



*Our Mission is to Provide Quality Public Services
in a Fiscally Responsible Manner While
Preserving the City's Open Space Character*

NOTICE OF MEETING

City Council Meeting

Tuesday, October 01, 2013 7:00 P.M.

City of Lake Elmo | 3800 Laverne Avenue North

*****Park Commission Interview – Dana Nelson – 6:40 PM*****

AGENDA

- A. Call to Order**
- B. Pledge of Allegiance**
- C. Roll Call**
- D. Order of Business**
- E. Approval of Agenda**
- F. Accept Minutes**
 - 1. Accept September 17, 2013 City Council Meeting Minutes
- G. Public Comments/Inquiries**
- H. Speak Your Peace – Reeves**
- I. Presentations**
 - 2. Quality Star – Alyssa MacLeod
- J. Consent Agenda**
 - 3. Approve Payment of Disbursements and Payroll
 - 4. Authorize certification to Washington County Auditor for the Unpaid Storm Water Utility Bills; **Resolution 2013-79**
 - 5. Approval of Resolution Appointing 2013 Election Judges; **Resolution 2013-80**
 - 6. Keats MSA Street and Trunk Watermain Improvements – Call for Final Assessment Hearing; **Resolution 2013-81**
 - 7. Keats MSA Street and Trunk Watermain Improvements – Change Order No. 4.
 - 8. Approval of Gates for Sunfish Lake Park
- K. Regular Agenda**
 - 9. Variance - 09.029.21.22.0025 (Hill Trail North); **Resolution 2013-82**

10. 2012 Street and Water Quality Improvements – Final Assessment Hearing;
Resolution 2013-83
11. Well No. 4 Connecting Watermain Improvements – Public Improvement Hearing;
Resolution 2013-84
12. 2014 Street Improvements – Authorize Feasibility Report; ***Resolution 2013-85***
13. Comprehensive Plan Amendment - Landucci Property; ***Resolution 2013-86***
14. Sketch Plan Review - Landucci Property
15. Official List of Storm Water Appeals / Assessments
16. Approve Sunfish Lake Park Name Change – *Sunfish Lake Nature Preserve*; ***Resolution 2013-87***

L. Summary Reports and Announcements

- **Mayor**
- **Council**
- **City Administrator**
- **City Attorney**
- **Planning Director**
- **City Engineer**
- **Finance Director**
- **City Clerk**

M. Adjourn

**LAKE ELMO CITY COUNCIL MINUTES
SEPTEMBER 17, 2013**

**CITY OF LAKE ELMO
CITY COUNCIL MINUTES
SEPTEMBER 17, 2013**

Mayor Pearson called the meeting to order at 7:00 P.M.

PRESENT: Mayor Pearson, Council Members Nelson, Smith, and Bloyer.

ABSENT: Council Member Reeves

Also Present: City Administrator Zuleger, Associate City Attorney Brekken, City Engineer Griffin, Finance Director Bendel, and City Clerk Bell.

PLEDGE OF ALLIGENCE

APPROVAL OF AGENDA

*MOTION: Council Member Nelson moved **TO APPROVE THE SEPTEMBER 17, 2013 CITY COUNCIL AGENDA.** Council Member Bloyer seconded the motion. **MOTION PASSED 4-0.***

ITEM 1: ACCEPT MINUTES

THE SEPTEMBER 3, 2013 CITY COUNCIL MINUTES WERE APPROVED AS PRESENTED BY CONSENSUS OF THE CITY COUNCIL.

CONSENT AGENDA

2. Approve Payment of Disbursements and Payroll in the amount of \$699,524.57
3. Accept Financial Report dated August 31, 2013
4. Accept Building Permit Report dated August 31, 2013
5. Ratification of the MNDNR Approval of City of Lake Elmo Ordinance No. 08-074 Amending Chapter 97 – Water Surface Use; Ordinance 08-074, Resolution 2013-75
6. Keats MSA Street and Trunk Watermain Improvements – Pay Request No. 4.
7. Production Well No. 4 – Pay Request No. 2.
8. 2013 Crack Seal Project – Receive Contractor Quotes and Award Contract.
9. Fee Schedule Amendment – Removal of Ag Sales & Entertainment IUP Fee; Resolution 2013-76

*MOTION: Council Member Bloyer moved **TO APPROVE THE CONSENT AGENDA.** Council Member Smith seconded the motion. **MOTION PASSED 4-0.***

REGULAR AGENDA

ITEM 10: INFRASTRUCTURE DEBT PARTICIPATION POLICY

City Administrator Zuleger provided overview of the proposed Infrastructure Debt Policy. The City has been asked to draft a formal policy as a result of the request to use its bonding authority to provide the financing for private development. During a recent discussion of the 2013-2018 Capital Improvement Budget, the Council stressed the importance of protecting the taxpayer by having the developer commit to 100% responsibility of the debt service.

Important features in policy: calling out six points of security that the City may use; includes 125% irrevocable Letter of Credit; includes projects with a greater public purpose such as a) over-sizing

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of utility infrastructure, b) transmission of utilities c) improvement of roadways, and d) any other benefits outside of development area; calls out escrow agreement; and states release of funds criteria.

Council Member Smith asked if a development falls short of its target, who is responsible for paying off debt. City Engineer Griffin said it depends on the project. Each development will have a unique development agreement. All infrastructure projects will be backed and secured by the agreement and its letter of credit. On petitioned projects, the petition and waiver agreements are part of the security. If developer comes to Lake Elmo, they will pay 100%. Assessments run with the land.

Ms. Smith asked if done before. Mr. Griffin was not sure as he was not here. Allowing developers "off the hook" if a failure occurs was discussed. Mr. Griffin explained that this was one more layer on top of the statutory authority. Ms. Smith thought Open Space developments were done this way. Mr. Griffin explained that almost all the infrastructure in an OP development is typically built for that development, whereas, this policy covers projects like the Section 34 developments where the infrastructure benefits the entire area.

The terms of the letter of credit requirement were explained and discussed. Mr. Zuleger asked Northland Securities' Paul Donna if the policy was strong. Mr. Donna said that he has not ever seen one as strong.

*MOTION: Council Member Nelson moved **TO ADOPT THE CITY OF LAKE ELMO INFRASTRUCTURE DEBT / COST RECOVERY POLICY FOR THE PARTICIPATION IN PRIVATE DEVELOPMENT AS A COMPONENT OF THE CITY'S OVERALL DEBT MANAGEMENT AND ASSESSMENT POLICY.** Council Member Bloyer seconded the motion.*

Council Member Bloyer thinks this is a good policy, but is concerned future Councils not abide by the policy. He hopes that they are respectful of current policies put in place to protect the taxpayer. Council Member Nelson thanked staff for listening to council input to protect taxpayers. Thinks it is a great policy.

Ms. Smith asked for Mr. Donna's input on what other cities that already have key streets are doing in these regards. Ms. Smith wants to make sure that the City is being responsible. Mr. Zuleger reiterated that he has not seen a policy as strong as this one. Mayor Pearson explained that this type of policy is exactly what the City needs to be responsible.

MOTION PASSED 4-0.

ITEM 11: MOODY'S RATING FOR THE ISSUANCE OF 2013 BONDS

City Administrator Zuleger provided an overview. Moody's Lake Elmo bond rating is Aa2. Lake Elmo metrics are lower than the state and national median for cities with our rating, however, a major reason for sustaining the rating is our strong undesignated fund balance. Council Member Nelson and Mayor Pearson commended staff for their efforts.

No formal action requested.

ITEM 12: INITIATE THE LAKE ELMO AVENUE TRUNK WATERMAIN IMPROVEMENTS - AUTHORIZE THE PREPARATION OF A FEASIBILITY REPORT; RES. 2013-77

City Engineer Griffin gave overview of the request for the improvement and explained the project details. The Landucci/Ryland Homes development located on Lake Elmo Avenue would include approximately 51 RECS. Airlake development would include approximately 40-RECS. Pratt Homes (Dedrich/Reider) would include approximately 50-60 RECS. Property owners are looking to have

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the project take place in 2014. In order to make that schedule, City would have to start soon. Not including the proposed developments, about 80 additional properties are potential connections for water service stubs. Mr. Griffin explained the requested action and proposed project schedule. The feasibility report is not to exceed \$5,200.

Council Member Nelson asked about whether the homes included are located in groundwater contamination plume. Mr. Griffin said they are not. Mayor Pearson asked about shelf-life of report. Mr. Griffin said it may have to be amended to adjust for changes, but that it should survive until it gets built.

MOTION: Council Member Bloyer moved TO APPROVE RESOLUTION NO. 2013-77, ORDERING PREPARATION OF A FEASIBILITY REPORT FOR THE LAKE ELMO AVENUE TRUNK WATERMAIN IMPROVEMENTS IN THE NOT TO EXCEED AMOUNT OF \$5,200. Council Member Smith seconded the motion. MOTION PASSED 4-0.

Mr. Nelson thanked staff for the not to exceed language.

ITEM 13: AUTHORIZATION FOR SALE OF \$5,725,000 GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2013A; RES. 2013-78

Finance Director Bendel introduced Northland Securities' Paul Donna. Mr. Donna gave kudos to the City for its bond rating. Moody's noted that both the content and style of presentation were excellent. Off the record comments were that the presentation was the one of the best they have seen. Mr. Donna provided overview of the bond sale and repayment scenario. It was stated that Lake Elmo has a good name in the market place. He noted that two local banks were responsible for about 15% of participation, which is good to keep interest rates low.

Council Member Nelson asked about the lower par amount. Mr. Donna explained that buyers use it as a protection. The city can capture the higher premium paid to reduce the borrowing.

MOTION: Council Member Nelson moved TO APPROVE RESOLUTION 2013-78, A RESOLUTION AUTHORIZING ISSUANCE AND AWARDED THE SALE, PRESCRIBING THE FORM AND DETAILS, AND PROVIDING FOR THE PAYMENT OF THE \$5,725,000 GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2013A. Council Member Bloyer seconded the motion. MOTION PASSED 4-0.

ITEM 14: SUNFISH LAKE PARK DEER MITIGATION HUNT

City Administrator Zuleger presented a summary of the proposed Sunfish lake Park deer mitigation hunt. Many residents have suffered damage due to the large deer population in Lake Elmo. At the recommendation of Washington County and MNDNR management hunts will take place in Sunfish Lake Park and Lake Elmo Regional Park Reserve. The hunt would take place on November 9 and 10. The hunt will be a shotgun hunt.

Council Member Bloyer asked about the count of 8 deer and how it was arrived at. Mr. Zuleger said that initially there was a request for 10, but due to the proximity to Tapestry, it was decided to reduce it to 8. Mr. Zuleger noted there also might be a coyote problem in the park reserve.

MOTION: Council Member Smith moved TO APPROVE THE SUNFISH LAKE PARK DEER MITIGATION HUNT SCHEDULED FOR NOVEMBER 9TH AND 10TH USING A TAXPAYER LOTTERY TO CHOOSE (8) LAKE ELMO RESIDENTS AS THE HUNTING PARTY. THIS ACTION WILL RESULT IN THE

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CLOSING OF SUNFISH LAKE PARK TO THE GENERAL PUBLIC FOR THE WEEKEND OF NOVEMBER 9TH AND 10TH. Council Member Bloyer seconded the motion. MOTION PASSED 4-0.

SUMMARY REPORTS AND ANNOUNCEMENTS

Mayor Pearson: Met Council meeting, good progress in adjusting the MOU and reducing the numbers; Lake Elmo Days lots of fun. He commended the staff and volunteers; the mayor asked about Hwy 5 and when it will get to the Old Village. City Engineer Griffin said it was to the roundabout and should reach the village soon.

Council Member Smith: Met Council meeting, impressed with the willingness to work with the City. Looking forward to being able to have slower responsible growth; with all the upcoming growth, she would like the finance committee to meet once every three weeks. To better understand how City will pay for things; commended Alyssa MacLeod. City Administrator Zuleger stated that when Council Member Reeves returns, she will receive a quality star.

Council Member Nelson: attended Lake Elmo Days. Surprised how many people and how fun it was; resident with a septic issue. Jack responded quickly to inquiry and issue was handled well.

Council Member Bloyer: attended Lake Elmo Days. Great and enjoyable evening.

City Administrator Zuleger: Met Council meeting went very well. Very pleased with the results. Relayed the Met Council's satisfaction with the meeting; planning the upcoming Park Commission retreat; neighborhood meetings regarding parks; posting lake usage signs tomorrow; working on downtown sewer grace period agreement; Lake Elmo Days went great. Battle of Bands receiving lots of success and positive feedback. Should be even bigger and better next year. Financially in the black with event; will be speaking at the WI Lean Government Conference on October 2.

Council Member Bloyer asked about Olson Lake Trail sewer. City Engineer Griffin said it is in construction and going well.

Associate City Attorney Brekken: no report

City Engineer Griffin: connecting water main hearing on 10/1. MS4 permit training.

Finance Director Bendel: working on levy certification; finalized storm damage claim and recovered \$7,200; finalized bonding; received West Lakeland Township portion of seal coat; will schedule a Finance Committee meeting; City Administrator Zuleger noted that Washington County cancelled the storm clean up charges to City.

City Clerk Bell: animal ordinance will be split in two portions: 1) dogs and cats and 2) chickens and bees due to the need to submit the chicken and bees section to the Planning Commission. Should be brought to Council Nov. 6.

Mayor Pearson adjourned the meeting at 7:55P.M.

LAKE ELMO CITY COUNCIL

ATTEST:

Mike Pearson, Mayor

Adam R. Bell, City Clerk



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013

CONSENT

ITEM #: 3

AGENDA ITEM: Approve Disbursements in the Amount of \$198,617.76

SUBMITTED BY: Cathy Bendel, Finance Director

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements in the amount of \$198,617.76 No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION: The City of Lake Elmo has fiduciary authority and responsibility to conduct normal business operation. Below is a summary of current claims to be disbursed and paid in accordance with State law and City policies and procedures.

Claim #	Amount	Description
ACH	\$ 12,062.85	Payroll Taxes to IRS & MN Dept of Revenue 9/19/13
ACH	\$ 6,134.14	Payroll Retirement to PERA 9/19/13
DD4921- D4968	\$ 35,921.84	Payroll Dated (Direct Deposits) 9/19/13
40394-40443	\$ 144,318.93	Accounts Payable 10/01/13
2088-2090	\$ 180.00	Library Card Reimbursement 10/01/13
TOTAL	\$ 198,617.76	

STAFF REPORT: City staff has complied and reviewed the attached set of claims. All appears to be in order and consistent with City budgetary and fiscal policies and Council direction.

RECOMMENDATION: It is recommended that the City Council approve as part of the Consent Agenda proposed disbursements in the amount of \$198,617.76

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda or a particular claim from this item and further discuss and deliberate prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**“Move to approve the October 01, 2013, Disbursements as
Presented [*and modified*] herein.”**

ATTACHMENTS:

1. Accounts Payable – Check Registers

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

Accounts Payable To Be Paid Proof List

User: denise

Printed: 09/26/2013 - 2:17 PM

Batch: 024-09-2013

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ALERTALL Alert-All Corp 213080625	09/09/2013	2,823.50	0.00	09/30/2013	Fire Prevention Supplies		-	No		0000
101-420-2220-42090	Fire Prevention	2,823.50								
	213080625 Total:	2,823.50								
	ALERTALL Total:	2,823.50								
AMAZONIN Amazon Inc 09082013	09/08/2013	283.10	0.00	09/30/2013	Library Material Books & DVDs collection		-	No		0000
206-450-5300-42500	Library Collection Maintenance	283.10								
	09082013 Total:	283.10								
	AMAZONIN Total:	283.10								
AMERWATE Works Association American Water 70000691971	07/30/2013	74.00	0.00	09/30/2013	AWWA Membership - 11/1/13 - 10/31/14		-	No		0000
601-494-9400-44300	Miscellaneous	74.00								
	70000691971 Total:	74.00								
	AMERWATE Total:	74.00								
ASPENMI Aspen Mills, Inc. 139750	09/17/2013	134.34	0.00	09/30/2013	Name Tags (3 tags)		-	No		0000
101-420-2220-44170	Uniforms	134.34								
	139750 Total:	134.34								
139752	09/17/2013	84.50	0.00	09/30/2013	TG Boot Commando - Firefighter		-	No		0000
101-420-2220-44170	Uniforms	84.50								
	139752 Total:	84.50								
	ASPENMI Total:	218.84								
BATTYPL Batteries Plus Woodbury, Corp 032-785151	09/17/2013	17.89	0.00	09/30/2013	Batteries		-	No		0000
101-430-3100-42230	Building Repair Supplies	17.89								
	032-785151 Total:	17.89								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
BATTYPL Total:		17.89								
BIFFS Biff's Inc.										
W504295	09/12/2013	670.62	0.00	09/30/2013	Elmo Days-Portable Restrooms		-	No		0000
204-450-5200-43150	Contract Services									
W504295 Total:		670.62								
BIFFS Total:		670.62								
BOLTONME Bolton & Menk, Inc										
0159484	08/28/2013	1,120.00	0.00	09/30/2013	Feasibility Report		-	No		0000
803-000-0000-22900	Deposits Payable									
0159484	08/28/2013	18,340.00	0.00	09/30/2013	Plans & Specifications		-	No		0000
803-000-0000-22900	Deposits Payable									
0159484	08/28/2013	810.00	0.00	09/30/2013	Easement Documents		-	No		0000
803-000-0000-22900	Deposits Payable									
0159484 Total:		20,270.00								
0159836	08/31/2013	434.00	0.00	09/30/2013	Pumphouse No4 (water fund)		-	No		0000
601-494-9400-43030	Engineering Services									
0159836 Total:		434.00								
BOLTONME Total:		20,704.00								
BRAUN Braun Intertec Corporation										
603174	09/12/2013	2,670.17	0.00	09/30/2013	Keats MSA Street		-	No		0000
409-480-8000-43030	Engineering Services									
603174	09/12/2013	2,014.33	0.00	09/30/2013	Keats Trunk Watermain		-	No		0000
601-494-9400-43030	Engineering Services									
603174 Total:		4,684.50								
BRAUN Total:		4,684.50								
C A C Companion Animal Control, LLC										
8	08/01/2013	500.00	0.00	09/30/2013	Animal Control Services - August		-	No		0000
101-420-2700-43150	Contract Services									
8	08/01/2013	1,365.00	0.00	09/30/2013	Dog/Cat Pick-up Impoundment (25)		-	No		0000
101-420-2700-43160	Impounding									
8 Total:		1,865.00								
C A C Total:		1,865.00								
CARQUEST Car Quest Auto Parts										
2055-300235	09/23/2013	41.10	0.00	09/30/2013	Parts 05-4		-	No		0000
101-450-5200-42210	Equipment Parts									
2055-300235 Total:		41.10								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
CARQUEST Total:		41.10								
CENTURYL CenturyLink										
Sept 19 2013	09/19/2013	125.78	0.00	09/30/2013	Phone Service - Library		-	No		0000
206-450-5300-43210	Telephone									
Sept 19 2013	09/19/2013	37.94	0.00	09/30/2013	Internet Service - Library		-	No		0000
206-450-5300-43250	Internet									
Sept 19 2013 Total:		163.72								
CENTURYL Total:		163.72								
GENWOOD Central Wood Products										
30759	09/17/2013	1,891.69	0.00	09/30/2013	Rec Step Cert Mulch Tablyn/Lions Playset		-	No		0000
101-450-5200-42250	Landscaping Materials									
30759 Total:		1,891.69								
GENWOOD Total:		1,891.69								
CKEXCLLC C. K. EXC. LLC										
09172013	09/17/2013	500.00	0.00	09/30/2013	Refund Escrow # 8890 10th Street		-	No		0000
803-000-0000-22900	Deposits Payable									
09172013 Total:		500.00								
CKEXCLLC Total:		500.00								
CONLEYMO Conley Morgan										
09172013	09/17/2013	55.00	0.00	09/30/2013	Cable Operations-9/17/13 CC Meeting 4hrs		-	No		0000
101-410-1450-43620	Cable Operations									
09172013 Total:		55.00								
09232013	09/23/2013	55.00	0.00	09/30/2013	Cable Operations-9/17/13 Plan Com 4hrs		-	No		0000
101-410-1450-43620	Cable Operations									
09232013 Total:		55.00								
CONLEYMO Total:		110.00								
CTYMAPLE City of Maplewood										
007016	08/30/2013	5,140.93	0.00	09/30/2013	Keats MSA Street - 08.30.2013		-	No		0000
409-480-8000-43030	Engineering Services									
007016	08/30/2013	3,878.25	0.00	09/30/2013	Keats Trunk Watermain - 08.30.2013		-	No		0000
601-494-9400-43030	Engineering Services									
007016 Total:		9,019.18								
CTYMAPLE Total:		9,019.18								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
CTYOAKDA City of Oakdale										
201309183830	09/18/2013	624.14	0.00	09/30/2013	CV-2 Replace battery & disconnect		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt	624.14								
	201309183830 Total:	624.14								
	CTYOAKDA Total:									
DELAPP DeLapp Steve										
Sept 24 2013	09/24/2013	227.55	0.00	09/30/2013	Reimburse General Library Building		-	No		0000
206-450-5300-44010	Repairs/Maint Bldg	227.55			Maint					
	Sept 24 2013 Total:	227.55								
	DELAPP Total:	227.55								
DPCINDUS DPC Industries, Inc.										
827001717-13	09/09/2013	105.81	0.00	09/30/2013	Chlorine		-	No		0000
601-494-9400-42160	Chemicals	105.81								
	827001717-13 Total:	105.81								
827001734-13	09/09/2013	417.00	0.00	09/30/2013	Flouride		-	No		0000
601-494-9400-42160	Chemicals	417.00								
	827001734-13 Total:	417.00								
	DPCINDUS Total:	522.81								
DWINC D.W. INC.										
7058197	09/13/2013	79.86	0.00	09/30/2013	Repair cut off saw - Fire Dept		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt	79.86								
	7058197 Total:	79.86								
	DWINC Total:	79.86								
ECMPUBLI ECM Publishers, Inc										
24483	09/15/2013	78.80	0.00	09/30/2013	Ad-ROP Thank You-Elmo Days 2013		-	No		0000
204-450-5200-43150	Contract Services	78.80								
	24483 Total:	78.80								
	ECMPUBLI Total:	78.80								
EMMONS&O Emmons & Olivier Resources										
0156562	09/17/2013	954.25	0.00	09/30/2013	Development Review Savona/Lennar		-	No		0000
803-000-0000-22900	Deposits Payable	954.25			SW					
	0156562 Total:	954.25								
	EMMONS&O Total:	954.25								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ENVENTIS Enventis										
Acct 738507	09/01/2013	54.66	0.00	09/30/2013	Telephone Data Service City Hall Sept-13		-	No		0000
101-410-1940-43210 Telephone										
Acct 738507 Total:		54.66								
ENVENTIS Total:		54.66								
FERGUSON Ferguson Waterworks, Inc #2516										
45526	09/12/2013	220.04	0.00	09/30/2013	Meters		-	No		0000
601-494-9400-42300 Water Meters & Supplies										
45526 Total:		220.04								
FERGUSON Total:		220.04								
FRANCOTY Francotyp-Postalia, Inc										
RI101678482	09/06/2013	32.14	0.00	09/30/2013	Fedex Ship & Handl new postage machine		-	No		0000
101-410-1320-43220 Postage										
RI101678482 Total:		32.14								
FRANCOTY Total:		32.14								
HARTMAN Hartman Homes										
09232013	09/23/2013	4,950.00	0.00	09/30/2013	Refund Escrow #8737 3520 Kelvin Court		-	No		0000
803-000-0000-22900 Deposits Payable										
09232013 Total:		4,950.00								
HARTMAN Total:		4,950.00								
HOLIDAYC Holiday Credit Office										
09152013	09/15/2013	399.84	0.00	09/30/2013	Fuel		-	No		0000
101-420-2220-42120 Fuel, Oil and Fluids										
09152013 Total:		399.84								
HOLIDAYC Total:		399.84								
HP Hewlett-Packard Company										
53348006	09/16/2013	717.73	0.00	09/30/2013	1 Computer Public Works		-	No		0000
101-430-3100-43180 Information Technology/Web										
53348006 Total:		717.73								
HP Total:		717.73								
LANDTTL Land Title Inc										
408310	09/16/2013	100.00	0.00	09/30/2013	O&E Property Rpts-Tubman Family		-	No		0000
602-495-9450-43150 Contract Services										
408310 Total:		100.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
408555	09/16/2013	50.00	0.00	09/30/2013	O&E Property Rpts-CM Properties		-	No		0000
602-495-9450-43150	Contract Services									
	408555 Total:	50.00								
408578	09/16/2013	50.00	0.00	09/30/2013	O&E Property Rpts-Dale Properties		-	No		0000
602-495-9450-43150	Contract Services									
	408578 Total:	50.00								
408579	09/16/2013	50.00	0.00	09/30/2013	O&E Property Rpts-Dale Properties		-	No		0000
602-495-9450-43150	Contract Services									
	408579 Total:	50.00								
408580	09/16/2013	50.00	0.00	09/30/2013	O&E Property Rpts-Louis Damiani		-	No		0000
602-495-9450-43150	Contract Services									
	408580 Total:	50.00								
408581	09/16/2013	50.00	0.00	09/30/2013	O&E Property Rpts-Walter Ebertz		-	No		0000
602-495-9450-43150	Contract Services									
	408581 Total:	50.00								
408582	09/16/2013	50.00	0.00	09/30/2013	O&E Property Rpts-Frandsen Bk & Tr		-	No		0000
602-495-9450-43150	Contract Services									
	408582 Total:	50.00								
408583	09/16/2013	50.00	0.00	09/30/2013	O&E Property Rpts-Gatsby Investors		-	No		0000
602-495-9450-43150	Contract Services									
	408583 Total:	50.00								
408584	09/16/2013	50.00	0.00	09/30/2013	O&E Property Rpts-Wm Hammes		-	No		0000
602-495-9450-43150	Contract Services									
	408584 Total:	50.00								
408585	09/16/2013	50.00	0.00	09/30/2013	O&E Property Rpts-Lampert Yards		-	No		0000
602-495-9450-43150	Contract Services									
	408585 Total:	50.00								
408586	09/16/2013	50.00	0.00	09/30/2013	O&E Property Rpts-MFC Properties		-	No		0000
602-495-9450-43150	Contract Services									
	408586 Total:	50.00								
408587	09/16/2013	50.00	0.00	09/30/2013	O&E Property Rpts-Star River Holdings		-	No		0000
602-495-9450-43150	Contract Services									
	408587 Total:	50.00								
	LANDITL Total:	650.00								
MALMQ Malmquist Greg										
09092013	09/19/2013	176.55	0.00	09/30/2013	Mileage Reimbursement - BreezyPoint		-	No		0000
101-420-2220-44370	Conferences & Training									
	09092013 Total:	176.55								
	MALMQ Total:	176.55								
MENARDSO Menards - Oakdale										
27090	09/16/2013	1.58	0.00	09/30/2013	Station #2 Repairs - Faucet Locknuts		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	27090 Total:	1.58								
	MENARDSO Total:	1.58								
MESSERLI Messerli & Kramer										
289251	09/12/2013	1,000.00	0.00	09/30/2013	2013-2014 Leg Repre Retainer 8/1-8/31		-	No		0000
101-410-1320-43150	Contract Services									
	289251 Total:	1,000.00								
	MESSERLI Total:	1,000.00								
MNADMIN State of Minnesota										
485633	09/13/2013	165.00	0.00	09/30/2013	Legal work - Karl S Horning Aug 2013		-	No		0000
101-410-1320-43040	Legal Services									
	485633 Total:	165.00								
	MNADMIN Total:	165.00								
MNDOT Commissioner of Transportation										
P00002204	09/17/2013	161.72	0.00	09/30/2013	Keats MSA Street		-	No		0000
409-480-8000-43030	Engineering Services									
	P00002204 Total:	161.72								
	MNDOT Total:	161.72								
MOSERHOM Moser Homes Inc.										
09232013	09/23/2013	5,000.00	0.00	09/30/2013	Refund Escrow #8565 3000 Klondike		-	No		0000
803-000-0000-22900	Deposits Payable									
	09232013 Total:	5,000.00								
	MOSERHOM Total:	5,000.00								
NEXTEL Nextel Communications										
761950227-125	09/18/2013	112.49	0.00	09/30/2013	Cell Phone Service - Administration		-	No		0000
101-410-1940-43210	Telephone									
761950227-125	09/18/2013	222.90	0.00	09/30/2013	Cell Phone Service - Fire Dept		-	No		0000
101-420-2220-43210	Telephone									
761950227-125	09/18/2013	44.62	0.00	09/30/2013	Cell Phone Service - Building Dept		-	No		0000
101-420-2400-43210	Telephone									
761950227-125	09/18/2013	31.29	0.00	09/30/2013	Cell Phone Service - Public Works Dept		-	No		0000
101-430-3100-43210	Telephone									
761950227-125	09/18/2013	90.80	0.00	09/30/2013	Cell Phone Service - Parks Dept		-	No		0000
101-450-5200-43210	Telephone									
761950227-125	09/18/2013	57.56	0.00	09/30/2013	Cell Phone Service - Taxpayer Services		-	No		0000
101-410-1450-43210	Telephone									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PCLine #
761950227-125	09/18/2013	15.65	0.00	09/30/2013	Cell Phone Service - Planning Dept		-	No		0000
101-410-1910-43210	Telephone									
	761950227-125 Total:	575.31								
	NEXTEL Total:	575.31								
<hr/>										
PHILLIPS Phillips Healthcare										
101-420-2220-42	09/06/2013	69.63	0.00	09/30/2013	Replacement AED Pads-Fire Dept		-	No		0000
101-420-2220-42080	EMS Supplies									
	101-420-2220-42 Total:	69.63								
	PHILLIPS Total:	69.63								
<hr/>										
POMPS Pomp's Tire Service, Inc.										
W.O.210080922	09/24/2013	506.00	0.00	09/30/2013	Front Tires ToolCat 05-5		-	No		0000
101-450-5200-42210	Equipment Parts									
	W.O.210080922 Total:	506.00								
	POMPS Total:	506.00								
<hr/>										
PRESTIPO Prestige Pool										
09242013	09/24/2013	500.00	0.00	09/30/2013	Refund Escrow # 10356 Tapestry Bend		-	No		0000
803-000-0000-22900	Deposits Payable									
	09242013 Total:	500.00								
	PRESTIPO Total:	500.00								
<hr/>										
S&T S&T Office Products, Inc.										
01PY9159	09/10/2013	12.28	0.00	09/30/2013	Office Supplies - Building		-	No		0000
101-420-2400-42000	Office Supplies									
01PY9159	09/10/2013	45.96	0.00	09/30/2013	Office Supplies - Finance		-	No		0000
101-410-1520-42000	Office Supplies									
01PY9159	09/10/2013	220.84	0.00	09/30/2013	Office Supplies - Library		-	No		0000
206-450-5300-42000	Office Supplies									
	01PY9159 Total:	279.08								
01PY9356	09/10/2013	11.70	0.00	09/30/2013	Office Supplies - Planning		-	No		0000
101-410-1910-42000	Office Supplies									
	01PY9356 Total:	11.70								
01PY9658-56-963	09/10/2013	78.77	0.00	09/30/2013	Office Supplies - Administration		-	No		0000
101-410-1320-42000	Office Supplies									
	01PY9658-56-963 Total:	78.77								
01PZ1685	09/16/2013	58.71	0.00	09/30/2013	Office Supplies - Library		-	No		0000
206-450-5300-42000	Office Supplies									
	01PZ1685 Total:	58.71								
01PZ3301	09/19/2013	76.48	0.00	09/30/2013	Office Supplies - Administration		-	No		0000
101-410-1320-42000	Office Supplies									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
	01PZ3301 Total:	76.48								
	S&T Total:	504.74								
<hr/>										
SELECTAC SelectAccount										
946161	09/07/2013	5.49	0.00	09/30/2013	Participant Fee	09/01/2013-09/30/2013	-	No		0000
101-410-1520-43150	Contract Services									
	946161 Total:	5.49								
	SELECTAC Total:	5.49								
<hr/>										
TASCH T.A. Schifsky & Sons Inc										
55465	09/09/2013	967.42	0.00	09/30/2013	Asphalt August 12 thru 15		-	No		0000
101-430-3120-42240	Street Maintenance Materials									
	55465 Total:	967.42								
55513	09/17/2013	426.93	0.00	09/30/2013	Asphalt August 20 thru 22		-	No		0000
101-430-3120-42240	Street Maintenance Materials									
	55513 Total:	426.93								
55556	09/18/2013	535.45	0.00	09/30/2013	Asphalt August 27 & 28		-	No		0000
101-430-3120-42240	Street Maintenance Materials									
	55556 Total:	535.45								
	TASCH Total:	1,929.80								
<hr/>										
TDS TDS Metrocom - LLC										
651-779-8882	09/13/2013	143.38	0.00	09/30/2013	Analog Lines - Fire		-	No		0000
101-420-2220-43210	Telephone									
651-779-8882	09/13/2013	224.84	0.00	09/30/2013	Analog Lines - Public Works		-	No		0000
101-430-3100-43210	Telephone									
651-779-8882	09/13/2013	129.27	0.00	09/30/2013	Analog Lines - Lift Station Alarms		-	No		0000
602-495-9450-43210	Telephone									
651-779-8882	09/13/2013	45.30	0.00	09/30/2013	Analog Lines - Well House #2		-	No		0000
601-494-9400-43210	Telephone									
	651-779-8882 Total:	542.79								
	TDS Total:	542.79								
<hr/>										
TKDA TKDA, Inc.										
002013002703	09/12/2013	74.81	0.00	09/30/2013	General Engineering Ser Record-7/28-8/31		-	No		0000
101-410-1930-43030	Engineering Services									
	002013002703 Total:	74.81								
	TKDA Total:	74.81								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PCLine #
TRKUTI Truck Utilities Inc.										
258568	09/18/2013	78.87	0.00	09/30/2013	Hyd Hose Fittings Street Sweeper		-		No	0000
101-430-3120-42210	Equipment Parts				Bobcat					
	258568 Total:	78.87								
	TRKUTI Total:	78.87								
WARDIES Ward Diesel Filter Systems										
122	09/18/2013	69,912.48	0.00	09/30/2013	Install Diesel Exhaust Sys-8 Fire		-		No	0000
410-480-8000-45500	Vehicles				Trucks					
	122 Total:	69,912.48								
	WARDIES Total:	69,912.48								
ZIERTMST Ziertman Steve										
Sep-13	09/07/2013	75.00	0.00	09/30/2013	25 Bales of Straw delivered for Elmo		-		No	0000
204-450-5200-43150	Contract Services				Day					
	Sep-13 Total:	75.00								
	ZIERTMST Total:	75.00								
	Report Total:	133,858.73								

Accounts Payable To Be Paid Proof List

User: denise
 Printed: 09/26/2013 - 2:56 PM
 Batch: 025-09-2013

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
DELTA Delta Dental Of Minnesota 5249827	09/15/2013	1,470.20	0.00	10/01/2013	October 2013 Dental Coverage		-	No		0000
101-000-0000-21706 Medical Insurance		1,470.20								
	5249827 Total:	1,470.20								
DELTA Total:		1,470.20								
FXL FXL, Inc. October-13	10/01/2013	2,000.00	0.00	10/01/2013	Assessment Services - October 2013		-	No		0000
101-410-1320-43100 Assessing Services		2,000.00								
	October-13 Total:	2,000.00								
FXL Total:		2,000.00								
NCPERS 566200-NCPERS Minnesota 5662913	09/19/2013	176.00	0.00	10/01/2013	October 2013 Deductions		-	No		0000
101-000-0000-21708 Other Benefits		176.00								
	5662913 Total:	176.00								
NCPERS Total:		176.00								
WASHPRTA Washington County 930087	10/15/2013	111.00	0.00	10/01/2013	2nd 1/2 Property City Auditor Plat 81.ot32		-	No		0000
206-450-5300-45200 Buildings		111.00								
	930087 Total:	111.00								
930424	10/15/2013	5,683.00	0.00	10/01/2013	2nd 1/2 Property 3537 Lake Elmo Ave		-	No		0000
206-450-5300-45200 Buildings		5,683.00								
	930424 Total:	5,683.00								
930765	10/15/2013	1,020.00	0.00	10/01/2013	2nd 1/2 Property Cloverdale Lot 10 - 13		-	No		0000
206-450-5300-45200 Buildings		1,020.00								
	930765 Total:	1,020.00								
WASHPRTA Total:		6,814.00								
Report Total:		10,460.20								



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013

CONSENT

ITEM #: 4

AGENDA ITEM: Authorize Certification to Washington County Auditor for the Unpaid Surface Water Utility Bills

SUBMITTED BY: Cathy Bendel, Finance Director

REVIEWED BY: Adam Bell, City Clerk

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is respectfully asked to approve the certification of the delinquent Surface Water Utility Bills to Washington County Auditor. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION: The City of Lake Elmo has authority by Minnesota State statute 444.075, subd.3 to assess property owners for unpaid surface water utilities and services. Affected homeowners with past due balances were sent notification of the proposed assessment. Property owners had until today to pay the balance due without additional fees.

STAFF REPORT: The City operated the water, sewer, and surface water under its Enterprise funds. Enterprise funds account for specific City operations that are financed and operated similar to a private business. Generally, the services are provided to identifiable beneficiaries, as well as the general public, and all or most of the costs come from user's fees.

The user fees collected are utilized to operate the City's respective water, sewer, and surface water systems. Assessing the property owners listed on Exhibit A (attached) for unpaid services will assure collection of charged fees. The deadline to certify the unpaid surface water utility to Washington County is October 15, 2013.

RECOMMENDATION: It is recommended the City Council authorize the certification of the delinquent surface water accounts to the Washington County Auditor.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda or a particular claim from this item and further discuss and deliberate prior to taking action.

ATTACHMENTS:

1. Resolution No. 2013-79
2. Exhibit A

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2013-79

**RESOLUTION AUTHORIZING CERTIFICATION TO THE WASHINGTON COUNTY
AUDITOR FOR UNPAID SURFACE WATER UTILITY BILLS**

WHEREAS, Minn. Stat. 444.075, subd. 3, permits certification of unpaid charges to the county auditor for collection with taxes payable;

WHEREAS, the Municipal Code for the City of Lake Elmo contains a provision to certify delinquent accounts to the County Auditor for the collection with taxes payable.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE ELMO, MINNESOTA, THAT:

1. The list of delinquent accounts, a copy of which is attached hereto as Exhibit A, and made part hereof, is hereby accepted and shall be certified to the Washington County Auditor for collection with taxes payable.
2. The certified amount shall be payable over a period of one year, with interest as provided in Exhibit A.
3. The owner of the property may, at any time prior to certification to the County Auditor, pay the delinquent amount to the City Finance Director.
4. The City Finance Director shall forthwith transmit a certified duplicate of Exhibit A to the County Auditor to be extended on the property tax lists of Washington County. Such delinquent accounts shall be collected and paid over in the same manner as other municipal taxes.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FIRST DAY OF OCTOBER, 2013.

