City of Lake Elmo
3800 Laverne Avenue North

August 19, 2008

7:00 p.m.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE:

C. ATTENDANCE:____Johnston____DeLapp_____Johnson_____Park_____Smith

D. Report from August 12, 2008 closed meeting on administrator's performance review

E. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)

F. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)

G. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)

H. APPROVE MINUTES:
   1. August 5, 2008

I. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.

J. CONSENT AGENDA: (Items are placed on the consent agenda by city staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)

   2. Approve payment of claims.

K. REGULAR AGENDA:

   3. Conditional job offer to Chris Klein and approve employment status change for Mike Cornell

4. Report from Representative Julie Bunn and Senator Kathy Saltzman on the outcome of the 2008 legislative session

5. Information from the Minnesota Pollution Control Agency (MPCA) on the PCA decision and process for remediating the Washington County Landfill of PFC contamination

6. Consider an application from the Meehan Family, LLC for a minor subdivision (Torre Pines 2nd Addition), 2038 Inwood Avenue N.; Resolution no. 2008-038

7. Consider approval of a moving permit of an 864 square-foot accessory building to the property at 4150 Irish Court North.

8. Consider amendments to the open space zoning code district for coverage of impervious surface; Ordinance no. 08-008, Resolution no. 2008-040

9. Adjourn to Board of Adjustment and Appeals hearing on zoning code Violations related to accessory structures at 5761 Keats Avenue

L. REPORTS AND ANNOUNCEMENTS:

City Council and Administrator
- No council workshop on September 9, 2008 due to State Primary Election

Planning Director/Assistant Engineer:
- Engineer report updates on status of current developments

M. Adjourn

DRAFT

City of Lake Elmo
City Council Meeting Minutes

August 5, 2008

Mayor Johnston called the meeting to order at 7:00 p.m.

Present: Mayor Johnston and Council Members DeLapp, Johnson, Park and Smith

Also present: City Administrator Hoyt, City Engineer Griffin, City Attorney Filla, Finance Director Bouthilet, and City Clerk Lumby.

APPROVAL OF AGENDA:

MOTION: Council Member Park moved to approve the August 5, 2008 agenda as presented. Council Member Johnson seconded the motion. Mayor Johnston and Council Members Johnson, Park and Smith voted for the motion and Council Member DeLapp voted against the motion.

MOTION: Council Member Johnson moved to amend the motion to add meeting adjournment at 7:45 p.m. Council Member Park seconded the motion. Mayor Johnston and Council Members Johnson, Park and Smith voted for the motion and Council Member DeLapp voted against the motion.

ORDER OF BUSINESS:

GROUND RULES:

APPROVE MINUTES:
The minutes of August 5, 2008 were approved by consensus.

PUBLIC COMMENTS/INQUIRIES:

CONSENT AGENDA:

MOTION: Council Member DeLapp moved to approve the consent agenda as presented. Council Member Johnson seconded the motion. The motion passed unanimously.

- Approve Resolution no. 2008-034 payment of disbursements in the amount of $172,292.99
- Approve appointment of elections judges for primary and general elections, Resolution no. 2008-035
- Approve Resolution no. 2008-036 authorizing the city to enter into an agreement with Mn/DOT to receive reimbursement for the landscaping project and to authorize the Mayor and City Administrator to execute the agreement

- Acting as the board of appeals and adjustment move to schedule an appeal hearing on a zoning code violation on 5761 Keats Avenue for August 19, 2008 on or after 7:30 PM to allow the property owners, Steve and Joan Ziertman, to appeal the determination of the zoning code violation on their property

PUBLIC HEARING:

Consider a petition from David and Mary Brown to vacate a portion of an unimproved right-of-way (Lake Shore Drive); Resolution no. 2008-037

Planning Director Kyle Klatt reported David and Mary Brown, 7990 50th Street N., requested vacation of a portion of the unimproved Lake Shore Drive right-of-way that is completely surrounded by land owned by the Browns. The applicants have requested the vacation in order to allow them to combine their existing parcels in this area into one lot. Staff recommended approval of the request with three conditions.

Mayor Johnston called the public hearing to order at 7:15 p.m.

There was no one to speak for or against the request.

Mayor Johnston closed the public hearing at 7:16 p.m.

MOTION: Council Member Johnson moved to approve Resolution no. 2008-037 vacating a portion of Lake Shore Drive upon the petition of a majority of abutting landowners including the three conditions identified. Council Member Park seconded the motion. The motion passed unanimously.

REGULAR AGENDA:

South Washington Watershed District Update

Representatives of the South Washington Watershed District gave a brief verbal presentation on the activities of the watershed.

REPORTS AND ANNOUNCEMENTS:

City Council and Administrator

The Mayor adjourned the meeting at 7:25 p.m.

National Night Out Festivities

City Council
Date: 08/14/2008
CONSENT
Item: 2

ITEM: Approve disbursements in the amount of $219,059.56.

SUBMITTED BY: Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The City Council is being asked to approve disbursements in the amount of $ 219,059.56.

City of Lake Elmo
User: brenda

Accounts Payable
Checks for Approval

Printed: 08/14/08 14:51

Check Number	Check Date	Fund Name	Account Name	Vendor Name		Amount
33001	08/19/2008	General Fund	Accounting Services	Abdo Eick & Meyers		21,995.00
					Check Total:	21,995.00
33002	08/19/2008	General Fund	Landscaping Materials	Ace Hardware		8.47
					Check Total:	8.47
33003	08/19/2008	General Fund	Repairs/Maint Contractual Eqpt	Advanced Graphix, Inc.		1,538.93
33003	08/19/2008	General Fund	Use Tax Payable	Advanced Graphix, Inc.		-93.93
					Check Total:	1,445.00
33004	08/19/2008	General Fund	Contract Services	Animal Control Services		1,596.44
					Check Total:	1,596.44
33005	08/19/2008	General Fund	Uniforms	Aramark		32.08
33005	08/19/2008	General Fund	Uniforms	Aramark		41.57
					Check Total:	73.65
33006	08/19/2008	General Fund	Equipment Parts	Batteries Plus Woodbury		82.90
					Check Total:	82.90
33007	08/19/2008	General Fund	Rentals - Buildings	Biff's Inc.		55.26
33007	08/19/2008	General Fund	Rentals - Buildings	Biff's Inc.		110.52
33007	08/19/2008	General Fund	Rentals - Buildings	Biff's Inc.		55.26
33007	08/19/2008	General Fund	Rentals - Buildings	Biff's Inc.		55.26
33007	08/19/2008	General Fund	Rentals - Buildings	Biff's Inc.		95.26
33007	08/19/2008	General Fund	Rentals - Buildings	Biff's Inc.		55.26
33007	08/19/2008	General Fund	Rentals - Buildings	Biff's Inc.		55.26
33007	08/19/2008	General Fund	Rentals - Buildings	Biff's Inc.		55.26
33007	08/19/2008	General Fund	Rentals - Buildings	Biff's Inc.		55.26
33007	08/19/2008	General Fund	Rentals - Buildings	Biff's Inc.		55.26
					Check Total:	647.86
33008	08/19/2008	Village	Contract Services	Bonestroo		43,796.13
					Check Total:	43,796.13
33009	08/19/2008	General Fund	Contract Services	Buelow Excavating		4,482.00
33009	08/19/2008	General Fund	Contract Services	Buelow Excavating		540.00
					Check Total:	5,022.00
33010	08/19/2008	City Facilities	Buildings and Structures	Burberl Black Dirt, Inc.		191.70
					Check Total:	191.70
33011	08/19/2008	General Fund	Equipment Parts	Car Quest Auto Parts		15.54
33011	08/19/2008	General Fund	Equipment Parts	Car Quest Auto Parts		191.20
33011	08/19/2008	General Fund	Equipment Parts	Car Quest Auto Parts		18.72
					Check Total:	225.46
33012	08/19/2008	Water	Water Utility	City of Oakdale		20,147.33
					Check Total:	20,147.33
33013	08/19/2008	General Fund	Equipment Parts	Clarey's Safety Equipment		203.42
					Check Total:	203.42
33014	08/19/2008	General Fund	Repairs/Maint Contractual Eqpt	Copy Images, Inc.		320.51

Check Number	Check Date	Fund Name	Account Name	Vendor Name		Amount
33015	08/19/2008	General Fund	Telephone	CP Telecom		320.51
33015	08/19/2008	General Fund	Telephone	CP Telecom		518.22
					Check Total:	438.69
33016	08/19/2008	General Fund	Repairs/Maint Contractual Eqpt	Emergency Apparatus Maint.		956.91
					Check Total:	982.09
33017	08/19/2008	General Fund	Equipment Parts	Fred's Tire		982.09
					Check Total:	14.95
33018	08/19/2008	Water	Chemicals	Hawkins, Inc.		14.95
					Check Total:	645.74
33019	08/19/2008	General Fund	Small Tools & Equipment	HSBC Business Solutions		645.74
33019	08/19/2008	General Fund	Equipment Parts	HSBC Business Solutions		65.98
33019	08/19/2008	General Fund	Equipment Parts	HSBC Business Solutions		19.99
33019	08/19/2008	General Fund	Equipment Parts	HSBC Business Solutions		49.99
33019	08/19/2008	General Fund	Equipment Parts	HSBC Business Solutions		199.99
33019	08/19/2008	General Fund	Equipment Parts	HSBC Business Solutions		22.97
					Check Total:	23.33
33020	08/19/2008	General Fund	Dues & Subscriptions	Internation Assoc of Arson Inv		382.25
					Check Total:	75.00
33021	08/19/2008	General Fund	Assessing Services	Kern DeWenter Viere		75.00
					Check Total:	6,006.00
33022	08/19/2008	General Fund	Equipment Parts	L.T.G. Power Equipment		6,006.00
					Check Total:	139.72
33023	08/19/2008	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.		139.72
33023	08/19/2008	General Fund	Shop Materials	Lake Elmo Oil, Inc.		1,131.01
33023	08/19/2008	General Fund	Shop Materials	Lake Elmo Oil, Inc.		1,907.50
					Check Total:	5,615.83
33024	08/19/2008	City Facilities	Buildings and Structures	LAKE ELMO SOD FARMS LLC		8,654.34
					Check Total:	546.83
33025	08/19/2008	General Fund	Refuse	Maroney's Sanitation, Inc		546.83
33025	08/19/2008	General Fund	Refuse	Maroney's Sanitation, Inc		103.09
33025	08/19/2008	General Fund	Refuse	Maroney's Sanitation, Inc		45.37
33025	08/19/2008	General Fund	Refuse	Maroney's Sanitation, Inc		197.77
					Check Total:	103.09
33026	08/19/2008	Sewer	Utility System Maint Supplies	Menards - Oakdale		449.32
33026	08/19/2008	General Fund	Building Repair Supplies	Menards - Oakdale		29.65
33026	08/19/2008	General Fund	Sign Repair Materials	Menards - Oakdale		17.98
33026	08/19/2008	Sewer	Utility System Maint Supplies	Menards - Oakdale		23.55
33026	08/19/2008	Water	Small Tools & Minor Equipment	Menards - Oakdale		4.63
33026	08/19/2008	General Fund	Building Repair Supplies	Menards - Oakdale		49.29
33026	08/19/2008	General Fund	Small Tools & Minor Equipment	Menards - Oakdale		58.22
						51.48

Check Number	Check Date	Fund Name	Account Name	Vendor Name		Amount
33026	08/19/2008	General Fund	Building Repair Supplies	Menards - Oakdale		24.61
					Check Total:	259.41
33027	08/19/2008	General Fund	Equipment Parts	Metro Fire		140.49
					Check Total:	140.49
33028	08/19/2008	Sewer	Sewer Utility - Met Council	Metropolitan Council		1,081.72
					Check Total:	1,081.72
33029	08/19/2008	General Fund	Contract Services	MFRA		1,180.83
					Check Total:	1,180.83
33030	08/19/2008	General Fund	Contract Services	Miller Excavating, Inc.		540.00
					Check Total:	540.00
33031	08/19/2008	General Fund	Repairs/Maint Contractual Bldg	MN Dept. of Labor & Industry		10.00
33031	08/19/2008	Water	Miscellaneous	MN Dept. of Labor & Industry		10.00
33031	08/19/2008	General Fund	Repairs/Maint Contractual Bldg	MN Dept. of Labor & Industry		10.00
33031	08/19/2008	General Fund	Repairs/Maint Contractual Bldg	MN Dept. of Labor & Industry		10.00
33031	08/19/2008	General Fund	Repairs/Maint Contractual Bldg	MN Dept. of Labor & Industry		10.00
					Check Total:	50.00
33032	08/19/2008	City Facilities	Buildings and Structures	Mogren Turf		260.20
					Check Total:	260.20
33033	08/19/2008	General Fund	Small Tools & Equipment	Northern Tool & Equipment Co.		71.78
33033	08/19/2008	General Fund	Equipment Parts	Northern Tool & Equipment Co.		19.99
					Check Total:	91.77
33034	08/19/2008	General Fund	Equipment Parts	Northwood Power Equipment		11.72
					Check Total:	11.72
33035	08/19/2008	General Fund	Contract Services	Gopher State One-Call One Call Concepts,		254.80
					Check Total:	254.80
33036	08/19/2008	General Fund	Postage	Pitney Bowes		600.00
33036	08/19/2008	Water	Postage	Pitney Bowes		600.00
					Check Total:	1,200.00
33037	08/19/2008	General Fund	Postage	POSTMASTER		500.00
					Check Total:	500.00
33038	08/19/2008	General Fund	Cable Operation Expense	Steven Press		29.44
33038	08/19/2008	General Fund	Cable Operation Expense	Steven Press		58.88
					Check Total:	88.32
33039	08/19/2008	General Fund	Fuel, Oil and Fluids	River Country Cooperative		55.00
33039	08/19/2008	General Fund	Fuel, Oil and Fluids	River Country Cooperative		45.00
33039	08/19/2008	General Fund	Fuel, Oil and Fluids	River Country Cooperative		76.00
					Check Total:	176.00
33040	08/19/2008	General Fund	Repairs/Maint Contractual Bldg	Diane Rud		240.00
33040	08/19/2008	General Fund	Repairs/Maint Contractual Bldg	Diane Rud		240.00
					Check Total:	480.00
33041	08/19/2008	General Fund	Street Maintenance Materials	T.A. Schifsky & Sons		324.92

City Council
Date: 8.19.08
REGULAR
Item: 5
Information

ITEM: Information on from the Minnesota Pollution Control Agency (MPCA) on the PCA decision and process for remediating the Washington County Landfill of PFC contamination

REQUESTED BY: Shawn Ruotsinoja, PCA

SUBMITTED BY: Susan Hoyt, City Administrator

REVIEWED BY: Carol Kriegler, Project Assistant to the Administrator

SUMMARY AND ACTION REQUESTED: The city council is being asked to receive information about the remediation efforts that were approved by the PCA Commissioner and partially funded through 2008 legislative funding priorities. The plan is remediate the PFC contamination at the Washington County Landfill by digging and triple lining the landfill. Representatives of the PCA will provide information on this option and how the agency plans to proceed. The 'dig and line' option was one of several options that the PCA considered for remediating the landfill. The city of Lake Elmo understood that the PCA Commissioner would ultimately choose the option to use for remediation after the public comment period. The city expressed a strong preference for the 'dig and truck' option with the possibility of using an off site plasma burner to dispose of this waste during the public comment period.

ORDER OF BUSINESS:

- Introduction — Susan Hoyt, City Administrator
- Report — Shawn Ruotsinoja, MPCA
- Questions to the presenter (3 minute maximum) — Mayor and Council members
- Questions/comments from the public, To the city council — Mayor facilitates
- Discussion — Mayor and Council members
- NO ACTION REQUIRED

ATTACHMENT:

1 Letter from Commissioner Moore, MPCA with attachments

Minnesota Pollution Control Agency
520 Lafayette Road North | St. Paul, MN 55155-4194 | 651-296-6300 | 800-657-3864 | 651-282-5332 TTY | www.pca.state.mn.us

June 18, 2008

The Honorable Dean Johnston
Mayor, City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

Re: MPCA Response to Comments Regarding the PFC Remedy at the Washington County Landfill

Dear Mayor Johnston:

Enclosed please find the Minnesota Pollution Control Agency's (MPCA) Response to Comments received during the public comment period on the agency's proposed plan for addressing perfluorochemical (PFC) contamination related to the Washington County Landfill in Lake Elmo, Minnesota. The public comment period extended from February 14 to March 15, 2008, with a public meeting held in Lake Elmo on February 21. The MPCA received seven written comments on the proposed remedy during this time.

The 2008 Minnesota Legislature approved the MPCA's funding request for the cleanup. I have decided to approve my staff's recommendation to implement the "Dig and Line" remedy and signed a Remedy Decision Document to that effect dated June 18, 2008.

The MPCA and its contractor have begun designing the cleanup. Some preliminary activities are taking place at the site this summer, although major construction probably would not start before winter. Completion of the cleanup remedy at the site likely will take two to three years.

The MPCA is committed to informing the community and neighbors of the landfill about what will be happening at the site during this time and of progress made during the cleanup. MPCA staff will provide periodic updates by letter to a site mailing list and to the Lake Elmo City Council, and will be available for other community meetings as requested. If you received this letter by mail, you are already on the site mailing list; if you know of others who may like to be added to the list, please contact Shawn Ruotsinoja at the MPCA, 651-282-2384 or shawn.ruotsinoja@pca.state.mn.us.

I understand that the lives of many in the community have been impacted by the PFC contamination. The MPCA thanks you for your patience while we have worked toward a solution to the problem. Please do not hesitate to contact Mr. Ruotsinoja, of my staff, if we can answer questions or provide more information as we move ahead on cleanup.

Sincerely,

Brad Moore
Commissioner

BM/SR:ls

Enclosure

Summary of Public Comments and MPCA Response
MPCA Remedy Selection for the Washington County Landfill
June 18, 2008

The Washington County Landfill is managed by the state of Minnesota under the Minnesota Pollution Control Agency's (MPCA) Closed Landfill Program. The MPCA has taken special care to inform the public and Lake Elmo city officials on progress in developing cleanup plans for the landfill because the landfill is one of the four disposal sites of 3M industrial PFC (perfluorocarbon) waste which are sources of PFC contamination in ground water in the east Twin Cities metro area. The public participation process was similar to that for the other three sites, which are managed under the state Superfund Program.

The MPCA held several public meetings in Lake Elmo to share information as cleanup plans took shape. Agency staff twice presented information to individual Lake Elmo City Council members in early December 2007. A public information meeting for residents owning property near the landfill was held at the Common Ground Church in Lake Elmo on Jan. 7, 2008. Information was presented to Lake Elmo citizens and council members at a City Council meeting workshop and a follow-up City Council meeting in mid January. Another meeting was held at Oak Land Junior High School on Feb. 21, 2008 to present the agency's preferred "Dig and Line" remedy for public comment. The public was invited to comment on the preferred remedy and a public comment period was established from February 14 through March 15, 2008.

At these meetings, the MPCA participated in discussions with, and received comments from, a variety of interested parties on remediating PFC contamination at the landfill. The meetings helped agency staff better understand community concerns about remedies for the site.

During the public comment period, the MPCA received written comments from seven interested parties. Salient points from the comments are summarized and grouped below. The MPCA's responses to those comments follow.

1. Concerns about continued potential for migration of contaminated ground water offsite:
   - MPCA should characterize and remediate PFC-contaminated soils in saturated zone
   - Safety of shutting down existing pump & treat during project
   - Regardless which remedy is selected, pump & treat should continue for best assurance
2. Project safety: Disturbing wastes will expose nearby residents to noise and contaminants, e.g. airborne solvents, dust
3. 3M should bear all costs for the cleanup, and cost should not be a consideration
4. Permanence of the remedy
   - Dig & line not permanent remedy
   - Other alternatives would be more effective, with fewer long-term risks
   - Truck wastes elsewhere
   - Plasma torch

Discussion and Response

1. Some comments expressed concerns that the proposed "Dig & Line" remedy will not prevent future migration of PFCs in ground water from the site, and that contamination in soils below the proposed liner should be investigated and removed, if necessary. The advisability of shutting down the existing ground water pump & treat system during excavation was questioned.

MPCA Response:

Studies completed on the PFCs of concern at the landfill have indicated that they do not readily adsorb to the soil matrix. Soil has been defined as a transfer media for PFCs but not a sink (DuPont LOI Monitoring /Modeling Experts meeting with EPA-October 22, 2003). These studies included PRZM modeling (unsaturated soil model), adsorption and desorption studies (3M (1978 Adsorption of FC 95 and FC 143 on soil), and APME (2003)) and comprehensive sampling.

This was also verified at the Washington County Landfill. A soil boring completed through the former infiltration basin at the landfill showed PFCs had percolated through the soil down to a depth of 26 feet below the ground surface. The concentration detected at all levels was within the same order of magnitude for PFBA (range from 0.874 to 22.9 ng/g) and PFOA (1.24 to 22.3 ng/g) with one exception.

These studies indicate that removal or containment of the source will remove the soil as a transfer media to groundwater for PFCs. Residual effects of mounding of the water table around the former treatment area will be reduced once ground water extraction is stopped. Ground water extraction and infiltration accelerates the movement of ground water and rate of flow is expected to slow down once infiltration stops. Monthly sampling of ground water will track the plume and determine whether the rapid flow has abated. The monitoring system at which the monthly sampling is to occur will be upgraded prior to the commencement of the Dig and Line option. Monitoring wells will be added along Hwy 5 and south into the neighborhoods of 31st Street, Tablyn Park, and Lake Elmo Heights.

