



3800 Laverne Avenue North  
Lake Elmo, MN 55042

(651) 747-3900  
[www.lakeelmo.org](http://www.lakeelmo.org)

## NOTICE OF MEETING

The City of Lake Elmo  
Planning Commission will conduct a meeting on  
**Monday December 9, 2019**  
**at 7:00 p.m.**

## AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
  - a. November 13, 2019
4. Public Hearings
  - a. **CONDITIONAL USE PERMIT (CUP) AMENDMENT** - 11530 Hudson Boulevard (Stillwater School District #834 School Bus Terminal).
  - b. **PLANNED UNIT DEVELOPMENT – FINAL PLAN REVIEW** – Lake Elmo Senior Living (39<sup>th</sup> Street)
  - c. **MINOR SUBDIVISION - DPS Lake Elmo** (property lying between Hudson Blvd and 5<sup>th</sup> Street North) (Continental Development and Alan Dale (the property owner) )
5. New Business
  - a. Driveway Ordinance Code Amendment
6. Communications/Updates
  - a. City Council Update  
11-19-19 Meeting - Subdivision Ordinance Update
  - b. Staff Updates
  - c. Upcoming PC Meetings:
    1. January 13, 2020
    2. January 27, 2020
7. Adjourn

\*\*\*Note: Every effort will be made to accommodate person or persons that need special considerations to attend this meeting due to a health condition or disability. Please contact the Lake Elmo City Clerk if you are in need of special accommodations.



**City of Lake Elmo  
Planning Commission Meeting  
Minutes of November 13, 2019**

Commissioner Weeks called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

**COMMISSIONERS PRESENT:** Cadenhead, Hartley, Holtz, Steil and Weeks

**COMMISSIONERS ABSENT:** Risner

**STAFF PRESENT:** City Administrator Handt, Planning Director Roberts, City Planner Prchal

**Approve Agenda:**

M/S/P: Hartley/Cadenhead move to approve the agenda as presented, **Vote: 5-0, motion carried unanimously.**

**Approve Minutes:**

M/S/P: Hartley /Steil move to approve the October 16, 2019 minutes, **Vote: 5-0, motion carried unanimously.**

**Public Hearings**

**2020 – 2024 CAPITAL IMPROVEMENT PLAN**

Handt reported on the items in the 2020 – 2024 Capital Improvement Plan (CIP). She explained that it is a multi-year capital expenditure plan for the City's vehicles, equipment, and public buildings that cost \$25,000 or more and last five years or longer.

Holtz asked if the Manning and 30<sup>th</sup> Street intersection and about Easton Village rail road crossing. Cadenhead asked if the estimated street costs included the engineering and construction costs.

Weeks opened the Public Hearing. No one from the public spoke. Weeks closed the public hearing.

M/S/P: Hartley /Steil move to recommend to the City Council that the 2020-2024 Capital Improvement Plan is consistent with the 2040 Comprehensive Plan, **Vote: 5-0, motion carried unanimously.**

### Vang Residence Variance Requests - 2038 Inwood Avenue North

Prchal explained the proposed addition to the existing original farm house. The addition would require a front yard and a side yard setback variance. Prchal explained that an applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.109 before an exception or modification to the property can be granted. These include:

**Practical Difficulties Findings for Front Yard Setback Variance:** The request to expand the existing home on site does appear to be reasonable. The addition does not further increase the non-conformity, the reduced setback does appear reasonable. Considering the home was existing when the development was established, property owners are limited when it comes to improvements that could comply with the code.

**Practical Difficulties Findings for Side Yard Setback Variance:** The existing structure does meet the setback requirement however any addition larger than 14 ft. would trigger a variance. An addition to the South of the structure would interfere with the existing driveway, access to the garage, and possibly the septic system. The addition to the north does appear reasonable and they will maintain a 27 ft. and 9 in. setback from the north property line.

**Unique Circumstances Findings for Front Yard Setback Variance:** The circumstances are unique and have not been caused by the applicant. Although the lot is large enough in size to accommodate the size of home that is desired the applicant was not involved with the construction/placement of the existing house or with the platting process that triggered this home to become legal non-conforming. Given the circumstances, the addition with a setback less than 100 ft. from the front lot line does appear to be reasonable.

**Unique Circumstances Findings for Side Yard Setback Variance:** The circumstances are unique and have not been caused by the applicant. Although the home as existing, is capable of meeting the required setback from the northern side lot line there is limited room and options for expanding the structure. It is impractical to expand the structure to the south where the setbacks can be met because an expansion would then be in conflict with the driveway, garage, and the septic drain field. The standard appears to be met.

**Character of Locality Findings for Front and Side Yard Setback Variances:** Though affiliated with the Torre Pines Development the home has limited impact on the development due to its orientation. Allowing a variance to the front and side lot line appears to have limited bearing on the character of the locality.

**Adjacent Properties and Traffic Variance For Front Yard Setback Findings:** Since the home is on the opposite side of the lot of where the neighborhood road is located the impacts of the proposal would be severely limited.

**Adjacent Properties and Traffic Variance For Side Yard Setback Findings:** The only property that would be perceivably impacted is the vacant property to the north. There would be approximately 77 ft. setback from the proposed addition and a new home on the neighboring property to the north (8381 21<sup>st</sup> N.). There is also a stand of trees that further helps to minimize the visibility of the structure. Allowing the reduced setback appears to have a limited bearing on reducing property values when it comes to the setback.

Cadenhead asked about the placement of the driveway onto 21<sup>st</sup> St. N versus Inwood Ave N. He also asked if improvements to Inwood Avenue is on the Washington County CIP within the next five years. Prchal and Weeks answered that it is not in the County CIP. Cadenhead also mentioned that he appreciates that the house is not expanding to the east, in case improvements to Inwood Avenue in this area happen in the future.

Steve Urban – architect – the applicant considered changing the orientation and driveway approach from 21<sup>st</sup> St N, but it would have required the removal of several trees in order to establish a new driveway to the west.

Weeks opened the Public Hearing at 7:35 pm.

Megan Selby – 8311 21<sup>st</sup> St N – lives on the property adjacent to the subject property and is concerned with the impacts these variances may have on the vacant lot that is for sale. Will it prevent the vacant lot from building a home similar to the rest of the neighborhood? She also is concerned with the run off and environmental impacts the addition will have on the shared pond that is primarily on her property. She is also concerned the dwelling will not remain a single-family dwelling and will bring more people onto the property.

Norm Fleming – HOA president – echoed the concerns of Selby. He also mentioned they are happy to see the improvements that have been made to the property, but does have concerns about noise from the property.

