



MAYOR & COUNCIL COMMUNICATION

DATE: January 21, 2014
BOARD OF ADJUSTMENT HEARING
ITEM #2
Case 2014-01

AGENDA ITEM: Richie and Beth Springborn vs. City of Lake Elmo

SUBMITTED BY: Nick M. Johnson, City Planner

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Kyle Klatt, Community Development Director
Rick Chase, Building Official
Jack Griffin, City Engineer

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation.....Community Development Director
- Questions from Council to StaffMayor Facilitates
- Open the Public Hearing.....Mayor Facilitates
- Close the Public Hearing.....Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECCOMENDER: The City's current and former driveway ordinance require that the portion of a driveway located within the public right-of-way of an improved street be constructed of bituminous or concrete material. This policy is established to protect City streets and storm water infrastructure. It is recommended that the City Council uphold this policy in order to maintain City infrastructure and ensure the maximum life of the assets.

FISCAL IMPACT: The \$150.00 appeal fee was waived at the last City Council meeting on 1/06/2014.

SUMMARY AND ACTION REQUESTED: The Board of Appeals is respectfully requested to determine whether staff is correctly interpreting the City Code in order to determine if a

driveway constructed at 8970 55th Street North is in conformance with the City Driveway Ordinance. The property owners, Richie and Beth Springborn, have built a compacted reclaimed asphalt or millings driveway all the way to the City street (55th Street), whereas the City's ordinance requires that the portion of the driveway located in the City's right-of-way be constructed of bitumen or concrete. The applicants ask that the Board of Appeals consider Staff's interpretation of §93.26 *Driveway Standards*. More specifically, the applicants are challenging staff's interpretation of the definition of "bitumen".

Staff is recommending that the City Council confirm the staff's interpretation of §93.26 through the following motion:

“Move to adopt Resolution 2014-06, confirming and upholding staff's interpretation of the Driveway Ordinance, thereby denying the appeal.”

LEGISLATIVE HISTORY:

On September 3, 2013, the City of Lake Elmo issued a building permit for a new single family home at 8970 55th Street North to Richie and Beth Springborn. On November 21, 2013, the City's Building Official conducted a final escrow inspection for the project, which is the last step before issuing the Certificate of Occupancy (CO). During the inspection, the City Building Official, Rick Chase, required a correction to make the portion of the residential driveway in the public right-of-way bituminous or concrete. As opposed to using bituminous or concrete in the right-of-way, the applicants constructed the entire driveway up to the improved street with reclaimed millings or asphalt from the TH-36 project. The applicants are appealing the staff's interpretation of the City's Driveway Ordinance based on the argument that the reclaimed asphalt meets the definition of "bitumen". City staff does not agree with this argument, and recommends that the Council confirm staff's interpretation of the City Code.

Prior to December of 2013, when the City adopted new driveway provisions, the City's previous Driveway Ordinance (Attachment #3) included the following language regarding required surface materials:

“§93.25 General Requirements

Driveway surface. Whenever a driveway is constructed, all that portion of the boulevard designated as driveway shall be surfaced with a plant-mixed machine laid bituminous material conforming to standards approved by the City Engineer and in accordance with plans approved by the City Engineer.”

It should be noted that this ordinance was in effect at the time the building permit for the single family home at 8970 55th Street N. was issued. When the permit was issued, the ordinance called for “plant-mixed machine laid bituminous material” in the portion of the boulevard (public right-of-way). Given this language, there is no way to confuse reclaimed or crushed asphalt with plant-mixed bituminous material. The main point is that under the previous driveway provisions,

which were active when the building permit was issued, the applicants would not have been able to use reclaimed asphalt or millings as the approved driveway material in the public right-of-way or boulevard.

In December of 2013, the City adopted a new Driveway Ordinance (Ordinance 08-096 – Attachment #4) to prepare the community for additional residential development, particularly in urban districts. As part of the new Driveway Ordinance, the following language was included in relation to acceptable surface materials:

“§93.26 Driveway Standards

H. Driveway Materials.

1. *Urban Districts.* All driveways shall be constructed of bitumen, concrete or a durable material approved by the City Engineer.
2. *Rural Districts.* Driveways may be constructed of crushed rock or equivalent crushed material provided that the portion of the driveway within the road right-of-way shall be constructed of bitumen or concrete when accessing an improved street.”

As part of the new ordinance, the required or acceptable driveway material within the road right-of-way in rural zoning districts is bitumen or concrete. In seeking to appeal the City staff’s interpretation of the ordinance, the applicants are challenging the definition of bitumen, stating that reclaimed asphalt or millings meets the definition of bitumen. However, staff disagrees with this argument. When examining the context of the driveway materials portion of the ordinance, it is clear that in the rural district, there is a clear delineation between what materials can be used on the private lot and what materials must be used in the public right-of-way. The ordinance states that “crushed rock or equivalent crushed material” that can be used on the private lot, whereas the right-of-way must be bitumen or concrete. In staff’s professional judgment, recycled or reclaimed asphalt or millings is an equivalent crushed material, not bitumen. On the other hand, bituminous or bitumen is a petroleum based product that is bound and laid at high temperatures. Crushed or recycled asphalt does not include the petroleum based binder. Regarding the expertise level of City staff, the City’s Building Official, Rick Chase, has both Bituminous I and Bituminous II MnDOT Certifications. In addition, the City Engineer, Jack Griffin, is extremely experienced and knowledgeable about bituminous products. In the expertise of both the Building Official and City Engineer, reclaimed asphalt does not qualify as bitumen. Finally, with regards to the definition of bitumen not being clear enough in the City Code, it should be noted that City staff drafted the current Driveway Ordinance based upon researching several other local communities. Staff researched the driveway provisions of eight communities (Woodbury, Apple Valley, Eagan, Inver Grove Heights, Shoreview, Eden Prairie, Minnetonka and Cottage Grove). Of the communities that specified bituminous or bitumen as an acceptable or required driveway material (3 cities – Inver Grove Heights, Apple Valley and Eden Prairie) not one of them specifically defined what constitutes bituminous in their codes. Staff believes that the reason for this is that what constitutes bitumen or bituminous is a well-known and established standard. In other words, if the definition of bituminous was less clear cut, other cities would define the term to establish what method and material is acceptable.

