



City of Lake Elmo

3800 Laverne Avenue North
Lake Elmo, Minnesota 55042

(651) 777-5510 Fax: (651) 777-9615
www.LakeElmo.Org

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, February 27, 2012, at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. February 13, 2012
4. Public Hearing
 - a. LOT SIZE AND WIDTH VARIANCES – 5577 LAKE ELMO AVENUE NORTH: Steven Weber has submitted an application for variances to allow the subdivision of an existing 5.11 acre parcel at 5577 Lake Elmo Avenue into two separate lots. This item is a continuation from the previous Planning Commission meeting on February 13, 2012.
5. Business Items
 - a. ZONING UPDATE. Form-Based Code Discussion.
6. Updates (Verbal)
 - a. City Council Updates.
 - b. Staff Updates
 - c. Commission Concerns
7. Adjourn

**City of Lake Elmo
Planning Commission Meeting
Minutes of February 13, 2012**

Chairman Van Zandt called to order the meeting of the Lake Elmo Planning Commission at 7:02 p.m. COMMISSIONERS PRESENT: Haggard, Ziertman, Obermueller, Van Zandt, Williams. COMMISSIONERS ABSENT: Hall, Pelletier, Fliflet. STAFF PRESENT: Planning Director Klatt, City Administrator Zuleger

Approve Agenda

M/S/P: Williams/Obermueller move to approve the agenda as presented. Vote 5:0

Minutes - November 7, 2011

Williams suggested a rewording of one section of the draft minutes. M/S/P: Williams, Ziertman, move to approve the minutes from the November 7, 2012 meeting with the corrections as noted by Commissioner Williams. Vote 5:0.

Minutes – January 23, 2012

M/S/P: Williams, Haggard, move to approve the minutes of the January 23, 2012 meeting as presented. Vote 4:0 with Commissioner Ziertman abstaining.

Public Hearing – Lot and Width Variances – 5577 Lake Elmo Avenue North

Klatt presented a brief overview of a request from Steven Weber for variances to allow the subdivision of an existing 5.11-acre parcel at 5577 Lake Elmo Avenue into two separate lots. Klatt indicated that the applicant was unable to attend the meeting and had asked that the Planning Commission table taking action on this request until its next meeting. He recommended that the Planning Commission open the public hearing and then continue the public hearing until its February 27, 2012 meeting.

The Commission asked for general information concerning the history of the area, and why the lot was created in its present configuration.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:12 P.M.

Eileen Bergman, 5500 Lake Elmo Avenue, stated that she was the former owner of the applicant's property, and explained the history associated with the subdivision of this land. She noted that several smaller lots were created around this property back when the area was still a part of the township, but that the applicant's parcel was left unsubdivided at the time. After some homes were built, the adjacent property owners continued to subdivide some of the surrounding land into one-acre parcels until the township decided to change its rules to prevent further development of rural tracts of land.

Bergman further explained that she was approached by the Webers to purchase some land in the late 1970's. She agreed to sell off some of the unfarmable land along Lake Elmo Avenue, and at the time the Code required 125 feet of frontage and a minimum lot size of

five acres. In order to acquire a sufficient amount of frontage along the road, they needed to obtain additional frontage to the north.

She further noted that the Webers could have built a house anywhere on the property, and that the situation with regards to the zoning has not changed in 30 years. Bergman expressed concern that approval of the variances would set a precedent for other property owners with 10 acres to create additional buildable parcels out of their properties.

Klatt read a letter from Mike and Mary Jo Neuman, 5685 Lake Elmo Avenue, in opposition to the proposed variances.

M/S/P: Williams/Ziertman, move to continue the public hearing until the February 27, 2012 Planning Commission meeting. Vote 5:0

Business Item – Project Updates

Klatt presented an update to the Planning Commission concerning the recent work that has been done by the Village and I-94 Planning Work Groups. He explained that each of the groups was working on a land use plan amendment that would eventually be prepared as an amendment to the City's Comprehensive Plan.

Williams stated that he would like to see the two plans be considered as separate amendments, and noted that both groups are dealing with very separate issues.

Haggard stated that she wanted to make sure that the plans, once adopted, were compatible with each other.

Council Updates

Klatt reported on recent City Council decisions concerning land use applications.

Staff Updates

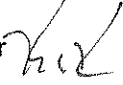
Klatt introduced Dean Zuleger as the new City Administrator. Zuleger discussed his past experiences in Weston, Wisconsin and noted that his former City had experienced a large amount of growth while he was there.

Adjournment

The meeting was adjourned at 7:56 p.m.

Respectfully submitted,

Kyle Klatt
Planning Director

ITEM: Lot Area and Size Variances – 5577 Lake Elmo Avenue
SUBMITTED BY: Kyle Klatt, Planning Director 
REVIEWED BY: Nick Johnson, Interim City Planner

SUMMARY AND ACTION REQUESTED

The Planning Commission is being asked to consider a variance request from Steven Weber, 12729 22nd Street North, West Lakeland, MN to allow the subdivision of a 5.11-acre lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size. One of the newly created lots would contain an existing home, while a new buildable lot would be created on the northerly portion of the site. A variance has been requested from the minimum lot size requirement of 10 acres in a RR – Rural Residential zoning district and the minimum width requirement of 300 feet for lots in this district (the proposed lot widths would be 195 and 95 feet respectfully).

The applicant has previously requested a Comprehensive Plan and Zoning Map Amendment on the same property, but has withdrawn that request in favor of the current variance application.

The public hearing on this matter was opened at the February 13, 2012 Planning Commission meeting, but was continued until February 27, 2012 because the applicant was not able to attend on the prior meeting date. The Planning Commission will be asked to continue the public hearing to take additional testimony and then move on to its deliberations concerning the request.

ADDITIONAL INFORMATION:

Staff has prepared a detailed report (attached) with proposed findings for consideration by the Planning Commission.

RECOMMENDATION:

Staff is recommending that the Planning Commission recommend denial of the request by Steven Weber to allow the subdivision of a 5.11-acre lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size until its February 27, 2012 meeting based on the proposed findings of fact as documented in the attached report.

