City of Lake Elmo 3800 Laverne Avenue North

December 9, 2008 7:00 p.m.

A^{i} .	CALL TO ORDER					
В.	PLEDGE OF ALLEGIANCE:					
C.	ATTENDANCE:JohnstonDeLappJohnsonParkSmith					
D.	APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)					
Е.	C. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)					
F.	GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)					
G.	APPROVE MINUTES: 1. December 1, 2008 December 3, 2008					
Н.	PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.					
I.	CONSENT AGENDA: (Items are placed on the consent agenda by city staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)					
	 Approve payment of disbursements and payroll Audit engagement letter – Abdo, Eick & Meyers, LLP 					

- J. REGULAR AGENDA:
 - 4. 2009 property tax levy, Resolution no. 2008-059
 - 5. Adopt 2009 Budget; Resolution no. 2008-060
 - 6. Presentation by the St.Croix Valley Foundation
 - 7. V-Box sander purchase Public Works
 - 8. a. Wireless Telecommunication Tower Ordinance amendments
 - b. Wireless Telecommunication Tower Permit for T-Mobile at 9057 Lake Jane Trail North

- c. Set date for public hearing on moratorium for the construction of new wireless telecommunication towers
- 9. Interim use permit E&E Properties (continuation)
- 10. Comprehensive planning efforts and authorizations to proceed on the Transportation and Surface Water Management System Plans
- K. REPORTS AND ANNOUNCEMENTS: Mayor and Council members
- L. Adjourn

DRAFT

City of Lake Elmo City Council Minutes

December 1, 2008

Mayor Johnston called the meeting to order at 7:00 p.m.

Present: Mayor Johnston and Council Members DeLapp, Johnson, Park and Smith

Also present: Planner Director Klatt, City Attorney Filla, City Engineer Griffin, Finance Director Bouthilet, KDV Financial consultant, Joe Rigdon and City Clerk Lumby

APPROVAL OF AGENDA:

MOTION: Council Member Smith moved to approve the December 1, 2008 City Council agenda as amended by adding Item 10. Interview questions for hiring of Interim City Administrator; Council Reports: Plastic recycling. Council Member Johnson seconded the motion. The motion passed unanimously.

ORDER OF BUSINESS:

GROUND RULES:

APPROVED MINUTES:

November 18, 2008 minutes postponed to December 9, 2008

PUBLIC COMMENTS\INQUIRIES:

Bob Schumacher, 9155 28th St. N., stated his proposed tax statement showed an increase of 175.3%. Council advised him to call the city assessor, Frank Langer.

CONSENT AGENDA:

MOTION: Council Member Johnson moved to approve the consent agenda items 2, 3 and 6. Council Member Smith seconded the motion. The motion passed unanimously.

- Approve payment of disbursements and payroll in the amount of \$167,779.26
- Approve Workers' compensation for elected officials; Resolution no. 2008-054
- Approve letter of agreement with KDV for financial support services in 2009
- Approve one-day off-site charitable gambling license for Maplewood/Oakdale Lions Club; Resolution no. 2008-058

Approve 2009 Liquor Licenses

The liquor license for the Lake Elmo Inn extends to the outdoor patio located at the northeast corner of 3442 Lake Elmo Avenue and the outdoor patio on the south side of the Lake Elmo Inn Event Center.

MOTION: Council Member DeLapp moved to approve the 2009 liquor license renewals conditioned on approval by the Washington County Sheriff's Department. Council Member Park seconded the motion. The motion passed unanimously.

Approve letter of agreement with KDV for financial support services in 2009

Finance Director Tom Bouthilet explained the city utilized Joe Rigdon of KDV on the recommendation of the city auditor, Steve MacDonald, to reconcile the city's records to be consistent with best practices for government accounting. The work in 2009 would include a utility rate study of the three utilities.

MOTION: Council Member Johnson moved to approve the letter of agreement with KDV for financial support services in 2009. Council Member Park seconded the motion. Mayor Johnston and Council Members Johnson, Park and Smith voted in favor of the motion and Council Member DeLapp voted against.

The Council adjourned the city council meeting at 7:22 p.m.

TRUTH IN TAXATION PUBLIC HEARING ON THE PROPOSED 2009 BUDGET

Mayor Johnston opened the public hearing at 7:23 p.m.

Joe Rigdon, KDV finance support consultant, presented an overview of the proposed 2009 budget and answered questions from the City Council.

Council Member DeLapp asked if the city could get a cost per capita for the tax levy.

Mayor Johnston closed the public hearing at 7:46 p.m.

The Council will adopt the proposed 2009 budget at the December 9th City Council meeting.

The Council reconvened the city council meeting at 7:47 p.m.

Consider a wireless telecommunication tower permit and lease agreement to allow AT&T to attach an antenna array to the city water tower and to construct an accessory equipment shelter at 3303 Langley Court North, Resolution no. 2008-055

Kyle Klatt, Planning Director, reported the City Council was asked to consider a request from AT&T to attach a wireless communications antenna array to the existing city water

tower and to construct an accessory equipment shelter at 3303 Langly Court. This is a permitted use but requires a wireless telecommunications tower permit. Annual rent is in the amount of \$14,000 prorated for the initial partial year, which shall be increased January 1, 2010 and each January 1, thereafter

MOTION: Council Member DeLapp moved to adopt Resolution no. 2008-055 approving a wireless telecommunications tower permit and lease agreement to allow AT&T to attach a wireless communications antenna array to the existing city water tower and to construct an accessory equipment shelter at 3303 Langly Court North. Council Member Park seconded the motion. The motion passed unanimously.

Consider zoning text amendments to allow a bus/truck terminal as a non-agricultural low impact use in the HD-A-BP zoning district, Ordinance no. 08-010; Resolution no. 2008-056

Planning Director Kyle Klatt explained the City Council was being asked to consider text amendments to the zoning ordinance to allow a bus/truck terminal as a non-agricultural low impact use in the HD-A-BP district (agriculture holding zone for properties guided for business park development). This request was made by Terry Emerson, 11530 Hudson Boulevard South, concurrent with an application for an interim use permit that could only proceed if the zoning amendment is approved by the Council.

MOTION: Council Member Johnson moved to approve Ordinance no. 08-010 approving a zoning text amendment to allow a bus/truck terminal as a non-agricultural low impact use in the HD-A-BP zoning district based on the reasons cited and on the findings presented. Council Member Park seconded the motion. Mayor Johnston and Council Members Johnson, Park and Smith voted in favor of the motion and Council Member DeLapp voting against.

Consider an interim use permit for a truck terminal within a HD-A-BP zone at 11530 Hudson Blvd., Resolution no. 2008-057

Planning Director Kyle Klatt explained the City Council was being asked to consider a request for an interim use permit to establish a bus/truck terminal facility as a non-agricultural low impact use at 11530 Hudson Blvd. to replace the vacancy on the site from the legally permitted bus garage that was on the property until July 2008.

Council Member DeLapp gave a verbal summary of when the bus garage was allowed to locate on the property. He questioned the number of trips Mr. Emerson estimated from the proposed terminal and how well the city would monitor conditions it puts on the land.

Discussion ensued followed by a motion for adjournment.

MOTION: Council Member Johnson moved to adjourn the meeting at 8:45 p.m. Council Member Park seconded the motion. Council Members Johnson, Smith and Park voted in favor of the motion and Mayor Johnston and Council Member DeLapp voted against.

DRAFT

City of Lake Elmo City Council Minutes

Special City Council Meeting December 3, 2008

INTERVIEW CANDIDATES FOR INTERIM CITY ADMINISTRATOR

Mayor Johnston called the meeting to order at 6:00 p.m.

Present: Mayor Johnston, Council Members DeLapp, Johnson, Park, Smith and Council Member-elect Emmons

APPROVAL OF AGENDA:

MOTION: Council Member Johnson moved to approve the Special City Council Meeting agenda as presented. Council Member Smith seconded the motion. Mayor Johnston and Council Members Johnson, Park, Smith voted in favor of the motion and Council Member DeLapp voted against the motion.

The City Council reviewed the 15 interview questions that were presented and shortened the list to six questions.

MOTION: Council Member Johnson moved to approve Interview Questions 1, 2, 3, 7, 10, 11. Mayor Johnston seconded the motion. Mayor Johnston and Council Members DeLapp, Park voted for the motion and Council Members Johnson and Smith voted against the motion.

The City Council interviewed the following Interim City Administrator candidates:

Jim Norman

Craig Dawson

Plat Klaers

Dan Donahue

Todd Bodem

The Council discussed the merits of hiring an applicant who wanted to serve as an Interim City Administrator for a term of four to six months versus an applicant that desired the long-term city administrator position. There was Council discussion on the candidates' qualifications.

MOTION: Council Member Johnson moved to authorize the Mayor to offer the position of Interim City Administrator to Crag Dawson, conditioned upon satisfactory report on background checks from the Human Resources attorney and to negotiate an employment agreement as soon as possible. Council Member Smith second the motion. The motion passed unanimously.

The meeting was adjourned at 9:21 p.m.

City Council
Date: 12/09/2008

CONSENT Item: 2

ITEM: Approve disbursements in the amount of \$106,377.20

SUBMITTED BY: Tom Bouthilet, Finance Director

Claim #	Amount	Description
ACH	\$ 9,404.59	Payroll Taxes to IRS
ACH	\$ 1,325.71	Payroll Taxes to Mn Dept. of Revenue
DD1940-DD1954	\$ 20,505.89	Payroll Dated 12/04/2008 (Direct Deposit)
33550-33601	\$ 25,272.31	Payroll Dated 12/04/2008 (Payroll & Benefits)
33602-33621	\$ 49,868.70	Accounts Payable Dated 12/01/2008

Total: \$ 106,377.20

SUMMARY AND ACTION REQUESTED: The City Council is being asked to approve disbursements in the amount of \$106,377.20

Accounts Payable Checks for Approval

User: julie Printed: 12/04/2008 - 10:06 AM

Check Numbe	Check Number Check Date	Fund Name	Account Name	Vendor Name	Amount
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33608	12/09/2008	General Fund	Software Support	City of Roseville	1380.83
33609	12/09/2008	General Fund	Landscaping Materials	Earl F. Andersen, Inc.	398.04
33607	12/09/2008	General Fund	Equipment Parts	Cateo	83.20
33619	12/09/2008	General Fund	Conferences & Training	U of M Continuing Education	170.00
33615	12/09/2008	General Fund	Repairs/Maint Contractual Bldg	Plunkett's Pest Control	79.88
33612	12/09/2008	General Fund	Contract Services	Miller Excavating, Inc.	720 00
33605	12/09/2008	Village	Contract Scrvices	Вопеятоо	6 849 69
33621	12/09/2008	General Fund	Cleaning Supplies	Zack's, Inc.	48 99
33621	12/09/2008	General Fund	Shop Materials	Zack's, Inc.	118.42
33606	12/09/2008	General Fund	Equipment Parts	Boyer Trucks	124.01
33604	12/09/2008	General Fund	Repairs/Maint Contractual Bldg	Batterics Plus Woodbury	10.61
33617	12/09/2008	General Fund	Street Maintenance Materials	T.A. Schifsky & Sons	215.50
33613	12/09/2008	Capital Aquisitions	Office Equipment & Furnishings	Mity-Lite, Inc.	6.989.90
33613	12/09/2008	Capital Aquisitions	Use Tax Payable	Mity-Lite, Inc.	426.61
33620	12/09/2008	General Fund	Street Lighting	Xcel Energy	54.73
33620	12/09/2008	General Fund	Electric Utility	Xcol Energy	639.32
33620	12/09/2008	General Fund	Electric Unility	Xcel Energy	1.836.90
33620	12/09/2008	General Fund	Street Lighting	Xcel Energy	24.13
33620	12/09/2008	General Fund	Electric Utility	Xeel Energy	8.61
33620	12/09/2008	General Fund	Electric Utility	Xcel Energy	237.06
33620	12/09/2008	General Fund	Electric Utility	Xcel Energy	8.52
33620	12/09/2008	General Fund	Street Lighting	Xcol Energy	33.98
33620	12/09/2008	General Fund	Electric Utility	Xcel Energy	152.37
33620	12/09/2008	Sewer	Electric Utility	Xcel Energy	15.74
33620	12/09/2008	Sewer	Electric Utility	Xcel Energy	28.4
33620	12/09/2008	General Fund	Electric Utility	Xcel Energy	420.73
33620	12/09/2008	General Fund	Electric Utility	Xcel Energy	187.31
33620	12/09/2008	General Fund	Street Lighting	Xcel Energy	26.02
33620	12/09/2008	General Fund	Electric Utility	Xcel Energy	41.22
33620	12/09/2008	General Fund	Street Lighting	Xool Energy	69.6
33602	12/09/2008	General Fund	Repairs/Maint Contractual Bldg	Aramark	61.37
33602	12/09/2008	General Fund	Uniforms	Aramark	34.36
33611	12/09/2008	Capital Aquisitions	Improvements Other Than Bidgs	Menards - Stillwater	362.87

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Check Number Check Date	Fund Name	Account Name	Vendor Name		Amount
12/09/2008	General Fund	Telephone	Nextel Communications		129.05
2/09/2008	General Fund	Telephone	Nextel Communications		204.80
2/09/2008	General Fund	Telephone	Nextel Communications		65.08
2/09/2008	General Fund	Telephone	Nextel Communications		122.89
2/09/2008	General Fund	Telephone	Nextel Communications		105.64
12/09/2008	General Fund	Telephone	Sprint		43.98
2/09/2008	General Fund	Equipment	Aspen Mills, Inc.		109 901
12/09/2008	General Fund	Repairs/Maint Contractual Eqpt	Aspen Mills, Inc.		17.08
2/09/2008	General Fund	Equipment	Aspen Mills, Inc.		69.50
2/09/2008	General Fund	Equipment	Aspen Mills, Inc.		69.50
2/09/2008	General Fund	Contract Services	Kern DeWenter Viere		5.889.00
12/09/2008	Water	Other Equipment	Telemetry & Process Controls		22,006.48
			For	Fotal for this Date:	49,868.70
				1 1	
			. Rej	Report Total:	49,868.70

City Council Date: 12/09/08 CONSENT Item:

ITEM:

Audit Engagement Letter

SUBMITTED BY:

Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The City Council is being asked to consider approving ABDO EICK & MEYERS LLP for the 2008 audit of the financial statement of governmental activities, the business-type activities (enterprise funds), each major funds and the aggregate remaining fund information, which collectively comprise the basic financial statement of the City as of and for the year ending December 31, 2008.

The objective of the audit is the expression of opinions as to whether the basic financial statements are fairly presented, in all material respects and in conformity with accounting principles. The audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of the accounting records and other procedures considered necessary to enable the Auditors to express such opinions.

The Fee for services as outlined in the letter of engagement will be the standard hourly rate plus out-of-pocket costs. The Auditor estimates the gross fees, including expenses will be approximately \$ 26,900 and an additional \$510.00 for the Office of the State Auditor's Reporting form.

RECOMMENDATION: Approve ABDO, EICK & MEYERS LLP for the audit of the 2008 basic financial statement of the City of Lake Elmo.

ATTACHMENT: ABDO, EICK & MEYERS letter of engagement for 2008 financial statement audit.



November 25, 2008

Grandview Square 5201 Eden Avenue Suite 370 Edina, MN 55436

Honorable Mayor and Council City of Lake Elmo Lake Elmo, Minnesota

We are pleased to confirm our understanding of the services we are to provide City of Lake Elmo, (the City) for the year ended December 31, 2008. We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of the City as of and for the year ended December 31, 2008. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to accompany the City's basic financial statements. As part of our engagement, we will apply certain limited procedures to the City's RSI. These limited procedures will consist principally of inquiries of management regarding the methods of measurement and presentation, which management is responsible for affirming to us in its representation letter. Unless we encounter problems with the presentation of the RSI or with procedures relating to it, we will disclaim an opinion on it. The following RSI is required by accounting principles generally accepted in the United States America and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis.

Supplementary information other than RSI also accompanies the City's basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and will provide an opinion on it in relation to the basic financial statements:

- 1. Combining and Individual Fund Financial Statements and Schedules
- 2. Summary Financial Report Revenues and Expenditures for General Operations Governmental Funds

AUDIT OBJECTIVE

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America and to report on the fairness of the additional information referred to in the first paragraph when considered in relation to the basic financial statements taken as a whole. Our audit will be conducted in accordance with generally accepted auditing standards established by the Auditing Standards Board (United States) and will include tests of the accounting records and other procedures we consider necessary to enable us to express such opinions. If our opinions on the financial statements are other than unqualified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.



MANAGEMENT RESPONSIBILITIES

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. We will prepare a general ledger trial balance for use during the audit. Our preparation of the trial balance will be limited to formatting information in the general ledger into a working trial balance. As part of the audit we will prepare a draft of your financial statements and related notes. We will also use the financial statements to complete the Office of the State Auditors' City Reporting Form. We will also enter the current year capital asset transactions into our software based on information you provide. You are responsible for making all management decisions and performing all management functions relating to the financial statements and related notes and for accepting full responsibility for such decisions. You will be required to acknowledge in the management representation letter that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee any non-audit services we provide and for evaluating the adequacy and results of those services and accepting responsibility for them.

Management is responsible for establishing and maintaining internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; and for the fair presentation in the financial statements of the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City and the respective changes in financial position and where applicable, cash flows, in conformity with accounting principles generally accepted in the United States of America.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the City involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the City received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the City complies with applicable laws and regulations.

AUDIT PROCEDURES - GENERAL

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the City.

Because an audit is designed to provide reasonable, but not absolute, assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements, or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.



Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

AUDIT PROCEDURES - INTERNAL CONTROL

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

AUDIT PROCEDURES - COMPLIANCE

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with applicable laws and regulations and the provisions of contracts and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

AUDIT ADMINISTRATION, FEES, AND OTHER

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

Steven R. McDonald, CPA is the engagement partner and is responsible for supervising the engagement and signing the report. We expect to begin our audit on approximately May 4, 2009 and to issue our reports no later than June 22, 2009.

Our fee for these services will be as follows:

Audit \$ 26,900
Office of the State Auditor 2008 Reporting Form \$ 510

We will issue progress billings during the preliminary and fieldwork stages of the audit and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 90 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

www.aemcpas.com



We appreciate the opportunity to be of service to the City and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

ABDO, EICK & MEYERS, LLP Certified Public Accountants and Consultants

Stevi Milmelel

Steven R. McDonald, CPA Managing Partner

RESPONSE:

This letter correctly sets forth the understanding of City of Lake Elmo.

Ву:	***************************************	
Title		

City Council Date: 12.9.08 Regular Item 4 MOTION:

ITEM:

2009 Property Tax Levy

SUBMITTED BY:

Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The city council is being asked to consider adopting the final 2009 property tax levy. The certification to the Washington County Auditor will be as follows:

General Fund Levy	\$2,332,130
2004 G.O. Capital Improvement Plan	a Bonds 319,885
2006 G.O. Equipment Certificates of	Indebtedness <u>56,188</u>
Total	\$2,708,203

By both utilizing the adjusted net tax capacity increase to fund expected declines in permit and fee revenues while maintaining levels of government services, the City is proposing to decrease the payable 2008 city tax rate by 3.6% from 20.553% in 2008 to 19.810% in 2009. In other words, property owners with no change in market values from payable 2008 to payable 2009 should experience a 3.6% decrease in the city portion of their overall property tax bill. In the event of a market value decrease or increase from payable 2008 to payable 2009, city property taxes would change proportionately.

The city is proposing to enact certain special levies for payable 2009 of \$376,073. This includes \$319,885 and \$56,188, respectively, for the pre-existing special levies for the 2004 G.O. Capital Improvement Plan Bonds (city facilities), and the 2006 G.O. Equipment Certificates of Indebtedness (fire truck).

RECOMMENDATION: Approve Resolution # 2008-59 Adopting Final Propery Tax Levy in the amount of \$ 2,708,203.

MOTION FOR CONSIDERATION:

Move to approve Resolution # 2008-59 Adopting Final Propery Tax Levy in the amount of \$ 2,708,203.

