

**City of Ramsey**  
**Agenda**  
**Regular Planning Commission**  
**Thursday June 4, 2015**  
**7:00 pm**  
**Council Chambers, 7550 Sunwood Drive NW**

- 1. Call to Order**
- 2. Citizen Input**
- 3. Approve Agenda**
- 4. Approve Minutes**
  1. Approve Planning Commission Meeting Minutes Dated May 7, 2015.
- 5. Public Hearing/Commission Business**
  1. PUBLIC HEARING: Request for a Conditional Use Permit to Exceed Sign Size Restrictions on the Property Generally Located North of 161st Avenue NW and west of Variolite Street NW; Case of the Church of St. Katharine Drexel.
  2. Discuss Concept of High Density Residential on Outlot A, Rivenwick Village; Case of Northridge Construction, Inc.
  3. Review Self-Storage and Retail Concept Plan for NE Quadrant of Ramsey Boulevard and Bunker Lake Boulevard; Case of N.I.K. Management, Inc.
  4. Review Concept Plan for Townhome Units at NE Quadrant of Sunfish Lake Boulevard and Riverdale Drive; Case of Bulow, Inc.
  5. PUBLIC HEARING: Consider Ordinance #15-12 Amending City Code Chapter 10 (Animals) and Section 117-111 (R-1 Residential District) Amending Approval Process for Certain Animals
- 6. Commission/Staff Input**
  - 1. Development Update**
    1. Zoning Bulletins
- 7. Adjournment**

**Regular Planning Commission**

4. 1.

**Meeting Date:** 06/04/2015

**By:** JoAnn Shaw, Community Development

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**Information**

**Title:**

Approve Planning Commission Meeting Minutes Dated May 7, 2015.

**Purpose/Background:**

N/A

**Notification:**

**Observations/Alternatives:**

**Funding Source:**

**Recommendation:**

**Action:**

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**Attachments**

[05.07.15 Planning Minutes](#)

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**Form Review**

**Inbox**

Tim Gladhill

Form Started By: JoAnn Shaw

Final Approval Date: 05/29/2015

**Reviewed By**

JoAnn Shaw

**Date**

05/29/2015 03:24 PM

Started On: 05/26/2015 09:32 AM

**PLANNING COMMISSION  
CITY OF RAMSEY  
ANOKA COUNTY  
STATE OF MINNESOTA**

The Ramsey Planning Commission conducted a regular meeting on Thursday, May 7, 2015, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present:           Commissioner Andrew Andrusko  
                                  Commissioner Randy Bauer  
                                  Commissioner Ralph Brauer  
                                  Commissioner Matthew Maul  
                                  Commissioner Gary VanScoy

Members Absent:           Chairperson Gary Levine  
                                  Commissioner Cindy Nosan

Also Present:               Development Services Manager Timothy Gladhill  
                                  City Planner Chris Anderson

**1.     CALL TO ORDER**

Vice Chairperson Bauer called the regular meeting to order at 7:00 p.m.

**2.     CITIZEN INPUT**

None.

**3.     APPROVAL OF AGENDA**

Motion by Commissioner VanScoy, seconded by Commissioner Andrusko, to approve the agenda as presented.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Andrusko, Brauer, and Maul. Voting No: None. Absent: Chairperson Levine and Commissioner Nosan.

**4.     APPROVE PLANNING COMMISSION MINUTES**

**4.01: Approve the Following Planning Commission Minutes:**

**4.01.1: Planning Commission Meeting Minutes Dated April 9, 2015**

Motion by Commissioner Maul, seconded by Commissioner Andrusko, to approve the following minutes as presented: Planning Commission Meeting Minutes dated April 9, 2015.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners Maul, Andrusko, Brauer, and VanScoy. Voting No: None. Absent: Chairperson Levine and Commissioner Nosan.

#### **4.01.2: Planning Commission Meeting Minutes Dated April 20, 2015**

Motion by Commissioner Maul, seconded by Commissioner Andrusko, to approve the following minutes as presented: Planning Commission Meeting Minutes dated April 20, 2015.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners Maul, Andrusko, Brauer, and VanScoy. Voting No: None. Absent: Chairperson Levine and Commissioner Nosan.

### **5. PUBLIC HEARINGS/COMMISSION BUSINESS**

#### **5.01: Public Hearing: Request for a Variance to Accessory Building Height Restrictions on the Property Located at 9491 Inverness Lane NW; Case of Allen and Alycia Skogquist**

##### **Public Hearing**

Vice Chairperson Bauer called the public hearing to order at 7:02 p.m.

##### **Presentation**

City Planner Anderson presented the staff report stating the City received an application from Allen and Alycia Skogquist for a variance to exceed the allowable mean gable height for a detached accessory structure on the property located at 9491 Inverness Lane NW. The subject property is approximately 1.71 acres in size and is limited to a mean gable height of sixteen (16) feet for detached accessory buildings. The proposed building would have a mean gable height of twenty (20) feet. Staff reviewed the request in further detail and recommended approval of the variance.

##### **Citizen Input**

Allen Skogquist, 9491 Iverness Lane NW, thanked the Commission for considering his request.

Motion by Commissioner VanScoy, seconded by Commissioner Maul, to close the public hearing.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Maul, Andrusko, and Brauer. Voting No: None. Absent: Chairperson Levine and Commissioner Nosan.

Vice Chairperson Bauer closed the public hearing closed at 7:11 p.m.

##### **Commission Business**

Motion by Commissioner VanScoy, seconded by Commissioner Brauer, to adopt Resolution #15-05-113 approving the Findings of Fact.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Brauer, Andrusko, and Maul. Voting No: None. Absent: Chairperson Levine and Commissioner Nosan.

Motion by Commissioner VanScoy, seconded by Commissioner Maul, to adopt Resolution #15-05-114 approving a variance to the mean gable height restriction for a detached accessory building at 9491 Inverness Lane NW.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Maul, Andrusko, and Brauer. Voting No: None. Absent: Chairperson Levine and Commissioner Nosan.

## **6. COMMISSION / STAFF INPUT**

### **6.01: Zoning Bulletins**

Zoning Bulletins were noted.

## **7. ADJOURNMENT**

Motion by Commissioner VanScoy, seconded by Commissioner Maul, to adjourn the meeting.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Maul, Andrusko, and Brauer. Voting No: None. Absent: Chairperson Levine and Commissioner Nosan.

The regular meeting of the Planning Commission adjourned at 7:17 p.m.

Respectfully submitted,

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Tim Gladhill  
Community Development Director

ATTEST:

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JoAnn Shaw  
Community Development Assistant

Drafted by Heidi Guenther, *TimeSaver Off Site Secretarial, Inc.*

**Regular Planning Commission**

**5. 1.**

**Meeting Date:** 06/04/2015

**By:** Geoff Solomonson, Community  
Development

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**Information**

**Title:**

PUBLIC HEARING: Request for a Conditional Use Permit to Exceed Sign Size Restrictions on the Property Generally Located North of 161st Avenue NW and west of Variolite Street NW; Case of the Church of St. Katharine Drexel.

**Purpose/Background:**

The City has received an application from the Church of St. Katharine Drexel requesting a conditional use permit (CUP) to exceed sign size restrictions for their parcel located north of 161st Avenue NW and west of Variolite Street NW (the "Subject Property").

The Subject Property is the site of the planned future campus for Saint Katharine Drexel, not their current location of operation. Since this is not a traditional real estate sign in the sense that it is marketed for sale, nor an institutional sign identifying such a use currently occurring on the Subject Property, Staff finds that processing a Conditional Use Permit ensures equitable enforcement of sign regulations for parcels located in the R-1 Residential District and removes any uncertainty on how this sign should be classified. Costs to process this application are very minimal, so a majority of the submitted escrow is anticipated to be refunded.

**Notification:**

In accordance with State statute, Staff attempted to notify property owners within 350 feet of the subject property of the public hearing via Standard US Mail. The Public Hearing was also noticed in the Anoka County Union Herald, the City's official newsletter for public notices.

**Observations/Alternatives:**

The request most closely resembles a temporary sign, specifically real estate or construction signs. Section 117-466 (Other Temporary Signs) states that one (1) real estate sign per street frontage is permitted in a residential district and shall not be larger than thirty-two (32) square feet. The parcel has frontage along both 161st Avenue NW and Variolite Street NW. As with all sign regulations in the City, the City has built in flexibility in its sign regulations through the use of the Conditional Use Permit (CUP) process. If the sign were to be considered a permanent sign based on existing definitions in city code, the proposed sign would still exceed the allowable amount without the issuance of a conditional use permit.

The proposed sign is one (1) unlit temporary real estate sign. The sign would be located at the southwest corner of the property near the intersection of 161st Avenue NW and Variolite Street NW. The sign would replace an existing 'Future Home of' sign and would be located just east of the existing sign location. The proposed sign is six (6) feet by nine (9) feet for a total of fifty-four (54) square feet. The sign would be removed once the anticipated use (religious institution) is constructed. The City does not have record of approving this previous sign.

The City has previously approved conditional use permit applications relating to requests to exceed square footage of signs. Staff feels this is a reasonable request given the forecasted future land use and that the issuance of a conditional use permit would remove any uncertainty that the sign is permitted under current city code based on existing definitions.

Alternatives

Option 1: Recommend City Council adopt Resolutions #15-06-142 and #15-06-143 approving a Conditional Use Permit for a fifty-four (54) square foot real estate sign. The Subject Property has frontage along two (2) public roads and thus would be eligible for two (2) signs, each up to thirty-two (32) square feet in area. The proposal is for a single sign totalling fifty-four (54) square feet, which is less than the allowable cumulative square footage based on road frontages. Staff supports this option and would be also be supportive of amending City Code to eliminate the size limitations for real estate and construction signs if the Planning Commission so desired.

Option 2: Recommend that City Council deny the request. The proposed signage appears reasonable in size and is less than what the total allowable square footage for signs is for the property based on the two (2) street frontages. The proposed location of the sign is not within the vision clearance triangle nor within any easement. Staff does not support this option.

**Funding Source:**

All costs associated with reviewing the application are the responsibility of the Applicant.

**Recommendation:**

Staff recommends approval of the request for a conditional use permit to exceed the square footage limitation for a real estate sign in a residential district.

**Action:**

Motion to recommend that City Council adopt Resolution #15-06-142 approving Findings of Fact #0946 and Resolution #15-06-143 relating to the Church of St. Katharine Drexel’s request for a conditional use permit to exceed sign size restrictions established in City Code.

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**Attachments**

Site Location Map

Images of Existing Sign to be Replaced

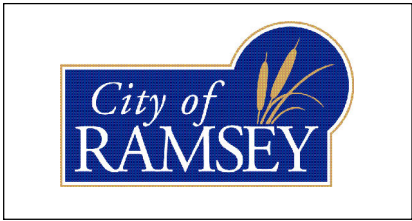
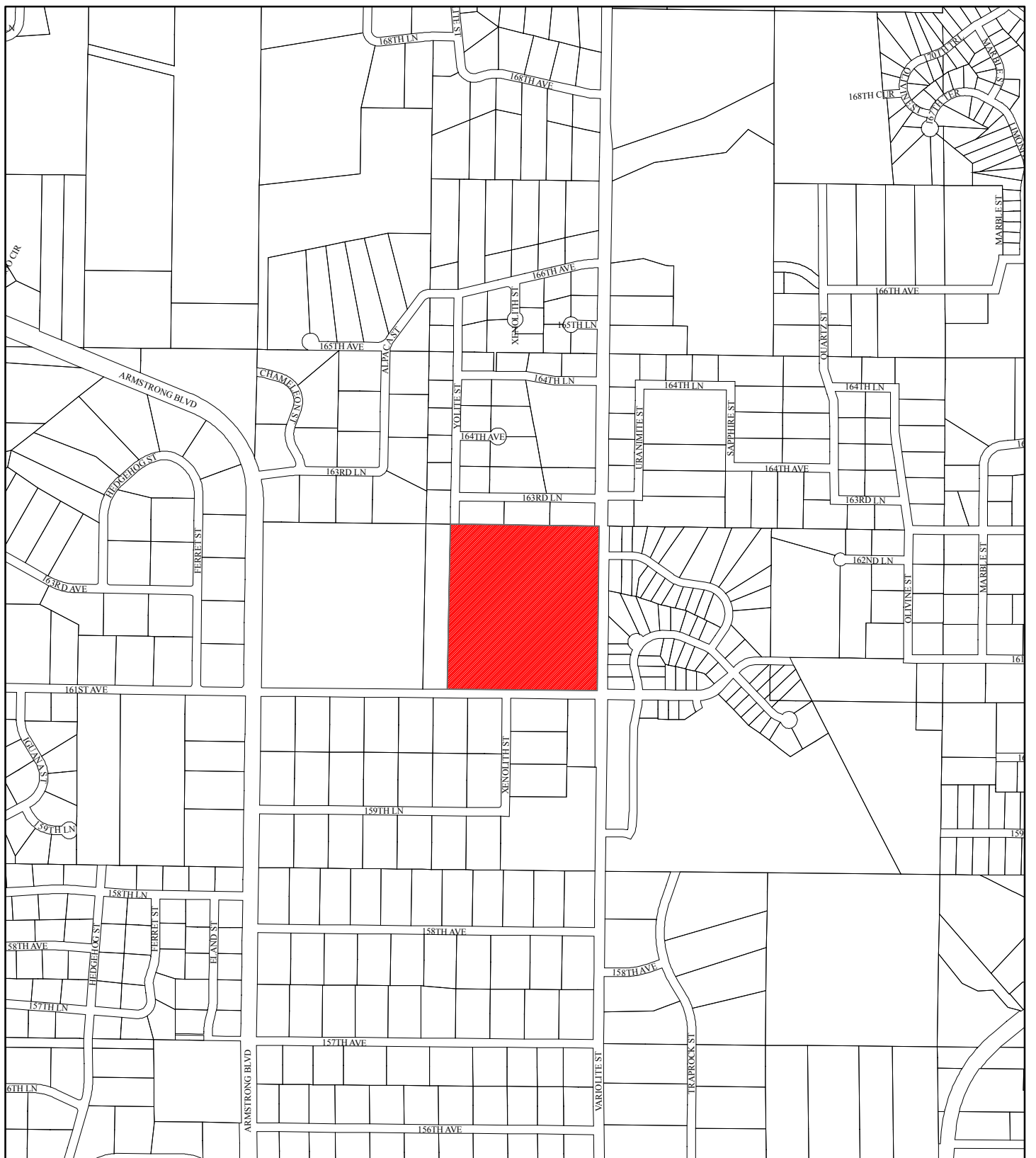
Resolution #15-06-142: DRAFT Findings of Fact

Resolution #15-06-143: DRAFT Conditional Use Permit

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**Form Review**

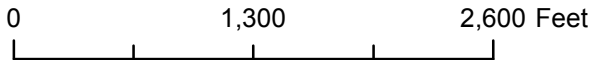
<b>Inbox</b>	<b>Reviewed By</b>	<b>Date</b>
Chris Anderson	Chris Anderson	05/29/2015 03:03 PM
Tim Gladhill	Tim Gladhill	05/29/2015 03:13 PM
Form Started By: Geoff Solomonson		Started On: 05/29/2015 09:27 AM
Final Approval Date: 05/29/2015		



Church of St. Katharine Drexel  
16-32-25-24-0002

**Legend**

- Site
- Parcels





## **RESOLUTION #15-06-142**

### **A RESOLUTION ADOPTING FINDINGS OF FACT #0946 RELATING TO A REQUEST FROM THE CHURCH OF ST. KATHARINE DREXEL FOR A CONDITIONAL USE PERMIT TO EXCEED SIGN SIZE RESTRICTIONS**

**WHEREAS**, the City of Ramsey received an application from the Church of St. Katharine Drexel for a conditional use permit to exceed the sign size restrictions on the property generally located north of 161<sup>st</sup> Avenue NW and west of Variolite Street NW and legally described as follows:

The Southeast Quarter of the Northwest Quarter of Section 16, Township 32, Range 25, except road subject to easement of record, Anoka County, Minnesota

(“Subject Property”)

**NOW THEREFORE, BE IT RESOLVED BY THIS CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:**

1. That the Church of St. Katharine Drexel, hereinafter referred to as “Applicant,” properly applied for a conditional use permit (the “Permit”) to exceed the allotted square footage for a sign in the R-1 Residential zoning district.
2. That the Applicant appeared before the Ramsey Planning Commission for a public hearing pursuant to Section 117-51 (Conditional Use Permits) of the City Code on June 4, 2015, and that said public hearing was properly advertised, and that the minutes of said public hearing are hereby incorporated as a part of these findings by reference.
3. That the Subject Property is approximately 33.18 acres in size.
4. That the Subject Property is zoned R-1 Residential (MUSA) with the anticipated land use being a religious institution.
5. That the parcels to the north and south of the Subject Property are zoned R-1 Residential (Rural Developing), the parcel to the west is zoned Public/Quasi-Public, and the parcels to the east of the Subject Property are zoned R-1 Residential (MUSA).
6. That the lot has frontage along two (2) public streets, 161<sup>st</sup> Avenue NW and Variolite Street NW.
7. That Section 117-466 (Other temporary signs) of the Ramsey City Code states that one temporary real estate sign constructed of durable materials located on the premises is permitted per street frontage and shall not exceed thirty-two (32) square feet in size.
8. That the Applicant is proposing to erect one (1) real estate sign. The sign would be located at the southwest corner of the property near the intersection of 161<sup>st</sup> Avenue NW and Variolite Street NW.
9. That the sign will be six (6) feet by nine (9) feet for a total of fifty four (54) square feet.

10. That the real estate sign will not be illuminated.
11. That the real estate sign would be removed once the anticipated use (religious institution) were constructed.
12. That a conditional use permit to exceed sign size restrictions will/will not grant the Applicant special privileges that are denied by the City Code to other properties in the residential area.
13. That the proposed increase in sign square footage will/will not be designed so as to be harmonious and appropriate in appearance with the existing or intended character of the vicinity and will/will not change the essential character of the area.
14. That the proposed increase in sign square footage will/will not adversely impact traffic in the area.
15. That the proposed increase in sign square footage will/will not be unduly dangerous or otherwise detrimental to persons residing or working in the vicinity of the use or to the public welfare.
16. That the proposed increase in sign square footage will/will not substantially impair the use, enjoyment, or market value of surrounding properties.
17. That the proposed increase in sign square footage will/will not be hazardous or disturbing to existing or future neighboring uses.
18. That the proposed increase in sign square footage will/will not create excessive additional requirements at public cost for public facilities and services, and it will/will not be detrimental to the economic welfare of the community.
19. That the proposed increase in sign square footage will/will not involve activities and uses that will be detrimental to any persons, property, or the general welfare by reason of excessive production of glare.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember \_\_\_\_\_, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 23rd day of June, 2015.

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Mayor

**ATTEST:**

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City Clerk

Councilmember \_\_\_\_\_ introduced the following resolution and moved for its adoption:

**RESOLUTION #15-06-143**

**A RESOLUTION APPROVING THE ISSUANCE OF A CONDITIONAL USE PERMIT BASED ON FINDINGS OF FACT #0946 AND DECLARING TERMS OF PERMIT TO EXCEED SIGN REGULATIONS ESTABLISHED IN CITY CODE.**

**WHEREAS**, the Church of St. Katharine Drexel properly applied for a conditional use permit to exceed sign size restrictions as established in City Code on the property generally located north of 161<sup>st</sup> Avenue NW and west of Variolite Street NW and legally described as follows:

The Southeast Quarter of the Northwest Quarter of Section 16, Township 32, Range 25, except road subject to easement of record, Anoka County, Minnesota

(“Subject Property”)

**WHEREAS**, the Planning Commission met on June 4, 2015, conducted a public hearing, and recommended City Council approve/deny the request.

**NOW THEREFORE, BE IT RESOLVED BY THIS CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:**

1. Based on Findings of Fact #0946, a conditional use permit (“Permit”) to exceed allotted square footage is hereby granted to the Church of St. Katharine Drexel (“Permittee”).
2. The **Permittee** is herein granted permission to erect one (1) real estate sign (the “Sign”) on the **Subject Property**.
3. The **Sign** erected on the **Subject Property** shall not exceed fifty-four (54) square feet in size.
4. The installation of the **Sign** on the **Subject Property** does not require a Sign Permit from the City of Ramsey (the “City”).
5. The **Permittee** shall not install the **Sign** within the vision clearance triangle as defined in Section 117-348 (g) of Ramsey City nor within any easement on the **Subject Property**.
6. The sign shall be properly constructed and maintained in accordance with Division 8 (Signs) of the Ramsey City Code.
7. The **Permittee** shall remove the **Sign** once the anticipated use (religious institution) is constructed.
8. The **Permittee** shall be responsible for all **City** costs incurred in administering and enforcing this **Permit**.

9. The City Administrator, or his/her designee, shall have the right to inspect the **Subject Property** for compliance and safety purposes annually or at any time, upon reasonable request.
10. Should any provision of this **Permit** be declared void or unenforceable, the other provisions shall not be affected but shall remain in full force and effect.
11. This **Permit** shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the **City** and the **Permittee**.
12. That if the **Permittee** or its successors or assigns violates any material term or condition of this **Permit** it is grounds for suspension or revocation hereof consistent with applicable law, if the City Council reasonably determines that continued operation of the facility places the public health, safety or welfare or the environment in jeopardy or creates a public nuisance due to odors, litter, debris or other nuisance factors.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember \_\_\_\_\_, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 23<sup>rd</sup> day of June, 2015.

The Church of St. Katharine Drexel hereby acknowledges receipt of this permit and has reviewed the conditions of this permit and has agreed to comply with the terms of this permit.

**The Church of St. Katharine Drexel**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me a Notary Public, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of the Church of St. Katharine Drexel, a Minnesota non-profit organization, on behalf of this corporation.

\_\_\_\_\_  
Notary Public

**CITY OF RAMSEY:**

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
City Clerk

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF ANOKA )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me a Notary Public personally appeared Sarah Strommen and JoAnn M Thieling, to me personally known, who, being each by me duly sworn, did say that they are respectively the Mayor and City Clerk of the City of Ramsey, the Municipal Corporation named in the foregoing instrument, and seal affixed to said instrument is the corporate seal of said Municipal corporation, and the said instrument was signed and sealed on behalf of said Municipal Corporation by authority of its City Council, and said Sarah Strommen and JoAnn M Thieling acknowledge said instrument to be the free act and deed of said Municipal Corporation.

\_\_\_\_\_  
Notary Public

This document drafted by:  
City of Ramsey  
7550 Sunwood Drive NW  
Ramsey, MN 55303

This document reviewed by:  
Ratwik, Roszak & Maloney, P.A.  
730 Second Ave. S., Suite 300  
Minneapolis, MN 55402

**Meeting Date:** 06/04/2015

**By:** Tim Gladhill, Community Development

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**Information**

**Title:**

Discuss Concept of High Density Residential on Outlot A, Rivenwick Village; Case of Northridge Construction, Inc.

**Purpose/Background:**

The purpose of this case is to provide initial feedback to a potential buyer of Outlot A, Rivenwick Village on the potential for the site to be developed as High Density Residential. This is not an official application but would require a Zoning Amendment and potentially a Comprehensive Plan Amendment. The intent is to receive public comment and provide early feedback before the potential Buyer completes a real estate transaction or develops detailed plans.

The site is approximately 9.34 acres in size, is guided for Mixed-Use Planned Unit Development (MU-PUD) in the Comprehensive Plan and located within the Mixed-Use Planned Unit Development (MU-PUD) District. The intent of this district is to provide a mix of uses within a defined geographic area without defining actual land use or zoning district boundaries. In this instance for Rivenwick Village, the MU-PUD specified a mix of residential and commercial-retail. The MU-PUD approval goes on further to specify a maximum number of residential units that can be constructed within the development area, which has already been reached. The remaining portion, per the previous PUD approval, is planned to be commercial-retail.

The request would require a Comprehensive Plan Amendment and Zoning Amendment. Based on 9.34 acres with a City Code specified range of seven (7) to fifteen (15) units per acre, the estimated number of units would range from 65 to 140.

**Notification:**

While this is not an official application at this stage and notification is not required, Staff attempted to notify all Property Owners of the Rivenwick Village subdivision north of Riverdale Drive of the workshop that was scheduled to be held on June 4.

**Observations/Alternatives:**

This topic is for discussion only, similar to a Sketch Plan Review process. Feedback from this discussion is intended to aide the potential Buyer in their analysis moving forward. Any official request would require the City's standard review process and notification. This is an opportunity to engage the public in the decision-making process before an application is submitted. Plans have not yet been developed; this stage of the discussion is focused on the Comprehensive Plan and whether the proposed use is compatible with the City's system plans and surrounding area.

**Funding Source:**

This case is being handled as part of normal Staff duties.

**Recommendation:**

Based on discussion.

**Action:**

No action is being requested.

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## Attachments

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### Site Location Map

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### Form Review

**Inbox**

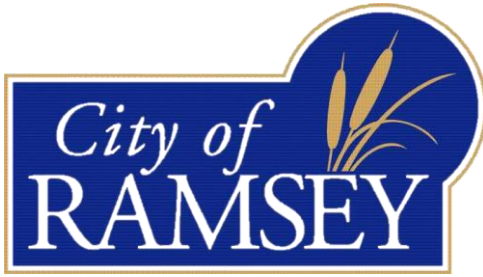
Chris Anderson  
Tim Gladhill (Originator)  
Form Started By: Tim Gladhill  
Final Approval Date: 05/29/2015

**Reviewed By**

Chris Anderson  
Tim Gladhill

**Date**

05/29/2015 02:00 PM  
05/29/2015 02:33 PM  
Started On: 05/29/2015 11:33 AM



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7550 Sunwood Drive NW • Ramsey, MN 55303  
City Hall: 763-427-1410 • Fax: 763-427-5543  
[www.cityoframsey.com](http://www.cityoframsey.com)

**Under what circumstances, if any, would you support an apartment development on the vacant parcel west of Rivenwick, south of Highway 10, and north of Riverdale Drive?**

The City of Ramsey has been approached by Northridge Construction, Inc., a potential buyer of the vacant parcel west of Rivenwick on the south side of Highway 10, regarding the feasibility of developing the site as an apartment development. A site location map is enclosed with this invitation.

There are no site concepts developed at this time. The City asked that the potential buyer meet with the neighborhood and Planning Commission before the City would officially review the request to ensure your feedback was incorporated early in the review process. This is a less formal, more proactive way to include you in our review process before a request gets to a Public Hearing. The potential buyer is exploring the possibility of requesting certain zoning amendments to allow the site to be developed as an apartment complex. An official review process, with site plans, would follow this step if the Buyer decides to move forward based on feedback from the neighborhood and the City.

The City invites you to a workshop to assist the City in its review of the concept and aide the potential Buyer in its design and decision-making process.

*Thursday, June 4 at 5:30 p.m. to 7:00 p.m.  
Ramsey Municipal Center, Council Chambers  
7550 Sunwood Drive NW, Ramsey, MN 55303*

Please consider joining us to be part of the discussion and solution. You may also submit comments to [tgladhill@cityoframsey.com](mailto:tgladhill@cityoframsey.com) or by calling 763-433-9826. Even if you are unable to attend the workshop, the City welcomes your comments and ideas as we continue through this process. City Staff is available to meet and discuss via phone, email, or in person, so please take a moment to share your ideas. Additional information will be available online at [www.cityoframsey.com/DevelopmentUpdate](http://www.cityoframsey.com/DevelopmentUpdate).

Sincerely,

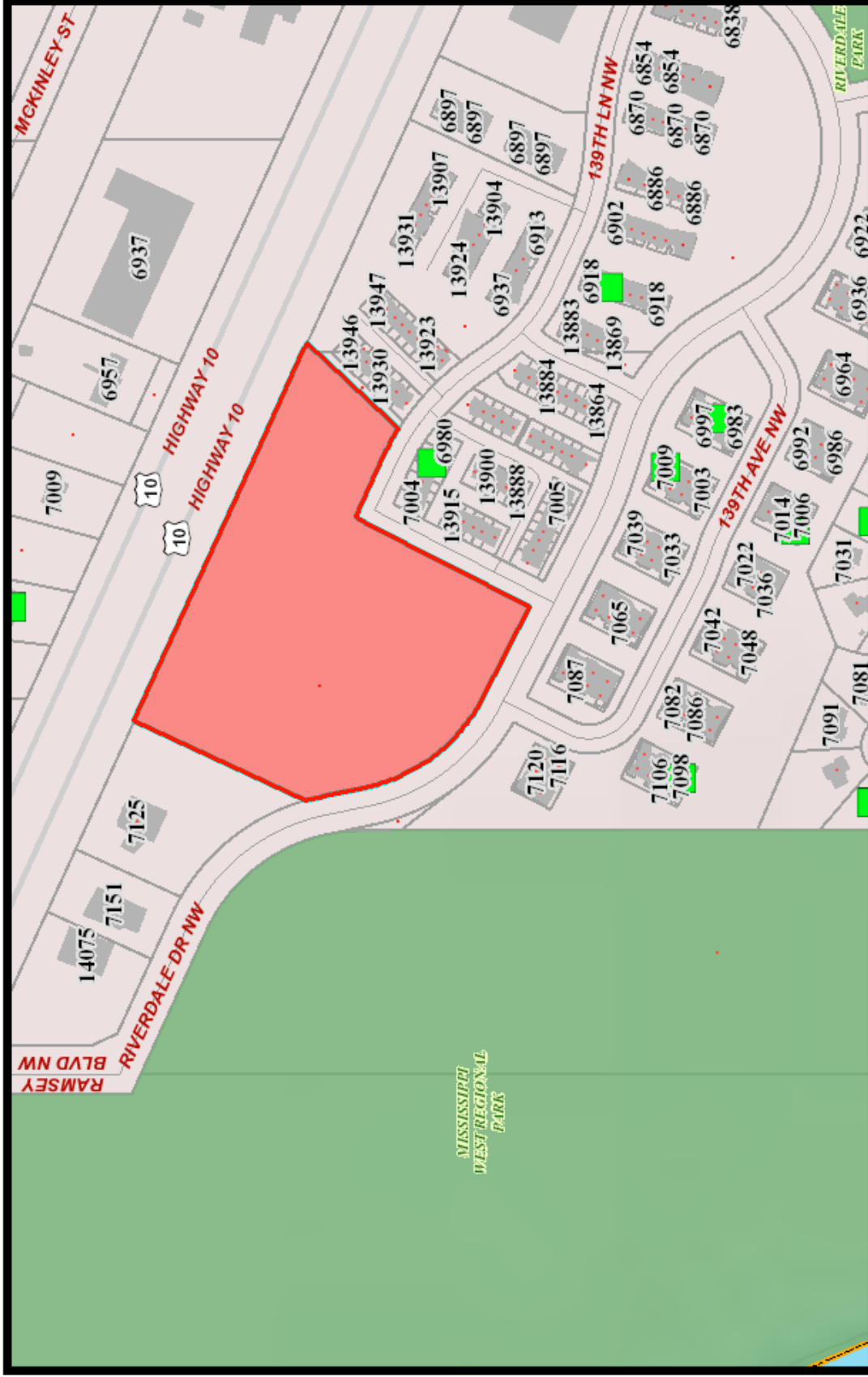
CITY OF RAMSEY

Tim Gladhill  
Community Development Director

34-32-25-22-0045

# Northridge Construction

Request for High Density Residential



Print Date: May 22, 2015

**Regular Planning Commission****5. 3.****Meeting Date:** 06/04/2015**By:** Chris Anderson, Community  
Development

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**Information****Title:**

Review Self-Storage and Retail Concept Plan for NE Quadrant of Ramsey Boulevard and Bunker Lake Boulevard; Case of N.I.K. Management, Inc.

**Purpose/Background:**

The purpose of this case is to review an updated concept plan provided by N.I.K. Management for the NE intersection of Ramsey Boulevard and Bunker Lake Boulevard. As the Planning Commission may recall, a similar concept had been discussed at the January meeting; however, at that time, the concept focused entirely on indoor self-storage. The potential buyer of this property has revised their concept plan to include a mix of indoor self-storage units and convenience retail.

As a reminder, in 2004 and 2007, the City did review a similar request on this site (materials attached for background information). In January of this year, the Planning Commission's direction to Staff was to carry forward the assumptions from this previous review. Staff wanted to provide the Planning Commission an opportunity to review the revised concept plan and provide any additional feedback to the interested party.

The City did host a workshop prior to the meeting this evening to gather public input/feedback on concept plan. Staff will provide an update to the Planning Commission this evening of comments/feedback received at the workshop.

**Notification:**

Notification is not required for this discussion topic. No action is being requested.

**Observations/Alternatives:**

The attached documents, supplied by the potential Buyer, are of a separate project, and are for reference purposes only, with the exception of the Concept Plan.

**Key Discussion Points:**

- Access to County Road(s)
- Completion of cul-de-sac for 148th Avenue from existing, adjacent residential development
- Architectural standards
- Access and internal circulation for public safety

A portion of the site is guided as Business Park in the Comprehensive Plan and located in the E-1 Employment District, which would allow for the proposed indoor self-storage use. A portion of the site (southwest corner) is guided as Commercial in the Comprehensive Plan and located in the B-1 General Business District, which would allow for the proposed convenience retail. However, based on the boundaries of those two districts, as shown on both on the Zoning Map and the Future Land Use Map, a Comprehensive Plan Amendment and Zoning Amendment shall be required to adjust the boundaries of these two districts for the proposed use.

As background, it is noted that the previous approval for indoor self storage on this site (which was ultimately not constructed) in 2004 was amended in 2007 to expand the area allowed for indoor self-storage.

**Funding Source:**

Preparation of this discussion topic are being handled as part of normal Staff duties.

**Recommendation:**

This topic is for discussion only. There is no official Staff recommendation at this time.

**Action:**

This topic is for discussion only. No action is being requested.

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**Attachments**

[Site Location Map](#)

[Concept Only: 3D Rendering](#)

[Concept Only: Updated Site Plan](#)

[Previous Application from CNP/TSM \(2004 & 2007\)](#)

[Public Invitation to Attend Workshop](#)

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**Form Review**

**Inbox**

Tim Gladhill  
Chris Anderson (Originator)  
Tim Gladhill  
Form Started By: Chris Anderson  
Final Approval Date: 05/29/2015

**Reviewed By**

Chris Anderson  
Chris Anderson  
Tim Gladhill

**Date**

05/28/2015 10:49 AM  
05/28/2015 10:50 AM  
05/29/2015 11:27 AM  
Started On: 05/28/2015 09:01 AM

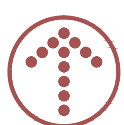
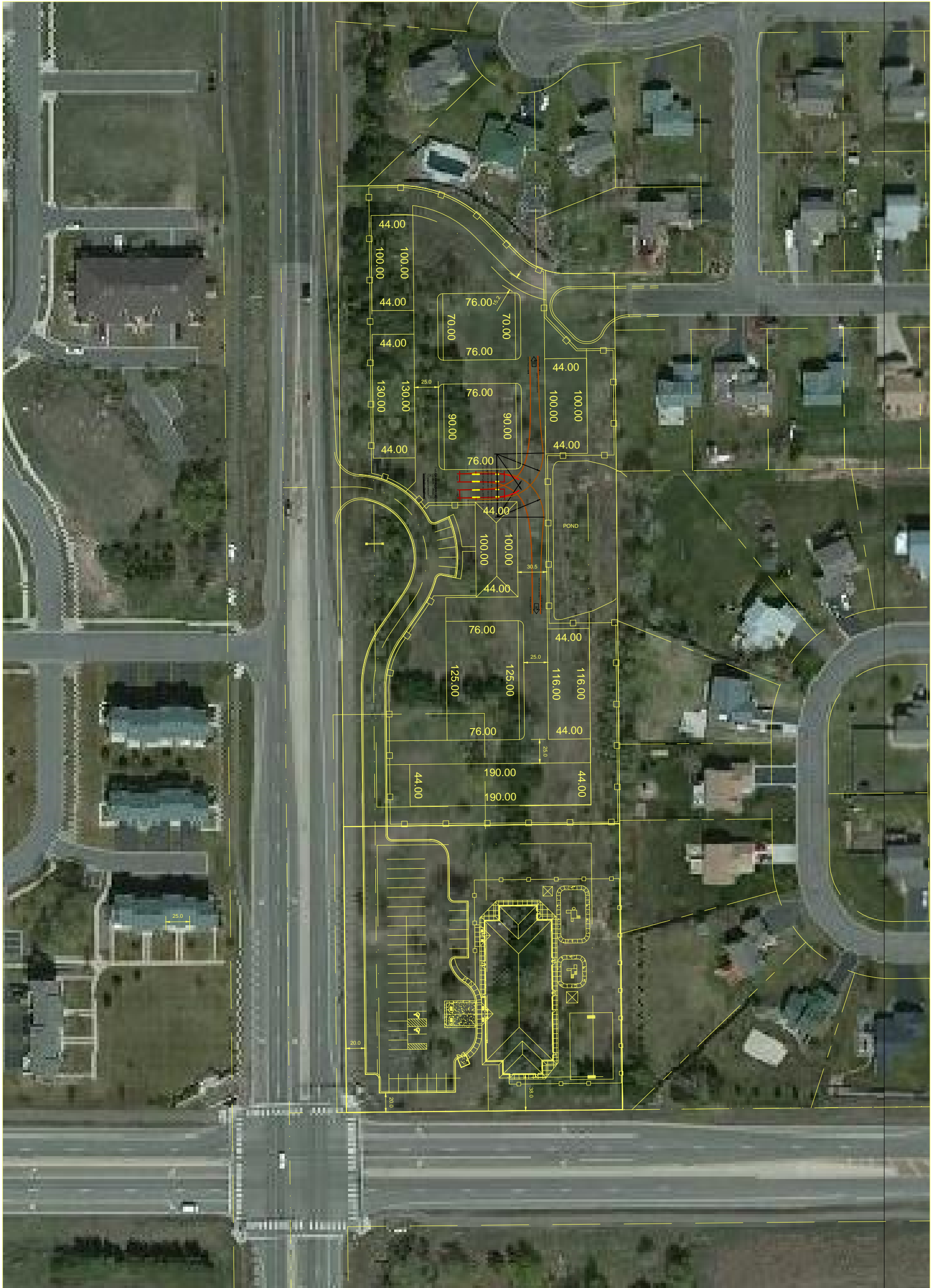




Corcoran Mini Storage  
Corcoran, MN  
June 5, 2013

# CONCEPT PLAN

FOR: Neal Krzyzaniak



NORTH



105 South Fifth Avenue  
Suite 513  
Minneapolis, MN 55401  
Web: [landform.net](http://landform.net)

Job No. 152004

Drawing: 152004-Concept4

By: gbh

**REQUEST FOR SITE PLAN REVIEW OF CNP STORAGE;  
CASE OF TSM DEVELOPMENT, INC  
By: Amy Geisler, AICP, Associate Planner**

**Background:**

TSM Development previously received site plan approval to develop a self-storage facility at the corner of Ramsey Blvd and Bunker Lake Blvd. Since that time, plan approvals have expired. TSM has also acquired the two residential parcels directly on the corner of the site, and now wishes to revise their development proposal. The City Council tabled the site plan at the October 9, 2007 based on the need for revised building elevations.

**The following items are enclosed for your information:**

- a) Site location map
- b) Site plan
- c) Landscaping plan
- d) Tree preservation plan
- e) Grading plan
- f) Building elevations
- g) Draft City Council meeting minutes dated October 9, 2007
- h) City Staff review letter dated July 26, 2007, revised October 4, 2007
- i) Development permit

**Notification:**

Notification of the public hearings associated with the variance, rezoning, and preliminary plat request was sent to property owners within 700 feet of the subject property.

**Funding Source:**

All staff costs associated with the review of land use applications are paid for by the applicant.

**Observations:**

TSM is proposing to construct 3 self-storage buildings on Lot 1, Block 1 Regency Pond 4<sup>th</sup> Addition. The proposed development is located in the E-1 Employment District; self-storage facilities are a permitted use in this district.

The proposed storage buildings meet all front, rear, and side yard setbacks required in the E-1 District. Lot coverage has been calculated at 31%, which is under the 45% maximum lot coverage restriction established in City Code. Because this property is adjacent to a residential district, a 60-foot bufferyard is required along the northern and eastern property lines. On August

2, 2007 the Board of Adjustment granted a variance to the bufferyard requirement to allow a 30-foot bufferyard on the northern property line. The landscaping plan is acceptable, though staff has suggested a few alternate species.

The previously approved site plan for this project included an 8-foot cedar privacy fence along the eastern and northern property lines, and an 8-foot wrought iron decorative fence on Ramsey Blvd. The current site plan shows a security fence around the storage buildings; staff is recommending that that previously approved fencing be incorporated into this plan.

One access to the site is proposed on Ramsey Blvd, and one is proposed on Bunker Lake Blvd; both accesses are acceptable to Anoka County. A trail is currently constructed on Ramsey Blvd; a trail along Bunker Lake Blvd will also be constructed per the approvals for the overall plat.

The grading and drainage plans are generally acceptable. Site drainage will be accommodated by expanding the existing stormwater pond in the northeastern portion of the property. No lighting is indicated on the site plan; lighting fixtures will need to be reviewed prior to issuing a building permit for the site.

The City Council reviewed the site plan at the October 9, 2007 meeting and had significant discussion about the building elevations. The submitted building elevations indicate that the buildings will consist of rock-face block with vinyl shakes. Vinyl is not typically permitted in the E-1 District, though it may be allowed if approved by the City Council. The Council tabled the site plan and directed the applicant to prepare revised building elevations, to include more articulation in the roofline and building façade of the storage building closest to Ramsey Blvd, and to indicate the height of landscaping at maturity.

The applicant has submitted a color elevation, which includes some additional information on color and building detail. Some small peaks have been added to the roofline. The revised elevations do not give a sense of how the building will appear from Ramsey Blvd with mature landscaping. Staff would suggest Councilmembers take a look at the new storage buildings on the south side of Bunker Lake Blvd, just east of Unity Street. Staff expects the TSM buildings to have a similar appearance from the road (in terms of landscaping). Staff would also add that the landscaping plan shows a large amount of new plantings to be clustered around the Ramsey Blvd entrance, but overall the plantings will thin out (and the building become more visible) moving north from the entrance.

**Recommendation:**

The proposed mini-storage buildings will present a very long façade on Ramsey Blvd. Staff would recommend the City Council consider whether additional improvements to the building elevations themselves are needed. Rather than adding additional landscaping to the mini-storage site, though, Staff would suggest that more attention be paid to the actual corner of Bunker Lake Blvd and Ramsey Blvd when the commercial lots to the south develop.

The Planning Commission reviewed the site plan at their August 2, 2007 meeting and recommended approval.

**Council Action:**

Motion to grant approval of the site plan for CNP Storage contingent upon the following:

1. Compliance with City Staff Review Letter dated July 26, 2007, revised October 4, 2007
2. Addition of cedar fence along the north and east, and wrought-iron fence along Ramsey Blvd
3. Staff approval of on-site lighting
4. Additional changes to the building elevations and/or landscaping plan, if desired

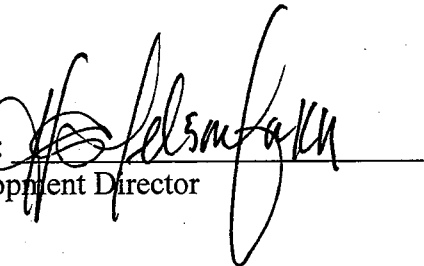
-or-

Motion to deny the site plan.

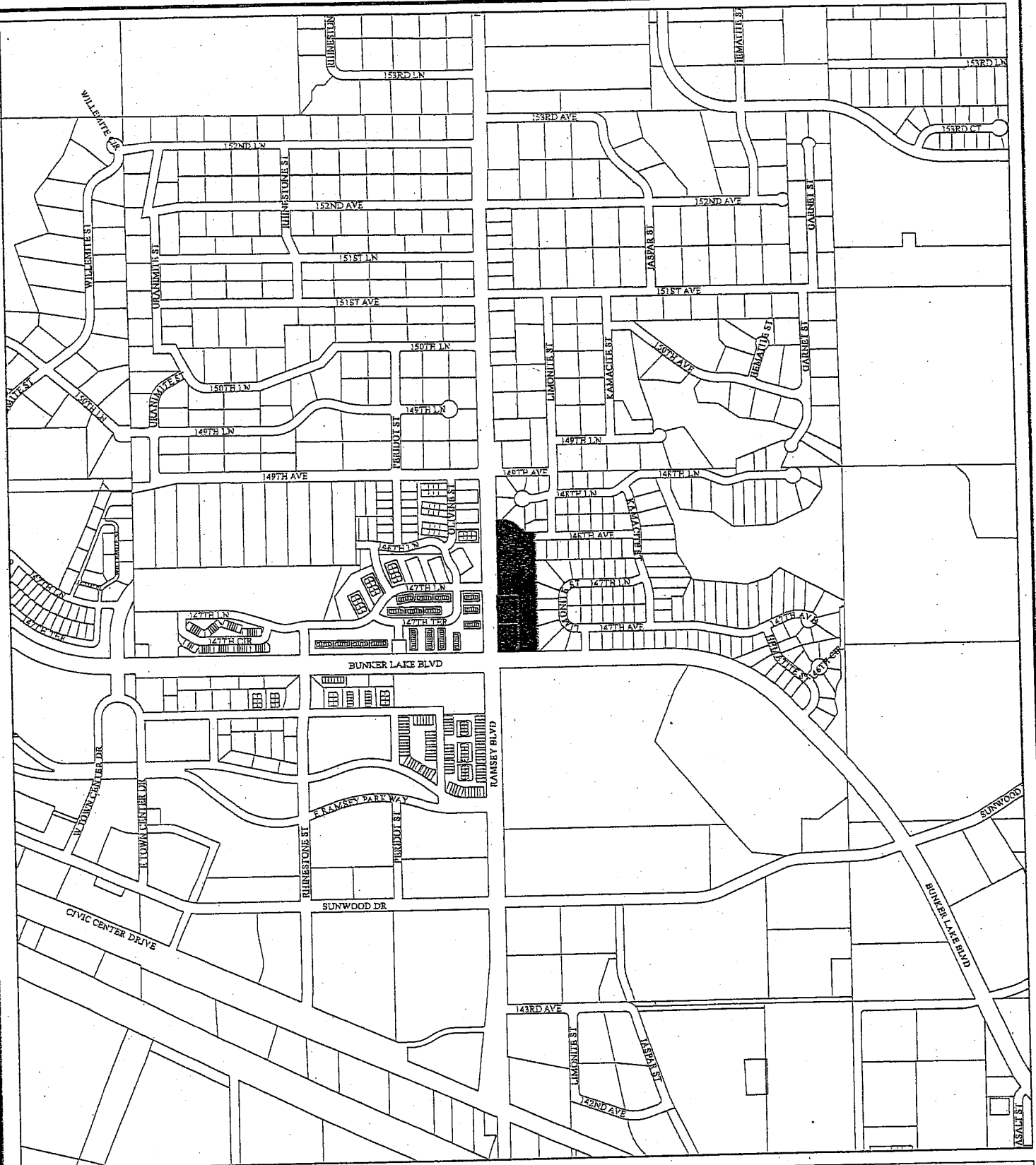
**Review Checklist:**

City Administrator:

Community Development Director



A handwritten signature in black ink, appearing to read "H. F. Johnson", is written over a horizontal line. The signature is cursive and extends above and below the line.

