

D-248 Lake Elmo/  
A-4573 Oakdale

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

John W. Carey	Chair
Kenneth F. Sette	Vice Chair
Shirley J. Mihelich	Commissioner

IN THE MATTER OF THE PETITION FOR	)	<u>FINDINGS OF FACT</u>
THE DETACHMENT OF CERTAIN LAND FROM	)	<u>CONCLUSIONS OF LAW</u>
THE CITY OF LAKE ELMO AND ANNEXATION	)	<u>AND ORDER</u>
TO THE CITY OF OAKDALE PURSUANT TO	)	<u>AND MEMORANDUM OPINION</u>
MINNESOTA STATUTES 414	)	

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on September 7, 1989 at Lake Elmo, Minnesota, and was continued from time to time. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were John W. Carey, Chair, Kenneth F. Sette, Vice Chair, and Shirley J. Mihelich, Commissioner. The petitioners appeared by and through Mark Vierling and Lyle Eckberg, Attorneys at Law. The City of Lake Elmo appeared by and through Frederic Knaak and Steve Carlson, Attorneys at Law. Testimony was heard and records and exhibits were received.

After due and careful consideration of all evidence, together with all records, files and proceedings, the Minnesota Municipal Board hereby makes and files the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On May 19, 1989, a petition for concurrent detachment and

annexation by all of the property owners was filed with the Minnesota Municipal Board.

The petition contained all of the information required by statute including a description of the area proposed for concurrent detachment and annexation, which is as follows:

All of Section 32, Township 29, Range 21 located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota except the following:

.79 acre, Parcel 11, State Project 8282 (94-392) 902 being Parcel 11 as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project (S P) S282 (94-392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County. Except 37032-2200.

1 acre. Part of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1325.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway 12 as now being travelled and run; thence north along said parallel line 330 feet to an iron monument; then east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning except that part taken for highway purposes.

.91 acre. Parcel 9, as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project 8382 94-392 on file and of record in the office of the Registrar of Deeds in and for Washington County.

1 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1589.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning, except that part taken for highway purposes. Except that part taken for Highway purposes.

1.0 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1721.57 feet east of the west

line thereof with the northerly right-of-way line of Minnesota State Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning. Except to Highway.

20.80 acre. Part of the S $\frac{1}{2}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, parcel 16 acres of State Highway Right-of-Way, Plat No. 3 of 12 of 82-17.

.35 acre. Parcel No. 23 of State Highway Right-of-Way Map 3 of 12, subject to easement.

Parcel No. 22 of State Highway Right-of-Way Plat No. 3 of 12 of State Project (S.P.) 8282 (94=392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County containing .21 acre more or less, subject to easement.

Part of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, and that part of the SW $\frac{1}{4}$ , Section 33, commencing at the southeast corner of said SE $\frac{1}{4}$ ; thence north along the east line of said SE $\frac{1}{4}$  72 feet to the northerly right-of-way line of Minnesota Trunk Highway 12; thence east along said north line 375 feet to the point of beginning; thence north on a line parallel to the west line of said Section 33 366.2 feet to point; thence west at a right angle 595 feet more or less to the east line of existing roadway; thence north 60 feet on a line parallel to the west line of said Section 33 to a point; thence east at a right angle 655 feet to a point; thence south on a line parallel to the west line of Section 33, 425.42 feet more or less to the north line of Highway 12; thence west along said north line 60 feet to the point of beginning. This description is a 60 foot strip which is 1st Avenue and Emanuel Avenue. No value.

AND

All of the West 1/2 of Section 33, Township 29, Range 21, located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota, except as follows:

Part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, beginning at the southeast corner of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33; thence north along the east line of said SW $\frac{1}{4}$  for 13 rods or 214.5 feet; thence west for 24 rods or 396 feet; thence north for 869 feet; thence east for 721 feet; thence south for 1083.5 feet to the south line of said Section 33; thence west along said south line of said Section 33 for 325 feet to the point of beginning. Subject to easements except Highway Parcel 23A, MN DOT Right-of-Way Plat 82-30.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21,

being parcels 23B and 23H MN DOT Right-of-Way Plat 82-30 Trunk Highway, State Project 8282 (94-392) 904 and I 094, 3 (304) 248.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the westerly 62 feet of the following description. Commencing at a point on the south line of said  $\frac{1}{4}$  255 feet west of the southeast corner of said  $\frac{1}{4}$ , this being the point of beginning; thence west along the south line of said  $\frac{1}{4}$  181.85 feet to a point; thence running north on a line parallel with the east line of said  $\frac{1}{4}$  section to a point on a line connecting point on east line of said  $\frac{1}{4}$  section 40 rods north of said southeast corner of said  $\frac{1}{4}$  section and point on said south line of said  $\frac{1}{4}$  section 48 rods west of said southeast corner of said  $\frac{1}{4}$  section; thence running northeasterly along said connecting line to a point 255 feet west of the easterly line of said  $\frac{1}{4}$  section; thence running south parallel to the east line of said  $\frac{1}{4}$  section to a point of beginning. Subject to easement. Also known as SP 8282 Parcel 23C.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, commencing at a point on the south line of said  $\frac{1}{4}$  section 255 feet west of the southeast corner said  $\frac{1}{4}$  section; this being the point of beginning of this description; thence running west along the south line of said  $\frac{1}{4}$  section 181.85 feet to a point; thence running north on a line parallel with the east line of said  $\frac{1}{4}$  section to a point on line connecting point on east line of said  $\frac{1}{4}$  section 40 rods north of said southeast corner of said  $\frac{1}{4}$  section and point on said south line of said  $\frac{1}{4}$  section, 48 rods west of said southeast corner of said  $\frac{1}{4}$  section; thence running northeasterly along said connecting line to a point distant 255 feet west of the easterly line of said  $\frac{1}{4}$  section; thence running south parallel to the east line of said  $\frac{1}{4}$  section to the point of beginning, except the westerly 62 feet thereof. Subject to rights of the public in public roads abutting thereon. Also known as Highway Parcel 23D State Project 8282 (94-392), 904 Lake Elmo.

.717 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, commencing at a point on the south line of Section 33, 185 feet west of the southeast corner of the SW $\frac{1}{4}$  of said section; thence north parallel with the east line of said  $\frac{1}{4}$  section 506.2 feet to a point; thence south 50 degrees 12' west 91.3 feet to a point; thence south and parallel with the east line thereof 448 feet to the south line of said  $\frac{1}{4}$  section; thence east along said south line 70 feet to the place of beginning. Except to Highway.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, beginning at a point in the east line of said tract, 40 rods north of the southeast corner thereof; thence southwesterly along a line which intersects with the south line of said tract, 48 rods west of the southeast corner thereof to a point on said line which is 185 feet west of the east line of said tract; thence south on a line 185 feet distant and parallel with the east line of said tract to the south line thereof; thence east along the

south line of said tract 185 feet to the southeast corner thereof; thence north along the east line of said tract to the point of beginning. Also known as Highway Parcel 23F, State Project 8282 (94=392) 904 Lake Elmo.

Part of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1733.2 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392), 904 Lake Elmo.

Part of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1842.1 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392) 904 Lake Elmo.

1 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, beginning at an iron pipe monument set on the east line thereof at a point 1980 feet south of the center of said section and running thence north along said center line of said section 137.9 feet to an iron pipe monument; thence west by a deflection angle of 90 degrees 200 feet to an iron pipe monument; thence south on a line parallel to said center line of said section 297.7 feet to an iron monument; thence northeasterly on a straight line to the point of beginning. Also known as Parcel 23G State Project 8282 (94=392) 904 Lake Elmo.

A resolution objecting to the concurrent detachment and annexation was received from the City of Lake Elmo on April 13, 1989.

