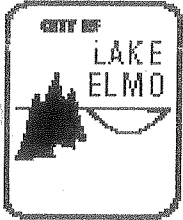


FILE



# 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, September 24, 2007, at 7:00 p.m.**

### AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
  - a. August 13, 2007
4. Public Hearings:
  - a. **CONDITIONAL USE PERMIT:** Application from HAIRitage 'Hous to allow therapeutic massage as a component of the full service salon currently located at 9242 Hudson Boulevard, Suite 3; HD-GB-SRD zoning; PID 34-029-21-34-0004.
  - b. **MASTER PLAN AMENDMENT:** Application from the Carmelite Monastery to amend the approved Master Plan for the site to add an accessory structure; PF zoning; PID 09-029-21-12-0001.
  - c. **CONDITIONAL USE PERMIT:** Application from Common Grounds Church to establish a CUP for the church and add the keeping of horses for operation of the "Hoof Prints" ministry; PF zoning; PID 14-029-21-32-0024. – Recommended for tabling
  - d. **CONDITIONAL USE PERMIT AMENDMENT and VARIANCE:** Application from E&E Properties LLC to allow enlargement of the existing bus parking lot and the addition of a car parking lot for employee vehicles at 11530 Hudson Boulevard North. A variance is also requested to allow more than 4% of the land to be utilized by the existing "non-agricultural low impact use;" HD-A-BP zoning; PID 36-029-21-43-0001.
5. Business Items:
  - a. None.
6. Informational Items:
  - a. City Council Updates
    - i. September 18 – Pool Barrier ordinance
  - b. City website update
7. Adjourn

**City of Lake Elmo  
Planning Commission Meeting  
Minutes of August 13, 2007**

Chairman Ptacek called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Ptacek, Schneider, Deziel, Roth, Lyzenga, Van Zandt, Fliflet, Armstrong and Helwig. STAFF PRESENT: Senior Planner Gozola and Planner Matzek.

**Agenda**

M/S/P, Deziel/Lyzenga to accept the Agenda as presented. Vote: 9:0.

**Minutes**

None.

**Public Hearing: Zoning Code Text Amendment; Sexually Oriented Businesses**

Senior Planner Gozola introduced a draft sexually oriented uses ordinance. He explained this ordinance is very similar to the one reviewed by the commission last fall. He said cities are legally required to provide a space in the city for sexually oriented businesses, with the exception of live performances if a city is within 50 miles of such a facility. The proposed ordinance uses 1350 foot buffers around school property, church properties, public spaces, and all residential areas to identify a proper location for sexually oriented businesses. The buffers are intended to reduce the negative impacts. The 1350 foot buffer reduces the potential location to two properties in the city. By adding the requirement that the use be allowed only in the Business Park zoning district, the options are reduced to one location in Lake Elmo.

Commissioner Fliflet asked if the city was required to provide a certain sized parcel.

Senior Planner Gozola said the city is only responsible for creating a location where it would be permitted by city code and not for ensuring that the size or covenants, if there are any, allow that use on site.

Commissioner Schneider asked if the parcel would be covered by the Eagle Point Business Park Conditional Use Permit (CUP).

Senior Planner Gozola said it would.

Commissioner Fliflet asked if there was anything precluding the city's ability to identify a site that is already being used for another business.

Senior Planner Gozola said that if it can be done objectively, a parcel that already has a use on it may be identified as an appropriate location.

Commissioner Armstrong asked if other cities had used the 1350 foot setback.

Senior Planner Gozola said that communities have to look at the land uses and identify what is appropriate in each city.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:13 P.M.

No one spoke.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:13 P.M.

Commissioner Armstrong said the office park would need to come in and have their CUP amended and would need to want to sell their property to that type of business.

Commissioner Fliflet asked if this ordinance could be challenged.

Senior Planner Gozola said the ordinance has been reviewed by the City Attorney.

M/S/P, Roth/Van Zandt, motion to recommend approval of the ordinance as presented.  
Vote: 9:0.

#### **City Council Updates**

Planner Matzek said the Metropolitan Airports Commission (MAC) submitted a draft comprehensive plan amendment for the Lake Elmo Airport. At the August 7<sup>th</sup> City Council meeting a response was approved to be sent to MAC.

Senior Planner Gozola said that although it was not required, an Environmental Assessment Worksheet (EAW) was done for the sewer line. At the August 7<sup>th</sup> Council meeting, the City Council approved that no further environmental review was needed as identified in the results of the EAW. Senior Planner Gozola went on to identify upcoming planning commission items: pool covers, Mencke variance, LCD billboards. The city is looking to hire a full time planning director.

Adjourned at 7:23 p.m.

Respectfully submitted,

Kelli Matzek  
Planner

ITEM: Hold a public hearing and consider a request to allow therapeutic massage as a conditionally permitted use at HAIRitage 'Hous located at 9242 Hudson Boulevard, Suite 3.

REQUESTED BY: Babette Cernohouse and Todd Cernohous, Business Owner

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Susan Hoyt, City Administrator  
Ben Gozola, Senior Planner

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**SUMMARY AND ACTION REQUESTED:**

The planning commission is being asked to hold a public hearing, take comment and make a recommendation on a request for a conditional use permit for massage services at the HAIRitage 'Hous Salon. Unlike a variance, in the case of a conditional use permit, if the applicant proves that he or she meets the five criteria for granting a conditional use permit, the planning commission must recommend approval of the CUP. The staff report describes how the five criteria are met and the staff recommends approval of the CUP.

The five criteria include:

1. Effects on the health, safety, morals, convenience, or general welfare of surrounding lands.
2. Traffic & Parking conditions.
3. Effects on utility and school capacities.
4. Effect on property values of surrounding lands.
5. Effect of the proposed use on the Comprehensive Plan.

Please see the attached full staff report for the conditional use permit criteria analysis.

**ADDITIONAL FACTS:**

- The multi-tenant building in which HAIRitage 'House is located is used for general business purposes.
- The property has previously been allowing massage therapists to perform therapeutic massage on the property for the last year in the belief that it was allowed with proof of Professional Liability Insurance and/or National Certification as outlined in the city code definition of "Therapeutic Massage."
- The layout of the portion of the building used by HAIRitage 'Hous includes two treatment rooms in the floor plan dated April 16, 2006.
- The property is currently 5.16 acres in size, including a roadway easement.
- The DNR and the Watershed District had no concerns regarding the application.
- City staff was not contacted about the CUP after notices were mailed and published.

**STAFF RECOMMENDATION**

Staff is recommending approval of the conditional use permit requested at 9242 Hudson Boulevard, Suite 3 for the reasons as outlined in the full attached staff report.

With the following condition:



The use be allowed as identified on the site plan submitted with the land use application. If such use were proposed to expand or change, an amendment would be required.

#### OPTIONS

The Planning Commission has the following options:

- A) Recommend approval of the requested conditional use permit for therapeutic massage based on the meeting of the five conditional use permit criteria as outlined in City Code.
- B) Recommend denial of the requested conditional use permit based on the findings identified by the planning commission as staff was unable to identify reasons to deny the application.

#### RECOMMENDATION

Approval of the conditional use permit for therapeutic massage as requested at 9242 Hudson Boulevard, Suite 3 with the following condition:

1. The use be allowed as identified on the site plan submitted with the land use application. If such use were proposed to expand or change, an amendment would be required.

*Suggested motion for consideration:*

*Move to recommend approval of a conditional use permit for massage services at 9242 Hudson Boulevard based upon the following findings:*

1. The use would not negatively affect the health, safety, morals, convenience, or general welfare of surrounding lands.
2. It would not affect traffic or parking conditions given the use has existed on the site for one year and no complaints were received.
3. The use would have little or no effect on utility or school capacities.
4. The proposed use would have no effect on property values of surrounding lands.
5. The use would be consistent with the Comprehensive Plan.

*subject to the following condition recommended by staff:*

1. Therapeutic massage to be performed only in conjunction with a formal Salon or Spa.

#### SUGGESTED ORDER OF BUSINESS:

- |  |   |
|--|---|
| • Introduction   | Kelli Matzek, City Planner                                      |
| • Report   | Kelli Matzek, City Planner                                      |
| • Questions to staff   | Chair facilitates   |
| • Comments from applicant                                      | Babette Cernohous, Co-applicant<br>Todd Cernohous, Co-applicant |
| • Questions/comments from the public, if any (up to 3 minutes) | Chair facilitates   |
| • Discussion   | Chair facilitates   |
| • Consider recommending approval of application                | Commission  |

ATTACHMENTS: Comprehensive Staff report  
Site map  
Applicant's Submittals

City of Lake Elmo Planning Department  
Conditional Use Permit Request

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**To:** Planning Commission

**From:** Kelli Matzek, City Planner

**Meeting Date:** 9-24-07

**Applicant:** Babette Cernohous and Todd Cernohous

**Owner:** Joe Heinen

**Location:** 9242 Hudson Blvd N., Suite 3

**Zoning:** HD-GB-SRD

***Introductory Information***

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***Requested Conditional Use Permit:*** The applicants are seeking to allow therapeutic massage at their establishment located at 9242 Hudson Blvd N, Suite 3 within the HAIRitage 'Hous salon.

***Property Information:*** There is not an existing CUP for the site as to staff's knowledge; the uses within the multi-tenant building are permitted.

***Applicable Codes:*** **Section 300.06 Administration.**  
Subd 4. Conditional Use Permits. Outlines the general requirements for all conditionally permitted uses in Lake Elmo.

**Section 150 Definitions**

“Therapeutic Massage The process by which a practitioner applies massage therapy techniques, and may apply adjunctive therapies, with the intention of positively affecting the health and well being of the client. The rubbing, stroking, kneading, tapping, positioning, causing movement and applying touch and pressure to the body. Adjunctive therapies may include (1) Application of heat, cold, water, mild abrasives, electrotherapy, topical preparations not classified as prescription drugs; (2) the use of mechanical devices and tools which mimic or enhance manual actions; and, (3) instructed self-care and management. Massage therapy shall not include techniques traditionally practiced by chiropractors. Therapeutic Massage shall be performed only by a person who has provided the City with proof of Professional Liability Insurance and/or National Certification.” [sic]

### ***Findings & General Site Overview***

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**Site Data:** *Lot Size:* 5.16 acres including a roadway easement  
*Existing Use:* Multi-tenant commercial building  
*Existing Zoning:* HD-GB-SRD  
*Property Identification Number (PID):* 34-029-21-34-0004

### ***Application Review:***

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**Existing Conditions:** HAIRitage 'Hous moved into the existing multi-tenant building in 2006. Internal walls were built to provide service for 16 hair stations, two manicure/pedicure stations and two treatment rooms as identified in a floor plan dated April 16, 2006.

---

**CUP Review:** The following review of the CUP application is for the therapeutic massage as proposed for the HAIRitage 'Hous business.

Reviewing this request requires that all general CUP criteria be examined. For these types of applications, the burden is on the City to show why the use should not be permitted due to impacts that cannot be controlled by reasonable conditions.

Impacts the City must review are as follows:

1. *Effects on the health, safety, morals, convenience, or general welfare of surrounding lands.*
2. *Traffic & Parking conditions.*
3. *Effects on utility and school capacities.*
4. *Effect on property values of surrounding lands.*
5. *Effect of the proposed use on the Comprehensive Plan.*

---

**Conditional Use Permit Criteria:**

1. *Effects on the health, safety, morals, convenience, or general welfare of surrounding lands.*

The property at 9242 Hudson Boulevard North has an existing multi-tenant building on the property and is utilized as a general business location. Other businesses at the site are HotSpring Portable Spas, The Cabinet Store, and a future Summit Boardshop. The property to the west is currently utilized as a lumber business. The property immediately to the east is vacant.

The use of the property as a beauty shop is a permitted use within the General Business zoning district. The proposed therapeutic massage could be considered an extension of the services offered by the HAIRitage 'Hous salon.

Therapeutic massage as defined by the city code shall be performed only by a person who has provided the city with proof of Professional Liability Insurance and/or

National Certification. This assists the city in ensuring qualified professionals are employed.

**Therefore, staff finds this criteria is met.**

*2. Traffic & Parking conditions.*

The use has been existing without a conditional use permit for over a year. City staff is not aware of any complaints regarding traffic or parking in that time. The amount of traffic and parking associated with the proposed use would continue to be consistent with the existing shop.

**Staff finds this criteria is met.**

*3. Effects on utility and school capacities.*

A therapeutic massage use may have minimal impacts on the existing utilities at the site. The use of the utilities would be consistent with the permitted salon. The utilities are already established for the site and would not be greatly impacted by this use.

The number of school age children would not be impacted by this use. There would be no impact on the school capacities, **therefore staff finds this criteria is met.**

*4. Effect on property values of surrounding lands.*

The proposed therapeutic massage would be required as outlined in the definition, to provide the city with proof of Professional Liability Insurance and/or National Certification. These requirements assist the city in ensuring qualified professional services on the site.

Given the small-scale service and the primary function of the business as a salon, the surrounding land values would not be depreciated due to this use. **Therefore, staff would find this criteria is met.**

*5. Effect of the proposed use on the Comprehensive Plan.*

The property at 9242 Hudson Boulevard is currently utilized for general business purposes. The Comprehensive Plan guides the property for residential use in the future, but also provides for the continuation of existing uses until such time as the parcel is redeveloped. The City Code allows for such a use to be conditionally permitted on this site. **Staff finds this criteria is met.**

**Conditional  
Use Permit  
Conclusions:**

Based on the above analysis of the review criteria in City Code, staff would recommend **approval** of the conditional use permit request to allow therapeutic massage at 9242 Hudson Boulevard N, Suite 3 based on the following:

1. The use would not negatively affect the health, safety, morals, convenience, or general welfare of surrounding lands.
2. It would not affect traffic or parking conditions given the use has existed on the site for over one year and staff is not aware of any complaints.
3. The use would have no effect on utility or school capacities.
4. The proposed use would have no effect on property values of surrounding lands.
5. The use would be consistent with the Comprehensive Plan.

**Resident Concerns:** Staff is not aware of any concerns surrounding the requested conditional use permit. According to the applicant's submittals, the property owner and two of the neighboring businesses within the same building are not opposed to the proposed use.