Urban responded that the addition will not be getting closer to the pond and should not impact it. He stated that having an entrance onto 21<sup>st</sup> St N would have a much higher impact on the pond and surrounding properties. Approving the variances keeps the property facing onto Inwood and minimizes impacts onto the existing neighborhood to the west.

Jake McGee – from Torre Pines development architectural control committee – the applicant submitted the plans to the architectural committee on September 23. He mentioned they have been great to work with and met the standards the committee requested. He read the letter he sent the applicant. He stated that the hard surface driveway proposed alone will increase the appearance of the property and meet the requirements of the HOA.

Weeks closed the Public Hearing at 7:40 pm.

Cadenhead stated he thinks that any time the City can remove direct access onto a busy road or a highway, it should be recommended to make it safer for drivers.

Weeks stated that she thinks the driveway moving to 21<sup>st</sup> St N could wait until the County makes improvements to Inwood Ave. Weeks said she supports the County and engineering in only having one access point onto Inwood, not two. Roberts stated that with the county project there may be driveway cost sharing opportunities.

Holtz asked about the size and number of bathrooms of the existing structure. He also asked what the size and number of bedrooms and bathrooms would be after the addition. Holtz additionally asked the average size of new homes being constructed within the City and whether the size or number of bedrooms would indicate the desire to use the property in violation of City code.

Prchal did state that the City does review additions to try and mitigate the ability for people to convert properties into two-family structures.

M/S/P: Hartley /Holtz move to recommend approval of the request for reduced front and side yard setbacks for the property at 2038 Inwood Ave., subject to conditions of approval as recommended by Staff, **Vote: 5-0, motion carried unanimously.**

#### LAKE ELMO INWOOD APARTMENTS (5<sup>TH</sup> Street North and Island Trail)

Roberts reported that RPS Legacy LLC has requested City approval of a minor subdivision to divide Outlot B of the Inwood 6<sup>th</sup> Addition into two lots. The proposed minor subdivision would create a 4.4 acre lot for a two-phase multiple-family housing development and a 1.29 acre lot reserved for future use. The applicant has also requested City approval of the preliminary Planned Unit Development (PUD) Plan for a 3-story, 68 unit rental housing development to be known as Lake Elmo Inwood Apartments. This development is located on the south side of 5<sup>th</sup> Street North, just west of Island Trail.

In 2014 the City approved the concept plan and the preliminary plat for the Inwood PUD, including commercial buildings near Inwood Avenue, an apartment building on the corner of 5<sup>th</sup> Street and Island Trail and 4 and 8-unit residential buildings for the area east of Island Trail.

The proposed plan includes a 3-story, 68-unit apartment building with a clubhouse area located on the southwest corner of 5<sup>th</sup> Street North and Island Trail and underground parking for 70 vehicles and surface parking for 65 with a vehicle entrance on Island Trail. The site plan also shows a future apartment building to the west of the proposed

apartment building, that building is not part of this development review but shows the developer's plan for the site.

David Schwiebel 1059 St. Claire - for RPS Legacy – said they manage 350 residential properties. They plan to own and manage this property. RPS Legacy worked with Hans Hagen (M/I Homes) to develop plans and establish infrastructure for the Inwood PUD.

Pete Keely, architect explained the site, projected residents, and the amenities. He also described the architecture of the building and working with the developer of the single-family homes. There have been comments about pitched roof and height concerns.

Weeks opened the Public Hearing at 8:35 pm.

Mike Reeves – 8922 9<sup>th</sup> PI N – he stated he has been a resident of Lake Elmo for years and served as a Planning Commission and on the City Council and approved the concept plan for this development in 2014. He reviewed the meeting minutes and video – conditions limit multi-family areas to 15 units per acre and require consistency of commercial and multi-family structures with the single family areas. The proposal establishes the number of units at 29 units per acre, nearly double what the Council approved at concept plan in 2014. Had concerns that the staff report mentions the modern industrial architecture is unusual for Lake Elmo and concerns that the design should fit within Lake Elmo.

Scott Murphy – 8669 Lower 8<sup>th</sup> PI N – thanked the Commission for the work they do. He stated he also reviewed the original approvals and saw that the overall density was targeted at 11.5 units per acre. He is concerned that if the current proposal goes in at such an increased density that it sets precedence for any future developer.

Mike McGinn - 8756 Upper 7<sup>th</sup> PI N – talked about working with traffic engineers and planners in traffic studies as a Police Officer, doing onsite reviews of safety concerns. 5<sup>th</sup> and Island is the primary entrance into the development and mentioned the three story building at that location alone could impact visibility and safety.

Alan Stocker - 8680 Upper 7<sup>th</sup> PI N – mentioned the density, increased density, the façade of the building, setbacks, and green spaces. He wants the developer held to the density that is in the 2040 Comprehensive Plan and would like to see something closer to what was approved in concept plan with a lower density along 5<sup>th</sup> St N.

Milt Klohn – 8761 Upper 7<sup>th</sup> PI – celebrating 60 years in Lake Elmo. Wants to echo a lot of the same messages. He wants to strongly encourage the Commission to consider the precedent they are setting by allowing that amount of density on the parcel. Asked the applicant to provide the number and locations of properties that are located within 100 ft. of single-family homes.

Al D'Arpa – 8758 Lower 8<sup>th</sup> Pl N – corner of Island Trail and Lower 8<sup>th</sup> Place N. Wants the Planning Commission to consider the entrance of the parking off of Island Trail, due to in the increase in traffic it will experience from this this development and the gas station that was previously approved.

Mark LeClair – 856 Ivywood Cir N – in calculating density, do you subtract the pond from the calculations? Is concerned about the height of the structure when everything else around it is one and two story structures, he more in favor of a flat roof. He also asked about the berm.

Doug Roome – 8875 Irving Blvd N – complimented Lake Elmo Planning and said he would like to keep 5<sup>th</sup> St boulevard looking nice.

Mike Kaup – 840 Ivywood Cir N – he Googled RPS Legacy and found 3 apartment buildings and said their landscaping is not up to Lake Elmo standards and would need to be improved upon.

Mark Rubbert – 8740 9<sup>th</sup> Place N – traffic & pedestrian safety. Glad there will be a control light at 5<sup>th</sup> and Inwood and may need to consider one at 5<sup>th</sup> and Island Trail if traffic increases. Seniors are walking within the neighborhood and he would like to preserve the safety of the pedestrians. He also would like the development to include a place for residents of the apartment to take their dogs, like a dog run on site.

