



City of Lake Elmo

Phone: 651-777-5510

Fax: 651-777-9615

3800 Laverne Avenue North / Lake Elmo, Minnesota 55042

File

The Lake Elmo Planning Commission will meet **MONDAY, January 28, 2002**,
at **7:00 p.m.** in the Council Chambers of City Hall,
3800 Laverne Avenue North, Lake Elmo, Minnesota.

AGENDA

1. Introduction of Planning Commission
2. Agenda
3. Minutes – January 14, 2002
4. **Public Hearing:**
 - Comprehensive Plan Amendment,
 - Zoning Text Amendment,
 - Minor Subdivision
 - Mulligan Masters Golf Facility
 - Keats Avenue & Hudson Boulevard
 - Hiner Development
5. BREAK
6. **Interviews with Community Development Block Grant Proposals for Old Village Neighborhood Design**
 - a. 8:00 p.m. – Sanders, Wacker, Bergly, Inc.
 - b. 8:30 p.m. – Thorbeck Architects
 - c. 9:00 p.m. – TKDA
7. Other
8. Adjourn

Lake Elmo
Planning Commission

DRAFT

Monday, January 14, 2002
Meeting Minutes

Chairman Armstrong called the meeting to order at 7:03 p.m. in the Council Chambers of City Hall, 3800 Laverne Avenue North, Lake Elmo, Minnesota. Present: Commissioners Deziel, Taylor, Ptacek, Sessing, Mandel and Helwig. Absent: Commissioner Sedro. Also present: Planner Dillerud.

1. Agenda

- Add : 2.A Planning Commission Roster Discussion - Mandel
 6.A Portable Buildings - Mandel

**M/S/P Helwig/Armstrong - to approve the agenda, as amended.
(Motion Passed 6-0).**

2. Minutes Regular Section

**M/S/P Sessing/Helwig – to approve the December 10, 2001 (regular) Minutes, as presented.
(Motion Passed 6-0).**

2.A Commissioner Mandel explained that due to some family issues, he would be willing to step down as a Planning Commissioner, and in light of the recent applications received, and that he was excited several residents had shown an interest in volunteering.

3. Organizational

(Deziel arrived 7:15 p.m.)

Election of 2002 Officers:

Chair: Armstrong 6-1 Abstain: Deziel
Vice Chair: Bob Helwig 6-1 Abstain: Deziel
Secretary: Jeff Berg 7-0

M/S/P Armstrong Helwig - to approve the 2002 Planning Commission meeting schedule, as presented.

**4. PUBLIC HEARING: Business District Exterior
Architectural Performance Standards**

Planner Dillerud explained that staff adjusted the draft amendments and restructured them into ordinance format. He reported that the City Administrator added identical terms to each of the five business district sections of the Municipal Code.

Chairman Armstrong opened the comment portion of the Public Hearing at 7:25 p.m.

**Gloria Knoblauch
Resident**

Ms. Knoblauch asked if the Planning Commission was deciding on a color code for historic buildings, and another color code for new construction. She said, in other words, she wanted to make sure the public knew they could pick any exterior color they wanted.

Chairman Armstrong said the ordinance allowed more flexibility.

Planner Dillerud explained that no reference to the color of exterior surfaces is made in the proposed Ordinances; the amendments are primarily intended for the I-94 area of the City and new construction.

Chairman Armstrong closed the comment portion of the Public Hearing 7:27 p.m.

Commissioner Deziel said he thought the amendments were unnecessary, and that he had not heard enough to convince him to vote for recommendation of the Ordinances.

M/S/P Helwig/Taylor -to recommend the City Council adopt Ordinances 97-__, 97-__, 97-__, 97-__ and 97- __, relating to Architectural Performance Standards in the General Business, Highway Business, Convenience Business, Limited Business, and Business Park Zoning Districts.

(Motion Passed 6-1). Opposed: Deziel.

