



City of Lake Elmo

3800 Laverne Avenue North
Lake Elmo, Minnesota 55042
(651) 777-5510 Fax: (651) 777-9615
www.LakeElmo.Org

NOTICE OF MEETING

The City of Lake Elmo

Planning Commission will conduct a meeting on
Monday, November 8, 2010, at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. September 13, 2010
 - b. September 27, 2010
4. Public Hearings
 - a. **BUFFER SETBACK IN MEYERS PINERIDGE - AN OPEN SPACE PRESERVATION DEVELOPMENT:** Consideration of an ordinance to amend the buffer setback for the Meyers Pineridge development. The buffer setback is measured from the edge of the development and precludes the construction of a structure within the required setback area.
 - b. **ZONING TEXT AMENDMENT:** Consideration of an ordinance to add the buffer setback information and a rear yard setback to the minimum district requirements for Open Space Preservation Developments.
 - c. **SPECIAL EVENT PERMIT:** Consideration of an ordinance requiring a permit to provide for temporary special events and regulation for temporary special events.
5. Business Items
 - a. **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.
 - b. Election Results (Verbal)
 - c. Commissioner Terms
6. Updates (Verbal)
 - a. City Council
 - i. October 19th – approval of Interim Use Permit and Holding District text changes
 - b. Staff Updates
 - i. December 27th Commission Meeting
 - c. Commission Concerns
7. Adjourn

**City of Lake Elmo
Planning Commission Meeting
Minutes of September 13, 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, McGinnis (7:03), Pearson, Pelletier, Van Erem, Van Zandt and Ziertman. Absent: Williams. STAFF PRESENT: Planning Director Klatt and Planner Matzek. Washington County staff Chris LeClaire was also in attendance.

Agenda

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

Minutes – July 12, 2010

M/S/P, Fliflet/Pearson, move to approve as presented. Vote: 6:0. Abstain: Britz, Fliflet, Van Erem.

August 16, 2010

M/S/P, Pearson/Hall, move to approve as presented. Vote: 7:0. Abstain: Pelletier, Van Erem.

Public Hearing – Septic Variance at 9051 Jane Road

Planner Matzek said the applicant is seeking a variance to the property line setback for a septic system at 9051 Jane Road to allow the replacement septic system up to ten feet in the city's road right-of-way. She said the septic tanks may also be encroaching slightly on the 75 foot Ordinary High Waterline setback. Staff is recommending approval with conditions as outlined in the staff report.

Commissioner Hall asked about the drainage in the ditch.

Planner Matzek said the City Engineer has reviewed the application, but can ask him if his review included drainage. She then distributed and responded to an email with concerns sent from Commissioner Williams.

Mr. Kennedy said his mother has lived there many years and is the house in which he grew up.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:15 P.M.

No one spoke.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:15 P.M.

Commissioner Fliflet asked if there were other alternatives.

Planner Matzek said this property does not have an option to connect to a city-run 201 system with open capacity and it is not guided for city sewer in the future. The septic designer has identified this as the last potential location for a septic system.

Mr. LeClair said the septic designer had designed the system based on the new Washington County ordinance, which is the next item on the agenda.

M/S/P, Pelletier/Ziertman, move to recommend approval of the septic variance with conditions identified in the staff report. Vote: 9:0

Business Item – SSTS Ordinance

Planning Director Klatt introduced the item with a recommendation that the City turn over the septic program to Washington County. He said the city would continue to process variances and appeals. Attached to the staff report is a preliminary draft of the ordinance and highlighted the two differences between the city and county ordinances – the timing of pumping requirements and the prohibition of allowing a mound system as the primary system.

Chris LeClair, Washington County R.E.H.S. Senior Environmental Specialist Dept. of Public Health

Mr. LeClaire presented the more recent historical revisions to the ordinance at the state and county level. He identified what has changed, what is new, and gave an update to the status of the state rules.

Commissioner Fliflet asked what would happen if a septic inspection were to fail at the time someone is trying to sell their home.

Mr. LeClaire said a compliance inspection would be required at the time a home is being sold, but that the inspection is done by a private inspector and not the County.

Commissioner Britz asked if the thirty-six inch standard had been in place for a long time.

Mr. LeClaire said it had, but that hydrology changes over time. He said groundwater mounding sometimes occurs, which changes the separation between the water table and the drainfield.

Commission Fliflet suggested the city be more restrictive than the county's requirement of replacing failing septic systems within ninety days.

Commissioner Britz asked if there was a measureable benefit to pumping every two years instead of three.

Mr. LeClaire said he does not have a problem requiring the pumping every two years instead of three as the county's database has the ability to decipher that difference.

Planning Director Klatt said the City Council will be presented with a contract at the next meeting to considering turning over inspection and permitting of septic systems to Washington County. He said the cost of additional training and licensing is a part of the reason the city is considering the change. He said the county has higher fees than what the city has been charging, but that the city has not revisited that fee in some time and may be outdated.

Commissioner Fliflet asked if this change would impact open space developments that are on community septic systems.

Mr. LeClaire said a service provider should be checking the system every six months, but that once the system handles over 10,000 gallons a day, it is licensed by the State.

Planning Director Klatt said the city is still going to maintain 201 systems, but could choose to turn it over to the county in the future. He said if a new 201 system were built, it would be permitted by the county, but that the city would be the applicant and owner of the system. Then he said the City Engineer asked for an additional requirement be put in the ordinance – that anytime a system serves more than one home, the system must be designed by a professional engineer.

In general, the commission felt supportive of the proposed ordinance with the engineer's additional recommendation and in turning the permitting and inspection of septic systems to Washington County.

City Council

Planning Director Klatt said the Lake Elmo Inn was seeking to replace the existing tent at the site with a permanent structure which would not meet setback or parking requirements for the site. He said zoning text amendments will be considered at the next meeting. He updated the commission on the recent lawsuit with Country Sun Farm. He said both himself and Planner Matzek will be attending a planning conference in Mankato the following week, which is also open to interested commissioners.

Commission concerns

Chairman Van Zandt asked commissioners to try and attend the Fall Festival that weekend.

Adjournment:

The meeting was adjourned at 9:04 p.m.

Respectfully submitted,

Kelli Matzek
Planner

**City of Lake Elmo
Planning Commission Meeting
Minutes of September 27, 2010**

Chairman Van Zandt called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Bidon, Fliflet, Hall, Pearson (7:04 P.M.), Pelletier, Van Erem, Van Zandt, Williams and Ziertman. Absent: Britz and McGinnis; STAFF PRESENT: Administrator Messelt, Planning Director Klatt, Planner Matzek, Attorney Snyder, Attorney Baker.

Agenda

M/S/P, Williams/Hall, move to approve as presented. Vote: 8:0.

Minutes – *None.*

Public Hearing – *Zoning Text Amendment; Parking Requirements and Lot Line Setbacks in Village Area GB Zoned Properties*

Planning Director Klatt presented two ordinance amendments to the General Business District in the downtown Village Area. The first change would reduce the front and side yard setbacks to zero feet; the second would allow a waiver of parking requirements. He said this request is from the Lake Elmo Inn who wishes to add a permanent enclosed structure where the tent currently exists. He stated the proposed changes allow more flexibility in an area identified for walkable development in the Comprehensive Plan and therefore, staff recommends approval.

PUBLIC HEARING OPENED AT 7:20 P.M.

No one spoke.

PUBLIC HEARING CLOSED AT 7:20 P.M.

Commissioner Williams expressed concern with waiving the parking requirements as he has heard downtown businesses say they are negatively impacted from the lack of parking.

