

City of Lake Elmo
Washington County, Minnesota

RESOLUTION No. 2000-041

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR A
NON-AGRICULTURAL LOW IMPACT USE ON THE ARMSTRONG FARM AND
RESCINDING RESOLUTION 88-16.**

WHEREAS, Thomas G., Thomas P., and Jodi M. Armstrong (herein applicant), are the fee owners of approximately 264.6 acres of land (herein applicant property), located in the City of Lake Elmo (herein City), is illustrated on Exhibit "A" attached, and is legally described as follows:

The following described Two Hundred Sixty-four and Six Tenths (264.6) acres, more or less, of real estate located in Section Twenty-eight (28), Township twenty-nine North (29N), Range Twenty-one (21W), City of Lake Elmo, County of Washington, State of Minnesota; to wit:

The Northwest Quarter (NW ¼), of Section Twenty-eight (28), containing one-hundred and sixty (160) acres, more or less; and

The Northwest Quarter (NW ¼) of the Southwest Quarter (SW ¼), Section Twenty-eight (28), except the westerly Seven Hundred Eighty (780) feet thereof, and except the following described parcel; to wit:

Commencing at the Northwest (NW) corner of the Southwest Quarter (SW ¼) of Section Twenty-eight (28), thence east along the north line of said Southwest Quarter (SW ¼) for Seven Hundred Eighty (780) feet to the point of beginning of this exception; thence continuing east along said north line of the Southwest Quarter (SW ¼) for One Hundred Sixty (160) feet; thence south at right angles for Three-Hundred Sixty feet; thence west at right angles for One Hundred Sixty (160) feet; thence north at right angles for Three-Hundred sixty (360) feet to the point of beginning. Said exception containing one and thirty-two hundredths (1.32) acres, more or less, and subject to the right-of-way of 15th Street North; containing fourteen and Six tenths (14.6) acres, more or less; and

The East Half (E ½) of the Southwest Quarter (SW ¼), of the southwest Quarter (SW ¼), of Section Twenty-eight (28), containing twenty (20) acres, more or less; and

The East half (E ½) of the Southwest Quarter (SW ¼), except for the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼), of Section Twenty-eight (28), containing seventy (70) acres, more or less.

WHEREAS, applicant has requested a Conditional Use Permit, which would specifically apply to approximately 10 acres of the applicant's property (the CUP Area) which is illustrated on attached Exhibit "B", and which is legally defined as follows:

That part of the Southwest Quarter (SW ¼) of Section Twenty-eight (28), Township twenty-nine North (29N), Range twenty-one West (21W), Washington County, State of Minnesota, described as follows:

Commencing at the north east corner of the West half of the Southwest Quarter of said Section 28; thence South 00 degrees 18 minutes 22 seconds West, assumed bearing along the east line of side

West Half of the southwest Quarter a distance of 274.54 feet to the point of beginning; thence on a bearing of East 100.02 feet; thence on a bearing of south 109.11 feet; thence on a bearing of East 137.74 feet; thence on a bearing North 24.35 feet; thence on a bearing of East 40.10 feet; thence on a bearing of South 139.06 feet; thence on a bearing East 14.44 feet; thence on a bearing of South 504.69 feet; thence on a bearing of West 295.49 feet; thence on a bearing of South 275.07 feet; thence on a bearing of West 234.94 feet; thence on a bearing of North 1059.17 feet; thence on a bearing of east 111.53 feet; thence on a bearing of south 55.59 feet; thence on a bearing of East 126.41 feet to the point of beginning, containing 10.00 acres, more or less.

WHEREAS, the Conditional Use Permit, if approved, would allow applicant, its successors and assigns, to utilize the CUP Area for certain Non-Agricultural Low Impact Uses, subject to the City's Regulations, and subject to the conditions attached to the City's approval.

WHEREAS, the Lake Elmo Planning Commission held a Public Hearing on August 28, 2000, and reviewed and recommended approval of the Conditional Use Permit based upon the following findings:

1. The proposed use will not impact the public health, safety, morals, convenience, or general welfare of the occupants of surrounding lands.
2. The proposed use will result in additional traffic to the site, but the projected traffic increase will not exceed the traffic standards contained in the City's regulations.
3. The public utility systems and the capacity of the school district will not be impacted by the proposed use.
4. The proposed use will not depreciate surrounding property values for the following reasons:
 - a. The CUP Area will be screened by vegetation in accordance with the landscape plan.
 - b. Approximately 254.6 acres of agricultural lands will be preserved from development.
 - c. The proposed use will not generate noise, pollution, or cause any other nuisance.
5. The proposed use is in keeping with the intent and purpose of the City's Comprehensive Plan and Zoning Ordinance.

