

COPY

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, May 7, 2012 at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Election of Vice Chair
3. Approve Agenda
4. Approve Minutes
 - a. None
5. Public Hearings
 - a. CHRIST LUTHERAN CHUCH SEPTIC SYSTEM VARIANCE. Christ Lutheran Church has requested a variance to allow the installation of holding tanks that will be used for longer than 12 months to serve as part of the subsurface sewage treatment system for the facility at 11194 36th Street North.
 - b. OAKDALE GUN CLUB CONDITIONAL USE PERMIT AMENDMENT. The Oakdale Gun Club is asking to amend its Conditional Use Permit to allow the installation of cementitious side walls and overhead baffling on several of the existing ranges within its facility at 10386 North 10th Street.
6. Business Items
7. Updates
 - a. City Council Updates.
 - i. May 1, 2012 – Council discussion of Economic Development Authority
 - b. Staff Updates
 - i. MnDOT Community Roadside Landscaping Partnership Program Plantings - June 2, 2012 at 9:00 a.m.
 - ii. Upcoming Meetings:
 1. May 8, 2012 – City Council Workshop on Growth and Utilities
 2. May 10, 2012 – Village Work Group
 3. May 14, 2012 – Planning Commission
 4. May 30, 2012 – Planning Commission
 - c. Commission Concerns
8. Adjourn

Planning Commission
Date: 5/7/12
PUBLIC HEARING
Item: 5a

ITEM: Christ Lutheran Church Septic System Variance for Holding Tanks
SUBMITTED BY: Kyle Klatt, Planning Director *[Signature]*
REVIEWED BY: Nick Johnson, City Planner

SUMMARY AND ACTION REQUESTED

The Planning Commission is being asked to consider a request from Christ Lutheran Church, 11194 36th Street North, for a variance to install holding tanks that will replace an existing non-compliant subsurface sewage treatment on its site. The proposal involves the installation of three tanks with a capacity of 1,500 gallons each that will be used for longer than a 12 month period of time. The Washington County regulations pertaining to subsurface sewage treatment systems (SSTS) do not allow the use of holding tanks beyond 12 months.

ADDITIONAL INFORMATION:

The attached Staff report includes a detailed review of the application along with a Staff recommendation.

RECOMMENDATION:

Staff is recommending that the Planning Commission recommend approval of the variance request from Christ Lutheran Church, 11194 36th Street North, for a variance to install holding tanks that will replace an existing non-compliant subsurface sewage treatment on its site with the following conditions of approval:

1. The applicant shall to enter into an Agreement with the City waiving their right to appeal their assessment for the extension of Municipal Sanitary Sewer when a project to serve this property is initiated by the City. A non-binding letter as submitted does not fulfill this requirement.
2. The applicant should be required to submit copies of all septic tank pumping records to the City on a quarterly basis.

ORDER OF BUSINESS:

- Introduction Planning Director
- Report by staff..... Planning Director
- Questions from the Commission..... Chair & Commission Members
- Applicant Comments..... Chair facilitates
- Questions of the Applicant..... Chair & Commission Members
- Open the Public Hearing..... Chair
- Close the Public Hearing Chair

- Call for a motion.....Chair Facilitates
- Discussion of Commission on the motion.....Chair Facilitates
- Action by the Planning CommissionChair & Commission Members

ATTACHMENTS:

1. Staff Report
2. Application Form
3. Application Narrative
4. Site Plan
5. Letter from Septic Designer (3/23/12)
6. Septic Designer Analysis
7. Letter from Church Facilities Chairman (4/12/12)
8. Proposed Septic System Management Plan
9. City Sewer Letter (Applicant 4/3/12)
10. City Engineer Review Memorandum

City of Lake Elmo Planning Department
Septic System Variance Request

To: Planning Commission

From: Kyle Klatt, Planning Director

Meeting Date: 5/7/12

Applicant: Christ Lutheran Church

Owner: Christ Lutheran Church

Location: 11194 36th Street North

Zoning: PF – Public and Quasi-Public Open Space/Public Facilities

Introductory Information

Application Summary:

The City of Lake Elmo has received an application from Christ Lutheran Church, 11194 36th Street North, for a variance to install holding tanks that will replace an existing non-compliant subsurface sewage treatment on its site. The proposal involves the installation of three tanks with a capacity of 1,500 gallons each that will be used for longer than a 12 month period of time. The Washington County regulations pertaining to subsurface sewage treatment systems (SSTS) do not allow the use of holding tanks beyond 12 months.

The applicant has provided a written statement to the City indicating that the Church will connect to public sanitary sewer when it is extended to its site and that it will not contest the construction of this system

As part of a previous request to the City, the Church was seeking improvements to Laverne Avenue in front of its facility, but has since elected not to pursue these improvements. The site plans submitted with the current variance request therefore eliminate any work that was proposed with the Lavern Avenue right-of-way.

Property Information:

The Christ Lutheran Church building was initially constructed in the 1950's, and the facility has been expanded and improved at various times over the past several years. The most recent major renovation/expansion occurred in 1996, since that time there is no record of any other significant improvements in the City records. The facility includes several different components, including the sanctuary, offices, atrium, classrooms, conference room, kitchen, and other ancillary functions. Because the facility has been expanded various times in a piecemeal fashion, and given the age of many of the improvements, the Church recently received approval from the City to improve overall access throughout the facility and create additional space for church functions through an amendment to its Conditional Use Permit.

The applicant's site is located within the heart of the Village Planning Area, and is one

of a series of PF – Public Facility uses that is scattered amongst the residential and commercial uses within the Village. The Church also owns the former Lake Elmo Bank building at 3549 Lake Elmo Avenue North, and uses the parking lot accessory to this building to help provide for the parking demand around the Church on Sundays and during other peak usage times. The attached site survey includes all of the property owned by the Church in this area, which is spread between four separate parcels of land.

As noted above, the Church recently was granted approval to improve its current site by adding on the entrance areas, enclosing the current atrium, and adding a second story addition above some existing classroom and meeting space areas. As part of its approval for this work, the City adopted the following condition of approval:

The applicant shall submit a septic system inspection report prepared and signed by a licensed septic inspector verifying that the current septic system is compliant with Washington County regulations, and that: a) address the available capacity of the system and states its ability to accommodate the additional use created by the expansion project, or provide a design for its expansion, and b) includes a description of the current system type and components, dimensions, and capacity.

- a) Should the current system be found to be a non-compliant system or in need of replacement, a revised septic system plan shall be approved by Washington County prior to the issuance of a building permit for the proposed project.

In researching status of the current system in accordance with the above requirement, the applicant found that it was not compliant with current County requirements, and therefore began to research alternatives to install a new system. For the reasons as noted in the attached application materials, the applicant has indicated that there are no suitable locations to install a new drainfield, and has asked for a variance to install holding tanks on a temporary basis until the City's sanitary sewer system is extended to the site.

**Applicable
Codes:**

Section 154.063 PF – Public and Quasi-Public Open Space

(B) *Uses allowed by conditional use permit*

(2) Places of Worship

Sections A through F contain the district regulations for the PF Zoning District

Section 150.017 Variances.

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

Washington County Development Code: Chapter 4 – Subsurface Sewage Treatment Systems. Includes the regulations adopted by reference by the City of

Lake Elmo, including the provisions pertaining to the use of holding tanks.

Findings & General Site Overview

Site Data: Lot Size: 1.14 acres (3 parcels, including street right-of-way)
Existing Use: Place of Worship (includes accessory uses)
Existing Zoning: PF – Public and Quasi-Public Facilities
Property Identification Numbers (PID): 13.029.21.21.0020; 13.029.21.23.0060; and 13.029.21.23.0061

Application Review:

Variance Review: The applicant's current septic system is divided into two separate and distinct systems that handle the needs of the facility. It was last upgraded in 1969, with portions dating back to 1953, prior to any of the existing regulations for wastewater treatment. The City's files contain very little information regarding these systems, which is not surprising given their ages. Based on the inspections that were recently performed, the Church came to the conclusion that the current system was not going to be viable to continue operating in the future, especially once it proceeds with the planned facility improvements.

The attached application narrative contains a written description from the applicant outlining the reasons why a variance has been requested. As part of the initial review the applicant's submissions to the City, the City requested additional documentation from the Church's septic designer to confirm that: 1) the existing systems that serve the site can no longer provide adequate capacity for the church, and 2) that there is not sufficient room on the site to install a new drainfield. The additional research performed by the applicant's septic designer has shown that there is a buried foundation from an old structure on the premises which further reduces the amount of land on the property that is suitable for a treatment system.

The ultimate recommendation from the septic designer is that there is no suitable alternative to the installation of holding tanks until such time that sewer is available to the property.

The system that has been proposed would continue to make use of the existing internal system that directs flow into two separate systems. The larger system would be designed with a capacity of 3,000 gallons and the smaller system would include a 1,500 gallon tank. Based on the past two month's worth of water usage by the Church, this would provide a capacity of about 20 days for the church. As part of the application materials, the applicant has submitted a proposed management plan for each of the holding tank systems, which the Church should be able to use to help monitor and maintain the system.

The City Engineer has reviewed the proposed variance and provided comments included in the attached memorandum dated April 19, 2012. Please note this review

	<p>includes a recommendation of two conditions which have been incorporated into the Staff recommendation below. The Engineer is recommending that the applicant enter into an agreement with the City that waives the right to appeal assessments related to the extension of sewer to this site.</p>
<p>Variance Requirements:</p>	<p>An applicant must also establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below:</p> <ol style="list-style-type: none">1. Practical Difficulties. A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.2. Unique Circumstances. The plight of the landowner is due to circumstances unique to the property not created by the landowner.3. Character of locality. The proposed variance will not alter the essential character of the locality in which the property in question is located.4. Adjacent properties and traffic. The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. <p>Given the information that has been submitted by the applicant and pending further review by the Planning Commission, staff would offer the following suggested findings specific to the variances that have been requested by the applicant:</p> <ol style="list-style-type: none"><i>1. The proposed use of holding tanks is a reasonable use of the property. The applicant has demonstrated that there are no suitable locations on the site to construct a drainfield, and the proposed holding tanks will allow the church to continue its operations prior to the extension of public sanitary sewer service to its property. The Church has provided a written statement that it intends to connect to public sewer service when it is made available, and that the holding tanks are a temporary solution until such time.</i><i>2. There are no portions of the applicant's site that could accommodate a drainfield and standard sewage treatment system. The site is very constrained due to previous additions and expansions, and an old structure foundation</i>

further limits the amount of land available for a treatment system.

3. *The applicant's site is unique because it is a small parcel located within the Lake Elmo Village Area and is zoned PF – Public Facility. It is the only church located within the City's central business district, and it is surrounded by commercial and residential structures with a variety of setbacks and building sizes.*
4. *The proposed holding tanks will not change the essential character of the locality because tanks will be installed below grade and will not be visible to surrounding properties. The City's central business district is comprised of a wide mix of commercial and residential uses, many of which are located very close or immediately adjacent to public right-of-way.*
5. *The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. The proposed holding tanks will not alter or increase any of the existing traffic patterns in the surrounding neighborhood.*

Conclusions: Based on the above background information and analysis, Staff is recommending approval of the variance request from Christ Lutheran Church, 11194 36th Street North, for a variance to install holding tanks that will replace an existing non-compliant subsurface sewage treatment on its site with two conditions of approval.

Additional Information: The applicant will need to secure property permits from Washington County if the variance is approved by the City Council.

Conclusion:

Christ Lutheran Church, 11194 36th Street North, has submitted a request for a variance to install holding tanks that will replace an existing non-compliant subsurface sewage treatment on its site. The proposal involves the installation of three tanks with a capacity of 1,500 gallons each that will be used for longer than a 12 month period of time

Commission Options: The Planning Commission has the following options:

- A) Table taking action on the request and direct the applicant to provide additional information concerning the request;
- B) Recommend approval of the conditional use permit amendment request, with the conditions as recommended by Staff;
- C) Recommend denial of the conditional use permit amendment request with

findings to support this action.

The 60-day review period for this application expires on June 20, 2012, but can be extended an additional 60 days if more time is needed to complete the City's review.

Staff Rec: **Staff is recommending that the Planning Commission** recommend approval of the variance request by Christ Lutheran Church, 11194 36th Street North, has submitted a request for a variance to install holding tanks that will replace an existing non-compliant subsurface sewage treatment on its site, provided the following conditions are met:

1. The applicant shall to enter into an Agreement with the City waiving their right to appeal their assessment for the extension of Municipal Sanitary Sewer when a project to serve this property is initiated by the City. A non-binding letter as submitted does not fulfill this requirement.
2. The applicant should be required to submit copies of all septic tank pumping records to the City on a quarterly basis.