5. 2002 Work Plan

Planner Dillerud noted that much of the 2001 Work Plan was completed by the Planning Commission, or was in progress. He reviewed issues of the 2001-2006 Capital Improvement Plan and other Comprehensive Plan Policy issues. He noted the remaining 2001 Work Plan items as follows:

1. Zoning Code Update (CDBG – in progress)
2. Community Facilities and Staffing Forecast (CDBG – in progress)
3. Old Village Neighborhood Design Study (CDBG – in progress)
4. Cimarron Neighborhood Study (Study Design in progress)
5. 2003 – 2007 Capital Improvement Plan
6. Review/amend Sign Code
7. Review/amend street design standards (Council/PC committee appointed)

Commissioner Helwig asked if the Lighting Code should be addressed

Planner Dillerud said the current committee discussing this issue was himself and Council Member DeLapp.

**M/S/P Deziel/Helwig - to add to the 2002 Work Plan: Continue to make progress regarding discussion of common Wetland Treatment Systems in the Old Village area.
(Motion Passed 7-0).**

Helwig requested reviewing street standards before sign code.

M/S/P Armstrong/Sessing to approve the 2002 Planning Commission Work Plan, as follows:

1. Zoning Code Update (CDBG – in progress)
2. Community Facilities and Staffing Forecast (CDBG – in progress)
3. Old Village Neighborhood Design Study (CDBG – in progress)
4. Cimarron Neighborhood Study (Study Design in progress)
5. 2003 – 2007 Capital Improvement Plan
6. Review/amend street design standards (Council/PC committee appointed)
7. Review/amend Sign Code

(Motion Passed 7-0).

6. a Other: Portable Buildings

Commissioner Mandel reported that he received a call from a resident inquiring about the legality of portable buildings such as carports and storage structures made of aluminum framing and covered with canvas or plastic.

Planner Dillerud reminded the Commissioners that all such inquiries should be directed to City Staff, and assured the Commissioners that he would check into this matter.

Chairman Armstrong Adjourned the meeting at 7:55 p.m.

Respectfully submitted, Cynthia Young – Planning Secretary

**Lake Elmo
Planning Commission**

2002 Work Plan

1. Zoning Code Update (CDBG – in progress)
2. Community Facilities and Staffing Forecast (CDBG – in progress)
3. Old Village Neighborhood Design Study (CDBG – in progress)
4. Cimarron Neighborhood Study (Study Design in progress)
5. 2003 – 2007 Capital Improvement Plan
6. Review/amend street design standards (Council/PC committee appointed)
7. Review/amend Sign Code

**Lake Elmo
Planning Commission
2002 Meeting Schedule**

January 28	Monday	
February 11	Monday	
February 25	Monday	
March 11	Monday	
March 25	Monday	
April 8	Monday	
April 22	Monday	
May 13	Monday	
May 29	Wednesday	<i>(Monday is Memorial Day)</i>
June 10	Monday	
June 24	Monday	
July 8	Monday	
July 22	Monday	
August 12	Monday	
August 26	Monday	
September 9	Monday	
September 23	Monday	
October 16	Wednesday	<i>(Monday is Columbus Day)</i>
October 28	Monday	
November 13	Wednesday	<i>(Monday is Veteran's Day)</i>
November 25	Monday	
December 9	Monday	
December 23	CANCEL	

1/16/02

MAYOR

Lee Hunt

8810 55th Street
H) 777-2478
W) 778-7071
C) 651-402-6092
P) 612-880-5079
F) 651-778-6510
LGHunt@mmm.com

