



City of Lake Elmo

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NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, June 11, 2007, at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. April 23, 2007
 - b. May 14, 2007
4. PUBLIC HEARING CONTINUANCE: VARIANCE: An application to allow construction of a home on a parcel which does not meet the 1.5 acre minimum lot size requirement, does not comply with the 60% of the district's minimum requirements as outlined in 300.09 of City Code, and construction of an on-site septic system within an area of less than one acre – R1 zoning – 8961 37th Street North.
5. PUBLIC HEARING: VARIANCE: An application to allow three additions to a non-conforming primary structure at 8186 Hill Trail North. The three variances would be from the lakeshore setback, from the front yard setback, and the septic system setback from the structure – R1 zoning – 8186 Hill Trail North.
6. City Council Updates
 - a. June 5 – Authorized the search for filling the position of planning director
 - b. June 7 – Infrastructure I-94 to 30th (street, sewer, trail) informational meeting
7. Adjourn

**City of Lake Elmo
Planning Commission Meeting
Minutes of April 23, 2007**

Chairman Ptacek called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Ptacek, Fliflet, McGinnis, Deziel, Lyzenga, Van Zandt, Pelletier, Roth, Schneider, and Helwig. STAFF PRESENT: Senior Planner Gozola and Planner Matzek.

Pledge of Allegiance

Agenda

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

PUBLIC HEARING: CUP Amendment - Discover Crossing

Planner Matzek identified the existing Discover Crossing subdivision as an Open Space Preservation Development, which was allowed through a Conditional Use Permit (CUP). The developer would like to reduce the side yard setback from fifteen feet to ten feet on interior lot lines and five feet on exterior side lot lines.

Mr. Tim Freeman spoke on behalf of the applicant. He stated that there are few homes in the development currently, but many that are proposed. The builders are trying to site the homes and are trying to reduce the number of trees removed. They are seeking the reduced setback to allow more flexibility. They are not seeking a variance because the code allows it. Their original request was to match the setbacks other neighborhoods had received. In speaking with staff, they increased the setbacks to those now proposed.

Commission Deziel asked for an example of where trees would be saved.

Mr. Freeman stated that there is an architectural review committee for the development who will be reviewing the individual applications.

Chairman Ptacek asked if the other developments with the reduced setbacks had the same densities as Discover Crossing.

Planner Matzek said she was unsure, but could find out the information.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:16 P.M.

No one spoke.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:17 P.M.

Commissioner Fliflet stated that she believed the houses were not ten feet apart in Tana Ridge. She would like to see the requirements stay at the required 15 feet.

Commissioner Pelletier said she does not like to consider past examples as precedents, but would like to save the trees.

Commission Lyzenga stated she thinks the homes should be downsized. The reduced setbacks open the door to homes getting larger.

Commissioner Helwig stated that the separation between the homes is for fire safety reasons. Trees along the property lines would not be saved if a house was built closer.

M/S/P, Fliflet/Lyzenga to recommend denial of the CUP Amendment for Discover Crossing. Vote: 9:0.

Commissioner Deziel stated he would be open to looking at reduced setbacks in specific instances.

Draft Interim Zoning Ordinances – South of 10th Street and Village Area

Senior Planner Gozola stated he would like to tighten up the draft ordinances as the open houses approach. He identified the timeline attached to the draft ordinances. He stated his intention to send notices to everyone in the areas, even those not being rezoned. The city is going through the process to amend the ordinances to match the Comprehensive Plan. The purpose of the holding districts is to not allow development to occur that is inconsistent with the Comprehensive Plan. The city will soon begin an AUAR process.

Senior Planner Gozola went through the outline and important language for the holding districts. The purpose language is important as it will point out both the availability of sewer and the development staging plan as indicators of when development would be permitted. The uses on properties being rezoned will not be restricted except for the uses pertaining to development.

Senior Planner Gozola stated that the proposed rezoning map has been updated to exclude the Eagle Point Business Park and the Stonegate development from the rezoning as their current zoning conforms with the Comprehensive Plan. He explained how to read the map included in the packet.

Commissioner Lyzenga asked why the Forest and the Cimarron neighborhood were included.

Senior Planner Gozola stated that the Forest was zoned R-1, but it is guided for RE, so that needs to be fixed. He will check into the other neighborhood.

Commissioner Fliflet asked if the map could have a clear legend and attach the development staging plan in the mailings to assist residents.

Commissioner Schneider asked how many letters would be mailed.

Senior Planner Gozola stated that approximately 380 would be sent for the village area and 220 would be sent for the area South of 10th street.

Commissioner Deziel asked if the business park on the southeast side of the city was meant to be that large.

Senior Planner Gozola stated that it matches the future land use map.

Commissioner Roth stated that he does not understand why homes should be built so close to the frontage road.

Chairman Ptacek stated that the large property owners will have their lawyers watching the process, so he is not as concerned of the properties South of 10th Street.

Commissioner Lyzenga expressed concern that the map was too detailed and invited conversation that is not appropriate at this time.

Commissioner Schneider asked about the green belt in the village area.

Senior Planner Gozola stated that there were varying degrees of buffers shown on city maps, but that will be addressed in the future.

Commissioner Helwig asked for clarification on the boundaries of the village area.

Chairman Ptacek stated that this was for informational purposes. Commissioner Armstrong was not able to attend the meeting, but provided his comments in written form.

Washington County Land and Water Legacy Program

Planner Matzek stated that this was provided for informational purposes.

Council Updates

Planner Matzek said there was a discussion of the Village Area Master Plan and AUAR at the April 10th Council workshop. At the April 17th meeting the Council approved the minor subdivision and variances for 3200 Lake Elmo Avenue, accepted the Village Area Master Plan, and approved the AUAR proposal and housing unit range.

Adjourned at 8:09 p.m.

Respectfully submitted,

Kelli Matzek
Planner

**City of Lake Elmo
Planning Commission Meeting
Minutes of May 14, 2007**

Chairman Ptacek called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Ptacek, Helwig, Lyzenga, Pelletier, Roth, McGinnis, Fliflet, Van Zandt, Armstrong (7:03) and Deziel (7:08). STAFF PRESENT: City Engineer Ryan Stempski, Senior Planner Gozola and Planner Matzek.

Agenda

M/S/P, Helwig/VanZandt to approve minutes as presented. Vote: 8:0.

Minutes

March 26, 2007

M/S/P, Helwig/Lyzenga to approve as presented. Vote: 8:0.

Whistling Valley III, Preliminary Plan, Plat, CUP,

Senior Planner Gozola introduced the application for Preliminary Plan, Preliminary Plat, and Conditional Use Permit for the Open Space Preservation (OP) development Whistling Valley III. The applicant is looking to plat six lots in the development. At the concept stage, the City Council decided to review this as a stand alone development and therefore, the deviations would require a 4/5 vote. The first deviation is that the property is less than the 40 acre minimum. The second request is to allow the open spaces to be less than 10 acres in size. The third is to reduce the buffer from Whistling Valley I. The fourth deviation is from where the trees would be planted. Staff is requesting right-of-way be extended to the west to a large parcel that could be developed as an OP development in the future. Applicants have proposed right-of-way for future road connection to the north to possibly connect up with 15th Street North.

City Engineer Stempski said he has worked with the applicant on the road system and the dimensions of the proposed hammerhead. They have submitted all necessary permits for extending the septic to this area.

Planner Gozola said the property is within the shoreland district, but in reviewing the shoreland regulations, found that the application meets the requirements. Staff is not recommending any public parks and would recommend cash-in-lieu of land dedication. Some concerns were brought up at the concept stage by the neighbor Mr. Kaufhold. The City Engineer has worked with Mr. Kaufhold to address his concerns.

Chairman Ptacek asked if there was a drainage problem on the site.

Engineer Stempski said the watershed district reviewed the site for any drainage concerns.

Commissioner Fliflet asked how condition number twelve as stated in the staff report was enforceable.

Senior Planner Gozola stated that a new system is being developed where the planning department will review building permits. The condition follows the intent of an OP development.

Commissioner Deziel said he is confused as to why the council would want to view the development as a stand alone project.

Senior Planner Gozola stated that by looking at it as a component of the others, a 4/5 vote would not be required. The concern with viewing it as a part of the existing developments was a concern of precedent.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:27 P.M.

Dave Sorenson, Applicant

Mr. Sorenson stated that a meeting was held with Mr. Kaufhold to work out his concerns. He will leave the two dead-ending access points for now.

Mr. Jim Kaufhold, 8780 North Ironwood Trail

Mr. Kaufhold stated that everything has been worked out as far as the berm adjacent to his son's property. The plans had showed there was supposed to be erosion control. The developers said they had it hydroseeded, but he believed it was not done. Mr. Kaufhold asked that his comments have no bearing on the current application.

Chairman Ptacek asked Engineer Stempski to talk with Valley Branch Watershed District.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:32

Commissioner Fliflet asked why the middle lot at the bottom was designed in that way.

Mr. Sorenson stated that it was challenging with the setbacks and the elevations. That lot was larger to provide more flexibility in housing placement. There are two ponds located below the two lots. There are also trees and contours to work around.

