



## City of Lake Elmo

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

### NOTICE OF MEETING

The City of Lake Elmo  
Planning Commission will conduct a meeting on  
**Monday, December 13, 2010, at 7:00 p.m.**

#### AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
  - a. November 8, 2010
4. Public Hearings
  - a. D&T TRUCKING INTERIM USE PERMIT RENEWAL: Review of a request to renew an Interim Use Permit for a Bus/Trucking Terminal facility at 11530 Hudson Boulevard South.
5. Business Items
  - a. COMPREHENSIVE PLAN UPDATE: Discussion of potential review committees and update process.
  - b. ZONING DISTRICT UPDATE: Discussion of deficiencies with the existing Zoning Ordinance and consideration of a revised use classification system.
6. Updates (Verbal)
  - a. City Council
    - i. December 7<sup>th</sup> – Response to Detachment Petition; Special Event Permit Ordinance, 5-year Capital Improvement Program
  - b. Staff Updates
  - c. Commission Concerns
7. Adjourn

**City of Lake Elmo  
Planning Commission Meeting  
Minutes of November 8, 2010**

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

**Agenda**

**Minutes – September 13, 2010**

M/S/P, Pearson/Bidon, move to approve as presented. Vote: 7:0. Williams abstained.

*September 27, 2010*

Commissioner Williams said “now” should be changed to “not” on page three, “commend” should be “comment” on page five, and the lines should be removed from the bottom of page four.

M/S/P, Williams/Ziertman, move to approve as amended. Vote: 6:0. Britz and McGinnis abstained.

**Public Hearing – *OP Buffer Setback for Meyers Pineridge Development***

Planning Director Klatt summarized the proposed revisions to the buffer setbacks for the Meyers Pineridge development.

Commissioner Williams identified that a 100 foot buffer setback from the North side would not impact existing structures.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 8:09 P.M.

No one spoke.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 8:10 P.M.

M/S/P, Bidon/Pearson, move to recommend approval of the buffer setbacks suggested by staff.

Commissioner Williams suggested leaving the setback at 100 feet from the North.

Vote: 7:1. Commissioner Williams voted against.

**Public Hearing – *Zoning Text Amendment: Addition of Rear Yard Setback and Reference to Buffer Setback for OP Developments***

Planning Director Klatt identified this as a follow up to previous work the commission has accomplished and direction given to staff. Staff is suggesting the addition of a 15-foot rear yard setback as all other zoning districts have a rear yard setback identified. He

said staff is also suggesting the addition of a reference to the buffer setbacks within the chart for clarification and ease of use.

Commissioner Williams asked for the rear yard setback in other residential zoning districts.

Planning Director Klatt said the R-1 district's rear yard setback was 40 feet and the RR district was 40 feet, but they are typically larger lots. He said those are setbacks for the primary structure, but the rear yard setbacks for accessory buildings are 10 feet.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:21 P.M.

No one spoke.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:21 P.M.

Commissioner Williams stated he believed 15 feet was too small as the R-1 zoning district has lot sizes relatively close to that of Open Space Preservation developments and has a 40 foot rear yard setback.

M/S/P, Williams/Hall, move to recommend approval of the suggested changes, but with a 20 foot rear yard setback.

Commission Britz suggested changing the text to "See city staff or website for individual development requirements."

Commissioners Williams and Hall approved the suggested change.

Vote: 8:0.

**Public Hearing** – *Special Event Permit Ordinance*

Planning Director Klatt noted that the commission discussed this item roughly a year prior, but changes have been made to the draft since then. Mr. Klatt asked the commission to review and consider a special event permit ordinance which regulates temporary, outdoor privately-sponsored events open to the general public where such event would not otherwise be permitted under the City's zoning regulations. He said this ordinance has been revised to allow a temporary agricultural sales business in certain circumstances.

Commissioner Britz said the proposed text requires an application not less than 30 days before the event, but asked if a case for an appeal occurs, would the 30 days be long enough.

Planning Director Klatt said the 30 days is a minimum, but if there was some question that an application may be denied, the applicant should be in talking to staff early.

Commissioner Bidon asked if there should be a minimum attendance threshold for a required permit.

Planning Director Klatt said he thinks there is room for staff discretion to determine if a permit is not needed. He said a private event may have a known number of people expected to attend whereas a public event may be more difficult to judge.

Commissioner Williams identified that on page three, a Council waiver could be requested. He asked what would happen if an event spilled outside due to the number of people who attended.

Planning Director Klatt said that there is no way to regulate everything and there will always be some grey areas, even with this ordinance and permit in place. He said other regulations such as noise and odor can still be enforced, even in cases where a Special Event Permit would not be required.

Commissioner Ziertman asked about the agricultural sales component of the Special Event Permit. She said she thought the intent was to supplement a failed crop and was therefore wondering why the proposed fee is higher than the regular Special Event Permit when the review should be less intensive of staff's time. She also asked why there are additional requirements proposed for the agricultural sales Special Event Permit that are not imposed upon the initial farm.

Planning Director Klatt said the Council has the ability to waive requirements. He said staff can review the fee schedule again.

Commissioner Williams identified that the city had previously discussed administrative fees, but on page four it references a misdemeanor under enforcement and penalties. He asked how the administrative fees would relate to the enforcement of this ordinance.

Planning Director Klatt said he would add reference language to the appropriate section.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:59 P.M.

*Neil Krueger, 4452 Lake Elmo Avenue*

Mr. Krueger asked how the interim use permit was related to the Special Event Permit. He asked what were the steps to sell Christmas trees at Krueger's Christmas Tree Farm. He said he has not been informed about the rules as they are being made and thinks it may harm farmers' businesses.

Planning Director Klatt said that selling materials grown on site does not require a permit from the city, bringing in materials from off-site requires an Interim Use Permit, and a Special Event Permit is a secondary tier to do interim sales for up to three months. Planning Director Klatt said it is his understanding that the Krueger Christmas Tree Farm sells what is grown on site, so Mr. Krueger would not need any permits from the city.

Mr. Krueger asked if he would need a Special Event Permit to sell wreaths and Christmas tree stands.

Planning Director Klatt said he believes there are provisions in code that allow them to sell those items and the Special Event Permit relates to agricultural products brought in from off-site.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 8:08 P.M.

Commission Williams suggested adding language to 2F1B “and playback devices.”

M/S/P, Van Zandt/Williams, move to table the ordinance to incorporate the many changes suggested by the commission. Vote: 8:0.

**Business Item – Interim Use Permit for Open Sales Lot at 9200 Hudson Boulevard**  
Planning Director Klatt informed the commission that this application was in front of them at the last meeting and was tabled due to some issues the applicants wanted to review with staff. He said staff has since met with the applicants, the attorney has reviewed the terms and conditions of the Interim Use Permit, and it is believed there is an agreement both sides can agree to. He summarized the application and recommended approval of the Interim Use Permit with a few additional conditions.

Chairman Van Zandt said he visited their site, but found even vehicles that were deemed totaled were still of nice quality and were not an eyesore.

Commissioner Pearson asked if the Interim Use Permit (IUP) would be void if the property was sold.

Planning Director Klatt said it is possible the applicants could transfer ownership of the business just by informing the Council at that time and would not be required to apply for a new IUP. He said typically an IUP could be worded to end when a transfer of ownership occurs. He said it would be likely the IUP would be revised to reflect the new ownership.

Commissioner Britz said there may be a discrepancy in the length as in the permit agreement it states 10 years, but the other references state 5 years.

Planning Director Klatt said it should be 10 years.

Commissioner Britz asked what was the estimated timeline for sewer being extended to this property.

Planning Director Klatt said the Comprehensive Plan says 2015 – 2020, but it is a guess at this time.

M/S/P, Williams/Pearson, move to recommend approval of Interim Use Permit for an Open Sales Lot at 9200 Hudson Boulevard. Vote: 8:0.

**Business Item – Election Results**

Planning Director Klatt congratulated Commissioner Pearson on his election to the City Council, which will become effective January 1<sup>st</sup>. He said Councilmember Park was reelected and Councilmember DeLapp was not. He said Mayor Johnston was not elected to the County Commissioner position and will finish his term as Mayor.

**Business Item – Commissioner Terms**

Planning Director Klatt identified five commissioner terms that are expiring at the end of 2010 with one commissioner unable to reapply for a full voting member position. He asked the commissioners to let staff know if they were interested in reapplying.

**City Council Updates**

Planning Director Klatt said the Interim Use Permit and Holding District ordinances were approved by the City Council.

**Staff Updates**

Planning Director Klatt asked the commission if they would like to cancel or reschedule their December 27<sup>th</sup> meeting.

Chairman Van Zandt asked for a straw vote to cancel the second meeting of December. There was unanimous support.

**Commission Concerns**

None.

**Adjournment:**

The meeting was adjourned at 8:31 p.m.

Respectfully submitted,

Kelli Matzek  
Planner

Planning Commission  
Date: 12/13/10  
**Comprehensive Plan Discussion**  
Business Item  
Item: 5a

ITEM: Discussion concerning Comprehensive Plan Update committees and process

SUBMITTED BY: Kyle Klatt, Planning Director

REVIEWED BY: Kelli Matzek, City Planner

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**SUMMARY AND ACTION REQUESTED:**

The Planning Commission is asked to spend a brief amount of time at its next meeting discussing future planning efforts related to the Village Area and other potential Comprehensive Planning issues. As a follow-up to the Commission's discussion from its last meeting, Staff is suggesting that the Planning Commission consider the creation of two separate work groups that will be responsible for future planning efforts concerning the Village Area and I-94 Corridor. Staff is also recommending that the City begin preparing for a public open house sometime early next year to provide an update to the community on the Village and I-94 area planning process.

