



City of Lake Elmo

3800 Laverne Avenue North
Lake Elmo, Minnesota 55042

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

file

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, February 26, 2007, at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Minutes
 - a. January 22, 2007
4. PUBLIC HEARING: Variance to Lot Width ~ 3200 Lake Elmo Avenue
 - a. Minor Subdivision – 3200 Lake Elmo Avenue
5. Government Training Services
6. 2007 Work Plan
7. City Council Updates
 - a. February 13 – Joint Workshop City Council & Planning Commission Work Session
 - b. February 20 – Septic System Variances Approved for 11225 31st St. N.
 - c. February 20 – Moratorium on Sexually Oriented Businesses
 - d. February 20 – Commercial Outdoor Social Events
 - e. February 27 - Alternative Urban Areawide Review (AUAR) Selection
 - f. March 6 – City Council presentation of Old Village Master Plan
 - g. Future meeting – Draft Park Plan
8. Adjourn

**City of Lake Elmo
Planning Commission Meeting
Minutes of January 22, 2007**

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

Pledge of Allegiance

Agenda

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

Minutes

November 13, 2006

M/S/P, Pelletier/Van Zandt to accept the Minutes of November 13, 2006 as presented. Vote: 9:0.

December 11, 2006

Commissioner Fliflet asked staff to review the tape. M/S/P, Fliflet/Van Zandt to table the Minutes of December 11, 2006 to allow the Recording Secretary an opportunity to search for a motion where the vote showed Commissioner Fliflet was the sole nay vote. Vote: 9:0.

PUBLIC HEARING: Variance to Lot Width - 3200 Lake Elmo Avenue

City Planner Gozola introduced the application for a variance to lot width at 3200 Lake Elmo Avenue in order to create a minor subdivision on the applicant's land. The general layout and lot sizes are met except for Parcel F which is narrower than the Shoreland District requirement of 150 feet. He said the existing driveway is twelve feet south of 32nd Street onto the arterial roadway of Lake Elmo Avenue, which is a concern. The more appropriate alignment would be to have the driveway access 32nd Street. He said the applicant provided documentation for septic systems on both lots. Utility and drainage easements would be required on the lot lines. Water service hookup should be required. There is no sewer available to the area at this time. Utilities must be located underground. Wetlands were not delineated for this application and there appear to be no wetlands within the buildable area but the applicants are encouraged to apply for a permit with VBWD. The Park Dedication Fee is \$3,500.00 for one new lot. He said he could not find information about docks in the city code. The Planner distributed a Supplemental Report after further review of this application and additional files.

Chairman Ptacek said Lake Elmo Avenue is still a county road and they have control of driveway access to it.

City Planner Gozola said the applicants have received a permit for the new driveway but he spoke to the county this afternoon and they said they would go along with the city asking for elimination of the existing driveway. Planner Gozola said by code, the front yard of a corner lot is determined by the shortest length measured at the setback line. In this case, it would be the frontage along Lake Elmo Avenue. He suggested the applicants realign the proposed lot boundary, eliminating frontage on Lake Elmo Avenue. The existing driveway would then need to be moved.

Planner Gozola said that his Supplemental Report discusses lot width also at the setback from the OHW of Lake Elmo. In 1986, this parcel was larger and the lot divided into the existing parcel and the existing parcel to the west. At that time, this proposed subdivision was also included, but not approved. The proposed Parcel F on the 1986 plan was slightly narrower than that being proposed currently. The Council at that time anticipated this division and granted the variance to the other lot width for the applicant's first minor subdivision in 1986.

Planner Gozola said staff recommends denial of the variance based on lack of hardship which would result in denial of the minor subdivision as well. Should the commission choose to recommend granting the variance, the Planner provided Findings similar to those in 1986 that would include that this is a pie-shaped lot. Conditions 1 and 2 would be required prior to council review. Condition 4 would be for standard easements, and the city would need legal descriptions for those easements prior to council review. The Planner explained the functional classifications of roads.

Commissioner Schneider asked about the safety of the driveway's distance from 31st Street. The Planner said he relied upon the county's approval there for the new driveway.

Commissioner Deziel asked about lot aspect ratios because this lot is long and narrow.

The Planner said he did was not aware of those ratios, but would check into that.

Carolyn Horttor, Applicant was assisted by her attorney, Anthony Dorland in reading from a prepared statement.

They said this land was purchased by her father in 1964. Ms. Horttor's intention is for her children to live on the lake. Her sister subdivided in 1985 to live there and now she would like to as well. Ms. Horttor said that she and Joel Anez, Land Surveyor, met with former City Planner Chuck Dillerud and they reviewed the 1985 survey and they were told they met the street frontage and lot area. They were instructed to have a shared driveway and get soil tests. She said he told them to get a driveway permit from the County. Mr. Dillerud told her the minor subdivision could be handled administratively. The county reviewed the driveway. Dale Eklin did the soil tests. Ms. Horttor said she was surprised when Assistant Planner Matzek said her application was incomplete and she needed a variance. She said there are no drainage problems. They would like the existing driveway to remain shared between her and her mother, it would save costs and demolition of landscape. Because there is no ramp to the freeway on Lake Elmo Avenue, traffic from Highway 5 tends to stay north of 32nd Street. One more driveway will not significantly impact traffic volume. If you move the lot line the lot will look even more odd than it does now. One of the reasons for lot width and shape are so the houses are not crowded together.

Mr. Dorland said the applicants have issued a compromise to their original proposal. The lot width at the proposed house location is about 150 feet wide and is therefore no crowding. This is not a narrow city lot. The intent is met on lot width. Nothing is really gained by cutting it even narrower at the northeast corner. They will not construct a building within 300 feet of Lake Elmo and 32nd Street North. He said he disagrees with staff about the interpretation of reasonable use of the existing property. The question is whether the proposed use is reasonable.

Mr. Dorland said the applicants will agree to relocate the driveway to 32nd Street but still wish to keep the existing driveway as long as Ms. Smith owns the property. He said he thought the driveway must be 20 feet from the intersection, not 100. Mrs. Smith would like to utilize her

existing well because the water is fine. He said the applicants will agree to drainage and utility easements being created.

Ms. Horttor said the well water is fine and it is very deep according to Dale Eklin. She said this lot will still have one of the widest widths on the lake. All utilities were buried in the 1960's.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:36 P.M.

