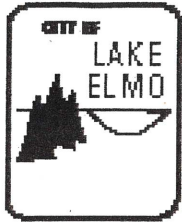


*File*



## City of Lake Elmo

3800 Laverne Avenue North  
Lake Elmo, Minnesota 55042

(651) 777-5510 Fax: (651) 777-9615  
[www.LakeElmo.Org](http://www.LakeElmo.Org)

### NOTICE OF MEETING

The City of Lake Elmo  
Planning Commission will conduct a meeting on  
**Monday, July 24, 2006, at 7:00 p.m.**

### AGENDA

1. Agenda Approval
2. Minutes of July 10, 2006 - POSTPONED
3. PUBLIC HEARING: Variance: C & C North America
  - a. Site Plan: C & C North America
4. Zoning Ordinance
5. City Council Update
6. Adjourn



**City of Lake Elmo  
Planning Commission Meeting  
Minutes of June 26, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Van Zandt, Roth, Schneider, Lyzenga, Armstrong 7:03 p.m., Deziel 7:06 p.m., McGinnis 7:10 p.m., and Pelletier, 7:29 p.m. STAFF PRESENT: Planner Dillerud and Recording Secretary Anez.

**1. Agenda Approval**

M/S/P, Roth/Lyzenga to approve the Agenda as presented. Vote: 5:0.

**2. Minutes of June 12, 2006**

M/S/P, Van Zandt/Roth to approve the Minutes of June 12, 2006 as presented. Vote: 5:0.

**3. Zoning Text Interpretation – Accessory Structures**

M/S/P Lyzenga/Van Zandt to recommend that staff should have the liberty to interpret the passage in the section of code relating to Maximum Number and Size of Accessory Buildings in the Agricultural Zone as relating to individual buildings based on the absence of the word, "Combined." Armstrong prefers more liberal interpretation. Vote: 6:2, Nay: Schneider, Abstain: Deziel cannot support it because it is not correct, it fails to be consistent, yet he can't go against it because it indicates proper use of the property.

**4. Zoning Ordinance**

Two city ordinances were provided in workbooks. The Planner said their structures seem good. He recommended moving items from other areas of our existing code that we deal with frequently, and adding them into the new zoning ordinance. He suggested that signs, lighting, site plan review, landscaping, and some parking should be included into the Zoning Ordinance. We could include subdivision code making it subject to appeal provisions resulting in it becoming a development code rather than a subdivision code. Our zoning ordinance will have to address the new classifications. The Planner said the City Council has rejected Performance-based Zoning in favor of a Euclidian Zoning Ordinance.

M/S/P, Roth/McGinnis to include in the new zoning ordinance all pertinent regulations except the subdivision ordinance. Vote: 9:0.

The Planner said the next meeting will begin the process of suggested text additions to the new ordinance. He asked the commissioners if they would like to split into two committees to do the work.

M/S/P, Armstrong/Deziel To tackle the new zoning ordinance as a whole commission and to proceed with extra meetings if necessary. Vote: 9:0.

The Planner said the next step is to have one or two items and our own Table of Contents and address the orphans in our existing code. He will also bring a calendar for extra meetings. He said the new ordinance will have more graphical depictions, similar to the fence ordinance.

Commissioner Armstrong asked about the non-conformities issue and eliminating some variances in the future, allowing rebuilds for damage more than 50%. The Planner said that NC



Zoning is designed for structuring district standards to better reflect what exists today. Commissioner Armstrong said that in other cities, the purpose of non-conformities is for redevelopment. He said our philosophy is different from other cities because they want to do away with non-conformities, and our city does not.

**5. City Council Update**

Hamerly Variance on Hill Trail was approved exactly as recommended along with the modification suggested by the Planning Commission.

Preliminary Plat and Site Plan Review HOA 2<sup>nd</sup> Addition/Rasmussen College were both approved exactly as recommended.

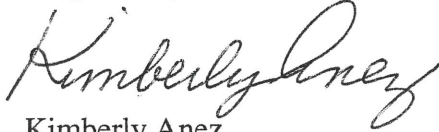
The Council approved Phase II of the Village Contract so we will have detail and execution elements.

Zoning Text Amendment-Architectural Performance Standards were adopted.

Zoning Text Amendment-RR Setbacks and questions why the RR setbacks were not returned to them yet.

**6. Adjourned at 8:03 p.m.**

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kimberly Anez".

Kimberly Anez  
Recording Secretary



**LAKE ELMO PLANNING COMMISSION  
STAFF REPORT**

**Date:** July 19, 2006 for the Meeting of July 24, 2006

**Applicant:** Finn Daniels Architects/United Properties

**Location:** South Side Hudson Blvd. across from Health East

**Requested Action:** Section 520 Site Plan and Shoreland Variance

**Land Use Plan Guiding:** Business Park

**Existing Zoning:** BP (Business Park), subject to the Eagle Point PUD Plan

**Site History and Existing Conditions:**

The Final Plat of Eagle Point Business Park, creating Outlot C was approved by the City Council in 2000. The site of this application is the southeasterly 2.05 acres of the Eagle Point Business Park 120 acre site. The City had previously approved a PUD Plan encompassing the entire 120 acres of the Eagle Point Business Park, including this site. Exhibits to the PUD Plan documentation provide for allowable uses, lot specifications, master signage and related development standards. Where the PUD does not address a particular development standard, the Business Park and other related City Code standards are applicable. A proposed departure from those standards not already addressed by the PUD Plan should be processed as a PUD Plan Amendment.

The site is vacant today. City water and sewer services are both available to the site.

**Discussion and Analysis:**

The applicants propose development of the site consisting of a 22,200 square foot two story structure and related parking. The proposed structure use is 19,230 square feet "office" and 5,969 square feet "Showroom". This application is the first in the Eagle Point Business Park proposing an "Office/Showroom" use. Negotiation of the allowable PUD uses between the Planning Commission/City Council and United Properties focused not only on setbacks, impervious coverage and related quantitative compliance with Business Park zoning but also on uses not addressed by the Zoning Ordinance, including "Office Showroom". Following extended discussions regarding this use concept that addressed "customer traffic" and trucking concerns, the City Council agreed to allow "Office Showroom" as a Permitted Use in the Eagle Point PUD – subject to several specific design parameters:

- Not more than 50% of the floor area of any structure may be "unfinished space" – storage or warehouse.
- Truck docks limited to one per 10,000 square feet of non-office floor area.
- Any truck delivery area must be screened from street view, using landscaping and building layout.
- Outside storage and "industrial noises, odors and emissions" are prohibited – not regulated quantitatively, but prohibited entirely.





**C & C North America, Inc.**

**MEMORANDUM**

To: Tim

From: Jennifer

Re: Lake Elmo Variance /Undue Hardship for Lot 1, Block 1, Eagle Point Business Park 6<sup>th</sup> Addition

Date: July 20, 2006

---

**EXECUTIVE SUMMARY:**

Based on C & C North America, Inc.'s variance request submitted by Scott Wiestling of Finn Daniels Architects on July 7, 2006, Travis Germundson of DNR Waters recommended that the City of Lake Elmo reject our proposal for a variance based on the following objections:

1. In addition to building setback variance request, *the parking area and storm water pond would also require additional variance;*
2. Grading outside the property boundary is not consistent w/ the ordinance and alterations of topography must only be allowed if accessory to permitted or conditional uses and do not adversely affect adjacent properties;
3. The entire parcel appears impervious;
4. Does not see evidence of a hardship.

It appears that Mr. Germundson was not provided accurate information on items 1 and 3 as our plan does in fact meet the requirements. Item 2 can easily be revised to suit Mr. Germundson's requirements. As to item 4 regarding demonstration of hardship it is obvious that property has unique shape and characteristics, making it extremely difficult for any structures to be built without requiring some sort of variance. Analysis of the above is laid out below.

**"UNDUE HARDSHIP"**

It is important to lay out the definition and requirements of "undue hardship" before addressing the reasons for the requested variance. This analysis clearly shows the requirements of undue hardship are clearly met.







C & C North America, Inc.

Pursuant to Minn. Stat. §462.357, subd.5(2), an “undue hardship” is defined in connection to granting a variance as “the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality.”

**A. Reasonable Use:** Although it may be possible that the property in question could be put to reasonable use without the granting of a variance, the use being requested is also reasonable and cannot otherwise be done without the variance. Note in Nolan v. City of Eden Prairie 610 N.W. 2d, 697, the City Council determined that it “is not that there cannot be any other reasonable use of the property, but a determination of whether this is a reasonable use of the property under the circumstances, and one that would not otherwise be allowed because of the requirement of the code.”

**B. Unique Circumstances:** The DNR representative’s analysis did not appear to take into consideration the uniqueness of this property. Not only is the property a small, triangular shape it also has a stream that runs along the outer boundaries of the property that jogs back and forth, creating an uneven setback along the entire West end of the property. Given this back and forth setback, and without the granting of a variance, a developer is literally left to either design an inverted building, or shift the entire development East 38 feet so that the entire West portion of the property is not developed. Such shifting would again require a variance so as to abide by the parking requirements.

**C. Essential Character of the Locality:** Let’s also keep in mind that this property is zoned “business park” and the City intends to have some sort of business development on this site. In Rowell v. Board of Adjustment of the City of Moorhead 446 N.W. 2d, 917, in which the City granted a variance that allowed the church to build an addition that went against procedural requirements of the zoning ordinance, but this alone was not enough to deny the variance. Even though the proposed church addition did not comply with the zoning ordinance, the addition would not alter the character of the locality. Not only does the proposed use keep with the locality of the City’s intended use, I find it highly difficult for any business development to be designed on such a small, unique-shaped site without a variance. The surrounding properties are retail and Class A and B offices or are zoned “business park” which all keep with the proposed use of the property in question.

## 1. PARKING/STORM WATER SETBACKS

Lake Elmo Municipal Codes require a 100ft setback from the centerline of the tributary stream. Pursuant to conversations with Chuck, the senior planner at the City, there are no existing codes regarding the parking and storm water setbacks from the tributary stream; the 100ft setback applies to structures only.





C & C North America, Inc.

Unfortunately our architect, Mr. Wiestling was given only a few hours by the City to submit the variance proposal. Under such short time constraints, Mr. Wiestling prepared a drawing that evidences the propose setback of the building from the tributary stream. The line carries through the parking area a storm water pond, which appears that the same setbacks are required for the parking and storm water, which appears that such setback from the stream for parking and storm water are non-existent.

## **2. GRADING/AFFECTS TO ADJACENT PROPERTIES**

Although we found the proposal for grading on the property absolutely reasonable, it is not necessary in the development plan. If the City finds the slopes to be too steep and unreasonable, we have no problem putting up a retaining wall. This is a minor issue and should not be consider for grounds to objecting the variance. Although we are willing to construct the retaining wall, we also would like to work with the DNR and the City to design a more ecologically friendly grading of that slope that would improve the look and erosion control of the slope.

## **3. IMPERVIOUSNESS**

It appears that Mr. Germundson was not given accurate, if any, facts regarding the impervious coverage of the property. Based on the drawing, Mr. Germundson assumed that nearly the entire site is impervious. The City of Lake Elmo allows 75% of impervious coverage. The proposed plan is only **58.5%** impervious coverage. To evidence this calculation, the parking and cement covers 38,751 SF and the building covers 13,402 SF for a total of 52,153 SF. The land has 89,158 SF; calculated, this gives us 58.5% impervious coverage. This is clearly shown in the plans.

## **CONCLUSION:**

I have shown that objections 1, 2 and 3 are either inaccurate or can be easily revised to satisfy the City's requirements. The only objection in question, and ironically it not a question for the DNR, is whether the property in question creates a hardship. Given its small, unique shape and an unusually difficult setback line, the hardship is clearly obvious that any business development would be nearly impossible to develop without a variance.



It was recognized in 1999 (during PUD processing for Eagle Point Business Park) that this would be a difficult site to develop. Not only is the site triangular and features two street frontages (Hudson Blvd. and I-94), it also abuts the intermittently flowing creek that crosses the Eagle Point Business park north to south and exits Lake Elmo under I-94. For reasons that escape the current city planning staff, this water course (which wasn't even named then) was designated a "Tributary Stream" in the circa 1980's City Shoreland Overlay zoning regulations. As such, additional structure and parking setback standards are applicable for this site. In addition, impervious site coverage is more limited than elsewhere in the Business Park zoning district (as here modified by the PUD Plan).

The Shoreland impact on the applicant's site was not discovered by staff until the application materials were looked at carefully in preparation for the July 11 Planning Commission meeting. Upon a finding of a conflict with Shoreland Standards the application was "incomplete" until application was also made for Shoreland Overlay zoning variance. That application was made by letter on July 7, 2006, which then becomes the date of receipt by the City of a "complete" application.

Sheet C-1 of the applicant's submittal package depicts the relationship between the site and tributary stream. The Shoreland Overlay standards of Section 325 do not specify an Ordinary High Water elevation for any of the 4 designated tributary streams. Where the stream bank is steep (as is the case here) and the "stream" is normally either dry or just a trickle, staff has assumed that the OHW and the center line of the stream to be the same. On that assumption, approximately 50 feet of the 125 foot west wall of the proposed structure is located within the 100 foot tributary stream structure setback.

Section 325 Subdivision 6B of the Zoning Ordinance specifies that driveways and parking areas must also comply with OHW setback standards. Applying that standard to the applicant's site plan, it appears that all of the proposed west parking (15 spaces) and a portion of the west drive also encroach into the 100 foot OHW setback. The second sentence of this paragraph would seem, however, to remove parking/drive encroachment into the OHW from the variance process by stating, "If the Council, at its discretion, determines that no alternative exists, the structures may be place within these areas and must be designed to minimize adverse impacts.". Here the word "structures" is clearly meant to mean parking and drives only.