COUNCIL

Rosemary Armstrong

8291 15th Street
H) 735-5936
Armstro@bitstream.net

Steve DeLapp

8468 Lake Jane Trail
H) 777-1001
W) 778-6648
Scdelapp@mmm.com

Chuck Siedow

3585 Laverne Avenue
H) 777-5697
W) 439-0062
F) 439-0081
NLTTool@qwest.net

Susan Dunn

11018 Upper 33rd Street
PO Box 153
H) 777-0197
W) 393-1131
F) 393-1713
Susan.dunn@kodak.com

ENGINEER

Tom Prew TKDA

1500 Piper Jaffray Plaza
444 Cedar Street
St. Paul 55101-2140
W) 292-4463
F) 292-0083
C) 651-248-4433
Prew.td@tkda.com

Larry Bohrer

292-4590

ATTORNEY

Jerry Filla (Civil)

Peterson, Fram, Bergman
300 Midwest Fed. Bldg.
50 East Fifth Street
St. Paul 55101
W) 290-6907
F) 228-1753
Jpfilla@pfb-pa.com

**Kevin Shoeberg
(Criminal)**

1805 Woodlane Drive
Woodbury Business Center
Suite 600
Woodbury 55125
651-735-9340
F) 651-735-6746
KKSPA@aol.com

ASSESSOR

Frank Langer

21870 Olinda Lane
Scandia 55073
H) 433-3059
F) 433-8229

SHERIFF

Washington County
439-9381
Dep.Reiter Cell:
651-592-7364

PUBLIC WORKS

Dan Olinger

4259 Jamaca
Home) 777-1047
Shop) 770-2537
Pager) 629-3945
Fax) 777-6530

Rick Gustafson

773-9098
P) 952-909-3198
Mike Buckles
P) 952-909-3199
770-1752

ANIMAL CONTROL

Kathi Pelnar

715-386-7789
P) 612-534-7510

PLANNING

COMMISSION

Chair Tom Armstrong

8280 15th Street
H) 738-2450
Armst013@tc.umn.edu

Vice Chair Bob Helwig

8247 27th Street
W) 770-7884

Secretary

Jeff Berg

3271 Lampert Avenue
Berg@co.washington.mn.us

Tim Mandel

2479 Lisbon Avenue
H) 777-5780

Rodney Sessing

5699 Keats Avenue
H) 779-9057
C) 612-987-0729
GardensRS@aol.com

Kevin Herber

4580 Birchbark Trail
H) 773-5219
KHerber@kolpak.com

Todd Ptacek

812 Julep Avenue
H) 501-8319
W) 256-2560
C) 303-5563
tptacek@air-serv.com

Kathy Sedro

8916 35th Street
H) 777-5471
W) 407-4182
Ksedro@trane.com

Dianne Taylor

8586 Lake Jane Trail
H) 777-2935

1st Alternate

Mark Deziel

2783 Legion Avenue N.
H) 748-2835
W) 612-824-0484

2nd Alternate

Julie Ann Bunn

2986 Lake Elmo Avenue
H) 748-1448

1/16/02

PARKS COMMISSION

Chairman

Bob Schumacher

9155 28th Street

H) 770-7771

Vice Chair

David Pletscher

772 Julep Avenue

H) 714-4011

Steve Peterson

3308 Kraft Circle

H) 779-0131

Rand Wagner

PO Box 68

H) 773-8619

David Steele

9576 55th Street

H) 777-9018

John Heroff

10925 33rd Street Lane

779-8422

Kes Tautvydas

8182 Hidden Bay Trail

779-6562

Terry Bouthilet

10891 32nd Street

H) 777-8821

Mike Tate

11588 20th Street

H) 779-0664

First Alternate:

Robert Arnold

2329 Legion Avenue

773-4929

Second Alternate:

PARKS Superintendent

Mike Bouthilet

11194 Upper 33rd Street

Shop) 770-3015

Pager) 651-629-3946

OLD VILLAGE

SPECIAL PROJECTS

Ann Bucheck

2301 Legion Avenue

H) 770-1730

Jennifer Pelletier

4884 Lily Avenue

H) 275-1218

David Herried

PO Box 187

H) 690-5512

W) 777-7054

F) 777-5931

Design@w-harchitects.com

Wyn John

8883 Jane Road

770-5960

Wynjohn@aol.com

Todd Williams

3025 Lake Elmo Avenue

H) 777-0446

toddwilli@mediaone.net

ENVIRONMENTAL

SPECIAL PROJECTS

Margaret Carlson

8735 27th Street N.

