



City of Lake Elmo

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Lake Elmo, Minnesota 55042

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NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, October 18, 2010, at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. July 26, 2010
 - b. August 24, 2010
4. Public Hearings
 - a. ZONING TEXT AMENDMENT: To amend Section 154.019 regarding the general requirements of an Interim Use Permit. The potential modifications would allow additional flexibility in the general standard requirements such as increasing the length of the term the permit is allowed.
 - b. ZONING TEXT AMENDMENT: Amendments to the holding districts HD-A-BP, HD-A-SRD, HD-RR-BP, HD-RR-LB, HD-RR-RAD, HD-RR-SRD, HD-R1-RAD, HD-R1-SRD, HD-R3-URD, HD-RE-LB, HD-RE-SRD, HD-GB-BP, HD-GB-C, HD-GB-SRD, VR-A, VR-GB, VR-R1, VR-RR, HD-LB-SRD to change all uses that are currently allowed with a Conditional Use Permit to be instead regulated as Interim Uses.
 - c. INTERIM USE PERMIT: Consideration of an application to allow the outdoor display of powersport/recreational equipment such as motor homes, automobiles, watercraft, and ATVs at 9200 Hudson Boulevard. HD-GB-SRD zoning; PID: 34-029-21-33-0005.
5. Business Items - None
6. Updates (Verbal)
 - a. City Council;
 - i. October 5, 2010 – Zoning Text Amendment, Lake Elmo Inn – approved; Interim Use for Ag Sales - approved
 - b. Staff Updates
 - i. Country Sun Farm Lawsuit
 - c. Commission Concerns
7. Adjourn

**City of Lake Elmo
Planning Commission Meeting
Minutes of July 26, 2010**

Chairman Van Zandt called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Bidon, Britz, Fliflet, Hall, Pearson, Pelletier, Van Erem, Van Zandt and Williams. Absent: McGinnis and Ziertman. STAFF PRESENT: Planning Director Klatt and Planner Matzek

Agenda

M/S/P, Fliflet/Bidon, to approve the agenda as presented. Vote: 9:0.

Minutes – *None.*

Public Hearing: *None*

Business Item - Comprehensive Plan – Urban (Sewered Area Density Analysis Discussion

Planner Matzek summarized the charts identifying an analysis of the land area and proposed densities for the residential and commercial area South of 10th Street. She expressed concern that the city would be able to meet the employment projections in that area. Planner Matzek summarized the analysis for six different scenarios for the Village Area that varied both the acreage to be developed and the resulting unit count. Planner Matzek said the employment analysis for the Village Area and the total city-wide population would be analyzed and brought to a future meeting.

Commissioner Fliflet clarified that the designation of 3.5 units per acre in the area South of 10th Street is an average, with the assumption that some areas would be developed at a higher density and other land areas would be less.

Commissioner Williams identified that the Village Area could meet the three unit per acre requirement if less land area was developed.

Planner Matzek identified that she had made certain assumptions, such as an across-the-board reduction or increase in the number of units per housing unit type when analyzing the Village Area Master Plan. However, those numbers could be altered in a way to meet the three unit per acre requirement.

Business Item – County SSTS Ordinance (Subsurface Sewage Treatment System Regulations) Discussion

Planning Director Klatt said the county has adopted new SSTS regulations in response to new state rules regarding septic systems. He said most communities reference the county's rules as a part of their ordinance and he would recommend Lake Elmo do the same. He said there are a few differences between the city's regulations and the county's regulations, which he summarized.

Chairman Van Zandt expressed concern that many residents do not realize the importance of maintaining their septic system, nor do they know what to do. He said he was in support of requiring an inspection before the sale of a home.

Commissioner Williams said he would like to see the city maintain the more restrictive regulations to require pumping every two years and that a mound system not be permitted as the primary system on a site. He said he is supportive of the County taking over the enforcement and permitting. He asked Planning Director Klatt what regulations were being proposed to address the city's alternative systems.

Planning Director Klatt said that those would be classified as a mid-sized sewage treatment system (MSTS).

Chairman Van Zandt said that if more frequent pumping is shown to reduce long-term problems, he would suggest continuing to require pumping every two years due to the age of the septic systems around lakes.

Council Updates

Planning Director Klatt updated the commission on a workshop the City Council had on Village Area planning efforts with a presentation done by the City Engineer. He said the Council briefly discussed the Home Occupation ordinance, but will be discussing it further at a workshop. The Council reviewed the Farm School and Senior Living proposal at a workshop and then took action to approve the application at the July 20th meeting. The Council approved the administrative fine ordinance.

Staff Update

M/S/P, Fliflet/Van Zandt moved to acknowledge the service that Planning Intern Danielle Bailey provided to the commission. Vote: 9:0.

Commission Concerns

Commissioner Williams read a statement regarding his opinion on why current residents chose Lake Elmo as their home and their proximity to businesses.

Adjournment:

M/S/P, Fliflet/Hall, move to adjourn. Vote: 9:0.

The meeting was adjourned at 9:34 p.m.

Respectfully submitted,

Kelli Matzek
Planner

**City of Lake Elmo
Planning Commission Meeting
Minutes of August 23, 2010**

Chairman Van Zandt called to order the meeting of the Lake Elmo Planning Commission at 7:01 p.m. COMMISSIONERS PRESENT: Bidon, Britz, Fliflet, Hall, Pearson, Pelletier, Van Zandt, and Ziertman. Absent: McGinnis, Van Erem, Williams. STAFF PRESENT: Planner Matzek

Agenda

Minutes – *None.*

Public Hearing – *Conditional Use Permit; 9200 Hudson Boulevard; Cranky Ape*
Planner Matzek summarized the conditional use permit application for 9200 Hudson Boulevard which is zoned HD-GB-SRD. She said that the open sales lot, as requested by the applicant, is allowed as a conditional use permit in the holding district. Staff is recommending approval with conditions.

Commissioner Britz asked if the business would continue when the sewer becomes available.

Planner Matzek said that a CUP continues with the property and could not be revoked at the time sewer is available to the site. She said that the property owners would need to terminate the use for a year or violate a condition of approval for the CUP to be terminated.

Commissioner Bidon expressed his opinion that it would make more sense for the area along I-94 to be used for commercial purposes and residential development to be constructed to the North.

Jay Adams, Owner Cranky Ape

Mr. Adams said the website has between 65 and 125 auction items up for bid at any one time over nine sites nation-wide; roughly half would be in Minnesota. He said there is no live block for a live auction – it is all online, but someone can come to the site and get on a computer to bid. He said they are amenable to finishing the landscaping. Mr. Adams said they have about 35 employees, but would expect about 50. He said they do not service the vehicles; any fixes are cosmetic and the sales are as-is.

THE CHAIR OPENED THE PUBLIC HEARING AT 7:27 P.M.

No one spoke.

THE CHAIR CLOSED THE PUBLIC HEARING AT 7:28 P.M.

Commissioner Fliflet said that although she thinks this business will have less of an impact than the previous user, she would not be in favor of a conditional use permit because it is not in conformance with the Comprehensive Plan. Instead, she would be in favor of an interim use permit like that of the trucking company on Hudson Boulevard.

Planner Matzek said that the holding district language states those conditional use permits allowed in the General Business district are allowed as a CUP in this holding district as well which is why staff is recommending approval. She said that the current city code does not allow an open sales lot as an interim use permit on this property and the city code would need to be changed.

M/S/P, Bidon/Hall, move to approve conditional use permit for Cranky Ape company at 9200 Hudson Boulevard. Vote: 5:3. Pelletier, Fliflet, and Britz voted against.

Commissioner Fliflet suggested adding a condition prohibiting live auctions.

M/S/P, Van Zandt/Pearson, move to add as a condition of approval that live auctions would be prohibited. Vote: 8:0.

Business Item: *Distribution and Discussion: A Citizen's Guide to Influencing Local Land Use Decisions*

Planner Matzek introduced the informational item that was provided by 1000 Friends of Minnesota. She said the section on variances may have changed due to the recent court case, but thought it was good information for citizens. She asked for suggestions for getting the information out to residents.

Commissioner Pelletier suggested putting some of the information on the city's website or sending copies out to Homeowner Association contacts.

Commissioner Hall suggested distributing it at the Fall Festival.

Chairman Van Zandt suggested having other clubs such as Rotary or Jaycees distribute it at their meetings.

City Council Updates:

Planner Matzek said the City Council approved the final Comprehensive Plan and directed staff to move forward with the SSTS ordinance at the August 17th meeting.

Adjournment:

The meeting was adjourned 7:58 p.m.

Respectfully submitted,

Kelli Matzek
Planner

Planning Commission
Date: 10/18/10
Public hearing
Item: 4a

ITEM: Hold a public hearing to consider an ordinance to revise the general requirements of the Interim Use Permit ordinance Section 154.019 outlining the general standards, application requirements, and procedures

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Bruce Messelt, City Administrator
Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED:

The Planning Commission is asked to hold a public hearing to discuss revisions to the Interim Use Permit (IUP) ordinance Section 154.019. The primary revisions proposed eliminate duplication of requirements, allows the City Council to set the termination of the use to a date or event, and allows an administrative extension of 30 days to eliminate a potential time gap in a renewal application. The proposed changes allow the city additional flexibility in utilizing IUP's.

ADDITIONAL INFORMATION:

An IUP is an important zoning tool because, unlike conditional use permits (CUPs), an IUP can be eliminated once a specific trigger occurs. Typically IUP's will terminate on a specific date, at the occurrence of a specific event, or until zoning regulations would no longer permit such a use. In contrast, a CUP cannot be terminated provided the conditions of approval continue to be met.

The city adopted the general requirements allowing Interim Use Permits in the city in December of 2007. Since then, two IUP's have been permitted.

Staff is recommending those uses identified for a year or less be considered a Special Event and administratively processed through a Special Event Permit. City staff has drafted a Special Event Permit and associated ordinance, but has not had it back in front of the Council for formal approval.

RECOMMENDATION:

- If the language is acceptable to the commission, the commission should recommend approval of the language (with any necessary edits) and forward such to City Council for consideration.
- If the commission is uncomfortable with the ordinance or would like other aspects examined, the item could be tabled with direction given to staff.

