As a result of such material breach, AET may, at its sole option, terminate all duties to the Client or other persons, without liability.

**9.4** - Client will pay all AET collection expenses and attorney fees relating to past due fees which the Client owes under this agreement.

**SECTION 10 - MEDIATION**

**10.1** - Client and AET agree that any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

**10.2** - Unless Client and AET mutually agree otherwise, mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. Request for mediation shall be in writing and the parties shall share the mediator's fee and any filing fees equitably. The mediator shall be acceptable to both parties and shall have experience in commercial construction matters.

**SECTION 11 - LITIGATION REIMBURSEMENT**

Payment of AET costs for Client lawsuits against AET which are dismissed or are judged substantially in AET's favor will be the Client's responsibility. Applicable costs include, but are not limited to, attorney and expert witness fees, court costs, and AET costs.

**SECTION 12 - MUTUAL INDEMNIFICATION**

**12.1** - AET agrees to hold harmless and indemnify Client from and against liability arising out of AET's negligent performance of the work, subject to Section 13 and any other limitations, other indemnifications or other provisions Client and AET have agreed to in writing.

**12.2** - Client agrees to hold harmless and indemnify AET from and against liability arising out of Client's negligent conduct, subject to any limitations, other indemnifications or other provisions Client and AET have agreed to in writing.

**12.3** - If Client has indemnity agreement with other persons, the Client shall include AET as a beneficiary.

**SECTION 13 - LIMITATION OF LIABILITY**

Client agrees to limit AET's liability to Client arising from negligent acts, errors or omissions, such that the total liability of AET shall not exceed \$50,000.

**SECTION 14 - TERMINATION**

After 7 days written notice, either party may elect to terminate work for justifiable reasons. In this event, the Client shall pay for all work performed, including demobilization and reporting costs to complete the file.

**SECTION 15 - SEVERABILITY**

Any provisions of this agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force. However, Client and AET will in good faith attempt to replace an invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision.

**SECTION 16 - GOVERNING LAW**

This Agreement shall be construed, and the rights of the parties shall be determined, in accordance with the Laws of the State of Minnesota.

**SECTION 17 - ENTIRE AGREEMENT**

This agreement, including attached appendices, is the entire agreement between AET and Client. This agreement nullifies any previous written or oral agreements, including purchase/work orders. Any modifications to this agreement must be in writing.

**SUBSURFACE BORING SUPPLEMENT  
TO TERMS AND CONDITIONS**

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Page 1 of 1

**SECTION 1 - UNDERGROUND UTILITY AND STRUCTURE CLEARANCE**

**1.1** - It is necessary that borings, excavations and other penetrations be located such that they maintain a minimum safe distance from underground utilities or other man-made objects. Client shall advise AET of all utilities that service or are located on the site, as well as any underground improvements located on the site. AET will contact state notification centers, where available, or individual utility owners where a state notification center is not available prior to drilling.

**1.2** - Public utility owners may not provide the locating service on private property. In such situations, the Client is responsible for location of such utilities prior to drilling.

**1.3** - The property owner may have private underground improvements which cannot be cleared through the state notification center or public utility owners. The Client is responsible for location of these improvements.

**1.4** - AET will not be responsible for any damages to "non-located" or incorrectly located underground utilities or other man-made improvements.

**SECTION 2 - SITE RESTORATION**

**2.1** - Client accepts that in the normal course of field exploration work, certain types of damage to the site may occur which are inherent with this type of work, such as tire indentations to lawns and landscape areas. It is the responsibility of AET to take reasonable precautions to minimize such damage. It is also AET's responsibility to patch boreholes placed through pavement or slab areas after performance of borings. Otherwise, restoration of the site is the responsibility of the client.

**SECTION 3 - CONTAMINATION**

**3.1** - Client acknowledges and accepts that unavoidable contamination risks may be associated with AET's subsurface drilling, sampling and installation of monitoring devices. Risks include, but are not limited to, cross contamination created by linking contaminated zones to uncontaminated zones during the drilling process; containment and proper disposal of known or suspected hazardous materials, drill cuttings and drill fluids; and decontamination of equipment and disposal and replacement of contaminated consumables. Client and AET agree that the discovery of unanticipated actual or suspected hazardous materials may make it necessary for AET to take immediate measures, including regulatory notification, to protect human health and safety, and/or the environment. Client and AET also agree that the discovery of such materials constitutes a changed condition which may result in added costs to the Client, and may require a renegotiation of work scope or termination of services.

**3.2** - Pursuant to risks set forth in Section 3.1, which are inherent with AET's work performed on the Client's behalf, Client agrees to hold harmless and indemnify AET from and against liability associated with contamination resulting therefrom.

**SECTION 4 - LOST EQUIPMENT**

Equipment lost in bore holes may be required to be retrieved or properly abandoned by government agencies. Client agrees to pay AET all costs related to retrieving and/or abandoning such equipment at AET fee schedule rates, unless agreed otherwise.

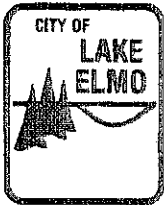
**SECTION 5 - LIMITATIONS OF SUBSURFACE EXPLORATION**

Client recognizes that unavoidable risks occur whenever engineering or related disciplines are applied to identify subsurface conditions. Variations in soil conditions usually occur between and beyond sampled/tested locations. Even a comprehensive sampling and testing program performed in accordance with a professional standard of care may fail to detect certain conditions, because the variability of conditions cannot be seen. For similar reasons, actual environmental, geologic and geotechnical conditions that AET characterizes to exist between sampling points may differ significantly from those that actually exist. The passage of time also must be considered, and Client recognizes that, due to natural occurrences or direct or indirect human activities at the site or distant from it, actual conditions discovered may change. Client recognizes that nothing can be done to eliminate the risks associated with these limitations.









# MAYOR & COUNCIL COMMUNICATION

DATE: 06/01/2010  
REGULAR  
ITEM 6  
MOTION

**AGENDA ITEM:** Thank You from Fire Relief Association

**SUBMITTED BY:** Fire Chief Greg Malmquist

**THROUGH:** Bruce Messelt, City Administrator *BAM*

**REVIEWED BY:** - NA -

**SUMMARY AND ACTION REQUESTED:** The City Council is asked to receive a formal note of "thank you" from the Fire Relief Association for its recent show of financial and public support. No Council action is recommended or required for this Agenda Item.

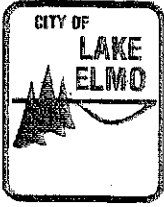
**BACKGROUND INFORMATION & STAFF REPORT:** Fire Chief Malmquist will be present at tonight's meeting to briefly deliver a word of thanks for the City Council's recent action to provide symbolic financial assistance and public support for the efforts of the Relief Association.

**RECOMMENDATION:** It is recommended that the City Council receive the verbal work of thanks from Chief Malmquist. No other action is anticipated with respect to this agenda item.

**ATTACHMENTS:** None.

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... Mayor
- Report/Presentation ..... Fire Chief Malmquist
- Public Input, if Appropriate ..... Mayor Facilitates
- Council Response, if Appropriate ..... Mayor Facilitates



## MAYOR & COUNCIL COMMUNICATION

DATE: 06/01/2010

**REGULAR**

ITEM 7

**MOTION**

**AGENDA ITEM:** Conditional Employment Offer to as Probationary Firefighter to Amanda Haire, Robin Goodspeed, Tony Frenier and Justin Johnson

**SUBMITTED BY:** Fire Chief Greg Malmquist

**THROUGH:** Bruce Messelt, City Administrator *BAW*

**REVIEWED BY:** - NA -

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to make conditional job offers to Amanda Haire, Robin Goodspeed, Tony Frenier and Justin Johnson as Probationary Firefighters in the department, contingent upon their passing physicals and psychological screening. The suggested motion to undertake this recommendation is as follows:

***SUGGESTED MOTION:*** *Move to offer Amanda Haire, Robin Goodspeed, Tony Frenier and Justin Johnson employment with the City of Lake Elmo as Probationary Firefighters, contingent upon their passing physical and psychological screenings.*

**BACKGROUND INFORMATION & STAFF REPORT:** Fire Chief Malmquist will be present at tonight's meeting to briefly present on this Agenda Item. The above denoted applicants have met the requirements for employment as Probationary Firefighters to this point, including background checks, attendance at three meetings, passage of an ability test, and completion of the interview process.

Assuming Council affirmation at tonight's meeting, and upon successful completion of the physical and psychological screening, these individuals will be placed on probationary status with the fire department.

**RECOMMENDATION:** It is recommended that the City Council affirmatively consider approval of the conditional job offers. The suggested motion to accomplish this is as follows:

***Move to offer Amanda Haire, Robin Goodspeed, Tony Frenier and Justin Johnson employment with the City of Lake Elmo as Probationary Firefighters, contingent upon their passing physical and psychological screenings.***

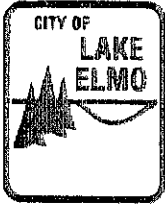
Alternatively, the City Council does have the authority to further discuss and deliberate prior to taking action. The City Council may deny such recommendation outright by simply not taking any action on this item. It may also amend this recommendation, as appropriate. If the latter is done, the appropriate action of the Council following such discussion would be:

***“Move to offer employment with the City of Lake Elmo as Probationary Firefighters, contingent upon their passing physical and psychological screenings [as amended at tonight’s meeting].”***

**ATTACHMENTS:** None.

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation..... Fire Chief Malmquist
- Questions from Council to Staff ..... Mayor Facilitates
- Public Input, if Appropriate ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion ..... Mayor Facilitates



## MAYOR & COUNCIL COMMUNICATION

DATE: 6/01/10

**REGULAR**

ITEM #: 8

**MOTION**

**Resolution 2010 – 026**

**AGENDA ITEM:** Consideration of an Application for a Variance from the 150 foot OHWL Setback in the Shoreland District to Allow the Construction of an Attached Garage with Living Space above at 11950 21<sup>st</sup> Street North.

**SUBMITTED BY:** Richard and Elizabeth Heath  
Lake Elmo Planning Commission  
Kelli Matzek, City Planner

**THROUGH:** Bruce Messelt, City Administrator *BA*

**REVIEWED BY:** Kyle Klatt

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to consider a variance request from Mr. and Mrs. Heath to tear down an existing garage and to build a new attached garage with living space above it at 11950 21<sup>st</sup> Street North. The proposed building will be attached to the existing home and is intended to replace an existing attached garage on the site for which a variance was granted in 1981.

The new building would be located 35 feet from the OHW of Downs Lake where a 150 foot structure setback is required. In reviewing the request against the three criteria listed below, both the Planning Commission and Staff determined all criteria were met (the basis for this finding is included in the attached report). As such, the recommended motion to act on this is as follows:

**SUGGESTED MOTION:** *“Move to approve the 35 foot variance request for 11950 21<sup>st</sup> St. N.”*

**BACKGROUND INFORMATION:** The applicants are seeking to vacate a portion of an existing drainage and utility easement where the existing driveway and proposed structure will be located (the existing structure and part of the driveway currently infringes on this same easement) and to expand the drainage and utility easement to cover the remainder of the 100 Year Flood Elevation.

For variance applications, the burden is on the applicant to demonstrate why this situation is unique and necessitates flexibility to code requirements. To make this case, a variance can only be granted by the city when strict enforcement of the code would cause undue hardship on a property owner.

“Hardship” is broken down into the following three components:

- a. *The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists;*
- b. *The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; the unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations; and*
- c. *The variance, if granted, will not change the essential character of the neighborhood.*

**PLANNING COMMISSION REPORT:** The Planning Commission held a public hearing for this application at their May 24<sup>th</sup> meeting at which time no one spoke for or against the application. The Planning Commission unanimously (5 to 0) recommended approval of the application.

Of note: The original public hearing notification included a variance from the floodplain. Upon further investigation and through discussions with the DNR, it was determined a variance was not needed, as the elevation was raised at some point in the past and the structure is proposed to be at the appropriate elevation. The property received a 65 foot variance to build the existing garage in 1981, above the 895 elevation.

**STAFF REPORT:** The attached Staff report includes a detailed review of the application along with a Staff recommendation with conditions of approval.

**RECOMMENDATION:** Based upon the above background information and staff report, it is recommended that the City Council approve the variance application by undertaking the following action:

***“Move to approve the 35 foot variance request for 11950 21<sup>st</sup> Street North.”***

Alternatively, the City Council does have the authority to further discuss and deliberate this recommendation prior to taking action. The Council may table this item at its discretion, deny the recommendation with findings of fact (to be enunciated), or amend the recommended action. If the later is done so, the appropriate action of the Council following such discussion would be:

***“Move to approve the variance request for 11950 21<sup>st</sup> St. N., [as amended at tonight’s meeting]”***



**ATTACHMENTS:**

1. Staff Report
2. Resolution 2010 - 026
3. Location Map
4. VBWD Comments
5. Engineer's Comments
6. Applicant's Submittals

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation..... Planning Director
- Questions from Council to Staff ..... Mayor Facilitates
- Public Input, if Appropriate ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

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

**RESOLUTION NO. 2010-026**

*A RESOLUTION APPROVING A VARIANCE FROM THE REQUIRED SETBACK FROM THE  
ORDINARY HIGH WATER LINE OF DOWN'S LAKE AT 11905 21<sup>ST</sup> STREET NORTH*

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

**WHEREAS**, Richard Heath, 11905 21<sup>st</sup> Street North (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a variance to allow the construction of an addition to an existing residence that would be set back 115 feet from the Ordinance High Water Elevation of Down's Lake, a copy of which is on file with the City; and

**WHEREAS**, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on May 24, 2010; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated June 1, 2010; and

**WHEREAS**, the City Council considered said matter at its June 1, 2010 meeting.

**NOW, THEREFORE**, based on the testimony elicited and information received, the City Council makes the following:

**FINDINGS**

- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.017.

- 2) That all the submission requirements of said 154.017 have been met by the Applicant.
- 3) That the proposed variance is to allow the construction of an addition to the existing residence at 11905 21<sup>st</sup> Street North that would be set back 115 feet from the Ordinance High Water Elevation of Down's Lake, which is 35 feet closer than the required setback of 150 feet from a Natural Environment Lake under the Lake Elmo Shoreland Ordinance.
- 4) That the Variance will be located on property legally described as Lot 1, Block 1, of Eden Park Second Addition, Washington Co., Minnesota.
- 5) The proposed addition cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists. *The home was built in 1979 and is located entirely within the 150 foot structure setback. To construct an attached garage would require a variance to some degree from the OHW setback. Additionally, the existing septic system is located on the west side of the house, which removes that side of the property as an option. Due to the constraints of the floodplain on the east side of the property, there is little room to work with to build in a conforming location.*
- 6) The plight of the landowner is due to the physical conditions unique to the land and are not applicable to other lands, structures, or buildings in the same zoning district. *The lakeshore property is unique in that there is a pond directly to the east, a 30-foot drainage and utility easement along the eastern edge of the property, a floodplain along the eastern edge of the property, the vast majority of the existing home is located within the setback, and the property is substandard in size.*

*This property is one of fifteen residential homes that have lots adjacent to Downs Lake. Downs Lake is classified by the DNR and city code as a Natural Environment lake, which has the most restrictive setbacks in the city – 150 feet for both structures and sewage treatment systems.*

*The existing home was built in 1979 and the vast majority of the structure was built within the 150 foot setback. The city approved a variance allowing construction of the existing garage on the site in 1981.*

- 7) The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations. *The essential character of the neighborhood would not be affected by the construction of the proposed garage and living space above. The existing home is two stories and the proposed construction would not exceed the current height of the home. Should this project be approved, the applicant would be increasing the existing setback from Down's Lake, providing additional spacing between the structures on the lot and the lake. There are existing trees and vegetation between the structure and the lake that will not be impacted by the garage addition.*

## CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Variance is granted with the following conditions:

1. During the demolition and construction activity related to the new garage addition, the applicants shall address the comments provided by the Valley Branch Watershed District in a letter to the City dated May 19, 2010.
2. Storm Water and Erosion and Sediment Control must be provided during construction consistent with the Storm Water and Erosion and Sediment Control Ordinance.
3. No grading, filling, or other land alterations are allowed below the 100-year flood elevation as documented on the site plan for the building addition.
4. Prior to the issuance of a certificate of occupancy for the building addition, certification must be provided to the city identifying that the structure was built above the RFPE.
5. The proposed drainage and utility easement must be altered to encompass the entire 100 Year Flood Elevation, and specifically a small portion of the floodplain district immediately north of the proposed addition that is not covered by the proposed easement.
6. The proposed drainage and utility easement must cover the storm sewer pipe that runs across the front of the applicant's property with at least 10 feet on each side of the pipe to provide access to the city.
7. The septic system on the site must be inspected by a professional inspector licensed by the PCA. Documentation must be provided to the city certifying that the inspector found the septic system meets today's requirements and to confirm that there has not been a hydraulic failure with the system.

Passed and duly adopted this 1<sup>st</sup> day of June 2010 by the City Council of the City of Lake Elmo, Minnesota.

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Dean A. Johnston, Mayor

ATTEST:

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Bruce Messelt, City Administrator

City of Lake Elmo Planning Department  
**Variance Request**

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*To:* **City Council**

*From:* Kelli Matzek, City Planner

*Meeting Date:* **6/01/10**

*Applicant:* **Richard and Elizabeth Heath**

*Owner:* Same

*Location:* **11950 21<sup>st</sup> Street North**

*Zoning:* R-1; Shoreland District; Floodplain Overlay District

***Introductory Information***

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***Application  
Summary:***

The City of Lake Elmo has received a request from Mr. and Mrs. Heath to tear down an existing garage and to build a new attached garage with living space above it at 11950 21<sup>st</sup> Street North. The proposed building will be attached to the existing home and is intended to replace an existing attached garage on the site for which a variance was granted in 1981. The new building would be located 115 feet from the OHW of Downs Lake where a 150 foot structure setback is required.

The applicants are also requesting to vacate a portion of an existing drainage and utility easement where the existing driveway and proposed structure will be located (the current structure and part of the driveway currently infringes on this same easement) and to expand the drainage and utility easement to cover the remainder of the 100 Year Flood Elevation.

***Property  
Information:***

The lakeshore lot is 1.35 acres in size including the area in the Ordinary High Water Water Line (OHWL). Downs Lake is considered a Natural Environment Lake, which requires a minimum structure setback of 150 feet from the OHWL. The applicants own two lots along 21<sup>st</sup> Street North, including the parcel on which their home is located and an outlot immediately to the east of their home (Outlot A of Eden Park 2<sup>nd</sup> Addition). Outlot A is an unbuildable lot that lies almost entirely below the 100-year flood elevation for Down's Lake. The pond that covers Outlot A does not appear to be classified as part of Down's Lake on the DNR's Public Waters Inventory, and is therefore not subject to the requirements of the City's Shoreland Ordinance. A 30-foot drainage and utility easement exists along the entire eastern property line of 11950 21<sup>st</sup> Street North, and was dedicated as part of the Eden Park 2<sup>nd</sup> Addition Plat (and before the applicants house was built). An additional drainage and utility easement was platted over Downs Lake and above the OHWL.

In 1981, the city received a variance application to build a garage approximately 65 feet from the Ordinary High Water Line on this property. At that time, a 200 foot structure setback existed for Downs Lake. The DNR reviewed this earlier variance and wrote a letter stating their policy for additions to substandard structures is that an addition should not encroach any further towards the lake than the existing structure setback. A letter from engineers TKDA at the time of the variance review identified the existing drainage and utility easement along the East property line, but indicated that the site plan provided showed the structure would be outside this easement and that "...as little fill as possible should be placed in the drainage easement but yet adequately protect the side of the garage up to the 894 (high flood) elevation."

After reviewing the site plan submitted for the variance and comparing its location to the current survey, it is apparent that the home built on the property is in a slightly different location than what was shown on the approved plan. When the property owners came in to build the existing garage in 1981, the original survey was used showing the proposed home (not existing home location) and thus it appeared the garage was outside of the existing drainage and utility easement. In fact, the garage was permitted to be built both in the drainage and utility easement as well as in the floodplain.

The property has 44,609 square feet of land area above the OHW, which is the number used to calculate impervious surface. The shoreland regulation allows a maximum of 6,000 square feet or 15%, whichever is larger. In this case, the property does not meet that regulation (7,434 s.f. = 16.66% currently). However, they are proposing to reduce the impervious surface on the site by almost 300 square feet and therefore a variance is not being required at this time.

The proposed garage is also located very close the base flood elevation for Down's Lake. In interpreting the actual location of a flood zone, the City should use the most accurate information that is available, which in this case, is the survey submitted by the applicant for the variance request. This survey shows that all portions of the garage will be built above the base flood elevation, and that the proposed low flood elevation will meet the requirements of the Floodplain Management Ordinance. Please note that when the application was submitted, Staff processed the application as though a floodplain variance was needed since the City's electronic Flood Maps indicated that a portion of the garage might have been located below the 100-year flood elevation. Since no flood variance is required, this aspect of the original application will not included in the Staff analysis below.

**Applicable Section 154.041 R-1 One-Family Residential.**

**Codes:**

(B) *Accessory uses and structures*

(2) Private garages, carports, screen houses, conservatories, playhouses, swimming pools, and storage buildings for use by occupants of the principal

structure;

**Section 150.253 Administration.**

(B 2) Variance. Identifies procedures.

**Section 150.254 Shoreland Classification.**

(B 1) Natural Environment Lakes. Identifies Downs Lake's OHW at 889.1 and the 100-Year Elevation at 893.

(K) Amendment. In accordance with Section 154.018 K of the Zoning Ordinance, an amended conditional use may be administered in a manner similar to that required for a new permit.

**Section 150.255 Shoreland Standards.**

(D 1 a). Identifies the structure and sewage treatment system setback for recreational development lakes to be 150 feet.

**Section 150.253 Administration (Shoreland)**

(B 2 b) Variance.

For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a non-conforming sewage treatment system.

***Findings & General Site Overview***

**Site Data:** Lot Size: 1.35 acres (including area below OHW); 44,609 sq ft above the OHW  
**Existing Use:** Residential  
**Existing Zoning:** R-1 (One Family Residential); Shoreland District; Floodplain District  
**Property Identification Number (PID):** 24-029-21-44-0008

***Application Review:***

**Applicable Definitions:**

**BUILDING LINE.** A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

**BUILDING SETBACK LINE.** A line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluff line, or a high water mark or line, behind which

buildings or structures must be placed.

**DWELLING, SINGLE-FAMILY.** A residential structure designed for or used exclusively as 1 dwelling unit of permanent occupancy.

**HARDSHIP.** The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists; that the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and that these unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.

**LOT, RIPARIAN.** A separate parcel of land within a designated shoreland area having frontage along a lake or tributary stream.

**ORDINARY HIGH WATER MARK OR ELEVATION (O.H.W.).** The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For water courses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

**SHORE IMPACT ZONE.** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

**SHORELAND.** Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or foliage; and 300 feet from a river or stream, or the landward extend of a flood plain designated by ordinance on a river or stream; whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

**Variance Criteria:**

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. For ease of review, staff provides a three-part breakdown of the definition of "hardship" in Lake Elmo City code to ensure the requests are meeting the spirit and intent of the ordinance.

1. *The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no*



*other reasonable alternative use exists;*

The home was built in 1979 and is located entirely within the 150 foot structure setback. To construct an attached garage would require a variance to some degree from the OHW setback.

The existing septic system is located on the west side of the house, which removes that side of the property as an option. Due to the constraints of the floodplain on the east side of the property, there is little room to work with to build in a conforming location.

**Staff finds this criterion is met.**

2. *The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; the unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.*

The lakeshore property is unique in that there is a pond directly to the east, a 30-foot drainage and utility easement along the eastern edge of the property, a floodplain along the eastern edge of the property, the vast majority of the existing home is located within the setback, and the property is substandard in size.

This property is one of fifteen residential homes that have lots adjacent to Downs Lake. Downs Lake is classified by the DNR and city code as a Natural Environment lake, which has the most restrictive setbacks in the city – 150 feet for both structures and sewage treatment systems.

The existing home was built in 1979 and the vast majority of the structure was built within the 150 foot setback. The city approved a variance allowing construction of the existing garage on the site in 1981.

Because a residential home does not exist on the property to the east of this site, Section 150.255 D1, which allows the averaging of shoreland setbacks, would not be able to be utilized.

