

City of Lake Elmo

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NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, February 12, 2007, at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Minutes
 - a. December 11, 2006
 - b. January 8, 2007
4. PUBLIC HEARING: Variances for Septic ~ 11225 31st Street North
5. City Council Updates
 - a. January 20 – Village Area Infrastructure Workshop, 9 a.m.
 - b. January 23 – Village Area Financing, 6 p.m.
 - c. February 1 – Joint Workshop City Council & Planning Commission
 - d. February 6 – Concept Approved for WW
 - e. February 6 – Moratorium on Signs - Billboards
 - f. February 13 – Joint Workshop City Council & Planning Commission Work Session
6. Adjourn

**City of Lake Elmo
Planning Commission Meeting
Minutes of December 11, 2006**

Vice Chairman Ptacek called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Van Zandt, Deziel, Lyzenga, Pelletier, Fliflet, Schneider, Armstrong, and (7:05) McGinnis. STAFF: Interim Administrator Bouthilet, Assistant Planner Matzek, and Recording Secretary Anez. ALSO PRESENT: Special Projects Director Susan Hoyt, Mayor D. Johnston and Councilmember Johnson.

Agenda

M/S/P, Armstrong/Van Zandt to accept the Agenda as presented. Vote: 8:0.

Minutes

M/S/P, Lyzenga/Deziel to accept the Minutes of November 27, 2006 as presented. Vote: 7:0:1.
Abstain: Pelletier.

Public Hearing: CUP Amendment~Oakdale Gun Club

The Assistant Planner said the gun club sits on 62 acres with an extensive history since 1965. Previous amendments to the CUP included a caretaker house and an accessory structure. The applicants wish now to add an accessory building for storage.

Schneider asked about the overhang size being exceptionally large.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:05 P.M.

A letter from Knappogue Farm which was signed by Jackie McNamara was read into the record by Commissioner Pelletier and will be made a part of these minutes.

Richard McNamara, Knappogue Farm

Mr. McNamara said he was not present to complain about the club or the new building but addressed the sound especially in summer months. He said they cannot hear themselves talk at their farm. He would like a barrier constructed or time constraints for operation and without everybody shooting all at once. He wondered if there are more people at the gun club these days as the past year has been really loud. He said they have noticed it more since the Gun Club relocated the driveway. He said it really is a health and safety issue with all that noise. He invited anyone to walk in the back portion of their forty acres and they would not hear themselves think.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:09 P.M.

Jerome Marah, Director of the Gun Club

Mr. Marah said he has been with the club since 1975 and held this position since 1976. He said the club has done extensive work for sound reduction. They contract for independent sound studies. Every time they do a sound study, they perform it on the extreme southern boundary for those neighbors. The contractors have been unable to record 70db leaving the site. They are generally 65-68 db depending on the wind. The shooting ranges are under cover. They have almost completely enclosed one of the gun ranges. They are working to enclose other ranges too to keep noise within boundaries. They have looked at planting more trees as well, but trees only deafen sound a bit.

Mr. Marah said that traffic in and out of the driveway was a concern for the neighbors across the street so the club relocated their driveway further to the west, making it safer. He said the overhang for the storage building will be for a canopy for the rain.

Commissioner Pelletier asked the hours of operation.

Mr. Marah said they are open to the public from 8 a.m. to 4 p.m. On November 19, 2006, they closed until the 1st Saturday in June 2007. The range is open each year on Saturday and Sunday until mid-October and then open to the public every day after that from 8 to 4. Forty-five minutes before sunset, club members must stop shooting. Timetables are taken from the DNR hunting regulation book. Mr. Marah said they once had complaints about shooting at sunrise but that was goose hunters elsewhere.

Assistant Planner Matzek said Building Official/Code Enforcement Officer Jim McNamara went out to the site after a verbal complaint was received last week followed by the letter from Knappogue Farm, and after inspecting the site said there were no violations of the CUP.

M/S/P, Armstrong/Schneider to recommend approval of an Amendment to the Conditional Use Permit of the Oakdale Gun Club for construction of a 36 X 60 accessory structure for storage.
Vote: 9:0.

PUBLIC HEARING: Rezoning to Village Residential

Assistant Planner Matzek explained that this rezoning of the Village Area will be responsive to the Village Area Master Plan. The specifics of that plan are not yet finished so specifics as to use and density are not yet available. The proposal presented tonight is flexible enough to allow for the completion and implementation of the Village Area Master Plan.

The Assistant Planner also noted that the city has requested an extension from the Met Council because the zoning districts and map are required to be submitted by January 16, 2007, and it will be difficult to meet that deadline given the loss of key staff members. The City Council will review the extension request at their next meeting.

Chairman Ptacek said he spoke with the City Attorney and staff and both recommendations are to request an extension of our deadline.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:24 P.M.

Jose Chaves, 3505 Kelvin Avenue North

Mr. Chaves said his property is south of Hamlet on Sunfish Lake, next to Schiltgen Farm, and indicated on the map that it was just west of the Village Area and adjacent to Sunfish Lake. He said the parcel is landlocked. He would like to find road access for that property. He has tried for a long time and there is no access. He hopes he will learn how this plan will affect him and his access. Preliminary surveying estimates say it is buildable and meets setbacks. He was assured when Hamlet on Sunfish was constructed that the city would not allow him to become landlocked but that is what happened.

Peter Coyle, Larkin and Hoffman

Mr. Coyle he said he is attending the meeting on behalf of the Sreatons whose affected land is on the northeast tip of the Village Area at Highway 5 and Manning. He asked if the substance of

the Village Plan is still being created. He asked if a Land Use Map was ready. With respect to Village Residential zoning, he asked if 3 units per acre minimum will be required. He asked if allocations of the density were still to be determined. He questioned staff's schedule and why the public hearing is being conducted if we don't have the substance of the Village Plan tonight. He asked if this hearing was driven by deadlines of Met Council and asked when will there be another hearing.

Commissioner Ptacek explained that there have been delays due to staffing resources. The city does not have an exact date for the next public hearing.

Assistant Planner Matzek said it will be renoticed in the future. She said she would like City Attorney Filla at the next public hearing.

Todd Williams, Old Village Resident

Mr. Williams explained his extensive history as a councilmember and commissioner for the city, and said he is very familiar with this concept for the Village Area. He has been to all the public meetings and the one issue of most concern is the total number of units. He said he understands PUDs and the need for flexibility but he wants to know how many total houses will be in the Village Area. Normally, the number of units would not be given, but a density. There is an escape clause written into this code that reads, "Unless part of a PUD" which would put no limit on the number of units. He said he thinks it should be corrected. The Comp Plan mentions a number of units to be accommodated in the Old Village. This code will be a matter of law when it is passed and it is important for it to be clarified and pinned down better than it is.