ORDER OF BUSINESS:

- Introduction.....Planning Director
- Report by staffPlanning Director
- Questions from the Commission Chair & Commission Members
- Applicant CommentsChair facilitates
- Questions of the Applicant Chair & Commission Members
- Open the Public HearingChair
- Continue the Public Hearing.....Chair
- Action by the Planning Commission..... Chair & Commission Members

ATTACHMENTS:

1. Detailed Staff Report
2. Application Form
3. Legal Description
4. Application Narrative
5. Location Map
6. Septic Site Evaluation Report
7. Washington County Comments
8. Aerial Photograph
9. Lake Elmo Access Analysis Map
10. City Engineer Review Letter

City of Lake Elmo Planning Department
Variance Review

To: **Planning Commission**

From: Kyle Klatt, Planning Director

Meeting Date: **2/27/12**

Applicant: **Steven Weber**

Owner: Steven Weber

Location: **5577 Lake Elmo Avenue**

Zoning: RR – Rural Residential

Introductory Information

***Application
Summary:***

The Planning Commission is being asked to consider a request by Steven Weber, 12729 22nd Street North, West Lakeland, for variances to allow the subdivision of a 5.11 acres lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size. The applicant is seeking to create a new buildable lot while retaining the existing single family residence located at this address. The specific variances that have been requested are as follows:

- A variance from the minimum lot size requirement of 10 acres in a RR – Rural Residential zoning district. The proposed lots would be 2.27 and 2.84 acres in size.
- A variance from the minimum width requirement of 300 feet for lots in this district. The proposed lots would be 195 feet and 95 feet in width, which are 105 and 205 feet narrower than allowed in an RR zoning district.

The applicant has previously requested a Zoning Map and Comprehensive Plan Amendment that would have allowed the proposed lot split without variances, but decided to withdraw this application after the Planning Commission had completed its review and forwarded its recommendation to the City Council. The review requirements for consideration of a variance are different than those for zoning amendments, and the Planning Commission should keep this in mind while considering the present application. Staff has included the relevant background information from the Commission's previous review in this report, but updated the analysis section to reflect the specific aspects of the variance request and subsequent findings that must be considered.

Should the requested variances be approved for the subject property, the applicant would then be able to apply for a Minor Subdivision to officially split the property into two parcels.

**Property
Information
and Site
Background:**

The applicant's property is located along Lake Elmo Avenue approximately one-third of a mile south of Highway 36. The property was split from an adjoining parcel to the west owned by the Bergmann family in 1978, and at the time the City Zoning regulations allowed for a minimum lot size of 5 acres. In looking back through the City records for this parcel, it appears that the request was intended to allow the subdivision of the portion of the property that was not suitable for agricultural purposes to be split off from a larger farm site to create a new residential lot. The current boundaries of the applicant's parcel were therefore the result of the original owner's intent to keep any tillable acreage as part of the larger farm operation, as well as to meet the minimum lot area requirement of 5 acres. The result was the "U" or "C" shaped parcel that is presently owned by Mr. Weber, who inherited the property from his father (who originally purchased the land when it was subdivided).

As part of the City's approval of the subdivision, the Bergmann's were required to grant easements to the City over a 60-foot wide segment that is located immediately to the south of the applicant's property, and to further allow the newly subdivided parcel to use this strip of land as its access to Lake Elmo Avenue. The easement agreement that is of record in the City files provides for an emergency vehicle access, installation and maintenance of public utilities, and the provision of public service, but does not otherwise appear to grant any rights of the public to use the property for access purposes. The agreement does provide for an option by the City to acquire this land if it is needed for a public street in the future, but otherwise only describes the potential for a private roadway to be built on this strip of land (not a public road).

Shortly after the subdivision was approved, the applicant's father applied for a building permit and constructed the house that is on the site today. This house is located on the southern leg of the "C" shape, about 45 feet back from the Lake Elmo Avenue right-of-way, and centered in the middle of the 96-foot wide segment. The driveway providing access to the house does cross into the 60-foot wide segment still owned by the Bergmann's. Staff is not aware of any private easements that exist for such access, and would consider this a private matter between the two affected property owners.

There are three other single family homes in close proximity to the applicant's property, and all of these are very close to one acre in size. In addition to the residential lots, there are two other parcels of one acre in size that do not have any buildings on them, one of which is owned by the neighboring property owner and the other of which was retained by the Bergmann family. All of these lots were split at a time then the City's (or township) zoning regulations allowed for the creation of these smaller lots.

In 1977, the City of Lake Elmo adopted a zoning ordinance that closely followed the township zoning requirements, allowing for 5-acre lots in rural areas, but revised this code in 1979 in conjunction with the adoption of a Comprehensive Plan that changed the standards for rural development areas. The code after 1979 required a minimum lot size of 10 acres in rural areas, which is the standard that is still in place today.

Applicable Codes:

Section 150.017 Variances.

(A-I) Variances. Identifies procedures and requirements for the processing and review of a variance application. Please note that this section was recently updated by the City to comply with revisions to Minnesota State Statutes.

Section 154.036 RR – Rural Residential

Outlines the general requirements for the RR Rural Residential Zoning District in Lake Elmo, and includes the following minimum requirements:

Lot Size: Nominal 10 acres. A 10-acre parcel not reduced by more than 10% and/or a 10-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations

Lot Width: 300 feet

Septic Drainfield Regulations: All lots must have at least 1 acre of land suitable for septic drainfields and area sufficient for 2 separate and distinct drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited.

Findings & General Site Overview

Site Data:

Lot Size: 5.11 Acres

Existing Uses: Single Family Residence

Existing Zoning: RR – Rural Residential

Future Land Use: RAD – Rural Agricultural Density

Property Identification Number (PID): 01-029-21-23-0001

Variance Review:

Variance Analysis:

As part of the report concerning a previous zoning request on the applicant's property, Staff provided the Planning Commission with information concerning the future land use designation of this site. It was noted that this site is located in a portion of the City that is guided for RAD – Rural Agricultural Density, which represents the bulk of the rural development areas within the City. With the current application, Mr. Weber is not requesting any changes to either the future land use or the zoning classification for the property, and has instead requested a variance from the current zoning requirements for a RR – Rural Residential Zoning District.

The RR – Rural Residential Zoning district specifies a minimum lot size of 10 acres and a minimum lot width of 300 feet, and the proposed variance would allow two lots to be created that fall well under both of these requirements. The existing lot is considered a legal non-conforming lot since it was created prior to the adoption of the current standards, and splitting it into two separate parcels would not be allowed without a variance. In this case, the resulting lots would be 7.73 and 7.16 acres smaller than required in the RR zoning district. Moreover, the resulting lot widths would also fall 105 and 205 feet shorter than required.

The criteria for consideration of a variance is found in the Zoning Ordinance, which includes the following provision:

- A request for a variance from the literal provisions of this chapter may be granted in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. All requests for variances shall be reviewed in accordance with the required findings listed [below].

A more detailed analysis of the variance findings form Staff is included a little later in this report. The applicant has provided a narrative (attached) describing their request, which includes the following general comments:

- The proposed usage if the variance were granted would be consistent with the surrounding lot sizes, shapes, density, and usage.
- The existing parcel is very odd in its shape.
- The existing configuration of the parcel is inconsistent with the surrounding lot sizes, shapes, density, and usage.
- The proposed densities would be consistent with the surrounding land use and would not alter the character of the locality.
- The proposed land use and zoning would be in substantial conformity with the policies goals, and standards of the Comprehensive Plan.
- The soil has been perk tested and the size of the proposed parcels and soil type allow for a suitable septic system.
- The proposed variance would have no impact on an adequate supply of light and air to adjacent properties.
- The proposed use under a variance would ot substantially increase the congestion of public streets.
- The proposed use under the variance would do nothing to diminish or impair property values in the neighborhood

All of the other information that has been submitted is either the same or substantially similar to the materials submitted as part of the previous request.