Finally, it should be noted that the City has established an engineering design standard for residential driveways. The standard was adopted by the City Council along with the Engineering Design Standards Manual on February 19, 2013 (Resolution 2013-09). The established driveway standard calls for bituminous material at a specification consistent with MnDOT 2360. In other words, contrary to the position that the City has not defined what constitutes bitumen, from staff's perspective, the City has defined what is acceptable by adopting this standard. It should also be noted that reclaimed asphalt that is simply compacted does not meet this standard. The City's driveway standard from the Engineering Design Standards Manual is found in attachment #5.

BACKGROUND INFORMATION (SWOT):

Strengths: Confirming the staff's interpretation of the Driveway Ordinance demonstrates a commitment to the protection and maintenance of City streets and other infrastructure. In cases of installing new or improved residential driveways, requiring the public right-of-way to be constructed of bitumen or concrete helps reduce cracking and degradation of the City streets. In addition, it also helps reduce the trailing or tracking of loose rock or other material or debris onto City Streets. Minimizing this debris helps maximize safety and protect storm sewer and other City infrastructure.

Weaknesses: N/A

Opportunities: N/A

Threats: If the appeal is granted, the action sets a negative precedent to allow crushed rock or an equivalent crushed material as an acceptable material in the public right-of-way for new residential driveways in rural zoning districts. This scenario presents a threat to the ongoing maintenance and protection of City streets.

RECOMMENDATION:

Based on the aforementioned, Staff is recommending that the City Council confirm the staff's interpretation of §93.26 Driveway Standards through the following motion:

“Move to adopt Resolution 2014-06, confirming and upholding staff's interpretation of the Driveway Ordinance, thereby denying the appeal.”

ATTACHMENTS:

1. Resolution 2014-06
2. Zoning Appeal Application – Richie and Beth Springborn
3. City's Previous Driveway Ordinance
4. City's Current Driveway Ordinance
5. City's Residential Driveway Engineering Design Standard

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

BOARD OF ADJUSTMENT AND APPEALS

RESOLUTION NO. 2014-06

*RESOLUTION STATING FINDINGS OF FACT RELATED TO AN APPEAL OF THE STAFF
INTERPRETATION OF THE CITY'S DRIVEWAY ORDINANCE PERTAINING TO THE
CONSTRUCTION OF A RESIDENTIAL DRIVEWAY AT 8970 55TH STREET NORTH*

WHEREAS, the property owners at 8970 55th Street North, Richie and Beth Springborn, have constructed a new residential driveway as part of a building permit for a single family home; and

WHEREAS, the City staff determined that the constructed driveway was not compliant with Section 93.26 of the City Code for the following reasons:

- 1) The Driveway Ordinance requires that any portion of a driveway in the public right-of-way accessing an improved street must be constructed of bitumen or concrete.
- 2) 55th Street is an improved street, requiring that any new or improved driveway accessing the street be constructed of bitumen or concrete in the area of the public right-of-way.
- 3) The portion of the applicants' driveway in the public right-of-way is constructed of reclaimed asphalt or millings, which does not meet the City's standard for bitumen or concrete.

WHEREAS, the applicants submitted an appeal to the Board of Adjustments and Appeals regarding the staff's interpretation of the Driveway Ordinance and the definition of bitumen, and request that the Board find that the requirement to install bound bitumen or concrete in the public right-of-way be waived; and

WHEREAS, on January 21, 2014, the Board heard the applicants and the City's staff and counsel and considered the facts of this case; and

NOW, THEREFORE, the Board of Appeals and Adjustments of the City of Lake Elmo makes the following findings related to the appeal by Richie and Beth Springborn of City staff's interpretation of the Driveway Ordinance in connection to the construction of a new residential driveway at 8970 55th Street North:

FINDINGS

- 1) That the City requires the portion of the right-of-way for all residential driveways accessing improved streets to be constructed of bitumen or concrete for the purpose of protecting the integrity of the street and ensuring the maximum life of the asset.
- 2) That the City strives to reduce the occurrence of trailing rock or other loose material onto improved City streets for the purpose of keeping the street clear of debris to maximize safety and minimize potential damage to storm sewer and other City infrastructure.
- 3) That the City Council has adopted and established an engineering design standard for residential driveways that calls for a bituminous specification of MnDOT 2360 TYPE SP, a hot, plant-mixed, machine laid and bounded bituminous product.
- 4) That the material used by the applicants to construct the portion of the residential driveway in the public right-of-way, reclaimed compacted asphalt or millings, is not consistent with the City's engineering standard or definition of bitumen.

CONCLUSIONS AND DECISION

Based on the foregoing, the City Council confirms and upholds City staff's interpretation of the City Code, and thereby denies the application of appeal.

