

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

AUGUST 12, 1991

7:30 p.m. MEETING CONVENES

1. AGENDA
2. MINUTES: JULY 22, 1991
3. SITE & PLAN REVIEW: KUNZ OIL
4. SITE & PLAN REVIEW: CARMELITE MONASTERY
5. MUSA EXTENSION: CONTINUATION
6. PUBLIC HEARING: FLOODPLAIN ORDINANCE
7. OTHER
8. ADJOURN

LAKE ELMO PLANNING COMMISSION MINUTES

JULY 22, 1991

Chairman John called the Planning Commission meeting to order at 7:34 p.m. in the city council chambers. Present: John, Johnston, McLeod, Stevens, Weeks, Enes, Bucheck, DeLapp, Schubert, Thomas, City Planner Black, City Engineer Prew, City Auditor Tautges, Administrator Kueffner. Absent: Conlin.

1. AGENDA

Move item 8. ahead of item 3.

M/S/P Stevens/DeLapp - to approve the Agenda as amended. (Motion carried 9-0).

2. MINUTES: July 8, 1991

M/S/P Enes/Stevens - to approve the July 8, 1991 minutes as amended. (Motion carried 8-0-1, abstain: Thomas).

Chairman John read a prepared statement, signed by him, to be made part of the minutes as an addendum regarding the Stonegate Development rezoning at the July 16, 1991 City Council Meeting.

3. ECONOMIC DEVELOPMENT COMMITTEE

M/S/P DeLapp/Stevens - to recommend the City Council add to the Planning Commission work plan, as high priority, the creation of a study group comprised of members as determined by the Planning Commission to evaluate all aspects relating to the commercial economic development and residential economic development in the City and how it affects the taxes, quality of life and character of the City. (Motion carried 6-1-1, against: McLeod - established business people in the community should be part of this study group; abstain: Stevens).

M/S/P/ McLeod/Johnston - recommend the economic advisory study group within the Planning Commission include a minimum of 1/3 established business people in community. (Motion carried 5-3, against: Thomas - it is making a statement that some people in the community are inherently more valuable because of their background, Schubert - same reason as Thomas, DeLapp - may end up with a committee comprised of mostly business people.).

4. PUBLIC HEARING: COMPREHENSIVE PLAN AMENDMENT FOR  
EXTENSION ON MUNICIPAL URBAN SERVICE AREA.

Chairman John opened the public hearing at 8:00 p.m. The public hearing notice was published in the St. Croix Valley Press, the City's legal newspaper, on July 10th and 17th, 1991 and all property owners within 350 feet were notified. In addition a public announcement was bulk mailed to every resident.

City Planner Mike Black and City Engineer Tom Prew were directed by the City Council to prepare a report on a proposed amendment to the Comprehensive Plan for extension of the Municipal Urban Service Area. If recommended by the City Council, this report will be submitted to Metropolitan Council for their consideration. City Planner Black stated the purpose of this public hearing is to seek public comment and questions, and for the Planning Commission to consider those comments then make a recommendation to the city council. City Engineer Prew presented three options available for interim connection to the W.O.N.E. interceptor. City Auditor Rob Tautges presented recent financial trends, recent legislation and analysis.

Chairman John opened public comment at 8:47 p.m.

Bob Stone, 2390 Legion Lane, asked how can the Planning Commission make a decision if the cost is unknown and what the impact will be on the community? Chairman John stated tonight's meeting is to hear public comment on the proposal of an amendment to the city's comprehensive plan to extend the MUSA line, and this is not a commitment to put the line in.

Commissioner Thomas asked how the decision was made to extend the area a half mile east of County Road 19? City Planner Black stated it was the city council's request and it is adjacent to and coincides with Woodbury's MUSA line.

Jim Arkell, 8131 Hidden Bay Tr., asked is there a geological reason for choosing a half mile north of I-94 rather than a quarter mile, will this extension have impact on residential development? Mr. Black stated there is not a geological reason for this and it is not intended to serve residential areas as presented.

Bill Woodworth, 8242 Hidden Bay Tr., stated the State is not going to support our City any longer and this approach for business support is to the advantage of every resident in Lake Elmo by relying less on residential taxes.

Joe Kiesling, 9359 Jane Road, offered to clarify this proposal is not intended to sewer the entire City, but simply for the development of a more dense business park to generate taxes to help pay for services we now enjoy.

Chris L. asked if the Comp. Plan, which is only 3 months old, can be altered so soon then can the Limited Business Ordinance be altered? Chairman John answered the city council can make changes to the ordinances and would have to hold a public hearing.

Carl Tacke, 11306 31st Street, asked where is the water going to come from, and will there be a need for a municipal well in that area? Chairman John stated each business will have to have its own well or perhaps a municipal well will be required, but it should be discussed.

Dick Hughes, 9191 49th St., asked Mr. Tautges if we continue to lose our state aid, what affect will that have on our taxes? Mr. Tautges answered that this is just one piece within the City, but in concept: if you have greater values - the base gets larger and the rates stay under control, generally commercial development lowers overall tax rates.

Carol Banister, 3100 Lake Elmo Ave., asked if the City Engineer has received any input from Metropolitan Waste Commission? Mr. Black stated has had staff meetings with Met. Waste Commission and they have indicated a willingness to work with Lake Elmo, but are under the direction of Metropolitan Council which is the governing agency.

Mike Lukin, 10759 10th St., asked if the capacity of the system is only good to the year 2010, then what happens? Mr. Black stated this is a detail that will have to be worked out with Met. Council, City of Lake Elmo and either the City of Oakdale or the City of Woodbury.

Kurt Vanden Branden, 11008 32nd St., asked if there is going to be enough demand to justify this proposal? Mr. Black stated the demand is market driven, but Woodbury is developing quite a bit on the freeway.

Doug Killian, 11909 21st St., asked how is light industrial and heavy industrial defined/compared, and give some examples? Mr. Black stated the City has not officially adopted zoning standards, but the idea is for corporate headquarters with research facilities, or multi-tenant buildings for small business with office space and warehouse areas. The idea is not for smoke stacks, chemical companies or iron ore companies which are considered heavy industrial.

Steve Korhel, 5540 Keats Ave., asked what the price tag will be for this? Mr. Tautges stated the estimate would come from city engineering studies. Mr. Korhel then asked what are the procedures and methods to finance this? Mr. Tautges replied there are many varieties of combinations the City can choose, these would be packaged by the City's fiscal consultant once the engineering study determined the cost, so it's premature to discuss at this point.

Mr. Korhel asked Mr. Tautges if he could explain about a bond issue? Mr. Tautges stated it depends on how it's structured, a revenue bond issue can be issued under general obligation which means the security is backed by the credit of the City; tax increment type can be issued as general obligation or with specific revenues pledged related to the improvement, and this is just one method, there are other methods that are more secure.

Rosemary Armstrong, 8291 15th St., asked Mr. Tautges if it was common for tax increments to be repaid in eight to twelve years? Mr. Tautges stated yes, it depends on the type of district. Mrs. Armstrong then asked if Mr. Tautges could state the amount of assessments that still have to be paid for the construction of Helmo Avenue to improve Section 32, and if there are still outstanding hook up charges in Section 32? Mr. Tautges stated he would need his files, but there was some delay in the payment of assessments.

Steve Bachman, 3141 Klondike Ave., asked if developers today have to guarantee payment of improvements such as a performance bond? Mr. Tautges stated that is correct - the City can structure development to be such that it is fully guaranteed by the developer with a developer's agreement which is often accompanied by a letter of credit.

Ron Luther stated Woodbury and Oakdale are paying more taxes (than Lake Elmo residents) and he doesn't see where development is helping them. Mr. Tautges stated you would have to look at each specific community and see the level of services they provide.

Those wishing to speak in support of the proposal were allowed to speak first.

Jim Tobin, 4180 Irvin Ct., feels this is a good idea provided the residents don't have to pay for all the improvements.

Dave Lang, 5451 Hilltop Ave., submitted a petition, made part of the minutes by reference, signed by thirty residents supporting the Comp. Plan Amendment and extension of the MUSA line proposal. Mr. Lang stated he received a legislative report from representative Jeff Hansen which he states "property tax increases have been kept down while beginning the difficult process of weaning local governments from State aid. State aid to local governments was cut by 70 million dollars". Mr. Lang stated things are changing rapidly and we are being compelled to re-examine our politics in Lake Elmo. Mr. Lang stated the cost of sewer is certainly an issue, but it will never be lower than it is today.

Jess Mottaz, 8770 Demontreville Tr., stated several years ago the City determined there was a need to set aside a portion of the City to receive MUSA to provide an area for commercial growth. Commercial growth was needed to broaden and strengthen the City's tax base because it was felt taxes from homes alone would not support the City without placing exorbitant tax burdens on the homes. The planners at the same time wanted Lake Elmo to remain open and rural requiring extra tax base to support this philosophy. The area chosen for this commercial designation was referred to as Section 32. Section 32 was an ideal spot because it was located at the intersection of two major freeways and was in the extreme corner of the city nearest the sanitary sewer. In 1990 the Municipal Commission granted the request of property owners in Section 32 to be detached from Lake Elmo and annexed to Oakdale, as a result of this action Lake Elmo lost all of the land where municipal services would be available and consequently that area that was to broaden and strengthen the City's tax base sought after by the earlier planners. Troubled by this loss of tax based acreage consideration was given to create another ideal area for a well rounded tax base potential for the City of Lake Elmo. Along I-94 to the east of Section 32 exists property whose owners are at the stage of unrest who feel the existing conditions in Lake Elmo will not allow them to put their land at its highest and best use. As a result they have made efforts to annex to Woodbury. If this were to happen the land would be developed as commercial property and Lake Elmo would have absolutely no control over

it and would lose all of the taxes generated by it. After what happened to Section 32 we no longer dare say this will never happen. Mr. Mottaz added he sincerely hopes the planning commission will recommend approval of this proposal.

Bonnie McLeod, 2543 Lake Elmo Ave., stated she was in favor of the proposal because she does not want to see anymore land leave Lake Elmo.

Steve Bachman, 3141 Klondike Ave., stated he is in favor of the proposal, and is dismayed that he owns a business in Oakdale, but would like to have it in Lake Elmo, but does not consider the business posture very good. Mr. Bachman stated he thinks Lake Elmo is a beautiful place to live, but if we're not careful we're going to be consumed by our neighbors - Oakdale and Woodbury. Mr. Bachman stated based on the current fiscal position the city is in, the short fall we're going to have, our taxes are going to go up significantly, so we're going to have to get some commercial development to help out or the city will go bankrupt as they have in other parts of the country.

Chairman John read a letter from the Federal Land Company in favor of the proposal, made part of the minutes by reference.

Charles Bartholdi, representing Federal Land Co., stated the property owned by Federal Land is not developed is due primarily to the fact there is no MUSA line near this property. Mr. Bartholdi stated with the MUSA line the City will get a much better quality development because it will give you a higher property value which will in turn give you a greater tax recognition.

Gloria Knoblauch, 9181 31st St., stated she is in favor of the proposal, and would go even farther than the proposal by extending the MUSA line one mile north of I-94 at the intersection. Mrs. Knoblauch feels business opportunity is greater located at the intersection.

Carol Banister, 3100 Lake Elmo Ave., stated she is in favor of the proposal assuming there will be cost benefit studies, and studies on how traffic will affect the City before the final approval of a development.

Dorothy Lyons, 10072 10th St., stated she is in favor of the proposal and would like to see the line extended farther to help diversify payment for the improvement, because MN/DOT owns property in this area and cannot be assessed for the improvement.

Dave Johnson, 11291 30th St., stated this proposed area is 640 acres which is close to the same amount of acreage we lost to Oakdale. The reason Oakdale and Woodbury are using excess capacity in the system is because that area never did develop. Some of that reserve capacity has been borrowed by other cities, this is where excess capacity comes from, there is no single pipe set aside for Lake Elmo. In conversations with the MWCC it appears it's a first come first served situation. The capacity is there through the year 2010 and those units should belong to Lake Elmo and should be transferred to this area, but we must respond quickly or we may lose it.

Ray Salus, 404 Lake Elmo Ave., stated he is in favor of the proposal because he would be in the annexation to Woodbury. Mr. Salus stated he has lived in Lake Elmo for 56 years and would like to stay in Lake Elmo, but if MUSA isn't extended he will be going to Woodbury because the annexation petition is being revived. Mr. Salus stated he would like to see some employment in our City, we don't have much. Mr. Salus employs a few people at his driving range and would like to see employment opportunities for our young people here in Lake Elmo.

Craig Knoll, 3127 Laverne Ct., stated he is in favor of the proposal and is appalled that our past city founders did not have the foresight to actively do any planning for more than 20 years. The proposal tonight only looks forward 20 years, but it's the first step towards a well rounded, balanced program for Lake Elmo.

Jack Perkovich, 7832 Demontreville Tr., stated he is in favor of the proposal, and feels it is extremely important for the City to establish a balance between residential and commercial development, it's long overdue. There's a real concern, as we continue to punch holes in the aquifer, of ground water contamination and other things that are real problems inherent to a community of our design.

Terry Arends, 8815 27th St., stated he is in favor of the proposal and feels we have nothing to lose by having the MUSA there even if we don't use it, and can't see losing anymore land.

Those wishing to speak in opposition to the proposal were asked to speak.

Dean Johnston, 8200 Hill Tr., stated he feels the responsibility of the advocates who want change to make their case, and the case they should be making is this is for the good of all the citizens, but they've clearly failed to make that case this evening. Mr. Johnston stated also this proposal will involve major expenses, and these expenses have not been analyzed, and to go ahead with this proposal would be bad business and bad government. When talking about broadening the tax base as a justification, Mr. Johnston firmly believes this is the most broadly supported myth in city government. We've got to develop an established infrastructure.

Marge Williams, 3025 Lake Elmo Ave., stated many people moved here for a rural life style, and any densely developed commercial area would probably pay for itself. The question is whether or not you want to live next to, near or anywhere in the vicinity. Most of us who moved here, moved away from urban style development, whether it be from Oakdale, Woodbury, Stillwater or Maplewood. Most new residents move here because of large lot developments. Somebody is going to pay for this whether it's the residents or the businesses and the only people that will clearly profit will be the initial land owners who will sell off their land and make money.

Rosemary Armstrong stated there has been a great deal of planning in this city, and 1990 was the year designated to look at extending the MUSA line to County Road 19. It wasn't going to be near as big as this proposal, but it was going to be extended. Section 32 has had the MUSA line for years and nothing has developed there, but it's not for lack of planning. The economy has slowed or stopped development, even in Oakdale and Woodbury. We have had sound city management of money because we have not stuck our necks out into debt and made the tax payers hold the bill for prime developers to come in and make their buck and leave. There is no way we're going to get commercial developers to come into Lake Elmo now because the banks are not going to give anymore commercial loans. If Conn-Co Shoes couldn't make it, I don't know who we're going to get to come in here after that. Section 32 has had a MUSA line for 20 years and no proposals came into the City of Lake Elmo in those 20 years, and no proposals have come into Oakdale in the few months they've had Section 32.

Chairman John read a letter from Dolan Marine and a letter from Lampert Lumber, both stating opposition to the proposal, made part of the minutes by reference.

Commissioner Stevens stated that he's lived here about 30 years. About 40 years ago the current area of Oakdale separated from what is now Lake Elmo plus Oakdale, because they wanted fast development, and the people in the present Lake Elmo area didn't. If Lake Elmo had been as forward looking and business minded as some people think it should have been, Lake Elmo would look like Oakdale today. In that case, a previous speaker who moved here about a year ago because of its rural atmosphere but now berates the city for not being forward looking enough would not have settled here. He would have moved to Afton.

Scott Nietzel, 3291 Lampert, stated, with all due respect to Commissioner Stevens, he's lived in Lake Elmo about 3 years now and it's a shame that two years later Section 32 is gone and feels this should never have happened.