**WORK GROUP DISCUSSION:**

In general, the Planning Commission has been very supportive of creating separate work groups to help move planning efforts forward both in the Village Area and along the I-94 Corridor. There have been some questions raised, however, concerning the goals for each group in addition to the specific functions that they would be asked to accomplish. This is especially critical given the amount of planning work that has been accomplished to date in the Village Area compared to the I-94 Corridor. It is anticipated that the Village group will be heavily involved with developing implementation strategies while the I-94 group will be asked to create an overall vision and plan for the corridor that is generally consistent with the City's Future Land Use Map.

With these differences in mind, Staff is working on some suggested goals and tasks for each group, and offers the following as a very general beginning for documenting these goals and tasks:

**Village Area Group:**

GOAL: Implementation of the Village Master Plan and Comprehensive Plan for the Village.

TASKS: Development of design standards  
Adoption of revised zoning map  
Consideration of plans for streets, parks, and public lands  
Identification of primary and secondary park areas  
Review of trail and pedestrian connections  
Creation of road and sidewalk standards  
Tracking of the AUAR mitigation plan  
Review of development phasing

- Research of alternative zoning approaches (i.e. form-based zoning)
- Integration of airport zoning into City codes
- Recommendation of green belt preservation strategies
- Review of applicable past planning documents
- Discussion of impacts to existing Village residents

### **I-94 Group**

**GOAL:** Development of a revised land use map for the I-94/10<sup>th</sup> Street Corridor.

**TASKS:**

- Review of existing future land use map
- Development of amendments to the Comprehensive Plan
- Research of current and future market trends
- Analysis of areas most suited for housing
- Analysis of areas most suited for commercial activity
- Investigation of high employment commercial uses
- Review of proposed road network
- Consideration of mitigation strategies for existing development
- Determination of appropriate role for existing commercial land uses
- Review of development phasing timelines
- Review of potential public improvements
- Consideration of transit opportunities
- Development of design and development standards

Staff is presenting the above list for discussion purposes only, but will use any feedback from the Commission to refine this draft list and to prepare a document that can be adopted prior to the creation of each planning group.

### **PUBLIC OPEN HOUSE DISCUSSION:**

Staff is recommending the Planning Commission consider promoting an open house early next year to provide a forum for dialogue with residents of Lake Elmo concerning the current status of the Village and I-94 Corridor planning efforts. There has not been a public open house specific to these planning areas since the review of Village AUAR development scenarios that was conducted in 2008, and Staff believes that the timing is appropriate for additional public discussions in advance of any formal public hearings. An open house would give Staff an opportunity to discuss the City's ongoing planning efforts with any interested parties (and specifically the land use plan updates that the Planning Commission will be developing in 2011) in a more informal setting.

Staff would like to plan for a late January or early February open house, and could bring the Commission more information concerning the topics to be covered at its first meeting in January. This timing will also correspond well with the development of the Commission's work plan for 2011, which will also be brought forward in January.



**RECOMMENDATION:**

This is an informational item and no action is necessary from the Planning Commission.

**ATTACHMENTS: (None)**

**ORDER OF BUSINESS:**

- Introduction and Presentation by Staff.....Kyle Klatt, Planning Director
- Questions from the Commission.....Chair & Commission Members
- Planning Commission Discussion.....Chair Facilitates

Planning Commission  
Date: 12/13/10  
**Public Hearing**  
Items: 4a

ITEM: Hold a public hearing to consider the renewal of an Interim Use Permit for a truck terminal within a HD-A-BP zone at 11530 Hudson Boulevard.

REQUESTED BY: Terry Emerson, E&E Properties, LLC, Applicant

SUBMITTED BY: Kyle Klatt, Director of Planning 

REVIEWED BY: Kelli Matzek, City Planner

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#### **SUMMARY AND ACTION REQUESTED:**

The Planning Commission is being asked to consider a request by Terry Emerson of EN Properties to renew an Interim Use Permit for a Bus/Trucking Terminal Interim Use Permit at 11530 Hudson Boulevard North that was originally approved by the Council on December 9<sup>th</sup> of 2009. At the time this permit was approved by the City, the City Code specified that an Interim Use could not exceed two years in duration; furthermore, this provision was incorporated into the Interim Use Agreement for the applicant's Interim Use Permit. Staff has conducted an on-site review of the site with the applicant, and is recommending that the City grant a two-year renewal to allow the trucking terminal to continue operating on this location.

#### **BACKGROUND:**

Because the Interim Use Permit is not operating under circumstances that are different than originally described in the initial permit request, Staff will not be providing the Planning Commission and City Council with a new Staff report. Instead, the original report filed with the Council in December of 2008 is reprinted for review. Please note that although the City's regulations pertaining to Interim Uses has been updated since the applicant's permit was granted, the general findings and conclusions from the original report are still valid.

The trucking terminal currently operating from 11530 Hudson Boulevard is allowed as an Interim Use subject to the standards for a non-agricultural low impact use. The trucking company has been in operation since early 2009. As part of its initial approval of the Interim Use Permit, the City Council specified that the permit be reviewed after a one-year interval of time. A review was completed by the Council in February of 2010 and no issues were identified that impacted the applicant's ability to continue operating on the site.

The City's Interim Use Ordinance includes special requirements for the review of a renewal request that requires notification of the renewal be sent to surrounding property owners. If there are no objections to the interim use permit renewal expressed within 10 days of this notice, the City Council can approve the request by resolution. Should any objections be filed with the City, the permit must be reviewed as a new application. The 10 day comment period will end on December 13, 2010, which is the date scheduled for the public hearing. Staff has not received any comments to date, and will be preparing a resolution of approval for consideration by the City Council at its December 14, 2010 meeting.

#### **STAFF REPORT:**

Staff recently toured the site, reviewed the City's ordinances regarding interim uses and non-agricultural low impact uses, and examined the conditions included as part of the resolution

approving the bus/trucking terminal operation. Based on this review, it appears that the use is in conformance with all applicable requirements. Staff would like to specifically note the following:

- **Traffic:** The non-agricultural low impact use standards specify that the daily vehicle trips from the site cannot exceed 6 trips per acre of agricultural land. Because the agricultural area owned by the applicant is 70 acres in size, the total number of vehicle trips cannot exceed 420 per day. The applicant has estimated that there are no more than 120 trips in and out of the site every day by trucks and employee vehicles. Staff's own observations during visits to the site since it began operations, in addition to daily trips along Manning Avenue, have supported this estimate. For example, during a visit to the site that lasted one-half of an hour on December 9<sup>th</sup> (mid-morning), Staff observed only three trucks entering and none leaving the site.
- **Site Operation.** The daily use of the site has not changed substantially from the way it was originally run as a bus garage. Although the semi-trailers being parked on the site are generally larger than the school buses that previously were stored and serviced here, the number of daily trips is substantially lower now than in the recent past. The overall site activities, including exterior storage, light maintenance/servicing of vehicles, and refueling are very similar to past activities, but with fewer vehicles and trips into and outside of the property.
- **Landscaping.** One of the conditions of approval stated "that additional screening be provided in all locations recommended by the City Forester in order to replace vegetation that has either died or been removed". The applicant did plant some additional trees on the site in early 2009, and replaced more trees in the fall of this year along the northern and eastern site boundaries. Given the replanting that has occurred since the Interim Use Permit was issued, the applicant has been demonstrating a clear intent to comply with the original landscape plan since the issuance of the Interim Use Permit

There is a gap in the landscaping screen immediately north of the office/maintenance building on the property, but the Council has thus far allowed this gap to exist because it is in a potential expansion area for the facility. Since the condition of the trees and other landscaping on the site will vary over time, Staff is recommending that a landscaping maintenance clause continue to be included as a condition of the Interim Use Permit renewal and further evaluated as part of any future reviews or renewals.

- **Interim Use Permit/Consent Agreement.** The Interim Use provisions in the Zoning Ordinance (and the resolution of approval) require that an applicant for an interim use permit enter into a consent agreement with the City that clarifies the terms and requirements under which the interim use can operate. The City Attorney drafted an agreement for consideration by the Council last year, which was executed in early 2010. With the request for renewal, the City will need to consider and approve a revised consent agreement, which at a minimum, should reference the new termination date for the interim use.

Please note that in accordance with the Planning Department's work plan for coming year, the City Council will be reviewing the future land use plan along the I-94 corridor. This land use review will give the Council an additional opportunity to consider the interim use activity within the context of the larger I-94 corridor plans before any further renewals are needed. The applicant's site is also one of the properties that could be impacted by the trunk sewer project, which would make sanitary sewer service available to this site earlier than would otherwise have been possible. In the short term, the potential sewer project should not have any immediate impacts on the operation of the interim use.

The findings described in the 2008 Staff report are all still relevant and applicable to the current request; and therefore, these general findings will be referenced in the draft resolution of approval for the Interim Use Permit renewal.

**ADDITIONAL INFORMATION:**

A revised consent agreement noting the renewal request and revised termination date has been drafted for consideration by the City Council.