The Commission agreed those points were well taken.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:35 P.M.

Commissioner Deziel said the city does want PUDs.

Commissioner Lyzenga said she would like to clarify that tonight we are not designing the Village area but going through the formal process of reclassification.

Assistant Planner Matzek clarified that this rezoning is tied to the Village Plan. This is the connecting piece and not just a name change. She explained that existing homes will not have to be torn down if they do not meet new setbacks.

Susan Hoyt, Project Director for Village Master Plan

Ms. Hoyt introduced herself and said she is here to learn as well. She said that the PUDs brought forward in the future will develop criteria for the number of homes and even for home designs. This is a kind of transition zone and transition discussion.

Commissioner Fliflet asked if there will be a public hearing for Village Master Plan details.

Ms. Hoyt said she believes the Master Plan will define the area with clear criteria. She said she believed that property owners would like to know what they could do in some detail, and some of that is not available tonight.

Commissioner Armstrong said he would like to pass it quickly because of the Met Council. He said that last time the city requested an extension, a wastewater impact fee was also given. He

said the Planning Commission has been left out of the loop with regard to the Village Plan. The code before the Commission is pretty generic and little to be afraid of.

M/S/P, Armstrong/Fliflet to amend 3A, Uses permitted in VR by Conditional Use Permit in front of townhouse add single family detached. Vote: 9:0.

M/S/P, Armstrong/Deziel Amend 2A under VR to read, "One family detached dwellings, one unit per 20 nominal acres." Vote: 9:0.

Commissioner Armstrong said that in and of itself this code is harmless, the Commission will have the right to see PUD Plans as they are submitted, and judge them as they come in. He said this code is vague but it needs to be at this point. He is comfortable with the text now.

Commissioner Pelletier asked if there will be another opportunity to speak for residents at some point.

Interim Administrator Bouthilet said there will be public hearings for specific design standards after they become available.

Assistant Planner Matzek said that CUPs and PUDs will also require public hearings.

Commissioner Armstrong said he would like the Planning Commission to create some PUD guidelines so applicants know what would the City would like to see: setbacks to existing homes, landscaping, more stringent buffering, etc. He said he would like a clean draft after changes have been implemented into this draft.

Interim Administrator Bouthilet said with all the public hearings for all the other zones, we cannot meet the January 8 meeting deadline.

Commissioner Lyzenga said if we cannot meet the deadline, she would rather the Commission be more thoughtful in their work.

M/S/P, Armstrong/Van Zandt, to table VR zoning text for a fresh draft until a future date uncertain. Vote: 9:0.

Variances ~ Millers on Bennett Avenue

The Assistant Planner said the applicants for this variance withdrew their application, and they plan to have a meeting with staff after the holidays.

Zoning Districts

Commissioner Pelletier asked about General Business zoning district allowable uses such as cafes and restaurants limited to full table service. She would like a coffee shop without full service as well.

Commissioner Lyzenga thought it would need to be incidental to something like a bakery.

Commissioner Van Zandt said we have to get more creative or we are not going to have a village like the City would want to claim. The City needs to have something more than just the Lake Elmo Inn.

Commissioner Ptacek suggested the Commission either propose a change or ask a question that can be answered.

Commissioner Pelletier asked if the Assistant Planner can bring back proposed text for GB coffee shops.

M/S/P, Deziel/Lyzenga to allow coffee shops as a permitted use in the General Business Zoning District. Vote: 9:0.

Commissioner Armstrong said there are blanks in some districts with regard to impervious surface percentages.

Assistant Planner Matzek will come back with Impervious Surface Percentages for each Zoning District.

Commissioner Van Zandt left the table at 8:38 p.m. and returned at 8:40 p.m.

The Assistant Planner was asked to bring NC back to the next meeting with regard to average lot sizes in neighborhoods.

Commissioner Armstrong distributed a list of Amendments to the various zoning districts and they are attached. The Commission reviewed them.

M/S/P, Armstrong/Van Zandt to recommend approval of the list of distributed zoning district Amendments with the exception of Item 14. Vote: 9:0.

2007 Planning Commission Meeting Schedule

M/S/P, Deziel/McGinnis to adopt the 2007 Planning Commission Meeting Schedule. Vote: 9:0.

City Council Updates

Assistant Planner Matzek informed the Commission the Eagle Point Business Park 7th Addition was approved at the last City Council meeting.

Adjourned at 9:00 p.m.

Respectfully submitted,

Kimberly Anez
Recording Secretary

Amendments to 12/11/06 Zoning Districts Draft

1. AG zone, Permitted uses, add the following from current code:
 - e. One family detached dwellings, one unit per nominal 40 acres.
 - f. Farm buildings and farm drainage and irrigation systems.
2. AG zone, Permitted uses, amend item d. as follows to reflect current code:
Commercial recreation of a rural nature, including outdoor target ranges.
3. AG zone, Conditional uses, item g. needs additional standards for Non-Agricultural Low Impact Uses as shown in current code. (currently Section 300.07, Subd. 4(a)6). So amend item g. as follows: Non-agricultural Low Impact Uses as defined and regulated by ~~this~~ section 5 below.
Then add in the Non-Ag Low Impact standards as section 5 right after the section 4. Minimum District Requirements.
4. AG zone, Conditional uses, must add item h. for Outdoor Social Events(right term?) as it was passed recently.
5. AG zone, Accessory Uses, reletter item c. to b.
6. AG zone, renumber Permitted Uses as section 2 and Conditional Uses as 3.
7. RR zone, Permitted Uses, amend item a. as follows: a. One family detached residential dwellings, one unit per nominal 10 acres;
8. RR zone, Accessory Uses, add item b. as follows: b. Home Occupations as regulated by City Code.
9. RR zone renumber paragraphs following 1. Purpose.
10. R-2 zone, Accessory Uses, amend item b. as follows: b. Home Occupations as regulated by City Code.
11. R-2 zone, under Minimum District Requirements, the Maximum Impervious Surface Coverage is blank, as it is in current code. Delete or add percentage?
12. NC zone, Permitted Uses, amend item a. as follows: a. One family detached dwellings, one unit per buildable tax parcel of record or combination of tax parcels of record as of January 1, 2007.
13. NC zone, Accessory Uses, amend item b. as follows: b. Home Occupations as regulated by City Code.