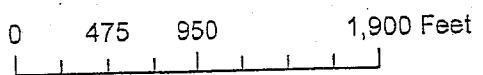
**CC: 10.23.07**



CNP/TSM Development


Legend

-  Site
-  Parcels



**James R. Hill, Inc.**  
 PLANNERS / ENGINEERS / SURVEYORS

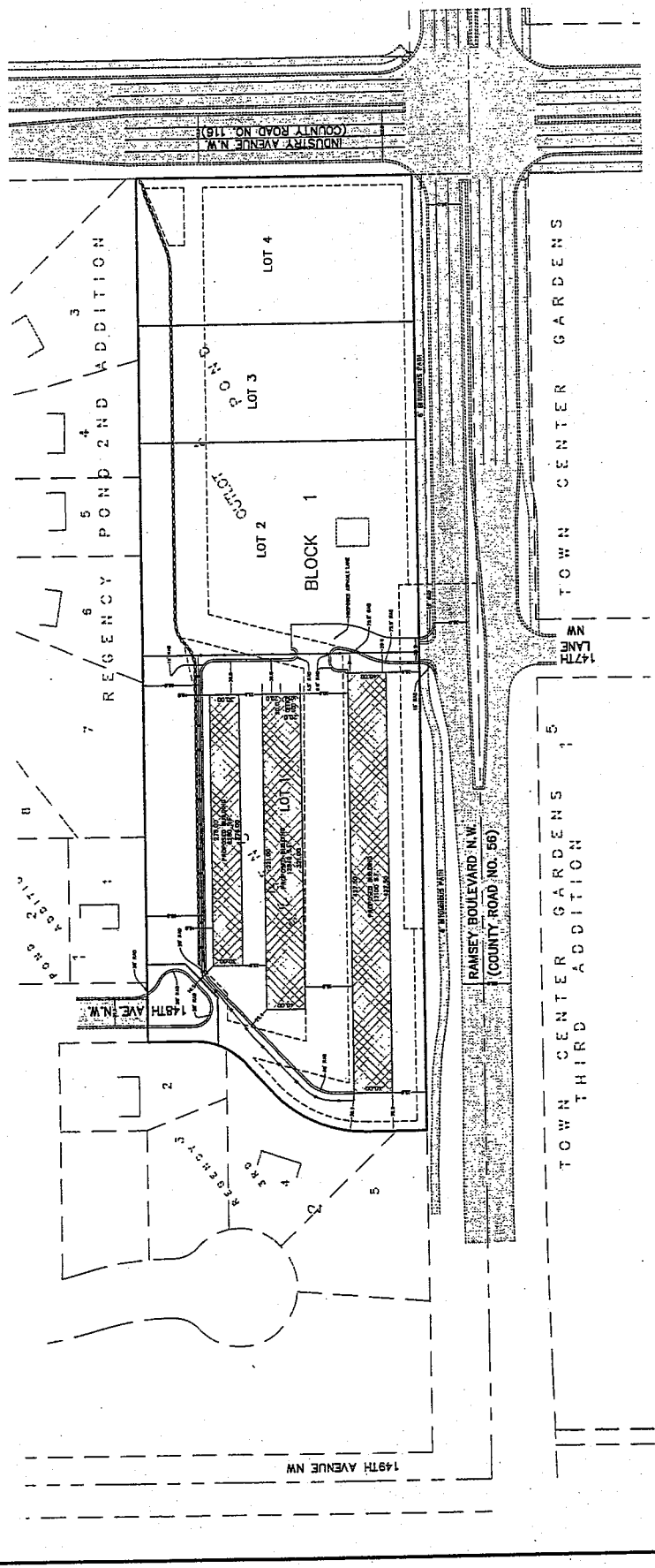
Branch Office: 520 N. 1st St., Suite 100, Raleigh, NC 27601  
 Phone: (919) 833-1111  
 Fax: (919) 833-1112  
 Main Office: 1000 S. Salisbury St., Raleigh, NC 27605  
 Phone: (919) 833-1111  
 Fax: (919) 833-1112



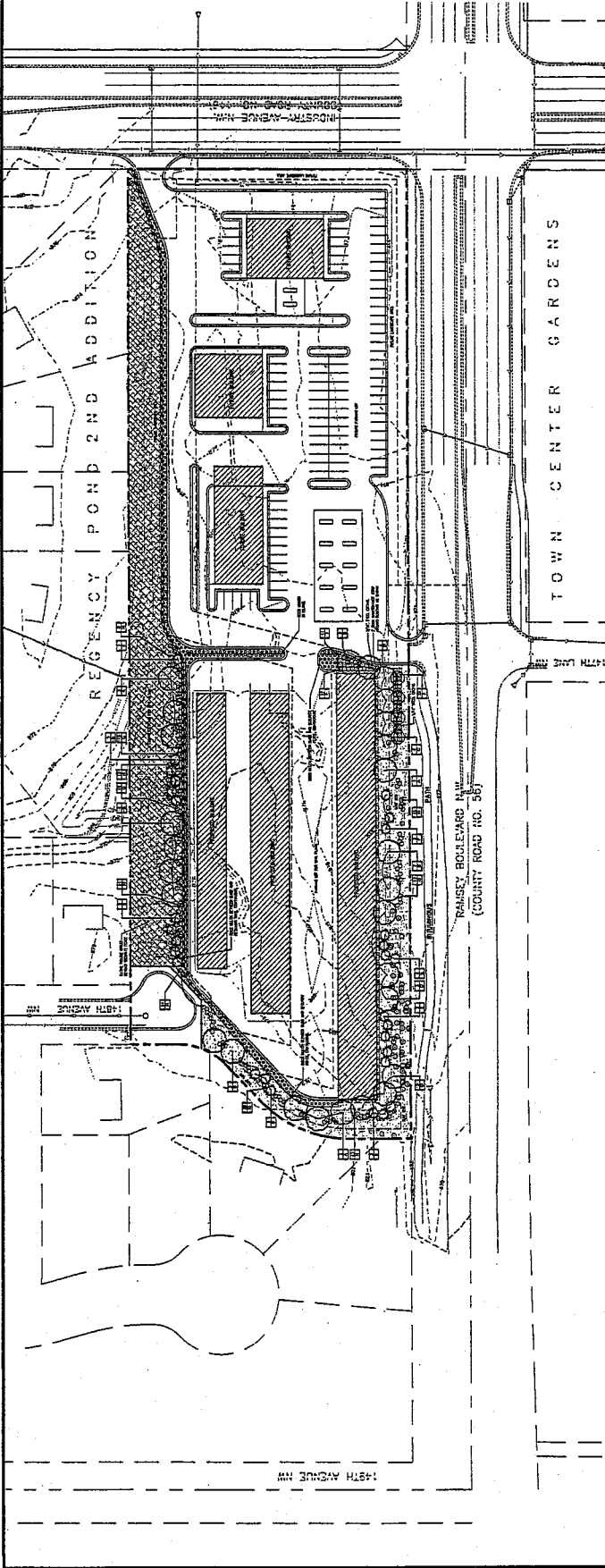
DATE: 8/7/07  
 DRAWN BY: SPH  
 CHECKED BY: SPH

**REGENCY POND 4TH ADDITION**  
 TSM DEVELOPMENT, INC.  
 FOR  
 MINI STORAGE SITE PLAN  
 RAMSEY, NORTH CAROLINA  
 222 HUNTER STREET, ANOKA, MN 55303, (763) 578-9121

DRAWN BY	SPH
DATE	8/8/07
REVISIONS	
CAD FILE	207A152
PROJECT NO.	207B1
	6.2



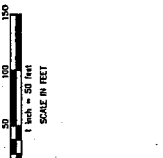
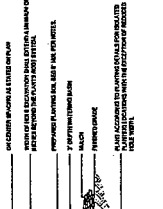
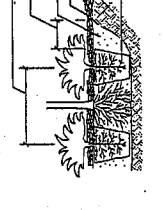
**NOTES**  
 1. ALL STREET DIMENSIONS ARE TO THE BACK OF CURB UNLESS OTHERWISE NOTED.  
 2. ALL CURB FROM 3" UNLESS OTHERWISE NOTED.



PRELIMINARY LANDSCAPE LAYOUT PLAN

PLANTING DETAILS:

- Notes:**
1. See notes on site plan for grading & erosion control.
  2. All plant material shall be grown in the office of the architect or the contractor's office. All plants shall be delivered to the site in the specified date and quantity. Plants shall be delivered to the site in the specified date and quantity. Plants shall be delivered to the site in the specified date and quantity.
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**Planting Palette:**

Tree	Shrub	Plant	Notes
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**PLANTING LEGEND:**

- Deciduous Ornamental Tree
- Coniferous Tree
- Evergreen Plantings
- Emergent Shrubs
- Deciduous Shrubs
- Deciduous Ornamental (Block-out) Tree
- Turf Soil Area
- On-site High Rock, 1" dia.
- Proposed Plant Quantity
- Required Plant Type
- Edge Use

**DECIDUOUS TREE PLANTING - SECTION 1**

**CONIFEROUS TREE PLANTING SECTION 2**

**DECIDUOUS TREE PLANTING - SECTION 3**

**REVISIONS:**

NO.	DATE	DESCRIPTION
1	9/29/07	ISSUED FOR PERMIT

**DRAWN BY:** AGC

**DATE:** 9/29/07

**PROJECT NO.:** 20781A

**SCALE:** 1" = 50' HORIZONTAL, 1" = 10' VERTICAL

**TSM DEVELOPMENT, INC.**  
FOR  
**PRELIMINARY LANDSCAPE PLAN**  
RAMSEY, MINNESOTA

**JAMES R. HILL, INC.**  
PLANNERS / ENGINEERS / SURVEYORS  
2025 N. CH. ST. SUITE 200, MINNEAPOLIS, MN 55412  
PHONE: 612-338-1111 FAX: 612-338-1112

**James R. Hill, Inc.**  
 PLANNERS / ENGINEERS / SURVEYORS  
 1225 NORTH LAKE DRIVE, SUITE 200  
 MINNEAPOLIS, MN 55412  
 PHONE: (612) 338-1111  
 FAX: (612) 338-1112

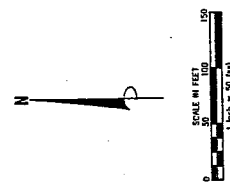
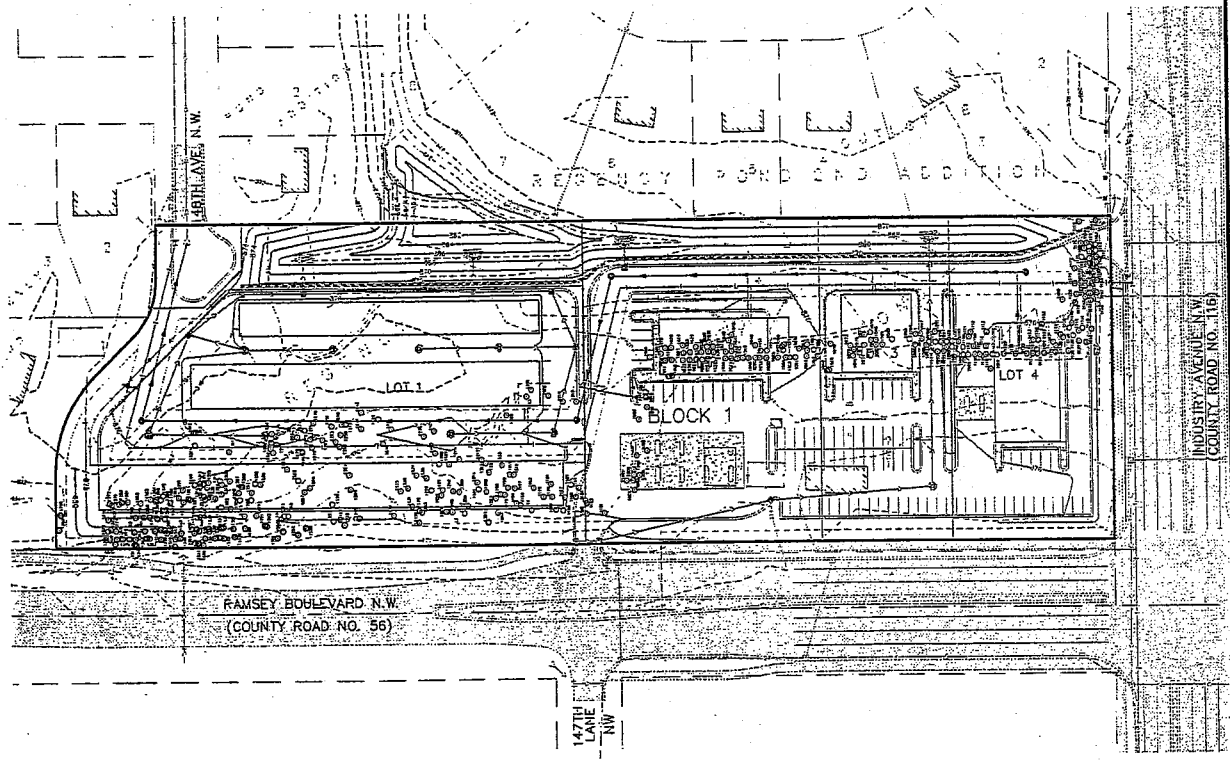
**TSM DEVELOPMENT, INC.**  
 222 HORTON STREET, ANOKA, MN 55203 (763) 578-9121

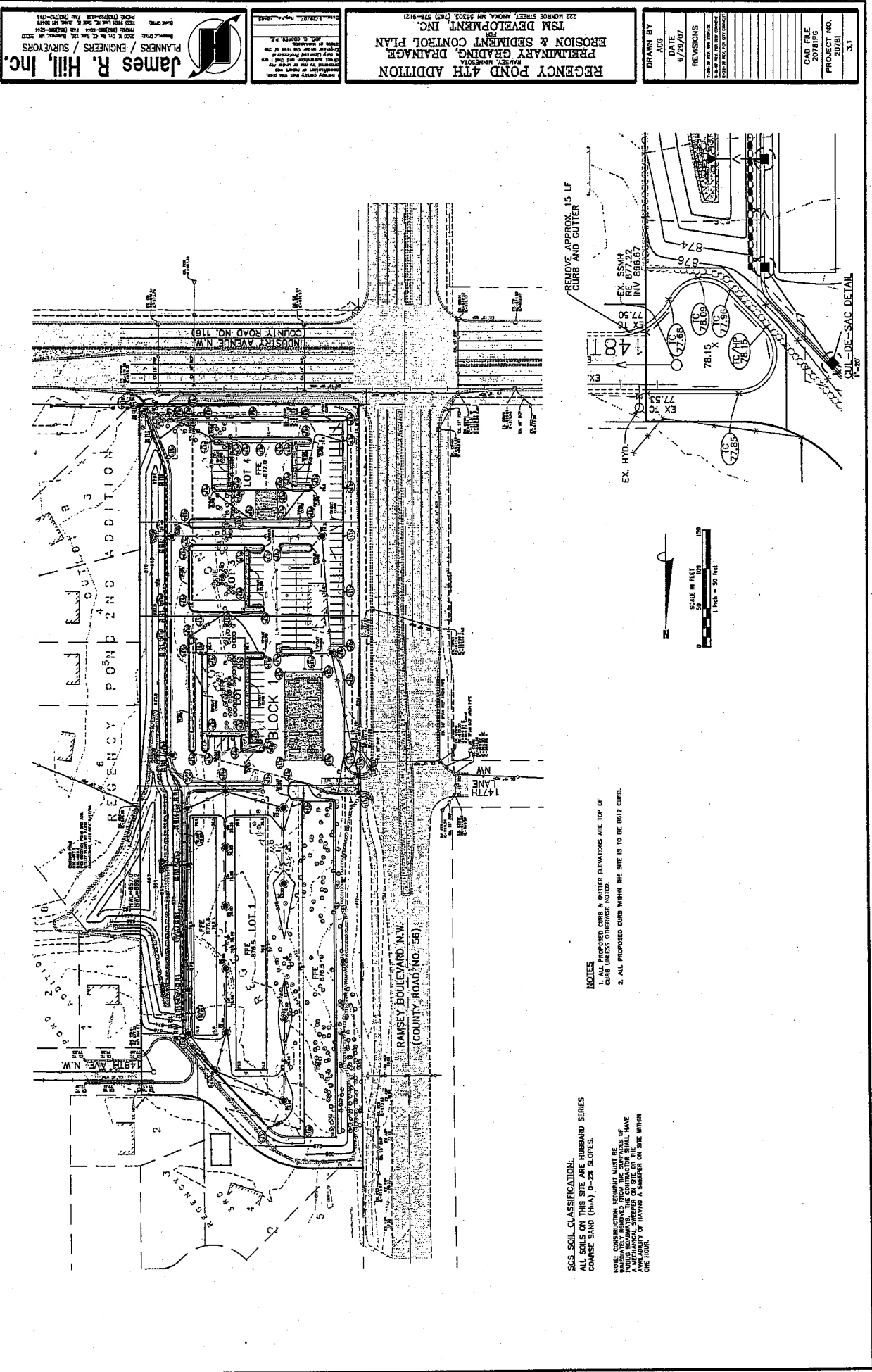
**REGENCY POND 4TH ADDITION**  
 TREE PRESERVATION PLAN  
 RAMSEY, MINNESOTA

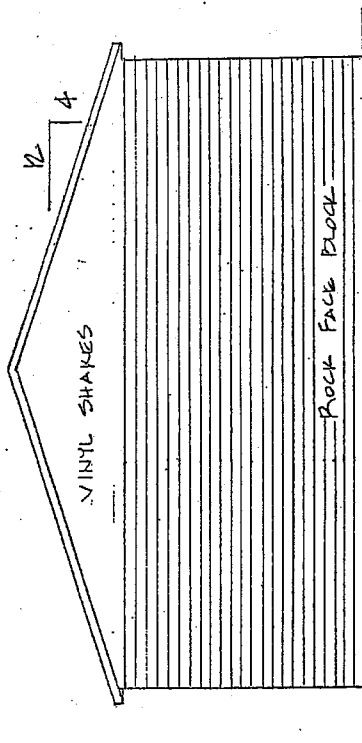
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					7.1

TREE INVENTORY

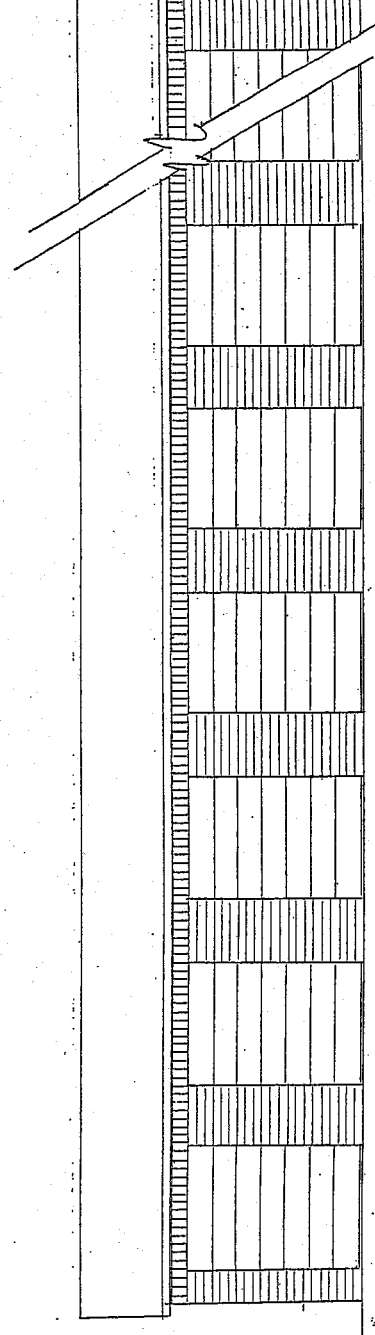
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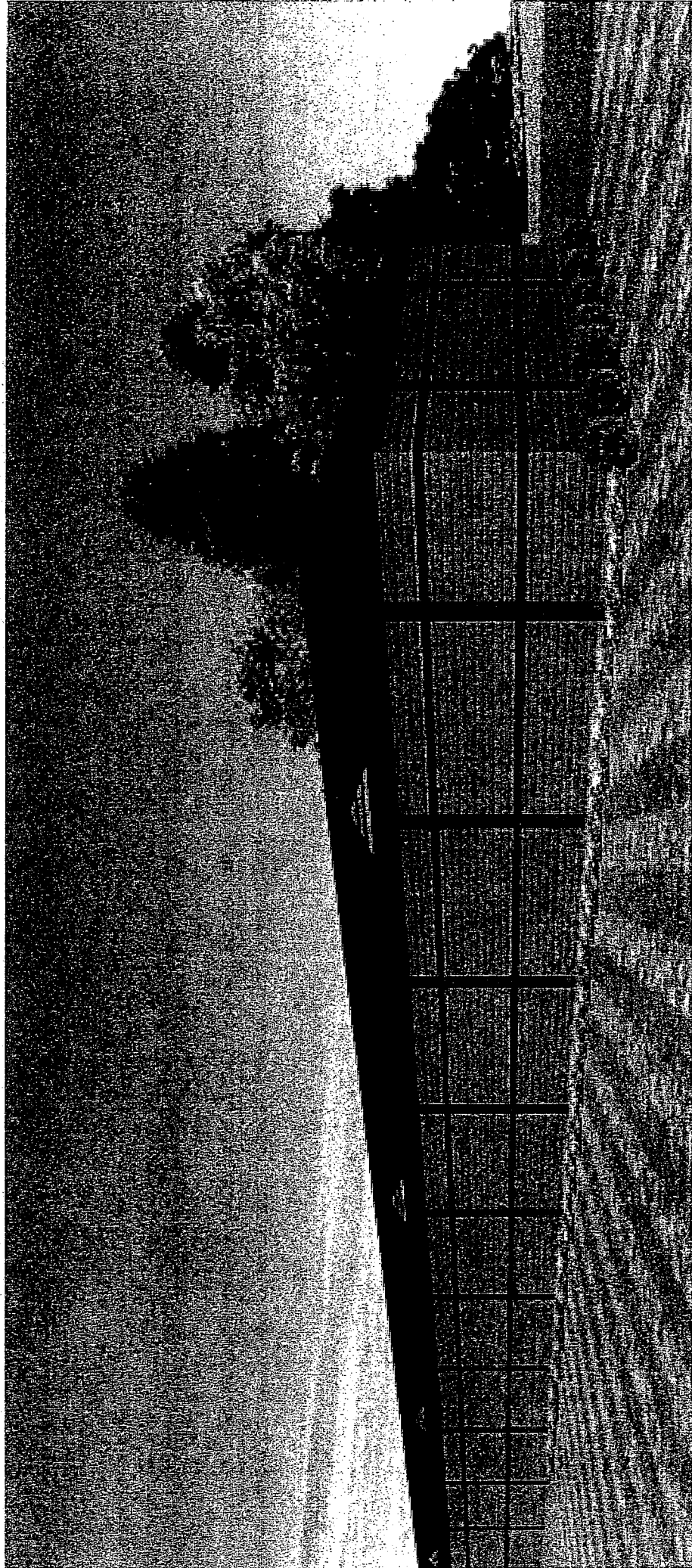




NORTH / SOUTH ELEVATION  
18'-11"-0"



WEST ELEVATION  
18'-11"-0"



Councilmember Elvig asked if there was a way to create a visual difference in the building when viewed from Ramsey Boulevard.

Mr. Schmidt stated that he would be willing to put in gables on the street side of the building. He stated that he believes the existing pine trees will stay and will also provide a visual buffer.

Councilmember Olson stated that she thinks the addition of gables and cupolas would be a nice feature.

Mr. Schmidt stated that he was willing to take a look at those additions.

Councilmember Dehen stated that he also has issues with the front of the building and asked if anything could be done to improve on the architectural standards.

Councilmember Olson confirmed that the pine trees along the street were Scotch Pine and noted that they are not the hardiest of trees, so they may not survive the development.

Councilmember Dehen suggested that the City Council consider tabling this discussion to get a site plan that showed some variation to the building.

Councilmember Elvig stated that the sidewall of the building is 16 feet wide and should also be considered. He suggested some undulation, shortening the roof line, adding dormers, or color gradation. He stated that he feels there are creative things that can be done without spending a lot of money to break up the great mass of wall.

Mr. Schmidt stated that he would be willing to put up a few cupolas on the north and south ends of the building. He stated that he is planning on painting the block, so it would be easy to include a design or possibly use a different texture block.

Motion by Councilmember Dehen, seconded by Councilmember Olson, to table the request for Site Plan Review of CNP Storage, Case of TSM Development, Inc to allow for revised architectural plans showing articulation and visual breaks in the building either physically or with color.

Further Discussion: Councilmember Olson stated that she thinks there is a strong likelihood that the existing pine trees will not remain and would like to see other varieties such as Spruce on the property. Councilmember Strommen noted that there is a landscaping plan from staff that includes some of this information, but she would like to see some elevation drawings showing the height of the plantings and what the average height of the different species will be at maturity. Associate Planner Geisler noted that this case will need to come back before the City Council at the next meeting to meet the 60 day rule. Councilmember Jeffrey asked if the City Council could move approval contingent upon seeing some of the site plan things suggested. Community Development Director Trudgeon stated that generally, development is not allowed to begin until a development agreement is signed and there is an agreed upon site plan.

Motion carried. Voting Yes: Mayor Gamec, Councilmembers Dehen, Olson, Elvig, Jeffrey, Look, and Strommen. Voting No: None.

**Case #4: Adopt Ordinance to Rezone Property from E-1 Employment to B-1 Business; Case of TSM Development, Inc.**

Associate Planner Geisler stated that this item is for the same project as Case #3, but a different portion of the site.

Motion by Councilmember Elvig, seconded by Councilmember Jeffrey, to adopt Ordinance #07-16 to rezone the Subject Property from E-1 Employment to B-1 Business, contingent upon Metropolitan Council approval of the applicant's Comprehensive Plan Amendment and final plat approval.

A roll call vote was performed by Mayor Gamec.

Mayor Gamec:	aye
Councilmember Dehen:	aye
Councilmember Elvig:	aye
Councilmember Jeffrey:	aye
Councilmember Look:	aye
Councilmember Olson:	aye
Councilmember Strommen:	aye

Motion carried.

**Case #5: Request for Comprehensive Plan Amendment, Case of Dan Murphy and Tim Holm**

Associate Planner Geisler noted that Dan Murphy and Tim Holm have applied to rezone this property from B-2 Business to a Planned Unit Development (PUD). She stated that they would like to put in six twin home units. She noted that the Planning Commission reviewed this plan at their September 7, 2006 meeting and recommended denial.

Councilmember Elvig stated that if the zoning remains as is, a commercial business could come and clear out all the trees so there would be no buffer for the residential area.

Associate Planner Geisler stated that there would be a buffer required even if this was developed commercially.

Councilmember Dehen stated that he has not been in favor of this change from the beginning and feels residents would rather see businesses on this land than town homes. He stated that he does not see a compelling reason to cram three buildings onto this lot and change the comprehensive plan. He stated that he received the message during his campaign that people do not want anymore town homes in the City.

public exposure of persons having a contagious disease" be eliminated as an antiquated "nuisance".

Motion carried. Voting Yes: Mayor Gamec, Councilmembers Elvig, Jeffrey, Dehen, Look, Olson, and Strommen. Voting No: None.

**Case #3: Request for Site Plan Review of CNP Storage; Case of TSM Development, Inc.**

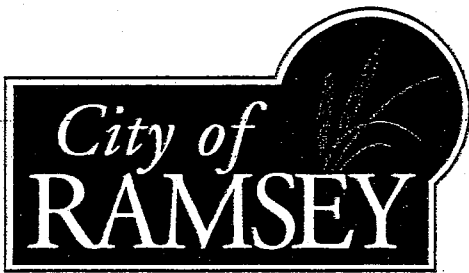
Associate Planner Geisler stated that TSM Development had received approval for their site plan in 2004, and would now like to revise the plans for three buildings on the northern portion of the site. She noted that the development is located in the E-1 district and self-storage facilities are considered a permitted use in this district. She stated that the plans meet all setback requirements and the building will be a rock-face block with vinyl shakes. She noted that vinyl shakes are typically not permitted in the E-1 district, but it could be allowed by the City Council. She stated that this is adjacent to a residential area and the Board of Adjustments granted a variance for a 30 foot buffer on the northern property line. She stated that staff has suggested some different landscaping than TSM Development submitted. She stated that the previously approved site plan called for an 8 foot cedar privacy fence along the eastern and northern property lines, and an 8 foot wrought iron decorative fence along Ramsey Boulevard. She stated that the current site plan now calls for a security fence and staff recommends that the previously approved fencing be incorporated into the current plan. She stated that the grading and drainage are acceptable, however lighting fixtures will need to be reviewed prior to issuing a building permit. She reviewed the recommendations from the Planning Commission. She stated that Steve Schmidt from TSM Development was present at tonight's meeting if there were any questions.

Councilmember Dehen confirmed that the three buildings were 427.5, 321, and 276 feet long. He stated that these are very long buildings, with the first being longer than a football field. He stated that this is a highly visible area and he would like to see some sort of variance of the roof line or front of the building so it makes the building not seem so vast. He stated that the City Council is trying to improve the architectural standards of the City and he doesn't feel the plans, as presented, improve those standards.

Councilmember Elvig stated that he supported those concerns and stated that he would also like to include a provision requiring maintenance of any fencing on the property.

Associate Planner Geisler stated that there is nothing specific regarding fence maintenance for industrial districts. She stated that staff is not recommending that a vinyl type fence be allowed. She stated that there is additional landscaping planned and actually the fence will be on the interior of this landscaping.

Steve Schmidt of TSM Development stated that the fence will be a security fence, so it would be repaired immediately if there was any damage.



7550 Sunwood Drive NW • Ramsey, Minnesota 55303

City Hall: 763-427-1410 • Fax: 763-427-5543

www.ci.ramsey.mn.us

July 26, 2007

Revised: October 4, 2007

Steve Schmitt  
TSM Development, Inc.  
222 Monroe Street  
Anoka MN 55303

**Re: Site Plan – CNP Storage**

Dear Mr. Schmitt:

We are in receipt of a Site Plan, Landscape Plan, Tree Preservation Plan, Utility Plan, and Grading Plan prepared by James R. Hill Inc., dated June 29, 2007, revised July 20, 2007, revised August 8, 2007, revised August 22, 2007. We offer the following comments:

**General:** The site plan is proposing to develop 3 self-storage buildings as part of a re-plat of Outlot A of Regency Pond. The storage buildings will be located on Lot 1, Block 1 of Regency Pond 4<sup>th</sup> Addition.

There are 3 proposed commercial/retail buildings south of the storage buildings; the commercial buildings are not being reviewed at this time, and will each require a separate site plan review process when building elevations are finalized.

**Zoning:** Lot 1 is currently zoned E-1 Employment; self-storage facilities are a permitted use in this district.

**Lot Coverage:** The site plan proposes to construct 3 storage buildings with the following dimensions: 8,280 ft<sup>2</sup>, 12,840 ft<sup>2</sup>, and 17,100 ft<sup>2</sup>, for a total of 38,220 ft<sup>2</sup>. Lot 1 is 2.84 acres. Building coverage on the site is 31%; the E-1 District allows up to 45%.

**Accessory Use:** Commercial or business buildings and structures for a use accessory to the principal use are permitted, but such use shall not exceed 30% of the gross floor space of the principal use. A 20' X 20' office is proposed in one of the buildings.

**Utilities:** The watermain through the site will be an eight inch ductile iron watermain connecting between existing watermain on Bunker Lake Boulevard and 148<sup>th</sup> Avenue in the Regency Pond subdivision. The City has received a drainage and utility easement over this watermain through the plat of Regency Pond 4<sup>th</sup> Addition. The sanitary sewer services only this development and is proposed to be

as shallow as 4.3 feet in some locations. The City's standard requires 7.5 feet of cover over sanitary sewer unless the pipe is insulated. This sanitary sewer should be insulated and remain a private utility.

**Pavement Setbacks:** City Code also requires a 20-foot setback between public streets and parking and maneuvering areas. This site plan complies with this requirement with the exception of the 148<sup>th</sup> Avenue cul-de-sac to be constructed. A variance was granted to this requirement by the Board of Adjustment on August 2, 2007.

**Building Setbacks:** The proposed storage buildings meet or exceed the required 35-foot front and rear yard setbacks, and the 20-foot side yard setback.

**Fence:** When plans for this site came before the City in 2004, an 8-foot cedar privacy fence was indicated along the eastern and northern property lines, with an 8-foot wrought-iron decorative fence on Ramsey Blvd. At the August 2, 2007 Board of Adjustment meeting, you indicated your willingness to install the fence as shown on the previous plans. The site plan submittal indicates a fence in the proper location but no details are provided on type or height. Staff will recommend to the City Council that site plan approval be contingent on installation of the previously-approved fence.

**Bufferyard Requirements:** The E-1 District requires a 60-foot bufferyard adjacent to residential districts. The site plan shows a 60-foot bufferyard on the east, and a 30-35 foot bufferyard on the north. The Board of Adjustment granted a variance to this requirement on August 2, 2007, only along the northern property line.

**Landscaping and Tree Preservation:** The revised landscaping plan, which provides details on site landscaping, bufferyard plantings and tree preservation, is generally acceptable with the following comments:

- While additional plantings have been added along Ramsey Blvd, at least one evergreen shrub species, such as Chinese Juniper (an upright variety) and/or Mugo Pine should be incorporated into the design to provide more year-round screening.
- The proposed deciduous shrub species are acceptable; however, with the exception of grey dogwood, none of these species will get much taller than about five (5) feet, which will limit their effectiveness in terms of screening. Some alternative deciduous shrub species should be incorporated into the plan (either in addition to proposed plants or as a substitute for a portion of the lower growing plants). This will also increase the diversity of plantings on site. American hazelnut, speckled alder, American cranberrybush or some variety of lilac would be suitable species.
- The Board of Adjustment suggested installing some ornamental trees around the cul-de-sac, outside of the fence. This would improve the overall screening of this site from the neighboring residential properties. Any trees planted in this location would be exposed to deicing salts, so a species such as Japanese tree lilac, Northern Catalpa, and/or Ohio Buckeye, which all have some tolerance for deicing salts, would be suitable.
- Tree save fencing must be shown on the tree preservation plan as well as the grading plan. The fencing shall be placed no closer than the dripline of any trees being preserved and shall be in

place prior to any earthwork beginning. If silt fencing is going to double as tree save fencing, it must be clearly indicated on both plans.

**Ground Cover:** All landscaped areas must be sodded and irrigated per City Code.

**Architectural Standards:** The E-1 District restricts building height to 65 feet and exterior wall finishes to natural or prefabricated brick or stone or pre-cast concrete panels or some other material approved by City Council. One black and white building elevation has been submitted that appears to meet these requirements. The elevations indicate the buildings will be rock-face block with vinyl shakes; vinyl is not typically permitted in the E-1 District, but may be allowed if approved by the City Council. Staff will be recommending that site plan approval be contingent upon receipt of revised building elevations.

**Waste Storage:** City Code requires that all solid waste and refuse receptacles be stored within a completely screened structure or container. The submitted site plan does not show a waste storage area; if one is to be located outside, it must be completely screened.

**Off-Street Parking - Spaces Required:** City Code does not establish a minimum number of parking spaces for mini-storage facilities. A 20' X 20' office is shown on the site plan. Two parking spaces have been added next to the office area, which staff believes is sufficient.

**Off Street Parking – Design:** In accordance with City Code, all parking and maneuvering areas must be surfaced with bituminous and the perimeter of all pavement will be finished with B6/12 concrete curbing.

**Lighting:** A lighting plan and fixture drawings must be submitted for the storage facility portion of the site. City industrial/commercial lighting standards require that the luminaire (light source) must not be visible from beyond the property line. Staff will recommend that site plan approval be contingent upon receipt of this information.

**Trail:** Final plat approval was granted contingent upon shifting the Bunker Lake Blvd trail north within the plat boundaries; the plans will need to be revised to show this.

**Drainage and Grading:** The entire development site is currently vacant except for a single family residence and several out buildings. At the present time the northeastern third of the property drains to the pond system located in the Regency Ponds 2<sup>nd</sup> Addition; the southern third of the property drains to a land, locked low area on the Connexus property on the south side of CR 116; and the eastern third drains into the storm water system installed in CR 56. The proposed plan will expand the Regency Ponds detention pond and transmit 98% of the site to this ponding system.

A grading and drainage plan has been prepared by RLK Inc and has been reviewed. Staff offers the following comments:

July 26, 2007

Revised: October 4, 2007

Page 4 of 4

- Grading will be required on two of the adjacent lots in the Regency Pond neighborhood. Although there are drainage and utility easements on these areas, contact should be made with these property owners prior to construction.
- An emergency overflow elevation and location should be added to the plan
- The plan will need to be reviewed and permitted by the Lower Rum River Water Management Organization.

**Access:** The site is located on Ramsey Blvd and Bunker Lake Blvd. The plan submittal shows one access on Ramsey Blvd and one access on Bunker Lake Blvd. Since direct access to public roadway will be eliminated by dedication to Anoka County over Lots 2 and 3, it will be necessary to record an access easement between the four lots in this subdivision.

**Streets:** Section 9.50.30 of City Code requires a cul-de-sac with a minimum right-of-way diameter of 130 feet and a minimum roadway diameter of 100 feet. The proposed turnaround area at the terminus of 148<sup>th</sup> Avenue does not meet this standard. The Board of Adjustment granted a variance to this requirement at their September 6, 2007 meeting.

**Storm Water Management Fee:** The 2007 Stormwater Management Fee for commercial/industrial development is \$4,151.00 per acre. A cash payment is required before the City can issue a building permit for the storage facility site.

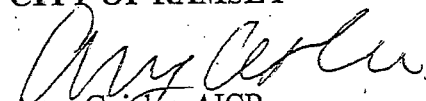
**REU Number:** Lot 1 is 2.8 acres in size. The Residential Equivalent Unit (REU) for the purposes of quarterly billing for the storm water utility will be determined when the applicant submits information on the amount of impervious area for review.

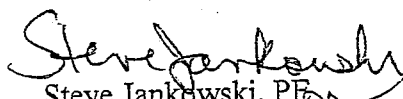
The City Council will be meeting at 7:00 pm on Tuesday, October 9, 2007 at the Ramsey Municipal Center, 7550 Sunwood Drive to review your site plan requests. You or your representative should be present to answer any questions that may arise. Thank you for your cooperation in this process.

If you have any questions, please call us at (763) 427-1410.

Respectfully,

CITY OF RAMSEY

  
Amy Geisler, AICP  
Associate Planner

  
Steve Jankowski, PE  
City Engineer

Cc: Joel Cooper  
James R. Hill, Inc.  
1523 94<sup>th</sup> Lane NE, Suite B  
Blaine MN 55449

**CITY OF RAMSEY  
DEVELOPMENT PERMIT  
CNP STORAGE**

On October 23, 2007, Site Plan approval of CNP Storage was granted by the City of Ramsey ("City") to TSM Development, Inc. ("Permittee"), whose address is 222 Monroe Street, Anoka, MN 55303, to construct a 38,220-square-foot self storage facility ("Structures") on the property which is legally described as follows:

Portion of Outlot A, Regency Pond, Anoka County, Minnesota

Or upon recording of Regency Pond, 4<sup>th</sup> Addition:

Lot 1, Block 1, Regency Pond 4<sup>th</sup> Addition, Anoka County, Minnesota

the ("Site").

This approval is issued pursuant to §9.03.08 of the City Code. The conditions of this approval are as follows:

1. **STRUCTURE.** All building plans must be prepared and certified by a registered engineer or architect.
2. **STATE BUILDING CODE COMPLIANCE.** The structure shall be constructed in accordance with the requirements of the State Building Code.
3. **SITE PLAN COMPLIANCE.** The structures shall be constructed on the Site as shown on the Site Plan submittal prepared by James R. Hill, Inc., dated June 29, 2007, revised July 20, 2007, revised August 8, 2007, revised August 22, 2007.
4. **REQUIRED IMPROVEMENTS.** The Permittee shall construct and install the following site improvements on the Site in accordance with the specifications and location as shown on the Site Plan. The Required Improvements are as follows:
  - a. Site grading in accordance with the Grading Plan prepared by James R. Hill, Inc. dated June 29, 2007, revised July 20, 2007, revised August 8, 2007 and in compliance with City Staff review letter dated July 26, 2007, revised October 4, 2007.
  - b. Installation of concrete and bituminous driveways and parking lot.
  - c. Installation of storm sewer, sanitary sewer, watermain, and appurtenances.
  - d. Installation of B-6/12 continuous concrete curbing around the perimeter of all concrete and/or bituminous surfaces.
  - e. Installation and removal of temporary erosion control measures.
  - f. Establishment of turf in areas disturbed during construction and in accordance with the Site Plan.

- g. Installation of additional landscaping materials in accordance with the Landscape Plan prepared by James R. Hill, Inc., dated June 29, 2007, revised July 20, 2007, revised August 8, 2007, revised August 22, 2007.
- h. Irrigation metering and backflow devices shall be approved as part of the Utility Plan, and installed accordingly.
- i. Irrigation rain sensors shall be installed and appropriately placed throughout the development.

("Required Improvements").

- 5. **FIRE LANES.** Fire lanes shall be maintained on the Site. The exact location of these items on the Site shall be as directed by the City's Fire Chief.
- 6. **LIGHTING.** Lighting shall be installed on the site in accordance with City Code.
- 7. **BUILDING FACADE.** The Permittee agrees to construct all building faces of the same material as listed on the Building Elevations prepared by [REDACTED] dated [REDACTED] 2004.
- 8. **REQUIREMENTS FOR BUILDING PERMIT.** No building permit for the Site will be issued until the Permittee has: a) signed and returned this Development Permit, along with the surety and fees required herein; and b) fully executed the plat of Regency Pond 4<sup>th</sup> Addition.  
  
No Certificate of Occupancy for any structures will be issued until: a) vehicular access to the lot is provided including the installation of at least one layer of bituminous surfacing; b) all utilities are in place, operational, and acceptable to the CITY; and c) all the financial guarantees required by the CITY have been satisfied. All foundation approvals will require a certificate of elevation verifying that the actual elevation is in compliance with the approved grading and drainage plan.
- 9. **IMPROVEMENT CONSTRUCTION SCHEDULE.** The Required Improvements shall be completed before November 1, 2008.
- 10. **RECOGNITION OF LOCATION.** The Permittee herein agrees to recognize Ramsey as the City of location on all forms of advertising and business correspondence whenever reasonably prudent to do so.
- 11. **FINANCIAL SURETY.** In order to ensure the installation of the Required Improvements in accordance with City specifications and in a timely manner, the Permittee shall be required to deposit with the City a cash escrow or letter of credit, approved as to form by the City, in the amount of Three Hundred Eighty-One Thousand Seven Hundred Fifty Dollars and no cents (\$381,750.00), which is 150% of the City's estimated cost of the Improvements. Prior to the issuance of the building permit, all financial guarantees must be provided as required herein.

Upon completion of the construction of the Required Improvements, the financial guarantee shall be returned to the Permittee and the Permittee shall be required to provide the landscaping maintenance guarantee described in Item #12 of this Development Permit. The determination of completion of the construction of the Required Improvements shall be made by the City Council after consultation with the City Engineer. In the event the Permittee fails to construct and install the Required Improvements as required herein, the City Council may order the completion of the Required Improvements with City day labor and/or by letting contracts for said completion and draw upon the escrow for payment. Only the City Council shall have the authority to direct completion of the Required Improvements and withdraw from the escrow account. The Permittee hereby grants permission and a license to the City and/or its contractors and assigns to enter upon the Site for the purpose of completing the construction and installation of the Required Improvements in the event of the Permittee's default.

- 12. MAINTENANCE GUARANTEE FOR LANDSCAPING.** It is herein agreed that the Permittee shall provide a maintenance guarantee to ensure the survival of the plantings. Said maintenance guarantee shall consist of cash or a letter of credit, approved as to form by the City, in the amount of **\$7,900.00** [# plantings (60 trees, 231 shrubs) x cost/planting (\$150/tree, \$75/shrub) x 30% average non-survival rate], which shall be in effect for a two-year period commencing on the date of the City's acceptance of said plantings as part of the Required Improvements.

At the end of the two-year period, the maintenance guarantee shall be returned to the Permittee. The determination that all plantings that have been planted in accordance with the Site Plan and Landscaping Plan have either survived or have been replaced shall be made by the City Council after consultation with the City Engineer. In the event the Permittee fails to maintain the required plantings for a two-year period, the City Council may order the replacement of plantings with City day labor and/or by letting contracts and draw upon the escrow for payment. Only the City Council shall have the authority to direct replacement of the plantings and withdraw from the escrow account. The Permittee hereby grants permission and a license to the City and/or its contractors and assigns to enter upon the Site for the purpose of replacing plantings in the event of the Permittee's default.

- 13. INSPECTION FEES.** The Permittee shall be responsible for all inspection costs incurred by the City related to the installation of the Required Improvements. The Permittee shall make a cash deposit into the appropriate escrow account at the City and the City shall have the authority to draw upon these funds for the purpose of compensating for inspection services. The amount of the deposit shall be equal to five percent (5%) of the estimated cost of the Required Improvements, which equates to Twelve Thousand Two Hundred Fifty Dollars and no cents (**\$12,250.00**). This is to cover the cost of inspecting the site grading and installation of improvements. Upon completion of the Improvements to the satisfaction of the City, any surplus balance remaining in the City's escrow account shall be refunded to the Permittee.

14. **STORMWATER MANAGEMENT FEES.** The current Stormwater Management Fee is \$4,151.00 per industrial acre. Stormwater Management Fee obligations for the Development are Eleven Thousand Seven Hundred Eighty-Eight Dollars and no cents (**\$11,788.00**) (2.84 acres x \$4,151.00/acre).
15. **OUTSIDE REGULATORY AGENCIES.** The Permittee herein agrees to be responsible for obtaining all required permits or licenses from any other regulatory agencies.

**TSM Development, Inc.** hereby acknowledges receipt of this permit and that they have reviewed the conditions of and have agreed that they will comply with the terms of this permit.

**CITY OF RAMSEY, MINNESOTA**

By \_\_\_\_\_  
Its: Mayor

By \_\_\_\_\_  
Its: City Clerk

STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF ANOKA        )

**TSM DEVELOPMENT, INC.**

By \_\_\_\_\_  
  Steve Schmitt

Its: \_\_\_\_\_

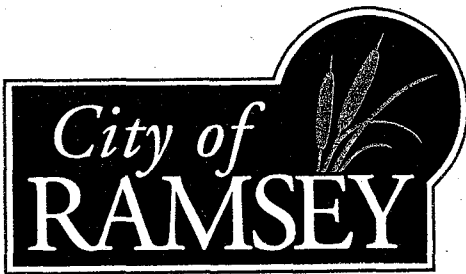
On this \_\_\_ day of \_\_\_\_\_, 2007 before me, a Notary Public, personally appeared Thomas G. Gamec and JoAnn M. Thieling to me personally known, who, being each by me duly sworn did say that they are respectively the Mayor and City Clerk of the City of Ramsey, the Municipal Corporation named in the foregoing instrument, and the seal affixed to said instrument is the corporate seal of said Municipal Corporation, and the said instrument was signed and sealed on behalf of said Municipal Corporation by authority of its City Council and Thomas G. Gamec and JoAnn M. Thieling acknowledge said instrument to be the free act and deed of said Municipal Corporation.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_ day of \_\_\_\_\_, 2007, before me a Notary Public, personally appeared Steve Schmitt, a private individual, signed said instrument as a free act and deed.

\_\_\_\_\_  
Notary Public



15153 Nowthen Boulevard NW • Ramsey, Minnesota 55303  
City Hall: (763) 427-1410 • Fax: (763) 427-5543  
[www.ci.ramsey.mn.us](http://www.ci.ramsey.mn.us)

November 19, 2004

Steve Schmitt  
TSM Development, Inc.  
222 Monroe Street  
Anoka MN 55303

**Re: Final Plat Review – Regency Pond 4<sup>th</sup> Addition**

Dear Mr. Schmitt:

We are in receipt of a Final Plat for Regency Pond 4<sup>th</sup> Addition prepared by James R. Hill, Inc. We offer the following comments:

**General:** The final plat is proposing to replat Outlot A of Regency Pond into Lot 1, Block 1, and Outlot A, Regency Pond 4<sup>th</sup> Addition, in order to construct a mini-storage facility. The subject property is generally located on Ramsey Blvd and Bunker Lake Blvd.

**Zoning:** The site is currently zoned E-1; storage facilities are a permitted use in this zoning district.

**Lot Size and Dimensions:** Lot 1 is approximately 4.8 acres in size, which exceeds the 1-acre minimum lot size requirement in the E-1 district. The lot has 141 feet of frontage on Bunker Lake Blvd and 555 feet of frontage on Ramsey Blvd, which meets the minimum lot width of 200 feet in the E-1 District.

**Streets:** The site is located on Ramsey Blvd and Bunker Lake Blvd. The final plat proposes to provide access to the site through an individual access from Ramsey Blvd. Staff has received written comments from Anoka County that indicate this access is acceptable to the County, provided that this access also accommodate any redevelopment on the parcel on the corner of Highway 116 and Ramsey Blvd. The final plat shows Outlot A over the proposed access; you have indicated your intention to dedicate this outlot to the City in order to provide future access to the lot on the corner. The dedication page on the submitted final plat does not dedicate Outlot A to the City; Staff is recommending to the City Council that Outlot A be formally dedicated or an easement be drafted to ensure access to the corner parcel.

Section 9.50.30 of City Code requires a cul-de-sac with a minimum right-of-way diameter of 130 feet and a minimum roadway diameter of 100 feet. A smaller cul-de-sac may be required, depending on anticipated traffic volume, planned function of the street, and character of abutting land use. At their October 19, 2004 work session, the City Council recommended a smaller cul-

de-sac because traffic volume is expected to be very low. The cul-de-sac proposed on the final plat conforms to the recommendations of the City Council.

**Utilities:** The utility plan was reviewed as a part of the site plan submittal for CNP Storage. Drainage and utility easements have been provided over all sanitary sewer and water mains. Sanitary sewer mains must have 7.5 feet of cover or must be insulated.

**Drainage and Grading:** The grading and drainage plan was also reviewed as a part of the site plan submittal. The latest revision of the grading and drainage plan proposes to collect drainage from the entire site and discharge it to a pond created along the eastern sixty feet of the property. This pond will in turn discharge to an existing stormwater ponding easement located in the adjacent Regency Ponds subdivision. The elevation of the high water level in the Regency Pond drainage and utility easement has been calculated to be 868.9, which is the same elevation as the existing 100-year event for this pond.

This development requires a permit from the Lower Rum River Water Management Organization. The permit which has been obtained required an additional 0.13 acre feet of dead storage. The grading plan has since been revised and the available ponding has been expanded. The revised grading and drainage plans should be reviewed by the LRRWMO engineer to verify that this permit condition has been met.

**Park Dedication:** Park Dedication fees for the proposed plat will be \$4,356.00/acre, for a total of \$20,908.00 (\$4,356.00 x 4.8 acres). This fee will need to be paid before the City can release the final plat for recording.

**Trail Development/Fees:** Trail fees in the amount of \$100.00 per acre are required for Commercial and Industrial uses. Therefore, a total of \$480.00 is due in trail fees (\$100 x 4.8 acres). The City is also requesting that the 10-foot drainage and utility easement along the south side of the plat (adjacent to County Road 116) be dedicated as a trail easement in a separate recordable form. If you have any questions regarding the trail easement, please contact Mark Riverblood at (763) 286-0833.

**Sewer and Water Trunk Charges:** Sewer and water trunk charges are charged on a per acre basis for commercial and industrial properties. The 2004 rate for commercial/industrial sewer and water trunk charges is \$10,339 per acre. Therefore, \$49,317.00 (\$10,339 x 4.77 acres) is due before the City can release the plat for recording.