Matt Northrup

Mr. Northrup said he lives to the west. He said he is in full support of allowing this variance to build on this property. He said there is some room for discussion on the adjoining lot line about possibly changing that line. He said the average width is 60 feet at the lakeshore and the applicants have 73 feet at the shore.

Joel Anez, Land Surveyor, Landmark Surveying

Mr. Anez said he worked in Lake Elmo from 1977 until 2003. He did the original survey in 1985 and today's survey. He said this plan is not looking at new raw land to be platted under current standards. He said this is the best use of the land. This neighborhood was platted in 1911. Easements along lot lines would be cumbersome and unnecessary for this type of minor subdivision. This lot is bigger than most in this area. He said the driveway has been used for almost 100 years without trouble, and there is hardly any traffic on 32nd Street. He said it probably would be better on 32nd Street but there are pillars, lights, and this is an old situation that precludes the relocation. He suggested the Park Dedication fee is too high for a lot of 1.5 acres where the applicants basically have their own park in the backyard.

Constance Smith, Co-applicant and owner of the parent parcel

Ms. Smith said the pillars are on either side of her entrance and bushes are trimmed in order to see in both directions from the driveway.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:41 P.M.

Chairman Ptacek said the driveway is at the county's exclusive control.

Commissioner Pelletier asked why lot width is 150 feet on lakes.

Planner Gozola said lot width is for crowding and potentially overcrowding accesses onto the lake.

Commissioner Fliflet asked whether the commission should consider the lot line adjoining the neighbor.

Planner Gozola said that lot line is not a part of the application.

Planner Gozola said we are looking at the result of a 1986 council decision which is the original subdivision from this parcel. The applicants ghost platted this lot at that time. The city council at the time allowed the width variance, which was a further deviation from the code than the one before the commission tonight. Their Findings said it was a pie shaped lot and the only variance was for lot width. The only difference from this subdivision is that the lakeshore side of the proposed lot was somewhat narrower than the one before us tonight.

Commissioner Deziel asked whether 150 feet of lot width at OHW setback is part of the city code for the Shoreland Overlay District. The city has not allowed platting variances for that variance. He asked if there is another way to do this that would make it less non-conforming or can an easement for the lake be granted. Perhaps there could be a different design with enough lake frontage.

Joel Anez

Mr. Anez reminded the commission of the neighborhood to the west. This area was platted in 1911. He said this lot width and size conforms to that neighborhood.

Chairman Ptacek said if Neighborhood Conservation Zoning was in place right now, the city probably would not even be here for a variance. The City does not have that district currently established.

Commissioner Fliflet said the recommendation to move the driveway to 32nd Street would not be a safer access because of traffic coming in from Lake Elmo Avenue. Relocating the driveways should be removed from the conditions.

Commissioner Deziel said the applicants are not creating something for two people. They are making lots for the future.

Planner Gozola said if the application is approved, approval becomes a mechanism for removing one of the driveways.

Commissioner Roth said the lot width is what should be discussed because the driveway has nothing to do with it.

Commissioner Pelletier said she empathizes but her problem is the lot is incredibly skinny.

Commissioner Armstrong said the front yard setback variance could be eliminated by realigning the lot line to widen the portion along Lake Elmo Avenue. He said he sees no problem with the lake and there is precedent for it.

Planner Gozola said he would prefer the driveway access onto 32nd Street.

Commissioner Armstrong said that in a perfect world the city would not allow it, but we have to deal with the cards we are dealt. The driveway has been there a long time. Washington County will allow another driveway to the south. He said it is a conforming use and he does not wish to compel the applicants to abandon it. Parcel G should build the driveway along with construction of the new septic system. He said his condition would be that they put that new driveway onto Parcel G when they do the septic system as planned in the Summer 2007. He sees no problem with OHW. He suggested the applicants can make a better effort to eliminate the variance at street side.

Mr. Dorland said the time table is 120 days for subdivision approval.

Carolyn Horttor said the driveway permit lasts one year but it can be extended.

M/S/P, Armstrong/Roth to table the application for a variance and minor subdivision for an additional sixty days at the request of the applicant. Vote: 9:0.

The Planner said the application will be brought back at a future meeting.

M/S/P, Deziel/Fliflet to take a straw poll about whether to have driveway access moved to 32nd Street. Vote: 9:0.

In the straw poll to relocate the driveway to 32nd Street, two commissioners (Lyzenga, Deziel) voted to relocate it and six voted to leave it alone.

Met Council Extension Update

The Assistant Planner said the Metropolitan Council approved the request for an extension for turning in the updated zoning code. The extension expires on July 12, 2007. Staff will work on a timeline. The city will submit monthly reports.

M/S/P, Ptacek/Van Zandt to direct staff to bring a timeline for zoning to the next meeting. Vote: 9:0.

System Statement

Special Projects Director Hoyt could not attend tonight. Planner Gozola expressed concerns about the Systems Statement and the Met Council is reviewing them.

Second Joint Workshop with City Council

Assistant Planner Matzek said the first workshop was February 1 and the second workshop was scheduled for February 8. Only three commissioners could attend on February 8 so staff will look at other options. Planner Gozola asked the commissioners bring calendars to the February 1st workshop.

Work Plan Discussion

Assistant Planner Matzek asked the commissioners to look at the 2006 Work Plan to make decisions for 2007. Chairman Ptacek asked for the "to do later" list for the code and incorporate those onto the possible work plan. He said that hopefully those will be in the timeline.

City Council Updates

The City Council tabled Whistling Valley West expressing many of the same concerns as the Planning Commission.

Village Area Infrastructure Workshop

Assistant Planner Matzek said the first of two Village Area Workshops was conducted in regard to sewer lines, surface water, water lines and streets in the city for costs and locations. The Village Area Financing Workshop will take place tomorrow night at 6 p.m.

The Joint Workshop with the City Council will take place on February 1, 2006.

Adjourned at 8:26 p.m.