**Staff finds this criterion is met.**

3. *The variance, if granted, will not change the essential character of the neighborhood.*

The essential character of the neighborhood would not be affected by the construction of the proposed garage and living space above. The existing home is two stories and the proposed construction would not exceed the current height of the home. Should this project be approved, the applicant would be increasing the existing setback from Down's Lake, providing additional spacing between the structures on the lot and the lake.

---

**Staff finds this criterion is met.**

**Variance  
Conclusions:**

Based on staff analysis of the review criteria in City Code, staff recommends approval of the variance to allow construction of a garage and second floor living area 35 feet from the OHWL at 11950 21<sup>st</sup> Street North.

**Resident  
Concerns:**

Staff has not received any comments for or against the application from those resident's notified.

**Additional  
Information:**

The applicant's are willing to provide the city with drainage and utility easements that will encompass the entire 100 Year Flood Elevation as a part of this project. The drainage and utility easement is proposed to be vacated for the existing driveway and proposed garage areas.

The original public hearing notification included a variance from the floodplain. Upon further investigation and through discussions with the DNR, it was determined a variance was not needed as the elevation was raised at some point in the past and the structure is proposed to be at the appropriate elevation. The applicants have been notified that flood insurance may be required from their bank.

The applicants' property is currently wooded between the house and the lake. The applicants have not removed trees and have retained a visual buffer to the lakeshore.

Section 150.253 of city code identifies that when a variance is applied for in a shoreland setback, it must be demonstrated that the site has a conforming sewage treatment system. Staff is interpreting this section of code to require septic systems that are not operating in conformance with regulations to be brought up to code. This would pertain to the actual operation of the system and not any outstanding zoning issues such as non-conformities to required setbacks. Staff has added as a condition of approval that the applicants shall provide proof the septic system is fully functioning.

**Planning  
Commission  
Report:**

The Planning Commission reviewed the proposed request at its meeting on May 24<sup>th</sup> of 2010. The Commission unanimously (5:0) recommended approval of the application with the findings and conditions provided by Staff.

**Conclusion:**

---

The Heath's are seeking approval of a 35 foot OHWL setback variance to allow the demolition of an existing garage and to build an attached garage with living space above.

**Commission  
Options:**

The City Council has the following options:

- A) Approve the variance request;
- B) Deny the variance request.
- C) Table the request and direct staff or the applicant's to provide additional information concerning this application.

**Rec:**

**Both the Planning Commission and Staff are recommending approval** of the variance to allow construction of the attached garage and living area at 11950 21<sup>st</sup> Street North based on reasons stated above with the following conditions:

1. During the demolition and construction activity related to the new garage addition, the applicants shall address the comments provided by the Valley Branch Watershed District in a letter to the City dated May 19, 2010.
2. Storm Water and Erosion and Sediment Control must be provided during construction consistent with the Storm Water and Erosion and Sediment Control Ordinance.
3. No grading, filling, or other land alterations are allowed below the 100-year flood elevation as documented on the site plan for the building addition.
4. Prior to the issuance of a certificate of occupancy for the building addition, certification must be provided to the city identifying that the structure was built above the RFPE.
5. The proposed drainage and utility easement must be altered to encompass the entire 100 Year Flood Elevation, and specifically a small portion of the floodplain district immediately north of the proposed addition that is not covered by the proposed easement.
6. The proposed drainage and utility easement must cover the storm sewer pipe that runs across the front of the applicant's property with at least 10 feet on each side of the pipe to provide access to the city.
7. The septic system on the site must be inspected by a professional inspector licensed by the PCA. Documentation must be provided to the city certifying that the inspector found the septic system meets today's requirements and to confirm that there has not been a hydraulic failure with the system.

**Denial  
Motion**

To deny the request, you may use the following motion as a guide:

**Template:**

**I move to deny the request for the construction of an attached garage within the OHW setback at 11950 21<sup>st</sup> Street North...***(please site reasons for the recommendation)*

**Approval  
Motion**

To approve the request, you may use the following motion as a guide:

**Template:**

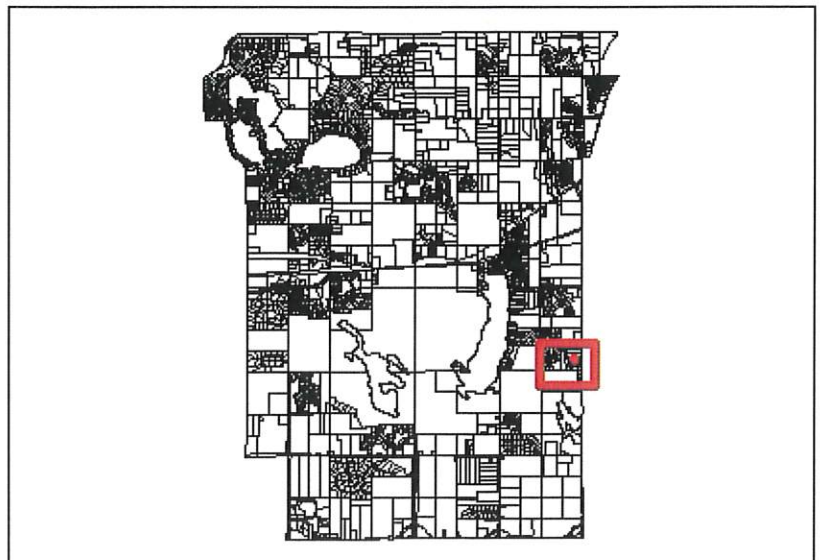
**I move to approve the request for the construction of an attached garage within the OHW setback at 11950 21<sup>st</sup> Street North based on the findings provided in the staff report...*(or cite your own)***

**...with the conditions outlined in the staff report.**

cc: Richard and Elizabeth Heath, applicants

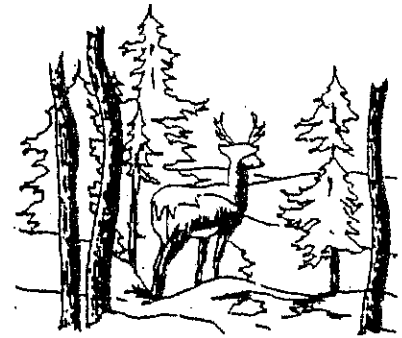


11950 21st Street North



May 19, 2010

Mr. Kyle Klatt  
Planning Director  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MN 55042



Re: Variance Request for 11950 21<sup>st</sup> Street north (Richard Heath)

Dear Mr. Klatt:

Thank you for submitting information regarding the proposed structure removal and construction at 11950 21<sup>st</sup> Street North. On behalf of the Valley Branch Watershed District (VBWD), I have reviewed the information and this letter provides my comments.

The proposed project removes a structure and constructs a new structure at the 100-year flood level of Downs Lake (Elevation 893.0 feet). However, the proposed minimum floor elevation (Elevation 895.17 feet) will be more than two feet above the Down Lake 100-year flood level. Furthermore, the new structure will be more than 16.5 feet back from the Ordinary High Water level (Elevation 889.1 feet) of Downs Lake. Therefore, the project conforms to VBWD rules and does not require a VBWD permit.

I'm pleased that the property owners are working with the Washington Conservation District to install rainwater gardens. Establishing and/or improving the vegetative buffer quality and width between the structures and adjacent waters is also encouraged.

Because the new structure will be at the 100-year flood level of Downs Lake, the homeowners should make sure its foundation is constructed properly to withstand flooding. During construction, silt fence, straw wattles, or other temporary erosion controls should be installed to prevent sediment from leaving the construction zone. Disturbed areas should be vegetated within 14 days of final grading.

Easements are shown that cover most of the areas below the 100-year flood level of Downs Lake. However, a portion of the existing driveway appears to be below Elevation 893.0 feet and should be covered with an easement.

If you have any questions, please contact me at 952-832-2622.

Sincerely,

John P. Hanson, P.E.  
BARR ENGINEERING COMPANY  
Engineers for the District



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

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

[www.vbwd.org](http://www.vbwd.org)



# TKDA

ENGINEERING • ARCHITECTURE • PLANNING

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

444 Cedar Street, Suite 1500  
Saint Paul, MN 55101

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

## MEMORANDUM

<b>To:</b>	<u>Kyle Klatt, Planning Director</u>	<b>Reference:</b>	<u>11950 21<sup>st</sup> Street N</u>
<b>Copies To:</b>	<u>Kelli Matzek, City Planner</u>		<u>Variance Review</u>
			<u>City of Lake Elmo</u>
<b>From:</b>	<u>Ryan W. Stempski, P.E. <i>RWS</i></u>	<b>Proj. No.:</b>	<u>14575.001 Phase 00010</u>
<b>Date:</b>	<u>May 20, 2010</u>	<b>Routing:</b>	<u></u>

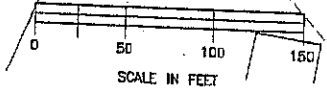
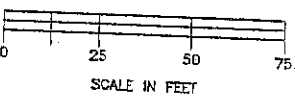
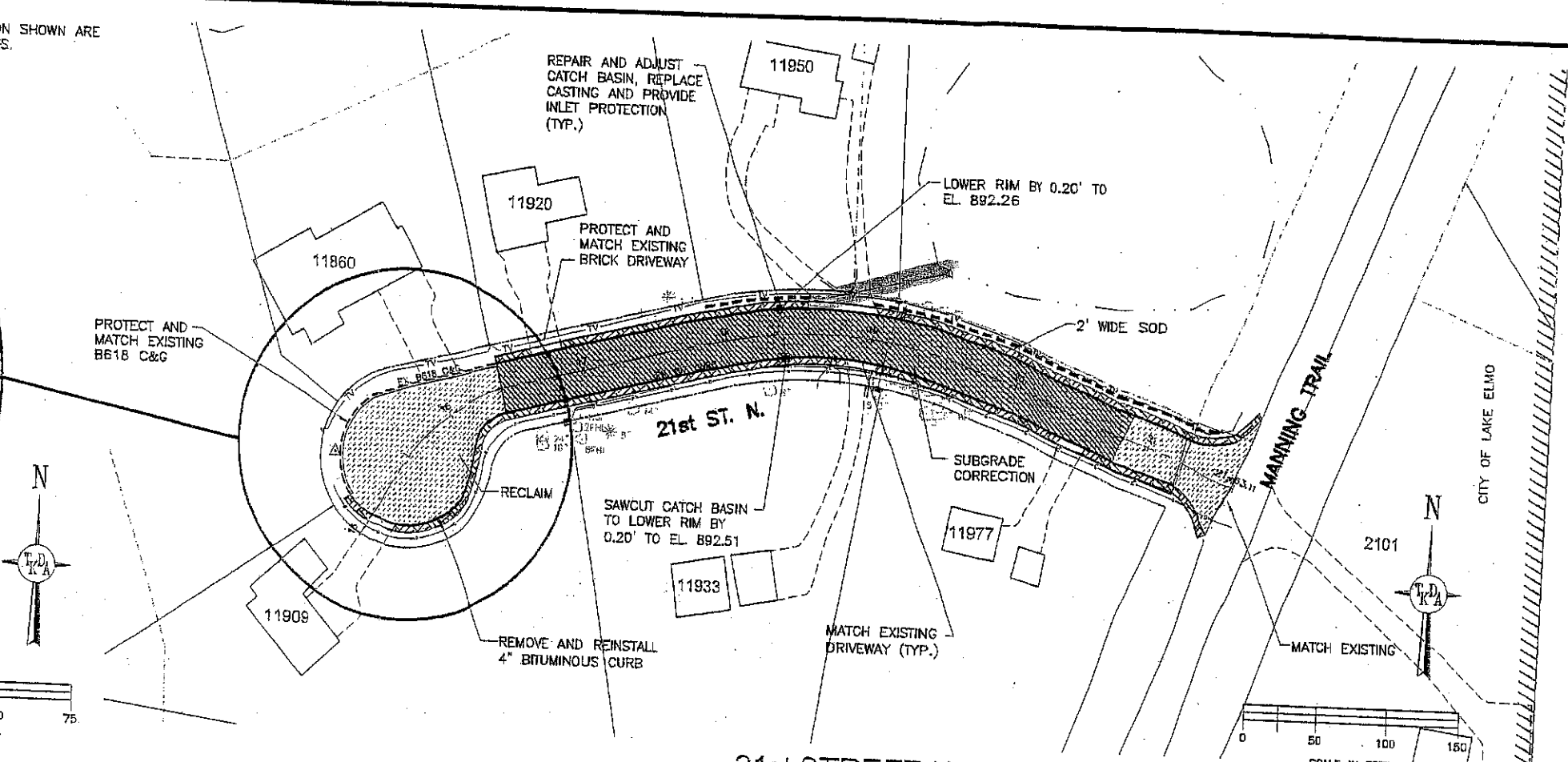
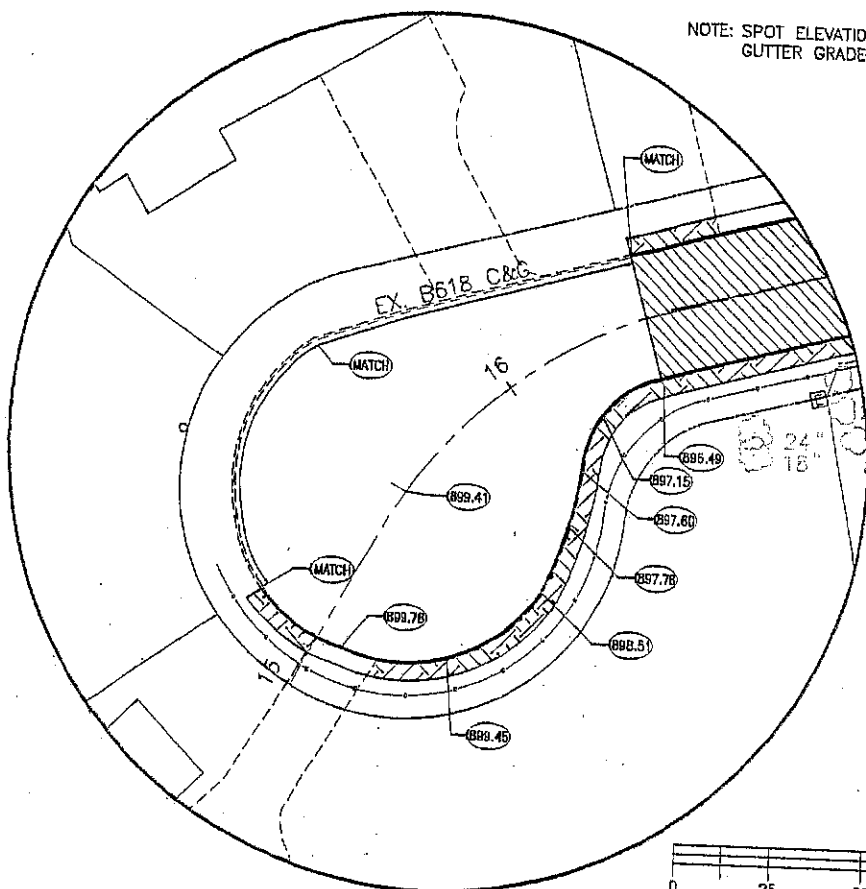
On May 12, 2010, TKDA was asked to provide a review of the Variance request for 11950 21<sup>st</sup> Street. The items for review included a letter from FFE, Inc. dated April 20, 2010, a survey of existing and proposed conditions, proposed building rendering, and a survey of the easement vacation – conveyance.

I have the following comments regarding this request:

1. The proposed easement must include the entire 100-Year Flood Elevation of the adjacent pond.
2. The existing storm sewer should be shown on the easement vacation – conveyance survey. I recommend that the proposed easement be enlarged to include the entire storm sewer pipe including a 10' offset to the pipe.

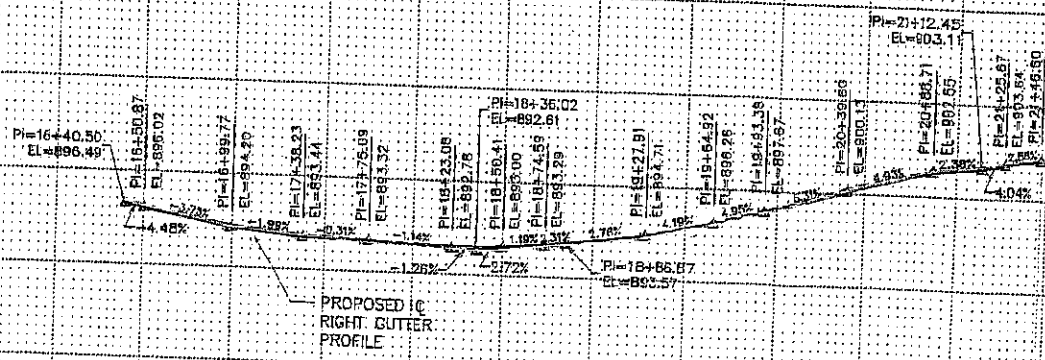
Please contact me with any questions.

NOTE: SPOT ELEVATION SHOWN ARE GUTTER GRADES.



21st STREET N.

ELEVATION	SPOT ELEVATION SHOWN ARE GUTTER GRADES.			ELEVATION
	Left Edge	Centerline	Right Edge	
940				Left Edge
930				Centerline
920				Right Edge
910				
900				
890				
880				
870				



FIELD BOOK:  
 P&E Date: 05/02/2009  
 Drawing name: K:\p\m\21stSt\21stSt.dwg  
 Title: Lake Elmo, 21st St.

NO.	DATE	BY	DESCRIPTION OF REVISIONS

DESIGNED: RWS  
 DRAWN: PJW  
 CHECKED: JWG  
 I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.  
 RYAN W. STEMPER  
 DATE: 02/20/09 LIC. NO. 46396

**TKDA**  
 TECHNICAL SERVICES

2009 STREET IMPROVEMENTS  
 EDEN PARK 2nd ADDITION  
 LAKE ELMO MINNESOTA

21st ST. N.  
 From Cul-de-sac to Manning Trl. N.  
 STREET AND STORM SEWER IMPROVEMENTS

PROJECT NO: 14353.001  
 RECORD NO.:

SHEET NO. 9 OF 11 SHEETS



Fee \$ \_\_\_\_\_

### City of Lake Elmo DEVELOPMENT APPLICATION FORM

- Comprehensive Plan Amendment
- Zoning District Amendment
- Text Amendment
- Flood Plain C.U.P. Conditional Use Permit
- Conditional Use Permit (C.U.P.)
- Variance \* (See below)
- Minor Subdivision
- Lot Line Adjustment
- Residential Subdivision Sketch/Concept Plan
- Site & Building Plan Review
- Residential Subdivision Preliminary/Final Plat
  - 01 - 10 Lots
  - 11 - 20 Lots
  - 21 Lots or More
- Excavating & Grading Permit
- Appeal
- PUD
- EASEMENT VACATION & EASEMENT CONVEYANCE

APPLICANT: RICHARD HEATH 11950 21st ST. N.  
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-770-8063  
(Home) (Work) (Mobile) (Fax)

FEE OWNER: SAME AS ABOVE  
(Name) (Mailing Address) (Zip)

TELEPHONES: \_\_\_\_\_  
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description):  
11950 21st STREET NORTH LAKE ELMO  
PID 24-029-21-44-0008  
LOT 1 BLOCK 1 EDEN PARK 2nd ADDITION

DETAILED REASON FOR REQUEST: EXISTING (AND A PROPOSED) STRUCTURE ARE LOCATED IN A DEDICATED DRAINAGE EASEMENT. NEED TO VACATE EXISTING EASEMENT AND THEN CONVEY A NEW DRAINAGE EASEMENT TO THE CITY THAT DOES NOT INCLUDE BUILDING OR DRIVEWAY. AREA TO BE VACATED = 7,206 Sq Ft. UP TO 100 YEAR FLOOD ELEVATION OF 893. AREA TO BE CONVEYED = 7,558 Sq Ft.

\*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

SEE ORIGINAL APPLICATION FOR VARIANCE DATED 4-21-2010  
Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_ Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_



April 20, 2010

Kyle Klatt  
Planning Director  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, Minnesota 55042

RE: Heath - Legal Non-Conforming Use Amendment Request

Dear Kyle:

Enclosed, please find an exhibit showing the existing and proposed conditions of a proposed home remodel project for the Heath Family, located at 11950 21<sup>st</sup> Street North, Lake Elmo, Minnesota. In addition to the need for physical replacement, the proposed project is needed by the family to create a one level living space for an upcoming hospice need.

The proposal is to remove the existing garage and deck, which is an allowed legal non conforming use of the property by virtue of a variance, granted by the City of Lake Elmo on November 03, 1981, and replace it with a similar sized structure that would be attached to the existing home.

Currently a portion of the garage structure is located within the 100 year flood Zone AE (Special Flood Hazard Area) of Downs Lake as indicated on FEMA Flood Insurance Rate Map 27163C0355E. The current setback from the shoreline of Downs Lake is 120-feet. The proposed structure would be placed such that the setback would be increased to 138-feet. The footprint of the proposed structure within the 100-year flood zone would also be reduced from 230 square feet to 144 square feet. The proposed structure is to be constructed with the same lowest floor elevation as the existing home, which is more than 2-feet above the existing 100-year flood elevation (893 feet) of Downs Lake.

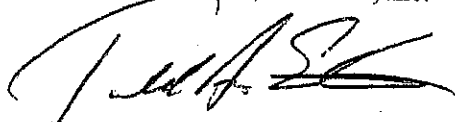
The construction as proposed reduces the overall impact to runoff to Downs Lake, with the reduction of impervious surface, from 12.1% to 11.7%. This is accomplished with the slight reduction with the proposed 24-foot by 27-foot building footprint and the placement of the proposed structure over the existing driveway. Also, the Heath's have recently been working with the Washington Conservation District, to allow the construction of two rainwater gardens on their property, again reducing the impact to Downs Lake.

As indicated in the variance granted in 1981, there is not another location on the lot that is suited for the existing garage or proposed structure. The existing functional septic system is located on the west side of the house. Additionally, a garage on the west side of the house would have an adverse affect on the neighbors' view shed, and is not consistent with the existing architecture of the Heath's home. The existing well is located on the south side of the house which does not allow for expansion to the south.

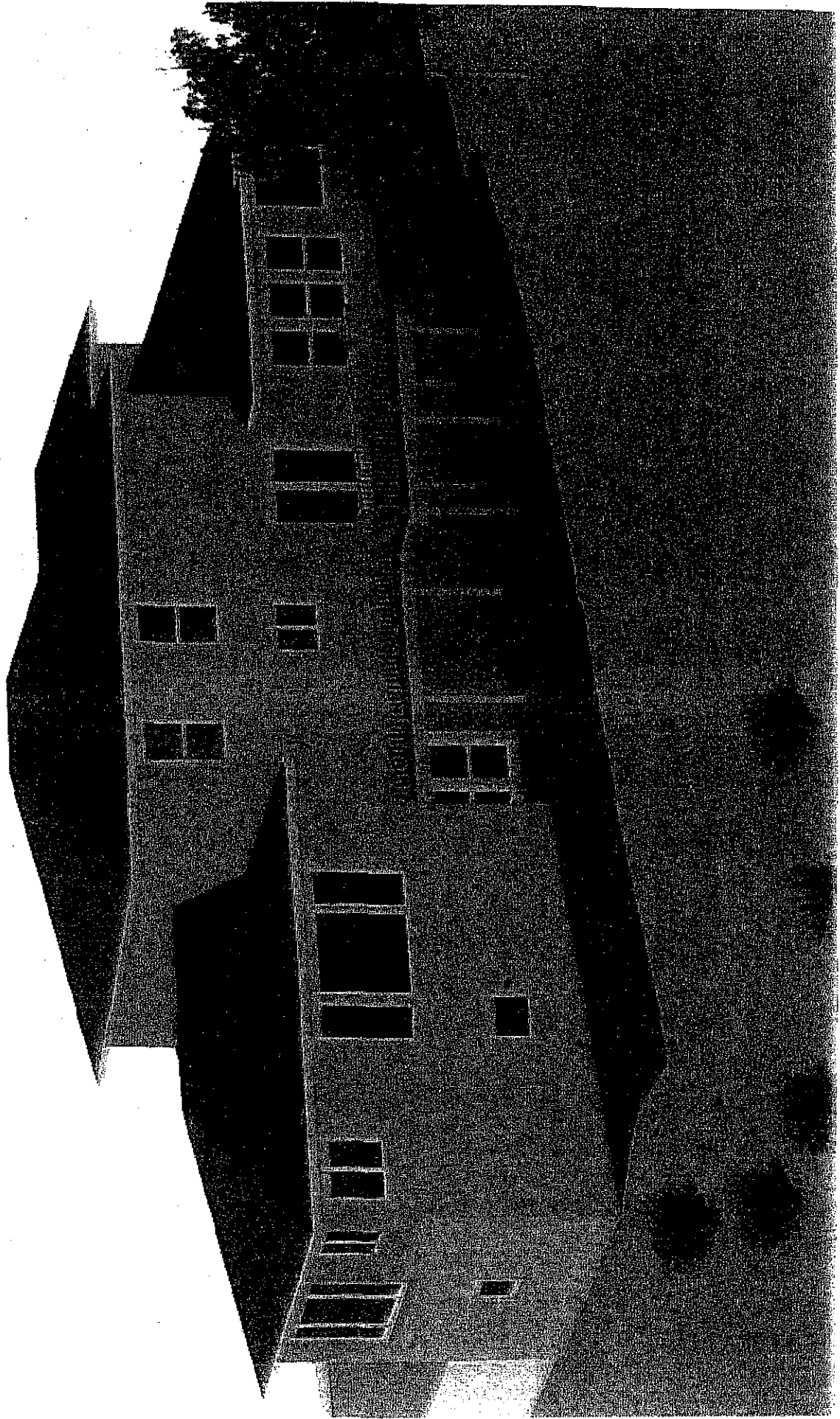
To complete the project, the family respectfully requests an amendment to their existing Legal Non-Conforming Use for the setback to Downs Lake and granting a building permit for construction within the existing drainage easement.