Denial Motion To deny the request, you may use the following motion as a guide:

Template: **I move to recommend denial of the request by the Christ Lutheran Church for a variance...** *(please site reasons for the recommendation)*

Approval Motion To approve the request, you may use the following motion as a guide:

Template: **I move to recommend approval of the request by the Christ Lutheran Church for a septic system variance based on the findings provided in the staff report...** *(or cite your own)*

...with the conditions outlined in the staff report.

cc: Jim Lohmann, Christ Lutheran Church
Kevin Busch, Busch Architects

SEVED

Fee \$ 750

DEC 22 2011

City of Lake Elmo DEVELOPMENT APPLICATION FORM

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

APPLICANT: Kevin Busch on behalf of Christ Lutheran Church 1194 36th St. N.O. 55042
 (Name) (Mailing Address) (Zip)

TELEPHONES: Kevin Busch 612-333-2279 651-216-3634 612-339-2336
 (Home) (Work) (Mobile) (Fax)

FEE OWNER: Busch Address: 310 4th Ave South Suite 1000, Minneapolis MN 55415
 (Name) (Mailing Address) (Zip)

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

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

1194 36th Street North
(legal description provided on previous application)

DETAILED REASON FOR REQUEST: To bring non-complying septic system into an approved, complying system - related to desired building improvements.

***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:

The current building, site, and septic systems were all in place prior to regulations regarding septic systems. The developed site cannot add a complying system due to site constraints without the variance.

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.

KCBurn _____ 12-22-2011 _____
 Signature of Applicant Date Signature of Applicant Date

22 December 2011

To:

City of Lake Elmo
3800 Laverne Avenue
Lake Elmo, MN 55042

From:

Christ Lutheran Church
11194 36th Street North
Lake Elmo, MN 55042

Request for Variance – Narrative

Variance for septic system type, period of use, and servicing.

- a. Owner: Christ Lutheran Church, 11194 36th Street North, Lake Elmo, MN 550
- b. Legal Description: DESCRIPTION OF PROPERTY SURVEYED

(Per Deed Record No. 84, Page 607)

All that part of the Northwest quarter (NW1/4) of Section Number Thirteen (13), in Township number Twenty-nine (29) North, of Range number Twenty-one West, described as follows, to-wit;

Beginning at a point in the center of the Elmo Road (so-called) at a point Six hundred and seventy (670) feet Northerly of the Northwest corner of Lot Number One (1) of Block number One (1) of Elmo Park, as surveyed and platted and now of record in the Office of the Register of Deeds in and for said County; thence Easterly on a line parallel to the North line of said Section One hundred and eighty (180) feet to a point, being the point of beginning; thence Northerly on a line parallel to the center line of said road Two hundred and seventeen and eighty one-hundredths (217.80) feet; thence Easterly on a line parallel to the North line of said Section Two Hundred (200) feet; thence Southerly on a line parallel to the center line of said road Two hundred and seventeen and eighty one-hundredths (217.80) feet; thence Westerly on a line parallel to the North line of said Section two hundred (200) feet, to the point of beginning, except Twenty (20) feet on the West Side of said lot which is to be used for private alley, and Thirty three (33) feet on the East side, and Thirty (30) feet on the South side, which is to be used for Public Road.

And

(Per Quit Claim Deed Document No. 192551)

The West Twenty (20) feet of Lot Thirty-nine (39) County Auditor's Plat No. 8, Washington County, Minnesota.

And

(Per Warranty Deed Document No. 192552)

Lots Eight (8) and Nine (9), Block Two (2), Cloverdale, According to the plat thereof, on file and of record in the Office of the Register of Deeds, Washington County, Minnesota.

And

(Per Special Warranty Deed Document Nos. 1123102 (Torrens) and 3155545 (Abstract))

Parcel 1 (Torrens):

The South Forty (40) feet of Lot Twenty-nine (29) and all of Lot Thirty (30), County Auditor's Plat No. 8 as surveyed and platted and now on file in the Office of the Registrar of Titles of Washington County, Minnesota being the Village of Lake Elmo, Minnesota.

Parcel 2 (Abstract):

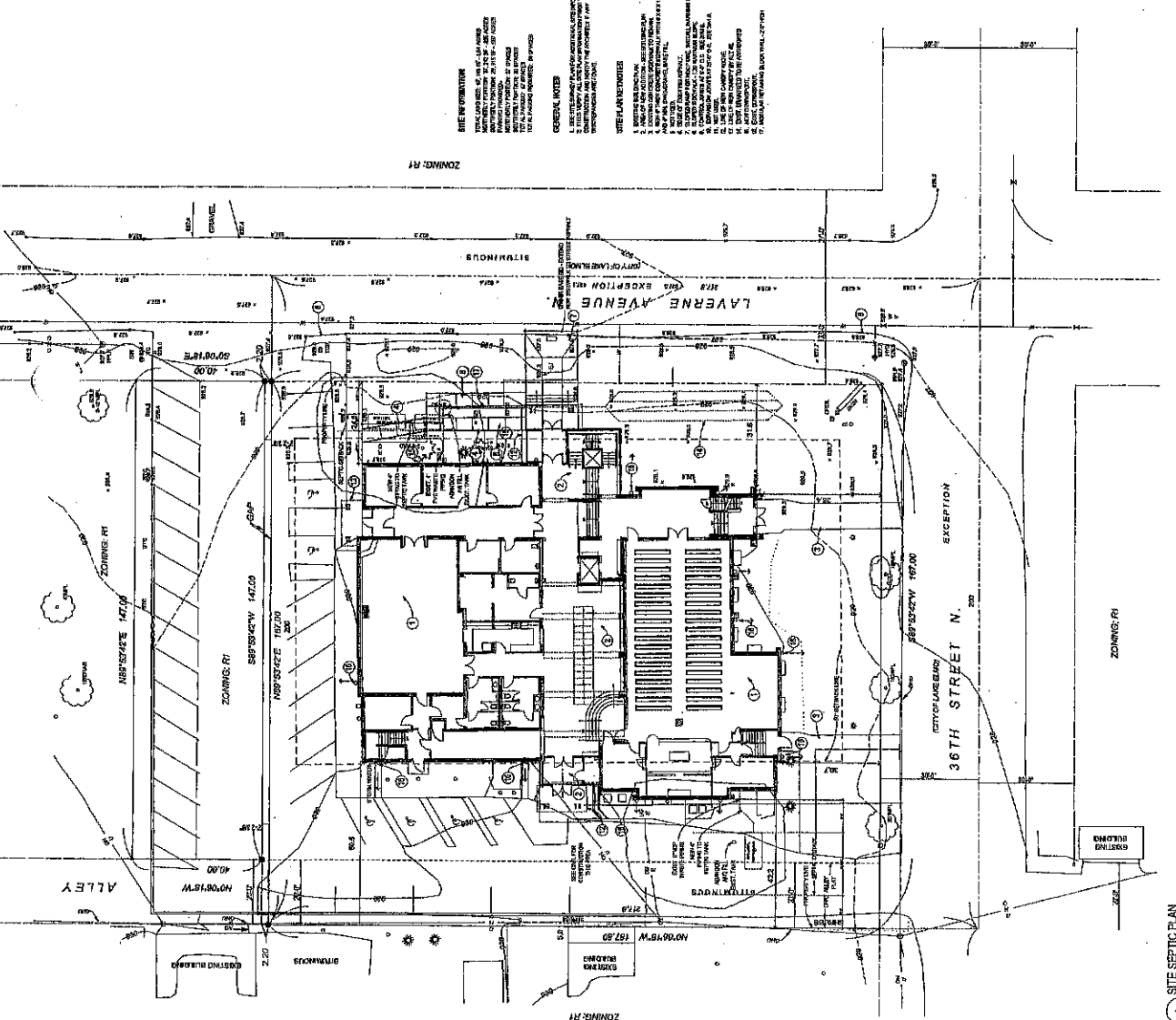
Lot Twenty-nine except the South 40 feet thereof, County Auditor's Plat No. 8.

1. Parcel Identification Numbers: Cloverdale, Block 2, Lot 8 and Lot 9 (1302921230020); County Auditor's Plat No. 8, Lots 39, 29, 30. (1302921230060); (1302921230053).
 2. Parcel Size: 67,158 sf; 1.54 acres.
 3. Existing Use of Land: Religious organization; Business; Parking.
 4. Current Zoning: P/PF; R-1; GB – see drawings for locations of each.
 5. Portion of Site under consideration is being used as a church. Site size: 31,363 s.f.; 0.72 acres; Zoning, P/PF.
- c. Washington County Development Code Chapter 4 – Sub-Surface Sewer System Regulations; requires the following: A permit for a temporary, septic holding tank is valid for one-year. We are requesting a variance so that the temporary holding tanks can be used until a Municipal Sanitary Sewer has been installed in either Laverne Avenue or 36th Street North.
- d. The church proposes to install temporary septic holding tanks, specifically, three 1,500 gallon tanks for sewage disposal and holding. The tanks will be emptied by a disposal service on a regular, on-going basis. After considering building setbacks, building footprint, and other impervious surfaces, the site does not have the capacity for the installation of additional drainage fields, necessitating the installation of septic holding tanks.
- e. We have worked with the city planner and engineer to determine what the City of Lake Elmo would prefer for wastewater systems. We have retained a licensed septic inspector for Washington County (Barry Brown) to conduct an inspection for compliance of the existing building wastewater system. Mr. Brown determined that the existing system is in non-compliance and that there is not enough room on the property to install a compliant system that meets the needs of the building. We have received water-use reports from the City to help determine wastewater volume – leading again to a finding of non-compliance with the existing system.
- f. Christ Lutheran Church has been using this property since 1953 and there are no other options for an expanded septic system. The church wishes to remain in its present location as a community based church
- g. The original church building including the west side septic system was constructed in 1953; the classroom/office addition including the east side septic system, was constructed in 1969 – both preceded any zoning ordinances regarding wastewater and septic systems. At the time the existing systems were installed, there were no regulations regarding capacity. Now with new regulations, the church finds itself with a non-complying septic system and no land to install or expand a typical drainfield.
- h. The new septic tank system will not be visible within the neighborhood. There will be a pumping service that will visit the site twice per week to pump the temporary tanks. The tanks

will be removed when the Municipal Sewerage System has been installed in the street and the church connects to the new system.

- i. Thank you for your consideration.

I HEREBY CERTIFY THAT I AM AN ARCHITECT AND THAT I AM A MEMBER OF THE ARCHITECTS' BOARD OF MINNESOTA. I AM NOT PROVIDING ARCHITECTURAL SERVICES TO ANY OTHER PROJECTS AT THE SAME TIME AS THIS PROJECT. I AM NOT PROVIDING ARCHITECTURAL SERVICES TO ANY OTHER PROJECTS AT THE SAME TIME AS THIS PROJECT.



SITE INFORMATION
 1. TOTAL LOT AREA: 10,000 SQ. FT.
 2. EXISTING BUILDING AREA: 5,000 SQ. FT.
 3. PROPOSED BUILDING AREA: 10,000 SQ. FT.
 4. TOTAL BUILDING AREA: 15,000 SQ. FT.
 5. TOTAL LOT AREA: 10,000 SQ. FT.
 6. EXISTING BUILDING AREA: 5,000 SQ. FT.
 7. PROPOSED BUILDING AREA: 10,000 SQ. FT.
 8. TOTAL BUILDING AREA: 15,000 SQ. FT.

GENERAL NOTES
 1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF MINNEAPOLIS ZONING ORDINANCES AND THE MINNEAPOLIS BUILDING CODE.
 2. THE PROPOSED CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF MINNEAPOLIS ZONING ORDINANCES AND THE MINNEAPOLIS BUILDING CODE.
 3. THE PROPOSED CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF MINNEAPOLIS ZONING ORDINANCES AND THE MINNEAPOLIS BUILDING CODE.

SITE PLAN NOTES
 1. THE PROPOSED CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF MINNEAPOLIS ZONING ORDINANCES AND THE MINNEAPOLIS BUILDING CODE.
 2. THE PROPOSED CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF MINNEAPOLIS ZONING ORDINANCES AND THE MINNEAPOLIS BUILDING CODE.
 3. THE PROPOSED CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF MINNEAPOLIS ZONING ORDINANCES AND THE MINNEAPOLIS BUILDING CODE.

1 SITE SEPTIC PLAN
1/8" = 1'-0"

RECEIVED

APR 12 2012

CITY OF LAKE ELMO

23 March 2012

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

Re: Christ Lutheran Church, 11194 36th Street North, Lake Elmo, MN 55042

Dear Kyle,

Upon your request, I have been on site at Christ Lutheran Church to survey the property to see if there are alternative locations for a septic system other than the temporary holding tanks the Church is proposing.

Because of the parking lot on the north and west sides, the existing septic system on the east, and the buried foundations of an old house on the south, there appear to be no alternative locations for a traditional septic system.

Therefore I am recommending approval of the variance to have temporary holding tanks installed until that time when a municipal system is in place.

Thank you!

Sincerely,



Barry Brown
Licensed Septic Inspector for Washington County

PERCOLATION REPORT

WATER RESOURCE MANAGEMENT REPORT CASE # 1772

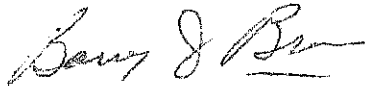
To The City of Lake Elmo

I am a licensed designer and inspector of septic systems in the state of Minnesota. I have studied the septic systems at Christ Lutheran Church in Lake Elmo. It is in my professional opinion that:

- 1) The existing systems can no longer provide adequate capacity for Christ Lutheran Church. Neither system is a holding tank but both need to be pumped on a regular basis to prevent backups.
- 2) Because of the situation with street right of way on the east and south sides, there is definitely not enough space to install a new drain field on this parcel. The only permanent answer is to hook the church to a municipal sewer. The holding tanks are the only answer until the municipal sewer comes through.