**Staff Review
Comments**

In reviewing the present request for a variance, Staff would like to note that most of the general comments that were provided during the Commission's previous review are relevant as well. In particular Staff is concerned that the proposed variance would allow and augment a pattern of development that is contrary to the purpose and intent of the City's Rural Residential zoning requirements. In addition, the creation of smaller lots within rural areas presents numerous planning issues related to traffic, safety, provision of future services, and maintaining the character or rural areas.

Staff has also found that the proposed request also does not meet the four criteria that must be met in order for the City to grant a variance. In particular, the applicant's lot

was created to meet the minimum district requirements at the time, and the inability to further subdivide the lot does not constitute "practical difficulties". It is not reasonable to allow a subdivision that would otherwise not be permitted on a piece of property that already is five acres smaller than allowed in the underlying zoning district. Staff also does not support the argument that the property is unusable and therefore the City must allow the property to be split. A person's definition of usability can vary substantially from one individual to another, and there are many properties in the City's rural development areas that are larger parcels with large areas that have limited use options (which can be seen as an intentional restriction to help preserve rural areas). The shape of the property clearly is unusual for Lake Elmo, but was created and eventually purchased in this configuration with the clear understanding that only one house could be built on the property.

The City Engineer has submitted review comments for consideration by the Planning Commission, and has augmented his previous review by noting additional concerns regarding the location of the driveway and the current and future traffic levels along Lake Elmo Avenue. Lake Elmo Avenue is classified as a Minor Aerial (A) roadway in the City's Comprehensive Plan, and this designation is defined as follows:

"Minor arterials also emphasize mobility over property access and connect cities with adjacent communities and the metropolitan highway system. "A" minor arterials are roadways that are of regional importance because they relieve, expand, or complement the principal arterial system."

This designation specifically notes that mobility be given emphasis over access along these streets, and in this case, the creation of an additional driveway access to Lake Elmo Avenue would not be consistent with the roadway classification. Please also note the existing and future traffic counts that are included in the Engineer's report. Traffic levels along Lake Elmo Avenue are forecast to increase nearly four times beyond the current amount, and the continued operation of individual driveway accesses along this road segment will present serious safety concerns in the future. Although the County has stated that it will issue a permit for the new driveway, if requested, the County does rely in local jurisdictions to regulate access in accordance with their respective plans since it does not have land use authority over a city like Lake Elmo.

Other comments from Staff pertaining to the variance request, some of which were also applicable to the previous request, are as follows:

- The subdivision of lots less than 10 acres in size that are not otherwise part of an OP development is not consistent with the City's goal of preserving its rural character. The 10-acre minimum lot size in rural areas has been in place for over 30 years, with the RED zoning representing the only development allowed before the Open Space zoning regulations were adopted by the City in the mid 1990's.
- Lots less than five acres in size are not as efficient to serve with public services as lots that are planned and developed as part of a broader subdivision. Some of the surrounding properties have been developed as an OP subdivision,

which included plans for providing water and sanitary sewer services, roads, and other utilities.

- Adding another access to Lake Elmo Avenue is not recommended by the City Engineer, and could present problems for managing traffic in the future. Although the County would issue a new driveway permit for a lot along Lake Elmo Avenue, it is up to the City to plan for its future access needs and to ensure that the overall transportation network is planned in an efficient and safe manner. Considering current traffic levels, and with the increases projected in the Comprehensive Plan for Lake Elmo Avenue, individual driveways will not be a safe option for new homes.
- The applicant is not losing any rights to use his property in the way it was initially approved by the City, and the lot is already much smaller than would be allowed for a single family home on a separate parcel in this portion of the City (except for OP development lots).
- There have been no changes to the City since the applicant's lot was originally subdivided that would warrant a consideration of a request to further subdivide this lot. For example, the City has not implemented any transportation improvements near the applicant's property that would provide for more efficient and safe access to this portion of the City.
- The City Engineer has provided the Planning Commission with a recommendation to deny the applicant's request along with information to support this recommendation.
- The proposed driveway to serve the new lot would be located along an incline along Lake Elmo Avenue, which would reduce the visibility for vehicles entering and exiting the site and for vehicles that would be stopped and waiting for turn into the property.
- The City's access spacing standard for the distance between local streets on a Minor Arterial road is ¼ mile, and as traffic increases on Lake Elmo Avenue in the future (once the counts exceed 7,500 average daily trips), no direct access for residential driveways is recommended. The attached access analysis map depicts all of the present driveway and road connections to Lake Elmo Avenue, which shows 12 existing (and the one proposed) road/driveway accesses over a distance that would support one such connection point under the City's guidelines.
- Staff does not support the creation of any new access points along Lake Elmo Avenue unless some of the existing driveways could be consolidated into one new public roadway.

For the reasons noted above, Staff is recommending that the Planning Commission recommend denial of the variance request, and is proposing findings to support this action in the section that follows.

**Variance
Criteria:**

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicants' request.

1. **Practical Difficulties.** *A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.*

The language concerning "practical difficulties" is the first standard that must be met in order for the City to consider granting a variance. Under this standard, the Planning Commission would need to find that the subdivision of an existing non-conforming lot is a reasonable use of the property not otherwise permitted under the zoning ordinance. The appropriate findings for this standard would therefore need to note the subdivision is a reasonable request within a Rural Residential zoning district. Using this standard as a basis, Staff is suggesting that the Planning Commission consider the following:

FINDINGS: That the proposed subdivision is **not** reasonable because the property as it exists can be used for a single family residential home. Reasonable use of the property already exists, and the variance is not needed in order to make use of the parcel under the Rural Residential zoning district requirements. The current configuration of the lot is not relevant to the establishment of reasonable use because the lot would not have been usable for a single family home without this additional area.

2. **Unique Circumstances.** *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

In order to demonstrate compliance with this standard, the Planning Commission would need to note those aspects of the applicant's property that would not pertain to other properties within the same zoning classification. In this case, all Rural Residential property is subject to the same area and width requirements, and the current lot presently does not meet these standards. Again, Staff is suggesting some findings that could be considered by the Planning Commission as follows:

FINDINGS: That the applicant's property is **not** unique because the property is able to support a single family home, and the vast majority of parcels in the Rural Residential zoning district are required to have a larger area than that owned by the

applicant. The ability to find a suitable use for the areas outside of the immediate building location is not something that is unique to the applicant's site since the intent of the Rural Residential district is to promote the preservation of open space and rural character, and therefore, the uses and densities allowed in the district are intentionally limited.