The Minnesota Geological Survey completed a downhole logging project in the Tablyn Park and Lake Elmo Heights neighborhoods. This study detailed the complicated flow in the St. Peter and Prairie du Chien aquifers and showed that even if every well was studied, capture of contaminated ground water in the bedrock would not be guaranteed. The study showed that these aquifers are highly fractured. The flow was measured in 22 of the 185 wells logged. This indicated that there was no correlation between adjacent wells, i.e., an uncontaminated well in the midst of two contaminated wells had no vertical flow and the flow in these wells varied between both downward and upward flow. Ground water pump and treat in the drift Quaternary age surficial drift aquifer would need to increase in order to achieve full capture around the landfill. Some contaminants could still flow into fractures before being influenced by the pumpout system capture zone. The result of increased pumping might include dewatering this aquifer and may interfere with residential water supplies. In addition, managing the large volume of treated ground

water would be a challenge. Disposal of the water in Eagle Point Lake would have consequences to Horseshoe Lake that would need to be tracked throughout the Valley Branch watershed to the St. Croix River.

If necessary, proactively installing individual water- supply treatment units would take the guess work out of evaluating which fracture is a source of PFCs and would provide safe drinking-water supplies for residents located in the PFC plume. A contingency plan for targeted ground-water extraction and treatment would also be considered based on continued analysis of the plume.

2. Some comments concerned safety to nearby residents if the landfill is opened, e.g. possibility of encountering hazardous or other unknown wastes, release of VOCs to air, dust, noise, etc. One comment questioned if it's even worth opening up the landfill, and suggested downgradient drinking-water remedies be used instead.

MPCA Response:

Concerns such as these are common to many cleanup sites. The MPCA's consultant will prepare a detailed design and construction plan of the preferred alternative. Plans for dealing with the safety of workers and nearby residents will be included in the design. Typical safety plans for the "Dig and Line" option would include approved protocols for dealing with any hazardous materials encountered, monitoring for airborne hazardous contaminants, dust and nuisance odors, and specified response actions to be taken by site contractors in the event of such contingencies.

Is it worth opening up the landfill? The discovery that drinking water in the east metro area was contaminated with PFCs created considerable public concern. Drinking-water supplies for thousands of people were affected, and the situation continues to be a high priority for the MPCA. At the same time, the Washington County Landfill contains other contaminants (VOCs) that, while their migration off the landfill property is currently minimal, continue to contaminate ground water beneath it, and will continue to do so as long as the wastes remain uncontained.

Excavation and relocation of waste will cause odors to escape from the site. The construction contract will require that the existing gas extraction system be operated as long as feasibly possible in order to reduce odorous emissions. Much of the waste excavation will take place in cooler or cold weather months when residents are less likely to be outdoors and their homes' windows are closed, reducing the potential impact from potential odors escaping the landfill.

Regarding safety concerns, the MPCA will ensure such concerns are addressed in the site safety plan in the cleanup design, and will keep residents and communities near the landfill informed as cleanup plans and actions are finalized. Such communications may include letters, emails, and/or neighborhood meetings if necessary.

Regarding leaving the landfill undisturbed, agency staff and management feel that the long-term risks to public health and the environment of leaving the landfill as it is are greater than the potential hazards of temporarily exposing and re-locating the wastes into a proper containment facility. The tradeoffs are not acceptable. Not only is the MPCA responsible for protecting public health and safety, but state rules require that ground-water resources not be degraded. Therefore, simply removing potential exposures to PFCs is not a sufficient goal for a remedy. The remedy must also consider long-term degradation of the ground water.

3. Some commenters said that cost should not be a factor in selecting a remedy, and that 3M should bear all costs related to cleanup.

MPCA Response:

The Washington County Landfill site is managed by the state of Minnesota under the MPCA's Closed Landfill Program. The CLP was created by legislation in 1994 that removed the cleanup and long-term care of closed state-permitted landfills from the Superfund Program, which did not provide a reasonable structure for assigning liability for cleanup at municipal solid waste landfills that had accepted wastes from a wide variety of household, commercial, and industrial customers.

Legislators decided that, rather than battle over who was liable, the state should assume responsibility for the closed landfills because all of society contributed to the problem. The current statutes on liability at closed landfills are clear, and 3M has no legal responsibility for remediating the wastes that it, along with many other industries, disposed of at the site before it closed. Nonetheless, 3M did agree in the May 2007 Consent Order to provide up to $8 million toward addressing the PFC problem at the landfill. That amount was important "seed money" for the MPCA to seek funding for the rest of the cleanup (originally estimated $23 million total) from the Legislature.

Regarding cost, the MPCA evaluated a range of potential cleanup actions using screening criteria developed by the U.S. EPA for Superfund cleanups. The preferred remedy is that which best meets the criteria, not necessarily the highest-cost alternative; often lower-cost options will meet the criteria. The MPCA was obligated to balance environmental and cost effectiveness in selecting the remedy.

4. A number of comments disagreed with the MPCA's proposed remedy because it is not permanent; some felt the wastes should all be trucked away or destroyed with plasma torch technology.

MPCA Response:

A cleanup that results in eliminating all risks associated with PFCs at the site is virtually impossible. Transporting waste to a new site would require at least 200,000 truck trips, resulting in significant fuel consumption, air emissions, road wear, and traffic hazards. Landfill containment for landfill waste, when properly constructed, is a highly effective long-term remedy but is not considered permanent. Plasma torch would likely require an enormous increase in coal consumption by the power provider, creating additional CO2 emissions. The plasma torch process also

creates various air contaminants that are dependent on waste input sources and could be a significant issue. Air pollution control equipment and the resulting wastes from this cleanup process would also have to be dealt with. Plasma torch is unproven for this type of use (vaporizing wet, degraded waste mixed with soil), has large capital costs, would require years of research and development to implement at the site, and would face significant siting and permitting hurdles. Trucking the wastes may be a permanent remedy from the perspective of the local community but, ultimately, it just transfers the risk elsewhere, as well as creates a host of ancillary problems. Concerns about exposing waste, discussed previously, due to excavation for the "Dig and Line" approach would also exist for the plasma torch and "dig and truck" options.

Research and modeling work performed by the Geosynthetic Research Institute of Drexel University predicts the estimated lifetime of a 60-mil thick HDPE geomembrane to be on the order of 1,000 years. Proper inspection and testing of the liner during construction will be conducted to ensure that each liner layer is installed leak-free.

With true permanence (i.e., total destruction) being infeasible at this time, the "Dig and Line" option best meets the cleanup criteria by providing secure, long-term containment. The 2008 Minnesota Legislature's funding requirement of a triple liner only increases the long-term security of the "Dig and Line" containment option.

MINNESOTA POLLUTION CONTROL AGENCY

REMEDY DECISION DOCUMENT

Washington County Landfill
Lake Elmo, Minnesota

PURPOSE

This Remedy Decision Document (RDD) presents the selected remedy or response actions to address groundwater contamination, primarily from perfluorochemicals (PFCs), at the Washington County Landfill (the Landfill) in Lake Elmo, Minnesota. The RDD summarizes the facts and determinations which support the decision by the Minnesota Pollution Control Agency (MPCA) in selecting the remedy.

The goal of the selected remedy is to protect public health, safety, and the environment in a manner that is not only protective, but is both reasonable and cost effective. To help achieve this, the MPCA used criteria that are used for selecting remedies under the federal Superfund law, the Comprehensive Environmental Response and Compensation Act or CERCLA, 42 U.S.C. Section 9601 *et seq.* These criteria are also consistent with criteria used to select remedies under the State Superfund law, the Minnesota Environmental Response and Liability Act or MERLA, Minn. Stat. Section 115B.01 *et seq.* These criteria may be summarized as follows:

- overall protection of human health and the environment;
- compliance with applicable or relevant and appropriate requirements;
- long-term effectiveness and performance;
- reduction of toxicity, mobility, or volume through treatment;
- short-term effectiveness;
- implementability;
- cost; and
- public acceptance.

The MPCA considered all relevant information from previous investigations of the Landfill including monitoring data as well as data from special studies. The objective of the remedy is to mitigate human exposure to contaminants from the Landfill and to control the source of contamination to the ground water at and from the Landfill.

The MPCA Commissioner, upon consideration of the evaluation criteria, comments from the public, and facts about the site, has determined that the remedy set forth in this RDD is reasonable and necessary to protect the public health and welfare and the environment from the release and threatened release of hazardous substances, pollutants or contaminants from the site as required by MERLA and the Landfill Cleanup Act, Minn. Stat. Sections 115B.39-445.

SITE DESCRIPTION

The Washington County Landfill is a closed, unlined landfill that contains approximately 2.57 million cubic yards of mixed municipal solid waste. The Landfill was permitted by the MPCA and is located in the City of Lake Elmo in Washington County, Minnesota (see Figure 1). The permitted area is 110 acres while the waste footprint comprises about 35 acres. Response actions previously implemented to address releases at and from the Landfill include an active gas extraction system used to control the migration of landfill gas, a ground-water treatment system used to contain and treat releases of volatile organic compounds (VOCs) to the ground water, and provision of carbon treatment or connection to a public water supply for residences with wells affected by ground water contamination from the Landfill.

Figure 1. Location of the Washington County Landfill

Land use adjacent to the site is a mix of open space/park, agricultural, and residential. Many residents living near the Landfill historically obtained their potable water from private, individual wells that are completed in the drift and bedrock aquifers. Lakes and streams exist in the vicinity of the site. Bedrock beneath the site is highly fractured and ground-water flow, although complex, is to the south and southeast in the surficial or drift aquifer and southward in the Prairie du Chien bedrock aquifer. Public access to the Landfill is prohibited.

SITE HISTORY

The Washington County Landfill was the first mixed municipal solid waste (MSW) disposal facility permitted by the MPCA. Washington and Ramsey counties operated the Landfill. The Landfill began accepting wastes in 1969 and discontinued operations in 1975 when the site was closed and a cover system was installed. Volatile organic compounds (VOCs) and metals were discovered in site monitoring wells and nearby residential wells in 1981. Ramsey and Washington counties installed a pump and treat system near the southeast corner of the waste fill to address the groundwater contamination in 1984.

The site was listed as a federal and state Superfund site from 1984 to 1995. During this time, residents west of the Landfill were hooked up to the municipal water supply from the City of Oakdale in response to the VOC contamination. In 1995, after enactment of the Landfill Cleanup Act, the MPCA's Closed Landfill Program (CLP) took over the site's cleanup and long-term care. At that time, the CLP took additional steps to address ground-water contamination by improving the Landfill's cover and groundwater treatment system. In addition, the Landfill's gas collection system was improved to address off-site migration of methane.

Ground water and landfill gas concerns appeared to be under control. However, in 2004 the CLP learned that 3M had disposed of sludges and other wastes containing perfluorochemicals (PFCs) in the Landfill in the early 1970s. PFCs are a family of chemicals manufactured by the 3M Company in Minnesota. In 2004 PFCs were detected in the ground water at the Landfill. At MPCA's request, the Minnesota Department of Health (MDH) established health risk levels for PFCs in drinking water. Sampling of over 500 residential wells by MDH and the MPCA resulted in over 150 residents receiving notices from the MDH advising them not to consume their water because of PFC concentrations.

PFCs

PFCs made by the 3M Company have been used for decades to make products that resist heat, oil, stains, grease, and water. Common uses include nonstick cookware, stain-resistant carpets and fabrics, firefighting foam, coating for photographic film, industrial applications, and coatings for packaging such as milk cartons, cosmetic additives, and many other products. The chemical structure of PFCs makes them extremely long lasting and highly mobile in ground water. Until very recently there were no regulations or health based standards set for PFCs or wastes containing PFCs. Minnesota is the first State to use its cleanup authority under State law to take or require others to take response actions for releases of PFCs to the environment.

Six different PFC compounds have been detected in ground water monitoring wells at the Landfill. Three of them – perfluorooctane sulfate (PFOS), perfluorooctanoic acid (PFOA), and perfluorobutanoic acid (PFBA) – are of concern. 3M phased out

manufacture of PFOS and PFOA in 2002. PFOS and PFOA are bioaccumulative (stay in the body for relatively long periods after ingestion) and persistent (do not break down in the body or the environment). PFCs are associated with elevated risks of certain adverse health effects in humans. Less is known about PFBA although it is much less bioaccumulative than the other two. The MDH has established Health Risk Limits by rule for PFOS (0.3 ug/l (micrograms per liter)) and PFOA (0.5 ug/l) and a less formally adopted Health Based Value for PFBA (7 ug/l).

DESCRIPTION OF PROBLEM

PFOA has been detected in the ground water at concentrations ranging from 82 ug/l at the Landfill to 0.3 ug/l in wells downgradient from the Landfill. PFOS has been detected at the Landfill at levels significantly lower than PFOA, ranging in concentrations from 0.2 to 1.7 ug/l. PFOS has not been detected in the ground water outside the Landfill. PFBA has been detected at concentrations ranging from 0.2 ug/l to 461 ug/l in monitoring wells at and near the Landfill and has been detected in residential wells near the Landfill at concentrations between no detection and 12 ug/l.

Unlike currently operating landfills, the Washington County Landfill does not have an engineered liner and leachate collection system, and some of the waste is believed to be in contact with the ground water. Therefore, the Landfill continues to be a source of ground-water contamination.

A ground-water pump and treat system was implemented in 1984 at the Landfill to control further degradation of ground water by releases of VOCs. The system included a spray irrigator to treat VOCs removed from the ground water at the Landfill. This system effectively controlled and treated the ground water for VOCs. However, the system was implemented before disclosure and detection of PFC contamination at the Landfill and it is not effective at controlling or removing PFCs from the ground water. In fact, additional ground water monitoring determined that the pump and treat system may have inadvertently played a role in the movement of PFC contaminants in the ground water. The water table underneath the spray irrigation area was artificially raised by the discharge, resulting in a mounding effect in the ground water that may have increased the movement of PFCs off site; particularly to the east.

Information recently discovered about the early operation of the ground-water pump and treatment system operated by the Landfill operators indicates that the system at one time discharged the pumped and untreated ground water through a storm sewer into Eagle Point Lake located southeast of the Landfill. Some PFCs currently found in Eagle Lake may have been transported to Eagle Point Lake in this manner; although some PFCs in Eagle Point Lake are believed to have originated at the 3M Oakdale Disposal Site and were transported to the lake by Raleigh Creek.

The Minnesota Geological Survey completed a downhole logging project in the Tablyn Park and Lake Elmo Heights neighborhoods in 2007. This study showed that the bedrock

aquifers are highly fractured. The study detailed the complicated flow in the St. Peter and Prairie du Chien aquifers and showed that complete capture of contaminated ground water in the bedrock through installation of additional pump-out wells could not be guaranteed. Flow was measured in 22 of the 185 wells logged. The results indicated that there are no consistent flow patterns between adjacent wells. For example, an uncontaminated well in the midst of two contaminated wells had no vertical flow while the flow in the contaminated wells was both downward and upward.

In addition, pumping rates required to remove and treat PFC contaminated ground water in the drift or surficial aquifer would need to increase significantly in order to achieve an increased level of PFC capture around the Landfill. Some contaminants could continue to flow into fractures outside the pump-out system's capture zone. Also, increased pumping would likely dewater the drift aquifer and interfere with residential water supplies. In addition, managing the large volume of treated ground water would be a challenge. Disposal of pump out water in Eagle Point Lake would have consequences to Horseshoe Lake that would need to be tracked throughout the Valley Branch watershed to the St. Croix River.

Studies completed by DuPont, 3M and APME on the PFCs of concern at the Landfill have indicated that they do not readily adsorb to the soil matrix (DuPont LOI Monitoring /Modeling Experts meeting with EPA-October 22, 2003, 3M 1978 PRZM modeling and 2003 APME studies). This characteristic was also verified at the Washington County Landfill. A soil boring completed through the former spray irrigation area at the Landfill showed PFCs had percolated through the soil down to a depth of 26 feet below the ground surface. The concentration detected at all levels was typically within the same order of magnitude for PFBA (range from 0.874 to 22.9 ng/g (nanograms per liter)) and PFOA (1.24 to 22.3 ng/g).

PFC-RELATED RESPONSE ACTIONS TAKEN TO DATE

Starting in 2005, the MPCA offered residents that received MDH drinking water advisories bottled water and granular activated carbon (GAC) filters to assure a safe supply of drinking water. 3M provided funding for the City of Lake Elmo to extend municipal water to over 200 homes in the area affected by the contamination. Currently, 52 residents without connection to the municipal water supply have a GAC filter system and an additional three residents are receiving bottled water. The MPCA continues to sample residential wells routinely and maintains the GAC filters in these homes.

To reduce the mounding effect in the ground water in the former ground-water discharge area, the discharge for the spray irrigation system was moved about 250 yards further southwest in November 2006.

EVALUATION OF REMEDIES

The MPCA hired an engineering consulting firm to conduct a Remedy Feasibility Assessment in 2007 in order to evaluate possible remedies to address the contamination at the Landfill. The remedy options included:

- no additional action;
- plasma torch (treatment and destruction of waste and contaminants in the Landfill);
- forcemain (transport contaminated ground water at the site to sanitary lift station);
- pump and treat (to capture, remove and treat contaminated ground water);
- dig & truck (excavation and off-site disposal of waste in the Landfill); and
- dig & line (excavation of waste in the Landfill and containment in a new engineered (lined) facility on –site).

These alternatives were evaluated using criteria adopted by the U.S. Environmental Protection Agency for assessing cleanup remedies at Superfund sites, including:

- overall protection of human health and the environment;
- compliance with applicable or relevant and appropriate requirements;
- long-term effectiveness and performance;
- reduction of toxicity, mobility, or volume through treatment;
- short-term effectiveness;
- implementability; and
- cost.

Each alternative was scored against each of the criteria. When MPCA has used this approach in Superfund, it has required all remedies to meet the first two "threshold criteria" and generally tries to identify the remedy that provides the "best balance" of the next five criteria, and uses public acceptance as a "modifying criterion.

The dig and line option received the most-favorable (lowest) score. Details about the evaluation can be found in *Remedy Feasibility Assessment, Washington County Landfill, Lake Elmo, Minnesota, (SEH No. A-MNPCA0802.00), November 15, 2007*. Based on the feasibility assessment, the MPCA selected the Dig & Line option as the preferred remedy because it:

- effectively contains the source of contamination over the long term;
- offers a long-term remedy for both PFCs and VOCs;
- does not transfer pollutants to other locations; and
- is cost effective.

The MPCA concluded that a pump and treat system is not an appropriate remedy for the Landfill because:

- bedrock aquifers in the vicinity of the Landfill are extremely fractured, making complete capture of contaminated water not feasible;
- a significantly large volume of ground water would have to be pumped, treated and discharged for an indeterminate amount of time. Given the expected long term nature of this action this would be costly and result in the loss of the ground water resource and have potentially adverse affects on any receiving surface water body because of the large water volumes involved; and
- pumping the drift aquifer would likely dewater residential wells in the area.

PUBLIC COMMENT

The MPCA held several public meetings in Lake Elmo to share information about the cleanup options as well as its preferred remedy. Agency staff twice presented information to individual City of Lake Elmo council members in early December 2007. A public information meeting for residents owning property near the Landfill was held in January 2008. Information was presented to Lake Elmo citizens and council members at a City Council meeting workshop and a follow-up City Council meeting in mid January. A larger public meeting was held at Oak Land Junior High School in February 2008 to present the agency's preferred "Dig and Line" remedy for public comment.

The public was invited to comment on the preferred remedy and a public comment period was established from February 14 through March 15, 2008. Seven persons/entities submitted written comments. These comments were mostly concerned about:

- the continued potential for contaminated ground water migrating off site;
- opening up the Landfill and disturbing the waste may create new exposures to the public;
- 3M should bear all costs for the cleanup; and
- permanence of the remedy.

A summary of the comments from the public as well as the MPCA's response to those comments can be found in *Summary of Public Comments and MPCA Response, MPCA Remedy Selection for the Washington County Landfill, June 18, 2008.*

SELECTED REMEDY – DIG & LINE

After considering the evaluation of remedy alternatives, comments from the public, and the information gathered through the MPCA's environmental investigations, including monitoring data and special studies, as well as follow-up meetings with, and a site visit to, a plasma torch testing facility, the MPCA has determined the Dig & Line option provides for overall protection of public health and welfare and the environment, complies with applicable or relevant and appropriate requirements and provides the most cost-effective long-term remedy.

The Dig & Line remedy will consist of excavating the Landfill's waste and placing it in a new facility with a triple liner and leachate collection system in the approximate location of the current landfill. This process will take approximately 3 years to complete. Leachate that accumulates will be recirculated back through the waste.

This option will effectively contain the source of PFC and VOC waste and remove it from the ground-water pathway. As a result, human exposure to contaminants via drinking water sources and the continued degradation of the ground water resource will be mitigated.

The MPCA understands that there is a slight chance that PFC concentrations in the ground water could temporarily increase when remedy construction begins; primarily due to shutting down the existing ground-water VOC pump and treat system in order to construct the new waste cells. In response, the MPCA will install additional ground water monitoring wells and sample both monitoring and residential wells with greater frequency in the area. If it appears that residential wells might be impacted by higher levels of PFCs that exceed the HRLs or HBVs, the MPCA will install GAC filters on private wells if not already present.