If there are any questions about this I can be reached at 651-735-7321

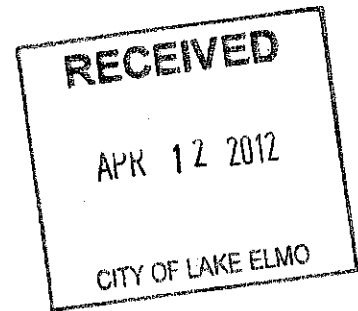
Barry Brown



License number 1772

April 12, 2012

Mr. Kyle Klatt
Planning Director
City of Lake Elmo
Lake Elmo, MN 55042



Re: Septic System Management Plans
Christ Lutheran Church
11194 36th Street North
Lake Elmo, MN 55042

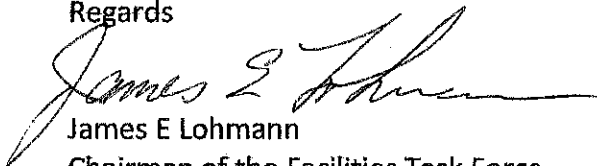
Dear Mr. Klatt

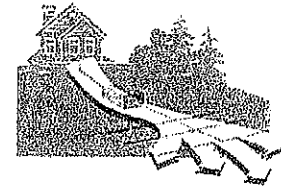
Attached is the Septic System Management Plans for the Holding Tank Systems. One for the West side and one for the East side of Christ Lutheran Church.

Also included is a letter from Barry Brown that he has reviewed the site and there appears to be no alternate locations for a traditional septic system.

I believe this is all the information the city engineers need to proceed with the variance application. If not please let me know as soon as possible what additional information you need.

Regards


James E Lohmann
Chairman of the Facilities Task Force



**Septic System Management Plan
for Holding Tank Systems**

The goal of a septic system is to protect human health and the environment by properly treating wastewater before returning it to the environment. Your holding tank system is designed to store your used water before it is recycled back into our lakes, streams and groundwater.

This **management plan** will identify the operation and maintenance activities necessary to ensure compliance with applicable rules and regulations. Some of these activities must be performed by you, the homeowner. Other tasks must be performed by a licensed septic maintainer. However, it is YOUR responsibility to make sure all tasks get accomplished in a timely manner.

The University of Minnesota's *Septic System Owner's Guide* contains additional tips and recommendations designed to extend the effective life of your system and save you money over time.

Proper septic system design, installation, operation and maintenance means safe and clean water!

Property Owner: **Christ Lutheran Church (west side holding area)**

Property Address: **11194 36th St., Lake Elmo**

Property ID: **1302921230060**

System Designer: **Barry Brown**

License #: **1772**

System Installer:

License #:

Service Provider/Maintainer:

Phone:

Permitting Authority: **Washington County**

Phone: **651-430-6676**

Permit #:

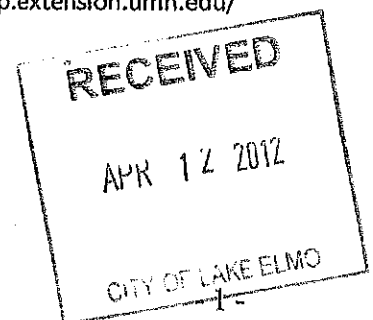
Date Inspected:

Keep this Management Plan with your Septic System Owner's Guide. The Septic System Owner's Guide includes a folder to hold maintenance records including pumping, inspection and evaluation reports. Ask your septic professional to also:

- Attach permit information, designer drawings and as-builts of your system, if they are available.
- Keep copies of all pumping records and other maintenance and repair invoices with this document.
- Review this document with your maintenance professional at each visit; discuss any changes in product use, activities, or water-use appliances.

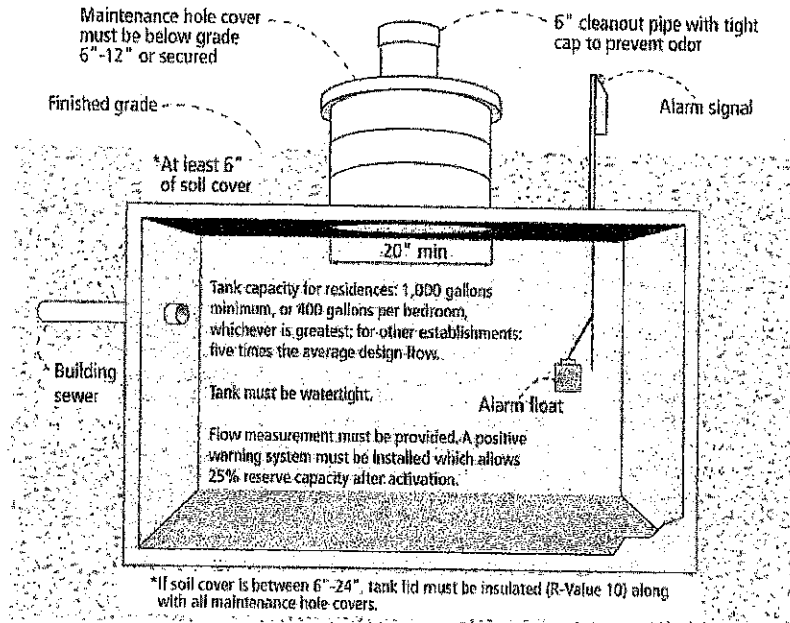
For a copy of the *Septic System Owner's Guide*, call 1-800-876-8636 or go to <http://shop.extension.umn.edu/>

<http://septic.umn.edu>





Your Holding Tank



Dwelling Type	Well Construction
Number of bedrooms: <u>west holding area</u>	Well depth (ft): <u>municipal supply</u>
System capacity/ design flow (gpd): <u>50</u>	<input type="checkbox"/> Cased well Casing depth: _____
Anticipated average daily flow (gpd): <u>50</u>	<input type="checkbox"/> Other (specify): _____
Comments _____	Distance from septic (ft): _____
In-home business? <input type="checkbox"/> What type? _____	Is the well on the design drawing? <input type="radio"/> Y <input checked="" type="radio"/> N
Number of occupants _____	

Holding Tank	
<input checked="" type="radio"/> One tank: Tank volume: <u>1500</u> gallons	<input type="checkbox"/> Flow measurement device: <u>meter</u>
<input type="radio"/> Two tanks: Tank volume: _____ gallons	<input type="checkbox"/> Location: <u>alarm in building</u>
<input type="checkbox"/> Tank is constructed of _____	<input type="checkbox"/> Alarm <input type="checkbox"/> visual <input checked="" type="checkbox"/> audible
	<input type="checkbox"/> Reserve %: <u>20</u>
<input type="checkbox"/> Service contract held by: _____	
<input type="checkbox"/> Service contract is attached to this management plan	



Homeowner Management Tasks

These operation and maintenance activities are your responsibility. Use the chart on page 6 to track your activities.

Identify the service intervals recommended by your system designer and your local government. The tank assessment for your system will be the **shortest interval of these three intervals**. Your pumper/maintainer will determine if your tank needs to be pumped.

Tank capacity ÷ (# of occupants X 50 Gallons/day) = # of days between cleaning

OR

Within 24 hours of alarm signal

System Designer: check every 20 days

Local Government: check every _____ days

My tank needs to be emptied
every 20 days

Seasonally

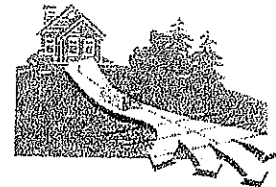
- Monitor alarm daily – make sure the alarm has not signaled. Alarms signal when your holding tank is nearly full; contact your maintainer.
- Measure and note your average daily water usage on page 5. Conserving water saves you money!
- Leaks. Check (listen, look) for leaks in toilets and dripping faucets. Repair leaks promptly.

Annually

- Establish a contract for tank cleaning services with a state licensed maintenance business.
- Caps. Make sure that all caps and lids are intact and in place. Inspect for damaged caps at least every fall. Fix or replace damaged caps before winter to help prevent freezing issues.
- Water conditioning devices. See Page 5 for a list of devices. When possible, discharge clear water sources to another location. Program the recharge frequency based on *water demand (gallons)* rather than *time (days)*. Recharging too frequently will result in increased pumping costs.
- Review your water usage rate. Review the Water Use Appliance chart on Page 5. Discuss any major changes with your pumper/maintainer.

During each visit by a pumper/maintainer

- Ask if your pumper/maintainer is licensed in Minnesota.
- Make sure that your pumper/maintainer has clear access to the holding tank and completely empties the tank
- Ask your pumper/maintainer to accomplish the tasks listed on the Professional Tasks on Page 4.



Professional Management Tasks

These are the operation and maintenance activities that a pumper/maintainer performs to help ensure long-term performance of your system. Professionals should refer to the O/M Manual for detailed checklists for tanks, pumps, alarms and other components. Call 800-322-8642 for more details.

- Written record provided to homeowner after each visit.

Plumbing/Source of Wastewater

- Review the Water Use Appliance Chart on Page 5 with homeowner. Discuss any changes in water use and the impact those changes may have on the frequency of maintenance.
- Review and document water usage rates with homeowner.

Holding Tanks

- Maintenance hole lid.* A riser is recommended if the lid is not accessible from the ground surface. Insulate the riser cover for frost protection.
- Liquid level.* Check to make sure the tank is not leaking.
- Inspection pipes.* Replace damaged caps.
- Alarm.* Verify that the alarm works and that there is at least 25% reserve capacity.
- End of year seasonal property pumping.* Remind homeowner of most frequent causes of tank and building sewer freeze-ups. Ensure that there are no "micro-sources" of water such as a high efficiency furnace or other dripping devices. Determine a logical winter water use plan that will not result in need for emergency visit(s).

All other components – inspect as listed here:

Alarm should be checked by lifting the float with a hooked rod.



Water-Use Appliances and Equipment in the Home

Appliance	Impacts on Holding Tank	Management Tips
Garbage disposal	<ul style="list-style-type: none"> • Uses water and increases pumping frequency and expense. 	<ul style="list-style-type: none"> • Use of a garbage disposal is not recommended. • Minimize garbage disposal use. Compost instead.
Washing machine	<ul style="list-style-type: none"> • Uses water and increases pumping frequency and expense. 	<ul style="list-style-type: none"> • Choose a front-loader or water-saving top-loader, these units use less water than older models. • Wash only full loads. • Do laundry off site.
Dishwasher	<ul style="list-style-type: none"> • Uses water and increases pumping frequency and expense. 	<ul style="list-style-type: none"> • Wash only full loads.
Large bathtub (whirlpool)	<ul style="list-style-type: none"> • Uses water and increases pumping frequency and expense. 	<ul style="list-style-type: none"> • Take short showers to conserve water.
Clear Water Uses	Impacts on Holding Tank	Management Tips
High-efficiency furnace	<ul style="list-style-type: none"> • Drip may result in frozen pipes during cold weather. 	<ul style="list-style-type: none"> • Re-route water into a sump pump or directly out of the house. Do not route furnace recharge to your holding tank.
Water softener Iron filter Reverse osmosis	<ul style="list-style-type: none"> • Uses water and increases pumping frequency and expense. 	<ul style="list-style-type: none"> • These sources produce water that is not sewage and should not go into your holding tank. • Reroute water from these sources to another outlet, such as a dry well, drain tile or old drainfield.
Surface drainage Footing drains	<ul style="list-style-type: none"> • Uses water and increases pumping frequency and expense. 	<ul style="list-style-type: none"> • When replacing, consider using a demand-based recharge vs. a time-based recharge. • Check valves to ensure proper operation; have unit serviced per manufacturer directions

Maintenance Log

Track maintenance activities here for easy reference. See list of management tasks on pages 3 and 4.

Activity	Date accomplished/measured water usage											
Check daily for a period of time and weekly once average use is determined:												
Water usage rate (gallons per day)												
Leaks: check for plumbing leaks												
Annually:												
Establish and maintain contract for holding tank pumping services												
Water use appliances – review use												



Water Meter Reading and Tank Evacuation Schedule			
Date	Water Meter Reading (in gallons)	Tank Contents Removed?	Total Gallons Removed

Notes:

Mitigation/corrective action plan:

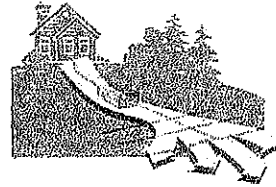
"As the owner of this SSTS, I understand it is my responsibility to properly operate and maintain the sewage treatment system on this property, utilizing the Management Plan. If requirements in this Management Plan are not met, I will promptly notify the permitting authority and take necessary corrective actions.

Property Owner Signature: _____ Date _____

Management Plan Prepared By: **Barry Brown** Certification # **4213**

Permitting Authority: **Washington County**

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Septic System Management Plan for Holding Tank Systems

The goal of a septic system is to protect human health and the environment by properly treating wastewater before returning it to the environment. Your holding tank system is designed to store your used water before it is recycled back into our lakes, streams and groundwater.

This **management plan** will identify the operation and maintenance activities necessary to ensure compliance with applicable rules and regulations. Some of these activities must be performed by you, the homeowner. Other tasks must be performed by a licensed septic maintainer. However, it is **YOUR** responsibility to make sure all tasks get accomplished in a timely manner.

The University of Minnesota's *Septic System Owner's Guide* contains additional tips and recommendations designed to extend the effective life of your system and save you money over time.

Proper septic system design, installation, operation and maintenance means safe and clean water!