777-6696

Barry Harrison

4853 Lilac Place N.

430-3854

Fred Banister

PO Box 215

770-2119

Bruce Dunn

11018 N. Upper 33rd

777-0197

James Kelly

2902 Lisbon Avenue

779-4304

Dean Johnston

8200 Hill Trail

H) 777-4444

W) 777-5458

HUMAN RIGHTS

COMMISSION

Carol Banister

PO Box 215

H) 770-2119

Banis003@tc.umn.edu

Debbie Krueger

4452 Lake Elmo Avenue

H) 439-9186

NDKrueger@uswest.net

Kim Lipman

8249 Deer Pond Court

H) 773-1985

Cathy Twiss

8880 Jane Road

H) 770-5169

Liz Brady

7680 50th Street

H) 773-3171

FIRE CHIEF

Greg Malmquist

H) 777-0655

P) 610-6486

LakeElmoFDGM@aol.com

FIRE STATIONS

#1 3510 Laverne

770-5006

#2 4059 Jamaca

779-8882

MAINTENANCE

ADVISORY

SPECIAL PROJECTS

George Dege

5391 Keats

777-4542

Budd Talcott

8051 Hill Trail

777-8279

Dick Gustafson

8718 Lake Jane Trail

777-7789

Charles Stanley

8640 42nd Street

770-7575

1/16/02

Mary Kueffner
Administrator
Mary.Kueffner@LakeElmo.org

Chuck Dillerud
Planner/Assistant Administrator
Chuck.Dillerud@LakeElmo.org

Terry Berg
Finance Director
Terry.Berg@LakeElmo.org

Jim McNamara
Building Official
Jim.McNamara@LakeElmo.org

Sharon Lumby
Deputy Clerk
Sharon.Lumby@LakeElmo.org

Cynthia Young
Secretary
Cynthia.Young@LakeElmo.org

Tom Bouthilet
Water/Building
Tom.Bouthilet@LakeElmo.org

Dan Olinger
Public Works Supervisor
LakeElmoDO@aol.com

Mike Bouthilet
Parks Supervisor
LakeElmoMB@aol.com

Michael Buckles
Maintenance/Water
LakeElmoMCB@aol.com

Rick Gustafson
Maintenance

City Hall: 3800 Laverne Avenue
777-5510
FAX: 777-9615

**LAKE ELMO PLANNING COMMISSION
STAFF REPORT**

Date: January 23, 2002 for the Meeting of January 28, 2002

Applicant: Hiner Development/MFC Properties

Location: West Side of Keats Avenue, North of the Hudson Blvd./Keats Avenue Intersection

Requested Action: Comp Plan Amendment/Rezoning/CUP/Minor Subdivision

Land Use Plan Guiding: RAD(Part)/LB(Part)

Existing Zoning: RR (All)

Site History and Existing Conditions:

Even though the site has never been developed and is vacant today, there is an extensive history, and resulting City records regarding the site. The most recent City action regarding the site was to approve a Minor Subdivision to legally detach the portion of the original site south of Hudson Blvd. (Approx. 6 acres) from the balance of the site (approx. 45 acres) north of Hudson Blvd.

There have been several proposals for commercial development of the site, with at least one involving a proposed truck stop. That proposal required Comp Plan and zoning amendments, which were denied by the City Council. Later, those denial actions were upheld in court proceedings that were initiated by the land owner.

The site covered by the Minor Subdivision application is the entire 45 acres north of Hudson Blvd.. The applicant proposes dividing the south 5 acres (the Limited Business guided portion) from the north 40 acres (now guided RED). The site covered by the balance of the application under consideration (Plan Amend/Rezone/CUP) is the 40 acre north parcel that would result from the Minor Subdivision.