Passed and duly adopted this 21st day of January, 2014 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

Date Received: _____
Received By: _____
Permit #: _____

THE CITY OF
LAKE ELMO

JAN 13 2014

651-747-3900
Verne Avenue North
Lake Elmo, MN 55042

LAND USE APPLICATION

☐ Comprehensive Plan ☐ Zoning District Amend ☐ Zoning Text Amend ☐ Variance*(see below) ☒ Zoning Appeal

☐ Conditional Use Permit (C.U.P.) ☐ Flood Plain C.U.P. ☐ Interim Use Permit (I.U.P.) ☐ Excavating/Grading

☐ Lot Line Adjustment ☐ Minor Subdivision

Applicant: Richie and Beth Springborn

Address: 8970 55th St. N. Lake Elmo, MN 55042

Phone #: R= 651334-8428 / B= 651-592-9944

Email Address: r.springborn@msn.com

Fee Owner: \$0.00 - Fee's are waived per Dean Zuleger and City Council

Address: _____

Phone #: _____

Email Address: _____

Property Location (Address and Complete (long) Legal Description): 8970 55th St. N. Lake Elmo, MN 55042

Detailed Reason for Request: We are requesting we be waived from having to put "Hot Mix or concrete", as identified by city staff, at the end of our driveway (right-of-way) We believe due to the vagueness of the current City Code, and the Code during our final inspection on 11/21/13, we have complied with the code by using compacted asphalt millings, from Highway 36, and the compacted asphalt millings are 8-12" thick throughout our entire driveway. The material we used falls under the City Code word "Bitumen". See attachments for supporting documentation.
*Variance Requests: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the applicant must demonstrate practical difficulties before a variance can be granted. The practical difficulties related to this application are as follows:

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance 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.

Signature of applicant: Richie Springborn

Date: 1-13-14
1-13-14

City Use Only

Planning: Zoning District: _____

Reviewed by: _____

Date: _____

Subject to the following conditions: _____

Engineering: Reviewed by: _____

Date: _____

Subject to the following conditions: _____

are appealing the City Code, Section 93.26. H, which reads as follows:

Driveway Materials

Rural Districts. Driveways may be constructed of crushed rock or equivalent crushed material provided that the portion of the driveway within the road right-of-way shall be constructed of bitumen or concrete when accessing an improved street.

Beth & Rich Springborn
8970 55th St.
Lake Elmo, MN 55042
651-592-9944

January 6, 2014

Mayor and City Council Members:

We have finished building our home on 9.58 acres and during the final inspection on 11/21/2013, completed by Rick Chase to obtain our occupancy permit, Rick noted that the end of our driveway needed to be asphalted. We were confused by Rick's statement as the end of our driveway is asphalted. We looked up the City Code which reads ***"(Rural Districts) Driveways may be constructed of crushed rock or equivalent crushed material provided that the portion of the driveway within the road right-of-way shall be constructed of bitumen or Concrete when accessing an improved street."*** Attached is a copy of the City Code that was given to us by Rick Chase.

We are questioning why we are required to have the end of our driveway asphalted since that is not what is stated in the City code. To better understand the terminology in the city code we did some additional research:

So what does the word *bitumen* mean? The definition in the dictionary states: ("*bitumen*" - *any of various natural substances, as asphalt, maltha, or gilsonite, consisting mainly of hydrocarbons.* (See attached)

We then received a letter from Joan Ziertman, dated 12/23/2013, (see attached) stating that we are to have an asphalt access for the driveway. *To better understand the word "asphalt" we looked up the definition and it states:*

"Asphalt" - Any of various dark-colored, solid, bituminous substances, native in various areas of the earth and composed mainly of hydrocarbon mixtures.

- 1. A similar substance that is the by-product or petroleum-cracking operations.*
- 2. A mixture of such substances with gravel, crushed rock, or the like, used for paving.*

In regards to these definitions we feel that we comply with the City Code as we have crushed asphalt on our full driveway, including the portion of the driveway within the road right-of-way.

We have had multiple conversations with staff related to this and during one conversation Rick stated that we are required by City Code to have *Hot mix asphalt 3" thick at the end of our driveway* and based on his email he state that we were not in compliance with the City ordinance. We disagree as that is not what is stated in the City Code. We do not understand why we are being asked to do one thing and the City Code states another.

