



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

NOTICE OF MEETING

City Council Meeting

Tuesday, July 02, 2013 7:00 P.M.

City of Lake Elmo | 3800 Laverne Avenue North

AGENDA

- A. Call to Order**
- B. Pledge of Allegiance**
- C. Roll Call**
- D. Order of Business**
- E. Approval of Agenda**
- F. Accept Minutes**
 - 1. Accept June 18, 2013 City Council Meeting Minutes
- G. Public Comments/Inquiries**
- H. Speak Your Peace – Seek Common Ground**
- I. Proclamation**
 - 2. Huff 'n Puff Days Proclamation
- J. Presentations**
 - 3. Quality Star Award – Beckie Gumatz
 - 4. Storm Damage Update
- K. Consent Agenda**
 - 5. Approve Payment of Disbursements and Payroll
 - 6. Approve Temporary Liquor License for Jaycees – Huff 'n Puff Days
 - 7. Professional Engineering Support Services Consulting Pool – Approve Updated Pool to Add EOR in the area of Surface Water
 - 8. Tree Service Ordinance; ***Ordinance 08-083; Ordinance 08-084, Resolution 2013-50***
 - 9. Approve Variance – 4719 Olson Lake Trail; ***Resolution 2013-51***
 - 10. Approve IUP Renewal - Country Sun Farms

11. Parks Commission Appointment

L. Regular Agenda

~~12. 2012 Final Audit Report Review~~ (*Postponed to 7/16/2013 meeting*)

13. Approve 2013/2014 CIP

14. Approve Bonding Level

15. Zoning Text Amendment – Fence Ordinance; ***Ordinance 08-085***

16. Zoning Text Amendment – Article III: Administration and Enforcement;
Ordinance 08-086, Resolution 2013-52

17. Approve Amendment of CUP - Country Sun Farms; ***Resolution 2013-53***

18. Hammes Estates Sketch Plan Review

19. Approval of the Savona Project Environmental Assessment Worksheet (EAW)
and Finding No Need for an Environmental Impact Statement (EIS);
Resolution 2013-54

20. Additional Stipend for City Council for Workshop Participation (*Smith/Park
Request*); ***Resolution 2013-55***

M. Summary Reports and Announcements

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

N. Adjourn

LAKE ELMO CITY COUNCIL MINUTES

June 18, 2013

CITY OF LAKE ELMO CITY COUNCIL MINUTES June 18, 2013

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

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

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

PLEDGE OF ALLIGENCE

APPROVAL OF AGENDA

*MOTION: Council Member Smith moved **TO APPROVE THE JUNE 18, 2013 CITY COUNCIL AGENDA AS PRESENTED.** Council Member Bloyer seconded the motion. **MOTION PASSED 4-0.***

ITEM 1: ACCEPT MINUTES

THE JUNE 04, 2013 CITY COUNCIL MINUTES WERE APPROVED AS PRESENTED BY CONSENSUS OF THE CITY COUNCIL.

PUBLIC COMMENTS:

None

SPEAK YOUR PEACE:

Mayor Pearson spoke about the Speak Your Peace project. He summarized the last committee meeting and reminded Council, staff, and everyone who signed the pledge to keep it on the collective radar. Mr. Pearson specifically spoke about the Speak Your Peace tennet of Responsibility.

PRESENTATIONS

ITEM 2. WASHINGTON COUNTY SHERIFF UPDATE

Washington County Sheriff Deputy Commander Dexter gave overview of the reported crimes since the beginning of 2013. She gave overview of Part I and Part II crimes. Overall, no real increases or anything overly concerned about. Explained that every call creates an incident report, regardless of the type of incident.

Cmdr. Dexter highlighted some of the calls that the Sheriff's Office has spent time on, including the Lake Elmo Oil Co. robbery, the shooting on Hwy 36, etc.

Cmdr. Dexter gave overview of traffic accidents. She reported no lake incidents this year so far. Explained the new park deputies and their duties, but park incidents have been very low so far.

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Lake violations were discussed. There was a discussion of part-time (0.5 FTE) deputies and the training process. The meaning of "other offenses" and "sex offenses" were discussed. "Sex offenses" are less than rape. Narcotics and drug issues were also discussed.

City Clerk Bell noted that all the monthly incident and citation reports are available on file at the clerk's office. Cmdr. Dexter explained the new records system.

Shared resources with other communities were discussed. Youth Services Bureau was discussed. It was pointed out that a School Resource Officer is now on duty at Lakeland Jr. High.

ITEM 3. YOUTH SERVICES BUREAU UPDATE

Mary Planton-Krell, Executive Director of the Stillwater Youth Services Bureau (YSB) spoke about the program. There are three locations- also at Woodbury and Cottage Grove. YSB has been around for over 40 years in the valley and focused on youth, ages 8-18/19. The Bureau works with kids before they get into serious trouble; helps them make better choices in the future. Offers family counseling as well. Tries to teach effective problem solving solutions. Also involved in parent education. Partners with school districts ISD 834/833. YCAPP- Students about to be suspended. Help them identify how they got there and how to get back.

It is clear that Lake Elmo using services. YSB served about 97 youth and families in the city last year. 57% increase in referrals; 42% increase in services provided to residents in city. In 2012 - 152 services provided to youth and families in Lake Elmo. Most of the kids are from middle to upper middle income families. It is funded by 45% federal, state, and city funding; 26% client fees which includes insurance (sliding scale). It is rarely at zero level. Remaining 29% is from donors.

Municipal funding and fairness was discussed. YSB is asking Lake Elmo to provide \$10,000. Purchase service agreement would provide that YSB serves all the kids who need it. Last year's funding was discussed. The City's contribution was \$0.

Restorative justice was discussed. The goal is humanizing crimes and showing the impact on the victim.

There are three communities in Washington County not contributing- Mahtomedi, Dellwood, and Lake Elmo. The surrounding communities' contributions and the services provided to Lake Elmo were discussed. The amount varies greatly from \$250 in Afton to \$28,000 in Maplewood.

Program referrals, jurisdiction, and partnering school relationships were discussed. Other organizations that offer the services were discussed. It was explained that there really aren't any that compete or offer the exact same services. The impact on the recidivism rate was discussed. YSB beats national average.

It was noted that staff and Council will consider a contribution as part of the budget process.

CONSENT AGENDA

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4. Approve Payment of Disbursements and Payroll in the amount of \$191,957.94
5. Accept Financial Report dated May 31, 2013
6. Accept Building Permit Report dated May 31, 2013
7. Keats MSA Street and Trunk Watermain Improvements - Pay Request No. 1.
8. Lake Elmo Avenue Infrastructure Improvements: I94 to 30th Street - Approve Plans and Specifications and Authorize Advertisement for Bids; Resolution 2013-47
9. ~~Encroachment Agreement—5747 Linden Ave~~
10. ~~Order Abatement Actions—9447 Stillwater Blvd; 9224 31st St N~~

Mayor Pearson pulled Consent Agenda items 9 & 10 for separate votes.

*MOTION: Council Member Smith moved **TO APPROVE ITEMS 4-8 OF THE CONSENT AGENDA.** Council Member Nelson seconded the motion. **MOTION PASSED 4-0.***

ITEM 9: ENCROACHMENT AGREEMENT – 5747 LINDEN AVE

Mayor Pearson explained that he pulled this item in order to abstain from voting due to a potential conflict of interest. There was no further discussion by other members.

*MOTION: No specific motion was stated, but vote was taken. **ITEM PASSED 3-0-1 (PEARSON ABSTAINED)***

ITEM 10: ABATEMENT ACTION

City Administrator Zuleger gave summary of two properties and explained the city staff actions to date. The process was discussed. Staff and legal counsel have been working on both of these properties for over a year.

- A. 9447 Stillwater Blvd – The problem tenants have been legally evicted, but the property is still in need of being cleaned up. The clean up has not been happening fast enough.

*MOTION: Council Member Nelson moved **TO ABATE 9447 STILLWATER BOULEVARD.** Council Member Bloyer seconded the motion. **MOTION PASSED 4-0.***

- B. 9224 31st Street North: discussion of what the abatement would include. At this point, it would not include entry. The main concern at this time is health and safety due to the rampant vermin presence.

*MOTION: Council Member Nelson moved **TO ABATE 9224 31ST STREET NORTH.** Council Member Smith seconded the motion. **MOTION PASSED 4-0.***

Council Member Nelson left [7:55 PM].

Robert Cusick, 5470 Highlands Trail, spoke about his neighbor. He moved into home in 1983. Mr. Cusick detailed several of his neighbor's code violations, including nuisance weeds. City Administrator Zuleger explained what City Staff has done to date regarding the property. The property owner is in the process of abating the violations.

Council Member Nelson returned [7:58 PM].

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REGULAR AGENDA

Mayor Pearson moved to postpone Item 12 – fence ordinance until the next council meeting when all members are expected to be present. Council Member Nelson seconded the motion for the sake of discussion.

*MOTION: Mayor Pearson moved **TO POSTPONE ITEM 12 UNTIL JULY 02 MEETING FOR ENTIRE COUNCIL TO VOTE ON ITEM.** Council Member Nelson seconded the motion. **MOTION PASSED 4-0.***

ITEM 11: ZONING TEXT AMENDMENT – SIGN ORDINANCE UPDATE; ORDINANCE 08-082, RESOLUTION 2013-48

Planning Director Klatt gave summary of the ordinance being brought to council. He explained that it included the updates from the previous workshop. It has been brought to council twice plus the workshop, so he was not going to go through the ordinance language again.

*MOTION: Council Member Smith moved **TO APPROVE ORDINANCE 08-082 ESTABLISHING NEW SIGNAGE REGULATIONS IN THE LAKE ELMO ZONING CODE.** Council Member Bloyer seconded the motion. **MOTION PASSED 4-0.***

Council Member Nelson thanked staff for its hard work on the item. It is not perfect, but it is a good start.

*MOTION: Council Member Smith moved **TO APPROVE RESOLUTION 2013-48, AUTHORIZING SUMMARY PUBLICATION OF ORDINANCE 08-082.** Council Member Nelson seconded the motion. **MOTION PASSED 4-0.***

ITEM 12: ZONING TEXT AMENDMENT – FENCE ORDINANCE; ORDINANCE 08-083

POSTPONED TO 7/02 (see above)

ITEM 13: ZONING TEXT AMENDMENT – ARTICLE III: ADMINISTRATION AND ENFORCEMENT; ORDINANCE 08-084, RESOLUTION 2013-49

Planning Director Klatt explained the proposed ordinance. The Planning Commission has spent the last month going over it. The proposal establishes the process for administering zoning and permits issuance. Mr. Klatt highlighted the changes and pointed out shortcomings of current code. Explained how it will be brought in line with state statute in several cases instead of having separate city rules that are problematic. Proposal simplifies process and procedures for both staff and the public.

Mr. Klatt noted that the design review process had drawn some council feedback. He explained that because the design standards have not been set, staff would be agreeable if Council wishes to pull that section out of the proposal.

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The 2/3 (4/5) vote change for zoning amendments was discussed. State law only requires a supermajority vote for comprehensive plan amendments and rezoning from residential to commercial or industrial. Council Member Smith voiced her discomfort with changing the voting rules specifically in regards to the fence ordinance and the legality of the change. She wants to wait to vote on changing the voting requirements until the next meeting.

City Administrator Zuleger explained that this proposal is important because it will govern the administration of the zoning code.

The certificate of zoning compliance was discussed. It was explained that the purpose was to minimally regulate certain structures without requiring a permit. It is not intended to be burdensome on property owners, but instead provide city approval or sanctioning for smaller zoning issues. Home occupations and small accessory structures were discussed. There was a discussion of the broadness and scope of the proposed language. Mr. Zuleger explained the reasoning for this. One factor is to provide property owners proof of city sanctioned projects that do not fit neatly within permit process. Mr. Klatt gave tennis courts as example of the code requiring a permit but there is no current permit process.

Striking 154.103(G) "Design Review; Demolition" and why it is being removed was discussed. Because the standards manual does not exist yet, it can be reinserted at later date when the manual is developed. Council consensus was to strike it for now.

Council Member Bloyer asked about how process would work for zoning compliance permits. Mr. Klatt explained that applicants would be given handouts explaining process.

Council Member Bloyer has issue with the term "disturbing" on Page 9, subsection (7). The role of the Planning Commission vis-à-vis the Council was discussed.

Conditional use permits were discussed. Mr. Klatt explained that the new zoning re-write actually adds many current CUP businesses to the permitted use list. The remaining CUP businesses have some additional regulation, but for good reason.

Council Member Nelson voiced his concern with the vagueness of 154.106(A)(7), (10), and (12). It was explained that some vagueness is required because not every situation or circumstance can be identified beforehand. It was noted that the term "excessive" would allow the council discretion.

Council Members Bloyer and Nelson issues with the term "historic" in subsection (12) were discussed. Mr. Bloyer does not want to get into fights over what is considered "historic."

154.110(C)(1) investigation. Council Members Bloyer and Nelson do not want Director of Planning to be able to investigate on property without first going through judicial process. Standard for obtaining judicial order was discussed. Mr. Zuleger noted that current practice is to pursue judicial process already. That is why it can take and is often taking so long. Council Members want to make sure the City is protecting the residents rights.

*MOTION: Mayor Pearson moved **TO POSTPONE UNTIL NEXT COUNCIL MEETING**. Council Member Bloyer seconded the motion. **MOTION PASSED 4-0.***

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Council Member Nelson asked that next version be redlined to identify changes.

SUMMARY REPORTS AND ANNOUNCEMENTS

Council Member Bloyer - no report.

Council Member Nelson - noted staff's responsiveness. He appreciates the feedback. Wants to trust the private citizens to do the right thing.

Council Member Smith - reported that Lake Elmo Days is Friday 9/7 & Saturday 9/8. Volunteers are wanted.

Council Member Park was not present.

Mayor Pearson reported EDA first meeting on 7/11 at 7PM; library board hired librarian; level two green step award; retreat reminder. The Mayor read email from Council Member Park, in which she reported her resignation effective 7/16. The Mayor would like the replacement council member to attend the retreat. The timing of the retreat, vacancy, and filling of the vacancy were discussed.

City Administrator Zuleger reported status of 2013 Plan of Work, Actively working on 38 items. 17 items are under way, have added some items; working on CIP with Finance Director Bendel; working on fleet replacement policy; readying materials for retreat; MnDNR taking under advisement on possible need for EAW for proposed lake ordinance; lake use survey; developer meetings; park surveys are coming in; working on bonding bill for groundwater issues.

Associate City Attorney Brekken no report.

Planning Director Klatt reported reviewing concept plan on Hammes property; Planning Commission will be reviewing CUP amendment.

City Engineer Griffin reported Lake Elmo sewer project bid award will be coming back to council soon; section 34 water and sewer behind schedule. Trying to reconcile landowner issues; well #4 preconstruction meeting; trunk hwy 36 workshop- will be meeting with state and county. Council Member Nelson asked about engineering costs for Savona project to date. Mr. Griffin explained costs so far. The process and the security were discussed.

Finance Director Bendel not present for reports.

City Clerk Bell working on staffing.

Meeting adjourned at 9:30 P.M.

LAKE ELMO CITY COUNCIL

ATTEST:

Mike Pearson, Mayor

Adam R. Bell, City Clerk

CITY OF LAKE ELMO

HUFF 'N PUFF DAYS PROCLAMATION

WHEREAS: The Lake Elmo Jaycees have been a vital part of the development of young leaders of our community the past 41 years, and

WHEREAS: This organization of young people will again be sponsors of Huff n' Puff Days, August 8th, 9th, 10th, and 11th 2013.

NOW, THEREFORE, I, Mike Pearson, Mayor of Lake Elmo, do hereby proclaim the second week in August 2013 to be

HUFF N' PUFF DAYS

in Lake Elmo, and urge all citizens of our community to give full regard to past and continuing services of the Lake Elmo Jaycees.

Signed this July 2, 2013.

Mike Pearson
Mayor



MAYOR AND COUNCIL COMMUNICATION

DATE: 07/02/2013

CONSENT

ITEM #: 5

AGENDA ITEM: Approve Disbursements in the Amount of \$459,381.20

SUBMITTED BY: Cathy Bendel, Finance Director

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements in the amount of \$459,381.20. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

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

Claim #	Amount	Description
ACH	\$ 10,652.02	Payroll Taxes to IRS & MN Dept of Revenue 6/27/13
ACH	\$ 5,804.88	Payroll Retirement to PERA 6/27/13
DD4715- DD4740 40020	\$ 29,268.19	Payroll Dated (Direct Deposits) 6/27/13
2004-2026	\$ 1,380.00	Library Card Reimbursements 7/2/13
40017-40072	\$ 412,276.11	Accounts Payable 7/2/13 (Includes TA Schifsky check for Keats Ave MSA project of \$330,780.12 approved under separate cover at 6/18/13 City Council meeting)

TOTAL	\$ 459,381.20	
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STAFF REPORT: City staff has complied and reviewed the attached set of claims. All appears to be in order and consistent with City budgetary and fiscal policies and Council direction.

RECOMMENDATION: It is recommended that the City Council approve as part of the Consent Agenda proposed disbursements in the amount of \$459,381.20

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

“Move to approve the July 02, 2013, Disbursements as

Presented *[and modified]* herein.”

ATTACHMENTS:

1. Accounts Payable Dated 7/02/2013

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

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

Accounts Payable To Be Paid Proof List

User: denise

Printed: 06/27/2013 - 2:31 PM

Batch: 023-06-2013

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
DELTA Delta Dental Of Minnesota 5166142 06/15/2013 101-000-0000-21706 Medical Insurance 5166142 Total: DELTA Total:		1,783.10 1,783.10 1,783.10	0.00	07/02/2013	July 2013 Dental Coverage		-		No	0000
FXL FXL, Inc. July-13 06/26/2013 101-410-1320-43100 Assessing Services July-13 Total: FXL Total:		2,000.00 2,000.00 2,000.00	0.00	07/02/2013	Assessment Services - July 2013		-		No	0000
HOLIDAYC Holiday Credit Office 06/15/13 06/15/2013 101-420-2220-42120 Fuel, Oil and Fluids 06/15/13 Total: HOLIDAYC Total:		485.05 485.05 485.05	0.00	07/02/2013	Fuel 5/17-6/10/13 Fire Department		-		No	0000
NCPERS 566200-NCPERS Minnesota 5662713 07/01/2013 101-000-0000-21708 Other Benefits 5662713 Total: NCPERS Total:		160.00 160.00 160.00	0.00	07/02/2013	July 2013 Deductions		-		No	0000
NEXTEL Nextel Communications 761950227-123 06/14/2013 101-410-1940-43210 Telephone 761950227-123 06/14/2013 101-420-2220-43210 Telephone 761950227-123 06/14/2013 101-420-2400-43210 Telephone		115.35 223.04 44.65	0.00 0.00 0.00	07/02/2013 07/02/2013 07/02/2013	Cell Phone Service - Administration Cell Phone Service - Fire Department Cell Phone Service - Building Department		- - -		No No No	0000 0000 0000

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
761950227-123	06/14/2013	31.61	0.00	07/02/2013	Cell Phone Service - Public Works Dept	-	-	No		0000
101-430-3100-43210 Telephone	06/14/2013	90.87	0.00	07/02/2013	Cell Phone Service - Parks Department	-	-	No		0000
761950227-123	06/14/2013	57.61	0.00	07/02/2013	Cell Phone Service - Taxpayer Services	-	-	No		0000
101-450-5200-43210 Telephone	06/14/2013	15.66	0.00	07/02/2013	Cell Phone Service - Planning Department	-	-	No		0000
761950227-123	06/14/2013	578.79								
101-410-1450-43210 Telephone	06/14/2013	578.79								
761950227-123	06/14/2013									
101-410-1910-43210 Telephone	06/14/2013									
761950227-123 Total:										
NEXTTEL Total:										
PITNEYRE Reserve Account										
07/01/2013	07/01/2013	500.00	0.00	07/02/2013	Postage - General	-	-	No		0000
101-410-1320-43220 Postage	07/01/2013	500.00	0.00	07/02/2013	Postage - Water Bills	-	-	No		0000
761950227-123	07/01/2013	1,000.00								
101-494-9400-43220 Postage	07/01/2013	1,000.00								
761950227-123 Total:										
PITNEYRE Total:										
POSTOFF Postmaster										
07/01/2013	07/01/2013	430.00	0.00	07/02/2013	Parks Survey - Postage	-	-	No		0000
404-480-8000-43050 Other Park Ded Prof Services	07/01/2013	430.00								
761950227-123 Total:										
POSTOFF Total:										
SENSUS SENSUS USA										
ZAI4002100	05/14/2013	1,524.60	0.00	07/02/2013	Sensus Sys Support-Yrly Ren 7/10-7/10/14	-	-	No		0000
601-494-9400-42300 Water Meters & Supplies	05/14/2013	1,524.60								
ZAI4002100 Total:										
SENSUS Total:										
Report Total:		7,961.54								

Accounts Payable To Be Paid Proof List

User: denise

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Batch: 022-06-2013

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
ADVANCED Advanced Eng & Environ Sys Inc										
34675	05/31/2013	2,901.45	0.00	06/30/2013	Production Well No#4		-	No		0000
601-494-9400-43030	Engineering Services	2,901.45								
	34675 Total:	2,901.45								
	ADVANCED Total:									
AMDAHL Chris Amdahl Locksmith, Inc										
9796	06/03/2013	419.34	0.00	06/30/2013	Serv Call 3 re-keys;primus Keys 3 latch		-	No		0000
101-410-1320-44300	Miscellaneous	419.34								
	9796 Total:	419.34								
	AMDAHL Total:	419.34								
ASPENMI Aspen Mills, Inc.										
135929	06/07/2013	1,474.00	0.00	06/30/2013	Restock Hats- Fire Department		-	No		0000
101-420-2220-44170	Uniforms	1,474.00								
	135929 Total:	1,474.00								
	ASPENMI Total:	1,474.00								
CARQUEST Car Quest Auto Parts										
2055-291800	06/17/2013	80.98	0.00	06/30/2013	Misc Mower & Trailer Parts		-	No		0000
101-450-5200-42210	Equipment Parts	80.98								
	2055-291800 Total:	80.98								
	CARQUEST Total:	80.98								
CENTURYL CenturyLink										
Jun 19 2013	06/19/2013	121.37	0.00	06/30/2013	Phone Service - Library		-	No		0000
206-450-5300-43210	Telephone	35.95								
Jun 19 2013	06/19/2013	35.95	0.00	06/30/2013	Internet - Library		-	No		0000
206-450-5300-43250	Internet	157.32								
	Jun 19 2013 Total:	157.32								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
CENTURYL Total:		157.32								
CIRCUITW CircuitWorks										
5614	06/19/2013	619.88	0.00	06/30/2013	2ea UPS Surge Master Control Panel/Well 1		-		No	0000
601-494-9400-42400	Small Tools & Minor Equipment	619.88								
5614 Total:		619.88								
CIRCUITW Total:		619.88								
CTYMAPLE City of Maplewood										
006836	06/13/2013	7,019.44	0.00	06/30/2013	Keats MSA Street		-		No	0000
409-480-8000-43030	Engineering Services	5,295.36								
006836	06/13/2013	12,314.80	0.00	06/30/2013	keats Trunk Watermain		-		No	0000
601-494-9400-43030	Engineering Services	12,314.80								
006836 Total:		12,314.80								
CTYMAPLE Total:		12,314.80								
DONALDSA Donald Salverda & Associates										
P-1302-6B	06/13/2013	91.81	0.00	06/30/2013	Books purchase - Leadership Growth 2013		-		No	0000
101-410-1320-44350	Books	91.81								
P-1302-6B Total:		91.81								
DONALDSA Total:		91.81								
E.G.RUD E.G. Rud & Sons, Inc.										
27361	06/19/2013	2,600.00	0.00	06/30/2013	Easement Sketch & Description Work		-		No	0000
602-495-9450-43150	Contract Services	2,600.00								
27361 Total:		2,600.00								
E.G.RUD Total:		2,600.00								
EMERGAPP Emergency Apparatus Maint. INC										
68318-E1	06/18/2013	965.00	0.00	06/30/2013	#68318-E1 Annual Service/Pump Test		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	965.00								
68318-E1 Total:		965.00								
68319-E2	06/18/2013	893.00	0.00	06/30/2013	#68319-E2 Annual Service/Pump Test		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	893.00								
68319-E2 Total:		893.00								
68320-B2	06/18/2013	237.00	0.00	06/30/2013	#68320-B2 Annual Service		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	237.00								
68320-B2 Total:		237.00								
68321-B1	06/18/2013	237.00	0.00	06/30/2013	#68321-B1 Annual Service		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	237.00								
68321-B1 Total:		237.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
68322-U2	06/18/2013	245.00	0.00	06/30/2013	#68322-U2 Annual Service		-			0000
101-420-2220-44040	Repairs/Maint Eqpt									
	68322-U2 Total:	245.00								
68323-T1	06/18/2013	795.00	0.00	06/30/2013	#68323-T1 Annual Service/Pump Test		-			0000
101-420-2220-44040	Repairs/Maint Eqpt									
	68323-T1 Total:	795.00								
68324-T2	06/18/2013	1,040.00	0.00	06/30/2013	#68324-T2 Annual Service/Pump Test		-			0000
101-420-2220-44040	Repairs/Maint Eqpt									
	68324-T2 Total:	1,040.00								
68325-L1	06/18/2013	980.00	0.00	06/30/2013	#68325-L1 Annual Service/Pump Test		-			0000
101-420-2220-44040	Repairs/Maint Eqpt									
	68325-L1 Total:	980.00								
68326	06/18/2013	325.00	0.00	06/30/2013	#68326 Annual Service Ranger		-			0000
101-420-2220-44040	Repairs/Maint Eqpt									
	68326 Total:	325.00								
	EMERGAPP Total:	5,717.00								
EMERGAUT Emergency Automotive Tech, Inc										
AW061113-13	06/19/2013	156.75	0.00	06/30/2013	Parts for Light on E1 - Fire Department		-			0000
101-420-2220-44040	Repairs/Maint Eqpt									
	AW061113-13 Total:	156.75								
	EMERGAUT Total:	156.75								
FASTENAL Fastenal Company										
MNOAK3865	06/13/2013	15.63	0.00	06/30/2013	Hardware		-			0000
101-450-5200-42210	Equipment Parts									
	MNOAK3865 Total:	15.63								
	FASTENAL Total:	15.63								
FIORILLO Fiorillo Megan										
Cable Operator	06/11/2013	41.25	0.00	06/30/2013	Cable Operator-6/11/13 Wkshp Meet 3		-			0000
101-410-1450-43620	Cable Operations				hrs					
Cable Operator	06/18/2013	55.00	0.00	06/30/2013	Cable Operator-6/18/13 CC Meeting		-			0000
101-410-1450-43620	Cable Operations				4hrs					
	Cable Operator Total:	96.25								
	FIORILLO Total:	96.25								
HENDEL Hendel Homes										
Jun 13 2013	06/13/2013	2,000.00	0.00	06/30/2013	Ref Escrow 11165 50th St #8269		-			0000
803-000-0000-22900	Deposits Payable									
	Jun 13 2013 Total:	2,000.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	HENDEL Total:	2,000.00								
HULSBROT Huls Bros Trucking, Inc										
CIT 61713	06/17/2013	596.11	0.00	06/30/2013	Road Rock (dura patch) Trucking		-	No		0000
101-430-3120-42240	Street Maintenance Materials									
	CIT 61713 Total:	596.11								
	HULSBROT Total:	596.11								
I-STATE I-State Truck Center										
C242260220:01	06/11/2013	18.70	0.00	06/30/2013	Repair Part for Hood Latch E2 Fire Dept		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
	C242260220:01 Total:	18.70								
	I-STATE Total:	18.70								
LMCIT League of MN Cities Ins. Trust										
44043	06/09/2013	225.00	0.00	06/30/2013	Increase Cont of Library Bldg add'l prem		-	No		0000
206-450-5300-43630	Insurance									
	44043 Total:	225.00								
	LMCIT Total:	225.00								
LTG PWR L.T.G. Power Equipment										
166659	06/13/2013	49.81	0.00	06/30/2013	Toro Belt		-	No		0000
101-450-5200-44040	Repairs/Maint Eqpt									
	166659 Total:	49.81								
166779	06/17/2013	415.20	0.00	06/30/2013	Toro Hub Spindle Assembly		-	No		0000
101-450-5200-44040	Repairs/Maint Eqpt									
	166779 Total:	415.20								
	LTG PWR Total:	465.01								
MACLEOD MacLeod Alyssa										
June 20 2013	06/20/2013	10.00	0.00	06/30/2013	Reimburse Parking - A Macleod 6/20/13		-	No		0000
101-410-1450-43310	Mileage									
	June 20 2013 Total:	10.00								
	MACLEOD Total:	10.00								
MARTMARM Martin Marietta Materials										
118265506	06/17/2013	854.41	0.00	06/30/2013	Durapatch Rock 6/13 & 6/14		-	No		0000
101-430-3120-42240	Street Maintenance Materials									
	118265506 Total:	854.41								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MARTMARM Total:		854.41								
MENARDSO Menards - Oakdale										
19884	06/12/2013	149.46	0.00	06/30/2013	Non Skid for Tabyln Park Steps		-		No	0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									
	19884 Total:	149.46								
20417	06/20/2013	37.32	0.00	06/30/2013	X-Large Garbage Bags - Parks		-		No	0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									
	20417 Total:	37.32								
MENARDSO Total:		186.78								
MES Municipal Emergency Svs. Inc.										
00421757-SNV	06/12/2013	398.92	0.00	06/30/2013	Tray for hard suction hose - Fire Dept		-		No	0000
101-420-2220-42400	Small Tools & Equipment									
00421757-SNV	06/12/2013	15.00	0.00	06/30/2013	Replacement Storz Lock - Fire Dept		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
	00421757-SNV Total:	413.92								
MES Total:		413.92								
MILLEREX Miller Excavating, Inc.										
17169	06/21/2013	1,357.50	0.00	06/30/2013	Haul & Dispose Street Sweepings		-		No	0000
603-496-9500-44010	Street Sweeping									
	17169 Total:	1,357.50								
MILLEREX Total:		1,357.50								
MIRACLE Equipment Co. Miracle Recreation										
737334	06/07/2013	4,931.05	0.00	06/30/2013	Playground boarders Tagblyn Park		-		No	0000
404-480-8000-45300	Improvements Other Than Bldgs									
	737334 Total:	4,931.05								
MIRACLE Total:		4,931.05								
MNDOH MN Department of Health										
06/25/2013	06/25/2013	23.00	0.00	06/30/2013	Water Certification Fee Jamie Colemer		-		No	0000
601-494-9400-44370	Conferences & Training									
	06/25/2013 Total:	23.00								
MNDOH Total:		23.00								
MTI MTI Distributing Inc.										
905172-00	06/10/2013	544.54	0.00	06/30/2013	480D Toro Parts		-		No	0000
101-450-5200-42210	Equipment Parts									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	905172-00 Total:	544.54								
	MTI Total:	544.54								
NASALTCO North American Salt Company										
70942390	02/13/2013	9,232.30	0.00	06/30/2013	Road Salt - Feb 13 2013		-	No		0000
101-430-3125-42290	Sand/Salt	9,232.30								
	70942390 Total:	9,232.30								
	NASALTCO Total:	9,232.30								
PAVEMRES Pavement Resources										
101541	05/21/2013	5,914.37	0.00	06/30/2013	Dura Patch Rental		-	No		0000
101-430-3120-43150	Contract Services	5,914.37								
	101541 Total:	5,914.37								
	PAVEMRES Total:	5,914.37								
S&T S&T Office Products, Inc.										
01PV3995	06/11/2013	87.51	0.00	06/30/2013	Office Supplies - Administration		-	No		0000
101-410-1320-42000	Office Supplies	87.51								
	01PV3995 Total:	87.51								
	S&T Total:	87.51								
SCHLOMKA Schlomka Service LLC										
14458	05/31/2013	225.00	0.00	06/30/2013	Pump Holding Tank PW		-	No		0000
101-430-3100-44010	Repairs/Maint Bldg	225.00								
	14458 Total:	225.00								
	SCHLOMKA Total:	225.00								
SELECTAC SelectAccount										
939912	06/02/2013	32.94	0.00	06/30/2013	Participant Fee 06/01/2013-06/30/2013		-	No		0000
101-410-1520-43150	Contract Services	32.94								
	939912 Total:	32.94								
	SELECTAC Total:	32.94								
SRFCONSUS R Consulting Group, Inc										
08132.00-1	05/31/2013	2,287.58	0.00	06/30/2013	State Highway 36S Frontage Rd Study		-	No		0000
409-480-8000-43030	Engineering Services	2,287.58								
	08132.00-1 Total:	2,287.58								
	SRFCONSUS Total:	2,287.58								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
STILLMED Stillwater Medical Group										
125483	06/10/2013	1,055.00	0.00	06/30/2013	Annual Physicals - 5 Fire Fighters		-		No	0000
101-420-2220-43050	Physicals									
	125483 Total:	1,055.00								
	STILLMED Total:	1,055.00								
TCONCRDR The Concrete Doctor										
4262013	04/26/2013	1,700.00	0.00	06/30/2013	Concrete Work - LE Library		-		No	0000
206-450-5300-43150	Contract Services									
	4262013 Total:	1,700.00								
	TCONCRDR Total:	1,700.00								
TDS TDS Metrocom - LLC										
06-13-13	06/13/2013	139.52	0.00	06/30/2013	Analog Lines - Fire		-		No	0000
101-420-2220-43210	Telephone									
06-13-13	06/13/2013	217.39	0.00	06/30/2013	Analog Lines - Public Works		-		No	0000
101-430-3100-43210	Telephone									
06-13-13	06/13/2013	129.39	0.00	06/30/2013	Analog Lines - Lift Station Alarms		-		No	0000
602-495-9450-43210	Telephone									
06-13-13	06/13/2013	45.33	0.00	06/30/2013	Analog Lines - Well House #2		-		No	0000
601-494-9400-43210	Telephone									
	06-13-13 Total:	531.63								
	TDS Total:	531.63								
TKDA TKDA, Inc.										
002013001731	06/12/2013	4,816.02	0.00	06/30/2013	Keats MSA Street		-		No	0000
409-480-8000-43030	Engineering Services									
002013001731	06/12/2013	3,633.13	0.00	06/30/2013	Keats Trunk Watermain		-		No	0000
601-494-9400-43030	Engineering Services									
	002013001731 Total:	8,449.15								
	TKDA Total:	8,449.15								
VANGADOR Vang Adora										
Cable Operator	06/24/2013	55.00	0.00	06/30/2013	Cable Operations 6/24/13 PZ Meeting 4hr		-		No	0000
101-410-1450-43620	Cable Operations									
	Cable Operator Total:	55.00								
	VANGADOR Total:	55.00								
WAS-PH Washington County										
04302013	04/30/2013	61.00	0.00	06/30/2013	Hazardous waste collection program		-		No	0000
206-450-5300-43840	Refuse									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	04302013 Total:	61.00								
	WAS-PH Total:	61.00								
WAS-SHER Washington County 75664 101-410-1320-43040 Legal Services	06/05/2013	500.00	0.00	06/30/2013	Background Check (5 Business)		-		No	0000
	75664 Total:	500.00								
	WAS-SHER Total:	500.00								
WASH-REC Washington County P225413-1 101-410-1910-42030 Printed Forms	06/03/2013	46.00	0.00	06/30/2013	Encroachment agreement S Kennedy/AKennedy		-		No	0000
	P225413-1 Total:	46.00								
	WASH-REC Total:	46.00								
WASHTAX Washington County 75683 101-410-1520-44330 Dues & Subscriptions	06/12/2013	35.00	0.00	06/30/2013	Top 25 Taxpayers-Pay2013 Lake Elmo		-		No	0000
	75683 Total:	35.00								
75702 101-410-1520-44330 Dues & Subscriptions	06/19/2013	150.00	0.00	06/30/2013	AudBondingCert-2013 Lake Elmo		-		No	0000
	75702 Total:	150.00								
	WASHTAX Total:	185.00								
WASRADIO Washington County 75710 101-430-3100-43230 Radio	06/20/2013	300.06	0.00	06/30/2013	2nd Qtr Apr-June 800 MHz Radio PW		-		No	0000
	75710 Total:	300.06								
75711 101-420-2220-43230 Radio	06/20/2013	3,800.76	0.00	06/30/2013	2nd Qtr Apr-June 800 MHz Radio FD		-		No	0000
	75711 Total:	3,800.76								
	WASRADIO Total:	4,100.82								
WEEKSEND Weeks-End Signs & Graphics 1811 101-450-5200-44300 Miscellaneous	06/12/2013	187.03	0.00	06/30/2013	Boat Landing Signs		-		No	0000
	1811 Total:	187.03								
	WEEKSEND Total:	187.03								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ZULEGER Zuleger Dean										
06/13-15-16-17	06/18/2013	65.50	0.00	06/30/2013	Reimbursement Mileage - D Zuleger		-			0000
101-410-1320-43310	Mileage									
	06/13-15-16-17 Total:	65.50								
	ZULEGER Total:	65.50								
	Report Total:	72,987.06								

Accounts Payable To Be Paid Proof List

User: denise
Printed: 06/18/2013 - 4:21 PM
Batch: 019-06-2013

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
TASCH T.A. Schifsky & Sons Inc										
Pay Request No1	05/31/2013	74,059.08	0.00	06/18/2013	Keats MSA Street		-		No	0000
409-480-8000-43030 Engineering Services										
Pay Request No1	05/31/2013	256,721.04	0.00	06/18/2013	Keats Trunk Watermain		-		No	0000
601-494-9400-43030 Engineering Services										
Pay Request No1 Total:		330,780.12								
TASCH Total:		330,780.12								
Report Total:		330,780.12								

Accounts Payable To Be Paid Proof List

User: denise

Printed: 06/17/2013 - 10:21 AM

Batch: 018-06-2013

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
POSTOFF Postmaster										
06172013	06/17/2013	522.39	0.00	06/18/2013	Newsletter		-			0000
101-410-1450-43510	Public Notices									No
	06172013 Total:	522.39								
	POSTOFF Total:	522.39								
	Report Total:	522.39								

Accounts Payable To Be Paid Proof List

User: denise
Printed: 06/13/2013 - 3:18 PM
Batch: 017-06-2013

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
WASHCYMG Washington Cty Master Gardener										
06/13/2013	06/13/2013	25.00	0.00	06/18/2013	Honorarium to Wash Cty Master Gardeners		-			0000
206-450-5300-44300 Miscellaneous		25.00								
06/13/2013 Total:		25.00								
WASHCYMG Total:		25.00								
Report Total:		25.00								



MAYOR AND COUNCIL COMMUNICATION

DATE: 07/02/2013

CONSENT

ITEM #: 6

AGENDA ITEM: Temporary Liquor License for Lake Elmo Jaycees

SUBMITTED BY: Adam Bell, City Clerk

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Beckie Gumatz, Program Assistant

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

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

SUMMARY AND ACTION REQUESTED:

As part of the Consent Agenda City Council is respectfully requested to consider approval of a temporary on-sale liquor license issued to Lake Elmo Jaycees for their Huff n' Puff Days event held August 8 through 11, 2013, subject to approval of the Director of Alcohol and Gambling Enforcement. In addition the City Council is requested to waive the \$25 liquor license fee and the fee for the Lion's Park ball field lighting.

