



City of Lake Elmo

3800 Laverne Avenue North
Lake Elmo, Minnesota 55042

(651) 777-5510 Fax: (651) 777-9615
www.LakeElmo.Org

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, January 14, 2008, at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Election of Officers
3. Approve Agenda
4. Approve Minutes
 - a. November 26, 2007
 - b. December 10, 2007
5. Public Hearings
 - a. REZONING: An application to rezone an unaddressed property on 55th Street North from Agricultural to Rural Residential to allow construction of a home on the same parcel – PID: 04-029-21-14-0002.
 - b. Neighborhood Conservation Guided Properties Amendments
 - i. ZONING CODE TEXT AMENDMENT: An ordinance to amend the general front yard setback regulations applicable in all zoning districts.
 - ii. ZONING CODE TEXT AMENDMENT: An ordinance to amend shoreland district regulations to eliminate shoreland specific right-of-way setback requirements and to update ordinary high water and floodplain levels for area lakes.
6. Business Item
 - a. 2008 Work Plan
 - b. Sign Code Amendment – Off-Site Signage
7. Informational Item: Government Training Services – Upcoming Workshops

8. City Council Updates

- a. December 11 – Approved City code recodification
- b. December 11 – Approved allowing horses as an interim permitted use associated with churches in the PF zoning district
- c. December 11 – Approved Hidden Meadows Final Plat extension
- d. December 11 – Discussion of schedule of Comprehensive Plan updates

9. Adjourn

**City of Lake Elmo
Planning Commission Meeting
Minutes of November 26, 2007**

Chairman Ptacek called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Armstrong, Deziel (7:01), Fliflet, Helwig, Lyzenga, McGinnis, Ptacek, Roth, and Van Zandt. STAFF PRESENT: Senior Planner Gozola, Planner Matzek, and Finance Director T. Bouthilet.

Agenda

M/S/P, Helwig/Van Zandt, to approve the agenda as presented. Vote: 8:0.

Commissioner Deziel arrived at 7:01 p.m.

Minutes – October 22, 2007

M/S/P, Helwig/Van Zandt, to approve the minutes as presented: Vote: 8:0. Fliflet abstained.

Zoning Code Text Amendment – Public Hearing

Senior Planner Gozola gave a background on his suggested four IUP standards for allowing horses on PF zoned properties and is also proposing a clerical change to clarify the existing ordinance. He said that the staff report addresses a code interpretation issue. He explained that the section of the code on hazards and nuisances states that horses are allowed on parcels greater than five acres, but he would suggest reading the code as a whole which would not mean it is an allowed use in every zoning district.

Commissioner Fliflet said she does not think horses should be required to be removed from the site during non-pasturable times of the year.

Commissioner Helwig said horses need shelter year round and water sources should be considered.

Commissioner Deziel asked why the city should be regulating this issue as it is addressed in state regulations.

Commissioner Armstrong said he is concerned the city is only looking at allowing the interim use to only be applicable to churches and not to parks or schools.

Senior Planner Gozola said he believes the Minnesota Pollution Control agency regulations address pollution, but may not address other aspects the city may wish to regulate.

Commissioner Lyzenga said she would like to see this as an interim use in the PF zoning district and not be specific to churches. She said number three in the proposed ordinance can be eliminated.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:25 P.M.

No one spoke.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:25 P.M.

M/S/P, Fliflet/Armstrong, move to recommend approval of the proposed IUP with a change under wording subd. 3a and the title to remove the specific connection to churches and to remove number three in the suggested text as it is addressed in number four regarding livestock regulations. Vote: 9:0.

Draft CIP 2008-2012 – Public Hearing

Finance Director T. Bouthilet presented the draft 2008-2012 Capital Improvement Plan. He explained that a more detailed comprehensive CIP would be reviewed during the upcoming year and brought back to the commission. He said that at that time more specific city projects and revenue sources would be identified including the village area and the area south of 10th street. He said the Park Commission has recommended approval of the draft parks section.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:56 P.M.

John Huot, 5110 Kirkwood Avenue

Mr. Huyet said he received a letter from the city identifying that there was no funding for roads this upcoming year. He and his wife were told by the city a number of years ago when they were looking for a home that Kirkwood Avenue would be paved the following year. He said the road is still not paved, but he hopes it will be. He also asked for speed limit signs on the road.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 8:01 P.M.

Commissioner Fliflet said when people are told by the city that something is going to be done, it should be.

Chairman Ptacek called for a five minute break.

The commission reconvened at 8:15 P.M.

M/S/P, Van Zandt/Roth, move to approve as presented. Vote: 8:0. Commissioner Deziel was absent during the vote.

Neighborhood Conservation District (NC)

Senior Planner Gozola reviewed the proposed NC District language after reviewing the variances applied for in the past five years. He said the existing city code provides flexibility on all but the side yard setbacks and a change in the state statute regarding non-conforming structures may have an impact on reducing the number of potential future variance applications.

Commissioner Deziel said that in the 70's and 80's, the city took a different standard and created many non-conforming lots so any minor improvement on the lot would require a variance. He said that a new NC district would get away from those variances and the lack of certainty for those property owners and a non-conforming situation.

Senior Planner Gozola said he would disagree that variances are needed for minor improvements due to lot sizes.

Commissioner Armstrong said when the commission left off with the NC district last fall, they had just started talking about this district. He said the intent was that residents were unable to prove a hardship when they wanted to expand their homes. He said it is important to have a good definition of adjacency averaged and would like that further explored. He said this district could also have an impervious surface coverage or floor area ratio.

Commissioner Deziel said a major problem was created when trying to apply the adjacency averaging in actual circumstances.

Senior Planner Gozola said that with adjacency averaging, it is allowing a moving target – if someone builds with regard to the neighbor's setback, then their neighbor can in return build differently.

Chairman Ptacek asked staff to come back with a better definition for the tools discussed.

The item was tabled.

Ordinance 97-180 Accessory Buildings

Senior Planner Gozola said this ordinance was originally reviewed by the Planning Commission in 2006, but did not proceed forward to the City Council at that time. He said this ordinance is to clarify existing text on the number of accessory buildings allowed.

M/S/P, Armstrong/Deziel, move to recommend approval of suggested code clarification.
Vote: 9:0

Site Plan Review: City Hall Annex

Senior Planner Gozola said the proposal is to remove the existing trailer from the city hall site and to add a larger temporary structure for additional meeting space. The proposed structure would be in a conforming location and five additional trees would be planted.

Commissioner Van Zandt expressed concern with the potential for mold in the walls and suggested checking this before the structure is purchased.

Commissioner Fliflet asked what the timeline was for a new city hall.

Finance Director T. Bouthilet said realistically, it could be five years before a new city hall would be built.

M/S/P, Armstrong/McGinnis, move to recommend approval of the site plan for the city hall annex. Vote: 7:2. Commissioners Fliflet and Helwig voted against. Commissioner Helwig said he voted against the motion because he believes the city is foolishly spending money and it is a lot of money for a meeting space. Commissioner Fliflet said she voted against the motion because it is not a part of the CIP.

Draft Park Plan

Planner Matzek said the Draft Comprehensive Park Plan has been provided in advance as it is a large document to read through. She said it will be discussed at the December 10th meeting, at which time the Planning Commission will see a presentation from the park consultants and a public hearing will be held.

Council Items

Planner Matzek said there were no updates at this time.

Chairman Ptacek asked for all the commissioner term information to be provided in writing.

Senior Planner Gozola said he received that information from the City Clerk and will pass along that information.

Adjourned at 8:57 p.m.

Respectfully submitted,

Kelli Matzek
Planner

**City of Lake Elmo
Planning Commission Meeting
Minutes of December 10, 2007**

Chairman Ptacek called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Armstrong, Deziel, Fliflet, Helwig, Lyzenga, McGinnis, Pelletier, Ptacek, Schneider, and Van Zandt. STAFF PRESENT: Planner Matzek, Senior Planner Gozola, Planning Director Klatt. CONSULTANTS PRESENT: Rich Gray and Berry Farrington with TKDA

Agenda

Commissioner Fliflet asked if the commission could watch the City Council meeting tape of the discussion on the commission terms after the meeting adjourned.

M/S/P, Helwig/Van Zandt, to approve the agenda as presented. Vote: 9:0.

Minutes – November 14, 2007

M/S/P, Helwig/Lyzenga, to approve the minutes as presented. Vote: 8:0. Commissioner Helwig abstained.

Introduction of Kyle Klatt, Planning Director

Senior Planner Gozola introduced the new planning director, Kyle Klatt.

Public Hearing: Draft Comprehensive Park Plan

Mr. Gray with TKDA introduced the Draft Comprehensive Park Plan by briefly describing the process, the information that was analyzed, and the resulting report and recommendation on additional parks.

Berry Farrington with TKDA identified the policy statements set specifically for Sunfish Lake Park and the section of the plan discussing recreational policies.

Commissioner Deziel said the city-owned Triangle Park is not identified in the plan. He said there is some lakefront property under "East Oakdale Township" ownership along Hill Trail and on Olson Lake.

Commissioner Schneider asked if there is a timetable or implementation plan for adding parks to the park system.

Mr. Gray said that a timetable was not provided as parks could be added as opportunities arise.

Commissioner Lyzenga asked what the total proposed additional park acreage is in the area south of 10th Street. She expressed concern due to the sensitivity of the number of homes proposed for that area.

Mr. Gray stated that the proposed size of the proposed parks are five to ten acres, so the total could be thirty-five to seventy acres with the actual amount dependent upon development plans.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:31 P.M.

No one spoke.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:31 P.M.

Commissioner Lyzenga suggested that developers in the area south of 10th street should drive the recreational activity. She suggested using caution for the number of proposed city parks in that area.

Chairman Ptacek said that areas utilized for non-housing uses in the area south of 10th Street will mean more densely compacted housing elsewhere.

Commissioner Armstrong identified the alternative option B area for the community sports complex would be in a future sewered area. He asked if the alternative option A is a part of the 3M property that was previously offered to the city.

Commissioner Fliflet suggested the plan include guidance on how to address individual projects and plans as they are submitted. She said a process should be established for looking at park improvements.

Chairman Ptacek said after speaking with City Administrator Hoyt, it is his understanding that a master planning process will occur for the area south of 10th street similar to that of the village area.

Commissioner Deziel said he believes the city chose not to continue with the park proposal from 3M previously and if this park plan is adopted, the city should return to discussions with the company for utilizing the property.

M/S/P, Pelletier/Van Zandt, move to recommend approval of the Draft Comprehensive Park Plan. Vote: 9:0.

Public Hearing: Neighborhood Conservation District

Senior Planner Gozola said staff has evaluated the types of variances applied for over the past five years in order to address those variance types being requested and reduce the number of future variances. He is recommending adjacency averaging not continue to be pursued as state statute has changed which would eliminate some of the previously requested variances and the existing city code provides flexibility in many cases. He recommended a minor change to the front yard setback code instead.

Commissioner Deziel said that it is not possible to include in the analysis those residents who did not apply for a variance due to the fee and the uncertainty of a positive result.

Senior Planner Gozola said he has received two different legal opinions on lots not meeting the minimum lot size that already had homes on them.

Commissioner Armstrong said the proposed text from the previous year prohibited the ability to subdivide a lot given a new, smaller minimum lot size. He would like to further discuss adjacency averaging for the minimum lot size and side yard setbacks.

Commissioner Helwig said he would prefer side yard setbacks to remain as they are due to the potential for fire hazards.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 8:22 P.M.

No one spoke.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 8:22 P.M.

Commissioner Deziel said the setbacks should be redone in both the lakeshore district and the Neighborhood Conservation District.

Commissioner Armstrong suggested changing the proposed text to “the same side of the street between intersections” as the text “in the same block” may be difficult to define in the city.

M/S/P, Helwig/Fliflet, motion to table the item to the next meeting. Vote: 9:0.

A break was taken from 8:32 p.m. until 8:38 p.m.

Signage – Off-site advertisement

Senior Planner Gozola said current city code prohibits off-site signage except as allowed by code, which would be a temporary sign allowed for 15 days. He said that staff was directed to study temporary holiday, temporary agricultural, and realtor directional signage. He requested direction and information before performing an analysis or crafting any draft language.

Commissioner Fliflet suggested addressing temporary on and off-site signage.

Commissioner Van Zandt said the city should support businesses because they do not have the advantage of high density neighborhoods to support them.

Commissioner Deziel said fifteen days may not be long enough for the temporary holiday or agricultural signs. He suggested thirty days and a size requirement of six square feet.

Commissioner Armstrong suggested including restrictions on the size, number, distance from actual site, and the number of days allowed to be displayed.

Commissioner Schneider suggested covering lighting of signs.

Joan Ziertman, 5761 Keats Ave

Ms. Ziertman said the current code does not allow for on or off-site signage for agriculture, except for the 15 day temporary signage. She said that in the definition for seasonal signs, it is allowed for 30 days out of the year. She suggested encouraging agricultural uses in the city which would need on and off-site signage to be sustainable.

Commissioner Helwig brought up that events such as Huff-n-Puff Days and the Fire Department events may need temporary signage.

2008 Planning Commission Calendar

M/S/P, Helwig/Deziel, move to approve the 2008 Planning Commission Calendar. Vote: 9:0.

City Council Updates

Senior Planner Gozola explained that the handout on the village planning process was a roadmap of where the city has been and where it is going with development in the future.

Planner Matzek identified that the legal opinion attached to the packet is an informational item. She went through the items discussed at the December 4th City Council meeting.

Senior Planner Gozola said that the recent ordinance change for the commissioner terms changed the terms to all end on December 31st. He said that until 2002, a two term maximum was in the city code, which was brought back into the code in 2005. After two terms, a commissioner interested in reapplying would need to sit out from the commission for an unspecified amount of time before coming back.

Commissioner McGinnis asked if alternatives needed to reapply.

Senior Planner Gozola said he anticipates she would be asked to reapply.

Commissioner Fliflet said she disagrees with the code regarding the two term maximum as it is valuable to have a mixture of long-standing and new members. She requested feedback on why it was decided this was a good idea.

Adjourned at 9:30 p.m.

Respectfully submitted,

Kelli Matzek
Planner

Planning Commission
Date: 1/14/08
Item: 5a
Public Hearing

ITEM: REZONE – Application from Richie and Beth Springborn to rezone an unaddressed property on 55th Street North from Agricultural to Rural Residential to allow construction of a home on the parcel – PID: 04-029-21-14-0002.

SUBMITTED BY: Kelli Matzek, Planner

REVIEWED BY: Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED:

Richie and Beth Springborn are seeking to rezone an unaddressed property on 55th Street to allow the construction of a home on the parcel. The applicant is requesting the property be rezoned from Agricultural to Rural Residential (RR).

The 9.58 acre parcel does not currently meet the minimum lot size requirement in the Agricultural zoning district to allow a home to be built. If the property were rezoned to Rural Residential, the parcel would meet the minimum lot size requirements and would be considered a buildable lot.

The rezoning of the property would not require a Comprehensive Plan amendment as the land use guidance identifies the corresponding zoning districts to be either Agricultural or Rural Residential. The properties to the west, north, and east of the property are zoned either Rural Residential or R-1 currently, which allow for a minimum lot size of a nominal 10 acres (RR) or 1.5 acres (R-1).

At this time, the planning commission is asked to conduct a public hearing for the rezoning request from Agricultural to Rural Residential to allow construction of a home on the property. Upon conclusion of the hearing, the commission is asked to make a recommendation to the City Council on this request.

ADDITIONAL INFORMATION:

- Neither the DNR nor the Valley Branch Watershed District was opposed to the rezoning application.

RECOMMENDATION:

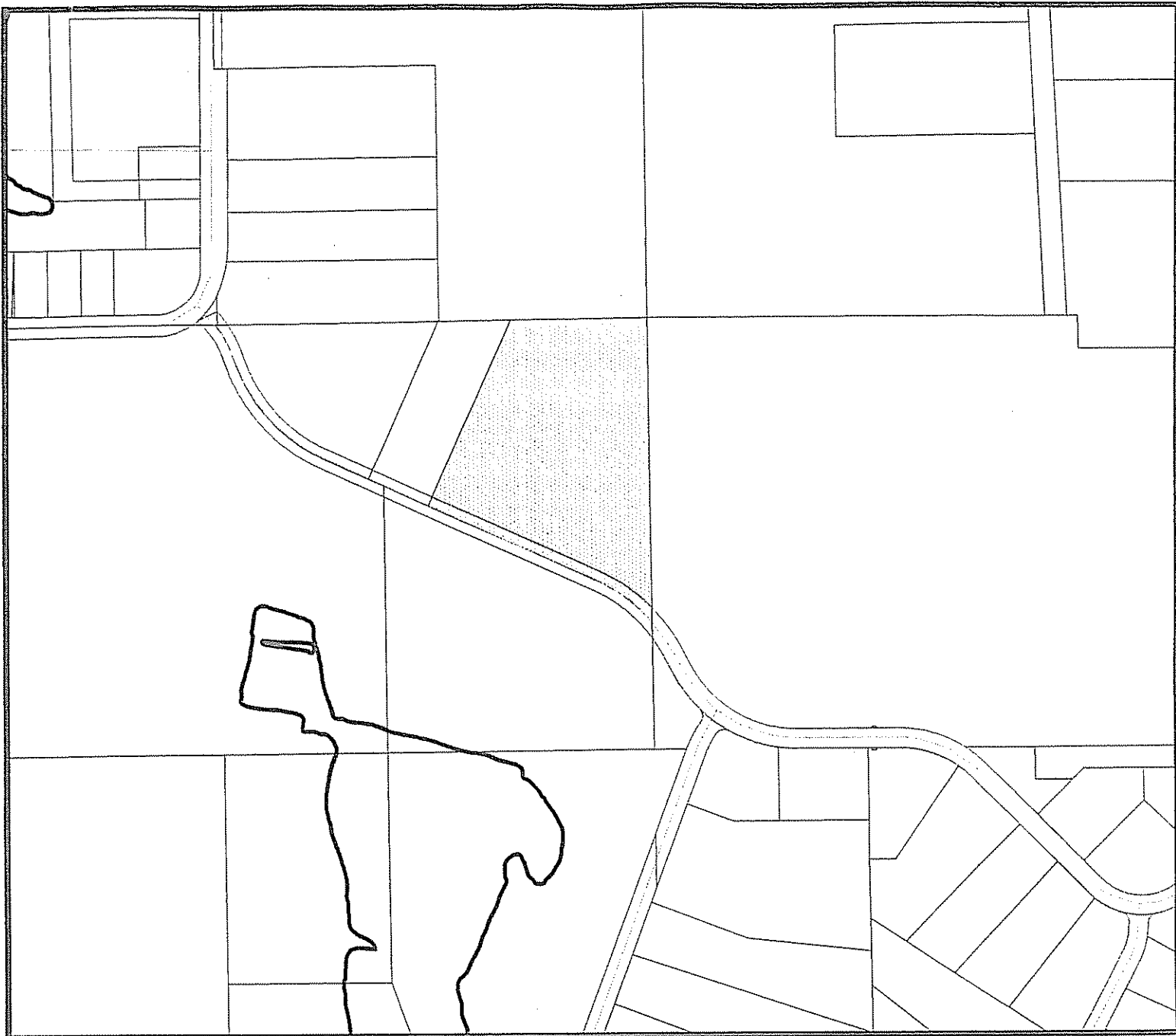
Recommend that Council approve the proposed rezoning from Agricultural to Rural Residential at the unaddressed parcel on 55th Street.

ORDER OF BUSINESS:

- Introduction..... Kelli Matzek, Planner
- Report by staff..... Kelli Matzek, Planner
- Questions from the Commission..... Chair & Commission Members
- Applicant Comments Chair facilitates
- Questions of the Applicant..... Chair & Commission Members
- Open the Public HearingChair
- Close the Public HearingChair
- Call for a motion Chair Facilitates
- Discussion of Commission on the motion Chair Facilitates
- Action by the Planning Commission Chair & Commission Members

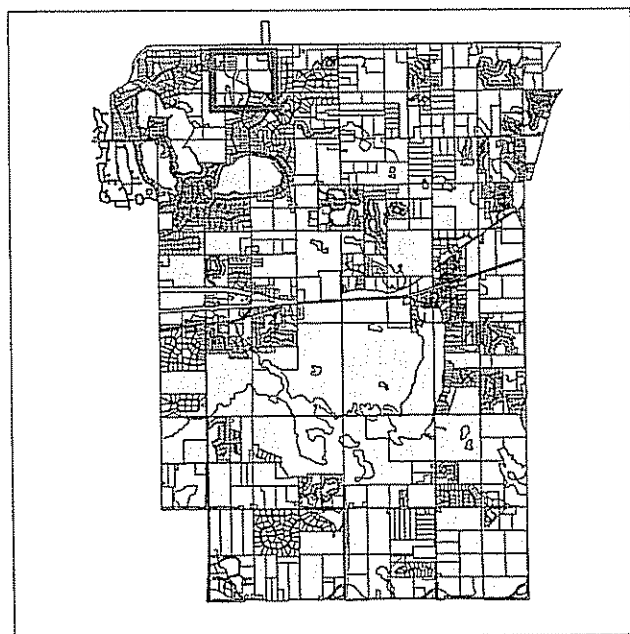
ATTACHMENTS (4):

1. Area Map identifying the location of the property
2. Detailed staff report analyzing the request
3. Area Map of existing zoning in the neighborhood
4. Survey of the unaddressed parcel on 55th Street



XXXX 55th Street
PID: 04-029-21-14-0002

Lake Elmo, MN



City of Lake Elmo Planning Department
Rezoning Report

To: Planning Commission

From: Kelli Matzek, Planner

Meeting Date: 1-14-08

Applicant: Richie and Beth Springborn

Owner: Janelle Peterson and Gaylen Springborn

Location: XXXX 55th Street (PID: 04-029-21-14-0002)

Existing Zoning: A (Agricultural)

Introductory Information

Proposed Project:	The applicant is seeking to rezone an unaddressed property on 55 th Street North from Agricultural to Rural Residential to allow construction of a home on the parcel.
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Rezoning Request:	The property is currently zoned A - Agricultural. The applicant is seeking to rezone the property to Rural Residential (RR).
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Variance Request:	When the application was originally received, it was believed a 0.42 acre variance was needed from the required 10 acre minimum lot size in the Rural Residential (RR) zoning district. After reviewing the application and the city code more closely, staff has determined that a variance is <u>not needed</u> as the parcel's lot size would meet the minimum lot size requirement of the RR zoning district.
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Applicable Codes:	Section 154.033 AG or A - Agricultural Zoning District. <i>Subd. D Minimum District Requirements.</i> Requires that the minimum lot size be a nominal 40 acres.
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Section 154.036 RR – Rural Residential Zoning District.

Subd. D. Minimum District Requirements. Requires that the minimum lot size be a nominal 10 acres. The code continues to include “a 10-acre parcel not reduced by more than 10% and/or a 10-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations.”

