

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MUNICIPAL BOUNDARY ADJUSTMENTS UNIT

In the Matter of the Petition of Certain
Lands from the City of Lake Elmo
Pursuant to Minnesota Statutes
Chapter 414

**ORDER ON REQUEST FOR
AMENDMENTS**

The above-entitled matter came on for an evidentiary hearing before Administrative Law Judge Kathleen D. Sheehy at 9:30 a.m. on October 4 and 5, 2011, at the Washington County Government Center in Stillwater, Minnesota. The record closed on November 3, 2011, with the parties' final post-hearing filings. The Administrative Law Judge issued Findings of Fact, Conclusions and Decision on January 3, 2012, granting the Petition for Detachment.

On January 10, 2012, David K. Snyder, Attorney at Law and counsel for the City of Lake Elmo, filed a request for amendments to the Findings of Fact, Conclusions and Decision pursuant to Minnesota Rule 6000.3100.

On January 18, 2012, Paula A. Callies, Attorney at Law and counsel for the Petitioners, filed a response to the City's request for amendments.

Based upon all of the files, records, and proceedings herein, and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

ORDER

IT IS HEREBY ORDERED:

1. That the City's request that Finding 54 be amended by deleting the phrase describing the Carriage Station as "another open space residential housing development" and replacing it with the phrase "a mixed use residential and commercial office development" is GRANTED.
2. That the City's request that Finding 55 be amended by deleting the reference to "ten years" and replacing it with "two years" so that the finding reflects that the City has processed ten building permits for the Sanctuary development in two years is GRANTED.

3. That all of the other requests by the City for amendments to the Findings of Fact, Conclusions and Decision are DENIED.

Dated: January 20, 2012

s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge

MEMORANDUM

Minnesota Rule 6000.3100 provides that a request for amendment “shall specifically set forth the reasons for the amendment, any claimed errors, and any proposed amendment to the findings of fact, conclusions of law, and order.” The City has proposed 24 amendments to the Findings and four amendments to the Conclusions. The City, however, provided no reasons for the proposed amendments and identified no specific errors.

Nevertheless, after reviewing each request, the Administrative Law Judge finds that the City’s proposed amendment to Finding 54, with respect to the description of the Carriage Station development, should be granted as it more accurately describes the development’s land use designation. Therefore, the phrase “another open space residential housing development” in the second sentence of Finding 54 is deleted and replaced with the phrase “a mixed use residential housing and commercial office development.”

The Administrative Law Judge also finds that the City’s proposed amendment to Finding 55 should be granted to correct a typographical error. The phrase “ten years” is deleted and replaced with “two years.” The City’s Planning Director, Kyle Klatt, testified that the City processed about ten building permits in the last two years. Finding 55 is amended to accurately reflect that fact.

The Administrative Law Judge finds that the rest of the City’s proposed amendments are either inconsistent with the record, duplicative, or immaterial. Most notably, the City requests that Finding 17 be amended to reflect that Well House No. 2 was constructed to serve the “integrated Lake Elmo municipal water system that serves all users connected to the system in the northern half of the City,” rather than to serve the needs of the Sanctuary and the Carriage Station. The statement in Finding 17 that Well House No. 2 was constructed to serve the

Sanctuary and Carriage Station developments was taken directly from the City's post-hearing brief and is supported by the record. In the City's brief filed October 31, 2011, the City stated:

Lake Elmo constructed a municipal well house at the terminus of Manning Avenue, just to the south of the Subject Land, to primarily serve the needs of the St. Croix Sanctuary and Carriage House housing developments.¹

With the exception of the amendments to Findings 54 and 55 identified above, the Findings of Fact, Conclusions and Decision issued on January 3, 2012, will stand without modification.

K.D.S.

¹ City's Brief at 9 (October 31, 2011).