Onno Van Demmeltraadt, 9406 Jane Road, stated he is against the proposal. He's heard and read that the United States is saturated with office space and the banks are having so many problems these days, and is concerned with who's left holding the bag. It's too sketchy right now.

Dave Johnson stated, in response to Commissioner Stevens, that the MUSA is just an area that must be defined before you can extend any municipal services and has no cost or project or physical pipe associated with it.

Commissioner Thomas asked if we have to be concerned about which option to choose (for extending the MUSA from the interceptor) right now?



Mr. Black stated not at this time, we are simply making application and asking Met. Council if we can do further studies to further analyze the impact of the MUSA on the City and will they indeed allow for an expansion to Lake Elmo. We don't know what Met. Council's response will be, they may deny our request, but they will address the short term issue and the long term issue. Tonight we are simply trying to decide if we will approach Met. Council with this request. By asking for the MUSA line extension does not commit us to anything, we do not have to proceed with any improvements.

Jess Mottaz stated he is only concerned with offering the City of Lake Elmo the opportunity to replace the MUSA area that was lost with Section 32.

Chairman John reiterated that we are just applying to Met. Council to extend the MUSA line - it doesn't mean the extension will be here tomorrow and development will begin tomorrow. It could be two or three years before it arrives.

Carol Banister asked that Administrator Kueffner publicize when the video tape of this meeting will be aired on cable.

Todd Williams, 3025 Lake Elmo Ave., asked the Planning Commission to consider three questions: (1) what are the specific circumstances under which Oakdale and Woodbury are willing to work with Lake Elmo on this proposal? (2) what will happen in the year 2010 when there is no more sewer capacity? (3) what will be the City policy regarding payment - will the city put in the sewer or will the city wait for development proposals?

Sue Dunn, 11018 Upper 33rd St., stated she doesn't see why we have to designate such a large area. Met. Council suggests starting slow from the west to the east.

Dorothy Lyons stated alot of you people wouldn't be here if it weren't for us farmers selling our property at one time or another and allowing development to come in. Mrs. Lyons stated she would like to advocate a rural community, but in such a way as is economical and feasible. If you look at Section 32 from a business stand point, how do you get to it - there is not easy access. The sign regulations are prohibitive. Look at your planning.

Chairman John closed the public hearing at 10:30 p.m.

Commissioner McLeod stated what he's heard tonight makes economic sense, and the City Auditor stated commercial tax base is better than residential. The City Auditor also stated the State is cutting back on funding cities so our taxes will go up. The statement that property owners along I-94 are getting ready to annex is not a scare tactic - it is not an idle threat. Unfortunately past city administrations have had policies that lead to the loss of Section 32. Everyone has a different opinion as to why Section 32 was lost, but the reality of it is the Municipal Board voted in favor of the property owners. It's facetious

of us to stick our heads in the sand and say it's not going to happen again. It's not going to destroy our rural environment by putting denser commercial development along I-94. We've got to be realistic, we've been too inflexible in the past.

The Commission asked the City Auditor to analyze what the impact of commercial development will be in this proposed area if densely (or ultimately) developed vs. residential, and also to gather information from other communities such as Edina or Spring Lake Park or the like to compare what they get in revenue from established development, commercial developments along freeways, apartment blocks, residential estate developments - whatever they are in terms of total worth to that community, also information on tax increment financing - how would that impact the City. Increased services, such as Fire, Police, etc. will have to be looked at by perhaps the City Planner.

M/S/P DeLapp/Buckcheck - to table discussion until the next planning commission meeting (August 12, 1991), and commission members are to submit relevant questions in writing, to staff, by Monday, July 29th, to be copied and given to Mike Black for review and brought up for discussion at the next meeting. (Motion carried 9-0).

Agenda item #4 and #5 were postponed by the applicants.

M/S/P Johnston/Buckcheck - to table the remaining agenda items and adjourn the meeting at 11:00 p.m. (Motion carried 9-0).

I would like the following statement included in the minutes of tonight's meeting as an addendum:

I, as Chair of the Planning Commission, want to express my dissatisfaction with the Lake Elmo City Council, in their Council meeting of July 16, when their assessment of the Goose Lake (Stonegate) Development failed to gain the required majority for rezoning.

This development complied with both the City approved Comprehensive Plan and the Residential Estate Ordinance. If neither of these City approved documents are acceptable to the Council, it places in question all City approved Plans and Ordinances, at a time when Lake Elmo is trying to correct an image of being anti-development.

As Chair of a volunteer organization, I request the City Council to provide explicit guidelines so that our decisions can be reached after proper consideration of all facts. Time wasting of volunteers, interested in carrying out the Council's wishes can then be avoided.

The Commission spends a lot of time assessing development and changes within the city. The Goose Lake development was discussed for at least 10 hours in three or four planning meetings, minutes of which were supplied to the council. Further time was spent discussing the program with the Parks Commission. The developer responded to all our suggestions, and had earlier attended planning sessions when the proposed Residential Estate Ordinances were debated at length. Rejection of our recommendations on a development which meets City standards, after what was a relatively short examination by the Council, is unsatisfactory.

The Council has already approved other Residential Estate Developments which complied with the ordinance. To reject this development, appears arbitrary.



Wyn. M. John  
Chair, Lake Elmo Planning Commission.

JUL 15 1991



# Federal Land Company

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Yankee Square Office II • 3470 Washington Drive • Suite 102 • Eagan, Minnesota 55122  
Tel. 612-452-3303 FAX 612-452-3362

July 11, 1991


The Honorable David Johnson,  
Planning Commission Chairman Steve DeLapp,  
and Members of the Lake Elmo City Council  
and Planning Commission  
c/o Mary Kueffner, City Administrator  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

Dear Mayor Johnson, Chairman DeLapp,  
Members of the Lake Elmo City Council  
and Planning Commission,

Federal Land Company hereby acknowledges receipt of Notice of a Public Hearing to consider the extension of the Municipal Urban Service Area ("MUSA"). As the Lake Elmo City Council is aware, Federal Land Company has for some time encouraged the City to extend the MUSA to its property located in the northwest quadrant of the intersection of Interstate 94 and County Road 19. The lack of extension of the MUSA caused Federal Land Company to propose a two phase development plan, first submitted in 1979, for its property. The extension of the MUSA as proposed conforms to our plan and will, in our opinion, benefit the City due to the quality development which will occur along the I-94 corridor. The implementation of quality development should, in turn, further benefit the City by providing a significantly increased taxbase, thereby giving the City greater revenues especially in these times of fiscal shortfalls.

The extension of the MUSA is long overdue and Federal Land Company supports its extension. We look forward to attending the public hearing and to providing you with further testimony in support of the extension of the MUSA.

Sincerely,



Martin F. Colon, Partner

MFC/lfs

JUL 15 1991

SINCE 1927

**Dolan's**

MARINE • SPORTING GOODS • LEASING

600 WEST 7TH ST. (FORT ROAD) • ST. PAUL, MN 55102 • (612) 227-6653

9200 HUDSON BLVD. • LAKE ELMO, MN 55042 • (612) 738-3102

July 11, 1991

City of Lake Elmo  
3800 Laverne Ave. No.  
Lake Elmo, MN 55042

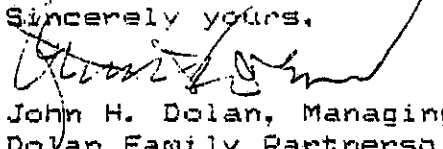
RE: Notice to extend the M.U.S.A.

Gentlemen or Ladies:

I am writing representing the Dolan Family Partnership which owns land between County Road 13 and County Road 19 in Lake Elmo.

I called the administrators office and a very nice lady briefly explained the M.U.S.A. situation to me. In as much as we are already paying substantial R.E. taxes on our property and we personally have no immediate use for sewer facilities, I wish to express my opposition to the M.U.S.A. extension.

Sincerely yours,

  
John H. Dolan, Managing Partner  
Dolan Family Partnership

JHD/kee



BUILDING MATERIALS • LUMBER

**LAMPERTS**

1850 COMO AVENUE • BOX 64076 • ST. PAUL, MN 55164  
(612) 645-8155 • FAX# (612) 645-8155

JUL 19 1991

July 18, 1991

Lake Elmo Planning Commission  
3800 Laverne Ave. N.  
Lake Elmo, MN 55042

Re: Public Hearing to consider amendment to the 1990  
comprehensive plan for extension of the Municipal Urban  
Service Area (M.U.S.A.)

Dear Sirs:

We are in the process of purchasing the property located at 9220  
Hudson Blvd. This is the lumber yard that was owned by Lampert  
Lumber Company.

We are not currently in favor of extending the municipal  
utility service to the area until we have further information as  
to what this entails, could entail in the future, and especially  
the cost of the proposed project.

I am sorry I cannot attend the scheduled meeting, but I will be  
out of town on July 22, 1991. Even though we do not currently  
own the property, I would hope that you would take our feelings  
and consider our statements as though we are the current owner.

If you have any questions, please call.

Thank you for your consideration in this matter.

Sincerely,  
LAMPERT YARDS, Inc.

Robert T. Ungetman  
President

RTU/mbc

WE, THE UNDERSIGNED RESIDENTS OF LAKE ELMO, RECOGNIZING THE CRITICAL NEED TO DEVELOP A COMMERCIAL TAX REVENUE BASE ALONG THE 194 CORRIDOR, SUPPORT THE EXTENSION OF THE MUSA AREA TO ONE HALF MILE EAST OF COUNTY ROAD 19 AND ONE HALF MILE NORTH OF 194, AND WE FURTHER SUPPORT THE SUBSEQUENT AMENDMENT TO THE LAKE ELMO COMPREHENSIVE PLAN. WE URGE THE CITY COUNCIL OF LAKE ELMO TO ADOPT THESE MEASURES.

NAME	ADDRESS
<i>[Signature]</i> Mary Land	5451 Hilltop Ave. "
Al Webster	5460 Hilltop Ave.
<i>[Signature]</i>	5471 Hilltop Ave
Carol Schmitt	5471 Hilltop
Janice O'Neil	5500 Hilltop Ave
<i>[Signature]</i>	" " "
Joseph T Conally	5440 Hilltop Ave N.
Pamela J. Conally	5440 Hilltop Av N.
S. L. Anderson	5420 Hill Top Ave. N.
John M. Anderson	"
Martha & Chuck Ross	5291 Hilltop Ave. N.
Mark R. Brown	5290 Hilltop Ave N.
Jean C. Brown	5290 Hilltop Ave. N.
Ron Dutzmaker	7851 50th St. N.
Bill & Compstrong	7824 Demontraville Rd.
Jack Pulovich	7832 Demontraville Tr.
Sandra D. Nozeman	5450 Highland Dr. N.
Carrine J. Reed	11020 32nd St. N.
Palm Brothers	3385 Lake Elm Ave N.
Richard Hughes	9191 44th St N.
Jim Cooper	2543 Lake Elm Ave
<i>[Signature]</i>	4211 13th St.
Chris Whites	11291 30th
Stephen M. Cushman	Stillwater Valley Area Cof C.
Gloria Knoblauch	3141 Klondike Ave.
A. Kellogg	9191-31 St, N, Lake Elmo
Dennis ...	3674 Ave. 4th Lake Elmo
...	9191 44th St N.
...	9191-31 St, N

REQUEST FOR PLANNING COMMISSION REVIEW

Meeting Date: August 12, 1991

<b>AGENDA TOPIC:</b>  Site & Plan Review: Kunz Oil	<b>ITEM NO.</b> 3.
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This was postponed at your last meeting, but you were given a packet of information. Please review this information and bring it to the meeting. Mike Black has also reviewed the proposal, and his report is attached.





**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  
DATE: August 6, 1991  
RE: BUILDING AND SITE PLAN REVIEW  
Kunz Oil Company

The Kunz Oil Company is proposing to construct an accessory building on their property at 4201 Stillwater Boulevard. The applicant is working with the Minnesota Pollution Control Agency in cleaning contaminated soils on site.

The subject property is zoned HB-Highway Business. Accessory uses clearly incidental and subordinate to the permitted land use are allowed.

( recommend approval of the site plan subject to:

1. Landscaping shall be provided as shown on the plan.
2. The structure is only temporary and the applicant agrees to remove it upon completion of the soil clean up.

**T K D A**

ENGINEERS ARCHITECTS PLANNERS

TOLTZ, KING, DUVALL, ANDERSON  
AND ASSOCIATES, INCORPORATED

2500 AMERICAN NATIONAL BANK BUILDING  
SAINT PAUL, MINNESOTA 55101-1993  
612/298-4400  
FAX 612/298-0023

July 18, 1991

Planning and Zoning Commission  
Lake Elmo, Minnesota

Re: Site Plan Review  
Kunz Peoples Plus  
Gasoline Recovery System  
Lake Elmo, Minnesota  
Commission No. 9150-001

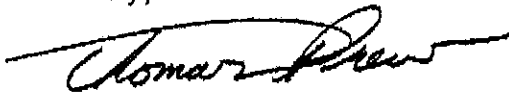
Dear Commission Members:

I have reviewed the plans for the recovery system; the following are my comments.

1. Contaminated soils which were stockpiled on site have been removed.
2. The applicant has received a MPCA permit for this recovery system.
3. No surface discharge of treated groundwater will occur. The process will dispose of water through drainfield type trenches on site.
4. The recovery system is expected to be in place about 5 years.

I recommend approval of this site plan.

Sincerely,



Thomas D. Prew, P.E.

TDP/mha

**EXPLANATION**

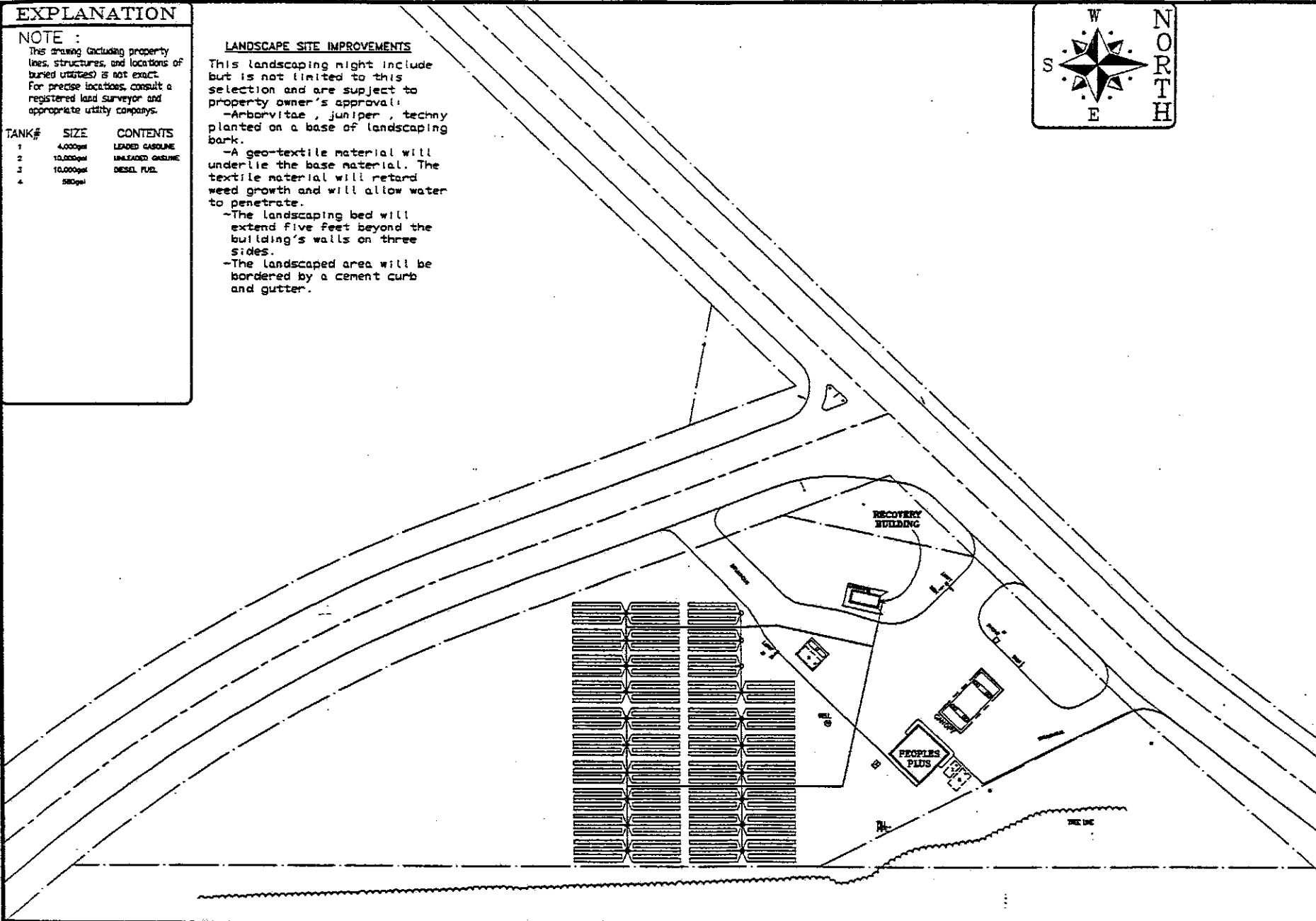
**NOTE :**

This drawing (including property lines, structures, and locations of buried utilities) is not exact. For precise locations, consult a registered land surveyor and appropriate utility companies.