M/S/P, Pelletier/Van Zandt to recommend approval of the requested preliminary plan, preliminary plat, CUP, and deviations from the OP development standards based on the applicant's submission, the contents of the report, public testimony and other evidence available to the Council. Vote: 8:1. (Deziel opposed, he believed it should have been viewed as a combination of Whistling Valley I and II; the precedent was set incorrectly by allowing it as a stand alone.)

Draft Interim Zoning Ordinances Open Houses

Senior Planner Gozola stated that both open houses for the rezoning of the Village Area and South of 10th Street went well. People were invited to sign up with email addresses for distribution lists.

Rock Point Church – Hard Hat Tour

Planner Matzek stated that the Rock Point Church has invited the Lake Elmo City Council and Commissions to attend a tour of the church. City staff is currently working out the details of the date and time.

City Council Updates

Planner Matzek said that on May 1st, the Council denied the CUP Amendment application for Discover Crossing. On May 15th, the Council will be considering the authorization for plans and specs for Lake Elmo Avenue Infrastructure Project I-94 to 30th Street.

Adjourned at 7:42 p.m.

Respectfully submitted,

Kelli Matzek
Planner

ITEM: Consider a request to allow construction of a home on a parcel at 8961 37th Street North which does not meet the 1.5 acre minimum lot size requirement or comply with the 60% of the district's minimum requirements as outlined in 300.09 of City Code and construction of an on-site septic system within an area of less than one acre.

REQUESTED BY: Tom DuFresne, Property Owner

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Susan Hoyt, City Administrator
Ben Gozola, Senior Planner

SUMMARY AND ACTION REQUESTED:

The planning commission is being asked to recommend approval or denial of three requested variances at 8961 37th Street North. The property owner is asking to build a new house and septic system at the property. The lot was previously occupied by a house that was deemed a public health nuisance and torn down by direction of Washington County. The property was forfeited in 2004 and bought by the current property owner who would like to once again use the property for residential purposes.

The applicant is seeking approval of three variances for the 0.86 acre property at 8961 37th Street North:

- Variance 1: A 0.64 acre (27,878 sq ft) variance from the 1.5 acre minimum lot size.
- Variance 2: A variance from section 300.09 regarding the unmet 60% requirement.
- Variance 3: A 0.16 acre (6,969 sq ft) variance from the required one (1) acre septic site for a dwelling unit.

The three variances requested are interconnected. The ability to build a house and septic system are tied to all three of the variances being requested as well as to each other. A house would not be built without approval of a septic system and a septic system would not be built if a house was not allowed on the property. Although there are three variances needed, they should be considered in conjunction with one another and either all approved or all denied.

Staff is recommending approval of the variances requested at 8961 37th Street North for the following reasons:

- The septic location will satisfactorily meet environmental standards.
- The character of the neighborhood will not be impacted by the proposed residential home and septic system as the property was previously utilized with a residential home and septic system.
- The property is larger than many of the platted lots in the neighborhood currently being utilized for residential purposes.
- The applicant was not responsible for the removal of the previously existing home from the property.

Please see the attached full staff report for the variance criteria analysis.

ADDITIONAL FACTS:

- The lot was previously occupied by a house that was deemed a public health nuisance and torn down by direction of Washington County.
- The property was forfeited in 2004 and later bought by the current property owner.
- The septic system was identified as needing to be upgraded with the proposed new house.
- The property is currently 0.86 acres in size. If the property was 0.9 acres in size, 0.04 acres (1,742 sq ft) larger, the two variances not pertaining to the septic system would not be required.
- According to City Code regarding non-conformities, if the applicant had applied for a building permit for the site to reconstruct the former non conforming dwelling within one year of when the house had been demolished, variance applications would not have been required.
- The DNR and the Watershed District had no concerns regarding the application.

OPTIONS

The Planning Commission has the following options:

A) Recommend Council approve the requested variances based on the reasonableness of building a house and septic system on a site previously used for a residential home with accompanying septic system. Also, it would not be out of character for the residential neighborhood to use this lot for residential purposes given that it is larger than many of the existing residential lots in the neighborhood. Had the applicant applied for a building permit within the one year timeframe, the house and septic system would be allowed to be built without variances.

B) Recommend Council deny the requested variances based on the findings identified by the commission as staff was unable to identify reasons to deny the application.

RECOMMENDATION

Approval of the variances requested at 8961 37th Street North with the following conditions:

1. The variance shall expire one year from the date of resolution; City Council approval will be required for any subsequent extension.
2. Silt fencing shall be shown at the construction limits for the proposed house and driveway with a future building permit application.
3. The applicant shall agree to any conditions required by the City Engineer relating to the proposed septic design, area, and construction.
4. The applicant shall hook up to the municipal water.

Suggested motion for consideration:

Move to recommend approval of the variance application for 8961 37th Street North based on the findings listed in the staff report and as articulated tonight, subject to the conditions recommended by staff.

SUGGESTED ORDER OF BUSINESS:

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| • Introduction | Planning Commission Chair |
| • Report | Kelli Matzek, City Planner |
| • Questions to staff | Chair facilitates |
| • Comments from property owner | Thomas DuFresne, Property Owner |
| • Questions/comments from the public, if any (up to 3 minutes) | Chair facilitates |
| • Discussion | Chair facilitates |
| • Consider tabling of application | Commission |

ATTACHMENTS: Comprehensive Staff report
 Site map
 Applicant's Submittals

City of Lake Elmo Planning Department
Variance Review

To: Planning Commission

From: Kelli Matzek, City Planner

Meeting Date: 5-30-07

Applicant: Thomas DuFresne

Location: 8961 37th Street North

Current Zoning: R1 – One Family Residential

Introductory Information

Request: The applicant is seeking approval of three variances for the 0.86 acre property at 8961 37th Street North:

Variance 1: A 0.64 acre (27,878 sq ft) variance from the 1.5 acre minimum lot size.

Variance 2: A variance from section 300.09 regarding the unmet 60% requirement.

Variance 3: A 0.16 acre (6,969 sq ft) variance from the required one (1) acre septic site for a dwelling unit.

History: This property at 8961 37th Street North was originally platted as two lots (Lot 1, Block 2 and Lot 2, Block 2) of the Kenridge Addition in July of 1966. The two lots were later combined into one tax parcel for a total of 0.86 acres.

Up until 2005, the property at 8961 37th Street had a home, accessory structure, and septic system located on the property. In March 2004, based on the recommendation of the Building Official and City Attorney, the City Council found that the house previously on the property was a hazardous and unsafe structure. In November 2004, Washington County ordered an abatement of the public nuisance. Their timeline was not met and the department authorized demolition of the buildings on the property to abate the public health nuisance. This property was forfeited in 2004 and the buildings demolished in 2005. The property was sold and is currently owned by Mr. Thomas DuFresne.

Applicable Codes: **Section 300.07 Zoning Districts**

Subd. 4(c). R-1 – One Family Residential

...3. Minimum District Requirements

The R-1 Zoning District has a minimum lot size of 1 ½ acre per unit without sanitary sewer and 24,000 sq. ft. per unit with sanitary sewer. This site does not have access

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to sanitary sewer, therefore the 1 ½ acre requirement would apply.

Section 300.09 Additions and Exceptions to Minimum Area, Height, and Other Requirements.

Subd. 1. Existing Lot

An existing lot is a lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the County Recorder or registrar of titles, on or before the effective date of this section. Any such lot or parcel of land which is in a residential district may be used for single family detached dwelling purposes provided the area and width of the lot are within sixty percent (60%) of the minimum requirements of this section, provided all setback requirements of this section must be maintained; and provided it can be demonstrated safe and adequate sewage treatments systems can be installed to serve the permanent dwelling...

Section 300.07 Zoning Districts

Subd. 4(c). R-1 – One Family Residential (Medium Density)

...3. Minimum District Requirements

...Septic Drainfield Regulations: All lots must have at least one (1) acre of land suitable for septic drainfields and area sufficient for two (2) separate and district drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited. [sic]

Section 300.09 Additions and Exceptions to Minimum Area, Height, and Other Requirements.

Subd. 8. Minimum Area Requirements for Lots Without Public Sanitary Sewer.

In areas without public sanitary sewer where public sanitary sewer is not proposed in the City Capital Improvement Program or Comprehensive Plan, single and two family homes shall demonstrate suitable soil conditions for a minimum on-site sewage treatment area of one (1) acre per dwelling unit.

**Variance
Request(s):**

For the proposed project, the applicant will need the following three variances:

Variance 1: A 0.64 acre (27,878 sq ft) variance from the 1.5 acre minimum lot size, Section 300.07 4(c).

Variance 2: A variance from section 300.09 Subd. 1 regarding the unmet 60% requirement.

Variance 3: A 0.16 acre (6,969 sq ft) variance from the required one (1) acre septic site for a dwelling unit as referenced in a number of locations in city code.