Respectfully submitted,

Kimberly Anez
Recording Secretary

**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

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 to address all of his concerns 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 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

Lake Elmo Planning Commission Agenda Item
Executive Summary

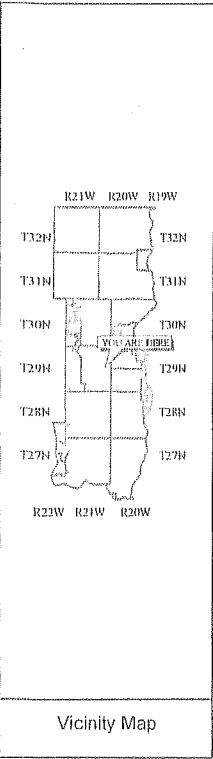
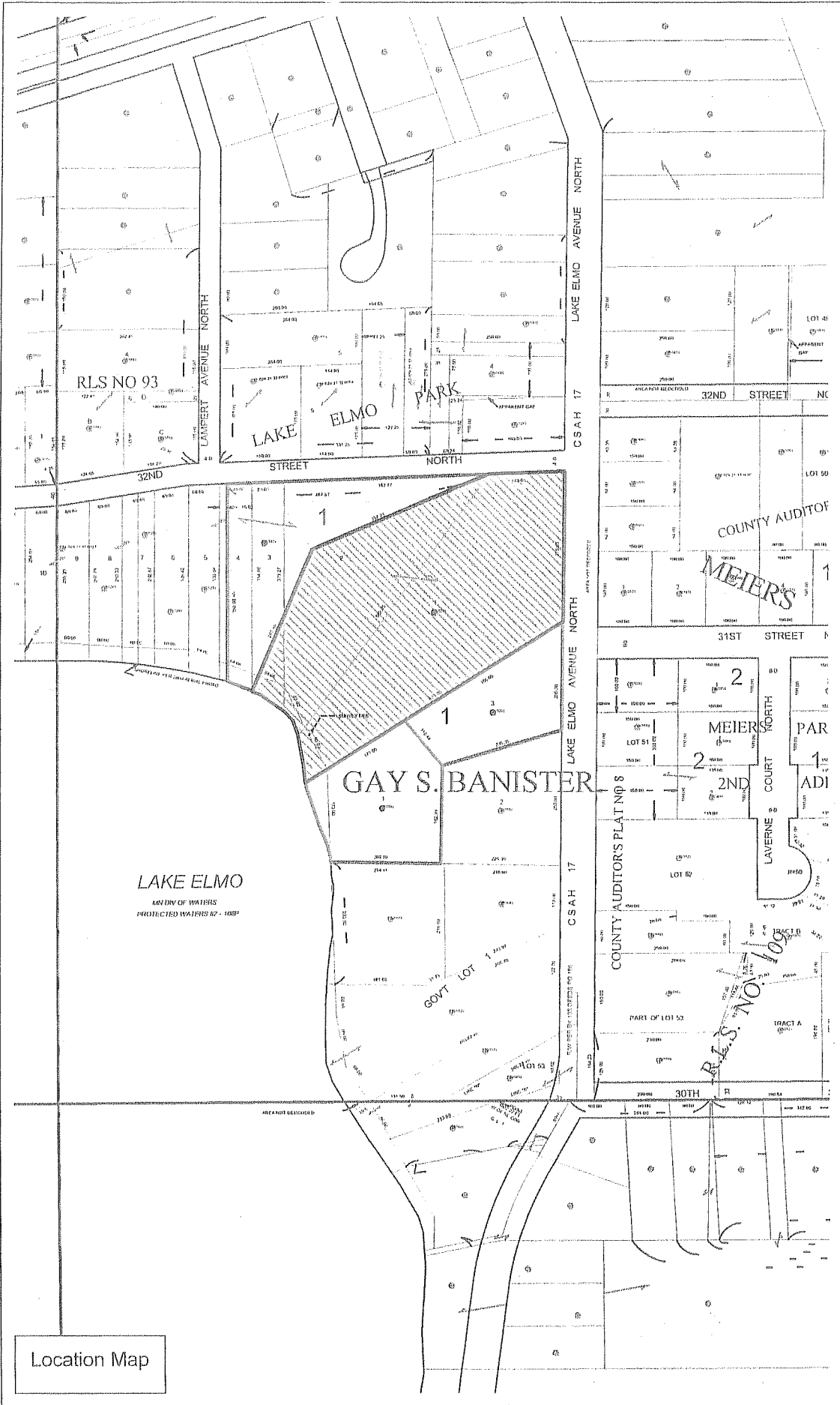
Title of Item: **Variance to Lot Width – 3200 Lake Elmo Avenue**

Meeting Date: **2-26-07**

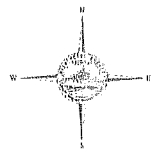
Staff/Guest Reporting: **Ben Gozola, City Planner**

Summary: On January 22, the planning commission reviewed the proposed minor subdivision of 3200 Lake Elmo Avenue and tabled the matter for further review. Specifically, the planning commission wanted the applicant to eliminate one of the width variances that were being requested for Parcel F. The applicants have complied with the commission's request, and have submitted a revised plan set in which Parcel F is only nonconforming to the lot width at the lakeshore setback.

- Main Points:*
1. The applicants are seeking to create two lots on the corner of Lake Elmo Avenue and 32nd Street North.
 2. The applicant's have revised their proposal so that only one lot width variance will be necessary.
 3. Staff is still requiring that the existing driveway be moved onto 32nd Street North as part of this revised plan.
 4. Staff is recommending approval of the request with the conditions listed in the report.



Vicinity Map



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: (551) 430-6875

Parcel data based on AS-400 information

City of Lake Elmo Planning Department
Minor Subdivision Review

To: Planning Commission

From: Ben Gozola, City Planner

Meeting Date: 2-26-07

Applicant: Constance K. Smith

Location: 3200 Lake Elmo Avenue

Current Zoning: R1 – One Family Residential

Introductory Information

Request: The applicant is seeking a minor subdivision to create one additional lot.

History: On January 22, the planning commission reviewed the proposed minor subdivision of 3200 Lake Elmo Avenue and tabled the matter for further review. Specifically, the planning commission wanted the applicant to eliminate one of the width variances that were being requested for Parcel F.

Site Data: Parcel size = 4.47 acres
Property Identification Number: 13-029-21-33-0021
Existing Use – One single family dwelling

Minor Subdivision Review

IN GENERAL:

Proposed Density: Proposed density for the subdivision is 2 lots created on 4.47 acres, for an overall density of 0.45 units per acre (or 2.24 acres per lot).

Staff Comments: The proposed density is allowable in the R1 district provided each lot meets required minimum lot standards.