**Storm Water Management Fee:** The Stormwater Management Fee will be charged as part of the Site Plan approval.

*Final Plat Review – Regency Pond 4<sup>th</sup> Addition*

*November 19, 2004*

*Page 3 of 3*

The City Council will be meeting at 7:00 p.m. on Tuesday, November 23, 2004 at Ramsey Fire Station, 15050 Armstrong Blvd., to review your proposed final plat. You or your representative may want to be present to answer any questions that may arise. Thank you for your cooperation in this process.

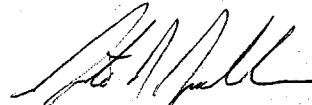
If you have any questions, please call us at (763) 427-1410.

Respectfully,

**CITY OF RAMSEY**



Amy Geisler  
Associate Planner



Steve Jankowski  
City Engineer

Cc: Troy Livgard  
James R. Hill, Inc.  
1523 94<sup>th</sup> Lane NE, Suite B  
Blaine MN 55449

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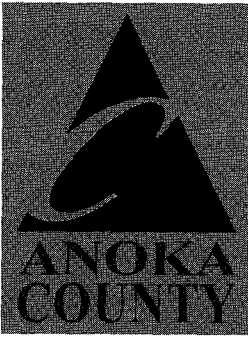
# COUNTY OF ANOKA

Public Services Division

HIGHWAY DEPARTMENT

1440 BUNKER LAKE BLVD. N.W., ANDOVER, MINNESOTA 55304

(612) 862-4200 FAX (612) 862-4201



August 3, 2004

Amy Geisler  
City of Ramsey  
15153 Nowthen Blvd. N.W.  
Ramsey, MN 55303

RE: Preliminary Plat  
Regency Pond 4<sup>th</sup> Addition (formerly known as Outlot A of Regency Pond)

Dear Amy,

We have reviewed the preliminary plat for Regency Pond 4<sup>th</sup> Addition, to be located in the NW quadrant of CSAH 116 (Bunker Lake Blvd) and CR 56 (Ramsey Blvd) within the City of Ramsey, and I offer the following comments:

We have previously reviewed and commented on this site (see attached previous reviews dated 11/20/95, 2/16/96, and 3/12/96. In all previous reviews, we have consistently indicated that all access for this parcel was to be made via the local roadway system, with no access being made to either CSAH 116 or CR 56. Within the past several weeks, a site plan was sent to us that depicted a storage facility on this site, and upon review of that site and past correspondence, we commented verbally to the City of Ramsey that we would not permit direct access to the county highway system for the parcel. Now in the present submittal, the parcel is being offered for our review as Lot 1, Block 1 of Regency Pond 4<sup>th</sup> Addition (a separate preliminary plat). Regardless of how the site is presented (as a site plan for a storage facility or a preliminary plat), direct access to the county highway system for the property is not appropriate. The parcel does have internal connectivity to the local roadway system via 148<sup>th</sup> Avenue NW. As previously stated, we have provided consistent written comment to the City indicating that we would not permit direct access to CR 56 or CSAH 116 for this parcel, and there appears to be no engineering basis to vary in our review perspective regarding this. The County Engineer has reviewed the past correspondence and the current submittals regarding this site as well, and concurs that access for the parcel is to be made entirely via 148<sup>th</sup> Avenue NW with no direct access to either CR 56 or CSAH 116. Additionally, if the remaining parcel zoned E-1 within the inner-NW quadrant of the CSAH116/CR 56 intersection should redevelop at some time in the future, the City and the affected property owners are to plan for internal connectivity between the two parcels, with no direct access to the county highway system for this parcel either.

120ft right of way corridors currently exist for both CSAH 116 and CR 56, which should be adequate for future reconstruction purposes.

Calculations must be submitted along with a grading and erosion control plan that delineates the drainage areas for this development. The post-developed rate of discharge shall not exceed the pre-developed rate runoff for the 10-year critical design storm. An engineering plan review fee estimated at \$150.00 will apply to this project. Please submit the drainage calculations, grading and erosion control plan, and the applicable engineering plan review fee to Andrew Witter, Construction Engineer, for his review and approval.

Amy Geisler

RE: Preliminary Plat

Regency Pond 4<sup>th</sup> Addition (formerly known as Outlot A of Regency Pond)

August 3, 2004

Page 2

If any work is to be performed within the county right of way, a permit is required and must be obtained prior to the commencement of construction (permit to work within R/W= \$110.00 for each affected roadway). License Permit Bonding, methods of construction, design details, work zone traffic control, restoration requirements and follow-up inspections are typical elements of the permitting process. Contact Roger Butler, Traffic Engineering Coordinator, or Terri Klein, Permit Technician, for further information regarding the permit process. Please note that this department is not prepared to issue any access permits for this site.

Thank you for the opportunity to comment. Feel free to contact me if you have any questions regarding this review.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane K. Rose". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jane K. Rose

Traffic Engineering Manager

xc: CR 56 + CSAH 116/PLATS/2004  
Roger Butler, Traffic Engineering Coordinator  
Josie Scott, Traffic Engineering Technician  
Terri Klein, Permit Technician  
Mike Kelly, Chief Right Of Way Agent  
Larry Hoiium, County Surveyor  
Andrew Witter, Construction Engineer

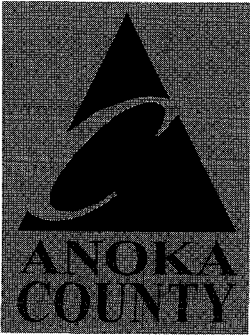
# COUNTY OF ANOKA

Public Services Division

HIGHWAY DEPARTMENT

1440 BUNKER LAKE BLVD. N.W., ANDOVER, MINNESOTA 55304

(612) 862-4200 FAX (612) 862-4201



August 27, 2004

Amy Geisler  
 City of Ramsey  
 15153 Nowthen Blvd. N.W.  
 Ramsey, MN 55303

RE: Additional Comments - Preliminary Plat  
 Regency Pond 4<sup>th</sup> Addition (formerly known as Outlot A of Regency Pond)

Dear Amy,

Subsequent discussions have been held between local officials, the developer and City and County staff. Anoka County will agree to allowing a direct access point to CR 56 for this site, provided that it also serve as the access point for the remaining parcel zoned E-1 within the inner NW quadrant of the CSAH 116/CR 56 intersection, and that internal connectivity between the two parcels is provided and no other direct access to the county highway system will be necessary or permitted for these parcels. Depending on the magnitude of development to occur in this remaining parcel, NB CR 56 right turn lane construction may be required to be completed in conjunction with the remaining development. Please note that this section of CR 56 will have raised median channelization, and the access point permitted for these parcels onto CR 56 will become right turn in/right turn out (RI/RO) at some point in the near future.

All other comments regarding this development made in previous reviews remain unchanged. Thank you for the opportunity to comment. Feel free to contact me if you have any questions regarding this review.

Sincerely,

Jane K. Rose  
 Traffic Engineering Manager

xc: CR 56 + CSAH 116/PLATS/2004  
 Roger Butler, Traffic Engineering Coordinator  
 Josie Scott, Traffic Engineering Technician  
 Terri Klein, Permit Technician  
 Mike Kelly, Chief Right Of Way Agent  
 Larry Hoiium, County Surveyor  
 Andrew Witter, Construction Engineer  
 Doug Fischer, County Engineer



# COUNTY OF ANOKA

Public Services Division

HIGHWAY DEPARTMENT

1440 BUNKER LAKE BLVD NW, ANDOVER, MINNESOTA 55304

(612) 754-3520

FAX (612) 754-3532

**JANE K. PEMBLE**

Traffic Engineer

March 12, 1996

Sylvia Frolik  
City of Ramsey  
15153 Nowthen Boulevard NW  
Ramsey, MN. 55303

RE: 2nd Revision - Preliminary Plat  
Pondview

Dear Sylvia:

We have reviewed the 2nd revision of the Preliminary Plat for Pondview, to be located north of CSAH 116 (Industry Ave NW) and east of CR 56 (Ramsey Blvd) within the City of Ramsey, and I offer the following comments:

It appears that the only change made on this Preliminary Plat from the plat most recently reviewed by this department is the elimination of the extension of 147th Avenue NW to CR 56. If it is the City of Ramsey's intent that the extension of 147th Avenue NW to CR 56 be made at a future date, then the recommendations and comments made in the previous reviews of this plat regarding this intersection still apply. If it is the City of Ramsey's intent not to extend 147th Avenue NW to CR 56, the access for the outlot is still to be made from the local roadway, 147th Avenue NW. In general, the Anoka County Highway Department would prefer that there be no additional access points made onto the county highway system to ensure mobility. However, we understand that compromises in mobility will need to be made in order to adequately serve the developing areas of the County. With these thoughts in mind and depending upon the City of Ramsey's intent for the property adjacent to CR 56 (commercial or residential development), the City may wish to consider the following two possibilities:

- 1) Create a commercial strip of property extending from CSAH 116 to 149th Ave. NW; create a frontage road-type scheme parallel to CR 56 with adjoining commercial parking lots, with access for the commercial strip being made from 149th Ave NW and possibly CSAH 116;
- 2) Eliminate the commercial property from this plat, creating all residential lots which would have direct access via the local roadways only.

Regardless of the final configuration of this plat as approved by the City of Ramsey, it still should be noted that when CR 56 and CSAH 116 are reconstructed in the future, there will likely be raised concrete medians for

channelization at the CR 56/CSAH 116 intersection. As a result of the raised median channelization, future access at Limonite St NW and 147th Ave NW will consist of right turn in/right turn out movements only. The City and the Developer shall ensure that all applicable Sight Distance Requirements will be met for this development.

Since all lots within this plat will have access to the city streets, no accesses onto CR 56 or CSAH 116 will be permitted. Since the commercial lot has access to 147th Ave NW, no accesses onto CR 56 or CSAH 116 will be permitted for this lot. Right-of-access along CR 56 and CSAH 116 (with exceptions at 147th Ave NW, Limonite St NW and Hematite St NW) should be dedicated to Anoka County. Any trees within the right-of-way corridor and the boundaries of this plat are to be removed as a part of this development.

Preliminary grading plans for this development have been reviewed. Calculations must still be submitted along with a grading and erosion control plan that delineates the drainage areas for this development. The post-developed rate/volume of runoff must not exceed the pre-developed rate/volume of runoff for the 10-year, 24-hour storm, utilizing the "SCS Method" with a curve number determined using Group C soils as a minimum. Catch basins and culverts will be required at all county road/city street intersections to prevent washouts.

A permit for work within the county right-of-way is required and must be obtained prior to the commencement of any construction. Contact Roger Butler, Traffic Engineering Coordinator for this department, for further information regarding the permit process.

It should be noted that residential land use adjacent to highways will usually result in complaints regarding traffic noise. Traffic noise at this location could exceed Noise Standards established by the US Department of Housing and Urban Development and the Minnesota Pollution Control Agency. Anoka County policy regarding new developments adjacent to existing county highways prohibits the expenditure of highway funds for noise mitigation measures. The City and/or the Developer should assess the noise situation and take any action deemed necessary to minimize associated impacts at this site from any traffic noise.

Thank you for the opportunity to comment. The City or the Developer should contact me when construction of the new city streets are near completion, so that stop sign installations at the county highways can be coordinated by this department. Feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jane Pemble".

Jane Pemble  
Traffic Engineer

xc: Roger Butler, Traffic Engineering Coordinator

xc: Skip Anderson, County Surveyor

xc: Mike Kelly, Chief Right-of-Way Agent

dmh/1RAMSEY



# COUNTY OF ANOKA

Public Services Division

HIGHWAY DEPARTMENT

1440 BUNKER LAKE BLVD NW, ANDOVER, MINNESOTA 55304

(612) 754-3520

FAX (612) 754-3532

**JANE K. PEMBLE**

Traffic Engineer

February 16, 1996

Sylvia Frolik  
City of Ramsey  
15153 Nowthen Boulevard NW  
Ramsey, MN. 55303

RE: **REVISED** Preliminary Plat  
Pondview

Dear Sylvia:

We have reviewed the revised Preliminary Plat for Pondview, to be located north of CSAH 116 (Industry Ave NW) and east of CR 56 (Ramsey Blvd) within the City of Ramsey, and I offer the following comments:

Existing right-of-way depicted on the plat adjacent to CSAH 116 and CR 56 is acceptable and should be adequate for future reconstruction purposes (60 feet of R/W east of CR 56 R/W centerline, and 60 feet of R/W north of CSAH 116 R/W centerline). It appears some minor clearing and grading will be required at 147th Ave NW and Limonite St NW in order to satisfy Case I Sight Distance Requirements. Some minor clearing and grading will also be required within the SE Quadrant of the CR 56/149th Ave NW intersection to satisfy Case I Sight Distance Requirements at this location. In addition, it appears that Case V Sight Distance Requirements cannot be met at Hematite St NW due to trees/brush and the horizontal curvature of CSAH 116 to the west. While the trees/brush can be cleared, the horizontal curvature of CSAH 116 still requires this access point to be relocated to a point where all applicable Sight Distance Requirements can be met, or all obstructions to Case V Sight Distance Requirements removed. The City and the Developer should ensure that all Sight Distance Requirements are met for this development. If all applicable Sight Distance Requirements can be met for this plat, the construction of left/right turn and/or by-pass lanes will not be required at the new city street intersections.

In reviewing this Preliminary Plat, we evaluated the feasibility of eliminating the 147th Ave NW access onto CR 56. But given the number of lots within the plat, the feasibility of meeting Sight Distance Requirements at this location, the connection of Limonite St NW to 149th Ave NW, and the future section of CR 56, it is recommended that this access point remain. It should be noted that if CR 56 and CSAH 116 are reconstructed in the future, there will likely be raised concrete medians for channelization at the CR 56/CSAH 116 intersection. As a result of the raised median channelization, future access at Limonite St NW and 147th Ave NW will consist of right turn in/right turn out movements only. Since

all lots within this plat will have access to the city streets, no accesses onto CR 56 or CSAH 116 will be permitted. Since the commercial lot has access to 147th Ave NW, no accesses onto CR 56 or CSAH 116 will be permitted for this lot. Right-of-access along CR 56 and CSAH 116 (with exceptions at 147th Ave NW, Limonite St NW and Hematite St NW) should be dedicated to Anoka County. Any trees within the right-of-way corridor and the boundaries of this plat are to be removed as a part of this development.

Preliminary grading plans for this development have been reviewed. Calculations must still be submitted along with a grading and erosion control plan that delineates the drainage areas for this development. The post-developed rate/volume of runoff must not exceed the pre-developed rate/volume of runoff for the 10-year, 24-hour storm, utilizing the "SCS Method" with a curve number determined using Group C soils as a minimum. Catch basins and culverts will be required at all county road/city street intersections to prevent washouts.

A permit for work within the county right-of-way is required and must be obtained prior to the commencement of any construction. Contact Roger Butler, Traffic Engineering Coordinator for this department, for further information regarding the permit process.

It should be noted that residential land use adjacent to highways will usually result in complaints regarding traffic noise. Traffic noise at this location could exceed Noise Standards established by the US Department of Housing and Urban Development and the Minnesota Pollution Control Agency. Anoka County policy regarding new developments adjacent to existing county highways prohibits the expenditure of highway funds for noise mitigation measures. The City and/or the Developer should assess the noise situation and take any action deemed necessary to minimize associated impacts at this site from any traffic noise.

Thank you for the opportunity to comment. The City or the Developer should contact me when construction of the new city streets are near completion, so that stop sign installations at CR 56 and CSAH 116 can be coordinated by this department. Feel free to contact me if you have any questions.

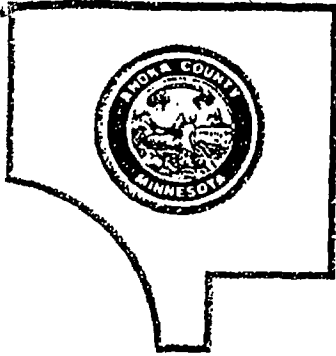
Sincerely,



Jane Pemble  
Traffic Engineer

- xc: Roger Butler, Traffic Engineering Coordinator
- xc: Skip Anderson, County Surveyor
- xc: Mike Kelly, Chief Right-of-Way Agent

dmh/1PONDVEW



# COUNTY OF ANOKA

Public Services Division

HIGHWAY DEPARTMENT

1440 BUNKER LAKE BLVD NW, ANDOVER, MINNESOTA 55304

(612) 754-3520

FAX (612) 754-3532

JANE K. PEMBLE  
Traffic Engineer

November 20, 1995

Derrick J. Passe  
Passe Engineering, Inc.  
9445 East River Road #203  
Minneapolis, MN. 55433

RE: Sketch Plan  
Ramsey Boulevard Site

Dear Mr. Passe:

We have reviewed the sketch plan for the Ramsey Boulevard site, to be located east of CR 56 (Ramsey Blvd.) and north of CR 116 (Industry Avenue NW) within the City of Ramsey, and I offer the following comments:

Existing right-of-way depicted on the plat adjacent to CR 56 and CR 116 is acceptable and should be adequate for future reconstruction purposes (60 feet of R/W east of CR 56 R/W centerline, 60 feet of R/W north of CR 116 R/W centerline). For review purposes, I have labelled the three proposed access points (beginning on CR 56 and moving counter clockwise) as "A", "B", and "C". It appears that Case V Sight Distance Requirements cannot be met at the location proposed for access "A" due to a vertical curve to the north on CR 56. Consequently, it is recommended that access "A" be relocated to the north to a point where Case V Sight Distance Requirements can be met. Similarly, it appears that Case V Sight Distance Requirements cannot be met at the location proposed for access "B" due to a vertical curve to the west on CR 116. It is recommended that access "B" be relocated approximately 290 feet west to the crest of the vertical curve on CR 116. Clearing and grading should then be accomplished to the extent that Case I Sight Distance Requirements can be met as well. Finally, it appears that Case V Sight Distance Requirements cannot be met at the location proposed for access "C" due to the horizontal curvature of CR 116. Consequently, it is also recommended that access "C" be relocated to the west to a point where Case V Sight Distance Requirements can be met. The City and the Developer should ensure that all sight distance requirements are met for this development. All lots within this plat should be configured so that they access the city streets only, as no residential accesses will be permitted onto the County Highways. Right-of-access along the remaining portions of CR 116 and CR 56 should be dedicated to Anoka County.

Calculations must be submitted along with a grading and erosion control plan that delineates the drainage areas for this development. The post-developed

rate/volume of runoff must not exceed the pre-developed rate/volume of runoff for the 10-year, 24 hour storm, utilizing the "SCS Method" with a curve number determined using Group C soils as a minimum.

A permit for work within the County Right-of-Way is required and must be obtained prior to the commencement of any construction. Contact Roger Butler, Traffic Engineering Coordinator for this department, for further information regarding the permit process.

It should be noted that residential land use adjacent to highways will usually result in complaints regarding traffic noise. Traffic noise at this location could exceed Noise Standards established by the US Department of Housing and Urban Development and the Minnesota Pollution Control Agency. Anoka County policy regarding new developments adjacent to existing County Highways prohibits the expenditure of highway funds for noise mitigation measures. The City and/or the Developer should assess the noise situation and take any action deemed necessary to minimize associated impacts at this site from any traffic noise.

Thank you for the opportunity to comment. Please keep this department informed as plans for this site are developed further. The City or the Developer should contact me when construction of the new city streets are near completion, so that stop sign installations at CR 56 and CR 116 can be coordinated by this department. Feel free to contact me if you have any questions.

Sincerely,



Jane Pemble  
Traffic Engineer

- xc: Roger Butler, Traffic Engineering Coordinator
- xc: Skip Anderson, County Surveyor
- ✓xc: Sylvia Frolik, City of Ramsey

dmh/1RAMBLVD



residential lots to 135 and retain a strip of industrial property adjacent to County Road #56. Council directed that the revised rezoning be forwarded to the Planning Commission for additional review. The Planning Commission conducted another public hearing on March 4, 1996, and is recommending approval of the proposed modification to the rezoning configuration for Pondview.

Motion by Councilmember Peterson and seconded by Councilmember Beahen to adopt Resolution #96-03-050 to rescind Resolution #96-01-027 and adopt amended Findings of Fact #0395 relating to a request from Good Value Homes to rezone certain property from Industrial to R-1 Urban Residential.

Motion carried. Voting Yes: Mayor Hardin, Councilmembers Peterson, Beahen, Beyer and Zimmerman. Voting No: None.

Motion by Councilmember Peterson and seconded by Councilmember Beahen to introduced an ordinance to rezone certain property in Section 27 from Industrial to R-1 Urban Residential.

Motion carried. Voting Yes: Mayor Hardin, Councilmembers Peterson, Beahen, Beyer and Zimmerman. Voting No: None.

Case #5: Request for Preliminary Plat Approval of Pondview; Case of Good Value Homes

Zoning Administrator Frolik pointed out this is a preliminary plat approval request of the property Council just voted to rezone. Along with the rezoning modification, the Developer had made some design modifications to the plat which consisted of dead ending 147th Avenue at the east boundary of the industrial parcel and extending Limonite Street north to 149th Lane in Peltzer Addition as a through street and access to C.S.A.H. #56. The developer's reasons for these modifications were to delay connecting 147th with C.S.A.H. #56 until such time as the commercial property develops to allow some flexibility in the development of the commercial parcel and access to it. The through street to 149th and C.S.A.H. #56 provides an alternate ingress/egress to the plat from #56 until such time as the commercial parcel develops and the extension of 147th to #56 is completed. Council had unanimously agreed that 147th should be extended as originally proposed to intersect with C.S.A.H. #56. There were differing opinions regarding whether or not Limonite Street should be extended into Peltzer Addition as a through street to 149th and eventual access to #56. By a 3/2 vote, Council requested that the Planning Commission consider a plan that would provide for the connection of 147th with #56 and Limonite Street terminating at 148th. Councilmember Zimmerman requested that the Planning Commission reconsider whether or not the extension of Limonite Street as a through street to 149th will be a benefit. As was stated before, the developer provided City staff with another revision that reinstated 147th as a through street to C.S.A.H. #56 and retained Limonite Street as a through street to 149th. The Planning Commission held a public hearing on this plan and it was forwarded to the Anoka County Highway Department for review and comment. The Planning Commission recommended that Council grant preliminary plat approval to Pondview with 147th terminating at the east boundary of the commercial parcel and extending Limonite Street as a through street to 149th Lane. Ms. Frolik noted the letter from Anoka County Highway Department. They seem to be saying that if 147th Avenue is not constructed at this time as a through street for C.R. #56, they may lose #56 to 147th.

Councilmember Peterson questioned if the County was saying no more access on #56.

John Peterson, Good Value Homes, felt the County was trying to encourage them to build this small section of street but they said all commercial had to access that only by 147th. We have had a lot of discussion on this strip of road. If it needs to go in, we will put it in; we will not "go to the wall" for this. He would agree with whatever Council felt is best. The County is saying you will

have no access here if you do not put in 142nd; City staff and the Planning Commission support Limonite.

Mayor Hardin questioned if Mr. Peterson was not opposed to both roads.

Derrick Passe, Passe Engineering, stated he did not feel the County was saying 147th could not be realized through the commercial site. It may be a benefit to swing the road south and have the structure at 147th and south. That's the place that the County wants to have the access through 147th.

Mr. Peterson asked about having some language that states the expectation is that 147th will go up to the County Road.

Mr. Passe commented on the alignment of 147th and the traffic coming from the north traveling at 55 miles per hour.

Ben Deemer, representing the Planning Commission, stated he does not disagree with anything that's been said. In his conversations with the Highway Department, #116 will carry more value than #56 as right now #116 will have the right-of-way off #56. The County has some plans for #116 that they have not told us about yet.

Motion by Councilmember Peterson and seconded by Councilmember Beahen to grant preliminary plat approval of to Pondview with 147th terminating at the eastern boundary of the commercial site with clarification from the County that they will not prohibit the eventual extension of 147th to C.R. #56 through the commercial site and that Limonite Street extend north as a through street.

Motion carried. Voting Yes: Mayor Hardin, Councilmembers Peterson, Beahen, Beyer and Zimmerman. Voting No: None.

**Case #6: Request for Revision to Approved Preliminary Plat for Chestnut Ridge 2nd Addition; Case of John Peterson, Good Value Homes**

Zoning Administrator Frolik reminded Council that they had previously granted preliminary plat approval to Chestnut Ridge 2nd Addition which consisted of 73 single family lots. The developer is requesting a minor modification to the approved plat to construct the cul-de-sac on the north side of Sunwood Drive as a through street to intersect with Sunwood Drive. This modification is precipitated by the realignment of Sunwood Drive to the north. This realignment made the lots on the south end of the cul-de-sac substandard and forced the road to go through as a through street. The developer then gained developable property on the south side of Sunwood Drive and was able to replace the lots lost on the north side of Sunwood Drive.

City Attorney Goodrich explained that this modification is not significant enough to warrant a public hearing.

Motion by Councilmember Peterson and seconded by Mayor Hardin to approve the revised preliminary plat for Chestnut Ridge 2nd Addition prepared by Passe Engineering, Inc. and entitled Preliminary Plat of Chestnut Ridge 3rd and 4th Additions.

Motion carried. Voting Yes: Mayor Hardin, Councilmembers Peterson, Hardin, Beahen and Beyer. Voting No: None.

NORTHWEST CORNER OF SEC. 27, T. 32, R. 25

149TH AVENUE NW

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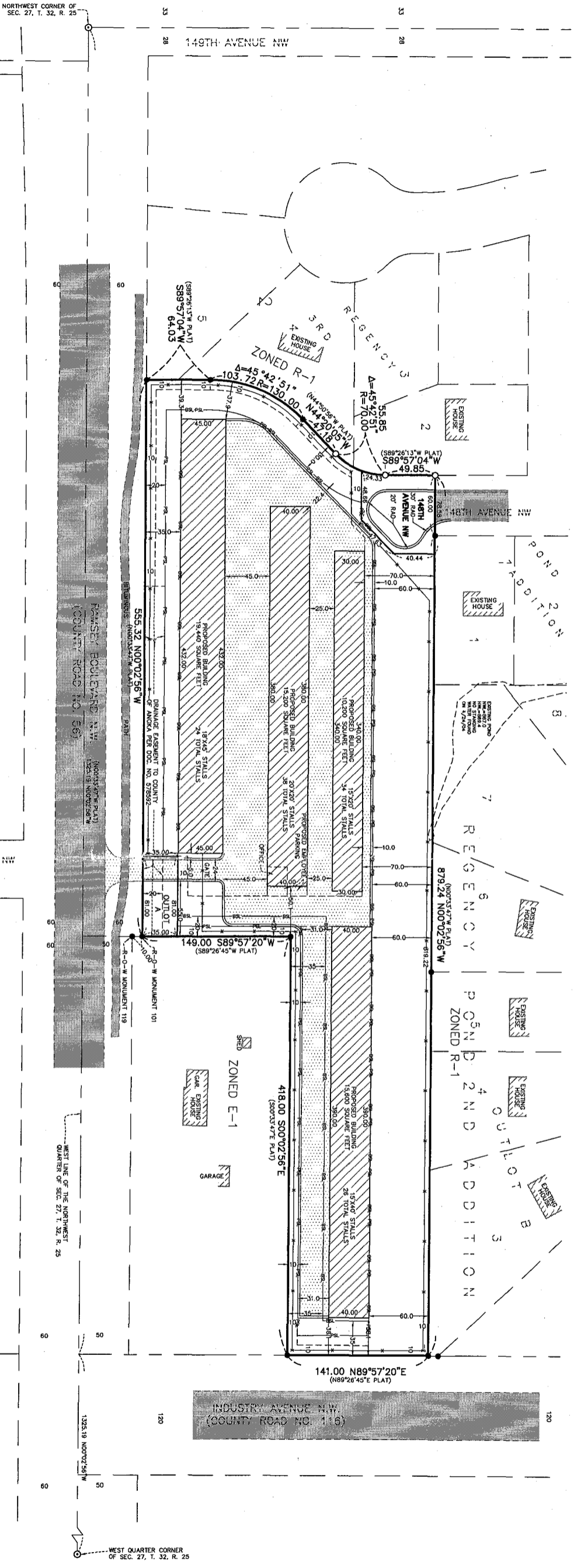
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**NOTES**

ORIENTATION OF THIS BEARING SYSTEM ASSUMES THE WEST LINE OF THE NW 1/4 OF SEC. 27, T. 32, R. 25 TO BEAR N 00°02'56" W.

NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY JAMES R. HILL, INC. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF JAMES R. HILL, INC. OR THE SURVEYOR.

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY THE SURVEYOR.

CURRENT ZONING FOR OUTLOT A, REGENCY POND IS E-1 (EMPLOYMENT DISTRICT).

THE LOCATION AND INFORMATION SHOWN REGARDING UTILITIES, SERVING THIS PROPERTY OR EXISTING ON THIS PROPERTY AS SHOWN AS A PART OF THIS SURVEY, HAVE BEEN LOCATED BY ON-SITE OBSERVATION OR TAKEN FROM PLANS PROVIDED BY OTHERS. FOR FURTHER INFORMATION CONCERNING THESE UTILITIES PLEASE CONTACT THE CITY OF RAMSEY ENGINEERING DEPARTMENT AND/OR GOPHER STATE ONE CALL.

GROSS AREA = 207,900 SQUARE FEET OR 4.773 ACRES  
 BUILDING AREA = 60,440 SQUARE FEET OR 29.1%  
 TOTAL IMPERVIOUS SURFACE = 121,050 SQUARE FEET OR 58.2%  
 GREEN SPACE = 86,850 SQUARE FEET OR 41.8%

**PROPERTY DESCRIPTION**

Outlot A, REGENCY POND, according to the recorded plat thereof, Anoka County, Minnesota.

I hereby certify that this is a true and correct representation of a survey of the boundaries of the land above described and of the location of all buildings, if any, thereon, and all visible encroachments, if any, from or on said land. This Survey was performed by me or under my direct supervision and that I am a duly Licensed Surveyor under the laws of the State of Minnesota.

Signed this 9th day of June, 2004. For James R. Hill, Inc.

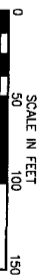
By: *Harold C. Peterson*  
 Harold C. Peterson, Land Surveyor, Minnesota License No. 12294

**OWNER:**

TSM DEVELOPMENT, INC.  
 222 MONROE STREET  
 ANOKA, MN 55303  
 PHONE (763) 576-9121  
 FAX (763) 576-9122

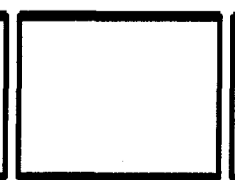
**SURVEYOR/ENGINEER:**

JAMES R. HILL, INC.  
 1523 94TH LANE NE, SUITE B  
 BLAINE, MN 55449  
 PHONE (763) 792-1136  
 FAX (763) 792-1743

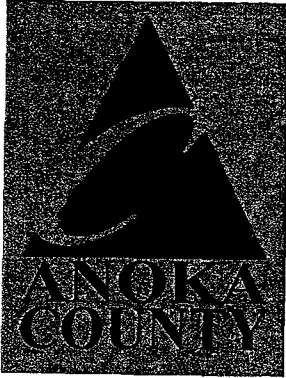


DRAWN BY	SPH
DATE	06/08/04
REVISIONS	
1/2/04 REVISION: CHANGE FROM 18'X42' STALLS TO 20'X20' STALLS	
7/2/04 REVISION: PER CITY COMMENT	
10/2/04 REVISION: PER CITY COMMENT	
CAD FILE	20781 SITE PLAN
PROJECT NO.	20781
SHEET 1 OF 5	

**RAMSEY MINI STORAGE**  
 RAMSEY, MINNESOTA  
**SITE PLAN**  
 FOR  
**TSM DEVELOPMENT, INC.**  
 222 MONROE STREET, ANOKA, MN 55303, (763) 576-9121



**James R. Hill, Inc.**  
 PLANNERS / ENGINEERS / SURVEYORS  
 1523 94TH LANE NE, SUITE B, BLAINE, MN 55449  
 PHONE: (763) 792-1136 FAX: (763) 792-1743  
 EMAIL: JRHINC@JRHINC.COM



## COUNTY OF ANOKA

Public Services Division  
HIGHWAY DEPARTMENT  
1440 BUNKER LAKE BLVD. NW, ANDOVER, MINNESOTA 55304  
(763) 862-4200 FAX (763) 862-4201  
Andrew Witter, P.E.  
Construction Engineer  
Direct Dial Number (763) 862-4249

March 16, 2005

Troy Livgard  
James R. Hill, Inc.  
1523 94<sup>th</sup> Ln NE, Suite B  
Blaine, MN 55449

Re: Regency Pond, 4<sup>th</sup> Addition, CR 56

Troy,

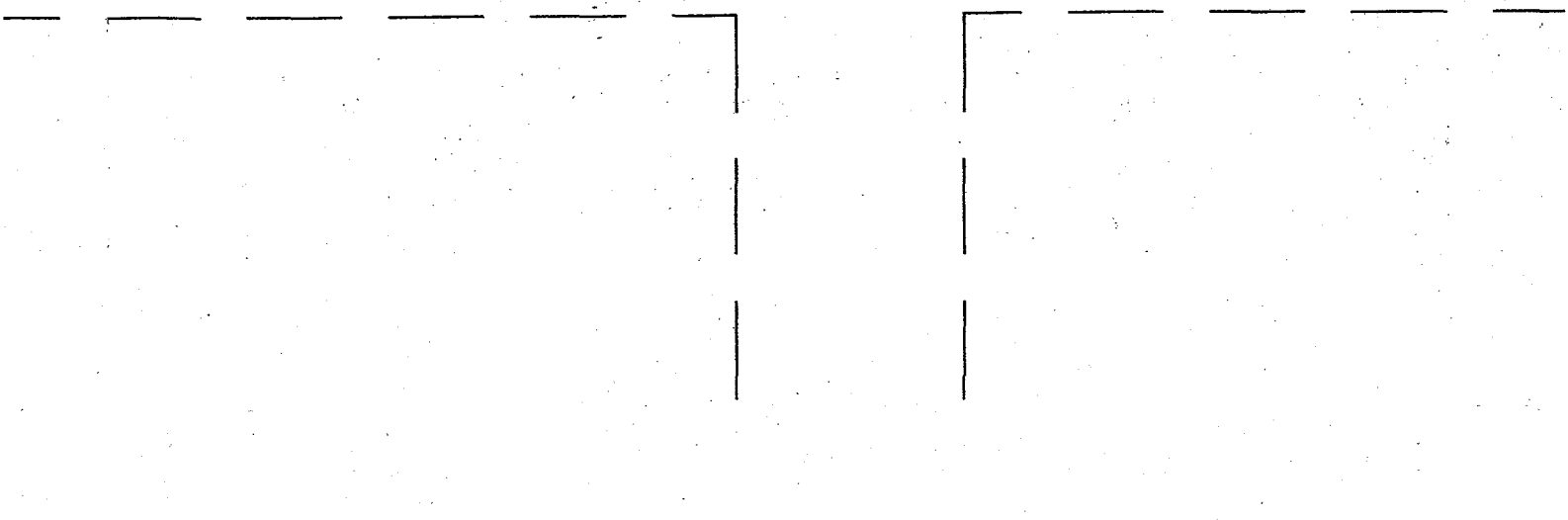
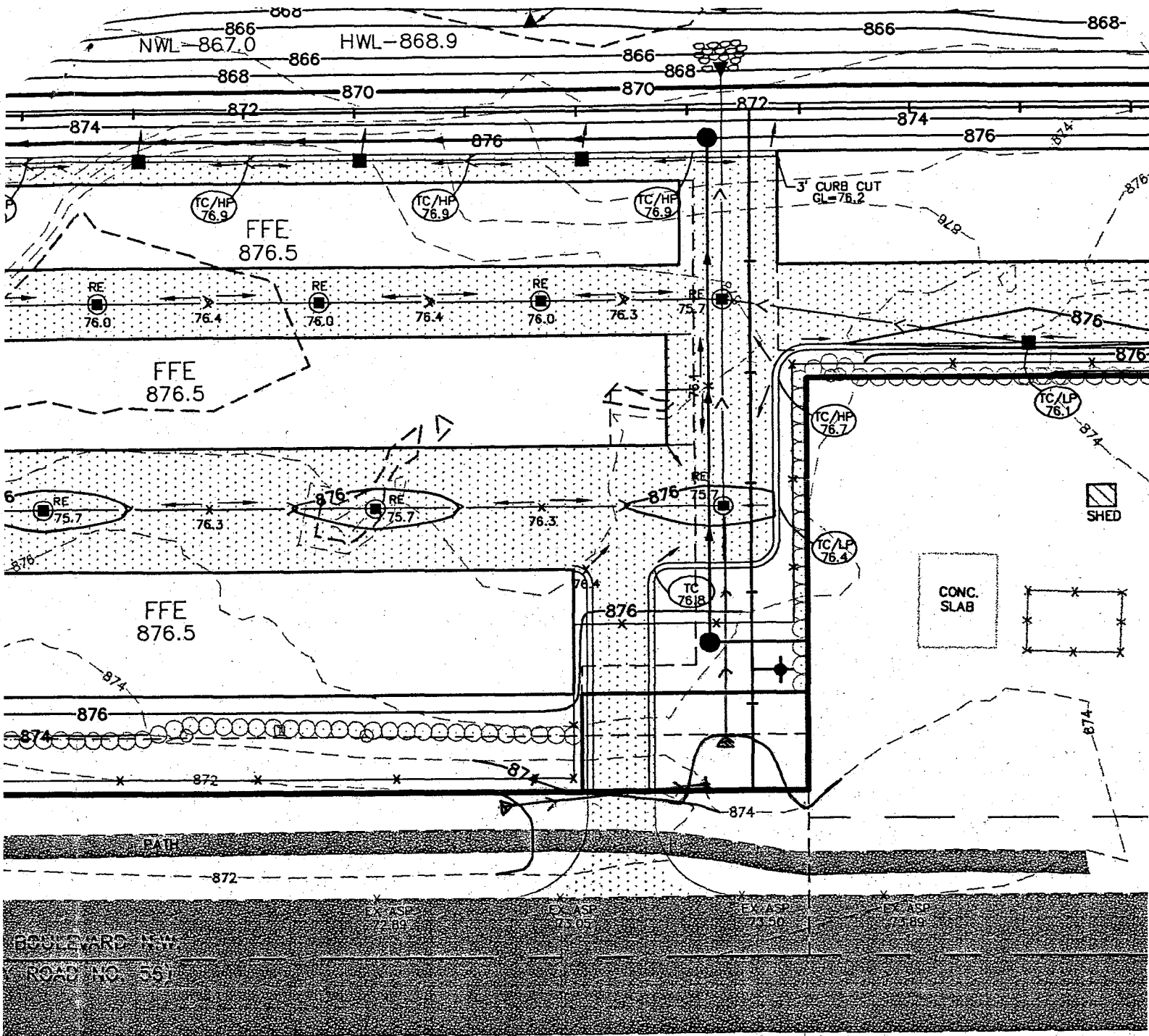
Anoka County has reviewed the plans for the Regency Ponds 4<sup>th</sup> Addition, Mini Storage. This review was completed on the plans submitted on February 9, 2005. The following is a list of issues that need to be addressed:

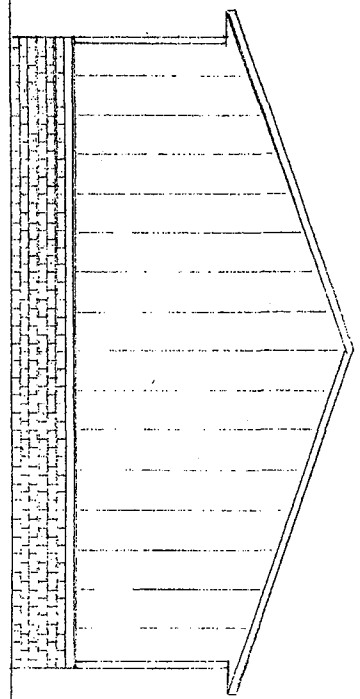
- The plans show significant water and sanitary sewer construction adjacent to Anoka County R/W. It is difficult to do this work without disturbing a large area. The erosion control plans shall include adequate measures to protect the surrounding areas. Include a rock construction entrance to the site, as well.
- Due to the reduce size of the County Storage area north of the entrance, an overflow shall be provided. This could be accomplished by providing connectivity to your system, via CB #109. See attached sketch. A culvert is necessary under the entrance to the site. Without this culvert, the drainage area south of the entrance is trapped.

Please contact me if you have any questions regarding the above comments.

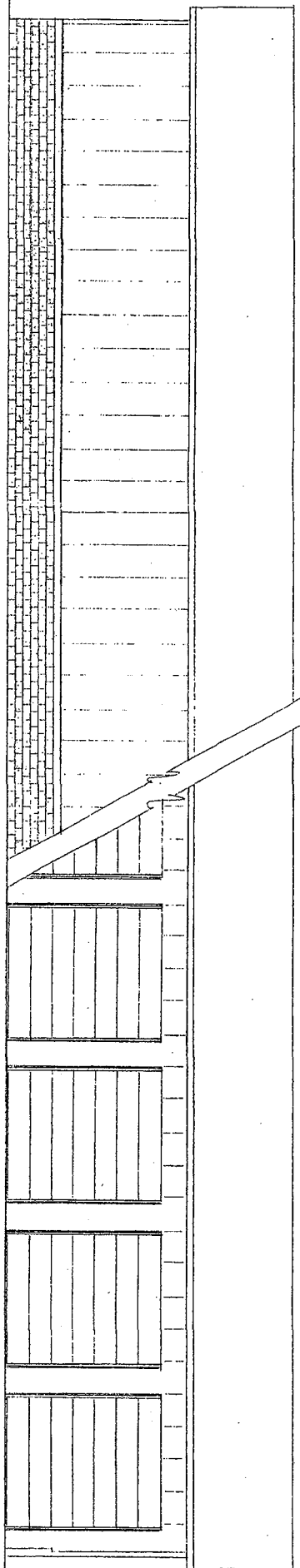
Sincerely,

Andrew Witter, P.E.  
Construction Engineer

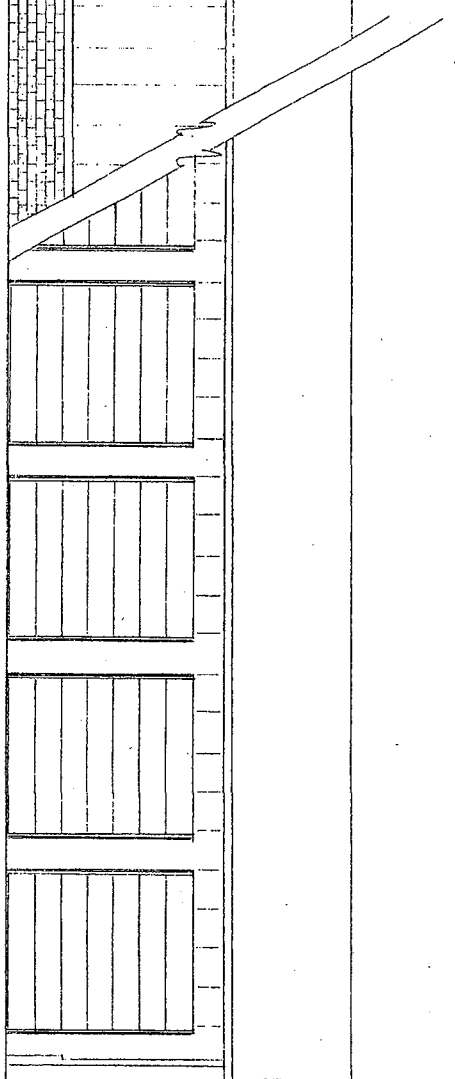




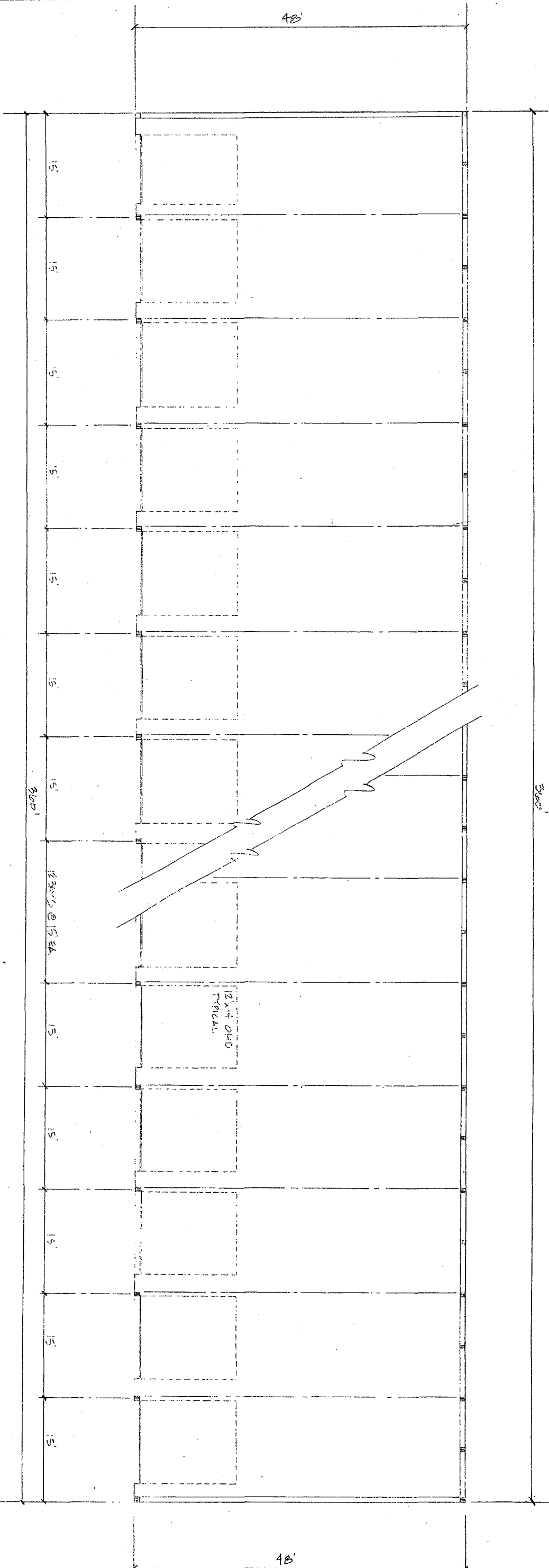
END ELEVATION  
1/8" = 1'-0"



REAR ELEVATION

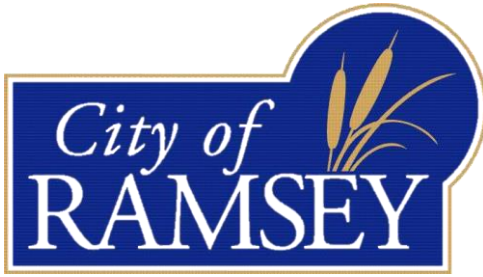


FRONT ELEVATION



FLOOR PLAN  
1/8" = 1'-0"

PRELIMINARY PLAN FOR:	
110' x 1'-0"	CNP STORAGE
06-21-04	
TSH DEVELOPMENT	#4019



---

7550 Sunwood Drive NW • Ramsey, MN 55303  
City Hall: 763-427-1410 • Fax: 763-427-5543  
[www.cityoframsey.com](http://www.cityoframsey.com)

**Under what circumstances, if any, would you support a retail and indoor storage facility at the northeast intersection of Ramsey Boulevard and Bunker Lake Boulevard?**

The City of Ramsey has been approached by N.I.K. Management, Inc., a potential buyer of the vacant parcels at the northeast intersection of Ramsey Boulevard and Bunker Lake Boulevard (14725 Ramsey Blvd NW), regarding the feasibility of developing the site as an indoor self-storage facility (mini-storage) anchored by a small-scale convenience retail user (approximately 5,000 square feet). A copy of the concept plan is enclosed with this invitation.

This is not an official application at this time. The City asked that the potential buyer meet with the neighborhood and Planning Commission before the City would officially review the request to ensure your feedback was incorporated early in the review process. This is a less formal, more proactive way to include you in our review process before a request gets to a Public Hearing.

The City invites you to a workshop to assist the City in its review of the concept and aide the potential Buyer in its design and decision-making process.

