



City of Lake Elmo

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File

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, April 9, 2007, at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. March 12, 2007
4. PUBLIC HEARING: An application to allow variances to Shoreland District regulations relating to lot widths for parcels which will be created as part of a minor subdivision for the property located at 3200 Lake Elmo Avenue.
5. PUBLIC HEARING: Rezoning of all properties located south of 10th street and north of I-94 to be consistent with the recently approved comprehensive plan.
(CANCELLED)
6. PUBLIC HEARING: Rezoning of all properties located within the designated Village Area to be consistent with the recently approved comprehensive plan.
(CANCELLED)
7. City Council Updates
 - a. March 29 – 2nd Village Area Master Plan Open House
 - b. April 3 – Village Development Moratorium approved
 - c. April 3 – Ordinance 97-167 Commercial Social Outdoor Events repealed
 - d. April 3 – JP Bush Homes Variances – off-site approved; drainfield easement size denied
8. Adjourn

**City of Lake Elmo
Planning Commission Meeting
Minutes of March 12, 2007**

Commissioner Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Helwig, Fliflet, Van Zandt, Lyzenga, Armstrong, Deziel, McGinnis, Schneider. STAFF: Project Director Susan Hoyt, Interim Administrator T. Bouthilet and Planner Matzek. Also Present: Village Area Master Plan Consultants Bruce Jacobson and Bob Engstrom.

Agenda

M/S/P Armstrong/Lyzenga as presented. 8:0

Minutes

M/S/P Lyzenga/Deziel as presented 4:0; Abstain – Van Zandt, Helwig, Armstrong, Schneider - Absence

Presentation of the Village Master Plan

Mr. Jacobson introduced the Village Area Master Plan. He stated this was the first time this document had been in print, though it had been talked about for a number of years. The map that has been available is an interpretation of the master plan ideas. The intent of the meeting is to focus on the vision of the plan. There are a number of steps to the Master Plan, such as infrastructure, financing, and the policy and process component. This plan is a part of identifying when, where, and how the city should grow.

Mr. Jacobson identified a property ownership map included in the plan. There have been shared discussions along the way with property owners. He then described the twelve guiding principles as outlined in the Master Plan. He considered the principles to be benchmarks against which to measure future proposals. The village area vision suggests that protection and enhancement of the village center is essential. He emphasized enhancement and not displacement. The plan came out of the existing context with thought given to the existing streets in the core area.

Mr. Jacobson stated he would be meeting with the Park Commission to receive feedback. He said that in the creation of the master plan document, multiple layers were considered – green and blue system, streets and blocks pattern, and land use mix. He then elaborated on the proposed housing types – single family, twin home, townhouse, apartment/condos, and housing above retail. The parcel plan in the document begins describing where the housing types could be located along with a range of unit numbers. This was done in preparation for the AUAR to provide a reasonable picture of what could happen. He suggested placing a cap on a popular housing type, such as senior housing.

Mr. Jacobson identified that chapter three covered the master plan components. The components include Route 5 Main Street Stillwater Boulevard; Lake Elmo Avenue Extension and Old Main Street; Community Campus; New City Hall; and City Parks, Trails and Greenbelt Buffer. Town destinations are very active and identifiable areas.

Mr. Jacobson stated that the existing Lake Elmo Avenue crossing of Highway 5 is confusing and unsafe. The extension of the road would create a safe village crossroad. He said that he is holding out hope for a new City Hall to be located on main street at the current car dealership location. He has been directed by the City Council to look at other alternate locations.

Mr. Jacobson said that chapter four in the master plan identifies case studies of other cities with a population of around 5,000. Chapter five covers the topic of infrastructure. Though this chapter is currently empty, in the future it will address sanitary sewer and water system, storm water management, MPCA clean-up project, and streets. The last chapter will eventually include information on the Planning Process and Planning Tools.

Mr. Jacobson stated that a public open house will be held at 6:30 p.m. on Wednesday, March 21st.

Project Director Hoyt explained that the master plan is moving forward and will ultimately be accepted by the City Council. An Alternative Urban Areawide Review (AUAR) will soon begin to provide an indepth environmental review to the area. This study will look at two examples – the version as outlined in the existing Lake Elmo Comprehensive Plan and the village area master plan as accepted by the Council. An advisory committee will be formed for the AUAR, which will include a representative of the Planning Commission. After the AUAR process is complete, a Comprehensive Plan amendment may be necessary.

Commissioner Helwig opened the floor for commissioner input.

Commissioner Schneider stated that the land adjacent to the airport has a lot of homes designated in the plan. He asked if there was any acceptance from MAC of this plan.

Mr. Jacobson said that an earlier version of the plan had included a larger water body in that area that had been reduced with consideration of the proximity to the airport.

Commissioner Schneider asked for clarification on the concerns of MAC.

Mr. Jacobson stated that MAC had reacted mostly to the water body and not the proposed housing.

Commissioner Schneider asked if the roads 17 and 5 were going to be turned over to the City.

Project Director Hoyt stated that there are conversations with Washington County on having the County take over Highway 5. If the City took over the road, it may be difficult on tax payers to maintain, plow, and repave the roadway.

Commissioner Lyzenga asked what the thought process was in increasing the unit count from the original 500 in the Comprehensive Plan to the 1,500 units in the village area

master plan. She also asked if the number of units are planned to be increased in the village area, are they going to be reduced elsewhere.

Project Director Hoyt said she was unsure at this time in terms of the range of the unit count. She stated that there was some discussion about moving some of the units up from the area South of 10th Street.

Commissioner Lyzenga stated that her concern about policy number one is quality. She said that increasing the number ten times the existing numbers does not speak to quality. She asked if the increase in the number of units was because of feasibility. She would like to see quality of life as the number one issue.

Mr. Engstrom said that it was dependent upon what quality of life is being discussed. In this plan, seniors could walk to nearby amenities.

Commissioner Lyzenga said that thinking outside the box is important. One example would be 600 units of just senior housing. The conversation should be about framework. Six hundred to 1,500 units is a huge range for the framework. She would like to hear an argument for why the range is so large.

