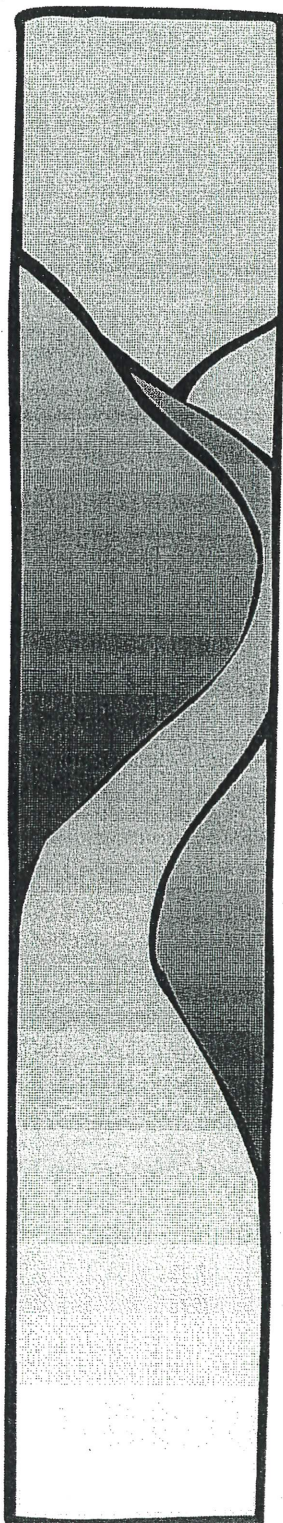




City of Lake Elmo

651/777-5510

3800 Laverne Avenue North / Lake Elmo, MN 55042



LAKE ELMO PLANNING COMMISSION

AGENDA

WEDNESDAY, NOVEMBER 13, 2002, 7:00 P.M.

1. Agenda
2. Minutes
3. Public Hearing—

Variance From Ordinary High Water—Kostelnik

4. Old Business
5. Adjourn



**CITY OF LAKE ELMO
PLANNING COMMISSION MEETING
MINUTES OF OCTOBER 28, 2002**

Chairman Armstrong called the Planning Commission Meeting to order at 7:00 p.m. COMMISSIONERS PRESENT: Armstrong, Helwig, Bunn, Deziel, Pelletier, Ptacek, Sedro, and Sessing. STAFF PRESENT: Charles Dillerud, City Planner.

AGENDA

M/S, Sessing/Sedro, To accept the agenda as presented. **VOTE: 8:0 PASSED.**

WELCOME NEW PLANNING COMMISSIONER

Jennifer Pelletier was welcomed as the new 1st Alternate Planning Commissioner.

MINUTES OF OCTOBER 17, 2002

The Chairman pointed out to the Commission that a memorandum was received from the Finance Director asking for changes in the minutes. The Commissioners were given a copy. The City Planner received the memorandum late this afternoon. The City Planner explained that the procedure for the preparation of minutes is that the Recording Secretary drafts them, and he proofreads and amends or trims them. The Finance Director thinks some of those things should have been left in. She reviewed the videotape from the meeting of October 17, 2002, and drafted this memo that outlines very specific changes she would like to be made to the minutes. The City Planner explained that minutes are meant to be representative, and perhaps this was too much to read and review. He suggested the Commission could table the minutes or attach the memo to the minutes.

Commissioner Bunn asked for page 7 to reflect that she asked the City Planner for a summary of Mr. Hugunin's comments or to provide copies of the letter to the commissioners. On page 8, she reminded the Commission of stronger language regarding the PowerPoint presentation. The City Planner explained he removed those remarks for that reason. On page 3 she said that line 3 should read, "...Push it in farther without cutting a larger swath into the hill in order to accommodate a sideways garage."

Commissioner Deziel said that on the bottom of page 7, the question was his but the answer belonged to the City Planner.

Chairman Armstrong reminded the Commission that minutes are meant to be a summary. He said there are audiotapes and videotapes available for anyone who wants to get very specific. He said the Commission was getting awfully particular on these minutes, and they are getting bogged down.

M/S **Armstrong/Deziel**, To accept the Minutes of October 17, 2002 as amended, attach the memorandum from the Finance Director to the end of the minutes, and let the Council decide. **VOTE: 8:0 PASSED.**

**ZONING AMENDMENT: GENERAL BUSINESS TO LIMITED BUSINESS;
GENERAL BUSINESS TO AGRICULTURE****PUBLIC HEARING****Staff Report, City Planner, Charles Dillerud**

The City Council had asked for a review of the zoning along the I-94 corridor back in June. The Planning Commission has looked at this issue a couple of times. State Statute governs how regulatory devices, such as zoning should be done.

He summarized the past history. The City Zoning Map has not been changed over many years since the 1990 Plan was developed. The Metropolitan Land Use Planning Act says that zoning ordinances must be consistent with the approved Comprehensive Plan within 9 months of adoption of the Plan.

This hearing was originally noticed for the last meeting but it was pulled from the agenda when we discovered that the surrounding parcel owners' list did not include the parcels in question. The RECO Plat was originally included. Since the Preliminary Plat has been approved, they cannot be rezoned for one year. They were removed from this action.

The Planner was contacted by most of the property owners. He sent copies of the uses in General Business and Limited Business to most of them at their requests. These businesses could continue business as they exist. If they wanted to expand use or expand their buildings, those become variance issues.

Value is not an issue the City should involve itself in. Up-zoning and down-zoning artificially change the value of the land in most cases.

There are two State Statutes that provide legal basis for these zoning amendments.

He distributed a copy of a letter he received at 4:00 p.m. from an attorney representing one of the owners.

Commissioner Deziel

Did the City Attorney offer a legal opinion? He feels that this is legal limbo.

City Planner

There is no legal limbo. This is a housekeeping issue that should have been done in 1990.

Commissioner Bunn

There is a misprint in the staff report on line three. The General and Limited Business uses were reversed. She clarified that one of the six parcels is east of Lake Elmo Avenue, and is guided RAD.

City Planner

That is correct. That one may be rezoned to Agriculture or Rural Residential.

The Chair opened the Public Hearing at 7:22 p.m.

Christopher Dolan

He is speaking on behalf of the owners of J & W Boat and Motor, 9200 Hudson. They are strongly opposed to rezoning. They have owned the property since 1998*(see below) and it was classified General Business when they purchased the land, and the price reflected that. There are almost 100 different uses allowable under GB; rezoning to LB would allow about 4 different permitted uses. He objected to the use of the word "artificial" in relation to their property values. The value is real, and they are looking to sell it. Their real estate broker said the proposed rezoning would cut the value by at least half. Why does the city want to promote a Limited Business District with such a restrictive use along I-94 anyway? He said Met Council has taken issue with city's Comp Plan deficiencies such as the failure to expand the MUSA line, increasing minimum densities, and create districts to balance residential and industrial uses. If they are successful it may force the city to amend the Comp Plan to incorporate those factors. Will we be in the same situation in one or two years? Wait until that is resolved to discuss rezoning.

Scott Sayer

He is a new partner on the undeveloped parcel east of the outdoor theater. He completely agrees with Chris Dolan's statement. It does not make sense that a corridor on I-94 would have such limited uses when anywhere else you go has General Business. A change now would significantly affect his investment. He thinks the city should have General Business Zoning for its tax base. Limited Business might be for the middle of the city but not for the I-94 corridor. His parcel would not be grandfathered in, and he feels discriminated against. He strongly recommends taking no action now, at least waiting until the Met Council has determined where the city is or is not in compliance. Please, take a hard look at it before changing this zoning.