Findings & General Site Overview

Site Data:	Lot Size: 9.58 acres (417,410 square feet) total; 9.05 acres excluding right-of-way Existing Use: Vacant Existing Zoning: A (Agricultural) Property Identification Number (PID): 04-029-21-14-0002
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Application Review:

Applicable Definitions:	<p>COMPREHENSIVE PLAN. The policies, statements, goals, and interrelated plans for private and public land and water use, transportation and community facilities, including recommendations for planned execution; documented in texts, ordinance, and maps, which constitute the guide for the future development of the community or any portion of the community.</p> <p>DWELLING, SINGLE-FAMILY. A residential structure designed for or used exclusively as 1 dwelling unit of permanent occupancy.</p> <p>FRONTAGE. The boundary of a lot which abuts a public street.</p> <p>GROSS ACRES. The total area of a parcel of land including wetlands, hydric soils, steep slopes, streets, and dedicated easements.</p> <p>LOT. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separate from other parcels or portions by the description for the purpose of sale, lease or separation.</p> <p>LOT AREA. The minimum of a horizontal plane within the lot lines.</p> <p>LOT LINE. A lot line is the property line bounding a lot except that where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of the public right-of-way shall be the lot line.</p> <p>LOT, BUILDABLE. A lot which meets or exceeds all requirements of the community land use and development ordinances without the necessity of variances.</p> <p>ZONING DISTRICT. An area or areas within the City in which the regulations and requirements of this section are uniform.</p>
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**Rezoning
Review:**

The lot currently being reviewed is currently zoned A – Agricultural. The A zoning district has a minimum lot size of a nominal 40 acres. At 9.58 acres in size, this lot would not meet the requirement to be considered a buildable lot.

There exists a provision in code that allows lots of records to be used for single family detached dwelling purposes provided the area and width of the lot are within sixty percent of the minimum requirements of the district. However, this lot would not meet those requirements and would thus continue to be unbuildable in the current zoning district.

If the proposed rezoning of the property was approved to RR – Rural Residential, the requirement for minimum lot size is a “nominal 10 acres” with additional exceptions allowing for “a ten acre parcel not reduced by more than ten percent (10%) and/or....” Therefore, if this property is rezoned, it would be considered a buildable lot.

Comprehensive Plan:

In the Comprehensive Plan, the land use for the parcel is identified as Rural Agricultural Density (RAD). This classification identifies the corresponding zoning classifications related to this land use plan classification as both A – Agricultural and RR – Rural Residential. Therefore, if the rezoning of this property is approved, it would continue to be in conformance with the Comprehensive Plan and a Comprehensive Plan Amendment would not be required.

Surrounding neighborhood:

The rezoning of this parcel to Rural Residential (RR) would not be uncharacteristic for this neighborhood. The properties to the west of this parcel are currently zoned R-1 which has a 1.5 acre minimum lot size. The properties to the north and east of the property are zoned RR, which has a minimum lot size of a nominal 10 acres. The property across 55th Street to the south of this property is currently zoned Agricultural. Please see Attachment 3 for a map of the existing zoning in the neighborhood.

**Rezoning
Conclusions:**

Based on our analysis, staff would recommend **approval** of the rezoning request on the unaddressed property on 55th Street North from Agricultural to Rural Residential to allow construction of a home on the parcel based on the following:

- The rezoning would be in conformance with the Comprehensive Plan;
- the lot is unbuildable under the current zoning district due to the lot size requirement;
- and the rezoning of the property would not alter the character of the neighborhood.

Resident Concerns: Staff is not aware of any resident concerns surrounding the requested rezoning.

Additional Information:

- The DNR had no comment on the application because the rezoning was compliant with the Comprehensive Plan.
- The Valley Branch Watershed District did not identify any issues with rezoning the parcel, but asked that they review any future construction plans due to the wetlands on the property. This request has been integrated into the conditions of approval.
- The property is currently in the Green Acres program. In speaking with Washington County, this rezoning application is not precluded from moving forward due to the parcel's inclusion in this program. The applicants have been made aware of this designation and advised to contact Washington County for more information.

Conclusion:

The applicant is seeking to rezone an unaddressed property on 55th Street North from Agricultural to Rural Residential to allow construction of a home on the parcel.

Commission Options:

The Planning Commission has the following options:

- A) Recommend approval of the rezoning request;
- B) Recommend denial of the rezoning request;
- C) Table the item and request additional information.

The 60-day review period for this application expires on 1-25-08, but has already been extended an additional 60 days to 3-25-08.

Staff Rec: **Staff is recommending approval** of the rezoning request to allow construction of a home on the unaddressed parcel on 55th Street North based on the following:

- The rezoning would be in conformance with the Comprehensive Plan;
- the lot is unbuildable under the current zoning district due to the lot size requirement;
- and the rezoning of the property would not alter the character of the neighborhood.

Denial Motion Template: To deny the request to rezone the property from Agricultural to Rural Residential, you may use the following motion as a guide:

I move we recommend that Council deny the requested rezoning based on the

following findings of fact...*(please site reasons for the recommendation)*

**Approval
Motion
Template:**

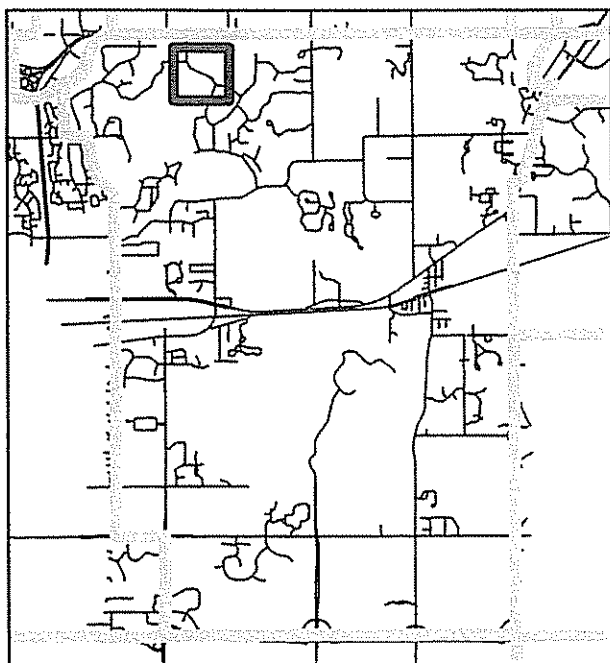
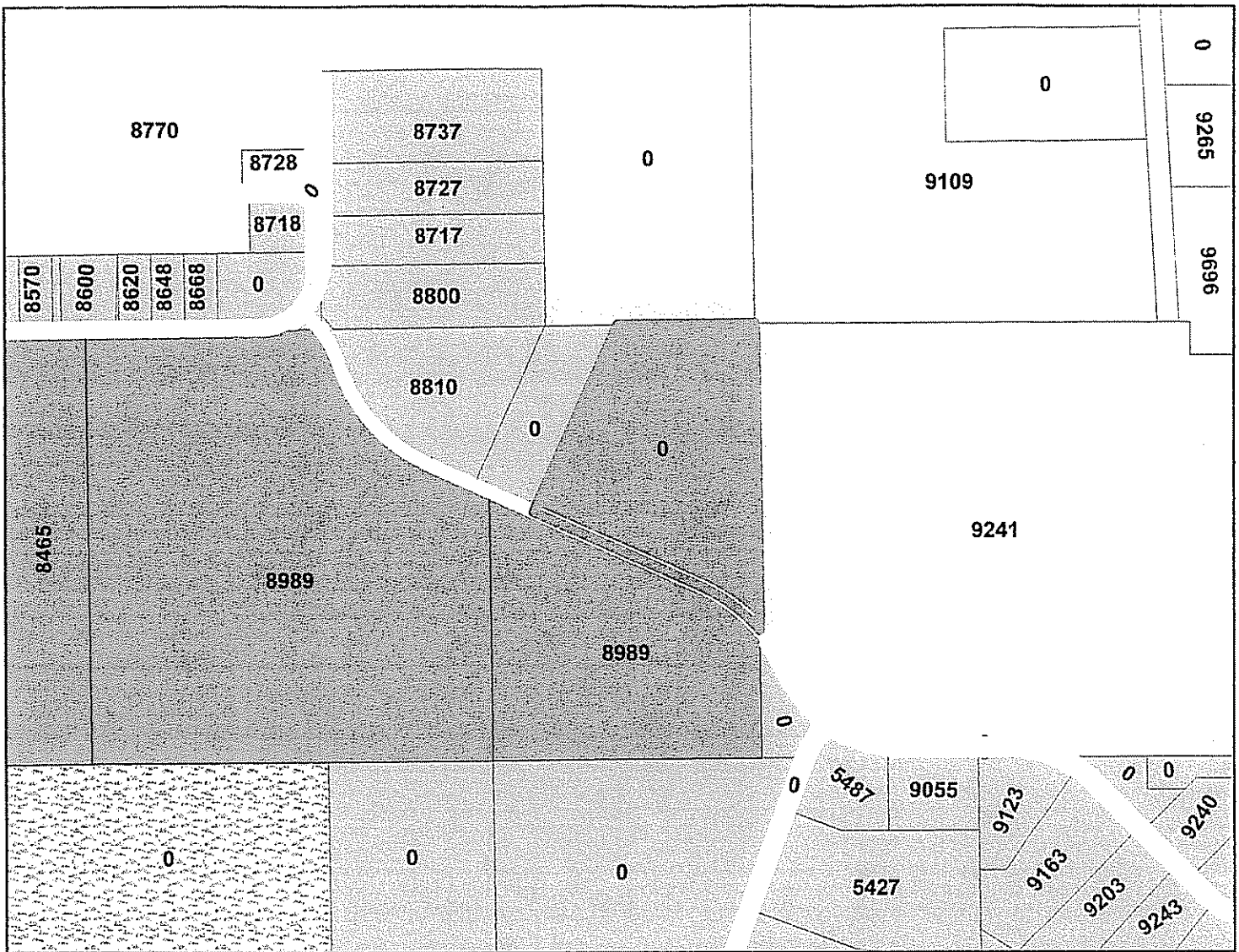
To approve the request to rezone the property from Agricultural to Rural Residential, you may use the following motion as a guide:

I move we recommend that Council approve the requested rezoning based on the following findings of fact...*(use staff's findings provided above or cite your own)*

...with the following conditions:

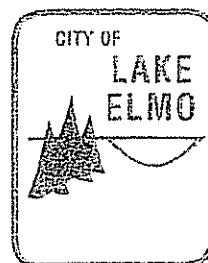
- 1. The applicant shall obtain all necessary permits and approvals from the City and other applicable entities with jurisdiction prior to any future construction or activity on the land.**
- 2. The Valley Branch Watershed District shall review the submittal of a future building permit application for a home on the property.**

cc: Richie and Beth Springborn, Applicant



Location within the City of Lake Elmo

Springborn Rezoning Request (Agricultural to Rural Residential)



ZONING

	A
	R1
	RR
	RE
	P



NORTH

CERTIFICATE OF SURVEY

EXISTING PROPERTY DESCRIPTION: (PARCEL 2A IN DOC 476217)

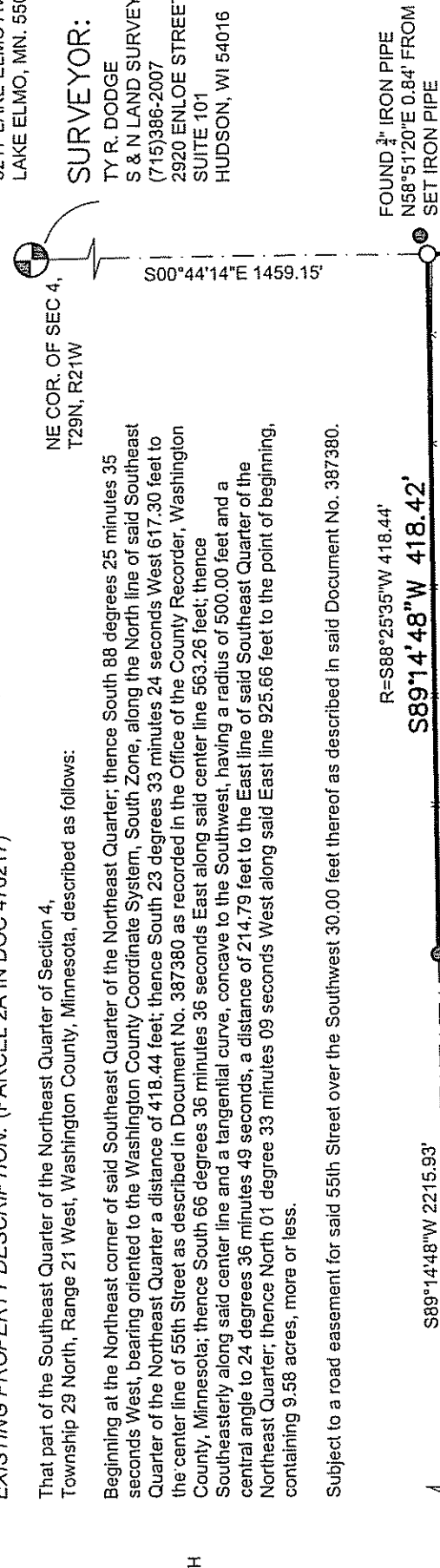
That part of the Southeast Quarter of the Northeast Quarter of Section 4, Township 29 North, Range 21 West, Washington County, Minnesota, described as follows:

Beginning at the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence South 88 degrees 25 minutes 35 seconds West, bearing oriented to the Washington County Coordinate System, South Zone, along the North line of said Southeast Quarter of the Northeast Quarter a distance of 418.44 feet; thence South 23 degrees 33 minutes 24 seconds West 617.30 feet to the center line of 55th Street as described in Document No. 387380 as recorded in the Office of the County Recorder, Washington County, Minnesota; thence South 66 degrees 36 minutes 36 seconds East along said center line 563.26 feet; thence Southeasterly along said center line and a tangential curve, concave to the Southwest, having a radius of 500.00 feet and a central angle to 24 degrees 36 minutes 49 seconds, a distance of 214.79 feet to the East line of said Southeast Quarter of the Northeast Quarter; thence North 01 degree 33 minutes 09 seconds West along said East line 925.66 feet to the point of beginning, containing 9.58 acres, more or less.

Subject to a road easement for said 55th Street over the Southwest 30.00 feet thereof as described in said Document No. 387380.

PREPARED FOR:
BETH & RICHIE SPRINGBORN
3217 LAKE ELMO AVE. N.
LAKE ELMO, MN. 55042

SURVEYOR:
TY R. DODGE
S & N LAND SURVEYING, INC.
(715)386-2007
2920 ENLOE STREET
SUITE 101
HUDSON, WI 54016



SEC SE 1/4
4,
T28N, R21W
PARCEL "A"
#03296
(FILED IN WASHINGTON COUNTY
SURVEYORS OFFICE)

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

NOTES:

ORIENTATION OF BEARINGS IS
BASED ON THE WASHINGTON
COUNTY COORDINATE SYSTEM, NAD
83(96) ADJUSTMENT.

PARCEL ID #0-0402921140002

NO CURRENT SITE ADDRESS

CURRENT ZONING=AG

PROPOSED ZONING=RURAL
RESIDENTIAL

I HEREBY CERTIFY THAT THIS SURVEY, PLAN OR REPORT WAS
PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A
DULY LICENSED SURVEYOR UNDER THE LAWS OF THE STATE OF
MINNESOTA.

TY R. DODGE
MINNESOTA LICENSE NO. 45351

DATE 11-13-07

LEGEND

- FOUND CAST IRON HARRISON COUNTY
SECTION CORNER MONUMENT
- FOUND STONE MONUMENT
- FOUND 3/4" OUTSIDE DIAMETER
IRON PIPE-CAP NUMBER AS NOTED
- SET 1" OUTSIDE DIAMETER BY 18" LONG IRON
PIPE, WEIGHING 1.13 LBS. PER LINEAR FOOT
WITH ID CAP DODGE RLS 45351
- SET MASONARY NAIL

SCALE: 1" = 100'
0 100 200

PREVIOUSLY RECORDED
DIMENSION IN DOC. # 476217

EAST 1/4 COR.
OF SEC 4,
T29N, R21W
FOUND 5/8" IRON BAR
S03°56'48"E 0.40' FROM STONE
CORNER MONUMENT.

PROJECT:

BETH & RICHIE SPRINGBORN
3217 LAKE ELMO AVE. N.
LAKE ELMO, MN. 55042



CORPORATE OFFICE
A.C.A. Technology, Inc. & Assn.
Suite 4
Menomonee Falls, WI 53051
Tel: 715-232-4100
Fax: 715-232-4102
buds@acacalling.com



DRAWN BY: WGA
CHECKED BY: TRD
DATE: 11-9-07
DWG FILE: 0784-01
REF FILE: 0784-01
JOB NUMBER: 0784-01

CERTIFICATE OF SURVEY

Auth-Consulting/associates

S&N Land Surveying

REVISION DESCRIPTION: NAME: DATE:

Planning Commission
Date: 1/14/08
Two Public Hearings:
i) Front Yard Setbacks
Ordinance
ii) Shoreland District
Update Ordinance
Item: 5b i and ii

ITEM: Addressing Neighborhood Conservation (NC) zoning issues

REQUESTED BY: Planning Commission

SUBMITTED BY: Ben Gozola, Senior Planner

REVIEWED BY: Susan Hoyt, City Administrator
Kyle Klatt, Planning Director
Kelli Matzek, Planner

SUMMARY AND ACTION REQUESTED:

The Planning Commission is seeking a way to eliminate the need for "common sense" variances requested by properties guided for Neighborhood Conservation (NC) in the comprehensive plan. NC guided properties are primarily found in older areas of the city which do not meet today's zoning standards. The creation of a new zoning district to alleviate variance requests was explored in the past, but recent code analysis indicates that minor changes to the existing code may be all that is needed to address the commission's concerns.

An examination of variances over the past five years for NC properties showed that all variance requests fell into one of four categories. For each of these categories, staff found that code already contains flexibility based on adjacent lots, or that changes are simply not advisable based on health and safety concerns. The categories and staff findings are as follows:

- 1) Lakeshore setback variances – lakeshore setbacks are established by the shoreland overlay district which effects properties other than NC. As such, changing the shoreland standards to simply address NC concerns is not advisable. Furthermore, the shoreland codes already provide staff with flexibility to grant reduced lakeshore setbacks based on the setbacks of adjacent properties, so the concerns of the planning commission are already addressed.
- 2) Septic variances – code already provides a number of provisions to ensure nonconforming lots can use on-site septic sites, and providing flexibility on setbacks is not advisable as placement of these systems can be a health and safety issue. All past variance requests involved setback issues, and therefore needed to be reviewed on a case-by-case basis for the good of the neighborhood.
- 3) General setbacks (front, side, & rear) – Code already contains a provision to allow for averaging of front yard setbacks under certain conditions, although staff is recommending a minor modification to this section to broaden its applicability. Side yard setbacks have not been considered for reduction by current or past efforts, and doing so would not be advisable as side yard requirements provide for adequate separation of structures. Rear yard setbacks have not been shown to cause problems so no action is recommended.

- 4) Lot size – three existing sections of code work together to alleviate the need for lot size variances unless the property is undeveloped and does not meet the minimum buildable standards.

Based on our analysis, staff is not recommending the creation of a new zoning district as history shows that a new district would not have eliminated the need for a majority of the past requests. Furthermore, our analysis indicates that flexibility already exists for lakeshore, lot size, and septic issues; and that further flexibility is not recommended. Instead, staff is simply recommending that the commission support a minor change to the existing general front yard setback regulations to provide some additional flexibility for all built out areas of the City. With such a change, we believe that code would provide adequate flexibility for all of the various requirements that have historically generated variance requests on NC guided properties. A minor change to the shoreland district requirements is also proposed to ensure all setbacks are consistent throughout the City.

RECOMMENDATION:

Staff is recommending the planning commission review two ordinances. The first ordinance proposes to broaden the flexibility for front yard setback in all areas of the city. Currently, code provides *undeveloped* lots front yard setback flexibility based on the average setbacks of neighboring nonconformities. Staff's proposed change would expand the applicability of this section to both *developed* and *undeveloped* lots by using the following language:

Where adjacent residential structures on the same side of the street between intersections have front yard setbacks different from those required, the front yard minimum setback shall be the average of the immediately adjacent structures. If there is only one immediately adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure. In no case shall the required front yard setback exceed the required minimum established within the districts of this chapter.

The second ordinance proposes to make minor changes to the existing shoreland district regulations to state that underlying zoning regulations would apply for setbacks (thereby extending the front yard setback flexibility to shoreland district lots). Additionally, the shoreland district ordinance would bring OHW and floodplain information up to date.

ORDER OF BUSINESS:

- Introduction Ben Gozola, Senior Planner
- Report by staff Ben Gozola, Senior Planner
- Questions from the Commission Chair & Commission Members
- Open the Public Hearing on front yard setback changes.....Chair
- Close the Public Hearing on front yard setback changesChair
- Open the Public Hearing on shoreland district changesChair
- Close the Public Hearing on shoreland district changes.....Chair
- Call for a motion Chair Facilitates
- Discussion of Commission on the motion Chair Facilitates

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

ATTACHMENTS (7):

1. Revised detailed staff report analyzing NC guided properties and related city requirements;
2. Code sections: 154.005, 154.080, and 150.256 (reference in the report)
3. Proposed ordinance to amend existing general front yard setback regulations.
4. Proposed ordinance to update the Shoreland Overlay District standards
5. Resolution of Summary Publication: Front yard Setbacks
6. Resolution of Summary Publication: Shoreland Overlay District standards
7. Former proposed ordinance (2006) incorporating "adjacency averaging."

City of Lake Elmo Planning Department
Addressing Neighborhood Conservation (NC) zoning issues

To: Planning Commission

From: Ben Gozola, City Planner

Meeting Date: 1-14-08

Introductory Information

<i>Objective:</i>	The intent of an “NC Ordinance” is to minimize variance requests in the R-1 zoning district for things that make sense and fit with the neighborhood. The issue has come forward at the request of the planning commission in response to the number of R-1 variances reviewed over the past five (5) years, and out of concern that residents are being forced to request variances for projects that ultimately will not or cannot be denied.
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<i>Work to Date:</i>	<p>On December 10, 2007, the planning commission heard staff’s recommendation to forgo creation of a new zoning district for NC guided properties based on the following:</p> <ul style="list-style-type: none">➤ A majority of variance requests over the past 5 years were from shoreland district requirements. A new NC zoning district would <u>not</u> alleviate the need for these variances, and major changes to the shoreland district regulations are not recommended.➤ The existing shoreland district codes currently state “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.” Essentially the “adjacency averaging” concept previously considered by the planning commission is already built into code for lakeshore setbacks.➤ The next most frequently requested variance was from septic requirements (six requests over the past five years). Again, a new zoning district for NC guided properties would <u>not</u> alleviate the need for these variances as septic requirements are found in different areas of code. Additionally, all of the requests in the past five years sought variances from setback requirements. Such applications really need to be viewed on a case-by-case basis as smaller setbacks can create health and safety issues and/or impacts to adjacent properties.➤ A new zoning district also does <u>not</u> appear to be necessary to address general setback concerns. As stated, code already contains a provision to allow averaging of the lakeshore setback on riparian lots. Beyond that, existing code section
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(cont.)

154.082 also contains language that allows for averaging the setback from a street based on the existing structures on adjacent property. And finally, neither past nor current staff has recommended averaging for side yard setbacks. A new zoning district would therefore not accomplish anything that isn't already addressed by the existing ordinance.