Mr. Jacobson stated that the guiding principals are key. Whatever the population, the city should be looking for partners that will help build what would be unaffordable if the city worked on its own. He stated that the costs need to be balanced and he would like to see others help pay for the projects as much as possible. Partners in the projects can be held accountable for high quality.

Commissioner Fliflet said she would like to see a viable, walkable downtown. The City needs to have a population there or it will result in vacant buildings and the plan would not work. Additional people do not necessarily make it a bad plan if it is well thought out.

Mr. Jacobson said that the plan is not overstretching the bounds of what a commercial street would be like. This area would not be like the area of 50th and France. It would be more comparative to the city of Cannon Falls. They are not trying to paint an unattainable picture.

Commissioner Armstrong said that he has a copy of the Comprehensive Plan. On page III-9 of the Lake Elmo Comprehensive Plan, it mentions 440 new housing units. The Planning Commission has been out of the loop on the progression of the Village Area Master Plan. He would like to see more background on how the present unit count was reached. He is concerned that the increased number of units was based on requests by developers who would want more units.

Mr. Jacobson stated that the existing city staff is different then before. He said there were a number of issues that took up a good part of a year to go through. They were told that six hundred units was a placeholder. Mr. Jacobson and the village area planners have

previously met with the allied owners group, which consists of three or four large property owners. The planning group has also met with city staff, the Mayor, and the City Council. Mr. Jacobson said that it is important to balance the costs, infrastructure, and other important components. The plan does not suggest developers will be allowed to build whatever they want or in any manner they choose. Developers will understand they are expected to perform and meet the regulations such as development standards and the zoning code.

Commissioner Armstrong asked what the units per acre average out to over the village area.

Mr. Jacobson said that as a net number, it comes close to the three units per acre.

Commissioner Armstrong stated that when the village area plan last left the Planning Commission, there was a significant green buffer around the area. He asked what had happened to that buffer zone.

Mr. Jacobson stated that if a development comes in, it is understood there will be a fifty percent open space dedication, which the plan reflects. The plan also reflects a ten percent park dedication in land.

Mr. Engstrom stated that the Schiltgen farm is approximately 80 acres in size and it is his understanding that this land will remain as open space.

Commissioner Fliflet asked Mr. Jacobson to identify locations on the map of different pieces of the plan. She also asked if a swimming area was planned for the village area.

Mr. Jacobson identified a community campus, parks, and intentional connections to water bodies. He stated that the buffer area is at least 300 feet wide in any location.

Commissioner Schneider asked how density occurs within the city currently without the city paying for the infrastructure.

Mr. Jacobson identified the village area plan as a highly amenitized village with an active main street, surface water management, streetscaping, and a number of other amenities. The plan is above and beyond what was previously required.

Commissioner Schneider asked if the park dedication fee would cover the proposed parks. He requested clarification on why the city needs to incent developers to do what they are already doing today.

Commissioner Deziel stated that there are some numbers involved in the plan.

Commissioner Schneider expressed concern that the commission will not see those numbers.

Project Director Hoyt stated that this is a vision plan and not based on that kind of data, but it is currently being worked on. More information will be available when the AUAR process is complete. The scenario described in the current Comprehensive Plan will be reviewed in the AUAR process.

Mr. Engstrom said that scale and character have come up in the process of creating the master plan. He said there was discussion on the possibility of having two senior housing complexes. Most senior housing complexes require about 80 units to supply services. The plan also includes retail with units above them. It is important to provide some degree of affordability in housing. There is no intention of giving away anything to developers. The design guidelines and site development guidelines are in the process.

Commissioner Lyzenga asked what impact the population increase from the village area would have on the schools.

Commissioner Lyzenga suggested moving City Hall into the existing school and building a larger school building if one is needed.

Project Director Hoyt stated that she will be talking with the principal of the Lake Elmo Elementary School about the school district's plan.

Commissioner Fliflet said that the planning commission had embraced the housing types suggested. She said that it was not intended for 600 units to be a place to work up from. It is difficult for the commission to leave the unit count out of the discussion because that is a big concern from the community. The unit counts will need to be a part of discussions about the Village Plan in future discussions.

Mr. Jacobson said he is not trying to push aside the numbers associated with this project. Instead, he wants to tie it to the financial components of the project. In this plan, they tried to put out a reasonable mix of units.

Commissioner Fliflet said that the way the Comprehensive Plan reads currently, the required number of REC units is met.

Project Director Hoyt said that one reason to do the AUAR is to see what impact the units will have on roads, streets, and other factors. The AUAR will review the population of 600, 1100, and 1500 additional units. Along with the financial analysis, this may result in a Comprehensive Plan amendment and rezoning that the Planning Commission would be involved with in the future.

Commissioner Deziel stated he believed former City Planner Dillerud did not want an exact number on the units in the Village Plan or the inclusion of senior housing. Commissioner Deziel said that viability for businesses is an important component to this plan. He has read it takes a population of 5,000 to support neighborhood businesses.

Mr. Engstrom stated that using three people per unit is ambitious, especially when considering senior housing. Senior housing would have a count closer to 1.2 people per unit. Those moving to the village might be moving from elsewhere within the city.

Commissioner Schneider asked if the major property owners were to develop as OP developments, how many units would result.

Commissioner Deziel suggested that was how the 600 unit count was originally identified.

Commissioner Schneider asked what the thought was behind moving the townhomes so far north and north of Highway 5.

Mr. Jacobson said that the intent behind the placing of the townhomes, was to put them near an amenity.

Commissioner Schneider asked why the village scale parcels identified as a, b, c, d, e, and f were so far from the village.

Mr. Jacobson said that the entire area is the village area. The blocks identified were still within walking distance to the main street.

Commissioner Armstrong stated he would understand if more units were allowed to help avoid using Tax Increment Financing. He expressed concern of allowing cookie cutter homes and would like to see development standards created.

Mr. Engstrom said one of next stages is the creation of design guidelines and the implementation.