Commissioner Pearson said the Lake Elmo Inn has the lion's share of parking and asked if this waiver is fair to everyone.

Administrator Messelt said there are some businesses that do have off-street parking. He said the main street parking is first-come, first-serve. He said in his year at the city, he has not heard of any parking issues in the downtown.

Planning Director Klatt said the city had, at some point in the past, allowed diagonal parking. He said the Lake Elmo Inn was granted a variance to parking previously, but that the patio had not been counted at that time. He said the proposed text change would not allow a blanket waiver, but would be reviewed by city staff.

Administrator Messelt said the patio is an allowed use, but it becomes permanent with this change, therefore the parking was already there and needs to be officially counted.

Commissioner Williams said a zoning text amendment applies to multiple properties, which needs to be considered. He said parking will get worse and asked why the Lake Elmo Inn couldn't have a valet service.

Administrator Messelt said there is sufficient downtown parking, it just may not be directly in front of the businesses.

Commissioner Bidon said it is a disadvantage to new businesses if there is no parking available.

M/S/P, Pearson/Fliflet, move to accept the proposed amendments with the added condition that the staff survey the businesses to determine if adequate parking is available currently. Vote: 8:1. Williams against.

Public Hearing - Zoning Text Amendment – Agricultural Sales Ordinance

Commissioner Ziertman asked to recuse herself due to perception of a possible conflict of interest. She stated if she chose to speak, it would be as a resident and farmer.

Administrator Messelt gave a brief timeline of related events back to December of 2009 regarding agricultural sales and agricultural entertainment. He introduced the three options for consideration: allowing sales of produce grown non-locally; removing any grown on premise condition; or elimination of all requirements, including agricultural entertainment uses, and relying on the state constitution regulations.

Planning Director Klatt identified a new definition of greenhouse with clarification that the intent is to regulate those used for wholesaling as opposed to small private residential greenhouses.

Commissioner Williams identified that a wayside stand calls for a temporary structure, but if it is a pick-your-own operation, there is no structure involved.

Administrator Messelt suggested leaving it in agricultural sales or to make a wayside stand a permanent structure.

Planning Director Klatt explained the details for option one and briefly described options two and three. He identified a section of code allowing non-conformities to continue the use if it was previously allowed.

Commissioner Fliflet said the identified maximum floor area is limited to 20,000 square feet. She asked where this number came from and how big the Country Sun buildings currently are.

Planning Director Klatt said the number shows up in the limited business district. He is unaware of the size of the Country Sun buildings.

Commissioner Williams suggested consistency throughout the sections. He said on page two under food producing farm operation, it says to “see farm, rural,” but he does not see a relationship between the two. He identified number nine on page four and asked if the ownership of property wording would exclude a single property owner from renting his or her land to non-owners for gardening.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 8:26 P.M.

Neil and Deb Krueger, 4452 Lake Elmo Ave N; Krueger's Christmas Tree Farm

Mr. Krueger said his biggest question is the Interim Use Permit as he does not know what that means, what the criteria for approval are, or who will be reviewing the permit applications. He recommended reducing the amount of land farmed, in the definition of “farmer,” from 75 acres to 10 and suggested tying it to the green acres program requirements. He suggested requiring certification that the produce, whatever it may be, is inspected for bugs and diseases before it is brought in from off-site. He identified the design and architectural standards on page eight and suggested they be more strict. He suggested simplifying the trips per day requirement and reducing the 100 foot buffer to twenty-five or thirty feet. He asked the commission to reconsider the exterior storage requirement as it is often difficult to always have equipment screened.

John Krueger, Krueger's son

Mr. Krueger said he grew up on the Christmas tree farm still owned by his parents. He said he would like to take over the business eventually and encouraged the changes suggested by his parents. In addition, he asked the maximum floor size be clarified as it is not clear if that includes temporary structures.

Cari Myhre, 456 Manning Avenue

Ms. Myhre asked what the difference between a conditional use and an interim use.

Attorney Snyder said a conditional use runs in perpetuity with the land, but an interim use runs with a defined period of time or until the conditions are not being met.

Ms. Myhre asked if option two was already in effect.

Administrator Messelt said the “on premise” language was only removed for wayside stands.

Joan Ziertman, 5761 Keats Ave

Mrs. Ziertman said she thought it would be odd to require a business to obtain two IUPs. She agreed with the Kruegers that the buffer required was too much and the definition of farmer should be changed to reduce the acreage. She pointed out that agricultural sales and agricultural entertainment businesses are allowed in the Rural Residential zoning district, but the requirement of forty acres for the use does not align with the ten acre minimum lot size in that district. She said in the event of a crop failure, a farmer will not

want to get an IUP as it would be for a single season. She suggested limiting the amount of produce that could be brought onto a site to be sold.

Keith Bergmann, 5833 Lake Elmo Ave N

Mr. Bergmann said the Country Sun Farm has approximately 30,000 square feet in retail sales with another 10,000 in green houses. Their site has far greater than 40,000 square feet in impervious surface. He asked if option one would allow Country Sun Farm to continue to operate in its existing use.

Attorney Snyder said some uses may or may not qualify as lawful and preexisting to some degree, but the commission should not make individual judgments about particular properties.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 8:52 P.M.

Administrator Messelt summarized the comments and suggested changes.

The commission recessed at 9:01 p.m. and reconvened at 9:07 p.m.

Commissioner Pelletier said it would be reasonable to expect a higher traffic volume and additional impacts from an agricultural entertainment business than an agricultural sales site. She suggested a sliding scale for the amount of impact.

Commissioner Fliflet suggested a quick permit process for last minute crop failure.

Commissioner Hall suggested the storage of equipment is a safety issue and if it could not be kept inside, it should be sequestered by fencing.

Commissioner Fliflet said the proposed language does not allow the sale of accessory items, but that ancillary items have been allowed for sale in the past and suggested continuing to allow it in moderation.

Chairman Van Zandt asked for a straw vote on whether the produce type should be grown on site to allow it to be brought in from off-site. Commissioner Williams voted for. Six commissioners voted against. One abstained. Commissioner Ziertman remained recused from the commission.

Chairman Van Zandt asked for a straw vote on whether produce brought in from off-site must be related to what is sold on site. Commissioners Pelletier and Bidon voted for it. The remaining commissioners voted against, again with Commissioner Ziertman not voting.

Commissioner Pelletier said the location of the agricultural sales is important because more compact residential neighborhoods would not enjoy living adjacent to an ag business.

Chairman Van Zandt asked for a straw vote to allow an agricultural sales business on ten acres. Six commissioners voted for it. Commissioners Van Zandt and Fliflet did not vote. Commissioner Ziertman remained recused.

M/S/P, Fliflet/Pelletier, move to recommend option one with the City Administrator's summarized changes with direction to staff to keep the comment period open so when it is published in draft form, the public can continue to comment.

Commissioner Pearson suggested the buffer be fifty feet for produce, but 100 feet for entertainment businesses.

Commissioner Williams suggested different buffers for sales activity versus crops.

Vote: 8:0.

Updates

Planning Director Klatt informed the commission that the City Council approved the Kennedy septic variance and the Subsurface Sewage Treatment System Ordinance at the September 21st meeting. The city will be turning over any new septic permits to Washington County as of October 1st.

Administrator Messelt said the CUP application for the Cranky Ape Company was tabled. Staff is trying to work out an approach that meets some of the concerns expressed regarding the future guidance of the property as sewer residential development.

Planning Director Klatt said the planning department went to the state conference in Mankato. Afterwards, staff spoke at their alma mater to students interested in planning careers.