ORDER OF BUSINESS:

- Introduction Kelli Matzek, City Planner
- Report by staff Kelli Matzek, City Planner
- Questions from the Commission Chair & Commission Members
- Open the Public Hearing on the IUP OrdinanceChair
- Close the Public HearingChair

- Call for a motion Chair Facilitates
- Discussion of Commission on the motion Chair Facilitates
- Action by the Planning Commission Chair & Commission Members

ATTACHMENTS (3):

1. Proposed Ordinance 2008 – 032 to revise regulations governing the issuance of interim use permits.
2. MN Statute 462.3597 which authorizes interim uses.
3. Resolution 2010 – 054 for summary publication

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-032

AN ORDINANCE AMENDING THE HOLDING DISTRICTS TO PERMIT
THOSE USES PREVIOUSLY IDENTIFIED AS CONDITIONAL USES TO
BE PERMITTED AS INTERIM USES

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, by amending the following language:

§ 154.034 HD-A-BP - AGRICULTURAL BUSINESS PARK HOLDING DISTRICT.

(A) *Purpose.* The Agricultural Business Park Holding District (HD-A-BP) is intended to regulate land use within agricultural areas planned and staged for business park development with access to regional sewer service. Areas zoned HD-A-BP will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Business Park use.

(B) *General regulation.* All regulations governing the Agricultural (A) zoning district shall also apply to properties zoned Agricultural Business Park Holding District (HD-A-BP) except as outlined in this section.

(C) *Permitted uses.* The permitted uses in the HD-A-BP zoning district shall be the same as in the Agricultural (A) zoning district except that non-farm dwellings shall be prohibited.

~~(D) — Uses permitted by conditional use permit. The uses permitted by conditional use permit in the HD-A-BP zoning district shall be the same as in the Agricultural (A) zoning district except that Open Space Development Projects shall be prohibited.~~

~~(E) (D)~~ *Use permitted by interim use permit.* The following uses may ~~apply for~~ be permitted as an interim use permit in the HD-A-BP zoning district:

- (1) Non-agricultural low impact uses under the same regulations as in the Agricultural (A) district with the following requirements:
 - a. ~~with the exception that~~ The Non-Ag Area shall not exceed 5% of the property owner's contiguous agricultural zone gross lot area.
 - b. A non-agricultural low impact use ~~as permitted under this section~~ may include bus/truck terminal provided the use is located on a parcel within 1,000 feet of Interstate Highway 94.

- (2) Those uses identified as permitted by Conditional Use Permit in the Agricultural (A) zoning district except that Open Space Development Projects shall be prohibited.

~~(F)~~ (E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the HD- A-BP zoning district shall be the same as in the Agricultural (A) zoning district.

~~(G)~~ (F) *Minimum district requirements.* The minimum district requirements in the Agricultural Business Park Holding District (HD-A-BP) shall be the same as in the Agricultural (A) zoning district.

~~(H)~~ (G) *Cluster development.* Cluster development in the HD-A-BP zoning district is prohibited.

~~(I)~~ (H) *Non-agricultural low impact use standards.* Regulations governing non-agricultural low impact use standards in the HD-A-BP zoning district shall be the same as the Agricultural (A) zoning district.

§ 154.035 HD-A-SRD - AGRICULTURAL SEWERED RESIDENTIAL HOLDING DISTRICT.

(A) *Purpose.* The Agricultural Sewered Residential Holding District (HD-A-SRD) is intended to regulate land use within agricultural areas planned and staged for residential development with access to regional sewer service. Areas zoned HD-A-SRD will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Sewered Residential use.

(B) *General regulation.* All regulations governing the Agricultural (A) zoning district shall also apply to properties zoned Agricultural Sewered Residential Holding District (HD-A-SRD) except as outlined in this section.

(C) *Permitted uses.* The permitted uses in the HD-A-SRD zoning district shall be the same as in the Agricultural (A) zoning district except that non-farm dwellings shall be prohibited.

~~(D) *Uses permitted by conditional use permit.* The uses permitted by conditional use permit in the HD-A-SRD zoning district shall be the same as in the Agricultural (A) zoning district except that Open Space Development Projects shall be prohibited.~~

(D) *Use permitted by interim use permit.* The following uses may be permitted as an interim use permit in the HD-A-BP zoning district:

- (1) Those uses identified as permitted by Conditional Use Permit in the Agricultural (A) zoning district except that Open Space Development Projects shall be prohibited.

(E) *Accessory uses.* The accessory uses in the HD-A-SRD zoning district shall be the same as in the Agricultural (A) zoning district.

(F) *Minimum district requirements.* The minimum district requirements in the Agricultural Sewered Residential Holding District (HD-A-SRD) shall be the same as in the Agricultural (A) zoning district.

(G) *Cluster development.* Cluster development in the HD-A-SRD zoning district is prohibited.

(H) *Non-agricultural low impact use standards.* Regulations governing non-agricultural low impact use standards shall be the same as the Agricultural (A) zoning district.

§ 154.037 HD-RR-BP - RURAL RESIDENTIAL BUSINESS PARK HOLDING DISTRICT.

(A) *Purpose.* The Rural Residential Business Park Holding District (HD-RR-BP) is intended to regulate land use within rural residential areas planned and staged for business park development. Areas zoned HD-RR-BP will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Business Park use.

(B) *General regulation.* All regulations governing the Rural Residential (RR) Zoning District shall also apply to properties zoned Rural Residential Business Park Holding District (HD-RR-BP) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-RR-BP zoning district shall be the same as in the Rural Residential (RR) Zoning District.

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the HD-RR-BP Zoning District shall be the same as in the Rural Residential (RR) Zoning District except that open space development projects shall be prohibited.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the HD-RR-BP zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the Rural Residential (RR) zoning district except that open space development projects shall be prohibited.

(E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the HD-RR-BP Zoning District shall be the same as in the Rural Residential (RR) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Rural Residential Business Park Holding District (HD-RR-BP) shall be the same as in the Rural Residential (RR) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the Rural Residential (RR) Zoning District shall be viewed as conforming to minimum lot size.

(G) *Special requirements.* All building permits in the Rural Residential Business Park Holding District (HD-RR-BP) shall, prior to the issuance of such a building permit, provide a sketch subdivision plan which illustrates roadway and setback locations should the property be resubdivided in the future.

(H) *Cluster development.* Cluster development in the 1-ID-RR-BP Zoning District is prohibited.

§ 154.038 HD-RR-LB — RURAL RESIDENTIAL LIMITED BUSINESS HOLDING DISTRICT.

(A) *Purpose.* The Rural Residential Limited Business Holding District (HD-RR-LB) is intended to regulate land use within rural residential areas planned and staged for limited business development. Areas zoned HD-RR-LB will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Limited Business use.

(B) *General regulation.* All regulations governing the Rural Residential (RR) Zoning District shall also apply to properties zoned Rural Residential Limited Business Holding District (HD-RR-LB) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-RR-LB Zoning District shall be the same as in the Rural Residential (RR) Zoning District.

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the HD-RR-LB Zoning District shall be the same as in the Rural Residential (RR) Zoning District except that open space development projects shall be prohibited.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the HD-RR-LB zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the Rural Residential (RR) zoning district except that Open Space Development Projects shall be prohibited.

(E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the HD-RR-LB Zoning District shall be the same as in the Rural Residential (RR) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Rural Residential Limited Business Holding District (HD-RR-LB) shall be the same as in the Rural Residential (RR) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the Rural Residential (RR) Zoning District shall be viewed as conforming to minimum lot size.

(G) *Special requirements.* All building permits in the Rural Residential Limited Business Holding District (HD-RR-LB) shall, prior to the issuance of such a building permit, provide a sketch subdivision plan which illustrates roadway and setback locations should the property be resubdivided in the future.

(H) *Cluster development.* Cluster development in the HD-RR-LB Zoning District is prohibited.

§ 154.039 HD-RR-RAD – RURAL RESIDENTIAL AG DENSITY HOLDING DISTRICT.

(A) *Purpose.* The Rural Residential Ag Density Holding District (HD-RR-RAD) is intended to regulate land use within rural residential areas planned and staged for Rural Agricultural Density development. Areas zoned HD-RR-RAD will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "~~Development Staging Plan~~" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Rural Agricultural use.

(B) *General regulation.* All regulations governing the Rural Residential (RR) Zoning District shall also apply to properties zoned Rural Residential Ag Density Holding District (HD-RR-RAD) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-RR-RAD Zoning District shall be the same as in the Rural Residential (RR) Zoning District.

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the HD-RR-RAD Zoning District shall be the same as in the Rural Residential (RR) Zoning District except that open space development projects shall be prohibited.~~

(D) Uses permitted by interim use permit. The following uses may be permitted as an interim use permit in the HD-RR-RAD zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the Rural Residential (RR) zoning district except that open space development projects shall be prohibited.

(E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the HD-RR-RAD Zoning District shall be the same as in the Rural Residential (RR) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Rural Residential Ag Density Holding District (HD-RR-RAD) shall be the same as in the Rural Residential (RR) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the Rural Residential (RR) Zoning District shall be viewed as conforming to minimum lot size.

(G) *Special requirements.* All building permits in the Rural Residential Ag Density Holding District (HD-RR-RAD) shall, prior to the issuance of such a building permit, provide a sketch subdivision plan which illustrates roadway and setback locations should the property be resubdivided in the future.

(H) *Cluster development.* Cluster development in the HD-RR-RAD Zoning District is prohibited.

§ 154.040 HD-RR-SRD - RURAL RESIDENTIAL SEWERED RESIDENTIAL HOLDING DISTRICT.

(A) *Purpose.* The Rural Residential Sewered Residential Holding District (HD-RR-SRD) is intended to regulate land use within rural residential areas planned and staged for sewer residential development. Areas zoned HD-RR-SRD will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Sewered Residential use.

(B) *General regulation.* All regulations governing the Rural Residential (RR) Zoning District shall also apply to properties zoned Rural Residential Sewered Residential Holding District (HD-RR-SRD) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-RR-SRD Zoning District shall be the same as in the Rural Residential (RR) Zoning District.