Bob Egan

He represents the owners of Lamperts. It is strange to change uses on the I-94 corridor. His other concern is that the shape of his property is long and narrow; a prospective buyer will look at the 20,000 square foot building, and say, "We'll give \$1.50 for it, and you can keep the back three-quarters because nobody is going to want it either." That value is not artificial. It is real to us. We would take a hit (financially) if we chose to move.

Chuck Goss

He is the owner of Crossroads Collision. He strongly opposes this zoning change. He has been there since 1981, and the building was there since 1985. He had his attorney draft a letter that was received by the Planning Commission.

Jack Dolan

They bought that property in 1988. He opposes the rezoning, and Christopher Dolan stated their position.

The Chair closed the Public Hearing at 7:38 p.m.**Chairman Armstrong**

There might need to be changes to the Conditional Uses for Limited Business. It might be best to retain Limited Business Zoning along I-94 and amend the zone to accommodate present uses. The law says there is no vested interest in zoning.

Commissioner Bunn

With respect to Comprehensive Plan zoning, are owners generally notified of changes?

City Planner

No.

Sabrina Dolan

She feels an attitude (by the city) that we should approach this in a sophisticated way. Many of these owners bought their properties prior to the 1990 Comp Plan. When prices were negotiated the GB Zoning was a factor. These are small business owners without deep pockets. Our family's life savings are (invested) in this. When you take away these uses you are taking away our earning (power). She objected to the use of the word, "artificial" in relation to their property values.

Commissioner Bunn

The citizens and elected officials came up with a vision for Lake Elmo and for the I-94 corridor, prior to 1990. Some may disagree with those visions; they may be different from what most people's would be for the area along the highway but this was a public process, and the conclusion is why we are here. That area was to be zoned Limited Business in order to protect the area around that highway corridor, and to protect the village businesses from impact. We have those Comprehensive Plans. The Planning Commission's role is to support that vision. She challenged the City Council to make all the zoning changes in order to conform to the Comprehensive Plan. In the future it should be done in a timely basis.

City Planner

We have rezoned for consistency but all those were up-zones.

Wyn John

At the time of the formation of the 1990 Comp Plan there were working meetings and two public hearings to come up with this vision for the city. They hoped to attract high quality office buildings along I-94.

Chairman Armstrong

As a community we have to decide and plan for the City. These decisions are made with citizen input.

Commissioner Ptacek

Paralleling what Commissioners Bunn and Armstrong said, he feels the Commission must honor decisions made years ago while allowing existing uses to remain.

Commissioner Sedro

If one of these buildings burned down, could it be rebuilt? Can they expand?

City Planner

They can rebuild but expansion requires a Conditional Use amendment.

M/S, PTACEK/SESSING, Move forward with Limited Business Zoning as proposed on the condition that these six existing uses are added as Conditional Uses in the Limited Business District, and the existing businesses receive Limited Business Conditional Use Permits that will preserve their status as confirming uses.

Commissioner Bunn

She noted that some of the current uses are allowable in the Limited Business District.

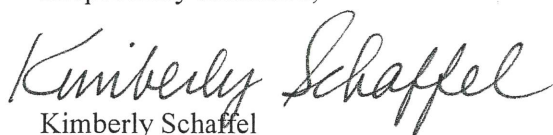
VOTE: 7:1 (Deziel) PASSED.

Chairman Armstrong

He noted that this action will come before the City Council on November 6, 2002. He said he hoped some of these people will come in to work together with the Commission in the near future on the uses for the Limited Business Zone.

ADJOURN THE PLANNING COMMISSION AT 8:00 P.M.

Respectfully submitted,



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 cutting a larger swath into the hill to accommodate a sideways garage. 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. She asked the City Planner to summarize his comments or provide the commissioners with copies.

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

Is there a time frame for administrative review?

City Planner

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

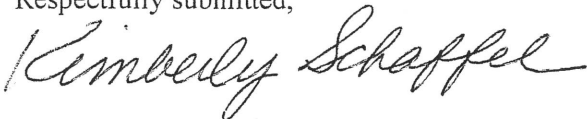
The Old Village Special Projects Subcommittee was appointed for the Old Village Forum process. They looked at the date structure; proposed notice for mailing, cable, and the web; and reviewed the PowerPoint presentation in detail. The subcommittee had a large number of modifications, most were necessary. 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. The font size was unreadable and too small. Their changes would minimally make it more appropriate and adequate.

ADJOURN AT 8:47 P.M.

Respectfully submitted,



Kimberly Schaffel
Recording Secretary

Chuck Dillerud

From: Abby Grenfell
Sent: Monday, October 28, 2002 3:41 PM
To: Chuck Dillerud
Cc: Mary Kueffner
Subject: Planning Commission Minutes

Chuck: I have reviewed the draft planning commission minutes from the CIP public hearing and the videotape. There are several comments that have been omitted from the draft minutes that I am requesting be included. Since these minutes will go to the City Council as comments regarding the CIP and its transmittal, I think it is important that they are included so the record is accurate and inclusive.

Page 4

After "This CIP is different..." add "The Finance Director was instrumental in bringing the CIP to you this year, especially in format. It is very complete and very well done."

Change "Department heads submit the data." The content was proposed by the department heads".

Add "This is considered to be a comp plan amendment." After "The purpose of the Public Hearing is to invite the public to comment as well."

Add "other than in general terms" to the end of this sentence: In financing sections of the CIP, there are no specific references to which funds will be used."

Change "for Capital Improvements" to "to contribute to Capital Improvements"

Add the following to the end of paragraph 4 after November 25, 2002. "The transition between finance directors is difficult, especially during the budget preparation as we transitioned in July during the budget preparation.

Add to the end of the last paragraph on page 4: "The balance of projects have been seen in previous years. The Park Dedication fund is pretty well funded and we can do this CIP easily."

Page 5

Second paragraph under Commissioner Berg. Start with "The Finance Director did a phenomenal job itemizing. It is nice and easy to understand."

At the end of his sentence change "... proposed funding sources" to "... proposed funding sources by cost center."

Before Enterprise Funds add: "The City Planner directed the Recording Secretary to record commissioner comments accurately because it will be the basis of their recommendations to the City Council."

Change: "We have been trying to build up ..." to "We have been trying to build up these funds over the years for future plans. As we get development, it assumes a good part of the cost will be assumed by the developer, our portion in the CIP will pay for oversizing."

Change: "They are not supposed to tap the General Budget" to "They are not supposed to tap the General Levy. We have two factions for the water supply. A portion is served by public water out of the enterprise fund and another portion have private wells and septic systems. It is not a reasonable assumption that those with private systems should subsidize with ad valorem taxes to support City water. The Finance Director is working on a project to get a full analysis of our two enterprise funds."

Delete "The Finance Director is investigating these two."

Change "The City Engineer recommends looping water mains." To "The City Engineer and City Planner have looked at the water system issues with dead ending and have recommended improvements."

Add "We need to do some preventative improvements." after "There are few sewers in the city... so we have to budget for it."

Under Deziel comment change to: "Will the wetland treatment system for 32nd Street cost \$50,000?"

Change "Maybe we should hire a consultant..." to "Maybe we should have an independent firm...."

Under Public Works first paragraph. Change "This year we asked the City Engineer to look at all the older streets" To "This year we asked the City Engineer to look at the entire street system, especially those streets with years on them..."

Page 6

First paragraph change "Yes, before we consider a reconstruction" to "Yes, before we consider an overlay or reconstruction."

Under Berg's comments, change City to County.

Under Equipment, add this sentence first: "Capital Equipment is handled differently. Previously, through the MAC, there was a depreciation schedule. Equipment was scheduled to be replaced at that point but not always was. If it is in good shape, we keep using it."

Add: "We really ought to have direct lines because we are having problems running calls from one main line." After "The telephone system in City Hall is beginning to reach the end of its life."