Lot Configuration:

The following table summarizes the minimum lot requirements and how the proposed subdivision compares:

| | <u>SIZE</u> | <u>WIDTH (front)</u> | <u>WIDTH (lake)</u> |
|------------------|------------------|----------------------|---------------------|
| REQUIRED: | 1.5 acres | 150' | 150' |
| Parcel F: | 1.911 | ≈ 216' | ≈ 98' |
| Parcel G: | 2.561 | ≈ 166' | ≈ 172' |

Staff Comments: Because Lake Elmo is classified as a recreational development lake, the required lot width for both parcels is 150 feet (325.06 subd. 3). As code defines *lot width* as “the horizontal distance between the side lot lines of a lot measured at the setback line,” staff must measure the width at both the front yard setback and the lakeshore setback. As discussed during the January review of this proposal, it is not possible to create two conforming lots at the setback from the lakeshore. The width for Parcel F from the lakeshore setback will therefore require a variance.

Please note that in this revised plan, the applicants have reconfigured the front of Parcel F by giving it 141.39 feet of frontage on Lake Elmo Avenue, and 139.93 feet of frontage on 32nd Street North. By code, the front of a corner lot is determined by the shortest frontage on ROW which would mean 32nd Street is the lot front. The lot width for Parcel F, when measured at the 30’ setback from 32nd street, is now well in conformance with code requirements.

Future parcel development:

- This proposal would fully divide the property under its current zoning and comprehensive plan designations.

Lot Access:

- Section 400.14 Subdivision 8(f) of Lake Elmo code states that “whenever a proposed subdivision abuts an existing...arterial street..., the lots shall access onto local streets wherever possible.” In this case, proposed Parcel F clearly has adequate access to 32nd Street North, so removal of the existing driveway to a new location onto the local road network (32nd Street) will be required as a component of this subdivision.
- The applicant shall work with the City Engineer to determine the ideal location for the new driveway access point onto 32nd Street North.

Adjacent parcel dev.:

- The proposed subdivision will have no impact on development of adjacent lots.

Easements: ■ The applicant shall be required to provide standard drainage and utility easements around the perimeter of both lots. Standard easements according to TKDA are 10 feet from the front and rear property lines; 5 feet from side property lines (unless utilities are present); and 20 feet from the lakeshore.

Variance Requests:

- As Lake Elmo is classified as a recreational development lake, the required lot with for both parcels is 150 feet (325.06 subd. 3).
- As noted in the review of "lot configuration," the proposed Parcel "F" requires a 52' variance from the required 150' width at the lakeshore setback if the proposal in its current form is to be approved.
- 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.*

In reviewing the past subdivision for this land which resulted in the creation of 11075 32nd Street North, the City found that a hardship existed based on the "pie" shape of the lot. As the lakeshore width is the only variance being requested and the resulting lots will be two of the largest lakeshore lots on this side of the lake, the request can be viewed as reasonable. **Staff finds this criteria to be satisfied.**

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

The only detrimental aspect to this property identified by staff is the exit point of the existing driveway onto Lake Elmo Avenue. Given that code requires this driveway to be relocated during the subdivision process, staff actually views the proposal as a benefit to public welfare. **Staff finds this criteria to be satisfied.**

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

As stated in our analysis of reasonable use, the "pie" shape of this lot has already been cited by the City as a hardship for the past subdivision of this property. As the two resulting lots will still be two of the largest lots on this side of the lake (and no additional variances are needed), the "pie" shape can certainly be viewed as a legitimate hardship. **This criteria is therefore met.**

As staff finds all three variance criteria are met given our reasons above, we would recommend approval of the lot width variance for Parcel F.

Resident Concerns:

- Neither staff, nor the applicant, has received any concerns from residents regarding the proposed project to date.

INFRASTRUCTURE:

- Road System:** ▪ No new roads are proposed as part of this subdivision.
- Water System(s):** ▪ As this area is guided for access to public water facilities (and water is available), both the existing and future home shall be connected to the municipal water system.
- The existing home shall be connected to the municipal water system at the landowners expense within one (1) year of receiving Council approval for the minor subdivision.
- Sanitary System(s):** ▪ Both lots are proposed to be serviced by individual sewage treatment facilities.
- Note that the septic system for the existing home is proposed to be replaced by a new system within the identified septic area on Lot G. Lot F would also be served by a new septic site within its own boundaries.
- Staff would encourage the applicant to take all necessary precautions to ensure the proposed septic sites are not accidentally impacted prior to construction of the proposed septic systems.
- The City Engineer has reviewed the septic information provided by the applicant and found that there appears to be sufficient room on each lot for a primary and back-up septic system.
- According to the approved comprehensive plan, the subject property is guided for access to city sewer service once it become available. Installation of two new septic systems at this time shall not exclude both properties from hooking up to the municipal system if mandated by the City in the future.
- The applicant is encouraged to explore options for septic installation today that will minimize future costs to connecting to the municipal system.
- Storm water /Ponds:** ▪ None are required as part of this subdivision. However, proposed grading changes may need to be reviewed with future building permit applications.
- Utilities:** ▪ According to Sec. 400.14., all utilities are to be located underground.
- If the existing home has above ground utilities, approval of the subdivision should be contingent upon said utilities being placed below ground.
- Sidewalks & Trails:** ▪ No sidewalks or trails are recommended as part of this minor subdivision.
- Parking Facilities:** ▪ There are no parking issues for the proposed project.

- Required Signage:**
- No new signage is required as a result of this development.

ENVIRONMENTAL & OTHER NEIGHBORHOOD IMPACTS:

- Wetlands & Drainage:**
- The wetlands on this site have not been delineated to staff's knowledge, but there is no indication of wetlands that may impact the buildable area on each of the proposed lots. The VBWD indicates that there may be a wetland near Lake Elmo Avenue, but it would not be a concern given the proposed building locations.
 - As the VBWD is the Local Government Unit responsible for the Wetland Conservation, it is important for the applicant to receive the applicable permits and approvals as soon as possible.
- Erosion Control:**
- Silt fence should be shown at the construction limits for the proposed houses or driveways with the future building permit application.
- Flood Plain & Steep Slopes:**
- The subject property is in the floodplain.
 - According to FEMA map number 2705050010B, the base flood elevation for Lake Elmo is 889.0 from July 2, 1979.
 - Although topography is not provided on the survey, access to both parcels and/or construction does not appear to occur in this area.
 - Staff is unaware of any steep slopes or bluffs on site that would effect development on this parcel.
- Traffic:**
- The addition of a single lot will not significantly increase traffic volumes.
- Tree Preservation:**
- Within the shoreland regulations, vegetation alterations are permitted as necessary for the construction of structures and sewage treatment systems. (325.06 Subd. 5A.)
- Required Plantings & Screening:**
- No plantings or special screening devices are required as part of this subdivision.
- Docks**
- Staff did not find anything in code regulating docks.