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the HD-RR-SRD Zoning District shall be the same as in the Rural Residential (RR) Zoning District except that open space development projects shall be prohibited.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the HD-RR-SRD zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the Rural Residential (RR) zoning district except that open space development projects shall be prohibited.

(E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the HD-RR-SRD Zoning District shall be the same as in the Rural Residential (RR) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Rural Residential Sewered Residential Holding District (HD-RR-SRD) shall be the same as in the Rural Residential (RR) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the Rural Residential (RR) Zoning District shall be viewed as conforming to minimum lot size.

(G) *Special requirements.* All building permits in the Rural Residential Sewered Residential Holding District (HD-RR-SRD) shall, prior to the issuance of such a building permit, provide a sketch subdivision plan which illustrates roadway and setback locations should the property be resubdivided in the future.

(H) *Cluster development.* Cluster development in the HD-RR-SRD Zoning District is prohibited.

§ 154.042 HD-R1-RAD - ONE FAMILY AG DENSITY HOLDING DISTRICT.

(A) *Purpose.* The One Family Ag Density Holding District (HD-R1-RAD) is intended to regulate land use within single family residential areas planned and staged for sewer residential development. Areas zoned HD-R1-RAD will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Rural Agricultural use.

(B) *General regulation.* All regulations governing the One Family Residential (R-1) zoning district shall also apply to properties zoned One Family Ag Density Holding District (HD-R1-RAD) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-R1-RAD zoning district shall be the same as in the One Family Residential (R-1) Zoning District.

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the HD-R1-RAD zoning district shall be the same as in the One Family Residential (R-1) Zoning District.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the HD-R1-RAD zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the One Family Residential (R-1) zoning district.

(E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the HD-R1-RAD Zoning District shall be the same as in the One Family Residential (R-1) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the One Family Ag Density Holding District (HD-R1-RAD) shall be the same as in the One Family Residential (R-1) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the Rural Residential (RR) Zoning District shall be viewed as conforming to minimum lot size.

§ 154.043 HD-R1-SRD - ONE-FAMILY SEWERED RESIDENTIAL HOLDING DISTRICT.

(A) *Purpose.* The One-Family Sewered Residential Holding District (HD-R1-SRD) is intended to regulate land use within single family residential areas planned and staged for sewer residential development. Areas zoned HD-R1-SRD will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Sewered Residential use.

(B) *General regulation.* All regulations governing the One-Family Residential (R-1) Zoning District shall also apply to properties zoned One-Family Sewered Residential Holding District (HD-R1-SRD) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-R1-SRD Zoning District shall be the same as in the One-Family Residential (R-1) Zoning District.

~~—(D) Uses permitted by conditional use permit. Conditionally permitted uses and the general requirements of such in the HD-R1-SRD Zoning District shall be the same as in the One-Family Residential (R-1) Zoning District.~~

(D) Uses permitted by interim use permit. The following uses may be permitted as an interim use permit in the HD-R1-SRD zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the One-Family Residential (R-1) zoning district.

(E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the HD-R1-SRD Zoning District shall be the same as in the One-Family Residential (R-1) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the One-Family Sewered Residential Holding District (HD-R1-SRD) shall be the same as in the One-Family Residential (R-1) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the One Family Residential (R-1) Zoning District shall be viewed as conforming to minimum lot size.

§ 154.046 MANUFACTURED HOME PARK URBAN RESIDENTIAL HOLDING DISTRICT.

(A) *Purpose.* The Manufactured Home Park Urban Residential Holding District (HD-R3-URD) is intended to regulate land use within manufactured home park areas planned and staged for sewer urban residential development. Areas zoned HD-R3-URD will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Urban Residential use.

(B) *General regulation.* All regulations governing the Manufactured Home Park (R-3) Zoning District shall also apply to properties zoned Manufactured Home Park Urban Residential Holding District (HD-R3-URD) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-R3-URD Zoning District shall be the same as in the Manufactured Home Park (R-3) Zoning District. Connection to the municipal sanitary sewer system and municipal water supply shall be required.

~~—(D) Uses permitted by conditional use permit. Conditionally permitted uses and the general requirements of such in the HD-R3-URD Zoning District shall be the same as in the Manufactured Home Park (R-3) Zoning District.~~

(D) Uses permitted by interim use permit. The following uses may be permitted as an interim use permit in the HD-R3-URD zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the Manufactured Home Park (R-3) Zoning District.

(E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the HD-R3-URD Zoning District shall be the same as in the Manufactured Home Park (R-3) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Manufactured Home Park Urban Residential Holding District (HD-R3-URD) shall be the same as in the Manufactured Home Park (R-3) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the Manufactured Home Park (R-3) Zoning District shall be viewed as conforming to minimum lot size.

§ 154.049 HD-RE-LB - RESIDENTIAL ESTATES LIMITED BUSINESS HOLDING DISTRICT.

(A) *Purpose.* The Residential Estates Limited Business Holding District (HD-RE-LB) is intended to regulate land use within residential estate areas planned and staged for sewer limited business development. Areas zoned HD-RE-LB will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for sewer limited business use.

(B) *General regulation.* All regulations governing the Residential Estates (RE) Zoning District shall also apply to properties zoned Residential Estates Limited Business Holding District (HD-RE-LB) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-RE-LB Zoning District shall be the same as in the Residential Estates (RE) Zoning District.

~~(D) Uses permitted by conditional use permit. Conditionally permitted uses and the general requirements of such in the HD-RE-LB Zoning District shall be the same as in the Residential Estates (RE) Zoning District except that open space development projects shall be prohibited.~~

(D) Uses permitted by interim use permit. The following uses may be permitted as an interim use permit in the HD-RE-LB zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the Residential Estates (RE) zoning district except that Open Space Development Projects shall be prohibited.

(E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the HD-RE-LB Zoning District shall be the same as in the Residential Estates (RE) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Residential Estates Limited Business Holding District (HD-RE-LB) shall be the same as in the Residential Estates (RE) Zoning District except for the following:

(1) Minimum lot size shall be a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the Residential Estates (RE) Zoning District shall be viewed as conforming to minimum lot size.

(2) Subdivision density shall be based on a 20 acres average, and no outlots are to remain in the subdivision.

§ 154.050 HD-RE-SRD - RESIDENTIAL ESTATES SEWERED RESIDENTIAL HOLDING DISTRICT.

(A) *Purpose.* The Residential Estates Sewered Residential Holding District (HD-RE-SRD) is intended to regulate land use within residential estate areas planned and staged for sewer residential development. Areas zoned HD-RE-SRD will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for sewer residential use.

(B) *General regulation.* All regulations governing the Residential Estates (RE) Zoning District shall also apply to properties zoned Residential Estates Sewered Residential Holding District (HD-RE-SRD) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-RE-SRD Zoning District shall be the same as in the Residential Estates (RE) Zoning District.

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the HD-RE-SRD Zoning District shall be the same as in the Residential Estates (RE) Zoning District except that open space development projects shall be prohibited.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the HD-RE-SRD zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the Residential Estates (RE) zoning district except that open space development projects shall be prohibited.

(E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the HD-RE-SRD Zoning District shall be the same as in the Residential Estates (RE) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Residential Estates Sewered Residential Holding District (HD-RE-SRD) shall be the same as in the Residential Estates (RE) Zoning District except for the following;

(1) Minimum lot size shall be a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the Residential Estates (RE) Zoning District shall be viewed as conforming to minimum lot size.

(2) Subdivision density shall be based on a 20 acres average, and no outlots are to remain in the subdivision.

§ 154.052 HD-GB-BP - GENERAL BUSINESS - BUSINESS PARK HOLDING DISTRICT.

(A) *Purpose.* The General Business – Business Park Holding District (HD-GB-BP) is intended to regulate land use within general business areas planned and staged for sewer business park development. Areas zoned HD-GB-BP will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Business Park use.

(B) *General regulation.* All regulations governing the General Business (GB) Zoning District shall also apply to properties zoned General Business – Business Park Holding District (HD-GB-BP) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-GB-BP Zoning District shall be the same as in the General Business (GB) Zoning District.

~~—(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the HD-GB-BE Zoning District shall be the same as in the General Business (GB) Zoning District.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the HD-GB-BP zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the General Business (GB) Zoning District.

(E) *Accessory uses.* Accessory uses and the general requirements of such in the HD-GB-BP Zoning District shall be the same as in the General Business (GB) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the General Business – Business Park Holding District (HD-GB-BP) shall be the same as in the General Business (GB) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the General Business (GB) Zoning District shall be viewed as conforming to minimum lot size.

(G) *Performance standards.* Performance standards governing construction and development in the General Business – Business Park Holding District (HD-GB-BP) shall be the same as in the General Business (GB) Zoning District. Further development shall conform with all standards necessary to facilitate a future hook up to the regional sewer system.

§ 154.053 HD-GB-C - GENERAL BUSINESS COMMERCIAL HOLDING DISTRICT.

(A) *Purpose.* The General Business Commercial Holding District (HD-GB-C) is intended to regulate land use within general business areas planned and staged for sewerred commercial development. Areas zoned HD-GB-C will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Commercial use.

(B) *General regulation.* All regulations governing the General Business (GB) Zoning District shall also apply to properties zoned General Business Commercial Holding District (HD-GB-C) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-GB-C Zoning District shall be the same as in the General Business (GB) Zoning District,

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the HD-GB-C Zoning District shall be the same as the General Business (GB) Zoning District.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use in the HD-GB-C zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the General Business (GB) zoning district.

(E) *Accessory uses.* Accessory uses and the general requirements of such in the HD-GB-C Zoning District shall be the same as in the General Business (GB) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the General Business Commercial Holding District (HD-GB-C) shall be the same as in the General Business (GB) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the General Business (GB) Zoning District shall be viewed as conforming to minimum lot size.

(G) *Performance standards.* Performance standards governing construction and development in the General Business Commercial Holding District (HD-GB-C) shall be the same as in the General Business (GB) Zoning District. Further development shall conform with all standards necessary to facilitate a future hook up to the regional sewer system.

§ 154.054 HD-GB-SRD - GENERAL BUSINESS SEWERED RESIDENTIAL HOLDING DISTRICT.