Dan Meyer – 963 Irving Ct N – lived on Legion Lane for 22 years. Once Royal Golf opened Arnie's restaurant, there was a lot more traffic on Legion Lane as through traffic, they were driving at higher speed than the people just driving in and out of the neighborhood. He foresees the same type of traffic increase on Island Trail.

Tom Nordland - 8801 Lower 8<sup>th</sup> Pl N – asked if the applicant had reached out to anyone in the neighborhood for input prior to submitting.

Dave Tetins - 958 Irving Ct N – spent time in Park City UT which was also settled by Swedes and Norwegians and we could benefit from that type of design. He said he is appalled by the design of the building. It does not match or even relate to the Inwood development and wants them to consider the design.

Mary Marchant - 8946 9<sup>th</sup> Place N - crime concerns with the increased number of units wants to know what the plan is for policing and property values with the number of apartment buildings.

Bob Seifert - 8824 Lower 8<sup>th</sup> St – mentioned that there are children and disabled people within the neighborhood and need to be considered for safety.

Bob Haskins - 8719 Irving Blvd – if the market changes and the apartments do not stay market rate, but go to Section 8 or otherwise subsidized housing, is there a process and would we be notified? He would like the Commission to consider that as well.

Weeks closed the Public Hearing at 9:07 pm.

David Schwiebel, for the Developer, stated that the berms were constructed along 5<sup>th</sup> Street on the single family side of the development. The developer said pets would be allowed with restrictions and stated that this is a master plan development with a park, trails, extra wide street with sidewalks on Island Trail and 5<sup>th</sup> St N and the development did anticipate the density and multi-uses. Developer said Rosota in Roseville does have single-family housing across the street and within a single-family neighborhood.

Holtz asked Roberts to explain the density within the 2040 Comprehensive Plan and this development. The applicant provided a map of the Outlots south of 5<sup>th</sup> St N. That whole area is about 29 acres, the density is allowed up to 15 units per acre, in total, that area could have up to 445 units. The entire PUD is considered, it is not per parcel. Roberts explained that if anything is approved tonight and at Council the number of units and the total remaining allowed units will be part of the resolution. There is no way the number of units will go above 445, unless the Comprehensive Plan changes its density limits and the developer asks for a change to match the new density.

Weeks said there are only 30 more units being proposed compared with the concept plan, a three story building was approved in the area, she believes Lake Elmo is eclectic and there is no predominate style, the land was rezoned for high density when the entire PUD was approved and is the first of its kind in Lake Elmo, there is not much the Planning Commission can do, since the City Council approved this density.

Holtz stated that there is nothing in the code to support a change to the roofline, the developer knows the market they are trying to reach, personal taste of the Commission cannot come into play as it can be considered to be arbitrary and capricious. He thanked residents for coming out to express their opinions, but also said the number of residents does not change the previous decision. He went on to say that Lake Elmo has to change the housing stock that is available to meet the projected growth to the area. This area of Lake Elmo is also a transition zone, as it has commercial, hotels, a golf course, and single-family homes all in a small radius and the site is located near the interstate and a busy county road.

M/S/P: Holtz/Hartley move to recommend approval of the Minor Subdivision request to split Outlot B of Inwood 6<sup>th</sup> Addition into two lots, subject to the conditions of approval as listed in the City staff report. **Vote: 5-0, motion carried unanimously.**

M/S/P: Holtz/Cadenhead move to recommend approval of the preliminary PUD Plan as requested by David Schwebel of RPS Legacy Desoto for Outlot B of the Inwood 6<sup>th</sup>

Addition for the project to be known as Lake Elmo Inwood Apartments (Inwood 7<sup>th</sup> Addition) to be located on the south side of 5<sup>th</sup> Street North, west of Island Trail, subject to recommended conditions of approval and to have a shared driveway access with the parcel to the south and to have the entire 26 acre area south of 5<sup>th</sup> St N to not have a residential density over the Comprehensive Plan allowed 445 units. **Vote: 5-0, motion carried unanimously.**

#### **New Business - None**

#### **Staff and Commission Updates**

At the November 5, 2019 meeting City Council approved the 2040 Comprehensive Plan Update, the preliminary plans for new Senior Housing on 39<sup>th</sup> St N, the Zoning text amendment for Accessory Building Heights in Rural Zoning Districts, the ability to post a RFP to build and Mountain Bike trail in Sunfish Lake Park with a budget of \$120,000.

Roberts said there was discussion at the City Council Workshop regarding the plan for the land received from 3M. The Council is going to post a RFP for a master plan for City Hall and the clean-up costs for the former 3M land to make it shovel ready. A grant will be applied for with Washington County to help pay for the master plan costs. The CIP outlines the remodel or new construction of City Hall beginning in 2021, with the planning happening in 2020.

Holtz provided a report on the Community Design Team for the Stillwater Area School District that he is part of. They are reviewing the status of the facilities within the district and the growth in the southern part of the district. The Consultants should have a final report in January. At the most recent meeting they discussed how to handle the growth and all but one group had significant changes for Lake Elmo residents, with the need for a new Elementary to replace Lake Elmo Elementary or a new Middle School and moving the Elementary School into the Middle School.

Meeting adjourned at 9:55 pm

Respectfully submitted,

Tanya Nuss  
Permit Technician



## STAFF REPORT

DATE: 12/9/2019

**REGULAR**

ITEM #: 4a

**TO:** Planning Commission  
**FROM:** Ben Prchal, City Planner  
**AGENDA ITEM:** Stillwater School District Conditional Use Permit Amendment  
**REVIEWED BY:** Ken Roberts, Planning Director  
Kristina Handt, City Administrator  
Sarah Sonsalla, City Attorney

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### **BACKGROUND:**

The Stillwater School District is requesting an amendment to its conditional use permit (“CUP”) to operate a school district transportation center (bus terminal) on its property located at 11530 Hudson Boulevard North. The CUP was issued by the City to the School District on July 17, 2019 through Resolution #2018-077. One of the conditions in the CUP is that “[t]he property shall be connected to City sewer and water prior to the operation of the bus terminal.” The School District’s property is part of the Four Corners 1<sup>st</sup> Addition plat that was approved by the City Council in 2018. A condition of the plat approval was that the developer (who is not the School District) was to construct sanitary sewer and water facilities which would have brought sanitary sewer and water service to the School District’s property. The developer was to complete these improvements no later than October 31, 2019. As of this date, construction has not yet commenced. The School District has made all of the improvements on the property that were required by the CUP conditions with the exception of connecting the property to sanitary sewer and water services.