Adjournment:

The meeting was adjourned at 9:56 P.M.

Respectfully submitted,

Kelli Matzek
Planner

Planning Commission
Date: 11/08/10
PUBLIC HEARING
Item: 4a

ITEM: Proposed Revision to the Buffer Setbacks in the Meyers Pineridge Open Space Preservation (OP) Development

SUBMITTED BY: Kelli Matzek, Planner

REVIEWED BY: Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED: The Planning Commission is asked to review the proposed buffer setbacks for the Meyers Pineridge development, hold a public hearing, and provide a recommendation to the City Council.

In November and December of 2009, the Planning Commission and City Council reviewed and approved reductions in nineteen Open Space Preservation developments. At that time, staff provided an analysis of each of the developments and the impact of the buffer setbacks on the existing homes and properties. In staff's review of those OP developments, one development, Meyers Pineridge, was overlooked for inclusion in the analysis. Since then, staff has realized this oversight and would like to bring this development forward for evaluation as the other OP developments were reviewed.

In reviewing the file for the Meyers Pineridge development, it appears as though a 100 foot buffer setback (measured from the edge of the development) was anticipated as that was included on a few plan sets submitted by the developer during the review process. However, the buffer setback was never formally recognized by the City Council in the subsequent approvals. Since the development was approved in 1999, all of the platted lots were built upon with single family residential homes. One of the homes was permitted to be within the 100 foot buffer setback and is therefore non-conforming at this time.

Below is the chart showing the staff recommended setbacks.

Recommended Buffer Setbacks in OP Developments (in feet)					
	North Edge	South Edge	West Edge	East Edge	Exception Parcel
Meyers Pineridge	50	50	100	200	
5010 Keats Ave. (original homestead)	0	0	0	0	

ACTION REQUESTED:

The Planning Commission is being asked to review recommended buffer setbacks for the Meyers Pineridge OP development and to provide a recommendation to the City Council for future action.

ADDITIONAL INFORMATION:

- Though not required, the city emailed a notice to a contact for the Meyers Pineridge Homeowner Association in addition to publishing the public hearing notice in the legal newspaper.

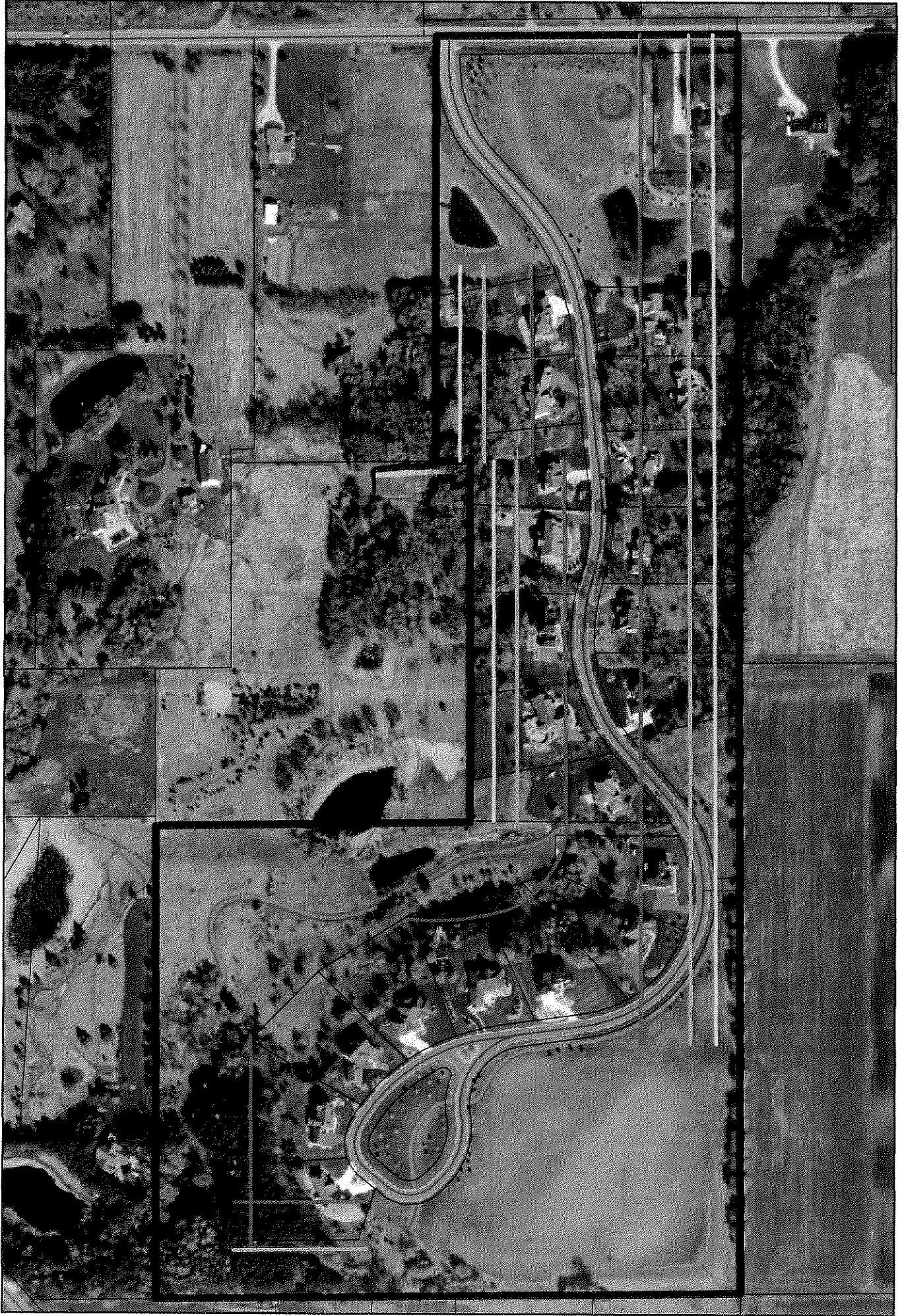
RECOMMENDATION:

At this time, staff is asking the Planning Commission to review the buffer setbacks outlined above and to make an official recommendation to the City Council.

ORDER OF BUSINESS:

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

Meyers Pineridge



50 Foot Buffer Setback



100 Foot Buffer Setback



200 Foot Buffer Setback



Planning Commission
Date: 11/08/10
PUBLIC HEARING
Item: 4b

ITEM: Consider Establishing a Rear Yard Setback and Including Buffer Setbacks Within the Setback Chart for Open Space Preservation (OP) Developments (Section 150.180)

SUBMITTED BY: Kelli Matzek, Planner

REVIEWED BY: Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED: The Planning Commission is asked to review changes to the Open Space Preservation (OP) district code to include a rear yard setback and add a reference to the buffer setbacks in the development standards chart.

The OP regulations have thus far not specifically required a rear yard setback on individually platted properties. In some cases a setback pertaining to the rear yard does exist through another requirement, but it only affects certain properties or affects all properties only in certain circumstances. For example, the buffer setback, although measured from the edge of the development, oftentimes extends onto private lots and functions as a rear yard setback. Also, within the city code regarding accessory buildings (therefore applying to all zoning districts), it is identified that the rear yard setback for certain structures is the same as that of the side yard. Therefore, staff is asking for consideration of adding a clear rear yard setback in the OP developments. If an additional setback, such as a buffer setback, extends onto a lot further than the proposed 15 feet, the larger setback would be utilized. From a preliminary review, it is believed that adding a 15 foot rear yard setback would not create non-conformities.