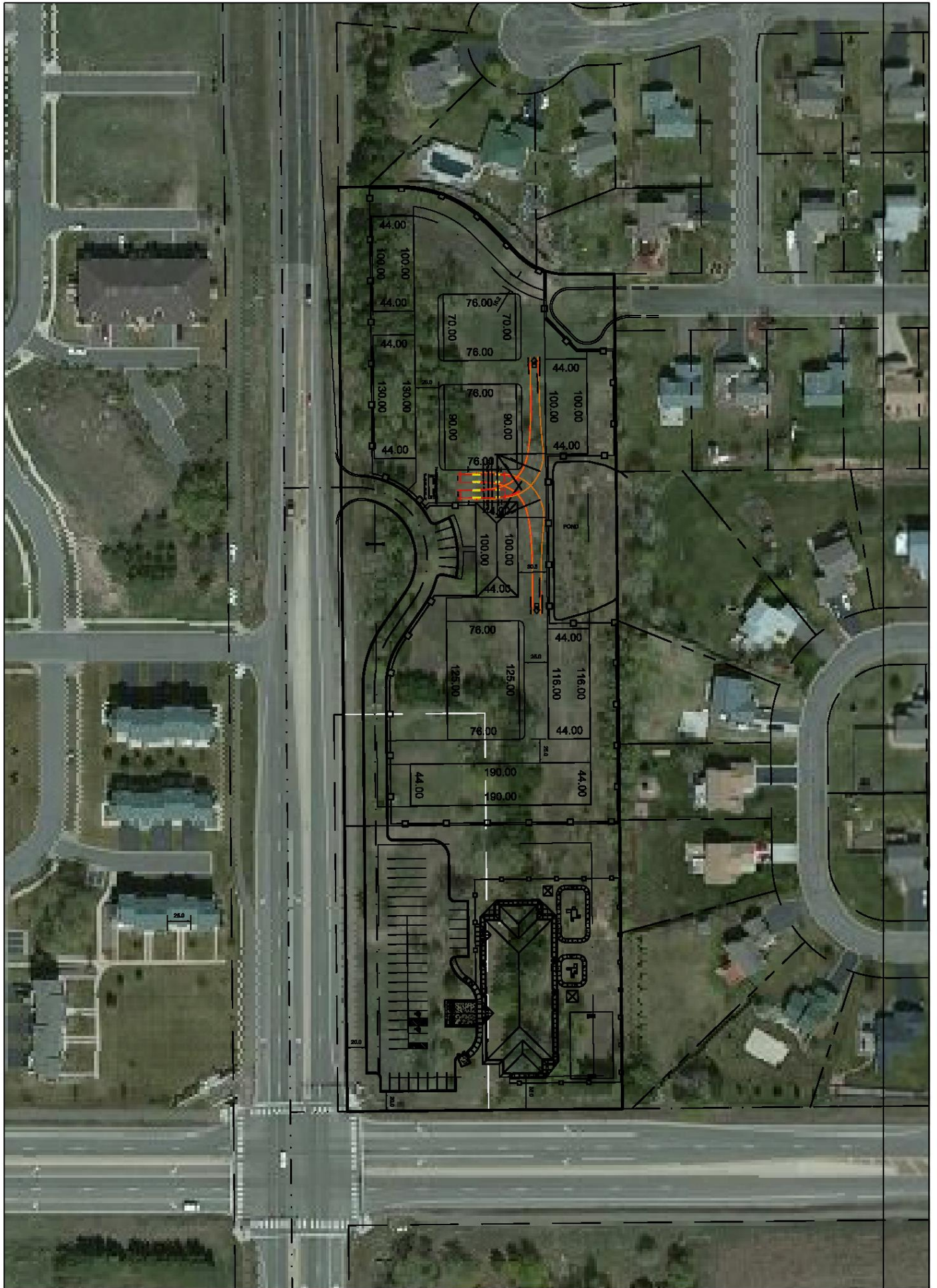
*Thursday, June 4 at 5:30 p.m. to 7:00 p.m.  
Ramsey Municipal Center, Council Chambers  
7550 Sunwood Drive NW, Ramsey, MN 55303*

Please consider joining us to be part of the discussion and solution. You may also submit comments to [tgladhill@cityoframsey.com](mailto:tgladhill@cityoframsey.com) or by calling 763-433-9826. Even if you are unable to attend the workshop, the City welcomes your comments and ideas as we continue through this process. City Staff is available to meet and discuss via phone, email, or in person, so please take a moment to share your ideas. Additional information will be available online at [www.cityoframsey.com/DevelopmentUpdate](http://www.cityoframsey.com/DevelopmentUpdate).

Sincerely,

CITY OF RAMSEY

Tim Gladhill  
Community Development Director



**Regular Planning Commission**

5. 4.

**Meeting Date:** 06/04/2015

**By:** Chris Anderson, Community  
Development

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**Information**

**Title:**

Review Concept Plan for Townhome Units at NE Quadrant of Sunfish Lake Boulevard and Riverdale Drive; Case of Bulow, Inc.

**Purpose/Background:**

The purpose of this case is to provide feedback to the owner of the parcel located at the northeast corner of Sunfish Lake Blvd and Riverdale Drive regarding a concept plan that has been submitted. The concept plan proposes to develop the half-acre parcel with eight (8) townhome units. Note that at this time, there is no official application submitted; the property owner wanted to get some initial feedback on the proposal prior to expending funds on plan development.

A public workshop was held prior to the meeting this evening to gather comments/feedback from the public regarding this concept plan. Staff will provide a verbal update to the Planning Commission of any input received.

**Notification:**

Notification is not required for this discussion topic. No action is being requested.

**Observations/Alternatives:**

The parcel is currently zoned E-1 Employment District and is guided as Places to Work on the Future Land Use Map. The proposed high density residential use (7-15 units per acre), if it were to proceed, would require both a Zoning Map Amendment as well as a Comprehensive Plan Amendment. There are existing, single family residential homes on the south side of Riverdale Drive. Parcels to the north and west are zoned B-2 Highway Business and parcels to the east are zoned E-1 Employment District. The Mississippi River Trail was recently installed along the south boundary of this parcel.

Following are some of the key topics to consider/discuss:

- Access to the site
- Available parking
- Greenspace
- Density

Attached to this case are building elevations provided by the property owner as well as a concept/site plan. These are for reference purposes only at this time.

**Funding Source:**

Preparation of this discussion topic is being handled as part of normal Staff duties.

**Recommendation:**

This topic is for discussion only. There is no official Staff recommendation at this time.

**Action:**

This topic is for discussion only. No action is being requested.

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## Attachments

[Site Location Map](#)

[Concept Plan](#)

[Area Context](#)

[Public Invite to Workshop](#)

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## Form Review

**Inbox**

Tim Gladhill

Form Started By: Chris Anderson

Final Approval Date: 05/29/2015

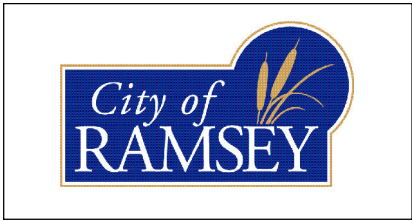
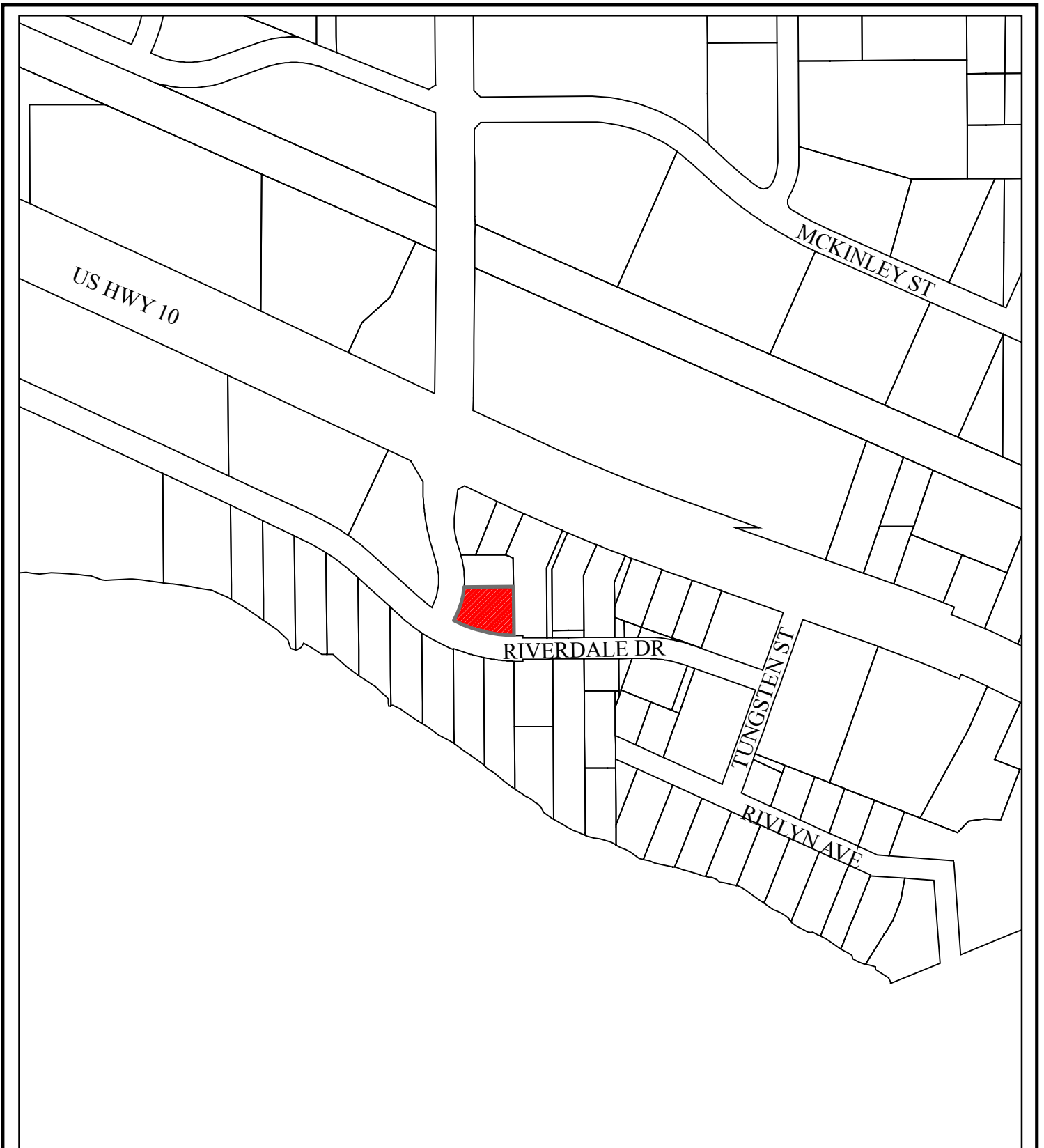
**Reviewed By**

Tim Gladhill

**Date**

05/29/2015 11:28 AM

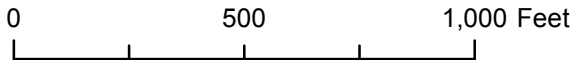
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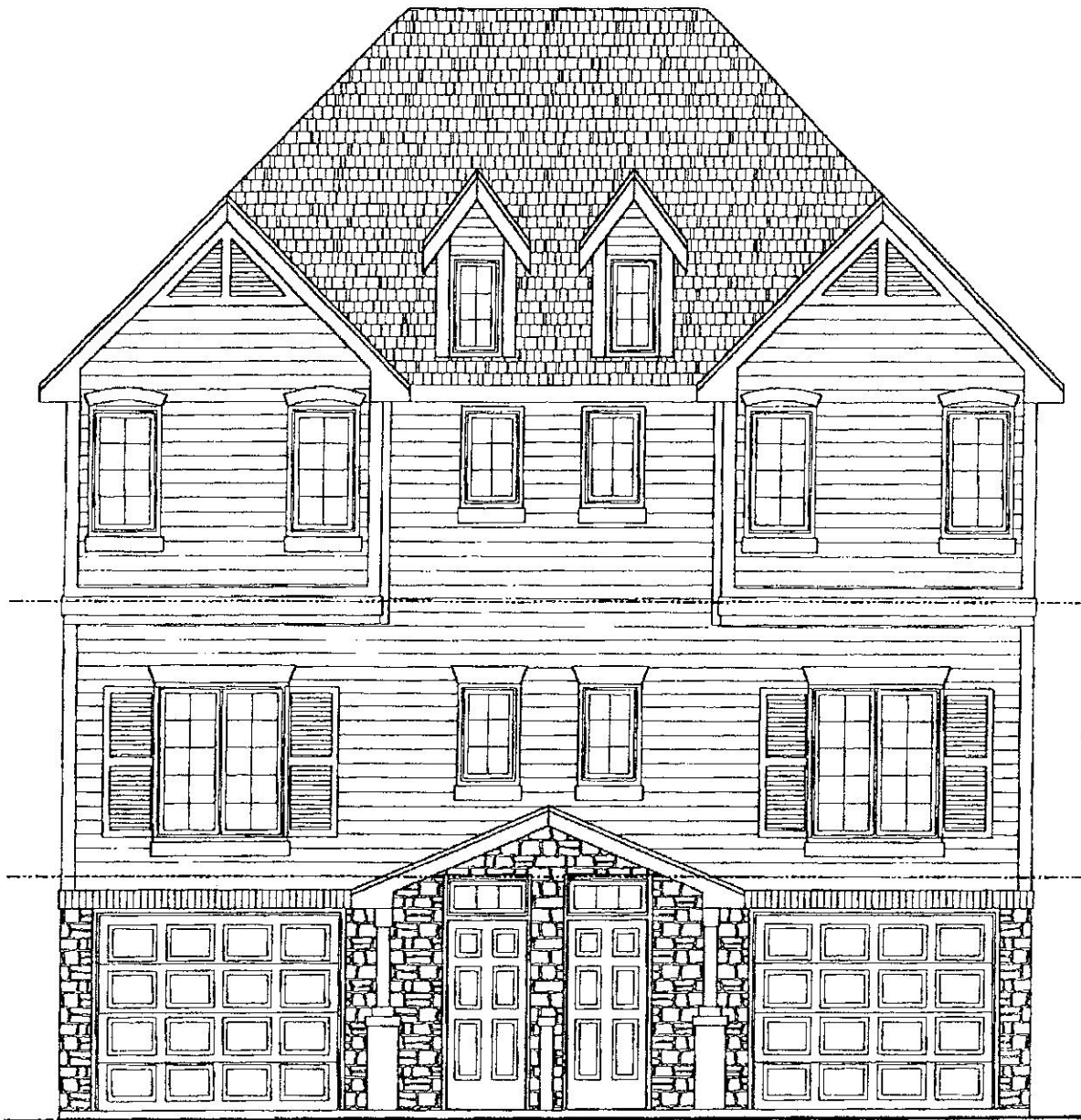


Bulow Concept Plan

Legend

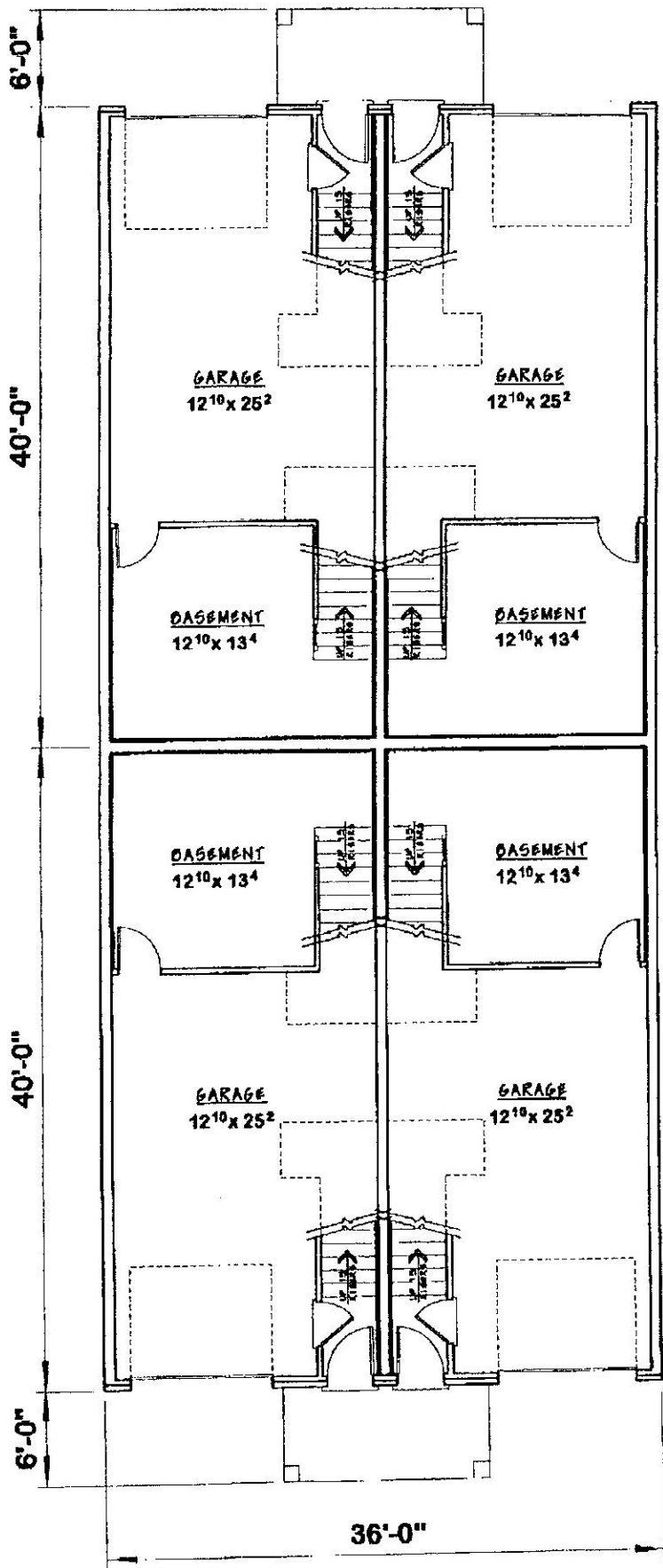
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-  Parcels



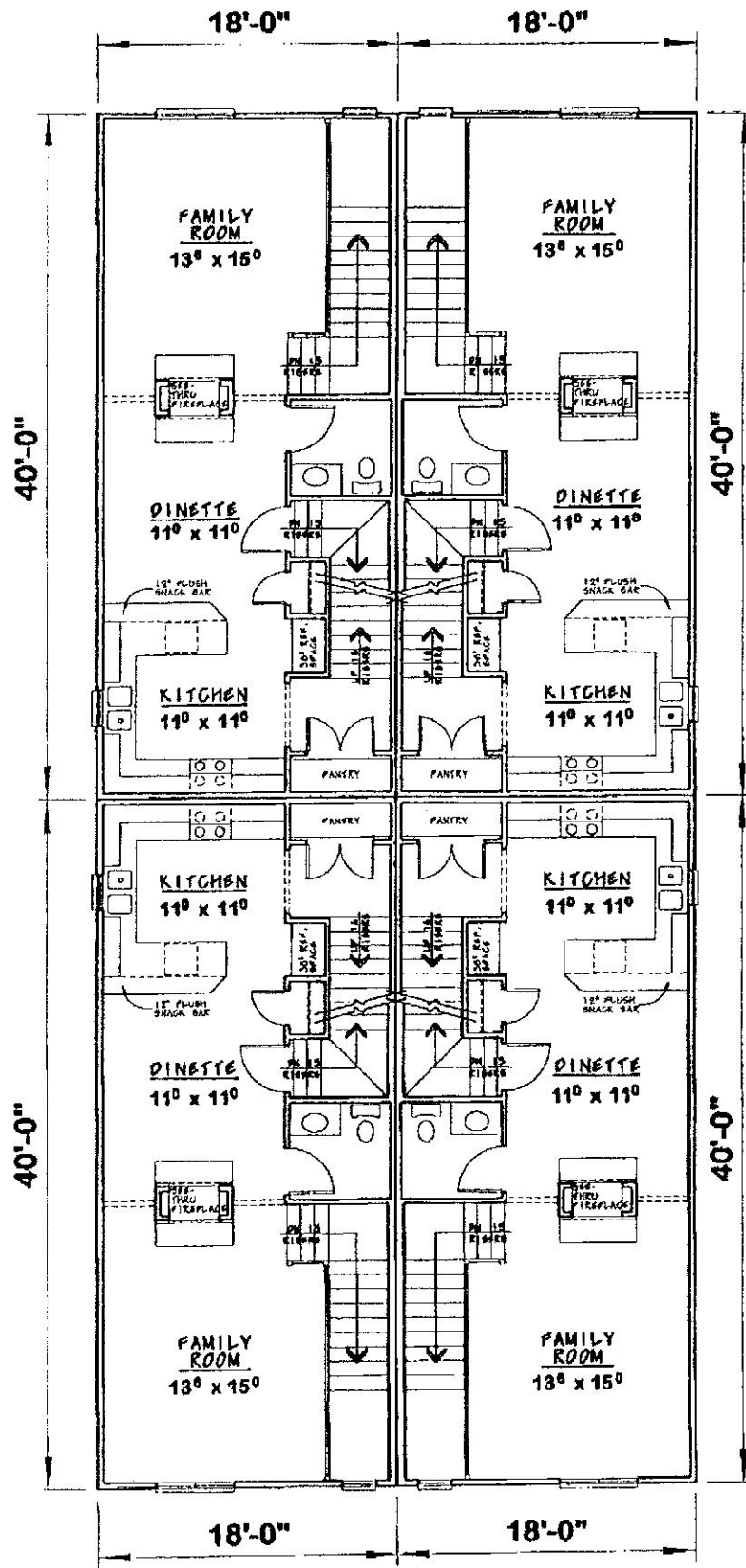


FRONT ELEVATION

SCALE: 1/4" = 1'-0"



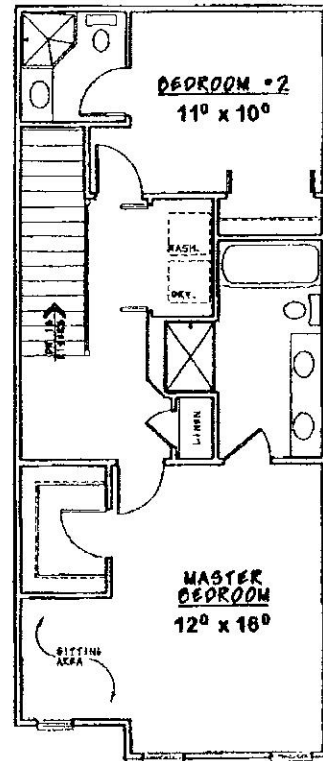
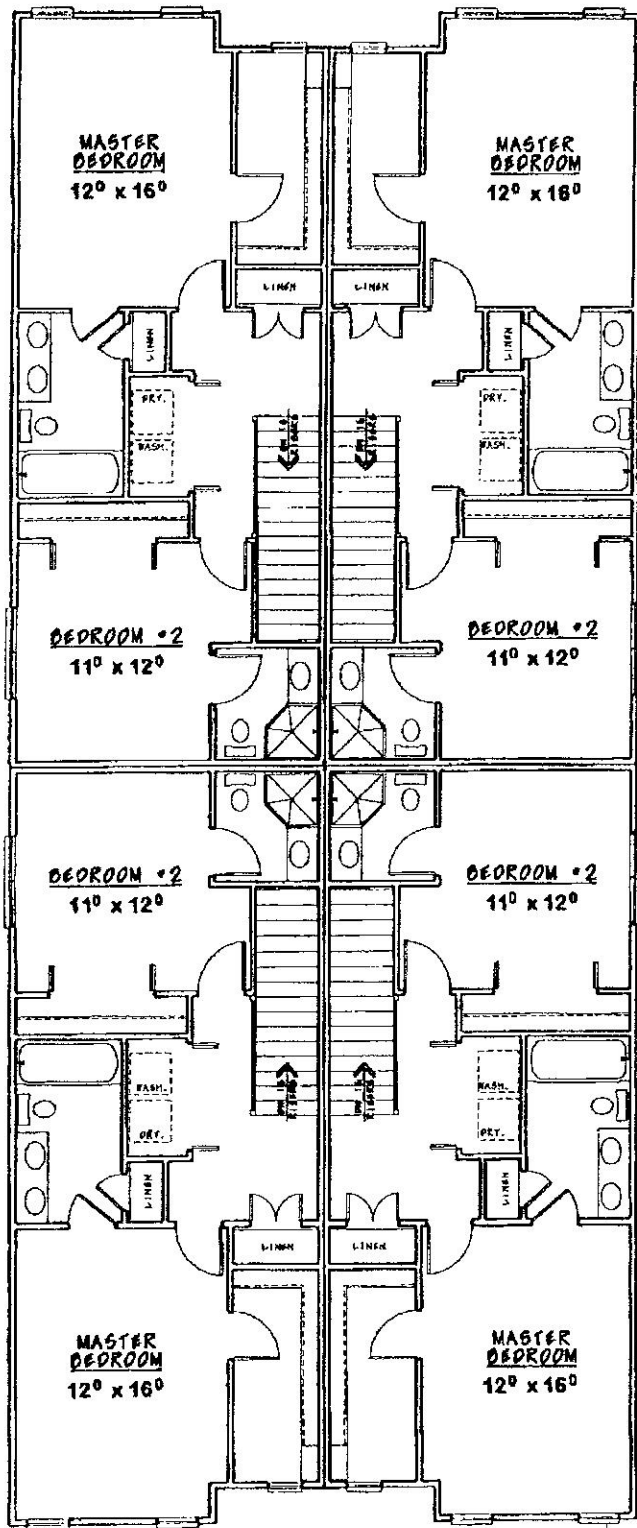
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17, 200



MAIN LEVEL	720 #
SECOND LEVEL	695 #
TOTAL	1415 #

705 x 100

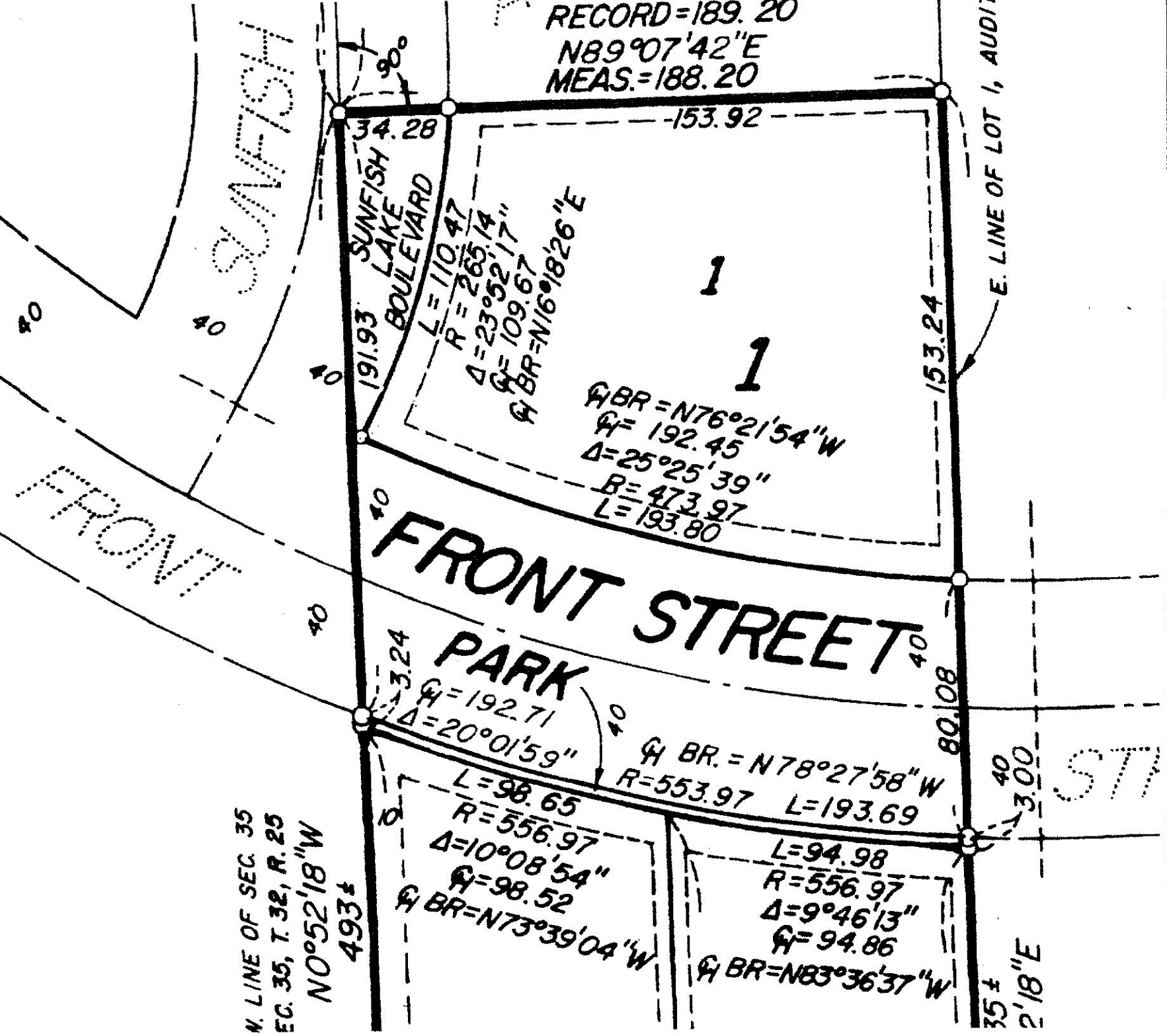
7, 400



7/20/88  
 3000



RECORD=189.20  
N89°07'42"E  
MEAS.=188.20



40

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W. LINE OF SEC. 35  
E.C. 35, T. 32, R. 25  
N0°52'18"W  
493±

L=98.65  
R=556.97  
Δ=10°08'54"  
C=98.52  
C BR=N73°39'04"W

L=94.98  
R=556.97  
Δ=9°46'13"  
C=94.86  
C BR=N83°36'37"W

34.28  
191.93  
SUNFISH LAKE BOULEVARD

L=110.47  
R=265.14  
Δ=23°52'17"  
C=109.67  
C BR=N16°18'26"E

C BR=N76°21'54"W  
C=192.45  
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153.92

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35±  
2'18"E

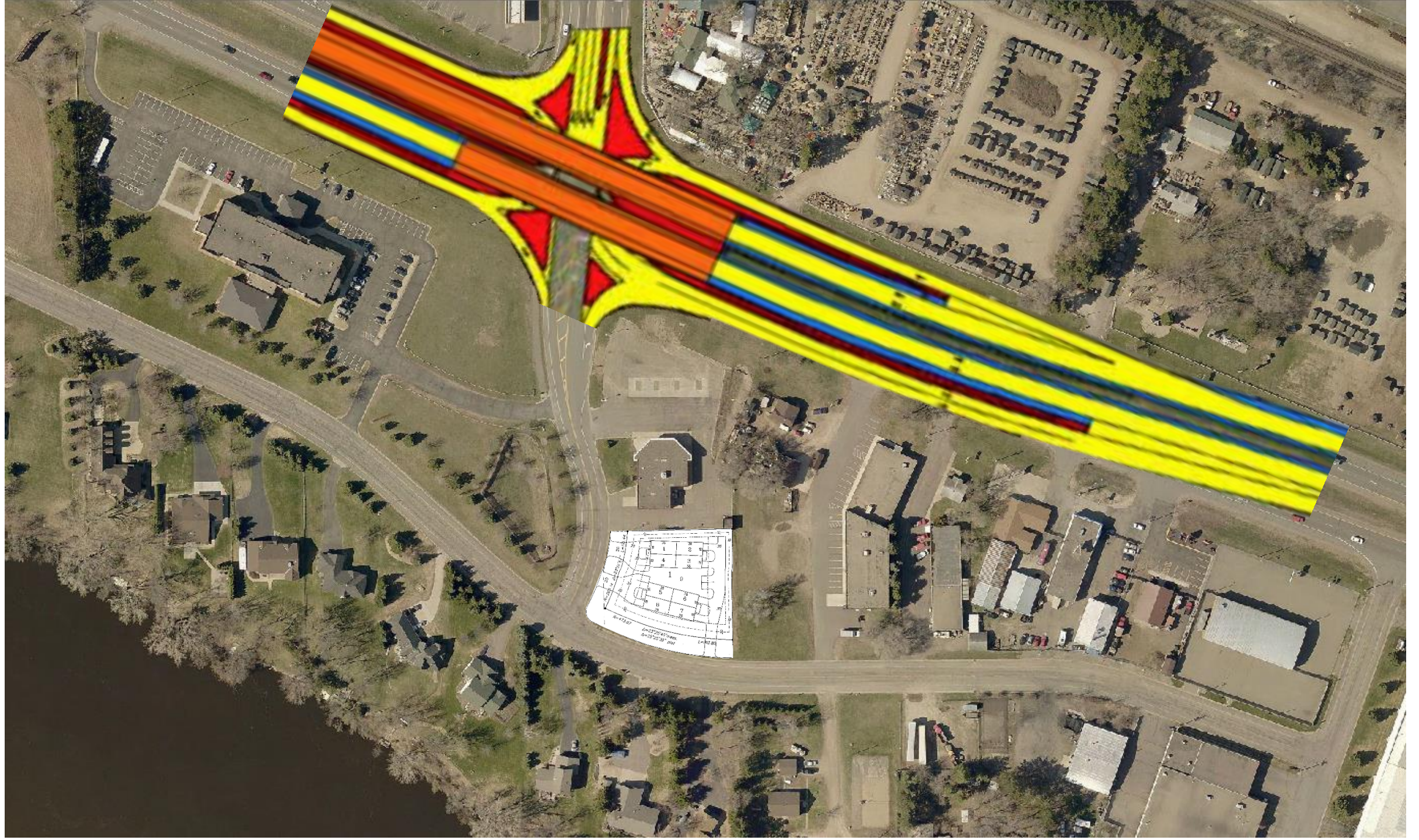
E. LINE OF LOT 1, AUDIT

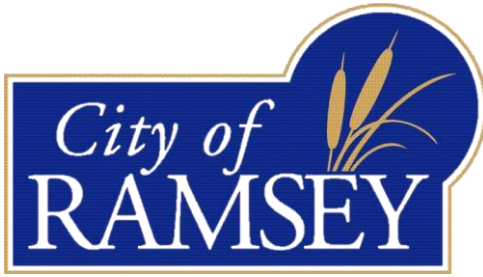
SUNFISH

FRONT

PARK  
FRONT STREET

ST





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7550 Sunwood Drive NW • Ramsey, MN 55303  
City Hall: 763-427-1410 • Fax: 763-427-5543  
[www.cityoframsey.com](http://www.cityoframsey.com)

**Under what circumstances, if any, would you support a townhouse development at the northeast intersection of Riverdale Drive and Sunfish Lake Boulevard?**

The City of Ramsey has been approached by Bulow, Inc., a potential developer of the vacant parcels at the northeast intersection of Riverdale Drive and Sunfish Lake Boulevard (south of Highway 10), regarding the feasibility of developing the site as an eight (8) unit townhome development on one-half of an acre. A copy of the concept plan is enclosed with this invitation.

This is not an official application at this time. The City asked that the potential buyer meet with the neighborhood and Planning Commission before the City would officially review the request to ensure your feedback was incorporated early in the review process. This is a less formal, more proactive way to include you in our review process before a request gets to a Public Hearing.

The City invites you to a workshop to assist the City in its review of the concept and aide the potential Buyer in its design and decision-making process.

*Thursday, June 4 at 5:30 p.m. to 7:00 p.m.  
Ramsey Municipal Center, Council Chambers  
7550 Sunwood Drive NW, Ramsey, MN 55303*

Please consider joining us to be part of the discussion and solution. You may also submit comments to [tgladhill@cityoframsey.com](mailto:tgladhill@cityoframsey.com) or by calling 763-433-9826. Even if you are unable to attend the workshop, the City welcomes your comments and ideas as we continue through this process. City Staff is available to meet and discuss via phone, email, or in person, so please take a moment to share your ideas. Additional information will be available online at [www.cityoframsey.com/DevelopmentUpdate](http://www.cityoframsey.com/DevelopmentUpdate).

Sincerely,

CITY OF RAMSEY

Tim Gladhill  
Community Development Director

CONCEPT PLAN  
FOR  
CHRIS BULOW  
RAMSEY, MN

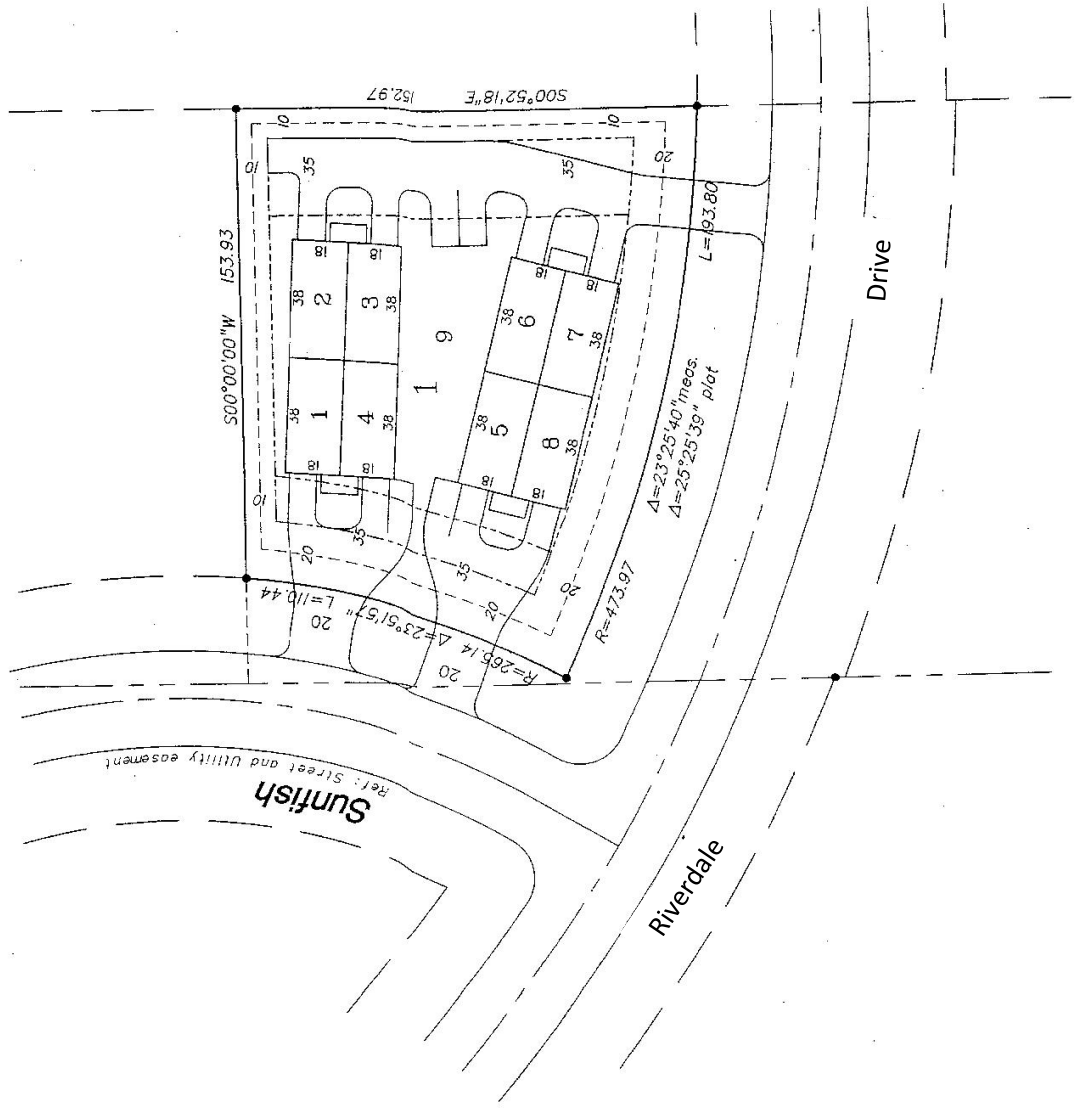
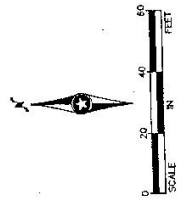
John Oliver & Associates, Inc.  
Civil Engineering, Land Surveying, Land Planning  
880 Dodge Avenue  
St. Paul, Minnesota 55108  
763-441-8078 FAX 763-441-8885

Date: X  
Signed: X  
Professional Seal  
Professional Engineer  
of Minnesota  
for the State  
of Minnesota  
I hereby certify that this plan  
specifies the report was prepared  
by the Engineer in direct supervision  
and under the Licensed Professional  
Engineer's name and seal.

DATE:	9/5/01
DESIGN BY:	LFC
DRAWN BY:	TCL
CHECKED BY:	LFC
DESIGNED BY:	LFC
TEXT:	NONE
FILE NO.:	714520-00

SHEET NO. 01

TOTAL AREA	23,161 SF	100%
OPEN SPACE	11,622 SF	50%
HARD SURFACE	11,539 SF	50%



**Meeting Date:** 06/04/2015

**By:** Tim Gladhill, Community Development

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**Information**

**Title:**

PUBLIC HEARING: Consider Ordinance #15-12 Amending City Code Chapter 10 (Animals) and Section 117-111 (R-1 Residential District) Amending Approval Process for Certain Animals

**Purpose/Background:**

The purpose of this case is to hold a Public Hearing and provide a recommendation to the City Council for Ordinance #15-12. The intent of Ordinance #15-12 is to revise the approval process for the following requests:

1. Four (4) or more dogs
2. Horses on 1.5 to 2.99 acres
3. Beekeeping
4. Non-Traditional Domestic or Exotic Animals
5. Wild Animals

Each of these types of requests currently requires the issuance of a Conditional Use Permit. Based on a number of recent reviews with the Planning Commission and feedback from potential Applicants, the following Ordinance was developed to consider reducing the timeframe and costs to processing the requests above. With the exception of the wild animal category, the Ordinance would either streamline or eliminate the process for approval. Please note that the draft ordinance would remove the Planning Commission from the review process for the above requests, with the exception of wild animals.

**Notification:**

A notification regarding the Public Hearing was published in the Anoka County UnionHerald.

**Observations/Alternatives:**

**Observations**

Ordinance #15-12 recommends approval processes as follows:

1. Conditional Use Permit: Wild Animals
2. License: Four (4) or more dogs, Beekeeping, and Non-Traditional but domestic animals (exotic)
3. Administrative approval: Horses on lots of at least 1.5 acres.

When considering the appropriate process, Staff used the following assumptions for tools available to the City to process these requests:

1. Conditional Use Permit: used when the City desires the highest degree of public comment, flexibility in attaching reasonable conditions, and ultimate approval authority.
2. License: used when request is routine in nature but still desires some opportunity for public comment and City Council approval (non-administrative approvals). The Planning Commission would not be part of this review process.
3. Permitted use without license: when the request is so routine that public comment and City Council approval is not necessary.

The following definitions apply to the request:

1. Horse: any stallion, mare, gelding, foal, pony, donkey, ass, burro, mule, or animal of horse kind.
2. Non-Traditional or Exotic Animals: City Code definition; those animals that are not normally considered to

be domesticated but are not wild animals as defined by code. Commentary; this category is established for those animals that are not traditionally considered as a domestic pet but do not necessarily possess the safety concern as a wild animal.

3. Wild Animal: a mammal, large or poisonous reptile and bird that, in their uncaptured wild state, have the physical capacity to be dangerous to the safety and welfare of any person or property.

Detailed performance standards and maximum number of animals allowed per parcel are included in the enclosed attachments.

### **Alternatives**

Alternative #1 - Recommend that the City Council adopt Resolution #15-12. This ordinance is being brought forward based on Planning Commission and City Council suggestion. Staff recommends that some form of ordinance modifying the approval process should be adopted.

Alternative #2 - Recommend that the City Council adopt a revised Resolution #15-12. Potential revisions to the draft ordinance could include further modifications to the approval process. Staff would support the elimination of the license requirement for beekeeping if the Planning Commission felt that there are adequate safety measures in the City Code currently to provide confidence in administrative approval. Staff would not recommend the elimination of the Conditional Use Permit process for wild animals. Due to the perceived subjective nature of the definition of non-traditional or exotic animals, Staff would feel most comfortable with a City Council approval/confirmation of Staff's analysis of these requests.

Alternative #3 - Table action on this recommendation and provide Staff with additional direction to provide further modifications. As the ordinance is somewhat complex and this is the first time the Planning Commission has considered the ordinance, Staff would fully support this option as well.

Alternative #4 - Recommend that the City Council deny Resolution #15-12. Based on previous discussions with the Planning Commission and City Council, Staff does not recommend this option. However, if the Planning Commission desires to retain the conditional use permit process and is solely concerned about current rates and charges for these requests, the City could consider amending rates and charges to create thresholds of conditional use permit types and lower application fees. This could have a minimal impact to the general tax rate.

### **Funding Source:**

This case is being handled as part of normal Staff duties.

### **Recommendation:**

Staff recommends that the City Council adopt Resolution #15-12.

### **Action:**

Motion to recommends that the City Council adopt Resolution #15-12.

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### **Attachments**

[Summary of Proposed Changes](#)

[Redlined Text with Commentary](#)

[Clean Copy of Revised Text](#)

[Ordinance #15-12](#)

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### **Form Review**

**Inbox**

Chris Anderson

**Reviewed By**

Chris Anderson

**Date**

05/29/2015 02:01 PM

Tim Gladhill (Originator)  
Form Started By: Tim Gladhill  
Final Approval Date: 05/29/2015

Tim Gladhill

05/29/2015 02:33 PM  
Started On: 04/30/2015 12:44 PM

**Ramsey City Code Chapter 10 (Animals)  
Summary of Proposed Changes (2015)**

Ordinance #15-12 amends the Process for Approval for certain animal requests. This is a procedural amendment and does not make any policy changes to performance standards.

Standard	Current	Proposed	Justification
Four (4) or more dogs	Conditional Use Permit <ul style="list-style-type: none"> <li>• \$200 Application Fee</li> <li>• \$800 Escrow (unused portions refunded)</li> <li>• Planning Commission</li> <li>• City Council</li> </ul>	Administrative Kennel License <ul style="list-style-type: none"> <li>• \$200 Application Fee</li> <li>• City Council</li> </ul>	<ul style="list-style-type: none"> <li>• Shorter review period</li> <li>• Lower cost</li> <li>• Still allows public input</li> </ul>
Horses on 1.5 to 2.99 acres	Conditional Use Permit <ul style="list-style-type: none"> <li>• \$200 Application Fee</li> <li>• \$800 Escrow (unused portions refunded)</li> <li>• Planning Commission</li> <li>• City Council</li> </ul>	No permit or license <ul style="list-style-type: none"> <li>• Administrative Approval</li> </ul>	<ul style="list-style-type: none"> <li>• Shorter review period</li> <li>• Lower cost</li> <li>• Additional process not necessary based on previous application review</li> </ul>
Beekeeping	Conditional Use Permit <ul style="list-style-type: none"> <li>• \$200 Application Fee</li> <li>• \$800 Escrow (unused portions refunded)</li> <li>• Planning Commission</li> <li>• City Council</li> </ul>	Beekeeping License <ul style="list-style-type: none"> <li>• \$200 Application Fee</li> <li>• City Council</li> </ul>	<ul style="list-style-type: none"> <li>• Shorter review period</li> <li>• Lower cost</li> <li>• Still allows public input</li> </ul>
Non-Traditional/Exotic Animals	Conditional Use Permit <ul style="list-style-type: none"> <li>• \$200 Application Fee</li> <li>• \$800 Escrow (unused portions refunded)</li> <li>• Planning Commission</li> <li>• City Council</li> </ul>	Exotic Animal License <ul style="list-style-type: none"> <li>• \$200 Application Fee</li> <li>• City Council</li> </ul>	<ul style="list-style-type: none"> <li>• Shorter review period</li> <li>• Lower cost</li> <li>• Still allows public input</li> <li>• Added layer of protection in review process</li> <li>• Eliminates policy judgements by Staff</li> </ul>
Wild Animals	Conditional Use Permit <ul style="list-style-type: none"> <li>• \$200 Application Fee</li> <li>• \$800 Escrow (unused portions refunded)</li> <li>• Planning Commission</li> <li>• City Council</li> </ul>	Conditional Use Permit (correct conflicting language in code). <ul style="list-style-type: none"> <li>• \$200 Application Fee</li> <li>• \$800 Escrow (unused portions refunded)</li> <li>• Planning Commission</li> <li>• City Council</li> </ul>	<ul style="list-style-type: none"> <li>• No policy changes proposed</li> <li>• Correcting existing language to match existing process</li> </ul>

Chapter 10 - ANIMALS (with redlined/tracked changes plus commentary)

FOOTNOTE(S):

--- (1) ---

**State Law reference**— General authority relative to animals, Minn. Stats. §§ 410.33, 412.221, subd. 21; animal health, Minn. Stats. ch. 35; dogs and cats, Minn. Stats. ch. 347; cruelty to animals, Minn. Stats. § 343.20 et seq.; stray animals and companion animals, Minn. Stats. ch. 346. [\(Back\)](#)

**Commented [TG1]:** Much of the protection for animals that is traditionally discussed as part of any Conditional Use Permit request is able to be handled through existing State Statutes.

ARTICLE I. - IN GENERAL

Sec. 10-1. - Keeping of certain animals, livestock and poultry.

~~(a) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:~~

**Commented [TG2]:** Changes to structure of regulations for horses eliminate the need for a separate definition here.

~~*Pony means a horse that does not exceed 54 inches or 13.2 hands in height.*~~

~~(ab) **Animals on less than three acres.** None of the following animals shall be maintained on any parcel of land in the city that is not at least 3.0 acres (130,680 square feet) in size: ~~horses,~~ llamas, cows, mules, donkeys, burros, ~~ponies,~~ goats, pigs, sheep, lambs, turkey, geese and ducks. EXCEPTION: Chickens (hens only, no roosters or crowing hens) may be maintained on parcels less than three acres. The following chart prescribes the number of chickens that can be maintained on lots of record to which the animal owner has fee title and desires to maintain chickens:~~

Lot Size	Number of Chickens Permitted (no roosters or crowing hens)
0.00 to 0.24 Acres	6
0.25 to 0.49 Acres	8
0.50 to 0.74 Acres	12
0.75 to 0.99 Acres	16
1.00 to 1.24 Acres	20
1.25 to 1.49 Acres	24
1.50 to 1.74 Acres	28
1.75 to 1.99 Acres	32

2.00 to 2.24 Acres	36
2.25 to 2.49 Acres	40
2.50 to 2.74 Acres	44
2.75 to 2.99 Acres	48

(c) *Animal unit.* Animal unit is defined as a measure used to compare differences in production of animal wastes. The following chart establishes the number of animal units assigned to certain livestock and poultry:

Animal	Number of Units
Cow	1.5
<del>Horse</del> , mule, llama, alpaca	1.0
Donkey, burro, <del>pony</del> , goat, pig, sheep, lamb	0.5
Turkey, goose	0.1
Chicken, duck	0.04

**Commented [TG3]:** Focusing horse regulations on single section rather than multiple sections.

(d) *Permitted animals.*

(1) The following chart prescribes the number of animal units that can be maintained on lots of record to which the animal owner has fee title and desires to maintain a mix of livestock, equines, poultry, or fowl (refer to section 10-24 for regulations for maintaining horses ~~or equines exclusively~~):

Parcel Size	Number of Animal Units Allowed
3 acres (130,680 square feet)	2
5 acres (217,800 square feet)	3
10 acres (435,600 square feet)	5

15 acres (653,400 square feet)	7
20 acres+ (871,200 square feet)	No limitation

(2) Maintenance of ~~more animals than the prescribed number~~ in subsection (d)(1) of this section is permitted only with a conditional use permit in accordance with section 117-50

**Commented [TG4]:** Should this be expanded to allow for the process to include animals on smaller lot sizes?

(e) Non-traditional or exotic animals.