Commissioner Fliflet said the school is a component that needs to be considered. Traffic, capacity, and the rerouting of Lake Elmo Avenue are also important.

Project Director Hoyt said the rerouting of the road would only occur if a change occurred with the school.

Mr. Jacobson asked if the illustration represented a concept that the commission was comfortable with.

Commission Lyzenga said she likes the layout, but she does not like the implementation. She would rather see many small builders than a few large corporate builders.

Commissioner Schneider said he is uncomfortable with the migration of everything to the north.

Commissioner Fliflet said there is no distinction between existing developments adjacent to the Village.

Mr. Jacobson pointed out that there are no road connections from the existing developments to the planned village area.

Commissioner Schneider asked if it was possible to have a second open house as a number of people will be out of town the week of the currently planned open house.

Commissioner Helwig stated he believes there is a need for a variety of buildings and different designs. No two homes are the same in the Old Village currently. The street widths is a safety concern.

Comprehensive Plan Timeline Update

Senior Planner Gozola stated that he had expressed his hopes on how to approach the rezoning at the joint February meeting with the City Council. He met with a representative of the Metropolitan Council and there was an agreement to allow interim zoning districts. This interim zoning district will allow the city additional time to prepare for the future sewered areas.

Commissioner Armstrong said that the commission had been looking at zoning districts back in December.

Senior Planner Gozola assured the commission their work would not be thrown out.

Commissioner Lyzenga asked if a public hearing would be needed.

Senior Planner Gozola replied that a public hearing would be needed.

Commissioner Helwig asked if there would be a space issue with number of people being noticed.

Senior Planner Gozola stated that the city has time to decide when and where.

Commissioner Armstrong suggested noticing a public hearing for April 9th and use the text that was previously created for the interim zoning districts.

City Council Updates

Planner Matzek stated that on February 27 the City Council approved the selection of DSU/Bonestroo to proceed with the AUAR. On March 6th, the City Council received a presentation of the Village Area Master Plan, reviewed the ordinance for Commercial Social Outdoor Events, and tabled the variance and minor subdivision application at 3200 Lake Elmo Avenue.

Adjourned 9:00

Lake Elmo Planning Commission Agenda Item
Executive Summary

Title of Item: **Minor subdivision with a variance at 3200 Lake Elmo Avenue N.**

Meeting Date: **4-9-07**

Staff/Guest Reporting: **Ben Gozola, City Planner**

Summary: On January 22, the planning commission reviewed a proposed minor subdivision of 3200 Lake Elmo Avenue which required a width variance for each of the proposed lots. The matter was tabled at that time, and the applicants returned in February with a revised proposal which eliminated the need for one of the requested variances. The planning commission was amenable to the revised proposal and forwarded the plan on for Council consideration. While before the Council, it was determined that the applicants must also request a width variance for one of the proposed parcels at the OHW to Lake Elmo. Because that specific variance was not discussed at the initial public hearing, the City Attorney recommended the matter be forwarded back to the planning commission. As such, the proposal before the planning commission at this time is largely unchanged from the minor subdivision recommended for approval in February.

- Main Points:*
1. The applicants are seeking to create two lots on the corner of Lake Elmo Avenue and 32nd Street North.
 2. Parcel "F" will require a 79.5 foot lot width variance from the required 150 foot width at the OHW; and
 3. Parcel "F" will also require a 54 foot lot width variance from the required 150 foot width at the lakeshore setback.
 4. Staff is recommending approval of the variance requests and the minor subdivision with conditions.

City of Lake Elmo Planning Department
Minor Subdivision Review

To: Planning Commission

From: Ben Gozola, City Planner

Meeting Date: 4-9-07

Applicant: Constance K. Smith

Location: 3200 Lake Elmo Avenue

Current Zoning: R1 – One Family Residential

Introductory Information

Request: The applicant is seeking a minor subdivision to create one additional lot.

History: On January 22, the planning commission reviewed a proposed minor subdivision of 3200 Lake Elmo Avenue which required a width variance for each of the proposed lots. The matter was tabled at that time, and the applicants returned in February with a revised proposal which eliminated the need for one of the requested variances. The planning commission was amenable to the revised proposal and forwarded the plan on for Council consideration. While before the Council, it was determined that the applicants must also request a width variance for one of the proposed parcels at the OHW to Lake Elmo. Because that specific variance was not discussed at the initial public hearing, the City Attorney recommended the matter be forwarded back to the planning commission. As such, the proposal before the planning commission at this time is largely unchanged from the minor subdivision recommended for approval in February.

Site Data: Parcel size = 4.47 acres
Property Identification Number: 13-029-21-33-0021
Existing Use – One single family dwelling

Questions & Answers

Q: What are the new variances being requested with this application and why are they needed?

A: Parcel "F" will need two variances.

- 1) A 79.5 foot lot width variance from the required 150 foot width at the OHW; and
- 2) A 54 foot lot width variance from the required 150 foot width at the lakeshore setback.

(cont.) Based on comments of both the applicant and City Council during the March 6th meeting, staff conducted a further review of the City's Shoreland regulations to explore whether any lot width requirements had been overlooked during our initial review. We did confirm our initial findings that definitions in Chapter One are to be used for terms in the Shoreland District Ordinance (section 325.03). We also confirmed that the shoreland lot width requirement is 150 feet on a recreational development lake (325.06 subd 3). However, we were not aware of further width requirements listed under the heading of "general provisions" in section 325.06 which reads: "...lot width standards must be met at both the ordinary high water level and at the building line."

Q: Does the fact that an additional variance is now being requested change the nature of this application?

A: No. The original variance request for lot width was based on the "pie shape" of the lot. If the planning commission determines that a width variance is supportable based on the shape of the property and the other the facts of this case, the same findings will be applicable to the new request at the OHW.