(A) *Purpose.* The General Business Sewered Residential Holding District (HD-GB-SRD) is intended to regulate land use within general business areas planned and staged for sewered residential development. Areas zoned HD-GB-SRD will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for sewered residential use.

(B) *General regulation.* All regulations governing the General Business (GB) Zoning District shall also apply to properties zoned General Business Sewered Residential Holding District (HD-GB-SRD) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-GB-SRD Zoning District shall be the same as in the General Business (GB) Zoning District.

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the HD-GB-SRD Zoning District shall be the same as in the General Business (GB) Zoning District.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the HD-GB-SRD zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the General Business (GB) zoning district.

(E) *Accessory uses.* Accessory uses and the general requirements of such in the HD-GB-SRD Zoning District shall be the same as in the General Business (GB) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the General Business Sewered Residential Holding District (HD-GB-SRD) shall be the same as in the General Business (GB) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the General Business (GB) Zoning District shall be viewed as conforming to minimum lot size.

(G) *Performance standards.* Performance standards governing construction and development in the General Business Sewered Residential Holding District (HD-GB-SRD) shall be the same as in the General Business (GB) Zoning District. Further development shall conform with all standards necessary to facilitate a future hook up to the regional sewer system.

§ 154.059 VR-A - VILLAGE RESIDENTIAL AGRICULTURE HOLDING DISTRICT.

(A) *Purpose.* The Village Residential Agriculture District (VR-A) is intended to regulate land use within agricultural areas planned and staged for development in accordance with the Village Plan. Areas zoned VR-A will be rezoned in accordance with the guided land use outlined in the Village Plan ~~at such time as regional sewer service is available to the subject property.~~

(B) *General regulation.* All regulations governing the Agricultural (A) Zoning District shall also apply to properties zoned Village Residential Agriculture District (VR-A) except as outlined in this section.

(C) *Permitted uses.* The permitted uses in the VR-A Zoning District shall be the same as in the Agricultural (A) Zoning District except that non-farm dwellings shall be prohibited.

~~(D) *Uses permitted by conditional use permit.* The uses permitted by conditional use permit in the VR-A Zoning District shall be the same as in the Agricultural (A) Zoning District except that Open Space Development Projects shall be prohibited.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the VR-A zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the Agricultural (A) zoning district except that Open Space Development Projects shall be prohibited.

(E) *Accessory uses.* The accessory uses in the VR-A Zoning District shall be the same as in the Agricultural (A) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Village Residential Agriculture District (VR-A) shall be the same as in the Agricultural (A) Zoning District.

(G) *Cluster development.* Cluster development in the VR-A Zoning District is prohibited.

(H) *Non-agricultural low impact use standards.* Regulations governing non-agricultural low impact use standards in the VR-A Zoning District shall be the same as the Agricultural (A) Zoning District.

§ 154.060 VR-GB - VILLAGE RESIDENTIAL GENERAL BUSINESS HOLDING DISTRICT.

(A) *Purpose.* The Village Residential General Business District (VR-GB) is intended to regulate land use within general business areas planned and staged for development in accordance with the Village Plan. Areas zoned VR-GB will be rezoned in accordance with the guided land use outlined in the Village Plan ~~at such time as regional sewer service is available to the subject property.~~

(B) *General regulation.* All regulations governing the General Business (GB) Zoning District shall also apply to properties zoned Village Residential General Business District (VR-GB) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the VR-GB Zoning District shall be the same as in the General Business (GB) Zoning District.

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the VR-GB Zoning District shall be the same as in the General Business (GB) Zoning District.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the VR-GB zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the General Business (GB) zoning district.

(E) *Accessory uses.* Accessory uses and the general requirements of such in the VR-GB Zoning District shall be the same as in the General Business (GB) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Village Residential General Business District (VR-GB) shall be the same as in the General Business (GB) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the General Business (GB) Zoning District shall be viewed as conforming to minimum lot size.

(G) *Performance standards.* Performance standards governing construction and development in the Village Residential General Business District (VR-GB) shall be the same as in the General Business (GB) Zoning District. Further development shall conform with all standards necessary to facilitate a future hook up to the regional sewer system.

§ 154.061 VR-R1 - VILLAGE RESIDENTIAL ONE-FAMILY HOLDING DISTRICT.

(A) *Purpose.* The Village Residential One-Family District (VR-R1) is intended to regulate land use within single-family residential areas planned and staged for development in accordance with the Village Plan. Areas zoned VR-R1 will be rezoned in accordance with the guided land use outlined in the Village Plan ~~at such time as regional sewer service is available to the subject property.~~

(B) *General regulation.* All regulations governing the One-Family Residential (R-1) Zoning District shall also apply to properties zoned Village Residential One-Family District (VR-R1) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the VR-R1 Zoning District shall be the same as in the One-Family Residential (R-1) Zoning District.

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the VR-R1 Zoning District shall be the same as in the One-Family Residential (R-1) Zoning District.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the f VR-R1 zoning district:

(1) *Those uses identified as permitted by Conditional Use Permit in the One-Family Residential (R-1) zoning district.*

(E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the VR-R1 Zoning District shall be the same as in the One-Family Residential (R-1) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Village Residential One Family District (VR-R1) shall be the same as in the One-Family Residential (R-1) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the One-Family Residential (R-1) Zoning District shall be viewed as conforming to minimum lot size.

§ 154.062 VR-RR - VILLAGE RURAL RESIDENTIAL HOLDING DISTRICT.

(A) *Purpose.* The Village Rural Residential District (VR-RR) is intended to regulate land use within rural residential areas planned and staged for development in accordance with the Village Plan. Areas zoned VR-RR will be rezoned in accordance with the guided land use outlined in the Village Plan ~~at such time as regional sewer service is available to the subject property.~~

(B) *General regulation.* All regulations governing the Rural Residential (RR) Zoning District shall also apply to properties zoned Village Rural Residential District (VR-RR) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the VR-RR Zoning District shall be the same as in the Rural Residential (RR) Zoning District.

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the VR-RR Zoning District shall be the same as in the Rural Residential (RR) Zoning District except that open space development projects shall be prohibited.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the VR-RR zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the Rural Residential (RR) zoning district except that open space development projects shall be prohibited.

(E) *Accessory uses and structures.* Regulations governing accessory uses and structures in the VR-RR Zoning District shall be the same as in the Rural Residential (RR) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Village Rural Residential District (VR-RR) shall be the same as in the Rural Residential (RR) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to 7-1-07 which are conforming to the minimum lot size standard of the Rural Residential (RR) Zoning District shall be viewed as conforming to minimum lot size.

(G) *Special requirements.* All building permits in the Village Rural Residential District (VR-RR) shall, prior to the issuance of such a building permit, provide a sketch subdivision plan which illustrates roadway and setback locations should the property be resubdivided in the future.

(H) *Cluster development.* Cluster development in the VR-RR Zoning District is prohibited.

§ 154.066 HD-LB-SRD LIMITED BUSINESS SEWERED RESIDENTIAL HOLDING DISTRICT.

(A) *Purpose.* The Limited Business Sewered Residential Holding District (HD-LBSRD) is intended to regulate land use within limited business areas planned and staged for sewered residential development. Areas zoned HD-LB-SRD will be rezoned at such time the use becomes upon the availability of sewer service and when consistent with the "Development Staging Plan" "Future Land Use Plan" contained in the Comprehensive Plan. The future zoning district regulations will be consistent with the Comprehensive Plan guidance of the property for sewered residential use.

(B) *General regulation.* All regulations governing the Limited Business (LB) Zoning District shall also apply to properties zoned Limited Business Sewered Residential Holding District (HD-LB-SRD) except as outlined in this section.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-LB-SRD Zoning District shall be the same as in the Limited Business (LB) Zoning District.

~~(D) *Uses permitted by conditional use permit.* Conditionally permitted uses and the general requirements of such in the HD-LB-SRD Zoning District shall be the same as in the Limited Business (LB) Zoning District.~~

(D) *Uses permitted by interim use permit.* The following uses may be permitted as an interim use permit in the HD-LB-SRD zoning district:

(1) Those uses identified as permitted by Conditional Use Permit in the Limited Business (LB) zoning district.

(E) *Accessory uses.* Accessory uses and the general requirements of such in the HD-LB-SRD Zoning District shall be the same as in the Limited Business (LB) Zoning District.

(F) *Minimum district requirements.* The minimum district requirements in the Limited Business Sewered Residential Holding District (HD-LB-SRD) shall be the same as in the Limited Business (LB) Zoning District except for minimum lot size which shall be a minimum of a nominal 20 acres (a 20-acre parcel not reduced by more than 10% and/or a 20-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations). Lots that were in existence prior to July 1, 2007 which are conforming to the minimum lot size standard of the Limited Business (LB) Zoning District shall be viewed as conforming to minimum lot size.

(G) *Performance standards.* Performance standards governing construction and development in the Limited Business Sewered Residential Holding District (HD-LB-SRD) shall be the same as in the Limited Business (GB) Zoning District. Further development shall conform with all standards necessary to facilitate a future hook up to the regional sewer system.

SECTION 2. Effective Date

This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date

This Ordinance No. 08-032 was adopted on this 19th day of October 2010, by a vote of ___ Ayes and ___ Nays.

Mayor Dean Johnston

ATTEST:

Bruce Messelt
City Administrator

This Ordinance No 08-032 was published on the _____ day of _____, 2010.

2009 Minnesota Statutes

Resources

Topics

Land Use Planning

Zoning

462.3597 INTERIM USES.

Subdivision 1. **Definition.**

An "interim use" is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Subd. 2. **Authority.**

Zoning regulations may permit the governing body to allow interim uses. The regulations may set conditions on interim uses. The governing body may grant permission for an interim use of property if:

- (1) the use conforms to the zoning regulations;
- (2) the date or event that will terminate the use can be identified with certainty;
- (3) permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
- (4) the user agrees to any conditions that the governing body deems appropriate for permission of the use.

Any interim use may be terminated by a change in zoning regulations.

Subd. 3. **Public hearings.**

Public hearings on the granting of interim use permits shall be held in the manner provided in section 462.357, subdivision 3.