Property Owner: **Christ Lutheran Church (east side holding area)**

Property Address: **11194 36th St., Lake Elmo**

Property ID: **1302921230060**

System Designer: **Barry Brown**

License #: **1772**

System Installer:

License #:

Service Provider/Maintainer:

Phone:

Permitting Authority: **Washington County**

Phone: **651-430-6676**

Permit #:

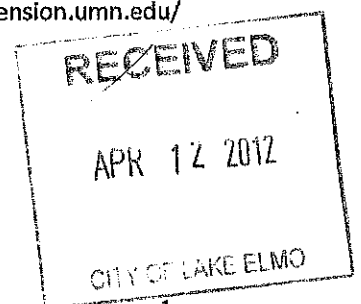
Date Inspected:

Keep this Management Plan with your Septic System Owner's Guide. The Septic System Owner's Guide includes a folder to hold maintenance records including pumping, inspection and evaluation reports. Ask your septic professional to also:

- Attach permit information, designer drawings and as-builts of your system, if they are available.
- Keep copies of all pumping records and other maintenance and repair invoices with this document.
- Review this document with your maintenance professional at each visit; discuss any changes in product use, activities, or water-use appliances.

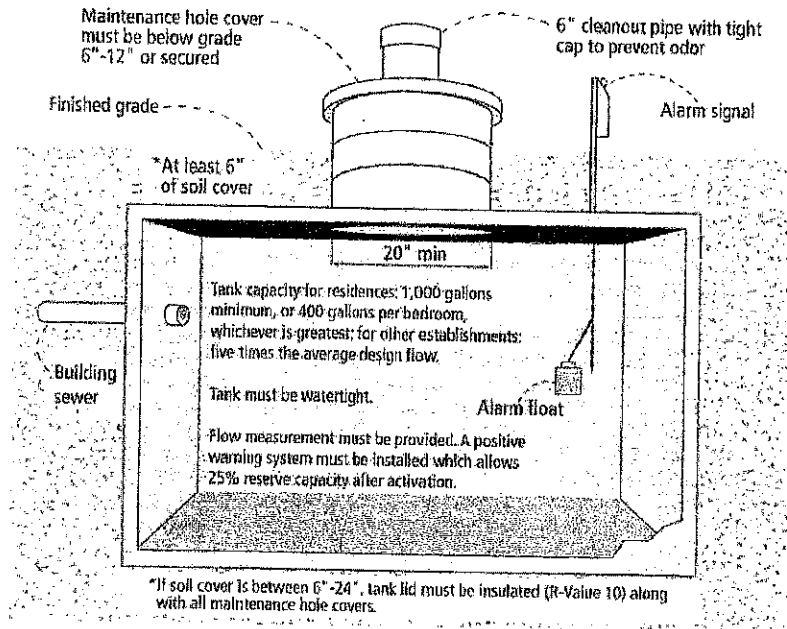
For a copy of the *Septic System Owner's Guide*, call 1-800-876-8636 or go to <http://shop.extension.umn.edu/>

<http://septic.umn.edu>





Your Holding Tank



Dwelling Type	Well Construction
Number of bedrooms: <u>East holding tanks</u>	Well depth (ft): <u>municipal supply</u>
System capacity/ design flow (gpd): <u>150</u>	<input type="checkbox"/> Cased well Casing depth: _____
Anticipated average daily flow (gpd): <u>150</u>	<input type="checkbox"/> Other (specify): _____
Comments _____	Distance from septic (ft): _____
In-home business? <input type="checkbox"/> What type? _____	Is the well on the design drawing? <input type="radio"/> Y <input checked="" type="radio"/> N
Number of occupants _____	

Holding Tank	
<input type="radio"/> One tank: Tank volume: _____ gallons	<input type="checkbox"/> Flow measurement device: <u>water meter</u>
<input type="radio"/> Two tanks: Tank volume: <u>3000</u> gallons	<input type="checkbox"/> Location: <u>alarm in building</u>
<input type="checkbox"/> Tank is constructed of <u>concrete</u>	<input type="checkbox"/> Alarm <input type="checkbox"/> visual <input checked="" type="checkbox"/> audible
	<input type="checkbox"/> Reserve %: <u>20</u>
<input type="checkbox"/> Service contract held by: _____	
<input type="checkbox"/> Service contract is attached to this management plan	



Homeowner Management Tasks

These *operation and maintenance* activities are your responsibility. Use the chart on page 6 to track your activities.

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Local Government: check every _____ days

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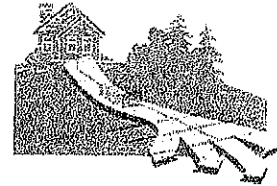
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- Leaks*. Check (listen, look) for leaks in toilets and dripping faucets. Repair leaks promptly.

Annually

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- Caps*. Make sure that all caps and lids are intact and in place. Inspect for damaged caps at least every fall. Fix or replace damaged caps before winter to help prevent freezing issues.
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- Written record provided to homeowner after each visit.

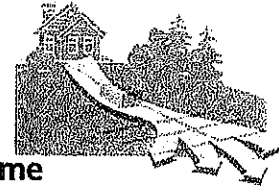
Plumbing/Source of Wastewater

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Holding Tanks

- Maintenance hole lid.* A riser is recommended if the lid is not accessible from the ground surface. Insulate the riser cover for frost protection.
- Liquid level.* Check to make sure the tank is not leaking.
- Inspection pipes.* Replace damaged caps.
- Alarm.* Verify that the alarm works and that there is at least 25% reserve capacity.
- End of year seasonal property pumping.* Remind homeowner of most frequent causes of tank and building sewer freeze-ups. Ensure that there are no "micro-sources" of water such as a high efficiency furnace or other dripping devices. Determine a logical winter water use plan that will not result in need for emergency visit(s).

All other components – inspect as listed here:



Water-Use Appliances and Equipment in the Home

Appliance	Impacts on Holding Tank	Management Tips
Garbage disposal	<ul style="list-style-type: none"> • Uses water and increases pumping frequency and expense. 	<ul style="list-style-type: none"> • Use of a garbage disposal is not recommended. • Minimize garbage disposal use. Compost instead.
Washing machine	<ul style="list-style-type: none"> • Uses water and increases pumping frequency and expense. 	<ul style="list-style-type: none"> • Choose a front-loader or water-saving top-loader, these units use less water than older models. • Wash only full loads. • Do laundry off site.
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Surface drainage Footing drains	<ul style="list-style-type: none"> • Uses water and increases pumping frequency and expense. 	<ul style="list-style-type: none"> • When replacing, consider using a demand-based recharge vs. a time-based recharge. • Check valves to ensure proper operation; have unit serviced per manufacturer directions

Maintenance Log

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Activity	Date accomplished/measured water usage									
Check daily for a period of time and weekly once average use is determined:										
Water usage rate (gallons per day)										
Leaks: check for plumbing leaks										
Annually:										
Establish and maintain contract for holding tank pumping services										
Water use appliances – review use										



Water Meter Reading and Tank Evacuation Schedule			
Date	Water Meter Reading (in gallons)	Tank Contents Removed?	Total Gallons Removed

Notes:

Mitigation/corrective action plan:

"As the owner of this SSTS, I understand it is my responsibility to properly operate and maintain the sewage treatment system on this property, utilizing the Management Plan. If requirements in this Management Plan are not met, I will promptly notify the permitting authority and take necessary corrective actions."

Property Owner Signature: _____ Date _____

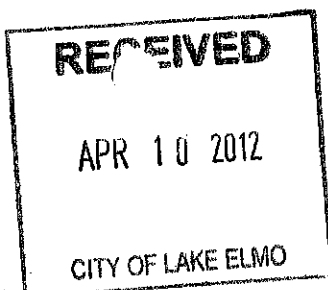
Management Plan Prepared By: **Barry Brown** Certification # **4312**

Permitting Authority: **Washington County**

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Christ
Lutheran
Church



11194 36th Street North * Lake Elmo, MN 55042
Phone: 651/777-2881 * Fax:651/748-0145
Mailing: P.O. Box 310, Lake Elmo, MN 55042

April 3, 2012

Mr. Kyle Klatt
Planning Director
City of Lake Elmo
Lake Elmo, MN 55042

Re: Variance Application for Septic System Holding Tanks
Christ Lutheran Church
11194 36th Street North
Lake Elmo, MN 55042

Dear Mr. Klatt,

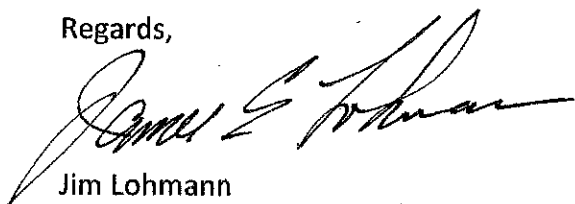
Per your request we are providing a letter indicating that Christ Lutheran Church will connect to the new sewer system when it is installed in the City of Lake Elmo

Christ Lutheran Church is looking forward to the construction of the new sewer system and anticipates connecting to the new sewer system as soon as the sewer system is installed in the road by the church.

Christ Lutheran Church has no plans to contest the construction of the new sewer system.

We hope this letter will be sufficient to indicate our intent for connection to the new system in Lake Elmo.

Regards,



Jim Lohmann

MEMORANDUM

FOCUS ENGINEERING, inc.

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

Date: April 19, 2012

To: Kyle Klatt, Lake Elmo Planning Director
Cc: Jack Griffin, P.E., City Engineer
From: Ryan Stempksi, P.E.

Re: City of Lake Elmo
Christ Lutheran Church
Review of Variance Request
For Holding Tanks

We have received the supplemental submittal documentation for the variance request from Christ Lutheran Church (11194 36th Street) to install holding tanks for more than 12 months for their septic system. The following additional items were received:

- Cover letter dated April 3, 2012.
- Letter from Licensed Septic System Designer, received April 19, 2012.
- Septic System Management Plans for west side and east side holding tank systems.
- Updated Septic System Plan, prepared by Busch Architects, Inc., and March 28, 2012.

From the Engineer's perspective, this application is now complete when combined with the previous submittal materials.

Engineering Review Comments:

The applicant has certified that the current septic system cannot support the facility into the future and that the property has no viable location for a compliant subsurface sewage treatment replacement system. Holding tanks appear to be the only viable solution until municipal sanitary sewer service can be extended to the property. However, the reliance on holding tanks as a long-term solution is not a recommended practice. Accordingly, Washington County requires a variance for the use of holding tanks for a period longer than 12 months. The County relies on the local government unit to provide this variance.

Engineering recommends the following condition of approval should the Council choose to grant this variance:

1. The applicant should be required to enter into an Agreement with the City waiving their right to appeal their assessment for the extension of Municipal Sanitary Sewer when a project to serve this property is initiated by the City. A non-binding letter as submitted does not fulfill this requirement.
2. The applicant should be required to submit copies of all septic tank pumping records to the City on a quarterly basis.

Planning Commission

Date: 5/7/12

Public hearing

Item: **5b**

ITEM: Hold a public hearing to consider an application from the Oakdale Gun Club to amend its Conditional Use Permit

REQUESTED BY: Oakdale Gun Club, Applicant

SUBMITTED BY: Kyle Klatt, Director of Planning *K.K.*

REVIEWED BY: Nick Johnson, City Planner

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to consider a request to amend the Conditional Use Permit for the Oakdale Gun Club. A conditional use permit must be approved by the City if the applicant meets the criteria for granting such a permit as specified by City Code. Specifically, the Planning Commission is required to review the request and make a recommendation to the City Council concerning the effect of the proposed use upon the health, safety, morals, convenience, and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions including parking facilities on adjacent streets and land, the effect on utility and school capacities, the effect on property values of property in the surrounding area, and the effect of the proposed use on the Comprehensive Plan. The City is required to grant an amendment to a conditional use permit if the conditions in the ordinance are demonstrably met by the applicant.

The amendment is requested to allow for the construction of cementitious sidewalls and overhead baffling on several of the existing gun ranges within the facility. The changes to the property are requested in order to improve safety throughout the property. Staff is recommending approval of the request. The attached Staff report includes a detailed review of the application along with the Staff recommendation.

ADDITIONAL INFORMATION:

Background. The Club presently operates under a Conditional Use Permit (C.U.P.) approved by the city council in 1988. The use dates back many years and prior to the city adopting any land use regulations.

Site situation. The site is situated between the Lake Elmo Park Reserve and 10th Street in the southern portion of the City. The club owns two parcels of land; the gun range is located on the 40-acre parcel which is zoned A – Agricultural. The applicant also owns an adjacent 22-acre parcel which is zoned RR – Rural Residential. The existing permit and proposed amendment is applicable only to the larger 40-acres parcel.

State Requirements. Minnesota Statutes Chapter 87A provides certain protections for shooting ranges like the Oakdale Gun Club. Any action taken by the City would need to be compliant with the Shooting Range Protection Act, which permits the continued operation of a shooting range as long as it is in compliance with the State's performance standards.

- This act specifically permits a range operator to improve the safety and sound conditions of the range in order to maintain and continue the operation of the range. The requested C.U.P. amendment has been requested for this exact purpose.
- The City does have more discretion under the act to deal with safety issues; however, there has been no evidence generated or testimony received by the City in the recent past indicating that any safety hazards exist on the site.