By: _____

Mike Pearson

Mayor

(Seal)

Adam Bell

City Clerk

City of Lake Elmo
 Potential Storm Water Assessments
 October 15, 2013
 OS as of 9/26/13

EXHIBIT A

Account #	Past Due OS Bal	Fee	Total	PID
05-00015860-00-7	55.00	25.00	80.00	1302921340025
05-00011190-00-1	55.00	25.00	80.00	0902921440019
05-00020530-00-5	55.00	25.00	80.00	2102921330003
05-00019780-00-2	55.00	25.00	80.00	2102921130013
05-00013950-00-3	55.00	25.00	80.00	1202921410032
05-00024970-00-1	55.00	25.00	80.00	3402921210005
05-00019260-00-1	55.00	25.00	80.00	2102921120009
05-00014050-00-9	55.00	25.00	80.00	1202921420024
05-00018230-00-3	55.00	25.00	80.00	1602921140029
05-00020920-00-0	55.00	25.00	80.00	2202921220014
05-00011730-00-5	55.00	25.00	80.00	1002921220023
05-00014620-00-2	55.00	25.00	80.00	1302921230042
05-00029010-00-5	55.00	25.00	80.00	2202921210020
05-00006340-00-2	55.00	25.00	80.00	0502921420026
05-00010980-00-5	55.00	25.00	80.00	0902921430029
05-00007670-00-1	55.00	25.00	80.00	0602920320044
05-00002020-00-9	55.00	25.00	80.00	0102921210005
05-00000370-00-7	613.50	49.08	662.58	1002921120002
05-00000380-00-0	166.38	13.31	179.69	1002921130002
05-00000400-00-3	83.95	6.72	90.67	1002921240031
05-00000410-00-6	364.31	29.14	393.45	1002921310001
05-00000420-00-9	395.14	31.61	426.75	1002921420001
05-00027810-00-3	55.00	25.00	80.00	1102921320023
05-00007740-00-9	55.00	25.00	80.00	0602920320051
05-00010180-00-9	55.00	25.00	80.00	0902921340011
05-00007130-00-4	55.00	25.00	80.00	0602920310020
05-00025870-00-3	55.00	25.00	80.00	3502921140001
05-00003120-00-5	55.00	25.00	80.00	0302921210004
05-00009640-00-0	55.00	25.00	80.00	0902921320003
05-00030120-00-7	329.48	26.36	355.84	1302921210006
05-00025260-00-8	55.00	25.00	80.00	3402921230008
05-00010330-00-8	55.00	25.00	80.00	0902921410010
05-00019910-00-5	55.00	25.00	80.00	2102921140011
05-00010740-00-9	55.00	25.00	80.00	0902921430005
05-00026650-00-2	55.00	25.00	80.00	0202921140011
05-00025930-00-8	55.00	25.00	80.00	0102921110013
05-00006660-00-9	55.00	25.00	80.00	0502921440003
05-00008490-00-2	55.00	25.00	80.00	0902921110004
05-00024700-00-6	55.00	25.00	80.00	2802921140008
05-00004620-00-9	55.00	25.00	80.00	0402921210012
05-00013830-00-0	55.00	25.00	80.00	1202921410019
05-00012400-00-4	55.00	25.00	80.00	1102921310002
05-00013630-00-6	55.00	25.00	80.00	1202921220005
05-00010210-00-5	55.00	25.00	80.00	0902921340014
05-00016530-00-6	55.00	25.00	80.00	1402921410012

05-00020410-00-2	55.00	25.00	80.00	2102921240002
05-00000300-00-6	69.08	25.00	94.08	0402921130002
05-00026520-00-6	55.00	25.00	80.00	0202921110005
05-00014740-00-5	55.00	25.00	80.00	1302921240005
05-00020760-00-8	55.00	25.00	80.00	2202921210011
05-00018250-00-9	55.00	25.00	80.00	1602921140031
05-00026100-00-2	55.00	25.00	80.00	0102921130018
05-00017300-00-2	55.00	25.00	80.00	1502921320027
05-00006830-00-4	55.00	25.00	80.00	0502921440028
05-00012890-00-9	55.00	25.00	80.00	1102921430013
05-00020310-00-5	55.00	25.00	80.00	2102921230006
05-00015290-00-4	55.00	25.00	80.00	1302921320084
05-00024860-00-1	55.00	25.00	80.00	3402921120003
05-00002730-00-1	55.00	25.00	80.00	0302921110011
05-00006600-00-1	55.00	25.00	80.00	0502921430024
05-00016430-00-9	55.00	25.00	80.00	1402921320016
05-00022350-00-5	55.00	25.00	80.00	2402921320003
05-00031350-00-9	874.23	69.94	944.17	3402921340004
05-00022200-00-3	55.00	25.00	80.00	2402921310003
05-00010860-00-2	55.00	25.00	80.00	0902921430017
05-00008240-00-3	55.00	25.00	80.00	0802921110006
05-00025750-00-0	55.00	25.00	80.00	3502921420005
05-00021980-00-7	55.00	25.00	80.00	2402921220004
05-00020480-00-3	55.00	25.00	80.00	2102921240010
05-00021130-00-6	55.00	25.00	80.00	2402921110009
05-00007900-00-1	55.00	25.00	80.00	0602920320067
05-00009760-00-3	55.00	25.00	80.00	0902921320015
05-00023940-00-3	55.00	25.00	80.00	2602921330002
05-00031910-00-9	176.74	25.00	201.74	3402921130001
05-00031940-00-8	150.50	25.00	175.50	3502921220001
05-00008030-00-6	55.00	25.00	80.00	0602920330013
05-00024930-00-9	55.00	25.00	80.00	3402921120010
05-00019790-00-5	55.00	25.00	80.00	2102921130014
05-00015050-00-8	60.50	25.00	85.50	1302921320039
05-00027090-00-1	55.00	25.00	80.00	0802921140017
05-00025530-00-0	55.00	25.00	80.00	3502921110004
05-00011330-00-7	55.00	25.00	80.00	1002921210004
05-00016870-00-9	55.00	25.00	80.00	1402921440020
05-00008060-00-5	55.00	25.00	80.00	0602920330016
05-00016000-00-2	55.00	25.00	80.00	1302921430009
05-00003510-00-0	55.00	25.00	80.00	0302921320018
05-00010940-00-3	55.00	25.00	80.00	0902921430025
05-00015300-00-4	55.00	25.00	80.00	1302921320089
05-00008170-00-5	55.00	25.00	80.00	0702920230012
05-00020940-00-6	55.00	25.00	80.00	2202921220017
05-00012380-00-1	55.00	25.00	80.00	1102921240007
05-00002810-00-2	55.00	25.00	80.00	0302921110021
05-00007490-00-3	55.00	25.00	80.00	0602920320019
05-00014120-00-7	55.00	25.00	80.00	1202921420031
05-00008620-00-5	55.00	25.00	80.00	0902921110019
05-00004100-00-8	55.00	25.00	80.00	0302921430010

05-00011260-00-9	55.00	25.00	80.00	0902921440026
05-00026460-00-1	55.00	25.00	80.00	0102921440005
05-00000840-00-3	46.74	25.00	71.74	1402921310002
05-00000950-00-3	187.28	25.00	212.28	1502921410001
05-00003160-00-7	55.00	25.00	80.00	0302921220004
05-00025850-00-7	55.00	25.00	80.00	3602921320007
05-00004610-00-6	55.00	25.00	80.00	0402921210011
05-00020900-00-4	55.00	25.00	80.00	2202921220012
05-00017610-00-6	55.00	25.00	80.00	1502921340002
05-00029000-00-2	55.00	25.00	80.00	2202921210019
05-00030200-00-8	54.39	25.00	79.39	1302921230007
05-00000470-00-4	40.99	25.00	65.99	1102921140003
05-00000520-00-6	105.04	25.00	130.04	1102921410002
05-00000550-00-5	51.49	25.00	76.49	1102921420004
05-00007200-00-2	55.00	25.00	80.00	0602920310028
05-00030460-00-0	27.75	25.00	52.75	1302921310003
05-00030470-00-3	92.04	25.00	117.04	1302921310016
05-00030640-00-8	42.47	25.00	67.47	1302921320083
05-00003530-00-6	55.00	25.00	80.00	0302921320020
05-00023980-00-5	55.00	25.00	80.00	2602921430002
05-00011810-00-6	55.00	25.00	80.00	1002921240014
05-00003070-00-3	55.00	25.00	80.00	0302921140009
05-00010870-00-5	55.00	25.00	80.00	0902921430018
05-00020220-00-1	55.00	25.00	80.00	2102921220007
05-00023540-00-5	55.00	25.00	80.00	2502921330005
05-00020450-00-4	55.00	25.00	80.00	2102921240006
05-00019700-00-8	55.00	25.00	80.00	2102921130004
05-00014000-00-4	55.00	25.00	80.00	1202921420019
05-00018800-00-6	55.00	25.00	80.00	1602921220031
05-00023930-00-0	55.00	25.00	80.00	2602921330001
05-00000170-00-3	99.45	25.00	124.45	0202921310005
05-00015850-00-4	55.00	25.00	80.00	1302921340024
05-00021070-00-1	55.00	25.00	80.00	2302921110004
05-00025590-00-8	55.00	25.00	80.00	3502921120004
05-00017030-00-0	55.00	25.00	80.00	1502921310002
05-00016570-00-8	55.00	25.00	80.00	1402921410016
05-00016790-00-8	55.00	25.00	80.00	1402921440012
05-00030620-00-2	22.68	25.00	47.68	1302921320049
05-00017600-00-3	55.00	25.00	80.00	1502921330039
05-00027490-00-9	50.00	25.00	75.00	1002921410025
05-00007170-00-6	45.50	25.00	70.50	0602920310024
05-00012930-00-8	55.00	25.00	80.00	1102921430017
05-00002460-00-9	55.00	25.00	80.00	0202921230001
05-00021760-00-7	31.00	25.00	56.00	2402921210007
05-00019950-00-7	55.00	25.00	80.00	2102921140015
05-00006410-00-0	55.00	25.00	80.00	0502921430003
05-00025600-00-8	55.00	25.00	80.00	3502921140003
05-00007760-00-5	55.00	25.00	80.00	0602920320053
05-00001930-00-6	55.00	25.00	80.00	0102921130010
05-00017240-00-7	55.00	25.00	80.00	1502921320021
05-00027350-00-0	55.00	25.00	80.00	1002921240008
05-00020560-00-4	55.00	25.00	80.00	2102921330006

05-00015020-00-9	55.00	25.00	80.00	1302921320036
05-00007420-00-2	55.00	25.00	80.00	0602920320012
05-00028040-00-5	30.00	25.00	55.00	1102921330018
05-00013610-00-0	55.00	25.00	80.00	1202921210003
05-00004750-00-5	55.00	25.00	80.00	0402921220008
05-00000830-00-0	53.22	25.00	78.22	1402921310001
05-00021820-00-2	55.00	25.00	80.00	2402921210013
05-00000960-00-6	157.00	25.00	182.00	1502921420004
05-00007950-00-6	55.00	25.00	80.00	0602920330005
05-00012350-00-2	55.00	25.00	80.00	1102921230003
05-00009000-00-6	55.00	25.00	80.00	0902921220013
05-00030820-00-6	346.16	27.69	373.85	1602921420002
05-00025820-00-8	55.00	25.00	80.00	3502921440007
05-00017500-00-6	55.00	25.00	80.00	1502921330021
05-00021210-00-7	55.00	25.00	80.00	2402921110017
05-00016710-00-4	55.00	25.00	80.00	1402921440004
05-00020260-00-3	25.81	25.00	50.81	2102921220011
05-00011240-00-3	55.00	25.00	80.00	0902921440024
05-00008690-00-6	115.50	25.00	140.50	0902921130004
05-00027240-00-0	27.66	25.00	52.66	0902921240018
05-00015780-00-6	55.00	25.00	80.00	1302921340017
05-00023920-00-7	55.00	25.00	80.00	2602921110002
05-00027730-00-2	55.00	25.00	80.00	1102921320015
05-00013570-00-1	55.00	25.00	80.00	1202921140022
05-00019960-00-0	55.00	25.00	80.00	2102921140016
05-00005580-00-9	55.00	25.00	80.00	0402921440006
05-00002880-00-3	55.00	25.00	80.00	0302921120003
05-00015670-00-6	55.00	25.00	80.00	1302921340005
05-00025900-00-9	55.00	25.00	80.00	1302921320081
05-00017250-00-0	55.00	25.00	80.00	1502921320022
05-00017270-00-6	30.00	25.00	55.00	1502921320032
05-00007570-00-4	55.00	25.00	80.00	0602920320027
05-00017220-00-1	55.00	25.00	80.00	1502921320019
05-00000240-00-1	142.73	25.00	167.73	0302921220002
05-00000250-00-4	23.13	25.00	48.13	0302921220005
05-00022980-00-6	55.00	25.00	80.00	2402921430009
05-00020670-00-4	55.00	25.00	80.00	2102921340004
05-00015550-00-3	55.00	25.00	80.00	1302921330032
05-00002550-00-3	55.00	25.00	80.00	0202921410008
05-00013810-00-4	55.00	25.00	80.00	1202921410017
05-00019020-00-5	55.00	25.00	80.00	1602921410012
05-00005530-00-4	55.00	25.00	80.00	0402921330051
05-00010200-00-2	55.00	25.00	80.00	0902921340013
05-00015980-00-0	55.00	25.00	80.00	1302921430007
05-00026990-00-5	55.00	25.00	80.00	0402921330015
05-00019440-00-9	55.00	25.00	80.00	2102921120030
05-00017650-00-8	55.00	25.00	80.00	1502921340007
05-00031810-00-2	29.50	25.00	54.50	0402921140004
05-00022210-00-6	55.00	25.00	80.00	2402921310004
05-00010190-00-2	60.00	25.00	85.00	0902921340012
05-00002940-00-8	55.00	25.00	80.00	0302921130007

05-00015060-00-1	55.00	25.00	80.00	1302921320040
05-00023050-00-3	55.00	25.00	80.00	2402921430016
05-00012250-00-5	55.00	25.00	80.00	1002921410003
05-00028150-00-5	55.00	25.00	80.00	1102921430003
05-00028160-00-8	55.00	25.00	80.00	1102921430004
05-00005450-00-3	55.00	25.00	80.00	0402921330038
05-00029270-00-7	92.65	25.00	117.65	2402921130004
05-00002190-00-7	55.00	25.00	80.00	0102921340002
05-00001750-00-8	55.00	25.00	80.00	1202921420011
05-00001740-00-5	55.00	25.00	80.00	1202921420008
05-00001510-00-2	55.00	25.00	80.00	0102921130003
05-00001520-00-5	55.00	25.00	80.00	0102921140002
05-00001530-00-8	55.00	25.00	80.00	0102921140003
05-00025980-00-3	55.00	25.00	80.00	0102921120011
05-00006920-00-8	50.00	25.00	75.00	0502921440038
05-00022550-00-9	55.00	25.00	80.00	2402921330006
05-00001860-00-8	372.05	29.76	401.81	2802921110003
05-00001870-00-1	55.00	25.00	80.00	2802921110007
05-00014750-00-8	55.00	25.00	80.00	1302921240006
05-00005950-00-8	55.00	25.00	80.00	0502921140006
05-00031930-00-5	27.76	25.00	52.76	3402921430002
05-00030080-00-8	2,278.38	182.27	2,460.65	0302921210003
05-00023750-00-2	25.81	25.00	50.81	2502921340007
05-00009120-00-9	55.00	25.00	80.00	0902921230006
05-00016700-00-1	55.00	25.00	80.00	1402921440003
05-00004950-00-9	55.00	25.00	80.00	0402921230006
05-00009010-00-9	55.00	25.00	80.00	0902921220014
05-00027420-00-8	55.00	25.00	80.00	1002921410017
05-00011420-00-1	55.00	25.00	80.00	1002921210014
05-00017320-00-8	55.00	25.00	80.00	1502921320031
05-00020100-00-8	55.00	25.00	80.00	2102921210014
05-00008600-00-9	55.00	25.00	80.00	0902921110017
Potential to assess	<u>18,407.99</u>	<u>5,990.89</u>	<u>24,398.88</u>	



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013
CONSENT
ITEM #: 5
MOTION Consent Agenda

AGENDA ITEM: Approval of Resolution No. 2013-80 Appointing 2013 Election Judges
SUBMITTED BY: Adam Bell, City Clerk
THROUGH: Dean A. Zuleger, City Administrator
REVIEWED BY: Beckie Gumatz, Deputy Clerk

SUGGESTED ORDER OF BUSINESS (if removed from Consent)

- Introduction of Item City Clerk
- Report/Presentation..... City Clerk
- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

As part of the Consent Agenda, the City Council is respectfully requested to approve Resolution No. 2013-80, A Resolution Appointing Election Judges for the 2013 Special Election. Please find attached Exhibit A with the names of the 2013 election judges. **As part of the Consent Agenda, no formal motion is needed;** however, if the Council wishes to further discuss the topic, they can remove this item from the Consent Agenda and approve the Resolution by taking the following action or amending as necessary:

“Move to approve Resolution No. 2013-80, A Resolution Appointing Election Judges for the 2013 Special Election, as presented herein.”

STAFF REPORT:

Pursuant to Section 204B.21 of the Minnesota Election Laws, election judges shall be appointed by the municipality. The appointments shall be made at least 25 days before the election at which the judges will serve. The election judges are required to receive compensation equal to at least the prevailing Minnesota minimum wage for each hour spent carrying out duties at the polling place and attending training.

We recognize the City of Lake Elmo is dependent upon and appreciative of citizen assistance for conducting the local election process. The Lake Elmo 2013 Special Election Judge appointments

consist of individuals recommended by the City Clerk and require the approval by majority of the City Council. Staff is requesting the individuals listed on the attached Exhibit A be appointed to serve as election judges for the November 5, 2012 Special Election at the hourly rate of \$10.00 for election judges and \$11.00 for head election judges. As allowed by law if circumstances change before the election, the resolution authorizes the City Clerk to appoint additional election judges as necessary.

RECOMMENDATION:

Staff recommends the City Council approve Resolution No. 2013-80 A Resolution Appointing Election Judges for the 2013 Special Election depicted in the attached Exhibit A. **As part of the Consent Agenda, no formal motion is needed;** however, if the Council wishes to further discuss the topic, they can remove this item from the Consent Agenda and approve the Resolution by taking the following action or amending as necessary:

“Move to approve Resolution No. 2013-80, A Resolution Appointing Election Judges for the 2013 Special Election, as presented herein.”

Attachments:

- 1) Exhibit A – 2013 Election Judge Roster
- 2) Resolution No. 2013-80, A Resolution Appointing Election Judges for the 2013 Special Election

Exhibit A - 2013 Lake Elmo Election Judges

Allen, Diane
Allen, Jim
Burrress, Mary
Dege, George
Grundeen, Mary
Hansen, Nancy N
Haugen, Suzanne
Hels, Shannon G D
Hirsch, Wil
Kiefner, Jan
Krueger, Jan
Loos, Wendy
Lumby, Sharon
O'Donnell, Patricia
Quinn, Lisa
Raney, Edwin
Raney, Jacqueline
Roth, James A
Roth, Janice
Slinger, Donald
VanDemmeltraadt, Gloria
Wagner, Linda

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO 2013-80

A RESOLUTION APPOINTING ELECTION JUDGES FOR THE 2013 SPECIAL ELECTION

WHEREAS, pursuant to Section 204B.21 of the Minnesota Election Laws, Election judges shall be appointed by the municipality; and

WHEREAS, the appointments shall be made at least 25 days before the election at which the judges will serve; and

WHEREAS, election judges and election judge trainees shall receive at least the prevailing Minnesota minimum wage for each hour spent carrying out duties at the polling place and attending training; and

WHEREAS, the City of Lake Elmo is dependent upon and appreciative of citizen assistance for its election process; and

WHEREAS, the Lake Elmo 2013 Special Election Judge appointments consist of individuals recommended by the City Clerk with the approval by majority of the City Council; and

WHEREAS, the City Clerk may appoint additional election judges as necessary,

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Lake Elmo that the individuals listed on the attached Exhibit A are appointed to serve as election judges for the November 5, 2013 Special Election at the hourly rate of \$10.00 for election judges and \$11.00 for head election judges.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LAKE ELMO THIS FIRST DAY OF OCTOBER 2013.

By: _____

Mike Pearson

Mayor

(Seal)

ATTEST:

Adam Bell
City Clerk



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013
CONSENT
ITEM #: 6

AGENDA ITEM: Keats MSA Street and Trunk Watermain Improvements – Resolution Declaring Cost to be Assessed, Ordering Preparation of Proposed Assessments, and Calling for Hearing on Proposed Assessment

SUBMITTED BY: Jack Griffin, City Engineer

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Adam Bell, City Clerk
Cathy Bendel, Finance Director
Dave Snyder, City Attorney
Chad Isakson, Project Engineer

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to consider declaring costs to be assessed and calling for the final assessment hearing for the Keats MSA Street and Trunk Watermain Improvements. If removed from the consent agenda, the recommended motion for this action is as follows:

“Move to approve Resolution No. 2013-81; A Resolution Declaring Costs to be Assessed, Ordering Preparation of Proposed Assessment, and Calling for the Hearing on the Proposed Assessment for the Keats MSA Street and Trunk Watermain Improvements.”

STAFF REPORT:

The Keats MSA Street and Trunk Watermain Improvement Project is near completion and the final project costs remain well within the authorized project budget. Pursuant to Minnesota Statutes, Section 429 the council must declare the amount to be assessed against the benefiting properties and Call the Hearing on the Proposed Assessment for these improvements. The Assessment Hearing is proposed for November 6, 2013. The Final Assessment Roll must be certified to the County Auditor by November 30, 2013. Special assessments for this project were established as fixed amounts for a Collector Roadway and for a Trunk Watermain. Therefore the unit assessments remain unchanged with the final project costs.

The Post Bid cost estimate and proposed unit assessments compared to planned costs are as follows:

	Post Bid Costs	Authorized Project Budget
Total Project Costs:	\$2,070,134	\$2,325,000
Total Cost Breakdown:		
<i>Street and Storm Sewer:</i>	\$1,244,120	\$1,297,000
<i>Watermain Extension:</i>	\$826,014	\$1,028,000
Total Assessable Costs:		
<i>Street Assessable Costs:</i>	\$74,800	\$74,800
<i>Water Assessable Costs:</i>	\$63,800	\$63,800
Unit Assessment Amounts:		
<i>Street Unit Assessment (22 Units):</i>	\$3,400	\$3,400
<i>Water Unit Assessment (22 Units):</i>	\$2,900	\$2,900
Total City Share		
<i>City Share – Street Costs:</i>	\$1,169,320	\$1,222,200
<i>City Share – Water Costs:</i>	\$762,214	\$964,200

Final total project costs are currently tracking well below the Post Bid costs, realizing even more project savings, however the final total project costs will not be fully known until project completion. No adjustment in the unit assessment is being recommended.

RECOMMENDATION:

Staff is recommending that the city council approve, as part of the *Consent Agenda*, Resolution No. 2013-81, thereby declaring the street costs to be assessed to be \$74,800 and the water costs to be assessed to be \$63,800; ordering the preparation of the proposed assessments with the unit assessments to be \$3,400 for each benefitting property for street improvements and \$2,900 for water improvements; and Calling for the Hearing on the proposed Assessments for November 6, 2013 at or around 7:00 PM. The recommended motion is as follows:

“Move to approve Resolution No. 2013-81; A Resolution Declaring Costs to be Assessed, Ordering Preparation of Proposed Assessment, and Calling for the Hearing on the Proposed Assessment for the Keats MSA Street and Trunk Watermain Improvements.”

ATTACHMENT(S):

1. Resolution No. 2013-81 Resolution Declaring Cost to be Assessed, Ordering Preparation of Proposed Assessment, and Calling for Hearing on Proposed Assessment
2. Notice of Hearing on Proposed Assessment
3. Final Assessment Roll – Street Improvements
4. Final Assessment Roll – Watermain Improvements

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2013-81

**A RESOLUTION DECLARING COST TO BE ASSESSED, ORDERING
PREPARATION OF PROPOSED ASSESSMENT, AND CALLING FOR
HEARING ON PROPOSED ASSESSMENT FOR THE
KEATS MSA STREET AND TRUNK WATERMAIN IMPROVEMENTS**

WHEREAS, a contract has been let for the Keats MSA Street and Trunk Watermain Improvements including street reconstruction and storm sewer improvements located along Keats Avenue between Highway 36 and 47th Street and trunk watermain improvements along Keats Avenue between 59th Street and 47th Street and along 47th Street from Keats Avenue to 45th Street; and

WHEREAS, the total cost of the street improvements will be \$1,244,120; and

WHEREAS, the total cost of the water improvements will be \$826,014; and

WHEREAS, the City Clerk and City Engineer have prepared the proposed assessment roll and will maintain said assessment roll on file in the City offices for public inspection.

NOW, THEREFORE, BE IT RESOLVED,

1. The portion of the cost of such street improvement to be paid by the City is hereby declared to be \$1,169,320, and the portion of the cost to be assessed against benefited property owners is declared to be \$74,800.
2. The portion of the cost of such water improvement to be paid by the City is hereby declared to be \$762,214, and the portion of the cost to be assessed against benefited property owners is declared to be \$63,800.
3. The City Clerk, with the assistance of the City Engineer, has calculated the proper amount to be specially assessed for such improvements against every assessable lot, piece or parcel of land to be benefited by the improvements, and the Clerk has filed a copy of such proposed assessment in the City offices for public inspection.
4. Assessments shall be payable in equal annual installments extending over a period of 10 years, the first of the installments to be payable on or before the first Monday in January, 2014, and shall bear interest at the rate of 4.5 percent per annum from the date of the adoption of the assessment resolution.
5. A public hearing shall be held on the 6th day of November, 2013, in the Council Chambers of the City Hall at or approximately after 7:00 P.M. to pass upon such proposed assessment. All persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment.
6. The City Clerk is hereby directed to cause a notice of the hearing on the proposed assessment to be published once in the official newspaper at least two weeks prior to the hearing, and he shall state in the notice the total cost of the improvement. He shall also cause mailed notice to be given

to the owner of each parcel described in the assessment roll not less than two weeks prior to the hearings.

7. The owner of any property so assessed may, at any time prior to certification of the assessment to the county auditor, pay the entire assessment on such property, with interest accrued to the date of payment, to the City Clerk. No interest shall be charged if the entire assessment is paid within 30 days from the adoption of the assessment. A property owner may at any time thereafter, pay to the City Clerk the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FIRST DAY OF OCTOBER, 2013.

CITY OF LAKE ELMO

By: _____
Mike Pearson
Mayor

(Seal)

ATTEST:

Adam Bell
City Clerk

**CITY OF LAKE ELMO
NOTICE OF HEARING ON PROPOSED ASSESSMENT
KEATS MSA STREET AND TRUNK WATERMAIN IMPROVEMENTS**

Notice is hereby given that the City Council of Lake Elmo will meet in the Council Chambers of the City Hall at or approximately after 7:00 P.M. on Wednesday, November 6, 2013, to consider, and possibly adopt, the proposed assessment against abutting property for the Keats MSA Street and Trunk Watermain Improvements. Adoption by the Council of the proposed assessment may occur at the hearing. The following are the areas proposed to be assessed:

Keats Avenue Street Improvements: The amount to be specially assessed against each particular lot, piece, or parcel of land located along Keats Avenue (from Trunk Highway 36 to 47th Street), is \$3,400.

Keats Avenue Trunk Water Improvements: The amount to be specially assessed against each particular lot, piece, or parcel of land receiving an individual service stub located along Keats Avenue (from Trunk Highway 36 to 47th Street) and along 47th Street from Keats Avenue to 45th Street, is \$2,900.

You may at any time prior to certification of the assessment to the county auditor on November 15, 2013, pay the entire assessment on such property to the City Clerk with interest accrued to the date of payment. No interest shall be charged if the entire assessment is paid to the City Clerk 30 days from the adoption of this assessment. You may at any time thereafter, pay to the City Clerk the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 (date assessment certified to County Auditor) or interest will be charged through December 31 of the succeeding year. If you decide not to prepay the assessment before the date given above the rate of interest that will apply is 4.50 percent per year.

Once assessments are certified to the County, the assessments are payable in equal annual installments extending over a period of 10 years, the first of the installments to be payable on or before the first Monday in January 2014, and will bear interest at the rate of 4.50 percent per annum from the date of adoption of the assessment resolution. To the first installment shall be added interest on the entire assessment from the date of the assessment resolution until December 31, 2013. To each subsequent installment when due shall be added interest for one year on all unpaid installments.

The proposed assessment roll is on file for public inspection at the City Clerk's office. The total amount of the proposed street improvement assessment is \$74,800. *The City contribution for the street improvement project is \$1,244,120.* The total amount of the proposed watermain improvement assessment is \$63,800. *The City contribution for the watermain improvement project is \$762,214.* Written or oral objections will be considered at the meeting. No appeal may be taken as to the amount of an assessment unless a written objection signed by the affected property owner is filed with the

municipal clerk prior to the assessment hearing or presented to the presiding officer at the hearing. The Council may upon such notice consider any objection to the amount of a proposed individual assessment at an adjourned meeting upon such further notice to the affected property owners as it deems advisable.

An owner may appeal an assessment to district court pursuant to Minnesota Statutes, Section 429.081 by serving notice of the appeal upon the Mayor or Clerk within 30 days after the adoption of the assessment and filing such notice with the district court within ten days after service upon the Mayor or Clerk.

The City Council is authorized in its discretion to defer the payment of an assessment for any homestead property owned by a person for whom it would be a hardship to make payment if the owner is 65 years of age or older and/or the owner is a person retired by virtue of a permanent and total disability or by a person who is a member of the Minnesota National Guard or other military reserves who is ordered into active military service, as defined in section 190.05 subdivision 5b or 5c, as stated in the person's military orders, for whom it would be a hardship to make the payments. The owner must request a deferment of the assessment at or before the public hearing at which the assessment is adopted and make application on forms prescribed by the City Clerk within 30 days after the adoption.

Notwithstanding the standards and guidelines established by the City for determining a hardship, a deferment of an assessment may be obtained pursuant to Minnesota Statutes Section 435.193.

DATED: October 1, 2013

BY ORDER OF THE LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

(Published in the Oakdale-Lake Elmo Review on October 9, 2013)

NO.	NAME	ADDRESS	PID	UNITS	AMOUNT
1	ZIERTMAN STEVEN R & JOAN M	5761 KEATS AVE LAKE ELMO 55042	0202921220001	1	\$ 3,400.00
2	SLOMKOWSKI LEEANN M	5415 KEATS AVE LAKE ELMO 55042	0202921310003	1	\$ 3,400.00
3	CROCKER GEORGE W & CYNTHIA L FOUSHEE	5093 KEATS AVE LAKE ELMO 55042	0202921330003	1	\$ 3,400.00
4	SESSING DIANE L	5699 KEATS AVE LAKE ELMO 55042	0202921230003	1	\$ 3,400.00
5	VOGEL WILLIAM J & CHERYL	5055 KEATS AVE LAKE ELMO 55042	0202921330002	1	\$ 3,400.00
6	MAGILL JOSEPH M & MAUREEN M	5275 KEATS AVE LAKE ELMO 55042	0202921310005	2	\$ 6,800.00
7	DEGE GEORGE S & RHEIN-DEGE & KATHLEEN ANN RHEIN-DE	5193 KEATS AVE LAKE ELMO 55042	0202921330001	0	-
8	DEGE GEORGE S & RHEIN-DEGE & KATHLEEN ANN RHEIN-DE	5193 KEATS AVE LAKE ELMO 55042	0202921310001	1	\$ 3,400.00
9	MENZ RICHARD J	5615 KEATS AVE LAKE ELMO 55042	0202921230001	1	\$ 3,400.00
10	BERGER KATHLEEN A & DUSTIN M	5435 KEATS AVE LAKE ELMO 55042	0202921320002	1	\$ 3,400.00
11	HERMANSON CHRISTINE L	5545 KEATS AVE LAKE ELMO 55042	0202921230005	1	\$ 3,400.00
12	EGERSDORF RICHARD J	9960 57TH KEATS ST LAKE ELMO 55042	0302921140002	1	\$ 3,400.00
13	BOETTCHER JEFFREY A & KARISSA	5630 KEATS AVE LAKE ELMO 55042	0302921140008	1	\$ 3,400.00
14	EGGEN PETER D & PAMELA K	5250 KEATS AVE LAKE ELMO 55042	0302921410002	1	\$ 3,400.00
15	SPAETH KEVIN & KARI	5010 KEATS AVE LAKE ELMO 55042	0302921440017	1	\$ 3,400.00
16	NELSON CYNTHIA JANE	5240 KEATS AVE LAKE ELMO 55042	0302921410003	1	\$ 3,400.00
17	MEYER ROBERT F & MARIE	5220 KEATS AVE LAKE ELMO 55042	0302921440004	1	\$ 3,400.00
18	SCHUBERT ROLF & KARIN A	5222 KEATS AVE LAKE ELMO 55042	0302921440003	1	\$ 3,400.00
19	EDER MELVIN J & JANE R	4890 KEATS AVE LAKE ELMO 55042	1002921110005	1	\$ 3,400.00
20	CARLSON JOHN F & CARRIE E	4950 KEATS AVE LAKE ELMO 55042	1002921110004	1	\$ 3,400.00
21	* SULLWOLD GILBERT E & VIOLA TRS	10190 47TH KEATS ST LAKE ELMO 55042	1102921210001	0	-
22	SULLWOLD GILBERT E & VIOLA TRS	4855 KEATS AVE LAKE ELMO 55042	1102921220002	1	\$ 3,400.00
23	KELCH JOYCE E	4855 KEATS AVE LAKE ELMO 55042	1102921220001	1	\$ 3,400.00
TOTAL				22	\$ 74,800.00

* METROPOLITAN AGRICULTURE PRESERVE PROGRAM

NO.	NAME	ADDRESS	PID	UNITS	AMOUNT
1	ZIERTMAN STEVEN R & JOAN M	5761 KEATS AVE LAKE ELMO 55042	0202921220001	1	\$ 2,900.00
2	SLOMKOWSKI LEEANN M	5415 KEATS AVE LAKE ELMO 55042	0202921310003	1	\$ 2,900.00
3	CROCKER GEORGE W & CYNTHIA L FOUSHEE	5093 KEATS AVE LAKE ELMO 55042	0202921330003	1	\$ 2,900.00
4	SESSING DIANE L	5699 KEATS AVE LAKE ELMO 55042	0202921230003	1	\$ 2,900.00
5	VOGEL WILLIAM J & CHERYL	5055 KEATS AVE LAKE ELMO 55042	0202921330002	1	\$ 2,900.00
6	MAGILL JOSEPH M & MAUREEN M	5275 KEATS AVE LAKE ELMO 55042	0202921310005	1	\$ 2,900.00
7	* DEGE GEORGE S & RHEIN-DEGE & KATHLEEN ANN RHEIN-DE	5193 KEATS AVE LAKE ELMO 55042	0202921330001	1	\$ 2,900.00
8	DEGE GEORGE S & RHEIN-DEGE & KATHLEEN ANN RHEIN-DE	5193 KEATS AVE LAKE ELMO 55042	0202921310001	0	-
9	MENZ RICHARD J	5615 KEATS AVE LAKE ELMO 55042	0202921230001	1	\$ 2,900.00
10	BERGER KATHLEEN A & DUSTIN M	5435 KEATS AVE LAKE ELMO 55042	0202921320002	1	\$ 2,900.00
11	HERMANSON CHRISTINE L	5545 KEATS AVE LAKE ELMO 55042	0202921230005	1	\$ 2,900.00
12	EGERSDORF RICHARD J	9960 57TH ST LAKE ELMO 55042	0302921140002	1	\$ 2,900.00
13	BOETTCHER JEFFREY A & KARISSA	5630 KEATS AVE LAKE ELMO 55042	0302921140008	1	\$ 2,900.00
14	EGGEN PETER D & PAMELA K	5250 KEATS AVE LAKE ELMO 55042	0302921410002	1	\$ 2,900.00
15	SPAETH KEVIN & KARI	5010 KEATS AVE LAKE ELMO 55042	0302921440017	1	\$ 2,900.00
16	NELSON CYNTHIA JANE	5240 KEATS AVE LAKE ELMO 55042	0302921410003	1	\$ 2,900.00
17	MEYER ROBERT F & MARIE	5220 KEATS AVE LAKE ELMO 55042	0302921440004	1	\$ 2,900.00
18	SCHUBERT ROLF & KARIN A	5222 KEATS AVE LAKE ELMO 55042	0302921440003	1	\$ 2,900.00
19	EDER MELVIN J & JANE R	4890 KEATS AVE LAKE ELMO 55042	1002921110005	1	\$ 2,900.00
20	CARLSON JOHN F & CARRIE E	4950 KEATS AVE LAKE ELMO 55042	1002921110004	1	\$ 2,900.00
21	* SULLWOLD GILBERT E & VIOLA TRS	10190 47TH ST LAKE ELMO 55042	1102921210001	0	-
22	SULLWOLD GILBERT E & VIOLA TRS	4855 KEATS AVE LAKE ELMO 55042	1102921220002	0	-
23	KELCH JOYCE E	9825 47TH ST LAKE ELMO 55042	1102921220001	1	\$ 2,900.00
24	EDER RICHARD F & JANET M	4515 JULEP AVE LAKE ELMO 55042	1002921140004	1	\$ 2,900.00
25	EDER DELMAR F & JOAN		1002921140007	1	\$ 2,900.00
TOTAL				22	\$ 63,800.00

* METROPOLITAN AGRICULTURE PRESERVE PROGRAM



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013
CONSENT
ITEM #: 7

AGENDA ITEM: Keats MSA Street and Trunk Watermain Improvements – Change Order No. 4
SUBMITTED BY: Chad Isakson, Project Engineer
THROUGH: Dean A. Zuleger, City Administrator
REVIEWED BY: Jack Griffin, City Engineer
Cathy Bendel, Finance Director

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to consider approving, *as part of the Consent Agenda*, Change Order No. 4 for the Keats MSA Street and Trunk Watermain Improvements, thereby increasing the Contract Amount by \$4,105.00. If removed from the consent agenda, the recommended motion for this action is as follows:

***“Move to approve Change Order No. 4 for the
Keats MSA Street and Trunk Watermain Improvements”***

STAFF REPORT:

This change order provides compensation to the contractor for additional work completed at the direction of the Project Engineer to maintain stormwater drainage along the project corridor to protect the new infrastructure.

The additional work includes the removal and replacement of an existing 12-inch flared end section and to complete ditch grading that was outside of the scope of the original contract. Upon excavation it was discovered the flared end section was damaged and required replacement. The damage was not caused by the Contractor. Additional ditch grading was requested in multiple locations by the Project Engineer to ensure positive drainage throughout the corridor and to better shape the boulevard for a smoother transition to adjacent property owner’s yards. The additional grading work was outside the planned work limits. The Contractor is being paid for time and materials with the time, equipment, and labor tracked by the City inspector.

With approval of this Change Order, the revised Contract amount will be increased by \$4,105.00 for a revised Contract Amount of \$1,618,198.47. With this change, the project remains within the scope of the current project budget and contingencies.

RECOMMENDATION:

Staff is recommending that the City Council consider approving, *as part of the Consent Agenda*, Change Order No. 4 for the Keats MSA Street and Trunk Watermain Improvements, thereby increasing the Contract Amount by \$4,105.00. If removed from the consent agenda, the recommended motion for this action is as follows:

*“Move to approve Change Order No. 4 for the
Keats MSA Street and Trunk Watermain Improvements”*

ATTACHMENT(S):

1. Change Order No. 4

CONTRACT CHANGE ORDER FORM

CITY OF LAKE ELMO, MINNESOTA
 KEATS MSA STREET AND TRUNK WATERMAIN IMP
 PROJECT NO. 2012.129

FOCUS ENGINEERING, inc.