The third subject of Shoreland overlay compliance with this proposed Site Plan is that of site impervious surface. The applicant's calculations are that the site is proposed to be 58% impervious. While this is well under the Business Park standard of a 75% maximum, it also well over the Shoreland Overlay District maximum of 6,000 square feet or 15%, whichever is greater. Staff suggests two important considerations apply to this apparent non-compliance matter:

- Clearly the impervious standard of Section 325 Subdivision 7B1 was intended to apply to residential development, not commercial.
- Although the City was not a direct party, we understand that the matter of impervious surface allowable in the tributary stream Shoreland was negotiated with DNR in 1999 or 2000. The outcome of that negotiation was then an input into the surface water plan for the entire 120 acres of Eagle Point Business Park. That master surface water plan for Eagle Point in turn was designed to maintain (and, in fact, reduce) the rate (gallons per minute) of water passing under I-94 and in to Woodbury.
- The applicant proposes an underground infiltration system to address surface water run-off that would result from the impervious site coverage proposed.



The issue of impervious surface including any prior agreements, and engineers' calculations and recommendations remains unresolved as this Staff Report is prepared. Meetings on the subject (to include DNR staff) are scheduled for July 24. Staff will report the outcome of those meetings to the Commission on July 24.

Staff has also reviewed applicant's plans for compliance with other applicable zoning, PUD Plan and City Code standards, including setbacks, parking, landscaping, exterior materials and exterior lighting. We observe as follows:

- The plan proposes off street parking in excess of zoning ordinance minimum requirements – 17 spaces in excess. While this parking proposal does not constitute non-compliance with City standards, it indirectly appears to contribute to the Shoreland OHW parking setback issue noted above, and to issues with impervious site coverage and surface water run-off that may be yet identified. In addition, Lake Elmo has regularly encouraged applicants to initially construct less off street parking than the zoning ordinance prescribes, substituting landscaped “proof of parking” to be constructed in the future if the City determines it to be necessary. The 15 parking spaces along the west side of the site -
- We calculate approximately 1,700 square feet of qualifying parking lot landscape islands. City Code formula based on 100 off-street parking spaces requires 3,000 square feet of qualifying parking lot landscape islands – perimeter landscaping does not qualify. Here again is evidence that the site may be “over-parked”.
- Assuming “E.I.F.S.” is considered the equivalent of stucco, the exterior elevations of the proposed building comply as to materials with the zoning ordinance architectural performance standards, as does the wall signage proposed. This also assumes that the “face brick veneer” is of at least 4 inches depth.
- No details of the exterior lighting fixtures have been provided to date. The luminaire plan does, however, comply with lighting standards of the City Code on the assumption that the light fixtures (including wall paks, if any) provide 100% horizontal light emission cut off – no exposed light source.

### **Findings and Recommendations:**

As it does not appear that the parking and drive setback from the OHW are varied by normal variance procedure (rather by Council waiver), the only zoning variance to be addressed is that of the structure setback from the OHW. As noted previously, the proposed structure encroachment into the 100 foot setback would appear over a portion of the building wall – the portion where the creek centerline sharply meanders easterly from the generalized flow approximately 50 feet. Had the creek maintained the predominate direction of flow exhibited south of Hudson Blvd. over this section of approximately 75 feet, there would be no structure OHW setback encroachment. Therefore Staff suggests the following Findings regarding the structure OHW setback variance:

1. The property can not be put to reasonable use without the granting of the variance requested.
2. The variance requested results from a circumstance unique to this property. The brief sharp meander of the tributary stream - which otherwise flows generally straight - adjacent to a portion of the site places an unreasonable burden on the design of the site and placement of structures.
3. Granting of the variance will not change the essential character of the neighborhood.



It appears that the zoning ordinance provides for the City Council to, at its discretion, waive or modify the parking and drive OHW setback non-compliance. It is reasonable to assume, however, that the Council will be expecting a recommendation regarding this matter from the Planning Commission.

Considering the historic view of Lake Elmo regarding both appearance and impervious surface of off-street parking; the OHW setback encroachment that could be mitigated by eliminating the 15 parking spaces along the west site periphery; and the applicant's site plan non-compliance with parking landscape island standards, it appears in the best interest of the City for the Commission to recommend to the City Council that the OHW parking and drive setback standard of 100 feet not be modified or waived. Instead, an approval recommendation for the site plan should include a condition that the west 17 parking spaces (along the west property line) be eliminated.

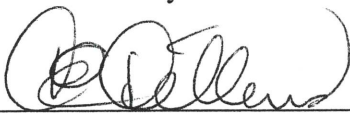
**Planning Commission Actions Requested:**

Motion to recommend approval of a zoning variance to permit structure encroachment into the OHW setback of a Tributary Stream on Outlot C, Eagle Point Business Park per plans staff dated July 19, 2006 based on the Findings appearing in the Planning Staff Report of July 19, 2006.

Motion to recommend the City Council not waive or modify the Tributary Stream parking and drive setback standard of 100 feet depicted on plans staff-dated July 19, 2006, and require the 15 parking spaces on said plan along the west site boundary be eliminated.

Motion to approve the Section 520 Site Plan for Outlot C, Eagle Point Business Park per plans staff-dated July 19, 2006, subject to the following conditions:

1. Compliance with the recommendations of the City Engineer and City Attorney – specifically regarding surface water drainage.
2. Compliance with recommendations of the South Washington Watershed District that are found to be reasonable and practical by the City Engineer.
3. City Council approval of the variance for structure setback to the OHW.
4. Elimination of the 15 off-street parking spaces at the west site periphery.
5. Compliance with the parking landscape island requirements as prescribed by Section 300.13 Subdivision 6B of the City Code.
6. All exterior lighting fixtures (including any “wall paks”) shall be of a full cut-off design. The applicant shall submit manufacturer cut sheets for all exterior light fixtures for City Staff confirmation of compliance prior to issuance of any Building Permit.
7. Compliance with the landscape plan surety requirements of Section 520, Subdivision 1C of the City Code.



Charles E. Dillerud, City Planner

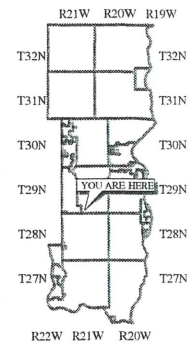
**Attachments:**

1. Location Map
2. Applicant's Graphics

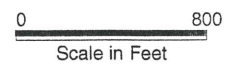
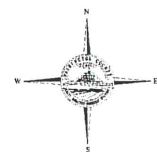




Location Map



Vicinity Map

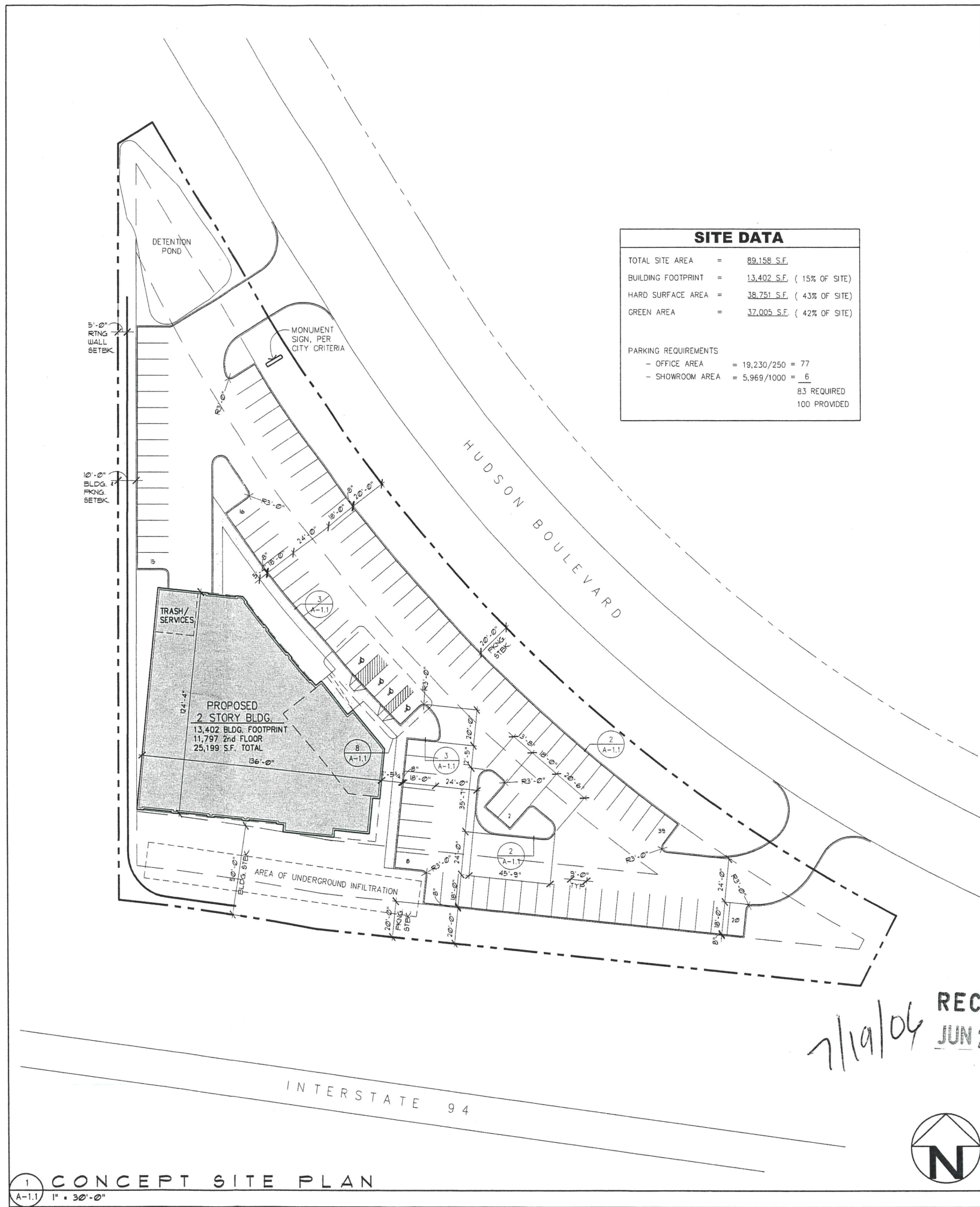
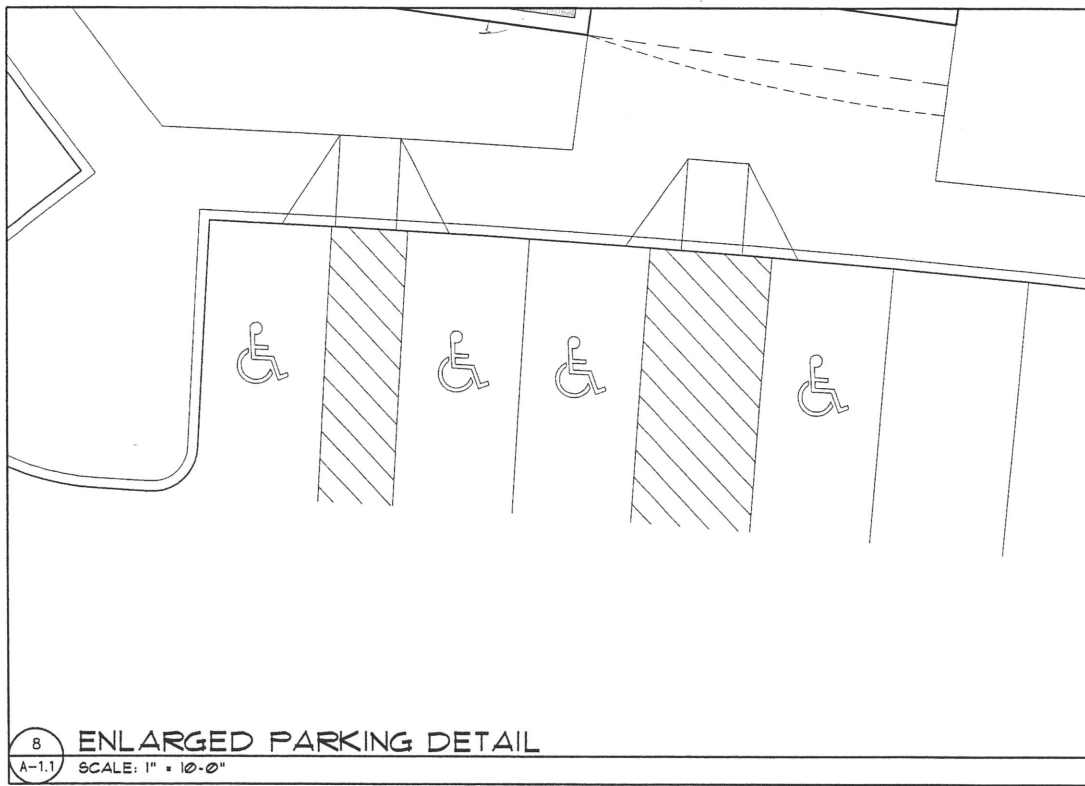
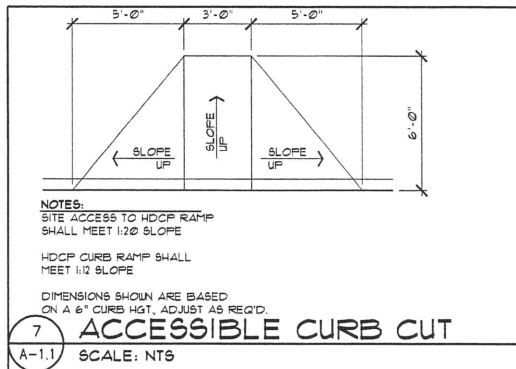
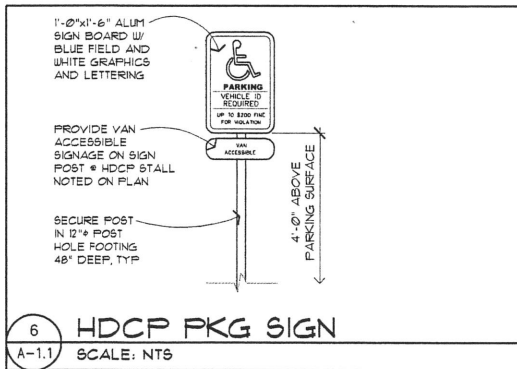
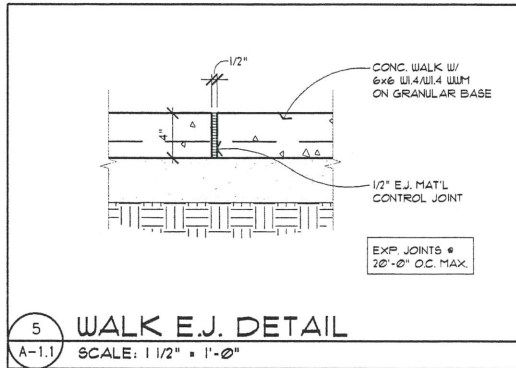
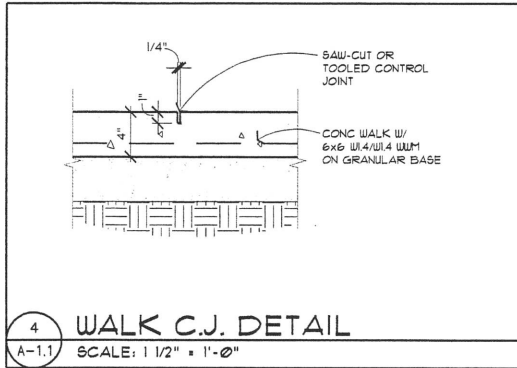
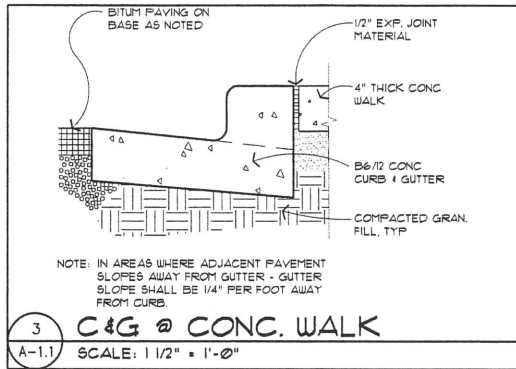
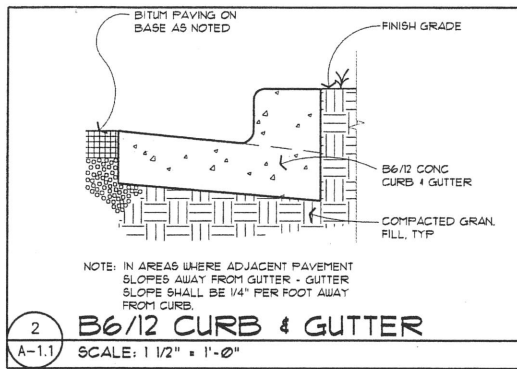