History:

1989 c 200 s 2

CITY OF LAKE ELMO

RESOLUTION NO. 2010-054

**RESOLUTION AUTHORIZING PUBLICATION OF
ORDINANCE NO. 08-032 BY TITLE AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-032, an ordinance to regulate signage within the City of Lake Elmo; and

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Administrator shall cause the following summary of Ordinance No. 08-032 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-032. The ordinance revises nineteen holding zoning district requirements to eliminate the property owners' ability to apply for future conditional use permits until the land is developed with city sewer in conformance with the City's Comprehensive Plan. Instead, the code amendments allow those uses previously identified as a conditional use to alternatively be permitted as an interim use. The full text of Ordinance No.08-032 is available for inspection at Lake Elmo city hall during regular business hours.

Mayor Dean Johnston

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance in his office at city hall for public inspection and that he post a full copy of the ordinance in a public place within the city.

Dated: _____, 2010.

Mayor Dean Johnston

ATTEST:

Bruce Messelt
City Administrator

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member _____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.

Planning Commission
Date: 10/18/10
Public hearing
Item: 4b

ITEM: Hold a public hearing and consider an ordinance to revise the holding district zoning requirements to replace conditional uses with interim uses

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Bruce Messelt, City Administrator
Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED:

The Planning Commission is asked to hold a public hearing to discuss revisions to nineteen zoning districts established in 2007 for areas guided for future sewer development. The primary amendment proposed for the holding districts would eliminate the property owners' ability to apply for future conditional use permits until the land is developed with city sewer and is in conformance with the City's Comprehensive Plan. Instead, the code amendments would allow those uses previously identified as a conditional use to alternatively be permitted as an interim use.

ADDITIONAL INFORMATION:

Existing conditional use permits continue to be valid until such time the use is discontinued for a year or the conditions of approval are not met. Those uses identified as permitted (requiring a site plan review or no review by the city) are proposed to continue to be allowed as permitted uses on the property until such time the use is developed in conformance with the Lake Elmo Comprehensive Plan.

An IUP is an important zoning tool because, unlike conditional use permits (CUPs), an IUP can be eliminated once a specific trigger occurs. Typically IUP's will terminate on a specific date, at the occurrence of a specific event, or until zoning regulations would no longer permit such a use. In contrast, a CUP cannot be terminated provided the conditions of approval continue to be met.

The city adopted the general requirements allowing Interim Use Permits in the city in December of 2007. Since then, two IUP's have been permitted.

Staff is recommending those uses identified for a year or less be considered a Special Event and administratively processed through a Special Event Permit. City staff has drafted a Special Event Permit and associated ordinance, but has not had it back in front of the Council for formal approval.

An IUP is an important zoning tool because, unlike conditional use permits (CUPs), an IUP can be eliminated once a specific trigger occurs. Typically IUP's will terminate on a specific date, at the occurrence of a specific event, or until zoning regulations would no longer permit such a use. In contrast, a CUP cannot be terminated provided the conditions of approval continue to be met.

RECOMMENDATION:

- If the language is acceptable to the commission, the commission should recommend approval of the language (with any necessary edits) and forward such to City Council for consideration.

- If the commission is uncomfortable with the ordinance or would like other aspects examined, the item could be tabled with direction given to staff.

ORDER OF BUSINESS:

- Introduction Kelli Matzek, City Planner
- Report by staff Kelli Matzek, City Planner
- Questions from the Commission Chair & Commission Members
- Open the Public Hearing on the IUP OrdinanceChair
- Close the Public HearingChair
- Call for a motion Chair Facilitates
- Discussion of Commission on the motion Chair Facilitates
- Action by the Planning Commission Chair & Commission Members

ATTACHMENTS (2):

1. Proposed Ordinance 2008 – 032 to revise regulations governing the issuance of interim use permits.
2. Resolution 2010 – 054 for summary publication

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-031

AN ORDINANCE AMENDING THE INTERIM USE PERMIT
REQUIREMENTS OF SECTION 154.019 AND ADDING A DEFINITION
OF AN INTERIM USE

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions, by amending section 11.01 Definitions to add the following definition:

Interim Use – a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, by adding the amending the following language:

§ 154.019 INTERIM USE PERMITS.

(A) *Purpose and intent.* The purpose and intent of allowing interim uses are:

~~(1) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction;~~

(1) To allow a use for a limited period of time that reasonably utilizes the property where such use is not consistent with the Future Land Use Map in the Comprehensive Plan; and

(2) To allow a use that is presently acceptable, but that with anticipated development or redevelopment or other significant change, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district; and

~~(3) To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.~~

(B) *General standards.* An interim use permit may be granted only if the City Council finds as follows:

(1) The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.

(2) The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community.

(3) The use will not adversely impact implementation of the Comprehensive Plan.

(4) The date or event that will terminate the use is identified with certainty.

(5) ~~The applicant has signed a consent agreement agreeing that the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the interim use permit as well as agreeing that~~ The interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future.

(6) The user agrees to all conditions that the City Council deems appropriate for permission of the use. ~~This may include including~~ the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the City to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit.

(7) There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.

(8) ~~The term of the interim use does not exceed 2 years shall be set by the City Council~~ at the time of approval.

(C) *Recordkeeping.* The Zoning Administrator shall maintain a record of all applications and all interim use permits issued, including information on the use, location, conditions imposed by the community, time limits, review dates, and such other information as may be appropriate.

(D) *Application.* Applications for an interim use permit shall be made by the fee owner or authorized representative of the fee owner of the property upon which the interim use is proposed. All applications shall include the following:

(1) A completed application form signed by the fee owner of the property or by the fee owner's authorized representative;

(2) Application fee;

(3) Proof of ownership consisting of an abstract of title or registered property certificate ~~or authorized representation for the property~~ on which the interim use is requested;

(4) ~~Development~~ Plans for the proposed use showing all information deemed necessary by the Administrator to ensure the community can determine whether the proposed ~~development~~

use and/or improvements will meet all applicable development standards. Such information may include but shall not be limited to the following:

- (a) Site plan drawn to scale showing parcel and existing topography;
- (b) Location of all buildings and their size, including square footage;
- (c) Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
- (d) Landscaping and screening plans, including species and size of trees and shrubs proposed;
- (e) Finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;
- (f) Type of business or activity and proposed number of employees;
- (g) Proposed floor plan and elevations of any building with use indicated;
- (h) Sanitary sewer and water plan with estimated flow rates;
- (i) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome the limitation shall be made part of the application; and
- ~~(j) A location map showing the general location of the proposed use within the community;~~
- ~~(k) A map showing all principal land use within 500 feet of the parcel for which the application is being made;~~
- ~~(l) The applicant shall supply proof of ownership of the property for which the conditional interim use permit is requested, consisting of an abstract of title or registered property certificate, certified by a licensed abstractor, together with any unrecorded documents whereby the petitioners acquired legal or equitable ownership; and~~
- ~~(m) (5) The application form shall be accompanied by an accurate list showing the names and the mailing address of the record owners of all property within a minimum of 350 feet of the property for which the conditional use permit is sought; verified as to accuracy by the applicant. A certified list of property owners located within 350 feet of the subject property obtained from and certified by a licensed abstractor;~~
- ~~(5)(6) A letter from the applicant explaining the proposal and stating the date or event that will terminate the use;~~

~~(6)-(7)~~ A signed consent agreement, subject to review and approval by the City Council provided by the city, agreeing documenting:

(a) That the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the interim use permit;

(b) That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and

(c) That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the interim use permit.

~~(7)~~ A location map showing the general location of the proposed use within the community;

~~(8)~~ A map showing all principal land uses within 500 feet of the parcel on which the interim use is proposed;

~~(9)~~ A certified list of property owners located within 350 feet of the subject property obtained from and certified by a licensed abstractor; and

~~(10)-(8)~~ and any other information that may be reasonably required by the city to evaluate the application.

(E) *Planning Commission review and public hearing.* The Zoning Administrator shall refer completed applications to the Planning Commission for consideration and a public hearing at the next available regular meeting as determined by staff. Prior to the meeting, the Zoning Administrator shall complete the following.

(1) Distribute the application to appropriate city departments and commenting agencies to receive feedback;

(2) Publish notice of the purpose, time and place of the public hearing in the official newspaper of the community, and mail notices to all property owners located within a minimum of 350 feet of the property described in the application, at least 10 days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. Failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bone fide attempt to comply with the provisions of this section has been made.

(3) Prepare a staff report analyzing the request under city code requirements for consideration by the Planning Commission.

(4) After considering the application, the staff report, testimony from the applicant and the public and any other relevant information; the Planning Commission shall recommend

approval, approval with conditions, or denial. The recommendation of the Planning Commission shall be forwarded to the City Council as soon as practical, and in a manner which allows the City Council time to make a final determination on the request within the state mandated timelines for reviewing land use applications.

(F) *City Council action.* After considering the application, recommendation of the Planning Commission, any staff reports, testimony from the public hearing and any other relevant information; the City Council shall take action on the application through approval, approval with conditions, or denial. Should the City Council approve the application, the City Council shall make findings on conformance to the IUP general standards, specify the term of the interim use permit, the event(s), circumstances or conditions that shall cause termination, and any conditions of approval.

(G) *Termination.* An interim use shall terminate on the happening of any of the following events, whichever occurs first:

- (1) The date or event stated in the permit;
- (2) Upon violation of conditions under which the permit was issued;
- (3) Upon change in the city's zoning regulations which renders the use nonconforming;

or

(4) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

(H) *Suspension and revocation.* The City Council may suspend or revoke an interim use permit upon finding that the activities allowed under the permit adversely affect the public health, safety, or welfare in ways not anticipated during approval of the permit. A suspension or revocation of an interim use permit shall be preceded by written notice to the permittee and a hearing. The notice shall provide at least 10 days notice of the time and place of the hearing and shall state the nature of the violations. The notice shall be mailed to the permittee at the most recent address listed on the application. The hearing of a contested case may, at the City Council's option, be before the City Council or in accordance with M.S. §§ 14.57 to 14.60, but informal disposition of a contested case by stipulation, pursuant to M.S. § 14.59, may provide an adequate basis for imposition of sanctions.

(I) *Amendments.* All requested amendments to an existing interim use permit shall be processed in the same manner as a new application.

