

The Planning Commission is an advisory body to the City Council. One of the Commission's functions is to hold public hearings and make recommendations to the City Council. The City Council makes all final decisions on these matters.

Lake Elmo Ordinances require that certain documents and information be included in applications. The Planning Commission may postpone consideration of an application that is incomplete and may for other reasons postpone final action on an application.

For each item, the Commission will receive reports prepared by the City Staff, open the hearing to the public, and discuss and act on the application. If you are aware of information that hasn't been discussed, please fill out a "Request to Appear Before the Planning Commission" slip; or, if you came late, raise your hand to be recognized. Comments that are pertinent are appreciated.

AGENDA

LAKE ELMO PLANNING COMMISSION

JUNE 24, 1991

7:30 p.m. MEETING CONVENES

1. AGENDA
2. MINUTES: June 10, 1991
3. Fox Fire Manor Final Plat
4. Thoroughfare Plan
5. Review of Flood Plain Ordinance;
Call a public hearing
6. Set Joint Meeting with City Council
7. Other
8. ADJOURN

LAKE ELMO PLANNING COMMISSION MINUTES

JUNE 10, 1991

Chairman John called the Planning Commission meeting to order at 7:35 p.m. in the City Council Chambers. Present: John, Conlin, Johnston, Stevens, Thomas, Weeks, Enes, DeLapp, Bucheck, Schubert, City Planner Black. Absent: McLeod.

1. AGENDA

Add - 7. Other - Discuss comments from City Attorney on Minutes. M/S/P Enes/DeLapp - to approve the Agenda as amended. (Motion carried 9-0).

2. MINUTES: May 13, 1991

M/S/P DeLapp/Thomas - to approve the minutes as amended. (Motion carried 8-0, abstain: Bucheck). Commissioner Bucheck wished to add that the comments made by Jim Burns at the May 13 meeting were not up to date and that she had talked to him before the public hearing in February or March.

3. PUBLIC HEARING: C.U.P. AMENDMENT - LINDER'S GREENHOUSES

Chairman John opened the public hearing at 7:50 p.m. Notice of the public hearing was published in the St. Croix Valley Press on May 22, 1991, and all property owners within 350 feet were notified. Chairman John acknowledged receipt of the City Planner's review, dated June 6, 1991, and made part of the minutes by reference.

Rob Linder and his brother Peter, representing Linder's Greenhouses, presented their request for amendment of the Linder's Greenhouses C.U.P. for expansion of Phase II or 200,000 square feet of additional greenhouse space. Mr. Linder went through his answers to the City Planner's review, and answered questions from the Planning Commission. Mr. Linder stated he would prefer to continue to use the dust treatment on the street, and does not see the maintenance cost becoming so excessive at this time that the street needs to be paved.

There were no further comments from the public, either for or against this proposal, and Chairman John closed the public hearing at 8:20 p.m. and opened discussion from the Planning Commission.

M/S/P DeLapp/Enes - to recommend approval of the amendment to the C.U.P. with the addition to the conditions that (1) if at any time Linder's decides to use high intensity growth lights that shade covers will be required, (2) adequate exterior screening in the form of trees will be required (if not already in place), (3) that liaisons with Washington County on road maintenance continue. Findings of Fact: (1) There was no public comment against this amendment. (2) Linder's has complied with the C.U.P. to date. (3) Ponding has been constructed to meet this phase. (4) This amendment does not automatically approve Phase III. (Motion carried 5-4, against: Schubert - gravel road will be adversely affected by the increase in traffic, Thomas - has not been provided with sufficient statistics to decide if traffic increases will be reasonable, finds C.U.P. lacking, Stevens - same reasons as Thomas, Bucheck - should wait two weeks to consider any other aspects which may be relevant).