14. NC zone, Minimum District Requirements, we should add a minimum amount to the lot size and setbacks since the adjacency average may be very low in some cases. For example, under lot size it could read: 18,500 square feet, or adjacency averaged, whichever is less, but no less than 12,000 square feet.
15. FSD zone, Permitted Uses, item a. amend as follows: a. One family detached ~~residential~~ dwellings, one unit per 20 nominal acres.
16. FSD zone, Permitted Uses, item b. amend as follows: Commercial agriculture
17. FSD zone, Accessory Uses, amend item b. as follows: b. Home Occupations as regulated by City Code.
18. SRD3.5 zone, Permitted Uses, delete item a. ~~Commercial Agriculture~~, as this SRD3.5 zone would only be applied to a property after it has an approved PUD plan for development and therefore would no longer be in the FSD zone where Agriculture would have been permitted prior to development.
19. SRD3.5 zone, Permitted Uses, item b. amended as follows: One Single family detached residential dwellings, ~~homes on parcels of at least 20 acres~~ one unit per 20 nominal acres.
20. SRD3.5 zone, Minimum District Requirements, delete all setback standards for animal buildings, etc. based on same reason as paragraph 18 above.
21. RE zone, Accessory Uses, amend item b. as follows: b. Home Occupations as regulated by City Code.
22. RE zone, Minimum District Requirements, this draft shows deletion of the Septic, Minimum Width of Primary Dwelling and the Footings standards, yet we still have them in the AG, RR, and R-2 zones. If these requirements are adequately covered elsewhere in the code then we should delete in all 4 zones.

**City of Lake Elmo
Planning Commission Meeting
January 8, 2007**

Vice Chairman Ptacek called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Lyzenga, Armstrong, Van Zandt, Deziel, Pelletier, Schneider, McGinnis, Fliflet, Roth. STAFF PRESENT: Special Projects Director Hoyt, City Planner Gozola, Interim Administrator T. Bouthilet, Assistant Planner Matzek, and Recording Secretary Anez. ALSO PRESENT: Councilmember Johnson.

Election of Officers

Commissioner Roth nominated Commissioner Pelletier for Chairman of the Planning Commission, seconded by Commissioner Deziel. Commissioner Armstrong nominated Commissioner Ptacek for Chairman of the Planning Commission, seconded by Commissioner Schneider. No other nominations were forthcoming. Vote for Pelletier: 3, Roth, Fliflet, and Pelletier; vote for Ptacek: 5:0:1 Lyzenga, Armstrong, Schneider, Van Zandt, and Deziel; Ptacek abstained out of modesty.

Commissioner Armstrong nominated Commissioner Pelletier for Vice-Chair, seconded by Commissioner Schneider. No other nominations were forthcoming. Vote: 9:0.

Commissioner Pelletier nominated Commissioner Roth for Secretary, seconded by Commissioner Deziel. No other nominations were forthcoming. Vote: 8:0:1, Roth abstained out of modesty.

Agenda

Remove Minutes for November 13 and December 11. Add to 4.c. Introduction of the Planner. Add distribution of the most recent Met Council Systems Statement to 6.d.

M/S/P, Fliflet/Schneider to approve the Agenda as amended. Vote: 9:0.

Introduction

Interim Administrator T. Bouthilet introduced Ben Gozola as our new Consulting City Planner from the firm of Schoell Madson. Ben said his experience was primarily with the City of Minnetrista. Minnetrista dealt with similar issues with the Metropolitan Council.

PUBLIC HEARING: Open Space Preservation Concept Plan and Conditional Use Permit WHISTLING VALLEY WEST (aka Phase III)

Assistant Planner Matzek introduced the application for eight residential lots and three outlots on approximately 15 acres adjacent to and west of existing Whistling Valley I. She said the existing home on the site will be removed as a condition of approval of this subdivision. She noted that this application for WHISTLING VALLEY WEST could be viewed in two different ways. If viewed as a stand alone application, then a 4/5 vote of City Council will be required for deviations from the OP Ordinance. The plan has no Open Spaces over 10 acres in size and the code requires 60% of Open Spaces be 10 acres or larger, 50% of buildable area is not preserved, and there are no trails within the plan. Assistant Planner Matzek said that WHISTLING VALLEY I and II created excess Open Space and trails. They also oversized their septic system, perhaps in anticipation of this addition. If viewed as a third phase and part of WHISTLING VALLEY as a whole, the application would average Open Space, trail length, and other provisions of the OP Ordinance. In that scenario additional OP requirements could be met, but at

least one deviation and a 4/5 vote of the City Council would still be needed - 60 percent of the Open Space would not be 10 acres or larger. She said staff recommends viewing this application as an independent, stand alone project, and asked for direction on how the Commission wished to view it.

Commissioner Deziel said he does not consider it a stand alone OP project because it lacks the qualities that define Open Space Preservation developments.

City Planner Gozola said an application like this is not a standard OP application for a number of reasons. The developer is proposing to apply the new OP ordinance with a higher density across the proposed development and the existing Whistling Valley I and II. He said the staff recommendation is to look at it as a unique stand alone project. He said it is not a legal precedent, and we don't have to worry about another developer doing something similar in the future. This is a unique application whether it is unique on its own or a unique set of circumstances. Under a super majority vote, the Findings could include that this development preserves more land in the existing developments to the east, objectives of the OP Ordinance and Comp Plan are met, and by doing so the Commission could then differentiate it from anything in the future.

Commissioner Armstrong clarified that the application meets the 50% open space requirements if averaged over all three phases.

Commissioner Pelletier asked if this parcel was in the long-term plan to be included in this development.

Assistant Planner Matzek said that she had heard this phase may have been verbally discussed in the past, but it was not found documented in Whistling Valley I or II.

Bob Close, Close Architects

Mr. Close said he worked with Dave Sorenson on all three phases of WHISTLING VALLEY. Open Space and trail length exceeded the requirements in I and II. Phases I and II addressed connectivity and the Lake Elmo Park Reserve. Phase III was addressed in the original filing with the county. The Forsythe land is particularly unique and a minimally accessible piece of ground due to topography and the creek bed. He said the lay of the land makes it difficult to exit the lot. Streets were laid out for connectivity between I and II and the same kind of connectivity was designed between I and III. Two streets in Phase I stub to the east and another stubs to the west toward the Forsythe property which is something the city wanted. All three parcels were always part of the design.

Dave Sorenson, Whistling Valley West, LLC, Developer

Mr. Sorenson said when first starting WHISTLING VALLEY they tried to look at the highest and best use of the land. They felt passionate about the niche created there and looked forward to extending it on. Originally, the owners of the now 2nd Addition were not ready to move on from their horse business and the owners of the proposed 3rd Addition were in discussion with the developers to some day add his parcel. Original covenants and documents were re-filed and recorded within three months to include those lands to the east and to the west as expansion lands. Sewer extensions and elevations where streets terminated were all designed with the plan of incorporating those lands and careful thought went into all of the plans.