CHANGE ORDER NO. 4

DATE: September 24, 2013

TO: T.A. SCHIFSKY & SONS, INC., 2370 E HIGHWAY 36, NORTH ST. PAUL, MN 55109

This Document will become a supplement to the Contract and all provisions will apply hereto. The Contract Documents are modified as follows upon execution of this Change Order.

CHANGE ORDER DESCRIPTION / JUSTIFICATION:

This change order provides compensation to the contractor to remove and replace an existing 12" flared end section and to perform ditch grading in multiple locations that were beyond the limits of the original project scope. The original contract required this flared end section to be salvaged and replaced. However, the flared end section was found in the field to be damaged. The additional ditch grading work was requested by the City in various locations to provide a better final grade and drainage system. Time associated with the additional grading was tracked in the field and is reflected in the itemization below.

Attachments (list documents supporting change): N/A

ITEM	DESCRIPTION OF PAY ITEM	UNIT	QTY	UNITE PRICE	INCREASE/(DECREASE)
CO4-1	Install 12" RCP Apron w/ Trash Guard	EA	1	\$1,155.00	\$1,155.00
CO4-2	Time and Material - Backhoe	HR	10	\$60.00	\$600.00
CO4-3	Time and Material - Laborer	HR	10	\$68.00	\$680.00
CO4-4	Time and Material - Operator	HR	10	\$72.00	\$720.00
CO4-5	Time and Material - Truck/Driver	HR	10	\$95.00	\$950.00
NET CONTRACT CHANGE					\$4,105.00

Amount of Original Contract	\$ 1,606,833.47
Sum of Additions/Deductions approved to date (CO Nos. 1, 2, and 3)	\$ 7,260.00
Contract Amount to date	\$ 1,614,093.47
Amount of this Change Order (ADD) (DEDUCT) (NO CHANGE)	\$ 4,105.00
Revised Contract Amount	\$ 1,618,198.47

The Contract Periods for Completion will be (UNCHANGED) (INCREASED) (DECREASED) 0 days

APPROVED BY ENGINEER: FOCUS Engineering, inc.

APPROVED BY CONTRACTOR

Chi
 ENGINEER
9/24/2013
 DATE

[Signature]
 BY
9/26/13
 DATE

APPROVED BY OWNER: CITY OF LAKE ELMO, MINNESOTA

 BY

 DATE

 BY

 DATE



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013

CONSENT

ITEM #: 8

AGENDA ITEM: Automatic Gates Sunfish Lake Park
SUBMITTED BY: Mike Bouthilet, Public Works Director
THROUGH: Dean Zuleger, City Administrator
REVIEWED BY: Cathy Bendel, Finance Director

SUGGESTED ORDER OF BUSINESS: (if removed from consent)

- Introduction of Item..... Staff
- Report/Presentation..... Staff
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

It is respectfully requested the City Council, as part of the *Consent Agenda*, authorize expenditure to purchase and install automatic gate at Sunfish Lake Park.

BACKGROUND AND STAFF REPORT:

Previously the City had an agreement with a resident adjacent to the park, where for a nominal fee of \$1.00 a day he would open and close the entrance and exit gates at Sunfish Lake Park. He was a retired gentleman and was diligent to assure the gates were open/closed or would inform the Staff to cover times he was not available. When he moved the Staff was unable to recruit anyone else for this duty, and hence the gates have been open year round 24/7.

Over the last few years increases in after hour illegal activities and incidences have been cited by the Washington County Sheriff. These include a murder victim's car abandoned, suicide, underage drinking, illegal fireworks and sex crimes (confidential/victim/protection). Staff has also received reports from nearby residents (primarily Park Meadows) concerning late night activities, gatherings, fireworks and vehicles spinning circles in the parking lot.

The Washington County Sheriff identified the difficulty of patrolling the park, due the long driveway.

The new gate would be timed to open at sunrise and closed at sunset (adjusted periodically). It also includes a key pad allowing deputies, emergency vehicles and staff afterhours access. The gates could be set to allow a grace period which would allow exit for a predetermined time after closing.

BACKGROUND AND STAFF REPORT: (continued)

It is proposed the gate be installed on the existing entrance driveway parallel to the park sign. The driveway would be widened to allow two-way traffic through a 24' gate opening. The existing exit drive would be removed and turf restored to grade. Beyond the gates, a crossover lane would divide the driveways back to the existing one lane entrance and exit road.

The road re-configuration would be done by Public Works personnel and equipment. The road base materials (millings) were acquired at no cost from the Highway 5 maintenance project.

Three gate styles were reviewed by the Park Commission. A slide gate, a parking ramp style gate, (up/down arm) and a barrier swing gate similar to the entrance/exit at the Lake Elmo Park Reserve. Consensus of the Parks Commission was the barrier gate best fit the application and park environment. At a September 16th meeting, the Park Commission voted 6-0 to approve up to \$18,000 for the purchase of a swing arm gate for Sunfish Lake Park. This would be a CIP funded purchase and is the low quote provided from three vendors, coming in at \$11,075.

RECOMMENDATION:

Authorize the purchase and installation of a 24' automatic barrier gate at Sunfish Lake Park from, Security Access Systems, for the not to exceed price of \$11,075.00

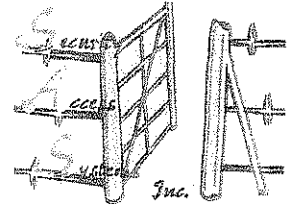
ATTACHMENT(S):

1. Cost Estimate from Security Access Systems, Inc.
2. Draft diagram of the gate and footings

Security Access Systems, Inc.

PROPOSAL

P.O. Box 207
 Stillwater, MN 55082
 Phone: (651) 998-1882
 Fax: (651) 433-4563



"Securing One Entrance At A Time"

Name: City of Lake Elmo

Attn: Mike

Email: mike.bouthilet@lakeelmo.org

City: State: Zip:

Phone: Fax: Cell:

Job Site: Sunfish Lake Park

Site Address:

P.O. Box 207
 Stillwater, MN 55082
 Phone: (651) 998-1882
 Fax : (651) 433-4563

Date:
 Salesperson: Tom Och

Furnish and Install:

QTY.

DESCRIPTION

AMOUNT

1

Hysecurity strongarm 20' beam complete with keypad, exit loop, photo eye and 7 day timer

\$13,575

Terms: 50% Down
 40% Post / Operator Set
 10% Balance Upon Completion

Customer Initials _____

MATERIALS AND INSTALLATION \$13,575

Down Payment:
 Check #: Amt. Date

QUOTATION VALID FOR 30 DAYS TAX

INC.

TOTAL \$13,575

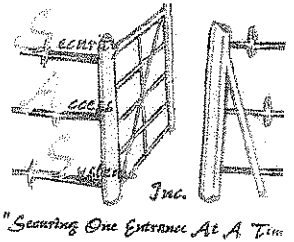
This is a quotation on the goods named, subject to the conditions noted below:
 A service charge of 1.5% per month (18% Annually) will be applied on all past Due balances. The purchaser shall be responsible for any and all collection and Legal costs incurred by Security Access Systems, Inc. in the event of this bill Becoming past due. Security Access Systems, Inc. reserves the right to lien the Improved property if payment in full as agreed to in this contract is not received.

Security Access Systems, Inc. shall furnish only The material and labor specified in this contract. Any changes made from the above specifications Necessitating additional material or labor will be billed at an additional cost.

Salesperson's Signature

Customer's Signature

Security Access Systems, Inc.



P.O. Box 207
 Stillwater, MN 55082
 Phone: (651) 998-1882
 Fax: (651) 433-4563

PROPOSAL

Name: City of Lake Elmo

Attn: Mike

Email: mike.bouthilet@lakeelmo.org

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Cell: _____

Job Site: Sunfish Lake Park

Site Address: _____

P.O. Box 207
 Stillwater, MN 55082
 Phone: (651) 998-1882
 Fax : (651) 433-4563

Date: _____
 Salesperson: Tom Och

Terms: 50% Down
 40% Post / Operator Set
 10% Balance Upon Completion

Customer Initials _____

Furnish and Install:

QTY.	DESCRIPTION	AMOUNT
1	20'x4' slide gate with Hysecurity slides mart opener	\$11,400.00
1	keypad on stand	
1	gate edge	
1	photo eye	
1	free exit loop	
1	seven day timer	

MATERIALS AND INSTALLATION \$11,400

Down Payment:
 Check #: _____ Amt. _____ Date _____

QUOTATION VALID FOR 30 DAYS		TAX	INC
TOTAL			\$11,400

This is a quotation on the goods named, subject to the conditions noted below:
 A service charge of 1.5% per month (18% Annually) will be applied on all past Due balances. The purchaser shall be responsible for any and all collection and Legal costs incurred by Security Access Systems, Inc. in the event of this bill Becoming past due. Security Access Systems, Inc. reserves the right to lien the Improved property if payment in full as agreed to in this contract is not received.

Security Access Systems, Inc. shall furnish only The material and labor specified in this contract. Any changes made from the above specifications Necessitating additional material or labor will be billed at an additional cost.

 Salesperson's Signature

 Customer's Signature



"The Best Name In Fence"

**To: City of Lake Elmo
Mike Bouthilet**

Date of Estimate: 9/12/2013

Terms: Net on Comp.

Project Scope: Sunfish Lake Park Entrance Access Control

Furnish & Install: 24' Wide Automated Gate across main drive

1. **24' Wide x 3' High square steel brown welded double swing gate**
 - (2) – 12' wide gate leaves w/ reflective safety tape
 - 4" x 4" square steel hinge posts in concrete footings
 - Heavy duty grease-able hinges
 - Apollo 1550ETL swing gate operators
 - photo eyes, and in ground loops for safety
 - 365 day timer & push button transmitters for operation

Total Double Swing Barrier Gate Price = \$26,500.00*

2. **24' Wide x 4' High black chain link cantilever slide gate**
 - 24' wide x 4' High black vinyl coated chain link gate leaf
 - (3) – 4" Sch.40 black vinyl coated gate posts set in concrete footings
 - (4) – sealed bearing nylon gate rollers w/ covers
 - Chamberlain Liftmaster SL595 slide gate operator
 - Gate safety edges on front and back uprights of gate for safety
 - photo eyes, and in ground loops for safety
 - 365 day timer & push button transmitters for operation

Total Cantilever Slide Gate Price = \$13,750.00*

All Electrical Power & Control Conduits & wiring by others

Thank you,

Mark Wassink
Commercial Sales

Office (763) 425-5050
Fax (763) 425-9006
Cell (612) 968-4945
markw@tofence.com

Price good for 30 days

ESTIMATE / ORDER

MIDWEST Fence
AND MANUFACTURING COMPANY

525 E. Villaume Ave.
So. St. Paul, MN 55075

Phone: 651-451-2222 Fax: 651-451-6939

Gopher state (1) Call ID #464 _____ Ticket # _____
Nearest Intersecting Street _____
Hudson Page # _____ Hudson Grid # _____
Township _____ County _____

Company: Lake Elmo Public Works Bill To: _____ Date: 1/18/2013
Address: 3445 Ideal Avenue N Address: _____ Job No: _____
City: Lake Elmo State: MN Zip: 55042 City: _____ State: _____ Zip: _____ Estimator: David Reiss
Contact: Mike P.O. _____

Job Site Address: _____ Work Phone 651-248-7838
Lake Elmo Park Fax #: _____
Other Phone _____

Terms _____ Down Payment
_____ Progress Payment
_____ Bal on Completion

Quantity	Description	Amount
	Two single swing gates 12' wide by 3' high, hot dip galvanized painted Macropoxy/Aerolon brown with 3M reflective safety tape.	
	Two hinge posts, 4" X 4" X 1/4" finished same as above, in 16" X 72" concrete footings.	
	Two latch posts, 4" X 4" X 1/4" finished same as above, in 12" X 72" concrete footings.	
	Two Apollo model 1550ETL single swing gate operator packages.	
	Two optima D34M batteries.	
	Two automatic 1.5amp chargers.	
	Two EMX thru-scan photo-eyes with protective hoods per UJ.325	
	One radio receiver with coaxial antenna kit.	
	Five single button radio transmitters	
	One vehicle detector and 6' X 6' patriot detection loop.	
	Two 365 day timers to hold gates open during the day.	
	Work by others:	
	All electrical power, control conduits, and cables except loops.	
	Material and Labor	\$ 26,524.00

A Service charge of 1.5% (18% annually) will be applied on all past due balances. The purchaser shall be responsible for any and all collection and legal costs incurred by Midwest Commercial Fence in the event of this bill becoming past due. Midwest Fence reserves the right to lien the improved property if payment in full as agreed to in this contract is not received.

MATERIALS AND INSTALLATION		\$ 26,524.00
<small>THIS ESTIMATE VALID FOR 30 DAYS FROM ABOVE DATE</small>		
TAX		
TOTAL		\$ 26,524.00

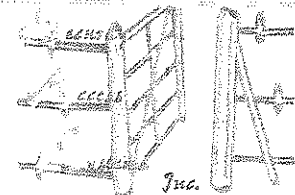
Owner responsible for establishing correct property and fence lines. Any permits required shall be the sole responsibility of the owner. Owner responsible for removal of obstructions of every nature which will interfere with the installation of the fence. This contract assumes normal ground conditions. Should rocky or excessive hard digging be encountered, owner agrees to pay additional costs of such work. Midwest Fence shall furnish only the materials and labor specified in this contract. Any changes made from the above specifications will be billed at Midwest Fence's current retail prices.

THIS CONTRACT SUBJECT TO ACCEPTANCE BY MIDWEST FENCE'S CREDIT MANAGER.

I accept this contract on behalf of Midwest Fence & Mfg. Co.

Customer Signature _____ Date _____
Salesperson Signature _____ Date _____
Clear Manager _____ Date _____

Security Access Systems, Inc.



"Securing One Entrance At A Time"

P.O. Box 207
 Stillwater, MN 55082
 Phone: (651) 998-1882
 Fax: (651) 433-3680

PROPOSAL

Name: City of Lake Elmo

Attn: Mike

Address:

City: State: Zip:

Phone: Fax: Cell:

Job Site:

Site Address:

P.O. Box 207
 Stillwater, MN 55082
 Phone: (651) 998-1882
 Fax : (651) 433-3680

Date: 9/25/13
 Salesperson: Tom Och

Terms: 50% Down
 40% Post / Operator Set
 10% Balance Upon Completion

Customer Initials _____

Furnish and Install:

QTY.	DESCRIPTION	AMOUNT
1	24' barrier gate, mounted on 4" steel posts	2,800.00
1	la 400 double opener	2,500.00
1	ir 55 photo eye	400.00
1	free exit loop	500.00
1	shadow loop	500.00
1	7 day primer	225.00
1	keypad on stand	650.00
1	electrical connection (not to exceed)	3,500.00

MATERIALS AND INSTALLATION 11,075.00

Down Payment:
 Check #: _____ Amt. _____ Date _____

QUOTATION VALID FOR 30 DAYS

TAX

Inc.

TOTAL

\$11,075.00

This is a quotation on the goods named, subject to the conditions noted below:
 A service charge of 1.5% per month (18% Annually) will be applied on all past
 Due balances. The purchaser shall be responsible for any and all collection and
 Legal costs incurred by Security Access Systems, Inc. in the event of this bill
 Becoming past due. Security Access Systems, Inc. reserves the right to lien the
 Improved property if payment in full as agreed to in this contract is not received.

Security Access Systems, Inc. shall furnish only
 The material and labor specified in this contract.
 Any changes made from the above specifications
 Necessitating additional material or labor will be
 billed at an additional cost.

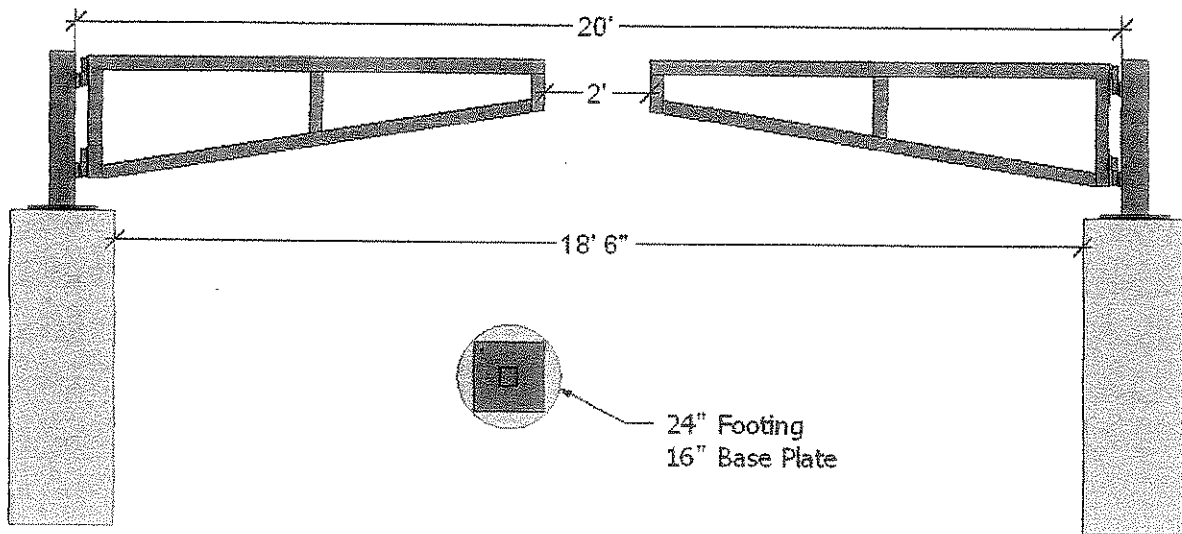
Salesperson's Signature

Customer's Signature

(DRAFT)

Both Gates and Footings

Side View



Gates and Stanchions are hot dipped galvanized and painted with Macropoxy/Acrolon Brown



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013
REGULAR
ITEM #: 9

AGENDA ITEM: Dean and Gayle Dworak Variance – 09.029.21.22.0025 (Hill Trail North)
SUBMITTED BY: Nick Johnson, City Planner
THROUGH: Dean Zuleger, City Administrator
REVIEWED BY: Planning Commission
Kyle Klatt, Planning Director
Pete Ganzel, Washington County

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item.....Staff
- Report/Presentation.....Staff
- Questions from Council to Staff.....Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for Motion.....Mayor & City Council
- Discussion.....Mayor & City Council
- Action on Motion.....Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

The City Council is asked to consider a Variance submitted by Dean and Gayle Dworak 4719 Olson Lake Trail North to allow for the construction of a single family home on a lot that is not considered a buildable lot of record under the Lake Elmo Zoning Ordinance. In addition, the variance request includes an allowance to install a subsurface sewage treatment system on a lot that does not meet the area requirements for septic systems per the Zoning Ordinance. The Planning Commission held a Public Hearing on August 26, 2013, which was continued at meetings on 9/9/13 and 9/23/13. The Planning Commission recommended denial of the variance request based upon failure to meet three findings necessary to grant a variance.

The Planning Commission recommends the City Council deny the Variance by taking the following action:

“Move to approve Resolution No. 2013-082, denying the variance requested at 09.029.21.22.0025 (Hill Trail North) to allow for the construction of a single family home on a lot that is not considered a buildable lot of record, based upon failure to meet all required findings necessary to grant the variance.”

BACKGROUND AND STAFF REPORT:

The City of Lake Elmo received an application for a variance from Dean and Gayle Dworak to build a single family home on a lot that is not considered a buildable lot of record under the Zoning Ordinance.

In order to approve a variance under the new State Statute, the applicant must demonstrate compliance with 4 required findings:

1. Practical Difficulties
2. Unique Circumstances
3. Character of the Locality
4. Adjacent Properties and Traffic

The Planning Commission spent a fair amount of time over the course of several meetings reviewing the applicant's request, discussing the required findings of fact listed above, and considering testimony from Staff and neighboring property owners. Staff has attached a copy of the previous reports submitted to the Commission for review by the City Council.

PLANNING COMMISSION REPORT:

The Planning Commission conducted a public hearing on the variance request over the course of three meetings, and adopted a motion to recommend denial of the applicant after taking additional testimony and closing the public hearing at its September 23, 2013 meeting. In order help the City Council have a better understanding of the Commission's discussion, the public testimony received, and the reasons for the Commission's action, Staff has attached a copy of the draft minutes from the September 23rd meeting to this memorandum. Because the detailed minutes from the meeting are attached, Staff will not provide a summary of the comments received other than to note that:

- The applicants and property owners all spoke in favor of the variance
- Five individuals spoke against the granting of a variance.
- Another neighbor submitted written comments opposed to the variance.
- An attorney representing the Gustafson family submitted a written statement also in opposition to the variance.

Upon the close of the public hearing the Planning Commission conducted a lengthy debate concerning the required finds of fact, and adopted findings that the variance did not meet three of these including: 1) that the variance was inconsistent with the Comprehensive Plan, 2) that there are no unique circumstances associated with the request, and 3) that the variance would lead to a degradation of water quality of the Tri-Lakes area and would alter the essential character of the locality. A more detailed description of the Planning Commission's findings have been incorporated into the attached resolution of denial.

The Planning Commission adopted a motion to recommend denial of the variance request with a vote of 5 ayes and 2 nays. The Commissioners voting against the motion cited the lack of evidence of water quality impacts and the number of existing lots that are either smaller or close to the same size as the applicant's property as reasons for their vote against the motion.

RECOMMENDATION:

The Planning Commission recommends the City Council deny the Variance by taking the following action:

“Move to approve Resolution No. 2013-082, denying the variance requested at 09.029.21.22.0025 (Hill Trail North) to allow for the construction of a single family home on a lot that is not considered a buildable lot of record, based upon failure to meet all required findings necessary to grant the variance.”

ATTACHMENT(S):

1. Resolution No. 2013-082
2. Staff Memo to the Planning Commission, 9-23-13
3. Staff Report to the Planning Commission, 8-26-13
4. Variance Application w/Narrative and Supporting Documents

5. Location Map
6. Hill Trail Area Lot Size Analysis
7. Letter from Washington County Department of Health
8. Letter from Mr. Steve Iverson
9. Letter from Ms. Lauren Skildum, Representing the Gustufson Family
10. Letter from Mr. Gordy Grundeen
11. Excerpt from Draft Planning Commission Minutes, 9-23-13
12. Letter from Mr. and Mrs Dworak



**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2013-082

A RESOLUTION DENYING A VARIANCE AT 09.029.21.22.0025 (HILL TRAIL NORTH) TO ALLOW THE CONSTRUCTION OF A SINGLE FAMILY HOME ON A LOT NOT CONSIDERED A BUILDABLE LOT OF RECORD PER THE LAKE ELMO ZONING ORDINANCE AND TO ALLOW FOR THE INSTALLATION OF A SUBSURFACE SEWAGE TREATMENT SYSTEM ON A LOT THAT DOES NOT HAVE THE REQUIRED AMOUNT OF AREA THAT IS SUITABLE FOR A SEPTIC SYSTEM PER THE LAKE ELMO ZONING ORDINANCE.

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Mr. Dean Dworak and Mrs. Gayle Dworak, 12325 Upper Heather Avenue North, Hugo, Minnesota, (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a variance to allow for the construction of a single family home on a lot that is not considered a buildable lot of record; and to allow for a subsurface sewage treatment system on a lot that does not have the required amount of

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.109; and

WHEREAS, the Lake Elmo Planning Commission held a Public Hearing on said matter on August 26, 2013, September 9, 2013, and September 23, 2013; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated October 1, 2013; and

WHEREAS, the City Council considered said matter at its October 1, 2013 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following:

FINDINGS

- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.109.
- 2) That all the submission requirements of said Section 154.109 have been met by the Applicant.
- 3) That the proposed variance is to allow for:

- a) The construction of a single family home on a lot not considered a buildable lot of record per the Lake Elmo Zoning Ordinance; and
 - b) The installation of a subsurface sewage treatment system on a lot that does not contain the necessary area suitable for a septic system as required by the Lake Elmo Zoning Ordinance.
- 4) That the Variance will be located on property legally described as follows: Lots 505 Thru 510 and Lots 629 Thru 634, Part of Vacated Beach, Lane's DeMontreville Country Club, Section 9, Township 29 North, Range 21 West, City of Lake Elmo, Washington County, Minnesota.
- 5) That the plight of the landowner is **not** due to circumstances unique to the property not created by the landowner. *Specific findings: That the applicant's property was purchased with the knowledge that the lot was not a buildable lot of record, thereby negating the existence of unique circumstances related to the lot being platted and acquired before the current zoning regulations were established.*
- 6) That the proposed variance **will** alter the essential character of the locality in which the property in question is located. *Specific findings: The degradation of the water quality caused by additional drainage and erosion on the site and additional strain on the aquifer caused by an additional private water supply well will alter the essential character of the locality.*
- 7) That the proposed variance is **not** consistent with the Comprehensive Plan. *The proposed variance is not consistent with the Comprehensive Plan, as the area is guided for rural development, and allowing for smaller lots that do not meet the minimum size requirements of the Rural Single Family zoning district would be in conflict with the Comprehensive Plan.*

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Variance is denied.

Passed and duly adopted this 1st day of October, 2013 by the City Council of the City of Lake Elmo, Minnesota.

By: _____
Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk



Planning Commission
Date: 09/23/13
Item: 4a
Public Hearing (cont.)

ITEM: Variance Request – 09.029.21.22.0025 (Hill Trail North) – Cont.

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Planning Director
Pete Ganzel, Washington County

SUMMARY AND ACTION REQUESTED:

The City of Lake Elmo has received an application from Dean and Gayle Dworak, 12325 Upper Heather Ave. N., Hugo, Minnesota, for a variance to allow for the construction of a single family home on a lot that is not considered a lot of record under the Zoning Ordinance due to its size and that it does not meet the required 20,000 square feet of area for a septic system. The Planning Commission held a Public Hearing and reviewed the request at meetings on 8/26/13 and 9/9/13, at which times the item was tabled for further consideration at a future meeting. It should also be noted that the Public Hearing has been continued to allow for additional testimony.

BACKGROUND INFORMATION:

At the meetings on 8/26/13 and 9/9/13, the Planning Commission held a Public Hearing and reviewed the variance application submitted by Dean and Gayle Dworak. In reviewing the application, Staff made the determination that while the application has merit based upon the 4 required findings for granting a variance, the applicant did not provide sufficient evidence that a subsurface sewage treatment system that met the guidelines of Washington County could be properly located on the site. For that reason, Staff recommended that the Planning Commission table the variance request to allow the applicant more time to work with a septic designer and Washington County. The Planning Commission tabled the request to provide the applicant with more time.

The applicants have submitted a new certificate of survey showing the proposed location for a primary and secondary drainfield site. In addition, the amount of proposed impervious surface has been reduced to 5,600 square feet. This amount of impervious meets the City's shoreland district requirement of a maximum of 6,000 square feet. In addition, the location of the proposed drainfield, well and home meet all of the required setbacks as specified by the Washington County Development Code, the Shoreland Ordinance, and the Zoning Code. Also, the applicants have submitted an updated septic

design to Washington County. Pete Ganzel, Washington County Environmental Specialist, reviewed the proposed septic design and found the system to be compliant with Washington County rules and regulations. Greater detail about Mr. Ganzel's analysis of the proposed septic system can be found in the attached letter (Attachment #2). Based upon these findings, the proposed septic system will be permitted by Washington County.

Over the course of the two Public hearing sessions, multiple parties have provided testimony on the proposed variance. At the meeting on 8/26/13, testimony was received from Amy and Brad Gustufson, Vickie Iverson and Bonnie Weisbrod, all of whom are nearby property owners. The comments by the aforementioned adjacent property owners provided at the 8/26/13 meeting included concern about the following topics:

- The proposed location of the septic drainfield was too close to the neighboring property;
- The ability of the applicant to site an adequate subsurface sewage treatment system on the property;
- Problems related to drainage and erosion control, particularly being that the lot is in between Olson Lake and Lake DeMontreville; and
- Alteration of the neighborhood character with a new single family home.

At the meeting on 9/9/13, the applicant, Dean Dworak, and property owner, Paul Hansen, spoke at the Public Hearing. Mr. Dworak noted that he and his designer are almost finished with an updated design of the home and septic system. They intended to submit the updated information to Washington County for consideration of a septic permit. In addition, Mr. Hansen spoke about the history of the lot, sharing that he and his wife purchased the lot as either an investment property or as a location to build a home for future retirement, down-sizing from their existing home. The Planning Commission also asked Mr. Hansen when he bought the property, as well as what zoning rules were in place at the time of purchase. Mr. Hansen did not know the exact date when he purchased the property. However, he did note that no promises were made in terms of the lot being buildable from the City. Finally, Steve Iverson, 8108 Hill Trail North, also spoke at the 9/9/13 meeting. He noted that he submitted a letter to the Planning Commission, detailing his concerns about the proposed Variance. He noted that the proposed variance is in direct conflict with the intent of the lot size ordinance, and that if the variance is approved, other requests for additional lot size variances will follow.

At the request of the Planning Commission, Staff conducted research on two primary issues:

1. The Planning Commission asked Staff to conduct an analysis of all the lots in the Hill Trail area, including information about occupancy and lot size.
2. The Planning Commission requested that Staff research what zoning standards were in place at the time when the Hansen's purchased the subject parcel.

Regarding the analysis of the lots in the Hill Trail area, Staff has provided two maps that show the parcels in the northern and southern portions of Hill Trail (Attachment #3). The maps indicate the parcel size and occupancy (occupied vs. vacant) of each parcel.

Regarding parcel size, it should be noted that there are several instances of two adjoining properties being owned by the same owner. In these cases, the parcel size is listed along the parcel boundary with the adjoining properties. In addition, when two contiguous parcels are owned by the same owner, the parcel is considered one property for the purposes of the Zoning Code. When reviewing the parcels that are included in the Hill Trail analysis, two figures are important. 1) The mean (or average) parcel size in the Hill Trail area is 0.82 acres, whereas the median parcel size is 0.71 acres; and 2) In the area analyzed, there are 28 parcels that are equal to or smaller in size than the subject parcel. The figures related to the parcel analysis can be found in Attachment #4.

Regarding the zoning standards that were in place at the time the Hansen family purchased the subject property, the City Clerk, Adam Bell, conducted research into the matter. The oldest version of the Lake Elmo City Code that the City currently has in its possession is the 1979 Code. When the 1979 Code was established, the 1.5 acre minimum lot size was then established. However, it is difficult to determine what standards were in place prior to the 1979 Code. This investigation has led to results that are inconclusive. It is more than likely that the regulations that were in place prior to the 1979 Code were carried over from the township regulations prior to the City's incorporation. As it has been established that the Hansen family purchased the property in 1978, it is clear that they did own the property prior to the 1979 Code. However, while understanding the motivations of the property owner at the time may provide helpful context, it still does not change the fact that the subject property is governed by the existing zoning regulations. As the Hansen family did not build on the lot prior to the 1979 regulations, the lot is still subject to the current provisions of the Zoning Ordinance that determine whether or not the lot is considered a buildable lot of record.

Regarding the required findings for a variance, it is important to highlight these once again for the purposes of making a recommendation. The required and proposed findings as presented by Staff include the following:

1. **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control. *The applicants have noted that the desire to build a single family home on a lot that is consistent in terms of lot area to the other properties in the neighborhood is a reasonable use not permitted by an official control. Staff determines that this criterion is met.*
2. **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner. *The parcel was platted and purchased by the property owner before the current lot size requirements were established. In addition, the property is unique in that it does not meet the minimum acreage of 0.9 acres to be considered buildable, but can support a*

permitted subsurface sewage treatment system as determined by Washington County. Staff determines that this criterion is met.

- 3. **Character of locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located. *The applicant has correctly noted that the lot is similar or consistent in lot area with most of the existing lots in the neighborhood. The construction of a single family home will not alter the essential character of the neighborhood. Staff determines that this criterion is met.*
- 4. **Adjacent properties and traffic.** The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. *It is determined that the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. Staff determines that this criterion is met.*

Staff has determined that the Variance application does have merit.

Finally, Staff did not attach the previous application materials. Planning Commission members are encouraged to bring the application materials from the previous meeting if possible.

RECCOMENDATION:

Staff is recommending that the Planning Commission recommend approval of the Variance request through the following motion:

“Move to recommend approval of the Variance request at 09.029.21.22.0025 (Hill Trail North) based upon the findings outlined in the Staff Memorandum.”

ATTACHMENTS:

- 1. Additional Application Materials
- 2. Letter from Pete Ganzel, Environmental Specialist, Washington County
- 3. Hill Trail Maps (North and South)
- 4. Hill Trail Parcel Analysis

ORDER OF BUSINESS:

- Introduction.....Planning Staff
- Report by Staff.....Planning Staff
- Questions from the Commission..... Chair & Commission Members
- Continue the Public Hearing.....Chair

- Discussion by the Commission..... Chair & Commission Members
- Action by the Commission..... Chair & Commission Members



City of Lake Elmo Planning Department
Variance Request

To: **Planning Commission**
From: Nick M. Johnson, City Planner
Meeting Date: **08/26/2013**
Applicant: **Dean and Gayle Dworak**
Owner: Paul and Nancy Hansen
Location: **09.029.21.22.0025 (Hill Trail North)**
Zoning: RS – Rural Single Family

Introductory Information

<i>Application Summary:</i>	<p>The City of Lake Elmo has received an application from Dean and Gayle Dworak, 12325 Upper Heather Ave. N., Hugo, Minnesota, for a variance to allow for the construction of a single family home on a lot that is not considered a lot of record under the Zoning Ordinance due to its size and that does not meet the required 20,000 square feet of area for a septic system. Per the requirements of the Rural Single Family (RS) zoning district, the minimum lot size is 1.5 acres, and there must be at least 20,000 square feet suitable for the installation of a subsurface sewage treatment system. The Zoning Ordinance allows existing lots of record to be considered buildable if the lot meets a minimum of 60% of the minimum lot size in the underlying zoning district. 60% of 1.5 acres is 0.9 acres. The subject lot is 0.63 acres according to the Washington County parcel data, making the parcel 0.27 acres less than the minimum size to be considered a lot of record.</p> <p>The owners of the property, Paul and Nancy Hansen, have co-signed for the Variance request. The parties have agreed to a purchase agreement for the property contingent on the approval of a variance to construct a single family home. The applicant has provided a written statement to the City indicating the reason for the Variance request. In addition, the applicants' narrative addresses how the proposed application meets the 4 required findings to grant a Variance.</p>
<i>Property Information:</i>	<p>The property (09.029.21.22.0025) is located on the east side of Hill Trail North on the peninsula between Lake DeMontreville and Olson Lake. The attached location map (Attachment #3) details the location of the property. The property has been owned by Paul and Nancy Hansen since 1979.</p>
<i>Applicable Codes:</i>	<p>Section 154.402 Lot Dimensions and Building Bulk Requirements Lot area and setback requirements shall be as specified in Table 9-2, Lot Dimension and Setback Requirements.</p>

Table 9-2: Lot Dimension and Setback Requirements, Residential Districts

	RT	A	RR	RS	RE
Minimum Lot Area (acres)					
Single Family Detached Dwelling	20	40 ^{a,b}	10 ^c	1.5 ^d	2.5 ^{e,f}
Minimum Lot Width (feet)					
Single Family Detached Dwelling	300	300	300	125	NA ^f
Maximum Principal Structure Height (feet)					
	35	35	35	35	35
Maximum Impervious Coverage					
	-	-	-	25%	15%
Minimum Principal Building Setbacks (feet)					
Front Yard	30	200	30	30	100
Interior Side Yard	10	200	10	10	50
Corner Side Yard ^g	25	200	25	25	80
Rear Yard	40	200	40	40	100
Minimum Accessory Building Setbacks (feet)					
Front Yard	30	200	30	30	100
Interior Side Yard	10	200	10	10	15
Corner Side Yard	25	200	25	25	30
Rear Yard	40	200	40	10	15
Minimum Agricultural Related Setbacks (Animal buildings, feedlots or manure storage sites)					
Any Property Line	200	200	200	-	-
Any Existing Well or Residential Structure	50	50	50	-	-
Any Body of Seasonal or Year-round Surface Water	200	200	200	-	-

Section 154.080 Additions and Exceptions to Minimum Area, Height, and Other Requirements.

(A) 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 154.404 Site Design and Development Standards

Development of land within the rural districts shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in Articles 5, 6 and 7. The following standards apply to specific uses, and are organized by district.

(A) *Single-Family Detached Dwelling, All Rural Districts.* All single-family dwellings shall be at least twenty-four (24) feet in width, at least nine hundred sixty (960) square feet in area, and be placed on a permanent foundation.

(B) *Septic Drainfield Regulation, A, RR, and RS Districts.* All lots must have at least 20,000 square feet of land suitable for septic drainfields and area sufficient for 2 separate and distinct drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited.

Section 154.109 Variances.

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

Findings & General Site Overview

Site Data: Lot Size: 0.63 acres
Existing Use: Single Family Detached Dwelling
Existing Zoning: RS – Rural Single Family
Property Identification Number (PID): 09.029.21.22.0025

Application Review:

Variance Review: As outlined in the narrative, the applicant is seeking to build a new single family home at 09.029.21.22.0025 (Hill Trail North). In the application, the applicant has also provided an existing survey, a proposed site plan of the proposed single family home, as well as building plans. However, it should be noted that the site plan does not provide adequate detail of the proposed septic system that will serve the property.

Regarding the lot size Variance, the lot does not currently meet the minimum size requirements to be considered a buildable lot of record per the requirements of the Rural Single Family (RS) zoning district. The applicants have noted that the owners of the property have owned since 1979, before the minimum lot size zoning requirements were in place. It is quite common that many of the older platted lots in the community that are zoned RS do not meet the 1.5 acre minimum size requirement. In the application, the applicants have provided some of the sizes of the adjacent lots to the subject property. Given the sizes of the adjacent lots, the subject lot is consistent in size to many of these properties. As long as the new single family home was able to meet the requirements for impervious surface, setbacks, shoreland requirements, and site a subsurface sewage treatment system on the site, the application seems to present a reasonable request to allow variance from the minimum lot size requirements.

Regarding the Variance requested from the minimum requirement of 20,000 square feet of area suitable for septic (§154.404), it is common that lots that are unable to meet minimum size requirements also are non-compliant with the area requirements for septic systems. In order to build a single family home on such a lot, a Variance is required from the minimum area requirements for septic systems. In the Variance application, the applicants have noted that a septic permit from Washington County is being pursued. It should be noted that the Variance request has been reviewed by Pete Ganzel, Washington County Senior Environmental Specialist. Mr. Ganzel has submitted review comments, found in Attachment #4, noting that the current area being proposed for septic is most likely would not meet the County requirements necessary for a septic system. Until the City receives indication that septic design will be accepted by Washington County and the septic permit will be issued, Staff does not recommend allowing for a variance from the septic area requirements to be granted. As it is critical to ensure that a septic system can be adequately sited on the property for a new single family home, it is not prudent to grant a variance in advance of having greater assurance that a septic design will be approved by Washington County. Allowing for more time to bring resolution to the septic design would allow the applicant to finalize the septic design with Washington County.