**LANDSCAPE SITE IMPROVEMENTS**

This landscaping might include but is not limited to this selection and are subject to property owner's approval:  
 -Arborvitae, juniper, techny planted on a base of landscaping bark.  
 -A geo-textile material will underlie the base material. The textile material will retard weed growth and will allow water to penetrate.  
 -The landscaping bed will extend five feet beyond the building's walls on three sides.  
 -The landscaped area will be bordered by a cement curb and gutter.

TANK#	SIZE	CONTENTS
1	4,000gal	LEADED GASOLINE
2	10,000gal	UNLEADED GASOLINE
3	10,000gal	DESEL FUEL
4	500gal	



1300 Mainway, Suite 500  
 Lake Elmo, MN 55127  
 Phone (612) 460-2805  
 FAX (612) 460-3777

**DAHL**  
 & ASSOCIATES, INC.  
 Environmental Consultants, Contractors & Engineers

**INFILTRATION TRENCH  
 PRELIMINARY LAYOUT  
 KUNZ PEOPLES PLUS**  
 LAKE ELMO MINNESOTA

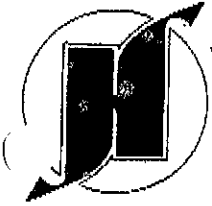
DATE DRAWN	7/1/9
DRAWN BY	Ron Davidson
APPROVED BY	
DRAWING NUMBER	B-36-B
PROJECT NUMBER	VEMN0745
FIGURE NUMBER	

REQUEST FOR PLANNING COMMISSION REVIEW

Meeting Date: August 12, 1991

<b>AGENDA TOPIC:</b>  SITE & PLAN REVIEW: CARMELITE MONASTERY	<b>ITEM NO.</b> 4.
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This too was postponed at your last meeting, and again we ask that you review, and bring with you the information that was previously distributed. Also attached is Mike Black's report regarding this request.



**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  
DATE: August 6, 1991  
RE: BUILDING AND SITE PLAN REVIEW  
Carmelite Monastery

The Carmelite Monastery property is zoned PF-Public Facilities. The proposed use is a permitted use in the PF zoning district. Although this site consists of a number of separate parcels, the placement of this new monastery will conform to the district's setback standards.

I recommend approval of the new facility subject to:

1. Approval of a grading and drainage plan by the City Engineer.
2. Approval of the on-site sewer system by the Building Inspector.

# TKDA

TOLTZ, KING, DUVALL, ANDERSON  
AND ASSOCIATES, INCORPORATED

ENGINEERS ARCHITECTS PLANNERS

2500 AMERICAN NATIONAL BANK BUILDING  
SAINT PAUL, MINNESOTA 55101-1893  
612/292-4400  
FAX 612/292-0083

August 14, 1991

Honorable Mayor and City Council  
Lake Elmo, Minnesota

Re: Carmelite Monastery  
Site Plan Review  
Lake Elmo, Minnesota  
Commission No. 9150-001

Dear Mayor and City Council:

The applicant has submitted the additional information I requested in my letter to the Planning Commission.

Having reviewed these materials, I now recommend approval of this site plan with the condition the applicant receive a permit from the Valley Branch Watershed District. At this time the applicant has received a permit for the entrance driveway, but not for the building site.

Sincerely,



Thomas D. Prew, P.E.

TDP/mha

cc: Father Burns, Carmelite Monastery, 8251 No. Demontreville Tr., Lake Elmo, MN 55042

REQUEST FOR PLANNING COMMISSION REVIEW

Meeting Date: August 12, 1991

<b>AGENDA TOPIC:</b>  Comprehensive Plan Amendment MUSA Extension (Cont.)	<b>ITEM NO.</b> 5.
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Attached is a memo from Mike Black and Tom Prew responding to some of the questions that were raised at the public hearing.

Four members of the Commission sent questions, and some of these have been addressed in the planner's memo.

I have copied the "Findings of Fact Conclusions of Law and Order Memorandum Opinion" from the second annexation petition, which was requested by some of the commissioners.

Most of you had questions relating to the cost of providing the infra structure (water, sewer, drainage), and who was going to pay for it. These are very difficult questions to answer at this point in time.

The first step in bringing municipal urban services into the city is defining an area where you would like to see the type of development that would require this. That is the stage we now are at - defining an area that would accommodate high density development.

Once you have a MUSA designation, the most likely next step would be to order a feasibility report, so it could be determined what the cost would be to put in the infra structure. A feasibility study is not done until an area is defined, as this type of study is very, very expensive.

I can tell you that when the city did a sewer study in 1981 it cost approximately \$31,000.00. When the study was updated in 1986 - for the MUSA we had in Section 32, the cost was approximately \$16,000.00. I bring this up only so you understand that we are not evading your questions, but are unable to answer them at this time with much accuracy. If the City does define an area, and the Met. Council approves it, as noted above, the council would have to direct us to proceed with a feasibility study which would determine the costs of the improvements.

I don't believe that it is the intention of the council to change the long standing policy that development pays for itself. Therefore, once a MUSA

( is defined, in all probability, the property owners would have to petition for the improvements. If a petition was submitted, there is a hearing process that the City must go thru before ordering the improvement. If a property owner did petition for the improvements, more than likely it would be in response to a particular development. At that time the city would be able to assess the benefit (or cost) of the development to the city.

We do have the proposal that was presented to West Publishing that will outline the cost versus benefit to the City. Rob Tautges will explain that to you during his presentation.





# 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  
DATE: August 6, 1991  
RE: MUSA LINE AMENDMENT

At our meeting on July 22, 1991, a public hearing was held to consider an amendment to the City's Comprehensive Plan. The amendment would establish a Business Park land use district along I-94 and would include putting the subject area within the Metropolitan Urban Service Area (MUSA).

The Lake Elmo City Council on April 11, 1991, authorized staff to proceed with the Comprehensive Plan Amendment and to request the Metropolitan Council for a MUSA line extension. The report prepared by staff and presented at the July 22nd public hearing was completed for submission to the Metropolitan Council and it mainly addresses the metropolitan systems impact (sewer, transportation, open space and airports). At our public hearing, many of the questions raised pertain to the local impact(s) of this proposed Comprehensive Guide Plan Amendment. In addition to this supplemental information separate reports are also being prepared by Tom Prew, City Engineer and Rob Tautges, City Auditor. This report is intended to provide additional information regarding the following issues and/or questions raised on July 22nd.

### **WHAT IS THE PROCESS FOR A COMPREHENSIVE GUIDE PLAN AMENDMENT? DURING WHAT STAGE OF THE PROCESS IS IT APPROPRIATE TO ASK LOCAL IMPACT QUESTIONS?**

Because this proposed Comprehensive Guide Plan Amendment involves a change in the urban service area of more than 40 acres, a 90 day review period and approval by the Metropolitan Council must take place. The Metropolitan Council will only be concerned with the regional systems impact. It is always an appropriate time to question the local impact of a Comprehensive Guide Plan Amendment. In order to proceed to the Metropolitan Council with this Amendment, at least four members of the City Council must vote to approve the Amendment subject to review and comments by the Metropolitan Council. This is not however the last chance or only time the City can request information or analyze local impacts. If approved, the City's Comprehensive Plan would designate the area for Business Park development and an area planned for central sanitary sewer. Prior to approval of any building plans or prior to the installation of any infrastructure, the City will again be able to address local impacts.

City of Lake Elmo  
August 6, 1991  
page 2

**WHY OR HOW WAS THE 640 ACRE AREA DETERMINED?**

The City Council direction to proceed with this Amendment included a maximum area one-half mile north of I-94 and one-half mile east of County Road 19. The report prepared by staff did address the maximum area (640 gross acres). The area could be reduced in size by either the City Council or the Metropolitan Council. One additional comment is that the easterly boundary (one-half mile east of County Road 19) does conform to the easterly edge of Woodbury's recent MUSA line amendment.

**WHAT TYPE OF DEVELOPMENT IS ANTICIPATED OR ARE WE PLANNING FOR?**

The proposed future land use designation is Business Park. It is intended to establish and maintain high standards of site planning, building architecture and landscape design which will create an environment attractive to a office - business campus setting. In addition to office use other permitted land uses may include: medical diagnostic equipment, telecommunications equipment, computer peripherals, electronic components, data communications and similar uses. Some related and supporting activities which are secondary to the permitted use may include: light manufacturing, assembling, fabricating, and inside storage. No heavy industry, large retail centers, exterior storage, or highway related commercial uses are anticipated. The following facts and estimates have been made:

Gross Area	- 640 Acres
Developable Land	- 550 acres
Total Building Square Feet	- 4,000,000
Total Employees	- 14,600
Total Sewer Use	- 1.9 MGD
Total Traffic	- 45,000 ADT <i>AVERAGE DAILY TRAFFIC</i>

**IS THERE A MARKET OR DEMAND FOR THIS TYPE OF PLANNED AREA?**

All development is market driven. This step to amend the City's Land Use Plan is only the first step needed to consider a business park industry development along I-94. However, without this step taken the message or direction for the area, as currently designated on the future land use plan, will be limited business with on-site septic systems. If the City wants to set a goal and develop a policy to diversify its tax base and create more employment opportunities in the City, than this highly visible area along I-94 I believe has the best market potential in the City.

City of Lake Elmo  
August 6, 1991  
Page 3

**WHAT WILL THE EFFECT BE UPON THE CITY'S CURRENT RURAL LIFE STYLE?**

The development of 640 acres along I-94 will indeed have an impact on the rural atmosphere of Lake Elmo. In a sense however, each new home constructed also has an impact on the City's rural character. All new construction involves changing existing conditions. The City of Lake Elmo will however keep a rural character in the area outside the MUSA line and severe development pressures will not occur until sanitary sewer is available throughout the City.

**UNDER WHAT CIRCUMSTANCES WILL THE CITIES OF WOODBURY AND OAKDALE WORK WITH LAKE ELMO FOR THIS MUSA LINE AMENDMENT? IS THIS THE FIRST STEP IN PROVIDING SANITARY SEWER TO ALL OF LAKE ELMO?**

Both cities of Woodbury and Oakdale have been mailed copies of the MUSA line report prepared by staff. To date, no official comments have been received from either city. During our staff meetings with each city, both indicated a willingness to cooperate and work with Lake Elmo. Both cities also did express a concern that if they assigned part of their existing sewer capacity allotment to Lake Elmo it could impact the timing of ultimate development in their city. The existing Metro sewer system does have a limited capacity. The Metropolitan Council and the Metropolitan Waste Control Commission have not prepared a plan for expanding the present system to accommodate growth planned beyond the year 2010.

**WHAT WILL THE CITY'S POLICY BE REGARDING THE INSTALLATION AND PAYMENT OF IMPROVEMENTS TO SERVE THIS AREA?**

In the past Lake Elmo has not gone ahead to install public improvements without a development proposal being submitted to the City. I would not anticipate that policy to change. The City has also in the past required new development to pay the full cost of new improvements needed.

**HOW WILL THE DEVELOPMENT OF THE MUSA AREA INCREASE PUBLIC SERVICES?**

The development of a 640 acres business park will have a fiscal impact on the City. Administration, public works, police, and fire departments would all demand higher levels of service. The key to this impact question is how will the cost of providing increased services balance with the anticipated local tax revenues to be generated.

# TKDA

ENGINEERS ARCHITECTS PLANNERS

TOLTZ, KING, DUVALL, ANDERSON  
AND ASSOCIATES, INCORPORATED

2500 AMERICAN NATIONAL BANK BUILDING  
SAINT PAUL, MINNESOTA 55101-1503  
612/292-4400  
FAX 612/292-0083

## MEMORANDUM

To: Lake Elmo Planning Commission Reference: Traffic Projections

Copies To: \_\_\_\_\_ CSAH 13 and 19

\_\_\_\_\_ MUSA Extension

From: Tom Prew *TP* \_\_\_\_\_ Lake Elmo, MN

Date: August 8, 1991 Commission No. 9150-001

CSAH 13 and CSAH 19 are both 4-lane, divided highways with grass medians for future turn lanes. Each of these roadways will handle 25,000 vehicles per day. We are projecting 45,000 vehicle trips under fully developed conditions.

Assuming that signals and turn lanes will be properly installed, these roadways are capable of handling the traffic generated by the proposed office park development.

TDP/mha

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

John W. Carey                      Chair  
Kenneth F. Sette                  Vice Chair  
Shirley J. Mihelich              Commissioner

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IN THE MATTER OF THE PETITION FOR	)	<u>FINDINGS OF FACT</u>
THE DETACHMENT OF CERTAIN LAND FROM	)	<u>CONCLUSIONS OF LAW</u>
THE CITY OF LAKE ELMO AND ANNEXATION	)	<u>AND ORDER</u>
TO THE CITY OF OAKDALE PURSUANT TO	)	<u>AND MEMORANDUM OPINION</u>
MINNESOTA STATUTES 414	)	

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The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on September 7, 1989 at Lake Elmo, Minnesota, and was continued from time to time. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were John W. Carey, Chair, Kenneth F. Sette, Vice Chair, and Shirley J. Mihelich, Commissioner. The petitioners appeared by and through Mark Vierling and Lyle Eckberg, Attorneys at Law. The City of Lake Elmo appeared by and through Frederic Knaak and Steve Carlson, Attorneys at Law. Testimony was heard and records and exhibits were received.

After due and careful consideration of all evidence, together with all records, files and proceedings, the Minnesota Municipal Board hereby makes and files the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On May 19, 1989, a petition for concurrent detachment and

annexation by all of the property owners was filed with the Minnesota Municipal Board.

The petition contained all of the information required by statute including a description of the area proposed for concurrent detachment and annexation, which is as follows:

All of Section 32, Township 29, Range 21 located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota except the following:

37032-2210  
STATE OF MINN.

.79 acre, Parcel 11, State Project 8282 (94-392) 902 being Parcel 11 as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project (S P) S282 (94-392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County. Except 37032-2200.

37032-2150  
STATE OF MN

1 acre. Part of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1325.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway 12 as now being travelled and run; thence north along said parallel line 330 feet to an iron monument; then east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning except that part taken for highway purposes.

37032-2608  
STATE OF MINN

.91 acre. Parcel 9, as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project 8382 94-392 on file and of record in the office of the Registrar of Deeds in and for Washington County.

37032-2250  
STATE OF MINN.

1 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1589.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning, except that part taken for highway purposes. Except that part taken for Highway purposes.

37032-2100  
STATE OF MN

1.0 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1721.57 feet east of the west

line thereof with the northerly right-of-way line of Minnesota State Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning. Except to Highway.

7032-3005  
STATE OF MINN.  
20.80 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, parcel 16 acres of State Highway Right-of-Way, Plat No. 3 of 12 of 82-17.