CHARGES, FEES, & RESPONSIBILITIES:

- In General:*** ▪ As always, the applicant is responsible for all fees related to the review of this application (including but not limited to engineering, wetland, and legal reviews; environmental consultants; or other such experts as required by this application).
- Park Dedication:*** ▪ Section 400.15 of City Code requires all subdivisions of land to dedicate a reasonable portion of land to the City for public use as parks, trails, or open space. The percentage for the R1 district is 10%.

4.47 acres * 10% required dedication = 0.447 acres of land (or 19,471 square feet)
- Because three or less parcels are being created, the maximum cash-in-lieu contribution will be determined by the most recent Council resolution determining such (which currently calls for a \$3500 dedication per newly created lot).
- Sewer Area Charge:*** ▪ As this subdivision will not access municipal sewer services at this time, there will not be a sewer area charge assessed.
- Water Area Charge:*** ▪ As this subdivision will access municipal water services, there will be a \$1,200 charge for the existing home and a \$4,000 charge for the proposed new home.
- Building Permit Fees:*** ▪ Additional building permit fees will be required with applications.
- Ownership & maintenance:*** ▪ As there are no stormwater ponds or outlots proposed, there is no need for a homeowners association.

Conclusion

The Planning Commission is asked to examine the proposed minor subdivision and recommend whether it meets all conditions necessary for approval. Keep in mind that an approval at this point provides the applicant the ability to file subdivision with the County. All desired/required changes must be addressed at this time.

The 60-day review period for this application expires on 4-13-07.

Commission Options:

The Planning Commission has the following options:

- A) The Planning Commission may recommend approval of the requested minor subdivision and lot width variance based on the applicant's submission, the contents of this report, public testimony and other evidence available to the commission.

(cont.)

- B) The Planning Commission may recommend denial of the requested minor subdivision 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.

**Recommended
Action:**

Staff recommends option A: Approval of the requested preliminary plat with the following conditions:

1. The existing driveway shall be relocated onto 32nd Street at a location subject to approval by the City Engineer;
2. All above ground utilities servicing the existing home (if any) shall be placed underground prior to accepting an application for final plat;
3. Standard drainage and utility easements shall be provided to the City around the boundaries of all lots, wetlands, and lakes as guided by the City Engineer;
4. The existing home shall be connected to the municipal water system at the landowners expense within one (1) year of receiving Council approval for the minor subdivision.
5. Installation of two new septic systems at this time shall not exclude both properties from hooking up to the municipal system if mandated by the City in the future.
6. Silt fence shall be shown at the construction limits for the proposed house, driveway and street that will be constructed with this development;
7. The applicant shall obtain and adhere to all necessary permits and approvals from the VBWD;
8. The applicant shall pay a cash-in-lieu fee of \$3500 to satisfy the city's park dedication requirements.
9. Compliance with any additional requirements established by the City Engineer and City Attorney.

cc: Constance Smith, *Applicant*
Carolyn Smith Horttor, *Applicants*
Tony Darlin, *Applicant's Attorney*

RECEIVED



February 7, 2007

Ben Gozola, City Planner
City of Lake Elmo
City Hall
3800 Laverne Avenue
Lake Elmo, MN 55042

VIA FEDERAL EXPRESS

**Re: Minor Subdivision application / Variance request
3200 Lake Elmo Ave. N.**

Dear Mr. Gozola:

As suggested by the Planning Commission at the January 22, 2007, Meeting, the co-applicants, Carolyn Smith Horttor and Constance K. Smith have reconfigured the lot sizes so that a variance to the front lot width is not needed. The revised lot sizes and lot widths are shown on the enclosed survey. As shown on the revised survey, **Parcel G has a front lot width of 166.82 feet and Parcel F has a front lot width of 216.80 feet.** Please make this letter and the revised survey a part of the record for the Minor Subdivision application and variance request, and please place the Minor Subdivision and variance request on the agenda for the February 12, 2007, Planning Commission meeting.

In regard to the variance to the Parcel F Shoreland District lot width requirement at the lakefront, the proposal meets the standards for a variance. The DNR rules for Shoreland Districts allow the City to grant a variance to the Shoreland District lot width requirement, but the variance must be granted in accordance with standards in Minn. Stat. § 462.357, Subd. 6 (which is similar to the City's variance standard under Code § 300.06). See Minn. R. 6120.3900, Subpart 1; *Nolan v. City of Eden Prairie*, 610 N.W.2d 697, 701 (Minn. Ct. App. 2000). Pursuant to Minn. Stat. § 462.357, Subd. 6, the City may grant the requested variance if: (1) the applicant would like to use its property in a reasonable manner that is otherwise prohibited by the ordinance, (2) there are circumstances unique to the land, and (3) the variance will not alter the essential character of the locality.

(1) The proposed subdivision is a reasonable use of this property. In regard to the first requirement, there seemed to be some confusion at the Planning Commission Meeting on January 22, 2007, about the proper standard. The reasonable use requirement does not mean that an applicant must show the land cannot be put to any reasonable use without the variance. Rather, there must be a showing that the applicant would like to use its property in a reasonable manner that is otherwise prohibited by the ordinance. *Nolan v. City of Eden Prairie*, 610 N.W.2d 697, 701 (Minn. Ct. App. 2000) (*citing Rowell v. Board of Adjustment of the City of Moorhead*, 446 N.W.2d 917, 922 (Minn. Ct. App. 1989)). A variance request is reasonable if it is in keeping with the spirit and intent of the ordinance. *Nolan v. City of Eden Prairie* at 702.

The current proposal is in keeping with the spirit and intent of the Shoreland District Ordinance. The purpose of the Shoreland District Ordinance is "to preserve and enhance the quality of surface waters and conserve the economic and natural environmental values of shorelands and provide for the wise use of water and relate land resources of the state." City Code § 325.01. Also, it is the intent of the City to:

- A. Regulate placement of sanitary and waste treatment facilities on shorelands of public waters to prevent pollution of public waters and public health hazards resulting from the facilities;
- B. Regulate alteration of shorelands of public waters to prevent excessive sediment pollution, increased water runoff, excessive nutrient runoff pollution;
- C. To preserve and enhance the unique aesthetic appearance and ecological value of shoreland;
- D. Regulate the construction of buildings and changes of land use in shorelands to minimize property damages during periods of high water.