Under Comm. Berg's comments, change to "Telephones are a priority. When he calls City Hall, he sometimes gets a busy and it doesn't happen in business today."

After the City Planner's "We try to provide quality service." add "With 4 lines coming in, it's active. We are a City offering services and it's hard with the system we have, and the answer is direct lines so people aren't answering phones for us. It will save us money."

Under City Planner change "He didn't think ... restructuring the water billing system." To "He doesn't know if it would be available for public use. Also, staff is in the process of restructuring the commercial water rates."

Under Comm. Bunn comments add: "The CIP didn't mention how many turnout gear in stock. Add: "and wouldn't need to replace as often" after "...would last longer"

Page 7

Add: "based on your recommendations" after "They are supposed to get a detailed study"

Under City Planner add: "Staff would suggest a motion that you have reviewed the CIP and move it on to the City Council with any commentary. You have asked the recording secretary to record it and pass it on to the City Council."

After motion and before other business, add: Chair Armstrong commented that the CIP was great, a nice document.

Abby Grenfell
Finance Director, City of Lake Elmo
(651) 777-5510

LAKE ELMO PLANNING COMMISSION STAFF REPORT

Date: November 7, 2002 for the Meeting of November 13, 2002

Applicant: Roger & Mary Kostelnik

Location: 8098 Hill Trail North

Requested Action: Zoning Variance – OHW Setback

Land Use Plan Guiding: SRD

Existing Zoning: R-1

Site History and Existing Conditions:

The site is a grouping of the tiny lots platted long ago in this area of the City. The sum of the platted lots is 35,800 square feet in two separate parcels of record. In 1997 the applicants initiated an application for a lot area variance to construct a second principal structure on the parcel of record to the north that formerly had a principal structure on it. The variance would have been to construct a house within the OHW setback. The application was not processed by the City, however, since the applicant owned both substandard (by area) contiguous tax parcels, the therefore the north parcel did not qualify as a separate Lot of Record for a second principal structure.

This site was the subject of a previous OHW variance that was approved by the City in 1986. At that time the applicant received approval to construct an addition to the house that would be no closer to the OHW than the existing structure – but still within the 100 foot OHW setback. This became an addition to the north side of the house, 43 feet from the OHW.

The deck, proposed by this application to be enclosed, appears to have been a part of the original house (not the 1986 addition), and is located 31 feet from the OHW (minimum). The variance requested is to enclose that deck, with no additional encroachment on the OHW.

Comparison of the survey submitted with the application and Washington County GIS reveals a disparity regarding the south property line of the subject tax parcel. The GIS-depicted south property line does not match that of the survey, or the legal description found in Washington County tax records for the parcel. The survey does match the County tax records legal description, and we therefore assume the survey is correct (and the GIS incorrect). The survey places the existing deck 5.1 feet from the south property line – as would be the proposed enclosed porch.

Discussion and Analysis:

The applicant proposes to enclose the existing 12 foot by 20 foot deck as a “3 Season Porch”. In addition, the applicant proposes to add a 9 foot by 10 foot deck and stairs north of the porch. The new deck would be 2 feet farther from the OHW (33 feet) than the porch/old deck.

In the context of the spirit and intent of the Shoreland Regulations, at least the following issues should be considered:

1. Will the enclosure of the existing deck contribute to aesthetic and/or environmental degradation of Lake Demontreville to a significantly greater extent than does the existing open deck?
2. Will the addition of the new deck – at a somewhat lesser OHW encroachment than the existing deck/proposed porch – contribute to the lake degradation perspectives noted in #1?
3. The weather-tight enclosure of the existing deck effectively adds livable area to the house. Any distinctions between “3 season porch”, “4 season porch” and simply “house addition” amounts to spitting hairs with terminology. Does this result in this house becoming out of scale with other houses in the immediate neighborhood that are viewed from the lake?
4. While the enclosure of the existing deck could be viewed as no further encroachment on the OHW, does the addition of a new deck 33 feet from the OHW fall into the same category? The proposed new deck would not comply within the “15 percent of existing OHW setback” exemption in the City Code.

The issue of “degradation” - from an aesthetic perspective – is a qualitative determination, which is the purview of the Commission and Council. From an environmental degradation perspective, the additional impervious surface (and surface water run-off rate increase to the lake) resulting from substituting a shingled roof for a wood deck would be difficult to quantify. There is no question, however, that substituting the new 9X10 deck for vegetative ground will add to the surface run-off rate (and, to some extent, volume) to the lake.

We have used our GIS aerial photos to examine homes north and south of the applicant’s as to footprint, and footprint related to parcel area. Excluding garage footprint (to the extent possible from overhead viewing), it appears that the applicant’s home would – even with the addition of 240 square feet of living area by enclosure of the existing deck – fall in the middle of the home areas we observe for lakefront homes in the immediate neighborhood. In terms of footprint in relation to parcel area, the applicant’s ratio is, again, about the average – with the 240 square feet of additional living area.

As required by State Rules, Minnesota DNR has been notified of this Shoreland variance application, and has responded by telephone that they do not object to the approval of the variance if the following conditions are met:

1. The porch remain a “3 season”, with no heating facilities.
2. The porch have gutters installed, with the downspout outfalls located as far from the lake as feasible.

Findings and Recommendations:

The Lake Elmo Zoning Ordinance was amended in 2001 to simplify the findings necessary to support a zoning variance. A copy of that amended Code paragraph is attached. Essentially a variance may be approved where a “hardship” exists. There are 3 criteria for a “hardship” finding.

The applicant has submitted a letter dated October 16, 2002 describing the hardship claimed in support of the variance proposed. While the applicant’s case for hardship is compelling, it does not respond to the criteria for “hardship” found in the City Code. That same hardship may not exist for a future owner of the property in the “reasonable use” context. The hardship claimed is not related to the property, but rather the property owner. The remaining “hardship” criteria (unique

circumstances; and essential character of the neighborhood) would appear to be as applicable here as with most OHW setback variances involving homes constructed well before the adoption of the Shoreland standards. As such, the following Findings appear to be appropriate regarding this variance:

1. The property can be put to reasonable use without the granting of the variance requested.
2. The variance requested results from circumstances unique to properties where principal structures were constructed prior to adoption of Shoreland Regulations; and, the circumstances of the variance were not solely created by the applicant.
3. Granting of the variance will not change the essential character of the neighborhood, as evidenced by substantial written support of the variance from neighboring property owners.

Even though we do not believe there would be a significant departure from the spirit and intent of the Shoreland Regulations by approving this variance (nor does DNR), we can not suggest that the "reasonable use" criteria for hardship is met. On that basis, the variance should be denied.

Planning Commission Actions Requested:

If the Commission concurs with staff regarding Finding #1, a motion to recommend denial of the variance is appropriate. If, however, the Commission does not agree with the analysis of the Findings suggested by staff, a motion to recommend approval of the variance should be upon the conditions recommended by Minnesota DNR.