(J) *Renewal.* The following process may be used to renew an active interim use permit that is set to expire. Terminated or suspended interim use permits cannot be renewed unless the City Administrator has received and approved a one-time 30 day extension to continue processing the renewal application.

(1) *Application.* Application requirements for renewal of an existing interim use permit be the same as for a new application.

(2) *Review.* Upon receiving a completed application for an interim use permit renewal, the Zoning Administrator shall send notice of the requested renewal to all property owners within 350 feet of the parcel(s) containing the interim use. If any objections are raised within 10 days of the mailed notice, the application shall be processed in the manner of a new application. If no objections are raised, the Zoning Administrator shall prepare a resolution of approval outlining the conditions and stipulations of the renewal for consideration by the City Council. Council—at its discretion—may approve or deny the request with findings. Denial of a renewal request does not constitute termination of the existing interim use permit.

SECTION 3. Effective Date

This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 4. Adoption Date

This Ordinance No. 08-031 was adopted on this 19th day of October 2010, by a vote of ___ Ayes and ___ Nays.

Mayor Dean Johnston

ATTEST:

Bruce Messelt
City Administrator

This Ordinance No 08-031 was published on the ____ day of _____, 2010.

CITY OF LAKE ELMO

RESOLUTION NO. 2010-053

**RESOLUTION AUTHORIZING PUBLICATION OF
ORDINANCE NO. 08-031 BY TITLE AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-031, an ordinance to regulate signage within the City of Lake Elmo; and

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Administrator shall cause the following summary of Ordinance No. 08-031 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-031. The ordinance eliminates duplication of requirements, allows the City Council the ability to set the termination of the use to a date or event, and allows an administrative extension of 30 days to eliminate a potential time gap in a renewal application. The full text of Ordinance No.08-031 is available for inspection at Lake Elmo city hall during regular business hours.

Mayor Dean Johnston

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance in his office at city hall for public inspection and that he post a full copy of the ordinance in a public place within the city.

Dated: _____, 2010.

Mayor Dean Johnston

ATTEST:

Bruce Messelt
City Administrator

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member _____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.

Planning Commission
Date: 10/18/10
PUBLIC HEARING
Item: 4c

ITEM: Interim Use Permit: Consideration of an application from Cranky Ape to allow an open sales lot for the outdoor display of merchandise such as motorhomes and ATVs at 9200 Hudson Boulevard.

SUBMITTED BY: Kyle Klatt, Planning Director 

REVIEWED BY: Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED

The Planning Commission is being asked to consider an interim use application from Midwest Recreation Clearinghouse, LLC (Cranky Ape Powersport Auctions) to allow the outdoor display of merchandise for public viewing at 9200 Hudson Boulevard North. The Commission recently reviewed a Conditional Use Permit for the exact same use on this property, and is now being presented with a different request (for the same use) for the following reasons:

- The City Council tabled the Conditional Use Permit application at its September 21, 2010 meeting.
- The Council has previously directed Staff to prepare amendments to the City's holding districts to change all conditional uses to interim uses and to amend the general standards for interim uses. The Planning Commission is being asked to consider these zoning amendments at its October 18th meeting.
- Upon further discussions with Staff regarding the status of the Conditional Use Permit, the applicant has agreed to submit an application for an interim use permit for the proposed open sales lot activity at 9200 Hudson Boulevard North. If the conditions and restrictions of the Interim Use Permit are found to be acceptable to the applicant, the Conditional Use Permit request will be withdrawn.

The new request is consistent with the proposed amendments to the City's holding districts, which is intended to provide the City with more control over the future uses that will be located in areas subject to new development or land use changes.

ADDITIONAL INFORMATION:

The applicants run an online auction for recreation vehicles and this site would be one in which potential buyers could view before they bid as well as pick it up when it is bought. The products are reclaimed items such as motor homes, boats, ATV's and RVs that are acquired from entities such as banks or insurance companies and then prepped for sale. The specific details concerning the use proposed at 9200 Hudson Boulevard North have not changed from the Conditional Use Permit reviewed last month, and therefore, Staff has not included all of the materials previously submitted for review.

Because the application has been submitted now as an interim use, the City's Interim Use standards need to be used to evaluate the request rather than the Conditional Use requirements. The primary difference between these two permits is the underlying rights that are granted by the permit. In the case of a Conditional Use Permit, the permit runs with the land and can only be terminated once the use is vacated for a period of at least one year or the operator violates one of the conditions of approval. An interim use must specify a certain event or date that will end the use, and there are not inherent rights

that run with the land. Given these limitations, the proposed zoning amendments that have been drafted by Staff would provide a little more flexibility for extending an interim use permit over a longer period of time.

The 9.95 acre parcel under consideration is located along Hudson Boulevard and is guided for future sewered development in the Lake Elmo Comprehensive Plan. This property is unique in that it is one of just a few properties utilized for commercial purposes, but is in a holding district expected to be developed for sewered residential uses. The zoning district HD-GB-SRD (Holding District-General Business-Sewered Residential Development) specifically allows the properties to continue the uses allowed in the General Business zoning district, both permitted and interim uses (as proposed; currently all conditional uses are also allowed), including an open sales lot. With the proposed zoning changes to this district, the open sales lot would only be allowed as an interim use permit.

The applicants are not proposing to make any external changes to the site. Because the Commission already considered the Conditional Use Permit, no further discussion is needed on that application.

ANALYSIS:

Although similar to the required findings for a Conditional Use Permit (which were considered as part of the analysis during the previous review of the applicant's site), an Interim Use Permit must meet the general standards listed below in order to be granted. Please note that these standards have been pulled from the draft ordinance and may be subject to change by the City Council. Staff's comments regarding each of these standards are included as follows:

- 1) The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations. ***The proposed HD-GB-SRD holding district amendments would allow an open sales lot as an interim use.***
- 2) The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community. ***This finding has been previously made by the Planning Commission as part of its Conditional Use Permit review. The proposed use will operate in a manner very similar to the historic use of this site as a boat and marine dealership. The exterior storage of vehicles and equipment will have a very minimal affect on surrounding properties, and any unsightliness will be mitigated by appropriate landscaping, screening, and buffering.***
- 3) The use will not adversely impact implementation of the Comprehensive Plan. ***There are no new buildings proposed as part of the interim use, and no other site changes other than the use of previous storage areas for outdoor display. The consignment sales business will not alter the site or surrounding area in any permanent manner beyond the current situation.***
- 4) The date or event that will terminate the use is identified with certainty. ***Staff is suggesting that the termination date for the permit be set at five years from the date of approval or upon the sale or transfer of ownership in the property, whichever occurs first.***
- 5) The interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future. ***As noted above, the Interim Use will not result in any permanent alterations (other than interior remodeling work) beyond the improvements that are currently located on the site. The goods being displayed for sale can be moved off the site once the interim use permit terminates. Interior building improvements can be performed without any special approval from the City through administrative approvals or standard building permits.***
- 6) The user agrees to all conditions that the City Council deems appropriate for permission of the use. This may include the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the City to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit. ***The proposed conditions of approval are included in the attached draft resolution of approval and are restated in the draft agreement. Staff is not recommending any financial guarantee***

because there are no permanent site alterations being proposed as part of the applicant's request.

- 7) There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel. **None have been found on this property.**
- 8) The term of the interim use shall be set by the City Council at the time of approval. **A draft consent agreement is attached for review by the Planning Commission and could be executed by the Council at the time it decides on the Interim Use Permit. This agreement specifies a five year term for the permit, which could be renewed prior to the expiration date.**

Based on the above findings, Staff is recommending approval of the interim use permit.

Although it is unusual to be reviewing two applications for the same property at the same time, the City is currently in the midst of a transition concerning zoning in the various holding districts. The applicant certainly has the right to pursue their Conditional Use Permit and request a decision from the City Council on this application; however, the Council may not ultimately support approval of this permit given the land use and zoning district changes that have been proposed. The proposed amendments should provide some additional flexibility for the City to consider interim uses over a longer period of time, while providing the current applicant, and future applicants, with some additional assurances regarding the amount of time and conditions under which they may operate.

RECOMMENDATION:

Staff is recommending that the Planning Commission recommend approval of the Interim Use Permit request from Midwest Recreational Clearinghouse, LLC (Cranky Ape Powersport Auctions) to allow an open sales lot for the outdoor display of merchandise at 9200 Hudson Boulevard with the conditions as listed in draft Resolution No. 2010-055.

ORDER OF BUSINESS:

- IntroductionKelli Matzek, City Planner
- Report by staff.....Kelli Matzek, City Planner
- Questions from the Commission.....Chair & Commission Members
- Applicant Comments..... Chair facilitates
- Questions of the ApplicantChair & Commission Members
- Open the Public Hearing Chair
- Close the Public Hearing Chair
- Call for a motionChair Facilitates
- Discussion of Commission on the motion.....Chair Facilitates
- Action by the Planning CommissionChair & Commission Members

ATTACHMENTS:

- 1. Draft Resolution No. 2010-055
- 2. Draft Interim Use Consent Agreement
- 3. Applicant's Narrative on Business Operation
- 4. Proposed Site Plan

**CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA**

RESOLUTION NO. 2010-055 - DRAFT

**A RESOLUTION GRANTING AN INTERIM USE PERMIT TO ALLOW AN OPEN
SALES LOT AT 9200 HUDSON BOULEVARD NORTH AND APPROVING A
CONSENT AGREEMENT FOR THE INTERIM USE**

WHEREAS, Midwest Recreational Clearinghouse, LLC, 6352 320th Street Way, Cannon Falls, MN, has requested an Interim Use Permit to establish an open sales lot use at 9200 Hudson Boulevard North, which will allow the sale of consignment recreation vehicle and motor sports equipment and display of such merchandise in a HD-GB-SRD zoning district.

