

City of Lake Elmo

651/777-5510

3800 Laverne Avenue North / Lake Elmo, MN 55042

Old Village Special Projects Planning Commission

NOTICE OF MEETING

MONDAY, October 28, 2002 at 7:00 p.m.

Council Chambers - City Hall
3800 Laverne Ave. North
Lake Elmo, Minnesota 55042

AGENDA PLANNING COMMISSION

1. Agenda
2. Welcome Jennifer Pelletier as 1st Alternate, Planning Commissioner
3. Minutes of October 17, 2002
4. PUBLIC HEARING – Rezone General Business to Limited Business
5. Adjourn

OLD VILLAGE SPECIAL PROJECTS PLANNING COMMISSION

1. Minutes of September 9, 2002, Pages 6 through
2. Old Village Neighborhood Forum Update
3. Other Business
4. Adjourn

American Planning Association
Lincoln Institute of Land Policy

Audio Conference Program
Program Materials

Getting to Density
November 6, 2002

Program Faculty

Geoffrey S. Anderson
Director DCED
US Environmental Protection Agency
Washington, DC

Frank L. Elmer, AICP
Principal
Lincoln Street Studio, Ltd.
Columbus, Ohio

Mark Hinshaw, FAICP
Principal
LMN Architects
Seattle, Washington

Michael J. Stepner, FAICP
Director of Landuse and Housing
San Diego Regional Economic Development Corp.
San Diego, California

Stuart Meck, FAICP, moderator
Senior Research Associate
American Planning Association
Chicago, Illinois

Marya Morris
Senior Research Associate
American Planning Association
Chicago, Illinois

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CITY OF LAKE ELMO

**Planning Commission
Meeting Minutes
September 23, 2002**

Chairman Armstrong called the meeting to order at 7:00 p.m. COMMISSIONERS PRESENT: BERG, SEDRO, PTACEK, HELWIG, DEZIEL, TAYLOR, and BUNN (7:05). ALSO PRESENT: Charles Dillerud, City Planner; Kimberly Schaffel, Recording Secretary.

AGENDA

M/S, HELWIG/SEDRO, to accept the Agenda as presented. VOTE: 6:0:1 (ABSTAIN TAYLOR) PASSED.

MINUTES

M/S, ARMSTRONG/BERG, to accept the Minutes of August 26, 2002 as presented. VOTE: 5:0:2 (ABSTAIN: SEDRO/TAYLOR) PASSED.

PRELIMINARY PLAT-RECO/Lake Elmo Business Park**Staff Report, City Planner, Charles Dillerud**

The Planner recommended the Planning Commission table this application at a previous meeting for additional information from the developer. The most significant was the Traffic Study for two intersections: Lake Elmo and Manning with Hudson/Frontage Road. A Draft Declaration and Covenants were also required because Outlot A shared a Wetland Treatment System, and Outlot B shared a stormwater retention facility. Those were submitted to the City Attorney who determined they are sufficient for a draft.

The Traffic Study looks at peak hour generation of traffic off the site, and also addresses peak hour volumes at those two intersections. Forecasted traffic for other future uses has not been submitted. The City Engineer says the work submitted is pertinent to what we need. The Laidlaw school bus terminal is two parcels over to the east.

Based on information submitted, we can recommend a Finding that the plat meets the standards of submission of Chapter 400 of the City Code. Conditions would be that it be subject to compliance with recommendations by the City Engineer, the City Attorney's recommendations, and that setbacks proposed shall comply with City Code.

Site Plans should be submitted in the future. For the purposes of preliminary plat approval, these lots are viewed as blank.

In his comments to the City Council of one week ago in regard to the Metropolitan Council, the Planner indicated that the Metropolitan Council's action may affect approval of divisions of lands. Last week the City Attorney spoke with their counsel. While this issue is in the appeal process, we are to rely on the latest approved 1997 Open Space Preservation Amendments to the Comprehensive Plan. Those on the Planning Commission, who do not have one, may tell the Recording Secretary in order to get one. This is the process we will follow regarding plans submitted and processed. We do not know how this will affect applicants and their lenders.

This preliminary plat application was a Public Hearing. Notice was sent to surrounding property owners, and published in the legal newspaper in June.

Commissioner Bunn

She is concerned about traffic impact because of this site's proximity to the Laidlaw Bus Terminal. She was disappointed to see it was not incorporated in the Traffic Study.

City Planner

The study was based on peak hours. That is usually the focus. The operations forecast for Laidlaw showed traffic peaked early morning and mid-afternoon at the bus terminal.

Tim Freeman, Folz, Freeman, Dupay & Associates, Inc.

This preliminary plat meets every requirement in the Code. Buildings were drawn onto the lots to show that it could meet all building setback requirements, and are not being presented as a Site Plan. He hired the Traffic Engineer who found that the impact from this subdivision on the two intersections is very minimal. Peak hours of operation are different from the bus company's peak hours. Peak business hours will be 8 to 9 a.m. and 4:30 to 5:00 p.m. He does not see a negative impact at all.

Commissioner Bunn

Do we really know the peak hours of operation for the buses? She said she believes the morning hours will overlap considerably.

OPEN PUBLIC HEARING AT 7:20 P.M.

CLOSED PUBLIC HEARING AT 7:21 P.M.

Commissioner Bunn

In the Traffic Study, relative to direction, the westbound traffic gave the lowest number which was the one concerning her the most. If traffic is increased over time, turn lanes might be considered. The Commission should be aware that we need to keep an eye on it. The neighbors, The Andersons were concerned about that intersection.

Councilmember DeLapp

Both Lake Elmo Avenue below 10th Street and Hudson Boulevard are now both City roads. They will be treated as such. All maintenance and signals will be City responsibility.

City Planner

There is no access to the plat off Lake Elmo Avenue. Mn/DOT had no objections but recommended a right turn lane to the plat off Hudson Boulevard.

Patrick Regan, Developer, RECO Real Estate, LLC

He has a unique perspective on school bus traffic. He operates 400 school buses in six different locations around Minnesota. The school bus terminal traffic is busy very early in the morning. All drivers arrive in their cars; they need to be in buses and on the street by 7:00 a.m. By business hours they are in traffic and off-site. When routes drop students at schools, many drivers take their buses home, and some go on field trips. They will return to the terminal around 9 or 9:30. At 1 or 1:30 p.m. they will come back for the after school pick up. They generally return from 4 to 5:30 p.m.

They don't know the uses of this site yet. He intends to advertise, and refer Site Plans and uses back to Planning Commission.

Chairman Armstrong

Are there traffic maximums for General Business? If not, there is no basis to turn it down. No specific uses have been suggested either.

City Planner

A right turn lane may become necessary on Hudson Boulevard as advised by the City Engineer as recommended by Mn/DOT.

M/S, HELWIG/BERG, to recommend the Preliminary Plat of Lake Elmo Business Park for approval

with the Finding that it complies with Section 400 of the City Code, and subject to the four conditions provided in the September 18, 2002 Staff Report. **VOTE: 8:0 PASSED.**

VARIANCE FROM OHW AND ROAD SETBACKS: McADAM/MOGREN

Staff Report, City Planner, Charles Dillerud

This parcel lies on the south shore of Lake Jane. It is a portion of the parcel known as Government Lot 1. Public Hearing Notice was published and mailed to surrounding property owners prior to the last Planning Commission Meeting.

There are setback problems over the entire length of the lot. 100 feet setback from the Ordinary High Water Level is a function of the Shoreland Overlay District Zoning. Lake Jane has a water level managed by Valley Branch Watershed District. A second setback is from the street at 30 feet. All but the extreme southwest corner of this lot have setbacks overlapping. There is basically a zero building line. The issue of on-site wastewater management has kept this parcel from being built upon for many years.

It looks like the principal purpose and intent of the Shoreland Ordinance is visibility from the lake. There is additional concern about runoff.

The DNR said if there were efforts to preserve vegetation, they might look at the variance positively. There are trees on virtually 100% of this lot. The applicant could assure preservation of vegetation in order to meet the purpose and intent of the Ordinary High Water setback. The sketch submitted to the City and the DNR indicates a clear cut halo around the house. Those areas represent the clear cut limits of the site. Included is a 50 feet corridor to the shore meeting the existing dock. The applicant would thin trees for the drainfield, not clear cut that area. When this drawing was submitted to the DNR, their response was ambivalent – it is the City's decision.

The drawing and narrative suggests the house will be relocated another five feet from Ordinary High Water but closer to the road. The relocation preserves more trees between the house and the lake. The single building parcel will be preserved by the applicant. The remainder of the beach would stay as it exists. Distance to the neighbor's well from the proposed septic is 52 feet.