Assistant Planner Matzek said the property to the south requires 200 feet of buffer setback and
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the most southerly lot within the proposed plan does not meet that requirement.

Mr. Sorenson said they can shift the lot lines northward to meet the required setback to the south. It is a densely forested site and surveyors marked trees over eight inches and then clumped woodlands. A couple of the lots are on the smaller side when compared with the lots within Phases I and II due to contours of the road. There is a large stand of pines east to west and the land slopes north to south.

Commissioner Schneider asked about surface water impact to the south.

Julie Johnson

Ms. Johnson said there is a dry creek that sometimes fills with water in the spring and with heavy rains. She lives in the house to the south.

Mr. Sorenson said the Johnsons are actually higher in elevation than the subject property.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:39 P.M.

James Kaufhold

Mr. Kaufhold said that at the public hearing for WHISTLING VALLEY 2ND ADDITION, they brought up some issues. His son owns the ten acres to the southeast of Phase II. The developer agreed to do some things and he didn't do them. The berm was to be 8 to 10 feet high because of the road design so headlights would not be shining into his son's home. The developer would keep the road down on the other side and people would not see into his son's yard unless on they were on the 2nd or 3rd floor of their homes. After development, the berm is higher than they said it would be but somehow between the public hearing and the final plat approval, they raised the five lots to the same height as the berm so now these people are sitting on top of a hill overlooking his son's property. Mr. Kaufhold said that he and his son fool around with old tractors and they play in the field and they make noise. The developer agreed to do these things but that is not what happened. He said he and his son are changing his property now with a permit from VBWD. The water used to go where the WHISTLING VALLEY drainfield is, and now the water sits on it because of the berm. He doesn't think that is right and he said he doesn't know how the developer got that through. In front it shows that they were supposed to put type 4 erosion control blankets on it. They did not put the blankets on the berm, they left caterpillar tracks on it, and threw some seed on it. The north side of the berm is fine. On the other side, the silt fence has dirt piled on it. He said that the City Planner, Engineer and Building Inspector had been out to the site four times two years ago. He was assured by staff that the city was holding back money to insure that the developers were going to do it. He does not know if this developer is really going to do what he agreed to. Mr. Kaufhold stated Phase III does not have enough acres. He said he does not know how the developer would get this approved. Mr. Kaufhold said he lives in Tablyn Park and so far his well is good. He believes no new development in Lake Elmo should have a well because it is going to be polluted. He said he thinks they should have city water if they are going to develop it. Concern was expressed regarding turning around in cul-de-sacs and fire truck accessibility.

Neil Krueger

Mr. Krueger said he knows a lot of work went into the Open Space Ordinance and many people feel it is too liberal today. The city should enforce the 10 acre parcel size for Open Spaces. He supports the staff recommendation. He lives across from an OP project that was originally 30 acres to which they later added some acreage. He said it was not the best use of that property.

Julie Johnson

Ms. Johnson lives south of the Forsythe parcel. She asked if the dead end road would be constructed right away and if it was 100 feet from the property line. She asked if they would be changing the landscaping of the land. She said she is concerned for water flowing into the gully.

Mr. Sorenson said there would be an easement to the city for a potential future road as he understands it. He said the intent of the proposed ponds is to pick up water from these homes. He said they will not be changing the creek.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:50 P.M.

Chairman Ptacek said pad elevations relative to the berm would be dealt with by the City Engineer or administration. He said that Valley Branch Watershed District is in charge of water flow.

Interim Administrator T. Bouthilet said Mr. Kaufhold's concerns were previously being handled by former Administrator Rafferty. Interim Administrator T. Bouthilet will work with the resident to get some resolution to his concerns.

Chairman Ptacek said that Letters of Credit can be used to assure things are done to city satisfaction. He asked Interim Administrator T. Bouthilet to get answers for Mr. Kaufhold with regard to pad elevations, height of berm at the silt fence, and erosion control.

Commissioner Armstrong said the only constant about the OP Ordinance is change. When first passed it was 6/20 acres then it was 10/20 acres if you preserved a barn. Then it became a 20 acre minimum until it was determined that those developments were not well managed. Then it was much higher density and then density dropped to 16 units per 40 acres. Now it is at 18 per 40 acres to meet Met Council standards. He said in this case they are combining additional land onto existing projects but all original projects were already built at 8 lots per 20 acres. Some of the interim projects over the years might have difficulty trying to increase density. Using this as a precedent would mean that only four or so unfinished developments currently in the city might qualify for this sort of application. He said he doesn't see a problem with this one because it has been a short period of time since these other two phases were created. He sees no reason to disallow this project. In order to meet Met Council criteria, he has no problem with their method of approach.

Commissioner Fliflet said she agreed in theory but struggles with allowing the tack on of land. She said this a special circumstance, it is a good use of the land, and the existing development isn't finished yet. She suggested they add trails or possibly redesign and remove one lot to increase overall lot size.

Commissioner Lyzenga said she doesn't have a problem in principle but has a problem with the scale of homes on those lots. She suggested smaller homes or fewer lots. Homes are kind of tight together in the other two phases but they are in a grandiose landscape.

Planner Gozola said the underlying issue is to allow this development to move forward as a fifteen acre development. From there the applicant can make some modifications.

M/S/P, Armstrong/Van Zandt to recommend that the approach of allowing 15 acres in

WHISTLING VALLEY WEST be combined and considered with Phases I and II for this application and move the project forward.

Commissioner Armstrong said he disagreed with the Planner to treat this as a stand alone project because there are many parcels of that size in the city. He added that this development is not finished yet.

Commissioner Ptacek said the applicant did give us extra trails and Open Space in the other phases with some plan for the future.

Commissioner Deziel said Phase III is generally similar. It fits together overall. Separated it is not what an OP development is about and he could not approve it as a stand alone project.

Vote: 9:0.

Commissioner Deziel asked for the street design to be forwarded to the City Engineer. He said that the applicant indicated to the neighbor it would not be installed right away and that may be a conflict.

Commissioner Armstrong said Cardinal Ridge and Parkview had to build their road to the boundary of their properties.

Planner Gozola said the Concept Plan is the opportunity to give your comments and suggestions, to express concerns about the east-west road and have the City Engineer look at location for that road and the scale of the homes.