**Additional Information:** Neither the watershed district nor the DNR provided comment in opposition to the proposed conditional use permit.

**Conclusion:**

The applicants are seeking approval of the following conditional use permit application:

To allow therapeutic massage at 9242 Hudson Boulevard N.

**Commission Options:** The Planning Commission has the following options:

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

The 60-day review period for this application expires on 10-22-07, but can be extended an additional 60 days if more time is needed.

**Staff Rec:** Staff is recommending approval of the conditional use permit request to allow therapeutic massage at 9242 Hudson Boulevard N based on the following:

1. The use would not negatively affect the health, safety, morals, convenience, or general welfare of surrounding lands.
2. It would not affect traffic or parking conditions given the use has existed on the site for one year and no complaints were received.
3. The use would have little or no effect on utility or school capacities.
4. The proposed use would have no effect on property values of surrounding lands.
5. The use would be consistent with the Comprehensive Plan.

With the following condition:

- Therapeutic massage to be performed only in conjunction with a formal Salon or Spa.

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

**Motion**

**Template:** I move we recommend that Council deny the requested conditional use permit for massage services at 9242 Hudson Boulevard based on the following findings...(please site reasons for the recommendation)

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

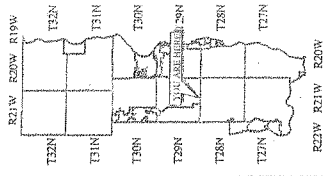
**Motion**

**Template:** I move we recommend that Council approves the requested conditional use permit for massage services at 9242 Hudson Boulevard based on the following findings...(use staff's findings provided above or cite your own)

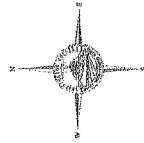
...with the following condition:

- Therapeutic massage to be performed only in conjunction with a formal Salon or Spa.

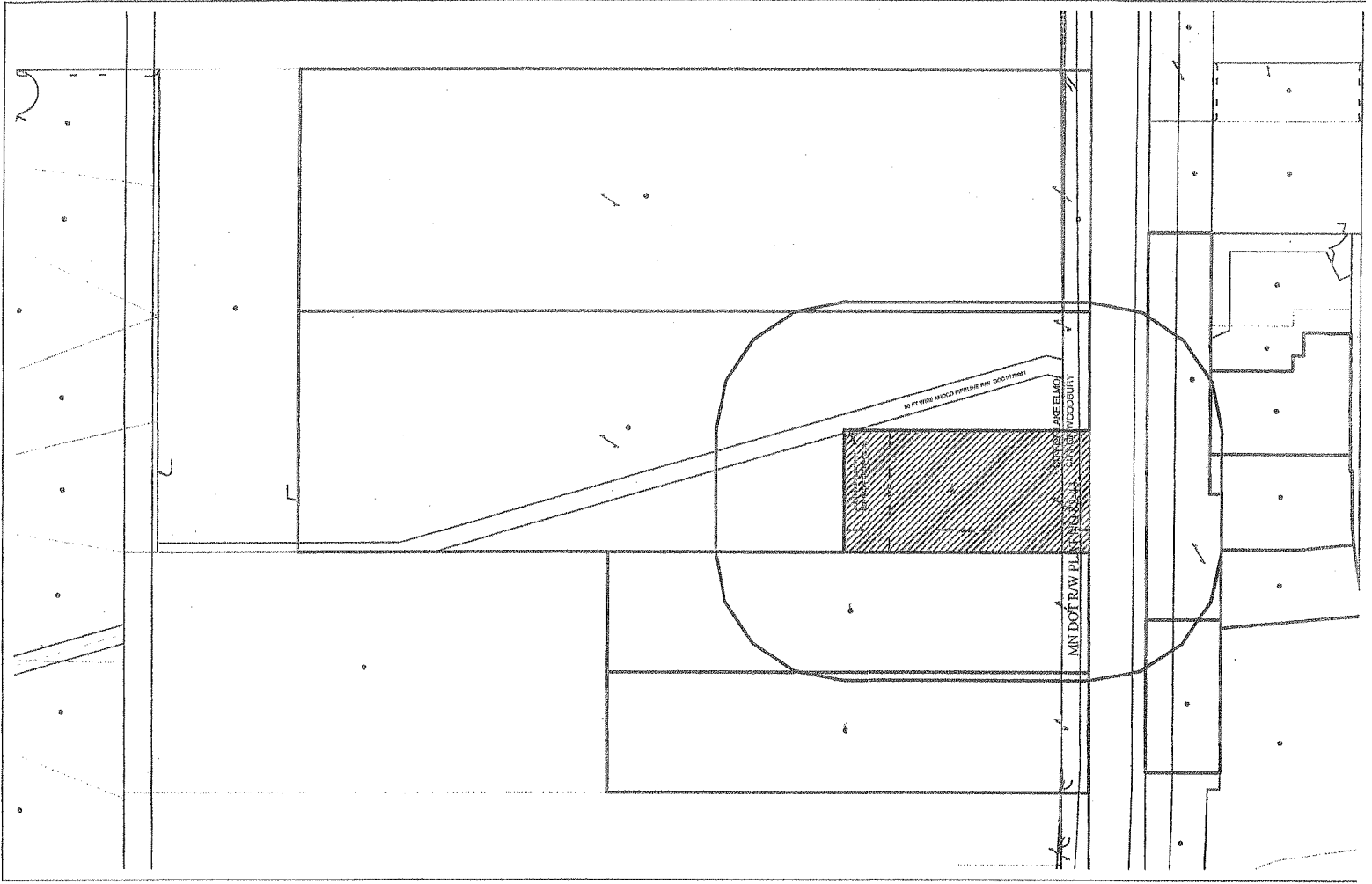
cc: Babette Cernohous, Co-applicant  
Todd Cernohous, Co-applicant



Vicinity Map



0 300  
Scale in Feet



Fee \$ 975.00

ck #4889

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
- Residential Subdivision Preliminary/Final Plat
  - 01 - 10 Lots
  - 11 - 20 Lots
  - 21 Lots or More
- Excavating & Grading Permit
- Appeal
- PUD

APPLICANT: Heritage Hous 9242 Hudson Blvd, Suite 3 ; Lake Elmo, MN 55042  
(Name) (Mailing Address) (Zip)

TELEPHONES: Bob (715) 426-7959 (651) 578-0200 Rev (612) 940-0627  
(Home) (Work) (Mobile) (Fax)

FEE OWNER: Joseph Heinen / Gatsby Investors LLC 595 Lake Ridge Dr Shoreview MN 55124  
(Name) (Mailing Address) (Zip)

TELEPHONES: 6123470171 6123863899 6123382860  
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): See attached survey

DETAILED REASON FOR REQUEST: please see attached letter

\*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.

Bobbi Cernohous 8/20/07  
Signature of Applicant Date

Joseph Heinen 8/15/07  
Signature of Applicant Date

RECEIVED  
AUG 24 2007



# HAIRITAGE 'Hous

9242 Hudson Boulevard, Suite 3 · Lake Elmo, MN 55042 · 651-578-0200

August 10, 2007

Council Members  
City of Lake Elmo  
Lake Elmo, MN 55042

RE: Conditional Use Permit for HAIRitage 'Hous

Dear Council Members:

HAIRitage 'Hous is a reputable salon that has been in business since January 1999 as evidenced by the attached letters of support. After experiencing growing pains at our Woodbury location, we expanded our square footage and rebuilt in Lake Elmo as a full-service salon featuring 16 hair stations, two manicure/pedicure stations and two treatment rooms. After our one-year anniversary in July at our new Lake Elmo location, it was brought to our attention that offering massage needed a Conditional Use Permit; and this is our request for the permit. This is frustrating to us, as we thought this was approved through the right channels with city hall and built two rooms to service massage and call them treatment rooms. We would not have built and furnished these rooms and paid to advertise if we thought it wasn't approved.

Two years ago, we were told and sent a copy (attached) by the City of Lake Elmo saying it was permitted with a copy of Professional Liability Insurance and/ or a National Certification. Since that time, we have had five women apply to work as a Massage Therapist at our establishment; and they all were told the same thing by the City of Lake Elmo. Kelly and Ben have now clarified that it is permitted for the massage therapist to work at the business if the business has a Conditional Use Permit.

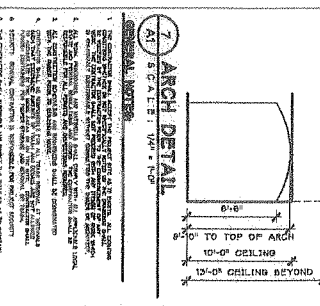
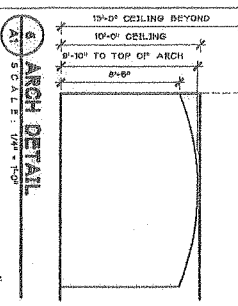
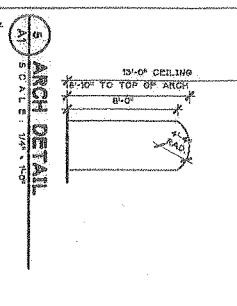
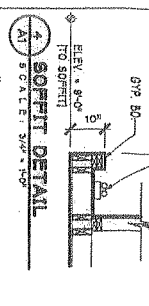
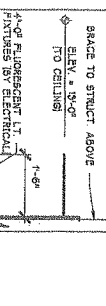
In view of the misunderstanding, we are asking that you grant a Conditional Use Permit to HAIRitage 'Hous to continue the Professional Services of massage in our salon. As noted, we thought we were in compliance with all regulations and have obtained all the required information requested by the City of Lake Elmo to rectify the situation. We appreciate your consideration of this request for a C.U.P. and truly believe that we are a positive addition to the City of Lake Elmo by bringing in hundreds of clients daily.

Sincerely,



HAIRitage 'Hous Owners  
Babette (Bobbi) Cernohous  
Todd Cernohous

Enclosures



**GENERAL NOTES:**

1. CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS OF EXISTING WORK PRIOR TO COMMENCEMENT OF WORK.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE IBC AND ALL APPLICABLE CODES.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.
4. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL AUTHORITIES.
5. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL EXISTING UTILITIES AND STRUCTURAL MEMBERS AT ALL TIMES.
6. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING WORK NOT TO BE TOUCHED.
8. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS.
9. THE CONTRACTOR SHALL MAINTAIN A SAFE WORKING ENVIRONMENT AT ALL TIMES.
10. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

**MECHANICAL / ELECTRICAL BY OTHERS:**

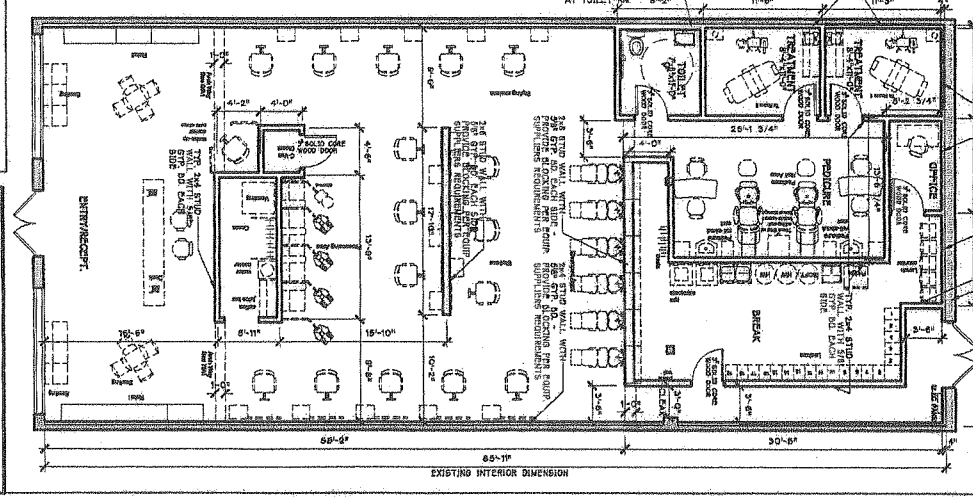
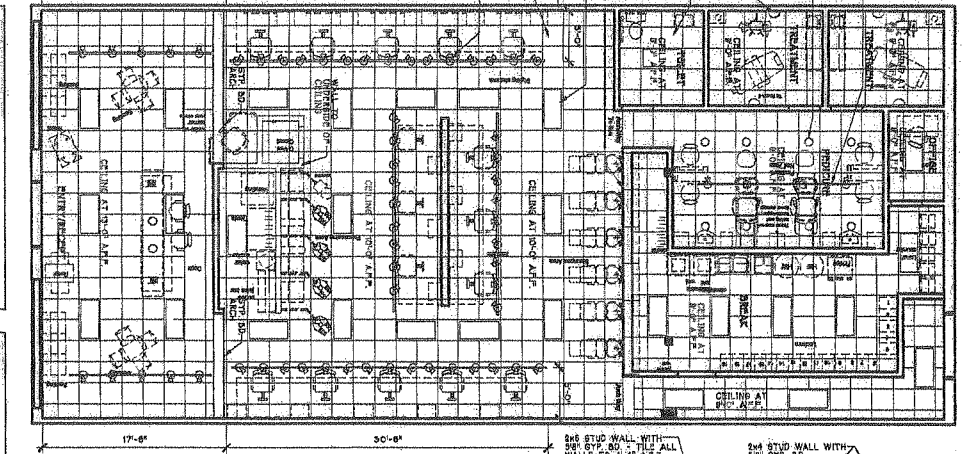
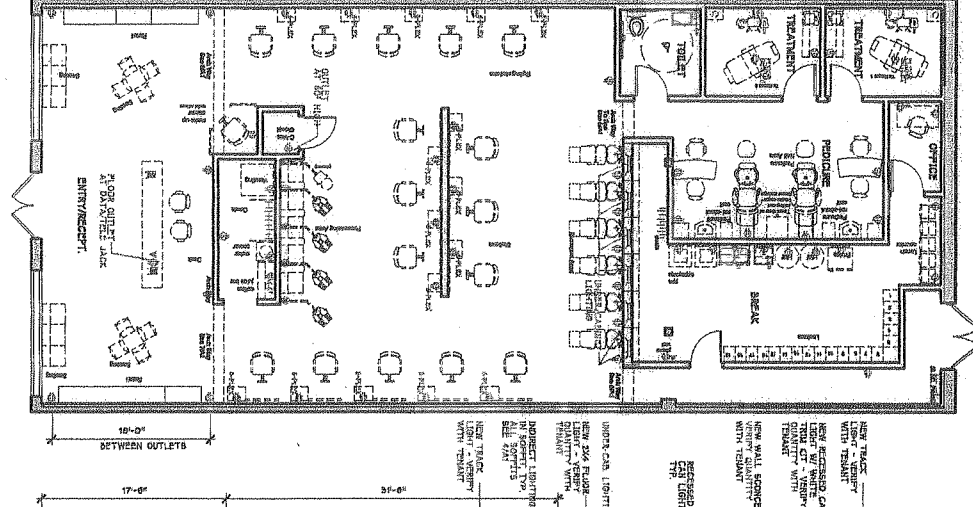
MECHANICAL / ELECTRICAL BY OTHERS SHALL BE SHOWN ON SEPARATE DRAWINGS. CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS OF EXISTING WORK PRIOR TO COMMENCEMENT OF WORK.