In conclusion, pursuant to the Landfill Cleanup Act, Minn. Stat. Section 115B.40, subd. 1, the Dig & Line alternative has been determined by the MPCA to be reasonable and necessary to protect the public health and welfare and the environment from releases and threatened releases of PFCs and VOCs to the environment at and from the Washington County Landfill.

B Moore

Brad Moore
Commissioner
Minnesota Pollution Control Agency

6/18/08

Date

Minnesota Pollution Control Agency

PFCs Lateral Team

Investigating PFCs in Minnesota: Current Status

c-pfc1-01 • May 2008

Perfluorochemicals (PFCs) were first found to have contaminated drinking water supplies in parts of the eastern Twin Cities in 2004. Over the next several years the MPCA and Minnesota Department of Health (MDH) identified contaminated wells and provided clean drinking water. Most of the contamination was traced to several dumps or landfills. The known drinking-water problems are under control and cleanup of some of the waste sites will begin in summer of 2008. But low levels of PFCs have been found in other parts of Minnesota, and investigation continues.

Background

PFCs are a family of proprietary chemicals developed by the 3M Company that have been used for decades to make products that resist heat, oil, stains, grease, and water.

Three PFCs of concern in Minnesota are PFOA, PFOS, and PFBA[1]. They are very mobile and widespread in the environment. PFOS and PFOA are bioaccumulative in humans and animals. Less is known about PFBA. Studies show that nearly all people have some PFCs in their blood, regardless of age. While we don't have full knowledge of how PFCs get into human blood, people could be exposed through food, water, use of numerous commercial products in the home, or from the environment.

From the 1950s through the early 70s, 3M disposed of wastes from PFC manufacturing primarily in four places: dump sites in Oakdale and Woodbury, the Washington County Landfill, and the 3M manufacturing facility in Cottage Grove. In late 2003, the MPCA discovered PFCs in groundwater at and near some of the sites. Technology had only recently been developed that could detect PFOA and PFOS at low levels (parts per billion or ppb). Prior to this time they had not really been "on the radar" of environmental regulators.

In 2004, MPCA and MDH began sampling monitoring wells at the disposal sites, private wells, and city wells in Washington County to identify drinking-water supplies with PFCs. In 2006, five more PFCs were added to the number of PFCs the MDH Public Health Laboratory could detect. One of these, PFBA, was detected in many wells where PFOA or PFOS had not been detected. Sampling soon expanded to a wider area of the east Metro.

Since 2004, more than 1,600 private wells have been sampled, along with more than 80 non-community public wells and more than 50 community wells. Both private and community wells were affected, including a number of private wells in Lake Elmo, Cottage Grove, Grey Cloud Island Township, and several of the city of Oakdale's wells.

Early in the investigation, MDH used available information to set health-based values (HBVs) for PFOS and PFOA, and an interim guideline for PFBA.

[1] perfluorooctane sulfate (PFOS), perfluorooctanic acid (PFOA), and perfluorobutanoic acid (PFBA)

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Eventually, MDH advised 83 households not to drink their water due to PFC levels in their water. (The map at the end of this fact sheet details the extent of the contamination and areas where drinking water exceeded the health-based values.)

During this time, the MPCA began focused investigations at the four waste sites to determine the extent of PFC contamination and possible remedies. (All four sites had been previously remediated for solvent-related contamination in the 1980s and 90s.) A consent order was negotiated with 3M and signed in May 2007 governing PFC-related cleanup of the sites and future monitoring.

Current status

Drinking water

All of the households or communities with PFCs above MDH health standards have been provided with bottled water, carbon filtration, or municipal water hookups. 3M provided the city of Oakdale with large carbon units which filter water from two of the city's affected wells at the treatment plant. 3M also provided funding for the city of Lake Elmo to extend clean city water to over 200 homes in the area affected by the contamination.

In March 2008 the MDH published an HBV for PFBA of 7 parts per billion. The previous advice of 1 ppb had been the basis for a number of drinking-water advisories near the Washington County and Oakdale disposal sites until better information became available. The new limit means about 50 wells that received advisories are now within the health-based value. Some of those households have filter systems and some are using bottled water, both provided by the MPCA. However the advisories and intervention measures will remain in place until the MDH rescinds them and the agencies devise a joint monitoring plan for the future to ensure safe drinking water.

The 2007 Legislature directed MDH to study the effectiveness of point-of-use treatment systems for individual households. A number of water treatment systems have been found to be effective at removing PFCs. The MDH has made its preliminary findings available to the public, and will be publishing a final report on the study this spring on its Web site: http://www.health.state.mn.us/divs/eh/hazardous/topics/pfcs/index.html.

Site work

Per the May 2007 Consent Order, 3M has submitted feasibility studies to the MPCA on cleaning up PFC-related contamination at the Oakdale, Woodbury, and 3M Cottage Grove disposal sites. The MPCA is evaluating these studies and will present its preferred alternatives for the three sites at community meetings in spring-summer 2008. The MPCA also presented a proposal to clean up the Washington County Landfill in late winter 2008. Cleanup actions at some sites could begin in the summer of 2008. More information is at www.pca.state.mn.us/cleanup/pfc/pfcsites.html.

PFCs in the wider environment

In the last 10 years scientists have learned that PFCs are nearly ubiquitous in the environment. Low levels are found in people and animals around the globe. In Minnesota, it has been apparent since 2006 that PFCs may be present at levels of potential concern beyond the disposal sites and the groundwater contamination associated with them.

Findings

In 2006-7 the MPCA made a number of interesting discoveries regarding PFCs.

- In April 2007 the MPCA found elevated levels of PFOS in fish taken from Lake Calhoun in Minneapolis. PFOS is the most bioaccumulative of the three PFCs in fish, and this finding was of concern to the city of Minneapolis and people who fished in this popular lake. MDH issued new fish-consumption advisories for the lake. Sampling was expanded to other metro-area fishing lakes and similar findings were announced later in 2007 and early 2008; some of these lakes also received fish consumption advisories. For the most part these lakes have no groundwater connection with the waste sites, and the source(s) of contamination are still not identified.
- In 2006-7, the MPCA found PFCs in ground water, leachate, landfill gas, and gas condensate at a number of landfills. The gas findings suggest that PFCs may also be released from consumer, commercial and demolition wastes. However, the levels were very low in ground water and in most cases suggested landfills were not acting as sources of PFC impacts to ground water (no drinking-water wells were affected). The MPCA is planning additional sampling and is considering the regulatory policy implications of how to manage PFCs at solid waste facilities.

- In summer 2007 the MPCA conducted a survey for PFCs in wastewater effluent at 28 municipal and industrial wastewater treatment plants across the state. A number of them showed low levels of PFCs; one, the city of Brainerd's plant, had elevated levels. The problem there was traced to a chrome-plating facility, but the findings raised questions about the potential for PFCs to enter surface waters through wastewater treatment. More facilities will be sampled in 2008. As with landfills, the MPCA is considering what its monitoring and regulatory responses should be.

What is the MPCA doing?

The MPCA has created two lateral teams on PFCs, composed of specialists from the various program areas who are working to investigate and remediate PFCs. These teams meet regularly to plan, share findings, and discuss the agency's broader responses on this emerging issue.

Cleanup of the four waste sites is proceeding under the state Superfund and Closed Landfill programs. Selection of remedial alternatives should be completed in spring and summer drinking water 2008, with cleanup at most of the sites starting in 2009.

The Outcomes and Environmental Analysis Division has about a dozen research projects under way aimed at assessing the levels and distribution of PFCs in the environment. The information gathered in these projects will help the MPCA and other agencies decide how to address remaining human and animal exposure pathways. Most of these projects continue work begun in 2006-07. Examples include:

- expanded fish-tissue sampling in metro-area fishing lakes and other waters out-state
- sampling for PFCs in ambient air
- sampling of wastewater treatment effluent from more municipal facilities.

More information on these and other PFC-related research efforts will be posted on the MPCA Web site in the future (www.pca.state.mn.us/cleanup/pfc/index.html).

In addition to this work "on the ground," MPCA continues to work with MDH on understanding potential human-health impacts of PFCs. The agency also is supporting EPA's efforts to bring national research resources to bear on understanding the potential effects of PFCs in the environment.

For example the EPA has recently developed laboratory capacity to analyze for PFCs at even lower levels (parts per trillion), and is carrying forward a variety of research projects and policy considerations on PFCs. MPCA staff and management are in regular contact with EPA on PFCs. (For EPA information on PFCs visit www.epa.gov/opptintr/pfoa/pubs/pfoainfo.htm.)

What does it all mean?

The situation with PFC contamination in east-metro drinking water has stabilized considerably from the first few years when there were many unknowns and public anxiety was high. We know now that the areas where PFOS and PFOA exceed HBVs are relatively small and localized compared to the extent of PFBA. And PFBA levels in the affected communities are well below the HBV of 7 ppb. Small areas of drinking-water aquifers exceed MDH limits for combined PFC concentrations, but those areas are being addressed by treating city water (Oakdale) or providing alternate water supplies to individual households (Lake Elmo, Cottage Grove, and Grey Cloud Island Township). MDH also prohibits construction of new wells in some aquifers that are contaminated with PFCs in portions of Oakdale and Lake Elmo.

MDH believes the groundwater plumes for PFCs related to the waste sites are stable, i.e. the areas of contamination are not still expanding. The chemicals may have left the Oakdale, Woodbury and Lake Elmo waste sites years ago, before existing ground-water pump-out systems had been installed at those sites. Long-term sampling of city and private wells is planned to assure that if the groundwater contamination changes, actions will be taken to protect public health. While some uncertainties remain, public health risks appear to be low. (For more information on health, see www.health.state.mn.us/divs/eh/hazardous/topics/pfcshealth.html.)

However, PFCs remain a concern beyond the localized drinking-water impacts. In the course of investigating these chemicals, it has become clear that many detections of PFCs in Minnesota cannot be traced directly to 3M's manufacturing wastes. PFCs have been used for decades in wide variety of consumer and industrial products. Although 3M has phased some of them out, they continue to be made in other countries and are still widely used around the world. Air transport and deposition may play a role, as may local land uses or materials management practices in a watershed, for example use of firefighting foams containing PFCs.

We know considerably more about PFCs than when they first surfaced as a concern in the eastern Twin Cities in 2004. Some research suggests that national PFC levels, both in the environment and in human blood serum, are declining. But there's much still to learn. As with other emerging contaminants, we need better understanding of the health and environmental effects of PFCs.

These chemicals are critical components of many products on which human health and safety depend, for example hydraulic fluids in aircraft and firefighting foams. Until equivalents can be found, eliminating their use could in some cases create unacceptable risk tradeoffs. The many studies underway will help fill in the gaps in our knowledge of the potential effects of PFCs on human health and the environment. They will also help develop alternatives and inform policies for regulatory agencies and standards for the use, handling and manufacture of PFCs.

For more information

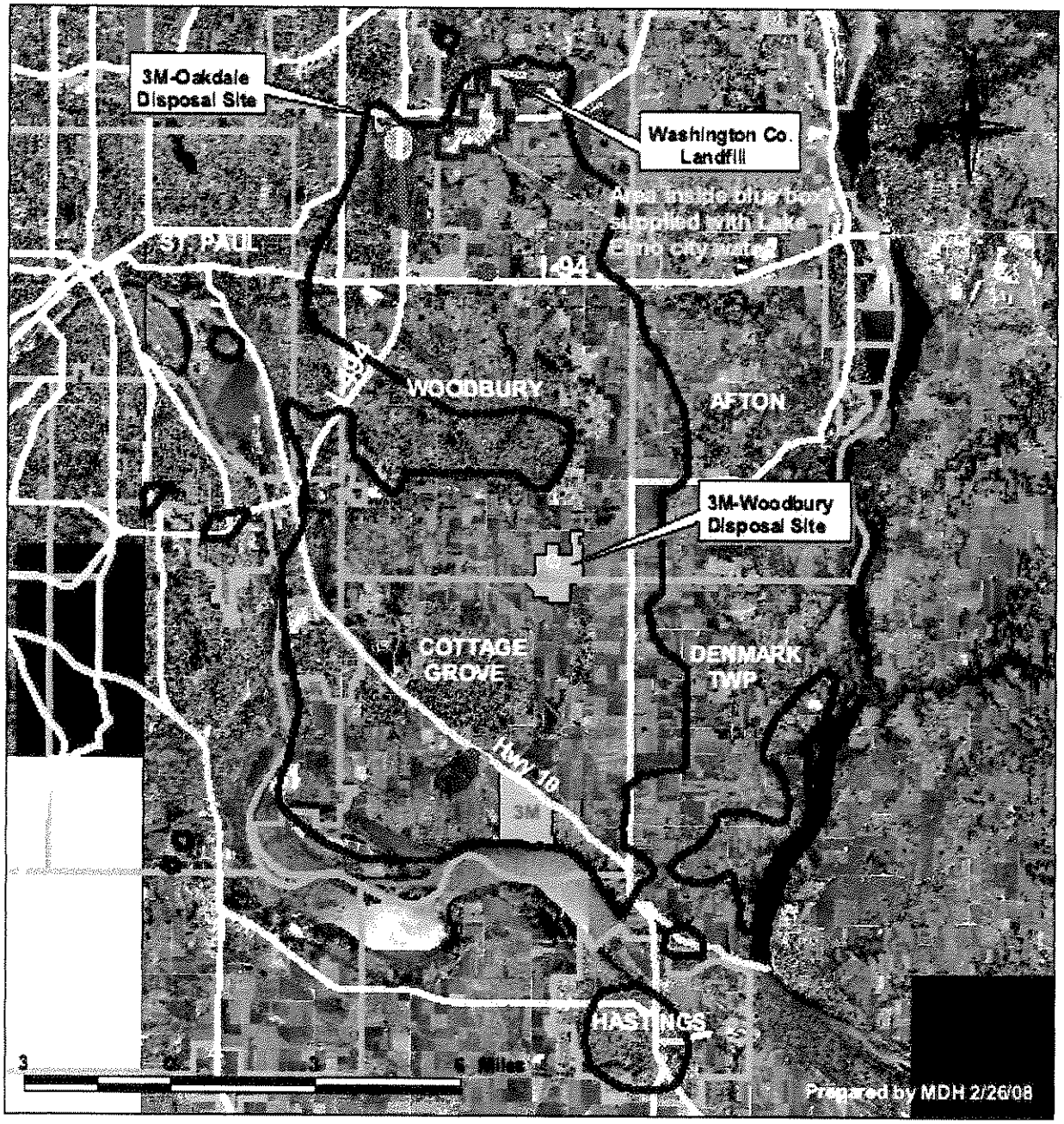
MPCA: Ralph Pribble, 651-296-7792 or ralph.pribble@pca.state.mn.us; MDH: Tannie Eshenaur, 651-201-4783 or tannie.eshenaur@health.state.mn.us.

MPCA Web:
www.pca.state.mn.us/cleanup/pfc/index.html

MDH Web:
www.health.state.mn.us/divs/eh/hazardous/topics/pfcs/index.html.

PFC map

The MDH map on the following page shows the extent of the area in which PFCs have been detected in ground water in the eastern Twin Cities metro area. The colored areas show where one or more PFCs exceeded the health-based values in different aquifers. PFBA was detected over the widest area of the map, but the majority of PFBA detections are below the health-based value of 7 ppb set by MDH in March 2008.



Geographic extent of drinking-water investigations

St. Peter Sandstone

Prairie du Chien

Jordan Sandstone

Aquifer unknown

The map shows the four PFC disposal sites, the geographic area in which PFCs are found in drinking-water aquifers, and areas where wells exceeded drinking-water standards.

Extent of PFC detections in all aquifers

City Council
Date: 8-19-08
Regular
Resolution No. 2008-038
Item: 6

ITEM: Consider an application from the Meehan Family, LLC for a Minor Subdivision (Torre Pines 2nd Addition), 2038 Inwood Ave N

REQUESTED BY: Rosita Meehan, Applicant

SUBMITTED BY: Kyle Klatt, Director of Planning

REVIEWED BY: Planning Commission
Susan Hoyt, City Administrator
Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider approval of a Minor Subdivision requested by the Meehan Family, LLC to create four new lots from an existing 10-acre parcel within Torre Pines Addition, which is located at 2038 Inwood Avenue. The original development was approved in 1995. At the time the preliminary plat for Torre Pines was approved, the Meehan Family estate planned to come back with the proposed subdivision of the original farmstead and surrounding land at a later date. The Meehan family routinely renewed the preliminary plat application so that the final approval could move ahead. The applicant is now ready to finalize the plat. This request meets the requirements of the minor subdivision ordinance because it is creating four lots or less. If the minor subdivision meets the criteria defined for a minor subdivision, the City Council is required to approve the application. The Planning Commission and the staff find that the application meets the criteria and recommends approval of the application. If approved, the result will be four new lots; one of which will be occupied by the existing farm dwelling and its accessory structures. There is no public hearing required for a Minor Subdivision request. The recommendation also includes requiring a fee in lieu of park dedication for this minor subdivision since it was not covered in the 1995 plat.

ADDITIONAL INFORMATION

Background. The final plat for Torre Pines was approved in 1995. The applicant's lot is a 10-acre lot within this addition that will be split into four 2.5 acre lots. Recurring applications to extend the preliminary plat were on file so the final plat approval could go forward.

Site situation. The site is located at the intersection of 21st Street North and Inwood Avenue roughly halfway between Stillwater Boulevard and 10 Street. There is a wetland on the property that will not be impacted by any proposed construction on the proposed lots. A detailed Minor Subdivision analysis is included in the attached Staff report.

Well Update. The property is now in a well advisory area and requires that wells be drilled to meet requirements of MDH. The property owners have been informed of this additional

requirement. Should city water be extended to this area prior to the development of these lots, this would be an option for future property owners.

Park Dedication. To date there have been no City records found that indicate what, if any, fees were paid in lieu of park land dedication when the 1995 final plat was approved for Torre Pines; therefore, there is no record of the four new lots being covered by this fee. The property owner believes that the these properties were covered in the original plat; however, this would be unusual and the recommendation is to ask for a park dedication fee based on the fair market value of .053 acres (the land dedication requirement from the Subdivision Ordinance).

RECOMMENDATION:

Approval is recommended as follows because the request meets the requirements for approval of a Minor Subdivision and the proposed lots will meet all applicable standards of the RE – Residential Estates zoning district and has been recommended for approval by the Planning Commission:

1. It is recommended that the City Council approve the Minor Subdivision request based on the following:

   a) The Minor Subdivision is consistent with the Lake Elmo Comprehensive Plan.
   b) The proposed plat is consistent with and follows closely to the preliminary plat of Torre Pines First Addition.
   c) The Minor Subdivision does not require any additional public infrastructure to serve the development that has not already been provided to the site.
   d) The Minor Subdivision is consistent with the Lake Elmo Zoning and Subdivision Ordinances.

   With the following conditions (many of these conditions are standard city platting and building requirements):

   a) The applicant shall provide adequate title evidence satisfactory to the City Attorney.
   b) All easements as requested by the City Engineer shall be documented on the final plat.
   c) The applicant shall pay a fee in lieu of parkland dedication based on the fair market value of 7% of the area of new undeveloped lots to be created (7.5 acres), which equals 0.53 acres. The City shall hire a licensed appraiser at the applicant's expense to determine the fair market value of the land for the purposes of determining the cash-in-lieu value for park dedication.
   d) The applicant shall obtain all required permits from the Valley Branch Watershed District, Minnesota Department of Health, Minnesota Pollution Control Agency, the NPDES program, and any other approvals that are necessary.
   e) An as built lot survey and individual lot grading plan shall be submitted prior to the issuance of a building permit for all lots within Torre Pines 2nd Addition. These plans shall be consistent with the approved grading plan for Torre Pines 1st Addition.
   f) Soil percolation test information for on-site septic systems shall be submitted to the City prior to the issuance of a building permit for any lot within Torre Pines 2nd Addition.
   g) The driveway access from Lot 13, Block 1 shall be moved to 21st Street prior to any expansion or replacement of the existing house on this lot.
   h) Other information as requested by the City Engineer in a letter to the City dated July, 2008 shall be submitted prior to the issuance of a building permit for any lot within Torre Pines 2nd Addition.
   i) The applicant shall either remove or enter into an agreement with the City related to a deadline of 90 days for the removal of an existing structure located on Lot 4, Block 1 prior to City approval of the final plat.

SUGGESTED MOTION FOR CONSIDERATION:

Motion:

Motion to approve Resolution No. 2008-038 approving a Minor Subdivision for Torre Pines 2nd Addition with conditions.