**RECOMMENDATION:**

Staff recommends approval of the Interim Use Permit renewal request to allow the applicant to continue operating a truck terminal at 11530 Hudson Boulevard South based on the following:

- 1) That the applicant has demonstrated compliance with all of the standards for a non-agricultural low impact use; and
- 2) That the applicant has demonstrated compliance with all applicable City Code standards for the issuance of an Interim Use.

Staff is further recommending that all previous conditions of approval as referenced in the approved Interim Use Permit Agreement be included with this recommendation:

**ORDER OF BUSINESS:**

- Introduction..... Kyle Klatt, Planning Director
- Report by staff..... Kyle Klatt, Planning Director
- 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

**ATTACHMENTS:**

1. Application Form (renewal)
2. Legal Description
3. Application Update
4. Draft Resolution No. 2010-074
5. Draft Consent Agreement (revised)
6. Location Map
7. Staff Report – From 2008
8. Site Plan (submitted in 2008)

RECEIVED

DEC -2 2010 Fee \$ 300.00

City of Lake Elmo  
DEVELOPMENT APPLICATION FORM

- Comprehensive Plan Amendment
- Zoning District Amendment
- Text Amendment
- Flood Plain C.U.P. Conditional Use Permit
- Conditional Use Permit (C.U.P.)
- Variance \* (See below)
- Minor Subdivision
- Lot Line Adjustment
- Residential Subdivision Sketch/Concept Plan
- Site & Building Plan Review

- CITY OF LAKE ELMO
- Residential Subdivision Preliminary/Final Plat
    - 01 - 10 Lots
    - 11 - 20 Lots
    - 21 Lots or More
  - Excavating & Grading Permit
  - Appeal
  - PUD
  - Interim Use Permit

APPLICANT: Terry Emerson 2204 Legion Ln. Cir N. Lake Elmo 55042  
 (Name) (Mailing Address) (Zip)

TELEPHONES: 777-9072 436-6055 612-845-3373 436-6055  
 (Home) (Work) (Mobile) (Fax)

FEE OWNER: EN Properties 11530 Hudson Blvd. N. Lake Elmo 55042  
 (Name) (Mailing Address) (Zip)

TELEPHONES: \_\_\_\_\_ Some \_\_\_\_\_  
 (Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

DETAILED REASON FOR REQUEST: Renewing existing T.U.P.  
 \_\_\_\_\_  
 \_\_\_\_\_

\*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Terry Emerson 12-1-10  
 Signature of Applicant Date

\_\_\_\_\_  
 Signature of Applicant Date

That part of the South Half of the Southeast Quarter of Section 36, Township 29 North, Range 21 West, Washington County, Minnesota lying easterly of the West 33.00 feet (2 rods) thereof, EXCEPT that part designated as Parcel 44 on Minnesota Department of Transportation Right of Way Plat No. 82-35, State Project No. 8292 (94-392)9C4, recorded as Document No. 424557 in the office of the County Recorder, Washington County, Minnesota.

Subject to highway easements in favor of Washington County as described in Book 258 of Deeds, page 91, and Book 309 of Deeds, page 831, of record, and on file in said office of the County Recorder.

Also, subject to highway easements in favor of the State of Minnesota as described in Book 109 of Deeds, page 622, Book 109 of Deeds, page 638, and Book 220 of Deeds, page 11, of record and on file in said office of the County Recorder.

December 2, 2010

City of Lake Elmo,

For the past two years E&E Properties has leased its' building/yard to D&T Trucking. They have been excellent tenants. I have not received one complaint in regards to their operation from the surrounding land owners or the City of Lake Elmo.

D&T currently is operating at less than previously submitted trip calculations. They are hopeful and project business to pick up. They do not anticipate surpassing the estimated totals submitted originally.

Heins Nursery has replaced 3 trees that had died this year. I believe that I have met all requirements the City had asked of me.

Respectfully,

A handwritten signature in black ink, appearing to read "Terry Emerson". The signature is written in a cursive style with a large, sweeping initial "T".

Terry Emerson

**DRAFT**

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

**RESOLUTION NO. 2010-74**

**A RESOLUTION GRANTING A RENEWAL FOR AN INTERIM USE PERMIT TO  
ALLOW A BUS/TRUCK TERMINAL AT 11530 HUDSON BOULEVARD SOUTH AND  
APPROVING A REVISED CONSENT AGREEMENT FOR THE INTERIM USE  
RENEWAL TIME PERIOD**

**WHEREAS**, Terry Emerson, E & E Properties, 11530 Hudson Boulevard South, has submitted a request to renew an Interim Use Permit related to a non-agricultural low impact use at 11530 Hudson Boulevard South establishing a bus/truck terminal in a HD-A-BP zoning district.

**WHEREAS**, the Lake Elmo Planning Commission held a Public Hearing on November 10, 2008, and reviewed and recommended approval of the Interim Use Permit for a bus/truck terminal on the site based on the following findings:

- 1) That the applicant has demonstrated compliance with all of the standards for a non-agricultural low impact use; and
- 2) That the applicant has demonstrated compliance with all applicable City Code standards for the issuance of an interim use.

**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 December 1 and December 9, 2008 meetings and approved the Interim Use Permit and consent agreement at its December 9, 2008 meeting;

**WHEREAS**, the Planning Commission held a Public Hearing on December 13, 2010, and reviewed and recommended approval of the renewal request concerning the Interim Use Permit for a bus/truck terminal on the site based on the findings that were included in the City original approval; and

**WHEREAS**, the Lake Elmo City Council reviewed the renewal request concerning the Interim Use Permit request and revised consent agreement at its December 14, 2010 meeting;

**NOW, THEREFORE, BE IT RESOLVED** that the Lake Elmo City Council hereby approves the renewal of the Interim Use Permit at 11530 Hudson Boulevard South to establish a bus/truck terminal as a non-agricultural low impact use and authorizes the execution of the revised 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) That additional screening be provided in all locations recommended by the City Forester in order to replace vegetation that has either died or been removed. The intent of this condition is to provide for full screening of the interim use.
- 3) That the interim use will be valid for a period of 2 years from the date of the renewal of the Interim Use Permit (December 14, 2012).
- 4) That the interim use will terminate when any portion of the property is rezoned or when public sanitary sewer is provided to the site.

This resolution was adopted by the City Council of the City of Lake Elmo on the 14<sup>th</sup> day of December 2010, by a vote of \_\_\_ Ayes and \_\_\_ Nays.

\_\_\_\_\_  
Dean A. Johnston, Mayor

ATTEST:

\_\_\_\_\_  
Bruce Messelt, City Administrator

(SEAL)

**DRAFT**

**CONSENT AGREEMENT  
INTERIM USE PERMIT**

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 E & E Properties, 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"):

That part of the South Half of the Southeast Quarter of Section 36, Township 29 North, Range 21 West, Washington County, Minnesota lying easterly of the West 33.00 feet (2 rods) thereof, EXCEPT that part designated as Parcel 44 on Minnesota Department of Transportation Right of Way Plat No. 82-35, State Project No. 8292 (94-392) 904, recorded as Document No. 424557 in the office of the County recorder, Washington County, Minnesota.

Subject to highway easements in favor of Washington County described in Book 258 of Deeds, page 91 and Book 309 of Deeds, page 831, of record, and on file in said office of the County Recorder.

Also, subject to highway easements in favor of the State of Minnesota as described in Book 109 of Deeds, page 622, Book 109 of Deeds, page 638, and Book 220 of Deeds, page 11, of record and on file in said office of the County Recorder.

B. The Property is zoned HD-A-BP.

C. Interim uses are allowed in the HD-A-BP zoning district subject to the regulations contained in Lake Elmo City Code Section 154.019.

D. Applicant has requested that the City allow a portion of the Property to be used as a bus/truck terminal as illustrated on the Site Plan attached as Exhibit A (Site Plan):

E. On the 30<sup>th</sup> day of October 2008, Applicant submitted a completed application for an Interim Use Permit.

F. On the 10<sup>th</sup> day of November, 2008, 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 bus/truck terminal use subject to certain conditions.

- G. On the 1st day of December, 2008, and on the 9<sup>th</sup> day of December, 2008, 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 2008-056 approving the interim use permit.
- H. On the 2<sup>nd</sup> day of February, 2010, the Lake Elmo City Council completed a one-year review of the interim use permit and authorized the Mayor to execute a consent agreement with the Applicant.
- I. On December 14, 2010 the Lake Elmo City Council approved a request to renew the Interim Use Permit for an additional two years, and authorized the Mayor to execute a consent agreement with the Applicant that includes the new termination date.

3.0 Terms and Conditions. The Lake Elmo City Council hereby authorizes and Applicant, for itself, and its successors and assigns, agree that the interim bus/truck terminal 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 be located on that portion of the Applicant's Property illustrated on the Site Plan. The remainder of Applicant's Property shall continue to be used for agricultural purposes.
- D. Applicant shall replace any trees that have died or been removed from the site in order to maintain the site landscaping as depicted on the original Site Plan for the property.
- E. The Interim Use Permit is valid until the first occurring following event:
  - 1. For two (2) years from the date of the renewal of the Interim Use Permit (December 14, 2012);
  - 2. Until a violation of the conditions of this Consent Agreement;

3. Until a change in the City's zoning regulations, which renders the interim use non-conforming; or
4. Until the redevelopment of the Property for a permitted or conditional use as allowed by the City's zoning regulations.

