



3800 Laverne Avenue North
Lake Elmo, MN 55042

(651) 747-3900
www.lakeelmo.org

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday April 26, 2021
at 7:00 p.m.

AGENDA

Please note:

Note: Social Distancing protocols will be in place in the City Council Chambers due to the Corona Virus pandemic.

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. April 12, 2021
4. Public Hearings
 - a. **FRONT YARD SETBACK VARAINCE:** Request is for a front yard setback variance to build a detached accessory building (a garage) in the front yard. The proposed garage would be located between the existing house and 32nd Street for the property located at 11075 32nd Street North.
 - b. **SETBACK VARAINCE:** Request is for a setback variance from the ordinary high water level (OHWL) of Lake Jane to construct a new sport court about 63 feet from the OHWL. This proposed location requires a 37 foot setback variance and is for the property located at 8950 Lake Jane Trail.
 - c. **REGISTERED LAND SURVEY:** The City of Lake Elmo, in conjunction with Mr. Joseph Wallace, the owner of the property located 10920 32nd Street North, are requesting City approval of a registered land survey (RLS). This RLS will divide the existing property into two separate parcels for tax and identification purposes.
5. New/Unfinished Business
 - a. None
6. Communications/Updates
 - a. City Council Update

04-20-2021 Meeting – No Planning Commission Items
05-04-2021 Meeting -
 - b. Staff Updates
 - c. Upcoming PC Meetings:

1. May 10, 2021
2. May 24, 2021

7. Adjourn

***Note: Every effort will be made to accommodate person or persons that need special considerations to attend this meeting due to a health condition or disability. Please contact the Lake Elmo City Clerk if you are in need of special accommodations.



**City of Lake Elmo
Planning Commission Meeting
Minutes of April 12, 2021**

Commission Chair Risner called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Risner, Steil, Weeks, Mueller

COMMISSIONERS ABSENT: Graen

STAFF PRESENT: Planning Director Roberts.

Pledge of Allegiance at 7:00 PM

Approve Agenda:

M/S/P: Steil/Mueller moved to approve the agenda. **Vote: 4-0, motion carried unanimously.**

Approve Minutes:

M/S/P: Mueller/Steil moved to approve the Planning Commission minutes of March 8th, 2021.

Vote: 4-0, motion carried unanimously.

Public Hearings:

- a. Sunflower Meadows** - Preliminary Plat and Preliminary OP- PUD Plans (2500 Manning Ave. N.)

Director Roberts presented the staff report and answered questions from the Planning Commission. Mr. Roberts explained that Mr. Paul Bruggeman of Bruggeman Builders is requesting city approval of a Preliminary Plat and Development Stage (Preliminary) Open Space Planned Unit Development (OP-PUD) Plans for a 12 lot single family residential development on +/- 32.83 acres (gross). A portion of the development site is within the Shoreland of Downs Lake which triggers the need for a Planned Unit Development because the proposed lots do not meet the lot width and impervious requirements for Natural Environment lakes.

Director Roberts noted that on July 21, 2020, the City Council reviewed and commented on a 14-lot concept plan for an OP-PUD development for this site. The City Council approved the OP-PUD concept plan and they also approved four deviations or variations to the City's open space PUD design and development standards.

Mr. Roberts added that the Planning Commission is being requested to review, hold a public hearing, provide feedback to the developer, and make a recommendation to the City Council for the Preliminary Plat and Development Stage (Preliminary) Open Space Planned Unit Development (OP-PUD) Plans for the development to be called Sunflower Meadows.

Director Roberts reviewed the history of the proposed development, the changes made by the Developer to the project plans since 2020 and gave a summary of staff concerns about the latest proposal. He also reviewed with the Commission how the latest plans met or did not meet the conditions of approval from 2020 of the Concept Plans.

In summary, Director Roberts explained that there are several important design elements missing, incomplete or that the developer needs to revise with the proposed OP-PUD, the proposed preliminary plat and the project plans to make them consistent with City subdivision, landscaping and City Engineering design standards. Many of these changes or corrections could require significant revisions to the overall project design and to the preliminary plat. Because of the number and scope of the recommended changes, staff is recommending denial of the preliminary OP-PUD plans and the preliminary plat for Sunflower Meadows.

Mr. Tim Freeman, Land Surveyor and Land Planner, representing the applicant, gave a presentation and answered questions from the Commission. He provided information about the requirement that the plans show the proposed location and grades. He noted concerns about the requirement for the construction of a trail along Manning Avenue when the County is not sure when or how they will reconstruct the road. Mr. Freeman commented about the design requirements for the reconstruction of Lisbon Avenue where the proposed street would connect to the existing street. Mr. Freeman explained the proposed street design with concrete ribbon curb and ditches and that the proposal meets the City design standards for rural streets with ditches.

Chairperson Risner opened the public hearing at 7:53 PM. The following people in the audience spoke:

Brian Alwin – 2470 Lisbon Ave. Commented about the Open space.

Doug Galler – 2410 Lisbon Ave. Does the proposed plan require variances? Buffer to street? Commented on the proposed 100' vs 200' buffer width.

Tim Mandel – 2479 Lisbon Ave. Use of buffer areas – Screening and septic design standards and locations. Definitions of Buffer – What can go in it?

Director Roberts read the four email comments from neighbors in Heritage Farms that expressed opposition to the project primarily because of the proposed street connection.

Public hearing closed at 8:04 PM.

The Planning Commission then reviewed and discussed the proposal.

Commissioner Weeks noted she believes City Engineering standards must be followed and expressed concerns about the location of septic systems and the conservation easement areas. Commissioner Steil expressed concern about the number of exceptions being requested by the developer.

Commissioner Mueller explained that he had concerns about the proposed street connection to Heritage Farms.

Commissioner Risner noted that he cannot yet support the proposal as there are too many unanswered questions and too much missing information.

M/S/P: Weeks/Steil moved to recommended denial of the proposed Sunflower Meadows - Preliminary Plat and Preliminary OP- PUD Plans for the property located at 2500 Manning Ave. N.

Vote: 4-0, motion carried unanimously.

8:25 PM M/S/P: Weeks/Steil moved to take a recess. **Vote: 4-0, motion carried unanimously.**

8:28 PM Chairperson Risner called the meeting back to order.

b. Zoning Code Text Amendment – Lake Elmo Airport Zoning Ordinance

Director Roberts gave a presentation about the proposed Lake Elmo Airport Zoning Ordinance Amendment. He explained that in 2018, the Metropolitan Airports Commission (MAC) formed a joint airport zoning board (JAZB) for the Lake Elmo airport. The JAZB consisted of members from Baytown Township, West Lakeland Township, City of Lake Elmo, City of Oak Park Heights, and the MAC.

Director Roberts noted that the JAZB created a Lake Elmo Airport Zoning Ordinance to regulate the use of property and the height of structures and objects of natural growth in the vicinity of the Lake Elmo Airport. The purpose of the regulations in the Ordinance are to prevent hazards and other potential land use issues from impacting the aircraft and air traffic of the Lake Elmo Airport. Roberts explained that a hazard, such as a tall antenna tower, could impact landings and take-offs from the Airport if the hazard is built within a certain distance of the runways. The Ordinance developed by the JAZB establishes height limitations for structures and trees within close proximity of the Airport, so as to prevent tall structures and vegetation from becoming hazards. Director Roberts also explained that the City of Lake is required by State law to adopt by reference or incorporate the Airport Zoning Ordinance as part of the City Zoning Ordinance.

Mr. Roberts continued by noting that the Lake Elmo Zoning Ordinance does not have specific regulations for land uses near the Lake Elmo Airport. This proposed Airport zone is an overlay zone, which is overlaid, or on top of, the normal zoning district. He explained that this type of ordinance is similar to the shoreland district. As an overlay, it only is present in certain areas of the City. If a parcel of land is near the airport, the parcel would have to follow the regulations of the zoning district the lot is zoned as, as well as the regulations in the Airport overlay district.

Director Roberts explained that the Lake Elmo Airport Ordinance created by the JAZB creates an airport zone. Within the zone are two main safety zones: JAZB Zone 1 and JAZB Zone 2. JAZB Zone 1 includes a runway protection zone for each runway, and largely covers land owned by the MAC. JAZB Zone 2 extends out to a distance of approximately 5,000 feet from the runways. Areas between JAZB Zone 2 and the limit of the Airport zone include a large portion of the City of Lake Elmo. Director Roberts showed the Commission several maps of the area around the Airport and the zones of the Airport Zoning Ordinance.

He also explained that JAZB Zone 1 includes runway protection zones and is essentially a no-build zone at the end of each runway and that JAZB Zone 2 allows buildings and structures as long as they do not exceed the height limits outlined in the Airport Zoning Ordinance. The lowest maximum height allowed in JAZB Zone 2 is 50 feet near the end of the runways. As shown in the exhibits in the Ordinance, the height restrictions decrease the further you are away from the Airport. Mr. Roberts noted that the Lake Elmo Zoning Ordinance also already limits the height of most structures to 35 feet and that the existing maximum height standards in the City Zoning Code would not change with the addition of the Airport Zoning Ordinance.

Director Roberts explained that City staff is recommending that the Planning Commission recommend to the City Council approval of an amendment to the Lake Elmo Zoning Ordinance by adopting the 2021 Lake Elmo Airport Zoning Ordinance by reference.

The Planning Commission then had a discussion and asked staff questions about the proposed Airport Zoning ordinance.

Chairperson Risner opened the public hearing at 8:47 PM.

No questions were asked by the public.

Public hearing closed at 8:48 PM.

M/S/P: Steil/Weeks moved to recommend approval of the proposed Airport Zoning ordinance.

Vote: 4-0, motion carried unanimously.

Communications/Updates

- a. City Council Update
03-02-2021 Meeting – City Council approved the Premature Subdivision Ordinance Amendment.
- a. Staff Updates
Planning Commission membership – there are currently 2 vacancies.
- b. Upcoming PC Meetings:
 - 1. April 26, 2021 – Items will include two variance requests, an RLS, possibly an update on the tree preservation ordinance.
 - 2. May 10, 2021.

M/S/P: Weeks/Steil moved adjourn the meeting. **Vote: 4-0, motion carried unanimously.**

Meeting adjourned at 8:51 pm.

Respectfully submitted,

Diane Wendt
Permit Technician



STAFF REPORT

DATE: 4-26-2021

REGULAR

ITEM#: PUBLIC HEARING

TO: Planning Commission
FROM: Ben Prchal, City Planner
AGENDA ITEM: Variance Request for 11075 32nd St. North
REVIEWED BY: Ken Roberts, Planning Director

BACKGROUND

The City has received a variance request from applicant Matthew and Amy Knowlan, for the property located at 11075 32nd St. The request is for a variance from the City Code requirement which does not allow an accessory building closer to the front lot line than the principle building. The proposed building would meet the allowed size for the property and meet all other setbacks and impervious surface requirements.

ISSUE BEFORE COMMISSION

The Commission is being asked to hold a public hearing, review the variance request to build an accessory building in front of the home on the property, and make a recommendation(s) on the requested variance.