Staff recommends the City Council approve the temporary on-sale liquor license by taking the following action:

“Move to approve a temporary on-sale liquor license issued to Lake Elmo Jaycees for their Huff ‘n Puff Days event held August 8 through 11, 2013, subject to approval of the Director of the MN Alcohol and Gambling Enforcement Division, and waive both the \$25 liquor license fee and the fee for the Lion’s Park ball field lighting.”

BACKGROUND INFORMATION:

Pursuant to Lake Elmo City Code Chapter 111.17 Section (B)(3) temporary on-sale licenses shall be issued only to clubs, charitable, religious or other non-profit organizations in existence for at least three

years and shall authorize the on-sale of intoxicating liquor in connection with a social event sponsored by the licensee and subject to the restrictions imposed by MN Statute 340A.

STAFF REPORT:

Lake Elmo Jaycees will hold their annual Huff n' Puff Days event August 8 through 11, 2013 and have requested an on-sale temporary special event liquor license to allow for the safe sale of alcoholic beverages at the event. They have successfully submitted an application, certificate of insurance for liquor liability and proof of their non-profit status.

RECOMMENDATION:

Staff recommends the City Council approve the temporary on-sale liquor license by taking the following action:

“Move to approve a temporary on-sale liquor license issued to Lake Elmo Jaycees for their Huff ‘n Puff Days event held August 8 through 11, 2013, subject to approval of the Director of the MN Alcohol and Gambling Enforcement Division, and waive both the \$25 liquor license fee and the fee for the Lion’s Park ball field lighting.”



Minnesota Department of Public Safety
Alcohol and Gambling Enforcement Division
444 Cedar Street, Suite 222, St. Paul, MN 55101
651-201-7500 Fax 651-297-5259 TTY 651-282-6555
**APPLICATION AND PERMIT FOR A 1 DAY
TO 4 DAY TEMPORARY ON-SALE LIQUOR LICENSE**

Name of organization		Date organized		Tax exempt number	
Lake Elmo Jaycees		October 1970		1072528	
Address		City	State	Zip Code	
PO Box 198		Lake Elmo	Minnesota	55042	
Name of person making application		Business phone		Home phone	
Heather Noyes		651-438-5504		612-801-6145	
Date(s) of event		Type of organization			
August 8th - 11th, 2013		<input type="checkbox"/> Club <input checked="" type="checkbox"/> Charitable <input type="checkbox"/> Religious <input type="checkbox"/> Other non-profit			
Organization officer's name		City	State	Zip	
<input checked="" type="checkbox"/> <i>Heather Noyes</i>		South St. Paul	Minnesota	55075	
<input type="checkbox"/> Add New Officer					

Location where permit will be used. If an outdoor area, describe.

Lions Park, Lake Elmo, MN. Concession stand area.

If the applicant will contract for intoxicating liquor service give the name and address of the liquor license providing the service.

If the applicant will carry liquor liability insurance please provide the carrier's name and amount of coverage.

Insurance By Design, LLC. 14041 Burnhaven Drive. Suite 100. Burnsville, MN 55337 (certificate of insurance attached)

APPROVAL

APPLICATION MUST BE APPROVED BY CITY OR COUNTY BEFORE SUBMITTING TO ALCOHOL AND GAMBLING ENFORCEMENT

City/County	Date Approved
City Fee Amount	Permit Date
Date Fee Paid	

Signature City Clerk or County Official

Approved Director Alcohol and Gambling Enforcement

NOTE: Submit this form to the city or county 30 days prior to event. Forward application signed by city and/or county to the address above. If the application is approved the Alcohol and Gambling Enforcement Division will return this application to be used as the permit for the event.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/13/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insurance By Design, LLC 14041 Burnhaven Drive Suite 100 Burnsville MN 55337		CONTACT NAME: Julie Quiring PHONE (A/C No. Ext): (952) 808-7002 FAX (A/C No.): (952) 808-7004 E-MAIL: julieq@insurancedesign.net ADDRESS: Julie Quiring	
INSURED Minnesota Jaycees, Inc Affiliated Local Chapters 2101 West Highway 13 Burnsville MN 55337		INSURER(S) AFFORDING COVERAGE INSURER A: First Specialty Insurance Corp INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** CL1292001089 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$2,500 Deductible <input checked="" type="checkbox"/> Excl Athletic Part GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC		IRE200023500	9/22/2012	9/22/2013	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB DED <input type="checkbox"/> RETENTION \$	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N/A				WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	A Liquor Liability		IRE200023500	9/22/2012	9/22/2013	Each Common Cause \$1,000,000 Annual Aggregate \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Provides evidence of insurance for the Lake Elmo Jaycees as respects the Huff N Puff event to be held 8/8/13 to 8/11/13.

CERTIFICATE HOLDER

CANCELLATION

City of Lake Elmo
3800 Laverne Ave N
Lake Elmo, MN 55042

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

LuAnn Paulet/LBP



MAYOR AND COUNCIL COMMUNICATION

DATE: 07/02/2013

CONSENT

ITEM #: 7

RESOLUTION

AGENDA ITEM: Professional Engineering Support Services Consulting Pool – Approve Updated Pool to add EOR, Inc. in the area of Surface Water

SUBMITTED BY: Jack Griffin, City Engineer

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Ryan Stempski, Assistant City Engineer

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

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

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to consider approving the updated Professional Engineering Support Services Consulting Pool, thereby adding Emmons & Olivier Resources, Inc. (EOR) in the area of Surface Water.

STAFF REPORT:

The City Council approved the Professional Engineering Support Services Consulting Pool on March 20, 2012. The purpose of the pool is to establish a list of prequalified firms for staff to turn to for specialized engineering, architectural, landscape architectural, surveying and other support services when the need arises. The prequalification step serves to streamline the process for staff to access the available support services and to simplify the Request for Proposal (RFP) process when a specific project need is requested. It is also the practice of the city to amend the pool from time to time as needed to allow the city to add/drop consulting firms as deemed in the city's best interests. In July 2012, the pool was updated to include AE2S to allow the city to access their specialized expertise in the areas of Water and Wastewater Systems.

At this time the City Engineer is recommending that EOR be added to the Consulting Pool so that their specialized expertise in Surface Water may be made available for assisting staff with various engineering studies and design. EOR has submitted a statement of qualifications to the city providing the background and capabilities of the firm, a list of staff with resumes that would be assigned from time to time to city services and projects, a list of references from clients similar to Lake Elmo, and a current Professional Services Schedule of Billing Rates. If approved,

EOR would be asked to enter into a General Services Agreement in the form provided by the City.

RECOMMENDATION:

Staff is recommending that the City Council consider approving, *as part of the Consent Agenda*, the updated Professional Engineering Support Services Consulting Pool, thereby adding Emmons & Olivier Resources, Inc. (EOR) in the areas of Surface Water. If removed from the consent agenda, the recommended motion for this action is as follows:

“Move to approve the updated Professional Engineering Support Services Consulting Pool, thereby adding Emmons & Olivier Resources, Inc. (EOR) in the areas of Surface Water.”

ATTACHMENT(S):

1. Updated Professional Engineering Support Services Consulting Pool
2. Emmons & Olivier Resources, Inc. Statement of Qualifications *(available for review at City Hall)*

TABLE 1

CITY OF LAKE ELMO - PROFESSIONAL ENGINEERING SUPPORT SERVICES CONSULTING POOL						
General Municipal Services	Traffic Engineering & Transportation Planning	Water System	Wastewater	Surface Water	Municipal Buildings & Facilities	Parks, Landscaping, Urban Design
Bolton & Menk Inc. FOTH Infrastructure STANTEC Stevens TKDA	SRF Consulting Spack Consulting, Inc.	Barr Engineering Inc SEH AE2S KLM Engineering Inc.	Barr Engineering Inc AE2S	Barr Engineering Inc Hydromethods Solution Blue EOR, Inc.	No Award	No Award
<u>General Services - Specialties</u> <u>Surveying / Easements</u> Cornerstone Land Survey E.G.Rud and Sons, Inc. Folz, Freeman and Erickson						
<u>Water Tower Maintenance / Antennas</u> KLM Engineering Inc.			<u>GIS / Mapping</u> Flat Rock Geographics			



MAYOR AND COUNCIL COMMUNICATION

DATE: 7/02/2013

CONSENT

ITEM #: 8

**ORDINANCES 08-083 & 08-084;
RESOLUTION 2013-50**

AGENDA ITEM: Adopt Tree Service Ordinance
SUBMITTED BY: Adam Bell, City Clerk
THROUGH: Dean A. Zuleger, City Administrator
REVIEWED BY: Beckie Gumatz, Program Assistant

SUGGESTED ORDER OF BUSINESS

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

SUMMARY AND ACTION REQUESTED:

As part of the *Consent Agenda*, the City Council is respectfully requested to consider adopting Ordinance 08-083 providing for the licensing of commercial service providers, such as tree service contractors, performing work in the city. If Council chooses to remove this item from the *Consent Agenda* for discussion, it is recommended that the adoption be made by taking the following action:

“Move to adopt Ordinance 08-083, an ordinance establishing licensing and registration requirements for other commercial activities.”

Staff further recommends that the City Council adopt Resolution No. 2013-50 authorizing summary publication of Ordinance 08-083 by taking the following action. *Requires a 4/5 vote:*

“Move to adopt Resolution 2013-50, resolution authorizing publication of Ordinance 08-083 by title and summary.”

In addition, Staff further recommends that the City Council adopt Ordinance 08-084, an ordinance amending the Municipal Fee Schedule, by taking the following action.

“Move to adopt Ordinance 08-084, an ordinance amending municipal fees.”

BACKGROUND:

The City of Lake Elmo currently requires tree service contractors to obtain a license from the city. There is a fee that at some point was presumably approved, but Staff is unable to locate anywhere in the current code language that authorizes the City to require licensing of tree service contractors, other than as part of the recently amended Right-of-Way contractor/permit process. Contractors doing work in the Right-of-Way would be governed by those regulations.

Due to the nature of the work performed, is Staff's opinion that requiring tree services to obtain a city license is a reasonable obligation. There are innumerable scenarios imaginable where it would be important to have a contractor who is performing work on property in the City possess adequate insurance. This proposed ordinance outlines the process for commercial tree service contractors to obtain a city license.

The main requirement is to provide adequate proof of liability insurance for the event that damage to property or injury to persons occurs. To maintain a low burden on contractors that want to do business in the community, as well as the fact that the number of current licenses is a relatively low number and therefore does not take much staff time, Staff has recommended eliminating the fee for the license from the municipal fee schedule by adopting the included Ordinance 08-084. This may actually increase compliance with registering with the city. Council can always re-implement a fee if it is determined to be justified at a later date.

Most of the surrounding communities have this type of regulation in place for the protection of the legal, personal, and property rights of persons in the City. The recent severe weather is a perfect opportunity to justify the type of licensing structure. Staff received many requests from residents inquiring about tree service contractors. Unfortunately, the City was only able to refer residents to the four or five currently licensed contractors that have registered with the city since November 2012.

The code provisions were written to allow additional services to be added at a later date if the Council determines the need. Staff currently does not have any additional recommended services to be licensed. It should be noted that this licensing would only be required for commercial businesses engaging in or performing work in the city. Non-commercial persons performing the described activities on their own or others' properties would not be required to obtain a license.

RECOMMENDATION:

As part of the *Consent Agenda*, the City Council is respectfully requested to consider adopting Ordinance 08-083 providing for the licensing of commercial service providers, such as tree service contractors, performing work in the city. If Council chooses to remove this item from the *Consent Agenda* for discussion, it is recommended that the adoption be made by taking the following action:

"Move to adopt Ordinance 08-083, an ordinance establishing licensing and registration requirements for other commercial activities."

Staff further recommends that the City Council adopt Resolution No. 2013-50 authorizing summary publication of Ordinance 08-083 by taking the following action. *Requires a 4/5 vote:*

"Move to adopt Resolution 2013-50, resolution authorizing publication of Ordinance 08-083 by title and summary."

In addition, Staff further recommends that the City Council adopt Ordinance 08-084, an ordinance amending the Municipal Fee Schedule, by taking the following action.

"Move to adopt Ordinance 08-084, an ordinance amending municipal fees."

ATTACHMENTS:

1. *Ordinance 08-083, Ordinance Establishing Licensing and Registration Requirements for Other Commercial Activities*
2. *Resolution 2013-55, Authorizing Summary Publication of Ord. 08-083*
3. *Ordinance 08-084, Amending Municipal Fees*
4. *Fee Schedule*

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

ORDINANCE NO. 08-083

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
ESTABLISHING LICENSING AND REGISTRATION REQUIREMENTS FOR OTHER
COMMERCIAL ACTIVITIES IN LAKE ELMO, MINNESOTA.**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XI: Business Regulations; Chapter 116: Other Licenses and Registration, by adding the following language:

§ 116.01 POLICY.

It is deemed in the interest of the public and the residents of the City that certain commercial work or specific services performed on property within the city, be done only by individuals that have demonstrated or submitted evidence of their competency or ability to ensure the protection of the legal, personal, and property rights of persons in the City.

§ 116.02 LICENSE OR REGISTRATION REQUIRED; PERMITS

(A) *Commercial Tree Cutting, Trimming, Pruning, Removal, or Spraying*

(1) *License Required.* It shall be unlawful for any individual, partnership, or corporation to conduct as a business the cutting, trimming, pruning, removal, spraying or otherwise treating of trees in the City without having first secured a license from the City to conduct such a business. Licenses issued under this section shall expire on December 31 of each year.

(B) This division shall not be construed as preventing any such qualified licensee from performing the work by an employee under his/her supervision and control, or by contract with another person qualified to perform the same; provided that the contractor is subject to the control of the licensee, and the licensee is at all times responsible for the work performed. A contractor not subject to the control of a licensee shall be required to obtain a license.

(C) *Permit not required.* No permit is required for the services or work described in this section unless required elsewhere in this code.

§ 116.03 APPLICATION FOR LICENSE; INSURANCE REQUIREMENTS; ISSUANCE OR DENIAL.

(A) *Contents of application; insurance.*

(1) Applications for a license shall be made on forms provided by the City Clerk. On such form, the applicant shall state the following information:

(a) His/her name, and business and home address; and if the application is made on behalf of a partnership, association or corporation, the name and address of such partnership, association or corporation, and the phone number of the contact person;

(b) If the proposed licensee is a partnership, the name and home addresses of all partners; or if the proposed licensee is an association or corporation, the names and home addresses of its principal officers and managers and of the owners (not to exceed 10) or the largest shareholders of the business or enterprise; and

(c) Such information as is required to be furnished by ordinance or is reasonably required by the City Clerk or other applicable City departments.

(2) The application shall include documentation indicating insurance coverage, which shall remain in effect during the license term, naming of the City as an additional insured, and non-cancellation provisions, which provide a minimum of 30 days' notice to the City prior to cancellation, as follows:

(a) Comprehensive general liability insurance not less than \$100,000 for injuries including accidental death to any one person, and subject to the same limit for each person in an amount of not less than \$300,000 on account of any one accident;

(b) Property damage insurance not less than \$50,000 for each accident and not less than \$100,000 aggregated; and

(c) Workers compensation insurance coverage of employees as required by state law.

(B) *Signatures required.* The proposed licensee shall sign the application; or if the proposed licensee is a partnership, an association or corporation, at least one person having power under its bylaws to execute contracts of the association or corporation shall sign.

(C) *Issuance of license.* The license shall be granted by the City Clerk.

(D) *Denial of license; appeal.* In the event the City Clerk determines that the application does not comply with the ordinance criteria, the report and recommendation of the City Clerk and applicable staff shall be referred to the City Council, together with the reason or reasons for the proposed denial. A copy of the recommendation shall be supplied to the applicant. The applicant may appear before the City Council to respond to the recommendation of denial. The City Council shall make the appropriate findings and either issue or deny the license application.

§ 116.04 STANDARDS FOR LICENSE ISSUANCE; SUSPENSION OR REVOCATION OF LICENSE; TERM.

(A) *Standards for issuance generally; term.* Licenses and renewals thereof shall be issued after a verification of the applicant's qualification and record in the performance and operation of the types of work for which the applicant seeks a license. Licenses shall be issued for one

calendar year from January 1 through December 31. New licenses will run from date of issuance through December 31.

(B) *Standards for denial, suspension, or revocation.* Licenses and renewals therefore may be denied, suspended, or revoked by the City Council for any of the following reasons:

(1) Failure to complete the application or file the required license fee or insurance policy;

(2) Violations of licensing ordinances by applicant, or suspension or revocation licenses held by the applicant in the City or elsewhere;

(3) Disregard or violation of any state, county, or City law which creates a threat to the public peace, health, safety and welfare; or

(4) Any conduct which is contrary to the public interest, including, but not limited to, fraud, misrepresentation, or other dishonest or deceitful conduct or act.

(C) *Procedures for suspension or revocation.* If any licensee violates or is in default of complying with any condition, requirement, duty or rule of conduct imposed on him/her by any statute or ordinance, or if any one or more of the foregoing conditions exist, the City Clerk may initiate proceedings before the City Council to suspend or revoke the licensee's license. Procedures for suspension or revocation shall be as follows.

(1) The licensee shall be provided with notice of the reasons for any proposed suspension or revocation. The notice shall provide the licensee with an opportunity to explain the rationale for the proposed suspension or revocation.

(2) The licensee shall be notified in advance of the date, time, place and purpose of the council meeting where the action on the license will be considered. The licensee shall have an opportunity to be heard at the meeting. After making appropriate findings, the council may continue the license in effect, impose conditions on the license or revoke the license.

§ 116.05 LICENSE FEE.

The annual fee for license shall be established by ordinance of the City Council from time to time.

§ 116.06 EXEMPTIONS FROM PROVISIONS.

No license will be required under this chapter in the following circumstances.

(A) For public service corporations performing work upon or in connection with their own property, except as may be provided by other provisions of this code.

(B) In the event where circumstances preclude obtaining a license prior to work being performed, such as during or following severe weather, a license must be obtained from the City within 72 hours.

§ 116.07 CHEMICAL TREATMENT REQUIREMENTS.

Applicants who propose to use chemical substances in any activity related to treatment or disease control of trees shall file with the City proof that the applicant or the employee of the applicant administering such treatment has been licensed by the Minnesota Department of Agriculture as a Commercial Pesticide Applicator for the current year of operation.

§ 116.08 EFFECT ON LIABILITY.

This chapter shall not be construed to affect the responsibility or liability for any party owning, operating, or installing the work described in this chapter for damages to persons or property caused by any defect therein, nor shall the City be held as assuming any such liability by reason of the licensing of persons engaged in such work.

§ 116.09 PENALTY. In addition to the revocation or suspension of the license, any person violating any of the provisions of this Section shall be guilty of a misdemeanor.

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 08-081 was adopted on this second day of July 2013, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

This Ordinance 08-083 was published on the ____ day of _____, 2013.

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

RESOLUTION NO. 2013-50

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE
08-083 BY TITLE AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-083, an ordinance to add Chapter 116 – Other Licenses and Registration; and

WHEREAS, the ordinance is lengthy; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-083 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-083, which represents a revision to the City Code, specifically establishing requirements for the licensure of other commercial service providers, such as tree service contractors, performing work in the city. The adopted additions include:

- Specifies *Commercial Tree Cutting, Trimming, Pruning, Removal, or Spraying* as activity requiring city licensure
- Process and requirements for obtaining specified city license
- Suspension and revocation of license procedures
- Fees and exemptions from the provisions.

The full text of Ordinance No. 08-083 is available for inspection at Lake Elmo city hall during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: July 02, 2013.

CITY OF LAKE ELMO

Mayor Mike Pearson

(seal)

ATTEST:

Adam Bell, City Clerk

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

Whereupon said resolution was declared duly passed and adopted.

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

ORDINANCE NO. 08-084

AN ORDINANCE AMENDING MUNICIPAL FEES

The Lake Elmo City Council hereby adopts the following fee schedule amendment and directs that it be added to the Lake Elmo Municipal Code as Appendix A.

- Removal of \$70 Tree Contract License Fee from fee schedule

ADOPTION DATE: Passed by the Lake Elmo City Council on the second day of July, 2013 by a vote of ____ Ayes and ____ Nays.

CITY OF LAKE ELMO

By: _____
Mike Pearson
Mayor

ATTEST:

Adam Bell
City Clerk

EFFECTIVE DATE: This ordinance shall become effective immediately upon adoption and publication.

PUBLICATION DATE: Published on the _____ day of _____ 2013.



City of Lake Elmo Fee Schedule 2013

APPLICATION/FEE/PERMIT TYPE	2013 FEE	ESCROW OR ADDITIONAL CHARGE	DEPARTMENT
Conditional Use Permit (CUP)			
New	\$1,050.00	Wireless Communication Facilities Fee Escrow \$6,000.00. Flood	Planning
Amended	\$500.00	Plain Ordinance Fee Escrow \$500.00.	Planning
Contractor License Fees			
Demolition	\$50.00		Licensing
Driveway	\$50.00		Licensing
Excavator	\$50.00		Licensing
HVAC	\$50.00		Licensing
Irrigation	\$50.00		Licensing
Sewer/Water Line Installer	\$50.00		Licensing
Sign Installer	\$50.00		Licensing
Solid Waste Hauler	\$120.00		Licensing
Tree Contract	\$70.00		Licensing
Copy Services (Paper/Electronic)			
Copies (B&W)	\$0.25 per page		Administration
Copies (Color)	\$0.50 per page		Administration
Copies (B&W) 11x17	\$1.00 per page		Administration
Copies (Color) 11x17	\$2.00 per page		Administration
GIS Scaled Aerial	\$15.00		Administration
City Street Maps (36x40)	\$20.00		Administration
Existing Maps	\$5.00		Administration
Custom (Per Hour Rate)	\$70.00		Administration
Plan Size Maps (Larger than 11x17)	\$20.00		Administration
Development Standards Specs/Details	\$55.00		Administration
Code Book	\$160.00		Administration
Code Book Sections 1,2,4,6-12,14	\$12.00		Administration
Code Book Section 3	\$52.00		Administration
Code Book Sections 5 & 13	\$27.00		Administration
Comprehensive Plan	\$125.00		Administration
OP Ordinance	\$12.00		Administration
Parks Plan	\$80.00		Administration
Culverts in Developments with Rural Section	\$160.00		Administration
Daycare Inspection Fee	\$60.00	Plus \$5.00 Surcharge (State Mandated) Plus 1% of Value. Minimum \$100.00	Fire



MAYOR AND COUNCIL COMMUNICATION

DATE: 07/02/2013

CONSENT

ITEM #: 9

AGENDA ITEM: Variance – 4719 Olson Lake Trail

SUBMITTED BY: Nick Johnson, City Planner

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Kyle Klatt, Planning Director

SUGGESTED ORDER OF BUSINESS:

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

SUMMARY AND ACTION REQUESTED:

The City Council is asked to consider a Variance at 4719 Olson Lake Trail North to allow the construction of a covered porch within the 100 foot shoreland setback per the City's Shoreland Ordinance (§150.255). The Planning Commission held a public hearing on June 24, 2013, at which time no one spoke in favor or against the variance. The Planning Commission unanimously recommended the variance for approval.

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

"Move to approve Resolution No. 2013-51, approving the variance requested at 4719 Olson Lake Trail North to allow construction of a covered porch within the 100 foot shoreland setback."

BACKGROUND AND STAFF REPORT:

The City of Lake Elmo received an application for a variance from Mrs. Mary Florence Brink and Mr. Thomas Brink. The variance would allow the construction of a covered porch within the 100 foot shoreland setback at 4719 Olson Lake Trail North. The applicants intend to construct the porch as part of a new single family home, replacing the existing home. The location of the new home is proposed to be in a similar location with a reduced footprint. However, due to the existence of two large, mature oak trees on the north side of the property, the applicants are unable to construct the covered porch without encroaching on the 100 foot shoreland setback. While decks are a permitted encroachment into the 100 foot shoreland setback, covered structures are not allowed as a permitted encroachment. The applicants have noted that a screened porch is important to reasonably enjoy the property due to the fact that Thomas Brink is strongly allergic to wasps and bees. In order to confirm the site conditions requiring the porch to

be located within the 100 foot shoreland setback, Staff made a site visit and found the physical constraints to be accurate. Photos from the site visit are found in attachment #6. In addition, the site plans detailing the existing conditions and the proposed new single family home are found in attachment #4.

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

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

Staff reviewed the application and determined that the variance request met the 4 required findings. Additional detail about this review can be found in the Staff Report to the Planning Commission, attachment #2.

Finally, the applicant is still working with Washington County to determine if the existing septic system is compliant according to Washington County rules. Based upon a preliminary review of the septic system, it is more than likely that the system will be deemed non-compliant. If that is the case, it is possible that the applicants will be applying for an additional variance to allow for holding tanks for a period longer than 12 months, which is a longer time period than is allowed under Washington County rules. Given that the property is in the area guided for future sewer extension in the City's Comprehensive Plan, the City would consider the variance request as long as the design and proposal met the approval of Washington County. Any issues or considerations pertaining to the septic system must be resolved before the issuance of a building permit.

RECOMMENDATION:

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

“Move to approve Resolution No. 2013-51, approving the variance requested at 4719 Olson Lake Trail North to allow construction of a covered porch within the 100 foot shoreland setback.”

ATTACHMENT(S):

1. Resolution No.2013-51
2. Staff Report to the Planning Commission, 6-24-13
3. Variance Application w/Narrative
4. Site Plans
5. Location Map
6. Site Photos

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

RESOLUTION NO. 2013-51

*A RESOLUTION APPROVING A VARIANCE TO ALLOW FOR THE CONSTRUCTION
OF A COVERED PORCH WITHIN THE 100 FOOT SHORELAND SETBACK AT 4719
OLSON LAKE TRAIL NORTH*

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

WHEREAS, Mrs. Mary Florence Brink and Mr. Thomas Brink, 1941 Millbank Street Southeast, Grand Rapids, Michigan, (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a variance to allow the construction of a covered porch at 4719 Olson Lake Trail North that would encroach on the 100 foot shoreland setback; and

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on June 24, 2013; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated July 2, 2013; and

WHEREAS, the City Council considered said matter at its July 2, 2013 meeting.

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

FINDINGS

- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.017.
- 2) That all the submission requirements of said Section 154.017 have been met by the Applicant.
- 3) That the proposed variance is to allow construction of a covered porch within the 100 foot shoreland setback as required by the City Shoreland Ordinance.
- 4) That the Variance will be located on property legally described as follows:
Government Lot 2, Section 8, Township 29 North, Range 21 West, Washington County, Minnesota. More commonly known as 4719 Olson Lake Trail North.

- 5) That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. *Specific findings: That the proposed use is reasonable because the owner of the property has a strong allergy to bees and wasps and the site conditions do not allow for the construction of a covered porch in another location.*
- 6) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. *Specific findings: That the applicant's property is unique due to the existence of multiple mature oak trees on the north side of the property that do not allow for the covered porch to be sited in that location.*
- 7) That the proposed variance will not alter the essential character of the locality in which the property in question is located. *Specific findings: That the proposed covered porch is consistent with the other single family homes on Olson Lake and will not alter the essential character of the locality.*
- 8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. *Specific findings: The allowance of the covered porch within the 100 foot shoreland setback will not impair the supply of light and air to adjacent properties, or increase the congestion of public streets, or diminish or impair property values within the neighborhood.*

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicant's application for a Variance is granted.

Passed and duly adopted this 2ND day of July 2013 by the City Council of the City of Lake Elmo, Minnesota.

ATTEST:

Mike Pearson
Mayor

Dean Zuleger
City Administrator



**City of Lake Elmo Planning Department
Variance Request**

To: Planning Commission

From: Nick M. Johnson, City Planner

Meeting Date: 06/24/2013

Applicant: Mary Florence Brink and Thomas W. Brink

Owner: Mary Florence Brink and Thomas W. Brink

Location: 4719 Olson Lake Trail

Zoning: RS – Rural Single Family

Introductory Information

Application Summary: The City of Lake Elmo has received an application from Mary Florence Brink and Thomas Brink, 1941 Millbank Street Southeast, Grand Rapids, Michigan, for a variance to construct a single family home with a covered deck that encroaches on the 100-foot setback from the Ordinary High Water (OHW) level per the City's Shoreland Ordinance. The proposal involves the demolition of an existing single family home, followed by the construction of a new single family home in its place.

The applicant has provided a written statement to the City indicating the reason for the encroachment of the covered deck (screened porch) into the 100-foot shoreland setback. In addition, the applicant narrative addresses how the proposed variance meets the 4 required findings to grant a variance.

Property Information: The property at 4719 Olson Lake Trail North (CSAH-13) is located on the western shore of Olson Lake in Lake Elmo. The attached location map details the location of the property.

Applicable Codes: **Section 150.255 – Shoreland Standards**

(D) *Placement, design, and height of structures.*

(1) *Placement.* When more than 1 setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows.

(a) *Structure and on-site sewage system setbacks.* Structure and on-site sewage system setbacks (in feet) from ordinary high water level.

Setbacks From OHW		
Classification	Structures	Sewage Treatment System
Natural Environment	150 feet	150 feet
Recreational Development	100 feet	75 feet
Tributary	100 feet	75 feet

Section 150.256 Non-Conformities

(2) *Additions/expansions to non-conforming structures.*

(a) *Additions/expansions.* All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of § 150.255. Any deviation from these requirements must be authorized by a variance pursuant to § 150.253(B)(2).

(b) *Decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met.

1. The structure existed on the date the structure setbacks were established.
2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
3. The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.
4. The deck is constructed primarily of wood and is not roofed or screened.

Section 150.017 Variances.

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

Findings & General Site Overview

Site Data: Lot Size: 0.56 acres
Existing Use: Single Family Detached Dwelling
Existing Zoning: RS – Rural Single Family
Property Identification Number (PID): 08.029.21.14.0060

Application Review:

<i>Variance Review:</i>	<p>As outlined in the narrative, the applicant is seeking to build a new single family home at 4719 Olson Lake Trail North in nearly the same footprint as the existing home. The proposal includes a deck with a covered porch within the shoreland setback. The Shoreland Ordinance requires a 100' setback for structures for recreational development lakes.</p> <p>It should be noted that that existing home has a deck that encroaches within the 100-foot setback from the OHW. Per the code section pertaining to non-conformities in the Shoreland District (§150.256.B.2.b.), decks are considered a permitted encroachment into the shoreland setback, as long as the encroachment does not exceed 15%. However, the reason that the proposal requires a variance is that they wish to have part of the deck covered as a screened porch, which is not allowed under the permitted encroachment of a deck.</p> <p>Regarding the need for a covered porch, the applicants have indicated that Thomas Brink is strongly allergic to vespids, or wasps/bees. Therefore, a covered porch on the deck would greatly increase the applicants' ability to enjoy their property. Regarding the location of the deck, the applicant's have stated that the existence of multiple mature oak trees prevent the screened porch from being located on the North side of the home. Staff conducted a site visit on June 18th, 2013 and confirmed the location and significant size of the trees referenced in the application. The applicants would like to preserve these mature oak trees for the screening they provide, as well as their environmental value to the property.</p>
<i>Variance Requirements:</i>	<p>An applicant must also establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below:</p> <ol style="list-style-type: none"> 1. Practical Difficulties. A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control. 2. Unique Circumstances. The plight of the landowner is due to circumstances unique to the property not created by the landowner. 3. Character of locality. The proposed variance will not alter the essential character of the locality in which the property in question is located. 4. Adjacent properties and traffic. The proposed variance will not impair an

adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

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

1. *Staff finds that the proposed use of a covered porch in the proposed location is a reasonable use of the property. Given that the applicant has an allergy to bees and wasps, a screened porch seems like a reasonable use of the property not permitted by an official control. In addition, the applicant has demonstrated that the proposed location of the porch is the most suitable location on the site given the location of the two mature oak trees. Staff determines that this criterion is met.*
2. *The location of the mature oak trees is a unique circumstance not created by the landowner. The applicant has also noted other physical constraints of the lot that impact their ability to site the porch in another location. After analyzing the surveys and conducting a site visit, Staff determined that the proposed location of the covered porch is the most suitable location. Staff determines that this criterion is met.*
3. *The applicant has noted that the architectural design of the home (and porch) will not conflict with the essential character of the neighborhood. Staff finds that the approval of the variance to allow the covered porch will not alter the character of the neighborhood. Staff determines that this criterion is met.*
4. *The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. Staff determines that this criterion is met.*

Conclusions: Staff finds that the applicants have met the 4 necessary criteria for a variance and demonstrated that the desire to build a covered porch is a reasonable use of the property not permitted by an official control. Staff has reviewed the proposed location of the porch and conducted a site visit, confirming that the plight of the landowner is due to circumstances unique to the property. Staff finds that the proposed location of the covered porch is the most suitable location on the site.

Conclusion:

Mary Florence Brink and Thomas Brink, 1941 Millbank Street Southeast, Grand Rapids, MI, have submitted a request for a variance to construct a covered porch within the 100-foot shoreland setback at 4719 Olson Lake Trail North. The covered porch will be constructed as part of a project to construct a new single family home.

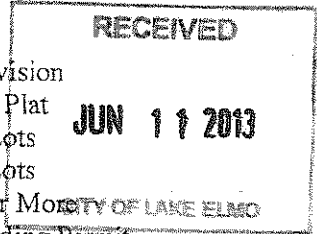
Staff Rec:	Staff is recommending that the Planning Commission recommend approval of the variance request by Mary Florence Brink and Thomas Brink given that the request meets the four criteria for a variance.
Approval Motion	To approve the request, you may use the following motion as a guide:
Template:	<i>“Move to recommend approval of the variance request at 4719 Olson Lake Trail North to allow the construction of a covered porch within the 100-foot shoreland setback based upon the findings outlined in the Staff Report.”</i>

cc: Mary Florence Brink and Thomas Brink

Fee \$ _____

City of Lake Elmo
DEVELOPMENT APPLICATION FORM

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



APPLICANT: Mary Florence Brink 1941 Millbank St SE Grand Rapids Michigan
(Name) (Mailing Address) (Zip) 49508

TELEPHONES: 616-452-2883 651-779-4123 616-322-6591
(Home) (Work) (Mobile) (Fax) cell

FEE OWNER: _____
(Name) (Mailing Address) (Zip)

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

PROPERTY LOCATION (Address and Complete (Long) Legal Description): attached
4719 Olson Lake Trail N, Lake Elmo, MN 55042

DETAILED REASON FOR REQUEST: _____

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

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

Thomas S. Brink 6/7/13
Signature of Applicant Date

Mary Florence Brink 6/10/13
Signature of Applicant Date

June 10, 2013

Variance Request

4719 Olson Lake Trail N., Lake Elmo, MN 55042

a) Property owners are Thomas W. Brink and Mary Florence Brink. Ownership of the property was recently transferred from the trust of Robert F. Coles (deceased 4/15/11) and the trust of Catherine E. Coles to the current owners, and registered with Washington County on May 30, 2013.

b) Legal description: SECT 8 TWP 29 RG 21 PT GOV LOT 2 LYING ELY OF OLSON LAKE RD & LYING WITHIN FOLL DESC BDRY SECT 8 TWP 29 RG 21 PT GOV LOT 2 LYING ELY OF OLSON LAKE RD & LYING WITHIN FOLL DESC BDRY The property consists of 3 parcels that have been combined into one lot, 0.51 acres or 22,216 square ft in size. For the full legal description see Exhibit A in the accompanying packet showing the recent transfer of title.

PID: 08.029.21.14.0060

Existing use is for a residential home. Property is zoned R-1 residential.