**ALL REQUIREMENTS TO ARCH AND SCAFF SYSTEMS ON THESE DRAWINGS ARE FOR CONCEPTUAL DESIGN ONLY - NOT FOR FINAL DESIGN OR CONSTRUCTION.**

**NOTES:**

EXISTING LAYOUT WILL BE PERFORMED BY RSC. CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS OF EXISTING WORK PRIOR TO COMMENCEMENT OF WORK.

REFER TO EQUIPMENT SUPPLIER'S DRAWINGS FOR SPECIFIC ELECTRICAL, COULTS, VOTES AND REQUIREMENTS.



**CEILING NOTES:**

REMOVE CEILING TILE WITH REMOVAL EDGE TILE TO BE SET BACK FOR FINISH. PROVIDE FINISHING CONTRACTOR FOR WALL, REPAIRS, PROVIDE SOUND INSULATION IN ALL INTERIOR WALLS. FINISH WALLS TO MATCH EXISTING WALLS.

**NOTES:**

REFER TO CONTRACTOR SPECIFICATIONS FOR SPECIFIC LIGHTING FIXTURES, WALL LIGHTING, WALL SWITCHES, ETC. PROVIDE SOUND INSULATION IN ALL INTERIOR WALLS. THE EXISTING EXTERIOR FINISHES WALLS ARE OK.

**LEGEND:**

EXISTING WALL TO REMAIN  
NEW WALL  
EXISTING DOOR TO REMAIN  
NEW DOOR



DATE: August 15, 2007  
TO: City of Lake Elmo  
FROM: Joe Heinen, President, Gatsby Investors LLC, fee simple owner, 9242 Hudson Blvd N  
RE: Hairitage Hous Request for CUP

I'm writing this letter in support of Hairitage Hous' request for a CUP to provide massage therapy services at its location at 9242 Hudson Blvd. I have found Hairitage Hous to be an outstanding business, an excellent resource to the community, and an organization that conducts itself with the utmost in care for its customers. Please contact me at 612-347-0171 to discuss any aspect of my support that the CUP be granted.

Kind Regards,



Joe Heinen



9242 Hudson Blvd  
Lake Elmo, Mn 55042  
651-731-9745

4777 South Highway 101  
Minnetonka, Mn 55345  
952-933-9040

2001 Locksin-Thompson Winner  
"International Dealer of the Year"

August 13, 2007

To Whom It May Concern:

Hairitage Hous has been located next door to our business for the past year and we are pleased to say that they have been very professional and business like at all times. Please feel free to contact me if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Dan Eppard".

Dan Eppard  
General Manager

August 13, 2007

To Whom It May Concern:

My name is Amy Fleming and I work at "The Cabinet Store" just a few feet away from the "Hairitage Hous" in Lake Elmo, MN. I have been asked by Bobbi Cernohous to write a "letter of opinion" to you regarding possible illicit business practices.

It seems that the City of Lake Elmo is concerned that the Hairitage Hous is running an illegal massage parlor. I have no knowledge of this. I have not noticed any strange activity for a hair salon. The clients, I have observed, seem to be mostly women with about half of them being elderly. Appearance wise, nothing seems to be out of the ordinary.

If you have any questions, you may contact me at 651-714-2227.

Sincerely,

A handwritten signature in cursive script that reads "Amy Fleming".

Amy Fleming  
The Cabinet Store  
9242 Hudson Blvd. N.  
Lake Elmo, MN 55042

Subdivision	A described tract of land which is to be or has been divided into two or more lots or parcels for the purpose of transfer of ownership, building development or for tax assessment purposes. The term includes resubdivision and, where it is appropriate to the context, relates either to the process of subdividing, to the land subdivided or to the development for which it is being subdivided.
Substandard Building	Means any building or structure lawfully existing on the effective date of this Code or any amendment to this Code which building or structure does not conform with the regulations, including dimensional standards, for the district in which it is located after the effective date of this Code or the amendment.
Substandard Structure	(See Substandard Building)
Supper Club	A building with facilities for the serving of meals and where meals are regularly served at tables to the general public. The building must be of sufficient size and design to permit the serving of meals to not less than fifty (50) guests at one time. Intoxicating liquors may be sold on-sale and live entertainment and/or dancing shall be permitted.
Surface Water Flooding	The 100 year flood plain along rivers and streams as defined by the DNR, or in the absence of such data, as determined by the largest flood or record; on lakes, high water levels as determined or recorded by the DNR, or, in the case of no DNR record, by local records of information.
Suspended Solids (SS)	Solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering in accordance with the latest edition of Standard Methods for the Elimination of Water and Waste Water.
Swimming Pool	Any permanently located pool, used for swimming and/or bathing which is over twenty-four (24) inches in depth, or which as a surface area exceeding one hundred fifty (150) square feet.
Swimming Pool, Private or Residential	Any pool which is used, or intended to be used, as a swimming pool in connection with a single family residence, and which is available only to the family of the household and private guests.
Swimming Pool, Public or Semi-Public	Any swimming pool other than a private swimming pool.
Tavern	An establishment for the retail on-sale of non-intoxicating malt liquors, and which in addition, provides dancing, singing, or vaudeville performances or entertainment for its guests, or provides for them the privilege of dancing.
Ten Year Flood	That flood which can be expected to occur, on an average, of once in ten years; or the level to which flood waters have a ten percent chance of rising in any given year.
Therapeutic Massage <sup>26</sup>	The process by which a practitioner applies massage therapy techniques, and may apply adjunctive therapies, with the intention of positively affecting the health and well being of the client. The rubbing, stroking, kneading, tapping, positioning, causing movement and applying touch and pressure to the body. Adjunctive therapies may include (1) Application of heat, cold, water, mild abrasives, electrotherapy, topical preparations not classified as prescription drugs; (2) the use of mechanical devices and tools which mimic or enhance manual actions; and, (3) instructed self-care and management. Massage therapy shall not include techniques traditionally practiced by chiropractors. Therapeutic Massage shall be performed only by a person who has provided the City with proof of Professional Liability Insurance and/or National Certification.
Toe of the Bluff	The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
Toilet Waste	Fecal matter, urine, toilet paper and any water used for flushing.
Top of the Bluff	The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

*Permitted  
 in GB +  
 dB*

<sup>26</sup> Added 97-89 on 12-19-01

ITEM: Hold a public hearing and consider a request for a master plan amendment to allow an additional accessory building at the Carmelite Monastery of the Blessed Virgin Mary at 8249 Demontreville Trail.

REQUESTED BY: Father John Burns of the Carmelite Monastery

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Susan Hoyt, City Administrator  
Ben Gozola, Senior Planner

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**SUMMARY AND ACTION REQUESTED:**

The planning commission is being asked to hold a public hearing, take comment and make a recommendation on a request for a master plan amendment to allow an additional accessory building at the Carmelite Monastery of the Blessed Virgin Mary. Unlike a variance or conditional use permit, the city code does not set out specific criteria when reviewing master plans. Instead, it is intended to review the specific site and potential impacts to neighbors.

**ADDITIONAL FACTS:**

- The property has been used for religious purposes since the 1950's.
- A master plan was approved for the Carmelite of the Blessed Virgin Mary in the 1990's.
- In 1991, the city approved by resolution a variance from the requirement for frontage on a public roadway.
- The property is 58.84 acres in size.
- The proposed building is 1,512 square feet (36' by 42').
- The DNR and the Watershed District had no concerns regarding the application.
- City staff was contacted about the application after notices were mailed and published, but no concern or negative comments were received.

**STAFF RECOMMENDATION**

Staff is recommending approval of the master plan amendment requested at 8249 Demontreville Trail with conditions for the reasons as outlined below and in the full attached staff report.

**OPTIONS**

The Planning Commission has the following options:

- A) Recommend approval of the requested master plan amendment for an additional accessory building based on the reasons outlined in the staff report.
- B) Recommend denial of the requested master plan amendment based on the findings identified by the planning commission as staff was unable to identify reasons to deny the application.

**RECOMMENDATION**

Approval of the master plan amendment for an additional accessory building at 8249 Demontreville Trail with the following conditions:

1. The proposed structure must meet applicable setback requirements.



2. The septic system for the proposed structure would need to meet all applicable requirements.

*Suggested motion for consideration:*

*Move to recommend approval of a master plan amendment for an accessory building at 8249 Demontreville Trail based upon the following findings:*

1. Given the size of the property and the distance to adjacent neighbors, the impacts to neighbors would be minimal.
2. The request for an additional storage and work space may be reasonable given the use of the property.

*subject to the following conditions recommended by staff:*

1. The proposed structure must meet applicable setback requirements.
2. The septic system for the proposed structure would need to meet all applicable requirements.

**SUGGESTED ORDER OF BUSINESS:**

- |  |                              |
|--|------------------------------|
| • Introduction   | Kelli Matzek, City Planner   |
| • Report   | Kelli Matzek, City Planner   |
| • Questions to staff   | Chair facilitates            |
| • Comments from applicant                                      | Father John Burns, Applicant |
| • Questions/comments from the public, if any (up to 3 minutes) | Chair facilitates            |
| • Discussion   | Chair facilitates            |
| • Consider recommending approval of application                | Commission                   |

**ATTACHMENTS:** Comprehensive Staff report  
Site map  
Applicant's Submittals

City of Lake Elmo Planning Department  
Master Plan Amendment Request

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*To:* **Planning Commission**

*From:* Kelli Matzek, City Planner

*Meeting Date:* **9-24-07**

*Applicant:* **Reverend John Burns**

*Owner:* Carmelite Monastery

*Location:* **8249 Demontreville Trail**

*Zoning:* Public Facilities and Quasi-Public Uses (PF)

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***Introductory Information***

<b><i>Requested Master Plan Amendment:</i></b>	The applicant is seeking to amend an approved master plan for the site at 8249 Demontreville Trail to add a 36' by 42' (1,512 sq ft) garage.
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<b><i>Property Information:</i></b>	<p>A master plan was approved for the Carmelite of the Blessed Virgin Mary in the 1990's. The approved plan includes a court, entrance gate, public cloister, guest house/library, basilica, sacristy, bell tower, monk's gate, garth, fountain, cloister, hermitage, private garden, community building, and workshop. Portions of this plan have been implemented while others are still planned as future additions.</p> <p>A variance was approved for road frontage on a public road by resolution in 1991.</p>
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***Findings & General Site Overview***

<b><i>Site Data:</i></b>	<p><i>Lot Size:</i> 58.84 acres</p> <p><i>Existing Use:</i> Religious Use – Carmelite of the Blessed Virgin Mary Monastery</p> <p><i>Existing Zoning:</i> PF</p> <p><i>Property Identification Number (PID):</i> 09-029-21-12-0001</p>
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***Application Review:***

<b><i>Master Plan Amendment Review:</i></b>	<p>A master plan for the property was previously reviewed and approved. The addition of an accessory building to the site would need an amendment to the approved plan.</p> <p>The building would be intended to store equipment for the site, include a work area, and provide bathroom facilities for two employees and visitors.</p>
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The proposed garage section would be used to store equipment used on the site. A workbench is proposed for internal work.

The proposed bathroom would be utilized for two employees on the property as well as any potential visitors. Soil testing and septic design has been completed and submitted. This will be reviewed by the building inspection department at the time a building permit would be applied for to ensure compliance with regulations.

A work area is also identified within the building for the continuation of work taking place on the property.

**Master Plan  
Amendment  
Conclusions:**

Staff would recommend **approval** of the master plan amendment request to allow the addition of an accessory building for the site at 8249 Demontreville Trail based on the following:

1. Given the size of the property and the distance to adjacent neighbors, the impacts to neighbors would be minimal.
2. The request for an additional storage and work space may be reasonable given the use of the property.

Staff would recommend the following conditions:

1. The proposed structure must meet applicable setback requirements.
2. The septic system for the proposed structure would need to meet all applicable requirements.

**Resident  
Concerns:**

Staff is not aware of any concerns surrounding the requested master plan amendment.

**Additional  
Information:**

Neither the watershed district nor the DNR provided comment in opposition to the proposed master plan amendment.

**Conclusion:**

The applicants are seeking approval of the following master plan amendment:  
To allow an additional accessory building on the property at 8249 Demontreville Trail.

**Commission  
Options:**

The Planning Commission has the following options:

- A) Recommend approval of the master plan amendment request;
- B) Recommend denial of the master plan amendment request.

The 60-day review period for this application expires on 10-09-07, but can be

extended an additional 60 days if more time is needed.

**Staff Rec:** Staff is recommending approval of the master plan amendment request to allow an additional accessory building at 8249 Demontreville Trail based on the following:

1. Given the size of the property and the distance to adjacent neighbors, the impacts to neighbors would be minimal.
2. The request for an additional storage and work space may be reasonable given the use of the property.

With the following condition:

1. The proposed structure must meet applicable setback requirements.
2. The septic system for the proposed structure would need to meet all applicable requirements.