Charles E. Dillerud, City Planner

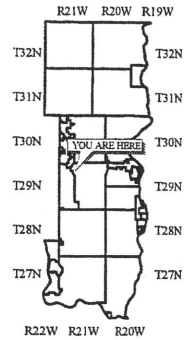
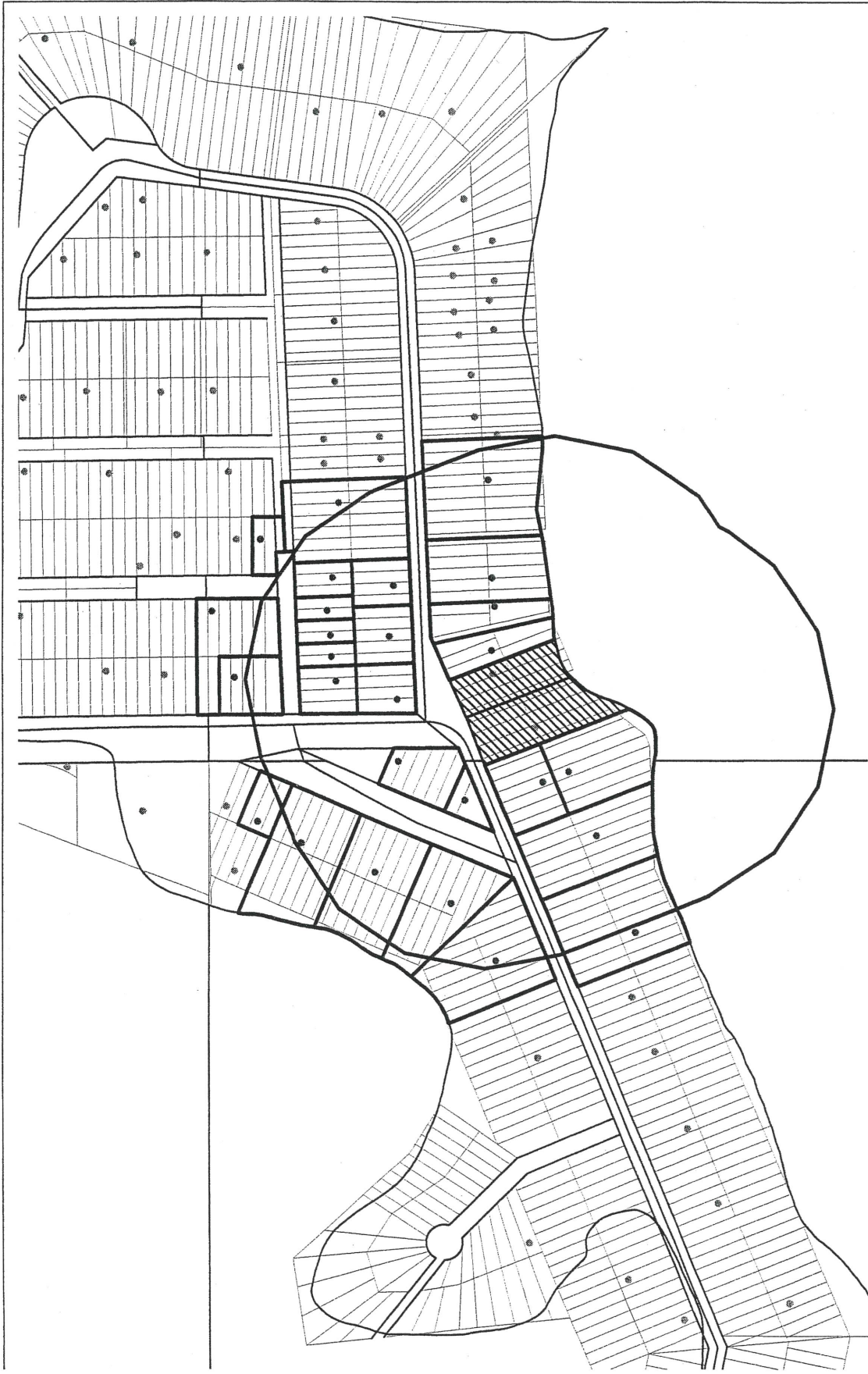
Attachments:

1. Location Map
2. Plat Graphic
3. Aerial Photo
4. Section 300.06, Subd. 3A of the City Code
5. Notes from DNR Phone Message
6. Applicant's Documentation and Graphics

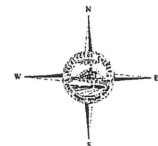
10/31/02

Kostelnik

8098 Hill Trail N.



Vicinity Map



0 258
Scale in Feet

480

657

482

655

483

654

484

653

485

652

486

651

487

650

488

(0038)

(0034)

203.22

649

489

648

490

647

491

646

492

645

493

(0035)

(0036)

495

644

496

643

497

642

498

641

499

640

500

639

501

(0002)

502

638

503

637

504

636

505

635

506

634

507

633

508

632

509

631

630

629

628

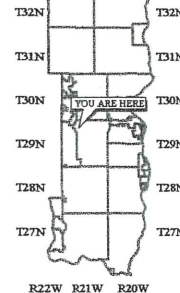
HILL

DOC 400875
VACATED EAST SH
(SUBJECT TO DRAIN
PER BK 312 DEEL

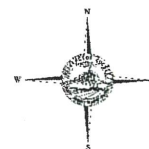
NOTE:
BEACH ADJOINING LC
VACATED PER BK 16

VACATED BEA
BK 16 MISC,

R21W R20W R19W



Vicinity Map



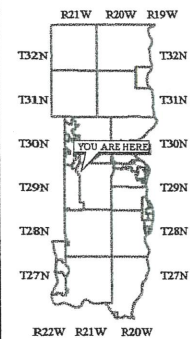
0 66
Scale in Feet

Location Map

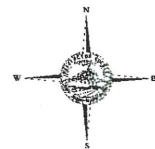
This drawing is the result of a compilation
and reproduction of land records as they
appear in various Washington County offices.
The drawing should be used for reference
purposes only. Washington County is not
responsible for any inaccuracies.

Source: Washington County Surveyor's Office.
Phone (851) 430-6875

Parcel data based on A8400 information
current through September 30, 2002
Map printed: November 8, 2002



Vicinity Map



0 100
Scale in Feet

This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

Source: Washington County Surveyor's Office, Phone: 651-430-8875

Parcel data based on AS400 information current through: September 30, 2002

Map printed: November 8, 2002

D. Hearing Procedure:

1. ~~The Zoning Administrator shall, upon the filing of an application for a variance, refer the matter to the Planning Commission and establish a time for the hearing of the matter by the Commission no less than fifteen (15) days after the filing of the application and no more than twenty-five (25) days after the filing of the application.~~
2. ~~The Zoning Administrator shall notify the applicant and the abutting property owner(s) of the time and place of the hearing. The notice shall be in writing and shall be served on the person personally at least ten (10) days preceding the hearing. In lieu of the personal service, the notice may be served on the person by mail, provided the notice shall be mailed at least thirteen (13) days preceding the date of the hearing. The applicant shall provide a list of the abutting property owners to the Zoning Administrator.~~
3. ~~On request of the Zoning Administrator, the Planning Commission, or the applicant, the hearing shall be continued for a reasonable time, not to exceed thirty (30) days from the date of filing of the application for variance, in order to allow the Zoning Administrator, Commission, or applicant, or the applicant's authorized representative, to provide additional information to the Commission.~~
4. ~~The Planning Commission shall approve or deny any application for a variance and issue its order with respect to the application within thirty (30) days from the date of the hearing on the matter, unless an extension has been granted.~~

E. Record of Findings:

1. ~~The Planning Commission shall make written findings for all variance applications and shall state in the findings the reasons for its decision. The order issued by the Commission shall include the legal description of the land involved. Any such order shall be filed with the Zoning Administrator who shall immediately mail a copy of the order, bearing the notation of the filing date, to applicant.~~
2. ~~A certified copy of any order issued by the Planning Commission for a variance, may be filed with the County Recorder or Registrar of Titles for record after the time for appeal has expired.~~

²Subd 3. Variances

- A. Hardship: A request for variance from the literal provisions of this section may be granted in instances where their strict enforcement would cause undue hardship. An "Undue Hardship" means that the property cannot be put to reasonable use if used under the conditions allowed by the zoning code; that the plight of the landowner is due to circumstances unique to the property and not created by the landowner; and that the variance, if granted, will no change the essential character of the neighborhood. Economic considerations alone shall not constitute a hardship. The City Council may not permit as a variance any use that is not permitted under the ordinance for property in the zone where the affected person's land is located.
- B. Temporary Use Variance. A variance may be permitted for the temporary use of a one family dwelling as a two family dwelling provided that:

² Adopted Ordinance 97-95 on 11-07-01

Chuck Dillerud

From: Kimberly Schaffel
Sent: Thursday, November 07, 2002 4:03 PM
To: Chuck Dillerud
Subject: Variance-Kostelnik DNR Recommendation

Travis Germundson phoned to say.