Please feel free to contact me if you have any questions regarding this request.

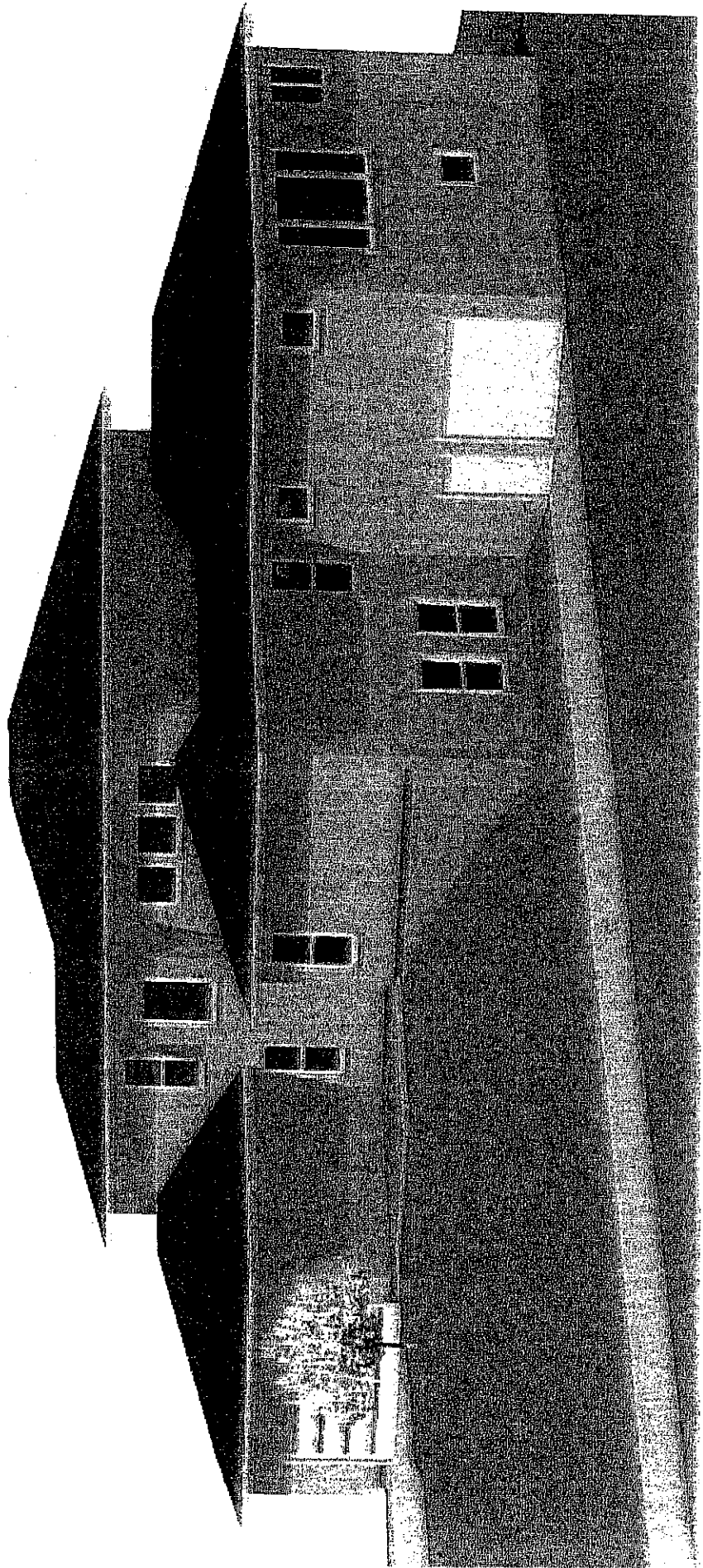
Sincerely,  
Folz, Freeman, Erickson, Inc.

A handwritten signature in black ink, appearing to read 'Todd A. Erickson', with a stylized flourish at the end.

Todd A. Erickson, PE



REAR ELEVATION



FRONT ELEVATION



# HEATH EXHIBIT

## Easement Vacation - Conveyance

**Folz, Freeman, Erickson, Inc.**  
 LAND PLANNING • SURVEYING • ENGINEERING  
  
 12445 55TH STREET NORTH  
 LAKE ELMO, MINNESOTA 55042  
 Phone (651) 439-8833 Fax (651) 430-9331

**Prepared For:**

Richard Heath  
 11950 21st Street North  
 Lake Elmo, MN 55042

**NOTES**

- 1) ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM 1988.
- 2) ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE RECORDED PLAT OF EDEN PARK 2ND ADDITION.

**Parcel Legal Description:**

Lot 1, Block 1, EDEN PARK 2ND ADDITION  
 according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota.

**Proposed Description for Vacation of Drainage Easement**

The 30.00 foot wide drainage easement along the east line of Lot 1, Block 1, EDEN PARK 2ND ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota, more particularly described as follows:

The east 30.00 feet of said Lot 1 lying northerly of the south 12.00 feet and southerly of the following described line:

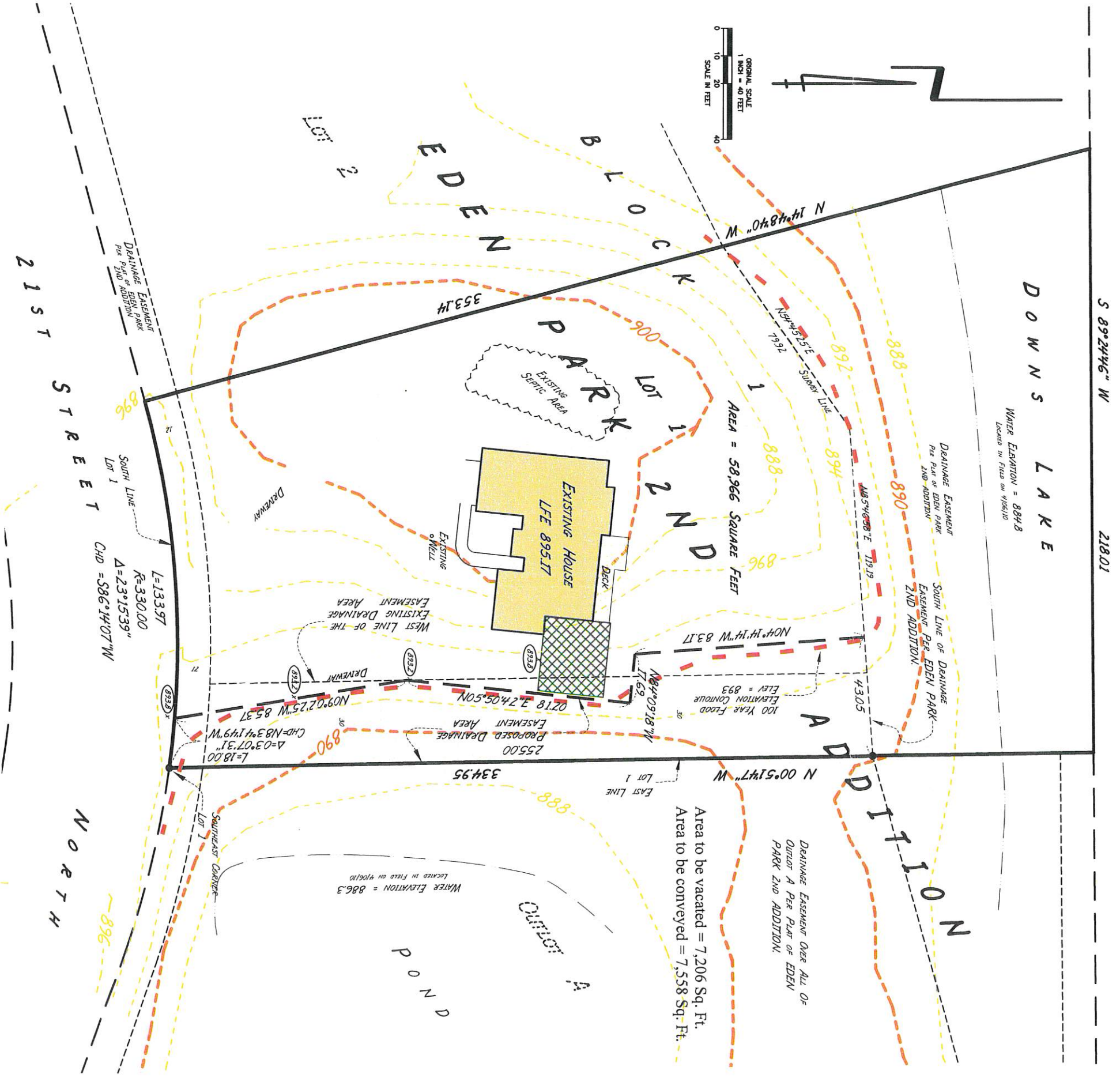
Commencing at the southeast corner of said Lot 1; thence North 00 degrees 51 minutes 47 seconds West, bearings oriented to said EDEN PARK 2ND ADDITION, along the east line of said Lot 1, a distance of 235.00 feet, to the point of beginning of the line to be described; thence South 85 degrees 46 minutes 58 seconds West a distance of 119.19 feet and said line there terminating.

**Proposed Description for Conveyance of Drainage Easement**

That part of Lot 1, Block 1, EDEN PARK 2ND ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota, described as follows:

Beginning at the southeast corner of said Lot 1; thence westerly along the south line of said Lot 1 a distance of 18.00 feet along a curve concave to the south, having a radius of 330.00 feet, a central angle of 03 degrees 07 minutes 31 seconds, and the chord of said curve bears North 83 degrees 41 minutes 49 seconds West; thence North 09 degrees 02 minutes 25 seconds West a distance of 85.37 feet; thence North 05 degrees 50 minutes 42 seconds East a distance of 81.20 feet; thence North 84 degrees 09 minutes 18 seconds West a distance of 17.69 feet; thence North 04 degrees 14 minutes 14 seconds West a distance of 83.17 feet to the southerly line of a drainage easement as shown on said EDEN PARK 2ND ADDITION; thence North 85 degrees 46 minutes 58 seconds East, along said southerly line, a distance of 119.19 feet to the east line of said Lot 1; thence South 00 degrees 51 minutes 47 seconds East, along said east line, a distance of 235.00 feet to the point of beginning.

BASE FLOOD ELEVATION PER FEMA FIRM MAP PANEL 2716300355E = 893 FEET





the southeast corner of said Lot 1; thence North 00 degrees 51 minutes 47 seconds West, bearings oriented to said EDEN PARK 2ND ADDITION, along the east line of said Lot 1, a distance of 119.19 feet to the point of beginning of the line to be described; thence South 85 degrees 46 minutes 58 seconds West a distance of 119.19 feet and said line there terminating.

for Conveyance of Drainage Easement

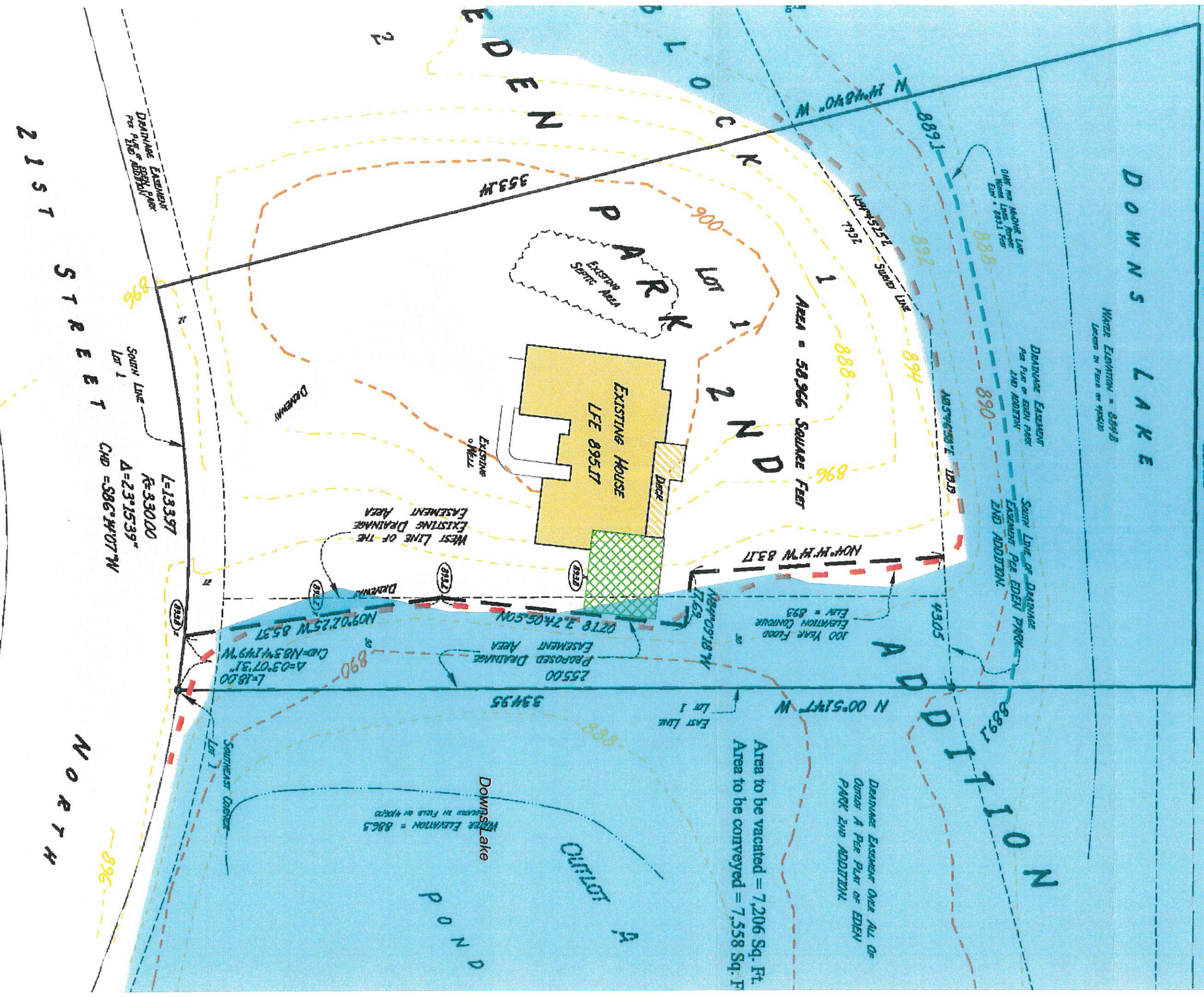
Lot 1, EDEN PARK 2ND ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota, described as follows:

the east corner of said Lot 1; thence westerly along the south line of said Lot 1 a distance of 18.00 feet along a curve concave to the south, having a radius of 330.00 feet, a central angle of 31 seconds, and the chord of said curve bears North 83 degrees 41 minutes 49 seconds West; thence North 09 degrees 02 minutes 25 seconds West a distance of 85.37 feet; thence North 42 seconds East a distance of 81.20 feet; thence North 84 degrees 09 minutes 18 seconds West a distance of 17.69 feet; thence North 04 degrees 14 minutes 14 seconds West a distance of 14 minutes 14 seconds North; thence North 85 degrees 46 minutes 58 seconds East, along said southerly line, a distance of 119.19 feet; thence South 00 degrees 51 minutes 47 seconds East, along said east line, a distance of 255.00 feet to the point of beginning.

BASE FLOOD ELEVATION PER FEMA FIRM MAP PANEL 2716300355E = 893 FEET

S 89°24'46" W 2 Downs Lake

DOWN S LAKE  
 WATER ELEVATION = 889.8  
 Located in Field at 492310



Drainage Easement Over All Of Corner A Per Plat of EDEN PARK 2ND ADDITION.

Area to be vacated = 7,206 Sq. Ft.  
 Area to be conveyed = 7,558 Sq. Ft.





## MAYOR & COUNCIL COMMUNICATION

DATE: 6/1/10  
REGULAR  
ITEM #: 9  
PUBLIC MEETING & MOTION

**AGENDA ITEM:** Municipal Separate Storm Sewer System (MS4) Permit Program – Annual Public Meeting and Accept the 2009 MS4 Annual Report

**SUBMITTED BY:** Ryan Stempiski, Assistant City Engineer

**THROUGH:** Bruce Messelt, City Administrator

**REVIEWED BY:** Jack Griffin, City Engineer  
Mike Bouthilet, Public Works  
Carol Kriegler, Project Assistant

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**SUMMARY AND ACTION REQUESTED:** The City Council is being asked to conduct the Municipal Separate Storm Sewer System (MS4) permit program Public Annual Meeting and accept the 2009 MS4 Annual Report. In accordance with the City's permit, the 2009 MS4 Annual Report must be submitted to the MPCA by June 30, 2010.

The City is required to conduct a Public Meeting on the City's Storm Water Pollution Prevention Program (SWPPP) to encourage public discussion and participation regarding its storm water quality and the steps that the City is taking to address the six minimum control measures. Notice of the Public Meeting was published in the Oakdale-Lake Elmo Review on April 28, 2010 (see attachment No. 1). Both the Public Meeting and the submittal of the Annual Report are required by the City's NPDES permit.

The recommended motion to act on this is as follows:

***“Move to accept the Municipal Separate Storm Sewer System (MS4) Annual Report for 2009, and authorize staff to submit this report to the MPCA by June 30, 2010.”***

**BACKGROUND INFORMATION:** A 1987 Amendment to the Federal Clean Water Act required implementation of a two-phase comprehensive national program to reduce pollution from storm water runoff. A National Pollutant Discharge Elimination System (NPDES) permit from the Minnesota Pollution Control Agency (MPCA) is required as part of this program. The permit identifies a number of measures that must be met or implemented by each community. The six minimum measures are:



1. Public Education and Outreach
2. Public Involvement and Participation
3. Illicit Discharge Detection and Elimination
4. Construction Site Storm Water Controls
5. Post-Construction Storm Water Management for development and redevelopment
6. Pollution Prevention/Good Housekeeping for Municipal Operations

In addition to these minimum measures, the City of Lake Elmo must address any impaired waters as identified by the USEPA list and review whether changes may be warranted in the City's SWPPP. Also, storm water runoff from the City of Lake Elmo does ultimately discharge to the St. Croix River, an outstanding resource value water (ORVW) and must therefore work to identify all discharges to the ORVW and document measures that will allow the existing high quality of the ORVW to be maintained.

**STAFF REPORT:** The City's Storm Water Pollution Prevention Program (SWPPP) specifies best management practices intended to satisfy the permit requirements for each of the minimum measures. As part of this program, the City is required to hold an annual meeting to encourage public discussion and participation regarding its storm water quality and steps it is taking to address the six minimum control measures. A copy of the SWPPP is available on the City website. An annual report for 2009 MS4s must be submitted to the MPCA by June 30, 2010. The minutes of the annual public meeting will be incorporated into the City's annual report.

The Annual meeting is scheduled to held as part of the regular City Council meeting at City Hall. The agenda for this meeting will include:

- A Presentation about implementation of the City's Surface Water Pollution Prevention Program in 2009,
- Affording interested persons an opportunity to make oral statements concerning the Storm Water Pollution Prevention Program,
- Consideration of relevant written materials that interested persons submit concerning the Storm Water Pollution Prevention Program; and,
- Consideration of public input in making adjustments to the 2010 implementation plan for the Storm Water Pollution Prevention Program.

In the past year, the MPCA conducted an audit of the MS4 Program Implementation for the City of Lake Elmo. The MPCA did not issue any required actions from this review. They did make recommendations that standard operating procedures be documented for the erosion control inspection processes.

The City of Lake Elmo continues to be a member of the East Metro Water Resource Education Program, which covers the majority of Minimum Control Measures 1 and 2 (Public Education, Outreach, Involvement, and Participation). A copy of the EMWREP Annual Report has been included as attachment No. 2 in this report.

The City continues to update its standard details each year for erosion control. Enforcement of building and construction sites has been increased to bring builders/contractors into compliance. This past year, there were 3 violations cited to builders for non-compliance to the City's Erosion and Sediment Control Ordinance.

The Public Works Department completed inspection of a minimum of 20% of the MS4 Outfalls again this fall. They completed inspections in the NW Quadrant of the City. Inspections and follow-up maintenance prioritization lists are available upon request at the Public Works Building. Public Works also keeps a list of all the storm water maintenance activities they complete throughout the year (structure repair, street sweeping, ditch cleanout, BMP maintenance, and drainage issues, etc.).

Staff has also created educational materials for the public on illicit discharge (available at City Hall or on the City's website). We are currently documenting an annual inspection process and list of potential contamination sites across the City. In 2010, an Illicit Discharge Ordinance will be created by Staff to be implemented and enforced in the City Code.

The requirements of the ORVW Assessment were initiated this year. Staff compiled mapping of the discharges to the St. Croix River and is in the process of documenting the strategies that the City will employ to manage storm water quality and ensure no negative impacts to the ORVW with future land disturbances.

Moving forward, staff continues to actively monitor and track permit program changes and legislation related to storm water management. In 2010 and 2011, it is anticipated that there will be additional program requirements as mandated by the USEPA, the MPCA, and the State Legislature. Due to changes mandated by the USEPA, it is anticipated that the City's Storm Water Pollution Prevention Program (SWPPP) will need to be revised and resubmitted to align with USEPA mandated requirements and format. The City will also be required to complete a more detailed pond inventory in response to State Legislation on PAHs and the State's concern to identify the magnitude of this pond dredging issue. Staff is also monitoring the Brown's Creek Watershed District TMDL study. Once the TMDL study is approved, the City will be required to revise the SWPPP to address the waste load requirements allocated to the City.

**RECOMMENDATION:** Based upon the above background information and staff report, it is recommended that the City Council move to approve the motion by undertaking the following action:

*“Move to accept the Municipal Separate Storm Sewer System (MS4) Annual Report for 2009, and authorize staff to submit this report to the MPCA by June 30, 2010.”*

**ATTACHMENTS:** (3)

1. Notice of Annual Public Meeting
2. 2009 MS4 Annual Report
3. EMWREP Annual Report

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation..... City Engineer
- Questions from Council to Staff ..... Mayor Facilitates
- Public Input, if Appropriate ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

CITY OF LAKE ELMO  
NOTICE OF ANNUAL PUBLIC MEETING  
ON THE CITY STORM WATER POLLUTION PREVENTION PROGRAM

Notice is hereby given that the City Council of Lake Elmo will meet at City Hall at 7:00 p.m. on Tuesday, June 1, 2010, to conduct a public meeting to encourage public discussion and participation regarding its storm water quality and Storm Water Pollution Prevention Program.