ATTACHMENT:

1 Resolution # 2008-59 Adopting Final Tax Levy

CITY OF LAKE ELMO WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2008-59 RESOLUTION ADOPTING FINAL TAX LEVY

General Fund Levy

BE IT RESOLVED by the City Council of the City of Lake Elmo, County of Washington, Minnesota, that the following sums of money be levied for the current year, collectible in 2009, upon the taxable property in the City of Lake Elmo for the following purposes:

\$ 2,332,130

2004 G.O Capital Improvement 2006 G.O Equipment Certification		
	Total Levy \$ 2,708,203	
ADOPTED, by the Lake E	lmo City Council on the 9th day of De	cember, 2008.
ATTEST:	Dean Johnston, M	ayor
Sharon Lumby, Clerk		

City Council Date: 12.9.08 Regular Item 5 MOTION:

ITEM:

Adoption of 2009 Budget

SUBMITTED BY:

Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The city council is being asked to consider adopting the final 2009 General Fund Budget. The city council discussed the draft budget in three workshops and adopted the proposed general fund budget and the city's overall preliminary property tax levy on September 2, 2008. The proposed overall city 2009 budget includes the general fund, special revenue funds, debt service funds, capital projects funds, enterprise funds, and a draft five-year capital improvement plan (CIP). The CIP, including capital projects and enterprise fund impacts, will be reviewed by the planning commission and scheduled for city council review, discussion, and final adoption in 2009. Overall 2009 general fund expenditures are budgeted at \$2,892,060, or a 1.4% decrease from the amended 2008 general fund budget. The 2009 general fund budget is considered "balanced", with overall general fund budgeted revenues also at \$2,892,060, or a 1.4% decrease.

The City conducted a Truth in Taxation hearing on December 1, 2008 to receive the final draft of the General Fund Budget and to afford interested parties the opportunity to comment on the Budget.

RECOMMENDATION: Approve Resolution # 2008-60 Adopting the 2009 General Fund Budget in the amount of \$ 2,892,060.

MOTION FOR CONSIDERATION:

Move to approve Resolution # 2008-60 Adopting the 2009 General Fund Budget in the amount of \$ 2,892,060.

ATTACHMENT:

1 Resolution # 2008-60 Adopting 2009 General Fund Budget

CITY OF LAKE ELMO WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2008-060 RESOLUTION ADOPTING THE 2009 GENERAL FUND BUDGET

WHEREAS, the City of Lake Elmo is required to adopt a formal budget for the general fund expenditures;

WHEREAS, the City of Lake Elmo held its Truth in Taxation Hearing on December 1, 2008;

WHEREAS, the Lake City Council closed the public hearing on the 2009 general fund budget at the close of the meeting on December 1, 2008 without need for continuation;

BE IT RESOLVED the Lake Elmo City Council adopts the 2009 general fund budget in the amount of \$2,892,060

ADOPTED, by the Lake Elmo City Council on the 9th day of December, 2008.

	Dean Johnston, Mayor
ATTEST:	

City Council
Date: 12.9.08
REGULAR
Presentation

ITEM:

Presentation by the St. Croix Valley Foundation

REQUESTED BY:

Jill Shannon, Director of Community Partnerships

SUBMITTED BY:

Sharon Lumby, City Clerk

SUMMARY AND ACTION: The city council is being asked to hear a presentation on the St. Croix Valley Area Foundation about its purpose, programs and activities of the foundation.

ORDER OF BUSINESS

Presentation

Jill Shannon

Questions to the presenter

Mayor and Council Members

Questions from the public, if any

Mayor facilitates

NO ACTION REQUIRED

Space for Arts

Convening arts organizations in the Stillwater-Lake Elmo region

38) Charley W. Charley Community Sections for Schoolselfe Trivery Latineses Courses

asamuri

Art & Economic Prosperity in the St. Croix Valley



1576,5 William Amment Expendiumes

Organizations

6.8 million

Audianca

9.6 million

Art & Economic Prosperity in the St. Croix Valley



Assame Decreases \$19.17 For Person, Perkiyant

St. Croix Valley

\$19.17

Washington-Chisage

\$22.56

Twin Cities 7 County Metro

\$22.58

St. Paul

\$22.83

Minneapolis

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9 organizations

Antocom (the new a mino of a A (1) Stillwater Come or the Early Physicians of a and Intelly Down in Comment in a second of Valing Comment install

22 cultural - historical organizations

Cultural Needs & Use Assessment

Other by questions: What type of facility feor are needed programmatically

AND

can be supported both this apital development and for the first 5-10 years, of operations?

Focus on programming & organizational capacity



Artspace, a leading nonprofit real estate developer for the arts

Phase I: Arts organizations, City-community leaders

Phase II: Artist market survey

Timeline: Winter - Spring 2009

Cost: Phase I: \$26,000; Phase II: \$25,000

Funding: Variety of sources

Used for: Euture planning - go to municipal entities,

media, foundations

Constitut 5. Constitut Franklika

Greater Stillwater Area Cultural Needs & Use Assessment Project Budget

Direct Expenses Personnel

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Decision Facilitation

Artspace Anne Howden Consulting		\$51,523 \$5,000
-	PROJECT TOTAL	\$56,523
Project Breakdown		
Phase I - Org & Community As	ssessment	\$26,523
Phase II - Artist Market Survey		\$25,000

Income	Received	Pledged	Pending	TOTAL
Participating Organizations (inc SCVCF)	\$4,600	\$4,600	_	\$9,200
Individuals		\$6,000		\$6,000
Pugsley Fund of HRK Foundation		\$5,000		\$5,000
Tozer Foundation	\$5,000			\$5,000
Foundations			\$20,019	\$20,019
Foundation requests pending:				
Katherine B. Andersen Fund of St. Paul Foundation				
Fred C. & Katherine B. Andersen Fdn				
Hardenbergh Foundation				
Municipal Governments (20% of total)			\$11,304	\$11,304
	\$9.600	\$15.600	\$31.323	\$56.523

\$5,000 \$56,523

Municipal Government - Proportional Contribution? - 20% of total cost

Met Council Population and I Estimate 4/1/2007	lousehold	% population	Estimated Contribution
Afton	2,937	6%	\$662
Bayport	3,273	7%	\$738
Baytown Township	1,774	4%	\$400
Lake Elmo	8,182	16%	\$1,845
Lake St. Croix Beach	1,177	2%	\$265
Lakeland	1,905	4%	\$429
Lakeland Shores	363	1%	\$82
Marine on St. Croix	703	1%	\$158
Oakpark Heights	4,751	9%	\$1,071
St. Mary's Point	405	1%	\$91
Stillwater	18,112	36%	\$4,083
Stillwater Township	2,625	5%	\$592
West Lakeland	3,934	8%	\$887
	50 141	100%	\$11.304

Greater Stillwater Area Cultural Needs & Use Assessment

A group of nonprofit cultural organizations in the Greater Stillwater area have recently joined to explore the viability of creating or sharing space(s) to meet their respective needs and to satisfy the growing needs of the cultural community. The proposed Needs & Use Assessment is the first step in this venture.

Rationale: The communities in the lower St. Croix Valley are known for their special charm, their rich cultural organizations and as a home for a bounty of recognized artists. But more than just providing entertainment, the St. Croix Valley's cultural offerings contribute to a unique sense of place that attracts new residents, draws new businesses and provides a destination for thousands of visitors from the Twin Cities metropolitan area, Wisconsin and beyond. Recent research shows what active community leaders have known for years — this artistic heritage spurs local economic development. Audience patrons in the St. Croix Valley spend at a comparable rate per capita to the audience patrons in Minneapolis and St. Paul and in so doing they provide business to local restaurants, merchants and municipalities.

Yet, in the midst of this rich cultural landscape, arts organizations in the Greater Stillwater area are fragmented, often hidden or "homeless" and the absence of a cultural or performing arts center is well known. Meanwhile for-profit creative businesses recognize how the region's historic character has special appeal for their customers and creates opportunity for other creative ventures. While visions of new gallery, performing art space and cultural districts abound, what isn't known is the extent these new visions can build on the capacities and future needs of our existing cultural organizations. Is there synergy in a coordinated, collective approach?

Over the next 25 years, the St. Croix Valley's population is projected to grow 65 percent, more than double the rate of growth of the entire Twins Cities metro area. By giving proper attention to the role of the arts in this development, we will retain and build on the unique character that attracts new businesses and sparks revenues for our region's overall prosperity.

Who Will Conduct the Study? Based in Minneapolis, Artspace is the nation's leading nonprofit real estate developer for the arts.

What the Needs & Use Assessment Will Provide: Believing that programming need and organizational capacity are the basis of future planning, this study will engage cultural organizations in the Stillwater-Lake Elmo region and will provide recommendations for specific multi-use concept(s) for arts space(s) based on the:

- a) growing programming and space needs of cultural organizations in the area;
- b) efficiencies in a new and/or existing shared use facility(ies);
- financial capacity of existing organizations to capitalize and operate new space or programming to address these needs;
- d) role of arts in local municipal planning.

Overall the recommendations will focus on need, scope, timing, and costs. The study will help the group: a) strategize on collaborative programming and efficiencies in site development; b) move forward on one site-specific project or projects at multiple sites; or c) craft a mix of these options. If deemed necessary, a second phase of this study will determine the interests of artists in renting studio/workspace.

Outcome: A range of concepts could come out of this project: performing art space; artist live-work space, gallery space, classrooms; space for for-profit creative businesses. The goal of the project is to establish what may be *feasible* given future programming and financial capacity to capitalize and operate space for new cultural programs. Specific information will include financial models (capital and operating) for ownership and operation of shared facilities.

Cost: Phase I: Needs & Use Assessment: \$26,500

Phase II: Artist Interest Survey: \$25,000

Core Group

Art Reach Alliance

Lake Elmo Regional Art Center

The Phipps Center for the Arts

Stillwater Area Public Schools Community Education

Trinity Lutheran Church

Theatre Associates of Stillwater – Performing Arts Steering Committee

Valley Chamber Chorale

Other Cultural Organizations in the Greater Stillwater Area

Arcola Mills

Art St. Croix

Bridge Theatre

Music St. Croix

St. Croix Ballet Academy

St. Croix Concert Series

St. Croix Valley Boys Choir

St. Croix Valley Chapter of the Barbershop Harmony Society

Stillwater Music Festival

Valle de Croix Chorus

Valley Dance & Arts Academy

Washington County Historic Courthouse

Washington County Historical Society

White Pine Festival

Convened by



All contributions are tax deductible. For more information, please contact Jill Shannon Director of Community Partnerships

715-386-9490 jshannon@scvcf.org

515 Second St, Ste 214 Hudson, WI 54016

City Council Date: 12/9/2008 REGULAR Item: **7**

ITEM: V-Box Sander Purchase

SUBMITTED BY: Mike Bouthilet, Public Works Superintendent

REVIEWED BY: Kyle Klatt, Senior Planer

Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED:

Early on this winter season the need to add an additional sander to the Public Works snow/ice control operations has been apparent. To date (4 Dec) we have had to respond to icy conditions four times. Three of the four operations only needed one truck to address high volume intersections. This required us to send out a full size dump truck to cover the City. The same ice control could have been achieved with our Ford 450 if we had the V-Box sander. On the fourth operation four dump trucks went out, but we have the personnel to man the Ford 450, again if it had the V-Box sander. There are also incidences after we have completed snow removal operations with heavier snowfall, to go back out hours later to address random icy conditions due to re-freezing. This truck would also respond to these conditions.

Using this truck would be more economical than having to use a full size dump truck for minor ice conditions, and when needed, add a firth vehicle to completely cover the City when conditions warrant.

The MAC has discussed and recommended the purchase of this V-Box, but it is programmed in the CIP to go on a new truck next year. This unit is an insert and could be moved to another truck in the fleet when appropriate. The MAC did not meet to discuss this V-Box purchase for this current year, but a poll of the members was conducted and it was unanimous that the purchase should proceed now and further evaluation be conducted on the new truck and attachments.

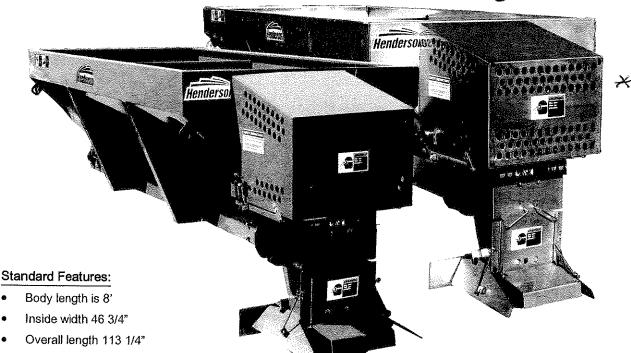
This is a state contract bid item. Funding is available in the current CIP.

The Council is being asked to approve the purchase of the V-Box sander in the amount of: \$5, 459.83 (tax included)

HPS Lite Sand and Salt Spreader



The Henderson Pickup Spreader-Lite sand and salt spreader is lighter weight than its family member the FSP, but with all the performance traits. The HPS-Lite sand and salt spreader is a lower cost unit to keep your budget from melting away. The people at Henderson are well aware of how you have to control your budget, so we designed and built a sand/salt spreader that is rugged, dependable and still stays within your budget. The HPS-Lite have accurate spread control, increased payload, and is easy to mount. These dependable spreaders share many of the major components of the popular FSP for parts conformity. We stand behind what we sell with dependable dealers for parts and service, whenever and wherever you need them, at a competitive price. Whatever your ice control requirements, check first with...



- Capacity struck is 1.8 cu. yd.
- Body weight is approx. 640 lbs
- 10.5 HP I/C Briggs and Stratton engine
- 12-volt electric starter assures fast start every time.
- Completely enclosed in-cab control console with rocker switches for electric throttle control, electric clutch on/off, and engine start
- Polyurethane spinner eliminates rust and extends spinner disc life
- Spreader battery kit (includes battery tray, box and cable)
- 14" chain conveyor
- Single lift point for quick one-man installation

- Hoppers are continuously welded, which minimizes corrosion points
- Weld on tie down lugs eliminates scratching of paint and speeds installation time

Optional Equipment:

- Stainless steel hopper 💥
- Vehicle battery wiring harness
- Four nylon straps with ratchet hold downs
- Inverted vee offered in mild steel or stainless steel
- Top grate screens
- 12" long spinner chute offered in mild steel or stainless steel
- 11 HP Honda engine

HENDERSON MANUFACTURING, INC.



CORPORATE HEADQUARTERS: 9150 Pillsbury Avenue South, Bloomington, MN 55420-3686 - Phone: (952)888-2525 - Fax: (952)656-7157 · Website: www.aspenequipment.com

Cust Name: Lake Elmo, City Of

Quote Number:

Quote Date:

12/2/2008

Contact: Phone:

Mike Bouthilet 651-233-5414

LAKE ELMO, CITY OF-25-HEN-39784-v2

Fax:

Aspen Equipment is pleased to offer the following quotation for your consideration

Qty Part/Spec Number 7.2 HPSSS

Henderson 8' Stainless, V-Box Sander, Briggs, Inverted-V, Top Screens

\$5,126.60

State Of MN Contract # 439.81

Quote Sub Total:

\$5,126.60

Submitted by,

Mark Lundeen 612-719-4414

Sales Tax:

\$333.23

Total:

\$5,459.83

- Equipment Specifications subject to change
- FOB Bloomington, MN (Unless otherwise specified)

Quote valid for 30 days from date of quotation

Any chassis modifications including, but not limited to alterations or relocation of components related to fuel tanks, air tanks, brakes, exhaust systems, battery boxes, protrusions above and below the frame rails, shortening or lengthening frame rails and the like will be added to the selling price. ** Aspen Equipment reserves the right to add any applicable Manufacturer's Steel Surcharges to this

Exhaust Systems: With the new EPA mandated diesel exhaust systems for 2007 many changes are taking place. Manufacturers are often unable to depict accurately how the exhaust systems are configured and have difficulty stipulating whether certain components (i.e. PTOs and pumps) may fit in the confined spaces beneath the truck. 2007 EPA COMPLIANT DIESEL EXHAUST SYSTEMS CANNOT BE MODIFIED, RELOCATED OR REPLACED BY ASPEN EQUIPMENT. Due to evolving designs, Aspen Equipment can not maintain expertise on every chassis/engine/transmission/exhaust configuration possible, regardless of who orders or specifies it. Nor can Aspen Equipment guarantee that a chassis ordered today will not change in design prior to delivery from the factory. Therefore, Aspen Equipment does not warrant that quoted products can be installed on a chassis without modifications to the chassis or products installed. As such, Aspen Equipment will not be responsible for the cost of modifications due to exhaust systems conflicting with the installation of quoted products. Aspen Equipment will make every reasonable effort to ensure that installations are completed without additional charges to the customer.

City Council Date: 12/9/08

Regular

Ordinance No. 08-011 Resolution No. 2008-061

Item: 8

ITEM:

a) Consider amendments to the wireless telecommunications tower ordinance

b) Further consider a recommendation related to an application for a wireless 125 foot telecommunications tower permit for 9057 Lake Jane Trail North

c) Consider setting a public hearing to establish a moratorium on the construction of new wireless telecommunications towers

REQUESTED BY:

FMHC Corporation, Applicant

Dan and Jean Olinger, property owners, 9057 Lake Jane Trail North

SUBMITTED BY:

Kyle Klatt, Planning Director

REVIEWED BY:

Jerry Filla, City Attorney

SUMMARY AND ACTION REQUESTED: The City Council is being asked to consider the following actions related to a request from FMHC Corporation to construct a 125-foot wireless telecommunications tower at 9057 Lake Jane Trail North:

- 1. Consider adoption of an ordinance that would amend the wireless telecommunications ordinance to expand the required search radius, provide for a waiver of the co-location requirements when a stealth or camouflage design would better blend into the surrounding environment, require submission of a 5 year plan instead of a 2 year plan from wireless communications providers, and establish a clear priority among the allowed sites for towers.
- 2. Consider a recommendation to approve the applicant's request, but at a height of 90 feet instead of 125 feet and with a requirement that the tower be camouflaged to match the surrounding trees on and around the site. This recommendation is based on affirmative action by the Council on the preceding item to allow a 90-foot tower without a co-location requirement.
- Consider setting a public hearing date to establish a moratorium on the construction of new wireless telecommunications towers.

Each of these recommendations is in response to the direction provided by the Council at its December 2, 2008 workshop. The questions that were documented from the workshop meeting have been forwarded to FMHC Corporation for a response; however, the majority of these questions pertained to the design submitted by the applicant and not the single-use, camouflage design that has been recommended. The findings as drafted in the attached resolution are therefore very specific to the recommended design and present site conditions. A written response to the questions has been requested in time to either mail with the agenda packet or email in advance of the meeting.

In order to reduce the amount of time spent copying materials for this item, the Council is asked to bring the binder distributed in advance of the workshop to the December 9, 2009 meeting. Any new information is attached to this report.

INFORMATION ON PROPOSED ORDINANCE

The proposed ordinance amending the wireless telecommunications tower ordinance has been drafted in a manner so that the establishment of communications facilities is not prohibited in the community. If adopted, it would provide for additional flexibility for the Council to allow a lower and camouflaged tower that would better blend into the surrounding environment and minimize adverse visual effects of the tower. A provision has been added to require a larger search radius for potential co-location sites (from ½ mile to 2 miles); however, the impact of this proposed change will likely be minimal with regards to the present request for the following reasons:

- T-mobile's RF Engineer testified at the Planning Commission hearing that the area that
 could be served by an antenna on the Ideal Avenue water tower already has coverage
 provided from a near-by Oakdale site. The expected improvement in coverage from the
 water tower would not extend far enough into the Lake Jane area for T-mobile to consider
 this a viable option.
- Without sufficient coverage south of Lake Jane from either a new tower around the applicant's site or on the water tower, there do not appear to be any existing structures that extend far enough south to adequately cover the Lake Jane area.

Another major change from the present ordinance is the addition of a provision that allows the City Council to waive co-location requirements to allow an applicant to construct a wireless telecommunication tower that better blends into the surrounding environment. With this change, the Council may consider a camouflaged tower as a mechanism to permit towers on sites that could impact important natural and open space areas in the community.

Although the ordinance amendments as drafted would provide more flexibility than presently allowed under the current ordinance, it leaves several of the more general questions and concerns from the Council and public left unaddressed, specifically:

- Whether or not fewer, taller towers with co-location are preferable to a larger number of smaller, camouflaged towers throughout the community.
- If allowed, which portions of the City are most appropriate for the siting of taller towers.
- How to best address the future requests from the wireless telecommunications industry while remaining compliant with the Federal Telecommunications Act.

Because of the other questions and issues that need to be addressed by the City, a moratorium has been recommended to give the City time to conduct additional research on these questions and further revise the ordinance to accomplish the City's objectives.