ORDER OF BUSINESS:

- Introduction ..... Susan Hoyt, City Administrator
- Report by staff..... Kyle Klatt, Planning Director
- Questions from the Council ..... Mayor & Council Members
- Questions/Comments from the applicant..... Mayor facilitates
- Questions/Comments from the public..... Mayor facilitates
- Call for a Motion

  (required for further discussion; does not imply approval of the motion..... Mayor facilitates
- Discussion ..... Mayor facilitates
- Action on motion ..... Council

ATTACHMENTS:

1. Resolution No. 2008-038
2. Detailed Staff Report
3. Land Use Application Form
4. Final Plat for Torre Pines 2nd Addition
5. Development Plan (Torre Pines 2nd Addition)
6. Torre Pines (1st Addition) Development Plan
7. Torre Pines (1st Addition) Grading Plan
8. Aerial Image of Site
9. Review Comments from City Engineer
10. Review Letter from Valley Branch Watershed District

RESOLUTION NO. 2008-038

A RESOLUTION APPROVING A MINOR SUBDIVISION REQUEST BY THE MEEHAN FAMILY, LLC FOR 2038 INWOOD AVENUE

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

WHEREAS, Meehan Family, LLC, 740 Marshall Avenue, St. Paul, MN ("Applicant"), is owner of property ("Property") in Lake Elmo which is legally described as follows: Lot 15, Block 1 of Torre Pines Addition, commonly known as 2038 Inwood Avenue; and

WHEREAS, the Applicant has submitted an application to the City of Lake Elmo ("City") for a Minor Subdivision to subdivide the Property into four new lots; and

WHEREAS, the Property is located within the RE zoning district; and

WHEREAS, the Planning Commission has reviewed the Minor Subdivision request for consistency with the City of Lake Elmo Zoning and Subdivision Ordinances and forwarded its recommendation concerning the request to the City Council; and

WHEREAS, the City Council reviewed the Applicant's Minor Subdivision request at a meeting held on August 19, 2008 and made the following findings of fact:

1) The Minor Subdivision is consistent with the Lake Elmo Comprehensive Plan.
2) The proposed plat is consistent with and follows closely to the preliminary plat of Torre Pines First Addition.
3) The Minor Subdivision does not require any additional public infrastructure to serve the development that has not already been provided to the site.
4) The Minor Subdivision is consistent with the Lake Elmo Zoning and Subdivision Ordinances.

NOW, THEREFORE BE IT RESOLVED, that based on the testimony elicited and information received, the City Council of the City of Lake Elmo hereby approves the request by the Meehan Family, LLC for a Minor Subdivision.

BE IT FURTHER RESOLVED, that the approval of the requested Minor Subdivision and shall include the following conditions:

1) The applicant shall provide adequate title evidence satisfactory to the City Attorney.

2) All easements as requested by the City Engineer shall be documented on the final plat.

3) The applicant shall pay a fee in lieu of parkland dedication based on the fair market value of 7% of the area of new undeveloped lots to be created (7.5 acres), which equals 0.53 acres. City shall hire a licensed appraiser at the applicant's expense to determine the fair market value of the land for the purposes of determining the cash-in-lieu value for park dedication.

4) The applicant shall obtain all required permits from the Valley Branch Watershed District, Minnesota Department of Health, Minnesota Pollution Control Agency, the NPDES program, and any other approvals that are necessary.

5) An as built lot survey and individual lot grading plan shall be submitted prior to the issuance of a building permit for all lots within Torre Pines 2nd Addition. These plans shall be consistent with the approved grading plan for Torre Pines 1st Addition.

6) Soil percolation test information for on-site septic systems shall be submitted to the City prior to the issuance of a building permit for any lot within Torre Pines 2nd Addition.

7) The driveway access from Lot 13, Block 1 shall be moved to 21st Street prior to any expansion or replacement of the existing house on this lot.

8) Other information as requested by the City Engineer in a letter to the City dated July, 2008 shall be submitted prior to the issuance of a building permit for any lot within Torre Pines 2nd Addition.

9) The applicant shall either remove or enter into an agreement with the City related to a deadline of 90 days for the removal of an existing structure located on Lot 4, Block 1 prior to City approval of the final plat.

Passed and duly adopted this 5th day of August, 2008 by the City Council of the City of Lake Elmo, Minnesota.

_____
Dean A. Johnston, Mayor

ATTEST:

_____
Susan Hoyt, City Administrator

City of Lake Elmo Planning Department

Minor Subdivision Request

To: **City Council**

From: Kyle Klatt, Planning Director

Meeting Date: **8/19/08**

Applicant: **Patricia Ann Meehan**

Owner: Meehan Family, LLC

Location: **2038 Inwood Avenue North (Lot 15, Block 1 or Torre Pines Addition)**

Zoning: RE – Residential Estates

Introductory Information

Application Summary: The City of Lake Elmo has received a request from the Meehan Family, LLC to subdivide a larger parcel within the Torre Pines Addition into four new lots. The application is being submitted in the form of a final plat, but may be processed under the City's Minor Subdivision requirements since there are four or fewer lots that will be created.

Property Information: The preliminary plat for the Torre Pines Addition included the applicant's proposed four lots; however, when the final plat was submitted the family estate decided to hold off on platting the original farmstead property until a later date. The applicant had been requesting an extension of the time to file the final plat for several years; unfortunately, the City has not taken action on the more recent requests and the deadline for completing a final plat has passed. After reviewing the specific subdivision request, Staff determined that it could be processed as a Minor Subdivision since there were no more than four lots being created. The application has therefore been submitted as a Minor Subdivision, which exempts the subdivider from some of the submission requirements of a final plat. Most notably, a public hearing is not required as part of the City's review, and there is less information that needs to be submitted as part of the application process.

Torre Pines is located roughly halfway between Stillwater Boulevard and 10th Street with access off of Inwood Avenue North. The preliminary plat proposed 24 single family residential lots under the RE – Residential Estates zoning district, 20 of which were ultimately included on the final plat. The overall plan for the preliminary plat included the applicant's four lots, and therefore all requirements that needed to be met by the overall subdivision were calculated at the time the preliminary plat was reviewed.

The property to be subdivided is located at the southeastern portion of Torre Pines Addition (Lot 15, Block 1). All roads needed to provide access to the site were built

with the original subdivision, and the final plat approved also included a grading and storm water management plan for the entire site. The final plat as approved by the City left the original farmstead site with 10 acres that was proposed to be split into four 2.5 acre parcels in the future. The parcels have not changed from their planned arrangement under the preliminary plat with one small exception specific to the boundary between lots 3 and 4 of the proposed plat. In this case, a 218-foot segment has been realigned to provide more usable land for both of these lots. This realignment does not alter the minimum required area, length, or other dimensions required under the RE District regulations.

Applicable Codes:

Section 154.048 RE – Residential Estates.

Subd A - C. Outlines the general requirements for the RE Residential Estates Zoning District in Lake Elmo.

Section 153.09 Exceptions to Platting.

Subd. (A) Specifies that a Minor Subdivision is a division of land that results in four or fewer parcels and wherein each resultant parcel complies with the city's minimum lot dimension and public road frontage requirements for the zoning district in which the land is located.

Subd. (C) Contains the application requirements for a Minor Subdivision.

Findings & General Site Overview

Site Data:

Lot Size: 10 acres

Existing Use: Single Family Residence with Agricultural Outbuildings

Existing Zoning: RE – Residential Estates

Property Identification Number (PID): 21-029-21-34-0010

Application Review:

Minor Subdivision Review:

Since the parcel to be subdivided lies within a plat that was previously approved by the City, many of the application requirements for a typical subdivision do not apply to the request under consideration by the City. All public improvements necessary to serve the proposed lots were installed at the time the final plat for Torre Pines was approved, and there will not be any additional dedications or land required beyond the drainage and utility easements shown on the plat.

At this point in time, Staff has been unable to find the City file on the original preliminary plat for Torre Pines, and therefore the review and analysis completed by Staff deals with issues that are specific to the proposed Minor Subdivision. The Torre Pines Addition was approved over 13 years ago and all lots with the exception of the applicant's parcel have been developed. Staff is not aware of any specific requirements from the 1st Addition approval that need to be addressed as part of the 2nd addition proposal.

Some of the issues that should be considered by the City include the following:

Lot configuration. The proposed lots as approved under the preliminary plat meet the RE District requirements, including the minimum lot size of 2.5 acres, the lot width to length ratio of 3:1, and the provision for each lot to contain a circle with a diameter of 250 feet minimum. As shown on the Minor Subdivision, the lots are consistent with the preliminary plat for Torre Pines.

Density: The overall density for the site meets the average acreage requirement of 3.33 acres for the lots. The total subdivision area is 78.43 acres which results in the 24 lots originally planned including the four in Torre Pines 2nd Addition.

Access/Roads. All required roads were completed with the first addition improvements. Access to the new lots will be from 21st Street North with the exception of the existing farm site which currently has direct access to Inwood Avenue. The Planning Commission is recommending that the access from this parcel (Lot 13, Block 1) be moved to 21st Street prior to any expansion or replacement of the existing house on this lot.

Park Dedication. The City Code requires the dedication of area within new subdivisions for public park, trail, or open space purposes. The City can require a payment in lieu of land dedication, which is recommended for Torre Pines 2nd Addition given the small size of the land to be subdivided. Although it is possible that a payment was made to the City when the first addition was platted, the Subdivision Ordinance requirements will apply anytime a parcel of land is divided.

The required park dedication in an RE District is 7% of the total land area to be subdivided. The Subdivision Ordinance does note that "where there is a subdivision of property which has an existing residential dwelling, no park dedication fee shall be required for the existing dwelling unit". Based on this provision, Staff is recommending that the existing farmstead parcel be eliminated from the calculation, leaving the three 2.5 acre lots as the area subject to park dedication requirements. 7% of 7.5 acres leaves 0.53 acres that should be used to determine the fee in lieu of dedication.

Prior to signing off on the final plat and at the developer's expense, the City will need to determine the fair market value of the land by hiring a licensed appraiser. The required cash-in-lieu of land payment shall be the fair market value of the 0.53 acres of land required for dedication.

Water. Each lot will be served by a private well. Staff has informed the applicant that the Minor Subdivision is located in a well advisory area, which will have implications on the type of well that can be constructed. Upon review of the applicable requirements related to the well advisory area it has been determined that each lot can be served with an individual well subject to conformance with Minnesota Department of Health standards.

Sanitary System. The grading plan submitted with the preliminary plat depicted drain field test areas for the development, but did not include the property subject to the Minor Subdivision. Each lot will therefore need to submit percolation test information

for on-site septic systems prior to the issuance of a building permit.

Storm Water/Grading. An overall grading plan was submitted as part of the Torre Pines First Addition review by the City. Although the City does not have an as-built on file for the grading done on the minor subdivision lots, any new construction should be consistent with the plan previously approved by the City. Staff is recommending that the review of a site specific grading plan be completed at the time a building permit is issued for each individual lot.

Existing Structures. There is an existing accessory building shown on Lot 4, Block 1 that is planned for removal. The City will need a guarantee in place that this structure will indeed be removed from the property before signing off on the plat. The applicant has indicated that this building should be removed before the City is asked to sign the plat.

Environmental Impacts. There is a wetland that was previously delineated on the property. The boundaries of this wetland were included in a drainage and utility easement previously dedicated to the City. The proposed development plan related to the Minor Subdivision will not impact this wetland, which is located at the extreme southeastern corner of the existing farmstead.

Conclusion: The Planning Commission was asked to examine the proposed Minor Subdivision, to determine whether they meet all requirements of approval outlined by city code. Since the request follows very closely the previously-approved preliminary plat, it was determined that the Minor Subdivision of Torre Pines 2nd Addition will meet the applicable subdivision and Zoning Ordinance requirements with certain conditions of approval.

Based on the above analysis of the proposed Minor Subdivision, Staff recommended approval of the request provided several conditions of approval are met that are documented below.

Additional Information: As noted in the review letter from the Valley Branch Watershed District, a permit will be needed from the watershed district. This requirement is included as a recommended condition of approval.

Conclusion:

The applicant is seeking approval of a Minor Subdivision to allow the creation of four lots from an existing 10-acre parcel located at 2038 Inwood Avenue (Lot 15, Block 1 of Torre Pines Addition).

Commission Options: The Planning Commission was presented with the following options:

A) Recommend approval of the Minor Subdivision request with findings that the

request is consistent with the Comprehensive Plan and Zoning and Subdivision Ordinances;

B) Recommend denial of the Minor Subdivision request with findings that the proposed subdivision does not meet the requirements of either the Subdivision or Zoning Ordinances.

Staff Rec: **Staff recommended approval** of the Minor Subdivision request based on the following:

1. The Minor Subdivision is consistent with the Lake Elmo Comprehensive Plan.
2. The proposed plat is consistent with and follows closely to the preliminary plat of Torre Pines First Addition.
3. The Minor Subdivision does not require any additional public infrastructure to serve the development that has not already been provided to the site.
4. The Minor Subdivision is consistent with the Lake Elmo Zoning and Subdivision Ordinances,

Provided the following conditions are met

1. The applicant shall provide adequate title evidence satisfactory to the City Attorney.
2. All easements as requested by the City Engineer shall be documented on the final plat.
3. The applicant shall pay a fee in lieu of parkland dedication based on the fair market value of 7% of the area of new undeveloped lots to be created (7.5 acres), which equals 0.53 acres. City shall hire a licensed appraiser at the applicant's expense to determine the fair market value of the land for the purposes of determining the cash-in-lieu value for park dedication.
4. The applicant shall obtain all required permits from the Valley Branch Watershed District, Minnesota Department of Health, Minnesota Pollution Control Agency, the NPDES program, and any other approvals that are necessary.
5. An as built lot survey and individual lot grading plan shall be submitted prior to the issuance of a building permit for all lots within Torre Pines 2nd Addition. These plans shall be consistent with the approved grading plan for Torre Pines 1st Addition.
6. Soil percolation test information for on-site septic systems shall be submitted to the City prior to the issuance of a building permit for any lot within Torre Pines 2nd Addition.
7. The driveway access from Lot 13, Block 1 shall be moved to 21st Street prior to any expansion or replacement of the existing house on this lot.
8. Other information as requested by the City Engineer in a letter to the City dated July, 2008 shall be submitted prior to the issuance of a building permit for any lot within Torre Pines 2nd Addition.
9. The applicant shall enter into an agreement with the City related to the removal of an existing structure located on Lot 4, Block 1 prior to City approval of the final

plat.

Denial Motion Template: To deny the request, the Planning Commission was asked to use the following motion as a guide:

I move to recommend denial of the request by the Meehan Family, LLC for a Minor Subdivision…*(please site reasons for the recommendation)*

Approval Motion Template: To approve the request, the Planning Commission was asked to use the following motion as a guide:

I move to recommend approval of the request by the Meehan Family, LLC for a Minor Subdivision based on the following findings…*(use staff's findings provided above or cite your own)*

…with the following conditions:

1. The applicant shall provide adequate title evidence satisfactory to the City Attorney.
2. All easements as requested by the City Engineer shall be documented on the final plat.
3. The applicant shall pay a fee in lieu of parkland dedication based on the fair market value of 7% of the area of new undeveloped lots to be created (7.5 acres), which equals 0.53 acres. City shall hire a licensed appraiser at the applicant's expense to determine the fair market value of the land for the purposes of determining the cash-in-lieu value for park dedication.
4. The applicant shall obtain all required permits from the Valley Branch Watershed District, Minnesota Department of Health, Minnesota Pollution Control Agency, the NPDES program, and any other approvals that are necessary.
5. An as built lot survey and individual lot grading plan shall be submitted prior to the issuance of a building permit for all lots within Torre Pines 2nd Addition. These plans shall be consistent with the approved grading plan for Torre Pines 1st Addition.
6. Soil percolation test information for on-site septic systems shall be submitted to the City prior to the issuance of a building permit for any lot within Torre Pines 2nd Addition.
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8. Other information as requested by the City Engineer in a letter to the City dated July, 2008 shall be submitted prior to the issuance of a building permit for any lot within Torre Pines 2nd Addition.
9. The applicant shall either remove or enter into an agreement with the City related to a deadline of 90 days for the removal of an existing structure located on Lot 4, Block 1 prior to City approval of the final plat.

cc: Rosita Meehan, Meehan Family, LLC

Fee $ 950

City of Lake Elmo
DEVELOPMENT APPLICATION FORM

- ☐ 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: MEEHAN FAMILY LLC 740 MARSHALL AVE. - ST. PAUL, MN 55104
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-292-1305 651-292-1305
(Home) (Work) (Mobile) (Fax)

FEE OWNER: PATTRICIA ANN MEEHAN 740 MARSHALL AVE. - ST. PAUL, MN 55104
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-292-1305 651-292-1305
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): R 21.029.21.34.0010
2038 Inwood Ave. N. - LAKE ELMO, MN 55042 LOT-015 BLOCK 001
TORRE PINES

DETAILED REASON FOR REQUEST: THE TORRE PINES DEVELOPMENT CONSISTS OF 24 LOTS. MEEHAN FAMILY LLC (LLC) OWNS FOUR OF THESE LOTS. ON THE TORRE PINES PRELIMINARY PLAT THESE LOTS WERE NUMBERED 15, 16, 17 AND 18. LLC HAS DECIDED TO SELL THE LOTS AND DESIRES TO PUT THEM ON THE MARKET FOR SALE AS SOON AS POSSIBLE.

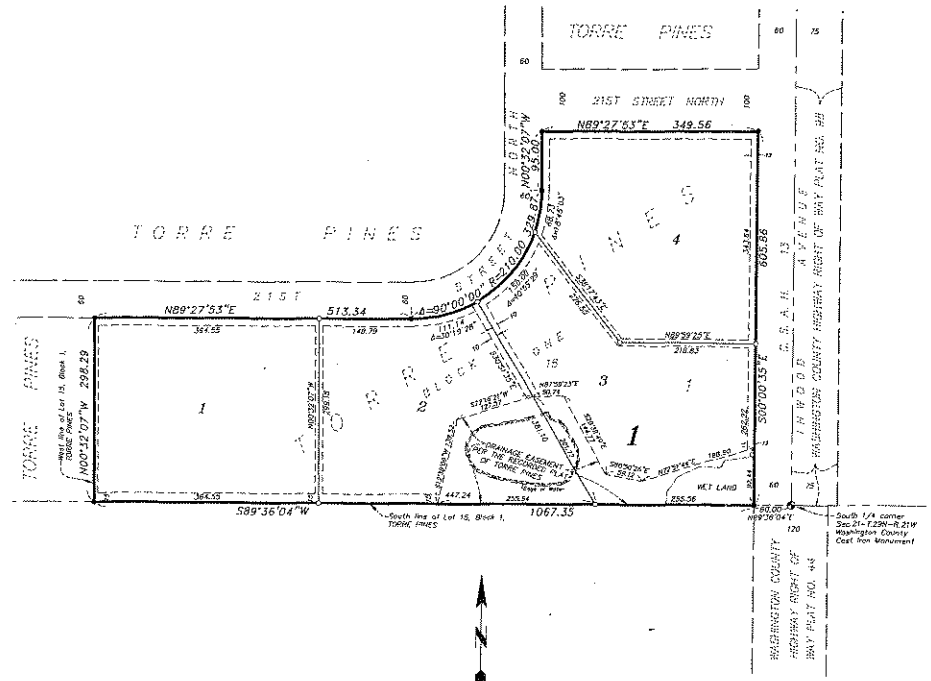
*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:

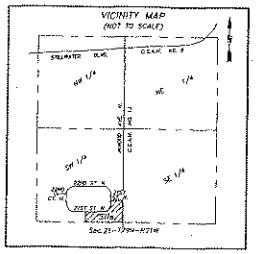
In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay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

Patricia Ann Meehan 5-28-8
Signature of Applicant Date

Signature of Applicant Date

TORRE PINES 2ND ADDITION





NOTES:

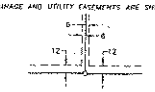
ORIENTATION OF THIS BEARING SYSTEM IS BASED UPON THE WASHINGTON COUNTY COORDINATE SYSTEM, HAD 83.

○ - DENOTES 1/2 INCH BY 14 INCH IRON PIPE SET, WITH A PLASTIC CAP INSCRIBED "RLS 10947", WHICH HAS HERE SET OR WILL BE SET IN ACCORDANCE WITH MS 505.021, SUBD. 10.

■ - DENOTES 1/2 INCH IRON PIPE FOUND, MARKED "RLS 10947"

⊕ -DENOTES WASHINGTON COUNTY MONUMENT

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:



BEING 6 FEET IN WIDTH, UNLESS OTHERWISE INDICATED, AND ADJOINING SIDE LOT LINES AND 12 FEET IN WIDTH, UNLESS OTHERWISE INDICATED, AND ADJOINING RIGHT-OF-WAY LINES, AS SHOWN ON THE PLAT.

KNOW ALL MEN BY THESE PRESENTS: That Meehan Family, LLC, a Minnesota limited liability company, fee owner, of the following described property situated in the County Washington, State of Minnesota, to wit:

Lot 15, Block 1, TORRE PINES

Has caused the same to be surveyed and platted as TORRE PINES 2ND ADDITION and does hereby donate and dedicate to the public for the public use forever the easements created by this plat for drainage and utility purposes only.

In witness whereof said Meehan Family, LLC, a Minnesota limited liability company has caused these presents to be signed by its proper officer this _____ day of _____, 200___.

MEEHAN FAMILY, LLC

By: _____

Patricia Ann Meehan –

STATE OF MINNESOTA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 200___, by Patricia Ann Meehan as _____, of Meehan Family, LLC, a Minnesota limited liability company, on behalf of the company.

_____ Notary Public

_____

_____ County, Minnesota.

My commission expires: _____

I hereby certify that I have surveyed and platted or directly supervised the survey and platting of the property described on this plat as TORRE PINES 2ND ADDITION; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on the plat; that all monuments depicted on the plat have been or will be correctly set within one year as indicated on the plat; that all water boundaries and wet lands as defined in M.S. 505.01, Subd. 3 existing as of date of this certification are shown and labeled on the plat; and that all public ways are shown and labeled on the plat.

_____
Rodney H. Halverson, Land Surveyor
Minnesota License No. 10947

STATE OF MINNESOTA
COUNTY OF _____

The foregoing surveyor's certificate was acknowledged before me this _____ day of _____, 200___ by Rodney H. Halverson, Land Surveyor, Minnesota License No. 10947.