➤ Staff did not support the concept of adopting a new minimum lot size (even with additional language clarifying that the new minimum is not intended for development purposes). Again, we do not find that such a change is warranted. In this case, three existing sections of code work together to eliminate the need for the proposed change:

- First of all, section 154.005 outlines the process to administer requests relating to nonconforming uses, buildings, and structures. If an existing lot already contains a home, structure, or other use; these rules allow the use to continue provided certain guidelines are met. This language essentially ensures that built upon lots—although possibly smaller than required to be considered buildable by today's standards—can continue to be used without penalty. Note that changes to state statute relating to nonconforming uses now trump some of the outdated language currently in City Code (i.e. all nonconforming uses can now be replaced provided the use is not expanded or changed).
- Second, section 154.080 establishes whether undeveloped lots-of-record are buildable. Essentially, if the area and width of an undeveloped lot-of-record is at least 60% of the requirement, it is considered buildable (provided the required setbacks can be maintained and adequate septic facilities can be accommodated). Lots-of-record that do not meet the 60% threshold are not buildable and are to remain as undeveloped land or be incorporated into adjacent lots.
- Finally, section 150.256 provides an exception to the shoreland district lot size requirement for nonconforming lots-of-record in the shoreland district.

All three sections of code are attached to this report for your reference.

At the December 10th meeting, staff instead recommended the commission consider some minor tweaks to the existing code to accomplish the stated goals. Our recommendations are detailed in the remainder of this report.

**Front Yard
Setback
Flexibility:**

Section 154.082 contains language that currently allows for front yard setback flexibility for undeveloped lots. Rather than create a new zoning district, staff would recommend a slight change to this language to allow greater flexibility on all lots (not just those that are undeveloped).

(cont.) The specific language in question is as follows:

§ 154.082 SETBACKS.

(A) *Front setbacks.* Where a vacant, buildable lot is adjacent to structures existing at the time of adoption of this chapter that have a substandard setback from that required by this chapter, the Zoning Administrator shall determine a reasonable, average, calculated front yard setback to implement the requirements of this chapter and to fulfill its purpose and intent. In no case shall a building be required to be set back more than 180 feet from the street center line, except where an industrial district is adjacent to a residential district. In a residential district, the front yard setback shall conform to the established setback line, unless the Zoning Administrator determines that another setback is more appropriate as provided in this section.

(B) *Side and rear setbacks.* Subject to regulations contained in the Building Code and other applicable regulations, side and rear setback requirements may be waived, provided party walls are used and the adjacent buildings are constructed as an integral unit and are part of an approved shopping center, townhouse development, or other similar development. The waiver shall only be by issuance of a variance.

(C) *Setbacks from private roads.* All setback requirements of this chapter shall also be applicable to private roads and easement access rights-of-way.

(1997 Code, § 300.11)

Currently, subsection (A) only applies to vacant buildable lots. However, the issue raised by the planning commission seems to indicate that flexibility should be given in *any* area of the city when neighboring properties have existing nonconformities. If that is the consensus, editing the language in this subsection could broaden out its applicability to address the current concerns being raised on NC guided properties. Staff is recommending the following:

Where adjacent residential structures on the same side of the street between intersections have front yard setbacks different from those required, the front yard minimum setback shall be the average of the immediately adjacent structures. If there is only one immediately adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure. In no case shall the required front yard setback exceed the required minimum established within the districts of this chapter.

The proposed language is conservative as it allows minor variations based on adjacent nonconformities only. Additionally, the leeway provided by this language is limited as it's based on the average of the immediately adjacent nonconformities.

Shoreland District Update: While major changes to the shoreland district codes are not advisable, a set of minor updates *is* warranted to ensure OHW and floodplain levels are correct, and that front yard setbacks (from rights-of-way) are administered consistently throughout the City.

With regards to floodplain and OHW levels, the current City code contains many errors that do not correspond to current DNR data for area waterbodies. One egregious example of these errors this can be seen in the floodplain level for Friedrich Pond. Code currently lists the Friedrich Pond floodplain at 972.6, but all official documentation clearly shows the correct floodplain is at 913.0 (nearly a 60 foot difference)! In other cases, current code lists floodplain data for waterbodies on which no official study has been conducted. Ordinary High Water Mark (OHW) data is also proposed to be updated. For example, the OHW's for Lake DeMontreville and Lake Olsen were recently lowered by the DNR. Updating this data will allow residents to meet setbacks from the new lower OHW instead of the old higher elevation listed in the code.

And finally, staff is also recommending the removal of specific front yard setback requirements from the shoreland district standards. The DNR template ordinance for shoreland districts includes such setbacks primarily for jurisdictions without underlying zoning. Including such requirements in the Lake Elmo code actually has a negative effect on shoreland district lots as the underlying zoning (as proposed) will provide flexibility for structures to move towards the right-of-way and further away from the protected water body. To eliminate this problem, staff is proposing to replace any specific ROW setback requirements with the language "per underlying zoning district regulations and exceptions."

Conclusion:

After examining the list of planning commission concerns against the existing city code, staff is only recommending a minor change to allow for more flexibility with front yard setbacks in all zoning districts, and a minor change to existing shoreland district standards. All other concerns appear to be addressed by existing code provisions or do not warrant changes:

- Lakeshore setbacks – code already allows for averaging with adjacent structures;
- Septic placement – code already contains exemptions for small lots, and placement variances must be viewed on a case-by-case basis to address possible impacts;
- Lot size – three existing section of code work together to ensure lot size variances are not required.

Commission Options: The Planning Commission has the following options:

- A) Recommend approval of the proposed ordinances to amend the front yard setback averaging requirements and shoreland district standards;

- (cont.)
- B) Recommend staff make changes to the proposed ordinances, or add additional changes;
 - C) Table the item for further study.

As this is a city driven process, there is no 60-day deadline.

§ 154.005 GENERAL PROVISIONS.

(A) *Application.*

(1) *Application; generally.* Except as provided in this chapter, no building or structure shall be erected, moved, altered, or extended and no land, building, or structure or part of the building, shall be occupied or used unless in conformity with regulations specified in this chapter for the district in which it is located.

(2) *Application to existing structures.* This chapter shall not apply to existing buildings and structures, nor to the existing use of any structure, or land to the extent of the use on the effective date of this chapter. This chapter shall apply to any change in use, to any movement of a building or structure, or to any expansion of a structure which may result in the generation of additional sewage for on-site disposal.

(3) *Use defined.* For the purpose of this chapter, the word **USE** shall mean:

(a) Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or

(b) Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure, or on a tract of land.

(B) *Non-conforming uses, buildings and structures.*

(1) *Definitions.*

(a) **NON-CONFORMING USE.** Any lawful use of land or any lawful use of a building or structure existing on the effective date of this chapter, or any amendment to this chapter which use does not conform with the regulations for the district in which it is located after the effective date of this chapter or the amendment.

(b) **SUBSTANDARD BUILDING or SUBSTANDARD STRUCTURE.** Any building or structure lawfully existing on the effective date of this chapter or any amendment to this chapter, which building or structure does not conform with the regulations, including dimensional standards, for the district in which it is located after the effective date of this chapter or the amendment.

(2) **Preservation of non-conforming uses.** Except as provided in this chapter, **the lawful use of land or the lawful use of a building or structure existing on the effective date of this chapter or on the effective date of any amendment to this chapter may be continued although the use does not conform to the provisions of this chapter,** except as otherwise provided in this division.

(3) **Preservation of dimensionally substandard buildings or structures.** Except as provided in this chapter, buildings structures lawfully existing on the effective date of this chapter or on the effective date of any amendment to this chapter may be maintained although the building or structure does not conform to the dimensional standards of this chapter. However, any such building or structure shall not be altered or improved beyond normal maintenance, except that any lawful dimensional substandard residential building, accessory building, or structure may be altered or improved if the existing substandard dimension relates only to setback requirements and does not exceed the 10% of the minimum setback requirements. Additionally, the alteration or improvement shall

conform to all of the provisions of this chapter and shall not increase the existing substandard dimensions.

(4) *Unlawful uses, buildings, and structures.* No unlawful use of property existing on the effective date of this chapter or any amendment to this chapter, nor any building or structure which is unlawfully existing on the effective date shall be deemed a non-conforming use or a non-conforming building or structure.

(5) *Permit holders and permit applicants.* Any non-conforming structure that is ready for or under construction on the effective date of this chapter or any amendment to this chapter may be completed and occupied in accordance with the requirements of any valid building permit issued for the construction prior to the effective date.

(6) *Change from one non-conforming use to another.* A non-conforming use may be changed only to a use permitted in the district in which it is located; except that if no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or a more restrictive classification, and provided the change is approved by the Board of Adjustment and Appeals as provided in this chapter. Once changed to a conforming use, no building or land shall be permitted to revert to a non-conforming use.

(7) *Change of use with approval of the Board of Adjustment.* A non-conforming use all or partially conducted in a building or buildings, may be changed to another non-conforming use only upon determination by the Board of Adjustment, after a public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace. In determining relative detriment, the Board of Adjustment shall take into consideration, among other things: traffic generated; nuisance characteristics, such as emission of noise, dust, and smoke; fire hazards; and hours and manner of operation.

(8) *Restoration of non-conforming building or structure.* A non-conforming building or which is damaged or destroyed by fire, flood, wind, earthquake, or other calamity may be restored and the occupancy or use of the building, structure, or part of the structures which existed at the time of the partial destruction, may be continued or resumed, provided that the restoration is started within a period of 1 year and is diligently prosecuted to completion, unless the damage to the building or structure is equal to 50% or more of the replacement cost of the structure (as determined by the Building Official), in which case, the reconstruction shall conform to the provisions of this chapter.

(9) *Abandonment of use.* When any non-conforming use of land or of a building or structure is abandoned for a period in excess of 1 year, the land, building, or structure shall, subsequently be used only as provided by this chapter.

(1997 Code, § 300.05)

§ 154.080 ADDITIONS AND EXCEPTIONS TO MINIMUM AREA, HEIGHT, AND OTHER REQUIREMENTS.

(A) *Existing lot.* An existing lot is a lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the County Recorder or Registrar of Titles, on or before the effective date of this chapter. Any such lot or parcel of land which is in a residential district may be used for single-family detached dwelling purposes, provided the area and width of the lot are within 60% of the minimum requirements of this chapter; provided, all setback requirements of this chapter must be maintained; and provided, it can be demonstrated safe and adequate sewage treatment systems can be installed to serve the permanent dwelling. Any 1-acre lot which was of record before October 16, 1979 may be used for single-family detached dwelling purposes regardless of ownership of adjacent parcels, provided the lot meets all other requirements of this chapter.

(B) *Contiguous parcels.* If, in a group of 2 or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel does not meet the full width or area requirements of this chapter, the individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination will equal 1 or more parcels of land, each meeting the full lot width and area requirements of this chapter.

(C) *Subdivision of lots.* Any lot or parcel of land subdivided by any means after the effective date of this chapter for purposes of erecting a structure, must be approved as required by the subdivision ordinance.

(D) *Lake and stream frontage lots.* All lots having frontage on a lake or stream shall be subject to the provisions of the shoreland management ordinance as well as the regulations provided by this chapter. All lots on unclassified bodies of water in the shoreland management ordinance shall meet the minimum setback requirements for a General Development Lake, except as provided in the Shoreland management section.

(E) *Lots in the flood plain.* All lots in a designated flood plain shall be subject to the flood plain ordinance as well as the regulations provided by this chapter.

(F) *Reduction of required yard or lot size prohibited.* No yard or lot shall be reduced in area or dimension so as to make it less than the minimum required by this chapter, and if the existing yard or lot is less than the minimum required, it shall not be further reduced. No required yard or lot currently used for a building or dwelling group shall be used to satisfy minimum lot area requirements for any other building.

(G) *Sloping on erodible building sites.* On sites with slopes of greater than 25% or on easily erodible soils as defined on the community soils maps and compiled by the County Soils Conservation Agent, no structure shall be constructed.

(H) *Minimum area requirements for lots without public sanitary sewer.* In areas without public sanitary sewer, but where public sanitary sewer is proposed in the city's Capital Improvement Program, single- and 2-family homes shall demonstrate suitable soil conditions for adequate on-site sewage treatment area.

(1) In areas without public sanitary sewer where public sanitary sewer is not proposed in the City Capital Improvement Program or Comprehensive Plan, single- and 2-family homes shall demonstrate suitable soil conditions for a minimum-on-site sewage treatment area of 1 acre per dwelling unit.

(2) A building permit shall not be issued for a lot which either does not meet the minimum acres of acceptable soils for on-site sewage treatment; or does not have enough acceptable soils within the lot or under legal contract to construct at least 2 complete septic/drainfield treatment systems.

(I) *Lot width on a public street.* All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel on a dedicated and approved public roadway to the width derived from applying the lot width requirement in each zoning district.

(1997 Code, § 300.09)

§ 150.256 NON-CONFORMITIES.

(A) All legally established non-conformities as of the date of §§ 150.250 *et seq.* may continue, but they will be managed according to applicable state statutes and other regulations of the city for the subject of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply to shoreland areas.

(B) (1) *Construction on non-conforming lots of record.*

(a) **Lots of record in the office of the County Recorder on the date of enactment of §§ 150.250 *et seq.* that do not meet the requirements of § 150.255(B) may be allowed as building sites without variances from lot size requirements,** provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of §§ 150.250 *et seq.* are met.

(b) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(c) If, in a group of 2 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of § 150.255(B), the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the 1 or more contiguous lots so they equal 1 or more parcels of land, each meeting the requirements of § 150.255(B) as much as possible.

(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.

(3) *Non-conforming sewage treatment systems.*

(a) A sewage treatment system not meeting the requirements of § 150.255(I) must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(b) The Council of the city has notified the D.N.R. Commissioner of its plan to identify non-conforming sewage treatment systems in shoreland areas. The city will require upgrading or replacement of any non-conforming system identified by this program within a reasonable period of time, which will not exceed 180 days of notice and order to comply by the Zoning Administrator. Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. § 103F.201, as it may be amended from time to time, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems including cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above ground water than required by the Minnesota Pollution Control Agency's Chapter 7080, as it may be amended from time to time, for design of off-site sewage treatment systems, shall be considered nonconforming.

(1997 Code, § 325.07) Penalty, see § 10.99

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-_____

AN ORDINANCE TO AMEND GENERAL FRONT YARD SETBACK
REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

Section 1. The City Council of the City of Lake Elmo hereby ordains that Section 154.082 is hereby amended to read as follows:

Section 154.082 SETBACKS.

- Subd 1. *Front setbacks.* Where adjacent residential structures on the same side of the street between intersections have front yard setbacks different from those required, the front yard minimum setback shall be the average of the immediately adjacent structures. If there is only one immediately adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure. In no case shall the required front yard setback exceed the required minimum established within the districts of this chapter. ~~Where a vacant, buildable lot is adjacent to structures existing at the time of adoption of this chapter that have a substandard setback from that required by this chapter, the Zoning Administrator shall determine a reasonable, average, calculated front yard setback to implement the requirements of this chapter and to fulfill its purpose and intent. In no case shall a building be required to be set back more than 180 feet from the street center line, except where an industrial district is adjacent to a residential district. In a residential district, the front yard setback shall conform to the established setback line, unless the Zoning Administrator determines that another setback is more appropriate as provided in this section.~~
- Subd 2. *Side and rear setbacks.* Subject to regulations contained in the Building Code and other applicable regulations, side and rear setback requirements may be waived, provided party walls are used and the adjacent buildings are constructed as an integral unit and are part of an approved shopping center, townhouse development, or other similar development. The waiver shall only be by issuance of a variance.
- Subd 3. *Setbacks from private roads.* All setback requirements of this chapter shall also be applicable to private roads and easement access rights-of-way.

Section 2. Adoption Date

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

This Ordinance No. ____ was adopted on this ____ day of _____, 20____, by a vote of ____ Ayes and ____ Nays.

Mayor Dean Johnston

ATTEST:

Susan Hoyt
Administrator

This Ordinance No. _____ was published on the ____ day of _____, 2007.

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-_____

AN ORDINANCE TO AMEND SHORELAND DISTRICT REGULATIONS TO
ELIMINATE SHORELAND SPECIFIC RIGHT-OF-WAY SETBACK
REQUIREMENTS AND TO UPDATE ORDINARY HIGH WATER AND
FLOODPLAIN LEVELS FOR AREA LAKES

Section 1. The City Council of the City of Lake Elmo hereby ordains that Section 150.254 is hereby amended to read as follows:

Section 150.254 SHORELAND CLASSIFICATION.

- (A) The public waters of the city have been classified below, consistent with the criteria found in Minnesota Rules, Chapter 6120.3000, as it may be amended from time to time, and the Protected Waters Inventory Map for Washington County, Minnesota. The shoreland area for the water bodies listed below shall be defined in § 150.252 and as shown on the city's shoreland management area map.
- (B) The classes of public waters for the city are natural environment lakes, recreational development lakes, and tributary streams.
- (1) *Natural environment lakes.* Natural environment lakes are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development, such as high water tables, exposed bedrock and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

<i>D.N.R. I.D.#</i>	Lake Name	Location	OHW	100-Year Elevation
82007400	Horseshoe	Sec. 25	876.8	
82009900	Clear	Sec. 2, 11		
82010000	Unnamed	Sec. 4		
82010500	Berschen's Pond	Sec. 10		
82010700	Sunfish	Sec. 14	896.4	899
82010800	Friedrich Pond	Sec. 15, 22		913.0

82011000	Downs	Sec. 24	889.1	893
82011100	H.J. Brown pond	Sec. 26		
82011200	Rose (Sunfish)	Sec. 25, 36		
82011300	Goose	Sec. 27, 34, 35	924.4	
82011601	Armstrong (North of 10 th St)	Sec. 28	1020.3	
82011602	Armstrong (South of 10 th Street)	Sec. 33	1019.1	

- (2) *Recreational development lakes.* Recreational development lakes are generally medium-sized lakes of varying depths and shapes with a variety of land forms, soil, and ground water situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences. Many of these lakes have capacities of accommodating additional development and use.

<i>D.N.R. I.D.#</i>	Lake Name	Location	OHW	100-Year Elevation
82-101	DeMontreville	Sec. 4, 5, 9	929.3	931.0
82-103	Olson	Sec. 8, 9	929.3	931.0
82-104	Jane	Sec. 9, 10	924	925.0
82-106	Elmo	Sec. 13, 14, 23, 24, 26	885.6	889

- (3) *Tributary Streams.* Tributary stream segments consist of water courses mapped in the protected waters inventory that have not been assigned 1 of the river classes. These segments have a wide variety of existing land and recreational use characteristics.

<i>Location</i>	Stream Name
Sec. 33	Unnamed to Wilmes Lake
Sec. 16, 21, 22	Raleigh Creek North (to Eagle Point Lake)
Sec. 22, 23, 27	Raleigh Creek South (Eagle Point Lake to Lake Elmo)
Sec. 25	Unnamed Tributary

Section 2. The City Council of the City of Lake Elmo hereby ordains that Section 150.255, Subdivision (D), is hereby amended to read as follows:

(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.

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

- (b) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the water body.

<i>Setback From</i>	<i>Setback (In Feet)</i>
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highways	50 Per underline zoning district regulations and exceptions
Right-of-way line of town road, public street, or other roads or streets not classified	30 Per underline zoning district regulations and exceptions

- (c) *Bluff impact zone.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- (d) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- (e) *Steep slopes.* The city shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or

other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public water, assuming summer, leaf-on vegetation.

- (f) *Proximity to roads and highways.* Per underline zoning district regulations and exceptions. ~~No structure may be placed nearer than 50 feet from the right of way line of any federal, state, or county highway; or 30 feet from the right of way line of any town road, public street, or others not classified.~~
- (g) *Use without water-oriented needs.* Use without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public water frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

Section 3. Adoption Date

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

This Ordinance No. ____ was adopted on this ____ day of _____, 20____, by a vote of ____ Ayes and ____ Nays.

Mayor Dean Johnston

ATTEST:

Susan Hoyt
Administrator

This Ordinance No. _____ was published on the ____ day of _____, 2007.

CITY OF LAKE ELMO

RESOLUTION NO. ____

**RESOLUTION AUTHORIZING PUBLICATION OF
ORDINANCE NO. 08-__ BY TITLE AND SUMMARY**

WHEREAS, the city council of the city of Lake Elmo has adopted Ordinance No. 08-____,
an ordinance to amend front yard setback regulations relating to all zoning districts; 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 administrator shall cause the following summary of Ordinance No. 08-__ 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-____. The ordinance allows for reduced front yard setback regulations in all zoning districts based on the average setback of structures on adjacent lots. The change to code made by ordinance No. 08-__ will never require a greater setback than the minimum requirement established by the underlying zoning district. The full text of Ordinance No. 08-__ is available for inspection at Lake Elmo city hall during regular business hours.

Mayor Dean Johnston

BE IT FURTHER RESOLVED by the city council of the city of Lake Elmo that the city administrator keep a copy of the ordinance in her office at city hall for public inspection and that she post a full copy of the ordinance in a public place within the city.

Dated: _____, 20____.

Mayor Dean Johnston

ATTEST:

Susan Hoyt
City Administrator

(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

RESOLUTION NO. ____

**RESOLUTION AUTHORIZING PUBLICATION OF
ORDINANCE NO. 08-__ BY TITLE AND SUMMARY**

WHEREAS, the city council of the city of Lake Elmo has adopted Ordinance No. 08-____, an ordinance to amend shoreland district regulations to eliminate shoreland specific right-of-way setback requirements and to update ordinary high water and floodplain levels for area lakes; 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 administrator shall cause the following summary of Ordinance No. 08-____ 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-____. The ordinance amends existing shoreland district regulations to eliminate shoreland specific right-of-way setback requirements for structures. Existing zoning requirements will now govern all setbacks from roadways. Additionally, the ordinance was updated to include all current information on the ordinary high water mark and floodplain elevations for area lakes. The full text of Ordinance No. 08-____ is available for inspection at Lake Elmo city hall during regular business hours.

Mayor Dean Johnston

BE IT FURTHER RESOLVED by the city council of the city of Lake Elmo that the city administrator keep a copy of the ordinance in her office at city hall for public inspection and that she post a full copy of the ordinance in a public place within the city.

Dated: _____, 20____.

Mayor Dean Johnston

ATTEST:

Susan Hoyt
City Administrator

(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.

NC (Neighborhood Conservation) Zoning District.

1. Purpose

The purpose of the NC zoning district is the preservation, restoration and enhancement of neighborhoods within the City that have been developed over time responsive to earlier or nonexistent zoning standards of the City or East Oakdale Township. The goal of NC zoning is the retention of the existing physical environment of these pre-existing neighborhoods with a minimum of zoning non-conformities created by NC district standards, as well as to regulate "in-fill" development/redevelopment in those pre-existing neighborhoods. It is not the intent or purpose to apply the NC district standards to platting of undeveloped lands, or the division of existing tax parcels to create additional buildable tax parcels.

2. Permitted Uses

a. One family detached dwellings:

3. Accessory Uses.

a. Uses which are customarily accessory and clearly incidental and subordinate to permitted uses:

b. Home occupations.