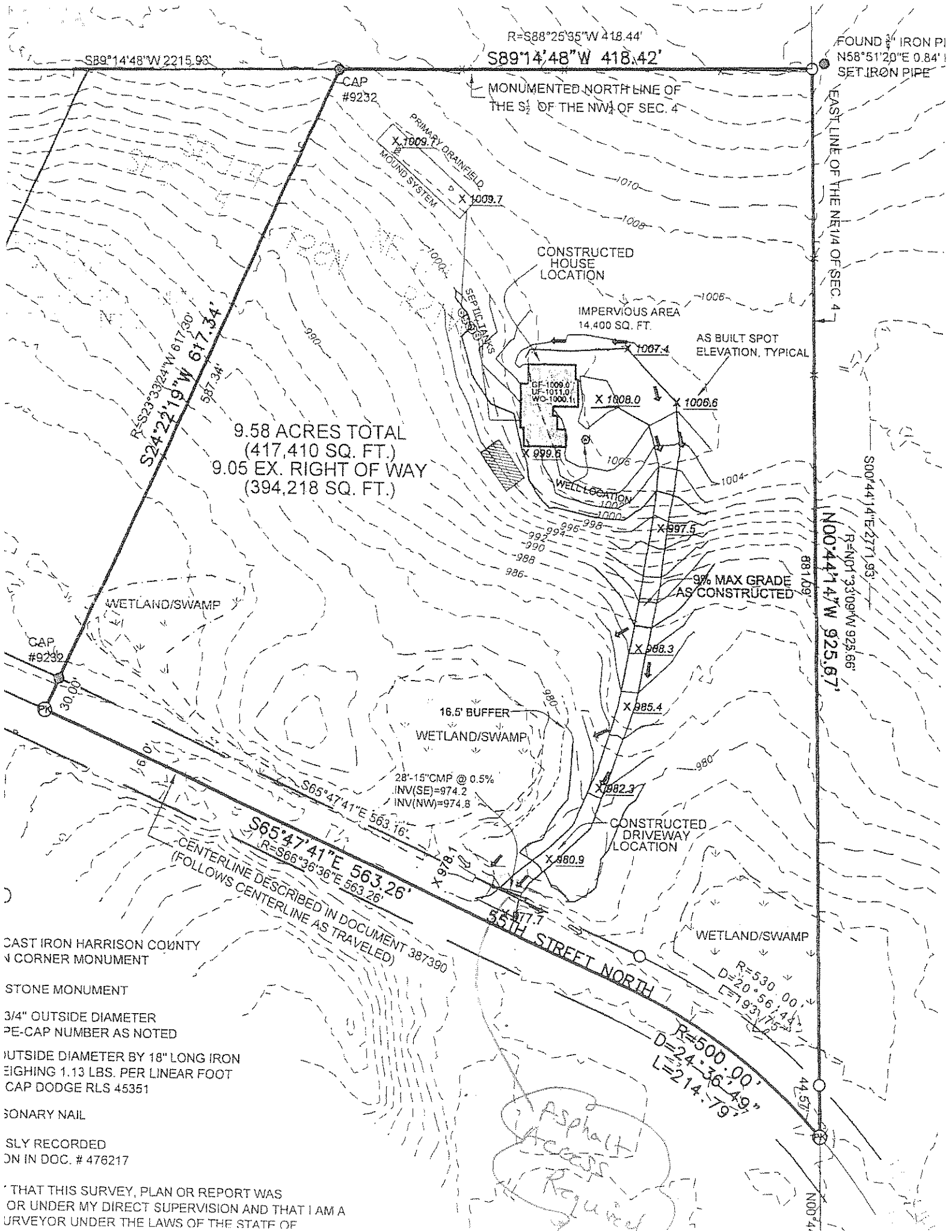
We are requesting the council's clarification related to the materials needed for the end of driveways in 'rural districts' and for the release of the remaining escrow funds. We believe we have met the requirements of the City Code and especially as it relates to rural districts.

Thank you for your time and we greatly appreciate an expedient response in order to complete this process.

Sincerely,


Beth Springborn


Rich Springborn



R=S88°25'35"W 418.44'
S89°14'48"W 418.42'

FOUND 3/4" IRON PIPE
N58°51'20"E 0.84'
SET IRON PIPE

EAST LINE OF THE NE 1/4 OF SEC. 4

S00°44'14"E 271.93'
R=N10°33'09"W 925.66'
N00°44'14"W 925.67'

9.58 ACRES TOTAL
(417,410 SQ. FT.)
9.05 EX. RIGHT OF WAY
(394,218 SQ. FT.)

CONSTRUCTED
HOUSE
LOCATION

IMPERVIOUS AREA
14,400 SQ. FT.

AS BUILT SPOT
ELEVATION, TYPICAL

WELL LOCATION

9% MAX GRADE
AS CONSTRUCTED

16.5' BUFFER
WETLAND/SWAMP

28"-15" CMP @ 0.5%
INV(SE)=974.2
INV(NW)=974.8

CONSTRUCTED
DRIVEWAY
LOCATION

WETLAND/SWAMP

55TH STREET NORTH

CAST IRON HARRISON COUNTY
CORNER MONUMENT

STONE MONUMENT

3/4" OUTSIDE DIAMETER
PE-CAP NUMBER AS NOTED

OUTSIDE DIAMETER BY 18" LONG IRON
WEIGHING 1.13 LBS. PER LINEAR FOOT
CAP DODGE RLS 45351

SONARY NAIL

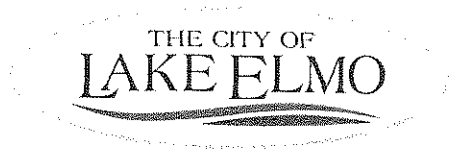
SLY RECORDED
ON IN DOC. # 476217

THAT THIS SURVEY, PLAN OR REPORT WAS
OR UNDER MY DIRECT SUPERVISION AND THAT I AM A
SURVEYOR UNDER THE LAWS OF THE STATE OF

Asphalt
Access
Required

- E. *Distance from Intersection.* No driveway or curb cut shall be less than 20 feet from any right-of-way line of any street intersection, except that in high density residential, commercial and mixed-use zoning districts, the minimum distance shall be 50 feet.
- F. *Driveway Angle.* All driveways shall connect to the public street at 90 degree angles, or must be approved by the City Engineer. Exceptions must demonstrate an inability to meet the 90 degree angle due to extenuating circumstances.
- G. *Driveway Grade.* Driveways exceeding a grade of 10% must be approved by the City Engineer. Exceptions must demonstrate an inability to meet the 10% maximum grade due to extenuating circumstances.
- H. *Driveway Materials.*
 - 1. *Urban Districts.* All driveways shall be constructed of bitumen, concrete or a durable material approved by the City Engineer.
 - 2. *Rural Districts.* Driveways may be constructed of crushed rock or equivalent crushed material provided that the portion of the driveway within the road right-of-way shall be constructed of bitumen or concrete when accessing an improved street.
- I. *Curb Box, Residential Districts.* Curb boxes located within driveway shall be protected with an A1 Ford Lid or approved equal.
- J. *Control of Traffic.*
 - 1. Where other alternatives exist, commercial sites should not be accessed from local residential streets.
 - 2. Traffic shall be controlled to ensure that the location of driveways shall not constitute a hazard nor be injurious to adjacent residential uses.
- K. *Access to Major Streets (Thoroughfares).* On properties having frontage on both thoroughfares and minor roads, access shall be provided via the minor road unless otherwise approved by the City Engineer. Access may be restricted on any non-residential local road. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.
- L. *State and County Highway Requirements.* Driveways constructed to access any street designated as a state or county highway shall meet all additional specifications of the appropriate jurisdiction. Access drives onto state and county roads shall require a review by the road authority and the City Engineer. The state, county and City Engineer shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
- M. *Distance from Driveways to Side Lot Line.* A driveway must be at least 5 feet from any side lot line.
- N. *Emergency Vehicle Access.* Driveways to principal structures that traverse wooded, steep or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles.