_____ Notary Public

_____

_____ County, Minnesota.

My commission expires: _____

CITY OF LAKE ELMO, MINNESOTA

This plat was approved and accepted by the City Council of the City of Lake Elmo, Minnesota, this _____ day of _____, 200___, and hereby certifies compliance with all requirements as set forth in Minnesota Statutes, Section 505.03, Subd. 2.

By: _____, Mayor By: _____, Clerk

WASHINGTON COUNTY SURVEYOR

Pursuant to Chapter 820, Laws of Minnesota, 1971, this plat has been approved this _____ day of _____, 200___.

By: _____ By: _____
Washington County Surveyor

WASHINGTON COUNTY AUDITOR/TREASURER

There are no delinquent taxes, the current taxes due and payable for the year 20___ have been paid, and transfer has been entered this _____ day of _____, 200___.

By: _____ By: _____
Washington County Auditor/Treasurer Deputy

WASHINGTON COUNTY RECORDER

Document Number _____
I hereby certify that this instrument was recorded in the office of the County Recorder for record on this _____ day of _____, 200___, at _____ o'clock _____M., and was duly recorded in Washington County Records.

By: _____ By: _____
Washington County Recorder Deputy

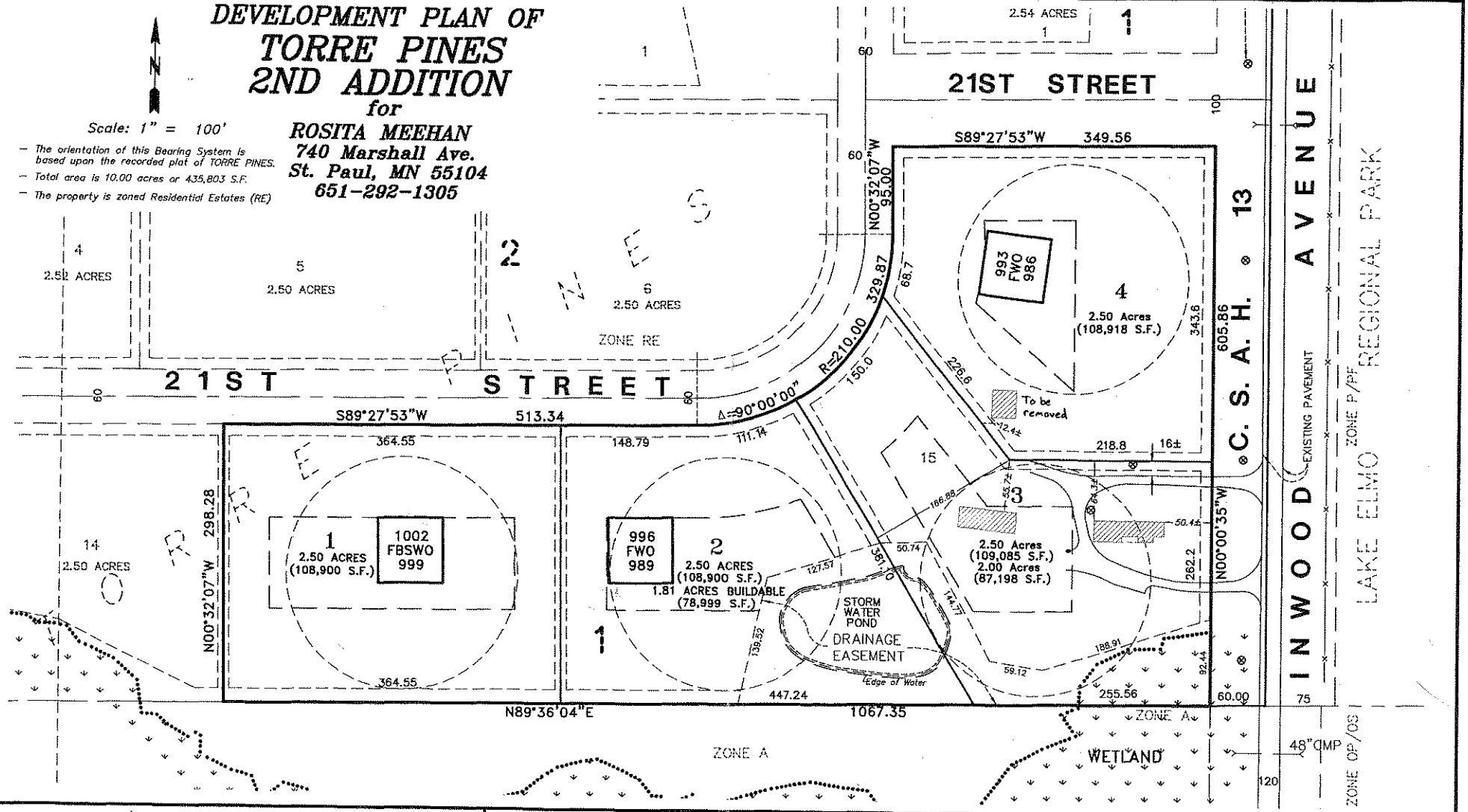
MIDWEST
Land Surveyors & Civil Engineers, Inc.

DEVELOPMENT PLAN OF
TORRE PINES
2ND ADDITION
for

ROSITA MEEHAN
740 Marshall Ave.
St. Paul, MN 55104
651-292-1305

Scale: 1" = 100'

- The orientation of this Bearing System is based upon the recorded plat of TORRE PINES.
- Total area is 10.00 acres or 435,803 S.F.
- The property is zoned Residential Estates (RE)



MIDWEST
Land Surveyors & Civil Engineers, Inc.
710 East River Road
Anoka, Mn. 55303
Ph. 763-712-9099 Fax: 763-712-9055

Job No. 05-234 Book-Page DCF Acad File 05-234a2

DESCRIPTION

Lot 15, Block 1,
TORRE PINES,
Washington County, Minnesota.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

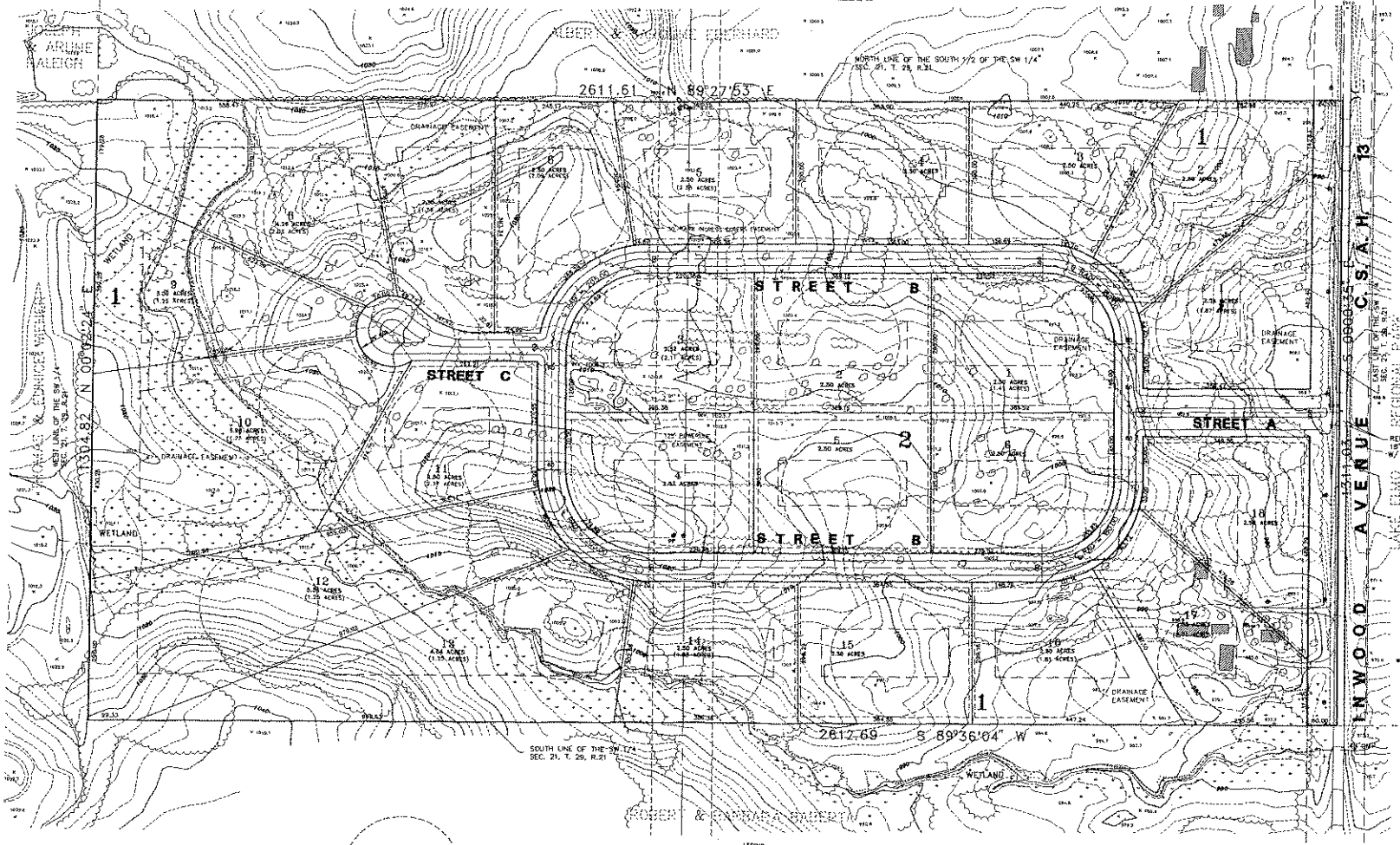
Dated this 12th day of June, 2008.

By James E. Napier Registration No. 25343

James E. Napier - Minnesota Licensed Land Surveyor

TORRE PINES

PRELIMINARY PLAT



NOTES

MINIMUM LOT SIZE 2.5 ACRES (1.25 EXCLUDING DRAINAGE EASEMENTS)

MINIMUM FRONTAGE
STREET 150 FEET
CUL-DE-SAC 70 FEET

BUILDING SETBACKS
100 FOOT STREET
50 FOOT SIDE YARD
80 FOOT SIDE STREET
100 FOOT REAR YARD
150 FOOT COLLECTOR STREET

PRESENT ZONNING: R.R. (RURAL RESIDENTIAL)
PROPOSED ZONNING: R.E. (RESIDENTIAL ESTATES)

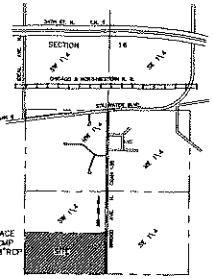
LEGAL DESCRIPTION:
THE SOUTH HALF OF THE S\W f\4 OF SECTION 21, T. 29 N., R. 21 W. WASHINGTON COUNTY, MINNESOTA.

TOTAL AREA = 78.43 ACRES

WATERSHED DISTRICT: VALLEY BRANCH WATERSHED DISTRICT

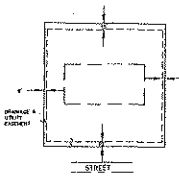
TOTAL SINGLE FAMILY LOTS = 24

TOPO BY MARKHURD
TOPOGRAPHY BY PHOTOGRAMMETRIC METHODS. PHOTOS TAKEN APRIL, 1991.



VICINITY MAP
SECTION 21, T29N, R21W
NOT TO SCALE

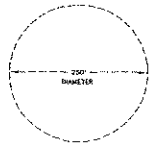
TYPICAL LOT DETAIL



DEVELOPER:
ROYAL OAKS REALTY
4196 LEXINGTON AVE.
SHOREVIEW, MN. 55126
(612) 483-5518

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly registered Land Surveyor under the laws of the State of Minnesota.

Reg. No. 19947 Date 5-25-95



TYPICAL CONFIGURATION OF LOT DETAIL
LOTS MUST BE CONFIGURED TO CONTAIN A CIRCLE WITH A DIAMETER OF 250 FEET MINIMUM.

LEGEND

2.50 ACRES TOTAL ACRES OF LOT
(1.97 ACRES) TOTAL ACRES OUT OF DRAINAGE EASEMENTS

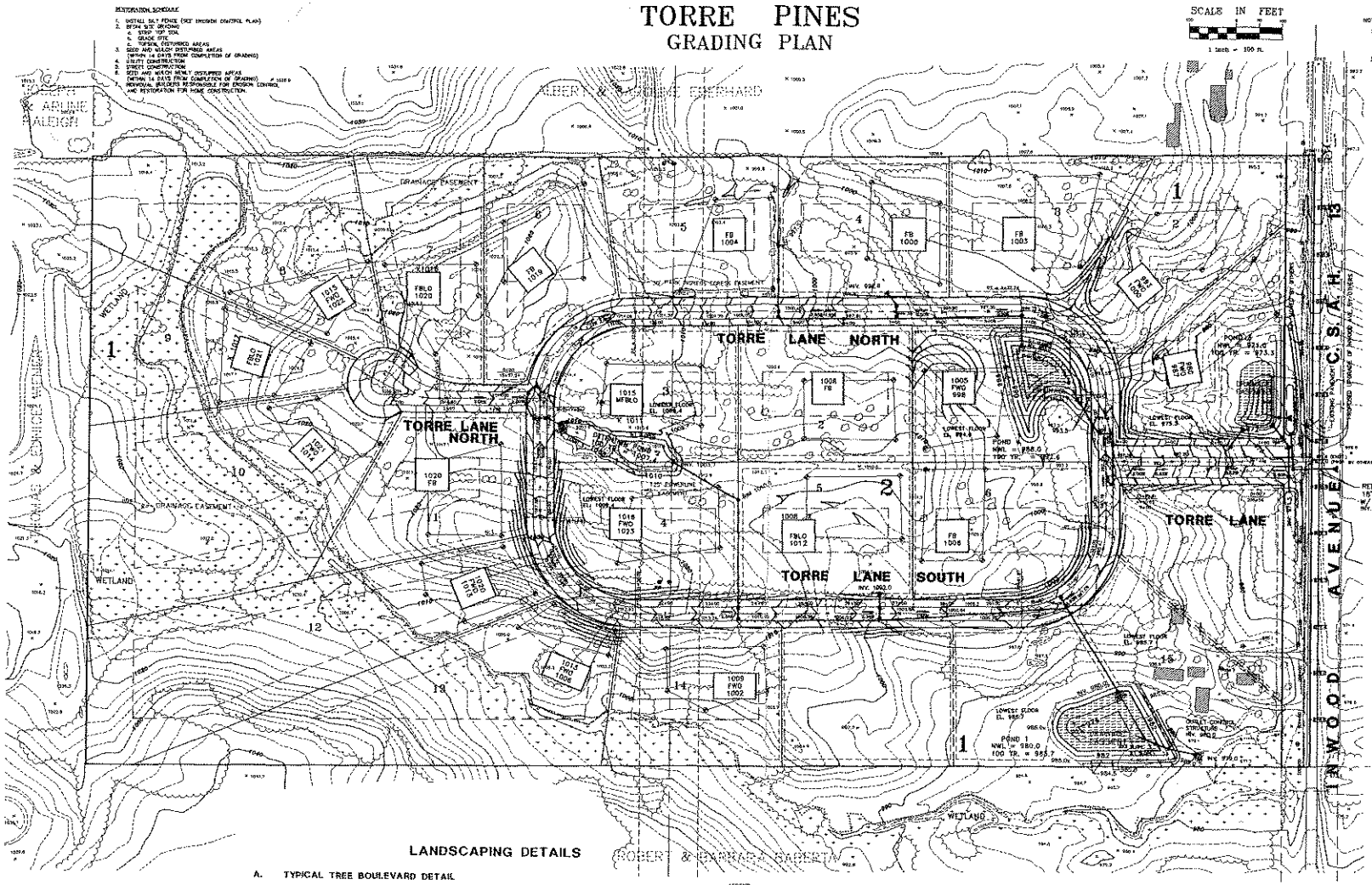
EXISTING CONTOUR 2' INTERVALS
EXISTING CONTOUR 10' INTERVALS
EXISTING SPOT ELEVATION
POWER POLE
EXISTING TREE LINE
STORM SEWER
WETLAND BOUNDARY AS DELINEATED BY ARLIC ENVIRONMENTAL, INC. 4-95

STANDARD STREET SECTION

MIDWEST
Land Surveyors & Civil Engineers, Inc.
136 Coon Rapids Blvd.
Coon Rapids, Mn. 55433
Ph. 612-786-6908 Fax. 612-786-9208

Job No. 144-7 Book-Page 112-1 Area File 144-7

TORRE PINES
GRADING PLAN



RESTORATION SCHEDULE

1. INSTALL SILT FENCE (SEE EROSION CONTROL PLAN)
2. BEGIN SITE GRADING
   a. STRIP TOP SOIL
   b. GRADE SITE
   c. TOPSOIL DISTURBED AREAS
3. SEED AND MULCH DISTURBED AREAS (within 14 DAYS FROM COMPLETION OF GRADING)
4. UTILITY CONSTRUCTION
5. STREET CONSTRUCTION
6. SEED AND MULCH NEWLY DISTURBED AREAS (within 14 DAYS FROM COMPLETION OF GRADING)
7. INDIVIDUAL BUILDERS RESPONSIBLE FOR EROSION CONTROL AND RESTORATION FOR HOME CONSTRUCTION.

NOTES:

1) DRAINFIELD TEST AREAS SHOWN ARE AS LOCATED BY DALE EKLIN, PER HIS REPORT DATED 7-19-85 PREPARED BY DALE EKLIN, MPCA CERTIFICATION #885

2) DRAINFIELD AREAS SHALL BE MARKED OFF IN THE FIELD PRIOR TO COMMENCING SITE GRADING.

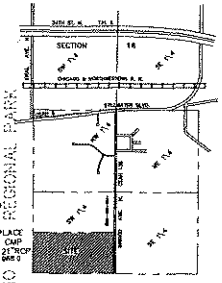
MINIMUM LOT SIZE 2.5 AC. (1.25 EXCLUDING DRAINAGE EASEMENT)

MINIMUM FRONTAGE
STREET 140FEET
CUL-DE-SAC 70 FEET

BUILDING SETBACKS
50 FOOT SIDE YARD
40 FOOT SIDE STREET
100 FOOT REAR YARD
100 FOOT FRONT YARD
150 FOOT COLLECTOR STREET

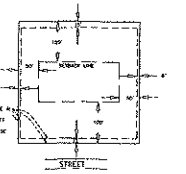
WATERSHED DISTRICT: VBWD (VALLEY BRANCH WATERSHED DISTRICT)

TOTAL SINGLE FAMILY LOTS:
70 IN FIRST PHASE
4 IN SECOND PHASE
TOTAL 24



VICINITY MAP
SECTION 21, T28N, R21W
NOT TO SCALE

TYPICAL LOT DETAIL



BUILDING TYPE LEGEND

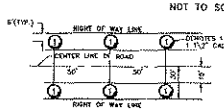
SF	SPLIT LOT
FB	FULL BASEMENT
SWO	SPLIT WALKOUT
FWO	FULL BASEMENT WALKOUT
FBLO	FULL BASEMENT LOOK OUT
FBSWO	FULL BASEMENT SPLIT WALKOUT
MFBWO	MODIFIED FULL BASEMENT SPLIT WALKOUT
MFBFWO	MODIFIED FULL BASEMENT FULL WALKOUT
MFBFLO	MODIFIED FULL BASEMENT LOOK OUT

DEVELOPER:
ROYAL OAKS REALTY
4196 LEXINGTON AVE.
SHOREVIEW, MN. 55126
(612) 483-5518

LANDSCAPING DETAILS

A. TYPICAL TREE BOULEVARD DETAIL

NOT TO SCALE



TREES SHALL BE PLACED EVERY 50 FEET EACH SIDE OF THE ROAD. THEY WILL BE 8' INSIDE THE RIGHT OF WAY.
APPROXIMATELY 176 TREES TO BE PLANTED

LEGEND

- EXISTING CONTOUR 2' INTERVALS
- EXISTING CONTOUR 10' INTERVALS
- EXISTING SPOT ELEVATION
- POWER POLE
- EXISTING TREE LINE
- STORM SEWER
- WETLAND BOUNDARY AS DELINEATED BY ARUS ENVIRONMENTAL, INC. 6-85
- DRAINFIELD TEST AREA

STANDARD STREET SECTION

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly registered Professional Engineer under the laws of the State of Minnesota.