The memo modified the latest staff Finding. From staff perspective, the spirit and intent of the Shoreland Ordinance would be maintained by the efforts made by the applicant. We could not insure that without a covenant. The City Attorney would look at it after approval. With the tree drawing, and covenants on the deed prior to issuance of a building permit or a variance release, this appears to staff to be a reasonable approach to use of this property. Staff recommends approval.

Commissioner Bunn

If the Variance is granted based on this site remaining one buildable parcel, would that covenant exist in perpetuity? She was struck by the magnitude of tree cutting in areas of 30 and 40 feet, and the 50 feet swath to the lake. Why so much? If DNR is in charge of this, will they monitor it?

City Planner

We can place that single buildable parcel in the covenant as well. The DNR was ambivalent; 50 feet of beach is not unusual. There is almost that much there now. The fifty feet of cut was not there.

Commissioner Bunn

The distance from the neighbor's well to the proposed septic is different from the report.

City Planner

He measured it himself from the City GIS, and the neighbor's survey document in City records.

Commissioner Deziel

Shoreland and road setbacks aside, are there other reasons to require a variance for this parcel to make it buildable?

Bob McAdam, Applicant

There is currently a dock and boat with almost fifty feet of beach now. He is only asking for what is allowable.

Commissioner Helwig

Have you done a percolation test on the area for the septic system?

Bob McAdam, Applicant

The first thing they did was find the areas for conforming and backup septic systems.

City Planner

He received a letter from Mike and Gayle Wagner, property owners on Lake Jane, indicating their objections to this proposal. He later received an e-mail from the same parties. Those are included in the packet. The gist of the e-mail is that the author thinks all property owners on Lake Jane should have been notified of the Public Hearing. City Ordinance calls for abutting property owners on a variance request. Notice was given to those mandated by ordinance. If the commission wanted additional notice, they could direct it.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:45 P.M.**Dean Johnston**

He lives on Lakes Olson and Demontreville. He has seen deterioration on those lakes, runoff and weed/algae growth. He would request anything that can be create additional filtration of runoff.

Gary Kimlinger

He lives one-half mile away on the other side of Lake Jane. They do not have that water quality problem on their lake. He supports approval of the variance request.

Councilmember DeLapp

The Council's position on hearing notices is to take the requirements of the Code as a minimum, then to take additional impacts of the neighbors into account. The state maximum for a cleared swath to the water is 35 feet but weeds must remain.

Mike Billstein

He also lives on the south side of Lake Jane. His biggest objection is that this is an excessive request. To cut the setback to Ordinary High Water in half is excessive. This proposed house is different from all other structures on that lake. It must be at least twice as wide as any other on the lake. He would like to see it fit in. If the variance is granted, what constrains the applicant to keep this design, or is this design forced given the variances? Would there be something more traditional otherwise?

Chairman Armstrong

The design is the applicants'. We base our decision on their design.

Bob McAdam, Applicant

He has been a builder for over 25 years. He built many of the homes in The Fields of St. Croix. This house will be pleasing to the eye.

Councilmember DeLapp

There have been two decisions prior to today that evaluated whether these are buildable lots. When the Valley Branch Project went through, many landowners paid \$10,000 in assessments for having a

buildable lot there. If they were assessed at that rate, the assumption was that the lot was buildable. If those amounts were not assessed, they were not intending for this to be a buildable lot.

CHAIRMAN ARMSTRONG CLOSED THE PUBLIC HEARING AT 8:54.

Commissioner Sedro

Was this lot unbuildable until mound systems came about?

City Planner

He could not find evidence of that in the files or with either of two staff members who have been with the City over seventeen years regarding exactly why the parcel had been deemed unbuildable. He also noted that Valley Branch did assess this parcel for the water project based on before/after value. Assessment amounts around the lakes varied in amount using that formula.

Commissioner Taylor

The state minimum setback is 75 feet from Ordinary High Water. There is a channel that drains the lake. Yesterday, it filled up with gunk to about one foot. Does Councilmember DeLapp's end of the lake flood and plug up too? She cannot go along with fifty feet of setback variance, maybe twenty-five. We need to be stewards and take better care of the waters. Perhaps a smaller house would help.

Commissioner Deziel

The house will be well behind the actual water line of the lake. The de facto Ordinary High Water is quite a bit less than shown in the Code. This is a pre-weir DNR figure. They are enforcing something that is not realistically there. This is a lot that will continue to see development pressure. This plan offers reasonable conformity with the land. The lot would stay mostly wooded; the neighbors should be satisfied. Encourage the neighbors on Lake Jane to grow woods again. This could be a model for how to develop a lake property. He would like to see equality under the law. The applicant appears to be sensitive to the lake, the neighbors, and everything around.

Commissioner Taylor

Even with covenants we have no way to enforce these rules. Many landowners mow all the way to the water. We have no alternative but to sue. We have no way to protect it.

Chairman Armstrong

Is it common for Ordinary High Water elevations to remain at pre-lake management project levels after a project?

Commissioner Berg

That is pretty common when it is a managed lake.

City Planner

Assuming that what Commissioner Deziel said is accurate, the proposed house does sit about 100 feet from the actual lakeshore.

Commissioner Sedro

Does the Planner agree with the enforcement issues?

City Planner

He does not know about DNR enforcement. We have one tree covenant in place at Hamlet on Sunfish Lake, and we did enforce it recently. Neighbors reported tree removal at Hamlet, and they were caught before more than two trees were cut down. There can be a penalty clause in the covenant. We can make it so expensive you could plant a forest there. The DNR has gone through it several times throughout the state, and they have made it painful but sometimes only through legal action.

Commissioner Taylor

How can that assessment be made as a penalty?

Chairman Armstrong

It would be a civil process; we could set fines that are very high. Enforcement is very difficult.

Commissioner Bunn

Before the clear cutting and that 50 feet swath, she was originally supportive. Now they have neighbors who wrote not wanting anything there at all. It is a very excessive variance request. We are looking for something special in return to allow this. There should be a penalty for breaking the vegetation covenant, and there should be a tree inventory.

Commissioner Berg

He works for Washington County Soil and Water Conservation District. In his experience, the County asks for two to one replacement of mature trees. It would be important to inventory what you already have. There are ways developments can be done to make them more compatible with lakeshore; perhaps not quite the same footprint, limit the impervious surface percentage. Extra conditions might be added based on the percentage of impervious surfacing. Improved filtration could be impacted by that fifty feet swath but there are people who can tell you if it needs to be controlled.

He is glad to see the applicant moved the house back five feet from the Ordinary High Water level. He could go along with the variance if there were additional conditions set forth. On the third page of the staff report is the applicants' number three for creating one building parcel without subdivision, numbers 4 and 5 are for not cutting the forests. Is the applicant thinking the remainder of the lot will be undisturbed? Is that the intent? He would like to keep it with lakeshore vegetation and understory vegetation in order for the lakeshore to benefit. There should be no fill below the Ordinary High Water line, and minimize the cutting within the fifty feet swath. Selective cutting should be used to keep it from being clear cut.

Commissioner Deziel

Are we setting conditional uses or contract zoning?

Councilmember DeLapp

This is a legal issue in Crow Wing County and in counties in Wisconsin. If you get a special consideration for your lot, you give us something special to ameliorate the impact of that.

Commissioner Bunn

What is on the lakeshore with the trees? Grasses and buffer zones help to filter the nutrients before they contaminate the water. She would like assistance with the wording to require treatment within the fifty feet swath of beach area.

M/S, BERG/DEZIEL, to recommend approval of these variances to Ordinary High Water and road setback requested to the City Council subject to staff conditions, and the following conditions:

1. Compliance with the tree preservation proposal of the applicant, staff dated September 19, 2002.
2. A covenant shall be recorded on the deed of the site prior to issuance of a building permit that insures maintenance of the tree preservation plan. The covenant shall be prepared by the applicants' attorney and approved/recorded by the City Attorney.
3. The covenant shall also specify that the existing parcel shall not be reduced in size or subdivided in the future.
4. The preserved area of the site shall remain undisturbed from its natural state, including ground vegetation and tree cover.
5. All lake frontage except the fifty foot wide beach shall remain undisturbed in its natural state.
6. Minimize disturbance of any vegetation within the fifty foot wide corridor, including at the

- shoreline.
7. All trees of twelve-inch diameter and greater at breast height within the fifty foot corridor to the lake shall be retained.
 8. No grading or filling shall be permitted below the Ordinary High Water level.