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

**Template:** I move we recommend that Council deny the requested Master Plan Amendment at 8249 Demontreville Trail based on the following findings...*(please site reasons for the recommendation)*

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

**Template:** I move we recommend that Council approves the requested Master Plan Amendment at 8249 Demontreville Trail based on the following findings ...*(use staff's findings provided above or cite your own)*

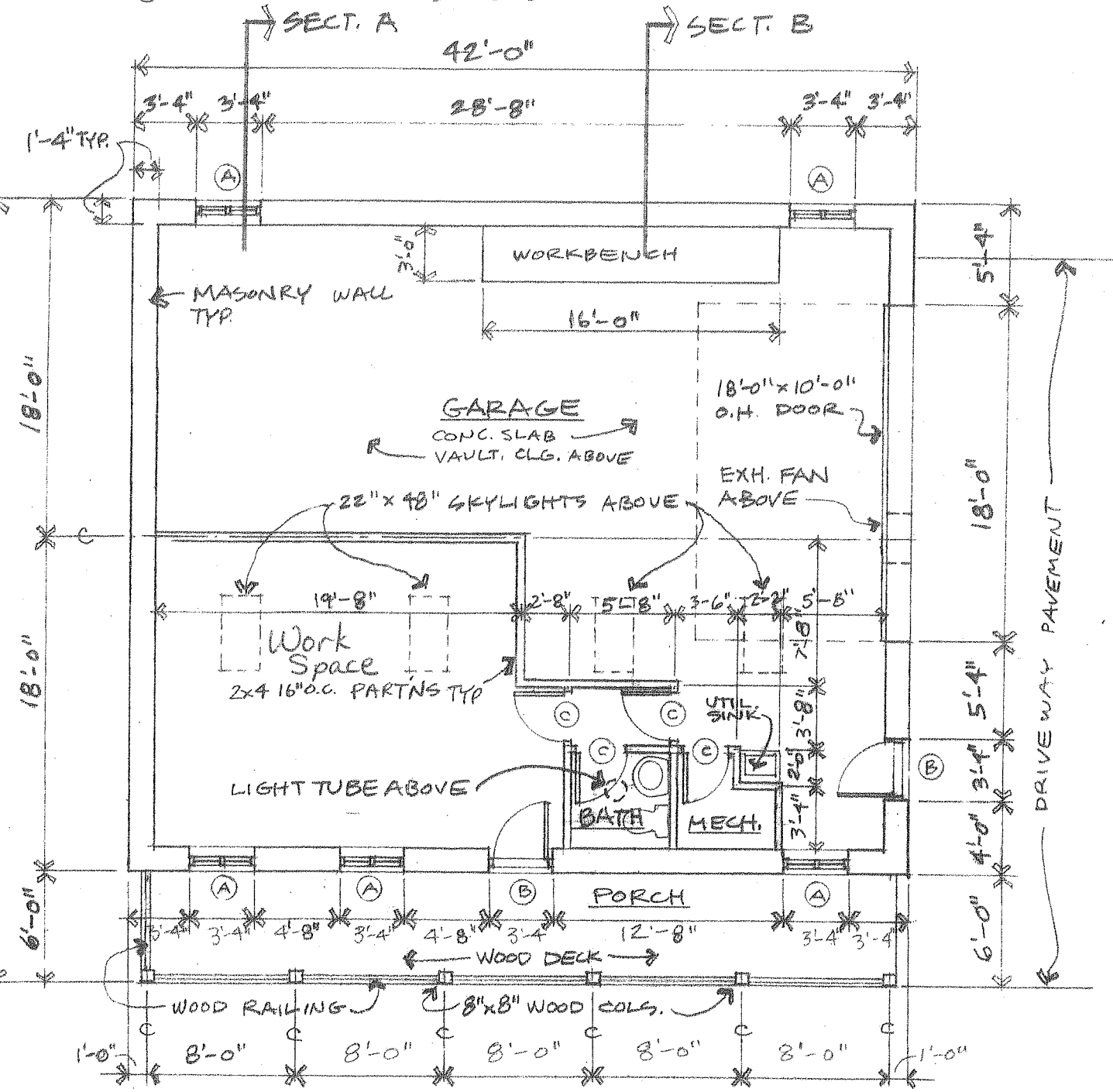
**...with the following condition:**

1. The proposed structure must meet applicable setback requirements.
2. The septic system for the proposed structure would need to meet all applicable requirements.

cc: Father John Burns, Applicant

# WINDOW & DOOR SCHEDULE

- (A) EXIST. WINDOW UNITS 40 1/2" W X 60" H VERIFY MAS. OPNG.
- (B) EXTER. DOORS 3'-0" X 6'-8" VERIFY STYLE AND MAS. OPNG.
- (C) INTER. DOORS 2'-8" X 6'-8" VERIFY STYLE AND R.O.

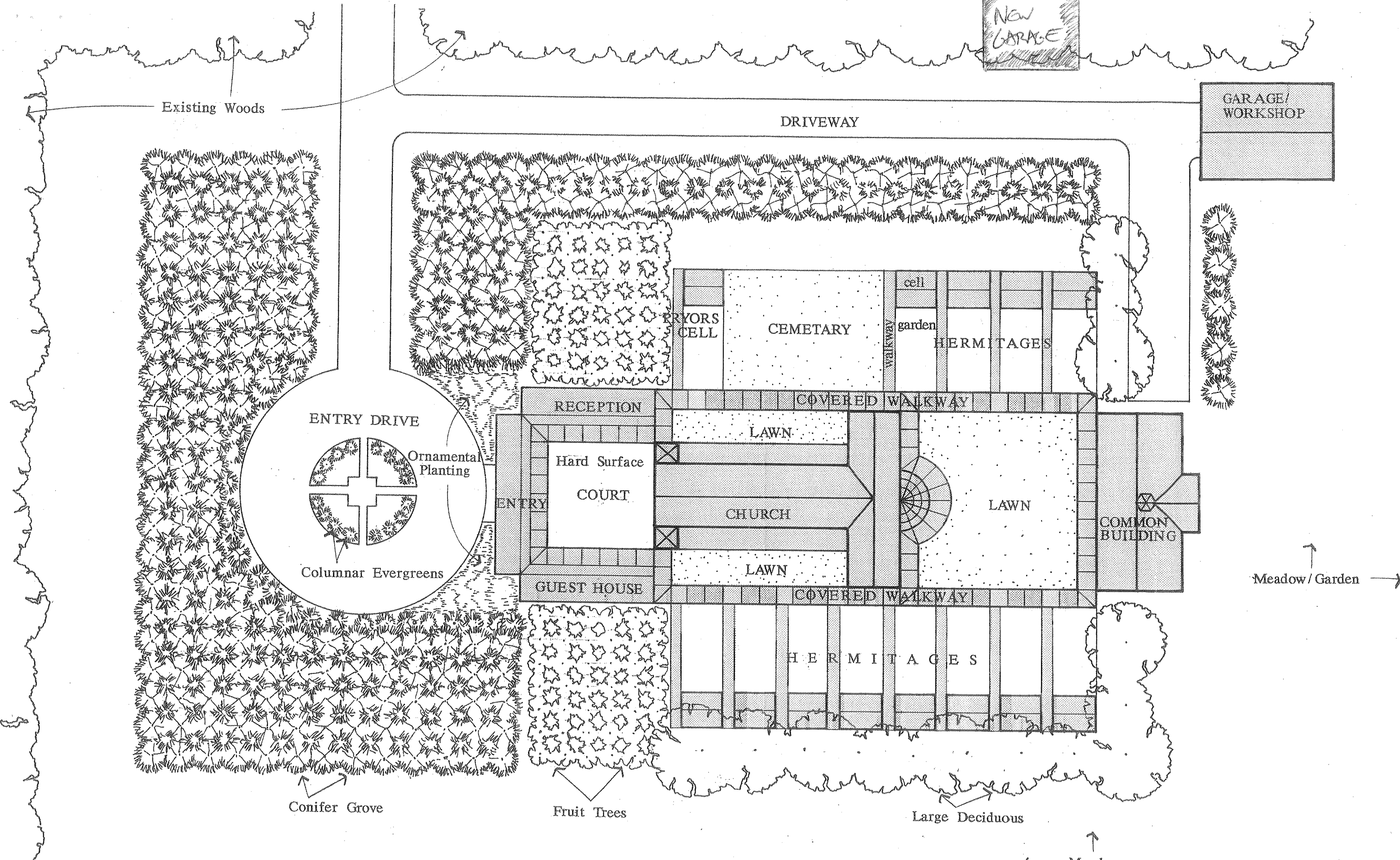


## FLOOR PLAN

1/8" = 1'-0"

MELITE MONASTERY  
 AIL NORTH, LAKE ELMO, MN.

2

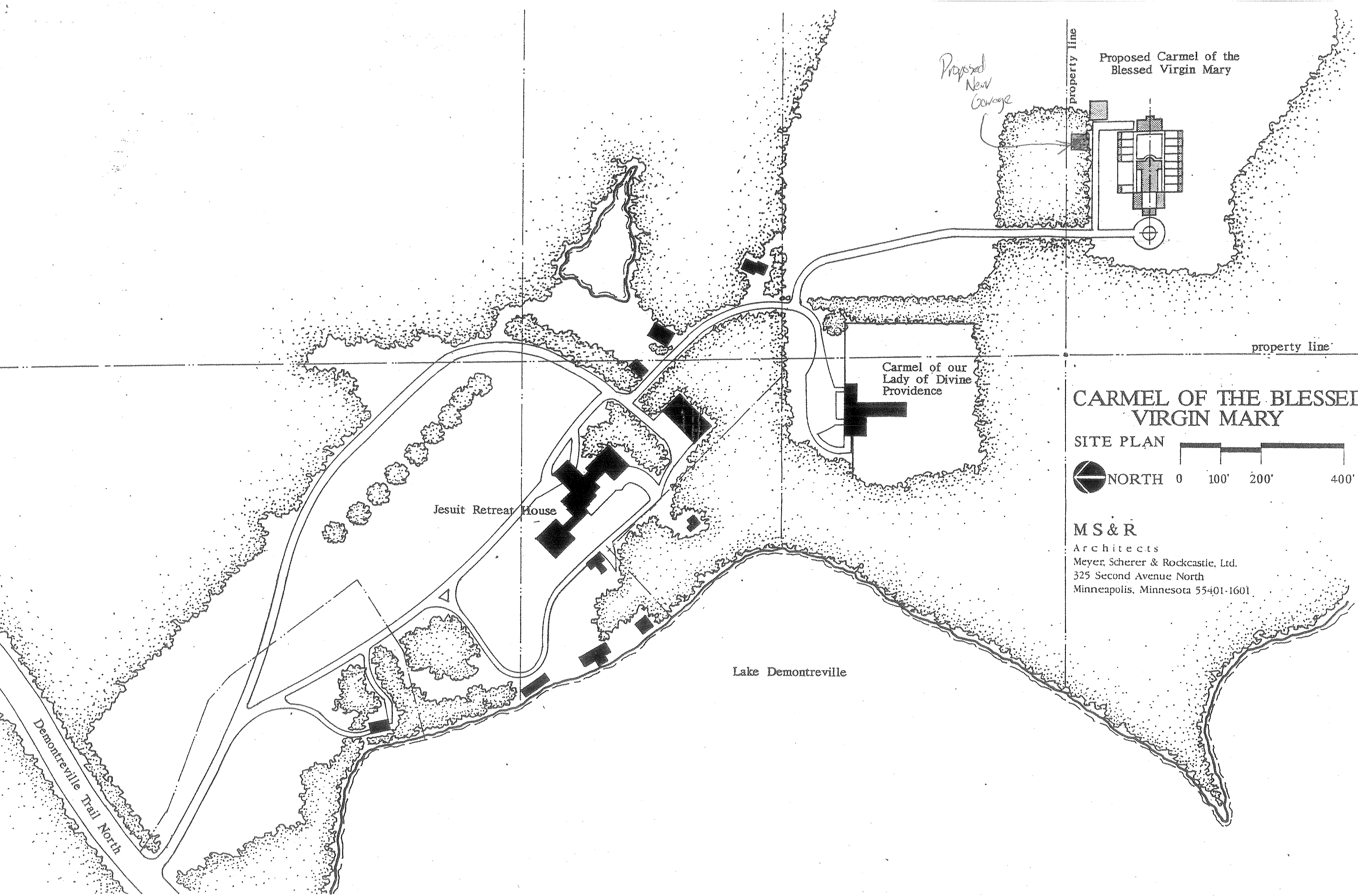


**CARMEL OF THE BLESSED VIRGIN MARY**  
 LANDSCAPE PLAN

1/32"=1'-0"

**MS & R**  
 Architects  
 Meyer, Scherer & Rockcastle, Ltd.  
 325 Second Avenue North  
 Minneapolis, Minnesota 55401-1601

**APPROVED SITE PLAN**



Proposed Carmel of the Blessed Virgin Mary

*Proposed New Coverage*

property line

property line

Carmel of our Lady of Divine Providence

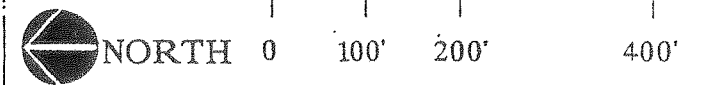
Jesuit Retreat House

Lake Demontreville

Demontreville Trail North

# CARMEL OF THE BLESSED VIRGIN MARY

SITE PLAN



**M S & R**

Architects  
Meyer, Scherer & Rockcastle, Ltd.  
325 Second Avenue North  
Minneapolis, Minnesota 55401-1601

ITEM: Application from Common Grounds Church to permit the keeping of horses as a component of a CUP allowing a place of worship.