4. CONCEPT REVIEW: "GOOSE LAKE" DEVELOPMENT

Jim Peterson, Trail Head Development, and Marlo Glines, John Oliver & Assoc., presented a concept of a 67 lot Residential Estates subdivision located on approximately 235 acres at the Southwest corner of 10th Street and County Road 19. This property will require rezoning from RR to RE. This property was purchased by Trail Head from Dayton Development (Heritage Builders signed their interest to Trail Head in the Purchase Agreement). Soil Borings have been done. Mr. Peterson would like to do this project in two phases. The Parks Commission has given their recommendation. Goose Lake is a DNR protected wetland and only 3.7 acres on the North and East side of the lake are above the 100 year flood plain (11.8 acres is below the Ordinary High Water Mark). The 20 foot wide trail (part of the Park Land Dedication) equals 1.55 acres. The DNR will not allow direct discharge of storm water into the lake without a sediment area or ponding.

The Planning Commission comments were for Mr. Peterson to be prepared to present answers to questions on drainage, ponding, grading, traffic (speak with the County), streets, length of cul-de-sacs and landscape.

5. CONCEPT REVIEW: GOLF DOME ON I-94

Rick Hansen, Curt Mages and Steve Dahlby introduced themselves as 3 of 5 potential owners, and Ron Flanagan was introduced as the owner of the Airena Golf Center in Spring Lake Park. Mr. Hansen stated they chose Lake Elmo because it is East of the Cities, has an open space atmosphere, and I-94 is an ideal spot for this unique concept. There is the potential to franchise if the owners wish. The primary use of this dome would be as a golf driving range, but other uses include softball, volleyball, touch football, soccer, etc. Its use would be year round, therefore it would stay inflated all year. Lighting would be a dim glow. The cost of the dome structure would be approximately \$350,000.00 (\$10.00 per square foot). The entire project cost (not including capital) would be approximately \$1,000,000.00. The assessment value would be approx. \$600,000.00 (building and land). The size of the dome structure would be 165 feet wide, 210 feet long, 68 feet high. There would be 88 parking spaces (2:1 ratio). Mr. Flanagan gave specifics on the building structure and material, and suggested the Commission visit the Spring Lake Park facility located at Hwy 65 and Osborne (NE corner). Chairman John stated the Planning Commission is mixed in that some like the idea, some do not, and some felt it does not fit the Limited Business District Zone. Chairman John stated the Commission must resolve how it might fit the LB district zone or where it would fit if not in the LB district. The Commission stated it needs to review the Limited Business District Ordinance in order to properly address this.

6. APOSTOLIC CHURCH SITE (10th Street)

M/S/P Conlin/Johnston - the Planning Commission concurs to (1) verify that the Apostolic Church will not be building a church here, and (2) rezone this property back to RR. (Motion carried 9-0).

7. OTHER: Comments from City Attorney regarding Minutes

M/S/P DeLapp/Enes - to keep the minutes of the Planning Commission down to: comments made by the public, motions, findings of fact, votes, reasons for or against, and any facts necessary. (Motion carried 9-0).

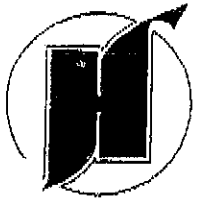
The meeting was adjourned at 10:35 p.m.

REQUEST FOR PLANNING COMMISSION REVIEW

Meeting Date: June 24, 1991

AGENDA TOPIC: Fox Fire Manor (Final Plat)	ITEM NO. 3.
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Attached please find the Final Plat of Fox Fire Manor. Tom Prew, City Engineer and Planner, Mike Black have reviewed the final plat and found it was in conformance with the preliminary plat. (See attached Reports)



JAMES R. HILL, INC.
PLANNERS ENGINEERS SURVEYORS

2500 WEST COUNTY ROAD 42, SUITE 120, BURNSVILLE, MINNESOTA 55337 (612) 890-6044 FAX 890-6244

MEMORANDUM

TO: Lake Elmo Planning Commission and City Administrator
FROM: Mike Black *h:lsll*
DATE: June 20, 1991
RE: FOX FIRE MANOR
Final Plat

I have reviewed the proposed Final Plat of Fox Fire Manor and find it in concert with the preliminary plat approved by the City Council. I have also reviewed the following other final drawings:

- * Final grading and drainage plan.
- * Final street and storm sewer plan and profile.
- * Final landscaping and wastewater disposal plan.