Legal issues: There is currently a multi client title registration action being undertaken by the owners and 5 neighbors to the south to clarify a discrepancy of roughly 3' in the description of the lines separating the properties and the placement of existing surveyor monuments between the properties. The placement of the house on the lot as described in the **additional information** below keeps the proposed structure within the setback requirements of either boundary. The pump house easement shown on the survey has been vacated recently, so the easement setback is irrelevant.

c) A variance is sought for the Ordinary High Water setback of the proposed structure from section 150.255 subsection D-1-a, 150.256 B-2-b-3 and 150.256 B-2-b-4.

d) A variance is requested for placing a roofed screened area on the northernmost 1/3 of the deck. This is needed because the proposed screened porch encroaches on the 100' structure setback from Olson Lake, a Recreational Development Lake, by 12'. The screened porch will encroach no further than the proposed deck, which will remain within the 15% setback, per 150.256 subsection B-2-b-3. Code does not allow for a new *roofed* structure within that setback. (150.256 B-2-b-4)

e) Our architect, John Dwyer, AIA, and I have met with the Lake Elmo city planner, Kyle Klatt, and discussed the plans, ordinances and variance procedures. We discussed the fact that the lot size, setback restrictions, topography (a 15% grade sloping down from the road to the lake), and particularly the location of two oak trees we wish to preserve on the site severely restrict our options and limit design flexibility if we are to achieve our goal of building a home for aging in place, with all needed amenities on one level.

f) Denial of the variance would diminish our enjoyment and use of the property. Having a screened porch will allow us extended use of the deck, free from mosquitoes in the evening, and from, wasps, yellow jackets, and bees during the day. Thomas Brink is allergic to vespids and our daughter has very strong reactions to mosquito bites. Existing mature oak trees prohibit the screened porch from being located on any other side of the house without their removal. These trees are not only of significant environmental and personal value, but they would also screen the

view of the deck and screened porch both from the lake and from the nearest neighbor to the north, the end of the deck where the screened area will be located. The deck and screened porch will still be within the 15% allowance granted by code for attached decks within 100 feet of the ordinary high water line. In order to get maximum use and enjoyment of the deck, it makes the most sense to screen in a small portion of it. A screened porch will add value to the property.

g) The property is wooded to the north of the house. We wish to preserve 2 centrally located oak trees that are just north of, and immediately adjacent to the house and new garage location, which precludes expanding into the space to the north. The small size of the lot and setback requirements do not allow for moving the house or expanding into the area to the east, south, or west. The lot is too shallow from the road to the lake to accommodate a structure that sits much outside of the footprint of the current house. There is no other location on the property that would not infringe on setback requirements in one direction or another, or would not cause the destruction of the trees, where we could place a screened deck area.

h) The architectural design of the house is interesting but will not conflict with the essential character of the neighborhood, which has a mix of building styles. The size of the house has been kept intentionally modest both for aesthetic reasons and as an energy conservation measure. The exterior will be neutral in color and blend with the environment. An existing pump house near the lake (an eyesore) will be removed from the property. The landscaping will include prevention of excessive runoff into the lake, return some of the existing lawn to native non-invasive species, and include additional plantings of shade trees, fruit trees, a kitchen garden, and a tastefully concealed composting area and rain collection for garden and lawn irrigation. The new home will be an aesthetic improvement to the neighborhood, and add to the tax base of the community.

Additional information about the project

The existing structure is an uninsulated cinderblock house built in 1955. The heating ducts for the main floor are in the unconditioned attic. There is no AC. The walkout basement ceiling height is 6'8", with concrete support beams below that height that are 6" deep. This is not considered "livable" space due to the low ceiling. The basement was never excavated to the full extent of the main floor footprint. There is an attached garage, barely big enough for one car, with entry to the house through the master bedroom.

The proposed structure will essentially be built on the footprint of the existing house, with these differences. It has a smaller footprint (proposed: 46 ft x 30 ft; existing: 58½ ft x 30 ft); the garage will extend toward the road in front (24ft x 24ft); the house will be turned on the lot 11° clockwise to provide better solar access. Turning the house and the smaller footprint put the main structure in compliance with the existing setback codes for next door neighbors and the distance from the ordinary high water line, which it currently is not. The main floor level will be raised between 2 and 3 feet to accommodate the 8-foot height needed for the walkout basement ceiling.

There are multiple goals for this project:

- 1) Provide a home for the owners to age in place, i.e., with a no step entry and all necessary amenities on the main floor.
- 2) Net zero energy: the home will be super insulated, energy efficient, and produce as much energy annually as it consumes.
- 3) The home will be sustainable in that the manufacture, transportation, installation and

maintenance of materials used do not degrade the ecosystem or permanently deplete resources.

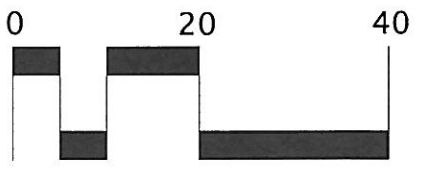
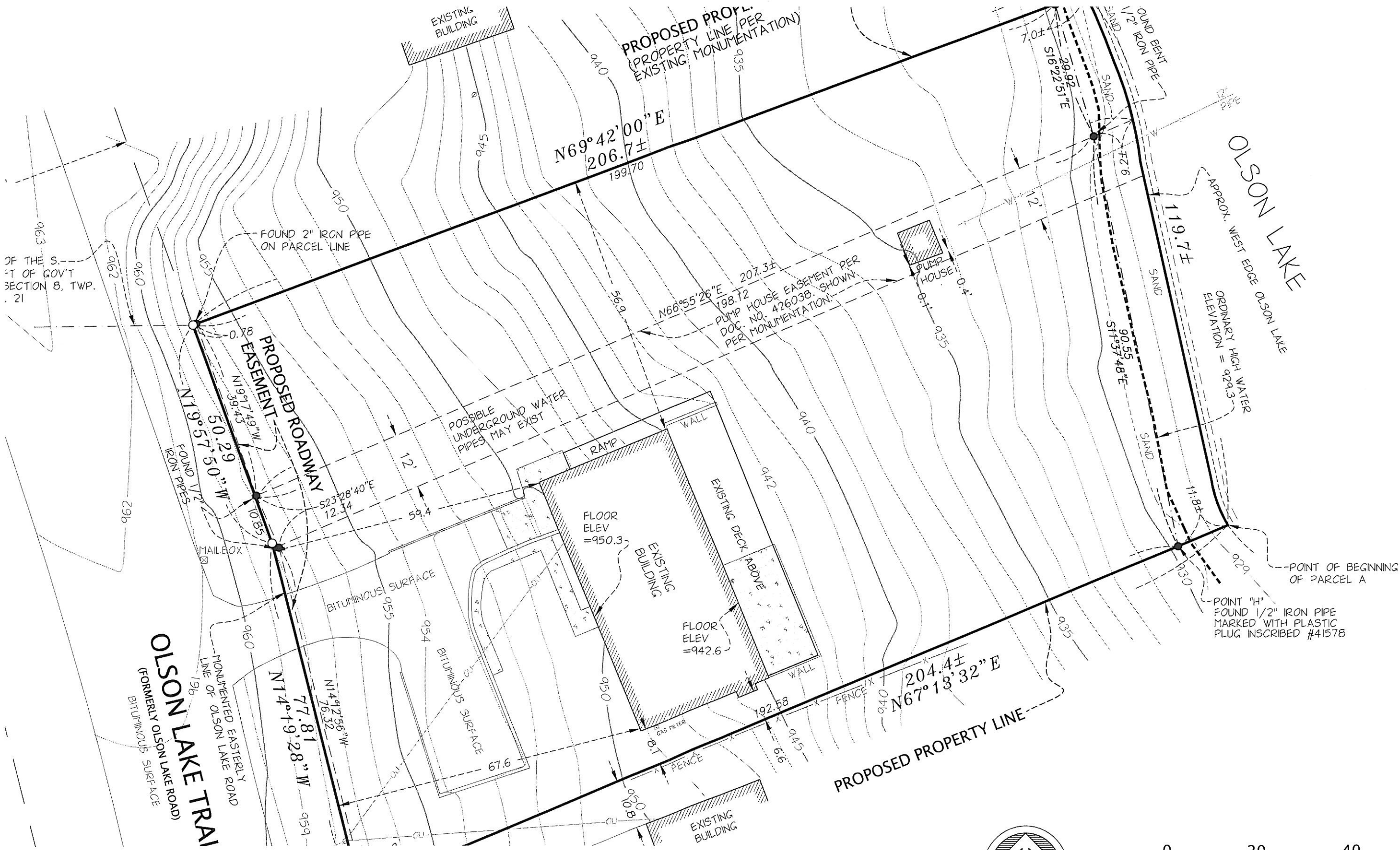
4) The home will be constructed as much as possible using local labor and resources.

5) The home will be made of durable materials requiring little maintenance.

6) The home will seek LEED and Minnesota GreenStar certification, and may also qualify for Passive House certification.

7) The operation and maintenance of the home will have minimal impact on the environment and fit with the character of the neighborhood.

8) The home will serve as an example for local designers and builders of methods for sustainable and energy efficient construction, a resource for the Lake Elmo community.







Location Map: 4719 Olson Lake Trail North



Data Source: Washington County, MN
6-17-2013



4719 Olson Lake Trail North



Municipal Boundary

0 200 400 800 Feet



1"=400'



Brink Variance—4719 Olson Lake Trail North
Site Visit: June 18, 2013



North side of Brink Property w/two mature oak trees



North side of deck and structure



Location of future covered porch



View of the rear of existing home



MAYOR AND COUNCIL COMMUNICATION

DATE: 07/02/2013

CONSENT

ITEM #: 10

AGENDA ITEM: Country Sun Farm and Greenhouses Interim Use Permit Renewal

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Nick Johnson, City Planner

SUGGESTED ORDER OF BUSINESS:

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

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider a request from Country Sun Farm and Greenhouses, 11211 60th Street North, to renew the Interim Use Permit related to its Agricultural Sales Business. As per the City Code, Staff sent out notices of the interim use permit renewal to all property owners within 350 feet of the request, and because there were no comments received within the specified time period, the applicant's request for renewal may be acted upon by the Council without an entirely new application. Staff has amended the original consent agreement related to the interim use to incorporate a time extension and is asking that the Council authorize the Mayor to execute the updated agreement.

Although a Planning Commission review was not required in this instance, the Commission did discuss the renewal request at its June 24, 2013 meeting and made a recommendation to the City Council concerning the renewal.

Staff and the Planning Commission recommend that the City Council approve the Interim Use Permit renewal request from Country Sun Farm and Greenhouses by taking the following action:

"Move to approve a renewal of the Interim Use Permit for the Country Sun Farm and Greenhouses and to authorize execution of a revised Consent Agreement to reflect and extended time period for the Interim Use"

BACKGROUND AND STAFF REPORT:

There are a several conditions that were attached to the City's original IUP review, which are documented as part of the attached consent agreement. The ones that warrant further consideration deal with: trip

generation, traffic management plan, master inventory of buildings and traffic count study. All other conditions have not been an issue over the past two years.

As an update to the other conditions, please note the following:

- ***Trip Generation/Traffic Counts:*** The interim use agreement establishes a maximum number of vehicle trips to the site that is partly based on limiting vehicle trips to no more than would be expected should the property develop for residential use. The applicant was also required to prepare a traffic count study for the business (including both daily and peak traffic counts) that was to be included with a request for renewal. In order to comply with this provision, the applicant purchased a traffic counting device that was used to log vehicle trips to the site throughout the 2012 fall season. The resulting data shows that for the majority of the days in October of 2012, the applicant was under the maximum daily traffic allowed (two times the base rate of 18 vehicle trips per 40 acres of land or 675 trips), but exceeded this amount on at least two of the days. The applicant is nowhere near the annual limit imposed by the interim use agreement. The peak number of trips was 947 trips in a day, with most being around or below the 700 number. Because the peak number only occurred on the two weekend days prior to Halloween (and may have been influenced by rainy days on the preceding weekend days) Staff does not recommend that the peak traffic counts be used to reject the renewal request, and instead would recommend that the applicant continue monitor trips to the site as requested by the City. Please also note that the traffic management plan is intended to help minimize the problems created by these periods of peak demand.
- ***Traffic Management Plan.*** The applicant prepared a plan for managing traffic that was presented to MnDOT last year, but was never formally permitted by the State. The primary component of this plan was a sign within the TH36 right-of-way that would warn drivers of slower traffic ahead. The applicant has stated that they will again submit a permit for review by MnDOT, and City Staff will work with the applicant to ensure that this plan is implemented.
- ***Master Inventory of Buildings and Activities.*** The applicant has submitted a map documenting the use of all buildings on the property and the location of all other activities taking place on the site. Staff has converted this information into a GIS file that may be used in the future to help document compliance with City regulations.

Staff is not aware of any other issues that have arisen in the past two years concerning the ongoing operation of the Country Sun Farm and Greenhouses sales business and recommended that the Planning Commission recommend renewal of the interim use. The applicant has requested an extension of 20 years for the interim use. Staff recommended that the interim use extension be granted for no more than five years due partly to its location along Highway 36 and the ongoing planning work that continues for the corridor. The Planning Commission recommended a 10-year renewal interval.

PLANNING COMMISSION REPORT:

The Planning Commission reviewed the request to renew the Interim Use Permit for the Country Sun Farm and Greenhouses at its June 24, 2013 meeting. The Commission did not find that the terms and conditions of the Interim Use warranted any further revisions, but did recommend that the IUP be extended for a period of 10 years instead of the 20 years as requested by the applicant.

RECOMMENDATION:

Based on the above background information and report, Staff and the Planning Commission recommend that the City Council approve the request to renew the Interim Use Permit for the Country Sun Farm and Greenhouses for a period of 10 years by taking the following action:

amendment to the Country Sun Farm and Greenhouses Conditional Use Permit to allow children's inflatable bouncers as one of the permitted activities on the site through the following motion:

"Move to approve a renewal of the Interim Use Permit for the Country Sun Farm and Greenhouses and to authorize execution of a revised Consent Agreement to reflect and extended time period for the Interim Use"

ATTACHMENT(S):

1. Consent Agreement – Interim Use Permit (Revised)
2. Building Site Inventory

CONSENT AGREEMENT INTERIM USE PERMIT

1.0 Parties. This Consent Agreement/Interim Use Permit ("Agreement") is entered into by and between the City of Lake Elmo, a Minnesota statutory ("City"); and Country Sun Farm & Greenhouses Inc., ("Applicant").

2.0 Recitals.

A. Applicant is the record fee owner of the following described property situated in Lake Elmo, MN ("Property"):

See Exhibit A.

More commonly known as 11211 60th Street North.

B. The Property is zoned Agricultural and Rural Residential.

C. Interim uses are allowed in the Agricultural and Rural Residential zoning district subject to the regulations contained in Lake Elmo City Code Section 154.019.

D. Applicant has requested that the City allow the Property to be used for Agricultural Sales in the sales building and attached greenhouses as identified on Map #1 / Site Plan attached as Exhibit B (Site Plan):

E. On the 29th day of June, 2011, Applicant submitted a completed application for an Interim Use Permit.

F. On the 8th day of August, 2011, the Lake Elmo Planning Commission, at a public hearing, reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments and reports, public comments, and recommended approval of the interim agricultural sales use subject to certain conditions.

G. On the 28th day of August, 2011, the Lake Elmo City Council reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments and reports, public comments, and the recommendations of the Lake Elmo Planning Commission, and denied the interim use permit requested

H. On the 20th day of September, 2011, the Lake Elmo City Council reconsidered the Interim Use Permit application along with city staff comments and reports, Applicant's comments and reports, public comments and the recommendations of the Lake Elmo Planning Commission and agreed to authorize the interim use subject to the terms and conditions as specified in Section 154.019 of the Zoning Ordinance and Resolution 2011-040 approving the interim use permit.

- I. On July 2, 2013 the Lake Elmo City Council approved a request to renew the Interim Use Permit for an additional ten years, and authorized the Mayor to execute a consent agreement with the Applicant that includes the new termination date.

3.0 Terms and Conditions. The Lake Elmo City Council and Applicant, for itself, and its successors and assigns, agree that the interim agricultural sales use shall be subject to the following conditions:

- A. The Applicant, and its successors and assigns, shall have no entitlement to future re-approval of the Interim Use Permit.
- B. The operator must be able to demonstrate at all times to the city that there is sufficient access, parking, and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.
- C. All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.
- D. All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.
- E. Trip generation shall be limited to the yearly average daily trips calculated for the underlying zoning, with no daily trip generation to exceed twice the daily calculation rate for the underlying zoning. The base daily trip generation is established at 180 vehicle trips per day for every 40 acres. It was determined that 149 acres of land will be utilized for calculating trip generation.
- F. Should the property owners sell or utilize any of the 149 acres of land for uses not compatible with an Agricultural Entertainment Business or Agricultural Sales Business or a permitted use, this Interim Use Permit shall be brought back to the City Council for review.
- G. Any exterior storage of equipment and materials other than the display of products being sold or agricultural equipment currently in use on the property shall be prohibited, unless otherwise exempted in accordance with Section 150.001 through 150.003 of the City Code.
- H. There shall be a minimum buffer of 100 feet between any sales areas or sales buildings and any adjacent residential property lines.

- I. Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s).
- J. Trash containers must be located inside or screened in an acceptable manner.
- K. The Interim Use Permit is to allow the sale of agricultural products that were grown off site, which would include flower and vegetable plants, pumpkins, squash, corn, vegetables, and Christmas trees. Any other items wishing to be sold that are not otherwise grown on site or considered an ancillary item shall require an amendment to the Interim Use Permit.
- L. The addition of any new structures or buildings or expansion of existing structures or buildings, regardless of size, shall require notification to City Staff prior to construction. The City Council will determine if the changes will require an amendment to the Interim Use Permit or to the existing Conditional Use Permit on the site.
- M. The expansion, intensification or alteration of an existing use shall also require notification to City Staff prior to any change in the existing use. In addition, any new uses shall also require advanced notice to City Staff. The City Council will determine if the proposed expansion, intensification or alteration of the existing use or a new use will require an amendment to the Interim Use Permit or to the existing Conditional Use Permit on the site.
- N. Applicant and its successors and assigns, agree that in the event of a full or partial taking of the Property by a governmental unit that the value of the Property taken will be based on its highest and best use as it existed prior to the approval of the Interim Use Permit.
- O. The interim use shall allow an Agricultural Sales Business which allows the sale of agricultural products – flower and vegetable plants, pumpkins, squash, corn, vegetables, and Christmas trees produced off the premises to be sold at the Agricultural Sales Building identified at Country Sun Farm & Greenhouses, Inc.
- P. The applicant must abide by any recommendations or requirements imposed by the Minnesota Department of Transportation concerning their Special Event Traffic Management Plan submitted as part of their application for special event signage along State Highway 36.
- Q. There shall be no impediments to the free flow of traffic at the entrance to the site along State Highway 36, including the collection

of parking or entrance fees when such collection requires vehicles to stop at the entrance.

- R. The applicant shall work with City Staff to maintain a master inventory of all buildings and activities taking place on the premises, including any permitted agricultural activities, agricultural entertainment uses, and all other sales activities associated with the Interim Use Permit. This inventory shall include the building size, location, activity and date of construction among other relevant information.
- S. The Interim Use Permit does not authorize the conduct of any activity that would otherwise require a permit as an Agricultural Entertainment use.
- T. The applicant shall work with a traffic expert to prepare a traffic count study documenting the number of vehicle trips (both daily and peak counts) and peak times associated with the conduct of the Agricultural Sales operation. This traffic study must be submitted with any request to extend the Interim Use Permit beyond the initial termination date.
- U. The Interim Use Permit is valid until any one of the events listed below occurs:
 - 1. For ten (10) years from the initial termination date of the Interim Use Permit (September 20, 2023);
 - 2. Upon the sale of the property or a transfer of ownership to an outside party (non-family member) - the City will review said Permit with prospective and/or new owner(s) for potential renewal without new application.
 - 3. Until a violation of the conditions of this Consent Agreement;
 - 4. Until a change in the City's zoning regulations, which renders the interim use non-conforming; or
 - 5. Until the redevelopment of the Property for a permitted or conditional use as allowed by the City's zoning regulations.
- V. The applicant agrees to work in good faith with the City in efforts to address planning and identification of easement/right-of-way needs for long-term improvements to TH 36 and associated intersections, especially those that minimize impacts on the usage of the rest of the property.

- 4.0 Renewal of Interim Use Permit. The interim use permit may be renewed by the Council upon the occurrence of either events listed in Section (U, 1) or (U, 2) above. With the exception of (U, 2), a renewal application shall be requested in accordance with Section 154.019 (J) of the City Code.
- 5.0 Acknowledgement of the Conditional Use. Any Conditional Use Permit that was previously issued for the Property is allowed to continue in conjunction with the Interim Use Permit.
- 6.0 Acknowledgement and Consent. Applicant acknowledges that this is a legally binding agreement and that Applicant has had an opportunity to review the Agreement with legal counsel. Applicant consents to the terms of this Agreement and its restrictions on the use of the Property and the Interim Use Area.
- 7.0 Effective Date. This Consent Agreement/Interim Use Permit shall be effective upon execution by all parties.

Date: 7/2/13

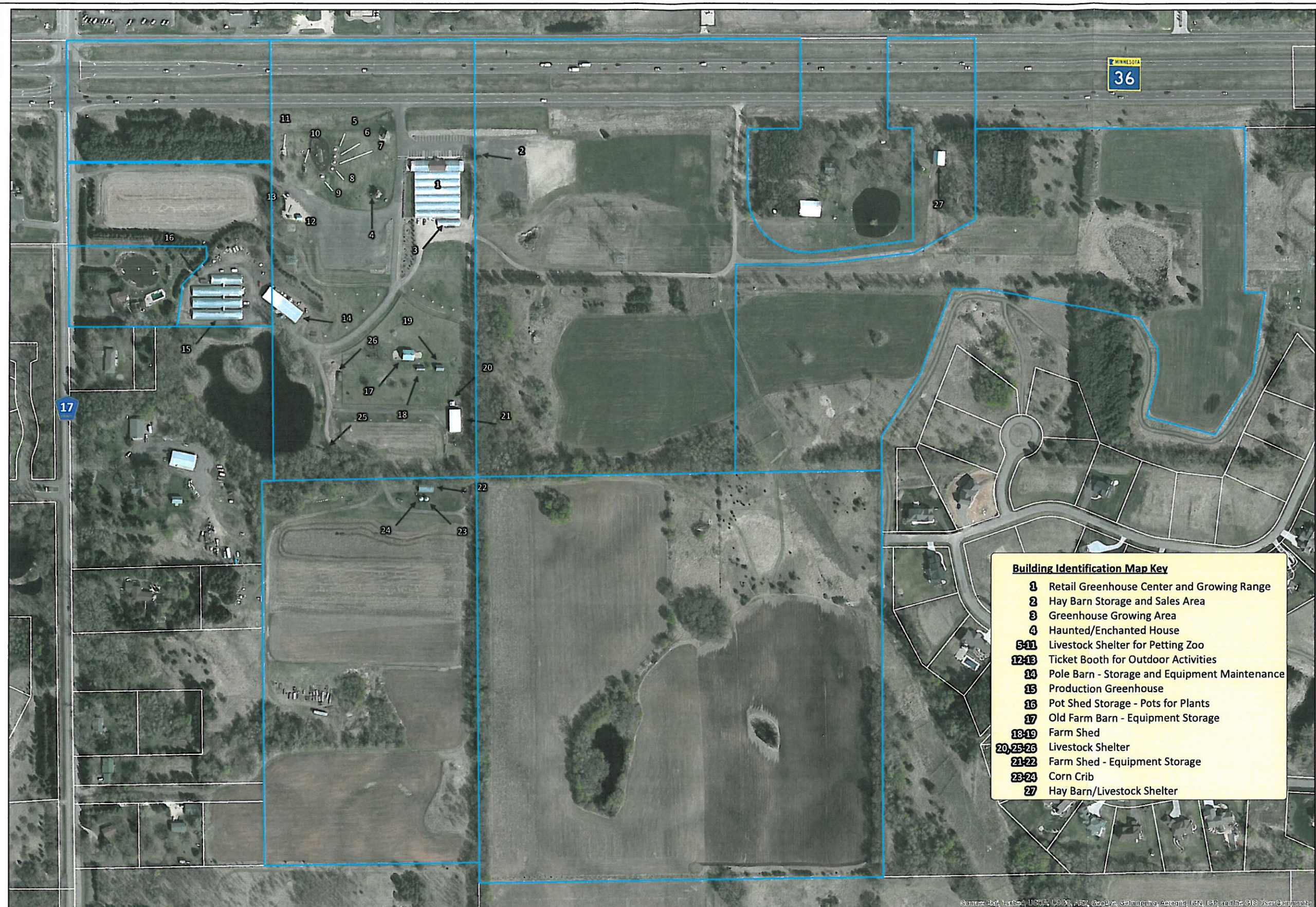
CITY OF LAKE ELMO

By: _____
Mike Pearson
Mayor

**Country Sun Farm and
Greenhouses, Inc.**

By: _____
Keith Bergmann

Its: _____





MAYOR AND COUNCIL COMMUNICATION

DATE: 7/02/2013

CONSENT

ITEM #: 11

MOTION

AGENDA ITEM: Parks Commission Appointment
SUBMITTED BY: Adam Bell, City Clerk
THROUGH: Dean A. Zuleger, City Administrator
REVIEWED BY: Beckie Gumatz, Program Assistant

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

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

SUMMARY AND ACTION REQUESTED:

As part of the Consent Agenda, the City Council is respectfully requested to formally appoint Jacob Silvernale as 2nd Alternate on the Parks Commission. If Council chooses to remove this item from the Consent Agenda for discussion, it is recommended that the appointment be made by taking the following action:

“Move to appoint Jacob Silvernale of 11751 58th Street North as 2nd Alternate on the Parks Commission.”

RECOMMENDATION:

Staff is requesting as part of the Consent Agenda, City Council formally appoint Jacob Silvernale as 2nd Alternate to the Parks Commission, providing a full membership for the Parks Commission.

ATTACHMENTS:

1. Parks Commission Application



Application for Park Commission Appointment

Please return to City Clerk's Office - Thank You for your interest in the Lake Elmo Park Commission

Date: 5/21/13

Name: Jacob Walter Silvernale

Address: 11751 58th St N Lake Elmo MN 55042

Phone Number: H) 651-351-0142 W) N/A C) 763-221-7632

Email: jwsilvernale@gmail.com

Resume Attached (Optional): Yes ☐ No ☒

1. Why are you interested in serving on the Lake Elmo Parks Commission? What personal interests and expertise will you bring?

I have always enjoyed politics and the governmental process. I think the Parks Commission would be a great start for career in the governmental sector. I also believe that parks are a great way to bring together a community, so I would love to bring that to the citizens of Lake Elmo. I think that we need to bring new or updated parks to the community. We will then be able to have parks serve a functional purpose and bring pride to the community.

2. How will those skills and interests be of service to the development and management of the city's parks, trails and natural areas?

As a high school student, I believe that I can bring a fresh perspective and a new face to the Parks Commission. I can represent the youth of the community and bring enjoyment to future generations. I believe that I will be able to make the commission more productive for the future.

3. What do you see as the role and function of the Parks Commission? How does this relate to the role and responsibility of the City Council in Park matters?

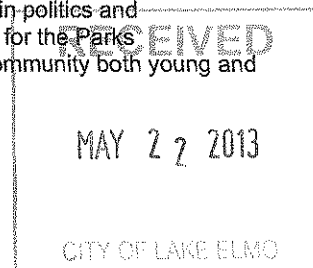
The Parks Commission exists to maintain, update, and build parks. The City Council has the ultimate authority and responsibility to make sure that the commission is fiscally and socially responsible. I also believe that the Parks Commission is an extension of the City Council that can gather the feedback from more citizens and can devote more time to understanding issues and developing solutions.

4. What value do parks and trails have to our citizens? What role or function do they provide?

The parks are a way for the community to be social and to get to know your neighbors. They are great way to be active. Parks are a effective way to value and utilize open space, something the is very important the citizens of Lake Elmo. Parks are also a great way to bring family and friends together without cutting a hole in your pockets.

5. How much time do you have or are you willing to devote to Parks Commission activities?

As a high school student, I can provide a significant amount of time to the commission. I am very interested in politics and government and I would be honored to serve for the City of Lake Elmo. I am able to devote time to research for the Parks Commission to have new and improved parks. I will utilize my time to listen to the wants and needs of the community both young and old and everyone in between.





MAYOR AND COUNCIL COMMUNICATION

DATE: 07/02/2013

REGULAR

ITEM #: 13

AGENDA ITEM: 2013 Capital Improvement Plan Approval

SUBMITTED BY: Cathy Bendel, Finance Director

THROUGH: Cathy Bendel, Finance Director

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider approval of the 2013 portion of the 2013-2018 Capital Improvement Plan (CIP).

BACKGROUND INFORMATION: Approval is needed of the 2013 portion of the 2013-2018 Capital Improvement Plan to allow the City to pursue bonding for the necessary funding. The proposed expenditures were reviewed and discussed in detail at workshops on May 14th and May 28th.

RECOMMENDATION: It is recommended that the City Council approve the following specific expenditures in 2013:

General Fund:

- Single Axel Plow/Wing/Spreader for the Public Works Dept – \$175k - no levy impact, funds available in vehicle fund.
- Diesel Exhaust filter system for both fire stations – \$70k - no levy impact, funds available in vehicle fund.
- Warning sirens - \$50k – no levy impact, to be paid from general fund
- Dry hydrants - \$30k – no levy impact, to be paid from general fund

Water Fund:

- Water supply well #4 and pumphouse - \$600k - no levy impact, bond payments to be made by water fund
- Keats Ave 16" trunk watermain extension - \$900k – no levy impact, bond payments to be made by water fund
- I94 Corridor 12" trunk watermain to Sedona development - \$675k – no levy impact, cost primarily paid by developer, balance to be paid by water fund

Sanitary Sewer Fund:

- Section 34 Trunk Sewer/lift station Sedona Development - \$1.6M – no levy impact, costs paid by developer and the sewer fund.
- I94 Corridor 18/27" sewer extension from MCES - \$1.1M – no levy impact, cost paid by developer and the sewer fund.
- Olson Lake Trail Trunk Sanitary Sewer Extension - \$98k – no levy impact, cost primarily paid through assessments
- Village lift station and forcemain - \$3.3M – no levy impact, cost paid by developers and the sewer fund.

Street Fund:

- Keats MSA Street Improvement - \$1.036 – no levy impact, cost paid 100% with MSA Grant money.

ATTACHMENT:

1. 2013-2018 Capital Improvement Plan

City of Lake Elmo													Funded by levy dollars	
Summary of Capital Improvement Plan (CIP)													Funded by Utility Fund Revenue	
City of Lake Elmo	Dept	Need/ Want		2013	2014	2015	2016	2017	2018	2019	2020	2021	Total	Finance Notes
GENERAL FUND														
Single Axel Plow/Wing /Spreader	PW	Need	2013	175,000									175,000	New addition for staff add; will no longer need use of contractor
Diesel exhaust filter system for both stations	FIRE	Need	2013	69,912									69,912	
Warning sirens x 2; replace Cimarron and add in N center gap	EMER COMM	Need	2013	50,000									50,000	
Dry Hydrants-potentially 12 @ approx \$2,500 each	FIRE	Need	2013	30,000									30,000	
Replacement of Engine 1 (Aerial)	FIRE	Need	2014		750,000								750,000	
Replacement of SCBA's	FIRE	Need	2014/2015		103,000	104,000							207,000	
Durapatch Pot Hole Patcher (Move to 2013?)	PW	Need	2014	28,000									28,000	
Dump Truck/Plow/Wing/Sander	PW	Need	2015			175,000							175,000	Replaces 1998 Plow truck; will be in 17th year of useful life...
New GL/UB software to be on one platform, supported and efficient	FINANCE	Need	2015			60,000							60,000	Current software 10 years old and some components no longer supported
Replacement of CV1	FIRE	Need	2015			60,000							60,000	
City Hall remodel	ADMIN	Need	2016				300,000						300,000	Out of space at existing City Hall
1 Ton Truck/Plow/Sander Insert	PW	Need	2016				50,000						50,000	Replaces 2003 1 Ton with Plow; will be at year 13 of useful life
Replacement of CV2	FIRE	Want	2017					65,000					65,000	
Replacement of Tender 1	FIRE	Need	2018						450,000				450,000	
Mini Excavator	PW	Need	2018						50,000				50,000	Currently rent for \$4k per year
Station #1 parking lot, apron (need Engineers recommendation)	FIRE	Want	2018						25,000				25,000	
Replacement of U2	FIRE	Want	2019							75,000			75,000	
Total				324,912	881,000	399,000	350,000	65,000	525,000	75,000	-	-	2,619,912	
Funding Source for General Fund Projects (G.O. Bonds)														
Property tax levy increase					36,000	120,900	229,100	359,100	531,100	531,100	531,100	531,100	2,869,500	
Fund balance (vehicle fund-\$319k as of 12/31/12)				244,912	-	60,000	-						304,912	
Fund balance (facilities fund)							120,900							
Fund balance (general fund)				80,000	45,000	168,100	-	(294,100)	(6,100)	(456,100)	(531,100)	(531,100)	(1,525,400)	Excess funds available; could pay off bonds in 2019
Bond					750,000	-	-	-	-	-	-	-	750,000	
Special assessments / Litigation Judgment													-	
Municipal state aid													-	
Grants					50,000	50,000							100,000	SCBA's
Intergovernmental					-								-	
Total				324,912	881,000	399,000	350,000	65,000	525,000	75,000	-	-	2,499,012	
Annual Debt Service on General Fund Projects														
2013 Bonds														
2014 Bonds						71,250	69,563	67,875	66,188	64,500	-	-	339,376	
2015 Bonds													-	
2016 Bonds													-	
2017 Bonds													-	
2018 Bonds							-	-					-	
Total				-	-	71,250	69,563	67,875	66,188	64,500	-	-	339,376	

City of Lake Elmo												Funded by levy dollars	
Summary of Capital Improvement Plan (CIP)												Funded by Utility Fund Revenue	
City of Lake Elmo	Dept	Need/ Want	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total	Finance Notes
<u>PARKS FUND</u>													
11 Foot Mower	PARKS	Need	2014	50,000								50,000	Replaces 2002 Toro
Ski Trail Groomer/Utility Field Maint	PARKS	Want	2016			40,000						40,000	Discussed multiple times by Parks Commission
3/4 Ton Pick up	PARKS	Need	2016			30,000						30,000	Replaces 1998 3/4 Ton GMS; will be at year 18 of useful life
Total			-	50,000	-	70,000	-	-	-	-	-	120,000	
<u>Funding Source for Parks Fund Projects</u>													
Parks Fund (cash)				50,000		70,000						120,000	
Total			-	50,000	-	70,000	-	-	-	-	-	120,000	
<u>WATER UTILITY FUND</u>													
<u>Water Utility Projects</u>													
Water supply well No. 4 and pumphouse /connection	ENGINEERING	2013/2014	600,000	765,000								1,365,000	
Keats Ave 16" trunk watermain extension	ENGINEERING	2013	900,000									900,000	
Phase I: Western I94 Corridor (Inwood to Keats)													
Segment 1: Water booster pump	ENGINEERING	2014		700,000								700,000	
Segment 2: Inwood Ave 16" trunk watermain extension	ENGINEERING	2014		1,585,250								1,585,250	
Segment 3: 10th St to EP Bus Park 16" trunk watermain ext	ENGINEERING	2014		765,000								765,000	
Azure Prop 12" trunk watermain extensions	ENGINEERING	2014		76,500								76,500	
Alt Segment 5: 12" trunk watermain to Sedona Development	ENGINEERING	2013+	675,000		42,500	63,750	42,500	63,750				887,500	
Alt Segment 7: Elevated storage tank (High Pressure Zone)	ENGINEERING	2015			1,360,000							1,360,000	
Phase II: Eastern I94 Corridor (Lake Elmo Ave. to Manning)													
Segment 4: Lake Elmo Ave 12" trunk watermain extension	ENGINEERING	2014		2,550,000								2,550,000	
Phase IIIb: Village Area (East to Village Parkway)													
Replace/upgrade watermain as streets disturbed	ENGINEERING	2015			794,750							794,750	
Village Parkway/39th Street	ENGINEERING	2016/2017			467,500	323,000						790,500	
Old Village TH5 Trunk Watermain Replacement	ENGINEERING	2017					467,500					467,500	
Old Village Lateral Watermain Replacement (South of RR)	ENGINEERING	2018						1,275,000				1,275,000	
Old Village Lateral Watermain Replacement (RR-TH5)	ENGINEERING	2018						680,000				680,000	
Ideal Avenue Trunk Watermain - Oakdale Interconnect	ENGINEERING	2015			450,500							450,500	
Neighborhood Watermain Extensions/Replacements (2015 Street Impr)	ENGINEERING	2015			816,000							816,000	
Torre Pines + Cardinal Ridge + Cardinal View Watermain Extensions	ENGINEERING	2019							1,020,000			1,020,000	
Well No. 5 (@ 9,700 Total Water Population)	ENGINEERING	2018						816,000				816,000	
Replace remaining Sensus meters with Neptune meters	FINANCE	2013/2014	37,000	37,000								74,000	
Total Water			2,212,000	6,478,750	3,931,250	386,750	510,000	2,834,750	1,020,000	-	-	17,373,500	
<u>Funding Source for Water Utility Projects</u>													
			Avg water bill assumed at \$125 per quarter; \$500 per yr										
Property Tax Levy												-	
Operating revenue increase (base + meter revenue only)			6,000	17,250	25,500	25,500	25,500	25,500	25,500	25,500	25,500	201,750	
Operating revenue increase (estimated water usage)			20,000	107,500	207,500	307,500	410,000	510,000	580,000	580,000	580,000	3,302,500	
Fund balance (cash)			(101,700)	(1,638,500)	1,756,750	(817,250)	(569,000)	1,675,250	(131,500)	(1,151,500)	(605,500)	(1,582,950)	
WAC and Connection Fees			156,000	526,500	624,000	624,000	643,500	624,000	546,000	546,000	-	4,290,000	Per Connection stats worksheet (updated to 1000 over 7 yrs)
Bond (2013 = grant match monies)			1,000,000	-	-	-	-	-	-			1,000,000	
Other Revenue				6,000,000								6,000,000	Bonding may be required
Municipal state aid												-	
Grants			500,000	500,000								1,000,000	
Intergovernmental												-	
Developer Contribution			631,700	966,000	1,317,500	247,000						3,162,200	
Total Water			2,212,000	6,478,750	3,931,250	386,750	510,000	2,834,750	1,020,000	-	-	17,373,500	
Short/(over)			-	-	-	-	-	-	-	-	-	-	