VOTE: FAVOR: BUNN, BERG, HELWIG, and DEZIEL; OPPOSED: PTACEK, TAYLOR, and ARMSTRONG. 5:3 PASSED.

Commissioner Bunn

In the future, should all lakeshore owners be notified of variance applications?

City Planner

If you are going to add units, perhaps; if just for additions to existing structures, no. Another option is to have an extra step in the process where the Planning Commission would decide on a case-by-case basis as to the extent of notification.

Commissioner Ptacek

There are numerous outlets for the applicant and homeowner who feels strongly, to learn of variance applications and provide comment. There are opportunities for neighbors to come together. On a case-by-case basis this is a good thing to do. This was a Lake Jane issue, and there is the Tri-Lakes Association that could be involved.

Chairman Armstrong

We can discuss the notification distance issue at a future meeting; it can be looked at.

City Planner

There are people who are not impacted but want to get involved. We should be cautious of that tendency.

METROPOLITAN COUNCIL UPDATE

Staff Report, City Planner, Charles Dillerud

The Metropolitan Council adopted a resolution that says our Comprehensive Plan is a substantial departure from Regional Systems. Nine modifications to our 2020 Comprehensive Plan were mandated; we have either nine months to modify or sixty days to appeal the Metropolitan Council's preliminary decision. Hearing/s will be held before an administrative law judge in a formal appeal process, then we can appeal again but then to a court. It will take a long time to follow that process. A resolution will go to the City Council next week for distribution to 180 governments in the metropolitan area, saying if it happened to us it could happen to you. Here is a regional planning agency telling you what to do. The City Council asked the City Planner and City Attorney for a short list of attorneys who could be hired.

New applications in the interim will be handled based on the 1990/1997 Comprehensive Plan. Should we get into the appeal process, we cannot challenge the regional systems themselves.

Councilmember DeLapp

There are twice as many Planning Commissioners as there are council members. The people watching on television are all constituents.

City Planner

Former Governor Carlson's office called Friday. He will be sending some communication to challenge the Metropolitan Council's decision.

Commissioner Deziel

The Lake Elmo Interceptor doesn't have to be used in Lake Elmo.

City Planner

Where they go is part of the regional system plan.

Chairman Armstrong

Just because you can't challenge a regional system at appeal doesn't mean the decision maker doesn't want to hear the full story. It may be pertinent to the person hearing this case. We were not kept notified of this massive sewer line for the Lake Elmo Interceptor.

City Planner

He fully intends to hire assistance for any appeal hearings if directed by the City Council. A couple of the nine items the Metropolitan Council wants us to change in the Comprehensive Plan are simple matters.

Commissioner Ptacek

Did they want us to see the three suggested land use maps adopted or rejected?

City Planner

They allow local latitude as long as we assume 7200 SAC units. Three different ways to do it were presented. Chair Mondale has said he wants cities to set their own destinies. What he meant was, as long as we accept 7200 SAC units we can do it any way we want.

Commissioner Ptacek

He shared those maps with his neighbors. His neighborhood would be surrounded by urban density. His public position would be to appeal.

Councilmember DeLapp

The map that Metropolitan Council has on the website, shows everything west of the middle of the City and everything south of 10th will be in urban reserve.

City Planner

Rocky Mountain Institute, using foundation money, is developing a case study of alternative wastewater treatment systems. With our wetland treatment systems, we are one of their examples.

Commissioner Bunn

Chair Mondale claims Lake Elmo refused accepting consequences of failing systems. Where does City stand on that issue? Second, regarding the Regional Park, there are different historical views of the facts. Point is, if we do have the factual higher ground, this might be time for another council member to write a letter to editor responding to Mondale's specifics. Regarding the regional park, who funded it and who wanted it? She recommends some further public debate and response to Mondale's comments.

Councilmember DeLapp

Sue Dunn was chair of that Parks Commission at that time the regional park was being planned.

City Planner

When the Metropolitan Council looked for potential regional park sites, they had to have a lot of acreage, significant environmental features, and had to be within 45 minutes of an urbanized portion of the metro. They did not say anything about Lake Elmo being urbanized. Why did Lake Elmo support that decision? Dayton-Hudson owned a lot of that land. We did not want a regional shopping center. The alternative to the park was much worse.

Councilmember DeLapp

To get to the regional park from his home is about eight miles. There is no access at the back of the park or facing into Lake Elmo. At the dedication in 1986, the mayor's wife had to move her house. The mayor said, "We welcome you as guests, treat us with respect." There was trepidation we would have a burden on our hands.

Commissioner Sedro

Can we expect or assume that with the appeal the Metropolitan Council will pay more attention to Opinion/Editorial pieces?

Commissioner Deziel

If the 2030 can be negotiated, then we move into the 2040 Plan. How do you prevent that next step?

City Planner

The key is the sewer interceptor no matter when it happens. The difficulty is they act as though it is a foregone conclusion that the area is going to grow by a certain number. They have been off by fifty per cent in the past on forecasting these numbers.

OTHER BUSINESS

Commissioner Bunn

Regarding the reprints of articles provided the commission, she noted that the "Truth" article was well-done and the research was sound. The other article came up short for sources. That second author is the founder and director of the Thoreau Institute. Their efforts are for caring about the environment and minimizing government.

ADJOURNED AT 9:00 P.M.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kimberly Schaffel".

Kimberly Schaffel
Recording Secretary

**CITY OF LAKE ELMO
PLANNING COMMISSION MEETING
MINUTES OF 10/17/02**

Chairman Armstrong called the Planning Commission Meeting to order at 7:00 p.m. COMMISSIONERS PRESENT: Bunn, Berg, Deziel, Sedro, Helwig, and Ptacek. STAFF PRESENT: Charles Dillerud, City Planner; Abigail Grenfell, Finance Director; Kimberly Schaffel, Recording Secretary.

AGENDA

- 5A. Maps of Natural Resources of Regional Significance
- 5B. Comprehensive Plan Update
- 5C. Old Village Special Projects Update

M/S ARMSTRONG/BUNN, To accept the Agenda as amended. **VOTE: 7:0 PASSED.**

MINUTES OF SEPTEMBER 9, 2002

M/S Helwig/Berg, To accept pages one through the top of page 6 of the Minutes of September 9, 2002 as presented. **VOTE: 6:0:1 (ABSTAIN: Armstrong) PASSED.**

MINUTES OF SEPTEMBER 23, 2002

M/S Helwig/Armstrong, To accept the Minutes of September 23, 2002 as presented. **VOTE: 7:0 PASSED.**

VARIANCE FROM FRONT PROPERTY LINE – ERIC SVENDSEN

Staff Report, City Planner, Charles Dillerud

A Public Hearing was requested to consider a Variance from Front Property Line setback. Notice of Public Hearing was published in the Stillwater *Gazette*, and affected property owners were notified.

The proposed project is the reconstruction of an old garage on 32nd Street. This lot is very hilly, falling from the rear to the front of the lot. The proposal by Mr. Svendsen was well documented. Essentially, he wishes to build the new garage in the same location as the former garage. The original fell down. The new garage would be approximately four feet deeper than the former garage.

The front line of the proposed garage is very close to the right-of-way of the street. That was the case with the old one too. The setback requirement is 30 feet. Virtually the entire garage sits in that setback area. There are unique topographical features on this parcel that preclude another building site. The only alternative is deep digging into the hillside. He suggested the Planning Commission may not wish to recreate the safety hazard of the garage being located that close to the 32nd Street driving surface. The options are to restructure the variance application in one of two ways.

1. Reduce depth from proposed 24 feet to 20 feet.
2. Orient the garage differently so it is not perpendicular to the roadway but parallel to the road.
Recognize this option requires a greater movement of soil from the hillside to the west.

If the garage is reoriented, 32 feet of width won't work. It probably could not be a three-car garage, maybe a two-car at most, potentially it might only be a single car garage. Findings are in the Staff Report. Mr. Svendsen could get reasonable use of the property without the degree of variance, and in the interest of public safety. Circumstances of this situation are unique in topography. The essential character could negatively impact the neighborhood by backing out of the garage directly into the street with no driveway apron. Staff suggests the commission recommends denial or ask the applicant if he wants to table the application to consider the other options. He reminded them to keep in mind the potential safety situation.

Commissioner Sedro

The plan shows the garage only 11 feet from the septic tank.

City Planner

There is no set standard for distance separation between structures and septic systems – only wells.