4.0 Rescission of the Conditional Use. The Conditional Use Permit, which was previously issued for the Property has been rescinded and replaced by this Consent Agreement/Interim Use Permit.

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: 12/9/10

**CITY OF LAKE ELMO**

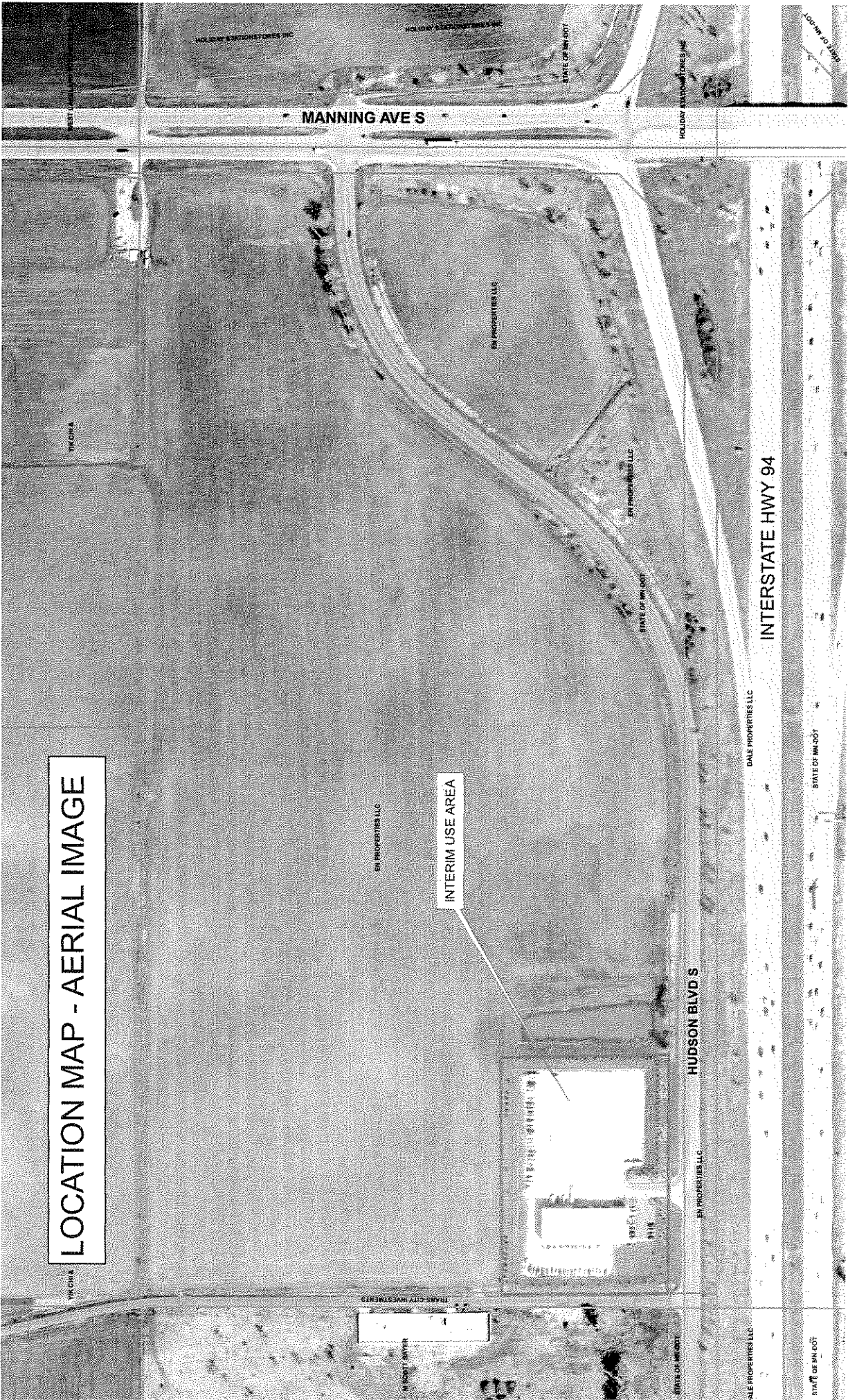
By: \_\_\_\_\_  
Dean Johnston  
Mayor

**E and E Properties, LLC**

By: \_\_\_\_\_  
Terry Emerson

Its: \_\_\_\_\_

LOCATION MAP - AERIAL IMAGE



INTERIM USE AREA

MANNING AVE S

INTERSTATE HWY 94

HUDSON BLVD S

TRANS CITY INVESTERS

DALE PROPERTIES LLC

STATE OF MD DOT

DALE PROPERTIES LLC

STATE OF MD DOT

EN PROPERTIES LLC

EN PROPERTIES LLC

STATE OF MD DOT

EN PROPERTIES LLC

EN PROPERTIES LLC

HOLIDAY & EAST PROPERTIES LLC

HOLIDAY & EAST PROPERTIES LLC

STATE OF MD DOT

HOLIDAY ESTIMATORS INC

LOGAN JOYNER

TRUCKS

TRUCKS

From Dec. 2008

City of Lake Elmo Planning Department  
**Interim Use Permit Request: Non-Agricultural Low Impact Use**

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*To:* City Council

*From:* Kyle Klatt, Planning Director

*Meeting Date:* 12/1/08

*Applicant:* Terry Emerson, E & E Properties, LLC

*Owner:* E & E Properties, LLC

*Location:* 11530 Hudson Boulevard South

*Zoning:* HD-A-BP (Agricultural District Holding Zone)

***Introductory Information***

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***Requested Permit:*** The applicant has submitted request for an Interim Use Permit to establish a Bus/Truck Terminal facility as a non-agricultural low impact use at 11530 Hudson Blvd. S. in Lake Elmo. This application was submitted concurrently with a request to amend the Zoning Ordinance to specifically allow the proposed interim use. For the purpose of this review, it is assumed that the amendment will be approved by the City Council. If it is not, the application for an interim use will be invalid.

***Application Summary:*** The requested interim use would allow a bus/truck terminal to be established on this property as a non-agricultural low impact use. The site has previously been used as a school bus garage and office; however, the bus company did not renew it lease with the property owner for this past year and the previously approved Conditional Use Permit for this particular activity is no longer valid. In the interests of finding a suitable use for the old garage building and parking area, the applicant is proposing bring a truck terminal and storage operation on to this site.

The attached application proposal, with the October 30, 2008 update, provides information about the trucking operation that is proposed fort his site. Details include the following:

**Name of company:** D & T Trucking

**Type of business:** Regional and long haul trucking

**On-Site Activity:** Trailer storage, dispatching, minor repair and maintenance, fueling station

**Materials transported:** Light refrigerated and dry goods

**Daily Trips:** 120 trips per day

**Truck traffic:** 20-25 per day/40 per day peak

**Truck Traffic Origin:** Primarily outstate, all traffic coming to the site will originate from the interstate highway

**Employees:** 17 office, 3 mechanics

**Hours of operation:** 6:00 am to 6:00 pm, limited truck access after 6:00 pm

**Zoning Classification:** Bus/Truck Terminal under the Non-agricultural low impact use standards

The applicant has not proposed any changes to the site plan that has previously been approved by the City for the bus garage, and will make use of the existing building, driveway, and parking areas that were used formerly by the bus company. A fueling station will be included as part of the site plan in the same location as a similar facility that served the bus garage.

**Applicable Codes:**

**Section 154.033, Subd. (F) Non-agricultural low impact use standards**

This section is referenced in the HD-A-BP zoning district to determine the standards for non-agricultural low impact uses within the holding zone.

**Section 154.034 HD-A-BP - AGRICULTURAL BUSINESS PARK HOLDING DISTRICT (as amended)**

Specifies that a bus/truck terminal is allowed as an interim use under the requirements for a non-agricultural low impact use.

**Section 11.02 Definitions (as amended)**

**NON-AGRICULTURAL LOW IMPACT.** The outdoor storage of off-road mobile construction equipment of any weight; the indoor storage of the aforementioned items and other goods and materials which, in the determination of the City Council, do not jeopardize the health, safety, or welfare of the city; nature farms; agricultural museums; farmer's markets; small engine repair shops; contractor maintenance shops; or office space as an accessory use to the aforementioned uses.

**TERMINAL, BUS/TRUCK.** An area and building where buses, trucks, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed.

**Findings & General Site Overview**

<b>Site Data:</b>	<i>Lot Size:</i> 70 acres (excludes road right-of-way)
	<i>Existing Use:</i> Agriculture/Vacant school bus garage
	<i>Existing Zoning:</i> HD-A-BP: Agriculture District Holding Zone
	<i>Property Identification Number (PID):</i> 36-029-21-43-0001

Although this site is less than 70 acres once road right-of-way and road easements are deducted from the total land, all previous reviews for non-agricultural low impact uses on the site have used the net total of 70 acres for purposes of determining compliance with the standards. This is the amount used in the current review to maintain consistency with past decisions on the property.