### **ISSUE BEFORE THE COMMISSION:**

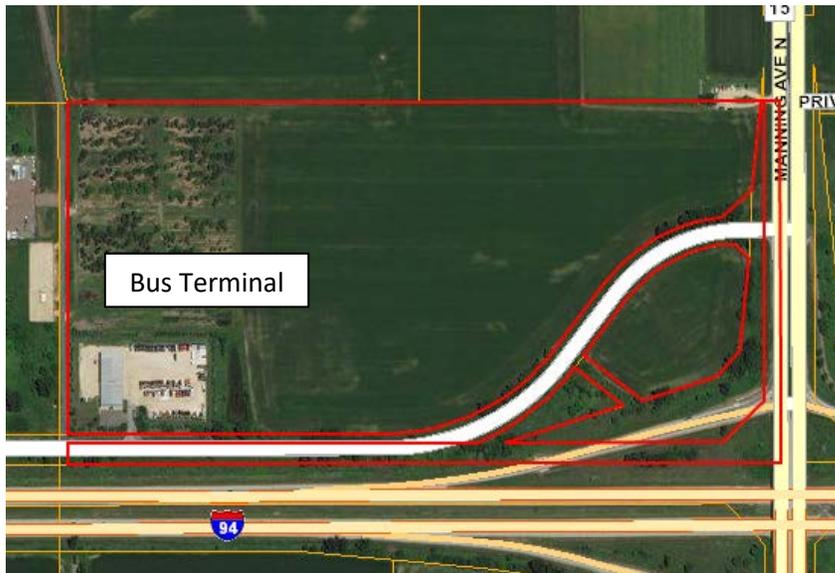
The School District is requesting an amendment to the CUP to amend Condition #9 of the CUP from “*the property shall be connected to City Sewer and Water prior to operation of the bus terminal*” to “*[t]he School District may operate its bus terminal at the property using the well and septic system (septic tank and temporary toilets) either until the School District connects to City sewer and water or until December 31, 2020, whichever comes first. The School District agrees to connect to City sewer and water within 30 days after it becomes available.*” The Planning Commission is being asked to hold a public hearing and make a recommendation to the City Council on this requested amendment to the CUP.

### **PROPOSAL DETAILS/ANALYSIS:**

*Applicants:* Stillwater Area Public Schools (Kristen Hoheisel), 1875 Greeley Street South, Stillwater,  
*Property Owners:* Stillwater School District  
*Location:* 11530 Hudson Boulevard North (PID# 36.029.21.43.0001)  
*Request:* Conditional Use Permit – Amendment  
*Existing Land Use:* School Bus Terminal  
*Existing Zoning:* BP – Business Park  
*Surrounding Land Use / Zoning:* South – I-94 and Woodbury; West – Outdoor Storage (RT – Rural Development Transitional); East – Vacant land (RT – Rural Development Transitional); North – Vacant land (RT – Rural Development Transitional)  
*Comprehensive Plan Guidance:* BP – Business Park  
*Deadline(s) for Action:* Application Complete – 11/5/2019  
60 Day Deadline – 1/4/2019  
120 Day Deadline – N/A  
*Applicable Regulations:* Article V: Zoning Administration and Enforcement  
Article XIV: Commercial Districts

## CONDITIONAL USE PERMIT

**Previous Interim Use Permit.** The School District's property previously operated with an interim use permit which was granted by City Council Resolution No. 2014-095, which was for a bus/truck terminal. The use was similar but focused more on the maintenance of larger trucks. This interim use permit would have expired on December 2, 2019. In this instance, the interim use permit was terminated upon the rezoning of the School District property which was affiliated with the Four Corners First Addition development. Another condition of the IUP was that a portion of the property would need to be used for agricultural purposes or left available for agriculture. Development discussions lead to the realization that this might not be practical; and so, the School District also no longer wanted to operate under the interim use permit for this reason.



**Existing Conditions.** The School District received an approved CUP on July 17<sup>th</sup>, 2018 and since has moved into the building/site and have been operating there since October/November of this year (see School District's narrative). The School District has completed all of the on-site improvements that were required by the CUP with the exception of the connection of the property to sanitary sewer and water, along with other various improvements in the amount of more than two million dollars. For sewage disposal, the School District has installed a temporary septic tank that is supplemented by temporary toilets (this has been approved by the County). For water, the School District has been using the existing well on the property (the well was approved by the Minnesota Department of Health for use). Currently, the School District is in violation of the CUP because Condition # 9 states that City sewer and water shall be connected to the building/site prior to the commencement of formal operations.

**Current Building.** The current building was constructed in the 1990s and was used for office space by E&H Earthmovers and also provided bus storage for the School District. It was then used by Kenworth Diesel Trucks for sales, repairs and service of diesel trucks. As mentioned earlier, the building and site has received a two-million-dollar investment by the School District over the course of the past year.

**Previous Bus Terminal Operation.** The previous location for the School District's bus terminal was in Oak Park Heights in the Old Junker Landfill.

**Bus Washing.** The School District indicated on its application that the property use will include washing buses. The School District has indicated that the buses will be washed at the facility's wash bay and that waste water from the wash bay will run in to an oil separator with all of the shop drains, which will go in to a holding tank, which is then disposed of by a sewer transport service. The oil separator is then emptied and maintained by a licensed transporter. The School District indicates that once the property is connected to the City's sanitary sewer system that the wastewater will go directly to the treatment plant after passing through the oil separator, and the oil separator will be emptied and maintained by a licensed transporter. The disposal of this water is addressed in the engineering comments.

**City Engineer Review.** Engineering concerns were finalized during the preliminary and final plat of Four Corners 1<sup>st</sup> Addition and the initial approval of the School District's CUP.

**Fire Chief and Building Official Review.** The Fire Chief and Building Official are concerned that that the building is sprinklered yet not connected to City water. Therefore, if there was a fire in the building, the sprinkler system would not function.

**FINDINGS:** Staff is recommending denial of the amendment to the CUP for the transportation center at 11530 Hudson Blvd N based on the following findings:

1. The developer of Four Corners 1<sup>st</sup> Addition has had more than one year to construct the sanitary sewer and water facilities that are needed for the School District's bus facility and has not done so. In fact, the developer has not even started the project. To date, there has been no written assurances given to the City by the developer of the Four Corners project that the sanitary sewer and water facilities that are needed for the operation of the bus terminal will be constructed at any time in the near future.
2. Properties that are within a MUSA district are required to connect to City water and sanitary sewer when they are developed. The School District's property is located within a MUSA district. Since it is not connected to City water and sanitary sewer services, it is in conflict with the requirements of the MUSA district, as outlined by the Comprehensive Plan and the use should not be allowed to continue due to this conflict.
3. The building on the property is sprinklered yet not connected to City water. There is a safety hazard to the occupants of the building if the building is allowed to operate without the sprinkler system functioning, even if it is for a limited amount of time.