7032-2702  
STATE OF MINN.  
.35 acre. Parcel No. 23 of State Highway Right-of-Way Map 3 of 12, subject to easement.

37032  
8753  
STATE OF MINN.  
Parcel No. 22 of State Highway Right-of-Way Plat No. 3 of 12 of State Project (S.P.) 8282 (94=392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County containing .21 acre more or less, subject to easement.

ST 4  
EMANUEL  
Part of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, and that part of the SW $\frac{1}{4}$ , Section 33, commencing at the southeast corner of said SE $\frac{1}{4}$ ; thence north along the east line of said SE $\frac{1}{4}$  72 feet to the northerly right-of-way line of Minnesota Trunk Highway 12; thence east along said north line 375 feet to the point of beginning; thence north on a line parallel to the west line of said Section 33 366.2 feet to point; thence west at a right angle 595 feet more or less to the east line of existing roadway; thence north 60 feet on a line parallel to the west line of said Section 33 to a point; thence east at a right angle 655 feet to a point; thence south on a line parallel to the west line of Section 33, 425.42 feet more or less to the north line of Highway 12; thence west along said north line 60 feet to the point of beginning. This description is a 60 foot strip which is 1st Avenue and Emanuel Avenue. No value.

AND

All of the West 1/2 of Section 33, Township 29, Range 21, located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota, except as follows:

Part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, beginning at the southeast corner of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33; thence north along the east line of said SW $\frac{1}{4}$  for 13 rods or 214.5 feet; thence west for 24 rods or 396 feet; thence north for 869 feet; thence east for 721 feet; thence south for 1083.5 feet to the south line of said Section 33; thence west along said south line of said Section 33 for 325 feet to the point of beginning. Subject to easements except Highway Parcel 23A, MN DOT Right-of-Way Plat 82-30.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21,

being parcels 23B and 23H MN DOT Right-of-Way Plat 82-30 Trunk Highway, State Project 8282 (94-392) 904 and I 094, 3 (304) 248.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the westerly 62 feet of the following description. Commencing at a point on the south line of said  $\frac{1}{4}$  255 feet west of the southeast corner of said  $\frac{1}{4}$ , this being the point of beginning; thence west along the south line of said  $\frac{1}{4}$  181.85 feet to a point; thence running north on a line parallel with the east line of said  $\frac{1}{4}$  section to a point on a line connecting point on east line of said  $\frac{1}{4}$  section 40 rods north of said southeast corner of said  $\frac{1}{4}$  section and point on said south line of said  $\frac{1}{4}$  section 48 rods west of said southeast corner of said  $\frac{1}{4}$  section; thence running northeasterly along said connecting line to a point 255 feet west of the easterly line of said  $\frac{1}{4}$  section; thence running south parallel to the east line of said  $\frac{1}{4}$  section to a point of beginning. Subject to easement. Also known as SP 8282 Parcel 23C.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, commencing at a point on the south line of said 1/4 section 255 feet west of the southeast corner said 1/4 section; this being the point of beginning of this description; thence running west along the south line of said 1/4 section 181.85 feet to a point; thence running north on a line parallel with the east line of said 1/4 section to a point on line connecting point on east line of said 1/4 section 40 rods north of said southeast corner of said 1/4 section and point on said south line of said 1/4 section, 48 rods west of said southeast corner of said 1/4 section; thence running northeasterly along said connecting line to a point distant 255 feet west of the easterly line of said 1/4 section; thence running south parallel to the east line of said 1/4 section to the point of beginning, except the westerly 62 feet thereof. Subject to rights of the public in public roads abutting thereon. Also known as Highway Parcel 23D State Project 8282 (94=392), 904 Lake Elmo.

.717 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, commencing at a point on the south line of Section 33, 185 feet west of the southeast corner of the SW $\frac{1}{4}$  of said section; thence north parallel with the east line of said 1/4 section 506.2 feet to a point; thence south 50 degrees 12' west 91.3 feet to a point; thence south and parallel with the east line thereof 448 feet to the south line of said 1/4 section; thence east along said south line 70 feet to the place of beginning. Except to Highway.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, beginning at a point in the east line of said tract, 40 rods north of the southeast corner thereof; thence southwesterly along a line which intersects with the south line of said tract, 48 rods west of the southeast corner thereof to a point on said line which is 185 feet west of the east line of said tract; thence south on a line 185 feet distant and parallel with the east line of said tract to the south line thereof; thence east along the

71033-  
2400  
STATE OF MN.

71033-  
2350

71033-  
2500  
STATE OF MINN

72033-  
2300  
STATE OF MINN



south line of said tract 185 feet to the southeast corner thereof; thence north along the east line of said tract to the point of beginning. Also known as Highway Parcel 23F, State Project 8282 (94=392) 904 Lake Elmo.

37033-  
2900  
STATE OF MINN.  
Part of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1733.2 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392), 904 Lake Elmo.

37033-  
2950  
STATE OF MINN.  
Part of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1842.1 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392) 904 Lake Elmo.

37033-  
2600  
STATE OF MINN.  
1 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, beginning at an iron pipe monument set on the east line thereof at a point 1980 feet south of the center of said section and running thence north along said center line of said section 137.9 feet to an iron pipe monument; thence west by a deflection angle of 90 degrees 200 feet to an iron pipe monument; thence south on a line parallel to said center line of said section 297.7 feet to an iron monument; thence northeasterly on a straight line to the point of beginning. Also known as Parcel 23G State Project 8282 (94=392) 904 Lake Elmo.

A resolution objecting to the concurrent detachment and annexation was received from the City of Lake Elmo on April 13, 1989.

The subject area was amended at the hearing, without objection by the City of Lake Elmo, to the following described property which is referred to as the subject area for the remainder of the Findings of Fact, Conclusions of Law, and Order:

STATE OF MINN.  
37032  
2210  
All of Section 32, Township 29, Range 21 located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota except the following:

.79 acre, Parcel 11, State Project 8282 (94-392) 902 being Parcel 11 as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project (S P) S282 (94-392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County. Except 37032-2200.

37032  
2150  
STATE OF MINN.  
1 acre. Part of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1325.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota

State Highway 12 as now being travelled and run; thence north along said parallel line 330 feet to an iron monument; then east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning except that part taken for highway purposes.

STATE OF MINN  
37032  
2602

.91 acre. Parcel 9, as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project 8382 94=392 on file and of record in the office of the Registrar of Deeds in and for Washington County.

37032  
2250  
STATE OF MINN

1 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1589.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning, except that part taken for highway purposes. Except that part taken for Highway purposes.

37032  
2101  
STATE OF MINN

1.0 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1721.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning. Except to Highway.

37032  
3005

20.80 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, parcel 16 acres of State Highway Right-of-Way, Plat No. 3 of 12 of 82-17.

37032  
2702

.35 acre. Parcel No. 23 of State Highway Right-of-Way Map 3 of 12, subject to easement.

37032  
2752  
STATE OF MINN

Parcel No. 22 of State Highway Right-of-Way Plat No. 3 of 12 of State Project (S.P.) 8282 (94=392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County containing .21 acre more or less, subject to easement.

37032  
2820

Part of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, and that part of the SW $\frac{1}{4}$ , Section 33, commencing at the southeast corner of

*City 2820*  
said SE $\frac{1}{4}$ ; thence north along the east line of said SE $\frac{1}{4}$  72 feet to the northerly right-of-way line of Minnesota Trunk Highway 12; thence east along said north line 375 feet to the point of beginning; thence north on a line parallel to the west line of said Section 33 366.2 feet to point; thence west at a right angle 595 feet more or less to the east line of existing roadway; thence north 60 feet on a line parallel to the west line of said Section 33 to a point; thence east at a right angle 655 feet to a point; thence south on a line parallel to the west line of Section 33, 425.42 feet more or less to the north line of Highway 12; thence west along said north line 60 feet to the point of beginning. This description is a 60 foot strip which is 1st Avenue and Emanuel Avenue. No value.

*7032-3002 State of Minn*  
1.57 acres. Being part of the South  $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, being Parcel 8, MN DOT right-of-way Plat No. 82-29, Trunk Highway Special Project 8282 (94-392) and I094-3 (340) 248, together with all rights of access as shown on said plat.

*37032-2010*  
4.78 acres. Being part of the Southeast Parcel No. 16 of Section 32, Township 29, Range 21 West, State of Minnesota Highway Right-of-Way Plat 3 of 12, Special Project 8282 (94-392) 902.

*7032-2050*  
1.5 acres. Being part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$  beginning at an iron monument set at the intersection of a line drawn parallel to and 2167.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway No. 12 as now traveled and run; thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 198 feet to an iron monument set at the intersection of a line drawn parallel to and 2167.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway No. 12 as now traveled and run; thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 198 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 198 feet to the point of beginning. (Excepting therefrom Parcel 37032-2075 described as follows: being part of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21 described as follows: Commencing at the SE corner of said Section, thence running westerly along said line of Section 32 on an azimuth of 268° 31' 21" (azimuth oriented to MN State Plane Coordinate System South Zone) 466.79 feet; thence on an azimuth 359° 20' 13" 108.75 feet to a point of beginning of the tract to be described; thence continuing on an azimuth 359° 20' 13" 254.25 feet; thence on an azimuth of 88° 31' 21" 162.64 feet; thence on an azimuth of 179° 29' 25" 255.13 feet; thence on an azimuth of 268° 49' 37" 161.95 feet to the point of beginning.)

*37032-20951 State of Minn*  
4.03 acres. Part of the N $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 32, Township 29, Range 21, and part of the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33,

Township 29, Range 21, being Parcel No. 7 on MN DOT Right-of-Way Plat No. 82-29 and 82-30. Also that part of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, shown as Parcel 17 on Right-of-Way Plat 82-17.

AND

All of the West 1/2 of Section 33, Township 29, Range 21, located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota, except as follows:

Part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, beginning at the southeast corner of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33; thence north along the east line of said SW $\frac{1}{4}$  for 13 rods or 214.5 feet; thence west for 24 rods or 396 feet; thence north for 869 feet; thence east for 721 feet; thence south for 1083.5 feet to the south line of said Section 33; thence west along said south line of said Section 33 for 325 feet to the point of beginning. Subject to easements except Highway Parcel 23A, MN DOT Right-of-Way Plat 82-30.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being parcels 23B and 23H MN DOT Right-of-Way Plat 82-30 Trunk Highway, State Project 8282 (94-392) 904 and I094-3 (304) 248.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the westerly 62 feet of the following description. Commencing at a point on the south line of said  $\frac{1}{4}$  255 feet west of the southeast corner of said  $\frac{1}{4}$ , this being the point of beginning; thence west along the south line of said  $\frac{1}{4}$  181.85 feet to a point; thence running north on a line parallel with the east line of said  $\frac{1}{4}$  section to a point on a line connecting point on east line of said  $\frac{1}{4}$  section 40 rods north of said southeast corner of said  $\frac{1}{4}$  section and point on said south line of said  $\frac{1}{4}$  section 48 rods west of said southeast corner of said  $\frac{1}{4}$  section; thence running northeasterly along said connecting line to a point 255 feet west of the easterly line of said  $\frac{1}{4}$  section; thence running south parallel to the east line of said  $\frac{1}{4}$  section to a point of beginning. Subject to easement. Also known as SP 8282 Parcel 23C.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, commencing at a point on the south line of said 1/4 section 255 feet west of the southeast corner said 1/4 section; this being the point of beginning of this description; thence running west along the south line of said 1/4 section 181.85 feet to a point; thence running north on a line parallel with the east line of said 1/4 section to a point on line connecting point on east line of said 1/4 section 40 rods north of said southeast corner of said 1/4 section and point on said south line of said 1/4 section, 48 rods west of said southeast corner of said 1/4 section; thence running northeasterly along said connecting line to a point distant 255 feet west of the easterly line of said 1/4 section; thence running south parallel to the east line of said 1/4 section to the point of beginning, except the westerly 62

*Quadrant  
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2350*

feet thereof. Subject to rights of the public in public roads abutting thereon. Also known as Highway Parcel 23D State Project 8282 (94=392), 904 Lake Elmo.

.717 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, commencing at a point on the south line of Section 33, 185 feet west of the southeast corner of the SW $\frac{1}{4}$  of said section; thence north parallel with the east line of said 1/4 section 506.2 feet to a point; thence south 50 degrees 12' west 91.3 feet to a point; thence south and parallel with the east line thereof 448 feet to the south line of said 1/4 section; thence east along said south line 70 feet to the place of beginning. Except to Highway.

2500

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, beginning at a point in the east line of said tract, 40 rods north of the southeast corner thereof; thence southwesterly along a line which intersects with the south line of said tract, 48 rods west of the southeast corner thereof to a point on said line which is 185 feet west of the east line of said tract; thence south on a line 185 feet distant and parallel with the east line of said tract to the south line thereof; thence east along the south line of said tract 185 feet to the southeast corner thereof; thence north along the east line of said tract to the point of beginning. Also known as Highway Parcel 23F, State Project 8282 (94=392) 904 Lake Elmo.

37033-8300 State of Minn

Part of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1733.2 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392), 904 Lake Elmo.

2900

Part of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1842.1 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392) 904 Lake Elmo.

2950

1 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, beginning at an iron pipe monument set on the east line thereof at a point 1980 feet south of the center of said section and running thence north along said center line of said section 137.9 feet to an iron pipe monument; thence west by a deflection angle of 90 degrees 200 feet to an iron pipe monument; thence south on a line parallel to said center line of said section 297.7 feet to an iron monument; thence northeasterly on a straight line to the point of beginning. Also known as Parcel 23G State Project 8282 (94=392) 904 Lake Elmo.

2650

6.14 acres. Being part of the East  $\frac{1}{4}$  of the SW $\frac{1}{4}$  being Parcel 23 MN DOT Right-of-Way Plat 82-30, Trunk Highway Special Project 8282 (94=392) 904 and IO94-3 (304) 248, together with all right of access as shown on said plat.

1033-2611 State of Minn

Parcel 23J and Parcel 7 as shown in MN DOT Right-of-Way Plat Nos.

82-30 and 82-47, together with all right of access as shown on said Plat.

20.72 acres. Being part of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, being Parcel No. 16 as shown on State Right-of-Way Plat No. 4 of 12 (37033-2601). Except all that part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, described as follows to-wit: Commencing at the southwest corner of said Section 33; thence north along the west line of said Section 72.0 feet to the north right-of-way line of Minnesota Trunk Highway No. 12; thence east along said north line 75 feet to the point of beginning; thence east along said north line 100 feet; thence north along a line parallel to the west line of said Section 183.8 feet to a point; thence west at right angles a distance of 100 feet to a point; thence south on a line parallel to the west line of said Section a distance of 185.1 feet to the point of beginning, Washington County, Minnesota.

Part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, commencing at the SE $\frac{1}{4}$  of said SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , thence westerly on a line 24 rods; thence northerly and parallel with the west line of said Section 13 rods; thence easterly and parallel with the south line 24 rods to the east line of said quarter  $\frac{1}{4}$  Section; thence southerly 13 rods to the point of beginning.

2. Due, timely and adequate legal notice of the hearing was published, served and filed.

3. The subject area is presently within the City of Lake Elmo, hereinafter referred to as Lake Elmo, abuts the City of Oakdale, hereinafter referred to as Oakdale, and is approximately 523 acres in size. The perimeter of the subject area is approximately 25% bordered by Oakdale, approximately 53% bordered by Lake Elmo & also bordered by Woodbury. The subject area abuts Oakdale on the property's western boundary and a portion of its northern boundary. The subject area is located immediately east of Interstate 694, hereinafter referred to as I-694, and north of Interstate 94, hereinafter referred to as I-94. The subject area is northeast of the intersection of I-94 & I-694. Oakdale is located on both the west side of I-694 and also on the east side of I-694, north and west of the subject area. A majority of the

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subject area is located in the Metropolitan Urban Service Area, hereinafter referred to as MUSA; the northeasternmost portion of the subject area is located outside of the MUSA. That land in Lake Elmo which is within the MUSA is located in Section 32 and the west quarter section of Section 33, which are northeast of the intersection of I-694 and I-494. Since the subject area is that portion of Lake Elmo which would change governmental entities if the concurrent detachment and annexation is approved by the Municipal Board, some of the findings of this contained herein will deal with this specific area of Lake Elmo, while other findings may deal with the totality of the City of Lake Elmo.