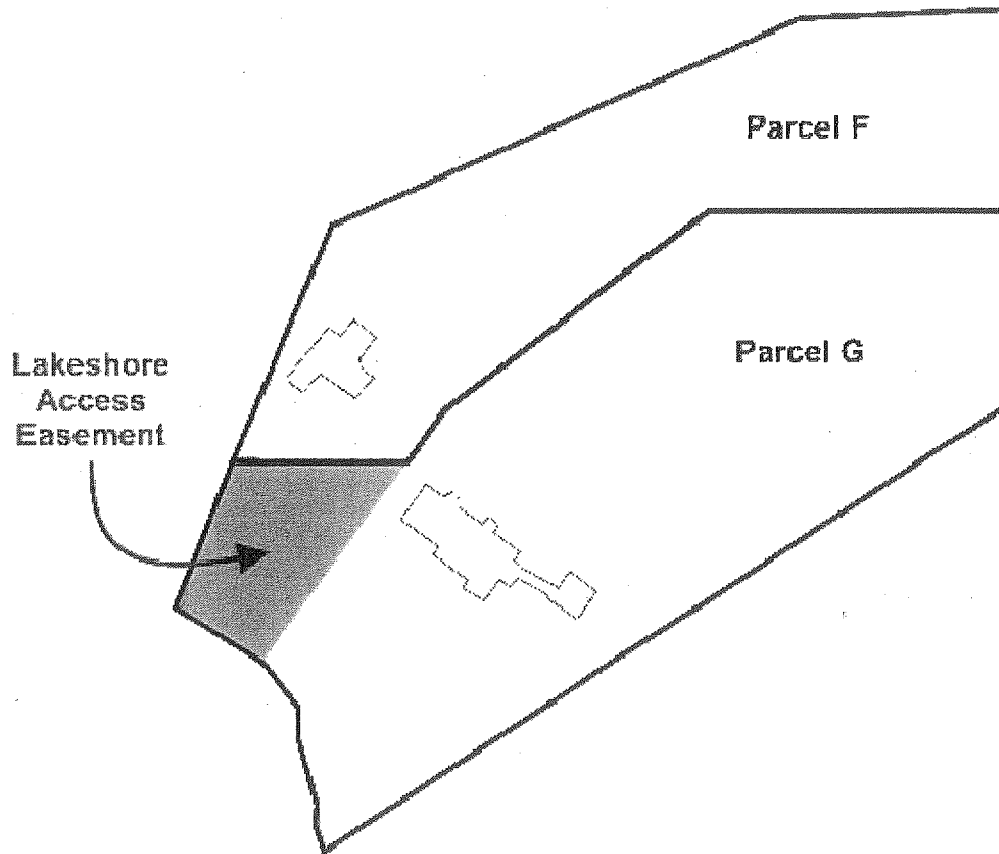
Q: Can the variance requests be viewed as "reasonable."

A: Yes. Staff believes the requested variances are reasonable based on the following factors:

- The land being divided is nearly large enough to support *three* lots based on the minimum lot size requirement of the R-1 district.
- The two proposed lots resulting from the minor subdivision will still be *the* two largest lots on the NE corner of Lake Elmo.
- The "pie shape" of the existing property creates the hardship which necessitates the variance.
- Neither City staff nor the DNR find that any environmental impacts will result from the granting of the variance that could not otherwise occur.

(answer continued on the next page)

(cont.) To explain the last finding, the planning commission must understand that the applicants can create a non-lakeshore lot which is conforming to all code requirements and still allows construction of a home in the exact location currently proposed by the current plan. Upon approval of the conforming subdivision, the owner of 3200 Lake Elmo Avenue could then grant Parcel F an easement over Parcel G for the purposes of lake shore access (see graphic below). The result is exactly the same as the proposed subdivision.



In consideration of the noted findings on page two, and given that denial of the variances does not prohibit lakeshore access for Parcel F, the basic question is whether it is reasonable to allow Parcel F to have its own lake shore frontage. Given that no environmental issues are identified, staff believes it is reasonable.

Q: Is the location of the existing driveway really a safety issue?

A: Yes. In any new residential development, city code section 1405.07 subd 4 states that driveways must be a minimum of 20 from street intersections. The existing separation is approximately 12 feet. The required separation is essential to ensure that drivers have adequate time to react to conflicts with cross traffic. Staff will again present illustrations of why safety is a concern if requested to do so at the 4-9-07 meeting.

Q: What is the DNR's role and authority in reviewing subdivisions within the shoreland district?

A: The DNR is a commenting body in reviewing these types of applications. By code, the City must notify the DNR of a public hearing to review a variance from shoreland district regulations. In this case, the DNR was notified of the official public hearing held in January. If Council were to approve the requested variances from the shoreland district requirements, written notification of the approval along with all applicable findings of fact and information in the public record is to be sent to the DNR within ten days of the official action approving the variance.

Q: Does code require the existing home to hook up to the municipal water system?

A: The City attorney has reviewed the code, and does not believe the current language requires the existing home to hook up to the municipal water service. However, the new home proposed for Parcel F will need to access public water.

Conclusion

The Planning Commission is asked to examine the proposed minor subdivision, hold the necessary public hearing, and make a recommendation as to whether the request should be approved or denied. Approval at this point provides the applicant the ability to file the subdivision with the County. All desired/required changes must be addressed at this time.

Commission Options:

The Planning Commission has the following options:

- A) The Planning Commission may recommend approval of the requested minor subdivision and lot width variances based on the applicant's submission, the contents of this report, public testimony and other evidence available to the commission.
- B) The Planning Commission may recommend denial of the requested minor subdivision and variances based on the applicant's submission, the contents of this report, public testimony and other evidence available to the commission.
- C) The Planning Commission may table the request for further study.

Recommended Action:

Staff recommends option A: Approval of the requested preliminary plat based on the following findings...

- The land being divided is nearly large enough to support *three* lots based on the minimum lot size requirement of the R-1 district.
- The two proposed lots resulting from the minor subdivision will still be *the* two largest lots on the NE corner of Lake Elmo.
- The "pie shape" of the existing property creates the hardship which necessitates the

(cont.)

variance.