REQUESTED BY: Common Grounds Church, Applicant

SUBMITTED BY: Ben Gozola, Senior Planner

REVIEWED BY: Susan Hoyt, City Administrator  
Kelli Matzek, Assistant City Planner  
Jerry Filla, City Attorney  
Ryan Stempski, City Engineer

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**SUMMARY AND ACTION REQUESTED:**

Staff is requesting that the planning commission table this public hearing until the October 22<sup>nd</sup> meeting to allow staff additional time to complete research on this request. We intended to recommend denial of the proposal as the consensus amongst staff was that providing horse riding, while an admirable service, was not required or necessary for the "place of worship." Upon communicating this intent to the applicant, we were told that the former planner recommended the church combine their property and rezone the acreage to the restrictive PF zoning district. Prior to taking such action, the parcel allegedly was zoned Agricultural (which does allow for horses).

Staff feels it is critical to sort out the history of this application prior to it being considered by the planning commission or City Council. The request to delay until the 22<sup>nd</sup> is due to upcoming council agendas that will prevent it from being considered until the first meeting in November regardless of when its reviewed by the commission.

**STAFF RECOMMENDATION:**

Table the public hearing until the October 22<sup>nd</sup> Planning Commission meeting.

**ORDER OF BUSINESS:**

- Introduction ..... Ben Gozola, Senior Planner
- Call for a motion ..... Chair Facilitates
- Discussion of Commission on the motion ..... Chair Facilitates
- Action by the Planning Commission ..... Chair & Commission Members



**ITEM: Hold a public hearing to consider a conditional use permit amendment and three variances to allow E&E Properties LLC to expand the existing Laidlaw Bus transit facility on property at 11530 Hudson Boulevard**

REQUESTED BY: Terry Emerson, Applicant

SUBMITTED BY: Ben Gozola, Senior Planner

REVIEWED BY: Susan Hoyt, City Administrator  
Kelli Matzek, Assistant City Planner  
Jerry Filla, City Attorney  
Ryan Stempski, City Engineer

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SUMMARY AND ACTION REQUESTED: The planning commission is being asked to hold a public hearing to consider a conditional use permit amendment and three variances to allow the expansion of the school bus operation currently located at 11530 Hudson Boulevard. The property is zoned agricultural and the Laidlaw bus operation is currently authorized by a low impact non-agricultural use CUP approved in 2002. The proposed expansion would add approximately 1.07 acres to the CUP site to accommodate 23 additional buses and employee parking needs. The changes are desired to improve logistics of the operation.

The amendments to the conditional use permit include the expansion of the existing bus parking lot, the addition of an employee parking lot, and the inclusion of 23 additional buses operating from the site.

The amendment will require the following variances: (1) A 2.65 acre expansion of the CUP site over the maximum size allowed by code; (2) A 0.6 trips per acre increase for traffic over the maximum trips allowed by code; and (3) a 2.31 acre variance to the allowable amount of hardcover allowed by code. The variances for the CUP site area and hardcover are significant as the approval in 2002 authorized nonconformities to code.

The planning commission must approve a conditional use permit if the conditions in the city code are demonstrably met. However, the requested variances can only be approved if the applicant can demonstrate that the hardship criteria are met.

After review, staff is recommending denial of the requests as the application does not satisfy the hardship requirements for approval of the variances. However, the proposed changes do not appear to be out of character with the operation, nor does staff anticipate any negative impacts to nearby land uses or traffic levels if the proposal were approved. Additionally, land south of 10<sup>th</sup> Street is guided for future development far more intense than what is proposed. Because of this, staff believes a far more appropriate way to address the request would be through an interim use ordinance. Discussion of an interim use ordinance is a priority on the 2007 work plan.

BACKGROUND

- The existing bus facility is currently on approximately 4.38 acres of a 70-acre site.
- The existing CUP for the bus facility was approved in 2002, and authorized 56 buses to operate from the site. The remaining fleet buses were to operate from a separate nearby lot in Afton. Presumably site area limitations and traffic concerns limited the size of the approved operation.
- The 2002 approval calculated both *site area* and *impervious surfaces* in an incorrect manor. Landscaping and storm water improvements required by the use were excluded from the site area, and gravel surfaces were excluded from impervious surface calculations. As a result, staff finds the existing use is already nonconforming to both site area and impervious surface requirements.

ADDITIONAL INFORMATION

- The following is a summary of the request and its relation to code criteria.

<u>CUP Criteria</u>	<u>Applicability</u>
-- Effect on health, safety, & general welfare .....	<b>Satisfied</b>
-- Traffic and parking .....	<b>Not satisfied without variance</b>
-- Effect on utilities and school capacities .....	<b>Satisfied</b>
-- Effect on surrounding property value.....	<b>Satisfied</b>
-- Compliance with the comp plan.....	<b>Satisfied</b>
-- Zoning must be Agricultural.....	<b>Satisfied</b>
-- CUP area shall not exceed 4% of parent lot .....	<b>Not satisfied without variance</b>
-- Impervious surface shall not exceed 1.5% of parent lot.....	<b>Not satisfied without variance</b>
-- Parent lot shall be a minimum of 40 acres .....	<b>Satisfied</b>
-- Vehicle trips/day < 6.0 trips/parent acre .....	<b>Not satisfied without variance</b>
-- Parking setbacks .....	<b>Satisfied</b>
-- Outside storage shall be screened .....	<b>Satisfied</b>
-- Sewer use standards met .....	<b>Satisfied</b>
-- Parent land to be used for agricultural purposes.....	<b>Satisfied</b>
-- Lighting to comply with city regulations .....	<b>Satisfied</b>
-- Signs to comply with city regulations.....	<b>Satisfied</b>
-- Rate and volume shall not exceed the one percent rule .....	<b>Satisfied</b>
-- Future rezoning by landowner to cancel CUP .....	<b>Satisfied</b>

<u>Variance Criteria</u>	<u>Applicability</u>
-- Proposed use is reasonable and no alternatives exist .....	<b>Not Satisfied</b> <i>(retaining the existing use is reasonable)</i>
-- Hardship is caused by conditions unique to the land and are not generally applicable .....	<b>Not Satisfied</b> <i>(no hardship exists; future land use not unique to this property)</i>
-- Hardship was not caused by the land owner.....	<b>Not Satisfied</b> <i>(no hardship exists)</i>

- Interim Use Ordinance: An interim use ordinance allows a city to permit certain uses in areas deemed appropriate for a designated amount of time (a maximum number of years) or until some change occurs on a property such as redevelopment (i.e. urban development per the comp plan). Since the expansion of parking on this site is not out of character with the area; and seeing as the increased traffic onto the highway frontage road is not anticipated to create any impact; the proposed changes seem reasonable on their own, but not as a non-agricultural low impact use. The more appropriate avenue for this type of change would be through an interim use permit that could authorize the use with conditions without the need

for variances. The city council and planning commission added Interim Use Permits to the 2007 work plan, so the issue will be addressed in the near future and could perhaps be used by the applicant in anticipation of the following school year.

- No members of the public have contacted staff regarding this proposed amendment.
- The planning commission will need to approve both the amendment to the CUP and the three variances for this project to proceed. Because the requests are linked, they should either all be approved or all be denied. Either decision will need to be supported by findings of fact.

OPTIONS:

1. Approve the amended CUP and three variances because the applicant meets all related code criteria. This will require findings supporting the hardship on the property.
2. Deny the amended CUP and three variances because the hardship criteria is not met. This will require findings that no hardship exists for the variance(s).
3. Deny the request (per option number 2), and recommend that the city consider an interim use ordinance for these types of businesses south of 10<sup>th</sup> Street that will only operate until such time as sewer is available and the site is redeveloped.

ORDER OF BUSINESS:

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

ATTACHMENTS (5):

1. Detailed staff report analyzing the CUP amendment and variance requests;
2. Applicants written narrative supporting the requested amendment and variances;
3. Existing conditions plan;
4. Layout Plan;
5. Grading Plan;

City of Lake Elmo Planning Department  
Conditional Use Permit Amendment Request

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*To:* Planning Commission

*From:* Ben Gozola, City Planner

*Meeting Date:* 9-24-07

*Applicant:* Terry Emerson

*Owner:* Same

*Location:* 11530 Hudson Blvd N.

*Zoning:* HD-RR-SRD

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***Introductory Information***

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***Requested  
Amendment:***

The applicant is seeking to expand the existing bus storage facility located at 11530 Hudson Boulevard North to accommodate an additional 23 buses. Changes proposed include an expansion of the existing parking lot to add room for the proposed buses, and the addition of a new parking lot for employee vehicles. The proposed changes would allow Laidlaw to coordinate their business operations on the site in an effort to create desired efficiencies. Attached you will find a narrative from the applicant fully explaining the operational difficulties they are trying to address through this application.

***Approved  
CUP Notes:***

The existing CUP for the facility was originally approved in 2002. In reviewing this existing CUP, staff discovered the following:

1. The original approval shows the City has honored this as a 70 acre site by giving credit for roadway easements (ostensibly for I-94 and possibly the frontage road). Staff did not research these easements and instead reviewed this application using the 70 acre figure to allow the Planning Commission and Council to compare similar before and after numbers proposed by this application.
2. Ordinance 9777, approved on March 6, 2001, rezoned this property from Rural Residential (RR) to Agricultural (A). This ordinance was not reflected on the City's official zoning map, nor was the ordinance provided to staff during the recent rezoning of land to the south of 10<sup>th</sup> Street. As this is primarily an administrative problem, staff would suggest that the City continue administering this application with the understanding that a correction to the zoning will need to be addressed in the coming weeks.
3. By code, a Non-Agricultural Low Impact Use "...shall not exceed 4% of the property owner's contiguous agricultural zone area." Code does not specifically define *how* to calculate what comprises the overall 4%. In 2002, the City defined

(cont.)

the total site area as the surfaces covered by buildings, driveways, and parking areas. Area devoted to landscaping and a storm water pond were not included in the site calculation. Current staff disagrees with this calculation method as the improvements, storm water facilities, and landscaping are all critical to the function (or approval) of the use. With this application, we are recommending the city examine the approximate before and after numbers inclusive of all improvements. We will still use the 2002 site calculation of 70 acres to determine the allowable 4% CUP area.

4. Also by code, overall impervious surfaces associated with a non-agricultural low impact use are limited to 1.5% of the overall parcel area. As with the site area calculation, areas that constitute "impervious surface" are up for interpretation as they are not defined by code. Typically, gravel parking lots are considered impervious as the tightly packed dirt does not allow for the infiltration of rainwater. Based on a 70 acre overall site, the maximum amount of impervious surfaces allowed with this use is 1.05 acres ( $70 * 0.015 = 1.05$  acres). Given the current site contains 2.73 acres of impervious surface as calculated by current staff, we can only assume that gravel surfaces were not considered impervious surfaces when reviewing this application. For the purposes of this amendment, current staff would recommend correcting this apparent mistake and processing a variance request for all hardcover over the allowed 1.05 acres.

**Variance  
Request(s):**

1. The maximum size for a non-agricultural low impact use on a 70-acre site is 2.8 acres ( $70 \text{ acres} * 4\% = 2.8 \text{ acres}$ ). Based on the existing improvements on the land (and not the 2002 calculation), the approximate existing site area is 4.38 acres. Given proposed site improvements of 1.07 acres, the resulting overall site area would be 5.45 acres. **The resulting variance request for CUP site area would be 2.65 acres.** If calculated out using the 2002 methodology (excluding areas of screening and storm water ponding), a 0.56-acre variance would still be needed.
2. The current request would require a **0.6 trips per acre variance** as the addition of 23 buses to the site will generate 46 more daily trips than is allowed by code.
3. The existing impervious surface (including the building, bituminous, and gravel parking areas) is 2.73 acres. The proposed improvements would bring this total up to 3.36 acres. **As such, a 2.31 acre variance to allowable hardcover would also be needed.** If hardcover is calculated by excluding gravel parking areas, then a variance would be unnecessary.

**Applicable  
Codes:**

**Section 300.06 Administration.**

Subd 4. Conditional User Permits. Outlines the general requirements for all conditionally permitted uses in Lake Elmo.

**Section 300.07 Zoning Districts.**

Subd. 4(A). Agricultural. Subd 6. Non Agricultural Low Impact Use Standards. Outlines all requirements for this unique type of conditionally permitted use.

## Findings & General Site Overview

<b>Site Data:</b>	<p>Lot Size: 70 acres (based on past approvals and City findings)</p> <p>Existing Use: Laidlaw Transit Inc. Facility and sod/tree farming</p> <p>Existing Zoning: A<sup>1</sup></p> <p>Property Identification Number (PID): 36-029-21-43-0001</p>
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## Application Review:

<b>CUP Review:</b>	<p>Reviewing this request requires that all general CUP criteria be examined in addition to the specific criteria established for non-agricultural low impact agricultural uses. For these types of applications, the burden is on the City to show why the use should not be permitted due to impacts that cannot be controlled by reasonable conditions.</p> <p>Impacts the City must review are as follows:</p> <ol style="list-style-type: none"><li><i>Effects on the health, safety, morals, convenience, or general welfare of surrounding lands.</i></li></ol> <p>The proposed changes should not be readily apparent to surrounding properties as the look of the bus operation will not drastically change. The intensification of the use is not viewed as a threat to the health, safety, morals, convenience, or general welfare of the surrounding area. <b>We find this criteria is satisfied.</b></p> <ol style="list-style-type: none"><li><i>Traffic &amp; Parking conditions.</i></li></ol> <p>The overall number of buses on the site was a major concern when this use was approved back in 2002, and the applicant was required to provide a detailed analysis to address traffic concerns. As a result of studying that data, the city concluded the use would generate an average of 328 trips per day during the school year (or an average of 4.7 trips per acre). Code currently allows for up to 6.0 trips per acre for this property.</p> <p>A revised traffic analysis was not provided with this amendment request, so staff must assume the worst case scenario for additional trips based on 23 additional buses. Based on six trips per day<sup>2</sup>, the 23 buses will generate an additional 138 trips per day on the site. Added to the already approved 328 trips per day, the end result is 466 total trips per day (or 6.6 trips per acre). As such, the proposed number of additional buses cannot be authorized without a variance.</p> <p>Based on the traffic numbers approved with the existing CUP, the maximum number of additional trips per day that could be allowed is 92. Based on 6 trips per day per bus, that would equate to 15 additional buses maximum.</p> <p><b>This criteria is <u>not</u> satisfied for the amendment without approval of a variance.</b></p>
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<sup>1</sup> Zoning will need to be changed to HD-A-BP which will still allow for the proposed use.