REVIEW/ANALYSIS:

Address: 11075 32nd St. North
PID: 13.029.21.33.0022
Existing Land Use/Zoning: Single-family zone as Rural Single Family.
Surrounding Land Use/ Single family homes.
Zoning:
History: The property has been used as a single family dwelling since 1987.
Deadline for Action: Application Complete – 3/17/2021
 60 Day Deadline – 5/16/2021
 120 Day Deadline – N/A
Applicable Regulations:

- Article V - Zoning Administration and Enforcement
- Article XI – Rural Districts
- Article XX – Shoreland Management

PROPOSED VARIANCES

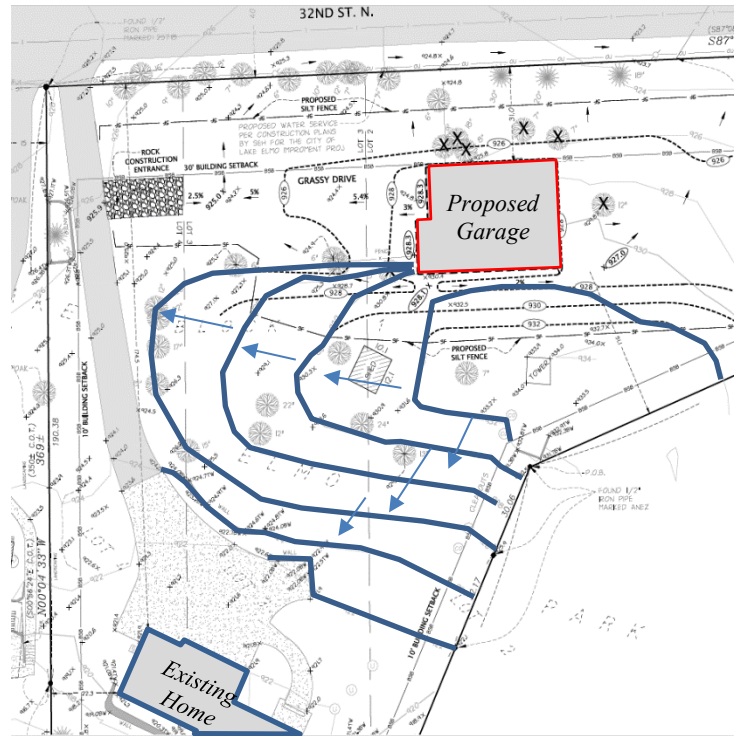
Variance Request. The applicant is requesting to build an accessory building closer to the front lot line than the principle structure.

154.406 C. Structure Location, Rural Districts. No detached garages or other accessory buildings shall be located nearer the front lot line than the principal building on that lot.

Standard	Required	Proposed
Setback from the Front Property Line. <i>154.406 C.</i>	30 ft. Or The Principle Structure	31 ft. The accessory building will be closer to the front lot line than the home.
Impervious Surface <i>Table 17-3</i>	15% (<i>un-sewered property</i>)	14.4%
Structure Size <i>154.406 Table 9-3</i>	1,500 sqft. (<i>maximum allowed size</i>)	1,496 sqft.

The applicant would like to place the accessory structure closer to the front lot line than the home for several reasons. If the garage was located in the rear yard there would be issues with accessing the building, the structure also could not meet both the setback requirement from the OHWL and top of bluff, and the septic system is also located in the rear yard. Although, it should be known that the property will soon connect to City sewer services (once available). The survey also shows a slope towards the water that would make construction difficult.

Staff has determined that the rear yard would be a less ideal location for the accessory building. Given the size of the front yard it would appear that the accessory building could go in multiple locations. However, after visiting the site Staff can say the applicant has chosen a good location for their building. They would like to build the structure on an already flat piece of ground and they have located the building between the water and sewer utility connections that will be servicing the property. Placing the structure in another location, perhaps closer to the home, would require additional grading.





The above graphic is intended to provide additional insight as to where the accessory building will sit on the property. As mentioned above, the building will be placed to avoid conflicts with the utilities servicing the property. With that said, the site designer has also reached out to the City engineers to ensure there will not be issues between the build and the upcoming public improvement project.

AGENCY REVIEW

There have not been any comments submitted from other agencies or departments.

Neighboring Comments – None

RECOMMENDED FINDINGS

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicant's request.

- 1) **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.

Definition of practical difficulties –

“Practical difficulties” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

FINDINGS:

- **Variance for Accessory Building Setback:** *With respect to the proposed variance for the location of structure strict enforcement of the City's zoning regulations will cause practical difficulties and the applicant is proposing to use the property in a reasonable manner. The request can be considered reasonable when all factors are considered as a whole. The building will meet all other setback requirements, the size of the structure conforms to the sizing requirements of Table 9-3, and the impervious surface requirements for the property will be met. Furthermore, placing the structure in a location where the front lot provision can be met will cause accessibility issues and likely force the need of an additional variance elsewhere on the property.*
- 2) **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

FINDINGS:

- **Variance for Accessory Building Setback:** *With respect to the proposed variance for the location of the structure, the plight of the Applicant is unique and has not been caused by the applicant. When taking into consideration that the property is pie shaped with it tapering towards the rear yard, the existing septic system*

is in the rear yard, and slopes/top of bluff create a scenario where there is limited space in the rear yard to place the building.

- 3) Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

FINDINGS:

- **Variance for Size of Structure:** *With respect to the proposed variance for the location of the structure, the proposed variance will not alter the essential character of the locality. In the area of this specific location of the City it is very common to have accessory buildings/detached garages located in front of the homes. The property addressed as 11055 32nd St, 11015 32nd St, 10997 32nd St, and 3200 Lake Elmo Ave. all have accessory buildings located in the front yard. All of these properties are within 350 ft. of 11075 32nd St. With multiple properties also having accessory buildings located within the front yard it is un-reasonable to assume this accessory building will change the character of the locality.*

- 4) Adjacent Properties and Traffic.** The proposed variance will not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

FINDINGS:

- **Variance for Accessory Building Setback:** *With respect to the proposed variance for the location of the structure, the proposed variance will not impair an adequate supply of light and air to the adjacent property or substantially increase the congestion of the public streets or substantially diminish property values. The location of the structure would not shade the neighboring properties or structures, nor would it impair air flow.*

RECOMMENDED CONDITIONS

1. That the Applicant obtain all applicable permits including but not limited to a City building permit.
2. If approved this variance approval is valid for 1 year and would expire on XXX (date set after council approval). The City must receive a building permit for the accessory building by XXX to keep the approval valid.
3. The exterior materials and finishes of the accessory building must comply with City code section 154.406 D. and shall be approved by City Staff. Before the City releases the building permit.

FISCAL IMPACT:

None.

OPTIONS:

The Commission may:

- Recommend approval of the proposed variance, with recommended findings and conditions.
- Amend the recommended findings and conditions and recommend approval of the variance,
- Move to recommend denial of all variance, citing findings for denial.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the requested variance with the following motion:

“Move to recommend approval of the variance request to locate an accessory building closer to the front lot line than the principle building for the property at 11075 32nd St. with recommended findings and conditions of approval”

ATTACHMENTS:

- 1) Narrative
- 2) Survey
- 3) Location/Site Map

Item 2: Written Statements

a. PROPERTY OWNERS: Matthew John Knowlan & Amy Christine Knowlan

b. LEGAL DESCRIPTION:

LAKE ELMO PARK Lot 2 Block 1 PT OF LTS 2 & 3 & 4 DESC AS FOLL:COM @ NW COR LT 1 THN S87DEG08'37"W BEARINGS ARE BASED ON WACO COORDINATE SYST S ZONE ALG N LN SD LT 1 DIST 139.93FT TO MOST ELY COR SD LT 2 THNS66DEG07'57"W DIST OF 357.21FT TO POB THN N66DEG07'57"E DIST 357.21FT TO SD

PID#: 12.029.21.33.0022

PARCEL SIZE: 1.52 acres

EXISTING USE OF LAND: Homestead

CURRENT ZONING: RS (Rural Single Family)

c. LAKE ELMO CITY CODE
section 154.402 table 9-2.

d. The city of Lake Elmo requires a landowner to put a detached garage behind the house on the property. It is not possible to put the detached garage behind the house on our property. The reason for this is that there is a steep hill and a lake behind the house, making it an unattainable endeavor. We have quite a bit of room on our property in the front of the house to put a detached garage. We bought this property with the house already in existence. By building this property we are not exceeding the 15% impervious surface area. That is what is currently the city compliance on our property, as we are using a septic system.

e. Below are the email & phone correspondences with Ben Prchal-Lake Elmo City Planner:

Ben Prchal <bprchal@lakeelmo.org>

To:

matt k,Amy Knowlan

Wed, Nov 4 at 10:48 AM:

I do not know if a surveyor can update old surveys but the one submitted with the application will need to have contours and show the proposed location of the building.

The survey from 1985 is missing some information beyond those two things, such as the driveway and setback notations.

under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.

a. *Definition of Practical Difficulties.* "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

Essentially is the request reasonable? I think there are multiple factors that come into play when reviewing this criteria. For example, is it reasonable to ask for an accessory building on your lot? I would say yes, the code allows an accessory building. But let's say there was room in the rear yard, the request now might not be as reasonable. Or for another example, it may be reasonable to ask for an accessory building but it may not be reasonable to ask for an accessory building that pushes the impervious surface of the lot to a "higher" percentage. It should be known that variance review is somewhat discretionary and the interpretation of what is too high varies.

2. *Unique Circumstances.* The problem for the landowner/applicant which the proposed variance is intended to correct must be due to circumstances that are unique to the property in question and that were not created by the land owner/applicant.

This is kind of a two part question. Did you (the property owner) cause the "issues" on site/are you the reason a variance is required. If no, then what is unique about your property that variance approval is warranted? For example, if you built the home chances are you would not receive a favorable finding for this criteria.

3. *Character of Locality.* The proposed variance will not alter the essential character of the locality in which the property in question is located.

a. *Definition of Locality.* For purposes of this subsection, "locality" shall be defined as all that property within 350 feet of the property proposed for the variance; however, in all events, it shall include all parcels abutting the affected parcel, including those immediately across a public street, alley of other public property.

4. *Adjacent Properties and Traffic.* The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

Ben: There will be conversations that will be made between the surveyor and the construction managers, but not sure at what stage that occurs

Amy & Matt: We will follow up with our surveyor and see if that is a service they provide. How long does it typically take from submitting paperwork to actually receiving an answer about the variance from the city

Ben: roughly 2 months give or take days/weeks

Amy & Matt: Before we officially submit the variance paperwork to the city could you look it over to make sure that we have filled out all aspects of it properly.

Ben: Yes please submit any paperwork and we can go over it. The process can be overwhelming, I am happy to help.

Ben Prchal <bprchal@lakeelmo.org>

To:

matk888@yahoo.com

Amy Knowlan

Mon, Jan 25 at 11:54 AM

A zoning code amendment took place a while back regarding accessory buildings. It had recently removed the door height requirement of 14 ft. However, section 154.213 still has the ability to regulate accessory buildings within the City.

Section 154.213 B

Detached Residential Accessory Building. A 1-story accessory building primarily used or intended for the storage of automobiles and other miscellaneous equipment. No door or other access opening shall exceed 14 feet in height.

I do not think this impacts the size that you would like to build but it would limit the height and the ability to have two stories.