4. Oakdale had a population of approximately 7,818 in 1970, approximately 12,123 in 1980, and a current population of approximately 16,908. It is projected that in five years Oakdale will have a population of approximately 20,000. In about 1983, the Metropolitan Council projected that Oakdale would have a population of 15,000 by 1990, and that by the year 2000 it would have a population of 17,000. Oakdale has grown faster than was projected by the Metropolitan Council.

5. Lake Elmo had a population of approximately 4,032 in 1970, a population of approximately 5,296 in 1980, and a current population of approximately 5,580. The Metropolitan Council estimates that Lake Elmo currently has approximately 2,076 households. The Metropolitan Council in its 1986 revision of the Metropolitan Development & Investment Framework, hereinafter referred to as MDIF, and Lake Elmo's Comprehensive Plan projected that Lake Elmo would have a population of 6,200 by 1990 and 6,600 by 2000. The majority of the development of population within Lake

Elmo is single family residential. Lake Elmo is growing at somewhat less than the projection of the Metropolitan Council. Lake Elmo's population growth has been approximately 5% from 1980 to 1989.

6. The subject area has a present population of approximately 26. It is projected based upon a 1989 study by Northwest Associated Consultants, Inc. that in five years, with full development, the subject area could have a population of approximately 1,500.

7. The detachment and annexation of the subject area will not significantly affect the existing population of either Lake Elmo or Oakdale.

If the subject area were to achieve full development, its projected population of 1,500 would be approximately a 9% increase in the present population of Oakdale or approximately a 26% increase for the present population of Lake Elmo.

8. The topography of the subject area is gently rolling and irregular. The soils are glacial outwash and glacial till. There are some prime agricultural soils in the eastern half and scattered areas in the western half of the subject area. Soils with severe limitations for development serviced by on-site septic systems are located in the north, west, and southeast portions of the subject area. Those soil limitations do not apply to development serviced by central sanitary sewer. There are steep slopes adjacent to wetlands. There are two small lakes located in the northern part of the annexation area, which are protected by the Department of Natural Resources, hereinafter referred to as the DNR. There are scattered wetlands in the north and west parts of the area. There



is an extensive floodplain area located in the north part of the area that drains to the southeast and out of the area. There is also an isolated floodplain area located in the west-central part of the area. Most of the annexation area is located in the Cottage Grove Ravine watershed, and drains southeast into Woodbury.

The Washington County soil survey indicates that in the subject area there are approximately 30% poor soils for construction purposes, 10% excellent soils for construction purposes and the remaining soils are between the two extremes but still suitable for construction purposes. The soil survey for the subject area outside of the MUSA, found soils of both extremes. The granular soils indicated in that portion of the subject area are not beneficial to the construction of individual sewage treatment systems because they drain too freely. The soils indicated as not beneficial to individual sewage treatment systems would be adequate for typical utility and street construction.

9. The general topography of Lake Elmo is gently rolling and irregular. There are many depressions and knolls. The higher elevations over 1,000 feet above sea level exist in the northern and western portions of the city. The lower elevations in the city down to 870 feet above sea level are in the southeastern corner. Steep slopes traverse the city from the northwest to the southeast. There are lakes in Lake Elmo.

There are soils, described as prime agricultural, primarily to the northeast of the part of Lake Elmo described as the Old Village area and in the southwestern corner of Lake Elmo, including a portion of the subject area. Soils with limitations for septic systems are located primarily in the northwestern area

of Lake Elmo described as the Tri-Lakes area. There has been rapid, high density development of the area and as a result, septic system failures have become a recurring problem. Both the Tri-Lakes area and the Old Village area of Lake Elmo, as well as almost all of the general development in Lake Elmo, are over a mile and a half away from the subject area. The Tri-Lakes area, in the northwestern part of Lake Elmo, is over three miles away from the subject area.

Lake Elmo is in both the Ramsey-Washington Metropolitan Watershed District and the Cottage Grove Ravine Watershed District.

10. Oakdale has a topography that consists of low, rounded hills and depressions. There are irregular, short, steep slopes with a scattering of low areas containing lakes, wetlands, or intermittent ponds. Many of the lakes, wetlands or intermittent ponds are self-contained with the quantity of surface water runoff insufficient to cause the impoundment areas to overflow. The existence of self-contained impoundments can significantly reduce the quantity of surface water runoff tributary to downstream lakes and streams. Oakdale has soils of great variability ranging from peat and clay to sand and gravel. Much of the city is underlaid with lenses of clay of varying thicknesses and varying depths. On sloping ground and on the upland a common soil is the Scandia loamy fine sand, a well-drained soil. Within low-lying areas and relatively flat areas, the soils commonly found in the city are Adolph silty clay, muck, and peat. These soils are characteristically very slow draining areas.

Oakdale is in the Ramsey-Washington Metropolitan Watershed District, the Cottage Grove Ravine Watershed District and

the Valley Branch Watershed District.

The detachment and annexation of the subject area will not impact the topography or natural features of either city.

11. Oakdale has a total acreage of approximately 6,600 acres.

12. Lake Elmo has a total acreage of approximately 15,680 acres.

The only portion of Lake Elmo within the MUSA is located in Section 32 and the west quarter Section of 33. The subject area includes some but not all of the MUSA area of Lake Elmo. Portions of the MUSA area were previously before the board in Minnesota Municipal Board Docket No. D-239 Lake Elmo/A-4453 Oakdale, and the remaining portions of the Lake Elmo MUSA have not been petitioned for concurrent detachment and annexation.

13. The 523 acre subject area is approximately 7.92% of the present size of Oakdale and approximately 3.34% of the total area of Lake Elmo. The proposed detachment and annexation of the subject area will not substantially impact the size of either city.

14. The subject area has approximately 20 acres in low density residential use, approximately 1.7 acres in medium density residential use, approximately 9.8 acres in commercial use, approximately 232.4 acres in agricultural use, approximately 52.6 acres in wetlands of which 20.7 acres are protected by the DNR, approximately 193.5 acres of vacant land and approximately 12.6 acres of street right-of-way.

There are a few houses located in the subject area south of Tenth Street and North of Fourth Street, East of Helmo Avenue and West of County Road 13B. The land south of Fourth Street contains rental housing units and an office showroom business.

East of the office showroom are two old dilapidated rental housing units.

15. The Metropolitan Council completed a review of the 1979 Lake Elmo Comprehensive Plan on June 24, 1984. The Lake Elmo Comprehensive Sewer Plan was updated and reviewed by the Metropolitan Council in 1986. A plan amendment which revised a concept plan for future land uses, herein after referred to as LUCP, in Lake Elmo's MUSA was approved by the Metropolitan Council on April 23, 1987. Additionally, a subsequent amendment to the 1979 Comprehensive Plan, deleted any reference to the provision of sewer and water to the Lake Elmo MUSA by 1990; no new timelines were included.

Lake Elmo has a zoning ordinance and a Comprehensive Sanitary Sewer Plan.

16. The Oakdale Comprehensive Plan was originally adopted in 1979. The Oakdale Comprehensive Plan review was completed by the Metropolitan Council on May 1, 1985. A plan amendment to include the northeast quadrant of Oakdale in the MUSA was approved by the Council on April 13, 1989.

The City of Oakdale has a zoning ordinance, subdivision regulations, an official map, a capital improvements program and budgets, a fire code and a flood plain ordinance.

17. The concurrent detachment and annexation of the subject area is not specifically considered by either the Lake Elmo or the Oakdale Comprehensive Plans; since the subject area's concurrent detachment and annexation was not considered at the time of the development of the Comprehensive Plans, it is presently, therefore, not consistent with either Comprehensive Plan.

Oakdale cannot request approvals from the Metropolitan Council for an amendment to either its Comprehensive Plan or its Comprehensive Sanitary Sewer Plan until the subject area is in its jurisdiction. Nonetheless, the LUCP and the included uses therein are generally consistent with both Comprehensive Plans.

The MDIF attempts to direct orderly growth in the Metropolitan Council Region and to provide regional services needed to support that growth. Development is projected to move outward from existing developed areas.

*Area*

18. The 1986 Lake Elmo Comprehensive Plan indicates that approximately 216 acres of land were in commercial use throughout Lake Elmo in 1986. Lake Elmo's 1986 amended Comprehensive Plan anticipates some commercial activity in the subject area in Section 32 and 33, before 1990. The anticipated commercial development in the subject area has not occurred.

*Area*

Lake Elmo issued commercial building permits valued at \$103,000.00 in 1983, \$204,000.00 in 1984, \$314,000.00 in 1985, \$50,000.00 in 1986, and no commercial building permits in 1987 or 1988. There was no evidence that industrial permits were issued by Lake Elmo in 1982 through 1986 and none were issued in 1987 or 1988.

The property owners anticipate additional commercial development in the subject area.

The Lake Elmo LUCP encompasses the majority of the land in the subject area. The plan provides for commercial and office development in the western and southwesternmost portion of the subject area, commercial development in the center of the subject area, medium to high residential development in primarily the north

central and northeastern portion of the subject area and low to medium residential development in the northeastern portion of the subject area in the MUSA. The plan also provides, along I-94, that east of the commercial development is medium to high residential development, and east of that proposed use is highway commercial development. The concept plan does not include that portion of the subject area lying outside of the MUSA.

19. The vast majority of the subject area is zoned rural residential. Some of the subject area is presently in Green Acres. In recognition of pre-existing uses on the site, portions of the subject area are presently zoned general business, highway business, and R-1 residential.

Under the existing zoning, development within the rural residential zone can occur as one residence per 10 acres.

20. The LUCP projects the area zoned rural residential to be used for office and commercial development as well as residential development ranging from low density to high density.

21. Lake Elmo has not rezoned any of the subject area to conform with its LUCP.

Presently the LUCP is inconsistent with the zoning of the subject area.

22. Lake Elmo has land zoned for agricultural use, agricultural preserve use, rural residential use, public use, single family residential use, general business use, industrial use located within the old village portion of the city, manufactured home park use, highway business use, and a number of conditional use permit areas. The land in Lake Elmo adjacent to the subject area has portions zoned rural residential, agriculture, agriculture

preserves, public or R-1, single family residential.

23. The Lake Elmo Comprehensive Plan notes the need to provide costly municipal services as intensive development occurs. Intensive development requires extensive services, which are inconsistent with the rural lifestyle and type of development sought for Lake Elmo. Lake Elmo wishes to avoid the need for the extensive services that follow development, because those services might result in expenditures to the remainder of Lake Elmo.

24. Pursuant to its land use plan Oakdale has designated land for residential use of a very low density, single family, low density single family detached or duplexed development, medium density and high density, as well as commercial use, general industrial, industrial-office use, public and/or park use, institutional use and ponding areas.

25. Land in Oakdale immediately adjacent to the subject area is presently designated on its land use plan as follows: the land immediately east of I-694 and south of 10th Street for commercial and office use; the land immediately north of 10th Street, for community commercial industrial office and some ponding areas; the land immediately west of I-694, for community commercial industrial office and ponding areas.

26. The Lake Elmo Comprehensive Plan outlines the approximately 470 acre tract of land in Sections 32 & 33 as the only portion of Lake Elmo within the MUSA.

27. Lake Elmo has indicated that for rezoning of any portion of the subject area or the remaining land in Sections 32 & 33, covered by the LUCP, it is necessary for the land owner to present a specific development plan consistent with the LUCP and then

request a rezoning.

Lake Elmo does not presently anticipate initiating rezoning of the subject area or any other portion of Sections 32 & 33 on its own.

28. Land that is zoned for intensive uses will need additional municipal services as development occurs. The 1986 Lake Elmo Comprehensive Plan notes that the Lake Elmo City Council took no action on engineering feasibility reports for the subject area and the remainder of the Lake Elmo MUSA area.

Lake Elmo controls growth by zoning. Lake Elmo has indicated that as a land use alteration procedure, a rezoning proposal request for a parcel of land must be accompanied by a specific development plan for the property. Developers will be responsible for paying all costs of new or extended services. Presently, any development within the subject area or any other undeveloped portion of Lake Elmo's MUSA area would necessitate a request for rezoning to the appropriate zoning district.

At least one member of the Lake Elmo City Council views any proposal put forth for the subject area as needing to be of a major long term type of development, that will not be replaced within approximately 20 years, but rather would not need any redevelopment for 30 to 40 years. Lake Elmo requires a 4/5th's vote of the City Council members & Mayor to rezone property.

Lake Elmo has not taken an active position of extending sewer or water to the subject area or the remainder of the LUCP in Lake Elmo. Lake Elmo has focused its growth and planning toward a rural residential form of development. To change such a posture would require a revision of the basic direction of Lake Elmo. In



Lake Elmo's Comprehensive Plan it is articulated that new development in Lake Elmo must be carefully regulated in terms of location and density to prevent the premature demand for costly levels of municipal services. There is limited availability of urban services such as central sewer and water, or paved roads.

29. Oakdale generally follows the practice of zoning land consistent with its Comprehensive Plan. It examines any specific development proposals in light of the existing zoning criteria. Oakdale does not follow Lake Elmo's planning practice of performing ad hoc rezoning of land after a review of specific proposal for the land.

30. The concurrent detachment and annexation of the subject area will relieve Lake Elmo of the need to review and determine whether a specific development proposal warrants the rezoning of land within the subject area consistent with the proposed use.

31. Oakdale would need to amend its Comprehensive Plan, prior to any rezoning of the subject area. The LUCP for the subject area and the remainder of the MUSA area is generally consistent with the Oakdale Comprehensive Plan and the types of zoning and land uses in Oakdale adjacent to the subject area. If the subject area were a part of Oakdale, zoning of the subject area as commercial, and various types of residential uses as well as rural residential for the eastern most part of the land not in the MUSA, would be consistent with Oakdale's present Comprehensive Plan.

Oakdale has issued commercial building permits valued at: 1982, \$210,000.00, 1983, \$588,000.00, 1984, \$3,830,000.00, 1985, \$35,000.00, 1986, \$1,987,000.00, 1987, \$1,380,000.00, and 1988,

\$1,444,000.00. Oakdale has issued industrial building permits valued at: 1982, \$800,000.00, 1984, \$85,000.00, 1985, \$3,732,000.00, 1986, \$85,000.00, and 1987, \$998,000.00.

32. The concurrent detachment and annexation of the subject area would benefit land use planning patterns and physical development of the affected cities.

33. Lake Elmo and Oakdale have Appendix E of the Uniform Building Code. Oakdale has a building inspection department. If the subject area becomes part of Oakdale, any future development would have to conform with Oakdale's building code.

Presently, Oakdale permit fees are scheduled to cover expenses relating to building inspection. There is no anticipated problem should the subject area be within Oakdale's jurisdiction.

The proposed concurrent detachment and annexation will have a neutral affect on the building code of the affected cities.

34. Oakdale has a transportation network that includes interstate highways, state highways, county roads, and municipal streets within its boundaries.

35. Lake Elmo has a transportation network that includes interstate highways, state highways, county roads, and municipal streets within its boundaries.

36. The subject area is bounded on the north by Tenth Street on the westernmost portion of the subject area by I-694 on its southernmost boundary by I-94 on its easternmost boundary by County Road 13B.

Tenth Street north is also known as County Road 70. A Minnesota Department of Transportation frontage road bisects the southern half of the subject area. Helmo Avenue north bisects the

northwestern quarter of the subject area.

The intersection of I-94 and I-694 is one of the major freeway interchanges in the area.

37. Access to I-694 north of I-94 from the subject area is either by the Minnesota Department of Transportation frontage road, also known as Fourth Street, or County Road 70.