- Neither City staff nor the DNR find that any environmental impacts will result from the granting of the variance that could not otherwise occur.

...with the following conditions:

1. The existing driveway shall be relocated onto 32nd Street to a location subject to approval by the City Engineer, and in accordance with the requirements of City Code chapter 14;
2. All above ground utilities servicing the existing home (if any) shall be placed underground prior to accepting an application for final plat;
3. Standard drainage and utility easements shall be provided to the City around the boundaries of all lots, wetlands, and lakes as guided by the City Engineer. Such easements shall be legally conveyed to the City before issuance of any future building permits.
4. Installation of two new septic systems at this time shall not exclude both properties from hooking up to the municipal system if mandated by the City in the future.
5. Silt fence shall be shown at the construction limits for the proposed house, driveway and street that will be constructed with this development;
6. The applicant shall obtain and adhere to all necessary permits and approvals from the VBWD;
7. The applicant shall pay a cash-in-lieu fee of \$3500 to satisfy the city's park dedication requirements.
8. Compliance with any additional requirements established by the City Engineer and City Attorney.

The remainder of this report contains the comprehensive overview of the subdivision in its current form. It is only provided for your reference as the main issues discussed at the previous meetings are all outlined above.

Complete Subdivision Review

IN GENERAL:

Proposed Density: Proposed density for the subdivision is 2 lots created on 4.47 acres, for an overall density of 0.45 units per acre (or 2.24 acres per lot).

Staff Comments: The proposed density is allowable in the R1 district.

Lot

Configuration:

The following table summarizes the minimum lot requirements and how the proposed subdivision compares:

	<u>SIZE (acres)</u>	<u>WIDTH (front setback)</u>	<u>WIDTH (lake setback)</u>	<u>WIDTH (OHW)</u>
REQUIRED:	1.5	150'	150'	150'
Parcel F:	1.896	≈ 216'	96'	70.5
Parcel G:	2.575	≈ 166'	≈ 178'	150.5

Staff Comments: Because Lake Elmo is classified as a recreational development lake, the required lot width for both parcels is 150 feet (325.06 subd. 3). As code defines *lot width* as “the horizontal distance between the side lot lines of a lot measured at the setback line,” staff must measure the width at both the front yard setback and the lakeshore setback. Note that the term “building line” as used in the shoreland management codes refers to these same front and lakeshore setback lines.

**Future parcel
development:**

- This proposal would fully divide the property under its current zoning and comprehensive plan designations.

Lot Access:

- Section 400.14 Subdivision 8(f) of Lake Elmo code states that “whenever a proposed subdivision abuts an existing...arterial street..., the lots shall access onto local streets wherever possible.” Staff interprets this language to include all properties in the subdivision regardless of whether there are existing homes or driveways. In this case, proposed Parcel F clearly has adequate access to 32nd Street North, so removal of the existing driveway to a new location onto the local road network (32nd Street) will be required as a component of this subdivision.

The planning commission was divided equally on whether this should be a requirement during the last review of this application.

- It is staff’s opinion that the existing driveway entrance onto Lake Elmo Avenue creates a safety concern that should be addressed via this subdivision. Lake Elmo Avenue—as an arterial roadway—is designed to carry large volumes of vehicles efficiently and safely. A main way to ensure that efficiency and safety are maintained over time is to limit access points onto the roadway. Fewer access points mean less opportunity for accidents and less interactions between vehicles which leads to consistent speeds as traffic flow is not interrupted. When one considers the anticipated number of vehicles on Lake Elmo Avenue is expected to be four times that which it carries today by 2030 (5200 AADT to 22,150 AADT), it is clear that the City should act now to eliminate unnecessary access points to limit future problems.

- (cont.)
- Sightlines for a new access point on 32nd Street North are sufficient and do not pose a safety concern. Staff agrees that 32nd Street is narrow, but it is a fact that narrow streets induce slower driving speeds. In comparison, Lake Elmo Avenue is extremely wide which invites higher driving speeds (even though the speed limit on both is 30 m.p.h.). We also know that traffic on 32nd Street North will see relatively little increase as a result of planned development in the Village area. On the other hand, traffic on Lake Elmo Avenue is anticipated to increase four-fold as a result of the same planned development. The guarantee of more traffic at higher speeds on Lake Elmo Avenue support the code requirement to mandate relocation of the existing driveway.
 - The applicant shall work with the City Engineer to determine the ideal location for the new driveway access point onto 32nd Street North.
 - The new driveway access point should be in compliance with all requirements of city code Chapter 14.

**Adjacent
parcel dev.:**

- The proposed subdivision will have no impact on development of adjacent lots.

Easements:

- The applicant shall be required to provide standard drainage and utility easements around the perimeter of both lots. Standard easements according to TKDA are 10 feet from the front and rear property lines; 5 feet from side property lines (unless utilities are present); and 20 feet from the lakeshore.

**Variance
Requests:**

- As Lake Elmo is classified as a recreational development lake, the required lot with for both parcels is 150 feet (325.06 subd. 3).
- As noted in the review of "lot configuration," the proposed Parcel "F" requires two variances:
 - 1) A 79.5 foot lot width variance from the required 150 foot width at the OHW; and
 - 2) A 54 foot lot width variance from the required 150 foot width at the lakeshore setback.
- By code, a variance can only be granted where the city finds the request can successfully address the following criteria:
 1. *There are special circumstances or conditions affecting the applicant's land that the strict application of the minimum standards of this section would deprive the applicant of the reasonable use of that land.*

In reviewing the past subdivision for this land which resulted in the creation of 11075 32nd Street North, the City found that a hardship existed based on the "pie" shape of the lot. It was possible at that time to create two conforming lots, but the City felt the amount of acreage being divided could support three lots. As such, the decision was made to grant lakeshore width variances for 11075

(cont.)