Findings & General Site Overview

Site Data:	<i>Existing Zoning</i> – R-1 (One Family Residential) <i>Land Use Guidance</i> – NC (Neighborhood Conservation District) <i>Parcel size</i> – 0.86 acres <i>Property Identification Number (PID):</i> 16-029-21-14-0007
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Application Review:

Applicable Code Definitions:	<p>DWELLING UNIT. A residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used, or intended for use exclusively as living quarters for one (1) family.</p> <p>HARDSHIP. The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists; that the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and that these unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.</p> <p>INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile sewage disposal system, or other sewage treatment device.</p> <p>INDIVIDUAL SEWAGE TREATMENT SYSTEM. An on-site sewage treatment system connecting to a single dwelling or other establishment, consisting of soil treatment unit, septic tank, and any associated pumping and piping systems.</p> <p>MOUND SYSTEM. An alternative sewage treatment system designed with the soil treatment area built above existing grade to overcome the limitations of water table, bedrock, or soil permeability.</p> <p>NON-CONFORMITY – NON-CONFORMING USE. Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of zoning regulations or amendments to the zoning regulations that would not have been permitted to become established under the terms of the zoning regulations as now written, if the zoning regulations had been in effect prior to the date it was established, recorded, or authorized.</p> <p>SEPTIC TANK. A sound, durable, watertight sewage tank designed and constructed to receive the discharge of sewage from a building sewer, separate solids from liquids, digest organic matter, and store liquids through a period of detention.</p>
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STANDARD SYSTEM. An individual sewage treatment system employing a building sewer, sewage tank, and the soil treatment system commonly known as a dram field or leach field.

VARIANCE. A modification of a specific permitted development standard required to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship as defined in Section 300.06, Subd. 3. Economic considerations along shall not constitute a hardship. [sic]

**Variance
Criteria:**

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

Criteria #1

1. *The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists;*

Variance 1: A 0.64 acre (27,878 sq ft) variance from the 1.5 acre minimum lot size.

At one time a dwelling, accessory structure, and septic system were permitted to be built, and therefore the property was previously considered buildable given the current lot size.

The previously existing home was non-conforming. If restoration of the legal nonconforming dwelling had begun within a year of when the home was removed, the variances being applied for would not be necessary.

Staff finds that the request to consider the property a buildable lot is reasonable as it is located within a residential neighborhood and was previously used for residential purposes.

Variance 2: A variance from section 300.09 regarding the unmet 60% requirement.

The two platted lots that were later combined to form this property were approved by the city before the minimum lot size of 1.5 acres was established. The two lots were combined resulting in the 0.86 acre lot size - approximately 57% of the now required lot size. This lot is unique from other vacant lots in Lake Elmo that do not meet the 60% threshold in that it was previously utilized for residential purposes.

Although the property does not meet the requirements to allow application of the 60% rule as written in code, staff finds that the request to consider the property a buildable lot is reasonable given the previous use of the property and surrounding residential neighborhood.

Variance 3: A 0.16 acre (6,969 sq ft) variance from the required one (1) acre septic

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site for a dwelling unit.

Staff finds that the request to place the septic system on a site of less than one acre is reasonable. Technological advancements have provided opportunities for septic system footprints to be reduced. In addition, primary and secondary septic system sites have been designed, reviewed, and found acceptable for this site. Furthermore, the existing lot previously contained a dwelling and is in character with other lots in the neighborhood.

City sewer is not currently available for this property and is not planned to be made available in the future. Also, if the dwelling is to be allowed on the property, a septic system would be necessary for public health purposes.

Criteria #2:

2. *The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district;*

Variance 1: A 0.64 acre (27,878 sq ft) variance from the 1.5 acre minimum lot size.

The property is unique in that two of the originally platted lots have been combined, making it less non-conforming than many of the still existing lots in the neighborhood. The home previously on the site was deemed a public nuisance by virtue of the physical deterioration of the house itself and removed. The 1.5 acre minimum lot size restriction has become an issue because the previous home was removed. The presence of a single family home with an accommodating septic system would not be detrimental to the public welfare or be injurious to other property as this lot was previously utilized as such and is located in a residential neighborhood. Therefore, staff finds this criteria is satisfied.

Variance 2: A variance from section 300.09 regarding the unmet 60% requirement.

Section 300.09 Subd. 1 in code allows for an accommodation of smaller residential lots than outlined in the zoning districts with a number of specific requirements. This allowed deviation does not apply to this property as the land does not meet the 60% threshold for required minimum lot size.

The property was originally platted as two smaller lots in the 1960's. The minimum lot size regulation of 1.5 acres was established later, making the lot non-conforming. Staff finds this criteria is satisfied.

Variance 3: A 0.16 acre (6,969 sq ft) variance from the required one (1) acre septic site for a dwelling unit.

The septic design for the primary and secondary septic site locations have been

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reviewed by the City Engineer and found to be acceptable.

Advancements in technology allow a smaller footprint to be required for septic system designs. The primary and secondary septic site locations require a combined 0.14 acres (6,000 square feet), which are placed in locations meeting state setback requirements. Therefore, staff finds that this criteria is satisfied.

Criteria #3:

3. *The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.*

Variance 1: A 0.64 acre (27,878 sq ft) variance from the 1.5 acre minimum lot size.

Since originally platted in 1966, the two platted lots were combined to form a larger lot. Despite this combination, the property is still below the minimum lot size requirements for this zoning district.

Properties adjacent to the property on the west and south are utilized as single family home sites and owned by different parties. Therefore, the property is unable to be increased in size in order to meet the requirements. As this property was previously used as a residence, staff finds that this criteria is met.

Variance 2: A variance from section 300.09 regarding the unmet 60% requirement.

As mentioned above, this property was created by the combination of two parcels platted in the 1960's. Combined, the lot does not meet the requirements of the 60% rule regarding minimum lot size.

For an average vacant lot in Lake Elmo, this requirement would identify this lot as unbuildable. The unique characteristic of the applicant's property is that a house was previously on this site, therefore, at some point in the past, it was deemed a buildable lot. Therefore, staff finds this criteria is met

Variance 3: A 0.16 acre (6,969 sq ft) variance from the required one (1) acre septic site for a dwelling unit.

The entire property is less than one acre in size. If it is deemed reasonable to allow a dwelling on the property, a variance from the one acre septic requirement would also be needed.

This criteria is therefore met.

**Variance
Conclusions:**

Based on our analysis of the review criteria in City Code, staff would recommend approval of all three variance requests for 8961 37th Street.

**Resident
Concerns:**

Staff is not aware of any resident concerns surrounding the requested variances.

**Additional
Information:**

- According to City Code regarding non-conformities, if the applicant had applied for a building permit for the site to reconstruct the former non conforming dwelling within one year of when the house had been demolished, variance applications would not have been required.
- City water is available at the street in front of the property. Staff would recommend the new home be required to hook up to the water system and hook up fees will be applicable.
- Silt fencing should be shown at the construction limits for the proposed house or driveways with the future building permit application.
- The DNR and the Watershed District had no concerns regarding the application.

Conclusion

The applicant is seeking approval of the following three variances:

Variance 1: A 0.64 acre (27,878 sq ft) variance from the 1.5 acre minimum lot size.

Variance 2: A variance from section 300.09 regarding the unmet 60% requirement.

Variance 3: A 0.16 acre (6,969 sq ft) variance from the required one (1) acre septic site for a dwelling unit.

**Commission
Options:**

The Planning Commission must examine the proposed variances to determine whether they meet all conditions of approval outlined by city code.

The Planning Commission has the following options:

- A) Recommend Council approve the requested variances to allow a residential dwelling and septic system to be built on a property that does not meet the minimum lot size, 60% requirement, or minimum septic size requirement; recommendations are based on the applicant's submission and findings of fact.
- B) Recommend Council deny the requested variances based on the applicant's submission and findings of fact.
- C) Table the item and request additional information.

(cont.) A sixty day extension has already been requested, therefore, the deadline for a Council decision on this item is August 14, 2007.

**Recommended
Action:**

Staff recommends option A: Approval of the requested variances based on the following:

- The septic location will satisfactorily meet environmental standards.
- The character of the neighborhood will not be impacted by the proposed residential home and septic system as the property was previously utilized with a residential home and septic system.
- The property is larger than many of the platted lots in the neighborhood currently being utilized for residential purposes.
- The applicant was not responsible for the removal of the previously existing home from the property.

**Denial Motion
Template:**

To deny all of the requested variances, you may use the following motion as a guide:

I move that we recommend denial of the variance application for 8961 37th Street North based on the following findings: *(Cite your own findings as staff was unable to identify reasons.)*

**Approval
Motion
Template:**

To approve all of the requested variances, you may use the following motion as a guide:

Move that to recommend approval of the variance application for 8961 37th Street North based on the findings listed in the staff report and as articulated tonight, subject to the conditions recommended by staff. *(use staff's findings provided above or cite your own)*

Conditions:

1. The variance shall expire one year from the date of resolution; City Council approval will be required for any subsequent extension.
2. Silt fencing shall be shown at the construction limits for the proposed house and driveway with a future building permit application.
3. The applicant shall agree to any conditions required by the City Engineer relating to the proposed septic design, area, and construction.
4. The applicant shall hook up to the municipal water system.

cc: Tom DuFresne, Applicant
Ben Gozola, Senior Planner

Fee \$ 725⁰⁰

City of Lake Elmo DEVELOPMENT APPLICATION FORM

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

APPLICANT: Thomas DuFresne 10777 Lansing Ave N., Stillwater Mn 55082
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-430-9166 612-812-4808
(Home) (Work) (Mobile) (Fax)

FEE OWNER: SAME
(Name) (Mailing Address) (Zip)

TELEPHONES: _____
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description):
8961 37th Street N Lot 1 and Lot 2 Block 2
Kendridge Addition
P.I.D. No 16.029.21.14.0007

DETAILED REASON FOR REQUEST: This request is to replace the house
built in 1969, that was removed in 2005.