The subject area was amended at the hearing, without objection by the City of Lake Elmo, to the following described property which is referred to as the subject area for the remainder of the Findings of Fact, Conclusions of Law, and Order:

All of Section 32, Township 29, Range 21 located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota except the following:

.79 acre, Parcel 11, State Project 8282 (94-392) 902 being Parcel 11 as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project (S P) S282 (94-392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County. Except 37032-2200.

1 acre. Part of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1325.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota

State Highway 12 as now being travelled and run; thence north along said parallel line 330 feet to an iron monument; then east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning except that part taken for highway purposes.

.91 acre. Parcel 9, as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project 8382 94=392 on file and of record in the office of the Registrar of Deeds in and for Washington County.

1 acre. Part of the S $\frac{1}{2}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1589.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning, except that part taken for highway purposes. Except that part taken for Highway purposes.

1.0 acre. Part of the S $\frac{1}{2}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1721.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning. Except to Highway.

20.80 acre. Part of the S $\frac{1}{2}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, parcel 16 acres of State Highway Right-of-Way, Plat No. 3 of 12 of 82-17.

.35 acre. Parcel No. 23 of State Highway Right-of-Way Map 3 of 12, subject to easement.

Parcel No. 22 of State Highway Right-of-Way Plat No. 3 of 12 of State Project (S.P.) 8282 (94=392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County containing .21 acre more or less, subject to easement.

Part of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, and that part of the SW $\frac{1}{4}$ , Section 33, commencing at the southeast corner of

said SE $\frac{1}{4}$ ; thence north along the east line of said SE $\frac{1}{4}$  72 feet to the northerly right-of-way line of Minnesota Trunk Highway 12; thence east along said north line 375 feet to the point of beginning; thence north on a line parallel to the west line of said Section 33 366.2 feet to point; thence west at a right angle 595 feet more or less to the east line of existing roadway; thence north 60 feet on a line parallel to the west line of said Section 33 to a point; thence east at a right angle 655 feet to a point; thence south on a line parallel to the west line of Section 33, 425.42 feet more or less to the north line of Highway 12; thence west along said north line 60 feet to the point of beginning. This description is a 60 foot strip which is 1st Avenue and Emanuel Avenue. No value.

1.57 acres. Being part of the South  $\frac{1}{2}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, being Parcel 8, MN DOT right-of-way Plat No. 82-29, Trunk Highway Special Project 8282 (94=392) and I094-3 (340) 248, together with all rights of access as shown on said plat.

4.78 acres. Being part of the Southeast Parcel No. 16 of Section 32, Township 29, Range 21 West, State of Minnesota Highway Right-of-Way Plat 3 of 12, Special Project 8282 (94-392) 902.

1.5 acres. Being part of the S $\frac{1}{2}$  of the SE $\frac{1}{4}$  beginning at an iron monument set at the intersection of a line drawn parallel to and 2167.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway No. 12 as now traveled and run; thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 198 feet to an iron monument set at the intersection of a line drawn parallel to and 2167.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway No. 12 as now traveled and run; thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 198 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 198 feet to the point of beginning. (Excepting therefrom Parcel 37032-2075 described as follows: being part of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21 described as follows: Commencing at the SE corner of said Section, thence running westerly along said line of Section 32 on an azimuth of 268° 31' 21" (azimuth oriented to MN State Plane Coordinate System South Zone) 466.79 feet; thence on an azimuth 359° 20' 13" 108.75 feet to a point of beginning of the tract to be described; thence continuing on an azimuth 359° 20' 13" 254.25 feet; thence on an azimuth of 88° 31' 21" 162.64 feet; thence on an azimuth of 179° 29' 25" 255.13 feet; thence on an azimuth of 268° 49' 37" 161.95 feet to the point of beginning.)

4.03 acres. Part of the N $\frac{1}{2}$  of the SE $\frac{1}{4}$  of Section 32, Township 29, Range 21, and part of the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33,

Township 29, Range 21, being Parcel No. 7 on MN DOT Right-of-Way Plat No. 82-29 and 82-30. Also that part of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, shown as Parcel 17 on Right-of-Way Plat 82-17.

AND

All of the West 1/2 of Section 33, Township 29, Range 21, located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota, except as follows:

Part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, beginning at the southeast corner of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33; thence north along the east line of said SW $\frac{1}{4}$  for 13 rods or 214.5 feet; thence west for 24 rods or 396 feet; thence north for 869 feet; thence east for 721 feet; thence south for 1083.5 feet to the south line of said Section 33; thence west along said south line of said Section 33 for 325 feet to the point of beginning. Subject to easements except Highway Parcel 23A, MN DOT Right-of-Way Plat 82-30.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being parcels 23B and 23H MN DOT Right-of-Way Plat 82-30 Trunk Highway, State Project 8282 (94-392) 904 and I094-3 (304) 248.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the westerly 62 feet of the following description. Commencing at a point on the south line of said  $\frac{1}{4}$  255 feet west of the southeast corner of said  $\frac{1}{4}$ , this being the point of beginning; thence west along the south line of said  $\frac{1}{4}$  181.85 feet to a point; thence running north on a line parallel with the east line of said  $\frac{1}{4}$  section to a point on a line connecting point on east line of said  $\frac{1}{4}$  section 40 rods north of said southeast corner of said  $\frac{1}{4}$  section and point on said south line of said  $\frac{1}{4}$  section 48 rods west of said southeast corner of said  $\frac{1}{4}$  section; thence running northeasterly along said connecting line to a point 255 feet west of the easterly line of said  $\frac{1}{4}$  section; thence running south parallel to the east line of said  $\frac{1}{4}$  section to a point of beginning. Subject to easement. Also known as SP 8282 Parcel 23C.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, commencing at a point on the south line of said 1/4 section 255 feet west of the southeast corner said 1/4 section; this being the point of beginning of this description; thence running west along the south line of said 1/4 section 181.85 feet to a point; thence running north on a line parallel with the east line of said 1/4 section to a point on line connecting point on east line of said 1/4 section 40 rods north of said southeast corner of said 1/4 section and point on said south line of said 1/4 section, 48 rods west of said southeast corner of said 1/4 section; thence running northeasterly along said connecting line to a point distant 255 feet west of the easterly line of said 1/4 section; thence running south parallel to the east line of said 1/4 section to the point of beginning, except the westerly 62



feet thereof. Subject to rights of the public in public roads abutting thereon. Also known as Highway Parcel 23D State Project 8282 (94=392), 904 Lake Elmo.

.717 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, commencing at a point on the south line of Section 33, 185 feet west of the southeast corner of the SW $\frac{1}{4}$  of said section; thence north parallel with the east line of said 1/4 section 506.2 feet to a point; thence south 50 degrees 12' west 91.3 feet to a point; thence south and parallel with the east line thereof 448 feet to the south line of said 1/4 section; thence east along said south line 70 feet to the place of beginning. Except to Highway.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, beginning at a point in the east line of said tract, 40 rods north of the southeast corner thereof; thence southwesterly along a line which intersects with the south line of said tract, 48 rods west of the southeast corner thereof to a point on said line which is 185 feet west of the east line of said tract; thence south on a line 185 feet distant and parallel with the east line of said tract to the south line thereof; thence east along the south line of said tract 185 feet to the southeast corner thereof; thence north along the east line of said tract to the point of beginning. Also known as Highway Parcel 23F, State Project 8282 (94=392) 904 Lake Elmo.

Part of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1733.2 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392), 904 Lake Elmo.

Part of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1842.1 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392) 904 Lake Elmo.

1 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, beginning at an iron pipe monument set on the east line thereof at a point 1980 feet south of the center of said section and running thence north along said center line of said section 137.9 feet to an iron pipe monument; thence west by a deflection angle of 90 degrees 200 feet to an iron pipe monument; thence south on a line parallel to said center line of said section 297.7 feet to an iron monument; thence northeasterly on a straight line to the point of beginning. Also known as Parcel 23G State Project 8282 (94=392) 904 Lake Elmo.