3. ***Character of locality.*** *The proposed variance will not alter the essential character of the locality in which the property in question is located.*

The subdivision of rural residential lots, by definition, changes the character of the City's rural areas by introducing higher densities into areas that have not been planned for more intensive uses. A more formal set of findings related to this standard is suggested as follows:

FINDINGS: That the proposed variance **will** alter the essential character of the locality in which the property in question is located. The applicant's property is located in a portion of the City that is guided for Rural Agricultural Density (RAD) development, which corresponds to the City's Rural Residential Zoning District. This district requires a minimum lot size of 10 acres, and the applicant's request to create two lots of under 2.5 acres in size represents a substantial departure from the district requirements. Although there are existing non-conforming lots in the vicinity of the applicant's property, the continued subdivision of lots less than 10 acres will continue to alter the character of the area and create a denser, more urban environment in an area that is not intended to be served by municipal water, sewer services.

4. ***Adjacent properties and traffic.*** *The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.*

A large part of the Staff report above is devoted to transportation and access issues, and based partially on comments from the City Engineer, Staff is suggesting the following findings pertaining to this criterion:

FINDINGS: The proposed variance **will** have a negative effect on adjacent properties and traffic because the proposed driveway to serve the new home would not comply with the City's access management policies and guidelines. In particular, new driveway accesses are discouraged along streets classified as Minor Arterials (such as Lake Elmo Avenue) at the traffic levels that are forecast for this road. The proposed driveway would also fail to comply with the City's use of best management practices for spacing guidelines, which include: minimizing new access locations and reducing/consolidating existing access points, protecting and improving intersection functional and sight distance areas, and proper design of driveways and intersections. The creation of a new driveway/lot will create a safety concern by adding an access point to Lake Elmo Avenue in a location that

has reduced visibility dues to an incline in the roadway.

Considering the potential findings of fact as suggested in the preceding section, Staff is recommending denial of the variance request based on the findings noted in items 1-4 above.

Conclusion: Based on the report and analysis provided above, Staff is recommending that the Planning Commission recommend **denial** of the request by Steven Weber for variances to allow the subdivision of a 5.11 acres lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size.

Additional Information: Valley Branch Watershed District did not submit any comments specific to the applicant's variance request, but did note that a Minor Subdivision would require a permit from the watershed district.

The City Engineer's comments are included as part of the attached memorandum.

Recommendation:

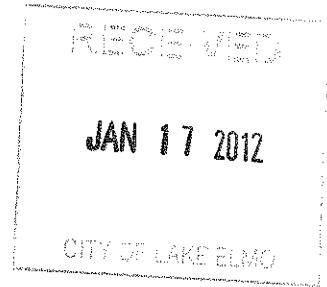
Staff is recommending that the Planning Commission recommend denial of the request by Steven Weber for variances to allow the subdivision of a 5.11 acres lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size.

Commission Options: The Planning Commission should consider the following options with this request:

- A) Recommend approval of the variance request, and developing appropriate findings of fact to support this action.
- B) Table taking action on the variance in order to request additional information from either staff or the applicants.
- C) Direct Staff to consider the request as part of a broader Comprehensive Plan or Zoning Map amendment that would look at a change to the entire area, and in particular, the other non-conforming lots that were created in this area before the City's 1979 Comprehensive Plan and Zoning Ordinance. This action does not appear to be supported by the City Council based on its discussions concerning the applicant's previous request.

cc: Steven Weber, 12729 22nd Street North, West Lakeland, MN

Variance Request - Development Application
5577 Lake Elmo Avenue, PIN 01.029.21.23.0001
Property Owner: Steven Weber
January 13, 2012



- Tab 1. Application (§154.017(C))
Schedule A. Legal Description (§154.017(C)(2))
Schedule B. Detailed Reason for Request (§154.017(C)(5))
- Tab 2. Plat Drawing of the Area
- Tab 3. Rough Mark-Up of Proposed New Property Line with
Proposed Driveway and Homestead Drawn (§154.017(C)(4))
- Tab 4. Rough Mark-Up from Percolation Test (§154.017(C)(4)(iii))
- Tab 5. Correspondence Received from Washington County
Regarding Proposed New Driveway
- Tab 6. Address Labels of Nearby Property Owners (§154.017(C)(6))
(Obtained from Washington County – Receipt Included)
- Tab 7. Tax Search Printout Showing Ownership Information (§154.017(C)(3))

Fee \$ _____

City of Lake Elmo DEVELOPMENT APPLICATION FORM

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

APPLICANT: Steven John Weber, 12729 22nd St. N., West Lakeland, MN 55082
(Name) (Mailing Address) (Zip)

TELEPHONES: (651)337-0541 (952)851-8862 (612)619-6595 (952)767-3878
(Home) (Work) (Mobile) (Fax)

FEE OWNER: Same as above
(Name) (Mailing Address) (Zip)

TELEPHONES: Same as above
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): _____

5577 Lake Elmo Avenue, Lake Elmo, MN 55042
P.I.N. # 01.029.21.23.0001

Legal description attached as Schedule A.

DETAILED REASON FOR REQUEST: _____

See Schedule B

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

See Schedule B

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

[Signature] 1/13/12
Signature of Applicant Date

Signature of Applicant Date

Schedule "A" Legal Description

All that part of the Southwest 1/4 of the Northwest 1/4 of Section 1, Township 29 North Range 21 West, Washington County, Minnesota described as follows: Commencing at the Southwest corner of said Southwest 1/4 of the Northwest 1/4; thence North 01 degrees 31 minutes 43 seconds West (recorded as N 00 degrees 00' 46" W) along the West line of said Southwest 1/4 of the Northwest 1/4, a distance of 334.70 feet to the North line of the South 334.70 feet of said Southwest 1/4 of the Northwest 1/4, and the point of beginning of this description; thence continuing North 01 degrees 31 minutes 43 seconds West (recorded as N 00 degrees 00' 46" W), a distance of 494.71 feet; thence North 87 degrees 32 minutes 27 seconds East (recorded as N 89 degrees 03' 24" E) a distance of 618.20 feet to the West line of the East 695.22 feet of said Southwest 1/4 of the Northwest 1/4; thence South 01 degrees 19 minutes 29 seconds East, along said West line of the East 695.22 feet, a distance of 502.85 feet to the North line of the South 334.70 feet of said Southwest 1/4 of the Northwest 1/4; thence South 88 degrees 17 minutes 37 seconds West, along said North line of the South 334.70 feet, a distance of 616.33 feet to the point of beginning, together with an easement for roadway purposes over and across the North 60.00 feet of the South 334.70 feet which lies West of the East 695.22 feet of said Southwest 1/4 of the Northwest 1/4, excepting therefrom the North 209.00 feet of the South 639.40 feet of the West 417.42 feet of said Southwest 1/4 of the Northwest 1/4

SCHEDULE B

Variance Request Application
5577 Lake Elmo Avenue
PIN 01.029.21.23.0001
Owner: Steven Weber

Detailed Reason for Request:

Summary of Request.