§ 93.27 Parking Areas



Lake Elmo City Hall
651-747-3900
3800 Laverne Avenue North
Lake Elmo, MN 55042

December 23, 2013

Hartman Homes
744 Ryan Drive, Suite 102
Hudson, WI 54016
Attn: Jeff Mears

Re: 8970 55th Street N

Dear Mr. Mears:

Attached please find the rejection comments for the as-built survey that was submitted. In addition, please note that per City Code, an asphalt access is required for the driveway. A copy of the City Code is provided. Please make the corrections and resubmit the as-built. Please have the corrections to the driveway access completed by June 1, 2014. If you have any questions, please feel free to contact myself or Rick Chase, the Building Official at 651-747-3910. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan Ziertman".

Joan Ziertman
Planning Program Assistant
651-747-3918

Cc: Beth & Richie Springborn



January 3, 2014

Rich and Beth Springborn
8970 55th Street North
Lake Elmo, MN 55042

Dear Mr. and Mrs. Springborn:

I am writing in response to your December 31, 2013 letter in which you state your concern that the Lake Elmo City Code concerning driveways is not being properly applied to your recent building permit for a new home at 8970 55th Street North. The specific provisions that have been questioned are found in Section 93.26.H, which reads as follows:

H. *Driveway Materials.*

1. *Urban Districts.* All driveways shall be constructed of bitumen, concrete or a durable material approved by the City Engineer.
2. *Rural Districts.* Driveways may be constructed of crushed rock or equivalent crushed material provided that the portion of the driveway within the road right-of-way shall be constructed of bitumen or concrete when accessing an improved street.

After reviewing this matter with our Staff, I have found that the Code is being interpreted properly, and specifically, that the millings you have used for your driveway do not meet the City's requirements for an allowed driveway material within a boulevard adjacent to an improved street. Please note that for all other portions of the driveway outside of the public boulevard area (within 15 feet from the edge of the pavement) the millings are deemed acceptable as a crushed rock or equivalent material.

If you do not agree with this interpretation of the Code, you may file an appeal of the decision with the Board of Adjustment consistent with the appeal procedures outlined in Section 154.108 (attached). This does require a formal request to the City Council as specified in the ordinance.

If you decide not to file a formal appeal, you will need to modify that portion of the driveway that is located within the public boulevard area (from the edge of the existing pavement to a depth of at least 15 back from the edge) consistent with the City's review comments concerning your as-built survey.

I understand that you have had recent conversations with the City Administrator regarding the escrow deposit submitted by Hartman Homes for this building permit, and at this point, the City is willing to consider a partial release of the escrow payment based on substantial completion of your building permit. I have also reviewed the three outstanding items for escrow release as indicated by the Building Official in an email to you dated December 31, 2013 and we have agreed to eliminate all but

requirement number 3 (pertaining to the driveway surface within the City boulevard). Furthermore, the City is willing to grant you additional time to install the driveway, and will extend the deadline for compliance with the boulevard surfacing requirement out to June 1, 2015. The City will therefore adjust the escrow to cover only the estimated value of the outstanding driveway improvements and will consider all other matters resolved.

Please contact me if you have any questions about the City's appeal submittal and review process, or if you would like to further discuss the City's driveway requirements.

Sincerely,



Kyle Klatt

Community Development Director

cc: Dean Zuleger, City Administrator
Nick Johnson, City Planner
Rick Chase, Building Official
Mike Hartman, Hartman Homes

§ 154.100 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.

1/3/14
Notified

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.

DEPARTMENT OF INSPECTIONS
CITY OF LAKE ELMO
(651) 747-3910

House Final

INSPECTION FOR Final Reinspection
DATE 11/21/13 TIME 8:30AM
ADDRESS 8970 55th St.
CONTRACTOR Hartman Homes
PHONE NUMBER (612) 685-0075

PASS ☒ FAIL ☐ MAKE CORRECTIONS & CONTINUE ☐

I have this day made the inspection called for at the address listed above. You will make corrections as listed below before proceeding with any work that would cover up or effect the listed correction. You will call for another inspection before corrections have been covered up.

As Built
Driveway across Asphalt/Concrete

If no violations of the ordinance are listed above, approval is hereby given to proceed with the work completed as of the time and date listed below. You will be in violation of the ordinance if you do not call for the proper inspection and make correction as called for.

11/21/13 Time Inspector
Date

[Print](#)

Lake Elmo, MN Code of Ordinances

DRIVEWAYS**§ 93.20 PURPOSE.**

The purpose of §§ 93.20 *et seq.* is to control the location of driveways and curb cuts in order that traffic hazards be reduced, adequate street drainage be maintained, and that ingress and egress from properties shall not constitute a hazard or impair the health, safety, or general welfare of the residents of the city.

(1997 Code, § 1405.01)

§ 93.21 PERMIT REQUIREMENTS.