M/S/P, Roth/Armstrong to recommend approval of the OP Concept Plan for WHISTLING VALLEY WEST according to plans in the file and report dated December 19, subject to the Engineer's recommendations, cohesiveness with Phases I and II, and integrating look and feel with those other two phases. (Schneider/Deziel amended) To include trails in this addition. (Deziel/Schneider amended) To specifically look at the roadway to the west and buffering to the south of this parcel.

Vote as amended: 9:0.

M/S/P, Fliflet/Schneider to direct staff to work with Mr. Kaufhold about the berm for WHISTLING VALLEY 2ND ADDITION, and to direct staff to return with a report about Phases I and II when WHISTLING VALLEY WEST comes back to the Planning Commission as a preliminary plat. Vote: 9:0.

Special Projects Director Hoyt

Special Projects Director Hoyt said she and some of the Council have met with the Met Council regarding the extension request for the zoning code. They will take action later this month with regard to that request.

Village Residential Zoning

Special Projects Director Hoyt said there are a couple of sites in the Comprehensive Plan where sewer is coming and we need to determine priorities. Approximately 3,000 properties and 2400 property owners will be affected by rezoning. She would like the Planning Commission to decide which areas have the highest priorities for the rezoning process.

Special Projects Director Hoyt said the City Council would like to have a workshop and a firsthand discussion with the Planning Commission. GTN will make a presentation for up to date information on Planning with changes to state statutes. The date and time is scheduled for Thursday, February 1, 2007 at 6:30 p.m. and it will last until about 9 p.m. The City Attorney has been asked to be there. The Council would like to work together with the Planning Commission and to offer some direction for the process.

Ms. Hoyt said the Village Area Master Planners are moving along with the draft. The team is working to finalize that plan and bring it back to the Council. They will be looking for Planning Commission feedback as well around the end of February and early March. She said the Village Area Master Plan is a Council initiative. The Planning Commission will also have input during the Alternative Urban Areawide Review.

Special Projects Director Hoyt distributed a handout of a portion of the revised Met Council Systems Statement. Ms. Hoyt explained that upon initial reading, the language in the Systems Statement didn't appear consistent with the MOU and the Met Council agreed, and the language was cleared up. She couldn't bring the entire document to the Planning Commission because it has not been reviewed but she is trying to make sure the Planning Commission does see it. She said the Planning Commission will receive the full System Statement before its submission to the Met Council.

Commissioner Armstrong asked if the map of the city on Page W7 shows distinction between developing area and rural residential.

Special Projects Director Hoyt said she anticipates there is very little change at this point.

Commissioner Armstrong asked her opinion if in the current state of negotiations that the MOU supersedes the Systems Statement.

Ms. Hoyt said the MOU is absolutely driving the Systems Statement.

Commissioner Ptacek asked for any differences between the Systems Statement and the MOU and Comprehensive Plan Amendments. He asked for a staff report, what the Systems Statement means, if it changes the MOU substantially, and what it means for switching of densities from south of 10th Street to the Village Area.

Special Projects Director Hoyt said she is not sure it is a policy change, although she has heard some of that discussion.

At the Workshop with Council on February 1, GTN will offer training that is more in-depth than Planning 101 but it will have some of that, and updates on statutes. She was asked for it to be taped for commissioners who cannot attend.

Special Projects Director Hoyt stated that a number of residents will be interested in the future rezonings due to property values and uses. She suggested they attend the workshop on education and then get together to determine priorities. She suggested they pick a couple of zones to focus on. She said the city can have information sessions for residents preceding or separate from the public hearings. She said the Planning Commission will prioritize with the Council. The Council has policy concerns they will share with the Planning Commission. She said it is a good

idea that residents have the opportunity to speak with staff and it makes the public hearings less contentious. It takes more time and money but it is better for communication.

Ms. Hoyt said the Met Council is not expecting an entire zoning code. It would be nice to clean up and fix up the existing code but she suggested that for now the Planning Commission focus on the critical codes because that is where the deadline will come into effect.

On January 22, the Assistant Planner will identify the Work Plan and regular Agenda.

Commissioner Pelletier asked if the Village Area Master Plan is going to drive some of their work.

Commissioner Schneider asked if the Village Area Master Plan should be decided to drive the zoning code.

Special Projects Director Hoyt said the Zoning Code will be last piece. Once that is in place, developers can come in with their proposals.

Commissioner Deziel said the Commissioners haven't seen a draft of the Village Area Master Plan.

Special Projects Director Hoyt said she will bring back the color maps in the Systems Statement and the draft of the Village Area Master Plan.

City Council Updates

Assistant Planner Matzek said the CUP for Oakdale Gun Club was approved on December 19. On January 2nd, Hidden Meadows 2nd Addition Final Plat was granted a one-year extension. They had gone beyond the 180 days requirement.

Councilmember Johnson congratulated elected officers, agrees with the philosophy of Special Projects Director Hoyt for communication with citizens. She also welcomed Ben Gozola, the City Planner.

Adjourned at 8:44 p.m.

Respectfully submitted,

Kimberly Anez
Recording Secretary

**City of Lake Elmo
Planning Commission Meeting
Minutes of November 13, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Van Zandt, Deziel, Schneider, Roth, McGinnis, Pelletier, Ptacek, Fliflet, and Armstrong (7:02 p.m.). STAFF PRESENT: Planner Dillerud, Assistant Planner Matzek, and Recording Secretary. ALSO PRESENT: Councilmember Johnson.

Agenda

M/S/P, Van Zandt/Roth to accept the Agenda as presented. Vote: 9:0.

Minutes

M/S/P, Roth/Pelletier to accept the Minutes of September 11, 2006 as presented. Vote: 9:0.

Zoning Ordinance

The Planner introduced draft zoning district regulations for Public Facilities, Business Park, and Neighborhood Conservation. There are very few proposed changes proposed to PF and BP.

Public Facilities

The Commission suggested amending PF to exclude site certified regional sewer from the maximum wastewater generation requirement. The Commission agreed.

Business Park

A list of uses in chart form was presented and it was similar to that created by Lane Kendig when performance zoning was discussed as an option earlier in the year. The Planner said it seemed sensible to use for most zoning districts because there is a great deal of duplication. If the Planner can deal with all the exceptions in a reasonable fashion, he said he would like to use the chart.

Architectural Standards have been removed along with Lighting from the individual districts because they are now covered elsewhere.

Neighborhood Conservation

The Planner said the locations of the proposed district are existing areas currently zoned R-1 as well as the Carriage Station neighborhood. Few parcels do not currently have a structure on them.

The purpose of this district is to conserve what exists, and not to increase house sizes, setbacks, densities, etc. The neighborhoods that would fall in this zoning district have a wide variety of characteristics, even from each other.