City Approval. If approved by the City, the requested amendment to the C.U.P. would allow the proposed sidewalls and overhead baffling to be constructed. No other changes are proposed to the other portions of the site that would affect the current operation of the facility.

Existing Conditions. The City does have the authority to enforce any existing ordinances or permits governing the activity on the gun club site, but must be careful to collect evidence and sound data before proceeding with any review of the overall conditional use permit currently in place on the property.

RECOMMENDATION:

Staff is recommending that the Planning Commission recommend approval of the request from the Oakdale Gun Club to amend its existing Conditional Use Permit to allow the construction of cementitious sidewalls and overhead ballistic baffling on several of the gun ranges within their facility at 10386 North 10th Street, provided the following conditions are met:

1. That the applicant continues to comply with the conditions of Resolution No. 88-5, approving the master Conditional Use Permit for the site.
2. That the applicant provide for proper drainage openings or install drain tile along the sidewalls to minimize the disruption of any existing drainage patterns within the site due to the construction of said walls.
3. That the applicant secure any permits required by the Valley Branch Watershed District in order to construct the proposed structures.
4. A building permit will be required for the proposed structures, and all construction plans shall be signed by an engineer registered in the State of Minnesota.
5. That prior to any future amendments to the Conditional Use Permit the applicant provide an updated site plan with an accurate depiction of all buildings, ranges, fences, driveways, and other site improvements for review by the City.

ORDER OF BUSINESS:

- Introduction Planning Director
- Report by staff..... Planning Director
- Questions from the Commission.....Chair & Commission Members
- Applicant Comments..... Chair facilitates
- Questions of the Applicant.....Chair & Commission Members
- Open the Public Hearing..... Chair
- Close the Public Hearing Chair
- Call for a motion..... Chair Facilitates
- Discussion of Commission on the motion Chair Facilitates

- Action by the Planning CommissionChair & Commission Members

ATTACHMENTS:

1. Staff Report
2. Application Form
3. Application Narrative
4. Location Map
5. Wall/Truss Sections
6. Site Plan (New Structures in Purple)
7. Aerial Photograph of Ranges
8. Photographs of Example Structures
9. Chapter 112 of the Lake Elmo City Code (Target Ranges)
10. City Council Resolution 88-5
11. City Attorney Correspondence (2/28/12)
12. FAQ Sheet (Shooting Range Protection Act)

City of Lake Elmo Planning Department
Conditional Use Permit Amendment Request

To: **Planning Commission**

From: Kyle Klatt, Planning Director

Meeting Date: **May 7, 2012**

Applicant: **Rusty Williams, Black and Dew, LLC**

Owner: Oakdale Gun Club

Location: **10386 North 10th Street**

Zoning: A - Agricultural

Introductory Information

***Application
Summary:***

The City of Lake Elmo has received a request from Rusty Williams of Black and Dew, LLC on behalf of the Oakdale Gun Club to amend its existing Conditional Use Permit to allow the construction of cementitious sidewalls and overhead ballistic baffling on several of the gun ranges within their facility at 10386 North 10th Street. The proposed improvements are intended to help prevent accidental discharges passing beyond the existing bullet traps and to increase safety between the various ranges on the site.

The applicant has submitted a more detailed project narrative as part of the request, which includes a description of some of the project benefits.

***Property
Information:***

The Oakdale Gun Club has been in operation continuously on its present site since 1964, which predates the City's current Zoning Ordinance. The City's file on this property goes back to at least 1965; however, for the purposes of the present review, Staff will be focusing on actions taken by the City since 1982. It was at this point in time that the City of Lake Elmo conducted a more thorough review of the Gun Club operations, and it appears that this is when the current conditions of operation were adopted by the City.

Between 1983 and 1997 the City reviewed the Gun Club operation as part of an annual review of conditional use permits that was presented to the City Council each year. Since 1997, it does not appear that the Council was presented information concerning existing Conditional Use Permits. Staff's assumption is that any reviews were conducted on an administrative basis.

Starting in the mid 1980's, the City Council adopted a resolution that specified the conditions of approval for the Gun Club. After 1988, subsequent reviews and amendments to the C.U.P. have used the resolution adopted in this year (Resolution No. 88-5) as the basis for compliance. All amendments since then have technically

amended this resolution as it relates to the continued operation of the Gun Club. A summary of the more recent C.U.P. amendments for the Gun Club is as follows:

- 1998 (Resolution 95-58) New caretaker residence, accessory garage, and accessory storage structure.
- 2002 (Resolution not in file) Noise abatement cover for 25 ft. range.
- 2005 (Resolution No. 2005-111) Storage structure addition.
- 2006 (Resolution No. 2006-145) New storage building.
- 2008 (Withdrawn by Applicant) Construction of a building shell over an existing range/expansion of operations building

The current use of the site includes a range operations building, several outdoor ranges of varying length, the caretaker's home, storage buildings, a covered shooting range (25 yards), an archery practice area, and other miscellaneous buildings. The actual use of the facility beyond target practice includes training and other educational programs.

The property owned by the club is divided into two larger tracts. The 22-acre eastern portion is not used for any formal range facilities while the 40-acre western parcel houses all of the formal range operations.

**Applicable
Codes:**

Section 154.018 Administration.

Conditional Use Permits. Outlines the general requirements for all conditionally permitted uses in Lake Elmo.

Section 154.033 Districts.

Subd. 4 (A) Agricultural Zoning District. Specifies that "Commercial recreation of a rural nature, including outdoor target ranges" requires a conditional use permit.

Chapter 112 Target Ranges.

Contains the City's requirements for the establishment and operation of a target range facility, including requirements for inspection, application, insurance, organization, construction, signage, hours of operation, supervision, and other regulations.

Findings & General Site Overview

Site Data: Lot Size: 40 acres (active gun range property)
Existing Use: Target range facility
Existing Zoning: A – Agricultural
Property Identification Number (PID): 26-029-21-34-0001

Application Review:

CUP Review:

The Oakdale Gun Club is a unique use in the City of Lake Elmo for a number of reasons, and most importantly from a land use perspective, it has been in operation long before the City adopted a Zoning Ordinance to regulate such uses. In reviewing the extensive file for this property, Staff is suggesting that the Planning Commission concentrate on the 1988 action by the City as a starting point for determining whether or not the proposed site changes are in compliance with the Zoning Ordinance and Conditional Use Permit for the property. This is the general approach that was used to analyze the Club's C.U.P. amendments submitted since 1998.

As with the previous amendments, Staff has determined that an amendment to the C.U.P. is required for the applicant to complete the work proposed. In accordance with Section 300.06, Subd. 4 (K) of the Zoning Ordinance, an amended conditional use may be administered in a manner similar to that required for a new permit.

The proposed improvements to the site would involve the construction of cementitious side walls and overhead baffling on the ranges indicated on the attached site plan. The specific ranges that would be subject to these improvements include the Comp, 100-yard, 50-yard, 200-yard, 25-yard, and Short ranges, all of which are highlighted on the site plan that was submitted. These improvements do not include the installation of a roof over any of the ranges, and therefore would not result in any significant increase in the impervious coverage presently on the site.

The applicant has indicated that the construction of side walls and overhead baffling is being done to primarily improve safety within and outside of the gun range. The work does have the added benefit of potentially reducing noise from the facility as well since the walls and baffling will redirect some sound that would otherwise travel directly offsite. Because the proposed structures would be built over existing ranges, there would be no expansion to any existing ranges or any expansion in the operation beyond the current usage. Staff concurs with the applicant's statements that the proposed improvements will not have an impact on sound levels, environmental impacts, vehicular traffic, and parking demand beyond the current levels.

The City Engineer does point out that the sidewalls could impact existing drainage patterns within the facility, especially if they are located over an existing drainage pattern on the site. Although the applicant has not submitted a topographic survey of the site, most of the ranges have an earthen berm surrounding three of their sides, and therefore any potential storm water runoff is most likely already flowing around each range. The site in general is located within a depression, with the northern portion of the site sloping upwards towards the Lake Elmo Park Reserve. The applicant has agreed to install openings along the length of the wall at various intervals in order to allow water to continue flowing freely along any existing drainage ways, and Staff is suggesting that the potential for openings be considered as part of the building permit review.

When the Gun Club approached the City a little over 4 years ago to amend its Conditional Use Permit, it was noted that the State of Minnesota had recently adopted the Shooting Range Protection Act, which provides additional protections to existing gun ranges to continue operating in their present locations. Please note that under this

act. the City can continue to enforce any existing conditions and ordinances that regulate the site, including the hours of operation. A brief summary of the legislation is attached to this report, in addition to an opinion provided by the City Attorney on this matter in 2008.

The changes proposed for the property are intended to help reduce the overall impacts from the facility by enclosing and mitigating some of the shooting activity that presently takes place on the site. There are no other changes proposed at this time, although as the club continues to make improvements to their property, it is very likely that the City will be involved in additional reviews of this site.

**Conditional
Use Permit
Criteria:**

Reviewing this request requires that all general CUP criteria be examined. For these types of applications, the burden is on the City to show why the use should not be permitted due to impacts that cannot be controlled by reasonable conditions.

1. Effects on the health, safety, morals, convenience, or general welfare of surrounding lands.

In the early 1980's the City of Lake Elmo conducted an extensive review of the Oakdale Gun Club and developed a list of conditions that have been applied to this day to the present day. As part of the 2008 permit request Staff visited the site and found that the club was operating in accordance with the City's requirements at that time. One of the key factors that Staff recommends that the Planning Commission consider as part of its review is whether or not the proposed changes will create any external impacts beyond what presently occurs on the site. In this case, the addition of sidewalls and overhead baffling should reduce the overall impacts from the site by adding additional protections to ensure that bullets do not stray from the individual shooting ranges.

The proposed work will not alter the current shooting ranges in any manner and will not result in any increase in activity beyond what is already occurring on the site. Staff finds that this criterion is satisfied.

2. Traffic & Parking conditions.

Because the proposed improvements will not create any new ranges or expand the capacity of any existing ranges, no additional traffic or demand for parking beyond the situation will be generated by the project. Adding the sidewalls and baffling to existing ranges does not increase the ability of the Gun Club to accommodate additional users in any manner. The amount of traffic and parking associated with the proposed use will continue to be consistent with the existing operation. Staff finds that this criterion is met.

3. Effects on utility and school capacities.

The building addition and new range building will have minimal impacts on the existing utilities at the site. There will be no changes to the utilities already established for the site. Staff finds this criterion is met.

4. Effect on property values of surrounding lands.

The Club has been in operation since before the City regulated such uses through zoning, and likewise, the club has been located on this site since before many of the surrounding land uses were established. Furthermore, since the request is for an amendment to a C.U.P. and not a new use, the Planning Commission should consider the potential impacts associated with this change and not the overall impacts of the site. If there are any violations of the previous conditions of approval for the site, the City may take action in accordance with the process specified in Resolution No. 88-5 or through enforcement of the City's Target Range ordinance.

Since the site changes requested as part of the C.U.P. amendment are intended to reduce overall impacts from the site, Staff finds that this criterion is satisfied as well.

5. Effect of the proposed use on the Comprehensive Plan.

The property at 10386 North 10th Street is currently utilized for a target range facility. The Comprehensive Plan guides the property for public facility use in the future, but also provides for the continuation of existing uses until such time as the parcel is redeveloped. The City Code allows for such a use to be conditionally permitted on this site. Staff finds this criterion is met.

**Conditional
Use Permit
Conclusions:**

Based on the above analysis of the review criteria in City Code, staff recommends approval of the request by the Oakdale Gun Club to amend its Conditional Use Permit to construct cementitious sidewalks and overhead baffling on several of the existing ranges within its facility at 10386 North 10th Street, based on the following:

1. The use would not negatively affect the health, safety, morals, convenience, or general welfare of surrounding lands.
2. It would not affect traffic or parking conditions.
3. The use would have no effect on utility or school capacities.
4. The proposed amendment would have no effect on property values of surrounding lands.
5. The use would be consistent with the Comprehensive Plan.

**Resident
Concerns:**

When the City considered the last amendment to the applicant's C.U.P. in 2008, several property owners expressed concern over the sound levels emanating from the site, especially during the summer months. In addition, it was noted that at certain times, there is a lot more activity on the property than had been in the past due to an increase in the use of the facility for police training.

**Additional
Information:**

Although the proposed improvements should not meet the threshold for a permit by the Valley Branch Watershed District, Staff is recommending that a condition of approval noted that such a permit be secured if required.

Conclusion:

The applicant is seeking approval to amend the existing Conditional Use Permit that was issued to the Oakdale Gun Club to allow for the construction of sidewalls and overhead baffling on several of the existing ranges at its facility at 10386 North 10th Street.

**Commission
Options:**

The Planning Commission has the following options:

- A) Recommend approval of the conditional use permit request;
- B) Recommend denial of the conditional use permit request.

The 60-day review period for this application expires on 6/18/12, but can be extended an additional 60 days if more time is needed.

Staff Rec:

Staff is recommending approval of the request to amend an existing conditional use permit for the Oakdale Gun Club at 10386 North 10th Street based on the following:

1. The amendment to the conditional use would not negatively affect the health, safety, morals, convenience, or general welfare of surrounding lands.
2. It would not affect traffic or parking conditions given the use has existed on the site for one year and no complaints were received.
3. The amendment to the conditional use would have little or no effect on utility or school capacities.
4. The amendment to the conditional use would have no effect on property values of surrounding lands.
5. The amendment to the conditional use would be consistent with the Comprehensive Plan.