### Application Review:

**Permit Review:**

Under the present ordinance, the storage or maintenance of semi-trailer trucks is not permitted as a non-agricultural low impact use based on the definition that excludes such uses. Should the ordinance be amended in accordance with the request submitted by the applicant, a trucking terminal would be permitted as an interim use in the HD-A-BP district subject to the same requirements for non-agricultural low impact uses. A review of the current request compared to these standards is as follows:

- a) *All of the property owner's real estate that is contiguous to the non-agricultural low impact use must be zoned Agricultural and remain so zoned while the conditional use permit is in effect.* Because this use is classified as an interim use under the HD-A-BP district, any rezoning of the property would terminate the property owner's ability to continue operation of the use.
- b) *The area where the non-agricultural low impact use is located shall be legally defined as approved by the city and is hereafter known as the "Non-Ag Area." The Non-Ag Area shall not exceed 4% of the property owner's contiguous agricultural zone gross lot area. The building footprints and asphalt and concrete surfaces within the Non-Ag Area shall not exceed 1.5% of the property owner's contiguous agricultural zone gross lot area. Landscaping, berms, ponds, gravel driveways, and other improvements that would otherwise be permitted in the Agricultural zone may be located outside of the Non-Ag Area.* The HD-A-BP interim use requirements follow these standards, but allow the "Non-Ag" area to be a maximum of 5% of the gross lot area. Of the applicant's 70 acres, 3.5 acres may be devoted to the "Non-Ag" portion of the site. The total area that is currently devoted to the non-agricultural activities is slightly less than 3.3 acres. With no changes proposed to the parking areas, driveways, or buildings, the applicant will be able to meet this requirement.

A review of the building footprint and asphalt/concrete surfaces on the applicant's site plan shows that building is 15,360 square feet in size and the other asphalt and concrete surfaces total 9,500 square feet which is 0.8% of the continuous agricultural gross lot area. The total area for these surfaces fall under the maximum permitted by this section.

- c) *Non-agricultural low impact uses shall only be allowed on a parcel of a nominal 40 acres or larger.* The applicant's parcel is 70 acres in size and therefore meets this standard.
- d) *Non-agricultural low impact uses shall not generate more than 3 trips per*



*day per acre of contiguous agriculturally zoned area, with the exception of land, with sole access to Hudson Boulevard that shall not generate more than 6 trips per day per acre. Since the applicant's property has frontage along Hudson Boulevard, he is allowed to have 6 trips per day per acre for a maximum of 420 vehicle trips per day.* The description for the trucking operation indicates that there will be a total of 60 vehicles accessing the site everyday for a net total of 120 vehicle trips per day. The applicant has also stated that there is potential for additional truck traffic during peak times which would push the total vehicle trips closer to 200 per day. Even factoring in additional trips by employees working in the office, the total trips under the proposal presented will be well under the maximum for the site. The estimates for the bus garage, in comparison, showed that there had been 328 vehicle trips each day on this site. The proposed truck terminal should generate a fewer number of vehicle trips based on this and fall within the required limits prescribed by the Ordinance.

- e) *Any uses under this section involving the outside storage of vehicles, equipment, or goods shall be located a minimum of 200 feet from any public roadway or adjacent landowner's boundary, except that the setback from the I-94 frontage road shall be not less than 50 feet. In addition, any such outside storage shall be screened from view from adjacent property and the public roadway by berms and landscaping. A plan for such screening shall be submitted with the application for the conditional use permit which shall clearly demonstrate by view cross-sections that said screening will be effective immediately, and in all seasons. Degradation of such screening by loss of landscape materials, outdoor storage of items that exceed the screened height or for any other reason shall be grounds for rescinding the outdoor storage portion of the conditional use permit.* The current parking areas are located at or beyond 50 feet from the Hudson Boulevard right-of-way, and the building is set back a distance of 100 feet. A landscape berm with plantings has been provided around the perimeter of the site and provides an effective screen from the adjacent property and roads. There are a few areas within this screening area where plants have recently died; these plants should be replaced to fill in any screening holes as a condition of approval for the interim use. As the berm and screening is presently in place, Staff has not recommended that the applicant be required to submit a cross section diagram. With no changes proposed to the current site the applicant will be able to meet this condition.
- f) *Non-agricultural low impact uses may not generate more than 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based upon design capacity of facilities, whichever is more restrictive.* Based on the past use of this property, the proposed truck terminal should not generate any additional impact than the bus garage. The usage by the site will need to be monitored to ensure that the total limit established by this provision is not exceeded.
- g) *The property owner shall maintain the remaining land or farm outside of the*

***CUP Area in accordance with the permitted uses of the Agricultural zoning district and the required practices of the Soil and Water Conservation District.*** There are no changes proposed with the applicant's request.

- h) ***All lighting shall comply with the city's regulations.*** No changes to the current lighting situation is proposed; any such changes would need to be approved after submission of a revised lighting plan for the property.
- i) ***All signs shall comply with the city's regulations.*** The business owner will need to secure the proper sign permits before installing any new signage on the property.
- j) ***Rate and volume of runoff from the CUP shall not exceed the 1% rule and shall be verified by the City Engineer.*** Because there are no site changes proposed under the applicant's proposal, the City Engineer was not asked to revisit the storm water calculations submitted with past proposals on the property. There is a storm water pond on the site that should continue to function the way it was originally designed.
- k) ***In the event that the property owner, or future property owner, initiates a Comprehensive Plan amendment and rezoning of any or all of the contiguous real estate from Agriculture to a more intensive use, the conditional use permit shall terminate and all non-conforming structures shall be removed from the site within 1 year from the date of the City Council's adoption of the Comprehensive Plan amendment and rezoning, unless the city agrees otherwise. This section shall not apply if the city initiates rezoning or if property owner is forced to transfer title to any part of the contiguous real estate due to eminent domain.*** The City's interim use requirements are somewhat different than this section in that an interim use will terminate if any of the following occur: 1) the date 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. Because this use is classified as an interim use under the HD-A-BP regulations, the interim standards should be applied to this particular use. The major differences between these two sections are that the property owner is not given one year to remove the business when the comprehensive plan or zoning is changed for the site and the City may initiate a rezoning that requires the removal of the business.
- l) ***Non-agricultural low impact uses may not include the parking or storage of semi-trailer trucks or a Bus/Truck Terminal except as otherwise permitted as an Interim Use in the HD-A-BP zoning district.*** As a interim use in the HD-A-BP district the applicant is permitted to request a truck terminal.
- m) ***All conditional use permits granted to a non-agricultural low impact use shall be reviewed on an annual basis, and may be rescinded, after a 2-week notice and a public hearing, if the Council finds that the public health,***

*safety, or welfare is jeopardized.* As an interim use, the property will be subject to the violation and termination requirements for interim uses.

- n) *The standards for buildings or structures, as listed in the minimum district requirements of the Agricultural Zone, shall not apply to structures built prior to the effective date of this chapter.* This section is not applicable to the current request.

The City Engineer was asked to perform a traffic review for the proposed business and noted that the proposed traffic that will be generated by the proposed business falls well below the threshold for a MnDOT traffic impact study. The most significant area of concern identified in this report is the turning movements on and off of Manning Avenue. Additional study of these intersections is encouraged as part of the City's ongoing transportation planning efforts.

**Permit  
Review:**

Staff is recommending approval of the request for an interim use permit primarily because the proposed use is not intended to have any additional impacts beyond the former use of the property, and in some instances, should reduce the overall impacts that can be observed. The most significant change from the previous operation on this site is the size of the vehicles that will be stored on the site. Given its close proximity to an interstate highway; however, this area seems well-suited for the traffic that is anticipated compared to other portions of the City. The bus garage also generated a fair amount of additional traffic (beyond normal bus routes) since it was located in the extreme southern portion of the City. The truck terminal is anticipated to produce very little traffic outside of the immediate connecting roads to Highway 94.

In reviewing the standards for granting an interim use, Staff has made the following findings:

- 1) The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations. *This criterion is met.*
- 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. *Although the truck terminal will produce noise and other impacts associated with the entering and existing of semi-trailer trucks, its isolated location and close proximity to a major interstate corridor will help the use remain compatible with the surrounding land uses until such time the zoning regulations change on the property. Given the restrictions on the size and net traffic generated by the use under the non-agricultural low impact use provisions, the impact to adjacent properties will be minimal. This criterion is met.*
- 3) The use will not adversely impact implementation of the Comprehensive Plan. *The improvements occupy a minor percentage of the overall parcel and may not be expanded beyond the current limits. This criterion is met.*
- 4) The date or event that will terminate the use is identified with certainty. The applicant has specified in the application materials that the use will terminate

once the property is sold or developed under future zoning. **Staff is recommending that the termination date be set at either 1) when the property is rezoned or 2) at such time that sewer service is provided to the site. Either of these actions will be required before the property may be redeveloped into some other use. With the proposed change in language staff finds that this criterion is met.**

- 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. **A consent agreement will need to be approved by the City Council as a condition of approval.**
- 6) The user agrees to all conditions that the City Council deems appropriate for permission of the use including the requirement of appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit. **This item can also be addressed as part of a consent agreement with the City.**
- 7) There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel. This criterion is met.
- 8) The term of the interim use does not exceed 2 years. **The interim use permit will need to be revisited by the City in two years.**

**Interim Use  
Permit  
Conclusions:**

Based on a review of the applicable code sections, Staff is recommending that the Planning Commission recommend approval of the interim use permit based on the following:

- 1) That the applicant has demonstrated compliance with all of the standards for a non-agricultural low impact use; and
- 2) That the applicant has demonstrated compliance with all applicable City Code standards for the issuance of an interim use.

Staff is further recommending that the following conditions be included with this recommendation:

- 1) That the applicant enters into a consent agreement with the City in accordance with Section 154.019, Subd. (B, 5) of the City Code.
- 2) That additional screening be provided in all locations recommended by the City Forester in order to replace vegetation that has either died or been removed. The intent of this condition is to provide for full screening of the interim use.
- 3) That the interim use is valid for a period of two years and must be renewed by the City Council prior to the end of this time period in order to continue operating from the site.