City of Lake Elmo													Funded by levy dollars
Summary of Capital Improvement Plan (CIP)													Funded by Utility Fund Revenue
City of Lake Elmo	Dept	Need/ Want	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total	Finance Notes
<i>Annual Debt Service for Water Utility Projects</i>													
2013 Bonds (4.5%, 20 yrs)				95,000	92,750	90,500	88,250	86,000	83,750	81,500	79,250	697,000	
2014 Bonds (4.5%, 20 yrs)				-	-	-	-	-	-	-	-	-	
2015 Bonds (4.5%, 20 yrs)													
2016 Bonds (4.5%, 20 yrs)												-	
2017 Bonds (4.5%, 20 yrs)												-	
2018 Bonds (4.5%, 20 yrs)												-	
2019 Bonds (4.5%, 20 yrs)													
2020 Bonds (4.5%, 20 yrs)										-	-	-	
2021 Bonds (4.5%, 20 yrs)												-	
Total			-	95,000	92,750	90,500	88,250	86,000	83,750	81,500	79,250	697,000	

City of Lake Elmo												Funded by levy dollars	
Summary of Capital Improvement Plan (CIP)												Funded by Utility Fund Revenue	
City of Lake Elmo	Dept	Need/ Want	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total	Finance Notes
<u>SANITARY SEWER UTILITY FUND</u>													
<i>Sanitary Sewer Projects</i>													
Segment 4: Section 34 Trunk Sewer/lift station - Savona Development	ENGINEERING	2013	1,600,000		-	-	-	-	-	-	-	1,600,000	
Segment 6: Hudson Blvd lift station replacement, FM to WONE	ENGINEERING	2017	-		-	-	276,000	-	-	-	-	276,000	
Phase II: Eastern I94 Corridor (Lake Elmo Ave. to Manning)			-	-	-	-	-	-	-	-	-	-	
18/27" trunk sewer extension from MCES connection	ENGINEERING	2013	1,100,000									1,100,000	
Future lift station west of Lake Elmo Ave.	ENGINEERING	2018						276,000				276,000	
Olson Lake Trail Trunk Sanitary Sewer Extension	ENGINEERING	2013/2015	98,000		165,140							263,140	
Phase IIb: Village Area (East to Village Parkway)												-	
Village lift station and forcemain	ENGINEERING	2013	3,300,000									3,300,000	
Segment 1: Old Village Trunk Sewer (30th-Lake Elmo Ave-Lavern	ENGINEERING	2015			920,000							920,000	
Segment 2: Village Parkway (30th-RR-TH5) + 39th Street	ENGINEERING	2015/2016			552,000	184,000						736,000	
Old Village Lateral Sewer Extensions (South of RR)	ENGINEERING	2018						1,380,000				1,380,000	
Old Village Lateral Sewer Extensions (RR - TH5)	ENGINEERING	2018						460,000				460,000	
Additional Trunk South of 10th Street	ENGINEERING	2018						828,000				828,000	
Total Sewer			6,098,000	-	1,637,140	184,000	276,000	2,944,000	-	-	-	11,139,140	
Connections												11,139,140	
<i>Funding Source for Sanitary Sewer Projects</i>													
Property tax levy			-	-	-	-	-	-	-	-	-	-	
Prior year payments on project			400,000										
Fund balance (cash)			33,500	(549,000)	293,640	(746,500)	(595,500)	(657,000)	(898,000)	(940,000)	(450,000)	(4,508,860)	Cash available to pay down bond
Sewer Usage Revenue			12,000	76,500	148,500	220,500	294,000	366,000	408,000	450,000	450,000	2,425,500	
SAC and Connection Fees			140,000	472,500	560,000	560,000	577,500	560,000	490,000	490,000		3,850,000	
Bond (Includes MN Deed match of \$1MM)			3,000,000		-		-	-				3,000,000	Bond can/should be paid off in 2018
Special assessments			92,500	-	185,000							277,500	
Municipal state aid			-	-	-	-	-	-	-	-	-	-	
Grants			1,000,000	-	-	-	-	-	-	-	-	1,000,000	
Intergovernmental/Water Fund			-	-	-	-	-	-	-	-	-	-	
Developer Contribution			1,420,000		450,000	150,000	-	2,675,000	-	-	-	4,695,000	
Total Sewer			6,098,000	-	1,637,140	184,000	276,000	2,944,000	-	-	-	11,139,140	
			-	-	-	-	-	-					
<i>Annual Debt Service on Sanitary Sewer Projects</i>													
2013 Bonds				285,000	278,250	271,500	264,750	258,000	-	-	-	1,357,500	Assumes bonds paid off early to reduce levy in 2018
2014 Bonds												-	
2015 Bonds													
2016 Bonds													
2017 Bonds													
2018 Bonds												-	
Total			-	285,000	278,250	271,500	264,750	258,000	-	-	-	1,357,500	

Notes:

City of Lake Elmo													Funded by levy dollars	
Summary of Capital Improvement Plan (CIP)													Funded by Utility Fund Revenue	
City of Lake Elmo	Dept	Need/ Want	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total	Finance Notes	
<u>STREET FUND</u>														
<i>Street Projects</i>														
Local Residential Street Improvements														
Keats MSA Streets	ENGINEERING	2013	1,036,000		-	-	-	-	-	-	-	1,036,000	Continue 10 yr bonds?	
Southern Tri-Lakes Area; Kenridge Addition; & Kelvin Avenue	ENGINEERING	2015	-			2,255,200	-		-	-	-	2,255,200		
Packard Park; and 20th Street Area	ENGINEERING	2014		506,400								506,400		
Stonegate-Phase 1; and Kirkwood Avenue	ENGINEERING	2016					609,600					609,600		
Tri-Lakes Area [Springborne Green Acres, Fox Fire Estates, & Judy Jary Manor]	ENGINEERING	2017						1,546,400				1,546,400		
Old Village Area Streets [North of U.P. Railroad]	ENGINEERING	2018							1,200,000			1,200,000		
Old Village Area Streets [South of U.P. Railroad]	ENGINEERING	2018							1,680,000			1,680,000		
Collector Road Improvements; Non MSA Routes													-	
Manning Trail N	ENGINEERING	2014		175,200								175,200		
Manning Avenue; TH 36 - Linden Avenue (FUTURE)	ENGINEERING	FUTURE										-		
Municipal State Aid Street Improvements													-	
20th Street N & Manning Trail [Lake Elmo Ave. to Manning Ave.]	ENGINEERING	2015		1,200,000								1,200,000		
15th Street North [Inwood Ave. to West City Limits]	ENGINEERING	2018						560,000				560,000	10,768,800	
TRANSPORTATION IMPROVEMENTS														
5th Street Parkway Improvement (Developer-100%)														
Savona Development Phase 1	ENGINEERING	2014		1,411,380								1,411,380		
Savona Development Phase 2-5	ENGINEERING	2014		1,411,380								1,411,380		
From Lennar to Inwood (Montgomery-Azur Properties)	ENGINEERING	2015			2,750,022							2,750,022		
Keats-Lake Elmo-Phases 1-3	ENGINEERING	2016-2018				1,709,338	940,920	940,920				3,591,178		
Lake Elmo-Manning-Phases 1-3	ENGINEERING	2014,16,17		1,013,280		1,568,200	1,254,560					3,836,040	13,000,000 Reduced to \$13M per DZ 21.59%	
CSAH 15 Manning Avenue (I94 to TH5) FUTURE	ENGINEERING	FUTURE			-							-		
Lake Elmo Avenue.Downtown District Improvements (TIF)	ENGINEERING	2015			1,120,000							1,120,000	Need to shift \$3M to 2016...	
Lake Elmo Avenue (30th Street to RR-No Lighting)-County??	ENGINEERING	2015			750,000							750,000		
Highway 5 Corridor Management & Safety Improvements	ENGINEERING	2014		160,000								160,000		
Village Parkway Build-out (Developer-100%)	ENGINEERING	2015/2016			2,320,000	1,600,000						3,920,000		
Total Streets			1,036,000	5,877,640	6,940,022	7,132,738	2,805,080	3,047,320	2,880,000	-	-	29,718,800		
<i>Funding Source for Street Projects</i>														
Property tax levy			-	-	-	-	-	-	-	-	-	-		
Fund balance (cash)			36,000	166,800	212,056	55,200	(66,960)	223,520	16,080	-	-	642,696		
WAC and Connection Fees												-		
Bond				1,800,000	-	2,200,000	-	-	3,400,000			7,400,000		
TIF														
Special assessments (assessed year AFTER work performed/completed)			-	74,800	232,944	-	676,560	182,880	463,920			1,631,104		
Municipal state aid (Assumes borrow AHEAD from MSA funds)			-	-	1,425,000	-	-	700,000	-	-	-	2,125,000		
Grants (HSIP Grant?)			1,000,000	-	-	-	-	-	-	-	-	1,000,000		
Intergovernmental/Water Fund			-	-	-			1,000,000	(1,000,000)	-	-	-		
Developer Contribution (70/30 split)			0	3,836,040	5,070,022	4,877,538	2,195,480	940,920	-	-	-	16,920,000		
Total			1,036,000	5,877,640	6,940,022	7,132,738	2,805,080	3,047,320	2,880,000	-	-	29,718,800		
<i>Annual Debt Service on Street Projects</i>														
2013 Bonds														
2014 Bonds														
2015 Bonds														
2016 Bonds														
2017 Bonds														
2018 Bonds														
2019 Bonds														
Total			-	-	171,000	166,950	371,900	362,900	353,900	667,900	651,300	2,107,500		

City of Lake Elmo												Funded by levy dollars	
Summary of Capital Improvement Plan (CIP)												Funded by Utility Fund Revenue	
City of Lake Elmo	Dept	Need/ Want	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total	Finance Notes
<u>SURFACE WATER IMPROVEMENTS FUND</u>													
<i>Surface Water Projects</i>													
Village Storm Water / Regional Infiltration System - Study	ENGINEERING	2014		50,000	-	-	-	-	-	-	-	50,000	
Village Flood / Drainage Improvements	ENGINEERING	2015			1,400,000							1,400,000	
Village Area Regional Storm Water System: Phase 1	ENGINEERING	2015			800,000							800,000	
Village Area Regional Storm Water System: Phase 2	ENGINEERING	2016				700,000						700,000	
Village Area Regional Storm Water System: Phase 3	ENGINEERING	2017					500,000					500,000	
Misc. Storm Water Improvements [Drainage, Ditching, Culverts & Ponds]	ENGINEERING	2014-2018		25,000	25,000	25,000	25,000	25,000				125,000	
Rain Garden Improvements	ENGINEERING	2014-2017		60,000	42,000	36,000	56,000	-				194,000	
Water Quality CIP	ENGINEERING	FUTURE										-	
Total			-	135,000	2,267,000	761,000	581,000	25,000	-	-	-	3,769,000	
<i>Funding Source for Surface Water Projects</i>													
Property tax levy			-	-	-	-	-	-	-	-	-	-	
Fund balance (cash)			-	105,000	66,000	63,000	73,000	-	-	-	-	307,000	
WAC and Connection Fees													
Bond					2,000,000	500,000	300,000					2,800,000	
Special assessments - Village Stormwater District Connection Fees				-	180,000	180,000	180,000	180,000				720,000	
Municipal state aid			-	-	-	-	-	-	-	-	-	-	
Grants (VBWD)				30,000	21,000	18,000	28,000	-	-	-	-	97,000	
Intergovernmental/Water Fund			-	-	-		-	-	-	-	-	-	
Developer Contribution			-		-		-		-	-	-	-	
Total			-	135,000	2,267,000	761,000	581,000	180,000	-	-	-	3,924,000	
<i>Annual Debt Service on Surface Water Projects</i>													
2013 Bonds												-	
2014 Bonds												-	
2015 Bonds						190,000	185,500	181,000	176,500	172,000	167,500	1,072,500	
2016 Bonds							47,500	46,376	45,250	44,126	43,000	226,252	
2017 Bonds								28,500	27,825	27,150	26,475	109,950	
2018 Bonds						-	-	-	-	-	-	-	
Total			-	-	-	190,000	233,000	255,876	249,575	243,276	236,975	1,408,702	

Notes: Did not add in Stormwater Utility Fee Revenue
Notes: Stormsewer Replacement CIP not included: need to obtain NEEDS list from Public Works

City of Lake Elmo												Funded by levy dollars	
Summary of Capital Improvement Plan (CIP)												Funded by Utility Fund Revenue	
City of Lake Elmo	Dept	Need/ Want	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total	Finance Notes
SUMMARY-ALL-NEW													
BONDS													
General Fund			-	750,000	-	-	-	-	-	-	-	750,000	X
Street Fund			-	1,800,000	-	2,200,000	-	-	3,400,000	-	-	7,400,000	X
New General Fund Bonds			-	2,550,000	-	2,200,000	-	-	3,400,000	-	-	8,150,000	
Water Utility Fund			1,000,000	0	0	0	0	0	0	0	0	1,000,000	X
Sanitary Sewer Fund			3,000,000	-	-	-	-	-	-	-	-	3,000,000	X
Storm Water Fund			-	-	2,000,000	500,000	300,000	-	-	-	-	2,800,000	X
New Enterprise Fund Bonds			4,000,000	-	2,000,000	500,000	300,000	-	-	-	-	6,800,000	
Total Annual Bonding			4,000,000	2,550,000	2,000,000	2,700,000	300,000	0	3,400,000	0	0	14,950,000	
Annual Loan Pmts (P+I)													
General Fund			-	-	71,250	69,563	67,875	66,188	64,500	-	-	339,376	X
Street Fund			-	-	171,000	166,950	371,900	362,900	353,900	667,900	651,300	2,107,500	X
Impact to Annual Levy			-	-	242,250	236,513	439,775	429,088	418,400	667,900	651,300	2,446,876	
Water Utility Fund				95,000	92,750	90,500	88,250	86,000	83,750	81,500	79,250	697,000	X
Sanitary Sewer Fund				285,000	278,250	271,500	264,750	258,000	-	-	-	1,357,500	X
Storm Water Fund						190,000	233,000	255,876	249,575	243,276	236,975	1,408,702	X
Impact to Enterprise Funds				380,000	371,000	552,000	586,000	599,876	333,325	324,776	316,225	3,463,202	
Total Annual Loan Pmts-NEW				380,000	613,250	788,513	1,025,775	1,028,964	751,725	992,676	967,525	5,910,078	
Annual impact to residents property taxes		\$75 per \$100k Levy increase		0.00	181.69	177.38	329.83	321.82	313.80	500.93	488.48		



MAYOR AND COUNCIL COMMUNICATION

DATE: July 2, 2013

REGULAR

ITEM #: 14

MOTION

AGENDA ITEM: Approve Issuance and Sale of G.O. Improvement Bonds

SUBMITTED BY: Cathy Bendel, Finance Director

THROUGH: Cathy Bendel, Finance Director

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider approving the issuance and sale of General Obligation Improvement Bonds to fund the 2013 CIP projects.

BACKGROUND INFORMATION: The 2013 Capital Improvement Plan was reviewed and discussed at workshops on May 14th and May 28th. The City Council is being asked to consider approving bonding for the following projects:

- Keats MSA Street and Trunk Watermain Improvements - \$500,000
This project consists of \$1.3M for Street Improvements and \$1.1M in Trunk Watermain Improvements. The street improvements will be funded 100% by MSA Grant monies and assessment funds. The water improvements will be funded through a MN-DEED water grant for \$450k, assessments of \$75k and a new water bond for \$500k. The water fund will make the water bond payments with annual water revenues.
- Production Well #4 and connecting Watermain - \$500,000
This is a \$1.5M project, \$550k will be funded through a MN-DEED water grant, \$450 will be funded from the cash reserves in the water fund and \$500k will be funded by a new water bond.
- Lake Elmo Avenue Sewer Infrastructure Improvements - \$3,000,000
This is a \$4M project, \$1M of which will be paid by the MN-DEED Sewer Grant
Bond payments will be made by the Sewer fund.
- Section 34 (Lennar Area) Water and Sewer Utility Extension - \$1,600,000
The City will bond for the project to pay the vendors and the bond amount will be 100% assessed and recovered. A bond will be negotiated so that the bond can be paid off as the assessment funds are available.

RECOMMENDATION: It is recommended that the City Council approve bonding for the above mentioned projects.



MAYOR AND COUNCIL COMMUNICATION

DATE: 07/02/2013

REGULAR

ITEM #: 15

AGENDA ITEM: Zoning Text Amendment – Fence Ordinance

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Nick Johnson, City Planner

SUGGESTED ORDER OF BUSINESS:

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

SUMMARY AND ACTION REQUESTED:

The City Council is asked to consider a Zoning Text Amendment, establishing new fencing regulations in Lake Elmo. These fencing provisions will be organized under Article 5 - General Regulations under the new organizational structure of the Zoning Code. This Zoning Text Amendment is part of the ongoing effort to reorganize and improve the Lake Elmo Zoning Code. The attached ordinance reflects changes that were recommended by the Council following its June 11th workshop.

Staff and the Planning Commission recommend that the City Council approve Ordinance 08-085 through the following motion:

“Move to approve Ordinance 08-085, establishing new fencing regulations in the Lake Elmo Zoning Code”

BACKGROUND AND STAFF REPORT:

Staff is continuing to progress on a large project aimed at incrementally reorganizing and improving the Lake Elmo Zoning Code in preparation of upcoming growth. One of the ordinances that was identified needing improvement was the Fence Ordinance. More specifically, the ordinance is poorly organized and unnecessarily complex in some areas. Therefore, Staff evaluated ways to make the fence ordinance more

straightforward and less complicated. In addition, the existing ordinance does not adequately address commercial fencing. Currently, commercial fencing is only addressed through required screening of various uses in specific zoning districts. In order to take a more comprehensive approach to commercial fencing, Staff determined that a base standard for commercial fencing should be included, as opposed to fencing only for required screening. These factors were the driving forces behind bringing forward a Zoning Text Amendment related to fencing regulations.

Regarding the proposed Fence Ordinance, there are multiple changes in policy pertaining to fencing regulations, including the following:

- **Fence Height:** The proposed ordinance allows a height of 6 feet for residential fences and 8 feet for commercial fencing. The exception to these heights is that fences within front and side (corner) yard setback areas must not exceed 42 inches in height and must be 50% open to air and light. This requirement in front and side (corner) yard setback areas is to prevent any safety concerns related to obstructed vision of motorists or pedestrians due to fencing. In addition, the ordinance addresses any requests for commercial fencing above 8 feet through the conditional use permit process. Addressing this request through the CUP process ensures that no adjacent properties are negatively impacted by such fencing.
- **Air and Light Provisions:** The existing fence ordinance currently requires that any residential fencing above 42 inches must be 75% open to air and light. In other words, the current ordinance does not allow for solid, or privacy, fencing in residential districts. Based upon multiple requests to Staff for this type of fencing in the past, as well as anticipated increased demand with future growth, Staff determined to allow for solid fencing in residential districts, as long as it was not located in the front or side (corner) yard setback areas. It should be noted that the 75% open to air and light provision in the existing ordinance was established to maintain long vistas and views in order to retain a rural character. However, it is important to note that this provision greatly limits the type of fencing that can be used in residential circumstances. Finally, of all the fence ordinances that Staff researched as part of formulating the proposed ordinance, none of the other ordinances had an air and light provision with the exception of front and side (corner) setback areas for safety reasons.
- **Additional Items:** The proposed Fence Ordinance also includes other subtle deviations from the existing ordinance. Provisions were added in the proposed ordinance pertaining to temporary fencing, including winter recreational fencing and size limitations. In addition, the existing Fence Ordinance contains provisions related to fences in shoreland districts. After review of a variety of other fence ordinances in the Twin Cities, it was determined that these provisions are unnecessary. Finally, the permitted fence materials from the existing ordinance were carried forward into the proposed ordinance. The only difference is that the allowed materials for commercial fencing do not include wood, with the exception of picket and split-rail decorative fencing. Related to commercial fencing, the Planning Commission expressed concern about the ongoing maintenance of wood plank fencing in commercial districts.

Overall, Staff has attempted to draft a Fence Ordinance that is more straightforward and easy to administer. The Planning Commission engaged in multiple discussions about the various provisions included in the proposed ordinance and have recommended it for approval. As part of adopting the proposed Fence Ordinance, the existing fence ordinance would be removed from the Code. All of the changes are outlined in Ordinance 08-085.

PLANNING COMMISSION REPORT:

The Planning Commission reviewed the proposed Fence Ordinance at a regular meeting on May 13, 2013. At this meeting, the Planning Commission made some recommendations related to minor adjustment of the draft ordinance. Staff responded to this request by making minor refinements. After an

initial review, the Planning Commission held a public hearing on the proposed Fence Ordinance on May 29, 2013. No one spoke in favor or against the ordinance at the public hearing. The Planning Commission recommended the proposed ordinance for approval (Vote: 4-1, with Commissioner Haggard voting no).

CITY COUNCIL MEETING AND WORKSHOP UPDATE:

The City Council reviewed the proposed fence ordinance at a workshop meeting on June 11, 2013. The Council discussion focused on four primary aspects of the proposed ordinance, which has resulted in the following modifications to the version recommended by the Planning Commission:

- Fence materials. The ordinance has been revised to allow wood as a permitted material in commercial districts. Staff has combined what were previously two separate sections for residential and commercial fences because the permitted materials in each district are the same.
- Temporary fencing. The earliest that snow fencing can be installed was moved up to October 1st.
- Fences on property lines. The "Location" section (154.205.D.5) has been completely revised to reflect the Council's direction to allow fences on property lines, to require that monuments be exposed for inspection in these instances, and to specify that the City may require a survey in cases where a boundary line is in dispute.

The final section of the ordinance that was subject to debate by the City Council concerns solid wall fences on lots less than ½ acre in size. Since the Council postponed taking action on this matter at its June 18, 2013 meeting Staff has prepared an alternate ordinance that prohibits solid wall fences over four feet in height on lots under ½ acre in size and that also requires these fences to maintain a certain percentage of openness to light and air (75% has been used in the past) for any portion of the fence over 4 feet in height.

RECOMMENDATION:

Staff and the Planning Commission recommend that the City Council approve Ordinance 08-085 through the following motion:

"Move to approve Ordinance 08-085 establishing new fencing regulations in the Lake Elmo Zoning Code"

ATTACHMENT(S):

1. Ordinance 08-085
2. Ordinance 08-085A (Alternate Ordinance)

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-085

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
ADOPTING NEW FENCING REGULATIONS IN THE LAKE ELMO ZONING CODE.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV:
Land Usage; Chapter 154: Zoning Code, by repealing City Code Sections 154.120
through 154.128 in their entirety.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV:
Land Usage; Chapter 154: Zoning Code, by adding the following language:

Article 5 - General Regulations

§154.205 Fencing Regulations

§154.205 Fencing Regulations

A. *Purpose.* The purpose of this Ordinance is to provide for the regulation of fences in the city of Lake Elmo and to prevent fences from being erected that would be a hazard to the public, an unreasonable interference with the uses and enjoyment of neighboring property or are incompatible with existing uses and other zoning restrictions.

B. *Definitions.* The following words, terms and phrases, when used in this Section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Permanent Fence. Fences that are installed in a fixed or enduring manner that are not intended for a seasonal or temporary purpose.

Temporary Fence. Fences that are installed and removed on a seasonal basis, such as snow fences, garden fences and seasonal recreational fences, such as hockey boards.

C. Permit Required

1. *Permanent Fence.* No permanent fence shall be erected without first obtaining a fence permit. Application shall be made to the Planning Director. The fee shall be established by the City's Fee Schedule. The Planning Director is authorized to issue a fence permit if the application indicates that the fence will be in compliance with this Ordinance. The Board of Adjustment and Appeals shall hear and decide appeals when it is alleged that the Planning Director was in error. The appeals shall follow the procedure outlined in §31.01.

2. *Temporary Fence.* Temporary fencing that complies with subsection (F) and all other applicable provisions of this Ordinance shall be exempt from permit requirements.

- D. *General Requirements.* All fences erected in the city of Lake Elmo are subject to the following requirements:
1. *Maintenance.* All fences shall be properly maintained with respect to appearance and safety. Fences that remain in a state of disrepair for an extended period of time shall constitute a nuisance per §96.03.
 2. *Face of Fence.* The finished side of any fence or wall must face abutting property or street rights of way.
 3. *Fence Materials.* Permitted fence materials shall be limited to brick, stone, wood, wrought iron, vinyl, composite material, steel, aluminum, chain-link and, in cases of temporary fencing only, materials that are consistent with temporary fencing as regulated under subsection (F)
 4. *Traffic Obstruction.* No fence or wall shall obstruct a motorist's or a pedestrian's safe view from the driveway or street.
 5. *Location.*
 - a. Fences may be installed on any portion of a lot subject to the height restrictions of §154.205.E and may be installed along property lines provided the adjacent property agrees, in writing, that such fence may be erected on the boundary line of the respective properties. Any portion of the fence and all footing material shall not encroach on the neighboring property.
 - b. All pertinent property pins shall be visible upon inspection for fences installed within one foot of a property boundary.
 - c. In the case of a dispute, the City may require a survey to establish the boundary line of a property.
 6. *Easement Encroachment.* An easement encroachment agreement must be approved by the City Council, along with a fence permit, for any fence that will be installed within a City easement.
 7. *Swimming Pools.* All swimming pools shall be enclosed with required fencing per §151.085.
- E. *Fence Height*
1. *Fences within Front and Side (Corner) Yards.* Any fence within a front or side (corner) yard setback may not exceed forty-two (42) inches in height and must be 50% open to air and light.
 2. *Residential and Mixed-Use Districts.* No fence or wall shall exceed six feet (6') in height.
 3. *Commercial and Industrial Districts.* No fence or wall shall exceed eight feet (8') in height. Fences that exceed eight feet (8') in height require a conditional use permit.
- F. *Temporary Fences*
1. *Height and Performance.* Temporary fences shall comply with the fence height standards of subsection (E). Temporary fences shall be at least 40% open to air and light. If unable to be at least 40% open to air and light, temporary fences shall not exceed forty-two inches (42") in height.
 2. *Duration and Limitation*

- a. No snow fence or posts shall be installed prior to October 1, and must be removed prior to April 15.
- b. Seasonal recreational fencing intended for winter sports, such as hockey or broomball shall not be installed prior to October 1, and must be removed prior to April 15.
3. *Location.* Snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining property, as determined by the Public Works Director.
- G. *Prohibited Fencing.* Barbed wire and electric fencing are prohibited in platted areas.
- H. *Agricultural Exemption.* Fences constructed on parcels in excess of 5 acres for the keeping of horses; and fences constructed on parcels in excess of 10 acres are specifically exempted from the provisions of this Section. Any such agricultural fencing shall be at least 75% open to air and light.

SECTION 3. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 4. Adoption Date. This Ordinance 08-085 was adopted on this 2nd day of July 2013, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

This Ordinance 08-085 was published on the ____ day of _____, 2013.

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-085A

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY ADOPTING
NEW FENCING REGULATIONS IN THE LAKE ELMO ZONING CODE.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, by repealing City Code Sections 154.120 through 154.128 in their entirety.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, by adding the following language:

Article 5 - General Regulations

§154.205 Fencing Regulations

§154.205 Fencing Regulations

- A. *Purpose.* The purpose of this Ordinance is to provide for the regulation of fences in the city of Lake Elmo and to prevent fences from being erected that would be a hazard to the public, an unreasonable interference with the uses and enjoyment of neighboring property or are incompatible with existing uses and other zoning restrictions.
- B. *Definitions.* The following words, terms and phrases, when used in this Section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:
 - Permanent Fence.* Fences that are installed in a fixed or enduring manner that are not intended for a seasonal or temporary purpose.
 - Temporary Fence.* Fences that are installed and removed on a seasonal basis, such as snow fences, garden fences and seasonal recreational fences, such as hockey boards.
- C. *Permit Required*
 - 1. *Permanent Fence.* No permanent fence shall be erected without first obtaining a fence permit. Application shall be made to the Planning Director. The fee shall be established by the City's Fee Schedule. The Planning Director is authorized to issue a fence permit if the application indicates that the fence will be in compliance with this Ordinance. The Board of Adjustment and Appeals shall hear and decide appeals when it is alleged that the Planning Director was in error. The appeals shall follow the procedure outlined in §31.01.
 - 2. *Temporary Fence.* Temporary fencing that complies with subsection (F) and all other applicable provisions of this Ordinance shall be exempt from permit requirements.

ALTERNATIVE ORDINANCE - SOLID WALL FENCING

- D. *General Requirements.* All fences erected in the city of Lake Elmo are subject to the following requirements:
1. *Maintenance.* All fences shall be properly maintained with respect to appearance and safety. Fences that remain in a state of disrepair for an extended period of time shall constitute a nuisance per §96.03.
 2. *Face of Fence.* The finished side of any fence or wall must face abutting property or street rights of way.
 3. *Fence Materials.* Permitted fence materials shall be limited to brick, stone, wood, wrought iron, vinyl, composite material, steel, aluminum, chain-link and, in cases of temporary fencing only, materials that are consistent with temporary fencing as regulated under subsection (F)
 4. *Traffic Obstruction.* No fence or wall shall obstruct a motorist's or a pedestrian's safe view from the driveway or street.
 5. *Location.*
 - a. Fences may be installed on any portion of a lot subject to the height restrictions of §154.205.E and may be installed along property lines provided the adjacent property agrees, in writing, that such fence may be erected on the boundary line of the respective properties. Any portion of the fence and all footing material shall not encroach on the neighboring property.
 - b. All pertinent property pins shall be visible upon inspection for fences installed within one foot of a property boundary.
 - c. In the case of a dispute, the City may require a survey to establish the boundary line of a property.
 6. *Easement Encroachment.* An easement encroachment agreement must be approved by the City Council, along with a fence permit, for any fence that will be installed within a City easement.
 7. *Swimming Pools.* All swimming pools shall be enclosed with required fencing per §151.085.
- E. *Fence Height*
1. *Fences within Front and Side (Corner) Yards.* Any fence within a front or side (corner) yard setback may not exceed forty-two (42) inches in height and must be 50% open to air and light.
 2. *Residential and Mixed-Use Districts.* No fence or wall shall exceed six feet (6') in height.
 3. *Solid Wall Fences.* Solid wall fences over four (4) feet in height shall be prohibited on any lot under ½ acre (21,780 square feet) in size. Any portion of a fence over four (4) feet on such lots shall be at least 75% open to light and air.
 4. *Commercial and Industrial Districts.* No fence or wall shall exceed eight feet (8') in height. Fences that exceed eight feet (8') in height require a conditional use permit.
- F. *Temporary Fences*
1. *Height and Performance.* Temporary fences shall comply with the fence height standards of subsection (E). Temporary fences shall be at least 40% open to air and light. If unable

ALTERNATIVE ORDINANCE - SOLID WALL FENCING

to be at least 40% open to air and light, temporary fences shall not exceed forty-two inches (42") in height.

2. Duration and Limitation

- a. No snow fence or posts shall be installed prior to October 1, and must be removed prior to April 15.
- b. Seasonal recreational fencing intended for winter sports, such as hockey or broomball shall not be installed prior to October 1, and must be removed prior to April 15.

3. *Location.* Snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining property, as determined by the Public Works Director.

G. *Prohibited Fencing.* Barbed wire and electric fencing are prohibited in platted areas.

H. *Agricultural Exemption.* Fences constructed on parcels in excess of 5 acres for the keeping of horses; and fences constructed on parcels in excess of 10 acres are specifically exempted from the provisions of this Section. Any such agricultural fencing shall be at least 75% open to air and light.

SECTION 3. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 4. Adoption Date. This Ordinance 08-085A was adopted on this 2nd day of July 2013, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

This Ordinance 08-085A was published on the ____ day of _____, 2013.

MAYOR AND COUNCIL COMMUNICATION

DATE: 07/02/2013

REGULAR

ITEM #: 16

AGENDA ITEM: Zoning Text Amendment – Administration and Enforcement

SUBMITTED BY: Nick Johnson, City Planner

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Kyle Klatt, Planning Director

SUGGESTED ORDER OF BUSINESS:

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

SUMMARY AND ACTION REQUESTED:

The City Council is asked to consider a Zoning Text Amendment, establishing new administrative provisions in the Lake Elmo Zoning Code. These administrative provisions will be organized under Article 3 – Administration and Enforcement under the new organizational structure of the Zoning Code. This Zoning Text Amendment is part of the ongoing effort to reorganize and improve the Lake Elmo Zoning Code.

The Planning Commission recommends the City Council approve Ordinance 08-086 through the following motion:

“Move to approve Ordinance 08-086, establishing new administrative provisions in the Lake Elmo Zoning Code.”

In addition, Staff recommends that the City Council approve Resolution No. 2013-52, authorizing summary publication of Ordinance 08-086, through the following motion:

“Move to approve Resolution No. 2013-52, authorizing summary publication of Ordinance 08-086.”

BACKGROUND AND STAFF REPORT:

Staff is continuing to progress on a large project aimed at incrementally reorganizing and improving the Lake Elmo Zoning Code in preparation of upcoming growth. One of the areas of the Zoning Code that was identified as needing improvement was the administrative section. More specifically, the administrative provisions of the Zoning Code are incomplete, repetitive and inconsistent. After conducting a review of the existing administrative provisions, Staff found that the submittal requirements of different types of permits are not consistent. In addition, the existing administrative section lists procedural requirements under each individual permit type, even though the procedures are quite similar. Therefore, this section can be streamlined to be less

repetitive and more straightforward. The proposed administrative section of the Zoning Code establishes all of the procedures of how the Code is to be administered, including the following components:

- Identifies the City Staff that are responsible for issuing permits, enforcing the code, keeping records, processing applications and performing other administrative duties.
- Outlines the application and review process with a unified list of application submittal requirements.
- Establishes unified standards and procedures for the public hearing process.
- Identifies and describes all of the permits that are required by the Zoning Code. Staff is recommending a new permit category called "Certificate of Zoning Compliance" to regulate uses that are not subject to requirements of the State Building Code, such as fences, driveways, small accessory structures, home occupations, among others.
- Outlines all of the enforcement procedures as part of administering the Code.
- Finally, Staff has included a placeholder for design review standards for when the City formally adopts some form of design guidelines or standards.

The Planning Commission reviewed the proposed ordinance at a regular meeting on May 13, 2013. At this meeting, the Planning Commission asked clarifying questions and provided minor feedback. The Planning Commission held a public hearing on the proposed administrative ordinance (Ordinance 08-084) on May 29, 2013, which was continued to the meeting on June 10, 2013. At the public hearing, the Planning Commission entered comments submitted in writing by Council Member Wally Nelson into the public record. After working with Staff on two minor amendments to the proposed ordinance, the Planning Commission unanimously recommended the administration and enforcement ordinance for approval (Vote: 6-0).

It should also be noted that Staff is recommending to replace the existing administrative provisions in the Zoning Code. The administration section would be organized under Article 3 of the new organizational structure.

CITY COUNCIL UPDATE:

At its June 18, 2013 meeting the City Council reviewed the ordinance and directed Staff to remove Section 154.103.G concerning "Review of Design or Demolition". In its place, Staff has added a placeholder so that this section can be brought forward at a later date when the City's Design Standards Manual is finished.

Based on the Council discussion, Staff has also removed language that read as follows in the Violations and Enforcement section: "If the landowner is not responsive, the Director of Planning may, upon probable cause of a violation, enter upon the property, but not enter any structures, for the sole purpose of investigation".

RECOMMENDATION:

The Planning Commission recommends the City Council approve Ordinance 08-086 through the following motion:

"Move to approve Ordinance 08-086, establishing new administrative provisions in the Lake Elmo Zoning Code."

In addition, Staff recommends that the City Council approve Resolution No. 2013-52, authorizing summary publication of Ordinance 08-086, through the following motion:

"Move to approve Resolution No. 2013-52, authorizing summary publication of Ordinance 08-086."