Lawrence J. Abrams

Date 5-23-85 Registration No 18753
REVISED 8-7-85

MIDWEST
Land Surveyors & Civil Engineers, Inc.
199 Coon Rapids Blvd
Coon Rapids, Mn. 55433
Ph. 612-786-6868 Fax: 612-786-6926

Job No. 144-7 Book-Page 112-01 Scale Hz 144-7


Torre Pines Addition
2038 INWOOD AVE
22ND ST N
22ND CT N
21ST ST N
INWOOD AVE N

TKDA
ENGINEERS • ARCHITECTS • PLANNERS

444 Cedar Street, Suite 1500
Saint Paul, MN 55101-2140

(651) 292-4400
(651) 292-0083 Fax
www.tkda.com

MEMORANDUM

To:	Kyle Klatt, Planning Director	**Reference:**	Torre Pines 2nd Addition
Copies To:	Jack Griffin, City Engineer		Proposed Minor Subdivision
			City of Lake Elmo, Minnesota
		Proj. No.:	14078.001
From:	Ryan Stempski, P.E.	**Routing:**	
Date:	July 3, 2008		

Kyle,

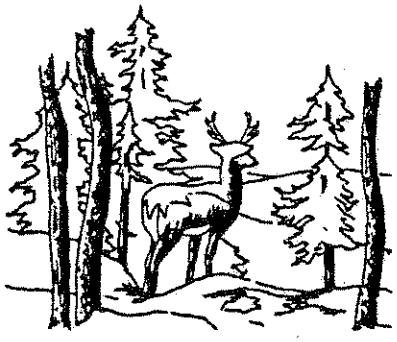
I have reviewed the proposed minor subdivision for Torre Pines 2nd Addition and have the following comments:

1. Proposed and existing contours (minimum 2-foot) must be shown.
2. All existing storm sewer must be shown on the development plan.
3. A minimum of 20-foot easement must be provided on BOTH sides of storm sewer pipe between Lot 2 and Lot 3.
4. For all existing and proposed houses, low floor and garage floor elevations must be provided on the development plan.
5. Access driveway locations must be provided on the development plan.
6. We recommend that the Planning Department discuss the relocation of the existing access on Inwood Avenue North (C.S.A.H. 13) to a location on 20th Street North.

If you have any questions, please contact me at (651) 292-4487.

Ryan

July 3, 2008



Mr. Kyle Klatt
City of Lake Elmo Planning Director
3800 Laverne Avenue North
Lake Elmo, MN 55042

Re: Proposed Torre Pines 2nd Addition

Dear Mr. Klatt:

Thank you for sending me information regarding the proposed Torre Pines 2nd Addition. The subdivision will require a Valley Branch Watershed District permit, and I will review the project more thoroughly once a VBWD permit application is submitted. Valley Branch Watershed District permitting requirements and materials are posted on the District's website at www.vbwd.org.

Sincerely,

John P. Hanson
BARR ENGINEERING COMPANY
Engineers for the Valley Branch Watershed District

c: Meehan Family LLC, 740 Marshall Avenue, St. Paul, MN 55104

City Council
Date: 8/19/08
Regular
Resolution 2008-039
Item: 7

ITEM: Consider approval of a moving permit of an 864 square-foot accessory building to the property at 4150 Irish Court North.

REQUESTED BY: Marvin and Karen Lerol, Applicant

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Lake Elmo Planning Commission
Susan Hoyt, City Administrator
Kyle Klatt, Director of Planning

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider a request from Marvin and Karen Lerol to permit an existing 864 square-foot accessory building to be moved from a site in Oakdale to their property at 4150 Irish Court North. The accessory building is proposed to be located in the rear yard and would meet all applicable zoning codes with the exception of the building's exterior. The applicant's have agreed to paint the building to match the primary structure's exterior or be of an earthen tone. A security will be required to be submitted by the applicant to cover the cost of all the work associated with the project, including the painting of the building. The city engineer is calculating the required amount which will be provided at the meeting. The city engineer will review all plans and specifications for the required building permit application.

ADDITIONAL INFORMATION

- The Acting Building Official has performed an inspection of the accessory building and found the structure complies with today's building code requirements.
- The building is 20 feet high with only one story and a loft area.
- The Planning Commission held a public hearing at their August 11th meeting. No one from the public spoke. The commission unanimously recommended approval of the application.

Approval of the moving permit for the following reasons:

1) The accessory building and the proposed location meets all applicable zoning and building code requirements with the exception of the exterior, which the applicant has agreed to alter.
2) The applicant has agreed to paint the accessory building in order to match the exterior of the primary structure or be of an earthen tone.

With the following conditions:

1) Prior to the building being moved to the property, a building permit application must be applied for and received from the city.

2) A security is required to be submitted by the applicant based on a recommendation by the City Engineer and prior to the building being moved to the property. The security is to cover all work necessary to complete the project, restore existing infrastructure, site approvals, ensure compliance of the structure and the site to zoning and building code requirements, and to paint the exterior of the building to conform to city code requirements.

SUGGESTED MOTION FOR CONSIDERATION:

Move to approve Resolution No. 2008 - 039 approving the moving permit to move an accessory building to the property at 4150 Irish Court North based on the findings listed in the staff report, subject to the conditions recommended by staff.

ORDER OF BUSINESS:

- Introduction ..... Susan Hoyt, City Administrator
- Report by staff ..... Kyle Klatt, Planning Director
- Questions from the Council ..... Mayor & Council Members
- Questions/Comments from the applicant ..... Mayor facilitates
- Call for a Motion

  (required for further discussion; does not imply approval of the motion ..... Mayor facilitates
- Discussion ..... Mayor facilitates
- Action on motion ..... Council

ATTACHMENTS:

1. Resolution No. 2008 - 039
2. Detailed Staff Report
3. Land Use Application Form
4. Site Plan
5. Description of Request
6. Photos of Accessory Building

CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2008-039

A RESOLUTION APPROVING A MOVING PERMIT TO ALLOW MARVIN AND KAREN LEROL TO MOVE AN EXISTING ACCESSORY BUILDING TO THEIR PROPERTY AT 4150 IRISH COURT NORTH

WHEREAS, Marvin and Karen Lerol have requested a Moving Permit to allow the movement of an existing accessory structure to their property at 4150 Irish Court North in the R-1 zoning district.

WHEREAS, the Lake Elmo Planning Commission held a Public Hearing on August 11, 2008, and unanimously recommended approval of the requested permit with conditions; and,

WHEREAS, the City Council reviewed the request on August 19th, 2008, and made the following findings:

- The accessory building and the proposed location meets all applicable zoning and building code requirements with the exception of the exterior, which the applicant has agreed to alter.
- The applicant has agreed to paint the accessory building in order to match the exterior of the primary structure or be of an earthen tone.

NOW, THERFORE, BE IT RESOLVED that the Lake Elmo City Council hereby approves a Moving Permit to allow an accessory building to be moved to the property at 4150 Irish Court North; and,

BE IT FURTHER RESOLVED, that the approval of the requested moving permit shall include the following conditions:

1. Prior to the building being moved to the property, a building permit application must be applied for and received from the city.

2. A security is required to be submitted in the amount of $_____ based on a recommendation by the City Engineer and prior to the building being moved to the property. The security is to cover all work necessary to complete the project, restore existing infrastructure, site approvals, ensure compliance of the structure and site to zoning and building code requirements, and to paint the exterior of the building to conform to city code requirements.

This resolution was adopted by the City Council of the City of Lake Elmo on the 19th day of August 2008, by a vote of ___ Ayes and ___ Nays.

_____
Mayor Dean Johnson

ATTEST:

_____
Susan Hoyt
City Administrator

(SEAL)

City of Lake Elmo Planning Department

Moving an Accessory Building into the City - Review

To: **City Council**

From: Kelli Matzek, Planner

Meeting Date: **8/19/08**

Applicant: **Marvin and Karen Lerol**

Owner: Marvin and Karen Lerol

Location: **4150 Irish Court North**

Zoning: R1 – Single Family Residential

Introductory Information

Request Marvin and Karen Lerol, 4150 Irish Court North, are requesting that the City consider their application to permit an accessory building to be moved from Oakdale to their property on Irish Court North.

Site Data:

Property Identification No.	*Area*	*Use*
09-029-21-43-0018	1.07 Acres	Residential Dwelling

Moving an Accessory Building into the City - Review

Background Information: The City of Lake Elmo requires a moving permit be obtained from the city prior to moving a building or structure into or within the city.

The property at 4150 Irish Court has an existing home and a tool shed on the property. The accessory building proposed to be moved to the site would function as a storage shed on the property and is proposed to be located in the northwest corner of the lot in the rear yard.

Applicable Codes:

151.019 Moving Buildings Into the City

This section of code identifies what is needed for an application as well as the process for reviewing an application to move a building into or within the city.

154.041 R-1 One-Family Residential

(C) *Minimum District Requirements*

This section of code identifies the building setbacks for buildings in the R-1 zoning district. A maximum height of 20 feet is also identified for an accessory building.

154.092 Accessory Buildings and Structures

(3) *"DETACHED RURAL STORAGE BUILDING.* A 1-story accessory building used or intended for the storage of hobby tools, garden equipment, workshop equipment and the like. Exterior materials shall match the principal structure in exterior color or be of an earthen tone."

154.093 Number/Size of Accessory Buildings

This section of code specifies the number and size of accessory buildings allowed in various zoning districts on different sized properties. A one-to-two acre parcel in the R-1 zoning district is permitted "One 1,200-square foot detached residential, garage or building, in addition to an attached garage."

Review Comments:

Planning Issues:

As mentioned previously, the city requires a permit to move a building into or within the city limits. The applicants are proposing to bring an existing 864 square-foot accessory building to their property from a site in the city of Oakdale. The applicants have hired a professional moving company to move the building to the site.

Detached Accessory Building

Staff determined that the accessory building proposed to be brought to this property best fit the definition of a detached rural storage building as the proposed site location in the rear yard and the physical properties of the building lend it to that description instead of a detached residential garage.

Size

The city code permits a property with an R-1 zoning classification and between one and two acres in size one 1,200 square foot detached residential, garage or building, in addition to an attached garage on this property. The property currently has one tool shed and an attached garage, neither of which according to code count towards the 1,200 square foot allotment. Therefore, the proposed 864 square-foot building would meet this requirement. The applicant would not be allowed any additional accessory buildings on this site.

Height

The building is 20 feet high, which meets the height requirements of city code.

Exterior Material

The city code (Sec. 154.092 A3) specifies that a detached rural storage building shall have exterior materials that match the principal structure in exterior color or be of an earthen tone. The accessory building is currently covered with blue steel siding, which does not match the primary structure's exterior and is also not considered an "earthen tone." As this does not meet the requirements, the applicant has stated their intention to paint the building to match the color of the house. This will be covered by the required performance bond to ensure compliance.

Location

The site plan provided by the applicant identifies the accessory building will be located in the northwest corner of the property, which is the rear yard for the property. The proposed location will meet setback requirements for the R-1 zoning district.

Building Official

The Acting Building Official has completed an inspection of the building in its current location and found that it complies with the building code requirements.

Security

The city code requires security be collected from the applicant to ensure all necessary work is completed. This is identified as a condition of approval in this report.

Moving Permit Conclusion: Based on the findings cited above and with conditions outlined below, staff would recommend approval of the moving permit request for the 864 square-foot accessory building to be relocated from a site in Oakdale to the property at 4150 Irish Court North.

Planning Commission Rec: The Planning Commission held a public hearing at their August 11th meeting. No one spoke at the public hearing. The commission recommended approval of the application unanimously.

Conclusion:

The applicant is seeking approval of a moving permit to allow the movement of an accessory building to the property at 4150 Irish Court North.

Council Options: The City Council may consider the following options:

A) Approve the moving permit based on the findings drafted by Staff or other

additional information that is presented;

B) Deny the request based on findings provided by the council.

Staff Rec: **Staff recommends approval** of the moving permit request based on the following:

1) The accessory building and the proposed location meets all applicable zoning and building code requirements with the exception of the exterior, which the applicant has agreed to alter.

2) The applicant has agreed to paint the accessory building in order to match the exterior of the primary structure or be of an earthen tone.

Provided the following conditions are met

1) Prior to the building being moved to the property, a building permit application must be applied for and received from the city.

2) A security is required to be submitted by the applicant based on a recommendation by the City Engineer and prior to the building being moved to the property. The security is to cover all work necessary to complete the project, restore existing infrastructure, site approvals, ensure compliance of the structure and the site to zoning and building code requirements, and to paint the exterior of the building to conform to city code requirements.

Approval Motion Template: To approve the request, the City Council is asked to use the following motion as a guide:

I move to approve resolution 2008 – 039 approving the moving permit to move an accessory building to the property at 4150 Irish Court North …*(use staff's findings provided above or cite your own)*

…with the following conditions:

1) Prior to the building being moved to the property, a building permit application must be applied for and received from the city.

2) A security is required to be submitted by the applicant based on a recommendation by the City Engineer and prior to the building being moved to the property. The security is to cover all work necessary to complete the project, restore existing infrastructure, site approvals, ensure compliance of the structure and the site to zoning and building code requirements, and to paint the exterior of the building to conform to city code requirements.

cc: Marvin and Karen Lerol, 4150 Irish Ct N

Permit Application

City of Lake Elmo Building Department
3800 Laverne Ave.
Lake Elmo, MN 55042
651-233-5405 Fax 651-777-9615

Office Use Only
Permit # Issued _____

Parcel Information

Address 4150 Irish Ct. North Parcel ID # _____

Legal Description Lot _____ Blk _____

Project Information

Owner Marvin & Karen Lerol Phone 651-770-7631
First name Last name

Construction ( ) **HVAC ( )** **Plumbing ( )** **Septic ( )** **Commercial ( )** **Other ( )**

Project Description move new shed on property (e.g. new home, alter plumbing, install new heating, remodel kitchen)

Contractor Semple Building Movers Address 1045 Jessie St St. Paul Mn 55101

State Lic. # 143685 Phone 651-774-7421 Fax 651-222-3831 Cellular _____

Valuation $ _____

DESCRIPTION OF WORK TO BE DONE

Relocate a garage from Hadley Ave. in Oakdale, Mn to a new location at 4150 Irish Ct. N. in Lake Elmo Mn.

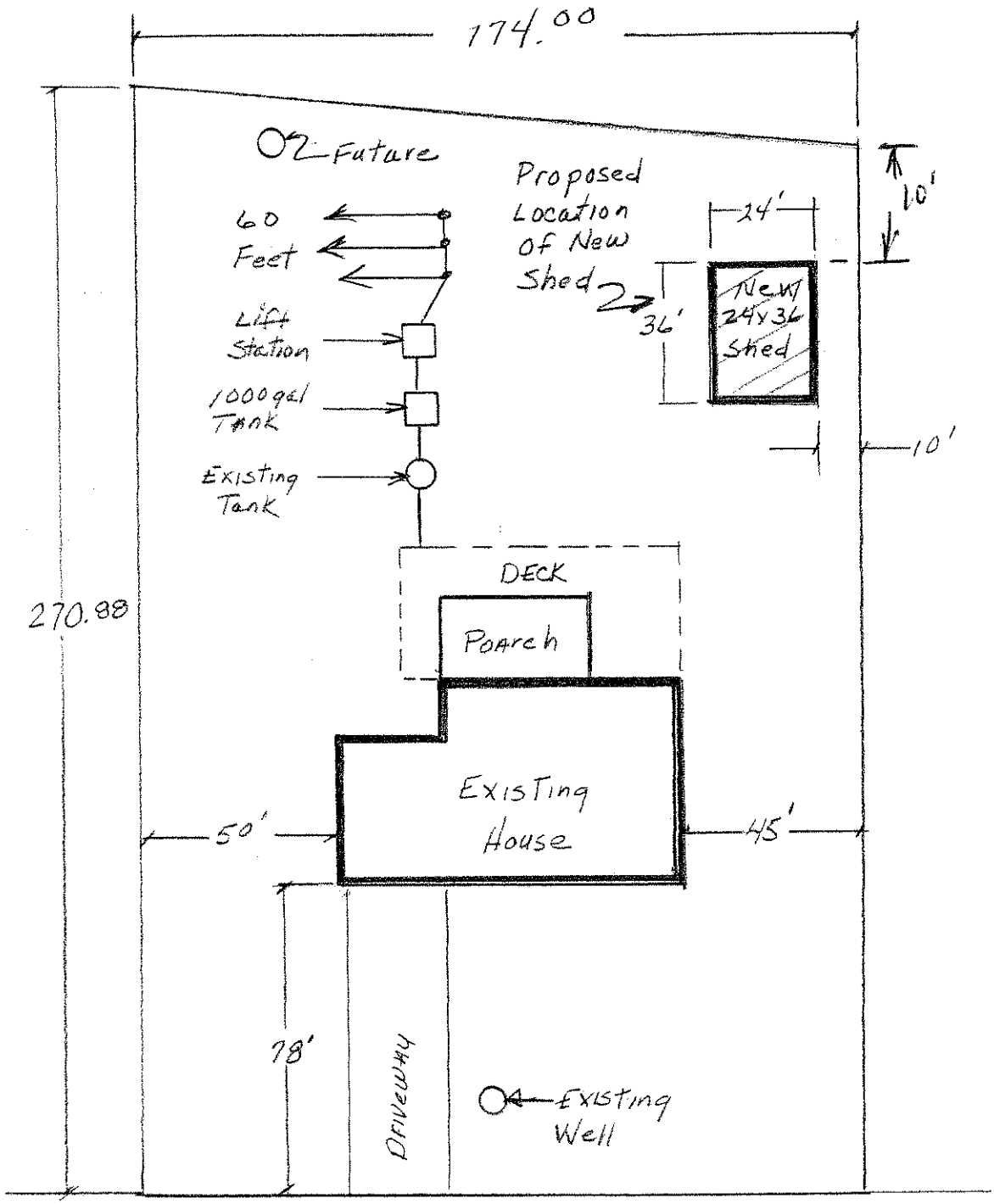
Dimensions: 36 ft. (length) x 24 ft. (width) = _____ sq. ft.

Permit Fee: Based upon valuation.
Plan Review Fee: 65% of permit fee. **State Surcharge:** Based upon valuation.
Permit fee estimate is available by calling the Building Dept. Projects are subject to a plan review fee regardless of whether the project is implemented.

The applicant hereby agrees to do all work in accordance with the Ordinances of the City of Lake Elmo and the State Building Code. In connection with your application for a permit, your signature constitutes permission for a representative of the City of Lake Elmo to enter upon said property for the purposes of project evaluation and code compliance.

Karen Lerol 6-29-08
Signature of Applicant Date

Inspection Scheduling: *Call the Building Dept. during regular office hours 24 hours in advance.*



4150

Irish at No.

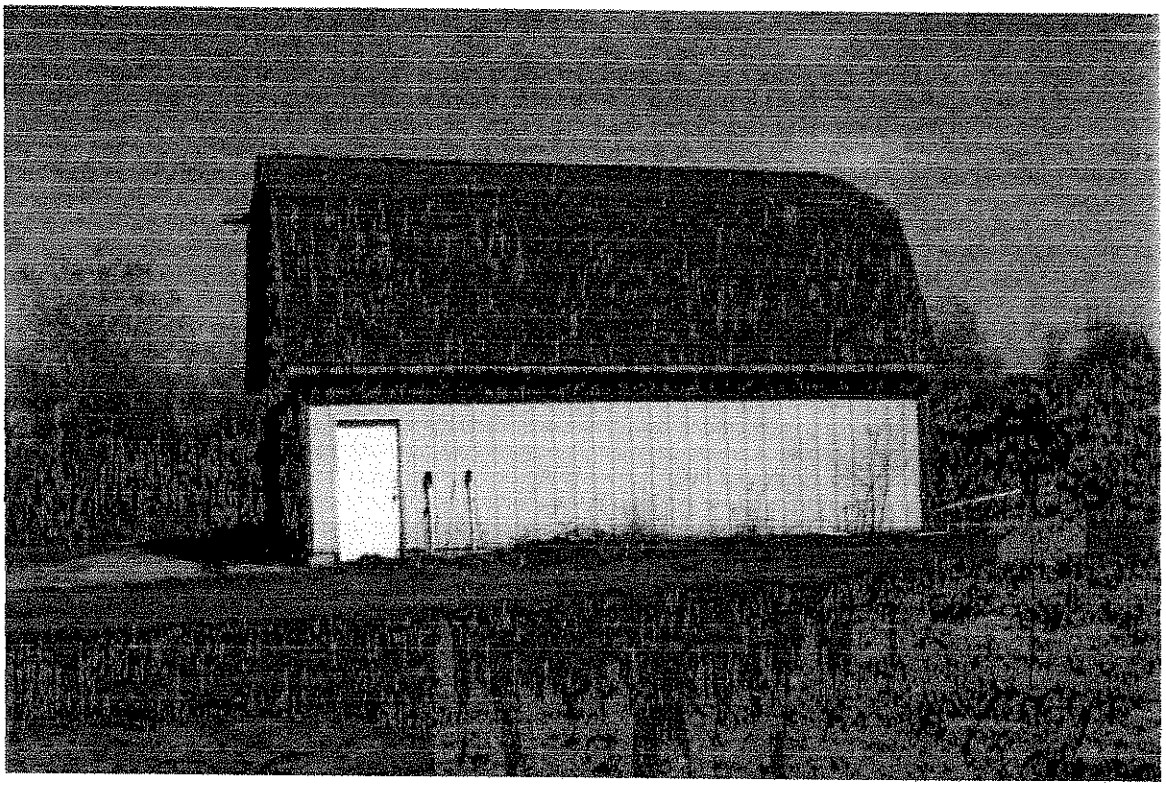
Description of Building

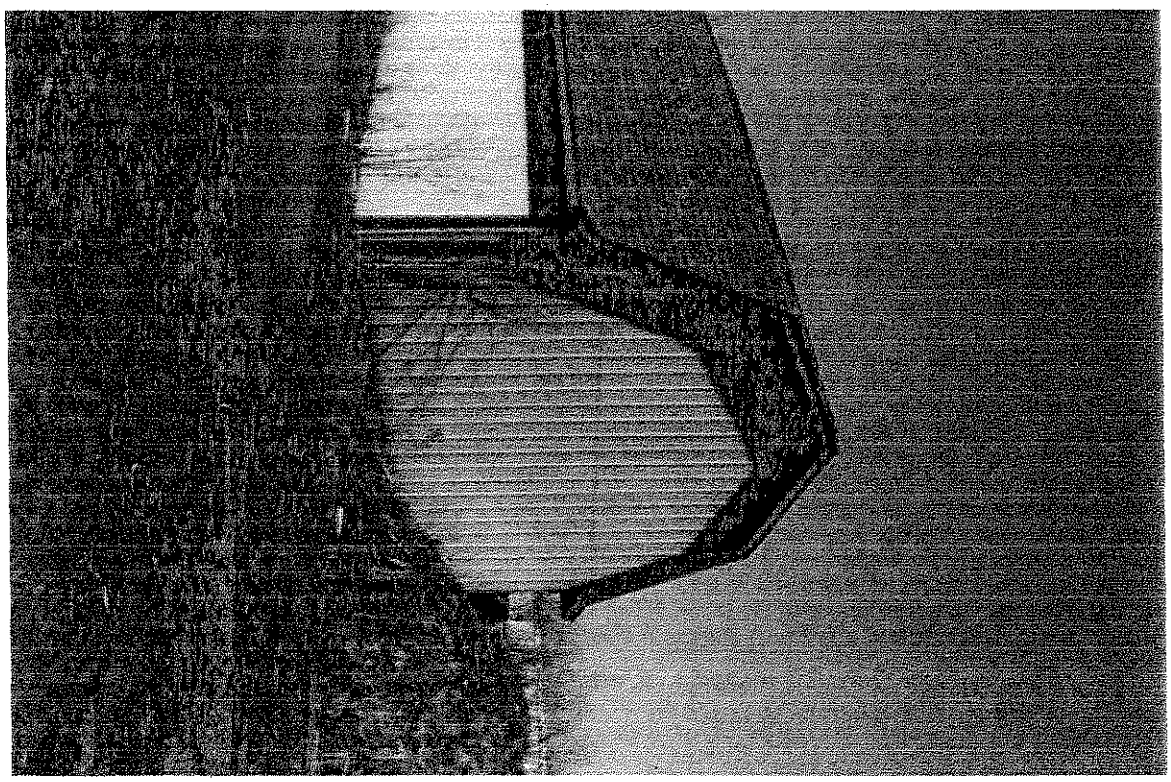
The shed is 24' wide by 36' long. It is 20' high.