It should also be noted that a letter of support for the Variance was submitted by a neighboring property owner, Mike and Ruth Schrantz, 5831 Hytrail Ave. N., Lake Elmo, MN. The letter of support is found in Attachment #5.

Variance Requirements:

An applicant must also establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.109 before an exception or modification to City Code requirements can be granted. These criteria are listed below:

1. **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in

keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

2. **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.
3. **Character of locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.
4. **Adjacent properties and traffic.** The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

Given the information that has been submitted by the applicant and pending further review by the Planning Commission, Staff would offer the following suggested findings specific to the variance that have been requested by the applicant:

1. *The applicants have noted that the desire to build a single family home on a lot that is consistent in terms of lot area to the other properties in the neighborhood is a reasonable use not permitted by an official control. **Staff determines that this criterion is met.***
2. *The applicants have noted that the property was owned by the Hansen family before the zoning district requirements were established. The lot is consistent in lot area with other adjacent properties that have single family homes. The establishment of zoning is a circumstance not created by the landowner. **Staff determines that this criterion is met.***
3. *The applicant has correctly noted that the lot is similar or consistent in lot area with most of the existing lots in the neighborhood. The construction of a single family home will not alter the essential character of the neighborhood. **Staff determines that this criterion is met.***
4. *The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. **Staff determines that this criterion is met.***

Conclusions: Staff finds the applicants have met the 4 necessary criteria for a Variance and demonstrated that the desire to construct a single family home represents a reasonable

use not permitted by an official control. However, until the City receives better indication that the site will be able to be served by a septic system that is permitted by Washington County, it is not advisable to grant a Variance at this time for the request. It is recommended that more time be allowed to finalize the septic design and receive indication from Washington County that the septic design will be accepted and permitted.

Conclusion:

Dean and Gayle Dworak, 12325 Upper Heather Ave. N., Hugo, MN, have submitted a request for a variance at 09.029.21.22.0025 (Hill Trail North) to allow the construction of a single family home on a lot that does not meet the minimum lot area requirements to be considered a buildable lot of record. In addition, the request includes a variance from the requirement that each lot in the RS district have 20,000 square feet of area suitable for septic systems.

Staff Rec: Staff is recommending that the Planning Commission table the Variance request by Dean and Gayle Dworak until the September 9th meeting to allow for more time to bring resolution to the design of the septic system. In addition, given that new information is likely to be provided, it is recommended that the Planning Commission not close the Public Hearing, but continue the hearing until the September 9th meeting.

Approval Motion Template: Staff is recommending that the Planning Commission table the Variance request through the following motion:

“Move to table the Variance request at 09.029.21.22.0025 (Hill Trail North) for further consideration at the next available Planning Commission meeting to allow the applicant more time to submit a septic design that will meet Washington County approval.”

cc: Dean and Gayle Dworak
Paul and Nancy Hansen

City of Lake Elmo

DEVELOPMENT APPLICATION FORM

Signature Page

Signature of Applicants:

Dean Dworak 8/4/13

Dean Dworak
12325 Upper Heather Ave N
Hugo, MN 55038

Gayle Dworak 8/4/13

Gayle Dworak
12325 Upper Heather Ave N
Hugo, MN 55038

Signature of Owners:

Paul Hansen 8/4/13

Paul Hansen
8024 Hill Trail N
Lake Elmo, MN 55042

Nancy Hansen 8/4

Nancy Hansen
8024 Hill Trail N
Lake Elmo, MN 55042

By signing this document, we the above signees, formally submit for approval the attached Variance Application to the City of Lake Elmo.

Fee \$ _____

City of Lake Elmo DEVELOPMENT APPLICATION FORM

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

APPLICANT: Dean & Gayle Dvorak 17375 Linden Hill Dr Ave N, Lake Elmo, MN 55042
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-407-9501
(Home) (Work) (Mobile) (Fax)

FEE OWNER: Bonnie Nancy Hansen 8024 Hill Trail N, Lake Elmo, MN 55042
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-777-4911
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): XXXX Hill Trail N, Lake Elmo
Lots 505-510 & Lots 629-634, Lanes - Democratic Council - City
Also that portion of Democratic Council road, in Lots 629-634
of Lanes Democratic Council, City of Lake Elmo, Minnesota

DETAILED REASON FOR REQUEST: _____

- 1) Request for variance to build on City road
- 2) Request for variance to be approved by Democratic Council

*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:

- 1) Seeking approval for building on City road
- 2) City road has not been paved

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.

Sec cover sheet
Signature of Applicant _____ Date _____

Sec cover sheet
Signature of Applicant _____ Date _____

INFORMATION FOR VARIANCE REQUEST

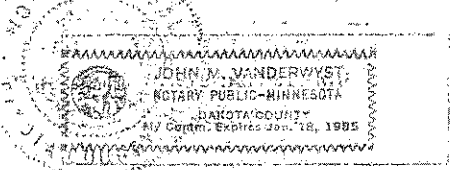
- a). Applicants: Dean and Gayle Dworak
Owners: Paul and Nancy Hansen
- b). Legal description : Lots 505 – 510 and 629 – 634 Lane's Demontreville Country Club.
Also portion of Demontreville Beach accruing to Lots 629 – 634 of Lane's
Demontreville Country Club, Washington County, MN
Warrantee Deed Document No. 393352
Parcel Number : 09.029.21.22.0025
Size: 31,440 sq feet 0.7 acres
Currently an unimproved wooded lot
Zoned residential
- c). Variance sought for: i) Resolution 87-32 of City of Lake Elmo to transfer/sell land
ii) Build home on 0.7 acres rather than 1.5 acres
iii) City of Lake Elmo Ordinance 08-073, Article 9 requiring minimum of 20,000
square feet of land suitable for septic drainfield.
- d). i) Request approval to purchase lot to build new home.
ii&iii). Paul and Nancy Hansen have owned this lot since 1979 before these
requirements were in place. A permit for an approved septic system is being pursued
with Washington County. Approval of this variance request could be made
contingent on obtaining the septic permit.
- e). Met with Lake Elmo city planner, Nick Johnson, for guidance. Followed variance
procedure.
- f). Need to purchase land from current owners. Purchase is contingent on getting a
variance. All adjacent lots already have homes so no adjacent vacant land.
- g). The lot will not be marketable if a house cannot be built on it.
- h). Granting the variance would not alter the essential character of neighborhood as
one adjacent house (8108 Hill Trail N) is on 0.53 acres while the other adjacent
house (8120 Hill Trail N) is on 0.76 acres. The house across the street (8123 Hill
Trail N) is on 0.69 acres. The subject lot of 0.7 acres is comparable in size to all
other homes in the immediate area. A new septic system of more current design
would probably exceed the performance of the older neighboring systems.

(Individual Acknowledgment)

STATE OF MINNESOTA)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this 6TH day of MAY, 1978, by Elaine J. Altstatt as the personal representative of the estate of Harold F. Altstatt, deceased.

[Signature]
Notary Public _____ County _____
My commission expires _____, 19 _____



THIS INSTRUMENT WAS DRAFTED BY

TRUETT & LYNCH
(Name)
833 Southview Boulevard
(Address)
South St. Paul, MN 55075

Tax statements for the real property described in this instrument should be sent to:

Paul E. Hansen (Name) 8024 Hill Tr. N (Address)
Lake Elmo, Min. 55042

STATE DEED TAX
TRANSFER STAMPS DUE

PROBATE DEED OF SALE

Individual Personal Representative to Joint Tenants

TO

Office of County Recorder
STATE OF MINNESOTA

County of WASHINGTON

I hereby certify that the within Deed was filed in this office for record on the 12th day of May, 1978 at 9:00 o'clock A. M. and was duly recorded in Book of Deeds XXXXXX of Dakota County XXXXXX Microfilmed and was duly recorded as instrument No. 274557 WASH. CO. RECORDS '78'

JAMES E. SIMONET
County Recorder

By _____ Deputy,
No Delinquent Taxes and Transfer entered this 12th day of May, 1978

By [Signature] County Auditor
Tax statements for the real property described in this instrument should be sent to: Return to: Paul E. Hansen

8024 Hill Tr. No. Name
Lake Elmo, MN 55042
Paid \$3.00 Address

374557

THIS INDENTURE, Made this 6th day of May, 19 78,
between Elaine J. Altstatt
as Personal Representative of the Estate of Harold F. Altstatt, deceased,
part y of the first part, and Paul E. Hansen and Nancy N. Hansen, husband and
wife, joint tenants, of the County of
Washington and State of Minnesota, parties of the
second part;

WITNESSETH, that whereas Harold F. Altstatt a single (married) person of
the County of Ramsey and State of Minnesota died on
November 24 77 and the Probate Court of Ramsey County,
Minnesota did appoint Elaine J. Altstatt Personal Representative
of the estate, and whereas by the laws of the State of Minnesota, said Personal Representative
(is) ~~(are)~~ empowered to make and execute a conveyance of real estate.

NOW, THEREFORE, the said part y of the first part, in consideration of the sum
of One and other good and valuable consideration (\$1.00) DOLLARS,
to them in hand paid by the said parties of the second part, the receipt
whereof is hereby acknowledged, does hereby Grant, Bargain, Sell, and Convey unto the said
parties of the second part as joint tenants and not as tenants in common, their assigns, the survivor of
said parties, and the heirs and assigns of the survivor, Forever, all the tract or parcel
of land lying and being in the County of Washington
and State of Minnesota, described as follows, to-wit:

An undivided one-fifth (1/5) interest in Lots 505, 506, 633,
and 634 of Lane's Demontreville Country Club, Washington County,
according to the recorded plat thereof on file and of record
in the office of the county recorder.

TO HAVE AND TO HOLD AND SAME, Together with all the hereditaments and appurtenances
thereunto belonging or in anywise appertaining, to the said part ies of the second part, their
heirs and assigns, Forever.

IN TESTIMONY WHEREOF, The said part y of the first part has hereunto set her
hand the day and year first above written.

Elaine J. Altstatt
Elaine J. Altstatt
as personal representative of the Estate of
Harold F. Altstatt
Deceased.

Elaine J. Altstatt, spouse of the above named
decident, do hereby consent to the within conveyance.

Elaine J. Altstatt
Elaine J. Altstatt



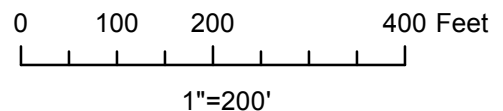
Location Map: 09.029.21.22.0025



Data Source: Washington County, MN
8-22-2013



09.029.21.22.0025





Lakeshore Property Analysis: Hill Trail Area (North)



Data Source: Washington County, MN
9-17-2013



Homesteaded Property



Vacant Property



Vacant Property
(Owners Homesteaded Property in Close Proximity)

0.85 Parcel Size (Acres)

→ Adjacent Properties
included in Parcel Size
Calculation








Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

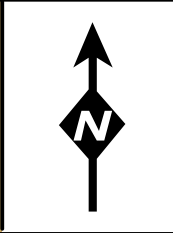
Lakeshore Property Analysis: Hill Trail Area (South)



THE CITY OF
LAKE ELMO

Data Source: Washington County, MN
9-17-2013

	Homesteaded Property	0.85	Parcel Size (Acres)
	Vacant Property		
	Vacant Property (Owners Homesteaded Property in Close Proximity)		



Hill Trail Parcel Analysis			
Parcel Sizes (Acres)		Analysis	
0.2	0.72	# of Parcels	64
0.24	0.74	Mean Size	0.82
0.25	0.75	Median Size	0.71
0.28	0.76		
0.32	0.76		
0.33	0.79		
0.34	0.79		
0.38	0.79		
0.38	0.8		
0.4	0.83		
0.4	0.85		
0.41	0.85		
0.41	0.89		
0.45	0.93		
0.46	0.93		
0.47	0.96		
0.48	1.03		
0.48	1.07		
0.5	1.08		
0.51	1.1		
0.53	1.1		
0.54	1.13		
0.57	1.24		
0.61	1.27		
0.62	1.27		
0.63	1.31		
0.63	1.32		
0.63	1.35		
0.64	1.73		
0.67	1.79		
0.68	2		
0.69	4.4		



Department of Public
Health and Environment

Lowell Johnson
Director

Sue Hedlund
Deputy Director

9/19/2013

Nick Johnson
City of Lake Elmo
3800 Laverne Ave
Lake Elmo, MN 55042

RE: Soil Testing, Sewage System Design, Lots 507-510 & 629-632 Lanes Demontreville Country Club.

A review of the proposed site plan, design and soil borings indicate that there is adequate area for a primary and secondary sewage treatment system on this parcel. The areas are limited and must be protected during construction from fill, excavation and construction traffic. It appears from the preliminary grading plan that the proposed garage slab will be close to the 930' contour and that extensive fill or cut will not be required for the driveway. Excavated material from the dwelling walkout foundation must be carried out along the proposed driveway and not pushed either toward the lake or across the drainfield areas.

If you have any questions, call me at (651)430-6676.

A handwritten signature in black ink that reads "P. Ganzel".

Pete Ganzel
Senior Environmental Specialist

RE: Variance request for new construction/septic on the 8100 block of Hill Trail

Why does Lake Elmo have lot size ordinances?

To keep from over-developing.

So if this variance is even being considered, you need to take a hard look at removing the ordinance completely. This variance is in direct conflict with the ordinance – and violates the very intent of the ordinance. So if the variance is granted in this situation, it shows that the ordinance is meaningless and should simply be removed to be fair to all. If it is a valid ordinance, then the variance should be denied.

And why is there a minimum lot size for new septic systems?

To protect the soil, the aquifers, and the ground (lake) water.

If this ordinance is approved, it is completely irresponsible on the part of the city. So much effort is made to control and regulate the existing Septic systems, that to allow another one (or more) to be squeezed onto small parcels is just backwards and irresponsible.

Remember the repercussions:

- There are other “lot” owners just waiting for a variance to get passed – so they can follow suit. And the city won’t have a legal leg to stand on after they approve the first one. This decision is the beginning of a domino effect; it is not “just one parcel”.
- Approving this is IRREVERSIBLE. Choosing “no-wake zones”, or “fence height”, can be changed from year-to-year. But allowing new homes to be squeezed on to tiny lots is permanent. If you allow a house to go in – you can visualize that house still there 100 years from now. If we don’t have the foresight to protect the natural resources, then ALL future residents are stuck with our failures.
- This particular parcel is on a peninsula – the additional water run-off that a house and driveway will cause has nowhere to go but directly into one of the 2 lakes that are on either side.

This variance is not asking to stray from the ordinance; it is asking to completely ignore it.

There are many existing homes for sale on the Lake Elmo lakes – some are ready to “move in”, some just need a good remodel, and some could be torn down and the buyer could build their new house. There is NOT a lake home shortage, so that should be another reason to deny this variance.

There is a plan to develop the I-94 corridor (forced by the Met Council); please stick to that plan and protect every inch of “rural” Lake Elmo that we have left.

PLEASE DO YOUR PART TO PROTECT THE LAKES AND PROTECT THE FUTURE OF THE CITY OF LAKE ELMO BY VOTING “NO” TO THIS VARIANCE.

Signed,

Steve Iverson

8108 Hill Trail N
Lake Elmo MN 55042



WAGNER, FALCONER & JUDD, LTD.

Attorneys & Consultants Since 1932

September 20, 2013

City of Lake Elmo Planning Commission
3800 Laverne Avenue North
Lake Elmo, Minnesota 55042

Re: **Request to Deny Variance**
Applicant: Dean and Gayle Dworak
Owner: Paul and Nancy Hansen
Location: 09.029.21.22.0025 (Hill Trail North)
Zoning: RS – Rural Single Family
Intake No.: 240947 MN

Dear Sirs and Madams:

The undersigned law firm has consulted with Ms. Amy Gustafson, property owner at 8120 Hill Trail North, Lake Elmo, directly adjacent to the property upon which this variance is sought.

Ms. Gustafson has informed the undersigned that there has been misrepresentation of facts presented in the Variance Request submitted by the City Planner, Mr. Nick Johnson. Furthermore, Ms. Gustafson is concerned that the laws that govern the granting of variances in Minnesota Statute 462.357, subd. 6 are not being considered in this matter.

This purpose of this letter is to further shed light on the facts that pertain to this variance request – and to enable the Planning Commission to make an educated decision pursuant to Minnesota Law.

The Department of Natural Resources (DNR) has approval authority over city ordinances regarding shoreland and other natural areas. Therefore, the current Lake Elmo ordinance regarding minimum lot size is deemed the minimum size which protects the water quality of this natural resource by the DNR. It is imprudent for the city to effectively nullify this ordinance by granting variances such as this one.

The DNR publishes a document entitled "A Guide for Buying and Managing Shoreland." In "Section 3: Evaluating Shoreland Property for Purchase", it is made clear that it is incumbent upon the petitioners to weigh many factors in purchasing property, and to "confirm that your intended use...is compatible with the zoning ordinance." This includes "minimum lot size, building setbacks, and sewage treatment requirements." Under "Lot Size" the document states, "The lot should be large enough to accommodate your intended use and **comply with the local zoning requirements**. Those lots that have been created since the statewide shoreland management standards took effect are large enough for most residential uses and comply with local zoning requirements. However, there are many lots that were created prior to the shoreland rules that may be substantially smaller than the new lot size requirements. These substandard lots may still be bought and sold, but they may be too small to accommodate a structure or a sewage treatment system. If you are considering buying such a lot, you should carefully review your intended use and the limitations of the property" (boldface added) (source: <http://www.dnr.state.mn.us/shorelandmgmt/guid/evaluating.html>).

1700 IDS Center 80 South Eighth Street Minneapolis, Minnesota 55402-2110 | Phone: 800.697.8955 MN | Phone: 800.506.7267 ND

325 North Corporate Drive Suite 100 Brookfield, Wisconsin 53045-5828 | Phone: 800.697.8960 WI

www.wfjlawfirm.com

Under "Section 5: Lake and River Classifications" of the same document, a Recreational Development Lake, such as Lakes Olson and Demontreville are described as follows: "Recreational Development Lakes usually have between 60 and 225 acres of water per mile of shoreline, between 3 and 25 dwellings per mile of shoreline, and are more than 15 feet deep." Crowding in more homes will test the limits of this definition, as 25 dwellings per mile average 211 feet of lakeshore, far from the frontage (120 feet) this parcel has.

Statement on the "Information for Variance Request" item "g", "The lot will not be marketable if a house cannot be built on it," is false. The substandard lot that is owned by Mike and Ruth Schrantz (Parcel No. 09.029.21.22.0008) was successfully sold and purchased by them in 2004, and it has been sold one other time since we have lived here as well (1995).

Statement on the "Information for Variance Request" item "h" is also false. It states, "Granting the variance would not alter the essential character of the neighborhood as one adjacent house, (8108 Hill Trail N) is on 0.53 acres while the other adjacent house (8120 Hill Trail N) is on 0.76 acres. The house across the street (8123 Hill Trail N) is on 0.69 acres. The subject lot of 0.7 acres is comparable in size to all other homes in the immediate area. A new septic system of more current design would probably exceed the performance of the older neighboring systems." This is a misrepresentation of several facts. First, the lot in question is 0.63 acres, as stated in the "Variance Request", "Application Summary" presented at the August 26, 2013 Planning Commission meeting. Second, 8108 Hill Trail N sits on two lots totaling 0.83 acres, not 0.53 acres. Third, a minor misrepresentation, 8120 is 0.77 acres, not 0.76. Fourth, the average sized residential lot on Lake Demontreville, total acreage is 1.11 (including 5 houses across the street with lakeshore frontage lots) or 0.93 including only those homes which are on shoreland. But, actually, the fact that there are homes already on lots smaller than the minimum recommended by the DNR for preserving water quality (60% of 1.5 acres, or 0.9 acres) is really an argument to *not* further crowd the lake. Additionally, the "essential character of the neighborhood" involves more than lot size, but also how the lots are used, the type of dwelling on the lot, and the aesthetic qualities of the neighborhood. The size and design of this house does *not* fit in with current homes which are much more modest in size and plain in design. It does *not* fit in with the natural environment, as it does not allow for a natural screen of the house from the lake and neighbors by maintaining significant surrounding vegetation including large trees and wooded landscapes. These are part of the aesthetic and ecological value which help to maintain the rural feel of the neighborhood. With this structure extending to the very limits of the required setbacks (10 feet) on both neighbors' sides, there is little hope for adequate screening by vegetation which is currently the norm in the neighborhood (please see map).

There is the very real potential that allowing this variance will open the door for a domino effect of homes being built on substandard lots around the lake. Case in point, the letter from Mike and Ruth Schrantz who own a recreational lot in the neighborhood and have stated in a letter presented at the August 26th, 2013 that they "intend to file a request for variance in the near future as well" (see attachment). This is likely a precedent-setting decision which may have permanent detrimental effects on the lake. Consider that other property owners who own multiple lots may sell lots for building, or that the Jesuit Retreat Center is sold and a developer uses this decision to justify a density which will ultimately erode soil and water quality for all who use the lake.

Regarding the "Variance Request" prepared for the August 26, 2013 Planning Commission meeting:

- The "4 findings required to grant a variance request" in the Planning Commission document submitted regarding this property on 08/26/2013 are not the current statutory criteria which must be met. In fact, the criteria were updated in June of 2013, and the city is required to weigh variance requests against five criteria which are not entirely consistent with the four used in consideration of this variance petition. The four listed in the "Variance Request" were 1)

Practical difficulties, 2) Unique circumstances, 3) Character of locality and 4) Adjacent properties and traffic. The five dictated by the new Minnesota Statute, of which, "all of the following statutory criteria must be satisfied, in addition to any local criteria" (MN DNR Variance Guidance Series - ISC, Updated 10/10/2012) are

1. The variance is in harmony with the purposes and intent of the ordinance
2. The variance is consistent with the comprehensive plan
3. There are unique circumstances to the property not created by the landowner ("practical difficulties")
4. The variance does not alter the essential character of the locality
5. The variance proposal puts property to use in a reasonable manner.

Again, all 5 of these criteria must be met according to current Minnesota Statutes.

- In a document published by the League of Minnesota Cities entitled "Information Memo: Land Use Variances", in addition to a "three-factor practical difficulties test", "Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan." Under section "III. C. City ordinances" of this document, it states, "Some cities may have ordinance provisions that codified the old statutory language, or that have their own set of standards. For those cities, the question may be whether you have to first amend your zoning code before processing variances under the new standard. A credible argument can be made that the statutory language pre-empts inconsistent local ordinance provisions. Under a pre-emption theory, cities could apply the new law immediately without necessarily amending their ordinance first. In any regard, it would be best practice for cities to revisit their ordinance provisions and consider adopting language that mirrors the new statute" (boldface added).
- The three factors which are entailed by "practical difficulties" are 1) reasonableness ("the property owner proposes to use the property in a reasonable manner"), 2) uniqueness ("uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees") (boldface added), and 3) essential character ("the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area") (boldface added).
- "Section IV. Other considerations" of this document outlines two criteria of the criteria which must be met, in addition to the other three. First, "Harmony with other land use controls" is outlined by Minnesota Statute 462.357, subd. 6. It states, "Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan." The intent of this ordinance, according to Dan Petrik of the DNR (per my personal conversation with Dan Petrik), is to protect water quality. The size of project planned, the amount of impervious surface exceeds the 25% maximum in Table 9-2 of the Lake Elmo "Lot Dimension and Setback Requirements" for Residential Districts, as presented at the 8/26/13 Planning Commission meeting. Why care about impervious surfaces? In the DNR document "Shoreland & Floodplain: Variance Guidance Series: Impervious Surfaces," it states, "management of rainwater on individual lots is one of our most important tasks. Rainwater that does not infiltrate into the ground or evaporate runs downhill to lakes, wetlands, or rivers. As impervious surface coverage increases, the rate and amount of runoff and pollutants entering public waters increases. When runoff from impervious surface coverage is not addressed, pollution increases and the diversity of

aquatic life is reduced." The plans presented at the 8/26 Planning Commission meeting directly show a significant amount of drainage headed directly for Lake Demontreville. As Dan Petrick stated in *Minnesota Cities Magazine's* article "Let's Talk: city Dilemma - Granting Shoreland Variances", "Within a watershed, there are a lot of opportunities for pollution to get into our water bodies. But the reason we protect the shoreland area is that, in many ways, it's the last opportunity to protect the quality of the water body before stormwater runoff goes into it" and "but character is more about shoreland characteristics. One example is hydrology. Hydrology within the landscape of a lake or river is very different than a non-riparian area. And when you build structures or remove vegetation, you're affecting the hydrology on and below the soil in terms of how and where the water flows. If you have steep slopes or bluffs, you can have additional problems with slumping or eroding soils. So it's important to think about these real physical issues. If the project is affecting the hydrology, that may be a more important local character issue than how the structure aesthetics fit into the landscape." (<http://lmc.org/page/1/LetsTalkMayJune2013.jsp>) This is not just an argument to uphold the 25% maximum impervious surface restriction, but is an argument to prevent a greater density of any impervious surface along the lakeshore.

In addition, for a septic, the lot size must allow 4,000-6,000 square foot minimum requirement for septic stated by the Washington County Senior Environmental Specialist, Pete Ganzel, in his letter presented at the same meeting. With "only about 2,400 square feet available for the sewage treatment area", *this requirement is not met*, and can adversely affect water quality as well.

For these reasons, this criteria, to be in harmony with the purposes and intent of the ordinance, is not met.

- With regard to this variance being consistent with the comprehensive plan, Lake Elmo is currently planning to add residences to other areas of the city, but according to the map in the Land Use Plan section of the Comprehensive Plan, none of the new housing is recommended for this area. An aim often touted in local newspapers is that the city aims to preserve its open spaces and its rural character, as was stated in the September 1, 2013 Pioneer Press article on development plans in Lake Elmo. The pretentious home which is proposed, crowded into an area of much more humble homes will not only change the character of the neighborhood, but is neither in keeping with Lake Elmo's aim of preserving open spaces and maintaining a rural character nor with the current Comprehensive Plan, as published at <http://www.lakeelmo.org/planning-growing/comprehensive-plan>.
- The introduction of the Lake Elmo Land Use Plan states, "The City of Lake Elmo is a unique gem within the metropolitan region given its overall rural character, significant natural resources and abundance of agricultural lands. The land use plan herein represents a series of significant steps the City is taking to preserve and protect these treasured characteristics while simultaneously responding to its fiscal and regional responsibilities." Further, the "Land Use Plan" indicates, "Lake Elmo's land use plan is guided by its core vision of creating and maintaining a rural community within the Metropolitan region. The plan itself provides guidance for a desired land use pattern, mix of uses, range of densities, and site/building designs. To ultimately ensure future development adds to the overall quality and uniqueness of the community and builds upon the existing foundation that defines Lake Elmo, the plan is centered on the following core set of principles:
 - The preservation of rural lands;
 - Promotion of open space and green corridors;
 - A rebirth of the historic village center;
 - Enhancement of the community's rural sense of place (through design standards); and

- o Establishment of a sustainable planned growth pattern which strikes a balance between providing municipal services and local/regional fiscal responsibility" (boldface added).

This home would not preserve rural, wooded natural lands, promote open space or green corridors, or enhance this neighborhood's rural sense of place. The home owners of this lake are not in pursuit of the atmosphere of Lake Minnetonka, where lake cruisers go by gushing over the homes on the lake. Rather, the homeowners continue to desire a lake which cherishes the ecosystem we all are able to enjoy because we work to preserve it. This house would fundamentally change this character of this neighborhood.

- "Existing Land Use. An examination of Lake Elmo in 2012 clearly shows a community with a rich history of agricultural use, open space development, and preservation of significant park lands. Lake Elmo Regional Park and Sunfish Lake Park, covering 2,165 and 284 acres respectively (correction made in boldface - from "respectfully"), are at the heart of the community and provide significant natural and recreational opportunities not generally available in the metropolitan area. Single family homes on lots measured in acreages rather than square feet dominate the residential housing stock throughout the community, and the City's 30+ open space cluster/rural neighborhoods established Lake Elmo as a local, regional and national leader in this type of development" (boldface added). Lakes Demontreville, Olson and Jane are also part of that legacy of providing natural and recreational opportunities, and part of maintaining that natural environment is not increasing the density of homes on the lakes, particularly when doing so will have a detrimental effect on water quality and the natural environment through runoff, additional septic, reduced vegetation and increased impervious surfaces.

The map in the city's Comprehensive Plan designates the Tri-Lakes Area as "rural single family". In the Land Use Plan, under "Preservation of Rural Character", the document states, "One of the main benefits of the official land use plan is that the long range planning objective to retain a permanent rural identity is achieved. Under the memorandum of understanding with the Metropolitan Council, a vast majority of the City will be allowed to maintain its rural character and existing land uses. Furthermore, concentrating urbanization adjacent to I-94 and within the Old Village will result in clear boundaries between the urban and rural portions of the community. Beyond that, the City's desire to protect its sensitive park lands is also achieved. Both Lake Elmo Regional Park and Sunfish Lake Park will continue to be surrounded by agricultural lands and will not be impacted by encroaching urbanization."

In the Introduction to the Housing Plan of the Comprehensive Plan, the plan states, "In order to build off of Lake Elmo's treasured asset of open space, it is critical to incorporate strategies for providing housing that maintain and protect the city's natural resources. These natural resources greatly contribute to the character and vibrancy of Lake Elmo and must be accordingly preserved. For this reason, Lake Elmo's future housing needs will be provided for in the I-94 Corridor and Old Village planning districts. This plan will maintain existing open space in the rural planning district of Lake Elmo, as well as incorporate open space into the new housing development in the Old Village and I-94 Corridor." All of this is in conflict with the petition application.

Further in the document published by the League of Minnesota Cities entitled "Information Memo: Land Use Variances", under "B. Economic Factors," "Sometimes landowners insist that they deserve a variance because they have already incurred substantial costs or argue that they will not receive expected revenue without the variance. State statute specifically notes that economic considerations alone cannot create practical difficulties." This nullifies Mr.

Hansen's argument, "the plight of the landowner", that the lot would not be saleable unless a home could be built on, which has already been stated is false in the first place, given that another similar small recreational lot has successfully been sold twice within the last 15 years.

The staff determined that the outdated 4 criterion were met, but this finding is unfounded.

1. The home would crowd the area and does not conform to the average approximate 1.0 acre lot size around Lake Demontreville. It would affect the lake hydrology with excessive impervious surface, runoff and pollutants headed directly into Lake Demontreville. It would also not fit in with the modest, plain homes which are situated within wooded lots. Instead, this home would remove at least 50% of the existing vegetation including mature trees and screen-providing foliage.

2. Thought the lot size restrictions may have changed, this cannot alone satisfy this requirement, as stated previously, in the document published by the League of Minnesota Cities entitled "Information Memo: Land Use Variances", under "B. Economic Factors," "Sometimes landowners insist that they deserve a variance because they have already incurred substantial costs or argue that they will not receive expected revenue without the variance. State statute specifically notes that economic considerations alone cannot create practical difficulties."

3. The applicant has misrepresented information. Where his lot size is 0.63, not 0.7, and the lots on either side are both larger than the applicant stated. In fact, they are 0.83 to the south and 0.77 to the north. Further, the average sized lot on Lake Demontreville is around 1 acre. Despite averages, the ordinance is put in place for a reason - to protect water quality - and needs to be honored. Otherwise it will become a slippery slope making it harder to deny other variance requests, as they will use this as precedent-setting action and the lake will quickly become more overcrowded, the ecology of the lakeshore environment will suffer, and the hydrology of the lake will become unhealthy.

Another further misrepresentation by the petitioner is that the setback from the ordinary high water mark for 8120 Hill Trail North is 83 feet, when documentation proves that it is 90 feet, not 83 feet. This misrepresentation makes the petitioner's house closer to the shoreland than is required, and does not respect the original 100 foot setback requirement advocated by the DNR.

4. The proposed 36-foot high structure certainly will impair the supply of light and air the properties adjacent currently enjoy, and in the case of the house to its south, will nearly completely shade the home for a significant part of the day. In addition, Ms. Gustafson requests a study to be completed to discover how the value of other homes will be affected with another home crowded in between.

Other Lot Sizes on Lake Demontreville:

Address	Min. Total Acreage
8554 Hidden Bay Trail	0.67
8548 Hidden Bay Trail	1.01
8510 Hidden Bay Trail	1.04
8498 Hidden Bay Trail	0.97
8450 Hidden Bay Trail	0.71
8416 Hidden Bay Trail	0.94
8382 Hidden Bay Trail	0.85
8344 Hidden Bay Trail	0.84
8320 Hidden Bay Trail	0.77
8294 Hidden Bay Trail	0.88
8292 Hidden Bay Trail	1.34
8290 Hidden Bay Ct.	0.75

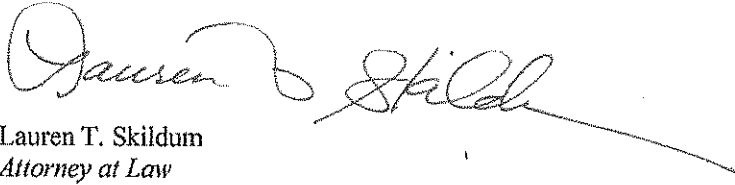
8286 Hidden Bay Ct.	0.88
8200 Hill Trail N.	0.85
8190 Hill Trail N.	0.4
8186 Hill Trail N.	0.48
8180 Hill Trail N.	1.27
8179 Hill Trail N.	1.35
8164 Hill Trail N.	0.93
8160 Hill Trail N.	0.85
8148 Hill Trail N.	0.8
8130 Hill Trail N.	0.38
8120 Hill Trail N.	0.77
8108 Hill Trail N.	0.83
8098 Hill Trail N.	0.75
8084 Hill Trail N.	0.48
8076 Hill Trail N.	0.5
8066 Hill Trail N.	0.76
8056 Hill Trail N.	0.32
8048 Hill Trail N.	0.51
8038 Hill Trail N.	0.64
8032 Hill Trail N.	0.8
8028 Hill Trail N.	1.07
8024 Hill Trail N.	0.77
8018 Hill Trail N.	0.89
8012 Hill Trail N.	0.93
8000 Hill Trail N.	1.1
7982 Hill Trail N.	1.08
7978 Hill Trail N.	0.79
7972 Hill Trail N.	0.45
7962 Hill Trail N.	1.03
7934 Hill Trail N.	0.57
7920 Hill Trail N.	1.32
7821 Demontreville Trail N.	1.73
7980 Demontreville Trail N.	1.64
8010 Demontreville Trail N.*	1.82
8080 Demontreville Trail N.*	3.95
8100 Demontreville Trail N.*	1.92
8110 Demontreville Trail N.*	2.88
8120 Demontreville Trail N.*	3.05
*home lot is across st. from lake frontage	
AVERAGE MIN. ACREAGE	1.11* / 0.93

Of 50 lakeshore residences, only 8 have 0.63 acres or less.

Thank you for your attention to this letter, and the crucial details it puts forth. This is a significant decision, in which the reasons to deny the variance clearly outweigh the reasons to grant it, when applied to Minnesota Law.

Sincerely,

WAGNER, FALCONER & JUDD, LTD.

A handwritten signature in cursive script that reads "Lauren T. Skildum". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Lauren T. Skildum
Attorney at Law

cc: Ms. Amy Gustafson

Nick Johnson

From: Gordy Grundeen <gordyg@teksolr.com>
Sent: Monday, September 23, 2013 11:14 AM
To: Nick Johnson
Subject: 09-23-13-planning commission

Dear Planning Commission:

We oppose any variance that changes lot sizes in our neighborhood. The reason is our water supply, namely, groundwater. The recently released Washington County Groundwater Plan for 2014-2024 shows that our water supply is shrinking and becoming polluted. Creating higher density neighborhoods only exacerbates and strains our groundwater supplies.

As pointed out in this Groundwater plan, it takes money \$\$\$\$ to manage these plans. That means raising taxes - my taxes. No way.

Gordy Grundeen
8270 Hidden Bay Trail
Lake Elmo MN, 55042
651-770-1056
gordyg@teksolr.com



**Draft Planning Commission Minutes, 9-23-13
Excerpt from Public Hearing Item 4a**

Public Hearing: Variance – 09.029.21.22.0025 (Hill Trail North)

Johnson presented the updated information submitted by the applicant, including an updated site plan and a proposed septic system design. The septic system does comply with Washington County regulations concerning subsurface sewage treatment systems. Johnson reviewed the updated site plan and noted that impervious surface coverage had been reduced from the previous plan. Moving on, Johnson noted that staff had performed an analysis at the request of the Planning Commission of the size and location of lots within the Hill Trail North area. He briefly discussed the City zoning regulations concerning substandard lots and situations in which a property owner owns several lots next to each other. Johnson reviewed comments and letters received and noted that staff is recommending approval of the variance with two conditions of approval.

Dorschner asked when the homes south of the applicant's site were constructed. Johnson replied that staff does not have this information on hand, but he did note that they had to have been built prior to the 1979 Code adoption, or received a variance.

Nancy Hanson, 8024 Hill Trail N., noted that her family has been maintaining and improving the lot for many years. They decided not to build a home of their own on the lot due to their age.

Paul Hanson, 8024 Hill Trail N., noted that he and his wife currently own the property. He noted that they have been taking care of the lot and that it would be a very nice lot for a new home.

Gale Dworak, 12325 Upper Heather Ave., noted that she and her husband are the applicants and are asking the Planning Commission to take action based on meeting the Code requirements.

Dean Dworak, 12325 Upper Heather Ave., stated that 11 of the 14 people notified for this variance offered no objection. He believes that the people objecting to the variance are doing so in part because they have enjoyed a vacant lot next to their home for many years. The staff states that all of the requirements are met.

Brad Gustafson, 8120 Hill Trail N., reviewed the variance requirements and feels that the variance is in direct conflict with the intent of the Ordinance and does not meet the required findings for a variance.

Kevin Clemmons, 7920 Hill Trail N., stated that he lives on Lake DeMontreville. He shared his concern that people should make sure that the aquifer can support a new home, and possibly more in the future.

Bonnie Weisbrod, 8111 Hill Trail N., lives across from this property. The City has dealt with variances in the past for other lots in the area and previous requests were denied. She stated that this is not a buildable lot and expressed concern regarding runoff from the street to her lot.

Dick Nelson, 8123 Hill Trail N., lives across the street and built his home in 1973. The City has criteria concerning what is considered a buildable lot; the City should follow those rules.

Vickie Iverson, 8108 Hill Trail N., stated that her main concern is that the lake will turn into a White Bear Lake and that the aquifer is going to be drained. We need to take care of the lake and she doesn't want all of the small lots to be built on.

Williams noted receipt of two written comments; one letter from an attorney representing the Gustufson family, and another from Mr. Gordy Grundeen. Both letters indicated opposition to the variance request.

Williams closed the Public Hearing at 7:39 p.m.

Dodson asked questions about the aquifer and capacity in case another well is drilled. Zuleger replied that Lake Elmo area aquifers have been studied as part of the City's water plan. He noted that the City has been assured that the aquifer intended to be used for the municipal water system has substantial capacity. Dodson also asked if the DNR commented on the population density for this area. Johnson stated that the DNR looks at adherence to the shoreland ordinance. They look at the amount of impervious surface, grading, erosion control and drainage. Based on what has been proposed, the DNR has not offered any objection to the Variance request.

Haggard how does new development affect the County ground water plan. Zuleger stated that the plan primarily deals with quantity.