*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:
A variance is required to rebuild as per section 300.09 Subd 1.
A variance is also required for the septic drain lot size requirement section 300.07 Subd 4C.
Note: City water services this lot & subdivision.

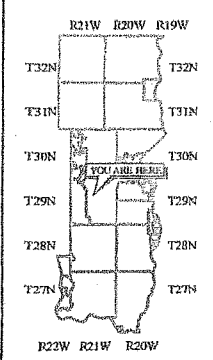
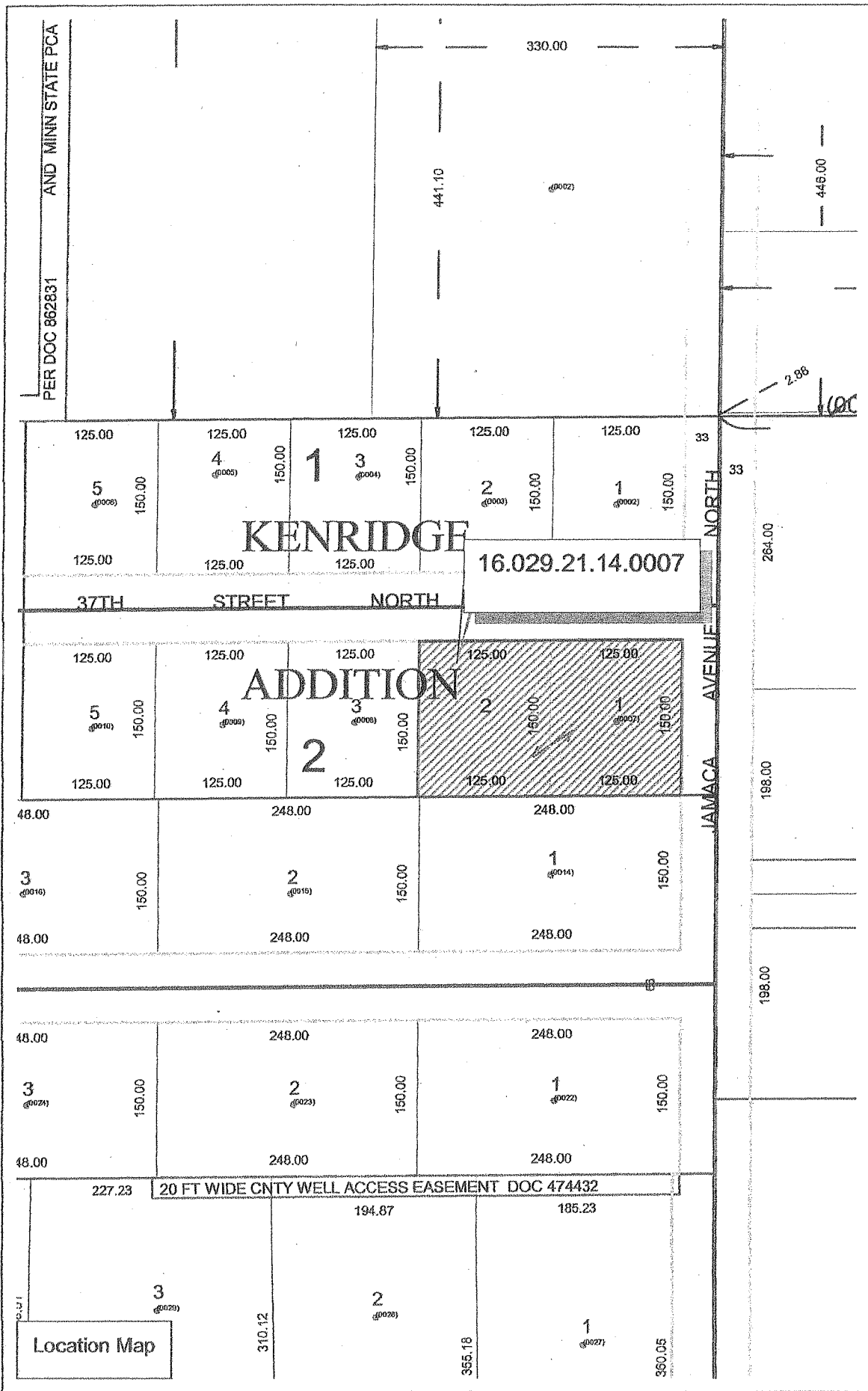
In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay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

Thomas H. DuFresne 4/16/2007
Signature of Applicant Date

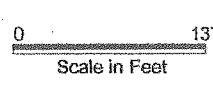
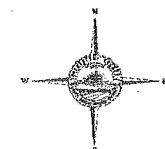
Signature of Applicant Date

8961 37th Str N

10



Vicinity 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 Surveyors Office. Phone (651) 433-6875

Period data based on AS400 information current through: January 31, 2000
Map printed: March 22, 2000

Location Map

MIN. 40'

Scale 1/16" = 1'

5

57'6"

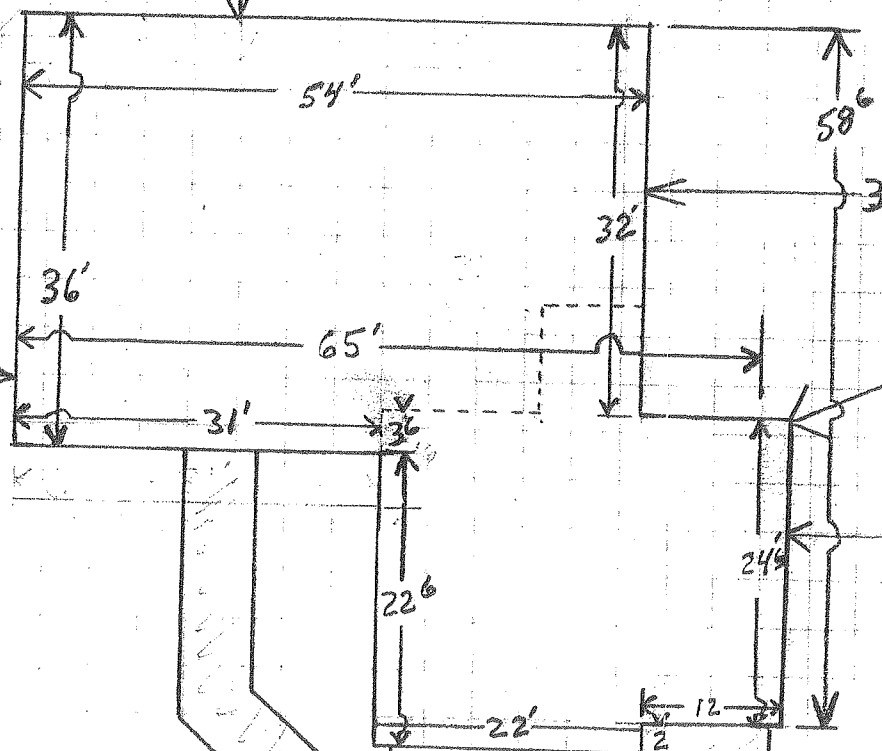
UNMATCH

Property line

MIN. 10'

W

73'



37'

112'

97'

House = 1,795 Sq. Ft.

Garage 937 Sq. Ft.

Lot 37,461 sq ft

22'

34'

22'

12'

Note: City Water

MIN. 30'

37th Street N
N

Property Line

DuFresne 4,
4-16-2007

ITEM: Consider a request to allow construction of three additions and a septic system on a parcel at 8186 Hill Trail North which would not meet the lakeshore setback, front yard setback, or septic system setback from the structure.

REQUESTED BY: Bill Rust, Applicant
Frederick L. Paul, Property Owner

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Susan Hoyt, City Administrator
Ben Gozola, Senior Planner

SUMMARY AND ACTION REQUESTED:

The planning commission is being asked to recommend approval or denial of variances requested at 8186 Hill Trail North. The existing house was burned in a house fire in January of 2007. The property owner has sought a building permit to rebuild the house in the same non-conforming footprint as is allowed by State Statute. At that time, three expansions were requested by the applicant to allow improvements to the home in concurrence with the rebuilding of the home. The building permit was issued to allow the rebuilding of the house in the same footprint and the applicant is requesting the appropriate variances to allow the proposed additions.

The variances needed for the three additions and septic system being requested are from the following three setback regulations: from the 100 foot Ordinary High Water (OHW) setback, from the 10 foot septic system setback, and from the 30 foot front yard setback.

The variances as they apply to the various additions and septic system are as follows:

Septic System: The rock bed would be located six feet from the foundation of the existing house.