A 1987 Amendment to the Federal Clean Water Act required implementation of a two-phase comprehensive national program to reduce pollution from storm water runoff. A National Pollutant Discharge Elimination System (NPDES) permit from the Minnesota Pollution Control Agency (MPCA) is required as part of this program. The permit identifies a number of measures that must be met or implemented by each community. The six minimum measures are:

- Public Education and Outreach
- Public Involvement and Participation
- Illicit Discharge Detection and Elimination
- Construction Site Storm Water Controls
- Post-Construction Storm Water Management for development and redevelopment
- Pollution Prevention/Good Housekeeping for Municipal Operations

The City's Storm Water Pollution Prevention Program (SWPPP) specifies best management practices intended to satisfy the permit requirements for each of the minimum measures. As part of this program, the City is required to hold an annual meeting to encourage public discussion and participation regarding its storm water quality and steps it is taking to address the six minimum control measures. A copy of the SWPPP is available by contacting the City Engineer. An annual SWPPP report will be submitted to the MPCA in June 2010. The minutes of the annual public meeting will be incorporated into the City's annual report.

The meeting will be held as part of the regular city council meeting at City Hall. The agenda for this meeting will include:

- 1) A Presentation about implementation of the City's Surface Water Pollution Prevention Program in 2009,
- 2) Affording interested persons the opportunity to make oral statements concerning the Storm Water Pollution Prevention Program,
- 3) Consideration of relevant written materials that interested persons submit concerning the Storm Water Pollution Prevention Program; and,
- 4) Consideration of public input in making adjustments to the 2010 implementation plan for the Storm Water Pollution Prevention Program.

**DATED:** April 22, 2010

**BY ORDER OF THE LAKE ELMO CITY CLERK**  
Sharon Lumby, City Clerk

*(Published in the Oakdale-Lake Elmo Review on April 28, 2010)*



# Minnesota Pollution Control Agency NPDES/SDS Small MS4 Report Form



Minnesota Pollution  
Control Agency

The purpose of this report is to contribute information to an evaluation of the NPDES small municipal separate storm sewer system (MS4) permit program. Consistent with 40 CFR §122.37 the U.S. Environmental Protection Agency is assessing the status of the program nation-wide. A "no" answer to a question does not necessarily mean noncompliance with your permit or with the federal regulations. In order to establish the range of variability in the program it is necessary to ask questions along a fairly broad performance continuum. Your permitting authority may use some of this information as one component of a compliance evaluation.

## 1. MS4 Information

City of Lake Elmo

Name of MS4

Bruce

Messelt

City Administrator

Name of Contact Person (First)

(Last)

(Title)

(651) 233-5401

bmesselt@lakeelmo.org

Telephone (including area code)

Email

3800 Laverne Avenue North

Mailing Address

Lake Elmo

MN

55042

City

State

ZIP code

What size population does your MS4 serve? 8,300

What is the reporting period for this report? (mm/dd/yyyy) From 01/01/2009 to 12/31/2009

## 2. Water Quality Priorities

A. Does your MS4 discharge to waters listed as impaired on a state 303(d) list?  Yes  No

B. If yes, identify each impaired water, the impairment, whether a TMDL has been approved by EPA for each, and whether the TMDL assigns a wasteload allocation to your MS4. Use a new line for each impairment, and attach additional pages as necessary.

Impaired Water	Impairment	Approved TMDL		TMDL assigns WLA to MS4	
Lake Elmo	PFOS	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lake Jane	Mercury	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Sunfish Lake	Nutrients	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No

C. What specific sources contributing to the impairment(s) are you targeting in your stormwater program?

None - TMDL's have not been completed yet

D. Do you discharge to any high-quality waters (e.g., Tier 2, Tier 3, outstanding natural resource waters, or other state or federal designation)?  Yes  No

E. Are you implementing additional specific provisions to ensure their continued integrity?  Yes  No

**3. Public Education and Public Participation**

- A. Is your public education program targeting specific pollutants and sources of those pollutants?  Yes  No
- B. If yes, what are the specific sources and/or pollutants addressed by your public education program?  
Non-point source water pollutants and illicit discharges
- C. Note specific successful outcome(s) (e.g., quantified reduction in fertilizer use; NOT tasks, events, publications) fully or partially attributable to your public education program during this reporting period.  
See attached EMWREP Annual Report
- D. Do you have an advisory committee or other body comprised of the public and other stakeholders that provides regular input on your stormwater program?  Yes  No

**4. Construction**

- A. Do you have an ordinance or other regulatory mechanism stipulating:
  - Erosion and sediment control requirements?  Yes  No
  - Other construction waste control requirements?  Yes  No
  - Requirement to submit construction plans for review?  Yes  No
  - MS4 enforcement authority?  Yes  No
- B. Do you have written procedures for:
  - Reviewing construction plans?  Yes  No
  - Performing inspections?  Yes  No
  - Responding to violations?  Yes  No
- C. Identify the number of active construction sites  $\geq 1$  acre in operation in your jurisdiction at any time during the reporting period. 1
- D. How many of the sites identified in 4.C did you inspect during this reporting period? 1
- E. Describe, on average, the frequency with which your program conducts construction site inspections.  
Weekly
- F. Do you prioritize certain construction sites for more frequent inspections?  Yes  No  
 If Yes, based on what criteria? Size and proximity to receiving bodies of water
- G. Identify which of the following types of enforcement actions you used during the reporting period for construction activities, indicate the number of actions, or note those for which you do not have authority:
 

<input checked="" type="checkbox"/> Yes	Notice of violation	# <u>3</u>	No Authority <input type="checkbox"/>
<input type="checkbox"/> Yes	Administrative fines	# <u>        </u>	No Authority <input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Yes	Stop Work Orders	# <u>3</u>	No Authority <input type="checkbox"/>
<input checked="" type="checkbox"/> Yes	Civil penalties	# <u>0</u>	No Authority <input type="checkbox"/>
<input checked="" type="checkbox"/> Yes	Criminal actions	# <u>0</u>	No Authority <input type="checkbox"/>
<input checked="" type="checkbox"/> Yes	Administrative orders	# <u>0</u>	No Authority <input type="checkbox"/>
<input checked="" type="checkbox"/> Yes	Other <u>Draw on Financial Escrow</u>	# <u>1</u>	
- H. Do you use an electronic tool (e.g., GIS, data base, spreadsheet) to track the locations, inspection results, and enforcement actions of active construction sites in your jurisdiction?  Yes  No
- I. What are the 3 most common types of violations documented during this reporting period?  
No rock construction entrance, Silt fence violation, Lack of turf establishment
- J. How often do municipal employees receive training on the construction program? Annually

5. Illicit Discharge Elimination

- A. Have you completed a map of all outfalls and receiving waters of your storm sewer system?  Yes  No
- B. Have you completed a map of all storm drain pipes and other conveyances in the storm sewer system?  Yes  No
- C. Identify the number of outfalls in your storm sewer system. 32
- D. Do you have documented procedures, including frequency, for screening outfalls?  Yes  No
- E. Of the outfalls identified in 5.C, how many were screened for dry weather discharges during this reporting period?  
6
- F. Of the outfalls identified in 5.C, how many have been screened for dry weather discharges at any time since you obtained MS4 permit coverage? 32
- G. What is your frequency for screening outfalls for illicit discharges? Describe any variation based on size/type.  
A four year inspection cycle is used for all outfalls
- H. Do you have an ordinance or other regulatory mechanism that effectively prohibits illicit discharges?  Yes  No
- I. Do you have an ordinance or other regulatory mechanism that provides authority for you to take enforcement action and/or recover costs for addressing illicit discharges?  Yes  No
- J. During this reporting period, how many illicit discharges/illegal connections have you discovered? 0
- K. Of those illicit discharges/illegal connections that have been discovered or reported, how many have been eliminated?  
N/A
- L. How often do municipal employees receive training on the illicit discharge program? Annually

6. Stormwater Management for Municipal Operations

- A. Have stormwater pollution prevention plans (or an equivalent plan) been developed for:
  - All public parks, ball fields, other recreational facilities and other open spaces  Yes  No
  - All municipal construction activities, including those disturbing less than 1 acre  Yes  No
  - All municipal turf grass/landscape management activities  Yes  No
  - All municipal vehicle fueling, operation and maintenance activities  Yes  No
  - All municipal maintenance yards  Yes  No
  - All municipal waste handling and disposal areas  Yes  No
  - Other \_\_\_\_\_
- B. Are stormwater inspections conducted at these facilities?  Yes  No
- C. If Yes, at what frequency are inspections conducted? Annually
- D. List activities for which operating procedures or management practices specific to stormwater management have been developed (e.g., road repairs, catch basin cleaning).  
Catch basin cleaning, BMP maintenance, Street sweeping
- E. Do you prioritize certain municipal activities and/or facilities for more frequent inspection?  Yes  No
- F. If Yes, which activities and/or facilities receive most frequent inspections? Street sediment, Stockpiles
- G. Do all municipal employees and contractors overseeing planning and implementation of stormwater-related activities receive comprehensive training on stormwater management?  Yes  No
- H. If yes, do you also provide regular updates and refreshers?  Yes  No
- I. If so, how frequently and/or under what circumstances? Quartely Training, Workshops, Stormwater U

**7. Long-term (Post-Construction) Stormwater Measures**

- A. Do you have an ordinance or other regulatory mechanism to require:  
 Site plan reviews for stormwater/water quality of all new and re-development projects?  Yes  No  
 Long-term operation and maintenance of stormwater management controls?  Yes  No  
 Retrofitting to incorporate long-term stormwater management controls?  Yes  No
- B. If you have retrofit requirements, what are the circumstances/criteria?  
 \_\_\_\_\_
- C. What are your criteria for determining which new/re-development stormwater plans you will review (e.g., all projects, projects disturbing greater than one acre, etc.) New impervious surface that exceed 1 AC
- D. Do you require water quality or quantity design standards or performance standards, either directly or by reference to a state or other standard, be met for new development and re-development?  Yes  No
- E. Do these performance or design standards require that pre-development hydrology be met for:  
 Flow volumes  Yes  No  
 Peak discharge rates  Yes  No  
 Discharge frequency  Yes  No  
 Flow duration  Yes  No
- F. Please provide the URL/reference where all post-construction stormwater management standards can be found, or e-mail to MS4PermitProgram.PCA@state.mn.us an electronic copy of the ordinance or other regulatory mechanism as specified in Part V.G.5 of the permit.  
 \_\_\_\_\_
- G. How many development and redevelopment project plans were reviewed during the reporting period to assess impacts to water quality and receiving stream protection? 0
- H. How many of the plans identified in 7.G were approved? N/A
- I. How many privately owned permanent stormwater management practices/facilities were inspected during the reporting period? 0
- J. How many of the practices/facilities identified in I were found to have inadequate maintenance? N/A
- K. How long do you give operators to remedy any operation and maintenance deficiencies identified during inspections?  
24 Hours
- L. Do you have authority to take enforcement action for failure to properly operate and maintain stormwater practices/facilities?  Yes  No
- M. How many formal enforcement actions (i.e., more than a verbal or written warning) were taken for failure to adequately operate and/or maintain stormwater management practices? 0
- N. Do you use an electronic tool (e.g., GIS, database, spreadsheet) to track post-construction BMPs, inspections and maintenance?  Yes  No
- O. Do all municipal departments and/or staff (as relevant) have access to this tracking system?  Yes  No
- P. How often do municipal employees receive training on the post-construction program? Annually

**8. Program Resources**

- A. What was the annual expenditure to implement MS4 permit requirements this reporting period? \$172,800
- B. What is next year's budget for implementing the requirements of your MS4 NPDES permit? \$128,400



C. This year what is/are your source(s) of funding for the stormwater program, and annual revenue (amount or percentage) derived from each?

Source: Stormwater Fund Amount \$ \_\_\_\_\_ OR % 100  
 Source: VBWD Community Grant Amount \$ 35,000 OR % \_\_\_\_\_  
 Source: \_\_\_\_\_ Amount \$ \_\_\_\_\_ OR % \_\_\_\_\_

D. How many FTEs does your municipality devote to the stormwater program (specifically for implementing the stormwater program; not municipal employees with other primary responsibilities)? 0

E. Do you share program implementation responsibilities with any other entities?  Yes  No

Entity	Activity/Task/Responsibility	Your Oversight/Accountability Mechanism
VBWD	Impaired Waters Review	Local Surface Water Management Plan

**9. Evaluating/Measuring Progress**

A. What indicators do you use to evaluate the overall effectiveness of your stormwater management program, how long have you been tracking them, and at what frequency? These are not measurable goals for individual management practices or tasks, but large-scale or long-term metrics for the overall program, such as macroinvertebrate community indices, measures of effective impervious cover in the watershed, indicators of in-stream hydrologic stability, etc.

Indicator	Began Tracking (year)	Frequency	Number of Locations
Public Comment	2005	Annually	N/A

B. What environmental quality trends have you documented over the duration of your stormwater program? Reports or summaries can be attached electronically, or provide the URL to where they may be found on the Web.

### 10. Additional Information

In the space below, please include any additional information on the performance of your MS4 program. If providing clarification to any of the questions on this form, please provide the question number (e.g., 2C) in your response.

### Certification Statement and Signature

I certify that all information provided in this report is, to the best of my knowledge and belief, true, accurate and complete.

Yes

Federal regulations require this application to be signed as follows: For a **municipal, State, Federal, or other public facility**: by either a principal executive or ranking elected official.

\_\_\_\_\_  
Name of Certifying Official, Title

\_\_\_\_\_  
Date (mm/dd/yyyy)

**Submit**



## **MS4 STORMWATER POLLUTION PREVENTION PROGRAM: East Metro Water Resource Education Program Annual Report (2009)**

**Background:** The East Metro Water Resource Education Program (EMWREP) is a comprehensive water resource education and outreach program for the east metro area of St. Paul, MN. Members of EMWREP in 2009 included Brown's Creek, Comfort Lake-Forest Lake, Ramsey-Washington Metro, Rice Creek, South Washington, and Valley Branch Watershed Districts, Lower and Middle St. Croix Watershed Management Organizations, the cities of Cottage Grove, Dellwood, Forest Lake, Lake Elmo, Stillwater, and Willernie, West Lakeland Township, Washington County and the Washington Conservation District. The EMWREP region covers all of Washington County as well as a small portion of Anoka, Chisago and Ramsey Counties.

The mission of EMWREP is to improve the quality of local surface and groundwater resources through education and outreach about non-point source water pollution. By using the six minimum control measures in the Stormwater Pollution Prevention Program (SWPPP) as a structure for the education program, EMWREP is able to help partners meet MS4 permit requirements.

**Program Components:** The EMWREP education plan was revised in 2009 to include the following six activities:

1. **General Education Campaign:** Articles in newspapers and newsletters, displays and presentations at community events, and collaborative work with other groups.
2. **Blue Thumb Program:** Collaboration with Blue Thumb program partners, website ([www.BlueThumb.org](http://www.BlueThumb.org)), workshops, neighborhood parties and presentations for community groups.
3. **Stormwater U:** Workshops and field sessions for engineers, planners, public works staff and other municipal and agency employees.
4. **MS4 Toolkit:** Completed in June 2009, the kit includes materials for educating a variety of audiences about water resources – [www.cleanwatermn.org/MS4toolkit](http://www.cleanwatermn.org/MS4toolkit).
5. **NEMO:** Presentations and workshops for elected officials and decision makers.
6. **Commercial Outreach:** New in 2009 - EMWREP is working with the Minnesota Pollution Control Agency, the Metro Association of Conservation Districts and local watershed agencies to develop an outreach program for businesses.

**MS4 Permit requirements for the Stormwater Pollution Prevention Program:  
Requirement (a) – Public Education Program**

**EMWREP activities used to meet requirements:**

- 1) General Education Campaign
- 2) Blue Thumb Program
- 3) Commercial Outreach Program

**Requirement (b) – An program that addresses the six minimum control measures**

- 1. Public Education and Outreach**
  - General Education Campaign
  - Blue Thumb Program
  - Commercial Outreach Program
- 2. Public Participation**
  - General Education Campaign
  - Blue Thumb Program
- 3. Illicit Discharge Detection and Elimination**
  - MS4 Toolkit
- 4. Construction Site Storm Water Runoff Control**
  - Stormwater U
  - MS4 Toolkit
- 5. Post Construction Storm Water Management**
  - Stormwater U
  - NEMO
  - MS4 Toolkit
  - Commercial Outreach Program
- 6. Pollution Prevention and Good Housekeeping in Municipal Operations**
  - MS4 Toolkit

**Requirement (c) – For each minimum control measure, list: 1) Audience, 2) Educational goals, 3) Activities used to reach goals, 4) Activity implementation plans, and 5) Available performance measures**

\* See East Metro Water Resource Education Plan. Individual program areas specify audience, goals, activities and performance measures.

**Requirement (d) – Coordination with other local stormwater education programs**

The East Metro Water Resource Education Program had 17 partners in 2008. EMWREP also coordinates with several other public agencies, collaboratives, non-profits and citizen groups in the metro area.

**Requirement (e) – One public meeting per year**

**EMWREP partners held individual public meetings.**

## 2009 Program Activities and Highlights:

**Public Education:** In 2009, the EMWREP educator continued to write weekly columns about water resource issues, which were published in several local newspapers. EMWREP's educator also contributed newsletter articles for thirty cities in the area, as well as the Washington County newsletter. For the third year, EMWREP partners coordinated a joint booth at the Washington County Fair. EMWREP also participated in the Children's Water Festival as well as several local community events for children and adults.

As a member of the Metro WaterShed Partners steering committee, EMWREP helped to coordinate media campaign activities, which included 261 ads on Channel 45 TV during the summer, 221 ads on cable television in the fall, 12 billboards in June, 18 public service announcements on MPR, and a partnership with Saints Baseball that included multi-media coverage throughout the season. The WaterShed Partners also had a prominent booth in the Minnesota DNR building at the Minnesota State Fair.



Fifth grade students search pond water for aquatic invertebrates at the OH Anderson Elementary Field Day in Mahtomedi in May 2009.



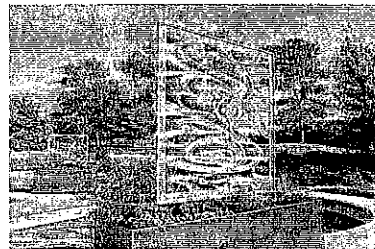
**Blue Thumb:** EMWREP has continued to use the Blue Thumb – Planting for Clean Water program to promote partner BMP (best management practice) programs and has been active in developing the Blue Thumb partnership and its shared website, [www.BlueThumb.org](http://www.BlueThumb.org).

EMWREP organized six Blue Thumb introductory workshops during the spring in Cottage Grove, Denmark Township, Forest Lake, Lake Elmo and Stillwater with 130 attendees in total. A three-part series on Blue Thumb, raingardens and shoreline plantings was held in Lake St. Croix Beach as well, with an additional 18 participants. EMWREP also attended dozens of community events, coordinated several neighborhood parties and gave many presentations. In part due to this outreach, EMWREP partners approved or installed nearly 130 water quality improvement projects on privately owned land in Washington County in 2009.

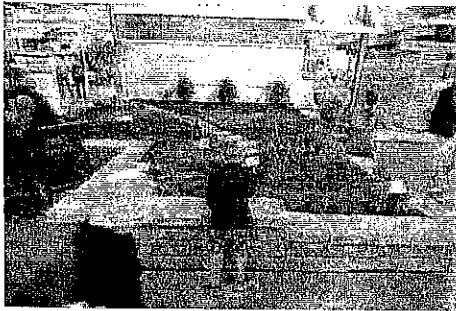
The 62 Blue Thumb program partners including cities, watersheds, non-profits and businesses, put in more than 2000 hours of work to promote, design and install native gardens, raingardens and shoreline plantings in the Twin Cities



This raingarden in Mahtomedi was just one of dozens planted in Washington County in 2009.



Blue Thumb partners collaborated on an exhibit at the U of M Arboretum in 2009.



A demonstration rain garden at the State Fair Eco Experience was viewed by 350,000 people.

area. In addition to a spring media blitz that included magazine ads, a 20-minute radio interview on WCCO, and several large events, partners also added a virtual project tour to the website and hired a professional photographer to take photos of demonstration gardens around the area.

The Blue Thumb website received more than 23,000 visits in 2009, which was an 11% increase from 2008. The program was also a part of the Eco Experience at the Minnesota State Fair, which was visited by 350,000 people.

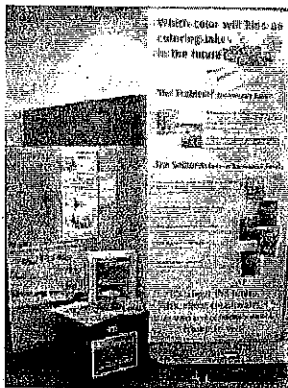
**Stormwater U:** During 2009, EMWREP continued its Stormwater Pond Management series in conjunction with Ramsey-Washington Metro Watershed District and University of Minnesota Extension. A workshop on stormwater pond excavation was held in May in North St. Paul, with 56 participants.



Todd Hubmer discusses how to map a stormwater pond to prepare for sediment excavation at the May 6 workshop.

**MS4 Toolkit:** In June 2009, EMWREP completed the MS4 Education Toolkit, which is now available online at [www.cleanwatermn.org/MS4toolkit](http://www.cleanwatermn.org/MS4toolkit). In addition to the on-line materials, there are toolkits available with sample materials at MPCA regional offices, the Washington Conservation District office and through WaterShed Partners.

The website is divided into categories based on the six minimum control measures for the SWPPP and within each category, there are also sections for different topics and audiences. Many of the print materials in the kit are on-line in both pdf and editable versions, giving EMWREP partners and other MS4 communities the ability to add their logos and contact information and modify content to reflect local conditions and issues.



In addition to on-line resources, there are toolkits with sample materials at the MPCA regional office and through the WCD and WaterShed Partners.

Some of the new and exciting educational materials created for the MS4 Toolkit project include:

- **Two training videos for parks and public works staff**, addressing rain garden maintenance and stormwater pollution prevention in parks maintenance. The videos are part of training packets that also include posters, wallet cards and PowerPoint presentations.
- **Blue Thumb Guide to Year-Round Yard Care**, a 25-pg color manual that provides guidance for residential lawn and yard care.

- **Illicit Discharge Detection and Elimination education materials**, including posters, mailers and utility bill inserts.
- **Dozens of newsletter articles** on a variety of topics related to stormwater and water resources.

In addition to educational materials, the MS4 Toolkit provides guidance on using these materials as effectively as possible. There is information about community based social marketing and how to conduct a focus group, as well as tips for using the materials in the kit to address specific stormwater issues within a community. Each section of the kit also includes surveys that can be used to evaluate the impact of outreach efforts.

EMWREP will continue to provide basic website maintenance for the MS4 toolkit and to occasionally add new materials to the kit as they are developed. With new materials now available, EMWREP will now focus on using these materials to help partners reach target audiences in their communities.



EMWREP partners can use the two training videos from the MS4 Toolkit for their public works staff.

**NEMO:** In 2009, NEMO teamed up with a group of local and state agencies, including the Minnesota and Wisconsin DNR's, Northland NEMO, Middle St. Croix WMO, Washington Conservation District and the National Park Service to bring attention to issues facing the St. Croix and to educate local decision makers about how they can help to protect the river.



The Watershed Game was specifically designed to help local decision makers learn about best management practices and pollutant loading.

A March 31 workshop at the Stillwater Library had 65 participants, while a second workshop at the Science Museum on April 28 had another 30 attendees. Perhaps the largest success was *A view from the river: A guided tour of the St. Croix Valley's land and water resources*, which was held on June 17 with 104 local decision makers and more than 20 presenters and instructors. During the 4.5-hour workshop, participants rotated through three activities. At the Watershed Game, they used a large game board to role play how to decrease water pollution in the watershed using best management practices. In another exercise, instructors highlighted points of interest along the route from Hudson to the Kinnickinick, providing background information and

suggestions for action. Along with the Watershed Game and the guided view of the river, staff and researchers from the Minnesota DNR, National Park Service and St. Croix Watershed Research Station presented information about fisheries, mussels and aquatic bugs in the St. Croix Basin.

**Commercial Outreach:** EMWREP has begun working with the MPCA, the Metro Association of Conservation Districts and local watershed agencies to develop educational materials and outreach strategies for local businesses. During the fall, EMWREP added a new section to the WaterShed Partners “Minnesota Water – Let’s Keep it Clean” website that is specifically geared toward business owners and managers. The new content can be found at [www.CleanWaterMN.org](http://www.CleanWaterMN.org) by clicking on “Businesses.” There is information on Low Impact Development, parking lot and grounds maintenance and other topics of interest, as well as local case studies.