This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

Source: Washington County Surveyor's Office.  
Phone (651) 430-6875

Parcel data based on AS400 information





**finn daniels**  
ARCHITECTS  
2145 Ford Parkway, Suite 201  
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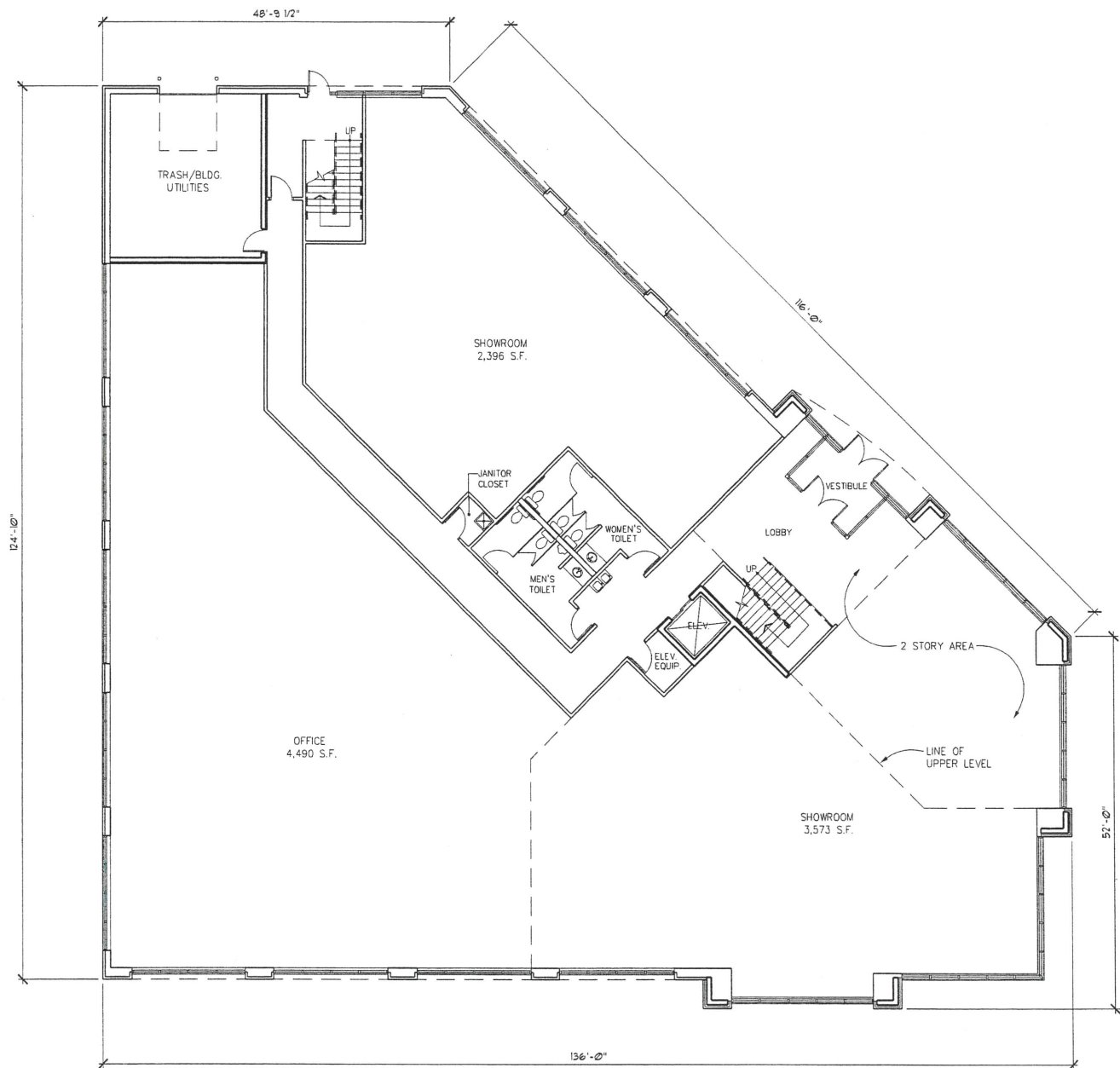
**R Ryan**  
R.J. Ryan Construction, Inc.  
1100 Mendota Heights Road  
Mendota Heights, MN 55120  
651/681-0200 Fax 651/681-0235  
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect in the state of \_\_\_\_\_  
Typed Name \_\_\_\_\_  
Registration Number \_\_\_\_\_ Date \_\_\_\_\_

**C & C North America**  
PROPOSED OFFICE/SHOWROOM  
HUDSON BLVD.  
LAKE ELMO, MINNESOTA

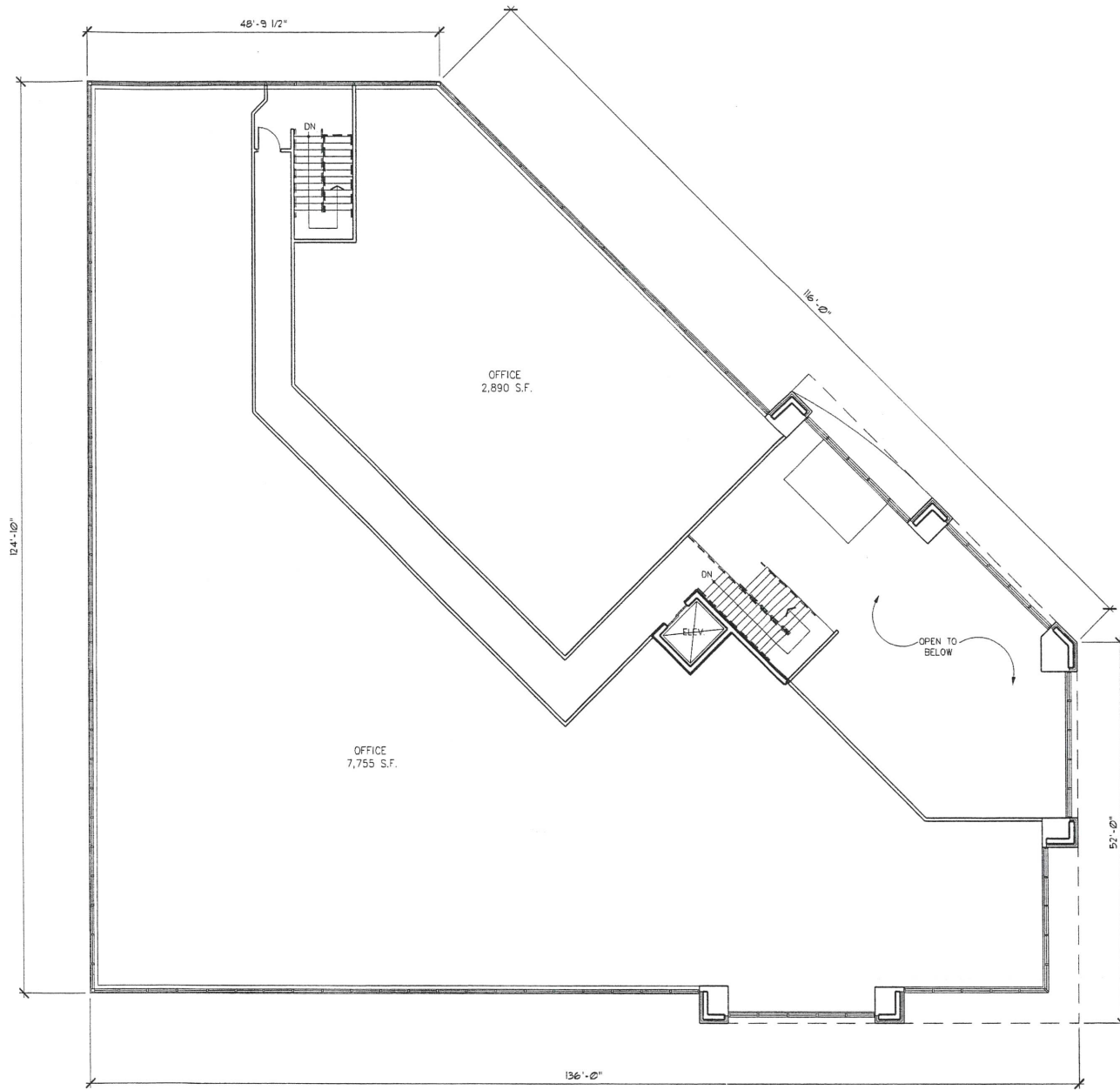
Project No.: 06031  
Drawn By: SAW  
Checked By: SAW/HAM  
Issues and Revisions:  
SUBMITTAL 06.19.2006

Sheet Title:  
**SITE PLAN**  
**SITE DETAILS**  
**A-1.1**





MAIN LEVEL FLOOR PLAN  
13,402 G.S.F.



UPPER LEVEL FLOOR PLAN  
11,797 G.S.F.