Dorschner was wondering if the City has considered the domino effect. How many more variances can be sustained? Klatt stated that in the mid 1980's, the City passed a restriction that before any of the lots in this area can be sold, the sale must be reviewed & stamped by the City. This was done to ensure that these smaller lots can't be split off by an owner and considered buildable. It should also be noted that the variance standards are more lenient now with the practical difficulties test as opposed to the undue hardship test.

Kreimer asked if the concern regarding runoff is enough to require a rain garden. Johnson stated that the proposed home is under the amount of impervious surface allowed, therefore, a rain garden is not required.

Williams is concerned about the loss of the City's rural character and thinks we should maybe consider raising lot size requirements rather than lowering it. He suggested looking at average lot size to determine whether or not to build on a piece of property.

Dodson is concerned with private property aspect of the rules and regulations. He does not think that the proposed home will change the density of the area. In addition, he felt that Tri-Lakes area should not be considered a rural area.

Haggard has concerns about aquifer, runoff to lake, etc. You can't just look at one home, but need to look at the whole area and the future potential for more homes. She noted that the Ordinance is in place to protect aquifer and is concerned about damaging the lakes.

The Planning Commission had a general discussion about the aquifers.

Zuleger noted that this summer there were discussions regarding bringing sewer to this area when it would be feasible. There have been petitions in the past to try and serve the peninsula with sewer. Dorschner stated that sewer would be a game changer, but there is no guarantee that it will happen.

Morreale is concerned about the aquifer. One house may not seem like a big deal, but if it opens the door to additional homes, it may add greater pressure. He feels that it is an important consideration.

Haggard stated that she recommends denial based on water quality concerns – that the request may negatively impact the essential character of the neighborhood.

Dorschner feels that lot was purchased with knowledge that it was unbuildable and they are now asking for a variance. In his opinion, the variance request does not meet the test for a unique circumstance.

Haggard feels that property at present is not buildable. Williams feels that the difficulty is of the future property owner's making.

Dodson stated that he doesn't see any data to deny the variance based on water quality. Kreimer agrees and also notes that all the lots in the area are of similar size.

Williams would like to add a finding that the proposed variance is not consistent with the Comprehensive Plan. The Comprehensive Plan does not call for small lots in the area and calls for this area to have on-site systems with private services. The Comp plan also calls for the area to be rural which does not mean small lots. Haggard accepted the amendment.

Recommend denial based on 3 findings – There is not unique circumstances, the degradation of the aquifer and water quality would alter the essential character of the neighborhood, and the variance is contra to the comprehensive plan.

M/S/P: Haggard/Morreale, move to deny Variance request at 09.029.21.22.0025 (Hill Trail N) based on three findings: **Vote: 5-2, Motion Carried**, with Dodson and Kreimer voting no.

Sept 27, 2013

To : Lake Elmo City Council

From: Dean and Gayle Dworak

We are the applicants for a variance on a property on Hill Trail North (09.029.21.22.0025).

The city of Lake Elmo's Ordinance No. 08-048 adopted in July 2011 provides the requirements for a variance.

The Planning Commission held Public Hearings on 8/26/13 and 9/9/14 at which times the variance was tabled to allow additional time to meet all the requirements.

At the September 23 hearing, the Planning Staff "moved to recommend approval of the variance at 09.029.21.22.0025 (Hill Trail North) based upon the findings outlined by the Staff Memorandum." All requirements including a suitable septic design had been met.

Public input centered on the lot size being 0.63 acres. Fourteen homes received notice of this variance as they were within 350 feet of the property. Seven homes were on lots greater than 0.63 acres and seven homes were on lots smaller than 0.63 acres making it exactly at the median size.

At the request of the Planning Commission, the Planning Department analyzed sixty four of the surrounding lots. Twenty eight of these lots were smaller or the same size as the subject lot.

During the Planning Commission's discussion at the September 23 hearing, the chairman, Todd Wilson, stated his opposition to the variance as he felt it paramount to retain the " traditional rural nature of Lake Elmo." Nowhere in Ordinance 08-048 is " rural nature " mentioned or defined. It is a totally subjective criteria.

After stating his opposition, he solicited justification from other committee members. One observation was that " another well could lower the aquifer " and create another White Bear Lake. Also that another home could adversely affect lake water quality.

No study or data was presented to support either possibility.

We request that Ordinance 08-048 be applied as written or be modified to reflect current requirements.

It is unfair to future applicants to spend as we have over \$5000 on variance fee, septic fee, septic design, architectural design and certificate of survey and then be arbitrarily turned down.

It would have been preferable if the chairman of the Planning Commission had stated at the first meeting that he wants to retain the rural nature of Lake Elmo and would only consider variances for lots of greater than 1.5 acres. It would have saved the City of Lake Elmo and us a lot of time and money.

The two members of the Planning Commission to vote for acceptance explained their decision as - "it is about the same lot size as other homes in the area and it has an approved septic design."

We respectfully request that you follow your professional planner's

expertise and recommendation to approve this variance.

Sincerely,

Dean Dworak

Gayle Dworak

Dean and Gayle Dworak



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013

REGULAR

ITEM #: 10

AGENDA ITEM: 2012 Street & Water Quality Improvements – Assessment Hearing and Adopting the Final Assessment Roll

SUBMITTED BY: Jack Griffin, City Engineer

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Adam Bell, City Clerk
Cathy Bendel, Finance Director
Ryan Stempski, Assistant City Engineer

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Engineer
- Report/Presentation..... City Engineer
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to conduct the Final Assessment Hearing for the 2012 Street & Water Quality Improvements. Pursuant to Minnesota Statutes, Section 429 the Council must conduct a final assessment hearing to declare the amounts to be assessed to the benefitting properties. The Council will also present and hear upon any objections to the proposed assessment whether presented verbally or in writing. The recommended motion for this action is as follows:

“Move to approve Resolution No. 2013-83, Adopting the Final Assessment Roll for the 2012 Street & Water Quality Improvements.”

STAFF REPORT:

On September 3, 2013, the City Council approved a Resolution declaring the costs to be assessed, ordering the preparation of the proposed assessment, and calling for the hearing on proposed assessment for the 2012 Street & Water Quality Improvements. The Project has been completed and the total project costs are known.

Pursuant to Minnesota Statutes, Section 429 the Council must declare the final amount to be assessed against the benefitting properties and the hearing on the proposed assessment for these improvements must be conducted. Staff has attached a proposed Final Assessment Roll. The final unit assessment amount for each benefitting property is \$3,000. The amount has been reduced from a proposed unit assessment of \$3,200 as adopted at the time of the Ordering of the Improvement. Staff is proposing a reduced unit assessment to correspond with the final project costs.

Mailed notice has been provided to each assessed property and notice of the public hearing has been published in the local paper in accordance with Minnesota Statutes, Section 429. The Final Assessment Roll must be certified to the County Auditor by November 30, 2013.

RECOMMENDATION:

Staff is recommending that the City Council adopt Resolution No. 2013-83, thereby Adopting the Final Assessment Roll for the 2012 Street & Water Quality Improvements. The recommended motion for this action is as follows:

*“Move to approve Resolution No. 2013-83, Adopting the Final Assessment Roll
for the 2012 Street & Water Quality Improvements.”*

ATTACHMENT(S):

1. Resolution No. 2013-83, Adopting the Final Assessment Roll
2. Final Assessment Roll

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2013-83

**A RESOLUTION ADOPTING THE FINAL ASSESSMENT ROLL
FOR THE 2012 STREET & WATER QUALITY IMPROVEMENTS**

WHEREAS, pursuant to proper notice duly given as required by law, the Council has met and heard and passed upon all objections to the proposed assessment for the 2012 Street & Water Quality Improvements.

NOW, THEREFORE, BE IT RESOLVED,

1. Such proposed assessment, a copy of which is attached hereto and made a part hereof, is hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included is hereby found to be benefited by the proposed improvement in the amount of the assessment levied against it.
2. Such assessment shall be payable in equal annual installments extending over a period of 10 years, the first of the installments to be payable on or before the first Monday in January, 2014, and shall bear interest at the rate of 4.50% percent per annum from the date of the adoption of the assessment resolution. To the first installment shall be added interest on the entire assessment from the date of this resolution until December 31, 2013. To each subsequent installment, when due, shall be added interest for one year on all unpaid installments.
3. The owner of any property so assessed may, at any time prior to the certification of the assessment to the county auditor, pay the whole of the assessment on such property, with the interest accrued to the date of payment, to the City Clerk, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of this resolution; and he/she may, at any time thereafter, pay to the City Clerk the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the next succeeding year.

4. The City Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the county. Such assessments shall be collected and paid over in the same manner as other municipal taxes.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FIRST DAY OF OCTOBER, 2013.

CITY OF LAKE ELMO

By: _____
Mike Pearson
Mayor

(Seal)
ATTEST:

Adam Bell
City Clerk

NO.	NAME			ADDRESS		PID	UNITS	AMOUNT
1	HORNER,JOHN R & KARLA M	7740	53RD	ST LAKE ELMO	55042	0502921420029	1	\$3,000
2	FREMONT,JOHN E & BECKY J	7741	53RD	ST LAKE ELMO	55042	0502921420028	1	\$3,000
3	BLOOM,GREGG M & MICHAUD LAVONN	7761	53RD	ST LAKE ELMO	55042	0502921420027	1	\$3,000
4	LIZAKOWSKI,TERRENCE J & SUSAN	7760	53RD	ST LAKE ELMO	55042	0502921420030	1	\$3,000
5	STATE OF MN-DNR					0502921410005	1	\$3,000
6	STATE OF MN-DNR					0502921410006	1	\$3,000
7	RODEN,TIMOTHY D & JULIE A	8080	59TH	ST LAKE ELMO	55042	0402921220006	1	\$3,000
8	ANDERSON,DAVID O & TANYA L	8110	59TH	ST LAKE ELMO	55042	0402921220005	1	\$3,000
9	NICHOLLS,JEFFREY H & JANE D	8170	59TH	ST LAKE ELMO	55042	0402921220004	1	\$3,000
10	SIMONS,TAMARA L	8230	59TH	ST LAKE ELMO	55042	0402921220003	1	\$3,000
11	STANKO,ARTHUR E & BEVERLY J	8045	59TH	ST LAKE ELMO	55042	0402921220008	1	\$3,000
12	DITTMER,RON J & MAVIS G	8065	59TH	ST LAKE ELMO	55042	0402921220009	1	\$3,000
13	DEPPE,DOUGLAS P & PATRICIA	8001	59TH	ST LAKE ELMO	55042	0502921110014	1	\$3,000
14	NELSON,JAMES T & CYNTHIA F	8095	59TH	ST LAKE ELMO	55042	0502921220010	1	\$3,000
15	BLAISDELL,MICHAEL D & NONA C	8021	59TH	ST LAKE ELMO	55042	0502921110015	1	\$3,000
16	MAHMOOD,GREGG G & SHAREN M	8125	59TH	ST LAKE ELMO	55042	0402921220011	1	\$3,000
17	ERDMAN DAVID L & LEE A	8155	59TH	ST LAKE ELMO	55042	0402921220012	1	\$3,000
18	BYSTRZYCKI,JOHN A	8185	59TH	ST LAKE ELMO	55042	0402921220013	1	\$3,000
19	PRESS,STEVEN R & TUTHILL,SUSAN	8215	59TH	ST LAKE ELMO	55042	0402921220014	1	\$3,000
20	PLEBAN,ROBERT G & VIRGINIA L	8245	59TH	ST LAKE ELMO	55042	0402921220015	1	\$3,000
21	MILLER,WILLIAM D & MARGIE M	8331	59TH	ST LAKE ELMO	55042	0402921210006	1	\$3,000
22	YANG,KAO & LY,MAY SHOUA	8351	59TH	ST LAKE ELMO	55042	0402921210007	1	\$3,000
23	GAETZ,MICHAEL D & KATHLEEN A	8371	59TH	ST LAKE ELMO	55042	0402921210008	1	\$3,000
24	REUTHER,RONALD E & MICHELLE	8391	59TH	ST LAKE ELMO	55042	0402921210009	1	\$3,000
25	PALMGREN,GARY M & CHARLOTTE	8411	59TH	ST LAKE ELMO	55042	0402921210010	1	\$3,000
26	KENSY,DOUGLAS J & DEBORAH F	8410	59TH	ST LAKE ELMO	55042	0402921210011	1	\$3,000
27	COOPER,NEIL & SARAH	8390	59TH	ST LAKE ELMO	55042	0402921210012	1	\$3,000
28	STANCEK,PATRICK E & SHIRLEY A	8370	59TH	ST LAKE ELMO	55042	0402921210013	1	\$3,000
29	WENGER,THOMAS	8350	59TH	ST LAKE ELMO	55042	0402921210014	1	\$3,000
30	THILL,JOHN B & BARBARA L	8330	59TH	ST LAKE ELMO	55042	0402921210015	1	\$3,000
31	VIAU,ROBERT R & PAMELA K	8010	59TH	ST LAKE ELMO	55042	0502921110013	1	\$3,000
32	YANG,AI HANG	8030	59TH	ST LAKE ELMO	55042	0502921110012	1	\$3,000
33	GORMAN,MICHAEL R & LEE A	8050	59TH	ST LAKE ELMO	55042	0402921220007	1	\$3,000
34	NELSON,STEPHEN L & CANDACE M	8014	DEMONTREVILLE	CIR LAKE ELMO	55042	0402921230020	1	\$3,000
35	NELSON,STEPHEN L & CANDACE M					0402921230014	1	\$3,000
36	KIRKWOLD,PATRICK A & LYNETTE	8010	DEMONTREVILLE	PL LAKE ELMO	55042	0402921230013	1	\$3,000
37	SMITH,MARK R & BARBARA J	8040	DEMONTREVILLE	PL LAKE ELMO	55042	0402921230016	1	\$3,000
38	TRACY,MICHAEL J & KRISTEN J	8030	DEMONTREVILLE	PL LAKE ELMO	55042	0402921230015	1	\$3,000
39	OLSON,EDWARD C & THERESE K	8020	DEMONTREVILLE	PL LAKE ELMO	55042	0402921230014	1	\$3,000
40	HENNING,KAREN ANN	8070	DEMONTREVILLE	CIR LAKE ELMO	55042	0402921230019	1	\$3,000
41	CAMPBELL,JON A & JOANN C	8060	DEMONTREVILLE	CIR LAKE ELMO	55042	0402921230018	1	\$3,000
42	CARPENTER,MICHAEL G	8050	DEMONTREVILLE	CIR LAKE ELMO	55042	0402921230017	1	\$3,000
43	NOREEN,ALLEN L & MARY ELLEN	7960	DEMONTREVILLE	TRL LAKE ELMO	55042	0502921140005	1	\$3,000
44	GORES,EDWARD J & DEBRA K	5737	HIGHLANDS	CT LAKE ELMO	55042	0402921230008	1	\$3,000
45	PELTZER,GARY W & CINDY D	5747	HIGHLANDS	CT LAKE ELMO	55042	0402921240003	1	\$3,000
46	FISCHER,BRADLEY S & ANN M	5620	HIGHLANDS	TRL LAKE ELMO	55042	0502921140011	1	\$3,000
47	BAER,BARRY S & JACKIE K	5655	HIGHLANDS	TRL LAKE ELMO	55042	0502921140019	1	\$3,000
48	JOHNSON,BRUCE A & ALICE H	5750	HIGHLANDS	CT LAKE ELMO	55042	0402921230007	1	\$3,000
49	WARNER,GENE & LAURE J	5640	HIGHLANDS	TRL LAKE ELMO	55042	0502921140010	1	\$3,000
50	GROETSCH,MICHAEL J & MARCIA L	5675	HIGHLANDS	TRL LAKE ELMO	55042	0402921230002	1	\$3,000
51	LYNCH,RONALD J	5767	HIGHLANDS	CT LAKE ELMO	55042	0402921240004	1	\$3,000
52	ARLICH,DAVID A & CHERYL A	5695	HIGHLANDS	TRL LAKE ELMO	55042	0402921230003	1	\$3,000
53	NIELSEN,DAVID SCOTT & DIANE M	5680	HIGHLANDS	TRL LAKE ELMO	55042	0502921140007	1	\$3,000
54	THIENES,JAMES EDWARD	5715	HIGHLANDS	TRL LAKE ELMO	55042	0402921230004	1	\$3,000
55	WISSINK,JOYCE A	5777	HIGHLANDS	CT LAKE ELMO	55042	0402921230009	1	\$3,000
56	WISSINK,JOYCE A					0402921240005	1	\$3,000
57	WISSINK,JOYCE A					0402921230010	1	\$3,000
58	MARTY,PAUL A & DAWNNETTE M	5745	HIGHLANDS	TRL LAKE ELMO	55042	0402921230005	1	\$3,000
59	WALLACE,MARK R	5791	HIGHLANDS	TRL LAKE ELMO	55042	0402921230006	1	\$3,000
60	YANG,MAISENG M & PAUL N	5815	HIGHLANDS	TRL LAKE ELMO	55042	0402921220023	1	\$3,000
61	MCCAMY,ALLAN E & CAROL A	5855	HIGHLANDS	TRL LAKE ELMO	55042	0402921210002	1	\$3,000
62	ANASTASI,JOAN F	5850	HIGHLANDS	TRL LAKE ELMO	55042	0402921220018	1	\$3,000
63	CHEVRIER,KATHERINE M	5933	HIGHLANDS	TRL LAKE ELMO	55042	0402921210016	1	\$3,000
64	BAIERL,JOSEPH R & DENISE M	5875	HIGHLANDS	TRL LAKE ELMO	55042	0402921210004	1	\$3,000
65	STIEPAN,STEVEN J & MICHELLE	5730	HIGHLANDS	TRL LAKE ELMO	55042	0402921220022	1	\$3,000
66	SUNDMARK,JOSEPH A & DAWN M	5750	HIGHLANDS	TRL LAKE ELMO	55042	0402921220021	1	\$3,000
67	LOWELL,PETER S & ANNETTE S	5790	HIGHLANDS	TRL LAKE ELMO	55042	0402921220020	1	\$3,000

NO.	NAME		ADDRESS		PID	UNITS	AMOUNT
68	MILLER, MICHAEL A & BARBARA J	5810	HIGHLANDS	TRL LAKE ELMO	55042 0402921220019	1	\$3,000
69	HEDRICK, STEVEN T & DELORES H	5870	HIGHLANDS	TRL LAKE ELMO	55042 0402921220017	1	\$3,000
70	SCHUWEILER, LEW G & DIANE L	5890	HIGHLANDS	TRL LAKE ELMO	55042 0402921220016	1	\$3,000
71	MOTZ, LAMBERT W JR	5885	HIGHLANDS	TRL LAKE ELMO	55042 0402921210005	1	\$3,000
72	LEE, MARLENE R	5920	HIGHLANDS	TRL LAKE ELMO	55042 0402921220002	1	\$3,000
73	HERUM, DENNIS P	5960	HIGHLANDS	TRL LAKE ELMO	55042 0402921220001	1	\$3,000
74	CITY OF LAKE ELMO				0402921220024	4	\$12,000
75	PROKOP, PHILLIP J & JOYCE R TRS	5690	HYTRAIL	AVE LAKE ELMO	55042 0502921140012	1	\$3,000
76	PIERRE, JEROME M & TRACY M DAY	5665	HYTRAIL	AVE LAKE ELMO	55042 0502921140008	1	\$3,000
77	ROLLING, ANDREW G & ELLEN J	5710	HYTRAIL	AVE LAKE ELMO	55042 0502921140013	1	\$3,000
78	BISEK, JOAN R TRS	5730	HYTRAIL	AVE LAKE ELMO	55042 0502921140014	1	\$3,000
79	AUSTAD, DAVID R & ROSE M	5701	HYTRAIL	AVE LAKE ELMO	55042 0502921140009	1	\$3,000
80	KLOEK, DONALD C JR & LYNN A	5750	HYTRAIL	AVE LAKE ELMO	55042 0502921140015	1	\$3,000
81	HURT, KREGG & PAULA SUE	5751	HYTRAIL	AVE LAKE ELMO	55042 0502921110002	1	\$3,000
82	HAUGEN, JOHN R & SUZANNE J	5770	HYTRAIL	AVE LAKE ELMO	55042 0502921110007	1	\$3,000
83	BANCE, GARY R & DONNA A	5771	HYTRAIL	AVE LAKE ELMO	55042 0502921110003	1	\$3,000
84	WELLE, ARVIN H & MARY M	5790	HYTRAIL	AVE LAKE ELMO	55042 0502921110008	1	\$3,000
85	LESCARBEAU, JOEL F & DEBRA L	5791	HYTRAIL	AVE LAKE ELMO	55042 0502921110004	1	\$3,000
86	KOZIARA, ROBERT P & KAREN A	5810	HYTRAIL	AVE LAKE ELMO	55042 0502921110009	1	\$3,000
87	LY, YANG	5811	HYTRAIL	AVE LAKE ELMO	55042 0502921110005	1	\$3,000
88	MORGAN, JAMES R & PATRICIA P	5830	HYTRAIL	AVE LAKE ELMO	55042 0502921110010	1	\$3,000
89	SCHRANTZ, MICHAEL G & RUTH G	5831	HYTRAIL	AVE LAKE ELMO	55042 0502921110006	1	\$3,000
90	CALLAHAN, ROBERT D & LORI A	5850	HYTRAIL	AVE LAKE ELMO	55042 0502921110011	1	\$3,000
91	CITY OF LAKE ELMO				0502921110016	2	\$6,000
TOTAL						95	\$285,000



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013

REGULAR

ITEM #: 11

AGENDA ITEM: Well No. 4 Connecting Watermain Improvements – Public Improvement Hearing and Ordering the Improvement

SUBMITTED BY: Jack Griffin, City Engineer

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Adam Bell, City Clerk
Cathy Bendel, Finance Director
Chad Isakson, Project Engineer

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Engineer
- Report/Presentation..... City Engineer
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to open the Public Improvement Hearing for the Well No. 4 Connecting Watermain Improvements; and following the Hearing, consider adopting Resolution No. 2013-84 Ordering the Improvement. The recommended motion for this action is as follows:

“Move to adopt Resolution No. 2013-84, Ordering the Well No. 4 Connecting Watermain Improvements.”

STAFF REPORT:

Pursuant to Minnesota Statutes, Sections 429.011 to 429.111, a Public Improvement Hearing was noticed for October 1, 2013, to consider making the following improvements:

- Install 12-inch diameter Trunk Watermain along 50th Street and Lake Elmo Avenue, from 50th Street to 43rd Street, to connect Well No. 4 to the City’s existing distribution system.

The attached notice was published in the official newspaper and individual notifications were sent to each address that potentially will be assessed a portion of the project costs.

The above improvements are being proposed in accordance with the 2013-2014 Capital Improvement Plan, to connect the new water supply well, Well No. 4, to the City's existing distribution system. As part of the project, individual home service stubs and fire hydrants will be installed as the trunk watermain is extended past existing residential properties. The improvements will benefit the property owners by providing them the opportunity to connect to the municipal water system and will provide increased fire protection for the property. A feasibility report was prepared and presented for Council approval at the September 3, 2013 Council meeting.

Similar to the Keats MSA Street and Trunk Watermain Improvements, this project is being installed as part of the overall water system capital improvement plan, and not as a project to specifically deliver municipal water to the adjacent properties. Therefore the adjacent properties are not required to pay 100% of the infrastructure extension costs as is seen in other utility extension projects, but the properties will receive benefit.

Therefore, as part of the findings and recommendations, the Feasibility Report recommends installing individual service stubs to properties with existing home structures and adjacent to the improvements. The report further recommends levying a water lateral benefit assessment in the amount of the City's current fee schedule, or \$5,800. A preliminary assessment roll was included in the Report identifying 10 properties to be assessed this amount. The Report also identifies an alternative assessment option that assesses one half that amount, or \$2,900 lateral water benefit assessment at the time of the project while deferring the remaining \$2,900 to be collected as part of an additional water connection charge if and when the property chooses to connect to the City water system.

The detailed findings of the report, project cost details, and associated assessment impacts are included in the Feasibility Report and will be presented at the meeting. This Report is available for review at City Hall.

RECOMMENDATION:

Staff is recommending that the City Council adopt Resolution No. 2013-84, thereby Ordering the Improvement for the Well No. 4 Connecting Watermain Improvements. Ordering a 429 Public Improvement project without a resident petition requires a super majority 4/5 vote. The recommended motion for this action is as follows:

“Move to adopt Resolution No. 2013-84, Ordering the Well No. 4 Connecting Watermain Improvements.”

ATTACHMENT(S):

1. Resolution 2013-84 Ordering the Improvements.
2. Notice of Hearing on Improvement.
3. Preliminary Assessment Roll.
4. Project Schedule.
5. Location Map.
6. Feasibility Report *(available for review at City Hall)*

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2013-84

**A RESOLUTION ORDERING THE IMPROVEMENT FOR THE
WELL NO. 4 CONNECTING WATERMAIN IMPROVEMENTS**

WHEREAS, pursuant a resolution of the City Council adopted the 3rd day of September, 2013, the Council ordered a hearing on Improvement for the Well No. 4 Connecting Watermain Improvements; and

WHEREAS, ten days' mailed notice and two weeks published notice of the hearing was given, and the hearing was held thereon on the 1st day of October, 2013, at which all persons desiring to be heard were given the opportunity to be heard thereon; and

WHEREAS, the feasibility report prepared by FOCUS Engineering, Inc., and dated September 2013 states that the project is necessary, cost-effective, and feasible.

NOW, THEREFORE, BE IT RESOLVED,

1. Such improvement is deemed necessary, cost-effective, and feasible as detailed in the Feasibility Report.
2. Such improvement is hereby ordered as proposed in the Council resolution adopted this 1st day of October, 2013.
3. The City Council declares its official intent to reimburse itself for the costs of the improvement from the proceeds of tax exempt bonds.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FIRST DAY OF OCTOBER, 2013.

CITY OF LAKE ELMO

By: _____
Mike Pearson
Mayor

(Seal)
ATTEST:

Adam Bell
City Clerk

CITY OF LAKE ELMO
NOTICE OF HEARING ON IMPROVEMENT
WELL NO. 4 CONNECTING WATERMAIN IMPROVEMENTS

Notice is hereby given that the City Council of Lake Elmo will meet in the council chambers of the city hall at or approximately after 7:00 P.M. on Tuesday, October 1, 2013, to consider the making of the following improvements, pursuant to Minnesota Statutes, Sections 429.011 to 429.111;

The improvement will consist of the extension of trunk watermain facilities along 50th Street and Lake Elmo Avenue, from 50th Street to 43rd Street in order to connect Well No. 4 to the water distribution system. Individual service stubs will be installed to properties with existing homes that are located adjacent to the watermain improvements. Fire hydrants will be installed along the corridor, providing increased fire suppression capabilities in the area.

The area proposed to be assessed for these improvements include the properties with existing residences and located along Lake Elmo Avenue and 50th Street North, directly abutting the location of the proposed watermain improvements. The estimated total cost of the improvements is \$617,000. A reasonable estimate of the impact of the assessment will be available at the hearing. Such persons as desire to be heard with reference to the proposed improvements will be heard at this meeting.

DATED: September 3, 2013

BY ORDER OF THE LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

(Published in the Oakdale-Lake Elmo Review on September 11, 2013 and September 18, 2013)

NO.	NAME	ADDRESS	PID	UNITS	AMOUNT
1	ROBERTS SAXE G & B CHRISTINA	11165 50TH ST N LAKE ELMO 55042	1202921220002	1	\$5,800
2	GLCJ PROPERTIES LLC	11050 50TH ST N LAKE ELMO 55042	102921330003	1	\$5,800
3	BREADY MARY B & KATHRYN M FLICEK	4890 LAKE ELMO AVE N LAKE ELMO 55042	1102921110005	1	\$5,800
4	DAY JACQUELYN L & KEVIN K	4779 LAKE ELMO AVE N LAKE ELMO 55042	1202921220005	1	\$5,800
5	REINHARDT MICHAEL C & AMY L	4690 LAKE ELMO AVE N LAKE ELMO 55042	1102921140005	1	\$5,800
6	SLINGER DONALD L & JERELYN J	4620 LAKE ELMO AVE N LAKE ELMO 55042	1102921140004	1	\$5,800
7	WILLIAMS DOUGLAS C & MARY F & MARY F COUNTRYMAN-WI	4596 LAKE ELMO AVE N LAKE ELMO 55042	1102921140001	1	\$5,800
8	HOFFMAN RICHARD J & NANCY L	4550 LAKE ELMO AVE N LAKE ELMO 55042	1102921140006	1	\$5,800
9	SCHMIDT MARGARET ANN TRS & ANTHONY & MARGARET SC	4525 LAKE ELMO AVE N LAKE ELMO 55042	1202921230005	1	\$5,800
10	ABBOTT ROY E & LAURA A	4455 LAKE ELMO AVE N LAKE ELMO 55042	1202921320002	1	\$5,800
	TOTAL			10	\$58,000

PROJECT SCHEDULE

FOCUS ENGINEERING, inc.

Cara Geheren, P.E. 651.300.4261
Jack Griffin, P.E. 651.300.4264
Ryan Stempski, P.E. 651.300.4267
Chad Isakson, P.E. 651.300.4283

Project Title: Well No. 4 Connecting Watermain Improvements
Client: City of Lake Elmo
Project No.: 2013.131
Date: REVISED September 24, 2013

August 6, 2013	Council orders preparation of a Feasibility Report and preparation of the Plans and Specifications.
August 8, 2013	Team kickoff meeting. Schedule resident meeting and send out NOTICES.
August 21, 2013	Conduct resident meeting to present the project (following TH 5 Open House).
September 3, 2013	Presentation of Feasibility Report to Council. Council passes resolution receiving report and calling for a hearing on improvements to be held October 1, 2013.
September 4, 2013	Send notice of public hearing to residents and post in newspaper.
October 1, 2013	Public Improvement Hearing. Council Orders the Improvement.
January 21, 2014	Council Approve Plans and Specifications and Orders Advertisement for Bids.
February 20, 2014	Receive Contractor bids.
March 4, 2014	City Council accepts bids and awards Contract.
April 1, 2014	Conduct Pre-construction Meeting & Issue Notice to Proceed.
June 20, 2014	Work is substantially complete (estimated 12 weeks).
July 18, 2014	Final Completion Date. Record As-builts; Testing Results; and Final Recommendation Letter to City Engineer.



LEGEND

- PROPOSED WATERMAIN
- PROPOSED WATERMAIN SERVICE STUB
- PROPOSED HYDRANT
- XXXX ASSESSABLE PROPERTY



FIGURE NO. 2

PROPOSED WATERMAIN IMPROVEMENTS
WELL NO. 4 CONNECTING
WATERMAIN IMPROVEMENTS

FOCUS
ENGINEERING

PROJ. NO. 2013.131
 LAKE ELMO, MINNESOTA
 SEPTEMBER, 2013



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013
REGULAR
ITEM #: 12

AGENDA ITEM: 2014 Street Improvements – Authorize Preparation of a Feasibility Report
SUBMITTED BY: Jack Griffin, City Engineer
THROUGH: Dean A. Zuleger, City Administrator
REVIEWED BY: Adam Bell, City Clerk
Cathy Bendel, Finance Director
Ryan Stempski, Assistant City Engineer

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item..... City Engineer
- Report/Presentation..... City Engineer
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to consider authorizing FOCUS Engineering to prepare a Feasibility Report for the 2014 Street Improvements in the estimated amount of \$13,000. The report will satisfy Chapter 429 requirements to specially assess benefiting properties. The recommended motion for this action is as follows:

“Move to approve Resolution No. 2013-85, Ordering preparation of a Feasibility Report for the 2014 Street Improvements.”

STAFF REPORT:

In accordance with the proposed 2014-2018 Street Capital Improvement Plan (Street CIP), the following local streets represent the most essential and project ready street improvements for implementation in 2014. The streets include:

Anticipated Street Reclamation possible (30% Assessment Rate):

- 24th Street North, from Lake Elmo Avenue to Legion Avenue,
- 24th Street Court North,
- Lansing Avenue North,
- 20th Street Court North,
- Legion Avenue North, from 20th Street to 24th Street.

Anticipated Street Microsurfacing possible (Assessments would not apply):

- 20th Street North, from Lake Elmo Avenue to Manning Trail.

Anticipated Street Reconstruction required (30% Assessment Rate):

- Manning Trail North, from CSAH 15 (Manning Avenue) to city limits,
- Deer Pond Trail North, Hidden Bay Trail to Jack Pine Trail,
- Deer Pond Court North.

In order to initiate this improvement the Council must direct the preparation of a feasibility report as required by the statutory process for public improvements that are specially assessed. The report will advise on the scope of recommended improvements for each local street; provide estimated project costs of the recommended improvements; identify easements or right-of-way, permits, and other requirements of other local agencies needed to implement the improvements; recommend whether the improvements should best be made as proposed or in connection with some other improvement; and advise if the improvements are necessary, cost effective, and feasible. The Report will also provide a proposed preliminary assessment roll for each of the benefitting properties based upon the City's Special Assessment Policy for Local Improvements, dated November 2010.

The improvements will likely include various types of street improvements dependent upon the existing conditions found in each neighborhood or segment, including full street reconstruction, street reclamation, microsurfacing with patching, storm sewer replacement and upgrades, and the addition of concrete curb and gutter or ribbon curb as deemed appropriate. Water quality improvements, including potential rain gardens, will be evaluated as necessary to meet VBWD permitting requirements.

A proposed project schedule for the 2014 Street Improvements is attached. In order to be in a position to complete the improvements during the 2014 construction season, it is necessary to begin the feasibility report at this time.

RECOMMENDATION:

Staff is recommending that the City Council authorize FOCUS Engineering, Inc. to prepare a Feasibility Report for the 2014 Street Improvements in the estimated amount of \$13,000. The recommended motion for this action is as follows:

“Move to approve Resolution No. 2013-85, Ordering preparation of a Feasibility Report for the 2014 Street Improvements.”

ATTACHMENT(S):

1. Resolution No. 2013-85, Ordering Preparation of a Feasibility Report
2. 2014 Street CIP Location Map
3. 2014 Street Improvements – Project Schedule

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2013-85

**A RESOLUTION ORDERING PREPARATION OF A
FEASIBILITY REPORT FOR THE 2014 STREET IMPROVEMENTS**

WHEREAS, the City maintains a 5-year revolving Street Capital Improvement Program (Street CIP) to promote the strategic use of limited financial resources while maintaining, developing or replacing the City's local street network; and

WHEREAS, the Street CIP represents the City's long-range street improvement program that identifies the present and future needs and priorities, and develops a schedule of public improvements to address the most essential improvements first; and

WHEREAS, it is proposed to initiate the 2014 Street Improvement project to improve the following local streets;

- 24th Street North, from Lake Elmo Avenue to Legion Avenue
- 24th Street Court North
- Lansing Avenue North
- 20th Street Court North
- Legion Avenue North, from 20th Street to 24th Street
- 20th Street North, from Lake Elmo Avenue to Manning Trail,
- Manning Trail North, from CSAH 15 (Manning Avenue) to city limits,
- Deer Pond Trail North, Hidden Bay Trail to Jack Pine Trail,
- Deer Pond Court North; and

WHEREAS, it is proposed to assess the benefited property for all or a portion of the cost of the improvement, pursuant to the City's Special Assessment Policy and Minnesota Statutes, Chapter 429.

NOW, THEREFORE, BE IT RESOLVED,

That the proposed improvement, called the 2014 Street Improvements, be referred to the City Engineer and FOCUS Engineering, and that FOCUS Engineering is instructed to complete a feasibility report in accordance with Minnesota Statutes, Chapter 429 for the proposed improvements, and to report to the council with all convenient speed advising the council in a preliminary way as to whether the proposed improvement is necessary, cost-effective, and feasible; whether it should best be made as proposed or in connection with some other improvement; the estimated cost of the improvement as recommended; and a description of the methodology used to calculate individual assessments for affected parcels.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FIRST DAY OF OCTOBER, 2013.

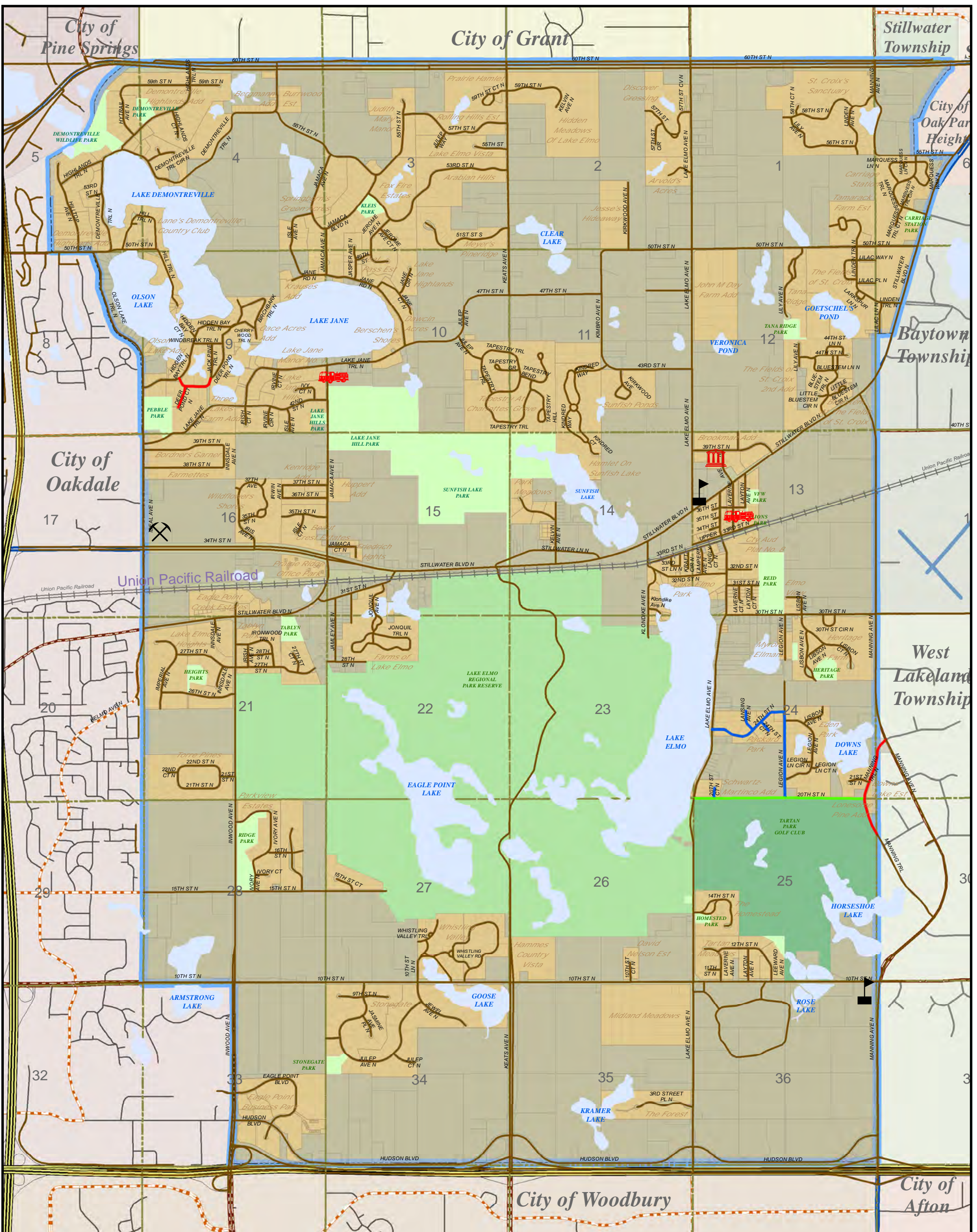
CITY OF LAKE ELMO

(Seal)

By: _____
Mike Pearson
Mayor

ATTEST:

Adam Bell
City Clerk



2014 STREET IMPROVEMENTS LOCATION MAP



2014 Street Improvements

- Reconstruct
- Reclaim
- Microsurface

-  City Hall
-  Public Works Building
-  Fire Stations
-  Schools

City Hall
3800 Laverne Avenue N
651/777-5510
www.lakeelmo.org

Public Works Building
3445 Ideal Ave N
651/233-5414

Fire Stations
Station No. 1
3510 Laverne Ave N
651/770-5006

Station No. 2
4259 Jamaica Ave N
651/779-8882

Schools

-  Parcels
-  Subdivisions
-  City Parks
-  Golf Course
-  Lake Elmo Regional Park Reserve
-  Park Office
-  Lakes

Parcels

Subdivisions 0.45 0.225 0 0.45 Miles

City Parks

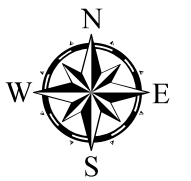
Golf Course

Lake Elmo Regional Park Reserve
Park Office
651/430-8368

Lakes

Map Date: September 2013

Created By:
FOCUS ENGINEERING, inc.