T-MOBILE TOWER PERMIT RECOMMENDATION

Based on the testimony received and all of the information that has been reviewed by the City, staff is recommending that the City Council consider approving the request for a new tower but to make this approval contingent upon the height being reduced to 90 feet with camouflaging to change the design of the tower look like a tree. This action would be based on the proposed revisions to the telecommunications tower ordinance that will allow a single-use tower to exceed 75 feet in height. This recommendation is further based on the following findings:

1) The applicant has stated that any new wireless communications antennas need to be located above the surrounding tree canopy in order to provide sufficient coverage in this area. The trees on site have been measured to be a maximum of 75-80 feet in height,

with most of the larger trees located to the east and south of the tower site. The primary residential areas that would be served by the tower are located to the north and west of this site. A 90-foot tower would provide a 10-15 foot increase in height above the nearest adjacent trees.

- 2) The tower site is located in close proximity and would be highly visible from prime natural areas in the community, including Lake Jane and Sunfish Lake Park. The City has historically worked to protect scenic vistas to and from this park by rejecting proposals for buildings and towers within the park, and has recently placed the park into a permanent conservation easement to further promote the preservation of this natural area.
- 3) The diagrams for the tower indicate that one of the co-location points of the tower is located at 85 feet in height. The recommendation for a 90-foot tower would allow for some additional height as a modest buffer beyond the lowest point at which an antenna would be located on the proposed site under the original tower proposal.
- 4) A single-use tower may be integrated with the surrounding environment to a much higher degree than a larger monopole since it can: a) be constructed at a lower elevation than a tower designed for accommodate additional carriers, and b) be designed to be camouflaged on the site with architectural treatments that make it look like a tree. The City of Afton, MN recently approved a tower very close to 90 feet that was designed to look like a pine tree.
- 5) The Radio Frequency studies conducted by the applicant indicate that adequate coverage cannot be obtained by placing an antenna on the Ideal Avenue water tower and that a new antenna is needed in the area south of Lake Jane.
- 6) There are very few sites that will provide coverage in the area south of Lake Jane and where the visual affects of a taller tower can be minimized. A lower and camouflaged tower allows this area to be covered by wireless communication services while softening the visual impacts on the natural and scenic environment of this area.

A tower that is designed to be camouflaged to look like a tree would address many of the comments and concerns that were raised during the public hearing and subsequent Council workshop on this request. For instance, the questions regarding the potential visual impacts of three separate antenna arrays would be addressed since a single array could be better concealed as part of the design. The primary drawback from a community perspective would be that a lower tower would likely not cover as large of an area, thus necessitating another tower site in order to address gaps in coverage. The intent the proposed moratorium would be to allow the current request at a lower height while giving the City the ability to more completely research the issues associated with the siting of towers in Lake Elmo.

MORATORIUM INFORMATION

The purpose of a moratorium would be to give the City additional time to first study the recent trends and issues associated with wireless telecommunication facilities and then to revise the current ordinance to better address the questions and concerns that have been expressed about the current ordinance. The Council is therefore being asked to set a public hearing date to consider a moratorium at a future meeting.

ADDITIONAL INFORMATION

The City Attorney has prepared a draft ordinance and included a copy of the current ordinance along with a comparison document for review by the Council.

A copy of the questions forwarded to the applicant is attached to this report. Any response from the applicant will either be included with the agenda packet or emailed to council members in advance of the meeting.

RECOMMENDATION

Based upon the above analysis, public input, and previously submitted documentation the staff recommends the following:

- 1) Adoption of the attached ordinance to amend the wireless telecommunications ordinance.
- 2) Approval of the request for a wireless telecommunications tower permit to construct a new tower at 9057 Lake Jane Trail with the following conditions:
 - a) The tower shall be limited to 90 in height.
 - b) The tower shall be designed to be camouflaged with architectural treatments that make it look like a tree, consistent with the recent Afton, MN tower approval and examples included as part of the December 2, 2008 City Council workshop packet.
 - c) The final design of the tower based on conditions (a) and (b) shall be reviewed and approved by the Planning Director.
 - d) That the applicant submit all documentation requested by the City Engineer prior to approval of a building permit for the tower or related accessory equipment.
 - e) That the applicant and property owner enter into an agreement with the City in accordance with Section 150.116 of the wireless telecommunications tower ordinance prior to the issuance of a building permit for the tower or related accessory equipment.
 - f) That the height of the proposed security fence be limited to 6 feet (72 inches) in height to remain consistent with the Lake Elmo fence ordinance.
- 3) Setting a public hearing date of January 6, 2009 to consider adoption of a moratorium on the construction of new wireless telecommunication towers.

MOTIONS FOR CONSIDERATION:

Move approval of Ordinance No. 08-011 based on the reasons cited above.

Move approval of Resolution No. 2008-061 to allow the construction of a wireless telecommunication tower at 9057 Lake Jane Trail North.

Move to set a public hearing date of January 6, 2009 to consider adoption of a moratorium on the construction of new wireless telecommunication towers.

ORDER OF BUSINESS:

-	Report	Kyle Klatt, Planning Director
-	Questions from the Council	Mayor & Council Members
-	Questions/Comments from the applicant	Mayor facilitates
_	Questions/Comments from the public	Mayor facilitates

ATTACHMENTS:

- 1. Council Packet from December 2, 2008 (Please bring to meeting)
- 2. Resolution No. 2008-061
- 3. Workshop questions presented to applicant (answers to be provided if submitted in time for packet)
- 4. Letter from City Attorney
- 5. Ordinance No. 08-011 relating to wireless telecommunications towers
- 6. Current ordinance
- 7. Comparison ordinance

CITY OF LAKE ELMO WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2008-61

A RESOLUTION APPROVING A WIRELESS TELECOMMUNICATIONS TOWER PERMIT TO CONSTURCT A TOWER AT 9057 LAKE JANE TRAIL NORTH

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, FMHC Corporation, 2901 Metro Drive, Suite 225, Bloomington, MN on behalf of T-Mobile Corporation ("Applicant") has submitted an application to the City of Lake Elmo (the "City") for a Wireless Telecommunications Tower Permit to establish a wireless telecommunication tower at 9057 Lake Jane Trail North; and

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Code of Ordinances, Section 150.115; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on November 10, 2008; and

WHEREAS, the City Council reviewed the application for a wireless telecommunications tower permit at a workshop conducted on December 2, 2008; and

WHEREAS, the City Council further considered said matter at its December 9, 2008 meeting.

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

FINDINGS

- 1) That the procedures for obtaining said Wireless Telecommunications Tower Permit are found in the Lake Elmo Zoning Ordinance, Section 150.110 through 150.126.
- 2) That all the submission requirements of said Sections have been met by the Applicant.
- 3) That the proposed application as submitted is to construct a 125-foot high monopole tower at 9057 Lake Jane Trail North.
- 4) That the City's previous and recently amended wireless telecommunication towers regulations emphasize the City's concern that such structures be constructed in a manner that allows them to blend into the surrounding environment in a reasonable manner.

- 5) That the City Council has determined that a lower tower designed to be camouflaged as a tree is more appropriate for the surrounding area based on the following:
 - a. The applicant has stated that any new wireless communications antennas need to be located above the surrounding tree canopy in order to provide sufficient coverage in this area. The trees on site have been measured to be a maximum of 75-80 feet in height, with most of the larger trees located to the east and south of the tower site. The primary residential areas that would be served by the tower are located to the north and west of this site. A 90-foot tower would provide a 10-15 foot increase in height above the nearest adjacent trees.
 - b. The tower site is located in close proximity and would be highly visible from prime natural areas in the community, including Lake Jane and Sunfish Lake Park. The City has historically worked to protect scenic vistas to and from this park by rejecting proposals for buildings and towers within the park, and has recently placed the park into a permanent conservation easement to further promote the preservation of this natural area.
 - c. The diagrams for the tower indicate that one of the co-location points of the tower is located at 85 feet in height. The recommendation for a 90-foot tower would allow for some additional height as a modest buffer beyond the lowest point at which an antenna would be located on the proposed site under the original tower proposal.
 - d. A single-use tower may be integrated with the surrounding environment to a much higher degree than a larger monopole since it can: a) be constructed at a lower elevation than a tower designed for accommodate additional carriers, and b) be designed to be camouflaged on the site with architectural treatments that make it look like a tree. The City of Afton, MN recently approved a tower very close to 90 feet that was designed to look like a pine tree.
 - e. The Radio Frequency studies conducted by the applicant indicate that adequate coverage cannot be obtained by placing an antenna on the Ideal Avenue water tower and that a new antenna is needed in the area south of Lake Jane.
 - f. There are very few sites that will provide coverage in the area south of Lake Jane and where the visual affects of a taller tower can be minimized. A lower and camouflaged tower allows this area to be covered by wireless communication services while softening the visual impacts on the natural and scenic environment of this area.
- 6) That the wireless telecommunications tower will be located on property legally described on the attached Exhibit "A". Commonly known as 9057 Lake Jane Trail North.

- 7) That a tower on this site that is no higher than 90 feet and designed to be camouflaged as a tree will:
 - a. Reasonably accommodate the provision of wireless telecommunication services to the general public;
 - b. Minimize adverse visual effects of wireless telecommunication towers, antennae, or accessory equipment through careful design and siting standards;
 - c. Avoid potential damage to adjacent properties from tower failures through structural standards and setback requirements; and
 - d. Maximize the use of existing and approved towers, structures, and/or buildings for the location of new wireless telecommunication towers in order to reduce the number of the structures needed to accommodate wireless telecommunication services.

CONCLUSIONS AND DECISION

- 1. Based on the foregoing, the Applicant's application for a wireless telecommunication tower permit is hereby approved, subject to the following conditions:
 - a) The tower shall be limited to 90 in height.
 - b) The tower shall be designed to be camouflaged with architectural treatments that make it look like a tree, consistent with the recent Afton, MN tower approval and examples included as part of the December 2, 2008 City Council workshop packet.
 - c) The final design of the tower based on conditions (a) and (b) shall be reviewed and approved by the Planning Director.
 - d) That the applicant submit all documentation requested by the City Engineer prior to approval of a building permit for the tower or related accessory equipment.
 - e) That the applicant and property owner enter into an agreement with the City in accordance with Section 150.116 of the wireless telecommunications tower ordinance prior to the issuance of a building permit for the tower or related accessory equipment.
 - f) That the height of the proposed security fence be limited to 6 feet (72 inches) in height to remain consistent with the Lake Elmo fence ordinance.
 - g) That this approval shall be effective on the 23rd day of December 2008.

roma emi	Dean A. Johnston, Mayor
TTEST:	

Passed and duly adopted this 9th day of December, 2008 by the City Council of the City of Lake

Elmo, Minnesota.

QUESTIONS REGARDING LAKE JANE TOWER SITE

- 1. Does your FCC license apply to PCS, B-Block, C4-Block?
- 2. Does your FCC license apply to AWS R3-E; FCC grant?
- 3. Does the Lake Jane site deployment depend upon negotiations for other providers colocating on the tower?
- 4. Has a Nation Wide Programmatic Agreement of tower location and historic preservation study been completed?
- Is any landscaping proposed for the area south and east of the tower site closer to the southeast property lines of the Olinger property?
- 6. Are the proposed 4 foot high trees and existing buffers sufficient to screen ground structures from Jamaca Ave.?
- 7. Assuming that the City's current regulations do not require co-location:
 - A. What is the minimum height of a tower on the Lake Jane site that would allow you to provide the requested services?
 - B. Can a stealth tower on the Lake Jane site serve your purpose?
- 8. What is the height above average terrain?
- 9. What are the average tree height measurements in relation to the tower base within the immediate surrounding area to warrant the additional height?
- 10. Have you explored the possibility of a stealth tower?
- 11. Have you considered some type of camouflage for the proposed tower?
- 12. What type of monopole is being proposed?
- 13. Will there be climbing pegs, flange bolts and slip joints on the proposed tower?
- 14. Are the cable lines going to be inside or outside of the pole?
- 15. How many additional Lake Jane area customers will be served or have improved service as a result of the construction of this pole?
- 16. Will the new tower have both the older voice system and the newer 3G network?
- 17. Do you have any documentation supporting your decision to choose this specific site rather than other sites in this area?

- 18. Did you investigate other parcels within this area for tower sites? What were the results of the investigation or conversations with other private property owners whose land might also satisfy your purpose?
- 19. Can you co-locate on the City water tower and provide the services that are requested in the area that you wish to serve around Lake Jane?
- 20. Would you be willing to place a crane on the site at the proposed height for one or two days?
- 21. How many complaints have you received about the quality of the service in the Lake Jane area?
- 22. If the proposed tower is constructed, will you need to construct additional towers in the City of Lake Elmo, and if so, how many?
- 23. Are there any things that you can do to soften the visual impact of the tower on the Lake Jane and Sunfish Lake park areas?
- 24. Have you explored the possibility of cutting down some of the trees on the Lake Jane site in order to facilitate a lower tower?
- 25. Is it possible for you to construct two smaller towers in the Lake Jane area instead of one larger tower and still provide the services that are being requested?
- 26. Will you be placing a generator on this site, and if so, where will it be located?
- 27. What will be the capacity of this particular tower; how many additional users or services will accommodate before another tower is required?
- 28. Will there be walk ways on top of the tower around the antenna arrays?
- 29. What types of antennas are being imposed?

Warren E. Peterson Jerome P. Filla Daniel Witt Fram Glenn A. Bergman John Michael Miller Michael T. Oberle Steven H. Bruns* Paul W. Fahning* Sonja R. Ortiz Amy K. L. Schmidt Ben I. Rust Jonathan R. Cuskey Jared M. Goerlitz



Suite 800 55 East Fifth Street St. Paul, MN 55101-1718 (651) 291-8955 (651) 228-1753 facsimile www.pfb-pa.com

(651)290-6907 jfilla@pfb-pa.com

December 4, 2008

Kyle Klatt Planning Director City of Lake Elmo 3800 Laverne Ave. North Lake Elmo, MN 55042

VIA EMAIL

RE: Wireless Telecommunication Towers

Kyle:

Attached are the following:

- 1. A copy of the City's current regulations.
- 2. A copy of an Ordinance, which would revise portions of the regulations.
- 3. A comparison document which shows changes to the existing regulations and which would be effectuated by the adoption of the Ordinance.

As was previously discussed, the Telecommunication Act of 1996 reserves zoning authority to local governments, but also limits the ability of a local unit of government to adopt regulations (e.g. Cities cannot adopt regulations which prohibit or have the effect of prohibiting wireless telecommunication service).

The changes proposed to the City's regulations do not, in my opinion, prohibit or have the effect of prohibiting wireless telecommunication service. The new provisions simply highlight the authority of the City to adopt conditions of approval which address visual impacts on surrounding parcels.

If you have any questions, please contact me.

Very truly yours,

JPF/jmt Attachments

CITY OF LAKE ELMO COUNTY OF WASHINGTON STATE OF MINNESOTA

ORDINANCE NO. <u>08-011</u>

AN ORDINANCE RELATING WIRELESS TELECOMMUNICATIONS TOWERS

The Lake Elmo City Council ordains that City Code Sections 150.113 (A)(B)(C); 150.114 (D)(3); 150.117; and 150.120(B)(1)(a) and (B)(1)(c) are hereby amended to read as follows:

\$150.113 ALLOWED TOWER SITES.

Applicants for a wireless telecommunication tower permit shall make a reasonable effort to locate the towers and accessory ground facilities in the following areas:

- (A) 1st Priority. On an existing public utility power line support structure, within an existing public utility power line right-of-way, or within 100 feet of the right-of-way;
- (B) <u>2nd Priority</u>. On publicly owned property, as approved by the City Council; and/or
- (C) 3rd Priority. On agriculturally or residentially zoned parcels greater than 10 acres.

§ 150.114 APPLICATION.

Applications for a wireless telecommunication tower permit shall be submitted on forms provided by the City Planner, which shall include the following information:

- (D) A 5 year plan for wireless telecommunication facilities to be located within the city shall be submitted by the applicant. The city acknowledges that the plans are fluid and in all likelihood will change depending upon market demands for the service. The City will maintain an inventory of all existing and reasonably anticipated cell site installations. The applicant shall provide the following written information in each, 5 year plan and the plan must be updated with each submittal for a new wireless telecommunication tower permit as necessary:
 - (3) A presentation size map of the city, which shows the 5-year plan for cell sites, or if individual properties are not known, the geographic service areas of the cell sites.

\$ 150.117 CO-LOCATION REQUIREMENTS.

Except as hereinafter provided, antenna utilized to provide wireless telecommunication services shall be located on existing towers or structures which exceed 75 feet in height and which are located within 1½ miles of the antenna site being proposed by the applicant. In the event that co-location is not possible, the applicant must demonstrate that a good faith effort to co-locate on existing towers and structures was made but an agreement could not be reached; or that co-location on existing structures will not allow the applicant to provide services to the required service area.

§ 150.120 TOWER STANDARDS.

(B) (1) Design.

- (a) To blend into the surrounding environment through the use of color; and architectural treatment and techniques that soften the visual impact of the wireless telecommunication tower on the surrounding environment;
- (c) All proposed wireless telecommunication tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least 2 additional users if the tower is over 100 feet in height or for at least 1 additional user if the tower is between 75 feet and 100 feet in height; provided that this standard may be waived or otherwise modified by the City Council as necessary to allow the applicant to construct a wireless telecommunication tower that better blends into the surrounding environment.

<u>Effective Date</u> . This Ordinance shall be e	effective the day following its publication.
Adoption Date. Passed by the Lake Elmo	o City Council on the day of, 2008.
	Dean Johnston, Mayor
Susan Hoyt, City Administrator	
Publication Date: This Ordinance was pu	ublished in the

General Provisions

(B) Wind generator permits may be revoked by an affirmative vote of 3 Council members for noncompliance with the conditions of the permit. (1997 Code, § 1385.06)

WIRELESS TELECOMMUNICATION TOWER PERMIT

§ 150.110 PURPOSE AND INTENT.

The wireless telecommunication tower permit regulations are intended to:

- (A) Reasonably accommodate the provision of wireless telecommunication services to the general public;
- (B) Minimize adverse visual effects of wireless telecommunication towers, antennae, or accessory equipment through careful design and siting standards;
- (C) Avoid potential damage to adjacent properties from tower failures through structural standards and setback requirements; and
- (D) Maximize the use of existing and approved towers, structures, and/or buildings for the location of new wireless telecommunication towers in order to reduce the number of the structures needed to accommodate wireless telecommunication services.

(1997 Code, § 1390.01) (Ord. 97-24, passed 1-21-1998)

§ 150.111 PERMIT REQUIRED.

No person shall install a wireless telecommunication facility or any portion thereof, at a height greater than is allowed for structures in the underlying zoning district without first being issued a wireless telecommunication tower permit.

(1997 Code, § 1390.03) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.112 PROHIBITED AREAS.

Wireless telecommunication towers shall not be allowed in the following areas:

(A) Residentially zoned parcels of less than 10 acres unless the wireless telecommunication tower and ground facilities accessory thereto are located within 100 feet of the right-of-way of a public utility transmission line;

- (B) Open space easements or conservation easements; and/or
- (C) Airport impact zones without consent of the F.A.A. (1997 Code, § 1390.03) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.113 ALLOWED TOWER SITES.

Applicants for a wireless telecommunication tower permit shall make a reasonable effort to locate the towers and accessory ground facilities in the following areas:

- (A) On an existing public utility power line support structure, within an existing public utility power line right-of-way, or within 100 feet of the right-of-way;
 - (B) On publicly owned property, as approved by the City Council; and/or
- (C) On agriculturally or residentially zoned parcels greater than 10 acres. (1997 Code, § 1390.04) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.114 APPLICATION.