3. Minimum District Requirements.

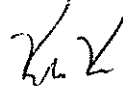
<u>NC Zoning District</u>	
<u>Minimum Lot Size</u>	<u>18,500 square feet, or adjacency averaged, whichever is less</u>
<u>Lot Width</u>	<u>75 feet at front yard setback line, or adjacency averaged, whichever is less</u>
<u>Building setback from property lines</u>	
<u>Front:</u>	<u>30 Feet, or adjacency averaged, whichever is less</u>
<u>Side (Interior):</u>	<u>10 Feet</u>
<u>Side (Corner):</u>	<u>25 Feet, or adjacency averaged, whichever is less</u>
<u>Rear:</u>	<u>40 Feet</u>
<u>Arterial Street:</u>	<u>50 Feet, or adjacency averaged, whichever is less</u>
<u>Primary Building Height</u>	<u>35 Feet</u>
<u>Accessory Structures Height</u>	<u>14 feet</u>
<u>Maximum Impervious Surface Coverage</u>	<u>25%</u>
<u>Maximum Floor Area Ratio</u>	<u>0.25</u>

Planning Commission
Date: 1/10/08
No Action Required
Item: 6a

ITEM: Planning Commission 2008 Work Plan

REQUESTED BY: Planning Department

SUBMITTED BY: Kyle Klatt, Director of Planning



REVIEWED BY: Ben Gonzola, Senior Planner
Kelli Matzek, Assistant City Planner

SUMMARY AND ACTION REQUESTED:

In accordance with Section 210.8 of the Lake Elmo City Code, the Planning Commission is required to develop an annual work plan, "including a list of projects, points of interaction on projects, programs, and goals for the following year". Although the City Code dictates that this plan be developed in September of each year, Staff is suggesting that a work plan be reviewed this month to help the Planning Department (and the new Planning Director in particular) establish its priorities for the coming year. Staff will be distributing a copy of a proposed work plan for 2008 at the next Planning Commission meeting, will ask the Commission either review it at this time or continue discussion on the plan until the next regular meeting.

OPTIONS:

Since the Planning Commission is not required to take any specific action on the work plan, it could either discuss the plan at its meeting and provide comments at this time or take more time to review the plan at a future meeting.

RECOMMENDATION:

Staff recommends that the Planning Commission review the proposed work plan and provide comments and suggestions to Staff on the plan as presented.

ORDER OF BUSINESS:

- Introduction Kyle Klatt, Director of Planning
- Report by staff Kyle Klatt, Director of Planning
- Questions/Comments from the Planning Commission..... Planning Commission

ATTACHMENTS (None):

Planning Commission
~~City Council~~
Date: 1/14/08
Not a public hearing
Item: 6b

ITEM: Ordinance addressing temporary off-site advertising signage

REQUESTED BY: City Council & the Planning Commission

SUBMITTED BY: Ben Gozola, Senior Planner

REVIEWED BY: Susan Hoyt, City Administrator
Kelli Matzek, Assistant City Planner

SUMMARY AND ACTION REQUESTED:

What is the issue? In late 2007, both the City Council and the Planning Commission directed staff to examine ways to amend the existing sign ordinance to address issues facing temporary signage for holiday related businesses, agricultural operations, and realtors. The City has identified these uses as needing some additional flexibility and options for advertising signs, but recognizes that such changes have the ability to impact the character and feel of the City. Staff was asked to review the code against the noted concerns and make a recommendation on how to proceed.

Initial Findings: The current Lake Elmo sign code follows a classic format for municipal sign regulation that can be found in many communities today. Different types of signs are identified (i.e. real estate signs, advertising signs, nameplate signs, etc) and various specific regulations are established for each type of permitted sign. Unfortunately, this ordinance structure has been declared unconstitutional by the courts in numerous instances when challenged by an applicant. Regulating signs based on content (i.e. having different requirements for real estate signs than you do for nameplate signs) is unacceptable under the first amendment as municipalities cannot favor one form of speech over another. In other words, *what* the sign says cannot not be relevant to whether the sign is allowed. Because staff has determined the current code is vulnerable to a First Amendment challenge, the methodology for addressing the city's initial concerns should be examined within the context of overall changes to the entire ordinance.

Must the Ordinance be fixed? Staff cannot recommend a simple tweak to the existing ordinance. Given its location between two major principal arterial roadways (Hwy 36 and Interstate 94), Lake Elmo is definitely at risk for a sign code lawsuit. Typically such lawsuits are filed by companies looking to erect large billboards adjacent to high volume roadways. Once the local ordinance is invalidated by the court, the applications for billboards are approved de facto in the absence of regulations. This danger will continue to be present until such time that the sign ordinance is rewritten.

How can the Ordinance be fixed? The key to crafting a constitutional sign ordinance is to focus regulation on content neutral factors such as number, location, size, illumination and other physical characteristics that need to be regulated to protect public health, safety, and welfare. The ordinance must clearly indicate that it is not the intent to regulate the message displayed on any sign, and should provide a clear methodology for reviewing and approving signs. Inclusion of a "substitution clause" is also recommended to reinforce that signs are not being regulated based on content. Essentially the substitution clause allows any noncommercial message to be substituted for any other message type on a sign allowed by the ordinance.

To ensure the revised ordinance meets the needs of Lake Elmo, consideration should be given to gathering public input during the update process. This can be done through public open houses and/or through the formation of a sign task force representative of various community interests. The public input along with feedback from the Planning Commission and City Council can be used to craft a new ordinance suitable for the City of Lake Elmo. To ensure the City is not starting from scratch, staff can research how similar communities have updated their sign ordinances in light of recent court cases and provide such as options for the City's consideration. A few examples are attached to this report. And finally, staff will not lose sight of the main issues that resulted in these findings, and will provide options (as necessary) to address temporary signage issues.

RECOMMENDATION

Transition our focus away from temporary signage towards updating the entire sign ordinance as necessary to ensure it is legal under the First Amendment to the Constitution. Guidance should be given to staff on what level of public participation is desired, and the timeframe by which the proposed revisions should be complete.

ORDER OF BUSINESS:

- Introduction..... Susan Hoyt, City Administrator
- Report by staff Ben Gozola, Senior Planner
- Questions from the Commission Chair & Commission Members
- Questions/Comments from the public Chair facilitates
- Direction to staff from the Commission Chair facilitates

ATTACHMENTS (6):

1. "Sign Code Shakedown" Article (League of MN Cities; July 2006)
2. League of MN Cities PowerPoint Presentation on Sign Code Updates (entitled Sign, Sign, Everywhere a Sign)
3. City of New Prague Ordinance
4. City of Medina Ordinance
5. City of Orono Ordinance
6. Current Lake Elmo Ordinance

Sign Code Shakedown

By Paul Merwin

What would you do if a company asked for the right to build billboards that did not meet your city's sign codes? The signs would violate your code because they would be enormous, five-story, rotating, tri-vision billboards that are larger than anything you allow. Not only that, but the company wanted to have a monopoly on these sorts of signs. Would you be left with a few enormous and glitzy billboards, and the job of explaining to your voters and other sign companies why this happened?

A number of cities around the country have fallen victim to this sort of scenario in what some municipal lawyers call the "sign code shakedown." There is often a very clear pattern. Someone walks into the city offices and applies for a dozen large billboards. The applications violate the city's sign-code requirements, including limitations on size, location or movement. The applications come from a local sign company, although one that perhaps the city has never heard of.

The city denies the applications—which is no surprise to the applicant. In fact, this is exactly what the applicant hopes the city will do. Shortly after the city denies the applications, it receives a federal court complaint.

Over 100 such complaints have been filed around the country by E. Adam Webb, an Atlanta-based attorney. Mr. Webb has already sued two Minnesota cities and is currently threatening to sue a third. Surprisingly, the plaintiff may not challenge city denials based on the reasons articulated by the city. Instead, they will aim larger and allege something is wrong with the city's entire ordinance.

Most commonly, the plaintiff will argue the city's ordinance suffers from a fatal First Amendment flaw, perhaps by impermissibly discriminating based on the content of the sign or who is using

it. The "flaw" might be an innocuous part of the city's code no one even thinks about, such as sign definition. For example, the code might define a sign as "a device used to advertise products for sale." Plaintiffs will seize on that, noting that advertising products for sale is commercial speech. Defining signs in such a narrow way allegedly favors commercial speech over non-commercial speech.

Mr. Webb usually asks the courts for several things. He asks for damages. He asks for the right to build the signs. But most importantly, he asks for the entire ordinance to be struck down as unconstitutional because of its chilling effect on free speech. If this argument is successful, the court might invalidate the city's entire ordinance.

So what happens next? Generally, the same company walks into the city the next day with a dozen new applications for massive billboards. Now they argue there is no sign ordinance prohibiting large billboards; therefore, the city has to approve their applications.

When the city balks and vows to fight, the company may become rather reasonable. What used to seem like a demand will now be offered as a deal. The company might say, "Just let us put up a few billboards and we'll go away. Not only that, we'll help the city fix its ordinance to close this loophole so no one else can create this sort of problem."

If the city accepts the deal, the plaintiff now has a handful of large billboards and a valuable monopoly on those signs. And the elected officials may have some difficult explaining to do.

So, what can you do? It is possible to have a sign ordinance that protects traffic, safety, and aesthetics. You should review your sign codes to make sure they are consistent with the First Amendment and invulnerable to challenge from plaintiffs on the kinds of grounds described here.

LMCIT land-use attorneys can help by reviewing your sign codes to help spot and fix loopholes that plaintiff's attorneys like Mr. Webb might exploit. We're currently looking for opportunities to build a discussion about sign code language into our land-use loss control presentations and materials—so you can expect to hear more from us on this topic in coming months.

If you have questions or concerns about your sign codes and ordinances, contact one of LMCIT's land-use attorneys. Paul Merwin, can be reached at (651) 281-1278 or pmerwin@lmnc.org; Jed Burkett, can be reached at (651) 281-1247 or jburrkett@lmnc.org.

Paul Merwin is senior land-use attorney with the League of Minnesota Cities Insurance Trust. Phone: (651) 281-1278. E-mail: pmerwin@lmnc.org.

Sign code warning signs

There are a number of warning signs you should watch for. Look for any provisions in your sign code in which:

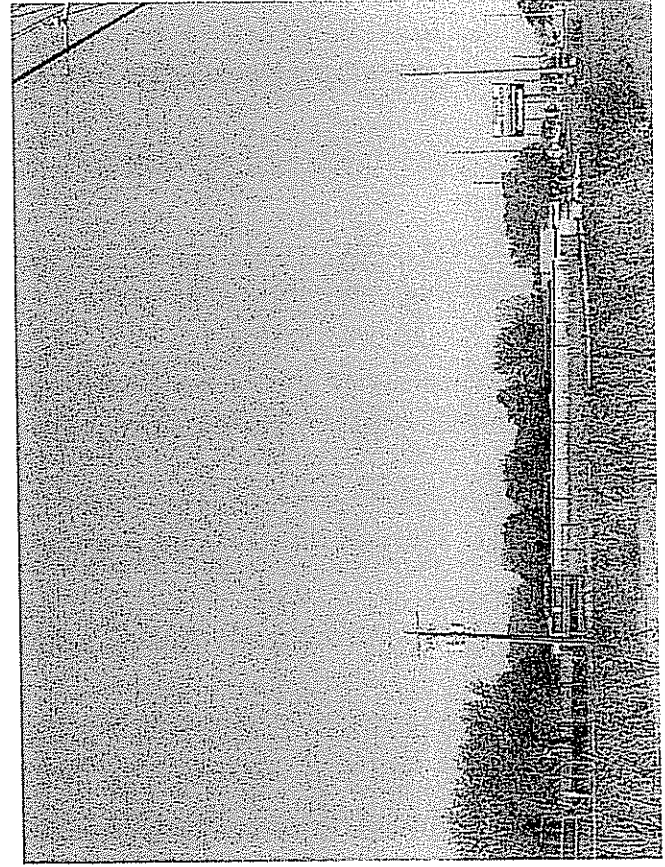
- Signs are treated differently based on the type of message they deliver
- Signs are treated differently depending on who is stating the message
- There are limitations on political signs that don't apply to commercial signs
- City officials have broad discretion to deny applications for signs based on imprecise or "other" information
- There is a specific list of permitted signs and a blanket prohibition on any non-permitted signs

In short, what the sign says shouldn't be relevant to whether the sign is allowed.

The New Wave of Lawsuits

- Over 100 suits filed in the past three years
- The plaintiff-sign companies' objectives:
 - Erecting many large, profitable billboards—
 - through court orders, or
 - through settlements extracted to end litigation
 - where none are currently allowed
- How large? Typically:
 - 14' by 48' per face
 - Two-sided
- With "television" technology
 - Three messages per side, changing every 6 to 10 seconds

Sign, sign, everywhere
a sign

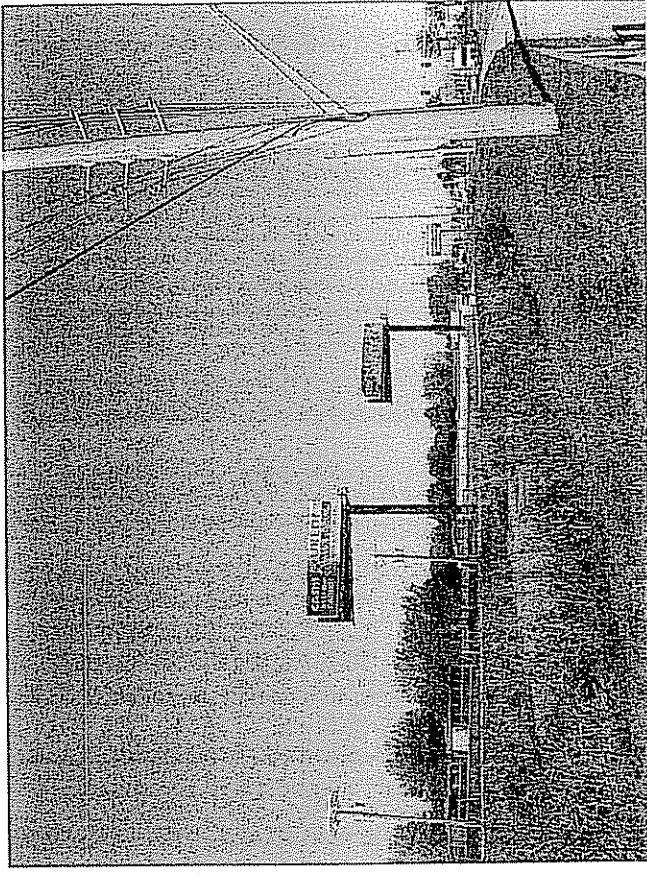


Overview

- New Wave of Lawsuits - the Shakedown
- First Amendment Basics
- Sign Ordinances

The Applications

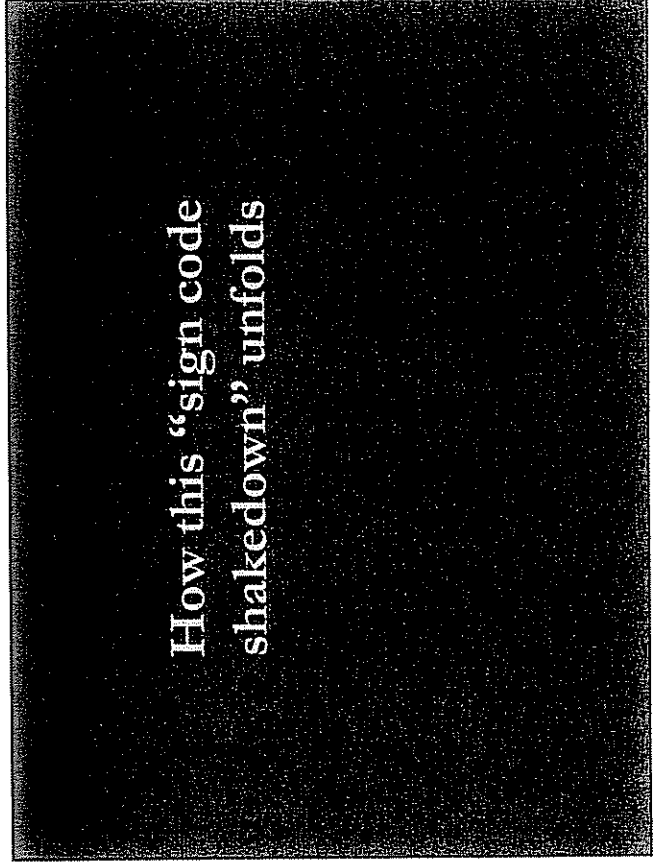
- Little-known companies submit a stack of permit applications
- Companies treat the application process as a formality
 - They do not claim that their applications comply with the City's sign laws (designed to fail height and size requirements)
 - They do not lobby for ordinance changes
 - They do not apply for variances
- They do not press for a quick decision, (hoping for a delay they can later attack)

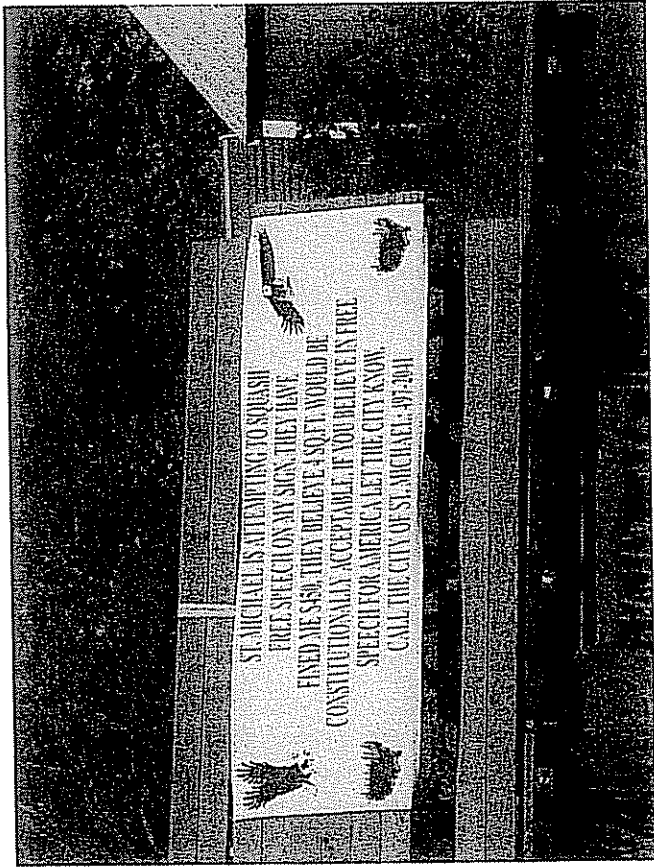


The Lawsuit

- After an inevitable denial, the lawsuit arrives, which
 - is typically signed by E. Adam Webb of Atlanta
 - alleges 10-15 Counts (most relating to the First Amendment), and
 - seeks:
 - Invalidation of entire sign ordinance
 - Approval of all its applications
 - Damages
 - Attorneys' fees

How this "sign code
shakedown" unfolds





The Settlement Offer

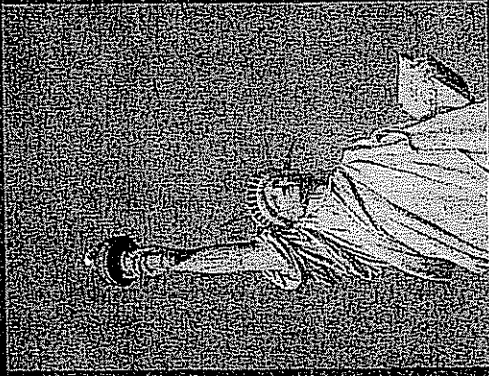
- The lawsuit will be dropped if the City —
 - Approves a fraction of the original applications (in Eden Prairie, 5 of 14)
 - Modifies its ordinance with Plaintiff's input
 - Plaintiffs offer to help you "fix" your ordinance so that it's constitutional
 - Closes their loophole
- The result for them: a lucrative monopoly
- The result for the City:
 - Some costs and risks are avoided
 - An inconsistency that's difficult to defend
 - An incentive for others to bring similar suits

Beyond the Shakedown

- Institute for Justice
- Local conflicts
- Copycats

- Most ordinances are vulnerable
- Most ordinances are fixable

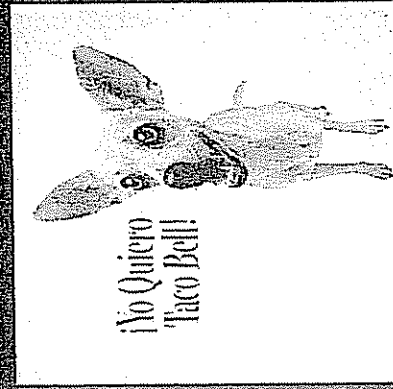
Noncommercial Speech



- Creates a marketplace of ideas
- Fosters fundamental democratic values
- Allows self-actualization of the individual

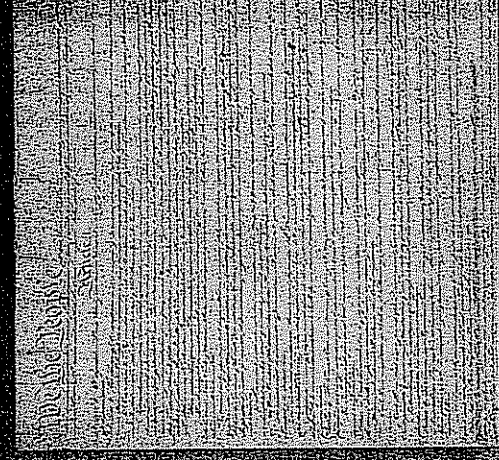


Commercial Speech



- Sells tacos
- "The Constitution ... accords a lesser protection to commercial speech than to other constitutionally guaranteed expression."
Central Hudson Gas & Electric Corp. v. Public Service Commission of New York

First Amendment



"no law ...
abridging the
freedom of speech"

Commercial Speech

- Intermediate Scrutiny
- Substantial government interest
- Directly advanced
- Not more restrictive than necessary

Non Commercial Speech

- *Strict Scrutiny*
- Government may not:
 - Favor some speech over others
 - Choose which subjects are appropriate for public discourse
 - Engage in prior restraint
 - Chill potential speech

Commercial Speech

- Translation:
 - Regulate for a good reason
 - Provide adequate opportunities for expression
 - Explain why, what, and how

Noncommercial Speech

- Translation:
 - Do not regulate based on what the sign says
 - Do not make people wonder whether they will be punished for putting up their sign

Time, Place, and Manner

- Content neutral
- Objective size and location standards
- Objective regulation of sign aspects

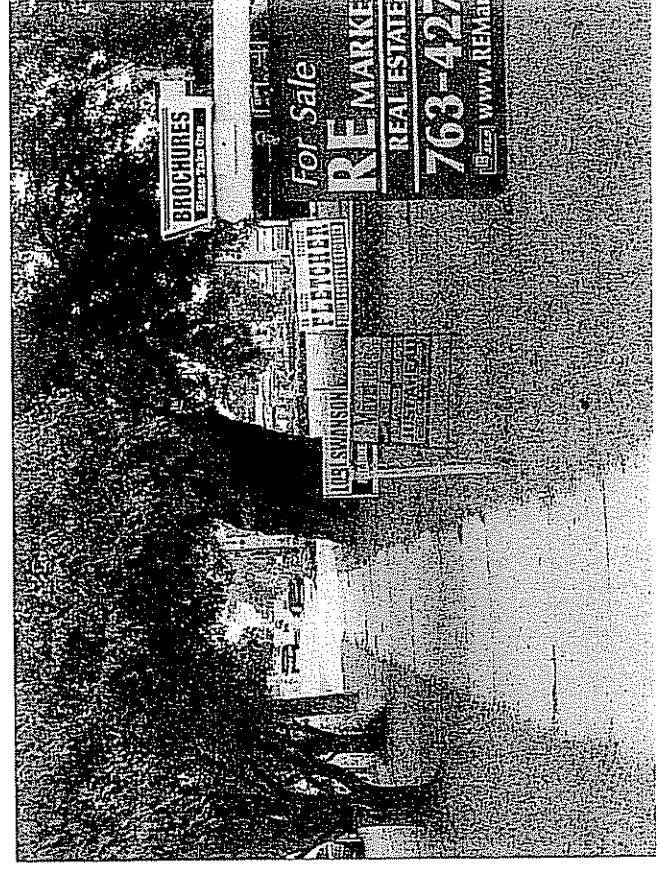
noncommercial speech = noncommercial speech

noncommercial speech > commercial speech

commercial speech = commercial speech

Content Neutrality

- Size and location regulations are content-neutral and constitutionally permissible because
 - Public safety and aesthetics are substantial government interests
 - Size and location regulations are viewpoint and content neutral because they regulate only the nonexpressive components of signs
 - Size and location regulations leave open alternative channels because they permit signs that satisfy the size and location regulations



What is a billboard?