The second part of the proposed amendment is to include a reference within the setback chart to the text regarding buffer setbacks. This would help clarify the additional setback for those building within an OP development and any future staff. Currently, the code has a chart that outlines the basic lot information such as lot size in addition to setback information. The additional buffer setback is not identified in the chart, but is instead written in paragraph form earlier in the requirements under the subheading "Buffer zones" which could easily be missed by a resident or builder unfamiliar with that section of code.

ACTION REQUESTED:

The Planning Commission is asked to review recommended changes to the OP district code to include a rear yard setback and add a reference to the buffer setbacks in the development standards chart. Staff is requesting the commission provide a recommendation to the City Council for future action.

ATTACHMENTS:

1. Proposed Open Space Preservation (OP) Development City Code Changes

ORDER OF BUSINESS:

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

§ 150.180 DEVELOPMENT STANDARDS.

(d) *Buffer zones.* Where a proposed OP development abuts an existing residential development or a parcel of land not eligible for future development under the OP ordinance due to insufficient parcel area, a 200 foot setback shall be provided between the property line of the abutting parcel and any structure or driving surface within the OP development. Driving surfaces that cross the setback area at a 90 degree angle shall be the only exception. Where a proposed OP development abuts an existing OP development, or a land parcel eligible for future development under the OP ordinance, a 100 foot setback from any structure within the proposed OP development and the property line of the abutting parcel may be substituted. The setback substitution shall only be approved when there is existing mature vegetation and/or changes in topography occurring on the site proposed for development; and/or where the OP site developer introduces the physical features that provide an effective year round buffer of the structures proposed for the OP site from existing residences or development. The determination of the buffering effectiveness of existing or introduced physical features that qualify a site for a 100 foot buffer shall be at the sole discretion of the City Council.

(h) *Minimum district requirements.*


<i>Open Space Preservation District (OP)</i>		
	<i>Single-Family</i>	Townhouse
Maximum Building Height:		
Primary Structure	2 and ½ stories or 35 feet	2 and ½ stories or 35 feet
Accessory Structure	25 feet	1 story or 20 feet, whichever is less
Minimum Lot Width:	NA	NA
½ acre lot; 1 acre lot		
Maximum Impervious Surface Coverage: Gross Lot Area	20%. This percentage may be increased to 25% provided a pervious paver or comparable system is installed consistent with the <i>City of Lake Elmo Engineering Standards Manual</i> or storm water mitigation measures are installed to mitigate the runoff created by the additional coverage above the base district amount. All mitigation measures must be	NA

	approved by the City Engineer.	
Minimum Setback Requirements:		
Front Yard	30 feet	20 feet
Side Yard	15 feet or 10% of lot width, whichever is greater	15 feet or 10% of lot width, whichever is greater
Corner Lot Front	30 feet	30 feet
Corner Lot Side Yard	30 feet	30 feet
<u>Rear Yard</u>	<u>15 feet</u>	<u>15 feet</u>
<u>Buffer Setback</u>	<u>See “(d) Buffer zone” above</u> <u>See City Staff or website for individual requirements</u>	<u>See “(d) Buffer zone” above</u> <u>See City Staff or website for individual requirements</u>
Well From Septic Tank	50 feet	50 feet
Minimum Lot Size:		
Individual Well and Septic System	1 acre	NA
Individual Well and Communal Drainfield	½ acre	8,000 square feet per unit

Planning Commission
Date: 11/8/10
PUBLIC HEARING
Item: 4c

ITEM: Consideration of a draft ordinance to establish a Special Event Permit requirement.

REQUESTED BY: Planning Department

SUBMITTED BY: Kyle Klatt, Director of Planning 

REVIEWED BY: Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to consider a new ordinance to regulate special events within the City of Lake Elmo. This ordinance is very similar to a document that was reviewed by the Planning Commission more than a year ago, but never further refined or adopted by the City. A Special Event Permit is intended to provide some regulation of temporary events on a case-by-case basis and is intended to promote the orderly, compatible, and safe use of property for temporary special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, public safety services, and peace and tranquility of residential neighborhoods.

BACKGROUND:

This ordinance was first brought forward by Staff as a follow-up to several requests for events within the City of Lake Elmo that would normally not be allowed under the City's zoning regulations. The most significant of these events was a Rowing Regatta on Lake Elmo that was ultimately permitted in the absence of any formal regulations concerning such events (and also due to the fact that the event took place on a public water body and within the regional park preserve). Staff has over the past several years, also received requests for a "pet carnival" and other such events and promotions by local businesses.

One of the more significant changes to the proposed ordinance since the last version has been the addition of a new category of special events for Agricultural Sales Businesses. Specifically, the Ordinance now includes a provision that would allow an Agricultural Sales Business that is conducted for a period of three months or less to be permitted by a Special Event Permit. The ordinance would allow such a permit to be issued for two consecutive years; otherwise, any agricultural sales businesses operating for a longer term would need to obtain an Interim Use Permit in accordance with recent amendments to the City Code.

The Agricultural Sales Provision is a direct result of recent discussions and action by the Planning Commission and City Council regarding agricultural businesses. The proposed ordinance would provide an alternate to a full interim use permit in cases where a grower or importer would like to sell agricultural products for a limited time. As an example of how this permit would be applied is a situation in which a grower needs to supplement the sales of their produce grown on-site due to the loss of a crop due to bad weather or other unforeseen circumstances.

The proposed ordinance does include several exemptions for events sponsored by a public entity, events that take place in an athletic field, family gatherings, and other such activities.

ADDITIONAL INFORMATION

The model used for the draft ordinance was taken from the City of North St. Paul. This ordinance was chosen as it was fairly broad in terms of its coverage, while some other examples staff researched were very specific to certain types of events. This broad and simple ordinance will be easier to administer as Lake Elmo currently has just a few events to which the permit may pertain.

City History - In 2006 the Council approved an ordinance allowing Commercial Social Outdoor Events as a conditional use in the agricultural zoning district, which it then repealed in April of 2007. A Special Event Permit is different than the Commercial Social Outdoor Events in the following ways:

- 1) A Special Event Permit would be required and reviewed for each event and would not guarantee a future permit would be received by the applicant or property owner. A Commercial Social Outdoor event was established as a Conditional Use Permit (CUP) and would have run with the property in perpetuity.
- 2) The City Council would have the discretion to deny a Special Event Permit. If a CUP was received and the conditions of a Commercial Social Outdoor Event were being met, the City would have a difficult time revoking the permit.
- 3) A Special Event Permit would not necessarily be based on a zoning district. A CUP for a Commercial Social Outdoor Event was allowed only in the Agricultural zoning district.
- 4) A Special Event Permit could be intended to regulate temporary, outdoor privately-sponsored events open to the general public, held on public or privately-owned property, and impacting city facilities or services. The draft ordinance provided identifies specific gathering types that would not require a permit, such as a wedding. The only application received by the City to implement the Commercial Social Outdoor Event ordinance was to hold weddings on a property in the city.

If recommended for approval by the Planning Commission, Staff will be recommending that the Council adopt the following fees for Special Events:

- \$50 per day for a Special Event Permit
- \$100 for an Agricultural Sale Business

Part of the justification for requiring a Special Event Permit for certain events is to help ensure that any potential public costs associated with the event are properly addressed. As noted in the attached ordinance, the City may charge for any required clean-up from the event, and provisions are included that require the applicant to provide adequate police, fire, and sanitary services during the duration of the event.

Staff is recommending approval of the proposed Special Event Permit Ordinance, which is has been drafted to promote the orderly, compatible, and safe use of property for temporary special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, public safety services, and peace and tranquility of residential neighborhoods.