6.14 acres. Being part of the East  $\frac{1}{2}$  of the SW $\frac{1}{4}$  being Parcel 23 MN DOT Right-of-Way Plat 82-30, Trunk Highway Special Project 8282 (94=392) 904 and IO94-3 (304) 248, together with all right of access as shown on said plat.

Parcel 23J and Parcel 7 as shown in MN DOT Right-of-Way Plat Nos.

82-30 and 82-47, together with all right of access as shown on said Plat.

20.72 acres. Being part of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, being Parcel No. 16 as shown on State Right-of-Way Plat No. 4 of 12 (37033-2601). Except all that part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, described as follows to-wit: Commencing at the southwest corner of said Section 33; thence north along the west line of said Section 72.0 feet to the north right-of-way line of Minnesota Trunk Highway No. 12; thence east along said north line 75 feet to the point of beginning; thence east along said north line 100 feet; thence north along a line parallel to the west line of said Section 183.8 feet to a point; thence west at right angles a distance of 100 feet to a point; thence south on a line parallel to the west line of said Section a distance of 185.1 feet to the point of beginning, Washington County, Minnesota.

Part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, commencing at the SE $\frac{1}{4}$  of said SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , thence westerly on a line 24 rods; thence northerly and parallel with the west line of said Section 13 rods; thence easterly and parallel with the south line 24 rods to the east line of said quarter  $\frac{1}{4}$  Section; thence southerly 13 rods to the point of beginning.

2. Due, timely and adequate legal notice of the hearing was published, served and filed.

3. The subject area is presently within the City of Lake Elmo, hereinafter referred to as Lake Elmo, abuts the City of Oakdale, hereinafter referred to as Oakdale, and is approximately 523 acres in size. The perimeter of the subject area is approximately 25% bordered by Oakdale, approximately 53% bordered by Lake Elmo & also bordered by Woodbury. The subject area abuts Oakdale on the property's western boundary and a portion of its northern boundary. The subject area is located immediately east of Interstate 694, hereinafter referred to as I-694, and north of Interstate 94, hereinafter referred to as I-94. The subject area is northeast of the intersection of I-94 & I-694. Oakdale is located on both the west side of I-694 and also on the east side of I-694, north and west of the subject area. A majority of the

subject area is located in the Metropolitan Urban Service Area, hereinafter referred to as MUSA; the northeasternmost portion of the subject area is located outside of the MUSA. That land in Lake Elmo which is within the MUSA is located in Section 32 and the west quarter section of Section 33, which are northeast of the intersection of I-694 and I-494. Since the subject area is that portion of Lake Elmo which would change governmental entities if the concurrent detachment and annexation is approved by the Municipal Board, some of the findings of this contained herein will deal with this specific area of Lake Elmo, while other findings may deal with the totality of the City of Lake Elmo.

4. Oakdale had a population of approximately 7,818 in 1970, approximately 12,123 in 1980, and a current population of approximately 16,908. It is projected that in five years Oakdale will have a population of approximately 20,000. In about 1983, the Metropolitan Council projected that Oakdale would have a population of 15,000 by 1990, and that by the year 2000 it would have a population of 17,000. Oakdale has grown faster than was projected by the Metropolitan Council.

5. Lake Elmo had a population of approximately 4,032 in 1970, a population of approximately 5,296 in 1980, and a current population of approximately 5,580. The Metropolitan Council estimates that Lake Elmo currently has approximately 2,076 households. The Metropolitan Council in its 1986 revision of the Metropolitan Development & Investment Framework, hereinafter referred to as MDIF, and Lake Elmo's Comprehensive Plan projected that Lake Elmo would have a population of 6,200 by 1990 and 6,600 by 2000. The majority of the development of population within Lake

Elmo is single family residential. Lake Elmo is growing at somewhat less than the projection of the Metropolitan Council. Lake Elmo's population growth has been approximately 5% from 1980 to 1989.

6. The subject area has a present population of approximately 26. It is projected based upon a 1989 study by Northwest Associated Consultants, Inc. that in five years, with full development, the subject area could have a population of approximately 1,500.

7. The detachment and annexation of the subject area will not significantly affect the existing population of either Lake Elmo or Oakdale.

If the subject area were to achieve full development, its projected population of 1,500 would be approximately a 9% increase in the present population of Oakdale or approximately a 26% increase for the present population of Lake Elmo.

8. The topography of the subject area is gently rolling and irregular. The soils are glacial outwash and glacial till. There are some prime agricultural soils in the eastern half and scattered areas in the western half of the subject area. Soils with severe limitations for development serviced by on-site septic systems are located in the north, west, and southeast portions of the subject area. Those soil limitations do not apply to development serviced by central sanitary sewer. There are steep slopes adjacent to wetlands. There are two small lakes located in the northern part of the annexation area, which are protected by the Department of Natural Resources, hereinafter referred to as the DNR. There are scattered wetlands in the north and west parts of the area. There

is an extensive floodplain area located in the north part of the area that drains to the southeast and out of the area. There is also an isolated floodplain area located in the west-central part of the area. Most of the annexation area is located in the Cottage Grove Ravine watershed, and drains southeast into Woodbury.

The Washington County soil survey indicates that in the subject area there are approximately 30% poor soils for construction purposes, 10% excellent soils for construction purposes and the remaining soils are between the two extremes but still suitable for construction purposes. The soil survey for the subject area outside of the MUSA, found soils of both extremes. The granular soils indicated in that portion of the subject area are not beneficial to the construction of individual sewage treatment systems because they drain too freely. The soils indicated as not beneficial to individual sewage treatment systems would be adequate for typical utility and street construction.

9. The general topography of Lake Elmo is gently rolling and irregular. There are many depressions and knolls. The higher elevations over 1,000 feet above sea level exist in the northern and western portions of the city. The lower elevations in the city down to 870 feet above sea level are in the southeastern corner. Steep slopes traverse the city from the northwest to the southeast. There are lakes in Lake Elmo.

There are soils, described as prime agricultural, primarily to the northeast of the part of Lake Elmo described as the Old Village area and in the southwestern corner of Lake Elmo, including a portion of the subject area. Soils with limitations for septic systems are located primarily in the northwestern area

of Lake Elmo described as the Tri-Lakes area. There has been rapid, high density development of the area and as a result, septic system failures have become a recurring problem. Both the Tri-Lakes area and the Old Village area of Lake Elmo, as well as almost all of the general development in Lake Elmo, are over a mile and a half away from the subject area. The Tri-Lakes area, in the northwestern part of Lake Elmo, is over three miles away from the subject area.

Lake Elmo is in both the Ramsey-Washington Metropolitan Watershed District and the Cottage Grove Ravine Watershed District.

10. Oakdale has a topography that consists of low, rounded hills and depressions. There are irregular, short, steep slopes with a scattering of low areas containing lakes, wetlands, or intermittent ponds. Many of the lakes, wetlands or intermittent ponds are self-contained with the quantity of surface water runoff insufficient to cause the impoundment areas to overflow. The existence of self-contained impoundments can significantly reduce the quantity of surface water runoff tributary to downstream lakes and streams. Oakdale has soils of great variability ranging from peat and clay to sand and gravel. Much of the city is underlaid with lenses of clay of varying thicknesses and varying depths. On sloping ground and on the upland a common soil is the Scandia loamy fine sand, a well-drained soil. Within low-lying areas and relatively flat areas, the soils commonly found in the city are Adolph silty clay, muck, and peat. These soils are characteristically very slow draining areas.

Oakdale is in the Ramsey-Washington Metropolitan Watershed District, the Cottage Grove Ravine Watershed District and

the Valley Branch Watershed District.

The detachment and annexation of the subject area will not impact the topography or natural features of either city.