I recommend approval of the final plat of Fox Fire Manor subject to the following conditions:

1. The final plat shall include street names. The extension of 55th Street North shall be labeled 55th Street North and the east/west street shall be labeled 57th Street North.
2. The developer shall enter into a standard development agreement with the City prior to any construction. The development agreement shall require posting of a financial guarantee to assure completion of all public improvements.
3. The developer shall pay a parkland dedication fee of 7% of the property's fair market value.
4. The developer shall indicate how he intends to implement the landscaping requirement with future lot owners.

TKDA

ENGINEERS ARCHITECTS PLANNERS

June 20, 1991

TOLTZ, KING, DUYALL, ANDERSON
AND ASSOCIATES, INCORPORATED2500 AMERICAN NATIONAL BANK BUILDING
SAINT PAUL, MINNESOTA 55101-1893
612/292-4400
FAX 612/292-0083Planning and Zoning Commission
City of Lake Elmo, MinnesotaRe: Final Plat Approval
Foxfire Manor
Commission No. 9150-001

Dear Commission Members:

We have received and reviewed the final plat and find it in conformance with the preliminary plat. The final plat should be available for your review at the meeting.

We have reviewed the street and grading plans and specifications and find them to be in conformance with City Standards. Ponding meets the City requirements.

The Developer's Agreement has been drafted and sent to the developer and attorney for execution.

The estimated cost for improvements for this plat are as follows:

Grading and Restoration	\$40,200.00
Storm Sewer	25,076.00
Streets	41,375.00
Staking and Inspection	<u>5,332.55</u>
Total Improvement Cost	\$111,983.55
+ 25%	<u>28,016.45</u>
Total Security Deposit	\$140,000.00

We recommend approval of the final plat contingent upon the following:

1. Execution of the Developer's Agreement.
2. Deposit of \$140,000.00 Performance Bond or other security.
3. Payment of all platting and park dedication fees.

Sincerely,



Thomas D. Prew, P.E.

TDP/mha

May 9, 1991

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

I, Frank Langer, do hereby state that upon the request of Mary Kueffner, I have made an investigation and analysis of the following described property.

The proposed plat of Fox Fire Manor in Lake Elmo, MN.

The following opinion of market value is for the land only and does not include any existing improvements to the land.

This property was viewed as fee simple, with no liens, judgements, or encumbrances of any kind against it.

It is my opinion that the estimated market value on the above described property is \$180,000 , One Hundred Eighty Thousand Dollars as of May 9, 1991.

Sincerely,



Frank Langer, A.M.A.

REQUEST FOR PLANNING COMMISSION REVIEW

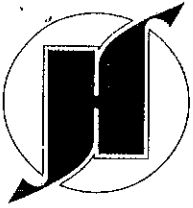
Meeting Date: June 24, 1991

AGENDA TOPIC: Thoroughfare Plan

ITEM NO. 4.

At the direction of the City Council, a Street Plan Committee was formed to study and prepare for the City a thoroughfare plan. The Planning Commission members who served on this committee are: Wyn John, Jim McLeod, Rita Conlin and Steve DeLapp

Please review the thorough plan and any comments or suggestions will be appreciated. Once accepted by the City Council a Resolution should be passed adopting the Plan and stating the City's intention to use it as a reference when considering future development plans.



JAMES R. HILL, INC.
PLANNERS ENGINEERS SURVEYORS

2500 WEST COUNTY ROAD 42, SUITE 120, BURNSVILLE, MINNESOTA 55337 (612) 890-6044 FAX 890-6244

MEMORANDUM

TO: Lake Elmo Planning Commission and City Administrator
FROM: Mike Black *Mike Black*
DATE: June 19, 1991
RE: THOROUGHFARE PLAN

At the direction of the City Council, a Street Plan Committee was formed to study and prepare for the City of Lake Elmo a thoroughfare plan. The Planning Commission members who have served on this Committee are: Wyn John, Jim McLeod, Rita Conlin and Steve Delapp.