- The on-site/off-site distinction
- Whether the sign:
 - relates in its subject matter to the premises on which it is located or to activities, products, services, or accommodations on the premises.

Not Content Neutral

- "Construction sign"
- "Real estate sign"
- "Gas price sign"
- "Yard sale sign"
- "Political sign"
- "Logo sign"
- "Directional sign"

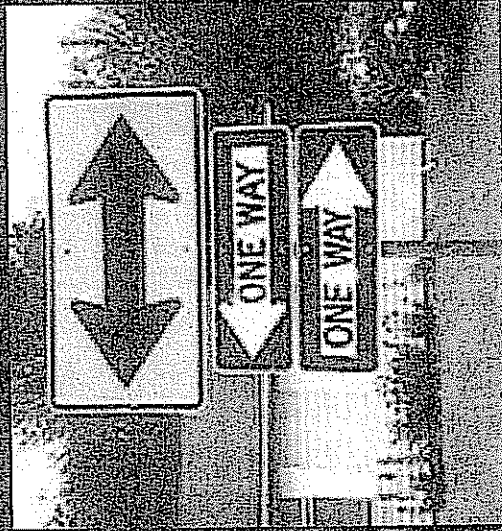
Can ban off-premise advertising, but:

- Not OK: "On premises signs include only signs directing attention to a business . . . on the same premises upon which the sign is located"
- OK: "Off-premise sign — a commercial speech sign which directs the attention of the public to a business . . . not on the same premises where such business sign is located"

Content Neutral

- Distinctions
 - Large vs. small
 - Temporary vs. permanent
 - Detached vs. attached
 - Lighted or not
- Regulations
 - Height
 - Size
 - Number
 - Coverage of wall
 - Lighting

Where do we go from here?



Can you ban billboards?



- Probably
- Content neutral
- Plenty of other opportunities to speak
- Legislative findings are useful
 - Traffic safety from distractions
 - Aesthetics

Fixing Ordinances

- Provisions every ordinance should avoid
- Provisions every ordinance should have

Can you ban lawn signs?



- Probably not
- Forecloses a common and inexpensive way for an average person to communicate

Favoring commercial speech

- **ADVERTISING SIGN:** A billboard, poster panel, painted bulletin board, or other communicative device which is used to advertise products, goods, and/or services
- **NON-COMMERCIAL MESSAGE SIGN:** A non-illuminated sign containing a non-commercial message and having not more than four square feet in area and not more than five feet in height.

Provisions to Avoid



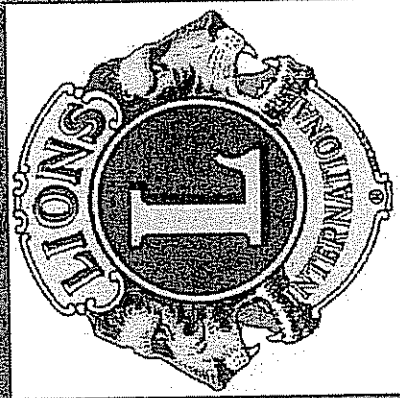
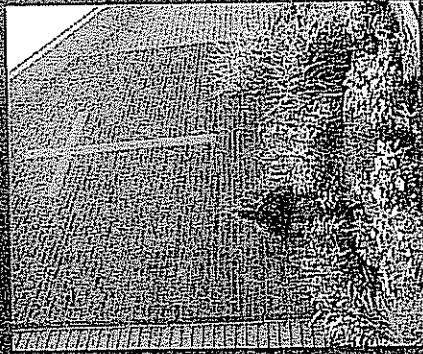
Avoid

- Exemptions based on categories of speech or the identity of the speakers
- “Everyone must get a permit except:”

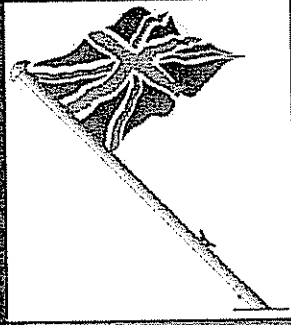
Avoid

- Do not favor commercial speech
 - Disparate Treatment
 - Check definitions
 - **BILLBOARD.** A sign erected and used for the purpose of advertising a product, event, person or subject not related to the premises on which the sign is located.

Symbols or Insignia. Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies



Flags. The flags, emblems, or insignia of any national or political subdivision.



Is the Greenpeace flag less protected?

Avoid

- Too much discretion
- No open ended review
- Use clear objective standards
- Even if not abused, the mere presence of discretion is a problem

"Political and Campaign Signs. Political or campaign signs on behalf of candidates for public office or measures on election ballots"



Would this be legal only if "Joe Iko" was a candidate?

Preamble

- "It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; . . . The purpose and intent of this article is to . . ."

Discretion

"The Planning Commission may waive the appropriate requirements and approve the sign. In its deliberations, the Planning Commission shall consider:

- A. The location, size and design of the proposed sign(s).
- B. The character of the surrounding area.
- C. The consistency of the proposed sign(s) in comparison to existing signs located in the surrounding area.
- D. The appropriateness of the proposed sign(s) in light of the anticipated use of the property, or
- E. The granting of a waiver which will not be detrimental to the public welfare nor create an adverse affect upon the surrounding property."

Include

- Substitution Clause
 - Any noncommercial message can be substituted for any other message
 - "The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. . . ."

Include

- Preamble
 - Intent to protect noncommercial speech
 - Intent to allow for adequate expression
 - Substantial government interest
 - How ordinance meets that interest

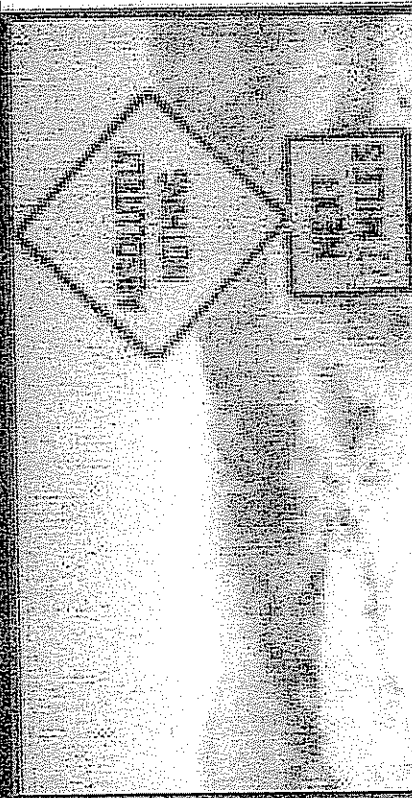
Summary

- Content Neutral
- Adequate opportunities to communicate
- No discretion
- Clear and timely procedures

Include

- Clear decision making process
 - Timelines (60-day rule may be default)
 - Right to appeal
 - Variances, if any

The end.



Summary

- Don't ban too little speech
- Don't ban too much speech

718 Signs

Purpose and intent: It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this ordinance is to:

- A. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.
- B. Maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.
- C. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
- D. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the City.
- E. Provide for the safety of the traveling public by limiting distractions, hazards and obstructions.

1. General Standards.

Signs are a permitted accessory use in all use districts subject to the following regulations:

- A. Signs that are not posted by authorized government officials are prohibited within the public right-of-way, easements or publicly owned land.
- B. Illuminated signs may be permitted but devices giving off an intermittent or rotating beam or rays of light shall be prohibited.
- C. One sign with a commercial message on a residentially zoned property that does not exceed six (6) square feet per surface may be placed in the front yard of the property. One sign with a commercial message on a commercial / industrial zoned property that does not exceed thirty-two (32) square feet per surface may be placed in the front yard of the property. These signs must be removed within 10 days after the closing date of the sale or lease of the property.
- D. One sign with a commercial message that does not exceed two hundred and forty (240) square feet of surface per side (with a maximum of two sides) may be placed upon a construction site. These signs must be removed within 10 days after the closing date of the sale of the last lot owned by the development company.
- E. No sign shall, by reason of position, shape or color interfere in any way with the proper functioning or purpose of a traffic sign or signal.

- F. Signs shall not be painted on fences, rocks, or similar structures or features nor shall paper or similar signs be attached directly to a building wall by an adhesive or similar means.
- G. Portable or temporary signs as defined by this ordinance are allowed by permit only in industrial and commercial zoning districts. There shall be no more than one (1) portable or temporary sign on any lot at a time and such sign shall not exceed thirty two (32) square feet in size per surface with a maximum of two surfaces. Portable or temporary signs may not be displayed for more than 15 days at a time and must be removed immediately after the event advertised. Portable or temporary signs may not be placed in the public right of way, be flashing, having moving parts or be fastened to any pylon or light pole. No permit shall be issued by the City for a portable or temporary sign on a lot for a duration of more than forty-five (45) days within a calendar year. Temporary signage is allowed over and above the typical signage limit allowed on a property for permanent signage.
- H. Non-commercial speech signs: Notwithstanding any other provisions of this sign ordinance, all signs of any size containing non-commercial speech may be posted from August 1 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election. One non-commercial speech sign is allowed on each lot outside of the above specified time period on all properties.
- I. Building and projecting signs can only be located on the principal building on the lot.
- J. Substitution Clause: The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial speech signs in lieu of any other commercial speech sign or other non-commercial speech sign. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial speech over any other non-commercial speech. This provision prevails over any more specific provision to the contrary.
- K. Sign permits are required for all signs unless otherwise stated in this code. The fee for sign permits shall be established by council resolution. All signs shall conform to the requirements of this Ordinance whether or not a sign permit is required. All signs shall be constructed in a manner and of such material that they shall be safe and substantial. All signs shall be properly secured, supported and braced and shall be kept in good repair so that public safety and traffic safety are not compromised.
- L. Electronic Variable Message Signs are permitted in industrial and commercial zoning districts (except for the B-1 Central Business District) as long as the message and/or picture on the sign does not change more than once per five (5) seconds.

- M. Illuminated signs shall be subject to the electrical requirements of the Electrical Code of the State of Minnesota.
- N. No sign shall be attached to or placed upon any building in such a manner as to obstruct any window or door for fire escape or be attached to any fire escape. The minimum clearance of any sign from unprotected electrical conductors shall be not less than thirty-six (36) inches for conductors carrying not over six hundred (600) volts and forty-eight (48) inches for conductors carrying more than six hundred (600) volts.
- O. All off-premise commercial signs are prohibited except for signs defined as billboards. Off-premise non-commercial speech signs are exempted from this prohibition.
- P. Up to 3 flags containing non-commercial speech only may be displayed upon a lot. Each non-commercial speech flag may not exceed one hundred (100) square feet in size per surface.
- Q. Window Signs are permitted in street facing windows of commercial and industrial zoned buildings provided they do not exceed 25% of the window area which has street frontage.
- R. Building Address signs are not counted towards overall permitted signage on a building.

2. Signs Permitted in Residential Districts.

- A. One (1) building sign for each dwelling not to exceed two (2) square feet in area per surface, and no sign shall be so constructed as to have more than two (2) surfaces.
- B. One (1) building sign for each dwelling group of six (6) or more units. Such sign not to exceed six (6) square feet in area per surface and no sign shall be constructed as to have more than two (2) surfaces.
- C. One (1) building sign for each permitted nonresidential use or use by conditional use permit. Such signs shall not exceed twelve (12) square feet in area per surface and be so constructed as to have more than two (2) surfaces.
- D. Non-residential uses of residential property as provided in this code and multi-family dwelling groups of six (6) or more units may be allowed one (1) freestanding or monument sign not more than thirty two (32) square feet per surface and setback ten (10) feet from property lines.
- E. Symbols, statues, sculptures and integrated architectural features on buildings may be illuminated and must meet the glare standards listed in the zoning ordinance.
- F. Any sign shall be setback at least ten (10) feet from any property line. No sign shall exceed ten (10) feet in height above the average grade level. Signs may be illuminated and must meet the glare standards listed in the zoning ordinance.

3. Signs Permitted in Business Districts.

- A. One (1) freestanding or monument sign per lot for single street frontage lots. In cases where lots have more than one street frontage, such lot shall be allowed up to two (2) freestanding or monument signs which must each be placed on different frontages. The total square footage of all freestanding or monument signs on a lot shall not exceed the sum of one (1) square foot for each front foot of lot, or one hundred (100) square feet, per surface, whichever is smaller. Freestanding or monument signs shall be setback ten (10) feet from any property line. Maximum height is 30 feet from average grade in the B-3 Highway Commercial District and 20 feet from average grade in the B-1 Central Business District and the B-2 Community Commercial District.
- B. No building sign shall extend in height more than six (6) feet above the highest outside wall or parapet of any principal building. Building signs can only be placed on the principal building. Sign area is limited to fifteen (15) percent of the building face in the B-1 Central Business District, the B-2 Community Commercial District and B-3 Highway Commercial District.
- C. Projecting signs shall not exceed the sum of sixteen (16) square feet per surface, and must be located at a height of eight (8) feet above the top of curb elevation of the street. Such signs can project to five (5) feet from the building face, provided that they do not infringe on the public right-of-way.
- D. Electronic Variable Message Signs and Readerboard Signs are permitted as part of the allowed signage only in the B-2 Community Commercial and B-3 Highway Commercial Zoning Districts.
- E. Signs may be illuminated and must meet the glare standards listed in the zoning ordinance.

4. Signs Permitted in Industrial Districts.

- A. One (1) freestanding or monument sign per lot for single street frontage lots. In cases where lots have more than one street frontage, such lot shall be allowed up to two (2) freestanding or monument signs which must each be placed on different frontages. The total square footage of all freestanding or monument signs on a lot shall not exceed the sum of one (1) square foot for each front foot of lot, or one hundred (100) square feet, per surface, whichever is smaller. Freestanding or monument signs shall be setback ten (10) feet from any property line. Maximum height is thirty (30) feet from average grade.
- B. No building sign shall extend in height more than six (6) feet above the highest outside wall or parapet of any principal building. Building signs can only be placed on the principal building. Sign area is limited to fifteen (15) percent of the building face.
- C. Billboard signs are allowed only as the principal use of a lot. Billboards shall not exceed four hundred eighty (480) square feet of sign per surface with a maximum of two sides. Setbacks shall comply with applicable district regulations for principal structures. Billboards shall maintain a spacing of not less than five hundred (500) feet between billboards.

- D. Electronic Variable Message Signs and Readerboard Signs are permitted as part of the allowed signage.
- E. Signs may be illuminated and must meet the glare standards listed in the zoning ordinance.

5. Sign Removal.

Any sign legally existing at the time of the passage of this Ordinance that does not conform to the provisions of this Ordinance shall be considered a legal nonconforming sign and may be continued through repair, replacement, restoration, maintenance or improvement but not including expansion. "Expansion" shall be defined as any structural alteration, change or addition that is made outside of the original sign structure, sign area or design.

Nothing in this section shall prevent the return of a sign structure that has been declared unsafe by the City's Building Inspector to a safe condition.

When any legal nonconforming sign is discontinued for a period of more than one year or is changed to a conforming sign, any future sign shall be in conformity with the provisions of this Ordinance. Any legal nonconforming sign shall be removed and shall not be repaired, replaced, or rebuilt if it is damaged by fire or similar peril to the extent of greater than fifty percent (50%) of its market value at the time of destruction and no sign permit or building permit has been applied for within one hundred and eighty (180) days of the date of destruction. The City's Building Inspector shall be responsible for making the determination of whether a nonconforming sign has been destroyed greater than fifty percent (50%) at the time of destruction. In making the determination the Building Inspector shall consider the market value of the entire sign at the time prior to the destruction and the replacement value of the existing sign. In the event that a building permit or sign permit is applied for within 180 days of the date of destruction, the City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent properties.

6. Sandwich Board Signs.

- A. Sandwich board signs shall be allowed in all zoning districts within the City except that in residential districts sandwich board signs will be permitted only for non-residential uses and uses by conditional use permit.
- B. There shall be only one sandwich board sign allowed for each entity.
- C. Sandwich board signs shall not exceed eight square feet in size per surface area.
- D. Sandwich board signs may be placed on a public sidewalk or within the public right-of-way provided that the sign owner agrees to indemnify the City with respect to the sign and signs a waiver to this effect. Upon application for a sign permit, the sign owner must also provide the City with a certificate of insurance that covers the property in which the sign will be placed and the value of sign. The City must be named as an "additional insured" on the certificate of insurance.

- E. If placed on a sidewalk, a sandwich board sign shall not take up more than three feet of sidewalk width and shall not be placed in the middle of the sidewalk.
 - F. All sandwich board signs require a sign permit which must be obtained prior to placement of the sign. All permit applications shall contain a sketch of the sandwich board sign which includes the sign's dimensions, colors and design. The location of the sign shall also be indicated. Sandwich board sign permits shall not be transferable.
 - G. A copy of the approved sign permit for the sandwich board sign shall be attached to the sandwich board sign at all times. Sandwich boards signs that do not comply with this requirement may be removed and disposed of by the City.
 - H. Sandwich board signs may be removed by the City if they interfere with any City activities (i.e. snow removal, maintenance of the surrounding area, etc.).
 - I. Sandwich board sign permits are valid from the date of issuance until December 31st of each year.
 - J. Sandwich board signs shall be displayed only during the times that the entity is open. No sandwich board sign shall be displayed overnight or when there has been any snow accumulation. Sandwich board signs that do not comply with this requirement may be removed and disposed of by the City.
 - K. Sandwich board signs must either be weighted down or removed when there are wind gusts of 20 m.p.h. or greater.
 - L. Under no circumstances shall a sandwich board sign be used instead of permanent building signage.
7. Exemptions The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of it's compliance with the provisions of this ordinance or any other law or ordinance regulating the same.
- A. The changing of the display surface on a painted or printed sign only.
 - B. Signs six (6) square feet or less in size, per surface, except that sandwich boards must always obtain permits even if they are six (6) square feet or less in size.
 - C. Window Signage as permitted in the general standards.

8. Sign Area Calculations

The area of a sign shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of

the display or used to differentiate the sign from the building facade against which it is placed, but not including any supporting framework, pole or bracing. For monument signs, the method in the previous paragraph shall be used. Only the face that is specifically intended to be used for signage shall be included when computing the sign area. Any base or other supporting structure, along with all adjoining structures such as fences or walls shall not be included when computing the sign area.

CHAPTER 8**LAND AND BUILDING REGULATION****815. SIGNS**

Section 815.01. Purpose. It is hereby declared by the city council that the aesthetic and safety interests of the city are reasonably promoted by the provisions of this ordinance. Accordingly, it is the intent and purpose of this ordinance to provide for the orderly and harmonious display of signs within the city; to aid in the identification of properties and enterprises for the convenience of the public; to avoid the erection of displays which produce deleterious and injurious effects to adjacent properties and to the natural beauty of the environment; to provide for the safety of the traveling public by limiting the distractions, hazards, and obstructions; to minimize visual clutter and encourage a positive visual environment; and to promote the mental and physical health, safety and welfare of the public.

815.03. Definitions. The following words and terms, wherever they occur in this ordinance, are defined as follows:

Subd. 1. "Abandoned Sign" is a sign located on a property which is vacant and/or unoccupied for a period of ninety (90) days; or a sign which is damaged, in disrepair, or vandalized and not repaired within ninety (90) days.

Subd. 2. "Address Sign" is a sign which indicates the address, number and/or the name of occupants of the premises. An Address Sign shall not exceed two (2) square feet in area per side for a residential single family property, eight (8) square feet for a multi-family dwelling building and twelve (12) square feet for a commercial unit building, and shall not include any other messages.

Subd. 3. "Billboard" is any structure or portion thereof on which lettered, figured, or pictorial matter is displayed for advertising purposes and having an area of one hundred (100) square feet or more.

Subd. 4. "Directional Sign" is a sign which is erected for the purpose of guiding vehicles and pedestrian traffic in finding locations on the property where the sign is located. The Directional Sign shall be less than four (4) square feet in surface area, consist of only two surfaces and contain no illumination or additional messages.

Subd. 5. "Flashing Sign" is an illuminated sign on which such illumination is not kept stationary or constant in intensity.

Subd. 6. "Historic Sign" is a sign that memorializes an important historic place, event or person and that is recognized by a governmental entity.

Subd. 7. "Illuminated Sign" is a sign which is illuminated by an artificial light source.

Subd. 8. "Incidental Sign" is a small sign, emblem or decal informing the public of goods, facilities or services available on the premises (e.g. a credit card sign or a sign indicating hours of business) and that does not exceed two (2) square feet.

Subd. 9. "Monument Sign" is a freestanding sign that is attached to the ground by means of a freestanding support structure, solid from grade to the top of the sign structure and is typically encased or supported by masonry materials.

Subd. 10. "Motion Sign" is a sign which revolves, rotates, or has any moving parts.

Subd. 11. "Portable Sign" is a sign so designed as to be movable from one location to another and which is not permanently attached to the ground or any structure, including those on wheels. Portable Signs shall not include any flashing lights.

Subd. 12. "Projecting Sign" is a sign in which all or any part of it extends perpendicular to and projects from a building face, wall or structure and which its primary purpose is other than the support of the sign.

Subd. 13. "Pylon Sign" is a sign erected on a post or posts, or freestanding shafts, walls or piers which is solidly affixed to the ground and not attached to a building.

Subd. 14. "Roof Sign" is a sign erected upon the roof of a structure to which it is affixed or a sign painted on the roof of a structure.

Subd. 15. "Sign" is any letter, word, symbol, device, poster, picture, statuary, reading matter, or representation in the nature of an advertisement, announcement, message, or visual communication, whether painted, posted, printed, affixed, or constructed which is displayed outdoors for informational or communicative purposes.

Subd. 16. "Sign Area" is that area within the marginal lines of the sign surface which bears the announcement, name, advertisement or other message, or, in the case of letters, figures, or symbols attached directly to any part of a building or wall, that area which is included in the smallest rectangle which can be made to circumscribe all letters, the figures, or symbols displayed thereon. The maximum Sign Area for a free standing sign refers to a single surface.

Subd. 17. "Temporary Sign" is a sign which is erected or displayed for a limited period of time, is not illuminated and not of a permanent nature, including banners, inflatable devices or sandwich boards.

Subd. 18. "Vehicle Sign" is any sign that is attached, painted on or placed onto or inside a parked vehicle that is used primarily for any purpose other than the sale or rental of the vehicle itself. Vehicle Signs shall not include signs on trailers, buses, trucks, taxis or other vehicles parked on the vehicle owner's own premise while in the course of business provided that the primary use of the vehicle is not for purposes outside of the premise's business.

Subd. 19. "Wall Sign" is a sign affixed to the exterior wall, awning or canopy of a building or structure with the exposed face of the sign in a plane approximately parallel to the face of said wall, not to project more than twelve (12) inches from the surface to which it is attached.