Applications for a wireless telecommunication tower permit shall be submitted on forms provided by the City Planner, which shall include the following information:

- (A) A sketch drawn to scale acceptable to the City Planner and City Engineer which illustrates:
 - (1) The parcel on which the tower and accessory ground facilities;
 - (2) The buildings located and to be located on the tower parcel;
 - (3) The buildings located within 100 feet of the perimeter of the tower parcel; and
 - (4) Access easements as necessary to the tower parcel.
- (B) A sketch drawn to scale or a photo image acceptable to the City Planner and City Engineer which illustrates the relative size of the proposed wireless telecommunication tower or existing structure on which the antenna will be located compared to structures located within 100 feet of the perimeter of the parcel on which the tower is located and which illustrates the visibility of the tower from adjoining parcels located within 100 feet of the perimeter of the parcel on which the tower is located. The City Planner may also require a visual impact demonstration including mock-ups and/or photo montages and plans for painting the tower;

- (C) A report from a qualified and licensed professional engineer which:
- (1) Describes the wireless telecommunication tower height and design including a cross-section and elevation;
- (2) Certifies the wireless telecommunication tower's compliance with structural and electrical standards;
- (3) Documents the height above grade for the mounting positions, which can be used for co-location and the minimum separation distances between the co-location positions; and
- (4) Describes the wireless telecommunication tower's capacity to support antennae, including an example of the number and type of antennas that can be accommodated on the wireless telecommunication tower.
- (D) A 2-year plan for wireless telecommunication facilities to be located within the city shall be submitted by the applicant. The city acknowledges that the plans are fluid and in all likelihood will change depending upon market demands for the service. The city will maintain an inventory of all existing and reasonably anticipated cell site installations. The applicant shall provide the following written information in each 2-year plan and the plan must be updated with each submittal for a new wireless telecommunication tower permit as necessary:
 - (1) A description of the radio frequencies to be used for each technology;
- (2) A list of all existing sites to be upgraded or replaced, and proposed cell sites within the city for these services by the applicant; and
- (3) A presentation size map of the city, which shows the 2-year plan for cell sites, or if individual properties are not known, the geographic service areas of the cell sites.
- (E) The cost of mailing addresses for all property owners of record located within 1,000 feet of the subject property to be complied by the city;
- (F) An application fee in an amount prescribed from time to time by City Council resolution as necessary to reimburse the city for costs incurred to process the wireless telecommunication tower permit application;
- (G) Confirmation that the applicant is properly licensed by the F.C.C., or is the authorized representative of a wireless telecommunication provider properly licensed by the F.C.C.;
- (H) Written authorization from the property owner describing the area which will be subject to the tower lease and acknowledging that the property owner will be responsible for removal of the wireless telecommunication tower, antennae, and tower accessory equipment which is unused or abandoned for 12 consecutive months;

- (I) Documentation of the steps to be taken by applicant to avoid causing destructive interference to co-located previously established public safety communications facilities; and
- (J) A detailed landscape plan, which indicates how tower accessory equipment will be screened. (1997 Code, § 1390.05) (Ord. 97-24, passed 1-21-1998)

§ 150.115 PLANNING COMMISSION REVIEW.

- (A) Upon receipt of a completed application, the City Planner shall schedule a hearing before the Planning Commission which shall be preceded by 10-days mailed notice to the record owners of property located with 1,000 feet of the parcel on which the tower will be located.
- (B) The Planning Commission shall make recommendations to the City Council regarding the issuance of the wireless telecommunication tower permit and, in particular, in regard to the following:
 - (1) Compliance of application with the city regulations and development standards; and/or
- (2) Proposed conditions, as necessary, to prevent the wireless telecommunication tower, antennae, and tower accessory equipment from becoming a nuisance to surrounding property owners. (1997 Code, § 1390.06) (Ord. 97-24, passed 1-21-1998)

§ 150.116 CITY COUNCIL REVIEW.

- (A) Upon receipt of Planning Commission recommendations, the City Council shall review the application. The City Council may approve the application subject to conditions, table its review until a date certain, or deny the application for a wireless telecommunication tower permit. If the application is approved by the City Council, a wireless telecommunication tower permit and a building permit shall be issued upon the execution of a wireless telecommunication tower agreement.
- (B) The agreement shall be signed by the applicant and property owner and the terms of the agreement shall include the following:
 - (1) A list of the conditions of approval to the wireless telecommunication tower permit;
- (2) A statement indicating that failure to comply with the conditions of approval shall result in the removal of the wireless telecommunication tower, antennae, or tower accessory equipment;
- (3) A statement indicating that the expenses incurred by the city to enforce the provisions of the wireless telecommunication tower agreement shall be reimbursed by the applicant;

- (4) A statement, which requires the applicant to utilize the procedures established by the F.C.C. to resolve any complaints received relating to interference allegedly caused by the wireless telecommunication tower; and
- (5) A statement indicating that a wireless telecommunication tower which has not been used for 12 consecutive months shall be deemed abandoned and may be required to be removed in the same manner and pursuant to the same procedures as for hazardous and substandard buildings (M.S. §§ 463.15 through 463.261, as they may be amended from time to time). (1997 Code, § 1390.07) (Ord. 97-24, passed 1-21-1998)

§ 150.117 CO-LOCATION REQUIREMENTS.

Except as hereinafter provided, antenna utilized to provide wireless telecommunication services shall be located on existing towers or structures which exceed 75 feet in height and which are located within 1/4 mile of the antenna site being proposed by the applicant. In the event that co-location is not possible, the applicant must demonstrate that a good faith effort to co-locate on existing towers and structures was made but an agreement could not be reached.

(1997 Code, § 1390.08) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.118 EXCEPTIONS TO CO-LOCATION REQUIREMENTS.

The City Council shall waive any or all of the co-location requirements if it is determined that:

- (A) The antennae and/or tower accessory equipment would cause the structural capacity of an existing or approved tower or building to be exceeded, as documented by a qualified and licensed professional engineer, and the existing or approved tower or building cannot be reinforced, modified, or replaced to accommodate the antennae or tower accessory equipment at a reasonable cost;
- (B) The antennae and/or tower accessory equipment would cause interference materially impacting the usability of existing antennae or tower accessory equipment as documented by a qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost;
- (C) Existing or approved towers and buildings within the applicant's search radius cannot or will not accommodate the antennae and/or tower accessory equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer; and/or
- (D) Other unforeseen reasons make it infeasible to locate the antennae and/or tower accessory equipment upon an existing or approved tower or building. (1997 Code, § 1390.09) (Ord. 97-24, passed 1-21-1998)

§ 150.119 CONSTRUCTION PERMITS.

All wireless telecommunication towers erected, constructed, or located within the city, and all wiring therefore, shall comply with the requirements set forth in the Uniform Building Code. (1997 Code, § 1390.10) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.120 TOWER STANDARDS.

(A) Wireless telecommunication towers shall comply with the following standards unless the City Council grants a variance as necessary to reasonably accommodate the wireless telecommunication tower. Variance procedures shall be processed according to the zoning code.

(B) (1) Design.

- (a) To blend into the surrounding environment through the use of color and architectural treatment:
- (b) To be of a monopole design unless the City Council determines that an alternative design would better blend into the surrounding environment;
- (c) All proposed wireless telecommunication tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least 2 additional users if the tower is over 100 feet in height or for at least 1 additional user if the tower is between 75 feet and 100 feet in height; and
- (d) Where possible, all proposed wireless telecommunication towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at various heights.

(2) Setbacks from lot lines.

- (a) In all residential zoning districts, wireless telecommunication towers shall be set back 1 foot for each foot of tower height plus 20 feet.
- (b) In all zoning districts, towers may encroach into the rear or side yard setback areas, provided that the rear or side yard property line abuts a commercial or business zoned property and the wireless telecommunication tower does not encroach upon any easements.
- (c) Wireless telecommunication towers shall not be located between a principal structure and a public street.

- (d) A required setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow for the integration of a wireless telecommunication tower with an existing or proposed structure such as a church steeple, power line support device, or light standard.
- (e) A required setback may be reduced or its location in relation to a public street varied upon providing the city with a licensed professional engineer's certification that the wireless telecommunication tower is designed to collapse or fail within a distance or zone shorter than the required setback distance.

(3) Height.

- (a) In all residential zoning districts, the maximum height of any wireless telecommunication tower including all antennas and other attachments, shall not exceed 1 foot for each 1 foot the tower is setback from a residential dwelling unit up to a maximum of 195 feet for parcels of 40 acres or more and 125 feet for parcels between 10 to 40 acres in size.
- (b) In all non-residential zoning districts, wireless telecommunication tower and antennae shall not exceed 195 feet in height above ground for a freestanding wireless telecommunication tower, and 195 feet in height above ground as measured by the lowest ground elevation adjacent to a building on which the tower/antenna is located, including all antennas and other attachments where the zoning district is adjacent to a residential zoning district. The setback from a common lot line shall be 2 feet for each 1 foot of tower height.

(1997 Code, § 1390.11) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.121 LIGHTING.

At night, wireless telecommunication towers shall not be illuminated by artificial means. (1997 Code, § 1390.12) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.122 SIGNS AND ADVERTISING.

The use of any portion of a wireless telecommunication tower for signs other than warning or equipment information sign is prohibited. (1997 Code, § 1390.13) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.123 INTERFERENCE WITH PUBLIC SAFETY TELECOMMUNICATION.

No wireless telecommunication facility shall interfere with public safety telecommunications. All wireless telecommunication towers/antennas shall comply with F.C.C. regulations and licensing requirements.

(1997 Code, § 1390.14) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.124 PROHIBITED SUBDIVISIONS.

Where a wireless telecommunication facility has been located on a residentially or agriculturally zoned parcel greater than 10 acres, except when the facility is located within a power line easement, or within 100 feet of the easement, the parcels shall not be further subdivided unless the resulting parcel on which the wireless telecommunication facility is located continues to be more than 10 acres in size. (1997 Code, § 1390.15) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.125 ACCESSORY UTILITY BUILDINGS.

All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment.

(1997 Code, § 1390.16) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.126 GROUND-MOUNTED EQUIPMENT.

All ground mounted equipment accessory to a wireless telecommunication tower shall be enclosed in a building with brick walls and have a dark colored standing seam metal roof and be further screened with sufficient trees, as determined by the City Planner, and shrubs to substantially reduce the visual impact.

(1997 Code, § 1390.17) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

ALARM SYSTEMS

§ 150.140 PURPOSE AND INTENT.

(A) The purpose of §§ 150.140 et seq. is to encourage security, fire, or medical alarm users and alarm businesses (including, but not limited to, sales, installation, and/or monitoring) to maintain the operation reliability and the proper use of alarm systems so as to limit unnecessary police, fire, and emergency medical responses to false alarms and alarm malfunctions.

Comparison Ordinance

WIRELESS TELECOMMUNICATION TOWER PERMIT

§ 150.110 PURPOSE AND INTENT.

The wireless telecommunication tower permit regulations are intended to:

- (A) Reasonably accommodate the provision of wireless telecommunication services to the general public;
- (B) Minimize adverse visual effects of wireless telecommunication towers, antennae, or accessory equipment through careful design and siting standards;
- (C) Avoid potential damage to adjacent properties from tower failures through structural standards and setback requirements; and
- (D) Maximize the use of existing and approved towers, structures, and/or buildings for the location of new wireless telecommunication towers in order to reduce the number of the structures needed to accommodate wireless telecommunication services.

(1997 Code, § 1390.01) (Ord. 97-24, passed 1-21-1998)

§ 150.111 PERMIT REQUIRED.

No person shall install a wireless telecommunication facility or any portion thereof, at a height greater than is allowed for structures in the underlying zoning district without first being issued a wireless telecommunication tower permit.

(1997 Code, § 1390.03) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.112 PROHIBITED AREAS.

Wireless telecommunication towers shall not be allowed in the following areas:

- (A) Residentially zoned parcels of less than 10 acres unless the wireless telecommunication tower and ground facilities accessory thereto are located within 100 feet of the right-of-way of a public utility transmission line;
- (B) Open space easements or conservation easements; and/or
- (C) Airport impact zones without consent of the F.A.A. (1997 Code, § 1390.03) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.113 ALLOWED TOWER SITES.

Applicants for a wireless telecommunication tower permit shall make a reasonable effort to locate the towers and accessory ground facilities in the following areas:

- (A) 1st Priority. On an existing public utility power line support structure, within an existing public utility power line right-of-way, or within 100 feet of the right-of-way;
- (B) 2nd Priority. On publicly owned property, as approved by the City Council; and/or
- (C) 3rd Priority. On agriculturally or residentially zoned parcels greater than 10 acres. (1997 Code, § 1390.04) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.114 APPLICATION.

Applications for a wireless telecommunication tower permit shall be submitted on forms provided by the City Planner, which shall include the following information:

- (A) A sketch drawn to scale acceptable to the City Planner and City Engineer which illustrates:
 - (1) The parcel on which the tower and accessory ground facilities;
 - (2) The buildings located and to be located on the tower parcel;
 - (3) The buildings located within 100 feet of the perimeter of the tower parcel; and
 - (4) Access easements as necessary to the tower parcel.
- (B) A sketch drawn to scale or a photo image acceptable to the City Planner and City Engineer which illustrates the relative size of the proposed wireless telecommunication tower or existing structure on which the antenna will be located compared to structures located within 100 feet of the perimeter of the parcel on which the tower is located and which illustrates the visibility of the tower from adjoining parcels located within 100 feet of the perimeter of the parcel on which the tower is located. The City Planner may also require a visual impact demonstration including mock-ups and/or photo montages and plans for painting the tower;
- (C) A report from a qualified and licensed professional engineer which:
 - (1) Describes the wireless telecommunication tower height and design including a cross-section and elevation;
 - (2) Certifies the wireless telecommunication tower's compliance with structural and electrical standards:
 - (3) Documents the height above grade for the mounting positions, which can be used for co-location and the minimum separation distances between the co-location positions; and

- (4) Describes the wireless telecommunication tower's capacity to support antennae, including an example of the number and type of antennas that can be accommodated on the wireless telecommunication tower.
- (D) A <u>5</u> year plan for wireless telecommunication facilities to be located within the city shall be submitted by the applicant. The city acknowledges that the plans are fluid and in all likelihood will change depending upon market demands for the service. The city will maintain an inventory of all existing and reasonably anticipated cell site installations. The applicant shall provide the following written information in each, <u>21</u> <u>5</u> year plan and the plan must be updated with each submittal for a new wireless telecommunication tower permit as necessary:
 - (1) A description of the radio frequencies to be used for each technology;
 - (2) A list of all existing sites to be upgraded or replaced, and proposed cell sites within the city for these services by the applicant; and
 - (3) A presentation size map of the city, which shows the $\mathbb{Z}_{\underline{5}}$ -year plan for cell sites, or if individual properties are not known, the geographic service areas of the cell sites.
- (E) The cost of mailing addresses for all property owners of record located within 1,000 feet of the subject property to be complied by the city;
- (F) An application fee in an amount prescribed from time to time by City Council resolution as necessary to reimburse the city for costs incurred to process the wireless telecommunication tower permit application;
- (G) Confirmation that the applicant is properly licensed by the F.C.C., or is the authorized representative of a wireless telecommunication provider properly licensed by the F.C.C.;
- (H) Written authorization from the property owner describing the area which will be subject to the tower lease and acknowledging that the property owner will be responsible for removal of the wireless telecommunication tower, antennae, and tower accessory equipment which is unused or abandoned for 12 consecutive months;
- (I) Documentation of the steps to be taken by applicant to avoid causing destructive interference to co-located previously established public safety communications facilities; and
- (J) A detailed landscape plan, which indicates how tower accessory equipment will be screened.

(1997 Code, § 1390.05) (Ord. 97-24, passed 1-21-1998)

§ 150.115 PLANNING COMMISSION REVIEW.

- (A) Upon receipt of a completed application, the City Planner shall schedule a hearing before the Planning Commission which shall be preceded by 10-days mailed notice to the record owners of property located with 1,000 feet of the parcel on which the tower will be located.
- (B) The Planning Commission shall make recommendations to the City Council regarding the issuance of the wireless telecommunication tower permit and, in particular, in regard to the following:
 - (1) Compliance of application with the city regulations and development standards; and/or
 - (2) Proposed conditions, as necessary, to prevent the wireless telecommunication tower, antennae, and tower accessory equipment from becoming a nuisance to surrounding property owners.

(1997 Code, § 1390.06) (Ord. 97-24, passed 1-21-1998)

§ 150.116 CITY COUNCIL REVIEW.

- (A) Upon receipt of Planning Commission recommendations, the City Council shall review the application. The City Council may approve the application subject to conditions, table its review until a date certain, or deny the application for a wireless telecommunication tower permit. If the application is approved by the City Council, a wireless telecommunication tower permit and a building permit shall be issued upon the execution of a wireless telecommunication tower agreement.
- (B) The agreement shall be signed by the applicant and property owner and the terms of the agreement shall include the following:
 - (1) A list of the conditions of approval to the wireless telecommunication tower permit;
 - (2) A statement indicating that failure to comply with the conditions of approval shall result in the removal of the wireless telecommunication tower, antennae, or tower accessory equipment;
 - (3) A statement indicating that the expenses incurred by the city to enforce the provisions of the wireless telecommunication tower agreement shall be reimbursed by the applicant;
 - (4) A statement, which requires the applicant to utilize the procedures established by the F.C.C. to resolve any complaints received relating to interference allegedly caused by the wireless telecommunication tower; and
 - (5) A statement indicating that a wireless telecommunication tower which has not been used for 12 consecutive months shall be deemed abandoned and

may be required to be removed in the same manner and pursuant to the same procedures as for hazardous and substandard buildings (M.S. §§ 463.15 through 463.261, as they may be amended from time to time).

(1997 Code, § 1390.07) (Ord. 97-24, passed 1-21-1998)

§ 150.117 CO-LOCATION REQUIREMENTS.

Except as hereinafter provided, antenna utilized to provide wireless telecommunication services shall be located on existing towers or structures which exceed 75 feet in height and which are located within 1/42 mile of the antenna site being proposed by the applicant. In the event that co-location is not possible, the applicant must demonstrate that a good faith effort to co-locate on existing towers and structures was made but an agreement could not be reached: or that co-location on existing structures will not allow the applicant to provide services to the required service area. (1997 Code, § 1390.08) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.118 EXCEPTIONS TO CO-LOCATION REQUIREMENTS.

The City Council shall waive any or all of the co-location requirements if it is determined that:

- (A) The antennae and/or tower accessory equipment would cause the structural capacity of an existing or approved tower or building to be exceeded, as documented by a qualified and licensed professional engineer, and the existing or approved tower or building cannot be reinforced, modified, or replaced to accommodate the antennae or tower accessory equipment at a reasonable cost;
- (B) The antennae and/or tower accessory equipment would cause interference materially impacting the usability of existing antennae or tower accessory equipment as documented by a qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost;
- (C) Existing or approved towers and buildings within the applicant's search radius cannot or will not accommodate the antennae and/or tower accessory equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer; and/or
- (D) Other unforeseen reasons make it infeasible to Iocate the antennae and/or tower accessory equipment upon an existing or approved tower or building. (1997 Code, § 1390.09) (Ord. 97-24, passed 1-21-1998)

§ 150.119 CONSTRUCTION PERMITS.

All wireless telecommunication towers erected, constructed, or located within the city, and all wiring therefore, shall comply with the requirements set forth in the Uniform Building Code. (1997 Code, § 1390.10) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.120 TOWER STANDARDS.

(A) Wireless telecommunication towers shall comply with the following standards unless the City Council grants a variance as necessary to reasonably accommodate the wireless telecommunication tower. Variance procedures shall be processed according to the zoning code.

(B) (1) Design.

- (a) To blend into the surrounding environment through the use of color; and architectural treatment and techniques that softens the visual impact of the wireless telecommunication tower on the surrounding environment;
- (b) To be of a monopole design unless the City Council determines that an alternative design would better blend into the surrounding environment;
- (c) All proposed wireless telecommunication tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least 2 additional users if the tower is over 100 feet in height or for at least 1 additional user if the tower is between 75 feet and 100 feet in height; and provided that this standard may be waived or otherwise modified by the City Council as necessary to allow the applicant to construct a wireless telecommunication tower that better blends into the surrounding environment.
- (d) Where possible, all proposed wireless telecommunication towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at various heights.

(2) Setbacks from lot lines.

- (a) In all residential zoning districts, wireless telecommunication towers shall be set back 1 foot for each foot of tower height plus 20 feet.
- (b) In all zoning districts, towers may encroach into the rear or side yard setback areas, provided that the rear or side yard property line abuts a commercial or business zoned property and the wireless telecommunication tower does not encroach upon any easements.
- (c) Wireless telecommunication towers shall not be located between a principal structure and a public street.
- (d) A required setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow for the integration of a wireless telecommunication tower with an existing or proposed structure such as a church steeple, power line support device, or light standard.

(e) A required setback may be reduced or its location in relation to a public street varied upon providing the city with a licensed professional engineer's certification that the wireless telecommunication tower is designed to collapse or fail within a distance or zone shorter than the required setback distance.

(3) Height.

- (a) In all residential zoning districts, the maximum height of any wireless telecommunication tower including all antennas and other attachments, shall not exceed 1 foot for each 1 foot the tower is setback from a residential dwelling unit up to a maximum of 195 feet for parcels of 40 acres or more and 125 feet for parcels between 10 to 40 acres in size.
- (b) In all non-residential zoning districts, wireless telecommunication tower and antennae shall not exceed 195 feet in height above ground for a freestanding wireless telecommunication tower, and 195 feet in height above ground as measured by the lowest ground elevation adjacent to a building on which the tower/antenna is located, including all antennas and other attachments where the zoning district is adjacent to a residential zoning district. The setback from a common lot line shall be 2 feet for each 1 foot of tower height.