11. Oakdale has a total acreage of approximately 6,600 acres.

12. Lake Elmo has a total acreage of approximately 15,680 acres.

The only portion of Lake Elmo within the MUSA is located in Section 32 and the west quarter Section of 33. The subject area includes some but not all of the MUSA area of Lake Elmo. Portions of the MUSA area were previously before the board in Minnesota Municipal Board Docket No. D-239 Lake Elmo/A-4453 Oakdale, and the remaining portions of the Lake Elmo MUSA have not been petitioned for concurrent detachment and annexation.

13. The 523 acre subject area is approximately 7.92% of the present size of Oakdale and approximately 3.34% of the total area of Lake Elmo. The proposed detachment and annexation of the subject area will not substantially impact the size of either city.

14. The subject area has approximately 20 acres in low density residential use, approximately 1.7 acres in medium density residential use, approximately 9.8 acres in commercial use, approximately 232.4 acres in agricultural use, approximately 52.6 acres in wetlands of which 20.7 acres are protected by the DNR, approximately 193.5 acres of vacant land and approximately 12.6 acres of street right-of-way.

There are a few houses located in the subject area south of Tenth Street and North of Fourth Street, East of Helmo Avenue and West of County Road 13B. The land south of Fourth Street contains rental housing units and an office showroom business.

East of the office showroom are two old dilapidated rental housing units.

15. The Metropolitan Council completed a review of the 1979 Lake Elmo Comprehensive Plan on June 24, 1984. The Lake Elmo Comprehensive Sewer Plan was updated and reviewed by the Metropolitan Council in 1986. A plan amendment which revised a concept plan for future land uses, herein after referred to as LUCP, in Lake Elmo's MUSA was approved by the Metropolitan Council on April 23, 1987. Additionally, a subsequent amendment to the 1979 Comprehensive Plan, deleted any reference to the provision of sewer and water to the Lake Elmo MUSA by 1990; no new timelines were included.

Lake Elmo has a zoning ordinance and a Comprehensive Sanitary Sewer Plan.

16. The Oakdale Comprehensive Plan was originally adopted in 1979. The Oakdale Comprehensive Plan review was completed by the Metropolitan Council on May 1, 1985. A plan amendment to include the northeast quadrant of Oakdale in the MUSA was approved by the Council on April 13, 1989.

The City of Oakdale has a zoning ordinance, subdivision regulations, an official map, a capital improvements program and budgets, a fire code and a flood plain ordinance.

17. The concurrent detachment and annexation of the subject area is not specifically considered by either the Lake Elmo or the Oakdale Comprehensive Plans; since the subject area's concurrent detachment and annexation was not considered at the time of the development of the Comprehensive Plans, it is presently, therefore, not consistent with either Comprehensive Plan.



Oakdale cannot request approvals from the Metropolitan Council for an amendment to either its Comprehensive Plan or its Comprehensive Sanitary Sewer Plan until the subject area is in its jurisdiction. Nonetheless, the LUCP and the included uses therein are generally consistent with both Comprehensive Plans.

The MDIF attempts to direct orderly growth in the Metropolitan Council Region and to provide regional services needed to support that growth. Development is projected to move outward from existing developed areas.

18. The 1986 Lake Elmo Comprehensive Plan indicates that approximately 216 acres of land were in commercial use throughout Lake Elmo in 1986. Lake Elmo's 1986 amended Comprehensive Plan anticipates some commercial activity in the subject area in Section 32 and 33, before 1990. The anticipated commercial development in the subject area has not occurred.

Lake Elmo issued commercial building permits valued at \$103,000.00 in 1983, \$204,000.00 in 1984, \$314,000.00 in 1985, \$50,000.00 in 1986, and no commercial building permits in 1987 or 1988. There was no evidence that industrial permits were issued by Lake Elmo in 1982 through 1986 and none were issued in 1987 or 1988.

The property owners anticipate additional commercial development in the subject area.

The Lake Elmo LUCP encompasses the majority of the land in the subject area. The plan provides for commercial and office development in the western and southwesternmost portion of the subject area, commercial development in the center of the subject area, medium to high residential development in primarily the north

central and northeastern portion of the subject area and low to medium residential development in the northeastern portion of the subject area in the MUSA. The plan also provides, along I-94, that east of the commercial development is medium to high residential development, and east of that proposed use is highway commercial development. The concept plan does not include that portion of the subject area lying outside of the MUSA.

19. The vast majority of the subject area is zoned rural residential. Some of the subject area is presently in Green Acres. In recognition of pre-existing uses on the site, portions of the subject area are presently zoned general business, highway business, and R-1 residential.

Under the existing zoning, development within the rural residential zone can occur as one residence per 10 acres.

20. The LUCP projects the area zoned rural residential to be used for office and commercial development as well as residential development ranging from low density to high density.

21. Lake Elmo has not rezoned any of the subject area to conform with its LUCP.

Presently the LUCP is inconsistent with the zoning of the subject area.

22. Lake Elmo has land zoned for agricultural use, agricultural preserve use, rural residential use, public use, single family residential use, general business use, industrial use located within the old village portion of the city, manufactured home park use, highway business use, and a number of conditional use permit areas. The land in Lake Elmo adjacent to the subject area has portions zoned rural residential, agriculture, agriculture

preserves, public or R-1, single family residential.

23. The Lake Elmo Comprehensive Plan notes the need to provide costly municipal services as intensive development occurs. Intensive development requires extensive services, which are inconsistent with the rural lifestyle and type of development sought for Lake Elmo. Lake Elmo wishes to avoid the need for the extensive services that follow development, because those services might result in expenditures to the remainder of Lake Elmo.

24. Pursuant to its land use plan Oakdale has designated land for residential use of a very low density, single family, low density single family detached or duplexed development, medium density and high density, as well as commercial use, general industrial, industrial-office use, public and/or park use, institutional use and ponding areas.

25. Land in Oakdale immediately adjacent to the subject area is presently designated on its land use plan as follows: the land immediately east of I-694 and south of 10th Street for commercial and office use; the land immediately north of 10th Street, for community commercial industrial office and some ponding areas; the land immediately west of I-694, for community commercial industrial office and ponding areas.

26. The Lake Elmo Comprehensive Plan outlines the approximately 470 acre tract of land in Sections 32 & 33 as the only portion of Lake Elmo within the MUSA.

27. Lake Elmo has indicated that for rezoning of any portion of the subject area or the remaining land in Sections 32 & 33, covered by the LUCP, it is necessary for the land owner to present a specific development plan consistent with the LUCP and then

request a rezoning.

Lake Elmo does not presently anticipate initiating rezoning of the subject area or any other portion of Sections 32 & 33 on its own.

28. Land that is zoned for intensive uses will need additional municipal services as development occurs. The 1986 Lake Elmo Comprehensive Plan notes that the Lake Elmo City Council took no action on engineering feasibility reports for the subject area and the remainder of the Lake Elmo MUSA area.

Lake Elmo controls growth by zoning. Lake Elmo has indicated that as a land use alteration procedure, a rezoning proposal request for a parcel of land must be accompanied by a specific development plan for the property. Developers will be responsible for paying all costs of new or extended services. Presently, any development within the subject area or any other undeveloped portion of Lake Elmo's MUSA area would necessitate a request for rezoning to the appropriate zoning district.

At least one member of the Lake Elmo City Council views any proposal put forth for the subject area as needing to be of a major long term type of development, that will not be replaced within approximately 20 years, but rather would not need any redevelopment for 30 to 40 years. Lake Elmo requires a 4/5th's vote of the City Council members & Mayor to rezone property.

Lake Elmo has not taken an active position of extending sewer or water to the subject area or the remainder of the LUCP in Lake Elmo. Lake Elmo has focused its growth and planning toward a rural residential form of development. To change such a posture would require a revision of the basic direction of Lake Elmo. In

Lake Elmo's Comprehensive Plan it is articulated that new development in Lake Elmo must be carefully regulated in terms of location and density to prevent the premature demand for costly levels of municipal services. There is limited availability of urban services such as central sewer and water, or paved roads.