- 4) That the interim use will terminate when any portion of the property is rezoned or when public sanitary sewer is provided to the site.
- 5) That the interim use permit commence upon the effective date of the applicant's current request to amend the non-agricultural low impact use sections of the City Code.

**Other Options:**

The City Council may consider denying the request for an interim use provided it can demonstrate that the applicant has failed to comply standards of the non-agricultural low impact use provisions or the interim use ordinance. These requirements are detailed in the preceding sections of this report.

Examples of information that would support a recommendation for denial include:

- that the use will generate more vehicle trips per day than allowed as a non-agricultural low impact use,
- that the interim use will adversely impact the implementation of the Comprehensive Plan

This list is not intended as an exclusive recording of all possible findings that could be made and should be used as an example to formulate findings that are not in or differ from the Staff report.

**Resident Concerns:**

There have been no letters or other comments submitted to the City in advance of the public hearing on this matter.

**Additional Information:**

Neither the watershed district nor the DNR provided comment in opposition to the proposed interim use permit. The Minnesota Department of Transportation has submitted comments and found the site plan to be acceptable.

**Conclusion:**

Terry Emerson of E&E Properties, LLC has submitted request for a Interim Use Permit to establish a Bus/Truck Terminal facility as a non-agricultural low impact use at 11530 Hudson Blvd. S. in Lake Elmo.

**Council Options:**

The City Council has the following options:

- A) Recommend approval of the interim use permit request;
- B) Recommend denial of the interim use permit request.

The 60-day review period for this application will end on 12/30/08 and may be extended an additional 60 days if more time is needed for the City's review of this

application.

**Planning  
Commission  
Rec:**

**The Planning Commission is recommending approval** of the interim use permit for a Interim Use Permit to establish a Bus/Truck Terminal facility as a non-agricultural low impact use at 11530 Hudson Blvd. S. in Lake Elmo based on the following:

- 1) That the applicant has demonstrated compliance with all of the standards for a non-agricultural low impact use; and
- 2) That the applicant has demonstrated compliance with all applicable City Code standards for the issuance of an interim use.

**Denial  
Motion  
Template:**

To deny the request, you may use the following motion as a guide:

**I move to deny the requested interim use permit based on the following findings...***(please site reasons for the recommendation)*

**Approval  
Motion  
Template:**

To approve the request, you may use the following motion as a guide:

**I move to approve the requested interim use permit based on the following findings...***(use staff's findings provided above or cite your own)*

cc: Terry Emerson, E&E Properties, LLC

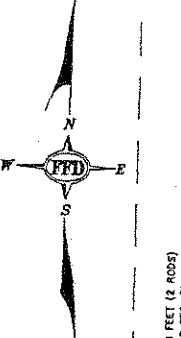
# SITE PLAN 2002

## Bus Storage Site

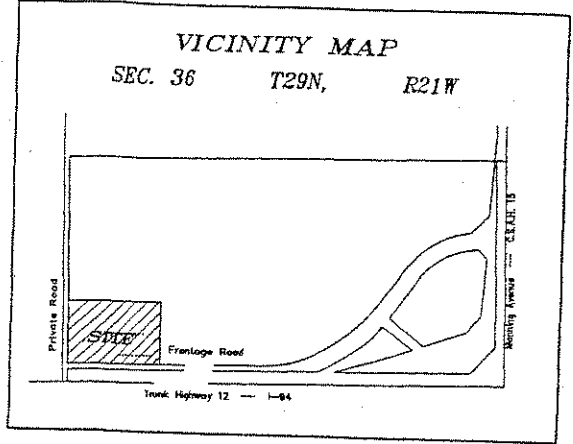
### E & E PROPERTIES, LLC

Folz, Freeman, Dupay & Associates, Inc.  
 LAND SURVEYING • LAND PLANNING  
 1815 NORTHWESTERN AVENUE • STILLWATER, MINNESOTA 55082  
 (612) 439-8833

SCALE:  
 1 inch = 30 Feet

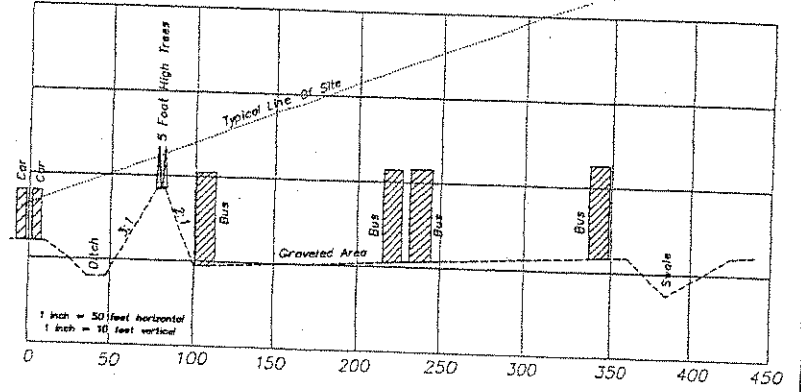


SECTION 36  
 T 29 N  
 R 21 W



Parking Spaces	
72	Buses
48	Cars
2	Handicap Cars
9	Van (Inside)

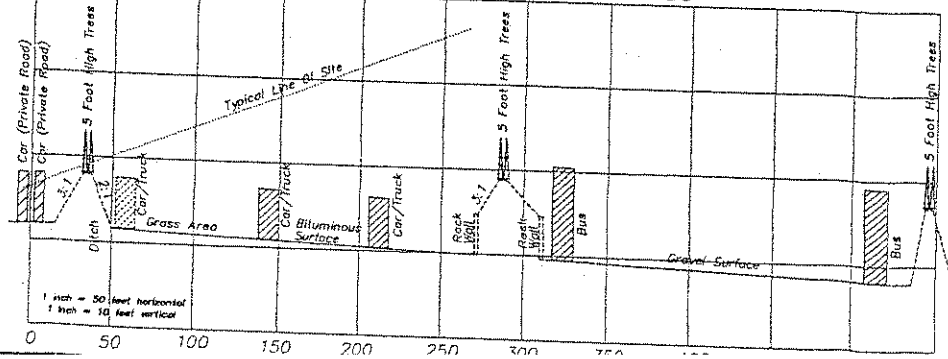
South To North Cross-Section  
 Depicting Typical Line Of Site Across Gravel Area



LEGEND

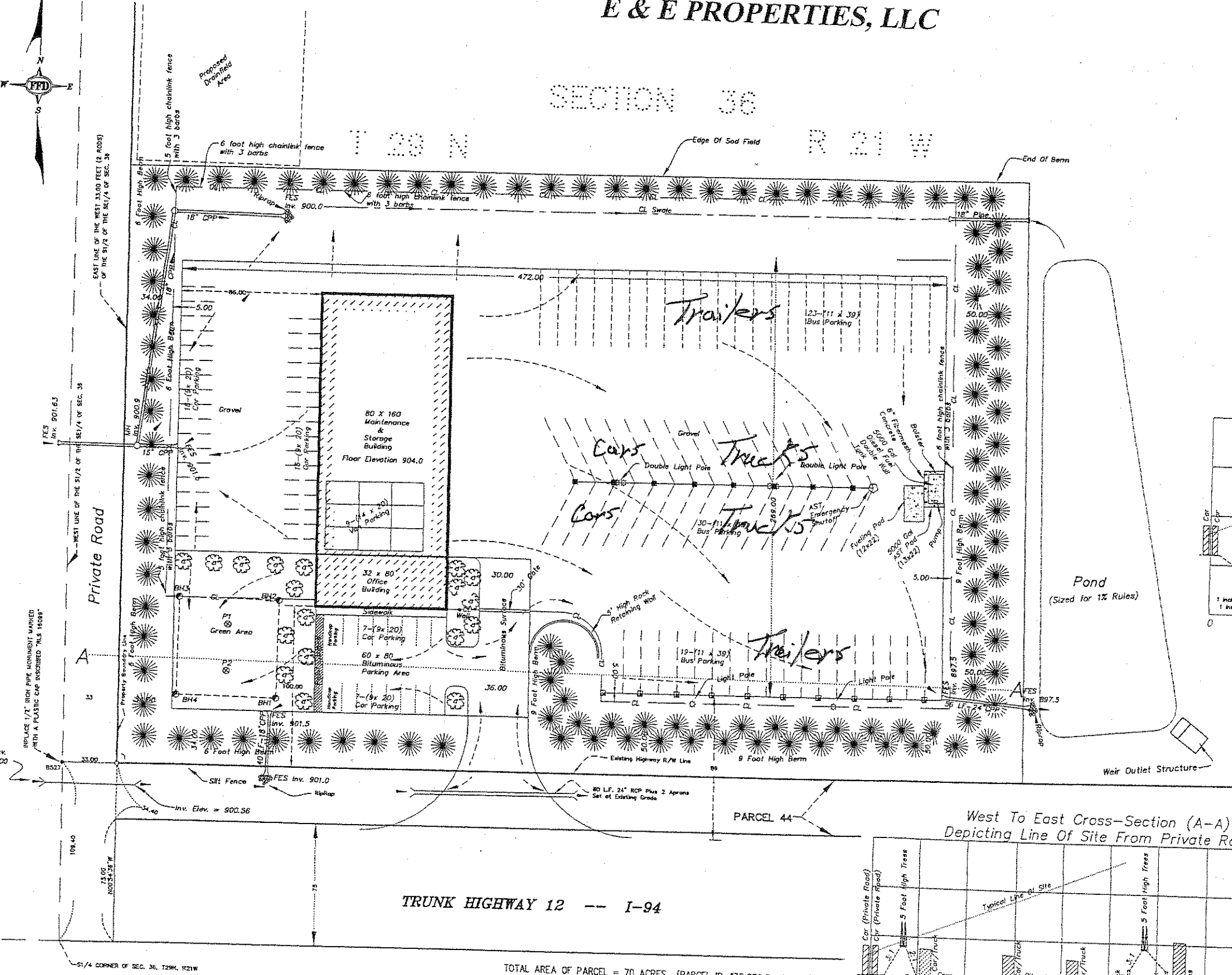
- Elevations Are Based On N.G.V.D. - 1929 Adj.
- Denotes Existing Contours
- X(903.5) Denotes Proposed Spot Elevations
- - - Denotes Proposed Drainage Direction
- ☼ Denotes Proposed Evergreen Tree
- ☼ Denotes Proposed Deciduous Tree
- Denotes 4 Receptacle Outlet Box
- Denotes 2 Receptacle Outlet Box