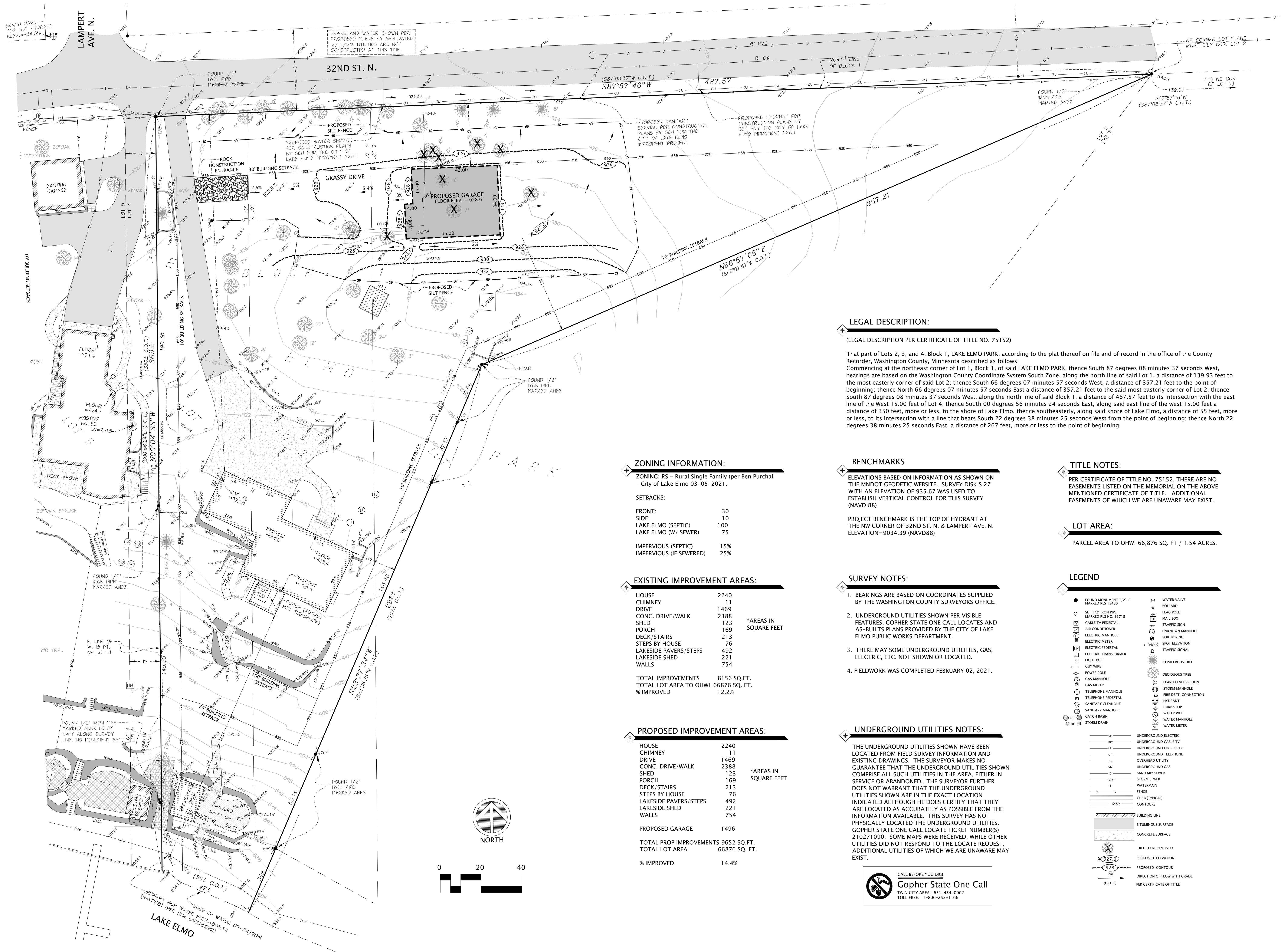
Thank you,

So that you are aware I am looking into this further to see if it will for sure be applicable for your request.

Ben Prchal, City Planner

City of Lake Elmo

651-747-3911



KNOWLAN RESIDENCE

CONTACT:
Amy and Matthew Knowlan
11075 32ND St. N.
Lake Elmo, MN 550421

COUNTY/CITY:
WASHINGTON COUNTY
CITY OF LAKE ELMO

LEGAL DESCRIPTION:
(LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 75152)

That part of Lots 2, 3, and 4, Block 1, LAKE ELMO PARK, according to the plat thereof on file and of record in the office of the County Recorder, Washington County, Minnesota described as follows:
Commencing at the northeast corner of Lot 1, Block 1, of said LAKE ELMO PARK; thence South 87 degrees 08 minutes 37 seconds West, bearings are based on the Washington County Coordinate System South Zone, along the north line of said Lot 1, a distance of 139.93 feet to the most easterly corner of said Lot 2; thence South 66 degrees 07 minutes 57 seconds West, a distance of 357.21 feet to the point of beginning; thence North 66 degrees 07 minutes 57 seconds East a distance of 357.21 feet to the said most easterly corner of Lot 2; thence South 87 degrees 08 minutes 37 seconds West, along the north line of said Block 1, a distance of 487.57 feet to its intersection with the east line of the West 15.00 feet of Lot 4; thence South 00 degrees 56 minutes 24 seconds East, along said east line of the west 15.00 feet a distance of 350 feet, more or less, to the shore of Lake Elmo, thence southeasterly, along said shore of Lake Elmo, a distance of 55 feet, more or less, to its intersection with a line that bears South 22 degrees 38 minutes 25 seconds West from the point of beginning; thence North 22 degrees 38 minutes 25 seconds East, a distance of 267 feet, more or less to the point of beginning.

ZONING INFORMATION:

ZONING: RS – Rural Single Family (per Ben Purchal – City of Lake Elmo 03-05-2021).

SETBACKS:

FRONT:	30
SIDE:	10
LAKE ELMO (SEPTIC):	100
LAKE ELMO (W/ SEWER):	75

IMPERVIOUS (SEPTIC) 15%
IMPERVIOUS (IF SEWERED) 25%

BENCHMARKS
ELEVATIONS BASED ON INFORMATION AS SHOWN ON THE MNDOT GEODETIC WEBSITE. SURVEY DISK S 27 WITH AN ELEVATION OF 935.67 WAS USED TO ESTABLISH VERTICAL CONTROL FOR THIS SURVEY (NAVD 88)

PROJECT BENCHMARK IS THE TOP OF HYDRANT AT THE NW CORNER OF 32ND ST. N. & LAMPERT AVE. N. ELEVATION=9034.39 (NAVD88)

TITLE NOTES:
PER CERTIFICATE OF TITLE NO. 75152, THERE ARE NO EASEMENTS LISTED ON THE MEMORIAL ON THE ABOVE MENTIONED CERTIFICATE OF TITLE. ADDITIONAL EASEMENTS OF WHICH WE ARE UNAWARE MAY EXIST.

LOT AREA:
PARCEL AREA TO OHW: 66,876 SQ. FT. / 1.54 ACRES.

EXISTING IMPROVEMENT AREAS:

HOUSE	2240
CHIMNEY	11
DRIVE	1469
CONC. DRIVE/WALK	2388
SHED	123
PORCH	169
DECK/STAIRS	213
STEPS BY HOUSE	76
LAKESIDE PAVERS/STEPS	492
LAKESIDE SHED	221
WALLS	754

TOTAL IMPROVEMENTS 8156 SQ.FT.
TOTAL LOT AREA TO OHWL 66876 SQ. FT.
% IMPROVED 12.2%

SURVEY NOTES:
1. BEARINGS ARE BASED ON COORDINATES SUPPLIED BY THE WASHINGTON COUNTY SURVEYORS OFFICE.
2. UNDERGROUND UTILITIES SHOWN PER VISIBLE FEATURES, GOPHER STATE ONE CALL LOCATES AND AS-BUILTS PLANS PROVIDED BY THE CITY OF LAKE ELMO PUBLIC WORKS DEPARTMENT.
3. THERE MAY SOME UNDERGROUND UTILITIES, GAS, ELECTRIC, ETC. NOT SHOWN OR LOCATED.
4. FIELDWORK WAS COMPLETED FEBRUARY 02, 2021.

PROPOSED IMPROVEMENT AREAS:

HOUSE	2240
CHIMNEY	11
DRIVE	1469
CONC. DRIVE/WALK	2388
SHED	123
PORCH	169
DECK/STAIRS	213
STEPS BY HOUSE	76
LAKESIDE PAVERS/STEPS	492
LAKESIDE SHED	221
WALLS	754

PROPOSED GARAGE 1496
TOTAL PROP IMPROVEMENTS 9652 SQ.FT.
TOTAL LOT AREA 66876 SQ. FT.
% IMPROVED 14.4%

UNDERGROUND UTILITIES NOTES:
THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. THIS SURVEY HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. GOPHER STATE ONE CALL LOCATE TICKET NUMBER(S) 210271090. SOME MAPS WERE RECEIVED, WHILE OTHER UTILITIES DID NOT RESPOND TO THE LOCATE REQUEST. ADDITIONAL UTILITIES OF WHICH WE ARE UNAWARE MAY EXIST.

LEGEND

● FOUND MONUMENT 1/2" IP MARKED RES 15486	WATER VALVE
○ SET 1/2" IRON PIPE MARKED RES NO. 25718	BOLLARD
□ CABLE TV PEDESTAL	FLAG POLE
□ AIR CONDITIONER	MAIL BOX
□ ELECTRIC MANHOLE	1" TRAFFIC SIGN
□ ELECTRIC METER	UNKNOWN MANHOLE
□ ELECTRIC PEDESTAL	SOIL BORING
□ ELECTRIC TRANSFORMER	SPOT ELEVATION
□ LIGHT POLE	TRAFFIC SIGNAL
□ GUY WIRE	CONFEROUS TREE
□ POWER POLE	DECIDUOUS TREE
□ GAS MANHOLE	FLARED END SECTION
□ GAS METER	STORM MANHOLE
□ TELEPHONE MANHOLE	FIRE DEPT. CONNECTION
□ TELEPHONE PEDESTAL	HYDRANT
□ SANITARY CLEANOUT	CURB STOP
□ SANITARY MANHOLE	WATER WELL
○ CATCH BASIN	WATER MANHOLE
○ STORM DRAIN	WATER METER

— 12" — UNDERGROUND ELECTRIC
— 12" — UNDERGROUND CABLE TV
— 12" — UNDERGROUND FIBER OPTIC
— 12" — UNDERGROUND TELEPHONE
— 12" — OVERHEAD UTILITY
— 12" — UNDERGROUND GAS
— 12" — SANITARY SEWER
— 12" — STORM SEWER
— 12" — WATERMAIN
— 12" — FENCE
— 12" — CURB [TYPICAL]
— 12" — CONTOURS

— BUILDING LINE
— BITUMINOUS SURFACE
— CONCRETE SURFACE
— TREE TO BE REMOVED
— PROPOSED ELEVATION
— PROPOSED CONTOUR
— DIRECTION OF FLOW WITH GRADE
— PER CERTIFICATE OF TITLE

REVISIONS:

DATE	REVISION
03-04-2021	INITIAL ISSUE
03-09-2021	ADD PROP CITY IMPV
03-15-2021	MOVE ADD. 10 FT.

CERTIFICATION:
I hereby certify that this plan was prepared by me, or under my direct supervision, and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

Daniel L. Thurnes
Daniel L. Thurnes Registration Number: 25718
Date: 03-04-2021

PROJECT LOCATION:
11075
32ND ST. N.
PID#1302921330022

Suite #200
1970 Northwestern Ave.
Stillwater, MN 55082
Phone 651.275.8969
dan@cssurvey.net

CORNERSTONE LAND SURVEYING, INC.

FILE NAME SURVPLA01B
PROJECT NO. PLA19001B

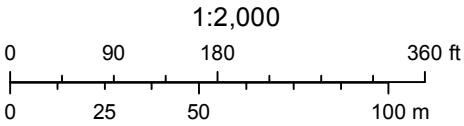
CERTIFICATE OF SURVEY

CALL BEFORE YOU DIG!
Gopher State One Call
TWIN CITY AREA: 651-454-0002
TOLL FREE: 1-800-252-1166