Subd. 20. "Window Sign" is a sign that is affixed to and not painted on the interior or exterior of a window or glass door or inside a building within three (3) feet back from the building's window or glass door with its message intended to be visible to and readable by the public.

Subd. 21. "Zoning Administrator" is the officer or other person at the city charged with the administration and enforcement of this ordinance, or his or her duly authorized deputy.

815.05. Sign Permit Required; Exceptions; Sign Prohibitions.

Subd. 1. Permit Required. It is unlawful to install, construct, erect, alter, revise, reconstruct or relocate any Sign as defined in this ordinance in the city without first obtaining a permit therefore as required by this ordinance, except as provided in subdivision 2 of this Section.

Subd. 2. Exemptions. A Sign permit need not be obtained for the following Signs, provided that all other applicable requirements of this ordinance are met:

- (a) One Sign smaller than five square feet in area (excluding temporary signs) may be posted on any parcel of land;
- (b) Signs posted by authorized government officials on public land or right-of-way;
- (c) Signs within a business, office, mall or other enclosed area that cannot be seen from the outside;
- (d) Up to two Address Signs per property;
- (e) Incidental Signs;
- (f) Flags. No flag on a flagpole shall exceed forty (40) square feet in area. No single property shall fly more than three (3) flags at one time. Flagpoles shall not exceed forty (40) feet in height. If the total area of the flags exceeds seventy two (72) square feet, the excess area shall be included in any Sign Area calculations for the property. Wall-mounted flags shall be limited to one flag per property and shall not exceed twenty (20) square feet in area; and
- (g) Handicapped parking Signs.

Subd. 3. Prohibited Signs. The following signs are prohibited in all zoning districts.

- (a) Abandoned Signs;
- (b) Billboards;
- (c) Flashing Signs;
- (d) Motion Signs;
- (e) Roof Signs;
- (f) Vehicle Signs; and
- (g) Signs posted within the public right-of-ways and public property, excluding Directional Signs and Signs expressly allowed herein and by other governmental agencies.

Section 815.07. Permitted Signs in all Zoning Districts. The following Signs are permitted in all zoning districts. A Sign permit is required for each Sign.

Subd. 1. Signs on Construction Sites. Two Signs shall be permitted upon a construction site in any zoning district. Each Sign shall not exceed sixty-four (64) square feet in area per surface; shall be limited to a single surface; shall be located upon the subject construction site; shall be set back ten (10) feet from the right-of-way; and shall be removed upon completion of the construction site improvements and release of the financial guarantee.

Subd. 2. Temporary Signs. No Sign permit shall be issued by the city for a Temporary Sign for a duration of more than twenty-one (21) days at one time or for more than three (3) twenty-one day periods in any calendar year. Permit periods may run consecutively without interruption if approved by the city. Only one (1) Temporary Sign shall be allowed on a property at one time. In cases of properties with multiple tenants, one (1) Temporary Sign per tenant shall be allowed at one time.

Subd. 3. Portable Signs. No Sign permit shall be issued by the city for a Portable Sign for a duration of more than fourteen (14) days at one time and no more than one time per quarter of a calendar year.

Section 815.09. Residential District Signs.

Subd. 1. General Provisions. In addition to the Signs allowed in Section 815.07, the following Signs are permitted in Residential Districts. A Sign permit is required for each Sign. No Sign in a Residential District shall exceed six (6) feet in height.

Subd. 2. Permitted Signs. The following additional types of Signs are permitted in Residential Districts:

- (a) Directional Signs. One (1) Directional Sign is permitted for each property;
- (b) Monument Signs. Monument Signs are permitted at the entrance of a residential subdivision but shall be no greater than thirty (30) square feet and be landscaped around the perimeter of the base of the Sign. The landscaping shall cover at least

two (2) times the total area of the Monument Sign base. The Monument Sign shall be set back at least ten (10) feet from the curb or right-of-way. If illuminated, the Monument Sign shall meet the applicable luminary requirements set forth in Section 829 of the city's ordinances; and

- (c) Home Occupation Signs. Home occupation Signs shall be approved by the city council in conjunction with a conditional use permit for the home occupation. The home occupation Sign shall be no greater than eight (8) square feet, have only one (1) side, be set back at least ten (10) feet from the right-of-way. The home occupation Sign shall be landscaped around the perimeter of the base of the Sign. The landscaping shall cover at least two (2) times the total area of the home occupation Sign base.

Section 815.11. Urban and Rural Commercial District Signs.

Subd. 1. General Provisions. In addition to the Signs allowed in Section 815.07, the following Signs are permitted in Urban and Rural Commercial Districts. A Sign permit is required for each Sign. All Signs in Urban and Rural Commercial Districts shall be integrated with the design and architecture of any buildings or structures on the property in terms of materials, style, color and placement. If the Sign is illuminated, it shall meet the applicable luminary requirements set forth in Section 829 of the city's ordinances.

Subd. 2. Maximum Sign Area. The Signs on an Urban and Rural Commercial District Property may consist of any of the types of Signs permitted by this Ordinance, but the Signs shall not exceed the following total Sign Area:

Lot Size (Acres)	Maximum Total Sign Area
< 1 Acre	100 Square Feet
1.1 – 5 Acres	150 Square Feet
5.1 – 20 Acres	200 Square Feet

Subd. 3. Permitted Signs. The following additional types of Signs are permitted in Urban and Rural Commercial Districts:

- (a) Directional Signs. Directional Signs shall be only permitted for properties utilizing a drive-thru or that have loading or staging areas. Two (2) Directional Signs are permitted for each property. The Directional Signs shall be set back at least five (5) feet from the curb or right-of-way;
- (b) Monument Signs. A Monument Sign shall not be greater than ten (10) feet in height. The Monument Sign's height shall be calculated by averaging the measurements of the final grade in elevation around the perimeter of the bottom of the Sign to the top of the Sign, with measurements in at least four (4) different places around the Sign required. The Monument Sign shall be landscaped around the perimeter of the base of the Sign. The landscaping shall cover at least two (2) times the

total area of the Monument Sign base. A Monument Sign shall be set back at least twenty (20) feet from all lot lines of the property, with the exception that the Monument Sign may be set back only ten (10) feet from the front lot line of the property if it is located at least twenty-five (25) feet from the side lot lines;

- (c) Multi-Tenant Wall Signs. A Multi-Tenant Wall Sign shall not be larger than eight (8) percent of the area of the wall on which it is located or the square feet specified above, whichever is less. The Sign shall be centered on the wall;
- (d) Projecting Signs. A Projecting Sign shall not extend any more than twelve (12) inches away from the surface of a building face, wall or surface. All Projecting Sign surfaces shall count toward the total Sign Area allowed by this Section. No Projecting Signs shall exceed three (3) feet in height;
- (e) Pylon Signs. No Pylon Sign shall exceed fifteen (15) feet in height. The Pylon Sign's height shall be calculated by averaging the measurements of the final grade in elevation around the perimeter of the bottom of the Sign to the top of the Sign, with measurements in at least four different places around the Sign required. The Pylon Sign shall be landscaped around the perimeter of the base of the Sign. The landscaping shall cover at least two (2) times the total area of the Pylon Sign base. A Pylon Sign shall be set back at least twenty (20) feet from all lot lines of the property, with the exception that the Pylon Sign may be set back only ten (10) feet from the front lot line of the property if it is located at least twenty-five (25) feet from the side lot lines.

One (1) Pylon Sign is permitted for each gasoline service station, provided that said Sign does not exceed thirty (30) feet in height, is no more than sixty-four (64) square feet in Sign Area and maintains a minimum setback of ten (10) feet from any public right-of-way. Said gasoline service station Pylon Sign shall be allowed in addition to all other permitted Signs. As an alternative, the gasoline service station may have up to three (3) Signs totaling eighty (80) square feet of Sign Area if one surface is used and one hundred and sixty (160) square feet if two surfaces are used, provided that all such Signs are attached to the same post or other structure, provided however, that such Signs shall not be internally illuminated, shall not exceed six (6) square feet in Sign Area per surface and may be placed at a zero (0) foot setback;

- (f) Wall Signs. No Wall Sign shall exceed sixty four (64) square feet in total Sign Area. The Wall Sign shall be centered on the wall to which it is attached; and
- (g) Window Signs. Window Signs shall be limited to one per property or establishment. All Window Signs shall not exceed fifty (50) percent of the window on which it is placed.

Section 815.13. Business Park District Signs.

Subd. 1. General Provisions. In addition to the Signs allowed in Section 815.07, the following Signs are permitted in Business Park Districts. A Sign permit is required for each Sign. All Signs in Business Park Districts shall be integrated with the design and architecture of any buildings or structures on the property in terms of materials, style, color, and placement and the requirements set forth in Section 832 of the city's ordinances. If the Sign is illuminated, it shall meet the applicable luminary requirements set forth in Section 829 of the city's ordinances.

Subd. 2. Maximum Sign Area. The Signs on a Business Park District property may consist of any of the types of Signs permitted by this ordinance, but the Signs shall not exceed the following total Sign Area:

Lot Size (Acres)	Maximum Total Sign Area
5.1 – 10 Acres	175 Square Feet
10.1 – 15 Acres	250 Square Feet
> 15.1 Acres	275 Square Feet

Subd. 3. Permitted Signs. The following additional types of Signs are permitted in the Business Park District:

- (a) **Directional Signs.** Directional Signs shall be only permitted for properties that utilize a shared private driveway or private road. Three (3) Directional Signs are permitted for each property. The Directional Signs shall be set back at least five (5) feet from the curb or right-of-way;
- (b) **Monument Signs.** A Monument Sign shall not be greater than ten (10) feet in height. The Monument Sign's height shall be calculated by averaging the measurements of the final grade in elevation around the perimeter of the bottom of the Sign to the top of the Sign, with measurements in at least four (4) different places around the Sign required. The Monument Sign shall be landscaped around the perimeter of the base of the Sign. The landscaping shall cover at least two (2) times the total area of the Monument Sign base. A Monument Sign shall be set back at least twenty (20) feet from all lot lines of the property, with the exception that the Monument Sign may be set back only ten (10) feet from the front lot line of the property if it is located at least twenty-five feet from the side lot lines;
- (c) **Multi-Tenant Wall Sign.** A Multi-Tenant Wall Sign shall not be larger than eight (8) percent of the area of the wall on which it is located or the square feet specified above, whichever is less. The Sign shall be centered on the wall;
- (e) **Pylon Sign.** No Pylon Sign shall exceed fifteen (15) feet in height. The Pylon Sign's height shall be calculated by averaging the measurements of the final grade in elevation around the perimeter of the bottom of the Sign to the top of the Sign, with measurements in at least four different places around the Sign required. The

Pylon Sign shall be landscaped around the perimeter of the base of the Sign. The landscaping shall cover at least two (2) times the total area of the Pylon Sign base.

A Pylon Sign shall be set back at least twenty (20) feet from all lot lines of the property, with the exception that the Pylon Sign may be set back only ten (10) feet from the front lot line of the property if it is located at least twenty-five (25) feet from the side lot lines;

One (1) Pylon Sign is permitted for each gasoline service station, provided that said Sign does not exceed thirty (30) feet in height, is no more than sixty-four (64) square feet in Sign Area and maintains a minimum setback of ten (10) feet from any public right-of-way. Said gasoline service station Pylon Sign shall be allowed in addition to all other permitted Signs. As an alternative, the gasoline service station may have up to three (3) Signs totaling eighty (80) square feet of Sign Area if one surface is used and one hundred and sixty (160) square feet if two surfaces are used, provided that all such Signs are attached to the same post or other structure, provided however, that such Signs shall not be internally illuminated, shall not exceed six (6) square feet in Sign Area per surface and may be placed at a zero (0) foot setback; and

- (f) Wall Signs. No Wall Sign shall exceed one hundred (100) square feet in total Sign Area. The Wall Sign shall be centered on the wall to which it is attached.

Section 815.15. Industrial Park District Signs.

Subd. 1. General Provisions. In addition to the Signs allowed in Section 815.07, the following Signs are permitted in Industrial Park Districts. A Sign permit is required for each Sign. All Signs in the Industrial Park District shall be integrated with the design and architecture of any buildings or structures on the property in terms of materials, style, color, and placement and the requirements set forth in Section 833 of the city's ordinances. If the Sign is illuminated, it shall meet the applicable luminary requirements set forth in Section 829 of the city's ordinances.

Subd. 2. Maximum Sign Area. The Signs on an Industrial Park District property may consist of any of the types of Signs permitted by this ordinance, but the Signs shall not exceed the following total Sign Area:

Lot Size (Acres)	Maximum Total Sign Area
5.1 – 10 Acres	175 Square Feet
10.1 – 15 Acres	250 Square Feet
> 15.1 Acres	275 Square Feet

Subd. 3. The following additional types of Signs are permitted in Industrial Park Districts:

- (a) Directional Signs. Directional Signs shall only be permitted for properties that have loading and staging areas or that utilize a shared private driveway or private road. Three (3) Directional Signs are permitted for each Property. The Directional Signs shall be set back at least five (5) feet from the curb or right-of-way;
- (b) Monument Signs. A Monument Sign shall not be greater than ten (10) feet in height. The Monument Sign's height shall be calculated by averaging the measurements of the final grade in elevation around the perimeter of the bottom of the Sign to the top of the Sign, with measurements in at least four (4) different places around the Sign required. The Monument Sign shall be landscaped around the perimeter of the base of the Sign. The landscaping shall cover at least two (2) times the total area of the Monument Sign base. A Monument Sign shall be set back at least twenty (20) feet from all lot lines of the property, with the exception that the Monument Sign may be set back only ten (10) feet from the front lot line of the property if it is located at least twenty-five feet from the side lot lines;
- (c) Multi-Tenant Wall Sign. A Multi-Tenant Wall Sign shall not be larger than eight (8) percent of the area of the wall on which it is located or the square feet specified above, whichever is less. The sign shall be centered on the wall; and
- (f) Wall Sign. No Wall Sign shall exceed one hundred (100) square feet in total Sign Area. The Wall Sign shall be centered on the wall to which it is attached.

Section 815.17. Uptown Hamel District Signs.

Subd. 1. General Provisions. In addition to the Signs allowed in Section 815.07, the following signs are permitted in the Uptown Hamel District. A Sign permit is required for each Sign. All Signs in the Uptown Hamel District shall be integrated with the design and architecture of any buildings or structures on the property in terms of materials, style, color, and placement and the requirements set forth in Section 834 of the city's ordinances. If the Sign is illuminated, it shall meet the applicable luminary requirements set forth in Section 829 of the city's ordinances.

Subd. 2. Maximum Sign Area. The Signs on an Uptown Hamel District Property may consist of any of the types of Signs permitted by this Ordinance, but the Signs shall not exceed the following total Sign Area:

Lot Size (acres)			Maximum Size of Sign Face (Sq. Feet)			
	Maximum Total Sign Area Allowed (Sq. Feet)	Ground Sign (Max. Height 10 Ft.)	Wall Signs	Historic Sign	Maximum Size for Real Estate signs (Sq. Feet)	Porch Sign
< .1	100	32	64	5	32	2
.11 to .5	100	32	80			
.51 to 1	100	32	90			
> 1	100	40	100			

Subd. 3. Permitted Signs. The following additional types of Signs are permitted in the Uptown Hamel District:

- (a) **Porch Signs.** No more than one (1) porch Sign shall be permitted for each property. Porch signs shall include signs within or on overhangs, canopies or arcades. All porch Signs larger than two (2) square feet in Sign Area shall be located on the outside portion of the porch;
- (b) **Monument Signs.** The Monument Sign shall be landscaped around the perimeter of the base of the Sign. The landscaping shall cover at least two (2) times the total area of the Monument Sign base;
- (c) **Wall Signs.** No Wall Sign shall be greater than ten (10) percent of the area of the wall on which it is located. A Wall Sign shall be centered on the wall to which it is attached;
- (d) **Multi-Tenant Wall Sign.** A Multi-Tenant Wall Sign shall not be greater than eight (8) percent of the area of the wall on which it is located or the square feet specified above, whichever is less. The Sign shall be centered on the wall;

- (e) Historic Signs. Historic Signs shall not be counted in the total Sign Area for the property if the Historic Sign is less than five (5) square feet in Sign Area;
- (f) Projecting Signs. A Projecting Sign shall not extend any more than twelve (12) inches back from the surface of a building face, wall or surface. If the Projecting Sign extends more than six (6) inches back from the building face, wall or surface, the Sign shall provide a height clearance underneath it of at least seven and one-half (7.5) feet.. No Projecting Sign shall exceed three (3) feet in height; and
- (g) Window Signs. Window Signs shall only be permitted for special occasions and shall be subject to the same restrictions as Temporary Signs.

Section 815.19. Public-Semi Public District Signs.

Subd. 1. General Provisions. In addition to the Signs allowed in Section 815.07, the following Signs are permitted in Public-Semi Public Districts. A Sign permit is required for each Sign. All Signs in Public-Semi Public Districts shall be integrated with the design and architecture of any buildings or structures on the property in terms of materials, style, color, and placement. If the Sign is illuminated, it shall meet the applicable luminary requirements set forth in Section 829 of the city's ordinances.

Subd. 2. Maximum Sign Area. The Signs on a Public-Semi Public District property may consist of any of the types of Signs permitted by this Ordinance, but the Signs shall not exceed the following total Sign Area:

Lot Size (Acres)	Maximum Total Sign Area
< 1 Acre	50 Square Feet
1.1 – 5 Acres	75 Square Feet
5.1 – 20 Acres	100 Square Feet

Subd. 3. Permitted Signs. The following additional types of Signs are permitted in Public-Semi Public Districts:

- (a) Monument Signs. A Monument Sign shall not consist of more than fifty (50) square feet of Sign Area. A Monument Sign shall not be greater than ten (10) feet in height. The Monument Sign's height shall be calculated by averaging the measurements of the final grade in elevation around the perimeter of the bottom of the Sign to the top of the Sign, with measurements in at least four (4) different places around the Sign required. The Monument Sign shall be landscaped around the perimeter of the base of the Sign. The landscaping shall cover at least two (2) times the total area of the Monument Sign base. A Monument Sign shall be set back at least twenty (20) feet from all lot lines of the property, with the exception that the Monument Sign may be set back only ten (10) feet from the front lot line of the property if it is located at least twenty-five feet from the side lot lines;
- (b) Wall Sign. No wall sign shall exceed thirty-two (32) square feet in total Sign Area. The sign shall be centered on the wall to which it is attached.

Section 815.21. General Sign Location, Design and Construction Requirements.

Subd. 1. General Requirements. All Signs shall conform to the requirements of this Section whether or not a Sign permit is required. All Signs shall be constructed in such a manner and of such material that they shall be safe and substantial. All Signs shall be properly secured, supported and braced and shall be kept in good repair so that public safety and traffic safety are not compromised

Subd. 2. Maintenance. The area on the property around the Sign on which it is erected shall be properly maintained and clear of brush, long grass, weeds, debris, rubbish and other obstacles. All burned-out light bulbs or damaged panels on a Sign shall be immediately replaced.

Subd. 3. Sign Copy. All Sign copy shall be fastened securely to the Sign face and maintained on a regular basis. Any missing Sign copy shall be replaced immediately. Any Sign copy that is outdated must be removed within thirty (30) days.

Subd. 4. Location. No Sign shall be located so as to obscure any existing Sign. No sign other than a governmental sign shall be erected or temporarily placed within any street right-of-way or upon any public easement. No Sign shall be attached or placed upon any building in such a manner as to obstruct any window or door or fire escape or be attached to any fire escape. The minimum clearance of any Sign from unprotected electrical conductors shall be not less than thirty-six (36) inches for conductors carrying not over six hundred (600) volts and forty-eight (48) inches for conductors carrying more than six hundred (600) volts.

Subd. 5. Interference with Traffic. A Sign shall not be located within fifty (50) feet of any street, traffic sign or signal, intersection, driveway or crosswalk. A Sign may be located closer than fifty (50) feet if it can be shown that the Sign will not interfere with the ability of drivers and pedestrians to see the traffic sign or signal, intersection, driveway or crosswalk, and the Sign will not distract drivers nor cause any interference with such traffic sign or signal.

Subd. 6. Illumination. Illuminated signs shall be subject to the electrical requirements of the electrical code of the State of Minnesota. Illuminated signs shall also be subject to the requirements of Section 829 of the city's ordinances.

Subd. 7. Temporary Signs. Temporary Signs shall be designed so that they are not readily overturned. Temporary Signs shall not be hung or installed so as to cover, either partially or completely, any door, window or opening required for ventilation.

(a) Banners shall be strongly constructed and be securely attached to their supports. They shall be repaired or removed as soon as they are damaged or torn.

(b) Changeable copy Signs shall not obscure motorist or pedestrian vision and shall not block or otherwise interfere with a public or private sidewalk or trail. Such Signs may be illuminated provided said illumination is not a nuisance to motorists or to

adjoining properties. Flashing lights, strobe lights or lights which could be confused with an emergency vehicle shall be prohibited.

- (c) Inflatable Devices shall be securely tethered and attached to the ground or building. No Mylar or metallic balloons shall be permitted to be displayed or flown outside.

Section 815.23. Sign Permit Applications. The owner or occupant of the property on which a Sign is to be erected, or the owner or installer of such Sign, shall file an application with the city Zoning Administrator for a Sign permit. Sign permits must be acquired for all new, relocated, modified, or redesigned Signs except those specifically excepted in this ordinance.

Subd. 1. Required Information. An application for a Sign permit shall include the following information:

- (a) The name, address and telephone number of the applicant;
- (b) The legal description and address of the property to which the Sign is to be placed;
- (c) A site plan complete with the description of the Sign, a scaled drawing showing the Sign's size, location, manner of construction, landscaping, color, construction materials and lighting details;
- (d) A blueprint or ink drawing of the plans and specifications and the method of construction and attachment of the Sign;
- (e) A certified survey with the existing and proposed grading of the site location for which the Sign will be placed if the Sign construction will disturb more than fifty (50) cubic yards of earth. The certified survey shall show the existing and proposed site elevations in two (2) foot contours, drainage patterns and silt fence location for erosion control for the proposed site;
- (f) The name of the person or entity erecting the Sign, if not the applicant, or the name of the person on whose property the Sign is to be located, if not the applicant;
- (g) The written consent of the owner of the property, if not the applicant;
- (h) A statement as to whether the Sign will be illuminated or not;
- (i) A statement as to whether any electric lights on the Sign will be flashing or not;
- (j) A statement as to whether the Sign will be single faced, double-faced or multi-faced; and
- (k) Such other information as shall be required by the Building Inspector and/or the Zoning Administrator.

Subd. 2. Permit Fees. The application for a Sign permit shall be accompanied by the required Sign permit fee and any applicable building permit fee. The Sign permit and building permit fees shall be established by resolution of the city council.

Subd. 3. Master Signage Plan. A master signage plan shall be included for any Sign permit applications that involve any residential, mixed-use, commercial, business park and industrial planned unit developments that include multiple structures and/or substantial site area and/or mixed uses. The master signage plan must address the visibility needs of the entire development area, while remaining consistent with the intent of this ordinance to require high quality signage. The master signage plan shall also include permanent Sign covenants which can be enforced by the city.