32nd Street North which was greater than is being requested for parcel F. As the width variances were anticipated by the City; as the land being divided is nearly large enough to support *three* lots based on the minimum lot size requirement of the R-1 district; as the resulting lots will be the two largest lakeshore lots on the NE side of the lake; and as the “pie shape” of the existing property creates the hardship which necessitates the variances; the requests can be viewed as reasonable. **Staff finds this criteria to be satisfied.**

2. *That the granting of the variance will not be detrimental to the public welfare or injurious to other property.*

Neither City staff nor the DNR find that any environmental impacts will result from the granting of the variances that could not otherwise occur. The only detrimental aspect to this property identified by staff is the exit point of the existing driveway onto Lake Elmo Avenue. Given that code requires this driveway to be relocated during the subdivision process, staff actually views the proposal as a benefit to public welfare. **Staff finds this criteria to be satisfied.**

3. *That the variance required by reason of unusual hardship relating to the physical characteristics of the land.*

As stated in our analysis of reasonable use, the “pie” shape of this lot has already been cited by the City as a hardship for the past subdivision of this property. As the two resulting lots will still be two of the largest lots on this side of the lake, the “pie” shape can certainly be viewed as a legitimate hardship. **This criteria is therefore met.**

As staff finds all three variance criteria are met given our reasons above, we would recommend approval of the requested lot width variances.

**Resident
Concerns:**

- Staff has not received any new written comments for the public record since the last meeting. Minutes from the City Council meetings in March are attached for review by the commission.

INFRASTRUCTURE:

Road System:

- No new roads are proposed as part of this subdivision.

**Water
System(s):**

- As this area is guided for access to public water facilities (and water is available), the future home shall be connected to the municipal water system. The existing home will not need to hook up to public water according to the City attorney.

**Sanitary
System(s):**

- Both lots are proposed to be serviced by individual sewage treatment facilities. As sewer service is not currently available, this is an acceptable approach according to code.
- Note that the septic system for the existing home is proposed to be replaced by a new system within the identified septic area on Lot G. Lot F would also be served by a new septic site within its own boundaries.
- Staff would encourage the applicant to take all necessary precautions to ensure the proposed septic sites are not accidentally impacted prior to construction of the proposed septic systems.
- The City Engineer has reviewed the septic information provided by the applicant and found that there appears to be sufficient room on each lot for a primary and back-up septic system.
- According to the approved comprehensive plan, the subject property is guided for access to city sewer service once it become available. Installation of two new septic systems at this time shall not exclude both properties from hooking up to the municipal system if mandated by the City in the future.
- The applicant is encouraged to explore options for septic installation today that will minimize future costs to connecting to the municipal system.

**Storm water
/Ponds:**

- None are required as part of this subdivision. However, proposed grading changes may need to be reviewed with future building permit applications.

Utilities:

- According to **Sec. 400.14.**, all utilities are to be located underground.
- If the existing home has above ground utilities, approval of the subdivision should be contingent upon said utilities being placed below ground.

**Sidewalks &
Trails:**

- No sidewalks or trails are recommended as part of this minor subdivision.

**Parking
Facilities:**

- There are no parking issues for the proposed project.

**Required
Signage:**

- No new signage is required as a result of this development.

ENVIRONMENTAL & OTHER NEIGHBORHOOD IMPACTS:

- | | |
|---|---|
| <i>Wetlands & Drainage:</i> | <ul style="list-style-type: none">▪ The wetlands on this site have not been delineated to staff's knowledge, but there is no indication of wetlands that may impact the buildable area on each of the proposed lots. The VBWD indicates that there may be a wetland near Lake Elmo Avenue, but it would not be a concern given the proposed building locations.▪ As the VBWD is the Local Government Unit responsible for the Wetland Conservation, it is important for the applicant to receive the applicable permits and approvals as soon as possible. |
| <i>Erosion Control:</i> | <ul style="list-style-type: none">▪ Silt fence should be shown at the construction limits for the proposed houses or driveways with the future building permit application. |
| <i>Flood Plain & Steep Slopes:</i> | <ul style="list-style-type: none">▪ The subject property is in the floodplain.▪ According to FEMA map number 2705050010B, the base flood elevation for Lake Elmo is 889.0 from July 2, 1979.▪ Although topography is not provided on the survey, it seems clear when visiting the site that future building sites and access to the lots is not within the floodplain.▪ Staff is unaware of any steep slopes or bluffs on site that would effect development on this parcel. |
| <i>Traffic:</i> | <ul style="list-style-type: none">▪ The addition of a single lot will not significantly increase traffic volumes. |
| <i>Tree Preservation:</i> | <ul style="list-style-type: none">▪ Within the shoreland regulations, vegetation alterations are permitted as necessary for the construction of structures and sewage treatment systems. (325.06 Subd. 5A.) |
| <i>Required Plantings & Screening:</i> | <ul style="list-style-type: none">▪ No plantings or special screening devices are required as part of this subdivision. |
| <i>Docks</i> | <ul style="list-style-type: none">▪ Staff did not find anything in code regulating docks. |

CHARGES, FEES, & RESPONSIBILITIES:

- | | |
|---------------------------|--|
| <i>In General:</i> | <ul style="list-style-type: none">▪ As always, the applicant is responsible for all fees related to the review of this application (including but not limited to engineering, wetland, and legal reviews; environmental consultants; or other such experts as required by this application). |
|---------------------------|--|

Park Dedication: ■ Section 400.15 of City Code requires all subdivisions of land to dedicate a reasonable portion of land to the City for public use as parks, trails, or open space. The percentage for the R1 district is 10%.

4.47 acres * 10% required dedication = 0.447 acres of land (or 19,471 square feet)

■ Because three or less parcels are being created, the maximum cash-in-lieu contribution will be determined by the most recent Council resolution determining such (which currently calls for a \$3500 dedication per newly created lot).

Sewer Area Charge: ■ As this subdivision will not access municipal sewer services at this time, there will not be a sewer area charge assessed.

Water Area Charge: ■ As the new home will access municipal water services, there will be a \$4,000 charge for the proposed new home.

Building Permit Fees: ■ Additional building permit fees will be required with applications.