- **Variance 1:** A four foot variance from the 10 foot septic system setback to a building.

Addition 1: The creation of a screened porch in place of a portion of the former deck.

- **Variance 2:** A 55 foot setback variance from the 100 foot Ordinary High Waterline setback.

Addition 2: An expansion of the master bathroom.

- **Variance 3:** A 26 foot variance from the 100 foot Ordinary High Waterline setback.
- **Variance 4:** A 2 foot variance from the 10 foot septic system setback.

Addition 3: The forward extension of the garage toward the street.

- **Variance 5:** A 15 foot variance from the 100 foot Ordinary High Waterline setback.
- **Variance 6:** A 5 foot variance from the 30 foot front yard setback.

The additions and septic system were reviewed in the attached staff report separately as they are independent of one another and could be reviewed as such. It would be recommended to consider them individually.

Staff is recommending approval of the variance application for the septic system, Addition 1 and Addition 2 for the following reasons:

- 1) The septic system is necessary for the house being built on the property as it is a health and safety concern for managing the sewage produced.
- 2) The septic location will satisfactorily meet environmental standards.
- 3) The variances from the OHW setback do not further infringe upon the distance to the lakeshore than was previously permitted.
- 4) Lakeshore views of adjacent neighbors will not be negatively affected.
- 5) The proposed additions are consistent with current lifestyles.

Staff is recommending denial of the variance application for Addition 3 for the following reasons:

- 1) There is already allowed an attached two-car garage for the property.
- 2) The proposed garage extension would create a new non-conformity for the front yard setback.

Please see the attached full staff report for the variance criteria analysis.

ADDITIONAL FACTS:

- The previous home on the site was burned down in an attic fire in January 2007.
- The property owner has applied for a building permit to rebuild the home in the same footprint as that destroyed earlier this year and therefore no variances were required for that building.
- Because the owner is looking to make expansions to the non-conforming house, variances are required for those additions.
- The three proposed additions would not extend closer to the lake than already existed before the house was destroyed.
- The lake views of the adjacent properties would not be adversely affected by the additions.
- The septic system variance is truly a hardship as the house being built on the property would need a way to manage the sewage produced.
- Two of the three additions are reasonable as they are consistent with current lifestyles.
- The garage addition would create a new non-conformity to the front yard setback that does not currently exist for the lot.
- The lot would not support a home in a conforming location as it pertains to the applicable setbacks.
- The lots in the neighborhood are difficult to standardize as there is a wide range of lot sizes, lakeshore, road frontage and lot width.
- **HARDSHIP.** The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists; that the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and that these unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.

OPTIONS

The Planning Commission has the following options:

- A) Recommend Council approve the all of the requested variances based on the reasonable use as it is consistent with current lifestyles, will not expand the structure closer to the lakeshore than was previously permitted, and will not adversely impact adjacent neighbor's lakeshore views.

B) Recommend Council approve the variance for the septic system as it is a health and safety concern to provide adequate sewage treatment, approve the variances for the screened porch and bathroom addition as they are a reasonable use consistent with current lifestyles and would not expand the structure closer to the lakeshore, but deny the addition for the garage as an attached garage is already permitted on the property and would create an additional non-conformity to the front yard setback.

C) Recommend Council approve the variance for the septic system as it is a health and safety concern to provide adequate sewage treatment and deny the other requested variances as the additions are not needed to utilize the property for residential purposes.

D) Recommend Council deny the requested variances based on the findings identified by the commission as staff was unable to identify reasons to deny all of the variances requested.

RECOMMENDATION

Approval of the variances requested for the septic system and additions 1 and 2 at 8186 Hill Trail North with the following conditions:

1. The variance shall expire one year from the date of resolution; City Council approval will be required for any subsequent extension.
2. The applicant shall agree to any conditions required by the City Engineer relating to the proposed septic design, area, and construction.

Suggested motion for consideration:

Move to recommend approval of the variances for the septic system and additions 1 and 2 as identified in the staff report for 8186 Hill Trail North based on the findings listed in the staff report and as articulated tonight, subject to the conditions recommended by staff.

SUGGESTED ORDER OF BUSINESS:

- | | |
|--|----------------------------|
| • Introduction | Planning Commission Chair |
| • Report | Kelli Matzek, City Planner |
| • Questions to staff | Chair facilitates |
| • Comments from property owner | Bill Rust, Applicant |
| • Questions/comments from the public, if any (up to 3 minutes) | Chair facilitates |
| • Discussion | Chair facilitates |
| • Consider tabling of application | Commission |

ATTACHMENTS: Comprehensive Staff report
 Site map
 Applicant's Submittals

City of Lake Elmo Planning Department
Variance Review

To: Planning Commission

From: Kelli Matzek, City Planner

Meeting Date: 6-11-07

Applicant: Frederick L. Paul

Location: 8186 Hill Trail North

Current Zoning: R1 – One Family Residential

Introductory Information

Request: The applicant is seeking approval of variances for three additions to the rebuilt house and a septic system on the lakeshore property at 8186 Hill Trail North:

Septic System: The rock bed would be located six feet from the foundation of the existing house.

The property was identified as needing a new septic system from the one originally serving the property. The proposed septic system is located to meet the setback requirements from the lake and property lines. The system would be located six feet from the permitted home and eight feet from the proposed addition 2.

Addition 1: The creation of a screened porch in place of a portion of the former deck.

The previous home had a deck along the lakeshore side of the house and wrapping around the south side of the house. The applicant is seeking to rebuild a portion of the original deck location as a screened porch. The footprint is not being altered, but the change from an open deck to an enclosure would be considered an expansion and as it is located within the 100 foot Ordinary High Water (OHW) setback, a variance is needed.

Addition 2: An expansion of the master bathroom.

In the rebuilding of the house, the property owner would like to expand the size of the existing 72 sq ft master bathroom by approximately 18 square feet. This expansion would not be an increase in the foundation of the home, but would be built on a footing, much like a deck. This expansion would be within the 100 foot setback and would be closer than the required 10 feet from the septic system.

Addition 3: The forward extension of the garage toward the street.

The proposed 6 foot extension of the 445 square foot garage would be built towards the road and away from DeMontreville Lake. Though this expansion is towards the road, it would still need a variance as an expansion within the 100 foot OHW setback. This proposed expansion would also be located within the 30 foot front yard setback.

Site History: This property at 8186 Hill Trail North was platted as part of the J.L Cohn Subdivision. A building permit was issued for a structure, presumably the home in 1970. Up until 2006, the property at 8186 Hill Trail North had a home and septic system located on the property. In January of 2007, a house fire destroyed most of the home. Since then, a building permit has been applied for and approved to rebuild the house in the same footprint as allowed by State Statute. The property owner would like to create a new septic system on the site and build three additions to the house.

Applicable Codes: The variances needed for the three additions and septic system are from the following three setback regulations:

- From the 100 foot OHW setback
- From the 10 foot septic system setback
- From the 30 foot front yard setback

Section 700.03 Rules

Subd. 1 Specifications Which Apply.

Minnesota rules Chapter 7080, shall apply except as provided below....

Minnesota rules; 7080.0170 Final Treatment and Disposal; Subpart 1F.

Individual sewage treatment systems shall be setback 10 feet from buildings...

Section 325.06 Shoreland Standards

Subd. 4 A. Placement

Setbacks from OHW is 100 feet on DeMontreville Lake (Recreational Lake).

Section 300.07 Zoning Districts

Subd. 4(c). R-1 – One Family Residential (Medium Density)

...3. Minimum District Requirements

...Front building setback from property lines: 30 feet.

Variance Request(s): The analysis of the application is broken down into the variances needed for each of the three proposed additions and septic system. The variances for each addition and the septic system are analyzed. For the proposed projects, the applicant will need the

(cont.) following variances:

Septic System: The rock bed would be located six feet from the foundation of the existing house.

- **Variance 1:** A four foot variance from the 10 foot septic system setback to a building.

Addition 1: The creation of a screened porch in place of a portion of the former deck.

- **Variance 2:** A 55 foot setback variance from the 100 foot Ordinary High Waterline setback.

Addition 2: An expansion of the master bathroom.

- **Variance 3:** A 26 foot variance from the 100 foot Ordinary High Waterline setback.
- **Variance 4:** A 2 foot variance from the 10 foot septic system setback.

Addition 3: The forward extension of the garage toward the street.

- **Variance 5:** A 15 foot variance from the 100 foot Ordinary High Waterline setback.
- **Variance 6:** A 5 foot variance from the 30 foot front yard setback.

Findings & General Site Overview

<i>Site Data:</i>	<i>Existing Zoning – R-1 (One Family Residential)</i>
	<i>Overlay Zoning – Shoreland District</i>
	<i>Land Use Guidance – NC (Neighborhood Conservation District)</i>
	<i>Parcel size – 0.5 acres</i>
	<i>Property Identification Number (PID): 09-029-21-23-0003</i>

Application Review:

*Applicable
Code
Definitions:*

DWELLING UNIT. A residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used, or intended for use exclusively as living quarters for one (1) family.