Washington County, MN



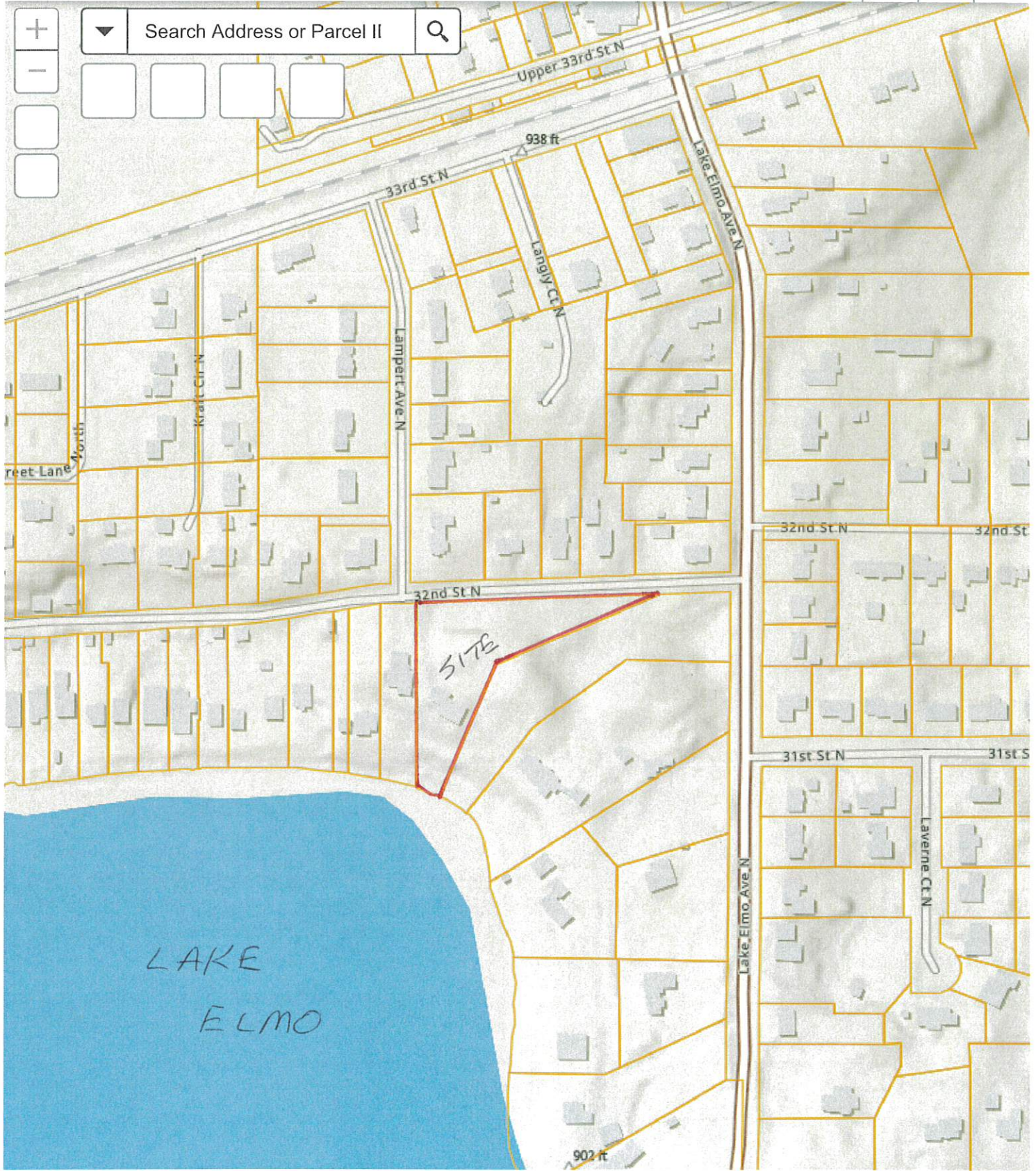
April 14, 2021



Parcel Viewer - Quick Access

Beta

Washington Cc.



LOCATION MAP

300ft

-92.867 44.998 Degrees

Parcel Viewer - Quick Access

Beta

Washington Co.,



PROPERTY LINE MAP

100ft

-92.873 44.997 Degrees



STAFF REPORT
DATE: 4-26-2021
REGULAR
ITEM#: PUBLIC HEARING

TO: Planning Commission
FROM: Ben Prchal, City Planner
AGENDA ITEM: Variance Condition Amendment(s) – 8950 Lake Jane Trail
REVIEWED BY: Ken Roberts, Planning Director

BACKGROUND:

In 2002, the previous owners of the property requested and received approval of variances to build the existing home on the property. These variances were from the front Right-of-way (ROW) as well as the Ordinary High Water Level (OHWL). Since then Steve and Haley Meisterling have become owners of the property and in 2020 they requested the City Council amend the conditions outlined in the original approving resolution to build the home. The request was approved and conditions 2-7 and 9 were removed as well as the covenants that further regulated the property (2020). With those conditions removed the property is now regulated to the same degree as other lake lots.

The property owners have now requested permission from the City to install a sport court on their property. With the property being a lake shore lot, there are minimum setbacks from the high water line that improvements are required to meet.

ISSUE BEFORE COMMISSION:

The Commission is being asked to hold a public hearing, review, and make recommendation on the variance request to build a sport court that does not meet the minimum setback requirement from the OHWL. The Meisterlings are requesting City approval of a setback variance to install a sport court 63 ft. from the OHWL of Lake Jane instead of 100 ft. as required by the shoreland management ordinance.

REVIEW/ANALYSIS:

PID 09.029.21.41.0002
Existing Land Use/Zoning: Single-family residential home - Rural Single Family (RS).
Surrounding Land Use/ Zoning: Surrounded by single family homes guided for Rural Single Family / Rural Single Family
History: Variances approved in 2002 to build the house on the property and amended in 2020.
Deadline for Action:
Application Complete – 3/20/2021
60 Day Deadline – 5/19/2021
Extension Letter Mailed – N/A
120 Day Deadline – N/A
Applicable Regulations: Article V - Zoning Administration and Enforcement
Article XVIII – Shoreland Management Overlay District
Article XI – Rural Districts

REQUEST AND DETAILS

Proposed Variance Request.

The applicant is requesting to build a 30 ft. by 60 ft. (1,800 sqft.) sport court on their side yard. The following table outlines the setbacks that are applicable to the review.

Standard	Required	Proposed	Variance from Code
Rural Districts Code			
Front Yard Setback	30 ft.	30 ft.	--
Side Yard Setback	10 ft.	21 ft.	--
Shoreland Code			
Rear Yard Setback from OHWL	100 ft.	63 ft.	37 ft.
Impervious Surface	15% (14,529.75 sqft.)	8.28% (8,022.04 sqft.)	--

8950 Lake Jane Trl.
Location Map – The image is
intended for graphic purposes only.



Article XI Rural Districts

Firstly the request to install a sport court is considered to be an accessory structure and would normally require a certificate of zoning compliance for review to ensure setbacks and impervious surface requirements are met.

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

Structure. *Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, signs, recreation vehicles not meeting the exemption criteria specified in § 152.09(C)(1) of the floodplain management regulations, and other similar items.*

154.213 Accessory Buildings and Structures, Generally

F. *Exempt Structures.* The following residential improvements shall be exempt from the maximum allowed structure size and number requirements in residential districts:

6. Tennis and Sport Courts

Setback and Impervious Surface Requirements for the RS Zoning District:

Because the property is zoned as Rural Single Family the rural district zoning code will be applied to the request. The request paired with the lot doesn't necessarily generate conflicts with the RS zoning code. In fact if the property was not located on Lake Jane the applicant would not need to request a variance. The structure is only required to sit 10 ft. from all side property lines, sit 30 ft. from the ROW or in line with the principle structure, and be 10 ft. from the rear lot line. The impervious surface requirements for the district are also 25% of the lot size. A property that is 2.2 acres in size would allow for 24,216.25 sqft. of impervious surface.

Article XVIII Shoreland Management

It can generally be said that properties located in the shoreland district will have a more difficult time building a home, adding an addition, building an accessory building, etc. because the shoreland code adds an additional layer of restrictions onto of the underlying zoning district. This request needs special approval from the setback requirements of the shoreland district. Table 17-3 has established a 100 ft. setback from the Ordinary High Water Level (OHWL) of Lake Jane for structures with a shoreland impact zone of 50 ft. Nothing can/should be built within the impact zone, unless stated otherwise but the shoreland code.

Table 17-3 Impervious Surface:

With the property having a size of 96,866 sqft. the shoreland code will allow 14,529.9 sqft. of impervious surface. With the existing impervious surface (home, driveway, patio, etc.) combined with the requested addition of the sport court the property will have a total impervious surface of 8,022.04 which is 6,507.86 sqft. below the allowed limit. There is no issue with impervious surface with the addition of the sport court.

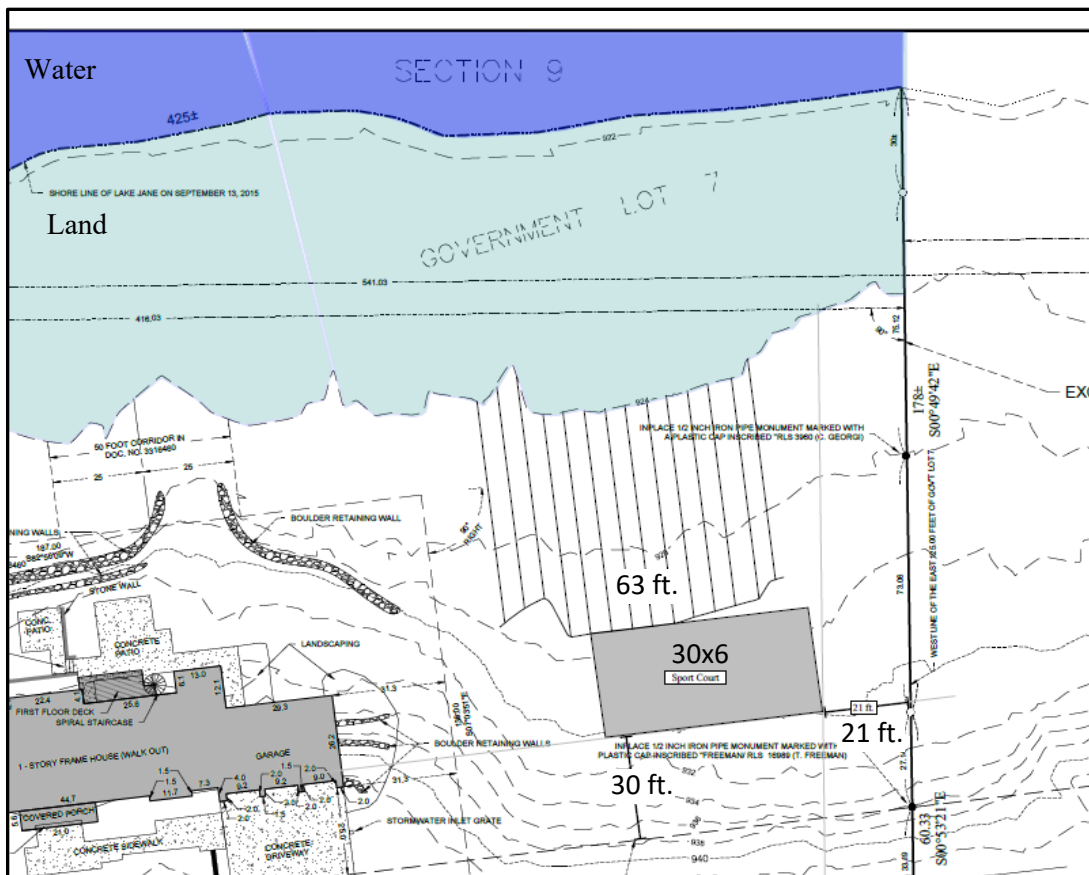
17-3 Setbacks Table:

For clarification the shore land code setbacks start at the top of the bluff or in this instance the high-water level and not the rear property line/water line (*Although at times they can be the same*). The high water line has an established elevation of 924 which ranges from 40 to 85 ft. in from the rear property line/water line. The shoreland code does offer a provision to average the setback compared to neighboring properties but this property is unable to take advantage of this provision due to the circumstances of the property.

Section 154.800 C.) 12. Nonconformities.

Setback averaging. 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 OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone;

Because there is not a structure on the property immediately to the east, the applicants are not able to take advantage of setback averaging, for the placement of the sport court.



Lot History:

The property did receive City approval to construct the existing home in 2002. At that time there were conditions and covenants recorded with the property. However, all conditions except number one and eight were removed in 2020. At the time of approval in 2002 the property was allowed to have a 56 ft. setback from the OWHL and a 25 ft. setback from the ROW.

Restrictive Covenants

1. Compliance with the tree preservation proposal of the applicant, staff dated September 19, 2002.
8. No grading or filling shall be permitted below the Ordinary High Water level.

With the majority of the restrictive covenants and conditions removed from the property it is primarily regulated by the City zoning and shoreland code. Staff has not been able to locate the tree preservation proposal from 2002. However, the property has since planted many trees and landscaping along Lake Jane road. There will be no grading or filling below the OWHL for this project.



AGENCY REVIEW

All entities and departments who were provided information about the request either had no comment or have not provided a response.

Neighboring Comments:

8855 Lake Jane Trail – Supports approval of the request.

8989 Lake Jane Trail – Supports approval of the request.

ADJACENT VARIANCE REQUESTS

8990 Lake Jane Trl. (2019) – The property requested approval to build a home on site but it was tabled and a decision was not made. However, looking into the discussion that was available the property did fail to receive approval from Washington County for a septic permit.

RECOMMENDED FINDINGS AND DISCUSSION

The applicant has provided a narrative outlining their desire to install a sport court on their property. Outlined below are the findings as the request relates to the variance review criteria.