Commissioner Pelletier asked if the proposed lot size of 18,500 is a good average for lots in those neighborhoods. The Planner agreed it was.

Building Setback from Property Lines should say, "Adjacency averaged, whichever is less." The Commission agreed.

M/S/P, Armstrong/Van Zandt to delete the septic and water supply portion of the table because the purpose of this district is to eliminate non-conformities and that provision creates further

non-conformities. Vote: 9:0.

The Commission suggested adding the text "Minimum of 18,500 square feet" for lot size within the table. Commissioner Armstrong suggested adjacency averaging the minimum lot size of 18,500 square feet and it should only apply to lots of record. Also, that should be stated elsewhere in that district as well as in the table. Lots are not buildable without adequate wastewater treatment.

M/S/P, Roth/Van Zandt to recommend approval of the revised zoning district for Neighborhood Conservation. Vote: 9:0.

M/S/P, Roth/Deziel to recommend approval of the revised zoning district for Business Park. Vote: 9:0.

M/S/P, Roth/Deziel to recommend approval of the revised zoning district for Public Facilities. Vote: 9:0.

Zoning Map

The Planner said our task is not to worry what zoning exists today. Our only goal is to match our Zoning Map to our Land Use Plan within the Comprehensive Plan.

Definitions

The Assistant Planner reviewed definitions. She distributed an ordinance defining Agriculture and Farm, Rural. Automobile Detailing Shop can be removed. The Commission questioned the need for a separate definition of major and minor Automobile Repair. The Assistant Planner said it offers gradients of intensity to reflect gradients of uses. The Commissioners questioned why we are adding definitions for uses we don't have because it causes confusion. They suggested it should occur with the use first and then have a definition. The Assistant Planner said it is something that could be looked at soon.

Commissioner Armstrong said our code should stand alone and definitions should not wag the dog. Without direct follow-through, it is not a good idea to add those definitions prematurely.

The Planner said that just because it is listed in the definitions does not mean it is allowed.

M/S/P, Roth/Armstrong, to put back into the definitions, the old automobile repair definition and remove the new minor and major definitions for auto repair. Vote: 7:2, Nay: Deziel/Armstrong.

M/S/P, Roth/Fliflet, to only include definitions for words that are in the code and to exclude any definition that is not already in the code. Vote: 7:2, Nay: Van Zandt/Ptacek.

Commissioner Fliflet recommended changing bed and breakfast stays to 14 days.

It was suggested to delete one of the definitions for "Building."

Commissioner Armstrong would like to keep the existing definition of "Club." He suggested combining the two definitions, keeping the long definition and deleting the short definition, or rename the short one "Lodge."

Staff was asked to look at the definitions of "Day Spa" and "Therapeutic Massage" to identify

any overlap. A more generic definition for "Day Spa" may be appropriate as well as adding the text "and similar services."

The Commission asked for a more clear definition for "Director of Public Safety."

Commissioner Armstrong talked about the Green Acres program. He requested a closer look at the definition of "farms." The Commission left off at the definition of "Farm" and would like to pick up at that location at the next meeting.

City Council Updates

The Planner reported that the ordinance was changed to allow for seasonal sales. The Council has requested to review the City Code regarding terms for Planning Commissioners; this topic will be on the next council agenda. Outdoor Commercial Social Events is also on the next agenda.

The Chairman adjourned the meeting at 9:00 p.m.

Respectfully submitted,



Kimberly Anez
Recording Secretary

**LAKE ELMO PLANNING COMMISSION
STAFF REPORT**

Date: February 8, 2007 for the meeting of February 12, 2007

Applicant: Jeff and Claudia Anderson

Location: 11225 31st St. N.

Requested Action: Chapter 700 Variance for Septic Setback from property lines and structure

Land Use Plan Guiding: NC

Existing Zoning: R-1

Site History and Existing Conditions:

The 0.34 acre (15,000 square feet) lot was platted in the Meiers Park subdivision. An approximately 1,990 square foot home and a septic system were constructed/installed on the lot in 1965. City records reveal no Planning or Building applications/permits of significance to this request since that time.

An MPCA Compliance Inspection was performed on the septic system in 2006. A resulting Septic System Compliance Report was then completed in May of 2006 which identified the septic system as "failing."

Discussion and Analysis:

The applicant is applying for variances from the Chapter 700 drain field setback standards. The new drain field would be located 3 feet from the north and east property lines (10 feet required); and within 13 feet of the applicant's house (20 feet required) at the single closest points.

There is an additional 10 foot setback from water pipes that is being met by this proposed septic system location. A six inch waterpipe is located along 31st Street. The City Engineer reviewed this distance and found the pipe parallel to the property line was located 20 feet from the property line. A hydrant was located adjacent to the property and was measured 7 feet from the property line. Therefore, the proposed septic system location would meet this 10 foot setback requirement.

A septic designer has reviewed the lot and has determined proposed that location as the site for the septic system. It should be noted that the licensed septic designer reported the proposed pressure bed has the smallest foot print of any standard drain field the company could install.

The Lake Elmo Building Official (a Certified Septic Inspector) visited the site, reviewed the application and found that the proposed septic system location is appropriate. A conforming and appropriate location is not available on this property for the proposed septic system.

This property is located in the designated Old Village area and is slated to obtain sewer at some point in the future. However, this may not occur for a few years and the current septic system was determined to be failing.

The City Engineer has reviewed this application and recommend approval due to the lack of any alternative drainfield sites on the lot. The Valley Branch Watershed District did not see any issues with the request.

Variance Request:

By code, a variance can only be granted where the city finds the request can successfully address the following criteria:

1. There are special circumstances or conditions affecting the applicant's land that the strict application of the minimum standards of this section would deprive the applicant of the reasonable use of that land.

The property can not be put to reasonable use without the granting of the variance requested. The physical constraints of the lot mandate the proposed site as the only location possible for a new drainfield. **This criteria is met.**

2. That the granting of the variance will not be detrimental to the public welfare or injurious to other property.

Granting of the variance will not change the essential character of the neighborhood or be detrimental to the public welfare. **This criteria is met.**

3. That the variance required by reason of unusual hardship relating to the physical characteristics of the land.

The variance requested does result from physical circumstances found on this property. **This criteria is met.**

Staff would find the three criteria outlined above **are met** with this variance application.

Commission Options:

The Planning Commission has the following options:

- A) The Planning Commission may recommend approval of the requested variances based on the applicant's submittals, the contents of this report, public testimony and other evidence available to the commission.
- B) The Planning Commission may recommend denial of the requested variances based on the applicant's submission, the contents of this report, public testimony and other evidence available to the commission.
- C) The Planning Commission may table the request for further study.