HARDSHIP. The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists; that the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and that these unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile sewage disposal system, or other sewage treatment device.

INDIVIDUAL SEWAGE TREATMENT SYSTEM. An on-site sewage treatment system connecting to a single dwelling or other establishment, consisting of soil treatment unit, septic tank, and any associated pumping and piping systems.

MOUND SYSTEM. An alternative sewage treatment system designed with the soil treatment area built above existing grade to overcome the limitations of water table, bedrock, or soil permeability.

NON-CONFORMITY – NON-CONFORMING USE. Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of zoning regulations or amendments to the zoning regulations that would not have been permitted to become established under the terms of the zoning regulations as now written, if the zoning regulations had been in effect prior to the date it was established, recorded, or authorized.

ORDINARY HIGH WATER MARK OR ELEVATION (OHW). The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For water courses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

SEPTIC TANK. A sound, durable, watertight sewage tank designed and constructed to receive the discharge of sewage from a building sewer, separate solids from liquids, digest organic matter, and store liquids through a period of detention.

SETBACK. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other facility. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure at ground level.

STANDARD SYSTEM. An individual sewage treatment system employing a building sewer, sewage tank, and the soil treatment system commonly known as a dram field or leach field.

VARIANCE. A modification of a specific permitted development standard required to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship as defined in Section 300.06, Subd. 3. Economic considerations along shall

not constitute a hardship. [sic]

**Variance
Criteria:**

By code, a variance can only be granted where the city finds the request can successfully address the three criteria as outlined below for each of the three proposed additions and septic system.

Septic System:

Septic System: The septic system would be located six feet from the foundation of the existing house.

- **Variance 1:** A four foot variance from the 10 foot septic system setback to a building.

1. *The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists;*

- The design and location of the septic system were established by a professional septic system design company. Their review identified the proposed location as the only viable location for the septic system/rock bed on this site. The proposed location meets the lakeshore setback requirements. It is not unreasonable for the applicant to have a septic system on the property to manage the waste from the permitted home.

2. *The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district;*

- The physical layout of the land, the location of the house, the location of the well, and the acceptable soils are all restrictions on this site that reduce the locations at which the septic system/rock bed could be built.

3. *The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.*

- The physical layout of the platted lot and the soils acceptable for a septic system were not conditions caused by the landowner.

Staff would find that this **criteria is satisfied.**

Addition 1:

Addition 1: The creation of a screened porch in place of a portion of the former deck.

- **Variance 2:** A 55 foot setback variance from the 100 foot Ordinary High Waterline (OHW) setback.

(cont.)

1. *The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists;*
 - The previous house was built in 1970. It is not unreasonable for a property owner to want to make improvements to the house. The rebuilt house is entirely within the 100 foot OHW setback and therefore any expansions to the home or deck would need a variance. The applicant's desire to alter a portion of the previous deck location to a screened porch is not unreasonable.
2. *The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district;*
 - The non-conforming lakeshore lot does not have a conforming location that would accommodate a home because of the lakeshore and applicable setbacks. As mentioned previously, the entire house is within the 100 foot OHW setback and therefore any expansion would need a variance. The proposed screened porch would not increase the footprint from the original deck configuration. Therefore, this enclosure would not extend any closer to the lake than the previously existing deck.
3. *The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.*
 - The lot was platted decades ago and the original house was built over 30 years ago, before many of the regulations were adopted. The increased height to create the screened porch will not decrease the distance between the structure and the lake.

Staff would find that this **criteria is satisfied**.

Addition 2: **Addition 2:** An expansion of the master bathroom.

- **Variance 3:** A 26 foot variance from the 100 foot Ordinary High Waterline setback.
- **Variance 4:** A 2 foot variance from the 10 foot septic system setback.

1. *The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists;*
 - Variance 3: As mentioned previously, the entire house is located within the 100 foot OHW setback and any expansion to the house would require a variance. Staff finds that it is not unreasonable for an applicant to request a minor (18 square foot) addition to the house.

(cont.)

- Variance 4: The proposed addition would be eight feet from the rock bed of the septic system instead of the required ten. The proposed bump out to the bathroom would not be an expansion of the foundation of the house as the addition would be built on a post, much like a deck. This would have minimal effects on the septic rock bed. Staff finds that the request to allow the bathroom expansion to be eight feet from the rock bed would be reasonable.
2. *The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district;*
- Variance 3: Because the house is entirely within the 100 foot OHW setback, the minor expansion proposed requires a variance. As the expansion is proposed, it would project less than five feet from the house towards the side yard. Therefore, it would not be further encroaching upon the lakeshore than is already permitted by the home and is situated as such that it would not impact a neighbor's lake view.
 - Variance 4: This expansion is proposed to be built without a foundation which would reduce the impact, if any, it would have upon the septic system. The expansion would be built on a single post from its projection of the original house footprint. This deviation from the ten foot separation requirement would have minimal, if any impact on the septic system.
3. *The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.*
- Variance 3: The expansion would be located within the 100 foot OHW setback, as is the entire house. This situation was created decades ago and has created non-conformities on the lot.
 - Variance 4: The unique conditions of the site provide minimal room for the septic system location and its relation to the proposed addition. The intent to increase the bathroom restricts the location of where the expansion could occur.

Staff would find that this **criteria is satisfied**.

Addition 3:

Addition 3: The forward extension of the garage toward the street.

- **Variance 5:** A 15 foot variance from the 100 foot Ordinary High Waterline setback.
- **Variance 6:** A 5 foot variance from the 30 foot front yard setback.

1. *The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no*

(cont.)

other reasonable alternative use exists;

- Variance 5: Because the entire house and garage is located within the 100 foot OHW setback, this expansion to the garage would require a variance. The property currently has a permitted attached garage on the property.
- Variance 6: The house and garage are currently located outside the 30 foot front yard setback. The property currently has an attached garage approximately 445 square feet in size. As there is a two-car garage already on the property, staff finds this condition **is not met**.

2. *The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district;*

- Variance 4: Because the house, garage, and most of the lot are within the 100 foot OHW setback, the proposed garage expansion requires a variance. As the expansion is proposed, it would project approximately six feet further toward the road, all of which would be located within the OHW setback. Staff would find this condition is met as it is projecting away from the lakeshore.
- Variance 5: The house and garage were originally built near or adjacent to the front yard setback and thus the proposed garage extension would project into the 30 foot front yard setback.

3. *The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.*

- Variance 4: The lot was platted decades ago and the original house was built over 20 years ago, before many of the regulations were adopted. The increased garage location would not decrease the distance from the structure to the lake.
- Variance 5: The house and garage location have been in place for a number of decades and before the current regulations were adopted.

Staff would find that this **criteria is not satisfied**.

***Variance
Conclusions:***

Based on the analysis of the review criteria in City Code, staff would recommend approval of the variance requests for the septic system and addition 1 and 2, but denial of addition 3 for the garage addition at 8186 Hill Trail North.

***Resident
Concerns:***

Staff is not aware of any resident concerns surrounding the requested variances.

**Additional
Information:**

- Neither the DNR or the Watershed District had any concerns with the application. The Valley Branch Watershed District provided suggestions for the site as are shown in the attached report.

Conclusion

The applicant is seeking approval of the following variances:

Septic System: The rock bed would be located six feet from the foundation of the existing house.

- **Variance 1:** A four foot variance from the 10 foot septic system setback to a building.

Addition 1: The creation of a screened porch in place of a portion of the former deck.

- **Variance 2:** A 55 foot setback variance from the 100 foot Ordinary High Waterline setback.

Addition 2: An expansion of the master bathroom.

- **Variance 3:** A 26 foot variance from the 100 foot Ordinary High Waterline setback.
- **Variance 4:** A 2 foot variance from the 10 foot septic system setback.

Addition 3: The forward extension of the garage toward the street.

- **Variance 5:** A 15 foot variance from the 100 foot Ordinary High Waterline setback.
- **Variance 6:** A 5 foot variance from the 30 foot front yard setback.

**Commission
Options:**

The Planning Commission must examine the proposed variances to determine whether they meet all conditions of approval outlined by city code.

The Planning Commission has the following options:

A) Recommend Council approve the all of the requested variances based on the reasonable use as it is consistent with current lifestyles, will not expand the structure closer to the lakeshore than was previously permitted, and will not adversely impact adjacent neighbor's lakeshore views.

B) Recommend Council approve the variance for the septic system as it is a health and safety concern to provide adequate sewage treatment, approve the variances for the screened porch and bathroom addition as they are a reasonable use consistent with current lifestyles and would not expand the structure closer to the lakeshore, but deny the addition for the garage as an attached garage is already permitted on the property

(cont.) and would create an additional non-conformity to the front yard setback.

C) Recommend Council approve the variance for the septic system as it is a health and safety concern to provide adequate sewage treatment and deny the other requested variances as the additions are not needed to utilize the property for residential purposes.

D) Recommend Council deny the requested variances based on the findings identified by the commission as staff was unable to identify reasons to deny all of the variances requested.

The deadline for a Council decision on this item is July 16, 2007.