The purpose of a thoroughfare plan is to project and forecast the location of future through streets connecting existing vacant parcels in the City's planned areas for residential growth. The plan is to be used as a guide by the City, property owners, and developers when land development is proposed. It is intended to show the approximate location and extension of roads for reasons of safety, convenience and orderly access to developable properties in the City. It is also intended to help alleviate future high cost of public infrastructure by avoiding areas with severe building limitations while at the same time planning the extension of through streets to adjoining and developable properties.

The focus of the plan is in the Residential Estate Density (RED) areas shown on the City's Future Land Use Map. It is the RED areas in which the City has planned for residential growth at 6 units per 20 acres. The plan shows the existing roadways and their functional classification as identified in the Comprehensive Plan. The plan also shows certain areas with severe road construction constraints based upon information from Washington County Soil Survey. Future local residential streets are shown connecting areas without building constraints.

A couple of items should be kept in mind when reviewing this Thoroughfare Plan. First, it is intended that the future local street locations are general and schematic. They are intended to display a plan for through street connections and not exact locations. Although in many areas the locations of future intersections are important, the exact alignment of public right-of-ways will be determined through the subdivision review process when development proposals are considered. The other thought to keep in mind is that the restrictive soils overlay is a very general analysis of soils with building limitations. These limitations are typically organic soils, high water table and/or severe slopes. Again, the exact location of future street right-of-ways will depend upon further review and analysis of each development proposal as they occur.

City of Lake Elmo
June 19, 1991
Page 2

The Street Plan Committee has completed their review of this plan and it is now being presented to the full Planning Commission prior to City Council consideration. At this time the plan should be considered preliminary and any comments or suggestions would be appreciated. Once reviewed and accepted by the City Council a Resolution should be passed adopting the Plan and stating the City's intention to use it as a reference and tool when considering future development plans. A sample Resolution for City Council approval is attached.

CITY OF LAKE ELMO
CITY COUNCIL RESOLUTION NO. _____

WHEREAS, the City Council has planned for and anticipates residential land development in the areas designated as Residential Estate Density shown on the City's Future Land Use Map; and,

WHEREAS, it has been determined to be in the best interest of public health, safety, convenience and orderly growth to plan where possible local through streets; and,

WHEREAS, it is appropriate to avoid the construction of roads in areas with severe building limitations; and,

WHEREAS, the Lake Elmo Street Plan Committee and Planning Commission have reviewed and recommended approval of the Thoroughfare Plan for Lake Elmo.

NOW THEREFORE BE IT RESOLVED, that the Thoroughfare Plan prepared by James R. Hill, Inc. is hereby adopted and shall be used as a reference and guide for future roadways when new development proposals are made and considered for approval.

REQUEST FOR PLANNING COMMISSION REVIEW

Meeting Date: June 24, 1991

AGENDA TOPIC: Review of Flood Plain Ordinance; Call Public Hearing	ITEM NO. 5.
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Attached is a copy of the proposed revised flood plain regulations for the City of Lake Elmo. The Department of Natural Resources has completed its review and informed the City that the draft ordinance has been found to be in compliance with "Statewide Standards and Criteria for Management of Floodplain Areas of Minnesota."

After the Planning Commission has reviewed the revised flood plain regulations, you should proceed to schedule a public hearing for an amendment to the City's zoning regulations.



STATE OF
MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

500 LAFAYETTE ROAD • ST. PAUL, MINNESOTA • 55155-40

DNR INFORMATION
(612) 296-6157

May 29, 1991

RECEIVED

MAY 30 1991

JAMES R. HILL INC.

Michael J. Black
Vice President
James R. Hill, Inc.
2500 West County Road 42
Suite 120
Burnsville, MN 55337

Dear Mr. Black:

STATE APPROVAL OF DRAFT FLOODPLAIN ORDINANCE

The Department of Natural Resources has completed its review of the draft ordinance the City of Lake Elmo is considering for adoption. The ordinance was entitled Floodplain Management Ordinance and was dated May 23, 1991.