<sup>2</sup> Inbound and out bound employee = 2 trips; morning and afternoon bus routes = 4 trips;

(cont.) 3. *Effects on utility and school capacities.*

The proposed use will not impact utility or school capacities in the area. **We find this criteria is satisfied.**

4. *Effect on property values of surrounding lands.*

Again, the proposed changes should not be readily apparent to surrounding properties as the look of the bus operation will not drastically change. Values of surrounding properties should not be impacted. **We find this criteria is satisfied.**

5. *Effect of the proposed use on the Comprehensive Plan.*

This use was already deemed appropriate for this site back in 2002, so we have no issue with its conformity to the comprehensive plan. **We find this criteria is satisfied.**

The City must also review the following criteria specific to non-agricultural low impact use CUPs:

1. *Zoning must be agricultural.*

The zoning is currently Agricultural so **this requirement is satisfied.**

2. *The CUP area shall not exceed 4% of the property owner's contiguous lot area.*

Based on the 2002 approval, staff is using a figure of 70 acres for the "contiguous lot area" which allows for a 2.80 acre CUP site. As noted earlier in this report, staff is of the opinion that all improvements associated with the use must be calculated as being part of the "site area." Accordingly, the approximate existing site area would be 4.38 acres. Given the proposed parking lot addition, lot expansion, and necessary landscaping and stormwater improvements; the existing site is expected to expand by approximately 1.07 acres. The resulting overall site area of 5.45 acres is clearly well above the maximum area of 2.80 acres, and therefore **this criteria would not be satisfied without approval of an associated variance.**

3. *The CUP impervious surface shall not exceed 1.5% of the property owner's contiguous lot area.*

Based on a 70 site, the maximum allowable impervious surface area is 1.05 acres. The current CUP authorized well over this amount as 2.73 acres is currently covered by the building, bituminous surfaces, or gravel surfaces. Typically gravel surfaces are considered hardcover as the tightly packed dirt will not allow water to penetrate the ground. A review of the past reports and minutes did not reveal any specific calculations being done, but we did find that a condition of the CUP approval required impervious surfaces to be limited to the 1.5% maximum.

(cont.)

Given this seemingly gross nonconformity, it is reasonable to assume that past staff considered the gravel surfaces as part of the "use," but excluded such areas from the impervious surface calculation. If that methodology is used, the 0.59 acres of hardcover that currently exists would be conforming with code as it would not change as a result of this proposed amendment.

As noted earlier in the report, staff is not inclined to recommend compounding what we believe to be a calculation mistake. Instead, we are recommending the City reexamine the overall site by including gravel surfaces as impervious, and processing with any needed variance request. Following this process, the existing impervious surface (including the building, bituminous, and gravel parking areas) is 2.73 acres. The proposed improvements would bring this total up to 3.36 acres which is well in excess of the allowed 1.05 acres. As such, **this criteria would not be satisfied without approval of an associated variance.**

4. *The contiguous lot area shall be in excess of 40 acres.*

The total site area was deemed to be 70 acres in 2002. **This criteria is satisfied.**

5. *No more than six vehicle trips per day per acre of contiguous lot area shall be allowed for properties off of Hudson Boulevard..*

This issue was previously addressed on pg 3 of the report. Based on all available data, the addition of 23 buses to the site would generate trips in excess of the allowable limit in code. **This criteria is not satisfied for the amendment without approval of an associated variance.**

6. *Parking areas shall be a minimum of 50 feet from I-94, and 200 feet from all other public roadways.*

The proposed amendment would not expand parking areas into any required setback. **This criteria is satisfied.**

7. *Outside storage shall be screened.*

The existing condition requiring all outside storage would remain in place with any amendment. **This criteria is satisfied.**

8. *The use 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.*

The existing numbers will not change dramatically as a result of the proposed parking lot expansion as workers are typically off site for a majority of the day. No further analysis is needed, and we find **this criteria is satisfied.**



(cont.) 9. *Remaining property shall be used for Agricultural purposes.*

The remaining property is either being farmed or used by a tree nursery operation to plant trees. **This criteria is satisfied.**

10. *Lighting to comply with all city regulations.*

No changes to lighting are proposed by this application. **This criteria is satisfied.**

11. *All signs to comply with all city regulations.*

No new signage would be required by this application. **This criteria is satisfied.**

12. *Rate and volume shall not exceed the one percent rule.*

Rate and volume controls were reviewed by TKDA. While they would like to see a number of minor revisions to be made to the plans, they find the proposed storm water pond expansion will be sufficient to handle the additional runoff generated by the proposed improvements. Please refer to their memo (attached) for a detailed analysis. **This criteria is satisfied.**

13. *Rezoning to a more intensive use shall require removal of the non-agricultural low impact use.*

The existing condition regarding future rezoning would remain in place with any amendment. **This criteria is satisfied.**

**Variance  
Criteria:**

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 300.06 Subd. 3. before an exception or modification to city code requirements can be granted. For ease of review, staff provides a three-part breakdown of the definition of "hardship" in Lake Elmo City code to ensure the requests are meeting the spirit and intent of the ordinance.

To review, the applicant is requesting the following variances with this application:

Site Area Variance: A 2.65 acre variance is requested to allow the applicant to exceed the maximum size for a non-agricultural low impact use on a 70 acre site.

Maximum Trips Variance: A variance to allow 0.6 additional trips per acre is required to allow the additional 23 buses to be located on site. A maximum of 15 additional buses could be allowed without a variance.

Hardcover Variance: A 2.31 acre variance to the allowable impervious surface total is needed for the entire site. The proposed improvements represent only 0.63 acres of this needed variance.

- (cont.) 1. The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists;

*Applicant response:* For each of the requests, the applicant believes the property zoning for agricultural uses is reasonable at this time, and that the requested amendment is for a temporary use until zoning is changed in the future.

Site Area Variance: The established use is reasonable for the site based on past approvals and existing zoning regulations. However, the proposed expansion is not permissible by city code based on the existing nonconformity and the City's desire to contain these types of CUPs with a maximum site area requirement. Given that the current site is already nonconforming to the maximum, no further expansion appears to be a reasonable option. **Staff finds this criteria is not satisfied for the site area variance.**

Maximum Trips Variance: City code caps the maximum trips from the site to 6.0 trips per total parcel acreage. Based on a detailed traffic analysis conducted in 2002, the City established that the existing use generates approximately 4.7 trips per acre and was therefore conforming with code. An updated traffic analysis was not provided with this application, so staff must assume a worst-case scenario of six trips per additional bus per day.<sup>3</sup> Using that methodology, the proposed addition of 23 buses to the site will push the trips per acre threshold above 6.0 maximum. A reasonable option would be to cap the additional number of buses to 15 so as not to exceed the requirement. Alternatively, the applicant could choose to supply an updated detailed traffic analysis factoring in the additional 23 buses to show conformance to the requirement. **Staff finds this criteria is not satisfied for the maximum trips variance.**

Hardcover Variance: The existing and proposed level of hardcover is not permissible by code. However, the past approval for the CUP does provide the existing hardcover legal nonconforming status as it was authorized by the city. A reasonable alternative to expansion is to retain the existing nonconforming area that arguably should not have been authorized. **Staff finds this criteria is not satisfied for the hardcover variance.**

2. The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district;

*Applicant response:* "Due to current zoning, this property is in a holding pattern until new zoning is adopted."

<sup>3</sup> Inbound and out bound employee = 2 trips; morning and afternoon bus routes = 4 trips;

(cont.)

All requests: All land to the south of 10<sup>th</sup> Street is currently in a holding pattern until guided for development in accordance with the comprehensive plan. We do not find that this parcel is any different than any other parcel south of 10<sup>th</sup> Street in that regard. **As such, this criteria is not satisfied for any of the variance requests.**

3. The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.

All requests: Staff has not identified any conditions unique to this site to justify granting the requested variances. We agree that changes to the comprehensive plan and the timing of allowed future development were not caused or necessarily accepted by the landowner. However, neither the future land use guidance nor the timing for future development has any bearing on establishing a non-agricultural low impact use. **As such, this criteria is not satisfied for any of the variance requests.**

**Resident  
Concerns:**

Staff is not aware of any resident concerns surrounding the requested variances.

**Additional  
Information:**

- The DNR did not provide comment for or against the application.
- The Valley Branch Watershed District (VBWD) is seeking a number of additional information submittals prior to processing a VBWD permit for the request. Staff would suggest making any approval contingent upon also receiving approval of a VBWD permit.

**Interim Use  
Option:**

- The applicant's narrative makes it clear that the expansion should be acceptable based on the future land use change (to Business Park) that will generate far more vehicle trips and have a far greater impact on the character of the area. While we agree that changes are planned, the guided changes are not ample justification for a variance and hence our recommendation of denial. If the planning commission or council were receptive to considering temporary uses on properties to the south of 10<sup>th</sup> Street, staff would suggest exploring the adoption of an interim use ordinance to accommodate such changes. This topic is already on the 2007 work plan.
- An interim use ordinance allows a city to permit certain uses in areas deemed appropriate for a designated amount of time (a maximum number of years) or until some change occurs on a property such as redevelopment (i.e. urban development per the comp plan). Since the expansion of parking on this site is not out of character with the area; and seeing as the increased traffic onto the highway frontage road is not anticipated to create any impact; the proposed changes seem reasonable on their own, but not as a non-agricultural low impact use. The more appropriate avenue for this type of change would be through an interim use permit that could authorize the use with conditions without the need for variances.

**Conclusion:**

The applicant is seeking approval of a CUP amendment to allow expansion of the existing bus service facility at 11530 Hudson Boulevard. The proposal will only conform to the CUP review criteria if the following three variances are also approved as part of the application:

- A 2.65-acre variance to the maximum size for a non-agricultural low impact use on a 70-acre site.
- A variance of 0.6 additional trips per acre based on the total number of buses expected on the site and anticipated daily trips.
- A 2.31-acre variance to the allowable impervious surface total in the CUP area.

**Commission Options:**

The Planning Commission has the following options:

- A) Recommend approval of the CUP & variance requests (with findings of fact);
- B) Recommend denial of the CUP & variance requests (with findings of fact);
- C) Table the item and request additional information.

The 60-day review period for this application expires on 10-21-07, but can be extended an additional 60 days if more time is needed.

**Staff Rec:**

**Staff is recommending denial** of the CUP amendment and variance requests to allow expansion of the Laidlaw bus service facility at 11530 Hudson Boulevard based on the following:

- The CUP amendment requests to increase the trips per acre from the site in excess of the 6.0 trips per acre allowed by code.
- The CUP amendment would expand the overall site to well beyond the allowed 4% site area;
- The CUP amendment requests impervious surface coverage that is grossly nonconforming to code requirements;
- The use approved in 2002 is already nonconforming to code requirements, and any expansion would increase those nonconformities.
- Allowing the use to continue as approved in 2002 is a reasonable alternative available to the applicant.
- There are no physical conditions of the land or buildings that justify variances to allow the requested expansion.

If the planning commission or council were interested in allowing these types of expansions, staff would suggest exploring the adoption of an interim use ordinance (which is a 2007 work plan item).

**Approval Motion** | To approve the requests, you may use the following motion as a guide:

**Template:** Move to recommend that Council approve the requested CUP amendment and variances based on the following findings of fact...(please site reasons for the recommendation)

**Denial Motion** | To deny the requests, you may use the following motion as a guide:

**Template:** Move to recommend that Council deny the requested CUP amendment and variances based on the findings of fact cited by staff in the report (and others as you deem appropriate).

cc: Terry Emerson, Applicant

## MEMORANDUM

**To:** Ben Gozola, City Planner  
**Copies To:** Jack Griffin, City Engineer  
Kelli Matzek, Assistant City Planner  
**From:** Ryan W. Stempski, P.E.  
**Date:** September 17, 2007

**Reference:** E&E Properties  
Parking Lot Expansion  
City of Lake Elmo, Minnesota  
**Proj. No.:** 13819.000  
**Routing:** \_\_\_\_\_

The following review summarizes the engineering comments and requirements for the above referenced expansion. Approval should be contingent upon the applicant addressing these items to the satisfaction of the City Engineer. These comments and requirements are based upon submittal documents received through September 6, 2007.

### Traffic:

The increase in trips to Hudson Boulevard is minimal. At this time, we do not anticipate a need for an independent traffic study for this expansion. If the LOS at Manning Avenue or Lake Elmo Avenue becomes an issue in the future due to a direct condition of this site, a traffic study may be required to evaluate that impact.

### Drainage:

- The curve number calculations for subcatchment E1 in the existing and proposed conditions model should include a curve number of 100 to represent the normal water area of the existing pond.
- The existing pond, labeled "B1" in the existing conditions model and "Pond 1" in the proposed conditions model, will need to be modeled with a starting elevation of 896.5. The starting elevation of the pond is currently modeled assuming an outlet elevation of 896.0.
- According to the existing and proposed watershed maps, the total drainage area for subcatchments P1 through P4 should be equal to the area of existing subcatchment E3; however, the sum of the areas for subcatchments P1 through P4 is approximately 12,900 square feet less than the area of subcatchment E3 as defined in the model. Revise the total drainage area of subcatchments P1 through P4 in the proposed conditions model to be consistent with the area of existing subcatchment E3.
- The curve numbers for all undisturbed pervious areas in proposed subcatchments P1 through P4 should be consistent with the pervious area curve number of 75 used in existing subcatchment E3. Revise the undisturbed pervious area curve numbers for subcatchments P1 through P4 in the model for consistency.
- The total impervious area for proposed subcatchments P3 and P4 should be equal to the impervious area for existing subcatchment E3 in the model. Revise the impervious areas for proposed subcatchments P3 and P4 in the model for consistency.