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**RJ Ryan**  
R.J. Ryan Construction, Inc.  
1100 Mendota Heights Road  
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651/681-0200 Fax 651/681-0235

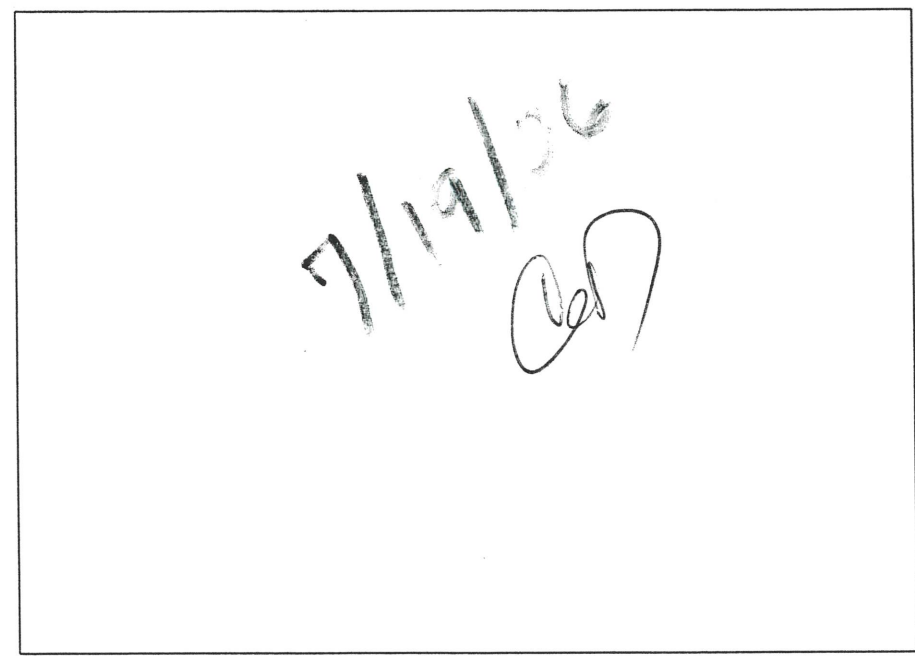
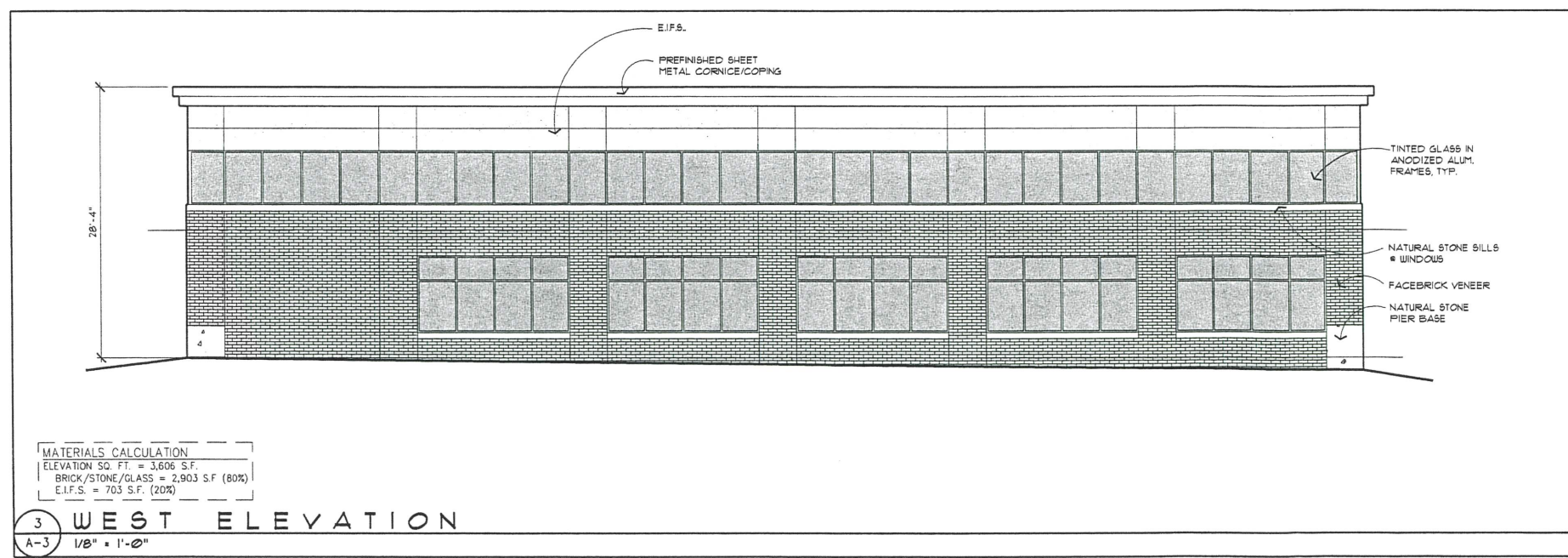
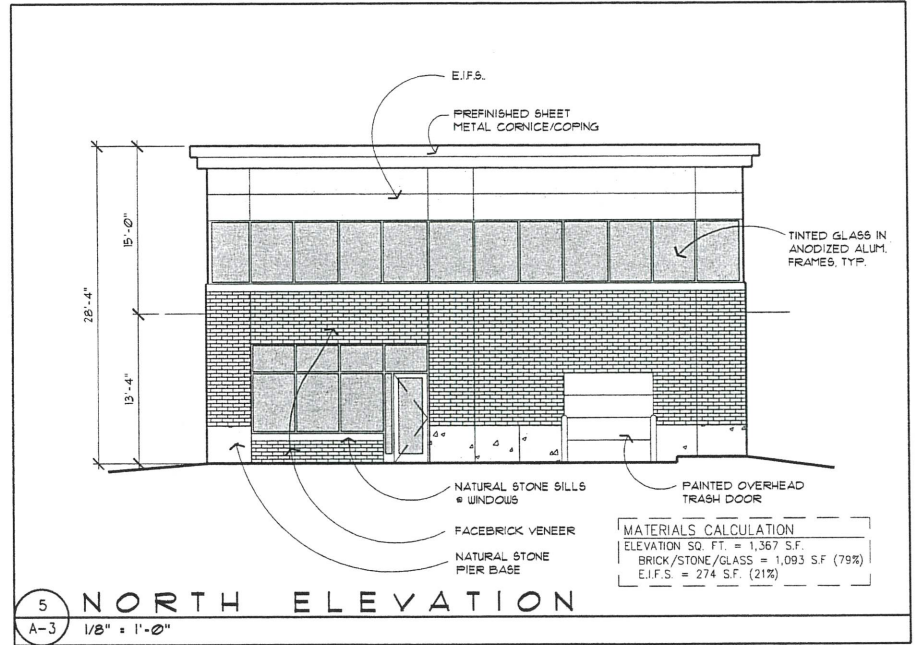
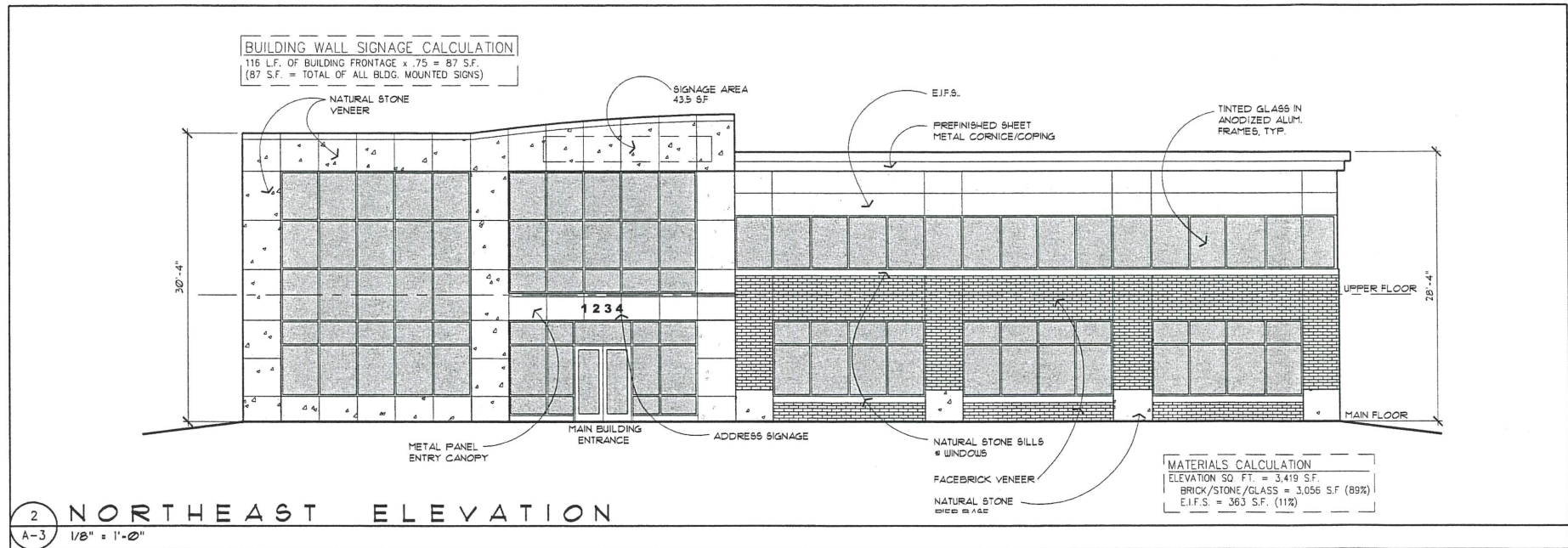
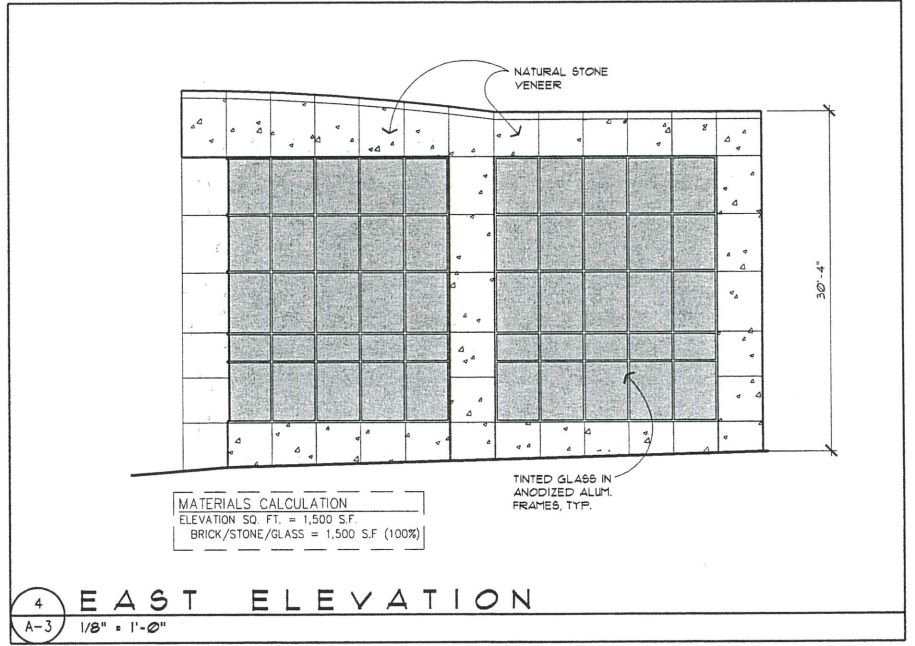
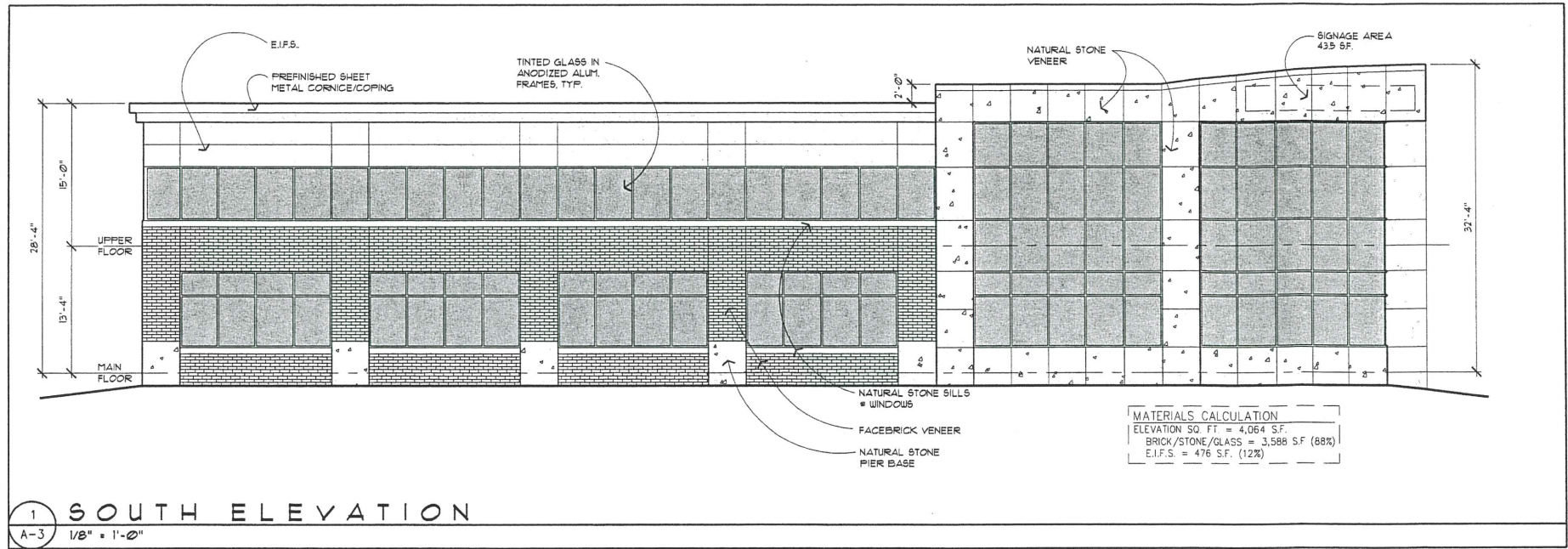
I hereby certify that this plan, specification, and schedule of values were prepared under my direct supervision and that I am a duly Licensed Architect in the state of \_\_\_\_\_  
Typed Name \_\_\_\_\_  
Registration Number \_\_\_\_\_ Date \_\_\_\_\_