Subd. 4. Sign Permit Issuance/Denial. Provided that the Sign permit application is complete and approved by the Zoning Administrator, all fees have been paid, and the proposed Sign and the property upon which the Sign is to be placed are within the requirements of the ordinance and all other ordinances, statutes and regulations, the Zoning Administrator shall then issue the Sign permit. In the event that the Zoning Administrator determines that all requirements for approval have not been met, he or she shall promptly notify the applicant of such fact and shall automatically deny the Sign permit. Notice shall be made in writing and sent to the applicant's address listed on the Sign permit application.

Subd. 5. Inspection. The Zoning Administrator or Building Inspector shall inspect the property for which a Sign permit is issued on or before six (6) months from the date of issuance of the Sign permit. If the Sign construction is not substantially complete within six (6) months from the date of issuance, the Sign permit shall be revoked. If the construction is substantially complete, but not in full compliance with this ordinance, other ordinances and applicable codes, the Zoning Administrator shall give the applicant notice of the deficiencies and shall allow an additional thirty (30) days from the date of the inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the Sign permit shall be revoked.

Subd. 6. Sign Permit Expiration. A Sign permit shall become null and void if the Sign for which the Sign permit was issued has not been completed and installed within six (6) months after the date of issuance. No refunds shall be made for permit fees paid for Sign permits that expired due to failure to erect a permitted Sign. If later an individual decides to erect a Sign at the same location, a new Sign permit application must be processed and another permit fee shall be paid in accordance with the fee schedule applicable at such time.

Subd. 7. Revocation. Should it be determined by the city that a Sign permit was issued pursuant to an incomplete application or an application containing a false material statement, or that the Sign permit has been erroneously issued in violation of this ordinance, the Zoning Administrator shall revoke the Sign permit.

Section 815.25. Enforcement.

Subd. 1. Notice. Any person who violates any provision of this ordinance shall receive a notice of the violation by hand delivery or mail indicating that he or she must correct the violation within seven (7) days of the date of the notice.

Subd. 2. Penalties. Any person convicted of violating this ordinance shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment as specified by state statute. Each day in which the violation continues to occur shall constitute a separate offense. Violation of any provision of this ordinance shall also be grounds for revocation of a Sign permit by the city.

Section 815.27. Appeal. An applicant whose Sign permit has been denied or a permittee whose Sign permit has been revoked may appeal the decision of the Zoning Administrator to the city council provided he or she files written notice of an appeal with the Zoning Administrator within fifteen (15) business days of notice of the Zoning Administrator's decision. Such appeal shall be considered by the city council at its next regularly scheduled meeting held after the city's receipt of the written notice of appeal, provided that the notice of appeal is received by the city a minimum of five (5) full business days before the meeting. The city council shall conduct an appeal hearing and allow the applicant and any of his or her witnesses to address the council and to submit additional information. The city council shall make its final determination on the appeal no more than thirty (30) business days after the appeal hearing. The city council shall notify the applicant of its decision and provide reasons for that decision. The applicant may appeal the city council's decision to the court of appeals by writ of certiorari.

Section 815.29. Nonconforming Signs. Any Sign legally existing at the time of the passage of this ordinance that does not conform to the provisions of this ordinance shall be considered a legal Nonconforming Sign and may be continued through repair, replacement, restoration, maintenance, or improvement but not including expansion. "Expansion" shall be defined as any structural alteration, change or addition that is made outside of the original Sign structure, Sign Area or design.

Subd. 1. Nothing in this ordinance shall prevent the return to a safe condition of a sign structure that has been declared unsafe by the Building Inspector.

Subd. 2. When any legal Nonconforming Sign is discontinued for a period of more than one (1) year, or is changed to a conforming Sign, any future Sign shall be in conformity with the provisions of this ordinance.

Subd. 3. Any legal Nonconforming Sign shall be removed and shall not be repaired, replaced, or rebuilt if it is damaged by fire or other similar peril to the extent of greater than fifty (50) percent of its market value at the time of destruction and no Sign permit or building permit (if applicable) has been applied for within one hundred and eighty (180) days of the date of destruction. The city's Building Inspector shall be responsible for making the determination whether a Nonconforming Sign has been destroyed greater than fifty (50) percent of its market value at the time of destruction. In making the determination, the Building Inspector shall consider the market value of the entire Sign at the time prior to the destruction and the replacement value of the existing Sign. In the

event a building permit is applied for within one hundred and eighty (180) days of the date of destruction and the Sign did not withstand damage greater than fifty (50) percent of its market value at the time of destruction, the city may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent properties.

Subd. 4. A lawful Nonconforming Sign shall not be changed to a similar Nonconforming Sign or to a more restrictive Nonconforming Sign.

Section 815.31 Variances. Upon application by the property owner, the planning commission may recommend and the city council may grant variances from the requirements of this ordinance in instances where the applicant for a variance has demonstrated that all of the following standards have been met:

Subd. 1. Variance Standards. A request for a variance must meet all of the following conditions:

- (a) Because of the physical surroundings, shape, topography or condition of the property involved, a hardship to the applicant would result if the strict letter of the ordinance was carried out;
- (b) The conditions upon which the variance is based are unique to the applicant's property and not generally applicable to the other property within the same zoning district;
- (c) The hardship arises from the requirements of this ordinance and has not been created by persons presently or formerly having any interest in the property;
- (d) A granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located; and
- (e) The variance is not a request to permit a type of Sign which otherwise is prohibited by this ordinance.

Subd. 2. Conditions and Restrictions. Upon the granting of a variance, the city council may impose conditions and restrictions consistent with the spirit and intent of this ordinance or any other applicable ordinances. In all instances, the applicant shall be solely responsible for any applicable costs and fees incurred by the city for review of the variance request by the city staff and any consultants. A variance shall be granted or denied by the city council in writing accompanied by specific findings of fact as to the necessity for the granting or denial of the variance and any specific conditions and restrictions.

Section 815.33. Severability and Conflict. This ordinance and its parts are declared to be severable. If any section, subsection, clause, sentence, word, provision, or portion of this

ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, this decision shall not affect the validity of the ordinance as a whole. All parts of this ordinance not declared invalid or unconstitutional shall remain in full force and effect as if such portion so declared or adjudged unconstitutional or invalid were not originally part of this section, even if the surviving parts of the ordinance result in greater restrictions after any unconstitutional or invalid provisions are stricken. The city council declares that it would have enacted the remaining parts of the section if it had known that such portion thereof would be declared or adjudged unconstitutional or invalid. If any part of this ordinance is found to be in conflict with any other ordinance or with any part of this ordinance, the most restrictive or highest standard shall prevail. If any part of this ordinance is explicitly prohibited by federal or state statute, that part shall not be enforced.

Amendment History of this Section

Amended March 16, 1999 (Ord. 310). Comprehensive revision, most sections were amended.

Adopted August 2, 2006 (Ord. 410). Previous language of section 815 was deleted in its entirety and replaced with the language from Ordinance 410.

CITY OF ORONO

DIVISION 4. SIGNS

Sec. 78-1466. Signs as accessory use.

Signs are a permitted accessory use in all districts subject to the following regulations:

- (1) *On right-of-way.* Private signs are prohibited within the public right-of-way or easements, except that the council may grant a conditional use permit to locate signs and decorations on or within the right-of-way under their jurisdiction for a specified time not to exceed 90 days. No conditional use permit for such a sign shall be issued by the council if a conditional use permit or temporary sign permit had been issued in the previous 24 months to that property.
- (2) *Flashing.* Illuminated flashing signs shall not be permitted in any district.
- (3) *Beams.* Illuminated signs or devices giving off an intermittent, steady or rotating beam consisting of a collection or concentration of rays of light shall not be permitted in any district.
- (4) *Sales signs.* For purpose of selling, renting or leasing property, a sign not in excess of ten square feet per surface may be placed within the front yard of such property to be sold or leased. Such signs shall not be less than 15 feet from the right-of-way line unless flat against the structure. For the purpose of selling or promoting a residential project of six or more dwelling units, one sign not to exceed 48 square feet; a commercial area of three acres or more, or an industrial area of ten acres or more, one sign not to exceed 96 feet of advertising surface, may be erected upon the project site. Such sign shall not remain after 90 percent of the project is developed.
- (5) *Existing signs.* Signs existing on September 14, 1967, which do not conform to the regulations are a nonconforming use.
- (6) *Traffic interference.* No sign may be erected that, by reason of position, shape or color, would interfere in any way with the proper functioning or purpose of a traffic sign or signal.
- (7) *Building wall signs.* Signs shall not be painted directly on the outside wall of the building. Signs shall not be painted on a fence, rocks or similar structure or feature in any district. Paper and similar signs shall not be permanently attached directly to a building wall by an adhesive or similar means (temporary use of such signs is permitted per standards set forth in subsection (8) of this section). Signs shall be considered as a structure or fastened to another structure.

(8) *Temporary signs.*

a. There shall be no more than four temporary business signs issued per calendar year, and for a period of not more than ten days per time or of the duration of the event promoted by the sign message, whichever is less. The sign (including banners or balloons), sign supports or portable stand shall be removed from public view at the end of the period. Total area of the sign shall not exceed 32 square feet per surface (64 square feet total signage allowed for two-sided portable sign). Advertising balloons are not subject to area restrictions but must meet all applicable federal and state standards.

b. There shall be no more than one temporary sign in any required yard area, and, if separate multiple signs are proposed, the total area of the signs shall not exceed 32 square feet. Temporary business signs require a building permit from the city. No such permit shall be issued by the city if a conditional use permit under section 78-1467(1)c has been issued to a residential property. No temporary sign shall be allowed in residential zones unless permitted as election or sale signs under this section. Multitenant buildings shall be considered as a single property for purposes of subsection (8) of this section; and the use of the single temporary business sign by tenants on the property shall be the responsibility of the property owner or designated manager, who shall endorse in writing all applications for sign permits.

c. The owner or manager of the sign and the owner of the property shall be equally responsible for the proper location, maintenance and removal of the sign. All temporary signs shall be located on a property so that they do not impede safety by obstructing vision of pedestrians or motor vehicle operators.

d. The city may, without notice, remove any temporary sign erected in violation of this section or any other federal, state, or local law or ordinance. Any signs not claimed within 30 days after removal may be destroyed by the city.

(9) *Election signs* . Election signs are permitted on private property in any district, provided such signs are removed within ten days following the election as related to the signs. No election sign shall be permitted in any district sooner than August 1 for any state general election, and no sooner than two months prior to the election for an election other than a state general election.

(10) *Pylon sign*. A sign supported by a post or posts so that the sign and supports are finished to grade by encasing the posts in a material consistent with the sign and where the base width dimension is a minimum of ten percent up to and including 50 percent of the greatest width of the sign.

(11) *Monument signs*. One monument sign, limited to two faces is allowed per frontage per property, with a maximum of two. The areas of sign base, the supporting background structure, and the sign copy shall be combined for determining the total square footage and the height of the monument sign.

- a. The total allowable square footage shall not exceed 100 square feet per side. The base and supporting material shall constitute at least 25 percent of the total square footage.
- b. The base width dimension is 50 percent or more of the greatest width of the sign.
- c. The sign copy area shall have a minimum clearance of 20 inches above ground level.
- d. The sign copy area shall be completely enclosed within the monument materials.
- e. No portion of the sign or sign structure shall exceed ten feet above ground level.
- f. The monument sign base shall be constructed of materials similar in appearance to those of the principal structure and shall consist of brick, natural stone, stucco, textured cast stone, or integrally colored concrete masonry units. The structure surrounding the face of the sign from the base to the top of the sign must be solid, continuous, and consist of the base materials or complementary materials that match the appearance and color of the principal building.
- g. The 200 square feet of ground area around the base of the monument sign shall be landscaped with shrubs or perennials.

(Code 1984, § 10.61(1); Ord. No. 97 2nd series, §§ 2, 3, 8-26-1991; Ord. No. 6 3rd series, § 1, 4-26-2004; Ord. No. 35 3rd series, §§ 1, 2, 11-13-2006)

Sec. 78-1467. Signs in R districts.

Within R districts, the following signs are permitted:

(1) *Nameplates.*

- a. One nameplate sign for each dwelling, and such sign shall not exceed two square feet in area per surface, and no sign shall be so constructed as to have more than two surfaces.
- b. One nameplate sign for each dwelling group of six or more units, and such sign shall not exceed six square feet in area per surface, and no sign shall be so constructed as to have more than two surfaces.
- c. One nameplate sign for each permitted use or use by conditional permit other than residential, and such sign shall not exceed 12 square feet in area per surface.

(2) *Illumination.* Symbols, statues, sculptures and integrated architectural features on nonresidential buildings may be illuminated by floodlights provided the direct source of light is not visible from the public right-of-way or adjacent residential district.

(3) *Setbacks.* Any sign over one-half square foot shall be set back at least five feet from any property line. No sign shall exceed eight feet in height above the average grade level. Signs may be illuminated, but such lighting shall be diffused or indirect.

(4) *Home occupations.* One nameplate sign containing name and address but not to contain business name or type of business, and such sign shall not exceed two square feet in area per surface, nor contain more than two surfaces.

(Code 1984, § 10.61(2); Ord. No. 221 2nd series, § 5, 9-23-2002)

Sec. 78-1468. Signs in B and I districts.

Within the B and I districts, wall and monument signs are permitted subject to the following regulations:

(1) *B-1, B-2 and B-4: size.* Within the B-1, B-2 and B-4 districts, the aggregate square footage of sign space per lot shall not exceed the sum of one square foot for each front foot of building, plus one square foot for each front foot of lot not occupied by a building. No individual sign shall exceed 50 square feet.

(2) *B-3: size.* Within the B-3 district, the aggregate square footage of sign space per lot shall not exceed the sum of four square feet per front foot of building, plus one square foot per front foot of property not occupied by a building. No individual sign surface shall exceed 100 square feet.

(3) *I:* Within the I District, signs shall be permitted according to the regulations in section 78-832.

(4) *B-1, B-2 and B-4: height.* Within the B-1, B-2 and B-4 districts, no sign shall extend in height more than two feet above the highest outside wall or parapet of any principal building, nor shall any sign be located closer than ten feet from any property line; except that any sign over ten square feet may project two feet into any required yard area from the principal building.

(5) *B-3 and I: height.* Within any B-3 or I district, no sign shall extend in height more than six feet in height above the highest outside wall or parapet of any principal building. No sign shall be located closer than ten feet from any property line, except that any sign exceeding ten square feet may project only two feet into the yard area from any building.

(Code 1984, § 10.61(3); Ord. No. 6 3rd series, § 2, 4-26-2004; Ord. No. 32 3rd series, § 5, 3-27-2006)

SIGNS

§ 151.115 PURPOSE.

Signs have an impact on the rural character and quality of the environment in Lake Elmo. They may attract or repel the viewing public and affect the safety of vehicular traffic. As a rural community, Lake Elmo is unique. The proper control of signs is of particular importance because of this rural quality and uniqueness. Signs should be kept within reasonable boundaries consistent with the objectives and goals of the community to retain its special character and economic advantages which rest in part on the quality of its appearance. The following standards in the section are adopted to regulate signs.

(1997 Code, § 535.01)

§ 151.116 PERMIT REQUIRED.

(A) All signs require a sign permit as set forth in §§ 151.115 *et seq.*

(B) A sign permit application containing the following information shall be filed with the City Planner:

(1) A drawing of the proposed sign, or signs, showing dimensions and describing materials, lettering, colors, illumination, and support systems;

(2) Photographs of the building face and the building faces of both adjacent buildings;

(3) A drawing of the building face and site plan showing the location of the proposed sign(s) if necessary;

(4) A cross-section of the building face showing how the sign will be attached and how far it will extend from the building;

(5) Any pictorial proof or other information that the sign is of historical significance or is a reproduction of an historic sign as appropriate; and

(6) A building sign plan for a building with more than 1 use or business, showing all signs.

(1997 Code, § 535.02) Penalty, see § 10.99

§ 151.117 DEFINITIONS.

Unless specifically defined within §§ 151.115 *et seq.*, common definitions, words, and phrases used in this code shall be interpreted so as to give them the same meaning throughout this code, and are found in § 11.01.

(1997 Code, § 535.03)

§ 151.118 SIGNS; GENERALLY.

(A) The following provisions apply to signs located in all zoning districts.

(B) (1) *Maintenance.* All signs and structures shall be properly maintained and shall be constructed of sufficiently permanent material so that they shall not succumb to deterioration from weathering any existing sign or sign structure which is rotted, unsafe, deteriorated, defaced, or otherwise altered, shall be repainted, repaired, replaced, or removed as necessary.

(2) *Electrical signs.* When electrical signs are installed, the installation shall be subject to the state's electrical code. Overhead electrical wiring is not allowed.

(3) *Public lands and rights-of-way.* No signs other than governmental signs shall be erected or temporarily placed within any street right-of-way or upon public lands or easements of rights-of-ways without Council approval.

(4) *Ingress or egress.* No sign or structure shall be erected or maintained if it prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

(5) *Temporary signs.* Temporary signs may be allowed for special business events such as business openings and closings, change in management, district-wide shopping events or other special occasions for 15 days maximum by permit from the City Planner. The city may grant a permit to locate signs or decorations on, over, or within the right-of-way for a specified period of time.

(6) *Abandoned sign structures.* Sign structures not used for signing for 12 consecutive months shall be considered abandoned and shall be removed.

(7) *Compatibility.* All signs shall be compatible with the building and area in which they are located.

(8) *Flags.* No more than 3 properly displayed flags may be displayed outside of the building.

(9) *Preservation of visual impact of architectural features.* A sign shall not obscure architectural features of a building to which the sign is attached.

(10) *Building address.* A building address shall not be considered a sign.

(11) *Graphic design signs.* Graphic design signs shall require a conditional use permit.

(12) *Conditions of waiver.* The terms of §§ 151.115 *et seq.* may be waived if the sign is a historic resource or if the sign is a proposed reproduction of a historic sign.

(1997 Code, § 535.04) Penalty, see § 10.99

§ 151.119 PERMITTED SIGNS.

(A) The following signs are allowed without a permit in all zoning districts, but shall comply with all other applicable provisions of §§ 151.115 *et seq.*:

(B) (1) *Public signs.* Signs of public, non-commercial nature including safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty;

(2) *Integral signs.* Names on buildings, date of construction, commemorative tablet, and the like, which are permanent construction and which are an integral part of the building or the structure;

(3) *Political signs.* Signs or posters announcing candidates seeking political office or issues to be voted upon at a public election, the signs must contain the name and address of person(s) responsible for its removal. These signs shall be erected no more than 45 days before any election and be removed 10 days after the general election for which they are intended. The city shall have the right to remove and destroy signs after the 10-day limit.

(a) Size.

1. *Residential Districts.* The maximum sign size shall be 6 square feet in area with a maximum height of 4 feet.

2. *Commercial Districts.* The maximum size shall be 35 square feet in area.

(b) Notwithstanding these provisions, all non-commercial signs of any size may be posted from August 1 in a state general election year until 10 days following the state election.

(4) *Holiday messages.* Signs or displays which contain or depict messages pertaining to a national, state, or local holiday and no other matter and which are displayed for a period not to exceed 60 days;

Existing Lake Elmo Sign Code

(5) *Construction signs.* A non-illuminated sign announcing the names of architects, engineers, contractors, or other individuals or firms involved with the construction, alteration, or repair of a building (but not including any advertisement of any product) or announcing the character of the building enterprise or the purpose for which the building is intended. The signs shall be confined to the site of the construction, alteration, or repair and shall be removed within 2 years of the date of issuance of the first building permit or when the particular project is completed, whichever is sooner. One sign shall be permitted for each street the project abuts. No sign may exceed 32 square feet in multi-family residential, commercial, and industrial districts, and 12 square feet in single-family residential districts;

(6) *Individual property sale, lease, or rental sign.* An on-premise sign announcing the name of the owner, manager, realtor, or other person directly involved in the sale or rental of the property or announcing the purpose for which it is being offered. The signs are limited to 6 square feet in residential districts and 32 square feet in commercial districts. Signs must be removed within 10 days after sale or rental of property;

(7) *Rummage sale signs.* Signs advertising a rummage sale not exceeding 4 square feet located on private property which conform to the applicable provisions of this title and are removed at the termination of the sale;

(8) *Name plate signs.*

(a) One name plate sign, placed on a wall of the structure, for each dwelling not exceeding 2 square feet in area per structure. No signs shall be constructed to have more than 2 surfaces.

(b) One name plate sign for each dwelling group of 6 or more units. The sign shall not exceed 6 square feet in area per surface. No signs shall be constructed to have more than 2 sides.

(9) *Real estate development project advertising signs.*

(a) For the purpose of selling or promoting a development project, the following signs are permitted:

1. Projects of 3 to 25 acres are allowed 1 sign not to exceed 100 square feet of advertising surface on the project site;

2. Projects of 26 through 50 acres are allowed 1 or 2 signs not to exceed 200 aggregate square feet of advertising surface on the project site; and

Existing Lake Elmo Sign Code

3. Projects over 50 acres are allowed 1, 2, or 3 signs not to exceed 200 aggregate square feet of advertising surface on the project site.

- (b) No dimension shall exceed 25 feet exclusive of supporting structures.
- (c) The sign shall not remain after 95% of the project is developed.
- (d) The permit for the sign must be renewed annually by the Council.
- (e) All signs shall be bordered with a decorative material compatible with the surrounding area.
- (f) Any illuminated sign shall be illuminated only during those hours when business is in operation or when the model homes or other development are open for conducting business.

(10) *Window signs.* No sign permit is required for window signage that does not cover more than 1/3 of the total area of the window in which the sign is displayed; and

(11) *No trespassing/no hunting signs.* No trespassing and no hunting signs shall be no larger than 2 square feet.

(1997 Code, § 535.05) Penalty, see § 10.99

§ 151.120 PROHIBITED SIGNS IN ALL ZONING DISTRICTS.

(A) The following signs are prohibited in all zoning districts.

(B) (1) *Signs obstructing vision.* Any sign which obstructs the vision of drivers or pedestrians or detracts from the visibility of any official traffic-control device.

(2) *Unofficial traffic or signals.* Any sign which contains or imitates an official traffic sign or signal, except for private, on-premises directional signs.

(3) *Off premises advertising signs.* Off premises advertising signs except as regulated in §§ 151.115 *et seq.*

(4) *Moving or rotating signs.* Any sign which moves or rotates, including electronic reader board signs, except approved time and temperature information signs and barber poles.

(5) *Illuminated or flashing lights.* No sign shall display any moving parts, be illuminated with any flashing or intermittent lights or shall be animated, except time and temperature information. All displays shall be shielded to prevent any light to be directed at oncoming traffic in the brilliance as to impair the vision of any driver. No device shall

Existing Lake Elmo Sign Code

be illuminated in a manner as to interfere with or obscure an official traffic sign or signal. This includes indoor signs that are visible from public streets.

(6) *Roof signs.*

(7) *Banners, pennants, ribbons, streamers.* No sign which contains or consists of banners, pennants, ribbons, streamers, string of light bulbs, spinners, or similar devices, except where used for non-commercial purposes or part of an approved sign plan.

(8) *Portable signs.* Including but not limited to signs with wheels removed, attached temporarily or permanently to the ground, structure or other signs, mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used on the normal day-to-day operations of that business, hot air or gas filled balloons or semitruck umbrellas used for advertising.

(9) *Building walls.* Signs painted directly on building walls unless approved by a sign permit.

(10) *Illuminated signs or spotlights.* Illuminated signs or spotlights giving off an intermittent or rotating beam existing as a collection or concentration of rays of light.