West To East Cross-Section (A-A)  
 Depicting Line Of Site From Private Road



TOTAL AREA OF PARCEL = 70 ACRES (PARCEL ID #36.029.21.43.0001)  
 IMPERVIOUS SURFACE = 0.64 ACRES = 0.9%  
 SITE AREA = 2.76 ACRES = 3.94%

TRUNK HIGHWAY 12 -- I-94



RECEIVED  
 OCT 15 2003

I HEREBY CERTIFY THAT SURVEY OR PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Planning Commission  
Date: 12/13/10  
Business  
Item: 5b

ITEM: Provide staff direction on moving forward with revising the zoning districts and moving forward with writing future sewer districts.

REQUESTED BY: Planning Department

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Kyle Klatt, Director of Planning

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**SUMMARY AND ACTION REQUESTED:** At the last Planning Commission meeting, staff requested direction from the commission on moving forward with revising the zoning district regulations and ultimately moving forward with writing future sewer district requirements. At that time the commission requested information from staff on what difficulties staff had with the existing outline and content of the zoning districts.

Below is a list outlining the main concerns staff has with the Lake Elmo City Code with some specific examples.

Inconsistency among districts

- Some zoning district requirements are very detailed, while others are broad. This provides staff difficulty implementing the uses as oftentimes the use not listed would make sense in another district as well. In addition some uses listed are very specific while others are very generic and left to interpretation.
  - o The General Business (GB) district has a list of 108 permitted uses and 11 conditionally permitted uses while the Limited Business (LB) District only has 4 permitted uses listed and 19 uses conditionally permitted.
  - o Sixteen types of contractor offices (excluding equipment storage) are listed in the GB district. The uses are very specific, such as plastering contractor and wallpaper contractor, but an electrical contractor is not listed. The code goes into such detail that it would be difficult to find a listed use which could include an electrical contractor even though the use makes as much sense as one specifically listed.
- Uses are not mentioned uniformly in districts
  - o Home occupations are listed as an accessory use (therefore not requiring any action from the city other than a standard building permit in some cases) in the Agricultural (Ag), R-1, and Residential Estates (RE) District, but are conditionally permitted in Rural Residential (RR) district which requires a public hearing, neighbor notification and Council approval.
  - o Poultry facilities are listed as a permitted use in the Ag District, but is not permitted or conditionally permitted in the RR District (generically, "farms" are permitted). However, another section of code states only ten acres are needed to have chickens, which is the minimum lot size for the Rural Residential District. Staff has been allowing chickens in the RR district if they have ten acres (and meet other requirements) as chickens are a normal component of a farm.
- The Shoreland District (an overlay district with additional requirements for properties near lakes and streams) identifies specific uses that are permitted or conditionally permitted. Unfortunately, there are inconsistencies between what is stated in the shoreland district and the underlying district. For example, the shoreland district regulations identifies restaurants as a permitted use in the Highway Business (HB) District and conditionally



permitted use in the LB and BP districts. However, in the individual districts, it is only identified as a conditionally permitted use in the BP district.

- Lack of uniformity among districts
  - o The Ag district references the sign code, while other sections do not. The sign district requirements apply to all zoning districts, although it is utilized more often in relation to commercial properties.
  - o Parking regulations are identified for various uses in the GB district, but not in LB.
  - o Accessory building setbacks are listed in RR zoning district, but not in the RE or R-1 district.
  - o There is a specific listing of "landscape buffers, wildlife areas, internal picnicking areas, and walking/jogging trails" as accessory uses in the LB District, but not in the GB district. Instead there is a generic phrase "Uses which are clearly incidental and subordinate to the allowed uses." It is unclear to staff why it would be listed specifically for one district and not the other as the accessory uses listed are typically encouraged in all areas of the city, even residential.

#### Outdated information / Repetition and Unnecessary Information

- Septic regulations vary by district or are silent in some cases. This should be removed entirely as it is outdated given new technology. In some instances, the required land size for a septic system is multiple times the size required under the new ordinance enforced by Washington County.
- Some zoning districts mention footing requirements, but those requirements are covered in the State Building Code.
- Many districts reference the same sections of code elsewhere (signage, driveways, etc.). It would be nice to have the references written in one convenient location.

#### Inconsistencies with Comprehensive Plan

- Properties guided for open space preservation developments (at a much higher density than the underlying district) in the Comprehensive Plan are allowed by code to develop at much lower densities.
  - o The Ag district allows one non-farm dwelling at just 1.5 acres in size.
  - o Cluster developments (NOT OP developments) are allowed in the Ag and RR District with lot sizes of 5 - 7 acres for the RR district and 1.5 – 2 acres in size for Ag with requirements for dedicated open space. Open Space Preservation (OP) developments are designated for 18 housing units per 40 acres of buildable area, which is what the areas are guided for in the Comp Plan.
- It is not clear in the district requirements that the R-1 zoning district is not intended to be added in any area of the city, even through the rezoning of existing parcels - as stated in the Comprehensive Plan.

#### Unclear and Confusing / Difficult to Utilize

- Some of the uses listed have definitions, but a majority do not.
  - o This is confusing to the residents trying to determine what the difference is between "medical" and "medical services" or what a "boarding care facility" is.
  - o "Beauty Shop" is listed as a permitted use in the GB district, but the only definition is for "Beauty Salon." While on the surface they may appear to be the same, the term "shop" lends itself to an interpretation of a retail sales focused business whereas a salon's emphasis is on the services. If this is intended to be the same, the terminology should be succinct.
- Some uses listed not only lack a definition, but more specific requirements as well.
  - o Staff has worked with a few interested parties to bring a café into the downtown, at properties where it is listed as a permitted use. However, "café" and "restaurant" are listed on the same line and it therefore appears the requirements listed would apply to both, which limits the use to full table service operations. Staff believes this requirement should be revisited as this would not permit

- someone to order a beverage inside the building and receive it without sitting down at a table and being served.
- Requirements for one project (even a seemingly simple one such as a shed) must be found in multiple locations throughout the code. It would be helpful to residents, builders, developers, and staff to reduce the number of locations information is located or at least reference the applicable sections.
    - o Some zoning districts have parking requirements identified, but an additional parking section is found outside the zoning districts and must be referred to in addition to the districts. It is difficult when the code is silent on parking requirements; staff has looked in other districts to find similar type uses to utilize when calculating parking requirements.
    - o If a property owner wants to build a shed on their non-lakeshore property, but is still within the Shoreland District, the following are all the sections of code they would need to reference (assuming no variance and use is permitted):
      - **154.041 R-1 District** – to determine setbacks, impervious surface requirements, etc.
      - **154.092 Accessory Buildings and Structures** – to determine miscellaneous requirements
      - **154.093 Number/Size of Accessory Buildings** – to determine how many and how large the accessory building(s) can be
      - **150.255 Shoreland Standards** – to determine impervious surface requirements
      - **Chapter 51** – to determine setbacks to septic system (Washington County)
  - There are grammatical errors throughout the code. This happens through normal human error, but in some cases it has become an issue in legal interpretations.
  - In the LB District, the code states that accessory uses not specifically listed could be allowed if they are “customarily associated with and clearly incidental to a permitted use,” **but** then it goes on to say that the City Council is the group to make that determination. Therefore, if an applicant wanted to add a landscape buffer to their property and it was not specifically listed (which it is), they would have to appear before the City Council to have them determine that it was an accessory use. This would delay any action until it could be put on a Council agenda (typically 2 weeks). An accessory use does not outright require a permit from the city.
  - Many of the uses listed as a conditional use permit, such as a fitness studio, therapeutic massage, the sale of ski equipment, and the keeping of horses, do not appear to need such a thorough scrutiny, especially when the use is entering an existing building. Those uses could be managed through the regular requirements for parking, impervious surface, etc. or additional requirements could be written. Keep in mind, the purpose of a CUP is to allow a use that may be desirable, but which could have detrimental effects on the city or neighboring properties.
  - There are uses existing in Lake Elmo today that are not identified anywhere in the code as either permitted or conditionally permitted such as computer repair and services.