City Code § 325.02.

The current proposal is in keeping with the spirit and intent of the Shoreland District Ordinance: the economic and natural environmental value of the Lake Elmo shoreland is conserved; the septic systems are properly placed to prevent pollution; the proposed use will not cause excessive sediment pollution or water runoff; the aesthetic appearance and ecological value of the shoreland are preserved; and the proposed home will located far enough from the shoreland to minimize property damage during periods of high water.

Of course, in keeping with the spirit and intent of the Shoreland District Ordinance, the applicants will agree to the conditions and requirements of the required Valley Branch Watershed District permit and rules and regulations regarding stormwater rates and volumes, water quality treatment, flood levels and minimum floor elevations, wetland delineation and protection, and erosion controls.

(2) There are circumstances unique to the land. Due to shape of the lake and street locations, the lots in this area have more buildable land away from the lake (a "pie shape"). As explained above, the front lot width for Parcel F is 216.80 feet, and the proposed septic system is located in an area that is approximately 150 feet wide. Due to the unique circumstances present, the proposal meets all of the lot size and lot width requirements except for lake front width. Indeed, as explained above, this is not a case in which there will be crowding on the lake front that will lead to the detriment of Lake Elmo's economic and natural environmental value. Moreover, the DNR lot width requirements are designed so that there is adequate space for septic systems, and, due to the unique circumstances in this case, there is

more than enough space for the proposed septic systems. See Minn. R. 6120.3300, Subpart 2 (the lot width for a single family lot with sewer is only 75 feet).

(3) The variance will not alter the essential character of the locality. As noted by the City Planner in the January 22, 2007, Supplemental Report, "the two resulting lots would represent the two largest lots abutting Lake Elmo in the old Lake Elmo plat." Moreover, the spacing between the proposed homes is similar or larger than the spacing between most of the homes abutting Lake Elmo in this locality. The proposed variance will not alter the essential character of the local neighborhood.

CONCLUSION

For the reasons stated above, the proposed variance request and minor subdivision application should be approved. Please call should you have any questions or concerns regarding the foregoing.

Sincerely,



Anthony A. Dorland
Attorney At Law
(612) 877-5258
DorlandA@moss-barnett.com

cc: Carolyn Horttor

CERTIFICATE OF SURVEY

LOT 1 AND PART OF LOTS 2, 3 & 4, BLOCK ONE, LAKE ELMO PARK,
CITY OF LAKE ELMO, WASHINGTON COUNTY, MINNESOTA

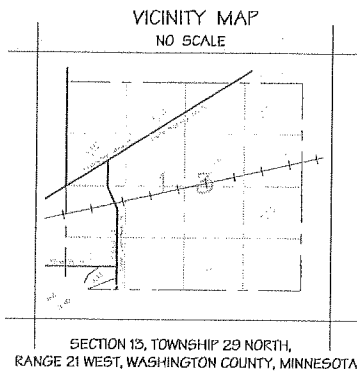
MINOR SUBDIVISION SURVEY
PREPARED FOR:

CONSTANCE K. SMITH
3200 Lake Elmo Avenue North
Lake Elmo, Minnesota 55042

AND:

CAROLYN SMITH HORTTOR
1959 North Park Drive
St. Paul, Minnesota 55119

JOB NO. 2006-04



Building Setbacks and Minimum Lot Requirements:
City of Lake Elmo for R1 - One Family Residential, on a Recreational Development lake

| MINIMUM REQUIREMENTS | |
|----------------------|-------------------|
| LOT SIZE | 1 1/2 acre |
| LOT WIDTH | 150 FEET |
| SEPTIC AREAS | 2-10,000 SF AREAS |
| BUILDING SETBACKS | |
| FRONT | 30 FEET |
| SIDE | 10 FEET |
| SIDE CORNER | 25 FEET |
| REAR | 40 FEET |
| ARTERIAL STREET | 50 FEET |
| CHW | 100 FEET |
| SEPTIC SETBACKS | |
| FROM PROPERTY LINE | 10 FEET |
| FROM FOUNDATION | 20 FEET |
| FROM CHW | 75 FEET |
| FROM WELL | 50 FEET |