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.019; and

WHEREAS, the Lake Elmo Planning Commission held a Public Hearing on October 18, 2010, and reviewed and recommended approval of the Interim Use Permit for an open sales lot; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated October 19, 2010; and

WHEREAS, Section 154.019, Subd. (B, 5) of the City Code requires the applicant to enter into a consent agreement with the City the specifies the terms and conditions of the interim use; and

WHEREAS, the Lake Elmo City Council reviewed the interim use permit request and consent agreement at its October 19, 2010 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following findings:

- 1) That the procedures for obtaining said Interim Use Permit are found in the Lake Elmo Zoning Ordinance, Section 154.019.
- 2) That all the submission requirements of said Section 154.019 have been met by the Applicant.
- 3) That the proposed Interim Use Permit is to establish an open sales lot, which will allow the sale of consignment recreation vehicle and motor sports equipment and display of such merchandise in a HD-GB-SRD zoning district.
- 4) That the proposed use will be located on property legally described as: Part of the West Half of the East Half (W1/2 of E1/2) of the Southwest Quarter of the Southwest Quarter (SW1/4 of SW1/4) of Section Thirty-Four (34), Township Twenty-Nine (29) North. Range Twenty-One (21) West, Washington County,

Minnesota, containing 9.95 acres, more or less, subject to the right-of-way of U.S. Highway No. 12. More commonly known as 9200 Hudson Boulevard North.

- 5) That the use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations. *The HD-GB-SRD holding district allows an open sales lot as an interim use.*
- 6) That the use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community. *The proposed use will operate in a manner very similar to the historic use of this site as a boat and marine dealership. The exterior storage of vehicles and equipment will have a very minimal affect on surrounding properties, and any unsightliness will be mitigated by appropriate landscaping, screening and buffering.*
- 7) That the use will not adversely impact implementation of the Comprehensive Plan. *There are no new buildings proposed as part of the interim use, and no other site changes other than the use of previous storage areas for outdoor display. The consignment sales business will not alter the site or surrounding area in any permanent manner beyond the current situation.*
- 8) That the date or event that will terminate the use is identified with certainty. *The consent agreement establishes a termination date for the permit be set at five years from the date of approval or upon the sale or transfer of ownership in the property, whichever occurs first.*
- 9) That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future. *The Interim Use will not result in any permanent alterations (other than interior remodeling work) beyond the improvements that are currently located on the site. The goods being displayed for sale can be moved off the site once the interim use permit terminates. Interior building improvements can be performed without any special approval from the City through administrative approvals or standard building permits.*
- 10) That there are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Lake Elmo City Council hereby approves an Interim Use Permit at 9200 Hudson Boulevard North to establish a open sales lot use and authorizes the execution of the consent agreement for this interim use subject to the following conditions:

- 1) That the applicant signs the approved consent agreement with the City in accordance with Section 154.019, Subd. (B, 5) of the City Code.
- 2) Additional landscaping must be added by the applicant to comply with the original landscaping plan approved for the property. A revised landscape plan shall be submitted for review and approval by the Planning Director. No parking or storage of vehicles shall be permitted within the rear portion of the property (north of any buildings on the site) until the landscaping has been installed per

the approved plan and be in compliance with the review provided by the City Forester.

- 3) All exposed soils and eroded areas on the site must be corrected and restored properly.
- 4) All silt fencing shall be removed from the site.
- 5) Merchandise being displayed on the exterior portions of the site shall be arranged in a neat and orderly manner.
- 6) Applicant shall not accumulate or store junk vehicles or equipment outside of any buildings on the property.

This resolution was adopted by the City Council of the City of Lake Elmo on the 19th day of October 2010, by a vote of ___ Ayes and ___ Nays.

Dean A. Johnston, Mayor

ATTEST:

Bruce Messlet, City Administrator

(SEAL)

**CONSENT AGREEMENT
INTERIM USE PERMIT (DRAFT)**

- 1.0 Parties. This Consent Agreement/Interim Use Permit ("Agreement") is entered into by and between the City of Lake Elmo, a Minnesota statutory ("City"); and Midwest Recreational Clearinghouse, LLC, a Minnesota limited liability corporation ("Applicant").
- 2.0 Recitals.
- A. Applicant is the record fee owner of the following described property situated in Lake Elmo, MN ("Property"):
- Part of the West Half of the East Half (W1/2 of E1/2) of the Southwest Quarter of the Southwest Quarter (SW1/4 of SW1/4) of Section Thirty-Four (34), Township Twenty-Nine (29) North, Range Twenty-One (21) West, Washington County, Minnesota, containing 9.95 acres, more or less, subject to the right-of-way of U.S. Highway No. 12.
- More commonly known as 9200 Hudson Boulevard North.
- B. The Property is zoned HD-GB-SRD.
- C. Interim uses are allowed in the HD-GB-SRD zoning district subject to the regulations contained in Lake Elmo City Code Section 154.019.
- D. Applicant has requested that the City allow the Property to be used as an open sales lot as illustrated on the Site Plan attached as Exhibit A (Site Plan):
- E. On the 14th day of October 2010, Applicant submitted a completed application for an Interim Use Permit.
- F. On the 18th day of October, 2010, the Lake Elmo Planning Commission, at a public hearing, reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments and reports, public comments, and recommended approval of the interim open sales lot use subject to certain conditions.
- G. On the 19th day of October, 2010, the Lake Elmo City Council reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments and reports, public comments, and the recommendations of the Lake Elmo Planning Commission, and agreed to authorize the interim use subject to the terms and conditions as specified in Section 154.019 of the Zoning Ordinance and Resolution 2010-055 approving the interim use permit.

3.0 Terms and Conditions. The Lake Elmo City Council and Applicant, for itself, and its successors and assigns, agree that the interim open sales lot use shall be subject to the following conditions:

- A. The Applicant, and its successors and assigns, shall have no entitlement to future re-approval of the Interim Use Permit.
- B. Applicant and its successors and assigns, agree that in the event of a full or partial taking of the Property by a governmental unit that the value of the Property taken will be based on its highest and best use as it existed prior to the approval of the Interim Use Permit.
- C. The interim use shall allow an open sales lot, which allows the display of goods for sale, rent, lease, or trade, where the goods are not enclosed within a building in accordance with the Site Plan.
- D. Additional landscaping must be added by the applicant to comply with the original landscaping plan approved for the property. A revised landscape plan shall be submitted for review and approval by the Planning Director. No parking or storage of vehicles shall be permitted within the rear portion of the property (north of any buildings on the site) until the landscaping has been installed per the approved plan and be in compliance with the review provided by the City Forester.
- E. All exposed soils and eroded areas on the site must be corrected and restored properly.
- F. All silt fencing shall be removed from the site.
- G. Merchandise being displayed on the exterior portions of the site shall be arranged in a neat and orderly manner.
- H. Applicant shall not accumulate or store junk vehicles or equipment outside of any buildings on the property.
- I. The Interim Use Permit is valid until any one of the events listed below occurs:
 - 1. For five (5) years from the date of the approval of the Interim Use Permit (October 19, 2010);
 - 2. Upon the sale of the property or a transfer of ownership.
 - 3. Until a violation of the conditions of this Consent Agreement;
 - 4. Until a change in the City's zoning regulations, which renders the interim use non-conforming; or

5. Until the redevelopment of the Property for a permitted or conditional use as allowed by the City's zoning regulations.

4.0 Renewal of Interim Use Permit. The interim use permit may be renewed by the Council upon the occurrence of either events listed in Section (I, 1) and (I, 2) above. A renewal application shall be requested in accordance with Section 154.019 (J) of the City Code.

5.0 Rescission of the Conditional Use. Any Conditional Use Permit that was previously issued for the Property is hereby rescinded and replaced by this Consent Agreement/Interim Use Permit.

6.0 Acknowledgement and Consent. Applicant acknowledges that this is a legally binding agreement and that Applicant has had an opportunity to review the Agreement with legal counsel. Applicant consents to the terms of this Agreement and its restrictions on the use of the Property and the Interim Use Area.

7.0 Effective Date. This Consent Agreement/Interim Use Permit shall be effective upon execution by all parties.

Date: 10/13/10

CITY OF LAKE ELMO

By: _____
Dean Johnston
Mayor

**Midwest Recreational
Clearinghouse, LLC**

By: _____
Brian Livingston

Its: _____



Midwest Recreational Clearinghouse

Business Activity Narration

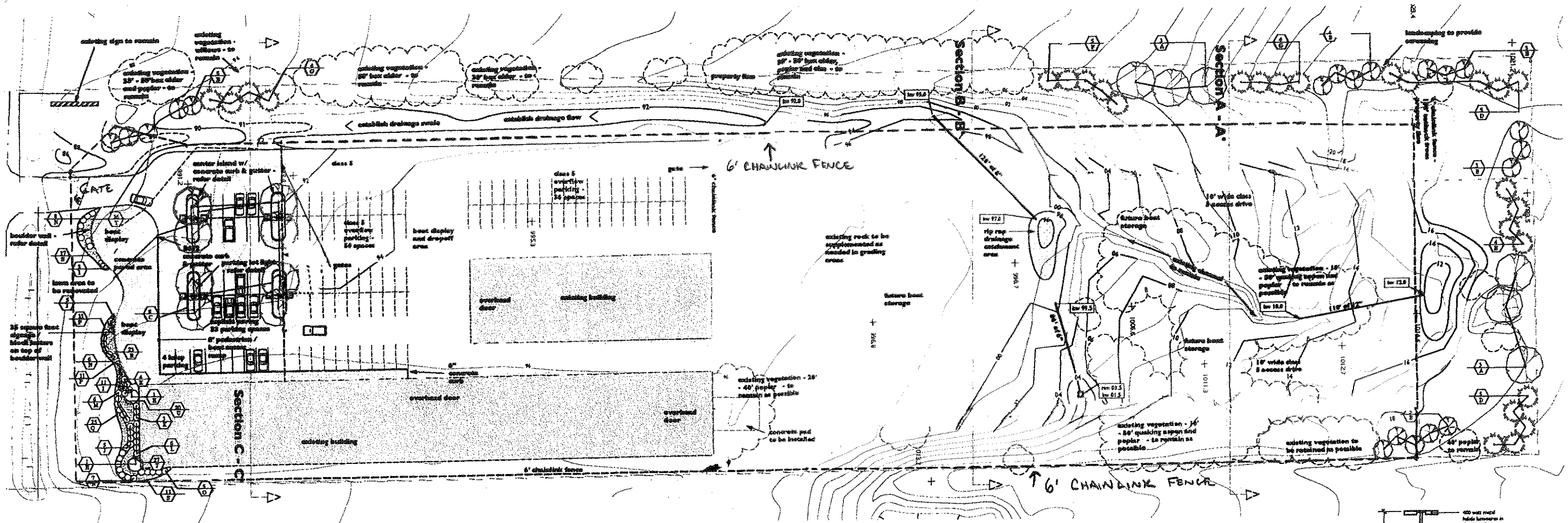


Midwest Recreational Clearinghouse (MRC) has been in business since 2001. The company has warehouses in Arizona, California, Indiana, Georgia, Florida, Minnesota, Nevada, Texas, and Wisconsin. MRC is a re-marketer of insurance repairable and bank-repossessed powersport/recreational equipment. The Crankyape.com website provides these items for purchase by the general public via an online electronic bidding system. Common inventory items found on the auction site include Motor Homes, automobiles, ATVs, snowmobiles, watercraft, and trailers.