Eric Svendsen, Applicant

He distributed snapshots of the site. One of the main concerns is safety. He handed out a braking and stopping distance chart. The speed limit on that road is 25 mph. That speed requires 85 feet to stop based on the chart. His mailboxes are actually over the blacktop. Page 3 shows his car (backing out of the site) is not at blacktop yet, and there is still good visibility. Page 4 shows a close-up of the same angle. The garage was there when he bought the parcel but one wall was falling down already. One wall collapsed. The last page shows what it looked like when it came down. Twenty feet of depth in the garage might be too little for a vehicle 18.5 feet long. Eight inch walls would make it a tight fit. His coupe is close to 18 feet long as well. He tried flipping the garage plan or going on an angle; those options did not seem to work either. If it is done, he would have to cut the retaining wall at the adjoining property line. He could shave some of the hill to see better up the street.

Chairman Armstrong

He thanked the applicant for the photos. Page 4 where Mr. Svendsen is standing by the rear excavation wall, and where the garage needs to be has what appears to be a steep angle.

Eric Svendsen, Applicant

Yes, page 5 shows the angle of the slope.

Commissioner Sedro

It looks like 11 feet between the existing excavation and the next contour line. Could you work with that?

Eric Svendsen, Applicant

Yes, but that would require an 11 foot retaining wall, and he would like a normal looking garage.

Commissioner Deziel

He thought that appeared to be a better solution too, especially with height allowances. Safety is his main concern. You definitely need a variance. Making the view better has everything to do with the safety issues. It would be better if the applicant could go back further with the garage.

Commissioner Sedro

With 11 feet, there is the possibility of a partial turn before entering the street.

Eric Svendsen, Applicant

11 feet would be hard to do; that would put him back behind the tree. Once you hit the dirt line it inclines dramatically.

Commissioner Deziel

There appears to be quite a bit of land on either side, especially toward the western side.

Eric Svendsen, Applicant

He could knock the corner out of that, and see a bit further.

City Planner

At what point are you out of the garage? You can't see until you are out of the garage.

Eric Svendsen, Applicant

The lower picture on page four is exactly where the garage was and would be. On page 2, the car never moved, and he could see fairly well down that street. He has been parking in the street lately, and that is also a safety issue.

OPENED THE PUBLIC HEARING AT 7:31 P.M.

There was no public comment.

CLOSED THE PUBLIC HEARING AT 7:32 P.M.**Chairman Armstrong**

It is not our job to design for the applicant. Obviously he has a hardship here. He would like to see an agreement on the safety issues. He asked the applicant if he would like to see it tabled.

Commissioner Bunn

She walks and bikes past the site at least once per week. She would be opposed to the suggestion of turning it sideways for several reasons. The photos support that the eastern view appears safe. On the west is the curve in the road. Her suggestion would be to push it in without shaving the hill. The stopping distance chart is helpful. He can see people, whether they can see him or not is another question. She has never noticed speeders on that street. Visually, she'd like to leave it where it was, shave the hill, and mount a fisheye mirror where it could be seen from the driver's seat to further the view west.

Commissioner Sedro

She disagreed because she said what is crucial is where the front wall is located. There is no view at all until you are past it. She would like to see the garage pushed further back.

Commissioner Ptacek

From a safety perspective, the lower photo on page 2 where the car door is open is the western view.

Eric Svendsen, Applicant

Page 1 shows where you can see if I was in the road.

Commissioner Ptacek

A parallel side loading garage is the only way to accomplish this.

Eric Svendsen, Applicant

Page 3 at the bottom shows a Sprite soda bottle; that is approximately where the property line is. It won't solve much by turning the garage, it just pushes it further west, and then there is a twelve foot garage to see beyond. He would have to pull even further into the street. That does not solve safety. Picture 3 actually puts him further away from the road at that point then if he moved the garage further west. That locates the entry zone in a better place.

Commissioner Berg

There is a strong case for a variance. He recommended the applicant involve himself in Old Village Planning because these are suburban standards he must meet in what is an urban area.

Commissioner Deziel

Creating a new retaining wall to the east between the stairway and garage would give significant visibility for reasonable cost, along with the combination of dropping the garage back two-three feet. Conditions are there for a variance but he is not comfortable with the safety issues.

Eric Svendsen, Applicant

The sight distance to the east is at least 250 feet now. He would not gain much of anything.

Commissioner Deziel

We are concerned not only with your safety but drivers and future owners too.

Eric Svendsen, Applicant

His coupe and truck have the same height seats.

Commissioner Deziel

Many vehicles would be substantially different. A variance is for the property, not for an individual.

Eric Svendsen, Applicant

He is not sure how to get around that wall and that hill.

Commissioner Bunn

The problem is to the west; that bank still obstructs the view. The height of that bank is similar to that of the wall.

Commissioner Ptacek

There are two options, either table to reconsider the design or move a motion. This is only a recommending body, maybe the City Council will do the work.

M/S Ptacek/Sedro, To deny the variance application as presented.

VOTE: 3 (Sedro, Helwig, Ptacek) :3 (Bunn, Berg, Armstrong) :1 (ABSTAIN: Deziel) FAILED.

M/S Armstrong/Helwig, To refer this application to the City Council without recommendation other than that the applicant reconsiders his plan. **VOTE: 7:0 PASSED.**

CAPITAL IMPROVEMENT PROGRAM, 2003 – 2007**Staff Report, City Planner, Charles Dillerud**

The City Planner introduced Finance Director, Abby Grenfell.

This CIP is different from any the Planning Commission has ever seen. Department heads submit the data. No effort was made by administration to subtract from what was proposed. All department heads were invited to attend this Hearing to explain their CIP proposals. The purpose of the Public Hearing is to invite the public to comment as well.

The City Planner presented the CIP section by section by function without going into individual projects. This is a five-year CIP, 2003 - 2007.

In financing sections of the CIP, there are no specific references to which funds will be used. The Finance Director's philosophy is to work in logical order – first getting done the General Fund Budget in order to know what funding we will have available for Capital Improvements. The Operating Budget is not complete yet but must be by November 25, 2002.

PARKS

These are projects proposed by the Parks Superintendent and the Parks Commission. Of significance in this group is the 20th Street Trail proposed this year, and an extraordinarily expensive project. The Park Commission has expressed the desire to begin this project in 2003 because of some safety concerns on 20th Street. There may be several funding sources for that trail. The City Planner is working with the Trails Sub-Committee to update the entire Trail System Plan. He is not enthusiastic about creating any trail before the whole plan is done. It could turn out this trail would not have the greatest priority.

Commissioner Bunn

She recalled that there might be a road project on 20th Street, and that there might be opportunity to build this trail in conjunction with the new road in 2006. If there are significant cost savings, she would be in favor of waiting and creating both at the same time.

Commissioner Berg

He would like to have a page with definitions of terms. How does the Finance Director assign the costs by proposed funding sources?

Finance Director

She will look at expanding the section on funding sources.

ENTERPRISE FUNDS*Water Enterprise Fund***City Planner**

In Municipal Budgeting, Enterprise Funds are separate profit centers that are established primarily for public utilities. We have been trying to build up these funds over the years for future plans. These funds are supposed to be self-sufficient. They are not supposed to tap the General Budget. The Finance Director is investigating these two.

The City Engineer recommends looping water mains.

Commissioner Bunn

The text says \$50,000, and the table says \$5,000 for water tower painting.

Finance Director

The cost is \$50,000, in \$5,000 installments. The whole thing is an investment over time.

Sewer Enterprise Fund

There are few sewers in the city but we have to be careful something does not wear out; so we have to budget for it. The 32nd Street system concerns our City Engineer. In four or five years we may have to add to the system just to handle what we already need. Maybe we should hire a consultant to look at all of our 201. The city may become the owner/operator of wetland treatment systems in the future.

Commissioner Deziel

32nd Street will cost \$50,000?

City Planner

That is to add to the system; on the lake side of the street. We have no design for it yet.

PUBLIC WORKS STREET IMPROVEMENTS**City Planner**

Usually street overlays are being done project by project. This year we asked the City Engineer to look at all the older streets to see if we can create a Maintenance and Reconstruction Plan. We have some streets coming unglued pretty badly. Streets built in last four or five years are nine-ton streets, even on cul-de-sacs. That will save us money in the future. This CIP for streets would require bonding. There is some MSA money but not enough. There will be some income from assessments but we don't know how much. This is a logical 'wish list' from the City Engineer. Our Assessment Policy is currently under review.

Commissioner Deziel

On old roads, do we do a boring to determine constructed cross sections and sub-base?

City Planner

Yes, before we consider a reconstruction. We did that on Hill Trail. There is no sense doing an overlay on a street that is coming apart or was poorly constructed on inadequate sub-base.