PROJECT SCHEDULE

FOCUS ENGINEERING, inc.

Cara Geheren, P.E. 651.300.4261
Jack Griffin, P.E. 651.300.4264
Ryan Stempksi, P.E. 651.300.4267
Chad Isakson, P.E. 651.300.4283

Project Title: 2014 Street Improvements
Client: City of Lake Elmo
Project No.: 2013.135
Date: September 26, 2013

October 1, 2013 Council orders preparation of a Feasibility Report.

December 3, 2013 Presentation of Feasibility Report to Council. Council passes resolution receiving report and calling for a hearing on improvements to be held January 7, 2013.

January 16, 2013 Property owner meeting. Presentation of Report findings and recommendations.

January 21, 2013 Public Improvement Hearing. Council passes resolution ordering Improvement and preparation of Plans.

April 15, 2014 Approve Plans and Specifications and authorize advertisement for bids.

May 15, 2014 Accept Contractor Bids

June 3, 2014 Award Contract.

June 24, 2014 Conduct Pre-construction Meeting & Issue Notice to Proceed.

September, 2014 Substantial completion.

October, 2014 Final completion.



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013
REGULAR
ITEM #: 13

AGENDA ITEM: Landucci Property Comprehensive Plan Amendment

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Nick Johnson, City Planner
Jack Griffin, City Engineer
Planning Commission

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Staff
- Report/Presentation..... Staff
- Questions from Council to StaffMayor Facilitates
- Public Input, if AppropriateMayor Facilitates
- Call for MotionMayor & City Council
- Discussion.....Mayor & City Council
- Action on Motion.....Mayor Facilitates

PUBLIC POLICY STATEMENT

The City of Lake Elmo has received a request to amend the City’s Comprehensive Plan, and specifically the future land use map, for a 19.5 acre parcel located within the I-94 Corridor. The City Council may consider such an amendment after review by the Planning Commission. Please note that this would be considered a minor comprehensive amendment but would still be subject to review and approval by the Metropolitan Council.

FISCAL IMPACT: None – City review costs will be reimbursed through application or escrow fees.

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider a request from Ryland Homes for a Comprehensive Plan Amendment to change the future land use designation of property north of Interstate 94 and east of Lake Elmo Avenue from Medium Density Residential (MDR) to Low Density Residential (LDR). This property is located within the I-94 Corridor Planning area and was therefore part of the area that was included in the last Comprehensive Plan update approved by the City. The property is presently owned by Nathan Landucci which is under contract for purchase by Ryland Homes. Ryland would like to develop the property as a single family residential development at a density that is much lower than the future land use guidance of MDR (4.5 to 7 units per acre) that was approved as part of the Comprehensive Plan Update.

The Comprehensive Plan Amendment application was submitted in conjunction with a proposed sketch plan for the property. The sketch plan will be discussed by the City Council as a separate agenda item; however, only the Comprehensive Plan Amendment requires formal action.

Staff and the Planning Commission are recommending that the City Council approve the Comprehensive Plan amendment as described in the attached resolution and by taking the following action / with the following motion:

“Motion to adopt Resolution No. 2013-086, Approving request by Ryland Homes to amend the Lake Elmo Comprehensive Plan”

BACKGROUND INFORMATION:

Attached is the original detailed Staff report that was provided to the Planning Commission regarding the applicant’s request for a Comprehensive Plan Amendment, which includes general information about the application, details concerning the request, a summary of the relevant planning and zoning issues, a review and analysis of the requested amendment, draft findings, and the Staff recommendation to the Planning Commission. This report also includes a map depicting the specific area that would be changed from the MDR to LDR land use category if approved by the Council.

PLANNING COMMISSION REPORT:

The Planning Commission reviewed the Comprehensive Plan Amendment at its September 23, 2013 meeting and conducted a public hearing on the request at this time. The Commission generally discussed how the potential impacts of the requested change and how it may impact the City’s Memorandum of Understanding with the Met Council. Staff noted that the proposed amendment area was small enough that it would not have a significant impact on the City’s overall population and household projections. It was also noted that the Comprehensive Plan specifically included a range of densities in each land use category to account for site specific variations in housing densities.

During the public hearing, the Commission received testimony from two neighboring property owners as follows:

- Steve Schoonmaker, representing the industrial property to the each of the applicant’s site, stated that he would like to see the minor collector road stay as far north on his property as possible. He did not state any objections to the amendment.
- Nicole Park, owner of one of the exception parcels along Lake Elmo Avenue, submitted a letter expressing her support for the amendment.

The Commission did not make any modifications to the findings of fact as drafted by Staff and unanimously recommended approval of the Comprehensive Plan amendment as presented.

PLANNING COMMISSION RECCOMENDATION:

Based upon the above background information, Staff report and Planning Commission recommendation, it is recommended that the City Council approve the request by Ryland Homes to amend the Lake Elmo Comprehensive Plan by changing the future land use designation of property immediately ease of Lake Elmo Avenue and approximately ¼ mile north of Interstate 94 from MDR – Medium Density Residential to LDR – Low Density Residential by taking the following action / with the following motion:

“Motion to adopt Resolution No. 2013-086, Approving request by Ryland Homes to amend the Lake Elmo Comprehensive Plan”

ATTACHMENTS:

1. Resolution No. 2013-086
2. Staff Report (9/23/13 Planning Commission Meeting)
3. Application Form
4. Legal Description
5. Application Narrative
6. Future Land Use Map (Map 3-3 from Comprehensive Plan)
7. Proposed Amendment: MDR to LDR
8. Location Map

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2013-086

*RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF LAKE ELMO
COMPREHENSIVE PLAN*

WHEREAS, the City of Lake Elmo has established a Comprehensive Plan that provides a compilation of background data, policy statements, standards, and maps, which help to guide the future physical, social, and economic development of the City; and

WHEREAS, Ryland Homes, 7599 Anagram Drive, Eden Prairie, MN, (“Applicant”) has submitted an application to the City of Lake Elmo (“City”) to amend the Lake Elmo Comprehensive Plan, a copy of which is on file in the City Planning Department; and

WHEREAS, the request to amend the Comprehensive Plan was submitted along with a sketch plan for a proposed single-family residential subdivision; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on September 23, 2013 to consider the request to amend the Comprehensive Plan; and

WHEREAS, on September 23, 2013 the Lake Elmo Planning Commission adopted a motion to recommend that the City Council approve the request to amend the Comprehensive Plan; and

WHEREAS, the City Council reviewed the recommendation of the Planning Commission and the proposed amendment to the Comprehensive Plan at a meeting on October 1, 2013; and

NOW, THEREFORE, based upon the testimony elicited and information received, the City Council makes the following:

FINDINGS

- 1) That the Applicant has submitted a request to amend the Comprehensive Plan in accordance with the procedures as established by the Lake Elmo Planning Department and Lake Elmo Planning Commission.
- 2) That the request to is to amend the Future Land Use Map (Map 3-3 in Chapter III – *Land Use Plan*) in the Lake Elmo Comprehensive Plan, and to specifically change the future land use designation a parcel of land located east of Lake Elmo Avenue and approximately ¼

mile north of Interstate 94 (PID 36.029.21.32.0008; commonly known as the Country Air Golf Practice Facility) from MDR – Medium Density Residential to LDR – Low Density Residential.

- 3) That the Comprehensive Plan Amendment will apply to property legally described in the attached Exhibit “A”.
- 4) That the proposed area impacted by the proposed amendment is relatively small and will not have a significant impact on the City’s ability to achieve its 2030 household and population forecasts.
- 5) That current market conditions are not favorable for multi-family and single family attached housing, yet it is in the City’s interests to accommodate market-driven development at present in order to provide a reasonable return on recent major infrastructure improvements.
- 6) That the City is continuing to work towards potential reductions to the 2030 growth targets specified in the Met Council MOU that will likely reduce the amount of areas in the community that are guided for high density housing.

NOW, THEREFORE, BE IT RESOLVED, that based on the foregoing, the Lake Elmo City Council hereby approves the Applicant’s request to amend the Lake Elmo Comprehensive Plan, subject to and contingent upon the following:

- 1) Submission of the Comprehensive Plan Amendment to the Metropolitan Council and the receipt of formal notification from the Metropolitan Council that its review has been completed and approved. Acknowledgement of these comments and final adoption of the Comprehensive Plan Amendment will require formal action by the City Council.

Passed and duly adopted this 1st day of October 2013 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson
Mayor

ATTEST:

Adam Bell
City Clerk

Exhibit A

Parcel Number: 36.029.21.32.0008

Legal Description:

PT NW1/4-SW1/4 LYING SLY OF FOLL DESC "LINE X":COM AT WEST QTR COR SD SEC 36 THN
S00DEG02'54"W ALG W LN SD NW1/4-SW1/4 DIST 474.06FT TO S LN OF N 474.06FT OF SD NW1/4-
SW1/4 AND PT OF BEG THN CONT ALG SD W LN S00DEG02'54"W DIST 161.15FT TO POB SD "LINE X"THN
N89DEG48'29"E DIST 406.17FT THN N00DEG02'54"E DIST 161.15FT TO SD S LN OF N 474.06FT THN
N89DEG48'29"E ALG SD S LN DIST 912.76FT TO E LN SD NW1/4-SW1/4 AND SD "LINE X" THERE TERM
EXCEPT: PT SD NW1/4-SW1/4 DESC AS FOLL: BEG AT SW COR SD NW1/4-SW1/4 THN E ALG S LN SD
NW1/4-SW1/4 DIST 264FT THN N ALG LN PARL/W W LN SD NW1/4- SW1/4 DIST 165FT THNW ALG LN
PARL/W AS S LN DIST 264FT TO SD W LN THN D ALG SD W LN DIST 165FT TO POB Section 36 Township
029 Range 021



PLANNING COMMISSION
DATE: 9/23/13
AGENDA ITEM: 4B – PUBLIC HEARING
CASE # 2013-31

ITEM: Landucci Property Comprehensive Plan Amendment
SUBMITTED BY: Kyle Klatt, Community Development Director
REVIEWED BY: Nick Johnson, City Planner

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to consider a request to amend the Lake Elmo Comprehensive Plan to change the future land use designation of property immediately east of Lake Elmo Avenue and approximately ¼ mile north of Interstate 94 from MDR – Urban Medium Density Residential to LDR – Urban Low Density Residential. The applicant has submitted a Sketch Plan for a proposed residential subdivision concurrent with the Comprehensive Plan Amendment request. Staff is recommending that the Planning Commission recommend approval of the request.

GENERAL INFORMATION

Applicant: Ryland Homes, 7599 Anagram Drive, Eden Prairie, MN (Tracey Rust, Entitlements Manager)
Property Owners: Nathan Landucci, 13230 20th Street Court North, Stillwater ,MN
Location: Part of Section 36 in Lake Elmo, north of I-94, east of Lake Elmo Avenue, and south of the Cimarron Manufactured Home Park. PID Number 36.029.21.32.0008
Request: Application for Comprehensive Plan Amendment – MDR to LDR
Existing Land Use: Golf driving range and practice facility; Outdoor Recreation Facility
Existing Zoning: RT – Rural Transitional Zoning
Surrounding Land Use: North – single family home; west – single family neighborhood (the Forest), south and east – vacant/agricultural land
Surrounding Zoning: RT – Rural Transitional; RS – Single Family Residential
Comprehensive Plan: Urban Medium Density (4.5 – 7 units per acre)
Proposed Zoning: LDR – Urban Low Density Residential
History: Conditional Use Permit for the golf driving range approved in 1993 and subsequently amended at various times. Comprehensive Plan Amendment and Sketch Plan submitted in June of 2013 but deemed incomplete by the City due to road access issues.
Deadline for Action: Application Complete – 9/5/13

60 Day Deadline – 11/5/13
Extension Letter Mailed – No
120 Day Deadline – 1/5/14

Applicable Regulations: Article 10 – Urban Residential Districts (LDR)

REQUEST DETAILS

The City of Lake Elmo has received a request from Ryland Homes for a Comprehensive Plan Amendment to change the future land use designation of property north of Interstate 94 and east of Lake Elmo Avenue from Medium Density Residential (MDR) to Low Density Residential (LDR). This property is located within the I-94 Corridor Planning area and was therefore part of the area that was included in the last Comprehensive Plan update approved by the City. The property is presently owned by Nathan Landucci which is under contract for purchase by Ryland Homes. Ryland would like to develop the property as a single family residential development at a density that is much lower than the future land use guidance of MDR (4.5 to 7 units per acre) that was approved as part of the Comprehensive Plan Update.

This request was submitted in conjunction with a sketch plan for the residential subdivision proposed on the property. Since the sketch plan review does not require a public hearing or any formal action by the Planning Commission, it is included as a separate agenda item for the Planning Commission's September 23rd meeting. The sketch plan materials will be useful to review in order to more fully understand the intended use of the property should the City approve the Comprehensive Plan amendment.

BACKGROUND

The property under consideration has been used for the past 20 years as a golf driving range and practice facility. The previous property owner has made several improvements to the property over this time period, including the construction of a clubhouse-type facility, driving range, practice green, nine-hole practice course, and parking lot. There is a single family home on the site as well that was previously split from the golf facility as a common interest community. This home and another single family property adjacent to the site and along Lake Elmo Avenue are identified as exception parcels on the applicant's submitted sketch plan.

Staff has reviewed the City's files for the property and found a significant amount of information related to the golf facility and the various permits and approvals that have been granted by the City over the past 20 years. Because the applicant is proposing to redevelop the site for residential homes, there is very little information in the file that will be pertinent to the planned future use of the property.

The applicant's site lies roughly midway between 10th Street and I-94 and is situated fairly close to the Cottage Grove regional interceptor that will provide public sanitary sewer service to the area. In fact, the proposed Village force main project that was recently authorized for construction by the City Council includes a gravity component that will provide service to this site. Water services have been requested by the applicant, but would need to be installed as part of a larger City project to extend water down Lake Elmo Avenue.

When the City was drafted the future land use map for this area as part of the I-94 Comprehensive Plan Update last year, this site was guided for medium density residential development at a density of 4.5 to 7 units per acre. The applicant has stated that there is currently a fairly weak market for multi-family and townhouse residential units, and has petitioned the City to change the future land use map for this area to LDR – Low Density Residential. Please note that the exception parcels have not been included with the current request, and that at some time in the future the City should consider changing the future land use designation of these parcels if the applicant's request is approved.

PLANNING AND ZONING ISSUES

The City undertook a lengthy process to update the Comprehensive Plan for the I-94 Corridor, which included establishing a work group to help craft the overall land use plan and conducting a series of meetings in order to receive public comments concerning the plan. The updated plan made several modifications from the City's earlier plans, and most significantly, created several different categories of residential development. The approved plan now establishes three distinct residential planning categories that use increasing densities to separate each of these residential areas ranging from low density to high density. The City was also able to successfully negotiate a lower threshold at the bottom end of the density scale in order to better respond to current market conditions.

In order to achieve the growth targets as specifies in the City's Memorandum of Understanding (MOU) with the Met Council, the City did need guide a certain portion of the I-94 Corridor for medium and high density residential development. The applicant's site was determined to be an appropriate location for medium density housing, with a smaller area to the north that was guided for high density housing. This decision was partly based on comments from the impacting property owners stating their desire to guide their properties for the higher density residential development.

The applicant's parcel (and the smaller parcel guided for high density residential immediately to the north) are somewhat unique because they are isolated from the larger residential areas within the I-94 corridor. Approximately half of the subject parcel is located immediately adjacent to land that is guided for Business Park development, while the remaining property it borders is guided for high density residential. The property is located immediately across from The Forest, a rural residential development that was approved under a previous City Code with two-acre lots. Given the surrounding land uses, a rational argument could be made to either keep this area guided for higher density residential development in order to provide for additional buffering from future business park uses or to change the designation to single family in order to better fit with the existing neighborhood across the street.

In order to consider a Comprehensive Plan amendment, the Planning Commission should take into account any changes that may have occurred in the community since the Plan was adopted that would warrant an amendment. In this case, it has been a very short time since the plan was adopted; however, Staff would like to note that in the time since adoption there has been considerable interest in development from the market that was either lacking or non-existent in the recent past. One aspect these development proposals that stands out is that there has been very little interest in multi-family or single family attached projects in the areas that have been guided for such uses. Obviously the market can and will change in the future, but the City will be faced with significant infrastructure costs (and potential penalties under the MOU) should projects fail to materialize.

REVIEW AND ANALYSIS

The applicant's site is just shy of 20 acres in size, which represents a very small portion of the I-94 development area, and the proposed reduction in overall density will not have a significant impact on the overall projections for residential units in this area. Additionally, the three residential categories that are used in the Comprehensive Plan are defined by a range of units, which provides some additional room for the City to achieve its City's growth targets while taking into account the uncertainty surrounding the true development potential for any given parcel of land. The City did not perform any detailed studies to identify how much of each parcel in the corridor was developable (i.e. not wetland, heavily wooded, located on steep slopes, etc.), and the range will allow some leeway for allowing an appropriate level of development that is consistent with the City's overall goals and objectives for growth and development.

Based on Staff's ongoing conversations with potential developers, please keep in mind that it is very likely that the property owner to the north of the applicant's site will also be requesting a Comprehensive Plan amendment in order to reduce the planned density on this site as well. This particular parcel is even smaller than the one presently under consideration, still would not add up to a significant land area taken together with the present request,

Staff is also continuing to work with the Met Council to achieve the City Council's stated objective of reducing the overall residential unit counts that are mandated under the MOU. Given recent conversations with the Met Council, it appears that the City will likely receive some relief from the numbers adopted in 2005 in the near future. It is Staff's initial opinion that any reductions would likely occur in the areas of the City that are guided for the denser residential categories since these areas may be difficult to develop at the planned densities.

DRAFT FINDINGS

Given the relatively small size of the applicant's parcel (taking into account potential changes in the vicinity) and the current lack of interest in higher density residential development, Staff is supportive of the proposed amendment is recommending approval of the requested change to the Comprehensive Plan based on the following findings:

1. That the proposed area impacted by the proposed amendment is relatively small and will not have a significant impact on the City's ability to achieve its 2030 household and population forecasts.
2. That current market conditions are not favorable for multi-family and single family attached housing, yet it is in the City's interests to accommodate market-driven development at present in order to provide a reasonable return on recent major infrastructure improvements.
3. That the City is continuing to work towards potential reductions to the 2030 growth targets specified in the Met Council MOU that will likely reduce the amount of areas in the community that are guided for high density housing.

RECCOMENDATION:

Staff recommends that the Planning Commission recommend approval of request by Ryland Homes to amend the Lake Elmo Comprehensive Plan by changing the future land use designation of property immediately east of Lake Elmo Avenue and approximately ¼ mile north of Interstate 94

from MDR – Urban Medium Density Residential to LDR – Urban Low Density Residential.
Suggested motion:

*“Move to recommend approval of the request by Ryland Homes to amend the Lake Elmo
Comprehensive Plan”*

ATTACHMENTS:

- 1. Application Form
- 2. Legal Description
- 3. Application Narrative
- 4. Future Land Use Map (Map 3-3 from Comprehensive Plan)
- 5. Proposed Amendment: MDR to LDR
- 6. Location Map

ORDER OF BUSINESS:

- Introduction Community Development Director
- Report by Staff Community Development Director
- Questions from the Commission Chair & Commission Members
- Open the Public Hearing Chair
- Close the Public Hearing Chair
- Discussion by the Commission Chair & Commission Members
- Action by the Commission Chair & Commission Members

Fee \$ _____

City of Lake Elmo
DEVELOPMENT APPLICATION FORM

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

APPLICANT: RYLAND HOMES 7599 ANAGRAM DRIVE, EDEN PRAIRIE, MN 55344
(Name) (Mailing Address) (Zip)

TELEPHONES: CONTACT: TRACEY RUST DIRECT (952) 229-6063 CELL (952) 221-2566
(Home) (Work) (Mobile) (Fax)

FEE OWNER: NATHAN LANDUCCI, 13230 20th ST. CT. N., STILLWATER, MN 55082
(Name) (Mailing Address) (Zip)

TELEPHONES: (651) - 894-2582
(Home) (Work) (Mobile) (Fax)

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

PID: 36.029.21.32.0008

(LEGAL DESCRIPTION ATTACHED)

DETAILED REASON FOR REQUEST: _____

SEE ATTACHED NARRATIVE

***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:

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.

Tracey Rust 9/5/13
Signature of Applicant Date

Signature of Applicant Date

Parcel Number: 36.029.21.32.0008

Legal Description:

PT NW1/4-SW1/4 LYING SLY OF FOLL DESC "LINE X"; COM AT WEST QTR COR SD SEC 36 THN S00DEG02'54"W ALG W LN SD NW1/4-SW1/4 DIST 474.06FT TO S LN OF N 474.06FT OF SD NW1/4-SW1/4 AND PT OF BEG THN CONT ALG SD W LN S00DEG02'54"W DIST 161.15FT TO POB SD "LINE X" THN N89DEG48'29"E DIST 406.17FT THN N00DEG02'54"E DIST 161.15FT TO SD S LN OF N 474.06FT THN N89DEG48'29"E ALG SD S LN DIST 912.76FT TO E LN SD NW1/4-SW1/4 AND SD "LINE X" THERE TERM EXCEPT; PT SD NW1/4-SW1/4 DESC AS FOLL: BEG AT SW COR SD NW1/4-SW1/4 THN E ALG S LN SD NW1/4-SW1/4 DIST 264FT THN N ALG LN PARL/W W LN SD NW1/4-SW1/4 DIST 165FT THN W ALG LN PARL/W AS S LN DIST 264FT TO SD W LN THN D ALG SD W LN DIST 165FT TO POB SECTION 36 TOWNSHIP 029 RANGE 021

RYLAND HOMES®

TWIN CITIES DIVISION

7599 Anagram Drive
Eden Prairie, MN 55344

952.229.6000 Tel
952.229.6024 Fax

www.ryland.com

September 5, 2013

Kyle Klatt
Planning Director
City of Lake Elmo
3800 Laverne Ave. N.
Lake Elmo, MN 55042

RE: Landucci Property – Sketch Plan Review and Comp Plan Amendment Request

Dear Mr. Klatt:

Ryland Homes is pleased to submit to the City of Lake Elmo a sketch plan application for the Landucci property located on the east side of Lake Elmo Ave. N. approximately ¼ mile north of Interstate Hwy 94. The 23 acre property is currently being used as a driving range with a short par-3 golf course.

The proposed new neighborhood would include 51 single-family lots, necessary ponding, and right-of-way for Lake Elmo's new east/west collector (5th Street). The lots on average are 72 ft. wide and 130 ft. to 140 ft. in depth. Access to the new neighborhood would be from the new east/west collector, however during build out and while the collector is being planned and built a temporary access to Lake Elmo Ave is planned in the location of the existing driveway.

With this application Ryland is requesting a Comprehensive Plan Amendment from Urban Medium Density Residential (MDR) to Urban Low Density Residential (LDR) which will allow for the new neighborhood's proposed density.

Ryland Homes is also requesting that public improvements be extended to service the site with public water and sanitary sewer with adequate size and depth.

Ryland Homes has appreciated City Staff's comments and direction so far with this project and we look forward to continuing to work with City Staff to make this a successfully new neighborhood for the City of Lake Elmo. Please feel free to contact Tracey Rust at 952.229.6063 or Mark Sonstegard at 952.229.6007, both with Ryland Homes, with any questions.

Sincerely,

THE RYLAND GROUP, INC.



Tracey Rust, PE
Entitlement Manager



Mark Sonstegard
VP of Land Development

Village Land Use Plan Pending



Planned Land Uses

- Business Park
- Urban Low Density
- Urban Medium Density
- Urban High Density
- Village (TBD)
- Commercial
- Limited Business
- Public/Park
- Rural Area Development
- Rural Area Development Alt
- Residential Estate
- Rural Single Family

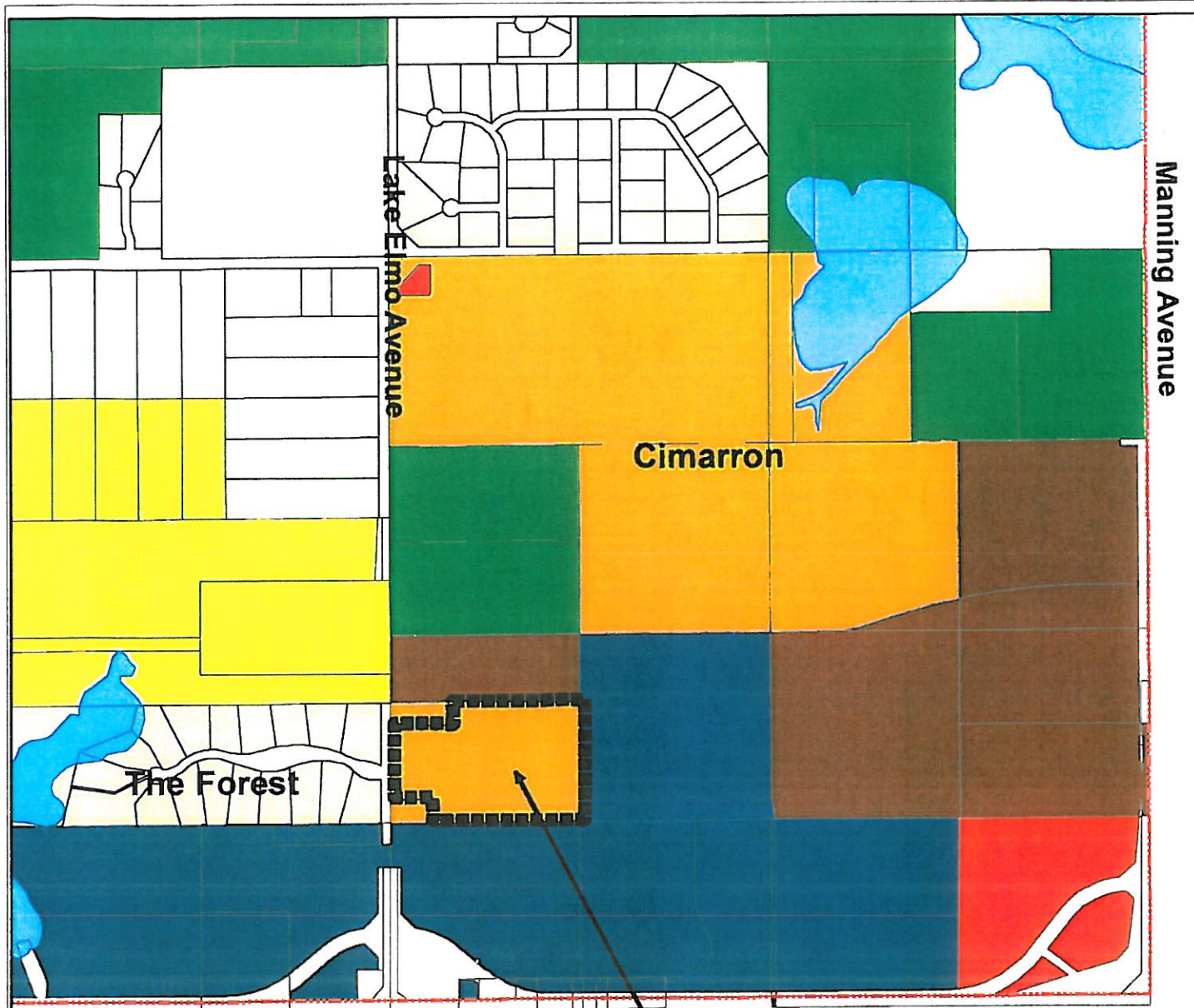
(white hatching denotes possible mixed use areas)

Sources: MetroGIS
8-14-12

Planned Land Use
Lake Elmo Comprehensive Plan 2030



The map was created using MIRA's Geographic Information Systems (GIS) data from a combination of information and data from various sources. The map is not a survey and is for informational purposes only. MIRA is not responsible for any errors or omissions.



Proposed Amendment: MDR to LDR

- Municipal Boundary
- ROW
- Business Park
- Residential Estate
- Commercial
- Rural Area Development
- Limited Business
- Single Family Residential
- Old Village
- Urban High Density
- Open Water
- Urban Low Density
- Public/Park
- Urban Medium Density



Sources: MetroGIS
4-6-12

Future Land Use
Lake Elmo Comprehensive Plan 2030



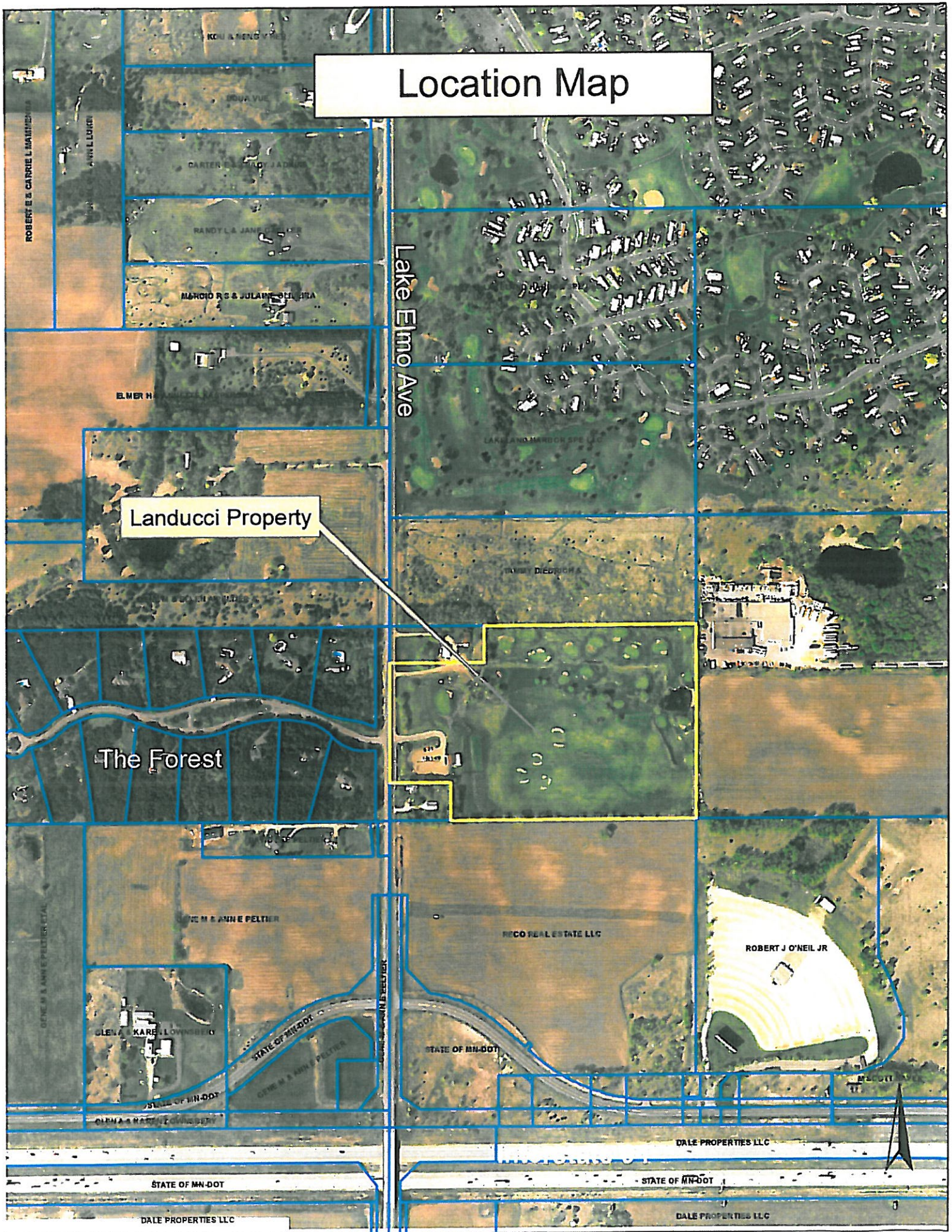
This map was created using The City of Lake Elmo's Geographic Information System (GIS). It is a compilation of information and data from various sources. This map is not a surveyed or legally recorded map and is intended to be used as a reference. The City of Lake Elmo is not responsible for any inaccuracies contained herein.

Location Map

Lake Elmo Ave

Landucci Property

The Forest





MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013
REGULAR
ITEM #: 14

AGENDA ITEM: Landucci Property Sketch Plan Review

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Nick Johnson, City Planner
Jack Griffin, City Engineer
Planning Commission

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item..... Staff
- Report/Presentation..... Staff
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

PUBLIC POLICY STATEMENT

Prior to submission of a preliminary plat for a new development, an applicant is required to first submit a sketch plan for review by the City. There is no formal action required by the City when a sketch plan is submitted, and rather this step in the subdivision process provides the Planning Commission, City Council, City Staff, and other boards/commissions with a chance to review and provide comments to the project proposer in advance of a formal request.

FISCAL IMPACT: City review expenditures – review costs will be reimbursed through application or escrow fees. Public infrastructure – TBD; the applicant (along with other surrounding property owners) has formally requested a public project to bring water service to the site.

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to receive a presentation from Ryland Homes, 7599 Anagram Drive, Eden Prairie, MN related to a proposed residential subdivision of property located along the I-94 Corridor. The sketch plan consists of 51 single family homes 19.5 acres of land immediately to the east of Keats Avenue and about ¼ mile north of Hudson Boulevard. Ryland Homes has agreed to purchase this property from Nathan Landucci, which has historically been the site of the Country Air golf practice facility. The proposed development is not consistent with the City’s Comprehensive Plan for the area in terms of the planned residential densities, and the applicant has submitted a concurrent request to amend the plan to allow the proposed development to move forward.

In accordance with the City’s Subdivision Ordinance, a developer must submit a sketch plan for review by the Planning Commission which explains or illustrated the proposed subdivision and its purpose. The

Planning Commission conducted its review of the sketch plan on September 23, 2013. In addition to the sketch plan and associated documents, the detailed Staff report to the Commission is also attached for review by the City Council.

Based on the City's process, no action is required on this item. A representative from Ryland Homes will be in attendance at the Council meeting and present the sketch plan to the Council.

BACKGROUND INFORMATION:

The attached Planning Commission report includes a broad overview of the request in addition to Staff's general comments regarding the proposal. The City Engineer has also reviewed the sketch plan, and his comments are incorporated as part of the Planning Commission memorandum.

PLANNING COMMISSION REPORT:

The Planning Commission reviewed the proposed sketch plan at its September 23, 2013 meeting. The Commission's general comments include the following:

- The applicant should work to incorporate a smaller park area into the development. It was noted that there are no public parks for a considerable distance to the site.
- The concept of a trail around the development that could be used as a secondary emergency access was supported by the Commission.
- Staff recommended the continuation of the trail through the southern portion of the development and back to Lake Elmo Avenue.
- The adjacent neighbor on Lake Elmo Avenue expressed concern over the current condition and width of Lake Elmo Avenue, and noted that the gravel shoulders are not safe for pedestrians and bicyclists.
- The owner of the industrial property to the east supported the alignment of the minor collector road, and asked that the road be kept as far to the north on his property as possible.

PLANNING COMMISSION RECOMMENDATION:

No recommendation is required for a sketch plan review.

ATTACHMENTS:

1. Detailed Planning Commission Report (9/23/13)
2. Application Form
3. Legal Description
4. Application Narrative
5. Location Map
6. Illustrative Plan
7. Concept Plan



Planning Commission
Date: 9/23/13
Item: 5a
Business

ITEM: Sketch Plan Review – Landucci Property

SUBMITTED BY: Kyle Klatt, Community Development Director

REVIEWED BY: Nick Johnson, City Planner
Jack Griffin, City Engineer

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to review a Sketch Plan related to a proposed residential subdivision on property owned by Nathan Landucci, 13230 20th Street Court North, Stillwater, MN, and located approximately ¼ mile north of Interstate 94 and immediately east of Lake Elmo Avenue. This site is presently used as the Country Air Golf Practice facility, and the request for a sketch plan review has been submitted concurrently with a request to amend the Comprehensive Plan for the site. The proposed residential development would include 51 single-family homes on a 19.5-acre parcel that would access Lake Elmo Avenue via an extension of the proposed 5th Street minor collector road. Ryland Homes is the applicant for the sketch plan, and would be purchasing the property from Mr. Landucci contingent upon the City's approval of a preliminary plat for the property.

The Lake Elmo Subdivision Ordinance specifies that as part of the pre-application process for a new subdivision, the applicant must first submit a Sketch Plan for review by the Planning Commission. The Ordinance notes that the purpose of the Sketch Plan review is as follows:

Sketch plan. In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other city ordinances or plans, prior to the development of a preliminary plat, the subdivider shall meet with the Planning Commission and prepare a sketch plan that explains or illustrates the proposed subdivision and its purpose. The Planning Commission shall accept the information received, but take no formal or informal action that could be construed as approval or denial of the proposed plat.

Based on this wording, the Planning Commission is not being asked to take any formal action as part of its review other than to accept the information received. Staff has completed an internal review of the sketch plan, and general comments from Staff are included in this memorandum.

BACKGROUND INFORMATION:

The proposed sketch plan from Ryland Homes is located with the I-94 Corridor planning area and therefore is within one of the areas guided for sewer development. The applicant's plans depict 51 single-family residential homes on the 19.5-acre site, which results on an overall gross density of 2.6 units per acre. Even though the net density will be somewhat larger than this number due to the larger ponds shown on the plans, this density is still well below the levels for MDR – Medium Density Residential as approved for the site in the Comprehensive Plan. The applicant would like to move forward with the densities as proposed in the sketch plan, and has therefore requested an amendment to the Comprehensive Plan for this parcel in order to change the future land use from MDR (Medium Density) to LDR – Low Density Residential. This land use category would allow densities below 4 units per acre and is consistent with the submitted plans.