Discussion and Analysis:

The multiplicity of applications presented are all focused on the applicant's desire to locate a golf practice facility on the 40 acre site. The facility is proposed to be similar in nature to the one proposed in 2001 (by the same applicant) across Keats Avenue to the east. The applicant has provided detailed documentation describing the proposed use, which is enclosed for the Commission's review. Staff will reference portions of that use description here, as those portions warrant comment.

As noted, the 40 acre site is presently land use guided by the City (1997 Plan) as RED. The 2000 Land Use Plan (approved by the City, and under review by the Metropolitan Council) reguides the 40 acres – and several other RED guided areas of the City – to RAD. The applicant is requesting what amounts to a City affirmation of that RAD guiding – separately from the 2000-2020 Comp Plan. In essence, this apparently-redundant action by the City becomes something of an insurance policy for the applicant. Should the overall Comp Plan actions by the Met Council drag on – as they may – the reguiding of this 40 acres could be separately submitted to Met Council as a Minor Plan Amendment, disengaged from the issues of the city-wide plan. On the other hand, the Met

Council may act on Lake Elmo's Plan in a timely fashion – negating the need to move forward with this part of the application package. Both the existing RR and the proposed AG zoning are responsive to the RAD land use guiding. The site is presently zoned inconsistent with the old RED guiding – and has been for years. The applicant proposes rezoning of the north 40 acres to AG for one specific reason – to attain eligibility for a Conditional Use Permit for “Commercial Recreation”. This type of CUP is not available in any other zoning district.

It appears that, if the City determines the Minor Subdivision should be approved, a second zoning action should be considered by the Commission. The division would result in a parcel of approximately 5 acres (south parcel) guided (by both the 1997 and the 2000 Land Use Plans) as Limited Business, but still zoned RR. Zoned RR, the parcel becomes non-conforming as to area (10 acre minimum in RR) with recording of the proposed division. Zoned LB (3.5 acre minimum area) however, the 5 acre south parcel remains conforming. This becomes a problem of timing as much as purpose. The Commission could either initiate the rezoning of the 5 acre parcel to LB now, or allow the non-conformity to exist pending the general city-wide rezoning to match the 2000 Land Use Plan.

The Conditional Use Permit application refers to “Site Plan” in several locations (both in text and graphics). There has been no application for formal Section 520 Site Plan approval; and, the documentation provided is of insufficient detail to qualify for Site Plan review. We are, at this time, addressing only the Conditional Use Permit – uses and general site layout – not the details of site/structure/infrastructure design.

Within the application documentation the applicants refer to several “accessory” uses that go beyond the basic golf practice facility. Those accessory uses include retail golf pro shop, food service, golf school, and “future” mini golf. Each of these uses, proposed as accessory, create the potential of becoming additional primary uses over time. At some point the potential exists for customers to visit this site exclusively for those accessory goods and services, rather than to simply avail themselves of those goods and services while they are there to primarily use the golf practice facility. Indeed, with respect to mini golf the use related to the stated primary use of the site in name only – not accessory in any manner. At that point the “accessory” uses become primary (mini golf from Day 1), and are more appropriate in the GB zoning district. The risk is that the City would be defacto zoning this site GB, once those uses proposed as accessory in fact become additional primary uses.

Page 8 of the applicants' booklet references potential lighting of the golf practice facility. While the applicants state that such lighting would comply with City exterior lighting standards, there remains a question whether that is even feasible – will 1 foot candle or even 3 foot candles (alternative City illumination maximums, depending on fixture design) provide enough illumination to make a difference for golfers?

All Conditional Use Permit applications must be reviewed in the context of the standards provided by Section 300.06 Subd. 4A (page 300-10, copy enclosed)

Findings and Recommendations:

Staff finds and recommends as follows:

- 1. Minor Subdivision** – The division proposed would appear to be consistent with the land use guiding of the site. The area non-conformity that would result with the 5 acre

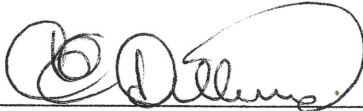
RR parcel can be overcome with rezoning of that parcel to LB – whether now, or as a function of the city-wide rezoning actions in the near future. Staff recommends approval.