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to City Code requirements can be granted. The criteria are listed below, along with recommended findings from Staff regarding applicability of these criteria to the applicant's request.

- 1) **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - “Practical difficulties” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

FINDINGS:

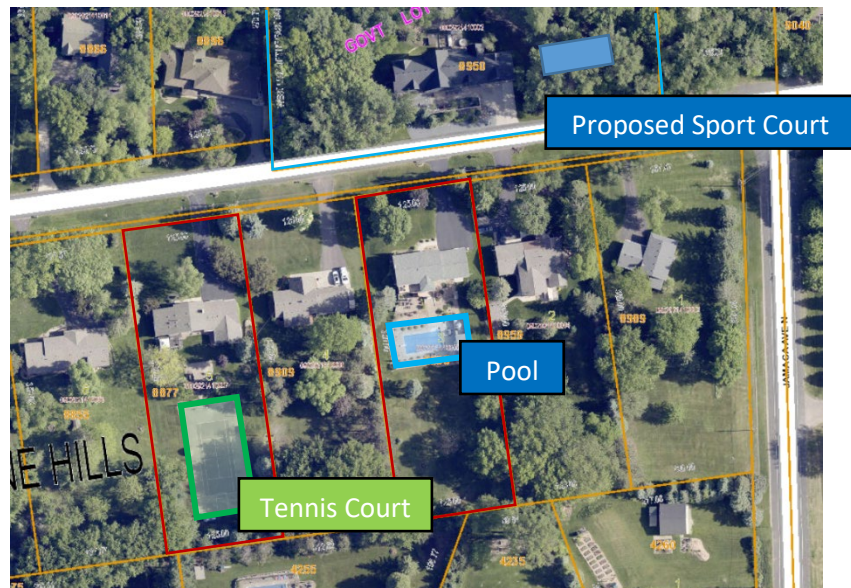
- **Variance from Minimum Structure Setback from OHWL:** *With respect to the proposed variance for setback from the OHWL, strict enforcement of the City’s zoning regulations will cause practical difficulties and the applicant is proposing to use the property in a reasonable manner. The property was platted and established prior to current development standards and has a short depth but is very wide. Applying the 100 ft. setback along with the 30 ft. setback from the ROW does make it very difficult for the property to have any buildable area that would not conflict with a provision of the City Code. The sport court will be able to meet the front yard setback requirement of 30 ft. and sit behind the home. Though, it will not be possible for the structure to be constructed on the property without needing a variance from the OHWL. The previous variance for the home has established the idea that a reduction in the setback from the OHWL is reasonable. Furthermore, with the City Code having a provision for lot averaging it is reasonable to assume a reduction from 100 ft. is a reasonable request. Also, due to the west side of the property holding the septic system there is not another location where it could be constructed. The standard is met.*
- 2) **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

FINDINGS:

- **Variance from Minimum Structure Setback from OHWL:** *With respect to the proposed variance for setback from the OHWL (924 Elevation) of the structure, the plight of the Applicant is unique and has not been caused by the applicant. The OHWL does come up quite far on the property and with the front lot line sitting in the middle of Lake Jane Rd. it does force the court to sit 30 ft. from the ROW instead of the front lot line. To reasonably place and design a court around the front and rear setback requirements would be difficult and would not allow the property to build a court. This standard is met.*
- 3) **Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

FINDINGS:

- **Variance from Minimum Structure Setback from OHWL:** *With respect to the proposed variance for setback from the OHWL of the structure, the proposed variance will not alter the essential character of the locality. The property owners have already installed landscaping along Lake Jane road which will screen the court from the roadway and neighboring properties. Also, there are other structures such as pools and tennis courts on neighboring properties which are similar in nature. The standard is met.*



- 4) **Adjacent Properties and Traffic.** The proposed variance will not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

FINDINGS.

- **Variance from Minimum Structure Setback from OHWL:** *With respect to the proposed variance for the setback from the OHWL, the proposed variance will not impair an adequate supply of light and air to the adjacent property or substantially increase the congestion of the public streets or substantially diminish property values. With the court being flat it will not negatively impact the neighboring properties as required by the variance criteria. Furthermore, the court is not expected to substantially diminish or impair property values within the neighborhood. The standard is met.*
-

RECOMMENDED CONDITIONS OF APPROVAL

FISCAL IMPACT:

None

CONDITIONS:

1. The property apply for a certificate of zoning compliance to construct the sport court.
2. All lighting shall be directed towards the ground and comply with Lake Elmo's lighting standards.
3. During construction silt fencing and other environmental measures shall be taken to preserve and protect the lake and surrounding vegetation.
4. If approved this variance approval is valid for 1 year and would expire on XXX. The City must receive a certificate of zoning compliance to build the sport court by XXX to keep the approval valid.

OPTIONS:

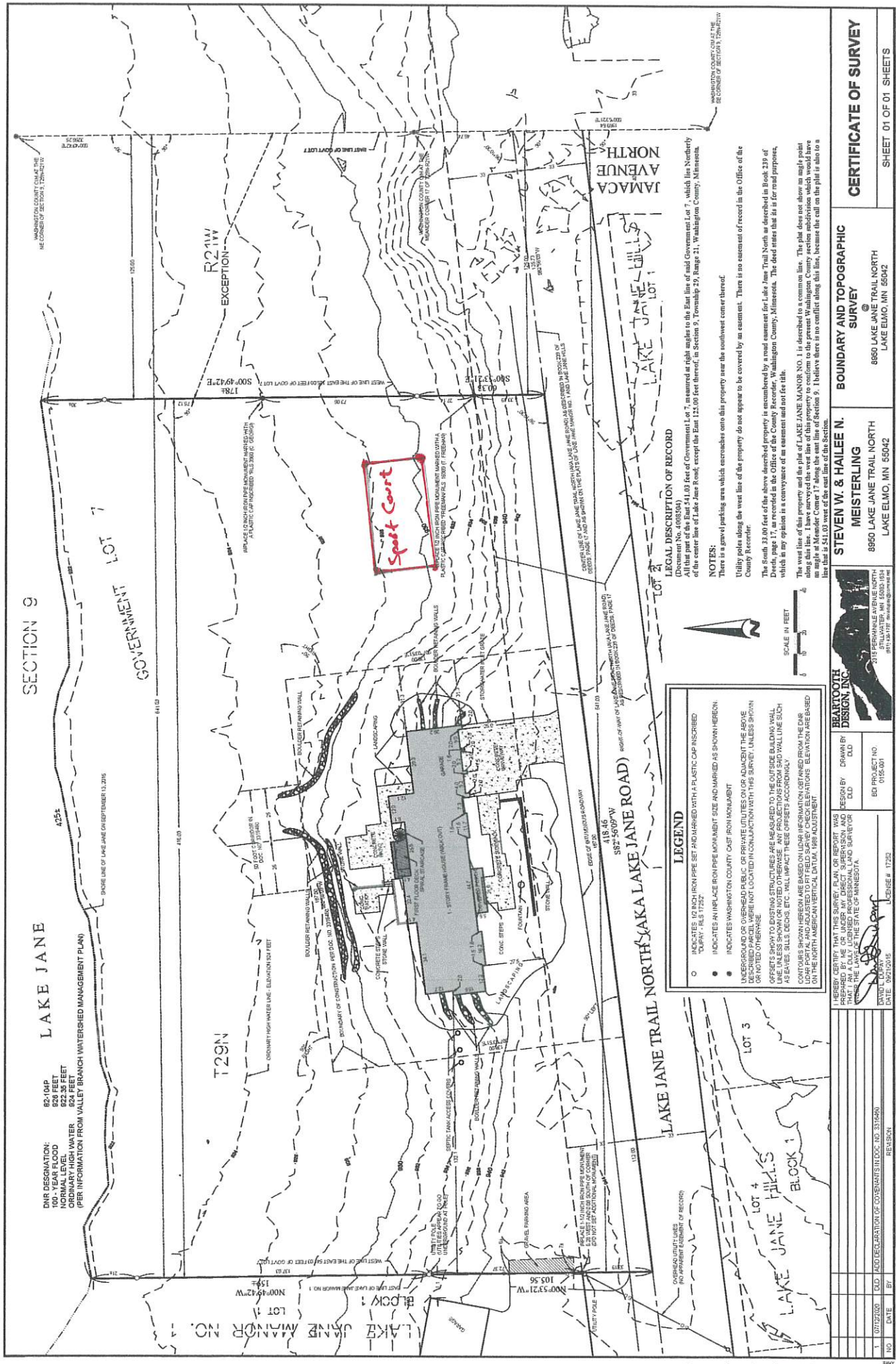
- Recommend denial of variance amendment request with stated findings.
- Recommend approval of variance amendment request with amended findings of approval.
- Recommend approval of the variance amendment request with listed findings of approval.

RECOMMENDATION:

"Move to recommend approval of a 63 ft. setback variance from the OHWL of Lake Jane for a sport court on the property addressed as 8950 Lake Jane Trail with recommended findings and conditions of approval."

ATTACHMENTS:

- Property Survey
- Narrative
- Arial Images/Site Map



CERTIFICATE OF SURVEY

BOUNDARY AND TOPOGRAPHIC SURVEY
8850 LAKE ANNE TRAIL NORTH
LAKE ELMO, MN 55042

STEVEN W. & HAILEE N. MEISTERLING
8850 LAKE ANNE TRAIL NORTH
LAKE ELMO, MN 55042



DESIGNED BY: [Signature]
DRAWN BY: [Signature]
BO PROJECT NO: 0125-001

DATE: 06/21/2015
REVISION: 17/201

NO	DATE	BY	REVISION
1	07/12/2020	OLD	ADD DECLARATION OF CONVEYANCE IN DOC. NO. 3374560

LEGEND

- INDICATES 1/2" DIA. IRON PIPE SET AND HAWKED WITH A PLASTIC CAP INSCRIBED "TOWN" FILE # 1752
- INDICATES IN PLACE IRON PIPE MONUMENT SIZE AND MARKED AS SHOWN HEREON
- INDICATES WASHINGTON COUNTY CAST IRON MONUMENT
- UNDERGROUND OR OVERHEAD PUBLIC OR PRIVATE UTILITIES ON OR ADJACENT TO THE ABOVE DESCRIBED PARCEL WERE NOT LOCATED IN CONJUNCTION WITH THIS SURVEY, UNLESS SHOWN OTHERWISE
- CONTOUR ELEVATIONS SHOWN HEREON ARE BASED ON LIDAR INFORMATION OBTAINED FROM THE LIDAR PORTAL AND ADJUSTED TO FIT FIELD SURVEY CHECK ELEVATIONS. ELEVATIONS ARE BASED ON THE NORTH AMERICAN DATUM, 1983 (NAD 83) AND ARE NOT TO BE USED FOR ANY OTHER PURPOSE.

LEGAL DESCRIPTION OF RECORD
(Document No. 400354)
All that part of the East 1/4 of Government Lot 7, measured at right angles to the East line of said Government Lot 7, which line is the center line of the center line of Lake Jane Road, except the East 125.00 feet thereof, in Section 9, Township 29, Range 21, Washington County, Minnesota.

NOTES:
There is a gravel parking area which encroaches onto this property near the southwest corner thereof.
Utility poles along the west line of the property do not appear to be covered by an easement. There is no easement of record in the Office of the County Recorder.
The South 33.00 feet of the above described property is encumbered by a deed easement for Lake Jane Trail North as described in Book 219 of Deeds, page 17, as recorded in the Office of the County Recorder, Washington County, Minnesota. The deed states that it is for road purposes, which in my opinion is a conveyance of an easement and not fee title.
The west line of this property and the line of LAKE ANNE MANOR NO. 1 is described to a common line. The plat does not show an angle point along this line. I have surveyed the west line of this property to conform to the present Washington County section subdivision which would have an angle at Section Corner 1' along the east line of Section 9. I believe there is no conflict along this line, because the call on the plat is also to a common line with the LAKE ANNE MANOR NO. 1.