On behalf of the Commissioner of Natural Resources, I am pleased to inform you that the draft ordinance has been found to be in compliance with "Statewide Standards and Criteria for Management of Floodplain Areas of Minnesota," Minnesota Regulations, Parts 6120.5000 to 6120.6200. Therefore, in accordance with Minnesota Statutes, Section 103F, I hereby conditionally certify state approval of the above cited draft ordinance.

This approval is valid upon receipt (within 90 days) of three (3) certified, signed copies of the adopted version and a completed copy of the Ordinance Certification Checklist (attached) by Area Hydrologist Molly Shodeen located at the following address:

DNR-Division of Waters
1200 Warner Road
St. Paul, MN 55106
(612) 772-7910

Any changes of the subject draft ordinance prior to adoption must be approved by this agency prior to adoption before they can be considered valid. Also be advised that any future amendments of this ordinance or change in the designation of flood prone areas requires prior approval of the Commissioner.

Note that you are required to send copies of hearing notices and final decisions relating to variances and conditional use permits relating to this ordinance to the Department. Please send these directly to Area Hydrologist Molly Shodeen and rely on her for assistance in administering your ordinance.


Page Two

Since your administration of a floodplain zoning ordinance is a pre-requisite of your eligibility in the National Flood Insurance Program, a certified copy of the adopted ordinance will be sent by this office to the Federal Emergency Management Agency.

Your cooperation and initiative in providing for the reduction in flood damage through the administration of this ordinance is greatly appreciated.

Sincerely,

DIVISION OF WATERS



Paul Swenson, Acting Administrator
Permits and Land Use Section

PS/BA:fw

cc: John Stine, Regional Hydrologist
Molly Shodeen, Area Hydrologist
David Schein, FEMA

FLOODPLAIN MANAGEMENT ORDINANCE

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FLOOD PLAIN MANAGEMENT ORDINANCE

SECTION 304.010 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

A. Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and 462.357 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Lake Elmo, Minnesota does ordain as follows:

B. Findings of Fact:

1. The flood hazard areas of Lake Elmo, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

C. Statement of Purpose: It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by provisions contained herein.

SECTION 304.020 GENERAL PROVISIONS

A. Lands to Which Ordinance Applies: This ordinance shall apply to all lands within the jurisdiction of the City of Lake Elmo shown on the City's Flood Boundary and Flooding Map and the Flood Insurance Rate Map (hereafter "Official Maps") as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

B. Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this ordinance. The attached material shall include the Flood Insurance Study for the City of Lake Elmo prepared by the Federal Insurance Administration dated January 1979, and the Flood Boundary and Floodway Map and Flood Insurance Rate Map dated July 2, 1979 therein.

C. Regulatory Flood Protection Elevation: The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

D. Interpretation:

1. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes

2. The boundaries of the Floodway, Flood Fringe and General Flood Plain districts shall be determined by scaling distances on the Official Maps. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Maps, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

E. Abrogation and Greater Restrictions: It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

F. Warning and Disclaimer of Liability: This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Elmo Elmo or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

G. Severability: If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION 304.030

DEFINITIONS

Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application. In the event that a definition in Section 301.040 is different than the definition herein, the definition found in this Section shall apply.

Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Conditional Use - means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (1) certain conditions as detailed in the zoning ordinance exist and (2) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Flood - a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equalled or exceeded.

Flood Fringe - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City of Lake Elmo.

Flood Plain - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Flood-Proofing - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, water-course, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Principal Use or Structure - means all uses or structures that are not accessory uses or structures.

Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

Regulatory Flood Protection Elevation - The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes and other similar items.

Variance - means a modification of a specific permitted development standard required in this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance.

SECTION 304.040

ESTABLISHMENT OF ZONING DISTRICTS

A. Districts:

1. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map.

2. Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map.