Findings and Recommendations:

Variances to the standards of Chapter 700 (the City's septic ordinance) are processed in the same manner as zoning variances, with specified Findings required by the Code.

Staff would recommend Option A: Approval of the requested variances with the following findings:

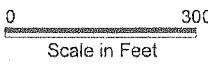
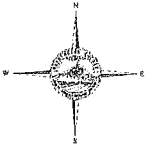
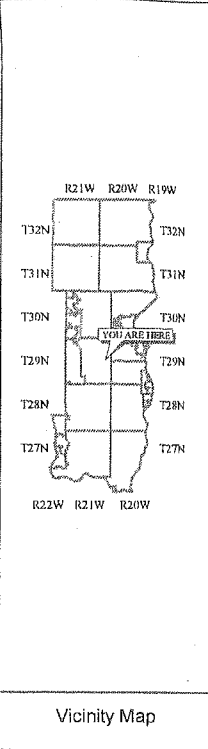
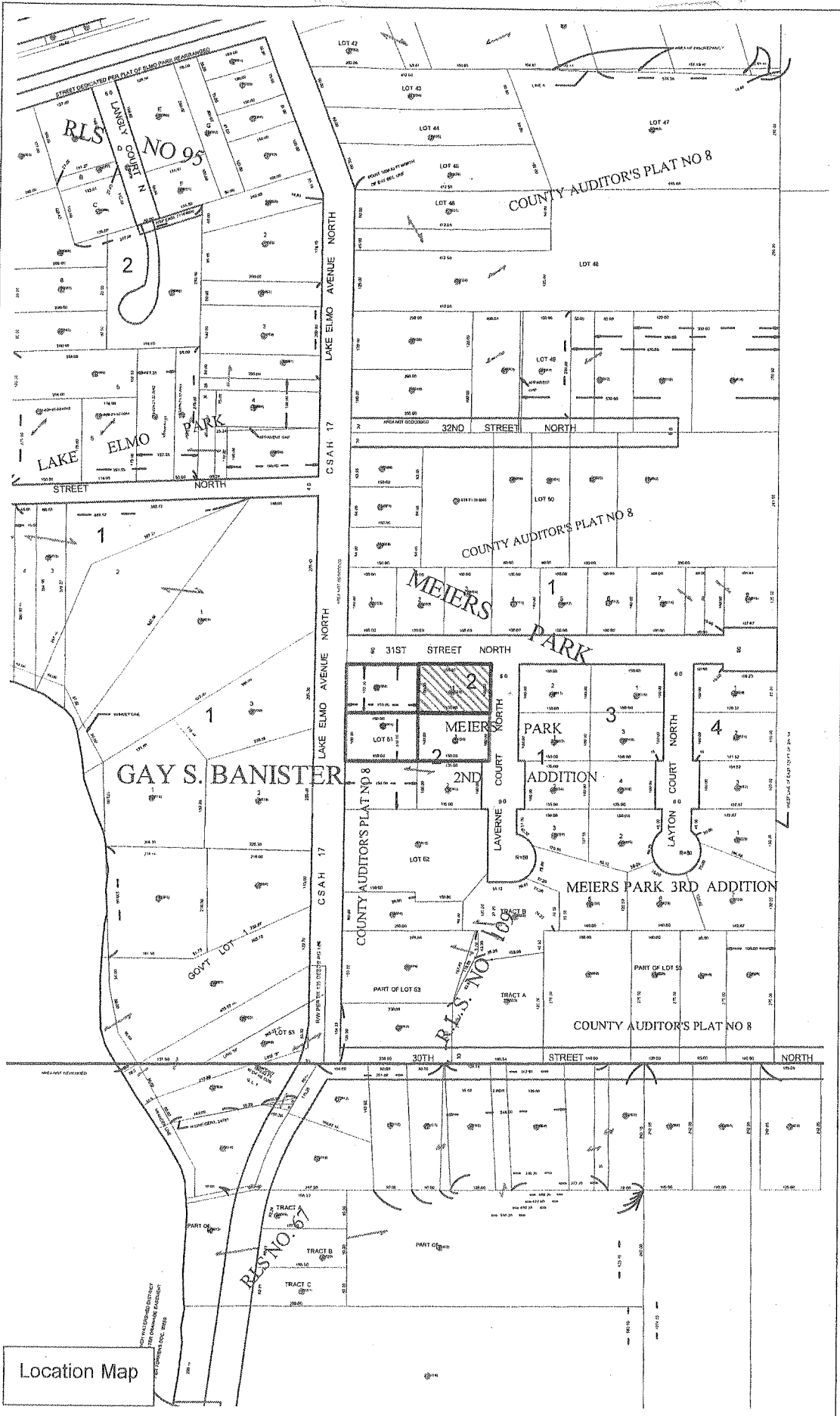
1. The property can not be put to reasonable use without the granting of the variance requested. The physical constraints of the lot mandate the proposed site as the only location possible for a new drainfield.
2. The variance requested does result from physical circumstances found on this property.
3. Granting of the variance will not change the essential character of the neighborhood.

Kelli Matzek, Assistant Planner

Attachments:

1. Location Map
2. City Engineer's memo
3. Valley Branch Watershed District Comments
4. Applicant's Documentation

Cc: Jeff and Claudia Anderson, *Applicant*



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 (651) 43D-6375

Parcel data based on AS400 information

Kelli Matzek

From: Ryan W. Stempki [ryan.stempki@tkda.com]
Sent: Thursday, February 08, 2007 4:04 PM
To: Kelli Matzek
Subject: RE: variance application

Kelli,

This setback variance would be allowed because:

1. We agree this is an imminent health threat.
2. Sewer will be available in the near future.
3. The drainfield setbacks are to the road R/W and not an adjacent lot.

My review is based on the sketch provided by the septic designer. Please note there is an error on Jeff and Claudia Anderson's letter referencing the setback being 15" of the house.

Feel free to contact me with any questions.

Ryan

Kelli Matzek

From: John Hanson [jhanson@barr.com]
Sent: Thursday, February 08, 2007 9:39 AM
To: Kelli Matzek
Subject: RE: variance application comments

Kelli-

I'm sorry I haven't provided you any comments sooner. I don't see any Valley Branch Watershed District issues with this request.

John

From: Kelli Matzek [mailto:Kelli.Matzek@lakeelmo.org]
Sent: Thursday, February 08, 2007 9:17 AM
To: John Hanson
Subject: variance application comments

John,

I am writing up a report on the septic variance application for 11225 31st St N today. I wanted to make sure that you received that information. If so, I was wondering if you had any comments on the application to be included in my report.