ATTACHMENT(S):

1. Ordinance 08-086
2. Resolution No. 2013-52

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-086

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
ADOPTING NEW ADMINISTRATIVE AND ENFORCEMENT PROVISIONS IN THE LAKE
ELMO ZONING CODE.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, by repealing City Code Sections 154.015 through 154.021 in their entirety.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, by adding the following language:

ARTICLE 3 ZONING ADMINISTRATION AND ENFORCEMENT

§154.100	Director of Planning
§154.101	Applications Review Process
§154.102	Public Hearing Requirements
§154.103	Permits, Certificates and Licenses
§154.104	Planning Commission
§154.105	Zoning Amendments
§154.106	Conditional Use Permits
§154.107	Interim Use Permits
§154.108	Appeals and the Board of Adjustment
§154.109	Variances
§154.110	Violations and Enforcement

§ 154.100 Director of Planning

The City Council shall appoint a Director of Planning. The Director of Planning, or his/her designated agent, shall enforce this chapter and shall perform the following duties:

- A. *Permits.* Issue zoning permits pertaining to the zoning ordinance and make and maintain records thereof;
- B. *Inspections.* Conduct inspections of buildings and use of land to determine compliance with the terms of this chapter;
- C. *Records.* Coordinate with the City Clerk to maintain permanent and current records of this chapter, including but not limited to: all maps, amendments and conditional uses, variances, appeals and applications therefore;
- D. *Applications.* Receive, file and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies;

- E. *Interpretation.* Interpret the provisions of this chapter and related provisions of the City Code, including determinations of Zoning Use Types and Classifications as specified in §154.012.
- F. *Enforcement.* Institute in the name of the City any appropriate actions or proceedings to enforce this chapter;
- G. *Work Program.* Recommend a program of work pursuant to Section §32.032 of the City Code to the Planning Commission prior to the beginning of each calendar year and at such other times as the Planning Commission may request.
- H. *Reporting.* Submit a yearly report to the Planning Commission in January of each year summarizing the activities of the Planning Department during the previous year, including information related to housing, public infrastructure, City facilities, industrial and commercial development, enforcement actions, and other such information as the Director of Planning deems relevant. This report should also include any recommended changes to the Comprehensive Plan or various land use ordinances.
- I. *Planning Commission.* Serve as an ex-officio, non-voting member of the Planning Commission.

§ 154.101 Applications and Review Process.

- A. *Application Form and Fee.* The following general provisions apply to all applications required under this chapter.
 - 1. *Application Form.* All applications for any site plan, conditional use permit, zoning verification, variance, or for any other City approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the city, to the Director of Planning.
 - a. *Information Required.* Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. In addition, every application shall include the submission requirements listed in §154.101.B.1. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.
 - 2. *Fee.* The application shall be accompanied by the required fee as established by resolution of the City Council. If a dispute arises over a specific fee imposed by the city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court, as provided by M. S. 462.361 (judicial review), as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court.
- B. *Application Requirements.*
 - 1. *Submission Materials.* Submission materials for applications required under this chapter shall include the following specific information:
 - a. Site plan drawn to scale showing parcel and building dimensions.
 - b. Location of all buildings and their size, including square footage.
 - c. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks.
 - d. Landscape plans meeting the requirements of Section 155.89 of Article 6 of this Zoning Ordinance.
 - e. If grading or storm water management is proposed, grading and storm water, erosion, and sediment control plans meeting the requirements of §150.270 through §150.284, §151.017, and §151.027 of the City Code.

- f. Type or types of business or activity and proposed number of employees.
 - g. Proposed floor plan of any building with use indicated.
 - h. Building elevation drawings of any new construction or building renovation proposed.
 - i. Sanitary sewer and water plans with estimated flow rates.
 - j. Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome the limitation shall be made part of the application; and
 - k. For applications that require a public hearing, a certified list of property owners located within 350 feet of the subject property obtained from and certified by a licensed abstractor.
 - l. The Director of Planning may require that the applicant supply proof of ownership of the property for which a permit is requested.
 - m. The Director of Planning may require traffic generation information to determine the adequacy of existing transportation infrastructure.
 - n. Such other information as may be required by the Director of Planning, Planning Commission or City Council.
2. *Waiver of Submission Materials.* The Director of Planning may waive certain submission requirements for projects that will have a minimal impact on surrounding properties or in instances when said submission requirements are impractical given the nature of the proposed development.
- C. *Amended Applications.* An amendment to any permit issued under this Chapter shall be processed in the same manner as a new application.
- D. *State Established Time Limit for Final Action.* The City shall comply with the time limits as established by Minnesota Statute 15.99 (time deadline for agency action), as it may be amended from time to time, with regards to taking action on any applications subject to said Statute.

§ 154.102 Public Hearing Requirements

This section contains requirements for public hearings held by the Planning Commission, Board of Adjustment or City Council under this Ordinance.

- A. *Notification of General Public.* The Director of Planning shall set the date for a public hearing and shall have notices of such hearing published in the legal newspaper at least once, and not less than ten days prior to the hearing.
- B. *Notification of Surrounding Property Owners.* For any application for which a public hearing is required, the Director of Planning shall notify all property owners within the affected zone and within three hundred and fifty feet (350') of the outer boundaries of the property in question.
 - 1. Failure of any property owner to receive such notification shall not invalidate the proceedings.
 - 2. The City Council may waive the mailed notice requirements for a city-wide amendment to the zoning ordinance initiated by the Planning Commission or City Council.
- C. *Hearing Procedures*
 - 1. Public Hearings conducted by the Planning Commission, City Council, and Board of Adjustment.

- a. The Director of Planning or his/her representative shall summarize the application and any associated information.
 - b. The applicant shall be allowed to summarize the request and call any witnesses to support his/her request.
 - c. The public shall be allowed to make statements concerning the request subject to reasonable limits that may be set by the body conducting the hearing.
 - d. The Planning Commission, City Council and Board of Adjustment may establish other procedures as needed to ensure due process for those parties involved with the hearing.
2. *Appeal Hearings.* The Board of Adjustment shall hold a hearing and make a decision on any appeal submitted in accordance with §154.108 of this Article. The Board of Adjustment shall establish rules for due process during appeal hearings and any party to the appeal may appear at the hearing in person or by agent or attorney. At a minimum, the following hearing procedure will be followed:
- a. Appellant shall present a case and may call any witnesses necessary in support thereof;
 - b. Respondent may ask questions of appellant's witnesses;
 - c. Respondent may call witnesses;
 - d. Appellant may ask questions of respondent's witnesses;
 - e. Respondent may summarize his or her position;
 - f. Appellant may summarize his or her position;
 - g. Generally, the Minnesota District Court Rules of Civil Procedure shall apply for the conduct of the hearing.

§ 154.103 Permits, Certificates and Licenses

A. *Building Permits*

- 1. *Compliance.* A building permit is required for the construction or structural alteration of a building or any part thereof. Other construction activity may require a permit in accordance with the Minnesota State Building Code. Demolition, wrecking or removal of any structure shall require a demolition or moving permit. No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all requirements of the Minnesota State Building Code as adopted by the City of Lake Elmo pursuant to Chapter 151, Title XV of the City Code have been fully met.
- 2. *Concurrent Applications.* If the proposed development requires a zoning amendment, variance or conditional use permit, or other permit required under this Article, the applicant shall secure all required permits prior to the issuance of a building permit for said development.
- 3. *Administrative Review of Permits for Existing Platted Lots.* If the proposed development does not involve a zoning amendment, variance or conditional use permit, and proposes a use, structure or expansion of an existing structure on an existing platted lot, the Director of Planning may review the application and authorize the Building Official to approve or to deny the permit.
- 4. *Expiration.* Any building permit issued by the city shall expire and by limitation be null and void if a certificate of occupancy and final completion has not been issued within the following applicable period of time after the date of permit issuance:

- a. Single-family residential dwellings, including new construction, remodeling or additions: 12 months;
 - b. Multi-family and nonresidential construction: 12 months unless a longer time is specified by the City Council at the time the original permit is issued;
 - c. *Extension.* The Building Official may grant an extension prior to the expiration of any building permits in accordance with the Minnesota State Building Code. An expired building permit may be reissued once, by the Building Official, for one-half the original permit fee. Thereafter, if the permitted work is not completed within the applicable time period, a new permit may be issued only upon such conditions as the City Council by resolution may prescribe, including financial guarantees to guarantee completion by a specified date.
 - d. *Time Limitations for Exterior Work.* All exterior work shall be completed as follows:
 - i. All disturbed and exposed ground shall be covered with landscaping in accordance with §150.070 through §150.078 of the City Code.
 - ii. All exterior construction, including siding, roofing, doors, windows and finish shall be completed and present a finished appearance within six (6) months of the start of construction. Tar paper, unfinished plywood, fiberboard insulation, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be an exterior finish shall not be considered an acceptable exterior finish. Extensions for weather sensitive work may be granted by the Building Official.
 - iii. Failure to complete exterior work as required herein shall result in suspension of the existing permit until a reinstatement fee equal to 100% of the original building permit has been made. Reinstatement of a building permit does not extend the original term of the permit. The reinstatement fee shall also be paid prior to re-issuance of any subsequent permit for exterior work that was not completed under a prior permit that expired.
- B. *Certificate of Zoning Compliance.* A certificate of zoning compliance is a zoning permit that is intended as a means of administratively reviewing a new use, change in use, or structural change that does not require a building permit.
- 1. *When Required.* A certificate of zoning compliance is required for the following activities:
 - a. A new use classification within an existing building or structure;
 - b. A change of use classification within an existing building or structure;
 - c. Addition, removal or change in parking or other on-site improvements;
 - d. Small accessory structures that do not require a building permit;
 - e. Home occupations;
 - f. Swimming pools;
 - g. Antennas, including amateur radio antennas and wireless communications facilities that meet the criteria for administrative review in §150.111(C);
 - h. Fences six feet and less in height;
 - i. Driveways that are not authorized as part of an approved building permit;
 - j. Storm water management activities and structures not otherwise permitted as part of a development application;

- k. Other situations requiring additional review or interpretation, as specified elsewhere in this Ordinance.
- 2. *Expiration of a Certificate of Zoning Compliance.* Where a certificate of zoning compliance use has been established and is discontinued for any reason for a period of one (1) year or longer, the certificate of zoning compliance shall become null and void.
- C. *Certificate of Occupancy.* No vacant land shall be occupied or used and no buildings hereafter erected, altered or moved shall be occupied until a certificate of occupancy has been issued by the Building Official. Such certificate shall show that the building or premises or part thereof and the use thereof are in conformity with the Minnesota State Building Code and the provisions of this chapter. Such certificate shall be issued only when the building or premises and the use thereof conform to all the requirements of the City Code.
- D. *Sign Permit.* A sign permit shall be authorized for a sign that conforms to the sign regulations in §154.212. An application, on a form provided by the Director of Planning, shall be submitted with the required fee by the owner of the proposed sign. The Director of Planning shall issue a sign permit if all of the regulations in §154.212 are met.
- E. *Special Event Permit.* A special event permit may be issued for certain events for activities or events not otherwise permitted under the Zoning Ordinance in accordance with §110.070 of the City Code.
- F. *Grading Permit.* A permit shall be required for all non-agricultural project(s) or activities that will result in the movement of more than fifty (50) cubic yards of earth or the disturbance of more than one-half acre of land, and for construction of a building or structure on steep slopes, as specified in Article 6, Section 155.84. The Director of Planning may issue a grading permit only if the grading plan meets the requirements of the Lake Elmo Storm Water Management and Erosion and Sediment Control Ordinance.
 - 1. *Public Hearing.* All grading and excavating applications, for the purpose of creating wetlands, berming, landscape amenities, and other natural features that result in the moving of more than 400 cubic yards of material per acre of site area shall require a public hearing.
- G. *Architectural and Design Review.* [RESERVED FOR FUTURE]

§ 154.104 Planning Commission

The Planning Commission shall provide assistance to the City Council in the administration of this chapter. The recommendations of the Planning Commission shall be advisory in nature. Specifically, the Planning Commission shall review, hold public hearings and make recommendations to the City Council on all applications for zoning amendments, variances, and conditional use permits using the criteria of this Article. The Planning Commission shall be formed and operate in conformance with Chapter 32 of the City Code and specifically with Sections 32.025 through 30.042.

§ 154.105 Zoning Amendments

- A. *Criteria for Granting Zoning Amendments.* The City Council may adopt amendments to the zoning ordinance and zoning map in relation to land uses within a particular district or to the location of a district line. Such amendments shall be used as a means to reflect changes in the goals and policies of the city as reflected in the Comprehensive Plan.
- B. *Types of Amendments.*
 - 1. *Rezoning.* A change in the boundary of a zoning district or a change from one district to another on the Official Zoning Map, referred to as a rezoning.
 - 2. *Text Amendment.* A change in the text for specific zoning district regulations or any other provision of this Chapter.

- C. *Initiation of Proceedings.* Proceedings for a text amendment or a rezoning may be initiated by one of the following three methods:
1. By petition of an owner or owners of property that is proposed to be rezoned or for which a text amendment for a change in a district regulation is proposed;
 2. By recommendation of the Planning Commission;
 3. By action of the City Council.
- D. *Application Requirements for Zoning Amendments Initiated by Petition.* A petition for a Zoning Amendment shall be submitted to the Director of Planning on such form as required by §154.101 of this Article and accompanied by the following information:
1. Conceptual site plan drawn to scale showing all affected parcels and a general concept for any proposed development of said parcels.
 2. General location of all buildings and their approximate dimensions and square footage.
 3. Approximate location of all curb cuts, driveways, access roads, parking areas, off-street loading areas, and sidewalks.
 4. Conceptual landscape plan indicating general planting areas for trees, shrubs, and lawns.
 5. Conceptual grading, erosion control, and storm water management plan.
 6. Conceptual sewer and water utility plan for the development.
 7. Narrative indicating the types of uses or businesses that are contemplated for the development, number of employees, parking and traffic impacts, and other pertinent information about the proposed development.
 8. The Director of Planning may require the applicant to supply proof of ownership of the property for which the amendment is requested that illustrates legal or equitable interest in the property.
- E. *Hearing Requirements.* The Planning Commission shall hold a public hearing on each complete application for a Zoning Amendment as provided in §154.102 of this Article. After the close of such hearing, the Planning Commission shall consider findings and shall submit the same together with its recommendation to the City Council.
- F. *Effect of Denial of Application.* No application of a property owner for an amendment to the text of this chapter or the zoning map shall be considered by the Planning Commission within the one year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.
- G. *Relationship to Comprehensive Plan.* Any rezoning shall be consistent with the current City of Lake Elmo Comprehensive Land Use Plan. If the rezoning is not consistent with the current Comprehensive Plan, an amendment to the Comprehensive Plan must be requested and approved prior to or concurrent with the rezoning request.
- H. *Coordination with Adjoining Communities.* Any zoning district change on land adjacent to or across a public right-of-way from an adjoining community shall be referred to the Planning Commission and the adjacent community or county for review and comment prior to action by the City Council granting or denying the zoning district classification change. A period of at least ten (10) days shall be provided for receipt of comments. Such comments shall be considered as advisory only.

§ 154.106 Conditional Use Permits

- A. *Required Findings.* Conditional use means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls only upon a finding that all of the following provisions are met:
1. The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city.
 2. The use or development conforms to the City of Lake Elmo Comprehensive Plan.
 3. The use or development is compatible with the existing neighborhood.
 4. The proposed use meets all specific development standards for such use listed in Article 7 of this Chapter.
 5. If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Chapter 150, §150.250 through 150.257 (Shoreland Regulations) and Chapter 152 (Flood Plain Management).
 6. The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.
 7. The proposed use will not be hazardous or disturbing to existing or future neighboring uses.
 8. The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
 9. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 10. The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
 11. Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
 12. The proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
- B. *Application Requirements.* Conditional Use Permit applications shall be submitted to the Director of Planning on such form and accompanied by such information as required by §154.101.A of this Article and with the submission materials listed in §154.101.B of this Article.
- C. *Public Hearing Required.* The Planning Commission shall hold a public hearing on each complete application for a conditional use permit as provided in §154.102 of this Article. After the close of the hearing on a proposed conditional use permit, the City Planning Commission shall consider findings and shall submit the same together with its recommendation to the City Council.
- D. *Final Decision by City Council.* The City Council shall make the final decision on a conditional use permit after a public hearing by the Planning Commission. The City Council may approve, approve with conditions or deny the application.
- E. *Conditions.* In reviewing applications for conditional use permits, the Planning Commission and Council may attach whatever reasonable conditions they deem necessary to mitigate anticipated adverse impacts associated with these uses, to protect the value of property within

the district and to achieve the goals and objectives of the Comprehensive Plan. In determining such conditions, special consideration shall be given to protecting immediately adjacent properties from objectionable views, noise, traffic and other negative characteristics associated with such uses.

1. The conditions shall include all specific development standards for such use listed in Article 7 of this Chapter.
 2. If the proposed use is in a flood plain management or shoreland area, the conditions shall include specific standards for such use listed in Chapter 151 (Floodplain Management) and Chapter 152 (Shoreland Management).
 3. In addition, conditions may include, but are not limited to, the following:
 - a. Controlling the number, area, bulk, height and location of such uses;
 - b. Regulating ingress and egress to the property and the proposed structures thereon with particular references to vehicle and pedestrian safety and convenience, traffic flow and control and access in case of fire or other catastrophe;
 - c. Regulating off-street parking and loading areas where required;
 - d. Controlling the location, availability and compatibility of utilities;
 - e. Requiring berming, fencing, screening, landscaping or other means to protect nearby property; and
 - f. Requiring other conditions to create compatibility of appearance with surrounding uses.
- F. *Findings for Denial.* If the Planning Commission recommends denial of a conditional use permit or the Council orders such denial, it shall include in its recommendation or determination findings as to the specific ways in which the proposed use does not comply with one or more specific findings required by this chapter.
- G. *Permittee.* A conditional use permit shall be issued for a particular use and not for a particular person, except in the case of a permit granted for the uses of land reclamation, mining or soil or mineral processing. In such cases, a permit shall be issued to the particular person making application for such permit and such permit shall not be transferred or assigned for use by another without the written consent of the city. However, such consent by the city shall not be unreasonably withheld.
- H. *Periodic Review.* A periodic review of the use may be attached as a condition of approval of a conditional use permit.
- I. *Term of Permit.* Unless otherwise stipulated, the term shall be the life of the use.
- J. *Revocation.* Failure to comply with any condition set forth in a conditional use permit, or any other violation of this chapter, shall be a misdemeanor and shall also constitute sufficient cause for the termination of the conditional use permit by the City Council following a public hearing conducted in accordance with §155.102 of this Article.
- K. *Expiration.* If substantial construction has not taken place within 12 months of the date on which the conditional use permit was granted, the permit is void except that, on application, the Council, after receiving recommendation from the Planning Commission, may extend the permit for such additional period as it deems appropriate. If the conditional use is discontinued for six months, the conditional use permit shall become void. This provision shall apply to conditional use permits issued prior to the effective date of this chapter, but the six-month period shall not be deemed to commence until the effective date of this chapter.

§ 154.107 Interim Use Permits

- A. *Purpose and Intent.* The purpose and intent of allowing interim uses are:
1. To allow a use for a limited period of time that reasonably utilizes the property where such use is not consistent with the future land map in the Comprehensive Plan; and
 2. To allow a use that is presently acceptable, but that with anticipated development or redevelopment or other significant change, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district.
- B. *Required Findings.* An interim use permit may be granted only if the City Council finds as follows:
1. The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.
 2. The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community.
 3. The use will not adversely impact implementation of the Comprehensive Plan.
 4. The user agrees to all conditions that the City Council deems appropriate to establish the interim use. This may include the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the city to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit.
 5. There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.
 6. The date or event terminating the interim use shall be set by the City Council at the time of approval.
- C. *Application Requirements.* Interim Use Permit applications shall be submitted to the Director of Planning on such form and accompanied by such information as required by §154.101.A of this Article and with the submission materials listed in §154.101.B of this Article.
1. *Additional Application Requirements:* An application for an Interim Use Permit shall include the following additional information:
 - a. A letter from the applicant explaining the proposal and stating the date or event that will terminate the use;
 - b. A signed consent agreement, subject to review and approval by the City Council documenting:
 - i. That the applicant, owner, operator, tenant and/or user has no entitlement to future approval or reapproval of the interim use permit;
 - ii. That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and
 - iii. That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the interim use permit.
- D. *Public Hearing Required.* The Planning Commission shall hold a public hearing on each complete application for a Interim Use Permit as provided in §154.102 of this Article. After the close of the hearing on a proposed Interim Use Permit, the City Planning Commission shall consider findings and shall submit the same together with its recommendation to the City Council.

- E. *Final Decision by City Council.* The City Council shall make the final decision on a Interim Use Permit after a public hearing by the Planning Commission. The City Council may approve, approve with conditions or deny the application.
- F. *Termination.* An interim use shall terminate on the happening of any of the following events, whichever occurs first:
 1. The date or event stated in the permit;
 2. Upon violation of conditions under which the permit was issued;
 3. Upon a change in the City's zoning regulations which renders the use nonconforming; or
 4. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.
- G. *Revocation.* Failure to comply with any condition set forth in a Interim Use Permit, or any other violation of this chapter, shall be a misdemeanor and shall also constitute sufficient cause for the termination of the conditional use permit by the City Council following a public hearing conducted in accordance with §155.102 of this Article.
- H. *Renewal.* The following process may be used to renew an active interim use permit that is set to expire. Terminated or suspended interim use permits cannot be renewed unless the Director of Planning has received an application for and approved a 1-time 30-day extension to continue processing the renewal application.
 1. *Application.* Application requirements for renewal of an existing Interim Use Permit shall be the same as for a new application.
 2. *Review.* Upon receiving a completed application for an interim use permit renewal, the Director of Planning shall send notice of the requested renewal to all property owners within 350 feet of the parcel(s) containing the interim use. If any objections are raised within 10 days of the mailed notice, the application shall be processed in the manner of a new application. If no objections are raised, the Director of Planning shall prepare a resolution of approval outlining the conditions and stipulations of the renewal for consideration by the City Council. The City Council, at its discretion, may approve or deny the request with findings. Denial of a renewal request does not constitute termination of the existing interim use permit.

§ 154.108 Appeals and the Board of Adjustment

The Board of Adjustment is hereby established pursuant to this chapter and Minnesota law. The Board of Adjustment (which is the City Council in accordance with §31.10 of the City Code) shall have those powers and authority as provided by Minnesota law and as hereinafter provided for. The Board of Adjustment shall be formed and operate in conformance with Chapter 31 of this Code and specifically with §31.10.

- A. *Powers of the Board of Adjustment.*
 1. *Review of Administrative Decisions.* The Board of Adjustment shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by such an administrative official charged with enforcing this chapter. Such appeal may be made by any person, firm or corporation aggrieved by an officer, department, board or bureau of the city.
 2. *Variances.* The Board of Adjustment shall also have the power to grant variances to the provisions of this chapter under certain conditions. The conditions for the issuance of a variance are as indicated in §154.109 of this Article. No use variances (uses different than those allowed in the district) shall be issued by the Board of Adjustment.

B. *Procedures for Appeals.*

1. *Filing of Appeals.* All appeals to the Board of Adjustment shall be in writing and filed with the office of the City Clerk within 14 calendar days of the date of mailing of the notice of the order, requirement, decision or determination from which the appeal is made.
2. *Hearings.* The Board of Adjustment shall conduct a hearing regarding all appeals in accordance with §154.102.C.2 of this Article.
3. *Notice.* Written notice of the hearing shall be provided to the parties to the hearing and mailed not less than 14 days prior to the hearing.
4. *Orders.* The Board shall, within a reasonable time, make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made. The reasons for the decision of the Board of Adjustment shall be stated in the order. A majority vote of the Board of Adjustment shall be necessary to reverse any decisions of an administrative office of the city or to decide in favor of the applicant.

§ 154.109 **Variances**

- A. *In General.* The Board of Adjustment shall have the power to grant variances to the provisions of this chapter under the following procedures and standards.
 1. A request for a variance from the literal provisions of this chapter may be granted in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. All requests for variances shall be reviewed in accordance with the required findings listed in §154.109.F.
- B. *Use Variances Prohibited.* A variance shall not be granted for any use that is not a listed permitted or conditional use under this chapter for property in the zone where the property is located.
- C. *Application Requirements.* Variance applications shall be submitted to the Director of Planning on such form and accompanied by such information as required by §154.101.A of this Article and with the submission materials listed in §154.101.B of this Article.
- D. *Hearing Requirements.* The Planning Commission shall hold a public hearing on each complete application for a variance as provided in §154.102 of this Article. After the close of the hearing on a proposed variance, the City Planning Commission shall consider findings and shall submit the same together with its recommendation to the Board of Adjustment.
- E. *Board of Adjustment Action.* The Board of Adjustment shall receive the recommendation of the Planning Commission and shall take final action on the variance request. All findings and decisions of the Board of Adjustments concerning variances shall be final.
- F. *Required Findings.* Any action taken by the Board of Adjustment to approve or deny a variance request shall include the following findings:
 1. *Practical Difficulties.* A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.

- a. *Definition of Practical Difficulties.* "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.
- 2. *Unique Circumstances.* The problem for the landowner/applicant which the proposed variance is intended to correct must be due to circumstances that are unique to the property in question and that were not created by the land owner/applicant.
- 3. *Character of Locality.* The proposed variance will not alter the essential character of the locality in which the property in question is located.
 - a. *Definition of Locality.* For purposes of this subsection, "locality" shall be defined as all that property within 350 feet of the property proposed for the variance; however, in all events, it shall include all parcels abutting the affected parcel, including those immediately across a public street, alley or other public property.
- 4. *Adjacent Properties and Traffic.* The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.
- G. *Conditions.* The Planning Commission may recommend and the Board of Adjustment may impose such restrictions and conditions upon the property that is the subject of the variance as may be necessary to comply with the standards established by this chapter or to reduce or minimize the effect of such variance upon other properties in the neighborhood and to better carry out the intent of the variance.
- H. *Effect of Denial.* No application by a property owner for a variance shall be submitted to the Board of Adjustment within a six (6) month period following a denial of such a request unless, in the opinion of the Board, new evidence of change in circumstances warrant it.
- I. *Expiration.* A variance shall be deemed to authorize only one particular use and shall expire if work does not commence within twelve (12) months of the date of granting such variance or if that use ceases for more than six (6) consecutive months.
- J. *Revocation.* The Board of Adjustment may revoke a variance if any conditions established by the Board as part of granting the variance request are violated.

§ 154.110 Violations and Enforcement

- A. *Enforcing Officer.* It shall be the duty of the Planning Director to cause the provisions of this chapter to be properly enforced.
- B. *Violations*
 - 1. *Violations.* Any person who shall violate or refuse to comply with any of the provisions of this Chapter shall be subject to the enforcement and penalty provisions of §10.99 of the City Code.
- C. *Investigation and Administrative Enforcement.*
 - 1. *Investigation of Violation.* The Director of Planning shall investigate alleged violations of this Chapter. Investigation of a violation may require accessing the property where the violation is alleged to have occurred. The Director of Planning shall notify the landowner of the need for investigation and make a reasonable attempt to gain permission from the landowner for access to the property and structures for investigative purposes. If access to the property is specifically denied by the landowner, the Director of Planning shall obtain a judicial order prior to entering upon the property. Entering a structure for investigative purposes shall occur only upon permission of the landowner or issuance of a judicial order.
 - 2. *Administrative Enforcement*

- a. *Notice of Violation.* Whenever in the judgment of the Director of Planning a determination is made upon investigation that a particular permit holder has not complied with this Chapter, the Director of Planning shall issue written notice of violation to the owner of record and require him or her to complete the work.
- b. *Cease and Desist Order.* Upon investigation, if the Director of Planning has probable cause to believe a violation of this Chapter has occurred and that immediate stoppage of work is necessary to minimize harm caused by such violation, the Director of Planning may issue a cease and desist order to halt the progress of any property modification. When any work has been stopped by a cease and desist order, it shall not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.
- D. *Administrative Fee for Enforcement.* The Director of Planning shall charge an administrative fee, as set by resolution of the City Council, to compensate for time spent involving the investigation and prosecution of violations, and including any expenses incurred during the investigation.
- E. *After the Fact Applications and Fees.* Any person making application for a permit after the commencement of work requiring a permit, shall be charged an additional administrative fee. In the event the application for a permit is denied or the action permitted does not include all or part of the work commenced prior to approval of said permit, the Director of Planning shall require correction and/or restoration of the concerned property to its original state, including removal of structures or improvements.

SECTION 3. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 4. Adoption Date. This Ordinance 08-086 was adopted on this 2nd day of July 2013, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

This Ordinance 08-086 was published on the ____ day of _____, 2013.

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

RESOLUTION NO. 2013-52

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-086 BY TITLE
AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-086, an ordinance replacing the administrative provisions of the City's Zoning Code; and

WHEREAS, the ordinance is lengthy; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-086 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-086, which replaces the administrative provisions of the City's Zoning Code. The revised ordinance includes the following components:

- Identifies the City Staff that are responsible for issuing permits, enforcing the code, keeping records, processing applications and performing other administrative duties.
- Outlines the application and review process with a unified list of application submittal requirements.
- Establishes unified standards and procedures for the public hearing process.
- Identifies and describes all of the permits that are required by the Zoning Code. Staff is recommending a new permit category called "Certificate of Zoning Compliance" to regulate uses that are not subject to requirements of the State Building Code, such as fences, driveways, small accessory structures, home occupations, among others.
- Outlines all of the enforcement procedures as part of administering the Code.
- Finally, the Ordinance includes a placeholder for design review for when the City formally adopts some form of architectural design guidelines or standards.

The full text of Ordinance No. 08-086 is available for inspection at Lake Elmo city hall during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: July 2, 2013.

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

_____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.



MAYOR AND COUNCIL COMMUNICATION

DATE: 07/02/2013

REGULAR

ITEM #: 17

AGENDA ITEM: Country Sun Farm and Greenhouses Conditional Use Permit Amendment
SUBMITTED BY: Kyle Klatt, Planning Director
THROUGH: Dean Zuleger, City Administrator
REVIEWED BY: Planning Commission
Nick Johnson, City Planner

SUGGESTED ORDER OF BUSINESS:

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

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider a request from Country Sun Farm and Greenhouses, 11211 60th Street North, to amend the existing Conditional Use Permit (CUP) related to its Agricultural Entertainment Business to allow for the inclusion of children's inflatable bouncers as part of the fall harvest sales activities conducted on the site. Because this CUP has been amended one other time, Staff is recommending that the City Council adopt a Resolution that amends only those sections of the original resolution pertaining to the current request.

The Planning Commission reviewed the CUP amendment request and recommends that the City Council approve Resolution No. 2013-53 through the following motion:

"Move to approve Resolution No. 2013-53 approving an amendment to the Country Sun Farm and Greenhouses CUP to allow children's inflatable bouncers"

BACKGROUND AND STAFF REPORT:

The City has undertaken several revisions to the zoning requirements for agricultural-related businesses in the past several years, and these regulations have varying degrees of impact on the Country Sun Farm operation, which has been in business in its current location for well over 30 years. Because of this history and subsequent growth and expansion of the business, it will be useful to first review how the City's zoning regulations apply to this site before discussing the current request. In summary, the following aspects of the Country Sun Farm are being regulated by the City of Lake Elmo:

- Agricultural activity and uses that are normally associated with a farm, including growing of crops, care of livestock, and other horticultural activities. All such uses are a permitted activity in the underlying zoning for the site.
- Agricultural sales of produce grown on the premises, including fresh flower and plant material, pumpkins, and other products. For the most part, this activity was in place at the start of the business and prior to many of the current agricultural business regulations. These activities are also considered a permitted use (if the products were grown on the premises).
- Greenhouses. Greenhouses are allowed as a Conditional Use in rural districts, and the Country Sun Farms has previously applied for and received such a permit from the City. It is not always clear in the historical record exactly what uses and activities were associated with Conditional Use Permit for Greenhouses on the site.
- Agricultural entertainment business activities. As part of recent updates to the Zoning Ordinance, the City now regulates certain activities as an agricultural entertainment business, which at one point required a Conditional Use Permit but now is regulated at an Interim Use. The applicant applied for and received approval of a Conditional Use Permit for certain agricultural entertainment activities as defined by the code prior to this change, and this is the permit that would be amended as part of the current request (and still is an active permit).
- Agricultural sales of any products from a permanent facility or grown off the premises. The most recent permit issued to the applicant was needed to allow the sale of agricultural products that are grown off the premises. This permit now regulates all of the agricultural sales that are being conducted in the current sales building and greenhouses and allows for produce to be sold that is grown off-site. This is the permit that the applicant has asked to renew.
- The property owned by Country Sun Farm is either zoned A – Agriculture or RR – Rural Residential.

Given the history of the applicant's site and the various permits that have been issued over the past 30 years, it can be somewhat difficult to fully understand how and under what rules various activities are permitted on the site. Essentially, there are two active permits on the property that regulate everything happening that is not otherwise permitted outright: a Conditional Use Permit that is governed by Resolution No. 2009-047 (and amended previously via Resolution 2012-38) and an Interim Use Permit that is regulated through an Interim Use Permit Agreement. These two permits now cover all of the Agricultural Sales and Agricultural Entertainment Uses on the property.

Please note the primary difference between a Conditional Use Permit (CUP) and an Interim Use Permit (IUP) is that a CUP is attached to the land and may continue indefinitely into the future while an Interim Use Permit is specifically tied to a specific use/user and is limited to a specific period of time.

The proposed CUP amendment being requested would revise Resolution No. 2009-047 and the subsequent Resolution No. 2012-038, which is attached for consideration by the Planning Commission. The specific sections to be amended are found under the heading of "Findings" and numbers 5 and 10. These are the sections that deal with uses that are allowed or not allowed as part of an Agricultural Entertainment Business. The proposed changes would allow children's inflatable bouncers as one of the activities that is specifically allowed under the CUP. Please note that the other sections of the original resolution would not need to be amended and include things like the required review criteria, a description of other site activities, and the conclusions and decisions. Given the relatively minor nature of the requested change, Staff does not find that any other sections need to be updated.

The proposed changes would need to be incorporated into the resolution as follows (the proposed new language is underlined):

FINDINGS

- 5) That the proposed Conditional Use Permit for an Agricultural Entertainment Business would supplant all previous CUP permit for this property and permit the following uses:
- a. Corn Maze
 - b. Hay Ride
 - c. Petting Zoo / Farm
 - d. Haunted house
 - e. Seasonal Sales of related Christmas decorations (such as wreaths or other agricultural-type creations)
 - f. Children Activities and Games that are clearly incidental and subordinate to the agricultural activities taking place on the premises. These activities shall include:
 - i. A ticket booth related to the permitted agricultural entertainment activities
 - ii. A Silly String (aerosol string) play area
 - iii. Gem mining activities intended to provide learning opportunities for children regarding historical mining practices in Minnesota
 - iv. Corn Pit
 - v. Children's inflatable bouncers
- 10) That the following uses on the site are not allowed/permitted, nor conditionally permitted on the site:
- a. Children Activities and Games unless identified under Finding (5.f) above
 - ~~b. Inflatable jump/bounce houses~~
 - ~~e.b.~~ Seasonal Sales of fresh flower and plant material not allowed as a Wayside Stand or permitted under an Interim Use Permit
 - ~~e.c.~~ Seasonal Sales of pumpkins not allowed as a Wayside Stand or permitted under an Interim Use Permit
 - ~~e.d.~~ Seasonal Sales of Christmas trees not allowed as a Wayside Stand or permitted under an Interim Use Permit

In the past, the Country Sun Farm and Greenhouse business has used inflatable bouncers, but ceased using them as part of the City's ongoing review of the operation. Due to the relatively small impact of the bouncers on the overall operation and because they function only as an ancillary activity to the main agricultural sales business, Staff recommended that the Planning Commission recommend approval of the CUP amendment to allow the bouncers as part of the applicant's permit.

PLANNING COMMISSION REPORT:

The Planning Commission conducted a public hearing on the applicant's request for a CUP amendment at its June 24, 2013 meeting. There were no public comments received regarding the application, the Planning Commission unanimously recommended approval of the amendment.

RECOMMENDATION:

Based on the above background information and report, Staff and the Planning Commission recommend that the City Council approve an amendment to the Country Sun Farm and Greenhouses Conditional Use Permit to allow children's inflatable bouncers as one of the permitted activities on the site through the following motion:

"Move to approve Resolution No. 2013-53 amending the Conditional Use Permit for Country Sun Farm and Greenhouses to allow children's inflatable bouncers as a permitted activity."