The outside structure is blue steel siding with a barn shaped roof.

The building is in excellent condition. It is 7 or 8 years old.

This building is intended to be moved by the end of August, and painted to match the color of our house within a year.





City Council
Date: 8/19/08
Regular
MOTION
Item: 8

ITEM: Consider amendments to the open space zoning code district for coverage of impervious surface

SUBMITTED BY: Kyle Klatt, Planning Director

REVIEWED BY: Planning Commission
Susan Hoyt, City Administrator
Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider an amendment to the OP Open Space Preservation District provisions in the Zoning Ordinance to increase the maximum impervious surface coverage allowed within this district from the current 17% up to 20% for each lot with additional provisions that would allow an increase up to a maximum of 25% coverage. The purpose of the request is to reflect what is already on the ground due to prior errors in interpreting the zoning code OP District allowance as well as to allow for a reasonable use of each lot to meet homeowner's needs.

Impervious surfaces are essentially any hard materials on a site that do not absorb or hold water, including things like roofs, concrete sidewalks, driveways, and gravel surfaces. From a City's perspective is important to manage the amount of these surfaces on a lot because it can have a direct impact on things like water quality, erosion potential, the size needed for down-stream ponds, the speed at which storm water leaves a site and other factors. Many of these impacts can be managed on a subdivision-wide basis, and in Lake Elmo, the OP District provides additional opportunities to minimize the effects of impervious surfaces since half of the buildable land in these developments must be set aside as permanent open space. There is no accounting for the land set aside as open space when calculating individual lot coverage in this district; however, which indicates that the maximum amount of impervious coverage could be increased with very little impact on the overall rural character within OP developments.

This issue was raised earlier this year and was revisited at the Planning Commission's request. The Commission's recommendation is to increase the impervious surface coverage. Prior to making this recommendation, the Planning Commission heard information from John Bilotta, the Regional Extension Educator for Water Resource Management & Policy at the University of Minnesota focusing on storm water management issues. John Hanson, the Valley Branch Watershed District Engineer also spoke briefly about his agency's role in reviewing land use requests.

SPECIFIC ORDINANCE CHANGES

The Planning Commission has specifically recommended the following changes:

1) That the OP District Standards table found at Section 150.180 (B), (2), (h) be amended as follows:

Maximum Impervious Surface Coverage: Gross Lot Area	~~No more than 15% for the primary structure and driveway; but up to 17% total when including all other impervious surfaces~~ 20%. This percentage may be increased to 25% provided a pervious paver or comparable system is installed consistent with the City of Lake Elmo Engineering Standards Manual or storm water mitigation measures are installed to mitigate the runoff created by the additional coverage above the base district amount. All mitigation measures must be approved by the City Engineer.

2) That Section 11.01 of the City Code (Definitions) be amended with regards to the definition for Impervious Surface in the following manner:

   IMPERVIOUS SURFACE. Any structure or surface which interferes to any degree with the direct absorption of water into the ground, including but not limited to building footprints, sidewalks, paved or gravel driveways and parking areas, patios, sport courts, swimming pools, or any other similar surface. Decks, pervious landscaping fabric, ~~engineering-approved paver systems~~, and retaining walls shall not be included as impervious surface.

A key part of the Commission's recommendation is the removal of "engineer-approved paver system" from the list of exceptions to impervious surfaces. Under the existing definition, no portion of a site that uses these types of paver systems would be counted as an impervious surface. The City Engineer has expressed concern that over time these types of paver systems could become clogged and fail to allow water to absorb into to the ground (and essentially function as an impervious surface). This change is balanced with a new provision that would allow additional impervious coverage on a lot if mitigation measures are installed to account for any additional surface water runoff due to the increase. For example, a property owner could install a larger driveway if a rain garden, infiltration basin, or other mechanism is used to capture any additional runoff.

BACKGROUND INFORMATION

The report to the planning commission included a table comparing impervious surface coverage among five of the City's existing OP developments. It was assembled to help consider the overall impacts of the proposed Ordinance changes on a subdivision-wide basis and to specifically examine the maximum overall coverage (in each development) at a few selected coverage amounts. The key findings from this chart are:

1) The total amount of natural areas as a percentage of the total development exceeds 50% for all of the subdivisions selected. Most are closer to 60% due to wetlands, floodplains, steep slopes, and other areas that are classified as unbuildable.

2) The average OP lot is around 35,000 square feet in size (0.8 acres).

3) Roads will account for approximately 5% of the impervious surfaces in an OP development.

4) The typical OP lot would be allowed approximately 6,000 square feet of impervious surface coverage under the existing Ordinance.

5) If the Ordinance is revised to allow a maximum coverage of 20%, the overall impervious coverage within OP districts would remain at or below 12% even counting pubic roads in these calculations.

6) With additional mitigation of each lot, the proposed Ordinance would allow typical lot coverage of around 9,000 square feet, which is much closer to the upper coverage limits that can be observed on OP district lots.

An additional chart focusing on the Tana Ridge OP development has also been prepared to approximate the impervious surfaces on each lot in one specific development. Using aerial imagery from 2005, it was determined that the coverage percentages in Tana Ridge range from a low of 13.8% up to 19.8%. Over half exceed the current coverage limits and would therefore be classified as non-conforming with regards to this aspect of the City Code.

PLANNING COMMISSION

During the Planning Commission hearing on this matter, two homeowners within the St. Croix's Sanctuary Development stated their support for the proposed Ordinance amendments. They expressed concern over their ability to make additional improvements to their lots with the current limits and indicated that most lots in this subdivision are surrounded by additional open space beyond individual property boundaries. Two local builders also spoke and stated that the current limits make it difficult to build the typical size house in Lake Elmo and be able to have a driveway, walkways, patios, and other improvements on a lot.

FINDINGS RELTATED TO THE PROPOSED ORDINANCE that were made by the Commission are as follows:

- The maximum amount of impervious surface coverage permitted within OP developments can be raised for individual lots without a substantial increase in the overall coverage over an entire development.
- An increase would bring consistency between the Ordinance and current conditions in OP districts.
- A majority of the lots that have been developed within OP Districts either exceed the current impervious coverage limit of 17% or are very close to this limit; therefore, to accommodate some lifestyle amenities like patios, swimming pools, etc. and to be consistent with past practice it is useful to make this amendment and increase lot coverage to 20%.
- It is not anticipated to have a detrimental environmental effect to expand this lot coverage due to the additional open space in OP developments (It is very important to review the overall storm water management system used within new subdivisions and to make sure that appropriate assumptions are made regarding the anticipated coverage on a typical lot).
- The lot coverage requirement is a small (but important) part of an overall program for managing storm water and other development issues in a community.

RECOMMENDATION:

The Planning Commission recommends that the City Council approve the proposed amendments to the OP District impervious coverage provisions of the Zoning Ordinance.

SUGGESTED MOTION FOR CONSIDERATION:

Motion:

Motion to adopt Ordinance No. 08-008 amending the definition of impervious surfaces and amending the allowable impervious surface coverage for lots in Open Space Preservation developments.

Motion to adopt Resolution No. 2008-040 authorizing summary publication of Ordinance No. 08-008 in the official paper.

ATTACHMENTS:

1. Ordinance No. 08-008
2. Resolution No 2008-040 (Summary Publication)
3. Staff Report
4. OP Development Impervious Surface Analysis
5. Tana Ridge Surface Coverage Review

ORDER OF BUSINESS:

- Introduction ..... Susan Hoyt, City Administrator
- Report by staff ..... Kyle Klatt, Planning Director
- Questions from the Council ..... Mayor & Council Members
- Questions/Comments from the public ..... Mayor facilitates
- Call for a Motion

  (required for further discussion; does not imply approval of the motion ..... Mayor facilitates
- Discussion ..... Mayor facilitates
- Action on motion ..... Council

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-008

AN ORDINANCE TO AMEND THE DEFITION OF IMPERVIOUS SURFACES AND TO AMEND THE ALLOWABLE IMPERVIOUS SURFACE COVERAGE FOR LOTS IN OPEN SPACE PRESERVATION DEVELOPMENTS

Section 1. The City Council of the City of Lake Elmo hereby ordains that Section 150.180 Subd (B)(2) is hereby amended to read as follows:

(h) Minimum district requirements.

Open Space Preservation District (OP)		
	Single-Family	**Townhouse**
Maximum Building Height:		
Primary Structure	2 and 1/2 stories or 35 feet	2 and 1/2 stories or 35 feet
Accessory Structure	25 feet	1 story or 20 feet, whichever is less
Minimum Lot Width: 1/2 acre lot; 1 acre lot	NA	NA
Maximum Impervious Surface Coverage: Gross Lot Area	~~No more than 15% for the primary structure and driveway; but up to 17% total when including all other impervious surfaces.~~ 20% This percentage may be increased to 25% provided a pervious paver or comparable system is installed consistent with the City of Lake Elmo Engineering Standards Manual or storm water mitigation measures are installed to mitigate the runoff created by the additional coverage above the base district amount. All mitigation measures must be approved by the City Engineer.	NA
Minimum Setback Requirements:		
Front Yard	30 feet	20 feet
Side Yard	15 feet or 10% of lot width, whichever is greater	15 feet or 10% of lot width, whichever is greater
Corner Lot Front	30 feet	30 feet
Corner Lot Side Yard	30 feet	30 feet
Well From Septic Tank	50 feet	50 feet
Minimum Lot Size:		
Individual Well and Septic System	1 acre	NA
Individual Well and Communal Drainfield	1/2 acre	8,000 square feet per unit

Section 2. The City Council of the City of Lake Elmo hereby ordains that Section 11.01 is hereby amended to read as follows:

Impervious Surface. Any structure or surface which interferes to any degree with the direct absorption of water into the ground, including but not limited to building footprints, sidewalks, paved or gravel driveways and parking areas, patios, sport courts, swimming pools, or any other similar surface. Decks, pervious landscaping fabric, ~~engineering approved paver systems~~, and retaining walls shall not be included as impervious surface.

Section 3. Adoption Date

This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

This Ordinance No. 08-008 was adopted on this 19th day of August, by a vote of ____ Ayes and ____ Nay.

_____
Dean Johnston, Mayor

ATTEST:

_____
Susan Hoyt, City Administrator

This Ordinance No. 08-008 was published on the ____ day of August, 2008.

CITY OF LAKE ELMO

RESOLUTION NO. 2008-40

RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE NO. 08-008 BY TITLE AND SUMMARY

WHEREAS, the city council of the city of Lake Elmo has adopted Ordinance No. 08-008, an ordinance to amend the definition of impervious surfaces and to amend the allowable impervious surface coverage for lots in open space preservation developments; and

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the city council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Lake Elmo, that the city administrator shall cause the following summary of Ordinance No. 08-008 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the city of Lake Elmo has adopted Ordinance No. 08-008. The ordinance amends the definition for the term "impervious surface" and amends the allowable impervious surface coverage for lots in open space preservation developments from 17% to 20%. The ordinance further allows for the impervious surface coverage in these developments to be increased to 25% provided mitigation measures approved by the City are installed to capture any additional water runoff due to the additional impervious coverage on a lot.

The full text of Ordinance No. 08-008 is available for inspection at Lake Elmo city hall during regular business hours.

_____

Mayor Dean Johnston

BE IT FURTHER RESOLVED by the city council of the city of Lake Elmo that the city administrator keep a copy of the ordinance in her office at city hall for public inspection and that she post a full copy of the ordinance in a public place within the city.

Dated: _____ ___, 20___.

_____
Mayor Dean Johnston

ATTEST:

_____
Susan Hoyt
City Administrator

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member _____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.

City of Lake Elmo Planning Department

OP District Impervious Coverage Ordinance Amendment

To: Lake Elmo City Council

From: Kyle Klatt, Planning Director

Meeting Date: 8-19-08

Introductory Information

Objective: The Planning Commission has agreed to reconsider the City's current regulations concerning impervious coverage limits within the OP Open Space Preservation District. This action will help address numerous concerns that have been expressed by property owners and home builders within the community concerning the current requirements that limit impervious coverage to no more than 17% of lots that are zoned as OP. Staff is recommending approval of amendments to the code that will increase the allowed coverage within OP development and that add additional clarification concerning the use of pervious paver systems or alternative storm water management techniques on these residential lots.

Background: When the City adopted the original OP Open Space Preservation Ordinance several years ago, it included a provision that no more than 10% of a lot within such a development could be covered by an impervious surface. Due to previous interpretation and application of this ordinance, many of the lots that have been developed in OP Developments have exceeded this coverage requirement, and in some cases, by a substantial margin. Recognizing this issue last fall, the Planning Department proposed an amendment to the code in order to address this situation. In December of 2007 the City Council adopted amendments to the Zoning Ordinance that provided a new definition for impervious surfaces, increased the overall coverage permitted on a lot to 17% (15% for the building and driveway with an additional 2% for sidewalks and other structures), and clarified the area of each lot that was to be used in this calculation.

Since this amendment was approved by the City, the Planning Department has been requiring that each building permit depict the amount of impervious coverage proposed for a lot, and then reviewing each proposal for consistency with the appropriate district standards. In conducting these reviews, Staff has observed the following trends:

- Most of the permits that have been reviewed for lots within OP developments are either very close to the coverage limits or would result in the site exceeding these requirements.
- It is very difficult to meet the coverage standards and also have a pool, sidewalk system, sport court, or detached accessory building in OP developments.

(cont.)

- The open space development requirements specify that at least half of the buildable area within an OP development be set aside as open space; therefore, the maximum overall impervious coverage within these types of development will always be at least half of the allowed coverage in other developments.
- Building permits cannot be issued for an expansion of coverage on any lot that currently exceeds the impervious coverage requirements. Based on Staff's current and past analysis, it is estimated that at least half of OP development lots are either very close to or over the maximum coverage allowed. This limit has already affected several homeowners within the City that have been planning on porch additions, swimming pools, and other improvements.

Even though the Planning Commission and Council reviewed this Ordinance as recently as 8 months ago, Staff believes it will be beneficial to revisit this issue to address the concerns expressed above. To help expedite the review process, Staff has published a public hearing notice for the Commission's August 11th meeting with the specific indication that the Commission will be considering an increase in the amount of impervious coverage allowed within the OP District.

Staff Review and Analysis

History

In preparation for the Planning Commission hearing on the OP District impervious coverage requirements, Staff completed the following tasks:

- Reviewed the previous Planning Commission and Council action on the OP district lot coverage requirements.
- Reviewed the impervious coverage requirements from other communities.
- Conducted an analysis of five OP developments, specifically looking at the overall impacts of various coverage limits.
- Examined the actual built coverage within one of the City's smaller OP developments.

The Water Resource Education Specialist for the Washington Conservation District attended the Planning Commission's meeting and was available to answer questions from the Commission. In addition, a representative of the NEMO program (Nonpoint source pollution Education for Municipal Officials) attended the meeting and conducted a brief presentation focusing on storm water issues on an individual lot basis. The purpose for this presentation was to provide additional information to the

Planning Commission concerning the relationship between storm water runoff and impervious coverage, and how these issues can be addressed on a subdivision-wide and lot-by-lot basis.

When the Planning Commission last reviewed this Ordinance, Staff conducted a random survey of 12 lots within OP developments and found that all of these lots exceeded the 10% coverage requirement that was in place at this time. Staff presented three options for amending Ordinance, and the option chosen was essentially the middle ground between the higher and lower figures. Since December of 2007, the City's requirements have stated the following for OP Districts:

> ***Maximum Impervious Surface Coverage: Gross Lot Area*** - No more than 15% for the primary structure and driveway; but up to 17% total when including all other impervious surfaces.

Ordinance Review:

As part of its analysis of other Cities, Staff has reviewed Ordinances from the Cities of Burnsville, Cologne, Dayton, Woodbury, Bayport, Stillwater, Faribault, North Branch, Wyoming, and Oakdale, Minnesota, recognizing that none of these cities are a perfect match for the development patterns within Lake Elmo's open space districts. Rather than summarizing our findings for each individual City, it is worth noting the trends that can be observed from this study:

- Those cities with rural or agricultural districts typically do not regulate impervious coverage in these districts or it is set below 20% (with 10% coverage being a common figure)
- Most cities that are more urban in nature set an impervious coverage limit within single family districts at around 25%.
- Denser residential districts and commercial/industrial developments are generally allowed to exceed 25%, with many Ordinances allowing overages grater than 50%.
- One of key differences between Lake Elmo's Ordinance and the other cities is that many of them specify building or structure coverage, rather than impervious coverage. Those elements of a plan that would not require a building permit, including driveways and sidewalks, are not regulated for coverage in some of the cities surveyed.

OP District Review:

In order to provide additional clarification concerning the impact of impervious coverage requirements in the OP District, Staff has completed a more thorough review of 5 specific OP developments within the City of Lake Elmo. This review summarizes data on the total land within an open space development, number of residential lots platted, the average lot size in each development, and the overall impacts of various coverage requirements in these developments. It ultimately attempts to quantify the total percentage of a development that could be covered with impervious surfaces at various lot coverage limits within an OP development. Based

on this analysis, the total theoretical coverage within each OP project, including roads, would be the following using a coverage limit of 25%:

Fields of St. Croix 2nd Addition	17.6%
St. Croix's Sanctuary	11.3%
Tapestry at Charlotte's Grove	14.2%
The Farms of Lake Elmo	12.2%
Tana Ridge	14.1%

The attached table contains the complete analysis and all other options that were studied. Staff will be reviewing the information in the table at the City Council meeting, and at that time, will more thoroughly explain the methodology and results of this review.

Another analysis performed by Staff included a review focusing on the built conditions of one specific OP development, Tana Ridge (chosen because of the manageable number of lots within this subdivision). The second table attached to this report summarizes the total area of each lot by address in the development and provides a rough estimate of the lot coverage as determined by an examination of aerial imagery. Although Staff had to make some assumptions about which portion of a lot was indeed impervious, the end result should be fairly close to the actual conditions as they existed in the spring of 2005 (when the City's imagery was acquired). Any additions to the impervious coverage on individual lots since 2005 would not have been counted in this analysis.

In summary, Staff found that of the 20 lots within Tana Ridge, over half currently exceed the City's OP coverage limit, another quarter of the lots are within 1 percentage of the maximum, and all exceed 13% impervious surface coverage. The average through the development is 17.3%, not taking into account any improvements made in the past 3 years. These findings are consistent with the previous research performed by Staff and generally indicate that the lots currently developed within OP districts fall within a range of 14 to 20% impervious coverage.

In addition to providing a more throughout review of the attached tables at the meeting, staff will also present some example site plans and imagery for the developments used as an example.

Engineering Review:

One of the provisions in the current Ordinance allows for the use of pervious materials in place of other "natural" ground cover. The City Engineer has expressed concern that the Ordinance does not provide any clarification concerning when these systems may be used, and that as a general rule, it would be in the City's best interested to set a limit on the amount of alternative coverage allowed in each development. The primary reason to setting a limit is that the City does not have a mechanism in place to require ongoing maintenance of a pervious system once it is installed.

In order to still provide some flexibility and encourage environmentally sensitive

storm water management techniques, Staff is recommending that the definition for "Impervious Surface" in the code eliminate any references to pervious surfaces, but that the OP district provisions allow for an additional 5% of the lot to be covered as long as appropriate mitigation measures are used and subject to review in accordance with accepted Engineering Standards.