In 2010, the next step will be to conduct focus group sessions with representatives from local businesses to identify incentives or programs that might motivate them to install BMPs on their property. These sessions will also be used to review the outreach materials already developed and to craft an outreach message that will be compelling for commercial property owners.



The goal of the commercial outreach program is to have more businesses adopt best management practices that benefit water quality.





## MAYOR & COUNCIL COMMUNICATION

DATE: 6/01/2010  
REGULAR  
ITEM #: 10  
MOTION Resolution 2010-017

**AGENDA ITEM:** Comprehensive Plan Amendment for Senior Living and Farm School  
Project at 9434 Stillwater Boulevard North – PID's: 15-029-21-31-0001  
and 15-029-21-31-0003

**SUBMITTED BY:** Tammy Malmquist, Applicant  
Lake Elmo Planning Commission  
Kyle Klatt, Planning Director

**THROUGH:** Bruce A. Messelt, City Administrator *BAM*

**REVIEWED BY:** Dave Snyder, City Attorney

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**SUMMARY AND ACTION REQUESTED:** As per City Council direction from its May 18th, 2010 Meeting and following its May 25th, 2010 Workshop, resubmitted for Council Consideration is a proposed Comprehensive Plan Amendment, requested from Mrs. Tammy Malmquist, 8549 Ironwood Trail North. Assuming affirmative action by the City Council, forthcoming will be separate requests for a Zoning Text/Map Amendment (Item #11 on tonight's Agenda) and an OP Open Space Preservation Concept Plan and a Planned Unit Development concept plan (both tabled by the Planning Commission on May 10th and May 24th, 2010).

In their totality, these four actions would allow the establishment of a 40-unit senior living multi-family building, 10 townhouse units, and a farm-themed preschool on a 30.9 acre parcel at 9434 Stillwater Boulevard North. The unanimous recommendation of the Planning Commission to approve the proposed Comprehensive Plan Amendment is reflected in the following motion:

**SUGGESTED MOTION:** *“Move to Approve Resolution 2010-017 Amending the City of Lake Elmo Comprehensive Plan to change future land use designation for the identified parcel from RAD to RAD2, as reflected in the specific findings and recommendations of the Planning Commission.”*

**BACKGROUND INFORMATION:** Given the complex nature of this application, Staff has recommended that the Planning Commission and City Council review focus first on the Comprehensive Plan and Zoning amendments before proceeding with a discussion of the OP Development and PUD Concept Plans. The primary reason for the staged review was to take the bigger picture items first, and then advance with the detailed plan reviews, if warranted.

This process was designed to save time, resources and effort, should support not exist within the Planning Commission and City Council to move forward with the Comprehensive Plan and Rezoning. However, the Planning Commission elected to only consider and forward at this time for Council consideration the recommended Comprehensive Plan Amendment. A summary of this item follows:

*COMPREHENSIVE PLAN AMENDMENT:* A request to amend the Lake Elmo Comprehensive Plan, and specifically the Future Land Use Map, to change the future use of the applicant's 30.9 acre parcel from RAD Rural Agriculture Density (.45 dwelling units per acre) to RAD2 Rural Agricultural Density/2 (2 dwelling units per acre). The applicant has requested a transfer of some density from an existing RAD2 area located west of the applicant's site along Stillwater Boulevard to the project site.

On May 4th, the City Council discussed this item and elected to delay consideration (3-2 vote) by two weeks. During this interim period, the Planning Commission proceeded to hold the required Public Hearing and approve the requested Zoning Overlay (item #11 on tonight's Agenda) but elected to table action on the requested OP Preservation Concept Plan and Planned Unit Development.

On May 18th, the City Council elected to again delay consideration and scheduled a Workshop to further discuss of both items for May 25th, 2010. On May 24th, 2010, the Planning Commission elected to table action on the requested OP Preservation Concept Plan and Planned Unit Development until the City Council had provided direction with respect to the Comprehensive Plan Amendment and Zoning change. On May 25th, 2010, the City council held a Workshop to discuss these two items and related issues (detailed below).

**STAFF REPORT:** The attached Staff report from the Planning Department includes detailed information concerning the application and the review and recommendation concerning the first two portions of the request: the Comprehensive Plan and Zoning Text Amendment (this item is also scheduled for Council review and consideration tonight).

The staff report also includes a brief summarization of the issues that have been identified concerning the specific concept plans, which were presented in greater detail to the Planning Commission on May 10<sup>th</sup>. Please note, however, that the City Council **is not being asked to review the concept plans at this time, and should focus its attention on the positive or negative aspects of the Comprehensive Plan Amendment** being requested.

Should the City Council decide to not move forward with the requested revisions to the Comprehensive Plan, the latter decisions will not require a significant amount of additional discussion and review, since the concept plans and Zoning changes would not be consistent with the Comprehensive Plan (and therefore could not be approved).

Planning Staff did recommend denial of the proposed Comprehensive Plan amendment, as requested by the applicant. Findings of fact for denial were included in the original Planning Commission Report and are available tonight, if requested.

**PLANNING COMMISSION RECOMMENDATION:** The Planning Commission unanimously supported the applicant's requested Comprehensive Plan Amendment and developed a revised list of findings, included in the Planning Commission report. The findings have been incorporated by the Planning Director and City Attorney into the attached draft Resolution for Council Consideration.

The Planning Commission has also unanimously approved the proposed Overlay Zoning changes but has chosen to table taking further action on the OP Development and PUD Concept Plans.

**WORKSHOP REPORT:** The City Council held a workshop on these and related items on May 25th and came to the following general consensus:

1. **Lifecycle Housing** – The community should have as part of its overall housing objectives appropriate consideration for various lifecycle housing products and amenities. This should include senior housing, as well as other lifecycle housing classifications (workforce, family, starter, empty-nester, etc.)
2. **Future Up-Zoning Requests** – The City Council should give timely consideration to planning and land use decisions to design and develop some form of management of density changes with respect to future zoning decisions. This should especially include a focus on RAD-2, but also how best to address this issue with respect to the Old Village and the I-94/10th Street Corridor.
3. **Senior Housing in the Village** – The City Council should give timely consideration to planning and land use decisions to develop and implement some form of strategy and program to advance community objectives for well-managed, quality development within the Old Village and the I-94/10th Street Corridor.

The City Council did not get time to address question #4 from the Workshop regarding specific issues relating to the proposed development. For Council consideration, attached is the staff summary of the issues raised during staff and Planning Commission evaluation of the proposed four actions.

Also, at the request of the City Council, the Applicant has provided direct responses to the 15 questions posed by Council Member Emmons but not addressed during the Workshop. These responses are attached and also available on the City's Website to the public as part of the publication of the material for this Agenda Item.

**RECOMMENDATION:** Based upon the above background information, staff report and recommendation of the Planning Commission, it is recommended that the City Council discuss

and consider the proposed Comprehensive Plan Amendment, as delineated in the attached draft Resolution. Affirmative action can be undertaken by the following motion:

***“Move to Approve Resolution 2010-017 Amending the City of Lake Elmo Comprehensive Plan to change future land use designation for the identified parcel from RAD to RAD2, as reflected in the specific findings and recommendations of the Planning Commission.”***

Of note: The City Council will not be able to formally adopt the Comprehensive Plan Amendment until after Met Council review is complete. It appears that this amendment would be classified as a "minor plan amendment" by the Met Council and, therefore, not subject to adjacent review. Final Council action on the recent modifications to the City's Comprehensive Plan by the Met Council will also need to be undertaken prior to formal adoption of this Amendment.

It should also be noted that final approval of the Comprehensive Plan Amendment is contingent upon approval by the City Council of the other aspects of this project. This contingency obviates the necessity of taking action to reverse tonight's decision, should the proposed development not move forward. Language to this effect has been crafted by the City Attorney and is also included in the draft Resolution.

Alternatively, the City Council does have the authority to deny the requested Comprehensive Plan Amendment, as recommended by the Planning Commission, at tonight's meeting. However, further delay of action tonight may require the concurrence of the applicant, given state statutes governing timely responses to land use applications. The City Council may also elect to amend this recommendation, as appropriate. If the latter is done, the appropriate action of the Council following such discussion would be:

***“Move to Approve Resolution No. 2010-017 [ as amended at tonight's meeting ].”***

**ATTACHMENTS:**

1. Resolution 2010-017
2. Summary of Staff/Planning Commission Issues and Responses
3. Applicant's Response to Council Member Emmons' Questions
4. Planning Staff Report
5. Development Application Form *(included)*
6. Response to Incompletion Letter *(included)*
7. Review Comments: *(included)*
  - o Minnesota Department of Transportation
  - o Valley Branch Watershed District

- o Oakdale Fire Department (Public Safety)
- o City Engineer
- 8. Future Land Use Map (Applicant's Site and RAD2 Areas) *(included)*
- 9. Aerial Image of Site *(included)*
- 10. Concept Plan Narrative & Zoning Text Amendment *(included)*
- 11. Farm School and Senior Living Concept Plans *(included)*
- 12. Copies of Written Correspondence *(previously provided)*

**SUGGESTED ORDER OF BUSINESS:**

- Introduction..... City Administrator
- Discussion by the City Council..... Mayor & City Council
- Public Comments, if appropriate ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

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

**RESOLUTION NO. 2010-017**

*RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF LAKE ELMO  
COMPREHENSIVE PLAN*

**WHEREAS**, the City of Lake Elmo has established a Comprehensive Plan that provides a compilation of background data, policy statements, standards, and maps, which help to guide the future physical, social, and economic development of the City; and

**WHEREAS**, Tammy Malmquist, 8549 Ironwood Trail North, ("Applicant") has submitted an application to the City of Lake Elmo ("City") to amend the Lake Elmo Comprehensive Plan, a copy of which is on file in the City Planning Department; and

**WHEREAS**, the request to amend the Comprehensive Plan was submitted along with multiple zoning requests necessary for the Applicant to move forward with a proposed multi-family senior living facility and farm-based preschool project; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on April 26, 2010 to consider the request to amend the Comprehensive Plan; and

**WHEREAS**, on April 26, 2010 the Lake Elmo Planning Commission adopted a motion to recommend that the City Council approve the request to amend the Comprehensive Plan; and

**WHEREAS**, the City Council reviewed the recommendation of the Planning Commission and the proposed amendment to the Comprehensive Plan at meetings held on May 4, 2010, May 18, 2010, June 1, 2010, and at a workshop session on May 25, 2010; and.

**NOW, THEREFORE**, based upon the testimony elicited and information received, the City Council makes the following:

**FINDINGS**

- 1) That the Applicant has submitted a request to amend the Comprehensive Plan in accordance with the procedures as established by the Lake Elmo Planning Department and Lake Elmo Planning Commission.

- 2) That the request is to amend the Future Land Use Map (Map 1 in Chapter III – Land Use Plan) in the Lake Elmo Comprehensive Plan, and to specifically change the future land use designation of the parcel located at 9434 Stillwater Boulevard North from RAD (Rural Agricultural Density – 0.45 dwelling units per acre) to RAD2 (Rural Agricultural Density – 2 dwelling units per acre).
- 3) That the Comprehensive Plan Amendment will apply to property legally described in the attached Exhibit “A”.
- 4) That the current use of the site as a working farm is unique compared to other properties designated for RAD development in the Comprehensive Plan.
- 5) That the proposed project associated with the Comprehensive Plan Amendment will help fulfill a need for senior housing within the community.
- 6) That recent subdivisions in areas guided for RAD development have been approved at a density below the unit levels anticipated in the Comprehensive Plan. The proposed density increase will be offset by reductions that have previously been approved or acknowledged by the City.
- 7) That the site is located in close proximity to public transportation along State Highway 5, and specifically, a bus route that could provide alternate transportation options for seniors.
- 8) That the site is located immediately adjacent to existing R-1 Single Family Residential zoning districts along its southern, eastern, and western boundaries. Other areas guided for RAD development are primarily surrounded by rural residential, agricultural, or public open space uses.

**NOW, THEREFORE, BE IT RESOLVED**, that based on the foregoing, the Lake Elmo City Council hereby approves the Applicant’s request to amend the Lake Elmo Comprehensive Plan, subject to and contingent upon the following:

- 1) Submission of the Comprehensive Plan Amendment to the Metropolitan Council and the receipt of formal notification from the Metropolitan Council that its review has been completed and approved. Acknowledgement of these comments and final adoption of the Comprehensive Plan Amendment will require formal action by the City Council.
- 2) City Council approval of Zoning Ordinance Text Amendments necessary for the Applicant’s project to be satisfactorily considered by the City.
- 3) City Council approval of a satisfactory Final Open Space Preservation (OP) Development Plan associated with the Applicant’s request to amend the Comprehensive Plan.

- 4) City Council approval of a satisfactory Planned Unit Development (PUD) Final Plan and associated documentation associated with the Applicant's request to amend the Comprehensive Plan and execution of same by the Applicant.
- 5) City Council approval of site development and details.

Passed and duly adopted this 1<sup>st</sup> day of June 2010 by the City Council of the City of Lake Elmo, Minnesota.

\_\_\_\_\_  
Dean A. Johnston, Mayor

ATTEST:

\_\_\_\_\_  
Bruce Messelt, City Administrator



Topic	Issue	Addressed? By Whom?
Comp Plan		
Change in Circumstances	<p>There have been no changes in circumstances since the Land Use Section of the Comp Plan was updated in 2006 that warrant revisions to increase or transfer density to the applicant's site.</p>	<p><i>Public comments may or may not have addressed this issue at Planning Commission/Council meetings.</i></p>
Density Locations	<p>Higher density residential development is encouraged in areas that will be served by public sanitary sewer where the provision of these services is more cost-effective and where the City will receive credit towards the REC unit counts mandated under its MOU with the Met Council.</p>	<p>Planning Commission Finding: That recent subdivisions in areas guided for RAD development have been approved at a density below the unit levels anticipated in the Comp Plan. The proposed density increase will be offset by reductions that have previously been approved or acknowledged by the City.</p>
Density Locations	<p>It should be considered within the larger context of where these higher densities may best be integrated with surrounding land uses and where it can best be provided with public services (even if these services are somewhat limited in OP developments).</p>	<p>Planning Commission Finding: That the site is located immediately adjacent to existing R-1 Single Family Residential zoning districts along its southern, eastern, and western boundaries. Other areas guided for RAD development are primarily surrounded by rural residential, agricultural, or public open space uses.</p>
Density Locations	<p>The City is currently working to implement its plan for development in the Old Village Area and the I-94 corridor. Given the current market conditions, the City encourages higher density development in areas that would help off-set the significant infrastructure costs required to serve these areas.</p>	<p><i>Public comments may or may not have addressed this issue at Planning Commission/Council meetings.</i></p>
Density Locations	<p>There have been no discussions with the current property owner of the 103 acre parcels that are guided RAD2 to the west of the applicant's site that the overall density on this site may change (or any of the RAD2 guided property owners.)</p>	<p>Staff recommended no transfers of RAD2 density if the Comp Plan Amendment were to be approved.</p>
Senior Housing Location	<p>The Housing Chapter of the Comp Plan specifically states that any future senior-specific housing in Lake Elmo will be best accommodated within the Old Village Area due to proximity to goods, services, and public facilities.</p>	<p>Planning Commission Finding: That the proposed project associated with the Comprehensive Plan Amendment will help fulfill a need for senior housing within the community.</p>

Topic	Issue	Addressed? By Whom?
Comp Plan		
Precedent	<p>The applicant's site does not demonstrate any characteristics that are substantially different from other areas guided for RAD development in the City of Lake Elmo or that would indicate that higher density development is more appropriate in this area than any other site within the City</p>	<p>Planning Commission Finding: That the current use of the site as a working farm is unique compared to other properties designated for RAD development in the Comp Plan.</p>
Comp Plan Goals - rural character	<p>A 40-unit multi-family senior-living facility is not consistent with the City's stated goals to preserve and enhance its rural character, especially when planned in areas that are guided for Rural Agricultural Density.</p>	<p>Public comments may or may not have addressed this issue at Planning Commission/Council meetings.</p>
Comp Plan Goals - Transportation	<p>A new access to support development on the applicant's site does not conform to the City's Transportation Plan that encourages limited access to major collector roads and is inconsistent with the City's access spacing guidelines.</p>	<p>Planning Commission Finding: That the site is located in close proximity to public transportation along State Highway 5, and specifically, a bus route that could provide alternate transportation options for seniors.</p>
Comp Plan Goals - Transportation	<p>Consideration of potential future local, collector and arterial transportation improvements, above those already noted, directly or indirectly resulting from this development, as well as anticipated participation of the applicant in such future improvements</p>	<p>MnDOT cannot outright reject a request for new access. Staff recommendations for future access considerations included as part of concept plan reviews.</p>
Market for Property	<p>Build-out of existing empty lots in platted and developed OP developments is encouraged over the creation of new development and service areas in the community.</p>	<p>Public comments may or may not have addressed this issue at Planning Commission/Council meetings.</p>

Topic	Issue	Addressed? By Whom?
Zoning Text Amendment		
Definitions	Adding definitions for all the terms that are used in the proposed ordinance provisions (What does the term "senior" mean when used with "senior housing"? Is there a specific age that should be regulated differently than others?) Will the housing on the site be age restricted and/or restricted language be added for future use of site?	Staff added suggested language (to address definition)
Definitions	Does the City need to differentiate between a preschool and a "farm-based" preschool?	Staff added suggested language
Setbacks	Including building standards (primarily setbacks) for Senior Housing buildings	Staff added suggested language
Setbacks	Keep a side yard setback for townhouses in OP Districts (a reduction or elimination of side yard setbacks would be appropriate to consider as part of a PUD)	Staff added suggested language
Density Calculation	Determine if wording should continue to read "gross area" as suggested by applicant or remain consistent with existing code and use "buildable area" for determining density ** (See Concept Plan/PUD as well)	Planning Commission recommended retaining applicant's proposed language of "gross area"
School-Aged an Appropriate Use	The ordinance as proposed by the applicant would allow a "farm-based" school for school-aged children. Is a school, or educational programs, for kids older than preschool age appropriate as part of the overlay zoning district?	
Future Developments	The proposed zoning amendment would make subsequent approvals for multi-family senior buildings and farm schools subject only to a land use change request, not a zoning amendment.	
Future Developments	The proposed ordinance amendments do not leave adequate protections in place to buffer and mitigate impacts to surrounding land uses.	Planning Commission recommended an increase to the OP-2 buffer setback requirements.
Purpose of OP Developments	The proposed increase in density and types of uses allowed in an OP development is not consistent with purpose of intent of the OP Open Space Preservation Ordinance.	

Topic	Issue	Addressed? By Whom?
Concept Plan/PUD		
Restricted to Senior Housing	Should the City approve a project as a Senior Housing project if there is not an age-restriction associated with the project? Should the City's definition of Senior Housing require an age restriction?	Staff added language in the draft ordinance to both define senior housing and to include it in the list of conditionally permitted uses.
Market Conditions	Is there an appropriate mix of senior living and market-based apartments/condominiums that is acceptable?	
Use of Powerline Easement	The applicants are proposing to construct the community septic system, septic control building, and trails within the power line easement.	Added a condition that the applicant shall provide the City with either a statement of acknowledgment and consent from the holder of the power line easement or an agreement that permits certain encroachments into the easement.
Fire Protection and Adequate Water Service levels	The proposed plan to connect to an existing 4" pipe at the project boundary will not provide adequate levels of fire protection for the proposed buildings.	Added as a condition that the applicant shall provide utility plans showing an adequately sized connection back to an existing City water main; developer is responsible for all costs associated with providing a minimum water service size of eight inches to an existing main of a larger size
Storm Water Facilities	Who will maintain the storm water facilities? Through an easement or an outlet? Feasibility of the site and proposed development to comply with all aspects of the City Code, including the City's new storm water regulations and the resulting impact to the site.	Added as a condition that Storm water facilities required as part of the Storm Water Management Plan shall be platted within outlots and deeded to the city; shall be maintained by the City; applicant shall submit a storm water and erosion and sediment control plan as part of the preliminary plan submissions that complies with the City's recently adopted Storm Water and Erosion and Sediment Control Ordinance
Storm Water Facilities		Future plans will need to address the City's recently adopted storm water ordinance.

Topic	Issue	Addressed? By Whom?
Concept Plan/PUD		
Access	Only one access for entire development.	Added as a condition that an improvement right-of-way connection be stubbed to adjacent property line to the north or east of the development site.
Additional traffic on Highway 5	The anticipated traffic levels will require improvements to CSAH 5 (as per MnDOT review comments).	Added as a condition that the developer shall be responsible for the installation of all improvements to Stillwater Blvd N (SH 5) as specified by MnDOT.
Emergency Access	Radius and pavement specifications for interior streets.	Added as a condition that the Interior City Streets shall address the comments provided by Oakdale Fire Chief.
Setbacks from Entrance Road	Setbacks from new entrance road cannot be determined from concept plans.	Added as a condition that the preliminary plans shall accurately depict the proposed setback between the existing structures and the future entrance road into the development. Compliance with front and side yard setbacks as required under the Zoning Ordinance must be considered as a part of future plan reviews by the City.
Buffer Setback	Is there adequate buffering between uses?	Added as a condition: 1. Additional buffering shall be provided between the proposed multi-family building and adjacent wooded open space protection area. 2. A minimum buffer setback of 50 feet, which includes the proposed roadway system, shall be maintained between the development site and any adjacent property. The City may consider reductions to this setback.
Community Septic System	The community septic system is located with minimal setback to the property to the north. The infrastructure necessary for the septic system should not negatively impact adjacent properties.	Added as a condition that any buildings required as part of the community septic system shall either be moved to a more central location within the development or screened from view from adjacent properties.

Topic	Issue	Addressed? By Whom?
<b>Concept Plan/PUD</b>		
Open Space Protection	The proposed open space areas may be too small for consideration by the MN Land Trust.	Added as a condition that the open space preservation areas shall be reviewed for potential inclusion as part of a conservation easement protected by the MN Land Trust.
Calculating density	Inclusion of highway right-of-way in calculations for net buildable area and require open space.	The applicant believes the road right-of-way has been calculated in the past when determining buildable area in an OP development.
Calculating Open Space	Inclusion of storm water facilities in required open space areas.	The applicant identified that other OP developments have included storm water ponds in the required open space areas.
Parks and Trails	Consideration of current and future park and recreation issues relating to the site, including trails and trail access, private and public access and amenities, etc.	
<b>Other</b>		
Animals	The keeping of farms animals is regulated by City Code and the MPCA.	Additional condition: The keeping of animals associated with the agricultural activities on the site shall comply with all applicable City and Minnesota Pollution Control Agency requirements for the keeping of domestic farm animals.
City Development Objectives	Consideration of overall city development objectives, revisions not the Comp Plan and zoning relating to higher densities; completion of the Village Master Plan and I-94 corridor area review	

## Applicant's Response to Council Questions - May 27th, 2010

### 1. Location:

There is no farm site available in the village area that matches the unique characteristics and natural setting of the proposed site. This site is near, and adjoins, one of four historical Lake Elmo family farms. The proposed location will preserve the rural farm characteristics associated with Lake Elmo.

### 2. Access/Safety:

The proposed access on Hwy. 5 is a split access that utilizes the two current driveways to allow one driveway as an entrance and one driveway as an exit. The project will include a right turn and bypass lane, paid for by the applicant. MnDOT has already indicated that they will permit this access. The existing Lake Elmo developments accessed by Hwy. 5 also have right turn and bypass lanes, which have proven to be safe. We will construct the westward trail leading to Jamaca Court to insure it can be used as a second emergency entrance.

### 3. Affordability:

While this means different things to different people, these moderately priced units will be in line with, or below, current market prices. Our target market is working class seniors that want to live in Lake Elmo to enjoy its rural character.

#### 4. Senior Housing Demand:

As the 2008 Senior Housing Update compiled by Maxfield Research indicates, there will continue to be demand for senior housing. As baby boomers age, there will be huge demand for developments that cater to their active lifestyles. There are many seniors interested in this project as it includes the intergenerational component of working with children in a farm setting. This environment caters to an "active" lifestyle with both the farming element and the interaction with children. We expect seniors will want other housing options and will find the village and 94 corridor to be desirable as well.

#### 5. Precedence:

We agree with the unanimous Planning Commission recommendation along with the City Administrator and City Attorney that this project is sufficiently unique and that the Council can exercise its' right to alter the Comprehensive Plan to allow this project.

#### 6. Buffers:

Buffers are designed to minimize the impact to adjoining properties. The areas where we have less buffer are shielded from the adjoining homes with existing and new vegetation. In the areas without vegetative cover we have more than double the current 200' buffer.