3. General Flood Plain District. The General Flood Plain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map.

B. Compliance: No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Sections 304.050, 304.060, and 304.070 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance;

2. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 304.120; and

3. As-built elevations for elevated or flood proofed structures must be certified by a Registered Land Surveyor and flood proofing techniques must be designed and certified by a registered professional engineer, architect and/or land surveyor as specified in the general provisions of this Ordinance and specifically as stated in Section 304.090 of this Ordinance.

SECTION 304.050 FLOODWAY DISTRICT (FW)

A. Permitted Uses: The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channels or floodways or any tributary to the main stream or of any drainage ditch, or any other drainage facility or system.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.

2. Industrial-Commercial uses such as loading areas, parking areas and airport landing strips.

3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

4. Residential uses such as lawns, gardens, parking areas, and play areas.

B. Standards for Floodway Permitted Uses:

1. The use shall have a low flood damage potential.

2. The use shall be permissible in the underlying zoning district if one exists.

3. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

C. Conditional Uses:

1. Structures accessory to the uses listed in 304.060 A. above and the uses listed in 2 through 8 below.

2. Extraction and storage of sand, gravel, and other materials.

3. Marinas, boat rentals, docks, piers, wharves, and water control structures.

4. Railroads, streets, bridges, utility transmission lines, and pipelines.

5. Storage yards for equipment, machinery, or materials.

6. Placement of fill.

7. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of this Ordinance.

8. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

D. Standards for Floodway Conditional Uses:

1. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

2. All floodway Conditional Uses shall be subject to the procedures and standards contained in Section 304.110 of this Ordinance.

3. The Conditional Use shall be permissible in the underlying zoning district if one exists.

4. Fill:

(a) Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, rip-rap or other acceptable method.

(b). Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(c) As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the Office of the County Recorder.

5. Accessory Structures:

(a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters. (1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and, (2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

(1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

(2) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

6. Storage of Materials and Equipment:

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

7. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 105. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

8. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

A. Permitted Uses: Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance.

B. Standards for Flood Fringe Permitted Uses:

1. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

2. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with Section 304.050 5. (c).

3. The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with Section 304.060 B. of this ordinance.

4. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

C. Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Section 304.060 B.1. and 2. or any use of land that does not comply with the standards in Section 304.060 B.3. and 4. shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in Sections 304.110 of this Ordinance.

D. Standards for Flood Fringe Conditional Uses:

1. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl

spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(a) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(b) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

(1) The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one-foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

2. Basements, as defined by Section 304.030 of this Ordinance, shall be subject to the following:

(a) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.

(b) All areas of non residential structures including non-residential basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code.

Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

3. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

4. Storage of Materials and Equipment:

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

E. Standards for All Flood Fringe Uses:

1. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

2. Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the

general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

3. Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 304.060 E.2. above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

4. Fill shall be properly compacted and the slopes shall be properly protected by the use of rip-rap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

5. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

6. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

SECTION 304.070 GENERAL FLOOD PLAIN DISTRICT

A. Permissible Uses: The uses listed in Section 304.060 A. of this Ordinance shall be permitted uses. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 304.070 B. below. Section 304.050 shall apply if the proposed use is in the Floodway District and Section 304.060 shall apply if the proposed use is in the Flood Fringe District.

B. Procedures for Floodway and Flood Fringe Determinations
Within the General Flood Plain District.

1. Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.

(a) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

(b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

(c) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

2. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

(a) Estimate the peak discharge of the regional flood.

(b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage

increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

3. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 304.050 and 304.060 of this Ordinance.

SECTION 304.080 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES.

A. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

B. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 304.050 and 304.060 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

C. On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current state-wide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

SECTION 304.090 ADMINISTRATION

A. Zoning Administrator: A Zoning Administrator or other official designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 304.120 of the Ordinance.

B. Permit Requirements: A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

C. Application for Permit. Application for a Permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

D. State and Federal Permits. Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

E. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.

F. Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 304.130 of this Ordinance.

G. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

H. Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

I. Subdivisions. No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labelled on all required subdivision drawings and platting documents. For all residential structures in the flood plain, the floodway and the flood fringe boundaries, the basement construction or the lowest floor if there is no basement shall not be allowed below the Regulatory Flood Protection Elevation.

SECTION 304.100 BOARD AND ADJUSTMENT AND APPEALS

A. Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

B. Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.

C. Variances. The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting

of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No Variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

D. Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

E. Decisions. The Board shall arrive at a decision on such appeal or Variance within 30 days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a Variance the Board may prescribe appropriate conditions and safeguards such as those specified in Section 304.100, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Ordinance punishable under Section 304.130. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

F. Appeals. Appeals from any decision of the Board may be made, and as specified in Section 301.060 C. Minnesota Statutes.

G. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

The Planning Commission shall hear and decide applications for Conditional Uses permissible under this Ordinance. Applications shall be handled in accordance with Section 301.060 D.

A. Hearings. Upon filing with the City of Lake Elmo an application for a Conditional Use Permit, the City Council shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

B. Procedures to be followed by the City of Lake Elmo in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.

1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:

(a) Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.

(b) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

(c) Transmit one copy of the information described above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

(d) Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

C. Factors Upon Which the Decision of the City Council Shall Be Based. In passing upon Conditional Use applications, the City of Lake Elmo shall consider all relevant factors specified in other sections of this Ordinance, and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. Such other factors which are relevant to the purposes of this Ordinance.

D. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the City of Lake Elmo shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities.
2. Limitations on period of use, occupancy, and operation.

3. Imposition of operational controls, sureties, and deed restrictions.

4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

5. Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

SECTION 303.120 NONCONFORMING USES

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

1. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

2. Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted below.

3. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 4.0 or 5.0 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

4. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

5. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 304.050, 304.060 or 304.070 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

SECTION 304.130 PENALTIES FOR VIOLATION

A. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

B. Nothing herein contained shall prevent the City of Lake Elmo from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

1. In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

2. When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

3. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

SECTION 304.140 AMENDMENTS

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

(204.015)

of the year; and a new Vice Chairperson shall be elected by the Commission at a Special Election to be held at the next regularly scheduled Commission meeting, after at least two days written notice to each Commission member. The Secretary shall perform those duties assigned by State Statute only. A recording secretary shall be appointed by the City Council to take and keep the minutes and records of the Commission.

204.016 Annual Meeting. The Commission shall hold an annual meeting the second Monday in the month of January in each year. Such meeting shall be devoted to the election of officers and such other business as shall be scheduled.

204.017 Annual Work Plan. The Planning Commission shall meet with the City Council at their first meeting in May each year to develop an annual work plan, including a list of projects, points of interaction on projects, programs and goals for the year.

204.018 Regular Meetings. Regular meetings shall be held in the City Hall at 7:30 p.m. on the second and fourth Mondays of each month. No action shall be taken in the absence of a quorum except to adjourn the meeting to a subsequent date. A regular meeting may be cancelled or rescheduled by the Commission at a prior meeting or if there are no scheduled agenda items on the Thursday prior to the meeting. All action taken by the commission shall be by the affirmative vote of a majority of the members present.

204.019 Special Meetings. Special meetings of the Commission shall be held in the City Hall at a time and place designated or at a public place at a time designated and shall be called by the Chairperson. Upon the written request of at least four members the Chairperson shall be required to call a Special meeting to be held within seven days of the request. Written notice thereof shall be given to all members not less than forty-eight hours in advance of the meeting.

204.020 Quorum. A quorum shall consist of two-thirds (2/3) of the members.

204.021 Voting. Each member attending any meeting shall be entitled to cast one vote. Voting shall be by voice vote. In the event that any member shall have a personal interest of any kind in the matter then before the Commission, he shall disclose his interest and be disqualified from voting upon the matter, and the Secretary shall record in the minutes that no vote was cast by such member. Alternate members shall be entitled to cast one vote in the absence of any member. The second alternate shall be entitled to cast one vote in the absence of any two members.