2. **Comp Plan Amendment** – The proposed amendment of the Land Use Plan for the north 40 acre parcel (RED to RAD) is consistent with the adopted 2000-2020 Comp Plan. Staff recommends approval.
3. **Rezoning** – The proposed rezoning of the north 40 acres parcel from RR to AG would be consistent with the Land Use Plan RAD guiding of that area. The applicants' request to withhold the legal execution of the AG zoning until June 1 can be accomplished by simply not publishing the rezoning ordinance until after June 1. Staff recommends approval.
4. **Conditional Use Permit** – The primary use proposed a “commercial recreation” (Golf Practice Facility) appears to respond favorably to the CUP standards found in Section 300.06. Staff recommends approval of the Conditional Use Permit, subject to the following conditions:
 - a. Elimination of the “mini golf” use based on use characteristics unrelated to the primary golf practice facility use.
 - b. Limitation to the scale of the food service and golf pro shop accessory uses to that represented by the applicants' floor plans dated by Staff January 23, 2002.
 - c. All buildings, signage and parking areas shall be subject to review and approval by the City of a formal Section 520 Site Plan. Commercial zoning district performance standards shall apply to those improvements.
 - d. Any structure with a gross floor area exceeding 5,000 square feet shall have fire suppression sprinklers installed.
 - e. Exterior lighting of the golf practice facility shall be prohibited unless the CUP is specifically amended to include that feature.
 - f. Compliance with the review recommendations of the City Engineer.

Planning Commission Actions Requested:

Motion to recommend approval of a Minor Subdivision; Comp Plan Amendment; rezoning and Conditional Use Permit for Hiner/MFC Properties, per the plans staff dated January 23, 2002, and subject to the conditions recommended by staff in the Planning Staff Report dated January 23, 2002.

Should the Commission decide to deny any or all of the applications, Staff requests that action be accompanied with findings in support of the denial(s).



Charles E. Dillerud, City Planner

Attachments:

1. Location Map
2. Section 300.06 Subd. 4A
3. Applicants' Documentation

Subd. 4 Districts.

A. AG - Agricultural.

1. Permitted Uses and Structures.

- a. Commercial agriculture and horticulture
- b. Poultry facilities meeting state and federal regulations
- c. Farm buildings
- d. Farm drainage and irrigation systems
- e. Forestry meeting state and federal regulations
- f. One farm dwelling per farm (Also see Section 300.13, Subd. 2 and Subd. 16)
- g. One non-farm dwelling per each forty (40) acres, or part of a dwelling on a prorated basis, not already containing a farm or non-farm dwelling provided:
 - i. The dwelling unit is located on a separate parcel of record in the office of the county recorder and/or County Auditor, which shall be at least one and one-half (1 1/2) acres in size.
 - ii. The parcel on which the dwelling unit is located must have at least one hundred twenty-five (125) feet of frontage along a public street, be rectangular in shape and no dimension to be greater than three times the other.
 - iii. The dwelling is separated by at least three hundred (300) feet from the nearest farm building.
- h. Seasonal open sales lots for agricultural and horticultural products produced on the premises.
- i. Pick-your-own or cut-your-own type sales operations for products grown on the premises.
- j. Joint ownership of property or ownership by association or rental for the purpose of providing private gardens or forest plots to its members or lessees.