The Department of Transportation is responsible for the maintenance of its frontage road.

38. The concurrent detachment and annexation of the subject area will not alter the location of any of the state or county roads. That portion of Helmo Avenue in Lake Elmo is totally located in the subject area. Costs for the construction of Helmo Avenue were assessed to the adjacent property owners. As development occurs, consistent with the LUCP for types of uses, additional streets serving as access to the various portions of the subject area, are the only anticipated additions to the transportation pattern.

Jurisdiction for maintenance and repair of the county and state roads will not be altered because of the concurrent detachment and annexation of the subject area.

The approval of the concurrent detachment and annexation will relieve Lake Elmo of the need to construct access roads to the subject area. Access from I-694 to the subject area is from the west, similar to Oakdale's location to the subject area. Since the LUCP is generally consistent with Oakdale's Comprehensive Plan, traffic patterns and transportation networks developed to accommodate the subject area will be consistent with those that would have occurred if the subject area had been developable in

Lake Elmo.

The concurrent detachment and annexation will not create any additional adverse traffic patterns or transportation problems for Oakdale or Lake Elmo, given the fact that both communities anticipate development of the subject area in a similar fashion.

39. Oakdale provides its residents with water, sanitary sewer, storm sewer, fire protection, police protection, street improvements and maintenance, administrative services, recreational opportunities and ambulance service. Presently, Oakdale has a ten inch water main loop around the Bergen Plaza K-Mart Development hooking into the trunk water main system for Hadley Avenue. This land is located west of the subject area across I-694. Additionally, there is a ten inch water main system servicing the property north of the subject area, as an extension of the trunk water main system.

Oakdale has divided its water distribution system into three zones. The subject area is adjacent to the central zone. There are presently three wells in the central zone which could serve the annexation area.

Oakdale has a present policy of not making any new extensions of sanitary sewer or water outside of its present corporate boundaries. Because of the configuration of Highway 120 on Oakdale's western border, Oakdale presently provides water service to several properties in Maplewood and several in North St. Paul, off existing systems, without the need for extending trunk lines.

40. Oakdale presently has sanitary sewer within the Bergen Plaza K-Mart site near the intersection of 10th and Hadley.

Additionally, there is a twelve inch sanitary sewer line through the property north of the subject area. There is a lift station in the vicinity of Fifteenth Street at Eagle Point School referred to as Lift Station #3. It is presently 20 years old. It was built as a temporary lift station with a single pump and no back-up. It costs approximately \$3,000.00 per year to maintain the Lift Station, and is projected to cost approximately \$15,000.00 to rehabilitate the Lift Station should it cease to function properly. The long range plan to service that area is by gravity flow.

Gravity service to that area would be south past the present Oakdale city limits at Tenth Street down to the Woodbury Oakdale Northdale East Oakdale interceptor (hereinafter referred to as WONE). Oakdale paid Lake Elmo approximately \$48,000.00 for oversizing the WONE, so that it could have capacity for that portion of Oakdale.

41. Oakdale is planning to construct a new well someplace in the vicinity of Fifteenth Street and Helmo North. Construction will include a new water tower. The construction of the water tower will occur regardless of any boundary change to the subject area.

The well is anticipated to have a capacity of approximately 1,000 gallons per minute. The current well capacity per well in Oakdale ranges approximately between 1000-1600 hundred gallons per minute.

The elevated tank under consideration could be sized between one million and one half to two million gallons, depending on need determination. The tank could have sufficient capacity to service the subject area.

42. If the subject area was concurrently detached and annexed, Oakdale could presently provide it with water service, although Oakdale would need to eventually increase its water system to supply a fully developed subject area.

43. The new well is anticipated to cost approximately \$250,000. The elevated tank for the present needs of Oakdale is anticipated to cost approximately \$900,000.

44. The cost of the new well and tank is covered by a fund that receives water availability charges for hook-ups to the Oakdale water system. The well and tank will be paid for whether or not the subject area is concurrently detached and annexed.

45. Water service to the subject area, if it were concurrently detached and annexed, would come from connection with the water loop presently located in Bergen Plaza and K-Mart, west of the subject area across I-694 as well as additionally from a connection along Helmo Avenue to the existing ten inch water main loop.

46. To provide water to the subject area, Lake Elmo would have to construct an entirely new water system in the subject area, since its only present water system is located a significant distance away in the old village portion of Lake Elmo. It would cost Lake Elmo approximately \$632,500 to construct a free standing elevated 500,000 gallon-water tank to service the subject area and those portions of Sections 32 & 33 within the MUSA. Additionally to service the subject area, Lake Elmo plans to construct two wells and pump houses at a cost of approximately \$900,400.

To increase Oakdale's proposed water storage tank, which could service the subject area, by 500,000 gallons, the cost would

be approximately \$250,000.

47. It would be cheaper to expand the Oakdale water system to service the subject area than for Lake Elmo to construct a new system to service the subject area by Lake Elmo.

48. Lake Elmo presently provides its residents with fire protection through the Lake Elmo Volunteer Fire Department, police protection through a contract with the Washington County Sheriff's Department, ambulance service through Lakeview Memorial Hospital, in Stillwater, Minnesota, street improvements and maintenance, administrative services, water to that portion of Lake Elmo referred to as the "Old Village", and sanitary sewer, by a direct connection to the WONE to the Conoco Shoe Store and the adjacent rental housing unit located within the subject area.

At times, the Oakdale police department has responded to requests for assistance from people in the subject area and arrived prior to Lake Elmo's police, *and likewise LB responds - thru joint-powers agreement*, which is provided by the Washington County Sheriff's Department.

49. There is no Metropolitan Waste Control Sanitary Sewer Service within Lake Elmo, except for that portion of the sanitary sewer serving the Conoco Shoe Store and adjacent rental housing unit.

Lake Elmo would have to construct its first major trunk sewer line to provide sanitary sewer service to the subject area.

50. Lake Elmo had a 1986 sewer flow, based on Lake Elmo's 1986 comprehensive sewer plan, of .0027 million gallons per day (hereinafter referred to as MGD). The present sewer flow is approximately the same as in 1986. Lake Elmo has a planned flow of .133 MGD for the year 1990, and a planned flow by the year 2000

of .458 MGD based on the city's 1986 Comprehensive Sewer Plan. Presently, there is a sewer capacity of .458 MGD reserved, in the WONE interceptor for Lake Elmo, to be used by the MUSA area in Sections 32 and the west one quarter of section 33.

51. That portion of the subject area in Section 33 located south of Fourth Street and East of a northerly extension of Ideal Avenue is within the MUSA, and considered by the Lake Elmo Comprehensive Sewer Plan.

The balance of the subject area located East of the extension of Ideal Avenue north and north of Fourth Street within Section 33 is not in the MUSA and no sewer service from the Metropolitan Waste Control Commission is presently planned for that area.

52. Oakdale had a 1984 sewer flow of 1.79 MGD in Service Area 1, which is connected indirectly to the WONE interceptor. Oakdale has a planned sewer flow of 2.12 MGD for the year 1990 and a 2.99 MGD flow planned for the year 2000 based on Oakdale's comprehensive sewer plan.

53. Oakdale prepared and the Metropolitan Council approved an amendment to Oakdale's Comprehensive Plan to extend the MUSA to include the northeast quadrant of Oakdale. The Met Council granted its approval on April 13, 1989.

Oakdale was able to extend the MUSA to this area of Oakdale, because development had not occurred at the maximum limit allowed by its Comprehensive Plan. The lesser density allowed capacity to remain within the MUSA system allotted to Oakdale thereby allowing for additional development. With this unused capacity Oakdale was able to expand the MUSA to include its



northeast quadrant, which had previously been outside of the MUSA.

54. If the subject area is concurrently detached from Lake Elmo and annexed to Oakdale, the sewer interceptor capacity allocated to that area would remain allocated to those parcels that had previously been assessed for sewer service and not to a specific city. Land in the subject area within the MUSA has been assessed for the WONE sewer line. The WONE assessments on the property have been paid or are in the process of being paid. There is presently a \$85,000 surplus in the WONE assessment fund and all of the assessments have not been completely paid.

55. Oakdale cannot request an extension of the MUSA for that portion of the subject area presently outside of the MUSA because it is presently not within Oakdale's jurisdiction.

As the subject area develops, the city which controls it, will be in a position to determine whether the density and flows from the development have used up all of the present allotted capacity within the MUSA, or whether there is existing room for expansion within the present system. Such expansion could include that portion of the subject area presently north and east of the MUSA, since most of the land within Lake Elmo immediately north of 10th Street is presently zoned agricultural/agricultural preserves.

56. School District No. 622 provides service to the subject area and those portions of Lake Elmo and Oakdale immediately adjacent to it.

The concurrent detachment and annexation of the subject area would not result in any change of that service and would have no immediate impact on the school district. Potential development of the subject area could enhance the overall school district tax

base.

57. The subject area has an estimated market value of approximately \$3,618,800.

The subject area has a gross tax capacity of approximately \$110,379.

58. Oakdale has an assessed estimated market value of approximately \$415,459.400.

The gross tax capacity in Oakdale for the county is 23.030%, for Oakdale is 16.977%, and for the school district 52.159%.

59. The total bonded indebtedness for Oakdale is approximately \$26,010,000.

Oakdale has used tax increment financing to assist development within Oakdale.

60. Oakdale has a class six fire insurance rating.

61. Lake Elmo has expressed no interest in tax increment financing for the extension of services to the subject area. Subsequent to the 93 acre petition for concurrent detachment annexation approval, Minnesota Municipal Board Docket No. D-239 Lake Elmo/A-4453 Oakdale, and the present hearing on the 523 acre request for concurrent detachment annexation, Lake Elmo has retained a financial correspondent financial analyst to outline the options available for the installation of municipal sewer and water.

62. Half of the acreage within the subject area have soils that would have problems with development on on-site septic systems.

63. At the time of the original engineering feasibility study

for sewer and water, the property owners were apprised by Lake Elmo that the cost for city sewer and water to the property owners would be \$3,000,000.00 paid up front.

64. The property owners in the subject area indicated to Lake Elmo they were willing to pay for the extension of sewer and water, but were looking for some form of city assisted financing so that they did not have to pay all of the costs prior to any development of the subject area.

Lake Elmo is concerned that extension of municipal sewer and water to the subject area as well as the remainder of Section 32 and 33 would result in deferred assessments being borne by Lake Elmo because of the land in Green Acres and other considerations.

The Lake Elmo officials did not offer any alternatives to the property owners inquiry. Lake Elmo has indicated a desire to avoid any risk related to the extension of sewer and water to Sections 32 & 33.

65. At least one commercial property owner in the subject area does not get a reduction on his insurance for the sprinkler system in his building since it is served by an on-site well and not a municipal system.

The property owner would receive a benefit through lowered fire insurance premiums if he received municipal water service.

66. Some property owners have received inquiries concerning purchase of some or all of their properties, with the general requirement that the property be part of Oakdale.

The property owner whose land is presently in Green Acres is willing to bring it out of Green Acres if sewer and water were

available to it.

67. Lake Elmo's desire for a long lasting anchoring type of development proposal for Section 32 prior to installation of municipal services may be unrealistic given the limited number of such types of development available.

Lake Elmo provided at least one of the property owners in the subject area with an industrial revenue bond to assist in the purchase of commercial property in Lake Elmo that had stood vacant. The revenue bond was a ten-year bond with approximately three years of payment remaining. The commercial building is now one of the top 10 real estate taxpayers in Lake Elmo.

68. The subject area is presently not experiencing or causing any known environmental problems.

There have been over the past years some on-site septic system failure within the subject area or adjacent lands within Sections 32 and 33.

69. To continue to protect the environment it is necessary that development in the subject area be served by municipal sanitary sewer, especially in those areas with soils that are not conducive to on-site septic systems.

There was no testimony as to any environmental problems near the subject area in Oakdale or in Lake Elmo.

70. Lake Elmo's Tri-Lakes area, which is located significantly north of the subject area, has experienced septic system failures as a recurring problem, because of the rapid high density development of that area.

71. The concurrent detachment and annexation of the subject area will not improve or deteriorate the present environmental

conditions of Lake Elmo or Oakdale.

72. The 1986 Lake Elmo Comprehensive Plan indicated that Lake Elmo maintains a 5-year capital improvement program for major public works associated with implementing the Comprehensive Plan. The 1988 and 1989 Lake Elmo budgets did not include any entries in its 5-year capital improvement program for either municipal central sewer or water.

Since the 1986 Lake Elmo Comprehensive Plan indicated that some commercial development would occur prior to 1990 in the MUSA area, a 5-year capital improvement program for budgets 1988 and 1989 would take expenditures into account if it anticipated that such services would be offered.

73. The concurrent detachment and annexation of the subject area would allow for more efficient delivery of services by the cities while not requiring Lake Elmo to invest any money in its capital fund for any deferred costs for the extension of sanitary sewer or water to the subject area.

74. Lake Elmo has a bond indebtedness of \$235,000 as of 1989.

75. The Tax Capacity of Lake Elmo in Washington County in 1989 is \$4,990,800.

76. Lake Elmo has a local government tax capacity rate of 10.544. The concurrent detachment and annexation of the subject area will not have a dramatic impact on the assessed value of Lake Elmo or Oakdale.

77. The subject area will remain liable for any present bonded indebtedness it is obligated for in Lake Elmo.

78. Lake Elmo's present bonded indebtedness will not be impacted by the detachment and annexation.

79. The loss of potential development for Lake Elmo is offset by the loss of the need to service the subject area to bring about development. Oakdale gains potential development of the subject area and the duty to serve it consistent with applicable statutes.

80. Governmental services now available in the affected municipalities can be more effectively or more economically provided by the proposed detachment and annexation.

#### CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.

2. Concurrent detachment and annexation of the subject area is in the best interest of that portion of Lake Elmo consisting of the subject property.

3. Oakdale can provide the subject area with the necessary governmental services.

4. The remainder of Lake Elmo can continue to survive without the subject area and will be relieved of the need to provide rezoning and utility service and other additional municipal services required by development necessary to the type of development Lake Elmo acknowledges is appropriate for the subject area.

5. The concurrent detachment and annexation will provide for more effective or economic delivery of services of the affected municipalities.

6. The concurrent detachment and annexation will benefit planning and land use patterns and physical development.

7. There are no major transportation issues or proposed highway development and the transportation network will not be

adversed or altered by the concurrent detachment and annexation.

8. The concurrent detachment and annexation will benefit the municipalities and is in the best interest of the municipalities.

9. The Minnesota Municipal Board should issue an order approving the concurrent detachment and annexation of the subject area from Lake Elmo to Oakdale.

O R D E R

IT IS HEREBY ORDERED that the property described herein is hereby detached from Lake Elmo and annexed to Oakdale the same as if it had originally been a part thereof:

All of Section 32, Township 29, Range 21 located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota except the following:

37032-2210  
STATE OF MN  
.79 acre, Parcel 11, State Project 8282 (94-392) 902 being Parcel 11 as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project (S P) S282 (94-392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County. Except 37032-2200.

37032-2150  
STATE OF MN  
1 acre. Part of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1325.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway 12 as now being travelled and run; thence north along said parallel line 330 feet to an iron monument; then east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning except that part taken for highway purposes.

7032-2602  
STATE OF MN  
.91 acre. Parcel 9, as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project 8382 94-392 on file and of record in the office of the Registrar of Deeds in and for Washington County.

7032-2250  
STATE OF MN  
1 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1589.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an

iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning, except that part taken for highway purposes. Except that part taken for Highway purposes.

37032-2100  
STATE OF MN  
1.0 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1721.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning. Except to Highway.

7032-3005  
STATE OF MN  
20.80 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, parcel 16 acres of State Highway Right-of-Way, Plat No. 3 of 12 of 82-17.

7032-2702  
STATE OF MN  
.35 acre. Parcel No. 23 of State Highway Right-of-Way Map 3 of 12, subject to easement.