29. Oakdale generally follows the practice of zoning land consistent with its Comprehensive Plan. It examines any specific development proposals in light of the existing zoning criteria. Oakdale does not follow Lake Elmo's planning practice of performing ad hoc rezoning of land after a review of specific proposal for the land.

30. The concurrent detachment and annexation of the subject area will relieve Lake Elmo of the need to review and determine whether a specific development proposal warrants the rezoning of land within the subject area consistent with the proposed use.

31. Oakdale would need to amend its Comprehensive Plan, prior to any rezoning of the subject area. The LUCP for the subject area and the remainder of the MUSA area is generally consistent with the Oakdale Comprehensive Plan and the types of zoning and land uses in Oakdale adjacent to the subject area. If the subject area were a part of Oakdale, zoning of the subject area as commercial, and various types of residential uses as well as rural residential for the eastern most part of the land not in the MUSA, would be consistent with Oakdale's present Comprehensive Plan.

Oakdale has issued commercial building permits valued at: 1982, \$210,000.00, 1983, \$588,000.00, 1984, \$3,830,000.00, 1985, \$35,000.00, 1986, \$1,987,000.00, 1987, \$1,380,000.00, and 1988,

\$1,444,000.00. Oakdale has issued industrial building permits valued at: 1982, \$800,000.00, 1984, \$85,000.00, 1985, \$3,732,000.00, 1986, \$85,000.00, and 1987, \$998,000.00.

32. The concurrent detachment and annexation of the subject area would benefit land use planning patterns and physical development of the affected cities.

33. Lake Elmo and Oakdale have Appendix E of the Uniform Building Code. Oakdale has a building inspection department. If the subject area becomes part of Oakdale, any future development would have to conform with Oakdale's building code.

Presently, Oakdale permit fees are scheduled to cover expenses relating to building inspection. There is no anticipated problem should the subject area be within Oakdale's jurisdiction.

The proposed concurrent detachment and annexation will have a neutral affect on the building code of the affected cities.

34. Oakdale has a transportation network that includes interstate highways, state highways, county roads, and municipal streets within its boundaries.

35. Lake Elmo has a transportation network that includes interstate highways, state highways, county roads, and municipal streets within its boundaries.

36. The subject area is bounded on the north by Tenth Street on the westernmost portion of the subject area by I-694 on its southernmost boundary by I-94 on its easternmost boundary by County Road 13B.

Tenth Street north is also known as County Road 70. A Minnesota Department of Transportation frontage road bisects the southern half of the subject area. Helmo Avenue north bisects the

northwestern quarter of the subject area.

The intersection of I-94 and I-694 is one of the major freeway interchanges in the area.

37. Access to I-694 north of I-94 from the subject area is either by the Minnesota Department of Transportation frontage road, also known as Fourth Street, or County Road 70.

The Department of Transportation is responsible for the maintenance of its frontage road.

38. The concurrent detachment and annexation of the subject area will not alter the location of any of the state or county roads. That portion of Helmo Avenue in Lake Elmo is totally located in the subject area. Costs for the construction of Helmo Avenue were assessed to the adjacent property owners. As development occurs, consistent with the LUCP for types of uses, additional streets serving as access to the various portions of the subject area, are the only anticipated additions to the transportation pattern.

Jurisdiction for maintenance and repair of the county and state roads will not be altered because of the concurrent detachment and annexation of the subject area.

The approval of the concurrent detachment and annexation will relieve Lake Elmo of the need to construct access roads to the subject area. Access from I-694 to the subject area is from the west, similar to Oakdale's location to the subject area. Since the LUCP is generally consistent with Oakdale's Comprehensive Plan, traffic patterns and transportation networks developed to accommodate the subject area will be consistent with those that would have occurred if the subject area had been developable in

Lake Elmo.

The concurrent detachment and annexation will not create any additional adverse traffic patterns or transportation problems for Oakdale or Lake Elmo, given the fact that both communities anticipate development of the subject area in a similar fashion.

39. Oakdale provides its residents with water, sanitary sewer, storm sewer, fire protection, police protection, street improvements and maintenance, administrative services, recreational opportunities and ambulance service. Presently, Oakdale has a ten inch water main loop around the Bergen Plaza K-Mart Development hooking into the trunk water main system for Hadley Avenue. This land is located west of the subject area across I-694. Additionally, there is a ten inch water main system servicing the property north of the subject area, as an extension of the trunk water main system.

Oakdale has divided its water distribution system into three zones. The subject area is adjacent to the central zone. There are presently three wells in the central zone which could serve the annexation area.

Oakdale has a present policy of not making any new extensions of sanitary sewer or water outside of its present corporate boundaries. Because of the configuration of Highway 120 on Oakdale's western border, Oakdale presently provides water service to several properties in Maplewood and several in North St. Paul, off existing systems, without the need for extending trunk lines.

40. Oakdale presently has sanitary sewer within the Bergen Plaza K-Mart site near the intersection of 10th and Hadley.



Additionally, there is a twelve inch sanitary sewer line through the property north of the subject area. There is a lift station in the vicinity of Fifteenth Street at Eagle Point School referred to as Lift Station #3. It is presently 20 years old. It was built as a temporary lift station with a single pump and no back-up. It costs approximately \$3,000.00 per year to maintain the Lift Station, and is projected to cost approximately \$15,000.00 to rehabilitate the Lift Station should it cease to function properly. The long range plan to service that area is by gravity flow.

Gravity service to that area would be south past the present Oakdale city limits at Tenth Street down to the Woodbury Oakdale Northdale East Oakdale interceptor (hereinafter referred to as WONE). Oakdale paid Lake Elmo approximately \$48,000.00 for oversizing the WONE, so that it could have capacity for that portion of Oakdale.

41. Oakdale is planning to construct a new well someplace in the vicinity of Fifteenth Street and Helmo North. Construction will include a new water tower. The construction of the water tower will occur regardless of any boundary change to the subject area.

The well is anticipated to have a capacity of approximately 1,000 gallons per minute. The current well capacity per well in Oakdale ranges approximately between 1000-1600 hundred gallons per minute.

The elevated tank under consideration could be sized between one million and one half to two million gallons, depending on need determination. The tank could have sufficient capacity to service the subject area.

42. If the subject area was concurrently detached and annexed, Oakdale could presently provide it with water service, although Oakdale would need to eventually increase its water system to supply a fully developed subject area.

43. The new well is anticipated to cost approximately \$250,000. The elevated tank for the present needs of Oakdale is anticipated to cost approximately \$900,000.

44. The cost of the new well and tank is covered by a fund that receives water availability charges for hook-ups to the Oakdale water system. The well and tank will be paid for whether or not the subject area is concurrently detached and annexed.

45. Water service to the subject area, if it were concurrently detached and annexed, would come from connection with the water loop presently located in Bergen Plaza and K-Mart, west of the subject area across I-694 as well as additionally from a connection along Helmo Avenue to the existing ten inch water main loop.

46. To provide water to the subject area, Lake Elmo would have to construct an entirely new water system in the subject area, since its only present water system is located a significant distance away in the old village portion of Lake Elmo. It would cost Lake Elmo approximately \$632,500 to construct a free standing elevated 500,000 gallon-water tank to service the subject area and those portions of Sections 32 & 33 within the MUSA. Additionally to service the subject area, Lake Elmo plans to construct two wells and pump houses at a cost of approximately \$900,400.

To increase Oakdale's proposed water storage tank, which could service the subject area, by 500,000 gallons, the cost would

be approximately \$250,000.

47. It would be cheaper to expand the Oakdale water system to service the subject area than for Lake Elmo to construct a new system to service the subject area by Lake Elmo.