**C & C North America**  
PROPOSED OFFICE/SHOWROOM  
HUDSON BLVD.  
LAKE ELMO, MINNESOTA

Project No.: 06031  
Drawn By: SAW  
Checked By: SAW/HAM  
Issues and Revisions:  
CITY SUBMITTAL 06.19.2006

Sheet Title:  
**FLOOR PLANS**





**finn daniels**  
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651.681.4200 Fax 651.681.4235

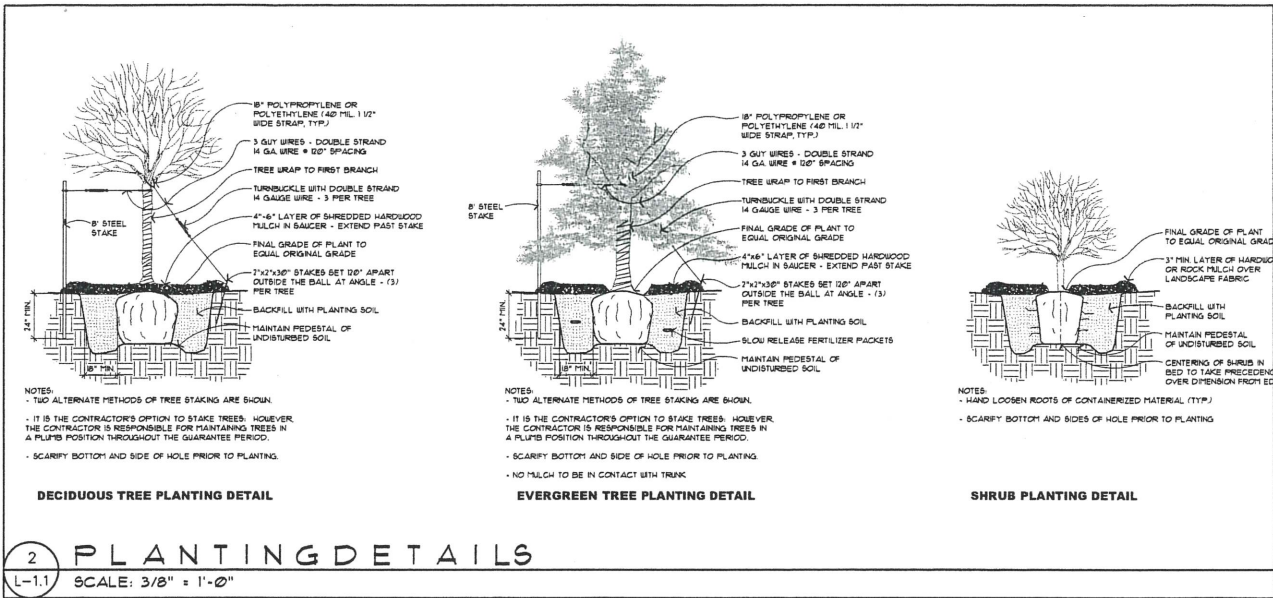
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect in the state of \_\_\_\_\_  
Typed Name \_\_\_\_\_  
Registration Number \_\_\_\_\_ Date \_\_\_\_\_

**C & C North America**  
PROPOSED OFFICE/SHOWROOM  
HUDSON BLVD.  
LAKE ELMO, MINNESOTA

Project No.: 06031  
Drawn By: SAW  
Checked By: SAW/HAM  
Issues and Revisions:  
CITY SUBMITTAL 06.19.2006

Sheet Title:  
**EXTERIOR ELEVATIONS**  
**A-3**





2 PLANTING DETAILS  
L-1.1 SCALE: 3/8" = 1'-0"

LANDSCAPE SCHEDULE					
SYMBOL	ABBR.	SIZE	QTY.	COMMON NAME	BOTANICAL NAME
OVERSTORY TREES					
	RL	2 1/2" BB	4	REDMOND LINDEN	TILIA AMERICANA 'REDMOND'
	HM	2 1/2" BB	4	HYBRID MAPLE	ACER x FREEMANII 'SCARLET SENTINEL'
UNDERSTORY TREES					
	MA	1 1/2" BB	2	SHOWY MOUNTAIN ASH	SORBUS DECORA
	TC	1 1/2" BB	7	THUNDERCHILD CRAB	MALUS x HYBRIDS 'THUNDERCHILD'
EVERGREEN TREES					
	BS	6" BB	4	BLACK HILLS SPRUCE	PICEA GLAUCA DENSATA

SHRUBS					
	RD	#5 POT	5	REDTWIGGED 'CARDINAL' DOGWOOD	CORNUS SERICEA 'CARDINAL'
	LG	#5 POT	3	LITTLE GIANT ARBORVITAE	THUJA OCCIDENTALIS 'LITTLE GIANT'
	RW	#5 POT	15	RUMBA WEIGELA	WEIGELA FLORIDA 'RUMBA WEIGELA'
	AC	#5 POT	64	COMPACT AMERICAN CRANBERRY BUSH	VIBURNUM TRILOBUM 'COMPACTA'
	GA	#5 POT	8	GLOBE ARBORVITAE	THUJA OCCIDENTALIS 'WOODWARDII'
	AW	#5 POT	83	ANTHONY WATERER SPIREA	SPIREA JAPONICA 'DWARF SUMMER'

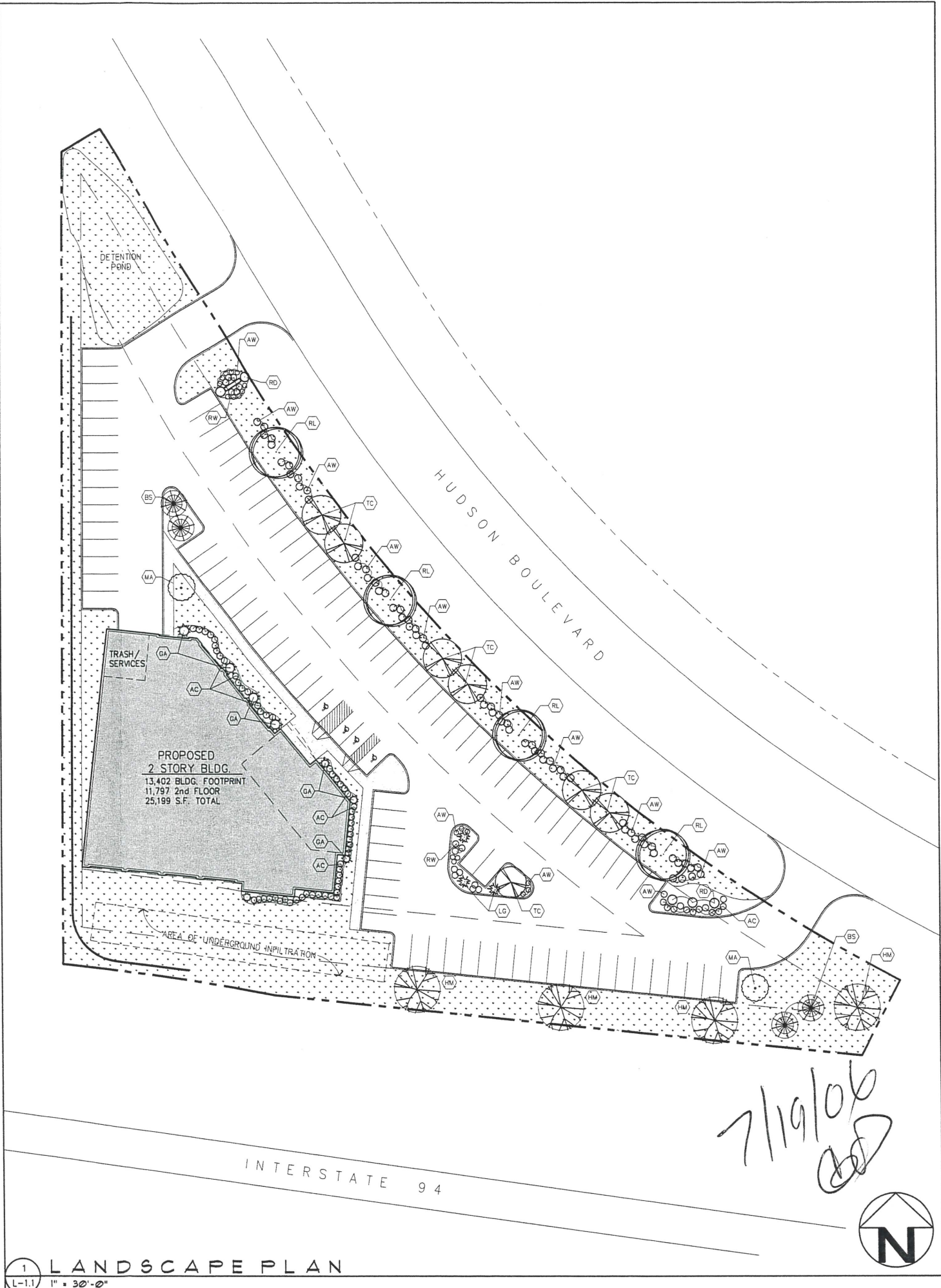
INDICATES SODDED/ IRRIGATED AREAS ON PLAN.

GENERAL NOTES

- LANDSCAPE CONTRACTOR SHALL VISIT THE SITE PRIOR TO SUBMITTING A BID TO BECOME FAMILIAR WITH THE SITE CONDITIONS. THE LANDSCAPE CONTRACTOR SHALL HAVE ALL UNDERGROUND UTILITIES LOCATED PRIOR TO ANY DIGGING.
- ALL PLANT MATERIALS SHALL CONFORM WITH THE AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS AND SHALL BE OF HARDY STOCK, FREE FROM DISEASE, DAMAGE AND DISFIGURATION. IF THERE IS ANY DISCREPANCY BETWEEN THE NUMBER OF PLANTS ON THE LIST AND THE NUMBER SHOWN ON THE PLAN, THE PLAN SHALL GOVERN.
- THE GROUND COVER IS SOD EXCEPT IN PLANTING BEDS.
- ALL PLANTING AREAS SHALL BE EDGED WITH 6" BLACK VINYL EDGING AND HAVE 4"-6" DEEP MULCH PLACED OVER A WEE BARRIER FABRIC. MULCH SIZE AND TYPE SHALL BE 1 1/2" BRYANT RED ROCK MULCH. ALL TREES NOT PLACED WITHIN A PLANTING BED SHALL HAVE A 4 FOOT DIAMETER, 6 INCH DEEP SHREDDED HARDWOOD MULCH DISH INSTALLED AROUND THE TREE.
- ALL RETAINING WALLS TO BE DESIGNED BY OTHERS.
- ALL AREAS WITHIN THE PROPERTY THAT ARE NOT SHRUB BEDS OR HARD SURFACED EXCEPT AS NOTED SHALL BE SODDED. ALL AREAS OUTSIDE THE PROPERTY LINES DISTURBED BY GRADING OR UTILITY INSTALLATION SHALL BE RETURNED TO EXISTING CONDITION OR BETTER, OR AS NOTED.
- SHOULD A PLANT BE UNAVAILABLE AT THE TIME OF INSTALLATION, ALL SUBSTITUTIONS ARE SUBJECT TO THE APPROVAL OF THE OWNER AND THE CITY.
- ANY EXISTING VEGETATION TO BE REMOVED FROM THE SITE SHALL BE DISPOSED OF IN A MANNER THAT IS APPLICABLE WITH CITY AND STATE REQUIREMENTS.
- SEE ENGINEERS GRADING AND UTILITY PLANS FOR EXACT LOCATIONS OF BERMS, FENCES, RETAINING WALLS AND PIPE LOCATIONS.

IRRIGATION NOTES:

- CONTRACTOR TO VERIFY MECHANICAL ROOM LOCATION AS SOURCE OF ELECTRIC AND WATER SUPPLY. CONTRACTOR SHALL COORDINATE ROUTING OF SUBWATER AND IRRIGATION CONTROL WIRING FROM MECH. ROOM TO FRONT OF BUILDING.
- SUBMIT SHOP DRAWINGS AND PRODUCT FOR APPROVAL. SHOP DRAWINGS SHALL INCLUDE LAYOUT OF SYSTEM AND DESIGN CALCULATIONS. SUBMIT DATA FOR PUMPS, CONTROLLER, SPRINKLE HEADS, BACKFLOW PREVENTER, AUTOMATIC VALVES AND OTHER MATERIALS.
- AN IRRIGATION SYSTEM SHALL BE INSTALLED TO COVER ALL SOD, SHRUB AND TREE AREAS. THE IRRIGATION SYSTEM WILL BE DESIGNED BY THE CONTRACTOR CHOSEN TO DO THE WORK. A DESIGN DRAWINGS IS TO BE SUBMITTED TO THE CONTRACTOR. SHOWING LOCATIONS, SIZES AND KINDS OF EQUIPMENT TO BE INSTALLED.
- FINAL ACCEPTANCE SHALL BE CONTINGENT UPON THE COMPLETION OF THE PROJECT. A DEMONSTRATION OF THE SYSTEM SHALL BE PROVIDED TO THE OWNER. ANY ADJUSTMENT TO HEADS SHALL BE MADE PRIOR TO THE DEMONSTRATION.
- OPERATING AND MAINTENANCE MANUALS SHALL BE SUBMITTED AND THE OWNERS PERSONNEL SHALL BE INSTRUCTED IN THE USE AND MAINTENANCE OF THE SPRINKLER SYSTEM.
- NOTE: IRRIGATION SYSTEM NOT REQUIRED PER CITY OF PRIOR LAKE ZONING ORDINANCES. ALL PLANTS SHALL BE GUARANTEED BY THE DEVELOPER FOR ONE YEAR AFTER TOTAL PROJECT ACCEPTANCE, IF A BUILT-IN IRRIGATION SYSTEM IS INSTALLED, OR FOR TWO YEARS AFTER TOTAL PROJECT ACCEPTANCE IF A BUILT-IN IRRIGATION SYSTEM IS NOT INSTALLED.