ATTACHMENT(S):

1. Resolution No. 2013-53
2. Resolution No. 2012-38 (initial amendment)
3. Resolution No. 2009-47 (original resolution)

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

RESOLUTION NO. 2013-53

**A RESOLUTION AMENDING A CONDITIONAL USE PERMIT TO FURTHER
CLARIFY THE TYPES OF ACTIVITIES PERMITTED AS PART OF AN
AGRICULTURAL ENTERTAINMENT BUSINESS AT 11211 60TH STREET NORTH**

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

WHEREAS, Country Sun Farm and Greenhouses (the "Applicant"), 11211 60th Street North, has requested to amend the Conditional Use Permit related to an Agricultural Entertainment Business for the Country Sun Farm and Greenhouse to add children's inflatable bouncers to the list of permitted activities on the site; and

WHEREAS, Resolution No. 2009-047 related to said Agricultural Entertainment Business was approved by the City Council on December 1, 2009; and

WHEREAS, Resolution No. 2012-038 amended Resolution No. 2009-047 by clarifying the types of activities permitted as part of the Agricultural Entertainment Business; and

WHEREAS, Sections 5 and 10 under the heading of FINDINGS in Resolution No. 2012-047 specifies the types of uses that are permitted and not permitted as part of the Agricultural Entertainment Business; and

WHEREAS, the City Council intends to further clarify the types of uses that are permitted and not permitted as part of the Agricultural Entertainment Business; and

WHEREAS, the City Council considered said matter at its July 2, 2013 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following amendments to Resolution No. 2012-038:

FINDINGS

- 5) That the proposed Conditional Use Permit for an Agricultural Entertainment Business would supplant all previous CUP permit for this property and permit the following uses:
 - a. Corn Maze
 - b. Hay Ride
 - c. Petting Zoo / Farm

- d. Haunted house
- e. Seasonal Sales of related Christmas decorations (such as wreaths or other agricultural-type creations)
- f. Children Activities and Games that are clearly incidental and subordinate to the agricultural activities taking place on the premises. These activities shall include:
 - i. A ticket booth related to the permitted agricultural entertainment activities
 - ii. A Silly String (aerosol string) play area
 - iii. Gem mining activities intended to provide learning opportunities for children regarding historical mining practices in Minnesota
 - iv. Corn Pit
 - v. Children's inflatable bouncers

10) That the following uses on the site are not allowed/permitted, nor conditionally permitted on the site:

- a. Children Activities and Games unless identified under Finding (5.f) above
- ~~b. Inflatable jump/bounce houses~~
- ~~e-b.~~ Seasonal Sales of fresh flower and plant material not allowed as a Wayside Stand or permitted under an Interim Use Permit
- ~~d-c.~~ Seasonal Sales of pumpkins not allowed as a Wayside Stand or permitted under an Interim Use Permit
- ~~e-d.~~ Seasonal Sales of Christmas trees not allowed as a Wayside Stand or permitted under an Interim Use Permit

Passed and duly adopted on this 2nd day of July 2013 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

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

RESOLUTION 2012-38

**A RESOLUTION AMENDING A CONDITIONAL USE PERMIT TO FURTHER CLARIFY THE
TYPES OF ACTIVITIES PERMITTED AS PART OF AN AGRICULTURAL
ENTERTAINMENT BUSINESS AT 11211 60TH STREET NORTH**

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

WHEREAS, Richard and Eileen Bergmann on behalf of Country Sun Farm and Greenhouse (the "Applicants"), 11211 60th Street North, have previously applied for and received approval from the City of Lake Elmo (the "City") to amend the Conditional Use Permit related to an Agricultural Entertainment Business for the Country Sun Farm and Greenhouse; and

WHEREAS, Resolution 2009-047 related to said Agricultural Entertainment Business was approved by the City Council on December 1, 2009; and

WHEREAS, Sections 5 and 10 under the heading of FINDINGS in Resolution 2009-047 specifies the types of uses that are permitted and not permitted as part of the Agricultural Entertainment Business; and

WHEREAS, the City Council intends to further clarify the types of uses that are permitted and not permitted as part of the Agricultural Entertainment Business; and

WHEREAS, Resolution 2009-047 also contains provisions related to Agricultural Sales Businesses that have been superseded by revisions to the City Code, which are now permitted through an Interim Use Permit; and

WHEREAS, the City Council considered said matter at its August 8, 2012 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following amendments to Resolution 2009-047:

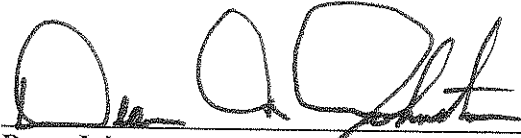
FINDINGS

- 5) That the proposed Conditional Use Permit for an Agricultural Entertainment Business would supplant all previous CUP permit for this property and permit the following uses:
 - a. Corn Maze
 - b. Hay Ride
 - c. Petting Zoo / Farm
 - d. Haunted house
 - e. Seasonal Sales of related Christmas decorations (such as wreaths or other agricultural-type creations)
 - f. Children Activities and Games that are clearly incidental and subordinate to the agricultural activities taking place on the premises. These activities shall include:
 - i. A ticket booth related to the permitted agricultural entertainment activities

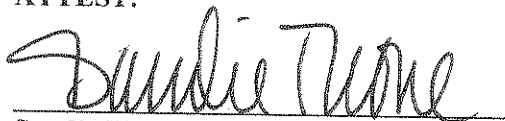
- ii. A Silly String (aerosol string) play area
 - iii. Gem mining activities intended to provide learning opportunities for children regarding historical mining practices in Minnesota
 - iv. Corn Pit
- 8) That the following uses ~~on~~ the site are identified as part of the Agricultural Sales Business and are allowed through an Interim Use Permit or as a Wayside Stand within the Agricultural or Rural Residential Zoning District:
- a. Seasonal Sales of fresh flower and plant material
 - b. Seasonal Sale of pumpkins
 - c. Seasonal Sale of Christmas trees
- 10) That the following uses on the site are not allowed/permitted, nor conditionally permitted on the site:
- a. Children Activities and Games unless identified under Finding (5.f) above
 - b. Inflatable jump/bounce houses
 - c. Seasonal Sales of fresh flower and plant material unless as a Wayside Stand or permitted under an Interim Use Permit
 - d. Seasonal Sales of pumpkins unless as a Wayside Stand or permitted under an Interim Use Permit
 - e. Seasonal Sales of Christmas trees unless as a Wayside Stand or permitted under an Interim Use Permit

Adopted by the City Council on this eighth day of August 2012.

CITY OF LAKE ELMO


Dean Johnston
Mayor

ATTEST:


Sandie Thone
City Clerk

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

Resolution No. 2009-047

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR AN
AGRICULTURAL ENTERTAINMENT BUSINESS ON 65 ACRES FOR COUNTRY
SUN FARM AND GREENHOUSE**

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

WHEREAS, Richard and Eileen Bergmann on behalf of Country Sun Farm and Greenhouse (the "Applicants"), 11211 60th Street North, have submitted an application to the City of Lake Elmo (the "City") for an Agricultural Entertainment Business Conditional Use Permit for the entire 67 acres, to clarify existing uses on the site, and to build an overflow parking lot; a copy of which is on file at city hall;

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on November 23, 2009; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated December 1, 2009; and

WHEREAS, the City Council considered said matter at its December 1, 2009, meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the Board of Adjustment makes the following findings:

FINDINGS

- 1) That the procedures for obtaining said Conditional Use Permit are found in the Lake Elmo Zoning Ordinance, Section 154.018.

- 2) That all the submission requirements of said Section 154.018 have been met by the Applicant.
- 3) That the proposed Conditional Use Permit for an Agricultural Entertainment Business would include the construction of a 39,900 square foot parking lot.
- 4) That the proposed Conditional Use Permit for an Agricultural Entertainment Business would encompass 65 acres (this does not include the approximately two acres of the parcel that falls to the south and east of 11459 60th Street).
- 5) The proposed Conditional Use Permit for an Agricultural Entertainment Business would supplant all previous CUP permits for this property and permit the following uses:
 - a. Corn Maze
 - b. Hay Ride
 - c. Petting Zoo / Farm
 - d. Haunted house
 - e. Seasonal Sales of related Christmas decorations (such as wreaths or other agricultural-type creations)
 - f. Children Activities and Games with an Agricultural component
- 6) That the proposed Agricultural Entertainment Business Conditional Use Permit meets the review criteria for Conditional Use Permits (Section 154.018) and the review criteria for Agricultural Entertainment Businesses (Section 154.033).
 - a. In 2008, the City of Lake Elmo approved Ordinance 08-006 which defined Agricultural Entertainment Business and identified the use as conditionally permitted in the Agricultural and Rural Residential zoning districts.
 - c. The addition of the overflow parking area would take advantage of existing disrupted areas as a result of work done by Northern Natural Gas.
 - d. The CUP for an Agricultural Entertainment Business at this time does not permit the increase of intensity of the uses, but instead clarifies the permissible uses on the site for staff and the property owners.
 - e. The conditions outlined in both Section 154.018 for Conditional Use Permits and Section 154.033 for Agricultural Entertainment Businesses are met.
 - f. The proposed overflow parking areas (both improved and grass) would reduce or eliminate the parking that may take place on State Highway 36 by visitors to the site.
- 7) That the following uses on the site are identified as a permitted use in the Agricultural or Rural Residential Zoning Districts:
 - a. Growing of field crops
 - b. Housing and Care of Livestock
 - c. Growing of Flowers

- 8) That the following uses on the site are identified as an Agricultural Sales Business or a Wayside stand, both of which are allowed/permitted within the Agricultural or Rural Residential Zoning District:
 - a. Seasonal Sales of fresh flower and plant material [if the products are produced on the premises or can meet the definition of "wayside stand"]
 - b. Seasonal Sale of pumpkins [if the products are produced on the premises or can meet the definition of "wayside stand"]
 - c. Seasonal Sale of Christmas trees [if the products are produced on the premises or can meet the definition of "wayside stand"]
- 9) That the following use on the site is identified as incidental to the property and is permitted in all zoning districts.
 - a. Halloween / Holiday decorations
- 10) That the following uses on the site are not allowed/permitted, nor conditionally permitted on the site:
 - a. Children Activities and Games without an Agricultural component
 - b. Seasonal Sales of fresh flower and plant material [if the products are NOT produced on the premises and can NOT meet the definition of "wayside stand"]
 - c. Seasonal Sale of pumpkins [if the products are NOT produced on the premises and can NOT meet the definition of "wayside stand"]
 - d. Seasonal Sale of Christmas trees [if the products are NOT produced on the premises and can NOT meet the definition of "wayside stand"]

CONCLUSIONS AND DECISION

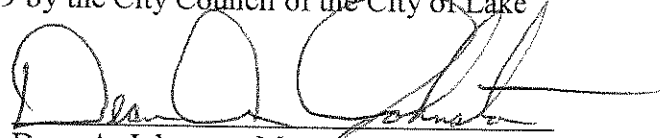
Based on the foregoing, the Applicants' application for a Conditional Use Permit is granted, provided the following conditions are met:

- 1) The Applicants must obtain any required permits from the Valley Branch Watershed District and the Minnesota Department of Transportation.
- 2) The designated parking area shall be 30 feet from all property lines.
- 3) Trash containers must be located inside or screened in an acceptable manner.
- 4) The property owners may allow the discharge of firearms during times and dates that the business is not open to the public. This would allow the property owners to continue utilizing their land for private hunting purposes. The discharge of weapons must be in conformance with Lake Elmo City Code requirements.
- 5) The property owner shall give the city permission to conduct inspections of the property in order to investigate complaints or to provide necessary updates to the city files or City Council.
- 6) No additional structures or facilities related to the operation of agricultural entertainment activities shall be installed or utilized without written approval of the City.
- 7) Prior to the commencement of any further agricultural entertainment activities on the land approved hereunder, the applicant shall furnish a detailed sketch depicting the placement

of structures and activities for review and approval by the City for conformity with the approval.

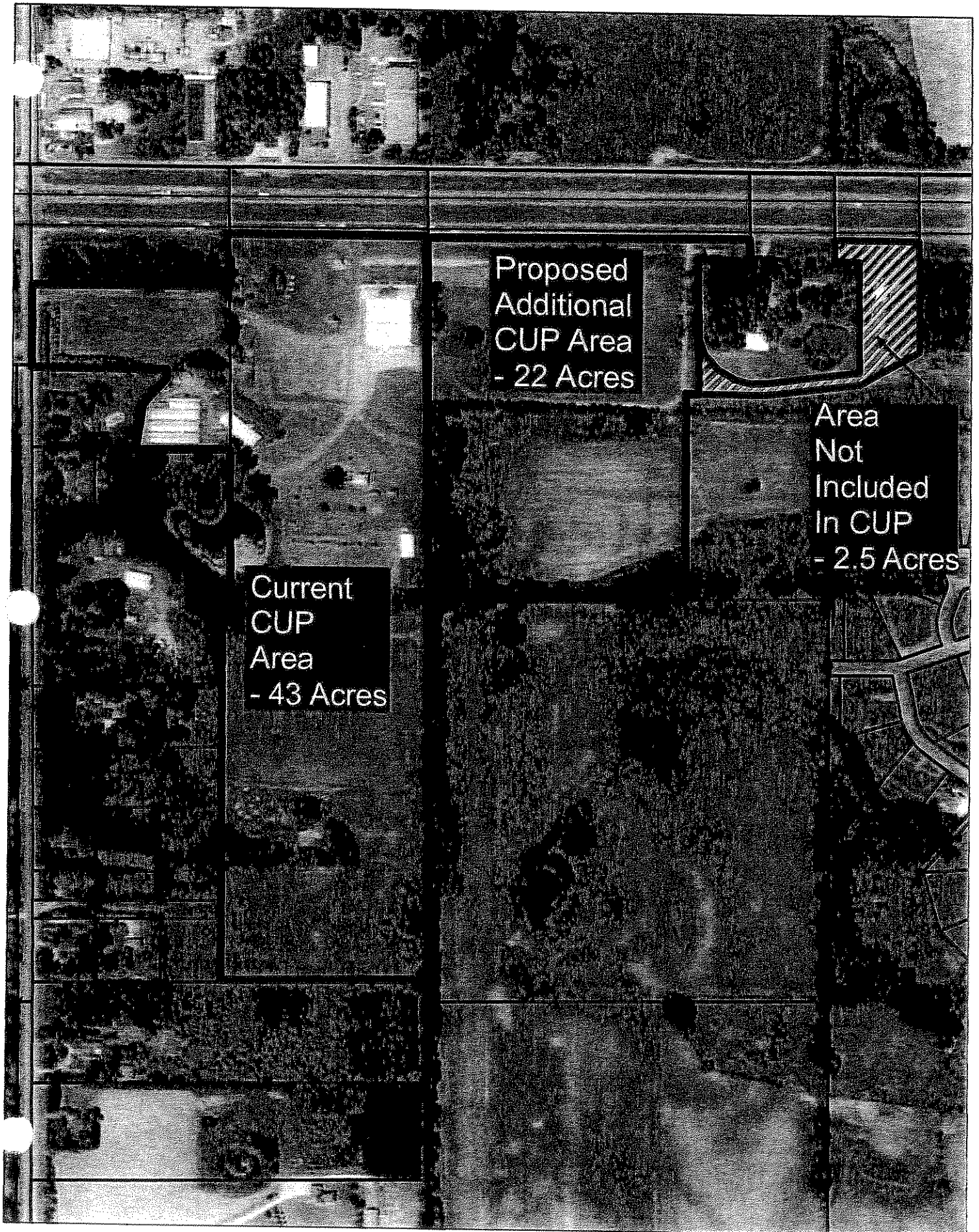
- 8) No activity that is not authorized or permissible on the existing lands shall be expanded or relocated onto the additional land approved for an agricultural entertainment use hereunder.
- 9) If dust complaints are received from the improved parking lot being proposed, the property owner shall implement an acceptable dust abatement technique.

Passed and duly adopted this 1st day of December 2009 by the City Council of the City of Lake Elmo, Minnesota.


Dean A. Johnston, Mayor

ATTEST:


Bruce Messelt, City Administrator





MAYOR AND COUNCIL COMMUNICATION

DATE: 07/02/2013

REGULAR

ITEM #: 18

AGENDA ITEM: Sketch Plan Review – Hammes Estates

SUBMITTED BY: Nick Johnson, City Planner

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Kyle Klatt, Planning Director
Jack Griffin, City Engineer
Mike Bouthilet, Public Works Director
Greg Malmquist, Fire Chief

SUGGESTED ORDER OF BUSINESS:

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

SUMMARY AND ACTION REQUESTED:

The City Council is asked to review a Sketch Plan related to a proposed residential subdivision on a property located in the I-94 Corridor. The Sketch Plan, Hammes Estates, is being submitted by Hammes West, LLC, 36 Moonlight Bay, Stillwater, Minnesota and consists of 173 single family homes on 78 acres of land immediately to the west of Keats Avenue (CSAH-19) and south of 10th Street North (CSAH-10). Staff is recommending that the City Council accept the Sketch Plan provided by Hammes West, LLC for a 173 unit residential subdivision that would be located on property owned by the Hammes Family within the I-94 Corridor planning area. Per the City's Subdivision Ordinance, no formal action is required by the City Council for the review of a Sketch Plan.

BACKGROUND AND STAFF REPORT:

The Lake Elmo Subdivision Ordinance specifies that as part of the pre-application process for a new subdivision, the applicant must first submit a Sketch Plan for review by the Planning Commission. Per the Subdivision Ordinance, the Sketch Plan review process does not require any formal approval. The review process offers an initial introduction to the proposal and general review for compliance with City Plans and ordinances. Staff also recommends that the Sketch Plan be reviewed by the Council as an additional opportunity for feedback. Staff has completed an internal review of the Sketch Plan (6/13/13), and general comments from Staff are included in the report addressed to the Planning Commission (attachment #1).

In addition to the initial submittal of the Sketch Plan, the applicants presented a second Concept Plan (attachment #5), dated 6/24/13, to the Planning Commission at the meeting on 6/24/13. The second Concept Plan has not been formally reviewed by Staff. However, two changes from the previous Concept Plan (6/13/13) have been identified:

1. Access to Keats Avenue North (CSAH-19) has been moved further to the south to address Washington County access spacing guidelines and Staff review comments pertaining to the entrance to the subdivision; and
2. The applicants have included a proposed outlot near the entrance of the subdivision to serve as a site for the lift station that is required to serve the property with sanitary sewer. The lift station improvement is within the scope of work of the ongoing Section 34 Utility Project.

As the applicant's formal Sketch Plan submission included the Concept Plan dated 6/13/13, it is important to note that the formal review and Staff Report to the Planning Commission pertaining to the Sketch Plan does not include any review of the Concept Plan dated 6/24/13.

Regarding the Staff review of the Sketch Plan, review comments are outlined in the Staff Report to the Planning Commission (attachment #1). The review comments included in the report address the following topics: Land Use, Density, Zoning, Buffer Areas, Parks, Trails, Streets, Utilities, Storm Water Management, Grading, Mining, General Comments, Subdivision Review Process and Environmental Review. City Staff will work with the applicants to address pertinent review comments in advance of submitting a preliminary plat application.

The Planning Commission also provided feedback for the applicants at the meeting on 6/24/13. These review comments included the following:

- There was concern over the length of the cul-de-sac that was identified in the Staff Report as not meeting the requirements of the City's Subdivision Ordinance.
- Members of the Planning Commission suggested that additional buffering be provided for lots abutting Keats Avenue North (CSAH-19).
- One member of the Planning Commission noted concern about the lack of curvature of the main east-west road in the proposed subdivision.

Other discussion provided by the Planning Commission was in-line with the review comments of Staff as shown in the Staff Report.

RECOMMENDATION:

No formal action is required by the City Council for the review of a Sketch Plan.

ATTACHMENT(S):

1. Staff Report to the Planning Commission, dated 6/24/13
2. Sketch Plan Application and Narrative, dated 6/13/13
3. Existing Conditions Plan, dated 6/13/13
4. Concept Plan, dated 6/13/13
5. Concept Plan, dated 6/24/13



Planning Commission

Date: 06/24/13

Item: 5a

Business

ITEM: Sketch Plan Review – Hammes Estates

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Planning Director
Jack Griffin, City Engineer
Mike Bouthilet, Public Works Director
Greg Malmquist, Fire Chief

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to review a Sketch Plan related to a proposed residential subdivision on a property located in the I-94 Corridor. The Sketch Plan, Hammes Estates, is being submitted by Hammes West, LLC, 36 Moonlight Bay, Stillwater, Minnesota and consists of 173 single family homes on 78 acres of land immediately to the west of Keats Avenue (CSAH-19) and south of 10th Street North (CSAH-10). Hammes West, LLC has agreed to purchase the property owned by the Hammes Family.

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

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

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

BACKGROUND INFORMATION:

The proposed subdivision Sketch Plan from Hammes West, LLC is the second formal Sketch Plan that the City has received to be located within one of Lake Elmo's urban service areas. The Hammes Estates Sketch Plan has been developed to conform to the City's recently adopted Comprehensive Plan update for the I-94 Corridor. The submission to the City includes the following components:

- *Concept Plan Narrative.* The Concept Narrative that was submitted by the applicant highlights the important features of the Sketch Plan, including general information, buffering, density and lot dimensions, phasing, utilities, streets and trails and mining and grading.
- *Existing Conditions Plan.* The existing conditions map that was submitted by the applicant depicts the property that is included in the Sketch Plan (outlined with the pink line) and includes some of the properties adjacent to the proposed development area. The site contains significant grades due to ongoing grading mining operations. These operations have been conducted on the properties owned by the Hammes Family since prior to the incorporation of the City.
- *Concept Sketch.* The Sketch Plan includes a proposed configuration of roads, lots, wetlands, ponding areas, trails and open space areas on the applicant's site. Hammes West, LLC has noted on the plan that of the 173 single family lots shown, 33 slightly larger lots are included to accommodate custom or specialty builders. These lots have been sited next to the adjacent residential neighborhood (Stonegate). Regarding access, the Sketch Plan shows one access to Keats Avenue North (CSAH-19) in the northeastern portion of the site, and includes connections to two proposed roads on the southern boundary of the site that are currently proposed in a residential subdivision being proposed by Lennar Homes.

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

STAFF REVIEW COMMENTS:

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

- *Land Use.* The proposed Sketch Plan appears to conform to the City's future land use plan for this portion of the I-94 Corridor. The site is guided for Urban Low Density, which requires a net residential density between 2.5 to 4.0 units per acre.
- *Density.* The proposed Sketch Plan includes calculations for both the gross (all of the land) and net (once open space, roads, and wetlands, etc. are removed) densities over the planning area. In terms of densities, the Hammes Estates plan includes a gross density of 2.22 units per acre and a net density of 3.63 units per

acre. The net density provided in the Sketch Plan is found to be consistent with the Comprehensive Plan.

- ***Zoning***

- The City adopted new urban development districts, including the Urban Low Density Residential (LDR) zoning district. In general, the Sketch Plan has been designed to comply with this district in regards to lot area, setbacks, and other dimensional standards.
- The average lot sizes of 11,800 and 12,800 square feet are well over the 8,000 square foot minimum required within the LDR zoning district.

- ***Buffer Areas***

- The applicant has shown a 100-foot buffer area on the majority of the portion of the property that abuts the Stonegate Subdivision. However, in the eastern portion proposed subdivision, the 100 foot buffer is discontinued in the area to the south of Goose Lake. The Comprehensive Plan requires that a 100' buffer be provided adjacent to property within the Stonegate Subdivision that was platted at rural densities. Regarding this buffer, the Comprehensive Plan includes the following language:

Certain areas designated as Public/Park on the Future Land Use Map (Map 3-3) have been established to provide a green belt/buffer between areas developed under a previous Comprehensive Plan at rural development densities and areas planned for residential development at higher densities.

Therefore, Staff's interpretation is that the buffer area must be maintained from the edge of any parcels that have a residential use or purpose within the Stonegate Subdivision. As part of this interpretation, Staff does not believe that buffering is required from property that is guided as parkland, as is the case in the City property on the south side of Goose Lake.

- If a trail is provided in the buffer area, the City may consider this land part of the required parkland dedication.

- ***Parks***

- Given that the proposed subdivision is guided for Urban Low Density, the parkland dedication requirement per the City's Subdivision Ordinance is 10% of land, fee in lieu of land in the amount of equal market value of 10%, or some combination thereof.
- The City's Parks Plan identifies service areas for future neighborhood parks, and one of these service areas is situated within the Sketch Plan area.
- The Sketch Plan does not identify an area for a neighborhood or smaller (pocket) park in the subdivision. However, the Sketch Plan does identify several trails that will serve as local amenities and regional connections.

- To serve the residents of this area, Staff recommends that this subdivision be served by a minimum of one local or pocket park in addition to the various trails that may be approved as part of the parkland dedication for this subdivision.
- Per the City's Subdivision Ordinance, credit for parkland dedication will be granted for areas with an active recreational purpose. Staff is recommending that the details concerning the land or trails to be dedicated for park purposes be addressed at the time a Preliminary Plat is submitted. The Park Commission will also be reviewing the Sketch Plan for this proposed subdivision at its July 2013 meeting.

- ***Trails***

- All trail corridors should include a minimum of 30 feet of right-of-way for construction and maintenance purposes.
- The City may consider the construction of trails towards credit for parkland dedication purposes.

- ***Streets***

- The City supports the County access management guidelines for CSAH-19. The applicant is strongly encouraged to meet with Washington County to address the appropriate access point to this development and to identify any improvements that will be required by the applicant by the County.
- The primary access road to CSAH-19 must remain a continuous through street for serving the development. The cul-de-sac for this access road should be revised.
- Scanning the proposed subdivision from west to east, the third north-south local road contains a dead-end cul-de-sac that measure over 850' in length. The Subdivision Ordinance (154.13.H.2.b.1) does not allow streets with permanent cul-de-sacs to extend over 600' in length for subdivisions with lots smaller than 2.5 acres in size.
- The Sketch Plan includes a road connection to Julep Court North within the Stonegate Subdivision. While Staff would recommend maintaining access points and road connections from new neighborhoods to existing neighborhoods for purposes of connectivity and emergency access, the City previously vacated right-of-way at the request of the residents of Stonegate that would have previously allowed access to Julep Court North.
- All residential streets shall be constructed to a 28 foot width from back of curb to back of curb per the city standard details. Right-of-ways must be a minimum 60 feet.
- Ten (10) foot utility easements are required on both sides of the right-of-way.

- Six (6) foot sidewalks must be provided along all continuous residential streets and along other streets as may be required for connectivity.
- All street intersections must be at 90 degrees and maintain 100 feet of tangent with maximum slopes of 2% for first 100 feet.
- Residential maximum longitudinal grade is 8% with no sidewalks, 6% where there are sidewalks.
- Minimum diameter cul-de-sac is 90 feet with 120 foot right-of-way.
- Dead end streets will require temporary cul-de-sacs. Dead end streets must be placed where future connectivity is likely. The applicant must demonstrate future connectivity scenario(s).

- ***Utilities***

- Extension of municipal sewer and water is being pursued through a 429 Public Improvement process with the intention of constructing these utilities in the Fall 2013 / Spring 2014. However, the improvements have not yet been ordered (they are not in construction as suggested by the concept narrative) and are contingent upon mutual agreement of the Section 34 property owners.
- Watermain distribution lines will need to be looped wherever reasonably possible. Maximum length of for a watermain dead end is 600 feet.
- Hydrant and valve placement will be made per City standards and as laid out by City staff.

- ***Storm Water Management***

- The proposed development area resides within the Valley Branch Watershed District (VBWD). City staff recommends early planning/coordination meetings with VBWD.
- The design of the storm water management systems must be compliant with the requirements of the VBWD, the City of Lake Elmo Storm Water Management Ordinance, and the City of Lake Elmo design standards manual.
- It is the applicant's responsibility to creatively plan for adequate storm water ponding and infiltration facilities.
- The storm water facilities should be platted as Outlots and deeded to the City for maintenance purposes.
- Maintenance access roads must be provided for all storm water facilities including easements.
- Storm water facilities should have sufficient contributing drainage sheds (following guidelines of the MN Storm Water Manual) to facilitate proper operation.

- ***Grading***

- Based upon the existing conditions of the site, the residential subdivision will require substantial grading activity. All grading activities shall meet the approval of the City Engineer.
- ***Mining***
 - As part of the clean-up of the Hammes property related to mining activities, a Reclamation Plan was approved by the City. Any part of the site that is not approved as part of a Final Plat must follow the recommendations and requirements of the Reclamation Plan.
 - All mining activity shall cease upon the acceptance of public infrastructure.
- ***General Comments***
 - The City would recommend that additional buffering or berming be provided for lots abutting Keats Avenue North (CSAH-19) to mitigate impacts from automobile traffic on CSAH-19.
- ***Subdivision Review Process.*** In order to proceed with the subdivision of the land included in the Sketch Plan area the applicant will need to next prepare a Preliminary Plat application. At this stage there is much more information required as part of the submission process, which also requires a public hearing. Hammes West, LLC has not yet indicated when they intend to submit a Preliminary Plat application.
- ***Environmental Review.*** The proposed development under the Sketch Plan does not trigger a mandatory environmental review.

RECCOMENDATION:

Staff is recommending that the Planning Commission accept the Sketch Plan provided by Hammes West, LLC for a 173 unit residential subdivision that would be located on property owned by the Hammes Family within the I-94 Corridor planning area.

ATTACHMENTS:

1. Sketch Plan Application
2. Concept Narrative
3. Existing Conditions Plan
4. Concept Plan

ORDER OF BUSINESS:

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

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

City of Lake Elmo
DEVELOPMENT APPLICATION FORM

RECEIVED
Fee \$

JUN 13 2013

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

APPLICANT: HANNES WEST, LLC 36 Moonlight Bay, Stillwater, MN 55082
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-387-1000 ST. PAUL
(Home) (Work) (Mobile) (Fax)

FEE OWNER: HANNES Family ELEANOR - 1187 Frost Ave 55109
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-774-1761 651-274 651-774-1761
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): See Attached

DETAILED REASON FOR REQUEST: Submission of Concept Plan

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

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

Ethan Hannes 6/12/13
Signature of Applicant Date

Or J. M. Kelly 6/12/13
Signature of Applicant Date



HAMMES ESTATES CONCEPT PLAN NARRATIVE

June 12, 2013

The project property consists of 78 acres located along the west side of Keats Avenue North about a quarter mile south of 10th Street North. The property is owned by the Hammes Family and is being purchased by Hammes West, LLC.. The project will be developed by Hammes West LLC in conjunction with Ryland Homes. The property is currently used as a part of an active mining operation with an existing mining permit. The property is currently zoned RT, Rural Development Transitional District, and guided Low Density Residential in the Comprehensive Plan, Planned Land Use section. No change is required or requested of the Comprehensive Plan designation. The Zoning will need to be changed to LDR, Low Density Residential as a part of the Preliminary Plat process.

BUFFERING/TRANSITION

There is a considerable buffer required and provided to the existing neighborhood on our north and west sides. We are planning a public park with walking trails to connect to the existing and future trails for these areas. The project features 173 single family home sites. They are varied in sizes and potential home uses from the buffered areas out toward the south and east. The plan includes custom lots adjoining the existing neighborhoods. Some of the custom lots will be developed and built by the national builder associated with the project. These lots have some of the best features and will probably feature the higher home values. There are 33 custom lots that will be reserved for local specialty builders that are even larger than the majority. This transition approach is designed to accentuate the buffering that was envisioned by the City to keep the newer projects from creating negative impacts on the existing homes.

DENSITY/LOTS

The area used for home sites is 61.1% of the gross project area. The balance is Open Space and road right-of-way. The density of the project is 2.22 units per gross acre and 3.63 units per acre of net area. This is clearly within the density allowed in the Comprehensive Plan for this area (2.5 to 4 units of net density allowed). The average of the lots for the national builder is 11,800 square feet. The average of the lots for the specialty builders is 12,800 square feet. Minimum Lot area allowed is 8,000 square feet. All of the lots will meet or exceed the minimum standards of the LDR Low Density Residential zoning district. No variances or exceptions are anticipated.

PHASING

The phasing of the project is anticipated to begin with approximately one third to one half of the lots on the easterly end starting first. This corresponds with the availability of the sanitary sewer and water on the east side of the project.

UTILITIES

We are assured by City Staff that the new utilities should be available this fall when this project comes on line. The home sites will be served with City Sewer and City Water from the new systems that are currently under way in the construction process. The storm water facilities will be designed in accordance with the requirements of the Watershed District. New and innovative design features are anticipated to enhance the storm water system of this project. This approach is in keeping with Lake Elmo's long standing desire to be on the cutting edge of storm water handling.

STREETS/TRAILS

The street design will be the (new) standard urban street section. This will feature concrete curb and gutter sections where appropriate with bituminous surfacing and sections built to the depth and thickness appropriate for the traffic anticipated. The trails shown on the plan are proposed to be bituminous surface 8 feet wide. This trail section provides for the most varied use of the trails over any other trail materials.

MINING/GRADING

The project will continue to be utilized as a mining operation to facilitate the removal of the materials that are stockpiled on the property. It is anticipated that some of this mining will be used to grade portions of the property for the final project grades. This is the reclamation portion of the existing mining permit. The mining operations will cease as the residential project phases become active.

LEGEND

- PROPOSED BOUNDARY LIMITS
EXISTING 2011 DNR LIDAR 2-FT CONTOUR

NOTES

- 1) EXISTING ACTIVE MINING OPERATION
2) EXISTING PARCEL SIZE = 78 TOTAL ACRES
3) MINING OPERATION TO CONTINUE UNTIL PRELIMINARY
PLAT APPROVAL/LAND USE CHANGE IS GRANTED.
4) PID NO. 3402921130001
5) NO EXISTING WATER MAIN, SANITARY SEWER EXIST ON OR NEAR THIS PROPERTY

HAMMES ESTATES
Existing Conditions



Folz, Freeman, Erickson, Inc.
LAND PLANNING ♦ SURVEYING ♦ ENGINEERING
12445 55TH STREET NORTH
LAKE ELMO, MINNESOTA 55042
Phone (651) 439-8833 Fax (651) 430-9331



HAMMES ESTATES

CONCEPT PLAN

CONCEPT DATA

GROSS AREA	= 78.0 ACRES
RIGHT OF WAY AREA	= 13.9 ACRES
SINGLE FAMILY LOTS (NATIONAL BUILDER)	= 38.0 ACRES
SINGLE FAMILY (SPECIALTY BUILDER)	= 9.7 ACRES
OPEN SPACE	= 16.4 ACRES

UNIT COUNT

77 x 145 (Min.) Single Family & Custom	= 140 UNITS
86 x 145 (Min.) Single Family (Specialty Builder)	= 33 UNITS
TOTAL UNIT COUNT	= 173 UNITS

Folz, Freeman, Erickson, Inc.
LAND PLANNING ♦ SURVEYING ♦ ENGINEERING
FEE 12445 55TH STREET NORTH
LAKE ELMO, MINNESOTA 55042
Phone (651) 439-8833 Fax (651) 430-9331



LEGEND

- PROPOSED BOUNDARY LIMITS
- EXISTING WETLAND (APPROX.)
- NATIONAL BUILDER LOT
- NATIONAL BUILDER CUSTOM LOT
- SPECIALTY BUILDER CUSTOM LOT
- PROPOSED OPEN SPACE
- PROPOSED PONDING AREA
- PROPOSED ROADWAY (28-FT F-F, 60-FT ROW)
- PROPOSED 8-FT BIT. TRAIL
- PROPOSED PARCEL LINE
- PROPOSED PHASE LINE (11 CUSTOM UNITS) (87 NATIONAL BUILDER UNITS)

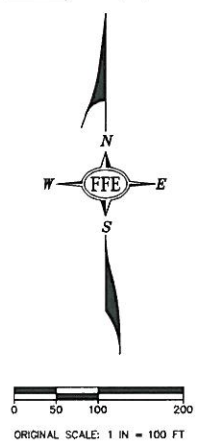
HAMMES ESTATES

CONCEPT PLAN

Folz, Freeman, Erickson, Inc.
 LAND PLANNING ♦ SURVEYING ♦ ENGINEERING
 12445 55TH STREET NORTH
 LAKE ELMO, MINNESOTA 55042
 Phone (651) 439-8833 Fax (651) 430-9331

UNIT COUNT

77 x 145 (Min.) Single Family & Custom	= 132 UNITS
86 x 145 (Min.) Single Family (Specialty Builder)	= 40 UNITS
TOTAL UNIT COUNT	= 172 UNITS



LEGEND

- PROPOSED BOUNDARY LIMITS
- EXISTING WETLAND (APPROX.)
- NATIONAL BUILDER LOT
- NATIONAL BUILDER CUSTOM LOT
- SPECIALTY BUILDER CUSTOM LOT
- PROPOSED OPEN SPACE
- PROPOSED PONDING AREA
- PROPOSED ROADWAY (28-FT F-F, 60-FT ROW)
- PROPOSED LIFT STATION OUTLOT
- PROPOSED 8-FT BIT. TRAIL
- PROPOSED PARCEL LINE
- PROPOSED PHASE LINE (11 CUSTOM UNITS, 67 NATIONAL BUILDER UNITS)



MAYOR AND COUNCIL COMMUNICATION

DATE: 07/02/2013

REGULAR

ITEM #: 19

AGENDA ITEM: Savona EAW (Lennar) Response to Comments, Findings of Fact, Record of Decision, and Declaration of No Need for an EIS

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Nick Johnson, City Planner
Jack Griffin, City Engineer
(Drafted by Westwood Engineering)

SUGGESTED ORDER OF BUSINESS:

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

PUBLIC POLICY STATEMENT

With the end of the comment period for the Savona EAW, the City Council must respond to the comments received and establish findings of fact related to the comments. As part of this process, the Council must also decide on whether or not to require an Environmental Impact Statement (EIS) for the project.

FISCAL IMPACT: None – Westwood Engineering, working under the direction of Lennar Corporation, is preparing the EAW and has drafted the attached document. Staff has been involved in reviewing the work of the developer's consultant.

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to approve a response to comments, findings of fact, and record of decision for the Savona Environmental Assessment Worksheet (EAW). As a part of this review, the Council is also being asked to adopt a resolution approving the Savona EAW and finding no need for an Environmental Impact Statement. The City Council has previously authorized distribution of the EAW, which been prepared for the proposed Lennar Corporation residential subdivision (Savona) located within the I-94 Corridor planning area and immediately west of Keats Avenue. The EAW document has been prepared under the direction of the City of Lake Elmo acting as the RGU (Responsible Governing Unit).