- Include a time of concentration value in the proposed conditions model for subcatchment P4.
- Ponds PB1 through PB4 are modeled with invert elevations lower than what is shown on the Grading Plan. Add the bottom contour elevation for all proposed ponding areas located south of the proposed parking lot expansion on the Grading Plan. Ensure that the pond contour elevations on the Grading Plan are consistent with the stage storage input values in the model.
- Show the location and elevation of all culvert overland overflows on the Plan. In addition, label the 100-year elevation of all ponding areas upstream of the culverts on the Grading Plan.
- The upstream invert elevation, length, and slope of the proposed culvert located north of the existing building are not consistent with the input values of the outlet structure of pond PB4 in the model. Update for consistency.
- Label the 100-year elevation of the proposed infiltration area on the Grading Plan.
- Label the existing invert elevations of all culvert ends and the pipe size of all culverts on the Grading Plan.
- Include a cross section detail of the infiltration area on the plan. The detail should include information such as the depth and type of soil mixture.
- Indicate the type of vegetation used in the infiltration area on the Plan. It is highly recommended that mature plants be used over seed in the infiltration area. Fluctuating water levels following seeding can cause seeds to float and be transported downstream. In addition, it may take up to two growing seasons to establish the function and aesthetic value of mature vegetation using seeds.
- If the infiltration area is to be seeded, it is recommended that a temporary erosion control blanket be used to stabilize the seeded area.
- Indicate on the Grading Plan that the proposed infiltration area shall be staked off and marked during construction to prevent compaction and shall not be excavated to final grade until the contributing drainage areas have been constructed and fully stabilized.
- Approval from Valley Branch watershed District (VBWD) is required. Submit a copy of the VBWD permit for the City's records when available.

**Miscellaneous:**

Hudson Boulevard shall be swept as necessary to eliminate excess gravel and silt from the site during construction and continuing thereafter.

RECEIVED

**Proposal:**

E & E Properties is requesting to expand its current parking area to better accommodate cars and to extend 15' to the north end of the existing bus parking area. E & E is proposing the expansion for Laidlaw Transit, Inc.

In order to facilitate the expansion, the Conditional Use Permit (CUP) would need to be amended. In addition, a variance would be needed for the "4% Rule" with regard to the amount of the property that can be used for business purposes.

There are several reasons we are requesting a variance for expansion of the parking area in Lake Elmo.

- 1.) Greater efficiency in bus maintenance, as buses currently need to be transported to the facility from Afton, in order to perform scheduled maintenance. Also, if buses suffer mechanical breakdowns at the remote facility, they have to be towed to the Lake Elmo facility; buses breaking down at the Lake Elmo facility do not.
- 2.) The Afton site provides no electrical hook ups for plugging in buses during cold winter nights. As a result, buses must be started, hours before school routes, and left idling, to ensure that they will start in the morning. Moving the buses to the Lake Elmo facility, would eliminate the need to do this.
- 3.) The Afton site provides no facilities for drivers to stay warm, in the winter, and offers only a satellite toilet. At the Lake Elmo facility, there is an employee lounge, coffee and warm/sanitary restrooms.
- 4.) The remote Afton facility provides drivers with no means to punch in/out for their shifts, causing payroll difficulties. It also offers no way to post messages for employees or to provide updated routing information, as all employee information boxes are located at the Lake Elmo facility.
- 5.) The Afton facility consists of only poor quality gravel. As a result, rain and melting snow cause muddy conditions which cause buses to get stuck and cause buses to get dirtier, resulting in more frequent washing and wasting of precious water resources.
- 6.) Buses need to be brought over to the Lake Elmo site for fueling.
- 7.) Afton site has no secure area for buses, while Lake Elmo site provides a security fence around the entire parking area. This assures secure and safe storage of all buses.

Laidlaw would like to move 23 buses from its remote parking facility in Afton (along the south frontage road) to this site, in order to centralize operations. Expanding the bus parking area, by the requested 15', allows for better security of buses and allows easier movement of buses through the lot area.

This expansion would also provide for additional parking of employee vehicles, enabling drivers to park personal vehicles **behind** the facility (which is currently not possible). The ability to park personal vehicles, behind the facility would enhance the aesthetics of the property as significantly fewer vehicles would be visible to the public eye from the North Frontage Road.



This proposed car parking expansion would increase the number of private vehicles that currently park at the facility by 23. The proposed car parking area will be used only 175 days per year and will be for cars only.

**Traffic flow:**

These proposed changes would have no negative impact on traffic flow.

The number of buses running along county roads will not change. The only change would be that all buses would enter from the north frontage road, rather than from both the north AND south frontage road.

Due to the property location (along Interstate 94) and the future zoning of the property, I feel that this proposal would in no way cause harm to the city of Lake Elmo, its residents or businesses. The trips per acre will increase dramatically when the property is developed in the future. While the trips per acre would increase under the terms of this proposal, the increase would not be to a level that would negatively impact the City of Lake Elmo, its residents or businesses. We all know that this is a temporary use of the property.

**Lighting:**

There will be no lighting changes at the Lake Elmo facility.

**Drainage:**

There will be no change in the water drainage. The existing land drains into a swale and then into a drainage pond. The proposed parking area will drain the same way.

In the original CUP the building and bituminous were figured for the hard surface. The pond sizing was calculated for the entire surface, using hard surface areas, gravel areas and green areas.

- a.) A list of all current property owners, all general and limited partners, all managers and directors, and any officers and directors involved as either applicants or owners.

*Property Ownership: EN Properties, LLC*

*Terry Emerson-Chief Manager*

*David Nelson-Secretary*

*Paul Emerson-Vice President*

*William Nelson-Treasurer*

*Applicant: E & E Properties*

*Terry Nelson-Chief Manager*

- b.) A listing of the following site data: Legal description of the property, parcel identification number, parcel size, existing use of land and current zoning.

*See Attachment A*

*Parcel 44*

*Property ID: 37036-2000*

*Geo Code: 36-029-21-43-0001*

<i>Total Area outside R/W</i>	<i>63.737 Acres</i>
<i>Area of old R/W</i>	<i><u>6.471 Acres</u></i>
<i>Total Area</i>	<i>70.208 Acres</i>

*Existing use of land:*

*Bus terminal for Stillwater School District under existing CUP  
Property north of CUP to north property line is being used for tree nursery.  
Remaining property is being farmed.*

*Current Zoning:* *Agricultural*

- c.) State the provisions of the Lake Elmo City Code for which you seek a variance.

*Section 300.07 Zoning Districts*

*Subd. (46b) 4% Rule-Area not to exceed 4% of property.*

- d.) A specific written description of the proposal and how it varies from the applicable provisions of the Lake Elmo Code.

*See Proposal*

- e.) A narrative regarding any pre-application discussions with staff, and an explanation of how the issue was addressed leading up to the application for a variance

*Met with City Planner and explained what we were proposing. He provided a packet of what was required. I then met with City Planner with a draft of what I wanted to do, to see if any changes should be made. Ben wanted more information with an updated trip report and drainage runoff calculations.*

- f.) Explain why the property cannot be put to reasonable use if used under the conditions allowed by the zoning.

*The property is zoned agricultural which is a reasonable use at this time. Basically, it is a temporary use, until zoning is changed in the future.*

- g.) Explain why the plight of the landowner is due to circumstances unique to the property and not created by the landowner.

*Due to current zoning, this property is in a holding pattern until new zoning is adopted.*

- h.) Justify that granting the variance would not alter the essential character of the neighborhood.

*Granting a variance on this site would not alter the essential character of the neighborhood. There are no residences within a half-mile of the site. The only businesses are the Valley-Hi Drive In and Howard Gelb's rental building, which are to the west of the property. To the immediate north and east of the property is farmland.*

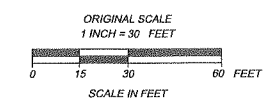
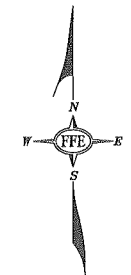
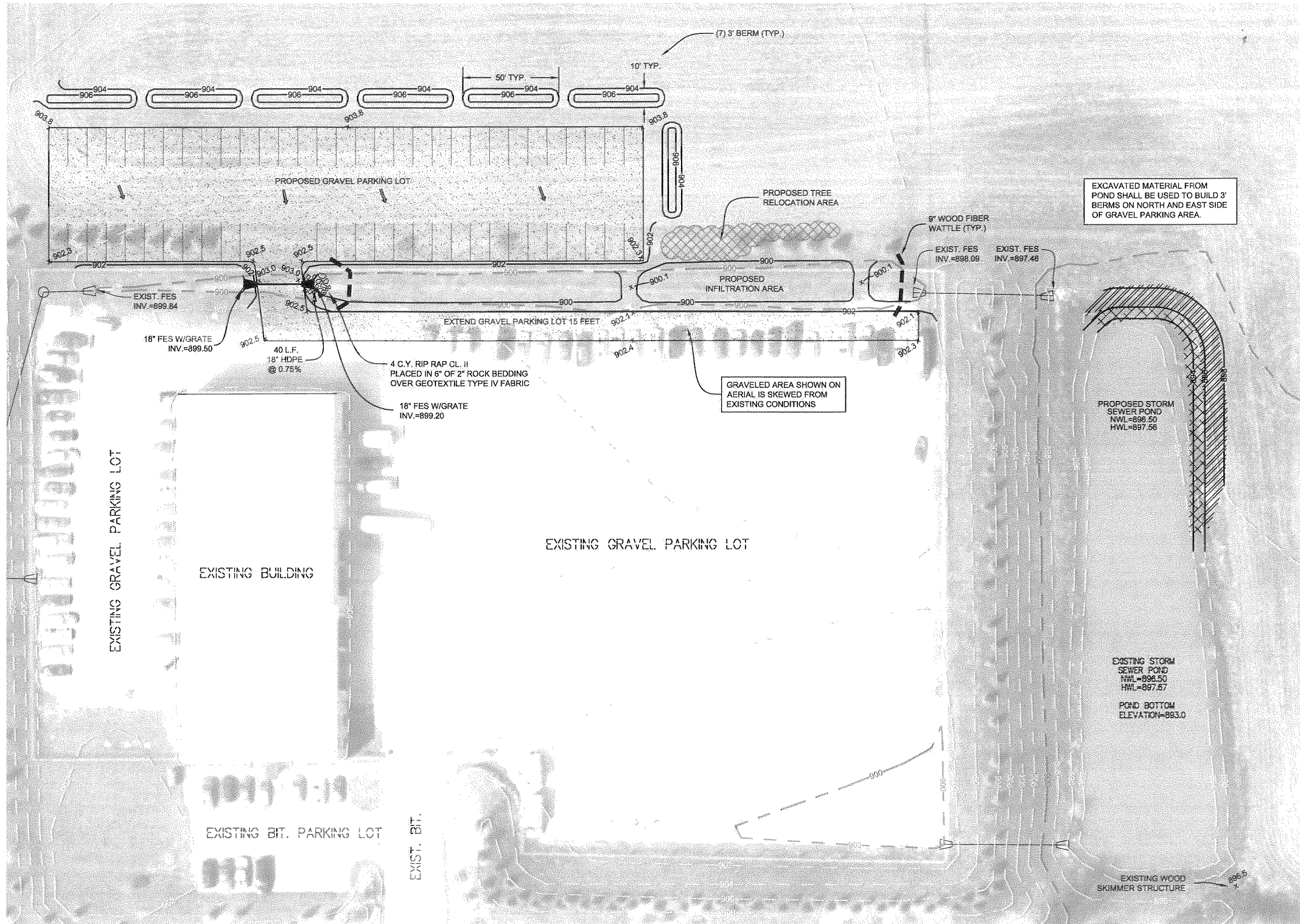
*The closet business to the north is Oakland Jr. High, which is serviced by Laidlaw. Interstate 94 is directly south of the property.*

*I have also inquired with the city regarding any complaints that may have been filed regarding the current bus operations at the site. I have not been made aware of any complaints.*

*Revised Trip Study:*

Under this proposal we will be moving 23 buses from the Afton site to the Lake Elmo site. The bus routing has not changed from the original trip study. So our estimate is that the number of trips will increase by approximately 32,000 trips per year.

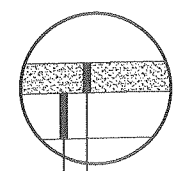
# GRADING PLAN



- LEGEND**
- EXISTING CONTOUR
  - PROPOSED FINISHED GRADE CONTOUR
  - EXISTING STORM SEWER W/M.H. & F.E.S.
  - PROPOSED STORM SEWER W/M.H., C.B. & F.E.S.
  - DRAINAGE ARROW
  - PROPOSED SPOT ELEVATION
  - PROPOSED 9" WOOD FIBER WATTLE
  - PROPOSED GRAVEL AREA
  - SEED MIXTURE MNDOT TYPE 310 (82 LBS/ACRE) (BOTTOM OF PONDS)
  - SEED MIXTURE MNDOT TYPE 350 (86 LBS/ACRE) (ABOVE WATER LEVEL OF PONDS)
- NOTE: ALL SEED SHALL BE DRILLED AND NOT SPREAD.**
- ALL SEEDING SHALL BE COVERED WITH WEED FREE MNDOT TYPE II MULCH APPLIED @ 2 TONS PER ACRE.**
- TYPE 270 ON BERMS & ALL OTHER DISTURBED AREAS.**

**NOTES**

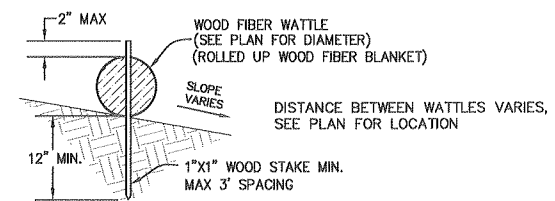
- 1) ALL CONSTRUCTION AS CALLED FOR ON THESE CONTRACT DOCUMENTS SHALL BE PERFORMED IN ACCORDANCE WITH ALL OSHA REQUIREMENTS.
- 2) REMOVAL OF WOOD FIBER WATTLE REQUIRED AFTER SITE IS STABILIZED (AT DIRECTION OF ENGINEER).
- 3) ALL EXISTING COUNTY ROADS SHALL BE SWEEPED AS REQUESTED BY ENGINEER.
- 4) MAINTAIN AND REPAIR WOOD FIBER WATTLE (INCLUDING REMOVAL OF ACCUMULATED SILT) UNTIL VEGETATION IS ESTABLISHED.
- 5) PRIOR TO ROUGH GRADING, INSTALL WOOD FIBER WATTLE IN LOCATIONS SHOWN OR AS DIRECTED BY THE ENGINEER OR TOWNSHIP/COUNTY STAFF.
- 6) WHEN THE DEPTH OF THE SEDIMENT REACHES 1/2 THE HEIGHT OF THE STORAGE VOLUME, THE BASIN SHALL BE DRAINED AND THE SEDIMENT REMOVED IN A MANNER AS APPROVED BY THE CITY ENGINEER.
- 7) AS EACH AREA OUTSIDE THE PARKING LOT IS GRADED, PROVIDE 4" OF NATIVE TOPSOIL, SEED, AND MULCH ANCHORED WITH A STRAIGHT SET DISC WITHIN 48 HOURS OF FINE GRADING.