**Commented [TG5]:** Exotic animals are those that are non-traditional domestic animals. This is different than wild animals discussed in later sections of this chapter. Essentially, it is those animals not specifically listed as allowable by this Code, but also not listed as a wild or non-domesticated animal.

(1) Non-traditional or exotic animals are those that are not normally considered to be domesticated but are not wild animals as defined in section 10-119. A person may keep a non-traditional or exotic animal as defined herein only upon issuance of ~~a conditional use permit in accordance with section 117-50~~ non-traditional animal license. In determining whether an animal is considered non-traditional or exotic, it shall be the responsibility of the applicant to supply the city with the necessary data and information to reasonably prove that the animal is not dangerous in captivity. This information shall be part of the public record and shall be discussed as part of the ~~conditional use permit review~~ non-traditional animal license.

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(2) In reviewing a request to keep non-traditional or exotic animals, the city may impose conditions and restrictions as it finds necessary, including but not limited to the following:

- a. Restrictions on the number and type of animals;
- b. Setbacks greater than those required in section 10-23 or the underlying zoning district for the property in question;
- c. Restrictions on the size, height, and type of enclosures;
- d. Screening or landscaping of the proposed use.

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(3) The applicant must also submit a copy of all permits required from any other regulatory agencies.

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(4) Non-traditional animal license process.

a. Application. The application for a license shall contain the following information: name, address, and telephone number of applicant; the address of the location, and a sketch plan of the premises where the animals will be maintained include how the owner will demonstrate compliance with the standards of this section.

b. Processing application. The application must be filed with the zoning administrator together with the permit fee thirty (30) days prior to a City Council meeting. Following an inspection of the premises proposed to be licensed, the zoning administrator shall make a recommendation to the City Council to approve or deny the application. The City Council shall hold a Public Hearing and make the final decision on the application.

c. Term and transfer. The license shall be valid without renewal provided that the applicant complies with the terms of the license. Licenses under this Chapter may not be transferred from person to person or from place to place.

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d. Revocation. The council may revoke any license issued under this article upon adequate notice and a hearing before the council, if requested, on the following grounds: any violation of this Code; Material misstatement or misrepresentation in application for license or renewal thereof; Failure to keep the licensee's premises in an orderly, aesthetically pleasing manner as prescribed by the council and/or its designated representative.

(f) *Beekeeping.* Bee hives may be maintained on a parcel with the issuance of a ~~conditional-use permit~~beekeeping license.

- (1) Hives may only be located on lots with an existing use.
- (2) No more than six hives may be located on a lot.
- (3) No hive shall exceed 20 cubic feet in volume.
- (4) No hive shall be located closer than three feet from any property line or within any easement, whichever is more restrictive.
- (5) No hive shall be located closer than ten feet from a neighboring, inhabited structure.
- (6) A constant supply of water shall be supplied or available to all hives.
- (7) A flyway barrier at least six feet in height shall shield any part of a property line that is within 25 feet of a hive. The flyway barrier shall consist of 100 percent opaque fencing, dense, year-round (coniferous) vegetation, existing structures, or combination thereof, and shall extend at least 25 feet beyond the hive.
- (8) Colonies shall be maintained in moveable frame hives with adequate space and management techniques to prevent overcrowding and swarming.
- (9) In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to requeen the colony. Queens shall be selected from stock bred for gentleness and nonswarming characteristics.

(10) Beekeeping license process.

a. Application. The application for a license shall contain the following information: name, address, and telephone number of applicant; the address of the location, and a sketch plan of the premises where the dogs will be maintained include how the owner will demonstrate compliance with the standards of this section.

b. Processing application. The application must be filed with the zoning administrator together with the permit fee thirty (30) days prior to a City Council meeting. Following an inspection of the premises proposed to be licensed, the zoning administrator shall make a recommendation to the City Council to approve or deny the application. The City Council shall hold a Public Hearing and make the final decision on the application.

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d. Revocation. The council may revoke any license issued under this article upon adequate notice and a hearing before the council, if requested, on the following grounds: any violation of this Code; Material misstatement or misrepresentation in application for license or renewal thereof; Failure to keep the licensee's premises in an orderly, aesthetically pleasing manner as prescribed by the council and/or its designated representative.

(g) Miscellaneous Maintenance standards.

- (1) Chickens must be contained in an enclosure and said enclosure must be designed in accordance with City Code Chapter 117, Article II (Zoning) and MN State Building Code. The enclosure shall be counted as an accessory building when calculating total number of permitted accessory buildings on a property. The enclosure and surrounding grounds shall be maintained in a clean and sanitary condition and in good repair. Flies, rodents and noxious odors shall be controlled.
- (2) The enclosure shall remain completely enclosed to prevent unwanted intrusion by outside animals and migratory birds.

- (3) A confined exercise area must be provided for the animals. The exercise area shall be fenced off to prevent the animals from roaming at large.
- (4) Manure shall not be permitted to accumulate on the property. Manure shall be removed at least once per week, but while on the property shall be properly stored.
- (h) *Setbacks.* All enclosures must maintain a minimum setback of ten feet from all property lines and must maintain a minimum setback of 30 feet from all adjacent inhabited structures.
  - (1) If 100 percent opaque fencing (privacy fencing) is utilized for the exercise area, said fencing is subject to the standard fence regulations and setbacks within City Code Chapter 117. If alternative fencing is used (for example, chain link fencing), then said fencing shall be no closer than ten feet to a property line.
- (i) *Prohibition of nuisance animals.* No animals of any type may be maintained on any parcel within the city, no matter what size the parcel, if the maintenance of said animals creates a nuisance as defined in chapter 30.

(Code 1978, § 5.09.01; Ord. No. 73-06; Ord. No. 80-09; Ord. No. 02-05, 4-15-2002; Ord. No. 12-06, § 1, 6-12-2012)

Sec. 10-2. - Animals at large.

No person shall allow any animals of any type, or fowl belonging to them or in their care, to run at large or to be picketed on public grounds; but this prohibition shall not apply to cats or dogs, except as are by this Code forbidden to be at large.

(Code 1978, § 5.09.02; Ord. No. 73-06)

Secs. 10-3—10-22. - Reserved.

~~ARTICLE II.—LIVESTOCK AND POULTRY~~

Sec. 10-~~23~~. - Barns and stables.

- (a) No stable or barn in which horses, sheep, cows, goats or other animals are kept may be located within 50 feet of a place of human habitation and 75 feet of neighboring property lines. Such stables and barns, where lawful, shall be kept clean. Manure shall be removed with sufficient frequency to avoid nuisance from odors or from the breeding of flies at least once every two weeks.
- (b) Manure shall be removed by hauling beyond the city limits unless used for fertilizer, in which case it shall be spread upon the ground evenly and turned under at once or as soon as the frost leaves the ground.

(Code 1978, § 5.09.04; Ord. No. 02-06, 4-15-2002)

ARTICLE II. - HORSES

Sec. 10-24. - Horses.

- (a) *Intent and purpose of section provisions.* The intent of this section is to establish regulations for maintaining horses as defined in subsection (b) of this section exclusively on property. Section 10-3 (barns and stables) also applies to this article. The purpose of this section is:
  - (1) To prohibit the maintaining of horses on lots or parcels of record less than 1.5 acres in size;
  - ~~(2) To require a conditional use permit prior to maintaining a horse on a lot of record 1.5 acres in size and less than three acres in size;~~

- (3) To require the filing with the city of a sketch drawing prior to maintaining a horse ~~on a lot or parcel of recorded three acres and larger in size~~; and
- (4) To ensure proper handling, treatment and maintenance of horses.

**Commented [TG6]:** The City requires a sketch drawing of the site anytime a horse is maintained on a property. This text is being eliminated due to the removal of the conditional use permit process for smaller lots.

- ~~(b) Horse defined.~~ As used in this section, the term "horse" shall mean any stallion, mare, gelding, foal, pony, donkey, ass, burro, mule or animal of horse kind.
- (c) *Acreage requirements.* The following chart prescribes the number of horses that can be maintained on lots of record of sizes as shown. ~~This chart is applicable only to the maintenance of horses exclusively and shall be considered separate from the animal unit formula established in section 10-4 for the maintenance of a mix of horses and farm animals on property.~~ The lease of property contiguous to the lot of record is eligible to meet acreage requirements provided the lot of record is at least ~~1.50~~3.0 acres in size and evidence of a current lease is provided to the city.

Acreage	Number of Horses Permitted	Comments
Less than 1.5 acres	0	Not permitted.
<del>1.5—2.9 acres</del>	<del>2</del>	<del>Permitted only with conditional use permit.</del>
<u>1.5 - 3.0 acres</u>	2	Sketch drawing required in property file.
Over 3 acres	2+	One additional horse for each full acre over 3 acres.

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**Commented [TG7]:** This would eliminate the need for a Conditional Use Permit for all horse requests. As drafted, a license would NOT be required for the keeping of horses. Horses would simply be allowed as a permitted use with the proper sketch drawing. Horses would still not be allowed on lots less than 1.5 acres.

~~(d) Conditional use permit approval required.~~

- ~~(1) Prior to maintaining and boarding a horse on any lot or parcel within the city which lot or parcel is less than three acres in size, but larger than 1.5 acres in size, the landowner shall apply for and obtain a conditional use permit (CUP) from the city.~~
- ~~(2) An application for the CUP shall be initiated by the landowner where the horses are to be maintained by filing a form prescribed by the city. The procedure to be followed shall be as prescribed in section 447-50~~

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(e) *Sketch drawing required.*

- (1) Prior to maintaining and boarding a horse or horses on any parcel of land three acres or more in size, the landowner shall provide a sketch drawing to the city.
- (2) Required sketch drawing information shall include:
  - a. Name and address of the fee owner of the subject property where the horses are to be maintained and the name and address of occupant of subject property.
  - b. Legal description of subject property.
  - c. Acreage of subject property and acreage of enclosed roaming area.
  - d. Number of horses to be maintained on subject property.
  - e. Sketch drawing showing, to scale:
    - 1. Location of all buildings on subject property;

2. Fenced in horse pasture area;
3. Location and distance from subject property of all adjacent property's buildings; and
4. Area on subject property where manure will be stored if the number of horses exceeds one horse per one-half acre of enclosed roaming area.

(f) *Rodent and insect control.*

- (1) Manure shall be handled or treated in such a manner as not to create a public nuisance which shall mean at a minimum that manure will be properly disposed of weekly when the number of horses on any one parcel exceeds one horse per one-half acre of enclosed roaming area.
- (2) Corrals, pens, stables or similar enclosures shall be maintained in a manner to minimize fly breeding.
- (3) Accumulations of horse manure on the paved portion of a street, sidewalk or alley shall not be permitted, and the horse owner shall be responsible to abate such nuisance.

(g) *Care and maintenance of horses.*

- (1) No horse shall be treated cruelly or inhumanely by any person or in violation of Minn. Stats. ch. 343, which provisions relate to preventing cruelty to animals.
- (2) Proper care and maintenance of each horse shall be the responsibility of the person, firm or corporation designated as the owner, caretaker or custodian of such horse.
- (3) No person shall keep a horse in a manner creating a public or private nuisance.
- (4) Horses shall be provided adequate shelter.
- (5) Fences for pens, corrals or similar enclosures must be of sufficient height and strength to retain the horses enclosed. Extra care must be taken to ensure the stallions are properly enclosed.

(h) *Control, trespass roadways and impoundment.*

- (1) No person shall permit any horse of which they are the owner, caretaker or custodian to run at large within the city. Such animal will be deemed to run at large when it is off the premises owned or rented by its owner and unaccompanied by the owner, or an agent or employee of the owner.
- (2) The chief of police or any designated agent of the city may impound any horse found at large and shall provide proper sustenance for such impounded horse. The chief of police or designated agent shall, within 24 hours after any such horse has been impounded, post written notice at the city hall describing such horse and stating that it has been impounded. If the owner of the impounded horse is known to the person impounding, personal service of notice of such impounding shall be served within 24 hours after impounding upon such owner in the manner prescribed by state law for the service or process.
- (3) Costs incurred by the city in impounding horses running at large shall be paid by the horse owner prior to releasing the horse. An impounded horse shall be released only to a person providing proof of ownership and displaying a receipt from the city administrator showing payment of the reasonable costs of impounding, cost of feeding and veterinarian care.
- (4) Any person who, without authority of law, and without first paying the costs due, shall take an impounded horse out of the enclosure in which it is impounded, shall be guilty of a misdemeanor.
- (5) In the event a horse impounded by the city is not redeemed within 14 days, after its impoundment, the chief of police or designated agent shall give three days' notice of the time and place where such horse will be sold by posting and serving notices as required for notice herein. If such horse cannot be sold on the day stated, it may be sold as soon as possible thereafter without notice. The city treasurer shall deposit said proceeds in the general fund.
- (6) If the previous owner of the horse which was sold makes a claim for the sale proceeds within one year from the sale date, the city finance officer, on order from the council, shall pay the previous

horse owner the difference between the sale price and the cost of impounding, feeding and sales charges; otherwise, the sale proceeds shall be forfeited to the city.

- (7) No person may ride or drive a horse after sunset and before sunrise along or crossing any public way without appropriate lighting or reflectorized clothing.
- (8) The council shall designate and properly post those areas in public lands and parks where horses may be ridden.
- (9) No person may ride or drive a horse in any public park, beach, golf course or other public property except within the right-of-way of public streets and highways and areas duly designated by the city as a trail or hitching area.
- (10) Persons riding a horse or driving a horse-drawn vehicle upon a public road way shall be subject to those provisions of this Code and state law applicable to the driver of motor vehicles, except those provisions which by their nature have no application.
- (11) Horses shall not be ridden or driven in any manner that would cause undue damage to any hard-surfaced road.
- (12) No person shall ride or drive a horse upon private property without the prior written permission of the owner or occupant thereof.
- (13) No person shall interfere with any horse ridden or kept in a lawful manner, and owners of domestic animals shall restrain their animal so as to not interfere.

(Code 1978, § 5.09.05; Ord. 74-4, 8-13-1974; Ord. No. 90-11; Ord. No. 02-07, 5-9-2002; Ord. No. 06-14, § 1, 4-25-2006)

Secs. 10-25—10-51. - Reserved.

#### ARTICLE III. - DOGS

##### FOOTNOTE(S):

--- (2) ---

**State Law reference**— Dogs and cats, Minn. Stats. ch. 347. [\(Back\)](#)

##### DIVISION 1. - GENERALLY

##### FOOTNOTE(S):

--- (3) ---

**Editor's note**— Ord. No. 12-11, § 2, 3, adopted July 24, 2012, repealed the former Div. 1, §§ 10-52—10-68, and enacted a new Div. 1 as set out herein. The former Div. 1 pertained to similar subject matter and derived from Code 1978, § 5.09.03, subd. 1—19; Ord. No. 88-02; Ord. No. 99-16, 12-23-1999; Ord. No. 08-09, § 2, 2-12-2008.

##### Sec. 10-52. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal control authority* means an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

*Boarding* means providing for the care, shelter, or feeding of dogs, not owned by the owner or occupant of the premises where said dogs are kept, for any period.

*Dangerous dog* means any dog that has:

- (1) Without provocation, inflicts substantial bodily harm on a human being on public or private property.
- (2) Has killed a domestic animal without provocation while off the owner's property.
- (3) Has been found to be potentially dangerous, and, after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

*Dog* means any male or female of the canine species.

*Dog owner* means the license holder or any other person, firm, association, or corporation owning, keeping or harboring a dog. Any person keeping or harboring a dog for five consecutive days shall, for the purposes of this definition, be deemed an owner.

*Great bodily harm* means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm

*Kennel, commercial*, means a place where boarding and/or training is offered to any number of dogs not owned by the owner or occupant of the premises. Such boarding and/or training may also include but is not limited to related uses such as selling, breeding, showing, treating or grooming. Pet shops, veterinary clinics, and pet grooming facilities are considered commercial uses but shall not be defined as commercial kennels.

*Kennel, private*, means a place where a dog owner keeps four or more dogs over six months of age on property occupied by the dog owner for residential purposes and where the keeping of such dogs is incidental to the occupancy of the premises, and may include breeding and selling of dogs as a hobby. A conditional use permit is required for four or more dogs.

*Owner* means the license holder or any other person, firm, association, or corporation owning, keeping or harboring a dog. Any person keeping or harboring a dog for five consecutive days shall, for the purposes of this definition, be deemed an owner.

*Potentially dangerous dog* means any dog that:

- (a) When unprovoked, inflicts bites on a human or domestic animal on public or private property.
- (b) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack.
- (c) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

*Proper enclosure* means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

*Provocation* means an act that an adult could reasonably expect may cause a dog to attack or bite.

*Running at large* means any dog which is not either:

- (a) Effectively contained on private property;
- (b) Effectively restrained, by chain or leash, to private property with the consent of the property owner;
- (c) Effectively restrained by a chain or leash not to exceed six feet in length; or
- (d) Under the voice control of its owner.

*Substantial bodily harm* means bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or that causes a fracture of any bodily member.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-53. - Animal control officer.

As used in this article the term "animal control officer" means any city officer or employee designated to enforce any portion of this article.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-54. - Duties of animal control officer.

The animal control officer shall perform the following duties:

- (a) Seize, impound, or restrain any dog found running at large within the city.
- (b) Investigate all cases of animal bites reported to him and supervise the quarantine of any such animal to ensure that it is kept under observation for a period of ten days.
- (c) Enforce all other provisions of this article.

Sec. 10-55. - No interference with officer.

It shall be unlawful for any person to molest or in any way interfere with any peace officer, animal control officer, or any of their duly authorized assistants, or with any duly authorized agent while engaged in performing work under the provisions of this article.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-56. - Number of dogs permitted.

(j) On a parcel or series of contiguous parcels under the same ownership or occupancy as the dog owner, no more than three dogs are permitted. A ~~conditional use permit~~ private kennel license is required for four or more dogs.

(k) Private kennel license process.

(1) Application. The application for a license shall contain the following information: name, address, and telephone number of applicant; the address of the location where four (4) or more dogs will be maintained, the number of dogs proposed to be maintained on the premise, the breeds of the dogs to be maintained, and a sketch plan of the premises where the dogs will be maintained.

(2) Processing application. The application must be filed with the zoning administrator together with the permit fee thirty (30) days prior to a City Council meeting. Following an inspection of the premises proposed to be licensed, the zoning administrator shall make a recommendation to the City Council to approve or deny the application. The City Council shall hold a Public Hearing and make the final decision on the application.

(3) Term and transfer. The license shall be valid without renewal provided that the applicant complies with the terms of the license. Licenses under this Chapter may not be transferred from person to person or from place to place.

(4) Revocation. The council may revoke any license issued under this article upon adequate notice and a hearing before the council, if requested, on the following grounds:

a. Any violation of this Code;

b. Material misstatement or misrepresentation in application for license or renewal thereof;

c. Failure to keep the licensee's premises in an orderly, aesthetically pleasing manner as prescribed by the council and/or its designated representative.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-57. Individual Dog Licensing.

All dogs kept, harbored, or maintained in the city shall be licensed and registered. Applications for license shall be made to the city administrator, or his designee, upon forms provided by the city administrator. Said application shall require the owner, among other information required by the city administrator, to supply the name, age, predominant breed, sex, color and markings of each dog sought to be licensed. In addition, when the applicant or owner has been convicted of violation of section 10-65 relative to the dog sought to be licensed, the application shall require proof of public liability insurance in the minimum amount of \$300,000.00. Upon submission of the application and a certificate evidencing compliance with the terms and provisions of section 10-59, relating to vaccination for rabies, and upon payment of a fee as established by ordinance, the city administrator or his designee shall issue a license. Said license will be concurrent with a valid rabies vaccination for up to three years.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-58. - Tags.

The license shall be in the form of an identification tag and shall be affixed by the owner to a collar to be worn by the dog. In case a tag is lost or destroyed, a duplicate will be issued by the city administrator upon presentation of a receipt showing payment of the license fee for the current period and a payment as established by ordinance. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of death of the dog or the owners leaving the city prior to expiration of the license period.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-59. - Rabies vaccination.

- (a) Every owner or keeper of a dog shall cause the same to be vaccinated by a licensed veterinary with anti-rabies vaccine at least once every three years and prior to the time such dog shall reach the age of six months.
- (b) No dog need be vaccinated when a licensed veterinarian has examined the animal and certified that, at such time, vaccination would endanger its health because of its age, infirmity, debility, illness, or other medical consideration; and such exception certificate is presented to the animal control officer within five days of such examination. The animal shall be vaccinated against rabies as soon as its health and age permit. Unvaccinated animals must be confined to the owner's property or a veterinary facility.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-60. - Animal at large.

Every owner or keeper of a dog shall cause the same to be under the control of and in custody of a person of sufficient age to adequately control the dog at all times, while the dog is off the premises of the owner. The terms "control" and "custody" mean on a leash of not more than six feet in length or under the voice control of its owner. It shall be lawful to have a dog in an automobile without a leash, but it must be on a leash or under the voice control of its owner if taken out of the vehicle. Violation of this section shall be a petty misdemeanor.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-61. - Report of dog bites.

Any person knowing of a human being bitten by a dog shall immediately notify the animal control officer or the police department and said dog shall then be confined and kept under observation for a period of ten days before being removed from owner's property or disposed of.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-62. - Destroying a dog.

It shall be unlawful for any person other than the animal control officer or a police officer to kill or destroy any dog or animal of the dog kind running at large in the city or that has been known to bite a person within ten days.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-63. - Abandonment.

No person shall abandon or release any dog, cat, or other animal with the boundaries of the city.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-64. - Potentially dangerous dogs.

- (a) The animal control officer will provide the owner of a dog that has been deemed potentially dangerous, per section 10-52, with a potentially dangerous dog incident report.
- (b) If the dog has inflicted bites on a human or domestic animal on public or private property, a quarantine notice will also be provided to the owner advising of a ten day quarantine period.
- (c) If a proper enclosure cannot be provided for the dog, the animal control officer can seize the dog for the quarantine period. All costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog.
- (d) Any person knowing of a human being bitten by a dog shall immediately notify the animal control officer or the police department and said dog shall then be confined and kept under observation for a period of ten days before being removed from owner's property or disposed of.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-65. - Dangerous dogs.

- (a) The animal control officer will provide the owner of a dog that has been deemed dangerous, per section 10-52, with a dangerous dog incident report.
- (b) If the dog has inflicted bites on a human or domestic animal on public or private property, a quarantine notice will also be provided to the owner advising of a ten-day quarantine period.
- (c) An owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.
- (d) An owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new jurisdiction.
- (e) An owner of a dangerous dog must notify the animal control authority in writing of the death of the dog or its transfer to a new location where the dog will reside within 30 days of the death or transfer, and must, if requested by the animal control authority, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated.

- (f) An animal control authority shall require a dangerous dog to be sterilized at the owner's expense. If the owner does not have the animal sterilized within 30 days, the animal control authority shall seize the dog and have it sterilized at the owner's expense.
- (g) A person who owns a dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.
- (h) A person who transfers ownership of a dangerous dog must notify the new owner that the animal control authority has identified the dog as dangerous. The current owner must also notify the animal control authority in writing of the transfer of ownership and provide the animal control authority with the new owner's name, address, and telephone number.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-65. - Dangerous dog registration.

- (a) *Requirement.* No person may own a dangerous dog in this state unless the dog is registered as provided in this section.
- (b) *Registration.* An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:
  - (1) A proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children;
  - (2) A surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least \$300,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least \$300,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog;
  - (3) The owner has paid an annual fee of not more than \$500.00, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section; and
  - (4) The owner has had microchip identification implanted in the dangerous dog with the name of the microchip manufacturer and identification number of the microchip provided to the animal control authority. If the microchip is not implanted by the owner, it may be implanted by the animal control authority. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog's owner.
- (c) *Warning symbol.* If an animal control authority issues a certificate of registration to the owner of a dangerous dog pursuant to subdivision (b), the animal control authority must provide, for posting on the owner's property, a copy of a warning symbol to inform children that there is a dangerous dog on the property. The warning symbol must be the uniform symbol provided by the commissioner of public safety. The commissioner shall provide the number of copies of the warning symbol requested by the animal control authority and shall charge the animal control authority the actual cost of the warning symbols received. The animal control authority may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol.
- (d) *Fee.* The animal control authority may charge the owner an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section.
- (e) *Dangerous dog designation review.* Beginning six months after a dog is declared a dangerous dog; an owner may request annually that the animal control authority review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the animal control authority finds sufficient evidence that the dog's behavior has changed, the authority may rescind the dangerous dog designation.

- (f) *Law enforcement; exemption.* The provisions of this section do not apply to dangerous dogs used by law enforcement officials for police work.
- (g) *Exemption.* Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:
  - (1) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
  - (2) who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
  - (3) who was committing or attempting to commit a crime.
- (h) *Tag.* A dangerous dog registered under this section must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, affixed to the dog's collar at all times.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-66. - Hearing for dogs deemed dangerous or potentially dangerous.

The owner of a dog that has been deemed dangerous or potentially dangerous may request a hearing to determine the validity of the dangerous or potentially dangerous dog declaration. If such a request is made, the owner must immediately comply with provisions 1 of the notice, until the hearing examiner issues an opinion. To appeal the dangerous or potentially dangerous dog declaration:

- (a) A request, identifying with specificity the basis for the dog owner's objection to the declaration shall be filed in writing with the office of the chief of police within 14 days after the date of the service of the notice. Failure to do so within 14 days will terminate the owner's right to a hearing.
- (b) A \$250.00 filing fee shall be submitted with the appeal request. In the event that the dangerous dog declaration is not upheld by the hearing examiner, the filing fee will be refunded to the dog's owner. Per Minn. Stat. § 347.541, if the dangerous dog declaration is upheld by the hearing examiner, actual expenses of the hearing up to a maximum of \$1,000.00 will be the responsibility of the dog's owner.
- (c) A hearing shall be conducted within ten days, unless a later date is mutually agreed to by the hearing examiner, the dog owner and the city.
- (d) The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the animal control authority.
- (e) If the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all requirements of the notice.
- (f) Any costs incurred for the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-67. - Failure to restrain an attack by a dog.

- (a) It shall be unlawful for an owner to fail to restrain a dog from inflicting or attempting to inflict bodily injury to any person or other animal. Violation of this section shall be a misdemeanor. The court, upon a finding of the defendant's guilt hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:
  - (1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning, or multiple attacks; or

- (2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.
- (b) If the court does not order the destruction of the dog, the court, as an alternative, may order the defendant to provide, and show proof to the court of public liability insurance in the minimum amount of \$300,000.00.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-68. - Stopping an attack.

If any police officer or animal control officer is witness to an attack by a dog upon a person or another animal, the officer may take whatever means they deem appropriate to bring the attack to an end and prevent further injury to the victim.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-69. - Dogs disturbing the peace.

It shall be unlawful for any person to own, keep, have in possession, or harbor any dog that howls, yelps, or barks to the reasonable annoyance of another person. Any person violating this section, who upon first requested by a police officer or animal control officer to stop or prevent the annoyance, and refuses to comply with the request will be issued a citation or arrested in accordance with Minnesota Rules of Criminal Procedure, and, if the officer deems it necessary to stop the annoyance, may have the dog taken to the city animal pound. Any dog placed in the pound may be reclaimed by the owner upon payment of the fee prescribed in subsection 10-95(b), and if not reclaimed may be disposed of in the manner provided in subsection 10-95(c).

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-70. - Removal of excrement.

It is unlawful for any person who owns or has custody of a dog to cause or permit such animal to defecate on any private property without the consent of the property owner or on any public property unless such person immediately removes the excrement and places it in a proper receptacle. The provisions of this section shall not apply to seeing-eye dogs under the control of a blind person or dogs while being used in city police activity.

(Ord. No. 12-11, § 3, 7-24-2012)

Secs. 10-71—10-94. - Reserved.

DIVISION 2. - IMPOUNDMENT

Sec. 10-95. - Procedure; reclaiming.

- (a) *Impoundment.* All dogs picked up by the animal control officer or any of their duly authorized assistants shall be immediately transported to the designated pound. If the owner is known, they shall be immediately notified by telephone or personal contact and by written notice to their last known address. If the owner is unknown, written notice containing a description of the animal shall be posted at the pound and the city hall. The notice shall advise the owner that they have five regular business days to claim the dog. The term "regular business day" means any day during which the pound is open to the public not less than four consecutive hours between the hours of 8:00 a.m. and 7:00 p.m.
- (b) *Reclaiming.* An owner may reclaim an impounded dog:

- (1) If the dog has a current license: by paying to the pound master an impounding fee plus a boarding fee in an amount determined by agreement between the city and the designated pound, for each day the animal was confined. There shall also be an added impounding fee for any dog impounded twice within 12 months. Such fees shall be set by ordinance.
- (2) If the dog does not have a current license: by first obtaining a license from the city administrator and paying the costs to the pound master.
- (c) *Unclaimed animals.* Any animal not claimed within the allotted time shall be disposed of in accordance with the provisions of Minn. Stats. § 35.71, subd. 3.

(Code 1978, § 5.09.03, subds. 9, 10, 12; Ord. No. 88-02; Ord. No. 01-22, 10-29-2001)

Secs. 10-96—10-118. - Reserved.

#### ARTICLE IV. - WILD ANIMALS

**Commented [TG8]:** The ordinance does not make any policy to this article. These types of requests are already processed as a conditional use permit. The amended language removes outdated and conflicting language.

Sec. 10-119. - Rules and definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*At large* means a wild animal that is outside of its secondary enclosure, or when the wild animal is outside of its primary enclosure but within its secondary enclosure and not in the presence of the owner.

*Dwelling* means a building or portion thereof designed or used exclusively for residential occupancy.

*Handling* means feeding, manipulating, transporting, restraining, treating, training, working or performing any similar activity with respect to a wild animal.

*Impound* means to seize and hold in legal custody.

*Livestock* means a typical farm animal kept for agricultural use, pleasure or profit, including but not limited to horses, mules, sheep, goats, cattle, swine, fowl, rabbits and mink.

*Lot* means a tract, plat or portion of a subdivision or other parcel or land intended as a unit for the purpose, whether immediate or future, or transfer of ownership or for the building development.

*Owner* means a person who keeps a wild animal or the parents or guardians of such a person under 18 years of age.

*Portable primary enclosure* means the portable structure used to confine a wild animal in a secure manner that prevents the running at large of a wild animal during transportation or temporarily confining such an animal during handling.

*Primary enclosure* means an individual, partnership, firm, joint stock company, corporation, association, unincorporated association of individuals, trust, estate, or other entity.

*Restraint* means the portable structure used to confine a wild animal in a secure manner that prevents the running at large of a wild animal during transportation or temporarily confining such an animal during handling.

*Secondary enclosure* means a structure such as a fence, wall or building, which entirely encloses the area in which the primary enclosures, exercise facilities and training facilities are located and all handling activities occur. Such secondary enclosure serves to contain a wild animal from running at large and to prevent any unauthorized public access.

*Structure* means anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, such as a fence, wall, or building.

*The keeping of wild animals* means possessing and handling of wild animals on any property and providing such an animal with the necessities of life such as feeding and sheltering. The keeping of wild animals may include animals being used or intended to be used for research, training, breeding, boarding, as a personal pet, or for agricultural purposes. The keeping of a wild animal may also include wild animals intended to be used for exhibition providing that such animals are not exhibited within the city, such as in the case of a public showing, circus or zoo.

*Wild animal.*

- (1) The term "wild animal" means a mammal, large or poisonous reptile and bird that, in their uncaptured wild state, have the physical capacity to be dangerous to the safety and welfare of any person or property. Examples of such wild animals are (but not limited to these examples) bears, lions, wolves, coyotes, cougars, bison, tigers, panthers, monkeys, apes, large alligators and crocodiles (greater than four feet in length), large snakes (greater than six feet), and poisonous snakes, excluding dogs, cats, other traditional house pets and livestock.
- (2) Reducing such mammals, reptiles and birds to captivity, whether trained, raised or bred in captivity or otherwise considered domesticated in any manner, shall not remove such wild animals from these requirements and regulations.

(Code 1978, § 5.09.06, subd. 2; Ord. No. 87-08)

Sec. 10-120. - Penalty.

A person who fails to comply with or violates provisions of this Code or the restrictions of a conditional use permit, ~~wild animal license~~ or variance shall be guilty of a misdemeanor. Appropriate actions and proceedings may be taken by law or inequity to prevent a violation of this article of the conditions or restrictions of a conditional use permit, ~~wild animal license~~ or variance, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, and to prevent illegal use of a lot; these remedies shall be in addition to the penalties described in this section.

(Code 1978, § 5.09.06, subd. 10; Ord. No. 87-08)

Sec. 10-121. - Purpose and intent.

It is the intent of this article to establish regulations that will allow as a conditional use the keeping of wild animals, with a ~~wild animal license~~ conditional use permit in certain zoning districts. The city recognizes that wild animals require special handling to ensure that the health, safety and welfare of the public is protected and all land use conflicts are minimized.

(Code 1978, § 5.09.06, subd. 1; Ord. No. 87-08)

Sec. 10-122. - Enforcement.

- (a) *Impoundment.* In addition to the penalties imposed in section 10-120, a person in violation of this article may be subject to having the wild animals in question impounded, or destroyed. Owners in violation of this article will have ten days to correct the violation and redeem a wild animal. The owner is responsible for all costs incurred by the city to capture, keep and/or destroy a wild animal. If a wild animal is not redeemed, the city will dispose of such wild animal in any manner it deems necessary such as, but not limited to, selling, destroying, or donating to an appropriate organization or agency.
- (b) *Rabies.* A wild animal capable of transmitting rabies which has been known to have bitten a person shall be quarantined and observed for rabies under the direction of a licensed veterinarian for a period of time and in facilities determined to be adequate by that veterinarian and the city. If a wild animal is proven to be rabid, the wild animal shall be destroyed. If a wild animal is proven to not be rabid by a licensed veterinarian, it will be returned to the owner.
- (c) *Enforcement authority.* Enforcement officers shall have the right to destroy a wild animal posing an immediate threat of serious harm to any person, livestock or house pet.

(Code 1978, § 5.09.06, subd. 9; Ord. No. 87-08)

Sec. 10-123. - Inspection and revocation of ~~licenses or variances~~ conditional use permit.

The city may at any time inspect the lot and structures where a wild animal is kept to determine if the ~~license and/or variance~~ conditional use permit, and the conditions and restrictions of that ~~license or variance~~ conditional use permit are being strictly adhered to. The city may require an inspection upon ~~renewal of a wild animal license~~ reasonable request and shall reserve the right to have said inspection performed by an approved and qualified consultant.

(Code 1978, § 5.09.06, subd. 7; Ord. No. 87-08)

Sec. 10-124. - Nonconforming uses.

A person lawfully keeping wild animals within the city upon the effective date of the adoption of the ordinance from which this article is derived, who does not conform to the provisions of this article, shall be given 30 days to comply or submit application for the necessary ~~variances~~ permits.

(Code 1978, § 5.09.06, subd. 8; Ord. No. 87-08)

Sec. 10-125. - Variances.

(a) *Variance and review criteria.* Where the city finds that extraordinary hardships or practical difficulties may result from strict compliance with the provisions of this article, and the purposes of this article may be served to the same or greater extent by an alternative proposal, the city may approve variances to this article so that substantial justice may be done and the public interest secured, provided that:

- (1) Such a variance shall not have the effect of nullifying the intent and purpose of this article; and
- (2) The city shall not approve variances unless, based upon the evidence presented to it, it finds that:
  - a. The granting of the variance would not be detrimental to the public safety, health, or welfare or injurious to property.
  - b. The conditions that a variance would be based upon are unique to that application for which the variance is sought and are not applicable generally to other applications.
  - c. The strict enforcement of this article would result in unreasonable and unnecessary requirements or restrictions because a particular hardship would result, as distinguished from an inconvenience.
  - d. The variance would not in any manner vary the provisions of the Ramsey Comprehensive Plan.

(b) *Application and review.*

- (1) The application procedure for a variance from this article shall be the same as ~~for a wild animal license~~, section 10-128(b) through (d).
- (2) Variances may be reviewed concurrently with an application for a ~~wild animal license~~ conditional use permit.

(c) *Conditions of approval.* In approving an application for a variance, the city may attach conditions and restrictions as it finds necessary.

(Code 1978, § 5.09.06, subd. 5; Ord. No. 87-08)

Sec. 10-126. - Fees.

The applicant for a ~~wild animal license~~ conditional use permit and/or variance shall pay an application fee as per ordinance. The applicant shall also pay for any costs or expenses incurred by the city during the processing and reviewing of the application, which exceed the application fee. Such expenses shall include, but are not limited to, consultants and other professionals and the cost of printing, mailing, and supplies. Such fees shall become due and payable immediately upon notification by the city. The city shall provide

**Commented [TG9]:** This does not change any existing policy. The language here seems to conflict with the purpose and intent section requiring a conditional use permit. The City does not currently issue a license for wild animals; it is processed by Conditional Use Permit.

**Commented [TG10]:** This section would only apply if the Owner desires to deviate Section 10-128 below.

upon the request of the applicant, a breakdown of the various expenses incurred by the city. The city may withhold any final action on an application for a wild animal license conditional use permit or variance and/or rescind prior actions until all fees are fully paid. The city may require additional deposits, above and beyond the application fee, if found necessary.

(Code 1978, § 5.09.06, subd. 6; Ord. No. 87-08)

Sec. 10-127. - General regulations.

- (a) *Prohibition.* No person shall keep a wild animal unless such a use is specifically permitted by this article and all regulations are satisfied.
- (b) *Regulations.*
  - (1) Enclosures.
    - a. A wild animal shall be confined, sheltered and led in a primary enclosure contained entirely within a secondary enclosure.
    - b. All primary and secondary enclosures shall meet minimum requirements of structural soundness and security as deemed satisfactory by the city. All primary and secondary enclosures;
      - 1. Shall be constructed of steel bar, link, wire or other suitable material of sufficient strength to contain the proposed animal;
      - 2. Shall be adequately braced and securely anchored at ground level;
      - 3. Shall be constructed such as to prevent a wild animal from digging out from under the enclosure;
      - 4. Shall be key or combination locked to prevent unauthorized entrance;
      - 5. Shall be located so that all access to primary enclosures must be from within the secondary enclosure;
      - 6. Shall be adequately signed to notify the public of the presence of wild animals and the danger that exists.
  - (2) The transportation of a wild animal outside of the secondary enclosure shall be in a vehicle specially equipped for the transportation of wild animals and a portable primary enclosure as approved by the city.
  - (3) Running at large.
    - a. It shall be prohibited for a wild animal to run at large.
    - b. A wild animal shall be under the restraint of its owner.
    - c. Tools for capturing wild animals shall be readily accessible, such as traps, firearms, tranquilizing guns and nets.
  - (4) Sanitation and health.
    - a. The lot on which a wild animal is kept shall be maintained in a clean, sanitary and neat manner in accordance with the conditions of the permit.
    - b. A wild animal shall be maintained in a healthy state so as to prevent the transmittal of disease to other animals or persons.
    - c. All animal waste shall be properly and timely disposed of in accordance with the conditions of the permit.
  - (5) Zoning and lot requirements.
    - a. All zoning code regulations shall be complied with.

- b. Additional regulations shall be as follows:
1. The keeping of wild animals shall be allowed only as a conditional use in any zoning district of the city.
  2. The lot on which a wild animal as defined herein is kept shall be at least 2½ acres in size.
  3. The structures, primary and secondary enclosures and all uses associated with the handling of wild animals, shall be set back a minimum of 100 feet front yard; 30 feet side yard and 50 feet rear yard.
  4. The structures, primary and secondary enclosures and all areas in which a wild animal is handled shall be located a minimum of 300 feet from all dwellings other than that of the owner.
  5. The activity areas in which a wild animal is handled shall be screened or landscaped in such a manner as to prevent them from being visible at any time of the year from the road right-of-way, and public properties.

(Code 1978, § 5.09.06, subd. 3; Ord. No. 87-08)

Sec. 10-128. ~~License~~ Conditional Use Permit for wild animals.

- (a) *Prohibition.* No person shall keep a wild animal unless a wild animal license conditional use permit has been approved by the city for that person and that activity, in accordance with this article.
- (b) *Submittal of application.* Complete application for a wild animal license conditional use permit shall include the following:
  - (1) ~~Ten copies~~ One (1) copy of the completed application form.
  - (2) ~~Ten copies~~ One (1) copy of a letter explaining in detail the proposed use and addressing regulations in section 10-127, and review criteria in this section.
  - (3) ~~Ten copies~~ One (1) copy of an accurate site plan (drawn to scale) or survey of the lot on which the proposed use would occur and the adjacent lots showing:
    - a. Lot dimensions;
    - b. Location, size and configuration of the area proposed to be used for the keeping of wild animals, including all existing and proposed buildings, structures, and enclosures;
    - c. Setbacks from front lot line, side lot lines, and rear lot line, and distances from neighboring dwellings, pastures, barns, and corrals;
    - d. Vegetation and terrain features such as steep slopes, wetlands, woods and any natural and proposed screening or landscaping;
    - e. Driveways, public and private roadways, parking and loading areas;
    - f. Easements for roads, access, open space, views, and utilities; and
    - g. Location of well and septic.

The city reserves the right to require a certificate of survey.
  - (4) ~~Two copies~~ One (1) copy of all permits required from the state department of natural resources, United States Department of Agriculture, United States Fish and Wildlife, and other governmental agency.
  - (5) ~~Two copies~~ One (1) copy of the owner's qualifications, list of professional references and any other background materials as required by the zoning administrator.
  - (6) Payment of application fee and miscellaneous fees as established by ordinance.

**Commented [TG11]:** City is able to reduce paper copy submittal requirements with current electronic systems.

- (7) ~~Two copies~~ One (1) copy of building plans for primary and secondary enclosures.
- (8) Any additional information found necessary by the city zoning administrator.
- (c) *Application deadline.* A completed application for a ~~wild animal license~~ conditional use permit shall be submitted no later than ~~49~~ thirty (30) days before the next regularly scheduled planning commission meeting.
- (d) *Review of council and planning commission.*
  - (1) Upon submittal of a completed application, the zoning administrator shall schedule a public hearing at the next planning commission meeting. The police chief shall receive a copy of the application and forward any recommendations to the zoning administrator who shall then review the application and police comments and may make recommendations to the planning commission. The planning commission shall consider the application for a ~~wild animal license~~ conditional use permit and thereafter make recommendations to the council. The council shall then approve, with modifications, or deny the application for a ~~wild animal license~~ conditional use permit by resolution that shall set forth in detail any conditions and restrictions to which the approval is subject or reasons for denial.
  - ~~(2) If a renewal of a wild animal license is being applied for with no changes from the wild animal license issued by the city for the previous year, the zoning administrator may place the application for the renewal of a wild animal license on the agenda of the next council meeting and may waive the need for a public hearing or review by the planning commission.~~
- (e) *Review criteria.* In acting upon an application for a ~~wild animal license~~ conditional use permit, the city shall consider the following criteria:
  - (1) Surrounding land uses.
  - (2) Structural soundness and security of all primary and secondary enclosures.
  - (3) Design, size, location and configuration of all primary and secondary enclosures.
  - (4) Maintenance of the primary and secondary enclosures and all other structures and areas used in relation to the keeping of any wild animal.
  - (5) Nuisances such as noise and odors.
  - (6) Aesthetics, including the appearance of the lot and structure where a wild animal is kept.
  - (7) Compliance with all sections of this Code.
  - (8) Regulations of the state department of natural resources, United States Department of Agriculture, United States Fish and Wildlife, or any other governmental agency.
  - (9) Nature and characteristics of each type of animal being proposed such as its size, strength, disposition, and its ability to harm a person or property.
  - (10) Other criteria found relevant by the city.

**Commented [TG12]:** This section is not needed. Conditional Use Permits run with the land and do not require renewal.

The applicant shall prove that the use as proposed in the ~~wild animal license~~ conditional use permit application would not result in any detrimental effects as per the criteria listed in this subsection (e).

- (f) *Conditions of approval.* In approving an application for a ~~wild animal license~~ conditional use permit, the city may attach conditions and restrictions as it finds necessary, including but not limited to the following:
  - (1) Restrictions on the number and type of animals.
  - (2) Setbacks greater than those required in section 10-127
  - (3) Minimum and/or maximum distance between primary and secondary enclosures.
  - (4) Minimum height of enclosures.

(5) Size of the enclosures.

- (g) ~~Expiration. A conditional use permit shall remain in effect as long as the conditions agreed upon are observed and the permit holder is in compliance with all other regulations or standards of this chapter. The wild animal license shall expire 12 months from the date of issuance.~~
- (h) ~~Renewal of license. Application for renewal of a wild animal license with any changes shall be made a minimum of 19 days before the next regularly scheduled planning commission meeting. Application for renewal with no changes shall be made 14 days before the next regularly scheduled council meeting providing that the public hearing and review before the planning commission has been waived. The city may require an inspection upon renewal of a wild animal license and shall reserve the right to have said inspection performed by an approved qualified consultant.~~

(Code 1978, § 5.09.06, subd. 4; Ord. No. 87-08)

**Commented [TG13]:** Conditional Use Permits do not require a renewal, therefore this section is not necessary.

Chapter 10 - ANIMALS (clean – no tracked changes)

FOOTNOTE(S):

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**State Law reference—** General authority relative to animals, Minn. Stats. §§ 410.33, 412.221, subd. 21; animal health, Minn. Stats. ch. 35; dogs and cats, Minn. Stats. ch. 347; cruelty to animals, Minn. Stats. § 343.20 et seq.; stray animals and companion animals, Minn. Stats. ch. 346. [\(Back\)](#)

ARTICLE I. - IN GENERAL

Sec. 10-1. - Keeping of certain animals, livestock and poultry.

- (a) *Animals on less than three acres.* None of the following animals shall be maintained on any parcel of land in the city that is not at least 3.0 acres (130,680 square feet) in size: llamas, cows, mules, donkeys, burros, goats, pigs, sheep, lambs, turkey, geese and ducks. EXCEPTION: Chickens (hens only, no roosters or crowing hens) may be maintained on parcels less than three acres. The following chart prescribes the number of chickens that can be maintained on lots of record to which the animal owner has fee title and desires to maintain chickens:

Lot Size	Number of Chickens Permitted (no roosters or crowing hens)
0.00 to 0.24 Acres	6
0.25 to 0.49 Acres	8
0.50 to 0.74 Acres	12
0.75 to 0.99 Acres	16
1.00 to 1.24 Acres	20
1.25 to 1.49 Acres	24
1.50 to 1.74 Acres	28
1.75 to 1.99 Acres	32
2.00 to 2.24 Acres	36
2.25 to 2.49 Acres	40

2.50 to 2.74 Acres	44
2.75 to 2.99 Acres	48

(c) *Animal unit.* Animal unit is defined as a measure used to compare differences in production of animal wastes. The following chart establishes the number of animal units assigned to certain livestock and poultry:

Animal	Number of Units
Cow	1.5
, mule, llama, alpaca	1.0
Donkey, burro, goat, pig, sheep, lamb	0.5
Turkey, goose	0.1
Chicken, duck	0.04

(d) *Permitted animals.*

(1) The following chart prescribes the number of animal units that can be maintained on lots of record to which the animal owner has fee title and desires to maintain a mix of livestock, poultry, or fowl (refer to section 10-24 for regulations for maintaining horses):

Parcel Size	Number of Animal Units Allowed
3 acres (130,680 square feet)	2
5 acres (217,800 square feet)	3
10 acres (435,600 square feet)	5
15 acres (653,400 square feet)	7
20 acres+ (871,200 square feet)	No limitation

- (2) Maintenance of more animals than the prescribed number in subsection (d)(1) of this section is permitted only with a conditional use permit in accordance with section 117-50
- (e) *Non-traditional or exotic animals.*
- (1) Non-traditional or exotic animals are those that are not normally considered to be domesticated but are not wild animals as defined in section 10-119. A person may keep a non-traditional or exotic animal as defined herein only upon issuance of non-traditional animal license. In determining whether an animal is considered non-traditional or exotic, it shall be the responsibility of the applicant to supply the city with the necessary data and information to reasonably prove that the animal is not dangerous in captivity. This information shall be part of the public record and shall be discussed as part of the non-traditional animal license.
  - (2) In reviewing a request to keep non-traditional or exotic animals, the city may impose conditions and restrictions as it finds necessary, including but not limited to the following:
    - a. Restrictions on the number and type of animals;
    - b. Setbacks greater than those required in section 10-23 or the underlying zoning district for the property in question;
    - c. Restrictions on the size, height, and type of enclosures;
    - d. Screening or landscaping of the proposed use.
  - (3) The applicant must also submit a copy of all permits required from any other regulatory agencies.
  - (4) Non-traditional animal license process.
    - a. Application. The application for a license shall contain the following information; name, address, and telephone number of applicant; the address of the location, and a sketch plan of the premises where the animals will be maintained include how the owner will demonstrate compliance with the standards of this section.
    - b. Processing application. The application must be filed with the zoning administrator together with the permit fee thirty (30) days prior to a City Council meeting. Following an inspection of the premises proposed to be licensed, the zoning administrator shall make a recommendation to the City Council to approve or deny the application. The City Council shall hold a Public Hearing and make the final decision on the application.
    - c. Term and transfer. The license shall be valid without renewal provided that the applicant complies with the terms of the license. Licenses under this Chapter may not be transferred from person to person or from place to place.
    - d. Revocation. The council may revoke any license issued under this article upon adequate notice and a hearing before the council, if requested, on the following grounds: any violation of this Code; Material misstatement or misrepresentation in application for license or renewal thereof; Failure to keep the licensee's premises in an orderly, aesthetically pleasing manner as prescribed by the council and/or its designated representative.
- (f) *Beekeeping.* Bee hives may be maintained on a parcel with the issuance of a beekeeping license.
- (1) Hives may only be located on lots with an existing use.
  - (2) No more than six hives may be located on a lot.
  - (3) No hive shall exceed 20 cubic feet in volume.
  - (4) No hive shall be located closer than three feet from any property line or within any easement, whichever is more restrictive.