Ownership & maintenance: ■ As there are no stormwater ponds or outlots proposed, there is no need for a homeowners association.

cc: Constance Smith, *Applicant*
Carolyn Smith Horttor, *Applicant*
Tony Darlin, *Applicant's Attorney*

April 4, 2007

Anthony Dorland
Moss & Barnett
4800 Wells Fargo Center
90 South 7th Street
Minneapolis, MN 55402-4129

RE: Minor Subdivision application/Variance request
3200 Lake Ave. N.

Dear Mr. Dorland:

In regard to Shoreland Management, the Lake Elmo regulations can be more restrictive than the regulations of the Minnesota Department of Natural Resources (MR 6120.2800 subd.1). The following city regulations apply with Shoreland property:

1. The lot width standard for a riparian lot without sanitary sewer is 150 feet (Elmo 325.06 subd.3).
2. The lot width standard must be met at both the ordinary high water level and at the building line (Elmo 325.06 subd.1).
3. Ordinary high water level means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where natural vegetation changes from predominately aquatic to predominately terrestrial (Elmo 150).
4. Building line means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extent (Elmo 150).
5. The building setback for a structure on a riparian lot is 100 feet from the ordinary high water level (Elmo 325.07, subd.4 A.1).

A request for a variance from the Shoreland Management regulations is processed in the same manner as a request for a variances from the zoning code (Elmo 325.04 subd.2 and 300.06 subd.3). Variances can be approved by the city council if the property owner can demonstrate that he or she is requesting a reasonable use of property; that the request is due to the uniqueness of the property; and that the variance, if granted, will not change the essential character of the neighborhood.

Anthony Dorland

April 4, 2007

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The city council can approve a variance to the subdivision standards (Elmo 400.11 subdivisions 1 and 3) if the applicant can show:

1. That there are special circumstances or conditions or conditions affecting the applicant's land that the strict application of the minimum standards of the subdivision regulations would deprive the applicant of the reasonable use of their land.
2. That granting the variance will not be detrimental to the public welfare on injurious to other property.
3. That the variance is required by reason of unusual hardship relating to the physical characteristics of the land.

Pursuant to your clients' consent on March 20, 2007, the review period for the applications for the variances and the minor subdivision has been extended to May 3, 2007. The added variances will be reviewed by the planning commission on 9th day of April, 2007.

If you have any questions please contact me.

Sincerely,

Jerome P. Filla

JPF/jmt

cc: Kelli Matzek (via email)
Ben Gozola (via email)
Tom Bouthilet (via email)

M/S/P Johnson/Johnston – to adopt Resolution 2007-025 approving the signalization maintenance agreement for Keats Avenue with Mn/DOT and Washington County as amended.
(Motion passed 3:2 – Smith, DeLapp)

9. PLANNING, LAND USE & ZONING

A. PUBLIC HEARING: Vacation of Drainage and Utility Easement – TAPESTRY AT CHARLOTTE'S GROVE

Assistant Planner Matzek asked Council to table this item to the April 3, 2007 Council Meeting in order for the City Engineer to have additional time to review it.

THE MAYOR OPENED THE PUBLIC HEARING AT 9:03 P.M.

Greg Moris, 9759 45th Street North, said this request for vacation of the drainage and utility easement on this lot is a housekeeping measure. There was a rerouting of storm sewer not on the original plans, and there was no easement in the new location.

M/S/P DeLapp/Smith – to table the Vacation of Drainage & Utility Easement until the Council Meeting of April 3, 2007. (Motion passed 5-0)

B. Minor Subdivision with Variance to Lot Width – 3200 Lake Elmo Avenue

The City Attorney said it is apparent by the City Planner's Staff Report that three variances are required, and all of those variances have not been heard by the Planning Commission. He said the Council could take action on the 52 foot variance request tonight and continue the other matters until those variances are before them, and table the Minor Subdivision. The Council will need to ask the applicant if they are willing to table until a Council Meeting in May.

Attorney Dorland, for the applicants, said this has been an involved process by Staff. He thanked the City Attorney for alerting him to the new problems. He said he is concerned that there are changes before every single meeting, and typically changes presented at every meeting as well. He asked Staff if something else new comes up to please, notify him in advance. He said he disagrees with the City Attorney that the application was for a variance from the Minor Subdivision regulation.

M/S/P Johnson/DeLapp – to table review of the application for variance and minor subdivision until a public hearing can be conducted by the Planning Commission for newly discovered variances, and for this application to be reconsidered at the first Council Meeting in May following the public hearing.
(Motion passed 5-0)

The City Attorney thanked the applicant Constance K. Smith, 3200 Lake Elmo Avenue, for their forbearance.

Mayor Johnston called for a Recess at 9:15 and reconvened the meeting at 9:19 p.m.

10. CITY ATTORNEY'S REPORT

Attorney Filla said he was directed by Council to advise the Ziertmans that the Council needs a detailed list of concerns prior to scheduling a meeting with them. There is a new data request from the Ziertman's that the City is now working on.

9. PLANNING, LAND USE & ZONING

A. Minor Subdivision with a Variance at 3200 Lake Elmo Avenue North

The Senior Planner reviewed his staff report of March 6, 2007, to the Council regarding the applications for a minor subdivision and lot width variance. He advised the Council that staff is recommending approval of a minor subdivision as the request is reasonable given the parcel has nearly enough acreage to create three lots; that subdivision is a mechanism for the City to remove the existing driveway from its current location on Lake Elmo Avenue; and the pie shape of the lot and its location on lakeshore create the need for a variance. The Senior Planner also recommended that the nine conditions of approval as listed in the staff report. With regards to the proposed relocation of the existing driveway, he reminded City Council of the future traffic forecasts spelled out in the Comprehensive Plan for Lake Elmo Avenue and the impacts existing driveways could have on that corridor if nothing is done. The Senior Planner also noted that code calls for the existing residence to hook up to the City water system. For the existing residence, staff would recommend the City require the water hook up within 12 months.

The Senior Planner then reviewed the subdivision variance criteria and advised the City Council that it was Staff's determination that they have been met, and the variance for lot width at the shore land setback should be approved.