He did talk to the applicant several weeks ago about this proposal.

He sees no major concerns with the application. He has no objection if there is a condition that this structure will be maintained as and remain a three-season porch. ("If ductwork suddenly appears beneath it, that usually indicates a home addition.")

In order to deal with additional impervious surface area, his recommendation would be that homeowner add gutters and divert runoff to the furthest possible point from the lake in order to allow as much time as possible for water to soak into the ground.

The main factor for his conditional approval was that there is no additional encroachment to the lake.

Kimberly Schaffel

(651) 777-5510

RECEIVED

OCT 21 2002

CITY OF LAKE ELMO

Roger & Mary Kostelnik
8098 Hill Trail North
Lake Elmo MN 55042

October 16, 2002

Lake Elmo City Council & City Planner
3800 Laverne Avenue North
Lake Elmo MN 55042

Dear Lake Elmo City Council & City Planner,

This letter of hardship is to explain our need for a building variance to our property. Our home was built in 1952. We purchased it in 1982 and have resided here ever since. Our home is located entirely within the current 100 foot setback from the lake; the front is approximately 50 feet from the shoreline of Demontreville Lake. As such, any changes to our home-even an addition out the back--would require a variance from the City.

Ours is a simple home, typical of those built in the 1950's. It is a rambler (not a walk-out) approximately 1300 square feet. On the lake side there is a 12 X 20 deck attached to the house (see photo attached). Our plan is simply to enclose our existing deck, making the area a three-season porch. The only change, other than enclosing the deck, is a small 8 X 10 grilling patio on the north side, no nearer the lake. When completed, the three-season porch will be 12 X 20, the same size as our current attached deck. As shown in our plan, there will be no encroachment on the lake. We have already consulted with the Minnesota Department of Natural Resources and the DNR reviewed our building plans. The Department of Natural Resources indicated it would approve our request as submitted. We realize the City of Lake Elmo will seek DNR approval of our plans.

Our primary hardship is that in 1998 I suffered a stroke at age 60. This resulted in long term complications, including loss of muscle strength and coordination. I am physically handicapped, Minnesota Handicap Reg. No. 414694. I am also an insulin dependent diabetic (adult onset) with the complications of that progressive illness. We are requesting a variance so that our 50 year old home can be adapted to allow me to continue to use and enjoy the lake. Enclosing the deck will make that area accessible to me as my condition worsens. I have an increasing need to be protected from the elements and from exposure to insects.

Enclosing the deck area will certainly be an improvement to our home. We want to be totally up front with the Council about that. We will spend \$30,000.00 enclosing the deck and the value of our home will increase. The reason for the improvement is to permit me (

RECEIVED

OCT 21 2002

CITY OF LAKE ELMO

(us) to use and enjoy our property. The existing attached deck is already an improved area. That area will not be expanded. The enclosure will allow three season full handicapped access and use of the existing deck area. There is no detriment to the lake or any neighboring property.

Thank you for your consideration.

Mary Kostelnik

Roger Kostelnik

Roger & Mary Kostelnik

H: 651 777-8111

W: 651 777-8108

LAKE AREA SURVEYING
P.O. BOX 672
LINDSTROM, MN 55045
PHONE: 651-213-1164
FAX: 651-213-1165

CITY OF LAKE ELMO

OCT 21 2002

RECEIVED

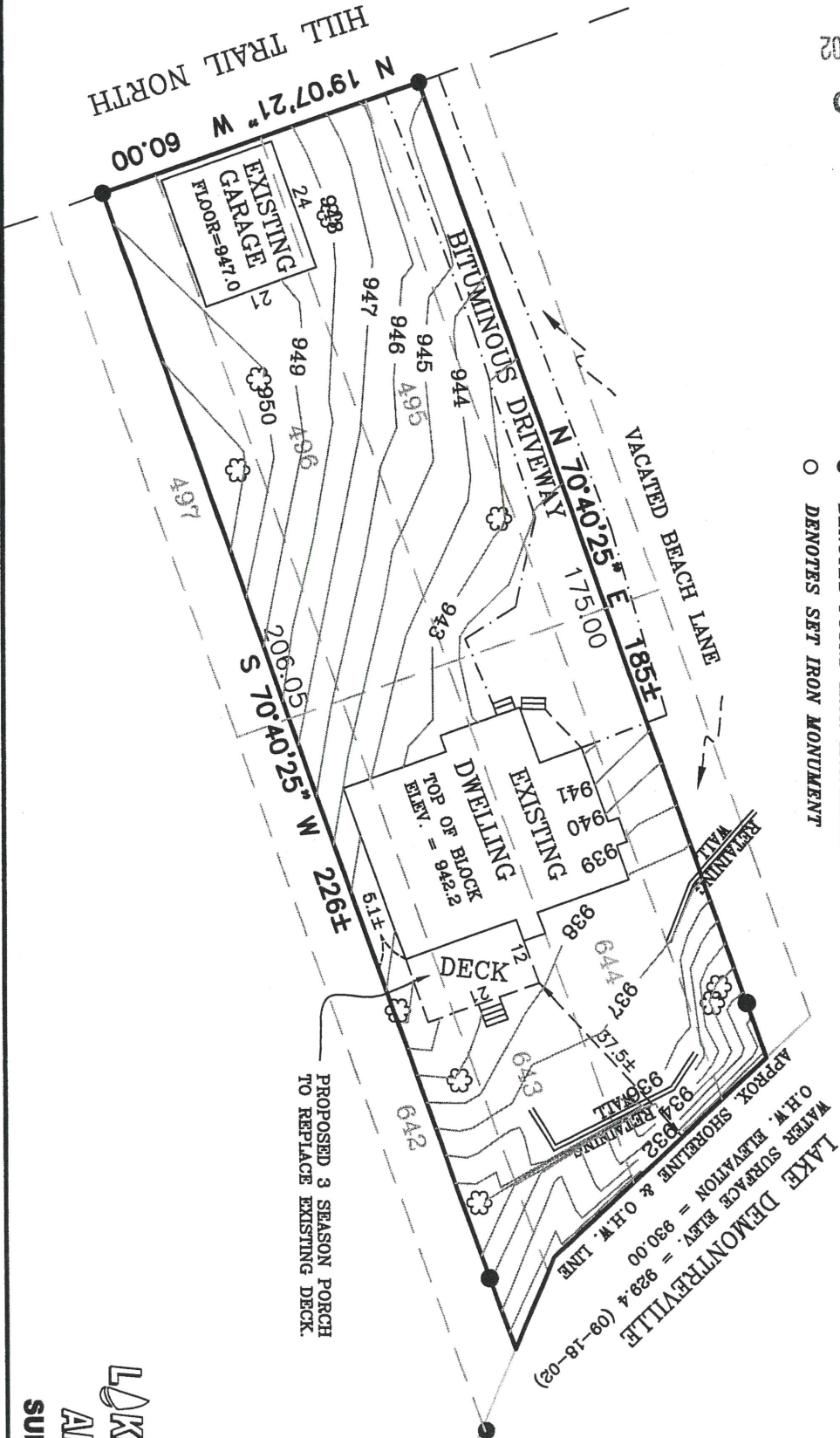
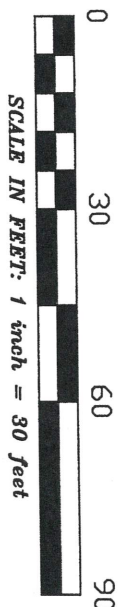
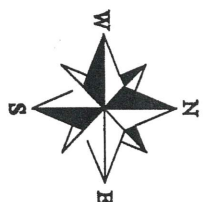
CERTIFICATE OF SURVEY

I HEREBY CERTIFY THAT THIS SURVEY, PLAN OR REPORT WAS PREPARED
BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED
LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.
DATE: 09-23-02

PAUL M. GIBSON, REGISTRATION NO. 40987

SURVEY FOR: ROGER & MARY KOSTELNIK
PART OF LAKE'S DEMONTREVILLE COUNTRY CLUB,
WASHINGTON COUNTY, MINNESOTA.
FOR DESCRIPTION, SEE ATTACHED WARRANTY DEED.