Thank you.

~Kelli Matzek
(651) 233-5413

January 11, 2006

City Council Members:

Re: Request for Variance

On June 27, 2006 we Jeff and Claudia Anderson purchased the home at 11225-31st Street North. Prior to the closing the previous homeowner completed the required compliance inspection of the septic system. This inspection was completed by Brian Humpal of Inspect Minnesota and Midwest Soil Testing on May 19, 2006. Upon completion of inspection the previous homeowner was informed the system was non-compliant due to MPCA rule 780 subp.16a because of the bottomless septic tank and drywell tank (cesspools). The previous homeowner informed us of the non compliant findings, but the system was hydraulically functioning and if we had questions we were to contact Brian Humpal.

At that time I contacted Brian Humpal and was informed he had introduced approximately 300 gallons of water into the system over a one hour period. During this period of time there was no significant rise in the liquid level of the septic tank or drywell tank. This test is an indication the system is hydraulically functioning at the present, but is not a guarantee of future performance. The system was pumped before we took ownership. Approximately three weeks after we moved in, the basement shower backed up with sewage. I contacted Rooter Roter to have the line snaked out and was informed the lines were clear and the system needed to be pumped out. Pinky's was contacted for the pumping of the system. Three weeks later the system backed up again in the shower with sewage. I then rented a snake and snaked the lines between the two tanks from the outside and also did not find any issues. I contacted Pinky's again to have the tanks pumped and was informed they did not need to be pumped as they were pumped three weeks ago and the lines must be clogged. I informed Pinky's the lines had been snaked out recently, were not clogged and the system was full; the system was then pumped again.

I then contacted Tom Zellmer, who installs septic systems to consult why the system was not working. In reviewing the system Tom informed me the system was "shot". Tom suggested I contact Barry Brown (License Number 1772) who designs septic systems and performs soil testing. Barry also informed me the system is non compliant and the system was "shot". At that time I contact Brian Humpal to ask why he told me the system was adequate for us until city sewer came in and why I was having problems immediately. He informed me that at the time of the inspection the system was hydraulically functioning, but was not a guarantee that it would continue to do so. I informed Brian I already had spent over \$700.00 to have the system pumped and pipes snaked. Brian called back a few hours later to inform me that in 1971 a permit was pulled to add a drain field and he thought maybe the pipe to the drain field was clogged.

I then contacted Tom Zellmer and informed him of Brian Humpal's findings of a permit for the drain field. I contracted Tom Zellmer to excavate the pipe between the two tanks

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and pull the cover off the seepage tank to see if there was a pipe leading to the drain field. On Friday, January 5, 2007 Tom Zellmer dug up the pipe, replaced the cast pipe between the two tanks, and pulled the cover to locate the drain field pipe. We did find a pipe totally open, but because there was no baffle on the first tank the sewage was able to float out to the drain field and the drain field was non operable. Tom once again informed me the system was shot and we would have to continue pumping the system until Lake Elmo came in with city sewer or the other option would be to install a new system.

Since we acquired ownership, we have replaced all toilets with 1.5 gallon per flush toilets. We have not washed clothes, have not used the dishwasher, and take 60 second showers to help conserve water. I have now spent an additional \$175.00 to have the pipe replaced and have been informed instead of one year of city sewer coming onto 31st Street it will likely be three to five years.

In the process of remodeling the basement I found the interior walls of the bathroom were rotten 18" up off the floor and mold on the sheetrock. These findings lead me to believe, this system has been backing up and failing for many years.

This system is an imminent threat to public health and has been for some time and at no fault of ours. We can not wait until Lake Elmo brings in city sewer; we need a new system now.

The pecculation report has been completed per the requirement for installation of a new septic system. Due to the fact we are on a corner lot with water running through the west side, there is very little space for a new drain field. A pressure bed has been designed for the front yard using new septic tanks and a lift tank. Set backs are a problem for this drain field. The pressure bed has the smallest footprint of any standard drain field we could install. The mature oak trees in the yard are also a consideration. Hence, a variance is needed to approach within three feet of the lot line and within approximately 15" of the house. This variance is necessary to install this new system. The length of pressure bed is cut short to maintain a 10' setback to the pressure water line running through the front yard.

Any other information regarding the installation of the new septic system is attached to this request. A new septic system needs to be installed as soon as possible; as the system at 11225-31st Street North is an imminent threat to the public health and has long been a problem. For this reason we are requesting the variance fees to be waived.

Thank you,

Jeff and Claudia Anderson

PERCOLATION REPORT

WISE RESOURCE MANAGEMENT DOESN'T COST... IT PAYS

12-31-06

JEFF ANDERSON

651-770-5740

SOIL TESTING AND DESIGN FOR SEPTIC SYSTEMS

LOCATION: 11225 31st. St. No. Lake Elmo

USE OF BUILDING: Existing 3-bedroom home

The existing system for this 1965 home failed a compliance inspection at time of sale this past summer. The house was purchased without an update being done to the system with hope that it would last until city sewer arrives. The second tank has failed and the system backs up constantly. Being a corner lot with a water run through the west side there is very little space for a new drain field. A pressure bed has been designed for the front yard using new septic tanks and a lift tank. Setbacks will be a real problem for this drain field. The pressure bed has the smallest foot print of any standard drain field that we could install. The mature oak trees in the front yard are also a consideration. A variance to approach within three feet of the lot line and within approximately 15' of the house will be necessary to install this system. The length of the pressure bed is cut short to maintain a 10' setback to the pressure water line running through the front yard. The west end of the tested area has been filled to a depth of approximately 18" with a mottled sandy loam fill. With the system 18" deep, the drain field should be into the natural soil.

The absorption width is designed to be at least 3 feet from the lot line and at least 13 feet from the house or any building with footings with required variance. The pressure water line runs through the front yard and the system maintains a 10' setback.

All wastewater treatment sites are to be cordoned off prior to the start of any construction activity on the property. No construction traffic or grading permitted in drain field areas. All proposed wastewater treatment sites are to be protected with a visual barrier to prevent construction traffic from encroaching into the test area and possibly causing irreversible soil damage with respect to on-site wastewater treatment and absorption. A septic system permit will not be issued until the tested area is surrounded with snow or silt fence.

This design was prepared in accordance to Washington County Ordinance #128 and should be presented to the City of Lake Elmo for inspection as soon as possible. All soil samples shall be left in place until this inspection and all stakes shall be left in place until the system is installed.



BARRY BROWN
LICENSE #1772

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