1 LANDSCAPE PLAN  
L-1.1 1" = 30'-0"

**finn daniels**  
ARCHITECTS  
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I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect in the state of \_\_\_\_\_  
Typed Name \_\_\_\_\_  
Registration Number \_\_\_\_\_  
Date \_\_\_\_\_

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Sheet Title:  
**LANDSCAPE PLAN  
DETAILS AND  
SCHEDULES**  
**L-1.1**



LUMINAIRE SCHEDULE						
PROJECT: ALL PROJECTS						
SYMBOL	QTY	LABEL	ARRANGEMENT	LUMENS	LLF	DESCRIPTION
	4	(W)	SINGLE	8100	0.650	100W MH
	3	(P)	SINGLE	12600	0.800	150W MH

(3) 17' X 4" SQ. STEEL POLE  
MOUNTING HEIGHT = 20' AFG  
PROPOSED POLES MEET 140 MPH WINDS

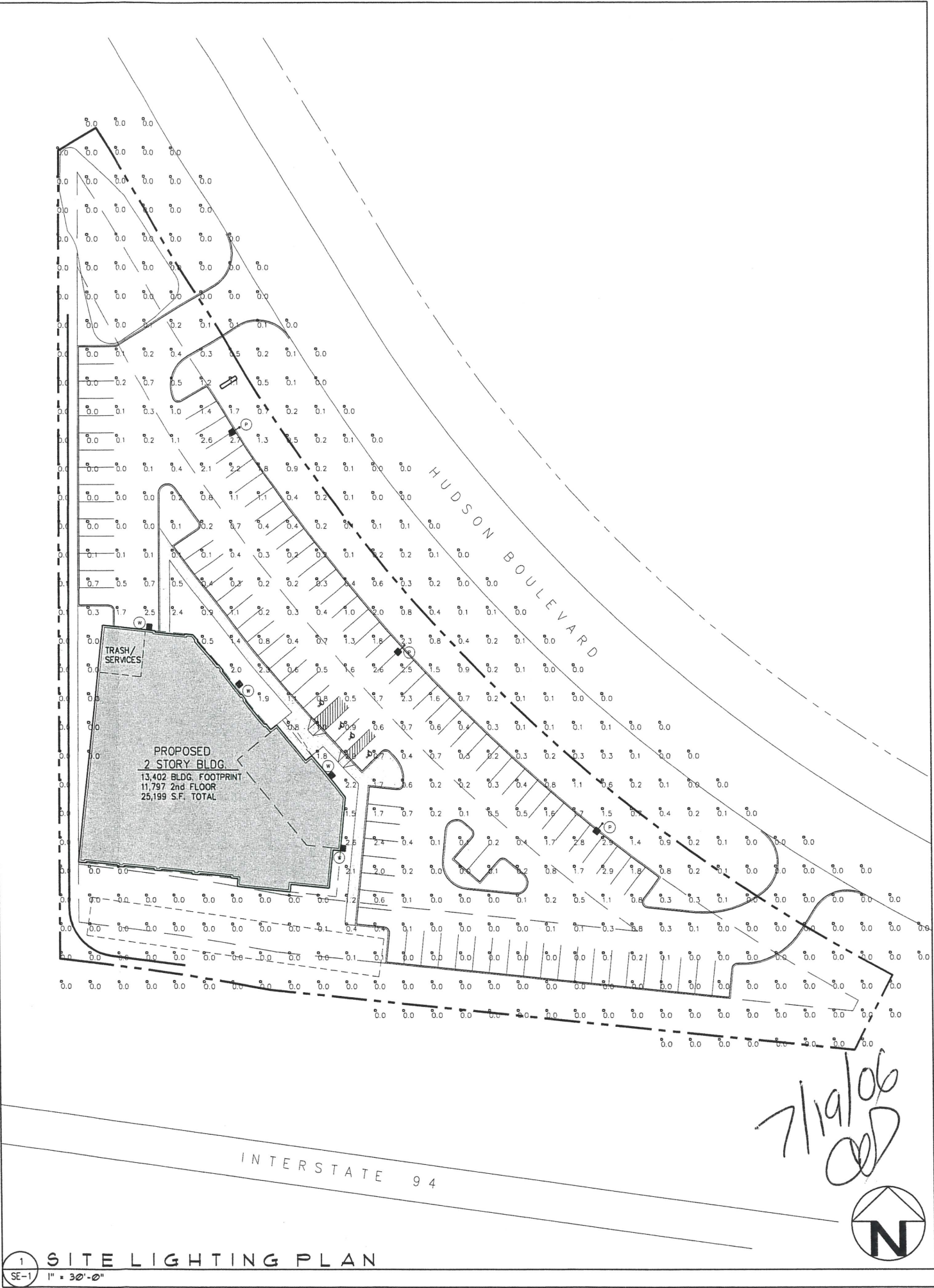
PARKING LOT  
ILLUMINANCE VALUES(FC)  
AVERAGE =0.59  
MAXIMUM =2.9  
MINIMUM =0.0  
AVG/MIN RATIO=0.00  
MAX/MIN RATIO=0.00

2

SE-1

LUMINAIRE SCHEDULE

SCALE: N.T.S.



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I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect in the state of \_\_\_\_\_

Typed Name \_\_\_\_\_

Registration Number \_\_\_\_\_

Date \_\_\_\_\_

C & C North America

PROPOSED OFFICE/SHOWROOM

HUDSON BLVD.  
LAKE ELMO, MINNESOTA

Project No.: 06031

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Sheet Title:

SITE ELECTRIC  
LUMINAIRE PLAN

SE-1







## CHAPTER 154: ZONING CODE

### Section

#### ***Title and Application***

- 154.001 Title
- 154.002 Intent and Purpose
- 154.003 Relation to Comprehensive Municipal Plan
- 154.004 Standard, Requirement
- 154.005 Conformity With This Chapter
- 154.006 Building Compliance
- 154.007 Reduction of Yards or Lots Not Permitted
- 154.008 Monuments
- 154.009 Uses Not Provided For Within Zoning Districts
- 154.010 Separability
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#### ***Rules and Definitions***

- 154.030 Rules of Word Construction
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#### ***Administration – Amendments (Text and Map)***

- 154.050 Procedure
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#### ***Administration – Conditional Use Permits***

- 154.060 Purpose
- 154.061 Procedure
- 154.062 Information Requirement
- 154.063 General Performance Standards
- 154.064 Revocation
- 154.065 Amendment
- 154.066 Expiration
- 154.067 Site Improvement Performance Agreement and Financial Guarantee



## **~~Chapter 3 -- Zoning~~**

### **~~Section 300 -- Zoning Ordinance~~**

#### **TITLE AND APPLICATION**

##### **~~300.01 Short Title.~~**

~~This section may be cited as the City's zoning ordinance.~~

##### **154.001 TITLE.**

This Chapter shall be known as the "Lake Elmo Zoning Ordinance" except as referred to herein, where it shall be known as "this Chapter".

##### **~~300.02 Intent and Purpose.~~ 154.002 INTENT AND PURPOSE**

The intent of this Chapter is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land. These regulations are established to assist the City in implementing its Comprehensive Plan; protecting and enhancing the natural environment and resources that currently exist within the City; ensuring orderly and quality development and redevelopment; protecting the quality and diversity of the City's tax base; protecting the quality of residential neighborhoods; ~~limiting congestion in public streets and to foster public safety and convenience in travel and transportation;~~ ensuring compatibility between different land uses; and regulating businesses that may have adverse secondary effects on the quality of life of Lake Elmo residents.

These regulations are also established to provide for administration of this Chapter; to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the City staff, the Zoning Board of Adjustment and Appeals, the Planning Commission and the City Council in relation to the Zoning Ordinance.

##### **Subd. 1 General Purposes.**

~~The general purposes of this section are to provide for the orderly growth and renewal of the community; to protect and conserve its natural resources, its ecological systems, and its economic stability by fostering appropriate land use, so as to preserve and promote the public health, safety and general welfare.~~

##### **Subd. 2 Specific Purposes.**

~~It is determined by the Council that in order to accomplish the general purposes of this section it is necessary and proper to establish and enforce the regulations contained in this section for the following specific purposes:~~

~~A. To stage development and redevelopment to coincide with the availability of necessary public services.~~



~~B. To divide the community into districts, providing for and regulating the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residential, business, commercial, industrial and other specified uses.~~

~~C. To protect the character and maintain the stability of residential, business and industrial areas within the community, and prohibit uses, buildings, or structures which are incompatible with the character of development in these areas.~~

~~D. To provide adequate light, air, privacy, and convenience of access to property.~~

~~E. To limit congestion in public streets and to foster public safety and convenience in travel and transportation.~~

~~F. To provide protection against fire, explosions, obnoxious fumes, and other hazards in the interest of public health, safety, and comfort.~~

~~G. To prevent environmental pollution.~~

~~H. To prevent the destruction or improvident exploitation of community resources.~~

~~I. To preserve the value of land and buildings throughout the community.~~

~~J. To provide for the gradual elimination of those uses of land, buildings, and structures, and of those buildings and structures which do not conform to the standards for the area in which they are located and which may adversely affect the development and the value of property in these areas.~~

~~K. To provide for the condemnation of non-conforming buildings or structures and of land as is necessary or appropriate for the rehabilitation of the area blighted by the non-conforming structures.~~

~~L. To provide for the enforcement of this section and to define and limit the powers and duties of the administrative officers and bodies responsible for the enforcement.~~

~~M. To protect and preserve economically viable agricultural land.~~

~~N. To provide for the wise use and conservation of energy resources.~~

#### 154.003      RELATION TO COMPREHENSIVE MUNICIPAL PLAN.

It is the policy of the City of Lake Elmo that the enforcement, amendment, and administration of this Chapter be accomplished consistent with the recommendations contained in the City Comprehensive Plan, as developed and amended from time to time by the City Council for the City. The City Council recognizes the City Comprehensive Plan as the official policy for the regulation of land use and development in accordance with the policies and purpose herein set forth. In accordance with Minnesota Statutes



Chapter 473, the City will not approve any rezoning or other changes in these regulations that are inconsistent with the City Comprehensive Plan.

154.004 STANDARD, REQUIREMENT.

Where the conditions imposed by any provisions of this Chapter are either more or less restrictive than comparable conditions imposed by other law, ordinance, rule, or regulation of the city, state, or federal government, the law, ordinance, rule, or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.

154.005 CONFORMITY WITH THIS CHAPTER.

No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Chapter.

154.006 BUILDING COMPLIANCE.

Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Chapter.

154.007 REDUCTION OF YARDS OR LOTS NOT PERMITTED.

No yard or lot existing at the time of passage of this Chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Chapter shall meet at least the minimum requirements established by this Chapter.

154.008 MONUMENTS.

For the purpose of this Chapter, all international, federal, state, county and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the applicant to insure that these markers are maintained in good condition during and following construction and development. All section, one-quarter section and one-sixteenth section corners shall be duly described and tied.

154.009 USES NOT PROVIDED FOR WITHIN ZONING DISTRICTS.

Whenever in any zoning district a use is not specifically allowed as a permitted accessory, conditional, or interim use, nor is such use allowed by administrative permit, the use shall be considered prohibited. In such cases, the City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, upon receipt of the staff study may, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or may find that the use is not compatible for development within the City.

154.010 SEPARABILITY



It is hereby declared to be the intention of the City that the several provisions of this Chapter are separable in accordance with the following:

(A) If any court jurisdiction shall adjudge any provision of this Chapter to be invalid, such judgment shall not affect any other provisions of this Chapter not specifically included in said judgment.

(B) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Chapter to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

#### 154.011 AUTHORITY

This Chapter is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Section 462.351 to 462.363.

#### 154.012 ZONING MAP

The locations and boundaries of the district established by this Ordinance are hereby set forth on the Lake Elmo, Minnesota Zoning Map; and said Map is hereby made a part of this Ordinance; said Map shall be known as the "Lake Elmo, Minnesota Zoning Map." Said Map and all notations, references and data shown thereon are hereby incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the Zoning Administrator to maintain said Map, and amendments thereto shall be recorded on said Zoning Map within thirty (30) days after official publication of amendments. The official Zoning Map shall be kept on file in the City Hall.

#### 154.013 ZONING DISTRICT BOUNDARIES

The boundaries between districts are, unless otherwise indicated, either the center line of streets, alleys or railroad rights-of-way or lot lines or section lines or such centerlines or lot lines parallel or perpendicular thereto.

#### 154.014 FUTURE ANNEXATIONS

Any land annexed to the City in the future shall be placed in the FRD (Future Restricted Development) district until another zoning classification is approved by action of the City Council after receipt of the recommendation of the Planning Commission.

#### ~~300.03 Interpretation and Construction.~~

##### ~~Subd. 1 Interpretation.~~

~~In the application of this section, the provisions shall be interpreted to the minimum requirements necessary to accomplish the general and specific purposes of the section.~~



Subd. 2 Rules of Construction.

~~The words and phrases in this section shall be construed in their plain ordinary and usual sense, except that technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.~~

Subd. 3 Masculine, Feminine, or Neuter.

~~Unless the context clearly requires otherwise, the use of either masculine, feminine, or neuter general shall include the other genders.~~

Subd. 4 Singular or Plural.