**ADDITIONAL INFORMATION:** Over the past 30 plus years, the Lake Elmo zoning districts have been revised, added to and subtracted from in such a way as to leave a hodge-podge of various districts with little to no uniformity among the districts as explored in more detail on the previous pages of this report. For residents and staff alike, this results in difficulty using the information productively.

The original Lake Elmo city code was adopted from a basic template in 1977. Since then, individual zoning districts have been revised individually, or in some cases, a few at a time. In the 1990's, open space preservation districts were added as a distinct zoning district; years later it was decided that use would instead be permitted by conditional use in certain zoning districts and was no longer a separate district. In 2006, the city began to take a large-scale overhaul of the

entire zoning district, which was then abandoned due to unforeseen staffing circumstances. In 2008, nineteen new holding districts were added to account for land guided for future sewered development. Although zoning text amendments are inevitable, the remaining framework is still from the 1977 code and may not be functioning as efficiently as it could be.

### **Staff's Goals**

Staff is seeking to retool the city code layout, specifically with regard to the zoning districts, in an effort to streamline information and increase usability for residents and staff alike.

Staff is interested in creating a single master use list from which an interested person or group could look through and determine in which zoning districts the use they would like to bring to the city is allowed. By creating this one-stop shop, the resident/builder/business owner saves time and, in some cases, much frustration.

A master list of uses would also be beneficial to staff as it would be an easy handout for those who are interested. Instead, staff has often looked through all the non-residential zoning districts (including the PF district) to find if a use could be interpreted as one of the 170 non-residential uses listed throughout the code. With the sheer volume of uses listed and the multiple pages (districts) to be flipped through, it is often the case in which staff must do the research and get back to those looking for the information. Staff rarely offers up the individual lists to those seeking inquiry as it is a challenge to work through and creates confusion.

The master use list could then be tied to the various other applicable sections of code in one spot instead of repeated in each district. In addition, the various regulations pertaining to a use could be written once instead of repeated in each district it would otherwise be listed as a use.

Moving forward, staff would also like to find a way to encourage residents and developers to develop their non-sewered properties, should they choose to do so, as Open Space Preservation developments in conformance with the Comprehensive Plan as opposed to large lot developments. This will be a conversation for a future time, but is a goal relating to the zoning districts, nonetheless.

### **Existing Uses**

Staff has attached a master use list of the existing uses for the various non-residential districts - an incredible 170 uses. This list was recently compiled by staff and has not previously been available, nor is it available in our city code. Staff would suggest a similar format be used in the revisitation and revision of the zoning district with a reduced list of uses that are, in some cases, more general in nature.

Staff did not have time to group together uses that may be similar in the existing master list, so there may be a few uses listed that could be combined.

**RECOMMENDATION:** At this time, planning staff is asking for feedback from the commission in starting with a new format from which to pull the relevant and important information from the existing code, but to largely make a fresh, uniform start for the zoning districts. This will greatly help staff in moving forward with creating district requirements for future sewered districts as we hope to eliminate redundancy and improve clarity. In addition, staff is asking the commission to review the attached list of uses (taken out of the existing non-residential zoning district chapters) for discussion.

No formal recommendation is requested at this time.

### **ATTACHMENTS:**

Please find attached a chart of non-residential uses in various districts (zoning and shoreland).

1. Use Chart for Non-Residential Lake Elmo Zoning Districts

2010 Non-Residential Zoning District Uses

Uses	GB	HD-GB-BP	HD-GB-C	HD-GB-SRD	VR-GB-HB	CB	LB	HD-LB-SRD	BP	PF	Shoreland District
Accounting	P	P	P	P	P						
Advertising	P	P	P	P	P						
Alterations	P	P	P	P	P						
Apparel Cleaning Pick-up Stations	P	P	P	P	P						
Apparel Repair and Alterations	P	P	P	P	P	P					
Architectural	P	P	P	P	P	P					
Art Gallery	P	P	P	P	P		C (an C (and sale)				
Auditing	P	P	P	P	P						
Bakeries	P	P	P	P	P						
Barber Services	P	P	P	P	P	P					
Beauty Shops	P	P	P	P	P		C (sa C (salon)				
Bookkeeping	P	P	P	P	P						
Business and Management Consulting Offices	P	P	P	P	P						
Business Associations	P	P	P	P	P						
Cafes and Restaurants - Drive-up Window	P	P	P	P	P						
Cafes and Restaurants	P	P	P	P	P	P (not cafe)					
Charitable	P	P	P	P	P						
Chiropractic	P	P	P	P	P						
Civic, Social and Fraternal Association Offices and Halls	P	P	P	P	P						
Collection and Adjustment Services	P	P	P	P	P						
Credit Reporting (Consumer and Mercantile)	P	P	P	P	P						
Dental	P	P	P	P	P						
Detective and Protective Agencies	P	P	P	P	P						
Duplication	P	P	P	P	P						
Educational	P	P	P	P	P						
Employment Agencies	P	P	P	P	P						
Engineering	P	P	P	P	P						
Finance	P	P	P	P	P						
Galleries	P	P	P	P	P						
Governmental Offices	P	P	P	P	P						
Insurance	P	P	P	P	P						
Investment	P	P	P	P	P						
Labor Unions	P	P	P	P	P						
Legal	P	P	P	P	P						
Libraries	P	P	P	P	P					C	
Mailing	P	P	P	P	P						
Medical	P	P	P	P	P						
Medical Services	P	P	P	P	P						
Optometric	P	P	P	P	P						
Osteopathic	P	P	P	P	P						
Photo Gallery	P	P	P	P	P						
Professional Membership Organizations	P	P	P	P	P						
Real Estate	P	P	P	P	P						
Religious	P	P	P	P	P						PF - P (church)
Scientific Research	P	P	P	P	P						
Shore Repair	P	P	P	P	P						
Stenographic Service	P	P	P	P	P						
Welfare Offices	P	P	P	P	P						
Antiques and Secondhand Merchandise (Retail)	P	P	P	P	P						
Apparel and Related Accessories (Retail)	P	P	P	P	P						
Automobile Repair and Services (Retail)	P	P	P	P	P	P (not repair)					HB - P (service)
Automobiles and Automobile Accessories (Retail)	P	P	P	P	P						
Bicycles (Retail)	P	P	P	P	P						
Books (Retail)	P	P	P	P	P			C	C		
Building Supplies (Retail)	P	P	P	P	P						
Cameras and Photographic Supplies (Retail)	P	P	P	P	P						
Cigars and Cigarettes (Retail)	P	P	P	P	P						
Drugs and Proprietary Items (Retail)	P	P	P	P	P	P					
Electrical Supplies (Retail)	P	P	P	P	P						
Flowers and Floral Accessories (Retail)	P	P	P	P	P						
Food and Grocery Products (Retail)	P	P	P	P	P	P					
Furniture (Retail)	P	P	P	P	P						
Gifts, Novelties and Souvenirs (Retail)	P	P	P	P	P						
Glass (Retail)	P	P	P	P	P						
Heating Equipment (Retail)	P	P	P	P	P						
Home Furnishings and Related Equipment (Retail)	P	P	P	P	P						
Jewelry (Retail)	P	P	P	P	P						
Liquors (Retail)	P	P	P	P	P						
Marine Craft and Accessories (Retail)	P	P	P	P	P						
Newspapers and Magazines (Retail)	P	P	P	P	P						
Nursery and Garden Supplies (Retail)	P	P	P	P	P						
Optical Goods (Retail)	P	P	P	P	P						
Paint (Retail)	P	P	P	P	P						
Pets (Retail)	P	P	P	P	P						
Plumbing Equipment (Retail)	P	P	P	P	P						
Sporting Goods (Retail)	P	P	P	P	P						
Stationery (Retail)	P	P	P	P	P						
Wallpaper (Retail)	P	P	P	P	P						
Clock Repair (Repair/Service)	P	P	P	P	P						
Electrical Repair and Supplies (Repair/Service)	P	P	P	P	P						



### 2010 Non-Residential Zoning District Uses

Uses	GB	HD-GB-BP	HD-GB-C	HD-GB-SRD	VR-GB	HB	CB	LB	HD-LB-SRD	BP	PF	Shoreland District
Internally Privately Owned and Maintained Roads												
Day Spas as Accessory to Beauty Salons								A	A	A		
Conference Centers								A	A			
Health Clubs										C		
Recording Studios										C		
Restaurants and Cafeterias										C		HB - P; LB, BP - C
Theaters										C		
Other Uses similar to uses permitted by chapter, as determined by the Council										C		
Cemeteries											C	
Places of Worship											C	
Facilities for Local, County and State Government											C	
Museum											C	
Public and Private Schools											C	
Historic Sites and Interpretive Centers											C	PF - P
Keeping Horses											C	
Farming											C	
Office Uses												HB, GB - P
Retail Uses												HB, GB, LB, BP - P
												HB, GB, LB - P; BP - CUP

**Legend:**

P - Permitted Use; C - Conditional Use Permit; A - Accessory Use; I - Interim Use Permit

GB - General Business; HD-GB-BP - Holding District, General Business, Business Park; HD-GB-C - Holding District, General Business, Commercial; HD-GB-SRD - Holding District, General Business, Sewered Residential Development; VR-GB - Village Residential, General Business; HB - Highway Business; CB - Commercial Business; LB - Limited Business; HD-LB-SRD - Holding District, Limited Business, Sewered Residential Development; BP - Business Park; PF - Public Facilities