RECOMMENDATION:

Staff is recommending that the Planning Commission review the proposed ordinance, make any changes as deemed necessary, and recommendation approval of the ordinance to the City Council.

ORDER OF BUSINESS:

- IntroductionPlanning Director
- Report by staffPlanning Director
- Questions from the Commission Chair & Commission Members

- Open the Public Hearing on the IUP OrdinanceChair
- Close the Public Hearing.....Chair
- 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. Draft Ordinance 2008-034 – Special Event Permits
2. Sample Special Event Permit Form

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

DRAFT

ORDINANCE NO. 08-034

**AN ORDINANCE ADDING TO THE LAKE ELMO CITY CODE OF ORDINANCES BY
ADDING TO CHAPTER 110 OF THE BUSINESS REGULATIONS: BUSINESS
REGULATIONS TO PROMOTE THE ORDERLY, COMPATIBLE AND SAFE USE OF
PROPERTY FOR TEMPORARY SPECIAL EVENTS AND TO ASSURE ADEQUATE
PROVISION OF PARKING, TRAFFIC, SANITARY FACILITIES, UTILITIES, PEACE
AND TRANQUILITY OF RESIDENTIAL NEIGHBORHOODS AND SAFETY
SERVICES**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XI: Business Regulations; Chapter 110 – General Licensing Provisions, by adding the following language:

§ 110.070 SPECIAL EVENT PERMITS.

(A) *Purpose and intent.* The purpose of this Chapter is to promote the orderly, compatible and safe use of property for temporary special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, peace and tranquility of residential neighborhoods and safety services.

(B) Definitions

(1) Applicant means any individual, partnership, corporation, association, society or group seeking and/or receiving a Special Event Permit from the City.

(2) Permit means a permit issued by the City to allow a special event.

(3) Person means any person, association, partnership, firm, business trust, corporation or company.

(C) A Special Event shall include the following:

(1) Any temporary, outdoor privately-sponsored event open to the general public and held on public or privately owned property, where such event would not otherwise be permitted under the City's zoning regulations.

(2) An Agricultural Sales Business as defined in Section 11.01 that is conducted for less than three (3) months in any calendar year. A Special Event Permit for an Agricultural Sales Business may not be issued for more than two consecutive years.

(D) Exceptions: "Special Event" shall not apply to the following:

- (1) Any permanent place of worship, stadium, athletic field, arena, theatre, auditorium, or fairs conducted pursuant to Minn. Stats. Chapter 38.
- (2) Special events or activities permitted or permitted by other State laws or regulations of the City of Lake Elmo, including publicly-sponsored activities in the local park system and any other established special event operating prior to adoption of this ordinance.
- (3) Family gatherings, including family reunions, graduation parties, baptisms, confirmations, weddings, etc.
- (4) Garage sales
- (5) Events such as but not limited to National Night-Out or Night-to-Unite established through the City of Lake Elmo.

(E) Permit Required

(1) No person on or after the effective date of this Chapter shall conduct or allow to be conducted any special event as defined in this ordinance without first obtaining a Special Event Permit.

(F) Requirements for Issuance of a Permit

(1) The following standards shall apply to all special events:

- (a) **Maximum Number of People.** The permittee shall not sell tickets to nor permit attendance at the permit location of more than the maximum number of people stated in the special event permit.
- (b) **Sound Equipment.** Sound producing equipment, including but not limited to public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operated on the premises of the special event so as to be unreasonably loud or be a nuisance or disturbance to the peace and tranquility of the citizens of Lake Elmo.
- (c) **Sanitary Facilities.** In accordance with Minnesota State Board of Health regulations and standards and local specifications, adequate sanitary facilities must be provided which are sufficient to accommodate the projected number of persons expected to attend the event.
- (d) **Security.** The permittee shall employ at his own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of persons in attendance at the special event and for the preservation of order and protection of property in and around the event site. No permit shall be issued unless

Washington County Sheriff's Department is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the event.

(e) Food Service. If food service is made available on the premises, it shall be delivered only through concessions permitted by the Washington County Health Department.

(f) Fire Protection. The permittee shall, at his own expense, take adequate steps to insure fire protection as determined by the City of Lake Elmo Fire Chief.

(g) Duration of Special Event. The permittee shall operate the special event only on those days and during the hours specified on the permit.

(h) Cleanup Plan. The special event applicant is responsible for clean up. Any clean up required by the City may be charged to the applicant. Any City service that requires overtime will be at the expense of the applicant.

(i) Waiver. The City Council may grant a waiver from the requirements of this Chapter in any particular case where the applicant can show that strict compliance with this Chapter would cause exceptional and undue hardship by reason of the nature of the special event or by reason of the fact that the circumstances make the requirement of this Chapter unnecessary. Such waiver must be granted without detriment to the public health, safety or welfare and without impairing the intent and purpose of these regulations.

(j) Insurance. Before the issuance of a permit, the permittee shall obtain public liability insurance and property damage insurance with limits determined by the City Administrator. Such insurance shall remain in full force and effect in the specified amounts for the duration of the permit. Evidence of insurance shall include an endorsement to the effect that the insurance company will notify the City Clerk in writing at least ten (10) days before the expiration or cancellation of said insurance.

(k) Miscellaneous. Prior to the issuance of a permit, the City Council may impose any other conditions reasonably calculated to protect the health, safety and welfare of persons, attendant or of the citizens of the City of Lake Elmo.

(2) In addition to the requirements listed above, the following shall also apply to a Special Event Permit for an Agricultural Sales Business:

(a) All performance standards as specified in Section 154.110 for Agricultural Sales Businesses.

(G) Application Procedures.

(1) A written application for a Special Event Permit shall be filed on forms provided by the City with the City Administrator not less than thirty (30) days before the date proposed for holding the special event. The written application shall be signed by the person, persons, or parties conducting the event and the property owner, if different, and shall be accompanied by

the fee payable hereunder. Upon submission of an application for a Special Event Permit, City staff will review the request and advise the applicant of the need for additional information, if any.

(H) Fees

(1) The fee for a Special Event Permit shall be as established by the City Council.

(I) Granting a Permit

(1) The City Council, in its sole discretion, reserves the right to review and determine whether or not a request for a special event and/or street closing is acceptable. In the event the City Council determines the activity does not meet these criteria, such applications shall be denied.

(J) Denial of Permit

(1) The City Council shall have the right to deny the permit if, in the judgment of the City Council, the granting of a permit would adversely affect the safety, health and welfare of the citizens of Lake Elmo. The applicant shall be notified of such denial and may appear before the City Council to appeal such denial.

(K) Transferability

(1) No permit granted under this Chapter shall be transferred to any other person or place without consent of the City Council, upon written application made therefore.

(L) Enforcement and Penalties

(1) The City Administrator and other such officers, employees, or agents as the City Council or City Administrator may designate, shall enforce the provisions of this Chapter.

(2) The holding of a special event in violation of any provision of this Chapter shall be deemed a public nuisance and may be abated as such.

(3) Any person violating any provision of this Chapter is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

(M) Revocation of Permit

(1) The permit for a special event may be revoked by the City Council at any time if any of the conditions necessary for the issuing of or contained in the permit are not complied with or if any of the provisions of this Chapter are violated.

(N) Special Event Vendors

(1) Vendors. A person who temporarily sets up business on public or private property for purposes of selling or delivering goods in conjunction with a City approved Special Event.

(2) License. All Special Event Vendors shall be licensed by the City.

(3) Process. The City Administrator shall determine appropriate requirements to safeguard the health, safety and welfare of the community and its inhabitants. Forms shall be determined by the City Administrator to gather the necessary information to assure safety.