48. Lake Elmo presently provides its residents with fire protection through the Lake Elmo Volunteer Fire Department, police protection through a contract with the Washington County Sheriff's Department, ambulance service through Lakeview Memorial Hospital, in Stillwater, Minnesota, street improvements and maintenance, administrative services, water to that portion of Lake Elmo referred to as the "Old Village", and sanitary sewer, by a direct connection to the WONE to the Connco Shoe Store and the adjacent rental housing unit located within the subject area.

At times, the Oakdale police department has responded to requests for assistance from people in the subject area and arrived prior to Lake Elmo's police, which is provided by the Washington County Sheriff's Department.

49. There is no Metropolitan Waste Control Sanitary Sewer Service within Lake Elmo, except for that portion of the sanitary sewer serving the Connco Shoe Store and adjacent rental housing unit.

Lake Elmo would have to construct its first major trunk sewer line to provide sanitary sewer service to the subject area.

50. Lake Elmo had a 1986 sewer flow, based on Lake Elmo's 1986 comprehensive sewer plan, of .0027 million gallons per day (hereinafter referred to as MGD). The present sewer flow is approximately the same as in 1986. Lake Elmo has a planned flow of .133 MGD for the year 1990, and a planned flow by the year 2000

of .458 MGD based on the city's 1986 Comprehensive Sewer Plan. Presently, there is a sewer capacity of .458 MGD reserved, in the WONE interceptor for Lake Elmo, to be used by the MUSA area in Sections 32 and the west one quarter of section 33.

51. That portion of the subject area in Section 33 located south of Fourth Street and East of a northerly extension of Ideal Avenue is within the MUSA, and considered by the Lake Elmo Comprehensive Sewer Plan.

The balance of the subject area located East of the extension of Ideal Avenue north and north of Fourth Street within Section 33 is not in the MUSA and no sewer service from the Metropolitan Waste Control Commission is presently planned for that area.

52. Oakdale had a 1984 sewer flow of 1.79 MGD in Service Area 1, which is connected indirectly to the WONE interceptor. Oakdale has a planned sewer flow of 2.12 MGD for the year 1990 and a 2.99 MGD flow planned for the year 2000 based on Oakdale's comprehensive sewer plan.

53. Oakdale prepared and the Metropolitan Council approved an amendment to Oakdale's Comprehensive Plan to extend the MUSA to include the northeast quadrant of Oakdale. The Met Council granted its approval on April 13, 1989.

Oakdale was able to extend the MUSA to this area of Oakdale, because development had not occurred at the maximum limit allowed by its Comprehensive Plan. The lesser density allowed capacity to remain within the MUSA system allotted to Oakdale thereby allowing for additional development. With this unused capacity Oakdale was able to expand the MUSA to include its

northeast quadrant, which had previously been outside of the MUSA.

54. If the subject area is concurrently detached from Lake Elmo and annexed to Oakdale, the sewer interceptor capacity allocated to that area would remain allocated to those parcels that had previously been assessed for sewer service and not to a specific city. Land in the subject area within the MUSA has been assessed for the WONE sewer line. The WONE assessments on the property have been paid or are in the process of being paid. There is presently a \$85,000 surplus in the WONE assessment fund and all of the assessments have not been completely paid.

55. Oakdale cannot request an extension of the MUSA for that portion of the subject area presently outside of the MUSA because it is presently not within Oakdale's jurisdiction.

As the subject area develops, the city which controls it, will be in a position to determine whether the density and flows from the development have used up all of the present allotted capacity within the MUSA, or whether there is existing room for expansion within the present system. Such expansion could include that portion of the subject area presently north and east of the MUSA, since most of the land within Lake Elmo immediately north of 10th Street is presently zoned agricultural/agricultural preserves.

56. School District No. 622 provides service to the subject area and those portions of Lake Elmo and Oakdale immediately adjacent to it.

The concurrent detachment and annexation of the subject area would not result in any change of that service and would have no immediate impact on the school district. Potential development of the subject area could enhance the overall school district tax

base.

57. The subject area has an estimated market value of approximately \$3,618,800.

The subject area has a gross tax capacity of approximately \$110,379.

58. Oakdale has an assessed estimated market value of approximately \$415,459.400.

The gross tax capacity in Oakdale for the county is 23.030%, for Oakdale is 16.977%, and for the school district 52.159%.

59. The total bonded indebtedness for Oakdale is approximately \$26,010,000.

Oakdale has used tax increment financing to assist development within Oakdale.

60. Oakdale has a class six fire insurance rating.

61. Lake Elmo has expressed no interest in tax increment financing for the extension of services to the subject area. Subsequent to the 93 acre petition for concurrent detachment annexation approval, Minnesota Municipal Board Docket No. D-239 Lake Elmo/A-4453 Oakdale, and the present hearing on the 523 acre request for concurrent detachment annexation, Lake Elmo has retained a financial correspondent financial analyst to outline the options available for the installation of municipal sewer and water.

62. Half of the acreage within the subject area have soils that would have problems with development on on-site septic systems.

63. At the time of the original engineering feasibility study

for sewer and water, the property owners were apprised by Lake Elmo that the cost for city sewer and water to the property owners would be \$3,000,000.00 paid up front.

64. The property owners in the subject area indicated to Lake Elmo they were willing to pay for the extension of sewer and water, but were looking for some form of city assisted financing so that they did not have to pay all of the costs prior to any development of the subject area.

Lake Elmo is concerned that extension of municipal sewer and water to the subject area as well as the remainder of Section 32 and 33 would result in deferred assessments being borne by Lake Elmo because of the land in Green Acres and other considerations.

The Lake Elmo officials did not offer any alternatives to the property owners inquiry. Lake Elmo has indicated a desire to avoid any risk related to the extension of sewer and water to Sections 32 & 33.

65. At least one commercial property owner in the subject area does not get a reduction on his insurance for the sprinkler system in his building since it is served by an on-site well and not a municipal system.

The property owner would receive a benefit through lowered fire insurance premiums if he received municipal water service.

66. Some property owners have received inquiries concerning purchase of some or all of their properties, with the general requirement that the property be part of Oakdale.

The property owner whose land is presently in Green Acres is willing to bring it out of Green Acres if sewer and water were

available to it.

67. Lake Elmo's desire for a long lasting anchoring type of development proposal for Section 32 prior to installation of municipal services may be unrealistic given the limited number of such types of development available.

Lake Elmo provided at least one of the property owners in the subject area with an industrial revenue bond to assist in the purchase of commercial property in Lake Elmo that had stood vacant. The revenue bond was a ten-year bond with approximately three years of payment remaining. The commercial building is now one of the top 10 real estate taxpayers in Lake Elmo.

68. The subject area is presently not experiencing or causing any known environmental problems.

There have been over the past years some on-site septic system failure within the subject area or adjacent lands within Sections 32 and 33.

69. To continue to protect the environment it is necessary that development in the subject area be served by municipal sanitary sewer, especially in those areas with soils that are not conducive to on-site septic systems.

There was no testimony as to any environmental problems near the subject area in Oakdale or in Lake Elmo.

70. Lake Elmo's Tri-Lakes area, which is located significantly north of the subject area, has experienced septic system failures as a recurring problem, because of the rapid high density development of that area.

71. The concurrent detachment and annexation of the subject area will not improve or deteriorate the present environmental



conditions of Lake Elmo or Oakdale.

72. The 1986 Lake Elmo Comprehensive Plan indicated that Lake Elmo maintains a 5-year capital improvement program for major public works associated with implementing the Comprehensive Plan. The 1988 and 1989 Lake Elmo budgets did not include any entries in its 5-year capital improvement program for either municipal central sewer or water.

Since the 1986 Lake Elmo Comprehensive Plan indicated that some commercial development would occur prior to 1990 in the MUSA area, a 5-year capitol improvement program for budgets 1988 and 1989 would take expenditures into account if it anticipated that such services would be offered.