Commissioner Berg

Washington County Transportation and Physical Development already did a cost analysis including MSA Funds related to a gas tax increase of one-cent. An increase in the gas tax will mean increased MSA funding for the city.

EQUIPMENT

There is a depreciable life for equipment that gets used. The telephone system in City Hall is beginning to reach end of its life. It was purchased in the 1980's. There have been no failures yet but we anticipate them soon. Computer networks are obsolete after two years. Our copy machine is truly a publishing machine, and it gets replaced every five years or so.

Commissioner Berg

When he calls City Hall, he sometimes gets a busy signal.

City Planner

The public didn't like automated answering. We try to provide quality service.

Parks Equipment has been included in the CIP every year. These things are not purchased automatically if an item is not worn out. In Public Works, virtually all of the equipment has been working its way down the CIP. One new item is the water line locator. We have the ability to find shutoffs but not to find the line that goes to the house. We now have more than 500 connections. TKDA was doing this for us now, and billing us for it.

Commissioner Berg

Public Works staff knocked on his door when the main broke, and asked where the line was. Could the public use it?

City Planner

He didn't think it would be available for public use. Also, staff is in the process of restructuring the water billing system.

FIRE

This CIP for the Fire Department includes the Civil Defense Sirens seen by the Maintenance Advisory Special Projects Commission. The City Council adopted your recommendation. Grass rigs were owned by surrounding departments. Now those areas don't have grass or grass rigs. We still have plenty of grass here, and less help from other departments. We have to keep the equipment current. We just bought a new used chief's vehicle after it was knocked out of last year's CIP.

Commissioner Berg

Can groups donate equipment? And if they do, can you spend that money elsewhere?

City Planner

The City Council is discussing it but generally the answer will be no. It might go into a fund but the departments won't have a prerogative to then spend that money as they choose. That would be a City Council decision.

Commissioner Bunn

If the Fire Department had washing equipment, their turn-out equipment would last longer. What would that cost, and why isn't it being pursued?

City Planner

The problem is not buying the washing equipment but where to install it. We are short of building space everywhere.

PUBLIC BUILDINGS

The Facilities Plan was accepted and adopted by the City Council. They are supposed to get a detailed study. They will then take that study to the Facilities Committee. Staff has left it blank for now.

Commissioner Bunn

Where does the money come from for the Old Village Streetscape?

City Planner

Those funds come to the city through tax abatement. That is the benefit of a development such as the Eagle Point Business Park in the tax abatement district.

PUBLIC HEARING OPENED AT 8:29 P.M.

There was no public comment.

PUBLIC HEARING CLOSED AT 8:30 P.M.

M/S ARMSTRONG /PTACEK, To recommend adoption of the CIP 2003-2007, and forward it to the City Council with commissioner comments. **VOTE: 7:0 PASSED.**

OTHER BUSINESS

Commissioner Berg brought in several large maps identifying natural resources in Washington County. He invited the public to come in to City Hall to look at the maps.

COMPREHENSIVE PLAN**Staff Report, City Planner, Charles Dillerud**

The Metropolitan Council rejected our Comprehensive Plan on September 11. Our City Council adopted a resolution, and asked staff and the city attorney to provide names of attorneys. They interviewed three firms eight days ago. They hired Lindquist & Vennum, P.L.L.P., and Dick Nowlin will be the lead counsel. Henceforth these matters will be closed. He asked all commissioners and staff to temper any public comments regarding this matter.

Commissioner Bunn

Council Member Dunn said the Metropolitan Council's Marc Hugunin sent a letter to all local government officials.

City Planner

It appeared to be similar to what we have seen Hugunin and Mondale write in the past.

Commissioner Bunn

She went to a Metropolitan Council Workshop in Woodbury. They were surprised Lake Elmo wasn't there.

Commissioner Deziel

There is a time frame for administrative review. The appeal would be heard by an administrative law judge. The city has 60 days, and it expires before November 10. Law gets fuzzy but it says the appeal shall be heard in a 60 day period. Once there is a hearing and an administrative law judge renders a decision, it is then sent to the Metropolitan Council, and they then make the final decision. If the final decision is not different or is unacceptable, then the next step is the Municipal Court of Appeals. Presumably the Metropolitan Council would have to abide by what is instructed.

Chairman Armstrong

This is all new ground. He has no doubt it will end up in Appellate Court.

City Planner

He senses that the Metropolitan Council is as concerned with how and where this will go as we are. They had a representative at our interview meeting.

OLD VILLAGE SPECIAL PROJECTS**City Planner**

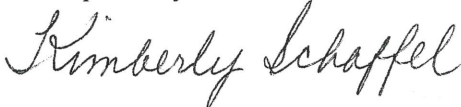
The Old Village Special Projects Subcommittee was appointed for the Old Village Forum process. They looked at the date structure; proposed notice for mailing, cable, and the web; and reviewed the PowerPoint presentation in detail. The subcommittee had a large number of modifications, most were necessary. They presented a rather lengthy list to Thorbeck to fix the presentation. He could fix it but it would be costly. The dollar amount exceeds the contract. The Planner asked the City Council last week how important is this to you to see it before the end of the year? They said it was really not as important to have it timely as to do it right. They said the City Planner should do the modifications. It was done primarily in PowerPoint, and he can do that. We still have a room reserved for November 12, which could be our first forum night. Oct 22 was cancelled.

Commissioner Bunn

The PowerPoint presentation was missing legends for maps, no titles and text pages without connection to graphics pages. Their changes make it more appropriate and adequate.

ADJOURN AT 8:47 P.M.

Respectfully submitted,



Kimberly Schaffel
Recording Secretary

**OLD VILLAGE SPECIAL PROJECTS PLANNING COMMISSION
MEETING MINUTES
SEPTEMBER 9, 2002**

Vice Chairman Helwig called the meeting of the Planning Commission to order at 7:04 p.m.
COMMISSIONERS PRESENT: Taylor, Bunn, Deziel, Berg, Ptacek. STAFF PRESENT: City Planner, Charles Dillerud; and Administrative Secretary, Kimberly Schaffel.

PLEDGE OF ALLEGIANCE

ANNOUNCEMENT

Our two Planning Commission Alternates, Mark Deziel and Julie Ann Bunn have been appointed as regular members. There are now two Planning Commission vacancies.

AGENDA

Motion/Second, Berg/Ptacek, to accept the agenda as amended. VOTE: 6:0 PASSED.

MINUTES

There are no draft minutes to present.

VARIANCE FROM ORDINARY HIGH WATER – McADAM/MOGREN

Staff Report, City Planner, Charles Dillerud

The Lake Elmo Planning Commission was asked to consider a request by Robert McAdam and Bob Mogren for a Variance to **Section 325.06 Shoreland Standards, Subd. 4. A Setback from Ordinary High Water Level** of Lake Jane to construct a Principal Structure 51 feet from the Ordinary High Water Level where 100 feet is required. Notice was published, and affected property owners were notified. The property is known as Property I. D. No. 09.029.21.41.0002, and generally described as:

Part of Government Lot 7, Section 9, Township 29 North, Range 21 West, Washington County, Minnesota, lying easterly of Lake Jane Manor No. 1, and northerly of the Centerline of Lake Jane Trail North.

The property is located on the south shore of Lake Jane, just west of Jamaca. The specific parcel is called Government Lot 7. It consists of approximately two acres after road easement exclusion.

The applicant proposes to build a home on this heavily wooded, undeveloped parcel. The amended application relocates the proposed residence five feet further from Lake Jane Trail than indicated on the diagram, and does meet front setback from the road of 30 feet. The entire proposed home lies within the 100 feet setback from Ordinary High Water. The septic is setback the correct amount of 75 feet. There are four Findings required to determine "hardship" and basis for approval of a variance.

The DNR was notified, and responded with a written report. They recommend an alternative site and/or building design, proposed vegetation clearly identified on the site plan, the use should be consistent with all applicable flood plain regulations for both city and watershed district, and wetlands should be evaluated for compliance with federal and local regulations. The DNR says that some sort of variance will be required but the scale and manner of variance requested in this application is excessive.

Numerous inquiries over the years have resulted in an assumption that this parcel was not buildable. Up until recently, City Code said that a mound system could not be primary. Soil testing performed on the site recommends a conventional drainfield system as primary. The site is large enough to become a home site. The remaining issue is whether to issue a variance.

The proposal may go beyond what is reasonable, although the applicant has made efforts to reduce the depth of the home. Readjustment and restructuring might reduce encroachment. Also, nothing is shown

on the site plan indicating the degree of vegetative cover that will be lost.