No driveway shall be constructed in any location where motor vehicles will be provided with access to any public right-of-way without first obtaining a permit for the construction from the properly designated city employee, who shall require a grade to establish the driveway. Prior to the issuance of the permit, the provisions of §§ 93.20 *et seq.* shall be complied with.

(1997 Code, § 1405.02) Penalty, see § 10.99

§ 93.22 APPLICATION.

Any person desiring the permit shall present written application to the city describing the project along with a site plan that indicates that the requirements of §§ 93.20 *et seq.* is met. For new residential developments, these site plans shall be reviewed by the City Building Inspector. In commercial districts, driveways shall be reviewed as part of the site plan review by the City Planner

(1997 Code, § 1405.03)

§ 93.23 PERMIT FEES.

The permit fees shall be set, from time to time, by ordinance by the Council.

(1997 Code, § 1405.04)

§ 93.24 PERMIT REVOCATION.

The permit issued may be revoked by the city at any time after its issuance for failure to comply with the conditions of the permit or the directions of the city relative to the work covered by the permit.

(1997 Code, § 1405.05)

§ 93.25 GENERAL REQUIREMENTS.

(A) *Licensed contractor.* All work done within the right-of-way of the street shall be done by a regularly licensed contractor under the supervision of the proper city employee, who will see that all regulations are rigidly followed.

(B) *Driveway surface.* Whenever a driveway is constructed, all that portion of the boulevard designated as driveway shall be surfaced with a plant-mixed machine laid bituminous material conforming to standards approved by the City Engineer and in accordance with plans approved by the City Engineer. Concrete specifications approved by the City Engineer may also be used for driveway surfacing at the property owner's own risk. Should it subsequently become necessary to repair or replace the concrete surfacing in whole or in part, the owner, or owners, of property serviced by the concrete driveways shall pay all costs of the repairs or replacements.

(C) *Scope.* The requirements of §§ 93.20 *et seq.* apply to all new construction and to repairs and changes to old driveways which do not conform to present requirements.

(D) *Notification of construction.* The city is to be notified at least 24 hours in advance of the date the construction will start.

(E) *Plot plan.* Prior to the construction of a driveway, a plan must be submitted which indicates the location and specifications for driveways and curb cuts in accordance with §§ 93.20 *et seq.* The plat plan submitted shall be approved prior to the issuance of a permit for a driveway.

(1997 Code, § 1405.06) Penalty, see § 10.99

§ 93.26 STANDARDS.

The following regulations shall apply to all driveways, curb cuts and aisles.

(A) *Width.* The width of driveways in any zoning district shall provide adequate egress and ingress to the site for the safety of residents, and provide access for emergency vehicles. The maximum width of driveways in residential districts is 22 feet, except that in the Residential Estates (RE) Zoning District, the maximum width at a lot line shall be 12 feet and the maximum width at the public street shall be 18 feet. The maximum width of driveways in commercial districts is 34 feet. Driveways shall be included on all site plans for new residential permits for review by the Building Official. In commercial districts, driveways shall be reviewed as part of the site plan review by the City Planner.

(Am. Ord. 97-18, passed 9-16-1997)

(B) *Distance between driveways.* The minimum distance between curbs of driveways at right-of-way line shall be 10 feet in any residential district. In all other districts, the minimum distance shall be 20 feet.

(C) *Width of aisles.* Any aisle in any parking lot in a zoning district other than a residential district shall be a minimum of 24 feet. Any aisle in a parking lot in any residential district serving a building containing 3 or more dwelling units shall also be a minimum of 24 feet.

(D) *Distance from intersection.* No driveway or curb cut shall be less than 20 feet from any right-of-way line of any street intersection, except that in retail, business, and industrial zoning districts, the minimum distance shall be 50 feet.

(E) *Driveway angle.* The minimum driveway angle from a 2-way access street shall be 90 degrees. The minimum driveway angle from a 1-way street shall be 30 degrees.

(F) *Control of traffic.*

(1) Where commercial land uses are adjacent to residential districts, ingress and egress from the commercial uses on streets leading to or through the residential districts shall not be permitted unless it can be demonstrated that adequate access to public right-of-way is thereby denied.

(2) In this manner, traffic shall be controlled to ensure that the location of driveways shall not constitute a hazard nor be injurious to adjacent residential uses.

(G) *Access to thoroughfares.* On properties having frontage on both thoroughfares and minor roads, access shall be provided via the minor road wherever feasible in order to reduce the number of curb cuts on thoroughfares.

(H) *State and county highway requirements.* The proposed driveway is to be constructed so that if it opens into any street designated as a state or county highway, all additional specifications of the appropriate highway departments will apply.

(I) *Distance from driveways to side lot line.* A driveway must be at least 5 feet from any side lot line, except that in the Residential Estates (RE) Zoning District, a driveway must be at least 10 feet from any side lot line.

(1997 Code, § 1405.07) Penalty, see § 10.99

§ 93.27 PARKING AREAS.

The parking restrictions applicable to driveways are stated in the zoning code and §§ 150.001 *et seq.*

(1997 Code, § 1405.08)

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-096

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
AMENDING THE CITY'S DRIVEWAY REQUIREMENTS.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title IX: General Regulations; Chapter 93: Streets and Sidewalks; Sections 20 through 27 to read the following:

DRIVEWAYS

§ 93.20 Purpose

The purpose of §§ 93.20 *et seq.* is to control the location of driveways and curb cuts in order that traffic hazards be reduced, adequate street drainage be maintained, and that ingress and egress from properties shall not constitute a hazard or impair the health, safety, or general welfare of the residents of the city.