Staff recommends that the City Council adopt the attached document establishing a response to comments, findings of fact, and a record of the decision for the Savona EAW and to declare no need for an EIS by taking the following action / with the following motion:

“Motion to adopt Resolution No. 2013-54 approving the Savona EAW and finding no need for an Environmental Impact Statement”

BACKGROUND INFORMATION:

The Environmental Assessment Worksheet (EAW) was prepared, published, and distributed by City of Lake Elmo for the proposed Savona Residential Development pursuant to Minnesota Rules, Chapter 4410. The completed EAW was distributed to the Environmental Quality Board (EQB) and persons and agencies listed on the official March 22, 2013 EQB EAW Distribution List in accordance with Minnesota Rules 4410.1500. The notification was published in the EQB Monitor on April 29, 2013, initiating the 30-day comment period. A press release was submitted for publication in the April 30, 2013 edition of the Oakdale-Lake Elmo Review newspaper. The 30-day comment period ended on May 29, 2013.

The EAW and comments on it have been reviewed in accordance with Minnesota Rules 4410.1700 to determine if the project has potential for significant environmental effects. This document includes the Response to Comments for all comments received by the City of Lake Elmo, the Findings of Fact supporting the decision, and the Record of Decision.

The purpose of the EAW, comments and comment responses is to provide the record on which the RGU can base a decision about whether an EIS needs to be prepared for a project. EIS need is described in the rules: “An EIS shall be ordered for projects that have the potential for significant environmental effects” (part 4410.1700, subpart 1). An EAW is not to be used to justify a decision, nor do indications of adverse environmental effects necessarily require that a project be disapproved. EAWs are used as guides in issuing, amending, and denying permits and carrying out other responsibilities of governmental units to avoid or minimize adverse environmental effects and to restore and enhance environmental quality (Minnesota Rules 4410.0300, Subp. 3).

STAFF REPORT:

The City of Lake Elmo received eight comments concerning the Savona EAW within the 30-day comment period, and all are included as part of the attached record and decision making document. None of the comments received indicated the potential for significant environmental impacts as further described in the findings of fact. Staff has sent the response to comments to the eight respondents in advance of the meeting.

STAFF RECCOMENDATION:

Based upon the above background information and Staff report it is recommended that the City Council adopt the attached document establishing a response to comments, findings of fact, and a record of the decision for the Savona EAW and to declare no need for an EIS with the following motion:

“Motion to adopt Resolution No. 2013-54 approving the Savona EAW and finding no need for an Environmental Impact Statement”

ATTACHMENTS:

1. Resolution No. 2013-54
2. Response to Comments, Findings of Fact, and Record of Decision – Savona EAW

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

Resolution No. 2013-54

**A RESOLUTION APPROVING THE SAVONA PROJECT ENVIRONMENTAL
ASSESSMENT WORKSHEET (EAW) AND FINDING NO NEED FOR AN
ENVIRONMENTAL IMPACT STATEMENT (EIS)**

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

WHEREAS, under Minnesota Rules Part 4410.1100 Subp 6. (EAW Decision) the City of Lake Elmo ordered the preparation of an EAW for the Savona residential subdivision.

WHEREAS, on April 3, 2013, an EAW was completed for the Savona Project, which is designed to include 190 single-family lots, and 122 multi-family lots; and

WHEREAS, beginning on April 22, 2013, copies of the EAW were distributed to all persons and agencies on the official Environmental Quality Board (EQB) mailing list and other interested parties; and

WHEREAS, on April 29, 2013, the EAW was publicly noticed in the EQB Monitor, commencing the 30-day public comment period; and

WHEREAS, on April 22, 2013, a press release was submitted for publication in the Oakdale/Lake Elmo Review newspaper to announce the completion of the EAW, its availability to interested parties, and the process for submitting comments on the EAW, and

WHEREAS, the 30-day comment period ended on May 29, 2013 at 4:30 p.m., and

WHEREAS, the City of Lake Elmo accepted and responded to all written comments received.

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

FINDINGS

- 1) The EAW was prepared, published, and distributed in compliance with the procedures of the Minnesota Environmental Policy Act and Minnesota Rules, Parts 4410.1000 to 4410.1700 (1997).

- 2) The EAW, combined with the supplemental information contained in the Response to Comments, satisfactorily addressed all the issues raised and comments received for which existing information could have been reasonably obtained, and further investigation is therefore not required.
- 3) Based on the criteria established in Minnesota Rules Part 4410.1700, the project does not have the potential for significant environmental effects.
- 4) City of Lake Elmo makes a "Negative Declaration" on the need for an EIS.
- 5) The City of Lake Elmo City Council adopts a "Negative Declaration".
- 6) An EIS is not required, and
- 7) The City of Lake Elmo shall maintain a Record of Decision, including the Response to Comments on the EAW, and will notify in writing, within five days, all persons on the EAW distribution list, all persons who commented in writing during the 30-day comment period, and any other person upon written request. City of Lake Elmo will also send notice of this decision to the project proposer and the EQB.

Passed and duly adopted on this 2nd day of July 2013 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

_____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.

**City of Lake Elmo
RESPONSE TO COMMENTS, FINDINGS OF FACT,
AND RECORD OF DECISION
FOR THE
Savona
Environmental Assessment Worksheet (EAW)**

July 2, 2013

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**City of Lake Elmo
RESPONSE TO COMMENTS, FINDINGS OF FACT,
AND RECORD OF DECISION
FOR THE
Savona
Environmental Assessment Worksheet (EAW)**

July 2, 2013

INTRODUCTION

The Environmental Assessment Worksheet (EAW) was prepared, published, and distributed by City of Lake Elmo for the proposed Savona Residential Development pursuant to Minnesota Rules, Chapter 4410. The completed EAW was distributed to the Environmental Quality Board (EQB) and persons and agencies listed on the official March 22, 2013 EQB EAW Distribution List in accordance with Minnesota Rules 4410.1500. The notification was published in the *EQB Monitor* on April 29, 2013, initiating the 30-day comment period. A press release was submitted for publication in the April 22, 2013 edition of the *Oakdale-Lake Elmo Review* newspaper. The 30-day comment period ended on May 29, 2013.

The EAW and comments on it have been reviewed in accordance with Minnesota Rules 4410.1700 to determine if the project has potential for significant environmental effects. This document includes the Response to Comments for all comments received by the City of Lake Elmo, the Findings of Fact supporting the decision, and the Record of Decision.

The purpose of an EAW is to evaluate a proposed project's potential for significant environmental effects. It is not to be used to justify a decision, nor do indications of adverse environmental effects necessarily require that a project be disapproved. EAWs are used as guides in issuing, amending, and denying permits and carrying out other responsibilities of governmental units to avoid or minimize adverse environmental effects and to restore and enhance environmental quality (Minnesota Rules 4410.0300, Subp. 3).

COMMENTS RECEIVED

Eight agencies submitted written comments on the EAW, and all of the comments were dated or received prior to the comment period deadline. Copies of the comment letters are included at the end of this document. The following table lists the comment letters received in chronological order.

Table 1.0. Comment Letters Received				
No.	Comment Letter Received From	Signatory	Abbreviation	Date
1	Minnesota Department of Transportation	Tod Sherman	MDOT	April 10, 2013
2	Washington County	Ann Pung-Terwedo	WC	May 23, 2013
3	South Washington Watershed District	John Loomis	SWWD	May 24, 2013
4	Valley Branch Watershed District	John Hanson	VBWD	May 28, 2013
5	Minnesota Department of Natural Resources	Melissa Doperalski	MDNR	May 29, 2013
6	Minnesota Pollution Control Agency	Karen Kromar	MPCA	May 29, 2013
7	Metropolitan Council	LisaBeth Barajas	METC	May 29, 2013
8	Minnesota Department of Health	Michele Ross	MDH	May 29, 2013

RESPONSE TO COMMENTS

Minnesota Rules 4410.1600 states that the comments shall address the accuracy and completeness of the material contained in the EAW, potential impacts that may warrant further investigation before the project is commenced, and the need for an EIS on the proposed project. Comments that do not address these areas have been noted for the record, but are not necessarily addressed in the response. As part of the process in determining whether an EIS is needed, City of Lake Elmo must respond to all substantive comments received during the 30-day comment period (Minnesota Rules 4410.1700, Subp. 4 and 5).

This document responds to comments on an item-by-item basis. Comments are organized by EAW Item number. Agencies who commented are listed by abbreviation in random order at the start of each topic and item. It should be noted that none of the commenting agencies requested that an EIS be ordered for the project, but rather requested some data clarifications.

ITEM-BY-ITEM RESPONSES

Item 6. Project Description

Agencies/Individuals Commenting: MDH

Response

Thank you for your comments regarding affordable housing. The City of Lake Elmo recognizes the need for additional affordable housing as the City's population grows, and is obligated by the Metropolitan Council to provide a certain number of affordable units in the 2011-2020 timeframe. As described in the City's Comprehensive Housing Plan, which was updated in 2013, Lake Elmo does have some housing that meets the Metropolitan Council's 2011 standards of affordability. An analysis of the existing housing stock in Lake Elmo revealed that there are approximately 567 properties that meet the Met Council's standards for affordable housing, which equates to roughly 20.4% of the occupied housing units in the City. Regardless, the City has identified a number of locations outside of the current project area that area potentially suitable for affordable future housing stock and potential rental properties. Several areas of the I-94 Corridor and Old Village are currently guided for densities that would be conducive to greater affordability.

The Applicant appreciates the value of parks, open space, and trails to the physical and mental well-being of future buyers, and to the overall value of a residential development. Consequently, the Savona project has been designed to provide roughly 27 acres of park, woodland, and open space for the enjoyment of future residents and provides connections to both local and regional trail corridors as described in the Lake Elmo Comprehensive Plan.

Item 8. Permits and Approvals Required

Agencies/Individuals Commenting: MNDOT, WC

Response

Thank you for your comments regarding potential permits for work within state and county roadways. The Applicant will apply for a MnDOT right-of-way permit should it be determined that work within, or use of, MnDOT right-of-way is required for the project. Similarly, the Applicant understands that a right-of-way permit will be required for any work in the county right-of-way as it relates to the development including grading for the installation of culverts, installation of water and sewer services, left and right turn lanes on CSAH 19, pedestrian crossings, parallel trail grading and development, striping, center median crossing

removals, new center median crossings, any landscaping and any other improvements to county right-of-way. In addition, the Applicant understands that an access permit will be required for the new collector street that will connect to CSAH 19/Keats Avenue, and will apply through the county for a permit prior to construction.

Item 9. Land Use

Agencies/Individuals Commenting: MDH

Response

Subsurface soil sampling was conducted by Liesch at 17 locations within the project area as identified in Appendix A of the EAW. Sampling locations were concentrated in areas of identified debris such as appliances, televisions, drums, and containers on the site. These items were generally located in unfarmed, wooded areas. While there is currently no reason to believe that other farmed areas on the property contain above background levels of arsenic, selenium, and diesel range organics (DRO), the Applicant is planning to landscape the project to reduce potential for exposure. Landscaping on residential lots will include a layer of topsoil for sod establishment, trees, shrubs, and other foundation plantings. As mentioned in the EAW, the Applicant is also committed to preparing a Construction Contingency Plan for the site, prior to site development, to manage known debris and impacted soils within the project area. Areas of known impacted soils will be largely avoided by project development, and mostly situated within open space, existing transmission easements, and avoided wooded areas.

Item 11. Fish, Wildlife, and Ecologically Sensitive Resources

Agencies/Individuals Commenting: MDNR

Response

Thank you for your comments regarding wildlife protection. The Applicant appreciates the Minnesota DNR's concerns regarding potential wildlife impacts in the project area, both during and after construction.

While there were no threatened, endangered, or special concern species identified within or near the project area that might be harmed by erosion control materials containing mesh, the Applicant will consider using wildlife-friendly products.

To the degree possible, and as acceptable to the City, open spaces, buffers, and natural corridors will be seeded to native prairie seed mixes from locally attainable sources. Existing trees and vegetation will be retained, where possible, as noted on the Preliminary Landscape Plans for the project.

Technically there are no natural wetlands within the project area as determined by a jurisdictional wetland delineation completed for the project area, however, several stormwater ponds and infiltration areas will be constructed within the project area which could become suitable habitat for common reptiles and amphibians. The applicant will consider using wildlife friendly design.

Item 13. Water Use

Agencies/Individuals Commenting: MDH, METC, VBWD

Response

Thank you for your comment regarding sealing the abandoned well. Unique Well No. 686580 will be properly abandoned, and sealed, during construction according to Minnesota Department of Health regulations and requirements.

Thank you for your clarification regarding the source of water for this portion of the City of Lake Elmo. Water for this area of Lake Elmo will be temporarily supplied by the City of Oakdale's water system via an existing services agreement between the two municipalities. The City of Lake Elmo has been in communication with the City of Oakdale in regards to potential increased demands, and water management constraints, on the Oakdale water system as a result of the Savona residential development. The City of Lake Elmo will continue to communicate and coordinate with Oakdale staff to ensure sufficient capacity is available from their system to meet the proposed additional water demands stated in the EAW, should the development need to rely on Oakdale's water supply. The City intends to provide public water to all properties within the urban services area along the I-94 corridor via an extension of its existing water supply system. Timing of any extensions will be dependent on development activity in the area.

Thank you for your comment regarding additional groundwater pumping and the effect on local groundwater levels, groundwater-dependent surface waters, and groundwater plumes. The City of Lake Elmo currently has a permit from the Department of Natural Resources to pump 260 Million Gallons/Year (MGY) from two operating wells. According to DNR Water Appropriation records as of 2010, the City reported pumping 103 MGY (average 282,192 gallons per day). The additional pumping demand from the City water supply would be approximately 34.3 MGY to support the development, for a total of approximately 137.3 MGY. This represents approximately 13.2% of the total DNR appropriation. Consequently, this additional pumping to support the proposed Savona residential development project has been anticipated by the DNR, and the City in their Comprehensive Plan, and is not anticipated to adversely affect groundwater or surface water levels in the project area, or affect regional groundwater plumes.

No new wells are proposed within the project area to service the Savona project, and all water will be provided from existing water sources. The proposed development is contemplated in all City planning documents.

Item 16. Erosion and Sedimentation

Agencies/Individuals Commenting: VBWD

Response

Thank you for your comment. The Applicant confirms that the term "watersheds" in the last paragraph of Section 16 was intended to be "watershed districts".

Item 17. Water Quality: Surface Water Runoff

Agencies/Individuals Commenting: WC, SWWD, VBWD, MDH

Response

The Applicant and the City are sensitive to the fact that stormwater rate, volume, and nutrient loading management is of significant interest to the region and local watershed districts, and that projects of this nature have the potential to stress existing, regional stormwater systems if not designed correctly. Consequently, the Applicant is committed to designing a project that manages stormwater volumes, rates, and nutrient loading (e.g. per SWWD's total phosphorus loading standard) according to local, state, and federal requirements for stormwater management. Preliminary stormwater runoff calculations and an

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accompanying narrative were submitted to the City of Lake Elmo for review and comment on May 10, 2013. Final stormwater plans will require approval from both watershed districts and the City of Lake Elmo prior to site construction.

As described in the Savona Preliminary Stormwater Runoff Narrative, the project is proposing six stormwater ponds with the following attributes:

- The two ponds located in the South Washington Watershed District (SWWD) have been designed to meet the water quality standard and existing rate control for this portion of the site.
- Four proposed ponds are located in the Valley Branch Watershed. Ponds 3-5 have been sized per the guidelines for pretreatment to remove at least 25% of the inflow sediment loads. Pond 6 has been sized to meet the necessary water quality standards. Through a series of ponds and infiltration basins, the existing rate control for the site will be met.
- The infiltration basins for the site have been sized per the guideline that volume shall be retained on site for 1.1 inches of runoff from impervious surfaces.
- The infiltration basins in both watersheds have been designed on an assumed infiltration rate of 0.60 inches/hour based on the soil borings. A geotechnical report has been completed; additional onsite testing is needed to confirm infiltration rates.

Stormwater Routing: Under existing conditions, 29.0 acres of the project area drains to the southwest. This area is the western portion of the site and lies within the South Washington Watershed District. The remaining 92.6 acres of the project area drains east, eventually to an existing 48-inch county culvert that flows under Keats Avenue (CSAH 19). This area lies within the Valley Branch Watershed District. Under post-development conditions, the proposed drainage areas were held as close as possible to the existing drainage areas. Currently, 32.5 acres are proposed to drain southwest through a series of Ponds (Ponds 1 & 2) and Infiltration Basins (Infiltration Basins 1 & 2), 0.4 acres will drain directly offsite, and the remaining 88.7 acres will drain east through a series of stormwater ponds and infiltration basins towards the Keats Avenue (CSAH 19) existing 48 inch county culvert.

Treatment Volume and Infiltration Requirements: In order to properly size the stormwater treatment ponds, the Applicant referred to the current Minnesota Stormwater Manual. The proposed stormwater ponds will have minimum water quality storage equal to the volume generated from 1.25 inches of runoff over the proposed impervious surfaces. Additionally, the watersheds require a total infiltration volume equal to 1.1 inches over the proposed impervious areas. Infiltration and treatment ponds have been sized accordingly, and these requirements will be met by the project. The Applicant understands that the project has the potential to increase stormwater runoff volumes in the project area, and has therefore designed the project to minimize volume increases by providing adequate infiltration, which will effectively reduce overall volumes and increase temporal water storage.

The Applicant and the City understand and appreciate that several regional efforts have been taken and are planned, particularly in the South Washington Watershed District, to mitigate for some regional increases in stormwater runoff volume including: 1) Identification of regional ponding in Lake Elmo to mitigate increases in rate and volume runoff from development, 2) installation of gates in Wilmes and Markgrafs Lake watersheds to delay runoff from those watersheds, 3) flood proofing of homes near the Wilmes Lake outlet which experienced flooding during an extreme event in October 2005, 4) construction of the Bailey Lake Lift Station, 5) completed and planned construction of the Central Draw Storage Facility (CDSF)

regional infiltration facility, and 6) construction of a planned overflow from the CDSF to prevent residential flooding that would result from overtopping of the CSF during extreme events (>100 year).

For runoff in the South Washington watershed, two stormwater treatment areas have been designed, each with a two-celled approach to achieve the water quality and infiltration volume requirements. These systems act in series in order to provide the maximum benefit of treatment. Ultimately, runoff discharges from Infiltration Basin #2 to the south under proposed 5th Street, to an existing swale. This swale flows across the existing Dale property to an existing depression which lies on the north side of Hudson Road. From previous discussions with South Washington watershed, the Applicant and City understand that the SWWD would like to see a regional pond built in this location in the future.

For runoff in the Valley Branch watershed, the proposed system is much more complex. Due to 120 feet of grade change, and the large amount of drainage area, a multi-pond approach was needed. Three infiltration areas were designed to receive runoff from this drainage area, each tiered at different elevations within the development. Each infiltration basin has a pre-treatment basin design to trap sediments prior to out-letting into the infiltration basins. Ultimately, the entire watershed discharges into Pond 6, a large 2.5-acre basin which has been sized to provide water quality storage for the entire project-specific Valley Branch Drainage Area.

All treatment ponds incorporate a 3:1 slope above the bench, a 10:1 aquatic bench below the normal water level and a 3:1 slope below the bench. As a part of the final design calculations, water quality modeling will be completed to demonstrate that the removal rates for phosphorus and total suspended solids are achieved by meeting the required volumes.

Rate Control: Proposed rates of runoff in both watershed areas will be held to existing rates for the 2, 10, and 100-year events. In fact, proposed rates will be well below existing rates for all events.

The Applicant and the City will work cooperatively with both watershed districts to meet requirements for water quality, volume, rate, and nutrient loading control for the project. The Applicant has already met jointly with both watershed districts on a couple occasions to discuss the project, and is committed to continuing discussions if desired by the districts. As a part of the final grading design, the Applicant will complete final design calculations for the entire project area. Additional geotechnical testing data will also be obtained to ensure that the proposed design infiltration rates can be met by existing soils at the proposed basin locations.

Item 18. Water Quality: Wastewater

Agencies/Individuals Commenting: METC

Response

Thank you for your comments regarding the project site being located outside of the current 2020 local wastewater service staging plan area. The Applicant and the City understand that amendments to the City's comprehensive sewer plan will need to be submitted and reviewed by the Metropolitan Council. The City is committed to working collaboratively with the Metropolitan Council to adequately address these issues, and will be submitting a revised wastewater plan to the Met Council that is consistent with the updated, and recently approved, land use and staging plan.

The site will be initially served by discharging to the City of Oakdale sewer system per an existing sewer use agreement with the City, and ultimately, will be served by the Metropolitan Disposal System WONE interceptor once the city completes the replacement and upgrade of the Hudson Boulevard lift station.

Item 19. Geologic Hazards and Soil Conditions

Agencies/Individuals Commenting: VBWD, MDH

Response

The Applicant is sensitive to the fact that this area of the state has risk for sinkholes and other potential geologic hazards. In December 2012, the Applicant conducted a preliminary geotechnical exploration of the project area to determine if any geotechnical-related constraints exist on the project area. The final report indicates that soils on the site are “predominantly granular” and “generally suitable” for the support of the anticipated construction. While some soil corrections will be required to remove organic soils to support building loads, no geologically hazardous areas were identified, or noted, during the geotechnical exploration process.

At the suggestion of the Valley Branch Watershed District, the Applicant contacted Mr. Bob Tipping at the Minnesota Geological Survey (MGS) for recent information regarding bedrock faults and sinkholes in the Lake Elmo project area. Mr. Tipping provided various links to mapping of faults and sinkholes in the Lake Elmo area. The nearest fault line is located approximately 1,000 feet south of the project area and generally cuts through the I-94/Keats Avenue overpass from southwest to northeast, according to *Bedrock Geology of the Lake Elmo Quadrangle* mapping (MGS, 2009). Mr. Tipping also provided mapping of sinkholes in the general project area. According to this map, sinkholes have been identified approximately 2 miles southeast of the project area (south of Conifer Pass and east of Settlers Ridge Parkway). No faults or sinkholes were identified within the project boundaries, however.

While the Applicant is sensitive to the fact that the project is located within an area identified as prime farmland, the site is currently guided for development. The Metropolitan Council recently approved an amendment to the Lake Elmo Comprehensive Land Use Plan. Under a 2005 Memorandum of Understanding (MOU) between the City and the Metropolitan Council, the City agreed to provide an additional 6,600 Residential Equivalent Connections (RECs) of regional sewer service by 2030. Under the MOU, the City agreed to meet or exceed an average residential density of three units per acre in sewer areas south of 10th Street. Development-related impacts have been purposefully concentrated in this portion of the City to preserve an agricultural core north of 10th Street (CSAH 10).

Thank you for your comment regarding Special Well and Boring Construction Areas (SWBCAs). The Applicant has noted that under state law they must disclose the fact that a property is located within an SWBCA at the time of sale.

Item 21. Traffic

Agencies/Individuals Commenting: MNDOT, WC

Response

Thank you for the comments regarding the turn lane improvements to Keats Avenue (CSAH 19) at the proposed new collector street location. The traffic study text will be updated to clarify the need for a new median crossing, a northbound left-turn lane, and a southbound right-turn lane on CSAH 19 at the proposed new collector street location.

Thank you for your comment regarding the Central Greenway Regional Trail. While the Savona project will be providing its own internal trails to serve residents, the City is planning to construct a 10-foot bituminous multi-purpose trail along the minor collector road providing a connection between the eastern and western edges of the I-94 Corridor Planning Area. Within the boundaries of the Savona project the minor collector

road and trail will be constructed as part of the Savona public improvements, which will include improvements to the planned intersection with Keats Avenue (TH19). The City will evaluate the connection to the regional trail along this corridor as additional development along the corridor occurs.

Thank you for your comment regarding the inclusion of 20-year forecast volumes and a 20-year build and no-build traffic analysis at the I-94 ramp terminals. As presented in the EAW, the proposed project will generate 2,518 trips on a daily basis, 197 trips during the a.m. peak hour, and 253 trips during the p.m. peak hour. These daily and peak hour volumes marginally exceed the 2,500 daily trip and the 250 peak hour trip thresholds for a traffic impact study to be prepared as part of the EAW. Based on local guidance from Washington County and the City of Lake Elmo, and given the size and the anticipated level of traffic generated by the proposed project, it was agreed that the appropriate analysis years for the traffic impact study would be the existing and build year (or year of opening). As a point of reference, MnDOT's own *Traffic Impact Study Guidance* notes that in most cases, a year of opening (or five years after opening) analysis year is sufficient. Year of opening and 20 years after opening analysis is typically only completed for very large developments. Since the proposed project marginally exceeds the MnDOT and EAW traffic volume thresholds to complete a traffic impact study, a 20 year analysis year was not considered.

Item 24. Odors, Noise and Dust

Agencies/Individuals Commenting: MNDOT, WC

Response

The Applicant is sensitive to the fact that the project is located near the Interstate 94 (I-94) corridor where sounds from highway traffic could be an issue. The nearest homes will be located approximately 0.2-mile north of the highway (roughly 1,050 linear feet). Some existing woodlands and commercial properties exist along the I-94 corridor directly south of the project area, which are expected to help attenuate some highway sounds.

While heavy truck traffic can produce sound levels of 80 decibels at 50 feet according to the Minnesota Pollution Control Agencies' Guide to Noise Control in Minnesota (2008), sound levels from line sources (such as a busy roadway) generally attenuate by three decibels for each doubling of the distance. Consequently, at the nearest proposed home in the Savona project, sound levels are expected to be within acceptable ranges. Sound mitigation will be accomplished by planting landscape trees along the north side of the proposed collector roadway.

In general, sound levels associated with the nearby highway are not expected to be unlike levels experienced at other residential development along the I-94 corridor, and future commercial and mixed-use development south of the proposed Savona residential development is expected to further buffer the project.

Item 27. Compatibility with Plans and Land Use Regulations

Agencies/Individuals Commenting: VBWD, WC

Response

Thank you for your comment regarding other local, regional, state, and federal agency plans that the project is subject to. The Applicant intends to work with the City of Lake Elmo, the Valley Branch Watershed District, the South Washington Watershed District, Washington County, and other federal and state regulatory agencies, as necessary, to ensure that the project is compatible with existing plans and regulations. Washington County has acknowledged that the project is consistent with their 2030 Comprehensive Plan. The Applicant has made a point to meet with various regulatory agencies during the planning and design

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process to ensure that existing regulations are considered and incorporated into project plans. Approvals from all applicable permitting agencies will be applied for and received prior to project construction.

FINDINGS OF FACT

Project Description

FINDINGS OF FACT

1. On December 10, 2012, the project proposers presented a sketch subdivision plan to the City of Lake Elmo for the Savona residential subdivision.
2. On April 29, 2013, the City of Lake Elmo published the EAW in the EQB Monitor.
3. The EAW is incorporated by reference in the Record of Decision.
4. As indicated in the EAW, the proposed Savona residential development is proposed on approximately 112.5 acres of primarily agricultural land in the southern portion of Lake Elmo. The project is proposing 190 single-family lots, and 122 multi-family lots in Washington County, City of Lake Elmo, Minnesota.
5. The City of Lake Elmo City Council authorized the EAW submittal to the Environmental Quality Board (EQB) on April 16, 2013.
6. A press release announcing the availability of the EAW for public review and comment, including a brief description of the project, was sent to the Oakdale/Lake Elmo Review on April 22, 2013 and published in the April 24, 2013 edition.
7. The EAW was filed with the EQB and notice for its availability for public review and comment was published in the EQB monitor on April 29, 2013. A copy of the EAW was sent to all persons on the EQB Distribution list and to persons who requested a copy. The EAW was also made available on the City of Lake Elmo's website.
8. The 30-day public review and comment period for the EAW began on April 29, 2013 and ended on May 29, 2013.
9. During the 30-day review and comment period, City of Lake Elmo received 8 written comments on the EAW. Comments were received from: Minnesota Department of Transportation, Washington County, South Washington Watershed District, Valley Branch Watershed District, Minnesota Pollution Control Agency, Minnesota Department of Health, Minnesota Department of Natural Resources, and the Metropolitan Council.

Proposed Project

The Savona residential development is proposed on approximately 112.5 acres of primarily agricultural land in the southern portion of Lake Elmo. The project is proposing 190 single-family lots, and 122 multi-family lots. Twenty-seven acres of open space is also planned, which will include buffers, parks, woods and ponds.

Minnesota Rules Part 4410.1000 Subp 2. Mandatory EAW Categories. An EAW shall be prepared for any project that meets or exceeds the thresholds of any of the EAW categories listed in part 4410.4300 or any of the EIS categories listed in part 4410.4400.

The proposed Savona exceeds this mandatory EAW threshold and will include 190 single-family lots, and 122 multi-family lots.

Site Description and Existing Conditions

The existing site conditions include the following Cover-types on the Property: Estimated Before and After Cover Types

Land Cover	Before (acres)	After (acres)
Cropped field	61.2	0.0
Developed/Road	1.4	85.5
Golf Club/Driving Range	33.5	0.0
Upland Meadow	9.4	20.0
Excavated Pond	1.8	0.0
Upland Woodland	5.2	2.0
Stormwater ponds	0.00	5.00
Totals	112.5	112.5

Criteria for Determining Whether the Project has the Potential for Significant Environmental Effects

Minnesota Rules 4410.1700 Subp. 1 states “An EIS shall be ordered for projects that have the potential for significant environmental effects”. In deciding whether a project has the potential for significant environmental effects, Minnesota Rules 4410.1700 Subp. 7 indicates that the City of Lake Elmo must consider the following factors:

Criteria A: The type, extent, and reversibility of environmental effects;

Criteria B: The cumulative potential effects of related or anticipated future projects;

Criteria C: The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and,

Criteria D: The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EIS's.

A: Type, Extent, and Reversibility of Environmental Effects.

Findings

Item 6: Project Description

The Savona residential development is proposed on approximately 112.5 acres of primarily agricultural land in the southern portion of Lake Elmo. The project is proposing 190 single-family lots, and 122 multi-family lots. Twenty-seven acres of open space is also planned, which will include buffers, parks, woods and ponds. The project size triggered a mandatory EAW review under EQB rules Part 4410.4300 Subp.19.D., Residential Development.

Item 8: Permits and Approvals Required

As described in Table 8.1 of the EAW, the project will require some 25 permits and approvals prior to construction, including a MnDOT right-of-way permit and County right-of-way permits and an access permit for the new collector street that will connect to CSAH 19/Keats Avenue. The applicant will acquire all applicable permits prior to project construction.

Item 11: Fish, Wildlife, and Ecologically Sensitive Resources

The Minnesota DNR Natural Heritage Program conducted a database search of the Minnesota Natural Heritage Information System (NHIS) to determine if there are listed plants and animals; native plant communities; wildlife aggregations; geological features; or state rare features that are known to occur within or near the project site. The database search did not identify rare features within an approximate one-mile radius of the proposed project. While there were no threatened, endangered, or special concern species identified within or near the project area that might be harmed by erosion control materials containing mesh, the Applicant will consider using wildlife-friendly products. To the degree possible, and as acceptable to the City, open spaces, buffers, and natural corridors will be seeded to native prairie seed mixes from locally attainable sources. Existing trees and vegetation will be retained, where possible, as noted on the Preliminary Landscape Plans for the project.

Technically there are no natural wetlands within the project area as determined by a jurisdictional wetland delineation completed for the project area, however, several stormwater ponds and infiltration areas will be constructed within the project area which could become suitable habitat for common reptiles and amphibians. The applicant will consider using wildlife friendly design.

Item 13: Water Use

According to DNR Water Appropriation records as of 2010, the City reported pumping 103 MGY (average 282,192 gallons per day). The additional pumping demand from the City water supply would be approximately 34.3 MGY to support the development, for a total of approximately 137.3 MGY. This represents approximately 13.2% of the total DNR appropriation. Consequently, this additional pumping to support the proposed Savona residential development project has been anticipated by the DNR, and the City in their Comprehensive Plan, and is not anticipated to adversely affect groundwater or surface water levels in the project area, or affect regional groundwater plumes. No new wells are proposed within the project area to service the Savona project, and all water will be provided from existing water sources. The proposed development is contemplated in all City planning documents.

Item 17: Water Quality: Surface Water Runoff

The project will be designed that manages stormwater volumes, rates, and nutrient loading according to local, state, and federal requirements for stormwater management. The Applicant and the City will work cooperatively with both watershed districts to meet requirements for water quality, volume, rate, and nutrient loading control for the project. The Applicant has already met jointly with both watershed districts on a couple occasions to discuss the project, and is committed to continuing discussions if desired by the districts. As a part of the final grading design, the Applicant will complete final design calculations for the entire project area. Additional geotechnical testing data will also be obtained to ensure that the proposed design infiltration rates can be met by existing soils at the proposed basin locations.

Item 18: Water Quality: Wastewater

The site will be initially served by discharging to the City of Oakdale sewer system per an existing sewer use agreement with the City, and ultimately, will be served by the Metropolitan Disposal System WONE

interceptor once the city completes the replacement and upgrade of the Hudson Boulevard lift station. No wastewater facility or treatment capacity issues are anticipated.

Item 19: Geologic Hazards and Soil Conditions

In December 2012, the Applicant conducted a preliminary geotechnical exploration of the project area to determine if any geotechnical-related constraints exist on the project area. The final report indicates that soils on the site are “predominantly granular” and “generally suitable” for the support of the anticipated construction. While some soil corrections will be required to remove organic soils to support building loads, no geologically hazardous areas were identified, or noted, during the geotechnical exploration process. No faults or sinkholes were identified within the project boundaries.

Item 21: Traffic

The proposed project will generate 2,518 trips on a daily basis, 197 trips during the a.m. peak hour, and 253 trips during the p.m. peak hour. These daily and peak hour volumes marginally exceed the 2,500 daily trip and the 250 peak hour trip thresholds for a traffic impact study to be prepared as part of the EAW. The traffic study text has been updated to clarify the need for a new median crossing, a northbound left-turn lane, and a southbound right-turn lane on CSAH 19 at the proposed new collector street location.

Item 24: Odors, Noise, and Dust

Sound levels associated with the nearby highway are not expected to be unlike levels experienced at other residential development along the I-94 corridor, and future commercial and mixed-use development south of the proposed Savona residential development is expected to further buffer the project. Sound mitigation will be accomplished by planting landscape trees along the north side of the proposed collector roadway.

Item 27: Compatibility with Plans and Land Use Regulations

The Applicant intends to work with the City of Lake Elmo, the Valley Branch Watershed District, the South Washington Watershed District, Washington County, and other federal and state regulatory agencies, as necessary, to ensure that the project is compatible with existing plans and regulations. Washington County has acknowledged that the project is consistent with their 2030 Comprehensive Plan. The Applicant has made a point to meet with various regulatory agencies during the planning and design process to ensure that existing regulations are considered and incorporated into project plans. Approvals from all applicable permitting agencies will be applied for and received prior to project construction.

Overall Finding: No commenting agency found that the project would generate significant environmental effects requiring the preparation of an Environmental Impact Statement (EIS). Therefore, the EAW, combined with the Response to Comments included above, is complete and accurately assesses potential environmental impacts for the Savona Project.

B: Cumulative Potential Effects of Related or Anticipated Future Projects.

Finding

The Savona Project has been planned for full development. The project proposer owns no additional land near the site. No future stages are planned or anticipated for this project.

C: Extent to Which the Environmental Effects are Subject to Mitigation.

Finding

Environmental effects on traffic and water quality are subject to additional approvals and/or mitigation through requirements of local, state, and federal regulations, ordinances, management plans, and permitting procedures. The following permits and approvals are required for the project addressed under the EAW and these permitting and approval processes will provide additional opportunity to require mitigation.

Permits and Approvals Required

Unit of Government	Type of Application	Status
City of Lake Elmo	Concept Plan Approval	Completed
City of Lake Elmo	Preliminary Plat Approval	To be applied for
City of Lake Elmo	Final Plat Approval	To be applied for
City of Lake Elmo	EAW Negative Declaration	To be applied for
City of Lake Elmo	Grading Permit	To be applied for
City of Lake Elmo	Building Permit	To be applied for
City of Lake Elmo	Municipal Water Connection Permit	To be applied for
City of Lake Elmo	Sanitary Sewer Connection Permit	To be applied for
City of Lake Elmo	Rezoning	To be applied for (if needed)
City of Lake Elmo	Wetland Delineation Confirmation	Applied for
City of Lake Elmo	Wetland Conservation Act No-Loss Determination	Applied for
Washington County	Right-of-Way Permit	To be applied for
Washington County	Access Permit	To be applied for
Washington County	Obstruction Permit	To be applied for (if needed)
Washington County	Transportation Permit	To be applied for (if needed)
Metropolitan Council	Sanitary Sewer Connection Permit	To be applied for
Minnesota Department of Health	Water Main Extension Approval	To be applied for
Minnesota DNR Division of Waters	Water Appropriation Permit	To be applied for (if needed)
Minnesota Pollution Control Agency	NPDES / SDS	To be applied for
Minnesota Pollution Control Agency	Sanitary Sewer Extension Approval	To be applied for
U. S. Army Corps of Engineers	Section 404/Letter of No Jurisdiction	Applied for
MN DNR Division of Waters	Water Appropriation Permit(s)	To be applied for if needed
MN Pollution Control Agency	NPDES/SDS General Permit	Covered under general permit; submit NOI prior to

RESPONSE TO COMMENTS, FINDINGS OF FACT, AND RECORD OF DECISION
Savona Environmental Assessment Worksheet (EAW), July 22, 2013

		construction.
Valley Branch Watershed District	Watershed Review/Permit	To be applied for
South Washington Watershed District	Watershed Review/Permit	To be applied for

Note: All required permits and approvals will be obtained. Any necessary permits or approvals that are not listed in the table above were unintentionally omitted.