Applicant property owner requests a partition of the existing 5.11 acre parcel into two new parcels, 2.27 and 2.84 acres in size, with one single family residential unit allowed on each parcel. All existing and intended future use would conform to the zoning requirements of R-1.

Practical Difficulties.

The applicants submits that the strict enforcement of the city code zoning restrictions in regard to the affected property would cause practical difficulties because of circumstances unique to the property under consideration. The requested use would be in keeping with the spirit and intent of the chapter. The applicant proposes to use the property in a reasonable manner not permitted by an official control. Namely, the applicant wished to use the property in a way not inconsistent with the dwelling unit density allowed under the comprehensive plan, and with dwelling density in conformity with the majority of the surrounding parcels. In short, the proposed usage if the variance were granted would be consistent with the surrounding lot sizes, shapes, density, and usage.

Unique Circumstances.

The existing parcel is very odd in its shape. It is unknown to applicant why the parcel was configured as it is. One of the members of the family of the original seller of the property around 1978 reports that it was shaped as it is to comply with a then existing 5 acre code requirement. At any rate, the parcel as it exists is a little over 5 acres and, if a map is oriented to the North, is in the shape of a backwards C or a horseshoe. The two ends of the horseshoe front onto Lake Elmo Avenue. On the South prong of the horseshoe there is an existing single family home, with a driveway crossing over a City easement allowing access to Lake Elmo Avenue. There is no other access. The north prong of the horseshoe is not developed. In the interior of the horseshoe shape there are two 1 acre parcels owned by a single property owner (one home on two one acre parcels owned by the occupant of the home). If one were traveling north on Lake Elmo Avenue, one would see the north portion of the parcel at issue, with a driveway and a single family home, then a neighbors parcel, with a driveway accessing two parcels, then the south portion of applicants parcel, without a driveway or access.

The existing configuration of the parcel is inconsistent with the surrounding lot sizes, shapes, density, and usage. The majority of surrounding lots are 1 to 2 acres in size, each with one single family home. Applicant proposes a new boundary line between the north and south portions of the existing parcel, allowing the north parcel to be developed with a single family residential unit, rendering both the existing and new parcel consistent with the surrounding parcels and use.

Character of the locality: The proposed densities of the site would be consistent with surrounding land use and would not alter the character of the locality.

The existing density of the parcels surrounding applicants parcel is in the range of 1 residential unit per one or two acres. Additionally, directly on the other side of Lake Elmo Avenue, in Discover Crossing, the residential lot sizes appear to be .75 acres.

The proposed partition would result in two new parcels, approximately 2.27 and 2.84 acres each, with each anticipated to contain one residential dwelling unit. The existing parcel makes contact with 8 other parcels (ignoring the City Easement to the South). 7 of these 8 parcels are smaller than the two new proposed parcels. The two parcels surrounded on three sides by applicant's lot, the ones on the interior of the "horseshoe," are each one acre in size. (lots 01-029-21-23-0006 and 0007). The two parcels to immediate north are 2 acres (01-029-21-23-0011) and 1 acre (01-029-21-23-0002). The three parcels to the south are 1 acre (01-029-21-23-0010), 1 acre (01-029-21-23-0009) and 1.2 acres (01-029-21-23-0005).

The proposed land use and zoning would be in substantial conformity with the policies goals and standards of the Comprehensive Plan

Future land use map for the City of Lake Elmo Comprehensive Plan, 2005-2030, shows the area designated as RAD - 0.45 DU/Acre. Petitioner understands this to mean a maximum dwelling unit density of .45 per acre. The proposed use and development is consistent as the new south parcel would contain one residence on 2.27 acres (0.44) and the north parcel would contain one residence on 2.84 acres (0.35).

The soil has been perk tested and the size of the proposed parcels and soil type allow for a suitable septic system.

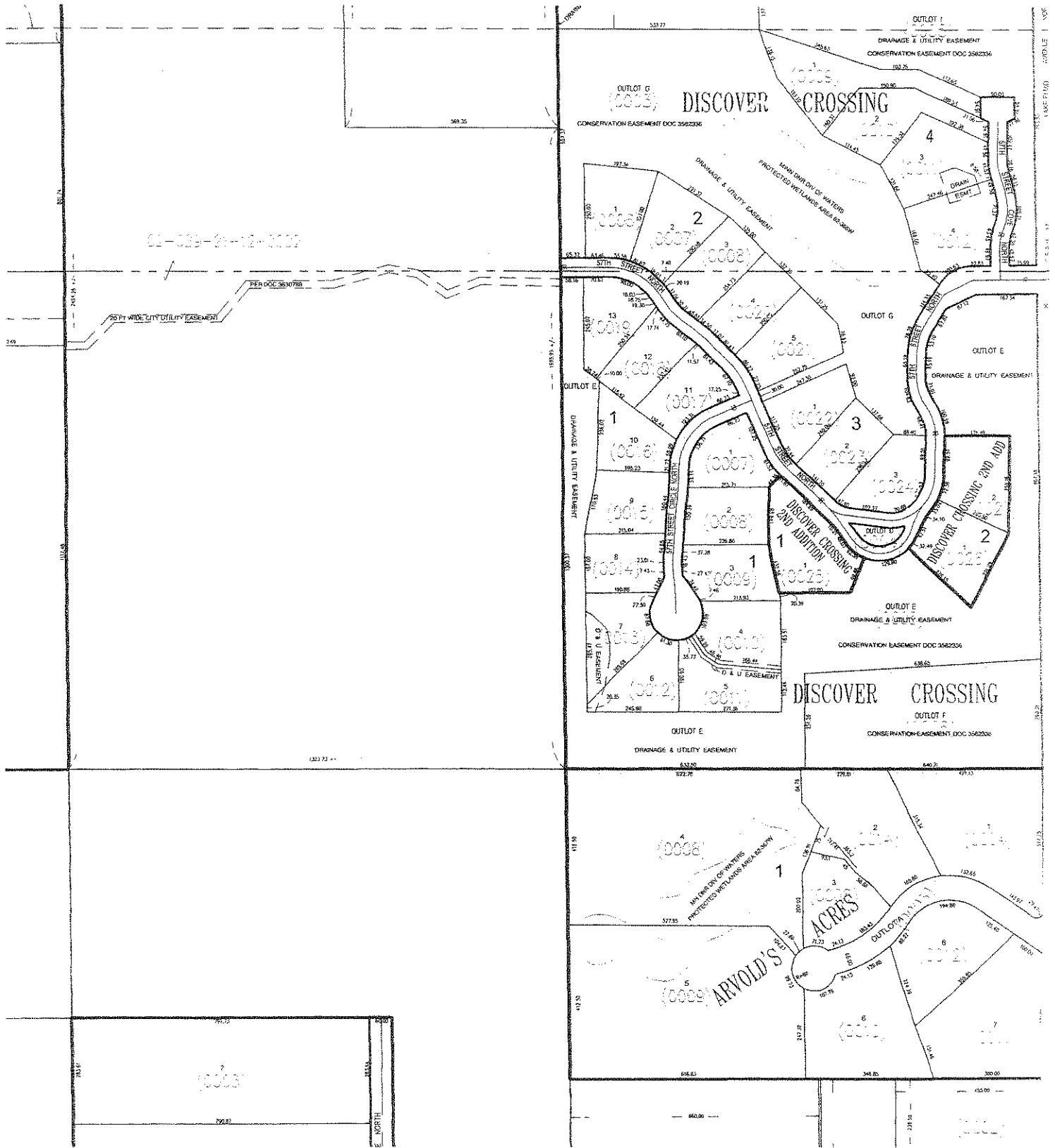
The proposed variance would have no impact on an adequate supply of light and air to adjacent properties.