WHEREAS, the Lake Elmo City Council, on September 5, 2000, reviewed the application and the recommendation of the Planning Commission.

WHEREAS, applicants property is currently subject to a Conditional Use Permit, as approved by Lake Elmo Resolution No. 88-16.

NOW, THEREFORE, BE IT RESOLVED by the Lake Elmo City Council, that a Conditional Use Permit is hereby approved for applicant's property subject to the following conditions:

1. The permitted uses within the CUP Area shall be as follows:
 - a. Outdoor storage of cars, trucks, boats, trailers, recreational vehicles, recreational equipment, and other vehicles or mobile equipment under 26,000 pound of tare weight.
 - b. Indoor storage of the items listed above for outdoor storage, and other goods and materials, which in the determination of the City Council, do not jeopardize the health, safety, or welfare of the City.

2. Buildings within the CUP Area shall be located in accordance with the approved site plan attached as Exhibit "C". The proposed buildings shall be steel framed and bolted to cement footings, similar in style and appearance to the existing Butler buildings. An exception to this may be any re-construction of the building designated "Building 2" on said site plan. At the option of the landowners, this building site may be used for the reconstruction of a traditional style barn. Any buildings damaged or destroyed by storm, fire, or other hazard, may be reconstructed.
3. The impervious surface within the CUP Area shall not exceed 1.5% of the applicant's property.
4. Outside storage may be located anywhere within the CUP Area that is set back at least 200 feet from adjacent property owners. There shall be no paved parking areas. All outside storage and driveways in the CUP Area shall be grass or gravel.
5. In accordance with the landscape plan attached as Exhibit "D", the CUP Area shall be screened from view by deciduous and coniferous trees. Under the existing high power lines, the use shall be screened by lilac hedges, or other vegetation whose mature height does not interfere with the power lines, as determined by Northern States Power Company, or its successors. Applicant may transplant or thin out trees in the landscape area, so long as impervious screening is maintained.
6. The water run-off from any existing or proposed buildings in the CUP Area shall meet the 1% rule as to rate and volume, as determined by the City Engineer.
7. All of applicant's property shall remain in an Agricultural Zone so long as this Conditional Use Permit remains in effect.
8. One freestanding non-illuminated sign, not to exceed 30 square feet in area or 6 feet in height, shall be permitted at the 15th Street driveway entrance.
9. Security lights may be installed in the CUP Area in accordance with the City lighting ordinances.
10. The applicant shall maintain their property 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. No site plan review shall be required for permitted uses outside of the CUP Area.
11. The Conditional use authorized shall comply with all State and Federal pollution and hazardous materials statutes and regulations. No hazardous materials or wastes shall be stored on the property or the CUP Area, except agriculturally related chemicals for use by landowners in normal farming or landscaping operations.
12. The area shown as Phase II on the site plan (Exhibit C) may not be used for any indoor or outdoor storage until it is no longer enrolled in the Metropolitan Agricultural Preserves program. Except for any amendments to the submitted site plan (Exhibit C), no site plan review shall be required for the use of the Phase II area once it is no longer in Agricultural Preserves.

13. In the event that the applicant, or their successors or assigns, initiate a Comprehensive Plan Amendment and Rezoning of any of the property from Agriculture to a more intensive use, the CUP Area shall be reduced so that it does not exceed 4% of the remaining property, provided the property is at least a nominal 40 acres. The impervious surface coverage of the CUP Area shall likewise be reduced, by removing or reducing buildings, so that it does not exceed 1.5% of the remaining property. If the property becomes less than a nominal 40 acres, then this CUP shall terminate and all non-conforming structures shall be removed within one year from the date of the City Council's adoption of the Comprehensive Plan Amendment and Rezoning. This section shall not apply if the City initiates rezoning or if the landowners are forced to transfer title to any part of the property due to Eminent Domain.
14. Neither this resolution, nor the City's Non-Agricultural Low Impact Use Regulations shall restrict the applicant's right to convey conservation easements over applicants property.
15. The City recognizes that the storage use permitted by this resolution allows the applicants the economic means to preserve and maintain the family farm. If the City, without the property owners concurrence, should take any action to make this a legal non-conforming use under the zoning ordinance, the City hereby agrees to allow the reconstruction of any non-conforming structures in the CUP Area that may become damaged beyond 50% of their replacement cost, so long as all other conditions of this resolution are in compliance.
16. It is expressly understood by the applicants that any hazard to the health or welfare of the City could and would be grounds for revocation of this permit.
17. This Resolution supercedes the provisions of Resolution 88-16, and said prior Resolution is hereby rescinded.

ADOPTED by the City Council this 5th day of September, 2000.



Lee Hunt, Mayor

ATTEST:



Mary Kueffner, City Administrator