(4) Fees. All Special Event vendors shall pay an inspection fee the City of Lake Elmo as determined by the City Council. Exception to the fee following shall be exempt from the City Fee:

(a) All public charities as defined by IRS Code 501C(3)

(b) Any governmental institution

(5) Umbrella Fee. Any special event conducted by a public charity as defined by IRS Code 501C(3) is subject to one (1) special event vendor fee for all vendors conducting business at the special event.

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. 08-034 was adopted on this 16th day of November 2010, by a vote of ___ Ayes and ___ Nays.

Mayor Dean A. Johnston

ATTEST:

Bruce Messelt
City Administrator

This Ordinance No 08-034 was published on the ____ day of _____, 2010.



SPECIAL EVENT PERMIT APPLICATION - 2010

I. TITLE AND BRIEF DESCRIPTION OF EVENT:

II. APPLICANT INFORMATION:

The Applicant will be responsible for answering all questions, including inquiries from media and citizens.

Applicant: _____ Title: _____

Address: _____

Business/Organization Name: _____

Daytime Phone: _____ Evening Phone: _____ Emergency Phone: _____

III. EVENT TIMETABLE:

A. Requested day and date: _____

B. Requested hours of operation, from _____ a.m./p.m. to _____ a.m./p.m.

C. Set-up beginning day and date _____, time _____ a.m./p.m.

D. Dismantle by day and date _____, time _____ a.m./p.m.

E. Anticipated number of participants: _____ and spectators _____

IV. INSURANCE:

Attach to this application either an insurance policy or a certificate of insurance including the policy number and showing liability amounts. The policy must state that any outside area to be used for an event is covered. The policy must also show evidence that the requested event is not excluded from insurance liability.

V. CHECK ALL ITEMS WHICH APPLY TO YOUR EVENT:

- _____ A. Use of Community Center (check with Steve Roe at 747-2486);
- _____ B. Event participant and/or spectator parking areas (describe) _____;
- _____ C. Entertainment or stage locations (provide to-scale drawing);
- _____ D. Construction/erection of temporary structure(s) (may need permit, check with Community Services);
- _____ E. Trash containers (indicate number/location): _____;
- _____ F. Portable toilet facilities (indicate number/location) _____;
- _____ G. First aid facilities (indicate who is providing): _____;
- _____ H. Parade and/or parade floats (may need permit, check with Fire Department);
- _____ I. Fireworks or pyrotechnics site (may need permit, check with Fire Department);
- _____ J. Cooking facilities, open flame, or vehicle fuels (may need permit, check with Fire Department);
- _____ K. Electricity (The cost of the electrical hook-up is applicants responsibility. Payment must be made to the City of North Saint Paul. Please call Brian Frandle at 747-2472.)
- _____ L. Other. Please describe: _____

VI. FOOD, BEVERAGES AND/OR ENTERTAINMENT:

A. If your event includes music, live entertainment, sound amplification or any other noise impact, please describe, including the intended hours of the music, sound or noise.

B. Will alcoholic beverages be served? _____ Yes _____ No

C. Name of Liquor Establishment: _____

D. For service of alcohol outside a licensed premise, include a diagram showing the defined area of the alcohol concession service and attach a copy of your certificate of liquor liability insurance covering the limits of the alcohol service area.

E. If serving alcohol, describe how you will ensure that alcoholic beverages will be possessed and consumed only by those persons 21 years or older. Describe all security measures in place.

F. Will food and/or non-alcoholic beverages be served? _____ Yes _____ No

G. If yes, describe sanitation measures and food handling procedures:

H. If yes, you will need to have a Temporary Food License from Ramsey County. To obtain such a license, call 773-4466. Attach a copy of your Temporary Food License to this application.

I. If you intend to cook food in the event area, describe your area layout, including fuel or electrical sources to be used.

VII. VENDORS OR CONCESSIONAIRES:

A. List what vendors/concessionaires you will have at your event and include Sales Tax ID Number:

VIII. SECURITY AND SAFETY PROCEDURES:

A. Describe your proposed procedures for security and crowd control:

B. If the event is to occur at night, describe how you are going to light the event area in order to increase the safety of participants and spectators coming to and leaving the event.

IX. CLEAN-UP:

List persons responsible for clean-up duties: _____

X. MITIGATION OF THE IMPACT ON OTHERS:

Describe how you intend to mitigate the impact of the special event on businesses, churches, neighbors, motorists, and others.

NOTE: Any condition which causes adverse impacts may be cause to revoke the Special Event Permit.

Applicant Signature: _____ Date of Application: _____

Planning Commission
Date: 11/8/10
BUSINESS ITEM
Item: 5a

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 tabled tacking action on this application at its last meeting in response to a request from the applicant to spend more time reviewing the proposed terms and conditions of the agreement. Staff has since met with the applicant and revised the draft interim use permit agreement, and at this time, the applicant would like to proceed with the review of the Interim Use Permit as previously submitted.

Should the City Council approve the interim use permit for the property, the applicant has stated his intent to withdraw the Conditional Use Permit application that is still outstanding for this property.

In the interest of facilitating the Planning Commission's review of this item, Staff is including the background information and analysis that was submitted as part of the previous report to the Commission.

BACKGROUND INFORMATION (from previous report):

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 (from previous report):

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.

ADDITIONAL INFORMATION:

The only significant change related to this request since the last Planning Commission meeting has been the further review and refinement of the draft Interim Use Permit Agreement. Several provisions which were deemed problematic by the applicant have been either eliminated from the document or revised, and Staff has recommended additional conditions, or modifications of previous conditions to better clarify the City's expectations regarding the open sales lot/consignment businesses. The draft resolution of approval has also been updated to reflect these changes.

One of the new conditions requires the applicant to designate a specific location on the site plan for the storage of vehicles that would be considered junk under the City's ordinances. This revised site plan has not yet been submitted and should be included as part of the final review package considered by City Council.

Please note that the Planning Commission is not required to take action on the proposed interim use agreement, and that this document is being included as part of the Commission's review materials to provide a better understanding of the terms of conditions that will regulate this use in the future. The Planning Commission is required to conduct a public hearing on the interim use (which was concluded at its last meeting) and make a recommendation to the City Council to either approve or deny the proposed Interim Use Permit with any conditions that are deemed necessary to promote the public health, safety, and general welfare of the community.

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

ATTACHMENTS:

1. Draft Resolution No. 2010-055 (Revised)

2. Draft Interim Use Consent Agreement (Revised)
3. Applicant's Narrative on Business Operation
4. Proposed Site Plan

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

RESOLUTION NO. 2010-055

**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 November 16, 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) Applicant shall not engage in vehicle reduction or store vehicle parts on the exterior portions of the site.
- 6) Applicant shall follow the reasonable direction of the City relating to exterior vehicle storage and placement in order to minimize the visual impact on neighboring properties.
- 7) The applicant shall conduct its business and store vehicles in compliance with applicable local ordinances and state and federal law including regulations governing storage and disposal of hazardous wastes and vehicle fluids.
- 8) Lighting, signage, and general vehicle placement shall be as permitted by the approved site plan and shall comply with all applicable City Ordinances.
- 9) Any severely damaged or burned vehicles, vehicles with junk titles, or vehicles that would otherwise be defined as junk vehicles in accordance with the City Code (with the exception of unlicensed vehicles), shall only be stored or displayed in the area designated on the Site Plan for storage of such vehicles.

This resolution was adopted by the City Council of the City of Lake Elmo on the 16th day of November 2010, by a vote of ____ Ayes and ____ Nays.