WASHINGTON COUNTY, MINN.
RECORDED IN SECTION 1, T29N, R21W



Steven and Hailee Meisterling

(651)955-9996

stevemeisterling@yahoo.com

8950 Lake Jane Trail N, Lake Elmo, MN 55042

March 13, 2021

Lake Elmo City Council and Planning Commission
3800 Laverne Ave N
Lake Elmo, MN 55042

To Whom it May Concern,

We are requesting a variance to build a 30' x 60' sport court on our property at 8950 Lake Jane Trail North, Lake Elmo, MN. The variance requested is to change the 100 foot setback from Lake Jane to a 63 foot setback. This change in setback would be greater than the setback of our current home.

It should be noted that the build will not violate other restrictions such as maximum impervious surface, 30' right of way set back, or the 10' neighboring property setback.

The following narrative outlines the basis for which this variance is requested:

1. Practical Difficulties

We hope to build a sport court to create a safe place for our family to play court games such as basketball and pickle ball . Our current driveway is too small and steep to allow such play. Our property has ample space to build such a court, however the current setback from Lake Jane limits our ability to use and enjoy our property in such a manner.

2. Unique Characteristics

Our parcel has limited usable area from front to back despite the ample size of the lot. The parameters of the property are limited by Lake Jane Trail to the South and Lake Jane to the North. The 100' lake setback essentially eliminates the ability to build a structure on our property (as well as neighboring properties) without a setback variance. Such a variance was granted for the building of our home. We are requesting a setback variance of 63', greater than the previously granted variance for the build of our home.

3. Character of Locality

The addition of a sport court to our property will not alter the essential character of the locality. The court will be used in a manner much the same as a typical driveway, allowing activities such as basketball and pickle ball on a firm surface. The court will be safely removed from the street and traffic. Our existing driveway is small and sloped which prohibits these activities. Also, the character of the locality will be preserved by the landscaping that has been installed. After the build, we plan to continue to work with a professional landscaping company to beautify and maintain the sport court area. The landscaping will shield the sport court from the neighboring property and street while complying with guidelines set forth by the City of Lake Elmo.

4. Adjacent Properties and Traffic

The addition of the sport court will not impair adequate light and air to the adjacent properties. The court is low profile creating no threat to the flow of air or light. Also, landscaping has been installed to shield the sport court and protect the surrounding area. The court will not increase traffic or congestion of public streets. Use of the court will be limited to family and friends. The court will not violate the Lake Jane Trail right of way. There is no reason to believe the court and accompanying landscaping should diminish or impair property values in the neighborhood.

Respectfully,

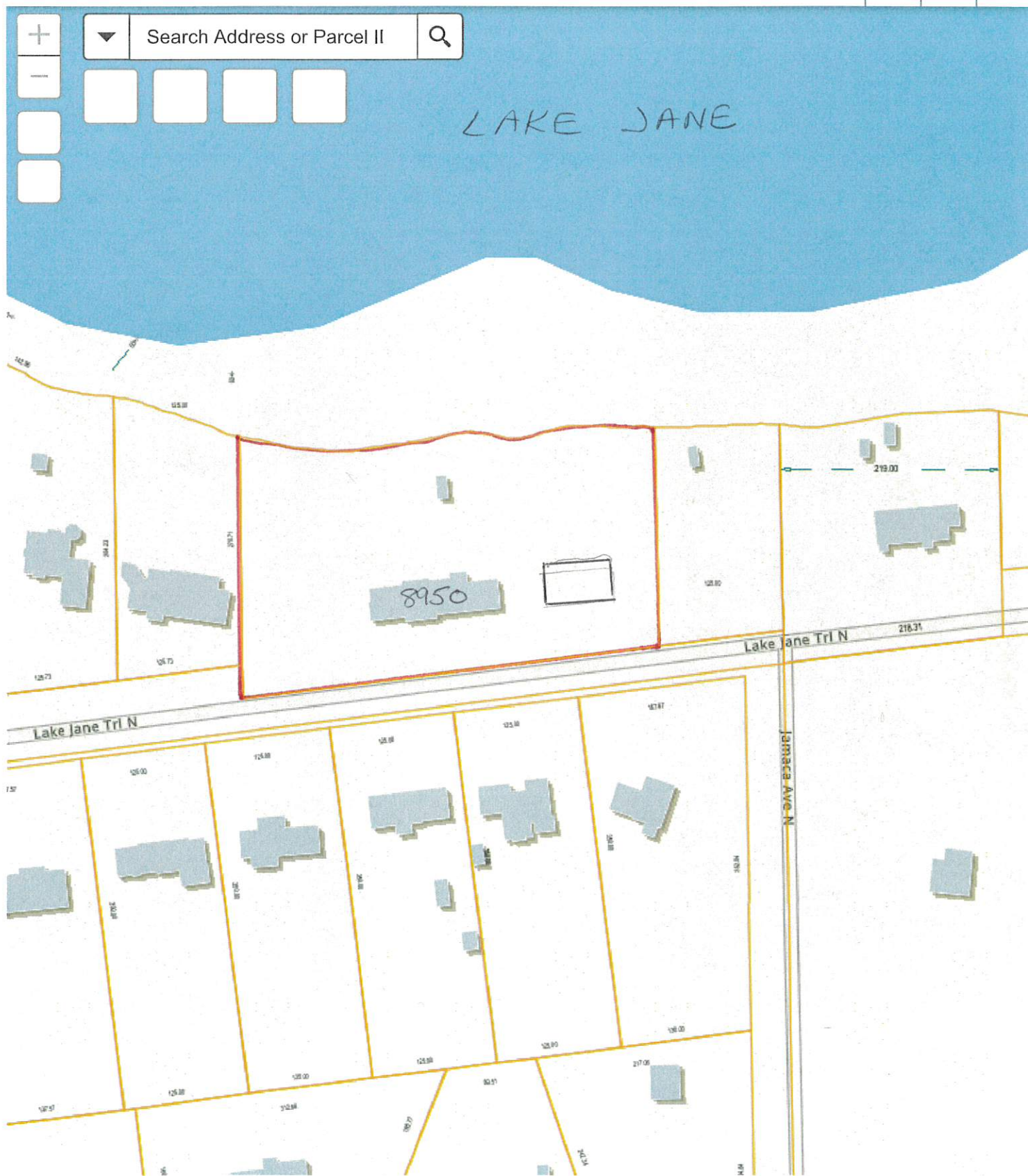
Steven and Hailee Meisterling



Parcel Viewer - Quick Access

Beta

Washington Co.,



PROPERTY LINE MAP

100ft

-92.917 45.014 Degrees

Beta

Washington Co., N.Y.



-92.893 45.017 Degrees



PLANNING COMMISSION
DATE: 04/26/2021
AGENDA ITEM: PUBLIC HEARING

TO: Planning Commission

ITEM: **Registered Land Survey (RLS) – 10920 32nd Street North**

SUBMITTED BY: Ken Roberts, Planning Director

REVIEWED BY: Ben Prchal, City Planner
Sarah Sonsalla, City Attorney

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to review, conduct a public hearing and make a recommendation about a registered land survey (RLS) proposed by the City of Lake Elmo and the property owner, Joseph Wallace. This RLS would subdivide the property located at 10920 32nd Street North in to two separate parcels thus creating two lots for tax and identification purposes.

GENERAL INFORMATION

Applicants: The City of Lake Elmo and Joseph Wallace, 10920 32nd Street North, Lake Elmo

Location: 10920 32nd Street North, PID# 14-029-21-44-0019

Request: Application for approval of Registered Land Survey to split said property into two separate parcels.

Existing Land Use: Single-family home and public street

Existing Zoning: RS – Rural Single-family Residential

History: The southern part of the site (Tract A) has been used as a single-family dwelling with a detached accessory building. The northern part of the site (Tract B) has been used as right-of-way for 33rd Street Lane.

Deadline for Action: Application Complete – 03/31/2021
60 Day Deadline – 05/30/2021

Extension Letter Mailed – No
120 Day Deadline – N/A

Applicable Chapter 153 – Subdivision Regulations

REQUEST DETAILS

Registered Land Survey. The City of Lake Elmo Engineering staff, in conjunction with the property owner, Mr. Wallace, are requesting City approval of an RLS to split the property with the address of 10920 32nd Street North in to two separate parcels. The proposed subdivision will result in the creation of one 0.33-acre (14,371 square-foot) parcel (Tract A) on which the existing house (10920 32nd Street North) is located and second 0.26 (11,489 square-foot) parcel (Tract B) which includes parts of Upper 33rd Street Lane right-of-way. This request would not create any additional building sites. City approval of an RLS is required in this case because the property in question is Torrens property (not Abstract).

City staff is making this request to allow the City to purchase proposed Tract B from Mr. Wallace as it includes parts of Upper 33rd Street Lane North. This proposal was prompted by the City Council's recent approval of the Old Village Phase 5 and 6 Public Improvement Project for this part of Lake Elmo.

REVIEW AND ANALYSIS

Property Ownership: There are two different ways of owning and indexing real property in Minnesota: Abstract and Torrens (Registered). With Torrens property, the owner is issued a Certificate of Title, which forgoes the need for a chain of title (an abstract). A person who owns Torrens Property is assured that no one else has a claim to the property. Each time an owner voluntarily transfers property, a new Certificate of Title is created and only information that is currently relevant to title is shown on the Certificate (similar to a Certificate of Title for a vehicle). This process keeps the title of a Torrens property up to date. Once a property's title is registered and becomes Torrens, no one can gain adverse possession rights against the title, including any prescriptive easement or statutory user rights.

There is currently no record of an easement for Upper 33rd Street Lane North on Mr. Williams' Certificate of Title for the property. Furthermore, even though the City has maintained a right-of-way over Parcel B throughout the course of many years, there is no way for it to assert that it has a prescriptive easement or statutory user rights over Parcel B because the property is Torrens. Therefore, the City must acquire an easement for the right-of-way for Upper 33rd Street Lane or fee title to the property. Since Tract B is physically separated from Tract A and does not contain anything but right-of-way, the City and Mr. Williams agreed that it made the most sense for Mr. Williams to convey Tract B to the City instead of granting the City an easement. For Mr. Williams to be able to convey Tract B to the City, the property needs to be subdivided into two parcels as even though it currently appears to be two separate parcels, it is legally only one parcel right now.

Registered Land Survey (RLS): An RLS is a means of subdividing a Torrens parcel into separate tracts of land. Minnesota Statutes Section 508.47 outlines the standards and requirements for conveying Torrens property in Minnesota. The statute notes that "[t]he County Registrar of Title may require the owner of a registered parcel who wishes to convey any part of the Parcel to prepare a drawing known as a registered land survey." Additionally, the statute states that an RLS must be approved by the City in the manner required for approval of subdivision plats, which approval shall endorsed on it or attached to it.

Lake Elmo Subdivision Ordinance: The Lake Elmo Subdivision Ordinance includes the following section:

§ 153.04 REGISTERED LAND SURVEY.

No registered land survey of lands in the City shall be recorded with the Registrar of Titles until the registered land survey has been approved by the City. The approval shall be indicated by resolution endorsed on or attached to the registered land survey signed by the Mayor and City Clerk. No registered land survey shall be approved by the City or signed by the officers if the

recording of the registered land survey will result in a subdivision in violation of any provision, regulation, or requirement of this chapter.

Review of Registered Land Survey. The City needs to review the proposed RLS in context with City Code Section 153.04 Registered Land Survey (above) and City Code Section 153.07 Minor Subdivisions. The City may review the proposed RLS as a minor subdivision, as the proposed subdivision (RLS) is a division of land that results in no more than four parcels. The City may consider and review an RLS with one set of actions. This review process is the equivalent to the City reviewing a preliminary and a final plat simultaneously.

Planning Staff Comments: Since the proposed RLS would allow for the public ownership of property that is now used for a City street and no new building sites are proposed, City Planning staff supports City approval of the proposed RLS.

DRAFT FINDINGS

Staff is recommending that the Planning Commission consider the following findings with regards to the proposed registered land survey (RLS):

1. That the Registered Land Survey (RLS) is consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
2. That the RLS meets the requirements of the City's Subdivision Ordinance and specifically the requirements for an RLS and for minor subdivisions.
3. That the RLS is necessary for the City to take ownership of proposed Tract B of the proposed RLS for a part of Upper 33rd Street Lane that is currently privately owned and not subject to an easement.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of Registered Land Survey (RLS) No. 131 as proposed by the City of Lake Elmo to split the property at 10920 32nd Street North into two separate parcels.