(1997 Code, § 1390.11) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.121 LIGHTING.

At night, wireless telecommunication towers shall not be illuminated by artificial means. (1997 Code, § 1390.12) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.122 SIGNS AND ADVERTISING.

The use of any portion of a wireless telecommunication tower for signs other than warning or equipment information sign is prohibited.

(1997 Code, § 1390.13) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.123 INTERFERENCE WITH PUBLIC SAFETY TELECOMMUNICATION.

No wireless telecommunication facility shall interfere with public safety telecommunications. All wireless telecommunication towers/antennas shall comply with F.C.C. regulations and licensing requirements.

(1997 Code, § 1390.14) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.124 PROHIBITED SUBDIVISIONS.

Where a wireless telecommunication facility has been located on a residentially or agriculturally zoned parcel greater than 10 acres, except when the facility is located within a power line easement, or within 100 feet of the easement, the parcels shall not be further subdivided unless

the resulting parcel on which the wireless telecommunication facility is located continues to be more than 10 acres in size.

(1997 Code, § 1390.15) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.125 ACCESSORY UTILITY BUILDINGS.

All utility buildings and structures accessory to a tower shall be architecturally desi gned to blend in with the surrounding environment.

(1997 Code, § 1390.16) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.126 GROUND-MOUNTED EQUIPMENT.

All ground mounted equipment accessory to a wireless telecommunication tower shall be enclosed in a building with brick walls and have a dark colored standing seam metal roof and be further screened with sufficient trees, as determined by the City Planner, and shrubs to substantially reduce the visual impact.

(1997 Code, § 1390.17) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

F:\users\Jessica\Jerry\LE\Tower Permit.v2.doc

City Council Date: 12/1/08

Regular

Ordinance No. 08-10 Resolution No. 2008-056

Item: AA

ITEMS: Consider zoning text amendments to allow a bus/truck terminal as a non-

agricultural low impact use in the HD-A-BP zoning district

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

SUBMITTED BY: Kyle Klatt, Director of Planning

REVIEWED BY: Planning Commission

Susan Hoyt, City Administrator Jerry Filla, City Attorney Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider text amendments to the zoning ordinance to allow a bus/truck terminal as a non-agricultural low impact use in the HD-A-BP district (agriculture holding zone for properties guided for business park development). This request has been made by Terry Emerson, 11530 Hudson Boulevard South, concurrent with an applicant for an interim use permit that could only proceed if the zoning amendment is approved by the Council.

The applicant's property is located along Interstate Highway 94 near the intersection of Hudson Boulevard South and Manning Avenue and is currently zoned HD-A-BP. The zoning text amendment is required because the current zoning ordinance excludes the parking of "semi-truck trailers or any vehicle over 26,000 pounds capable by design of being licensed for use on public roadways" as a non-agricultural low impact use. This proposed amendment eliminates this limitation on vehicles and would make it permissible to have a bus/truck terminal as an interim use in the HD-A-BP holding zone subject to all restrictions of any other non-agricultural low impact use and the issuance of an interim use permit. The interim use limits the life of the use to when the city deems it is appropriate to terminate it, typically due to a change in conditions such as rezoning due to availability of sewer as guided in the comprehensive plan. The interim use is reviewed every two years by the city to assure conformance to the permit and the opportunity to eliminate the interim use due to changing conditions. Current code requirements in the agricultural holding zones remain the same. This does not affect other agriculturally zoned properties. The planning commission recommended approval of the zoning amendment. The staff concurs with the recommendation.

One comment from the public was received related to the Northern Lights gas line that runs near this property. It was determined that the line was located on an adjacent property and that it would not have an impact on the applicant's property. Another comment was received via email from a resident explaining that previous requests for truck terminals had been rejected by the City Cuncil.

The following is a table that very briefly summarizes the zoning differences that would exist between the A and HD-A-BP zoning districts should the proposed amendment be adopted by the City Council.

	A – Agriculture District	HD-A-BP District
Non-Agricultural Low Impact Use	Conditional Use Permit	Interim Use Permit
Parking of trucks allowed?	No	Yes
Maximum Area	4% of agriculture area	5% of agriculture area
Number of parcels affected (approx)	40	4

Please note that if the proposed amendment is not approved, all other aspects of this chart would remain the same, and non-agricultural low impact uses would continue to require different zoning permits depending on whether or not an agricultural zoning district is located in one of the City's holding zones.

ADDITIONAL INFORMATION:

The Planning Commission conducted a public hearing to consider the zoning amendment request at its November 10, 2008 meeting. A comment regarding the gas line as noted above was acknowledged by the Commission. The Commission recommended approval with a vote of 6 ayes and 2 nays. Those members that voted against the proposal noted that the original ordinance was drafted to specifically prohibit a truck terminal operation from locating in these areas and that the potential impacts from trucks could be much greater than buses or smaller vehicles.

Some of the key questions that are directly related to the proposed interim use, and indirectly related to the zoning amendment request, include the following:

What is the anticipated level of traffic under the interim use? The applicant has indicated that there will approximately 120 vehicle trips from the site each day, with a peak activity level of around 200 vehicle trips per day (this figure includes non-truck traffic to the site). The analysis for the previous bus garage estimated the trip generation for this use at 328 trips per day. The code allows 420 trips per day based on the total acreage owned as agricultural land around the site.

What will the hours of operation be? The level of activity on the site will be spread out fairly evenly throughout the day and will not be based on a specific morning or afternoon rush. Nearly all traffic will be accommodated between the hours of 6 a.m. and 6 p.m.

What routes will trucks take to and from the site? The applicant has stated that almost all anticipated truck traffic will originate to and from the interstate highway adjacent to the site. Although there is a possibility that an occasional truck will need to use an alternate route through Lake Elmo, as an interstate trucking operation there is no reason for these vehicles to use the local street system to gain access to this property.

What are the anticipated negative impacts and how are they accommodated? The anticipated impacts are associated primarily with the conversion from bus to semi-trailer truck traffic, and specifically because the trucks are a little larger and would likely generate more noise than the buses. From the engineering review, it is anticipated that the current road system will be able to accommodate the proposed interim use given the low levels of traffic generated by the site and the lack of a specific peak period of activity. The other impacts from the trucks can be mitigated through screening around the site. The proposed Ordinance contains a restriction that a bus/truck terminal interim use cannot be located more than 1,000 feet from Interstate 94 in order to minimize and impact to areas outside of this corridor.

What are the similarities and differences between the proposed use and the former bus garage? As noted above, the daily traffic in terms of number of vehicles entering and exiting the site will be lower with the bus garage. The total number of vehicles stored will be about the same, around 60 to 80 larger vehicles, and the visibility of these vehicles will also be roughly the same since there are not changes proposed to the existing berm and landscape screen around

the site. One significant difference between the former and proposed use of the site is that the trucks will not be dispatched on routes throughout the City and will instead originate only from Interstate 94.

Does an interim use in this location make sense? The previous bus garage has operated on this site for several years without any major issues, and the conversion to a truck terminal will not result in a significant departure from the past use. The interim use would allow a viable use of the land (and existing improvements on the land) until such time that the property is redeveloped. As an interim use, the City will have control over when the use is terminated, and can review this permit as conditions change. Based on the relatively low traffic generated from the proposed use, it should be able to co-exist with other uses in the area until sewer service is provided to the area.

RECOMMENDATION:

Based upon the above analysis and public input, the planning commission and staff recommend to amend the zoning ordinance requirements for non-agricultural low impact uses to allow for semi-trailer truck parking and a semi-trailer transfer operation as an interim use in the HD-A-BP zoning district in accordance with the draft Ordinance for the following reasons:

- 1) That the proposed Ordinance amendments will limit a bus/truck terminal to only those portions of the City adjacent to the Interstate 94 corridor. This corridor is an appropriate location for interim uses that will generate larger truck traffic associated impacts until such time conditions warrant major public infrastructure improvements.
- 2) That the proposed Ordinance will not substantially alter the current uses and activities permitted as a non-agricultural low-impact use. The proposed truck terminal will operate in a very similar manner to the former bus dispatch center/garage use of the property, and in some cases will have less of an impact on areas outside of the affected property. The ordinance limitations placed on non-agricultural low impact uses will not be altered by the proposed amendment and will further restrict the impacts from such uses.
- 3) That the propose Ordinance will allow the reasonable use of agricultural property on an interim basis until such time that public sewer service is provided to the area south of 10th Street. Sewer is not planned for this area until 2020-2030, during which time zoning changes or non-agricultural development will not be allowed.
- 4) That the Planning Commission has recommended approval of the request at a meeting conducted on November 10, 2008.

MOTION FOR CONSIDERATION:

Move approval of Ordinance No. 08-010 based on the reasons cited above and based on the following findings:

- The proposed ordinance amendment is consistent with the City's long range plan for the area south of Tenth Street, and specifically, that it would not allow a permanent use to be established in this area that is inconsistent with the plan.
- The proposed ordinance amendment would allow the reasonable use of existing parcels that are planned for future sewered development in advance of the zoning and comprehensive plan updates that will impact this area

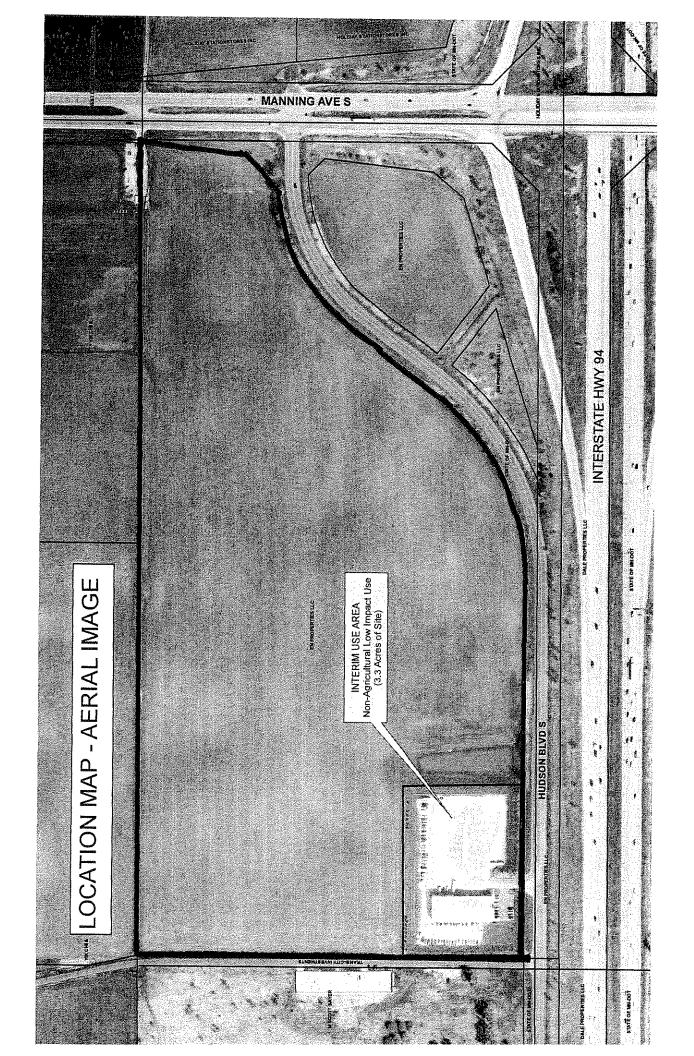
ORDER OF BUSINESS:

-	Report	.Kyle Klatt,	Planning	J Director
-	Questions from the Council	Mayor &	Council I	Members

-	Questions/Comments from the applicant	Mayor facilitates
-	Questions/Comments from the public	Mayor facilitates
-	Call for a Motion	
	(required for further discussion; does not imply approval of the motion	Mayor facilitates
-	Discussion	Mayor facilitates
	Action on motion	Council

ATTACHMENTS:

- 1. Location Map
- 2. Application form
- 3. Planning analysis report for the zoning amendment
- 4. Draft ordinance amending non-agricultural low impact use provisions
- 5. Resolution for summary publication
- 6. Properties affected by proposed zoning amendment



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City of Lake Elmo DEVELOPMENT APPLICATION FORM

Comprehensive Plan Amendment	☐ Variance * (See below)	Residential Subdivision
Zoning District Amendment	Minor Subdivision	Preliminary/Final Plat
Text Amendment	Lot Line Adjustment	O 01 - 10 Lots O 11 - 20 Lots
Flood Plain C.U.P.	Residential Subdivision	O 21 Lots or More Excavating & Grading Permit
Conditional Use Permit Interim Use Permit	Sketch/Concept Plan	
Conditional Use Permit (C.U.P.)	Site & Building Plan Review	☐ Appeal ☐ PUD
APPLICANT E & Froger to	=5 LLC 11530 Hudson	BNJ.N. 55042
(Name) / 772-0022 //2	(Mailing Address)	(Zip)
TELEPHONES: 11/9072 43	6-6055 6/2-845-33" (Work) (Mobile)	3 436-2068
FEE OWNER: EN Prepert	(Mobile)	(Fax)
(Name)	(Mailing Address)	(Zip)
TELEPHONES:	Same	(2.10)
(Home)	(Work) (Mobile)	(Fax)
DETAILED REASON FOR REQUEST: Desiding with fre Code 154,034 Section Mechanic repair facilit *VARIANCE REQUESTS: As outlined demonstrate a hardship before a variance	See Attached To allow the uneway occess, on to allow the ty with occess to in Section 301.060 C. of the Lake Elir	se of existing Exemend zening Exterminal and 1-94 Frontage road no Municipal Code, the Applicant must
demonstrate a hardship before a variance	can be granted. The hardship relate	ed to this application is as follows:
In signing this application, I hereby acknown Zoning and Subdivision Ordinances and outlined in the application procedures an additional application expense. Signature of Applicant		further acknowledge the fee explanation as eceived from the City pertaining to
		Date

City of Lake Elmo Planning Department

Non-Agricultural Low Impact Use Ordinance Amendment Request

To: City Council

From: Kyle Klatt, Planning Director

Meeting Date: 12-1-08

Introductory Information

Summary & Action Requested:

The City Council is being asked to consider a request from Terry Emerson of E & E Properties, LLC, 11530 Hudson Boulevard North, to amend the Zoning Ordinance requirements for non-agricultural low impact uses to allow for semi-trailer truck parking and a semi-trailer transfer operation as an interim use in the HD-A-BP zoning district.

The ordinance as requested would only change the requirements for this particular use as an interim use in the City's agricultural holding districts south of 10th Street. The intent of the ordinance is to leave all of the current regulations for other agricultural zones in the City in tact.

The zoning amendment that will be needed in order to accomplish this objective is a revision of the definition of non-agricultural low impact uses to allow for the parking of semi-trailer trucks in the HD-A-BP holding district. Revising this definition, however, would change the applicability of this ordinance to all zoning districts, which is not recommended. Therefore, the Planning Department is suggesting the following Ordinance changes based on the applicant's request:

- 1) Amending the definition of "non-agricultural low impact uses" to remove any reference to the parking of semi-trailer trucks. A definition for Bus/Truck Terminal has been added to incorporate a specific definition into the Zoning Ordinance for the use that has been requested.
- 2) Amending the standards for non-agricultural low impact uses in the A Agricultural zoning district provisions to prohibit the parking of semi-trailer trucks (and Bus/Truck Terminals).
- 3) Amending the criteria for non-agricultural low impact uses in the HD-A-BP holding zone to specifically permit the parking of semi-trailer trucks and a Bus/Truck Terminal as an interim use.

The specific Ordinance amendments are included in the attached draft Ordinance for consideration by the City Council.

Additional Information:

In response to the zoning text amendment that was received, Staff has drafted an Ordinance that attempts to: 1) limit the extent and area that a Bus/Truck Terminal could be established and 2) to allow this type of use under the City's current requirements for a non-agricultural low impact use. Should the amendment be approved by the City, the

applicant has further submitted a request for this specific use in a location that conforms to the draft Ordinance.

The attached aerial image depicts the parcel that would be affected by the proposed changes, which include four properties in the extreme south eastern portion of the City near the intersection of Manning Avenue and Hudson Boulevard South. These properties are all guided for Business Park Development in the City's Comprehensive Plan, and accordingly, have been placed into the HD-A-BP holding district until such time that sewer service is available to these sites. The applicant owns a parcel immediately adjacent to Hudson Boulevard South and has recently used this property for a school bus garage under the non-agricultural low impact use standards.

Should the proposed amendment be approved by the City, the only change from the current ordinance would be the allowance of semi-trailer parking on parcels zoned HD-A-BP rather than limiting these uses to only off-road mobile construction equipment. All other requirements, including the amount a land that must be set aside for agricultural uses, the total number of trips generated by the use, and other current non-agricultural low impact standards would remain the same.

The standards for all other A – Agriculture districts would not be changed and semi-trailer truck parking would still no longer be allowed in these areas if the amendment were approved.

Ordinance Review:

Staff is recommending approval of the proposed amendment because it is consistent with the City's long range plan for the area south of Tenth Street and because it would continue to allow the reasonable use of existing parcels that are planned for future sewered development in advance of the zoning and comprehensive plan updates that will impact this area. A critical component of the ordinance as drafted is that it allows semi-trailer truck parking only on those parcels that are zoned A – Agriculture and also located within the temporary holding zone along Interstate Highway 94. Since the Ordinance currently allows for the parking of larger vehicles on these sites, including buses and off-road mobile construction equipment, there should not be a significant difference in the operation or impact from these sites.

By limited the allowed sites for Bus/Truck Terminals to only those parcels within a certain distance of the interstate, the ordinance has been drafted to ensure that only those parcels that have close access to the Highway will be allowed to accommodate semi-trailer truck parking on a limited basis.

Council Options:

The City Council has the following options:

- A) Recommend approval of the proposed ordinance to amend the non-agricultural low-impact use regulations;
- B) Recommend staff make changes to the proposed ordinances, or add additional changes;

- C) Table the item for further study; or
- D) Recommend denial of the request upon finding that the proposed ordinance would have a negative effect on the City or that the ordinance is inconsistent with the Lake Elmo Comprehensive Plan.

The 60-day review period for this application will end on December 30, 2008, and can be extended another 60 days if needed.

Staff Rec:

Staff is recommending approval of the request by Terry Emerson of E & E Properties, LLC, to amend the Zoning Ordinance requirements for non-agricultural low impact uses to allow for semi-trailer truck parking and a semi-trailer transfer operation as an interim use in the HD-A-BP zoning district in accordance with the draft Ordinance, based on the following:

- 1) That the proposed Ordinance amendments will affect a small number of parcels within the City that are planned for future business park development.
- 2) That the proposed Ordinance will not substantially alter the current uses and activities permitted as a non-agricultural low-impact use.
- 3) That the propose Ordinance will allow the reasonable use of agricultural property on an interim basis until such time that public sewer service is provided to the area south of 10th Street.

Denial Motion Template:

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

I move to deny the request to amend the non-agricultural low impact section of the Zoning Ordinance to allow a bus/truck terminal as an interim use in the HD-A-BP zoning district based on the following findings...(please site reasons for the recommendation)

Approval Motion Template:

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

I move to approve the request to amend the non-agricultural low impact section of the Zoning Ordinance to allow a bus/truck terminal as an interim use in the HD-A-BP zoning district based on the following findings...(use staff's findings provided above or cite your own)

CITY OF LAKE ELMO COUNTY OF WASHINGTON STATE OF MINNESOTA

ORDINANCE NO. 08-010

AN ORDINANCE AMENDING REGULATIONS GOVERNING NON-AGRICULTURAL LOW IMPACT USES

Section 1. The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby amended to read as follows:

NON-AGRICULTURAL LOW IMPACT. The outdoor storage of off-road mobile construction equipment of any weight, excluding semi-truck trailers, or any vehicle over 26,000 pounds capable by design of being licensed for use on public roadways; the indoor storage of the aforementioned items and other goods and materials which, in the determination of the City Council, do not jeopardize the health, safety, or welfare of the city; nature farms; agricultural museums; farmer's markets; small engine repair shops; contractor maintenance shops; or office space as an accessory use to the aforementioned uses.