The basic business process for MRC involves taking physical possession of an assigned unit and selling it on the CrankyApe.com auction site. The consigning company (typically a bank, insurance company, or registered dealer) will submit an assignment to MRC via telephone or over the internet on our vendor site. MRC will schedule to pick the unit up wherever it is located, and transport it back to our nearest warehouse. The unit is then prepped and displayed for auction/sale.

The auction unit will remain on the CrankyApe.com website for 5-10 days, with a specified date and time that the electronic auction closes. At the time of closing, the unit is deemed sold to the current high bidder. The high bidder then has 3 days to remit payment to MRC's Minnesota location and retrieve the auction unit from the MRC location it is being displayed at.

The available units are displayed at the physical locations and are available for viewing leading up to and during the actual auction.



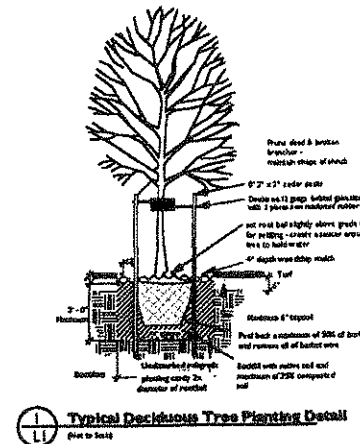
Plant Schedule

Key	Common Name	Latin Name	Size	Spacing	Plant	Qty
A	Red Maple	Acer rubrum	1.5"	varies	B & B	6
B	Quaking Aspen	Populus tremuloides	1.5"	varies	B & B	20
C	Marshall's Seedless A/C	Fraxinus americana 'Marshall's'	2.5"	varies	B & B	8
D	Red Pine	Pinus resinosa	4' - 6'	varies	B & B	10
E	White Pine	Pinus strobus	4' - 6'	varies	B & B	4
F	Scotch Pine	Pinus resinosa	4' - 6'	varies	B & B	5
G	Black Hills Spruce	Picea glauca densata	4' - 6'	varies	B & B	8
H	Pagoda Dogwood	Cornus alternifolia	#5	3' o.c.	cont.	2
J	Anthony Waterer Spirea	Spiraea x bumalda	#2	3' o.c.	cont.	19
K	Dwarf Bush-honeysuckle	Diervilla lonicera	#2	3' o.c.	cont.	5
L	Glossy Black Chokeberry	Aronia melanocarpa	#2	3' o.c.	cont.	7
M	Compact American Cranberrybush	Viburnum trilobum 'Baby'	#2	3' o.c.	cont.	6
N	Scandia Juniper	Juniperus sibirica 'Arceada'	#5	3' o.c.	cont.	4
O	Arceada Juniper	Juniperus sibirica 'Arceada'	#5	3' o.c.	cont.	21
P	Scandinavian Juniper	Juniperus sibirica 'Arceada'	#5	3' o.c.	cont.	5
Q	Creeping Emerald Phlox	Phlox subulata	4"	1' o.c.	pot	11
R	Black Eyed Susan	Rudbeckia hirta	#1	2' o.c.	cont.	25
S	Lanolin Coropella	Coreopella lanolata	#1	1' o.c.	cont.	23
T	Stella De Oro Daylily	Hemerocallis 'Stella de Oro'	#1	2' o.c.	cont.	28
U	Autumn Joy Stone Crop Sedum	Sedum x 'Autumn Joy'	#1	2' o.c.	cont.	43
V	Summer Pastels Yarrow	Achillea 'Summer Pastels'	#1	2' o.c.	cont.	20

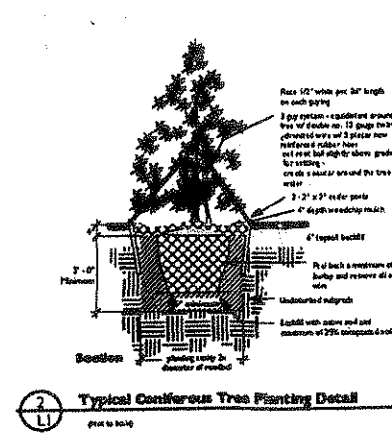
General Notes:

- This is a preliminary site and landscape plan for review purposes.
- Erosion control measures will be established prior to construction.
- The contractor shall be responsible to review the site. The contractor shall establish the removals and vegetation clearing and grubbing that is required to construct the plan.
- Soil conditions on site may vary - the contractor is responsible to establish that proper subgrade compaction has been achieved prior to installation of class 5, bituminous paving, concrete curb and gutter and concrete paving.
- The chain link fence and gate materials and installation details shall be established by the owner.
- All non-paved areas will be seeded with an approved MnDot bluegrass / ryegrass / fescue mix.

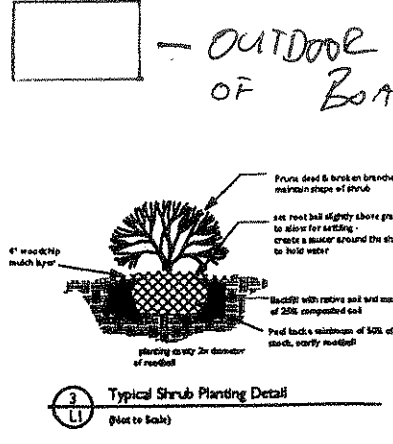
NOT FOR CONSTRUCTION



1 Typical Deciduous Tree Planting Detail (Not to Scale)

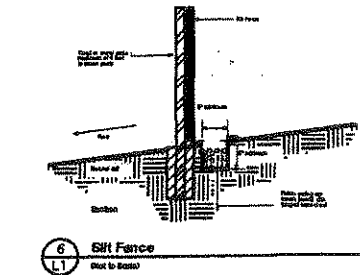


2 Typical Coniferous Tree Planting Detail (Not to Scale)

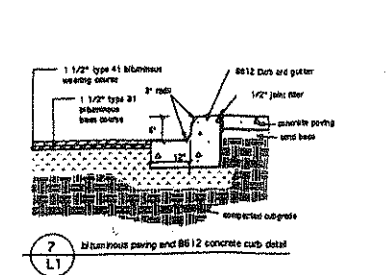


3 Typical Shrub Planting Detail (Not to Scale)

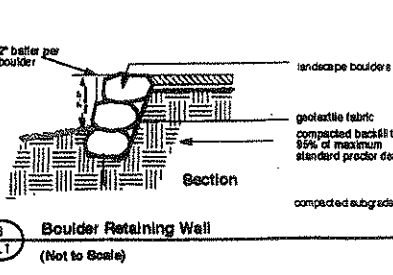
OUTDOOR DISPLAY OF BOATS & RV'S (Cont. Area)



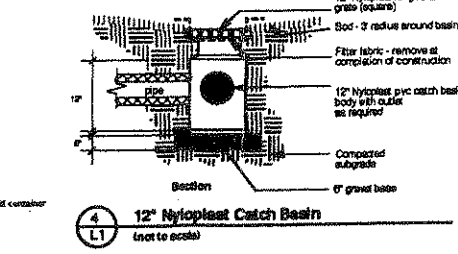
6 6' Silt Fence (Not to Scale)



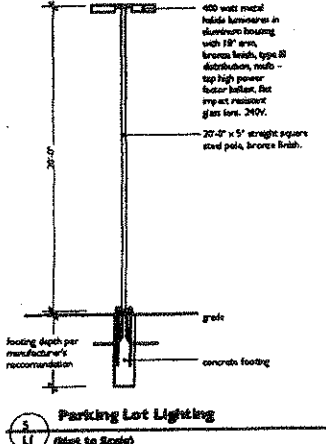
7 Bituminous paving and 8\"/>



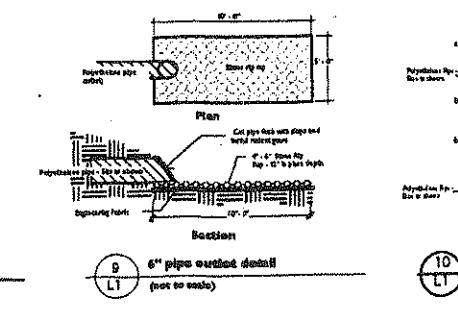
8 Boulder Retaining Wall (Not to Scale)



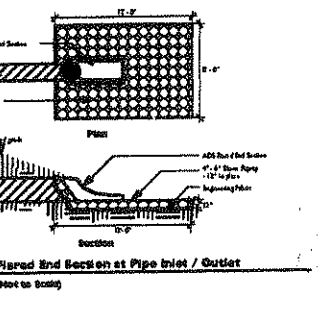
9 12\"/>



10 Parking Lot Lighting (Not to Scale)



9 6\"/>



10 Flared End Section at Pipe Inlet / Outlet (Not to Scale)

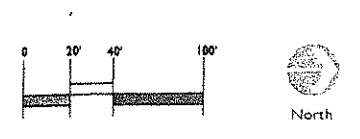
Preliminary Site & Landscape Plan



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Phone 651-777-7054
Fax 651-777-5031
e-mail design@w-harchitects.com

I hereby certify that these plans were prepared by me, or under my direct supervision, and that I am a duly registered Landscape Architect in the State of Minnesota.

Paul W. Miller, Landscape Architect
State of Minnesota Reg. No. 28920



SHEET
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