The proposed use under a variance would not substantially increase the congestion of public streets.

The County will issue a permit for a new driveway for the proposed new north lot to access Lake Elmo Avenue. The County has not indicated any danger or hazard created by the new drive.

The County suggested that if feasible a driveway across the City Easement currently running on the south side of the south parcel would be preferable. The logistics of this appear difficult, but applicant is open to that suggestion if the City requires.

The proposed use under the variance would do nothing to diminish or impair property values in the neighborhood.



Washington County

PUBLIC WORKS DEPARTMENT
SURVEY AND LAND MANAGEMENT DIVISION

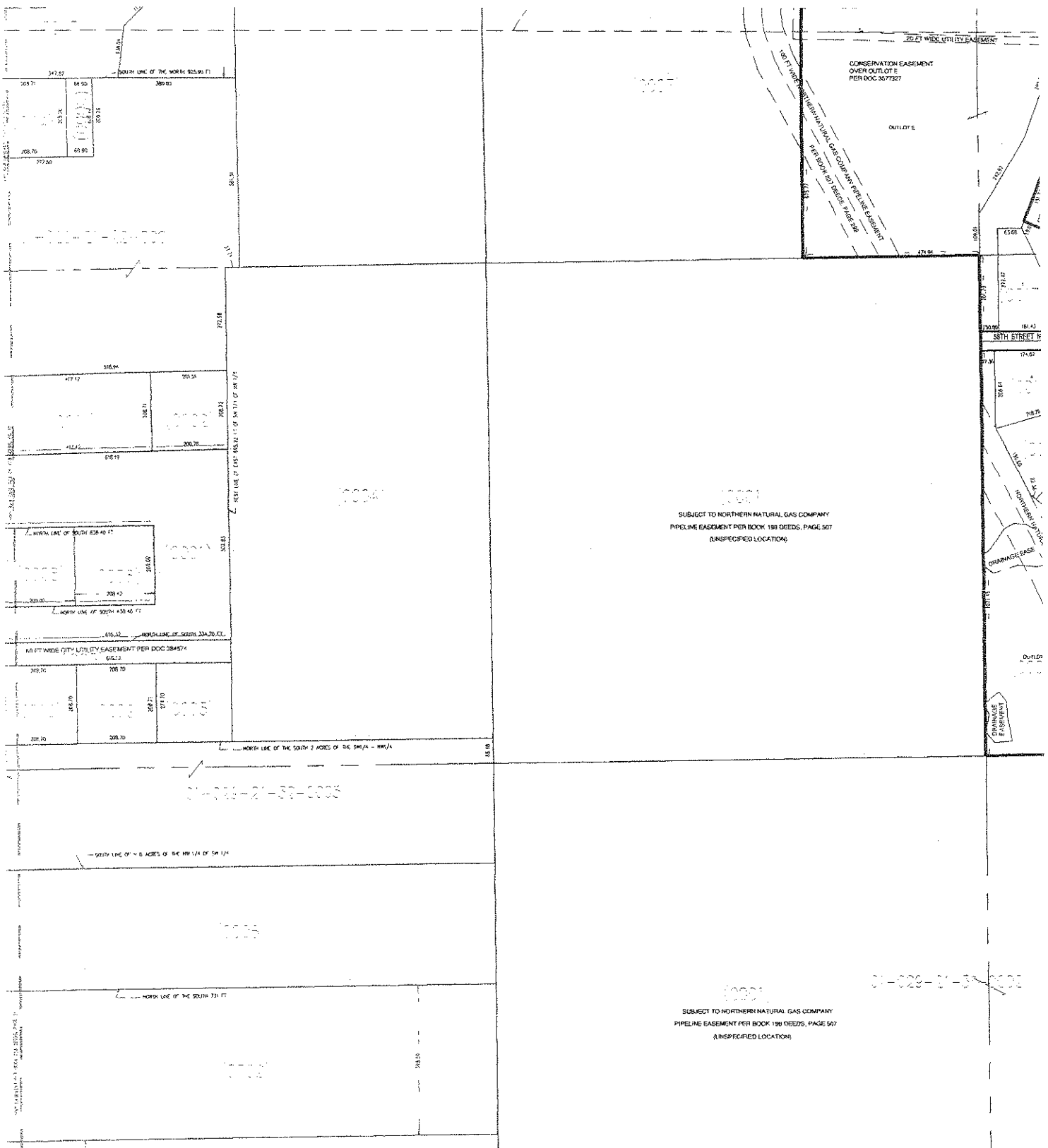
14849 62nd Street North, P.O. Box 6
Stillwater, Minnesota 55082-0006
(651) 430-6875
surveyor@co.washington.mn.us
www.co.washington.mn.us

LEGEND

- - - DNR PROTECTED WATERS
- - - DNR PROTECTED WETLAND
- - - DNR PROTECTED WATERCOURSE
- - - MUNICIPAL BOUNDARY
- - - PARK BOUNDARY



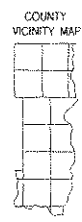
SCALE: 1 inch = 360 feet



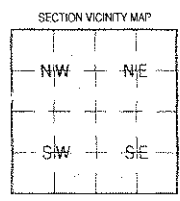
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SECTION-TOWNSHIP-RANGE INDEX

3503021	3603021	3103020
0202921	0602820	
1102921	1202921	0702920



LOCATION OF THIS MAP



PROPERTY IDENTIFICATION NUMBER FORMAT (GEOCODE)

SECTION NUMBER	TOWNSHIP NUMBER	RANGE NUMBER	QUARTER	SPECIFIC PARCELS
##	###	##	##	####

(0001) = LAST FOUR DIGITS OF PROPERTY IDENTIFICATION NUMBER

THIS DRAWING IS THE RESULT OF A COMPILATION AND REPRODUCTION OF LAND RECORDS AS THEY APPEAR IN VARIOUS WASHINGTON COUNTY OFFICES. WASHINGTON COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES.