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

Section 2. The City Council of the City of Lake Elmo hereby ordains that Section 154.033 subd (F) is hereby amended to read as follows:

- (F) Non-agricultural low impact use standards.
- (1) (a) The city desires to maintain and preserve open space and agricultural land within the city. The city recognizes the monetary regards that may be enjoyed by a farmer or larger property owner who sells his or her land for development. The city further recognizes that allowing non- agricultural low impact uses, strictly controlled and regulated by conditional use permit, might allow a farmer or large property owner an economical use of his or her property that is zoned for agriculture. The following standards shall apply to these types of uses.
- (b) It is also the intent of the city to preserve the appearance of rural character within the community by establishing standards for the setback and screening from adjacent property and public roadways by natural features of any open storage as may be associated with the non-agricultural use.
- (2) (a) All of the property owner's real estate that is contiguous to the non-agricultural low impact use must be zoned Agricultural and remain so zoned while the conditional use permit is in effect.

- (b) The area where the non-agricultural low impact use is located shall be legally defined as approved by the city and is hereafter known as the "Non-Ag Area." The Non-AgArea shall not exceed 4% of the property owner's contiguous agricultural zone gross lot area. The building footprints and asphalt and concrete surfaces within the Non-Ag Area shall not exceed 1.5% of the property owner's contiguous agricultural zone gross lot area. Landscaping, berms, ponds, gravel driveways, and other improvements that would otherwise be permitted in the Agricultural zone may be located outside of the Non-Ag Area.
- (c) Non-agricultural low impact uses shall only be allowed on a parcel of a nominal 40 acres or larger.
- (d) Non-agricultural low impact uses shall not generate more than 3 trips per day per acre of contiguous agriculturally zoned area, with the exception of land, with sole access to Hudson Boulevard that shall not generate more than 6 trips per day per acre.
- (e) Any uses under this section involving the outside storage of vehicles, equipment, or goods shall be located a minimum of 200 feet from any public roadway or adjacent landowner's boundary, except that the setback from the I-94 frontage road shall be not less than 50 feet. In addition, any such outside storage shall be screened from view from adjacent property and the public roadway by berms and landscaping. A plan for such screening shall be submitted with the application for the conditional use permit which shall clearly demonstrate by view cross-sections that said screening will be effective immediately, and in all seasons. Degradation of such screening by loss of landscape materials, outdoor storage of items that exceed the screened height or for any other reason shall be grounds for rescinding the outdoor storage portion of the conditional use permit.
- (f) Non-agricultural low impact uses may not generate more than 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based upon design capacity of facilities, whichever is more restrictive.
- (g) The property owner shall maintain the remaining land or farm outside of the CUP Area in accordance with the permitted uses of the Agricultural zoning district and the required practices of the Soil and Water Conservation District.
 - (h) All lighting shall comply with the city's regulations.
 - (i) All signs shall comply with the city's regulations.
- (j) Rate and volume of runoff from the CUP shall not exceed the 1% rule and shall be verified by the City Engineer.
- (k) In the event that the property owner, or future property owner, initiates a Comprehensive Plan amendment and rezoning of any or all of the

contiguous real estate from Agriculture to a more intensive use, the conditional use permit shall terminate and all non-conforming structures shall be removed from the site within 1 year from the date of the City Council's adoption of the Comprehensive Plan amendment and rezoning, unless the city agrees otherwise. This section shall not apply if the city initiates rezoning or if property owner is forced to transfer title to any part of the contiguous real estate due to eminent domain.

- Bus/Truck Terminal or the parking or storage of semi-trailer trucks or any vehicle over 26,000 pounds capable by design of being licensed for use on public roadways except as otherwise permitted as an Interim Use in the HD-A-BP zoning district.
- (l) All conditional use permits granted to a non-agricultural low impact use shall be reviewed on an annual basis, and may be rescinded, after a 2-week notice and a public hearing, if the Council finds that the public health, safety, or welfare is jeopardized.
- (m) The standards for buildings or structures, as listed in the minimum district requirements of the Agricultural Zone, shall not apply to structures built prior to the effective date of this chapter.

Section 3. The City Council of the City of Lake Elmo hereby ordains that Section 154.034 Agricultural Business Park Holding District (HD-A-BP) is hereby amended to read as follows:

- (A) Purpose. The Agricultural Business Park Holding District (HD-A-BP) is intended to regulate land use within agricultural areas planned and staged for business park development with access to regional sewer service. Areas zoned HD-A-BP will be rezoned upon the availability of sewer service and when consistent with the "Development Staging Plan" contained in the Lake Elmo Comprehensive Plan. The future zoning district regulations will be consistent with the comprehensive plan guidance of the property for Business Park use.
- (B) General regulation. All regulations governing the Agricultural (A) zoning district shall also apply to properties zoned Agricultural Business Park Holding District (HD-A-BP) except as outlined in this section.
- (C) Permitted uses. The permitted uses in the HD-A-BP zoning district shall be the same as in the Agricultural (A) zoning district except that non-farm dwellings shall be prohibited.
- (D) Uses permitted by conditional use permit. The uses permitted by conditional use permit in the HD-A-BP zoning district shall be the same as in the Agricultural (A) zoning district except that Open Space Development Projects shall be prohibited.

(E) Use permitted by interim use permit. The following uses may apply for an interim use permit in the HD-A-BP zoning district:
1) Non-agricultural low impact uses under the same regulations as in the Agricultural (A) district with the exception that the Non-Ag Area shall not exceed 5% of the property owner's contiguous agricultural zone gross lot area.
2) A non-agricultural low impact use as permitted under this Section may include a Bus/Truck Terminal provided the use is located on a parcel within 1,000 feet of Interstate Highway 94
(F) Accessory uses and structures. Regulations governing accessory uses and structures in the HD- A-BP zoning district shall be the same as in the Agricultural (A) zoning district.
(G) Minimum district requirements. The minimum district requirements in the Agricultural Business Park Holding District (HD-A-BP) shall be the same as in the Agricultural (A) zoning district.
(H) Cluster development. Cluster development in the HD-A-BP zoning district is prohibited.
(I) Non-agricultural low impact use standards. Regulations governing non-agricultural low impact use standards in the HD-A-BP zoning district shall be the same as the Agricultural (A) zoning district.
Section 3. Adoption Date
This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.
This Ordinance No was adopted on this day of, 20, by a vote of Ayes andNays.
<signature></signature>
Mayor Dean Johnston
ATTEST:
<signature></signature>
Susan Hoyt
Administrator

This Ordinance No.	was published on the	day	of	٠
20 .				

CITY OF LAKE ELMO

RESOLUTION NO. 2008-56

RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE NO. 08-010 BY TITLE AND SUMMARY

WHEREAS, the city council of the city of Lake Elmo has adopted Ordinance No. 08-010, an ordinance to amend the requirements for non-agricultural low impacts uses; and

WHEREAS, the ordinance is lengthy; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Lake Elmo, that the city administrator shall cause the following summary of Ordinance No. 08-010 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the city of Lake Elmo has adopted Ordinance No. 08-010. The ordinance amends the definition for the term "non-agricultural low impact" to eliminate an exception related to the parking of semi-truck trailers and adds a new definition for "bus/truck terminal". The Ordinance also amends the zoning district standards to allow a bus/truck terminal as an interim use (non-agricultural low impact use) in the HD-A-BP Agriculture Holding District but to prohibit such a use as a non-agricultural low impact use in the A-Agriculture Districts.

The full text of Ordinance No. 08-010 is available for inspection at Lake Elmo city hall during regular business hours.

M D I-1	······································
Mayor Dean Johnston	

BE IT FURTHER RESOLVED by the city counc	il of the city of Lake Elmo that the city
administrator keep a copy of the ordinance in her office at c	ity hall for public inspection and that she
post a full copy of the ordinance in a public place within the	e city.
Dated:, 20	
May	or Dean Johnston
ATTEST:	
Susan Hoyt City Administrator	
(SEAL)	
The motion for the adoption of the foregoing resolution was	·
and upon vote being taken there	on, the following voted in favor thereof:
and the following voted against same:	
Whereupon said resolution was declared duly passed and a	dopted.

Four Properties Affected by Revised Interim Use Ordinance Proposed; HD-A-BP Interstate 94 October 29, 2008

City Council Date: 12/1/08

Regular

Resolution No. 2008-057

ITEMS: Consider an interim use permit for a truck terminal within a HD-A-BP zone

at 11530 Hudson Boulevard.

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

SUBMITTED BY: Kyle Klatt, Director of Planning

REVIEWED BY: Planning Commission

Susan Hoyt, City Administrator Jerry Filla, City Attorney Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED:

The Lake Elmo City Council is being asked to consider a request for an interim use permit to establish a bus/truck terminal facility as a non-agricultural low impact use at 11530 Hudson Blvd. South in Lake Elmo to replace the vacancy on the site from the legally permitted bus garage that was on the property until July 2008. The comprehensive plan identifies this property, and several other parcels around it, as being guided for business park development. The application requires approval of the zoning code text amendment considered in the previous action.

The applicant's property is located at the intersection of Manning Avenue South and Hudson Boulevard South and along the Interstate 95 corridor. The portion of the property that has been used as a non-agricultural low impact use is at the far eastern edge of the parcel, nearly 2,000 feet from the Manning Ave./Hudson Blvd. intersection. The current land uses surrounding the site include mostly agricultural farms fields and vacant land, with the drive-in theater located further west along Hudson Blvd. The zoning of surrounding lands varies, but is predominately agricultural with the parcels on either side of the drive-in property along Hudson Blvd. zoned General Business (the small island at the intersection of Manning Ave. and Hudson Blvd. is zoned Rural Residential). All of the land south of 10th Street is incorporated as part of a holding

The previous use of the property was a school bus garage and dispatch facility under the nonagricultural low impact use provisions of the A-Agriculture zoning district; no site changes from the previous plan are proposed in order to accommodate the proposed truck facility.

The planning commission recommended approval of the permit following its approval of the rezoning. Interim uses are reviewed every two years by the city staff for conformance to the interim use requirements and to determine if the interim nature of the use should be terminated due to a change in conditions such as the rezoning of the site due to the availability of sewer. The planning commission recommended approval of the interim use permit following its approval of the text amendment allowing this as an interim use.

The proposed interim use would fall under the newly created definition for a bus/truck terminal and HD-A-BP zoning district as amended. In this case, the request meets the criteria for a nonagricultural low impact use because the site is located within 1,000 feet of Interstate Highway 94 and meets all requirements for an interim uses in a HD-A-BP zoning district.

ADDITIONAL INFORMATION:

- Public input at the public hearing: The Planning Commission received one comment at the
 hearing related to the Northern Lights gas line that runs near this property. It was determined
 that the line was located on an adjacent property and that it would not have an impact on the
 applicant's request. An email from a resident was also submitted prior to the meeting noting
 that pervious truck terminal proposals have been rejected by the City Council.
- A consent agreement for the interim use, which is required under the Zoning Ordinance, has been drafted is attached as part of the resolution of approval.
- Because the proposed site is located adjacent to an interstate highway and county highway, the adjacent transportation authorities were asked to review the interim use permit request. The Minnesota Department of Transportation has submitted a response to the request and found the site plan to be acceptable; Washington County has not submitted a response. In reviewing these requests, engineers will typically comment if there are any anticipated impacts to the County or State road system. In this case, the lack of comments indicates that there are no such impacts expected with the proposed interim use.
- The Planning Commission recommended that a shorter review period of one year be put in
 place as opposed to the two years required by code. The Commission wanted to make sure
 that there would be an opportunity to respond to any unforeseen issues related to the
 proposed use in a timely manner rather than waiting two years to review the use.

RECOMMENDATION:

The recommendation is to approve the request because it meets the conditions of the zoning code for an interim use permit based upon the following findings:

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

...with the following conditions

- 1) That the applicant enters into a consent agreement with the City in accordance with Section 154.019, Subd. (B, 5) of the City Code.
- 2) That additional screening be provided in all locations recommended by the City Forester in order to replace vegetation that has either died or been removed. The intent of this condition is to provide for full screening of the interim use.
- 3) That the interim use be reviewed within one year of approval instead of the two years specified in the City Code.
- 4) That the interim use will terminate when any portion of the property is rezoned or when public sanitary sewer is provided to the site.
- 5) That the interim use permit commence upon the effective date of the applicant's current request to amend the non-agricultural low impact use sections of the City Code.

MOTION FOR CONSIDERATION

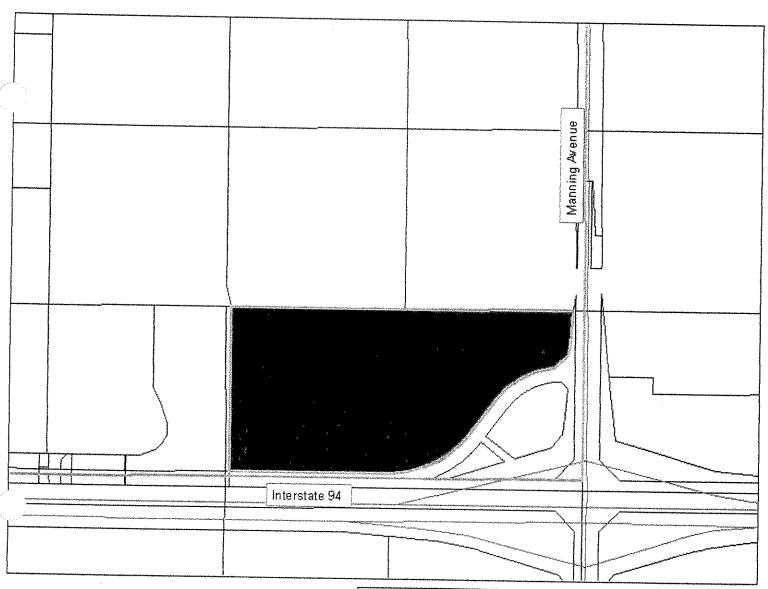
Move to approve Resolution 2008-057 for the interim use permit to establish a truck terminal at 11530 Hudson Boulevard.

ORDER OF BUSINESS:

-	Report	Kyle Klatt, Planning Director
-	Questions from the Council	
-	Questions/Comments from the applicant	
-	Questions/Comments from the public	
•	Call for a Motion	
	(required for further discussion; does not imply approval of the motion	Mavor facilitates
-	Discussion	
-	Action on motion	Committee

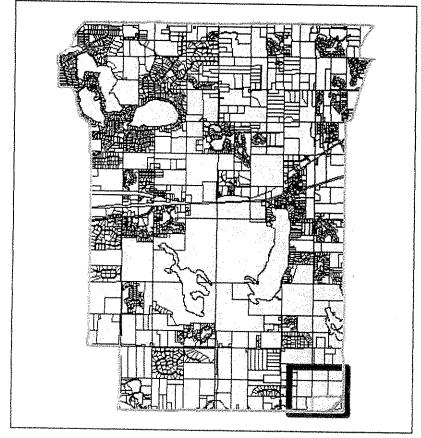
ATTACHMENTS:

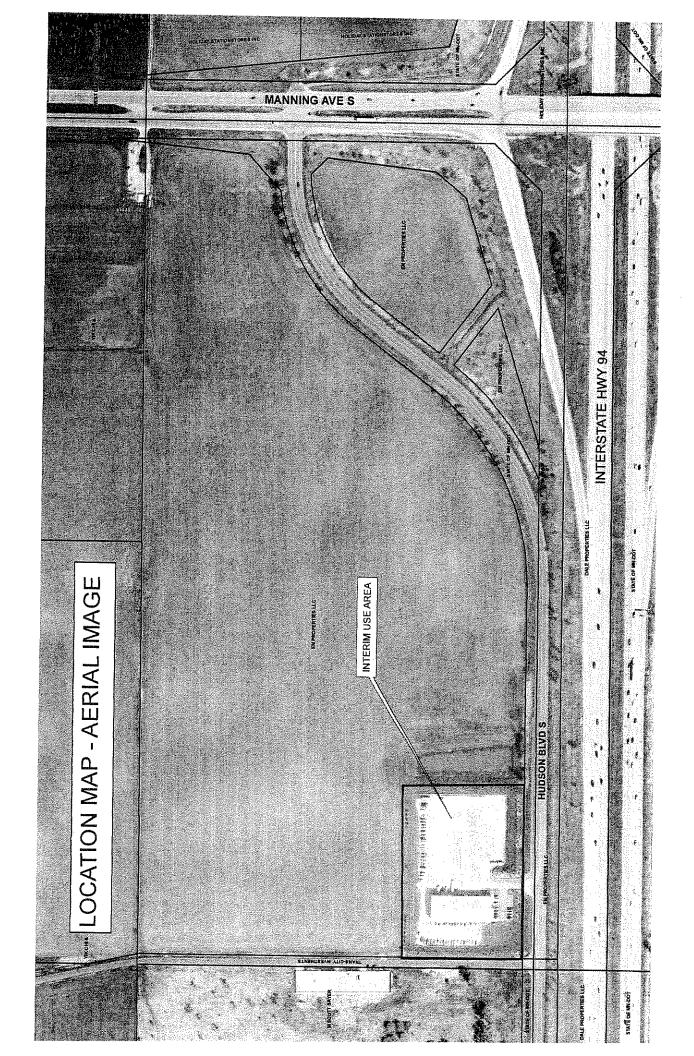
- 1. Location Map
- 2. Resolution No. 2008-057
- 3. Consent Agreement
- 4. Application form
- 5. Planning analysis report for the interim use permit
- 6. Project description
- 7. Additional project information (10/30/08)
- 8. Site plan
- 9. Existing site conditions (aerial image)
- 10. City Engineer traffic review
- 11. MnDOT review comments
- 12. Public comments



11530 Hudson Boulevard







CITY OF LAKE ELMO WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2008-057

A RESOLUTION GRANTING AN INTERIM USE PERMIT TO ALLOW A BUS/TRUCK TREMINAL AT 11530 HUDSON BOULEVARD SOUTH AND APPROVING A CONSENT AGREEMENT FOR THE INTERIM USE

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

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

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

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

WHEREAS, the Lake Elmo City Council reviewed the interim use permit request and consent agreement at its December 1, 2008 meeting.

NOW, THERFORE, BE IT RESOLVED that the Lake Elmo City Council hereby approves an Interim Use Permit at 11530 Hudson Boulevard South to establish a bus/truck terminal as a non-agricultural low impact use and authorizes the execution of the consent agreement for this interim use subject to the following conditions:

- 1) That the applicant signs the approved consent agreement with the City in accordance with Section 154.019, Subd. (B, 5) of the City Code.
- 2) That additional screening be provided in all locations recommended by the City Forester in order to replace vegetation that has either died or been removed. The intent of this condition is to provide for full screening of the interim use.
- 3) That the interim use be reviewed within one year of approval instead of the two years specified in the City Code.
- 4) That the interim use will terminate when any portion of the property is rezoned or when public sanitary sewer is provided to the site.

 That the interim use permit current request to amend the Code. 	commence upon the effective date of the applicant's e non-agricultural low impact use sections of the City
This resolution was adopted by the of December 2008, by a vote of	City Council of the City of Lake Elmo on the 1 st day _Ayes and Nays.
ATTEST:	Dean A. Johnston, Mayor
Susan Hoyt, City Administrator (SEAL)	

CONSENT AGREEMENT INTERIM USE PERMIT

1.0 <u>Parties.</u> This Consent Agreement/Interim Use Permit ("Agreement") is entered into by and between the City of Lake Elmo, a Minnesota statutory ("City"); E and E Properties, LLC, a Minnesota limited liability corporation ("Applicant").