**6" AGGREGATE BASE, CL.5, COMPACTED TO 100% STANDARD PROCTOR (RECYCLED REQUIRED)**

SUBGRADE CORRECTION AS REQUIRED BY ENGINEER & MECHANICALLY COMPACT SUBGRADE OVER UTILITY TRENCHES TO 95% PROCTOR (MNDOT FABRIC TYPE 5, MAY BE REQUIRED AS DIRECTED BY ENGINEER).

- TESTING OF SUBGRADE & BASE:**
- 1) TEST ROLLING OF SUBGRADE AND AGGREGATE BASE REQUIRED
  - 2) FULLY LOADED HAUL TRUCK SHALL BE DRIVEN ENTIRE LENGTH OF ROAD.
  - 3) ANY DEFLECTION IN THE SUBGRADE SHALL BE CAUSE FOR FAILURE.
  - 4) ENGINEER MUST BE PRESENT FOR TEST.



**1 WOOD FIBER WATTLE**  
C3 NO SCALE

**2 GRAVEL PARKING SECTION**  
C3 NO SCALE

NO.	REVISION DESCRIPTION	DATE

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

**TODD A. ERICKSON**  
40418  
LICENSE NO.  
DATE

DESIGNED BY: TAE  
DRAWN BY: JSR  
CHECKED BY: TJF  
INITIAL DATE: 08-23-07

JOB NO. 07-163

**Folz, Freeman, Erickson, Inc.**  
LAND PLANNING SURVEYING ENGINEERING  
12445 54TH STREET NORTH LAKE ELMO, MN 55042  
Phone (651) 694-8833 Fax (651) 690-9311  
Website: www.ffe-inc.com

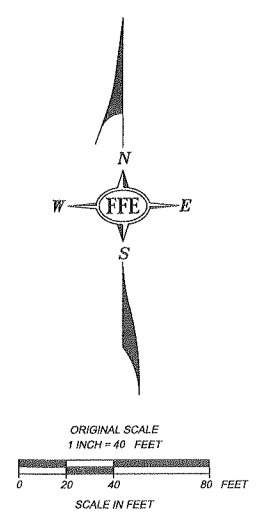
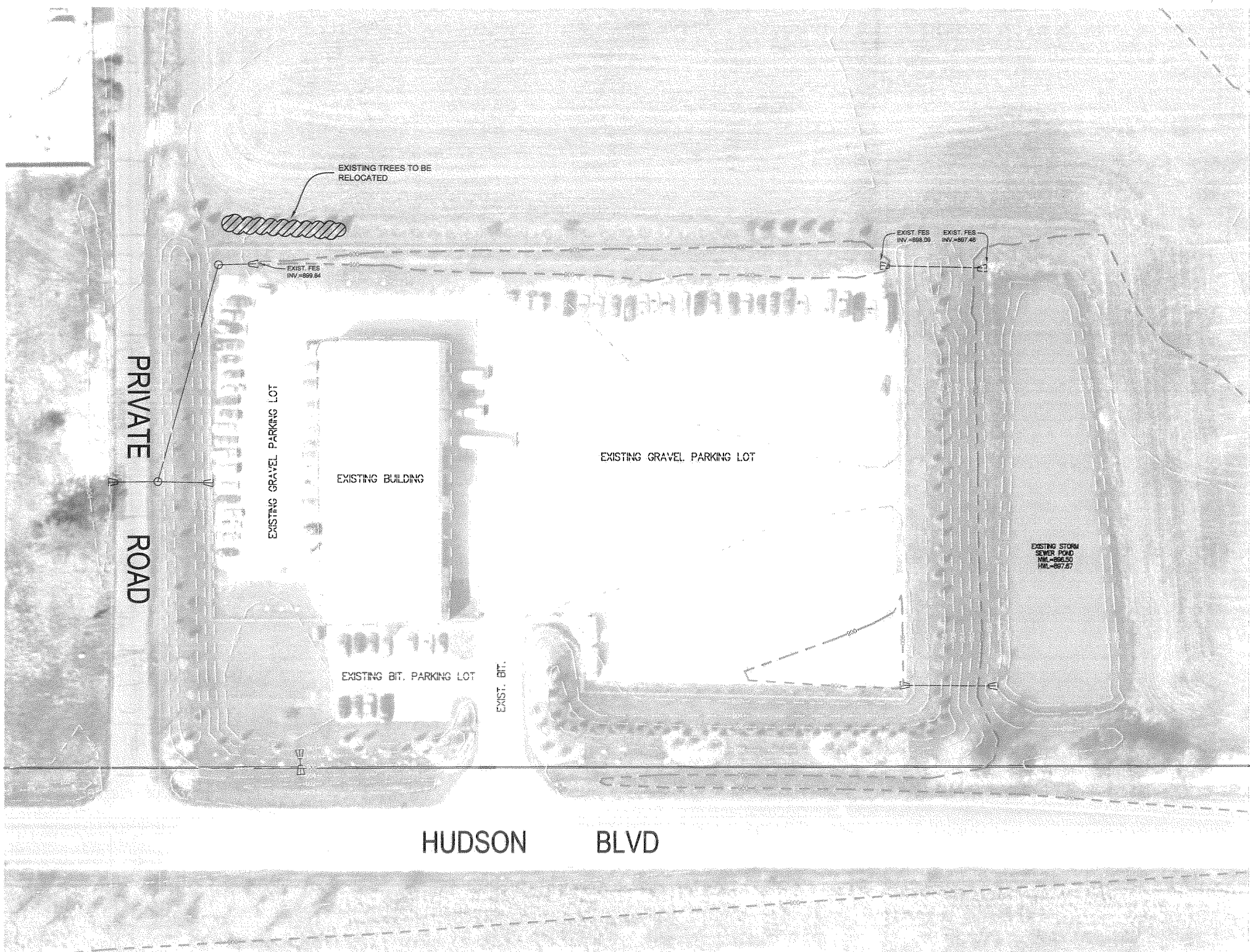
**OWNER/DEVELOPER**  
**E&E PROPERTIES**  
OWNER'S ADDRESS  
11530 HUDSON BLVD. N. SUITE A  
LAKE ELMO, MN 55042

**SHEET NAME**  
**GRADING PLAN**  
**PROJECT NAME**  
**E&E PROPERTIES PARKING ADDITION**  
LAKE ELMO, MN

**SHEET NO.**  
**C3**  
SHEET 3 OF 3



# EXISTING CONDITIONS



## LEGEND

- EXISTING CONTOUR
- EXISTING STORM SEWER WITH CATCH BASIN W/ M.H. & F.E.S.

## NOTES

- 1) 2005 AERIAL WASHINGTON COUNTY AERIAL PHOTO

NO.	REVISION DESCRIPTION	DATE

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

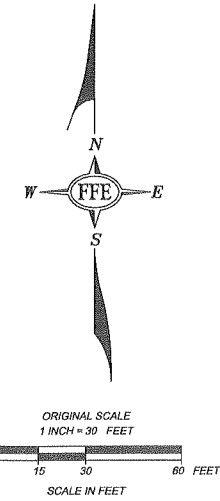
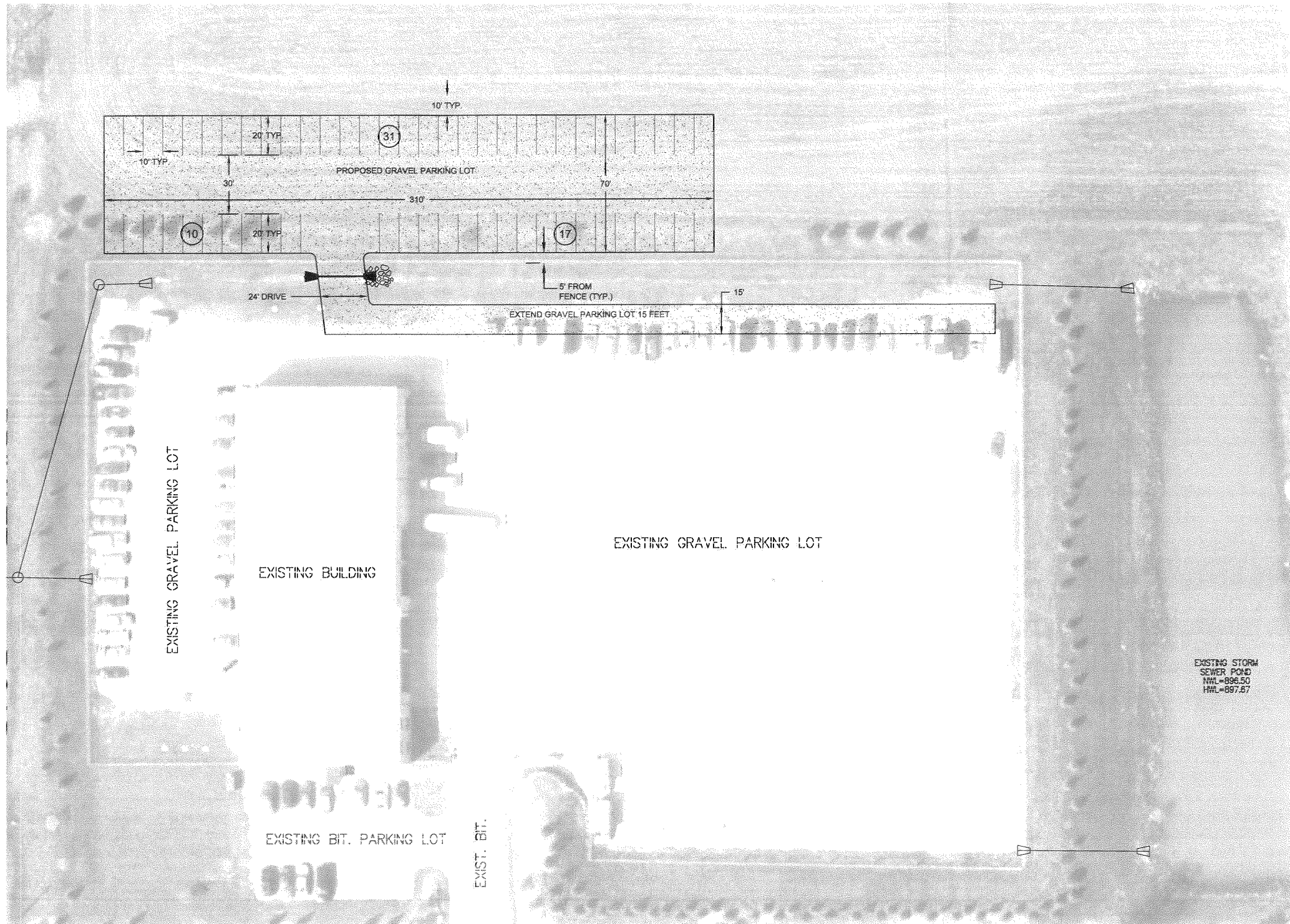
**TODD A. ERICKSON**  
 40418  
 LICENSE NO.  
 DATE

DESIGNED BY: TAE  
 DRAWN BY: JSR  
 CHECKED BY: VJV  
 INITIAL DATE: 08-23-07  
 JOB NO. 07-163

**Folz, Freeman, Erickson, Inc.**  
 LAND PLANNING SURVEYING ENGINEERING  
  
 12445 55TH STREET NORTH, LAKE ELMO, MN 55042  
 Phone: (651) 419-8833 Fax: (651) 419-9331  
 Website: www.fefe.com

<b>OWNER/DEVELOPER</b> E&E PROPERTIES
<b>OWNER'S ADDRESS</b> 11530 HUDSON BLVD. N, SUITE A LAKE ELMO, MN 55042
<b>SHEET NAME</b> EXISTING CONDITIONS
<b>PROJECT NAME</b> E&E PROPERTIES PARKING ADDITION LAKE ELMO, MN

# LAYOUT PLAN



## LEGEND

- EXISTING STORM SEWER  
W/ M.H. & F.E.S.
- PROPOSED STORM SEWER  
W/ M.H., C.B. & F.E.S.
- PROPOSED GRAVEL AREA

## SURFACE ANALYSIS

- EXISTING: GRAVELED AREA = 92,973 SF  
BUILDING AREA = 16,915 SF  
BITUMINOUS AREA = 8,985 SF
- PROPOSED: GRAVELED AREA = 120,445 SF  
BUILDING AREA = 16,915 SF  
BITUMINOUS AREA = 8,985 SF

NO.	REVISION DESCRIPTION	DATE

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

**TODD A. ERICKSON**  
40418  
LICENSE NO.

DATE

DESIGNED BY: TAE

DRAWN BY: JSR

CHECKED BY: T.J.F.

ISSUE DATE: 08-23-07

JOB NO. 07-163

**Folz, Freeman, Erickson, Inc.**  
LAND PLANNING  
SURVEYING  
ENGINEERING

11415 55TH STREET NORTH, LAKE ELMO, MN 55042  
Phone: (651) 494-8833 Fax: (651) 430-9331  
Website: www.fbe-inc.com

OWNER/DEVELOPER  
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OWNER'S ADDRESS  
11530 HUDSON BLVD. N, SUITE A  
LAKE ELMO, MN 55042

SHEET NAME  
**LAYOUT PLAN**  
PROJECT NAME  
**E&E PROPERTIES PARKING ADDITION**  
LAKE ELMO, MN

SHEET NO.  
**C2**  
SHEET 2 OF 3