On a development-wide basis, the storm water management system within each subdivision is reviewed as part the overall plans for a particular development. Part of this review includes as estimate of total lot coverage, which is used to help ensure that any ponds, infiltration basins, and other storm water management measures are sized appropriately. Additionally, each development must meet standards adopted by the governing watershed district, and again, compliance with these rules will be determined by a review of the overall storm water system that is proposed. Staff has received no indication that the preciously approved OP developments were sized incorrectly or that the overall lot coverage in these developments has created problems.

Conclusion:

Staff Rec: Based on the analysis of current OP developments and the overall anticipated coverage within OP districts, Staff recommended the following:

1) That the maximum allowed impervious coverage within OP Districts be increased to 20%.
2) That this ordinance no longer regulate the house and driveway separate from other improvements on each lot.
3) That provisions be added to the Ordinance that allow the OP District coverage requirements to be increased to 25% if a pervious paver or comparable system is used or if the additional surface water runoff generated by the increased coverage is mitigated in a manner approved by the City Engineer.

Planning Commission Rec: The Planning Commission adopted a motion to recommended approval of an Ordinance to amend the definition of impervious surfaces and to amend the allowable impervious coverage for lots within Open Space Preservation Districts. The motion passed with a vote of 5 ayes, 1 nay and 1 abstention.

OP Development Impervious Surface Analysis

Development		Fields 2 (Excludes Townhomes)	Percentage	Sanctuary	Percentage	Tapestry	Percentage	Farms	Percentage	Tana Ridge	Percentage	Heights Park (RE)	Percentage
Gross Land Area	Acres	71.85		152.95		173		83.8		40		142	
Buildable Area	"	67.47	93.9%	135.73	88.7%	167	96.5%	71	84.7%	35.35	88.4%		
Open Space/Easement Area	"	32.67	45.5%	75.8	49.6%	92.08	53.2%	35.5	42.4%	15.89	39.7%	6.60	4.6%
Net Developable Land	"	34.8	48.4%	59.93	39.2%	74.92	43.3%	35.5	42.4%	19.46	48.7%	135.40	95.4%
Number of Lots		40		62		66		30		18		50	
Smallest Lot	Sq. Ft.	15,434		31,696		32,535		32,620		31,961		65,456	
Largest Lot	"	54,132		58,056		142,860		53,860		38,363		235,225	
Average Size of Lots	"	27,129		36,069		44,797		35,892		33,419		105,797	
Total Lot Area	Acres	33.63		51.34		67.87		24.72		15.34		121.44	
Road Coverage	"	4.23	5.9%	4.48	2.9%	7.52	4.3%	4.07	4.9%	1.81	4.5%	4.86	3.4%
Average Lot Coverage at	10%	2,713		3,607		4,480		3,589		3,342			
selected coverage ratios	17%	4,612		6,132		7,615		6,102		5,681			
(Sq. Ft.)	20%	5,426		6,339		8,959		7,178		6,684		15,870	15.0%
	25%	6,782		9,017		11,199		8,973		8,355			
	30%	8,139		10,821		13,439		10,768		10,026			
Total Max Coverage w/Roads	10%	7.59	10.6%	9.62	6.3%	14.30	8.3%	6.54	7.8%	3.35	8.4%		
at selected coverage ratios	17%	9.95	13.8%	13.21	8.6%	19.05	11.0%	8.27	9.9%	4.42	11.1%		
(Acres)	20%	10.96	16.2%	14.75	9.6%	21.09	12.2%	9.02	10.8%	4.88	12.2%	23.08	16.3%
	25%	12.64	17.6%	17.32	11.3%	24.48	14.2%	10.25	12.2%	5.65	14.1%		
	30%	14.32	19.9%	19.88	13.0%	27.88	16.1%	11.49	13.7%	6.42	16.0%		
Other Calculations													
Total Road Length		7088		7509		12591		6821		3036		7567	
Road Width		26		26		26		26		26		28	

Tana Ridge Surface Coverage Review

Address	Imp Cov (sf)	Total Area (sf)	Percent
4938 Lily Ave N	6,392	33,333	19.2%
4964 Lily Ave N	6,401	38,363	16.7%
4967 Lily Ave N	6,544	33,110	19.8%
4937 Lily Ave N	5,909	32,690	18.1%
4905 Lily Ave N	6,013	32,781	18.3%
4884 Lily Ave N	4,622	33,424	13.8%
4875 Lily Ave N	4,947	32,817	15.1%
4847 Lily Ave N	6,590	33,078	19.9%
4819 Lily Ave N	5,480	32,857	16.7%
4791 Lily Ave N	5,446	33,582	16.2%
4759 Lily Ave N	5,657	32,852	17.2%
4731 Lily Ave N	5,856	32,653	17.9%
4703 Lily Ave N	5,065	32,709	15.5%
4677 Lily Ave N	5,895	32,646	18.1%
4651 Lily Ave N	5,908	33,015	17.9%
4629 Lily Ave N	4,818	33,797	14.3%
4605 Lily Ave N	6,052	31,961	18.9%
4577 Lily Ave N	5,519	32,997	16.7%
4758 Lily Ave N	5,960	35,985	16.6%
4830 Lily Ave N	6,678	33,727	19.8%
Totals	115,752	668,377	17.3%
Averages	5,788	33,419	17.3%

Driveway Analysis:

	Area	% of Avg
Minimum	1,239	3.7%
Maximum	3,247	9.7%
Average	1,815	5.4%

Structure Anslysis:

	Area	% of Avg
Minimum	2,828	8.5%
Maximum	4,682	14.0%
Average	3,373	10.1%

Note: Impervious coverage estimated using 2005 aerial imagery. Using actual building footprints would provide more accurate results.

Board of Adjustment and Appeals
Date: 8.19.08
REGULAR
Item: 9
ACTION

ITEM:	Hold an appeal hearing on zoning code violations related to accessory structures at 5761 Keats Avenue
REQUESTED BY:	Joan and Steve Ziertman, property owners, 5761 Keats Avenue
SUBMITTED BY:	Jerry Filla, City Attorney

SUMMARY AND ACTION REQUESTED

The city council, acting as the Board of Adjustment and Appeals, is being asked to hold an appeals hearing for alleged zoning code violations related to an accessory structure on the Ziertman property at 5761 Keats Avenue. Under Section 31.10 of the city code, property owners are allowed to appeal a determination of the zoning code if the appeal is made within five business days from the date of the decision, order, requirement or determination. The city attorney received an email requesting an appeal hearing within the required timeframe. The appeals hearing was scheduled at the August 5, 2008 city council meeting for the Board of Adjustments and Appeals. Notices were distributed to the property owners, the abutting neighbors and the planning commission chair as required by city ordinance.

BACKGROUND INFORMATION

All complaints regarding the properties at 5761 and 5699 Keats Avenue are forwarded to the city attorney. The consulting planner was asked to investigate the complaint several weeks after the city administrator and the city attorney received it. The consulting planner reviewed the complaint without involvement of the city staff in order to assure the property owners that there was no actual or perceived bias in the review of the complaint about code violations by the city's permanent staff. The consulting planner has been handling all code enforcement issues over the past 10 months. These are primarily initiated on a complaint basis.

WHAT IS THE BOARD OF ADJUSTMENT AND APPEALS BEING ASKED TO DETERMINE

The Board of Adjustment is being asked to determine if the accessory structure violates three sections of the zoning code as identified by the city attorney after receiving a report from consulting planner, Ben Gozola. These violations and the report are attached.

AUTHORITY OF THE BOARD OF ADJUSTMENT AND APPEALS

City code describes the authority of the Board of Adjustment and Appeals in the following manner:

> *The Board of Adjustment and Appeals may reverse or affirm, or wholly or partly, or may modify the order, requirement, decision or determination appealed from and to the extent shall have all the powers of the officer from who the appeal was taken, and may direct the issuance of the permit.*

IN THIS CASE:

The Board of Adjustment and Appeals is asked to individually examine the three findings of nonconformity which would require removal of the structure in question. Determination that staff erred in interpreting the code and that one or more of the nonconformities do not exist must be substantiated by findings of fact. When conducting this review, the Board is asked to keep the following in mind:

1. This is not a policy decision by the Board of Adjustment and Appeal; it is a determination as to whether the City Code has been properly interpreted as written with regards to the applicable accessory structure.

2. The Board of Appeals cannot find the accessory structure is conforming to code based on what may or may not be present on other property within the City. The structure either conforms to code as written or it does not.

3. This is not a policy decision about the clarity or appropriateness of zoning code sections related to the accessory structure. The Board of Appeals and Adjustments is not a policy making body. Such a finding must have no bearing on the determination as to whether the structure is conforming or nonconforming with current codes as written. Please note that the Board may recommend that City Council direct staff to make changes to the ordinance to address any identified concerns. The City Council must then bring the matter up at a future meeting to provide such direction.

4. While the Board is asked to make a finding of compliance or non compliance with the code, the Board cannot make a determination to let the structure remain regardless of its conformance to the zoning code.
    - If the Board determines that staff erred in interpreting the current code as written and that the structure in question conforms with all applicable regulations, the City Council would still need to approve a variance authorizing the structure to be closer to the road than the principal structure to allow it to remain. Approval of a variance requires a separate process. Alternatively, the structure would need to be moved to a conforming location behind the front of the principal building.
    - If the Board agrees with one or more of staff's findings of nonconformity, the structure would be illegal and could only remain after approval of a variance by the City Council at a later date following the City's standard process for such applications.

5. If the Board of Adjustments and Appeals finds that the structure does not conform to one, two or three sections of the zoning code, the Board must require the structure to be removed within a reasonable time frame, (e.g. 30 to 60 days).
    - If the City Council (not the Board of Adjustment and Appeals), prior to the removal deadline, amends the applicable zoning codes to which the structure is nonconforming, the structure may remain. In other words, the structure would no longer be nonconforming because it would meet the new zoning code requirements for accessory structures as adopted by the city council.
    - The city council, acting as the Board of Adjustment and Appeals, cannot make these policy changes to the city code. Only the City Council, in utilizing the ordinance process, may make changes to the City Code.

OPTIONS

Option 1: Find that the structure is not in violation of all three sections of the zoning code as cited by staff.

- Separate findings of fact must be given as to why the structure conforms to the three separate sections of code in question.
- The appellant must either move the structure to a conforming location behind the front of the principal building, or request a variance from the City Council to allow it to remain in its current location.

Option 2: Find that the structure is in violation of one, two and/or three sections of the zoning code as cited by staff.

If the Board of Adjustment and Appeals determines that any of these three violations is substantiated, the property owners must:

1. Remove the accessory structure within a given time frame

   OR

2. Proceed with a request for a variance, which requires a hardship finding. If the variance is not granted, the accessory structure would need to be removed within a given time frame.

   OR

3. Correct the violation (if it can be corrected) within the zoning code requirements. For example, if the Board finds that the structure does not exceed the area permitted for accessory structure nor does it exceed the number of permitted accessory structures, the Board may direct the property to move the structure to within the required setback from the front property line and to be constructed with the required footings.

Suggested motion for consideration

Move to approve findings related to the conformance of accessory structure at 5761 Keats Avenue...

> *If the findings are that the structure does not comply with the any one of the sections of the zoning code, please provide a time frame for removal of the structure. If a variance for the structure is requested by the property owners, the property owners will be expected to submit the variance application within the time frame identified by the Board.*

ORDER OF BUSINESS

1.	Adjourn to the Board of Appeals and Adjustment	City Council
2.	Open appeal hearing	Mayor
3.	Introduction to the purpose of the appeal hearing.....	Jerry Filla, City `Attorney
	- Questions to the attorney from the city council	
4.	Report on determination of code violations	Ben Gozola, Consulting Planner
	- Questions to the attorney from the city council	
5.	Response to allegation of code violations	Steve and Joan Ziertman,Property Owners
	- Questions to the Ziertmans from the city council	
6.	Comments—if any—from those notified of the hearing (adjoining property owners, planning commission chair)	Mayor facilitates

7. Motion on decision based upon findings of fact ..... Mayor and Board members
8. Discussion of the appeal ..... Mayor facilitates
9. Move to approve or deny the appeal—or portions of the appeal—based upon findings of fact ..... Mayor and Board members
10. Adjourn as the Board of Adjustment and Appeal ..... Mayor

ATTACHMENTS:

1 Notice of the Appeal Hearing
2 Memo from the consulting planner
3 Proposed findings of fact

CITY OF LAKE ELMO

NOTICE OF HEARING

TO: Mr. and Mrs. Steven Ziertman
5761 Keats Avenue
Lake Elmo, MN 55042

YOU ARE HEREBY notified that the City Council will hear your appeal from the City Attorney's Notice to you regarding the smaller detached accessory structure (goat shed) located on your property at 5761 Keats Avenue. The hearing will be held on August 19, 2008 at 7:30 p.m. in the City Council's meeting room located at 3800 Laverne Avenue North, Lake Elmo, Minnesota.

In particular the City Council will consider your testimony relating to the following alleged violations:

1. The goat shed on your property causes your property to have more than one detached accessory building and to have a total square footage of all detached accessory buildings in excess of 2,500 square feet in violation of City Code §154.093.

2. The goat shed on your property is closer to your front property line than the principal building on your property in violation of City Code §154.092 (I).

3. The goat shed on your property does not have a foundation, concrete floor or wind anchor as required by City Code §154.092K.

Attached is a copy of the planning report which references these violations.

Dated: August 7, 2008

CITY OF LAKE ELMO MEMORANDUM

TO: SUSAN HOYT

FROM: BEN GOZOLA

SUBJECT: ACCESSORY BUILDING INTERPRETATION

DATE: 6/5/08

CC:

PURPOSE

MFRA was asked by the City of Lake Elmo to work with Jardine, Logan & O'Brien to provide an interpretation of existing codes related to a goat shed erected along Keats Avenue, and to make a determination on whether the structure conforms to code or is nonconforming.

ANALYSIS & FINDINGS

- There are a number of code sections and definitions that play into this determination including:
  - Definition for **ACCESSORY BUILDING:** A subordinate building, or a portion of the main building, which is located on the same lot as the main building and the purpose of which is clearly incidental to that of the principal building.
  - Definition for **AGRICULTURAL BUILDING**: A structure on agricultural land, as defined below in the definition for *FARM, RURAL* of this section, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products grown by the owner, lessee, or sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.
  - Definition for **ANIMALS, DOMESTIC FARM:** Cattle, hogs, horses, bees, turkeys, geese, sheep, goats, chickens, and other animals commonly kept for commercial food producing purposes.
  - Definition for **BUILDING:** Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal, or movable property of any kind. When any portion of a building is completely separated from every other part of a building by area separation, each portion of the building shall be deemed as a separate building.
  - Definition for **BUILDING FOOTPRINT:** The outline of the total area covered by a building's perimeter at the ground level.
  - Definition for **STRUTURE:** Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, signs, and other similar items.
  - **Section 154.036 (B)** which states "accessory structures cannot exceed the size of the principal building."

- **Section 154.036 (D)** which requires animal shelters to be located at least 100 feet from any property line, 50 feet from any existing well or residential structure on the same parcel, and at least 200 feet from any body of water (seasonal or year-round).
- **Section 154.092 (E)** which states that the exterior design and color shall be the same as the principal building or be of an earthen tone, and restricts the height to that of the principal structure.
- **Section 154.092 (K)** which requires that all accessory buildings larger than 100 square feet secure a building permit, and that roof loads and wind loads conform to MN State Building Code requirements.
- **Section 154.092 (M)** which requires that detached farm animal buildings meet underlying setbacks, not be placed on slopes of 13% or greater, not be within 100 feet of any location where groundwater is within 6.5 feet of the surface, and not be on a wetland.
- **Section 154.093** which outlines the number and size of accessory buildings allowed on RR zoned property
  - <10 acres = one 2000 sq ft building in addition to an attached garage
  - 10 to 15 acres = one 2500 sq ft building in addition to an attached garage
  - >15 acres = one 3000 sq ft building in addition to an attached garage

- CONCLUSION: The "goat shed" is considered a detached domesticated farm animal building by code. It is nonconforming with code in the following ways:

The goat shed is nonconforming to the maximum number of accessory structures.

- The maximum number of allowed accessory structures for this sized parcel in the RR zoning district is one (1). As a detached structure, the goat shed is the second accessory structure on the property and is therefore illegal.

The goat shed is nonconforming to the maximum accessory structure size limit.

- The parcel in question is 10.73 acres in size, so Section 154.093 limits the property to one 2500 square foot accessory building in addition to an attached garage. Because the property already has one detached accessory building, the goat shed would not be allowed.
- If the goat shed were attached to the existing detached accessory building, it still would not be allowed due to the definition of *building* which states "when any portion of a building is completely separated from every other part of a building by area separation, each portion of the building shall be deemed as a separate building." The only way to address this problem would be to link the interior of the existing structure with the interior of the goat shed via a doorway of some kind. Once attached, the resulting accessory structure would exceed the limit of 2500 square feet. Site plans submitted by the property owner for the existing accessory structure indicate that it is currently 2499 square feet in size, so only a 1 square foot expansion is possible.
- As an aside, the existing accessory structure includes a breezeway to link the two main portions of the building. The site plan provided to the city at the time of construction indicates the breezeway area is only 9 sq ft, but the angles between the building suggest that figure is inaccurate. If surveyed, we suspect the 2500 square foot limit would be met or exceeded.

The goat shed appears to be nonconforming to the required front yard setback.

- The goat shed appears to be closer to the road than the principal structure which is not allowed unless approved by a resolution from the Council.

The current goat shed (and its predecessor) appears to have been built illegally.

- Adoption of regulations limiting accessory structures to one (1) and the maximum square footage to 2500 square feet were in place prior to 1997 (the exact date can be determined if needed).
- By code, illegal structures will not be deemed nonconforming unless they were constructed prior to adoption of the regulations to which they do not comply.
- A review of available aerial photography indicates that no goat shelter was present on the 1997 Met Council aerials that would have been flown in early spring or late fall (either time beyond the February 18th recodification date that year). Subsequent aerials indicate an original goat shed was likely constructed sometime between 2000 and 2004. The old goat shed, which was ostensibly replaced by the newer structure in questions, was therefore illegal and was never nonconforming. The current goat shed, therefore, cannot be allowed as replacement of an existing nonconforming use.

The goat shed appears to be nonconforming to foundation and roof requirements.

- Section 154.092 (K) eliminated the need for a building permit due to the shelters size of less than 100 square feet. However, waiver of a building permit did not alleviate the need for a permanent foundation (if the goat shed exceeds 35 square feet) or compliance with roof and wind load standards.
- While we have not accessed the property to physically measure the dimensions of the goat shed, remote viewing indicates that it is likely to be greater than 35 square feet in size.

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE BY MAIL

Pamela L. Carter, of the City of St. Paul, County of Ramsey, in the State of Minnesota, being duly sworn on oath, says that on the 7th day of August, 2008, she served the annexed Notice of Hearing on the interested in this action, by mailing to them a copy thereof, enclosed in an envelope, postage prepaid, and by depositing same in the post office at St. Paul, directed to them at:

Mr. and Mrs. Ziertman
5761 Keats Avenue
Lake Elmo, MN 55042

Dean Johnston
8200 Hill Trail North
Lake Elmo, MN 55042

Steve DeLapp
8468 Lake Jane Trail
Lake Elmo, MN 55042

Elizabeth Johnson
2945 Lake Elmo Avenue N.
P.O. Box 403
Lake Elmo, MN 55042

Ann Smith
12153 Marquess Lane North
Lake Elmo, MN 55042

Nicole Park
404 Lake Elmo Avenue
Lake Elmo, MN 55042

Susan Hoyt
City Administrator
City of Lake Elmo
3800 Laverne Avenue N.
Lake Elmo, MN 55042

Carl Horning
Building/Water Inspector
3800 Laverne Avenue N.
Lake Elmo, MN 55042

Todd Ptacek
812 Julep Avenue
Lake Elmo, MN 55042

Mr. and Mrs. Sessing
5699 Keats Avenue
Lake Elmo, MN 55042

Rockpoint Church
5825 Kelvin Avenue
Lake Elmo, MN 55042

Ben Gozola
Senior Planner
MFRA
14800 28th Avenue N., Suite 140
Plymouth, MN 55447

the last known address.

Pamela L. Carter

Subscribed and sworn to before me this
7th day of August, 2008.

Jessica Michelle Thompson
Notary Public

JESSICA MICHELLE THOMPSON
Notary Public-Minnesota
My Commission Expires Jan 31, 2012

PROPOSED FINDINGS AND CONCLUSIONS

Based upon the information contained in the Planning Memo dated June 5, 2008; the comments of City Staff and Consultants; and the comments of the property owners of the property located at 5761 Keats Ave., the City Council, acting as the Board of Adjustments and Appeals, makes the following findings and conclusions:

1. Findings.

   A. The property located at 5761 Keats Ave. is in a rural residential zoning district and encompasses an area of approximately 10.73 acres ("Property").

   B. There are two (2) detached accessory structures located on the Property.

   C. The area of the larger detached accessory structure is between 2,499 square feet and 2,508 square feet.

   D. The smaller detached accessory structure is intended to provide shelter for domesticated farm animals.

   E. The smaller detached accessory structure is located closer to the front property line of the Property than the principal structure on the Property.

   F. The smaller detached accessory structure does not have a foundation, cement floor, or wind anchors.

2. Conclusions. The smaller detached accessory structure located on the Property causes the Property to be in violation of City Code Sections 154.093; 154.092, subd. I; and 154.092, subd. K.