Provided the following conditions are met

1. That the applicant continues to comply with the conditions of Resolution No. 88-5, approving the master Conditional Use Permit for the site.
2. That the applicant provide for proper drainage openings or install drain tile along the sidewalls to minimize the disruption of any existing drainage patterns within the site due to the construction of said walls.
3. That the applicant secure any permits required by the Valley Branch Watershed District in order to construct the proposed structures.
4. A building permit will be required for the proposed structures, and all construction plans shall be signed by an engineer registered in the State of Minnesota.
5. That prior to any future amendments to the Conditional Use Permit the applicant provide an updated site plan with an accurate depiction of all buildings, ranges, fences, driveways, and other site improvements for review by the City.

Denial Motion To deny the request, you may use the following motion as a guide:

Template: **I move to recommend denial of the request by the Oakdale Gun Club to amend its existing conditional use permit...***(please site reasons for the recommendation)*

Approval Motion To approve the request, you may use the following motion as a guide:

Template: **I move to recommend approval of the request by the Oakdale Gun Club to amend its existing conditional use permit based on the following findings...***(use staff's findings provided above or cite your own)*

...with the following conditions:

1. That the applicant continues to comply with the conditions of Resolution No. 88-5, approving the master Conditional Use Permit for the site.
2. That the applicant provide for proper drainage openings or install drain tile along the sidewalls to minimize the disruption of any existing drainage patterns within the site due to the construction of said walls.
3. That the applicant secure any permits required by the Valley Branch Watershed District in order to construct the proposed structures.
4. A building permit will be required for the proposed structures, and all construction plans shall be signed by an engineer registered in the State of Minnesota.
5. That prior to any future amendments to the Conditional Use Permit the applicant provide an updated site plan with an accurate depiction of all buildings, ranges, fences, driveways, and other site improvements for review by the City.

cc: Rusty Williams, Black and Dew, LLC
Oakdale Gun Club, 10386 North 10th Street

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: Rusty Williams Black and Dew LLC 2586 7TH AVE N. ST Paul, MN 55109
 (Name) (Mailing Address) (Zip)

TELEPHONES: 651-775-2822 651-236-8802 651-775-2822 651-777-4994
 (Home) (Work) (Mobile) (Fax)

FEE OWNER: OAKdale GUN CLUB 10386 10TH ST N LAKE ELMO, MN 55042
 (Name) (Mailing Address) (Zip)

TELEPHONES: STEVE d'Brien 651-738-0123 DIRECTOR OAKdale GUN CLUB
 (Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description):
10386 10TH ST N, LAKE ELMO, MN 55042

DETAILED REASON FOR REQUEST: Improvements to existing gun ranges.

*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.

Rusty Williams 4/18/2012
 Signature of Applicant Date

[Signature] 6/7/2012
 Signature of Applicant Date

Oakdale Gun Club
2012 Proposed Safety Improvements
Amendment to the existing conditional use permit

TO: City of Lake Elmo Planning Commission

Purpose: To increase range safety

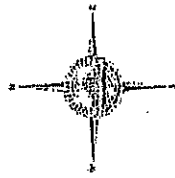
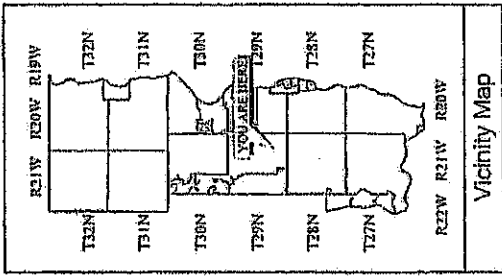
Location: Oakdale Gun Club
 10386 10th St N
 Lake Elmo, MN 55042

The proposed range improvements are designed to increase the safety of the ranges that are currently being used. The work would include installing cementitious sidewalls to support overhead ballistic baffling. The baffling would be installed at designed intervals to prevent any accidental discharges passing beyond the existing bullet trap. The overhead baffling is placed at designed intervals and does not fully enclose the range. There are no additional roofs created. The cementitious support would also act as sidewall protection to increase range safety for adjacent ranges as well as mitigate any ricochet potential between ranges.

- The proposed improvements do not alter or increase the drainage on or off the site.
- The range improvements do not increase the number of shooting lanes available from the current use.
- The range improvements do not increase the sound levels leaving the existing ranges.
- The range improvements do not alter the environmental impact of the current facility.
- The ranges improvements do not alter the current vehicle traffic patterns to the site.
- The range improvements do not alter the available parking areas of the site.

The following items are included as attachments

- Development Application
- Location map from County GIS System
- Location map Satellite view
- List of Property Owners and mailing labels
- Aerial view of site highlighting shooting ranges
- Site Plan showing existing structures and proposed improvements
- Section detail of the proposed overhead baffling and sidewall support

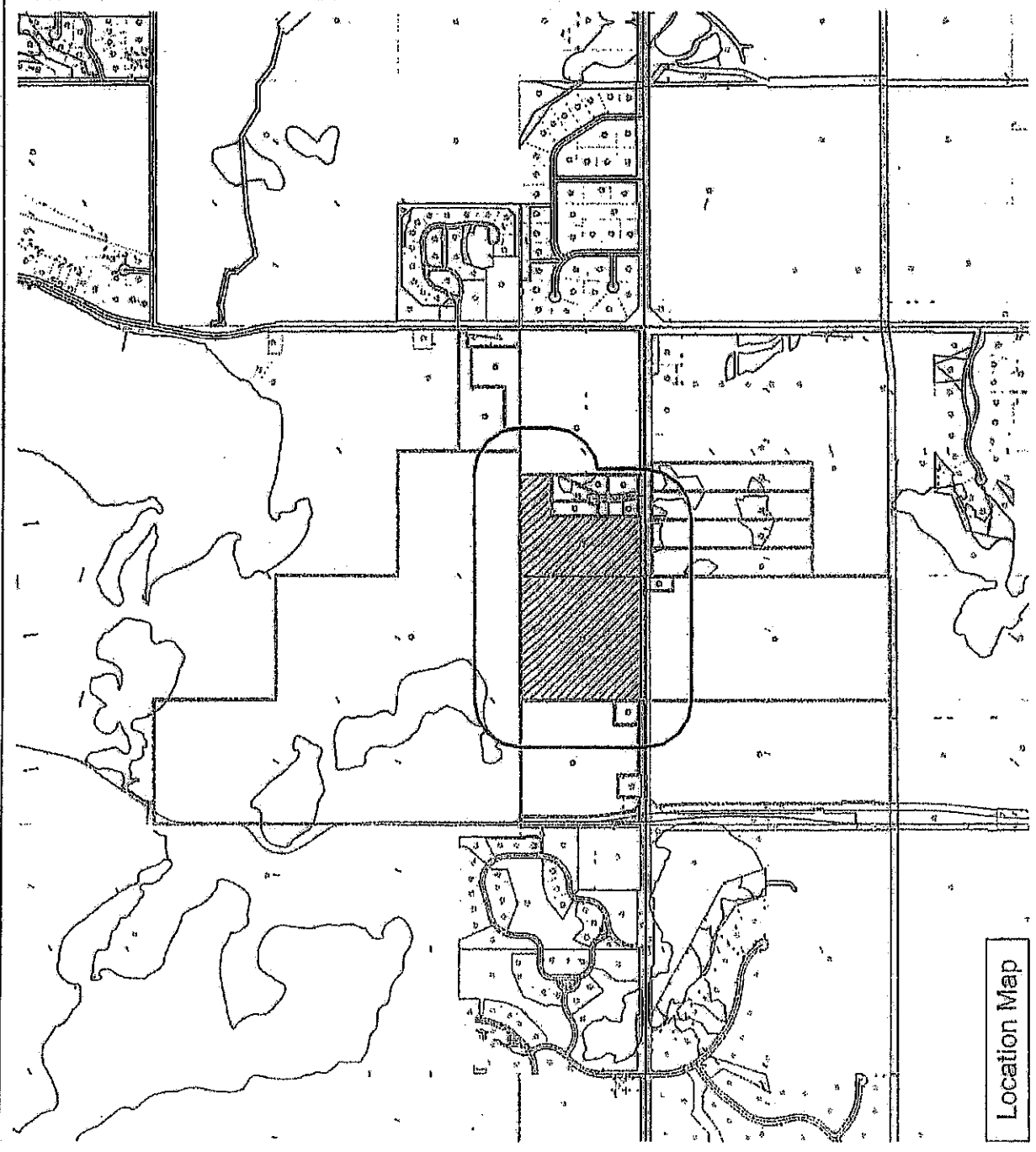


0 1539
Scale in Feet

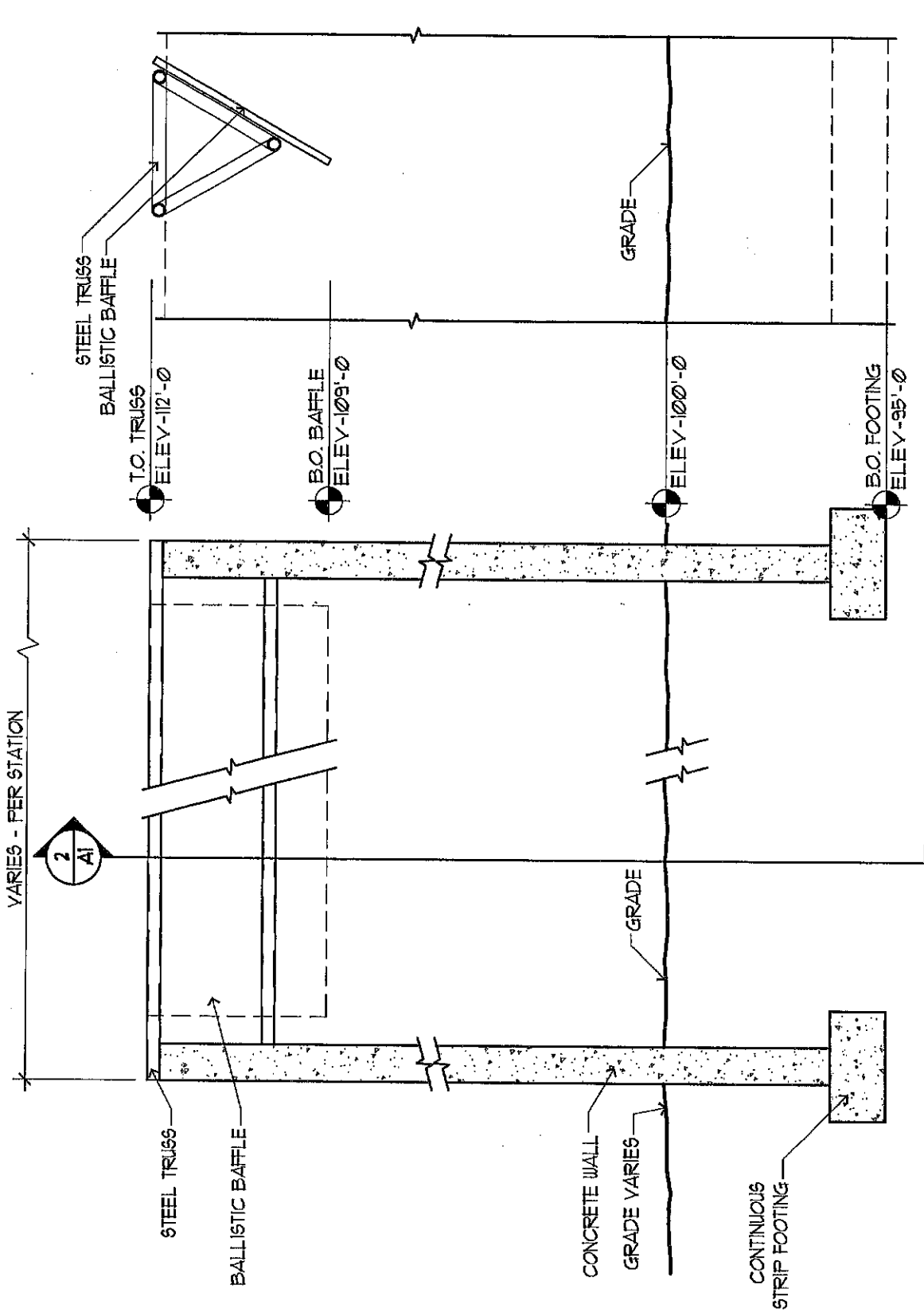
This drawing is the result of a compilation and interpretation of land records as they appear in various Washington County offices. The drawing is not to be used for reference purposes and the surveyor is not responsible for any inaccuracies.