§ 93.21 Permit Requirements

No driveway shall be constructed in any location where motor vehicles will be provided with access to any public right-of-way without first obtaining a permit for construction. Prior to the issuance of the permit, the provisions of this Ordinance shall be complied with.

§ 93.22 Application

Applications for permits shall be made in writing upon printed forms furnished by the City. Each application for a permit shall have thereon the correct legal description of the property and a drawing of the land showing the location of the proposed driveway with respect to the boundary lines of the property. The written application shall describe the project along with a site plan that indicates that the requirements of this Ordinance are met.

§ 93.23 Permit Fees

The permit fees shall be set in the City's Fee Schedule by ordinance by the City Council.

§ 93.24 Permit Revocation

The permit issued may be revoked by the City at any time after its issuance for failure to comply with the conditions of the permit or the directions of the City relative to the work covered by the permit.

§ 93.25 General Requirements

- A. *Licensed Contractor.* All work done within the right-of-way of the street shall be done by a City licensed contractor as specified in Chapter 115 of the City Code.
- B. *Site Plan.* Prior to the construction of a driveway, a scaled plan must be submitted which indicates the location and specifications for driveways and curb cuts, the widths and dimensions at the street, property line and building structure, the slope of the driveway, and the location of the curb box as applicable in accordance with §§ 93.20 *et seq.* The site plan submitted shall be approved prior to the issuance of a permit for a driveway.

§ 93.26 Driveway Standards

The following regulations shall apply to all driveways and curb cuts. All driveway work shall be constructed in accordance with the approved site plan. No deviations or changes shall be made in the field without first obtaining permission from the City.

- A. *Driveway Width.* All driveways shall conform to the following requirements:
 - 1. Residential Districts
 - a. *Minimum Width.* All driveways shall have a minimum width of ten (10) feet.
 - b. *Maximum Width.* All driveways shall have a maximum width of twenty-two (22) feet at the point it intersects the right-of-way line. In the absence of platted right-of-way, the setback at which point the driveway width is measured shall be established by the prescriptive easement as determined by the City Engineer.
 - c. *Curb Cut.* A curb cut must not exceed the width of the driveway approach at the property line by more than ten (10) feet.
 - 2. Commercial and Mixed-Use Districts
 - a. *Minimum Width.* All driveways shall have a minimum width of twenty (20) feet.
 - b. *Maximum Width.* All driveways shall have a maximum width of thirty-four (34) feet at the point it intersects the right-of-way line.
 - c. *Curb Cut.* A curb cut must not exceed the width of the driveway approach at the property line by more than ten (10) feet.
- B. *Vertical Clearance.* There must be fourteen (14) feet of vertical clearance above all driveways.
- C. *Number of Curb Cuts.* In Residential Districts, each property shall be limited to one curb cut per dwelling unit. Exceptions may be allowed when neither access is onto a major street, and when the lot exceeds one hundred and fifty (150) feet in width or is a corner lot. All requests for a second curb cut shall be reviewed by the City Engineer.
- D. *Distance between Driveways.* The minimum distance between curbs of driveways at right-of-way line shall be 10 feet in any residential district. Lots that have been developed with zero lot line setbacks may be exempt from this provision. In all other districts, the minimum distance shall be 20 feet.

- E. *Distance from Intersection.* No driveway or curb cut shall be less than 20 feet from any right-of-way line of any street intersection, except that in high density residential, commercial and mixed-use zoning districts, the minimum distance shall be 50 feet.
- F. *Driveway Angle.* All driveways shall connect to the public street at 90 degree angles, or must be approved by the City Engineer. Exceptions must demonstrate an inability to meet the 90 degree angle due to extenuating circumstances.
- G. *Driveway Grade.* Driveways exceeding a grade of 10% must be approved by the City Engineer. Exceptions must demonstrate an inability to meet the 10% maximum grade due to extenuating circumstances.
- H. *Driveway Materials.*
 - 1. *Urban Districts.* All driveways shall be constructed of bitumen, concrete or a durable material approved by the City Engineer.
 - 2. *Rural Districts.* Driveways may be constructed of crushed rock or equivalent crushed material provided that the portion of the driveway within the road right-of-way shall be constructed of bitumen or concrete when accessing an improved street.
- I. *Curb Box, Residential Districts.* Curb boxes located within driveway shall be protected with an A1 Ford Lid or approved equal.
- J. *Control of Traffic.*
 - 1. Where other alternatives exist, commercial sites should not be accessed from local residential streets.
 - 2. Traffic shall be controlled to ensure that the location of driveways shall not constitute a hazard nor be injurious to adjacent residential uses.
- K. *Access to Major Streets (Thoroughfares).* On properties having frontage on both thoroughfares and minor roads, access shall be provided via the minor road unless otherwise approved by the City Engineer. Access may be restricted on any non-residential local road. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.
- L. *State and County Highway Requirements.* Driveways constructed to access any street designated as a state or county highway shall meet all additional specifications of the appropriate jurisdiction. Access drives onto state and county roads shall require a review by the road authority and the City Engineer. The state, county and City Engineer shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
- M. *Distance from Driveways to Side Lot Line.* A driveway must be at least 5 feet from any side lot line.
- N. *Emergency Vehicle Access.* Driveways to principal structures that traverse wooded, steep or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles.

§ 93.27 Parking Areas

The parking restrictions applicable to driveways are stated in the zoning code and §§ 150.001 *et seq.*

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 08-096 was adopted on this third day of December 2013, by a vote of 7 Ayes and 0 Nays.