Maximum height residential structure is 35 feet

PARCEL F 83,208 SQ. FT. 1.911 ACRES 216.80 LOT WIDTH
PARCEL G 111,574 SQ. FT. 2.561 ACRES 166.82 LOT WIDTH

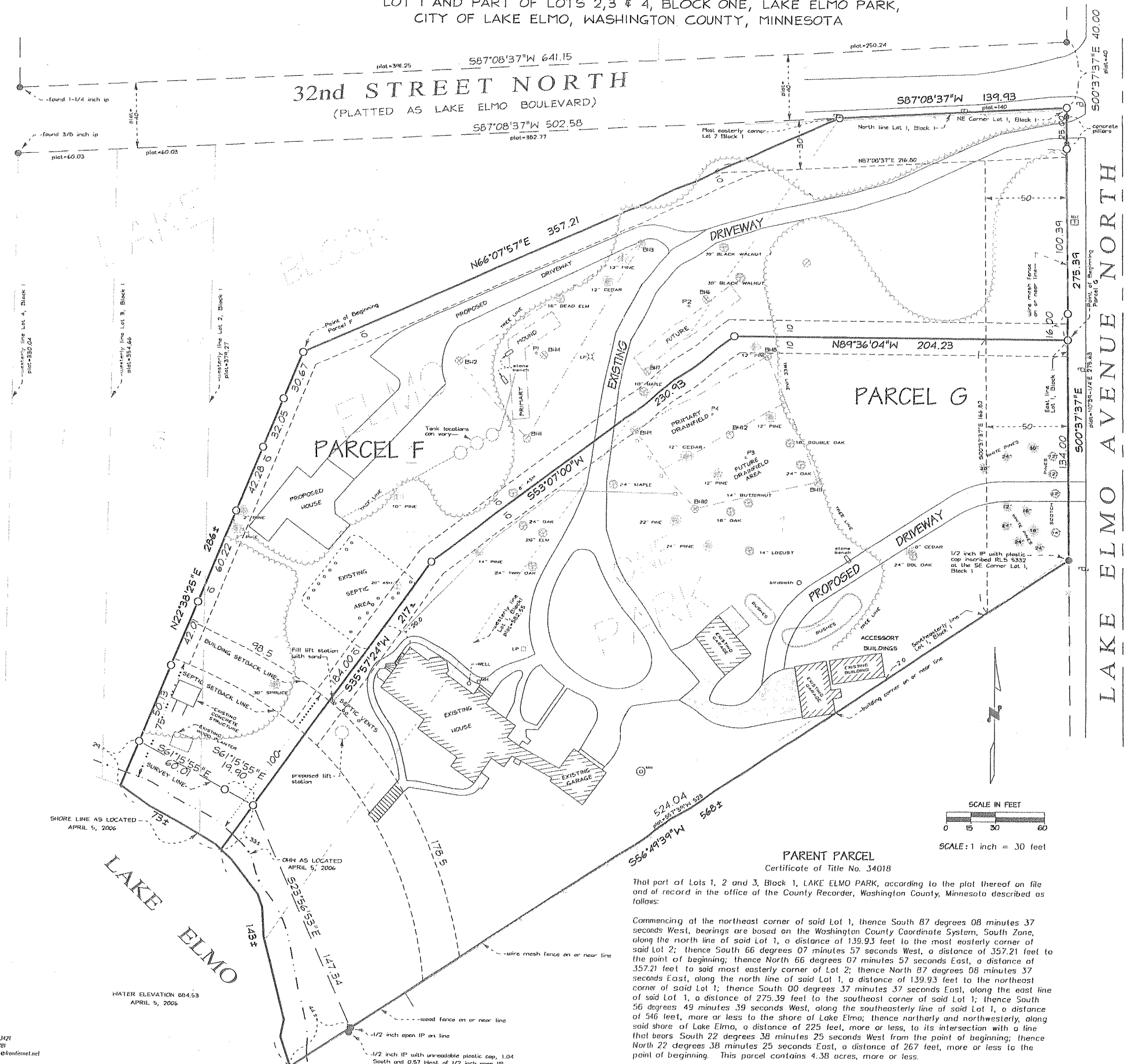
ORDINARY HIGH WATER:
The Ordinary High Water elevation for Lake Elmo is 805.6 (NGVD 1929)

LEGEND

Orientation of the bearing system is based on the Washington County Coordinate System South Zone. Distances are in feet and decimals of a foot.

- plat= Denotes recorded values from the Plat of LAKE ELMO PARK.
- Denotes wooded area.
- Denotes a bituminous surface.
- Denotes a concrete surface.
- Denotes a 1/2 inch inside diameter by 18 inch iron pipe monument, set with a plastic cap inscribed ANLZ RLS 13775 from previous survey dated 10-10-1985.
- Denotes a 1/2 inch inside diameter iron pipe monument found unless otherwise indicated.
- Denotes utility pole.
- Denotes light post.
- Denotes iron hole.
- Denotes soil boring location.
- Denotes wire mesh fence.
- Denotes setback line.

Soil tests were taken by Eklin Soil Testing
1986 Ridgewood Ave., White Bear Lake, MN 55110



LAKE ELMO AVENUE NORTH
(also known as COUNTY STATE AID HIGHWAY 17)

PARCEL F
That part of Lots 1, 2, 3 and 4, Block 1, LAKE ELMO PARK, according to the plat thereof, on file and of record in the Office of the County Recorder, Washington County, Minnesota described as follows:
Commencing at the northeast corner of said Lot 1; thence South 87 degrees 08 minutes 37 seconds West, bearings are based on the Washington County Coordinate System, South Zone, along the north line of said Lot 1, a distance of 139.93 feet to the most easterly corner of said Lot 2; thence South 66 degrees 07 minutes 57 seconds West, a distance of 357.21 feet to the point of beginning of the parcel of land to be described; thence North 66 degrees 07 minutes 57 seconds East, a distance of 357.21 feet to said most easterly corner of Lot 2; thence North 87 degrees 08 minutes 37 seconds East, along said north line of Lot 1, a distance of 139.93 feet to said northeast corner of Lot 1; thence South 00 degrees 37 minutes 37 seconds East, along the east line of said Lot 1, a distance of 141.39 feet; thence North 89 degrees 36 minutes 04 seconds West, a distance of 204.23 feet; thence South 53 degrees 07 minutes 00 seconds West, a distance of 230.93 feet; thence South 35 degrees 57 minutes 24 seconds West, a distance of 217 feet, more or less, to the shore of Lake Elmo; thence northwesterly, along said shore of Lake Elmo, a distance of 73 feet, more or less, to its intersection with a line that bears South 22 degrees 38 minutes 25 seconds West from the point of beginning; thence North 22 degrees 38 minutes 25 seconds East, a distance of 286 feet, more or less, to the point of beginning.
This parcel contains 1.911 acres, more or less.

PARCEL G
That part of Lots 1, 2 and 3, Block 1, LAKE ELMO PARK, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota described as follows:
Commencing at the northeast corner of said Lot 1; thence South 00 degrees 37 minutes 37 seconds East, bearings are based on the Washington County Coordinate System, South Zone, along the east line of said Lot 1, a distance of 141.39 feet to the point of beginning of the parcel of land to be described; thence North 89 degrees 36 minutes 04 seconds West, a distance of 204.23 feet; thence South 53 degrees 07 minutes 00 seconds West, a distance of 230.93 feet; thence South 35 degrees 57 minutes 24 seconds West, a distance of 217 feet, more or less, to the shore of Lake Elmo; thence southeasterly, along said shore of Lake Elmo, a distance of 143 feet, more or less, to its intersection with the southeasterly line of said Lot 1; thence North 56 degrees 49 minutes 39 seconds East, along said southeasterly line of Lot 1, a distance of 568 feet, more or less, to the southeast corner of said Lot 1; thence North 00 degrees 37 minutes 37 seconds West, along said east line of Lot 1, a distance of 134.00 feet to the point of beginning.
This parcel contains 2.561 acres, more or less.