7032-2752  
STATE OF MN  
Parcel No. 22 of State Highway Right-of-Way Plat No. 3 of 12 of State Project (S.P.) 8282 (94=392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County containing .21 acre more or less, subject to easement.

7032-2220  
TY OF LAKE  
ELMO  
Part of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, and that part of the SW $\frac{1}{4}$ , Section 33, commencing at the southeast corner of said SE $\frac{1}{4}$ ; thence north along the east line of said SE $\frac{1}{4}$  72 feet to the northerly right-of-way line of Minnesota Trunk Highway 12; thence east along said north line 375 feet to the point of beginning; thence north on a line parallel to the west line of said Section 33 366.2 feet to point; thence west at a right angle 595 feet more or less to the east line of existing roadway; thence north 60 feet on a line parallel to the west line of said Section 33 to a point; thence east at a right angle 655 feet to a point; thence south on a line parallel to the west line of Section 33, 425.42 feet more or less to the north line of Highway 12; thence west along said north line 60 feet to the point of beginning. This description is a 60 foot strip which is 1st Avenue and Emanuel Avenue. No value.

7032-3002  
STATE OF MN  
1.57 acres. Being part of the South  $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, being Parcel 8, MN DOT right-of-way Plat No. 82-29, Trunk Highway Special Project 8282 (94=392) and I094-3 (340) 248, together with all rights of access as shown on said plat.

77032-201D  
STATE OF MN  
4.78 acres. Being part of the Southeast Parcel No. 16 of Section



32, Township 29, Range 21 West, State of Minnesota Highway Right-of-Way Plat 3 of 12, Special Project 8282 (94-392) 902.

1033-2050  
State of MN  
1.5 acres. Being part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$  beginning at an iron monument set at the intersection of a line drawn parallel to and 2167.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway No. 12 as now traveled and run; thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 198 feet to an iron monument set at the intersection of a line drawn parallel to and 2167.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway No. 12 as now traveled and run; thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 198 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 198 feet to the point of beginning. (Excepting therefrom Parcel 37032-2075 described as follows: being part of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21 described as follows: Commencing at the SE corner of said Section, thence running westerly along said line of Section 32 on an azimuth of 268° 31' 21" (azimuth oriented to MN State Plane Coordinate System South Zone) 466.79 feet; thence on an azimuth 359° 20' 13" 108.75 feet to a point of beginning of the tract to be described; thence continuing on an azimuth 359° 20' 13" 254.25 feet; thence on an azimuth of 88° 31' 21" 162.64 feet; thence on an azimuth of 179° 29' 25" 255.13 feet; thence on an azimuth of 268° 49' 37" 161.95 feet to the point of beginning.)

7032-2951  
STATE OF MN  
4.03 acres. Part of the N $\frac{1}{2}$  of the SE $\frac{1}{4}$  of Section 32, Township 29, Range 21, and part of the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being Parcel No. 7 on MN DOT Right-of-Way Plat No. 82-29 and 82-30. Also that part of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, shown as Parcel 17 on Right-of-Way Plat 82-17.

AND

All of the West 1/2 of Section 33, Township 29, Range 21, located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota, except as follows:

7033-3100  
PARCEL NO  
ADJACENT  
3/20/23  
Part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, beginning at the southeast corner of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33; thence north along the east line of said SW $\frac{1}{4}$  for 13 rods or 214.5 feet; thence west for 24 rods or 396 feet; thence north for 869 feet; thence east for 721 feet; thence south for 1083.5 feet to the south line of said Section 33; thence west along said south line of said Section 33 for 325 feet to the point of beginning. Subject to easements except Highway Parcel 23A, MN DOT Right-of-Way Plat 82-30.

7032-2950  
STATE OF MN  
Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21,

being parcels 23B and 23H MN DOT Right-of-Way Plat 82-30 Trunk Highway, State Project 8282 (94-392) 904 and I094-3 (304) 248.

7033-2100  
STATE OF MN

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the westerly 62 feet of the following description. Commencing at a point on the south line of said  $\frac{1}{4}$  255 feet west of the southeast corner of said  $\frac{1}{4}$ , this being the point of beginning; thence west along the south line of said  $\frac{1}{4}$  181.85 feet to a point; thence running north on a line parallel with the east line of said  $\frac{1}{4}$  section to a point on a line connecting point on east line of said  $\frac{1}{4}$  section 40 rods north of said southeast corner of said  $\frac{1}{4}$  section and point on said south line of said  $\frac{1}{4}$  section 48 rods west of said southeast corner of said  $\frac{1}{4}$  section; thence running northeasterly along said connecting line to a point 255 feet west of the easterly line of said  $\frac{1}{4}$  section; thence running south parallel to the east line of said  $\frac{1}{4}$  section to a point of beginning. Subject to easement. Also known as SP 8282 Parcel 23C.

7033-2350  
STATE OF MN

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, commencing at a point on the south line of said 1/4 section 255 feet west of the southeast corner said 1/4 section; this being the point of beginning of this description; thence running west along the south line of said 1/4 section 181.85 feet to a point; thence running north on a line parallel with the east line of said 1/4 section to a point on line connecting point on east line of said 1/4 section 40 rods north of said southeast corner of said 1/4 section and point on said south line of said 1/4 section, 48 rods west of said southeast corner of said 1/4 section; thence running northeasterly along said connecting line to a point distant 255 feet west of the easterly line of said 1/4 section; thence running south parallel to the east line of said 1/4 section to the point of beginning, except the westerly 62 feet thereof. Subject to rights of the public in public roads abutting thereon. Also known as Highway Parcel 23D State Project 8282 (94=392), 904 Lake Elmo.

7033-2500  
STATE OF MN

.717 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, commencing at a point on the south line of Section 33, 185 feet west of the southeast corner of the SW $\frac{1}{4}$  of said section; thence north parallel with the east line of said 1/4 section 506.2 feet to a point; thence south 50 degrees 12' west 91.3 feet to a point; thence south and parallel with the east line thereof 448 feet to the south line of said 1/4 section; thence east along said south line 70 feet to the place of beginning. Except to Highway.

7033-2300  
STATE OF MN

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, beginning at a point in the east line of said tract, 40 rods north of the southeast corner thereof; thence southwesterly along a line which intersects with the south line of said tract, 48 rods west of the southeast corner thereof to a point on said line which is 185 feet west of the east line of said tract; thence

south on a line 185 feet distant and parallel with the east line of said tract to the south line thereof; thence east along the south line of said tract 185 feet to the southeast corner thereof; thence north along the east line of said tract to the point of beginning. Also known as Highway Parcel 23F, State Project 8282 (94=392) 904 Lake Elmo.

77033-2900  
STATE OF MN

Part of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1733.2 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392), 904 Lake Elmo.

033-2950  
STATE OF MN

Part of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1842.1 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392) 904 Lake Elmo.

033-2650  
STATE OF MN

1 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, beginning at an iron pipe monument set on the east line thereof at a point 1980 feet south of the center of said section and running thence north along said center line of said section 137.9 feet to an iron pipe monument; thence west by a deflection angle of 90 degrees 200 feet to an iron pipe monument; thence south on a line parallel to said center line of said section 297.7 feet to an iron monument; thence northeasterly on a straight line to the point of beginning. Also known as Parcel 23G State Project 8282 (94=392) 904 Lake Elmo.

7033-2611  
STATE OF MN

6.14 acres. Being part of the East  $\frac{1}{4}$  of the SW $\frac{1}{4}$  being Parcel 23 MN DOT Right-of-Way Plat 82-30, Trunk Highway Special Project 8282 (94=392) 904 and IO94-3 (304) 248, together with all right of access as shown on said plat.

Parcel 23J and Parcel 7 as shown in MN DOT Right-of-Way Plat Nos. 82-30 and 82-47, together with all right of access as shown on said Plat.

7033-2601  
STATE OF MN

20.72 acres. Being part of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, being Parcel No. 16 as shown on State Right-of-Way Plat No. 4 of 12 (37033-2601). Except all that part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, described as follows to-wit: Commencing at the southwest corner of said Section 33; thence north along the west line of said Section 72.0 feet to the north right-of-way line of Minnesota Trunk Highway No. 12; thence east along said north line 75 feet to the point of beginning; thence east along said north line 100 feet; thence north along a line parallel to the west line of said Section 183.8 feet to a point; thence west at right angles a distance of 100 feet to a point; thence south on a line parallel to the west line of said Section a distance of 185.1 feet to the point of beginning, Washington County, Minnesota.

7033-3110  
IAN  
ANGELS

Part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, commencing at the SE $\frac{1}{4}$  of said SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , thence westerly on

a line 24 rods; thence northerly and parallel with the west line of said Section 13 rods; thence easterly and parallel with the south line 24 rods to the east line of said quarter ¼ Section; thence southerly 13 rods to the point of beginning.

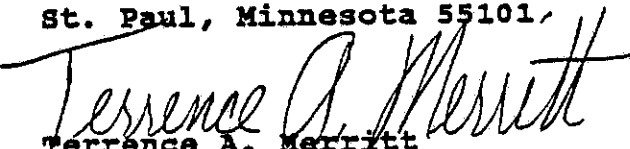
IT IS FURTHER ORDERED: that the population of Lake Elmo is decreased by 26.

IT IS FURTHER ORDERED: that the population of Oakdale is increased by 26.

IT IS FURTHER ORDERED: that the effective date of this order is November 7, 1990.

Dated this 31st day of October, 1990.

MINNESOTA MUNICIPAL BOARD  
165 Metro Square Building  
St. Paul, Minnesota 55101,

  
Terrence A. Merritt  
Executive Director

MEMORANDUM

In approving the concurrent detachment and annexation of the subject area from Lake Elmo to Oakdale the Board concludes that the municipalities will benefit from the boundary change.

Minnesota Statute 414.061, Subdivision 5 does not empower the Board with either the ability to expand the area to be detached and annexed, or to reduce the area that is eventually detached and annexed. While a portion of the subject area is outside the MUSA, the Board did not have the option of detaching and annexing only the MUSA area. Additionally, the property owners of the area not within the MUSA also own land within the subject area that is within the MUSA. Minnesota Statute 414.061, Subd. 5 requires that all of the property owners petition. Those property owners within the LUCP that did not petition can't be forced by their neighbors or the Board pursuant to this section of the statute, to become part of Oakdale.

Those property owners that will remain in Lake Elmo and live in the LUCP may benefit from the construction of sewer and water by Oakdale. Once the trunk lines have been installed to service the subject area, they may also be able to be used, if needed, by the property owners that remain in Lake Elmo. Oakdale, on previous occasions, has extended water on a case by case basis to areas in need. Thus, Lake Elmo residents that need sewer and water may be able to obtain it, without the need to place any of the rest of Lake Elmo at risk for the construction costs.

Again and again in the testimony, it was noted that the

Oakdale fire and police as well as the State Highway Patrol, as well as the Washington County Sheriff's Department were responding to calls for assistance from Section 32 & 33. The concurrent detachment and annexation will not likely impact on such continued service.

Lake Elmo remains rural and Oakdale remains urbanized. The concurrent detachment and annexation of the subject area continues to allow for the enhancement of these development perspectives. Lake Elmo has looked on Sections 32 & 33 as separate from the remainder of the city. The potential for central sanitary sewer and the possibility of central water make development in that area different from the remainder of Lake Elmo. Those opportunities for the subject area are essentially the same type of opportunities land within Oakdale faces. The similarities between the subject area and Oakdale are as significant as the dissimilarities between the subject area and Lake Elmo.

It is hoped that the communities can work together to address issues raised in the northern portion of Lake Elmo, where testimony indicated there had been polluted wells. The Board urges the communities to put behind any trauma created by these proceedings. The best interests of each municipality have been served by the boundary adjustment, and hopefully the communities can get on with the business of working together for the best interests of the citizens. TAM 10-31-90

M E M O R A N D U M

AUG 12 1991

TO: MAYOR AND CITY COUNCIL  
THROUGH: LARRY WHITTAKER *lw*  
FROM: BRENT BROMMER, COMM. DEV. DIRECTOR  
BRIAN BACHMEIER, CITY ENGINEER  
DATE: AUGUST 7, 1991  
SUBJECT: LAKE ELMO PROPOSAL TO EXTEND M.U.S.A. LINE

---

INTRODUCTION

The City of Lake Elmo is contemplating an amendment to their Comprehensive Plan which adds 640 gross acres into the Metropolitan Urban Service Area (MUSA). The request involves property that borders the easterly limits of the Oakdale annexation area, from I-94 to one half mile north. The proposed future land use for the property is business park development which is similar to what Oakdale is planning for a good portion of the annexation area along I694 and I94.

The subject area is within the Metropolitan Waste Control Commission Service Area No. 6, also known as the Cottage Grove Ravine Service Area. The recent annexation of the west portion of Section 33 to the City of Oakdale includes approximately 233 acres outside the MUSA boundary, which is also in the Cottage Grove Ravine Service Area.

SHORT AND LONG TERM METHODS FOR SERVING THE AREA

The proposed amendment presents three (3) short term alternatives for servicing the area, one involves a lift station discharging into the WONE interceptor, located in the southwest corner of the Oakdale annexation area. The other two options for servicing the property are through the City of Woodbury.

The connection to the WONE would utilize a portion of the 458,000 gallons per day capacity allocated to the annexation area within the existing MUSA boundary. The Annexation Area Plan adopted by the City of Oakdale indicates that this entire allocation would be utilized based on the planned land use. Therefore, if the Oakdale connection is the pursued, a joint agreement would need to be worked out between Lake Elmo and Oakdale.

As a prelude to this agreement, Oakdale should pursue a joint project with Lake Elmo that would serve the 233 acres in Section 33 which has soils not conducive to septic systems. Also, this proposal would better serve that area south of 4th Street, in the vicinity of the Guardian Angels Church, where construction of a lift station would otherwise be required.

PAGE 2

LK. ELMO MUSA PROPOSAL  
AUGUST 7, 1991

The long term benefit of the proposal may be to compel the Metropolitan Council and MWCC to consider improvements with the Cottage Grove Ravine Service Area. The improvement area served by the development of this interceptor would include the 233 acres in the Section 33 of Oakdale. As a result, Oakdale would have to participate in financing the interceptor improvements. However, further operational and maintenance costs could be realized by Oakdale with the elimination of the Stillwater/Ideal Avenue lift station.

#### PLANNING COMMISSION

The Planning Commission reviewed this issue at their July 25 meeting and concur that Oakdale should consider participating in the request in an attempt to add that portion of the Section 33 of the annexation area into the MUSA.