73. The concurrent detachment and annexation of the subject area would allow for more efficient delivery of services by the cities while not requiring Lake Elmo to invest any money in its capitol fund for any deferred costs for the extension of sanitary sewer or water to the subject area.

74. Lake Elmo has a bond indebtedness of \$235,000 as of 1989.

75. The Tax Capacity of Lake Elmo in Washington County in 1989 is \$4,990,800.

76. Lake Elmo has a local government tax capacity rate of 10.544. The concurrent detachment and annexation of the subject area will not have a dramatic impact on the assessed value of Lake Elmo or Oakdale.

77. The subject area will remain liable for any present bonded indebtedness it is obligated for in Lake Elmo.

78. Lake Elmo's present bonded indebtedness will not be impacted by the detachment and annexation.

79. The loss of potential development for Lake Elmo is offset by the loss of the need to service the subject area to bring about development. Oakdale gains potential development of the subject area and the duty to serve it consistent with applicable statutes.

80. Governmental services now available in the affected municipalities can be more effectively or more economically provided by the proposed detachment and annexation.

#### CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.

2. Concurrent detachment and annexation of the subject area is in the best interest of that portion of Lake Elmo consisting of the subject property.

3. Oakdale can provide the subject area with the necessary governmental services.

4. The remainder of Lake Elmo can continue to survive without the subject area and will be relieved of the need to provide rezoning and utility service and other additional municipal services required by development necessary to the type of development Lake Elmo acknowledges is appropriate for the subject area.

5. The concurrent detachment and annexation will provide for more effective or economic delivery of services of the affected municipalities.

6. The concurrent detachment and annexation will benefit planning and land use patterns and physical development.

7. There are no major transportation issues or proposed highway development and the transportation network will not be

adversed or altered by the concurrent detachment and annexation.

8. The concurrent detachment and annexation will benefit the municipalities and is in the best interest of the municipalities.

9. The Minnesota Municipal Board should issue an order approving the concurrent detachment and annexation of the subject area from Lake Elmo to Oakdale.

#### O R D E R

IT IS HEREBY ORDERED that the property described herein is hereby detached from Lake Elmo and annexed to Oakdale the same as if it had originally been a part thereof:

All of Section 32, Township 29, Range 21 located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota except the following:

.79 acre, Parcel 11, State Project 8282 (94-392) 902 being Parcel 11 as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project (S P) S282 (94-392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County. Except 37032-2200.

1 acre. Part of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1325.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway 12 as now being travelled and run; thence north along said parallel line 330 feet to an iron monument; then east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning except that part taken for highway purposes.

.91 acre. Parcel 9, as shown on the plat designated as State Highway Right-of-Way Plat No. 3 of 12 of State Project 8382 94-392 on file and of record in the office of the Registrar of Deeds in and for Washington County.

1 acre. Part of the S $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1589.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an

iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning, except that part taken for highway purposes. Except that part taken for Highway purposes.

1.0 acre. Part of the S $\frac{1}{2}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, beginning at an iron monument set at the intersection of a line drawn parallel to and 1721.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway 12 as now being travelled and running thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 132 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 132 feet to the point of beginning. Except to Highway.

20.80 acre. Part of the S $\frac{1}{2}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, parcel 16 acres of State Highway Right-of-Way, Plat No. 3 of 12 of 82-17.

.35 acre. Parcel No. 23 of State Highway Right-of-Way Map 3 of 12, subject to easement.

Parcel No. 22 of State Highway Right-of-Way Plat No. 3 of 12 of State Project (S.P.) 8282 (94=392) 902 on file and of record in the office of the Registrar of Deeds in and for Washington County containing .21 acre more or less, subject to easement.

Part of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, and that part of the SW $\frac{1}{4}$ , Section 33, commencing at the southeast corner of said SE $\frac{1}{4}$ ; thence north along the east line of said SE $\frac{1}{4}$  72 feet to the northerly right-of-way line of Minnesota Trunk Highway 12; thence east along said north line 375 feet to the point of beginning; thence north on a line parallel to the west line of said Section 33 366.2 feet to point; thence west at a right angle 595 feet more or less to the east line of existing roadway; thence north 60 feet on a line parallel to the west line of said Section 33 to a point; thence east at a right angle 655 feet to a point; thence south on a line parallel to the west line of Section 33, 425.42 feet more or less to the north line of Highway 12; thence west along said north line 60 feet to the point of beginning. This description is a 60 foot strip which is 1st Avenue and Emanuel Avenue. No value.

1.57 acres. Being part of the South  $\frac{1}{2}$  of the SE $\frac{1}{4}$ , Section 32, Township 29, Range 21, being Parcel 8, MN DOT right-of-way Plat No. 82-29, Trunk Highway Special Project 8282 (94=392) and I094-3 (340) 248, together with all rights of access as shown on said plat.

4.78 acres. Being part of the Southeast Parcel No. 16 of Section

32, Township 29, Range 21 West, State of Minnesota Highway Right-of-Way Plat 3 of 12, Special Project 8282 (94-392) 902.

1.5 acres. Being part of the S½ of the SE¼ beginning at an iron monument set at the intersection of a line drawn parallel to and 2167.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway No. 12 as now traveled and run; thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 198 feet to an iron monument set at the intersection of a line drawn parallel to and 2167.57 feet east of the west line thereof with the northerly right-of-way line of Minnesota State Highway No. 12 as now traveled and run; thence north along said parallel line 330 feet to an iron monument; thence east on a line parallel to said Highway right-of-way line 198 feet to an iron monument; thence south on a line parallel to said west line 330 feet to an iron monument set on said northerly right-of-way line of said Highway; thence west along said northerly right-of-way line of said Highway 198 feet to the point of beginning. (Excepting therefrom Parcel 37032-2075 described as follows: being part of the SE¼ of the SE¼, Section 32, Township 29, Range 21 described as follows: Commencing at the SE corner of said Section, thence running westerly along said line of Section 32 on an azimuth of 268° 31' 21" (azimuth oriented to MN State Plane Coordinate System South Zone) 466.79 feet; thence on an azimuth 359° 20' 13" 108.75 feet to a point of beginning of the tract to be described; thence continuing on an azimuth 359° 20' 13" 254.25 feet; thence on an azimuth of 88° 31' 21" 162.64 feet; thence on an azimuth of 179° 29' 25" 255.13 feet; thence on an azimuth of 268° 49' 37" 161.95 feet to the point of beginning.)

4.03 acres. Part of the N½ of the SE¼ of Section 32, Township 29, Range 21, and part of the NW¼ of the SW¼, Section 33, Township 29, Range 21, being Parcel No. 7 on MN DOT Right-of-Way Plat No. 82-29 and 82-30. Also that part of the NE¼ of the SE¼, Section 32, shown as Parcel 17 on Right-of-Way Plat 82-17.

AND

All of the West 1/2 of Section 33, Township 29, Range 21, located within the municipal limits of the City of Lake Elmo, Washington County, Minnesota, except as follows:

Part of the SW¼ of the SW¼, Section 33, Township 29, Range 21, beginning at the southeast corner of the SW¼ of the SW¼, Section 33; thence north along the east line of said SW¼ for 13 rods or 214.5 feet; thence west for 24 rods or 396 feet; thence north for 869 feet; thence east for 721 feet; thence south for 1083.5 feet to the south line of said Section 33; thence west along said south line of said Section 33 for 325 feet to the point of beginning. Subject to easements except Highway Parcel 23A, MN DOT Right-of-Way Plat 82-30.