Source: Washington County Surveyor's Office
Phone (651) 436-0875

Printed data based on ASL08 information current through October 31, 2007
Last printed: December 20, 2007



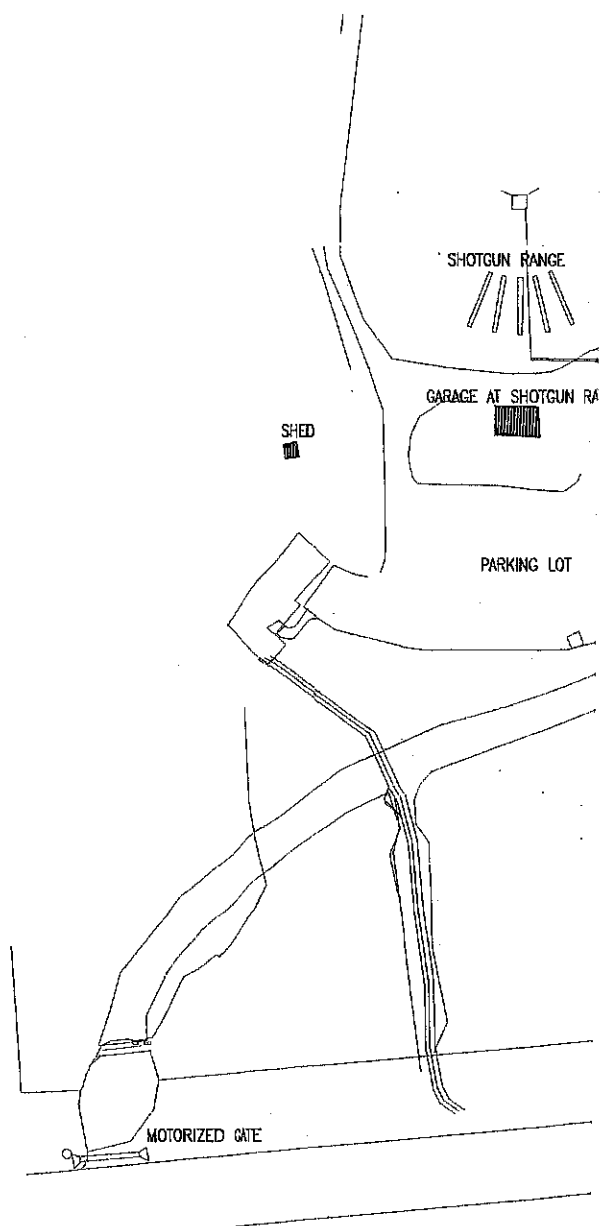
Location Map



1 WALL SECTION
SCALE: 3/8" = 1'-0"

2 TRUSS SECTION
SCALE: 3/8" = 1'-0"

SEE SHEET M1.2 FOR SC01



Comp Range
(0001)

50 Yrd

25 Yrd

100 Yrd

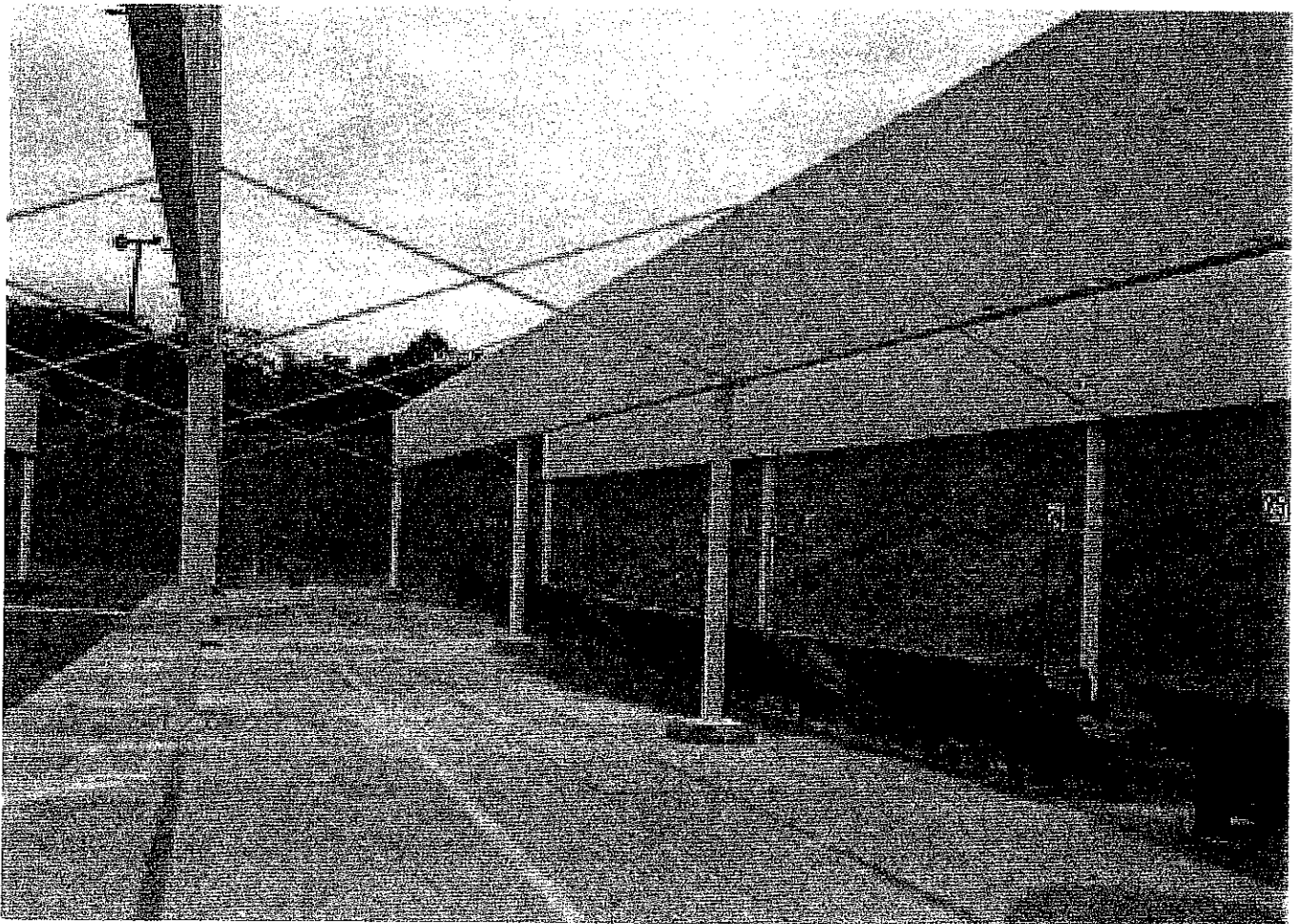
Short

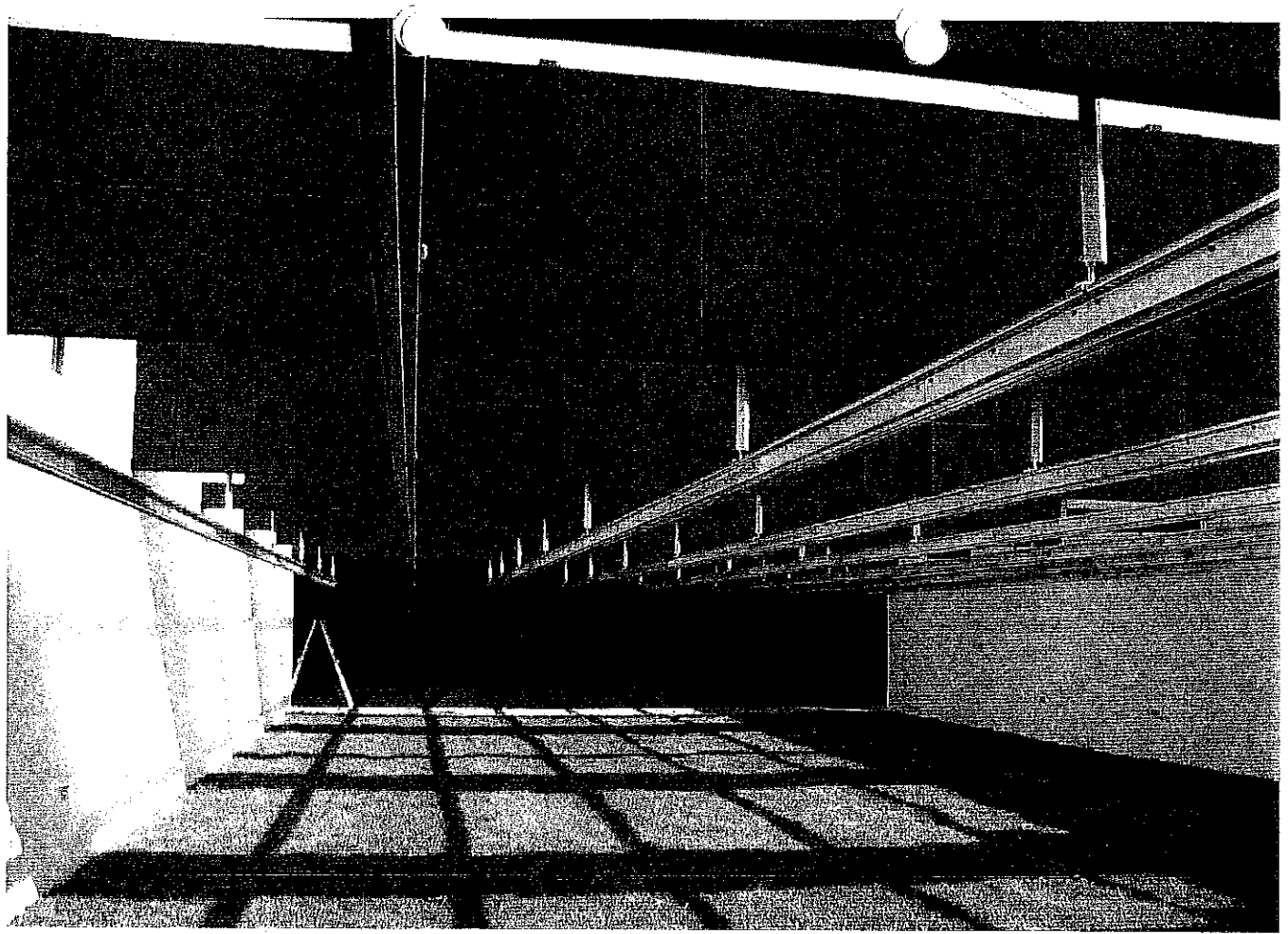
Classroom

200 Yrd

Club House







CHAPTER 112: TARGET RANGES

Section

112.01	Scope
112.02	Permit
112.03	Inspection
112.04	Application
112.05	Insurance
112.06	Club or organization
112.07	Construction
112.08	Warning signs
112.09	Time open signs
112.10	Hours of shooting
112.11	Shooting safety signs
112.12	Supervision
112.13	Safety rules and regulations

§ 112.01 SCOPE.

(A) This chapter shall apply to existing and future outdoor target ranges within the city.

(B) A conditional use permit shall be required to construct, maintain, or operate an outdoor target range.

(1997 Code, § 1305.01)

§ 112.02 PERMIT.

The conditional use permit may be rescinded, after a 2-week notice and a public hearing, if the Council finds that the public health, safety, or welfare is jeopardized.

(1997 Code, § 1305.02)

Lake Elmo, MN Code of Ordinances

§ 112.03 INSPECTION.

The range and range area shall be subjected to inspection prior to issuance of the permit and at any other time as the Council may feel necessary without any notification.

(1997 Code, § 1305.03)

§ 112.04 APPLICATION.

(A) The individual or organization requesting a permit for the construction of a new outdoor target range shall submit an application for the permit to the Administrator.

(B) The application shall include the following:

- (1) A plan for adequate sewage treatment, a safe water supply, and the disposal of solid wastes;
- (2) A letter outlining the proposed hours of operation, range etiquette, range rules to be posted, and provisions for emergency preparedness;
- (3) A noise abatement plan;
- (4) Photos of the property and all ranges and facilities;
- (5) A site plan at a scale of 1 inch equals 50 feet which gives the legal description of the property, north point, location of all ranges to scale with distances to property lines, proposed fencing along all developed property lines; topographic information at 2 foot intervals showing all berms, noise barriers, drainage, and elevations of buildings; location and dimensions of all buildings, parking areas, and accesses; the type and nature of equipment to be installed; the type of range to be constructed; and adjacent property uses; and
- (6) A list of range officers in charge for the Police Department.

(C) The application will be reviewed by the Building Official, the City Engineer, the City Administrator and the other officials or consultants as the Council may require; and their findings and recommendations shall be forwarded to the Council and the applicant.

(1997 Code, § 1305.04) Penalty, see § 10.99

§ 112.05 INSURANCE.

Lake Elmo, MN Code of Ordinances

Public liability and property damage insurance, the minimum limits of coverage to be not less than \$300,000, shall be provided. The city shall be named as an additional insured and be furnished with evidence of the coverage.

(1997 Code, § 1305.05) Penalty, see § 10.99

§ 112.06 CLUB OR ORGANIZATION.

In the case of a club or organization, a list of officers is to be filed with the Administrator. The Council is to be notified of any change in writing to the City Administrator.

(1997 Code, § 1305.06) Penalty, see § 10.99

§ 112.07 CONSTRUCTION.

Construction of the range shall be of a permanent nature and must meet all safety standards as set up by the National Rifle Association. Any expansion of the range will require an amended conditional use permit.

(1997 Code, § 1305.07) Penalty, see § 10.99

§ 112.08 WARNING SIGNS.

The entire outer area of the property for which a permit is granted shall be posted with warning signs advising the public of possible danger. The signs shall be of a permanent nature and posted at intervals of not less than 200 feet apart. Lettering shall be as follows:

<i>Sign Type</i>	<i>Letter Size</i>	<i>Color</i>
DANGER	4 inch	Red
TARGET RANGE	2 inch	Black
NO TRESPASSING	2 inch	Black

(1997 Code, § 1305.08) Penalty, see § 10.99

Lake Elmo, MN Code of Ordinances

§ 112.09 TIME OPEN SIGN.