Amended by Ord. 7934

7. COMPREHENSIVE PLAN

Councilman Todd Williams encouraged every PZ member to attend at least one PZ seminar every year they are on board. Todd felt even the experienced members would get additional insight and knowledge at these various seminars. The City staff will inform the PZ when they come up.

Williams urged the PZ to follow the direction given by the City Council at its November 21st meeting. The Council requested the PZ to come to a consensus on any changes on the Plan they feel should be made. The consensus does not have to be 100% unanimous.

The PZ called a workshop on the Comprehensive Plan for Thursday, 1/11/90, at 7:00 p.m. in the Conference Room at City Hall.

8. OTHER:

A. WORK PLAN:

The Commission agreed the Work Plan will not be discussed until the Comprehensive Plan is completed.

B. Set up a Public Hearing for PUD's

The Commission requested setting up a public hearing for elimination of the PUD. Staff suggested waiting because "The Forest" application is in the final stages of a Planned Residential Development, and they didn't want to eliminate something that they are still working on.

OTHER: ELECTION OF OFFICERS

Chairman Rob Enes did not show up for the meeting. The Commission desired a seventh member in case of a tie vote and recommended tabling this. Therefore, the following motion was made:

M/S/P Bucheck/John - to table the election of officers until the next PZ meeting. (Motion carried 6-0).

M/S/P Johnson/Conlin - to adjourn the Planning Commission meeting at 10:36 p.m. (Motion carried 6-0).

1989 PLANNING COMMISSION WORK PLAN
PRIORITIZED BY THE CITY COUNCIL ON MAY 16, 1989

- 1.A. Review all applications in accordance to the Comprehensive Plan, comment and make recommendations to the City Council.
- 2.A. Complete the revision of the Comprehensive Plan and update Ordinances to relate to the Plan.
- 3.B. Consider local responses to State of MN proposed revisions to Shoreland Management regulations.
- 4.A. Residential Estates Zoning
 - a. Definition and Length of cul-de-sacs.
 - b. Road Design
 - c. Creation of a volunteer, City Forester Position
- 5.A. Review of Highway Business Zoning on I-94.
- 6.B. Building height limitation--Eliminate the exception which allows broadcast transmission towers.
- 7.B. Stronger restrictions for accessory structures in the R1 Zone-- the size and number of parcels of less than 5 acres. Definition of garage and storage accessory structures. Size and number of accessory structures in RR Zone on parcels of 20 acres or more. (Check amended ordinances).
- 8.C. Conditions or possible restrictions on residential subdivisions where large accessory structures exist.
- 9.C. Meet with the county and adjacent community planners to discuss common issues on an "as-needed" basis.
- 10.A. Future Road Plan (ties in with road design).
- 11.B. Retention of wildlife habitat and wetland areas--adequacy of wetland overlay district.
- 12.B+ Recommend to the City Council a committee be established, comprising of PZ members, business owners, and interested residents (5-7 members) to study an Historic Building/Architectural Design Overlay District in the Old Village Area.
- 13.C. Adopt an ordinance for utility (pipeline and power lines) setbacks in the City's Subdivision and platting regulations.
- 14.C. Sign Ordinance
- 15.C. Review sideyard setbacks relative to lot size.
- 16.C. Amend the Subdivision Ordinances (Section 400-14, 400-15) requesting the signatures on the Certificate for approval by the Chairman and Secretary of the Planning Commission.

*A - TOP PRIORITY

FILL ORDINANCE WITH ESCROW

Mayor Dunn liked the idea of a fill ordinance with an escrow and would like the Planning Commission and staff to work on a proposed ordinance.

M/S/P Hunt/Williams - the Planning Commission be directed at their December 11th meeting to consider placing on their list of work items (as a Class A Priority, 1990), creation of a fill ordinance that would incorporate escrow amounts based on the cost of removal of fill and taking into account the fact that a site and grading plan be submitted before the fill permit is approved and consider any other aspect th PZ seems appropriate. (Motion carried 4-0).