MAP LAST UPDATED: February 14, 2011

NO ADDITIONAL CHANGES HAVE BEEN REPORTED TO DATE

DATE OF CONTOURS: April, 2000 DATE OF PHOTOGRAPHY: None

ADD

259.16

967.18

LAKE ELMO AVENUE NORTH

HWY R/W EASE PER BK 258 DEEDS, PG 45

Proposed New Driveway, etc 17'

417.42

618.19

(0002)

200.78

(B) [New Parcel 123,963 sq. ft. Approx 2.84 acres]

617.32

(A) New Boundary Line

NORTH LINE OF SOUTH 639.40 FT

200.77

(0001)

494.71

(E)

(0008)

(0006)

209.00

208.42

209.00

(C)

[New Parcel App 98,431 sq. ft. 2.27 acres]

302.07

417.42

NORTH LINE OF SOUTH 430.40 FT

93.07

NORTH LINE OF SOUTH 334.70 FT

60 FT WIDE CITY UTILITY EASEMENT PER DOC 384574

616.32

109.33

616.12

208.70

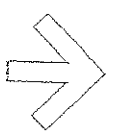
208.70

WEST LINE OF EAST 695.22 FT

OF SW 1/4 OF NW 1/4

01-029-21-23

(0004)



NORTH

Undivided Parcel is 01.029.21.23.0001

J). Proposed new boundary line

1). Approximate size of new North Parcel 123,963 sq. ft. (2.84 acres)

D). Proposed new driveway entering onto Lake Elmo Avenue North

E). Approximate location of existing entrance onto Lake Elmo Avenue North

Ed Eklin Septic System Design & Inspection LLC
2303 County Road F East
White Bear Lake, MN 55110
651.485.2300

November 7, 2011

Steven Weber
2626 E. 82nd St., Suite 105
Bloomington, MN 55425

Dear Steven:

At your request, a site evaluation was performed at the property located at 5577 Lake Elmo Ave. N., Lake Elmo, MN.

Since you propose to divide the lot into two parcels, I have established a sewage treatment area of at least 10,000 square feet on the north east part of the property.

It appears that a trench drainfield could be installed in the area and there is plenty of area for a possible house site.

This is a preliminary evaluation of the lot, a sewage treatment design and specific house plans will be needed before a building permit can be issued.

The proposed septic area must not be excavated, compacted or filled and must remain as it is.

This site evaluation must be reviewed and approved by Washington County Public Health.

If you have any questions or concerns, please feel free to call me. I would be glad to help.

Sincerely,

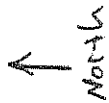


Ed Eklin

MPCA License #3321/Certification #C3268

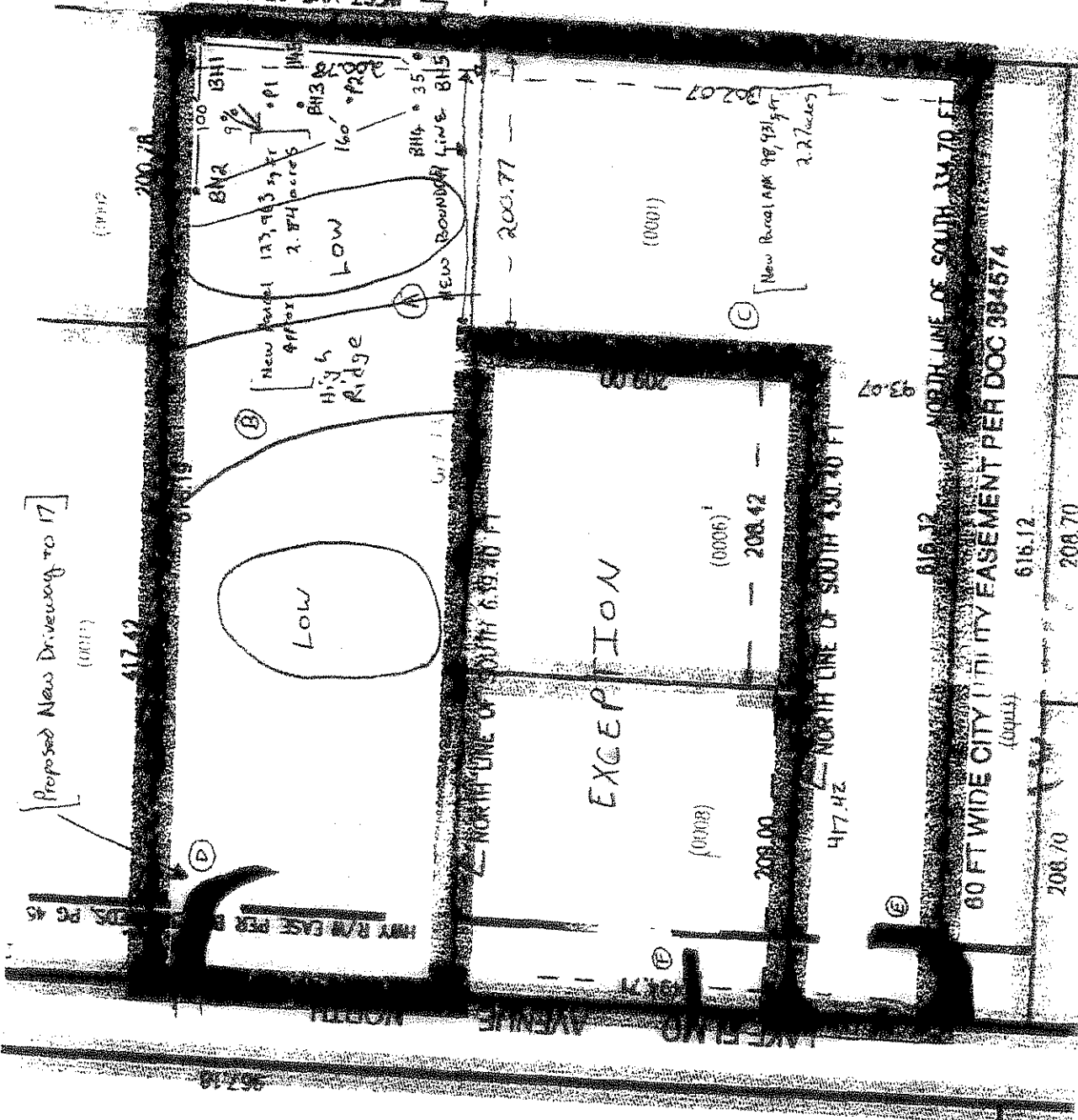
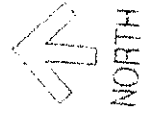
SEPTIC SYSTEM DESIGNS • PERCOLATION TESTS
SOIL BORINGS • SUB-DIVISION PLANNING