~~Unless the context clearly requires otherwise, the use of either singular or plural numbers shall include the other number.~~

Subd. 5 Past, Present, or Future.

~~Unless the context clearly requires otherwise, the use of either past, present, or future tense shall include the other tenses.~~

Subd. 6 Joint Authority.

~~Words importing joint authority to three or more persons shall be construed as authority to a majority of such persons.~~

Subd. 7 Computation of Time.

~~The time within which an act shall be done shall be computed by excluding the first and including the last day. If the last day is a Sunday or legal holiday, then this day shall be excluded.~~

Subd. 8 Deputies.

~~Whenever this section requires an act to be done, which act may legally be done by an agent or employee as well as by the principal, the requirement shall be satisfied by the performance of the act by an authorized agent or employee.~~

Subd. 9 Conjunctions.

~~The words "or" and "and" may be read interchangeably in situations where the context requires it.~~

Subd. 10 Minnesota Rules of Construction to Apply.

~~Unless clearly in conflict with the provisions of this section, or otherwise clearly inapplicable, rules of construction established for the state by statute or case law shall apply to the construction of this section.~~

Subd. 11 Permit to Use.

~~Nothing contained in this section shall be deemed to be a consent, license, or permit to use any property or to locate, construct, or maintain any building, structure, or facility, or to carry on any trade, industry, occupation, or activity.~~



Subd. 12 Cumulative Provisions.

~~Except as provided in this section, the provisions of this section are cumulative and in addition to the provisions of other laws and ordinances, previously passed or which may be passed hereafter, governing the same subject matter as this section.~~

RULES AND DEFINITIONS

154.030 RULES OF WORD CONSTRUCTION

For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

(A) The word "person" includes an owner or representative of the owner, firm, association, organization, partnership, trust, company or corporation as well as an individual.

(B) The present tense includes the future tense.

(C) The words "shall" and "must" are mandatory; the word "may" is permissive.

(D) The singular includes the plural, and the plural the singular.

(E) All measured distances expressed in feet shall be to the nearest tenth of a foot.

(F) When calculating parking stall requirements, any fraction of a number shall constitute an additional parking space.

(G) Unless specifically exempted, size or area limitations imposed by this Chapter on a specific use or activity refer to the maximum gross area devoted to such use or activity in any individual building or structure.

(H) For terminology not defined in this Chapter, elsewhere in the City Code, or in the Minnesota State Building Code, Merriam-Webster's Collegiate Dictionary Tenth Edition shall be used to define such terms.

(I) If a conflict arises between the graphic illustrations presented in this code and the text of this code, the text shall prevail.

~~300.04 Definitions.~~

~~Unless specifically defined in this Section, common definitions, words and phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage throughout this Code and are found in Section 150.~~



~~300.05 General Provisions.~~

~~Subd. 1 Application.~~

~~A. Application Generally. Except as provided in this Section, no building or structure shall be erected, moved, altered, or extended and no land, building or structure or part of the building, shall be occupied or used unless in conformity with regulations specified in this section for the district in which it is located.~~

~~B. Application to Existing Structures. This section shall not apply to existing buildings and structures, nor to the existing use of any building, structure, or land to the extent of the use on the effective date of this section. This section shall apply to any change in use, to any movement of a building or structure, or to any expansion of a structure which may result in the generation of additional sewage for on site disposal.~~

~~C. Use Defined. For the purpose of this section, the word "use" shall mean:~~

- ~~1. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or~~
- ~~2. Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure, or on a tract of land.~~

~~300.06 Administration.~~

~~Subd. 5 Amendments (Rezoning and Zoning Text Amendment).~~

ADMINISTRATION – AMENDMENTS (TEXT AND MAP)

154.050 PROCEDURE

(A) Applicants requesting application for amendments or conditional use permits should contact the Zoning Administrator in order to set up a “pre-application” meeting with the City Administrator, City Engineer, City Attorney, City Planner, City Building Official, and other City staff to discuss the project in question. A pre-application “staff meeting” is strongly recommended for all types of proposals to answer questions relating to overall project concept, the application process, payment of fees, general ordinance requirements and the general details of the request. The pre-application meeting is not necessary but is recommended.



**B. Records of Applications.** ~~The Zoning Administrator shall maintain a record of all applications for amendments to this section.~~

**C. Application.**

- ~~1. Where an amendment to this section is proposed by a property owner, an application for an amendment shall be filed with the Zoning Administrator; the application shall be accompanied by development plans, if any, for the use which requires the rezoning. The development plans shall show such information as may be reasonably required by the administrator, including but not limited to those things listed below.~~
- ~~2. The plans shall contain sufficient information for the City to determine whether the proposed development is in keeping with the intent and purpose of this section and the Comprehensive Plan.~~
  - ~~a. Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome the limitation shall be made part of the application.~~
  - ~~b. A location map showing the general location of the proposed use within the community;~~
  - ~~c. A map showing all principal land use within three hundred fifty (350) feet of the parcel for which application is being made.~~
- ~~3. The applicant shall supply a legal description and proof of ownership of the property for which the amendment is requested consisting of an abstract of title or registered property certificate, together with any unrecorded documents whereby the petitioners acquired legal or equitable ownership.~~
- ~~4. The application form shall be accompanied by an accurate list showing the names and mailing addresses of the record owners of all the property within three hundred fifty (350) feet of the property for which the amendment is sought, verified as to accuracy by the applicant.~~

(B) Requests for zoning (text or map) amendments shall be filed with the Zoning Administrator on an official application form. The applicant's signature shall be provided on the application form. Additionally, if the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by:

- (1) a fee as set forth in the City Code;



- (2) a location map showing the general location of the proposed use within the community;
- (3) detailed written and graphic materials, the number and size as prescribed by the Zoning Administrator, fully explaining the proposed change, development, or use;
- (4) a map showing all principal land use within three hundred fifty (350) feet of the parcel for which application is being made;
- (5) a legal description and proof of ownership of the property for which the amendment is requested consisting of an abstract of title or registered property certificate, together with any unrecorded documents whereby the petitioners acquired legal or equitable ownership;
- (6) certification that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the rezoning application relates;
- (7) two copies of a list of property owners located within three hundred fifty (350) feet of the subject property in a format prescribed by the Zoning Administrator. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified information requirements.

#### **D. Hearing.**

1. The Zoning Administrator shall refer the application to the Planning Commission for consideration at its next regular meeting. If the next regular meeting of the Planning Commission is within ten (10) days of the date of filing, then consideration may be at the second regular meeting after the filing. The City Administrator shall set a date for a public hearing on the application. The public hearing shall be no more than sixty (60) days after the date of filing of the application with the Zoning Administrator.
2. Notice of the purpose, time, and place of the public hearing shall be published in the official newspaper of the community and mailed to each of the owners of all property located within a minimum of three hundred fifty (350) feet of the property described in the application, and such other person as the Planning Commission may direct, at least ten (10) days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the provisions of this section has been made.
3. The applicant or applicant's representative shall appear at the public hearing to answer questions concerning the proposed use.



(C) Within fifteen (15) business days of receipt of a complete application, as determined by staff review, for a rezoning (map amendment or text amendment), the Zoning Administrator shall cause a notice to be mailed to all owners of land within three hundred fifty (350) feet of the boundary of the property in question, informing them of the receipt of the application and the anticipated schedule for consideration of the amendment. This provision shall not apply in the case of a rezoning initiated by the City if the amendment affects an area greater than forty (40) acres.

(D) Upon receipt of a complete application, as determined by staff review, and following preliminary staff analysis of the application and request, the Zoning Administrator, when appropriate, shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of the purpose, time, and place of the public hearing as well as the description of the request. The notice shall be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question.

(E) Failure of a property owner to receive said notice(s) shall not invalidate any such proceedings as set forth within this Chapter.

**E. Planning Commission Report.**

~~2. The Planning Commission's report shall be filed with the Zoning Administrator who shall refer the report to the Council for consideration at its next regular meeting. If the next regular meeting of the Council is within seven (7) days of the date of filing, then consideration may be at the second regular meeting after the filing. At the same time, the Zoning Administrator shall mail to the applicant a copy of the Planning Commission's report and a notice of the time and place of the meeting at which the report will be considered by the Council.~~

(F) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation of the action to the City Council.

(G) The Planning Commission shall consider possible adverse effects of the proposed amendment. Its judgment shall be based upon (but not limited to) the following factors:

(1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the City Comprehensive Plan, including public facilities and capital improvement plans.



(2) The proposed action meets the purpose and intent of this Ordinance or in the case of a map amendment, it meets the purpose and intent of the individual district.

(3) There is adequate infrastructure available to serve the proposed action.

(4) There is an adequate buffer or transition provided between potentially incompatible districts.

(H) The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Chapter.

(I) The applicant or a representative thereof may appear before the Planning Commission in order to present information and answer questions concerning the proposed request.

~~1-~~ (J) The Planning Commission shall make its ~~report~~ recommendation on the application to the Council, in writing, within sixty (60) days after the public hearing, unless the applicant consents to extend consideration by the Planning Commission. The report shall recommend that the amendment be granted or denied and shall include the Planning Commission's recommendation as to any conditions to be imposed if the amendment is granted, including time limits or provisions for periodic review and shall state the reasons for the recommendation. Such recommendations shall be accompanied by the report and recommendation of the City staff.

~~3-~~ (K) If the Planning Commission fails to file a report with the Zoning Administrator within the time provided by this section, the application shall be referred to the Council as provided in this section, without report, after the time for filing the report has expired.

#### **F. Council Action on Application.**

~~1-~~ The Council shall make its decision on the application within sixty (60) days of the filing of the Planning Commission's report with the Zoning Administrator or after the last day for filing the report, if no report is filed. The Council shall make written findings and shall state in the findings the reasons for its decision. The order shall be filed with the Zoning Administrator who shall immediately mail a copy of the report, bearing the notation of the filing date, to the applicant.

(L) The City Council shall not act upon an amendment until they have received a report and recommendation from the Planning Commission and the City staff or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered.



(M) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Administrator shall schedule the application for consideration by the City Council. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

(N) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary.

(O) If, upon receiving said reports and recommendations of the Planning Commission and City staff, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendations of the City Council will differ from that of the Planning Commission, the City Council may before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

~~2. In the event such order directs amendment of this section, the Zoning Administrator shall refer the order to the City Attorney to prepare an amendment of the zoning ordinance as provided by law. Amendment of this section requires 2/3 vote of the Council.~~

(P) For any application which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial, approval shall require passage by a two-thirds (2/3) vote of the full City Council. Approval of any other proposed amendment shall require passage by a majority vote of the full Council.

(O) The amendment shall not become effective until such time as the City Council approves an ordinance reflecting said amendment.

~~**G. Re-Application.** No re-application for zoning amendment shall be resubmitted for a period of six (6) months from the date of the denial of a previous application.~~

(P) Whenever an application for an amendment has been considered and denied by the City Council, a similar application for an amendment affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by not less than a majority of the full City Council.



~~H. Zoning and the Comprehensive Plan. Any amendment to this section shall amend the Comprehensive Plan in accordance with the amendment. The Planning Commission shall inform the Council of any zoning proposal which does not conform to the Comprehensive Plan and inform the Council as to why the plan should or should not be amended.~~

~~I. Prior to approval of any zoning change not conforming to the Comprehensive Plan, a public hearing shall be conducted by the Planning Commission and the results noted in the minutes of the official proceedings. The public hearing required for the zoning changes or amendment may also serve as the public hearing for an amendment to the Comprehensive Plan. The Metropolitan Council will be notified where an application is of metropolitan significance.~~

~~J. In granting or recommending any rezoning, or other permit provided for in this section, the Zoning Administrator, the Planning Commission, or Council shall find that the proposed development conforms substantially to the policies, goals, and standards of the Comprehensive Plan.~~

(Q) Pursuant to Minnesota Statutes 15.99, an application for an amendment shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant.

~~300.06 Administration.~~

~~Subd. 5 Amendments (Rezoning and Zoning Text Amendment).~~

~~A. Amendments. 154.051 AMENDMENTS - INITIATION~~

~~An amendment to this section may be initiated by the Council, the Planning Commission, or by petition of affected property owners, as defined in this section. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report, as provided in this section. The proposal may not be acted upon by the Council until it has received the recommendation of the planning agency on the proposed amendment or until forty-five (45) days have elapsed from the date of reference of the amendment without a report by the Planning Commission.~~

ADMINISTRATION – CONDITIONAL USE PERMITS

~~300.06 Administration.~~

~~Subd. 4 Conditional Use Permits (Special Use Permits, SUP).~~

~~A. Conditional Use Permits may be granted or denied in any district by action of the governing body according to the standards for that district. In granting a conditional use permit, the governing body shall consider the~~



~~advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals, convenience, and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions including parking facilities on adjacent streets and land, the effect on utility and school capacities, the effect on property values of property in the surrounding area, and the effect of the proposed use on the Comprehensive Plan. If it determines that the proposed use will not be detrimental to the health, safety, convenience, morals, or general welfare of the community nor will cause serious traffic congestion, nor hazards, nor will seriously depreciate surrounding property values, and that the use is in harmony with the general purpose and intent of this section and the Comprehensive Plan, the Council may grant the permits.~~

154.060 PURPOSE

The purpose of a conditional use permit is to authorize and regulate uses which may be beneficial in a specific instance to the general welfare of the community, yet ensure that such uses are not detrimental to surrounding property, and are consistent with the stated purpose of the zoning district in which such uses are located regarding conditions of operation, location, arrangement, and construction.