The potential environmental effects associated with this project are not significant and will be mitigated in compliance with applicable rules, regulations, and permit requirements. City of Lake Elmo therefore finds that the potential environmental effects of the project are “subject to mitigation by ongoing public regulatory authority” (Minnesota Rules 4410.1700 Subp. 7.D.).

D: Extent to Which Environmental Effects Can be Anticipated and Controlled as a Result of Other Available Environmental Studies Undertaken by Public Agencies or the Project Proposer, Including Other Environmental Impact Statements.

The final factor the City must consider is the “extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of EIS’s previously prepared on similar projects” (Minnesota Rules 4410.1700 Subp. 7 (D)). The City’s findings are set forth below.

The proposed project is reasonably similar to other residential development projects located in City of Lake Elmo and in surrounding communities. Other projects of similar scope, accompanied by similar land use, natural resources, surface water, traffic studies, and associated mitigation, have, in general, successfully mitigated potential environmental impacts.

The EAW, in conjunction with this document, contains or references the known studies that provide information or guidance regarding environmental effects that can be anticipated and controlled. No EIS that addresses a similarly sized project is known to be available in City of Lake Elmo or the surrounding area.

In light of the results of environmental review and permitting processes for similar projects, City of Lake Elmo finds that the environmental effects of the project can be adequately anticipated and controlled. Based on the original EAW, comments received from agencies and individuals, the responses to comments, and the criteria above, City of Lake Elmo finds that the Savona Project does not have the potential for significant environmental effects and does not require the preparation of an EIS.

RECORD OF DECISION

Based on the EAW, the Response to Comments, and the Findings of Fact, City of Lake Elmo as the RGU for this environmental review, concludes the following:

The EAW was prepared, published, and distributed in compliance with Minnesota Statutes, Chapter 116D, to implement the environmental review procedures established by the Minnesota Environmental Policy Act and Minnesota Rules Parts 4410.1000 to 4410.1700 (1997).

The EAW, combined with the supplemental information contained in the Response to Comments and Findings of Fact, satisfactorily addressed and responded to all of the issues raised and comments received for which existing information could have been reasonably obtained, and further investigation is therefore not required.

Based on the criteria established in Minnesota Rules Part 4410.1700, the project does not have the potential for significant environmental effects.

An EIS is not required for the Savona Project.

The City of Lake Elmo Council adopts a "Negative Declaration".

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

Resolution No. 2013-051

**A RESOLUTION APPROVING THE SAVONA PROJECT ENVIRONMENTAL ASSESSMENT
WORKSHEET (EAW) AND FINDING NO NEED FOR AN ENVIRONMENTAL IMPACT
STATEMENT (EIS)**

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

WHEREAS, under Minnesota Rules Part 4410.1100 Subp 6. (EAW Decision) the City of Lake Elmo ordered the preparation of an EAW for the Savona residential subdivision.

WHEREAS, on April 3, 2013, an EAW was completed for the Savona Project, which is designed to include 190 single-family lots, and 122 multi-family lots; and

WHEREAS, beginning on April 22, 2013, copies of the EAW were distributed to all persons and agencies on the official Environmental Quality Board (EQB) mailing list and other interested parties; and

WHEREAS, on April 29, 2013, the EAW was publicly noticed in the EQB Monitor, commencing the 30-day public comment period; and

WHEREAS, on April 22, 2013, a press release was submitted for publication in the Oakdale/Lake Elmo Review newspaper to announce the completion of the EAW, its availability to interested parties, and the process for submitting comments on the EAW, and

WHEREAS, the 30-day comment period ended on May 29, 2013 at 4:30 p.m., and

WHEREAS, the City of Lake Elmo accepted and responded to all written comments received.

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

FINDINGS

- 1) The EAW was prepared, published, and distributed in compliance with the procedures of the Minnesota Environmental Policy Act and Minnesota Rules, Parts 4410.1000 to 4410.1700 (1997).
- 2) The EAW, combined with the supplemental information contained in the Response to Comments, satisfactorily addressed all the issues raised and comments received for which existing information could have been reasonably obtained, and further investigation is therefore not required.
- 3) Based on the criteria established in Minnesota Rules Part 4410.1700, the project does not have the potential for significant environmental effects.

- 4) City of Lake Elmo makes a "Negative Declaration" on the need for an EIS.
- 5) The City of Lake Elmo City Council adopts a "Negative Declaration".
- 6) An EIS is not required, and
- 7) The City of Lake Elmo shall maintain a Record of Decision, including the Response to Comments on the EAW, and will notify in writing, within five days, all persons on the EAW distribution list, all persons who commented in writing during the 30-day comment period, and any other person upon written request. City of Lake Elmo will also send notice of this decision to the project proposer and the EQB.

Passed and duly adopted on this 2nd day of July 2013 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

_____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.

Comment

Letters

Received



Minnesota Department of Transportation

Metropolitan District
Waters Edge Building
1500 County Road B2 West
Roseville, MN 55113

April 10, 2013

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

SUBJECT: Savona EAW
Mn/DOT Review # EAW13-004
North of I-94 and West of CSAH 19 (Keats Ave.)
Lake Elmo, Washington County
Control Section 8282

Dear Mr. Klatt:

Thank you for the opportunity to review the Savona EAW. MnDOT has reviewed the EAW and has the following comments:

Residential Noise Statement:

MnDOT's policy is to assist local governments in promoting compatibility between land use and highways. Residential uses located adjacent to highways often result in complaints about traffic noise. Traffic noise from this highway could exceed noise standards established by the Minnesota Pollution Control Agency (MPCA), the U.S. Department of Housing and Urban Development, and the U.S. Department of Transportation. Minnesota Rule 7030.0030 states that municipalities are responsible for taking all reasonable measures to prevent land use activities listed in the MPCA's Noise Area Classification (NAC) where the establishment of the land use would result in violations of established noise standards.

MnDOT policy regarding development adjacent to existing highways prohibits the expenditure of highway funds for noise mitigation measures in such areas. The project proposer should assess the noise situation and take the action deemed necessary to minimize the impact of any highway noise. If you have any questions regarding MnDOT's noise policy please contact Peter Wasko in our Design section at (651) 234-7681.

Traffic:

The traffic study only provided a Level of Service (LOS) for ramp terminals during the "build year." MnDOT would also like to see the LOS at the ramp terminals for the 20 year build and no build scenarios.

For questions concerning this comment, please contact Chad Erickson (651-234-7806) in MnDOT Metro District's Traffic Section.

Permits:

Any use of or work within or affecting MnDOT right of way requires a permit. Permit forms are available from MnDOT's utility website at <http://www.dot.state.mn.us/utility/>. Please include one 11 x 17 plan set and one full size plan set with each permit application. Please direct any questions regarding permit requirements to Buck Craig (651-234-7911) of MnDOT's Metro Permits Section.

Review Submittal Options:

Mn/DOT's goal is to complete the review of plans within 30 days. Submittals sent in electronically can usually be turned around faster. There are four submittal options. Please submit either:

1. One (1) electronic pdf. version of the plans. Mn/DOT can accept the plans via e-mail at metrodevreviews.dot@state.mn.us provided that each separate e-mail is under 20 megabytes.
2. Three (3) sets of full size plans. Although submitting seven sets of full size plans will expedite the review process. Plans can be sent to:

Mn/DOT – Metro District Planning Section
Development Reviews Coordinator
1500 West County Road B-2
Roseville, MN 55113

3. One (1) compact disk.
4. Plans can also be submitted to Mn/DOT's External FTP Site. Please send files to: <ftp://ftp2.dot.state.mn.us/pub/incoming/MetroWatersEdge/Planning>. Internet Explorer doesn't work using ftp so please use an FTP Client or your Windows Explorer (My Computer). Also, please send a note to metrodevreviews.dot@state.mn.us indicating that the plans have been submitted on the FTP site.

If you have any questions concerning this review please feel free to contact me at (651) 234-7794.

Sincerely,

A handwritten signature in black ink that reads "Tod Sherman". The signature is stylized, with a large, sweeping "T" and "S".

Tod Sherman
Planning Supervisor

Copy sent via E-Mail:

Buck Craig, Permits
Nancy Jacobson, Design
Bryce Fossand, Water Resources
Steve Channer, Right-of-Way
Jeff Brunner, Area Engineer
Chad Erickson, Traffic
Jim Henricksen, Program Management
Adam Josephson, Area Manager
Peter Wasko, Noise and Air
Tony Fischer, Traffic
Ann Braden, Metropolitan Council
Kyle Klatt, City of Lake Elmo, Kyle.klatt@lakeelmo.org



Public Works Department

Donald J. Theisen, P.E.
Director

Wayne H. Sandberg, P.E.
Deputy Director/County Engineer

May 23, 2012

Kyle Klatt
Community Development Director
City of Lake Elmo
3600 Laverne Avenue North
Lake Elmo, Mn 55042

RE: Washington County Comments on Environmental Assessment Worksheet for the Savona residential development

Dear Mr. Klatt

Washington County has reviewed the Environmental Assessment Worksheet (EAW) for the Savona residential development in Section 34, City of Lake Elmo, dated April 3, 2013. The project will consist of 190 single family lots and 122 multi-family lots with 27 acres of open space. The county has prepared the following comments from the Department of Public Works to ensure the health, safety and welfare of county residents, ensure environmental compliance, and minimize environmental impacts:

No. 8, Permits and Approvals

A right-of way permit will be required for any work in the county right-of way as it relates to the development including grading for the installation of culverts, installation of water and sewer services, left and right turn lanes on CSAH 19, pedestrian crossings, parallel trail grading and development, striping, center median crossing removals, new center median crossings, any landscaping and other improvements to county right-of-way. An access permit will be required for the new collector street that will connect to CSAH 19/Keats Avenue.

No. 17, Water Quality, Post Development Site Run-off

The developer or the city must submit the drainage report and calculations to our office for review of any downstream impacts to the county drainage system. Along with the drainage calculations, we will request written conclusions that the volume and rate of stormwater run-off into the county right-of way will not increase as part of the project.

No. 21, Traffic

The proposed project will generate additional traffic and a collector roadway will connect to the CSAH 19/Keats Avenue which is a functionally classified as an A Minor Arterial Roadway. As summarized in the Savona: Traffic Study dated April 9, 2013, the existing roadway system can accommodate the development. However, improvements to CSAH 19/Keats Avenue will need to be provided and include left and right turn lanes on both the southbound and northbound lanes on CSAH 19. There should also be a new median crossing from the southbound lane to the northbound lane on CSAH 19 at the new collector street location.

The proposed project will also generate pedestrian traffic as well as future transit ridership. CSAH 19/Keats Avenue is a regional trail identified in the Washington County Comprehensive Plan 2030 as the Central Greenway Regional Trail. Pedestrians from the future development will need to access the trail so a pedestrian crossing of CSAH 19 will need to be designed and constructed to provide this connection. A parallel trail on the west side of CSAH 19/Keats Avenue may also need to be developed and will be reviewed with the city as the development/subdivision proceeds through the city review process.

The Gateway Corridor is a transitway corridor along I-94 from St. Paul to Hudson, WI. A draft environmental impact study is currently underway that will identify the environmental impacts of both bus rapid transit in dedicated lanes and light rail transit. Generally, the transitway would run along the north side of I-94 along Hudson Road from downtown St. Paul to the cities of Oakdale/Lake Elmo municipal boundary. The transitway would then cross to the south side of I-94 in the City of Woodbury along Hudson Road to Manning Avenue. There are eleven total stations in development, two of which are near to the Savona development. The first is in Oakdale south of 4th Street between I-694 and Inwood. The second is in Woodbury between I-94 and Hudson Road, just east of Woodbury Drive. The Gateway Corridor would add all-day, consistent service to the existing express bus transit system in place along I-94.

Access control must be dedicated to Washington County along the CSAH 19/Keats Avenue frontage, except for the opening corresponding to the City's right of way for the collector roadway.

No. 24, Odors, Noise and Dust

Washington County's policy is to assist local governments in promoting compatibility between land use and highways. Residential uses located adjacent to highways often result in complaints about traffic noise. Traffic noise from this highway could exceed noise standards established by the Minnesota Pollution Control Agency (MPCA), the U.S. Department of Housing and Urban Development, and the U.S. Department of Transportation. Minnesota Rule 7030.0030 states that municipalities are responsible for taking all reasonable measures to prevent land use activities listed in the MPCA's Noise Area Classification (NAC) where the establishment of the land use would result in violations of established noise standards. Minnesota Statute 116.07; Subpart 2a exempts County Roads and County State Aid Highways from noise thresholds.

County policy regarding development adjacent to existing highways prohibits the expenditure of highway funds for noise mitigation measures in such areas. The developer should assess the noise situation and take any action outside of County right of way deemed necessary to minimize the impact of any highway noise.

No. 27, Compatibility with Plans and Land Use Regulations

The development plan is consistent with the Washington County Comprehensive Plan 2030, A Policy Guide to 2030, Land Use. The development implements Goal 3-2, which states "support the growth of attractive urban communities while preserving rural functions and appearances. The development also implements policies that support Regional Blueprint strategies that include promoting development that maximizes accessibility to jobs, housing and services. The development will implement strategies such as utilizing the Municipal Urban Service Area (MUSA), and development along the Gateway Transitway Corridor.

Savona EAW
May 21, 2013
Page 3

The Washington County Comprehensive Plan 2030 and the Metropolitan Council, 2030 Regional Parks Policy Plan, identifies CSAH 19/Keats Avenue as the Central Greenway Regional Trail.

If you have any questions or comments to the responses on the Savona EAW, please contact me at Ann.pung-terwedo@co.washington.mn.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ann Pung-Terwedo', with a stylized, cursive script.

Ann Pung-Terwedo
Senior Planner

Cc: Joe Gustafson, Traffic Engineer
Wayne Sandberg, County Engineer
Peter Mott, Park Planning Manager



May 24, 2013

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

RE: Savona Environmental Assessment Worksheet

Dear Mr. Klatt:

The South Washington Watershed District has reviewed the Savona Environmental Assessment Worksheet (EAW). We believe the information provided in the EAW is incomplete and offer the following comments.

1. The proposed Savona development and others expected within the Metropolitan Council's planned Metropolitan Urban Service Area will stress the existing stormwater system and drive the need for future regional improvements to prevent flooding. This connection must be made in the EAW.
2. The site drains surface water to Wilmes Lake as described in the EAW. From there it continues to Colby and Bailey Lakes, the Bailey Lift Station, and SWWD's Central Draw Storage Facility (CDSF) which serves as regional infiltration. In extreme events (> 100 yr), the CDSF would overtop and ultimately drain through Gables and Ravine Lakes on its way to the Mississippi River.
3. The proposed project will result in increased stormwater runoff volume to a system with existing capacity constraints (a cumulative impact). Those constraints will be further stretched with the Savona and other developments in the watershed. Several regional efforts have been taken and are planned to mitigate for those impacts, including:
 - a. Identification of regional ponding in Lake Elmo to mitigate increases in rate and volume runoff from development. One of the identified ponds is within the planned commercial area immediately south of the Savona residential development. It is SWWD's expectation that the identified regional ponds will be constructed as development occurs on those sites.
 - b. Installation of gates in the Wilmes and Markgrafs Lake watersheds to delay runoff from those watersheds,
 - c. Flood proofing of homes near the Wilmes Lake outlet which experienced flooding during an extreme event in October 2005,
 - d. Construction of the Bailey Lake Lift Station,
 - e. Completed and planned construction of the CDSF regional infiltration facility, and
 - f. Construction of a planned overflow from the CDSF to prevent residential flooding that would result from overtopping of the CDSF during extreme events (> 100 yr).

4. Wilmes, Colby, and Ravine Lakes are listed as impaired (excess nutrients) and should be identified as such in the EAW. The EAW should also site SWWD's total phosphorus loading standard for new development and other SWWD efforts to mitigate water quality impacts from development on the lake. Those efforts include individual lake management plans, stormwater retrofit assessments, and implementation programs.

If you have any questions or need additional information, please contact me at (651)714-3714 or jloomis@ci.woodbury.mn.us.

Sincerely,



John Loomis
Water Resources Specialist

Cc: S. Kernik/Woodbury, J. Levitt/Cottage Grove

May 28, 2013



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

Re: EAW for Savona Residential Development, Lake Elmo

Dear Mr. Klatt:

Thank you for submitting a copy of the Environmental Assessment Worksheet (EAW) for the proposed Lennar Corporation 312-unit residential development (Savona) between 10th Street North and Hudson Road, immediately west of Keats Avenue. Most of the proposed development is located within the Valley Branch Watershed District (VBWD) and is subject to the VBWD rules and regulations.

No one agency or organization can protect all of the local and regional water resources that will be affected by the proposed project. We need to work together, and through the EAW process we should be able to identify the development issues and form strategies for addressing them. The VBWD will look for assistance from the Minnesota Pollution Control Agency, the Minnesota Department of Health, the Metropolitan Council, Washington County, South Washington Watershed District, and others to ensure the water resources of the VBWD are protected.

On behalf of the VBWD, I offer the following comments; the numbers correspond to the items of the EAW.

12. Either this section or section 17 should be expanded to discuss the effect of the proposed project on downstream water resources. Within the VBWD those water resources include, but are not limited to, the landlocked Kramer Pond, the semi-landlocked and nutrient-impaired Goose Lake, and possibly the Outstanding Resource Value Water (ORVW) and nutrient-impaired Lake St. Croix.

13. Connection to a public water supply system

The narrative should be expanded to explain the effect of the proposed additional groundwater pumping on groundwater levels, groundwater-dependent surface waters (e.g., Lake Elmo, etc.), and existing groundwater contamination plumes.

The City is encouraged to work with the Metropolitan Council, the Minnesota Department of Natural Resources (DNR), Minnesota Department of Health, Washington County, South Washington Watershed District (SWWD), and the VBWD to review its groundwater pumping plans. For several years, these organizations have been working with the City of Woodbury to monitor and predict the likely water quantity effects of its new well field on the groundwater-dependent natural resources of the area—especially Valley Creek. The City of Lake Elmo should be held to the same standards as Woodbury; therefore, groundwater modeling should be done to prove no negative water quantity effects will occur. In addition, the modeling could determine if



DAVID BUCHECK • LINCOLN FETTER • DALE BORASH • JILL LUCAS • EDWARD MARCHAN

VALLEY BRANCH WATERSHED DISTRICT • P.O. BOX 838 • LAKE ELMO, MINNESOTA 55042-0538

www.vbwd.org

the City's pumping will affect the PFC and TCE contamination migration. Through a Legislative Commission on Minnesota Resources grant, Woodbury, Afton, Washington County, SWWD, and VBWD partnered to prepare a groundwater model that focuses on the southern half of Washington County. This model could help Lake Elmo determine the effects of its proposed groundwater pumping on groundwater-dependent resources, such as Lake Elmo.

16. Erosion and Sedimentation

The term "watersheds" in the last paragraph is assumed to mean watershed district.

17. Water Quality: Surface Water Runoff, Post-Development Site Runoff

The text indicates that runoff volumes will increase in the 50- and 100-year storm events. However, the City of Lake Elmo (Ordinance 157.277, A.c.1) requires the following: "The volume of storm water runoff discharging from a proposed site shall not be greater than the volume of storm water runoff discharging prior to the proposed site alteration for the 2-, 10-, and 100-year storm events." Please explain why the project will not be required to conform to the City's ordinance.

In addition to the stormwater runoff rate requirement mentioned in this section, the project will need to conform to the Valley Branch Watershed District's stormwater volume/water quality standards. "Stormwater ponds," mentioned as a mitigation measure, typically do not control stormwater volumes because they typically do not infiltrate.

Because Lake St. Croix is an ORVW, no expanded stormwater discharges are allowed, as defined in Minnesota Rules 7050.0180.

The designers should also be aware that the recently released Atlas 14 updates the precipitation amounts for the design storms, including a significant change to the 100-year 24-hour storm event (going from approximately 5.9 inches under the outdated Technical Paper 40 to approximately 7.3 inches under the new Atlas 14).

19. Geologic Hazards and Soil Conditions

While it seems unlikely to be an issue at this site, sinkholes have been discovered south of the site. The City of Lake Elmo is encouraged to contact the Minnesota Geologic Survey (MGS, Bob Tipping). The MGS has somewhat recently investigated the southern portion of Washington County for bedrock faults and sinkholes, including these sinkholes.

27. Compatibility with Plans and Land Use Regulations

There are other local, regional, state, and federal agency plans that the project is subject to, including the Valley Branch Watershed District's 2005-2015 Watershed Management Plan.

As indicated throughout the EAW, a permit will be required from the VBWD for the project. Once a complete permit application has been submitted, we will review the project thoroughly to ensure it conforms to the VBWD and Wetland Conservation Act rules and regulations.

My comments are intended to point out concerns and potential problems to the City of Lake Elmo. If you have any questions or need clarifications, feel free to contact me at 952-832-2622.

Sincerely,

A handwritten signature in black ink, appearing to read "John P. Hanson". The signature is fluid and cursive, with a long horizontal stroke at the end.

John P. Hanson, P.E.
BARR ENGINEERING COMPANY
Engineers for the District

c: VBWD Managers
Christopher Klucas, MPCA
Marni Karnowski, MPCA
Molly Shodeen, DNR Waters
Evan Drivas, DNR Groundwater Unit
Virginia Yingling, MDH
Judy Sventek, Metropolitan Council
Brian Davis, Metropolitan Council
Jessica Collin-Pilarski, Washington County Public Health & Environment
Matt Moore, SWWD

Kyle Klatt

From: Doperalski, Melissa (DNR) [melissa.doperalski@state.mn.us]
Sent: Wednesday, May 29, 2013 2:24 PM
To: Kyle Klatt
Cc: Haworth, Brooke (DNR)
Subject: Re: Savona EAW - DNR Comments

The Department of Natural Resources has reviewed the Environmental Assessment Worksheet (EAW) for the proposed Savona residential development located in Lake Elmo, Washington County. The DNR offers the following comments for your consideration.

The DNR recommends the use of wildlife-friendly erosion control materials. These materials are biodegradable and are designed so that wildlife doesn't become ensnared in the mesh and become injured or die. Please note that materials considered to be "photo" biodegradable are not considered to be wildlife friendly.

To provide habitat and corridors for wildlife, the open space should be seeded with local native prairie seed mixes. There are a couple of jumping spiders that are considered Species of Special Concern that could be found in this area. These species rely on native vegetation for some or all of their life-cycle.

In addition, given that several wetlands are in the proposed area, the increase in roads and traffic will likely result in increased vehicle/wildlife impacts. Incorporating road mortality mitigation strategies into the plan will increase the public safety and reduce the potential for public and resident concerns regarding animal road crossings. Strategies include construction designs such as wildlife-friendly curbs, underpasses, diverters (to funnel animals to underpasses) could be considered.

Thank you for the opportunity to provide comments on this EAW. We look forward to receiving your record of decision and responses to comments at the conclusion of environmental review. Minnesota Rules part 4410.1700, subparts 4 and 5, require you to send us your Record of Decision within five days of deciding on this action.

Melissa

Melissa Doperalski
Regional Environmental Assessment Ecologist
Department of Natural Resources, Central Region
1200 Warner Road
Saint Paul, Minnesota 55106
651.259.5738
melissa.doperalski@state.mn.us



Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | 651-282-5332 TTY | www.pca.state.mn.us | Equal Opportunity Employer

May 29, 2013

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

Re: Savona Residential Development Environmental Assessment Worksheet

Dear Mr. Klatt:

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the Savona Residential Development project (Project) in Lake Elmo, Minnesota. The Project consists of a residential development on 112.5 acres. Minnesota Pollution Control Agency (MPCA) staff has reviewed the EAW and have no comments at this time.

Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this EAW please contact me at 651-757-2508.

Sincerely,

A handwritten signature in black ink that reads "Karen Kromar".

Karen Kromar
Planner Principal
Environmental Review Unit
Resource Management and Assistance Division

KK:bt

cc: Craig Affeldt, MPCA, St. Paul
Doug Wetzstein, MPCA, St. Paul

May 29, 2013

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

RE: Savona Residential Development Environmental Assessment Worksheet (EAW)
City of Lake Elmo
Metropolitan Council Review File No. 21115-1
Metropolitan Council District 12

Dear Mr. Klatt:

The Metropolitan Council received an EAW for the Savona Residential Development in Lake Elmo on April 14, 2013. The proposed project is located between 10th Street (CSAH 10) and Hudson Boulevard, immediately west of Keats Avenue (CSAH 19). The proposed development is 112.5 acres and would include 312 residential units.

The staff review finds that the EAW is incomplete with respect to regional concerns. While an EIS is not necessary for regional purposes, the EAW needs to include the following information for accuracy.

Item 18 – Water Use & Item 8 Permits and Approvals (Kyle Colvin, Wastewater, 651-602-1151)
The EAW provides wastewater flow projections for the proposed 312-unit residential development. The projections are sufficient for local planning efforts. The project site is located outside of the current 2020 local wastewater service staging plan. Amendments to the City's comprehensive plan and comprehensive sewer plan will need to be submitted to the Council to address this issue.

The EAW lacks sufficient information to determine which part of the Metropolitan Disposal System the project site will be served through: west via Oakdale, east via new I-94 crossing and Woodbury, or both. The EAW needs to identify the connection point or points to the MDS, and the City's planning documents need to be updated to include this information.

In addition, staff offer the following comments for the City's consideration.

Item 13 – Water Use (Lanya Ross, Water Supply, 651-602-1803)
The EAW indicates that "there are no water supply issues anticipated as a result of adding the development to the city's water supply." The *Twin Cities Metropolitan Area Master Water Supply Plan*, jointly adopted by the Metropolitan Council and the Minnesota Department of Natural Resources, states that the following will need to be addressed by the City should water supplied be developed using the Prairie du Chien-Jordan aquifer in Lake Elmo:

- Potential for well interference
- Potential for significant decline in aquifer water levels
- Potential for impacts of groundwater pumping on surface water features
- Known groundwater contamination (the proposed project site is located in a Special Well and Boring Area designated by the MN Department of Health)

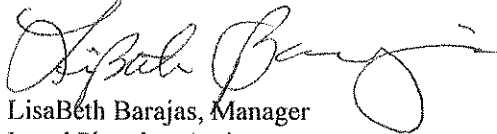
If pumping is significantly expanded to accommodate this development, the City will need to work to monitor and mitigate for these issues in cooperation with the DNR.

Also, the EAW states that water supply may be available through an agreement with the City of Oakdale, but does not include additional discussion of the adequacy of Oakdale's water supply to support this development.

The EAW should acknowledge the information provided by the *Twin Cities Metropolitan Area Master Water Supply Plan*. The EAW should also include any additional details or discussion regarding the potential for water supply through the City of Oakdale.

This concludes the Council's review of the EAW. The Council will take no formal action on the EAW. If you have any questions or need further information, please contact me at 651-602-1895.

Sincerely,



LisaBeth Barajas, Manager
Local Planning Assistance

CC: Julie Monson, MHFA
Tod Sherman, Development Reviews Coordinator, MnDOT — Metro Division
Harry Melander, Metropolitan Council District 12
Raya Esmacili, Reviews Coordinator

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Protecting, maintaining and improving the health of all Minnesotans

May 29, 2013

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

Dear Mr. Klatt,

Thank you for providing the Minnesota Department of Health (MDH) with the opportunity to comment on the Environmental Assessment Worksheet (EAW) for the proposed 312-unit residential development (Savona) located south of 10th Street North and west of Keats Avenue North. MDH has the following comments and recommendations.

Affordable Housing

Preserving affordable housing supports home-ownership and housing stability, improves community stability, and fosters social networks. This is important for health in a number of ways. When residents spend less than 30 percent of pre-tax income on housing (affordability threshold) they have more money to spend on healthcare, doctor visits, medication, and healthy food. Additionally, instable housing – or frequent mobility – can cause stress and other mental health conditions like depression. The supply of stable, affordable housing is shrinking and demand is increasing. The project does provide a mix of housing densities and should consider providing affordable housing options.

Farmland

The project builds over prime farmland, which is essential to long-term, local food production. The tighter the cluster of development, the more walkable the community and the more land is preserved for open space and agricultural uses. Preserving land for reliable food production helps ensure food security and access to healthy foods. Preserving farmland provides the potential for cultivating crops on high quality farmland if the project does not fully develop; enabling community gardens on high quality farmland; and/or preserving permeable surfaces for stormwater management and water quality.

Physical Activity

Encouraging physical activity by providing parks, recreational facilities, and trails can be an effective strategy to improve the public's health. Additionally, trips taken by bike or foot versus automobile save energy and do not emit pollutants or greenhouse gases. The project indicates that some recreational facilities will be provided.

Storm Water Runoff/Impervious Surfaces

The substantial increase in impervious surfaces at project build out will increase the amount of stormwater runoff from the site. Stormwater runoff picks up and carries with it many different pollutants that are found on paved surfaces such as sediment, nitrogen, phosphorus, bacteria, oil, grease, trash, pesticides and metals. Reducing stormwater runoff helps prevent contaminated runoff from entering streams, lakes and other water bodies, which may be used for recreational purposes or drinking water. Waterborne illnesses from recreational swimming and drinking water are associated with runoff. An increase in impervious surfaces also has been shown to lead to higher flood peaks.

Additionally, future climate conditions are anticipated to result in increased frequency and intensity of storm events. The project should consider whether stormwater infrastructure and retention facilities designed for larger storm events would be appropriate to accommodate anticipated future climatic events.

Hazardous Materials

In Section 9, the discussion of the Phase II Environmental Site Assessment findings indicates that surface soils were found to contain 9.2 – 19.9 mg/kg arsenic and that the Phase II report from the consultant "...indicates that they suspect these concentrations to be within the range of naturally-occurring concentrations for this area." According to the Minnesota Geological Survey's "Till Geochemical and Indicator Mineral Reconnaissance of Minnesota (MGS, 2007), these concentrations are not typical of Washington County. The reported mean concentration for arsenic for the entire state is 8.26 mg/kg (the geometric mean is 7.03 mg/kg) and samples from Washington county ranged from 5.6 – 6.8 mg/kg. While the MGS study was not exhaustive, it suggests that the arsenic levels detected at the property may not be naturally occurring. If arsenic is found to exceed residential SRVs in areas planned to be developed as residential parcels, rather than wooded or open-space areas, then consideration should be given to the landscaping to ensure a layer of clean topsoil is in place and adequate vegetation is established to prevent exposures. Please contact Ginny Yingling at (651) 201-4930 or virginia.yingling@state.mn.us for questions related to the comments and questions in this subsection.

Public Water Supply

In Section 13, the discussion regarding connection to a public water supply system describes the two existing Lake Elmo city wells and Lake Elmo's water system, but then indicates the development will be connected to the existing water supply system at the Eagle Point Business Park along Hudson Boulevard. The water supplied to that area of the city is from the city of Oakdale's water system, not Lake Elmo. Due to perfluorochemical (PFC) contamination in many of their city wells, Oakdale has some water management constraints that may need to be considered in terms of additional water demands being placed on their system. The city of Oakdale should be consulted to ensure they are aware of this planned development and to verify they have sufficient capacity to meet the proposed additional water demands. Additionally, the text of the EAW should be clarified regarding the source of the water for the development. Please contact Ginny Yingling at (651) 201-4930 or virginia.yingling@state.mn.us for questions related to the comments and questions in this subsection.

Geologic Features

Section 19b indicates there are no known sinkholes on or near the site. While this is true, there are karst features mapped by the MGS both north and south of the site (a spring in the Lake Elmo Park Reserve and sinkholes in Woodbury, respectively) and karst features are known to be present in the bedrock formations beneath the site. At the Dancing Waters development in Woodbury, a large sinkhole formed beneath a stormwater pond shortly after the pond was filled. A GIS layer of mapped karst features is available at: <http://conservancy.umn.edu/handle/93148>. It is recommended that the developer and city should consult with the MGS regarding the possibility of karst development at the site, particularly in areas where stormwater ponds may be planned.

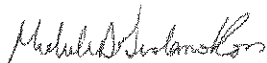
Wells

The abandoned well noted on the property will need to be properly sealed. Additional information is available on the MDH website at [Well Sealing](#). For additional information, contact MDH staff at (651) 201-4600 or health.wells@state.mn.us.

Additionally, in Section 19, the discussion regarding the Special Well and Boring Construction Area (SWBCA) should also note that state law (MN Stat. 103I.236) requires disclosure of the fact that a property is located within an SWBCA at the time of sale.

Health starts where we live, learn, work, and play. To create and maintain healthy Minnesota communities, we have to think in terms of health in all policies. Thank you again for the opportunity to provide comments on this EAW. Feel free to contact me at (651) 201-4927 or michele.ross@state.mn.us if you have any questions.

Sincerely,



Michele Ross
Environmental Review Coordinator
Environmental Health Division
Minnesota Department of Health
PO Box 64975
Saint Paul, MN 55164-0975



MAYOR AND COUNCIL COMMUNICATION

DATE: 7/02/2013

REGULAR

ITEM #: 20

RESOLUTION 2013-55

AGENDA ITEM: Council Workshop Stipend

SUBMITTED BY: Adam Bell, City Clerk

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Beckie Gumatz, Program Assistant

SUGGESTED ORDER OF BUSINESS

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

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to consider granting an additional monetary stipend for council members attending council workshops and for planning commissioners attending planning commission meetings. If Council chooses to grant this stipend, it is recommended to make the following motion:

“Move to approve Resolution 2013-55, granting additional stipend of \$100.00 dollars per meeting for Council Members’ attendance at a workshop or special meeting in excess of the meetings required by the Lake Elmo City Code; and approving a stipend of \$40.00 dollars per meeting for Planning Commissioners attendance at Planning Commission meetings.”

BACKGROUND:

Council Members Smith and Park have requested that the City Council consider granting council members an additional monetary stipend for attendance at council workshops and special meetings in excess of the regular city council meetings prescribed by city code. Currently, city code § 31.01(A) requires two regular meetings per month, specifically on the first and third Tuesday. There is no required number of special or emergency meetings or workshops. The code only prescribes the procedure for holding those additional types of meetings.

City code § 31.08 governs council salaries. Staff deems the payment of a stipend as outside the definition of a salary and therefore not subject to the requirements of § 31.08. The most recent

Council action on Council salaries took place on July 3, 2012. The 4-1 vote, with then Council Member Pearson voting in opposition, granted a raise to the Mayor and Council, effective January 1, 2013.

During her May 21st Council report, Council Member Smith suggested that the Council look at an additional stipend for workshop attendance due to the high number of extra meetings the Council is currently holding. Ms. Smith stated that the increasing number of meetings is becoming more demanding, especially for members with families.

In addition, Council Member Smith suggested that the Council look at approving stipends for Planning Commissioners' attendance at Planning Commission meetings. Commissioners are currently not compensated for meeting attendance or service in general. Staff research has found that almost all municipal boards and commissions in the state are unpaid volunteer positions. However, there is much discussion statewide among cities about the prevalent difficulty in recruiting commissioners and whether paying commissioners would aide in that challenge.

Staff research has not been able to find instances of City Councils granting additional monetary stipends to members for work shops or special meetings in excess of the regular meeting pay. Staff has found instances where some council members are paid per meeting regardless of what type of meeting is held instead of a set annual salary. If the council were to desire to move to this format, it would require amending the ordinance governing salaries. Also, this change would not take effect until January 1, 2015, following the next regular city election scheduled for November 4, 2014.

RECOMMENDATION:

The City Council is respectfully requested to consider granting an additional monetary stipend for council members attending council workshops and for planning commissioners attending planning commission meetings. If Council chooses to grant this stipend, it is recommended to make the following motion:

"Move to approve Resolution 2013-55, granting additional stipend of \$100.00 dollars per meeting for Council Members' attendance at a workshop or special meeting in excess of the meetings required by the Lake Elmo City Code; and approving a stipend of \$40.00 dollars per meeting for Planning Commissioners attendance at Planning Commission meetings."

ATTACHMENTS:

1. Resolution 2013-55

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

RESOLUTION 2013-55

A RESOLUTION GRANTING ADDITIONAL STIPEND PER MEETING FOR COUNCIL MEMBERS' ATTENDANCE AT A WORKSHOP OR SPECIAL MEETING IN EXCESS OF THE MEETINGS REQUIRED BY THE LAKE ELMO CITY CODE; AND APPROVING A STIPEND FOR PLANNING COMMISSIONERS ATTENDANCE AT PLANNING COMMISSION MEETINGS.

WHEREAS, pursuant to City Code § 31.01 *et seq.*, the Lake Elmo Mayor and City Council Members are paid a nominal annual salary for service and duties performed as officials, which includes, but is not limited to, attending two monthly regular City Council meetings; and

WHEREAS, there has been an increase in the number of additional meetings held and required due to the development and growth the City is currently experiencing, and the increasing number of required meetings is mounting an increased burden on council members, especially those with families; and

WHEREAS, the Council finds it reasonable to grant an additional monetary stipend for attendance at the meetings held in excess of the required regular meeting prescribed by the City Code; and

WHEREAS, the Council also finds it is reasonable to grant a monetary stipend to the Planning Commissioners for their attendance at Planning Commission meetings.

NOW THEREFORE BE IT RESOLVED, the City of Lake Elmo City Council grants an additional stipend of \$100.00 dollars per meeting for Council Members' attendance at a workshop or special meeting in excess of the meetings required by the Lake Elmo City Code; and

NOW THEREFORE, BE IT FURTHER RESOLVED the City of Lake Elmo City Council approves a stipend of \$40.00 dollars per meeting for Planning Commissioners attendance at Planning Commission meetings.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE SECOND DAY OF JULY 2013.

(Seal)

ATTEST:

Mike Pearson, Mayor

Adam R. Bell, City Clerk