(11) *Revolving beacons, beamed lights, or similar devices.*

(12) *Signs supported by a guy wire.*

(13) *Graphic design signs without conditional use permit.*

(14) *Billboards.*

(1997 Code, § 535.06) Penalty, see § 10.99

§ 151.121 PERMITTED SIGNS BY ZONING DISTRICT.

(A) *Permitted signs in residential districts.*

- (1) Professional name plate wall signs, not exceeding 2 square feet in area;
- (2) Memorial signs or tablets, names of buildings, and the date of erection when cut into a masonry surface or when constructed of bronze or other incombustible material;
- (3) Political signs as regulated in §§ 151.115 *et seq.*;
- (4) Individual property sale, lease, or rental, as regulated in §§ 151.115 *et seq.*;

Existing Lake Elmo Sign Code

(5) Construction signs as regulated in §§ 151.115 *et seq.*; and

(6) Bulletin boards or public information signs not over 32 square feet located only on the premises of public, charitable, or religious institutions.

(B) *Permitted signs by a sign permit in the "Old Village" (south of State Highway 5) in the General Business (GB) Zoning District.*

(1) *Number.* One wall, monument, awning, and canopy or 3-dimensional sign is allowed per business. When a building or business abuts 2 or more public streets, an additional sign located on each street building face is allowed.

(2) *Sign plan.* When there is more than 1 business or use in a building with more than 1 sign, a building sign plan shall be provided with the sign permit application.

(3) *Other requirements.* See area, location, and height requirements below for type of sign selected.

(4) *Wall signs.*

(a) *Area.* The total building signage shall have an aggregate area not exceeding 0.75 square foot for each foot of the building face parallel or substantially parallel to a street or lot line.

(b) *Location.* A wall sign shall not project more than 16 inches from the wall to which the sign is to be affixed.

(c) *Height.* A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or 15 feet as measured from the base of the building wall to which the sign is affixed, whichever is lower.

(d) *Internally illuminated signs.* No internally illuminated signs are allowed.

(e) *Special conditions.* Where a principal building is devoted to 2 or more permitted uses, the operator of each use may install a wall sign for their particular use, a sign plan must be submitted for the entire building. The total gross signage for the entire building shall not exceed 0.75 square feet for each foot of the building face parallel, or substantially parallel, to a street lot line with a maximum of 20 square feet per business.

(5) *Freestanding signs.*

(a) *Area.* The area of pedestal type freestanding signs shall not exceed 30 square feet.

Existing Lake Elmo Sign Code

(b) *Location.* A pedestal sign shall be located in any required yard but shall have a setback of 15 feet from any point of vehicular access, public roadway, or property line.

(c) *Height.* A pedestal sign shall not project higher than 6 feet, as measured from the base of the sign or grade of the nearest roadway, whichever is lower.

(d) *Landscaping.* The area around a monument sign shall be landscaped.

(e) *Lighting.* Externally illuminated or back lit letters are allowed; no internally illuminated signs are allowed.

(6) *Awning and canopy signs.*

(a) The gross surface of an awning or canopy sign shall not exceed 30% of the gross surface area of the smallest face of the awning or canopy of which the sign is to be affixed.

(b) The awning or canopy sign shall not project higher than the top of the awning or canopy or below the awning or canopy.

(7) *Projecting signs.*

(a) The total area of a projecting sign shall be 6 square feet.

(b) All projecting signs shall be located on street level and easily visible from the sidewalk.

(c) If lighted, projecting signs shall be externally illuminated.

(C) *Signs permitted in the Highway Business, Limited Business, General Business, and Business Park Zoning Districts.* All commercial office and industrial signs in Highway Business, Limited Business, General Business, and Business Park Zoning Districts require a sign permit.

(1) *Wall signs.*

(a) *Area.* The gross surface area of a wall sign shall not exceed 0.75 square feet for each foot of building, parallel, or substantially parallel to the front lot line.

(b) *Location.* A wall sign shall be located on the outermost wall of any principal building but shall not project more than 16 inches from the wall to which the sign is to be affixed. The location and arrangement of all wall signs shall be subject to the review and approval of the City Planner.

Existing Lake Elmo Sign Code

(c) *Height.* A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or 20 feet as measured from the base of the building wall to which the sign is affixed, whichever is lower.

(d) *Special conditions.* Where a principal building is devoted to 2 or more uses, the operator of each use may install a wall sign upon his/her proportionate share of the building wall to which the sign is affixed. A sign plan must be submitted for the entire building containing the following information:

1. The total gross signage for the entire building shall not exceed 1 square foot for each foot of building face parallel, or substantially parallel, to a street lot line or a maximum of 25 square feet per business;
2. The location, sizes, types, and elevations of all signs; and
3. All signs shall be visually consistent in location, design, and scale.

(2) *Freestanding signs.*

(a) The gross surface area of a ground sign shall not exceed 30 square feet for each exposed face nor exceed an aggregate gross surface area of 60 square feet.

(b) A ground sign may be set back 15 feet from front or side property lines.

(c) A ground sign shall not project higher than 6 feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is lower.

(d) There shall be 1 freestanding sign per development site.

(3) *Multi-tenant Master Sign Program.* A building Master Sign Program shall be required (for multi-tenant commercial buildings) besides the individual tenant and occupant signs. A building master identification sign may be permitted according to the following requirements.

(a) Building master identification signs shall not contain the names of any tenants or occupants of the center.

(b) If the multi-tenant commercial building has a floor area of 40,000 square feet or less, the building may have a freestanding sign with a maximum of 1 square foot of sign for each 5 feet of building frontage or 40 square feet maximum in height of 8 feet.

(c) If a multiple tenant commercial building has a floor area greater than 40,000 square feet, but less than 100,000 square feet, the center may have a master identification sign with a maximum of 75 square feet on each side and with a maximum height of 9 feet.

Existing Lake Elmo Sign Code

(d) If a multiple tenant commercial building has a floor area of greater than 100,000 square feet, the center may have a master identification sign with a maximum area of 120 square feet on each side and a maximum height of 15 feet.

(1997 Code, § 535.07) Penalty, see § 10.99

§ 151.122 DIRECTORY SIGNS.

(A) *Generally.* Directory signs are used to guide pedestrians to individual businesses within a multiple tenant commercial area and are permitted.

(B) *Placement.*

(1) Sign must be placed on the site of the development.

(2) Sign shall be erected only in internal pedestrian access areas and not in vehicle access areas.

(3) Directory signs area to be used for the purpose of direction and identification only.

(4) Directory signs may be freestanding but shall not exceed 4 feet in height.

(C) *Area.* A directory sign may have maximum area of 1 square foot for each business listed on the sign and 4 square feet for the name of the building or complex.

(1997 Code, § 535.08) Penalty, see § 10.99

§ 151.123 AUTOMOBILE SERVICE STATION SIGNS.

(A) Automobile service stations are allowed 1 wall sign and 1 ground sign subject to the following conditions.

(B) (1) *Wall signs.* There shall be no more than 1 wall sign per building face with a maximum sign area of 0.75 square feet for each lineal foot of building frontage.

(2) *Freestanding signs.* There shall be no more than 1 freestanding sign for each principal building. A freestanding sign shall be set back 15 feet from the front and side property line. A freestanding sign shall not project higher than 6 feet as measured from grade or contain more than 30 square feet of signage.

(3) *Service bay and island identification signs.* Service bay and island identification signs are permitted providing direction or instructions to persons using the facility, but shall contain no advertising material of any kind.

(1997 Code, § 535.09) Penalty, see § 10.99

§ 151.124 VARIANCE STANDARDS.

(A) *Variances.* The Planning Commission shall hear requests for a variance to the literal provisions of §§ 151.115 *et seq.* in instances where the strict enforcement would cause an undue hardship because of circumstances unique to the individual property under consideration and to grant the variance only when it is demonstrated that:

(1) There are extraordinary circumstances that apply to this property which do not generally apply to other properties in the same zone. These circumstances may include the narrowness, shallowness, shape, and topography of the parcel of land or setback from right-of-way;

(2) The literal interpretation of the provisions of the sign ordinance deprives the applicant rights commonly enjoyed by other properties in the same district under the terms of the sign ordinance;

(3) The special circumstances are not the result of the applicant;

(4) The granting of the variances requested do not confer on the applicant a special privilege that is denied by §§ 151.115 *et seq.* to owners of other lands, structures, and building in the same district;

(5) The variances requested are the minimum variances, which would alleviate the hardship;

(6) The variance requested would not be materially detrimental to the purposes of the sign ordinance; and/or

(7) The design of the sign or signs are as follows:

(a) Compatible with the character of the adjacent buildings and with the character of the adjacent neighborhood;

(b) Have good scale and proportion in the visual relationship to buildings and adjacent areas;

(c) The material, size, color, lettering, location, and arrangement of the sign(s) is an integral part of the site and building design; and/or

(d) The colors, materials, and lighting of the sign(s) are restrained and harmonious, as

interpreted by the City Planner.

(B) *Application.* An application for a variance to §§ 151.115 *et seq.* shall be processed according to the zoning code.

Existing Lake Elmo Sign Code

(1997 Code, § 535.10)

Item : 7
Informational Item

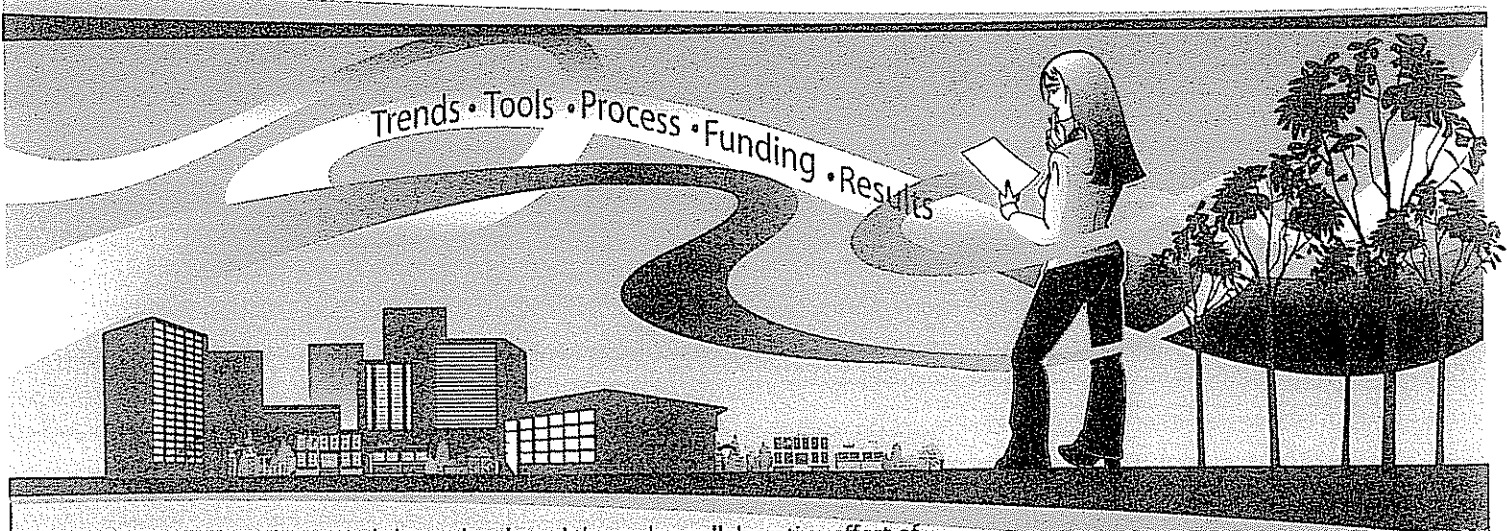
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A Fresh Look: Rethinking Local Land Use Planning

Wednesday, January 30, 2008 - Saint Paul
Friday, February 1, 2008 - Little Falls

Redefining the Development Process

Wednesday, February 27, 2008 - Little Falls
Friday, February 29, 2008 - Saint Paul

Resolving the Funding Dilemma

Thursday, March 27, 2008 - Saint Paul

Funded in part by Embrace Open Space

There's a lot to take into account when making land use decisions for your community. As if zoning, development and infrastructure issues aren't demanding enough, concerns related to sustainability, natural resources, open space, water planning are becoming more and more critical. In reality, they are all inter-related and should be part of the same discussion.

These practical workshops will help you take a fresh look at planning, development and funding with this in mind. The focus on trends, tools, process, funding and results provides an excellent foundation for guiding changes that will best meet the future needs of your constituents.

A Fresh Look: Rethinking Local Land Use Planning

January 30, 2008 – St. Paul
February 1, 2008 – Little Falls
9:00 a.m. – 3:00 p.m. (check-in 8:30 a.m.)

This workshop presents useful information to help local officials understand why and how natural resources information can be incorporated into local land and water planning and zoning to reduce the impacts of development on local infrastructure. This is an introductory program of particular value to elected officials and planning commission members seeking a rationale, support and tools to protect the natural resources of their community while meeting growth or development goals. (Note: This content has been drawn in large part from the Growing Green Workshops held in 2007).

Workshop Topics:

- Growth trends affecting land and water resources
- How natural resources information can be incorporated into local plans, zoning, and implementation approaches
- The relationship between existing natural resources and future growth and fiscal considerations
- Natural resource ordinances
- Conservation connections: Linking site plans across the landscape
- Site and structure level – low impact development

Special Features:

- Case Studies: local examples of communities that have successfully incorporated natural resources into a variety of land and water use plans
- Information about resources available to assist communities
- CD included in take-home materials

Presenters:

Jean Coleman, Sharon Pfeifer, Julie Westerlund, local officials

Funding for initial workshop development provided by the Bush Foundation

Redefining the Development Process: Choosing Collaboration over Contention to Protect Natural Resources and Maximize the Public Value of Private Development

February 27, 2008 – Little Falls
February 29, 2008 – St. Paul
9:00 a.m. to 3:00 p.m. (check-in 8:30 a.m.)

This workshop provides a primer on leveraging local government unit (LGU) regulatory capacity to entice landowners/developers into a collaborative process that results in desired public values within the context of economically-viable and marketable development. Public values to be discussed range from preserving/enhancing open space and the natural aesthetic quality of the community to managing stormwater and improving water quality through the use of ecologically-based infiltration techniques/systems.

Workshop Topics:

- The necessity for change – a new model for managing development
- Findings from past conservation developments: the good and not so good results
- Reducing the risk of opportunity lost
- Results of surveys with developers and planners: what we've learned
- Satisfying the political spectrum
- Cost-benefit of LGU resource allocations
- Optimizing traditional development controls to achieve your unique community vision and set of values
- The artful use of incentives; reducing developer costs and risks as part of leveraging
- Taking action on establishing a two-track strategy

Special Features:

- First-hand exposure to developers' perspectives on working with LGU's and what is necessary for a successful relationship
- Case studies of emerging approaches and practices
- Specific practices, techniques, and examples that can be applied in any community
- Extensive materials to take home

Presenters:

Jeff Schoenbauer, Kris Larson, Kathy Schoenbauer, Jean Coleman
Local government officials from progressive communities
Representatives from regulatory agencies
Developers with experience working collaboratively with local governments

Funding for initial workshop development provided by the Bush Foundation

Resolving the Funding Dilemma

March 27, 2008 – St. Paul (half day)
8:30 a.m. – 12:30 p.m. (check-in 8:00 a.m.)

This workshop is designed for local officials who want to learn how to understand the benefits and costs of open space conservation in relation to development plus learn how to construct an effective approach to finance land conservation, including local referendums, grant programs, and working with developers and landowners. Participants will gain a balanced picture of the fiscal implications of development and land conservation decisions, and bring back viable strategies for funding land conservation in their communities.

Workshop Topics:

- Recent data illustrating how open space affects property values
- The different long-term costs of development and open space, plus a framework for analyzing these costs
- Various local funding strategies for financing open space
- How to leverage local funding through state and federal programs: types of programs, who to contact, where funding is available
- Nonprofit roles, expertise, resources available to help local communities with open space planning

Special Features:

- Putting together a financial strategy: A quick simulation
- Examples drawn from local communities

Presenters:

Jenna Fletcher, Cordelia Pierson

Who Should Attend?

Designed especially for local elected officials and planning commission members in Minnesota cities, counties and townships, the programs are also valuable for staff, members of other advisory commissions, developers, housing and redevelopment authorities, and real estate professionals. Each workshop offers the opportunity to network with others who have similar interests, get your questions answered by experts, and leave with extensive materials and resources for taking action back home.

Workshop Faculty

Jean Coleman is an attorney and planner who has worked with local governments for twenty years as a policy advocate and consultant. Her current work is focused on community-based planning and innovative implementation techniques. Jean is an expert in using GIS-based natural resource information in comprehensive planning and natural resource protection through zoning and incentive programs, conservation easements, and purchase and transfer of development rights programs.

Jenna Fletcher is Program Coordinator for Embrace Open Space (EOS), a collaborative of organizations with a goal of fostering conservation and stewardship of natural areas and parks, lakes and rivers in the eleven-county Twin Cities area. Embrace Open Space provides citizens and local elected officials and staff with communications and technical support. Jenna has also worked as a policy analyst for state forestry agencies and ICF Consulting, a national environmental public policy consulting firm.

Kris Larson, Director of Conservation for the Minnesota Land Trust, oversees the land protection efforts of the Trust. He works with local governments, land use consultants and developers to implement conservation development strategies to preserve important community resources and has helped author numerous publications, including the Conservation Design Portfolio: Preserving Minnesota Landscapes through Creative Development.

Sharon Pfeifer is an ecologist and Community Assistance Manager for the 23-county Central Region of the Minnesota Department of Natural Resources. As former Regional Planner, she led collaborations to produce a regional scale assessment of growth pressures on natural resources, to identify remaining regionally significant ecological areas in the metro area, and to create the DNR's Metro Greenways Program. Her work focus is to work in partnership with others in order to assist fast-growth communities in making environmentally informed decisions about local development and conservation.

Cordelia Pierson, Program Director, leads the Trust for Public Land's Parks for People - Twin Cities program. Cordelia has developed a close working relationship with citizens, nonprofits, and agencies in the Twin Cities through her eleven years of work at the Trust for Public Land and as a community volunteer. She provides conservation finance expertise with her experience in state and local government relations and public finance.

Jeff Schoenbauer, is Executive Vice President of Brauer & Associates, where he serves professionally as a planner and landscape architect with over 27 years of experience. In the last decade, Jeff has been working with LGUs to evolve their strategies for managing development, which served as the basis for his new handbook *Redefining the Development Process: Choosing Collaboration Over Contention to Protect Natural Resources and Maximize the Public Values from Private Development*. Jeff has written a number of national publications, including *National Park, Recreation, Open Space, and Greenway Guidelines (NRPA)*, and complementary guidelines for *Urban Planning and Design Standards (American Planning Association.)* In 2007, Jeff was principal author of the MN DNR's *Trail Planning, Design, and Development Guidelines*, which has received extensive professional recognition and national awards.

Kathy Schoenbauer, President of Schoenbauer Consulting, is an experienced facilitator, coach, trainer, project manager and curriculum designer. Her recent work includes moderating focus groups for MN Department of Natural Resources and survey design, data analysis and presentation of results for Minneapolis Park and Recreation Board. From 2005-2007 she was project manager for the LCMR-funded Best Practices for Parks and Outdoor Recreation project co-sponsored by MRPA and DNR. Previously, Kathy spent 20 years as a business consultant working with Fortune 1000 firms in numerous industries throughout the U.S., Europe and Asia. She brings a balance of business expertise and understanding of the public process to her current work.

Julie Westerlund is currently Communication and Education Coordinator for Minnehaha Creek Watershed District, following ten years at Minnesota DNR. She has extensive experience working on innovative stormwater management strategies, plus other land use and water quality issues. She was instrumental in the formation of Northland NEMO (Nonpoint Education for Municipal Officials), an educational program for land-use decisionmakers about the relationship between land use and water quality.

FEES

The following registration fees include handout materials and refreshment breaks. Lunch is included in full-day programs only.

\$80/person – Full Day Workshops

\$60/person – Half Day Workshops

WORKSHOP SITES

Both workshop sites are accessible to persons with disabilities and have convenient parking for participants.

Little Falls

Initiative Foundation – Community Room

405 First Street SE

320-632-9255

St. Paul

Continuing Education and Conference Center

University of Minnesota, St. Paul Campus

(formerly Earle Brown Continuing Education Center)

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612-624-3275

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on the Land Use heading.

REGISTRATION/CANCELLATION

Register at least seven days prior to the workshop date using the form in this brochure. Fill out one form per person. Because **registration is limited**, we encourage early registration to guarantee your spot on your preferred date!

Fees will be refunded less a \$20 service fee if the registration is cancelled four working days before the program. You may substitute another individual for the same workshop at any time if you find you cannot attend. Should weather necessitate program cancellation, registrants will be notified via announcements on WCCO-AM radio.

FOR MORE INFORMATION

Contact: Carol Schoeneck — cschoeneck@mngts.org

Government Training Services, 2233 University Avenue West, Suite 150
St. Paul, MN 55114

651-222-7409 extension 205 (Twin Cities)

or 800-569-6880 extension 205 (Greater Minnesota)

ABOUT GOVERNMENT TRAINING SERVICES

YOUR PROVEN RESOURCE FOR MEETING YOUR CONFERENCE,
EDUCATION AND PROJECT NEEDS
GTS Government Training Services is a non-profit
organization dedicated to helping those who provide
services to Minnesota citizens and communities meet current
needs for knowledge and skills, plus anticipate and prepare for
changes to come. We have worked with policymakers, staff and
appointed officials from all levels of government and all types
of nonprofit agencies—and their collaborators in associations,
business, higher education and community groups—since 1976.

Working Nature Into Land Use Decisions — REGISTRATION FORM

(Please print or type. Form must be duplicated when registering more than one person!)

First Name Last Name

Title Daytime Phone ()

Jurisdiction/Organization Fax Number ()

Street Address

City

State Zip

*E-mail

***Note:** Please provide your e-mail address so we
may confirm your registration. Confirmations will
be sent one week before the workshop.

Program Options: (Check all that apply.)

A Fresh Look: Rethinking Local Land Use Planning

\$80/person

- ☐ January 30, 2008 – St. Paul
☐ February 1, 2008 – Little Falls

Redefining the Development Process

\$80/person

- ☐ February 27, 2008 – Little Falls
☐ February 28, 2008 – Saint Paul

Resolving the Funding Dilemma

\$60/person

- ☐ March 27, 2008 – St. Paul

Return this form at least seven days prior to the date of
the first workshop you are attending to:

Government Training Services

2233 University Avenue W., Suite 150

St. Paul, MN 55114

(If you have selected the "bill me" or credit card payment
options, you can fax your registration to: 651-223-5307.)

Payment Options:

On-line registration available at www.mngts.org

- ☐ Enclosed is check # in the amount of
\$ (payable to Government Training Services).
☐ Please bill me at above address.
P.O.# (if applicable).
NOTE: A \$10/AGENCY BILLING FEE WILL BE ADDED TO THE AMOUNT OWED.
☐ Credit Card (VISA or MasterCard only):
Card#
Security Code (3-digits on back):
Exp. Date:
E-mail address (REQUIRED):

Special Needs: (Must be received at least two weeks before the
workshop for which you are registering.)

- ☐ I have a dietary restriction (e.g., vegetarian) as follows:
☐ I require other accommodations (i.e. sign language
interpretation, Braille materials). Please contact me at:

Circle one: VOICE or TTY