**F. Governing Body Action on Application:**

- ~~1. The Council shall make its decision on the application within sixty (60) days of the filing of the Planning Commission's report with the Zoning Administrator or after the last day for filing the report if no report is filed.~~
- ~~2. The Council shall make written findings and shall state in the findings the reasons for its decision. Any such order shall be filed with the Zoning Administrator who shall immediately mail a copy of the order, bearing the notation of the filing date, to the applicant.~~
- ~~3. The Council may impose conditions and restrictions, including time limits on the conditional use or periodic review as appear to be necessary and proper to protect adjacent property and comply with the intent and purposes of this section and the Comprehensive Plan.~~

154.061 PROCEDURE

(A) Requests for conditional use permits, as provided within this Chapter, shall be filed with the Zoning Administrator on an official application form. The applicant's signature shall be provided on the application form. Additionally, if the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by:



- (1) a fee as set forth in the City Code;
- (2) a location map showing the general location of the proposed use within the community;
- (3) detailed written and graphic materials, the number and size as prescribed by the Zoning Administrator, fully explaining the proposed change, development, or use;
- (4) a map showing all principal land use within five hundred (500) feet of the parcel for which application is being made;
- (5) a legal description and proof of ownership of the property for which the amendment is requested consisting of an abstract of title or registered property certificate, together with any unrecorded documents whereby the petitioners acquired legal or equitable ownership;
- (6) certification that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the rezoning application relates;
- (7) two copies of a list of property owners located within five hundred (500) feet of the subject property in a format prescribed by the Zoning Administrator. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified information requirements.

The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified information requirements.

**D. Hearing.**

1. ~~The Zoning Administrator shall refer the application to the Planning Commission for consideration at its next regular meeting. If the next regular meeting of the Planning Commission is within ten (10) days of the date of filing, then consideration may be at the second regular meeting after the filing. The Zoning Administrator shall also refer it to the City Engineer, planner or attorney when appropriate data has been received. The City Administrator shall set a date for a public hearing on the application if all required data has been received. The public hearing shall be no more than thirty (30) days after the date of filing of the application and all required data with the Zoning Administrator.~~
2. ~~Notice of the purpose, time, and place of the public hearing shall be published in the official newspaper of the community and mailed to each of the owners of all property located within a minimum of three hundred fifty (350) feet of the property described in the application and such other person as the Planning Commission may direct, at least ten (10) days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. Failure to give mailed notice to individual~~



~~property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the provisions of this section has been made.~~

- ~~3. The applicant or applicant's representative shall appear at the public hearing in order to answer questions concerning the proposed use.~~

(B) Upon receipt of a complete application, as determined by staff review, and following preliminary staff analysis of the application and request, the Zoning Administrator, when appropriate, shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of the purpose, time and place of the public hearing along with the description of request and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within five hundred (500) feet of the boundary of the property in question, except in the case of correctional facilities and waste facilities where the notification shall be to property owners located within one thousand three hundred twenty (1,320) feet of the subject property.

(C) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.

(D) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.

(E) The Planning Commission shall consider possible adverse effects of the proposed conditional use. Its judgment shall be based upon (but not limited to) the following factors:

(1) Compliance with and effect upon the Comprehensive Plan, including public facilities and capital improvement plans.

(2) The establishment, maintenance or operation of the conditional use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.

(3) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

(4) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.



(5) Adequate public facilities and services are available or can be reasonably provided to accommodate the use which is proposed.

(6) The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

(7) The conditional use complies with the general and specific performance standards as specified by this Section and this Chapter.

(F) The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Chapter.

(G) The applicant or a representative thereof may appear before the Planning Commission in order to present information and answer questions concerning the proposed request.

(H) The Planning Commission shall make a finding of fact and make a recommendation on such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this Chapter. Such recommendation shall be in writing and accompanied by the report and recommendation of the City staff.

(I) The City Council shall not grant a conditional use permit until they have received a report and recommendation from the Planning Commission and the City staff, or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered.

(J) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Manager shall schedule the application for consideration by the City Council. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

(K) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact and may impose any condition they consider necessary to protect the public health, safety and welfare.

(L) If, upon receiving said reports and recommendations of the Planning Commission and City staff, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendations of the City Council will differ from that of the Planning Commission, the City Council may, before taking final action, refer the matter back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.



(M) Approval of a request shall require passage by a majority vote of the entire City Council.

(N) Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for a conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by a majority vote of the full City Council.

~~B.~~—(O) The Zoning Administrator shall maintain a record of all applications and all conditional use permits issued including information on the use, location, conditions imposed by the community, time limits, review dates, and such other information as may be appropriate.

(P) Pursuant to Minnesota Statutes 15.99, an application for a conditional use permit shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant.

#### 154.062 INFORMATION REQUIREMENT

The information required for all conditional use permit applications shall be as specified in Section ### (Site Plan Review) of this Chapter.

~~C. Application for a conditional use permit shall be filed with the Zoning Administrator. The application shall be accompanied by development plans for the proposed use showing such information as may be reasonably required by the administrator, including but not limited to those things listed below. The plans shall contain sufficient information for the community to determine whether the proposed development will meet all applicable development standards.~~

- ~~1. Site plan drawn to scale showing parcel and existing topography.~~
- ~~2. Location of all buildings and their size, including square footage.~~
- ~~3. Curb cuts, driveways, access roads, parking spaces, off street loading areas, and sidewalks.~~
- ~~4. Landscaping and screening plans including species and size of trees and shrubs proposed.~~



- ~~5. Finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated.~~
- ~~6. Type of business or activity and proposed number of employees.~~
- ~~7. Proposed floor plan and elevations of any building with use indicated.~~
- ~~8. Sanitary sewer and water plan with estimated flow rates.~~
- ~~9. Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome the limitation shall be made part of the application.~~
- ~~10. A location map showing the general location of the proposed use within the community.~~
- ~~11. A map showing all principal land use within five hundred (500) feet of the parcel for which the application is being made.~~
- ~~12. The applicant shall supply proof of ownership of the property for which the conditional use permit is requested, consisting of an abstract of title or registered property certificate, certified by a licensed abstractor, together with any unrecorded documents whereby the petitioners acquired legal or equitable ownership.~~
- ~~13. The application form shall be accompanied by an accurate list showing the names and the mailing address of the record owners of all property within a minimum of three hundred \_\_\_\_\_ fifty (350) feet of the property for which the conditional use permit is sought, verified as to accuracy by the applicant.~~

154.063 GENERAL PERFORMANCE STANDARDS

As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but not limited to, the following general performance standards and criteria:

(A) The use and the site in question shall be served by a street of sufficient capacity to accommodate the type and volume of traffic which would be generated.

(B) The site design for access and parking shall minimize internal as well as external traffic conflicts and shall be in compliance with Section 21135 of this Chapter.

(C) If applicable, a pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.



(D) Adequate off-street parking and off-street loading shall be provided in compliance with Section 21135 of this Chapter.

(E) Loading docks and drive-up facilities shall be positioned so as to minimize internal site access problems and maneuvering conflicts, to avoid visual or noise impacts on any "adjacent" residential use or district, and are in compliance with Section ## of this Chapter.

(F) Whenever a non-residential use "is adjacent to" a residential use or district, a buffer area with screening and landscaping shall be provided in compliance with Section ## of this Chapter.

(G) General site screening and landscaping shall be provided in compliance with Section ## of this Chapter.

(H) All exterior lighting shall be so directed so as not to cast glare toward or onto the public right-of-way or neighboring residential uses or districts, and shall be in compliance with Section ## of this Chapter.

(I) Potential exterior noise generated by the use shall be identified and mitigation measures as may be necessary shall be imposed to insure compliance with Section ## of this Chapter.

(J) The site drainage system shall be subject to the review and approval of the City.

(K) The architectural appearance and functional design of the building and site shall not be so dissimilar to the existing or potential buildings and area so as to cause impairment of property values or a blighting influence. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.

(L) Provisions shall be made for an interior location for recycling and trash handling and storage or an outdoor, enclosed receptacle area shall be provided in compliance with Section ## of this Chapter.

(M) All signs and informational or visual communication devices shall be in compliance with Section ## of this Chapter.

(N) The use and site shall be in compliance with any federal or state laws or regulations which are applicable and any related permits are obtained and documented to the City.

(O) Any applicable business licenses mandated by City Code are approved and obtained.



(P) The hours of operation may be restricted when there is potential negative impact upon a residential use or district.

(Q) The use complies with all applicable performance standards of the zoning district in which it is located.

**E. Planning Commission Report.**

- ~~1. The Planning Commission shall make its report on the application to the Council in writing, within sixty (60) days after the public hearing, unless the applicant consents to extend consideration by the Planning Commission. The report shall recommend that the conditional use permit be granted or denied and shall include the Planning Commission's recommendation as to any conditions to be imposed if the conditional use permit is granted, including time limits or provisions for periodic review and shall state the reasons for the recommendation.~~
- ~~2. The Planning Commission's report shall be filed with the Zoning Administrator who shall refer the report to the Council for consideration at its next regular meeting. At the same time, the Zoning Administrator shall mail to the applicant a copy of the Planning Commission's report and a notice of the time and place of the meeting at which the report will be considered by the Council.~~
- ~~3. If the Planning Commission fails to file a report with the Zoning Administrator within the time provided by this section, the application shall be referred to the Council as provided in this section, without report, after the time for filing the report has expired.~~

**I. Compliance with Permit; Violation of Conditions.**

- ~~1. Any use permitted under the terms of a conditional use permit shall be established and conducted in accordance with all of the terms, conditions, and restrictions of the permit. The violation of any term, condition, or restriction of a conditional use permit shall be a violation of this section.~~
- ~~2. In the event of the violation of any term, condition, or restriction of a conditional use permit, the City may institute an appropriate action or proceeding in district court for such relief as may be appropriate including cancellation of the permit or appropriate orders preventing, restraining, correcting, or abating the violations or threatened violations.~~



154.064 REVOCATION

The Planning Commission may recommend, and the City Council may direct, the revocation of any conditional use permit for cause upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of this Chapter, City Codes, or other applicable regulations. The City Council or Planning Commission shall initiate an application and the Zoning Administrator shall notify the responsible person to whom the permit was issued, that they have an opportunity to show cause why the permit should not be revoked. The application shall be processed and considered pursuant to Section ## of this Chapter. The Zoning Administrator shall provide the responsible person to whom the permit was issued a copy of the proceedings and findings of the Planning Commission and City Council.

154.065 AMENDMENT

Holders of a conditional use permit may propose amendments to the permit at any time, following the procedures for a new permit as set forth in this section, except where administrative approval may be granted, as defined and set forth in Section 21045. No significant changes in the circumstances or scope of the permitted use shall be undertaken without approval of those amendments by the City. The Zoning Administrator shall determine what constitutes significant change. Significant changes include, but are not limited to, hours of operation, number of employees, expansion of structures and/or premises, different and/or additional signage, and operational modifications resulting in increased external activities and traffic, and the like. The Planning Commission may recommend, following the procedures for hearing and review set forth in this section and the City Council may approve significant changes and modifications to conditional use permits, including the application of additional or revised conditions.

**J. ~~Renewal, Expiration, and Suspension of Conditional Use Permit.~~**

- ~~1. A conditional use permit shall expire one (1) year after it has been issued unless the Council has set some other limitation or unless the use for which the permit has been granted has commenced within such year.~~
- ~~2. If, under the conditional use permit, building is commenced and subsequently determined by the Zoning Administrator to be abandoned for a period of one hundred twenty (120) days, the conditional use permit shall be suspended at the end of the one hundred twenty (120) days. Before construction may be recommenced, a conditional use permit can be reinstated by the Council provided that no changes or alterations in the original plan have been made. If the building permit for the construction that was determined to be abandoned became invalid prior to the re-commencement of the construction, the suspended conditional use permit shall expire at the time the building permit became invalid.~~



3. ~~If there have been no changes in the ownership, operation, or conditions of conditional use permit and no amendment to the permit requested at the time of renewal, the Council may consider and renew the conditional use permit without a public hearing or special public notice.~~

154.066 EXPIRATION

Unless the City Council specifically approves a different time when action is officially taken on the request, permits which have been issued under the provisions of this section shall expire without further action by the Planning Commission or the City Council, unless the applicant commences the authorized use within one (1) year of the date the conditional use permit is issued; or, unless before the expiration of the one (1) year period; the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as set forth in the City Code. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. A request for an extension not exceeding one (1) year shall be subject to the review and approval of the Zoning Administrator. Should a second extension of time or any extension of time longer than one (1) year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

154.067 SITE IMPROVEMENT PERFORMANCE AGREEMENT AND FINANCIAL GUARANTEE

Following the approval of a conditional use permit as required by this Section and prior to the issuing of any building permits or the commencing of any work, the applicant, as may be applicable, shall guarantee to the City the completion of all private exterior amenities as shown on the approved site plan and as required by the conditional use permit approval. The guarantee shall be made by means of a site improvement performance agreement and a financial guarantee as specified in Section ## of this Chapter.

**G. Re Application.** ~~No application for a conditional use permit shall be resubmitted for a period of six (6) months from the date of the denial of a previous application.~~

**H. Periodic Review.** ~~If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit shall be reviewed by Council after ten (10) days notice to the owner.~~

**K. Amended Conditional Use Permit.** ~~An amended conditional use permit application may be administered in a manner similar to that required for a new conditional use permit. Amended conditional use permit shall include re-application for permits that have been denied or permits that have expired, requests for changes in condition, and as otherwise described in this section.~~