#### 7. School:

We are working with staff to supply a definition and/or description of what a school/preschool/farm school actually is. We agree with staff's recommendation that "the keeping of animals associated with the agricultural activities on the site shall comply with all applicable City and MPCA requirements for the keeping of domestic farm animals."

#### 8. Open Lands:

As the concept layout shows, we have agricultural areas such as an orchard and vineyard, along with crops and pasture for our working farm. We also envision community flower and vegetable gardens for the seniors and children. These areas will be part of the "open space plan" and maintained by the Home Owners Association as required by the existing city ordinance. This plan will be refined during the preliminary plat process.

#### 9. Metropolitan Council:

We are working with staff to make sure this concept isn't inconsistent with the cooperative agreement in place with the Met Council. We believe this project will help Lake Elmo reach its population requirements.

10. Height/Elevation of large buildings:

We believe that the visual impact of the main building will be similar to the back side of a two story home with a walkout basement. In listening to the land, we've designed the building to incorporate the three story sections next to the existing oaks and behind the knoll. Away from those natural features we've reduced the building to two stories. In addition, it isn't economically feasible to have underground parking for a two story building and remain affordable. This design also decreases the projects overall footprint on the land.

11. Background zoning: We agree with staff's interpretation.

12. Senior Housing allowed in the village:

Current zoning does not allow senior housing in any district. Wherever senior housing is proposed, ordinances and standards will need to be created.

13. Transfer of Density: We agree with staff's interpretation.

14. Comp Plan/Zoning changes kept together:

We will work with whatever process the City of Lake Elmo deems appropriate.

15. Fire Marshall Review:

We will work with whatever process the City of Lake Elmo deems appropriate.

City of Lake Elmo Planning Department  
**Comprehensive Plan and Zoning Text Amendment**

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*To:* **City Council**

*From:* Kyle Klatt, Planning Director

*Meeting Date:* **5/04/2010**

*Applicant:* **Tammy Malmquist**

*Owner:* Tammy Malmquist; Marlene Friedrich

*Location:* **9434 Stillwater Blvd N**

*Zoning:* RR – Rural Residential

***Introductory Information***

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***Application  
Summary:***

The City of Lake Elmo has received an application from Tammy Malmquist, 8549 Ironwood Trail North, for a Comprehensive Plan Amendment, Zoning Text Amendment, Open Space Preservation (OP) Development Concept Plan, and Planned Unit Development (PUD) Concept Plan. The individual elements of this request have been made to allow the establishment of a 40-unit senior living multi-family building, 10 townhouse units, and a farm-themed preschool on a 30.9 acres parcel at 9434 Stillwater Boulevard North. The request would incorporate the existing family care facility that is located adjacent to this property at 9442 Stillwater Boulevard North. As the current owner of the 30.9-acre parcel, Marlene Friedrich has signed as a co-applicant to this request.

Given the complex nature of this application, Staff has recommended that the City review focus first on the Comprehensive Plan and Zoning amendments before proceeding with a discussion of the OP Development and PUD Concept Plans. To facilitate this two-tiered review, separate public hearings and agenda items have been scheduled at different times with the Planning Commission as follows:

- April 26: Comprehensive Plan and Zoning Text Amendments
- May 10: OP Development and PUD Concept Plans

The primary reason for the staged review is to take the bigger picture items first, and then advance with the detailed plan reviews if warranted. This process will save time and effort if there is no support by the City Council to move forward with the Comprehensive Plan and Rezoning. If these elements of the application are approved, it would allow the required Met Council review to proceed while the City is considering the development Concept Plans.

The Planning Commission reviewed and conducted a public hearing on both the Comprehensive Plan and Zoning Text Amendments, and made a recommendation to the City Council on the first issue at its meeting on April 26<sup>th</sup>. The Commission tabled its discussion on the latter issue and directed staff to prepare an alternate ordinance to consider in addition to the amendments requested by the applicant. The ordinance will be brought back before the Planning Commission at its next meeting, prior to discussion on the OP Development and PUD Concept Plans.

**Application  
Details:**

As noted above, there are four distinct components of the applicants request, which include the following:

**Comprehensive Plan Amendment.** The proposed amendment would change the future land use designation of the parcel located at 9434 Stillwater Boulevard North from RAD (Rural Agricultural Density – 0.45 dwelling units per acre) to RAD2 (Rural Agricultural Density – 2 dwelling units per acre). This change is necessary to move forward with the proposed development because the current designation as RAD would limit the overall number of units on the site to 14 units and the project that has been requested is for 51 units (1.7 units per acre), in addition to the existing single family residential site and proposed farm school. The applicant has proposed shifting density from an area guided for RAD2 west of the applicant's property to this site in order to avoid any impacts to the overall population projections in the Comprehensive Plan.

**Zoning Text Amendments.** The applicant has requested an amendment to the OP Open Space Preservation Ordinance to add requirements for development in areas that are guided RAD2, and more specifically, to amend the OP District to allow for the proposed multi-family senior living facility and farm-based preschool. The current OP Ordinance does not contain any provisions that would allow residential development to exceed a density of 0.45 units per acre (or 18 units per 40 acres), and although one section ties the maximum allowed density to the Comprehensive Plan, another section very specifically limits densities in OP developments to 18 units per 40 gross acres of buildable land. The other proposed amendments to this section include the following:

- Adding Multi-Family Senior Housing buildings (only in areas guided for RAD2) and Farm Schools for preschool and school-aged children to the list of allowable uses in an OP development.
- Reducing the minimum land area for an OP development from 40 to 20 acres in areas guided RAD2.
- Reducing the amount of contiguous land required in open areas from 10 to 5 acres for land guided RAD2.
- Reducing the required buffer setback in areas guided RAD2 to 50 feet from 200 feet.
- Adding standards for Senior Housing Buildings in the OP minimum district

requirements table.

**OP – Open Space Preservation (OP) Development Concept Plan.** The ultimate objective of the Comprehensive Plan and Zoning Text Amendments described above is to allow the development of a 40-unit senior housing building, 10-unit townhouse development, and farm-based preschool on a 30.9-acre property located at 9434 Stillwater Boulevard North. Should the City adopt the requested OP District changes, the applicant would be able to submit a request for the proposed development in accordance with the requirements for new OP Open Space Preservation projects. The first step in this process is the submission of a concept plan for review, and all plans and information required as part of this submission have been included as part of the overall application. A few of the details of this proposal include the following:

- The Wunder Years day care would remain in its current location, and would be updated along with the existing house at 9434 Stillwater Boulevard North to match the proposed townhouses.
- A community septic system is planned to serve the development.
- One access is planned off Stillwater Boulevard to serve the project area in the general location now used for access to the existing home and daycare.
- 50% of the project site area would be set aside as permanent open space in accordance with the OP district requirements.
- An open green area is planned within the center of the development area and a common architectural theme is planned throughout the development area consistent with the past agricultural use of the property.

**A more detailed description and complete staff review of the proposed OP Development Concept Plan will be provided at the next Planning Commission meeting when this aspect of the request is considered.** This request may only proceed if the Comprehensive Plan and Zoning amendments are approved by the City Council.

**Planned Unit Development (PUD) – Concept Plan.** In addition to the OP Development concept plan submission, the application also includes a request for a Planned Unit Development concept plan. A PUD is necessary to move forward with the applicant's request since the project includes a mix of uses and activities that would otherwise not be possible under current zoning regulations. The PUD portion of the request will be considered by the City in conjunction with the review schedule for the OP Development concept plan. The pending staff review will group the concept plans together for the purpose of providing an analysis of the request in a future report.

**Property  
Information:**

The applicant's property is located near the intersection of Jamaca Avenue North and Stillwater Boulevard North (Highway 5). The current uses consist of the original Friederich family farmstead and related outbuildings and the Wunder Years day care

facility. Other than the agricultural fields, each of these uses would be considered a permitted residential and/or agricultural use of the property. The 30.9 acre farmstead is zoned RR – Rural Residential while the day care site is zoned R-1 Single Family Residential and is 29,670 square feet (0.68 acres) in size. Each property currently has its own access to Stillwater Boulevard via two driveways that are approximately 25 feet apart.

Other notable features of the farm property include a larger wooded area in the northeast portion of the site (referred to as the “Oak Savanna” on the concept plans) and gently rolling topography throughout the proposed project area. The 30.9-acre parcel extends westward to Jamaca Court North, and connects to this street via a narrow connection point between two existing homes. The surrounding property uses include single family homes zoned R-1 to the south and east along Stillwater Boulevard, and agricultural uses located to the north and east that are zoned A – Agriculture and RR – Rural Residential. The Washington County Landfill and Sunfish Lake Park is located further to the north and northwest for the latter.

**Applicable  
Codes:**

**Section 150.175 through 150.189 OP Open Space Preservation**

Describes the process and requirements associated with an OP Open Space Preservation development. The applicant has requested an amendment to this section of the City Code in order to allow a multi-family senior living building and farm-based preschool as part of an OP development.

**Section 154.020 Amendments**

Outlines the process and requirements for requesting an amendment to the Zoning Ordinance. Of particular interest, please note Subsection (J) which reads: “Conformance with Comprehensive Plan. In granting or recommending any rezoning or other permit provided for in this chapter, the Zoning Administrator, the Planning Commission, or Council shall find that the proposed development conforms substantially to the policies, goals, and standards of the Comprehensive Plan.”

**Section 154.036 RR – Rural Residential**

Outlines the general requirements for the RR Rural Residential Zoning District in Lake Elmo.

**Section 154.070 through 154.075. Planned Unit Development**

Describes the process and requirements for submitting an application for a Planned Unit Development.

**Findings & General Site Overview**

**Site Data:** Lot Sizes: 30.9 acres and 0.68 acres

**Existing Uses:** Single Family Residences/Agricultural/Agricultural Outbuildings

*Existing Zoning:* RR – Rural Residential and R-1 Single Family Residential  
*Future Land Use:* RAD – Rural Agricultural Density and Neighborhood Conservation  
*Property Identification Numbers (PID):* 15-029-21-31-0001 and 15-029-21-31-0003

***Comprehensive Plan and Zoning Text Amendment Review:***

***Comp Plan  
Analysis  
Staff  
Comments:***

Of all the land use requests that are considered by a Planning Commission, a City has the most discretion to approve or deny proposals to amend the Comprehensive Plan. For communities within the Twin Cities metropolitan area, this discretion is limited somewhat by the Metropolitan Council, which requires cities to update their plans every ten years and has the authority to review all requests to amend an approved Comprehensive Plan. In this case, if the City decides to move forward with the proposed amendment, the proposed change will need to be reviewed by the Metropolitan Council before it can be officially adopted by the City. The update must also be submitted to adjacent communities for review and comment before the Met Council will take action on the proposal, and once accepted, there is a 60 day review period that can be extended an additional 60 days if needed.

In general, Cities may consider an amendment to a Comprehensive Plan for several reasons. Below are some specific examples as listed in the Met Council's Local Planning Handbook:

- Changes resulting from interim planning activities such as master plans, redevelopment plans or annexation
- A need to change a land use designation to allow a proposed development.
- Routine update of a public facilities element, such as a parks plan
- A text amendment to revise a land use category, policy or other description
- A routine update to incorporate new information such as census figures

The applicant's request clearly falls under the category of a land use designation change to allow a proposed development; however, there is much more to the Comprehensive Plan than just the simple designation of future land uses on a map. In Lake Elmo's situation, the City's Comprehensive Plan includes many other sections devoted to housing, provision of water service, transportation, and other elements that form a unified set of goals and objectives for the City. Any proposed land use changes should remain consistent with the other policies within the Comprehensive Plan or may otherwise need to be considered in the context of a larger update to the plan.

In order to support an amendment to a Comprehensive Plan, planners will typically try to identify circumstances that may have changed since the plan was last updated to support a change in the future land use designation or other components of a plan. For instance, market conditions may have led to assumptions concerning the rate of growth that are incorrect or a transportation improvement may have opened up new areas for development that were otherwise inaccessible. In Lake Elmo's case, certain sections of the plan will be updated this year, while the land use section was last



updated in 2006. It is staff's opinion that, if anything, conditions have changed during this period of time in a manner that is not conducive to the request being considered by the Planning Commission. Specifically:

- The economic downturn has led to a very slow rate of build out in the more recent OP developments. It is in the best interest of the City and each affected neighborhood to encourage new building to take place on lots that are currently vacant and served with water, roads, sewer, and other services and not in new areas with no or limited existing services.
- The City is lagging well behind the development phasing planned for urban service areas (with no growth in these areas to date) while OP development have only in the past few years begun experiencing the severe downturn in building activity. A multi-family project is more typical of the type of development planned for the urban service areas.
- The City's Comprehensive Plan and the Memorandum of Understanding between Lake Elmo and the Met Council includes provisions that will allow the Council to assess penalties against the City for failure to reach target population figures in sewer residential areas. Given the potential for penalties associated with a slow rate of build-out, larger projects should be directed to the urban service areas where they would help meet the development milestones in the Plan.
- Although it appears that the overall pattern of development in areas guided for RAD density in the Comprehensive Plan will result in a lower overall population living in these areas than previously estimated, the overall impacts to the City's infrastructure and planning policies will be much lower if the current trend is followed than by increasing the allowed densities by over four times the amounts projected in some of these areas. On the applicant's site, the current zoning would permit a density of three dwelling units (or up to 14 units if combined with adjacent parcels) verses the 51 units that have been requested.
- The re-allocation of densities throughout areas guided for RAD and RAD2 should be considered within the larger context of where these densities may best be integrated with surrounding land uses and where they can best be provided with public services (even if these services are somewhat limited in OP developments). There has been no substantial change since the land use plan was updated to indicate why the applicant's site would be better-suited for additional density verses the areas currently guided RAD2.

Other general comments from Staff:

- The applicant has proposed to re-allocate densities from an existing RAD2 property in order to permit the proposed 50-unit project without increasing the overall population projections for the City. In order to keep the overall population projections level for the City, this would reduce the density of an existing RAD2 areas to accommodate this change. There are currently around

140 total acres guided RAD2 which could theoretically accommodate up to 280 new housing units. If the proposed Comprehensive Plan amendment is approved, a net transfer of 37 units in excess of the current OP standards would be required (14 allow at .45 units per acre compared to 51 requested units). This transfer would reduce the overall density on the 140 acre sites to approximately 1.75 units per acre (or less if borrowed from just one property).

- There have been no discussions with the current property owner of the 103 acre parcels that are guided RAD2 to the west of the applicant's site that the overall density on this site may change (or any of the RAD2 guided property owners).
- Although the land use description for RAD2 notes that "limited life cycle housing" would be appropriate in these areas, there are no other references to such housing in RAD or RAD2 guided land. In fact, the housing section of the current plan states very specifically that "Any future senior-specific housing in Lake Elmo will be best accommodated within the Old Village Area due to proximity to goods, services, and public facilities. The combination of senior housing needs and village scale housing density may result in attached housing of some description".
- The Comprehensive Plan calls for the City to make some fairly substantial investments in public sanitary sewer services, and Staff recommends that any developments that exceed the base densities allowed in rural areas be directed to the urban service areas where such developments can help support the provision of these services.
- The applicant's plan would place additional traffic directly on to Stillwater Boulevard at a new intersection that is not consistent with the recently-prepared Transportation Plan. The Plan specifically encourages the use of collector streets and limiting access to major roads. The proposed project also does not comply with MnDOT's or the City's access spacing guidelines.

Based on the reasons provided above, Staff recommended that the Planning Commission recommend denial of the request to amend the Comprehensive Plan to change the future land use designation of the applicant's site from RAD to RAD2. Draft findings were also presented to the Planning Commission consistent with the review comments noted above. The Planning Commission did not support the recommendations of Staff and, rather, developed a revised list of findings supporting the Comprehensive Plan Amendment that are included in the Planning Commission report that follows.

**Zoning  
Amendment  
Staff  
Analysis:**

The second part of the request that was considered by the Planning Commission concerns the proposed amendments to the OP Open Space Preservation District as detailed in the applicant's submission materials and summarized by Staff in this report. Many of the changes proposed would apply on to areas designated as RAD2, and in particular, senior-living dwellings would not be permitted outside of land so designated. If approved, the proposed changes would apply to all portions of the City guided for RAD2 development, which includes 103 acres at the western edge of the

City along Stillwater Boulevard and a smaller 36-acre area immediately north of 10<sup>th</sup> Street at its intersection with Manning Avenue. This would open up these parcels for a similar senior-living or school project.

Looking at the proposed zoning amendments in a general sense, Staff offered the following comments for consideration by the Planning Commission:

- The current OP Ordinance does not contain provisions that would allow densities to exceed the 0.45 units per acre maximum in the code even in areas guided RAD2. At some point, this discrepancy should be addressed so that the densities allowed in the Zoning Ordinance are consistent with the Comprehensive Plan.
- If approved, the proposed amendments would not alter the maximum permitted density in areas guided RAD2, and would primarily amend the types of uses that would be permitted in such areas.
- Rather than amending the current OP Ordinance provisions, Staff would recommend that an overlay zoning district be created for RAD2 that would require compliance with all OP development standards with specific exceptions that would allow higher densities in RAD areas. This approach would leave the current OP Ordinance as-is while focusing a new overlay district only in specific areas to accommodate higher densities.
- The proposed language in 150.180 (B, 2, g) should read "per gross acres of *buildable* land" to be consistent with the current OP requirements.
- Given the allowance for larger buildings up to three stories in height, Staff recommends that the buffer setbacks (Section 150.180 B, 2, d) be left as currently written since a larger buffer should be provided in cases where there is greater potential for dissimilar uses to be located next to each other.
- The Planning Commission may want to consider whether or not Farm Schools should be permitted in all OP developments as the proposed draft would allow.
- The Zoning Ordinance only permits buildings over 35 feet in the BP Business Park and PF Public Facility zoning districts. The maximum height for Senior Housing Buildings as proposed would be 48 feet.
- The OP district standards table should include setbacks from side and rear property lines for Senior Housing Buildings.

The Planning Commission chose to table taking action on the Zoning Amendment, and requested that Staff prepare an alternate to the applicant's proposal that would create an overlay zoning district instead of amending the existing OP Ordinance. The Commission requested that the same standards proposed by the applicant be used to draft overlay regulations.

With the separation of the concept plan review from the Comprehensive Plan and Zoning Amendments, Staff will not be providing a detailed analysis of the submitted concept plans at this time. These plans were been provided, however, as part of the

**Concept Plan  
Issues:**

Commission's review materials since the application was submitted at one time. The project narratives and required submissions are also intertwined and are being presented in one package of information rather than splitting up certain pieces of information between the two scheduled meeting and hearing dates. Also, the Planning Department has asked for all comments from other agencies and internal staff on the entire application, and all comments that have been submitted to date are included as part of the Council meeting material.

In order to give the City Council, and the applicant, a quick overview of the major issues associated with the concept plans that have been identified to date, please consider the following:

- The Minnesota Department of Transportation has indicated that it will require certain improvements to Highway 5 if access is provided as shown on the concept plan. Specifically, a right turn lane and escape lane for eastbound traffic will be required at the new entrance road.
- The City Engineer has recommended that the concept plan be revised to provide road connectivity to the east and north with the development proposal.
- The water plan does not appear to meet fire flow requirements for the proposed improvements since the new eight-inch pipe as shown on the utility plan connects to an existing four-inch water pipe at the edges of the development.
- The storm water management and drainage and erosion control plan will need to address the City's recently adopted storm water quantity and quality standards.
- A small portion of the site is located within a shoreland district and will need to comply with any applicable shoreland ordinance requirements.
- The City of Oakdale's Fire Chief has been asked to review the plans from a public safety perspective since the applicant is married to Lake Elmo's Fire Chief.
- The proposed landscape plan does not accommodate the minimum number of trees required under the OP Ordinance.
- The community septic system and a portion of the trail system are shown within and power line easement. The City should receive an acknowledgement and consent from the easement holder in order to permit these encroachments.
- Staff would suggest a greater amount of spacing between the proposed tree preservation area and the buildings and roads on the site. The City should evaluate whether or not it is appropriate to use the required open space areas for storm water retention ponds.

A more thorough review and analysis of the proposed concept plans will be forthcoming from Staff should the Comprehensive Plan and Zoning Amendments be approved by the City Council. Should approvals be granted, the City will need to discuss the review schedule with the applicant since no action may be finalized with

regards to the Comprehensive Plan until the Met Council has completed its review.

**Staff  
Recommendation:**

Based on the report and analysis provided above, Staff recommended that the Planning Commission recommend **denial** of the request to amend the Comprehensive Plan to change the future land use designation of 9434 Stillwater Boulevard North from RAD to RAD2. Consistent with this recommendation, Staff further recommended that the Planning Commission recommend **denial** of the proposed text amendments to the OP Open Space Preservation Ordinance.

Pending Council action on these items, a separate recommendation from Staff concerning the OP Development and PUD concept plans will be presented at the next Planning Commission meeting.

**Additional  
Information:**

Comments have been received for all four aspects of the applicant's request from MnDOT, Valley Branch Watershed District, the City of Oakdale Fire Department, and the City Engineer is attached for consideration by the City Council.

In addition to the applicant's submission materials, staff has also attached an aerial image of the site and Future Land Use Map from the Comprehensive Plan identifying the applicant's site and the two areas currently zoned as RAD2.

**Planning Commission Report:**

**Planning  
Commission  
Review and  
Public  
Hearing:**

The Planning Commission reviewed the request for a Comprehensive Plan Amendment and Zoning Text Amendment and conducted a public hearing on each of these items at its April 26, 2010 meeting. At the meeting, the following feedback was provided to the Commission:

- Tammy Malmquist explained her overall goals and objectives behind the proposed senior living and farm school project. She also introduced Jan Friedrich, who talked about her father's discussions with Mrs. Malmquist concerning the future of this property.
- Tim Freeman with Folz, Freeman, Erickson, Inc. suggested alternative findings in support of the proposed Comprehensive Plan Amendment.
- Seven people spoke in favor of the amendments needed to support the project.
- Councilmember Ann Smith addressed the Commission and reviewed some of the history behind the preparation of the Comprehensive Plan, and in particular, the creation of a separate RAD2 land use designation.
- Eight letters of support were submitted and distributed at the meeting. These letters are included as part of the Council agenda packet.
- One additional letter of support was submitted by a resident who also spoke during the public hearing.

- Staff noted that Ed Nielsen, 9498 Stillwater Boulevard North, had contacted the City via telephone earlier in the week to express his support for the project.
- The project consultant submitted a list of neighbors that had attended a March 31, 2010 meeting conducted by the applicant to discuss the project (seven neighbors were in attendance of this meeting).

The Commission reviewed the Staff recommendation and considered the comments submitted in writing and verbally at the meeting. The Planning Commission developed findings of fact to support the proposed Comprehensive Plan Amendment, and by a unanimous vote of 9-0, recommended that the City Council approve the request to change the future land use designation of the applicant's property from RAD to RAD2. The Planning Commission tabled taking any action regarding the proposed amendments to the OP Open Space Preservation Ordinance; however, and instead directed Staff to prepare an alternate to the applicant's request that would create a separate overlay district with the same standards.

The overlay district to be considered by the Planning Commission would include the following as specific exceptions to the existing OP Ordinance:

- Allowing a density of 2 units per acre.
- Adding Multi-Family Senior Housing buildings and Farm Schools for preschool and school-aged children as allowable uses.
- Reducing the minimum land area required from 40 to 20 acres.
- Reducing the amount of contiguous land required in open areas from 10 to 5 acres.
- Reducing the required buffer setback to 50 feet.
- Adding standards for Senior Housing Buildings.

In developing its findings of fact, the Planning Commission was concerned about setting precedent with the approval of the Comprehensive Plan amendment. The Commission's findings describe some aspects of this site that that the Commission has indicated set it apart from other properties that are guided for RAD development.

A complete record of the Planning Commission's findings is listed as part of the formal recommendation below.

**Planning  
Commission  
Recommendation:**

The Planning Commission Recommends that the City Council approve the Comprehensive Plan Amendment to change the future land use designation of the parcel located at 9434 Stillwater Boulevard North from RAD (Rural Agricultural Density - 0.45 dwelling units per acre) to RAD2 (Rural Agricultural Density - 2 dwelling units per acre). The Planning Commission further offers the following findings to support this recommendation:

- 1) The current use of this site as a working farm is unique compared to other

properties designated for RAD development in the Comprehensive Plan.