2.0 Recitals.

A. Applicant is the record fee owner of the following described property situated in Lake Elmo, MN ("Property"):

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

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

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

- B. The Property is zoned HD-A-BP.
- C. Interim uses are allowed in the HD-A-BP zoning district subject to the regulations contained in Lake Elmo City Code Section 154.019.
- D. Applicant has requested that the City allow the portion of the Property described on Exhibit A as the "Interim Use Area" to be used as a bus/truck terminal:
- E. On the 23rd day of October 2008, Applicant submitted a completed application for an Interim Use Permit.
- F. On the 10th day of November 2008, the Lake Elmo Planning Commission, at a public hearing, reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments

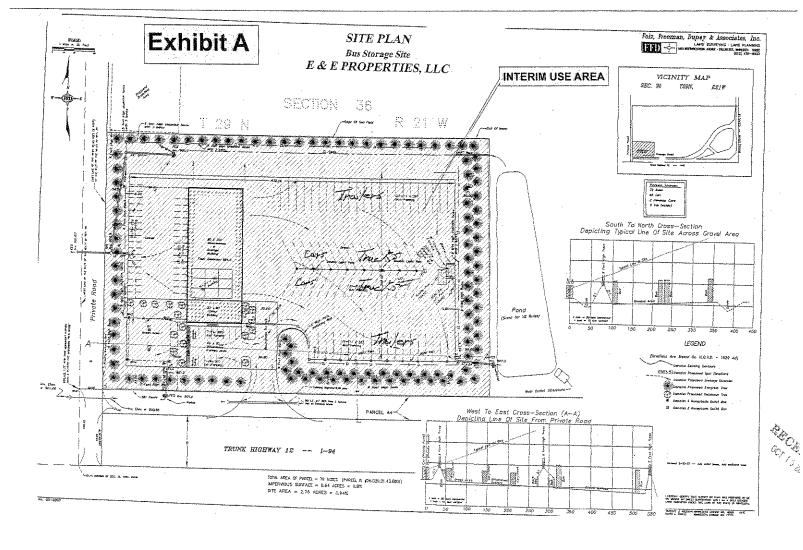
- and reports, public comments, and recommended approval of the interim bus/truck terminal use subject to certain conditions.
- G. On the 1st day of December 2008, the Lake Elmo City Council reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments and reports, public comments, and the recommendations of the Lake Elmo Planning Commission, and made the following findings:
 - 1. The proposed bus/truck terminal is allowed as an interim in the HD-A-BP zoning district and conforms to standard zoning regulations.
 - 2. The proposed use will not adversely impact nearby properties through nuisance, noise, traffic, dust or unsightliness and will not otherwise adversely impact the health, safety and welfare of the community.
 - 3. The proposed use will not adversely impact the implementation of the comprehensive plan.
 - 4. The date or the event that will terminate the proposed use is identified with certainty.
 - 5. The Applicant will sign a consent agreement and agree that the Applicant, its successors and assigns, is not entitled to future re-approval of the Interim Use Permit, and that the Interim Use Permit will not impose additional cost on the public if it is necessary for the public to fully or partially take all or a portion of the property in the future.
 - 6. The Applicant agrees to all conditions that the city council deems appropriate including the requirement of financial security to cover the cost of removing the interim use and any interim use structures upon the expiration of the Interim Use Permit.
 - 7. There are no delinquent property taxes, special assessments, interest or city utility fees due on the Property.
 - 8. The term of the interim use will not exceed two (2) years.
- 3.0 <u>Terms and Conditions.</u> The Lake Elmo City Council hereby authorizes and Applicant, for itself, and its successors and assigns, agree that the interim bus/truck terminal use shall be subject to the following conditions:
 - A. The Applicant, and its successors and assigns, shall have no entitlement to future re-approval of the Interim Use Permit,

- and will provide a financial surety in the amount of \$_____ to ensure that the interim use will not impose additional costs on the public, if it is necessary for the public to fully or partially take the Property in the future.
- B. Applicant will provide additional screening in all locations recommended by the City Forester in order to replace vegetation that has either died or been removed. The intent of this condition is to provide for full screening of the interim use as illustrated on Exhibit A attached hereto.
- C. Interim use shall utilize the Interim Use Areas illustrated on Exhibit A attached hereto.
- D. The Interim Use Permit is valid until the first occurring following event:
 - 1. For one (1) year from the date of the approval of this Agreement;
 - 2. Until a violation of the conditions of this Consent Agreement;
 - 3. Until a change in the City's zoning regulations, which renders the interim use non-conforming; or
 - 4. Until the redevelopment of the Property for a permitted or conditional use as allowed by the City's zoning regulations.
- 4.0 Rescission of the Conditional Use. The Conditional Use Permit, which was previously issued for the Property is hereby rescinded and replaced by this Consent Agreement.
- 5.0 Acknowledgement and Consent. Applicant acknowledges that this is a legally binding agreement and that Applicant has had an opportunity to review the Agreement with legal counsel. Applicant consents to the terms of this Agreement and its restrictions on the use of the Property and the Interim Use Area.

CITY OF LAKE ELMO

Dated:	By: Dean Johnston Mayor
	E and E Properties, LLC
Dated:	By: Terry Emerson

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City of Lake Elmo DEVELOPMENT APPLICATION FORM

Comprehensive Plan Amendment	☐ Variance * (Se	ee below)	Residential Sub	division M. C.
Zoning District Amendment	Minor Subdivi	ision	Preliminary/Fir	nal Plat
Text Amendment	Lot Line Adju		O 01 – 11 O 11 – 20	
T Flood District ON D				u Lots * 444 s or More
Flood Plain C.U.P. Conditional Use Permit	Residential Su Sketch/Conce		Excavating & (
Intering Use Permit (C.U.P.)	, <u>.</u>		Appeal	PUD
Conditional Use Permit (C.U.P.)	Site & Buildin	g Plan Review		_
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(Name) / //2	(Mailing Address)			(Zip)
TELEPHONES: 12-9072 436 (Home)	(Work)	2-845-3373		2068
FEE OWNER: EN Preperts	-110	(Mobile)	(Fax)	
(Name)	(Mailing Address)			/*:\
TELEPHONES:	Sam	e		(Zip)
(Home)	(Work)	(Mobile)	(Fax)	
PROPERTY LOCATION (Address and	Complete (Long) t	Legal Description):		
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DETAILED REASON FOR REQUEST:	10 a//ou	1 the use	otex	Stine
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Code 154,034 Secti	en E to a	More truck	Termin-1	and
Mechanic repair facility	we he the	2005 to	Cul E	4
*VARIANCE REQUESTS: As outlined in	2 Section 201 000 0	26) /6 /-	74 / M/	age road
*VARIANCE REQUESTS: As outlined in demonstrate a hardship before a variance	can be granted. The	of the Lake Elmo Mu ie hardship related to th	nicipal Code, the	Applicant must
		The state of the s	is application is:	as ionows:
In signing this application, I hereby acknowledge and Subdivision Ordinances and common and subdivision ordinances and common actions.	wledge that I have	read and fully understar	id the applicable	provisions of the
outlined in the application procedures and additional application expense.	nereuy agree to pa	y all statements received	d from the City r	pertaining to
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Signature of Applicant	0-12-08 Date	Signature of Applican		
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City of Lake Elmo Planning Department

Interim Use Permit Request: Non-Agricultural Low Impact Use

To: City Council

From: Kyle Klatt, Planning Director

Meeting Date: 12/1/08

Applicant: Terry Emerson, E & E Properties, LLC

Owner: E & E Properties, LLC

Location: 11530 Hudson Boulevard South

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

Introductory Information

Requested Permit:

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

Application Summary:

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

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

Name of company: D & T Trucking

Type of business: Regional and long haul trucking

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

fueling station

Materials transported: Light refrigerated and dry goods

Daily Trips: 120 trips per day

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

Truck Traffic Origin: Primarily outstate, all traffic coming to the site will

originate from the interstate highway

Employees: 17 office, 3 mechanics

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

Zoning Classification: Bus/Truck Terminal under the Non-agricultural low

impact use standards

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

Applicable Codes:

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

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

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

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

Section 11.02 Definitions (as amended)

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

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

Findings & General Site Overview

Site Data: Lot Size: 70 acres (excludes road right-of-way)

Existing Use: Agriculture/Vacant school bus garage

Existing Zoning: HD-A-BP: Agriculture District Holding Zone

Property Identification Number (PID): 36-029-21-43-0001

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

Application Review:

Review:

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

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

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

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

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

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

- CUP Area in accordance with the permitted uses of the Agricultural zoning district and the required practices of the Soil and Water Conservation District. There are no changes proposed with the applicant's request.
- h) All lighting shall comply with the city's regulations. No changes to the current lighting situation is proposed; any such changes would need to be approved after submission of a revised lighting plan for the property.
- i) All signs shall comply with the city's regulations. The business owner will need to secure the proper sign permits before installing any new signage on the property.
- j) Rate and volume of runoff from the CUP shall not exceed the 1% rule and shall be verified by the City Engineer. Because there are no site changes proposed under the applicant's proposal, the City Engineer was not asked to revisit the storm water calculations submitted with past proposals on the property. There is a storm water pond on the site that should continue to function the way it was originally designed.
- k) In the event that the property owner, or future property owner, initiates a Comprehensive Plan amendment and rezoning of any or all of the contiguous real estate from Agriculture to a more intensive use, the conditional use permit shall terminate and all non-conforming structures shall be removed from the site within 1 year from the date of the City Council's adoption of the Comprehensive Plan amendment and rezoning, unless the city agrees otherwise. This section shall not apply if the city initiates rezoning or if property owner is forced to transfer title to any part of the contiguous real estate due to eminent domain. The City's interim use requirements are somewhat different than this section in that an interim use will terminate if any of the following occur: 1) the date stated in the permit; 2) upon violation of conditions under which the permit was issued; 3) upon change in the city's zoning regulations which renders the use nonconforming; or 4) the redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district. Because this use is classified as an interim use under the HD-A-BP regulations, the interim standards should be applied to this particular use. The major differences between these two sections are that the property owner is not given one year to remove the business when the comprehensive plan or zoning is changed for the site and the City may initiate a rezoning that requires the removal of the business.
- Non-agricultural low impact uses may not include the parking or storage of semi-trailer trucks or a Bus/Truck Terminal except as otherwise permitted as an Interim Use in the HD-A-BP zoning district. As a interim use in the HD-A-BP district the applicant is permitted to request a truck terminal.
- m) All conditional use permits granted to a non-agricultural low impact use shall be reviewed on an annual basis, and may be rescinded, after a 2-week notice and a public hearing, if the Council finds that the public health,

- safety, or welfare is jeopardized. As an interim use, the property will be subject to the violation and termination requirements for interim uses.
- n) The standards for buildings or structures, as listed in the minimum district requirements of the Agricultural Zone, shall not apply to structures built prior to the effective date of this chapter. This section is not applicable to the current request.

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

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

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

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

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

- 5) The applicant has signed a consent agreement agreeing that the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the interim use permit as well as agreeing that the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future. A consent agreement will need to be approved by the City Council as a condition of approval.
- 6) The user agrees to all conditions that the City Council deems appropriate for permission of the use including the requirement of appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit. This item can also be addressed as part of a consent agreement with the City.
- 7) There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel. This criterion is met.
- 8) The term of the interim use does not exceed 2 years. The interim use permit will need to be revisited by the City in two years.

Interim Use Permit Conclusions:

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

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

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

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

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

Options:

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

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

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

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

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

Additional Information:

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

Conclusion:

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

Council Options:

The City Council has the following options:

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

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

Planning Commission Rec:

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

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

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

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

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

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

cc: Terry Emerson, E&E Properties, LLC

RECEIVED

Proposal:

E&E Properties is requesting to amend the zoning code 154.034 HD-A-BP Section E, which is "Use permitted by interim use permit".

The building was built for outside storage of equipment and repair facility. As you know the property was used as the school bus terminal for the Stillwater Area Schools for the past six years. The company lost their contract with the School District and the School District leased property in Oak Park Heights for the new bus company. The building has been vacant since July 2008.

E&E Properties is requesting this zoning code to be amended to allow us to lease a portion of the building and property to D&T Trucking. The building location affords easy access to exit and enter the I -94 corridor. D&T Trucking is a regional and long haul over the road trucking company providing light refrigerated and dry goods transportation services to the continental 48 states. This means their trucks are gone 2-7 days. There would be no negative impact on traffic flow.

Under the current zoning the allowable trips per day is 420. D&T Trucking trips per day including office personnel and shop mechanic personnel and trucks would be 1/3 of the previous trips of the bus company. The typical daily use would be approximately 35 cars and 20-25 trucks per day. The total of 60 vehicles would generate 120 trips/day. This total could be 200 trips/day once a month. The majority of that would traffic on and off I-94. Their would be approximately 25 Tractor trucks and 40 trailers parked on the property.

The remaining portion of building and property upon lease would not exceed or generate more trips than the previous tenants Laidlaw Transit. The nature of these types of business would be less trips and the flow would be on/off I-94. The use of the property and building and impact does not differ from its previous use. Impact would be directed to the on/off of I-94 and would generate less trips.

A fueling station would be installed where the previous station was with Laidlaw Transit.

Under the Interim use zoning code stated above we are requesting language be added to allow a trucking terminal and mechanic repair facility with access to I-94 frontage road.

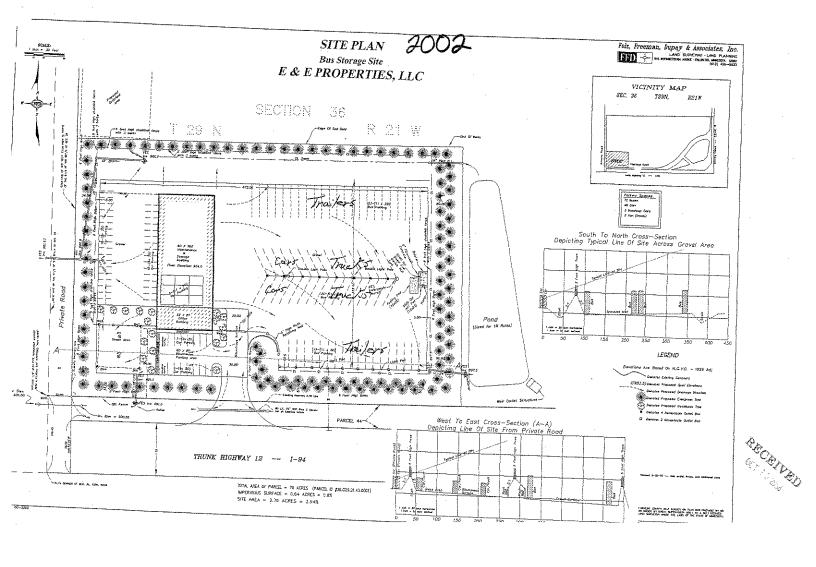
The building and site has not changed from the original plan. All signage if any will be approved by the city and lighting changes if any would also be by city approval.

In response to your letter dated October 21, 2008.

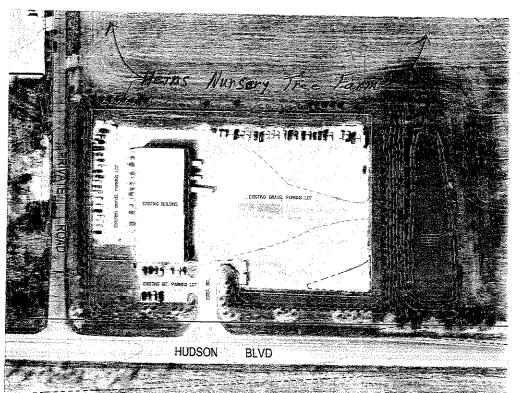
- The property within 500 feet of 11530 Hudson Blvd. consists of, road right of way, vacant, or in farm land. The closest business is the Vali Hi Drive In theater.
- A copy is enclosed with proof of ownership.
- D& T Trucking will have 20 full time employees. Approximately 17 office and 3 mechanics. There will be 20 to 25 trucks that will come and go on a normal day. Once a month this number could be as high as 40. The office and shop personnel would come in morning and leave afternoon. The trucks would run through out the day from 6am to 6pm without any peak periods of activity. The route these trucks will take is the frontage road to Manning Avenue then east or west on I-94. There would be little impact on Lake Elmo public streets. The type of trucks operating from the site would be approx 76' long with tractor trailer. The trailers are approx. 53' long.
- A plan of the existing sewer and water is enclosed.
- In regards to definitive termination date for Interim use. The building exists and I
 need to lease it to provide my income until the property is sold or developed
 under future zoning.

The above should address each of the items stated in the letter.

Terry Emerson



EXISTING CONDITIONS





LEGENIO

SXISTING CONTOX

EXISTING STORM STWER WITH GATCH BASIN WIMEL & F.E.S.

NOTES

1) 2005 APRIAL WARNINGTON COURTY ARRIVE PHOTO

RECEIVED

05, 10

EXISTING CONDITIONS

REPORTES REPORT ON THE PROPERTY OF THE PR



444 Cedar Street, Suite 1500 Saint Paul, MN 55101-2140

(651) 292-4400 (651) 292-0083 Fax www.tkda.com

MEMORANDUM

To:	Ryan Stempski	Reference:	E&E Properties
Copies To:	Jack Griffin, City Engineer		Traffic Review
			City of Lake Elmo, Minnesota
		Proj. No.:	14078.001
From:	Bryant Ficek	Routing:	
Date:	October 28, 2008		

As requested, the potential traffic impacts from the proposed development in the Interim Use Permit application have been reviewed. The proposed development is a truck terminal and repair facility, located on the north side of the I-94 frontage road to the west of the Manning Avenue interchange. Although a formal traffic study with detailed analysis was not provided, the site information provided in the application and available traffic data from other sources are sufficient for a traffic review.

On an average day, about 35 vehicles from employees and 20 to 25 trucks are expected from the site, equating to approximately 120 trips per day. The maximum trips per day are expected to be 200, which would include other miscellaneous trips such as mail or parts deliveries and employee trips for lunch. It should be noted that Mn/DOT guidelines indicate that a traffic impact study is not needed if the proposed site will generate less than 2,500 trips per day or 250 trips per peak hour. In this case, the maximum expected trips are well below this threshold.

The majority of trips are expected to be to and from the I-94 and Manning Avenue interchange. Hours of operation were not listed, although truck drivers are more likely to travel during off-peak times to avoid congestion.

The frontage road is an undivided two-lane roadway. Manning Avenue is a four-lane divided roadway. The intersections of Manning Avenue with the frontage road, the I-94 westbound ramps, and the I-94 eastbound ramps will experience the greatest impact from the proposed site. The Manning Avenue approaches at these intersections provide two through lanes in each direction and exclusive left- and right-turn lanes. Exclusive turn lanes are also provided on the ramp approaches to Manning Avenue. The frontage road provides one approach lane for all movements at Manning Avenue. Each intersection is under side-street stop sign control, with Manning Avenue traffic able to proceed without stopping.

At a planning level, the roadway and intersection geometry provides sufficient capacity for the current traffic volumes of 12,000 vehicles per day on Manning Avenue and 940 vehicles per day on the frontage road. This geometry is expected to accommodate the relatively small daily traffic generated by the proposed site. The side-street delay at each intersection will increase with the larger and slower starting truck traffic. In particular, the peak hour delay for the side streets may noticeably increase if a significant number of the expected truck traffic occurs during the peak. As mentioned, truck trips are more likely to occur during non-peak periods, suggesting only a minor overall increase in intersection side-street delays.

With one approach lane on the frontage road at the Manning Avenue intersection, the truck turning movements should be examined. In particular, the eastbound-to-southbound right turn may need additional pavement for the longer trucks. The ramp intersections with Manning Avenue provide sufficient corner radii to accommodate larger vehicles.

The sight distance for the ramp intersections may also need to be reviewed. A recent visit to the site area noted that the rise in elevation to bridge over I-94 limits the sight lines. The actual sight distance was not measured during this visit. The sight distance may therefore be acceptable, but less than comfortable. A cursory review of crash records at the three Manning Avenue intersections and on the frontage road did not reveal a specific crash problem or trend. However, the sight distance should be measured to determine if adequate sight is available for those vehicles stopped on the side-street approaches to the Manning Avenue intersections. In addition, the crash and severity rates should be examined in the future to determine if the introduction of additional truck traffic had a significant effect. Depending upon the exact results of the sight distance study or any future crash study, mitigation such as all-way stop control or signalization may be needed.

The two ramp intersections on Manning Avenue are provided with overhead street lighting. It does not appear that the Manning Avenue and frontage road intersection or the proposed site entrance have street lighting. Depending upon the hours of operation, overhead street lighting at one or both locations may be desired to aid other drivers as they approach the site on the frontage road.

Based upon the traffic review of the information presented in this memorandum, the proposed site detailed in the Interim Use Permit is not expected to adversely affect traffic operations in the area. However, the City is recommended to consider the following items in conjunction with their overall review of the proposed site:

- Providing overhead street lighting at the Manning Avenue and frontage road intersection and/or the site entrance to improve safety.
- Examining the eastbound-to-southbound right-turn movement at the frontage road and Manning Avenue intersection to determine if additional pavement is needed for the larger trucks.
- Examining sight distance at the Manning Avenue intersections with the I-94 ramps to determine if adequate sight distance is provided for both passenger cars and trucks.
- Examining intersection crash rates in the near future to determine if the increase in truck traffic has resulted in an increase in crashes.

The results of the sight distance study or crash rate study may require mitigation such as improved intersection control. Any identification of traffic issues and potential mitigation will need to be discussed with Mn/DOT and Washington County. If you have questions or comments about the information provided in this memorandum, please contact me at (651) 726-7944 or bryant.ficek@tkda.com.