This lot can be put to use without the degree of variance, with a different design, and modified placement. Some manner of hardship exists. Staff recommends either denying the application as presented or tabling to allow the applicants to consider the mitigating modifications.

Commissioner Bunn

Is the 2,500 square feet of footprint similar to other homes in the neighborhood?

City Planner

Yes, of the newer homes, some are larger, and some are smaller.

Commissioners Berg and Helwig

Commissioner Berg remembered variances for existing homes being granted but not for new construction. Commissioner Helwig remembered a couple of variances for additions in that neighborhood that were denied.

City Planner

He remembered three, two approved and one denied. The degrees of setback requested were probably close to this one. Those were dealing with existing homes. The 100 feet of setback standard was developed by the DNR three decades ago. We were required by state law to adopt that standard. The primary DNR consideration seems to be appearance from the water; secondary seems to be the impact such as run off, vegetation, etc. They appear to be ready to concur with some degree of variance, just not what is being presented here today.

Commissioner Helwig

Are there one or two applicants?

City Planner

Mr. Mogren owns the land; Mr. and Mrs. McAdam propose to buy it if they can build their home on it.

Bob McAdam, Applicant

He is a home builder by trade. The proposed conforming septic is located to the west. That is why the house is located where it is. By locating the drainfield between the house and the neighbor, he creates a buffer. The lot is wooded to the waterline. He called the DNR today; the man he spoke to was not opposed. He did not realize the house is only 26 feet deep. It is difficult to build a narrower house. That is why the house is long. The basement will be at 930 feet elevation. The lower garage was designed so vegetation will not have to be removed to accommodate storage on the site for boats, etc. He is trying to save all the trees he can.

Commissioner Taylor

Will they be accessing the garage from the lake only for storage and to save trees?

Bob McAdam, Applicant

Asking for a triple upper garage is mainly for resale. The lower garage only has access to the lake. The footprint of the house is only 2240 square feet; the porches make it 2400-2500. It is a walkout basement.

Commissioner Deziel

He noticed the pitch of the roof is low.

Bob McAdam, Applicant

All but the very center of the roof is low. He displayed a picture. He said the portico is shown in the wrong place on the diagram. He will only need a small amount of fill in a couple of areas.

Commissioner Deziel

How much of the existing vegetation will be maintained?

Bob McAdam, Applicant

He would like to clear twenty feet on the lakeside, and then thin it out. He likes the trees between his home and the lake. He will not object to any cutting limits between the house and the road. The proposed septic site has the best soils.

Commissioner Taylor

Is it the only possible septic site?

Bob McAdam, Applicant

The plan shows two more in the eastern part of the site, both are mounds. He wanted to stay in the middle of the lot.

City Planner

The applicant spent time with staff before the application. He originally had two variances; one from the road and one from the water. We are less concerned with the road if a variance there would allow this house to get further from the lake. Also, the primary septic to the west will take out trees as well. You cannot have septic with that much tree cover.

Bob McAdam, Applicant

A standard drainfield can go between trees. The trees will not die if they put the drainfield in there. He has built a lot of homes in Lake Elmo and Baytown. This will be his residence.

Commissioner Helwig

If going to a mound system, you would have to destroy trees.

Bob McAdam, Applicant

The best way to go in with the driveway allows fill removed for the driveway to fill in other areas that are dug out for the house.

Commissioner Helwig

Has the Building Official looked at this site and building plan?

City Planner

No. The other three options for septic would have to be mounds.

Bob McAdam, Applicant

Trees on either side of the proposed drainfield will screen the property line and the house.

Commissioner Helwig

He asked if two tanks were part of the design for this four bedroom house.

Bob McAdam, Applicant

Yes, and the septic was designed before an option to purchase was taken on the lot.

Commissioner Bunn

She asked how Mr. McAdam would feel about moving the house to closer to the road, and adding a road setback variance. That would require less fill and a smaller driveway.

Bob McAdam, Applicant

That would be fine with him if he needs two variances and can get them. The amended plan only moved it five feet from the original plan.

AT 7:42 P.M., VICE CHAIRMAN HELWIG OPENED THE PUBLIC HEARING

Commissioner Bucheck

If a variance allows him to build and it floods; is the city liable?

City Planner

The first buildable floor is 3 feet above the 100 year flood line. The city has no liability.

Dick Johnson, Neighbor

He owns Lot 1, Lake Jane Manor, and is the adjoining neighbor to the west. He had discussions with Mr. McAdam who seems to be trying to make a reasonable attempt to preserve the site and vegetation. This is the first application that has come this far; it never became a public matter before. However, he is a builder; he may intend to live there but houses get sold. The Planning Commission needs to look at the future. Trees could be clear cut there; there is beautiful vegetation along the shore. There are only a couple of lots on this lake where natural shore vegetation exists. Cattails filter the water from drainage areas and filter excess nutrients. It is very important to keep natural vegetation there. The City should look at the DNR allowing 50 feet of beach. Everybody kills the vegetation and makes a lawn down to the lake.

He can agree with a variance of only 10 or 20 feet for shoreland but fifty feet is of concern. He is chagrined by the DNR report. They don't seem to take much of a stand. Another concern is whether the proposed drainfield location meets the city standard of fifty feet from his well. It is very close to his well which is almost due west of that drainfield.

The subdivision of property shows two parcels at that location. He would like to know the future use of that parcel to the east. He is worried that owner will come for a variance. He would like to see the two parcels under one owner.

The property was designated as unbuildable for many years; the owner pays low taxes. Now deeming it buildable seems unfair not to collect those taxes. The site was entirely flooded once well past the Ordinary High Water level; all the trees were killed, they drowned. Many since are still decomposing. There weren't any young birches then but when all the old ones died, the young ones sprouted.

Commissioner Helwig

With the advent of the mound system ordinance, it makes it a legal, buildable lot.

City Planner

The assumption was that was the impediment; now the last few years of shoreland overlay district has been the impediment. He asked the Valley Branch Watershed District about assessment records for this lot. There was some but we don't know how much. There must have been some assumed purpose for this land back then. We do not place a notice of buildable or non-buildable on the record.

The lot to the east may someday come before us. That lot would be very far below the standards. It would barely be 60% of what is buildable by area.

Bob Mogren, Property Owner/Applicant

He is one of the property owners, along with Dick Shiner. The reason those lots were split, was that Mike Dahl Construction was given the lot as lake access for owners on the other side of the road. Mike just never gave it to them, he kept it. He hopes this application will pass. He may be able to find out what was assessed when that drainage assessment went through.

Bob McAdam, Applicant

In 1987 a drain was put into Lake Jane lowering it 18 inches from Ordinary High Water. His intent is to

live there. They lived in their last home twenty-three years. Aerial photographs show vividly the path going down to the existing dock. He will use the same dock as it exists.

Mike Billstein

He is the homeowner next door to Dick Johnson. Mr. Billstein said is an excessive setback variance. There are numerous properties on Lake Jane that have no buildings now but if you put this home into the fifty feet mark, it increases the possibility if you grant this one, that development would become excessive. Currently many lots, like this one, are improved with just docks now. They may qualify under the conditions being proposed here.

The public landing is not monitored; it is a very small lake. There are eight parking spots for boats. People park along the roads, and will accept a \$20 ticket; they come back repeatedly.

Mound systems do not take up much room. Trees are fragile; you can try to put drainfields in between trees but you never know until it is done what will survive. He is concerned that this proposal is too excessive.

VICE CHAIRMAN HELWIG CLOSED THE PUBLIC HEARING AT 8:03 P.M.

City Planner

We should address the issue of the vegetation on the site. He would like the applicant to address it. It would be possible to preserve it with a conservation easement. In that case if the property is sold later, the covenant will still be there.

Commissioner Deziel

On this particular layout, and with the DNR recommendation, he does not understand the design concern. The house seems narrow, and it plans for a low profile 4.5 pitch roof instead of 12 pitch. That preserves the view of the lake for neighbors across the street. Vegetation clarification and potential covenants would be good. There is still the flood plain area concern, and wetlands that are not part of the lake itself. He would favor a second variance decreasing to 25 feet the setback in the front yard.

Commissioner Bunn

She agrees with most of what Commissioner Deziel said, the City Planner's Findings, and the DNR remarks. The house appears to be in the optimal location. The garage could be smaller. There should be a vegetative covenant. The house is similar in size to the neighbors'. She would be willing to support either variance situation.

Commissioner Taylor

She lives on part of the lake. She maintains a naturally preserved frontage. Everyone else mows to the lake. She is very concerned about the amount of encroachment and the size of this proposed structure.