**Recommended Conditions of Approval.**

- 1) None – All conditions from Resolution 2018-77 shall remain in place.

**FISCAL IMPACT:**

When the School District connects to City water and sanitary sewer, it will be required to pay the City sewer and water availability charges and will be responsible at its sole cost for bringing sewer and water into the site. The City will collect Sewer Accessibility Charges (SAC) and Water Accessibility Charges (WAC) and building permit fees.

**OPTIONS:**

The Commission may:

- ❖ Recommend approval of the amendment to the CUP as proposed by the School District.
- ❖ Recommend approval of the amendment to the CUP with changes.
- ❖ Recommend denial of the amendment to the CUP.

If the request is denied by the City Council would mean that the School District would be in violation of Condition #9 of its CUP. The City Council could then take separate action to revoke the CUP by holding a public hearing on the revocation. If the City Council revokes the CUP, the School District would no longer be able to operate its bus terminal on the property.

**RECOMMENDATION:**

Staff suggests that the Planning Commission recommend to the City Council denial of the CUP amendment request.

**ATTACHMENTS:**

- Narrative
- Resolution 2018-77
- Site Plan



November 5, 2019

Ken Roberts  
Planning Director  
City of Lake Elmo  
3800 Laverne Ave. N.  
Lake Elmo, MN 55042

11-5-19

**RE: Stillwater Area Schools Amended CUP Application**

Dear Mr. Roberts:

This letter is intended to supplement the information being submitted for a requested amendment to the School District's approved CUP, Resolution 2018-077. Enclosed you will find the following:

- Land Use Application Form
- Resolution 2018-077
- Escrow Agreement
- Acknowledgement of Responsibility Form
- Affirmation of Sufficient Interest
- Copy of Deed
- 10 copies of the Utility Plan – clean copy
- 10 copies of the Utility Plan – highlighted showing temporary and permanent utilities
- Address labels for property owners within 350 feet
- \$500 application fee

The Stillwater Area Public Schools now owns the property located at 11530 Hudson Blvd. N., in the City of Lake Elmo. Prior to the School District's ownership, the property was used as a bus/truck terminal pursuant to an Interim Use Permit. The IUP allowed the truck terminal to operate at the site with a well and septic system. The IUP was set to expire either on December 2, 2019 or *until any portion of the Property was rezoned* or when public sanitary sewer was provided to the site.

The School District applied for and received approval for the rezoning of the property to Business Park on July 17, 2018, thereby automatically terminating the IUP. At the same meeting, the School District was granted the CUP to use the property as a "School District Transportation Center."

One of the conditions in the approved CUP is that the School District connects to City sewer and water. (Condition No. 9, which states: "The property shall be connected to City sewer and water prior to operation of the bus terminal"). Unfortunately, the School District is dependent upon a developer to complete the extension of sewer and water to the property. As the City is aware, the developer has failed to perform these obligations as required by the developer's development agreement with the City.

Obviously, the default by the developer to timely perform under its development agreement with the City has caused significant and direct consequences to the School District. At the end of October, the School District was forced out of its former site due to the sale of that former site, and out of necessity, has moved its operations to the property. It is important to point out a few significant facts:

1. The School District will complete all of the on-site improvements by December 1, 2019, as required in its Site Improvement Agreement with the City. The School District has expended more than \$2 million for these improvements.
2. Prior to construction, the City informed the School District that it could request an extension of the IUP to operate at the property using a well and septic system for a temporary period of time. Based on that direction, the School District installed a temporary septic tank, supplemented by temporary toilets. The existing well has been approved by the Minnesota Department of Health and the temporary septic services have been approved by Washington County, pending acceptance by the City and a timeline for when City services will become available. The City and School District now know that the IUP was terminated upon the event of the rezoning, thereby making the extension of the IUP impossible.

The School District is, therefore, requesting an amendment to its existing Conditional Use Permit, specifically asking that condition No. 9 of the CUP be amended as follows:

The School District may operate its bus terminal at the property using the well and septic system (septic tank and temporary toilets) either until the School District connects to City sewer and water or until December 31, 2020, whichever occurs first. The School District agrees to connect to City sewer and water within 30 days after it becomes available.

The City already approved the transportation center use in 2018 and determined in its findings that the School District met the City's 12-factor test for the conditional use permit. This requested amendment provides a minor modification to one of the conditions in the already approved use as a transportation center. While proving that the School District's request meets the 12-factor test again is not required for an amendment to this condition in the approved CUP, City Staff requested that we address the 12-factor test specifically as it relates to the requested condition. To that end, we address the 12 factors as follows:

1. The temporary services will not be detrimental to or endanger the public health, safety or general welfare. The existing well has been tested and approved by MDH. The septic tank and temporary toilets are a short-term solution and have been accepted by Washington County, pending City approval and a timeline for connection to City sewer. Well and septic systems have long been used in this area and the School District's short-term solution will not endanger the public.
2. The temporary services conform to the Comp. Plan. The requirement that the property be connected to City sewer and water as soon as they become available is included in the proposed amended language and conforms to the Comprehensive Plan.
3. The temporary services are compatible with the existing neighborhood. The neighboring properties suffer the same predicament as the School District's property and they also await the availability of City services; therefore, the School District's situation is compatible with the existing neighborhood.

4. N/A (no development standards for temporary services)
5. N/A (not in a floodplain or shoreland area)
6. The temporary services have been designed and are being operated and maintained so as to be compatible with the intended character of the neighborhood and will not change the character of that area. As soon as the property is able to connect to City services, these temporary services will be removed, and the well will be sealed. The short-term solution will not alter the character of the area.
7. The temporary services will not create a nuisance to existing or neighboring structures. The septic tank is emptied every 10 days, (and can be emptied with 24-hours' notice) and is equipped with an alarm at 75% capacity. The temporary toilets are serviced on a weekly basis. The School District has contracted with service providers who will perform the necessary maintenance and will ensure that these temporary services will not create a nuisance.
8. The temporary service locations are situated such that there is easy access for maintenance. Essential services will not be hindered by the existence of these temporary services.
9. The temporary services will not create any additional requirements or costs for the City or the community. The School District will perform all needed maintenance in a timely manner, as described above.
10. The temporary services will not create excess traffic, noise, smoke, fumes, glare or odors in any way. There is a mandatory protocol for maintenance, and as stated above, the temporary services will be removed, and the well will be sealed upon connection to City services.
11. N/A (traffic congestion)
12. The location of the temporary services will not do any damage to natural or scenic features of the property. The septic tank was strategically placed on the south side of the building for easy removal upon connection to City services.