- 2) The proposed request will help fulfill a need for senior housing within the community.
- 3) Recent subdivisions in areas guided for RAD development have been approved at a density below the unit levels anticipated in the Comprehensive Plan. The proposed density increase will be offset by reductions that have previously been approved or acknowledged by the City.
- 4) The applicant's site is located in close proximity to public transportation along State Highway 5, and specifically, a bus route that could provide alternate transportation options for seniors.
- 5) The applicant's site is located immediately adjacent to existing R-1 Single Family Residential zoning districts along its southern, eastern, and western boundaries. Other areas guided for RAD development are primarily surrounded by rural residential, agricultural, or public open space uses.
- 6) There has been broad public support for the proposed project and no objections from neighboring property owners have been filed with the City.

cc: Tammy Malmquist, 8549 Ironwood Trail  
Folz, Freeman, Erickson, Inc.; 12445 55<sup>th</sup> Street N

**City of Lake Elmo  
DEVELOPMENT APPLICATION FORM**

Fee \$ \_\_\_\_\_

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> Comprehensive Plan Amendment   | <input type="checkbox"/> Variance * (See below)                      | <input type="checkbox"/> Residential Subdivision Preliminary/Final Plat |
| <input type="checkbox"/> Zoning District Amendment                 | <input type="checkbox"/> Minor Subdivision                           | ○ 01 - 10 Lots  |
| <input type="checkbox"/> Text Amendment                            | <input type="checkbox"/> Lot Line Adjustment                         | ○ 11 - 20 Lots  |
| <input type="checkbox"/> Flood Plain C.U.P. Conditional Use Permit | <input type="checkbox"/> Residential Subdivision Sketch/Concept Plan | ○ 21 Lots or More   |
| <input type="checkbox"/> Conditional Use Permit (C.U.P.)           | <input type="checkbox"/> Site & Building Plan Review                 | <input type="checkbox"/> Excavating & Grading Permit                    |
|  |  | <input type="checkbox"/> Appeal   |
|  |  | <input type="checkbox"/> PUD  |

APPLICANT: TAMMY MALMQUIST 8549 IRONWOOD TRAIL NORTH LAKE ELMO MN 55042  
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-777-0655 651-775-9840  
(Home) (Work) (Mobile) (Fax)

FEE OWNER: ESTATE OF IRVIN FRIEDRICH  
(Name) (Mailing Address) (Zip)

TELEPHONES: \_\_\_\_\_  
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description):  
9434 STILLWATER BLVD N. LAKE ELMO, MN 55042  
P.I.D. 15-029-21-31-0001  
SEE ATTACHED LEGAL DESCRIPTION

DETAILED REASON FOR REQUEST:  
COMPREHENSIVE PLAN (2005-2030) LAND USE MAP AMENDMENT.  
SEE DETAILED PROJECT NARRATIVE.

\*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:  
 \_\_\_\_\_  
 \_\_\_\_\_

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

Tammy Malmquist 1/31/10  
Signature of Applicant Date

Irvin Friedrich 1/29/10  
Signature of Applicant Date  
**OWNER**



### City of Lake Elmo DEVELOPMENT APPLICATION FORM

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Comprehensive Plan Amendment              | <input type="checkbox"/> Variance * (See below)                      | <input type="checkbox"/> Residential Subdivision Preliminary/Final Plat |
| <input type="checkbox"/> Zoning District Amendment                 | <input type="checkbox"/> Minor Subdivision                           | <input type="radio"/> 01 - 10 Lots                                      |
| <input checked="" type="checkbox"/> Text Amendment                 | <input type="checkbox"/> Lot Line Adjustment                         | <input type="radio"/> 11 - 20 Lots                                      |
| <input type="checkbox"/> Flood Plain C.U.P. Conditional Use Permit | <input type="checkbox"/> Residential Subdivision Sketch/Concept Plan | <input type="radio"/> 21 Lots or More                                   |
| <input type="checkbox"/> Conditional Use Permit (C.U.P.)           | <input type="checkbox"/> Site & Building Plan Review                 | <input type="checkbox"/> Excavating & Grading Permit                    |
|  |  | <input type="checkbox"/> Appeal <input type="checkbox"/> PUD            |

APPLICANT: TAMMY MALMQUIST 8549 IRONWOOD TRAIL NORTH LAKE ELMO MN 55042  
 (Name) (Mailing Address) (Zip)

TELEPHONES: 651-777-0655 651-775-9840  
 (Home) (Work) (Mobile) (Fax)

FEE OWNER: ESTATE OF IRVIN FRIEDRICH  
 (Name) (Mailing Address) (Zip)

TELEPHONES: \_\_\_\_\_  
 (Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description):  
9434 STILLWATER BLVD N. LAKE ELMO, MN. 55042  
P.I.D. 15-029-21-31-0001  
SEE ATTACHED LEGAL DESCRIPTION

DETAILED REASON FOR REQUEST:  
ZONING TEXT AMENDMENT.  
SEE DETAILED PROJECT NARRATIVE

\*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:

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

Tammy Malmquist 1/31/10  
 Signature of Applicant Date

Irvin Friedrich 1/29/10  
 Signature of Applicant Date  
 OWNER

### City of Lake Elmo DEVELOPMENT APPLICATION FORM

- Comprehensive Plan Amendment
- Zoning District Amendment
- Text Amendment
- Flood Plain C.U.P. Conditional Use Permit
- Conditional Use Permit (C.U.P.)
- Variance \* (See below)
- Minor Subdivision
- Lot Line Adjustment
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- Site & Building Plan Review
- Residential Subdivision Preliminary/Final Plat
  - 01 - 10 Lots
  - 11 - 20 Lots
  - 21 Lots or More
- Excavating & Grading Permit
- Appeal
- PUD

APPLICANT: TAMMY MALMQUIST 8549 IRONWOOD TRAIL NORTH LAKE ELMO MN 55042  
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-777-0655 651-775-9840  
(Home) (Work) (Mobile) (Fax)

FEE OWNER: ESTATE OF IRVIN FRIEDRICH  
(Name) (Mailing Address) (Zip)

TELEPHONES: \_\_\_\_\_  
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): \_\_\_\_\_

9434 STILLWATER BLVD N. LAKE ELMO, MN 55042  
P.T.D. 15-029-21-31-0001  
SEE ATTACHED LEGAL DESCRIPTION

DETAILED REASON FOR REQUEST: \_\_\_\_\_

COMPREHENSIVE PLAN (2005-2030) LAND USE MAP AMENDMENT.  
SEE DETAILED PROJECT NARRATIVE.

\*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Tammy Malmquist 1/31/10  
Signature of Applicant Date

Irvin Friedrich 1/29/10  
Signature of Applicant Date  
OWNER

**City of Lake Elmo  
DEVELOPMENT APPLICATION FORM**

Fee \$ \_\_\_\_\_

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Comprehensive Plan Amendment               | <input type="checkbox"/> Variance * (See below)                                 | <input type="checkbox"/> Residential Subdivision Preliminary/Final Plat |
| <input type="checkbox"/> Zoning District Amendment                  | <input type="checkbox"/> Minor Subdivision                                      | ○ 01 - 10 Lots  |
| <input type="checkbox"/> Text Amendment                             | <input type="checkbox"/> Lot Line Adjustment                                    | ○ 11 - 20 Lots  |
| <input type="checkbox"/> Flood Plain C.U.P. Conditional Use Permit  | <input checked="" type="checkbox"/> Residential Subdivision Sketch/Concept Plan | ○ 21 Lots or More   |
| <input checked="" type="checkbox"/> Conditional Use Permit (C.U.P.) | <input type="checkbox"/> Site & Building Plan Review                            | <input type="checkbox"/> Excavating & Grading Permit                    |
|   |   | <input type="checkbox"/> Appeal   |
|   |   | <input checked="" type="checkbox"/> PUD                                 |

APPLICANT: TAMMY MALMQUIST 8549 IRONWOOD TRAIL NORTH LAKE ELMO MN 55042  
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-777-0655 651-775-9840  
(Home) (Work) (Mobile) (Fax)

FEE OWNER: ESTATE OF IRVIN FRIEDRICH  
(Name) (Mailing Address) (Zip)

TELEPHONES: \_\_\_\_\_  
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): \_\_\_\_\_

9434 STILLWATER BLVD N. LAKE ELMO, MN 55042

P.I.D. 15-029-21-31-0001

SEE ATTACHED LEGAL DESCRIPTION

DETAILED REASON FOR REQUEST: \_\_\_\_\_

CONCEPT PLAN REVIEW FOR OP DEVELOPMENT AND MULTI-USE

PUD. CONDITIONAL USE PERMIT FOR OP DEVELOPMENT.

SEE DETAILED PROJECT NARRATIVE.

\*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:

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

Tammy Malmquist 1/31/10  
Signature of Applicant Date

Irvin Friedrich 1/29/10  
Signature of Applicant Date  
**OWNER**



March 22, 2010

Mr. Kyle Klatt  
 Planning Director  
 City of Lake Elmo  
 3800 Laverne Avenue North  
 Lake Elmo, MN 55042

Re: Malmquist letter dated March 11, 2010  
 And City Engineer comments dated March 17, 2010

Mr. Klatt,

Your letter dated March 11, 2010, regarding Tammy Malmquist's application for a Comprehensive Plan Amendment, Zoning Text Amendment, an Open Space Development / Planned Unit Development Concept Plan stated the application was incomplete. We understand that this is a complex and multifaceted request and fully expected that questions would arise during this initial process. We have reviewed the items in your letter and trust the following explanations and additions will satisfy the requirements of the City of Lake Elmo:

**First addressed are the items you have referenced according to the Open Space Preservation Ordinance.**

- a. *"The location and description of the vegetative cover."*
  - We have created a "Sheet 15" for insertion into our concept submittal dated February 18, 2010. The title of Sheet 15 has been changed to "Concept Layout –Landscape". Labels have been added to the existing wooded areas. Additionally, please note that Sheet 5 "Existing Site Features" of our original submittal contains photographs and descriptions of the existing vegetative cover.
- b. *"Calculated area for the drainage way and ponding areas."*
  - See revised Sheet 13 where areas in square feet have been added to the four proposed ponding areas. Both location and size of the ponds are subject to change following completion of site engineering and a site drainage analysis. Storm water and storm sewer is discussed in item IV A. (3) of the original narrative submittal. It is the intention of the developer and Folz, Freeman, Erickson, Inc. to comply with the City of Lake Elmo Storm Water and Erosion and Sediment Control Ordinance in addition to the requirements of the Valley Branch Watershed District.
- c. *"Proposed public park areas."*
  - It is the developers' intent to contribute a park fee in lieu of parkland dedication. The Comprehensive Plan does not indicate a park in this area, so it is our assumption the Park Board will require cash in lieu.
- d. *"A general landscape plan."*
  - We have created a "Sheet 15" for insertion into our concept submittal dated February 18, 2010. The title of Sheet 15 has been changed to "Concept Layout –Landscape". We have added a legend to the sheet that identifies the 51 plantings that were previously shown on our submittal as deciduous or coniferous. A final landscape plan, in accordance with Section 150.18 of the OP Ordinance, will be part of our preliminary plat submittal.
- e. *"Statement of intent establishing a homeowners association..."*
  - It is the developers' intent to create a homeowners association. The association will own, manage and maintain all open space. The only city utility currently servicing the site is city water. The association will maintain all of the private utilities. Sheets 6 through 9 of our original submittal clearly illustrate that the principal and accessory structures will be constructed with a "farm theme".

### City of Lake Elmo DEVELOPMENT APPLICATION FORM

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Comprehensive Plan Amendment               | <input type="checkbox"/> Variance * (See below)                                 | <input type="checkbox"/> Residential Subdivision Preliminary/Final Plat |
| <input type="checkbox"/> Zoning District Amendment                  | <input type="checkbox"/> Minor Subdivision                                      | ○ 01 - 10 Lots  |
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|   |   | <input type="checkbox"/> Appeal <input checked="" type="checkbox"/> PUD |

APPLICANT: TAMMY MALMQUIST 8549 IRONWOOD TRAIL NORTH LAKE ELMO MN 55042  
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TELEPHONES: 651-777-0655 651-775-9840  
(Home) (Work) (Mobile) (Fax)

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PROPERTY LOCATION (Address and Complete (Long) Legal Description): \_\_\_\_\_  
9434 STILLWATER BLVD N. LAKE ELMO MN 55042  
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SEE ATTACHED LEGAL DESCRIPTION

DETAILED REASON FOR REQUEST: \_\_\_\_\_  
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PUD. CONDITIONAL USE PERMIT FOR OP DEVELOPMENT.  
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In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Tammy Malmquist 1/31/10  
Signature of Applicant Date

Marion O. Friedrich 1/29/10  
Signature of Applicant Date  
OWNER

f. *"Proposed staging plan."*

- No staging plan is necessary as it is the developers plan at this time to build out the entire project as one construction project.

g. *"Historic preservation plan"*.

- Developer will not submit a historic preservation plan as no credits are being sought for the planned refurbishing of the existing structures as shown on Sheet 7 of our original submittal.

**Secondly are the items you have referenced according to the PUD – Planned Unit Development Ordinance:**

a. *"Information pertaining to parking areas...."*

- Sheet 4 of our original submittal shows locations and stripping for proposed off street visitor parking. Additionally, Sheets 9 and 10 of our original submittal discuss and include a concept plan for an underground parking facility with 43 parking stalls. The proposed underground parking would provide parking for the proposed 40 unit senior housing structure. Each of the town homes would have a driveway and attached garage for parking.

b. *"Population – a report on the population density and building intensity for the various proposed land uses."*

- Sheet 13 of our original submittal addresses the open space and unit calculations. This requirement is difficult to answer at this conceptual stage of development given the definition of density being a number of units – people, dwellings, square feet of building – in a given land area. As stated earlier there are 40 units planned for the senior housing complex. With a combination of units ranging in size from 1,000 square feet to 1,800 square feet, some being one bedroom units and others being two bedroom units, we would anticipate a population of 60 people in the senior housing complex. In the ten town home units, which were discussed on sheet 8 of our original submittal, we would anticipate a population of 15 people. The existing structure located at the entrance of the development would be a single family structure with an anticipated population of 2 people. Using the definition of number of people (77 full time residents) to a given land area (total site area = 30.9 acres, or 1,346,004 square feet), the estimated population of the development would be 1 person per 17,480 square feet of total land area. The population (or attendance) of the proposed farm school and existing daycare is yet to be determined.
- Building intensity is even more difficult to determine at this conceptual stage given the physical size of the structures is still in the design stage. We feel that it is more important to look at the design quality than to use the physical indicator of measuring building bulk. Our original submittal clearly addresses the number of proposed structures and the design quality of this development.

c. *"Services and service facilities..."*

- Section IV of our original narrative submittal discusses infrastructure. The site will be serviced by a private community septic system that will be located in the open space northerly of the senior housing structure. The property is located in the city water service area and will be connected to city water. At this conceptual stage of development a complete design of other private utilities, facilities and appurtenances has not been completed. Please note that we have added a sheet 16 to our submittal that shows the location of the proposed septic system. The area available for a drain field is over 100,000 square feet, which is twice the area that we anticipate will be needed for this project. The anticipated flows will require a MPCA permit.

**Finally are the items from the City Engineer in a transmittal dated March 17, 2010:**

1.) *"Community septic systems...."*

- See Sheet 16 of this revised submittal.

2.) *"The City of Lake Elmo Storm Water and Erosion and Sediment Control Ordinance must be acknowledged..."*

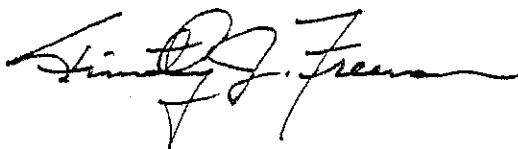
- It is the intention of the developer and Folz, Freeman, Erickson, Inc. to comply with the City of Lake Elmo Storm Water and Erosion and Sediment Control Ordinance in addition to the requirements of the Valley Branch Watershed District.

3.) *"A connection to the city's water supply...."*

- See Sheet 16 of this revised submittal. To show our proposed connections to city water service and size of pipe through the project.

We sincerely hope these explanations and clarifications will resolve any questions the City of Lake Elmo may have at this time. We would welcome further discussion if questions should arise, or if there is any confusion with the interpretation of our submittal.

Respectfully,



Timothy J. Freeman, Land Surveyor  
Principal

f. *"Proposed staging plan."*

- No staging plan is necessary as it is the developers plan at this time to build out the entire project as one construction project.

g. *"Historic preservation plan"*

- Developer will not submit a historic preservation plan as no credits are being sought for the planned refurbishing of the existing structures as shown on Sheet 7 of our original submittal.

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Minnesota Department of Transportation

Metropolitan District  
Waters Edge  
1500 West County Road B-2  
Roseville, MN 55113-3174

April 19, 2010

Kyle Klatt, City Planner  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake, Elmo, MN 55042

SUBJECT: Lake Elmo Farm School & Senior Living  
Minnesota Department of Transportation (Mn/DOT) Review #CPA10-001  
North Side of TH 5 at 31<sup>st</sup> Avenue  
Lake Elmo/Washington County  
Control Section 8214

Dear Mr. Klatt:

Thank you for the opportunity to review the Lake Elmo Farm School Comprehensive Plan Amendment. Please note that Mn/DOT's review of this plan does not constitute approval of a regional traffic analysis and is not a specific approval for access or new roadway improvements. As plans are refined, we would like the opportunity to meet with our partners and to review the updated information. Mn/DOT's staff has reviewed the document and has the following comments:

Mn/DOT would prefer that the public access to the site not be provided off TH 5, particularly if it is the only access. Better and safer access could be provided off Jamaca Ave and utilize the Jamaca/TH 5 roundabout. Jamaca Court or a new east-west street that connects to Jamaca would be a better long-term transportation solution. If the access has to be from TH 5, Mn/DOT will require a west bound right turn lane and an east bound bypass lane to be constructed for the proposed street access to provide a safer access point.

The location of the proposed access does not appear to meet Mn/DOT's access management standards which call for ¼ mile spacing between primary full movement intersections. These guidelines are the Department's policy for managing access and signal spacing on the State's Trunk Highways. The policy is intended to promote the safety and mobility of the traveling public while accommodating the access needs of the surrounding area. In addition to the spacing, Mn/DOT would prefer primary full movement intersections be aligned with each other, 31<sup>st</sup> Street and the proposed new street appear to be separated by approximately 300 feet, potentially creating overlapping turning movements.

*Residential Noise:*

Mn/DOT's policy is to assist local governments in promoting compatibility between land use and highways. Residential uses located adjacent to highways often result in complaints about traffic noise. Traffic noise from this highway could exceed noise standards established by the Minnesota Pollution Control Agency (MPCA), the U.S. Department of Housing and Urban Development, and the U.S. Department of Transportation. Minnesota Rule 7030.0030 states that municipalities are responsible for taking all reasonable measures to prevent land use activities

listed in the MPCA's Noise Area Classification (NAC) where the establishment of the land use would result in violations of established noise standards.

Mn/DOT policy regarding development adjacent to existing highways prohibits the expenditure of highway funds for noise-mitigation measures in such areas. The project proposer should assess the noise situation and take the action deemed necessary to minimize the impact of any highway noise. If you have any questions regarding Mn/DOT's noise policy please contact Peter Wasko in our Design section at (651) 234-7681.

***Design:***

Due to the complexity of adding a right turn and a bypass lane just east of the proposed Jamaca roundabout, a Level 2 layout would be required. Level 2 Layout requirements may be found at <http://www.dot.state.mn.us/design/geometric/index.html>. Please direct any questions regarding these comments to Nancy Jacobson, Mn/DOT Traffic Section, at (651) 234-7647.

***Water Resources:***

A Mn/DOT drainage permit will be required to ensure that current drainage rates to Mn/DOT right-of-way will not be increased. The drainage permit application, including the information below, should be submitted to:

Minnesota Department of Transportation  
Metropolitan District - Permit Office  
1500 W. County Road B-2  
Roseville, MN 55113

The following information must be submitted with the drainage permit application:

- 1) A grading plan showing existing and proposed contours,
- 2) Drainage area maps for the proposed project showing existing and proposed drainage areas. Any off-site areas that drain to the project area should also be included in the drainage area maps. The direction of flow for each drainage area must be indicated by arrows,
- 3) Drainage computations for pre and post construction conditions during the 2, 10, 50 and 100 year rain events, and
- 4) An electronic copy of any computer modeling used for the drainage computations.
- 5) Current plan set showing drainage related items.

Please direct questions concerning drainage issues to Bryce Fossand (651-234-7529) or ([bryce.fossand@state.mn.us](mailto:bryce.fossand@state.mn.us)) of Mn/DOT's Water Resources section.

***Permits:***

Any work impacting Mn/DOT right of way requires a permit. Permit forms are available from Mn/DOT's utility website at <http://www.dot.state.mn.us/utility/forms/index.html>. Please include one full-size plan set, and an 11 x 17 inch plan set for each permit application. Please direct any questions regarding permit requirements to Buck Craig, Mn/DOT's Metro Permits Section, at (651) 234-7911.

As a reminder, please address all initial future correspondence for development activity such as plats and site plans to:



Minnesota Department of Transportation

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Metropolitan District  
Waters Edge  
1500 West County Road B-2  
Roseville, MN 55113-3174

April 19, 2010

Kyle Klatt, City Planner  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake, Elmo, MN 55042

**SUBJECT: Lake Elmo Farm School & Senior Living  
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Development Reviews  
Mn/DOT - Metro Division  
Waters Edge  
1500 West County Road B-2  
Roseville, Minnesota 55113

Mn/DOT document submittal guidelines require either:

1. One (1) electronic pdf. version of the plans (the electronic version of the plan needs to be developed for 11" x 17" printable format with sufficient detail so that all features are legible);
2. Seven (7) sets of full size plans.

If submitting the plans electronically, please use the pdf. format. Mn/DOT can accept the plans via e-mail at [metrodevreviews@state.mn.us](mailto:metrodevreviews@state.mn.us) provided that each separate e-mail is less than 20 megabytes. Otherwise, the plans can be submitted on a compact disk.

If you have any questions regarding this review please feel free to contact me at (651) 234-7792.

Sincerely,



Jon P. Solberg  
Senior Planner

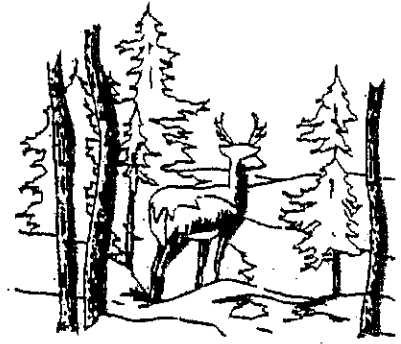
Copy:  
Ted Schoenecker, Washington County

Copy via Outlook to:  
Ann Braden  
Jeff Rones  
Marc Briese  
Adam Josephson  
Bryce Fossand  
Jeff Dierberger  
Buck Craig  
Karen Bulena  
Wayne Lemaniak

Ted Schoenecker,  
[Ted.Schoenecker@co.washington.mn.us](mailto:Ted.Schoenecker@co.washington.mn.us)

April 7, 2010

Mr. Kyle Klatt  
Planning Director  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MN 55042



Re: Farm School & Senior Living, 9434 Stillwater Boulevard North

Dear Mr. Klatt:

Thank you for submitting information and conception plans for the Farm School & Senior Living proposal. On behalf of the Valley Branch Watershed District (VBWD), I have reviewed the information and this letter provides my preliminary comments. Because the project will require a VBWD permit, I will review the project more thoroughly once a VBWD permit application is submitted.

#### Concept Plan

The proposed concept plan clusters the impervious surfaces on a ridge between the Beutel Pond's and Friedrich's Pond watersheds. Beutel's Pond is part of the VBWD's Project 1007 system and outlets to Raleigh Creek and ultimately the St. Croix River. Friedrich's Pond is landlocked and has experienced flooding problems in the past. In addition, there appears to be a small landlocked lowland northeast of the proposed pre-school, within the Friedrich's Pond watershed. Minimizing impervious surfaces and encouraging infiltration practices will protect downstream water bodies from negative water quality impacts, "flashy" inflows, and exacerbating flooding problems.