Bob McAdam, Applicant

Even locating the house within fifty feet of Ordinary High Water, he would still be 100 feet from the vegetation line. Mr. Mogren could go down and clear cut it at anytime; nothing prevents that.

Commissioner Berg

He would consider the variance if he can get some of these contingencies in writing. He would propose a tree removal inventory; the County recommends a two to one replacement with mature trees. He is concerned for preservation of shoreland. He would like to know what is proposed for preserving the vegetation. He would be in favor of two variances to set the home back farther. Another condition should be not to subdivide this lot.

Commissioner Helwig

He informed the applicant that his application may be tabled tonight at the applicant's request or the

commission can make a decision and a recommendation to the council.

Bob McAdam, Applicant

He requested that the commission table the request for a variance.

Motion/Second, Ptacek/Berg, to table at the request of the applicant to allow proposed revisions by the applicant that will provide information regarding the length of the shoreline, a reduction of the encroachment into the setback from Ordinary High Water, a tree inventory; a covenant to preserve vegetation to the same degree, and no future subdivision of this parcel. **VOTE: 6:1 (Taylor) PASSED.**

Dick Johnson, Neighbor

He is concerned that the distance between the proposed drainfield and his well may not meet the setback requirements. He would like proof that it is far enough away.

AUDIO CONFERENCE

The commissioners unanimously requested the purchase of the first, second, and fourth conferences from the American Planning Association. The City Planner will order them.

THE PLANNING COMMISSION ADJOURNED AT 8:20 P.M.

VICE CHAIRMAN HELWIG RECONVENED AS THE OLD VILLAGE SPECIAL PROJECTS PLANNING COMMISSION MEETING AT 8:30 P.M.

Staff Report, City Planner, Charles Dillerud

Tonight is the initial presentation of Dewey Thorbeck and Bob Sykes that have been hired by the city to create the Old Village Neighborhood Design Study. The purpose of tonight's meeting is to see what they have to date, determine modifications, and to work with the alternatives presented to you. The plan is to go into public forums with three alternatives. In order to stay on schedule we have to complete this stage tonight. Sarah Harris broke her foot and will not be here tonight. The commission may wish to consider another special meeting before the September 23rd pre-forum activities, and create a forum structure with Sarah Harris.

Dewey Thorbeck, Thorbeck Architects

Mr. Thorbeck introduced Bob Sykes of the Land and Water Design Institute, and Mr. Barnhill who will be helping with tonight's presentation.

He said he would like the commission to review the report in progress, and comment on ideas and concepts. He would like a rough idea of dates for the two public forums. He would like to have two to four weeks between those forums in order to react to suggestions and modify the concepts. Because the commission may want to put this on a web page in the future, they did it in Power Point.

When calculating surrounding properties not yet built upon, you end up with about 1,000 acres. Under current zoning, this could result in over 400 houses being built. Natural forces are revealed when you look closely at this area. The land looks quite flat but there are ridgelines to the north and south. These ridgelines indicate the natural direction of drainage. One of them comes from the northwest, right through town, and merges with another right outside of town that comes from the north. Soils were identified by Bob Sykes with assistance from the county. He showed the areas that have poor soils for septic systems or basements. Those poor soils tend to generally follow drainage patterns. He also showed potential areas for storm water collectors. If designed according to soils and drainage patterns, the city could handle the drainage.

Bob Sykes, Land and Water Design Institute

He emphasized that the areas identified on the maps for ponding and septic are more than what is needed for 400-plus homes. This allows flexibility in determining where to direct the water. There is a dissected

pattern in terms of drainage and ridgelines. It is very important to understand those distinctive patterns are what make this place and land unique. The interruption of development patterns to accommodate these areas gives character to future development. Some of the lines shown to designate drainage areas are actually fifty feet wide on the ground. This is the beginning of a green infrastructure, which creates a system to integrate the Old Village and some open space.

600 homes could be accommodated by the septic area(s) shown. Those systems would take the most land area and hold open space. Pond areas were determined by natural depressions, some already have culverts. Those are logical places to locate a control structure. The purpose is to meet the water quality standards of the state, and to prevent downstream flooding. Wastewater would be moved to the designated areas via a vacuum or pressure system rather than a gravity system.

Commissioner John

Would the needs of all those homes be met by the two largest constructed wetlands shown, or all the areas indicated on the map?

Bob Sykes, Land and Water Design Institute

All the areas shown would be needed. Different planning options will determine where and how many will be needed. These are areas where soils are appropriate. They also provide a buffer between development and green space. Standard drainfields would require roughly the same amount of land.

Commissioner Deziel

Is there septic potential for the homes existing in the Old Village? 300 homes in the Old Village could potentially need some backup. He thought one of the objectives was to accommodate those homeowners who may need some access to common treatments.

Bob Sykes, Land and Water Design Institute

You can draw in as much wastewater treatment capacity as you want. He stopped at 600 homes. This plan tells us there is plenty of room for even more treatment areas. The question to ask yourselves is how much do you want to dedicate to wastewater systems as opposed to farmland?

Dewey Thorbeck, Thorbeck Architects

Option 1

This plan shows existing zoning at 16 units/per 40 acres. Open Space is a possibility within the current zoning allowing a 20% increase in development that could increase that number to 480 houses. You would still have to deal with stormwater and wastewater conditions.

Option 2, Compacted Concept (Transfer Density)

This option allows housing to be more compact in some areas, similar densities to current development. This introduces ideas like a horse farm with an arena and horse grazing areas around the Schiltgen Homestead; commercially zoned areas with businesses on the ground floor and apartments above; developing a greenway from Lions Park, new Senior Housing on the existing Parks and Fire Station Number 1 site, and a transit stop on Highway 5. The eastern side of the city would remain open for storm and wastewater.

Option 3, Connected Greenways (Transfer Density)

This plan shows the horse farm with pasture and drainage zones. A vertical green corridor is shown through town, connecting the north to the south. Police, fire, library, etc., could all be part of a community center at the west entrance into town. This option does not change street patterns except where city hall is now. Commercial development would be offices with apartments above, next to townhouses. A Senior Housing Unit could be built where parks, and fire department number one, are now located. This option would work with alleys as in the existing Old Village, with similar density, carrying that density further east. This option reserves a lot of land that can stay in Agricultural Development. One question to ask ourselves is how do we define the nature of agriculture? Various

possibilities include a tree farm or vegetable growers; permanently keeping the land open, just transferring density. Every Planned Unit Development is a form of land transfer.

Current PUD Zoning allows 400 homes plus a possibility of 20% for Open Space Development which equals 480 homes. Option 3 depicts an additional 20% incentive to the property owners bringing development up to about 600 units. The commission must look at what is reasonable but all properties must be treated the same.

Engineering deals with water issues. The land will dictate the character of development in a positive way, reflecting the history of the area.

Bob Sykes, Land and Water Design Institute

Option 3 shows a Lot and Block plan with alleys. Housing interrupted with drainage ways enhances the constructed form, and it weaves a more traditional fabric for the City of Lake Elmo. He looked at three plats with various size lots. Some similar patterns already exist in the city. He looked at street spacing, and the land needed for drainage. One signature of a rural landscape is a road without curbs. In order to keep the rural feel, you create roadside swales. With downstream problems, the best way to treat water is to do it as closely to where it falls from the sky as possible. As you lay streets, you must create temporary storage areas. Street trees would be planted on either side of a swale. Narrower streets are better for stormwater quality and safety. Alleys keep garages off the main street and provide service entrances.

Dewey Thorbeck, Thorbeck Architects

There is existing Old Village design precedent for all of these designs. There are the issues of density, affordability, and housing changes for lifestyle changes, widths, alleys, lot size and street alley/issues, walkways, boulevards, swales, and trees. The streets are created for vehicles, and to allow paths for residents. There are commercial areas of shops with apartments or offices upstairs. There are places to congregate, walk, ride bikes to, etc. Highway 5 can become a pedestrian zone. Parts of the design are conducive to walkouts. Pedestrian paths can connect constructed wetlands that can be made to be very beautiful.

As we get closer to the public forums, there will be photos of existing housing in Lake Elmo to help connect the plans and ideas with what we see in existing areas.

Commissioner John

Will photos of our wetland treatment systems look as attractive? In a permanent agriculture area, is there a minimal size someone is willing to farm? Will it reach a point where it collapses and then gets developed?

Dewey Thorbeck, Thorbeck Architects

Wetland systems need about three years after planting for the beauty to begin. You need to promote agriculture to get the support for it. You do not need a lot of land for some of these ideas. The big agriculture areas may slowly fade away.