Recommended Action: Staff recommends option B: Approval of the requested variances for the septic system and addition 1 and 2 as identified in the staff report based on the following:

- 1) The septic system is necessary for the house being built on the property as it is a health and safety concern for managing the sewage produced.
- 2) The septic location will satisfactorily meet environmental standards.
- 3) The variances from the OHW setback do not further infringe upon the distance to the lakeshore than was previously permitted.
- 4) Lakeshore views of adjacent neighbors will not be negatively affected.
- 5) The proposed additions are consistent with current lifestyles.

Staff is recommending denial of the variance application for Addition 3 as identified in the staff report for the following reasons:

- 1) There is already allowed an attached two-car garage for the property.
- 2) The proposed garage extension would create a new non-conformity for the front yard setback.

Denial Motion Template: To deny the requested variances, you may use the following motion as a guide:

Move to recommend denial of the variance application for 8186 Hill Trail North based on the following findings: *(cite your own findings)*

Approval Motion Template (as recommended by staff): To approve the requested variances as recommended by staff, you may use the following motion as a guide:

Move to recommend approval of the variances for the septic system and addition 1 and 2 as outlined in the staff report for 8186 Hill Trail North based on the findings listed in the staff report and as articulated tonight, subject to the conditions recommended by staff. *(use staff's findings provided above or cite your own)*

Conditions:

1. The variance shall expire one year from the date of resolution; City Council

(cont.)

approval will be required for any subsequent extension.

2. The applicant shall agree to any conditions required by the City Engineer relating to the proposed septic design, area, and construction.

**Approval
Motion
Template:**

To approve all of the requested variances, you may use the following motion as a guide:

Move to recommend approval of all requested variances for 8186 Hill Trail North based on the findings listed in the staff report and as articulated tonight, subject to the conditions recommended by staff. (use staff's findings provided above or cite your own)

cc: Bill Rust, *Applicant*
Frederick L. Paul, *Property Owner*
Ben Gozola, Senior Planner

City of Lake Elmo DEVELOPMENT APPLICATION FORM

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

APPLICANT: William E. Rust (Architect) 4701 Clark Ave. White Bear Lake, MN 55110
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-429-0151 651-429-1913 612-865-2776 651-429-7561
(Home) (Work) (Mobile) (Fax)

FEE OWNER: Fredrick L. Paul 8186 Hull Trail W. Lake Elmo, MN 55042
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-503-0364
(Home) (Work) (Mobile) (Fax)

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

8186 Hull Trail W. Lake Elmo, MN 55042
Lot 3, Block 1 J.L. Coan Subdivision Washington County, Minnesota

DETAILED REASON FOR REQUEST: As per Building Inspector Jim Michambers
the entire house is in a 100' setback and requires a variance
for any work.

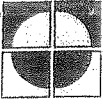
*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:

See Attached

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

[Signature] April 27, 2007
Signature of Applicant Date

[Signature] April 27, 2007
Signature of Applicant Date



RUST MORRISON WALJARVI ARCHITECTS, P.A.

Architects

Construction

Management

April 27, 2007

City of Lake Elmo
Variance Board

For:
Frederick L. (Larry) Paul, Resident
8186 Hill Trail N.
Lake Elmo, Minnesota 55042

Dear Variance Board Members;

Please find the following information as per your Development Application Form, for a City Variance:

Variance Hardship:

The entire process was/has been precipitated by a major house fire, where nearly the entire house was destroyed by an attic fire in January 2007. The owner has now been living at another location temporarily until the house is rebuilt. The property is currently situated in such a manner that nothing can be done to the home (100' setback from lake). As people age and needs change, accommodations need to be made to allow for people to remain in their homes, and these requests would help allow that to continue. Adjacent properties have made similar changes over the years as well. We would therefore plead that leniency be granted/approved to allow for the following variances. One of the variances (#4 septic system) will actually be a real benefit to the environment.

Variance Requests:

Variance Request #1:

We would like to add a 3 season porch addition to the lake side of the home. Currently there exists a deck with a storage area below. This porch would be used to sit in and enjoy the lake views adjacent to the kitchen area. Neighboring residences have similar structures in similar locations. The size would be limited to the existing deck area, approximately 12'-6" x 12'-6", facing east+-.

Variance Request #2:

We would like to extend the existing garage approximately 6'-0" to the west to accommodate a mud and laundry room at a point where you enter from the garage.. Currently the laundry room exists in the basement, and as we all age the need for basic household services become more important on the "main level".

Variance Request #3:

We would like to bump out the master bathroom hot-tub area. The maximum distance is 6'-0" at a 45degree angle (approximately 18sq. ft.).

Variance Request #4:

We would like to install the new septic system as per your building inspector and the design submitted by our septic designer.

Thank you for your kind attention and understanding.

Sincerely,

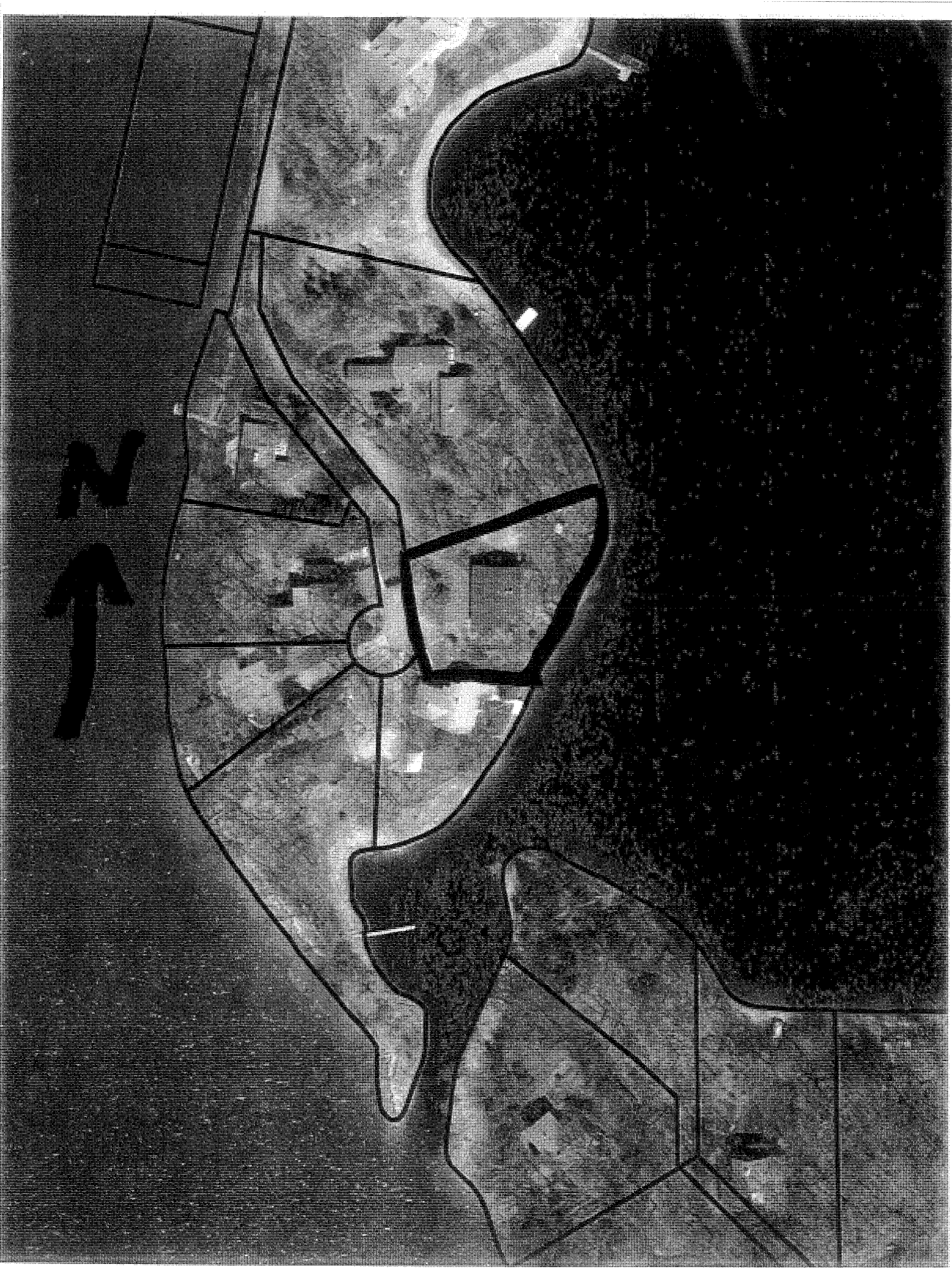
William E. Rust (architect), for Frederick L. (Larry) Paul

HOME OFFICE

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White Bear Lake, MN 55110
(651) 429-1913 • Fax (651) 429-7561
brust@rustarchitects.com

Taylors Falls Field Office
(651) 465-5905

31480 Castle Drive
Webb Lake, WI 54830
(715) 259-7991



DATE: June 7, 2007
TO: Chair Ptacek, Planning Commission
Planning Commissioners
FROM: Susan Hoyt, City Administrator
RE: Search for a planning director

I want to let you know that the city council authorized beginning a search for a new planning director. The process will begin with advertising in a number of venues. It will take some time to recruit for the position and go through the selection process, which is still being developed.