Part of the SE¼ of the SW¼, Section 33, Township 29, Range 21,

being parcels 23B and 23H MN DOT Right-of-Way Plat 82-30 Trunk Highway, State Project 8282 (94-392) 904 and I094-3 (304) 248.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the westerly 62 feet of the following description. Commencing at a point on the south line of said  $\frac{1}{4}$  255 feet west of the southeast corner of said  $\frac{1}{4}$ , this being the point of beginning; thence west along the south line of said  $\frac{1}{4}$  181.85 feet to a point; thence running north on a line parallel with the east line of said  $\frac{1}{4}$  section to a point on a line connecting point on east line of said  $\frac{1}{4}$  section 40 rods north of said southeast corner of said  $\frac{1}{4}$  section and point on said south line of said  $\frac{1}{4}$  section 48 rods west of said southeast corner of said  $\frac{1}{4}$  section; thence running northeasterly along said connecting line to a point 255 feet west of the easterly line of said  $\frac{1}{4}$  section; thence running south parallel to the east line of said  $\frac{1}{4}$  section to a point of beginning. Subject to easement. Also known as SP 8282 Parcel 23C.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, commencing at a point on the south line of said  $\frac{1}{4}$  section 255 feet west of the southeast corner said  $\frac{1}{4}$  section; this being the point of beginning of this description; thence running west along the south line of said  $\frac{1}{4}$  section 181.85 feet to a point; thence running north on a line parallel with the east line of said  $\frac{1}{4}$  section to a point on line connecting point on east line of said  $\frac{1}{4}$  section 40 rods north of said southeast corner of said  $\frac{1}{4}$  section and point on said south line of said  $\frac{1}{4}$  section, 48 rods west of said southeast corner of said  $\frac{1}{4}$  section; thence running northeasterly along said connecting line to a point distant 255 feet west of the easterly line of said  $\frac{1}{4}$  section; thence running south parallel to the east line of said  $\frac{1}{4}$  section to the point of beginning, except the westerly 62 feet thereof. Subject to rights of the public in public roads abutting thereon. Also known as Highway Parcel 23D State Project 8282 (94=392), 904 Lake Elmo.

.717 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, commencing at a point on the south line of Section 33, 185 feet west of the southeast corner of the SW $\frac{1}{4}$  of said section; thence north parallel with the east line of said  $\frac{1}{4}$  section 506.2 feet to a point; thence south 50 degrees 12' west 91.3 feet to a point; thence south and parallel with the east line thereof 448 feet to the south line of said  $\frac{1}{4}$  section; thence east along said south line 70 feet to the place of beginning. Except to Highway.

Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, beginning at a point in the east line of said tract, 40 rods north of the southeast corner thereof; thence southwesterly along a line which intersects with the south line of said tract, 48 rods west of the southeast corner thereof to a point on said line which is 185 feet west of the east line of said tract; thence

south on a line 185 feet distant and parallel with the east line of said tract to the south line thereof; thence east along the south line of said tract 185 feet to the southeast corner thereof; thence north along the east line of said tract to the point of beginning. Also known as Highway Parcel 23F, State Project 8282 (94=392) 904 Lake Elmo.

Part of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1733.2 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392), 904 Lake Elmo.

Part of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, being the south 108.9 feet of the north 1842.1 feet of the east 200 feet. Also known as Highway Parcel 23G, State Project 8282 (94=392) 904 Lake Elmo.

1 acre. Part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, beginning at an iron pipe monument set on the east line thereof at a point 1980 feet south of the center of said section and running thence north along said center line of said section 137.9 feet to an iron pipe monument; thence west by a deflection angle of 90 degrees 200 feet to an iron pipe monument; thence south on a line parallel to said center line of said section 297.7 feet to an iron monument; thence northeasterly on a straight line to the point of beginning. Also known as Parcel 23G State Project 8282 (94=392) 904 Lake Elmo.

6.14 acres. Being part of the East  $\frac{1}{2}$  of the SW $\frac{1}{4}$  being Parcel 23 MN DOT Right-of-Way Plat 82-30, Trunk Highway Special Project 8282 (94=392) 904 and IO94-3 (304) 248, together with all right of access as shown on said plat.

Parcel 23J and Parcel 7 as shown in MN DOT Right-of-Way Plat Nos. 82-30 and 82-47, together with all right of access as shown on said Plat.

20.72 acres. Being part of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, being Parcel No. 16 as shown on State Right-of-Way Plat No. 4 of 12 (37033-2601). Except all that part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 29, Range 21, described as follows to-wit: Commencing at the southwest corner of said Section 33; thence north along the west line of said Section 72.0 feet to the north right-of-way line of Minnesota Trunk Highway No. 12; thence east along said north line 75 feet to the point of beginning; thence east along said north line 100 feet; thence north along a line parallel to the west line of said Section 183.8 feet to a point; thence west at right angles a distance of 100 feet to a point; thence south on a line parallel to the west line of said Section a distance of 185.1 feet to the point of beginning, Washington County, Minnesota.

Part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 33, Township 29, Range 21, commencing at the SE $\frac{1}{4}$  of said SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , thence westerly on

a line 24 rods; thence northerly and parallel with the west line of said Section 13 rods; thence easterly and parallel with the south line 24 rods to the east line of said quarter  $\frac{1}{4}$  Section; thence southerly 13 rods to the point of beginning.


IT IS FURTHER ORDERED: that the population of Lake Elmo is decreased by 26.

IT IS FURTHER ORDERED: that the population of Oakdale is increased by 26.

IT IS FURTHER ORDERED: that the effective date of this order is November 7, 1990.

Dated this 31st day of October,  
1990.

MINNESOTA MUNICIPAL BOARD  
165 Metro Square Building  
St. Paul, Minnesota 55101,

  
Terrence A. Merritt  
Executive Director



M E M O R A N D U M

In approving the concurrent detachment and annexation of the subject area from Lake Elmo to Oakdale the Board concludes that the municipalities will benefit from the boundary change.

Minnesota Statute 414.061, Subdivision 5 does not empower the Board with either the ability to expand the area to be detached and annexed, or to reduce the area that is eventually detached and annexed. While a portion of the subject area is outside the MUSA, the Board did not have the option of detaching and annexing only the MUSA area. Additionally, the property owners of the area not within the MUSA also own land within the subject area that is within the MUSA. Minnesota Statute 414.061, Subd. 5 requires that all of the property owners petition. Those property owners within the LUCP that did not petition can't be forced by their neighbors or the Board pursuant to this section of the statute, to become part of Oakdale.

Those property owners that will remain in Lake Elmo and live in the LUCP may benefit from the construction of sewer and water by Oakdale. Once the trunk lines have been installed to service the subject area, they may also be able to be used, if needed, by the property owners that remain in Lake Elmo. Oakdale, on previous occasions, has extended water on a case by case basis to areas in need. Thus, Lake Elmo residents that need sewer and water may be able to obtain it, without the need to place any of the rest of Lake Elmo at risk for the construction costs.

Again and again in the testimony, it was noted that the

Oakdale fire and police as well as the State Highway Patrol, as well as the Washington County Sheriff's Department were responding to calls for assistance from Section 32 & 33. The concurrent detachment and annexation will not likely impact on such continued service.

Lake Elmo remains rural and Oakdale remains urbanized. The concurrent detachment and annexation of the subject area continues to allow for the enhancement of these development perspectives. Lake Elmo has looked on Sections 32 & 33 as separate from the remainder of the city. The potential for central sanitary sewer and the possibility of central water make development in that area different from the remainder of Lake Elmo. Those opportunities for the subject area are essentially the same type of opportunities land within Oakdale faces. The similarities between the subject area and Oakdale are as significant as the dissimilarities between the subject area and Lake Elmo.

It is hoped that the communities can work together to address issues raised in the northern portion of Lake Elmo, where testimony indicated there had been polluted wells. The Board urges the communities to put behind any trauma created by these proceedings. The best interests of each municipality have been served by the boundary adjustment, and hopefully the communities can get on with the business of working together for the best interests of the citizens.

JAM 10-31-90