The concept plan shows some proposed ponding/infiltration areas. However, it appears that additional runoff management facilities might be needed to treat runoff from all of the proposed impervious surfaces before runoff leaves the site. The applicant will need to submit calculations and design details proving the project will include features to control the stormwater runoff to the VBWD standards.

#### Permit Requirements

The proposed project will require a permit from the VBWD, and a complete permit application packet should be submitted to me. Permit application material can be obtained from the District's website, [www.vbwd.org/permitting.htm](http://www.vbwd.org/permitting.htm). Once a complete VBWD permit application is submitted, I will review the project for conformance to the District's rules and regulations, including:

- Stormwater rates, volumes, and water quality treatment
- Flood levels and minimum floor elevations at least two feet above the adjacent water's 100-year flood level
- Wetland delineations and protection (or documentation indicating the site has been reviewed for wetlands and none has been found)
- Erosion controls
- Potential downstream impacts

If you have any questions, please contact me at 952-832-2622.

Sincerely,

John P. Hanson, P.E.  
BARR ENGINEERING COMPANY  
Engineers for the District



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

VALLEY BRANCH WATERSHED DISTRICT • P.O. BOX 838 • LAKE ELMO, MINNESOTA 55042-0538  
[www.vbwd.org](http://www.vbwd.org)

Development Reviews  
Mn/DOT - Metro Division  
Waters Edge  
1500 West County Road B-2  
Roseville, Minnesota 55113

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Jon P. Solberg  
Senior Planner

Copy:  
Ted Schoenecker, Washington County

Copy via Outlook to:  
Ann Braden  
Jeff Rones  
Marc Briese  
Adam Josephson  
Bryce Fossand  
Jeff Dierberger  
Buck Craig  
Karen Bulena  
Wayne Lemaniak

Ted Schoenecker,  
[Ted.Schoenecker@co.washington.mn.us](mailto:Ted.Schoenecker@co.washington.mn.us)



# City of Oakdale, Minnesota

--established 1974--

1584 Hadley Avenue North  
(651) 739-5086

Oakdale, MN 55128  
(651) 730-2818 (fax)

April 14, 2010

Mr. Kyle Klatt  
Planning Director, City of Lake Elmo  
3800 Laverne Ave. N.  
Lake Elmo, MN 55042

Subject: Preliminary Comments on Farm School Project proposal

Dear Mr. Klatt:

I have reviewed the preliminary concept plans and narrative regarding the proposed Lake Elmo Farm School & Senior Living project. Listed below are some areas that I have concerns with from a fire safety perspective.

- The public road width is indicated as 22' and it appears that is within city requirements for the public roadway. My concern would be that the radius of corners and curves in the circle drive portion of roadway as well as those on the private road meet or exceed minimum requirements for the turning radius of the fire departments largest vehicles.
- On street parking restrictions may also be required in order for fire apparatus to navigate the curving roadways. If no on street parking is allowed, are there enough off street parking spaces provided?
- The Private Road that provides access to the townhomes should be constructed to accommodate the fully loaded weight of the largest fire apparatus in the departments fleet.
- Fire hydrant locations should be determined in consultation with the fire department. This may require hydrant locations that are not directly on or near the proposed 8" water main running through the project.

*Mission:* The City of Oakdale is committed to serve the continuing community-wide needs of our citizens by enhancing the vitality and quality of life for all



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*Mission:* The City of Oakdale is committed to serve the continuing community-wide needs of our citizens by enhancing the vitality and quality of life for all



- Based on the size and occupancy of a number of the buildings in the proposed project fire sprinkler systems and fire alarm systems will be required. If approved the builder should work with the fire department on the location of all Fire department Connections to buildings with fire sprinkler systems.

Should this proposed project continue through the process there are likely to be other more specific issues that arise as more detailed plans are provided. I would be glad to provide any further review as needed. Please feel free to contact me if you have any questions regarding this plan review.

Sincerely,

A handwritten signature in cursive script that reads "Jeff Anderson".

Jeff Anderson  
Fire Chief

## MEMORANDUM

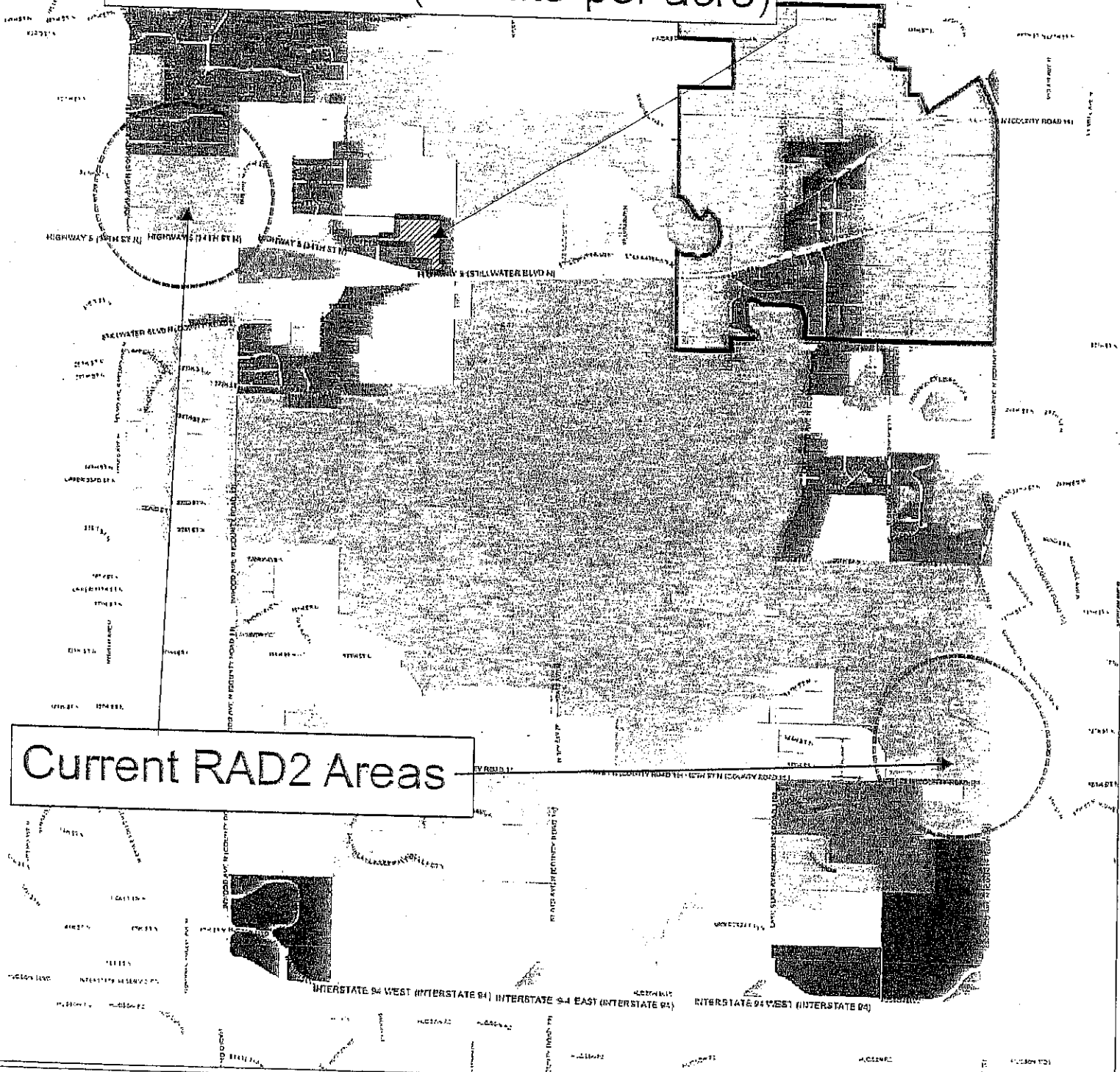
**To:** Kyle Klatt, Planning Director  
**Copies To:** \_\_\_\_\_  
\_\_\_\_\_  
**From:** Ryan W. Stempski, P.E.  
**Date:** April 21, 2010

**Reference:** Farm School & Senior Living  
Concept Review  
City of Lake Elmo  
**Proj. No.:** 14575.001 Phase 00010  
**Routing:** \_\_\_\_\_  
\_\_\_\_\_

A Concept Plan Narrative & Zoning Text Amendment dated February 18, 2010, were reviewed for the proposed development. A concept review of the proposed infrastructure was completed and the following comments must be addressed:

1. A community septic system is proposed within an NSP Easement. The City will require written documentation from NSP allowing the perpetual use of the easement for the purposes of the community septic system, or an alternate location must be provided.
2. A trail system is also proposed within an NSP Easement. A written acknowledgement of the proposed location must be provided to the City by NSP allowing this use with the easement terms being acceptable to the City.
3. The City of Lake Elmo Storm Water and Erosion and Sediment Control Ordinance must be acknowledged by the Applicant. The site will need to accommodate the required BMPs located entirely within dedicated easements to facilitate ongoing maintenance to address storm water quality and quantity per the current Ordinance.
4. The required storm water facilities appear to be located in the open space. The required open space calculation must acknowledge this fact.
5. The proposed water plan does not appear to meet fire flow requirements for the proposed improvements.
6. The proposed road access to Trunk Highway 5 does not meet MnDOT's or the City's access spacing guidelines. As developments occur along this corridor, access management should be strongly considered and incorporated into each site plan. Connectivity to the adjacent properties to the north and east should be addressed with this development proposal.
7. Should the Trunk Highway 5 access road be allowed for this development proposal, consideration should be given to require an alternate access plan in the future as adjacent properties develop.
8. Adequate setbacks should be provided for the existing lots that will be adjacent to the proposed access road.

# Proposed Land Use Change: RAD to RAD2 (2 units per acre)



## Current RAD2 Areas

### FUTURE LAND USE

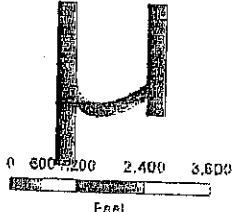
Lake Elmo Comprehensive Plan 2005 - 2030

#### Liability

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

Map Date: January 31, 2006

Created By: TKDA



Land Use	
	C
	BP - 40 Employees/Acre
	PF
	RAD - 0.45 DU/Acre
	RAD - 2 DU/Acre
	URD - Cimarron
	SRD - 3.5 DU/Acre
	LB Future Sewer - 40 Employees/Acre
	LB Non-sewer
	RED
	NC
	ROW
	WAT
	VF

# Aerial Image

9434 Stillwater Blvd N





**Concept Plan Narrative  
&  
Zoning Text Amendment**

**February 18, 2010**

Folz, Freeman, Erickson, Inc.



LAND PLANNING • SURVEYING • ENGINEERING

Lake Elmo, Minnesota  
651-439-8833



## Concept Plan Narrative

The project as proposed, is a mixed use development featuring a farm based pre-school integrated with a residential community for people age 55 and better. This concept is unique not only to the Lake Elmo community but also to the Midwest. Lake Elmo has been a leader in innovative ways to preserve its rural heritage by being the champion of open space developments. This project is a new variation of an open space development by bringing in the unique concept of focusing on seniors working side by side with pre-school children. The "farm school" experience is not unique to the area, however the idea of children working with seniors in this environment, is a very unique and exciting concept.

The property is located in the heart of Lake Elmo's farm country on the north side of Minnesota Highway 5 just east of Jamaca Avenue North. The 30.9 acre parcel is owned by the Friedrich family and has been part of the family farm heritage of Lake Elmo for well over 100 years. This unique development teams long time resident Tammy Malmquist with one of Lake Elmo's longest standing farm families. Tammy has distinguished herself as a successful owner/operator of the child care business "Wunder Years" which is now and will continue to be located at the entrance to this project.

This project presents several challenges in the municipal approval process as present day ordinances do not recognize this type of unique undertaking. This application encompasses three requests to provide a means for approval:

- First is a **Comprehensive Plan Amendment** that focuses on shifting some of the designations from the Future Land Use Map. We propose to relocate the existing Future Land Use of Rural Residential for the property with RAD 2DU/acre from the property just to the west along Highway 5. There is no increase in density for the City... only a relocation of where it is located.
- Second is a **Zoning Ordinance Text Amendment**. We propose to amend the existing OP Development ordinance to allow the density and unit types for areas within the RAD 2DU/acre guided areas to allow the Senior Housing component of this project. This will require the project to still conform to the basic premise of OP by providing 50 percent open space, village green, and trails along with the other features that go with the rural feel that Lake Elmo has strived for in these developments. This type of amendment to

the existing ordinance will insure that future projects cannot "piggy back" on to these development densities and thereby creating some kind of "precedent" that is unintended.

- Third is a **Concept Plan** review and **Conditional Use Permit** request for the OP Development and a **Mixed-Use PUD**. The concept plan and conditional use permit are the framework of the OP Development. The Planned Unit Development (PUD) is required to process the project as a multi-use project. This process isn't intended to relax or negotiate any of the development standards but to allow for multiple uses within the same project.



# Site Conditions

## I. PLANNING

### A. Project Location

The subject site consists of approximately 30.9 acres including the two single family parcels on the south. The property is located in the City of Lake Elmo, Washington County, Minnesota. The site is bordered on the south by State Highway 5, small rural residential properties to the east and southwest and agricultural property on the north.

### B. Zoning/Comprehensive Plan

The project area is currently zoned RR with a density of one unit per ten acres. This zoning district also allows for open space developments with the density of 9 units per 20 acres based on buildable area. This proposal includes a comprehensive plan amendment that will relocate RAD 2DU/acre, a type of land use, to this property to accommodate the Senior Housing component. The ordinance for OP Open Space Developments is proposed to be amended to allow the senior housing component without changing the spirit of the OP Concept. Finally, a Planned Unit Development is proposed to allow the mixed use of housing within the same project as the Farm School.

## II. SITE CHARACTERISTICS

### A. Existing Conditions

The site contains one existing single family home and a daycare facility, "Wunder Years". There is also a number of existing out buildings associated with the previous Friedrich farming operation that will be utilized and preserved. The majority of the property is currently farmed.

There is an area of approximately three acres that had been grazed and contains some larger white oaks, creating an oak savanna, in the north east corner of the property. This area is pristine and will be protected. There is approximately 380 feet of frontage along Highway 5 to the south, and 66 feet along Jamaca Court North to the west.

### B. Existing Topography & Drainage

The elevation of the project varies from a high point of 947 feet msl in the center of the site to 918 feet msl in the southwest part of the site. The majority of the site drains to the southwest and to the northeast.



### III. ENVIRONMENTAL CHARACTERISTICS

#### A. Soils

The Washington County Soils Survey was reviewed for preliminary geotechnical information. The Washington County Soils indicate the following soil types:

<u>Soil Number</u>	<u>Soil Name</u>	<u>Soil Type</u>
49	Antigo	Silt Loam
155	Chetek	Sandy Loam
302	Rosholt	Sandy Loam
507	Poskin	Silt Loam
1847	Barronett	Silt Loam

The following soils are suitable for road and home construction. General ratings for development within these soil types can be summarized as follows:

<u>Soil Name</u>	<u>Septic Use</u>	<u>Building Site Development</u>
Antigo	Good	Fair / Frost Susceptibility
Chetek	Fair	Good / Sandy
Rosholt	Good	Good / Sandy
Poskin	Fair	Good / Sandy
Barronett	Poor	Wetness / Frost Susceptibility

A number of areas of the site, according to the soils map indicate the availability of soils that can be utilized to correct the poor soils that may be found on the site.

Based on the information collected and provided currently, additional soil exploration, preferably test pits, are to be completed to determine actual soils for the roadway sub-base and suitability of borrow areas that will be utilized for construction and soil corrections.

The soils in the area of the identified location for the community septic appear adequate to allow for such a system. Additional testing will be required to place and size the drain field properly.

The site contains some soils that may require subsoil corrections, however it appears, that the corrections can be accomplished with on-site materials avoiding additional disruption of importing materials.

## **B. Wetlands**

### **1. Office Investigation**

Based on an office review and consulting the wetlands inventory map, there appears to be no wetlands found on the property. A site examination by a wetland specialist will be required to verify this determination.

## **C. Floodplain**

The Federal Emergency Management Agency (FEMA) Maps were reviewed for any possible existence of floodplains in the vicinity of the subject site, and none were found. The Valley Branch Watershed District does impose certain restrictions for the lowest floor of homes near ponding areas. Construction will be restricted to a requirement of 2-feet of separation from the emergency overflow of each of the ponds.

## **IV. INFRASTRUCTURE**

### **A. Utilities**

#### **1. Sanitary Sewer**

Sanitary sewer currently does not service the site. There are no existing trunk sanitary sewer or water main charges associated with the parcel. The City of Lake Elmo does not have plans to service this area with sewer.

A community septic system is proposed to handle the septic requirements associated with this development. The area on the north end of the property appears suitable for such a system.

#### **2. Water main**

The property is located in the service area of the City of Lake Elmo water distribution system. Connection to the city system will be made to the existing system located on Highway 5.

#### **3. Storm Water & Storm Sewer**

A drainage analysis will be required for the project to determine the 100-year flood elevation of the ponding system and to calculate the ponding requirement for the increased impervious surface created by the development.

Other requirements associated with the watershed include standard Best Management Practices, storm water treatment and rate control, items that are feasible for this project.

#### **4. Gas, Electric, Telephone & Cable**

Gas, Electric, Telephone and Cable are all available to extend to the project.

### **B. Transportation**

#### **1. Roads/Access**

The layout utilized for this project features a connection to the existing right of way of Highway 5, winding north to a looped roadway that would service both the Farm School and the Senior Living area. These roadways would be classified as City streets and would be built to 22-foot wide bituminous surface, the service roadway to access the home sites and the underground parking area are private streets and will be built as an 18-foot roadway.

The project may also include a right turn and bypass lane for the access to Highway 5, as determined by MN DOT and the City Engineer.

## Proposed Zoning Text Amendment:

The following is the OP Ordinance the way it is found on the Code Website marked up in red with the proposed changes.

Items in red and underlined have been added.

Items in red with a strike line have been deleted.

### § 150.175 PURPOSE.

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

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

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

### § 150.176 INTENT.

(A) It is the intent of the City of Lake Elmo to accomplish the stated purpose of OP by approving a conditional use permit for portions of property currently zoned Agricultural, Rural Residential, and Rural Estate and guided as RAD and RAD2DU/acre in the comprehensive plan; and by adopting the comprehensive development regulations contained herein.

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

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

### § 150.177 DEFINITIONS.

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

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

## § 150.178 USE REGULATIONS.

Within OP, the following uses are allowed.

(A) *Permitted uses.*

- (1) Single-family, detached;
- (2) Preserved open space;
- (3) Conservation easements;
- (4) Agriculture;
- (5) Suburban farms;
- (6) Private stables;
- (7) Single-family, attached;
- (8) Townhouses (~~no more than 25% in any development~~); and
- (9) Multi Family Senior Housing buildings (only in RAD 2DU/acre);
- (10) Wayside stand;
- (11) Farm Schools for pre-school children and school aged children.

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

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

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

## § 150.179 OP CONDITIONAL USE PERMIT REQUIRED.

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

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

## § 150.180 DEVELOPMENT STANDARDS.

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

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

(a) The minimum land area for an OP conditional use permit is a nominal contiguous 40 acres, or 20 acres in areas guided as RAD 2DU/acre in the Comprehensive Plan. The ratio of parcel length to width shall not exceed 3 to 1. The total number of dwelling units permitted shall be according to the development density criteria contained in the Comprehensive Plan. The total number of dwelling units within an OP development shall not exceed the density limitations contained in the Comprehensive Plan for OP Districts.

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

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

(2) *Open space easement required.*

(a) *Preserved open space standards.*

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

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

b. Conveyed by conservation easement to the city.

2. Not less than 60% of the preserved open space shall be in contiguous parcels of not less than 10 acres, except in areas guided as RAD 2DU/acre where it shall be in contiguous parcels of not less than 5 acres.

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

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

describing land management practices to be followed by the party or parties responsible for maintaining the preserved open space.

5. Where applicable, a homeowner's association shall be established to permanently maintain all residual open space and recreational facilities. The homeowner's association agreements, guaranteeing continuing maintenance, and giving lien right to the city if there is lack of the maintenance shall be submitted to the city as part of the documentation requirements of §§ 150.175 *et seq.* for a final plan.

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

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

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

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

(d) *Buffer zones.* Where a proposed OP development abuts an existing residential development or a parcel of land not eligible for future development under the OP ordinance due to insufficient parcel area, a 200 foot setback shall be provided between the property line of the abutting parcel and any structure or driving surface within the OP development. In areas guided as RAD 2DU/acre the setback shall be 50 feet instead of 200 feet. Driving surfaces that cross the setback area at a 90 degree angle shall be the only exception. Where a proposed OP development abuts an existing OP development, or a land parcel eligible for future development under the OP ordinance, a 100 foot setback from any structure within the proposed OP development and the property line of the abutting parcel may be substituted. The setback substitution shall only be approved when there is existing mature vegetation and/or changes in topography occurring on the site proposed for development; and/or where the OP site developer introduces the physical features that provide an effective year round buffer of the structures proposed for the OP site from existing residences or development. The determination of the

buffering effectiveness of existing or introduced physical features that qualify a site for a 100 foot buffer shall be at the sole discretion of the City Council.

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

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

(g) *Densities.* The maximum dwelling unit density shall be 18 units per 40 gross acres of buildable land, or 2 units per gross acre in areas guided RAD 2DU/acre in the Comprehensive Plan.

(h) *Minimum district requirements.*

<i>Open Space Preservation District (OP)</i>			
	<i>Single-Family</i>	<i>Townhouse</i>	<i>Senior Housing Buildings</i>
Maximum Building Height:			
Primary Structure	2 and ½ stories or 35 feet	2 and ½ stories or 35 feet	3 stories or 48 feet
Accessory Structure	25 feet	1 story or 20 feet, whichever is less	
Minimum Lot Width:	NA	NA	NA
½ acre lot; 1 acre lot			
Maximum Impervious Surface Coverage:	20%. This percentage may be increased to 25% provided a pervious paver or comparable system is installed consistent with the <i>City of Lake Elmo Engineering Standards Manual</i> or storm water mitigation measures are installed to mitigate the runoff created by the	NA	NA
Gross Lot Area			



	additional coverage above the base district amount. All mitigation measures must be approved by the City Engineer.		
Minimum Setback Requirements:			
Front Yard	30 feet	20 feet	<u>20 feet</u>

<i>Open Space Preservation District (OP)</i>			
	<i>Single-Family</i>	<i>Townhouse</i>	<u><i>Senior Housing Buildings</i></u>
Side Yard	15 feet or 10% of lot width, whichever is greater	15 feet or 10% of lot width, whichever is greater	<u>NA</u>
Corner Lot Front	30 feet	N/A	<u>NA</u>
Corner Lot Side Yard	30 feet	N/A	<u>NA</u>
Well From Septic Tank	50 feet	50 feet	<u>50 feet</u>
Minimum Lot Size:			
Individual Well and Septic System	1 acre	NA	<u>NA</u>
Individual Well and Communal Drainfield	½ acre	8,000 square feet per unit – single family <u>6,000 square feet per unit – multi-family</u>	<u>NA</u>

(i) *Utilities.*

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

2. All septic systems shall conform to the performance standards of the Minnesota Pollution Control Agency's standards for sewage treatment systems WPC-7080 and its

appendices, or the M.P.C.A. standards in effect at the time of installation and septic system regulations of the Lake Elmo Municipal Code.

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

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

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

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

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

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

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

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

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

### **§ 150.181 HISTORIC PRESERVATION.**

Historic structures on the site shall be identified.

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

### **§ 150.182 OP DEVELOPMENT/CONCEPT PLAN.**

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

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

(a) Primary conservation areas;

(b) Secondary conservation areas;

(c) Site topography at 2 foot contour interval; and

(d) Location and description of existing vegetative cover.

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

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

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

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

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

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

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

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

(d) *A general landscape plan.*

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

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

(f) *Proposed staging plan.*

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

(B) *Planning Commission review.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) Preliminary sketches of proposed landscaping;

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

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

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

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

(4) Architectural and performance standards for the development;

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

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

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

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

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

(C) *City Council review.*

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

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

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

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

## § 150.184 OP DEVELOPMENT FINAL PLAN.

(A) The purpose of the final plans is to provide a complete, thorough, and permanent public record of the OP development and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the OP

development process. It shall serve in conjunction with other city ordinances as the land use regulation applicable to the OP development.

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

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

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

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

## § 150.185 RECORDING OF FINAL PLAT.

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

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