“Move to recommend approval of proposed Registered Land Survey No. 131 for the property located at 10920 32nd Street North.”

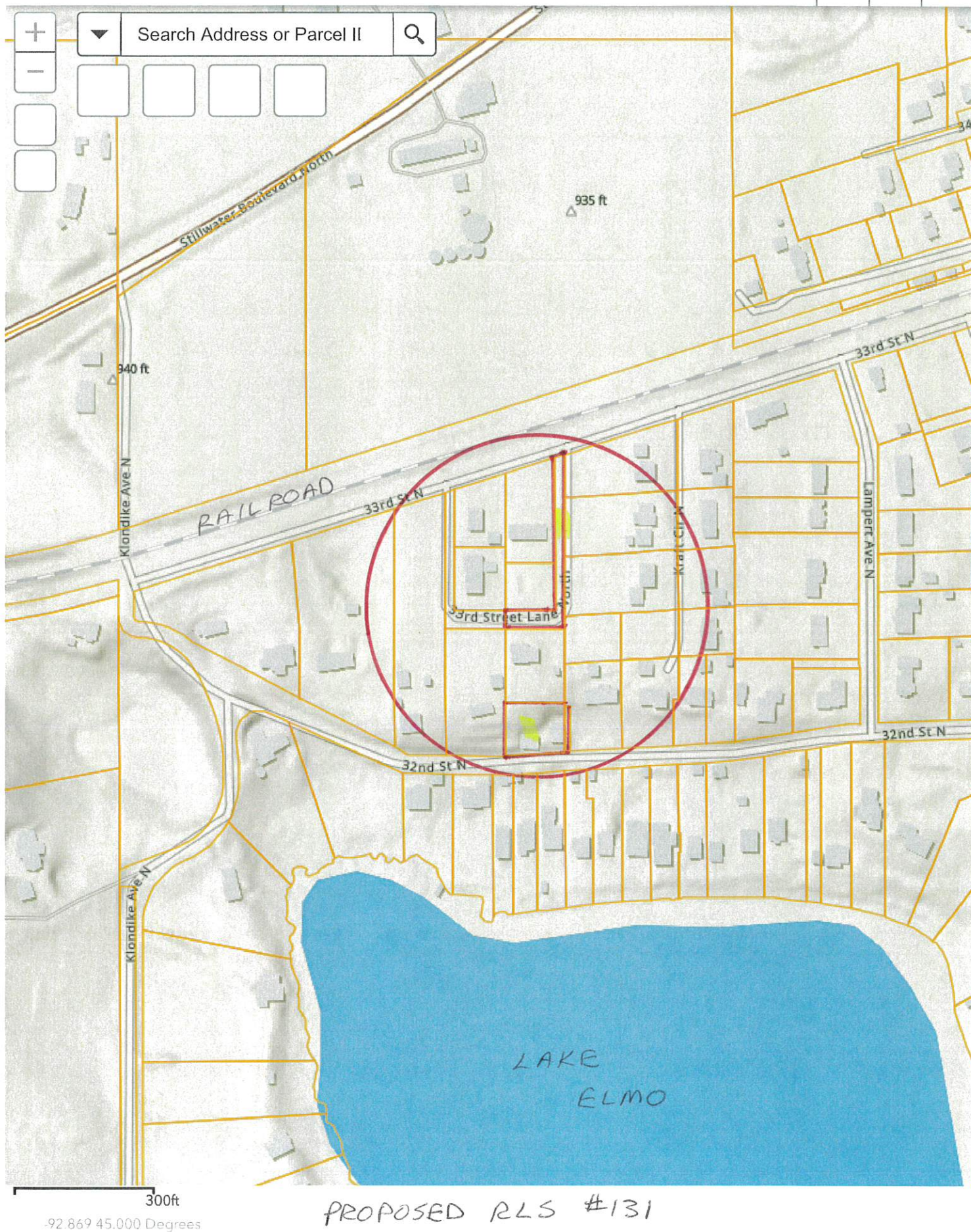
ATTACHMENTS:

1. Location Map
2. Property Line Map
3. Proposed RLS No. 131
4. Proposed RLS No. 131 (Enlarged)

Parcel Viewer - Quick Access

Beta

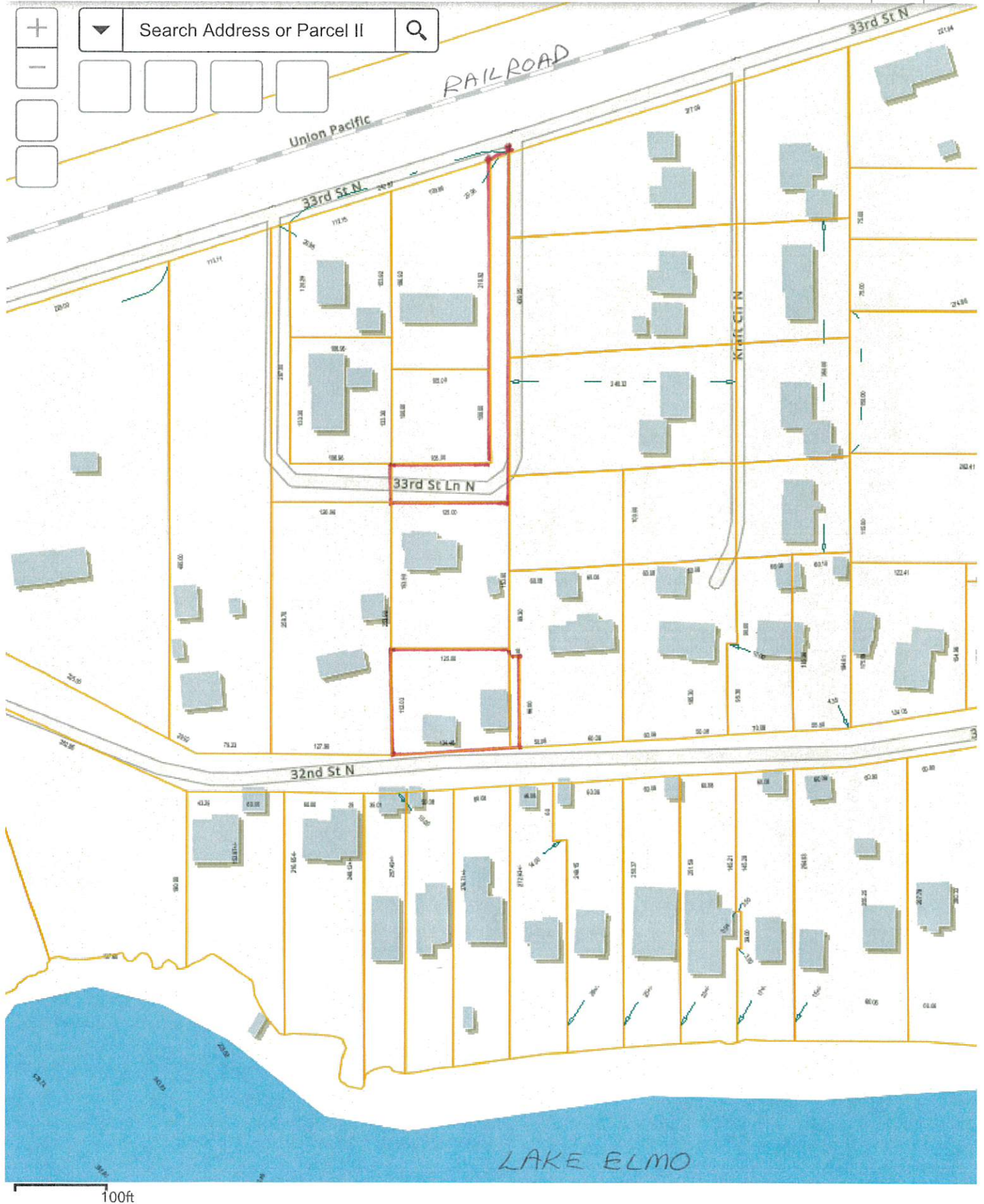
Washington Co.,



Parcel Viewer - Quick Access

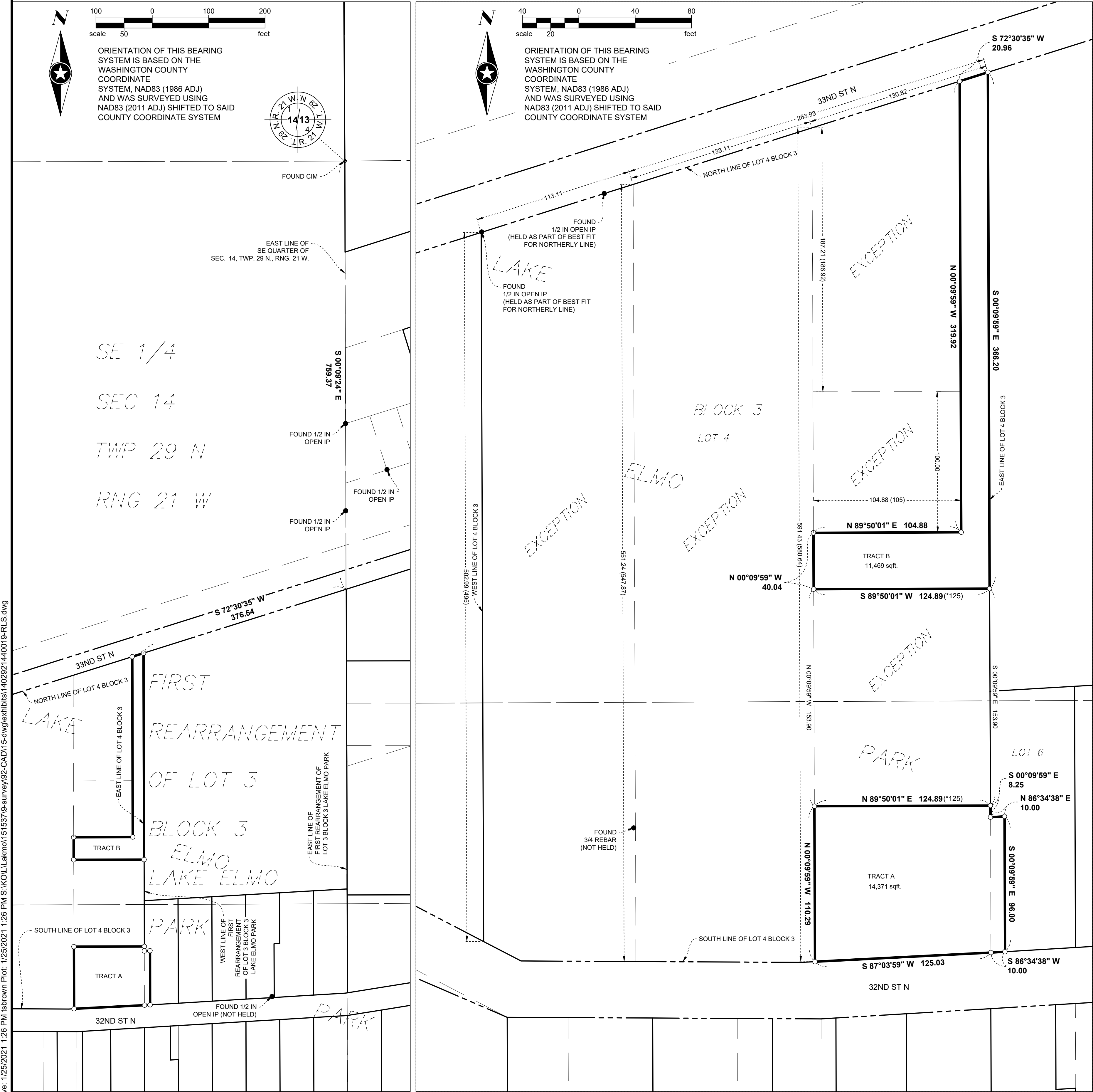
Beta

Washington Co.,



-92.876 44.997 Degrees

REGISTERED LAND SURVEY NO. 131



I, Theodore S. Brown, do hereby certify that, in accordance with the provisions of Minnesota Statutes Section 508.47, and I have surveyed and divided the the following described property situated in the County of Washington, State of Minnesota to wit:

(Torrens - Certificate of Title No. 74738)

Lot Number Four (4), in Block Number Three (3), of LAKE ELMO PARK, according to the plat thereof on file and of record in the Office of the Register of Deeds of Washington County, Minnesota. EXCEPTING THEREFROM all that part of Lot Four (4), Block Three (3), LAKE ELMO PARK described as follows, to-wit: BEGINNING at an iron monument set at a point on the northerly line thereof, said point being One hundred thirty and eighty-two one-hundredths (130.82) feet southwesterly from the northeast corner thereof, said one hundred thirty and eighty-two one-hundredths (130.82) feet being measured along the northerly line thereof, and running thence southwesterly along said northerly line thereof One hundred thirty-three and eleven one-hundredths (133.11) feet to an iron monument set on said northerly line thereof, thence south on a line parallel to the east line thereof Five hundred forty-seven and eighty- seven one-hundredths (547.87) feet, more or less, to its intersection with the south line thereof; thence east along said south line to its intersection with a line drawn from the point of beginning to the south line thereof, said line being parallel to said east line thereof, thence north on said parallel line Five hundred eighty and sixty-four one-hundredths (580.64) feet, more or less to the point of beginning, and containing 1.64 acres more or less.