Steven Weber
 5577 Lake Elm Ave
 Lake Elmo
 1" = 100'
 verify septic location



Proposed Property Line

11 APR 21 23
 (0004)



- (A) is approximate size of New South Parcel
- (B) is Proposed new entrance to Lake Elmo Avenue from North Parcel
- (C) is approximate location of existing entrance to Lake Elmo Avenue
- (D) is approximate location of existing entrance
- (E) is approximate location of existing entrance
- (F) is approximate location of existing entrance

END ADDR

102

undivided parcel is 01-029-21-23-0001
 this proposed new boundary line
 is approximate size of New North Parcel (highlighted in yellow)



Public Works Department

Donald J. Theisen, P.E.
Director

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

November 10, 2011

James W. Delaplain
The Lowry-Rose Building
2124 Dupont Avenue South
Minneapolis, MN 55405

**STEVEN WEBER RESIDENTIAL ACCESS REQUEST TO COUNTY STATE AID HIGHWAY 17 (LAKE ELMO AVENUE) CITY OF LAKE ELMO MINOR SUBDIVISION CONCEPT
PID 01-029-21-23-0004**

Dear Mr. Delaplain:

Washington County has reviewed the residential driveway location along Lake Elmo Avenue for a proposed new parcel of record based on a concept plan for a minor subdivision of a 5 acre parcel of property owned by Mr. Steven Weber, in the City of Lake Elmo.

Typically, the county process in cities within Washington County is to respond to formal applications submitted to the local government since we do not have land use authority. Also, when a subdivision is proposed, it is common practice to seek alternative access locations to local streets within a municipality. If those alternatives are not feasible, access to a county highway would be permitted. Alternatives in this case would be to consider a shared driveway and the feasibility of access to the 60 Ft wide City Utility Easement shown on the plan that could be improved to provide local access.

Finally, as you are aware, Washington County requires driveway permits for access to a county road. In this case, once the property owner has gone through the appropriate review and approval process at the local level, the minor subdivision has been recorded and a permit application is filed with our office, an access permit can be issued.

Please feel free to give me a call any questions at 651-430-4313 or email me at carol.hanson@co.washington.mn.us.

Sincerely,

A handwritten signature in cursive script that reads "Carol Hanson".

Carol Hanson
Office Specialist

c: Joe Gustafson, Washington County Transportation Engineer
Ann Pung-Terwedo, Washington County Senior Planner
Kyle Klatt - City of Lake Elmo Community Development Director

Location Map - 5577 Lake Elmo Ave

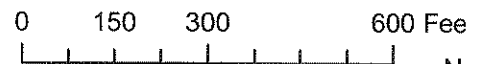


5577 Lake Elmo Ave N Access Analysis



Legend

- Existing Access Point
- Proposed Access Point
- Parcel Boundary
- 200' Distance Between Access Points



City of Lake Elmo
2/23/2012
Data Source:
Washington County, MN



MEMORANDUM

FOCUS ENGINEERING, inc.

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

Date: February 22, 2012

To: Kyle Klatt, Lake Elmo Planning Director

Re: City of Lake Elmo
5577 Lake Elmo Avenue
Lot Split Variance

Cc: Ryan Stempski, P.E.

From: Jack Griffin, P.E., City Engineer

We have received the Variance Request Development Application for 5577 Lake Elmo Avenue North; PIN 01.029.21.23.0001. The following items were received:

- Application with Schedule A [Legal Description] and Schedule B [Request Narrative].
- Plat Drawing; NTS. PIN 01.029.21.23.0001.
- Sketch drawing showing proposed Lot Split.
- Septic System preliminary site review letter by Ed Elkin Septic System Design, dated 11-07-2011.
- Washington County Review Letter dated 11-10-2011.

The engineering department continues to find that this Lot Split proposal and Variance Application remains inconsistent with the City's Comprehensive Plan, including the Transportation Plan, and therefore is recommending denial of this request.

Coordinated, Efficient Infrastructure: The Comprehensive Plan has guided the zoning in this area to allow development at 1 unit per 10 acres unless completed as part of a cluster type development with supporting infrastructure. When development is allowed to occur at higher densities, it is important to require the development to occur through a *coordinated approach* to allow for adequate and efficient supporting infrastructure. Adequate and efficient infrastructure will not occur if parcels are allowed lot splits, completed on an independent basis. For this application, the proposed infrastructure is not consistent with the requested higher density development (1 unit per 2.5 acres). Surrounding development that allows higher density (i.e. Discover Crossing) was required to plan infrastructure differently to serve individual properties.

The Transportation Situation: The Transportation issue relates to Access Management. Access management is the balance between corridor mobility and property access. Increased access results in a decrease in mobility and a decrease in safety. The City is responsible for creating and implementing Access Management policies as part of its Transportation Plan. While both the State and County own and operate roadways within the City *they cannot deny* access to local properties. They rely on the City

or local authority to manage the proper access spacing along State and County roadways through its land use controls.

In the vicinity of the proposed private driveway, there are currently 10 existing private driveways and two intersecting local roads. In accordance with the City Transportation Plan, private driveway access to Lake Elmo Avenue (A Minor Arterial Road) is to be prohibited. Lake Elmo Avenue is a County owned roadway that supports the City's transportation needs including mobility, safety, efficiency, and the local economy. This roadway is classified as an "A Minor Arterial" in the City's Transportation Plan. Minor Arterial roads are one step higher than collector roads in the Transportation hierarchy. They are intended to prioritize mobility, efficiency and safety over property access. Collector roads supplement the arterial roadway system by providing access between neighborhoods and to the arterial system. Local Streets have the primary purpose to provide direct access to local properties within neighborhoods. Therefore future development along this corridor needs to require a collector or local roadway to be constructed from Lake Elmo Avenue into the developed property. The local property access may then extend to this new road. As traffic increases along this corridor and other access points are needed, future corrective improvements may be required to actually remove the number of private driveways in this area.

Access Spacing Guidelines from Transportation Plan:

- Principal Arterials: No direct access to local properties. Access from Minor Arterials only.
- Minor Arterials (i.e. Lake Elmo Avenue): No direct access to local properties. ¼ Mile spacing between Collector Roadways. 1/8 Mile spacing between residential street intersections.
- Collector Roadways No direct access to local properties. ¼ Mile spacing between Collector Roadways. 1/8 Mile spacing between residential street intersections.

Water and Sewer Treatment Systems: In a similar manner, the extension of municipal water service needs to be planned in an efficient and cost effective way. Typically watermain is expanded along public roadway corridors to avoid easement acquisition costs. When higher density development is allowed without a planned supporting road network, the future expansion of other city services to the area results in significantly elevated costs. Future water system hookups become more costly and prohibitive for property owners due to easement acquisition costs and/or longer water services.

Higher density development places greater pressure on the private infrastructure in a rural area, such as private wells and septic systems. With greater densities, the probability of failure for private wells and/or septic systems is increased. When septic systems fail, the available land needed for replacement systems becomes limited.