Dean A. Johnston, Mayor

ATTEST:

Bruce Messlet, City Administrator

(SEAL)

INTERIM USE PERMIT AGREEMENT – DRAFT (V3)

- 1.0 Parties. This Interim Use Permit Agreement (“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 continued its discussion regarding this application until its November 8, 2010 meeting. The Planning Commission recommended approval of the interim open sales lot use subject to certain conditions.
- G. On the 16th day of November, 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 in the absence 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. Applicant shall not engage in vehicle reduction or store vehicle parts on the exterior portions of the site.
- H. Applicant shall follow the reasonable direction of the City relating to exterior vehicle storage and placement in order to minimize the visual impact on neighboring properties.
- I. The applicant shall conduct its business and store vehicles in compliance with applicable local ordinances and state and federal law including regulations governing storage and disposal of hazardous wastes and vehicle fluids.
- J. Lighting, signage, and general vehicle placement shall be as permitted by the approved site plan and shall comply with all applicable City Ordinances.

- K. Any severely damaged or burned vehicles, vehicles with junk titles, or vehicles that would otherwise be defined as junk vehicles in accordance with the City Code (with the exception of unlicensed vehicles), shall only be stored or displayed in the area designated on the Site Plan for storage of such vehicles.
- L. The Interim Use Permit is valid until any one of the events listed below occurs:
 - 1. For ten (10) years from the date of the approval of the Interim Use Permit (November 16, 2010);
 - 2. Upon the sale of the property or a transfer of ownership (the City will review said Permit with prospective and/or new owner(s) for potential renewal without new application).
 - 3. Until a violation of the conditions of this Consent Agreement;
 - 4. 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. With the exception of (I, 2), a renewal application shall be requested in accordance with Section 154.019 (J) of the City Code.

5.0 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.

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

Date: 11/3/10

CITY OF LAKE ELMO

By: _____
Dean Johnston
Mayor

**Midwest Recreational
Clearinghouse, LLC**

By: _____
Brian Livingston

Its: _____

S:\Land Use\Interim Use\9200 Hudson Blvd N\Cranky Ape IUP Agreement Rev 11-3-10.doc

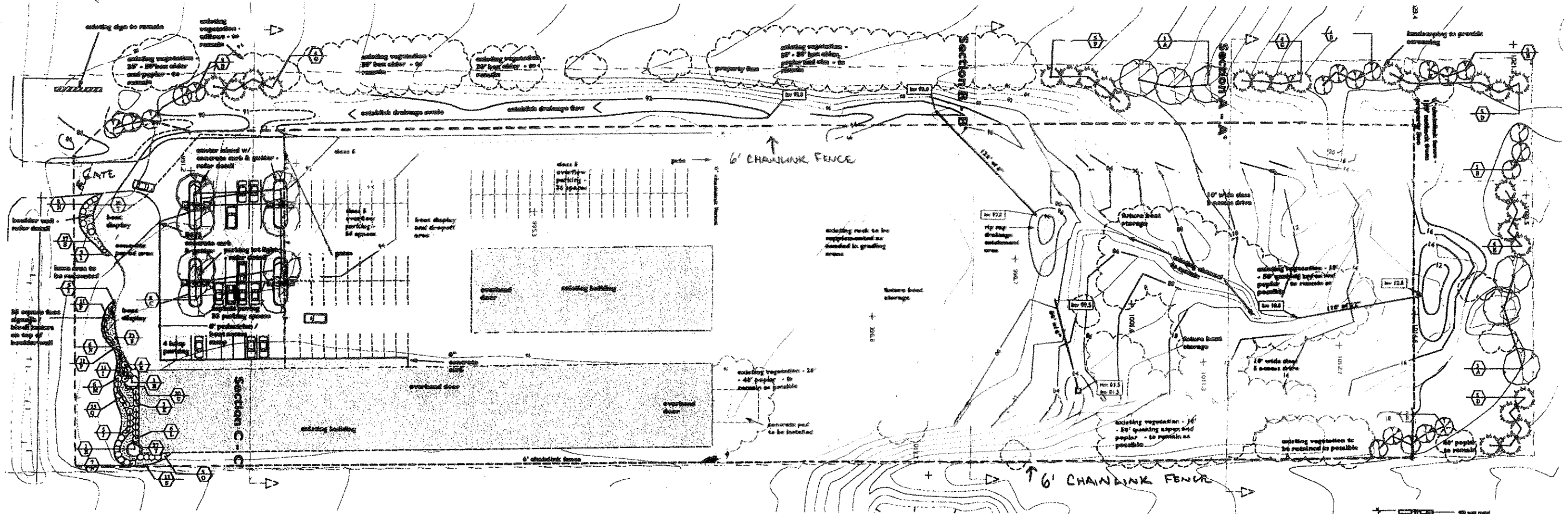
DRAFT

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.



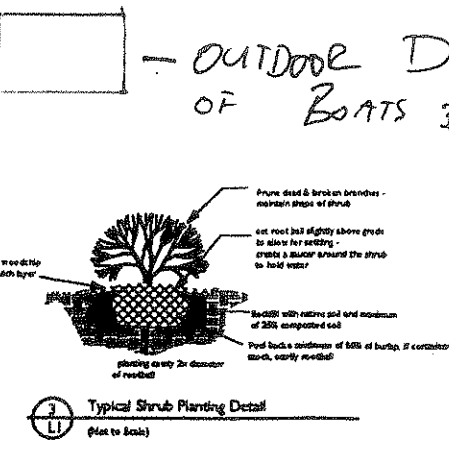
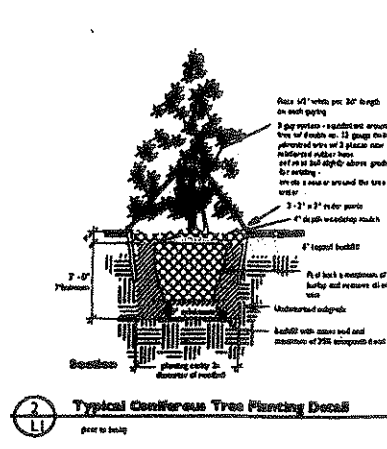
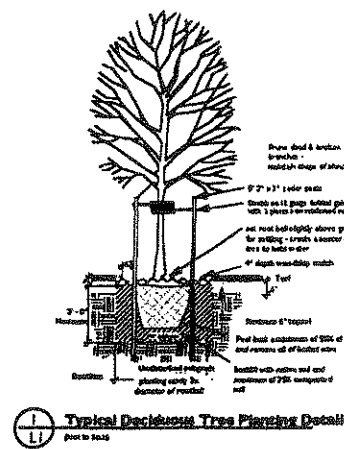
Plant Schedule