EXCEPTING ALSO: That part of Lot Four (4), Block Three (3), LAKE ELMO PARK, described as follows, to- wit: BEGINNING at an iron pipe monument set on the northerly line thereof at a point Two hundred sixty-three and ninety-three hundredths (263.93) feet southwesterly from the northeast corner thereof, said Two hundred sixty-three and ninety-three hundredths (263.93) feet being measured along the northerly line thereof; and running thence south on a line drawn parallel to the east line thereof Five hundred forty-seven and eighty-seven hundredths (547.87) feet, more or less to its intersection with the south line thereof; thence west and northwest along said southerly line thereof to the southwest corner thereof; thence north along the west line thereof Four hundred ninety-five (495) feet to the northwest corner thereof; thence northeasterly along the northerly line thereof One hundred thirteen and eleven hundredths (113.11) feet to the point of beginning, and containing 1.36 acres more or less.

EXCEPTING ALSO: All that part of Lot Four (4), Block Three (3) of LAKE ELMO PARK, in the Village of Lake Elmo, Minnesota, legally described as follows: Commencing at the NE corner of Lot 4, Block 3, of LAKE ELMO PARK as now of record and on file in the office of the Register of Deeds in and for the County of Washington and State of Minnesota; thence southwesterly along the north line of said Lot 4 for 20.96 feet to the point of beginning of this description, thence south and parallel with east line of said Lot 4, for 219.92 feet; thence west at right angles for 105 feet; thence north at right angle and parallel with said East line of Lot 4 for 186.92 feet to its intersection with the north line of said Lot 4; thence east at right angles 109.86 feet to the point of beginning.

EXCEPTING ALSO: All that part of Lot 4, Block 3, of LAKE ELMO PARK, in the Village of Lake Elmo, Minnesota, described as follows: Commence at the northeast corner of Lot 4, Block 3, of LAKE ELMO PARK as now of record and on file in the office of the Register of Deeds in and for the County of Washington, State of Minnesota; thence southwesterly along the north line of said Lot 4 for 20.96 feet; thence south and parallel with the east line of said Lot 4 for 219.92 feet to the point of beginning of this description; thence continuing south along said parallel line with east line of Lot 4 for 100 feet; thence west at right angle for 105 feet; thence north at right angle for 100 feet; thence east at right angle for 105 feet to the point of beginning.

Also an easement for ingress and egress over and across a 20 foot strip, the east line of which is described as beginning at the NE corner of Lot 4, Block 3, LAKE ELMO PARK and running southerly to a point due east of the southeast corner of the above described tract.

EXCEPTING ALSO: All that part of Lot 4, Block 3 of LAKE ELMO PARK, in the Village of Lake Elmo, Minnesota, described as follows: Commence at the northeast corner of Lot 4, of Block 3 of LAKE ELMO PARK as now of record and on file in the Office of the Register of Deeds, in and for the County of Washington, State of Minnesota; thence south along the east line of said Lot 4 for 366.2 feet to the point of beginning of this description; thence continuing on said east line of Lot 4 for 153.9 feet; thence west at right angle for 125 feet; thence north at right angle for 153.9 feet; thence east at right angle for 125 feet to the point of beginning.

Also an easement for ingress and egress over and across a 20 foot strip, the east line of which is described as beginning at the northeast corner of Lot 4, Block 3, LAKE ELMO PARK, and running southerly to the northeast corner of the above described tract.

All that part of Lot Number Six (6), of FIRST REARRANGEMENT OF Lot 3, OF BLOCK 3, OF LAKE ELMO PARK, as surveyed and platted and now on file in the office of the Registrar of Titles in and for said Washington County and State of Minnesota, described as follows, viz: BEGINNING at the southwest corner of said lot, and running thence north along the west line of said lot, Ninety-six (96) feet to a point; thence east on a line parallel with the south line of said lot, Ten (10) feet to a point; thence south on a line parallel with the west line of said lot to the south line thereof; thence west along the south line of said lot, Ten (10) feet to the place of beginning.

I hereby certify that this Registered Land Survey was prepared by me or under my direct supervision, that I am a duly Licensed Land Surveyor in the State of Minnesota, and that this Registered Land Survey is a correct representation of said parcel of land. Dated this ____ day of _____, 20__.

Theodore S. Brown, Licensed Land Surveyor, Minnesota License No. 51678

STATE OF MINNESOTA
COUNTY OF WASHINGTON

This instrument was acknowledged before me this ____ day of _____, 20__, by Theodore S. Brown, Licensed Land Surveyor.

Notary Public, _____ County, Minnesota
My Commission Expires _____

CITY OF LAKE ELMO

This Registered Land Survey is hereby accepted by the City Council of Lake Elmo, Washington County, Minnesota, this ____ day of _____, 20__.

Signed _____ Signed _____
Mayor Clerk

COUNTY SURVEYOR

Pursuant to Chapter 820, Laws of Minnesota, 1971, and Minnesota Statutes Sections 389.09, Subd. 1, this Registered Land Survey is hereby accepted this ____ day of _____, 20__.

Signed _____ Signed _____
Washington County Surveyor By

COUNTY AUDITOR/TREASURER

Pursuant to Minnesota Statutes, Section 508.47, taxes payable in the year 20__ on the land herein described have been paid. Also pursuant to Minnesota Statutes, Section 272.12, there are no delinquent taxes and transfer has been entered on this ____ day of _____, 20__.

Signed _____ Signed _____
Washington County Auditor / Treasurer Deputy

COUNTY REGISTRAR OF TITLES

Document Number _____

I hereby certify that this instrument was filed in the Office of the Registrar of Titles for record on this ____ day of _____, 20__, at ____ o'clock __.m. and was duly recorded in Washington County Records.

Signed _____ Signed _____
Washington County Registrar of Titles Deputy

LEGEND

- SET 1/2 INCH BY 18 INCH IRON PIPE MARKED "TSBROWN 51678"
- FOUND PROPERTY MARKER, DENOTED BY TYPE AND RELEVANCE ON SURVEY
- ◆ FOUND CAST IRON MONUMENT
- MEASURED LENGTH (DEED LENGTH PER EXCEPTION)
- MEASURED LENGTH (DEED LENGTH WITH DEED OVERLAP)



REGISTERED LAND SURVEY NO. 131



scale 0 20 40 80 feet

ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE WASHINGTON COUNTY COORDINATE SYSTEM, NAD83 (1086 ADJ) AND WAS SURVEYED USING NAD83 (2011 ADJ) SHIFTED TO SAID COUNTY COORDINATE SYSTEM

FOUND 1/2 IN OPEN IP (HELD AS PART OF BEST FIT FOR NORTHERLY LINE)
LAKE
FOUND 1/2 IN OPEN IP (HELD AS PART OF BEST FIT FOR NORTHERLY LINE)

BLOCK 3
LOT 4

ELMO

EXCEPTION

EXCEPTION

EXCEPTION

EXCEPTION

PARK

FOUND 3/4 REBAR (NOT HELD)

TRACT A
14,371 sqft.

TRACT B
11,460 sqft.

LOT 6

I, Theodore S. Brown, do hereby certify that, in accordance with the practice in the County of Washington, State of Minnesota to wit:

(Torrens - Certificate of Title No. 74738)

Lot Number Four (4), in Block Number Three (3), of LAKE ELMO PARK EXCEPTING THEREFROM all that part of Lot Four (4), Block Three (3) thereof, said point being One hundred thirty and eighty-two one-hundred (130.82) feet being measured along the northerly line thereof, and 1 foot to an iron monument set on said northerly line thereof, thence south or less, to its intersection with the south line thereof; thence east parallel to said east line thereof; thence north on said parallel line to across more or less.

EXCEPTING ALSO: That part of Lot Four (4), Block Three (3), LAKE ELMO PARK, two hundred sixty-three and ninety-three hundredths (263.93) feet; being measured along the northerly line thereof; and running thence more or less to its intersection with the south line thereof; thence west Four hundred ninety-five (495) feet to the northwest corner thereof; beginning, and containing 1.36 acres more or less.

EXCEPTING ALSO: All that part of Lot Four (4), Block Three (3) of LAKE ELMO PARK as now of record and on file in the Office of the Registrar of said Lot 4 for 20.96 feet to the point of beginning of this thence north at right angle and parallel with said East line of Lot 4 to beginning.

EXCEPTING ALSO: All that part of Lot 4, Block 3, of LAKE ELMO PARK as now of record and on file in the Office of the Registrar of said Lot 4 for 20.96 feet; thence south and parallel with the east line of said Lot 4 for 100 feet; thence west at right angle for 105 feet; thence north

Also an easement for ingress and egress over and across a 20 foot strip southerly to a point due east of the southeast corner of the above described tract.

EXCEPTING ALSO: All that part of Lot 4, Block 3 of LAKE ELMO PARK as now of record and on file in the Office of the Registrar of said Lot 4 for 20.96 feet; thence east at right angle for 125 feet to the point of beginning.

Also an easement for ingress and egress over and across a 20 foot strip southerly to the northeast corner of the above described tract.

All that part of Lot Number Six (6), of FIRST REARRANGEMENT OF LAKE ELMO PARK as now of record and on file in the Office of the Registrar of said Washington County and State of Minnesota, described Ninety-six (96) feet to a point; thence east on a line parallel with the line thereof; thence west along the south line of said lot, Ten (10) feet to

I hereby certify that this Registered Land Survey was prepared by me or by a Land Surveyor is a correct representation of said parcel of land. Dated this _____ day of _____, 20__.

STATE OF MINNESOTA
COUNTY OF WASHINGTON

This instrument was acknowledged before me this _____ day of _____, 20__.

CITY OF LAKE ELMO
This Registered Land Survey is hereby accepted by the City Council of County, Minnesota, this _____ day of _____, 20__.

Signed _____ Mayor
Signed _____ Clerk

COUNTY SURVEYOR
Pursuant to Chapter 820, Laws of Minnesota, 1971, and Minnesota Statutes Subd. 1, this Registered Land Survey is hereby accepted this _____ day of _____, 20__.

Signed _____ Washington County Surveyor
Signed _____ By

COUNTY AUDITOR/TREASURER
Pursuant to Minnesota Statutes, Section 508.47, taxes payable in the year herein described have been paid. Also pursuant to Minnesota Statutes, no delinquent taxes and transfer has been entered on this _____ day of _____, 20__.

Signed _____ Washington County Auditor / Treasurer
Signed _____ Deputy

COUNTY REGISTRAR OF TITLES
Document Number _____

I hereby certify that this instrument was filed in the Office of the Registrar of said Washington County and State of Minnesota, this _____ day of _____, 20__, at _____ o'clock recorded in Washington County Records.

Signed _____ Washington County Registrar of Titles
Signed _____ Deputy