REVISIONS:
- Changed boundary line between Parcels F and G
- Moved proposed house toward lake
- Added primary and future drain field to Parcel G

Joel T. Anez *Joel T. Anez* 02/07/07
Joel T. Anez Minnesota License No. 13775 Date
Official copies of this map are crimp sealed.
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
Joel T. Anez 10/06/06
Joel T. Anez Minnesota License No. 13775 Date

PARENT PARCEL
Certificate of Title No. 34018
That part of Lots 1, 2 and 3, Block 1, LAKE ELMO PARK, according to the plat thereof on file and of record in the office of the County Recorder, Washington County, Minnesota described as follows:
Commencing at the northeast corner of said Lot 1, thence South 87 degrees 08 minutes 37 seconds West, bearings are based on the Washington County Coordinate System, South Zone, along the north line of said Lot 1, a distance of 139.93 feet to the most easterly corner of said Lot 2; thence South 66 degrees 07 minutes 57 seconds West, a distance of 357.21 feet to the point of beginning; thence North 66 degrees 07 minutes 57 seconds East, a distance of 357.21 feet to said most easterly corner of Lot 2; thence North 87 degrees 08 minutes 37 seconds East, along the north line of said Lot 2; thence North 87 degrees 08 minutes 37 seconds East, along the north line of said Lot 1, a distance of 139.93 feet to the northeast corner of said Lot 1; thence South 00 degrees 37 minutes 37 seconds East, along the east line of said Lot 1, a distance of 275.39 feet to the southeast corner of said Lot 1; thence South 56 degrees 49 minutes 39 seconds West, along the southeasterly line of said Lot 1, a distance of 546 feet, more or less to the shore of Lake Elmo; thence northerly and northwesterly, along said shore of Lake Elmo, a distance of 225 feet, more or less, to its intersection with a line that bears South 22 degrees 38 minutes 25 seconds West from the point of beginning; thence North 22 degrees 38 minutes 25 seconds East, a distance of 267 feet, more or less to the point of beginning. This parcel contains 4.38 acres, more or less.

SURVEY PREPARED BY:
Landmark Surveying, Inc.
21150 Dark Avenue North - P.O. Box 65
Scandia, Minnesota 55073
Office number: 651-431-1477
Fax number: 651-431-4781
E-mail address: info@landmark.net

**LAKE ELMO PLANNING COMMISSION
STAFF REPORT**

Date: February 22, 2007 for the Meeting of February 26, 2007

Topic: Government Training Services

Staff has reviewed the Government Training Services workshops being offered this spring and summer. In doing so, three were picked out that may be the most helpful for planning commissioners. Please review the suggestions below.

“Your Role as Planning Commission Member”

Sat. March 24 – St. Paul Morning: 8:30 a.m. – 12:30 p.m. (check-in 8:00 a.m.)

Thurs. April 19 – St. Paul Evening: 6:00 – 10:00 p.m. (check-in 5:30 p.m.)

This would be a great learning opportunity for both new and experienced planning commissioners! This workshop is tailored specifically to a Planning Commissions task and most of the topics seem very relevant.

Some of the topics included:

- Keeping the “Big Picture” in mind
- Setting significant (but realistic) Commission goals
- Preparing an annual work program
- Forging healthy relationships with elected officials and staff
- Ways to facilitate public participation in the planning process
- Handling controversial issues

“The Basics of Planning & Zoning”

Wed. April 11 – St. Paul 9:00 a.m. – 4:30 p.m. (check-in 8:30 a.m.)

Wed. June 6 – St. Paul same

This workshop is tailored for those new to land use planning or interested in an extensive review of the fundamentals. This may be helpful for new commissioners or for an update of new regulations for those more experienced.

“Beyond the Basics of Planning & Zoning”

Wed. April 25 – St. Paul 9:00 a.m. – 4:30 p.m. (check-in 8:00 a.m.)

This workshop is intended for those who have a solid general knowledge of the planning process. Some of the topics were focused more on staff’s responsibilities, but would be informative, nonetheless.

Please let Kelli know either by phone or email **no later than Friday, March 2** which workshop you would like to attend. Staff will ensure the appropriate commissioners are registered for the requested workshops.

Lake Elmo Planning Commission Agenda Item

Executive Summary

Title of Item: **2007 City Work Plan Items**

Meeting Date: **2-26-07**

Staff/Guest Reporting: **Ben Gozola, City Planner**

Summary: On February 13th, the Planning Commission and City Council held a joint meeting at which the priority work items for 2007 were discussed. At that meeting, staff was requested to assemble a complete list of items for prioritization and consideration by the Planning Commission. The list was to include the items adopted (or discussed?) for the 2006 work plan. By code, this process should occur every September (as it will in the future).

Issues for Consideration: As discussed at the February 13th meeting, the highest priority item for the city in the short term is:

1. Creation and adoption of zoning codes in the old village area and I-94 corridor that conform to the approved comprehensive plan (due by July).

The remaining items that were brainstormed on the 13th still need to be prioritized into a final listing by the planning commission and City Council. The items discussed and researched include:

2. Zoning map update to ensure the City's official map reflects all ordinances approved since 1995.
3. Interim use ordinance to allow for such permits and to define what constitutes an interim use.
4. Revisions to the NC zoning district to address multiple problems which result in too many variances.
5. Billboard sign ordinance to study and possibly adopt regulations governing the use of LCD billboard signs. A year long moratorium on this matter was recently approved by the City Council, so action must be taken on this topic within the year.
6. Sexually oriented businesses ordinance to regulate where such facilities could potentially locate within the City of Lake Elmo. A year long moratorium on this matter was also recently approved by the City Council, so action must be taken on this topic within the year.
7. Other non-comprehensive plan related zoning district updates (by priority).

- (cont.)
8. Zoning Code recodification to incorporate all text changes adopted by ordinance since the last recodification.
 9. Conditional Use Permit ordinance to update current regulations to establish specific criteria for different conditionally permitted uses.
 10. Sign Code ordinance to examine all other sign issues beyond LCD billboards.
 11. Outdoor Lighting Standards ordinance to review and address what types and levels of lighting are appropriate for different uses in Lake Elmo.
 12. Street Design Standards ordinance to update the city's requirements for new roadways being constructed within the City.
 13. Home Occupations ordinance to address what is appropriate in the different areas of the City.
 14. 2007 to 2011 Capital Improvement Plan will be part of the work plan every year during the budget process.

Recommendation: Discuss the variety of issues and establish a list of City Priorities for recommendation to the City Council.

Lake Elmo
PLANNING COMMISSION
2006 Work Plan

1. Home Occupations
2. 2007 – 2011 Capital Improvement Plan
3. Zoning Code Update
4. Review/Amend Sign Code
5. Review/Amend Outdoor Lighting Standards
6. Review/Amend Street Design Standards