- DENOTES FOUND IRON MONUMENT
- DENOTES SET IRON MONUMENT



City of Lake Elmo,

September 18th 2002

We were asked by Roger & Mary Kostinick if we minded if they constructed a 3 season porch on their house. Not only do we not mind but think it would add beauty to their lake home.

Jerry & Diane LeMire
18051 50th St. No.

651-770-3325

RECEIVED

OCT 21 2002

CITY OF LAKE ELMO

I Louis Charles LeMire
resident at 8084 HW
trail North have no
problem letting my
neighbor Roger Kostelink
build a deck or porch
for his house

Louis C LeMire

RECEIVED

OCT 21 2002

CITY OF LAKE ELMO

September 28, 2002

Roger & Mary Kostelnik
8098 Hill Trail North
Lake Elmo, Minnesota 55042

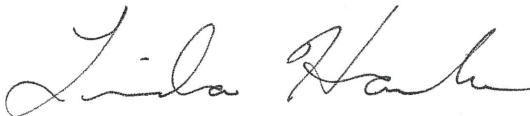
To whom it may concern:

We, the home owners at 8108 Hill Trail North, have no objection to the addition of a structure on the East end of the home at 8098 Hill Trail North. Said structure will be visible from our home but will in no way impact our view or alter our property.

Sincerely,



William Regan



Linda Hanke
Home Owners
8108 Hill Trail North

RECEIVED

OCT 21 2002

CITY OF LAKE ELMO

9/30/02

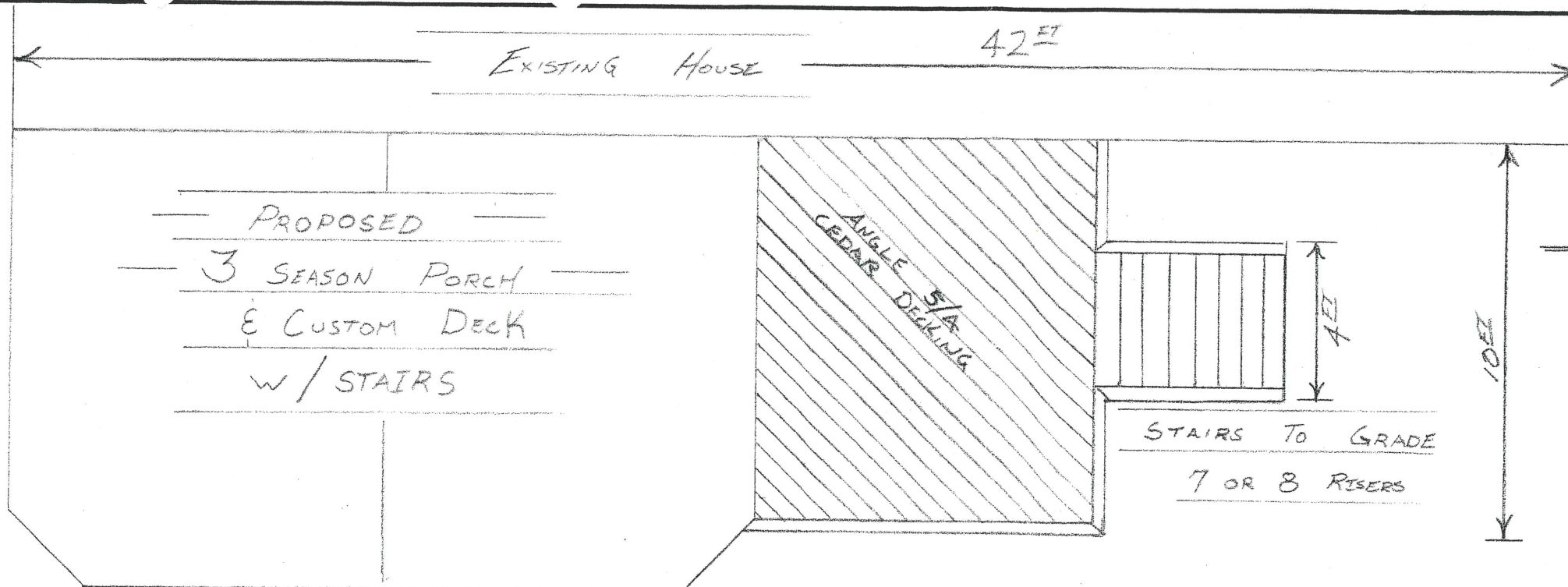
I am Dan Burgess +
I live across the street +
west of Roger + Mary Kostelny's
home. I have no objection
if they turn their deck
into a 3 season porch