- (5) No hive shall be located closer than ten feet from a neighboring, inhabited structure.
  - (6) A constant supply of water shall be supplied or available to all hives.
  - (7) A flyway barrier at least six feet in height shall shield any part of a property line that is within 25 feet of a hive. The flyway barrier shall consist of 100 percent opaque fencing, dense, year-round (coniferous) vegetation, existing structures, or combination thereof, and shall extend at least 25 feet beyond the hive.
  - (8) Colonies shall be maintained in moveable frame hives with adequate space and management techniques to prevent overcrowding and swarming.
  - (9) In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to requeen the colony. Queens shall be selected from stock bred for gentleness and nonswarming characteristics.
  - (10) Beekeeping license process.
    - a. Application. The application for a license shall contain the following information; name, address, and telephone number of applicant; the address of the location, and a sketch plan of the premises where the dogs will be maintained include how the owner will demonstrate compliance with the standards of this section.
    - b. Processing application. The application must be filed with the zoning administrator together with the permit fee thirty (30) days prior to a City Council meeting. Following an inspection of the premises proposed to be licensed, the zoning administrator shall make a recommendation to the City Council to approve or deny the application. The City Council shall hold a Public Hearing and make the final decision on the application.
    - c. Term and transfer. The license shall be valid without renewal provided that the applicant complies with the terms of the license. Licenses under this Chapter may not be transferred from person to person or from place to place.
    - d. Revocation. The council may revoke any license issued under this article upon adequate notice and a hearing before the council, if requested, on the following grounds: any violation of this Code; Material misstatement or misrepresentation in application for license or renewal thereof; Failure to keep the licensee's premises in an orderly, aesthetically pleasing manner as prescribed by the council and/or its designated representative.
- (g) *Miscellaneous maintenance standards.*
- (1) Chickens must be contained in an enclosure and said enclosure must be designed in accordance with City Code Chapter 117, Article II (Zoning) and MN State Building Code. The enclosure shall be counted as an accessory building when calculating total number of permitted accessory buildings on a property. The enclosure and surrounding grounds shall be maintained in a clean and sanitary condition and in good repair. Flies, rodents and noxious odors shall be controlled.
  - (2) The enclosure shall remain completely enclosed to prevent unwanted intrusion by outside animals and migratory birds.
  - (3) A confined exercise area must be provided for the animals. The exercise area shall be fenced off to prevent the animals from roaming at large.
  - (4) Manure shall not be permitted to accumulate on the property. Manure shall be removed at least once per week, but while on the property shall be properly stored.
- (h) *Setbacks.* All enclosures must maintain a minimum setback of ten feet from all property lines and must maintain a minimum setback of 30 feet from all adjacent inhabited structures.
- (1) If 100 percent opaque fencing (privacy fencing) is utilized for the exercise area, said fencing is subject to the standard fence regulations and setbacks within City Code Chapter 117. If

alternative fencing is used (for example, chain link fencing), then said fencing shall be no closer than ten feet to a property line.

- (i) *Prohibition of nuisance animals.* No animals of any type may be maintained on any parcel within the city, no matter what size the parcel, if the maintenance of said animals creates a nuisance as defined in chapter 30.

(Code 1978, § 5.09.01; Ord. No. 73-06; Ord. No. 80-09; Ord. No. 02-05, 4-15-2002; Ord. No. 12-06, § 1, 6-12-2012)

Sec. 10-2. - Animals at large.

No person shall allow any animals of any type, or fowl belonging to them or in their care, to run at large or to be picketed on public grounds; but this prohibition shall not apply to cats or dogs, except as are by this Code forbidden to be at large.

(Code 1978, § 5.09.02; Ord. No. 73-06)

Secs. 10-3—10-22. - Reserved.

Sec. 10-3. - Barns and stables.

- (a) No stable or barn in which horses, sheep, cows, goats or other animals are kept may be located within 50 feet of a place of human habitation and 75 feet of neighboring property lines. Such stables and barns, where lawful, shall be kept clean. Manure shall be removed with sufficient frequency to avoid nuisance from odors or from the breeding of flies at least once every two weeks.
- (b) Manure shall be removed by hauling beyond the city limits unless used for fertilizer, in which case it shall be spread upon the ground evenly and turned under at once or as soon as the frost leaves the ground.

(Code 1978, § 5.09.04; Ord. No. 02-06, 4-15-2002)

ARTICLE II. - HORSES

Sec. 10-24. - Horses.

- (a) *Intent and purpose of section provisions.* The intent of this section is to establish regulations for maintaining horses as defined in subsection (b) of this section exclusively on property. Section 10-3 (barns and stables) also applies to this article. The purpose of this section is:
  - (1) To prohibit the maintaining of horses on lots or parcels of record less than 1.5 acres in size;
  - (3) To require the filing with the city of a sketch drawing prior to maintaining a horse; and
  - (4) To ensure proper handling, treatment and maintenance of horses.

*Horse defined.* As used in this section, the term "horse" shall mean any stallion, mare, gelding, foal, pony, donkey, ass, burro, mule or animal of horse kind.

- (c) *Acreage requirements.* The following chart prescribes the number of horses that can be maintained on lots of record of sizes as shown. The lease of property contiguous to the lot of record is eligible to meet acreage requirements provided the lot of record is at least 1.50 acres in size and evidence of a current lease is provided to the city.

Acreage	Number of Horses Permitted	Comments
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Less than 1.5 acres	0	Not permitted.
1.5 - 3.0 acres	2	Sketch drawing required in property file.
Over 3 acres	2+	One additional horse for each full acre over 3 acres.

(e) *Sketch drawing required.*

- (1) Prior to maintaining and boarding a horse or horses on any parcel of land three acres or more in size, the landowner shall provide a sketch drawing to the city.
- (2) Required sketch drawing information shall include:
  - a. Name and address of the fee owner of the subject property where the horses are to be maintained and the name and address of occupant of subject property.
  - b. Legal description of subject property.
  - c. Acreage of subject property and acreage of enclosed roaming area.
  - d. Number of horses to be maintained on subject property.
  - e. Sketch drawing showing, to scale:
    1. Location of all buildings on subject property;
    2. Fenced in horse pasture area;
    3. Location and distance from subject property of all adjacent property's buildings; and
    4. Area on subject property where manure will be stored if the number of horses exceeds one horse per one-half acre of enclosed roaming area.

(f) *Rodent and insect control.*

- (1) Manure shall be handled or treated in such a manner as not to create a public nuisance which shall mean at a minimum that manure will be properly disposed of weekly when the number of horses on any one parcel exceeds one horse per one-half acre of enclosed roaming area.
- (2) Corrals, pens, stables or similar enclosures shall be maintained in a manner to minimize fly breeding.
- (3) Accumulations of horse manure on the paved portion of a street, sidewalk or alley shall not be permitted, and the horse owner shall be responsible to abate such nuisance.

(g) *Care and maintenance of horses.*

- (1) No horse shall be treated cruelly or inhumanely by any person or in violation of Minn. Stats. ch. 343, which provisions relate to preventing cruelty to animals.
- (2) Proper care and maintenance of each horse shall be the responsibility of the person, firm or corporation designated as the owner, caretaker or custodian of such horse.
- (3) No person shall keep a horse in a manner creating a public or private nuisance.
- (4) Horses shall be provided adequate shelter.
- (5) Fences for pens, corrals or similar enclosures must be of sufficient height and strength to retain the horses enclosed. Extra care must be taken to ensure the stallions are properly enclosed.

(h) *Control, trespass roadways and impoundment.*

- (1) No person shall permit any horse of which they are the owner, caretaker or custodian to run at large within the city. Such animal will be deemed to run at large when it is off the premises owned or rented by its owner and unaccompanied by the owner, or an agent or employee of the owner.
- (2) The chief of police or any designated agent of the city may impound any horse found at large and shall provide proper sustenance for such impounded horse. The chief of police or designated agent shall, within 24 hours after any such horse has been impounded, post written notice at the city hall describing such horse and stating that it has been impounded. If the owner of the impounded horse is known to the person impounding, personal service of notice of such impounding shall be served within 24 hours after impounding upon such owner in the manner prescribed by state law for the service or process.
- (3) Costs incurred by the city in impounding horses running at large shall be paid by the horse owner prior to releasing the horse. An impounded horse shall be released only to a person providing proof of ownership and displaying a receipt from the city administrator showing payment of the reasonable costs of impounding, cost of feeding and veterinarian care.
- (4) Any person who, without authority of law, and without first paying the costs due, shall take an impounded horse out of the enclosure in which it is impounded, shall be guilty of a misdemeanor.
- (5) In the event a horse impounded by the city is not redeemed within 14 days, after its impoundment, the chief of police or designated agent shall give three days' notice of the time and place where such horse will be sold by posting and serving notices as required for notice herein. If such horse cannot be sold on the day stated, it may be sold as soon as possible thereafter without notice. The city treasurer shall deposit said proceeds in the general fund.
- (6) If the previous owner of the horse which was sold makes a claim for the sale proceeds within one year from the sale date, the city finance officer, on order from the council, shall pay the previous horse owner the difference between the sale price and the cost of impounding, feeding and sales charges; otherwise, the sale proceeds shall be forfeited to the city.
- (7) No person may ride or drive a horse after sunset and before sunrise along or crossing any public way without appropriate lighting or reflectorized clothing.
- (8) The council shall designate and properly post those areas in public lands and parks where horses may be ridden.
- (9) No person may ride or drive a horse in any public park, beach, golf course or other public property except within the right-of-way of public streets and highways and areas duly designated by the city as a trail or hitching area.
- (10) Persons riding a horse or driving a horse-drawn vehicle upon a public road way shall be subject to those provisions of this Code and state law applicable to the driver of motor vehicles, except those provisions which by their nature have no application.
- (11) Horses shall not be ridden or driven in any manner that would cause undue damage to any hard-surfaced road.
- (12) No person shall ride or drive a horse upon private property without the prior written permission of the owner or occupant thereof.
- (13) No person shall interfere with any horse ridden or kept in a lawful manner, and owners of domestic animals shall restrain their animal so as to not interfere.

(Code 1978, § 5.09.05; Ord. 74-4, 8-13-1974; Ord. No. 90-11; Ord. No. 02-07, 5-9-2002; Ord. No. 06-14, § 1, 4-25-2006)

Secs. 10-25—10-51. - Reserved.

ARTICLE III. - DOGS

FOOTNOTE(S):

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**State Law reference**— Dogs and cats, Minn. Stats. ch. 347. [\(Back\)](#)

DIVISION 1. - GENERALLY

FOOTNOTE(S):

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**Editor's note**— Ord. No. 12-11, § 2, 3, adopted July 24, 2012, repealed the former Div. 1, §§ 10-52—10-68, and enacted a new Div. 1 as set out herein. The former Div. 1 pertained to similar subject matter and derived from Code 1978, § 5.09.03, subd. 1—19; Ord. No. 88-02; Ord. No. 99-16, 12-23-1999; Ord. No. 08-09, § 2, 2-12-2008.

Sec. 10-52. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal control authority* means an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

*Boarding* means providing for the care, shelter, or feeding of dogs, not owned by the owner or occupant of the premises where said dogs are kept, for any period.

*Dangerous dog* means any dog that has:

- (1) Without provocation, inflicts substantial bodily harm on a human being on public or private property.
- (2) Has killed a domestic animal without provocation while off the owner's property.
- (3) Has been found to be potentially dangerous, and, after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

*Dog* means any male or female of the canine species.

*Dog owner* means the license holder or any other person, firm, association, or corporation owning, keeping or harboring a dog. Any person keeping or harboring a dog for five consecutive days shall, for the purposes of this definition, be deemed an owner.

*Great bodily harm* means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm

*Kennel, commercial*, means a place where boarding and/or training is offered to any number of dogs not owned by the owner or occupant of the premises. Such boarding and/or training may also include but is not limited to related uses such as selling, breeding, showing, treating or grooming. Pet shops, veterinary clinics, and pet grooming facilities are considered commercial uses but shall not be defined as commercial kennels.

*Kennel, private*, means a place where a dog owner keeps four or more dogs over six months of age on property occupied by the dog owner for residential purposes and where the keeping of such dogs is incidental to the occupancy of the premises, and may include breeding and selling of dogs as a hobby. A conditional use permit is required for four or more dogs.

*Owner* means the license holder or any other person, firm, association, or corporation owning, keeping or harboring a dog. Any person keeping or harboring a dog for five consecutive days shall, for the purposes of this definition, be deemed an owner.

*Potentially dangerous dog* means any dog that:

- (a) When unprovoked, inflicts bites on a human or domestic animal on public or private property.
- (b) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack.
- (c) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

*Proper enclosure* means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

*Provocation* means an act that an adult could reasonably expect may cause a dog to attack or bite.

*Running at large* means any dog which is not either:

- (a) Effectively contained on private property;
- (b) Effectively restrained, by chain or leash, to private property with the consent of the property owner;
- (c) Effectively restrained by a chain or leash not to exceed six feet in length; or
- (d) Under the voice control of its owner.

*Substantial bodily harm* means bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or that causes a fracture of any bodily member.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-53. - Animal control officer.

As used in this article the term "animal control officer" means any city officer or employee designated to enforce any portion of this article.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-54. - Duties of animal control officer.

The animal control officer shall perform the following duties:

- (a) Seize, impound, or restrain any dog found running at large within the city.
- (b) Investigate all cases of animal bites reported to him and supervise the quarantine of any such animal to ensure that it is kept under observation for a period of ten days.
- (c) Enforce all other provisions of this article.

Sec. 10-55. - No interference with officer.

It shall be unlawful for any person to molest or in any way interfere with any peace officer, animal control officer, or any of their duly authorized assistants, or with any duly authorized agent while engaged in performing work under the provisions of this article.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-56. - Number of dogs permitted.

- (j) On a parcel or series of contiguous parcels under the same ownership or occupancy as the dog owner, no more than three dogs are permitted. A private kennel license is required for four or more dogs.
- (k) Private kennel license process.
  - (1) Application. The application for a license shall contain the following information; name, address, and telephone number of applicant; the address of the location where four (4) or more dogs will be maintained, the number of dogs proposed to be maintained on the premise, the breeds of the dogs to be maintained, and a sketch plan of the premises where the dogs will be maintained.
  - (2) Processing application. The application must be filed with the zoning administrator together with the permit fee thirty (30) days prior to a City Council meeting. Following an inspection of the premises proposed to be licensed, the zoning administrator shall make a recommendation to the City Council to approve or deny the application. The City Council shall hold a Public Hearing and make the final decision on the application.
  - (3) Term and transfer. The license shall be valid without renewal provided that the applicant complies with the terms of the license. Licenses under this Chapter may not be transferred from person to person or from place to place.
  - (4) Revocation. The council may revoke any license issued under this article upon adequate notice and a hearing before the council, if requested, on the following grounds:
    - a. Any violation of this Code;
    - b. Material misstatement or misrepresentation in application for license or renewal thereof;
    - c. Failure to keep the licensee's premises in an orderly, aesthetically pleasing manner as prescribed by the council and/or its designated representative.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-57. – Individual Dog Licensing.

All dogs kept, harbored, or maintained in the city shall be licensed and registered. Applications for license shall be made to the city administrator, or his designee, upon forms provided by the city administrator. Said application shall require the owner, among other information required by the city administrator, to supply the name, age, predominant breed, sex, color and markings of each dog sought to be licensed. In addition, when the applicant or owner has been convicted of violation of section 10-65 relative to the dog sought to be licensed, the application shall require proof of public liability insurance in the minimum amount of \$300,000.00. Upon submission of the application and a certificate evidencing compliance with the terms and provisions of section 10-59, relating to vaccination for rabies, and upon payment of a fee as established by ordinance, the city administrator or his designee shall issue a license. Said license will be concurrent with a valid rabies vaccination for up to three years.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-58. - Tags.

The license shall be in the form of an identification tag and shall be affixed by the owner to a collar to be worn by the dog. In case a tag is lost or destroyed, a duplicate will be issued by the city administrator upon presentation of a receipt showing payment of the license fee for the current period and a payment as established by ordinance. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of death of the dog or the owners leaving the city prior to expiration of the license period.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-59. - Rabies vaccination.

- (a) Every owner or keeper of a dog shall cause the same to be vaccinated by a licensed veterinary with anti-rabies vaccine at least once every three years and prior to the time such dog shall reach the age of six months.
- (b) No dog need be vaccinated when a licensed veterinarian has examined the animal and certified that, at such time, vaccination would endanger its health because of its age, infirmity, debility, illness, or other medical consideration; and such exception certificate is presented to the animal control officer within five days of such examination. The animal shall be vaccinated against rabies as soon as its health and age permit. Unvaccinated animals must be confined to the owner's property or a veterinary facility.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-60. - Animal at large.

Every owner or keeper of a dog shall cause the same to be under the control of and in custody of a person of sufficient age to adequately control the dog at all times, while the dog is off the premises of the owner. The terms "control" and "custody" mean on a leash of not more than six feet in length or under the voice control of its owner. It shall be lawful to have a dog in an automobile without a leash, but it must be on a leash or under the voice control of its owner if taken out of the vehicle. Violation of this section shall be a petty misdemeanor.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-61. - Report of dog bites.

Any person knowing of a human being bitten by a dog shall immediately notify the animal control officer or the police department and said dog shall then be confined and kept under observation for a period of ten days before being removed from owner's property or disposed of.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-62. - Destroying a dog.

It shall be unlawful for any person other than the animal control officer or a police officer to kill or destroy any dog or animal of the dog kind running at large in the city or that has been known to bite a person within ten days.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-63. - Abandonment.

No person shall abandon or release any dog, cat, or other animal within the boundaries of the city.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-64. - Potentially dangerous dogs.

- (a) The animal control officer will provide the owner of a dog that has been deemed potentially dangerous, per section 10-52, with a potentially dangerous dog incident report.
- (b) If the dog has inflicted bites on a human or domestic animal on public or private property, a quarantine notice will also be provided to the owner advising of a ten day quarantine period.
- (c) If a proper enclosure cannot be provided for the dog, the animal control officer can seize the dog for the quarantine period. All costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog.

- (d) Any person knowing of a human being bitten by a dog shall immediately notify the animal control officer or the police department and said dog shall then be confined and kept under observation for a period of ten days before being removed from owner's property or disposed of.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-65. - Dangerous dogs.

- (a) The animal control officer will provide the owner of a dog that has been deemed dangerous, per section 10-52, with a dangerous dog incident report.
- (b) If the dog has inflicted bites on a human or domestic animal on public or private property, a quarantine notice will also be provided to the owner advising of a ten-day quarantine period.
- (c) An owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.
- (d) An owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new jurisdiction.
- (e) An owner of a dangerous dog must notify the animal control authority in writing of the death of the dog or its transfer to a new location where the dog will reside within 30 days of the death or transfer, and must, if requested by the animal control authority, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated.
- (f) An animal control authority shall require a dangerous dog to be sterilized at the owner's expense. If the owner does not have the animal sterilized within 30 days, the animal control authority shall seize the dog and have it sterilized at the owner's expense.
- (g) A person who owns a dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.
- (h) A person who transfers ownership of a dangerous dog must notify the new owner that the animal control authority has identified the dog as dangerous. The current owner must also notify the animal control authority in writing of the transfer of ownership and provide the animal control authority with the new owner's name, address, and telephone number.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-65. - Dangerous dog registration.

- (a) *Requirement.* No person may own a dangerous dog in this state unless the dog is registered as provided in this section.
- (b) *Registration.* An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:
  - (1) A proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children;
  - (2) A surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least \$300,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance

company authorized to conduct business in this state in the amount of at least \$300,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog;

- (3) The owner has paid an annual fee of not more than \$500.00, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section; and
  - (4) The owner has had microchip identification implanted in the dangerous dog with the name of the microchip manufacturer and identification number of the microchip provided to the animal control authority. If the microchip is not implanted by the owner, it may be implanted by the animal control authority. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog's owner.
- (c) *Warning symbol.* If an animal control authority issues a certificate of registration to the owner of a dangerous dog pursuant to subdivision (b), the animal control authority must provide, for posting on the owner's property, a copy of a warning symbol to inform children that there is a dangerous dog on the property. The warning symbol must be the uniform symbol provided by the commissioner of public safety. The commissioner shall provide the number of copies of the warning symbol requested by the animal control authority and shall charge the animal control authority the actual cost of the warning symbols received. The animal control authority may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol.
- (d) *Fee.* The animal control authority may charge the owner an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section.
- (e) *Dangerous dog designation review.* Beginning six months after a dog is declared a dangerous dog; an owner may request annually that the animal control authority review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the animal control authority finds sufficient evidence that the dog's behavior has changed, the authority may rescind the dangerous dog designation.
- (f) *Law enforcement; exemption.* The provisions of this section do not apply to dangerous dogs used by law enforcement officials for police work.
- (g) *Exemption.* Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:
- (1) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
  - (2) who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
  - (3) who was committing or attempting to commit a crime.
- (h) *Tag.* A dangerous dog registered under this section must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, affixed to the dog's collar at all times.

(Ord. No. 12-11, § 3, 7-24-2012)

#### Sec. 10-66. - Hearing for dogs deemed dangerous or potentially dangerous.

The owner of a dog that has been deemed dangerous or potentially dangerous may request a hearing to determine the validity of the dangerous or potentially dangerous dog declaration. If such a request is made, the owner must immediately comply with provisions 1 of the notice, until the hearing examiner issues an opinion. To appeal the dangerous or potentially dangerous dog declaration:

- (a) A request, identifying with specificity the basis for the dog owner's objection to the declaration shall be filed in writing with the office of the chief of police within 14 days after the date of the service of the notice. Failure to do so within 14 days will terminate the owner's right to a hearing.

- (b) A \$250.00 filing fee shall be submitted with the appeal request. In the event that the dangerous dog declaration is not upheld by the hearing examiner, the filing fee will be refunded to the dog's owner. Per Minn. Stat. § 347.541, if the dangerous dog declaration is upheld by the hearing examiner, actual expenses of the hearing up to a maximum of \$1,000.00 will be the responsibility of the dog's owner.
- (c) A hearing shall be conducted within ten days, unless a later date is mutually agreed to by the hearing examiner, the dog owner and the city.
- (d) The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the animal control authority.
- (e) If the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all requirements of the notice.
- (f) Any costs incurred for the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-67. - Failure to restrain an attack by a dog.

- (a) It shall be unlawful for an owner to fail to restrain a dog from inflicting or attempting to inflict bodily injury to any person or other animal. Violation of this section shall be a misdemeanor. The court, upon a finding of the defendant's guilt hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:
  - (1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning, or multiple attacks; or
  - (2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.
- (b) If the court does not order the destruction of the dog, the court, as an alternative, may order the defendant to provide, and show proof to the court of public liability insurance in the minimum amount of \$300,000.00.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-68. - Stopping an attack.

If any police officer or animal control officer is witness to an attack by a dog upon a person or another animal, the officer may take whatever means they deem appropriate to bring the attack to an end and prevent further injury to the victim.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-69. - Dogs disturbing the peace.

It shall be unlawful for any person to own, keep, have in possession, or harbor any dog that howls, yelps, or barks to the reasonable annoyance of another person. Any person violating this section, who upon first requested by a police officer or animal control officer to stop or prevent the annoyance, and refuses to comply with the request will be issued a citation or arrested in accordance with Minnesota Rules of Criminal Procedure, and, if the officer deems it necessary to stop the annoyance, may have the dog taken to the city animal pound. Any dog placed in the pound may be reclaimed by the owner upon payment of the fee prescribed in subsection 10-95(b), and if not reclaimed may be disposed of in the manner provided in subsection 10-95(c).

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-70. - Removal of excrement.

It is unlawful for any person who owns or has custody of a dog to cause or permit such animal to defecate on any private property without the consent of the property owner or on any public property unless such person immediately removes the excrement and places it in a proper receptacle. The provisions of this section shall not apply to seeing-eye dogs under the control of a blind person or dogs while being used in city police activity.

(Ord. No. 12-11, § 3, 7-24-2012)

Secs. 10-71—10-94. - Reserved.

DIVISION 2. - IMPOUNDMENT

Sec. 10-95. - Procedure; reclaiming.

- (a) *Impoundment.* All dogs picked up by the animal control officer or any of their duly authorized assistants shall be immediately transported to the designated pound. If the owner is known, they shall be immediately notified by telephone or personal contact and by written notice to their last known address. If the owner is unknown, written notice containing a description of the animal shall be posted at the pound and the city hall. The notice shall advise the owner that they have five regular business days to claim the dog. The term "regular business day" means any day during which the pound is open to the public not less than four consecutive hours between the hours of 8:00 a.m. and 7:00 p.m.
- (b) *Reclaiming.* An owner may reclaim an impounded dog:
- (1) If the dog has a current license: by paying to the pound master an impounding fee plus a boarding fee in an amount determined by agreement between the city and the designated pound, for each day the animal was confined. There shall also be an added impounding fee for any dog impounded twice within 12 months. Such fees shall be set by ordinance.
  - (2) If the dog does not have a current license: by first obtaining a license from the city administrator and paying the costs to the pound master.
- (c) *Unclaimed animals.* Any animal not claimed within the allotted time shall be disposed of in accordance with the provisions of Minn. Stats. § 35.71, subd. 3.

(Code 1978, § 5.09.03, subds. 9, 10, 12; Ord. No. 88-02; Ord. No. 01-22, 10-29-2001)

Secs. 10-96—10-118. - Reserved.

ARTICLE IV. - WILD ANIMALS

Sec. 10-119. - Rules and definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*At large* means a wild animal that is outside of its secondary enclosure, or when the wild animal is outside of its primary enclosure but within its secondary enclosure and not in the presence of the owner.

*Dwelling* means a building or portion thereof designed or used exclusively for residential occupancy.

*Handling* means feeding, manipulating, transporting, restraining, treating, training, working or performing any similar activity with respect to a wild animal.

*Impound* means to seize and hold in legal custody.

*Livestock* means a typical farm animal kept for agricultural use, pleasure or profit, including but not limited to horses, mules, sheep, goats, cattle, swine, fowl, rabbits and mink.

*Lot* means a tract, plat or portion of a subdivision or other parcel or land intended as a unit for the purpose, whether immediate or future, or transfer of ownership or for the building development.

*Owner* means a person who keeps a wild animal or the parents or guardians of such a person under 18 years of age.

*Portable primary enclosure* means the portable structure used to confine a wild animal in a secure manner that prevents the running at large of a wild animal during transportation or temporarily confining such an animal during handling.

*Primary enclosure* means an individual, partnership, firm, joint stock company, corporation, association, unincorporated association of individuals, trust, estate, or other entity.

*Restraint* means the portable structure used to confine a wild animal in a secure manner that prevents the running at large of a wild animal during transportation or temporarily confining such an animal during handling.

*Secondary enclosure* means a structure such as a fence, wall or building, which entirely encloses the area in which the primary enclosures, exercise facilities and training facilities are located and all handling activities occur. Such secondary enclosure serves to contain a wild animal from running at large and to prevent any unauthorized public access.

*Structure* means anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, such as a fence, wall, or building.

*The keeping of wild animals* means possessing and handling of wild animals on any property and providing such an animal with the necessities of life such as feeding and sheltering. The keeping of wild animals may include animals being used or intended to be used for research, training, breeding, boarding, as a personal pet, or for agricultural purposes. The keeping of a wild animal may also include wild animals intended to be used for exhibition providing that such animals are not exhibited within the city, such as in the case of a public showing, circus or zoo.

*Wild animal.*

- (1) The term "wild animal" means a mammal, large or poisonous reptile and bird that, in their uncaptured wild state, have the physical capacity to be dangerous to the safety and welfare of any person or property. Examples of such wild animals are (but not limited to these examples) bears, lions, wolves, coyotes, cougars, bison, tigers, panthers, monkeys, apes, large alligators and crocodiles (greater than four feet in length), large snakes (greater than six feet), and poisonous snakes, excluding dogs, cats, other traditional house pets and livestock.
- (2) Reducing such mammals, reptiles and birds to captivity, whether trained, raised or bred in captivity or otherwise considered domesticated in any manner, shall not remove such wild animals from these requirements and regulations.

(Code 1978, § 5.09.06, subd. 2; Ord. No. 87-08)

Sec. 10-120. - Penalty.

A person who fails to comply with or violates provisions of this Code or the restrictions of a conditional use permit or variance shall be guilty of a misdemeanor. Appropriate actions and proceedings may be taken by law or inequity to prevent a violation of this article of the conditions or restrictions of a conditional use permit or variance, to prevent unlawful construction, to recover damages, to restrain, correct or abate a

violation, and to prevent illegal use of a lot; these remedies shall be in addition to the penalties described in this section.

(Code 1978, § 5.09.06, subd. 10; Ord. No. 87-08)

Sec. 10-121. - Purpose and intent.

It is the intent of this article to establish regulations that will allow as a conditional use the keeping of wild animals, with a conditional use permit in certain zoning districts. The city recognizes that wild animals require special handling to ensure that the health, safety and welfare of the public is protected and all land use conflicts are minimized.

(Code 1978, § 5.09.06, subd. 1; Ord. No. 87-08)

Sec. 10-122. - Enforcement.

- (a) *Impoundment.* In addition to the penalties imposed in section 10-120, a person in violation of this article may be subject to having the wild animals in question impounded, or destroyed. Owners in violation of this article will have ten days to correct the violation and redeem a wild animal. The owner is responsible for all costs incurred by the city to capture, keep and/or destroy a wild animal. If a wild animal is not redeemed, the city will dispose of such wild animal in any manner it deems necessary such as, but not limited to, selling, destroying, or donating to an appropriate organization or agency.
- (b) *Rabies.* A wild animal capable of transmitting rabies which has been known to have bitten a person shall be quarantined and observed for rabies under the direction of a licensed veterinarian for a period of time and in facilities determined to be adequate by that veterinarian and the city. If a wild animal is proven to be rabid, the wild animal shall be destroyed. If a wild animal is proven to not be rabid by a licensed veterinarian, it will be returned to the owner.
- (c) *Enforcement authority.* Enforcement officers shall have the right to destroy a wild animal posing an immediate threat of serious harm to any person, livestock or house pet.

(Code 1978, § 5.09.06, subd. 9; Ord. No. 87-08)

Sec. 10-123. - Inspection and revocation of conditional use permit.

The city may at any time inspect the lot and structures where a wild animal is kept to determine if the conditional use permit, and the conditions and restrictions of that conditional use permit are being strictly adhered to. The city may require an inspection upon reasonable request and shall reserve the right to have said inspection performed by an approved and qualified consultant.

(Code 1978, § 5.09.06, subd. 7; Ord. No. 87-08)

Sec. 10-124. - Nonconforming uses.

A person lawfully keeping wild animals within the city upon the effective date of the adoption of the ordinance from which this article is derived, who does not conform to the provisions of this article, shall be given 30 days to comply or submit application for the necessary permits.

(Code 1978, § 5.09.06, subd. 8; Ord. No. 87-08)

Sec. 10-125. - Variances.

- (a) *Variance and review criteria.* Where the city finds that extraordinary hardships or practical difficulties may result from strict compliance with the provisions of this article, and the purposes of this article may be served to the same or greater extent by an alternative proposal, the city may approve variances to this article so that substantial justice may be done and the public interest secured, provided that:
  - (1) Such a variance shall not have the effect of nullifying the intent and purpose of this article; and
  - (2) The city shall not approve variances unless, based upon the evidence presented to it, it finds that:

- a. The granting of the variance would not be detrimental to the public safety, health, or welfare or injurious to property.
- b. The conditions that a variance would be based upon are unique to that application for which the variance is sought and are not applicable generally to other applications.
- c. The strict enforcement of this article would result in unreasonable and unnecessary requirements or restrictions because a particular hardship would result, as distinguished from an inconvenience.
- d. The variance would not in any manner vary the provisions of the Ramsey Comprehensive Plan.

(b) *Application and review.*

- (1) The application procedure for a variance from this article shall be the same as section 10-128(b) through (d).
- (2) Variances may be reviewed concurrently with an application for a conditional use permit.

(c) *Conditions of approval.* In approving an application for a variance, the city may attach conditions and restrictions as it finds necessary.

(Code 1978, § 5.09.06, subd. 5; Ord. No. 87-08)

Sec. 10-126. - Fees.

The applicant for a conditional use permit and/or variance shall pay an application fee as per ordinance. The applicant shall also pay for any costs or expenses incurred by the city during the processing and reviewing of the application, which exceed the application fee. Such expenses shall include, but are not limited to, consultants and other professionals and the cost of printing, mailing, and supplies. Such fees shall become due and payable immediately upon notification by the city. The city shall provide upon the request of the applicant, a breakdown of the various expenses incurred by the city. The city may withhold any final action on an application for a conditional use permit or variance and/or rescind prior actions until all fees are fully paid. The city may require additional deposits, above and beyond the application fee, if found necessary.

(Code 1978, § 5.09.06, subd. 6; Ord. No. 87-08)

Sec. 10-127. - General regulations.

(a) *Prohibition.* No person shall keep a wild animal unless such a use is specifically permitted by this article and all regulations are satisfied.

(b) *Regulations.*

(1) Enclosures.

- a. A wild animal shall be confined, sheltered and led in a primary enclosure contained entirely within a secondary enclosure.
- b. All primary and secondary enclosures shall meet minimum requirements of structural soundness and security as deemed satisfactory by the city. All primary and secondary enclosures;
  - 1. Shall be constructed of steel bar, link, wire or other suitable material of sufficient strength to contain the proposed animal;
  - 2. Shall be adequately braced and securely anchored at ground level;
  - 3. Shall be constructed such as to prevent a wild animal from digging out from under the enclosure;
  - 4. Shall be key or combination locked to prevent unauthorized entrance;

5. Shall be located so that all access to primary enclosures must be from within the secondary enclosure;
  6. Shall be adequately signed to notify the public of the presence of wild animals and the danger that exists.
- (2) The transportation of a wild animal outside of the secondary enclosure shall be in a vehicle specially equipped for the transportation of wild animals and a portable primary enclosure as approved by the city.
  - (3) Running at large.
    - a. It shall be prohibited for a wild animal to run at large.
    - b. A wild animal shall be under the restraint of its owner.
    - c. Tools for capturing wild animals shall be readily accessible, such as traps, firearms, tranquilizing guns and nets.
  - (4) Sanitation and health.
    - a. The lot on which a wild animal is kept shall be maintained in a clean, sanitary and neat manner in accordance with the conditions of the permit.
    - b. A wild animal shall be maintained in a healthy state so as to prevent the transmittal of disease to other animals or persons.
    - c. All animal waste shall be properly and timely disposed of in accordance with the conditions of the permit.
  - (5) Zoning and lot requirements.
    - a. All zoning code regulations shall be complied with.
    - b. Additional regulations shall be as follows:
      1. The keeping of wild animals shall be allowed only as a conditional use in any zoning district of the city.
      2. The lot on which a wild animal as defined herein is kept shall be at least 2½ acres in size.
      3. The structures, primary and secondary enclosures and all uses associated with the handling of wild animals, shall be set back a minimum of 100 feet front yard; 30 feet side yard and 50 feet rear yard.
      4. The structures, primary and secondary enclosures and all areas in which a wild animal is handled shall be located a minimum of 300 feet from all dwellings other than that of the owner.
      5. The activity areas in which a wild animal is handled shall be screened or landscaped in such a manner as to prevent them from being visible at any time of the year from the road right-of-way, and public properties.

(Code 1978, § 5.09.06, subd. 3; Ord. No. 87-08)

Sec. 10-128. – Conditional Use Permit for wild animals.

- (a) *Prohibition.* No person shall keep a wild animal unless a conditional use permit has been approved by the city for that person and that activity, in accordance with this article.
- (b) *Submittal of application.* Complete application for a conditional use permit shall include the following:
  - (1) One (1) copy of the completed application form.

- (2) One (1) copy of a letter explaining in detail the proposed use and addressing regulations in section 10-127, and review criteria in this section.
- (3) One (1) copy of an accurate site plan (drawn to scale) or survey of the lot on which the proposed use would occur and the adjacent lots showing:
  - a. Lot dimensions;
  - b. Location, size and configuration of the area proposed to be used for the keeping of wild animals, including all existing and proposed buildings, structures, and enclosures;
  - c. Setbacks from front lot line, side lot lines, and rear lot line, and distances from neighboring dwellings, pastures, barns, and corrals;
  - d. Vegetation and terrain features such as steep slopes, wetlands, woods and any natural and proposed screening or landscaping;
  - e. Driveways, public and private roadways, parking and loading areas;
  - f. Easements for roads, access, open space, views, and utilities; and
  - g. Location of well and septic.

The city reserves the right to require a certificate of survey.

- (4) One (1) copy of all permits required from the state department of natural resources, United States Department of Agriculture, United States Fish and Wildlife, and other governmental agency.
  - (5) One (1) copy of the owner's qualifications, list of professional references and any other background materials as required by the zoning administrator.
  - (6) Payment of application fee and miscellaneous fees as established by ordinance.
  - (7) One (1) copy of building plans for primary and secondary enclosures.
  - (8) Any additional information found necessary by the city zoning administrator.
- (c) *Application deadline.* A completed application for a conditional use permit shall be submitted no later than thirty (30) days before the next regularly scheduled planning commission meeting.
- (d) *Review of council and planning commission.*
- (1) Upon submittal of a completed application, the zoning administrator shall schedule a public hearing at the next planning commission meeting. The police chief shall receive a copy of the application and forward any recommendations to the zoning administrator who shall then review the application and police comments and may make recommendations to the planning commission. The planning commission shall consider the application for a conditional use permit and thereafter make recommendations to the council. The council shall then approve, with modifications, or deny the application for a conditional use permit by resolution that shall set forth in detail any conditions and restrictions to which the approval is subject or reasons for denial.
  - (2)
- (e) *Review criteria.* In acting upon an application for a conditional use permit, the city shall consider the following criteria:
- (1) Surrounding land uses.
  - (2) Structural soundness and security of all primary and secondary enclosures.
  - (3) Design, size, location and configuration of all primary and secondary enclosures.
  - (4) Maintenance of the primary and secondary enclosures and all other structures and areas used in relation to the keeping of any wild animal.
  - (5) Nuisances such as noise and odors.

- (6) Aesthetics, including the appearance of the lot and structure where a wild animal is kept.
- (7) Compliance with all sections of this Code.
- (8) Regulations of the state department of natural resources, United States Department of Agriculture, United States Fish and Wildlife, or any other governmental agency.
- (9) Nature and characteristics of each type of animal being proposed such as its size, strength, disposition, and its ability to harm a person or property.
- (10) Other criteria found relevant by the city.

The applicant shall prove that the use as proposed in the conditional use permit application would not result in any detrimental effects as per the criteria listed in this subsection (e).

- (f) *Conditions of approval.* In approving an application for a conditional use permit, the city may attach conditions and restrictions as it finds necessary, including but not limited to the following:
  - (1) Restrictions on the number and type of animals.
  - (2) Setbacks greater than those required in section 10-127
  - (3) Minimum and/or maximum distance between primary and secondary enclosures.
  - (4) Minimum height of enclosures.
  - (5) Size of the enclosures.
- (g) *Expiration.* A conditional use permit shall remain in effect as long as the conditions agreed upon are observed and the permit holder is in compliance with all other regulations or standards of this chapter..
- (h)

(Code 1978, § 5.09.06, subd. 4; Ord. No. 87-08)

**ORDINANCE #15-12  
CITY OF RAMSEY  
ANOKA COUNTY  
STATE OF MINNESOTA**

**AN ORDINANCE AMENDING CHAPTER 10 (ANIMALS) AND CHAPTER 117 (ZONING AND SUBDIVISIONS) OF THE RAMSEY CITY CODE AMENDING THE PROCEDURE FOR APPROVAL FOR CERTAIN ANIMALS AND NUMBER OF ANIMALS.**

The City of Ramsey Ordains:

**SECTION 1 AUTHORITY**

This ordinance is adopted pursuant to and under the authority of the City Charter of the City of Ramsey.

**SECTION 2 AMENDMENTS**

Chapter 10 is amended to revise the following language (added language underlined, deleted language ~~strike through~~):

Chapter 10 - ANIMALS (with redlined/tracked changes plus commentary)

FOOTNOTE(S):

--- (1) ---

**State Law reference**— General authority relative to animals, Minn. Stats. §§ 410.33, 412.221, subd. 21; animal health, Minn. Stats. ch. 35; dogs and cats, Minn. Stats. ch. 347; cruelty to animals, Minn. Stats. § 343.20 et seq.; stray animals and companion animals, Minn. Stats. ch. 346. [\(Back\)](#)

**ARTICLE I. - IN GENERAL**

Sec. 10-1. - Keeping of certain animals, livestock and poultry.

~~(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:~~

~~*Pony means a horse that does not exceed 54 inches or 13.2 hands in height.*~~

~~(a**b**) *Animals on less than three acres.* None of the following animals shall be maintained on any parcel of land in the city that is not at least 3.0 acres (130,680 square feet) in size: ~~horses,~~ llamas, cows, mules, donkeys, burros, ~~ponies,~~ goats, pigs, sheep, lambs, turkey, geese and ducks. EXCEPTION: Chickens (hens only, no roosters or crowing hens) may be maintained on parcels less than three acres. The following chart prescribes the number of chickens that can be maintained on lots of record to which the animal owner has fee title and desires to maintain chickens:~~

Lot Size	Number of Chickens Permitted (no roosters or crowing hens)
0.00 to 0.24 Acres	6

0.25 to 0.49 Acres	8
0.50 to 0.74 Acres	12
0.75 to 0.99 Acres	16
1.00 to 1.24 Acres	20
1.25 to 1.49 Acres	24
1.50 to 1.74 Acres	28
1.75 to 1.99 Acres	32
2.00 to 2.24 Acres	36
2.25 to 2.49 Acres	40
2.50 to 2.74 Acres	44
2.75 to 2.99 Acres	48

(c) *Animal unit.* Animal unit is defined as a measure used to compare differences in production of animal wastes. The following chart establishes the number of animal units assigned to certain livestock and poultry:

Animal	Number of Units
Cow	1.5
<del>Horse</del> , mule, llama, alpaca	1.0
Donkey, burro, <del>pony</del> , goat, pig, sheep, lamb	0.5
Turkey, goose	0.1
Chicken, duck	0.04

(d) *Permitted animals.*

- (1) The following chart prescribes the number of animal units that can be maintained on lots of record to which the animal owner has fee title and desires to maintain a mix of livestock, ~~equines,~~ poultry, or fowl (refer to section 10-24 for regulations for maintaining horses ~~or equines exclusively~~):

Parcel Size	Number of Animal Units Allowed
3 acres (130,680 square feet)	2
5 acres (217,800 square feet)	3
10 acres (435,600 square feet)	5
15 acres (653,400 square feet)	7
20 acres+ (871,200 square feet)	No limitation

- (2) Maintenance of more animals than the prescribed number in subsection (d)(1) of this section is permitted only with a conditional use permit in accordance with section 117-50

(e) *Non-traditional or exotic animals.*

- (1) Non-traditional or exotic animals are those that are not normally considered to be domesticated but are not wild animals as defined in section 10-119. A person may keep a non-traditional or exotic animal as defined herein only upon issuance of ~~a conditional use permit in accordance with section 117-50~~non-traditional animal license. In determining whether an animal is considered non-traditional or exotic, it shall be the responsibility of the applicant to supply the city with the necessary data and information to reasonably prove that the animal is not dangerous in captivity. This information shall be part of the public record and shall be discussed as part of the ~~conditional use permit review~~non-traditional animal license.
- (2) In reviewing a request to keep non-traditional or exotic animals, the city may impose conditions and restrictions as it finds necessary, including but not limited to the following:
- Restrictions on the number and type of animals;
  - Setbacks greater than those required in section 10-23 or the underlying zoning district for the property in question;
  - Restrictions on the size, height, and type of enclosures;
  - Screening or landscaping of the proposed use.
- (3) The applicant must also submit a copy of all permits required from any other regulatory agencies.

(4) Non-traditional animal license process.

- a. Application. The application for a license shall contain the following information; name, address, and telephone number of applicant; the address of the location, and a sketch plan

of the premises where the animals will be maintained include how the owner will demonstrate compliance with the standards of this section.

b. Processing application. The application must be filed with the zoning administrator together with the permit fee thirty (30) days prior to a City Council meeting. Following an inspection of the premises proposed to be licensed, the zoning administrator shall make a recommendation to the City Council to approve or deny the application. The City Council shall hold a Public Hearing and make the final decision on the application.

c. Term and transfer. The license shall be valid without renewal provided that the applicant complies with the terms of the license. Licenses under this Chapter may not be transferred from person to person or from place to place.

d. Revocation. The council may revoke any license issued under this article upon adequate notice and a hearing before the council, if requested, on the following grounds: any violation of this Code; Material misstatement or misrepresentation in application for license or renewal thereof; Failure to keep the licensee's premises in an orderly, aesthetically pleasing manner as prescribed by the council and/or its designated representative.

(f) *Beekeeping.* Bee hives may be maintained on a parcel with the issuance of a ~~conditional use permit~~ beekeeping license.

- (1) Hives may only be located on lots with an existing use.
- (2) No more than six hives may be located on a lot.
- (3) No hive shall exceed 20 cubic feet in volume.
- (4) No hive shall be located closer than three feet from any property line or within any easement, whichever is more restrictive.
- (5) No hive shall be located closer than ten feet from a neighboring, inhabited structure.
- (6) A constant supply of water shall be supplied or available to all hives.
- (7) A flyway barrier at least six feet in height shall shield any part of a property line that is within 25 feet of a hive. The flyway barrier shall consist of 100 percent opaque fencing, dense, year-round (coniferous) vegetation, existing structures, or combination thereof, and shall extend at least 25 feet beyond the hive.
- (8) Colonies shall be maintained in moveable frame hives with adequate space and management techniques to prevent overcrowding and swarming.
- (9) In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to requeen the colony. Queens shall be selected from stock bred for gentleness and nonswarming characteristics.

(10) Beekeeping license process.

a. Application. The application for a license shall contain the following information: name, address, and telephone number of applicant; the address of the location, and a sketch plan of the premises where the dogs will be maintained include how the owner will demonstrate compliance with the standards of this section.

b. Processing application. The application must be filed with the zoning administrator together with the permit fee thirty (30) days prior to a City Council meeting. Following an inspection of the premises proposed to be licensed, the zoning administrator shall make a

recommendation to the City Council to approve or deny the application. The City Council shall hold a Public Hearing and make the final decision on the application.

c. Term and transfer. The license shall be valid without renewal provided that the applicant complies with the terms of the license. Licenses under this Chapter may not be transferred from person to person or from place to place.

d. Revocation. The council may revoke any license issued under this article upon adequate notice and a hearing before the council, if requested, on the following grounds: any violation of this Code; Material misstatement or misrepresentation in application for license or renewal thereof; Failure to keep the licensee's premises in an orderly, aesthetically pleasing manner as prescribed by the council and/or its designated representative.

(g) Miscellaneous Maintenance standards.

- (1) Chickens must be contained in an enclosure and said enclosure must be designed in accordance with City Code Chapter 117, Article II (Zoning) and MN State Building Code. The enclosure shall be counted as an accessory building when calculating total number of permitted accessory buildings on a property. The enclosure and surrounding grounds shall be maintained in a clean and sanitary condition and in good repair. Flies, rodents and noxious odors shall be controlled.
- (2) The enclosure shall remain completely enclosed to prevent unwanted intrusion by outside animals and migratory birds.
- (3) A confined exercise area must be provided for the animals. The exercise area shall be fenced off to prevent the animals from roaming at large.
- (4) Manure shall not be permitted to accumulate on the property. Manure shall be removed at least once per week, but while on the property shall be properly stored.

(h) Setbacks. All enclosures must maintain a minimum setback of ten feet from all property lines and must maintain a minimum setback of 30 feet from all adjacent inhabited structures.

- (1) If 100 percent opaque fencing (privacy fencing) is utilized for the exercise area, said fencing is subject to the standard fence regulations and setbacks within City Code Chapter 117. If alternative fencing is used (for example, chain link fencing), then said fencing shall be no closer than ten feet to a property line.

(i) Prohibition of nuisance animals. No animals of any type may be maintained on any parcel within the city, no matter what size the parcel, if the maintenance of said animals creates a nuisance as defined in chapter 30.