A draft job description is attached for your information along with the report to the city council.

Please call me if you have any questions and help get the word out.

City Council
Date: 6/5/07
REGULAR
Item: 11
Motion

ITEM: Authorize proceeding with the search process for filling the position of planning director

SUBMITTED BY: Susan Hoyt, City Administrator

REVIEWED BY: Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The city council is being asked to authorize advertising for a planning director to fill the vacant position of planning director. If the city council authorizes seeking out a candidate to fill the vacant position, the city council need to approve the individual recommended for the position. The position is part of the adopted 2007 budget. The planning director position is a critical position in the city and is not solely filling the role of an experienced planner. The position, often also called a community development director in other cities, provides the organizational oversight and coordination as well as the communication and technical information required to manage the city's overall land use planning, development, redevelopment, conservation, open space and building. This positions requires an experienced person in the land use arena who can strategically help the city council and community anticipate and prepare for change while maintaining, supporting and enhancing the community's vision and goals. The director will need to implement systems for managing our land use and building processes so we can be efficient and accurate. The director will work effectively, efficiently and respectfully with developers, property owners, residents and concerned citizens on a variety of issues and topics. The person will have oversight for all aspects of the city's land use planning processes and actions, conservation areas, park /open space planning, zoning, building approvals and processes and code enforcement. He /she will act as the mentor and supervisor to the planner, who is the front line contact on planning /zoning questions. (The planner is growing in skills since she has a masters degree in planning and has two years as a city planner plus three internships in the planning field.) The director will also supervise the building staff and be the liaison with the engineer, the public works superintendent, the watershed, the fire chief and the sheriff (when required) on land use topics and planning applications. He/she will also be in contact with other agencies on planning and building topics. And, finally, the director will be responsible for technical expertise in land use planning and in processing land use applications.

This position will be full time and it will replace the consulting staff planner that has provided part time technical planning services on a two day a week basis. The planning director position is budgeted since it is a vacancy. The pay range is recommended to be from \$60,000 to \$75,0000, which is less than the average for this position. the costs will be covered by fees charged for planning applications and building permit revenue. The position will return the regular city employees at the city hall office/annex, which was reduced from 9 FTEs to 7 FTEs, back to 8 FTEs. (The office has gone from 6 FTEs to 4 FTEs to cover all city business via phone or drop in). In August, the building official will retire leaving the FTE number at 7 again. A decision on how to proceed with the building official will require input from the planning director and will be evaluated over time. It will take at least three months to find the right candidate to fill this position so a September start date is anticipated.

ADDITIONAL INFORMATION:

There are several major areas for the planning director to support the city administrator and the city council as well as the planning commission and parks commission and community as a whole. These include reviewing the comprehensive land use plan, developing policies, zoning and design guidelines/processes for the Village and south of Tenth Street as well as developing

an accountable, systematic review and approval process for planning and building including comprehensive code enforcement process. Supporting the park commission in its work to do more park planning for specific parks as well as implementing trails and improvements is an emerging need. Transportation planning requires special expertise, but the planning director's role in making sure that we are acknowledging and addressing transportation corridors and local roads as part of our processes and decisions is an increasingly apparent need.

BACKGROUND

The city hired a consulting planner, Mr. Ben Gozola, to provide senior staff planning services by being in the office two days a week and available on an as needed basis at \$90 per hour, after the departure of the city's planning director in December, 2006. This staffing approach was recommended as a temporary arrangement until a new city administrator was hired and the needs of the organization could be evaluated and a future staffing course determined. This has now been accomplished. City Administrator Hoyt began on April 9, 2007. As part of her project director duties prior to her appointment as city administrator, she acted as the liaison to the planning department. This approach has worked to get the city through some challenging times, of special note is the planning commission's work on the re-zoning required by the Metro Council. However, the ability to effectively manage, respond to, communicate and anticipate requests from the public and property owners and the tasks at hand (plus just being available to cover the office activities) requires much more. The planning director will replace the staff planning support. However, there will be times when consulting planning expertise will be required in the future.

COMPENSATION

If approved, the position will be advertised at a range of \$60,000 to \$75,000 per year. The average salary for persons serving this function of planning director, building and code enforcement for cities of similar size is \$79,900. The range for three similar sized cities is \$62,000 to \$91,000. Therefore, the \$75,000 maximum falls slightly below the average. The hiring of a planning director will replace the routine staff planner duties performed by the consulting planner, Ben Gozola of Schoell Madson, which are being performed at \$90 per hour and are available part time. (This is \$93,600 per year for 20 hours a week). (Typically, a city anticipates 30% additional costs in benefits for a regular employee, which makes the full time planner potential financial commitment an additional \$18,000 to \$22,500 in benefits).

RECOMMENDATION:

Given the importance of creating systems and follow through in the land use planning and building areas as well as being responsive to citizens, residents, business owners and property owners, it is time to look ahead and fill the vacant position of planning director that has been temporarily filled by a consulting senior planner. Filling the position is organizationally and fiscally prudent.

The option to filling this position is to continue with the consulting planner as the city's senior planner. However, this does not provide the leadership, the continuity and the availability of having a planning director on staff.

SUGGESTED MOTION FOR CONSIDERATION:

Move to authorize the search process for the vacant position of planning director.

SUGGESTED ORDER OF BUSINESS:

Introduction/Report

Susan Hoyt, City Administrator

Questions to staff	Mayor and Council members
Questions from the public, if any (3 minutes each)	Mayor facilitates
Consider motion	Mayor facilitates
Discussion	Mayor and Council members
Action on motion	City Council

ATTACHMENT:

1 DRAFT Job Description for Planning Director

CITY OF LAKE ELMO

JOB TITLE: Planning Director

REPORTS TO: City Administrator

SUMMARY OF RESPONSIBILITIES

- To manage and direct the planning department by providing policy and technical information on all planning, zoning, building and land use related code compliance activities.
- To lead a department so it is an integral part of the overall city organization by engaging key staff and consultants to get their input and keep them informed.
- To provide the primary staff support to the planning commission and the park commission.
- To develop and maintain systems for the planning, zoning and building processes that exemplify efficiency, accuracy, clear communication and follow through.
- To anticipate, analyze and communicate about current and future community planning and development topics.
- To build positive, respectful internal and external relationships to help promote Lake Elmo's high quality of life through its community land use planning and building activities and decisions.

QUALIFICATIONS

Education

Minimum

- A bachelor's degree in planning or a related field from an accredited four-year college.

Desirable

- A master's degree in planning or a related field from an accredited graduate program.

Work Experience

Minimum

- 7 years working in a land use-planning field with responsibility for a variety of planning activities, projects and applications with increasing responsibility and independence (a master's degree can substitute for 1 year of experience)
- 5 years of experience reporting to a public land use commission of which 3 years is as a principal planner to a municipal planning commission
- 5 years of experience managing land use planning projects and/or processes of which three years is for a local government
- Experience in comprehensive land use planning, analyzing planning and zoning policies and processing planning applications
- Experience writing and verbally communicating to the planning commission, city council, property owners and the public about land use and community planning topics
- Experience in providing direction and guidance, managing and working with staff and consultants to accomplish key assignments
- Experience working with other municipal governments and with the county, regional and state oversight agencies
- A solid understanding of development, redevelopment and conservation development processes and complexities
- Demonstrated experience developing, organizing, implementing and communicating planning and building processes including internal and external processes

Desirable

- 2 or more years of supervisory experience

- 2 years experience as a lead planner for a municipal government with a wide range of land use planning issues

Other Required Qualifications

- Holds a valid driver's license
- Able to use a variety of office machines including computers, telephones, (voicemail) copier, fax
- Able to use a variety of software applications including Microsoft Word, Excel, PowerPoint, Outlook, Adobe Acrobat, and familiar with GIS
- Able to independently travel
- Must be available for evening meetings and for occasional weekend work outside of office hours of 8:00 AM to 4:30 PM, Monday through Friday
- Must be able to demonstrate excellent written and verbal communication skills which includes listening skills in one-on-one meetings as well as group presentations

DESIRABLE CHARACTERISTICS

- Understands, appreciates and enjoys the role of serving the public
- Welcomes the responsibility of managing staff and consultants to get positive results
- Is comfortable creating and supporting positive change and working with others to understand change
- Sees the big picture and can organize the details to get there
- Flexible
- Can identify and collaboratively bring people/stakeholders/staff/experts together to efficiently and effectively present concepts and find solutions to clearly support the need
- Possesses effective verbal and written communication with the ability to demonstrate good judgment about when and how to communicate information
- Has strong analytical skills
- Is a strategic thinker and is able to clearly present the information
- Is engaged and seeks out interaction from others to learn about topics and resolve problems
- When the opportunity arises, is pro-active rather than reactive
- Enjoys being a team member, but is willing to be out in front and lead
- Manages crises carefully, strategically and efficiently
- Has a sense of humor

COMPENSATION

Salary range: \$60,000 to \$75,000 (Exempt position).

Benefits: Eligible for city employee benefits including city medical, retirement and leave benefits.

START DATE: To be determined.