2. Uses Permitted by Conditional Use Permit.

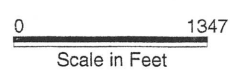
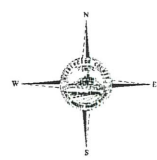
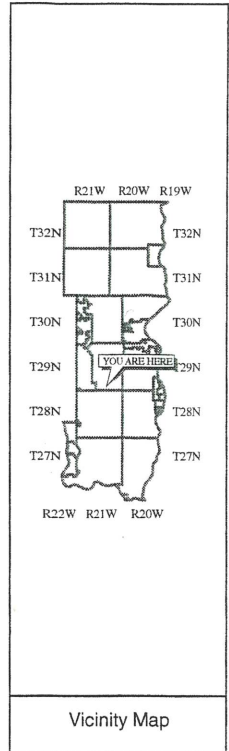
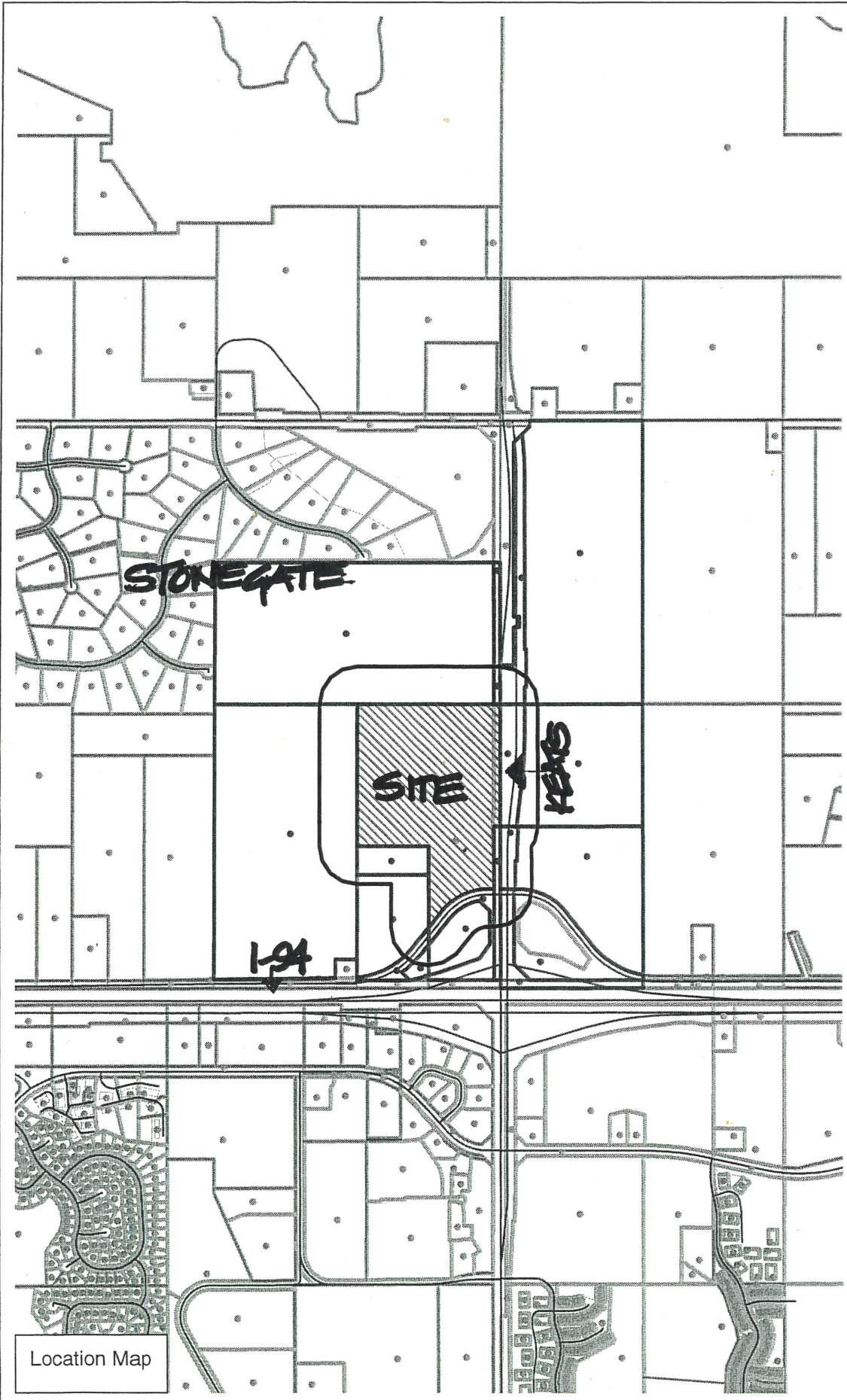
- a. Greenhouses;
- b. Kennels;
- c. Stables;
- d. Commercial recreation of a rural nature, including outdoor target ranges;
- e. Agricultural service establishments primarily engaged in performing agricultural animal husbandry or horticultural services on a fee or contract basis including sorting, grading and packing fruits and vegetables for the owner, lessee or sublessee; agricultural produce milling and processing for the owner, lessee, or sublessee; horticultural services; fruit picking; grain cleaning; veterinary services; boarding and training of horses;