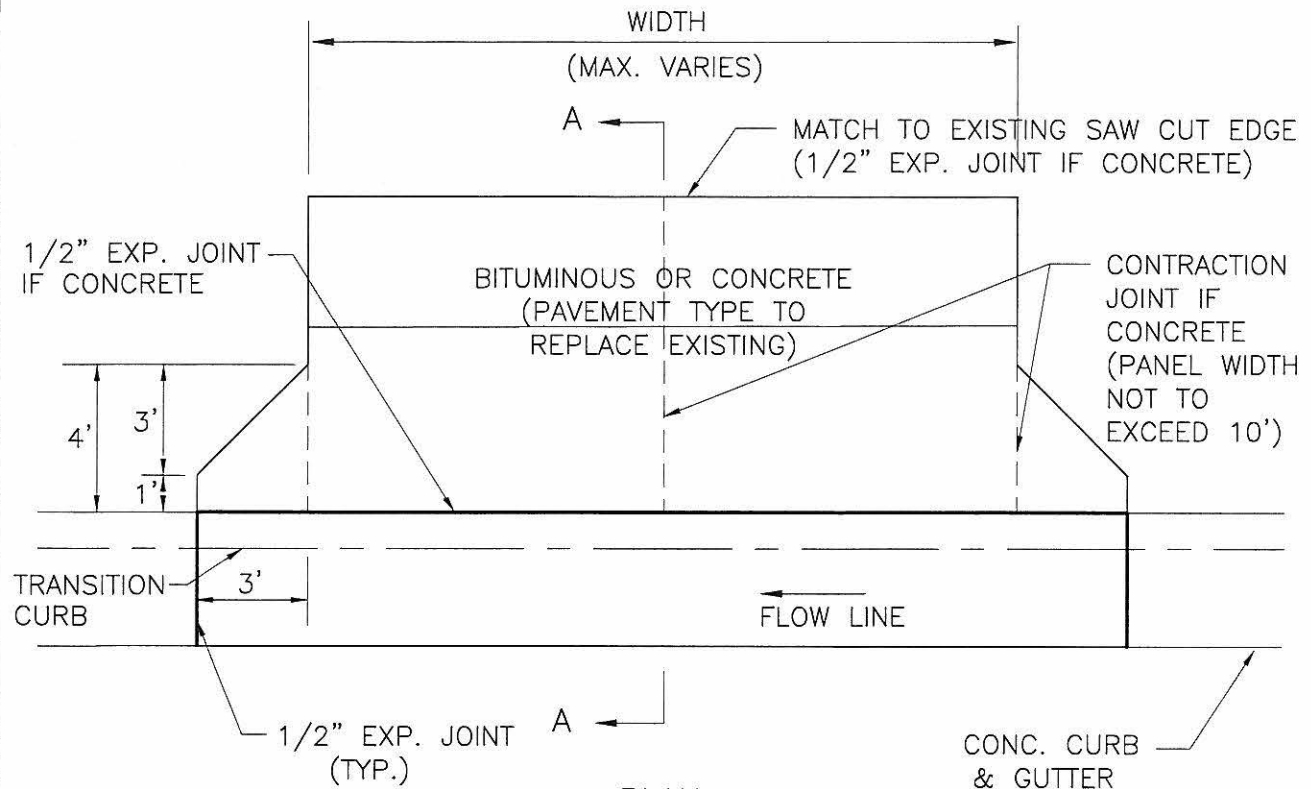
LAKE ELMO CITY COUNCIL


Mike Pearson, Mayor

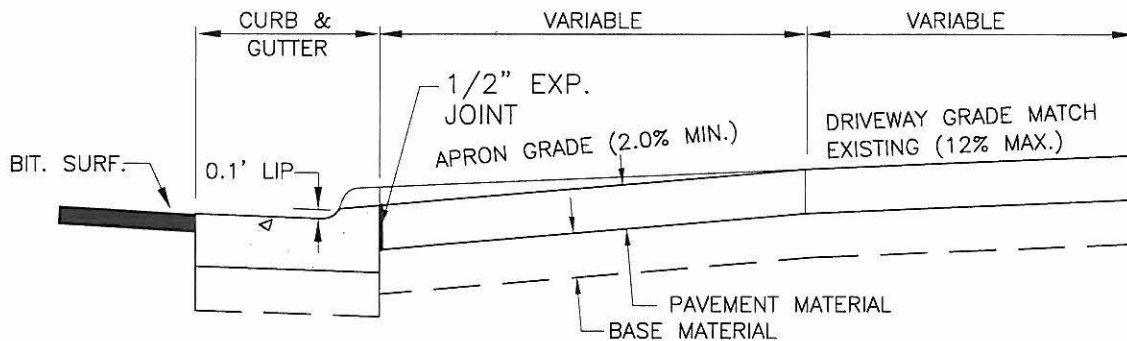
ATTEST:


Adam Bell, City Clerk

This Ordinance 08-096 was published on the ____ day of _____, 2013.



PLAN



SECTION A-A

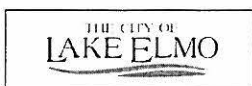
DRIVEWAY TYPE	SURFACE THICKNESS	BASE THICKNESS
BITUMINOUS	3 INCHES	6 INCHES
CONCRETE	6 INCHES	4 INCHES

NOTES :

1. BITUMINOUS SHALL BE MnDOT 2360 TYPE SP, GRADATION MIXTURE NO. A WEARING COURSE.
2. AGGREGATE BASE SHALL BE MnDOT 3138 CL. 5, 100% CRUSHED STONE.

RESIDENTIAL DRIVEWAY

FEBRUARY 2013



CITY OF LAKE ELMO

STANDARD DRAWING NO.

504

LAKE ELMO