Key	Common Name	Latin Name	Size	Spacing	Plant	Qty
A	Red Maple	Acer rubrum	1.5'	varies	S.B.B	6
B	Quaking Aspen	Populus tremuloides	1.5'	varies	S.B.B	20
C	Marshall's Seedling Ac	Fraxinus americana 'Marshall'	2.5'	varies	S.B.B	6
D	Red Pine	Pinus Resinosa	4' - 6'	varies	S.B.B	10
E	White Pine	Pinus strobus	4' - 6'	varies	S.B.B	4
F	Scotch Pine	Pinus Resinosa	4' - 6'	varies	S.B.B	5
G	Black Hills Spruce	Picea glauca densata	4' - 6'	varies	S.B.B	8
H	Pegged Dogwood	Cornus alternifolia	#5	5' o.c.	cont.	2
I	Anthony Waterer Spiraea	Spiraea x bumalda	#2	2' o.c.	cont.	19
J	Dwarf Bush-honey-suckle	Lonicera tatarica	#2	5' o.c.	cont.	5
K	Glossy Blotch Chokeberry	Aronia melanocarpa	#2	5' o.c.	cont.	7
L	Compact American Cranberrybush	Viburnum trilobum 'Baby'	#2	5' o.c.	cont.	6
M	Stardust Juniper	Juniperus sibirica 'Arcadia'	#5	5' o.c.	cont.	6
N	Arcadia Juniper	Juniperus sibirica 'Arcadia'	#5	5' o.c.	cont.	21
O	Santa Juniper	Juniperus sibirica 'Arcadia'	#5	5' o.c.	cont.	5
P	Crawling Emerald Pines	Pinus subulata	4'	1' o.c.	put	11
Q	Black Eyed Susan	Rudbeckia hirta	#1	2' o.c.	cont.	25
R	Lanceolated Coreopsis	Coreopsis lanceolata	#1	1' o.c.	cont.	33
S	Steels De Oro Daylily	Helianthus 'Steels de Oro'	#1	2' o.c.	cont.	28
T	Augustan Joy Stone Crop Sedum	Sedum 'Autumn Joy'	#1	2' o.c.	cont.	43
U	Summer Pastels Yarrow	Achillea 'Summer Pastels'	#1	2' o.c.	cont.	20

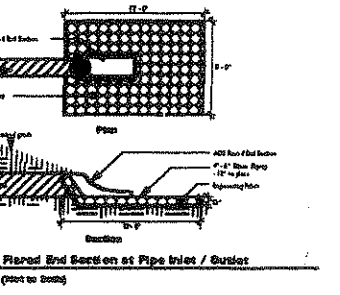
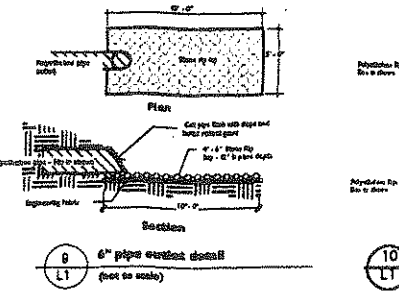
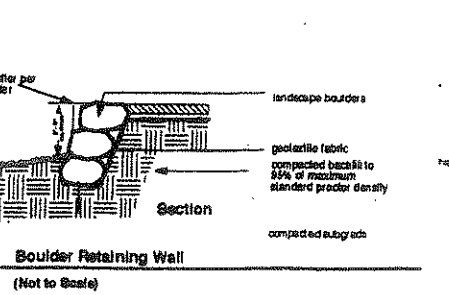
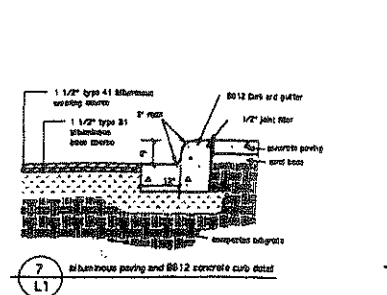
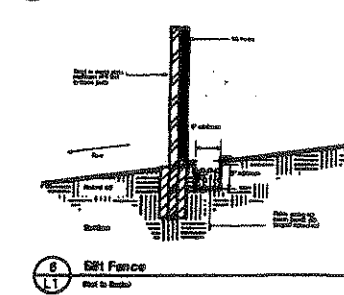
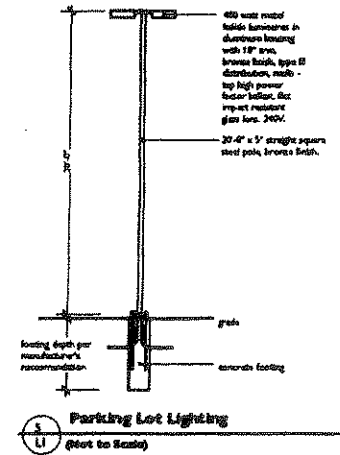
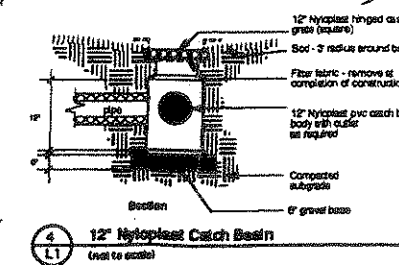
General Notes:

1. This is a preliminary site and landscape plan for review purposes.
2. Erosion control measures will be established prior to construction.
3. 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.
4. 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.
5. The chain link fence and gate materials and installation details shall be established by the owner.
6. All non-paved areas will be seeded with an approved MnDot bluegrass / ryegrass / fescue mix.

NOT FOR CONSTRUCTION



OUTDOOR DISPLAY OF BOATS & RU'S (Some Areas)



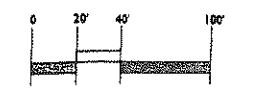
Preliminary Site & Landscape Plan



3476 LAKE ELMO AVENUE NORTH
P.O. BOX 187 LAKE ELMO MN. 55042
Phone 651-777-7054
Fax 651-777-5831
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. 20930



SHEET

LI

Planning Commission
 Date: 11/08/10
 Item: 5c
 Regular

ITEM: Planning Commissioner Terms – Informational Item

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Kyle Klatt, Planning Director
 Sharon Lumby, City Clerk

SUMMARY AND ACTION REQUESTED:

Updated Commissioner Term Chart

The city code states that a Planning Commissioner’s term shall last for three years and a full voting member (FVM) can serve two consecutive terms. All appointments will expire on December 31st of a given year.

Below is a chart identifying the expiration of term for each commissioner and if a commissioner is eligible to reapply for a three year term.

Commissioner	Term Expires	Eligible to reapply for 3 year term
Steve Britz (finish Brenda Anderson’s term)	12/31/2010	Yes (was alternate, could serve two additional three year terms as FVM)
Greg Hall (1 st Term)	12/31/2010	Yes
Laurie McGinnis (1 st Term)	12/31/2010	Yes
Thomas Bidon (finish Todd Ptacek’s term)	12/31/2010	Yes, (was alternate, could serve two additional three year terms as FVM)
Robert Van Zandt (2 nd term)	12/31/2010	No, (could not serve again consecutively as a FVM, unless approved so by Council)
Julie Fliflet (2 nd Term)	12/31/2011	No, (reappointed to 2 nd term in Jan 2009; could not serve again consecutively as FVM, unless approved so by Council)
Mike Pearson (1 st Term)	12/31/2011	Yes, (was alternate, became FVM in Jan 2009)
Saleh Van Erem (1 st Term)	12/31/2011	Yes
Joan Ziertman (1 st Term)	12/31/2012	Yes
Todd Williams (1 st Alt.)		
Jennifer Pelletier (2 nd Alt.)		

Commissioners Britz, Hall, McGinnis, Bidon, and Van Zandt have terms expiring at the end of this year. All but Chairman Van Zandt are eligible to be reappointed as a full voting member by the City Council, should they choose to reapply.

Commissioners Bidon and Britz were finishing the term of a previous commissioner and are therefore eligible to be full voting members for an additional two full terms should they wish to do so.

An additional vacancy will be created on January 1st when Commission Pearson will take his position as a City Council member.

The City currently has two applications from interested residents on file; one of which was submitted a number of years ago. Staff will contact the resident to verify if he is still interested in applying for the open position on the Planning Commission.

Those commissioners interested in reapplying to be full voting members should contact the City Clerk for an application form by December 17th and for any procedural questions. The City Council will consider appointments to the commission at the first Council meeting in January.

No action is required at this time.