The submission to the City includes the following components:

- *Concept Plan Narrative.* The application narrative that was submitted by the applicant provides a general overview of the plan and the requested Comprehensive Plan amendment.
- *Illustrative Plan.* The illustrative plan is a rendering intended to show the general layout of lots, streets, and ponding areas within the development and includes a general summary of the site data.
- *Concept Plan.* The concept plan includes a proposed configuration of roads, lots, wetlands, ponding areas, trails and open space areas on the applicant's site and additional details concerning the site data. The lots being proposed are generally consistent with the City's LDR (Low Density Residential) district standards. The applicant has also been coordinating with the northern property owner on an alignment of the 5th Street collector road that will bring this road across the boundary between these parcels. The collector road as shown will need to comply with the City's Engineering and Design standards.

The Staff review comments that follow are all based on conducting a very high level review of the Sketch Plan since there is not a lot of detailed information that is required at this stage in the development process. Staff has instead focused on the bigger picture items and those things that would otherwise not allow the development to move forward if they contrasted with elements from the Comprehensive Plan or the City Code.

STAFF REVIEW COMMENTS:

Members from the Planning, Public Works, Engineering, and Fire Departments have reviewed the proposed Sketch Plan and have provided comments in following areas:

- *Land Use.* The proposed Sketch Plan does not conform to the City's future land use plan; the applicant has therefore submitted a request for a Comprehensive Plan Amendment in conjunction with the sketch plan. If the City does not approve this amendment, the sketch plan cannot move forward.
- *Density.* The proposed Sketch Plan includes calculations for the gross (all of the land) densities over the planning area. The applicant should provide a net density calculation

in order verify compliance with the Comprehensive Plan. The net density for the site will fall below four units per acre, which will require an amendment to the Plan.

- ***Zoning***

- The City adopted new urban development districts, including the Urban Low Density Residential (LDR) zoning district. In general, the Sketch Plan has been designed to comply with this district in regards to lot area, setbacks, and other dimensional standards.
- The lot sizes have been designed to comply with the 8,000 square foot minimum required within the LDR zoning district.

- ***Buffer Areas***

- The project is not located in an area that will be subject to required buffering.
- Staff is recommending that the applicant provide additional screening an/or buffering from the property to the south, which is planned for commercial development.

- ***Parks and Trails***

- Given that the proposed subdivision is proposed for Urban Low Density, the parkland dedication requirement per the City's Subdivision Ordinance will be 10% of land, fee in lieu of land in the amount of equal market value of 10%, or some combination thereof.
- The sketch plan does not depict any areas that would be set aside to meet the park dedication requirements. There is a trail connection shown along the eastern border of the subdivision that will provide a trail access from the 5th Street Collector road into the subdivision.
- The City will need to consider the most appropriate location for a park within this portion of the I-94 corridor planning area. Given the relatively small size of applicant's development area, it may be not be practical to construct a park on this site.
- Per the City's Subdivision Ordinance, credit for parkland dedication will be granted for areas with an active recreational purpose. Staff is recommending that the details concerning the land or trails to be dedicated for park purposes be addressed at the time a Preliminary Plat is submitted. The Park Commission will also be reviewing the Sketch Plan for this proposed subdivision in the near future.
- All trail corridors should include a minimum of 30 feet of right-of-way for construction and maintenance purposes.
- The City may consider the construction of trails towards credit for parkland dedication purposes.

- ***Streets/Access***

- The proposed intersection of the 5th Street minor collector road and Lake Elmo Avenue is consistent with the City's initial transportation planning efforts in this area. It does not appear that it will be possible to provide two access points into

the proposed development from 5th Street due to the City's access spacing guidelines for collector roads.

- The 5th Street collector road must be platted and constructed as part of the applicant's subdivision request.
 - Staff is encouraging the applicant to provide a secondary emergency access to the site either via a gated or controlled access to Lake Elmo Avenue or over the proposed trail connection along the eastern side of the subdivision. The City will also need access to the storm water ponding areas.
 - All residential streets shall be constructed to a 28-foot width from back of curb to back of curb per the city standard details. Right-of-ways must be a minimum 60 feet.
 - Ten (10) foot utility easements are required on both sides of the right-of-way.
 - Six (6) foot sidewalks must be provided along all continuous residential streets and along other streets as may be required for connectivity.
 - All street intersections must be at 90 degrees and maintain 100 feet of tangent with maximum slopes of 2% for first 100 feet.
 - Residential maximum longitudinal grade is 8% with no sidewalks, 6% where there are sidewalks.
 - Minimum diameter cul-de-sac is 90 feet with 120-foot right-of-way.
 - The applicant should consider shared mailboxes in order to alleviate any potential snow plowing and storage problems within the cul-de-dacs.
- ***Utilities***
 - Public water service is not yet available to the site. The applicant has submitted a letter requesting that the City extend public water service to the site in 2014. The City Council considered a feasibility study for such a project at its September 17th meeting. Should the City not proceed with extending water to the site, the applicant will need to address this issue before proceeding with a preliminary plat.
 - Hydrant and valve placement will be made per City standards and as laid out by City staff.
 - Sanitary sewer service will be made available to the site via the Village trunk line construction project. The City is currently working with the applicant to align the proposed sewer line with the 5th Street collector road.
 - ***Storm Water Management***
 - The proposed development area resides within the Valley Branch Watershed District (VBWD). City staff recommends early planning/coordination meetings with VBWD.
 - The design of the storm water management systems must be compliant with the requirements of the VBWD, the City of Lake Elmo Storm Water Management Ordinance, and the City of Lake Elmo design standards manual.

- The applicant is advised to fully read and comprehend the City's storm water and erosion control ordinance since these standards are different, and in some cases more stringent, than the watershed district.
- It is the applicant's responsibility to creatively plan for adequate storm water ponding and infiltration facilities.
- The storm water facilities should be platted as Outlots and deeded to the City for maintenance purposes. The storm water ponds will not be allowed to encroach on to adjacent private lots.
- Storm water facilities should have sufficient contributing drainage sheds (following guidelines of the MN Storm Water Manual) to facilitate proper operation.
- **Grading**
 - Based upon the existing conditions of the site, the residential subdivision will require substantial grading activity. All grading activities shall meet the approval of the City Engineer.
- **Subdivision Review Process.** In order to proceed with the subdivision of the land included in the Sketch Plan area the applicant will need to next prepare a Preliminary Plat application. At this stage there is much more information required as part of the submission process, which also requires a public hearing. Ryland Homes has not yet indicated when they intend to submit a Preliminary Plat application.
- **Environmental Review.** The proposed development under the Sketch Plan does not trigger a mandatory environmental review.

RECCOMENDATION:

Staff is recommending that the Planning Commission accept the Sketch Plan provided by Ryland Homes for a 51-unit residential subdivision that would be located on property owned by Nathan Landucci within the I-94 Corridor planning area.

ATTACHMENTS:

1. Application Form
2. Legal Description
3. Application Narrative
4. Location Map
5. Illustrative Plan
6. Concept Plan

ORDER OF BUSINESS:

- Introduction.....Community Development Director
- Report by Staff.....Community Development Director
- Questions from the Commission..... Chair & Commission Members
- Discussion by the Commission..... Chair & Commission Members
- Action by the Commission..... Chair & Commission Members

Fee \$ _____

City of Lake Elmo DEVELOPMENT APPLICATION FORM

- ^{MINDK} Comprehensive Plan Amendment
- Zoning District Amendment
- Text Amendment
- Flood Plain C.U.P. Conditional Use Permit
- Conditional Use Permit (C.U.P.)
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- Appeal
- PUD

APPLICANT: RYLAND HOMES 7599 ANAGRAM DRIVE, EOEN PRAIRIE, MN 55344
(Name) (Mailing Address) (Zip)

TELEPHONES: CONTACT: TRACEY RUST DIRECT (952) 229-6063 CELL (952) 221-2506
(Home) (Work) (Mobile) (Fax)

FEE OWNER: NATHAN LANDUCCI, 13230 20TH ST. CT. N., STILLWATER, MN 5508
(Name) (Mailing Address) (Zip)

TELEPHONES: (651) - 894-2582
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): _____
PID: 36.029.21.32.0008
(LEGAL DESCRIPTION ATTACHED)

DETAILED REASON FOR REQUEST: _____
SEE ATTACHED NARRATIVE

*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:

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.

Tracey Rust 9/5/13
Signature of Applicant Date Signature of Applicant Date

Parcel Number: 36.029.21.32.0008

Legal Description:

PT NW1/4-SW1/4 LYING SLY OF FOLL DESC "LINE X";COM AT WEST QTR COR
SD SEC 36 THN S00DEG02'54"W ALG W LN SD NW1/4-SW1/4 DIST 474.06FT
TO S LN OF N 474.06FT OF SD NW1/4-SW1/4 AND PT OF BEG THN CONT ALG
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LN OF N 474.06FT THN N89DEG48'29"E ALG SD S LN DIST 912.76FT TO E LN
SD NW1/4-SW1/4 AND SD "LINE X" THERE TERM EXCEPT; PT SD NW1/4-
SW1/4 DESC AS FOLL: BEG AT SW COR SD NW1/4-SW1/4 THN E ALG S LN SD
NW1/4-SW1/4 DIST 264FT THN N ALG LN PARL/W W LN SD NW1/4- SW1/4
DIST 165FT THNW ALG LN PARL/W AS S LN DIST 264FT TO SD W LN THN D
ALG SD W LN DIST 165FT TO POB SECTION 36 TOWNSHIP 029 RANGE 021

TWIN CITIES DIVISION

7599 Anagram Drive
Eden Prairie, MN 55344

952.229.6000 Tel
952.229.6024 Fax

www.ryland.com

September 5, 2013

Kyle Klatt
Planning Director
City of Lake Elmo
3800 Laverne Ave. N.
Lake Elmo, MN 55042

RE: Landucci Property – Sketch Plan Review and Comp Plan Amendment Request

Dear Mr. Klatt:

Ryland Homes is pleased to submit to the City of Lake Elmo a sketch plan application for the Landucci property located on the east side of Lake Elmo Ave. N. approximately ¼ mile north of Interstate Hwy 94. The 23 acre property is currently being used as a driving range with a short par-3 golf course.

The proposed new neighborhood would include 51 single-family lots, necessary ponding, and right-of-way for Lake Elmo's new east/west collector (5th Street). The lots on average are 72 ft. wide and 130 ft. to 140 ft. in depth. Access to the new neighborhood would be from the new east/west collector, however during build out and while the collector is being planned and built a temporary access to Lake Elmo Ave is planned in the location of the existing driveway.

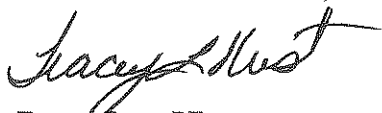
With this application Ryland is requesting a Comprehensive Plan Amendment from Urban Medium Density Residential (MDR) to Urban Low Density Residential (LDR) which will allow for the new neighborhood's proposed density.

Ryland Homes is also requesting that public improvements be extended to service the site with public water and sanitary sewer with adequate size and depth.


Ryland Homes has appreciated City Staff's comments and direction so far with this project and we look forward to continuing to work with City Staff to make this a successfully new neighborhood for the City of Lake Elmo. Please feel free to contact Tracey Rust at 952.229.6063 or Mark Sonstegard at 952.229.6007, both with Ryland Homes, with any questions.

Sincerely,

THE RYLAND GROUP, INC.



Tracey Rust, PE
Entitlement Manager



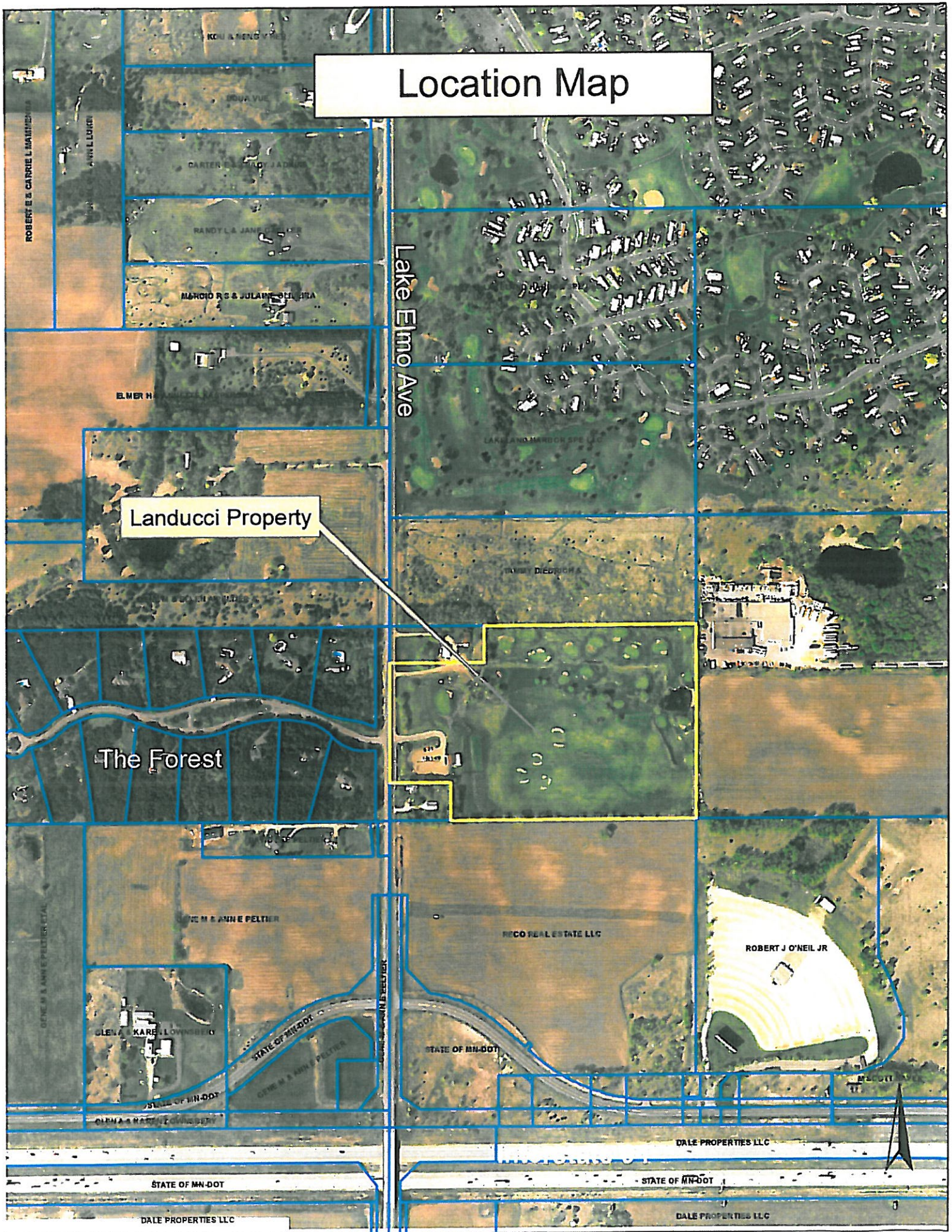
Mark Sonstegard
VP of Land Development

Location Map

Lake Elmo Ave

Landucci Property

The Forest



DALE PROPERTIES LLC

STATE OF MN-DOT

STATE OF MN-DOT

DALE PROPERTIES LLC

DALE PROPERTIES LLC

Landucci Property



Site Data:

Area: 19.5 acres (excluding Cty Rd 17 ROW and City Collector ROW)
 Proposed lots: 51
 Gross density: 2.6 units/acre

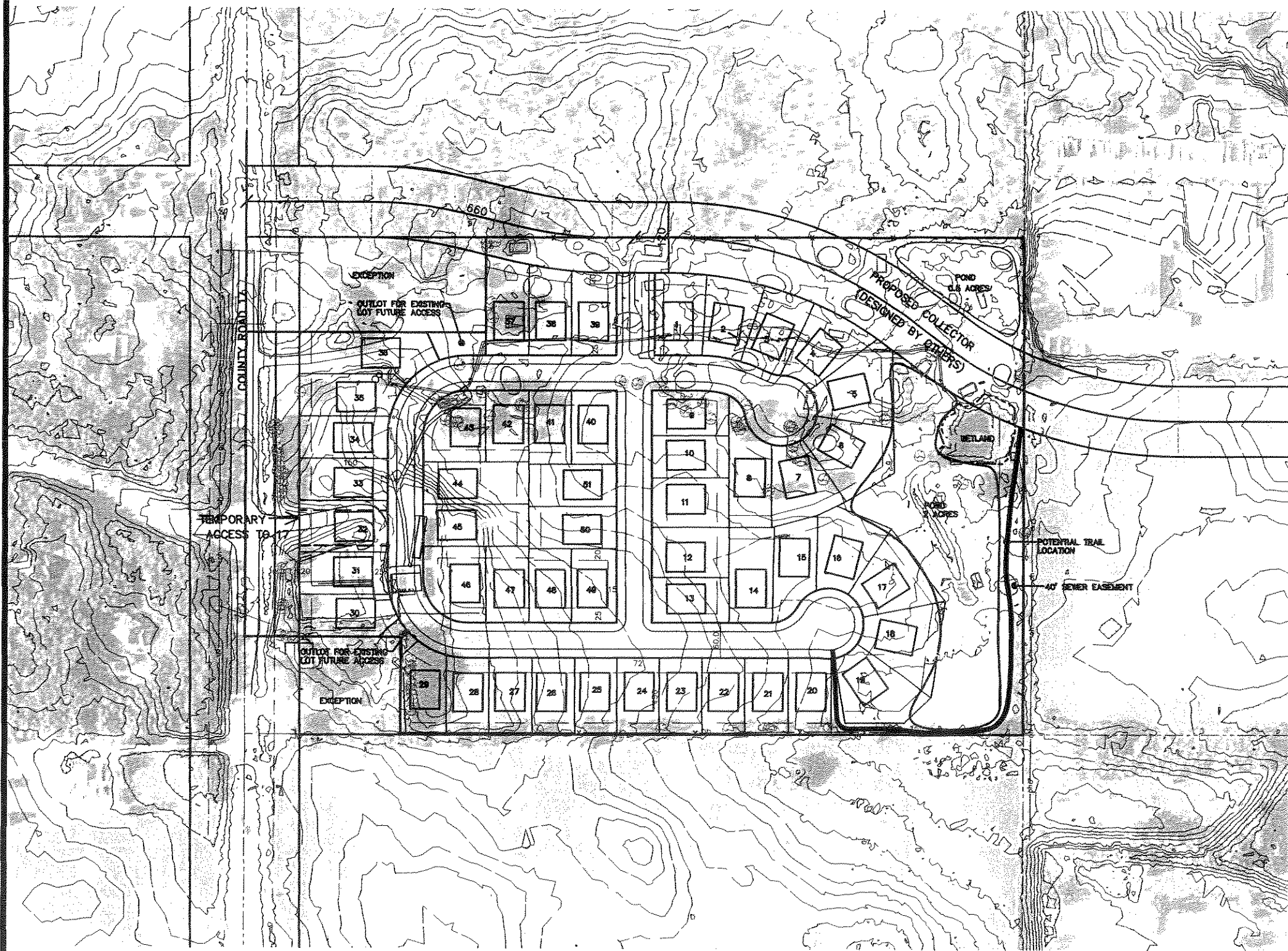
Existing Land Use: Urban Medium Density
 Proposed Land Use: Urban Low Density

Proposed Zoning: LRD

LRD Standards:
 Front Setback: 25'
 Rear Setback: 20'
 Side Setback: 10' Living Space, 5' Garage
 Lot Width: 60'
 Lot Area: 8,000 SF
 Maximum Impervious Coverage: 40%

Proposed lots are 72' Wide
 House Pads Shown at 50' x 65'





SITE DATA:

GROSS AREA: ±19.5 ACRES (EXCLUDING COUNTY ROAD AND FUTURE CITY COLLECTOR ROW)

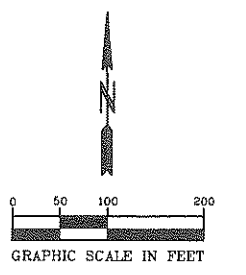
PROPOSED ZONING: LDR
 EXISTING LAND USE: URBAN MEDIUM DENSITY RESIDENTIAL
 PROPOSED LAND USE: URBAN LOW DENSITY RESIDENTIAL

LDR STANDARDS:

- FRONT SETBACK: 25'
- REAR SETBACK: 20'
- SIDE SETBACK: 10' LIVING SPACE, 5' GARAGE
- CORNER SIDE SETBACK: 15'
- LOT WIDTH: 60'
- LOT AREA: 8,000 SF
- MAXIMUM IMPERVIOUS COVERAGE: 40%

PROPOSED LOTS: 51
 GROSS DENSITY: 2.6 UNITS/ACRE

PROPOSED LOTS ARE 72' WIDE
 HOUSE PADS SHOWN AT 50' X 65'



PIONEERengineering
CIVIL ENGINEERS LAND PLANNERS LAND SURVEYORS LANDSCAPE ARCHITECTS

2422 Enterprise Drive
 Mendota Heights, MN 55120
 (651) 681-1914
 Fax: 681-9488
 www.pioneereng.com

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota

Name: Jennifer L. Thompson
 Reg. No. 44763 Date: _____

Revisions

Date: 9-4-13
 Designed: JLT
 Drawn: JLT

CONCEPT PLAN

RYLAND
 7599 ANAGRAM DRIVE
 EDEN PRAIRIE, MINNESOTA 55344

LANDUCCI PROPERTY
 LAKE ELMO, MINNESOTA



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/01/2013
REGULAR
ITEM #: 15

AGENDA ITEM: Official List of Storm Water Appeals
SUBMITTED BY: Cathy Bendel, Finance Director
THROUGH: Cathy Bendel, Finance Director
REVIEWED BY: Dean Zuleger, City Administrator
Adam Bell, City Clerk

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item..... Staff
- Report/Presentation.....Staff
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion..... Mayor & City Council

BACKGROUND AND STAFF REPORT:

In the spring of 2012, City Administrator Zuleger proposed a Surface Water appeal review process in order to consistently determine what if any credits should be issued related to Storm Water.

At the time the City Administrator took on this project, there were 21 appeals which had been received but not reviewed. He handled each appeal personally to get a good gage on the review criteria and their applicability to determine what if any further enhancements needed to be made. After his review of the first 10 Storm Water appeals, he estimated that the annual revenue reduction due to these credits would be \$15k. At this same time, he drafted Ordinance #2012-057 which was adopted May 15, 2012 to formalize the review process and credit eligibility criteria.

All 21 appeal reviews have been completed resulting in total billing adjustments of \$38.9k; 80% of which were hardship related. The on-going impact is \$11k which is less than predicted by Administrator Zuleger.

Only two new official appeals have been received for the 2012 storm water billing; both being just base fees (\$50 each). There have been a few other inquiries but it appears unlikely that any further concessions will need to be made.

RECOMMENDATION:

Continue to procedurally respond to all Storm Water appeal applications as outlined in Ordinance 2012-057. The recommended motion for this is as follows:

“Move to continue to respond to all Storm Water appeal applications as outlined in Ordinance 2012-057.”

ATTACHMENT(S):

1. Ordinance 2012-057
2. Storm Water appeal recap

CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA
ORDINANCE 12-057

ORDINANCE AMENDING SECTION 53.04 OF LAKE ELMO CITY CODE PERTAINING TO
SURFACE WATER MANAGEMENT FEE ADJUSTMENT CREDIT

(Last Amended Ordinance 08-041, passed 4-5-2011)

Section 1: Amendment: Section 53.04 of the Lake Elmo City Code is hereby amended to read as follows:

(A) Surface water management fee adjustment credits.

(1) The City Council, upon report and recommendation of the City Administrator, Finance Director and Public Works Director, shall apply a credit to a property owner's surface water management fee provided the property owner has contributed to the management of surface water through intentional acts of retaining or re-using surface water to have a minimal impact on the municipal surface water management system or surface waters of the State of Minnesota. The Council may apply a 25% to 75% credit based on the property owner's employment of surface water retention practices in accordance with Section 150.277 of Lake Elmo City Code. These practices include the installation of:

- a. Rain Barrel;
- b. Rain Garden;
- c. Retention Pond;
- d. Swales, Ditches or man-made watercourses;
- e. Riparian Area Plantings;
- f. Other practices that may be deemed as intentional detention of surface water run-off.

(2) The City Council, may grant a one-time or ongoing credit based the effectiveness of the surface water retention as it relates to the management of the municipal surface water management system as a whole. For practices, such as rain gardens constructed in the adjacent right-of-way, the City Council may grant an ongoing credit in exchange for the adjacent property owner's participation in the maintenance of the surface water retention device. This credit will not exceed 50% of the annual surface water management fee.

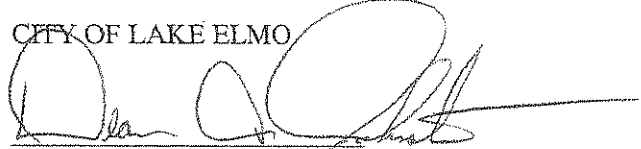
(3) The City Council, upon the report and recommendation of the City Administrator and Finance Director, may apply a financial hardship credit of no greater than 75% based on a review of the property owner's ability to pay.

(4) All credits are subject to City Code Section 53.07 for hearing or re-computation.

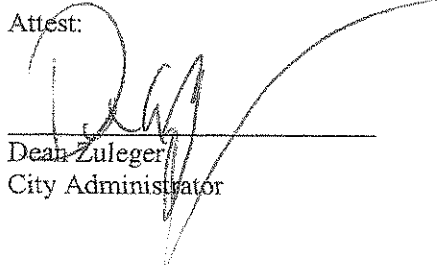
Section 2: Effective Date: This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, Subdivision 4.

ADOPTION DATE: Adopted by Lake Elmo City Council on the fifteenth day of May 2012.

CITY OF LAKE ELMO


Dean A. Johnston
Mayor

Attest:


Dean Zuleger
City Administrator

City of Lake Elmo
 SW Appeals
 Adjustment impact

OLDER	OS	Curr	Past Due	YTD thru 2011 Proposed Adjust	YTD thru 2011 Revised Bill	2012 Systematic Billing	2012 Appeal Adjustment	2012 Revised Bill	On-going Adjust	Reduction %	Notes	
Bergmark	X	199.73	64.18	135.55	(78.23)	121.50	50.00	0.00	50.00	0.00	0	4 parcels; 3 to be inactivated
Berschen	X	2,309.06	549.14	1,759.92	(1,002.88)	1,306.18	749.78	(421.66)	328.12	(421.66)	56%	5 parcels
Carlson	X	172.65	50.00	122.65	(122.47)	50.18	50.00	(25.00)	25.00	(25.00)	50%	1 parcel
Carmelites	X	15,723.66	5,072.15	10,651.51	(11,792.75)	4,179.90	5,072.15	(4,052.15)	1,020.00	(3,804.11)	80%	4 parcels; determined flat rate due to financial hardship
Dege	X	1,017.73	242.35	775.38	(554.33)	221.05	266.58	(206.00)	60.58	(37.50)	75%	3 parcels
Dimmick	X	290.41	69.08	221.33	(221.33)	69.08	69.08	0.00	69.08	0.00	0	One time adjustment; previously Cty Rd & Svcs
Durand	X	219.96	219.96	0.00	(115.10)	104.86	219.96	(164.97)	54.99	(164.97)	75%	1 parcel
Eastman	X	50.00	50.00	0.00	(25.00)	25.00	50.00	(25.00)	25.00	(25.00)	50%	1 parcel
Engstrom	X	3,997.44	1,039.72	2,957.72	(509.36)	3,488.08	1,039.72	(989.72)	50.00	0.00	95%	12 parcels; 4 vacant and 8 buildable; no on-going concession; modified 2013-conservation easements
Gorman	X	2,293.72	664.27	1,629.45	(1,757.32)	536.40	664.27	(498.20)	166.07	(498.20)	75%	1 parcel
Jesuits	X	24,884.29	5,852.86	19,031.43	(19,465.38)	5,418.91	6,438.14	(5,088.14)	1,350.00	(4,828.61)	79%	6 parcels; determined flat rate due to financial hardship
Menendez	X	50.00	50.00	0.00	(25.00)	25.00	50.00	(25.00)	25.00	(25.00)	50%	1 parcel
Moris, D	X	371.61	189.29	182.32	(263.65)	107.96	189.31	(125.16)	64.15	(125.16)	66%	6 parcels
Moris, J	X	71.50	24.60	46.90	(35.75)	35.75	24.60	(12.30)	12.60	(12.50)	50%	1 parcel
Nielsen	X	215.00	50.00	165.00	(115.00)	100.00	50.00	(25.00)	25.00	(25.00)	50%	1 parcel
Pelltier	X	2,264.59	558.35	1,706.24	(1,698.44)	566.15	558.35	(426.09)	132.26	(426.09)	75%	9 parcels
Senger	X	50.00	50.00	0.00	(37.50)	12.50	50.00	(37.50)	12.50	(37.50)	75%	1 parcel
Springborn	X	975.44	265.69	709.75	(730.09)	245.35	265.69	(199.27)	66.42	(199.27)	75%	5 parcels
Strohkirch	X	0.00	50.00	0.00	0.00	0.00	50.00	(12.50)	37.50	(12.50)	75%	1 parcel
Sullwold	X	0.00	356.41	0.00	(178.21)	178.20	356.41	(178.21)	178.20	(178.21)	50%	5 parcels
Timmers	X	215.00	50.00	165.00	(161.25)	53.75	50.00	(37.50)	12.50	(37.50)	75%	1 parcel Parcel sold to Oman
2012/2013												
Johnston	X	50.00	50.00	0.00	0.00	0.00	50.00	0.00	50.00	0.00	0%	1 parcel; no reduction
Kofoed	X	50.00	50.00	0.00	0.00	0.00	50.00	(25.00)	25.00	(25.00)	50%	1 parcel
				55,471.79	(38,889.04)	16,845.80	16,414.04	(12,574.37)	3,839.97	(10,908.78)	77%	Avg reduction
					-70.11%			(0.77)				
				31,258.13					Harship	(8,632.72)	79%	
				(0.80)					Non-hardship	(2,276.06)	21%	
X Letter sent					Total Billed	219,910.77						
					% Reduction	-5%						



MAYOR & COUNCIL COMMUNICATION

DATE: 10/01/2013
REGULAR
ITEM #: 16

AGENDA ITEM: Approve Name Change to Sunfish Lake Park to Sunfish Lake Nature Preserve
SUBMITTED BY: Dean Zuleger, Administrator
THROUGH: City of Lake Elmo Park Commission
REVIEWED BY: Dean Zuleger, City Administrator

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... City Administrator
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

To formally change the name of Sunfish Lake Park to the Sunfish Lake Nature Preserve per Park Commission request. The recommended motion for this action is as follows:

“Move to approve Resolution No. 2013-87, Approving the Park Commission’s motion to change the name of Sunfish Lake Nature Park to more adequately reflect the conservation easement, current use, and future needs of Lake Elmo residents.”

BACKGROUND INFORMATION:

Sunfish Lake Park is arguably Lake Elmo’s flagship open space. Its history is storied and full of dedicated volunteerism including the original donation of the land. The park is 256 acres in size and is designated as protected property under a conservation easement with the MN Land Trust entered into in June of 2009 (see attached). The use of Sunfish Lake Park is highly regulated under the terms of the easement and allows only limited activities.

Specifically, under Section 3.4 of the easement entitled Recreational and Educational Uses the easement reads:

“The Protected Property may be used for hiking, cross-country skiing, horseback riding, nature observation or study, and other non-intensive recreational and educational programs or activities that have no more than minimal impact on the Conservation Values of the Protected Property.”

Staff investigation into the use of the park for activities such as rinks, fields, mountain biking, and other “typical” activities would be prohibited without a change or release from the easement.

In the summer of 2013, the City of Lake Elmo Park Commission passed a motion to change the name of Sunfish Lake Park to the Sunfish Lake Nature Preserve to more accurately reflect the character and the use of the 256 acres. On September 26, 2013 the City of Lake Elmo Park Commission reiterated their desire to have the name changed and has forwarded this motion to the City Council for ratification.

By definition a nature preserve is a piece of land protected and managed to protect its flora and fauna, sometimes called a nature reserve. A park is defined by an implicit use for recreation and active enjoyment. Based on the conservation easement and certain invested activities such as the prairie restoration it appears that the 256 acres of land is more adequately defined by the name change.

As part of the discussion of whether a name change was appropriate, an economic review was completed looking at whether the term park or nature preserve has a significant impact on property values. While not specific to park type, studies do show that open space does raise the value of property adjacent and adds to a quality of life.

As for public input, the 2013 Park Survey shows a high level of taxpayer interest in activities most closely associated with protected nature of Sunfish Lake Park – which was the most used park per the survey. After “Proximity to Home,” “Hiking Trails” were the most important factor for park use for those answering the survey, with “Wooded Lands” third. “Nature Observation” also scored relatively high in the survey.

STAFF RECOMMENDATION:

Staff is currently working with the Park Commission in an effort to improve park utilization creating a hierarchy as follows:

1. Regional Park / Preserve – Sunfish Lake
2. Community Parks – Tablyn, Pebble, VFW/Lions, Reid, Demontreville
3. Neighborhood Parks

With the limitation of use caused by the conservation easement and the taxpayer needs / wants as reflected by the survey, it does not appear to staff that changing the name has any significant consequence. Rather, if the Council wishes to expand the activities of Sunfish Lake Park, either part or parcel, the first step would be to seek removal or withdrawal from the easement with the MN Land Trust. The staff is inclined to support the Park Commission’s action. The recommended motion for this action is as follows:

“Move to approve Resolution No. 2013-87, Approving the Park Commission’s motion to change the name of Sunfish Lake Nature Park to more adequately reflect the conservation easement, current use, and future needs of Lake Elmo residents.”

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2013-87

**A RESOLUTION CHANGING THE NAME OF SUNFISH LAKE NATURE PARK TO SUNFISH
LAKE NATURE PRESERVE**

WHEREAS, the park is designated as protected property under a conservation easement with the Minnesota Land Trust under a 2009 agreement; and

WHEREAS, the use of Sunfish Lake Park is highly regulated under the terms of the easement and allows only limited activities; and

WHEREAS, the park has a storied history full of dedicated volunteerism including the original dedication of the land; and

WHEREAS, the Lake Elmo Park Commission has passed a motion to change the name of Sunfish Lake Park to Sunfish Lake Nature Preserve; and

WHEREAS, the name Sunfish Lake Nature Preserve would serve as a better reflection of the activities and uses legally allowed for the property.

NOW, THEREFORE, BE IT RESOLVED,

By the City Council of the City of Lake Elmo that the name of Sunfish Lake Nature Park shall be changed to Sunfish Lake Nature Preserve.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FIRST DAY OF OCTOBER, 2013.

CITY OF LAKE ELMO

By: _____
Mike Pearson
Mayor

(Seal)

Adam Bell
City Clerk

CONSERVATION EASEMENT

This is a CONSERVATION EASEMENT granted by the City of Lake Elmo, a political subdivision under the laws of the State of Minnesota, (the "Owner") to the Minnesota Land Trust, a non-profit corporation organized and existing under the laws of the State of Minnesota (the "Land Trust".)

RECITALS:

- A. OWNER. The Owner is the current owner of approximately 256 acres of real property located in Washington County, Minnesota. That real property is more fully described below as the "Protected Property."
- B. PROTECTED PROPERTY. The Protected Property is that real property legally described in Exhibit A and generally depicted on the "Property Map" in Exhibit B. Both exhibits are attached to this conservation easement and incorporated by this reference.

The Protected Property, known to area residents as "Sunfish Lake Park," consists of approximately 173 acres of rolling forest land that includes a number of hardwood tree species such as oak, maple, birch, and cherry. The Protected Property also consists of approximately 2 acres of woodland, 25 acres of grassland, 20 acres of wetland, and 4 acres of open water ponds. Sunfish Lake, which is classified by the Minnesota Department of Natural Resources as a natural environment lake, covers approximately 17 acres of the eastern

portion of the Protected Property. Approximately 15 acres of the site consists of cultivated fields currently planted in corn.

Two clustered residential developments with open space protected by conservation easements are located adjacent to the Protected Property, contributing to a larger expanse of open space.

Sunfish Lake Park is part of the Lake Elmo park system, and it has been used primarily as a passive park for activities such as walking, hiking, cross country skiing, horseback riding, solitude, and nature observation. The Protected Property has an unimproved divided access road and parking area, barbecue grills, a portable toilet, and fencing. A power line traverses the western portion of the Protected Property. No other structures or improvements currently exist on the Protected Property.

- C. MINNESOTA LAND TRUST. The Minnesota Land Trust is a non-profit corporation organized and operated exclusively for charitable and educational purposes, including the preservation and protection of land in its natural, scenic or other open space condition. The Land Trust is a public charity as defined in Sections 501(c)(3) and 509(a) of the Internal Revenue Code and an organization qualified to hold conservation easements under Minnesota law and Section 170(h) of the Internal Revenue Code and related regulations.
- D. CONSERVATION VALUES. The Protected Property has the following natural, scenic and open space qualities of significant importance:
- The Protected Property includes native upland aspen-oak and upland hardwood forests, which provide habitat for a variety of species in greatest conservation need as established by the Minnesota Department of Natural Resources in *Tomorrow's Habitat for the Wild and the Rare: An Action Plan for Minnesota's Wildlife*, Comprehensive Wildlife Conservation Strategy, 2006.
 - The Protected Property also is a component of a regionally significant wildlife corridor and project focus area identified by the Minnesota Department of Natural Resources and the Metropolitan Conservation Corridors Partnership, a collaboration of public and private conservation entities funded in part by Minnesota Laws 2007, Chapter 30, Section 2, Subd.4(c).
 - The undeveloped shoreline along Sunfish Lake helps maintain the water quality and near-shore aquatic habitat of the lake.
 - The Protected Property provides outstanding opportunities for the public to experience, appreciate and learn about the natural and scenic environment through low-impact outdoor recreation and educational activities.

Collectively, these outdoor recreational and educational, natural, scenic and open space qualities of the Protected Property comprise its "Conservation Values."

These Conservation Values have not been and are not likely to be adversely affected to any substantial extent by the continued use of the Protected Property as described above or as authorized below or by the use, maintenance, or construction of those structures and improvements that presently exist on the Protected Property or that are authorized below.

E. CONSERVATION POLICY. Preservation of the Protected Property will further those governmental policies established by the following:

- Minnesota Statutes Chapter 116P, which establishes the Environmental and Natural Resources Trust Fund, and Minnesota Laws 2008, Chapter 367, Section 2, Subdivision 3(a), which provides funding from that Fund to accelerate programs for the purposes of planning, restoring, and protecting important natural areas in the metropolitan region and portions of the surrounding counties.
- Minnesota Statutes Chapter 103A, which promotes protection of Minnesota's waters and their adjacent lands and Minnesota Statutes Section 103A.206 in particular, which recognizes the economic and environmental importance of maintaining and enhancing the soil and water resources of this state and role of private lands in these conservation efforts.
- Minnesota Statutes Section 103A.201, which specifically promotes the protection of wetlands and Minnesota Statutes Section 103A.202, which specifically declares that it is in the public interest to preserve the wetlands of this state to conserve surface waters, maintain and improve water quality, preserve wildlife habitat, reduce runoff, provide for floodwater retention, reduce stream sedimentation, contribute to improved subsurface moisture, and enhance the natural beauty of the landscape.
- Minnesota Statutes Chapter 84C, which recognizes the importance of private conservation efforts by authorizing conservation easements for the protection of natural, scenic, or open space values of real property, assuring its availability for agriculture, forest, recreational, or open space use, protecting natural resources, and maintaining or enhancing air or water quality.
- City of Lake Elmo 2030 Comprehensive Plan, which outlines a city-wide planning policy to "evaluate available options to increase the long-term viability of its park system in an environmentally sensitive manner" (Chapter II, Page II-5), and more specifically, sets out goals to "have recreational and natural parks available to all residents" and to "prevent use of parkland for non recreational or non-conserving purposes." (Chapter IX, Page IX-2)

F. CONSERVATION INTENT. The Owner and the Land Trust are committed to protecting and preserving the Conservation Values of the Protected Property in perpetuity. Accordingly, it is their intent to create and implement a conservation easement that is binding upon the current Owner and all future owners of the Protected Property and that conveys to

the Land Trust the right to protect and preserve the Conservation Values of the Protected Property for the benefit of this generation and generations to come.