The entrance to the range area must be posted as to the time the range is open for public use.

(1997 Code, § 1305.09) Penalty, see § 10.99

§ 112.10 HOURS OF SHOOTING.

A firearm may not be discharged prior to 8:00 a.m. and not after 1/2 hour before dusk of each day or at any other time that for any reason whatsoever would create a danger either to the general public or users of the range.

(1997 Code, § 1305.10) Penalty, see § 10.99

§ 112.11 SHOOTING SAFETY SIGNS.

A sign shall be displayed at the entrance to the range area and at each firing point stating club rules and N.R.A. rules for range and gun safety.

(1997 Code, § 1305.11) Penalty, see § 10.99

§ 112.12 SUPERVISION.

(A) *Position of supervision.* When a range is open to the public, there is to be a minimum of 1 qualified range supervisor in charge at all times during the operation of a range. A holder of a firearm safety instructor certificate of the Minnesota Department of Natural Resources or an N.R.A. firearms instruction certificate or having completed a range safety program inspected and endorsed by the D.N.R., shall constitute a qualified supervisor.

(B) *Persons under age 18.* No one under the age of 18 years old shall be on the range, unless:

- (1) Participating in a firearm safety training program;
- (2) Accompanied by responsible adult; and/or
- (3) That person has received thorough indoctrination in range safety

Lake Elmo, MN Code of Ordinances
procedures and range etiquette, if pulling targets.

(1997 Code, § 1305.12) Penalty, see § 10.99

§ 112.13 SAFETY RULES AND REGULATIONS.

All target ranges shall follow reasonable safety procedures. Prima facie evidence of reasonable safety procedures shall be those procedures set forth in the National Rifle Association Manual.

(1997 Code, § 1305.13) Penalty, see § 10.99

RESOLUTION 88-5
CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO OAKDALE GUN CLUB FOR OUTDOOR TARGET RANGE IN THE AGRICULTURAL ZONING DISTRICT

WHEREAS, Oakdale Gun Club has applied for a Conditional Use Permit for an Outdoor Target Range on SE1/4 of SW1/4 of Section 26, T29, R21, subject to easement, located at 10386 North 10th Street in the City of Lake Elmo; and has submitted all required information and fees for the application for such permit; and,

WHEREAS, Section 301.070 D.b. of the Municipal Code of Lake Elmo requires a Conditional Use Permit to operate an Outdoor Target Range in the City of Lake Elmo; and,

WHEREAS, Section 1300 of the ZONING ORDINANCE of the Municipal Code of Lake Elmo sets forth the conditions under which said permit may be granted and such use permitted; and

WHEREAS, the applicant meets or exceeds all the conditions set forth above.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo,

THAT, the Conditional Use Permit for Outdoor Target Range at 10386 10th Street North, Lake Elmo, Minnesota is hereby granted to Oakdale Gun Club, subject to the following conditions:

1. Fencing
 - a. Additional fencing, if any, along the north border (common border with County Park) to be accomplished per agreement between Club and County Director of Planning.
 - b. Fencing along east and west borders to be accomplished if and when adjacent properties are developed to the extent that fencing is necessary. A determination as to when the adjacent properties are sufficiently developed to require fencing will be made at the time of permit renewal in future years.
2. Weapons on the shotgun range shall be limited to fine shot (#6 shot) on the shotgun range.
3. There will be no expansion at the present location without an abatement to this permit.
4. The names of lead range officers and a schedule of events with the officer in charge shall be provided to the Washington County Sheriff.

This Conditional Use Permit will be reviewed on an annual basis, and may be rescinded, after a 2 week notice and a public hearing, if the City Council finds that the public health, safety, or welfare is jeopardized.

ADOPTED, this 5th day of January 1988, by the City Council of the City of Lake Elmo, Washington County, Minnesota.

Signed Arlyn Christ
Arlyn Christ, Mayor

Attest: Mary Kueffner
Mary Kueffner, Acting City Administrator

Warren E. Peterson
Jerome P. Filla
Daniel Witt Fram
Glenn A. Bergman
John Michael Miller
Michael T. Oberle
Steven H. Bruns*
Paul W. Fahning*
Sonja R. Ortiz
Amy K. L. Schmidt
Ben I. Rust
Jared M. Goerlitz



Suite 800
55 East Fifth Street
St. Paul, MN 55101-1718
(651) 291-8955
(651) 228-1753 facsimile
www.pfb-pa.com

(651)290-6907
filla@pfb-pa.com

February 28, 2008

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

RE: Shooting Range Regulations

Kyle:

The City has regulations which are applicable to target ranges (Lake Elmo Code 1305), nuisances (Lake Elmo Code 1335), and noise emissions (Lake Elmo Code 1370). All of these regulations were adopted prior to May of 2008.

The Minnesota Shooting Range Protection Act (Minnesota Statutes Chapter 87A) became effective on May 28, 2005 and includes shooting range performance standards. Except as hereinafter provided, if a shooting range is in compliance with the State's performance standards, the City must permit shooting ranges to do the following (M.S. 87A.03, Subd. 1):

1. Operate the range and conduct activities involving the discharge of firearms.
2. Expand or increase its membership or opportunities for public participation related to primary activity as a shooting range.
3. Make those repairs or improvements desirable to meet or exceed requirements of shooting range standards.
4. Increase events and activities related to the primary activity as a shooting range.
5. Conduct shooting activities and discharge of fire arms daily between 7:00 a.m. and 10:00 p.m. A local unit of government with zoning jurisdiction over a shooting range may extend the hours of operation by issuance of a special or conditional use permit.
6. Acquire additional land to be used for buffer zones or noise mitigation efforts or to otherwise comply with State Regulations.

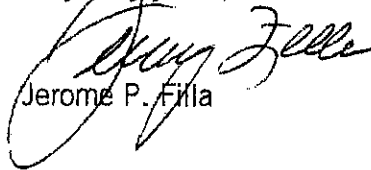
Kyle Klatt
February 28, 2008
Page 2

If, on May 28, 2005, the City's shooting range standards relating to days and hours of operation were more restrictive than those adopted by Minnesota Statutes Chapter 87A, the more restrictive local standards would apply. Lake Elmo standards permit the discharge of firearms daily between 8:00 a.m. and ½ hour before dusk. The State Regulations would allow discharge of firearms daily between 7:00 a.m. and 10:00 p.m. In this case, the City's standard for time of discharge of firearm would apply because the standard was in effect on May 28, 2005 and is more restrictive.

Future amendments to the City's Standard for shooting ranges must be consistent with the provisions of Minnesota Statutes Chapter 87A.

If you have any questions, please contact me.

Very truly yours,



Jerome P. Filla

JPF/jmt

Minnesota's Shooting Range Protection Act

FAQ Sheet, House Research Bill Summary, and 2005 Chapter 105

(Revised 09-21-2005)

In May 2005, Minnesota Governor Tim Pawlenty signed into law the Shooting Range Protection Act. It became effective on May 28, 2005, becoming Minnesota Statutes, Chapter 87A.

Since the law's passage, a number of questions regarding what the law does and does not address or impact have been asked. This page is intended to help answer and clarify those questions.

What is the intent of Chapter 87A?

To provide shooting ranges with the ability to maintain their operating capacity, if local opposition to an existing shooting range facility arises.

What types of facilities are intended to be covered or protected in Chapter 87A?

Firearms and archery shooting facilities, to include licensed shooting preserves.

Related to those types of facilities, what are the key elements that this law addresses?

That shooting ranges are safely operating, meaning they keep all projectiles (i.e., bullets, pellets and arrows) within their facility boundaries, they keep sound levels generated on the range to an acceptable level, and they operate within a reasonable set of hours. If these are precepts are violated, the range has the opportunity to correct their problems within an acceptable time frame.

Does Chapter 87A take precedence over existing local ordinances, rules, regulations, or operating restrictions for shooting ranges or preserves?

No. Any pre-existing conditional use permit, special use permit, operating hours restrictions, covenants or other performance related requirements set in existence by local units of government with legal jurisdiction over a shooting range are to be maintained. In the meantime, if no pre-existing operating hours are in place for a range, they are now based on the State's Sound Rule (Minnesota Rules, Chapter 7030).

Chapter 87A references "Performance Standards". What are these?

Primarily, the Performance Standards refer to considerations that need to be taken to ensure the safe operation of a shooting range. The National Rifle Association (NRA) has produced a set of guidelines or recommendations for constructing and operating various shooting ranges. These are contained in the

1999 edition of The Range Source Book: A Guide to Planning and Construction. The NRA uses this document as a reference and teaching tool when they conduct their Range Development and Operations classes throughout the United States. Chapter 87A establishes that, until the DNR adopts permanent performance standards through formal rulemaking processes, this document will be an interim set of standards for safe range operations. This source book is available online from the NRA headquarters at www.nrahq.org/shootingrange/sourcebook.asp.

When will final Performance Standards be established by the DNR?

DNR has been given the responsibility to formally adopt Shooting Range Performance Standards, using the expedited rulemaking process, as defined in State statute.

These Rules will take into account the interim performance standards, and any additional information that is relevant Chapter 87A.

Will all shooting ranges need to be built to the same level or degree?

No. The performance standards are recommendations, and are site specific. In urban or suburban settings, more people can be affected by an operating shooting range. In these settings, where projectile containment is absolutely necessary, all safeguards necessary must be taken to ensure that all bullets shot on the range stay on the range property. This concept should be also used as the basis for any range that is built, but the number of required safeguards installed will likely be fewer in a more rural setting. Sound containment must also be installed that will make sure the range in compliance with Chapter 87A. These will also vary, based on the level of local population density.

The Game and Fish Laws of Minnesota restrict the discharge of a firearm to 500 or more feet away from a residence while hunting, unless permission is granted to be closer. Does this standard apply under Chapter 87A?

No. Shooting ranges and preserves are allowed to have bows and firearms discharged within their boundaries, provided that all projectiles remain on the shooting range. The difference here is that the Game and Fish laws refer only to hunting situations on private lands.

Chapter 87A references a range operation becoming a nonconforming use. What does this mean?

Local zoning definitions governing land uses are subject to change, due to land use changes such as residential development. If local zoning changes take place that make a shooting range a nonconforming use where it had previously been allowed to operate, the range operator has the ability to improve the safety and sound conditions of the range, in order to maintain and continue the operation of the range.

Should shooting range operators be concerned that a law pertaining to shooting ranges is now in effect?

No, not at all. Shooting range operators in Minnesota are allowed to maintain the operation of their facilities, provided they are operated safely, conform to sound level standards, and maintain reasonable operating hours. Most shooting ranges are set in relatively rural and undeveloped land areas. Nothing in Chapter 87A will negatively affect these ranges. Instead, when other development occurs on adjacent land, the range will be given the opportunity to continue operating, and not be subject to closure due to that change.

If neighbors do live near a shooting range, there is now a defined process in place that will allow the range operators to determine if a problem does exist, and allow them to take steps to address those concerns. What Chapter 87A does is help the shooting range operation be a "good neighbor", taking into consideration the safety, sound, and operating hours in effect on a given shooting range.

What does the "mitigation area" in Section 87A.04 intended to address?

Sound or noise generated by a shooting range, and its impact on neighboring land use. By their very nature of use, shooting ranges generate sound. If a range has development (usually pertaining to one or more residence) within 750 feet of its perimeter, that was planned, approved and/or built before October 1, 2005, it is the range operator's responsibility to take steps to ensure that the sound levels reaching neighboring land be within the sound standard limits defined in Chapter 87A. After October 1, 2005, any new development within 750 feet of a shooting range's perimeter will be responsible to pre-plan and install its own sound mitigating devices to keep a range compliant with the sound standards.

In the event that the sound coming off a shooting range is bothersome to a neighboring residence, ideally the range operators and neighbor would be willing to work together, both before and after October 1, 2005, to minimize the sound levels arriving at the neighboring property. This can be achieved through a variety of means, including installing one or more sound berms, walls to deflect sound, one or more firing line enclosures, shooting tubes, and vegetative barriers that can further absorb and/or deflect sound.

What is a brief explanation of the Noise Standard referenced in Chapter 87A?

The noise level referenced in the shooting range law refers to measuring the sound level over an hour's time at a neighboring property that is receiving the sound generated at a range, to determine a "steady state" level of sound, which is referred to as the Leq(h). This steady state cannot exceed 63 decibels (dBA), and will include the sound generated by the range, along with all other sounds generated and recorded at that [sound] receiving location. Collectively, this will include gunshots, and all other ambient noise. Specific sound measurement methodology, including procedure, equipment, etc., is defined in Minnesota Rules, Section 7300.0060.

What is an obvious activity that can be defined as a "clear and present danger" at a shooting range?

As stated before, one of the main objectives of the Shooting Range Protection Act is to make sure all projectiles shot at a range stay on the property of the range. Any arrows, pellets, or bullets that leave a range's property could cause harm or injury to others not on the shooting range. This would at least constitute a trespass, and should not, under any circumstances, knowingly be allowed to take place. Whether or not a correctable danger exists could be an issue to be decided in a court of law.

If one portion of a shooting range is deemed to be a safety hazard, does an entire shooting range have to close?

Not unless a court finds that an entire range would pose a safety hazard, and can't be remedially improved or repaired.