Minnesota Department of Transportation



Metropolitan District

Waters Edge 1500 West County Road B-2 Roseville, MN 55113-3174

November 12, 2008

Mr. Kyle Klatt Planning Director City of LakeElmo 3800 Laverne Avenue North Lake Elmo, MN 55042 0007 b 1 ACT

CELLET

BECHIVED

NOV A ZOU

SUBJECT:

E & E Properties (Mn/DOT) Review #S08-063

NW Quadrant of I-94 and Co Rd 15 (Manning Ave)

Lake Elmo/Washington County

Control Section 8282

Dear Mr. Klatt:

The Minnesota Department of Transportation (Mn/DOT) has reviewed the above-referenced site plan and find it to be acceptable.

As a reminder, please address all initial future correspondence for development activity such as plats and site plans to:

Development Reviews Mn/DOT - Metro Division Waters Edge 1500 West County Road B-2 Roseville, Minnesota 55113

Mn/DOT document submittal guidelines require either:

- 1. One (1) electronic pdf. version of the plans (the electronic version of the plan needs to be developed for 11" x 17" printable format with sufficient detail so that all features are legible);
- 2. Seven (7) sets of full size plans.

If submitting the plans electronically, please use the pdf. format. Mn/DOT can accept the plans via e-mail at metrodevreviews@dot.state.mn.us provided that each separate e-mail is less than 20 megabytes. Otherwise, the plans can be submitted on a compact disk.

If you have any questions regarding this review please feel free to contact me at (651) 234-7792.

Sincerely,

Jon P. Solberg Senior Planner

Copy:

Copy via Groupwise to: Ann Braden

Ann Braden Nancy Jacobson Adam Josephson Buck Craig Douglas Nelson Haytham Ibrahim Wayne Lemaniak Tod Sherman

Kyle Klatt

From:

Susan Dunn [susan.dunn@carestreamhealth.com]

Sent:

Monday, November 10, 2008 4:47 PM

To: Cc:

Kyle Klatt Susan Hoyt

Subject:

RE: Planning Commission Meeting

Truck terminals have been reviewed and rejected for various reasons. Fed Ex wanted to locate in Lake Elmo (Machine Shed area) and ended up in Oakdale by Century Avenue. That trucking use has caused alot of safety issues in the area with the college and residents.

I think the name was Brockman trucking.. have lots of trailers along I-94 / old County 15 in Afton and that city wants them out of there, so perhaps that's the reason Terry is going for the new designation for the school bus area.

If 1-94 is suppose to be great for Woodbury and Lake Elmo's future a truck terminal /trailer graveyard may not be the best fit.

I didn't have time to read the entire packet.. I am sure you covered everything well and the commissioners will get both the pro and con's of the proposal.

Just some thoughts...

City Council

Date: December 9, 2008

REGULAR Item: (Ø Motion

ITEM: Comprehensive Planning Efforts and Authorizations to Proceed on the Transportation

and Surface Water Management System Plans

SUBMITTED BY:

Kyle Klatt, Planning Director

REVIEWED BY:

Jack Griffin, City Engineer

Ryan Stempski, Assistant City Engineer

SUMMARY AND ACTION REQUESTED: The city council is being asked to authorize TKDA to proceed with the preparation of the local transportation and surface water system plans necessary to complete the 2030 Comprehensive Plan updates and to meet the requirements of the local watershed districts.

On December 6, 2008, it is expected that the Metropolitan Council will act on a request to allow an extension to May 29, 2009 to require Lake Elmo's Comprehensive Plan be updated and submitted for comment. The initial request to the Metropolitan Council was for a two-year extension that would have given the City until December 31, 2010 to complete the required updates. The later deadline was sought to provide additional time to incorporate information from the Village AUAR planning process into the overall update and to complete a more extensive review of the transportation plan. With the expected decision by the Met Council to grant a shorter extension, the scope of the proposed work has been scaled back by removing any Village area updates (which can be processed, if needed, at a later date) and reducing the amount of time that would be spent on the transportation plan.

To ensure that the May 29, 2008 deadline is met, the comprehensive plans for transportation, wastewater (includes surface water and water supply), and regional parks must be updated in accordance with the Metropolitan Council's System Statement.

- TKDA is currently under authorization to complete the water supply plan. No additional authorization is being asked at this time.
- On September 4, 2007, the City Council authorized staff to send a Request for Proposals (RFPs) to complete the Transportation Comprehensive Plan. To date, this RFP has not been released. Given the May 29, 2009 deadline, staff is recommending that TKDA be authorized to proceed with this work.
- The local surface water management plan is required as part of the local comprehensive plan. The local surface water management is also required to be submitted and approved by the watershed districts, including Valley Branch, Brown's Creek and South Washington Watershed Districts. The deadline to submit to the Valley Branch Watershed District was November 10, 2007. At the city request, the Valley Branch Watershed District has provided the city an extension to March 31, 2009.

The goal of these authorizations is to complete the minimal requirements of the Metropolitan Council's System Statements and watershed districts to comply with the given deadlines. All plans will be completed on the basis of the current land use plan adopted in 2005.

BACKGROUND

As required by the Metropolitan Land Planning Act, local governmental units must have prepared a comprehensive plan to be reviewed and approved by the Metropolitan Council within three years following the receipt of the metropolitan system statement. The official issue date of the City of Lake Elmo's system statement was September 12, 2005.

System statements explain the implications of metropolitan system plans for each individual community in the metropolitan area. They are intended to help communities prepare or update their comprehensive plan.

The system statement includes forecasts at densities that assure regional growth is achieved consistent with adopted policies. The system statement also contains an overview of the transportation and aviation, transit, wastewater, and regional parks system plan updates, and system changes affecting each community.

The following forecasts are part of the 2030 Regional Development Framework (adopted January 14, 2004 and updated on August 24, 2005). They are used by the Metropolitan Council to plan for regional systems. Communities are asked to base their planning work on these forecasts.

Forecast of Lake Elmo's population, households and employment:

			Revised D	Development Framework	
	1990	2000	2010	2020	2030
Population	5,903	6,863	9,952	18,403	24,000
Households	1,973	2,347	3,619	6,324	8,727
Employment	1,011	1,636	2,250	7,200	14,000

ADDITIONAL INFORMATION

The May 29, 2008 deadline represents the date that the plan must be submitted to the Met Council. There would still be a mandatory 6 month review period for adjacent communities that would commence on this submission date.

RECOMMENDATION

It is hereby recommended that the City Council authorize TKDA to complete the Transportation and Surface Water Local System Plans per the System Statement requirements of the Metropolitan Council.

SUGGESTED MOTION FOR CONSIDERATION

Move to authorize the Acting City Administrator to execute Authorizations with TKDA to complete the Transportation and Surface Water Management System Plans in the estimated amount of \$69,100.

ATTACHMENTS

- 1. Surface Water Management Plan Authorization.
- 2. Transportation Plan Authorization.

ORDER OF BUSINESS:

•	Introduction	Kyle Klatt, Planning Director
•	Report by staff or other presenter	Jack Griffin, City Engineer
•	Questions from city council members to the presenter	Mayor and council members
•	Questions/comments from the public to the city council (a maximum of three minutes per question/statement)	Mayor facilitates

· Action on motion

City Council





(651) 292-4400 (651) 292-0083 Fax www.tkda.com

MEMORANDUM

To:	Ryan Stempski, P.E.	Reference:	Lake Elmo Local Surface Water Management Plan
Copies To:			
		Proj. No.:	14078.001
From:	Sherri Buss, R.L.A.	Routing:	
Date:	December 2, 2008		

Attached is the proposed Authorization for completing the Lake Elmo Local Surface Water Management Plan (LSWMP). The scope of work and cost estimate include the tasks that would be required to meet all of the requirements of the Metropolitan Council and State Statutes, as well as the requirements of the local watershed districts that will need to approve the plan. The watershed districts have requirements above and beyond those of the Metro Council and Statute 103B.

Watershed District Requirements and Estimated Costs

The attached authorization provides a list of Metro Council/State requirements, and a separate list of the additional watershed district requirements. Based on discussion with the Watershed Districts' staff, the additional requirements are for more detailed analysis of the following items:

- Physical environment and land use (and relationship to surface water issues)
- Surface water management system maintenance issues and policies
- Detailed assessment of identified local water management problems and proposed actions
- Integration of the City's SWPPP into the goals and policies in the plan

We estimate that the cost of the additional watershed district requirements and coordination is approximately \$5,000 of the total cost estimate for this project (\$39,300).

Relationship of Estimated Costs to Permitting

The cost estimate is based on the assumption that the City will continue to rely on the Watershed Districts to manage permitting activities. If the City decides in the future that it wishes to manage permits for surface water issues, the City will need to amend the surface water plan, and complete additional modeling, system analyses, and policies, as well as identify the permitting process for land and wetland alteration work.

CITY OF LAKE ELMO, MINNESOTA

AUTHORIZATION FOR PROFESSIONAL SERVICES

TO: Toltz, King, Duvall, Anderson and Associates, Incorporated 444 Cedar Street, Suite 1500 St. Paul, Minnesota 55101

Pursuant to our Agreement dated February 2, 1988, you are hereby authorized to proceed with the professional services described as follows.

SURFACE WATER MANAGEMENT PLAN

I. PROJECT DESCRIPTION

The Metropolitan Council requires communities to have a local Surface Water Management Plan (SWMP) as part of the updates to the City's 2030 Comprehensive Plan. The SWMP needs to be consistent with the requirements in the Metropolitan Land Planning Act, Metro Council's Water Resources Management Policy Plan, Minnesota Statute 103B, and with local watershed management plans. The local watershed districts have additional requirements for the City's plan. The City needs to develop its local SWMP to meet these requirements, and has requested that TKDA develop a scope and cost estimate to complete the SWMP.

II. <u>SERVICES TO BE PROVIDED BY TKDA</u>

TKDA is requested to provide the following services:

A. PREPARE PLAN

- 1. Review and summarize relevant local regulatory agency requirements which will affect the content of the SWMP.
- 2. Review and summarize studies completed by local regulatory agencies and their requirements for the City's SWMP, and incorporate the findings into the SWMP.
- 3. Prepare a SWMP that contains each of the following sections as required by the Metropolitan Land Planning Act, Minnesota Statute 103B, and local watershed management plans:
 - a. Metro Council and MN Statute 103B Requirements:
 - Executive Summary
 - Purpose of Plan

- Water Resource Management Related Agreements
- Land and Water Resources Inventory
- Establishment of Policies and Goals
- Assessment of Problems and Corrective Actions for Problems Identified
- Financial Considerations
- Implementation Priorities and Program
- Amendment Procedures and Updates
- Review Storm Water Improvements for Old Village
- b. Watershed District Requirements--Local Watershed District requirements in addition to the Metro Council and State requirements
 - Description of Physical Requirements and Land Use
 - Local Surface Water System Maintenance Issues and Policies
 - Detailed Assessment of Selected Local Problem Areas and Actions
 - Integrate City SWPPP into Plan
- 4. Prepare necessary mapping and figures needed for the SWMP.

B. MEETINGS

- 1. Attend four meetings with City staff and two meetings with the City Council to discuss the SWMP.
- 2. Attend two meetings with the Valley Branch Watershed District, two meetings with Brown's Creek Watershed District, and two meetings with South Washington Watershed District to develop the SWMP.

C. <u>DELIVERABLES</u>

- 1. Provide two separate submittals of the Draft SWMP to the City (two copies in each submittal) for review and comment. Incorporate any revisions after review.
- 2. Submit one electronic copy each of the Draft SWMP to: Valley Branch Watershed District, Brown's Creek Watershed District, and South Washington Watershed District, for review and comment. Incorporate any revisions after review.
- 3. Submit ten copies of the Final SWMP to the City. Submit two copies to the Metropolitan Council. Submit one copy each to: Valley Branch Watershed District, Brown's Creek Watershed District, and South Washington Watershed District.
- 4. Provide two full-size copies of the Overall Condition Index to graphically represent the street conditions to the City.

5. Submit electronic version of the Final SWMP in Adobe PDF file format to the City.

III. ADDITIONAL SERVICES

If the need for Additional Services is determined, and the fee for the additional work is agreeable and the OWNER authorizes such services in writing, TKDA shall furnish or obtain from others services of the types listed below which are not considered as normal or customary services. These Additional Services shall be compensated for on an Hourly Rate basis as defined in the General Agreement, a part hereof, and such compensation shall be over and above any maximums or lump sum amounts set forth in this Authorization.

- A. Meetings beyond those provided in SECTION II.
- B. Non-degradation study to modify the Plan in anticipation of required conformance with the non-degradation requirements of the Minnesota Pollution Control Agency (MPCA) Municipal Separated Storm Sewer System (MS4) permit.
- C. Review and update City ordinances based on goals and policies that are developed in the SWMP.
- D. Additional services in connection with the Project, including services not normally furnished by the CITY and services not otherwise provided for in this Authorization and our Agreement, a part hereof.

IV. OWNER'S RESPONSIBILITIES

The OWNER'S responsibilities shall be as set forth in the Agreement and as further described or clarified hereinbelow:

- A. Designate one individual to act as the OWNER'S representative with respect to the work to be performed, and such person shall have complete authority to transmit instructions, receive information, interpret and define policies, and make decisions with respect to critical elements pertinent to the Project.
- B. Provide TKDA with access to the site as required to perform services listed in SECTION II above.

V. PERIOD OF SERVICE

TKDA shall start services promptly upon receipt of this executed Authorization and complete services by May 29, 2009. A preliminary schedule is as follows:

Authorization to Proceed from City Submit Draft SWMP to City

December, 2008

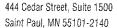
February, 2008

Submit Draft SWMP to Watershed Districts and Adjacent Communities	March, 2009
Submit Final SWMP to City and Metropolitan Council	May 29, 2009

VI. **COMPENSATION**

Compensation to TKDA for services provided under SECTION II of this Authorization shall be on an Hourly Rate basis as defined in the Agreement Article 3, in an amount estimated to be \$39,300.

Approved at a	_ meeting of the _		on	, 2008.
Ву		Attest		
Consultant Acceptance by _			.,,	, 2008.
	Authorized TKD.	A Representative		





(651) 292-4400 (651) 292-0083 Fax www.tkda.com

MEMORANDUM

To:	Ryan Stempski, P.E.	Reference:	Lake Elmo Transportation Plan
Copies To:		-	
		Proj. No.:	
From:	Bryant Ficek	Routing:	
Date:	December 3, 2008		

Attached is the proposed Authorization for completing the Lake Elmo Transportation Plan. The scope of work and cost estimate include the tasks that would be required to meet all of the requirements of the Metropolitan Council and other agencies, like Washington County, that will need to approve the plan.

Requirements and Estimated Costs

The attached authorization provides a list of Metro Council/State requirements. Based on the review of the current Transportation Plan against the current guidelines and requirements, the new Transportation Plan will be significant revision and update. Some of the new information and revisions required include:

- More detailed discussion of the existing transportation system, including the functional classification of roads and roadway jurisdiction
- Traffic forecasts and capacity analyses consistent with the Metro Council and Washington County models
- Safety Analysis based upon crash records
- More detailed discussion of transit, rail, and aviation

We estimate that the total cost for this project is \$29,800. This amount includes using a sub for traffic forecasting estimated at \$5,000.

Relationship of Estimated Costs to Assumptions

The cost estimate is based on the assumption that the City will not adjust land use or socio-economic forecasts. Keeping the land use and socio-economic forecasts consistent with the existing plan reduces the cost associated with providing traffic forecasts and associated analysis. If the City decides in the future to adjust the land use or socio-economic forecasts, the City will need to amend the transportation plan, and other parts of the comprehensive plan, which would require additional modeling, revised system analyses, and potentially revised policies.

The cost estimate further assumes that the existing traffic counts and the Park Plan are sufficient. Traffic counts will be obtained from the existing Transportation Plan or other sources, such as the Washington County Transportation Plan. The existing Park Plan will be referenced for the trail section of the Transportation Plan. New traffic counts or updates to the Park Plan are not included in this cost estimate.

CITY OF LAKE ELMO, MINNESOTA

AUTHORIZATION FOR PROFESSIONAL SERVICES

TO: Toltz, King, Duvall, Anderson and Associates, Incorporated 444 Cedar Street, Suite 1500 St. Paul, Minnesota 55101

Pursuant to our Agreement dated February 2, 1988, you are hereby authorized to proceed with the professional services described as follows.

TRNASPORTATION PLAN

I. PROJECT DESCRIPTION

The Metropolitan Council requires communities to have a Transportation Plan as part of the updates to the City's 2030 Comprehensive Plan. The Transportation Plan needs to be consistent with the requirements in the Metropolitan Land Planning Act. The City needs to develop its local Transportation Plan to meet these requirements, and has requested that TKDA develop a scope and cost estimate to complete the Transportation Plan.

II. SERVICES TO BE PROVIDED BY TKDA

TKDA is requested to provide the following services:

A. PREPARE PLAN

- 1. Review and summarize relevant local regulatory agency requirements which will affect the content of the Transportation Plan.
- 2. Review and summarize studies completed by local regulatory agencies and their requirements for the City's Transportation Plan, and incorporate the findings into the Transportation Plan.
- 3. Prepare a Transportation Plan that contains each of the following sections as required by the Metropolitan Land Planning Act and detailed in the Local Planning Handbook:
 - Policies and Strategies for developing a multi-modal transportation system
 - An assignment of socio-economic forecasts to Traffic Analysis Zones (TAZ)

- Highway and Roads Plan that describes the existing roads and planned improvements as well as analyzes traffic volumes and addresses safety and capacity issues
- A Bicycle and Pedestrian Plan
- Special Situations planning section that could include a summary of the Lake Elmo Village AUAR
- A Rail Plan that identifies any rail related facilities
- A Transit Plan for facilities and service
- An Aviation Plan that identifies aviation related facilities and addresses airspace protections
- 4. Prepare necessary mapping and figures needed for the Transportation Plan.

B. MEETINGS

- 1. Attend four meetings with City staff and two meetings with the City Council to discuss the Transportation Plan.
- 2. Attend two meetings with the Washington County Transportation Department to develop the Transportation Plan.

C. DELIVERABLES

- Provide two separate submittals of the Draft Transportation Plan to the City (two copies in each submittal) for review and comment. Incorporate any revisions after review.
- 2. Submit one electronic copy of the Draft Transportation Plan to Washington County for review and comment. Incorporate any revisions after review.
- 3. Submit ten copies of the Final Transportation Plan to the City. Submit two copies to the Metropolitan Council. Submit one copy to Washington County.
- 4. Submit electronic version of the Final Transportation Plan in Adobe PDF file format to the City.

III. ADDITIONAL SERVICES

If the need for Additional Services is determined, and the fee for the additional work is agreeable and the OWNER authorizes such services in writing, TKDA shall furnish or obtain from others services of the types listed below which are not considered as normal or customary services. These Additional Services shall be compensated for on an Hourly Rate basis as defined in the General Agreement, a part hereof, and such compensation shall be over and above any maximums or lump sum amounts set forth in this Authorization.

A. Meetings beyond those provided in SECTION II, such as public open house meetings or additional meetings with the City or County.

- B. Review and update City ordinances based on goals and policies that are developed in the Transportation Plan.
- C. Additional services in connection with the Project, including services not normally furnished by the CITY and services not otherwise provided for in this Authorization and our Agreement, a part hereof.

IV. OWNER'S RESPONSIBILITIES

The OWNER'S responsibilities shall be as set forth in the Agreement and as further described or clarified hereinbelow:

- A. Designate one individual to act as the OWNER'S representative with respect to the work to be performed, and such person shall have complete authority to transmit instructions, receive information, interpret and define policies, and make decisions with respect to critical elements pertinent to the Project.
- B. Provide TKDA with access to the site as required to perform services listed in SECTION II above.

V. PERIOD OF SERVICE

TKDA shall start services promptly upon receipt of this executed Authorization and complete services by December 31, 2008. A preliminary schedule is as follows:

Authorization to Proceed from City

Submit Draft Transportation Plan to City

March 2009

Submit Draft Transportation Plan to County and Adjacent Communities

April 2009

Submit Final Transportation Plan to City and Metropolitan Council

May 2009

VI. <u>COMPENSATION</u>

Compensation to TKDA for services provided under SECTION II of this Authorization shall be on an Hourly Rate basis as defined in the Agreement Article 3, in an amount estimated to be \$29,800.

Approved at a	meeting of the		on	, 2007.
By		Attest		

Consultant Acceptance by		, 2007.
	Authorized TKDA Representative	

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