The Senior Planner reported that the Planning Commission action regarding the variance and minor subdivision resulted in a 4-4 vote on a motion to approve. He reported that the primary issues resulting in the 4-4 vote were that of the existing driveway relocation and the requirement for City water hookup for the existing residence. He observed that the Planning Commission did not appear to have objection to the minor subdivision in general, but only with the driveway and water connection issues. The Council does have time to consider the variance requests, as the application does not expire until April 13, 2007.

Some Councilmembers stated that the driveway location needs to follow the City Code, questioned the lake shore protection codes, and reviewed the DNR communication.

The City Attorney confirmed that the variance standards presented by the Senior Planner are correct for a minor subdivision.

Matt Northrup, 11075 32nd Street North, spoke against the proposed variance as it will increase the water runoff onto the east side of his property, 10 feet off the lot line. He requested that the City Engineer and City Planner review the plans and increase the setback to avoid runoff. Mr. Northrup also provided a copy of a letter from the DNR, which recommended denial of the variance.

The Senior Planner stated he could add a condition to the approval of the application that the drainage from Parcel F could be reviewed by the City Engineer in conjunction with a future building permit application. He also confirmed the DNR's recommendation for denial.

Anthony Dorland, Moss & Barnett (attorney), Minneapolis, provided a handout to the Council outlining the applicants' position brought forth in the Staff report.

Carolyn Hortter, 1959 North Park Drive, St. Paul, stated this was her childhood home and her mother still resides there. The current driveway and the two pillars marking their driveway have been there almost a hundred years, and are at least 8 feet before the curb. The County approved the proposed second driveway in the event the property was ever split. To move the current driveway will involve trees and vegetation being cut down. The existing well is 952 feet deep, not contaminated and gets tested yearly. Hooking up to City water should continue to be the residents' choice.

The Council stated that as the Old Village develops, traffic on Lake Elmo Avenue will continue to increase as the City grows. General consensus was that additional time was needed to consider the minor subdivision and variance applications before making an informed decision.

M/S/P Smith/DeLapp – to table for further discussion at the March 13, 2007, Council Workshop and return to the March 20, 2007, Council meeting for a decision.
(Motion passed 5-0)

The City Attorney requested legal descriptions of the side yard easements before returning to the Council.

Council Members also requested that all City Code issues discussed at tonight's meeting be interpreted by the City Attorney prior to the March 13, 2007, Council Workshop meeting.

B. Review of the Commercial Outdoor Social Events Ordinance 97-167

The Senior Planner presented to the Council a review of the Outdoor Social Events ordinance and the various options to consider which included: No action; Ordinance Amendments; Repeal of the Ordinance; and/or a Moratorium on Outdoor Social Events pending further review of the ordinance.

The City Council supported outdoor social events and believes a good faith effort was made to create a supportive ordinance. However, several concerns have been brought to the City's attention and Council is requesting the Ordinance be reviewed and/or repealed.

Donna Sloan, 12208 Marquess Lane North, stated that noise limits are hard to enforce and would like the Ordinance repealed.

Kathleen Haggard, 12154 Marquess Lane North, stated the Commercial Outdoor Event Ordinance is confusing, and it needs to be repealed. She thinks commercial activity should not abut residential areas so closely.

Scott Johnson, 12211 Marquess Lane Cove North, emailed and phoned the City regarding the CUP and stated the ordinance wording is too vague, and expressed his concerns about

Lake Elmo Planning Commission Agenda Item
Executive Summary

Title of Item: **PUBLIC HEARING: Rezoning of all properties located south of 10th Street and north of I-94 to be consistent with the recently approved comprehensive plan. (CANCELED)**

Meeting Date: **4-9-07**

Staff/Guest Reporting: **Ben Gozola, City Planner**

Summary: In mid March, you received an update from the planning department on the proposed timeline for rezoning properties in the Village area and the I-94 corridor to become compliant with the Comprehensive Plan. Since that time, internal staff discussions and direction from the new City Administrator have resulted in a recommended change in course for this process. Specifically, the largest concern focused on the perception that citizens in the two areas to be rezoned were not entirely understanding of what this rezoning process would entail. Furthermore, each group is going to have their own specific concerns relating to the rezoning. To address these issues, we are tentatively scheduling two public open houses for the end of April (one for the Village and one for the I-94 corridor). Those meetings will serve to remind landowners of what decisions were made with the adoption of the comprehensive plan, and what rezoning must occur by state law. We can use this opportunity to explain the impacts the new zoning districts will have on their current property (very little except in terms of development), and can answer non-zoning related questions such as when sewer will be available according to the adopted phasing plan.

By having the two open houses, notices for the public hearing tentatively scheduled for the first planning commission meeting in May will be anticipated and understood. The revised timeline still leaves ample time for Council action given the July 12th deadline.

Lake Elmo Planning Commission Agenda Item
Executive Summary

Title of Item: **PUBLIC HEARING: Rezoning of all properties located within the designated Village area to be consistent with the recently approved comprehensive plan. (CANCELED)**

Meeting Date: **4-9-07**

Staff/Guest Reporting: **Ben Gozola, City Planner**

Summary: In mid March, you received an update from the planning department on the proposed timeline for rezoning properties in the Village area and the I-94 corridor to become compliant with the Comprehensive Plan. Since that time, internal staff discussions and direction from the new City Administrator have resulted in a recommended change in course for this process. Specifically, the largest concern focused on the perception that citizens in the two areas to be rezoned were not entirely understanding of what this rezoning process would entail. Furthermore, each group is going to have their own specific concerns relating to the rezoning. To address these issues, we are tentatively scheduling two public open houses for the end of April (one for the Village and one for the I-94 corridor). Those meetings will serve to remind landowners of what decisions were made with the adoption of the comprehensive plan, and what rezoning must occur by state law. We can use this opportunity to explain the impacts the new zoning districts will have on their current property (very little except in terms of development), and can answer non-zoning related questions such as when sewer will be available according to the adopted phasing plan.

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