#### RECOMMENDATION

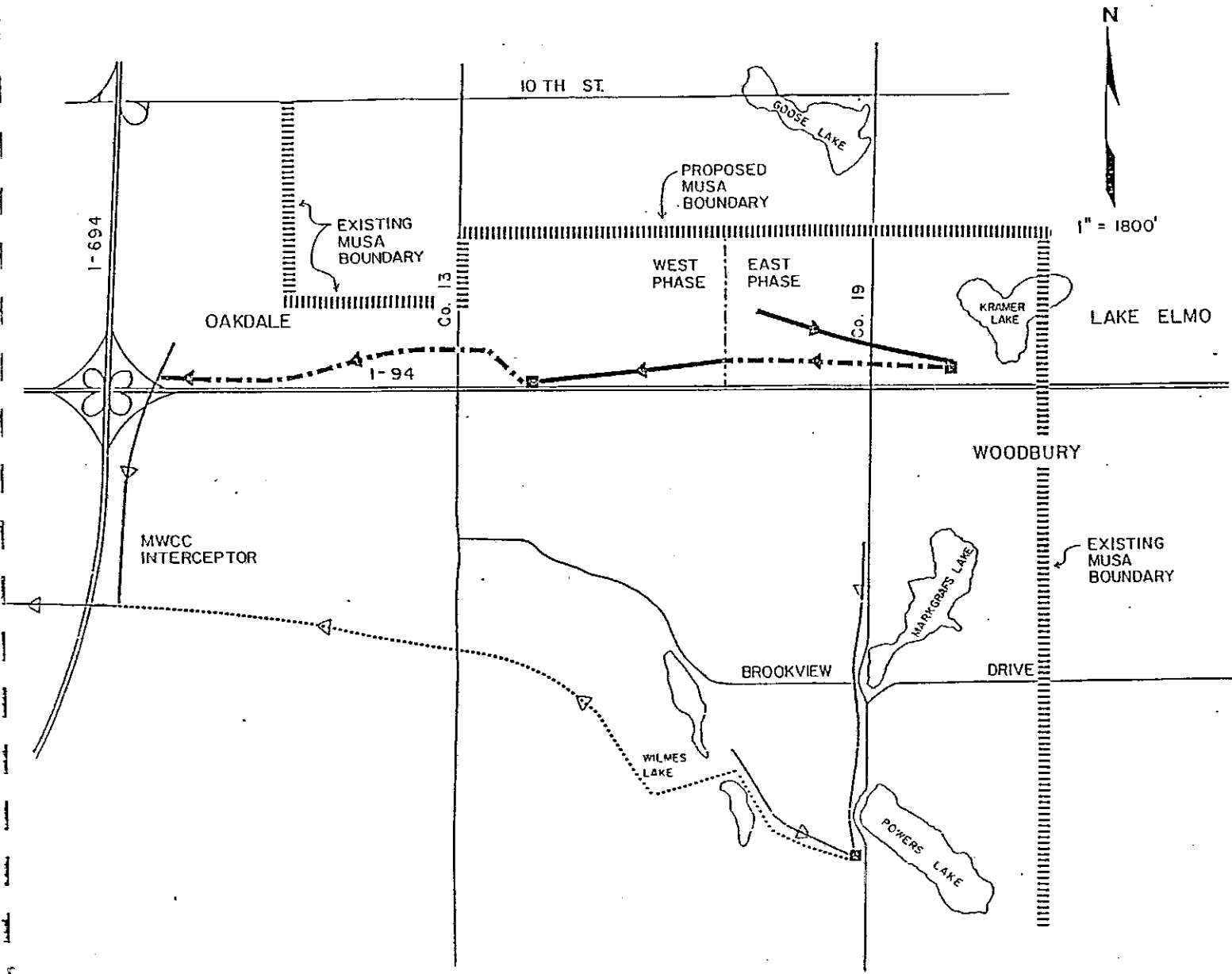
It is recommended that Council direct staff to send a letter to the City of Lake Elmo in general support of their request to add 640 gross acres into the MUSA and recommending that a joint project be considered if the connection through Oakdale is pursued.

Attachments:           map of study area  
                          proposed Oakdale connection (Option C)

A/ELMO



TRUNK SANITARY  
SEWER IMPROVEMENTS  
LAKE ELMO, MN

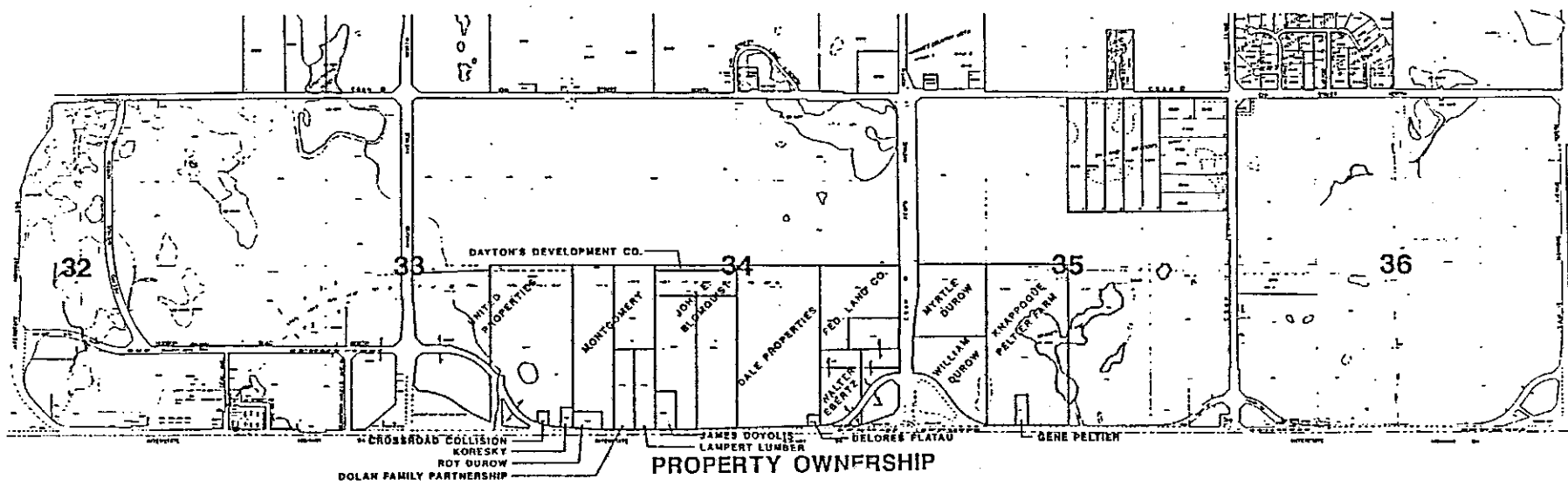
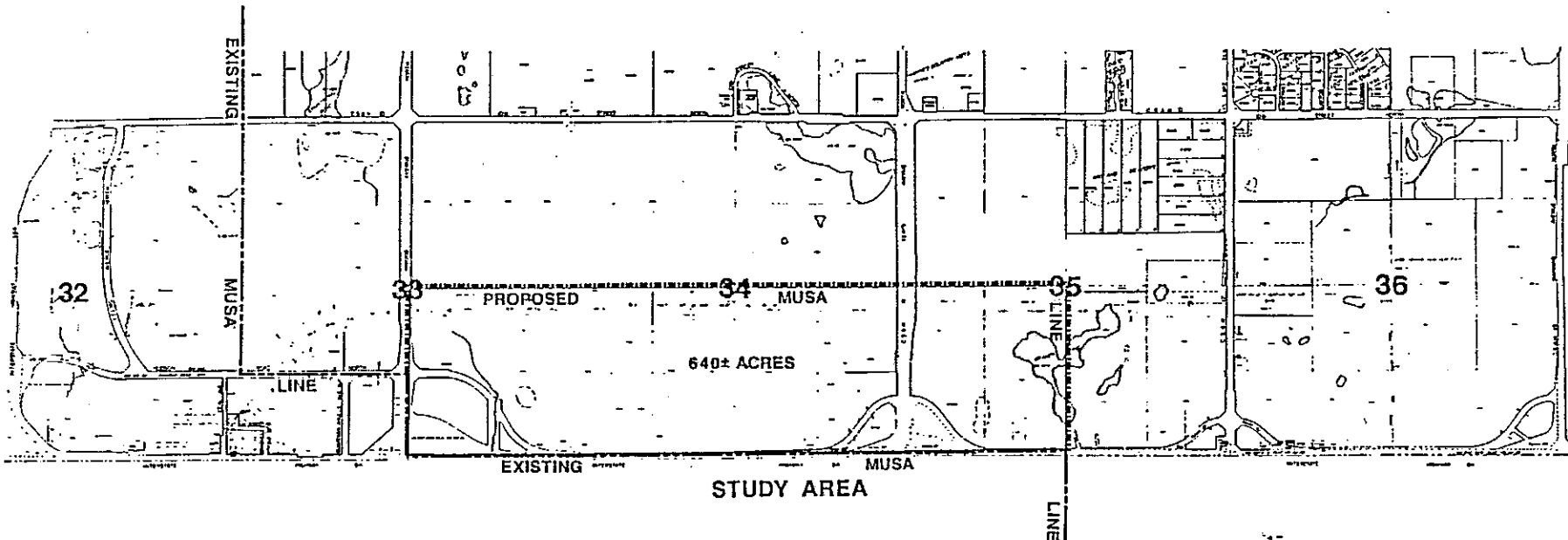


1" = 1800'

- PROPOSED GRAVITY SEWER
- EXISTING GRAVITY SEWER
- PROPOSED FORCEMAIN
- EXISTING FORCEMAIN
- LIFT STATION

OPTION C

TKDA  
COMM. 9150



**James R. Hill, Inc.**  
 PLANNERS / ENGINEERS / SURVEYORS  
 948 Lakeside Dr. • Loveland, Ohio 45141  
 513.863.3311 • FAX 513.863.3312

DATE: 6/1/91  
 DRAWN BY: JCH  
 CHECKED BY: JCH  
 PROJECT NO: 1526  
 SHEET 2 OF 6

CITY OF LAKE ELMO  
 MUSA LINE AMENDMENT STUDY  
 STUDY AREA AND PROPERTY OWNERSHIP

DRAWN BY: JCH  
 DATE: JUNE 91  
 REVISIONS:  
 BOOK / PAGE:  
 PROJECT NO: 1526  
 SHEET 2 OF 6

# Impact on Tax Capacity of Expansion of MUSA Line

## Residential Development

### Assumptions:

- ✓ 640 gross acre area
- ✓ Six homes per 20 acres (no commercial development)
- ✓ \$200,000 average home value
- ✓ Tax capacity rate of 100%

Average home value	\$200,000
Total number of homes	x 192
	<hr/>
Total increase in market value	<u>\$38,400,000</u>

### Effect on tax capacity:

	<u>Payable 1991</u>	<u>Payable 1992</u>	<u>Payable 1993</u>
First tier of market value:			
\$68,000 @ 1.00%	\$680		
\$72,000 @ 1.00%		\$720	\$720
Second tier of market value:			
\$68,001 to \$110,000 @ 2.00%	840		
\$72,001 to \$115,000 @ 2.00%		860	
Over \$72,000 @ 2.00 %			2,560
Third tier of market value:			
Over \$110,000 @ 2.50%	2,250		
Over \$115,000 @ 2.50%		2,125	
	<hr/> 3,770	<hr/> 3,705	<hr/> 3,280
	x 192	x 192	x 192
	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>
Total tax capacity of developed area	<u>\$723,840</u>	<u>\$711,360</u>	<u>\$629,760</u>

Payable 1991 tax capacity of City of Lake Elmo - \$4,638,462

# Impact on Tax Capacity of Expansion of MUSA Line

## Commercial Development

### Assumptions:

- ✓ 4,000,000 square feet of commercial (no residential)
- ✓ 70% development @ \$60 per square foot
- ✓ 30% development @ \$40 per square foot
- ✓ Average size of individual property of 50,000 square feet

### Market Value of Average Facility:

50,000 square feet x 70% x \$60	\$2,100,000
50,000 square feet x 30% x \$40	600,000
	<u>2,700,000</u>

### Effect on Tax Capacity:

	<u>Payable 1991</u>	<u>Payable 1992</u>	<u>Payable 1993</u>
First \$100,000 of market value:			
@ 3.20%	\$3,200		
@ 3.10%		\$3,100	
@ 3.00%			\$3,000
Over \$100,000 of market value:			
@ 4.95%	128,700		
@ 4.75%		123,500	
@ 4.70%			122,200
	<u>131,900</u>	<u>126,600</u>	<u>125,200</u>
	x 80	x 80	x 80
Total tax capacity before fiscal disparities	10,552,000	10,128,000	10,016,000
Fiscal disparities	<u>(4,220,800)</u>	<u>(4,051,200)</u>	<u>(4,006,400)</u>
Total tax capacity after fiscal disparities	<u>\$6,331,200</u>	<u>\$6,076,800</u>	<u>\$6,009,600</u>

Payable 1991 tax capacity of City of Lake Elmo - \$4,638,462

# Residential Development

	City of Lake Elmo			
	Before	After		
Tax Capacity Values	\$4,275,566	\$4,999,414		
Fiscal Disparity:				
Contribution	(270,099)	(270,099)		
Distribution	632,995	600,000		
Net tax capacity values	4,638,462	5,329,315		
District wide levies:				
City	849,756	849,756		
County	1,458,729	1,458,729		
School District	2,666,748	2,666,748		
Other	399,921	399,921		
Totals	5,375,154	5,375,154		
District wide tax capacity rates:				
City	15.164	12.842		
County	27.313	27.100		
School District	55.441	54.215		
Other	10.171	10.158		
Totals	108.089	104.315		
			Difference	
City tax on home valued at \$100,000	\$200	\$170	\$30	15.24%
City tax on home valued at \$150,000	\$382	\$324	\$58	15.28%
City tax on home valued at \$200,000	\$572	\$484	\$88	15.36%

# Commercial Development

	City of Lake Elmo	
	Before	After
Tax Capacity Values	\$4,275,566	\$14,827,566
Fiscal Disparity:		
Contribution	(270,099)	(4,490,899)
Distribution	632,995	600,000
Net tax capacity values	<u>4,638,462</u>	<u>10,936,667</u>
District wide levies:		
City	849,756	849,756
County	1,458,729	1,458,729
School District	2,666,748	2,666,748
Other	399,921	399,921
Totals	<u>5,375,154</u>	<u>5,375,154</u>
District wide tax capacity rates:		
City	15.164	5.875
County	27.313	25.587
School District	55.441	46.304
Other	10.171	9.078
Totals	<u>108.089</u>	<u>86.844</u>

			Difference	
City tax on home valued at \$100,000	\$200	\$78	\$122	61.00%
City tax on home valued at \$150,000	\$382	\$148	\$234	61.26%
City tax on home valued at \$200,000	\$572	\$222	\$350	61.19%

REQUEST FOR PLANNING COMMISSION REVIEW

Meeting Date: August 12, 1991

<b>AGENDA TOPIC:</b>  Public Hearing: Floodplain Ordinance	<b>ITEM NO.</b> 6.
--	------------------------

Attached is Mike Blacks report and a revised copy of the Flood Plain regulations for Lake Elmo. Also attached is a copy of the public hearing notice.

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
PUBLIC HEARING NOTICE

Notice is hereby given that the Lake Elmo Planning Commission will hold a public hearing on Monday, August 12, 1991 at 7:30 p.m., at city hall, 3800 Laverne Avenue North, to consider the proposed Comprehensive Amendment to the Flood Plain Management Ordinance Section 304.010 of the Lake Elmo Municipal Code.

Full text of proposed ordinance is available at the city office, 3800 Laverne Avenue N.

All interested persons will have an opportunity to be heard at this hearing. Written comments will be accepted until 4:00 p.m., August 15, 1991.

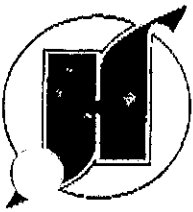
Mary Kueffner

City Administrator

Published in the July 24, 1991 St. Croix Valley Press



Molly Comeau  
DNR  
1200 Warner Road  
St. Paul, MN 55106



# 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  
DATE: August 7, 1991  
RE: FLOODPLAIN ORDINANCE

The Minnesota Department of Natural Resources has required the City of Lake Elmo to amend the City's floodplain regulations to become in compliance with new federal regulations. A revised ordinance was drafted (dated May 23, 1991) and mailed to the DNR for review and comment. In a letter dated May 29, 1991, the DNR stated that the new draft ordinance was found to be in compliance with "Statewide Standards and Criteria for Management of Floodplain Area of Minnesota", Minnesota Regulations, Parts 6120.5000 to 6120.6200.

The attached copy dated August 7, 1991, does contain a few changes which will be explained at our Public Hearing. A revised copy has again been forwarded to the DNR.

I recommend approval of the floodplain regulation ordinance subject to acceptance and approval by the Minnesota DNR.

City of Lake Elmo  
August 7, 1991

## 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 304.010 B. 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 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. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this Ordinance.

## 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.



HUG-07-91 WED 14:44 ID: JAMES R HILL INC TEL NO: 612 690-6244 4024 P14

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. 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.

3. 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.

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 304.050 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.

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.

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.

## SECTION 304.060 FLOOD FRINGE DISTRICT (FF)

A. Permitted Uses: Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s) 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.

SECTION 304.110

CONDITIONAL USES

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.