(Code 1978, § 5.09.01; Ord. No. 73-06; Ord. No. 80-09; Ord. No. 02-05, 4-15-2002; Ord. No. 12-06, § 1, 6-12-2012)

Sec. 10-2. - Animals at large.

No person shall allow any animals of any type, or fowl belonging to them or in their care, to run at large or to be picketed on public grounds; but this prohibition shall not apply to cats or dogs, except as are by this Code forbidden to be at large.

(Code 1978, § 5.09.02; Ord. No. 73-06)

Secs. 10-3—10-22. - Reserved.

~~ARTICLE II. — LIVESTOCK AND POULTRY~~

Sec. 10-~~23~~. - Barns and stables.

- (a) No stable or barn in which horses, sheep, cows, goats or other animals are kept may be located within 50 feet of a place of human habitation and 75 feet of neighboring property lines. Such stables and barns, where lawful, shall be kept clean. Manure shall be removed with sufficient frequency to avoid nuisance from odors or from the breeding of flies at least once every two weeks.
- (b) Manure shall be removed by hauling beyond the city limits unless used for fertilizer, in which case it shall be spread upon the ground evenly and turned under at once or as soon as the frost leaves the ground.

(Code 1978, § 5.09.04; Ord. No. 02-06, 4-15-2002)

ARTICLE II. - HORSES

Sec. 10-24. - Horses.

- (a) *Intent and purpose of section provisions.* The intent of this section is to establish regulations for maintaining horses as defined in subsection (b) of this section exclusively on property. Section 10-3 (barns and stables) also applies to this article. The purpose of this section is:
  - (1) To prohibit the maintaining of horses on lots or parcels of record less than 1.5 acres in size;
  - ~~(2) To require a conditional use permit prior to maintaining a horse on a lot of record 1.5 acres in size and less than three acres in size;~~
  - (3) To require the filing with the city of a sketch drawing prior to maintaining a horse ~~on a lot or parcel of recorded three acres and larger in size;~~ and
  - (4) To ensure proper handling, treatment and maintenance of horses.
- ~~(b) Horse defined.~~ As used in this section, the term "horse" shall mean any stallion, mare, gelding, foal, pony, donkey, ass, burro, mule or animal of horse kind.
- (c) *Acreage requirements.* The following chart prescribes the number of horses that can be maintained on lots of record of sizes as shown. ~~This chart is applicable only to the maintenance of horses exclusively and shall be considered separate from the animal unit formula established in section 10-1 for the maintenance of a mix of horses and farm animals on property.~~ The lease of property contiguous to the lot of record is eligible to meet acreage requirements provided the lot of record is at least 1.503-0 acres in size and evidence of a current lease is provided to the city.

Acreage	Number of Horses Permitted	Comments
Less than 1.5 acres	0	Not permitted.
<del>1.5 — 2.9 acres</del>	<del>2</del>	<del>Permitted only with conditional use permit.</del>
<u>1.5 - 3.0 acres</u>	2	Sketch drawing required in property file.

Over 3 acres	2+	One additional horse for each full acre over 3 acres.
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~~(d) Conditional use permit approval required.~~

~~(1) Prior to maintaining and boarding a horse on any lot or parcel within the city which lot or parcel is less than three acres in size, but larger than 1.5 acres in size, the landowner shall apply for and obtain a conditional use permit (CUP) from the city.~~

~~(2) An application for the CUP shall be initiated by the landowner where the horses are to be maintained by filing a form prescribed by the city. The procedure to be followed shall be as prescribed in section 117-50~~

(e) *Sketch drawing required.*

(1) Prior to maintaining and boarding a horse or horses on any parcel of land three acres or more in size, the landowner shall provide a sketch drawing to the city.

(2) Required sketch drawing information shall include:

- a. Name and address of the fee owner of the subject property where the horses are to be maintained and the name and address of occupant of subject property.
- b. Legal description of subject property.
- c. Acreage of subject property and acreage of enclosed roaming area.
- d. Number of horses to be maintained on subject property.
- e. Sketch drawing showing, to scale:
  1. Location of all buildings on subject property;
  2. Fenced in horse pasture area;
  3. Location and distance from subject property of all adjacent property's buildings; and
  4. Area on subject property where manure will be stored if the number of horses exceeds one horse per one-half acre of enclosed roaming area.

(f) *Rodent and insect control.*

(1) Manure shall be handled or treated in such a manner as not to create a public nuisance which shall mean at a minimum that manure will be properly disposed of weekly when the number of horses on any one parcel exceeds one horse per one-half acre of enclosed roaming area.

(2) Corrals, pens, stables or similar enclosures shall be maintained in a manner to minimize fly breeding.

(3) Accumulations of horse manure on the paved portion of a street, sidewalk or alley shall not be permitted, and the horse owner shall be responsible to abate such nuisance.

(g) *Care and maintenance of horses.*

(1) No horse shall be treated cruelly or inhumanely by any person or in violation of Minn. Stats. ch. 343, which provisions relate to preventing cruelty to animals.

(2) Proper care and maintenance of each horse shall be the responsibility of the person, firm or corporation designated as the owner, caretaker or custodian of such horse.

- (3) No person shall keep a horse in a manner creating a public or private nuisance.
  - (4) Horses shall be provided adequate shelter.
  - (5) Fences for pens, corrals or similar enclosures must be of sufficient height and strength to retain the horses enclosed. Extra care must be taken to ensure the stallions are properly enclosed.
- (h) *Control, trespass roadways and impoundment.*
- (1) No person shall permit any horse of which they are the owner, caretaker or custodian to run at large within the city. Such animal will be deemed to run at large when it is off the premises owned or rented by its owner and unaccompanied by the owner, or an agent or employee of the owner.
  - (2) The chief of police or any designated agent of the city may impound any horse found at large and shall provide proper sustenance for such impounded horse. The chief of police or designated agent shall, within 24 hours after any such horse has been impounded, post written notice at the city hall describing such horse and stating that it has been impounded. If the owner of the impounded horse is known to the person impounding, personal service of notice of such impounding shall be served within 24 hours after impounding upon such owner in the manner prescribed by state law for the service or process.
  - (3) Costs incurred by the city in impounding horses running at large shall be paid by the horse owner prior to releasing the horse. An impounded horse shall be released only to a person providing proof of ownership and displaying a receipt from the city administrator showing payment of the reasonable costs of impounding, cost of feeding and veterinarian care.
  - (4) Any person who, without authority of law, and without first paying the costs due, shall take an impounded horse out of the enclosure in which it is impounded, shall be guilty of a misdemeanor.
  - (5) In the event a horse impounded by the city is not redeemed within 14 days, after its impoundment, the chief of police or designated agent shall give three days' notice of the time and place where such horse will be sold by posting and serving notices as required for notice herein. If such horse cannot be sold on the day stated, it may be sold as soon as possible thereafter without notice. The city treasurer shall deposit said proceeds in the general fund.
  - (6) If the previous owner of the horse which was sold makes a claim for the sale proceeds within one year from the sale date, the city finance officer, on order from the council, shall pay the previous horse owner the difference between the sale price and the cost of impounding, feeding and sales charges; otherwise, the sale proceeds shall be forfeited to the city.
  - (7) No person may ride or drive a horse after sunset and before sunrise along or crossing any public way without appropriate lighting or reflectorized clothing.
  - (8) The council shall designate and properly post those areas in public lands and parks where horses may be ridden.
  - (9) No person may ride or drive a horse in any public park, beach, golf course or other public property except within the right-of-way of public streets and highways and areas duly designated by the city as a trail or hitching area.
  - (10) Persons riding a horse or driving a horse-drawn vehicle upon a public road way shall be subject to those provisions of this Code and state law applicable to the driver of motor vehicles, except those provisions which by their nature have no application.
  - (11) Horses shall not be ridden or driven in any manner that would cause undue damage to any hard-surfaced road.

(12) No person shall ride or drive a horse upon private property without the prior written permission of the owner or occupant thereof.

(13) No person shall interfere with any horse ridden or kept in a lawful manner, and owners of domestic animals shall restrain their animal so as to not interfere.

(Code 1978, § 5.09.05; Ord. 74-4, 8-13-1974; Ord. No. 90-11; Ord. No. 02-07, 5-9-2002; Ord. No. 06-14, § 1, 4-25-2006)

Secs. 10-25—10-51. - Reserved.

### ARTICLE III. - DOGS

#### FOOTNOTE(S):

--- (2) ---

**State Law reference**— Dogs and cats, Minn. Stats. ch. 347. [\(Back\)](#)

#### DIVISION 1. - GENERALLY

#### FOOTNOTE(S):

--- (3) ---

**Editor's note**— Ord. No. 12-11, § 2, 3, adopted July 24, 2012, repealed the former Div. 1, §§ 10-52—10-68, and enacted a new Div. 1 as set out herein. The former Div. 1 pertained to similar subject matter and derived from Code 1978, § 5.09.03, subd. 1—19; Ord. No. 88-02; Ord. No. 99-16, 12-23-1999; Ord. No. 08-09, § 2, 2-12-2008.

#### Sec. 10-52. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal control authority* means an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

*Boarding* means providing for the care, shelter, or feeding of dogs, not owned by the owner or occupant of the premises where said dogs are kept, for any period.

*Dangerous dog* means any dog that has:

- (1) Without provocation, inflicts substantial bodily harm on a human being on public or private property.
- (2) Has killed a domestic animal without provocation while off the owner's property.
- (3) Has been found to be potentially dangerous, and, after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

*Dog* means any male or female of the canine species.

*Dog owner* means the license holder or any other person, firm, association, or corporation owning, keeping or harboring a dog. Any person keeping or harboring a dog for five consecutive days shall, for the purposes of this definition, be deemed an owner.

*Great bodily harm* means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm

*Kennel, commercial*, means a place where boarding and/or training is offered to any number of dogs not owned by the owner or occupant of the premises. Such boarding and/or training may also include but is not limited to related uses such as selling, breeding, showing, treating or grooming. Pet shops, veterinary clinics, and pet grooming facilities are considered commercial uses but shall not be defined as commercial kennels.

*Kennel, private*, means a place where a dog owner keeps four or more dogs over six months of age on property occupied by the dog owner for residential purposes and where the keeping of such dogs is incidental to the occupancy of the premises, and may include breeding and selling of dogs as a hobby. A conditional use permit is required for four or more dogs.

*Owner* means the license holder or any other person, firm, association, or corporation owning, keeping or harboring a dog. Any person keeping or harboring a dog for five consecutive days shall, for the purposes of this definition, be deemed an owner.

*Potentially dangerous dog* means any dog that:

- (a) When unprovoked, inflicts bites on a human or domestic animal on public or private property.
- (b) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack.
- (c) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

*Proper enclosure* means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

*Provocation* means an act that an adult could reasonably expect may cause a dog to attack or bite.

*Running at large* means any dog which is not either:

- (a) Effectively contained on private property;
- (b) Effectively restrained, by chain or leash, to private property with the consent of the property owner;
- (c) Effectively restrained by a chain or leash not to exceed six feet in length; or
- (d) Under the voice control of its owner.

*Substantial bodily harm* means bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or that causes a fracture of any bodily member.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-53. - Animal control officer.

As used in this article the term "animal control officer" means any city officer or employee designated to enforce any portion of this article.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-54. - Duties of animal control officer.

The animal control officer shall perform the following duties:

- (a) Seize, impound, or restrain any dog found running at large within the city.
- (b) Investigate all cases of animal bites reported to him and supervise the quarantine of any such animal to ensure that it is kept under observation for a period of ten days.
- (c) Enforce all other provisions of this article.

Sec. 10-55. - No interference with officer.

It shall be unlawful for any person to molest or in any way interfere with any peace officer, animal control officer, or any of their duly authorized assistants, or with any duly authorized agent while engaged in performing work under the provisions of this article.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-56. - Number of dogs permitted.

(j) On a parcel or series of contiguous parcels under the same ownership or occupancy as the dog owner, no more than three dogs are permitted. A ~~conditional use permit~~ private kennel license is required for four or more dogs.

(k) Private kennel license process.

- (1) Application. The application for a license shall contain the following information; name, address, and telephone number of applicant; the address of the location where four (4) or more dogs will be maintained, the number of dogs proposed to be maintained on the premise, the breeds of the dogs to be maintained, and a sketch plan of the premises where the dogs will be maintained.
- (2) Processing application. The application must be filed with the zoning administrator together with the permit fee thirty (30) days prior to a City Council meeting. Following an inspection of the premises proposed to be licensed, the zoning administrator shall make a recommendation to the City Council to approve or deny the application. The City Council shall hold a Public Hearing and make the final decision on the application.
- (3) Term and transfer. The license shall be valid without renewal provided that the applicant complies with the terms of the license. Licenses under this Chapter may not be transferred from person to person or from place to place.
- (4) Revocation. The council may revoke any license issued under this article upon adequate notice and a hearing before the council, if requested, on the following grounds:
  - a. Any violation of this Code;
  - b. Material misstatement or misrepresentation in application for license or renewal thereof;
  - c. Failure to keep the licensee's premises in an orderly, aesthetically pleasing manner as prescribed by the council and/or its designated representative.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-57. — Individual Dog Licensing.

All dogs kept, harbored, or maintained in the city shall be licensed and registered. Applications for license shall be made to the city administrator, or his designee, upon forms provided by the city administrator. Said application shall require the owner, among other information required by the city administrator, to supply the name, age, predominant breed, sex, color and markings of each dog sought to be licensed. In addition, when the applicant or owner has been convicted of violation of section 10-65 relative to the dog sought to be licensed, the application shall require proof of public liability insurance in the minimum amount of \$300,000.00. Upon submission of the application and a certificate evidencing compliance with the terms and provisions of section 10-59, relating to vaccination for rabies, and upon payment of a fee as established by ordinance, the city administrator or his designee shall issue a license. Said license will be concurrent with a valid rabies vaccination for up to three years.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-58. - Tags.

The license shall be in the form of an identification tag and shall be affixed by the owner to a collar to be worn by the dog. In case a tag is lost or destroyed, a duplicate will be issued by the city administrator upon presentation of a receipt showing payment of the license fee for the current period and a payment as established by ordinance. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of death of the dog or the owners leaving the city prior to expiration of the license period.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-59. - Rabies vaccination.

- (a) Every owner or keeper of a dog shall cause the same to be vaccinated by a licensed veterinary with anti-rabies vaccine at least once every three years and prior to the time such dog shall reach the age of six months.
- (b) No dog need be vaccinated when a licensed veterinarian has examined the animal and certified that, at such time, vaccination would endanger its health because of its age, infirmity, debility, illness, or other medical consideration; and such exception certificate is presented to the animal control officer within five days of such examination. The animal shall be vaccinated against rabies as soon as its health and age permit. Unvaccinated animals must be confined to the owner's property or a veterinary facility.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-60. - Animal at large.

Every owner or keeper of a dog shall cause the same to be under the control of and in custody of a person of sufficient age to adequately control the dog at all times, while the dog is off the premises of the owner. The terms "control" and "custody" mean on a leash of not more than six feet in length or under the voice control of its owner. It shall be lawful to have a dog in an automobile without a leash, but it must be on a leash or under the voice control of its owner if taken out of the vehicle. Violation of this section shall be a petty misdemeanor.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-61. - Report of dog bites.

Any person knowing of a human being bitten by a dog shall immediately notify the animal control officer or the police department and said dog shall then be confined and kept under observation for a period of ten days before being removed from owner's property or disposed of.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-62. - Destroying a dog.

It shall be unlawful for any person other than the animal control officer or a police officer to kill or destroy any dog or animal of the dog kind running at large in the city or that has been known to bite a person within ten days.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-63. - Abandonment.

No person shall abandon or release any dog, cat, or other animal within the boundaries of the city.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-64. - Potentially dangerous dogs.

- (a) The animal control officer will provide the owner of a dog that has been deemed potentially dangerous, per section 10-52, with a potentially dangerous dog incident report.
- (b) If the dog has inflicted bites on a human or domestic animal on public or private property, a quarantine notice will also be provided to the owner advising of a ten day quarantine period.
- (c) If a proper enclosure cannot be provided for the dog, the animal control officer can seize the dog for the quarantine period. All costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog.
- (d) Any person knowing of a human being bitten by a dog shall immediately notify the animal control officer or the police department and said dog shall then be confined and kept under observation for a period of ten days before being removed from owner's property or disposed of.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-65. - Dangerous dogs.

- (a) The animal control officer will provide the owner of a dog that has been deemed dangerous, per section 10-52, with a dangerous dog incident report.
- (b) If the dog has inflicted bites on a human or domestic animal on public or private property, a quarantine notice will also be provided to the owner advising of a ten-day quarantine period.
- (c) An owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.
- (d) An owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new jurisdiction.
- (e) An owner of a dangerous dog must notify the animal control authority in writing of the death of the dog or its transfer to a new location where the dog will reside within 30 days of the death or transfer,

and must, if requested by the animal control authority, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated.

- (f) An animal control authority shall require a dangerous dog to be sterilized at the owner's expense. If the owner does not have the animal sterilized within 30 days, the animal control authority shall seize the dog and have it sterilized at the owner's expense.
- (g) A person who owns a dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.
- (h) A person who transfers ownership of a dangerous dog must notify the new owner that the animal control authority has identified the dog as dangerous. The current owner must also notify the animal control authority in writing of the transfer of ownership and provide the animal control authority with the new owner's name, address, and telephone number.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-65. - Dangerous dog registration.

- (a) *Requirement.* No person may own a dangerous dog in this state unless the dog is registered as provided in this section.
- (b) *Registration.* An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:
  - (1) A proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children;
  - (2) A surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least \$300,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least \$300,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog;
  - (3) The owner has paid an annual fee of not more than \$500.00, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section; and
  - (4) The owner has had microchip identification implanted in the dangerous dog with the name of the microchip manufacturer and identification number of the microchip provided to the animal control authority. If the microchip is not implanted by the owner, it may be implanted by the animal control authority. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog's owner.
- (c) *Warning symbol.* If an animal control authority issues a certificate of registration to the owner of a dangerous dog pursuant to subdivision (b), the animal control authority must provide, for posting on the owner's property, a copy of a warning symbol to inform children that there is a dangerous dog on the property. The warning symbol must be the uniform symbol provided by the commissioner of public safety. The commissioner shall provide the number of copies of the warning symbol requested by the animal control authority and shall charge the animal control authority the actual cost of the warning symbols received. The animal control authority may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol.

- (d) *Fee.* The animal control authority may charge the owner an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section.
- (e) *Dangerous dog designation review.* Beginning six months after a dog is declared a dangerous dog; an owner may request annually that the animal control authority review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the animal control authority finds sufficient evidence that the dog's behavior has changed, the authority may rescind the dangerous dog designation.
- (f) *Law enforcement; exemption.* The provisions of this section do not apply to dangerous dogs used by law enforcement officials for police work.
- (g) *Exemption.* Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:
  - (1) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
  - (2) who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
  - (3) who was committing or attempting to commit a crime.
- (h) *Tag.* A dangerous dog registered under this section must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, affixed to the dog's collar at all times.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-66. - Hearing for dogs deemed dangerous or potentially dangerous.

The owner of a dog that has been deemed dangerous or potentially dangerous may request a hearing to determine the validity of the dangerous or potentially dangerous dog declaration. If such a request is made, the owner must immediately comply with provisions 1 of the notice, until the hearing examiner issues an opinion. To appeal the dangerous or potentially dangerous dog declaration:

- (a) A request, identifying with specificity the basis for the dog owner's objection to the declaration shall be filed in writing with the office of the chief of police within 14 days after the date of the service of the notice. Failure to do so within 14 days will terminate the owner's right to a hearing.
- (b) A \$250.00 filing fee shall be submitted with the appeal request. In the event that the dangerous dog declaration is not upheld by the hearing examiner, the filing fee will be refunded to the dog's owner. Per Minn. Stat. § 347.541, if the dangerous dog declaration is upheld by the hearing examiner, actual expenses of the hearing up to a maximum of \$1,000.00 will be the responsibility of the dog's owner.
- (c) A hearing shall be conducted within ten days, unless a later date is mutually agreed to by the hearing examiner, the dog owner and the city.
- (d) The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the animal control authority.
- (e) If the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all requirements of the notice.

- (f) Any costs incurred for the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-67. - Failure to restrain an attack by a dog.

- (a) It shall be unlawful for an owner to fail to restrain a dog from inflicting or attempting to inflict bodily injury to any person or other animal. Violation of this section shall be a misdemeanor. The court, upon a finding of the defendant's guilt hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:
  - (1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning, or multiple attacks; or
  - (2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.
- (b) If the court does not order the destruction of the dog, the court, as an alternative, may order the defendant to provide, and show proof to the court of public liability insurance in the minimum amount of \$300,000.00.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-68. - Stopping an attack.

If any police officer or animal control officer is witness to an attack by a dog upon a person or another animal, the officer may take whatever means they deem appropriate to bring the attack to an end and prevent further injury to the victim.

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-69. - Dogs disturbing the peace.

It shall be unlawful for any person to own, keep, have in possession, or harbor any dog that howls, yelps, or barks to the reasonable annoyance of another person. Any person violating this section, who upon first requested by a police officer or animal control officer to stop or prevent the annoyance, and refuses to comply with the request will be issued a citation or arrested in accordance with Minnesota Rules of Criminal Procedure, and, if the officer deems it necessary to stop the annoyance, may have the dog taken to the city animal pound. Any dog placed in the pound may be reclaimed by the owner upon payment of the fee prescribed in subsection 10-95(b), and if not reclaimed may be disposed of in the manner provided in subsection 10-95(c).

(Ord. No. 12-11, § 3, 7-24-2012)

Sec. 10-70. - Removal of excrement.

It is unlawful for any person who owns or has custody of a dog to cause or permit such animal to defecate on any private property without the consent of the property owner or on any public property unless such person immediately removes the excrement and places it in a proper receptacle. The provisions of this section shall not apply to seeing-eye dogs under the control of a blind person or dogs while being used in city police activity.

(Ord. No. 12-11, § 3, 7-24-2012)

Secs. 10-71—10-94. - Reserved.

## DIVISION 2. - IMPOUNDMENT

Sec. 10-95. - Procedure; reclaiming.

- (a) *Impoundment.* All dogs picked up by the animal control officer or any of their duly authorized assistants shall be immediately transported to the designated pound. If the owner is known, they shall be immediately notified by telephone or personal contact and by written notice to their last known address. If the owner is unknown, written notice containing a description of the animal shall be posted at the pound and the city hall. The notice shall advise the owner that they have five regular business days to claim the dog. The term "regular business day" means any day during which the pound is open to the public not less than four consecutive hours between the hours of 8:00 a.m. and 7:00 p.m.
- (b) *Reclaiming.* An owner may reclaim an impounded dog:
- (1) If the dog has a current license: by paying to the pound master an impounding fee plus a boarding fee in an amount determined by agreement between the city and the designated pound, for each day the animal was confined. There shall also be an added impounding fee for any dog impounded twice within 12 months. Such fees shall be set by ordinance.
  - (2) If the dog does not have a current license: by first obtaining a license from the city administrator and paying the costs to the pound master.
- (c) *Unclaimed animals.* Any animal not claimed within the allotted time shall be disposed of in accordance with the provisions of Minn. Stats. § 35.71, subd. 3.

(Code 1978, § 5.09.03, subds. 9, 10, 12; Ord. No. 88-02; Ord. No. 01-22, 10-29-2001)

Secs. 10-96—10-118. - Reserved.

## ARTICLE IV. - WILD ANIMALS

Sec. 10-119. - Rules and definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*At large* means a wild animal that is outside of its secondary enclosure, or when the wild animal is outside of its primary enclosure but within its secondary enclosure and not in the presence of the owner.

*Dwelling* means a building or portion thereof designed or used exclusively for residential occupancy.

*Handling* means feeding, manipulating, transporting, restraining, treating, training, working or performing any similar activity with respect to a wild animal.

*Impound* means to seize and hold in legal custody.

*Livestock* means a typical farm animal kept for agricultural use, pleasure or profit, including but not limited to horses, mules, sheep, goats, cattle, swine, fowl, rabbits and mink.

*Lot* means a tract, plat or portion of a subdivision or other parcel or land intended as a unit for the purpose, whether immediate or future, or transfer of ownership or for the building development.

*Owner* means a person who keeps a wild animal or the parents or guardians of such a person under 18 years of age.

*Portable primary enclosure* means the portable structure used to confine a wild animal in a secure manner that prevents the running at large of a wild animal during transportation or temporarily confining such an animal during handling.

*Primary enclosure* means an individual, partnership, firm, joint stock company, corporation, association, unincorporated association of individuals, trust, estate, or other entity.

*Restraint* means the portable structure used to confine a wild animal in a secure manner that prevents the running at large of a wild animal during transportation or temporarily confining such an animal during handling.

*Secondary enclosure* means a structure such as a fence, wall or building, which entirely encloses the area in which the primary enclosures, exercise facilities and training facilities are located and all handling activities occur. Such secondary enclosure serves to contain a wild animal from running at large and to prevent any unauthorized public access.

*Structure* means anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, such as a fence, wall, or building.

*The keeping of wild animals* means possessing and handling of wild animals on any property and providing such an animal with the necessities of life such as feeding and sheltering. The keeping of wild animals may include animals being used or intended to be used for research, training, breeding, boarding, as a personal pet, or for agricultural purposes. The keeping of a wild animal may also include wild animals intended to be used for exhibition providing that such animals are not exhibited within the city, such as in the case of a public showing, circus or zoo.

*Wild animal.*

- (1) The term "wild animal" means a mammal, large or poisonous reptile and bird that, in their uncaptured wild state, have the physical capacity to be dangerous to the safety and welfare of any person or property. Examples of such wild animals are (but not limited to these examples) bears, lions, wolves, coyotes, cougars, bison, tigers, panthers, monkeys, apes, large alligators and crocodiles (greater than four feet in length), large snakes (greater than six feet), and poisonous snakes, excluding dogs, cats, other traditional house pets and livestock.
- (2) Reducing such mammals, reptiles and birds to captivity, whether trained, raised or bred in captivity or otherwise considered domesticated in any manner, shall not remove such wild animals from these requirements and regulations.

(Code 1978, § 5.09.06, subd. 2; Ord. No. 87-08)

Sec. 10-120. - Penalty.

A person who fails to comply with or violates provisions of this Code or the restrictions of a conditional use permit, ~~wild animal license~~ or variance shall be guilty of a misdemeanor. Appropriate actions and proceedings may be taken by law or inequity to prevent a violation of this article of the conditions or restrictions of a conditional use permit, ~~wild animal license~~ or variance, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, and to prevent illegal use of a lot; these remedies shall be in addition to the penalties described in this section.

(Code 1978, § 5.09.06, subd. 10; Ord. No. 87-08)

Sec. 10-121. - Purpose and intent.

It is the intent of this article to establish regulations that will allow as a conditional use the keeping of wild animals, with a ~~wild animal license~~conditional use permit in certain zoning districts. The city recognizes that wild animals require special handling to ensure that the health, safety and welfare of the public is protected and all land use conflicts are minimized.

(Code 1978, § 5.09.06, subd. 1; Ord. No. 87-08)

Sec. 10-122. - Enforcement.

- (a) *Impoundment.* In addition to the penalties imposed in section 10-120, a person in violation of this article may be subject to having the wild animals in question impounded, or destroyed. Owners in violation of this article will have ten days to correct the violation and redeem a wild animal. The owner is responsible for all costs incurred by the city to capture, keep and/or destroy a wild animal. If a wild animal is not redeemed, the city will dispose of such wild animal in any manner it deems necessary such as, but not limited to, selling, destroying, or donating to an appropriate organization or agency.
- (b) *Rabies.* A wild animal capable of transmitting rabies which has been known to have bitten a person shall be quarantined and observed for rabies under the direction of a licensed veterinarian for a period of time and in facilities determined to be adequate by that veterinarian and the city. If a wild animal is proven to be rabid, the wild animal shall be destroyed. If a wild animal is proven to not be rabid by a licensed veterinarian, it will be returned to the owner.
- (c) *Enforcement authority.* Enforcement officers shall have the right to destroy a wild animal posing an immediate threat of serious harm to any person, livestock or house pet.

(Code 1978, § 5.09.06, subd. 9; Ord. No. 87-08)

Sec. 10-123. - Inspection and revocation of ~~licenses or variances~~conditional use permit.

The city may at any time inspect the lot and structures where a wild animal is kept to determine if the ~~license and/or variance~~conditional use permit, and the conditions and restrictions of that ~~license or variance~~conditional use permit are being strictly adhered to. The city may require an inspection upon ~~renewal of a wild animal license~~reasonable request and shall reserve the right to have said inspection performed by an approved and qualified consultant.

(Code 1978, § 5.09.06, subd. 7; Ord. No. 87-08)

Sec. 10-124. - Nonconforming uses.

A person lawfully keeping wild animals within the city upon the effective date of the adoption of the ordinance from which this article is derived, who does not conform to the provisions of this article, shall be given 30 days to comply or submit application for the necessary ~~variances~~permits.

(Code 1978, § 5.09.06, subd. 8; Ord. No. 87-08)

Sec. 10-125. - Variances.

- (a) *Variance and review criteria.* Where the city finds that extraordinary hardships or practical difficulties may result from strict compliance with the provisions of this article, and the purposes of this article may be served to the same or greater extent by an alternative proposal, the city may approve variances to this article so that substantial justice may be done and the public interest secured, provided that:
  - (1) Such a variance shall not have the effect of nullifying the intent and purpose of this article; and
  - (2) The city shall not approve variances unless, based upon the evidence presented to it, it finds that:

- a. The granting of the variance would not be detrimental to the public safety, health, or welfare or injurious to property.
- b. The conditions that a variance would be based upon are unique to that application for which the variance is sought and are not applicable generally to other applications.
- c. The strict enforcement of this article would result in unreasonable and unnecessary requirements or restrictions because a particular hardship would result, as distinguished from an inconvenience.
- d. The variance would not in any manner vary the provisions of the Ramsey Comprehensive Plan.

(b) *Application and review.*

- (1) The application procedure for a variance from this article shall be the same as ~~for a wild animal license~~, section 10-128(b) through (d).
- (2) Variances may be reviewed concurrently with an application for a ~~wild animal license~~conditional use permit.

(c) *Conditions of approval.* In approving an application for a variance, the city may attach conditions and restrictions as it finds necessary.

(Code 1978, § 5.09.06, subd. 5; Ord. No. 87-08)

Sec. 10-126. - Fees.

The applicant for a ~~wild animal license~~conditional use permit and/or variance shall pay an application fee as per ordinance. The applicant shall also pay for any costs or expenses incurred by the city during the processing and reviewing of the application, which exceed the application fee. Such expenses shall include, but are not limited to, consultants and other professionals and the cost of printing, mailing, and supplies. Such fees shall become due and payable immediately upon notification by the city. The city shall provide upon the request of the applicant, a breakdown of the various expenses incurred by the city. The city may withhold any final action on an application for a ~~wild animal license~~conditional use permit or variance and/or rescind prior actions until all fees are fully paid. The city may require additional deposits, above and beyond the application fee, if found necessary.

(Code 1978, § 5.09.06, subd. 6; Ord. No. 87-08)

Sec. 10-127. - General regulations.

(a) *Prohibition.* No person shall keep a wild animal unless such a use is specifically permitted by this article and all regulations are satisfied.

(b) *Regulations.*

(1) Enclosures.

- a. A wild animal shall be confined, sheltered and led in a primary enclosure contained entirely within a secondary enclosure.
- b. All primary and secondary enclosures shall meet minimum requirements of structural soundness and security as deemed satisfactory by the city. All primary and secondary enclosures;
  - 1. Shall be constructed of steel bar, link, wire or other suitable material of sufficient strength to contain the proposed animal;

2. Shall be adequately braced and securely anchored at ground level;
  3. Shall be constructed such as to prevent a wild animal from digging out from under the enclosure;
  4. Shall be key or combination locked to prevent unauthorized entrance;
  5. Shall be located so that all access to primary enclosures must be from within the secondary enclosure;
  6. Shall be adequately signed to notify the public of the presence of wild animals and the danger that exists.
- (2) The transportation of a wild animal outside of the secondary enclosure shall be in a vehicle specially equipped for the transportation of wild animals and a portable primary enclosure as approved by the city.
- (3) Running at large.
- a. It shall be prohibited for a wild animal to run at large.
  - b. A wild animal shall be under the restraint of its owner.
  - c. Tools for capturing wild animals shall be readily accessible, such as traps, firearms, tranquilizing guns and nets.
- (4) Sanitation and health.
- a. The lot on which a wild animal is kept shall be maintained in a clean, sanitary and neat manner in accordance with the conditions of the permit.
  - b. A wild animal shall be maintained in a healthy state so as to prevent the transmittal of disease to other animals or persons.
  - c. All animal waste shall be properly and timely disposed of in accordance with the conditions of the permit.
- (5) Zoning and lot requirements.
- a. All zoning code regulations shall be complied with.
  - b. Additional regulations shall be as follows:
    1. The keeping of wild animals shall be allowed only as a conditional use in any zoning district of the city.
    2. The lot on which a wild animal as defined herein is kept shall be at least 2½ acres in size.
    3. The structures, primary and secondary enclosures and all uses associated with the handling of wild animals, shall be set back a minimum of 100 feet front yard; 30 feet side yard and 50 feet rear yard.
    4. The structures, primary and secondary enclosures and all areas in which a wild animal is handled shall be located a minimum of 300 feet from all dwellings other than that of the owner.
    5. The activity areas in which a wild animal is handled shall be screened or landscaped in such a manner as to prevent them from being visible at any time of the year from the road right-of-way, and public properties.

(Code 1978, § 5.09.06, subd. 3; Ord. No. 87-08)

Sec. 10-128. ~~License~~Conditional Use Permit for wild animals.

- (a) *Prohibition.* No person shall keep a wild animal unless a ~~wild animal license~~conditional use permit has been approved by the city for that person and that activity, in accordance with this article.
- (b) *Submittal of application.* Complete application for a ~~wild animal license~~conditional use permit shall include the following:
- (1) ~~Ten copies~~One (1) copy of the completed application form.
  - (2) ~~Ten copies~~One (1) copy of a letter explaining in detail the proposed use and addressing regulations in section 10-127, and review criteria in this section.
  - (3) ~~Ten copies~~One (1) copy of an accurate site plan (drawn to scale) or survey of the lot on which the proposed use would occur and the adjacent lots showing:
    - a. Lot dimensions;
    - b. Location, size and configuration of the area proposed to be used for the keeping of wild animals, including all existing and proposed buildings, structures, and enclosures;
    - c. Setbacks from front lot line, side lot lines, and rear lot line, and distances from neighboring dwellings, pastures, barns, and corrals;
    - d. Vegetation and terrain features such as steep slopes, wetlands, woods and any natural and proposed screening or landscaping;
    - e. Driveways, public and private roadways, parking and loading areas;
    - f. Easements for roads, access, open space, views, and utilities; and
    - g. Location of well and septic.The city reserves the right to require a certificate of survey.
  - (4) ~~Two copies~~One (1) copy of all permits required from the state department of natural resources, United States Department of Agriculture, United States Fish and Wildlife, and other governmental agency.
  - (5) ~~Two copies~~One (1) copy of the owner's qualifications, list of professional references and any other background materials as required by the zoning administrator.
  - (6) Payment of application fee and miscellaneous fees as established by ordinance.
  - (7) ~~Two copies~~One (1) copy of building plans for primary and secondary enclosures.
  - (8) Any additional information found necessary by the city zoning administrator.
- (c) *Application deadline.* A completed application for a ~~wild animal license~~conditional use permit shall be submitted no later than ~~19-thirty (30)~~ days before the next regularly scheduled planning commission meeting.
- (d) *Review of council and planning commission.*
- (1) Upon submittal of a completed application, the zoning administrator shall schedule a public hearing at the next planning commission meeting. The police chief shall receive a copy of the application and forward any recommendations to the zoning administrator who shall then review the application and police comments and may make recommendations to the planning commission. The planning commission shall consider the application for a ~~wild animal license~~conditional use permit and thereafter make recommendations to the council. The council shall then approve, with modifications, or deny the application for a ~~wild animal~~

licenseconditional use permit by resolution that shall set forth in detail any conditions and restrictions to which the approval is subject or reasons for denial.

- (2) ~~If a renewal of a wild animal license is being applied for with no changes from the wild animal license issued by the city for the previous year, the zoning administrator may place the application for the renewal of a wild animal license on the agenda of the next council meeting and may waive the need for a public hearing or review by the planning commission.~~
- (e) *Review criteria.* In acting upon an application for a wild animal licenseconditional use permit, the city shall consider the following criteria:
  - (1) Surrounding land uses.
  - (2) Structural soundness and security of all primary and secondary enclosures.
  - (3) Design, size, location and configuration of all primary and secondary enclosures.
  - (4) Maintenance of the primary and secondary enclosures and all other structures and areas used in relation to the keeping of any wild animal.
  - (5) Nuisances such as noise and odors.
  - (6) Aesthetics, including the appearance of the lot and structure where a wild animal is kept.
  - (7) Compliance with all sections of this Code.
  - (8) Regulations of the state department of natural resources, United States Department of Agriculture, United States Fish and Wildlife, or any other governmental agency.
  - (9) Nature and characteristics of each type of animal being proposed such as its size, strength, disposition, and its ability to harm a person or property.
  - (10) Other criteria found relevant by the city.

The applicant shall prove that the use as proposed in the wild animal licenseconditional use permit application would not result in any detrimental effects as per the criteria listed in this subsection (e).

- (f) *Conditions of approval.* In approving an application for a wild animal licenseconditional use permit, the city may attach conditions and restrictions as it finds necessary, including but not limited to the following:
  - (1) Restrictions on the number and type of animals.
  - (2) Setbacks greater than those required in section 10-127
  - (3) Minimum and/or maximum distance between primary and secondary enclosures.
  - (4) Minimum height of enclosures.
  - (5) Size of the enclosures.
- (g) *Expiration.* A conditional use permit shall remain in effect as long as the conditions agreed upon are observed and the permit holder is in compliance with all other regulations or standards of this chapter. ~~The wild animal license shall expire 12 months from the date of issuance.~~
- (h) *Renewal of license.* ~~Application for renewal of a wild animal license with any changes shall be made a minimum of 19 days before the next regularly scheduled planning commission meeting. Application for renewal with no changes shall be made 14 days before the next regularly scheduled council meeting providing that the public hearing and review before the planning commission has been waived. The city may require an inspection upon renewal of a wild animal license and shall reserve the right to have said inspection performed by an approved qualified consultant.~~

(Code 1978, § 5.09.06, subd. 4; Ord. No. 87-08)

Section 117-111 is amended to revise the following language (added language underlined, deleted language ~~strike through~~):

**SECTION 3. SUMMARY**

The following is the official summary of Ordinance #15-12, which has been approved by the City Council of the City of Ramsey as clearly informing the public of the intent and effect of the Ordinance.

It is the intent and effect of Ordinance #15-12 to amend Ramsey, Minnesota City Code Chapters 10 & 117 to replace the conditional use permit process for four (4) or more dogs, beekeeping, and other non-traditional domestic animals with a license process and eliminate the need for a conditional use permit to maintain horses on 1.5 to 2.99 acres. The intent is to reduce the time and the costs to owners to obtain these approvals while still providing for public comment where necessary.

**SECTION 4. EFFECTIVE DATE**

The effective date of this Ordinance is thirty (30) days after its passage and publication, subject to City Charter Section 5.07.

Adopted by the Ramsey City Council the \_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Clerk

**Introduction Date:**  
**Posting Dates:**  
**Adoption Date:**  
**Publication Date:**  
**Effective Date:**

**Regular Planning Commission**

6. 1.

**Meeting Date:** 06/04/2015

**By:** JoAnn Shaw, Community Development

---

**Information**

**Title:**

Zoning Bulletins

**Purpose/Background:**

Enclosed are zoning periodicals for your review.

**Notification:**

**Observations/Alternatives:**

**Funding Source:**

**Recommendation:**

**Action:**

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**Attachments**

Zoning Bulletins

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**Form Review**

**Inbox**

Tim Gladhill

Form Started By: JoAnn Shaw

Final Approval Date: 05/29/2015

**Reviewed By**

Tim Gladhill

**Date**

05/29/2015 11:19 AM

Started On: 05/26/2015 09:33 AM

# Zoning Bulletin

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## Validity of Zoning Regulation/ Signs—Property owner sues city after receiving sign code violation notice

Property owner contends sign code exemptions for certain displays only renders the sign code unconstitutional in violation of the First Amendment

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### Contributors

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Corey E. Burnham-Howard

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Citation: *Central Radio Co. Inc. v. City of Norfolk, Virginia*, 2015 WL 151611 (4th Cir. 2015)

*The Fourth Circuit has jurisdiction over Maryland, North Carolina, South Carolina, Virginia, and West Virginia.*

FOURTH CIRCUIT (VIRGINIA) (01/13/15)—This case addressed the issue of whether a sign ordinance unconstitutionally exempted certain displays from regulation (namely, works of art and flags and emblems).

**The Background/Facts:** The City of Norfolk (the “City”) has a zoning ordinance that governs signs (the “sign code”). The sign code was enacted for the purposes of aesthetics and traffic safety. The sign code applies to all signs within the City, but exempts: (1) any “flag or emblem of any nation, organization of nations, state, city, or any religious organization”; and (2) “works of art which in no way identify or specifically relate to a product or service.” Under the ordinance, those wishing to display a sign are required to obtain a “sign certificate,” verifying compliance with the sign code. Also under the ordinance, the City is required to issue a “sign certificate” if the proposed sign complies with the provisions that apply in the zoning district where the sign will be located.

Central Radio Company Inc. (“Central Radio”) owned property in the City. That property was involved in an eminent domain dispute. Central Radio placed a 375-square-foot banner on the side of its building, protesting eminent domain. Following citizen complaints, the City issued Central Radio citations for displaying an oversized sign and for failing to obtain a sign certificate before installing the sign.

Subsequently, Central Radio sued the City. It asked the court to enjoin the City from enforcing its sign code. It alleged, among other things, that the sign code was unconstitutional in violation of the First Amendment to the United States Constitution. The First Amendment prohibits, among other things, the making of any law abridging the freedom of speech. Central Radio argued that the sign code was unconstitutional because it exempted certain “flag[s] or emblem[s]” and “works of art” from regulations placed on all other types of signs. Essentially, Central Radio contended that in light of those exemptions, the sign code constituted a content-based restriction on speech, both facially (i.e., on its face as written) and as applied (to Central Radio), which was subject to strict scrutiny as to its constitutionality. (In comparison, content-neutral restrictions are subject to a lesser intermediate scrutiny.)

The district court concluded that the provisions in the sign code exempting flags, emblems, and works of art were content-neutral. Applying intermediate scrutiny, the district court held that the sign code was a constitutional exercise of the City’s regulatory authority.

Central Radio appealed.

**DECISION: Judgment of United States District Court affirmed.**

The United States Court of Appeals, Fourth Circuit, held that the sign code was a content-neutral restriction on speech that satisfied intermediate scrutiny.

In evaluating the content neutrality of the sign code, the court explained that a regulation is not a content-based regulation of speech if: (1) the regulation is not a regulation of speech, but rather a regulation of the places where some speech may occur; (2) the regulation was not adopted because of disagreement with the message the speech conveys; or (3) the government's interests in the regulation are unrelated to the content of the affected speech. As to the sign code's distinction between the types of speech requiring a sign certificate (i.e., most signs requiring a certificate, but exemptions for flags, emblems, and works of art), the court said that "a distinction is only content-based if it distinguishes content 'with a censorial intent to value some forms of speech over others to distort public debate, to restrict expression because of its message, its ideas, its subject matter, or to prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.'" The court explained that it would find censorial intent if it could find a relationship between the sign code's purpose and the content distinctions in the sign code.

Central Radio argued that a censorial intent existed here because the sign code exemptions were unrelated to the legislative interests behind the sign code, namely aesthetics and traffic safety. The court rejected that argument. It found that under the sign code, the City generally allowed signs regardless of the message displayed, and simply restricted the time, place, or manner of their location. Exemptions to those restrictions (i.e., for flags, emblems and works of art) may have had an "incidental effect on some speakers or messages," found the court, but the exemptions "did not convert the sign code into a content-based restriction on speech when the exemptions [bore] a 'reasonable relationship' to the City's asserted interests" of aesthetics and traffic safety. The court found that works of art "enhance rather than harm aesthetic appeal," and flags and emblems have "a less significant impact on traffic safety than other, more distracting displays."

Having found that the sign code was content-neutral (not content-based), the court then evaluated its constitutionality under intermediate scrutiny. Under such scrutiny, a content-neutral regulation is constitutional and valid if it: (1) furthers a substantial government interest; (2) is narrowly tailored to further that interest; and (3) leaves open ample alternative channels of communication. Here, the court found that all three elements were met: (1) Concerns for aesthetics and traffic safety were substantial government interests, which the sign code protected. (2) The sign code was narrowly tailored because it did not "burden substantially more speech than is necessary to further the [interests of aesthetics and traffic safety]," but regulated only the size and location of signs. (3) The sign code left open "ample alternative channels of communication" by "generally permitting the display of signs 'subject only to size and location restrictions.'"

See also: *Wag More Dogs, Ltd. Liability Corp. v. Cozart*, 680 F.3d 359 (4th Cir. 2012).

See also: *Brown v. Town of Cary*, 706 F.3d 294 (4th Cir. 2013).

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*Case Note:*

*Central Radio had also brought claims of selective enforcement of the sign code restrictions in violation of equal protection rights under 14th Amendment to the United States Constitution. The court found dismissal of those claims was appropriate because "there was insufficient evidence that the City was motivated by a discriminatory intent."*

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## **Standing—City passes ordinance that limits location of adult entertainment establishments, business owner challenges ordinance**

City argues owner lacks standing to make challenge because it failed to file a complete business license application

Citation: *Hotboxxx, LLC v. City of Gulfport, 2015 WL 110614 (Miss. 2015)*

MISSISSIPPI (01/08/15)—This case addressed the issue of whether a lessor of a commercial building had standing to challenge the validity of a zoning ordinance.

**The Background/Facts:** On September 17, 2009, Barry Artz ("Artz"), co-owner of The Hotboxxx, LLC (the "Hotboxxx"), filed a business privilege license application with the City of Gulfport (the "City"). The Hotboxxx sought to operate an adult entertainment retail establishment. At the time of submission of the business privilege license application, Artz had signed a lease for related commercial office space in the City.

Not long after Artz submitted his application, a six-month moratorium was placed on privilege licenses due to expected new zoning regulations regarding adult businesses. In June 2010, the City passed an ordinance (the "Ordinance"), which contained zoning regulations restricting the areas of town in which adult businesses could be located. Under the new zoning regulations, Hotboxxx could not open an adult business at the location that Artz had leased.

Hotboxxx soon filed a lawsuit, challenging the constitutionality of the Ordinance. The City moved the case to federal district court, and asked the court to dismiss the case. The City argued that because Hotboxxx had failed to sign the application in front of a notary, the application was incomplete,

and therefore Hotboxxx lacked standing (i.e., the legal right to sue). The district court agreed with the City and dismissed the case.

Hotboxxx then filed a new complaint in the county court, and the City again moved to dismiss the action on the grounds of standing. Hotboxxx, however, argued that standing requirements are different under Mississippi state law than under federal law. It maintained that whether or not its business license application was complete on submission, its lease of the commercial building constituted the necessary “colorable interest” to give it standing to challenge the zoning ordinance restriction in state court.

The chancellor of the county chancery court disagreed. He held that the business license application was incomplete as submitted and therefore Hotboxxx had no standing to sue.

Hotboxxx appealed.

**DECISION: Judgment of county chancery court affirmed.**

The Supreme Court of Mississippi held that Hotboxxx did not have standing to challenge the constitutionality of the City zoning ordinance.

The court found that since Hotboxxx’s business license application was not properly signed or notarized, the application was invalid.

The court addressed Hotboxxx’s argument that its lease gave it the sufficient “colorable interest in the subject matter of the litigation” to merit standing to challenge the Ordinance, the court agreed that standing requirements in Mississippi courts differs from those in federal courts. The court noted that while federal courts require an “injury in fact,” Mississippi courts require the plaintiff to assert a “colorable interest in the subject-matter of the litigation or experience an adverse effect from the conduct of the defendant . . . .” A “colorable interest,” explained the court, is one in which the plaintiff has a right to judicial enforcement of a legal duty of the defendant, or one where the plaintiff can “show in himself a present, existent actionable title or interest, and demonstrate that . . . right was complete at the time of the institution of the action.”

Here, the court found that Hotboxxx lacked a colorable interest. It did not have a valid license application. Moreover, a provision in Hotboxxx’s lease provided that in the event Hotboxxx could not obtain a business license, the lease would be void. Thus, concluded the court, although Hotboxxx had an interest in land affected by the Ordinance, when Hotboxxx failed to submit a valid license application and failed to obtain a license, its lease became void, and Hotboxxx then no longer had an interest in the land—and therefore had no standing.

See also: *Fordice v. Bryan*, 651 So. 2d 998 (Miss. 1995).

See also: *City of Picayune v. Southern Regional Corp.*, 916 So. 2d 510 (Miss. 2005).

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*Case Note:*

*The City had also argued that Hotboxxx’s new complaint was barred under the*

*principle of res judicata (i.e., claim preclusion because the matter was already judged). The Supreme Court of Mississippi disagreed, holding that dismissal without prejudice by the federal district court did not preclude the case from being brought in the chancery court.*

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## **Zoning Amendment/ Comprehensive Plan—City fails to adopt zoning changes recommended by city planning board upon master plan reexamination**

Property owner sues, arguing city must adopt zoning changes or hold a hearing to affirm zoning ordinance is to remain inconsistent with the master plan.