3. Accessory Uses and Structures. (See Section 300.13, Subd. 4)

- a. Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses and structures as defined in Section 150;

NARRATIVE REGARDING REQUEST FOR MINOR SUBDIVISION

The property requested for a minor subdivision consists of approximately 45 acres north of Hudson Boulevard and west of Keats Ave. The proposed Land Use Plan that is waiting for Metro Council approval shows the southern portion as Limited Business and the northern portion as RA zoning. We believe the property should be subdivided along that re-zoning line to match the new Land Use Plan. This would allow us to obtain separate tax identification numbers for the different parcels and the ability to transfer title.



Location Map

This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

Source: Washington County Surveyor's Office. Phone (651) 450-6875

Parcel data based on AS400 information current through: November 30, 2001
Map printed: January 14, 2002

EXPLANATION OF APPLICATION REQUESTS

MFC Properties 94 Limited Partnership ("MFC Properties") and Hiner Development, Inc. ("Hiner") have entered into a Purchase Agreement with respect to the property described in the attached Development Application Form. Hiner would like to develop a golf practice facility on the property. In order to do so, MFC Properties and Hiner are submitting to the City an Application for the following:

1. A change of the Lake Elmo Comprehensive Plan land use designation for the property from "RED" to "RAD" designation;
2. A change of the zoning designation of the property from "RR-Rural Residential" to "Agricultural";
3. A Conditional Use Permit allowing Hiner to develop a golf practice facility on the property; and
4. The subdivision of the property from the larger parcel which the property is currently a part.

The sale of the property by MFC Properties to Hiner is expressly contingent upon the foregoing approvals being granted by the City of Lake Elmo and upon the Metropolitan Council approving the change of the Lake Elmo Comprehensive Plan land use designation of the property from "RED" to "RAD" designation. The Metropolitan Council approval of the change of the Lake Elmo Comprehensive Plan land use designation for the property from "RED" to "RAD" designation is necessary because:

1. MFC Properties does not want the zoning designation of the property changed to "Agricultural" if the sale of the property to Hiner does not close; and
2. Minnesota law requires that zoning changes made by a City need to conform to its Comprehensive Plan. Since the "RED" Comprehensive Plan land use designation does not contain "Agricultural" zoning, the land use designation under the Lake Elmo Comprehensive Plan for the property must be changed by the City to "RAD" and approved by Metropolitan Council before the "Agricultural" zoning can become effective.

As a result of the foregoing facts, MFC Properties and Hiner are requesting that the change of the zoning designation of the property to "Agricultural" be expressly conditioned upon the Metropolitan Council approval (whether by administrative approval or by the Metropolitan Council itself) of the change of the Lake Elmo Comprehensive Plan land use designation of the property from "RED" to "RAD" designation on or before June 1, 2002. If such approval is given on or before June 1, 2002, then the change of the zoning designation to "Agricultural" will go into effect. If such approval is not given on or before June 1, 2002, then the change of the zoning designation to "Agricultural" will not go into effect.