CONVEYANCE OF CONSERVATION EASEMENT:

Pursuant to the laws of the State of Minnesota, and in particular Minnesota Statutes Chapter 84C, and in consideration of the facts recited above and the mutual covenants contained herein and as an absolute and unconditional gift, the Owner hereby conveys and warrants to the Land Trust and its successors and assigns a perpetual conservation easement over the Protected Property. This conservation easement consists of the following rights, terms, and restrictions (the "Easement"):

1. **CONSERVATION PURPOSE.** The purpose of this Easement is to preserve and protect in perpetuity the Conservation Values of the Protected Property identified above by confining the development, management and use of the Protected Property to activities that are consistent with the preservation of these Conservation Values, by prohibiting activities that significantly impair or interfere with these Conservation Values, and by providing for remedies in the event of any violation of this Easement.

The terms of this Easement are specifically intended to provide a significant public benefit by:

- Providing an opportunity for the public to learn about, experience, and enjoy the out-of-doors in a significant and relatively undisturbed natural setting.
 - Protecting natural habitat that contributes to a larger complex of protected forest and wetlands that support a variety of wildlife and plants, both terrestrial and aquatic.
 - Protecting the water quality and near-shore aquatic habitat of Sunfish Lake by restricting development of the lakeshore of the Protected Property.
2. **LAND USE RESTRICTIONS.** Any activity on or use of the Protected Property that is inconsistent with the purposes of this Easement is prohibited.

This prohibition specifically includes any intrusion or future development that would interfere with the essential scenic quality of the Protected Property or the visual enjoyment of the open and natural character of the Protected Property by the general public.

Except as specifically permitted in section 3 below and without limiting the general prohibition above, restrictions imposed upon the Protected Property expressly include the following:

- 2.1. Industrial and Commercial Activity. No industrial or commercial use of the Protected Property is allowed except for that agricultural use, forest or habitat management, or minimal commercial recreational use specifically permitted in section 3 below.
- 2.2. Agricultural Use. No agricultural use of the Protected Property is allowed except as specifically permitted in section 3 below.
- 2.3. Residential Development. No residential use or development of the Protected Property is allowed.
- 2.4. Rights of Way. No new right of way shall be granted across the Protected Property by the Owner in conjunction with any industrial, commercial, or residential use or development of other land not protected by this Easement without the prior approval of the Land Trust under the provisions of section 7.7 of this Easement. This provision does not affect any rights of way existing at the time of conveyance.

The Owner may, however, grant an easement to the Commissioner of the Minnesota Pollution Control Agency as needed to permit the location, operation and maintenance of a monitoring well or wells on the Protected Property.

- 2.5. Division of the Protected Property. The Protected Property may not be divided, subdivided, or partitioned. The Protected Property may be conveyed only in its entirety as a single parcel under single ownership (joint or undivided) regardless of whether it now consists of separate parcels, was acquired as separate parcels, or is treated as separate parcels for property tax or other purposes.

This provision does not, however, prohibit:

- The division of the Protected Property when a portion of the Protected Property is being conveyed to a conservation organization defined in section 7.1 below.
 - The correction or adjustment of boundary lines to resolve an ownership dispute.
- 2.6. Development Rights. No portion of the Protected Property may be used to satisfy land area requirements for other property not subject to this Easement for purposes of calculating building density, lot coverage, open space, or natural resource use or extraction under otherwise applicable laws, regulations, or ordinances controlling land use. The development rights that have been encumbered or extinguished by this Easement may not be transferred to any other property or used to obtain any regulatory mitigation credits.
 - 2.7. Structures and Improvements. No temporary or permanent buildings, structures, utilities, roads or other improvements of any kind may be placed or constructed on the Protected Property except as specifically authorized in section 3 or as set forth below:

- a. Utilities. Utility systems and facilities may be installed, maintained, repaired, extended, and replaced to serve only uses and activities specifically permitted by this Easement.

Permitted utility systems and facilities include, without limitation, all systems and facilities necessary to provide on-site power, fuel, water, waste disposal, and communication but do not include communication towers, wind turbines, or similar structures without the prior approval of the Land Trust.

Permitted utility systems and facilities shall be installed or constructed with minimal grading and disturbance to vegetation. Following installation or construction, the surface shall be restored in a timely manner to a condition consistent with the purposes of this Easement.

- b. Signs. No billboards or other signs may be placed or erected on the Protected Property except for small signs for informational or interpretive purposes. These permitted small signs include signs necessary for monitoring, safety, and security purposes in conjunction with those recorded easements and agreements between the Owner and the Minnesota Pollution Control Agency.

Additionally, the Owner may also construct and maintain a park entry monument and signs as permitted in section 3.5 below. With the Owner's permission, the Land Trust may place signs on the Protected Property identifying the land as protected.

- c. Roads and Parking Areas. The existing park access road and parking area may be maintained and improved but may not be widened, enlarged, or relocated without the prior written approval of the Land Trust.

No other roads or paved areas may be established or constructed on the Protected Property without the prior written approval of the Land Trust.

- d. Trails. Unpaved paths or foot trails, including necessary footbridges and boardwalks, may be established and maintained for non-motorized recreational uses. Paved trails may be established and maintained only within Area 2 of the Protected Property, which is generally depicted on the Property Map attached as Exhibit B. Paved trails may be allowed in Area 1 of the Protected Property, as generally depicted on the Property Map, only as necessary to meet requirements of the American with Disabilities Act and only with advance written approval from the Land Trust. Trails shall be established, maintained and used in a manner that does not result in significant erosion or have an adverse impact on the natural and scenic quality of the Protected Property.

- e. Fences. Fences may be constructed, maintained, improved, replaced or removed to mark boundaries, to secure the Protected Property, or as needed in carrying out activities permitted by this Easement and by recorded documents between the Owner and the Minnesota Pollution Control Agency, including those documents specifically referenced in section 7.5.

- f. Outdoor Lighting. In order to minimize sky glow or light pollution originating from the Protected Property, no permanent outdoor lighting is permitted within Area 1 of the Protected Property. Any outdoor light fixtures within Area 2 must minimize light emitted above the plane of the horizon of the fixture through the use of earthward directed or full cut-off fixtures or lamps with single or minimal-color light sources, or other equally effective fixtures designed to minimize light pollution.
- 2.8. Dumping. No trash, non-compostable garbage, debris, unserviceable vehicles or equipment, junk, other unsightly material or hazardous or toxic substances may be dumped or accumulated on the Protected Property. This does not prohibit burning or composting of excess brush or other plant material resulting from activities permitted by this easement.
- 2.9. Mining. No mining, drilling, exploring for, or removing any minerals, sand, gravel, rock, or fossil fuels from the Protected Property is allowed.
- 2.10. Topography and Surface Alteration. No alteration or change in the topography or the surface of the Protected Property is allowed. This includes no ditching, draining or filling and no excavation or removal of soil or other material, except as incidental to activities or uses specifically permitted by this Easement.

Any permitted alteration shall be undertaken with minimal grading and disturbance to vegetation and with the surface restored in a timely manner to a condition consistent with the purposes of this Easement.

- 2.11. Water. No alteration or manipulation of natural watercourses, lakes, shorelines, wetlands or other surface or subsurface bodies of water or creation of new wetlands or water bodies is allowed except to restore or enhance wildlife habitat or native biological communities or to improve or enhance the function and quality of existing wetlands or water bodies. Any alteration or creation of wetlands or water bodies must be undertaken in accordance with a habitat management plan approved by the Land Trust under section 3 below.

No activities on or uses of the Protected Property that cause significant erosion or are seriously detrimental to water quality or purity are allowed.

- 2.12. Vegetation Management. No removal, cutting, pruning, trimming or mowing of any trees or other vegetation, living or dead, and no introduction of non-native species is allowed except as follows:
- a. In conjunction with agricultural use and forest or habitat management as specifically permitted in section 3 below.
 - b. As reasonably required to construct and maintain permitted buildings, structures, roads, trails and other permitted improvements and provided that vegetation shall be restored by the Owner following any construction to a condition consistent with the purpose of this Easement.

- c. As reasonably required to prevent or control insects, noxious weeds, invasive vegetation, disease, fire, personal injury, or property damage.
 - d. Landscaping in areas immediately adjacent to permitted buildings, within the divided entry road corridor, or as specifically authorized in section 3 below.
- 2.13. Vehicles. Motorized vehicles may not be used on the Protected Property except on roads or parking areas permitted under this Easement or in conjunction with construction and maintenance of permitted buildings, structures, roads, trails, or other improvements, forest or habitat management, agricultural use, or in conjunction with Minnesota Pollution Control Agency permitted activities including those permitted under the recorded documents specifically referenced in section 7.5 below. Use of motorized vehicles shall not result in significant erosion or have an adverse impact on the natural and scenic quality of the Protected Property.
3. **RESERVED RIGHTS**. The Owner retains all rights associated with ownership and use of the Protected Property that are not expressly restricted or prohibited by this Easement. The Owner may not, however, exercise these rights in a manner that would adversely impact the Conservation Values of the Protected Property. Additionally, the Owner must give notice to the Land Trust before exercising any reserved right that might have an adverse impact on the Conservation Values of the Protected Property.

Without limiting the generality of the above, the following rights are expressly reserved and the Owner may use and allow others to use the Protected Property as follows:

- 3.1. Right to Convey. The Owner may sell, give, lease, bequeath, devise, mortgage or otherwise encumber or convey the Protected Property. This right to convey the Protected Property is subject to the following:
- a. Any conveyance or encumbrance of the Protected Property is subject to this Easement.
 - b. The Owner will reference or insert the terms of this Easement in any deed or other document by which the Owner conveys title to the Protected Property. The Owner will also specify to what extent reserved rights have been exercised, if at all, and are no longer available for use by the new owner and which reserved rights are specifically allocated to the property being conveyed in accordance with other provisions of this Easement.
 - c. The Owner will notify the Land Trust of any conveyance within fifteen (15) days after closing and will provide the Land Trust with the name and address of the new owner and a copy of the deed transferring title.
 - d. If the Protected Property is owned by a trust, business entity or any common or jointly held ownership, the Owner shall designate a representative authorized to receive notice on behalf of the owner and provide the Land Trust with the name and address of the designated representative. The Owner shall notify the Land

Trust of any change in the designated representative and provide the Land Trust with the new name, address and other contact information.

The enforceability or validity of this Easement will not be impaired or limited by any failure of the Owner to comply with this section 3.1.

- 3.2. Agricultural Use. Agricultural use of the Protected Property is limited to only that area designated as Cultivated Land on the Property Map attached as Exhibit B. If this area is restored to forest or grassland, then no further agricultural use is permitted.
- 3.3. Forest and Habitat Management. The Protected Property may be used to create, maintain, restore, or enhance habitat for wildlife and native biological communities in accordance with a restoration or habitat management plan approved in writing by the Land Trust. The Owner may remove timber and other wood products and otherwise manage the vegetation on the Protected Property in accordance with this approved plan.
- 3.4. Recreational and Educational Uses. The Protected Property may be used for hiking, cross-country skiing, horseback riding, nature observation or study, and other non-intensive recreational and educational programs or activities that have no more than minimal impact on the Conservation Values of the Protected Property.

The Protected Property may not be used for more than minimal commercial recreational purposes.

- 3.5. Recreational and Educational Structures. Minor rustic structures such as tents, trail barriers, boardwalks, overlook decks, footbridges, benches, birdhouses, and informational kiosks may be placed on the Protected Property in conjunction with permitted recreational and educational activities.

Additionally, the Owner may choose to use and develop Area 2 of the Protected Property, or a portion of it, as an educational, outdoor recreational, nature observation or interpretive center. Such use must be consistent with and must not interfere with the Conservation Values and purposes of this Easement. The size, location, and characteristics of the buildings and structures, as well as all necessary utilities, driveways, parking areas, and all other improvements associated with the facility or the uses described in this section, including a park entry monument and signs, must be in accordance with a park concept plan developed by the Owner and approved in writing by the Land Trust. All buildings, structures and improvements must be designed and constructed so as not to detract from the natural and scenic character of the Protected Property. Review and written approval of architectural plans by the Land Trust is required prior to commencing construction.

The Owner will request and obtain approvals and give the Land Trust notices as set out in section 7.7 of this Easement before beginning any construction permitted under this section.

4. LAND TRUST'S RIGHTS AND REMEDIES. In order to accomplish the purposes of this Easement to preserve and protect the Conservation Values of the Protected Property, the Land Trust has the following rights and remedies:

- 4.1. Right to Enter. The Land Trust has the right to enter the Protected Property at reasonable times and in a reasonable manner for the following purposes:
- a. To inspect the Protected Property and to monitor compliance with the terms of this Easement.
 - b. To obtain evidence for use in seeking judicial or other enforcement of this Easement.
 - c. To survey or otherwise mark the boundaries of all or part of the Protected Property if necessary to determine whether there has been or may be a violation of this Easement. Any survey completed under this provision will be at the Owner's expense.
 - d. To otherwise exercise its rights under this Easement.

4.2. Right of Enforcement. The Land Trust has the right to prevent or remedy violations of this Easement, including prohibiting the construction of buildings or improvements, through appropriate judicial action brought in any court of competent jurisdiction against the Owner or other responsible party.

- a. Notice. The Land Trust may not initiate judicial action until the Owner has been given notice of the violation, or threatened violation, of this Easement and a reasonable opportunity to correct the situation. This provision shall not apply if, in the sole discretion of the Land Trust, immediate judicial action is necessary to prevent or mitigate significant damage to the Conservation Values of the Protected Property or if reasonable, good faith efforts to notify the Owner are unsuccessful.
- b. Remedies. In enforcing this Easement, the Land Trust has the right to:
 - Temporary or permanent injunctive relief for any violation or threatened violation of this Easement.
 - Require restoration of the Protected Property to its condition at the time of this conveyance or as otherwise necessitated by a violation of this Easement.
 - Specific performance or declaratory relief.
 - Recover damages resulting from a violation of this Easement or injury to any Conservation Values associated with the Protected Property.

These remedies are cumulative and are available without requiring the Land Trust to prove actual damage to the Conservation Values of the Protected Property.

The Land Trust and the Owner agree that the damages created by a violation of this Easement may be determined by calculating the cost of acquiring a conservation easement over similar property. The Land Trust and the Owner also recognize that restoration, regardless of cost, may be the only adequate remedy for certain violations of this Easement.

The Land Trust is entitled to seek expedited relief, ex parte if necessary, and shall not be required to post any bond applicable to a petition for such relief.

- c. Costs of Enforcement. The Owner shall be responsible for all reasonable costs incurred by the Land Trust in enforcing this Easement, including without limitation costs of suit, attorneys' fees, and expenses related to restoration of the Protected Property. If, however, the Owner ultimately prevails in a judicial enforcement action, each party shall be responsible for its own costs and attorneys' fees.
- d. Discretionary Enforcement. Enforcement of the terms of this Easement is solely at the discretion of the Land Trust. The Land Trust does not waive or forfeit the right to take any action necessary to assure compliance with the terms of this Easement by any delay or prior failure of the Land Trust in discovering a violation or initiating enforcement proceedings. The Land Trust shall not be barred by any applicable statute of limitations in bringing any action to enforce the term of this Easement.
- e. Acts Beyond Owner's Control. The Land Trust may not bring an action against the Owner for any change to the Protected Property resulting from:
 - causes beyond the Owner's control such as changes caused by fire, flood, storm, natural deterioration or the unauthorized acts of third parties, or
 - reasonable actions taken in good faith under emergency conditions to prevent or mitigate damage resulting from such causes.

Actions by the Owner's lessees, agents, employees or contractors are not considered unauthorized acts of third parties.

This section does not preclude the Owner or the Land Trust from recovering damages or bringing an action against any third party for trespass or other violation of their respective rights in this Easement or in the Protected Property.

- f. Right to Report. In addition to other remedies, the Land Trust has the right to report any environmental concerns or conditions or any actual or potential violations of any environmental laws to appropriate regulatory agencies.
- g. Enforcement Rights of Others. Nothing in this Easement is intended to create any right to enforce this Easement in any third party where no such right otherwise exists under this Easement or under law.

- 4.3. Limitation on Rights. Nothing in this Easement gives the Land Trust the right or responsibility to exercise physical control over day-to-day operations on the Protected Property or to become involved in management decisions involving the use or disposal of hazardous substances or to otherwise become an operator of the Protected Property within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act, the Minnesota Environmental Response and Liability Act, or other similar successor federal, state or local statutes or laws regarding responsibility for environmental conditions associated with contamination.
5. PUBLIC ACCESS AND USE. The public shall have the right to use the Protected Property and any trail established on the Protected Property for low-impact recreational and educational purposes, subject to the restrictions set out in this easement and subject to any reasonable use restrictions established by the Owner.
6. DOCUMENTATION. The current uses of the Protected Property, the state of any existing improvements, and the specific Conservation Values of the Protected Property that are briefly described in this Easement will be more fully described in a property report on file at the office of the Land Trust. The Owner and the Land Trust acknowledge that this property report will accurately represent the condition of the Protected Property at the time of this conveyance and may be used by the Land Trust in monitoring future uses of the Protected Property, in documenting compliance with the terms of this Easement and in any enforcement proceeding. This property report, however, is not intended to preclude the use of other information and evidence to document the present condition of the Protected Property in the event of a future controversy.
7. GENERAL PROVISIONS.
- 7.1. Assignment. This Easement may be assigned or transferred by the Land Trust only to a conservation organization defined as a qualified organization under Section 170(h) of the Internal Revenue Code and related regulations and as an authorized conservation easement holder under Minnesota law. Any future holder of this Easement shall have all of the rights conveyed to the Land Trust by this Easement.
- As a condition of any assignment or transfer, the Land Trust will require any future holder of this Easement to continue to carry out the purpose of this Easement in perpetuity.
- The Land Trust will notify the Owner of any assignment within thirty (30) days of the assignment and will provide the Owner with the name and address of the new holder.
- 7.2. Amendment. Under appropriate circumstances, this Easement may be modified or amended. However, no amendment or modification will be allowed if, in the sole and exclusive judgment of the Land Trust any of the following apply:
- The amendment does not further the purposes of this Easement.

- The amendment will adversely impact the Conservation Values of the Protected Property.
- The amendment affects the perpetual duration of this Easement.
- The amendment affects the validity of this Easement under Minnesota law or the status of the Land Trust under Sections 501(c)(3) and 170(h) of the Internal Revenue Code.

Any amendment or modification must be in writing and recorded in the same manner as this Easement.

7.3. Termination. This Easement may be terminated or extinguished only as follows:

- The Owner and the Land Trust recognize that circumstances may arise that make continued use of the Protected Property in a manner consistent with the purpose of this Easement impossible or impractical. In this event, this Easement may be extinguished through judicial proceedings.
- This Easement may be extinguished pursuant to the proper exercise of the power of eminent domain.

7.4. Proceeds. Following any extinguishment or termination of this Easement in whole or in part, the Land Trust shall be entitled to a portion of the proceeds from any sale, exchange or involuntary conversion of the Protected Property.

The Land Trust's share of the proceeds shall be an amount equal to the fair market value of this Easement at the time of the extinguishment but not less than an amount equal to the proportionate value that this Easement bears to the value of the Protected Property as a whole at the time of this conveyance (excluding the value of any permitted improvements made after the conveyance of this Easement.)

The value of this Easement shall be calculated by the method required by the Internal Revenue Service for calculating an income tax deduction for the charitable donation of a conservation easement.

The Land Trust will use its share of any proceeds in a manner consistent with the purpose of this Easement.

7.5. Warranties. The current Owner represents and warrants as follows:

- a. The Owner is the sole owner of the Protected Property in fee simple and has the right and ability to convey this Easement to the Land Trust.
- b. The Protected Property is free and clear of all rights, restrictions and encumbrances other than those subordinated to this Easement or otherwise specifically agreed to by the Land Trust.

- c. A portion of the Protected Property is subject to the terms and restrictions of the following documents:
- Landfill Cleanup Agreement by and between Washington County, Ramsey County, the City of Lake Elmo and the Commissioner of the Minnesota Pollution Control Agency dated November 21, 1995, recorded December 14, 1995, as Document Number 866611;
 - Easement in favor of the State of Minnesota dated November 13, 1995, recorded December 14, 1995, as Document Number 866615; and
 - Declaration of Restrictions and Covenants dated November 13, 1995, recorded December 14, 1995, as Document Number 866619.
- d. The Owner has no actual knowledge of any use or release of hazardous waste or toxic substances on the Protected Property that is in violation of a federal, state, or local environmental law and will defend, indemnify and hold the Land Trust harmless against any claims of contamination from such substances.

7.6. Ownership Responsibilities, Costs and Liabilities. The Owner retains all responsibilities and shall bear all costs and liabilities of any kind related to the use, ownership, and maintenance of the Protected Property.

- a. Taxes. The Owner shall pay all real estate taxes and assessments levied against the Protected Property, including any levied against the interest of the Land Trust created by this Easement. The Land Trust may, at its discretion, pay any outstanding taxes or assessments and shall then be entitled to reimbursement from the Owner.
- b. Regulatory Compliance. All activities or construction permitted by this Easement shall be undertaken in accordance with applicable federal, state and local laws, regulations and ordinances and nothing in this Easement shall be construed to exempt the Protected Property or the Owner from otherwise applicable laws or regulations.

The Owner is solely responsible for obtaining any required governmental permits.

- c. Indemnity. The Owner shall defend, indemnify, and hold the Land Trust harmless from any and all costs or liability for any loss, damage, or personal injury occurring on or related to the Protected Property or the existence of this Easement, except to the extent attributable to the negligence of the Land Trust.
- d. Insurance. The Owner will name the Land Trust as an additional insured on any general liability insurance policy carried by the Owner with respect to the Protected Property.
- e. Future Environmental Condition. The Owner is solely responsible for Owner's use or release on the Protected Property of any hazardous or toxic substances as

defined by the Comprehensive Environmental Response, Compensation and Liability Act, the Minnesota Environmental Response and Liability Act, or other similar successor federal, state or local law or regulation regarding responsibility for environmental conditions associated with contamination. The Owner shall take all steps necessary to assure any needed containment or remediation resulting from any release of such substance.

7.7. Notice and Approval. Any notice or request for approval required by this Easement must be in writing and is subject to the following:

a. Delivery. Any required notice or request for approval must be delivered personally or sent by first class mail or other nationally recognized delivery service to the appropriate party at the following addresses (or other address specified in writing):

To the Owner:
City of Lake Elmo
3800 Laverne Avenue N.
Lake Elmo, MN 55042

To the Land Trust:
Minnesota Land Trust
2356 University Avenue West
St. Paul, MN 55114

b. Timing. Unless otherwise specified in this Easement, any required notice or request for approval must be delivered at least 30 days prior to the date proposed for initiating the activity in question.

c. Content. The notice or request for approval *must include sufficient information to allow the Trust to make an informed decision on whether any proposed activity is consistent with the terms and purposes of this Easement*. At a minimum, this should include:

- The location, nature, and scope of the proposed activity.
- The proposed use, design, and location of any building, structure or improvement.
- The potential impact on the Conservation Values of the Protected Property.

d. Approval. The Land Trust may withhold its approval if it determines that the proposal is inconsistent with the terms or purposes of this Easement or lacks sufficient information to allow the Land Trust to reach an informed decision. The Land Trust may condition its approval on the Owner's acceptance of modifications, which would, in the Land Trust's judgment, make the proposed activity consistent with the Easement or otherwise meet any concerns.

Approval of the Land Trust must be in writing to be effective.

- 7.8. Binding Effect. This Easement creates a property right immediately vested in the Land Trust and its successors and assigns that cannot be terminated or extinguished except as set out herein.

This Easement shall run with and burden the Protected Property in perpetuity. The terms of this Easement are binding and enforceable against the current Owner of the Protected Property, all successors in title to the Protected Property and all other parties entitled to possess or use the Protected Property.

If at any time the Land Trust or other holder of this Easement becomes the owner of all or a portion of the fee interest in the Protected Property, this Easement shall not be deemed to merge with the underlying fee interest but shall remain in force and effect unless otherwise terminated or extinguished as set out herein.

- 7.9. Definitions. Unless the context requires otherwise, the term "Owner" includes, jointly and severally, the current owner or owners of the Protected Property identified above and their personal representatives, heirs, successors and assigns in title to the Protected Property. The term "Land Trust" includes the Minnesota Land Trust and its successors or assigns to its interest in this Easement.

- 7.10. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon the transfer or termination of that party's interest in this Easement or the Protected Property, provided, however, that any liability for acts or omissions occurring prior to the transfer or termination will survive that transfer or termination.

- 7.11. Recording. The Land Trust will record this Easement in a timely manner in the official records for the county in which the Protected Property is located. The Land Trust may re-record this Easement or any other documents necessary to protect its rights under this Easement or to assure the perpetual enforceability of this Easement.

- 7.12. Interpretation. This Easement shall be interpreted as follows.

- a. Controlling Law and Construction. This Easement shall be governed by the laws of the State of Minnesota and construed to resolve any ambiguities or questions of validity of specific provisions in favor of giving maximum effect to its conservation purposes and to the policies and purposes of Minnesota Statutes Chapter 84C.
- b. Severability. A determination that any provision or specific application of this Easement is invalid shall not affect the validity of the remaining provisions or any future application.

- c. Captions. Captions have been inserted in this document solely for convenience of reference and shall have no effect upon interpretation or construction.
 - d. Future Economic Condition. In conveying this Easement, the Owner has considered the possibility that uses of the Protected Property prohibited by this Easement may in the future become more economically valuable than uses permitted by this Easement and that neighboring properties may be put entirely to such prohibited uses. Such changes alone are not deemed to be circumstances justifying the extinguishment of this Easement as otherwise set forth above.
- 7.13. Additional Documents. The Owner agrees to execute or provide any additional documents reasonably needed by the Land Trust to carry out in perpetuity the provisions and the intent of this Easement, including, but not limited to any documents needed to correct any legal description or title matter or to comply with any federal, state, or local law, rule or regulation.
- 7.14. Entire Agreement. This document sets forth the entire agreement of the parties with respect to this Easement and supersedes all prior discussions or understandings.
- 7.15. Signatures. This Easement may be completed with the signatures of the parties to this Easement executed and notarized on separate pages which when attached to this document shall constitute one complete document.

The remainder of this page has been intentionally left blank.

IN WITNESS WHEREOF, the Owner has voluntarily executed this Conservation Easement on the 30th day of June, 2009.

OWNER:

CITY OF LAKE ELMO

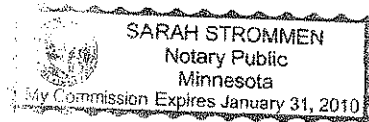
By: [Signature]
Mayor

By: [Signature]
City Administrator

State of MINNESOTA)
County of Washington) ss

The foregoing instrument was acknowledged before me this 30th day of June, 2009, by Dean Johnston and Craig Dawson, the Mayor and the City Administrator, respectively, of the City of Lake Elmo, a municipal corporation in the State of Minnesota, on behalf of the City.

[Signature]
Notary Public
My Commission Expires:



ACCEPTANCE

The MINNESOTA LAND TRUST hereby accepts the foregoing Conservation Easement effective as of the 30th day of June, 2009.

MINNESOTA LAND TRUST

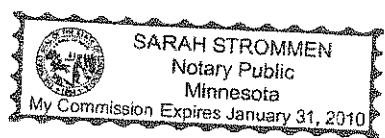
By: [Signature]

Title: President

State of MINNESOTA)
County of Ramsey) ss

The foregoing instrument was acknowledged before me this 30th day of June, 2009, by Jane Prohaska, the President of the Minnesota Land Trust, a non-profit corporation under the laws of the State of Minnesota, on behalf of said corporation.

[Signature]
Notary Public
My Commission Expires:



This document drafted by:

Minnesota Land Trust
2356 University Avenue West
St. Paul, MN 55114

Exhibit A

Legal Description of the Protected Property

The Northwest Quarter of the Northwest Quarter (NW 1/4 of NW 1/4) of Section Fourteen (14), Township Twenty-nine (29), Range Twenty-one (21), and the West Thirty-three (33) feet of the Southwest Quarter of the Northwest Quarter (SW 1/4 of NW 1/4) of Section Fourteen (14), Township Twenty-nine (29), Range Twenty-one (21), Washington County, Minnesota.

AND

That part of the Northeast quarter of the Northwest quarter of Section 15, Township 29, Range 21, Washington County, Minnesota, described as commencing at the Northeast corner of said Northeast quarter of Northwest quarter; thence South $0^{\circ} 51' 45''$ East, assumed bearing, along the East line thereof, 501.27 feet to the South line of the North 30 acres of said Northwest quarter and to the actual point of beginning of the land to be hereinafter described; thence South $89^{\circ} 01' 54''$ West along said South line of North 30 acres 800 feet; thence South $0^{\circ} 51' 45''$ East 734.30 feet; thence North $89^{\circ} 01' 54''$ East 800 feet to the East line of said Northeast quarter of the Northwest quarter; thence North $0^{\circ} 51' 45''$ West along said East line 734.30 feet to the actual point of beginning.

AND

The Northwest quarter of the Northeast quarter, the Northeast quarter of the Northeast quarter, the Southwest quarter of the Northeast quarter, the North three-quarters of the Southeast quarter of the Northeast quarter and that part of the East 87 feet lying South of the North three-quarters of the Southeast quarter of the Northeast quarter all in Section 15, Township 29, Range 21.

AND

The east 87 feet of that part of the Southeast quarter of Section 15, Township 29, Range 21, lying Northerly of the Northerly right of way line of State Highway #212, subject to the right of way Stillwater Lane (formerly State Highway #212).

AND

The Southwest Quarter of the Northeast Quarter of the Northwest Quarter (SW1/4 of NE 1/4 of NW 1/4) of Section Fourteen (14), Township Twenty-nine (29) North, Range Twenty-one (21) West, Washington County, Minnesota.

AND

The North Three (3) rods of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter (NW 1/4 of SE 1/4 of NW 1/4) of Section Fourteen (14), Township Twenty-nine (29), Range Twenty-one (21), Washington County, Minnesota.

AND

The South Forty (40) acres of Government Lot Five (5), Section Ten (10) and the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Ten (10). AND the North Thirty (30) acres of the North one-half of the Northwest Quarter (N $\frac{1}{2}$ of NW $\frac{1}{4}$) of Section Fifteen (15), all in Township Twenty-nine (29) North of Range Twenty-one (21) West, containing 110 acres more or less.

EXCEPT:

All that part of the South 40 acres of Government Lot 5, Section 10, and the Southeast Quarter of the Southwest Quarter of Section 10, and the North 30 acres of the North One-Half of the Northwest Quarter of Section 15, all in Township 29 North, Range 21 West, Washington County, Minnesota, described as follows:

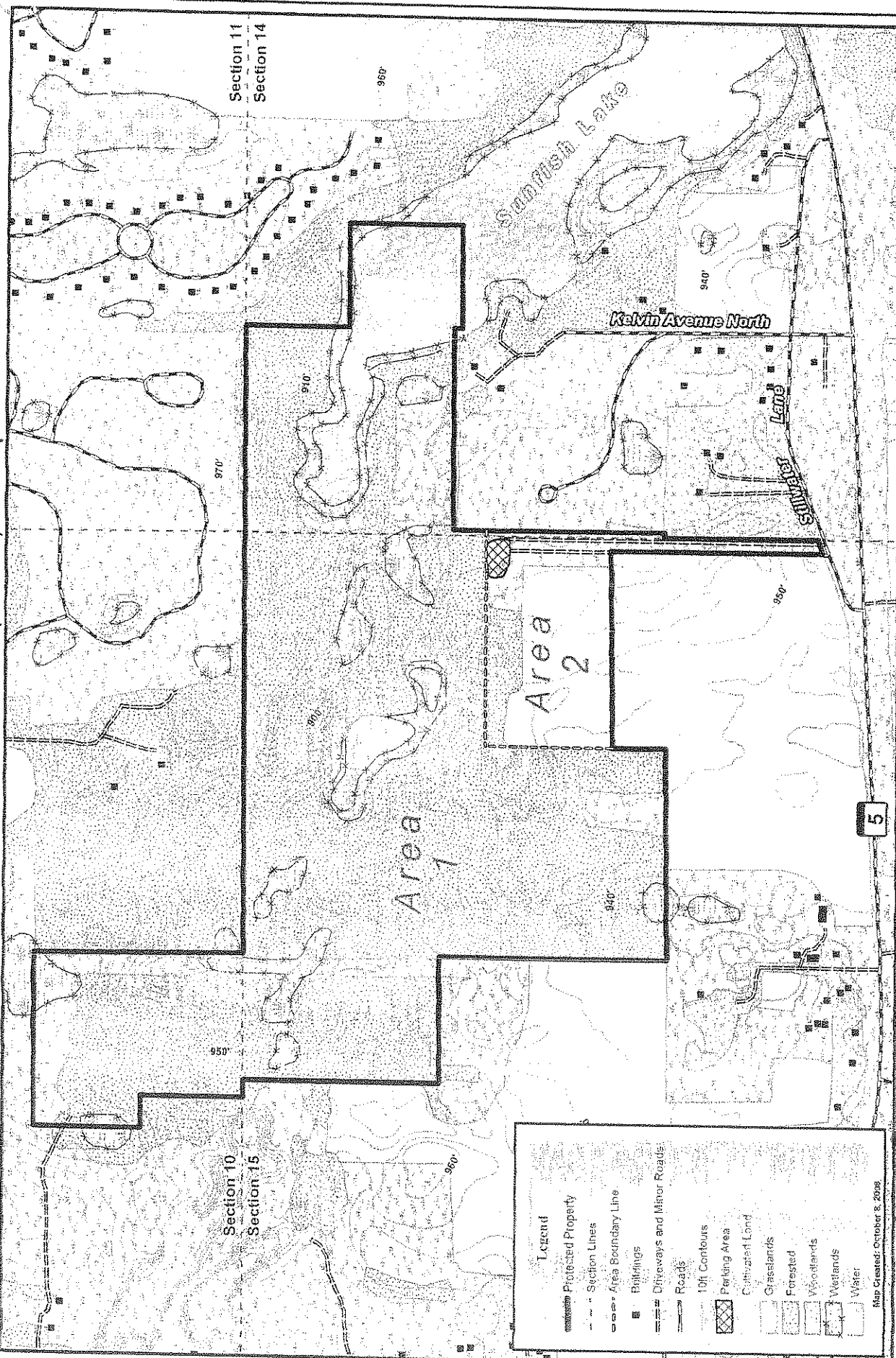
Beginning at the northwest corner of said Section 15, thence South 00 degrees, 18 minutes, 30 seconds West, bearings are based on the Washington County Coordinate System NAD83, along the west line of said Section 15, a distance of 501.27 feet to the south line of said North 30 acres of the North One-Half of the Northwest Quarter of Section 15, thence North 89 degrees, 51 minutes, 00 seconds East, along said south line, a distance of 1808.59 feet, thence North 00 degrees, 02 minutes, 32 seconds West and parallel with the east line of said Northwest Quarter of Section 15, a distance of 501.26 feet to the north line of said Section 15, thence South 89 degrees, 51 minutes, 00 seconds West, along said north line a distance of 105.52 feet, thence North 00 degrees, 53 minutes, 21 seconds West and parallel with the west line of said Section 10, a distance of 650.00 feet, thence South 89 degrees, 51 minutes, 00 seconds West and parallel with the south line of said Section 10, a distance of 200.00 feet, thence North 00 degrees, 53 minutes, 21 seconds West and parallel with the west line of said Section 10, a distance of 656.24 feet, to a point on the north line of said Southeast Quarter of the Southwest Quarter of Section 10, thence South 89 degrees, 45 minutes, 24 seconds West, along said north line, a distance of 193.17 feet to the northwest corner of said Southeast Quarter of the Southwest Quarter, thence North 00 degrees, 42 minutes, 39 seconds West, along the east line of said Government Lot 5, a distance of 29.52 feet to the northeast corner of said South 40 acres of Government Lot 5, thence South 89 degrees, 51 minutes, 00 seconds West, along the north line of said South 40 of Government Lot 5, a distance of 706.92 feet, thence South 00 degrees, 53 minutes, 21 seconds East and parallel with the west line of said Section 10, a distance of 200.00 feet, thence South 50 degrees, 54 minutes, 08 seconds West, a distance of 127.25 feet, thence South 89 degrees, 51 minutes, 00 seconds West and parallel with the north line of said South 40 acres of Government Lot 5, a distance of 500.00 feet to the west line of said Section 10, thence South 00 degrees, 53 minutes, 21 seconds East along the west line of said Section 10, a distance of 1055.45 feet to the point of beginning, containing 65.9 acres, more or less.

AND ALSO EXCEPT:

All that part of the South 40 acres of Government Lot 5, Section 10, Township 29 North, Range 21 West, Washington County, Minnesota, described as follows:

Commencing at the southwest corner of said Section 10, thence North 00 degrees, 53 minutes, 21 seconds West along the west line of said Section 10, a distance of 1055.45 feet to the point of beginning, thence continuing North 00 degrees, 53 minutes, 21 seconds West along the west line of said Section 10, a distance of 280.00 feet to the northwest corner of said South 40 acres of Government Lot 5, thence North 89 degrees, 51 minutes, 00 seconds East along the north line of said South 40 acres of Government Lot 5, a distance of 600.00 feet, thence South 00 degrees, 53 minutes, 21 seconds East and parallel with the west line of said Section 10, a distance of 200.00 feet, thence South 50 degrees, 54 minutes, 08 seconds West, a distance of 127.25 feet, thence South 89 degrees, 51 minutes, 00 seconds West and parallel with the north line of said South 40 acres of Government Lot 5, a distance of 500.00 feet to the point of beginning, containing 3.8 acres, more or less.

Exhibit B: Property Map



Legend

- Protected Property
- Section Lines
- Area Boundary Line
- Buildings
- Driveways and Minor Roads
- Roads
- 10ft Contours
- Parking Area
- Cultivated Land
- Grasslands
- Forested
- Wetlands
- Wetlands
- Water

Map Created: October 8, 2008

Map Resource Information

Planned Property, Section Lines, Area Boundary Line, Shaded, Points, Driveways & Minor Roads, 10-foot Contours, Parking Area, Cultivated Land, Grasslands, Forested, Wetlands, Wetlands, and Water created by GIS. Contours by 10-foot intervals.

Users of this map should understand that the information is provided as is and that the user assumes all liability for any use of the information. The user should not rely on this information for any purpose other than that for which it was provided. GIS information is not to be used for any other purpose without the written consent of the provider.

Scale: 1" = 800'

800 400 0 800 Feet

MINNESOTA LAND TRUST

Site: Sunfish Park - Tract: City of Lake Elmo
Washington County - Twp. 29 N Rng. 21 W Sec. 10, 14 & 15

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