The School District is committed to performing its transportation operations pursuant to all of the City's approvals, however, in the short term, this interim solution is necessary in order to provide continuous bus service to the students in the Stillwater Area School District. We hope that this request is viewed favorably by the Planning Commission and the City Council and look forward to addressing any of their questions or concerns.

Very truly yours,



Kristen Hoheisel

Executive Director of Finance & Operations

Enclosures

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

**RESOLUTION 2018-077**

*A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A SCHOOL DISTRICT  
TRANSPORTATION CENTER FOR A PORTION OF THE PROPERTY LOCATED AT 11530  
HUDSON BOULEVARD NORTH*

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

**WHEREAS**, Stillwater Area Schools (Kristen Hoheisel), 1875 Greeley Street South, Stillwater, MN 55082 (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a Conditional Use Permit for a school district transportation center for a portion of the property located at 11530 Hudson Blvd N (PID# 36.029.21.43.0001) (the "Property"); and

**WHEREAS**, a request for a Preliminary and Final Plat to subdivide the Property in to Lot 1, Block 1 of Four Corners, with three separate outlots was submitted by Terry Emerson, 2204 Legion Lane Circle North, Lake Elmo, MN 55042; and

**WHEREAS**, the Applicant also submitted applications to the City for a Zoning Text Amendment to allow local transit as a conditional use within the Business Park zoning district; and a Zoning Map Amendment to re-zone Lot 1, Block 1 of Four Corners from Rural Development Transitional to Business Park; and

**WHEREAS**, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.102; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on June 4, 2018 and June 18, 2018; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated July 17, 2018, and

**WHEREAS**, the City Council considered said matter at its July 17, 2018 meeting; and

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

**FINDINGS**

- 1) That the procedures for obtaining said Conditional Use Permit are found in the Lake Elmo Zoning Ordinance, Section 154.106.

- 2) That all the submission requirements of said Section 154.106 have been met by the Applicant.
- 3) That the proposed Conditional Use Permit includes the following components:
  - a) A Conditional Use Permit for a school district transportation center for a portion of the property located at 11530 Hudson Blvd N.
- 4) That the Conditional Use Permit for a school district transportation center will be for the Property legally described as follows: Lot 1, Block 1 of Four Corners.
- 5) That the Zoning Text Amendment that was proposed by the Applicants allows local transit as a conditional use within the Business Park zoning district.
- 6) That the City approved the Applicant's request for a Zoning Text Amendment to allow local transit as a conditional use within the Business Park zoning district.
- 7) That the City approved the Applicant's request for a Preliminary and Final Plat to subdivide the Property in to Lot 1, Block 1 of Four Corners along with three separate outlots.
- 8) That the City approved the Applicant's request for a Zoning Map Amendment to re-zone the Property from Rural Development Transitional to Business Park.
- 9) The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city. ***Bus traffic is not expected to be detrimental or dangerous, as trips and traffic will be limited to certain times of the day. It is a recommended condition of approval that there be significant berming to provide a sufficient screening of the parking lot.***
- 10) The use or development conforms to the City of Lake Elmo Comprehensive Plan. ***The property is guided for Business Park, in which local transit, which meets certain standards, is a conditional use per the Zoning Code. The use also provides a significant number of jobs per acre, which is a desired trait of the Business Park land use designation per the Comprehensive Plan.***
- 11) The use or development is compatible with the existing neighborhood. ***The use is compatible with the existing neighborhood, as the existing use is a truck terminal, which is similar in use and design to a bus terminal. The surrounding parcels are mostly vacant and undeveloped.***
- 12) The proposed use meets all specific development standards for such use listed in Article 7 of this Chapter. ***The proposal complies with the proposed development standards as recommended in the requested Zoning Text Amendment, although it does not comply with many parking lot, screening, and landscape standards, which have been required as a recommended condition of approval.***
- 13) If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Chapter 150, §150.250 through 150.257

(Shoreland Regulations) and Chapter 152 (Flood Plain Management). *The property is located outside the 0.2% annual chance floodplain.*

- 14) The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area. *While the proposed project is a redevelopment/repurposing of an existing site and will not change the existing character of the area, operations are not within a building and so would not meet the intended character of the neighborhood.*
- 15) The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring structures. *While the proposed use will create a significant amount of traffic, it will be limited to certain times of the day.*
- 16) The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use. *There are plans to connect to City sewer and water at the applicant's cost. The use may require the prompt need for the CSAH 15/Hudson Blvd traffic signal, for which the City will be required to share 25% of the cost, and the Hudson Boulevard realignment. It is not yet known if the applicant's stormwater management plan meets all City, State, and Valley Branch Watershed District requirements.*
- 17) The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. *While the use will not pay property taxes, sewer and water service charges will be paid by the applicant.*
- 18) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors. *The proposed use will generate a significant number of trips per day, though this will be limited to certain times of the day. Minimal noise is expected to come from the site, except during heavy traffic times at specific times within the morning or afternoon.*
- 19) Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares. *Traffic congestion could be created from the significant number of trips to the site, though these would be limited to certain times of the day.*
- 20) The proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance. N/A

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the Lake Elmo City Council hereby approves the request by Stillwater Area Schools for a Conditional Use Permit for a school district transportation center with the following conditions of approval:

- 1) The Zoning Text Amendment to allow local transit (school district transportation center) within the Business Park Zoning District must be approved.
- 2) No construction or use of the bus terminal (unless in accordance with the Interim Use Permit approved by the City by Resolution 2014-095) may commence until all items as outlined in the City Engineer review memo regarding the Four Corners Preliminary & Final Plat (Stillwater Transportation Center) dated May 30, 2018 and all other subsequent construction plan memos regarding the Stillwater Transportation Center have been addressed; the Four Corners 1<sup>st</sup> Addition Final Plat has been recorded.
- 3) The applicant must obtain all other necessary City, State, and other governing body permits prior to the commencement of any construction activity on the parcel including but not limited to an approved stormwater management plan, utility plans, grading plan, street construction plans (if required), parking lot permit, building permits, etc.
- 4) The Applicant shall submit a photometric plan, and all lighting must meet requirements of Sections 150.035-150.038 of the City Code.
- 5) The above ground storage tank shall require development of diking around the tank, suitably sealed to hold a leakage capacity equal to 115% of the tank capacity. The applicant shall demonstrate that fire, explosion, or water or soil contamination hazards are not present that would be detrimental to the public health, safety, and general welfare. The applicant shall also fill out an Aboveground Storage Tank Notification of Installation or Change in Status Form as required by the Minnesota Pollution Control Agency (MPCA).
- 6) The Applicant shall submit an updated Landscape Plan and Tree Preservation Plan which includes sufficient berming and screening and addresses the comments in this report to be reviewed and approved by the City's Landscape Architect.
- 7) Parking areas shall be paved with a durable surface including, but not limited to, hot asphalt, bituminous or concrete; spaces shall be marked with painted lines at least four inches wide; required interior and exterior parking lot screening is required; a bumper curb or barrier of normal bumper height shall be provided; and must provide an adequate number of Americans with Disabilities Act (ADA) accessible stalls.
- 8) A sign permit shall be obtained prior to erection of any sign on the property.
- 9) The property shall be connected to City sewer and water prior to operation of the bus terminal.
- 10) A Traffic Impact Study is required to determine timing and extent of improvements required for the CSAH 15 and Hudson Boulevard intersection realignment and traffic signal improvements as well as to determine if an eastbound left turn lane along Hudson Boulevard is also needed at the site access.
- 11) The applicant shall be required to include a description of the sanitary sewer capacity demands including the number of residential equivalency units (REC) based on the Metropolitan Council Sewer Availability Charge (SAC) determination policy as well as a description of the water capacity demands including average day use, peak day use, and fire suppression demands. Demands must account for all planned uses and connections to

the sewer system including bus wash wastewater as well as include potable drinking water, bus washing operations, etc.

- 12) Applicant shall be responsible to place hydrants throughout the property at the direction of the Fire Department. All fire hydrants shall be owned and maintained by the City.
- 13) That the applicant contribute a onetime payment of \$150,000 in recognition of lost tax revenue as well as the City's cost share of the future traffic signal at the intersection of Manning Avenue (CSAH 15) and Hudson Boulevard North.

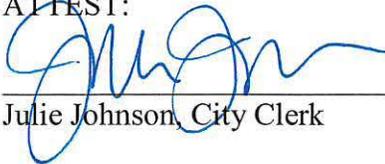
Passed and duly adopted this 17<sup>th</sup> day of July 2018 by the City Council of the City of Lake Elmo, Minnesota.



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Mike Pearson, Mayor

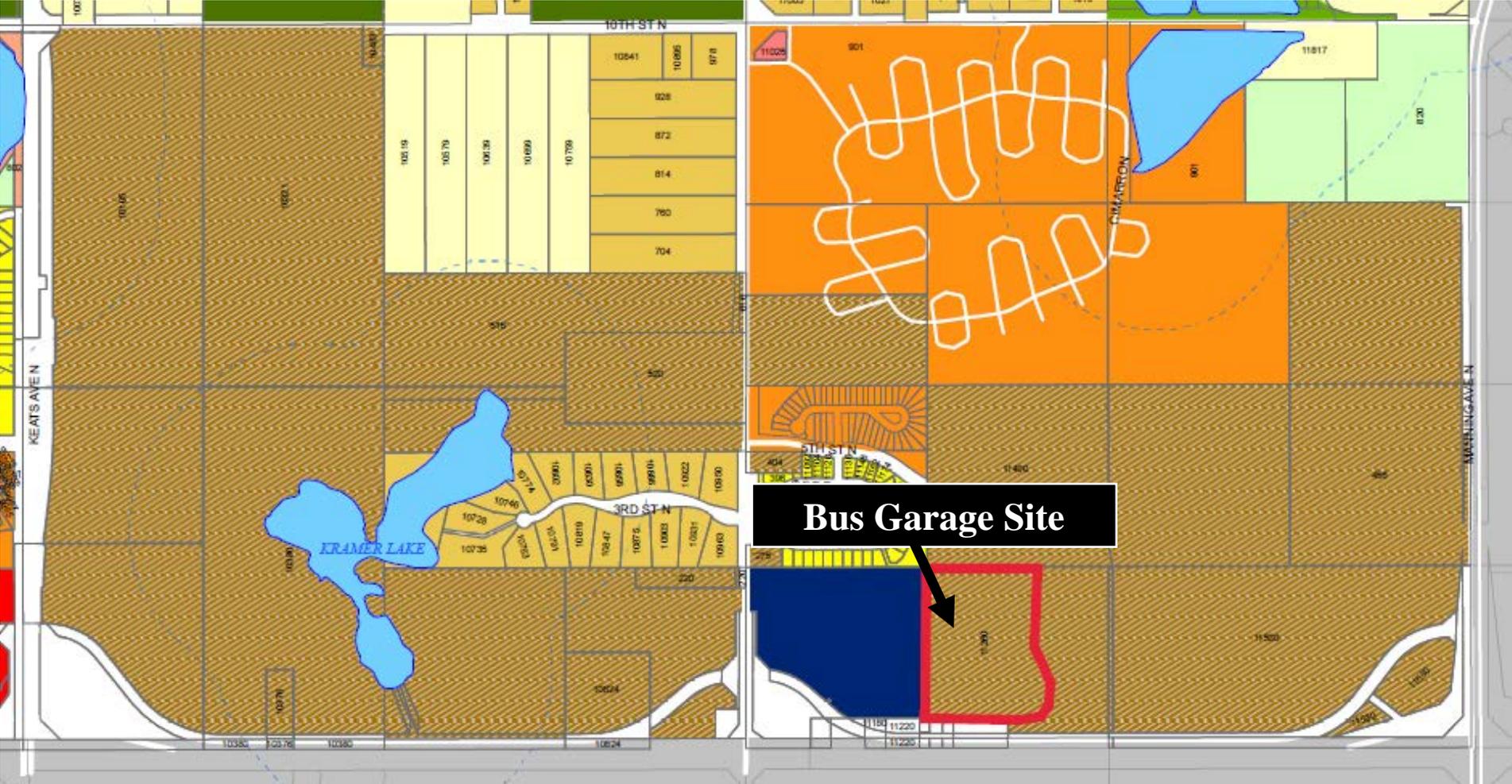
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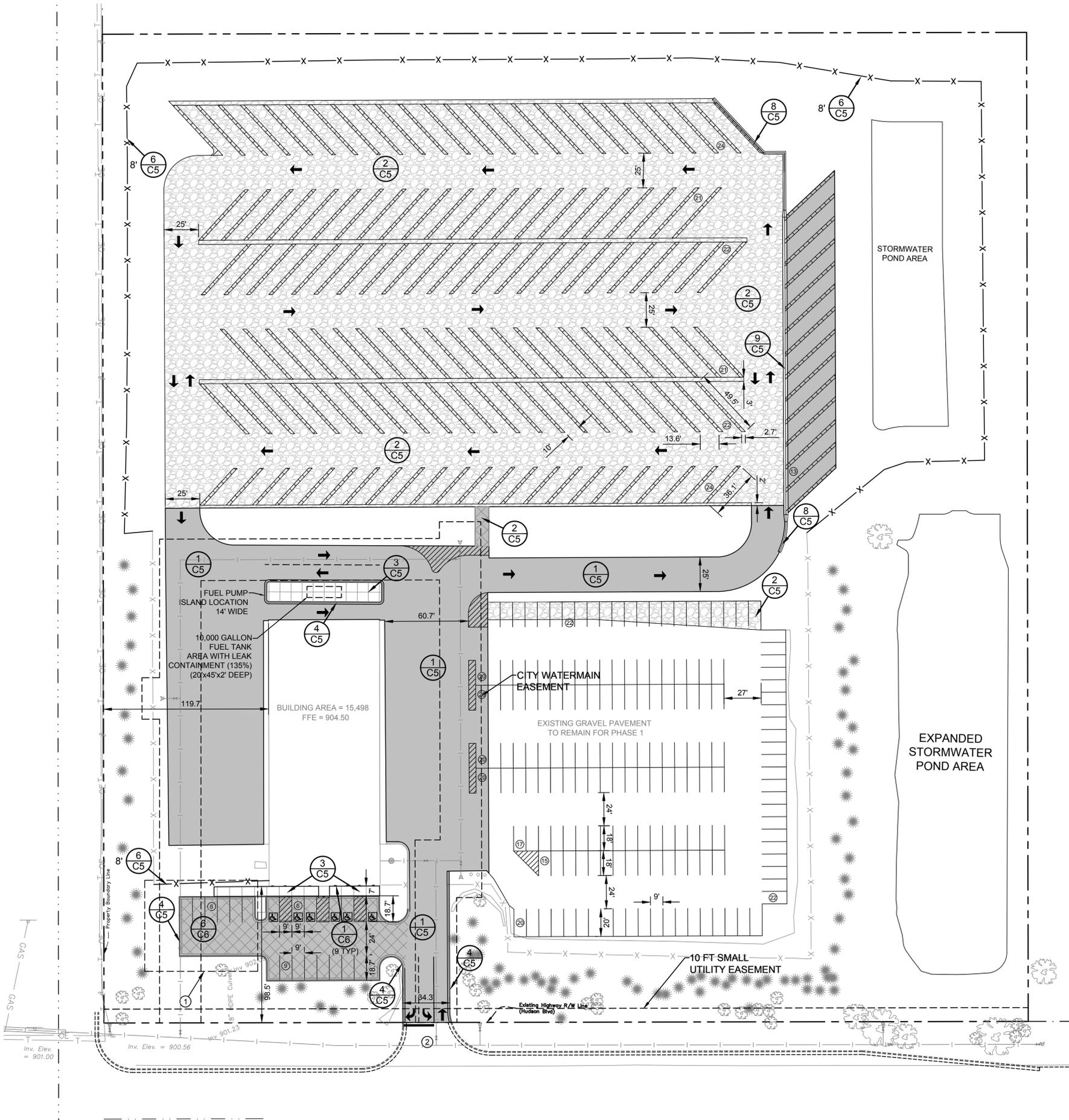