Bob Sykes, Land and Water Design Institute

In York, Pennsylvania, they looked at combining housing with agriculture. Large scale farms are not compatible with housing and equipment activity at harvest time. There are different types of agriculture from large scale to smaller scale more compatible with housing. There are issues of pilferage by people who have never lived on agricultural lands. The landscape would definitely change but still be productive.

Commissioner Williams

In Option Two, what determined that road location?

Dewey Thorbeck, Thorbeck Architects

The density of homes determined that line. Lake Elmo Avenue borders one side; the proposed road would border the other side.

Commissioner Deziel

What are the possibilities of rainwater gardens and wetland plants, rather than swales or ditches?

Bob Sykes, Land and Water Design Institute

At this scale, these are gross plans; we would like to make room for them. They could include all of those options, bio-retention, rainwater gardens, ditches, swales, but rainwater gardens have a messy look.

City Planner

We tried rural section roads once in the Parkridge Estates Subdivision with mixed results. It was hard to get homeowners to accept a ditch in front of their homes. One-quarter have converted to culverts. The second issue is how to deal with a boulevard canopy of trees. Trees will not grow in a swale, plow trucks will hit them on the street side or if grown on the other side of the swale, will they really be a canopy? In new developments, this has not been successful so far.

Bob Sykes, Land and Water Design Institute

Is this something we should look at and pursue answering those questions?

Dewey Thorbeck, Thorbeck Architects

We should not all be running off our water into rivers and the Gulf. Try to keep the rainwater here. As a citizen weighs the options, they might like it. Curb and gutter will shoot the water through town.

Commissioner John

Local surface water sponges need to be created rather than send that water to the Gulf. He likes the presentation as it exists in terms of zoning, and showing what it would look like overlaying the densities.

City Planner

City Code provides up to 20% bonus in a PUD. How can we rationalize an additional bonus? Somehow we have to come up with a way to provide an incentive for landowners to go along with our plan.

Commissioner Williams

Development costs for smaller lots are much less than 2.5 acre developments. As soon as lot area limits were dropped with Open Space Developments, developers jumped on it. We do not have to offer incentives, it is simple economics.

Commissioner Deziel

There would be 20% more that cost less and sell for more.

Commissioner Williams

The current zoning of the 2.5 acre minimum was established after many years of debate and public hearings, and rework of the Comprehensive Plans. In his opinion, the majority of residents don't want a city in this city; they want the country.

Dewey Thorbeck, Thorbeck Architects

We are not asking for approval. We are looking at the process.

Commissioner Pelletier

Her concerns are still the denser housing north of 5. With the big highway there, it is fragmented.

City Planner

The Metropolitan Council will reject our Comprehensive Plan tomorrow when they vote. He quoted from

their resolution. They don't want us to do anything with Highway 5. We have to figure another way - over or under it.

Commissioner Bucheck

She agrees with Commissioner Williams. She is concerned about taxes in the City. Fire, police, and safety are expensive for 400 to 600 new homes. Two or three years ago we had a meeting with Old Village residents who did not want more houses; they wanted senior housing; they wanted traffic control. There will only be more traffic if we put in a transit stop.

Commissioner Deziel

He is concerned with the lack of attached garages and the addition of alleys resulting in more impervious surface dedicated to driveways. We have cars and we have to deal with them.

Commissioner Williams

The first option will happen naturally. The second has dedicated green space. The third one would be a possibility if we tried to increase density. These are not just to show extremes; they need to be presented this way.

Commissioner Bunn

She did not interpret the three options as escalating only in units.

Dewey Thorbeck, Thorbeck Architects

Density is not the only issue. You need to get the residents to see the larger vision, that if they try to hang on for a little bit longer, there ought to be something in it for them.

Commissioner John

The concern is if we do nothing, we will likely end up with Option 1. If we coordinate it we have an opportunity to meet goals. We want to keep it rural in spite of tremendous pressures from the Twin Cities.

Commissioner Deziel

The public will have to come along as well as the large landowners. Wetland wastewater treatments that could serve existing Old Village residents may make it more attractive as a selling point.

Commissioner Bunn

Option 3 has better water management. This is a permanent and comprehensive issue for the Village.

Dewey Thorbeck, Thorbeck Architects

No matter what, a lot of water is going to come down through town. The point is that we can get landowners and developers to work around and with that. We need to get this done by the end of the year; work this out, and put it on the web.

City Planner

Sarah indicated she can come in next week for a special meeting. Three weeks to one month is her recommendation to properly market. The minimum is one month or five weeks from now. Three to four weeks between each forum for Dewey to respond and revise brings us to mid-October and mid-November. Can we get a decision by year end? We need to be committed to landowners that this won't drag out as it did in the past. A decision rendered by year-end by the City Council.

Commissioner Taylor

Set a deadline.

City Planner

After the election we will know who will be sitting and voting.

Dewey Thorbeck, Thorbeck Architects

Present concepts, get public input, then create the text. Sarah will determine how it will be marketed.

Commissioner Bunn

A survey could be conducted by phone or by website.

Commissioner John

We also have use of the Cable Slides, the website, and the newsletter.

Commissioner Williams

He hopes the Council would make their decision by the last meeting held in December.

Commissioner John

Three weeks from now would be October 4 and October 31 for the second one. Keep it out of the influence of the election.

Commissioner Bucheck

What about the Metropolitan Council?

City Planner

They have to see it eventually. This would be a major amendment to the Comprehensive Plan. There is little doubt that they would approve it.

Commissioner Bucheck

There must be a Public Hearing before Comprehensive Plan approval.

City Planner

The Council can decide what they like, and give us an idea before we submit it.

Commissioner Helwig

Get Sarah's input. We need her. Set it up and do it on Monday September 16, from 6-7, with the City Council.

The general consensus was that everything looks good in terms of ideas and drawings.

GREEN BELT PRESERVATION DEVELOPMENT MORATORIUM

Commissioner Julie Ann Bunn

The moratorium issue was tabled after a discussion by the Acting Chair who suggested the Old Village Special Projects Commissioners should hear about it. A portion of the second part of the original letter is about Sunfish Ponds, which is now a Preliminary Plat approved by both the City Council and the Planning Commission. The timing made it appear to have something to do with the Sunfish Ponds Project but that was not the case. The discussion in the Planning Commission meeting determined that a moratorium is legal. It can be done; it was done before. A new idea broached by Council Member DeLapp was to ask for a moratorium on the green belt area and the red area, which is village-scale housing. Those could both be lost while we wait. There will be further loss of options with any continued platting. Tonight's presentation is encouraging. It might get us going before the landowners preempt us. She provided copies of a sample Motion.

M/S, BUNN/JOHN, that the Old Village Special Projects Planning Commission recommend to the City Council that it place a one year moratorium, with possible six month extension, on platting in the Green Belt and Village-Scale Housing (red and green shaded map, page 35 of 2020 Comprehensive Plan) areas of the Old Village in order to retain development options in those areas while the Village Scale Housing

Study is completed, and plans for its implementation are initiated.

Commissioner Williams

His views on density are well-known. The State Legislature gives the City power to impose moratoria, and we should use this power to preserve our options, especially when there are Comprehensive Plan issues.

Commissioner Deziel

Why was Sunfish Excluded?

City Planner

Excluding it would be his recommendation. Preventing them from developing after preliminary plat approval would be bad faith by the City.

Commissioner Bunn

What length of time would be recommended?

City Planner

We could always lift it.

Commissioner Taylor

She has a problem infringing on people's property rights. We did this once before not too long ago. She is also concerned about densities.

Commissioner Bucheck

If the landowners were spoken to, we don't need it.

Commissioner Berg

As previously stated, he supports the concepts but there is no time right now. The public process is going on. We don't have to be underhanded now; that would only sour the whole process now.

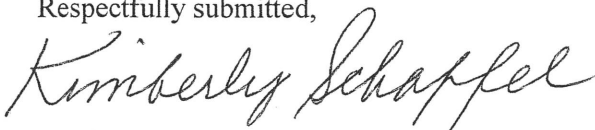
Commissioner Helwig

We have gone through a couple of moratoriums, one on Public Facilities and one in the Old Village, and accomplished little but to make people in town very unhappy. The perception is, "What are you covering up?"

VOTE: 3:5:1 FAILED. FAVOR: BUCHECK, BUNN, WILLIAMS; AGAINST: TAYLOR, DEZIEL, BERG, HELWIG, JOHN; ABSTAINED: PELLETIER.

THE MEETING ADJOURNED AT 10:31 P.M.

Respectfully submitted,



Kimberly Schaffel
Recording Secretary