Dan Burgess

RECEIVED

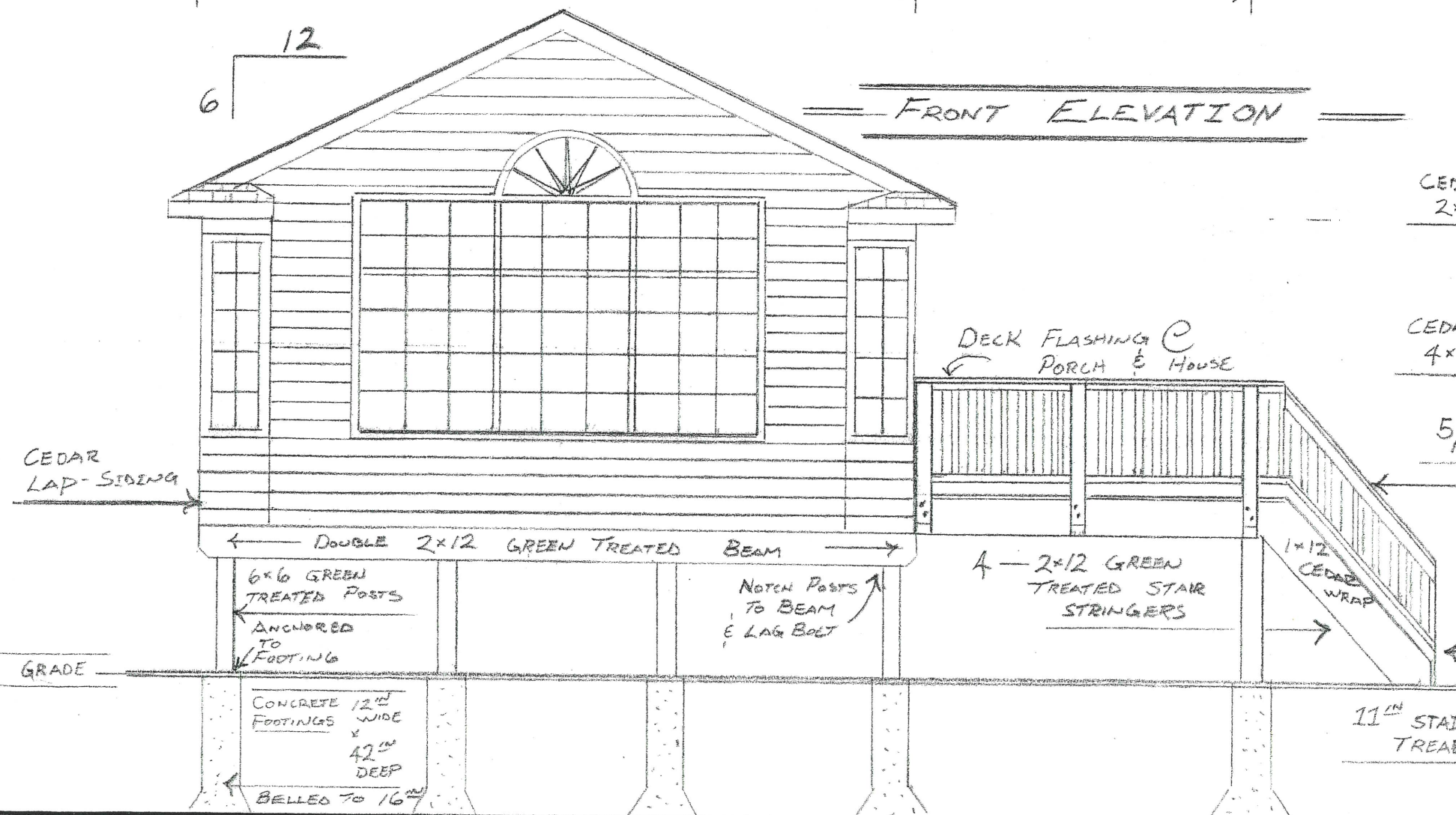
OCT 21 2002

CITY OF LAKE ELMO

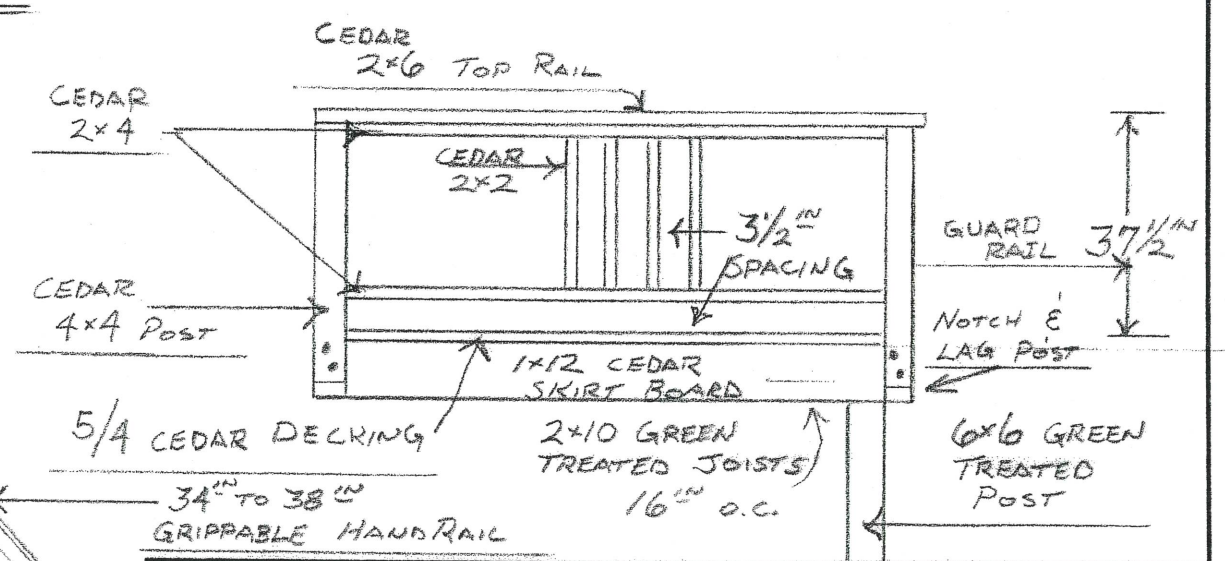


PORCH & DECK LOCATION

RECEIVED
OCT 21 2002
CITY OF LAKE ELMO

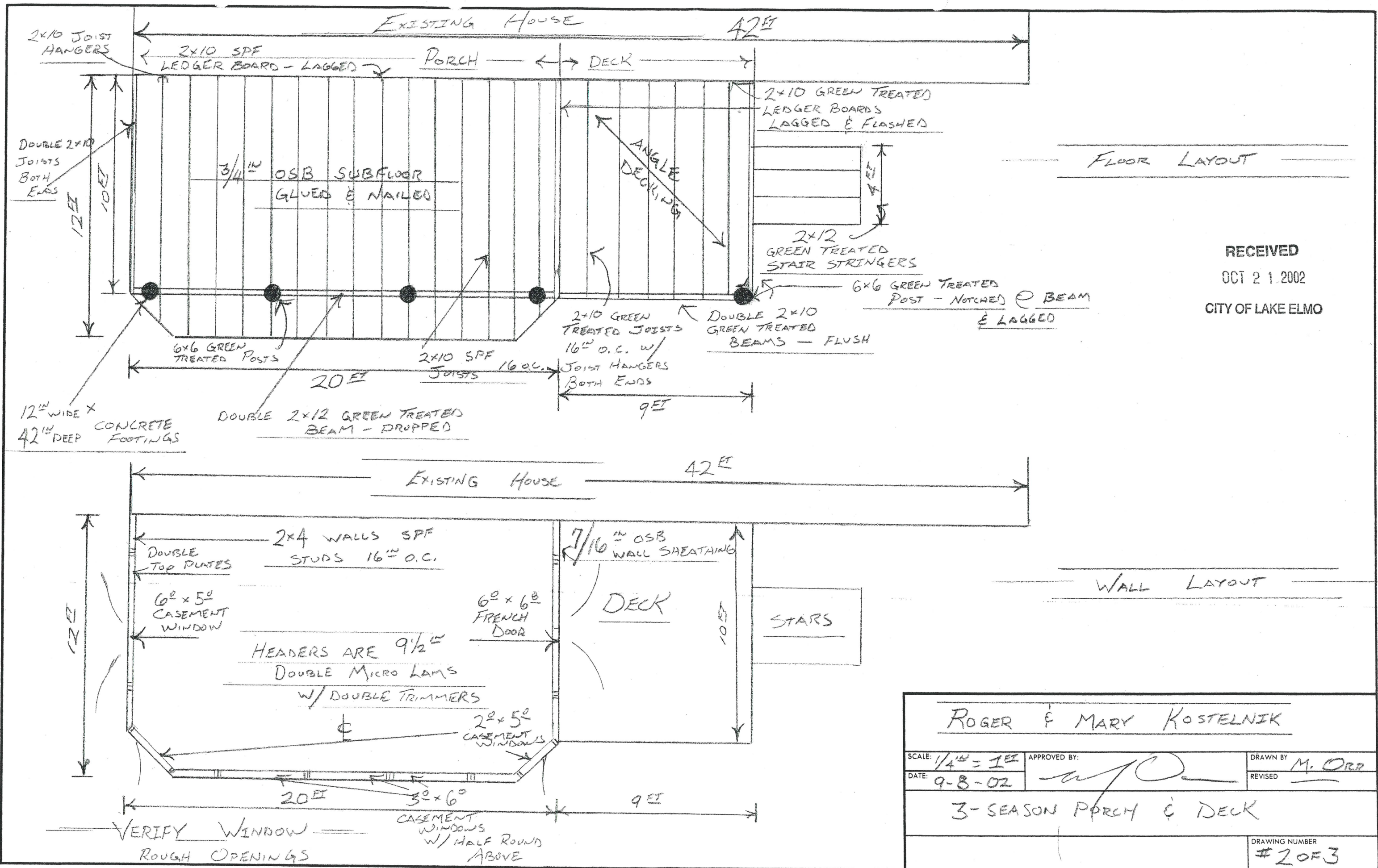


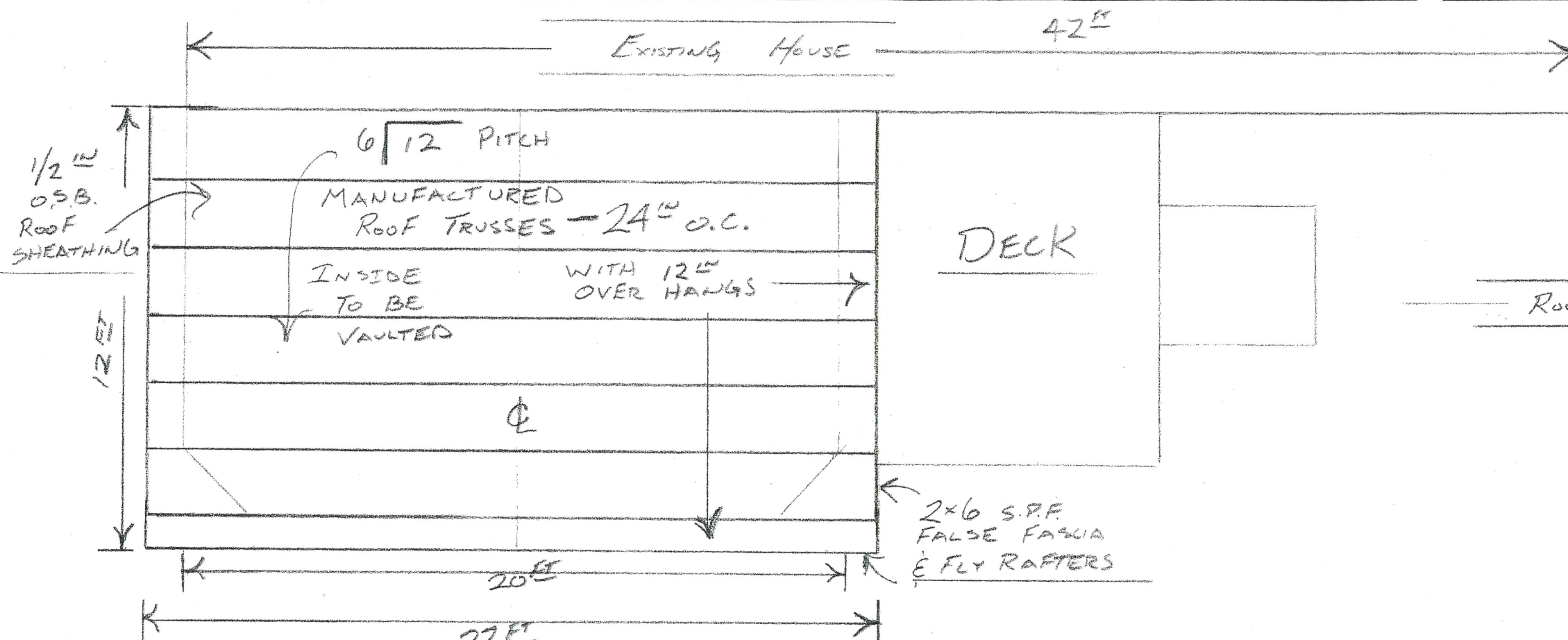
HAND RAIL - CROSS SECTION



ROGER & MARY KOSTELNIK

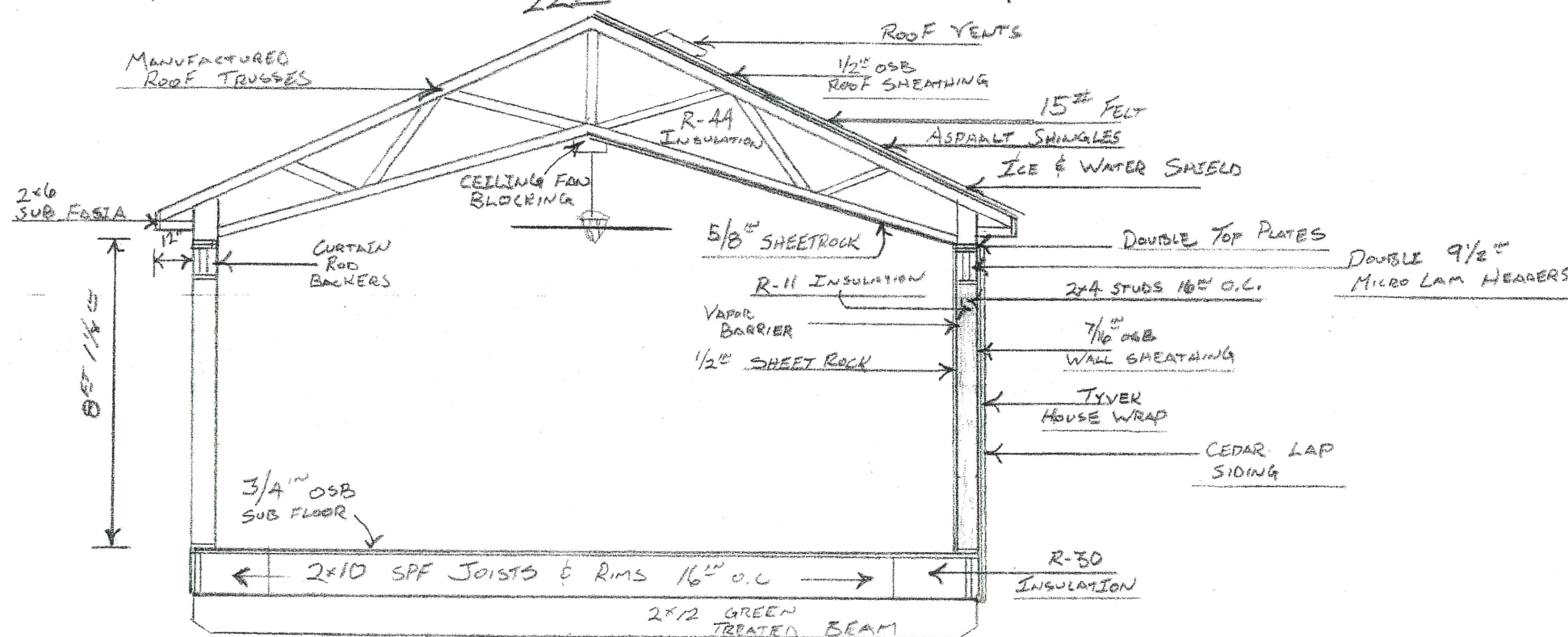
SCALE: 1/4" = 1'	APPROVED BY:	DRAWN BY: M. ORR
DATE: 9-3-02		REVISED:
3-SEASON PORCH & DECK		
		DRAWING NUMBER #1 OF 3





ROOF LAYOUT

RECEIVED
OCT 21 2002
CITY OF LAKE ELMO



PORCH CROSS SECTION

ROGER & MARY KOSTELNIK

SCALE: 1/4" = 1'

APPROVED BY:

DRAWN BY

DATE: 9-8-02

M. O.

REVISED

M. ORR

3-SEASON PORCH & DECK

DRAWING NUMBER

#3 OF 3