Citation: *Myers v. Ocean City Zoning Bd. of Adjustment*, 2014 WL 7565888 (N.J. Super. Ct. App. Div. 2015)

NEW JERSEY (01/16/15)—This case addressed the issue of whether a state statute (N.J.S.A. 40:55D-62(a)) addressing a governing body's authority to adopt a zoning ordinance and the ordinance's conformity with the municipality's master plan required a governing body to affirmatively act in response to a master plan reexamination report.

**The Background/Facts:** John and Diane Myers (the "Myers") owned two residences located in a Beach and Dune ("B & D") Zone in Ocean City (the "City"). The B & D Zone prohibited residential and commercial uses. However, the Myers residences were constructed before the B & D Zone went into effect and were therefore nonconforming uses.

In 2011, the Myers sought a variance from the City's Zoning Board of Adjustment ("ZBA") to enable them to expand one of their residences. The ZBA denied the variance. The Myers sued.

Then, while the suit was pending, in 2012, the City's Planning Board (the "Board") completed a master plan reexamination. As part of that effort, the Board recommended a proposed zoning change in the B & D Zone. The Board noted that, as owners of nonconforming uses and structures, residential property owners in the B & D Zone were unable to expand or rebuild storm-destroyed homes without a variance. The Board proposed to deem the residences in the B & D Zone as conditional uses, designed to as-

sure that the residences did not interfere with the flood preventative functions of the zone.

The City never took action on the Board's proposed B & D Zone change. However, after the Board's 2012 report, the Myers appealed their 2011 complaint. They requested an order compelling the City to adopt the B & D zone change, or to endorse, affirmatively, maintenance of the zoning ordinance notwithstanding the proposed change.

The court granted the Myers' request, and issued an order requiring the City to "[a]mend the zoning ordinance to conform with [the Board's Master Plan reexamination report proposed zoning change] or "[h]old a hearing as required under N.J.S.A. 40:55D-62(a) to permit the zoning ordinance to remain inconsistent with the master plan."

The City appealed. It argued that the governing statutory law, N.J.S.A. 40:55D-62(a), did not require it to affirmatively act in response to the Master Plan recommendation.

**DECISION: Judgment of superior court reversed, and matter remanded.**

The Superior Court of New Jersey, Appellate Division, agreed with the City. It held that N.J.S.A. 40:55D-62(a) does not require a governing body to affirmatively act in response to a master plan recommendation, so long as the existing ordinance is substantially consistent with the master plan's land use and housing plan elements.

In so holding, the court analyzed N.J.S.A. 40:55D-62(a), interpreting its plain language. In relevant part, the statute provides that a governing body:

"may adopt or amend a zoning ordinance . . . after the planning board has adopted the land use plan element and the housing plan element of a master plan, and all of the provisions of such zoning ordinance . . . shall either be substantially consistent with the land use plan element and the housing plan element of the master plan or designed to effectuate such plan elements; provided that the governing body may adopt a zoning ordinance or amendment or revision thereto which . . . is inconsistent with or not designed to effectuate the land use plan element and the housing plan element, but only by affirmative vote of a majority of the full [membership of the] governing body . . . ." (N.J.S.A. 40:55D-62(a))

The court found that nothing in the plain language of the statute required a governing body to affirmatively act in response to a reexamination report. Rather, the court found that the statute imposes conditions upon a governing body only when it decides to act after adoption of a master plan. The court also found that even if a preexisting zoning ordinance becomes inconsistent with one aspect of a reexamination report, the statute does not require action. The statute requires a majority vote and statement of reasons only if the governing body thereafter adopts an inconsistent ordinance or amendment, concluded the court.

The appellate court reversed the trial court's order.

See also: *Victor Recchia Residential Const., Inc. v. Zoning Bd. of Adjustment of Tp. of Cedar Grove*, 338 N.J. Super. 242, 768 A.2d 803 (App. Div. 2001).

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*Case Note:*

*In its decision, the appellate court noted that a governing body's inaction following a master plan recommendation may render its zoning ordinance susceptible to a general challenge that the ordinance is substantially inconsistent with the master plan, and therefore invalid. Here, the court reversed and remanded the matter, specifically noting that it was doing so without prejudice to any claim by the Myers that the City's zoning ordinance was invalid because it was not substantially consistent with the Master Plan.*

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## **Rezoning/Validity of Zoning Regulations—City rezoning rezones property as “Environmental Conservation district,” limiting development on property**

Property owners challenge validity of rezone, noting the property has no environmentally distinct features or endangered species

Citation: *Gripenburg v. Township of Ocean*, 2015 WL 263913 (N.J. 2015)

NEW JERSEY (02/15/11)—This case addressed the issue of whether specific ordinances that rezoned property in a township, restricting development, were valid.

**The Background/Facts:** Thomas and Carol Gripenburg owned approximately 34 acres of land in the Township of Ocean (the “Township”). Their landholdings consisted of five lots. On one of those lots, they lived in a single-family residence. The remainder of their property was undeveloped. When they acquired the property, it was subject to “mixed zoning” and included portions that were zoned as R-2 residential and C-3 commercial.

In the early 2000s, the Township reexamined and updated its Master Plan for development in accordance with smart growth principles. In 2005, the State Planning Commission endorsed the Township’s updated Master Plan. As a condition of that endorsement, in early 2006, the Township passed a series of downzoning ordinances. The Gripenburgs’ property was affected by these actions: All but one of their lots was converted from a “PA-2 Suburban Planning Area” to a “PA-5 Environmentally Sensitive Area” for the purposes of the State plan. The series of Township ordinances

that were adopted converted most of the Gripenburgs' property from residential and commercial use to an Environmental Conservation district ("EC district"), thereby restricting future development of their property.

The Gripenburgs filed a legal action. Among other things, they challenged the validity of the Township ordinances, which had rezoned their property. They argued that since their property did not contain any environmentally distinct features or threatened or endangered species, the ordinances rezoning their property were "arbitrary, unreasonable, capricious, and illegal."

The Township maintained that the Gripenburgs' property was reasonably included in the rezone because the property served as a "key connection point" linking other forested areas.

The trial court dismissed the Gripenburgs' challenge. In doing so, the court applied criteria for assessing the validity of a zoning ordinance and determined that the challenged zoning ordinances here were a valid exercise of municipal zoning power and were not arbitrary, capricious, or unreasonable.

The Gripenburgs appealed. The Appellate Division reversed. Agreeing with the Gripenburgs, the court held that the ordinances were invalid as applied to the Gripenburgs because the "downzoning [was] not required to serve the stated purposes of the ordinances and [did] not reflect reasonable consideration of existing development in the areas where the [Gripenburgs'] property [was] located."

The Township appealed.

**DECISION: Judgment of Superior Court, Appellate Division reversed.**

The Supreme Court of New Jersey held that the ordinances were valid in that they represented a legitimate exercise of the Township's power to zone property consistent with its Master Plan and the state's Municipal Land Use Law ("MLUL") goals.

In so holding, the court evaluated the validity of the challenged ordinances under a four-part, objective test. That test assessed whether: (1) the ordinances advanced one of the purposes of the [MLUL] as set forth in N.J.S.A. 40:55D-2; (2) the ordinances were substantially consistent with the land use plan element and the housing plan element of the master plan or designed to effectuate such plan elements, unless the requirements of that statute were otherwise satisfied; (3) the ordinances comported with constitutional constraints on the zoning power, including those pertaining to due process, equal protection, and the prohibition against confiscation; and (4) the ordinance were adopted in accordance with statutory and municipal procedural requirements.

As to each of these elements, the Supreme Court of New Jersey gave deference to the trial court's determinations that all of them were satisfied. Among other things, the trial court had concluded that: the ordinances "advanced several purposes of the MLUL" including promotion of smart

growth, prevention of sprawl and provision for light, air, and open space; the ordinances “represented the culmination of a comprehensive land-use planning process that included a makeover of the Township’s Master Plan”; and the ordinances complied with the MLUL requirement of consistency between zoning ordinances and a town’s master plan.

Despite the fact that the Griepenburgs’ property contained neither endangered species nor environmentally distinct features, the court found that the inclusion of the property in the EC district was not “arbitrary, unreasonable, capricious, and illegal.” Rather, the court concluded that the inclusion of the Griepenburgs’ property in the EC district rationally related to the Township’s objectives in enacting the ordinances, which were: “to create a contiguous tract, or corridor, of environmentally related, sensitive coastal uplands in order to preserve and protect coastal habitat and ecosystems and to provide a buffer for its corresponding intention to promote smart growth in a sustainable, concentrated town center.” The court concluded that the inclusion of the Griepenburgs’ property in the EC district rationally related to the Township’s comprehensive smart growth development plan, which “had the additional benefit of protecting a sensitive coastal ecosystem through the preservation of undisturbed, contiguous, forested uplands, of which [the Griepenburgs’] property [was] an integral and connected part.” The court added that it would “decline to invalidate ordinances that fulfill MLUL goals and other legitimate land-use planning objectives . . . .”

See also: *Riggs v. Long Beach Tp.*, 109 N.J. 601, 538 A.2d 808 (1988).

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**Case Note:**

*The Griepenburgs had also brought an inverse condemnation claim. The court found that claim better addressed their claim for redress for the downzoning of their property. However, the court found that the Griepenburgs could only bring that claim if they first exhausted their administrative remedies by applying for a variance, and then bringing the inverse condemnation claim if that variance was denied.*

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## Zoning News from Around the Nation

### MASSACHUSETTS

State Representative Denise Garlick has reportedly “refiled previously vetoed legislation to create an environmental buffer zone along Route 128 near the proposed Greendale Mews affordable housing project.” Garlick argues the buffer is necessary to shield residents from highway air pollution and to assist with stormwater drainage. Opponents, including former

governor Deval Patrick, say the bill would “prevent the construction of a much needed affordable housing project.”

Source: <http://needham.wickedlocal.com>

## NEW YORK

In his recent State of the City address, Mayor de Blasio stated that the City is “creating a mandatory inclusionary zoning requirement that will apply to all major residential rezonings.” “In every major rezoning development, [the City] will require developers to include affordable housing—not as an option; as a precondition,” he said. Reportedly, this policy is being considered for East New York, East Harlem, Long Island City, Flushing West, the Bronx’s Jerome Avenue corridor, the Staten Island’s Bay Street corridor, and nine soon-to-be-named neighborhoods.

Source: *New York Magazine*; <http://nymag.com>

## TEXAS

A district judge has dismissed a lawsuit that sought to bar an Orthodox Jewish community from worshipping at a private home. The plaintiff had charged that the single-family home was not being used as such and as required by the property owner’s association, and cited problems with traffic and parking. The judge pointed to state and federal laws—the Texas Religious Freedom Restoration Act and the federal Religious Land Use and Institutionalized Persons Act—that protect religious practice “from government overreach.”

Source: *The Dallas Morning News*; <http://www.dallasnews.com>

# Zoning Bulletin

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## Nonconforming Use/Variance—Town denies variance for redevelopment of nonconforming structure

Owner maintains variance not needed, arguing lot is grandfathered under the existing structures exemption from the Massachusetts subdivision control law

Contributors

Corey E. Burnham-Howard

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Citation: *Palitz v. Zoning Bd. of Appeals of Tisbury*, 26 N.E.3d 175 (Mass. 2015)

MASSACHUSETTS (03/03/15)—This case addressed the issue of whether a division of land pursuant to the Massachusetts subdivision control law's existing structures exemption, G.L. c. 41, § 81L, entitles the structures on the resulting lots to "grandfather" protection against new zoning nonconformities created by the division.

**The Background/Facts:** From 1923 until 1994, the parcels of land now known and numbered as 83, 87, and 89 Main Street in the town of Tisbury, Massachusetts, (the "Town") were held in common ownership (the "original tract"). Three single-family residential buildings stood closely clustered on the original tract. The town adopted a local zoning bylaw in 1959, and the state's subdivision control law went into effect in 1974.

Under the state's subdivision control law, a person may not subdivide a tract of land unless he or she has first submitted a plan of the proposed subdivision for approval by the town's planning board. (G.L. c. 41, § 81O.) However, planning board approval is not required for certain divisions of land that are specifically exempted from the definition of "subdivision" in § 81L of the law. (See G.L. c. 41, § 81L.) A plan falling within such an exemption is entitled to an "approval not required" ("ANR") endorsement pursuant to § 81P. (See G.L. c. 41, § 81P.)

In 1994, the owner of the original tract, Michael Putziger ("Putziger"), sought to divide the land into three lots, such that a single dwelling would stand on each lot, in conformance with the existing structures exemption from the definition of "subdivision" in § 81L. Putziger submitted a plan to the Town's planning board and received an ANR endorsement pursuant to § 81P. The ANR endorsement stated that it did "not stay enforcement of zoning violations." The plan depicting the endorsement and the three newly created lots was duly recorded.

The new lot at 87 Main Street, as created by the § 81L plan, did not conform to the town's zoning bylaw regarding minimum lot size and frontage requirements. The creation of the new lot also rendered the dwelling located thereon nonconforming with respect to its front and southern side yard setbacks. Putziger sought variances from the Town's zoning board of appeals (the "ZBA") to make the lot and dwelling lawful and, therefore, saleable as such. In 1995, the ZBA granted the variances.

In 2007, the 87 Main Street Nominee Trust, Suzanne Palitz, trustee, ("Palitz") acquired the lot at 87 Main Street. Palitz sought a building permit to tear down the existing dwelling and construct a new dwelling. The proposed new dwelling would maintain the same footprint as the old dwelling, but add a third floor and be approximately 10 feet taller.

The Town's zoning enforcement officer refused to issue the building permit without ZBA amendment of the 1995 variance.

Palitz applied for an amended or new variance. The ZBA denied Palitz's variance request, in part because the increased height of the proposed dwelling would have eliminated the view of an abutter.

Palitz appealed the ZBA's decision to court. Among other things, Palitz argued that 87 Main Street was entitled to grandfather protection under the Zoning Act, G.L. c. 40A, § 6. Under that grandfathering provision, "a zoning ordinance or bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, . . . but shall apply to any change or substantial extension of such use, . . . [and] to any reconstruction, extension or structural change of such structure . . . except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure."

Palitz argued that because the dwelling at 87 Main Street predated the town's zoning bylaw and the lot was created pursuant to the existing structures exemption from the subdivision control law, neither the 1995 variance nor an amended variance was necessary to her project.

The land court judge disagreed with Palitz. The judge held that the ANR endorsement did not establish zoning compliance and, as a result, 87 Main Street was not rendered lawful for zoning purposes by the grandfather protection afforded by § 6. Rather, the judge concluded that 87 Main Street was rendered lawful by the 1995 variance, and consequently, an amendment to that variance was required for Palitz to enlarge her dwelling.

Palitz appealed.

**DECISION: Judgment of land court affirmed.**

The Supreme Judicial Court of Massachusetts agreed with the land court judge. It held that a division of land pursuant to the state's subdivision control law's existing structures exemption, G.L. c. 41, § 81L, does not entitle structures on the resulting lots to "grandfather" protection against new zoning nonconformities created by the division. Here, the court found that Palitz was not entitled to a grandfather status for zoning nonconformities on her lot.

In so holding, the court acknowledged that because the original structure on Palitz's lot predated the effective date of the Town's bylaw, it constituted a preexisting nonconforming structure entitled to grandfather status under the Zoning Act, G.L. c. 40A, § 6. The court noted, however, that although preexisting nonconforming status runs with the land, the introduction of a new nonconformity to a pre-existing nonconforming residential structure requires a variance. Here, noted the court, the § 81L division under the state's subdivision control law had created new zoning nonconformities as to lot size, frontage, and front yard setbacks, among others. The court reiterated that the Zoning Act's grandfathering provision (G.L. c. 40A, § 6) did not render those

new nonconformities lawful; thus, the 1995 variance was necessary to render the new nonconformities lawful. Since Palitz's proposed reconstructed dwelling would have expanded the nonconformities created by the § 81L division, which were made lawful by the 1995 variance, Palitz was required to obtain a new or amended variance to proceed with her proposed project, concluded the court. "It would be anomalous if a variance, by its nature sparingly granted, functioned as a launching pad for expansion as a nonconforming use," said the court.

Palitz argued that even if new nonconformities created by a division of land could deprive a structure of grandfather protection under the Zoning Act, new nonconformities created pursuant to the subdivision control law's existing structures exemption "should be ignored for zoning purposes." Looking at the history and purposes of the subdivision control law, the court disagreed. The court found the "notion . . . that a division of land would bestow immunity from zoning compliance simply because it was exempted from planning board oversight" was "abrasive to the independent character of [the distinct and separate regulatory regimes of zoning approval and subdivision rules and regulations]." The court noted that the Zoning Act's grandfather provision failed to incorporate § 81L or § 81P of the subdivision control law. The court thus concluded that "the consequences of an § 81L division should be confined to the regulatory regime of the subdivision control law"—qualifying a plan for ANR endorsement but not attesting to compliance with zoning regulations.

See also: *Howland v. Acting Superintendent of Bldgs. and Inspector of Bldgs. of Cambridge*, 328 Mass. 155, 102 N.E.2d 423 (1951).

See also: *Rockwood v. Snow Inn Corp.*, 409 Mass. 361, 566 N.E.2d 608 (1991).

See also: *Gifford v. Planning Bd. of Nantucket*, 376 Mass. 801, 383 N.E.2d 1123 (1978).

## Validity of Zoning Regulation— Zoning ordinance provides that absence of nonconforming mobile homes for period of time constitutes discontinuance of nonconforming use

### Mobile home park owners challenge ordinance as unconstitutional

Citation: *State ex rel. Sunset Estate Properties, L.L.C. v. Lodi*, 2015-Ohio-790, 2015 WL 1035632 (Ohio 2015)

OHIO (03/10/15)—This case addressed the issue of whether a provision of a municipal zoning ordinance, which provided that the absence or removal of nonconforming mobile homes from property for a period of six months or more constituted discontinuance or abandonment of the nonconforming use from the time of absence or removal, was unconstitutional.

**The Background/Facts:** Sunset Properties, L.L.C. and Meadowview Village, Inc. (collectively, the “Park Owners”) each owned property in the village of Lodi, Ohio (the “Village”). On their property, the Park Owners operated licensed manufactured-home parks (“mobile home parks”). Both properties were in areas zoned as R-2 Districts. R-2 Districts did not permit mobile home parks. Because the Park Owners’ mobile home parks existed prior to the passage of the ordinance creating the R-2 Districts, the mobile home parks were legal nonconforming uses under state law, R.C. 713.15.

In 1987, the Village passed an ordinance enacting Lodi Zoning Code 1280.05(a) (the “Ordinance”). The Ordinance addressed discontinuation or abandonment of nonconforming uses. In general, the Ordinance provided that when a nonconforming use had been discontinued for six months, that discontinuance was conclusive evidence of the intention to legally abandon the nonconforming use. The final sentence of the Ordinance was specific to mobile homes. That sentence provided that the absence or removal of a mobile home from its lot constituted discontinuance from the time of removal. In reliance on that sentence, when a tenant left one of the Park Owners’ mobile home park lots and the lot was vacant for longer than six months, the Village refused to

reconnect water and electrical service when a new tenant wanted to rent the lot. As a result, the Park Owners were not able to rent those lots “and essentially lost a property right as to that portion of their property.”

The Park Owners sued the Village. They asked the court to declare that the Ordinance was unconstitutional and constituted a taking of their properties.

Finding no material issues of fact in dispute, and deciding the matter on the law alone, the trial court granted summary judgment in favor of the Village. The court concluded that the Ordinance was not unconstitutional on its face or as applied, and that it did not constitute an unreasonable interference with the Park Owners’ property rights or a taking of their property.

The Park Owners appealed. The appeals court entered judgment for the Park Owners, finding the Ordinance unconstitutional on its face.

The Village appealed. On appeal, the Village asserted the following proposition of law:

“A municipal zoning ordinance which precludes a property owner from re-establishing a nonconforming use after a specified period of nonuse does not facially violate the due process clauses of the Fourteenth Amendment to the United States Constitution and Section 16, Article I of the Ohio Constitution.”

**DECISION: Judgment of court of appeals affirmed; matter remanded.**

The Supreme Court of Ohio held that the last sentence of the Ordinance, which provided that the absence or removal of nonconforming mobile homes from property for a period of six months or more constituted discontinuance or abandonment of the nonconforming use from the time of absence or removal, was unconstitutional.

In so holding, the court noted that in making a facial challenge to the validity of the Ordinance, the Park Owners had to show that the Ordinance, on its face, had no rational relationship to a legitimate government purpose and could not constitutionally be applied under any circumstances. The Village had asserted that the Ordinance was rationally related to the legitimate government purposes of: protecting property values; and encouraging the development of surrounding properties. The court indicated that such purposes would be rationally related to prohibiting or regulating the new development of property, but the court differentiated that, here, the Park Owners were seeking to maintain a legal nonconforming use.

The court pointed to the 14th Amendment to the United States Constitution and Article I, § 16 of the Ohio Constitution, which provide that no person shall be deprived of life, liberty, or property without due process of law. With those constitutional references, the court found

that “[t]he plain language of the last sentence of the [O]rdinance imputes a tenant’s abandonment of a lot within a mobile-home park on the park’s owner[, and, in doing so] . . . impermissibly deprives the owner of the park of the right to continue the use of its entire property in a manner that was lawful prior to the establishment of the zoning ordinance.” Thus, the court concluded that, pursuant to the due-process clauses of the United States and Ohio Constitutions, that impermissible deprivation of the vested private-property rights of mobile home park owners defeated the Village’s argument that the provision was rationally related to its legitimate goals of protecting property values and encouraging development. In short, the court concluded that the last sentence of the Ordinance was an unconstitutional deprivation of a property right and could not be applied.

See also: *Cent. Motors Corp. v. Pepper Pike*, 73 Ohio St. 3d 581, 1995-Ohio-289, 653 N.E.2d 639 (1995).

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**Case Note:**

*The court found that the last sentence of the Ordinance could be severed from the rest of the Ordinance. The court remanded the case to the trial court “to determine what remedy [was] appropriate.”*

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## **Public and Low-Income Housing— State agency fails to adopt legislatively-mandated rules governing municipal fair housing obligations**

Organization seeks court remedy for  
agency’s failure

Citation: *In re Adoption of N.J.A.C. 5:96 and 5:97 ex rel. New Jersey Council on Affordable Housing*, 2015 WL 1015065 (N.J. 2015)

NEW JERSEY (03/10/15)—This case addressed the issue of the proper relief for the failure of the New Jersey Council on Affordable Housing to adopt third-round substantive rules for calculation of affordable housing needs and criteria for satisfaction of needs.

**The Background/Facts:** In 1985, the New Jersey Legislature

enacted the Fair Housing Act of 1985 (“FHA”) (N.J.S.A. 52:27D-301 to -329). The FHA was enacted in order to assist municipalities with their constitutional obligation to regulate zoning “in a manner that creates a realistic opportunity for producing a fair share of the regional present and prospective need for housing low- and moderate-income families.” The FHA created the Council on Affordable Housing (“COAH”). COAH was “designed to provide an optional administrative alternative to litigating constitutional compliance through civil exclusionary zoning actions.” Under the FHA, municipalities may resolve disputes over their constitutional affordable housing obligations in the judicial forum or through a FHA-preferred administrative forum. In support of the preference of addressing such disputes in the administrative forum, the FHA requires exhaustion of administrative remedies before pursuing judicial remedies. The FHA also compels COAH to “establish and periodically update presumptive constitutional housing obligations for each [New Jersey] municipality and to identify the permissible means by which a [municipality]’s proposed affordable housing plan, housing element, and implementing ordinances can satisfy its obligations.” COAH is required to update municipal housing obligations and corresponding substantive procedural rules.

COAH’s rules governing the last round of municipal housing obligations expired in 1999 (the “Second Round Rules”). Since then, COAH has failed to adopt updated regulations—the “Third Round Rules.” By order of the Supreme Court of New Jersey, COAH was required to adopt Third Round Rules by November 17, 2014. COAH failed to do so. As a result, Fair Share Housing Center (“FSHC”) brought a motion in aid of litigants’ rights, seeking a remedy from COAH’s failure to adopt the Third Round Rules.

**DECISION: Ordered accordingly.**

Finding itself in “the exceptional situation in which the administrative process has become nonfunctioning, rendering futile the FHA’s administrative remedy,” the Supreme Court of New Jersey, as relief for the failure of COAH to adopt Third Round Rules for the calculation of affordable housing needs and criteria for satisfaction of those needs, issued an order effectively dissolving (until further order) the FHA’s exhaustion-of-administrative-remedies requirement.

In so holding, the court looked at Court Rules 1:103 and 4:59-2(a), finding they provided support for “assisting a litigant in securing relief... .” The court found that although punitive or coercive relief under Rule 1:10-3 (governing the motion in aid of litigants’ rights) could not be used against one who was not a willful violator of a judgment (such as, arguably here, COAH), that did “not foreclose the vindication of litigants’ rights through other forms of non-punitive and non-coercive orders entered pursuant to Rule 1:10-3’s authority en-

abling the enforcement of rights.” The court concluded that under the authority of Rule 1:10-3, courts may “resume their role as the forum of first instance for evaluating municipal compliance with [constitutional affordable housing obligations].”

The court’s order here established a “transitional process” under which municipalities can transition from “COAH’s jurisdiction to judicial actions to demonstrate that [their] housing plan satisfies constitutional affordable housing obligations” before allowing exclusionary zoning actions against municipalities.

In brief summary, the court’s order provides as follows: Following a 90-day delay in the effective date of the implementation of the order, for the first 30 days following the effective date, “the only actions that will be entertained by the courts will be declaratory judgment actions filed by any town that either (1) had achieved substantive certification from COAH under prior iterations of Third Round Rules before they were invalidated, or (2) had ‘participating’ status before COAH.” If a town waits and does not file a declaratory judgment action during that 30-day period, thereafter an action may be brought by a party against that town, “provided the action’s sole focus is on whether the town’s housing plan meets its [constitutional affordable housing obligations].” “The court’s evaluation of a town’s plan that had received substantive certification, or that will be submitted to the court as proof of constitutional compliance, may result in the town’s receipt of the judicial equivalent of substantive certification and accompanying protection as provided under the FHA.”

See also: *Southern Burlington County N.A.A.C.P. v. Mount Laurel Tp.*, 92 N.J. 158, 456 A.2d 390 (1983); *Southern Burlington County N.A.A.C.P. v. Mount Laurel Tp.*, 67 N.J. 151, 336 A.2d 713 (1975).

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**Case Note:**

*The relief authorized by this order “present[s] an avenue for low- and moderate-income New Jersey citizens, and entities acting on their behalf, to challenge any municipality that is believed not to have developed a housing element and ordinances that bring the town into compliance with its fair share of regional present and prospective need for affordable housing.” It also provides “a municipality that had sought to use the FHA’s mechanisms the opportunity to demonstrate constitutional compliance to a court’s satisfaction before being declared noncompliant and then being subjected to the remedies available through exclusionary zoning litigation, including a builder’s remedy.”*

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**Case Note:**

*In its decision, the court emphasized that nothing in the decision should be understood to prevent COAH from fulfilling its statutory mission to adopt constitutional rules to govern municipalities' Third Round obligations in compliance with the FHA. The court further emphasized that nothing in the decision should be regarded as impeding the Legislature from considering alternative statutory remedies to the present FHA.*

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## Zoning News from Around the Nation

### CONNECTICUT

Under a proposed bill, Governor Malloy proposes the creation of “a new quasi[-]public agency called the Connecticut Transit Corridor Development Authority.” The bill would give the Authority the power to seize property within a half mile of transit stations, and opponents reportedly fear it will give the Authority the power “to build whatever it wants within a half-mile of any train or CTfastrak station with no local participation or control.” Meanwhile, Malloy spokesman Mark Bergman has reportedly said that all projects on nonstate-owned land would still remain subject to local zoning under the bill.

Source: *CTNow*; [www.ctnow.com](http://www.ctnow.com)

### FLORIDA

A state Senate committee has cleared a “broad package of school-choice measures,” which would “upend[] district zoning policies that steer children toward their neighborhood schools . . . .” The legislation would take away local control over how the school choice process works, and would prohibit districts from denying a school choice request for any reason other than school capacity.

Source: *Sarasota Herald-Tribune*; <http://politics.heraldtribune.com>

### NEBRASKA

A bill has been introduced in the state legislature that “would allow the [state] agriculture department to create a matrix of statewide permitting standards to be used by a new seven-member, governor-appointed board in reviewing county decisions to grant or deny special-use permits for livestock expansion.”

Source: *Kearney Hub*; [www.kearneyhub.com](http://www.kearneyhub.com)

### NORTH CAROLINA

A state House committee has approved a bill that would “drop the

requirement that at least three-quarters of the members of a city or town's governing body approve rezoning if enough landowners complain about the change." The bill will next be considered by the full House.

Source: *Statesville Record & Landmark*; [www.statesville.com](http://www.statesville.com)

## OKLAHOMA

Proposed House Bill 1607 would forbid any "adult cabaret" in an unincorporated area not subject to county-wide zoning, if the establishment is to be located within 2,000 feet of: any building "primarily and regularly used for worship services and religious activities"; land "used for residential purposes"; or any public highway. The bill defines "adult cabaret" to mean a nightclub, bar, restaurant, or similar establishment in which "persons appear in a state of nudity in the performance of their duties."

Source: *Pryor Daily Times*; [www.pryordailytimes.com](http://www.pryordailytimes.com)

# Zoning Bulletin

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## Proceedings—Planning and zoning commission goes into executive session to discuss how to respond to court order on permit extension and how to address noncompliance with permit

Permit holder alleges executive session violated the state Freedom of Information Act

Contributors

Corey E. Burnham-Howard

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Citation: *Planning and Zoning Com'n of Town of Monroe v. Freedom of Information Com'n*, 316 Conn. 1, 2015 WL 1186306 (2015)

CONNECTICUT (03/24/15)—This case addressed the issue of whether a planning and zoning commission improperly went into executive session in violation of a state Freedom of Information Act.

**The Background/Facts:** In 2003, the Planning and Zoning Commission of the Town of Monroe (the “PZC”) issued a special exception permit to Handsome, Inc. (“Handsome”). In 2008, prior to the expiration of that permit, Handsome applied for a five year extension. The PZC denied that extension on the ground that Handsome had failed to comply with the conditions of the original permit. Handsome appealed and the Superior Court determined that the PZC had improperly denied the extension. Subsequently, Handsome requested by letter that the PZC extend the permit. In response, the PZC put the request on the agenda for its May 5, 2011 regular meeting.

At the start of the May 5, 2011 meeting, the PZC immediately went into executive session. The PZC later reconvened and extended Handsome’s permit to 2013.

Handsome and its principal officers, Todd Cascella and Mona Cascella (the “Cascellas”) later filed a complaint with Connecticut’s Freedom of Information Commission (the “FOIC”). They claimed that the PZC’s executive session at the May 5, 2011 meeting violated Connecticut’s Freedom of Information Act (“FOIA”).

FOIA requires that the meetings of all public agencies be open to the public, with exception. That exception, set forth in Conn. Gen. Stat. § 1-200(6)(B), allows public agencies to convene in executive session for the purpose of “strategy and negotiations with respect to pending claims or pending litigation to which the public agency . . . is a party until such litigation or claim has been finally adjudicated or otherwise settled . . . .”

The FOIC found that, during the PZC’s executive session, the members of the PZC had discussed two topics that potentially warranted convening an executive session: (1) how to respond to the prior decision of the Superior Court overruling the zoning commission’s denial of Handsome’s application to extend its permit; and (2) how to address Handsome’s noncompliance with the conditions of the original permit. With respect to the second topic, the FOIC further found that, although the zoning commission members had discussed potential options for addressing Handsome’s alleged permit violations, they had not discussed initiating a zoning enforcement action against Handsome or filing an action against it in court or another forum for those alleged permit violations.

The FOIC concluded that neither of the two topics the PZC had discussed warranted convening an executive session under the pending claims or pending litigation exception in § 1-200(6)(B) of the FOIA. The FOIC determined that the pending claims or pending litigation exception did not

apply to the first topic because that prior case had been “finally adjudicated” before the executive session and, thus, was no longer pending. With respect to the second topic, the alleged permit violations, the FOIC ruled that the exception in § 1-200(6)(B) did not apply because, at the time of the executive session, there was no pending claim or litigation relating to those alleged permit violations, and the PZC had not considered during the executive session filing an action against Handsome for those violations. Consequently, the FOIC ruled that the PZC had violated the act’s open meetings requirement, as provided in General Statutes § 1-225(a), by convening the executive session.

The PZC appealed.

The trial court reversed the FOIC’s decision. The trial court agreed with the FOIC on topic one—that the permit extension issue had been finally adjudicated and thus did not justify convening the executive session. However, the trial court disagreed with the FOIC on issue two, and held that the PZC properly convened its executive session to discuss the alleged permit violations because that constituted “consideration of action to enforce or implement legal relief or a legal right,” which fell within the purview of the pending claims or pending litigation exception.

The FOIC, Handsome, and the Cascellas appealed. The Supreme Court of Connecticut transferred their appeals to the Supreme Court.

**DECISION: Judgment of superior court reversed and matter remanded.**

Agreeing with the FOIC, the Supreme Court of Connecticut held that the PZC was not justified in convening an executive session under the pending claims or pending litigation exception to FOIA’s open meetings requirement.

On appeal, the PZC had argued that, under the FOIA exception, a public agency could convene an executive session to generally “[consider] action to enforce or implement legal relief or a legal right” regardless of whether there was a certain pending or prospective legal proceeding to which the agency was or would be a party. The PZC thus asserted that, because its members’ discussion of their zoning enforcement options against Handsome constituted “consideration of action to enforce or implement legal relief or a legal right” (General Statutes § 1-200(9)(C)), its executive session fell within the scope of the pending claims or pending litigation exception of § 1-200(6)(B).

The court rejected the PZC’s interpretation of § 1-200(6)(B) and (9)(C) and instead agreed with the FOIC that a public agency may convene an executive session under the pending claims or pending litigation exception only to discuss matters that are in connection with a prospective or pending lawsuit or legal proceeding. More specifically, the court reviewed the language of § 1-200(6)(B) and (9)(C) and found it to be “plain and unambiguous.” Reading the statute as a whole, the court concluded that, in order for § 1200(6)(B) to apply, the public agency either must be bringing or defending a prospective or pending lawsuit in court or some other legal

action in an adjudicatory forum. Here, the court found there was no pending or prospective litigation regarding Handsome's alleged permit violations. Moreover, the court explained that "[e]ven if the [PZC] members had considered initiating a zoning enforcement action, § 1-200(6)(B) still would not have applied because the [PZC] [could not] be a party to its own regulatory proceeding." Although public agencies may consider taking nonjudicial action in executive session pursuant to § 1-200(6)(B) and (9)(C), public agencies are not allowed to consider taking such action in executive session when the action would not be taken in connection with a pending or prospective proceeding in court or another forum, said the court.

The Supreme Court of Connecticut also agreed with FOIC with regard to topic one discussed in the PZC's executive session: how to respond to the Superior Court's order regarding the permit extension. The court held that topic was inappropriate for executive session because the issue had been finally adjudicated before the executive session and thus did not justify convening the executive session. The court found that at the time of the PZC's executive session—approximately eight months after the superior court's order on the permit extension—the case had been finally adjudicated in that the decision could not be altered or modified on appeal since the appeal period had passed. The court rejected the PZC's claim that because the superior court continued to have jurisdiction over the matter, the matter was not yet finally adjudicated when the PZC convened its executive session.

See also: *Furhman v. Freedom of Information Com'n*, 243 Conn. 427, 703 A.2d 624 (1997).

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*Case Note:*

*Because the case presented an issue of statutory construction that had never been subject to judicial scrutiny and "lack[ed] an agency's time-tested interpretation," the court determined that the FOIC's determination was not entitled to any special deference.*

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## Conditions—City Planning Board grants permit with condition that city planner may approve minor project changes

Permit opponent argues condition is improper delegation of legislative authority and violates city zoning ordinance

Citation: *Fitanides v. City of Saco*, 2015 ME 32, 2015 WL 1198605 (Me. 2015)

MAINE (03/17/15)—This case addressed the issue of whether a city planning board's issuance of a conditional use permit with a condition that allowed the city planner to approve minor changes to the project plans was a violation of the city zoning ordinance and/or an improper delegation of legislative authority.

**The Background/Facts:** In March 2013, Wayne and Michelle McClellan (the "McClellans") applied for conditional use permits to build a disc-golf course on two parcels of land in the City of Saco, Maine (the "City"). The proposed disc-golf course was situated in several different zoning districts, which each required conditional use permits for the proposed use.

Ultimately, the City's Planning Board voted to grant conditional approval for the project and issued conditional use permits for construction in the various zoning districts. One of the conditions of approval was that "[n]o deviations from the approved plans [were] permitted without prior approval from the Planning Board for major changes, and from the City Planner for minor changes."

Fred Fitanides ("Fitanides") owned a campground that abutted the proposed disc-golf course. Fitanides opposed the proposed disc-golf course. Fitanides appealed the conditional use approval to the City's Zoning Board of Appeals ("ZBA"). Among other things, Fitanides argued that the Planning Board improperly delegated legislative authority of review of minor changes to the City Planner.

The ZBA affirmed all aspects of the Planning Board's decision except for the delegation of authority to the City. The ZBA remanded the matter to the Planning Board. Ultimately, the Planning Board voted to reaffirm its earlier decision without change.

Fitanides appealed. The ZBA voted to deny Fitanides' appeals. Fitanides again appealed, and the superior court affirmed the ZBA's decisions.

Fitanides again appealed. Again, Fitanides contended that the Planning Board erred in issuing a conditional use permit with a condition that allowed the City Planner to approve minor changes to the project plans.

**DECISION: Judgment of superior court affirmed.**

The Supreme Judicial Court of Maine held that the condition delegating authority for approval of minor changes to the City Planner was consistent with the City's Zoning Ordinance, and that therefore the Planning Board did not err in including it in the permit issued to the McClellans.

In so holding, the court found that the state statute giving municipalities zoning authority (Title 30-A M.R.S. § 4352) did "not directly control delegation of zoning decisions among municipal boards, departments, or officers, leaving those matters to individual town ordinances." Thus, the court said that the Planning Board's condition that allowed the City Planner to approve minor changes to project plans would only be an improper delegation of legislative authority and in error if it violated the City's Zoning Ordinance.

The court concluded that the condition did not violate the City's Zoning Ordinance. The court found that the City's Zoning Ordinance did not contain any provision that prohibited the Planning Board from delegating some tasks to the City Planner. Rather, the court found that the plain language of the City's Zoning Ordinance allowed "[t]he Planning Board [to] attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance." Also, the court found that "[t]he condition delegating decision-making to the City Planner further[ed] the purposes of the Ordinance by ensuring that even minor deviations from the approved plans [would] be subject to municipal review for compliance with zoning and building laws, without unduly burdening the Planning Board." The court found further support for its interpretation in that other provisions of the Zoning Ordinance delegated similar tasks to the City Planner, including: responsibility for approving "minor conditional uses," as well as "minor site plan[s]," and minor changes to site plans during construction.

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**Case Note:**

*Fitanides had also argued that he was denied due process when the City Planner sent an e-mail to the ZBA, which noted that Fitanides had demonstrated that litigation was a "hobby of his" and which urged the ZBA to affirm the Planning Board's Decision. The court found that, although the e-mail was "wholly inappropriate," it did not influence or affect the ZBA's decision and it was not sent by a member of the ZBA and therefore was not sufficient to impute bias to the ZBA.*

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## Defenses to Enforcement—One year after certificate of occupancy is issued, opponents argues that it allows illegally expanded nonconforming use

Certificate holder says equitable estoppel should bar challenge to the certificate of occupancy

Citation: *West End Citizens Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 2015 WL 1486512 (D.C. 2015)

DISTRICT OF COLUMBIA (04/02/15)—This case addressed the issue of whether an applicant's reliance on a granted certificate of occupancy supported the application of equitable estoppel to bar a challenge to the certificate of occupancy.

**The Background/Facts:** In 2008, Foggy Bottom Grocery, LLC ("FoBoGro") became interested in acquiring and modernizing a grocery business on a site in Washington, D.C. That site involved a three-story row house, which had a grocery operating on the first floor as a lawful nonconforming use in the residentially zoned area since at least May 1958. Before FoBoGro purchased the business, it applied for a new Certificate of Occupancy ("C of O") to allow the entire building to be used as a grocery store plus a sandwich shop (also referred to as a "prepared foods shop"). The Zoning Administrator approved the application and issued the requested C of O on August 21, 2008. Subsequently, FoBoGro purchased the business, leased the building, and eventually began renovating the property.

Approximately a year after the C of O was issued, the West End Citizens Association ("WECA") learned of the C of O and complained to the Zoning Administrator. WECA argued that the C of O improperly expanded a nonconforming use by allowing the grocery to expand to all three floors and by permitting the operation of a sandwich shop in addition to the grocery. The Zoning Administrator then initially revoked the 2008 C of O, but eventually issued a replacement C of O in November 2009. The Zoning Administrator concluded that there was no expansion of the nonconforming use (despite the expansion of the operation to three floors) and that the sandwich shop was a component of the grocery business.

WECA appealed the November 2009 C of O. The District of Columbia's Board of Zoning Adjustment ("BZA") ruled that the C of O "did not authorize an impermissible expansion of the nonconforming grocery use, because that use had not been limited in the past to only one floor of the building, and because the incidental sale of prepared food for off-site consumption was part of the grocery business."

WECA appealed. The Court of Appeals affirmed the BZA's determination that the sale of prepared food was encompassed in the grocery use. However, the court held that it was improper for the C of O to permit the expansion of the nonconforming grocery to the rest of the building. The court remanded the matter to the BZA.

On remand, FoBoGro argued that WECA's challenge of FoBoGro's C of O should be denied because FoBoGro had made large expenditures in reliance on the C of O. The BZA dismissed WECA's appeal, finding that FoBoGro had a meritorious equitable estoppel defense.

**DECISION: Judgment of court of appeals affirmed.**

The District of Columbia Court of Appeals held that the BZA had properly dismissed WECA's challenge to FoBoGro's C of O because FoBoGro had a meritorious equitable estoppel defense.

In so holding, the court explained that in order for FoBoGro to make out a case of estoppel, it had to show: (1) that it acted in good faith; (2) on affirmative acts of the Zoning Administrator (i.e., the issuance of the C of O); and (3) made expensive and permanent improvements in reliance thereon. Additionally, the court said FoBoGro would have to show that the equities strongly favored it in any injury to the public that would flow from the nonenforcement of the zoning law (i.e., no revocation of the C of O) must be minimal and outweighed by the injury estoppel would avoid (i.e., revocation of the C of O).

Here, the BZA had found that the requirements of the equitable estoppel were satisfied, and the court agreed: (1) the Zoning Administrator's 2008 C of O permitted the entire building to be used for the operation of a grocery; (2) FoBoGro proceeded reasonably and in good faith, having no reason to believe the 2008 C of O impermissibly expanded the nonconforming grocery use; (3) FoBoGro relied on the 2008 C of O by spending "considerable sums" to purchase the grocery business, lease the building, enter into various contracts, renovate the building, and incur other business expenses; and (4) the equities favored FoBoGro because of its good faith and objectively reasonable reliance on the 2008 C of O, and because the BZA found "no evidence" that the neighborhood would be harmed by the continued operation of "a grocery store that has been a neighborhood institution for over 60 years."

WECA had argued that FoBoGro "could not have relied justifiably or reasonably" on the 2008 C of O when it incurred the bulk of its renovation expenses, because it did so after WECA commenced its attack on the C of O in August 2009. The court rejected that argument, finding that FoBoGro relied on the 2008 C of O to its considerable financial detriment in ways other than renovation expenses, well before it learned of WECA's challenge to the legality of its C of O. For example, FoBoGro purchased the grocery business and entered into a lease of the building. Although these were not "expensive and permanent improvements" made in reliance on the erroneously issued C of O, the court found those expenditures and reliance could "equally support an estoppel."

See also: *Sisson v. District of Columbia Bd. of Zoning Adjustment*, 805 A.2d 964 (D.C. 2002).

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*Case Note:*

*WECA had also argued that expansion of the grocery to three floors would harm the surrounding neighborhood, but the court found no evidence of such harm had been presented.*

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## Permits—City denies conditional use permit

### Applicant argues denial was arbitrary and capricious

Citation: *RDNT, LLC v. City of Bloomington*, 2015 WL 1215573 (Minn. 2015)

MINNESOTA (03/18/15)—This case addressed the issue of whether a city acted within its discretion in denying an application for a conditional use permit.

**The Background/Facts:** RDNT, LLC (“RDNT”) owned Martin Luther Care Campus (the “Campus”) in Bloomington, Minnesota (the “City”). The Campus consisted of two buildings that provided a variety of services including assisted living, memory care, skilled nursing, adult day care, and transitional care. In September 2011, RDNT submitted an application to the City for a conditional use permit. RDNT sought to expand its assisted living services by adding a third building to the Campus. The proposed addition would: increase the facility units by 26%; increase staff by 8%; and increase the building square footage by 62%.

After a public hearing, the City’s Planning Commission recommended denial of the conditional use permit application. The City Council ultimately denied RDNT’s application for the conditional use permit. One of the reasons for the denial was that the City Council found that the proposed use would violate the City’s conditional use permit ordinance, which required that proposed uses “not be injurious to the surrounding neighborhood or otherwise harm the public health, safety, and welfare.” The City Council found that the increase in square footage and traffic would be injurious to the surrounding neighborhood.

RDNT appealed. The district court reversed the denial of RDNT’s application. It held that the record was insufficient to support a finding that the proposed use would injure the neighborhood or harm the community.

The City appealed. The court of appeals reversed the district court and held that the City appropriately exercised its discretion.

RDNT again appealed. It argued that the City's conditional use permit ordinance standard was legally insufficient and that the City's denial of its conditional use permit application was arbitrary and capricious.

**DECISION: Judgment of court of appeals affirmed.**

The Supreme Court of Minnesota concluded that the City acted within its discretion in denying RDNT's conditional use permit application.

In so concluding, the court first held that the City's conditional use permit ordinance standard—which required that a proposed use not be injurious to the surrounding neighborhood or otherwise harm the public health, safety, and welfare—was legally sufficient. However, the court did note that the factual basis for the City's findings based on that subjective standard would be more closely examined than would the City findings based on a less subjective standard.

Examining the City's findings, the court held that the City had a reasonable factual basis to determine that the proposed use would injure the surrounding neighborhood or otherwise harm the public health, safety, and welfare. The court found that there was evidence that the proposed use would increase traffic on already busy streets. Importantly, the court noted that even though the City streets would not be at capacity, the City could still conclude that the proposed use would nonetheless injure or otherwise harm the neighborhood. Street capacity alone was not dispositive as to whether traffic would injure the neighborhood or otherwise harm the public health, safety, and welfare. It was not a capacity issue, but was a livability issue, said the court.

RDNT had also argued that the City unreasonably, arbitrarily, and capriciously determined that RDNT's proposed mitigation efforts would be insufficient to alleviate the traffic issues. The court disagreed. The court found that the city adequately considered the proposed mitigating conditions and had reasonably determined that they would not alleviate traffic concerns.

See also: *C. R. Investments, Inc. v. Village of Shoreview*, 304 N.W.2d 320 (Minn. 1981).

See also: *Minnetonka Congregation of Jehovah's Witnesses, Inc. v. Svec*, 303 Minn. 79, 226 N.W.2d 306 (1975).

## Zoning News from Around the Nation

### MISSOURI

The state Legislature is considering a measure that would give preference for state grants to Missouri counties that meet an "agri-ready" designation standard. Counties would receive "agri-ready" designations if they meet various requirements—including not having any health or zon-

ing standards that could discourage agricultural operations or have standards for agricultural operations more stringent than state ones. Opponents of the legislation argue that it hurts those counties “that protect their air and water.”

Source: *The Rolla Daily News*; [www.therolladailynews.com](http://www.therolladailynews.com)

## NEBRASKA

Pending in the state legislature is LB 106, the Livestock Operation and Siting Expansion Act. Among other things, the bill seeks to “create an environment friendly for livestock expansion and still maintain local control for county zoning boards.”

Source: *Radio 570, WNAZ*; <http://wnax.com>

## NORTH CAROLINA

The state House recently gave “tentative approval” to a bill that would “make it easier for developers or property owners to get land rezoned.” Under current law, if owners of 5% of the land within 100 feet of a property file a legal petition objecting to a request to rezone it, the rezoning cannot take place without approval from three-fourths of a city council. The bill would remove the three-fourths majority requirement.

Source: *Citizen Times*; [www.citizen-times.com](http://www.citizen-times.com)

## OHIO

Pending in both chambers of the state Legislature are bills that would clarify agritourism uses in local zoning. Among other things, House Bill 80 and Senate Bill 75 would clarify that agritourism land receive the same zoning protections as agricultural land.

Source: *The News-Herald*; [www.news-herald.com](http://www.news-herald.com)

## VIRGINIA

A new state law (House Bill 1849), which goes into effect on July 1, 2015, “will make it easier for people to get variances from zoning rules to make improvements to their properties.” The new law changes the standard for granting variances from when rules “result in unnecessary or unreasonable hardship to the property owner” to when rules “unreasonably restrict the utilization of the property.” It also provides that a property owner is entitled to a variance if the “strict application of the . . . ordinance would unreasonably restrict” the owner’s use of the property or if the variance will “alleviate a hardship due to the physical condition related to the property or improvements.”

Source: *Martinsville Bulletin*; [www.martinsvillebulletin.com](http://www.martinsvillebulletin.com)