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Julie Johnson, City Clerk

# Site Map – Stillwater Bus Garage





**SYMBOL LEGEND**

-  NEW 6" BITUMINOUS PAVEMENT OVER NEW 8" CRUSHED AGGREGATE BASE OVER 24" GRANULAR BACKFILL SEE DETAIL 1/C5
-  NEW 6" CONCRETE PAVEMENT OVER NEW 6" CRUSHED AGGREGATE BASE SEE DETAIL 3/C5
-  NEW 10" AGGREGATE OVER NEW 24" GRANULAR BACKFILL SEE DETAIL 2/C5

WHERE APPLICABLE, DIMENSIONS ARE FROM BACK OF CURB TO BACK OF CURB OR BACK OF CURB TO END OF STALL LINE.

**PARKING STALL COUNT**

- ADA STALLS REQUIRED = 6
- ADA STALLS PROVIDED = 6
- AUTOMOBILE STALLS = 177
- SCHOOL VAN STALLS = 20
- SHORT BUS STALLS = 24
- LARGE BUS STALLS = 123
- ⊗ - INDICATES STALL COUNT IN ROW

**LOT SIZE**

Total Lot Size: 478,997 s.f. = 11.00 Acres

Breakdown:  
 Proposed Building: 15,498 s.f. = 3.24%  
 Proposed Gravel Pavement Areas (Phase 1): 182,980 s.f. = 38.20%  
 Proposed Concrete and Bituminous Pavement (Phase 1): 61,563 s.f. = 12.85%  
 Proposed Open Space: 218,956 s.f. = 45.71%

Proposed Total Impervious Space = 54.29%  
 Business Park Max Impervious = 75%

Parking Lot Area = 244,993 s.f.  
 5% Landscaped Area Required = 12,249 s.f.  
 Landscaped Area Provided = 16,830 s.f.

\*All gravel pavement surface (existing and proposed) in Phase 1 is going to be paved in Phase 2 of the project. A timeline for Phase 2 has not yet been established but is anticipated in 2 to 3 years.\*

**PLAN NOTES**

- ① Automobile parking lot to be constructed after septic drainfield is abandoned.
- ② Entrance drive paving, and curb and gutter to match new construction for Hudson Blvd.

**Larson Engineering, Inc.**  
 3524 Labore Road  
 White Bear Lake, MN 55110  
 651.481.9120 (f) 651.481.9201  
 www.larsonengr.com  
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**STILLWATER AREA PUBLIC SCHOOLS**  
 1875 SOUTH GREELEY STREET  
 STILLWATER, MINNESOTA 55082

**2018 STILLWATER BUS FACILITY IMPROVEMENTS**  
 STILLWATER AREA PUBLIC SCHOOLS  
 STILLWATER, MN 55082

I hereby certify that this plan, specifications or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the state of Minnesota.

*Greg A. Buchal*  
 Greg A. Buchal, P.E.  
 Date: 04.30.18 Reg. No.: 23793

Rev.	Date	Description
▲	06.06.18	Watershed Comments
▲	09.14.18	City Resubmittal
▲	10.12.18	City Resubmittal
▲	11.06.18	City Resubmittal

Project #: 12176010  
 Drawn By: KJA  
 Checked By: GAB  
 Issue Date: 04.30.18  
 Sheet Title:

**PAVING AND DIMENSION PLAN**

**C2**